



TEXAS ALCOHOLIC BEVERAGE COMMISSION

Texans Helping Businesses & Protecting Communities

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INDUSTRY NOTICE June 27, 2020

To: Eligible Mixed Beverage Permittees

Re: Including Alcohol With Pickup and Delivery Orders of Food

The COVID-19 crisis has significantly impacted the alcoholic beverage industry, requiring new methods of operation to prevent the spread of the virus. As such, Governor Abbott has waived certain laws so businesses can adapt to new operating conditions. This guidance explains the parameters for mixed beverage restaurants selling alcohol for customer pickup or delivery.

Current law prohibits a Mixed Beverage Permit (MB) holder from delivering alcohol to consumers unless they also have a Food and Beverage Certificate (FB), selling alcohol to go, and selling mixed drinks for off-premise consumption. However, the Governor, pursuant to the March 13, 2020 disaster declaration, suspended these limitations so that certain MB permittees may conduct alcohol to-go and delivery transactions according to the below guidance.

Eligible MB permittees are hereby authorized to allow customers to pick up food orders that include alcohol and to conduct deliveries to customers of food orders that include alcohol under the following limited conditions:

Eligibility To Offer Consumer Pickup or Delivery to Consumers:

- Hold a Mixed Beverage Permit (MB) (regardless of whether they also hold a Food and Beverage (FB) Certificate), **and**
- Have permanent food service capabilities at the premises.

General Authority — Eligible Mixed Beverage permittees may:

- Allow customers to pick up alcohol with food orders,
- Deliver alcohol with food orders to customers,
- Use third parties acting as an agent of the MB to make deliveries,
- Use independent contractors holding a Consumer Delivery Permit (CD) to make deliveries on their behalf.

Pickup and Delivery Transactions: The person conducting transaction must be at least 21 years old.

Restrictions on What May Be Picked Up or Delivered: Eligible MB permittees may allow pickup or delivery of any number of beers, ales, wines, and/or distilled spirits **ONLY WHEN:**

- Alcohol is accompanied by a food order that was prepared on the business's premises;

Note: There is no required food-to-alcohol ratio.

- Beer, ale, and wine are in their original container that is sealed by the manufacturer of the beverage;
- Distilled spirits that are mixed into a drink are in a container that the MB permittee has sealed with an adhesive label (tape) that states the name of the MB permittee and “alcoholic beverage” and that the restaurant places in a bag that it seals with a zip tie, which is then NOT transported in the passenger area of a motor vehicle as defined by Texas Penal Code Sec. 49.031.
- Beverages that are premixed by the MB permittee may exceed 375 milliliters. However, the MB permittee must ensure that the quantity of alcohol in those beverages follows responsible service practices.
- Distilled spirits may still be sold to go or for delivery in their manufacturer sealed containers. However, such containers may not be larger than 375 milliliters.

Note: Non-passenger areas of a motor vehicle include a glove compartment or similar storage container that is locked; the trunk of a vehicle; or the area behind the last upright seat of the vehicle, if the vehicle does not have a trunk.

Limits on Where Alcohol May Be Delivered: Deliveries may only be made to a location:

- Where the sale of that type of alcohol is legal; and
- Within the county where the business is located, or up to two miles beyond the city limits in which the business is located if that city crosses a county line.

Note: MB Permittees may NOT deliver alcohol to another licensed or permitted location.

Requirements for Completing the Customer Pickup or Delivery to the Customer:

- Recipients must not be intoxicated, and
- Recipients must present valid proof of their identity that confirms they are at least 21 years old.

Delivering an Open Container of Alcohol is Strictly Prohibited

It’s a criminal offense to “knowingly possesses an open container in a passenger area of a motor vehicle that is located on a public highway, regardless of whether the vehicle is being operated or is stopped or parked.” Texas Penal Code § 49.031(b). An open container is “a bottle, can, or other receptacle that contains any amount of alcoholic beverage and that is open, that has been opened, that has a broken seal, or the contents of which are partially removed.” Texas Penal Code § 49.031(a)(1).

This means that prior to delivering a mixed alcoholic beverage to the consumer, or providing the beverage to go, it must be in a closed/sealed container in the manner outlined above. If the covering or lid on the top of the container has any holes that would provide a way to consume the beverage with the lid intact, it would constitute an illegal open container.

TABC stands ready to help its license and permit holders impacted by the coronavirus situation.

For additional assistance and information, affected businesses may identify and contact their local [TABC Regional office](#) or contact TABC's Austin headquarters at (512) 206-3333.