SLS 22RS-1190 ENGROSSED

2022 Regular Session

SENATE BILL NO. 417

BY SENATOR CATHEY

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ALCOHOLIC BEVERAGES. Provides relative to the delivery of alcoholic beverages. (8/1/22)

AN ACT 1 2 To amend and reenact R.S. 26:83, the introductory paragraph of R.S. 26:308(C), and 308(C)(12)(b) and (E) and to enact R.S. 26:308(C)(13) and (14) and (D)(6) and (7), 3 relative to alcoholic beverages; to provide for interposed persons; to provide for 4 5 alcoholic beverage delivery agreements, requirements, and limitations; and to 6 provide for related matters. 7 Be it enacted by the Legislature of Louisiana: Section 1. R.S. 26:83, the introductory paragraph of R.S. 26:803(C), and 8 9 308(C)(12)(b) and (E) are hereby amended and reenacted and R.S. 26:308(C)(13) and (14) 10 and (D)(6) and (7) are hereby enacted to read as follows: 11 §83. Interposed persons No permit shall be issued to any person who is an interposed person for the 12 13 owner or proprietor of a business or any permittee licensed pursuant to this Title. The commissioner may require a full disclosure, in writing and under oath, of the 14 details of the operation of any person it suspects of being interposed for another, 15 16 including full disclosure of all contractual agreements entered into between a

retailer and a third-party delivery company or third-party platform licensed

1	pursuant to this Title. The commissioner may summarily rule before the
2	commissioner for examination, any person suspected of being an interposed person.
3	A person who is subsidized, financed, or employed by a liquor manufacturer to
4	operate a business without disclosing the ownership of the liquor manufacturer shall
5	be considered an interposed person for the liquor manufacturer under this Chapter.
6	* * *
7	§308. Alcoholic beverages delivery agreements; requirements; limitations
8	* * *
9	C. An A sample contract of the alcoholic beverage delivery agreement
10	between a retail dealer and a third party shall be filed with the commissioner prior
11	to execution. Any updates or amendments to the sample contract shall also be
12	submitted to the commissioner. The sample contract shall require all of the
13	following:
14	* * *
15	(12) The retail dealer shall manage and control the sale of alcoholic
16	beverages including but not limited to all of the following:
17	* * *
18	(b) Determining the price at which alcoholic beverages are offered for sale
19	or sold through a third party's internet or mobile application platform or similar
20	technology, which shall be the same price as the alcoholic beverages are offered
21	for sale at the retailer's licensed premises.
22	* * *
23	(13) The amount of any fee paid by the retailer to the third party for its
24	services authorized by Subsection E of this Section. However, the fee shall not
25	be based on the percentage of the total receipts for those deliveries made by the
26	third party from the retailer's licensed premises.
27	(14) Any delivery fee charged by a third party pursuant to Subsection
28	E of this Section shall be displayed prominently on the third party's internet or
29	mobile application platform or similar technology and shall be itemized

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separately on the purchase receipt.

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

* * *

(6) The third-party delivery company or third-party platform shall not, through a contract with the retailer or otherwise, directly or indirectly share in the revenue from the sale of alcoholic beverages.

(7) The third-party delivery company or third-party platform provides a copy of all contracts with a retailer to the commissioner within ten days of execution of the contract.

E. A retail dealer may pay a third-party delivery company or a third-party platform a fee for its services and a third party may charge a reasonable delivery fee for orders delivered by the third-party delivery company or the third-party platform. A third-party delivery company properly licensed pursuant to this Section or its authorized agent may act as an agent of a retail dealer in the collection of payments from the sale of alcoholic beverages, but the full amount of each order must be handled in a manner that gives the retail dealer control over the ultimate receipt of the payment from the consumer. A third-party delivery company or a third-party platform properly licensed pursuant to this Section 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. No additional permit shall be required of a retail dealer who has contracted with a third-party delivery company properly licensed pursuant to this Section for the purpose of processing, assembling, packaging, and fulfilling alcoholic beverage orders for delivery from the retailer's licensed premises. However, a third-party delivery company or a third-party platform acting as an agent of a retailer shall not violate the provisions of R.S. 26:83.

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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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Cathey

<u>Present law</u> prohibits the issuance of an alcoholic beverage permit to any person who is an interposed person for the owner or proprietor of a business. <u>Present law</u> authorizes the commissioner of the office of alcohol and tobacco control (ATC commissioner) to require a full disclosure, in writing and under oath, of the details of the operation of any person it suspects of being interposed for another.

<u>Present law</u> authorizes the ATC commissioner to summarily rule before the commissioner for examination, any person suspected of being an interposed person.

<u>Present law</u> provides that an "interposed person" is a person who is subsidized, financed, or employed by a liquor manufacturer to operate a business without disclosing the ownership of the liquor manufacturer.

<u>Proposed law</u> retains <u>present law</u> and provides that the full disclosure of the details of the operation of any person the commissioner suspects of being interposed for another, include a full disclosure of all contractual agreements entered into between a retailer and a third-party delivery company or third-party platform.

<u>Present law</u> provides for certain requirements that a third-party delivery company or third-party platform meet prior to entering into an alcoholic beverage delivery agreement with a retailer.

<u>Present law</u> requires that an alcoholic beverage delivery agreement (agreement) between a retail dealer and a third party contain certain provisions.

<u>Proposed law</u> requires a sample contract of the agreement be filed with the commissioner prior to execution and requires any updates or amendments to the sample contract be submitted to the commissioner.

<u>Present law</u> requires the agreement to contain certain provisions.

<u>Proposed law</u> provides the sample contract contain certain provisions and adds the following provisions be included in the sample contract:

- (1) The price at which alcoholic beverages are sold on the third party's internet or mobile application or similar technology be the same price as the alcoholic beverages offered for sale at the retailer's premises.
- (2) The amount of any fee paid by the retailer to the third party for its services authorized by <u>present law</u>.
- (3) Any delivery fee charged by a third party pursuant to <u>present law</u> be displayed prominently on the third party's internet or mobile application platform or similar technology and be itemized separately on the purchase receipt.

<u>Present law</u> provides that a retail dealer enter into an agreement with a third-party delivery agreement or a third-party platform only when the third-party meets certain requirements.

<u>Proposed law</u> retains <u>present law</u> regarding the requirements and adds the following requirements:

(1) Prohibits the third-party delivery company or third-party platform, through a contract with the retailer or otherwise, directly or indirectly from sharing in the revenue from the sale of alcoholic beverages.

(2) Requires the third-party delivery company or third-party platform to provide a copy of all contracts with a retailer to the ATC commissioner within 10 days of execution of the contract.

Effective August 1, 2022.

(Amends R.S. 26:83, 308(C)(intro para), and 308(C)(12)(b) and (E); adds R.S. 26:308 (C)(13) and (14) and (D)(6) and (7))

Summary of Amendments Adopted by Senate

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

- 1. Makes technical changes.
- 2. Adds provisions required to be included in the alcoholic beverage delivery agreement.
- 3. Requires that a sample contract of the alcoholic beverage delivery agreement between a retail dealer and a third party be filed with the ATC commissioner and requires certain provisions be in the sample contract.