



SPONSOR: Sen. Walsh & Rep. Bush
Sen. Poore; Reps. Harris, Michael Smith, K. Williams

DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE BILL NO. 166

AN ACT TO AMEND TITLE 4 OF THE DELAWARE CODE RELATING TO ALCOHOLIC LIQUORS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members elected to each house thereof concurring therein):

Section 1. Amend § 512, Title 4 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 512. Licenses.

(a) Any person, who is the owner or lessee, or who is recognized by the Commissioner as being in charge of a hotel, beer garden, motel, taproom, restaurant, motorsports speedway, concert hall, horse racetrack, multi-purpose sports facility, club or multiple activity club, may apply to the Commissioner for a license to purchase spirits, beer, or wine from an importer and to receive, keep and sell such spirits, beer, or wine either by the glass or by the bottle for consumption on any portion of the premises approved by the Commissioner for that purpose. Such a license entitles a club to sell such spirits, wine, or beer only to members of that club. A multiple activity club which holds such a license may apply for an additional license to sell such spirits, wine, or beer to any person who is a guest of such club or of a member of such club who is duly registered in accordance with a bylaw or rule of such club, approved by the Commissioner, provided that if the Commissioner determines that any applicant is not a multiple activity club, as defined in § 101 of this title, the application shall be denied. There shall be no age restrictions on persons permitted on the premises of a licensed multiple activity club.

(1) Notwithstanding any law, regulation, or rule to the contrary, any restaurant, brewpub, tavern, or taproom, or other entity with a valid on-premise license issued pursuant to subchapter II of Chapter 5 of this title may sell alcoholic liquors in transactions for take-out, curbside, ~~or drive through service.~~ drive through, or delivery service. No person shall provide alcoholic beverage delivery services unless such person or business entity holds a third-party delivery license. Upon proper application, the Commissioner may grant a third-party delivery license to provide alcoholic liquor delivery services to customers so long as the person or business entity is also registered to do business in this State. The Commissioner shall not grant a third party delivery license to a person or entity that also holds an on-premise license. Delivery service must be made by a licensed third party vendor, or such third party's employee or independent contractor, provided that the on-premise licensee has entered into a written

agreement with a licensed third party delivery vendor that authorizes the third party vendor, or such third party vendor's employee or independent contractor, to deliver alcoholic liquors on behalf of the on-premise licensee. The licensed third party vendor may not include an entity whose business is primarily the interstate shipment of goods.

(2) All alcoholic liquors sold for off-premise consumption under this subsection must comply with all of the following requirements:

a. Be sold in containers that are securely closed, which means a container that is designed to prevent consumption without removal of the lid, cap, or seal, and does not include a container with a lid with sipping holes or openings for straws.

b. [Repealed.]

c. Be limited per customer to 2,750 ML bottle bottles of wine, 6 servings of beer, and mixed cocktails which are made in the restaurant, brewpub, tavern, taproom or other entity with a valid on-premise license.

d. Be sold and served on the premises only by a person certified as a responsible alcoholic beverage server pursuant to § 1205 of this title.

e. If sold by a restaurant, comply with 1 of the following requirements:

1. The alcoholic liquor is sold with the customer's purchase of food that costs at least \$10.

2. The alcoholic liquor is ice cream containing up to 10% alcohol by volume.

f. If sold in a transaction for delivery service:

1. Be delivered by a licensed third-party vendor, or such licensed third-party vendor's employee or independent contractor, who is at least 21 years of age, and has been provided a program of learning content related to the responsible delivery of alcoholic beverages that has been approved by the Commissioner. A third-party delivery vendor's program shall address the following topics: (i) age requirements for possessing, purchasing, and consuming alcoholic beverages, (ii) acceptable forms of identification, (iii) methods to detect fake and altered forms of identification, (iv) typical signs of intoxication, (v) methods of detecting intoxication in consumers, (vi) reasons to refuse delivery, including that a consumer failed to provide valid identification, was underage, or displayed signs of intoxication, and (vii) how to use ID scanning technology to verify a recipient's age.

2. If delivered by motor vehicle, be placed in a trunk, rear compartment, back seat, or other area that is not readily accessible to the driver of the vehicle.

3. Be conveyed to the purchaser to whom the alcoholic liquors are being delivered only after the licensed third-party delivery vendor, or such third party's employee or independent contractor, has

53 verified that the recipient is not intoxicated and is 21 years of age or older, signified by the recipient's
54 identification with a photograph that reasonably appears to match the appearance of the recipient. The
55 licensed third-party delivery vendor shall maintain a record of the following information for all recipients for
56 a period of 2 years: name, date of birth, and address to which the alcoholic beverages were delivered. If
57 such person's age and apparent sobriety cannot be verified, the alcoholic liquors must be returned to
58 the premises of the licensee.

59 4. The delivery is completed during the hours in which the on-premise licensee is lawfully allowed
60 to sell alcoholic liquors.

61 5. If the on-premise licensee uses a web application or internet website to facilitate delivery of
62 alcoholic liquors by a licensed third party vendor, the sales transactions take place between the
63 customer and the on-premise licensee, and the on-premise licensee appears as the merchant of record.

64 6. Only alcoholic beverages obtained directly from the on-premise licensee with which the order
65 was placed may be delivered.

66 7. May not be delivered out-of-state or to a state-operated facility, a correctional facility, a
67 hospital, a locker mailbox, a post office box, a package shipping or storage facility, a retail licensee,
68 a public school, a charter school, a grade school, a middle school, a high school, undergraduate
69 housing at an institution of higher learning, or outside of the State of Delaware.

70 8. In addition to application requirements and any regulations promulgated by the
71 Commissioner, third-party delivery licensees shall provide to the Commissioner, upon request, a
72 copy of any contracts entered into by the third-party delivery licensee with any on-premise licensee
73 offering alcoholic beverages for delivery.

74 g. An on-premise licensee's responsibilities under this section regarding delivery of alcoholic liquor to a
75 consumer by a licensed third-party delivery vendor are considered satisfied at the time the on-premise licensee transfers
76 possession of the alcoholic liquor to the licensed third party delivery vendor, or such third party's employee or independent
77 contractor. The acts during delivery of a licensed third-party delivery vendor or such third party's employee or independent
78 contractor are not attributable to the on-premise licensee.

79 Section 2. Amend subchapter IV, Chapter 5, Title 4 of the Delaware Code by making deletions as shown by
80 strike through and insertions as shown by underline as follows:

81 § 554. License Fees.

82 (ss) For a license to provide third party delivery services as provided in § 512 of this title, the biennial fee shall be
83 \$1,000.

SYNOPSIS

This Act allows for the delivery of alcoholic liquors from a restaurant, brewpub, tavern, taproom, or other entity with a valid on-premise license. In addition, this Act provides that the acts of a licensed consumer delivery permittee or a delivery driver are not attributable to the retailer.

Author: Senator Walsh