

1 HB434  
2 184052-1  
3 By Representative England  
4 RFD: Economic Development and Tourism  
5 First Read: 16-MAR-17

2  
3  
4  
5  
6  
7  
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  
14 licensees of the Alcoholic Beverage Control Board  
15 to produce, store, and sell infused products and  
16 would allow a retail licensee to make infusions  
17 using distilled spirits for on-site consumption.

18  
19 A BILL  
20 TO BE ENTITLED  
21 AN ACT

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

1 licensees of alcoholic beverages to make infusions using  
2 distilled spirits for on-site consumption.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

6 §28-3A-20.3.

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

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

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

22 (d) The distilled spirit used in an infusion shall  
23 be purchased from a wholesale store licensed by the board and  
24 all applicable state taxes shall be paid.

25 (e) The container holding an infusion shall be no  
26 larger than five gallons.

1 (f) A batch of infused product shall satisfy all of  
2 the following:

3 (1) Be infused, stored, and consumed only on the  
4 licensed premises.

5 (2) Be labeled with all of the following  
6 information:

7 a. A statement that the infused product contains  
8 alcohol.

9 b. A title for the recipe.

10 c. The name of the person who prepared the batch of  
11 infused product.

12 d. The date the batch of infused product was  
13 produced.

14 e. The expiration date of the batch of infused  
15 product.

16 f. The brand and type of spirits used to prepare the  
17 batch of infused product.

18 g. The amount of spirits used to prepare the batch  
19 of infused product.

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

22 (3) Comply with all applicable state and federal  
23 food safety regulations.

24 (4) Be disposed of within seven days after being  
25 prepared.

26 (g) A batch of infused product may not:

1           (1) Contain any added stimulant, drug, or illegal  
2 substance including, but not limited to, caffeine, guarana,  
3 ginseng, taurine, marijuana, or any product or beverage which  
4 includes stimulants that are not naturally included in the  
5 infused product or beverage including, but not limited to, an  
6 energy drink.

7           (2) Be removed or transported from the licensed  
8 premises.

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

12           (h) The board may promulgate additional rules as  
13 necessary to implement this section.

14           Section 2. Section 28-3A-25 of the Code of Alabama  
15 1975, is amended to read as follows:

16           "§28-3A-25.

17           "(a) It shall be unlawful:

18           "(1) For any manufacturer, importer, or wholesaler,  
19 or the servants, agents, or employees of the same, to sell,  
20 trade, or barter in alcoholic beverages between the hours of  
21 nine o'clock P.M. of any Saturday and two o'clock A.M. of the  
22 following Monday.

23           "(2) For any wholesaler or the servants, agents, or  
24 employees of the wholesaler to sell alcoholic beverages, to  
25 other than wholesale or retail licensees or others within this  
26 state lawfully authorized to sell alcoholic beverages, or to  
27 sell for export.

1           "(3) For any person, licensee, or the board either  
2 directly or by the servants, agents, or employees of the same,  
3 or for any servant, agent, or employee of the same, to sell,  
4 deliver, furnish, or give away alcoholic beverages to any  
5 person under the legal drinking age, as defined in Section  
6 28-1-5, or to permit any person under the legal drinking age,  
7 as defined in Section 28-1-5, to drink, consume, or possess  
8 any alcoholic beverages on any licensee's premises.

9           "(4) For any person to consume alcoholic beverages  
10 on the premises of any state liquor store or any off-premises  
11 licensee, or to allow alcoholic beverages to be consumed on  
12 the premises of any state liquor store or any off-premises  
13 licensee, except as specifically allowed by law for the  
14 tasting of alcoholic beverages.

15           "(5) For any licensee to fail to keep for a period  
16 of at least three years, complete and truthful records  
17 covering the operation of his or her license and particularly  
18 showing the date of all purchases of alcoholic beverages, the  
19 actual price paid therefor, and the name of the vendor, or to  
20 refuse the board or any authorized employee of the board  
21 access to the records or the opportunity to make copies of the  
22 records when the request is made during business hours.

23           "(6) For any licensee or the servants, agents, or  
24 employees of the same to refuse the board, any of its  
25 authorized employees, or any duly commissioned law enforcement  
26 officer the right to completely inspect the entire licensed  
27 premises at any time the premises are open for business.

1           "(7) For any person to knowingly sell any alcoholic  
2 beverages to any person engaged in the business of illegally  
3 selling alcoholic beverages.

4           "(8) For any person to manufacture, transport, or  
5 import alcoholic beverages into this state, except in  
6 accordance with the reasonable rules and regulations of the  
7 board. This subdivision shall not prohibit the transportation  
8 of alcoholic beverages through the state or any dry county so  
9 long as the beverages are not for delivery therein, if the  
10 transportation is done in accordance with the reasonable rules  
11 and regulations of the board.

12           "(9) For any person to fortify, adulterate,  
13 contaminate, or in any manner change the character or purity  
14 of alcoholic beverages from that as originally marketed by the  
15 manufacturer, except that a retail licensee ~~on order from a~~  
16 ~~customer~~ may mix a chaser or other ingredients necessary to  
17 prepare a cocktail or mixed drink or may make infusions for  
18 on-premises consumption. For purposes of this subdivision,  
19 infusion means a product created by combining or mixing a  
20 distilled spirit with nonalcoholic food products over a  
21 sustained period of time that is not intended for immediate  
22 consumption.

23           "(10) For any person licensed to sell alcoholic  
24 beverages to offer to give any thing of value as a premium for  
25 the return of caps, stoppers, corks, stamps, or labels taken  
26 from any bottle, case, barrel, or package containing the  
27 alcoholic beverages, or to offer to give any thing of value as

1 a premium or present to induce the purchase of the alcoholic  
2 beverages, or for any other purpose whatsoever in connection  
3 with the sale of the alcoholic beverages. This subdivision  
4 shall not apply to the return of any moneys specifically  
5 deposited for the return of the original containers to the  
6 owners of the containers.

7 "(11) For any licensee or transporter for hire,  
8 servant, agent, or employee of the same, to transport any  
9 alcoholic beverages except in the original container, and for  
10 any transporter for hire to transport any alcoholic beverages  
11 within the state, unless the transporter holds a permit issued  
12 by the board.

13 "(12) For any manufacturer, importer, or wholesaler,  
14 servant, agent, or employee of the same, to deliver any  
15 alcoholic beverages, except in vehicles bearing such  
16 information on each side of the vehicle as required by the  
17 board.

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

22 "(14) For any person, firm, corporation,  
23 partnership, or association of persons as the terms are  
24 defined in Section 28-3-1, including any civic center  
25 authority, racing commission, fair authority, airport  
26 authority, public or quasi-public board, agency, or  
27 commission, any agent thereof, or otherwise, who or which has



1 not been properly licensed under the appropriate provisions of  
2 this chapter to sell, offer for sale, or have in possession  
3 for sale, any alcoholic beverages. Any alcoholic beverages so  
4 possessed, maintained, or kept shall be contraband and subject  
5 to condemnation and confiscation as provided by law.

6 "(15) For any manufacturer, distiller, producer,  
7 importer, or distributor of alcoholic beverages to employ and  
8 maintain any person, who is not a full-time bona fide  
9 employee, as a resident sales agent, broker, or other like  
10 representative, for the purpose of promoting a sale, purchase,  
11 or acquisition of alcoholic beverages to or by the state or  
12 the board, or for any person who is not a full-time bona fide  
13 employee to act as an agent, broker, or representative of any  
14 manufacturer, distributor, producer, importer, or distiller  
15 for that purpose.

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

20 "(17) For any wholesaler or retailer, or the  
21 servant, agent, or employee of the same, to sell, distribute,  
22 deliver, or to receive or store for sale or distribution  
23 within this state any alcoholic beverages unless there first  
24 has been issued by the board a manufacturer's license to the  
25 manufacturer of the alcoholic beverages or its designated  
26 representative or an importer license to the importer of the  
27 alcoholic beverages.

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

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

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

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

5           "(b) (1) Any violation of subdivisions (1) through  
6 (17) of subsection (a) shall be a misdemeanor punishable by a  
7 fine of not less than one hundred dollars (\$100) nor more than  
8 one thousand dollars (\$1,000), to which, at the discretion of  
9 the court or judge trying the case, may be added imprisonment  
10 in the county jail or at hard labor for the county for not  
11 more than six months for the first conviction; and, on the  
12 second conviction of a violation of the subdivisions, the  
13 offense shall, in addition to the aforementioned fine, be  
14 punishable by imprisonment or at hard labor for the county for  
15 not less than three months nor more than six months to be  
16 imposed by the court or judge trying the case; and, on the  
17 third conviction and every subsequent conviction of a  
18 violation of the subdivisions, the offense shall, in addition  
19 to a fine within the limits abovenamed, be punishable by  
20 imprisonment or at hard labor for the county for not less than  
21 six months nor more than 12 months.

22           "(2) Any violation of any provision of subdivisions  
23 (18), (19), (20), and (21) of subsection (a) shall be a  
24 misdemeanor punishable by a fine of not less than fifty  
25 dollars (\$50) nor more than five hundred dollars (\$500), to  
26 which, at the discretion of the court or judge trying the

1 case, may be added imprisonment in the county jail or at hard  
2 labor for the county for not more than three months.

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

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.