

**DEPARTMENT OF STATE**  
**OFFICE OF THE ALCOHOLIC BEVERAGE CONTROL COMMISSIONER**  
Statutory Authority: 4 Delaware Code, Section 304 (4 **Del.C.** §304)  
4 **DE Admin. Code** 203

**PROPOSED**

**PUBLIC NOTICE**

**Rule 203 (Formerly Rule 36) Delivery, Sale and Consumption of Alcoholic Liquors for On-Premises Consumption**

In compliance with the State's Administrative Procedures Act (Title 29, Chapter 101 of the Delaware Code) and under the authority of 4 **Del.C.** §304, the Delaware Alcoholic Beverage Control Commissioner proposes to edit the existing regulation at 4 **DE Admin. Code** 203 to allow on-premises licensees to sell, serve or deliver and patrons to consume alcoholic liquors 1 hour earlier, at 8 a.m., from the former time of 9 a.m., to comply with amendments to 4 **Del.C.** §709.

In accordance with 29 **Del.C.** §10116, persons wishing to submit written comments, suggestions, briefs, and compilations of data or other written materials concerning the proposed regulations should direct them to the following address:

Doug Denison  
Deputy Commissioner  
Office of the Delaware Alcoholic Beverage Control Commissioner  
820 N. French St., 10th Floor  
Wilmington, DE 19801

Comments may also be directed via electronic mail to [OABCCrulescomments@delaware.gov](mailto:OABCCrulescomments@delaware.gov). Any written submission in response to this notice and relevant to the proposed regulations must be received by the Delaware Alcoholic Beverage Control Commissioner no later than 4 p.m. EST, April 1, 2025.

The action concerning determination of whether to adopt the proposed regulations will be based upon consideration of the written comments and any other written materials filed by the public.

**Background**

The Delaware Alcoholic Beverage Control Commissioner ("Commissioner" or "Office") is authorized by the General Assembly of the State of Delaware, to establish, by rules and regulations, an effective control of the business of manufacture, sale, dispensation, distribution and importation of alcoholic liquors within and into the State of Delaware, including the time, place and manner in which alcoholic liquors shall be sold and dispensed, not inconsistent with Chapters 1-12 of Title 4 of the Delaware Code, known as the Delaware Liquor Control Act ("DLCA") or with any other law of the State. The Commissioner is further authorized to adopt and promulgate rules and regulations not inconsistent with Chapters 1-12 of Title 4 of the Delaware Code or of any other law of the State, and such rules and regulations shall have the force and effect of law; provided, however that no such rule or regulation shall extend, modify or conflict with any law of this State or the reasonable implications thereof; and provided further, however, that such rules and regulations, as established by the Commissioner, shall focus primarily on public safety and the best interests of the consumer and shall not unduly restrict competition within the alcoholic beverage industry.

The General Assembly passed House Bill 235 ("HB 235"), which amended 4 **Del.C.** §709 to change from 9:00 a.m. to 8:00 a.m. the time at which an on-premise licensee can sell, serve and deliver alcoholic beverages to customers for consumption on the premises. The Governor signed HB 235 effective January 11, 2024.

An Emergency Order was published in the *Delaware Register of Regulations* for February 1, 2024 for changing the hours from 9 a.m. to 8 a.m. The Commissioner invited the public to submit petitions for recommendations or revisions to the Order by sending the petitions to the Commissioner's business office at 820 N. French St., 10th Floor, Wilmington, DE 19801. No petitions were received by the Commissioner's office.

**Summary of Proposal**

4 **DE Admin. Code** 203 is an existing regulation that is being changed to comply with 4 **Del.C.** §709 which allows Delaware on-premises licensees to sell, serve, or deliver or a patron can consume alcoholic beverages on the licensee's

premises, from 9 a.m. to 8 a.m. Other proposed amendments reflect technical and style changes consistent with the *Delaware Administrative Code Drafting and Style Manual*.

## **Statutory Authority** 4 Del.C. §304

4 Del.C. §304 enables the Delaware Alcoholic Beverage Control Commissioner to adopt and promulgate rules and regulations not inconsistent with Title 4 of the Delaware Code and all such rules and regulations shall have the force and effect of law; provided, that no such rule or regulation shall extend, modify or conflict with any law of the State of Delaware or the reasonable implications thereof.

## **Rule 203 (Formerly Rule 36) Delivery, Sale and Consumption of Alcoholic Liquors for On-Premises Consumption**

### **1.0 Purpose and Scope**

This ~~rule~~ regulation defines the ~~term~~ terms "Consumption", "Delivery", "Sale", and "Service" and ~~"Consumption"~~ of alcoholic liquors and prescribes the hours of the day when alcoholic liquors may be delivered, sold and consumed, under the provisions of 4 Del.C. §709.

### **2.0 Definitions**

The following words and terms, when used in this regulation, have the following meaning:

"**Consumption**" of alcoholic liquors means the act of drinking or eating alcoholic ~~beverages~~, beverages and includes possession of an alcoholic beverage with the present ability to drink or eat it.

"**Delivery**" of alcoholic liquors means the transfer of possession or custody of alcoholic liquors from 1 person to another.

"**Sale**" of alcoholic liquors means solicit or receive an order ~~for~~; for, keep or expose for sale, deliver for value or in any other way than purely gratuitously.

"**Service**" of alcoholic liquors means the delivery of alcoholic beverages.

"**Time of Day** ~~day~~" means prevailing local time in the State of Delaware as fixed by Executive Order or pursuant to the The Uniform Time Act of ~~1966~~, 1966 (15 U.S.C. §260, et ~~seq.~~ seq.).

### **3.0 Prohibited Acts**

No person licensed by the Commissioner shall sell, serve or deliver alcoholic liquors on, in or from an establishment licensed for ~~On-premises~~ on-premises consumption between the hours of ~~1:00 A.M. and 9:00 A.M.~~ 1 a.m. and 8 a.m. No alcoholic liquors shall be consumed on licensed premises between the hours of ~~2:00 A.M. and 9:00 A.M.~~ 2 a.m. and 8 a.m.

**19 DE Reg. 775 (02/01/16)**

**28 DE Reg. 661 (03/01/25) (Prop.)**