

1 HB46  
2 196680-2  
3 By Representative England  
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ENROLLED, An Act,

Relating to alcoholic beverages; to add Section 28-3A-20.3 to the Code of Alabama 1975, and to amend Section 28-3A-25, Code of Alabama 1975; to authorize on-premises retail licensees of the Alcoholic Beverage Control Board to produce, store, and sell infused products made from distilled spirits for on-site consumption.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 28-3A-20.3 is added to the Code of Alabama 1975, to read as follows:

§28-3A-20.3.

(a) An on-premises retail licensee may make, store, and sell infusions for on-premises consumption.

(b) As used in this section, infusion means an alcoholic beverage that is created by combining or mixing one distilled spirit with nonalcoholic food products and is not intended for immediate consumption. A nonalcoholic food product includes the following: Spices, herbs, fruits, vegetables, candy, or other substances intended for human consumption, provided that no additional fermentation occurs and none of the additives contain any additional alcohol.

(c) Any retail on-premises licensee intending to produce, store, or sell infusions shall provide written notification to the board of that intent.

1           (d) The container holding an infusion shall be no  
2 larger than five gallons.

3           (e) A batch of infused product shall satisfy all of  
4 the following:

5           (1) Be infused, stored, and consumed only on the  
6 licensed premises.

7           (2) Be labeled with all of the following  
8 information:

9           a. A statement that the infused product contains  
10 alcohol.

11           b. A title for the recipe.

12           c. The name of the person who prepared the batch of  
13 infused product.

14           d. The date the batch of infused product was  
15 produced.

16           e. The expiration date of the batch of infused  
17 product.

18           f. The brand and type of spirits used to prepare the  
19 batch of infused product.

20           g. The amount of spirits used to prepare the batch  
21 of infused product.

22           h. A detailed and comprehensive list of all  
23 ingredients used to prepare the batch of infused product.

24           (3) Comply with all applicable state and federal  
25 food safety regulations.

1           (4) Be disposed of within 22 days after being  
2 prepared.

3           (f) A batch of infused product may not:

4           (1) Contain any added stimulant, drug, or illegal  
5 substance including, but not limited to, caffeine, guarana,  
6 ginseng, taurine, marijuana, or any product or beverage which  
7 includes stimulants that are not naturally included in the  
8 infused product or beverage including, but not limited to, an  
9 energy drink.

10          (2) Be removed or transported from the licensed  
11 premises.

12          (3) Be infused in, stored in, or dispensed from an  
13 original package of liquor, or container bearing an alcoholic  
14 beverage name brand.

15          (g) The board may adopt rules to implement this  
16 section.

17          Section 2. Section 28-3A-25 of the Code of Alabama  
18 1975, is amended to read as follows:

19           "§28-3A-25.

20           "(a) It shall be unlawful:

21           "(1) For any manufacturer, importer, or wholesaler,  
22 or the servants, agents, or employees of the same, to sell,  
23 trade, or barter in alcoholic beverages between the hours of  
24 nine o'clock P.M. of any Saturday and two o'clock A.M. of the  
25 following Monday.

1           "(2) For any wholesaler or the servants, agents, or  
2 employees of the wholesaler to sell alcoholic beverages, to  
3 other than wholesale or retail licensees or others within this  
4 state lawfully authorized to sell alcoholic beverages, or to  
5 sell for export.

6           "(3) For any person, licensee, or the board either  
7 directly or by the servants, agents, or employees of the same,  
8 or for any servant, agent, or employee of the same, to sell,  
9 deliver, furnish, or give away alcoholic beverages to any  
10 person under the legal drinking age, as defined in Section  
11 28-1-5, or to permit any person under the legal drinking age,  
12 as defined in Section 28-1-5, to drink, consume, or possess  
13 any alcoholic beverages on any licensee's premises.

14           "(4) For any person to consume alcoholic beverages  
15 on the premises of any state liquor store or any off-premises  
16 licensee, or to allow alcoholic beverages to be consumed on  
17 the premises of any state liquor store or any off-premises  
18 licensee, except as specifically allowed by law for the  
19 tasting of alcoholic beverages.

20           "(5) For any licensee to fail to keep for a period  
21 of at least three years, complete and truthful records  
22 covering the operation of his or her license and particularly  
23 showing the date of all purchases of alcoholic beverages, the  
24 actual price paid therefor, and the name of the vendor, or to  
25 refuse the board or any authorized employee of the board

1 access to the records or the opportunity to make copies of the  
2 records when the request is made during business hours.

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

8 "(7) For any person to knowingly sell any alcoholic  
9 beverages to any person engaged in the business of illegally  
10 selling alcoholic beverages.

11 "(8) For any person to manufacture, transport, or  
12 import alcoholic beverages into this state, except in  
13 accordance with the reasonable rules and regulations of the  
14 board. This subdivision shall not prohibit the transportation  
15 of alcoholic beverages through the state or any dry county so  
16 long as the beverages are not for delivery therein, if the  
17 transportation is done in accordance with the reasonable rules  
18 and regulations of the board.

19 "(9) For any person to fortify, adulterate,  
20 contaminate, or in any manner change the character or purity  
21 of alcoholic beverages from that as originally marketed by the  
22 manufacturer, except that a retail licensee ~~on order from a~~  
23 ~~customer~~ may mix a chaser or other ingredients necessary to  
24 prepare a cocktail or mixed drink or may make infusions for  
25 on-premises consumption in accordance with Section 28-3A-20.3.

1           "(10) For any person licensed to sell alcoholic  
2 beverages to offer to give any thing of value as a premium for  
3 the return of caps, stoppers, corks, stamps, or labels taken  
4 from any bottle, case, barrel, or package containing the  
5 alcoholic beverages, or to offer to give any thing of value as  
6 a premium or present to induce the purchase of the alcoholic  
7 beverages, or for any other purpose whatsoever in connection  
8 with the sale of the alcoholic beverages. This subdivision  
9 shall not apply to the return of any moneys specifically  
10 deposited for the return of the original containers to the  
11 owners of the containers.

12           "(11) For any licensee or transporter for hire,  
13 servant, agent, or employee of the same, to transport any  
14 alcoholic beverages except in the original container, and for  
15 any transporter for hire to transport any alcoholic beverages  
16 within the state, unless the transporter holds a permit issued  
17 by the board.

18           "(12) For any manufacturer, importer, or wholesaler,  
19 servant, agent, or employee of the same, to deliver any  
20 alcoholic beverages, except in vehicles bearing such  
21 information on each side of the vehicle as required by the  
22 board.

23           "(13) For any person to sell alcoholic beverages  
24 within any dry county or county where the electors have voted

1 against the sales, except in wet municipalities or as  
2 authorized by Section 28-3A-18.

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

14 "(15) For any manufacturer, distiller, producer,  
15 importer, or distributor of alcoholic beverages to employ and  
16 maintain any person, who is not a full-time bona fide  
17 employee, as a resident sales agent, broker, or other like  
18 representative, for the purpose of promoting a sale, purchase,  
19 or acquisition of alcoholic beverages to or by the state or  
20 the board, or for any person who is not a full-time bona fide  
21 employee to act as an agent, broker, or representative of any  
22 manufacturer, distributor, producer, importer, or distiller  
23 for that purpose.

24 "(16) For any person to sell, give away, or  
25 otherwise dispose of taxable alcoholic beverages within this



1 state on which the required taxes have not been paid as  
2 required by law.

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

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

23 "(19) For any person, except where authorized by a  
24 local act or general act of local application, to buy, give  
25 away, sell, or serve for consumption on or off the premises,

1 or to drink or consume any alcoholic beverages in any cafe,  
2 lunchroom, restaurant, hotel dining room, or other public  
3 place on Sunday after the hour of two o'clock A.M.

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

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

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

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

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

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

1                   Section 3. 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.

