

HOUSE COMMITTEE AMENDMENTS

2018 Regular Session

Amendments proposed by House Committee on Judiciary to Reengrossed Senate Bill No. 489 by Senator Morrish

1 AMENDMENT NO. 1

2 On page 1, line 2, change "R.S. 26:271.2(1)(j)" to "R.S. 26:153" and after "beverages of"
3 delete the remainder of the line and insert "high and low alcoholic content;"

4 AMENDMENT NO. 2

5 On page 1, delete lines 3 through 7 in their entirety and insert the following:

6 "to authorize the delivery of alcoholic beverages under certain conditions by certain
7 retail dealers; to provide for contractual agreements between a retail dealer and a
8 third party; to provide for the delivery of alcoholic beverages by a third party; to
9 provide for delivery restrictions; to provide for recordkeeping; to provide for
10 advertisements associated with the sale and delivery of alcoholic beverages; to
11 provide for fees; to provide for liability; to provide for"

12 AMENDMENT NO. 3

13 On page 1, line 10, change "R.S. 26:271.2(1)(j)" to "R.S. 26:153"

14 AMENDMENT NO. 4

15 On page 1, delete lines 11 through 17 in their entirety and insert the following:

16 **"§153. Delivery services of certain retail dealers; third-party agreements;**
17 **requirements; limitations**

18 **A. Notwithstanding any provision of law to the contrary, a retail dealer**
19 **possessing a valid permit issued pursuant to this Chapter may deliver alcoholic**
20 **beverages to customers within this state if, prior to offering delivery services,**
21 **the retail dealer submits written notification to the commissioner of its intent**
22 **to provide alcoholic beverage delivery services along with a sworn affidavit**
23 **acknowledging that the retail dealer understands the provisions of this Section.**

24 **B. A retail dealer providing alcoholic beverage delivery services**
25 **pursuant to this Section shall:**

26 **(1) Deliver only alcoholic beverages purchased from a wholesale dealer**
27 **licensed pursuant to this Chapter.**

28 **(2) Deliver only alcoholic beverages intended for personal consumption**
29 **and delivered in a sealed container. The delivery of an "open alcoholic**
30 **beverage container" as defined in R.S. 32:300 is prohibited.**

31 **(3) Deliver only on the days and during the hours a retail dealer is**
32 **authorized to sell or serve alcoholic beverages.**

33 **(4) Deliver only in those areas where the sale of alcoholic beverages is**
34 **permitted. Delivery of alcoholic beverages in an area where the sale of alcoholic**
35 **beverages has been prohibited by a referendum vote is prohibited.**

36 **C.(1) A retail dealer may charge a reasonable delivery fee and may**
37 **receive orders and accept payment in person at the licensed premises, via**
38 **telephone, via the internet, or through a mobile application or similar**
39 **technology.**

40 **(2) At the time of delivery of alcoholic beverages, a retail dealer's**
41 **delivery agent shall verify the recipient's date of birth, that the recipient is**
42 **twenty-one years of age or older, and obtain the recipient's signature. A retail**

dealer's delivery agent shall refuse delivery and return the alcoholic beverages to the licensed premises if:

(a) The recipient does not produce a valid and current form of identification as provided in R.S. 26:90(A)(1).

(b) The recipient is intoxicated.

(c) There is reason to doubt the authenticity or correctness of the recipient's identification.

(d) The recipient refuses to sign for the receipt of the delivery.

D. A retail dealer shall keep a record of all deliveries of alcoholic beverages and retain such records for two years from the date of the delivery. The retail dealer shall make such records available to the commissioner of the office of alcohol and tobacco control upon request for the purpose of investigating and enforcing the provisions of this Title. The record of each delivery shall include:

(1) The retail dealer's name, address, and permit number.

(2) The name of the person who placed the order and the date, time, and method of the order.

(3) The name of the delivery agent and the date, time, and address of the delivery.

(4) The type, brand, and quantity of each alcoholic beverage delivered.

(5) The name, date of birth, and signature of the person who received the delivery.

E.(1) Notwithstanding any provision of law to the contrary, a retail dealer providing alcoholic beverage delivery services may enter into a written agreement with a third party for the use of an internet or mobile application or similar technology platform to facilitate the sale of alcoholic beverages for delivery to consumers for personal consumption within this state and the third party may deliver alcoholic beverages to the customer on behalf of the retail dealer if all of the following requirements are met:

(a) Prior to a third party taking any action on its behalf, a retail dealer provides written notification to the commissioner of the office of alcohol and tobacco control of its intent to utilize the services of a third party to facilitate the sale of alcoholic beverages for delivery and the delivery of alcoholic beverages. The notification shall include the legal name, registered trade name, physical address, and mailing address of the third party.

(b) The third party is properly registered and authorized to conduct business in Louisiana.

(c) The third party does not hold a Louisiana alcoholic beverage permit of any class or type.

(d) The retail dealer's registered trade name is displayed on all websites, mobile applications or similar technology, and advertisements associated with the sale and delivery of a retail dealer's alcoholic beverage inventory.

(2) A retail dealer may pay a third party a fee for its services and a third party may charge a reasonable delivery fee for orders delivered by the third party. A third party may act as an agent of a retail dealer in the collection of payments from the sale of alcoholic beverages, but the full amount of each order must be handled in a manner that gives the retail dealer control over the ultimate receipt of the payment from the consumer.

(3) A third party shall comply with the provisions of Subsections B and C of this Section when delivering alcoholic beverages on behalf of a retail dealer.

(a) A retail dealer shall be solely responsible for all unlawful deliveries of alcoholic beverages and all violations of this Title resulting from the actions of a third party taken on behalf of a retail dealer.

(b) The alcoholic beverages of all deliveries refused by a third party shall be returned to the retail dealer.

(4) A retail dealer shall manage and control the sale of alcoholic beverages. Such responsibilities shall include, but not be limited to:

1 (a) Determine the alcoholic beverages to be offered for sale through a
2 third party's internet or mobile application platform or similar technology.

3 (b) Determine the price at which alcoholic beverages are offered for sale
4 or sold through a third party's internet or mobile application platform or
5 similar technology.

6 (c) Accept or reject all orders placed for alcoholic beverages through a
7 third party's internet or mobile application platform or similar technology.

8 (d) Collect and remit all applicable state and local sales taxes."

9 AMENDMENT NO. 5

10 On page 2, delete lines 1 through 3 in their entirety

11 AMENDMENT NO. 6

12 On page 2, line 5, after "§307." delete the remainder of the line and insert the following:

13 "Delivery services of certain retail dealers; third-party agreements;
14 requirements; limitations"

15 AMENDMENT NO. 7

16 On page 2, delete lines 6 through 29 in their entirety and insert the following:

17 "A. Notwithstanding any provision of law to the contrary, a retail dealer
18 possessing a valid permit issued pursuant to this Chapter may deliver alcoholic
19 beverages to customers within this state if prior to offering delivery services, the
20 retail dealer submits written notification to the commissioner of its intent to
21 provide alcoholic beverage delivery services along with a sworn affidavit
22 acknowledging that the retail dealer understands the provisions of this Section."

23 "B. A retail dealer providing alcoholic beverage delivery services
24 pursuant to this Section shall:

25 (1) Deliver only alcoholic beverages purchased from a wholesale dealer
26 licensed pursuant to this Chapter.

27 (2) Deliver only alcoholic beverages intended for personal consumption
28 and delivered in a sealed container. The delivery of an "open alcoholic
29 beverage container" as defined in R.S. 32:300 is prohibited.

30 (3) Deliver only on the days and during the hours a retail dealer is
31 authorized to sell or serve alcoholic beverages.

32 (4) Deliver only in those areas where the sale of alcoholic beverages is
33 permitted. Delivery of alcoholic beverages in an area where the sale of alcoholic
34 beverages has been prohibited by a referendum vote is prohibited."

35 AMENDMENT NO. 8

36 On page 3, delete lines 1 through 29 in their entirety

37 AMENDMENT NO. 9

38 On page 4, delete lines 1 though 29 in their entirety and insert the following:

39 "C.(1) A retail dealer may charge a reasonable delivery fee and may
40 receive orders and accept payment in person at the licensed premises, via
41 telephone, via the internet, or through a mobile application or similar
42 technology.

43 (2) At the time of delivery of alcoholic beverages, a retail dealer's
44 delivery agent shall verify the recipient's date of birth, that the recipient is
45 twenty-one years of age or older, and obtain the recipient's signature. A retail

dealer's delivery agent shall refuse delivery and return the alcoholic beverages to the licensed premises if:

(a) The recipient does not produce a valid and current form of identification as provided in R.S. 26:90(A)(1).

(b) The recipient is intoxicated.

(c) There is reason to doubt the authenticity or correctness of the recipient's identification.

(d) The recipient refuses to sign for the receipt of the delivery.

D. A retail dealer shall keep a record of all deliveries of alcoholic beverages and retain such records for two years from the date of the delivery. The retail dealer shall make such records available to the commissioner of the office of alcohol and tobacco control upon request for the purpose of investigating and enforcing the provisions of this Title. The record of each delivery shall include:

(1) The retail dealer's name, address, and permit number.

(2) The name of the person who placed the order and the date, time, and method of the order.

(3) The name of the delivery agent and the date, time, and address of the delivery.

(4) The type, brand, and quantity of each alcoholic beverage delivered.

(5) The name, date of birth, and signature of the person who received the delivery.

E.(1) Notwithstanding any provision of law to the contrary, a retail dealer providing alcoholic beverage delivery services may enter into a written agreement with a third party for the use of an internet or mobile application or similar technology platform to facilitate the sale of alcoholic beverages for delivery to consumers for personal consumption within this state and the third party may deliver alcoholic beverages to the customer on behalf of the retail dealer if all of the following requirements are met:

(a) Prior to a third party taking any action on its behalf, a retail dealer provides written notification to the commissioner of the office of alcohol and tobacco control of its intent to utilize the services of a third party to facilitate the sale of alcoholic beverages for delivery and the delivery of alcoholic beverages. The notification shall include the legal name, registered trade name, physical address, and mailing address of the third party.

(b) The third party is properly registered and authorized to conduct business in Louisiana.

(c) The third party does not hold a Louisiana alcoholic beverage permit of any class or type.

(d) The retail dealer's registered trade name is displayed on all websites, mobile applications or similar technology, and advertisements associated with the sale and delivery of a retail dealer's alcoholic beverage inventory.

(2) A retail dealer may pay a third party a fee for its services and a third party may charge a reasonable delivery fee for orders delivered by the third party. A third party may act as an agent of a retail dealer in the collection of payments from the sale of alcoholic beverages, but the full amount of each order must be handled in a manner that gives the retail dealer control over the ultimate receipt of the payment from the consumer."

AMENDMENT NO. 10

On page 5, delete lines 1 through 29 in their entirety and insert the following:

"(3) A third party shall comply with the provisions of Subsections B and C of this Section when delivering alcoholic beverages on behalf of a retail dealer.

(a) A retail dealer shall be solely responsible for all unlawful deliveries of alcoholic beverages and all violations of this Title resulting from the actions of a third party taken on behalf of a retail dealer.

1 **(b) The alcoholic beverages of all deliveries refused by a third party**
2 **shall be returned to the retail dealer.**

3 **(4) A retail dealer shall manage and control the sale of alcoholic**
4 **beverages. Such responsibilities shall include, but not be limited to:**

5 **(a) Determine the alcoholic beverages to be offered for sale through a**
6 **third party's internet or mobile application platform or similar technology.**

7 **(b) Determine the price at which alcoholic beverages are offered for sale**
8 **or sold through a third party's internet or mobile application platform or**
9 **similar technology.**

10 **(c) Accept or reject all orders placed for alcoholic beverages through a**
11 **third party's internet or mobile application platform or similar technology.**

12 **(d) Collect and remit all applicable state and local sales taxes."**

13 AMENDMENT NO. 11

14 On page 6, delete lines 1 through 3 in their entirety