



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE

300A Outlet Pointe Blvd., Columbia, South Carolina 29210
P.O. Box 125, Columbia, South Carolina 29214-0575

SC INFORMATION LETTER #20-5

SUBJECT: Curbside Delivery or Pick-Up Area for Beer and Wine – Temporary Authorization Due to Coronavirus Disease (COVID-19) State of Emergency
(Alcoholic Beverage Licensing)

EFFECTIVE DATE: March 21, 2020. (See below information on the Executive Order.)

AUTHORITY: S.C. Code Ann. Section 12-4-320 (2014)
S.C. Code Ann. Section 1-23-10(4) (2005)
SC Revenue Procedure #09-3
Governor’s Executive Order No. 2020-12

SCOPE: An Information Letter is a written statement issued to the public to announce general information useful in complying with the laws administered by the Department. An Information Letter has no precedential value.

NOTICE TO ALL HOLDERS OF A RETAIL BEER AND WINE PERMIT

GOVERNOR ISSUES EXECUTIVE ORDER

To facilitate “social distancing” practices and to mitigate the significant economic impacts of COVID-19 on individuals and businesses throughout the State, particularly restaurants and other food-service establishments, Governor McMaster issued Executive Order No. 2020-12 on March 21, 2020.

The purpose of the Executive Order is to promptly undertake and implement additional measures to slow the spread of COVID-19, minimize the current and future strain on healthcare providers, and mitigate the economic impacts on affected individuals and businesses.

On March 13, 2020, Governor McMaster issued Executive Order No. 2020-08, declaring a State of Emergency based on a determination that the 2019 Novel Coronavirus (“COVID-19”) poses an actual or imminent public health emergency for the State of South Carolina. Executive Order 2020-12, effective March 21, 2020, shall remain in effect for the duration of the State of Emergency unless otherwise modified, amended, or rescinded by a subsequent Order.

TEMPORARY SUSPENSION OF PROHIBITION AGAINST CURBSIDE DELIVERY OR PICK-UP OF BEER AND WINE

The Governor has, therefore, temporarily suspended South Carolina Regulation 7-702.5. This regulation prohibits a holder of a retail beer or wine permit (including employees and agents of a permit holder) from selling or delivering beer or wine to anyone who remains in a motor vehicle during the transaction.

REQUIREMENTS FOR CURBSIDE DELIVERY OR PICK-UP OF BEER OR WINE

Under the Governor's Executive Order, a holder of a beer and wine retail permit that elects to offer curbside delivery or pick-up may sell beer or wine through its curbside delivery and pick-up service under the following conditions and restrictions:

Location Requirements:

1. The retailer must have an on or off-premises permit issued by the Department of Revenue for the retail sale of beer or wine in accordance with Title 61, Chapter 4 of the South Carolina Code of Laws.

This includes, but is not limited to, the following types of businesses that have a retail permit for the retail sale of beer or wine, provided such businesses comply with the conditions and restrictions set forth in this Information Letter:

- Grocery stores
- Convenience stores
- Restaurants
- Discount stores
- Drugstores
- Brewpubs
- Breweries authorized to sell beer at retail
- Wineries authorized to sell wine at retail

However, the holder of a "special event" permit issued under Code Section 61-4-550, for use at fairs and special functions, cannot offer curbside or pick-up service of beer or wine.

2. A retailer must have a clearly designated delivery, pick-up, curbside, drive-thru or drive-in area abutting or adjacent to the retailer's place of business and must deliver the beer or wine to the customer's vehicle only at this designated area.

Curbside Delivery and Pick-up Requirements:

3. The beer or wine must only be delivered to the customer's vehicle for off-premises consumption and must only be delivered to the customer's vehicle at the designated delivery or pick-up area.

4. A customer who purchases beer or wine must prove at the time of curbside delivery or pick-up that he or she is twenty-one (21) years of age or older by providing a valid government-issued identification.
5. A retailer must not allow curbside delivery of beer or wine to, or pick-up of beer or wine by, an intoxicated person or a person who is under twenty-one (21) years of age.
6. The beer or wine must be delivered to the customer's vehicle for off-premises consumption in a sealed container. For purposes of this requirement, a sealed container means a bottle, can, growler, or crowler which has not been opened, tampered with, uncapped, or unsealed subsequent to its filling or re-filling by the manufacturer or retailer. Open containers are prohibited.
7. The employee or agent of the holder of the beer or wine retail permit who is responsible for delivering beer or wine in sealed containers for off-premises consumption to a customer's vehicle must be eighteen (18) years of age or older.

Prohibitions:

8. The holder of a retail beer and wine permit who delivers meals or other food to the customer's location cannot deliver beer or wine with that meal or food. For example, a retailer who delivers pizza to the customer's home cannot deliver beer or wine with the pizza. The provisions of this Information Letter do not apply to such delivery services.
9. The provisions of this Information Letter do not apply to online meal ordering, payment, and delivery companies, or other meal or food delivery companies, that contract with South Carolina restaurants or food establishments to sell their meals or food through the delivery company's website, mobile app, or other marketplace or that otherwise deliver meals or food to a customer's location. Therefore, the holder of a retail beer or wine permit cannot sell or provide beer or wine to any third-party meal or food delivery company for delivery to a customer's location.

Note: Certain wineries are authorized under the law to sell and deliver or ship wine to retail customers. Such wineries may continue to deliver or ship wine as authorized under the law.

10. Curbside delivery or pick-up of "alcoholic liquors," as defined by Code Section 61-6-20, are prohibited.

Compliance with Other Laws:

11. The retailer must comply with all other applicable State or local laws concerning beer or wine.

ADDITIONAL INFORMATION

For additional information, visit the Department's webpage, dor.sc.gov/emergencies, for additional COVID-19 tax and regulatory relief information; email the Department's Alcohol Beverage Licensing Section at abl@dor.sc.gov; or call the Department's Alcohol Beverage Licensing Section at (803) 898-5864.

A copy of the Governor's Executive Order is attached to this Information Letter for reference.

State of South Carolina

Executive Department



Office of the Governor

EXECUTIVE ORDER NO. 2020-12

WHEREAS, on March 13, 2020, the undersigned issued Executive Order No. 2020-08, declaring a State of Emergency based on a determination that the 2019 Novel Coronavirus (“COVID-19”) poses an actual or imminent public health emergency for the State of South Carolina; and

WHEREAS, on March 13, 2020, the President of the United States declared that the COVID-19 outbreak in the United States constitutes a national emergency, which began on March 1, 2020; and

WHEREAS, in proactively preparing for and promptly responding to the evolving nature and scope of the aforementioned emergency, the undersigned has initiated and implemented various measures to address the significant public health, economic, and other impacts associated with COVID-19 and to mitigate the resulting burdens on healthcare providers, individuals, and businesses in the State of South Carolina; and

WHEREAS, on March 15, 2020, the undersigned issued Executive Order No. 2020-09, directing, *inter alia*, the closure of all public schools in the State of South Carolina for students and non-essential employees beginning Monday, March 16, 2020, and through Tuesday, March 31, 2020, and the postponement or rescheduling of any election scheduled to be held in this State on or before May 1, 2020, as well as urging that indoor and outdoor public gatherings be cancelled, postponed, or rescheduled, to the extent possible, or limited so as not to exceed one hundred (100) people; and

WHEREAS, on March 16, 2020, based on updated information and recommendations from the Centers for Disease Control and Prevention (“CDC”), the President of the United States and the White House Coronavirus Task Force issued new guidance—titled, “The President’s Coronavirus Guidelines for America: 15 Days to Slow the Spread of Coronavirus (COVID-19)” —to help protect Americans during the global COVID-19 outbreak; and

WHEREAS, the President’s Coronavirus Guidelines for America recommend, *inter alia*, that the American people “[a]void social gatherings in groups of more than 10 people”; “[a]void eating or drinking at bars, restaurants, and food courts—use drive-thru, pickup, or delivery options”; and “[a]void discretionary travel, shopping trips, and social visits”; and

WHEREAS, on March 17, 2020, the undersigned issued Executive Order No. 2020-10, directing additional emergency measures in response to the threat posed by COVID-19, to include temporarily prohibiting restaurants from providing certain food services for on-premises consumption and prohibiting events at government facilities that would convene fifty (50) or more people in a single room, area, or other confined indoor or outdoor space; and

WHEREAS, on March 19, 2020, the undersigned issued Executive Order No. 2020-11, initiating further emergency measures and suspending certain regulations to ensure the proper function and continuity of state government operations and the uninterrupted performance and provision of emergency, essential, or otherwise mission-critical state government services, while simultaneously undertaking additional measures to safeguard the health and safety of state employees, mitigate significant economic impacts and burdens on affected individuals and employers, and provide regulatory relief to expedite emergency response initiatives and enhance the availability of critical healthcare services; and

WHEREAS, the undersigned has determined that the rapidly evolving public health threat posed by COVID-19 warrants additional proactive action by the State of South Carolina and the implementation of further extraordinary measures to cope with the existing and anticipated emergency situation; and

WHEREAS, pursuant to section 25-1-440 of the South Carolina Code of Laws, as amended, when an emergency has been declared, the undersigned is authorized to issue, amend, and rescind “emergency proclamations and regulations,” which shall “have the force and effect of law as long as the emergency exists,” and to “suspend provisions of existing regulations prescribing procedures for conduct of state business if strict compliance with the provisions thereof would in any way prevent, hinder, or delay necessary action in coping with the emergency”; and

WHEREAS, in recognition of the foregoing, Executive Order No. 2020-10 “authorize[d] and direct[ed] any agency within the undersigned’s Cabinet or any other department within the Executive Branch, as defined by section 1-30-10 of the South Carolina Code of Laws, as amended, through its respective director or secretary, to waive or ‘suspend provisions of existing regulations prescribing procedures for conduct of state business if strict compliance with the provisions thereof would in any way prevent, hinder, or delay necessary action in coping with the emergency,’ in accordance with section 25-1-440 of the South Carolina Code of Laws and other applicable law”; and

WHEREAS, for the aforementioned and other reasons, and pursuant to the cited authorities and other applicable law, the undersigned has determined that the evolving public health threat posed by COVID-19 requires additional proactive action by the State of South Carolina and the implementation of further extraordinary measures to slow the spread of COVID-

19, minimize the strain on healthcare providers, and mitigate the ongoing economic impacts and other consequences for affected individuals and businesses throughout the State.

NOW, THEREFORE, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and the powers conferred upon me therein, I hereby order and direct as follows:

Section 1. Regulatory Flexibility to Facilitate “Social Distancing”

To facilitate “social distancing” practices and to mitigate the significant economic impacts of COVID-19 on individuals and businesses throughout the State, particularly restaurants and other food-service establishments, pursuant to the cited authorities and other applicable law, I hereby determine, order, and direct as follows:

A. I have determined that the State of South Carolina must promptly undertake and implement additional measures to slow the spread of COVID-19, minimize the current and future strain on healthcare providers, and mitigate the economic impacts on affected individuals and businesses. In furtherance of the foregoing, and in accordance with the President’s Coronavirus Guidelines for America, the State must promote and facilitate effective “social distancing” practices, including “[a]void[ing] eating or drinking at bars, restaurants, and food courts—use drive-thru, pickup, or delivery options.”

B. I hereby suspend Regulation 7–702.5 of the South Carolina Code of Regulations, which provides, in pertinent part, that “[a] permit holder, employee of a permit holder, or agent of a holder must not sell or deliver beer or wine to anyone who remains in a motor vehicle during the transaction.”

C. I hereby authorize and direct the South Carolina Department of Revenue (“DOR”) to implement, interpret, and apply the provisions of this Order, as necessary and appropriate and in accordance with and to the extent allowed by state and federal law, in a manner that will facilitate current holders of a valid Beer and Wine Permit (“Permit”), as set forth below, selling or delivering beer and wine in a sealed container for curbside delivery or pickup and off-premises consumption.

D. Subject to any further clarification, guidance, or regulations issued or promulgated by DOR, Permit holders electing to offer curbside delivery or pickup shall be subject to the following definitions, conditions, and restrictions:

1. Permit is defined as an on- or off-premises permit issued by DOR in accordance with Title 61, Chapter 4 of the South Carolina Code of Laws, with the exception of “special event” permits, for use at fairs and special functions, issued pursuant to section 61-4-550 of the South Carolina Code of Laws, as amended.

2. A retailer shall have a clearly designated delivery or pickup area abutting or adjacent to the retailer’s place of business.

3. A customer who purchases beer or wine must prove at the time of curbside delivery or pickup that he is twenty-one (21) years of age or older by providing a valid government-issued identification.

4. A retailer shall not allow curbside delivery of beer or wine to, or pickup of beer or wine by, an intoxicated person or a person who is under twenty-one (21) years of age.

5. Any Permit holder's employee or agent who is responsible for delivering beer or wine in sealed containers for off-premises consumption to a customer's vehicle shall be eighteen (18) years of age or older.

6. Curbside delivery or pickup of "alcoholic liquors," as defined by section 61-6-20 of the South Carolina Code of Laws, as amended, shall be prohibited.

Section 2. General Provisions

This Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of South Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any other person. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this Order is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this Order, as the undersigned would have issued this Order, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

This Order is effective immediately and shall remain in effect for the duration of the State of Emergency unless otherwise modified, amended, or rescinded by subsequent Order. Further proclamations, orders, and directives deemed necessary to ensure the fullest possible protection of life and property during this State of Emergency shall be issued orally by the undersigned and thereafter reduced to writing and published for dissemination within the succeeding 24-hour period.



GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 21st DAY OF MARCH, 2020.


HENRY MCMASTER
Governor

ATTEST:

MARK HAMMOND
Secretary of State