

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

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

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

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

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

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

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

A BILL

TO BE ENTITLED

AN ACT

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

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

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

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

§28-1-9.

(a) (1) In the event any server identification card issued under the provisions of this act is lost or destroyed, the holder, upon payment of a fee of twenty dollars (\$20), and 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.

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

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

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

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

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

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

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

§28-1-12.

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

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

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

§28-1-13.

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

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

§28-1-14.

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

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

§28-1-15.

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

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

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

Section 2. Although this bill would have as its purpose or effect the requirement of a new or increased 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.