

1 SB294  
2 135770-3  
3 By Senator Sanford  
4 RFD: Job Creation and Economic Development  
5 First Read: 09-FEB-12

1 SB294

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4 ENROLLED, An Act,

5 To amend Section 28-3A-23, Code of Alabama 1975,  
6 relating to the size of containers of beer sold at retail; to  
7 allow beer to be sold in containers not to exceed 25.4 ounces.

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

9 Section 1. Section 28-3A-23, Code of Alabama 1975,  
10 is amended to read as follows:

11 "§28-3A-23.

12 "(a) No license prescribed in this code shall be  
13 issued or renewed until the provisions of this code have been  
14 complied with and the filing and license fees other than those  
15 levied by a municipality are paid to the board.

16 "(b) Licenses shall be granted and issued by the  
17 board only to reputable individuals, to associations whose  
18 members are reputable individuals, or to reputable  
19 corporations organized under the laws of the State of Alabama  
20 or duly qualified thereunder to do business in Alabama, or, in  
21 the case of manufacturers, duly registered under the laws of  
22 Alabama, and then only when it appears that all officers and  
23 directors of the corporation are reputable individuals.

1           "(c) Every license issued under this code shall be  
2 constantly and conspicuously displayed on the licensed premises.

3           "(d) Each retail liquor license application must be  
4 approved by the governing authority of the municipality if the  
5 retailer is located in a municipality, or by the county  
6 commission if the retailer is located in the county and  
7 outside the limits of the municipality before the board shall  
8 have authority to grant the license.

9           "(e) Any retailer may be granted licenses to  
10 maintain, operate, or conduct any number of places for the  
11 sale of alcoholic beverages, but a separate license must be  
12 secured for each place where alcoholic beverages are sold. No  
13 retail license issued under this code shall be used for more  
14 than one premise, nor for separate types of operation on the  
15 same premise. Provided, however, any such licensed retail  
16 operation existing on May 14, 2009, and operating based on  
17 dual licenses, both a club or lounge license and a restaurant  
18 license, on the same premises shall be exempt from the  
19 requirement of the preceding sentence and may continue to  
20 operate under such dual licenses. The provisions of any rule  
21 promulgated by the board relating to the requirements  
22 concerning such dual licenses, both a club or lounge license  
23 and a restaurant license, shall not apply to any such retail  
24 operation existing on May 14, 2009. The aforementioned rules  
25 shall include, but not be limited to, the maintenance of

1 separate books, separate entrances, and separate inventories.  
2 Each premise must have a separate retail license. Where more  
3 than one retail operation is located within the same building,  
4 each such operation under a separate or different ownership is  
5 required to obtain a separate retail license; and where more  
6 than one type of retail operation located within the same  
7 building is operated by the same licensee, such licensee must  
8 have a license for each type of retail operation. Provided,  
9 there shall be no licenses issued by the board for the sale of  
10 liquor, beer or wine by rolling stores.

11 "(f) No retailer shall sell any alcoholic beverages  
12 for consumption on the licensed premises except in a room or  
13 rooms or place on the licensed premises at all times  
14 accessible to the use and accommodation of the general public;  
15 but this section shall not be interpreted to prevent a hotel  
16 or club licensee from selling such beverages in any room of  
17 such hotel or club house occupied by a bona fide registered  
18 guest or member or private party entitled to purchase the  
19 same.

20 "(g) All beer, except draft or keg beer, sold by  
21 retailers must be sold or dispensed in bottles, cans, or other  
22 containers not to exceed 25.4 ounces. All wine sold by  
23 retailers for off-premise consumption must be sold or  
24 dispensed in bottles or other containers in accordance with  
25 the standards of fill specified in the then effective

1 standards of fill for wine prescribed by the U.S. Treasury  
2 Department.

3 "(h) Draft or keg beer may be sold or dispensed  
4 within this state within those counties in which and in the  
5 manner in which the sale of draft or keg beer was authorized  
6 by law on September 30, 1980 or in which the sale of draft or  
7 keg beer is hereafter authorized by law; provided in rural  
8 communities with a predominantly foreign population, after the  
9 payment of the tax imposed by this title, draft or keg beer  
10 may be sold or dispensed by special permit from the board,  
11 when, in the judgment of the board, the use and consumption of  
12 draft or keg beer is in accordance with the habit and customs  
13 of the people of any such rural community; provided further,  
14 the board may, in its discretion, grant to any civic center  
15 authority or its franchisee or concessionaire, to which the  
16 board may have issued or may simultaneously issue a retail  
17 license under the provisions of this code, a revocable  
18 temporary permit to sell or dispense in any part of its civic  
19 center, for consumption therein, draft or keg beer. Either  
20 such permit shall be promptly revoked by the board if, in its  
21 judgment, the same tends to create intemperance or is  
22 prejudicial to the welfare, health, peace, temperance, and  
23 safety of the people of the community or of the state.

24 "(i) No importer shall sell alcoholic beverages to  
25 any person other than a wholesaler licensee, or sell to a

1 wholesaler licensee any brand or brands of alcoholic beverages  
2 for sale or distribution in this state, except where the  
3 importer has been granted written authorization from the  
4 manufacturer thereof to import and sell the brand or brands to  
5 be sold in the State of Alabama, which authorization is on  
6 file with the board.

7 "(j) No wholesaler shall maintain or operate any  
8 place where sales are made other than that for which the  
9 wholesale license is granted; provided, however, a wholesaler  
10 may be licensed to sell and distribute liquor, wine and beer.  
11 No wholesaler shall maintain any place for the storage of  
12 liquor, wine or beer unless the same has been approved by the  
13 board. No wholesaler license shall be issued for any premises  
14 in any part of which there is operated any retail license for  
15 the sale of alcoholic beverages.

16 "(k) Licenses issued under this code may not be  
17 assigned. The board is hereby authorized to transfer any  
18 license from one person to another, or from one place to  
19 another within the same governing jurisdiction, or both, as  
20 the board may determine; but no transfers shall be made to a  
21 person who would not have been eligible to receive the license  
22 originally, nor for the transaction of business at a place for  
23 which the license could not originally have been issued  
24 lawfully.

1           "(l) Every applicant for a transfer of a license  
2 shall file a written application with the board within such  
3 time as the board shall fix in its regulations. Whenever any  
4 license is transferred, there shall be collected a filing fee  
5 of \$50.00, to be paid to the board, and the board shall pay  
6 such fee into the State Treasury to the credit of the Beer Tax  
7 and License Fund of the board.

8           "(m) In the event that any person to whom a license  
9 shall have been issued under the terms of this code shall  
10 become insolvent, make an assignment for the benefit of  
11 creditors, be adjudicated a bankrupt by either voluntary or  
12 involuntary action, the license of such person shall  
13 immediately terminate and be cancelled without any action on  
14 the part of the board, and there shall be no refund made, or  
15 credit given, for the unused portion of the license fee for  
16 the remainder of the license year for which said license was  
17 granted. Thereafter no license shall be issued by the board  
18 for the premises, wherein said license was conducted, to any  
19 assignee, committee, trustee, receiver, or successor of such  
20 licensee until a hearing has been held by the board as in the  
21 case of a new application for license. In all such cases, the  
22 board shall have the sole and final discretion as to the  
23 propriety of the issuance of a license for such premises, and  
24 the time it shall issue, and the period for which it shall be

1 issued, and shall have the further power to impose conditions  
2 under which said licensed premises shall be conducted."

3 Section 2. This act shall become effective on the  
4 first day of the third month following its passage and  
5 approval by the Governor, or its otherwise becoming law.



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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB294

Senate 21-FEB-12

I hereby certify that the within Act originated in and passed the Senate.

Patrick Harris  
Secretary

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House of Representatives  
Passed: 09-MAY-12

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By: Senator Sanford