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Frequently Asked Questions for Restaurant and Bar Owners Related to Executive Order 17

Q: During what times may I deliver alcohol or offer it for carryout?

A: During the typical business hours designated by law for your business.

Q: If I run out of alcohol, can I buy alcohol from package stores?

A: No. You may only purchase alcoholic beverages from a licensed wholesaler.

Q: If I am a hotel, caterer or another type of LBD other than a restaurant, am I covered by this order and may I sell alcohol for off-premises consumption?

A: No. This order only applies to establishments licensed as full-service restaurants, wine only restaurants, and limited-service restaurants.

Q: Does an employee who will be delivering or selling alcohol for carryout need a server permit?

A: No, not at this time.

Q: Can I deliver alcohol or sell it for carryout after April 6?

A: No, unless this executive order is extended past April 6 or a new executive order authorizing such activity after April 6 is issued.

Q: Can I sell bottles of spirits?

A: No, bottles of wine and beer may be sold, and individual servings containing wine, beer, or spirits may be sold, but you may not sell bottles of spirits.

Q: Can I sell pitchers, half-gallons or gallons of mixed drinks?

A: No, bottles of wine and beer may be sold, and individual servings containing wine, beer, or spirits may be sold. Multi-serving containers are prohibited.

Q: What are the maximum limits of a single serving?

A: Typical serving sizes are 12 ounces of beer, 5 ounces of wine or 1.5 ounces of spirits. For purposes of enforcing this Order, the TABC considers a single serving to be a beverage containing no more than 16 ounces of beer, 9 ounces of wine, or 4 ounces of spirits and no more than 16 ounces of total liquid in the serving container. However, if your local beer board allows you to sell low gravity beer for carryout or delivery at a greater amount, then you may do so for purposes of low gravity beer only. Low gravity beer is beer equal to or less than 8% ABW or 10.1% ABV.

Q: What type of lid is required for single servings of alcoholic

beverages?

A: Retailers must cover containers in a reasonable manner that would require the consumer to unpackage them for consumption. For example, a lid that does not have any access point, or a lid that has any access point sealed or taped.

Q: Must I sell food with every order containing alcohol?

A: Yes. Alcohol may not be sold as a stand-alone item. Food must be purchased at the same time in the same order.

Q: Must we physically touch identification cards to verify age?

A: No, any reasonable visual inspection will suffice.

Q: Do I need an additional license, permit or permission to deliver?

A: No. You may deliver yourself without additional permission. You may also use third party delivery services that may or may not hold a TABC delivery service license, but you may be liable for any infractions by that third party such as sales to minors.

Q: If my city prohibits the delivery of beer, may I still deliver beer according to this executive order?

A: Yes, if you are a TABC licensed restaurant or limited-service restaurant, the executive order supersedes any local ordinance to the contrary. If you do not hold a TABC license, your local beer board must allow delivery of beer.

Q: What should the open container warning sign say that is

required to be posted pursuant to the executive order?

A: The warning must include this language: “No driver shall consume any alcoholic beverage or beer or possess an open container of alcoholic beverage or beer while operating a motor vehicle in this state.”

Q: May a licensed restaurant or bar allow alcoholic beverages to be purchased for consumption within or near their establishment while a customer is waiting to pick up a food order?

A: No. The Governor’s Executive Order No. 17 expressly prohibits such establishments from being open, “except only to offer drive-through, pickup, carry-out, or delivery service for food or drink” and therefore, a restaurant or bar is prohibited from allowing consumption of drinks, including alcoholic beverages, at their establishment in the same manner that they are prohibited from allowing consumption of food at their establishment. This prohibition applies to all parts or areas of such establishment including patios and other outdoor seating areas. Regarding allowing customers to consume alcoholic beverages near, but outside, the establishment, such as at a city sidewalk or the establishment’s parking lot, please know that while licensed restaurants and bars are allowed by the executive order to sell alcoholic beverages and beer for off-premises consumption, this activity can only be performed within specific guidelines and requirements. These guidelines and requirements are explained elsewhere in this FAQ, but they include that such sales must be “accompanied by the sale of food in the same order”. This requires that the alcoholic beverages or beer be provided to the customer contemporaneously with food. Therefore, a restaurant could not sell or provide an alcoholic beverage to a customer

significantly before the sale and provision of food to the customer. Also, a customer who consumes alcoholic beverages in such areas may be in violation of local open container laws.

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