

1 SB294  
2 135770-1  
3 By Senator Sanford  
4 RFD: Job Creation and Economic Development  
5 First Read: 09-FEB-12

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8 SYNOPSIS: Under existing law, all beer, except draft  
9 or keg beer, must be sold by retailers in  
10 containers not to exceed one pint or 16 ounces.

11 This bill would allow beer to be sold in  
12 containers not to exceed 25.4 ounces.

13  
14 A BILL  
15 TO BE ENTITLED  
16 AN ACT

17  
18 To amend Section 28-3A-23, Code of Alabama 1975,  
19 relating to the size of containers of beer sold at retail; to  
20 allow beer to be sold in containers not to exceed 25.4 ounces.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. Section 28-3A-23, Code of Alabama 1975,  
23 is amended to read as follows:

24 "§28-3A-23.

25 "(a) No license prescribed in this code shall be  
26 issued or renewed until the provisions of this code have been

1       complied with and the filing and license fees other than those  
2       levied by a municipality are paid to the board.

3               "(b) Licenses shall be granted and issued by the  
4       board only to reputable individuals, to associations whose  
5       members are reputable individuals, or to reputable  
6       corporations organized under the laws of the State of Alabama  
7       or duly qualified thereunder to do business in Alabama, or, in  
8       the case of manufacturers, duly registered under the laws of  
9       Alabama, and then only when it appears that all officers and  
10      directors of the corporation are reputable individuals.

11              "(c) Every license issued under this code shall be  
12      constantly and conspicuously displayed on the licensed  
13      premises.

14              "(d) Each retail liquor license application must be  
15      approved by the governing authority of the municipality if the  
16      retailer is located in a municipality, or by the county  
17      commission if the retailer is located in the county and  
18      outside the limits of the municipality before the board shall  
19      have authority to grant the license.

20              "(e) Any retailer may be granted licenses to  
21      maintain, operate, or conduct any number of places for the  
22      sale of alcoholic beverages, but a separate license must be  
23      secured for each place where alcoholic beverages are sold. No  
24      retail license issued under this code shall be used for more  
25      than one premise, nor for separate types of operation on the  
26      same premise. Provided, however, any such licensed retail  
27      operation existing on May 14, 2009, and operating based on

1 dual licenses, both a club or lounge license and a restaurant  
2 license, on the same premises shall be exempt from the  
3 requirement of the preceding sentence and may continue to  
4 operate under such dual licenses. The provisions of any rule  
5 promulgated by the board relating to the requirements  
6 concerning such dual licenses, both a club or lounge license  
7 and a restaurant license, shall not apply to any such retail  
8 operation existing on May 14, 2009. The aforementioned rules  
9 shall include, but not be limited to, the maintenance of  
10 separate books, separate entrances, and separate inventories.  
11 Each premise must have a separate retail license. Where more  
12 than one retail operation is located within the same building,  
13 each such operation under a separate or different ownership is  
14 required to obtain a separate retail license; and where more  
15 than one type of retail operation located within the same  
16 building is operated by the same licensee, such licensee must  
17 have a license for each type of retail operation. Provided,  
18 there shall be no licenses issued by the board for the sale of  
19 liquor, beer or wine by rolling stores.

20 "(f) No retailer shall sell any alcoholic beverages  
21 for consumption on the licensed premises except in a room or  
22 rooms or place on the licensed premises at all times  
23 accessible to the use and accommodation of the general public;  
24 but this section shall not be interpreted to prevent a hotel  
25 or club licensee from selling such beverages in any room of  
26 such hotel or club house occupied by a bona fide registered

1 guest or member or private party entitled to purchase the  
2 same.

3 "(g) All beer, except draft or keg beer, sold by  
4 retailers must be sold or dispensed in bottles, cans, or other  
5 containers not to exceed ~~one pint or 16~~ 25.4 ounces. All wine  
6 sold by retailers for off-premise consumption must be sold or  
7 dispensed in bottles or other containers in accordance with  
8 the standards of fill specified in the then effective  
9 standards of fill for wine prescribed by the U.S. Treasury  
10 Department.

11 "(h) Draft or keg beer may be sold or dispensed  
12 within this state within those counties in which and in the  
13 manner in which the sale of draft or keg beer was authorized  
14 by law on September 30, 1980 or in which the sale of draft or  
15 keg beer is hereafter authorized by law; provided in rural  
16 communities with a predominantly foreign population, after the  
17 payment of the tax imposed by this title, draft or keg beer  
18 may be sold or dispensed by special permit from the board,  
19 when, in the judgment of the board, the use and consumption of  
20 draft or keg beer is in accordance with the habit and customs  
21 of the people of any such rural community; provided further,  
22 the board may, in its discretion, grant to any civic center  
23 authority or its franchisee or concessionaire, to which the  
24 board may have issued or may simultaneously issue a retail  
25 license under the provisions of this code, a revocable  
26 temporary permit to sell or dispense in any part of its civic  
27 center, for consumption therein, draft or keg beer. Either

1       such permit shall be promptly revoked by the board if, in its  
2       judgment, the same tends to create intemperance or is  
3       prejudicial to the welfare, health, peace, temperance, and  
4       safety of the people of the community or of the state.

5               "(i) No importer shall sell alcoholic beverages to  
6       any person other than a wholesaler licensee, or sell to a  
7       wholesaler licensee any brand or brands of alcoholic beverages  
8       for sale or distribution in this state, except where the  
9       importer has been granted written authorization from the  
10      manufacturer thereof to import and sell the brand or brands to  
11      be sold in the State of Alabama, which authorization is on  
12      file with the board.

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

22              "(k) Licenses issued under this code may not be  
23      assigned. The board is hereby authorized to transfer any  
24      license from one person to another, or from one place to  
25      another within the same governing jurisdiction, or both, as  
26      the board may determine; but no transfers shall be made to a  
27      person who would not have been eligible to receive the license

1 originally, nor for the transaction of business at a place for  
2 which the license could not originally have been issued  
3 lawfully.

4 "(l) Every applicant for a transfer of a license  
5 shall file a written application with the board within such  
6 time as the board shall fix in its regulations. Whenever any  
7 license is transferred, there shall be collected a filing fee  
8 of \$50.00, to be paid to the board, and the board shall pay  
9 such fee into the State Treasury to the credit of the Beer Tax  
10 and License Fund of the board.

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

1        issued, and shall have the further power to impose conditions  
2        under which said licensed premises shall be conducted."

3                Section 2. This act shall become effective on the  
4        first day of the third month following its passage and  
5        approval by the Governor, or its otherwise becoming law.