SLS 20RS-333

REENGROSSED

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

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1	<u>Revenue Service Form W-2 or 1099.</u>
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	<u>the retailer is required to file an Internal Revenue Service Form W-2 or 1099</u> .
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

§308. Alcoholic beverages delivery agreements; requirements; limitations

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1	A. For purposes of this Section only, a third party delivery company shall be
2	defined as a third party delivery service that is licensed to do business in the state of
3	Louisiana, permitted with the office of alcohol and tobacco control, and uses their
4	own W-2 employees <u>or agents</u> for <u>which the third party delivery company or the</u>
5	third party platform is required to file an Internal Revenue Service Form W-2
6	or 1099 for delivery. For all other alcohol delivery provisions of this Chapter, third
7	party shall be the definition provided in R.S. 26:2 and 241.
8	B. Notwithstanding any provision of law to the contrary, a retail dealer
9	possessing a valid Class A-General retail permit as provided in R.S. 26:271.2, a
10	Class "R" restaurant permit as provided in R.S. 26:272, or a package house-Class B,
11	as defined in R.S. 26:241, permit as provided in this Chapter may enter into a written
12	agreement with a third party delivery company or a third party platform for the
13	use of an internet or mobile application or similar technology platform to facilitate
14	the sale of alcoholic beverages for delivery to consumers for personal consumption
15	within this state and the third party <u>delivery company or the third party platform</u>
16	may deliver alcoholic beverages to the consumer.
17	C. An alcoholic beverage delivery agreement between a retail dealer and a
18	third party shall require all of the following:
19	(1) Only alcoholic beverages purchased from a wholesale dealer licensed
20	pursuant to this Chapter <u>Title</u> are offered for delivery.
21	(2)(a) Only alcoholic beverages of low alcoholic content, beer, sparkling
22	wine as defined in R.S. 26:2(1), and still wine as defined in R.S. 26:241(1)(a) are
23	offered for delivery from the licensed premises of a package house-Class B
24	permit holder.
25	(b) Only malt beverages, sparkling wine, and still wine, as defined in R.S.
26	26:2 and 241 are offered for delivery from the licensed premises of a restaurant
27	permit holder.
28	* * *
29	(8) No (a) For any parish having a population of less than one hundred

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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 <u>or agent</u> for which the third party <u>delivery</u>
11	company or the third party platform shall be required to file an Internal Revenue
12	Service Form W-2 <u>or 1099</u> .
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 <u>delivery company or the third party platform</u> is
18	properly registered and authorized to conduct business in Louisiana.
19	(2) The third party <u>delivery company or the third party platform</u> 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 <u>delivery company or the third party platform</u> 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

Page 4 of 7 Coding: Words which are struck through are deletions from existing law; words in **boldface type and underscored** are additions. 1 2 an interview <u>a screening</u> and a background check of all persons that will deliver alcoholic beverages.

3 E. A retail dealer may pay a third party **delivery company or a third party** 4 platform a fee for its services and a third party may charge a reasonable delivery fee 5 for orders delivered by the third party delivery company or the third party platform. A third party delivery company properly licensed pursuant to this 6 Section or its authorized agent may act as an agent of a retail dealer in the 7 8 collection of payments from the sale of alcoholic beverages, but the full amount of 9 each order must be handled in a manner that gives the retail dealer control over the 10 ultimate receipt of the payment from the consumer. A third party delivery 11 company or a third party platform properly licensed pursuant to this Section 12 or its authorized agent may also act as an agent of a retail dealer for the 13 purposes of processing, assembling, packaging, and fulfilling alcoholic beverage orders for delivery from the retailer's licensed premises. No additional permit 14 shall be required of a retail dealer who has contracted with a third party 15 16 delivery company properly licensed pursuant to this Section for the purpose of processing, assembling, packaging, and fulfilling alcoholic beverage orders for 17 delivery from the retailer's licensed premises. 18

F.(1) The third party <u>delivery company or the third party platform</u> may
receive orders and accept payment via the internet or through a mobile application
or similar technology.

22 * *

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

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.

SB 178 Reengrossed

DIGEST 2020 Regular Session

Allain

<u>Present law</u> 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.

<u>Proposed law</u> removes the limitation on delivery of only low alcohol content beverages for package house-Class B permit.

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

<u>Present law</u> 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.

<u>Proposed law</u> retains <u>present law</u> 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.

<u>Proposed law</u> 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.

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

<u>Proposed law</u> expands the delivery area <u>from</u> 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.

<u>Proposed law</u> 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".

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- 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 <u>proposed law</u> to retain <u>present law</u> 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 <u>proposed law from</u> 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 <u>to</u> 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.