

House File 384

H-1058

1 Amend House File 384 as follows:

2 1. Page 1, before line 1 by inserting:

3 <Section 1. Section 123.3, subsection 11, Code 2021, is
4 amended to read as follows:

5 11. "*Canned cocktail*" means a mixed drink or cocktail that
6 is premixed and packaged in a metal can and contains more than
7 six and twenty-five hundredths percent of alcohol by volume but
8 not more than fifteen percent of alcohol by volume. A mixed
9 drink or cocktail mixed and packaged in a metal can pursuant to
10 section 123.49, subsection 2, paragraph "d", subparagraph 3,
11 shall not be considered a canned cocktail.>

12 2. Page 1, after line 20 by inserting:

13 <Sec. _____. Section 123.46A, subsections 1 and 2, Code 2021,
14 are amended to read as follows:

15 1. Licensees and permittees authorized to sell alcoholic
16 liquor, wine, or beer in original unopened containers for
17 consumption off the licensed premises may deliver alcoholic
18 liquor, wine, or beer to a home, another licensed premises if
19 there is identical ownership of the premises by the licensee
20 or permittee, or other designated location in this state.
21 Deliveries shall be limited to alcoholic beverages authorized
22 by the licensee's or permittee's license or permit. Orders
23 delivered to another licensed premises shall contain only those
24 alcoholic beverages authorized for sale by the liquor control
25 license or retail wine or beer permit covering the premises
26 to which the alcoholic beverages will be delivered. Orders
27 delivered to another licensed premises shall be fulfilled using
28 the alcoholic beverages inventory owned by the licensee or
29 permittee who will receive the order for delivery. If the
30 recipient refuses or fails to pick up the delivery, or is
31 ineligible to receive the delivery, the alcoholic beverages
32 shall be returned to the licensee or permittee who fulfilled
33 the order.

34 2. All deliveries of alcoholic liquor, wine, ~~or~~ beer, or
35 mixed drinks or cocktails shall be subject to the following

1 requirements and restrictions:

2 *a.* Payment for the alcoholic liquor, wine, ~~or~~ beer, or
3 mixed drinks or cocktails shall be received by the licensee or
4 permittee at the time of order.

5 *b.* Orders for deliveries may be taken by the licensee
6 or permittee between the hours of 2:00 a.m. and 6:00 a.m.
7 on a day other than Sunday, and orders for deliveries may
8 be taken between the hours of 2:00 a.m. and 8:00 a.m. on a
9 Sunday provided the licensee or permittee has been granted the
10 privilege of selling alcoholic liquor, wine, ~~or~~ beer, or mixed
11 drinks or cocktails on Sunday, notwithstanding any provision of
12 section 123.49, subsection 2, paragraph "b", to the contrary.

13 *c.* Alcoholic liquor, wine, ~~or~~ beer, or mixed drinks or
14 cocktails delivered to a person shall be for personal use and
15 not for resale.

16 *d.* Deliveries shall only be made to persons in this state
17 who are twenty-one years of age or older.

18 *e.* Deliveries shall not be made to a person who is
19 intoxicated or is simulating intoxication.

20 *f.* Deliveries shall occur between 6:00 a.m. and 10:00 p.m.
21 Monday through Saturday, and between 8:00 a.m. and 10:00 p.m.
22 Sunday.

23 *g.* Delivery of alcoholic liquor, wine, ~~or~~ beer, or mixed
24 drinks or cocktails shall be made by the licensee or permittee,
25 or the licensee's or permittee's employee, and not by a third
26 party.

27 *h.* Delivery personnel shall be twenty-one years of age or
28 older.

29 *i.* Deliveries shall be made in a vehicle owned, leased, or
30 under the control of the licensee or permittee.

31 *j.* Valid proof of the recipient's identity and age shall
32 be obtained at the time of delivery, and the signature of a
33 person twenty-one years of age or older shall be obtained as a
34 condition of delivery.

35 *k.* Licensees and permittees shall maintain records

1 of deliveries which include the quantity delivered, the
2 recipient's name and address, and the signature of the
3 recipient of the alcoholic liquor, wine, ~~or~~ beer, or mixed
4 drinks or cocktails. The records shall be maintained on the
5 licensed premises for a period of three years.

6 ~~l. Orders delivered to another licensed premises shall~~
7 ~~contain only those alcoholic beverages authorized for sale~~
8 ~~by the liquor control license or retail wine or beer permit~~
9 ~~covering the premises to receive the delivery.~~

10 ~~m. Orders delivered to another licensed premises shall be~~
11 ~~fulfilled using the alcoholic beverages inventory owned by the~~
12 ~~licensee or permittee who received the order for delivery. If~~
13 ~~the recipient refuses or fails to pick up the delivery, or is~~
14 ~~ineligible to receive the delivery, the alcoholic beverages~~
15 ~~shall be returned to the licensee or permittee who fulfilled~~
16 ~~the order.~~

17 Sec. _____. Section 123.46A, Code 2021, is amended by adding
18 the following new subsection:

19 NEW SUBSECTION. 1A. Licensees and permittees authorized to
20 sell wine, beer, or mixed drinks or cocktails for consumption
21 off the licensed premises in a container other than the
22 original container may deliver the wine, beer, or mixed drinks
23 or cocktails to a home or other designated location in this
24 state only if the container other than the original container
25 has been sold and securely sealed in compliance with this
26 chapter or the rules of the division. Deliveries shall be
27 limited to alcoholic beverages authorized by the licensee's or
28 permittee's license or permit.>

29 3. By striking page 1, line 22, through page 2, line 1, and
30 inserting <subparagraphs (2) and (3), Code 2021, are amended
31 to read as follows:

32 (2) Mixed drinks or cocktails mixed on the premises that are
33 not for immediate consumption may be consumed on the licensed
34 premises subject to the requirements of this subparagraph
35 pursuant to rules adopted by the division. The rules shall

1 provide that the mixed drinks or cocktails be stored, for
2 no longer than seventy-two hours, in a labeled container in
3 a quantity that does not exceed three gallons. The rules
4 shall also provide that added flavors and other nonbeverage
5 ingredients included in the mixed drinks or cocktails shall
6 not include hallucinogenic substances or added caffeine or
7 other added stimulants including but not limited to guarana,
8 ginseng, and taurine. ~~In addition, the~~ The rules shall also
9 require that the licensee keep records as to when the contents
10 in a particular container were mixed and the recipe used for
11 that mixture. In addition, mixed drinks or cocktails mixed
12 on the premises pursuant to this subparagraph may be sold
13 for consumption off the licensed premises as provided in and
14 subject to the requirements of subparagraph (3).

15 (3) Mixed drinks or cocktails mixed on premises covered by
16 a class "C" liquor control license or a class native distilled
17 spirits liquor control license for consumption off the licensed
18 premises may be sold only if all of the mixed drink or cocktail
19 ~~is immediately sealed with a lid or other method of securing~~
20 ~~the product and is promptly taken from the licensed premises~~
21 ~~prior to consumption of the mixed drink or cocktail. A mixed~~
22 ~~drink or cocktail that is sold and sealed in compliance with~~
23 ~~the requirements of this subparagraph shall not be deemed an~~
24 ~~open container subject to the requirements of sections 321.284~~
25 ~~and 321.284A if the sealed container is unopened and the seal~~
26 ~~has not been tampered with, and the contents of the container~~
27 ~~have not been partially removed. following requirements are~~
28 met:

29 (a) The mixed drink or cocktail shall be enclosed in a
30 sealed container, which has a secure lid, cap, or other closure
31 designed to prevent consumption without removing, opening, or
32 breaking the lid, cap, or other closure.

33 (b) The lid, cap, or other closure must be tamper-evident.
34 For purposes of this subsection, "tamper-evident" means the
35 container is sealed with material such as wax dip, heat shrink

1 wrap, adhesive tape, a screw top, or another material or method
2 designed to reveal the removal, opening, or breaking of the
3 lid, cap, or other closure.

4 (c) The container shall not be made of disposable paper,
5 plastic, or polystyrene foam, and shall not be an expanded
6 polystyrene foam cup. Substantial or sturdy plastic containers
7 and vacuum or heat-sealed pouches are permitted.

8 (d) The container shall not include any sipping hole or
9 other opening for a straw unless the hole or other opening
10 includes a tamper-evident seal preventing consumption without
11 being removed or otherwise broken. A straw may be separately
12 provided to the consumer for use off the licensed premises.

13 (e) The container shall be filled only with mixed drinks or
14 cocktails composed in whole or in part with alcoholic liquor or
15 native distilled spirits from an original container purchased
16 from a class "E" liquor control licensee.

17 (f) The filling of the container shall at all times be
18 conducted in compliance with applicable state and federal food
19 safety statutes and regulations.

20 Sec. _____. Section 123.49, subsection 2, paragraph d, Code
21 2021, is amended by adding the following new subparagraph:

22 NEW SUBPARAGRAPH. (4) A container of mixed drinks or
23 cocktails that is sold and sealed in compliance with the
24 requirements of subparagraph (3) shall not be deemed an open
25 container subject to the requirements of sections 321.284 and
26 321.284A if the sealed container is unopened and the seal has
27 not been tampered with, and the contents of the container have
28 not been partially removed.>

29 4. Title page, line 2, by striking <licensees> and inserting
30 <licenses and the delivery of certain alcoholic beverages>

31 5. By renumbering as necessary.

MITCHELL of Henry

HALL of Woodbury