

ACT No. 436

2019 Regular Session

HOUSE BILL NO. 508

BY REPRESENTATIVE LEOPOLD

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) For purposes of R.S. 26:153, "delivery" means a delivery of an alcoholic
19 beverage in a container sealed by the manufacturer of the alcoholic beverage by a
20 liquor retailer permitted pursuant to R.S. 26:71(A)(3)(b) or by a retailer permitted
21 to sell alcoholic beverages for off-premise consumption and their employees.
22 Delivery shall be permitted only in those areas where the sale of alcoholic beverages

1 are permitted. Delivery by a retailer shall not extend past the boundaries of the
2 parish where the retailer's permitted establishment is located. Prior to delivering
3 alcoholic beverages, a retailer shall give notice to and receive permission from the
4 office of alcohol and tobacco control subject to rules promulgated by the
5 commissioner as authorized by this Section.

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) For purposes of R.S. 26:153, "employee" means a W-2 employee of a
15 liquor retailer permitted pursuant to R.S. 26:71(A)(3)(b) or a W-2 employee of a
16 retailer permitted to sell alcoholic beverages for off-premise consumption. It shall
17 not include 1099 contractors or independent contractors 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.

29 ~~(12)~~(14) "Liquor wholesaler" means any dealer who sells any alcoholic
30 beverage to other licensed liquor wholesale dealers or to licensed retail liquor dealers

1 in the state or who sells alcoholic beverages for delivery beyond the borders of the
 2 state in amounts to be fixed by the commissioner, or who imports any alcoholic
 3 beverages into the state, and who meets the standards set forth in this Chapter.

4 ~~(12)~~(15) "Manufacturer" means any person, other than a wine producer, who
 5 personally or through any agent whatever engages in the making, blending,
 6 rectifying, or processing of any alcoholic beverage in Louisiana; engages in the
 7 making, blending, rectifying, or processing any alcoholic beverage outside Louisiana
 8 for sale in Louisiana; or engages in the business of supplying alcoholic beverages to
 9 licensed wholesale dealers in Louisiana. A manufacturer who engages in the
 10 making, blending, rectifying, or processing of any alcoholic beverage in a facility
 11 entirely located in the state of Louisiana may sell or serve only those products that
 12 are made, blended, rectified, or processed at that facility to the public only at that
 13 facility for consumption on or off the premises but not for resale. The total amount
 14 of such sales to the public for any given month shall not exceed one case per person
 15 for each thirty-day period. Any manufacturer who sells its products to the public
 16 pursuant to this Paragraph shall remit all state and parish or municipal sales and
 17 excise taxes to the proper tax collecting authority for all products sold to the public.
 18 A manufacturer who sells or serves its products to the public pursuant to this
 19 Paragraph, shall comply with all local zoning laws and regulations.

20 ~~(13)~~(16) "Microdistiller" means any person who operates a microdistillery.

21 ~~(14)~~(17) "Microdistillery" means a retail outlet where a microdistiller
 22 engages in the distilling, making, blending, rectifying, or processing of any alcoholic
 23 beverage in Louisiana in quantities of not more than twelve thousand gallons per
 24 year for retail sale for consumption on or off the licensed premises in accordance
 25 with the provisions of this Chapter and regulations, if any, promulgated by the
 26 commissioner.

27 ~~(15)~~(18) "Outlet" means a place where any person draws or removes any
 28 alcoholic beverage from its container for consumption on the premises.

29 ~~(16)~~(19) "Package house-Class B" means a place consisting of no less than
 30 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 ~~(17)~~(20) "Regulated beverage" means any alcoholic beverage.

5 ~~(18)~~(21) "Solicitor" means any person who offers for sale or solicits any
 6 orders for the sale of any regulated beverage, other than in a regularly established
 7 and licensed place of business in this state, for delivery or shipment to any point in
 8 the state, whether done as owner, agent, or servant.

9 ~~(19)~~(22) "Sparkling wine" means any effervescent alcoholic beverage
 10 derived from the juice of any fruit, or synthesis thereof, charged with carbon dioxide,
 11 either artificially or as the result of secondary fermentation within the container.

12 ~~(20)~~(23) "Still wine" means any non-effervescent alcoholic beverage derived
 13 from the juice of any fruit, or synthesis thereof.

14 ~~(21)~~(24) "Supplier" means any person, other than a wine producer, who
 15 manufactures, makes, blends, rectifies, distills, processes, or purchases alcoholic
 16 beverages outside the state of Louisiana and imports, sells, offers for sale, solicits
 17 orders for sale, distributes, or delivers such alcoholic beverages in Louisiana.

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

23 ~~(22)~~(26) "Wholesale dealer" means a person who sells alcoholic beverages
 24 of high alcoholic content to licensed wholesale dealers or licensed retail dealers
 25 exclusively, within the state or to any person for delivery beyond the borders of the
 26 state to a licensed dealer in that state and who conducts a bona fide wholesale
 27 business and maintains a warehouse or warehouses for the storage and warehousing
 28 of alcoholic beverages of high alcoholic content in the area where domiciled and
 29 licensed by the state, and conducts and maintains systematic and regular
 30 solicitations, distribution, deliveries, and sales of the beverages to licensed retail

1 dealers located within the boundary of each parish, municipality, or geographic area,
2 as contractually defined between the wholesaler and his supplier, in which the
3 wholesale dealer makes any sale or delivery.

4 ~~(23)~~(27) "Wine package house" means a place where a person sells only
5 sparkling wine and still wine in the original package or closed container, prepared
6 for transportation and consumption off the premises.

7 ~~(24)~~(28) "Wine producer" means any person who, directly or indirectly,
8 personally or through any agency, cultivates and grows grapes, fruits, berries, honey,
9 or vegetables from which wine of an alcoholic content in excess of six percent by
10 volume is produced and bottled from a fermentation of such grapes, fruits, berries,
11 honey, or vegetables in Louisiana or outside the state for shipments to licensed
12 wholesale dealers within the state subject to the provisions of R.S. 26:364.

13 ~~(25)~~(29) "Winery" means a plot of land located in Louisiana used to cultivate
14 and grow grapes, fruits, berries, honey, or vegetables for the purpose of fermenting
15 such grapes, fruits, berries, honey, or vegetables to produce and bottle wine of an
16 alcoholic content in excess of six percent by volume.

17 ~~(26)~~(30) "Wine wholesaler" means any dealer who sells only sparkling wine
18 and still wine to other licensed wholesale dealers or to licensed retail dealers for
19 resale within the state.

20 * * *

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

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

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

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

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

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

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

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

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

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

28 (9) At the time of delivery, the Class B liquor retailer or a retailer permitted
29 to sell alcoholic beverages for off-premise consumption, or an employee of such

1 retailer, verifies that the recipient of the alcoholic beverage or beverages is not
2 visibly intoxicated.

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

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

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

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

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

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

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

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

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

28 (2) Receive and process purchase orders placed by a consumer of legal
29 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. 26:71(A)(3)(b) 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 provided 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
24 premises that accept the order, all payments initiated by a consumer that is
25 transacting a 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 alcoholic beverages.

23 * * *

24 §241. Definitions

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

27 * * *

28 (5) For purposes of R.S. 26:307, "delivery" means a delivery of an alcoholic
29 beverage in a container sealed by the manufacturer of the alcoholic beverage by a
30 liquor retailer permitted pursuant to R.S. 26:271(A)(3) or by a retailer permitted to

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

8 (6) "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 (7) "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 (8) For purposes of R.S. 26:307, "employee" means a W-2 employee of a
 17 liquor retailer permitted pursuant to R.S. 26:271(A)(3) or a W-2 employee of a
 18 retailer permitted to sell alcoholic beverages for off-premise consumption. It shall
 19 not include 1099 contractors or independent contractors hired by a liquor retailer.

20 ~~(6)~~(9) "Handle" means sell, use, distribute, store, consume, or otherwise
 21 handle.

22 ~~(7)~~(10) "Liquors" means all distilled or rectified alcoholic spirits, brandy,
 23 whiskey, rum, gin, and all similar distilled alcoholic beverages, including all
 24 dilutions and mixtures of one or more of the foregoing, such as liquors, cordials, and
 25 similar compounds.

26 (11) "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.

29 ~~(8)~~(12) "Liter" means a metric unit of capacity equal to one thousand cubic
 30 centimeters at four degrees ~~centigrade,~~ celsius, and it is equivalent to 33.814 United

1 States fluid ounces. For the purposes of this Part, a liter is subdivided into one
 2 thousand equal milliliters.

3 ~~(9)~~(13)(a) "Malt beverages containing not more than six percent alcohol by
 4 volume" means beverages obtained by alcoholic fermentation of an infusion or by
 5 a brewing process or concoction of barley or other grain, malt, sugars, and hops in
 6 water, including among other things, ale, beer, stout, porter, and the like. Malt
 7 beverages are exclusive of all "liquors" whether they be defined as intoxicating or
 8 spirituous liquors, or as alcoholic, vinous, or malt liquors, or however otherwise
 9 defined as liquors, which are produced by distillation.

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

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

21 ~~(10)~~(14) "Manufacturer or brewer" means any person who, directly or
 22 indirectly, personally or through any agency, person, or establishment, engages in
 23 the making, blending, rectifying, brewing, or other processing of alcoholic beverages
 24 in Louisiana or outside the state for shipments to licensed wholesale dealers within
 25 the state subject to the provisions of R.S. 26:364. A manufacturer or brewer who
 26 operates a brewing facility entirely located in the state of Louisiana may sell or serve
 27 only those products brewed at that facility to the public only at that facility for
 28 consumption on or off the premises but not for resale. The total amount of such sales
 29 to the public for any given month shall not exceed ten percent of the total amount of
 30 product brewed at that facility monthly or two hundred fifty barrels, whichever is

1 greater. Any manufacturer or brewer who sells its products to the public pursuant
2 to this Paragraph shall remit all state and parish or municipal sales and excise taxes
3 to the proper tax collecting authority for all products sold to the public. A
4 manufacturer or brewer who sells or serves its products to the public pursuant to this
5 Paragraph, shall comply with all local zoning laws and regulations.

6 ~~(11)~~(15) "Microbrewer" means any person who, directly or indirectly,
7 personally or through any agency, engages in the making, blending, rectifying, or
8 other processing of beer or other malt beverages for retail sale in an amount not to
9 exceed twelve thousand five hundred barrels per year.

10 ~~(12)~~(16) "Microbrewery" means a retail establishment wherein beer and
11 other malt beverages are brewed in small quantities, not to exceed twelve thousand
12 five hundred barrels per year, and where such beverages are sold at retail for
13 consumption on or off the licensed premises.

14 ~~(13)~~(17) "Package house-Class B" means a place consisting of no less than
15 five hundred square feet of public habitable area which sells alcoholic beverages in
16 factory sealed containers for transportation and consumption off the premises and
17 where no person is allowed to tamper with or otherwise disrupt the manufacturer's
18 seal on or about the licensed premises.

19 ~~(14)~~(18) "Premises", or "premises to be licensed", means the building or that
20 part of the building as defined in the application for the permit in which beverages
21 of low alcoholic content are sold, except in cases where such beverages are regularly
22 sold or served outside the building, the terms shall also include such outside area.

23 ~~(15)~~(19) "Retail dealer" means every person who offers for sale, exposes for
24 sale, has in his possession for sale or distribution, or sells alcoholic beverages in any
25 quantity to persons other than licensed wholesale or retail dealers.

26 ~~(16)~~(20) "Secretary" means the secretary of the Department of Revenue, or
27 his duly authorized agents.

28 ~~(17)~~(21) "Sparkling wine" means champagne and any other effervescent
29 wine charged with carbon dioxide, whether artificially or as the result of secondary
30 fermentation of the wine within the container.

1 ~~(18)~~(22) "Still wine" means any noneffervescent wine, including any
 2 fortified wine, vermouth, any artificial imitation wine, any compound sold as "still
 3 wine", and any fruit juice.

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

9 ~~(19)~~(24)(a) "Wholesale dealer of malt beverages containing not more than
 10 six percent alcohol by volume" means those persons who sell malt beverages
 11 containing not more than six percent alcohol by volume and alcoholic beverages of
 12 low alcoholic content to licensed wholesale dealers or licensed retail dealers
 13 exclusively, within the state or to any person for delivery beyond the borders of the
 14 state to a licensed dealer in that state and who conduct a bona fide wholesale
 15 business and maintain a warehouse or warehouses for the storage and warehousing
 16 of malt beverages and alcoholic beverages of low alcoholic content in the area where
 17 domiciled and licensed by the state, and conduct and maintain systematic and regular
 18 solicitations, distribution, deliveries, and sales of said beverages to licensed retail
 19 dealers located within the boundary of each parish, municipality, or geographic area,
 20 as contractually defined between the wholesaler and his supplier, in which the
 21 wholesale dealer makes any sale or delivery.

22 (b) "Wholesale dealer of malt beverages containing more than six percent
 23 alcohol by volume" means those persons who sell malt beverages containing more
 24 than six percent alcohol by volume and alcoholic beverages of low alcoholic content
 25 to licensed wholesale dealers or licensed retail dealers exclusively, within the state
 26 or to any person for delivery beyond the borders of the state to a licensed dealer in
 27 that state and who conduct a bona fide wholesale business and maintain a warehouse
 28 or warehouses for the storage and warehousing of malt beverages and alcoholic
 29 beverages of low alcoholic content in the area where domiciled and licensed by the
 30 state, and conduct and maintain systematic and regular solicitations, distribution,

1 deliveries, and sales of said beverages to licensed retail dealers located within the
2 boundary of each parish, municipality, or geographic area, as contractually defined
3 between the wholesaler and his supplier, in which the wholesale dealer makes any
4 sale or delivery.

5 * * *

6 §307. Delivery of alcoholic beverages; certain retailers, third parties; requirements;
7 limitations

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

13 (1) The liquor retailer possesses a Class B permit as defined in R.S.
14 26:241(17) or possesses a permit that allows the retailer to sell alcoholic beverages
15 for off-premise consumption.

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

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

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

29 (5) The alcoholic beverages delivered are for personal consumption, not
30 intended for resale, and are in a container sealed by the manufacturer of the alcoholic

1 beverage. The delivery of an "open alcoholic beverage container" as defined in R.S.
2 32:300 is prohibited.

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

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

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

13 (9) 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 that the recipient of the alcoholic beverage or beverages is not
16 visibly intoxicated.

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

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

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

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

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

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

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

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

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

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

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

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

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

27 **(3) The permittee retains the independence to determine which alcoholic**
 28 **beverages are made available through electronic means, which alcoholic beverages**
 29 **are made available for delivery to the consumer at the licensed premises itself or at**

1 another address designated by the consumer, and the permittee shall independently
2 set the price of such products.

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

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

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

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

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

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

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

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

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

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

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

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____