

ACT #2019- 100

1 HB168  
2 197284-3  
3 By Representative Ingram  
4 RFD: Economic Development and Tourism  
5 First Read: 19-MAR-19



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ENROLLED, An Act,

Relating to Sunday sales of alcoholic beverages; amend Section 28-3A-25 of the Code of Alabama 1975, as last amended by Act 2018-513, 2018 Regular Session, to authorize the county commission of a wet county, by resolution or referendum, to permit and regulate the sale of alcoholic beverages on Sunday by retail licensees of the Alcoholic Beverage Control Board; and to authorize the governing body of a wet municipality, by ordinance or referendum, to permit and regulate the sale of alcoholic beverages during certain hours on Sunday by retail licensees of the Alcoholic Beverage Control Board.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 28-3A-25 of the Code of Alabama 1975, as last amended by Act 2018-513, 2018 Regular Session, is amended to read as follows:

"§28-3A-25.

"(a) It shall be unlawful:

"(1) For any manufacturer, importer, or wholesaler, or the servants, agents, or employees of the same, to sell, trade, or barter in alcoholic beverages between the hours of nine o'clock p.m. of any Saturday and two o'clock a.m. of the following Monday, except as provided in Section 28-3A-6(h)(1).

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 for on-premises consumption.

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 or pursuant to  
25 Section 2 of this act, to buy, give away, sell, or serve for

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

5 "(20) Except where authorized by a local act or  
6 general act of local application or pursuant to Section 2 of  
7 this act, for the proprietor, keeper, or operator of any cafe,  
8 lunchroom, restaurant, hotel dining room, or other public  
9 place to knowingly permit any person to give away, sell, or  
10 serve for consumption on or off the premises, or to drink or  
11 consume any alcoholic beverages on the premises of the cafe,  
12 lunchroom, restaurant, hotel dining room, or other public  
13 place on Sunday after the hour of two o'clock a.m.

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

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

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

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

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

1 to the Alabama State Law Enforcement Agency for enforcement  
 2 purposes."

3 Section 2. ~~(a)~~ In (a) (1) Subject to subdivision (2),  
 4 in any wet county, the county commission, by resolution, may  
 5 permit and regulate the sale of alcoholic beverages on Sunday  
 6 after the hour of two o'clock a.m., for on-premises or  
 7 off-premises consumption, or both, as determined by the county  
 8 commission or as specified in the referendum, if applicable,  
 9 by retail licensees of the Alcoholic Beverage Control Board.

10 (2) The county commission of any wet county, by  
 11 resolution, may require a referendum to be held to determine  
 12 whether Sunday sales of alcohol shall be permitted in the  
 13 county. Upon passage of a resolution by the county commission,  
 14 the county shall hold the referendum and if a majority of the  
 15 voters voting thereon vote in favor of the question, then the  
 16 sale of alcoholic beverages shall be permitted and regulated  
 17 as specified in the referendum.

18 ~~(b)~~ In (b) (1) Subject to subdivision (2), in any wet  
 19 municipality, the local governing body or as specified in the  
 20 referendum, if applicable, by ordinance, may permit and  
 21 regulate the sale of alcoholic beverages on Sunday after the  
 22 hour of two o'clock a.m., for on-premises or off-premises  
 23 consumption, or both, as determined by the local governing  
 24 body, by retail licensees of the Alcoholic Beverage Control  
 25 Board.

1                   (2) The governing body of any wet municipality, by  
2                   ordinance, may require a referendum to be held to determine  
3                   whether Sunday sales of alcohol shall be permitted in the  
4                   municipality. Upon passage of a resolution by the governing  
5                   body, the municipality shall hold the referendum and if a  
6                   majority of the voters voting thereon vote in favor of the  
7                   question, then the sale of alcoholic beverages shall be  
8                   permitted and regulated as specified in the referendum.

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

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*Mac McClatchan*

Speaker of the House of Representatives

*[Signature]*

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in  
and was passed by the House 04-APR-19, as amended.

Jeff Woodard  
Clerk

Senate

30-APR-19

Passed

**APPROVED** 5/6/19

**TIME** 11:25am

*Kay Ivey*  
**GOVERNOR**

Alabama Secretary Of State

Act Num....: 2019-100  
Bill Num...: H-168

