

1 HB297
2 115675-1
3 By Representative Gipson
4 RFD: Government Operations
5 First Read: 14-JAN-10

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8 SYNOPSIS: Under existing law, the Alcoholic Beverage
9 Control Board may cite and fine a licensee for any
10 cause that could result in the suspension or
11 revocation of a license.

12 This bill would clarify that a licensee
13 receive due notice and a proper hearing before a
14 citation is issued and fine imposed.

15
16 A BILL
17 TO BE ENTITLED
18 AN ACT

19
20 Relating to the Alcoholic Beverage Control Board, to
21 amend Section 28-3A-24, Code of Alabama 1975, relating to the
22 punishment of licensees for violations; to clarify that a
23 licensee receive due notice and a proper hearing before a
24 citation is issued and fine imposed.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. Section 28-3A-24 of the Code of Alabama
27 1975, is amended to read as follows:

1 "§28-3A-24.

2 "(a) The board shall have full and final authority
3 as to the suspension or revocation of any license issued under
4 this chapter and to levy a fine against a licensee in lieu of
5 such suspension or revocation. The board shall have the full
6 right and authority to suspend any retail license issued by it
7 for any reason which it may deem sufficient and proper.

8 "Provided, however, the board may appoint a hearing
9 commission of not less than three members to hear and decide
10 all contested applications of licenses under this chapter, and
11 hear and decide all charges against any licensee for violation
12 of this chapter, the law, or the regulations of the board and
13 shall have the power and authority to revoke or suspend for
14 cause licenses and permits, or to fine licensees provided in
15 this chapter. Provided, no member of the hearing commission
16 shall participate in the hearing or disposition of any
17 application for license or charge against a licensee if he or
18 she has an interest therein or ~~he~~ was involved in the
19 investigation.

20 "(b) The board or a hearing commission appointed by
21 the board, upon sufficient cause being shown or proof being
22 made that any licensee holding a license issued by the board,
23 or any partners, members, officers, or directors of the
24 licensee has or have violated any of the laws of this state or
25 regulations of the board relating to the manufacture, sale,
26 possession, or transportation of alcoholic beverages, or where
27 the licensed premises has been conducted in a manner

1 prejudicial to the welfare, health, peace, temperance, and
2 safety of the people of the community or of the state, ~~may~~
3 upon due notice and proper hearing being given to the person
4 so licensed, may suspend or revoke the license issued by the
5 board. In all such cases where the board or hearing commission
6 shall suspend or revoke a license, it shall set forth its
7 findings of fact, the evidence from which such findings of
8 fact are made, and the reasons upon which its actions are
9 based.

10 "(c) When, in the opinion of the board or hearing
11 commission, a fine is deemed more appropriate than suspending
12 or revoking a license, the board or hearing commission ~~is~~
13 ~~authorized to, upon due notice and proper hearing being given~~
14 to the licensee, may fine the licensee for any cause that
15 could result in suspension or revocation. Such fines may not
16 exceed the sum of ~~\$1,000.00~~ one thousand dollars (\$1,000). The
17 licensee ~~must~~ shall remit the fine to the administrator within
18 one week of the day that such fine is levied. Failure to pay
19 the fine within this period shall result in an automatic
20 suspension of the license until such fine is paid. All fines
21 collected by the board shall be paid by the administrator into
22 the Treasury of the state and credited to the General Fund.

23 "(d) The maximum length of suspension of a license
24 under these provisions shall be one year, and any licensee
25 whose license is suspended by the board or hearing commission
26 shall be, at the discretion of the board or hearing
27 commission, ineligible to have any license under this chapter

1 until the expiration or removal of the suspension. Any
2 licensee whose license is revoked by the hearing commission or
3 the board shall be, at the discretion of the board or hearing
4 commission, ineligible to have any license under this chapter
5 until the expiration of one year from the date such license is
6 revoked. The board or hearing commission is hereby granted
7 broad discretionary powers in exercising its authority under
8 this section."

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