

Industry Advisory
Nebraska Liquor Control Commission

Industry Advisory- End of Governor Ricketts Executive Order and Implementation of LB 274.

This advisory is temporary in nature and specific to those in the alcohol industry in Nebraska.

NLCC ADVISORY

With the expiration of Governor Ricketts Executive Orders 20-06 and 20-09 and the enactment of LB 274 with an emergency clause there are many questions on the effects of the “Cocktails to go” and sales to individuals in a motor vehicle.

“Cocktails to Go”

A Class C license may sell a mixed drink or cocktail for consumption off the premises under the following rules:

1. The buyer is at least 21 years old.
2. The drink has not been partially consumed.
3. It is in a container which is labeled and sealed with a tamper proof lid, cap, or seal.
4. It is transported in the trunk or as far away from the driver as is practical, in vehicles without a trunk (SUVs and pickups for example)

Most of the questions the Commission has received have been in regards to the labeling and sealing of the container.

Although the preferred method of labeling would be a printed cup with the establishments name and address, a printed label affixed to the container is also acceptable.

The Commission intends to hold a hearing to fully determine the exact requirements for the method of sealing the container, but in the interim it recommends using a tamper proof tape or label affixed to the container that clearly reveals if the container has been opened prior to the possessor reaching their final destination. The clear and unambiguous intent of this law change is to enable the purchase and transport of a mixed drink or cocktail for its consumption at the possessors’ home or other private location. These drinks are NOT to be consumed while in the vehicle and any container partially consumed or clearly opened (via use of the tamper proof tape) may result in a criminal charge of an open container in motor vehicle.

A Class I License has similar rights but since they lack general off-sale rights, they may only sell the mixed-drink or cocktail if the purchase is made with food. Thus, restaurants may continue to

sell these drinks with the take -out options which has become increasingly popular. If they wish to sell these products independent of food, they need to upgrade to the Class C License.

Holders of a Farm Winery License may sell wine-based cocktails in the same manner as a Class C.

Sales to Person's in Motor Vehicles

Although the Executive Orders allowed the sale of alcohol through drive-thru windows, the change in LB 274 is more restrictive. Under the changes in LB 274, the holder of a Class B, Class C, Class D, Class L, Class Y, or Class Z license may sell or deliver alcoholic products to a person in a motor vehicle under the following circumstances:

1. The product is sold with food
2. The motor vehicle is in park
3. The alcoholic liquor is placed in the trunk or in the area behind the last upright seat in vehicles not equipped with a trunk. (SUVs or pickups for example)

The clear intention is to allow such practices as drive thru grocery pickups to continue, however the practice of using a drive through window is not, it appears to be impossible for the window attendant to comply with the third condition stated above.

The Commission intends to issue further guidance as conditions warrant and may engage in rule making at later time if necessary. The Commission will discuss these temporary measures at its July 7, 2021 meeting. Please refer to the upcoming Commission agenda for the time and place (www.lcc.nebraska.gov). If you have any questions about this guide document, please contact the NLCC.

Thank you,



Hobert Rupe
Executive Director
Nebraska Liquor Control Commission