

1 HB402  
2 125466-1  
3 By Representatives Jones, Beckman, Shiver, England, Hubbard  
4 (J), Wood and Chesteen  
5 RFD: State Government  
6 First Read: 31-MAR-11

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8 SYNOPSIS: Under existing law, a licensee of the  
9 Alcoholic Beverage Control Board, or the servant,  
10 agent, or employee of a licensee of the Alcoholic  
11 Beverage Control Board, is prohibited from being  
12 employed by any other licensee engaged in the  
13 manufacture, storage, transportation, or sale of  
14 alcoholic beverages.

15 This bill would delete that prohibition.

16  
17 A BILL  
18 TO BE ENTITLED  
19 AN ACT  
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21 To amend Section 28-3A-25, Code of Alabama 1975,  
22 relating to unlawful acts and offenses under the alcoholic  
23 beverage licensing code, to delete the prohibition against any  
24 licensee of the Alcoholic Beverage Control Board, or the  
25 servant, agent, or employee of a licensee, from being employed  
26 by any other licensee engaged in the manufacture, storage,  
27 transportation, or sale of alcoholic beverages.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Section 28-3A-25 of the Code of Alabama  
3 1975, is amended to read as follows:

4 "§28-3A-25.

5 "(a) It shall be unlawful:

6 "(1) For any manufacturer, importer, or wholesaler,  
7 or the servants, agents, or employees of the same, to sell,  
8 trade, or barter in alcoholic beverages between the hours of  
9 nine o'clock P.M. of any Saturday and two o'clock A.M. of the  
10 following Monday.

11 "(2) For any wholesaler or the servants, agents, or  
12 employees of the wholesaler to sell alcoholic beverages, to  
13 other than wholesale or retail licensees or others within this  
14 state lawfully authorized to sell alcoholic beverages, or to  
15 sell for export.

16 "(3) For any person, licensee, or the board either  
17 directly or by the servants, agents, or employees of the same,  
18 or for any servant, agent, or employee of the same, to sell,  
19 deliver, furnish, or give away alcoholic beverages to any  
20 person under the legal drinking age, as defined in Section  
21 28-1-5, or to permit any person under the legal drinking age,  
22 as defined in Section 28-1-5, to drink, consume, or possess  
23 any alcoholic beverages on any licensee's premises.

24 "(4) For any person to consume alcoholic beverages  
25 on the premises of any state liquor store or any off-premises  
26 licensee, or to allow alcoholic beverages to be consumed on

1 the premises of any state liquor store or any off-premises  
2 licensee.

3 "(5) For any licensee to fail to keep for a period  
4 of at least three years, complete and truthful records  
5 covering the operation of his or her license and particularly  
6 showing the date of all purchases of alcoholic beverages, the  
7 actual price paid therefor, and the name of the vendor, or to  
8 refuse the board or any authorized employee of the board  
9 access to the records or the opportunity to make copies of the  
10 records when the request is made during business hours.

11 "(6) For any licensee or the servants, agents, or  
12 employees of the same to refuse the board, any of its  
13 authorized employees, or any duly commissioned law enforcement  
14 officer the right to completely inspect the entire licensed  
15 premises at any time the premises are open for business.

16 "~~(7) For any licensee or the servants, agents, or~~  
17 ~~employees of the same to be directly or indirectly employed by~~  
18 ~~any other licensee engaged in the manufacture, storage,~~  
19 ~~transportation, or sale of alcoholic beverages.~~

20 "(7)~~(8)~~ For any person to knowingly sell any  
21 alcoholic beverages to any person engaged in the business of  
22 illegally selling alcoholic beverages.

23 "(8)~~(9)~~ For any person to manufacture, transport, or  
24 import alcoholic beverages into this state, except in  
25 accordance with the reasonable rules and regulations of the  
26 board. This subdivision shall not prohibit the transportation  
27 of alcoholic beverages through the state or any dry county so

1 long as the beverages are not for delivery therein, if the  
2 transportation is done in accordance with the reasonable rules  
3 and regulations of the board.

4 "(9)~~(10)~~ For any person to fortify, adulterate,  
5 contaminate, or in any manner change the character or purity  
6 of alcoholic beverages from that as originally marketed by the  
7 manufacturer, except that a retail licensee on order from a  
8 customer may mix a chaser or other ingredients necessary to  
9 prepare a cocktail or mixed drink for on-premises consumption.

10 "(10)~~(11)~~ For any person licensed to sell alcoholic  
11 beverages to offer to give any thing of value as a premium for  
12 the return of caps, stoppers, corks, stamps, or labels taken  
13 from any bottle, case, barrel, or package containing the  
14 alcoholic beverages, or to offer to give any thing of value as  
15 a premium or present to induce the purchase of the alcoholic  
16 beverages, or for any other purpose whatsoever in connection  
17 with the sale of the alcoholic beverages. This subdivision  
18 shall not apply to the return of any moneys specifically  
19 deposited for the return of the original containers to the  
20 owners of the containers.

21 "(11)~~(12)~~ For any licensee or transporter for hire,  
22 servant, agent, or employee of the same, to transport any  
23 alcoholic beverages except in the original container, and for  
24 any transporter for hire to transport any alcoholic beverages  
25 within the state, unless the transporter holds a permit issued  
26 by the board.

1           "~~(12)(13)~~ For any manufacturer, importer, or  
2 wholesaler, servant, agent, or employee of the same, to  
3 deliver any alcoholic beverages, except in vehicles bearing  
4 such information on each side of the vehicle as required by  
5 the board.

6           "~~(13)(14)~~ For any person to sell alcoholic beverages  
7 within any dry county or county where the electors have voted  
8 against the sales, except in wet municipalities or as  
9 authorized by Section 28-3A-18.

10           "~~(14)(15)~~ For any person, firm, corporation,  
11 partnership, or association of persons as the terms are  
12 defined in Section 28-3-1, including any civic center  
13 authority, racing commission, fair authority, airport  
14 authority, public or quasi-public board, agency, or  
15 commission, any agent thereof, or otherwise, who or which has  
16 not been properly licensed under the appropriate provisions of  
17 this chapter to sell, offer for sale, or have in possession  
18 for sale, any alcoholic beverages. Any alcoholic beverages so  
19 possessed, maintained, or kept shall be contraband and subject  
20 to condemnation and confiscation as provided by law.

21           "~~(15)(16)~~ For any manufacturer, distiller, producer,  
22 importer, or distributor of alcoholic beverages to employ and  
23 maintain any person, who is not a full-time bona fide  
24 employee, as a resident sales agent, broker, or other like  
25 representative, for the purpose of promoting a sale, purchase,  
26 or acquisition of alcoholic beverages to or by the state or  
27 the board, or for any person who is not a full-time bona fide

1 employee to act as an agent, broker, or representative of any  
2 manufacturer, distributor, producer, importer, or distiller  
3 for that purpose.

4 "(16)~~(17)~~ For any person to sell, give away, or  
5 otherwise dispose of taxable alcoholic beverages within this  
6 state on which the required taxes have not been paid as  
7 required by law.

8 "(17)~~(18)~~ For any wholesaler or retailer, or the  
9 servant, agent, or employee of the same, to sell, distribute,  
10 deliver, or to receive or store for sale or distribution  
11 within this state any alcoholic beverages unless there first  
12 has been issued by the board a manufacturer's license to the  
13 manufacturer of the alcoholic beverages or its designated  
14 representative or an importer license to the importer of the  
15 alcoholic beverages.

16 "(18)~~(19)~~ For any person under the legal drinking  
17 age, as defined in Section 28-1-5, to attempt to purchase, to  
18 purchase, consume, possess, or to transport any alcoholic  
19 beverages within the state; provided, however, it shall not be  
20 unlawful for a person under the legal drinking age, as defined  
21 in Section 28-1-5, to be an employee of a wholesale licensee  
22 or an off-premises retail licensee of the board to handle,  
23 transport, or sell any beer or table wine if the person under  
24 the legal drinking age is acting within the line and scope of  
25 his or her employment while so acting. There must be an adult  
26 licensee, servant, agent, or employee of the same present at  
27 all times a licensed establishment is open for business.

1           "(19)~~(20)~~ For any person, except where authorized by  
2 a local act or general act of local application, to buy, give  
3 away, sell, or serve for consumption on or off the premises,  
4 or to drink or consume any alcoholic beverages in any cafe,  
5 lunchroom, restaurant, hotel dining room, or other public  
6 place on Sunday after the hour of two o'clock A.M.

7           "(20)~~(21)~~ Except where authorized by a local act or  
8 general act of local application, for the proprietor, keeper,  
9 or operator of any cafe, lunchroom, restaurant, hotel dining  
10 room, or other public place to knowingly permit any person to  
11 give away, sell, or serve for consumption on or off the  
12 premises, or to drink or consume any alcoholic beverages on  
13 the premises of the cafe, lunchroom, restaurant, hotel dining  
14 room, or other public place on Sunday after the hour of two  
15 o'clock A.M.

16           "(21)~~(22)~~ For a person under the age of 21 years to  
17 knowingly use or attempt to use a false, forged, deceptive, or  
18 otherwise nongenuine driver's license to obtain or attempt to  
19 obtain alcoholic beverages within this state.

20           "(b) (1) Any violation of subdivisions (1) through  
21 ~~(18)~~ (17) of subsection (a) ~~of this section~~ shall be a  
22 misdemeanor punishable by a fine of not less than one hundred  
23 dollars (\$100) nor more than one thousand dollars (\$1,000), to  
24 which, at the discretion of the court or judge trying the  
25 case, may be added imprisonment in the county jail or at hard  
26 labor for the county for not more than six months for the  
27 first conviction; and, on the second conviction of a violation



1 of the subdivisions, the offense shall, in addition to the  
2 aforementioned fine, be punishable by imprisonment or at hard  
3 labor for the county for not less than three months nor more  
4 than six months to be imposed by the court or judge trying the  
5 case; and, on the third conviction and every subsequent  
6 conviction of a violation of the subdivisions, the offense  
7 shall, in addition to a fine within the limits abovenamed, be  
8 punishable by imprisonment or at hard labor for the county for  
9 not less than six months nor more than 12 months.

10 "(2) Any violation of any provision of subdivisions  
11 ~~(19), (20), (21), and (22)~~ (18), (19), (20), and (21) of  
12 subsection (a) ~~of this section~~ shall be a misdemeanor  
13 punishable by a fine of not less than fifty dollars (\$50) nor  
14 more than five hundred dollars (\$500), to which, at the  
15 discretion of the court or judge trying the case, may be added  
16 imprisonment in the county jail or at hard labor for the  
17 county for not more than three months.

18 "(c) In addition to the penalties otherwise provided  
19 for a violation of subdivisions ~~(19) and (22)~~ (18) and (21) of  
20 subsection (a) ~~of this section~~, upon conviction, including  
21 convictions in juvenile court or under the Youthful Offender  
22 Act, the offender's license to operate a motor vehicle in this  
23 state shall be surrendered by the offender to the judge  
24 adjudicating the case for a period of not less than three  
25 months nor more than six months. The judge shall forward a  
26 copy of the order suspending the license to the Department of  
27 Public Safety for enforcement purposes."

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