



WILLIAM G. BUSH, IV
STATE REPRESENTATIVE
29th District

HOUSE OF REPRESENTATIVES
STATE OF DELAWARE
411 LEGISLATIVE AVENUE
DOVER, DELAWARE 19901

COMMITTEES

Economic
Development/Banking/Insurance &
Commerce, Chair
Agriculture, Vice Chair
Capital Infrastructure, Member
Gambling & Parimutuels, Member
Public Safety & Homeland Security,
Member

House Economic Development, Banking, Insurance & Commerce Committee Minutes

Date: 4.23.2024

House Committee Meeting

Chair Bush called the meeting to order at 12:03p.m.

Members present:

Representative William Bush, Chair
Representative William Carson, Vice Chair
Representative Paul S. Baumbach
Representative Krista Griffith
Representative Ronald E. Gray
Representative Michael F. Smith
Representative Jeffrey N. Spiegelman
Representative Sherry Dorsey Walker
Representative Larry Lambert
Representative Madinah Wilson-Anton
Representative Kevin Hensley

Chair Bush introduced **HB 371 AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO THE STATE FIRE PREVENTIONS COMMISSION, FIRE COMPANIES OR DEPARTMENTS, AND THE STATE INSURANCE COVERAGE OFFICE.** *Time Stamp: 12:05*

Rep. Williams discussed how the issues surrounding fire caps were brought to her attention by J. Jones, Executive Manager of the Delaware Volunteer Fire Association. Rep. Williams further stated that discrepancies surrounding the fire tax has occurred several times over the last three decades, which has resulted in millions of dollars not being sent to New Castle County fire companies due to zip code and location issues. The bill includes a zipcode-based system that simplifies the process of allocations between the City of Wilmington and New Castle County fire companies.

Rep. Baumbach inquired if the bill maintains current funding levels for non-Wilmington and New Castle County areas and ensures equal distribution among fire companies without prioritizing based on need.

Rep. Williams responded that he is right. The dollars will all be divided up equally among the New Castle County fire companies.

Rep. Baumbach further asked that big companies and small companies get the same dollar amount. Rep. Williams confirmed this for everyone up and down the state.

Rep. Wilson-Anton expressed appreciation for the bill but raised a concern regarding the equal distribution of funding, particularly in her 26th district, where the Christiana Fire Company operates. She emphasized the substantial size of the fire district and argued that equal division of funding may not be fair. Rep. Wilson-Anton pointed out that the Christiana fire district, serving a population of 98,000, currently receives significantly less funding per resident compared to other districts, such as Port Penn receiving \$973 per resident. She highlighted this as a separate issue that requires attention.

Rep. Williams noted that there was a similar question from Senator Sokola and that currently they are trying to make sure that the money needed in New Castle County does not end up in Wilmington where they desperately need to fund the volunteers.

Rep. Williams agreed that what Rep. Wilson-Anton stated could be a second bill.

Chair Bush opened the floor for public comment. *Time Stamp: 12:10*

Member of the Public, Robert Overmiller, voiced his support of the legislation.

Chris Haas, Department of Insurance, submitted comments for review.

Tom Dicristofaro, DVFA, voiced his support of the legislation.

Ron Marvel, Fire Commissioner, stated that they will accept the responsibility of collecting the inventory that way to keep record.

Matthew Rosen, State Treasurers Office, noted their support of the bill.

A motion was made by Rep. Carson and seconded by Rep. Baumbach to release HB 371 from committee; motion carried. Yes = 10 (Baumbach, Bush, Carson, Dorsey Walker, Gray, Griffith, Hensley, Smith, Spiegelman, Wilson-Anton). No = 0. Absent = 3 (Lambert, Matthews, Short). The bill was released from committee with a F = 3, M = 7, U = 0.

Chair Bush introduced **SB 166 AN ACT TO AMEND TITLE 4 OF THE DELAWARE CODE RELATING TO ALCOHOLIC LIQUORS.** *Time Stamp: 12:15*

Chair Bush stated that this Act allows for the delivery of alcoholic liquors from a restaurant, brewpub, tavern, taproom, or other entity with a valid on-premises license. In addition, this Act provides that the acts of a licensed consumer delivery permittee or a delivery driver are not attributable to the retailer.

Rep. Spiegelman noted that it is great but does not replace direct shipment. He stated that he has a question about the different types of alcohol for the Alcohol Commissioner.

Jacqueline Mette, Alcohol Commissioner, was introduced to the committee.

Rep. Spiegelman noted that in lines 32 and 33 of the bill there are two alcohols that are outliers within Delaware law — cider and mead. He wanted the Commissioner to clarify whether those who want cider or mead could take advantage.

Commissioner Mette noted that the ability for on premise licenses to deliver limited quantities of alcohol with a purchase of food was called “alcohol-to-go”. It began with the state of emergency and then the General Assembly put it into the Code. Commissioner Mette noted that in line 32 of the bill it does not include mead and cider and are defined separately in Title 4. Cider — in its definition in Chapter 1 of Title 4— can be deemed a wine product unless a specific provision characterizes it differently. Commissioner Mette confirmed that mead has its own separate definition that is not identified here.

Rep. Spiegelman further added that to get mead delivered from this bill we would have to add it. Commissioner Mette stated that it would make it clearer.

Rep. Spiegelman continued that with cider, because it is categorized as wine, can only be sold as a bottle through this service but not as a can.

Commissioner Mette responded that that would be a very literal interpretation of the provision but yes.

Rep. Spiegelman shared that he would like to work with the bill’s sponsor to clean up the language in this bill.

Rep. Baumbach asked what is the limited number of mixed cocktails that can be delivered based on line 32.

Commissioner Mette explained that when this was first added by HB 1, and ultimately in HB 290 in the prior session, there were no limits on mixed cocktails.

Rep. Baumbach noted that when refinement is being done to the bill that this factor be addressed. He continued asking if there is clear liability if the law is not followed.

Commissioner Mette responded that on line 74 of the bill is where the section on liability stops. The liability would be with the third-party delivery licensee. Once the product has been delivered to the delivery person, the on-premises licensee liability stops, and then becomes the third-party deliveries liability and responsibility.

Rep. Baumbach further asked whether there is concern over how liability blame may play out within a regular scenario.

Commissioner Mette noted that the question is better suited for a representative from the third-party delivery services.

Rep. Baumbach clarified that he would rather have that decided by the legislature and not the parties.

Officer Michael Loiseau, Delaware Division of Alcohol & Tobacco Enforcement introduced himself to the committee.

Rep. Baumbach asked Officer Loiseau that if he had a sting operation and he found that an under-age person received alcohol through this new law, what is his interpretation for which party the state can go after.

With permission from the Chair, Officer Loiseau shared that his interpretation is that it would similarly follow the case when a server serves a minor and receives a criminal citation. They would take care of that through Justice of Peace (JP) Court and the license establishment would have an administrative hearing before the Commissioner regarding their liquor license and the delivery driver would have to answer through JP Court.

Rep. Baumbach asked about the difference between a restaurant employee and one of the company's employees and how this relates to quasi employees because he believes that they are within different categories.

Officer Loiseau responded that there is a provision under Title 4 in the section 900 in assigning responsibility. The term whoever within the provision includes whoever's license it is and whoever is operating on behalf of that license. Third-party deliveries are held liable based on that clause.

Rep. Baumbach wanted to clarify then that to his knowledge he has only seen one study reporting bad actions, with one state, and with one delivery service company.

Officer Loiseau mentioned the study associated with New Hampshire that focused on the previous bill before the committee and that the Gopuff scenario is more akin to this bill.

Rep. Baumbach questioned is it akin to having problems with this kind of thing or akin to this kind of third-party delivery service.

Officer Loiseau responded akin to this kind of third-party delivery service.

Rep. Baumbach expressed that he feels like he has been pushing against and wanted to know if there could be equal time for the proponents of the organizations involved.

Chair Bush shared this thought and introduced Alex Mooney, Door Dash.

Mr. Mooney described the safety components as something Door Dash takes very seriously. He noted how the company conducts two identification requirements prior to the purchasing of alcohol through their app. When the product is delivered, the deliverer must scan their identification card again before the alcohol is handed off to the consumer. Incentives are structured so that if the deliverer must return the product due to identification issues, they are incentivized to do so. Mr. Mooney described this as a good experience in 31 states, with Maryland recently passing a similar bill.

Rep. Baumbach expressed his appreciation for the incentive on the company's side for incentivizing drivers to return the product. He further asked that when deliverers check the identification card, is there a requirement for the identification cards to match.

Mr. Mooney responded no because sometimes individuals like to gift the product to another individual or if there are two adults in the house where one placed the order and the other comes to the door. He emphasized the importance of both identification cards being over 21.

Rep. Griffith asked if Mr. Mooney could talk more about when someone is intoxicated how deliverers will go about ensuring that they will not be served again. Rep. Griffith stated that she supported the bill but is concerned for addicts who might try and take advantage of the service.

Mr. Mooney responded that only deliverers who want to deliver alcohol can opt into the service and that they must be 21 years of age. In addition, they must opt into an education course where they will be informed about how to check for the signs of intoxication. Mr. Mooney explained that if a deliverer gets to someone's door and they believe the individual to be intoxicated, the deliverer is instructed to call Door Dash's support line and return the product to the store.

Rep. Griffith suggested that the deliverers also be instructed to leave the individuals premise for their safety. Mr. Mooney supported this by highlighting that part of the training is instructing deliverers to remove themselves from the location if they ever feel unsafe.

Rep. Griffith asked if there is anything to prevent individuals to keep ordering from that night.

Mr. Mooney responded no because there is no way for the company to know if someone is ordering multiple drinks for themselves or whether they are too intoxicated. Mr. Mooney shared that they do monitor for unusual activity and make case by case determinations and that this is rare.

Chair Bush opened the floor to public comment. *Time Stamp: 12:36*

Carrie Leishman, Delaware Restaurant Association, wanted protection for liability and licensed within the bill and thanked the bill's sponsors.

Member of the Public, Robert Overmiller, supported the legislation.

Edward Mulvihill, Beakers Liquor Store, is concerned with the enforcement aspect of the bill.

Rep. Baumbach asked if Chair Bush is opened to the limit of cocktail before the bill goes to the House floor.

Chair Bush responded that he would look into that.

A motion was made by Rep. Griffith and seconded by Rep. Carson to release SB 166 from committee; motion carried. Yes = 9 (Bush, Carson, Dorsey Walker, Gray, Griffith, Hensley, Lambert, Smith, Spiegelman). No = 0. Absent = 2 (Matthews and Short). The bill was released from committee with a F = 2, M = 7, U = 0.

Chair Bush introduced **HB 379 AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO INSURANCE PAYMENTS.**

Chair Bush noted that the bill would reinstate language formerly in the Delaware Code which would permit insurance agents to issue checks to policyholders in time sensitive situations

without having to qualify as claims adjusters. This practice would be subject to regulation by the Department of Insurance.

Rep. Spiegelman stated that the cap on this will be handled through regulation.

Chair Bush responded yes.

Chair Bush opened the floor to public comment. *Time Stamp: 12:44*

Chris Haas, Department of Insurance, Member of the Public, Robert Overmiller and Hunter Emory, State Farm Agent, is in support of the legislation.

A motion was made by Rep. Wilson-Anton and was seconded by Rep. Dorsey Walker to release HB 379 from committee; motion carried. Yes = 11 (Bush, Carson, Dorsey Walker, Gray, Griffith, Hensley, Lambert, Smith, Spiegelman, Baumbach, Wilson-Anton). No = 0. Absent = 2 (Matthews and Short). The bill was released from committee with a F = 7, M = 1, U = 0.

Chair Bush adjourned the meeting at 12:47.

Respectfully submitted by: Tyron Herring

Attendee list:

- Robert Overmiller
- Hunter Emory, State Farm
- Chris Haas, Department of Insurance
- Tom Dicristofaro, DVFA
- Ron Marvel, Fire Commission
- Jacqueline Mette, Alcohol Commissioner
- Michael Loiseau, Delaware Division of Alcohol & Tobacco Enforcement
- Alex Mooney, Door Dash
- Carrie Leishman, Delaware Restaurant Association.

BEFORE THE HOUSE ECONOMIC DEVELOPMENT COMMITTEE

**Public hearing on Senate Bill 166
AN ACT TO AMEND TITLE 4 OF
THE DELAWARE CODE RELATING
TO ALCOHOLIC LIQUORS**

Public Hearing: April 23, 2024

COMMENTS OF UBER TECHNOLOGIES, INC.

Harry Hartfield
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Uber welcomes a conversation with the House Economic Development Committee on the responsible delivery of alcohol.

As many of you may already know, Uber is a technology company and our Uber Eats product is an online marketplace platform that connects merchants, consumers, and a network of independent delivery people in their communities. Today, Uber Eats provides a platform for the facilitation of alcohol delivery from retailers in more than two dozen U.S. states.

Uber Eats fully recognizes the safety concerns around the delivery of alcohol, and specifically the necessity for requirements at the point of delivery. Our platform is committed to helping ensure the safe and legal delivery of alcohol and we believe Senate Bill 166 does just that.

The below lays out the process and guardrails we employ to ensure safe delivery.

Safety Every Step of the Way

Ensuring safety is at the forefront of our delivery protocol.

First, prior to even the point of sale, customers are alerted to age restrictions when browsing various alcoholic items on the menu.

Next, when the customer is ready to check out, they are prompted to affirm they are 21 or over and informed they will be required to show the delivery person a valid ID and must not be visibly intoxicated.

After the order is accepted by the retailer, it is routed to a delivery person working on our platform for pick up and delivery.

Couriers who deliver alcohol must be 21 or older and must have opted-in to delivering alcohol. All couriers receive important information on how to deliver alcohol safely before they opt in to deliver alcohol and throughout their tenure delivering alcohol through Uber Eats. These materials on safe and legal alcohol delivery were developed in partnership with Responsibility.org - a leading organization for responsible alcohol consumption - and in alignment with the International Alliance for Responsible Drinking (IARD) - a coalition of online retailers and platforms with whom we partnered develop global standards to prevent the online sale and delivery of alcohol to minors.

Before the delivery person can complete an alcohol delivery, the app guides delivery people through a recipient sobriety check and provides a list of common signs of intoxication to help delivery people ensure the customer is sober in alignment with guidance from Responsibility.org.

The ID scan process involves both a review of the recipient's ID, as well as a scan of the DOB and ID expiration date. The app won't allow the delivery person to proceed with the delivery until the delivery person completes the age verification process.

If the delivery person determines the customer appears to be intoxicated or is unable to provide the necessary ID, they are prompted to return the delivery to the restaurant. The app changes the delivery person's destination back to the retailer, and the delivery person is paid for the return trip. Trips with alcohol also have customized in-app support options to provide additional, contextual information to help the delivery person in the case of an underage or intoxicated customer.

We also have policies in place to remove alcohol from consumers' apps if they are unable to provide a valid ID or are too intoxicated to receive the delivery.

Lastly, to support those who are sober, customers can opt-out of seeing alcohol altogether.

Uber Eats appreciates this Committee's attention to this important matter and looks forward to the opportunity to work together to put Delaware on par with 27 other states nationwide. It is our hope that the information above serves to better inform discussion on SB 166 and we thank you for your time and consideration.