

# Memo



**To:** Stephanie Chavis Guillory  
Legislative Liaison, LA Department of Revenue

**From:** John Gallagher  
Executive Director, Louisiana Municipal Association

**Date:** January 8, 2019

**Re:** LMA Written Comments – E-Commerce Task Force

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Thank you for the opportunity to submit written comments expressing suggestions and requests as this task force considers drafting a report and/or creating legislation to govern the home delivery of alcohol. Here are a few matters that the LMA believes should be considered:

## **(1) Preserving individual community standards.**

- \* By local referendum, the people have voted to establish what types of alcohol sales that they want in their communities.
- \* Currently, over 25% of parishes in the state have areas where the sale of alcohol is either prohibited entirely or is restricted by alcohol content to certain sales.
- \* How will the legislation accommodate these community standards?
- \* In some instances, delivery personnel would be picking up alcohol from one jurisdiction and transporting it into a dry/semi-dry jurisdiction. How would this be regulated? By the establishment? By the delivery service?
- \* Historically, the state has recognized that decision regarding the sale and/or consumption of alcohol are inherently a matter for local referendum, something that must be maintained.
- \* It is suggested that the only way to effectively implement such a system would be through a complex matrix map that accurately reflects all applicable qualifiers for alcohol delivery.

## **(2) Licensing and permitting of delivery employees.**

- \* Currently, persons who serve alcohol must obtain a permit from Louisiana ATC, along with any local permitting applicable (some parishes require local permits, some do not).
- \* Who will permit and monitor these delivery personnel? Will there be standardized training from ATC such as there is now for employees of bars and restaurants?

- \* Will locals be able to promulgate their own requirements for delivery personnel apart from any state standards?
- \* How does this affect the licensing of establishments, who are defined as either package or on-premises consumption? This would be a new category, even unlike current alcohol distributors/wholesalers: an establishment who sells alcohol for off-premises consumption through a retail delivery setting.
- \* It is suggested that current local authority to govern permitting/licensing must be maintained throughout this process.

### **(3) Public safety issues.**

- \* There may be compelling public safety issues regarding the delivery of alcohol into certain areas – such as high crime areas and college campuses.
- \* It is suggested that the input from law enforcement authorities be considered when drafting any legislation that would enable third party delivery to residences, businesses, or hot spots.

### **(4) Taxation issues.**

- \* Where would the product be taxed –Where is the point of sale?
- \* It is suggested that if the vendor is an agent for the buyer, it would be taxed at the retailer's location. And if the vendor is an agent for the seller, then the it would be taxes at the buyer's location.
- \* Who is responsible for remittance? Retailer or 3<sup>rd</sup> party?
- \* Is the full advertised sales price taxable or will upcharges be excluded from the sales price? (This an issue for online hotel reservations.)
- \* Would delivery fees ever be considered taxable?

### **(5) Funding issues.**

- \* ATC will certainly have additional responsibilities in enforcement – who is going to pay for this expansion of bureaucracy?
- \* It is suggested that local governments should have the authority to levy their own fees to cover the additional costs of enforcement on a local level.