HB168
197284-3
By Representative Ingram
RFD: Economic Development and Tourism
First Read: 19-MAR-19
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).
(2) For any wholesaler or the servants, agents, or employees of the wholesaler to sell alcoholic beverages, to other than wholesale or retail licensees or others within this state lawfully authorized to sell alcoholic beverages, or to sell for export.

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

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

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

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

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

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

"(9) For any person to fortify, adulterate, contaminate, or in any manner change the character or purity of alcoholic beverages from that as originally marketed by the manufacturer, except that a retail licensee on order from a customer may mix a chaser or other ingredients necessary to prepare a cocktail or mixed drink for on-premises consumption.
"(10) For any person licensed to sell alcoholic beverages to offer to give any thing of value as a premium for the return of caps, stoppers, corks, stamps, or labels taken from any bottle, case, barrel, or package containing the alcoholic beverages, or to offer to give any thing of value as a premium or present to induce the purchase of the alcoholic beverages, or for any other purpose whatsoever in connection with the sale of the alcoholic beverages. This subdivision shall not apply to the return of any moneys specifically deposited for the return of the original containers to the owners of the containers.

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

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

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

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

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

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

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

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

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

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

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

"(b)(1) Any violation of subdivisions (1) through (17) of subsection (a) shall be a misdemeanor punishable by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), to which, at the discretion of the court or judge trying the case, may be added imprisonment in the county jail or at hard labor for the county for not more than six months for the first conviction; and, on the second conviction of a violation of the subdivisions, the
offense shall, in addition to the aforementioned fine, be
punishable by imprisonment or at hard labor for the county for
not less than three months nor more than six months to be
imposed by the court or judge trying the case; and, on the
third conviction and every subsequent conviction of a
violation of the subdivisions, the offense shall, in addition
to a fine within the limits abovennamed, be punishable by
imprisonment or at hard labor for the county for not less than
six months nor more than 12 months.

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

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

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

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

(b) In (b)(1) Subject to subdivision (2), in any wet municipality, the local governing body or as specified in the referendum, if applicable, by ordinance, may permit and regulate the sale of alcoholic beverages on Sunday after the hour of two o'clock a.m., for on-premises or off-premises consumption, or both, as determined by the local governing body, by retail licensees of the Alcoholic Beverage Control Board.
(2) The governing body of any wet municipality, by ordinance, may require a referendum to be held to determine whether Sunday sales of alcohol shall be permitted in the municipality. Upon passage of a resolution by the governing body, the municipality shall hold the referendum and if a majority of the voters voting thereon vote in favor of the question, then the sale of alcoholic beverages shall be permitted and regulated as specified in the referendum.

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

President and Presiding Officer of the Senate

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

Page 11
HOUSE ACTION

I HEREBY CERTIFY THAT THE RESOLUTION AS REQUIRED IN SECTION C OF ACT NO. 81-889 WAS ADOPTED AND IS ATTACHED TO THE BILL, H.B. 168.

YEAS 165 NAYS 22

JEFF WOODARD, Clerk

CONFERENCE COMMITTEE

House Conferees

SENATE ACTION

DATE: 20

RD 1 RFD

This Bill was referred to the Standing Committee of the Senate on __________ and was acted upon by such Committee in session and is by order of the Committee returned therefrom with a favorable report w/amend(s) C w/sub C by a vote of yeas C nays C abstain C this __ day of April 2019.

JEFF WOODARD, Clerk

CONFERENCE COMMITTEE

RE-REFERRED RE-COMMITTED

Committee

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, HB __________.

YEAS ______ NAYS ______

PATRICK HARRIS, Secretary