

2018 Regular Session

SENATE BILL NO. 246

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 and 307, relative to the delivery of alcoholic beverages of high and
3 low alcoholic content; to authorize the delivery of alcoholic beverages under certain
4 conditions by certain retail dealers; to provide for contractual agreements between
5 a retail dealer and a third party; to provide for the delivery of alcoholic beverages by
6 a third party; to provide for delivery restrictions; to provide for recordkeeping; to
7 provide for advertisements associated with the sale and delivery of alcoholic
8 beverages; to provide for fees; to provide for liability; to provide for applicability;
9 and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 26:153 and 307 are hereby enacted to read as follows:

12 **§153. Delivery services of certain retail dealers; third-party agreements;**
13 **requirements; limitations**

14 **A. Notwithstanding any provision of law to the contrary, a retail dealer**
15 **possessing a valid permit issued pursuant to this Chapter may deliver alcoholic**
16 **beverages to customers within this state if, prior to offering delivery services,**
17 **the retail dealer submits written notification to the commissioner of its intent**

1 to provide alcoholic beverage delivery services along with a sworn affidavit
2 acknowledging that the retail dealer understands the provisions of this Section.

3 B. A retail dealer providing alcoholic beverage delivery services
4 pursuant to this Section shall:

5 (1) Deliver only alcoholic beverages purchased from a wholesale dealer
6 licensed pursuant to this Chapter.

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

10 (3) Deliver only on the days and during the hours a retail dealer is
11 authorized to sell or serve alcoholic beverages.

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

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

19 (2) At the time of delivery of alcoholic beverages, a retail dealer's
20 delivery agent shall verify the recipient's date of birth, that the recipient is
21 twenty-one years of age or older, and obtain the recipient's signature. A retail
22 dealer's delivery agent shall refuse delivery and return the alcoholic beverages
23 to the licensed premises if:

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

26 (b) The recipient is intoxicated.

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

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

1 **D. A retail dealer shall keep a record of all deliveries of alcoholic**
2 **beverages and retain such records for two years from the date of the delivery.**
3 **The retail dealer shall make such records available to the commissioner of the**
4 **office of alcohol and tobacco control upon request for the purpose of**
5 **investigating and enforcing the provisions of this Title. The record of each**
6 **delivery shall include:**

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

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

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

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

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

15 **E.(1) Notwithstanding any provision of law to the contrary, a retail**
16 **dealer providing alcoholic beverage delivery services may enter into a written**
17 **agreement with a third party for the use of an internet or mobile application or**
18 **similar technology platform to facilitate the sale of alcoholic beverages for**
19 **delivery to consumers for personal consumption within this state and the third**
20 **party may deliver alcoholic beverages to the customer on behalf of the retail**
21 **dealer if all of the following requirements are met:**

22 **(a) Prior to a third party taking any action on its behalf, a retail dealer**
23 **provides written notification to the commissioner of the office of alcohol and**
24 **tobacco control of its intent to utilize the services of a third party to facilitate**
25 **the sale of alcoholic beverages for delivery and the delivery of alcoholic**
26 **beverages. The notification shall include the legal name, registered trade name,**
27 **physical address, and mailing address of the third party.**

28 **(b) The third party is properly registered and authorized to conduct**
29 **business in Louisiana.**

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

3 **(d) The retail dealer's registered trade name is displayed on all websites,**
4 **mobile applications or similar technology, and advertisements associated with**
5 **the sale and delivery of a retail dealer's alcoholic beverage inventory.**

6 **(2) A retail dealer may pay a third party a fee for its services and a third**
7 **party may charge a reasonable delivery fee for orders delivered by the third**
8 **party. A third party may act as an agent of a retail dealer in the collection of**
9 **payments from the sale of alcoholic beverages, but the full amount of each order**
10 **must be handled in a manner that gives the retail dealer control over the**
11 **ultimate receipt of the payment from the consumer.**

12 **(3) A third party shall comply with the provisions of Subsections B and**
13 **C of this Section when delivering alcoholic beverages on behalf of a retail**
14 **dealer.**

15 **(a) A retail dealer shall be solely responsible for all unlawful deliveries**
16 **of alcoholic beverages and all violations of this Title resulting from the actions**
17 **of a third party taken on behalf of a retail dealer.**

18 **(b) The alcoholic beverages of all deliveries refused by a third party shall**
19 **be returned to the retail dealer.**

20 **(4) A retail dealer shall manage and control the sale of alcoholic**
21 **beverages. Such responsibilities shall include, but not be limited to:**

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

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

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

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

1 **to the licensed premises if:**

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

4 **(b) The recipient is intoxicated.**

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

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

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

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

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

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

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

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

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

22 **E.(1) Notwithstanding any provision of law to the contrary, a retail**
23 **dealer providing alcoholic beverage delivery services may enter into a written**
24 **agreement with a third party for the use of an internet or mobile application or**
25 **similar technology platform to facilitate the sale of alcoholic beverages for**
26 **delivery to consumers for personal consumption within this state and the third**
27 **party may deliver alcoholic beverages to the customer on behalf of the retail**
28 **dealer if all of the following requirements are met:**

29 **(a) Prior to a third party taking any action on its behalf, a retail dealer**

1 provides written notification to the commissioner of the office of alcohol and
2 tobacco control of its intent to utilize the services of a third party to facilitate
3 the sale of alcoholic beverages for delivery and the delivery of alcoholic
4 beverages. The notification shall include the legal name, registered trade name,
5 physical address, and mailing address of the third party.

6 (b) The third party is properly registered and authorized to conduct
7 business in Louisiana.

8 (c) The third party does not hold a Louisiana alcoholic beverage permit
9 of any class or type.

10 (d) The retail dealer's registered trade name is displayed on all websites,
11 mobile applications or similar technology, and advertisements associated with
12 the sale and delivery of a retail dealer's alcoholic beverage inventory.

13 (2) A retail dealer may pay a third party a fee for its services and a third
14 party may charge a reasonable delivery fee for orders delivered by the third
15 party. A third party may act as an agent of a retail dealer in the collection of
16 payments from the sale of alcoholic beverages, but the full amount of each order
17 must be handled in a manner that gives the retail dealer control over the
18 ultimate receipt of the payment from the consumer.

19 (3) A third party shall comply with the provisions of Subsections B and
20 C of this Section when delivering alcoholic beverages on behalf of a retail
21 dealer.

22 (a) A retail dealer shall be solely responsible for all unlawful deliveries
23 of alcoholic beverages and all violations of this Title resulting from the actions
24 of a third party taken on behalf of a retail dealer.

25 (b) The alcoholic beverages of all deliveries refused by a third party shall
26 be returned to the retail dealer.

27 (4) A 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

- (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.

Proposed law allows a retail dealer to enter into a written agreement with a third party for the sale of alcoholic beverages through the internet or mobile application platform and the delivery of alcoholic beverages by submitting written notification to the commissioner of its intent to utilize the services of a third party.

Proposed law places the following restrictions on the third party entities a retail dealer may contract with:

- (1) The third party must be registered and authorized to do business in this state.
- (2) The third party cannot hold a Louisiana alcoholic beverage permit of any class or type.
- (3) The third party display the retail dealer's registered trade name on all websites, mobile applications, and advertisements associated with the sale and delivery of the alcoholic beverages.

Proposed law allows a retail dealer to pay the third party a fee for its services and further allows the third party to charge a reasonable delivery fee.

Proposed law requires the full amount of each order of alcoholic beverages to ultimately be in the complete control of a retail dealer, but allows a third party to collect payment from the sale of alcoholic beverages as an agent of a retail dealer.

Proposed law provides that all deliveries made by a third party are subject to the same restrictions as deliveries made by a retail dealer.

Proposed law provides that a retail dealer is responsible for all unlawful deliveries of alcoholic beverages and all violations caused by a third party while the third party is acting on behalf of the retail dealer.

Proposed law requires a retail dealer to:

- (1) Determine what alcoholic beverages will be offered for sale through a third party.
- (2) Determine the price of all alcoholic beverages offered for sale through a third party.
- (3) Accept or reject all orders for alcoholic beverages placed through a third party's internet or mobile application platform.
- (4) Collect and remit all applicable taxes.

Effective August 1, 2018.

(Adds R.S. 26:153 and 307)