
Wisconsin Legislative Council

AMENDMENT MEMO



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2021 Senate Bill 57

Senate Amendment 1

2021 SENATE BILL 57

2021 Senate Bill 57 allows an alcohol beverages retailer,¹ other than a “Class C” wine-only retailer, to process and fill an online or telephone order for the sale and delivery of both food and alcohol beverages or alcohol beverages alone (remote order) if all of the following apply:

- The products ordered are delivered to the customer by the retailer or by an independent delivery service that derives less than half its revenues from delivering alcohol beverages.
- Full payment for the order is made at the time the order is placed; a delivery tip is permitted.
- At the time the order is placed, the customer asserts that the customer is at least 21 years of age and not intoxicated.
- At the time of delivery and prior to transferring possession of the alcohol beverages to the customer, the retailer or delivery service examines the customer's identification, verifies visually and by using electronic scanning technology that the customer is at least 21 years of age, and creates a record of this age verification.

The bill requires age verification records to be retained by the retailer for one year. An individual may not deliver alcohol beverages to a customer unless the individual is at least 21 years of age and has successfully completed a responsible beverage server training course or comparable course. Alcohol beverages may not be delivered to a person who is under the age of 21 years or visibly intoxicated. If alcohol beverages are delivered by a delivery service to an underage person, the delivery service, and not the retailer, is liable for the violation, if the customer asserted when placing the order that the customer is at least age 21.

SENATE AMENDMENT 1

Senate Amendment 1 makes the following changes to the bill:

- Authorizes alcohol beverages ordered and delivered to the customer as provided by the bill, to be delivered by a wholly owned subsidiary of the retail licensee, as well as the retail licensee or a third-party delivery service. Under the bill, only the latter two entities may deliver the alcohol beverages.
- Defines a “third-party delivery service” to mean “a delivery service that is independent of a retail licensee and that derives less than 50 percent of its annual revenues associated with food and beverage delivery from the delivery of alcohol beverages.”
- Creates an “alcohol delivery permit,” issued by the Department of Revenue, which authorizes a retail licensee, retail licensees, wholly owned subsidiaries of retail licensees, and third-party delivery

¹ Under the bill, a Class “A” and a Class “B” beer retailer, and a “Class A” and a “Class B” intoxicating liquor retailer may process and fill remote orders of beer or intoxicating liquor, whichever they are licensed to retail sell.

services to deliver alcohol beverages in connection with remote orders of alcohol beverages. The permit is valid for one year. The annual fee for initial issuance or renewal of the permit is \$150 for an applicant that is a retail licensee and \$300 if the applicant is a third-party delivery service or wholly owned subsidiary of a retail licensee.

- Clarifies that in order for a retail licensee to process and fill a remote order, beer must be sold in the original, unopened package or container; intoxicating liquor sold must either be in the original, unopened package or container, or in a container that is sealed before the removal of the licensed premises with a tamper-evident seal.
- Specifies the hours within which the remote order of alcohol may be delivered to the customer to be consistent with the hours during which the retail licensee may sell alcohol face-to-face to a customer on their licensed premises under current law.
- Requires a third-party delivery service or wholly owned subsidiary of the licensee who is delivering remote-ordered alcohol to return to the retail licensee any alcohol that is unable to be delivered to the customer. Similarly, the amendment requires the retail licensee to cancel the sale of alcohol beverages that are unable to be delivered.
- Specifies that with respect to remote orders of alcohol beverages, all of the following apply:
 - A person who receives the delivery of remote-ordered alcohol beverages may not resell it.
 - Remote-ordered alcohol beverages may not be delivered under this subsection to the licensed premises of a Class “A,” “Class A,” Class “B,” “Class B,” or “Class C” licensee.
 - The bill does not limit the discretion of a retail licensee, wholly owned subsidiary of a retail licensee, or third-party delivery service to decline in whole or in part to make retail sales by means of remote order, to reject individual remote orders, or to limit, geographically or otherwise, the locations to which remote orders are delivered.
 - A retail licensee that processes and fills remote orders may not do either of the following:
 - With respect to beer, enter into any agreement with a brewer, brewpub, or beer wholesaler that restricts, or gives preference with respect to, the availability of any brand of beer on the basis that the beer will be offered for sale and delivery through remote orders. The amendment also creates the same prohibition with respect to liquor and agreements with a liquor manufacturer, rectifier, winery, or liquor wholesaler.
 - Charge different prices for beer or liquor offered for sale and delivery as a remote order in comparison with the prices charged for the same products sold in face-to-face transactions required under current law. The amendment specifies that it does not prohibit the retail licensee from charging an additional fee for delivery.
- Increases the length of time for which age verification records must be retained by the retail licensee, from one year to three years.
- Delays the bill’s effective date. Under the amendment, the bill takes effect on July 1, 2022.

BILL HISTORY

Senate Amendment 1 was introduced by Senator Stroebel on January 18, 2022. On January 20, 2022, the Senate Committee on Government Operations, Legal Review, and Consumer Protection voted to recommend adoption of the amendment, and passage of the bill, as amended, by successive votes of Ayes, 4; Noes, 1.

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