

1 HB46
2 196680-1
3 By Representative England
4 RFD: Economic Development and Tourism
5 First Read: 05-MAR-19
6 PFD: 02/14/2019

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8 SYNOPSIS: Under existing law, a retail licensee of
9 alcoholic beverages is prohibited from
10 adulterating, contaminating, or in any other manner
11 changing the character or purity of an alcoholic
12 beverage for on-premises consumption.

13 This bill would authorize on-premises retail
14 licensees of the Alcoholic Beverage Control Board
15 to produce, store, and sell infused products made
16 from distilled spirits for on-site consumption.

17
18 A BILL
19 TO BE ENTITLED
20 AN ACT

21
22 Relating to alcoholic beverages; to add Section
23 28-3A-20.3 to the Code of Alabama 1975, and to amend Section
24 28-3A-25, Code of Alabama 1975; to authorize on-premises
25 retail licensees of the Alcoholic Beverage Control Board to
26 produce, store, and sell infused products made from distilled
27 spirits for on-site consumption.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

4 §28-3A-20.3.

5 (a) An on-premises retail licensee may make, store,
6 and sell infusions for on-premises consumption.

7 (b) As used in this section, infusion means an
8 alcoholic beverage that is created by combining or mixing one
9 distilled spirit with nonalcoholic food products and is not
10 intended for immediate consumption. A nonalcoholic food
11 product includes the following: Spices, herbs, fruits,
12 vegetables, candy, or other substances intended for human
13 consumption, provided that no additional fermentation occurs
14 and none of the additives contain any additional alcohol.

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

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

20 (e) A batch of infused product shall satisfy all of
21 the following:

22 (1) Be infused, stored, and consumed only on the
23 licensed premises.

24 (2) Be labeled with all of the following
25 information:

26 a. A statement that the infused product contains
27 alcohol.

- 1 b. A title for the recipe.
- 2 c. The name of the person who prepared the batch of
3 infused product.
- 4 d. The date the batch of infused product was
5 produced.
- 6 e. The expiration date of the batch of infused
7 product.
- 8 f. The brand and type of spirits used to prepare the
9 batch of infused product.
- 10 g. The amount of spirits used to prepare the batch
11 of infused product.
- 12 h. A detailed and comprehensive list of all
13 ingredients used to prepare the batch of infused product.
- 14 (3) Comply with all applicable state and federal
15 food safety regulations.
- 16 (4) Be disposed of within 22 days after being
17 prepared.
- 18 (f) A batch of infused product may not:
- 19 (1) Contain any added stimulant, drug, or illegal
20 substance including, but not limited to, caffeine, guarana,
21 ginseng, taurine, marijuana, or any product or beverage which
22 includes stimulants that are not naturally included in the
23 infused product or beverage including, but not limited to, an
24 energy drink.
- 25 (2) Be removed or transported from the licensed
26 premises.

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

4 (g) The board may adopt rules to implement this
5 section.

6 Section 2. Section 28-3A-25 of the Code of Alabama
7 1975, is amended to read as follows:

8 "§28-3A-25.

9 "(a) It shall be unlawful:

10 "(1) For any manufacturer, importer, or wholesaler,
11 or the servants, agents, or employees of the same, to sell,
12 trade, or barter in alcoholic beverages between the hours of
13 nine o'clock P.M. of any Saturday and two o'clock A.M. of the
14 following Monday.

15 "(2) For any wholesaler or the servants, agents, or
16 employees of the wholesaler to sell alcoholic beverages, to
17 other than wholesale or retail licensees or others within this
18 state lawfully authorized to sell alcoholic beverages, or to
19 sell for export.

20 "(3) For any person, licensee, or the board either
21 directly or by the servants, agents, or employees of the same,
22 or for any servant, agent, or employee of the same, to sell,
23 deliver, furnish, or give away alcoholic beverages to any
24 person under the legal drinking age, as defined in Section
25 28-1-5, or to permit any person under the legal drinking age,
26 as defined in Section 28-1-5, to drink, consume, or possess
27 any alcoholic beverages on any licensee's premises.

1 "(4) For any person to consume alcoholic beverages
2 on the premises of any state liquor store or any off-premises
3 licensee, or to allow alcoholic beverages to be consumed on
4 the premises of any state liquor store or any off-premises
5 licensee, except as specifically allowed by law for the
6 tasting of alcoholic beverages.

7 "(5) For any licensee to fail to keep for a period
8 of at least three years, complete and truthful records
9 covering the operation of his or her license and particularly
10 showing the date of all purchases of alcoholic beverages, the
11 actual price paid therefor, and the name of the vendor, or to
12 refuse the board or any authorized employee of the board
13 access to the records or the opportunity to make copies of the
14 records when the request is made during business hours.

15 "(6) For any licensee or the servants, agents, or
16 employees of the same to refuse the board, any of its
17 authorized employees, or any duly commissioned law enforcement
18 officer the right to completely inspect the entire licensed
19 premises at any time the premises are open for business.

20 "(7) For any person to knowingly sell any alcoholic
21 beverages to any person engaged in the business of illegally
22 selling alcoholic beverages.

23 "(8) For any person to manufacture, transport, or
24 import alcoholic beverages into this state, except in
25 accordance with the reasonable rules and regulations of the
26 board. This subdivision shall not prohibit the transportation
27 of alcoholic beverages through the state or any dry county so

1 long as the beverages are not for delivery therein, if the
2 transportation is done in accordance with the reasonable rules
3 and regulations of the board.

4 "(9) For any person to fortify, adulterate,
5 contaminate, or in any manner change the character or purity
6 of alcoholic beverages from that as originally marketed by the
7 manufacturer, except that a retail licensee ~~on order from a~~
8 ~~customer~~ may mix a chaser or other ingredients necessary to
9 prepare a cocktail or mixed drink or may make infusions for
10 on-premises consumption in accordance with Section 28-3A-20.3.

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

22 "(11) For any licensee or transporter for hire,
23 servant, agent, or employee of the same, to transport any
24 alcoholic beverages except in the original container, and for
25 any transporter for hire to transport any alcoholic beverages
26 within the state, unless the transporter holds a permit issued
27 by the board.

1 "(12) For any manufacturer, importer, or wholesaler,
2 servant, agent, or employee of the same, to deliver any
3 alcoholic beverages, except in vehicles bearing such
4 information on each side of the vehicle as required by the
5 board.

6 "(13) For any person to sell alcoholic beverages
7 within any dry county or county where the electors have voted
8 against the sales, except in wet municipalities or as
9 authorized by Section 28-3A-18.

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

21 "(15) For any manufacturer, distiller, producer,
22 importer, or distributor of alcoholic beverages to employ and
23 maintain any person, who is not a full-time bona fide
24 employee, as a resident sales agent, broker, or other like
25 representative, for the purpose of promoting a sale, purchase,
26 or acquisition of alcoholic beverages to or by the state or
27 the board, or for any person who is not a full-time bona fide

1 employee to act as an agent, broker, or representative of any
2 manufacturer, distributor, producer, importer, or distiller
3 for that purpose.

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

8 "(17) For any wholesaler or retailer, or the
9 servant, agent, or employee of the same, to sell, distribute,
10 deliver, or to receive or store for sale or distribution
11 within this state any alcoholic beverages unless there first
12 has been issued by the board a manufacturer's license to the
13 manufacturer of the alcoholic beverages or its designated
14 representative or an importer license to the importer of the
15 alcoholic beverages.

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

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

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

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

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

1 offense shall, in addition to the aforementioned fine, be
2 punishable by imprisonment or at hard labor for the county for
3 not less than three months nor more than six months to be
4 imposed by the court or judge trying the case; and, on the
5 third conviction and every subsequent conviction of a
6 violation of the subdivisions, the offense shall, in addition
7 to a fine within the limits abovenamed, be punishable by
8 imprisonment or at hard labor for the county for not less than
9 six months nor more than 12 months.

10 "(2) Any violation of any provision of subdivisions
11 (18), (19), (20), and (21) of subsection (a) shall be a
12 misdemeanor punishable by a fine of not less than fifty
13 dollars (\$50) nor more than five hundred dollars (\$500), to
14 which, at the discretion of the court or judge trying the
15 case, may be added imprisonment in the county jail or at hard
16 labor for the county for not more than three months.

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

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