



1 party **delivery company** as provided in R.S. 26:308, a permit may be issued to a  
 2 "restaurant establishment" enabling the delivery of restaurant prepared food and  
 3 alcohol **as defined in R.S. 26:2(1) and 241(1)(a)** with its own employees **or agents**  
 4 **for which the retailer is required to file an Internal Revenue Service Form W-2**  
 5 **or 1099**. Notwithstanding the provisions of R.S. 26:271(A)(2), the permit fee for the  
 6 permit issued pursuant to this Subparagraph shall be two hundred fifty dollars.

7 \* \* \*

8 §271.4. Package house-Class B permit

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

17 \* \* \*

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

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

26 B. Notwithstanding any provision of law to the contrary, a retail dealer  
 27 possessing a valid Class A-General retail permit as provided in R.S. 26:271.2, a  
 28 Class "R" restaurant permit as provided in R.S. 26:272, or a package house-Class B,  
 29 as defined in R.S. 26:241, permit as provided in this Chapter may enter into a written

1 agreement with a third party **delivery company** for the use of an internet or mobile  
2 application or similar technology platform to facilitate the sale of alcoholic  
3 beverages for delivery to consumers for personal consumption within this state and  
4 the third party **delivery company** may deliver alcoholic beverages to the consumer.

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

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

9 (2) Only alcoholic beverages ~~of low alcoholic content, beer, sparkling wine~~  
10 as defined in R.S. 26:2(**1**), and ~~still wine as defined in R.S. 26:241(1)(a)~~ are offered  
11 for delivery.

12 \* \* \*

13 (8) No alcoholic beverages shall be delivered more than ~~ten~~ **twenty-five**  
14 miles from the place of purchase.

15 \* \* \*

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

18 \* \* \*

19 (b) The person is an employee **or agent** for which the third party **delivery**  
20 **company** shall be required to file an Internal Revenue Service Form W-2 **or 1099**.

21 \* \* \*

22 D. A retail dealer shall enter into an alcoholic beverage delivery agreement  
23 with a third party **delivery company** only when the third party meets all of the  
24 following requirements:

25 (1) The third party **delivery company** is properly registered and authorized  
26 to conduct business in Louisiana.

27 (2) The third party **delivery company** holds a valid Louisiana alcoholic  
28 beverage permit issued pursuant to R.S. 26:271.2(1)(j).

29 (3) The third-party delivery ~~service~~ **company** shall maintain a general

1 liability insurance policy ~~with a liquor liability endorsement~~ in an amount no less  
2 than one million dollars per occurrence for the duration of the agreement with the  
3 retail dealer and shall provide proof of coverage to the retail dealer.

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

6 (5) The third party **delivery company** conducts an interview and a  
7 background check of all persons that will deliver alcoholic beverages.

8 E. A retail dealer may pay a third party **delivery company** a fee for its  
9 services and a third party may charge a reasonable delivery fee for orders delivered  
10 by the third party **delivery company**. A third party **delivery company properly**  
11 **licensed pursuant to this Section or its authorized agent** may act as an agent of  
12 a retail dealer in the collection of payments from the sale of alcoholic beverages, but  
13 the full amount of each order must be handled in a manner that gives the retail dealer  
14 control over the ultimate receipt of the payment from the consumer. **A third party**  
15 **delivery company properly licensed pursuant to this Section or its authorized**  
16 **agent may also act as an agent of a retail dealer for the purposes of processing,**  
17 **assembling, packaging, and fulfilling alcoholic beverage orders for delivery**  
18 **from the retailer's licensed premises. No additional permit shall be required of**  
19 **a retail dealer who has contracted with a third party delivery company properly**  
20 **licensed pursuant to this Section for the purpose of processing, assembling,**  
21 **packaging, and fulfilling alcoholic beverage orders for delivery from the**  
22 **retailer's licensed premises.**

23 F.(1) The third party **delivery company** may receive orders and accept  
24 payment via the internet or through a mobile application or similar technology.

25 \* \* \*

26 Section 2. This Act shall become effective upon signature by the governor or, if not  
27 signed by the governor, upon expiration of the time for bills to become law without signature  
28 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
29 vetoed by the governor and subsequently approved by the legislature, this Act shall become

1 effective on the day following such approval.

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

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DIGEST

SB 178 Original

2020 Regular Session

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Present law adds additional ATC-issued permits for the delivery of low alcohol content beverages by restaurants, grocery stores, holders of a package house-Class B permit, and third parties, and sets the amount of the fees for such permits.

Proposed law removes the limitation on delivery to only low alcohol content beverages.

Present law defines a third party delivery company as a third party delivery service that is licensed to do business in the state of La., permitted with ATC, and uses their own W-2 employees for delivery.

Proposed law retains present law but also provides that a third party delivery company may also utilize the service of agents that receive an IRS Form 1099 as proof of compensation for their services. Persons that receive an IRS Form 1099 are considered independent contractors and not employees.

Present law prohibits alcoholic beverages from being delivered more than 10 miles from the place of purchase.

Proposed law expands the delivery area from 10 miles to 25 miles from the place of purchase.

Proposed law provides that a third party delivery company or its authorized agent may also act as an agent of a retail dealer for the purposes of processing, assembling, packaging, and fulfilling alcoholic beverage orders for delivery from the retailer's licensed premises with no additional permit required of a retail dealer who has contracted with a third party delivery company for the purpose of processing, assembling, packaging, and fulfilling alcoholic beverage orders for delivery from the retailer's licensed premises.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends 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))