

**AMENDING CHAPTER 38 "INTOXICATING LIQUORS", SECTION 38.09
"RESTRICTIONS GENERALLY APPLICABLE", AS IT PERTAINS TO THE
DELIVERY OF LIQUOR.**

WHEREAS, the City of DeKalb (the "City") is a home rule unit of local government and may exercise any power and perform any function pertaining to its government and affairs pursuant to Article VII, Section 6, of the Illinois Constitution of 1970; and

WHEREAS, the Illinois General Assembly, by Public Act 101-0668, amended Section 5-1(d) of the Illinois Liquor Control Act, 235 ILCS 5/1, *et seq.*, to pre-empt the City's home rule powers and authorize the direct delivery of alcoholic liquor to the purchaser for use or consumption, subject to the limitations provided by 235 ILCS 5/5-1(d), effective January 1, 2022; and

WHEREAS, the Illinois General Assembly, by Public Act 101-631, authorized the holders of retailer's liquor licenses issued by the Illinois Liquor Control Commission to sell mixed drinks and single servings of wine by curbside pick-up or delivery until January 3, 2024; and

WHEREAS, the City's corporate authorities find that it is in the City's best interests for the protection of the public health, safety, and welfare to amend Chapter 38 "Intoxicating Liquors", Section 9 "Restrictions Generally Available", of the City's Municipal Code, to permit the delivery of alcoholic liquors in the manner provided by State law; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DEKALB, ILLINOIS:

SECTION 1: The recitals to this Ordinance are true, material, adopted and incorporated herein as Section 1 to this Ordinance.

SECTION 2: The City's corporate authorities approve an amendment to Chapter 38 "Intoxicating Liquors", Section 9 "Restrictions Generally Available", of the City's Municipal Code, as set forth in Exhibit A attached hereto and incorporated herein by reference, which is further incorporated herein as Section 2 to this Ordinance.

SECTION 3: This Ordinance and each of its terms shall be the effective legislative act of a home rule municipality without regard to whether such ordinance should (a) contain terms contrary to the provisions of current or subsequent non-preemptive state law, or (b) legislate in a manner or regarding a matter not delegated to municipalities by state law. It is the intent of the City's corporate authorities that to the extent that the terms of this Ordinance should be inconsistent with any non-preemptive state law, this Ordinance shall supersede state law in that regard within its jurisdiction.

SECTION 4: This Ordinance shall be in full force and effect from and after its passage and approval as provided by law.

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois at a Regular meeting thereof held on the 24th day of January 2022 and approved by me as Mayor on the same day. Passed on First Reading by a 6-0-2 roll call vote. Aye: Morris, Larson, Smith, Perkins, McAdams, Barnes. Nay: None. Absent: Verbic, Faivre. Second Reading waived by a 6-0-2 roll call vote. Aye: Morris, Larson, Smith, Perkins, McAdams, Barnes. Nay: None. Absent: Verbic, Faivre.




COHEN BARNES, Mayor

ATTEST:



Ruth A. Scott, Executive Assistant

38.09 RESTRICTIONS GENERALLY APPLICABLE.

- a) Submission of a signed application for a liquor license and/or acceptance of a liquor license constitutes the applicant's consent to an inspection of any and all portions of the licensed premises by the City: 1) at any time during the normal business hours of the licensed premises, with or without advance notice; or, 2) at such other time as the City shall designate to the applicant/Licensee in writing, with not less than 48 hours advance notice. Inspections pursuant to this consent may be conducted by any City personnel, including Police Department, Building, Public Works, or Fire Department staff, the Liquor Commissioner, City Manager or other staff authorized by the Liquor Commissioner or City Manager, for purposes of determining compliance with the provisions of this Liquor Code, or for purposes of determining compliance with any other applicable code or regulation. The consent for inspection shall extend to any portion of the premises. An applicant or Licensee's refusal to grant access to the premises for an inspection shall constitute grounds for denial of a pending application (without refund of any posted application fees), and shall constitute a violation of this Liquor Code for liquor license holders, which may subject a liquor Licensee to suspension or revocation of their liquor license, imposition of fines and penalties under this Liquor Code, or both. All holders of a Liquor License must also hold a valid Fire Life Safety License issued by the City. The existence of code violations shall justify suspension, denial, or non-renewal of a liquor license.
- b) Upon approval of a liquor license application by the Liquor Commissioner, the applicant shall have thirty (30) days to submit the Initial Issuance Fee; upon payment of said fee, the license shall issue. Failure to pay the fee shall result in forfeiture of the application fee and rejection of the license application.
- c) No Alcoholic Liquors shall be ~~offered for~~ delivered for use or consumption, except as allowed by 235 ILCS 5/5-1(d) or this Code. ~~(except for delivery via US Postal Service or a commercial carrier not owned or operated by the Licensee and not more expeditious than overnight).~~ In accordance with 235 ILCS 5/5-1(d), the holder of a Liquor License and a State retailer's license shall be allowed to deliver alcoholic liquor to the purchaser for use or consumption, subject to the following limitations:
1. The provisions of Section 5-1(d) of the Act requiring that the delivery shall be made only within 12 hours from the time the alcoholic liquor leaves the licensed premises of the retailer for delivery;
 2. The provisions of Section 5-1(d) of the Act requiring that the delivery shall not include the use of common carries, but shall be made through the following methods:
 - (1) Delivery within licensed retailer's parking lot, including curbside (but excluding a drive-through), for pickup by the consumer;
 - (2) Delivery by an owner, officer, director, shareholder, or employee of the

licensed retailer; or

(3) Delivery by a third-party contractor, independent contractor, or agent with whom the licensed retailer has contracted to make deliveries of alcoholic liquors;

3. All other applicable limitations provided by Sections 5-1(d), 6-16, 6-29 and 6-29.1 of the Act, including, but not limited to:

(1) Prohibiting the delivery of alcoholic liquor to any person under the age of 21 years;

(2) Prohibiting the delivery of alcoholic liquor to any person that is intoxicated; and

(3) Requiring the licensed retailer's agents, employees, officers, independent contractors, or third-party contractor carriers to obtain a signature at the time of delivery acknowledging receipt of the alcoholic liquor by an adult that is at least 21 years of age; and

4. The holder of a Liquor License shall be strictly liable for any violation of this Code that is committed by an agent, employee, officer, independent contractor, third-party contractor, or any other person with whom the licensed retailer has contracted to make deliveries of alcoholic liquors.

e)d) No Alcoholic Liquors shall be sold through a drive-through, except where a drive-through has been expressly approved by the City of DeKalb City Council. A drive-through shall only be considered under the following conditions: (2018-048)

1. A drive-through must be applied for at the time of initial liquor license application. If later applied for, an application for drive-through shall be considered a new license application.
2. The only liquor licenses which shall be eligible for consideration of approval of a drive-through shall be package liquor stores which only engage in the retail sale of alcoholic beverages as their main line of business. Drive-throughs shall not be available for any facility that has a hybrid liquor license, that has more than one classification of liquor license, or that has authorization to sell package liquors as a component of another enterprise (e.g. grocery store, drug store).
3. A request for a drive-through shall only be considered for approval if the applicant is able to demonstrate that exceptional measures have been implemented to ensure the security of the premises. Such measures shall include, at minimum:
 - i) a camera system equipped with a recorder capable of retaining at least seven (7) days of video, with high definition cameras showing the area of drive-through window transactions inside the store, showing the vehicle(s) in the drive-through, showing the driver of the vehicle in the drive-through, showing the passengers

or other occupants of the car, showing the front and rear of the car in the drive-through, showing the entrance and common areas of the package liquor store to which the drive-through is attached, and showing the entrances and exits to the drive-through facility parking lot and drive-through lane; ii) adequate site lighting to illuminate the drive-through and related areas; iii) landscaping and site design in compliance with Crime Prevention Through Environmental Design principles; iv) a monitored alarm equipped with a 'panic' or 'alert' button that can be remotely activated by drive-through personnel; v) a drive-through window and enclosure constructed using bullet resistant materials in a design and configuration acceptable to the Chief Building Official and Chief of Police; vi) a system for notifying employees of the store when cars are in the drive-through queue; vii) a system for verifying the legitimacy of identification provided for the purchase of Alcoholic Liquors; and, viii) such other measures as shall be required by the Chief of Police or Community Development Director.

4. Alcoholic Liquors sold in a permitted drive-through shall be required to be within the original, sealed container, and only for consumption off premises.
5. Any applicant for a drive-through supplemental license shall be required to execute a common area patrol agreement with the City of DeKalb Police Department and shall be required to execute an agreement with the Police Department providing access to video recording footage at any time upon request.
6. Drive-throughs may be prohibited in areas in close proximity to traffic conditions, roadways or uses that pose a safety or security concern in the discretion of the City.
7. Drive-throughs shall not be permitted within 1,000 feet of a public or private school for any grades between kindergarten and 12th grade, nor within 1,000 feet of any public park or forest preserve area, nor within 1,000 feet of any church, nor within 325 feet of any state university property used for parking, nor within 450 feet of any state university property used for any other purpose. All such measurements shall be from property line to property line. Drive-throughs must also comply with all other applicable codes and ordinances, including but not limited to zoning regulations, building code regulations and related requirements.
8. Drive-through licenses may specify any other supplemental terms, conditions, or restrictions (including restrictions on hours of service, hours for drive-through operation, types of products which may be sold through the drive-through or other restrictions) that are approved through the review and approval of the license application by City Council.
9. The Police Department may, at any time upon the provision of 48 hours written notice, require that drive-through operations be suspended for a specified period not to exceed three days in duration. The Police Department may require the immediate suspension of drive-through operations upon verbal notice in the event of any public safety matter requiring such suspension. Such emergency

suspension of operations shall be for a period not exceeding three days in suspension.

10. No facility may be licensed purely as a drive-through facility for the sale of Alcoholic Liquors; all such licensed premises must also maintain a retail sales area for customers, and Alcoholic Liquors must be kept in the retail sales area for selection and purchase by consumers.

11. In recognition of the special safety and operational concerns arising out of the potential utilization of drive-throughs, the City reserves the right to refuse any application, or to impose such conditions as the City shall determine to be necessary to ensure public safety and welfare.

de) It shall be unlawful to engage in the Sale of Alcoholic Beverages outside the permitted hours of operation applicable to a given liquor license, or in violation of any of the terms of this Ordinance, or the conditions applicable to a liquor license by virtue of its issuance or by virtue of any accompanying license agreement.

ef) In the event the Liquor Commissioner receives a liquor license application which the Commissioner determines is not adequately regulated under this Code, the Commissioner may temporarily delay review of the application for purposes of seeking an amendment to this Code to add additional regulation.

fg) Prior to engaging in any conduct regulated under the terms of this Ordinance, the Licensee/applicant shall provide the City with a copy of any state-issued licensure related to the regulated activity.

gh) It shall be unlawful to engage in the Sale of Alcoholic Beverages without a license where required under this Code, or to engage in a sale of Alcoholic Liquors other than in a fashion permitted by an applicable license.

hi) It shall be unlawful to sell Alcoholic Liquors for consumption on premises, or to permit the consumption of sold Alcoholic Liquors on premises, without a liquor license permitting such consumption.

ii) It shall be unlawful to sell or permit the sale or consumption of Alcoholic Liquors at any location outside of a Permitted Area for such activities.

jk) It shall be unlawful to peddle Alcoholic Liquors by selling or offering them for sale in any street, sidewalk or public place, or travelling from place to place within the City, or selling or offering them for sale and delivery from any receptacle, vehicle or pushcart going from place to place in the City.

kl) It shall be unlawful for any person to carry on any street, alley, park or other public way (including sidewalks and rights-of-way) an Open Container of any beverage containing any Alcohol or Alcoholic Liquors, unless such public area is a Permitted Area under the terms of a then-valid City-issued liquor license. The minimum penalty

for a violation of this subsection shall be a fine of not less than seventy-five dollars (\$75.00) if paid as a mail-in violation, or two-hundred dollars (\$200.00) if imposed in Court. (2015-048)

m) It shall be unlawful to engage in any sale of Alcoholic Liquors that is not intended for consumption on premises in anything other than the original package (meaning bottle, flask, jug, can, cask, barrel, keg, hogshead or other receptacle, as corked, capped, sealed and labeled by the manufacturer of Alcoholic Liquors). No Licensee, his agents or employees shall permit, and no person shall remove from the Permitted Area any Alcoholic Liquor except in its original package as defined herein, unless permitted for consumption on the premises.

n) It shall be unlawful to sell beer or malt liquor, not intended for consumption on the premises, in any single container of less than seven (7) ounces capacity.

o) All premises used for the sale of Alcoholic Liquors shall be kept in a clean and sanitary condition, in full compliance with all requirements of City Code and applicable federal, state or local health and sanitation codes, including any occupancy limits established by the City of DeKalb or another agency having jurisdiction over the premises. Any establishment with a determined occupancy limit shall prominently post the same in a fashion acceptable to the Liquor Commissioner.

p) Preparation, sale, or service of Alcoholic Liquors shall only be done by persons eighteen (18) years of age or older, who are Alcohol Servers as defined herein. Stocking of Alcoholic Liquors shall only be done by Licensee's employees who are 18 years of age or older. No person under the age of twenty-one (21) shall be permitted to consume Alcoholic Liquors, and no person other than an employee of the Licensee, eighteen (18) years of age or older, shall be permitted to possess Alcoholic Liquors. At any time that Alcoholic Liquors are available for Sale, at least one Alcohol Server over the age of twenty-one (21) shall be present and supervising all Sales. Employees over the age of eighteen (18) who are engaged in the performance of their work shall be exempt from the prohibitions on persons under the age of twenty-one (21) entering or remaining in a licensed establishment, and on possessing alcoholic beverages within a licensed Building.

q) It shall be unlawful to sell or offer for sale any Alcoholic Liquor anywhere in the City unless the property is zoned other than RC-1, SFR-1, SFR-2, TFR, MFR, or PD-R, as defined in the Unified Development Ordinance of the City, unless: 1) the owner or owners of at least two-thirds of the frontage feet along the street and streets adjacent to the place of business for which a license is sought file a written consent to the issuance of the license; or, 2) the license sought is a PENP license or an Event license.

r) It shall be unlawful to permit sound or vibration exceeding 90 decibels when measured with a standard meter A scale within two (2) feet of the outside of any exterior wall of the Building or Permitted Area.

~~rs~~) It shall be unlawful to advertise the sale of Alcoholic Liquors in a fashion that would not be permitted under this Code.

~~st~~) No Licensee shall be eligible to obtain or maintain a liquor license if any person or entity required to be listed on the liquor license application (e.g. owner, partner, manager, member, director, stockholder of more than five percent (5%) of the applicant company) is delinquent, by more than thirty (30) days, in the payment of any obligation to the City, including but not limited to the payment of outstanding restaurant and bar taxes, permit fees, water bills, ordinance violation fines or penalties, Liquor Code violation fines or penalties or any other City fines, charges, debts or penalties, whatsoever. Any Licensee that has a person or entity disclosed on its liquor license application that is more than thirty (30) days delinquent in the payment of any amounts due the City shall: 1) be ineligible to receive a new or renewed liquor license; and 2) shall be subject to revocation of a license and imposition of fines and penalties, as a violation of this Liquor Code. Any liquor license revoked under this Section shall be subject to a reinstatement fee of Five Hundred Dollars (\$500.00), following the payment of all outstanding amounts due to the City.

~~tu~~) Other than an approved mini-bar at a Hotel with a Hospitality license, it shall be unlawful to sell any Alcoholic Liquors for consumption on the premises and to deliver said Alcoholic Liquors to the customer in anything other than an Open Container (i.e. it is unlawful to deliver a sealed, unopened bottle to the customer, for consumption on the premises). All sales of Alcoholic Liquors for consumption on premises shall be done only in containers that have been opened prior to final delivery to the consumer.

~~uv~~) It shall be unlawful for any person, Licensee, Owner, Manager, Alcohol Server or other agent or employee of any Licensee to permit any person to engage in any violation of this Code, or to allow any violation of this Code within a licensed Premise.

~~vw~~) Any licensed establishment that is permitted to allow the consumption of wine on premises shall be authorized to seal a partially consumed bottle of wine in a one-time-use, tamper-evident, clear plastic bag, with a time/date-stamped receipt, to permit a customer to take the partially consumed bottle of wine with them without violating this Ordinance, provided that said conduct is permitted under applicable state law.

~~wx~~) Other than an establishment holding a Hospitality liquor license, no licensed liquor establishment shall host a Private Party as defined in the Illinois Liquor Control Act, and no licensed liquor establishment shall offer to sell an unlimited number of alcoholic drinks for a fixed price or otherwise sell any entitlement to consume drinks in a fashion that does not directly correspond to paying for individual drinks. (2013-029)

~~xy~~) Any violation of any other provision of City Code, state statute or applicable ordinance or regulation which in any way relates to the sale of alcohol, the consequences of the sale of alcohol, the conduct of patrons or employees, or the operation or management of the licensed business or licensed premises, including but not limited to noise

violations under any City Code and disorderly business charges, shall constitute a violation of the underlying ordinance or regulation and shall separately also constitute a violation of this Chapter 38, punishable as a violation hereof. (2013-062)

z) Notwithstanding anything foregoing to the contrary contained in this Code, the holder of a Liquor License that permits Bar Sales or Restaurant Sales and a State combined retailer license ("Combined 1A Licensee") or a State retailer license with both an on-premises and off-premises license ("1A Licensee") shall be allowed to sell and deliver "to go" mixed drinks, cocktails, and single servings of wine, subject to the following limitations:

1. For the purposes of this Section, the following terms shall have the following definitions:

"Cocktail" or "mixed drink" means any beverage obtained by combining ingredients alcoholic in nature, whether brewed, fermented, or distilled, with ingredients non-alcoholic in nature, such as fruit juice, lemonade, cream, or a carbonated beverage.

"Original container" means a container that is (i) filled, sealed, and secured by a retail licensee's employee at the retail licensee's location with a tamper-evident lid or cap or (ii) filled and labeled by the manufacturer and secured by the manufacturer's original unbroken seal.

"Sealed container" means a rigid container that contains a mixed drink or a single serving of wine, is new, has never been used, has a secured lid or cap designed to prevent consumption without removal of the lid or cap, and is tamper-evident. "Sealed container" includes a manufacturer's original container. "Sealed container" does not include a container with a lid with sipping holes or openings for straws or a container made of plastic, paper, or polystyrene foam.

"Tamper-evident" means a lid or cap that has been sealed with tamper-evident covers, including, but not limited to, wax dip or heat shrink wrap.

2. A cocktail, mixed drink, or single serving of wine placed in a sealed container by a retail licensee at the retail licensee's location or a manufacturer's original container may be transferred and sold for off-premises consumption if the following requirements are met:

(1) the cocktail, mixed drink, or single serving of wine is transferred within the licensed premises, by a curbside pickup, or by delivery by an employee of the retail licensee who:

(A) has been trained in accordance with a Beverage Alcohol Sellers and Servers Education and Training (BASSET)

program in accordance with this Code and State law at the time of the sale;

(B) is at least 21 years of age; and

(C) upon delivery, verifies the age of the person to whom the cocktail, mixed drink, or single serving of wine is being delivered;

(2) if the employee delivering the cocktail, mixed drink, or single serving of wine is not able to safely verify a person's age or level of intoxication upon delivery, the employee shall cancel the sale of alcohol and return the product to the retail license holder;

(3) the sealed container is placed in the trunk of the vehicle or if there is no trunk, in the vehicle's rear compartment that is not readily accessible to the passenger area;

(4) except for a manufacturer's original container, a container filled and sealed at a retail licensee's location shall be affixed with a label or tag that contains the following information:

(A) the cocktail or mixed drink ingredients, type, and name of the alcohol;

(B) the name, license number, and address of the retail licensee that filled the original container and sold the product;

(C) the volume of the cocktail, mixed drink, or single serving of wine in the sealed container; and

(D) the sealed container was filled less than 7 days before the date of sale; and

(5) a manufacturer's original container shall be affixed with a label or tag that contains the name, license number, and address of the retail licensee that sold the product.

3. Third-party delivery services are not permitted to deliver cocktails and mixed drinks.

4. If there is an executive order of the Governor in effect during a disaster, the employee delivering the mixed drink, cocktail, or single serving of wine must comply with any requirements of that executive order, including, but not limited to, wearing gloves and a mask and maintaining distancing requirements when interacting with the public.

5. Delivery or carry out of a cocktail, mixed drink, or single serving of wine is prohibited if:

(1) a third party delivers the cocktail or mixed drink;

(2) a container of a mixed drink, cocktail, or single serving of wine is not tamper-evident and sealed;

(3) a container of a mixed drink, cocktail, or single serving of wine is transported in the passenger area of a vehicle;

(4) a mixed drink, cocktail, or single serving of wine is delivered by a person or to a person who is under the age of 21; or

(5) the person delivering a mixed drink, cocktail, or single serving of wine fails to verify the age of the person to whom the mixed drink or cocktail is being delivered.

6. Violations of this Section shall be subject to any applicable penalties, including, but not limited to, the penalties specified under Section 11-502 of the Illinois Vehicle Code.

7. The authority to sell and deliver "to go" mixed drinks, cocktails, and single servings of wine under this Section shall expire on January 3, 2024.



Governor JB Pritzker
Cynthia Berg, Chair
Lisa McLeod, Acting Executive Director

100 West Randolph Street, Suite 7-801, Chicago, IL 60601
300 West Jefferson Street, Suite 300, Springfield, IL 62702

Illinois Liquor Control Commission
Sales and Delivery of "To Go" Mixed Drinks/Cocktails and Single Servings of Wine
Amended June 25, 2021

A State of Illinois combined retailer licensee ("Combined 1A Licensee") or a retailer licensee (1A) with both an on-premises and off-premises license may sell and deliver "to go" mixed drinks/cocktails and single servings of wine for off-premises consumption strictly under the following conditions:

1. A mixed drink/cocktail is any alcoholic liquor (beer, wine, spirits) mixed with a non-alcoholic beverage such as "fruit juice, lemonade, cream, or a carbonated beverage." Mixed drinks/cocktails may include beverages packaged in the manufacturer's original container.
2. The mixed drink/cocktail and single serving of wine container originally filled by a retailer shall be:
 - a. New/unused and rigid. A rigid container includes glass, metal, or ceramic material. A rigid container does not include plastic, paper, or Styrofoam;
 - b. Sealed with a secure cap or lid that is tamper-proof or tamper-evident (includes wax-dip seals and heat shrink wrap covers). The lid shall not have sipping holes or holes designed for straws;
 - c. Filled and sealed by the retailer's employee.
3. Retailer filled mixed drinks/cocktails and single servings of wine shall be labeled in the following manner:
 - a. The name of the mixed drink/cocktail ingredients, type, and name of the alcohol;
 - b. The name, license number, and address of the retail licensee that filled the container and sold the product;
 - c. The volume of the mixed drink/cocktail or single serving of wine in the container; and
 - d. The date the container was sealed. The sealed container must be filled less than 7 days before the date of sale.
4. Mixed drinks/cocktails packaged by the manufacturer in the original container and sold pursuant to 235 ILCS 5/6-28.8 "shall be affixed with a label or tag that contains the name, license number, and address of the retail licensee that sold the product."
5. The mixed drink/cocktail or single serving of wine **may** be delivered to the consumer:
 - a. Inside the licensed business over the counter; or
 - b. By curbside delivery by a retailer employee; or

- c. By home delivery by a retailer employee.
6. The mixed drink/cocktail or single serving of wine **shall not** be transferred to the consumer:
- a. By way of drive-through service; or
 - b. Home delivery by a third-party delivery company. **Delivery by third party delivery companies pursuant to 235 ILCS 5/6-28.8 is not permitted.**
7. The retailer employee transferring the mixed drink/cocktail or single serving of wine shall:
- a. Hold a valid server training certificate by a certified Beverage Alcohol Sellers and Servers Education and Training (BASSET) trainer;
 - b. Be 21 years of age or older;
 - c. Comply with any applicable requirements of the Governor's executive orders declaring a disaster;
 - d. Verify the age to whom the mixed drink/cocktail or single serving of wine is delivered **(if the employee delivering the cocktail is not able to safely verify a person's age and level of intoxication upon delivery, the employee shall cancel the sale of alcohol and return the product to the retail license holder);**
 - e. For curbside or home deliveries, place the sealed container in the vehicle trunk or (if no trunk) other vehicle compartment not readily accessible to the passenger area.
8. Mixed drink/cocktail or single serving of wine delivery is limited to Combined 1A Licensees.
9. No licensee authorized by law to manufacture alcoholic liquor shall conduct mixed drink/cocktail or single serving of wine deliveries pursuant to 235 ILCS 5/6-28.8. This prohibition includes all manufacturer class license holders (as defined in Section 5/5-1(a) of the Liquor Control Act), wine-maker's premises, brew pubs, and distilling pubs.

The authority to sell mixed drinks/cocktails and single servings of wine (under the conditions set forth herein) is scheduled to expire on January 3, 2024.

As of July 1, 2021 and pursuant to 235 ILCS 5/5-1(d) of the Illinois Liquor Control Act, on-premises only State of Illinois retail license holders shall not sell alcoholic liquor for delivery including deliveries under 235 ILCS 5/6-28.8. Only retail license holders with combined on/off premises consumption and off-premises consumption only State of Illinois retailer licenses may sell alcoholic liquor for delivery. Off-premises consumption only retailers shall not deliver alcoholic liquor unless such products are sealed in the manufacturer's unopened original package.

Local municipalities may prohibit or further restrict the sales and delivery of "to go" mixed drinks/cocktails and single servings of wine. Licensed retailers should contact the local liquor control commissioner prior to engaging the sales and delivery of "to go" mixed drinks/cocktails and single servings of wine to ensure compliance with local laws.

NOTE: Off-Premises Only retailers and Combined 1A Licensees may conduct deliveries of alcoholic liquor in the original manufacturer's package pursuant to 235 ILCS 5/5-1(d).

NOTE: If a retailer is authorized by local license to sell alcoholic liquor for on and off-premises consumption but holds a State of Illinois "on-premises only" license, the retailer may change the State retailer license to a Combined 1A License by contacting the Commission Licensing Division at lcc.licensing@illinois.gov.



ILLINOIS LIQUOR CONTROL COMMISSION

50 West Washington Street, Suite 209 Chicago, IL 60602
300 West Jefferson Street, Suite 300, Springfield, IL 62702

ILCC Legislative Bulletin – Public Act 101-0668 (Senate Bill 54)

Public Act 101-0668 (Senate Bill 54) becomes effective on January 1, 2022, and amends Section 5/5-1(d) of the Illinois Liquor Control Act ("Act") affecting retailer licensing shipping and delivery privileges.

Section 5/5-1(d) has been amended as follows:

(d) A retailer's license shall allow the licensee to sell and offer for sale at retail, only in the premises specified in the license, alcoholic liquor for use or consumption, but not for resale in any form. Except as provided in Section 6-16, 6-29, or 6-29.1, nothing in this Act ~~Nothing in Public Act 95-634 shall deny, limit, remove, or restrict the ability of a holder of a retailer's license to transfer, deliver, or ship alcoholic liquor to the purchaser for use or consumption subject to any applicable local law or ordinance. For the purposes of this Section, "shipping" means the movement of alcoholic liquor from a licensed retailer to a consumer via a common carrier. Except as provided in Section 6-16, 6-29, or 6-29.1, nothing in this Act shall deny, limit, remove, or restrict the ability of a holder of a retailer's license to deliver alcoholic liquor to the purchaser for use or consumption. The delivery shall be made only within 12 hours from the time the alcoholic liquor leaves the licensed premises of the retailer for delivery. For the purposes of this Section, "delivery" means the movement of alcoholic liquor purchased from a licensed retailer to a consumer through the following methods:~~

(1) delivery within licensed retailer's parking lot, including curbside, for pickup by the consumer;

(2) delivery by an owner, officer, director, shareholder, or employee of the licensed retailer; or

(3) delivery by a third-party contractor, independent contractor, or agent with whom the licensed retailer has contracted to make deliveries of alcoholic liquors. Under subsection (1), (2), or (3), delivery shall not include the use of common carriers.

Any retail license issued to a manufacturer shall only permit the manufacturer to sell beer at retail on the premises actually occupied by the manufacturer. For the purpose of further describing the type of business conducted at a retail licensed premises, a retailer's licensee may be designated by the State Commission as (i) an on premise consumption retailer, (ii) an off premise sale retailer, or (iii) a combined on premise consumption and off premise sale retailer.

Except for a municipality with a population of more than 1,000,000 inhabitants, a home rule unit may not regulate the delivery of alcoholic liquor inconsistent with this subsection. This paragraph is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State.

Notwithstanding any other provision of this subsection (d), a retail licensee may sell alcoholic liquors to a special event retailer licensee for resale to the extent permitted under subsection (e).

Retailer Shipping

- If a retailer uses a common carrier to transport alcoholic liquor to a consumer, it conducts “shipping.” A common carrier is a transportation company offering its services to the general public, like FedEx or UPS. It is not a private transportation company.
- A retailer or its third-party shipping agent may ship alcoholic liquor if the State Commission has designated the retailer as an off-premises consumption or a combined (off-premises/on-premises) retailer.
- A retailer and its third-party shipping agent may ship alcoholic liquor if the local liquor control commission or local ordinance has authorized the retailer to ship alcoholic liquor.
- The retailer and its third-party shipping agent shall abide by all requirements of Sections 6-16, 6-29, and 6-29.1 of the Act which include but are not limited to:
 - All packages containing alcoholic liquor must be clearly labeled "CONTAINS ALCOHOL. SIGNATURE OF A PERSON 21 YEARS OF AGE OR OLDER REQUIRED FOR DELIVERY. PROOF OF AGE AND IDENTITY MUST BE SHOWN BEFORE DELIVERY." This warning must be prominently displayed on the packaging.
 - A retailer shall require the transporter or common carrier that ships the package to obtain the signature of a person 21 years of age or older at the shipping address.
 - At the expense of the retailer, the retailer shall receive a shipping confirmation from the common carrier indicating the location of the shipment, time of shipment, and the name and signature of the individual 21 years of age or older who accepts shipment.
- The retailer and its third-party agent shall abide by all local, state, and federal shipping laws, including but not limited to the alcohol beverage shipping laws of other states.
 - It is important to verify that local ordinances do not prohibit shipment of alcoholic liquor into municipal jurisdictions.
 - All states prohibit the shipment of alcoholic liquor into each state without a license. Some states permit a retailer to obtain a license to ship into that state. It is important to know other states' alcohol beverage laws before conducting shipping into other states. Illegal shipping into other states could jeopardize your Illinois retail license.
- A RETAILER SHALL BE LIABLE FOR THE SHIPPING VIOLATIONS OF A THIRD-PARTY COMMON CARRIER.
- No other license holder is authorized to ship alcoholic liquor directly to consumers except a winery shipper's license holder.
- All alcoholic liquor shipped by retailers be in the original product package.

Retailer Delivery

- A retailer conducts an alcoholic liquor delivery if:
 - The retailer transports alcoholic liquor to a consumer in a retailer parking lot or at retailer curbside;
OR
 - The retailer transports alcoholic liquor to a consumer by way of “an owner, officer, director, shareholder, or employee of the licensed retailer;” OR

- The retailer delivers alcoholic liquor through “a third-party contractor, independent contractor, or agent with whom the licensed retailer has contracted to make deliveries of alcoholic liquors.” This may include delivery companies specializing in food/beverage deliveries but does not include common carriers.
- Delivery to the consumer must occur no later than 12 hours from the time the products leave the retailer.
- A retailer and its third-party delivery agent may deliver alcoholic liquor if the State Commission has designated the retailer as an off-premises consumption or as a combined (off-premises/on-premises) license holder.
- The retailer and its third-party delivery agent shall abide by all requirements of Sections 6-16, 6-29, and 6-29.1 of the Act which include but are not limited to:
 - All packages containing alcoholic liquor must be clearly labeled "CONTAINS ALCOHOL. SIGNATURE OF A PERSON 21 YEARS OF AGE OR OLDER REQUIRED FOR DELIVERY. PROOF OF AGE AND IDENTITY MUST BE SHOWN BEFORE DELIVERY." This warning must be prominently displayed on the packages.
 - A retailer shall require the transporter that delivers the package to obtain the signature of a person 21 years of age or older at the delivery address at the time of delivery.
 - At the expense of the retailer, the retailer shall receive a delivery confirmation from the third-party delivery company indicating the location of the delivery, time of delivery, and the name and signature of the individual 21 years of age or older who accepts delivery.
- The retailer and its third-party agents shall abide by all local, state, and federal delivery laws, including but not limited to the alcohol beverage delivery laws of other states.
- All states prohibit the delivery of alcoholic liquor into each state without a license. Some states permit a retailer to obtain a license to deliver into that state. It is important to know other states' alcohol beverage laws before conducting delivery into other states. Illegal delivery into another state could jeopardize your Illinois retail license.
- A RETAILER SHALL BE LIABLE FOR THE DELIVERY VIOLATIONS OF A THIRD-PARTY DELIVERY AGENT.
- No other licensee is authorized to deliver alcoholic liquor off premises to the consumer.
- All alcoholic liquor deliveries shall be in the original package unless the alcoholic liquor is delivered pursuant to 235 ILCS 5/6-28.8 (Cocktails to Go) as explained [here](#).
- Deliveries in the original package pursuant to this bulletin are not deliveries pursuant to 235 ILCS 5/6-28.8 (Cocktails to Go) and, subject to local ordinance, such deliveries may be made by a person 18 years old and over.