

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 the delivery of  
4 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, 251(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 manufactured  
19 sealed container by a liquor retailer as defined in R.S. 26:2(13) or by a retailer  
20 permitted to sell alcoholic beverages for off-premise consumption and their

1 employees. Delivery shall only be permitted in those areas where the sale of  
2 alcoholic beverages is permitted. Delivery by a retailer shall not extend past the  
3 boundaries of the parish where the retailer's permitted establishment is located. A  
4 retailer shall receive prior approval from the office of alcohol and tobacco control  
5 in order to deliver alcoholic beverages.

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

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

14 (10) "Employee" means a W-2 employee of a liquor retailer as defined in  
15 R.S. 26:2(13) or a W-2 employee of a retailer permitted to sell alcoholic beverages  
16 for off-premise consumption. It shall not include 1099 contractors or independent  
17 contractors or non-employees hired by a liquor retailer.

18 ~~(8)~~(11) "Liquor" means all distilled or rectified alcoholic spirits, brandy,  
19 whiskey, rum, gin, and all similar distilled alcoholic beverages, including all  
20 dilutions and mixtures of one or more of the foregoing, such as liquors, cordials, and  
21 similar compounds.

22 ~~(9)~~(12) "Liquor retail distribution center" means any commercial airline that  
23 stores alcoholic beverages in sealed containers of any size at any airport regularly  
24 served by the permittee. Such possession for retail sale or distribution therefrom  
25 shall be limited to alcohol of high volume content in any quantity.

26 ~~(10)~~(13) "Liquor retailer" means any dealer, other than a manufacturer or  
27 wholesaler, who sells, offers for sale, exposes for sale, or has in his possession for  
28 sale or distribution any alcoholic beverages in any quantity.

1           ~~(12)~~(14) "Liquor wholesaler" means any dealer who sells any alcoholic  
2           beverage to other licensed liquor wholesale dealers or to licensed retail liquor dealers  
3           in the state or who sells alcoholic beverages for delivery beyond the borders of the  
4           state in amounts to be fixed by the commissioner, or who imports any alcoholic  
5           beverages into the state, and who meets the standards set forth in this Chapter.

6           ~~(12)~~(15) "Manufacturer" means any person, other than a wine producer, who  
7           personally or through any agent whatever engages in the making, blending,  
8           rectifying, or processing of any alcoholic beverage in Louisiana; engages in the  
9           making, blending, rectifying, or processing any alcoholic beverage outside Louisiana  
10          for sale in Louisiana; or engages in the business of supplying alcoholic beverages to  
11          licensed wholesale dealers in Louisiana. A manufacturer who engages in the  
12          making, blending, rectifying, or processing of any alcoholic beverage in a facility  
13          entirely located in the state of Louisiana may sell or serve only those products that  
14          are made, blended, rectified, or processed at that facility to the public only at that  
15          facility for consumption on or off the premises but not for resale. The total amount  
16          of such sales to the public for any given month shall not exceed one case per person  
17          for each thirty-day period. Any manufacturer who sells its products to the public  
18          pursuant to this Paragraph shall remit all state and parish or municipal sales and  
19          excise taxes to the proper tax collecting authority for all products sold to the public.  
20          A manufacturer who sells or serves its products to the public pursuant to this  
21          Paragraph, shall comply with all local zoning laws and regulations.

22          ~~(13)~~(16) "Microdistiller" means any person who operates a microdistillery.

23          ~~(14)~~(17) "Microdistillery" means a retail outlet where a microdistiller  
24          engages in the distilling, making, blending, rectifying, or processing of any alcoholic  
25          beverage in Louisiana in quantities of not more than twelve thousand gallons per  
26          year for retail sale for consumption on or off the licensed premises in accordance  
27          with the provisions of this Chapter and regulations, if any, promulgated by the  
28          commissioner.

1           ~~(15)~~(18) "Outlet" means a place where any person draws or removes any  
2 alcoholic beverage from its container for consumption on the premises.

3           ~~(16)~~(19) "Package house-Class B" means a place consisting of no less than  
4 five hundred square feet of public habitable area which sells alcoholic beverages in  
5 factory sealed containers for transportation and consumption off the premises and  
6 where no person is allowed to tamper with or otherwise disrupt the manufacturer's  
7 seal on or about the licensed premises.

8           ~~(17)~~(20) "Regulated beverage" means any alcoholic beverage.

9           ~~(18)~~(21) "Solicitor" means any person who offers for sale or solicits any  
10 orders for the sale of any regulated beverage, other than in a regularly established  
11 and licensed place of business in this state, for delivery or shipment to any point in  
12 the state, whether done as owner, agent, or servant.

13           ~~(19)~~(22) "Sparkling wine" means any effervescent alcoholic beverage  
14 derived from the juice of any fruit, or synthesis thereof, charged with carbon dioxide,  
15 either artificially or as the result of secondary fermentation within the container.

16           ~~(20)~~(23) "Still wine" means any non-effervescent alcoholic beverage derived  
17 from the juice of any fruit, or synthesis thereof.

18           ~~(21)~~(24) "Supplier" means any person, other than a wine producer, who  
19 manufactures, makes, blends, rectifies, distills, processes, or purchases alcoholic  
20 beverages outside the state of Louisiana and imports, sells, offers for sale, solicits  
21 orders for sale, distributes, or delivers such alcoholic beverages in Louisiana.

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

27           ~~(22)~~(26) "Wholesale dealer" means a person who sells alcoholic beverages  
28 of high alcoholic content to licensed wholesale dealers or licensed retail dealers  
29 exclusively, within the state or to any person for delivery beyond the borders of the

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

9 ~~(23)~~(27) "Wine package house" means a place where a person sells only  
10 sparkling wine and still wine in the original package or closed container, prepared  
11 for transportation and consumption off the premises.

12 ~~(24)~~(28) "Wine producer" means any person who, directly or indirectly,  
13 personally or through any agency, cultivates and grows grapes, fruits, berries, honey,  
14 or vegetables from which wine of an alcoholic content in excess of six percent by  
15 volume is produced and bottled from a fermentation of such grapes, fruits, berries,  
16 honey, or vegetables in Louisiana or outside the state for shipments to licensed  
17 wholesale dealers within the state subject to the provisions of R.S. 26:364.

18 ~~(25)~~(29) "Winery" means a plot of land located in Louisiana used to cultivate  
19 and grow grapes, fruits, berries, honey, or vegetables for the purpose of fermenting  
20 such grapes, fruits, berries, honey, or vegetables to produce and bottle wine of an  
21 alcoholic content in excess of six percent by volume.

22 ~~(26)~~(30) "Wine wholesaler" means any dealer who sells only sparkling wine  
23 and still wine to other licensed wholesale dealers or to licensed retail dealers for  
24 resale within the state.

25 \* \* \*

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

28 A. Notwithstanding any law to the contrary, any liquor retailer permitted  
29 pursuant to R.S. 26:71(A)(3)(b) or any retailer permitted to sell alcoholic beverages

1        for off-premise consumption may deliver, either on the licensed premises itself or at  
2        a residential or commercial address designated by the consumer, products lawfully  
3        sold to and purchased by such consumer, provided that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



1           (6) The permittee, or an employee of the permittee, processes at the premises  
2           that accepts the order, all payments initiated by a consumer that is transacting a  
3           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 \* \* \*

2 §241. Definitions

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

5 \* \* \*

6 (5) "Delivery" means a delivery of an alcoholic beverage in a manufactured  
7 sealed container by a liquor retailer as defined in 26:241(16) or by a retailer  
8 permitted to sell alcoholic beverages for off-premise consumption and their  
9 employees. Delivery shall only be permitted in those areas where the sale of  
10 alcoholic beverages is permitted. Delivery by a retailer shall not extend past the  
11 boundaries of the parish where the retailer's permitted establishment is located. A  
12 retailer shall receive prior approval from the Office of Alcohol and Tobacco Control  
13 in order to deliver alcoholic beverages.

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

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

22 (8) "Employee" means a W-2 employee of a liquor retailer as defined in R.S.  
23 26:241(16) or a W-2 employee of a retailer permitted to sell alcoholic beverages for  
24 off-premise consumption. It shall not include 1099 contractors or independent  
25 contractors or non-employees hired by a liquor retailer.

26 ~~(6)~~(9) "Handle" means sell, use, distribute, store, consume, or otherwise  
27 handle.

28 ~~(7)~~(10) "Liquors" means all distilled or rectified alcoholic spirits, brandy,  
29 whiskey, rum, gin, and all similar distilled alcoholic beverages, including all

1 dilutions and mixtures of one or more of the foregoing, such as liquors, cordials, and  
2 similar compounds.

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

6 ~~(8)~~(12) "Liter" means a metric unit of capacity equal to one thousand cubic  
7 centimeters at four degrees centigrade, and it is equivalent to 33.814 United States  
8 fluid ounces. For the purposes of this Part, a liter is subdivided into one thousand  
9 equal milliliters.

10 ~~(9)~~(13)(a) "Malt beverages containing not more than six percent alcohol by  
11 volume" means beverages obtained by alcoholic fermentation of an infusion or by  
12 a brewing process or concoction of barley or other grain, malt, sugars, and hops in  
13 water, including among other things, ale, beer, stout, porter, and the like. Malt  
14 beverages are exclusive of all "liquors" whether they be defined as intoxicating or  
15 spirituous liquors, or as alcoholic, vinous, or malt liquors, or however otherwise  
16 defined as liquors, which are produced by distillation.

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

24 (c) For purposes of R.S. 26:287(A)(9) and (10) and 741 only, malt beverages  
25 shall mean all beverages, regardless of alcoholic content, as defined in this Paragraph  
26 and all beverages of low alcoholic content as defined in Paragraphs (16) and (17) of  
27 this Section.

28 ~~(10)~~(14) "Manufacturer or brewer" means any person who, directly or  
29 indirectly, personally or through any agency, person, or establishment, engages in

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

14 ~~(11)~~(15) "Microbrewer" means any person who, directly or indirectly,  
15 personally or through any agency, engages in the making, blending, rectifying, or  
16 other processing of beer or other malt beverages for retail sale in an amount not to  
17 exceed twelve thousand five hundred barrels per year.

18 ~~(12)~~(16) "Microbrewery" means a retail establishment wherein beer and  
19 other malt beverages are brewed in small quantities, not to exceed twelve thousand  
20 five hundred barrels per year, and where such beverages are sold at retail for  
21 consumption on or off the licensed premises.

22 ~~(13)~~(17) "Package house-Class B" means a place consisting of no less than  
23 five hundred square feet of public habitable area which sells alcoholic beverages in  
24 factory sealed containers for transportation and consumption off the premises and  
25 where no person is allowed to tamper with or otherwise disrupt the manufacturer's  
26 seal on or about the licensed premises.

27 ~~(14)~~(18) "Premises", or "premises to be licensed", means the building or that  
28 part of the building as defined in the application for the permit in which beverages

1 of low alcoholic content are sold, except in cases where such beverages are regularly  
2 sold or served outside the building, the terms shall also include such outside area.

3 ~~(15)~~(19) "Retail dealer" means every person who offers for sale, exposes for  
4 sale, has in his possession for sale or distribution, or sells alcoholic beverages in any  
5 quantity to persons other than licensed wholesale or retail dealers.

6 ~~(16)~~(20) "Secretary" means the secretary of the Department of Revenue, or  
7 his duly authorized agents.

8 ~~(17)~~(21) "Sparkling wine" means champagne and any other effervescent  
9 wine charged with carbon dioxide, whether artificially or as the result of secondary  
10 fermentation of the wine within the container.

11 ~~(18)~~(22) "Still wine" means any noneffervescent wine, including any  
12 fortified wine, vermouth, any artificial imitation wine, any compound sold as "still  
13 wine", and any fruit juice.

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

19 ~~(19)~~(24)(a) "Wholesale dealer of malt beverages containing not more than  
20 six percent alcohol by volume" means those persons who sell malt beverages  
21 containing not more than six percent alcohol by volume and alcoholic beverages of  
22 low alcoholic content to licensed wholesale dealers or licensed retail dealers  
23 exclusively, within the state or to any person for delivery beyond the borders of the  
24 state to a licensed dealer in that state and who conduct a bona fide wholesale  
25 business and maintain a warehouse or warehouses for the storage and warehousing  
26 of malt beverages and alcoholic beverages of low alcoholic content in the area where  
27 domiciled and licensed by the state, and conduct and maintain systematic and regular  
28 solicitations, distribution, deliveries, and sales of said beverages to licensed retail  
29 dealers located within the boundary of each parish, municipality, or geographic area,

1 as contractually defined between the wholesaler and his supplier, in which the  
2 wholesale dealer makes any sale or delivery.

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

16 \* \* \*

17 §307. Delivery of alcoholic beverages; certain retailers, third parties; requirements;  
18 limitations

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

24 (1) The liquor retailer possesses a Class B permit as defined in R.S.  
25 26:241(17) or possess a permit that allows the retailer to sell alcoholic beverages for  
26 off-premise consumption.

27 (2) The liquor retailer or an employee of the liquor retailer processes at the  
28 Class B premises or at the premises permitted to sell alcoholic beverages for

1 off-premise consumption all payments initiated by a consumer that is transacting the  
2 purchase with the liquor retailer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27                       (2) Receive and process purchase orders placed by a consumer of legal  
28                       drinking age, which orders may then be delivered to such consumer on the licensed



1 premises itself or at a residential or commercial address in this state designated by  
2 the consumer in accordance with Paragraph (A)(4) of this Section.

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

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

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

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

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

19 (5) Any credit or debit card information provide by a consumer to the third  
20 party for the purpose of transacting a purchase with a permittee is automatically  
21 directed to the permittee such that the permittee appears as the retail dealer at the  
22 time of purchase and on the receipt.

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

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

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

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

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

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

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

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

23          Section 2. This Act shall become effective upon signature by the governor or, if not  
24 signed by the governor, upon expiration of the time for bills to become law without signature  
25 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
26 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
27 effective on the day following such approval.

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**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)]

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HB 508 Original

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 manufactured sealed container.
- (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.
- (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. 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)