

By: Geren, Holland, Thompson of Harris,
Parker, et al.

H.B. No. 1024

Substitute the following for H.B. No. 1024:

By: Kuempel

C.S.H.B. No. 1024

A BILL TO BE ENTITLED

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 as authorized by Section
20 28.10(b) or 32.155 or for the purpose of removing unused inventory
21 the person brought onto the premises under Section 14.07, as added
22 by Chapter 792 (H.B. 1997), Acts of the 86th Legislature, Regular
23 Session, 2019, or 37.01(d).

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

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

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

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

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

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

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

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

18 (4) the alcoholic beverage is:

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

20 (i) an original container sealed by the
21 manufacturer; or

22 (ii) a tamper-proof container that is
23 sealed by the permit holder and clearly labeled with the name of the
24 private club registration permit holder and the words "alcoholic
25 beverage"; or

26 (B) an alcoholic beverage other than a malt
27 beverage or wine that:

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

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

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

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

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

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

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

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

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

27 (2) the person providing the beverage for pickup or

1 making the delivery acknowledges the completion of the pickup or
2 delivery through a software application.

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

7 SECTION 6. Section 57.01(b), Alcoholic Beverage Code, is
8 amended to read as follows:

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

- 12 (1) package store permit;
- 13 (2) wine only package store permit;
- 14 (3) wine and beer retailer's permit;
- 15 (4) wine and beer retailer's off-premise permit;
- 16 (5) retail dealer's on-premise license;
- 17 (6) retail dealer's off-premise license; ~~or~~
- 18 (7) mixed beverage permit authorized to deliver
19 alcoholic beverages under Section 28.1001; or
- 20 (8) private club permit authorized to deliver
21 alcoholic beverages under Section 32.155.

22 SECTION 7. This Act takes effect immediately if it receives
23 a vote of two-thirds of all the members elected to each house, as
24 provided by Section 39, Article III, Texas Constitution. If this
25 Act does not receive the vote necessary for immediate effect, this
26 Act takes effect September 1, 2021.