

1 HB555
2 129247-1
3 By Representative Ball
4 RFD: Economic Development and Tourism
5 First Read: 21-APR-11

SYNOPSIS: This bill would require all persons who serve, dispense, or provide alcoholic beverages at any on-premises retail licensed location to be registered with the ABC Board.

This bill would provide for processing fees, fines, and penalties in accordance with server identifications.

This bill would create the ABC Board Law Enforcement Licensing Fund to collect fees from server identification cards.

Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official ReCompilation of the Constitution of Alabama of 1901, as amended, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the

1 affected entity; or the Legislature appropriates
2 funds, or provides a local source of revenue, to
3 the entity for the purpose.

4 The purpose or effect of this bill would be
5 to require a new or increased expenditure of local
6 funds within the meaning of the amendment. However,
7 the bill does not require approval of a local
8 governmental entity or enactment by a 2/3 vote to
9 become effective because it comes within one of the
10 specified exceptions contained in the amendment.

11
12 A BILL
13 TO BE ENTITLED
14 AN ACT
15

16 Relating to alcoholic beverages; to add Sections
17 28-1-8 through 28-1-15 to the Code of Alabama 1975, to require
18 all persons who serve, dispense, or provide alcoholic
19 beverages at any on-premises retail licensed location to be
20 registered with the state; to provide for processing fees,
21 fines, and penalties; to create the ABC Board Law Enforcement
22 Licensing Fund; to provide certain fees be distributed between
23 the General Fund and the ABC Board Law Enforcement Licensing
24 Fund; and in connection therewith would have as its purpose or
25 effect the requirement of a new or increased expenditure of
26 local funds within the meaning of Amendment 621 of the
27 Constitution of Alabama of 1901, now appearing as Section

1 111.05 of the Official ReCompilation of the Constitution of
2 Alabama of 1901, as amended.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. The following new Sections 28-1-8 through
5 28-1-14 are added to Title 28 of the Code of Alabama 1975, to
6 read as follows:

7 §28-1-8.

8 (a) Every person who sells, serves, furnishes,
9 dispenses, or gives away alcoholic beverages as an employee,
10 agent, manager, owner, partner, or officer of any on-premises
11 retail licensed location, shall procure a server registration
12 identification card through the Alcoholic Beverage Control
13 Board. This must be accomplished prior to any such person
14 handling any alcoholic beverage products on any on-premises
15 licensed location within this state. Upon initial application
16 for server registration identification, the applicant must
17 present for inspection one of the following forms of
18 identification that bears a photograph, date of birth, and
19 other current information for the applicant. The forms of
20 identification which are acceptable shall be limited to the
21 following: (1) a valid driver's license issued by any state,
22 (2) a valid United States Uniformed Service Identification,
23 (3) a valid passport, (4) a valid identification card issued
24 by any agency of a state for the purpose of identification,
25 (5) a valid Permanent Resident Card issued by the United
26 States government, (6) a valid Certificate of Naturalization
27 issued by the United States government, or (7) A visa issued

1 by the United States government that permits an individual to
2 be employed while in this country.

3 (b) (1) Each server identification card issued to a
4 person is valid for a period of four years from the issue
5 date. All subsequent renewals shall be for a period of four
6 years from the date of issue of the identification. Every
7 registration card issued under this act may be renewed at the
8 end of the registration period upon payment of the applicable
9 fees. For the purpose of renewal it is the responsibility of
10 the person listed on the identification card to renew the
11 identification card on or before the expiration date listed on
12 the card. A grace period of 30 days after expiration date of a
13 server identification card shall exist and the server
14 identification shall be valid for this time period.

15 (2) Failure to make application for renewal within
16 the specified time shall result in the applicant having to pay
17 the standard cost of the identification plus an additional
18 reinstatement fee of one hundred dollars (\$100) for failure to
19 timely renew. Each reinstatement fee shall be submitted to the
20 ABC Board and shall be disbursed at the end of the fiscal year
21 equally between the ABC Board Law Enforcement Licensing Fund
22 and the General Fund.

23 §28-1-9.

24 (a) (1) In the event any server identification card
25 issued under the provisions of this act is lost or destroyed,
26 the holder, upon payment of a fee of twenty dollars (\$20), and
27 upon furnishing proof to the Administrator of the ABC Board

1 that the same has been lost or destroyed, may secure a
2 duplicate. Any subsequent duplicate cards applied for shall
3 require the payment of the same fees previously listed, and
4 upon furnishing proof to the Administrator of the ABC Board
5 that his or her previously held server identification card or
6 duplicate card has been lost or destroyed, secure another
7 duplicate. Application for each duplicate card shall be made
8 to the Administrator of the ABC Board on forms provided by the
9 board.

10 (2) The fees shall be submitted to the ABC Board and
11 disbursed at the end of the fiscal year as follows: The ABC
12 Board Law Enforcement Licensing Fund shall receive eight
13 dollars (\$8), the General Fund shall receive eight dollars
14 (\$8), and the Alabama Peace Officers and Annuity Benefit Fund
15 shall receive four dollars (\$4).

16 (b) Any person making a false affidavit to the
17 Administrator of the ABC Board for the purpose of obtaining a
18 duplicate server identification card shall be guilty of a
19 misdemeanor and upon conviction shall be punished by
20 imprisonment in the county jail for not more than 60 days or
21 by a fine of not less than one hundred dollars (\$100) nor more
22 than five hundred dollars (\$500).

23 §28-1-10.

24 (a) The Alcoholic Beverage Control Board shall have
25 full and final authority as to the suspension or revocation of
26 any server identification issued under this act. The board
27 shall have authority to suspend or revoke any server

1 identification card issued by it according to the rules
2 promulgated by the board.

3 (b) Any person whose server identification card has
4 been suspended or revoked under this act, upon application for
5 reinstatement of the server identification card, shall pay to
6 the ABC Board the following fees:

7 (1) For suspensions or revocations by the board, a
8 fee of two hundred seventy-five dollars (\$275) shall be
9 submitted to the ABC Board Law Enforcement Licensing Fund and
10 shall be disbursed in the following manner: The ABC Board Law
11 Enforcement Licensing Fund shall receive one hundred fifty
12 dollars (\$150) and the General Fund shall receive one hundred
13 twenty-five dollars (\$125).

14 (2) An additional non-refundable fifty dollar (\$50)
15 fee shall be imposed if the suspended or revoked server
16 identification card is not voluntarily surrendered within 30
17 days of a suspension or revocation notice. Upon receipt of the
18 fee or fees required by this subsection (b) the card holder
19 shall obtain a duplicate server identification card with a new
20 photograph and current personal data. The fifty dollar (\$50)
21 fee required by this subdivision shall be submitted to the ABC
22 Board and shall be disbursed equally between the ABC Board Law
23 Enforcement Licensing Fund and the General Fund.

24 (3) The Alcoholic Beverage Control Board shall
25 notify by mail any person whose server identification card has
26 been suspended or revoked.

27 §28-1-11.

1 (a) Any person for whom a server identification card
2 is required, who sells, serves, furnishes, dispenses, or gives
3 away alcoholic beverages as an employee, agent, manager,
4 owner, partner, or officer of any on-premises retail licensed
5 location, in this state, without first having complied with
6 this act shall be guilty of a misdemeanor and shall be
7 punished by a fine of not less than one hundred dollars (\$100)
8 nor more than five hundred dollars (\$500).

9 (b) Any person who willfully makes a false statement
10 under oath in an application for a server identification card
11 or for a renewal thereof may be subject to prosecution for
12 perjury. A fraudulently obtained server identification card
13 shall be immediately relinquished to a member of the Alcoholic
14 Beverage Control Board Enforcement Division.

15 (c) It shall be a crime for any person to willfully
16 conceal or withhold a material fact in an application for a
17 server identification card or renewal thereof. The crime shall
18 be a misdemeanor, and anyone convicted thereof shall be
19 punished by a fine of not more than five hundred dollars
20 (\$500), and may be imprisoned at hard labor for the county not
21 to exceed 12 months.

22 (d) Any person who holds a valid server
23 identification card who is convicted of a felony shall notify
24 the Alcoholic Beverage Control Board Enforcement Division
25 immediately at the local district enforcement office. After
26 such notification, a hearing to suspend or revoke the server
27 identification shall be scheduled within 30 days.

1 (e) Every registered server shall have his or her
2 registration card in his or her possession at all times on the
3 licensed premises for which he or she is employed, and shall
4 display the same, upon request of any certified law
5 enforcement officer. However, no person charged with violating
6 this section shall be convicted if he or she produces in court
7 or the office of the arresting officer a server identification
8 card issued to him or her and valid at the time of his or her
9 arrest.

10 (f) Any person who violates any portion of this act
11 relating to server identification cards for which no fixed
12 punishment is otherwise prescribed or who violates any rule
13 promulgated pursuant to this act may be charged with a
14 misdemeanor and, upon conviction thereof, shall be punished by
15 a fine of not more than five hundred dollars (\$500).

16 (g) All fines, penalties, or forfeitures imposed
17 pursuant to this act by any court shall be forwarded upon
18 collection by the court to the Alcoholic Beverage Control
19 Board and disbursed equally between the General Fund and the
20 ABC Board Enforcement Licensing Fund.

21 §28-1-12.

22 (a) Each applicant for an original server
23 identification card and any subsequent renewal thereof shall
24 pay a fee of thirty-five dollars (\$35) to the Alcoholic
25 Beverage Control Board.

26 (b) Each fee received pursuant to this section shall
27 be disbursed as follows: The ABC Board Law Enforcement

1 Licensing Fund shall receive twenty dollars (\$20), the General
2 Fund shall receive ten dollars (\$10), and the Peace Officers
3 Annuity and Benefit Fund shall receive five dollars (\$5).

4 §28-1-13.

5 (a) It shall be unlawful for anyone to possess or
6 present any unauthorized reproduction of an official server
7 registration identification card issued by the Alcoholic
8 Beverage Control Board.

9 (b) Any violation of subsection (a) shall be a Class
10 A misdemeanor.

11 §28-1-14.

12 (a) It shall be unlawful for anyone to use an image
13 or unauthorized reproduction of the Great Seal of the State of
14 Alabama as described in Section 1-2-4 for any commercial
15 purpose. In addition, it shall be unlawful for anyone to use
16 an image or unauthorized reproduction of the Alcoholic
17 Beverage Control Board Seal for any commercial purpose.

18 (b) A violation of subsection (a) shall be a Class C
19 felony.

20 §28-1-15.

21 (a) There is established in the State Treasury a
22 fund entitled the ABC Board Law Enforcement Licensing Fund.
23 Fees and assessments authorized to be retained by the ABC
24 Board associated with the licensing of businesses and
25 individuals to sell or serve alcoholic beverages as provided
26 by this act and collected by the board shall be deposited in
27 the fund. The fund shall constitute a separate fund to be

1 disbursed by the state Comptroller on order of the ABC
2 Administrator. All expenses incurred by the ABC Enforcement
3 Division under this act, including the salaries of all
4 employees, travel costs, and any other cost of administration
5 and enforcement as may become necessary, either within or
6 without the state, shall be paid from the separate fund in the
7 State Treasury upon warrants of the state Comptroller drawn
8 upon the State Treasury from time to time when vouchers
9 therefor are approved by the ABC Administrator. The State
10 Treasurer shall pay monies from the separate fund upon the
11 order of the ABC Administrator. The total expense for every
12 purpose incurred shall not exceed the total fees and
13 assessments collected and paid into the fund. All monies
14 remaining unexpended in the separate fund at the end of the
15 fiscal year shall remain in the State Treasury to be expended
16 as provided by this act.

17 (b) No monies shall be withdrawn or expended from
18 the fund for any purpose unless the monies have been
19 appropriated by the Legislature and allocated pursuant to this
20 act. Any monies appropriated shall be budgeted and allotted
21 pursuant to the Budget Management Act in accordance with
22 Article 4, commencing with Section 41-4-80 of Chapter 4 of
23 Title 41, and only in the amounts provided by the Legislature
24 in the general appropriations act or other appropriations act.

25 Section 2. Although this bill would have as its
26 purpose or effect the requirement of a new or increased
27 expenditure of local funds, the bill is excluded from further

1 requirements and application under Amendment 621, now
2 appearing as Section 111.05 of the Official ReCompilation of
3 the Constitution of Alabama of 1901, as amended, because the
4 bill defines a new crime or amends the definition of an
5 existing crime.

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.