

2018 Regular Session

HOUSE BILL NO. 285

BY REPRESENTATIVE STEFANSKI

ALCOHOLIC BEVERAGES: Provides relative to the delivery of alcoholic beverages

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 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, the  
17 retail dealer submits written notification to the commissioner of its intent to provide  
18 alcoholic beverage delivery services along with a sworn affidavit acknowledging that  
19 the retail dealer understands the provisions of this Section.

1           B. A retail dealer providing alcohol beverage delivery services pursuant to  
2           this Section shall:

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

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

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

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

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

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

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

22          (b) The recipient is intoxicated.

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

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

26          D. A retail dealer shall keep a record of all deliveries of alcoholic beverages  
27          and retain such records for two years from the date of the delivery. The retail dealer  
28          shall make such records available to the commissioner of the office of alcohol and

1 tobacco control upon request for the purpose of investigating and enforcing the  
2 provisions of this Title. The record of each delivery shall include:

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

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

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

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

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

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

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

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

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



1           A. Notwithstanding any provision of law to the contrary, retail dealer  
2           possessing a valid permit issued pursuant to this Chapter may deliver alcoholic  
3           beverages to customers within this state if prior to offering delivery services, the  
4           retail dealer submits written notification to the commissioner of its intent to provide  
5           alcoholic beverage delivery services along with a sworn affidavit acknowledging that  
6           the retail dealer understands the provisions of this Section.

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

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

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

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

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

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

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

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

28                           (b) The recipient is intoxicated.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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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 285 Original

2018 Regular Session

Stefanski

**Abstract:** Permits the sale and delivery of alcoholic beverages beyond the licensed premises, outlines the requirements and criteria retail dealers must follow in order to deliver alcoholic beverages, and authorizes the use of a third-party facilitator for the delivery of alcoholic beverages.

Proposed law provides that retail dealers of beverages of low and high alcoholic content may provide delivery services by submitting to the commissioner of the office of alcohol and tobacco control ("the commissioner") a written notification of the dealer's intent to provide alcohol delivery services and a sworn affidavit acknowledging an understanding of the relevant provisions of law.

Proposed law provides the following restrictions on a retail dealer's alcohol delivery services:

- (1) Only alcohol purchased from a wholesaler licensed in Louisiana may be offered for delivery.
- (2) Only alcoholic beverages intended for personal consumption and in a sealed container may be delivered.
- (3) Deliveries can only be made on days and during the hours a retail dealer is authorized to serve or sell alcoholic beverages.
- (4) Deliveries cannot be made in an area where the sale of alcoholic beverages has been prohibited by a referendum vote.

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 recipient of all alcoholic beverages deliveries to be 21 years old or older and to sign for the alcoholic beverage delivery.

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.

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)