

2020 Regular Session

SENATE BILL NO. 178

BY SENATOR ALLAIN

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

ALCOHOLIC BEVERAGES. Provides relative to the delivery of alcoholic beverages.
(gov sig)

1 AN ACT

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

7 Be it enacted by the Legislature of Louisiana:

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

11 §241. Definitions

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

14 * * *

15 **(26) "Third party platform" means a third party service that is licensed**
16 **to do business in the state of Louisiana that performs work with its own**
17 **employees or agents for which the platform is required to file an Internal**

1 Revenue Service Form W-2 or 1099.

2 * * *

3 §271.2. Class A permit; definitions

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

6 * * *

7 (2) Class A-Restaurant:

8 * * *

9 (b) Notwithstanding any provision 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 or a third party platform as provided in R.S. 26:308, a
12 permit may be issued to a "restaurant establishment" enabling the delivery of
13 restaurant prepared food and alcohol malt beverages, sparkling wine, and still
14 wine, as defined in R.S. 26:2 and 241 with its own employees or agents for which
15 the retailer is required to file an Internal Revenue Service Form W-2 or 1099.

16 Notwithstanding the provisions of R.S. 26:271(A)(2), the permit fee for the permit
17 issued pursuant to this Subparagraph shall be two hundred fifty dollars.

18 * * *

19 §271.4. Package house-Class B permit

20 Notwithstanding any provisions of law to the contrary and subject to rules
21 promulgated by the commissioner, in addition to the authority to contract with a third
22 party delivery company or a third party platform as provided in R.S. 26:308, a
23 permit may be issued to a grocery store enabling the delivery of alcohol as defined
24 in R.S. 26:2(1) and 241(1)(a) with its own employees or agents for which the
25 retailer is required to file an Internal Revenue Service Form W-2 or 1099.

26 Notwithstanding the provisions of R.S. 26:271(A)(2), the permit fee for the permit
27 issued pursuant to this Section shall be two hundred fifty dollars.

28 * * *

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

1 thousand according to the latest federal decennial census, no alcoholic beverages
2 shall be delivered more than ~~ten~~ twenty-five miles from the place of purchase.

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

6 * * *

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

9 * * *

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

13 * * *

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

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

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

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

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

29 (5) The third party delivery company or the third party platform conducts

The original instrument was prepared by Alan Miller. The following digest, which does not constitute a part of the legislative instrument, was prepared by Brandi Cannon.

DIGEST

SB 178 Reengrossed

2020 Regular Session

Allain

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 of only low alcohol content beverages for package house-Class B permit.

Proposed law provides that only malt beverages, sparkling wine, and still wine may be delivered from the licensed premises of a restaurant permit holder.

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.

Proposed law defines a "third party platform" as 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 IRS Form W-2 or 1099.

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 in a parish having a population of less than 100,000 according to the latest federal decennial census.

Proposed law provides that a third party delivery company, third party platform, 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 or third party platform 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); adds R.S. 26:241(26))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary B to the original bill

1. Adds definition for "third party platform".

2. Adds authority for a third party platform to perform the same services as a third party delivery company.
3. Extends the delivery area for places of purchase located in parishes with a population under 100,000 from 10 to 25 miles.
4. Changes proposed law to retain present law provision requiring a liquor liability endorsement on the third party delivery company's general liability insurance company and adds some requirement for third party platform.
5. Changes proposed law from allowing alcoholic beverage delivery agreement between a retail dealer and a third party to include the delivery of beverages of high and low alcohol content to allowing delivery of beverages of high and low content from a package house-Class B permit holder and malt beverages, sparkling wine, and still wine from a restaurant permit holder.

Senate Floor Amendments to engrossed bill

1. Change the requirement for the third party delivery company or third party platform to conduct an interview of a prospective delivery employee to a requirement to conduct a screening.
2. Make technical changes.