

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

A Bill

SENATE BILL 487

5 By: Senator J. Bryant
6 By: Representative Pilkington
7

For An Act To Be Entitled

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

16 TO AMEND THE LAW REGARDING ALCOHOLIC
17 BEVERAGES; TO AUTHORIZE THE THIRD-PARTY
18 DELIVERY OF ALCOHOLIC BEVERAGES FROM
19 CERTAIN RETAILERS; AND TO CREATE A THIRD-
20 PARTY DELIVERY PERMIT.
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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26 SECTION 1. Arkansas Code § 3-4-107 is amended to read as follows:

27 3-4-107. Delivery of alcoholic beverages.

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

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



1 (5) Small farm wine convenience store;

2 (6) Off-premises retail beer; and

3 (7) Third-party delivery service.

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

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

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

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

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

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

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

30 3-4-613. Third-party delivery service permit.

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

33 (2) "Delivery" includes curbside delivery.

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

1 third-party delivery service permit.

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

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

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

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

12 (A) Underage persons;

13 (B) Intoxicated persons; and

14 (C) Fake or altered identification;

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

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

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

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

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

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

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

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

35 (1) Sealed containers of alcoholic beverages;

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

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

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

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

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

7 (2) Not be interstate; and

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

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

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

14 (2) Sign for the delivery.

15 (h) This section does not:

16 (1) Authorize the direct shipment of alcoholic beverages;

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

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

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

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

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

35 (1) Retains the independence to:

36 (A) Determine which alcoholic beverages are available for

1 ordering through electronic means;

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

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

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

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

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

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

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

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

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

21 (2) Appears intoxicated;

22 (3) Fails to provide proof of identification; or

23 (4) Fails to sign for delivery.

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

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

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

30 (2) Signs for delivery.

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

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