

APA-3
Revised 1/2018

CERTIFICATION OF ADMINISTRATIVE RULES
FILED WITH THE LEGISLATIVE SERVICES AGENCY
OTHNI LATHRAM, DIRECTOR

(Pursuant to Code of Alabama 1975, §41-22-6, as amended).

I certify that the attached is/are correct copy/copies of rule/s as promulgated and adopted on the 27th day of October, 2022, and filed with the agency secretary on the 1st day of November, 2022.

AGENCY NAME: Alabama Alcoholic Beverage Control Board

Amendment New Repeal (Mark appropriate space)

Rule No. 20-X-6-.01(9)(15)

(If amended rule, give specific paragraph, subparagraphs, etc., being amended)

Rule Title: Licensed Premises

ACTION TAKEN: State whether the rule was adopted with or without changes from the proposal due to written or oral comments:
This rule was adopted with changes after written public comments.


NOTICE OF INTENDED ACTION PUBLISHED IN VOLUME XL,
ISSUE NO. 11, AAM, DATED August 31, 2022.

Statutory Rulemaking Authority: Code of Alabama, 1975, §28-3-49

(Date Filed)
(For LSA Use Only)

REC'D & FILED
NOV 14 2022

LEGISLATIVE SVC AGENCY



Certifying Officer or his or her
Deputy

(NOTE: In accordance with §41-22-6(b), as amended, a proposed rule is required to be certified within 90 days after completion of the notice.

20-X-6-.01 Licensed Premises.

(1) Any ABC Board licensee and/or any person applying initially for an ABC Board license, by virtue of holding such license or making such application does agree, invite, consent, and authorize personnel of the ABC Board, as well as commissioned law enforcement officers having proper jurisdiction, at any time, to enter and search the premises, observe the operation, and otherwise enforce state laws, and rules and regulations of the ABC Board in or about the premises, without a warrant, including not only the licensed premises but any building owned or occupied by the licensee in connection therewith, adjoining, or adjacent thereto, whether or not connected or used by the licensee as a private dwelling.

(2) Any ABC Board Licensee and/or person applying initially for an ABC license, by virtue of holding such a license or making such application, does agree, invite, consent and authorize personnel of the ABC Board to examine and inspect equipment stocks, invoices, receipts, books, papers and related records and to make copies of the same at any time during normal operating hours of the ABC Board licensee.

(3) The premises of any club licensee shall not be deemed to be the home or private premises of any member thereof. However, by applying initially or seeking renewal of such license, all officers and members of the club do agree, consent, authorize, and accept this definition of the club premises and the invitation to search, supervise, observe, and enforce the laws and regulations of the ABC Board as set forth in Section (1) above.

(4) Where private living quarters are maintained in the same structure in which an ABC Board licensed business is operated, such living quarters shall be considered part of the licensed premises and shall be subject to warrantless full inspection and supervision by the ABC Board as in any other part of the licensed premises.

(5) Individual hotel and motel rooms occupied by registered guests shall be considered private and not a part of the licensed premises nor subject to the provisions of this regulation.

(6) ABC Board licensees shall be accountable to the ABC Board for criminal conduct which occurs or is suffered to occur on any part of the licensed premises. Where the ABC Board or Hearing Commission finds such criminal conduct to be allowed, caused, permitted, or suffered to occur by the licensee, employees or agents thereof, the licensee's license shall be subject to disciplinary action.

(7) Any ABC Board licensee found on or off the licensed premises, processing, transporting, selling, receiving, giving, or otherwise dealing with alcoholic beverages without having paid the appropriate Alabama tax thereon, shall be subject to disciplinary action.

(8) Any ABC Board licensee, officer or agent thereof violating any criminal law or statute of the State of Alabama, whether or not occurring on the licensed premises, may subject the licensee to disciplinary action.

(9) ABC Board retail licensees licensed to sell beer or wine for off-premises consumption may contain facilities for the sale of beer or wine or both, but may not sell liquor, by means of a "drive-up", "walk-up", or "drive-thru" window or other type of exterior access. All rules governing the sale of alcohol and tobacco still apply and it is the responsibility of the licensee to ensure that there are no sales of alcohol or tobacco to minors, there are no sales of alcohol to intoxicated individuals, and that all sales of beer and/or wine are made in sealed containers in accordance with Title 28 and ABC Rules and Regulations. Those licensees conducting beer and wine sales by the above-mentioned means of exterior access shall:

Post in a well-lighted area near the exterior access, a sign which must be visible to customers purchasing beer and/or wine. The sign must be a minimum of 18" X 24" and read:

1. Containers must remain sealed at all time during vehicular transportation from the place of purchase to the destination.

2. It is unlawful for a person in a motor vehicle to have in his or her possession alcoholic beverages of any kind, in an open container, on a public highway or right-

of-way of a public highway of this state (see 32-5A-330, Code of Alabama).

If the vehicle has tinted windows, the windows must be lowered prior to the sale.

Require valid proof of age in accordance with 20-6-.09(d) to verify the individual purchasing beer and /or wine is at least 21 years old. If there are multiple occupants in the vehicle and it appears, under the totality of the circumstances, that the driver may be purchasing alcohol for another person in the vehicle, the licensee, employee or agent of the licensee must require valid proof of age from each occupant.

Refuse to sell, furnish or give beer and/or wine to any person if such person appears, under the totality of the circumstances, to be intoxicated. If the intoxicated individual is the driver of the vehicle, the licensee, employee or agent of the licensee should make every attempt to, at the time of the refusal, report the driver to the nearest law enforcement agency.

(10) All ABC Board licensees shall display their current ABC licenses in public view on the licensed premises.

(11) ABC Board licensees shall not rent, furnish, or maintain beverage locker service or storage service for the keeping of alcoholic beverages by customers, patrons, or consumers.

(12) No ABC Board licensee shall allow on the licensed premises the consumption and/or possession of any type of alcoholic beverage which the licensee is not authorized to sell. Further, the practice of brown bagging, or customers bringing their own alcoholic beverages is prohibited on ABC Board licensed premises. This brown bagging provision shall not apply to alcoholic beverages, for which the appropriate Alabama tax has been paid, which are brought on the premises of Class I Club (not operated for pecuniary gain) licensees.

(13) Any ABC Board licensee which requires its members or patrons to possess keys, card keys, code numbers, membership cards or other such mechanisms as a condition to gaining access to its licensed premises, shall provide and supply to the ABC Board upon initial issuance of the

license and/or renewal, access to and evidence of such mechanisms so as to allow entry by ABC personnel upon the licensed premises at any time during normal business hours for the purpose of observing the normal operation thereof. Any changes or modifications to the premise entry mechanisms during the license year shall be brought to the attention of the ABC Board immediately. Failure to provide this information shall, at the ABC Board's discretion, be grounds for disciplinary action against the licensee.

(14) All sales and service of alcoholic beverages by any ABC Board retail licensee shall be made within the interior of buildings situated upon the licensed premises, except as provided in the Code of Ala. 1975, and ABC Board Regulations 20-X-6-.07, 20-X-6-.01(15), 28-3A-6.1, 28-3A-6.2. and ACT 2021-188.

(15) It shall be permissible for an ABC Board licensee who is licensed to sell alcoholic beverages for on-premises consumption, off-premises consumption, or both, to sell alcoholic beverages for off-premises consumption only, using curbside pick-up or takeout. Curbside pick-up or takeout is considered an order, placed with the licensee, that is brought to the customer's vehicle in the parking lot of the licensed premises, or picked up at the licensee's place of business. All licensees primarily operating as "package stores" may only sell items allowable under 20-X-5-.13. Purchased goods, including alcoholic beverages, must be placed in the customer's vehicle within a clearly designated, well lighted pickup/takeout area. Upon delivery of alcoholic beverages to a customer's vehicle, an employee of the licensee must verify that the recipient is 21 years of age or older by reviewing an allowable form of identification listed in 20-X-6-.09(d). If identification cannot be verified, or if the driver appears to be intoxicated, all alcoholic beverages must be removed from the order and the customer will not be charged for any removed products. Any employees handling alcoholic beverages in the designated pickup area must be 21 years of age or older. The ABC Board shall have the right to deny any ABC Board licensee permission to sell alcoholic beverages for curbside pickup or takeout services if it determines that the licensee does not have proper processes and safeguards in place to ensure compliance with this provision.

Author: ABC Board

Statutory Authority: Code of Ala. 1975, §§28-3-2; 28-3-19; 28-3-49; 28-3A-23; 28-3A-25; 28-3A-6.1; 28-3A-6.2.

History: Repealed and New: Filed August 21, 1998; effective October 16, 1998. **Amended:** Filed March 17, 2004; effective April 21, 2004. **Amended:** Published August 31, 2021; effective October 15, 2021.