

1 SB126
2 209363-4
3 By Senator Waggoner
4 RFD: Judiciary
5 First Read: 02-FEB-21
6 PFD: 02/01/2021

1 SB126

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4 ENROLLED, An Act,

5 Relating to alcoholic beverages; to amend Sections
6 28-1-4, 28-3-1, 28-3A-13, 28-3A-23, and 28-3A-14, Code of
7 Alabama 1975; to provide for a delivery service license from
8 the Alcoholic Beverage Control Board that authorizes the
9 licensee, using its employees or independent contractors, to
10 deliver beer, wine, and spirits directly to individuals in
11 Alabama who are at least 21 years of age for their personal
12 use; to provide for the licensing procedure; to provide
13 restrictions and requirements on the delivery of beer, wine,
14 and spirits; and to provide for issuance and renewal fees for
15 a delivery service license.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. This act has been enacted pursuant to the
18 authority granted to the state under the Twenty-first
19 Amendment to the United States Constitution and the powers
20 reserved to the state under the Tenth Amendment to the United
21 States Constitution and the inherent powers of the state under
22 the Constitution of Alabama of 1901. It is the intent of the
23 Legislature that this act maintains the current three-tier
24 system of control over the sale, distribution, purchase,
25 transportation, manufacture, consumption, and possession of

1 alcoholic beverages in the state and promotes the health,
2 safety, and welfare of residents of this state. This act shall
3 be liberally construed to ensure that the sale, purchase,
4 transportation, manufacture, consumption, delivery, and
5 possession of alcoholic beverages shall be prohibited except
6 as authorized in this act. If any provision of this act or its
7 application to any person or circumstance is determined by a
8 court or other authority of competent jurisdiction to be
9 invalid or unconstitutional, that provision shall be stricken
10 and the remaining provisions shall be construed in accordance
11 with the intent of the Legislature to further limit rather
12 than expand commerce in alcoholic beverages, malt beverages,
13 unfortified wine, and fortified wine, and shall be construed
14 to enhance strict regulatory control over taxation,
15 distribution, and sale of alcoholic beverages through the
16 three-tier regulatory system and the franchise laws imposed by
17 this act.

18 Section 2. Sections 28-1-4, 28-3-1, 28-3A-13,
19 28-3A-14, and 28-3A-23, Code of Alabama 1975, are amended to
20 read as follows:

21 "§28-1-4.

22 "(a) The words and phrases used in this section
23 shall have the meanings ascribed to them in Section 28-3-1 ~~and~~
24 ~~any acts amendatory thereof, supplementary thereto or~~
25 ~~substituted therefor.~~

1 "~~(b) It~~ Except as provided in subsections (c) and
2 (d), it shall be unlawful for any common ~~or permit carriers,~~
3 ~~operators~~ carrier, operator of trucks, buses, or other
4 conveyances or ~~out-of-state manufacturers or suppliers~~ a
5 ~~manufacturer, supplier, or importer~~ to make delivery of any
6 alcoholic beverage ~~from without the State of Alabama~~ to any
7 person, ~~association or corporation~~ within the state, except to
8 the Alabama Alcoholic Beverage Control Board and to
9 manufacturers, importers, wholesalers, and warehouses licensed
10 by the Alabama Alcoholic Beverage Control Board to receive the
11 alcoholic beverages so delivered.

12 "~~(c) Any violation of subsection (a) of this section~~
13 ~~shall be a misdemeanor, punishable as provided in paragraph~~
14 ~~(1) of subsection (b) of Section 28-3A-25.~~

15 "~~(d) All laws or parts of law which conflict or are~~
16 ~~inconsistent with this section are hereby repealed, provided,~~
17 ~~however, the provisions of Section 28-1-3 are excluded.~~

18 "(c) Notwithstanding subsection (b), a delivery
19 service licensee or an employee or independent contractor of a
20 delivery service licensee, pursuant to Section 3 of the act
21 adding this amendatory language, may transport and deliver
22 beer, wine, and spirits to an individual in the state who is
23 at least 21 years of age.

24 "(d) Notwithstanding any law, rule, ordinance, or
25 resolution to the contrary, this section and Section 3 of the

1 act adding this amendatory language shall exclusively govern
2 the delivery of wine, beer, and spirits throughout the state.

3 "§28-3-1.

4 "As used in this title, the following words shall
5 have the following meanings unless the context clearly
6 indicates otherwise:

7 "(1) ALCOHOLIC BEVERAGES. Any alcoholic, spirituous,
8 vinous, fermented, or other alcoholic beverage, or combination
9 of liquors and mixed liquor, a part of which is spirituous,
10 vinous, fermented, or otherwise alcoholic, and all drinks or
11 drinkable liquids, preparations or mixtures intended for
12 beverage purposes, which contain one-half of one percent or
13 more of alcohol by volume, and shall include liquor, beer, and
14 wine.

15 "(2) ASSOCIATION. A partnership, limited
16 partnership, or any form of unincorporated enterprise owned by
17 two or more persons.

18 "(3) BEER, or MALT OR BREWED BEVERAGES. ~~Except as~~
19 ~~otherwise provided in this subdivision, any~~ Any beer, lager
20 beer, ale, porter, malt or brewed beverage, or similar
21 fermented ~~malt liquor~~ beverage containing one-half of one
22 percent or more of alcohol by volume and not in excess of
23 thirteen and nine-tenths percent alcohol by volume, ~~by~~
24 ~~whatever name the same may be called~~ brewed or produced from
25 malt, wholly or in part, or from rice, grain of any kind,

1 bran, glucose, sugar, or molasses. A beer or malt or brewed
2 beverage may incorporate honey, fruit, fruit juice, fruit
3 concentrate, herbs, spices, or other flavorings during the
4 fermentation process. The term does not include any product
5 defined as liquor, table wine, or wine.

6 "(4) BOARD. The Alcoholic Beverage Control Board.

7 "(5) BRANDY. All beverages which are an alcoholic
8 distillate from the fermented juice, mash, or wine of fruit,
9 or from the residue thereof, produced in such manner that the
10 distillate possesses the taste, aroma, and characteristics
11 generally attributed to the beverage, as bottled at not less
12 than 80 degree proof.

13 "(6) CARTON. The package or container or containers
14 in which alcoholic beverages are originally packaged for
15 shipment to market by the manufacturer or its designated
16 representatives or the importer.

17 "(7) CIDER. A fermented alcoholic beverage made from
18 apple juice and containing not more than 8.5 percent alcohol
19 by volume.

20 "(8) CLUB.

21 "a. Class I. A corporation or association organized
22 or formed in good faith by authority of law and which must
23 have at least 150 paid-up members. It must be the owner,
24 lessee, or occupant of an establishment operated solely for
25 the objects of a national, social, patriotic, political, or

1 athletic nature or the like, but not for pecuniary gain, and
2 the property as well as the advantages of which, belong to all
3 the members and which maintains an establishment provided with
4 special space and accommodations where, in consideration of
5 payment, food with or without lodging is habitually served.
6 The club shall hold regular meetings, continue its business
7 through officers regularly elected, admit members by written
8 application, investigation, and ballot and charge and collect
9 dues from elected members.

10 "b. Class II. A corporation or association organized
11 or formed in good faith by authority of law and which must
12 have at least 100 paid-up members. It must be the owner,
13 lessee, or occupant of an establishment operated solely for
14 the objects of a national, social, patriotic, political, or
15 athletic nature or the like. The club shall hold regular
16 meetings, continue its business through officers regularly
17 elected, admit members by written application, investigation,
18 and ballot, and charge and collect dues from elected members.

19 "(9) CONTAINER. The single bottle, can, keg, bag, or
20 other receptacle, not a carton, in which alcoholic beverages
21 are originally packaged for the market by the manufacturer or
22 importer and from which the alcoholic beverage is consumed by
23 or dispensed to the public.

24 "(10) CORPORATION. A corporation or joint stock
25 association organized under the laws of this state, the United

1 States, or any other state, territory or foreign country, or
2 dependency.

3 "(11) DELIVERY. The transportation of alcohol
4 directly from a retail licensee of the board to an individual,
5 pursuant to Section 28-1-4 and Section 3 of the act adding
6 this amendatory language.

7 "(12) DELIVERY SERVICE LICENSE. A license issued by
8 the Alabama Alcoholic Beverage Control Board in accordance
9 with Section 3 of the act adding this amendatory language that
10 authorizes the licensee, the licensee's employees, or
11 independent contractors under a contractual or business
12 arrangement with the licensee to transport and deliver
13 alcoholic beverages.

14 ~~"(11)~~ (13) DRY COUNTY. Any county which by a majority
15 of those voting voted in the negative in an election
16 heretofore held under the applicable statutes at the time of
17 the election or may hereafter vote in the negative in an
18 election or special method referendum hereafter held in
19 accordance with the provisions of Chapter 2 of this title, or
20 held in accordance with the provisions of any act hereafter
21 enacted permitting such election.

22 ~~"(12)~~ (14) DRY MUNICIPALITY. Any municipality within
23 a wet county which has, by its governing body or by a majority
24 of those voting in a municipal election heretofore held in
25 accordance with the provisions of Section 28-2-22, or in a

1 municipal option election heretofore or hereafter held in
2 accordance with the provisions of Act 84-408, Acts of Alabama
3 1984, appearing as Chapter 2A of this title, or any act
4 hereafter enacted permitting municipal option election, voted
5 to exclude the sale of alcoholic beverages within the
6 corporate limits of the municipality.

7 "(15) EMPLOYEE. An individual to whom an employer is
8 required to issue a W-2 tax form under federal law.

9 "~~(13)~~ (16) GENERAL WELFARE PURPOSES.

10 "a. The administration of public assistance as set
11 out in Sections 38-2-5 and 38-4-1;

12 "b. Services, including supplementation and
13 supplementary services under the federal Social Security Act,
14 to or on behalf of persons to whom ~~such~~ public assistance may
15 be given under Sections 38-2-5 and 38-4-1;

16 "c. Service to and on behalf of dependent,
17 neglected, or delinquent children; and

18 "d. Investigative and referral services to and on
19 behalf of needy persons.

20 "~~(14)~~ (17) HEARING COMMISSION. A body appointed by
21 the board to hear and decide all contested license
22 applications and all disciplinary charges against any licensee
23 for violation of this title or the regulations of the board.

24 "~~(15)~~ (18) HOTEL. A building or buildings held out to
25 the public for housing accommodations of travelers or

1 transients, and shall include motel, but shall not include a
2 rooming house or boarding house.

3 "~~(16)~~ (19) IMPORTER. Any person, association, or
4 corporation engaged in importing alcoholic beverages, liquor,
5 wine, or beer, manufactured outside of the United States of
6 America into this state or for sale or distribution in this
7 state, or to the board or to a licensee of the board.

8 "(20) INDEPENDENT CONTRACTOR. An individual to whom
9 an employer is required to issue a 1099 tax form under federal
10 law.

11 "~~(17)~~ (21) KEG. A pressurized factory sealed
12 container with a capacity equal to or greater than five US
13 gallons, from which beer is withdrawn by means of an external
14 tap.

15 "~~(18)~~ (22) LIQUOR. Any alcoholic, spirituous, vinous,
16 fermented, or other alcoholic beverage, or combination of
17 liquors and mixed liquor, a part of which is spirituous,
18 fermented, vinous, or otherwise alcoholic, and all drinks or
19 drinkable liquids, preparations, or mixtures intended for
20 beverage purposes, which contain one-half of one percent or
21 more of alcohol by volume, except beer and table wine.

22 "~~(19)~~ (23) LIQUOR STORE. A liquor store operated by
23 the board, where alcoholic beverages other than beer are
24 authorized to be sold in unopened containers.

1 "~~(20)~~ (24) MANUFACTURER. Any person, association, or
2 corporation engaged in the producing, bottling, manufacturing,
3 distilling, rectifying, or compounding of alcoholic beverages,
4 liquor, beer, or wine in this state or for sale or
5 distribution in this state or to the board or to a licensee of
6 the board.

7 "~~(21)~~ (25) MEAD. An alcoholic beverage produced by
8 fermenting a solution of honey and water with grain mash and
9 containing not more than 18 percent alcohol by volume.

10 "~~(22)~~ (26) MEAL. A diversified selection of food some
11 of which is not susceptible of being consumed in the absence
12 of at least some articles of tableware and which cannot be
13 conveniently consumed while one is standing or walking about.

14 "~~(23)~~ (27) MINOR. Any person under 21 years of age;
15 provided, however, in the event Section 28-1-5, shall be
16 repealed or otherwise shall be no longer in effect, thereafter
17 the provisions of Section 26-1-1, shall govern.

18 "~~(24)~~ (28) MUNICIPALITY. Any incorporated city or
19 town of this state to include its police jurisdiction.

20 "~~(25)~~ (29) PERSON. Every natural person, association,
21 or corporation. Whenever used in a clause prescribing or
22 imposing a fine or imprisonment, or both, such term as applied
23 to association shall mean the partners or members thereof and
24 as applied to corporation shall mean the officers thereof,
25 except as to incorporated clubs the term person shall mean

1 such individual or individuals who, under the bylaws of such
2 clubs, shall have jurisdiction over the possession and sale of
3 liquor therein.

4 "~~(26)~~ (30) POPULATION. The population according to
5 the last preceding or any subsequent decennial census of the
6 United States, except where a municipality is incorporated
7 subsequent to the last census, in which event, its population
8 until the next decennial census shall be the population of the
9 municipality as determined by the judge of probate of the
10 county as the official population on the date of its
11 incorporation.

12 "~~(27)~~ (31) RESTAURANT. A reputable place licensed as
13 a restaurant, operated by a responsible person of good
14 reputation and habitually and principally used for the purpose
15 of preparing and serving meals for the public to consume on
16 the premises.

17 "~~(28)~~ (32) RETAILER. Any person licensed by the board
18 to engage in the retail sale of any alcoholic beverages to the
19 consumer.

20 "~~(29)~~ (33) SALE or SELL. Any transfer of liquor, wine
21 or beer for a consideration, and any gift in connection with,
22 or as a part of, a transfer of property other than liquor,
23 wine, or beer for a consideration.

1 "~~(30)~~(34) SELLING PRICE. The total marked-up price
2 of spirituous or vinous liquors sold by the board, exclusive
3 of taxes levied thereon.

4 "~~(31)~~(35) TABLE WINE. Except as otherwise provided
5 in this subdivision, any wine containing not more than 24
6 percent alcohol by volume. Table wine does not include any
7 wine containing more than sixteen and one-half percent alcohol
8 by volume that is made with herbs or flavors, except vermouth,
9 or is an imitation or other than standard wine. Table wine is
10 not liquor, spirituous, or vinous.

11 "~~(32)~~(36) UNOPENED CONTAINER. A container containing
12 alcoholic beverages, which has not been opened or unsealed
13 subsequent to filling and sealing by the manufacturer or
14 importer.

15 "~~(33)~~(37) WET COUNTY. Any county which by a majority
16 of those voting voted in the affirmative in an election
17 heretofore held in accordance with the statutes applicable at
18 the time of the election or may hereafter vote in the
19 affirmative in an election or special method referendum held
20 in accordance with the provisions of Chapter 2 of this title,
21 or other statutes applicable at the time of the election.

22 "~~(34)~~(38) WET MUNICIPALITY. Any municipality in a
23 dry county which by a majority of those voting voted in the
24 affirmative in a municipal option election heretofore or
25 hereafter held in accordance with the provisions of Act

1 84-408, Acts of Alabama 1984, appearing as Chapter 2A of this
2 title, as amended, or any act hereafter enacted permitting
3 municipal option election, or any municipality which became
4 wet by vote of the governing body or by the voters of the
5 municipality heretofore or hereafter held under the special
6 method referendum provisions of Section 28-2-22, or as
7 hereafter provided, where the county has become dry subsequent
8 to the elected wet status of the municipality.

9 "~~(35)~~ (39) WHOLESALER. Any person licensed by the
10 board to engage in the sale and distribution of table wine and
11 beer, or either of them, within this state, at wholesale only,
12 to be sold by export or to retail licensees or other wholesale
13 licensees or others within this state lawfully authorized to
14 sell table wine and beer, or either of them, for the purpose
15 of resale only.

16 "~~(36)~~ (40) WINE. All beverages made from the
17 fermentation of fruits, berries, or grapes, with or without
18 added spirits, and produced in accordance with the laws and
19 regulations of the United States, containing not more than 24
20 percent alcohol by volume, and shall include all sparkling
21 wines, carbonated wines, special natural wines, rectified
22 wines, vermouths, vinous beverages, vinous liquors, and like
23 products, including restored or unrestored pure condensed
24 juice.

25 "§28-3A-13.

1 "(a) Upon applicant's compliance with ~~the provisions~~
2 of this chapter and the ~~regulations made~~ rules adopted
3 thereunder, the board shall, where the application is
4 accompanied by a certificate from the clerk or proper officer
5 setting out that the applicant has presented his or her
6 application to the governing authority of the municipality, if
7 the licensed premises is to be located therein, and has
8 obtained its consent and approval issue a restaurant liquor
9 license for a hotel, restaurant, civic center authority, or
10 dinner theater which will authorize the licensee to purchase
11 liquor and wine from the board or as authorized by the board
12 and to purchase table wine and beer, including draft or keg
13 beer, in any county or municipality in which the sale thereof
14 is permitted, from any wholesale licensee of the board and, in
15 that part of the hotel, restaurant, club, or dinner theater
16 set out in the license, to sell liquor and wine, dispensed
17 from containers of any size, and beer, including draft or keg
18 beer, in any county or municipality in which the sale thereof
19 is permitted, to the patrons, guests, or members for
20 on-premises consumption in any part of the civic center or in
21 that part of the hotel, restaurant, or dinner theater
22 habitually used for serving meals to patrons, guests, or
23 members, or other public or private rooms of the building in
24 accordance with ~~the provisions of~~ this chapter and the
25 ~~regulations made~~ rules adopted thereunder, and where a

1 restaurant located in a hotel, but not operated by the owner
2 of the hotel, is licensed to sell alcoholic beverages in the
3 restaurant, it may also sell alcoholic beverages to guests in
4 private rooms in the hotel.

5 "(b) In accordance with Section 3 of the act adding
6 this amendatory language, a restaurant retail liquor licensee
7 licensed to sell beer, wine, or spirits for on-premises
8 consumption may apply for and be issued a delivery service
9 license that authorizes the licensee to deliver, along with
10 the purchase of a meal, beer, wine, or spirits from the
11 retailer's premises.

12 "§28-3A-14.

13 "Upon applicant's compliance with the provisions of
14 this chapter and the regulations made thereunder, the board
15 shall issue to applicant a retail table wine license which
16 will authorize the licensee to purchase table wine from the
17 board or from a licensed wholesaler in counties and
18 municipalities where authorized, and to sell at retail, in
19 unopened original containers, ~~or dispense from containers of~~
20 ~~any size~~ and to sell at retail or to dispense in a container
21 approved by the board, for on-premises consumption in a room
22 or rooms or place on the licensed premises at all times
23 accessible to the use and accommodation of the general public,
24 and in ~~original unopened~~ containers approved by the board for
25 off-premises consumption, where such use of the proposed

1 location is not, at the time of the original application,
2 prohibited by a valid zoning ordinance or other ordinance in
3 the valid exercise of police power by the governing body of
4 the municipality or county in which the outlet is located.

5 "§28-3A-23.

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

10 "(b) Licenses shall be granted and issued by the
11 board only to reputable individuals, to associations whose
12 members are reputable individuals, or to reputable
13 corporations organized under the laws of the State of Alabama
14 or duly qualified thereunder to do business in Alabama, or, in
15 the case of manufacturers, duly registered under the laws of
16 Alabama, and then only when it appears that all officers and
17 directors of the corporation are reputable individuals.

18 "(1) In addition to all other requirements, an
19 applicant for a license under this section shall submit to the
20 board a form, sworn to by the applicant, providing written
21 consent from the applicant for the release of criminal history
22 background information. The form shall also require the
23 applicant's name, date of birth, and Social Security number
24 for completion of a criminal history background check.

1 "(2) An applicant shall provide the board with two
2 complete functional sets of fingerprints, either cards or
3 electronic, properly executed by a criminal justice agency or
4 an individual properly trained in fingerprinting techniques.
5 The fingerprints and form shall be submitted by the board to
6 the State Bureau of Investigations, or any entity contracted
7 with, for the purposes of furnishing criminal background
8 checks. The State Bureau of Investigations or contracted
9 entity shall forward a copy of the applicant's prints to the
10 Federal Bureau of Investigation for a national criminal
11 background check.

12 "The applicant shall pay all costs associated with
13 the background checks required by this section.

14 "(4) For the purposes of this section, the term
15 applicant shall include every person who has any proprietary
16 or profit interest of 10 percent or more in the licensed
17 establishment, but shall not include any public corporation
18 whose shares are traded on a recognized stock exchange.

19 "(5) The board shall keep information received
20 pursuant to this section confidential, except that information
21 received and relied upon in denying the issuance of a license
22 in this state may be disclosed as may be necessary to support
23 the denial or when subpoenaed from a court.

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

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

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

1 the standards of fill specified in the then effective
2 standards of fill for wine prescribed by the U.S. Treasury
3 Department.

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

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

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

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

1 which the license could not originally have been issued
2 lawfully.

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

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

1 the time it shall issue, and the period for which it shall be
2 issued, and shall have the further power to impose conditions
3 under which said licensed premises shall be conducted."

4 Section 3. (a) Any entity licensed by the Alcoholic
5 Beverage Control Board for off-premises consumption,
6 restaurant licensee of the board, or valid and responsible
7 organization of good reputation that is registered to do
8 business in the state may apply for and be issued a delivery
9 service license. In order to receive a license, an applicant
10 shall do all of the following:

11 (1) File an application with the Alcoholic Beverage
12 Control Board.

13 (2) Pay a non refundable filing fee of one hundred
14 dollars (\$100), and a license fee of two hundred fifty dollars
15 (\$250).

16 (3) Provide to the board a sample contract that the
17 applicant intends to enter into with a retailer for the
18 delivery of beer, wine, and spirits, unless the applicant is
19 the retailer.

20 (4)a. Provide to the board both of the following:

21 1. An attestation that the applicant is 21 years of
22 age or older.

23 2. A true, correct, and complete criminal court
24 record of all arrests and subsequent dispositions for the past
25 three years. If the applicant has been convicted of a felony

1 or a misdemeanor for a violation of Section
2 28-3A-25(a)(3), Code of Alabama 1975, then the board shall
3 reject the application and shall not issue a license.

4 b. This subdivision shall not apply to publicly
5 traded companies.

6 (5)a. For an applicant with four or more delivery
7 drivers, whether those drivers are employees or independent
8 contractors, provide proof of a general liability insurance
9 policy in an amount no less than five million dollars
10 (\$5,000,000) per occurrence.

11 b. For an applicant with three or fewer delivery
12 drivers, whether those delivery drivers are employees or
13 independent contractors, provide proof of a general liability
14 insurance policy in an amount no less than two million dollars
15 (\$2,000,000) per occurrence.

16 (6) Provide to the board an outline for an internal
17 or external training and certification program for delivery
18 personnel which addresses topics such as identifying underage
19 individuals, intoxicated individuals, and fake or altered
20 identification.

21 (b) A delivery service licensee may deliver, or
22 contract with any retailer in the state for the delivery of,
23 beer, wine, or spirits from a retail premises to an individual
24 in the state who is at least 21 years of age, for personal use

1 by that individual only, and not for resale, subject to all of
2 the following:

3 (1) The individual placing the order must receive
4 the ordered alcoholic beverages on the same calendar day that
5 the alcoholic beverages are removed from the licensed retail
6 premises.

7 (2) Any delivery shall be made in vehicles that are
8 owned or leased by the delivery service licensee or an
9 employee or independent contractor of the licensee.

10 (3) Any beer, wine, or spirits shall be delivered in
11 a sealed unopened container, as defined in Section 28-3-1,
12 Code of Alabama 1975.

13 (4) If the delivery service licensee is a
14 restaurant, then any beer, wine, or spirits delivered by the
15 licensee must be accompanied by a meal.

16 (5) If the delivery service licensee is a
17 manufacturer or brewpub with off-premises retail privileges
18 under Sections 28-3A-6, 28-7-18, or 28-4A-3, Code of Alabama
19 1975, the manufacturer or brewpub may deliver, directly from
20 the manufacturer or brewpub to any individual in any single
21 24-hour period, an amount not to exceed the amount that the
22 manufacturer or brewpub is authorized to sell to each customer
23 each day under Sections 28-3A-6 or 28-4A-3, Code of Alabama
24 1975.

1 (6)a.1. Beer, with the exception of draft beer, may
2 be delivered in any size container, provided that the total
3 amount delivered does not exceed the equivalent of 120
4 12-ounce containers of beer per customer in any single 24-hour
5 period.

6 2. Draft beer may be sold in accordance with board
7 rules in a total amount not to exceed 288 ounces per customer
8 in any single 24-hour period, and may be delivered only where
9 delivery has been authorized by resolution or ordinance of the
10 local governing jurisdiction.

11 b. Wine may be sold in any size container, provided
12 that the total amount delivered does not exceed 9,000
13 milliliters or the equivalent of 12 750-milliliter bottles of
14 wine per customer in any single 24-hour period.

15 c. Spirits may be sold in any size bottle by an
16 off-premises licensee; provided, the total amount delivered
17 does not exceed 9,000 milliliters per customer in any single
18 24-hour period.

19 d. Spirits may be sold in any size bottle by a
20 restaurant licensee; provided, the total amount delivered does
21 not exceed 375 milliliters per customer in any single 24-hour
22 period.

23 (7) Any employee or independent contractor
24 delivering beer, wine, or spirits shall comply with all of the
25 following:

1 a. Is at least 21 years of age.

2 b. Has a valid driver's license.

3 c. Has, within the last 24 months, undergone a
4 criminal background check that includes driving records, and
5 the results of which comply with both of the following:

6 1. The individual has not been convicted within the
7 past seven years of driving under the influence.

8 2. The individual has not been convicted, at any
9 time, of a crime involving a sexual offense, fraud, property
10 damage, theft, an act of violence, or an act of terror.

11 3. The individual does not have a match on the
12 National Sex Offender Registry.

13 d. Does not receive compensation based on whether an
14 attempted delivery of beer, wine, or spirits results in a
15 completed transaction.

16 e. Is trained and certified consistent with the
17 training program submitted to the board as required by
18 subdivision (a) (6), with documentation on file with the
19 delivery service licensee. Upon request, the licensee shall
20 provide this documentation to the board.

21 (8) A delivery service licensee may facilitate
22 orders for the sale and delivery of beer, wine, or spirits by
23 telephone, Internet, or by other electronic means; provided,
24 all of the following:

1 a. The delivery service licensee shall obtain from
2 the customer a confirmation that he or she is at least 21
3 years of age at the time the order is placed.

4 b. The delivery service licensee shall ensure all
5 payments have been processed for delivery prior to removing
6 the alcohol from the licensed premises.

7 c. If the delivery service licensee is a retail
8 licensee, any order for sale and delivery of beer, wine, or
9 spirits received at the licensee's primary place of business
10 or through a third party licensee or facilitator shall be
11 construed as a sale made at the licensee's primary place of
12 business.

13 (9) Any delivery in a sealed package shall be
14 stamped, printed, or labeled in a manner approved by the
15 board, and that stamp, print, or label shall be prominently
16 displayed on the outside of the sealed package to indicate in
17 readily apparent font or type that the package contains
18 alcohol and that the signature of an individual at least 21
19 years of age is required for delivery.

20 (10) A delivery service licensee shall require each
21 recipient, at the time of delivery, to provide valid photo
22 identification that conforms to board rules and that verifies
23 that he or she is at least 21 years of age, and shall require
24 the recipient to sign for the delivery.

1 (11) A delivery service licensee shall possess
2 identification scanning software technology, or a
3 state-of-the-art alternative approved by the board, available
4 at the point of delivery that verifies the recipient is at
5 least 21 years of age and retains the recipient's name, date
6 of birth, and signature.

7 (12) A delivery service licensee shall provide each
8 employee or independent contractor making a delivery with
9 either a printed copy of the delivery service license or an
10 electronic copy indicating the delivery service license's name
11 and number, which shall be available for inspection upon
12 request from the board or any law enforcement officer.

13 (13) A delivery service licensee shall return any
14 beer, wine, or spirits to the retailer if the recipient is
15 under the age of 21 years; appears intoxicated; fails to
16 provide proof of identification; fails or refuses to sign for
17 delivery; fails to complete the identification scanning
18 software process or state-of-the-art alternative; declines to
19 accept the delivery of beer, wine, or spirits; or any
20 circumstances in the delivery environment indicate illegal
21 conduct, overconsumption, or an otherwise unsafe environment
22 for the consumption of alcohol. In no event shall a delivery
23 service licensee leave an alcoholic beverage delivery
24 unattended.

1 (14) A delivery service licensee may deliver through
2 a dry county or municipality, but may not deliver or cause a
3 delivery to be made to an individual residing in a dry county
4 or dry municipality. Every employee or independent contractor
5 conducting a delivery shall maintain within the delivery
6 vehicle evidence, electronic or otherwise, that the intended
7 recipient of any alcoholic beverages is not located in a dry
8 county or dry municipality.

9 (15) A delivery service licensee may deliver alcohol
10 only during hours when alcohol may be sold under general or
11 local law.

12 (16) A delivery service licensee may not deliver any
13 alcoholic beverage to any residence hall on the grounds of any
14 institution of higher learning, including any college,
15 university, community college, technical college, or junior
16 college.

17 (17) A delivery service licensee may not deliver
18 alcohol to a location more than 75 miles from the licensed
19 premise of the retail licensee where the delivery originated.

20 (18) A delivery service licensee may not deliver any
21 alcoholic beverage to any licensee of the board.

22 (19) A delivery service licensee shall report, at
23 the direction of the board, the total amount of beer, wine, or
24 spirits directly delivered to residents in the state during
25 the preceding calendar year.

1 (20) A delivery service licensee shall permit the
2 board or the Department of Revenue to perform an audit of the
3 licensee's records upon request.

4 (c) A delivery service licensee shall be deemed to
5 have consented to the jurisdiction of the board, any law
6 enforcement agency, and the Alabama courts concerning
7 enforcement of this section and any related laws or rules.

8 (d) A delivery service licensee shall be considered
9 to be a servant or agent of the retail licensee with whom the
10 licensee has contracts, and any violation by the delivery
11 service licensee, its employees, or its independent
12 contractors may also be deemed to be a violation by the retail
13 licensee.

14 (e) A technology services company shall not be
15 required to obtain a delivery service license if the company
16 does not employ or contract with the individual making the
17 deliveries, but merely provides software or a digital network
18 application that connects consumers and licensed retailers for
19 the delivery of alcoholic beverages from a licensed retailer.

20 (f) A delivery service licensee may renew its
21 license with the board by paying an annual renewal fee of two
22 hundred fifty dollars (\$250) and by otherwise complying with
23 the renewal process set forth in Section 28-3A-5, Code of
24 Alabama 1975.

1 (g) The board may enforce the requirements of this
2 section to suspend or revoke a delivery service license by the
3 same administrative proceedings that apply to alcoholic
4 beverage licenses, and the board may accept payment of a fine
5 in lieu of suspension or revocation. The payments shall be as
6 determined by rule of the board.

7 (h) Except as provided in this section, local
8 ordinances establishing different rules on delivery, delivery
9 service licensees, or requiring additional permits or fees,
10 are prohibited.

11 (i) The board may adopt rules pursuant to the
12 Alabama Administrative Procedure Act to implement this act.

13 (j) Any violation of this section is a Class B
14 misdemeanor upon a first conviction. A second or subsequent
15 conviction is a Class A misdemeanor.

16 Section 4. This act shall become effective on the
17 first day of the sixth month following its passage and
18 approval by the Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB126

Senate 11-FEB-21

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris,
Secretary.

House of Representatives
Amended and passed 01-APR-21

Senate concurred in House amendment 06-APR-21

By: Senator Waggoner