

AN ACT

relating to the pickup and delivery of alcoholic beverages from certain premises for off-premises consumption.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Section 28.1001, Alcoholic Beverage Code, is amended to read as follows:

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

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

(a) In this section:

(1) "Passenger area of a motor vehicle" has the meaning assigned by Section 49.031, Penal Code.

(2) "Tamper-proof container" means a container that, once sealed, clearly shows whether it has been opened. The term includes a closed cup or similar container that is:

(A) placed into a bag that has been sealed with a zip tie or staple;

(B) sealed with shrink wrap or a similar seal; or

(C) sealed by other methods approved by rule of the commission.

(a-1) Notwithstanding any other provision of this code, the holder of a mixed beverage permit may deliver, or have delivered by

1 a third party, including an independent contractor acting under
2 Chapter 57, as added by Chapter 441 (S.B. 1450), Acts of the 86th
3 Legislature, Regular Session, 2019, an alcoholic beverage from the
4 permitted premises to an ultimate consumer located off-premises and
5 in an area where the sale of the beverage is legal if:

6 (1) the holder of the mixed beverage permit holds a
7 food and beverage certificate for the permitted premises;

8 (2) the delivery of the alcoholic beverage is made as
9 part of the delivery of food prepared at the permitted premises;

10 (3) the alcoholic beverage is:

11 (A) a malt beverage [~~beer, ale,~~] or wine
12 delivered in:

13 (i) an original container sealed by the
14 manufacturer; or

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

18 (B) an alcoholic beverage other than a malt
19 beverage [~~beer, ale,~~] or wine that:

20 (i) is [~~is~~] delivered in an original,
21 single-serving container sealed by the manufacturer and not larger
22 than 375 milliliters; or

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

27 (4) the delivery is not made to another [~~a~~] premises

1 that is permitted or licensed under this code.

2 (a-2) Notwithstanding any other provision of this code, the
3 holder of a mixed beverage permit may allow an ultimate consumer to
4 pick up an alcoholic beverage described by Subsection (a-1)(3) and
5 remove the beverage from the permitted premises if:

6 (1) the holder of the mixed beverage permit holds a
7 food and beverage certificate for the permitted premises; and

8 (2) the pickup of the alcoholic beverage is made as
9 part of the pickup of food prepared at the permitted premises.

10 (c) An alcoholic beverage picked up or ~~[may be]~~ delivered
11 under this section may be provided only to a person who is 21 years
12 of age or older after the person picking up the alcoholic beverage
13 or accepting the delivery presents valid proof of identity and age
14 and:

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

18 (2) the person providing the beverage for pickup or
19 making the delivery acknowledges the completion of the pickup or
20 delivery through a software application.

21 (d) This section does not authorize the holder of a brewpub
22 license who also holds a wine and malt beverage ~~[beer]~~ retailer's
23 permit to deliver alcoholic beverages directly to ultimate
24 consumers for off-premise consumption at a location other than the
25 licensed premises.

26 (e) A person who picks up or delivers an alcoholic beverage
27 described by Subsection (a-1)(3)(A)(ii) or (a-1)(3)(B)(ii) may not

1 transport the alcoholic beverage in the passenger area of a motor
2 vehicle.

3 SECTION 3. Section 32.01(a), Alcoholic Beverage Code, is
4 amended to read as follows:

5 (a) A private club registration permit authorizes alcoholic
6 beverages belonging to members of the club to be:

7 (1) stored, possessed, and mixed on the club premises;
8 ~~and~~

9 (2) served for on-premises consumption only to members
10 of the club and their families and guests, by the drink or in
11 sealed, unsealed, or broken containers of any legal size; and

12 (3) served for off-premises consumption only to
13 members of the club in the manner provided by Section 32.155.

14 SECTION 4. Section 32.15, Alcoholic Beverage Code, is
15 amended to read as follows:

16 Sec. 32.15. REMOVAL OF BEVERAGES FROM PREMISES. A private
17 club, irrespective of location or system of storage of alcoholic
18 beverages, may not permit any person to remove any alcoholic
19 beverages from the club premises, except:

20 (1) as authorized by:

21 (A) Section 28.10(b) or 32.155; or

22 (B) Chapter 57, as added by Chapter 441 (S.B.
23 1450), Acts of the 86th Legislature, Regular Session, 2019; or

24 (2) for the purpose of removing unused inventory the
25 person brought onto the premises under Section 14.07, as added by
26 Chapter 792 (H.B. 1997), Acts of the 86th Legislature, Regular
27 Session, 2019, or 37.01(d).

1 SECTION 5. Chapter 32, Alcoholic Beverage Code, is amended
2 by adding Section 32.155 to read as follows:

3 Sec. 32.155. PICKUP AND DELIVERY OF ALCOHOLIC BEVERAGES FOR
4 OFF-PREMISES CONSUMPTION. (a) In this section:

5 (1) "Passenger area of a motor vehicle" has the
6 meaning assigned by Section 49.031, Penal Code.

7 (2) "Tamper-proof container" has the meaning assigned
8 by Section 28.1001.

9 (b) Notwithstanding any other provision of this code, the
10 holder of a private club registration permit may deliver, or have
11 delivered by a third party, including an independent contractor
12 acting under Chapter 57, as added by Chapter 441 (S.B. 1450), Acts
13 of the 86th Legislature, Regular Session, 2019, an alcoholic
14 beverage from the permitted premises to an ultimate consumer
15 located off-premises and in the county in which the private club is
16 located if:

17 (1) the holder of the private club registration permit
18 holds a food and beverage certificate for the permitted premises;

19 (2) the delivery of the alcoholic beverage is made as
20 part of the delivery of food prepared at the permitted premises;

21 (3) the ultimate consumer is a member of the club;

22 (4) the alcoholic beverage is:

23 (A) a malt beverage or wine delivered in:

24 (i) an original container sealed by the
25 manufacturer; or

26 (ii) a tamper-proof container that is
27 sealed by the permit holder and clearly labeled with the name of the

1 private club registration permit holder and the words "alcoholic
2 beverage"; or

3 (B) an alcoholic beverage other than a malt
4 beverage or wine that:

5 (i) is delivered in an original,
6 single-serving container sealed by the manufacturer and not larger
7 than 375 milliliters; or

8 (ii) the permit holder mixes with other
9 beverages or garnishes and stores in a tamper-proof container that
10 is clearly labeled with the name of the private club registration
11 permit holder and the words "alcoholic beverage"; and

12 (5) the delivery is not made to another premises that
13 is permitted or licensed under this code.

14 (c) Notwithstanding any other provision of this code, the
15 holder of a private club registration permit may allow an ultimate
16 consumer to pick up an alcoholic beverage described by Subsection
17 (b)(4) and remove the beverage from the permitted premises if:

18 (1) the holder of the private club registration permit
19 holds a food and beverage certificate for the permitted premises;

20 (2) the pickup of the alcoholic beverage is made as
21 part of the pickup of food prepared at the permitted premises; and

22 (3) the ultimate consumer is a member of the club.

23 (d) An alcoholic beverage picked up or delivered under this
24 section may be provided only to a person who is 21 years of age or
25 older after the person picking up the alcoholic beverage or
26 accepting the delivery presents valid proof of identity and age
27 and:

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

4 (2) the person providing the beverage for pickup or
5 making the delivery acknowledges the completion of the pickup or
6 delivery through a software application.

7 (e) A person who picks up or delivers an alcoholic beverage
8 described by Subsection (b)(4)(A)(ii) or (b)(4)(B)(ii) may not
9 transport the alcoholic beverage in the passenger area of a motor
10 vehicle.

11 SECTION 6. Section 32.17(a), Alcoholic Beverage Code, as
12 effective September 1, 2021, is amended to read as follows:

13 (a) The commission or administrator may cancel or suspend
14 for a period of time not exceeding 60 days, after notice and
15 hearing, an original or renewal private club registration permit on
16 finding that the permittee club has:

17 (1) sold, offered for sale, purchased, or held title
18 to any alcoholic beverage so as to constitute an open saloon;

19 (2) refused to allow an authorized agent or
20 representative of the commission or a peace officer to come on the
21 club premises for the purposes of inspecting alcoholic beverages
22 stored on the premises or investigating compliance with the
23 provisions of this code;

24 (3) refused to furnish the commission or its agent or
25 representative when requested any information pertaining to the
26 storage, possession, serving, or consumption of alcoholic
27 beverages on club premises;

1 (4) except as authorized under Section 32.15,
2 permitted or allowed any alcoholic beverages stored on club
3 premises to be served or consumed at any place other than on the
4 club premises;

5 (5) failed to maintain an adequate building at the
6 address for which the private club registration permit was issued;

7 (6) caused, permitted, or allowed any member of a club
8 in a dry area to store any liquor on club premises except under the
9 locker system;

10 (7) caused, permitted, or allowed any person to
11 consume or be served any alcoholic beverage on the club premises:

12 (A) at any time on Sunday between the hours of
13 1:15 a.m. and 10 a.m. or on any other day at any time between the
14 hours of 12:15 a.m. and 7 a.m., if the club does not have a retailer
15 late hours certificate, except that an alcoholic beverage served to
16 a customer between 10 a.m. and 12 noon on Sunday must be provided
17 during the service of food to the customer; or

18 (B) at any time on Sunday between the hours of 2
19 a.m. and 10 a.m. or on any other day at any time between the hours of
20 2 a.m. and 7 a.m., if the club has a retailer late hours
21 certificate, except that an alcoholic beverage served to a customer
22 between 10 a.m. and 12 noon on Sunday must be provided during the
23 service of food to the customer; or

24 (8) violated or assisted, aided or abetted the
25 violation of any provision of this code.

26 SECTION 7. Section 57.01(b), Alcoholic Beverage Code, is
27 amended to read as follows:

1 (b) An alcoholic beverage may be delivered under this
2 section only if the alcoholic beverage is sold or served to the
3 ultimate consumer by the holder of a:

4 (1) package store permit;

5 (2) wine only package store permit;

6 (3) wine and beer retailer's permit;

7 (4) wine and beer retailer's off-premise permit;

8 (5) retail dealer's on-premise license;

9 (6) retail dealer's off-premise license; [~~or~~]

10 (7) mixed beverage permit authorized to deliver
11 alcoholic beverages under Section [28.1001](#); or

12 (8) private club permit authorized to deliver
13 alcoholic beverages under Section 32.155.

14 SECTION 8. This Act takes effect immediately if it receives
15 a vote of two-thirds of all the members elected to each house, as
16 provided by Section [39](#), Article III, Texas Constitution. If this
17 Act does not receive the vote necessary for immediate effect, this
18 Act takes effect September 1, 2021.

President of the Senate

Speaker of the House

I certify that H.B. No. 1024 was passed by the House on March 25, 2021, by the following vote: Yeas 144, Nays 1, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1024 was passed by the Senate on April 28, 2021, by the following vote: Yeas 30, Nays 1.

Secretary of the Senate

APPROVED: _____

Date

Governor