

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

1 AN ACT

2 To amend and reenact R.S. 26:2(7) through (26) and 241(5) through (19) and to enact R.S.
3 26:2(27) through (30), 153, 241(20) through (24), and 307, relative to the delivery
4 of alcohol; to provide for definitions; to provide relative to high content alcoholic
5 beverages; to provide relative to low alcoholic content beverages; to provide for the
6 delivery of high and low alcohol content beverages; to provide for alcohol delivery
7 regulations; to provide alcohol beverage delivery restrictions; and to provide for
8 related matters.

9 Be it enacted by the Legislature of Louisiana:

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

13 §2. Definitions

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

17 * * *

18 (7) "Delivery" means a delivery of an alcoholic beverage in a container
19 sealed by the manufacturer of the alcoholic beverage by a liquor retailer permitted
20 pursuant to R.S. 26:71(A)(3)(b) or by a retailer permitted to sell alcoholic beverages

1 for off-premise consumption and their employees. Delivery shall be permitted only
2 in those areas where the sale of alcoholic beverages are permitted. Delivery by a
3 retailer shall not extend past the boundaries of the parish where the retailer's
4 permitted establishment is located. Prior to delivering alcoholic beverages, a retailer
5 shall give notice to and receive permission from the office of alcohol and tobacco
6 control subject to rules promulgated by the commissioner as authorized by this
7 Section.

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

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

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

20 ~~(8)~~(11) "Liquor" means all distilled or rectified alcoholic spirits, brandy,
21 whiskey, rum, gin, and all similar distilled alcoholic beverages, including all
22 dilutions and mixtures of one or more of the foregoing, such as liquors, cordials, and
23 similar compounds.

24 ~~(9)~~(12) "Liquor retail distribution center" means any commercial airline that
25 stores alcoholic beverages in sealed containers of any size at any airport regularly
26 served by the permittee. Such possession for retail sale or distribution therefrom
27 shall be limited to alcohol of high volume content in any quantity.

1 ~~(10)~~(13) "Liquor retailer" means any dealer, other than a manufacturer or
2 wholesaler, who sells, offers for sale, exposes for sale, or has in his possession for
3 sale or distribution any alcoholic beverages in any quantity.

4 ~~(12)~~(14) "Liquor wholesaler" means any dealer who sells any alcoholic
5 beverage to other licensed liquor wholesale dealers or to licensed retail liquor dealers
6 in the state or who sells alcoholic beverages for delivery beyond the borders of the
7 state in amounts to be fixed by the commissioner, or who imports any alcoholic
8 beverages into the state, and who meets the standards set forth in this Chapter.

9 ~~(12)~~(15) "Manufacturer" means any person, other than a wine producer, who
10 personally or through any agent whatever engages in the making, blending,
11 rectifying, or processing of any alcoholic beverage in Louisiana; engages in the
12 making, blending, rectifying, or processing any alcoholic beverage outside Louisiana
13 for sale in Louisiana; or engages in the business of supplying alcoholic beverages to
14 licensed wholesale dealers in Louisiana. A manufacturer who engages in the
15 making, blending, rectifying, or processing of any alcoholic beverage in a facility
16 entirely located in the state of Louisiana may sell or serve only those products that
17 are made, blended, rectified, or processed at that facility to the public only at that
18 facility for consumption on or off the premises but not for resale. The total amount
19 of such sales to the public for any given month shall not exceed one case per person
20 for each thirty-day period. Any manufacturer who sells its products to the public
21 pursuant to this Paragraph shall remit all state and parish or municipal sales and
22 excise taxes to the proper tax collecting authority for all products sold to the public.
23 A manufacturer who sells or serves its products to the public pursuant to this
24 Paragraph, shall comply with all local zoning laws and regulations.

25 ~~(13)~~(16) "Microdistiller" means any person who operates a microdistillery.

26 ~~(14)~~(17) "Microdistillery" means a retail outlet where a microdistiller
27 engages in the distilling, making, blending, rectifying, or processing of any alcoholic
28 beverage in Louisiana in quantities of not more than twelve thousand gallons per
29 year for retail sale for consumption on or off the licensed premises in accordance

1 with the provisions of this Chapter and regulations, if any, promulgated by the
2 commissioner.

3 ~~(15)~~(18) "Outlet" means a place where any person draws or removes any
4 alcoholic beverage from its container for consumption on the premises.

5 ~~(16)~~(19) "Package house-Class B" means a place consisting of no less than
6 five hundred square feet of public habitable area which sells alcoholic beverages in
7 factory sealed containers for transportation and consumption off the premises and
8 where no person is allowed to tamper with or otherwise disrupt the manufacturer's
9 seal on or about the licensed premises.

10 ~~(17)~~(20) "Regulated beverage" means any alcoholic beverage.

11 ~~(18)~~(21) "Solicitor" means any person who offers for sale or solicits any
12 orders for the sale of any regulated beverage, other than in a regularly established
13 and licensed place of business in this state, for delivery or shipment to any point in
14 the state, whether done as owner, agent, or servant.

15 ~~(19)~~(22) "Sparkling wine" means any effervescent alcoholic beverage
16 derived from the juice of any fruit, or synthesis thereof, charged with carbon dioxide,
17 either artificially or as the result of secondary fermentation within the container.

18 ~~(20)~~(23) "Still wine" means any non-effervescent alcoholic beverage derived
19 from the juice of any fruit, or synthesis thereof.

20 ~~(21)~~(24) "Supplier" means any person, other than a wine producer, who
21 manufactures, makes, blends, rectifies, distills, processes, or purchases alcoholic
22 beverages outside the state of Louisiana and imports, sells, offers for sale, solicits
23 orders for sale, distributes, or delivers such alcoholic beverages in Louisiana.

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

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

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

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

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

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

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

24 (5) The alcoholic beverages delivered are for personal consumption, not
25 intended for resale, and are in a container sealed by the manufacturer of the beverage
26 alcohol. The delivery of an "open alcoholic beverage container" as defined in R.S.
27 32:300 is prohibited.

28 (6) Delivery of alcoholic beverages is permitted only in those areas where
29 the retail sale of alcoholic beverages is permitted. Delivery shall be prohibited in

1 any area where it is prohibited by the local governing authority. The delivery radius
2 of a retailer shall not extend past the boundaries of the parish where the retailer's
3 permitted establishment is located.

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

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

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

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

20 (11) The retail dealer keeps a record of all deliveries of alcoholic beverages
21 and retains such records for two years from the date of the delivery. The retail dealer
22 shall make such records available to the commissioner of the office of alcohol and
23 tobacco control upon request for the purpose of investigating and enforcing the
24 provisions of this Title. The record of each delivery shall include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 legislature to further limit rather than expand commerce in alcoholic beverages and
2 to enhance strict regulatory control over taxation, distribution and sale of alcoholic
3 beverages through the three-tier regulatory system imposed by the Alcoholic
4 Beverage Control Law upon all beverage alcohol.

5 * * *

6 §241. Definitions

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

9 * * *

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

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

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

28 (8) "Employee" means a W-2 employee of a liquor retailer permitted
29 pursuant to R.S. 26:271(A)(3) or a W-2 employee of a retailer permitted to sell

1 alcoholic beverages for off-premise consumption. It shall not include 1099
2 contractors or independent contractors hired by a liquor retailer.

3 ~~(6)~~(9) "Handle" means sell, use, distribute, store, consume, or otherwise
4 handle.

5 ~~(7)~~(10) "Liquors" means all distilled or rectified alcoholic spirits, brandy,
6 whiskey, rum, gin, and all similar distilled alcoholic beverages, including all
7 dilutions and mixtures of one or more of the foregoing, such as liquors, cordials, and
8 similar compounds.

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

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

16 ~~(9)~~(13)(a) "Malt beverages containing not more than six percent alcohol by
17 volume" means beverages obtained by alcoholic fermentation of an infusion or by
18 a brewing process or concoction of barley or other grain, malt, sugars, and hops in
19 water, including among other things, ale, beer, stout, porter, and the like. Malt
20 beverages are exclusive of all "liquors" whether they be defined as intoxicating or
21 spirituous liquors, or as alcoholic, vinous, or malt liquors, or however otherwise
22 defined as liquors, which are produced by distillation.

23 (b) "Malt beverages containing more than six percent alcohol by volume"
24 means beverages obtained by alcoholic fermentation of an infusion or by a brewing
25 process or concoction of barley or other grain, malt, sugars, and hops in water,
26 including among other things, ale, beer, stout, porter, and the like. Malt beverages
27 are exclusive of all "liquors" whether they be defined as intoxicating or spirituous
28 liquors, or as alcoholic, vinous, or malt liquors, or however otherwise defined as
29 liquors, which are produced by distillation.

1 (c) For purposes of R.S. 26:287(A)(9) and (10) and 741 only, malt beverages
2 shall mean all beverages, regardless of alcoholic content, as defined in this Paragraph
3 and all beverages of low alcoholic content as defined in Paragraphs ~~(16) and (17)~~ of
4 Subparagraph (1)(a) of this Section.

5 ~~(10)~~(14) "Manufacturer or brewer" means any person who, directly or
6 indirectly, personally or through any agency, person, or establishment, engages in
7 the making, blending, rectifying, brewing, or other processing of alcoholic beverages
8 in Louisiana or outside the state for shipments to licensed wholesale dealers within
9 the state subject to the provisions of R.S. 26:364. A manufacturer or brewer who
10 operates a brewing facility entirely located in the state of Louisiana may sell or serve
11 only those products brewed at that facility to the public only at that facility for
12 consumption on or off the premises but not for resale. The total amount of such sales
13 to the public for any given month shall not exceed ten percent of the total amount of
14 product brewed at that facility monthly or two hundred fifty barrels, whichever is
15 greater. Any manufacturer or brewer who sells its products to the public pursuant
16 to this Paragraph shall remit all state and parish or municipal sales and excise taxes
17 to the proper tax collecting authority for all products sold to the public. A
18 manufacturer or brewer who sells or serves its products to the public pursuant to this
19 Paragraph, shall comply with all local zoning laws and regulations.

20 ~~(11)~~(15) "Microbrewer" means any person who, directly or indirectly,
21 personally or through any agency, engages in the making, blending, rectifying, or
22 other processing of beer or other malt beverages for retail sale in an amount not to
23 exceed twelve thousand five hundred barrels per year.

24 ~~(12)~~(16) "Microbrewery" means a retail establishment wherein beer and
25 other malt beverages are brewed in small quantities, not to exceed twelve thousand
26 five hundred barrels per year, and where such beverages are sold at retail for
27 consumption on or off the licensed premises.

28 ~~(13)~~(17) "Package house-Class B" means a place consisting of no less than
29 five hundred square feet of public habitable area which sells alcoholic beverages in

1 factory sealed containers for transportation and consumption off the premises and
2 where no person is allowed to tamper with or otherwise disrupt the manufacturer's
3 seal on or about the licensed premises.

4 ~~(14)~~(18) "Premises", or "premises to be licensed", means the building or that
5 part of the building as defined in the application for the permit in which beverages
6 of low alcoholic content are sold, except in cases where such beverages are regularly
7 sold or served outside the building, the terms shall also include such outside area.

8 ~~(15)~~(19) "Retail dealer" means every person who offers for sale, exposes for
9 sale, has in his possession for sale or distribution, or sells alcoholic beverages in any
10 quantity to persons other than licensed wholesale or retail dealers.

11 ~~(16)~~(20) "Secretary" means the secretary of the Department of Revenue, or
12 his duly authorized agents.

13 ~~(17)~~(21) "Sparkling wine" means champagne and any other effervescent
14 wine charged with carbon dioxide, whether artificially or as the result of secondary
15 fermentation of the wine within the container.

16 ~~(18)~~(22) "Still wine" means any noneffervescent wine, including any
17 fortified wine, vermouth, any artificial imitation wine, any compound sold as "still
18 wine", and any fruit juice.

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

24 ~~(19)~~(24)(a) "Wholesale dealer of malt beverages containing not more than
25 six percent alcohol by volume" means those persons who sell malt beverages
26 containing not more than six percent alcohol by volume and alcoholic beverages of
27 low alcoholic content to licensed wholesale dealers or licensed retail dealers
28 exclusively, within the state or to any person for delivery beyond the borders of the
29 state to a licensed dealer in that state and who conduct a bona fide wholesale

1 business and maintain a warehouse or warehouses for the storage and warehousing
 2 of malt beverages and alcoholic beverages of low alcoholic content in the area where
 3 domiciled and licensed by the state, and conduct and maintain systematic and regular
 4 solicitations, distribution, deliveries, and sales of said beverages to licensed retail
 5 dealers located within the boundary of each parish, municipality, or geographic area,
 6 as contractually defined between the wholesaler and his supplier, in which the
 7 wholesale dealer makes any sale or delivery.

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

21 * * *

22 §307. Delivery of alcoholic beverages; certain retailers, third parties; requirements;
 23 limitations

24 A. Notwithstanding any law to the contrary, any liquor retailer permitted
 25 pursuant to R.S. 26:271(A)(3) or any retailer permitted to sell alcoholic beverages
 26 for off-premise consumption may deliver, either on the licensed premises itself or at
 27 a residential or commercial address designated by the consumer, products lawfully
 28 sold to and purchased by such consumer, provided that:

1 (1) The liquor retailer possesses a Class B permit as defined in R.S.
2 26:241(17) or possesses a permit that allows the retailer to sell alcoholic beverages
3 for off-premise consumption.

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

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

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

17 (5) The alcoholic beverages delivered are for personal consumption, not
18 intended for resale, and are in a container sealed by the manufacturer of the beverage
19 alcohol. The delivery of an "open alcoholic beverage container" as defined in R.S.
20 32:300 is prohibited.

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

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

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

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

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

14 (11) The retail dealer keeps a record of all deliveries of alcoholic beverages
15 and retains such records for two years from the date of the delivery. The retail dealer
16 shall make such records available to the commissioner of the office of alcohol and
17 tobacco control upon request for the purpose of investigating and enforcing the
18 provisions of this Title. The record of each delivery shall include:

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

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

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

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

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

27 B. Notwithstanding any law, rule, or regulation to the contrary, any liquor
28 retailer permitted pursuant to R.S. 26:271(A)(3) or a retailer permitted to sell
29 alcoholic beverages for off-premise consumption, that sells alcoholic beverages at

1 retail to consumers for consumption off the premises may use electronic means to
2 do the following:

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

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

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

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

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

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

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

24 (5) Any credit or debit card information provided by a consumer to the third
25 party for the purpose of transacting a purchase with a permittee is automatically
26 directed to the permittee such that the permittee appears as the retail dealer at the
27 time of purchase and on the receipt.

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

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

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

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

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

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

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

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

1 Section 2. This Act shall become effective upon signature by the governor or, if not
 2 signed by the governor, upon expiration of the time for bills to become law without signature
 3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 4 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 5 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 Reengrossed

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 alcoholic beverage.
- (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 alcoholic beverages.

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.

The House Floor Amendments to the engrossed bill:

1. Make technical changes.
2. Remove non-employees from the proposed law definition of "employee" for purposes of laws regarding high and low alcohol content beverages.