

HB426 ENROLLED



1 THG215-2
2 By Representative Treadaway
3 RFD: Public Safety and Homeland Security
4 First Read: 02-May-23
5 2023 Regular Session



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1 Enrolled, An Act,

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4 Relating to alcoholic beverage licenses; to amend
5 Section 28-3A-23, Code of Alabama 1975, to provide further for
6 criminal background checks of license applicants.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

10 "§28-3A-23

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

15 (b) Licenses shall be granted and issued by the board
16 only to reputable individuals, to associations whose members
17 are reputable individuals, or to reputable corporations
18 organized under the laws of this state or duly qualified
19 thereunder to do business in Alabama, or, in the case of
20 manufacturers, duly registered under the laws of Alabama, and
21 then only when it appears that all officers and directors of
22 the corporation are reputable individuals.

23 (c) (1) In addition to all other requirements, an
24 applicant for a license under this section shall submit to the
25 board a form, sworn to by the applicant, providing written
26 consent from the applicant for the release of criminal history
27 background information. The form shall also require the
28 applicant's name, date of birth, and Social Security number



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29 for completion of a criminal history background check.

30 (2) An applicant shall provide the board with two
31 complete functional sets of fingerprints, either cards or
32 electronic, properly executed by a criminal justice agency or
33 an individual properly trained in fingerprinting techniques.
34 The fingerprints and form shall be submitted by the board to
35 the State Bureau of Investigations, ~~or any entity contracted~~
36 ~~with,~~ for the purposes of furnishing criminal background
37 checks. The State Bureau of Investigations ~~or contracted~~
38 ~~entity~~ shall forward a copy of the applicant's prints to the
39 Federal Bureau of Investigation for a national criminal
40 background check. The applicant shall pay all costs associated
41 with the background checks required by this section.

42 (3) For purposes of this section, the term applicant
43 shall include every person who has any proprietary or profit
44 interest of 10 percent or more in the licensed establishment,
45 but shall not include any public corporation whose shares are
46 traded on a recognized stock exchange.

47 (4) The board shall keep information received pursuant
48 to this section confidential, except that information received
49 and relied upon in denying the issuance of a license in this
50 state may be disclosed as may be necessary to support the
51 denial or when subpoenaed from a court.

52 (d) Every license issued under this ~~code~~ title shall be
53 constantly and conspicuously displayed on the licensed
54 premises.

55 (e) Each retail liquor license application must be
56 approved by the governing authority of the municipality if the



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57 retailer is located in a municipality, or by the county
58 commission if the retailer is located in the county and
59 outside the limits of the municipality, before the board shall
60 have authority to grant the license.

61 (f) Any retailer may be granted licenses to maintain,
62 operate, or conduct any number of places for the sale of
63 alcoholic beverages, but a separate license must be secured
64 for each place where alcoholic beverages are sold. No retail
65 license issued under this ~~code~~title shall be used for more
66 than one premises, nor for separate types of operation on the
67 same premises. Provided, however, any such licensed retail
68 operation existing on May 14, 2009, and operating based on
69 dual licenses, both a club or lounge license and a restaurant
70 license, on the same premises shall be exempt from the
71 requirement of the preceding sentence and may continue to
72 operate under ~~such~~the dual licenses. Any rule adopted by the
73 board relating to the requirements concerning dual licenses,
74 both a club or lounge license and a restaurant license, shall
75 not apply to any retail operation existing on May 14, 2009.
76 The ~~aforementioned~~ rules shall include, but not be limited to,
77 the maintenance of separate books, separate entrances, and
78 separate inventories. Each premises must have a separate
79 retail license. Where more than one retail operation is
80 located within the same building, each operation under a
81 separate or different ownership is required to obtain a
82 separate retail license; and where more than one type of
83 retail operation located within the same building is operated
84 by the same licensee, the licensee must have a license for



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85 each type of retail operation. Provided, there shall be no
86 licenses issued by the board for the sale of liquor, beer, or
87 wine by rolling stores.

88 (g) No retailer shall sell any alcoholic beverages for
89 consumption on the licensed premises except in a room or rooms
90 or place on the licensed premises at all times accessible to
91 the use and accommodation of the general public; but this
92 section shall not be interpreted to prevent a hotel or club
93 licensee from selling alcoholic beverages in any room of the
94 hotel or club house occupied by a bona fide registered guest
95 or member or private party entitled to purchase the same.

96 (h) All beer, except draft or keg beer, sold by
97 retailers must be sold or dispensed in bottles, cans, or other
98 containers not to exceed 25.4 ounces. All wine sold by
99 retailers for off-premises consumption must be sold or
100 dispensed in bottles or other containers in accordance with
101 the standards of fill specified in the then effective
102 standards of fill for wine prescribed by the U.S. Treasury
103 Department.

104 (i) Draft or keg beer may be sold or dispensed within
105 this state within those counties in which and in the manner in
106 which the sale of draft or keg beer was authorized by law on
107 September 30, 1980, or in which the sale of draft or keg beer
108 is hereafter authorized by law. In rural communities with a
109 predominantly foreign population, after the payment of the tax
110 imposed by this title, draft or keg beer may be sold or
111 dispensed by special permit from the board, when, in the
112 judgment of the board, the use and consumption of draft or keg



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113 beer is in accordance with the habit and customs of the people
114 of any such rural community. The board may grant to any civic
115 center authority or its franchisee or concessionaire, to which
116 the board may have issued or may simultaneously issue a retail
117 license under the provisions of this ~~code~~ title, a revocable
118 temporary permit to sell or dispense in any part of its civic
119 center, for consumption therein, draft or keg beer. Either
120 ~~such~~ permit shall be promptly revoked by the board if, in its
121 judgment, the same tends to create intemperance or is
122 prejudicial to the welfare, health, peace, temperance, and
123 safety of the people of the community or of the state.

124 (j) No importer shall sell alcoholic beverages to any
125 person other than a wholesaler licensee, or sell to a
126 wholesaler licensee any brand or brands of alcoholic beverages
127 for sale or distribution in this state, except where the
128 importer has been granted written authorization from the
129 manufacturer thereof to import and sell the brand or brands to
130 be sold in this state, which authorization is on file with the
131 board.

132 (k) No wholesaler shall maintain or operate any place
133 where sales are made other than that for which the wholesale
134 license is granted; provided, however, a wholesaler may be
135 licensed to sell and distribute liquor, wine, and beer. No
136 wholesaler shall maintain any place for the storage of liquor,
137 wine, or beer unless the same has been approved by the board.
138 No wholesaler license shall be issued for any premises in any
139 part of which there is operated any retail license for the
140 sale of alcoholic beverages.



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141 (l) Licenses issued under this ~~code~~title may not be
142 assigned. The board may transfer any license from one person
143 to another, or from one place to another within the same
144 governing jurisdiction, or both, as the board may determine;
145 but no transfers shall be made to a person who would not have
146 been eligible to receive the license originally, nor for the
147 transaction of business at a place for which the license could
148 not originally have been issued lawfully.

149 (m) Every applicant for a transfer of a license shall
150 file a written application with the board within such time as
151 the board shall fix in its rules. Whenever any license is
152 transferred, there shall be collected a filing fee of fifty
153 dollars (\$50), to be paid to the board, and the board shall
154 pay the fee into the State Treasury to the credit of the Beer
155 Tax and License Fund of the board.

156 (n) In the event that any person to whom a license has
157 been issued under the terms of this code becomes insolvent,
158 makes an assignment for the benefit of creditors, or is
159 adjudicated as bankrupt by either voluntary or involuntary
160 action, the license of the person shall immediately terminate
161 and be cancelled without any action on the part of the board,
162 and there shall be no refund made, or credit given, for the
163 unused portion of the license fee for the remainder of the
164 license year for which the license was granted. Thereafter, no
165 license shall be issued by the board for the premises, wherein
166 the license was conducted, to any assignee, committee,
167 trustee, receiver, or successor of the licensee until a
168 hearing has been held by the board as in the case of a new



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169 application for license. In all such cases, the board shall
170 have the sole and final discretion as to the propriety of the
171 issuance of a license for the premises, the time it shall
172 issue, and the period for which it shall be issued, and shall
173 have the further power to impose conditions under which the
174 licensed premises shall be conducted."

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



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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and was passed by the House 18-May-23.

John Treadwell
Clerk

Senate

25-May-23

Passed