

## **BILL ANALYSIS**

Senate Research Center  
87R6364 JAM-F

S.B. 298  
By: Hancock  
Business & Commerce  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Prior to COVID-19, restaurants were prohibited from selling alcohol directly to consumers for off-premise consumption. As COVID-19 began to spread throughout Texas, Governor Abbott prohibited dine-in services at restaurants. To assist in restaurants recouping lost revenue, Governor Abbott waived certain regulations to permit restaurants to sell alcohol directly to consumers for off-premise consumption.

The bill makes permanent Governor Abbott's emergency waiver allowing restaurants to safely sell alcohol to-go. More specifically, restaurants with a mixed beverage permit and a food and beverage certificate from the Texas Alcoholic Beverage Commission will be able to sell beer, wine, and cocktails with food orders that are purchased for pickup or delivery, including through third-party delivery companies. The bill would also codify key safety provisions in the governor's waiver, including the requirement that all alcoholic beverages be sealed either in their original, manufacturer-sealed container, or in a tamper-proof container that is labeled with the business' name and the words "alcoholic beverage." Further, if an alcoholic beverage is not in its original container, it cannot be transported in the passenger area of a motor vehicle.

The committee substitute permits private club registration permit holders to partake in alcohol to-go.

As proposed, S.B. 298 amends current law relating to the pickup and delivery of alcoholic beverages for off-premises consumption.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Alcoholic Beverage Commission in SECTION 2 (Section 28.1001, Alcoholic Beverage Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends the heading to Section 28.1001, Alcoholic Beverage Code, to read as follows:

Sec. 28.1001. PICKUP AND DELIVERY OF ALCOHOLIC BEVERAGES FOR OFF-PREMISES CONSUMPTION.

SECTION 2. Amends Section 28.1001, Alcoholic Beverage Code, by amending Subsections (a), (c), and (d) and adding Subsections (a-1), (a-2), and (e), as follows:

(a) Defines "passenger area of a motor vehicle" and "tamper-proof container."

(a-1) Creates this subsection from existing text to authorize the holder of a mixed beverage permit, notwithstanding any other provision of this code, to deliver, or have delivered by certain parties an alcoholic beverage from the permitted premises to an ultimate consumer located off-premises and in an area where the sale of the beverage is legal if:

(1) and (2) makes no changes to these subdivisions;

(3) the alcoholic beverage is:

(A) a malt beverage, rather than beer or ale, or wine delivered in:

(i) creates this paragraph from existing text and makes no further changes;

(ii) a tamper-proof container that is sealed by the permit holder and clearly labeled with the permit holder's business name and the words "alcoholic beverage"; or

(B) an alcoholic beverage other than a malt beverage, rather than beer or ale, or wine that:

(i) creates this paragraph from existing text and makes nonsubstantive changes; or

(ii) the permit holder mixes with other beverages or garnishes and stores in a tamper-proof container that is clearly labeled with the permit holder's business name and the words "alcoholic beverage"; and

(4) makes a conforming change to this subdivision.

(a-2) Authorizes the holder of a mixed beverage permit, notwithstanding any other provision of this code, to allow an ultimate consumer to pick up an alcoholic beverage described by Subsection (a-1)(3) and remove the beverage from the permitted premises if the holder of the mixed beverage permit holds a food and beverage certificate for the permitted premises and if the pickup of the alcoholic beverage is made as part of the pickup of food prepared at the permitted premises.

(c) Authorizes an alcoholic beverage picked up or delivered, rather than delivered, under this section to be provided only to a person who is 21 years of age or older after the person picking up the alcoholic beverage or accepting the delivery, rather than accepting the delivery, presents valid proof of identity and age and:

(1) the person picking up the alcoholic beverage or accepting the delivery, rather than accepting the delivery, personally signs a receipt, which may be electronic, acknowledging the pickup or delivery; or

(2) the person providing the beverage for pickup or making the delivery, rather than making the delivery, acknowledges the completion of the pickup or delivery through a software application.

(d) Provides that this section does not authorize the holder of a brewpub license who also holds a wine and malt beverage, rather than beer, retailer's permit to deliver alcoholic beverages directly to ultimate consumers for off-premise consumption at a location other than the licensed premises.

(e) Prohibits a person who picks up or delivers an alcoholic beverage described by Subsection (a-1)(3)(A)(ii) or (a-1)(3)(B)(ii) from transporting the alcoholic beverage in the passenger area of a motor vehicle.

SECTION 3. Effective date: September 1, 2021.