

By: Hancock

S.B. No. 298

A BILL TO BE ENTITLED

AN ACT

relating to the pickup and delivery of alcoholic beverages 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, an alcoholic beverage from the permitted premises to an
3 ultimate consumer located off-premises and in an area where the
4 sale of the beverage is legal if:

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

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

9 (3) the alcoholic beverage is:

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

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

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

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

19 (i) is [~~7~~] delivered in an original,
20 single-serving container sealed by the manufacturer and not larger
21 than 375 milliliters; or

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

26 (4) the delivery is not made to another [~~a~~] premises
27 that is permitted or licensed under this code.

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

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

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

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

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

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

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

25 (e) A person who picks up or delivers an alcoholic beverage
26 described by Subsection (a-1)(3)(A)(ii) or (a-1)(3)(B)(ii) may not
27 transport the alcoholic beverage in the passenger area of a motor

1 vehicle.

2 SECTION 3. This Act takes effect September 1, 2021.