

1 SB368
2 198351-1
3 By Senator Shelnutt
4 RFD: Fiscal Responsibility and Economic Development
5 First Read: 02-MAY-19

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8 SYNOPSIS: Under existing law, delivery of alcoholic
9 beverages by a licensed retailer or through a third
10 party delivery service to a residence is
11 prohibited.

12 This bill would provide for a delivery
13 service permit issued by the Alcoholic Beverage
14 Control Board, that would allow the permittee to
15 contract with certain licensed retail
16 establishments to deliver sealed alcoholic
17 beverages directly to Alabama residents who are at
18 least 21 years of age for their personal use.

19 This bill would provide for the permitting
20 process and establish certain restrictions and
21 requirements for delivery service permittees.

22 This bill would also authorize certain
23 employees of a delivery service permittee and
24 independent contractors of a delivery service
25 permittee to deliver alcoholic beverages to
26 residents.

1 A BILL
2 TO BE ENTITLED
3 AN ACT
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5 Relating to alcoholic beverages; to amend Section
6 28-1-4, Code of Alabama 1975, and to add Section 28-3A-3.1 to
7 the Code of Alabama 1975; to provide for a delivery service
8 permit from the Alcoholic Beverage Control Board that
9 authorizes the permittee, using its employees or independent
10 contractors, to deliver alcoholic beverages directly to
11 Alabama residents who are at least 21 years of age for their
12 personal use; to provide for the permitting procedure; to
13 provide restrictions and requirements on the delivery of
14 alcoholic beverages; and to provide for issuance and renewal
15 fees for a delivery service permit.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. Section 28-1-4, Code of Alabama 1975, is
18 amended to read as follows:

19 "§28-1-4.

20 "(a) The words and phrases used in this section
21 shall have the meanings ascribed to them in Section 28-3-1 and
22 any acts amendatory thereof, supplementary thereto or
23 substituted therefor.

24 "(b) It shall be unlawful for common or permit
25 carriers, operators of trucks, buses, or other conveyances or
26 out-of-state manufacturers or suppliers to make delivery of
27 any alcoholic beverage from ~~without~~ outside the State of

1 Alabama to any person, ~~association or corporation~~ within the
2 state, except to the Alabama Alcoholic Beverage Control Board
3 and to manufacturers, importers, wholesalers and warehouses
4 licensed by the Alabama Alcoholic Beverage Control Board to
5 receive the alcoholic beverages so delivered.

6 "(c) Notwithstanding subsection (b), a delivery
7 service permittee or an employee or independent contractor of
8 a delivery service permittee may transport and deliver
9 alcoholic beverages to a resident who is at least 21 years of
10 age in the state in accordance with Section 28-3A-3.1.

11 ~~"(c)(d) Any violation of subsection (a) of this~~
12 ~~section (b) shall be a misdemeanor, punishable as provided in~~
13 ~~paragraph subdivision (1) of subsection (b) of Section~~
14 ~~28-3A-25.~~

15 ~~"(d) All laws or parts of law which conflict or are~~
16 ~~inconsistent with this section are hereby repealed, provided,~~
17 ~~however, the provisions of Section 28-1-3 are excluded."~~

18 Section 2. Section 28-3A-3.1 is added to the Code of
19 Alabama 1975, to read as follows:

20 §28-3A-3.1.

21 (a) Notwithstanding any other provision of this
22 title, any person, limited liability company, or partnership
23 that is registered to do business in this state, regardless of
24 the residency of the ownership of the entity, may apply for
25 and be issued a delivery service permit that authorizes the
26 permittee to deliver alcoholic beverages from a retailer
27 licensed to sell alcoholic beverages for off-premises

1 consumption to a resident in the state who is at least 21
2 years of age for the resident's personal use and not for
3 resale.

4 (b) In order to receive a permit, the applicant for
5 a delivery service permit shall do all of the following:

6 (1) File an application with the Alcoholic Beverage
7 Control Board.

8 (2) Pay a filing fee of one hundred dollars (\$100).

9 (3) Provide to the board a sample contract it will
10 enter into with a licensed retailer for the delivery of
11 alcoholic beverages.

12 (c) A delivery service permittee:

13 (1) May contract with any retailer licensed to sell
14 alcoholic beverages for off-premises consumption for the
15 purpose of delivering alcoholic beverages, including liquor,
16 beer, and wine.

17 (2) May use its own employees or independent
18 contractors who are at least 21 years of age, to deliver
19 alcoholic beverages under this section.

20 (3) May take orders by telephone, Internet, or by
21 other electronic means for the sale and delivery of alcoholic
22 beverages under this section.

23 (4) May deliver only sealed containers of alcohol.

24 (5) Shall obtain from the customer an attestation
25 that he or she is at least 21 years of age at the time the
26 order is placed.

1 (6) For any shipping container of which it is not
2 readily apparent that it contains alcoholic beverages, shall
3 stamp, print, or label on the outside of the shipping
4 container the words: "CONTAINS ALCOHOL: Must be delivered to a
5 person 21 years of age or older."

6 (7) Shall require the customer, at the time of
7 delivery, to provide photo identification verifying he or she
8 is at least 21 years of age and sign for the delivery.

9 (8) Shall report, at the direction of the board, the
10 total amount of alcoholic beverages directly shipped to
11 residents in the state during the preceding calendar year.

12 (9) Shall collect and properly remit all state and
13 local sales or use taxes and excise taxes due on sales to
14 Alabama residents.

15 (10) Shall permit the board or the Department of
16 Revenue to perform an audit of the permittee's records upon
17 request.

18 (11) Shall be deemed to have consented to the
19 jurisdiction of the board or any law enforcement agency and
20 the Alabama courts concerning enforcement of this section and
21 any related laws or rules.

22 (d) Any individual applying for a delivery service
23 permit under this section must be 21 years of age or older and
24 must not have been convicted of a felony.

25 (e) A delivery service permittee may renew its
26 permit with the board by paying annually a renewal fee of

1 fifty dollars (\$50) and providing the board a true copy of its
2 current permit.

3 (f) The board may enforce the requirements of this
4 section to suspend or revoke a delivery service permit by the
5 same administrative proceedings that apply to alcoholic
6 beverage licenses, and the board may accept payment of a fine
7 in lieu of suspension or revocation, such payments to be
8 determined by rule adopted by the board.

9 (g) The board may adopt rules pursuant to the
10 Alabama Administrative Procedure Act to implement this
11 section.

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