

SENATE BILL NO. 178

BY SENATOR ALLAIN

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To amend and reenact R.S. 26:271.2(2)(b), 271.4, and 308(A), (B), (C)(1), (2), (8) and (11)(b), (D), (E), and (F)(1), and to enact R.S. 26:241(26), relative to the delivery of alcoholic beverages; to provide for third party delivery companies and platforms; to provide for delivery agreements; to provide for requirements; to provide for limitations; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 26:271.2(2)(b), 271.4, and 308(A), (B), (C)(1), (2), (8) and (11)(b), (D), (E), and (F)(1) are hereby amended and reenacted and R.S. 26:241(26) is hereby enacted to read as follows:

§241. Definitions

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

* * *

(26) "Third party platform" means a third party service that is licensed to do business in the state of Louisiana that performs work with its own employees or agents for which the platform is required to file an Internal Revenue Service Form W-2 or 1099.

* * *

§271.2. Class A permit; definitions

The commissioner shall issue the following four types of Class A retail permits for beverages of low alcoholic content:

* * *

(2) Class A-Restaurant:

* * *

1 (b) Notwithstanding any provision of law to the contrary and subject to rules
 2 promulgated by the commissioner, in addition to the authority to contract with a third
 3 party **delivery company or a third party platform** as provided in R.S. 26:308, a
 4 permit may be issued to a "restaurant establishment" enabling the delivery of
 5 restaurant prepared food and alcohol **malt beverages, sparkling wine, and still**
 6 **wine, as defined in R.S. 26:2 and 241** with its own employees **or agents for which**
 7 **the retailer is required to file an Internal Revenue Service Form W-2 or 1099.**
 8 Notwithstanding the provisions of R.S. 26:271(A)(2), the permit fee for the permit
 9 issued pursuant to this Subparagraph shall be two hundred fifty dollars.

10 * * *

11 §271.4. Package house-Class B permit

12 Notwithstanding any provisions of law to the contrary and subject to rules
 13 promulgated by the commissioner, in addition to the authority to contract with a third
 14 party **delivery company or a third party platform** as provided in R.S. 26:308, a
 15 permit may be issued to a grocery store enabling the delivery of alcohol **as defined**
 16 **in R.S. 26:2(1) and 241(1)(a)** with its own employees **or agents for which the**
 17 **retailer is required to file an Internal Revenue Service Form W-2 or 1099.**
 18 Notwithstanding the provisions of R.S. 26:271(A)(2), the permit fee for the permit
 19 issued pursuant to this Section shall be two hundred fifty dollars.

20 * * *

21 §308. Alcoholic beverages delivery agreements; requirements; limitations

22 A. For purposes of this Section only, a third party delivery company shall be
 23 defined as a third party delivery service that is licensed to do business in the state of
 24 Louisiana, permitted with the office of alcohol and tobacco control, and uses their
 25 own ~~W-2~~ employees **or agents for which the third party delivery company or the**
 26 **third party platform is required to file an Internal Revenue Service Form W-2**
 27 **or 1099 for** delivery. For all other alcohol delivery provisions of this Chapter, third
 28 party shall be the definition provided in R.S. 26:2 and 241.

29 B. Notwithstanding any provision of law to the contrary, a retail dealer
 30 possessing a valid Class A-General retail permit as provided in R.S. 26:271.2, a

1 Class "R" restaurant permit as provided in R.S. 26:272, or a package house-Class B,
 2 as defined in R.S. 26:241, permit as provided in this Chapter may enter into a written
 3 agreement with a third party **delivery company or a third party platform** for the
 4 use of an internet or mobile application or similar technology platform to facilitate
 5 the sale of alcoholic beverages for delivery to consumers for personal consumption
 6 within this state and the third party **delivery company or the third party platform**
 7 may deliver alcoholic beverages to the consumer.

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

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

12 (2)~~(a)~~ Only alcoholic beverages ~~of low alcoholic content, beer, sparkling~~
 13 ~~wine~~ as defined in R.S. 26:2~~(1)~~, and ~~still wine as defined in R.S. 26:241(1)(a)~~ are
 14 offered for delivery **from the licensed premises of a package house-Class B**
 15 **permit holder.**

16 **(b) Only malt beverages, sparkling wine, and still wine, as defined in R.S.**
 17 **26:2 and 241 are offered for delivery from the licensed premises of a restaurant**
 18 **permit holder.**

19 * * *

20 (8) ~~No~~ **(a) For any parish having a population of less than one hundred**
 21 **thousand according to the latest federal decennial census, no** alcoholic beverages
 22 shall be delivered more than ~~ten~~ **twenty-five** miles from the place of purchase.

23 **(b) For any parish having a population of greater than one hundred**
 24 **thousand according to the latest federal decennial census, no alcoholic beverages**
 25 **shall be delivered more than ten miles from the place of purchase.**

26 * * *

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

29 * * *

30 (b) The person is an employee **or agent** for which the third party **delivery**

1 company or the third party platform shall be required to file an Internal Revenue
2 Service Form W-2 or 1099.

3 * * *

4 D. A retail dealer shall enter into an alcoholic beverage delivery agreement
5 with a third party delivery company or a third party platform only when the third
6 party meets all of the following requirements:

7 (1) The third party delivery company or the third party platform is
8 properly registered and authorized to conduct business in Louisiana.

9 (2) The third party delivery company or the third party platform holds a
10 valid Louisiana alcoholic beverage permit issued pursuant to R.S. 26:271.2(1)(j).

11 (3) The ~~third-party~~ third party delivery service company or the third party
12 platform shall maintain a general liability insurance policy with a liquor liability
13 endorsement in an amount no less than one million dollars per occurrence for the
14 duration of the agreement with the retail dealer and shall provide proof of coverage
15 to the retail dealer.

16 (4) The third party delivery company or the third party platform is able
17 to monitor the routes of its employees or agents during alcoholic beverage
18 deliveries.

19 (5) The third party delivery company or the third party platform conducts
20 ~~an interview~~ a screening and a background check of all persons that will deliver
21 alcoholic beverages.

22 E. A retail dealer may pay a third party delivery company or a third party
23 platform a fee for its services and a third party may charge a reasonable delivery fee
24 for orders delivered by the third party delivery company or the third party
25 platform. A third party delivery company properly licensed pursuant to this
26 Section or its authorized agent may act as an agent of a retail dealer in the
27 collection of payments from the sale of alcoholic beverages, but the full amount of
28 each order must be handled in a manner that gives the retail dealer control over the
29 ultimate receipt of the payment from the consumer. A third party delivery
30 company or a third party platform properly licensed pursuant to this Section

