2019 Regular Session

HOUSE BILL NO. 508

BY REPRESENTATIVE LEOPOLD

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

ALCOHOLIC BEVERAGES: Provides relative to delivery of alcoholic beverages

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 26:2(7) through (26) and 241(5) through (19) and to enact R.S. 26:2(27) through (30), 153, 241(20) through (24), and 307, relative to the delivery of alcohol; to provide for definitions; to provide relative to high content alcoholic beverages; to provide relative to low alcoholic content beverages; to provide for the delivery of high and low alcohol content beverages; to provide for alcohol delivery regulations; to provide alcohol beverage delivery restrictions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 26:2(7) through (26) and 241(5) through (19) are hereby amended and reenacted and R.S. 26:2(27) through (30), 153, 241(20) through (24), and 307 are hereby enacted to read as follows:

§2. Definitions

For purposes of this Chapter, the following terms have the respective meanings ascribed to them in this Section, unless a different meaning clearly appears from the context:

* * *

(7) "Delivery" means a delivery of an alcoholic beverage in a container sealed by the manufacturer of the beverage alcohol by a liquor retailer permitted pursuant to R.S. 26:71(A)(3)(b) or by a retailer permitted to sell alcoholic beverages...
for off-premise consumption and their employees. Delivery shall only be permitted in those areas where the sale of alcoholic beverages are permitted. Delivery by a retailer shall not extend past the boundaries of the parish where the retailer's permitted establishment is located. Prior to delivering alcoholic beverages, a retailer shall give notice to and receive permission from the office of alcohol and tobacco control subject to rules promulgated by the commissioner as authorized by this Section.

(8) "Dinner theater" means an establishment that is a "restaurant establishment", as defined by R.S. 26:73(C)(1), where food orders are taken and food service is provided in both a restaurant dining area and where patrons are seated to view live theatrical productions or the showing of film, still pictures, electronic or digital reproductions, or other visual reproductions.

(9) "Electronic means" means internet-enabled technology and digital media, including but not limited to websites and consumer applications accessible through smart phones and other mobile devices.

(10) "Employee" means a W-2 employee of a liquor retailer permitted pursuant to R.S. 26:71(A)(3)(b) or a W-2 employee of a retailer permitted to sell alcoholic beverages for off-premise consumption. It shall not include 1099 contractors or independent contractors or non-employees hired by a liquor retailer.

(8)(11) "Liquor" means all distilled or rectified alcoholic spirits, brandy, whiskey, rum, gin, and all similar distilled alcoholic beverages, including all dilutions and mixtures of one or more of the foregoing, such as liquors, cordials, and similar compounds.

(9)(12) "Liquor retail distribution center" means any commercial airline that stores alcoholic beverages in sealed containers of any size at any airport regularly served by the permittee. Such possession for retail sale or distribution therefrom shall be limited to alcohol of high volume content in any quantity.
(10)(13) "Liquor retailer" means any dealer, other than a manufacturer or wholesaler, who sells, offers for sale, exposes for sale, or has in his possession for sale or distribution any alcoholic beverages in any quantity.

(12)(14) "Liquor wholesaler" means any dealer who sells any alcoholic beverage to other licensed liquor wholesale dealers or to licensed retail liquor dealers in the state or who sells alcoholic beverages for delivery beyond the borders of the state in amounts to be fixed by the commissioner, or who imports any alcoholic beverages into the state, and who meets the standards set forth in this Chapter.

(12)(15) "Manufacturer" means any person, other than a wine producer, who personally or through any agent whatever engages in the making, blending, rectifying, or processing of any alcoholic beverage in Louisiana; engages in the making, blending, rectifying, or processing any alcoholic beverage outside Louisiana for sale in Louisiana; or engages in the business of supplying alcoholic beverages to licensed wholesale dealers in Louisiana. A manufacturer who engages in the making, blending, rectifying, or processing of any alcoholic beverage in a facility entirely located in the state of Louisiana may sell or serve only those products that are made, blended, rectified, or processed at that facility to the public only at that facility for consumption on or off the premises but not for resale. The total amount of such sales to the public for any given month shall not exceed one case per person for each thirty-day period. Any manufacturer who sells its products to the public pursuant to this Paragraph shall remit all state and parish or municipal sales and excise taxes to the proper tax collecting authority for all products sold to the public. A manufacturer who sells or serves its products to the public pursuant to this Paragraph, shall comply with all local zoning laws and regulations.

(13)(16) "Microdistiller" means any person who operates a microdistillery.

(14)(17) "Microdistillery" means a retail outlet where a microdistiller engages in the distilling, making, blending, rectifying, or processing of any alcoholic beverage in Louisiana in quantities of not more than twelve thousand gallons per year for retail sale for consumption on or off the licensed premises in accordance with this Chapter.
with the provisions of this Chapter and regulations, if any, promulgated by the
commissioner.

(15)(18) "Outlet" means a place where any person draws or removes any
alcoholic beverage from its container for consumption on the premises.

(16)(19) "Package house-Class B" means a place consisting of no less than
five hundred square feet of public habitable area which sells alcoholic beverages in
factory sealed containers for transportation and consumption off the premises and
where no person is allowed to tamper with or otherwise disrupt the manufacturer's
seal on or about the licensed premises.

(17)(20) "Regulated beverage" means any alcoholic beverage.

(18)(21) "Solicitor" means any person who offers for sale or solicits any
orders for the sale of any regulated beverage, other than in a regularly established
and licensed place of business in this state, for delivery or shipment to any point in
the state, whether done as owner, agent, or servant.

(19)(22) "Sparkling wine" means any effervescent alcoholic beverage
derived from the juice of any fruit, or synthesis thereof, charged with carbon dioxide,
either artificially or as the result of secondary fermentation within the container.

(20)(23) "Still wine" means any non-effervescent alcoholic beverage derived
from the juice of any fruit, or synthesis thereof.

(21)(24) "Supplier" means any person, other than a wine producer, who
manufactures, makes, blends, rectifies, distills, processes, or purchases alcoholic
beverages outside the state of Louisiana and imports, sells, offers for sale, solicits
orders for sale, distributes, or delivers such alcoholic beverages in Louisiana.

(25) "Third party" means an independent technology company that operates
a website or consumer application on which independent liquor retailers market their
products. Such third-party company shall not deal, handle, sell, offer for sale, or
possess for sale alcoholic beverages or process payments for the sale of alcoholic
beverages.
"Wholesale dealer" means a person who sells alcoholic beverages of high alcoholic content to licensed wholesale dealers or licensed retail dealers exclusively, within the state or to any person for delivery beyond the borders of the state to a licensed dealer in that state and who conducts a bona fide wholesale business and maintains a warehouse or warehouses for the storage and warehousing of alcoholic beverages of high alcoholic content in the area where domiciled and licensed by the state, and conducts and maintains systematic and regular solicitations, distribution, deliveries, and sales of the beverages to licensed retail dealers located within the boundary of each parish, municipality, or geographic area, as contractually defined between the wholesaler and his supplier, in which the wholesale dealer makes any sale or delivery.

"Wine package house" means a place where a person sells only sparkling wine and still wine in the original package or closed container, prepared for transportation and consumption off the premises.

"Wine producer" means any person who, directly or indirectly, personally or through any agency, cultivates and grows grapes, fruits, berries, honey, or vegetables from which wine of an alcoholic content in excess of six percent by volume is produced and bottled from a fermentation of such grapes, fruits, berries, honey, or vegetables in Louisiana or outside the state for shipments to licensed wholesale dealers within the state subject to the provisions of R.S. 26:364.

"Winery" means a plot of land located in Louisiana used to cultivate and grow grapes, fruits, berries, honey, or vegetables for the purpose of fermenting such grapes, fruits, berries, honey, or vegetables to produce and bottle wine of an alcoholic content in excess of six percent by volume.

"Wine wholesaler" means any dealer who sells only sparkling wine and still wine to other licensed wholesale dealers or to licensed retail dealers for resale within the state.

* * *
§153. Delivery of alcoholic beverages; certain retailers; third parties; requirements; limitations

A. Notwithstanding any law to the contrary, any liquor retailer permitted pursuant to R.S. 26:71(A)(3)(b) or any retailer permitted to sell alcoholic beverages for off-premise consumption may deliver, either on the licensed premises itself or at a residential or commercial address designated by the consumer, products lawfully sold to and purchased by such consumer, provided that:

(1) The liquor retailer possesses a Class B permit as defined in R.S. 26:2(19) or possesses a permit that allows the retailer to sell alcoholic beverages for off-premise consumption.

(2) The liquor retailer or an employee of the liquor retailer processes at the Class B premises or at the premise permitted to sell alcoholic beverages for off-premise consumption all payments initiated by a consumer that is transacting the purchase with the liquor retailer.

(3) The Class B liquor retailer or a retailer permitted to sell alcoholic beverages for off-premise consumption, or an employee of such retailer, assembles, packages, and fulfills each order at the permitted premises where the order was processed using inventory located at that premises that was purchased from a permitted wholesale dealer.

(4) Deliveries to consumers are made only by the Class B liquor retailer or a retailer permitted to sell alcoholic beverages for off-premise consumption, or an employee of such retailer, and only to consumers at a residential or commercial address in this state.

(5) The alcoholic beverages delivered are for personal consumption, not intended for resale, and are in a container sealed by the manufacturer of the beverage alcohol. The delivery of an "open alcoholic beverage container" as defined in R.S. 32:300 is prohibited.

(6) Delivery of alcoholic beverages is permitted only in those areas where the retail sale of alcoholic beverages is permitted. Delivery shall be prohibited in...
any area where it is prohibited by the local governing authority. The delivery radius
of a retailer shall not extend past the boundaries of the parish where the retailer's
permitted establishment is located.

(7) Alcoholic beverages are not delivered to an address on a campus of any
state college, university, or technical college or institute, any independent college or
university, or any elementary or secondary school located in this state.

(8) Delivery is permitted only during the hours that the authorized retailer's
permitted establishment is open to the public.

(9) At the time of delivery, the Class B liquor retailer or a retailer permitted
to sell alcoholic beverages for off-premise consumption, or an employee of such
retailer, verifies that the recipient of the alcoholic beverage or beverages is not
visibly intoxicated.

(10) At the time of delivery, the Class B liquor retailer or a retailer permitted
to sell alcoholic beverages for off-premise consumption, or an employee of such
retailer, verifies the identity and age of the person accepting delivery of the order by
validating a state-issued photo identification of the person or through use of a
real-time age verification system authorized by the commissioner. Additionally, a
signature of the person receiving the delivery acknowledging receipt of the delivery
and verifying their age shall be obtained.

(11) The retail dealer keeps a record of all deliveries of alcoholic beverages
and retains 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:

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

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

(c) The name of the employee making the delivery and the date, time, and
address of the delivery.
(d) The type, brand, and quantity of each alcoholic beverage delivered.

(e) The name, date of birth, and signature of the person that received the delivery.

B. Notwithstanding any law, rule, or regulation to the contrary, any liquor retailer permitted pursuant to R.S. 26:71(A)(3)(b) or a retailer permitted to sell alcoholic beverages for off-premise consumption, may use electronic means to do the following:

1. Market the alcohol products it is licensed to sell.

2. Receive and process purchase orders placed by a consumer of legal drinking age, which orders may then be delivered to such consumer on the licensed premises itself or at a residential or commercial address in this state designated by the consumer in accordance with Paragraph (A)(4) of this Section.

C. A Class B liquor retailer permitted pursuant to R.S. 26:71(A)(3)(b) or a retailer permitted to sell alcoholic beverages for off-premise consumption may market, receive, and process orders for alcohol products under this Section using electronic means owned, operated, and maintained by a third party, provided that:

1. The permittee maintains ultimate control and responsibility over the sales transaction and transfer of physical possession of the alcoholic beverages.

2. The permittee retains the sole discretion to determine whether to accept and complete an order or reject it, and the permittee or an employee of the permittee reviews and accepts or rejects each order.

3. The permittee retains the independence to determine which alcoholic beverages are made available through electronic means, which alcoholic beverages are made available for delivery to the consumer at the licensed premises itself or at another address designated by the consumer, and the permittee shall independently set the price of such products.

4. The purchase transaction takes place between the consumer and the permittee and the permittee appears as the retail dealer.
(5) Any credit or debit card information provided by a consumer to the third
party for the purpose of transacting a purchase with a permittee is automatically
directed to the permittee such that the permittee appears as the retail dealer at the
time of purchase and on the receipt.

(6) The permittee, or an employee of the permittee, processes at the premises
that accepts the order, all payments initiated by a consumer that is transacting a
purchase with the permittee.

(7) The alcoholic beverages are in the possession of the permittee prior to the
permittee's processing of payment of such products.

(8) The permittee, or an employee of the permittee, assembles, packages, and
fulfills each order at the premises that accepted the order.

(9) Deliveries to consumers are made by the permittee, or by an employee
of the permittee.

(10) At the time of delivery, the permittee, or an employee of the permittee,
verifies the identity and age of the person accepting delivery of the order by
validating a state-issued photo identification of the person or through use of a
real-time age verification system authorized by the commissioner. Additionally, a
signature of the person receiving the delivery acknowledging receipt of the delivery
and verifying their age shall be obtained.

D. The relationship between the permittee and the third party pursuant to
Subsection C of this Section shall be one of independent contractors, and neither
party shall be deemed the employee, agent, or joint venturer of the other party under
any circumstances or for any purposes.

E. The commissioner may promulgate rules in accordance with the
Administrative Procedure Act related to the requirements and qualifications for
delivery.

F. If any provision of this Section, or its application to any person or
circumstance, is determined by a court to be invalid or unconstitutional, the
remaining provisions shall be construed in accordance with the intent of the

CODING: Words in struck through type are deletions from existing law; words underscored
are additions.
legislature to further limit rather than expand commerce in alcoholic beverages and
to enhance strict regulatory control over taxation, distribution and sale of alcoholic
beverages through the three-tier regulatory system imposed by the Alcoholic
Beverage Control Law upon all beverage alcohol.

§241. Definitions

The following terms have the respective meanings ascribed to them except
in those instances where the context indicates a different meaning:

(5) "Delivery" means a delivery of an alcoholic beverage in a container
sealed by the manufacturer of the beverage alcohol by a liquor retailer permitted
pursuant to R.S. 26:271(A)(3) or by a retailer permitted to sell alcoholic beverages
for off-premise consumption and their employees. Delivery shall only be permitted
in those areas where the sale of alcoholic beverages is permitted. Delivery by a
retailer shall not extend past the boundaries of the parish where the retailer's
permitted establishment is located. Prior to delivering alcoholic beverages, a retailer
shall give notice to and receive permission from the office of alcohol and tobacco
control subject to rules promulgated by the commissioner as authorized by this
Section.

(6) "Dinner theater" means an establishment that is a "restaurant
establishment", as defined by R.S. 26:73(C)(1), where food orders are taken and food
service is provided in both a restaurant dining area and where patrons are seated to
view live theatrical productions or the showing of film, still pictures, electronic or
digital reproductions, or other visual reproductions.

(7) "Electronic means" means internet-enabled technology and digital media,
including but not limited to websites and consumer applications accessible through
smart phones and other mobile devices.

(8) "Employee" means a W-2 employee of a liquor retailer permitted
pursuant to R.S. 26:271(A)(3) or a W-2 employee of a retailer permitted to sell
alcoholic beverages for off-premise consumption. It shall not include contractors or independent contractors or non-employees hired by a liquor retailer.

(6)(9) "Handle" means sell, use, distribute, store, consume, or otherwise handle.

(7)(10) "Liquors" means all distilled or rectified alcoholic spirits, brandy, whiskey, rum, gin, and all similar distilled alcoholic beverages, including all dilutions and mixtures of one or more of the foregoing, such as liquors, cordials, and similar compounds.

(11) "Liquor retailer" means any dealer, other than a manufacturer or wholesaler, who sells, offers for sale, exposes for sale, or has in his possession for sale or distribution any alcoholic beverages in any quantity.

(8)(12) "Liter" means a metric unit of capacity equal to one thousand cubic centimeters at four degrees centigrade, and it is equivalent to 33.814 United States fluid ounces. For the purposes of this Part, a liter is subdivided into one thousand equal milliliters.

(9)(13)(a) "Malt beverages containing not more than six percent alcohol by volume" means beverages obtained by alcoholic fermentation of an infusion or by a brewing process or concoction of barley or other grain, malt, sugars, and hops in water, including among other things, ale, beer, stout, porter, and the like. Malt beverages are exclusive of all "liquors" whether they be defined as intoxicating or spirituous liquors, or as alcoholic, vinous, or malt liquors, or however otherwise defined as liquors, which are produced by distillation.

(b) "Malt beverages containing more than six percent alcohol by volume" means beverages obtained by alcoholic fermentation of an infusion or by a brewing process or concoction of barley or other grain, malt, sugars, and hops in water, including among other things, ale, beer, stout, porter, and the like. Malt beverages are exclusive of all "liquors" whether they be defined as intoxicating or spirituous liquors, or as alcoholic, vinous, or malt liquors, or however otherwise defined as liquors, which are produced by distillation.
(c) For purposes of R.S. 26:287(A)(9) and (10) and 741 only, malt beverages shall mean all beverages, regardless of alcoholic content, as defined in this Paragraph and all beverages of low alcoholic content as defined in Paragraphs (16) and (17) of this Section.

(10)(14) "Manufacturer or brewer" means any person who, directly or indirectly, personally or through any agency, person, or establishment, engages in the making, blending, rectifying, brewing, or other processing of alcoholic beverages in Louisiana or outside the state for shipments to licensed wholesale dealers within the state subject to the provisions of R.S. 26:364. A manufacturer or brewer who operates a brewing facility entirely located in the state of Louisiana may sell or serve only those products brewed at that facility to the public only at that facility for consumption on or off the premises but not for resale. The total amount of such sales to the public for any given month shall not exceed ten percent of the total amount of product brewed at that facility monthly or two hundred fifty barrels, whichever is greater. Any manufacturer or brewer who sells its products to the public pursuant to this Paragraph shall remit all state and parish or municipal sales and excise taxes to the proper tax collecting authority for all products sold to the public. A manufacturer or brewer who sells or serves its products to the public pursuant to this Paragraph, shall comply with all local zoning laws and regulations.

(11)(15) "Microbrewer" means any person who, directly or indirectly, personally or through any agency, engages in the making, blending, rectifying, or other processing of beer or other malt beverages for retail sale in an amount not to exceed twelve thousand five hundred barrels per year.

(12)(16) "Microbrewery" means a retail establishment wherein beer and other malt beverages are brewed in small quantities, not to exceed twelve thousand five hundred barrels per year, and where such beverages are sold at retail for consumption on or off the licensed premises.

(13)(17) "Package house-Class B" means a place consisting of no less than five hundred square feet of public habitable area which sells alcoholic beverages in
factory sealed containers for transportation and consumption off the premises and
where no person is allowed to tamper with or otherwise disrupt the manufacturer's
seal on or about the licensed premises.

(14)(18) "Premises", or "premises to be licensed", means the building or that
part of the building as defined in the application for the permit in which beverages
of low alcoholic content are sold, except in cases where such beverages are regularly
sold or served outside the building, the terms shall also include such outside area.

(15)(19) "Retail dealer" means every person who offers for sale, exposes for
sale, has in his possession for sale or distribution, or sells alcoholic beverages in any
quantity to persons other than licensed wholesale or retail dealers.

(16)(20) "Secretary" means the secretary of the Department of Revenue, or
his duly authorized agents.

(17)(21) "Sparkling wine" means champagne and any other effervescent
wine charged with carbon dioxide, whether artificially or as the result of secondary
fermentation of the wine within the container.

(18)(22) "Still wine" means any noneffervescent wine, including any
fortified wine, vermouth, any artificial imitation wine, any compound sold as "still
wine", and any fruit juice.

(23) "Third party" means an independent technology company that operates
a website or consumer application on which independent liquor retailers market their
products. Such third party company shall not deal, handle, sell, offer for sale, or
possess for sale alcoholic beverages or process payments for the sale of alcoholic
beverages.

(19)(24)(a) "Wholesale dealer of malt beverages containing not more than
six percent alcohol by volume" means those persons who sell malt beverages
containing not more than six percent alcohol by volume and alcoholic beverages of
low alcoholic content to licensed wholesale dealers or licensed retail dealers
exclusively, within the state or to any person for delivery beyond the borders of the
state to a licensed dealer in that state and who conduct a bona fide wholesale
business and maintain a warehouse or warehouses for the storage and warehousing
of malt beverages and alcoholic beverages of low alcoholic content in the area where
domiciled and licensed by the state, and conduct and maintain systematic and regular
solicitations, distribution, deliveries, and sales of said beverages to licensed retail
dealers located within the boundary of each parish, municipality, or geographic area,
as contractually defined between the wholesaler and his supplier, in which the
wholesale dealer makes any sale or delivery.

(b) "Wholesale dealer of malt beverages containing more than six percent
alcohol by volume" means those persons who sell malt beverages containing more
than six percent alcohol by volume and alcoholic beverages of low alcoholic content
to licensed wholesale dealers or licensed retail dealers exclusively, within the state
or to any person for delivery beyond the borders of the state to a licensed dealer in
that state and who conduct a bona fide wholesale business and maintain a warehouse
or warehouses for the storage and warehousing of malt beverages and alcoholic
beverages of low alcoholic content in the area where domiciled and licensed by the
state, and conduct and maintain systematic and regular solicitations, distribution,
deliveries, and sales of said beverages to licensed retail dealers located within the
boundary of each parish, municipality, or geographic area, as contractually defined
between the wholesaler and his supplier, in which the wholesale dealer makes any
sale or delivery.

*          *          *
§307. Delivery of alcoholic beverages; certain retailers, third parties; requirements;
limitations
A. Notwithstanding any law to the contrary, any liquor retailer permitted
pursuant to R.S. 26:271(A)(3) or any retailer permitted to sell alcoholic beverages
for off-premise consumption may deliver, either on the licensed premises itself or at
a residential or commercial address designated by the consumer, products lawfully
sold to and purchased by such consumer, provided that:

CODING: Words in struck through type are deletions from existing law; words underscored
are additions.
(1) The liquor retailer possesses a Class B permit as defined in R.S. 26:241(17) or possesses a permit that allows the retailer to sell alcoholic beverages for off-premise consumption.

(2) The liquor retailer or an employee of the liquor retailer processes at the Class B premises or at the premises permitted to sell alcoholic beverages for off-premise consumption all payments initiated by a consumer that is transacting the purchase with the liquor retailer.

(3) The Class B liquor retailer or any retailer permitted to sell alcoholic beverages for off-premise consumption, or an employee of the retailer, assembles, packages, and fulfills each order at the permitted premises where the order was processed using inventory located at that premises that was purchased from a permitted wholesale dealer.

(4) Deliveries to consumers are made only by the Class B liquor retailer or a retailer permitted to sell alcoholic beverages for off-premise consumption, or an employee of such retailer, and only to consumers at a residential or commercial address in this state.

(5) The alcoholic beverages delivered are for personal consumption, not intended for resale, and are in a container sealed by the manufacturer of the beverage alcohol. The delivery of an "open alcoholic beverage container" as defined in R.S. 32:300 is prohibited.

(6) Delivery of alcoholic beverages is permitted only in those areas where the retail sale of alcoholic beverages is permitted. Delivery shall be prohibited in any area where it is prohibited by the local governing authority. The delivery radius of a retailer shall not extend past the boundaries of the parish where the retailer's permitted establishment is located.

(7) Alcoholic beverages are not delivered to an address on a campus of any state college, university, or technical college or institute, any independent college or university, or any elementary or secondary school located in this state.
(8) Delivery is permitted only during the hours that the authorized retailer's permitted establishment is open to the public.

(9) At the time of delivery, the Class B liquor retailer or a retailer permitted to sell alcoholic beverages for off-premise consumption, or an employee of such retailer, verifies that the recipient of the alcoholic beverage or beverages is not visibly intoxicated.

(10) At the time of delivery, the Class B liquor retailer or a retailer permitted to sell alcoholic beverages for off-premise consumption, or an employee of such retailer, verifies the identity and age of the person accepting delivery of the order by validating a state-issued photo identification of the person or through use of a real-time age verification system authorized by the commissioner. Additionally, a signature of the person receiving the delivery acknowledging receipt of the delivery and verifying their age shall be obtained.

(11) The retail dealer keeps a record of all deliveries of alcoholic beverages and retains 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:

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

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

(c) The name of the employee making the delivery and the date, time, and address of the delivery.

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

(e) The name, date of birth, and signature of the person that received the delivery.

B. Notwithstanding any law, rule, or regulation to the contrary, any liquor retailer permitted pursuant to R.S. 26:271(A)(3) or a retailer permitted to sell alcoholic beverages for off-premise consumption, that sells alcoholic beverages at
retail to consumers for consumption off the premises may use electronic means to
do the following:

(1) Market the alcohol products it is licensed to sell.

(2) Receive and process purchase orders placed by a consumer of legal
drinking age, which orders may then be delivered to such consumer on the licensed
premises itself or at a residential or commercial address in this state designated by
the consumer in accordance with Paragraph (A)(4) of this Section.

C. A Class B liquor retailer permitted pursuant to R.S. 26:271(A)(3) or a
retailer permitted to sell alcoholic beverages for off-premise consumption may
market, receive, and process orders for alcohol products under this Section using
electronic means owned, operated, and maintained by a third party, provided that:

(1) The permittee maintains ultimate control and responsibility over the sales
transaction and transfer of physical possession of the alcoholic beverages.

(2) The permittee retains the sole discretion to determine whether to accept
and complete an order or reject it, and the permittee or an employee of the permittee
reviews and accepts or rejects each order.

(3) The permittee retains the independence to determine which alcoholic
beverages are made available through electronic means, which alcoholic beverages
are made available for delivery to the consumer at the licensed premises itself or at
another address designated by the consumer, and the permittee shall independently
set the price of such products.

(4) The purchase transaction takes place between the consumer and the
permittee and the permittee appears as the retail dealer.

(5) Any credit or debit card information provided by a consumer to the third
party for the purpose of transacting a purchase with a permittee is automatically
directed to the permittee such that the permittee appears as the retail dealer at the
time of purchase and on the receipt.
(6) The permittee, or an employee of the permittee, processes at the premises that accepts the order, all payments initiated by a consumer that is transacting a purchase with the permittee.

(7) The alcoholic beverages are in the possession of the permittee prior to the permittee's processing of payment of such products.

(8) The permittee, or an employee of the permittee, assembles, packages, and fulfills each order at the premises that accepted the order.

(9) Deliveries to consumers are made by the permittee, or by an employee of the permittee.

(10) At the time of delivery, the permittee, or an employee of the permittee, verifies the identity and age of the person accepting delivery of the order by validating a state-issued photo identification of the person or through use of a real-time age verification system authorized by the commissioner. Additionally, a signature of the person receiving the delivery acknowledging receipt of the delivery and verifying their age shall be obtained.

D. The relationship between the permittee and the third party pursuant to Subsection C of this Section shall be one of independent contractors, and neither party shall be deemed the employee, agent, or joint venturer of the other party under any circumstances or for any purposes.

E. The commissioner may promulgate rules in accordance with the Administrative Procedure Act related to the requirements and qualifications for delivery.

F. If any provision of this Section, or its application to any person or circumstance, is determined by a court to be invalid or unconstitutional, the remaining provisions shall be construed in accordance with the intent of the legislature to further limit rather than expand commerce in alcoholic beverages and to enhance strict regulatory control over taxation, distribution and sale of alcoholic beverages through the three-tier regulatory system imposed by the Alcoholic Beverage Control Law upon all beverage alcohol.

CODING: Words in struck through type are deletions from existing law; words underscored are additions.
Section 2. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 508 Engrossed 2019 Regular Session Leopold

Abstract: Provides for the delivery of high and low alcoholic beverages.

Proposed law permits delivery of high and low alcoholic beverages by a liquor retailer with a Class B permit, or a permit that allows the retailer to sell alcoholic beverages for off-premise consumption, either on the licensed premises itself or at a residential or commercial address designated by the consumer, provided that:

1. All payments initiated by a consumer that is transacting the purchase with the liquor retailer are processed at the premises of the retailer.

2. The retailer, or an employee of the retailer, assemble, package, and fulfill each order at the permitted premises where the order was processed using inventory located at that premises that was purchased from a permitted wholesale dealer.

3. Deliveries to consumers are made only by the retailer or an employee of such retailer and only to consumers at a residential or commercial address in this state.

4. The alcoholic beverages delivered are for personal consumption, not intended for resale, and are in a container sealed by the manufacturer of the beverage alcohol.

5. Delivery of alcoholic beverages are permitted only in those areas where the retail sale of alcoholic beverages is permitted. Proposed law further provides that delivery shall be prohibited in any area where it is prohibited by the local governing authority, and the delivery radius of a retailer shall not extend past the boundaries of the parish where the retailer's permitted establishment is located.

6. Alcoholic beverages are not delivered to an address on a campus of any state college, university, or technical college or institute or an independent college or university or any elementary or secondary school located in this state.

7. Delivery is permitted only during the hours that the authorized retailer's permitted establishment is open to the public.

8. At the time of delivery, the retailer or an employee of the retailer, verifies the age of the recipient of the alcoholic beverage or beverages and that the recipient is not visibly intoxicated.

9. The retail dealer keeps a record of all deliveries of alcoholic beverages and retains such records for two years from the date of the delivery. Proposed law further
requires the retailer to make such records available to the commissioner of the office of alcohol and tobacco control upon request.

Proposed law authorizes the liquor retailer or a retailer permitted to sell alcoholic beverages for off-premise consumption, to use electronic means to market the alcohol products it is licensed to sell, and to receive and process purchase orders placed by a consumer of legal drinking age, which orders may then be delivered to such consumer on the licensed premises itself or at a residential or commercial address in this state in accordance with provisions of proposed law. Proposed law further authorizes the retailer to use electronic means owned, operated, and maintained by a third party provided that certain conditions set forth in proposed law are met.

Proposed law authorizes the commissioner of the office of alcohol and tobacco control to promulgate rules in accordance with the Administrative Procedure Act related to the requirements and qualifications for delivery.

Proposed law provides that if any provision of proposed law, or its application to any person or circumstance, is determined by a court to be invalid or unconstitutional, the remaining provisions shall be construed in accordance with the intent of the legislature to further limit rather than expand commerce in alcoholic beverages and to enhance strict regulatory control over taxation, distribution and sale of alcoholic beverages through the three-tier regulatory system imposed by the Alcoholic Beverage Control Law upon all beverage alcohol.

Proposed law defines "delivery", "electronic means", "employee", and "third party" for purposes of proposed law.

(Amends R.S. 26:2(7) -(26) and 241(5)-(19); Adds R.S. 26:(27)-(30), 153, 241(20) -(24), and 307)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Judiciary to the original bill:

1. Make technical changes.

2. Require the alcoholic beverages to be delivered in a container sealed by the manufacturer of the beverage alcohol.

CODING: Words in struck through type are deletions from existing law; words underscored are additions.