

**SB259 INTRODUCED**



1 SB259  
2 48D4RRR-1  
3 By Senator Singleton  
4 RFD: Fiscal Responsibility and Economic Development  
5 First Read: 21-Mar-24



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SYNOPSIS:

Existing law makes no specific provisions regarding the retail sale, wholesale, or tax on the sale of low-alcohol by volume content beverages from liquor. These beverages are not available for distribution through beer and table wine wholesalers.

This bill would define a new category of ready to drink mixed liquor beverages containing no more than eight percent alcohol by volume called "mixed spirit beverages."

This bill would require all mixed spirit beverages, other than those distributed by the Alcoholic Beverage Control Board, to be distributed through a licensed wholesaler and sold to licensed retailers in Alabama for on-premises and off-premises consumption.

This bill would require each importer and manufacturer of mixed spirit beverages to designate sales territories for each of its brands and enter into an exclusive franchise agreement with a licensed wholesaler for each sales territory.

This bill would set conditions and requirements for franchise agreements between suppliers and wholesale distributors of mixed spirit beverages, including provisions for the modification, termination,



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29 cancellation, nonrenewal, or discontinuance of an  
30 agreement.

31 This bill would provide for the levy of a  
32 privilege or excise tax on mixed spirit beverages.

33 This bill would also make nonsubstantive,  
34 technical revisions to update the existing code  
35 language to current style.

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A BILL

40

TO BE ENTITLED

41

AN ACT

42

43 Relating to alcoholic beverages; to amend Sections  
44 28-3-1, 28-3A-3, 28-3A-21, Code of Alabama 1975, and Section  
45 28-3A-23, Code of Alabama 1975, as amended by Act 2023-312,  
46 2023 Regular Session, and add Sections 28-3-208, 28-3A-9.1,  
47 and 28-3A-17.3 to the Code of Alabama 1975; to define a new  
48 category of low-alcohol content liquor beverages called mixed  
49 spirit beverages; to require all mixed spirit beverages, other  
50 than those distributed by the Alcoholic Beverage Control  
51 Board, to be distributed through a licensed wholesaler; to  
52 levy taxes upon the distribution of these beverages; to  
53 provide for licensure of retailers of mixed spirit beverages  
54 and set a fee for licensure; to add Chapter 8B to Title 28 of  
55 the Code of Alabama 1975; to require licensed importers,  
56 manufacturers, and suppliers of mixed spirit beverages to



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57 enter into exclusive franchise agreements with wholesalers; to  
58 exempt from the wholesaler franchise laws mixed spirit  
59 beverages distributed by the Alcoholic Beverage Control Board  
60 and sold at retail at ABC stores; and to make nonsubstantive,  
61 technical revisions to update the existing code language to  
62 current style.

63 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

64 Section 1. The Legislature hereby finds and declares  
65 that this act is enacted pursuant to the authority granted to  
66 the state under the Twenty-First Amendment to the United  
67 States Constitution, the powers reserved to the state under  
68 the Tenth Amendment to the United States Constitution, and the  
69 inherent powers of the state under the Constitution of Alabama  
70 of 2022, in order to regulate the traffic of alcoholic  
71 beverages and to substitute the regulations and oversight  
72 established in this act for the application of federal and  
73 state antitrust laws that otherwise would apply to any  
74 potential anti-competitive effects of this title. For the  
75 avoidance of doubt, the intent of the Legislature is to  
76 maintain the uniform three-tier system of control over the  
77 sale, purchase, taxation, transportation, manufacture,  
78 consumption, and possession of alcoholic beverages in the  
79 state to promote the health, safety, and welfare of residents  
80 of this state by, among other purposes, ensuring the state  
81 shall be able to register, audit, inspect, seize, recall, and  
82 test alcoholic beverages shipped into, distributed, and sold  
83 throughout this state; and this expression of the policy and  
84 intent of the Legislature is intended to satisfy the clear



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85 articulation test for state action immunity as has been  
86 established by the United States Supreme Court in California  
87 Retail Liquor Dealers Assn. v. Midcal Aluminum, Inc., et al.

88 Section 2. Section 28-3-1, Code of Alabama 1975, is  
89 amended to read as follows:

90 "§28-3-1

91 As used in this title, the following words ~~shall~~ have  
92 the following meanings unless the context clearly indicates  
93 otherwise:

94 (1) ALCOHOLIC BEVERAGES. Any alcoholic, spirituous,  
95 vinous, fermented, or other alcoholic beverage, or combination  
96 of liquors and mixed liquor, a part of which is spirituous,  
97 vinous, fermented, or otherwise alcoholic, and all drinks or  
98 drinkable liquids, preparations, or mixtures intended for  
99 beverage purposes, which contain one-half of one percent or  
100 more of alcohol by volume, ~~and shall include.~~ The term  
101 includes liquor, beer, ~~and wine,~~ and mixed spirit beverages.

102 (2) ASSOCIATION. A partnership, limited partnership, or  
103 any form of unincorporated enterprise owned by two or more  
104 persons.

105 (3) BEER, or MALT OR BREWED BEVERAGES. Any beer, lager  
106 beer, ale, porter, malt or brewed beverage, or similar  
107 fermented beverage containing one-half of one percent or more  
108 of alcohol by volume and not in excess of ~~thirteen and~~  
109 ~~nine-tenths~~ 13.9 percent alcohol by volume, brewed or produced  
110 from malt, wholly or in part, or from rice, grain of any kind,  
111 bran, glucose, sugar, or molasses. A beer or malt or brewed  
112 beverage may incorporate honey, fruit, fruit juice, fruit



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113 concentrate, herbs, spices, or other flavorings during the  
114 fermentation process. The term does not include any product  
115 defined as liquor, table wine, or wine.

116 (4) BOARD. The Alcoholic Beverage Control Board.

117 (5) BRANDY. All beverages that are an alcoholic  
118 distillate from the fermented juice, mash, or wine of fruit,  
119 or from the residue thereof, produced in such manner that the  
120 distillate possesses the taste, aroma, and characteristics  
121 generally attributed to the beverage, as bottled at not less  
122 than 80 degree proof.

123 (6) CARTON. The package or container or containers in  
124 which alcoholic beverages are originally packaged for shipment  
125 to market by the manufacturer or its designated  
126 representatives or the importer.

127 (7) CIDER. A fermented alcoholic beverage made from  
128 apple juice and containing not more than 8.5 percent alcohol  
129 by volume.

130 (8) CLUB.

131 a. Class I. A corporation or association organized or  
132 formed in good faith by authority of law and which must have  
133 at least 150 paid-up members. It must be the owner, lessee, or  
134 occupant of an establishment operated solely for the objects  
135 of a national, social, patriotic, political, or athletic  
136 nature or the like, but not for pecuniary gain, and the  
137 property as well as the advantages of which, belong to all the  
138 members and which maintains an establishment provided with  
139 special space and accommodations where, in consideration of  
140 payment, food with or without lodging is habitually served.



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141 The club shall hold regular meetings, continue its business  
142 through officers regularly elected, admit members by written  
143 application, investigation, and ballot, and charge and collect  
144 dues from elected members.

145           b. Class II. A corporation or association organized or  
146 formed in good faith by authority of law and which must have  
147 at least 100 paid-up members. It must be the owner, lessee, or  
148 occupant of an establishment operated solely for the objects  
149 of a national, social, patriotic, political, or athletic  
150 nature or the like. The club shall hold regular meetings,  
151 continue its business through officers regularly elected,  
152 admit members by written application, investigation, and  
153 ballot, and charge and collect dues from elected members.

154           (9) CONTAINER. The single bottle, can, keg, bag, or  
155 other receptacle, but not a carton, in which alcoholic  
156 beverages are originally packaged for the market by the  
157 manufacturer or importer and from which the alcoholic beverage  
158 is consumed by or dispensed to the public.

159           (10) CORPORATION. A corporation or joint stock  
160 association organized under the laws of this state, the United  
161 States, or any other state, territory, or foreign country, or  
162 dependency.

163           (11) DELIVERY. The transportation of alcoholic  
164 beverages directly from a retail licensee of the board to an  
165 individual, pursuant to Section 28-1-4 and Section 28-3A-13.1.

166           (12) DELIVERY SERVICE LICENSE. A license issued by the  
167 Alabama Alcoholic Beverage Control Board in accordance with  
168 Section 28-3A-13.1 that authorizes the licensee, the



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169 licensee's employees, or independent contractors under a  
170 contractual or business arrangement with the licensee to  
171 transport and deliver alcoholic beverages.

172 (13) DRY COUNTY. Any county which by a majority of  
173 those voting voted in the negative in an election ~~heretofore~~  
174 held under the applicable statutes at the time of the election  
175 or may hereafter vote in the negative in an election or  
176 special method referendum hereafter held in accordance with  
177 Chapter 2, or held in accordance with ~~the provisions of any~~  
178 act hereafter enacted permitting such election.

179 (14) DRY MUNICIPALITY. Any municipality within a wet  
180 county which has, by its governing body or by a majority of  
181 those voting in a municipal election heretofore held in  
182 accordance with the provisions of Section 28-2-22, or in a  
183 municipal option election heretofore or hereafter held in  
184 accordance with ~~the provisions of Act 84-408, Acts of Alabama~~  
185 ~~1984, appearing as~~ Chapter 2A, or any act hereafter enacted  
186 permitting municipal option election, voted to exclude the  
187 sale of alcoholic beverages within the corporate limits of the  
188 municipality.

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

191 (16) GENERAL WELFARE PURPOSES. All of the following:

192 a. The administration of public assistance as set out  
193 in Sections 38-2-5 and 38-4-1.

194 b. Services, including supplementation and  
195 supplementary services under the federal Social Security Act,  
196 to or on behalf of persons to whom public assistance may be





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197 given under Sections 38-2-5 and 38-4-1.

198 c. Service to and on behalf of dependent, neglected, or  
199 delinquent children.

200 d. Investigative and referral services to and on behalf  
201 of needy persons.

202 (17) HEARING COMMISSION. A body appointed by the board  
203 to hear and decide all contested license applications and all  
204 disciplinary charges against any licensee for violation of  
205 this title or the rules of the board.

206 (18) HOTEL. A building or buildings held out to the  
207 public for housing accommodations of travelers or transients,  
208 and shall include motel, but shall not include a rooming house  
209 or boarding house.

210 (19) IMPORTER. Any person, association, or corporation  
211 engaged in importing alcoholic beverages, liquor, wine, ~~or~~  
212 beer, or mixed spirit beverages manufactured outside of the  
213 United States of America into this state or for sale or  
214 distribution in this state, or to the board or to a licensee  
215 of the board.

216 (20) INDEPENDENT CONTRACTOR. An individual to whom an  
217 employer is required to issue a 1099 tax form under federal  
218 law.

219 (21) KEG. A pressurized factory sealed container with a  
220 capacity equal to or greater than five U.S. gallons, from  
221 which beer is withdrawn by means of an external tap.

222 (22) LIQUOR. Any alcoholic, spirituous, vinous,  
223 fermented, or other alcoholic beverage, or combination of  
224 liquors and mixed liquor, a part of which is spirituous,



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225 fermented, vinous, or otherwise alcoholic, and all drinks or  
226 drinkable liquids, preparations, or mixtures intended for  
227 beverage purposes, which contain one-half of one percent or  
228 more of alcohol by volume, except beer and table wine.

229 (23) LIQUOR STORE. A liquor store operated by the  
230 board, where alcoholic beverages other than beer are  
231 authorized to be sold in unopened containers.

232 (24) MANUFACTURER. Any person, association, or  
233 corporation engaged in the producing, bottling, manufacturing,  
234 distilling, fermenting, brewing, rectifying, or compounding of  
235 alcoholic beverages, liquor, beer, ~~or~~ wine, or mixed spirit  
236 beverages in this state or for sale or distribution in this  
237 state or to the board or to a licensee of the board.

238 (25) MEAD. An alcoholic beverage produced by fermenting  
239 a solution of honey and water with grain mash and containing  
240 not more than 18 percent alcohol by volume.

241 (26) MEAL. A diversified selection of food some of  
242 which is not susceptible of being consumed in the absence of  
243 at least some articles of tableware and which cannot be  
244 conveniently consumed while one is standing or walking about.

245 (27) MINOR. Any person under 21 years of age; provided,  
246 however, in the event Section 28-1-5~~7~~ shall be repealed or  
247 otherwise shall be no longer in effect, ~~thereafter~~ the  
248 provisions of Section 26-1-1~~7~~ shall govern.

249 (28) MIXED SPIRIT BEVERAGE. A single-serve beverage  
250 containing liquor, packaged in a can or a container no larger  
251 than 16 ounces approved by the board, and which contains no  
252 more than 8 percent alcohol by volume. The term does not



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253 include any beverage containing liquor over 16 ounces in size,  
254 or of more than 8 percent alcohol by volume.

255 ~~(28)~~ (29) MUNICIPALITY. Any incorporated city or town of  
256 this state to include its police jurisdiction.

257 ~~(29)~~ (30) PERSON. Every natural person, association, or  
258 corporation. Whenever used in a clause prescribing or imposing  
259 a fine or imprisonment, or both, such term as applied to  
260 association shall mean the partners or members thereof and as  
261 applied to corporation shall mean the officers thereof, except  
262 as to incorporated clubs, ~~the term person shall mean such~~  
263 means the individual or individuals who, under the bylaws of  
264 such clubs, ~~shall~~ have jurisdiction over the possession and  
265 sale of liquor therein.

266 ~~(30)~~ (31) POPULATION. The population according to the  
267 last preceding or any subsequent decennial census of the  
268 United States, except where a municipality is incorporated  
269 subsequent to the last census, in which event, its population  
270 until the next decennial census shall be the population of the  
271 municipality as determined by the judge of probate of the  
272 county as the official population on the date of its  
273 incorporation.

274 ~~(31)~~ (32) RESTAURANT. A reputable place licensed as a  
275 restaurant, operated by a responsible person of good  
276 reputation and habitually and principally used for the purpose  
277 of preparing and serving meals for the public to consume on  
278 the premises.

279 ~~(32)~~ (33) RETAILER. Any person licensed by the board to  
280 engage in the retail sale of any alcoholic beverages to the



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281 consumer.

282 ~~(33)~~ (34) SALE or SELL. Any transfer of liquor, wine, ~~or~~  
283 beer, or mixed spirit beverages for a consideration, and any  
284 gift in connection with, or as a part of, a transfer of  
285 property other than liquor, wine, ~~or~~ beer, or mixed spirit  
286 beverages for a consideration.

287 ~~(34)~~ (35) SELLING PRICE. The total marked-up price of  
288 spirituous or vinous liquors sold by the board, exclusive of  
289 taxes levied thereon.

290 ~~(35)~~ (36) TABLE WINE. Except as otherwise provided in  
291 this subdivision, any wine containing not more than 24 percent  
292 alcohol by volume. Table wine does not include any wine  
293 containing more than ~~sixteen and one-half~~ 16.5 percent alcohol  
294 by volume that is made with herbs or flavors, except vermouth,  
295 or is an imitation or other than standard wine. Table wine is  
296 not liquor, spirituous, or vinous.

297 ~~(36)~~ (37) UNOPENED CONTAINER. A container containing  
298 alcoholic beverages, which has not been opened or unsealed  
299 subsequent to filling and sealing by the manufacturer or  
300 importer.

301 ~~(37)~~ (38) WET COUNTY. Any county which by a majority of  
302 those voting voted in the affirmative in an election  
303 ~~heretofore~~ held in accordance with the statutes applicable at  
304 the time of the election or may hereafter vote in the  
305 affirmative in an election or special method referendum held  
306 in accordance with Chapter 2, or other statutes applicable at  
307 the time of the election.

308 ~~(38)~~ (39) WET MUNICIPALITY. Any municipality in a dry



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309 county which by a majority of those voting voted in the  
310 affirmative in a municipal option election heretofore or  
311 hereafter held in accordance with ~~the provisions of Act~~  
312 ~~84-408, Acts of Alabama 1984, appearing as~~ Chapter 2A ~~of this~~  
313 ~~title, as amended,~~ or any act hereafter enacted permitting  
314 municipal option election, or any municipality which became  
315 wet by vote of the governing body or by the voters of the  
316 municipality heretofore or hereafter held under the special  
317 method referendum provisions of Section 28-2-22, or as  
318 hereafter provided, where the county has become dry subsequent  
319 to the elected wet status of the municipality.

320 ~~(39)~~ (40) WHOLESALER. Any person licensed by the board  
321 to engage in the sale and distribution of table wine, ~~and~~  
322 beer, or mixed spirit beverages, or ~~either of them~~ any  
323 combination thereof, within this state, at wholesale only, to  
324 be sold by export or to retail licensees or other wholesale  
325 licensees or others within this state lawfully authorized to  
326 sell table wine, ~~and~~ beer, or mixed spirit beverages, or  
327 ~~either of them~~ any combination thereof, for the purpose of  
328 resale only.

329 ~~(40)~~ (41) WINE. All beverages made from the fermentation  
330 of fruits, berries, or grapes, with or without added spirits,  
331 and produced in accordance with the laws and regulations of  
332 the United States, containing not more than 24 percent alcohol  
333 by volume, and shall include all sparkling wines, carbonated  
334 wines, special natural wines, rectified wines, vermouths,  
335 vinous beverages, vinous liquors, and like products, including  
336 restored or unrestored pure condensed juice."



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337 Section 3. Section 28-3-208 is added to the Code of  
338 Alabama 1975, to read as follows:

339 §28-3-208

340 (a) There is hereby levied, in addition to the license  
341 taxes provided for by this chapter and municipal and county  
342 license taxes, a privilege or excise tax measured by and  
343 graduated in accordance with the volume of sales of mixed  
344 spirit beverages. The tax shall be an amount equal to  
345 sixty-eight cents (\$.68) per 12 fluid ounces or fractional  
346 part thereof.

347 (b) (1) a. The tax levied by subsection (a) shall be  
348 added to the sales price of all mixed spirit beverages and  
349 shall be collected from the retail purchasers. The tax shall  
350 be collected in the first instance from the wholesaler where  
351 mixed spirit beverages are sold or handled by wholesale  
352 licensees.

353 b. It shall be unlawful for any person who is required  
354 to pay the tax in the first instance to fail or refuse to add  
355 to the sales price and collect from the purchaser the required  
356 amount of tax, it being the intent and purpose of this section  
357 that the tax levied is in fact a levy on the retail purchaser.  
358 The person who pays the tax in the first instance is acting as  
359 an agent of the state for the collection and payment of the  
360 tax and as such may not collect a tax on mixed spirit  
361 beverages for any other level of government.

362 (2) The tax levied by subsection (a) shall be collected  
363 by a monthly return, which shall be filed by wholesale  
364 licensees as follows:



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365           a. A monthly return shall be filed with the board on a  
366 form as prescribed or approved by the board by rule not later  
367 than the 15th day of the second month following the month of  
368 receipt of mixed spirit beverages by the wholesaler, showing  
369 receipts by the wholesaler from manufacturer, importer, or  
370 other wholesaler licensees during the month of receipt and the  
371 taxes due thereon at the rate of sixty-two cents (\$.62) per 12  
372 fluid ounces or fractional part thereof of mixed spirit  
373 beverages purchased by the wholesaler licensee. The taxes due  
374 under this paragraph shall be remitted to the board along with  
375 the return.

376           b. A monthly return shall be filed with the county or  
377 municipality within which the mixed spirit beverage is sold at  
378 retail not later than the 15th day of each month, showing  
379 sales by wholesalers during the preceding month and the county  
380 or municipality in which sold and the taxes due thereon at the  
381 rate of six cents (\$.06) per 12 fluid ounces or fractional  
382 part thereof. The taxes due under this paragraph shall be  
383 remitted to the county or municipality along with the return.

384           (3) The board and the governing body of each county and  
385 municipality served by the wholesaler may examine the books  
386 and records of any person who sells, stores, or receives for  
387 the purpose of distribution any mixed spirit beverages to  
388 determine the accuracy of any return required to be filed with  
389 it.

390           (c) The proceeds of the tax levied by subsection (a)  
391 and remitted by subsection (b) shall be paid and distributed  
392 as follows:



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393 (1) Forty-five cents (\$.45) per 12 fluid ounces or  
394 fractional part thereof of mixed spirit beverage taxes  
395 remitted by wholesalers to the board shall be deposited by the  
396 board to the State General Fund.

397 (2) Seven cents (\$.07) per 12 fluid ounces or  
398 fractional part thereof of mixed spirit beverage taxes  
399 remitted by wholesalers to the board shall be retained by the  
400 board for regulatory and administrative purposes.

401 (3) Ten cents (\$.10) per 12 fluid ounces or fractional  
402 part thereof of mixed spirit beverage taxes remitted by  
403 wholesalers to the board shall be remitted by wholesalers and  
404 divided equally between the board and the Alabama State Law  
405 Enforcement Agency to be retained by each for purposes of  
406 enforcement.

407 (4) Six cents (\$.06) per 12 fluid ounces or fractional  
408 part thereof of mixed spirit beverage taxes shall be remitted  
409 by wholesalers either into the treasury of the municipality in  
410 which the mixed spirit beverages were sold within its  
411 corporate limits or, where sold outside the corporate limits  
412 of any municipality, into the treasury of the county in which  
413 the mixed spirit beverages were sold. If the taxes are timely  
414 paid to the county or municipality, the tax due to the county  
415 or municipality shall be discounted by 1.7 percent, which  
416 discount shall be retained by the wholesaler for collecting  
417 the tax.

418 (d) The taxes levied pursuant to this section are  
419 exclusive and shall be in lieu of all other and additional  
420 taxes and licenses of the state, county, or municipality





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421 imposed on or measured by the sale or volume of sale of mixed  
422 spirit beverages; provided, however, nothing contained in this  
423 section shall be construed to exempt the retail sale of mixed  
424 spirit beverages from the levy of tax on general retail sales  
425 by the state, county, or municipality in the nature of, or in  
426 lieu of, a general sales tax.

427 (e) The taxes levied by subsection (a) shall not be  
428 imposed upon the sale, trade, or barter of mixed spirit  
429 beverages by one licensed wholesaler to another wholesaler  
430 licensed to sell and handle mixed spirit beverages in this  
431 state, which transaction is hereby made exempt from the tax;  
432 provided, however, the board may require written reporting of  
433 any transaction in the form as the board by rule may  
434 prescribe.

435 (f) Each county and municipality may fix a reasonable  
436 privilege or license fee on retailer, importer, and wholesaler  
437 licensees for the purpose of covering the cost of  
438 administration with respect to the sale of mixed spirit  
439 beverages but not to generate revenue; provided, however, a  
440 county or municipality may not levy a license or privilege tax  
441 or other charge for the privilege of doing business as a mixed  
442 spirit beverage retailer, importer, or wholesaler which  
443 exceeds one-half the amount of the state license fee.

444 Section 4. Section 28-3A-3, Code of Alabama 1975, is  
445 amended to read as follows:

446 "§28-3A-3

447 (a) (1) Subject to this chapter and rules adopted  
448 thereunder, the board may issue and renew licenses to



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449 reputable and responsible persons for the following purposes:

450 ~~(1)~~a. To manufacture, brew, distill, ferment, rectify,  
451 bottle, or compound ~~any or all~~ alcoholic beverages within or  
452 for sale within this state.

453 ~~(2)~~b. To import ~~any or all~~ alcoholic beverages  
454 manufactured outside the United States into this state or for  
455 sale or distribution within this state.

456 ~~(3)~~c. To distribute, wholesale, or act as jobber for  
457 the sale of liquor.

458 ~~(4)~~d. To distribute, wholesale, or act as jobber for  
459 the sale of table wine ~~and beer or either of them~~, beer, or  
460 mixed spirit beverages alone or in any combination to licensed  
461 retailers within the state and others within this state  
462 lawfully authorized to sell table wine or beer.

463 ~~(5)~~e. To store or warehouse ~~any or all~~ alcoholic  
464 beverages for transshipment inside and outside the state.

465 ~~(6)~~f. To sell and dispense at retail in a lounge,  
466 liquor and other alcoholic beverages.

467 ~~(7)~~g. To sell and dispense at retail, in an  
468 establishment habitually and principally used for the purpose  
469 of providing meals for the public, liquor and other alcoholic  
470 beverages for on-premises consumption.

471 ~~(8)~~h. To sell liquor and wine at retail for  
472 off-premises consumption.

473 ~~(9)~~i. To sell and dispense at retail in a club, liquor  
474 and other alcoholic beverages for on-premises consumption.

475 ~~(10)~~j. To sell table wine at retail for off-premises  
476 consumption.



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477 ~~(11)~~k. To sell table wine at retail for on-premises and  
478 off-premises consumption.

479 ~~(12)~~l. To sell beer at retail for on-premises and  
480 off-premises consumption.

481 ~~(13)~~m. To sell beer at retail for off-premises  
482 consumption.

483 n. To sell mixed spirit beverages at retail for  
484 on-premises and off-premises consumption.

485 o. To sell mixed spirit beverages at retail for  
486 off-premises consumption.

487 ~~(14)~~p. To sell liquor and other alcoholic beverages at  
488 retail by a retail common carrier with a passenger capacity of  
489 at least 10 people.

490 ~~(15)~~q. To sell ~~any or all~~ alcoholic beverages at retail  
491 under special license issued conditioned upon terms and  
492 conditions and for the period of time prescribed by the board.

493 ~~(16)~~r. To sell ~~any or all~~ alcoholic beverages at retail  
494 under a special event retail license issued for three days  
495 upon the terms and conditions prescribed by the board.

496 (2) Provided, however, that the Notwithstanding  
497 subdivision (1), licenses authorized under subdivision (1) may  
498 not be issued in dry counties where traffic in alcoholic  
499 beverages is not authorized by law, ~~therein~~ except a wine  
500 manufacturer license may be issued in a dry county pursuant to  
501 Section 28-7-10.1. ~~Provided the~~ The restriction of this  
502 ~~paragraph~~ subdivision shall not apply to the issuance of a  
503 renewal of a license under ~~subdivisions (1), (2), (3), (4),~~  
504 ~~and (5)~~ paragraphs (1)a. through (1)e. where the county or



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505 municipality was wet when the initial license was issued and  
506 the county or municipality subsequently votes dry; however, no  
507 importer or wholesaler licensee may sell or distribute  
508 alcoholic beverages within a dry county, except in a wet  
509 municipality therein, or within a dry municipality.

510 (b) The board is granted discretionary powers in acting  
511 upon license applications under the provisions of this  
512 chapter.

513 (c) Licenses issued under this chapter, unless revoked  
514 or suspended in the manner provided in this chapter, shall be  
515 valid for the license year which shall begin on the first day  
516 of October of each year, unless otherwise established by this  
517 chapter or by the board. Licenses may be issued at any time  
518 during the year."

519 Section 5. Sections 28-3A-9.1 and 28-3A-17.3 are added  
520 to the Code of Alabama 1975, to read as follows:

521 §28-3A-9.1

522 (a) Upon payment of the applicable fee for a mixed  
523 spirit beverage wholesaler license as established in Section  
524 28-3A-21 and the applicant's compliance with this chapter and  
525 rules adopted pursuant to this chapter, the board shall issue  
526 to an applicant a mixed spirit beverage wholesaler license.

527 (b) A mixed spirit beverage wholesaler license shall  
528 authorize the licensee to do all of the following:

529 (1) Import and receive shipments of mixed spirit  
530 beverages from outside the state from licensed manufacturers.

531 (2) Purchase mixed spirit beverages from licensed  
532 manufacturers or other licensed wholesalers within the state.



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533           (3) Sell at wholesale or distribute mixed spirit  
534 beverages to all licensees or other persons within this state  
535 lawfully authorized to sell mixed spirit beverages within the  
536 state.

537           (4) Export mixed spirit beverages from the state.

538           (c) Sales to all authorized persons shall be in  
539 original packages or containers as prepared for the market by  
540 the manufacturer.

541           (d) (1) Except as provided in subdivision (2), no person  
542 shall sell at wholesale or distribute mixed spirit beverages  
543 within this state or to licensees of the board unless the  
544 person is issued by the board a wholesaler license to  
545 distribute mixed spirit beverages.

546           (2) Notwithstanding this section, Section 28-3A-17.2,  
547 or Chapter 8B, the board shall have the authority to act as a  
548 wholesaler of mixed spirit beverages, provided the board, as a  
549 wholesaler, shall only distribute mixed spirit beverages to  
550 liquor stores operated by the board.

551           §28-3A-17.3

552           (a) Upon payment of the limited mixed spirit beverage  
553 expanded retail license fee as established in Section  
554 28-3A-21, the board shall issue a limited mixed spirit  
555 beverage expanded retail license to any person who holds and  
556 possesses any of the following:

557           (1) A valid retail table wine license for on-premises  
558 and off-premises consumption as provided for in Section  
559 28-3A-14.

560           (2) A valid retail table wine license for off-premises



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561 consumption as provided for in Section 28-3A-15.

562 (3) A valid retail beer license for on-premises and  
563 off-premises consumption as provided for in Section 28-3A-16.

564 (4) A valid retail beer license for off-premises  
565 consumption as provided for in Section 28-3A-17.

566 (b) Upon written request to the board and without  
567 payment of any additional fee, the board shall issue a limited  
568 mixed spirit beverage expanded retail license to any person  
569 who possesses any of the following:

570 (1) A valid lounge retail liquor license as provided  
571 for in Section 28-3A-11.

572 (2) A valid club liquor license as provided for in  
573 Section 28-3A-12.

574 (3) A valid restaurant retail liquor license as  
575 provided for in Section 28-3A-13.

576 (4) A special events retail license as provided for in  
577 Section 28-3A-20.

578 (c) A license issued under this section shall authorize  
579 the licensee to purchase mixed spirit beverages from a  
580 licensed mixed spirit beverage wholesaler and sell the mixed  
581 spirit beverages at retail, commensurate with the privileges  
582 granted to a licensee to sell retail beer and table wine.

583 (d) The board shall retain all limited mixed spirit  
584 beverage expanded retail license fees collected. The board may  
585 use collected fees for regulatory and administrative purposes  
586 as determined by the board, including for the purposes of  
587 establishing and maintaining a cost of evidence fund to assist  
588 in regulatory functions of the board.



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589 (e) Upon payment of a limited mixed spirit beverage  
590 expanded retail license fee, there shall be no additional  
591 licensing or administrative requirements, including no  
592 requirement for additional background checks, imposed by a  
593 municipality, a county, or the state for licensees for the  
594 sale of mixed spirit beverages.

595 Section 6. Sections 28-3A-21 and Section 28-3A-23, as  
596 last amended by Act 2023-312 of the 2023 Regular Session, Code  
597 of Alabama 1975, are amended to read as follows:

598 "§28-3A-21

599 (a) The following annual license fees are levied and  
600 prescribed for licenses issued and renewed by the board  
601 pursuant to the authority contained in this chapter:

602 (1) Manufacturer license, license fee of five hundred  
603 dollars (\$500).

604 (2) Importer license, license fee of five hundred  
605 dollars (\$500).

606 (3) Liquor ~~wholesale~~wholesaler license, license fee of  
607 five hundred dollars (\$500).

608 (4) ~~Wholesaler~~Beer wholesaler license, ~~beer~~-license  
609 fee of five hundred fifty dollars (\$550) ~~or wine license fee~~  
610 ~~of five hundred fifty dollars (\$550); license fee for beer and~~  
611 ~~wine of seven hundred fifty dollars (\$750);~~ plus two hundred  
612 dollars (\$200) for each warehouse in addition to the principal  
613 warehouse.

614 (5) Wine wholesaler license, license fee of five  
615 hundred fifty dollars (\$550) plus two hundred dollars (\$200)  
616 for each warehouse in addition to the principal warehouse.



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617 (6) Mixed spirit beverage wholesaler license, license  
618 fee of five hundred fifty dollars (\$550) plus two hundred  
619 dollars (\$200) for each warehouse in addition to the principal  
620 warehouse.

621 (7) Beer, wine, and mixed spirit beverage wholesaler  
622 license, license fee of one thousand dollars (\$1,000) plus two  
623 hundred dollars (\$200) for each warehouse in addition to the  
624 principal warehouse.

625 ~~(5)~~ (8) Warehouse license, license fee of two hundred  
626 dollars (\$200).

627 ~~(6)~~ (9) Lounge retail liquor license, license fee of  
628 three hundred dollars (\$300).

629 ~~(7)~~ (10) Restaurant retail liquor license, license fee  
630 of three hundred dollars (\$300).

631 ~~(8)~~ (11) Club liquor license, Class I license fee of  
632 three hundred dollars (\$300), Class II license fee of seven  
633 hundred fifty dollars (\$750).

634 ~~(9)~~ (12) Retail table wine license for off-premises  
635 consumption, license fee of one hundred fifty dollars (\$150).

636 ~~(10)~~ (13) Retail table wine license for on-premises and  
637 off-premises consumption, license fee of one hundred fifty  
638 dollars (\$150).

639 ~~(11)~~ (14) Retail beer license for on-premises and  
640 off-premises consumption, license fee of one hundred fifty  
641 dollars (\$150).

642 ~~(12)~~ (15) Retail beer license for off-premises  
643 consumption, license fee of one hundred fifty dollars (\$150).

644 ~~(13)~~ (16) Retail common carrier liquor license, license





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645 fee of one hundred fifty dollars (\$150) for each railroad,  
646 airline, bus line, ship line, vessel, or other common carrier  
647 entity with a vehicle passenger capacity of at least 10  
648 people.

649 ~~(14)~~ (17) Special retail license, license fee of one  
650 hundred dollars (\$100) for 30 days or less; license fee of two  
651 hundred fifty dollars (\$250) for more than 30 days.

652 ~~(15)~~ (18) Special events retail license, license fee of  
653 one hundred fifty dollars (\$150).

654 (19) Limited mixed spirit beverage expanded retail  
655 license, license fee of three hundred dollars (\$300).

656 (b) The license fees levied and fixed by this section  
657 shall be paid before the license is issued or renewed.

658 (c) In addition to the ~~foregoing~~ filing fee and license  
659 taxes or fees, levied and fixed by this section, any county or  
660 municipality in which the sale of alcoholic beverages is  
661 permitted ~~shall be authorized to~~ may fix and levy privileges  
662 or license taxes on any of the foregoing licenses located or  
663 operated therein, conditioned on a permit or license being  
664 issued by the board.

665 (d) No county or municipality shall have any authority  
666 to levy a license or tax of any nature on any liquor store."

667 "§28-3A-23

668 (a) No license prescribed in this ~~title~~ chapter shall  
669 be issued or renewed until the provisions of this ~~title~~  
670 chapter have been complied with and the filing and license  
671 fees other than those levied by a municipality are paid to the  
672 board.



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673 (b) Licenses shall be granted and issued by the board  
674 only to reputable individuals, to associations whose members  
675 are reputable individuals, or to reputable corporations  
676 organized under the laws of this state or duly qualified  
677 thereunder to do business in Alabama, or, in the case of  
678 manufacturers, duly registered under the laws of Alabama, and  
679 then only when it appears that all officers and directors of  
680 the corporation are reputable individuals.

681 (c) (1) In addition to all other requirements, an  
682 applicant for a license under this section shall submit to the  
683 board a form, sworn to by the applicant, providing written  
684 consent from the applicant for the release of criminal history  
685 background information. The form shall also require the  
686 applicant's name, date of birth, and Social Security number  
687 for completion of a criminal history background check.

688 (2) An applicant shall provide the board with two  
689 complete functional sets of fingerprints, either cards or  
690 electronic, properly executed by a criminal justice agency or  
691 an individual properly trained in fingerprinting techniques.  
692 The fingerprints and form shall be submitted by the board to  
693 the State Bureau of Investigations for the purposes of  
694 furnishing criminal background checks. The State Bureau of  
695 Investigations shall forward a copy of the applicant's prints  
696 to the Federal Bureau of Investigation for a national criminal  
697 background check. The applicant shall pay all costs associated  
698 with the background checks required by this section.

699 (3) For purposes of this section, the term "applicant"  
700 ~~shall include~~ includes every person who has any proprietary or



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701 profit interest of 10 percent or more in the licensed  
702 establishment, but shall not include any public corporation  
703 whose shares are traded on a recognized stock exchange.

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

709 (d) Every license issued under this ~~title~~ chapter shall  
710 be constantly and conspicuously displayed on the licensed  
711 premises.

712 (e) Each retail liquor license application must be  
713 approved by the governing authority of the municipality if the  
714 retailer is located in a municipality, or by the county  
715 commission if the retailer is located in the county and  
716 outside the limits of the municipality, before the board shall  
717 have authority to grant the license.

718 (f) Any retailer may be granted licenses to maintain,  
719 operate, or conduct any number of places for the sale of  
720 alcoholic beverages, but a separate license must be secured  
721 for each place where alcoholic beverages are sold. No retail  
722 license issued under this ~~title~~ chapter shall be used for more  
723 than one premises, nor for separate types of operation on the  
724 same premises. Provided, however, any such licensed retail  
725 operation existing on May 14, 2009, and operating based on  
726 dual licenses, both a club or lounge license and a restaurant  
727 license, on the same premises shall be exempt from the  
728 requirement of the preceding sentence and may continue to



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729 operate under the dual licenses. Any rule adopted by the board  
730 relating to the requirements concerning dual licenses, both a  
731 club or lounge license and a restaurant license, shall not  
732 apply to any retail operation existing on May 14, 2009. The  
733 rules shall include, but not be limited to, the maintenance of  
734 separate books, separate entrances, and separate inventories.  
735 Each premises must have a separate retail license. Where more  
736 than one retail operation is located within the same building,  
737 each operation under a separate or different ownership is  
738 required to obtain a separate retail license; and where more  
739 than one type of retail operation located within the same  
740 building is operated by the same licensee, the licensee must  
741 have a license for each type of retail operation. Provided,  
742 there shall be no licenses issued by the board for the sale of  
743 liquor, beer, or wine by rolling stores.

744 (g) No retailer shall sell any alcoholic beverages for  
745 consumption on the licensed premises except in a room or rooms  
746 or place on the licensed premises at all times accessible to  
747 the use and accommodation of the general public; but this  
748 section shall not be interpreted to prevent a hotel or club  
749 licensee from selling alcoholic beverages in any room of the  
750 hotel or club house occupied by a bona fide registered guest  
751 or member or private party entitled to purchase the same.

752 (h) All beer, except draft or keg beer, sold by  
753 retailers must be sold or dispensed in bottles, cans, or other  
754 containers not to exceed 25.4 ounces. All wine sold by  
755 retailers for off-premises consumption must be sold or  
756 dispensed in bottles or other containers in accordance with



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757 the standards of fill specified in the then effective  
758 standards of fill for wine prescribed by the U.S. Treasury  
759 Department.

760 (i) Draft or keg beer may be sold or dispensed within  
761 this state within those counties in which and in the manner in  
762 which the sale of draft or keg beer was authorized by law on  
763 September 30, 1980, or in which the sale of draft or keg beer  
764 is hereafter authorized by law. In rural communities with a  
765 predominantly foreign population, after the payment of the tax  
766 imposed by this title, draft or keg beer may be sold or  
767 dispensed by special permit from the board, when, in the  
768 judgment of the board, the use and consumption of draft or keg  
769 beer is in accordance with the habit and customs of the people  
770 of any such rural community. The board may grant to any civic  
771 center authority or its franchisee or concessionaire, to which  
772 the board may have issued or may simultaneously issue a retail  
773 license under the provisions of this title, a revocable  
774 temporary permit to sell or dispense in any part of its civic  
775 center, for consumption therein, draft or keg beer. Either  
776 permit shall be promptly revoked by the board if, in its  
777 judgment, the same tends to create intemperance or is  
778 prejudicial to the welfare, health, peace, temperance, and  
779 safety of the people of the community or of the state.

780 (j) No importer shall sell alcoholic beverages to any  
781 person other than a wholesaler licensee, or sell to a  
782 wholesaler licensee any brand or brands of alcoholic beverages  
783 for sale or distribution in this state, except where the  
784 importer has been granted written authorization from the



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785 manufacturer ~~thereof~~ to import and sell the brand or brands to  
786 be sold in this state, which authorization is on file with the  
787 board.

788 (k) No wholesaler shall maintain or operate any place  
789 where sales are made other than that for which the wholesale  
790 license is granted; provided, however, a wholesaler may be  
791 licensed to sell and distribute liquor, wine, ~~and~~ beer, and  
792 mixed spirit beverages. No wholesaler shall maintain any place  
793 for the storage of liquor, wine, ~~or~~ beer, or mixed spirit  
794 beverages unless the same has been approved by the board. No  
795 wholesaler license shall be issued for any premises in any  
796 part of which there is operated any retail license for the  
797 sale of alcoholic beverages.

798 (l) Licenses issued under this ~~title~~ chapter may not be  
799 assigned. The board may transfer any license from one person  
800 to another, or from one place to another within the same  
801 governing jurisdiction, or both, as the board may determine;  
802 but no transfers shall be made to a person who would not have  
803 been eligible to receive the license originally, nor for the  
804 transaction of business at a place for which the license could  
805 not originally have been issued lawfully.

806 (m) Every applicant for a transfer of a license shall  
807 file a written application with the board within such time as  
808 the board shall fix in its rules. Whenever any license is  
809 transferred, there shall be collected a filing fee of fifty  
810 dollars (\$50), to be paid to the board, and the board shall  
811 pay the fee into the State Treasury to the credit of the Beer  
812 Tax and License Fund of the board.



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813 (n) In the event that any person to whom a license has  
814 been issued under the terms of this ~~title~~chapter becomes  
815 insolvent, makes an assignment for the benefit of creditors,  
816 or is adjudicated as bankrupt by either voluntary or  
817 involuntary action, the license of the person shall  
818 immediately terminate and be cancelled without any action on  
819 the part of the board, and there shall be no refund made, or  
820 credit given, for the unused portion of the license fee for  
821 the remainder of the license year for which the license was  
822 granted. Thereafter, no license shall be issued by the board  
823 for the premises, wherein the license was conducted, to any  
824 assignee, committee, trustee, receiver, or successor of the  
825 licensee until a hearing has been held by the board as in the  
826 case of a new application for license. In all such cases, the  
827 board shall have the sole and final discretion as to the  
828 propriety of the issuance of a license for the premises,  
829 including the time it shall issue, and the period for which it  
830 shall be issued, and shall have the further power to impose  
831 conditions under which the licensed premises shall be  
832 conducted."

833 Section 7. Mixed spirit beverages, as defined in  
834 Section 28-3-1, Code of Alabama 1975, shall be marketed in a  
835 responsible and appropriate manner. The Alcoholic Beverage  
836 Control Board may exercise its discretion to deny labels it  
837 considers objectionable. All labels must conform to rules of  
838 the board regarding advertising, product placement, and  
839 package warning signage. The board, on a case-by-case basis,  
840 may require certain products, that as labeled, pose a risk of



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841 misleading or deceiving the public to believe that the  
842 products are non-alcoholic products, to be sold only at liquor  
843 stores, as defined in Section 28-3-1, Code of Alabama 1975, or  
844 establishments that maintain a lounge retail liquor - Class I  
845 or Class II license.

846 Section 8. Chapter 8B, commencing with Section 28-8B-1,  
847 is added to Title 28 of the Code of Alabama 1975, to read as  
848 follows:

849 Chapter 8B

850 §28-8B-1

851 (a) The Legislature hereby finds and declares that this  
852 chapter is enacted pursuant to the authority granted to the  
853 state under the Twenty-First Amendment to the United States  
854 Constitution, the powers reserved to the state under the Tenth  
855 Amendment to the United States Constitution, and the inherent  
856 powers of the state under the Constitution of Alabama of 2022,  
857 in order to regulate the traffic of alcoholic beverages and to  
858 substitute the regulations and oversight established in this  
859 chapter for the application of federal and state antitrust  
860 laws that otherwise would apply to any potential  
861 anti-competitive effects of this title. For the avoidance of  
862 doubt, the intent of the Legislature is to maintain the  
863 uniform three-tier system of control over the sale, purchase,  
864 taxation, transportation, manufacture, consumption, and  
865 possession of alcoholic beverages in the state to promote the  
866 health, safety, and welfare of residents of this state, among  
867 other purposes, by ensuring the state shall be able to  
868 register, audit, inspect, seize, recall, and test alcoholic





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869 beverages shipped into, distributed, and sold throughout this  
870 state; and this expression of the policy and intent of the  
871 Legislature is intended to satisfy the clear articulation test  
872 for state action immunity as has been established by the  
873 United States Supreme Court in California Retail Liquor  
874 Dealers Assn. v. Midcal Aluminum, Inc., et al.

875 (b) If any provision of this chapter or its application  
876 to any person or circumstance is determined by a court to be  
877 invalid or unconstitutional, that provision shall be stricken  
878 and the remaining provisions shall be construed in accordance  
879 with the intent of the Legislature to further limit rather  
880 than expand commerce in alcoholic beverages, including by  
881 prohibiting any commerce in alcoholic beverages not expressly  
882 authorized, and to enhance strict regulatory control over  
883 taxation, distribution, and sale of alcoholic beverages  
884 through the existing uniform system of regulation of alcoholic  
885 beverages.

886 §28-8B-2

887 As used in this chapter, the following terms have the  
888 following meanings:

889 (1) AGREEMENT. Any agreement between a wholesaler and a  
890 supplier, whether oral or written, whereby a wholesaler is  
891 granted the right to purchase and sell a brand or brands of  
892 mixed spirit beverages sold by a supplier.

893 (2) ANCILLARY BUSINESS. A business owned by a  
894 wholesaler, or by a substantial partner of a wholesaler, the  
895 primary business of which is directly related to the  
896 transporting, storing, or marketing of the brand or brands of



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897 mixed spirit beverages of a supplier with whom the wholesaler  
898 has an agreement; or a business owned by a wholesaler, a  
899 substantial stockholder of a wholesaler, or a substantial  
900 partner of a wholesaler that recycles empty beverage  
901 containers.

902 (3) DESIGNATED MEMBER. The spouse, child, grandchild,  
903 parent, brother, or sister of a deceased individual who owned  
904 an interest, including a controlling interest, in a  
905 wholesaler; or any person who inherits the deceased  
906 individual's ownership interest in the wholesaler under the  
907 terms of the deceased individual's will or under the laws of  
908 intestate succession of this state; or any person who or  
909 entity that has otherwise by designation in writing by the  
910 deceased individual succeeded the deceased individual in the  
911 wholesaler's business or has succeeded to the deceased  
912 individual's ownership interest in the wholesaler pursuant to  
913 a written contract or instrument; or the appointed and  
914 qualified personal representative and the testamentary trustee  
915 of a deceased individual having an ownership interest in a  
916 wholesaler. Designated member also includes a person appointed  
917 by the court as the guardian or conservator of the property of  
918 an incapacitated individual owning an ownership interest in a  
919 wholesaler.

920 (4) GOOD FAITH. Honesty in fact and the observance of  
921 reasonable commercial standards of fair dealing in the trade,  
922 as defined in and interpreted under the Uniform Commercial  
923 Code, Section 7-2-103, Code of Alabama 1975.

924 (5) REASONABLE QUALIFICATIONS. The standard of the



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925 reasonable criteria established and consistently used by the  
926 respective supplier for Alabama wholesalers that entered into,  
927 continued, or renewed an agreement with the supplier during a  
928 period of 24 months prior to the proposed transfer of the  
929 wholesaler's business, or for Alabama wholesalers who have  
930 changed managers or designated managers during a period of 24  
931 months prior to the proposed change in manager or successor  
932 manager of the wholesaler's business.

933 (6) RETALIATORY ACTION. Includes, but is not limited  
934 to, the refusal to continue an agreement or a material  
935 reduction in the quality of service or in the quantity of  
936 products available to a wholesaler under an agreement, which  
937 refusal or reduction is not made in good faith.

938 (7) SALES TERRITORY. An area of exclusive sales  
939 responsibility for the brand or brands of mixed spirit  
940 beverages sold by a supplier as designated by an agreement.

941 (8) SUBSTANTIAL STOCKHOLDER or SUBSTANTIAL PARTNER. A  
942 stockholder of or partner in the wholesaler who owns an  
943 interest of 25 percent or more of the partnership or of the  
944 capital stock of a corporate wholesaler.

945 (9) SUPPLIER. A manufacturer or importer of mixed  
946 spirit beverages licensed by the board.

947 (10) TRANSFER OF WHOLESALER'S BUSINESS. The voluntary  
948 sale, assignment, or other transfer of all or control of the  
949 business, or all or substantially all of the assets of the  
950 wholesaler, or all or control of the capital stock of the  
951 wholesaler, including, without limitation, the sale or other  
952 transfer of capital stock or assets by merger, consolidation,



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953 or dissolution, or of the capital stock of the parent  
954 corporation, or of the capital stock or beneficial ownership  
955 of any other entity owning or controlling the wholesaler.

956 (11) WHOLESALER. A wholesaler of mixed spirit beverages  
957 licensed by the board.

958 §28-8B-3

959 (a) This chapter does not apply to the regulation of  
960 beer or wine franchises.

961 (b) Nothing in this chapter shall be deemed to repeal  
962 or amend any existing beer or wine franchise laws. This  
963 chapter is intended to provide franchise regulation for mixed  
964 spirit beverages, and to leave in effect and unchanged any  
965 local or state franchise laws existing on January 1, 2025.

966 (c) Notwithstanding this chapter, including Section  
967 28-8B-4, the board shall have the authority to purchase mixed  
968 spirit beverages directly from the manufacturer and sell these  
969 products to retail customers. This will maintain the  
970 anti-monopoly goals of the three-tier system. The board is  
971 exempt from the operation of this chapter or any other  
972 franchise law; provided, the board, as a wholesaler, shall  
973 only distribute mixed spirit beverages to liquor stores.

974 §28-8B-4

975 (a) Each supplier of mixed spirit beverages licensed by  
976 the board to sell its mixed spirit beverages within the State  
977 of Alabama shall sell its mixed spirit beverages only through  
978 wholesaler licensees of the board and shall grant in writing  
979 to each of its wholesalers an exclusive sales territory in  
980 accordance with Chapter 8.



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981 (b) A licensed retailer may not purchase mixed spirit  
982 beverages from any entity other than the licensed wholesaler  
983 designated by the manufacturer of the mixed spirit beverages.

984 §28-8B-5

985 A supplier shall not do any of the following:

986 (1) Fail to provide each wholesaler of the supplier's  
987 brand or brands with a written agreement that contains in  
988 total the supplier's agreement with each wholesaler and  
989 designates a specific exclusive sales territory. No part of  
990 this chapter shall prevent a supplier from appointing, one  
991 time for a period not to exceed 90 days, a wholesaler to  
992 temporarily service a sales territory not designated to  
993 another wholesaler, until such time as a wholesaler is  
994 appointed by the supplier; and the wholesaler who is  
995 designated to service the sales territory during this period  
996 of temporary service shall not be in violation of this  
997 chapter, and, with respect to the temporary service territory,  
998 shall not have any of the rights provided under Sections  
999 28-8B-7 and 28-8B-9.

1000 (2) Fix, maintain, or establish the price at which a  
1001 wholesaler shall sell any mixed spirit beverages.

1002 (3) Enter into an additional agreement with any other  
1003 wholesaler for, or to sell to any other wholesaler, the same  
1004 brand or brands of mixed spirit beverages in the same  
1005 territory or any portion thereof, or to sell directly to any  
1006 retailer in this state.

1007 (4) Coerce, or attempt to coerce, any wholesaler to  
1008 accept delivery of any mixed spirit beverages or other



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1009 commodity which has not been ordered by the wholesaler.  
1010 Provided, however, a supplier may impose reasonable inventory  
1011 requirements upon a wholesaler if the requirements are made in  
1012 good faith and are generally applied to other similarly  
1013 situated wholesalers having an agreement with the supplier.

1014 (5) Coerce, or attempt to coerce, any wholesaler to  
1015 accept delivery of any mixed spirit beverages or other  
1016 commodity ordered by a wholesaler if the order was cancelled  
1017 by the wholesaler.

1018 (6) Coerce, or attempt to coerce, any wholesaler to do  
1019 any illegal act or to violate any law or any regulation by  
1020 threatening to amend, modify, cancel, terminate, or refuse to  
1021 review any agreement existing between the supplier and  
1022 wholesaler.

1023 (7) Require a wholesaler to assent to any condition,  
1024 stipulation, or provision limiting the wholesaler's right to  
1025 sell the brand or brands of mixed spirit beverages or other  
1026 products of any other supplier unless the acquisition of the  
1027 brand or brands or products of another supplier would  
1028 materially impair or adversely affect the wholesaler's quality  
1029 of service, sales, or ability to compete effectively in  
1030 representing the brand or brands of the supplier presently  
1031 being sold by the wholesaler. The supplier shall have the  
1032 burden of proving that such acquisition of such other brand or  
1033 brands or products would have such effect.

1034 (8) Require a wholesaler to purchase one or more brands  
1035 of mixed spirit beverages or other products in order for the  
1036 wholesaler to purchase another brand or brands of mixed spirit



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1037 beverages for any reason.

1038 (9) Request a wholesaler to submit audited profit and  
1039 loss statements, balance sheets, or financial records as a  
1040 condition of renewal or continuation of an agreement.

1041 (10) Withhold delivery of mixed spirit beverages  
1042 ordered by a wholesaler or change a wholesaler's quota of a  
1043 brand or brands if the withholding or change is not made in  
1044 good faith.

1045 (11) Require a wholesaler by any means to participate  
1046 in or contribute to any local or national advertising fund  
1047 controlled directly or indirectly by a supplier.

1048 (12) Take any retaliatory action against a wholesaler  
1049 that files a complaint regarding an alleged violation by the  
1050 supplier of federal, state, or local law, or an administrative  
1051 rule.

1052 (13) Require or prohibit, without just and reasonable  
1053 cause, any change in the manager or successor manager of any  
1054 wholesaler who has been approved by the supplier. Should a  
1055 wholesaler change an approved manager or successor manager, a  
1056 supplier shall not require or prohibit the change unless the  
1057 person selected by the wholesaler fails to meet the  
1058 nondiscriminatory, material, and reasonable standards and  
1059 qualifications for managers of Alabama wholesalers of the  
1060 supplier which previously have been consistently applied to  
1061 Alabama wholesalers by the supplier. The supplier shall have  
1062 the burden of proving that a person fails to meet the  
1063 standards and qualifications which are nondiscriminatory,  
1064 material, and reasonable and have been consistently applied to



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1065 Alabama wholesalers.

1066 (14) Upon written notice of intent to transfer the  
1067 wholesaler's business, interfere with, prevent, or  
1068 unreasonably delay, for longer than 30 days after the receipt  
1069 of the notice, the transfer of the wholesaler's business if  
1070 the proposed transferee is a designated member.

1071 (15) Upon written notice of intent to transfer the  
1072 wholesaler's business to a person other than a designated  
1073 member, withhold consent to or approval of, or unreasonably  
1074 delay, for longer than 30 days after receipt of the notice,  
1075 the transfer of a wholesaler's business if the proposed  
1076 transferee meets the nondiscriminatory, material, and  
1077 reasonable qualifications and standards required by the  
1078 supplier for Alabama wholesalers. The supplier shall have the  
1079 burden of proving that the proposed transferee does not meet  
1080 such standards and qualifications which are nondiscriminatory,  
1081 material, and reasonable and have been consistently applied to  
1082 Alabama wholesalers.

1083 (16) Restrict or inhibit, directly or indirectly, the  
1084 right of free association among wholesalers for any lawful  
1085 purpose.

1086 §28-8B-6

1087 A wholesaler shall not do any of the following:

1088 (1) Fail to devote reasonable efforts and resources,  
1089 within its supplier-designated sales territory, to the sale  
1090 and distribution of all of the supplier's brands of mixed  
1091 spirit beverages which the wholesaler has been granted the  
1092 right to sell or distribute.





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1093           (2)a. Except as provided in paragraph b., sell or  
1094 deliver mixed spirit beverages to a retail licensee located  
1095 outside the sales territory designated to the wholesaler by  
1096 the supplier of a particular brand or brands of mixed spirit  
1097 beverages.

1098           b. Notwithstanding paragraph a., during periods of  
1099 temporary service interruptions impacting a particular sales  
1100 territory, a wholesaler who normally services the impacted  
1101 sales territory shall file with the board and give to the  
1102 affected supplier written notice designating the specific  
1103 licensed wholesaler or wholesalers, not disapproved by the  
1104 supplier, who will service the sales territory during the  
1105 period of temporary service interruption and the approximate  
1106 length of time for the service interruption. Each wholesaler  
1107 designated to temporarily service the sales territory shall be  
1108 a wholesaler who has a current written agreement with the  
1109 supplier for the brand or brands affected. When the temporary  
1110 service interruption is over, the wholesaler who normally  
1111 services the sales territory shall notify in writing the  
1112 board, the supplier, and the wholesaler, or wholesalers,  
1113 servicing the sales territory on a temporary basis of this  
1114 fact, and any wholesaler servicing the sales territory on a  
1115 temporary basis shall cease servicing the sales territory upon  
1116 receipt of notice. A wholesaler who is designated to service  
1117 the impacted sales territory during the period of temporary  
1118 service shall not be in violation of this chapter and, with  
1119 respect to the temporary service territory, shall not have any  
1120 of the rights provided under Sections 28-8B-7 and 28-8B-9.



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1121 (3)a. Transfer the wholesaler's business without giving  
1122 the supplier written notice of intent to transfer the  
1123 wholesaler's business and, where required by this section,  
1124 without receiving the supplier's approval for the proposed  
1125 transfer.

1126 b. The consent or approval of the supplier shall not be  
1127 required of any transfer of the wholesaler's business to a  
1128 designated member or any transfer of less than control of the  
1129 wholesaler's business. Provided, however, that the wholesaler  
1130 shall give the supplier written notice of any change in  
1131 ownership of the wholesaler.

1132 §28-8B-7

1133 (a) Notwithstanding any agreement and except as  
1134 otherwise provided for in this chapter, a supplier shall not  
1135 amend or modify an agreement; cause a wholesaler to resign  
1136 from an agreement; or cancel, terminate, fail to renew, or  
1137 refuse to continue under an agreement, unless, in any of the  
1138 foregoing cases, the supplier has complied with all of the  
1139 following:

1140 (1) Has satisfied the applicable notice requirements of  
1141 subsection (c).

1142 (2) Has acted in good faith.

1143 (3) Has good cause for the amendment, modification,  
1144 cancellation, termination, nonrenewal, discontinuance, or  
1145 forced resignation.

1146 (b) For each amendment, modification, termination,  
1147 cancellation, nonrenewal, or discontinuance, the supplier  
1148 shall have the burden of proving that it has acted in good



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1149 faith, that the notice requirements under this section have  
1150 been complied with, and that there was good cause for the  
1151 amendment, modification, termination, cancellation,  
1152 nonrenewal, or discontinuance.

1153 (c) Notwithstanding any agreement and except as  
1154 otherwise provided in this section, and in addition to the  
1155 time limits set forth in subdivision (d)(5), the supplier  
1156 shall furnish written notice of the amendment, modification,  
1157 termination, cancellation, nonrenewal, or discontinuance of an  
1158 agreement to the wholesaler not less than 60 days before the  
1159 effective date of the amendment, modification, termination,  
1160 cancellation, nonrenewal, or discontinuance. The notice shall  
1161 be by certified mail and shall contain all of the following:

1162 (1) A statement of intention to amend, modify,  
1163 terminate, cancel, not renew, or discontinue the agreement.

1164 (2) A statement of the reason for the amendment,  
1165 modification, termination, cancellation, nonrenewal, or  
1166 discontinuance.

1167 (3) The date on which the amendment, modification,  
1168 termination, cancellation, nonrenewal, or discontinuance takes  
1169 effect.

1170 (d) Notwithstanding any agreement, good cause shall  
1171 exist for the purposes of a termination, cancellation,  
1172 nonrenewal, or discontinuance under subdivision (a)(3) when  
1173 all of the following occur:

1174 (1) There is a failure by the wholesaler to comply with  
1175 a provision of the agreement which is both reasonable and of  
1176 material significance to the business relationship between the



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1177 wholesaler and the supplier.

1178 (2) The supplier first acquired knowledge of the  
1179 failure described in subdivision (1) of this subsection not  
1180 more than 18 months before the date notification was given  
1181 pursuant to subdivision (a)(1).

1182 (3) The wholesaler was given notice by the supplier of  
1183 failure to comply with the agreement.

1184 (4) The wholesaler was afforded a reasonable  
1185 opportunity to assert good faith efforts to comply with the  
1186 agreement within the time limits as provided for in  
1187 subdivision (5).

1188 (5) The wholesaler has been afforded 30 days in which  
1189 to submit a plan of corrective action to comply with the  
1190 agreement and an additional 120 days to cure the noncompliance  
1191 in accordance with the plan.

1192 (e) Notwithstanding subsections (a) and (c), a supplier  
1193 may terminate, cancel, fail to renew, or discontinue an  
1194 agreement immediately upon written notice given in the manner  
1195 and containing information required by subsection (c) if any  
1196 of the following occur:

1197 (1) Insolvency of the wholesaler, the filing of any  
1198 petition by or against the wholesaler under any bankruptcy or  
1199 receivership law, or the assignment for the benefit of  
1200 creditors or dissolution or liquidation of the wholesaler  
1201 which materially affects the wholesaler's ability to remain in  
1202 business.

1203 (2) Revocation or suspension of the wholesaler's state  
1204 or federal license by the appropriate regulatory agency



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1205 whereby the wholesaler cannot service the wholesaler's sales  
1206 territory for more than 61 days.

1207 (3)a. The wholesaler, or partner or individual who owns  
1208 10 percent or more of the partnership or stock of a corporate  
1209 wholesaler, has been convicted of a felony under federal or  
1210 any state law which reasonably may adversely affect the good  
1211 will or the interest of the wholesaler or supplier.

1212 b. Notwithstanding paragraph a., an existing  
1213 stockholder or stockholders, or partner or partners, or a  
1214 designated member or members subject to this chapter shall  
1215 have the right to purchase the partnership interest or the  
1216 stock of the offending partner or stockholder prior to the  
1217 conviction of the offending partner or stockholder. This  
1218 subdivision shall not apply if the sale is completed prior to  
1219 conviction.

1220 (f) Notwithstanding subsections (a), (c), and (e), upon  
1221 not less than 15 days' prior written notice given in the  
1222 manner and containing the information required by subsection  
1223 (c), a supplier may terminate, cancel, fail to renew, or  
1224 discontinue an agreement if any of the following events occur:

1225 (1) There was intentional fraudulent conduct relating  
1226 to a material matter on the part of the wholesaler in dealings  
1227 with the supplier; provided, however, the supplier shall have  
1228 the burden of proving intentional fraudulent conduct relating  
1229 to a material matter on the part of the wholesaler.

1230 (2) The wholesaler failed to confine to the designated  
1231 sales territory its sales of a brand or brands to retailers,  
1232 provided this subdivision does not apply if there is a dispute



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1233 between two or more wholesalers as to the boundaries of the  
1234 assigned territory and the boundary cannot be determined by a  
1235 reading of the description contained in the agreements between  
1236 the suppliers and the wholesalers.

1237 (3) A wholesaler, who has failed to pay for mixed  
1238 spirit beverages ordered and delivered in accordance with  
1239 established terms with the supplier, fails to make full  
1240 payment within two business days after receipt of written  
1241 notice of the delinquency and demand for immediate payment  
1242 from the supplier.

1243 (4) A wholesaler intentionally has made a transfer of  
1244 wholesaler's business, other than a transfer to a designated  
1245 member or pursuant to a loan agreement or debt instrument,  
1246 without prior written notice to the supplier, and has failed,  
1247 within 30 days from the receipt of written notice from the  
1248 supplier of its intent to terminate on the ground of such  
1249 transfer, to reverse the transfer of wholesaler's business.

1250 (5) A wholesaler intentionally has made a transfer of  
1251 wholesaler's business other than a transfer to a designated  
1252 member, although the wholesaler, prior to the transfer, has  
1253 received from the supplier a timely notice of disapproval of  
1254 the transfer in accordance with this section.

1255 (6) The wholesaler intentionally ceases, or ceases for  
1256 more than a period of 61 days, to carry on business with  
1257 respect to any of the supplier's brand or brands previously  
1258 serviced by the wholesaler in its territory designated by the  
1259 supplier, unless the cessation is due to force majeure or to a  
1260 labor dispute and the wholesaler has made good faith efforts



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1261 to overcome such events. This subdivision shall affect only  
1262 that brand or brands with respect to which the wholesaler  
1263 ceased to carry on business.

1264 (g) Notwithstanding subsections (a), (c), (e), and (f),  
1265 a supplier may terminate, cancel, not renew, or discontinue an  
1266 agreement upon not less than 30 days' prior written notice if  
1267 the supplier discontinues production or discontinues  
1268 distribution in this state of all brands sold by the supplier  
1269 to the wholesaler. Provided, however, nothing in this section  
1270 shall prohibit a supplier from doing either of the following:

1271 (1) Upon not less than 30 days' notice, discontinuing  
1272 the distribution of any particular brand of mixed spirit  
1273 beverages.

1274 (2) Conducting test marketing of a new brand of mixed  
1275 spirit beverages or of a brand of mixed spirit beverages which  
1276 is not currently being sold in this state, if the supplier has  
1277 notified the board in writing of its plan to test market. The  
1278 notice shall describe the market area in which the test shall  
1279 be conducted, the name or names of the wholesaler or  
1280 wholesalers who will be selling the mixed spirit beverages,  
1281 the name or names of the brand of mixed spirit beverages being  
1282 tested, and the period of time not to exceed 18 months during  
1283 which the testing will take place.

1284 §28-8B-8

1285 (a) Upon written notice of intent to transfer the  
1286 wholesaler's business, any individual owning, or deceased  
1287 individual who owned, an interest in a wholesaler may transfer  
1288 the wholesaler's business to a designated member or any other



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1289 person who meets the nondiscriminatory, material, and  
1290 reasonable qualifications and standards required by the  
1291 supplier for Alabama wholesalers. The consent or approval of  
1292 the supplier shall not be required of any transfer of the  
1293 wholesaler's business, including the assignment of  
1294 wholesaler's rights under the agreement to a designated  
1295 member, or shall not be withheld or unreasonably delayed to a  
1296 proposed transferee, other than a designated member who meets  
1297 the nondiscriminatory, material, and reasonable qualifications  
1298 and standards. Provided, however, the supplier shall have the  
1299 burden of proving that the proposed transferee fails to meet  
1300 the qualifications and standards which are nondiscriminatory,  
1301 material, and reasonable, and consistently applied to Alabama  
1302 wholesalers by the supplier. Provided, the designated member  
1303 or transferee shall in no event be qualified as a transferee  
1304 without the prior written approval or consent of the supplier,  
1305 where the proposed transferee shall have been involved in any  
1306 of the following:

1307 (1) Insolvency filing of any voluntary or involuntary  
1308 petition under any bankruptcy or receivership law, or  
1309 execution of an assignment for the benefit of creditors.

1310 (2) Revocation or suspension of an alcoholic beverage  
1311 license by the regulatory agency of the U.S. government or any  
1312 state, whereby service was interrupted for more than 61 days.

1313 (3) Conviction of a felony under federal law or the  
1314 laws of any state which reasonably may adversely affect the  
1315 good will or interest of the wholesaler or supplier.

1316 (4) The involuntary termination, cancellation,





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1317 nonrenewal, or discontinuance by a supplier of an agreement  
1318 for good cause.

1319 (b) The supplier shall not interfere with, prevent, or  
1320 unreasonably delay the transfer of the wholesaler's business,  
1321 including an assignment of the wholesaler's rights under the  
1322 agreement, if the proposed transferee is a designated member,  
1323 or if the transferee other than a designated member meets the  
1324 nondiscriminatory, material, and reasonable qualifications  
1325 required by the supplier for Alabama wholesalers. Where the  
1326 transferee is other than a designated member, the supplier, in  
1327 good faith and for good cause related to the reasonable  
1328 qualifications, may refuse to accept the transfer of the  
1329 wholesaler's business or the assignment of the wholesaler's  
1330 rights under the agreement. The supplier shall have the burden  
1331 of proving that it has acted in good faith and that there was  
1332 good cause for failure to accept or consent to the transfer of  
1333 the wholesaler's business or the assignment of the  
1334 wholesaler's rights under the agreement.

1335 §28-8B-9

1336 (a) Except as otherwise provided for in this chapter, a  
1337 supplier that has amended, modified, cancelled, terminated, or  
1338 refused to renew any agreement; or has caused a wholesaler to  
1339 resign from any agreement; or has interfered with, prevented,  
1340 or unreasonably delayed; or where required by this chapter,  
1341 has withheld or unreasonably delayed consent to or approval of  
1342 any assignment or transfer of a wholesaler's business shall  
1343 pay the wholesaler reasonable compensation for the diminished  
1344 value of the wholesaler's business, including any ancillary



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1345 business which has been negatively affected by the act of the  
1346 supplier. The value of the wholesaler's business or ancillary  
1347 business shall include, but not be limited to, any good will.  
1348 Provided, however, nothing contained in this chapter shall  
1349 give rise to a claim against the supplier or wholesaler by any  
1350 proposed purchaser of the wholesaler's business.

1351 (b) Should either party, at any time, determine that  
1352 mutual agreement on the amount of reasonable compensation  
1353 cannot be reached, the supplier or the wholesaler may send by  
1354 certified mail, return receipt requested, written notice to  
1355 the other party declaring its intention to proceed with  
1356 arbitration. Arbitration shall proceed only by mutual  
1357 agreement by both parties.

1358 (c) Not more than 10 business days after the notice to  
1359 enter into arbitration has been delivered, the other party  
1360 shall send written notice to the requesting party declaring  
1361 its intention either to proceed or not to proceed with  
1362 arbitration. Should the other party fail to respond within the  
1363 10 business days, it shall be conclusively presumed that the  
1364 party shall have agreed to arbitration.

1365 (d) The matter of determining the amount of  
1366 compensation, by agreement of the parties, may be submitted to  
1367 a three-member arbitration panel consisting of one  
1368 representative selected by the supplier but unassociated with  
1369 the affected supplier; one wholesaler representative selected  
1370 by the wholesaler but unassociated with the wholesaler; and an  
1371 impartial arbitrator chosen as provided in this section.

1372 (e) Not more than 10 business days after mutual



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1373 agreement of both parties has been reached to arbitrate, each  
1374 party shall designate, in writing, its one arbitrator  
1375 representative and the party initiating arbitration shall  
1376 request, in writing, a list of five arbitrators from the  
1377 American Arbitration Association or its successor and request  
1378 that the list be mailed to each party by certified mail,  
1379 return receipt requested. Not more than 10 business days after  
1380 the receipt of the list of five choices, the wholesaler  
1381 arbitrator and the supplier arbitrator shall strike and  
1382 disqualify up to two names each from the list. Should either  
1383 party fail to respond within 10 business days or should more  
1384 than one name remain after the strikes, the American  
1385 Arbitration Association shall make the selection of the  
1386 impartial arbitrator from the names not stricken from the  
1387 list.

1388 (f) Not more than 30 days after the final selection of  
1389 the arbitration panel is made, the arbitration panel shall  
1390 convene to decide the dispute. The panel shall conclude the  
1391 arbitration within 20 days after the arbitration panel  
1392 convenes and shall render a decision by majority vote of the  
1393 arbitrators within 20 days from the conclusion of the  
1394 arbitration. The award of the arbitration panel shall be final  
1395 and binding on the parties as to the amount of compensation  
1396 for the diminished value.

1397 (g) The cost of the impartial arbitrator, the  
1398 stenographer, and the meeting site shall be equally divided  
1399 between the wholesaler and the supplier. All other costs shall  
1400 be paid by the party incurring them.



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1401           (h) After both parties have agreed to arbitrate, should  
1402 either party, except by mutual agreement, fail to abide by the  
1403 time limitations as prescribed in subsections (c), (e), and  
1404 (f), or fail or refuse to make the selection of any  
1405 arbitrators, or fail to participate in the arbitration  
1406 hearings, the other party shall make the selection of its  
1407 arbitrator and proceed to arbitration. The party who has  
1408 failed or refused to comply as prescribed in this section  
1409 shall be considered to be in default. Any party considered to  
1410 be in default pursuant to this subsection shall have waived  
1411 any and all rights the party would have had in the arbitration  
1412 and shall be considered to have consented to the determination  
1413 of the arbitration panel.

1414           §28-8B-10

1415           (a) A wholesaler may not waive any of the rights  
1416 granted in this chapter, and the provisions of any agreement  
1417 which would have such an effect shall be void. Nothing in this  
1418 chapter shall be construed to limit or prohibit good faith  
1419 dispute settlements voluntarily entered into by the parties.

1420           (b) A transferee of a wholesaler that continues in  
1421 business as a wholesaler shall have the benefit of and be  
1422 bound by all terms and conditions of the agreement with the  
1423 supplier in effect on the date of the transfer; provided,  
1424 however, a transfer of a wholesaler's business which requires  
1425 a supplier's consent or approval but is disapproved by the  
1426 supplier shall be void.

1427           (c) A successor to a supplier that continues in  
1428 business as a supplier shall be bound by all terms and



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1429 conditions of each agreement of the supplier in effect on the  
1430 date of succession.

1431 §28-8B-11

1432 (a) (1) If a supplier engages in conduct prohibited  
1433 under this chapter, a wholesaler with which the supplier has  
1434 an agreement may maintain a civil action against the supplier  
1435 to recover actual damages reasonably incurred as the result of  
1436 the prohibited conduct.

1437 (2) If a wholesaler engages in conduct prohibited under  
1438 this chapter, a supplier with which the wholesaler has an  
1439 agreement may maintain a civil action against the wholesaler  
1440 to recover actual damages reasonably incurred as the result of  
1441 the prohibited conduct.

1442 (b) (1) A supplier that violates any provision of this  
1443 chapter shall be liable for all actual damages and all court  
1444 costs and, in the court's discretion, reasonable attorney fees  
1445 incurred by a wholesaler as a result of that violation.

1446 (2) A wholesaler that violates any provision of this  
1447 chapter shall be liable for all actual damages and all court  
1448 costs and, in the court's discretion, reasonable attorney fees  
1449 incurred by the supplier as a result of that violation.

1450 (c) (1) This chapter imposes upon a supplier the duty to  
1451 deal fairly and in good faith with a wholesaler that has  
1452 entered into an agreement with the supplier to purchase and  
1453 sell a brand or brands of mixed spirit beverages sold by the  
1454 supplier. Except as otherwise provided in this chapter, a  
1455 court may award exemplary or punitive damages, as well as  
1456 actual damages, court costs, and reasonable attorney fees to a



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1457 wholesaler who has been damaged by the action or the failure  
1458 to act of a supplier if the court, upon proof thereof by clear  
1459 and convincing evidence as defined in Section 6-11-20, finds  
1460 that a supplier has intentionally, consciously, or  
1461 deliberately acted in bad faith or failed to act in good faith  
1462 in any of the following:

1463           a. Effecting an amendment, modification, termination,  
1464 cancellation, or nonrenewal of any agreement.

1465           b. Unreasonably interfering with, preventing, or  
1466 unreasonably delaying the transfer of the wholesaler's  
1467 business where approval of the proposed transferee is not  
1468 required by this chapter.

1469           c. Unreasonably withholding its consent to or approval  
1470 of any assignment, transfer, or sale of a wholesaler's  
1471 business, where approval of the proposed transferee is  
1472 required by this chapter.

1473           (2) The actions or failure to act on the part of the  
1474 supplier, as listed in subdivision (1), shall constitute bad  
1475 faith.

1476           (d) A supplier or wholesaler may bring an action for  
1477 declaratory judgment for determination of any controversy  
1478 arising pursuant to this chapter.

1479           (e) Upon proper application to the court, a supplier or  
1480 wholesaler may obtain injunctive relief against any violation  
1481 of this chapter. If the court grants injunctive relief or  
1482 issues a temporary restraining order, bond shall not be  
1483 required to be posted.

1484           (f) The remedies provided by this section are



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1485 nonexclusive.

1486 (g) Any legal action taken under this chapter, or in a  
1487 dispute arising out of an agreement or breach thereof, or over  
1488 the provisions of an agreement shall be filed in any state  
1489 court located in a county in which the supplier and wholesaler  
1490 have a territorial agreement in Alabama.

1491 Section 9. If any provision of this act, or its  
1492 application to any person or circumstance, is determined by a  
1493 court to be invalid or unconstitutional, that provision shall  
1494 be stricken and the remaining provisions shall be construed in  
1495 accordance with the intent of the Legislature to further limit  
1496 rather than expand commerce in alcoholic beverages, including  
1497 by prohibiting any commerce in alcoholic beverages not  
1498 expressly authorized, and to enhance strict regulatory control  
1499 over taxation, distribution, and sale of alcoholic beverages  
1500 through the existing uniform system of regulation of alcoholic  
1501 beverages.

1502 Section 10. This act shall become effective January 1,  
1503 2025.