

State of Arkansas
94th General Assembly
Regular Session, 2023

A Bill

SENATE BILL 487

By: Senator J. Bryant
By: Representative Pilkington

For An Act To Be Entitled

AN ACT TO AMEND THE LAW REGARDING ALCOHOLIC BEVERAGES; TO AUTHORIZE THE THIRD-PARTY DELIVERY OF ALCOHOLIC BEVERAGES FROM CERTAIN RETAILERS; TO CREATE A THIRD-PARTY DELIVERY PERMIT; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW REGARDING ALCOHOLIC BEVERAGES; TO AUTHORIZE THE THIRD-PARTY DELIVERY OF ALCOHOLIC BEVERAGES FROM CERTAIN RETAILERS; AND TO CREATE A THIRD-PARTY DELIVERY PERMIT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 3-4-107 is amended to read as follows:

3-4-107. Delivery of alcoholic beverages.

(a) The Except as provided in subsection (b) of this section, the following permit holders may deliver or cause to be delivered alcoholic beverages directly to the private residence of a consumer twenty-one (21) years of age or older in a wet county or territorial subdivision during legal operating hours:

- (1) Retail liquor;
- (2) Microbrewery-restaurant; ~~and~~
- (3) Small brewery;
- (4) Grocery store wine;



(5) Small farm wine convenience store;

(6) Off-premises retail beer; and

(7) Third-party delivery service.

(b)(1) The permit holder authorized under subsection (a) of this section shall not deliver or cause to be delivered alcoholic beverages to an area outside of the county in which the permitted business is located.

(2) The permit holders authorized under subdivisions (a)(4)-(a)(7) of this section may deliver or cause to be delivered alcoholic beverages only within a Class 6 county or Class 7 county where the permitted business is located.

(c) Alcoholic beverages ~~shall~~ may be delivered by an employee of the permit holder ~~and shall not be delivered through~~ or by a third-party delivery system ~~permit holder using employees or independent contractors.~~

(d) Delivery of alcoholic beverages shall be made by the permit holder, the permit holder's employee, or a third-party delivery service permit holder, provided the permit holder has entered into a written agreement with the third-party delivery system permit holder for the purpose of delivering alcoholic beverages.

(e)(1) Each permit holder shall submit to the Alcoholic Beverage Control Division electronically or in a manner prescribed by the Director of the Alcoholic Beverage Control Division a list of names and addresses of all third parties delivering alcoholic beverages under subsection (d) of this section.

(2) The permit holder shall provide the division with amendments to the list as necessary to ensure the director possesses an accurate and current list.

SECTION 2. Arkansas Code Title 3, Chapter 4, Subchapter 6, is amended to add an additional section to read as follows:

3-4-613. Third-party delivery service permit.

(a)(1) As used in this section, "delivery" means the local delivery of alcoholic beverages for off-premises consumption.

(2) "Delivery" includes curbside delivery.

(b) An individual, limited liability company, corporation, or partnership that is registered to do business in this state, regardless of the residency of the ownership of the entity, may apply for and be issued a

third-party delivery service permit.

(c) To be issued a third-party delivery service permit, an applicant shall:

(1) File an application with the Alcoholic Beverage Control Division;

(2) Provide the division with a sample contract that the applicant intends to enter into with a retailer for the delivery of alcoholic beverages;

(3) Submit to the division an outline of internal and external training for delivery service personnel that addresses topics such as identifying:

(A) Underage persons;

(B) Intoxicated persons; and

(C) Fake or altered identification;

(4) Provide an attestation that the applicant is twenty-one (21) years of age or older and has not been convicted of a felony in any state or federal courts;

(5) Provide proof of a general liability insurance policy in an amount not less than one million dollars (\$1,000,000) per occurrence;

(6) Be properly registered to conduct business in Arkansas; and

(7) Pay a third-party delivery service permit fee of one thousand dollars (\$1,000).

(d)(1) A third-party delivery service may use the third-party delivery service's own employees or independent contractors who are at least twenty-one (21) years of age to deliver alcoholic beverages, provided that the third-party delivery service personnel shall not have been convicted of any criminal offense related to alcoholic beverages.

(2) The third-party delivery service shall complete a criminal history records check on each third-party delivery driver who delivers alcoholic beverages for the third-party delivery service permit holder.

(3) Subdivision (d)(2) of this section does not require the division to conduct a criminal history records check on each third-party delivery service delivery driver.

(e) A third-party delivery service permit holder shall deliver only:

(1) Sealed containers of alcoholic beverages;

(2) Within the county where the retailer is located and only

when the delivery occurs in a Class 6 county or Class 7 county; and

(3) During legal operating hours when the retailer is open and authorized to sell alcoholic beverages.

(f) Delivery by a third-party delivery service permit holder shall:

(1) Be made on the same day the alcoholic beverages are collected from the retailer;

(2) Not be interstate; and

(3) Not deliver any alcoholic beverages to any person located within a dry jurisdiction in Arkansas.

(g) A third-party delivery service shall require the recipient, at the time of delivery, to:

(1) Provide valid photo identification verifying he or she is twenty-one (21) years of age or older; and

(2) Sign for the delivery.

(h) This section does not:

(1) Authorize the direct shipment of alcoholic beverages;

(2) Require a technology services company to obtain a third-party delivery service permit if the technology services company does not employ or contract with third-party delivery service personnel but merely provides software or a digital network application that connects consumers and licensed retailers for the delivery of alcoholic beverages from the retailer; or

(3) Authorize delivery of alcoholic beverages outside the boundaries of this state.

(i)(1) A third-party delivery service shall not be considered an agent of the retailer with which the third-party delivery service has a written agreement.

(2) A violation by the third-party delivery service permit holder, the third-party delivery service permit holder's employees, or independent contractors of the third-party delivery service permit holder shall not be deemed a violation by the retailer.

(j) A retailer may market, receive, and process orders for delivery under this section using electronic means owned, operated, and maintained by the third-party delivery service if the retailer:

(1) Retains the independence to:

(A) Determine which alcoholic beverages are available for

ordering through electronic means;

(B) Determine which alcoholic beverages are available for delivery to the recipient at the address designated by the customer; and

(C) Independently set the price of the alcoholic beverages;

(2) Maintains ultimate control and responsibility over the sales transaction, including without limitation whether to accept and complete a sales transaction or reject the transaction; and

(3) Appears as the merchant of record at the time of purchase and on the receipt.

(k)(1) The division may enforce this section by fine, permit revocation, or permit suspension through the same administrative proceedings that apply to other permit holders.

(2)(A) The division may accept payment of a fine in lieu of suspension or revocation.

(B) The payment of a fine shall be determined by rule of the division.

(1) A third-party delivery service permit holder shall return alcoholic beverages to the retailer if the recipient:

(1) Is under twenty-one (21) years of age;

(2) Appears intoxicated;

(3) Fails to provide proof of identification; or

(4) Fails to sign for delivery.

(m) A third-party delivery service permit holder shall not leave an alcoholic beverage delivery unattended.

(n) Notwithstanding any law or rule to the contrary, a customer may order alcoholic beverages on behalf of a recipient if the recipient:

(1) Provides valid photo identification that verifies he or she is twenty-one (21) years of age or older; and

(2) Signs for delivery.

(o) The division may promulgate rules to implement this section.