



GEORGIA STATE SENATE

SENATE RESEARCH OFFICE

204 Coverdell Legislative Office Building | 404.656.0015
18 Capitol Square SW
Atlanta, GA 30334

ELIZABETH HOLCOMB
DIRECTOR

Alcohol Sales; To-Go Drinks and Removal of Open Containers from Licensed Premises

Outlined below is a compilation of research findings on alcohol sales as to-go orders from restaurants as well as the removal of open containers from licensed premises. This information, which includes a survey of states and applicable statutes, was prepared to assist with panel preparation and discussion for the 32nd Biennial Institute for Georgia Legislators.

I. A Survey Of Statutes Relating To Removal Of Alcohol From Retail Establishments By Open Containers Or As Take-Out Orders

A survey of states detailing statutes addressing the removal of alcohol from retail establishments, either by open container or as a take-out order, begins on Page 3. Most of the open container removal statutes pertain to wine, but some address other forms of alcohol. The highlighted sections address statutes where customers can remove alcohol from locations such as restaurants as part of a take-away order; some require purchase with food while others do not (referenced below in section II.). Additionally, several statutes have been included that address refillable containers such as beer growlers or wine bottles that may be refillable. For ease of use, this information has also been summarized in a quick reference style chart at the end of the document on Page 10.

II. States with Statutes Addressing To-Go Alcohol Sales From Restaurants

Below is a quick summary of statutes enacted by states that either directly, or indirectly, address sales of alcohol by restaurants or other establishments licensed for on premises retail consumption and make sales for off premises consumption. Because these are gathered across multiple states, the verbiage is not uniform.

Colorado

[2020 Chapter 262](#) allows for take-out and delivery from on premise consumption licensees for off-premise consumption until July 1, 2021. The drinks must be in sealed containers and must not exceed either 750mL of spirituous or vinous liquors, or 72 ounces of malt liquor, fermented malt beverage, or hard cider.

Delaware

[2020 Chapter 247](#) allows restaurants, brewpubs, taverns, and taprooms (or other on-premise licensees) to sell alcohol in transactions for take-out, curbside, or drive through service if the alcoholic beverages for off-premise consumption are in containers which are securely closed.

District of Columbia

The District of Columbia issued a series of acts allowing for the carry out and delivery of alcohol.

Prepared by the Senate Research Office, on behalf of the Lieutenant Governor's Office for the 32nd Biennial Institute (2020)

[2020 Act 23-317](#) allows for carry-out or delivery of beer, wine, or spirits in closed containers accompanied by one or more prepared food items for off-premises consumption. While, [2020 Act 23-247](#); [2020 Act 23-299](#); [2020 Act 23-326](#) address restaurant and on-premise consumption licensees; allowing carry-out and delivery if accompanied by one or more prepared food items. Lastly, [2020 Act 23-286](#) and [2020 Act 23-328](#) address convention center and multipurpose facility or private club licensees carry-out and delivery.

Illinois

[Public Act 101-631](#) allows for mixed drinks placed in a sealed container by a retail licensee at the retail licensee's location to be sold for off-premises consumption until June 2, 2021. Containers must be tamper-evident, with a label or tag specifying its contents, and the drink must be transported in the trunk of the vehicle or in the rear compartment not readily accessible to the passenger area.

Indiana

[Ind. Code §7.1-3-20-9.5](#): Allows for carry-out privileges for restaurant retailer permittees so long as sixty percent of the retailer permittee's gross retail income from the sale of alcohol is derived from the sale of alcohol for consumption on-premises. Additionally, [Ind. Code §7.1-3-20-25](#): provides carry-out privileges for city market permittees to sell beer and wine.

Kentucky

[2020 Act 73](#) allows for the sale and delivery of alcoholic beverages by the drink at retail and by the package in closed sealed original containers, on a delivery, to-go, or take-out basis in conjunction with food sales during state of emergency.

Louisiana

[2020 Act 115](#) allows restaurants and package houses to deliver (or have a third party deliver) malt beverages, sparkling wine, and still wine.

Massachusetts

[2020 Chapter 53](#) allows establishments licensed for on-premises consumption to sell wine or malt beverages for off-premises consumption during emergencies. Sealed wine and malt beverages must be sold as part of the same transaction as the purchase of food and will be limited to 192 ounces of malt beverage and 1.5 liters of wine per transaction.

[2020 Chapter 118](#) provides that an establishment licensed to sell alcoholic beverages for on-premises consumption may sell drinks for off-premises consumption during an emergency. Mixed drinks must be sold in a sealed container, as part of the same transaction as the purchase of food, and not exceed 64 fluid ounces of mixed drink per transaction. Also, if the drink is to be transported by vehicle, the driver must transport the mixed drink in the trunk of the motor vehicle or some other area not considered the passenger area.

Minnesota

[2020 Chapter 75](#) allows a qualifying licensee to offer "off-sales" of malt liquor, hard seltzer, cider, and wine with a prepared food take-out order, without obtaining an additional license if three conditions are met: The sale must be incidental to or made in conjunction with the sale of food; the alcohol must be sold in its original, unopened packages; and the sale is limited to 72 ounces of malt liquor, hard seltzer or cider, and 750 milliliters of wine.

Oklahoma

[Okla. Stat. tit. 37A, §2-161](#) authorizes curbside pickup and delivery sales by retail spirit licensees of beer, wine, and spirits in original sealed containers.

Prepared by the Senate Research Office, on behalf of the Lieutenant Governor's Office for the 32nd Biennial Institute (2020)

Small brewers and small farm wineries may only sell curbside beverages produced by such licensee in a sealed, original container.

Restaurants, bars, and clubs (holding mixed beverage, beer and wine, or caterer/mixed beverage licenses) are allowed to sell by curbside and delivery closed packages of beer and wine.

Grocery and convenience stores holding a retail beer and/or retail wine license are allowed to sell beer and/or wine only according to the license they hold.

Pennsylvania

[Pa. Stat. tit. 47-§4-407](#) allows restaurants who hold liquor licenses to sell malt or brewed beverages for consumption off the premises where sold in quantities of not more than 192 fluid ounces in a single sale.

[2020 Act 21](#) allows restaurants or hotel liquor licensees authorized to sell prepared beverages and mixed drinks for off-premises consumption where meals prepared for pickup or curbside pickup are also available. (Restaurant or hotel liquor licensees must have lost more than 25 per centum (25%) of the average monthly sales as a result of restrictions imposed during the COVID-19 disaster emergency.

**A Survey Of Statutes Relating To Removal Of Alcohol From Retail Establishments
By Open Containers Or As Take-Out Orders:**

State:	Applicable Statute:	Permissible removal of alcohol from premises:
Alabama	Ala. Code §28-3A-20.1	Partially consumed wine
Alaska	Alaska Stat. §04.16.120	Partially consumed wine
Arizona	Ariz. Rev. Stat. Ann. §4-244	Partially consumed wine Refillable container of beer
Arkansas	Ark. Admin. Code 006.02.1-1.79(27)	Partially consumed wine
California	Cal. Business & Professions Code §23396.5	Partially consumed wine
Colorado	Colo. Rev. Stat. §44-3-423	Partially consumed wine
	2020 Chapter 262	Take-out and delivery of alcohol from on-premise consumption licensees for off-premise consumption until July 1, 2021
Connecticut	Conn. Gen. Stat. §30-21	Partially consumed wine from hotel
	Conn. Gen. Stat. §30-22	Partially consumed wine
	Conn. Gen. Stat. §30-22a	Partially consumed wine from cafe
Delaware	Del. Code Ann. tit. 4, §512	Partially consumed bottle of alcohol other than beer
	Del. Code Ann. tit. 4, §705	Containers for sale and delivery of beer for consumption off premises
	2020 Chapter 247	Take-out, curbside, or drive through service if the alcoholic beverages for off-premise consumption are in containers which are securely closed
District of Columbia	D.C. Code Ann. §25-113	Partially consumed wine
	2020 Act 23-317	Carry-out or delivery of beer, wine, or spirits in closed containers accompanied by one or more prepared food items for off-premises consumption
	2020 Act 23-247 2020 Act 23-299 2020 Act 23-326	Restaurant and on-premise consumption licensees carry-out and delivery if accompanied by one or more prepared food items
	2020 Act 23-286 2020 Act 23-328	Convention center and multipurpose facility or private club licensees carry-out and delivery
Florida	Fla. Stat. §564.09	Partially consumed wine
Georgia	Ga. Code §3-6-4	Partially consumed wine
Guam	Guam Code Ann. tit. 9, §92114	Partially consumer alcohol

Hawaii	Hawaii Rev. Stat. §281-31	Partially consumed wine, liquor, or beer
Idaho	N/A	---
Illinois	Public Act 101-631	Delivery and carry out of mixed drinks until June 2, 2021
	Ill. Rev. Stat. ch. 235, §5/6-33	Partially consumed wine
Indiana	Ind. Code §7.1-3-20-9.5	Carry-out privileges for restaurant retailer permits
	Ind. Code §7.1-3-20-9.6	Partially consumed wine
	Ind. Code §7.1-3-20-25	Carry-out privilege for city market permit
Iowa	Iowa Code §123.30	Partially consumed wine
	Iowa Code §123.178 Iowa Code §123.178A Iowa Code §123.178B	Class B wine permits, Class B native wine permits and Class C native wine permits: authorized to sell wine in containers or refill containers no larger than 72 ounces for consumption off-premises. The container to be sold shall be securely sealed by a method authorized by the division that is designed so that if the sealed container is reopened or the seal tampered with, it is visibly apparent that the seal on the container of wine has been tampered with or the sealed container has otherwise been reopened.
	Iowa Code §123.30 Iowa Code §123.49	Class C liquor license and Class “C” native distilled spirits liquor license; Mixed drinks or cocktails mixed on premises may be sold if the mixed drink or cocktail is immediately sealed with a lid or other method of securing the product and is promptly taken from the licensed premises prior to consumption of the mixed drink or cocktail.
	Iowa Code §123.131	Class B beer permit: authorized to sell beer in containers or refill containers no larger than 72 ounces to be consumed on or off premises. The container to be sold shall be securely sealed by a method authorized by the division that is designed so that if the sealed container is reopened or the seal tampered with, it is visibly apparent that the seal on the container of beer has been tampered with or the sealed container has otherwise been reopened.
Kansas	Kan. Stat. Ann. §41-308b	Refillable and sealable containers of beer manufactured by microbreweries
	Kan. Stat. Ann. §41-2653	Partially consumed alcohol
Kentucky	Ky. Rev. Stat. §243.115 <i>et seq.</i>	Partially consumed wine
	2020 Act 73	Retail sale and delivery of alcoholic beverages by the drink in a covered or sealed container and by the package in closed sealed original containers,

		on a delivery, to-go, or take-out basis in conjunction with food sales during state of emergency.
Louisiana	La. Rev. Stat. Ann. §26:153	Delivery of alcoholic beverages
	2020 Act 115	Class A-General retail and restaurants authorized to deliver (or have third party deliver) malt beverages, sparkling wine, and still wine
Maine	Me. Rev. Stat. Ann. tit. 28-A, §1051	Partially consumed wine
Maryland	Md. Alcoholic Beverages Code Ann. §2-208	Refillable containers of malt beverages by Class 6 pub-brewery license
	Md. Alcoholic Beverages Code Ann. §2-209	Refillable containers of beer by Class 7 micro-brewery license
	Md. Alcoholic Beverages Code Ann. §4-1102 Md. Alcoholic Beverages Code Ann. §4-1103	Partially consumed wine
	Md. Alcoholic Beverages Code Ann. §4-1104	Refillable containers of draft beer
	Md. Alcoholic Beverages Code Ann. §4-1105	Refillable containers of wine
	Md. Alcoholic Beverages Code Ann. §12-1102 (Baltimore County) Md. Alcoholic Beverages Code Ann. §17-1102 (Cecil County) Md. Alcoholic Beverages Code Ann. §19-1102 (Dorchester County)	Refillable container permit--Draft beer
Massachusetts	Mass. Gen. Laws Ann. ch. 138, §12	Partially consumed wine
	2020 Chapter 53	Wine or malt beverages sold by on-premises establishment for off-premises consumption during emergency. Sealed wine and malt beverages must be sold as part of the same transaction as the purchase of food and will be limited to 192 ounces of malt beverage and 1.5 liters of wine per transaction.
	2020 Chapter 118	An establishment licensed to sell alcoholic beverages for on-premises consumption may sell drinks for off-premises consumption during emergency. Mixed drinks must be sold in a sealed container, as part of the same transaction as the purchase of food, and no exceed 64 fluid ounces of mixed drink per transaction. Also, if the drink is to be transported by vehicle, the driver must transport the mixed drink on the trunk of the motor vehicle or some other area not considered the passenger area.

Michigan	Mich. Comp. Laws §436.1537	Refillable containers of beer
	Mich. Comp. Laws §436.1537a	Qualified licensee may fill and sell qualified containers with alcoholic liquor for consumption off the premises until Dec. 31, 2025
	Mich. Comp. Laws §436.2021	Partially consumed wine
Minnesota	Minn. Stat. §340A.404	Partially consumed wine
	2020 Chapter 75	qualifying licensee may offer off-sales of malt liquor, hard seltzer, cider, and wine with a prepared food take-out order, without obtaining an additional license if : <ul style="list-style-type: none"> - Sale incidental or made in conjunction with sale of food - Alcohol in original, unopened packages - Limit of 72 oz of malt liquor, hard seltzer, cider; limit of 750 mL of wine
Mississippi	Miss. Code Ann. §67-1-51	Partially consumed wine
Missouri	Mo. Rev. Stat. §311.101	Partially consumed wine
Montana	Mont. Code Ann. §16-3-303	Refillable containers of beer
Nebraska	Neb. Rev. Stat. §53-123.04 Neb. Rev. Stat. §53-123.11	Partially consumed wine
Nevada	N/A	---
New Hampshire	N.H. Rev. Stat. Ann. §179:27-a	Partially consumed wine
New Jersey	2020 Chapter 33	During state of emergency: Delivery by plenary retail consumption license, plenary retail consumption license used in connection with a hotel or motel, or seasonal retail consumption license issued pursuant to R.S.33:1-12, or concessionaire permit Craft distillery license shall be entitled to sell on the licensed premises for consumption off the licensed premises
New Mexico	N.M. Stat. Ann. §60-3A-12	Partially consumed wine
New York	N.Y. Alcoholic Beverage Control Law §81 N.Y. Alcoholic Beverage Control Law §106	Partially consumed wine
North Carolina		
North Dakota	N.D. Cent. Code §5-02-13	Partially consumed wine
Ohio	Ohio Rev. Code Ann. §4301.62	Partially consumed wine
Oklahoma	Okla. Stat. tit. 37A, §6-102	Partially consumed wine Open container of beer or wine as specified
	Okla. Stat. tit. 37A, §2-161	Curbside pickup and delivery sales by retail spirit licensees of beer, wine, and spirits in original sealed containers.

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		<p>Small brewers and small farm wineries may sell curbside only beverages produced by such licensee in a sealed, original container.</p> <p>Restaurants, bars, and clubs (holding mixed beverage, beer and wine, or caterer/mixed beverage licenses) are allowed to sell by curbside and delivery closed packages of beer and wine.</p> <p>Grocery and convenience stores holding a retail beer and/or retail wine license are allowed to sell beer and/or wine only according to the license they hold.</p>
Oregon	<p>Or. Rev. Stat. §471.175 Or. Rev. Stat. §471.178 Or. Rev. Stat. §471.223 Or. Rev. Stat. §471.227</p>	Partially consumed wine
Pennsylvania	<p>Pa. Stat. tit. 47, §4-406 Pa. Stat. tit. 47, §4-409</p>	Partially consumed wine
	Pa. Stat. tit. 47-§4-407	Restaurants who hold liquor licenses may sell malt or brewed beverages for consumption off the premises where sold in quantities of not more than 192 fluid ounces in a single sale
	Pa. Stat. tit. 47, §4-442	No retail dispenser may sell malt or brewed beverages for consumption off the premises in quantities in excess of 192 fluid ounces.
	<p>Pa. Stat. tit. 47, §4-417 2020 Act 21</p>	Restaurant or hotel liquor licensees authorized to sell prepared beverages and mixed drinks for off-premises consumption where meals prepared for pickup or curbside pickup are also available. (Restaurant or hotel liquor licensees must have lost more than 25 per centum (25%) of the average monthly sales as a result of restrictions imposed during the COVID-19 disaster emergency.
Rhode Island	R.I. Gen. Laws §3-8-16	Partially consumed wine
South Carolina	N/A	---
South Dakota	S.D. Codified Laws Ann. §35-1-5.7	Partially consumed wine
	S.D. Codified Laws Ann. §35-1-9.4	Partially consumed wine
Tennessee	Tenn. Code Ann. §57-4-203	Partially consumed wine
Texas	Tex. Alcoholic Beverage Code Ann. §28.10	Partially consumed wine
Utah	Utah Code Ann. §32B-5-307	Partially consumed wine
Vermont	Vt. Stat. Ann. tit. 7, §721	Partially consumed vinous beverages or specialty beers

Virginia	Va. Admin. Code tit. 3, §5-40-30	Refillable containers of wine, beer and cider Wine sold for on-premises consumption shall not be removed from the licensed premises except in the original container with closure.
Washington	Wash. Rev. Code §66.24.170	Partially consumed wine
	Wash. Rev. Code §66.24.320 Wash. Rev. Code §66.24.400	Partially consumed wine or sake
West Virginia	W. Va. Code §60-8-3	Partially consumed wine
Wisconsin	Wis. Stat. §125.51	Partially consumed wine
Wyoming	Wyo. Stat. §12-4-410	Partially consumed wine

Analyst: Katherine Russell

At-A-Glance Survey Of State Statutes Relating To Removal Of Open Containers Or As Take-Out Orders

State	Partially consumed wine	Restaurant to-go	Growlers or refillable wine containers
Alabama	●		
Alaska	●		
Arizona	●		●
Arkansas	●		
California	●		
Colorado	●	●	
Connecticut	●		
Delaware	●	●	
District of Columbia	●	●	
Florida	●		
Georgia	●		
Guam	●		
Hawaii	●		
Idaho			
Illinois	●	●	
Indiana	●	●	
Iowa	●		●
Kansas	●		●
Kentucky	●	●	
Louisiana		●	
Maine	●		
Maryland	●		●
Massachusetts	●	●	
Michigan	●		●
Minnesota	●	●	
Mississippi	●		
Missouri	●		
Montana			●
Nebraska	●		
Nevada			
New Hampshire	●		
New Jersey		●	
New Mexico	●		
New York	●		
North Carolina			
North Dakota	●		
Ohio	●		
Oklahoma	●	●	
Oregon	●		
Pennsylvania	●	●	
Rhode Island	●		
South Carolina			
South Dakota	●		
Tennessee	●		
Texas	●		
Utah	●		
Vermont	●		
Virginia			●
Washington	●		
West Virginia	●		
Wisconsin	●		
Wyoming	●		

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