

2018 Regular Session

SENATE BILL NO. 489 (Substitute of Senate Bill No. 246 by Senator Morrish)

BY SENATOR MORRISH

ALCOHOLIC BEVERAGES. Provides relative to the delivery of alcoholic beverages.
(8/1/18)

1 AN ACT

2 To enact R.S. 26:153, 154, 307, and 308, relative to the delivery of alcoholic beverages of
3 high and low alcoholic content; to provide for agreements between a retail dealer and
4 a third party for the delivery of alcoholic beverages; to provide for the delivery of
5 alcoholic beverages by certain retail dealers under certain conditions; to provide for
6 the delivery of alcoholic beverages by a third party; to provide for delivery
7 restrictions; to provide for recordkeeping; to provide for fees; to provide for
8 requirements; to provide for applicability; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 26:153, 154, 307, and 308 are hereby enacted to read as follows:

11 **§153. Delivery services of certain retail dealers; requirements; limitations**

12 **A. Notwithstanding any provision of law to the contrary, a retail dealer**
13 **possessing a valid permit issued pursuant to this Chapter may deliver alcoholic**
14 **beverages to its customers within this state as provided in this Section.**

15 **B.(1) A retail dealer providing alcoholic beverage delivery services**
16 **pursuant to this Section shall:**

17 **(a) Deliver only alcoholic beverages purchased from a wholesale dealer**

1 licensed pursuant to this Chapter.

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

5 (c) Deliver only on the days and during the hours a retail dealer is
6 authorized to sell or serve alcoholic beverages.

7 (d) Deliver only in those areas where the sale of alcoholic beverages is
8 permitted. Delivery of alcoholic beverages in an area where the sale of alcoholic
9 beverages has been prohibited by a referendum vote is prohibited.

10 (e) Return any alcoholic beverages for which delivery was refused.

11 (2) A retail dealer providing alcoholic beverage delivery services shall
12 not deliver any alcoholic beverages to an address on a campus of any state
13 college, university, or technical college or institute or an independent college or
14 university located in this state.

15 (3) The retail dealer may employ personnel whose job duties include
16 delivery services on behalf of the retail dealer who shall be considered the retail
17 dealer's delivery agent. Any delivery agent who delivers alcohol shall:

18 (a) Be eighteen years of age or older.

19 (b) Be an employee of the retail dealer.

20 (c) Possesses a valid server permit as provided in R.S. 26:931 et seq.

21 C.(1) A retail dealer may charge a reasonable delivery fee and may
22 receive orders and accept payment in person at the licensed premises, via
23 telephone, via the internet, or through a mobile application or similar
24 technology.

25 (2) At the time of delivery of alcoholic beverages, a retail dealer's
26 delivery agent shall:

27 (a) Verify the recipient's date of birth.

28 (b) Verify that the recipient is twenty-one years of age or older.

29 (c) Obtain the recipient's signature.

1 (3) A retail dealer's delivery agent shall refuse delivery and return the
2 alcoholic beverages to the licensed premises if:

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

5 (b) The recipient is intoxicated.

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

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

9 D. A retail dealer shall keep a record of all deliveries of alcoholic
10 beverages and retain such records for two years from the date of the delivery.

11 The retail dealer shall make such records available to the commissioner of the
12 office of alcohol and tobacco control upon request for the purpose of
13 investigating and enforcing the provisions of this Title. The record of each
14 delivery shall include:

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

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

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

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

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

23 §154. Alcoholic beverages delivery agreements; requirements; limitations

24 A. Notwithstanding any provision of law to the contrary, a retail dealer
25 possessing a valid permit issued pursuant to this Chapter may enter into a
26 written agreement with a third party for the use of an internet or mobile
27 application or similar technology platform to facilitate the sale of alcoholic
28 beverages for delivery to consumers for personal consumption within this state
29 and the third party may deliver alcoholic beverages to the consumer.

1 **B. An alcoholic beverage delivery agreement between a retail dealer and**
2 **a third party shall require all of the following:**

3 **(1) Only alcoholic beverages purchased from a wholesale dealer licensed**
4 **pursuant to this Chapter are offered for delivery.**

5 **(2) Only alcoholic beverages intended for personal consumption and**
6 **delivered in a manufacturer sealed container are offered for delivery. The**
7 **delivery of an "open alcoholic beverage container" as defined in R.S. 32:300 is**
8 **prohibited.**

9 **(3) Alcoholic beverages are delivered only on the days and during the**
10 **hours the retail dealer is authorized to sell or serve alcoholic beverages.**

11 **(4) Alcoholic beverages are only delivered in those areas where the sale**
12 **of alcoholic beverages is permitted. Delivery of alcoholic beverages in an area**
13 **where the sale of alcoholic beverages has been prohibited by a referendum vote**
14 **is prohibited.**

15 **(5) No alcoholic beverages shall be delivered to a state college, university,**
16 **or technical college or institute or an independent college or university located**
17 **in this state.**

18 **(6) The alcoholic beverages of all deliveries refused by a third party shall**
19 **be returned to the place of purchase.**

20 **(7) Alcoholic beverages are delivered only by a person that meets all of**
21 **the following:**

22 **(a) The person is eighteen years of age or older.**

23 **(b) The person is an employee or an independent contractor of the third**
24 **party.**

25 **(c) The person possesses a valid server permit as provided in R.S. 26:931**
26 **et seq.**

27 **(8) The retail dealer shall manage and control the sale of alcoholic**
28 **beverages. Such responsibilities shall include, but not be limited to:**

29 **(a) Determine the alcoholic beverages to be offered for sale through a**

1 third party's internet or mobile application platform or similar technology.

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

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

7 (d) Collect and remit all applicable state and local taxes.

8 C. A retail dealer shall only enter into alcoholic beverage delivery
9 agreements with a third party that meets all of the following:

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

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

14 (3) The third party maintains not less than two million dollars in liability
15 insurance for the duration of the agreement with the retail dealer and provides
16 proof of coverage to the retail dealer.

17 (4) The third party is able to monitor the routes of its employees during
18 deliveries.

19 (5) The third party conducts an in-person interview and a background
20 check on all employees that will deliver alcoholic beverages.

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

27 E.(1) The third party may receive orders and accept payment via the
28 internet or through a mobile application or similar technology.

29 (2) At the time of delivery of alcoholic beverages, the third party's

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delivery agent shall:

(a) Verify the recipient's date of birth.

(b) Verify that the recipient is twenty-one years of age or older.

(c) Obtain the recipient's signature.

(3) The third party's delivery agent shall refuse delivery and return the alcoholic beverages to the place of purchase if:

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

(b) The recipient is intoxicated.

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

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

F. A record of each delivery of alcoholic beverages shall be kept for two years from the date of delivery and made available to the commissioner of the office of alcohol and tobacco control upon request for the purpose of investigating and enforcing the provisions of this Title. The record of each delivery shall include:

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

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

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

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

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

G. The commissioner of the office of alcohol and tobacco control may promulgate rules and regulations in accordance with the Administrative Procedure Act to effectuate the provisions of this Section.

* * *

1 **§307. Delivery services of certain retail dealers; requirements; limitations**

2 **A. Notwithstanding any provision of law to the contrary, a retail dealer**
3 **possessing a valid permit issued pursuant to this Chapter may deliver alcoholic**
4 **beverages to its customers within this state as provided in this Section.**

5 **B.(1) A retail dealer providing alcoholic beverage delivery services**
6 **pursuant to this Section shall:**

7 **(a) Deliver only alcoholic beverages purchased from a wholesale dealer**
8 **licensed pursuant to this Chapter.**

9 **(b) Deliver only alcoholic beverages intended for personal consumption**
10 **and delivered in a manufacturer sealed container. The delivery of an "open**
11 **alcoholic beverage container" as defined in R.S. 32:300 is prohibited.**

12 **(c) Deliver only on the days and during the hours a retail dealer is**
13 **authorized to sell or serve alcoholic beverages.**

14 **(d) Deliver only in those areas where the sale of alcoholic beverages is**
15 **permitted. Delivery of alcoholic beverages in an area where the sale of alcoholic**
16 **beverages has been prohibited by a referendum vote is prohibited.**

17 **(e) Return any alcoholic beverages for which delivery was refused.**

18 **(2) A retail dealer providing alcoholic beverage delivery services shall**
19 **not deliver any alcoholic beverages to an address on a campus of any state**
20 **college, university, or technical college or institute or an independent college or**
21 **university located in this state.**

22 **(3) The retail dealer may employ personnel whose job duties include**
23 **delivery services on behalf of the retail dealer who shall be considered the retail**
24 **dealer's delivery agent. Any delivery agent who delivers alcohol shall:**

25 **(a) Be eighteen years of age or older.**

26 **(b) Be an employee of the retail dealer.**

27 **(c) Possesses a valid server permit as provided in R.S. 26:931 et seq.**

28 **C.(1) A retail dealer may charge a reasonable delivery fee and may**
29 **receive orders and accept payment in person at the licensed premises, via**

1 telephone, via the internet, or through a mobile application or similar
2 technology.

3 (2) At the time of delivery of alcoholic beverages, a retail dealer's
4 delivery agent shall:

5 (a) Verify the recipient's date of birth.

6 (b) Verify that the recipient is twenty-one years of age or older.

7 (c) Obtain the recipient's signature.

8 (3) A retail dealer's delivery agent shall refuse delivery and return the
9 alcoholic beverages to the licensed premises if:

10 (a) The recipient does not produce a valid and current form of
11 identification as provided in R.S. 26:286(A)(1).

12 (b) The recipient is intoxicated.

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

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

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

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

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

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

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

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

1 **§308. Alcoholic beverages delivery agreements; requirements; limitations**

2 **A. Notwithstanding any provision of law to the contrary, a retail dealer**
3 **possessing a valid permit issued pursuant to this Chapter may enter into a**
4 **written agreement with a third party for the use of an internet or mobile**
5 **application or similar technology platform to facilitate the sale of alcoholic**
6 **beverages for delivery to consumers for personal consumption within this state**
7 **and the third party may deliver alcoholic beverages to the consumer.**

8 **B. An alcoholic beverage delivery agreement between a retail dealer and**
9 **a third party shall require all of the following:**

10 **(1) Only alcoholic beverages purchased from a wholesale dealer licensed**
11 **pursuant to this Chapter are offered for delivery.**

12 **(2) Only alcoholic beverages intended for personal consumption and**
13 **delivered in a manufacturer sealed container are offered for delivery. The**
14 **delivery of an "open alcoholic beverage container" as defined in R.S. 32:300 is**
15 **prohibited.**

16 **(3) Alcoholic beverages are delivered only on the days and during the**
17 **hours the retail dealer is authorized to sell or serve alcoholic beverages.**

18 **(4) Alcoholic beverages are only delivered in those areas where the sale**
19 **of alcoholic beverages is permitted. Delivery of alcoholic beverages in an area**
20 **where the sale of alcoholic beverages has been prohibited by a referendum vote**
21 **is prohibited.**

22 **(5) No alcoholic beverages shall be delivered to a state college, university,**
23 **or technical college or institute or an independent college or university located**
24 **in this state.**

25 **(6) The alcoholic beverages of all deliveries refused by a third party shall**
26 **be returned to the place of purchase.**

27 **(7) Alcoholic beverages are delivered only by a person that meets all of**
28 **the following:**

29 **(a) The person is eighteen years of age or older.**

1 **(b) The person is an employee or independent contractor of the third**
2 **party.**

3 **(c) The person possesses a valid server permit as provided in R.S. 26:931**
4 **et seq.**

5 **(8) The retail dealer shall manage and control the sale of alcoholic**
6 **beverages. Such responsibilities shall include, but not be limited to:**

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

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

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

14 **(d) Collect and remit all applicable state and local taxes.**

15 **C. A retail dealer shall only enter into an alcoholic beverage delivery**
16 **agreement with a third party that meets all of the following:**

17 **(1) The third party is properly registered and authorized to conduct**
18 **business in Louisiana.**

19 **(2) The third party does not hold a Louisiana alcoholic beverage permit**
20 **of any class or type.**

21 **(3) The third party maintains not less than two million dollars in liability**
22 **insurance for the duration of the agreement with the retail dealer and provides**
23 **proof of coverage to the retail dealer.**

24 **(4) The third party is able to monitor the routes of its employees during**
25 **deliveries.**

26 **(5) The third party conducts an in-person interview and a background**
27 **check on all employees that will deliver alcoholic beverages.**

28 **D. A retail dealer may pay a third party a fee for its services and a third**
29 **party may charge a reasonable delivery fee for orders delivered by the third**

1 party. A third party may act as an agent of a retail dealer in the collection of
2 payments from the sale of alcoholic beverages, but the full amount of each order
3 must be handled in a manner that gives the retail dealer control over the
4 ultimate receipt of the payment from the consumer.

5 E.(1) The third party may receive orders and accept payment via the
6 internet or through a mobile application or similar technology.

7 (2) At the time of delivery of alcoholic beverages, the third party's
8 delivery agent shall:

9 (a) Verify the recipient's date of birth.

10 (b) Verify that the recipient is twenty-one years of age or older.

11 (c) Obtain the recipient's signature.

12 (3) The third party's delivery agent shall refuse delivery and return the
13 alcoholic beverages to the place of purchase if:

14 (a) The recipient does not produce a valid and current form of
15 identification as provided in R.S. 26:286(A)(1).

16 (b) The recipient is intoxicated.

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

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

20 F. A record of each delivery of alcoholic beverages shall be kept for two
21 years from the date of delivery and made available to the commissioner of the
22 office of alcohol and tobacco control upon request for the purpose of
23 investigating and enforcing the provisions of this Title. The record of each
24 delivery shall include:

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

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

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

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

2 **(5) The name, date of birth, and signature of the person who received the**

3 **delivery.**

4 **G. The commissioner of the office of alcohol and tobacco control may**

5 **promulgate rules and regulations in accordance with the Administrative**

6 **Procedure Act to effectuate the provisions of this Section.**

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Ashley Menou.

DIGEST

SB 489 Engrossed

2018 Regular Session

Morrish

Proposed law authorizes retail dealers of beverages of low and high alcoholic content to provide delivery services to its customers within the state.

Proposed law requires a retail dealer providing alcoholic beverages delivery services to:

- (1) Deliver only alcoholic beverages purchased from a Louisiana licensed wholesale dealer.
- (2) Deliver only alcoholic beverages intended for personal consumption and delivered in a manufacturer sealed container.
- (3) Deliver only on the days and during the hours a retail dealer is authorized to serve or sell alcoholic beverages.
- (4) Deliver only in those areas where the sale of alcoholic beverages is permitted.
- (5) Return any alcoholic beverages for which delivery was refused.

Proposed law prohibits the delivery of alcoholic beverages to an address on a campus of any state college, university, or technical college or institute or an independent college or university located in Louisiana.

Proposed law authorizes a retail dealer to employ personnel whose job duties include delivery services on behalf of the retail dealer who shall be considered the retail dealer's delivery agent. Requires delivery agent to be:

- (1) 18 years old or older.
- (2) Employee of the retail dealer.
- (3) Possess a server permit as provided in present law.

Proposed law allows a retail dealer to charge a reasonable fee for delivery and to accept orders at the licensed premises, via telephone, online, or through a mobile application.

Proposed law requires the retail dealer's delivery agent to:

- (1) Verify the recipient's date of birth.

- (2) Verify that the recipient is 21 years of age or older.
- (3) Obtain the recipient's signature.

Proposed law requires a retail dealer's delivery agent to refuse delivery and return the alcoholic beverages to the licensed premises if:

- (1) The recipient does not produce valid identification verifying he is 21 years old or older.
- (2) The recipient is intoxicated.
- (3) There is reason to doubt the authenticity of the recipient's identification.
- (4) The recipient refuses to sign for the delivery.

Proposed law requires the retail dealer to keep a record of each delivery of alcoholic beverages for at least two years from the date of delivery. Further, the retail dealer must make the records available to the commissioner upon request. Requires record of each delivery to include:

- (1) The retail dealer's name, address, and permit number.
- (2) The name of the person who placed the order and the date, time, and method of the order.
- (3) The name of the delivery agent and the date, time, and address of the delivery.
- (4) The type, brand, and quantity of each alcoholic beverage delivered.
- (5) The name, date of birth, and signature of the person who received the delivery.

Proposed law provides that the holder of a retail dealer permit may enter into a written agreement with a third party for the use of an internet or mobile application to facilitate the sale of alcoholic beverages for delivery to consumers for personal consumption within the state.

Proposed law provides that an alcoholic beverage delivery agreement between a retail dealer and a third party shall require all of the following:

- (1) Only alcoholic beverages purchased from a wholesale dealer are offered for delivery.
- (2) Only alcoholic beverages intended for personal consumption and delivered in a manufacturer sealed container are offered for delivery.
- (3) Alcoholic beverages are delivered only on the days and during the hours the retail dealer is authorized to sell or serve alcoholic beverages.
- (4) Alcoholic beverages are only delivered in those areas where the sale of alcoholic beverages is permitted.
- (5) No alcoholic beverages are delivered to a state college, university, or technical college or institute or an independent college or university located in this state.
- (6) The alcoholic beverages of all refused deliveries are returned to the place of purchase.
- (7) Alcoholic beverages are delivered only by a person that is 18 or older, and has a

valid server permit.

- (8) Alcoholic beverages are delivered by a person that is an employee or independent contractor of the third party.
- (9) The retail dealer manages and controls the sale of alcoholic beverages.

Proposed law provides that a third party must meet all of the following requirements to enter into an alcoholic beverages delivery agreement with a retail dealer:

- (1) Properly registered and authorized to conduct business in Louisiana.
- (2) Does not hold a Louisiana alcoholic beverage permit of any class or type.
- (3) Maintains not less than two million dollars in liability insurance for the duration of the agreement with the retail dealer and provides proof of coverage to the retail dealer.
- (4) Has the ability to monitor the routes of its employees during deliveries.
- (5) Conducts an in-person interview and a background check on all employees that will deliver alcoholic beverages.

Proposed law provides that a retail dealer may pay a third party a fee for its services and a third party may charge a reasonable delivery fee for orders delivered by the third party.

Proposed law provides that a third party may act as an agent of a retail dealer in the collection of payments from the sale of alcoholic beverages, but the full amount of each order must be handled in a manner that gives the retail dealer control over the ultimate receipt of the payment.

Proposed law provides that the third party may receive orders and accept payment via the internet or through a mobile application or similar technology.

Proposed law provides that at the time of delivery, the third party's delivery agent shall verify the recipient's date of birth, that the recipient is 21 years of age, and obtain the recipient's signature.

Proposed law provides that delivery of alcoholic beverages shall be refused if:

- (1) The recipient does not produce a valid and current form of identification.
- (2) The recipient is intoxicated.
- (3) There is reason to doubt the authenticity or correctness of the recipient's identification.
- (4) The recipient refuses to sign for the receipt of the delivery.

Proposed law provides that records of each delivery shall be kept for a period of two years from the date of delivery and made available to the commissioner upon request. Further provides that the record for each delivery shall contain all of the following:

- (1) The retail dealer's name, address, and permit number.
- (2) The name of the person who placed the order and the date, time, and method of the order.

- (3) The name of the delivery agent and the date, time, and address of the delivery.
- (4) The type, brand, and quantity of each alcoholic beverage delivered.
- (5) The name, date of birth, and signature of the person who received the delivery.

Proposed law provides that the provisions of proposed law apply to the delivery of beverages of low alcoholic content and beverages of high alcoholic content.

Effective August 1, 2018.

(Adds R.S. 26:153, 154, 307, and 308)