

2021 Regular Session

HOUSE BILL NO. 571

BY REPRESENTATIVE STEFANSKI

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

ALCOHOLIC BEVERAGES: Provides relative to alcoholic beverage delivery

1 AN ACT

2 To amend and reenact R.S. 26:274(A)(2) and 308(B), (C)(6), (8), (9), and (11)(c), (E), and
3 (J) and to enact R.S. 26:308(C)(12)(b)(i) through (iii), relative to the delivery of
4 alcoholic beverages; to provide relative to third party delivery companies and
5 platforms; to provide for requirements for alcoholic beverage delivery agreements;
6 to provide for penalties; to provide for an effective date; and to provide for related
7 matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 26:274(A)(2) and 308(B), (C)(6), (8), (9), and (11)(c), (E), and (J)
10 are hereby amended and reenacted and R.S. 26:308(C)(12)(b)(i) through (iii) is hereby
11 enacted to read as follows:

12 §274. Local permits

13 A.

14 * * *

15 (2) Parishes and municipalities may issue and require local permits similar
16 to those issued by the commissioner for the delivery of alcoholic beverages by
17 grocery stores; and restaurants; ~~and third parties~~. No parish or municipality shall
18 require permits of any third party which has been issued a Class D delivery service
19 permit.

20 * * *

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

2 * * *

3 B.(1) Notwithstanding any provision of law to the contrary, a retail dealer
4 possessing a valid Class A-General retail permit as provided in R.S. 26:271.2, a
5 Class "R" restaurant permit as provided in R.S. 26:272, or a package house-Class B;
6 ~~as defined in R.S. 26:241~~, permit as provided in this Chapter by R.S. 26:271.4 may
7 enter into a written agreement with a third-party delivery company or a third-party
8 platform for the use of an internet or mobile application or similar technology
9 platform to facilitate the sale of alcoholic beverages for delivery to consumers for
10 personal consumption within this state and the third-party delivery company or the
11 third-party platform may deliver alcoholic beverages to the consumer.

12 (2) Notwithstanding any provision of law to the contrary, a retail dealer
13 possessing a package house-Class B permit as provided by R.S. 26:271.4 may enter
14 into a written agreement with a third-party delivery company or a third-party
15 platform for the use of an internet or mobile application or similar technology
16 platform to facilitate the sale of alcoholic beverages for curbside pickup by
17 consumers within this state for personal consumption.

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

20 * * *

21 (6) No alcoholic beverages shall be delivered to any building with a
22 municipal address that is owned by a state college, university, or technical college
23 or institute or an independent college or university located in this state.

24 * * *

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

28 ~~(b) For any parish having a population of greater than one hundred thousand~~
29 ~~according to the latest federal decennial census, no alcoholic beverages shall be~~

1 ~~delivered more than ten miles from the place of purchase.~~ No alcoholic beverages
2 shall be delivered more than thirty miles from the place of purchase.

3 (9) All orders for the delivery of alcoholic beverages from a Class A-
4 Restaurant permit holder shall also contain food.

5 * * *

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

8 * * *

9 (c) The person possesses a valid server permit as provided in R.S. 26:931 et
10 seq. Any person who has obtained a server permit as provided in R.S. 26:931 et seq.
11 solely for the purpose of delivering alcoholic beverages in accordance with this
12 Section shall be exempt from local server permitting requirements.

13 (12) The retail dealer shall manage and control the sale of alcoholic
14 beverages including but not limited to all of the following:

15 * * *

16 (b) Determining the price at which alcoholic beverages are offered for sale
17 or sold through a third party's internet or mobile application platform or similar
18 technology.

19 (i) A third party shall list all alcoholic beverages on its platform at the price
20 determined and directed by the retail dealer.

21 (ii) A third party that lists alcoholic beverages on its platform at the price
22 directed by the retail dealer shall not be held liable for an impermissible price
23 increase even if the listed price is higher than the retailer determines for its licensed
24 premises.

25 (iii) A third party that lists alcoholic beverages on its platform at any price
26 other than the price determined and directed by the retail dealer shall be liable for an
27 impermissible price increase.

28 E. A retail dealer may pay a third-party delivery company or a third-party
29 platform a fee for its services and a third party may charge a reasonable variable

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

* * *

16 J. Any permittee who violates the provisions of this Section ~~shall~~ may be
17 subject to revocation of ~~their~~ the permit by the commissioner and be subject to
18 penalties as provided by R.S. 26:292.

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

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)]

HB 571 Original

2021 Regular Session

Stefanski

Abstract: Provides relative to the regulation of alcoholic beverage delivery.

Present law allows for parishes and municipalities to issue and require local permits for the delivery of alcoholic beverages by grocery stores, restaurants, and third parties.

Proposed law prohibits a parish or municipality from requiring permits of any third party which has been issued a Class D delivery service permit.

Present law allows certain retail dealers to enter into an agreement with a third-party to facilitate the sale of alcoholic beverages for delivery.

Proposed law retains present law and additionally authorizes agreements for the sale of alcoholic beverages for curbside pickup for holders of Class B permits.

Present law prohibits the delivery of alcoholic beverages to a state college, university, technical college or institute, or an independent college or university located in this state.

Proposed law restricts the prohibition in present law to any building with a municipal address that is owned by a state college, university, technical college or institute, or an independent college or university located in this state.

Present law prohibits the delivery of alcoholic beverages beyond a certain distance in certain parishes.

Proposed law prohibits the delivery of alcoholic beverages beyond 30 miles from the place of purchase.

Present law requires all orders for the delivery of alcoholic beverages to contain food.

Proposed law restricts the requirement in present law to apply only to Class A-Restaurant permit holders.

Present law requires a person delivering alcoholic beverages to possess a valid server permit as provided in R.S. 26:931 et seq.

Proposed law retains present law and additionally exempts any person who has obtained a permit solely for the purpose of alcoholic beverage delivery from local server permitting requirements.

Present law requires a retail dealer to determine the price at which alcoholic beverages are offered for sale or sold through a third party.

Proposed law retains present law and adds the following:

- (1) Requires a third party to list all alcoholic beverages on its platform at the price set by the retail dealer.
- (2) Exempts third parties from liability for an impermissible price increase even if the listed price is higher than the retail dealer determines for its licensed premises.

- (3) Holds a third party liable for an impermissible price increase if the price listed is different from the price set by the retail dealer.

Present law allows a retail dealer to pay a third party delivery company or a third party platform a fee for its services and allows the third party to charge a reasonable delivery fee for orders delivered by the third party delivery company or the third party platform.

Proposed law retains present law and provides that the third party may charge a reasonable variable delivery fee based on the size of the order delivered by the third party delivery company.

Present law provides that any permittee who violates the provisions of present law shall be subject to revocation of the permit by the commissioner.

Proposed law provides that any permittee who violates the provisions of present law may be subject to revocation of the permit by the commissioner and adds that a violation of present law may also be punishable as provided by R.S. 26:292.

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

(Amends R.S. 26:274(A)(2) and 308(B), (C)(6), (8), (9), and (11)(c), (E), and (J); Adds R.S. 26:308(C)(12)(b)(i)-(iii))