



State of Arkansas
Department of Finance and Administration
Fiscal Impact Statement

Bill: SB98 **Amendment Number: S2**
Bill Subtitle: TO AMEND THE LAW REGARDING ALCOHOLIC BEVERAGES; TO AUTHORIZE THE THIRD-PARTY DELIVERY OF ALCOHOLIC BEVERAGES FROM CERTAIN RETAILERS; AND TO CREATE A THIRD-PARTY DELIVERY PERMIT.

Sponsors:

Sen. Davis and Rep. Maddox

Basic Change:

Senate Amendment No. 2 --- SB98-S2 clarifies that the fee for a third-party delivery permit will be \$500 annually and adds a requirement that a retail permit holder making deliveries of alcoholic beverages must be open for retail to the public for a minimum of 30 hours per week.

SB98-S2 provides additional details regarding the alcohol delivery training program required by the bill, including that the training must be repeated annually. The training program may be provided by a third party and shall cover:

- Detecting noticeable signs of intoxication;
- Identifying valid in-state and out-of-state government issued identification; and
- Training on wet territories and dry territories of the state.

The amendment also removes language in the original bill that created a rebuttable presumption that delivery of an alcoholic beverage to a minor or intoxicated person was not made with criminal negligence if a delivery driver completed required training.

Senate Amendment No. 1 --- SB98-S1 clarifies that a consumer placing an order for delivery of an alcoholic beverage must be 21 years of age or older for purposes of determining where a third-party delivery permit holder may deliver.

The amendment also makes changes to the original bill's provisions addressing the liability and responsibilities of third-party delivery permit holders. Under SB98-S1, the Alcoholic Beverage Control Division of the Department of Finance and Administration (ABC) may enforce the responsibilities of a holder of a third-party delivery permit by the same administrative proceedings that apply to all other alcoholic beverage permittees for a violation of the alcoholic beverage control rules or laws of the state.

Original Bill --- SB98 expands the types of permit holders authorized to deliver alcoholic beverages and creates a new permit to allow a third-party to deliver alcoholic beverages in certain circumstances.

Retail Permit Holders Allowed to Make Deliveries --- Under current law, the only types of permit holders who are authorized to deliver alcoholic beverages to consumers are retail liquor stores, microbrewery-restaurants, and small breweries. SB98 amends § 3-4-107 to also allow holders of grocery store off-premises wine permits, small farm wine convenience store permits, and off-premises retail beer permits to make such deliveries.

Additionally, § 3-4-107 currently prohibits a permit holder from making a delivery outside of the county in which the permitted business is located. SB98 allows a permit holder to deliver in a wet area of an adjoining county. SB98 also allows an employee of the permit holder or an employee or independent



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contractor of a third-party delivery permit holder to carry alcoholic beverages to a customer's vehicle within the permit holder's parking lot or designated pick-up area and to complete the sale after age verification.

Third-Party Delivery Permits --- SB98 creates a third-party delivery permit to be administered by the Alcoholic Beverage Control Division of the Department of Finance and Administration (ABC). An individual, limited liability company, corporation, or partnership registered to do business in the state may apply for a third-party delivery permit. ABC may not issue permits to permit holders in the manufacturing or wholesale tier of the alcoholic beverage industry.

SB98 places certain restrictions on the third-party delivery permits:

- An employee or independent contractor may deliver for the permit holder if the driver is 21 years of age or older, holds a valid driver's license, and has not been convicted of a felony;
- A permit holder or its driver may deliver in the county of the retail permit holder if the county is a wet county, or an adjoining county in a wet area;
- A permit holder or its driver may only deliver to an individual who is 21 years of age or older after age verification; and
- A permit holder or its driver must receive the alcoholic beverage within the retailer's hours of legal sale, and the delivery must be completed within a reasonable time thereafter.

SB98 also addresses liability and responsibilities of both retail permit holders who use a third-party delivery permit holder to fulfill a delivery, as well the third-party delivery permit holders themselves.

ABC is authorized to promulgate rules for implementation of the permits, required to establish the annual fee for the permits, and required to approve alcohol delivery training programs.

Fiscal Impact:

ABC will collect an undetermined amount of third-party delivery permit fees.

Taxpayer Impact:

The types of permit holders authorized to deliver alcoholic beverages will be broadened, and third-party delivery permits will be authorized.

Resources Required:

No additional resources would be required for ABC administration.

Time Required:

Adequate time is provided for implementation.



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Procedural Changes:

This will be the first instance in which ABC has permitted a person or entity that does not sell alcohol. The third-party delivery permit is exclusively for the delivery of alcohol. This will be the first instance where there is no defined permitted premises containing boundaries to restrict the sale of alcohol. ABC regulations require ABC Enforcement to inspect all permitted premises before the sale of alcohol occurs. ABC Enforcement also investigates permitted premises periodically or upon receipt of a complaint. Because this type of change in the law allows the sale and delivery of alcohol outside of permitted premises, and specifically to Arkansans' homes and places of employment, ABC Enforcement will implement new procedures for these types of permit applicant inspections.

Other Comments:

None.

Legal Analysis:

None.