

1 SB264
2 203508-1
3 By Senator Waggoner
4 RFD: Tourism
5 First Read: 05-MAR-20

SYNOPSIS: Under existing law, delivery of beer and wine to a residence is prohibited.

This bill would provide for a delivery service license issued by the Alcoholic Beverage Control Board that would allow the licensee to deliver sealed beer and wine from certain licensed retail establishments directly to individuals in Alabama who are at least 21 years of age for their personal use.

This bill would provide for the licensing process and establish certain restrictions and requirements for delivery service licensees.

This bill would also authorize certain employees of a delivery service licensee and independent contractors of a delivery service licensee to deliver beer and wine to individuals in Alabama.

A BILL
TO BE ENTITLED

1 AN ACT

2
3 Relating to alcoholic beverages; to amend Section
4 28-1-4, Code of Alabama 1975; to provide for a delivery
5 service license from the Alcoholic Beverage Control Board that
6 authorizes the licensee, using its employees or independent
7 contractors, to deliver beer and wine directly to Alabama
8 residents who are at least 21 years of age for their personal
9 use; to provide for the licensing procedure; to provide
10 restrictions and requirements on the delivery of beer or wine;
11 and to provide for issuance and renewal fees for a delivery
12 service license.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

16 "§28-1-4.

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

21 "(b) ~~It~~ Except as provided in subsection (c), it
22 shall be unlawful for any common ~~or permit carriers, operators~~
23 carrier, operator of trucks, buses, or other conveyances or
24 ~~out-of-state manufacturers or suppliers~~ a manufacturer or
25 supplier to make delivery of any alcoholic beverage ~~from~~
26 ~~without the State of Alabama~~ to any person, ~~association or~~
27 ~~corporation~~ within the state, except to the Alabama Alcoholic

1 Beverage Control Board and to manufacturers, importers,
2 wholesalers and warehouses licensed by the Alabama Alcoholic
3 Beverage Control Board to receive the alcoholic beverages so
4 delivered.

5 "(c) Notwithstanding subsection (b), a delivery
6 service licensee, or an employee or independent contractor of
7 a delivery service licensee in compliance with Section 2 of
8 the act adding this amendatory language may transport and
9 deliver beer and wine to an individual in the state who is at
10 least 21 years of age.

11 "(d) Any beer or wine delivered to an individual
12 pursuant to this section shall not exceed, by volume, the
13 equivalent of 48 12-ounce containers of beer and six
14 750-milliliter bottles of wine in any single 24-hour period.

15 ~~"(c) Any (e) A violation of subsection (a) of this~~
16 ~~section shall be a misdemeanor, punishable as provided in~~
17 ~~paragraph subdivision (1) of subsection (b) of Section~~
18 ~~28-3A-25.~~

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

22 Section 2. (a) Any person, limited liability
23 company, or partnership that is registered to do business in
24 this state, regardless of whether the ownership of the
25 business entity is based in the State of Alabama or outside
26 the State of Alabama, may apply for and be issued a delivery
27 service license that authorizes the licensee to deliver beer

1 and wine from a retail premises licensed to sell beer or wine
2 for off-premises consumption to an individual in this state
3 who is at least 21 years of age for personal use and not for
4 resale.

5 (b) In order to receive a license, an applicant
6 shall do all of the following:

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

9 (2) Pay a non-refundable filing fee of one hundred
10 dollars (\$100), and a license fee of one thousand dollars
11 (\$1,000).

12 (3) Provide to the board a sample contract that the
13 applicant intends to enter into with a retailer for the
14 delivery of beer or wine, unless the applicant is the
15 retailer.

16 (4) Provide an attestation that the applicant is 21
17 years of age or older and has not been convicted of a felony
18 or a misdemeanor for a violation of Section 28-3A-25(a)(3),
19 Code of Alabama 1975.

20 (5) Provide proof of a general liability insurance
21 policy in an amount no less than five million dollars per
22 occurrence.

23 (6) Provide an outline for an internal training and
24 certification program for delivery personnel that addresses
25 topics such as identifying underage individuals, intoxicated
26 individuals, and fake or altered identification.

27 (c) A delivery service licensee:

1 (1) May contract with any retailer licensed to sell
2 beer or wine for off-premises consumption for the purpose of
3 delivering beer or wine.

4 (2) May use its own employees or independent
5 contractors who are at least 21 years of age to deliver beer
6 and wine under this section, provided all delivery agents are
7 trained and certified consistent with the training program
8 submitted to the board as required by subdivision (6) of
9 subsection (b).

10 (3) May facilitate orders by telephone, Internet, or
11 by other electronic means for the sale and delivery of beer or
12 wine under this section.

13 (4) May deliver only sealed containers of beer or
14 wine .

15 (5) Shall obtain from the customer a confirmation
16 that he or she is at least 21 years of age at the time the
17 order is placed.

18 (6) For any delivery in a sealed package there shall
19 be a stamp, print, or label on the outside of the sealed
20 package to indicate in readily apparent font or type that the
21 package contains alcohol and that the signature of an
22 individual at least 21 years of age is required for delivery.

23 (7) Shall require the recipient, at the time of
24 delivery, to provide valid photo identification that conforms
25 to Alcoholic Beverage Control Board rules and that verifies
26 that he or she is at least 21 years of age and sign for the
27 delivery.

1 (8) Shall possess identification scanning software
2 technology or a state-of-the-art alternative available at the
3 point of delivery that verifies the recipient is at least 21
4 years of age and retains the recipient's name, date of birth,
5 and signature.

6 (9) Shall provide each delivery service agent either
7 a printed copy of the delivery service license or an
8 electronic copy indicating the delivery service licensee's
9 name and number which shall be available for inspection, upon
10 request.

11 (10) Shall return all beer and wine to the retailer
12 if the recipient is under the age of 21 years, appears
13 intoxicated, fails to provide proof of identification, fails
14 or refuses to sign for delivery, fails to complete the
15 identification scanning software process or state-of-the-art
16 alternative, declines to accept the delivery of beer or wine,
17 or if any circumstances in the delivery environment indicate
18 illegal conduct, overconsumption, or an otherwise unsafe
19 environment for the consumption of alcohol.

20 (11) May deliver through a dry county but may not
21 deliver to an individual residing in a dry municipality.

22 (12) May not deliver any alcoholic beverage to any
23 residence hall within the boundaries of any institution of
24 higher learning, including any college, university, community
25 college, technical college, or junior college.

1 (13) Shall report, at the direction of the board,
2 the total amount of beer and wine directly delivered to
3 residents in the state during the preceding calendar year.

4 (14) Shall permit the board or the Department of
5 Revenue to perform an audit of the licensee's records upon
6 request.

7 (15) Shall be deemed to have consented to the
8 jurisdiction of the board or any law enforcement agency and
9 the Alabama courts concerning enforcement of this section and
10 any related laws or rules.

11 (d) A delivery service licensee may renew its
12 license with the board by paying annually a renewal fee of one
13 thousand dollars (\$1,000) and otherwise complying with the
14 renewal process set forth in Section 28-3A-5, Code of Alabama
15 1975.

16 (e) Nothing in this section shall be construed to
17 require a technology services company to obtain a delivery
18 service license if the company does not employ or contract
19 with delivery agents, but merely provides software or a
20 digital network application that connects consumers and
21 licensed retailers for the delivery of alcoholic beverages
22 from a licensed retailer.

23 (f) The board may enforce the requirements of this
24 section to suspend or revoke a delivery service license by the
25 same administrative proceedings that apply to alcoholic
26 beverage licenses, and the board may accept payment of a fine

1 in lieu of suspension or revocation, such payments to be
2 determined by rule adopted by the board.

3 (g) The board may adopt rules pursuant to the
4 Alabama Administrative Procedure Act to implement this
5 section.

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