

1 SB396
2 183876-3
3 By Senator Whatley
4 RFD: County and Municipal Government
5 First Read: 27-APR-17

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8 SYNOPSIS: The sale of alcoholic beverages on Sundays
9 and the sale of draft or keg beer is only allowed
10 in a wet county or wet municipality if authorized
11 by local law.

12 This bill would authorize the county
13 commission of a wet county, by resolution, to
14 regulate and permit the sale of alcoholic beverages
15 during certain hours on Sunday or the sale of draft
16 or keg beer by properly licensed retail licensees.

17 This bill would also authorize the governing
18 body of a wet municipality, by ordinance, to
19 regulate and permit the sale of alcoholic beverages
20 during certain hours on Sunday or the sale of draft
21 or keg beer by properly licensed retail licensees.

22
23 A BILL
24 TO BE ENTITLED
25 AN ACT
26

1 To amend Sections 28-3A-23 and Section 28-3A-25, as
2 amended by Act 2016-111, 2016 Regular Session, Code of Alabama
3 1975, relating to the sale of alcoholic beverages; to
4 authorize the county commission of a wet county, by
5 resolution, to regulate and permit the sale of alcoholic
6 beverages on Sunday or the sale of draft or keg beer by
7 properly licensed retail licensees; and to authorize the
8 governing body of a wet municipality, by ordinance to regulate
9 and permit the sale of alcoholic beverages on Sunday or the
10 sale of draft or keg beer by properly licensed retail
11 licensees.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Sections 28-3A-23 and Section 28-3A-25,
14 as last amended by Act 2016-111, 2016 Regular Session, Code of
15 Alabama 1975, are amended to read as follows:

16 "§28-3A-23.

17 "(a) No license prescribed in this code shall be
18 issued or renewed until the provisions of this code have been
19 complied with and the filing and license fees other than those
20 levied by a municipality are paid to the board.

21 "(b) Licenses shall be granted and issued by the
22 board only to reputable individuals, to associations whose
23 members are reputable individuals, or to reputable
24 corporations organized under the laws of the State of Alabama
25 or duly qualified thereunder to do business in Alabama, or, in
26 the case of manufacturers, duly registered under the laws of

1 Alabama, and then only when it appears that all officers and
2 directors of the corporation are reputable individuals.

3 "(c) Every license issued under this code shall be
4 constantly and conspicuously displayed on the licensed
5 premises.

6 "(d) Each retail liquor license application must be
7 approved by the governing authority of the municipality if the
8 retailer is located in a municipality, or by the county
9 commission if the retailer is located in the county and
10 outside the limits of the municipality before the board shall
11 have authority to grant the license.

12 "(e) Any retailer may be granted licenses to
13 maintain, operate, or conduct any number of places for the
14 sale of alcoholic beverages, but a separate license must be
15 secured for each place where alcoholic beverages are sold. No
16 retail license issued under this code shall be used for more
17 than one premise, nor for separate types of operation on the
18 same premise. Provided, however, any such licensed retail
19 operation existing on May 14, 2009, and operating based on
20 dual licenses, both a club or lounge license and a restaurant
21 license, on the same premises shall be exempt from the
22 requirement of the preceding sentence and may continue to
23 operate under such dual licenses. The provisions of any rule
24 promulgated by the board relating to the requirements
25 concerning such dual licenses, both a club or lounge license
26 and a restaurant license, shall not apply to any such retail
27 operation existing on May 14, 2009. The aforementioned rules

1 shall include, but not be limited to, the maintenance of
2 separate books, separate entrances, and separate inventories.
3 Each premise must have a separate retail license. Where more
4 than one retail operation is located within the same building,
5 each such operation under a separate or different ownership is
6 required to obtain a separate retail license; and where more
7 than one type of retail operation located within the same
8 building is operated by the same licensee, such licensee must
9 have a license for each type of retail operation. Provided,
10 there shall be no licenses issued by the board for the sale of
11 liquor, beer or wine by rolling stores.

12 "(f) No retailer shall sell any alcoholic beverages
13 for consumption on the licensed premises except in a room or
14 rooms or place on the licensed premises at all times
15 accessible to the use and accommodation of the general public;
16 but this section shall not be interpreted to prevent a hotel
17 or club licensee from selling such beverages in any room of
18 such hotel or club house occupied by a bona fide registered
19 guest or member or private party entitled to purchase the
20 same.

21 "(g) All beer, except draft or keg beer, sold by
22 retailers must be sold or dispensed in bottles, cans, or other
23 containers not to exceed 25.4 ounces. All wine sold by
24 retailers for off-premise consumption must be sold or
25 dispensed in bottles or other containers in accordance with
26 the standards of fill specified in the then effective

1 standards of fill for wine prescribed by the U.S. Treasury
2 Department.

3 "(h) Draft or keg beer may be sold or dispensed
4 within this state within those counties in which and in the
5 manner in which the sale of draft or keg beer was authorized
6 by law on September 30, 1980 or in which the sale of draft or
7 keg beer is ~~hereafter~~ authorized by law and within a wet
8 municipality in which the sale of draft or keg beer is
9 authorized by law; ~~provided in rural communities with a~~
10 ~~predominantly foreign population, after the payment of the tax~~
11 ~~imposed by this title, draft or keg beer may be sold or~~
12 ~~dispensed by special permit from the board, when, in the~~
13 ~~judgment of the board, the use and consumption of draft or keg~~
14 ~~beer is in accordance with the habit and customs of the people~~
15 ~~of any such rural community; provided further, the board may,~~
16 in its discretion, grant to any civic center authority or its
17 franchisee or concessionaire, to which the board may have
18 issued or may simultaneously issue a retail license under the
19 provisions of this code, a revocable temporary permit to sell
20 or dispense in any part of its civic center, for consumption
21 therein, draft or keg beer. ~~Either such~~ The temporary permit
22 shall be promptly revoked by the board if, in its judgment,
23 the same tends to create intemperance or is prejudicial to the
24 welfare, health, peace, temperance, and safety of the people
25 of the community or of the state.

26 "(i) No importer shall sell alcoholic beverages to
27 any person other than a wholesaler licensee, or sell to a

1 wholesaler licensee any brand or brands of alcoholic beverages
2 for sale or distribution in this state, except where the
3 importer has been granted written authorization from the
4 manufacturer thereof to import and sell the brand or brands to
5 be sold in the State of Alabama, which authorization is on
6 file with the board.

7 "(j) No wholesaler shall maintain or operate any
8 place where sales are made other than that for which the
9 wholesale license is granted; provided, however, a wholesaler
10 may be licensed to sell and distribute liquor, wine and beer.
11 No wholesaler shall maintain any place for the storage of
12 liquor, wine or beer unless the same has been approved by the
13 board. No wholesaler license shall be issued for any premises
14 in any part of which there is operated any retail license for
15 the sale of alcoholic beverages.

16 "(k) Licenses issued under this code may not be
17 assigned. The board is hereby authorized to transfer any
18 license from one person to another, or from one place to
19 another within the same governing jurisdiction, or both, as
20 the board may determine; but no transfers shall be made to a
21 person who would not have been eligible to receive the license
22 originally, nor for the transaction of business at a place for
23 which the license could not originally have been issued
24 lawfully.

25 "(l) Every applicant for a transfer of a license
26 shall file a written application with the board within such
27 time as the board shall fix in its regulations. Whenever any

1 license is transferred, there shall be collected a filing fee
2 of \$50.00, to be paid to the board, and the board shall pay
3 such fee into the State Treasury to the credit of the Beer Tax
4 and License Fund of the board.

5 "(m) In the event that any person to whom a license
6 shall have been issued under the terms of this code shall
7 become insolvent, make an assignment for the benefit of
8 creditors, be adjudicated a bankrupt by either voluntary or
9 involuntary action, the license of such person shall
10 immediately terminate and be cancelled without any action on
11 the part of the board, and there shall be no refund made, or
12 credit given, for the unused portion of the license fee for
13 the remainder of the license year for which said license was
14 granted. Thereafter no license shall be issued by the board
15 for the premises, wherein said license was conducted, to any
16 assignee, committee, trustee, receiver, or successor of such
17 licensee until a hearing has been held by the board as in the
18 case of a new application for license. In all such cases, the
19 board shall have the sole and final discretion as to the
20 propriety of the issuance of a license for such premises, and
21 the time it shall issue, and the period for which it shall be
22 issued, and shall have the further power to impose conditions
23 under which said licensed premises shall be conducted.

24 "§28-3A-25.

25 "(a) It shall be unlawful:

26 "(1) For any manufacturer, importer, or wholesaler,
27 or the servants, agents, or employees of the same, to sell,

1 trade, or barter in alcoholic beverages between the hours of
2 nine o'clock P.M. of any Saturday and two o'clock A.M. of the
3 following Monday.

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

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

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

23 "(5) For any licensee to fail to keep for a period
24 of at least three years, complete and truthful records
25 covering the operation of his or her license and particularly
26 showing the date of all purchases of alcoholic beverages, the
27 actual price paid therefor, and the name of the vendor, or to

1 refuse the board or any authorized employee of the board
2 access to the records or the opportunity to make copies of the
3 records when the request is made during business hours.

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

9 "(7) For any person to knowingly sell any alcoholic
10 beverages to any person engaged in the business of illegally
11 selling alcoholic beverages.

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

20 "(9) For any person to fortify, adulterate,
21 contaminate, or in any manner change the character or purity
22 of alcoholic beverages from that as originally marketed by the
23 manufacturer, except that a retail licensee on order from a
24 customer may mix a chaser or other ingredients necessary to
25 prepare a cocktail or mixed drink for on-premises consumption.

26 "(10) For any person licensed to sell alcoholic
27 beverages to offer to give any thing of value as a premium for

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

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

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

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

25 "(14) For any person, firm, corporation,
26 partnership, or association of persons as the terms are
27 defined in Section 28-3-1, including any civic center

1 authority, racing commission, fair authority, airport
2 authority, public or quasi-public board, agency, or
3 commission, any agent thereof, or otherwise, who or which has
4 not been properly licensed under the appropriate provisions of
5 this chapter to sell, offer for sale, or have in possession
6 for sale, any alcoholic beverages. Any alcoholic beverages so
7 possessed, maintained, or kept shall be contraband and subject
8 to condemnation and confiscation as provided by law.

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

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

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

1 manufacturer of the alcoholic beverages or its designated
2 representative or an importer license to the importer of the
3 alcoholic beverages.

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

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

23 "(20) Except where authorized by a local act or
24 general act of local application or pursuant to Section 2 or 3
25 of this act, for the proprietor, keeper, or operator of any
26 cafe, lunchroom, restaurant, hotel dining room, or other
27 public place to knowingly permit any person to give away,

1 sell, or serve for consumption on or off the premises, or to
2 drink or consume any alcoholic beverages on the premises of
3 the cafe, lunchroom, restaurant, hotel dining room, or other
4 public place on Sunday after the hour of two o'clock A.M.

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

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

26 "(2) Any violation of any provision of subdivisions
27 (18), (19), (20), and (21) of subsection (a) shall be a

1 misdemeanor punishable by a fine of not less than fifty
2 dollars (\$50) nor more than five hundred dollars (\$500), to
3 which, at the discretion of the court or judge trying the
4 case, may be added imprisonment in the county jail or at hard
5 labor for the county for not more than three months.

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

15 Section 2. (a) In any wet county, the county
16 commission, by resolution, may regulate and permit the sale of
17 alcoholic beverages on Sunday after the hour of two o'clock
18 a.m., for on-premises or off-premises consumption, or both, as
19 determined by the county commission, by properly licensed
20 retail licensees of the Alcoholic Beverage Control Board.

21 (b) In any wet county, the county commission, by
22 resolution, may regulate and permit the sale of keg or draft
23 beer, for on-premises or off-premises consumption, or both, as
24 determined by the county commission, by properly licensed
25 retail licensees of the Alcoholic Beverage Control Board.

26 Section 3. (a) In any wet municipality, the local
27 governing body, by ordinance, may regulate and permit the sale

1 of alcoholic beverages on Sunday after the hour of two o'clock
2 a.m., for on-premises or off-premises consumption, or both, as
3 determined by the local governing body, by properly licensed
4 retail licensees of the Alcoholic Beverage Control Board.

5 (b) In any wet municipality, the local governing
6 body, by ordinance, may regulate and permit the sale of keg or
7 draft beer, for on-premises or off-premises consumption, or
8 both, as determined by the local governing body, by properly
9 licensed retail licensees of the Alcoholic Beverage Control
10 Board.

11 Section 4. This act shall become effective on the
12 first day of the third month following its passage and
13 approval by the Governor, or its otherwise becoming law.