



SB 253 Supporting Testimony
Senate Federal & State Affairs
March 10, 2023
Kansas Restaurant & Hospitality Association
Scott Schneider JD

Chairman Thompson and members of the committee before the pandemic, restaurants couldn't prepare a cocktail, cap and seal it, and have it delivered. Due to COVID-19, however, restaurants in 32 states and the District of Columbia can prepare cocktails for delivery or takeout service. Two years ago this committee approved the curbside sale of alcohol beverages allowing many drinking establishments to recreate their business model to find a way forward. The new third party relationships and on-line ordering are here to stay and our members are adapting. KRHA is supportive of Senate Bill 253 because our customers are positively interacting with our products in this new delivery method and we think alcohol can safely be added to these existing delivery platforms.

The National Restaurant Association has entered into Public Policy Principles for Third Party Delivery¹ with these same delivery companies. They have established seven principles:

- Restaurants have a right to know and determine when and if their food is delivered.
- Customers should expect the same degree of food safety from delivery as they do when dining in a restaurant.
- **Restaurants should be able to offer alcohol to customers through third-party delivery in a safe and legal manner.**
- Restaurants deserve transparency on fees (including commissions, delivery fees, and promotional fees) charged by third-party delivery companies.
- Third-party food delivery contracts need contractual transparency, and issues surrounding fees, costs, terms, policies, marketing practices involving the restaurant or its likeness, and insurance/indemnity should be clear.
- Sales tax collection responsibility must be clear in terms of which party is collecting and remitting the specific sales tax to the appropriate authority.
- As a best practice, third-party delivery companies should offer restaurants access to anonymized information regarding orders from their restaurant that originate on third-party platforms.

¹ <https://restaurant.org/research-and-media/media/press-releases/restaurants-and-third-party-delivery-companies-agree-to-public-policy-principles/>

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We encourage this committee to broadly consider this issue from the consumers' perspective. If a consumer wants a beer with their pizza and product is legally available through a licensed drinking establishment, they should be able to place an order and have it delivered. Additionally, while we support this issue and want it to move forward, KRHA encourages this committee to consider these following concerns:

- Maintain similar rules a server or sales person has inside a drinking establishment or retail liquor store. We would suggest the committee look closely to decide if the public policy supports requiring the same personal morals standards across all sales platforms.
- Second, KRHA encourages a provision to either prohibit any provision, clause, or covenant that requires a drinking establishment to indemnifying a third party delivery platform, or any employee or independent contractor or agent of the third party delivery platform, for any damages or harm, as found in the Texas delivery statute, or positively state liabilities lie at the last transaction.
- Third, KRHA encourages all participants in the sale of alcohol be subject to the same criminal laws, whatever the committee considers to be appropriate.
- Finally, we would suggest the definition of "licensee" found in New Section 3 (m) be amended to K.S.A. 41-2601. (K.S.A. 41-1601 is a reserved Article and not in use).

Thank you for your considering supporting SB 253. As our customers' expectations change it is appropriate for Kansas to consider adopting new laws that support meaningful alcohol regulation and innovation.

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