

1 SB254
2 190380-2
3 By Senator Sanford
4 RFD: Fiscal Responsibility and Economic Development
5 First Read: 30-JAN-18

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to alcoholic beverages; to add Section
12 28-3A-20.3 to the Code of Alabama 1975, and to amend Section
13 28-3A-25, Code of Alabama 1975; to authorize on-premises
14 licensees of the Alcoholic Beverage Control Board to produce,
15 store, and sell infused products; and to authorize retail
16 licensees of alcoholic beverages to make infusions using
17 distilled spirits for on-site consumption.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. Section 28-3A-20.3 is added to the Code
20 of Alabama 1975, to read as follows:

21 §28-3A-20.3.

22 (a) Any law to the contrary notwithstanding,
23 including, but not limited to, subdivision (9) of subsection
24 (a) of Section 28-3A-25, an on-premises licensee may infuse
25 alcoholic beverages for on-premises consumption.

26 (b) Infusion, as used in this section, shall mean an
27 alcoholic beverage that is created by combining or mixing one

1 distilled spirit with nonalcoholic food products and is not
2 intended for immediate consumption. A nonalcoholic product
3 includes the following: Spices, herbs, fruits, vegetables,
4 candy, or other substances intended for human consumption,
5 provided that no additional fermentation occurs and none of
6 the additives contain any additional alcohol.

7 (c) Any retail on-premises licensee intending to
8 produce, store, or sell infusions shall provide written
9 notification to the board of that intent.

10 (d) The container holding an infusion shall be no
11 larger than five gallons.

12 (e) A batch of infused product shall satisfy all of
13 the following:

14 (1) Be infused, stored, and consumed only on the
15 licensed premises.

16 (2) Be labeled with all of the following
17 information:

18 a. A statement that the infused product contains
19 alcohol.

20 b. A title for the recipe.

21 c. The name of the person who prepared the batch of
22 infused product.

23 d. The date the batch of infused product was
24 produced.

25 e. The expiration date of the batch of infused
26 product.

1 f. The brand and type of spirits used to prepare the
2 batch of infused product.

3 g. The amount of spirits used to prepare the batch
4 of infused product.

5 h. A detailed and comprehensive list of all
6 ingredients used to prepare the batch of infused product.

7 (3) Comply with all applicable state and federal
8 food safety regulations.

9 (4) Be disposed of within 22 days after being
10 prepared.

11 (f) A batch of infused product may not:

12 (1) Contain any added stimulant, drug, or illegal
13 substance including, but not limited to, caffeine, guarana,
14 ginseng, taurine, marijuana, or any product or beverage which
15 includes stimulants that are not naturally included in the
16 infused product or beverage including, but not limited to, an
17 energy drink.

18 (2) Be removed or transported from the licensed
19 premises.

20 (3) Be infused in, stored in, or dispensed from an
21 original package of liquor, or container bearing an alcoholic
22 beverage name brand.

23 (g) The board may promulgate additional rules as
24 necessary to implement this section.

25 Section 2. Section 28-3A-25 of the Code of Alabama
26 1975, is amended to read as follows:

27 "§28-3A-25.

1 "(a) It shall be unlawful:

2 "(1) For any manufacturer, importer, or wholesaler,
3 or the servants, agents, or employees of the same, to sell,
4 trade, or barter in alcoholic beverages between the hours of
5 nine o'clock P.M. of any Saturday and two o'clock A.M. of the
6 following Monday.

7 "(2) For any wholesaler or the servants, agents, or
8 employees of the wholesaler to sell alcoholic beverages, to
9 other than wholesale or retail licensees or others within this
10 state lawfully authorized to sell alcoholic beverages, or to
11 sell for export.

12 "(3) For any person, licensee, or the board either
13 directly or by the servants, agents, or employees of the same,
14 or for any servant, agent, or employee of the same, to sell,
15 deliver, furnish, or give away alcoholic beverages to any
16 person under the legal drinking age, as defined in Section
17 28-1-5, or to permit any person under the legal drinking age,
18 as defined in Section 28-1-5, to drink, consume, or possess
19 any alcoholic beverages on any licensee's premises.

20 "(4) For any person to consume alcoholic beverages
21 on the premises of any state liquor store or any off-premises
22 licensee, or to allow alcoholic beverages to be consumed on
23 the premises of any state liquor store or any off-premises
24 licensee, except as specifically allowed by law for the
25 tasting of alcoholic beverages.

26 "(5) For any licensee to fail to keep for a period
27 of at least three years, complete and truthful records

1 covering the operation of his or her license and particularly
2 showing the date of all purchases of alcoholic beverages, the
3 actual price paid therefor, and the name of the vendor, or to
4 refuse the board or any authorized employee of the board
5 access to the records or the opportunity to make copies of the
6 records when the request is made during business hours.

7 "(6) For any licensee or the servants, agents, or
8 employees of the same to refuse the board, any of its
9 authorized employees, or any duly commissioned law enforcement
10 officer the right to completely inspect the entire licensed
11 premises at any time the premises are open for business.

12 "(7) For any person to knowingly sell any alcoholic
13 beverages to any person engaged in the business of illegally
14 selling alcoholic beverages.

15 "(8) For any person to manufacture, transport, or
16 import alcoholic beverages into this state, except in
17 accordance with the reasonable rules and regulations of the
18 board. This subdivision shall not prohibit the transportation
19 of alcoholic beverages through the state or any dry county so
20 long as the beverages are not for delivery therein, if the
21 transportation is done in accordance with the reasonable rules
22 and regulations of the board.

23 "(9) For any person to fortify, adulterate,
24 contaminate, or in any manner change the character or purity
25 of alcoholic beverages from that as originally marketed by the
26 manufacturer, except that a retail licensee ~~on order from a~~
27 ~~customer~~ may mix a chaser or other ingredients necessary to

1 prepare a cocktail or mixed drink or may make infusions for
2 on-premises consumption in accordance with Section 28-3A-20.3.

3 "(10) For any person licensed to sell alcoholic
4 beverages to offer to give any thing of value as a premium for
5 the return of caps, stoppers, corks, stamps, or labels taken
6 from any bottle, case, barrel, or package containing the
7 alcoholic beverages, or to offer to give any thing of value as
8 a premium or present to induce the purchase of the alcoholic
9 beverages, or for any other purpose whatsoever in connection
10 with the sale of the alcoholic beverages. This subdivision
11 shall not apply to the return of any moneys specifically
12 deposited for the return of the original containers to the
13 owners of the containers.

14 "(11) For any licensee or transporter for hire,
15 servant, agent, or employee of the same, to transport any
16 alcoholic beverages except in the original container, and for
17 any transporter for hire to transport any alcoholic beverages
18 within the state, unless the transporter holds a permit issued
19 by the board.

20 "(12) For any manufacturer, importer, or wholesaler,
21 servant, agent, or employee of the same, to deliver any
22 alcoholic beverages, except in vehicles bearing such
23 information on each side of the vehicle as required by the
24 board.

25 "(13) For any person to sell alcoholic beverages
26 within any dry county or county where the electors have voted

1 against the sales, except in wet municipalities or as
2 authorized by Section 28-3A-18.

3 "(14) For any person, firm, corporation,
4 partnership, or association of persons as the terms are
5 defined in Section 28-3-1, including any civic center
6 authority, racing commission, fair authority, airport
7 authority, public or quasi-public board, agency, or
8 commission, any agent thereof, or otherwise, who or which has
9 not been properly licensed under the appropriate provisions of
10 this chapter to sell, offer for sale, or have in possession
11 for sale, any alcoholic beverages. Any alcoholic beverages so
12 possessed, maintained, or kept shall be contraband and subject
13 to condemnation and confiscation as provided by law.

14 "(15) For any manufacturer, distiller, producer,
15 importer, or distributor of alcoholic beverages to employ and
16 maintain any person, who is not a full-time bona fide
17 employee, as a resident sales agent, broker, or other like
18 representative, for the purpose of promoting a sale, purchase,
19 or acquisition of alcoholic beverages to or by the state or
20 the board, or for any person who is not a full-time bona fide
21 employee to act as an agent, broker, or representative of any
22 manufacturer, distributor, producer, importer, or distiller
23 for that purpose.

24 "(16) For any person to sell, give away, or
25 otherwise dispose of taxable alcoholic beverages within this
26 state on which the required taxes have not been paid as
27 required by law.

1 "(17) For any wholesaler or retailer, or the
2 servant, agent, or employee of the same, to sell, distribute,
3 deliver, or to receive or store for sale or distribution
4 within this state any alcoholic beverages unless there first
5 has been issued by the board a manufacturer's license to the
6 manufacturer of the alcoholic beverages or its designated
7 representative or an importer license to the importer of the
8 alcoholic beverages.

9 "(18) For any person under the legal drinking age,
10 as defined in Section 28-1-5, to attempt to purchase, to
11 purchase, consume, possess, or to transport any alcoholic
12 beverages within the state; provided, however, it shall not be
13 unlawful for a person under the legal drinking age, as defined
14 in Section 28-1-5, to be an employee of a wholesale licensee
15 or an off-premises retail licensee of the board to handle,
16 transport, or sell any beer or table wine if the person under
17 the legal drinking age is acting within the line and scope of
18 his or her employment while so acting. There must be an adult
19 licensee, servant, agent, or employee of the same present at
20 all times a licensed establishment is open for business.

21 "(19) For any person, except where authorized by a
22 local act or general act of local application, to buy, give
23 away, sell, or serve for consumption on or off the premises,
24 or to drink or consume any alcoholic beverages in any cafe,
25 lunchroom, restaurant, hotel dining room, or other public
26 place on Sunday after the hour of two o'clock A.M.

1 "(20) Except where authorized by a local act or
2 general act of local application, for the proprietor, keeper,
3 or operator of any cafe, lunchroom, restaurant, hotel dining
4 room, or other public place to knowingly permit any person to
5 give away, sell, or serve for consumption on or off the
6 premises, or to drink or consume any alcoholic beverages on
7 the premises of the cafe, lunchroom, restaurant, hotel dining
8 room, or other public place on Sunday after the hour of two
9 o'clock A.M.

10 "(21) For a person under the age of 21 years to
11 knowingly use or attempt to use a false, forged, deceptive, or
12 otherwise nongenuine driver's license to obtain or attempt to
13 obtain alcoholic beverages within this state.

14 "(b) (1) Any violation of subdivisions (1) through
15 (17) of subsection (a) shall be a misdemeanor punishable by a
16 fine of not less than one hundred dollars (\$100) nor more than
17 one thousand dollars (\$1,000), to which, at the discretion of
18 the court or judge trying the case, may be added imprisonment
19 in the county jail or at hard labor for the county for not
20 more than six months for the first conviction; and, on the
21 second conviction of a violation of the subdivisions, the
22 offense shall, in addition to the aforementioned fine, be
23 punishable by imprisonment or at hard labor for the county for
24 not less than three months nor more than six months to be
25 imposed by the court or judge trying the case; and, on the
26 third conviction and every subsequent conviction of a
27 violation of the subdivisions, the offense shall, in addition

1 to a fine within the limits abovenamed, be punishable by
2 imprisonment or at hard labor for the county for not less than
3 six months nor more than 12 months.

4 "(2) Any violation of any provision of subdivisions
5 (18), (19), (20), and (21) of subsection (a) shall be a
6 misdemeanor punishable by a fine of not less than fifty
7 dollars (\$50) nor more than five hundred dollars (\$500), to
8 which, at the discretion of the court or judge trying the
9 case, may be added imprisonment in the county jail or at hard
10 labor for the county for not more than three months.

11 "(c) In addition to the penalties otherwise provided
12 for a violation of subdivisions (18) and (21) of subsection
13 (a), upon conviction, including convictions in juvenile court
14 or under the Youthful Offender Act, the offender's license to
15 operate a motor vehicle in this state shall be surrendered by
16 the offender to the judge adjudicating the case for a period
17 of not less than three months nor more than six months. The
18 judge shall forward a copy of the order suspending the license
19 to the Department of Public Safety for enforcement purposes."

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

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Senate

Read for the first time and referred to the Senate
committee on Fiscal Responsibility and Economic
Development..... 30-JAN-18

Read for the second time and placed on the calen-
dar 1 amendment..... 08-FEB-18

Read for the third time and passed as amended 27-FEB-18

Yeas 26
Nays 0

Patrick Harris,
Secretary.