

ACT No. 433

2019 Regular Session

HOUSE BILL NO. 349

BY REPRESENTATIVE CARMODY

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AN ACT

To amend and reenact R.S. 26:271.2(2) and 274(A) and to enact R.S. 26:271.2(1)(j), 271.4, and 309, relative to the delivery of alcoholic beverages; to provide relative to the delivery of alcoholic beverages of low alcoholic content, sparkling wine, and still wine; to provide for agreements between certain retail dealers and a third party for the delivery of alcoholic beverages; to provide for the delivery of alcoholic beverages by a third party and establishments with certain alcohol beverage permits; to provide for delivery restrictions; to provide for recordkeeping; to provide for fees; to provide for permits; to provide for requirements and limitations; to provide for rulemaking authority; to provide relative to the liability of a third-party delivery agent; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 26:271.2(2) and 274(A) are hereby amended and reenacted and R.S. 26:271.2(1)(j), 271.4, and 309 are hereby enacted to read as follows:

§271.2. Class A permit; definitions

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

(1) Class A- General:

* * *

(j) Notwithstanding any provision of law to the contrary and subject to rules promulgated by the commissioner, a permit may be issued to a third party that has entered into a written agreement with a retail dealer for the delivery of alcoholic beverages pursuant to R.S. 26:309 if the third party and the written agreement meet all the requirements set forth in R.S. 26:309. Notwithstanding the provisions of R.S.

1 26:271(A)(2), the permit fee for the permit issued pursuant to this Subparagraph
2 shall be one thousand five hundred dollars.

3 (2) Class A-Restaurant:

4 (a) A Class A-Restaurant permit shall be issued only to a "restaurant
5 establishment" as defined by R.S. 26:272(C)(1) or a dinner theater as defined in R.S.
6 26:241(5), and issued to a facility in conjunction with a Class "R" restaurant permit
7 under the provisions of R.S. 26:272.

8 (b) Notwithstanding any provision of law to the contrary and subject to rules
9 promulgated by the commissioner, in addition to the authority to contract with a third
10 party as provided in R.S. 26:309, a permit may be issued to a "restaurant
11 establishment" enabling the delivery of restaurant prepared food and alcohol with its
12 own employees. Notwithstanding the provisions of R.S. 26:271(A)(2), the permit
13 fee for the permit issued pursuant to this Subparagraph shall be two hundred fifty
14 dollars.

15 * * *

16 §271.4. Package House-Class B Permit

17 Notwithstanding any provisions of law to the contrary and subject to rules
18 promulgated by the commissioner, in addition to the authority to contract with a third
19 party as provided in R.S. 26:309, a permit may be issued to a grocery store enabling
20 the delivery of alcohol with its own employees. Notwithstanding the provisions of
21 R.S. 26:271(A)(2), the permit fee for the permit issued pursuant to this Section shall
22 be two hundred fifty dollars.

23 * * *

24 §274. Local permits

25 A.(1) Parishes and municipalities may issue and require local permits similar
26 to those issued by the commissioner and may charge and collect fees therefor. No
27 parish or municipality shall require permits of any commercial airline which has
28 been issued a Class B retailer permit.

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 (4) Alcoholic beverages are delivered only on the days and during the hours
2 the retail dealer is authorized to sell or serve alcoholic beverages.

3 (5) Alcoholic beverages are delivered only in those areas where the sale of
4 alcoholic beverages is permitted. Delivery of alcoholic beverages in an area where
5 the sale of alcoholic beverages has been prohibited by a referendum vote is
6 prohibited.

7 (6) No alcoholic beverages shall be delivered to a state college, university,
8 or technical college or institute or an independent college or university located in this
9 state.

10 (7) No alcoholic beverages shall be delivered to any public playground or
11 building used primarily as a church, synagogue, public library, or school.

12 (8) No alcoholic beverages shall be delivered more than ten miles from the
13 place of purchase.

14 (9) All orders for the delivery of alcoholic beverages shall also contain food.

15 (10) The alcoholic beverages of all deliveries which are refused by a third
16 party shall be returned to the place of purchase.

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

19 (a) The person is eighteen years of age or older.

20 (b) The person is an employee for which the third party shall be required to
21 file an Internal Revenue Service Form W-2.

22 (c) The person possesses a valid server permit as provided in R.S. 26:931 et
23 seq.

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

26 (a) Determining the alcoholic beverages to be offered for sale through a third
27 party's internet or mobile application platform or similar technology.

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

1 (c) Accepting or rejecting all orders placed for alcoholic beverages through
 2 a third party's internet or mobile application platform or similar technology.

3 (d) Collecting and remitting all applicable state and local taxes.

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

6 (1) The third party is properly registered and authorized to conduct business
 7 in Louisiana.

8 (2) The third party holds a valid Louisiana alcoholic beverage permit issued
 9 pursuant to R.S. 26:271.2(1)(j).

10 (3) The third-party delivery service shall maintain a general liability
 11 insurance policy with a liquor liability endorsement in an amount no less than one
 12 million dollars per occurrence for the duration of the agreement with the retail dealer
 13 and shall provide proof of coverage to the retail dealer.

14 (4) The third party is able to monitor the routes of its employees during
 15 deliveries.

16 (5) The third party conducts an interview and a background check of all
 17 persons that will deliver alcoholic beverages.

18 E. A retail dealer may pay a third party a fee for its services and a third party
 19 may charge a reasonable delivery fee for orders delivered by the third party. A third
 20 party may act as an agent of a retail dealer in the collection of payments from the
 21 sale of alcoholic beverages, but the full amount of each order must be handled in a
 22 manner that gives the retail dealer control over the ultimate receipt of the payment
 23 from the consumer.

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

26 (2) At the time of delivery of alcoholic beverages, the third party's delivery
 27 agent shall obtain the recipient's signature and verify the age of the recipient through
 28 the use of an electronic age verification device that shall be approved by the
 29 commissioner. Such device shall be capable of all of the following:

1 (a) Verifying proof of age through technology of a magnetic card reader or
2 an alternative technology capable of verifying proof of age.

3 (b) Reading a valid state-issued driver's license, a valid state issued
4 identification card, a valid military identification card, or a valid passport.

5 (c) Storing the recipient's name, age, date of birth, the expiration date of the
6 identification, and the date and time that the identification was scanned.

7 (3) The third party's delivery agent shall refuse delivery and return the
8 alcoholic beverages to the place of purchase if:

9 (a) The recipient does not produce a valid and current form of identification
10 as provided in R.S. 26:286(A)(1).

11 (b) The recipient is intoxicated.

12 (c) There is reason to doubt the authenticity or correctness of the recipient's
13 identification.

14 (d) The recipient refuses to sign for the receipt of the delivery.

15 (4) A third-party delivery agent who delivers alcoholic beverages, but fails
16 to comply with the provisions of Paragraphs (2) and (3) of this Subsection and
17 administrative rules promulgated pursuant to this Section, shall be vicariously liable
18 for damages incurred as a result of the failure to comply.

19 G. A record of each delivery of alcoholic beverages shall be retained for
20 three years from the date of delivery and made available to the commissioner of the
21 office of alcohol and tobacco control upon request for the purpose of investigating
22 and enforcing the provisions of this Title. The record of each delivery shall include:

23 (1) The retail dealer's name, address, and permit number.

24 (2) The name of the person who placed the order and the date, time, and
25 method of the order.

26 (3) The name of the delivery agent and the date, time, and address of the
27 delivery.

28 (4) The type, brand, and quantity of each alcoholic beverage delivered.

29 (5) The name, date of birth, and signature of the person who received the
30 delivery.

1 H. The provisions of this Section shall not apply to the transportation or
2 delivery of sparkling wine or still wine made by a carrier in accordance with R.S.
3 26:359.

4 I. The commissioner of the office of alcohol and tobacco control may
5 promulgate rules and regulations in accordance with the Administrative Procedure
6 Act to effectuate the provisions of this Section.

7 J. Any permittee who violates the provisions of this Section shall be subject
8 to revocation of their permit by the commissioner.

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

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____