



## Alcohol Deregulation During and Post-Pandemic

In 1933, the Twenty-First Amendment was ratified and the prohibition of alcohol in the United States was repealed.<sup>1</sup> Besides the Minimum Drinking Age Act of 1984, which established the federal minimum age to purchase alcohol<sup>2</sup>, the power to decide who can manufacture, sell, or drink alcohol falls supremely to the discretion of the states. With very few exceptions, most regulations pertaining to alcohol and the sale of such substances is delegated to state and local authorities.

As it stood pre-pandemic, most states had laws prohibiting the sale of what is known as “to-go” alcoholic beverages, aligning with the prohibition of open containers.<sup>3</sup> However, when the COVID-19 pandemic reached the United States, states began to loosen up these sales restrictions in an attempt to rescue restaurants, bars, and businesses that were shut down due to their “non-essential” status.

A number of states deemed the sale of to-go alcohol as an essential service, while others like Pennsylvania, temporarily closed all state-run liquor stores.<sup>4</sup> This deregulation in the midst of the pandemic did not only apply to in-person to-go alcohol purchases, but it also rescinded a number of restrictions on online liquor sales.<sup>5</sup>

Now, as the country gradually moves towards a post-pandemic era states are considering the future of the temporary alcohol deregulation.

### State of the Restaurant Industry:

Even with the permission to sell off-premise alcohol, the pandemic devastated the restaurant industry. However, without allowing this facet of service, it could have been far more abysmal.

- By the end of 2020, total restaurant sales were \$240 billion below the previous year’s forecast.<sup>6</sup>
- More than 110,000 restaurants have been closed temporarily or permanently.<sup>7</sup>

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<sup>1</sup> Brady, Marianna, “Coronavirus: How the Pandemic Is Relaxing US Drinking Laws,” [BBC News](#), 15 May 2020.

<sup>2</sup> “The 1984 National Minimum Drinking Age Act,” [National Institute on Alcohol Abuse and Alcoholism](#), U.S. Department of Health and Human Services.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

<sup>5</sup> Ibid.

<sup>6</sup> “National Statistics,” [National Restaurant Association](#), accessed April 2021.

<sup>7</sup> Ibid.



- The industry ended 2020 with 2.5 million fewer jobs than pre-pandemic levels. The National Restaurant Association estimates over 8 million restaurant employees were either laid off or furloughed.<sup>8</sup>

### **Support for Deregulation:**

While the industry has a long way to go to reach pre-pandemic levels, research suggests that while off-premise alcohol delivery options may not fully support restaurants, it certainly can help recoup some lost revenue.<sup>9</sup>

“We noticed a state-by-state trend of consumers wanting to have alcohol delivered with their food orders,” says Kate Piche, director of the team. “Since they couldn’t go into bars or have alcoholic beverages with their favorite meals in a restaurant dining room, demand for alcohol delivery started to grow. Restaurants in states that had laws allowing alcohol delivery quickly realized that adding beer, wine and even cocktails to their offerings could help them stay in business.”<sup>10</sup>

- Support for the deregulation of to-go alcohol purchases has been on the rise since before the pandemic, but recent polling suggests it has reached an all-time high.
  - In 2019, the NRA’s Restaurant Delivery Survey found that 56% of adults supported off-premise alcohol delivery.<sup>11</sup>
  - In 2021, that number rose to between 70% and 85% of adults supporting making the practice permanent.<sup>12</sup>
- In the post-pandemic era, it is suggested that alcohol to-go will play a larger role in the sales generated by restaurants.
  - Since the start of the pandemic, roughly 7 out of 10 restaurants now provide alcohol for carry out or delivery.<sup>13</sup>
    - 3 in 10 of adult consumers have purchased alcohol takeout or delivery since the pandemic began.<sup>14</sup>
  - Market research suggests that alcohol to-go services will make up over 21% of total alcohol sales as the pandemic subsides.<sup>15</sup>
    - 58% of those surveyed said the ability to get alcohol with their take-out order has a major impact on their choice of restaurant.<sup>16</sup>

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<sup>8</sup> “State of the Restaurant Industry Report Measures Virus,” [National Restaurant Association](#), Jan. 25, 2021.

<sup>9</sup> “Alcohol to Go Might Be Magic Potion for Struggling Restaurants,” [National Restaurant Association](#), July 20, 2020.

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

<sup>12</sup> Ibid.

<sup>13</sup> “New ServSafe Tool Tracks Alcohol-to-Go Status in Your State,” [National Restaurant Association](#), April 7, 2021.

<sup>14</sup> Ibid.

<sup>15</sup> Ibid.

<sup>16</sup> Ibid.



- In the middle of the pandemic and even now, the ability to purchase alcohol to-go has significantly helped the industry and provided increased revenue to states that permitted the sales.
  - According to *The Tax Foundation*, revenue generated by taxes on alcohol hasn't dropped during the pandemic because of the new alternatives states have provided to purchase it.<sup>17</sup>
  - States that permitted to-go alcohol also saw some restaurant owners being able to re-hire one or two employees that had been laid off at the onset of the pandemic due to the increase in revenue generated by these off-premise purchases of alcohol.<sup>18</sup>

### **Permanent Deregulation**

Amongst the 30-plus states that changed their regulation regarding “to-go” alcohol and alcohol at-home delivery during the pandemic, over 13 states have already submitted legislation to make the scaled back regulations permanent.<sup>19</sup>

Naturally, these states differ in their approach as to how they have deregulated the service and what parameters exist in cooperation with the change. Yet, all bills do support a general deregulation of “take-out” alcohol and alcohol delivery.

- A number of these proposals to change the law were backed by bipartisan support; however, a majority of these states come from the conservative trifecta legislatures such as Florida, Kansas, Texas, New Hampshire, Nebraska, and Missouri.
- Some states have not made it permanent but have extended the deregulatory order to last as long as into the summer or even as late as 2023. A majority of these states come from liberal trifecta states, such as Virginia, New York, and Rhode Island.

In a similar vein, some states, counties, and cities are even considering proposals to further assist bars and restaurants by suggesting a reduction of or waiving alcohol licensing fees and duties that can range anywhere between hundred to thousands of dollars.<sup>20</sup>

### **The Bottom Line:**

As we move into the post-pandemic age, states will have to look at ways to continue to free the market and alleviate burdens on businesses as they try to recover and rebuild. By adopting permanent deregulations to permit the sale of “to-go” alcohol and online delivery, states can assist businesses without the need for further government intervention. The success and reliance that the industry has seen over the past year speaks for itself. It has allowed restaurants and businesses to steady the waves of COVID-incited financial hardships and set them on course to generate revenue while we make our way out.

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<sup>17</sup> “Cocktails To-Go Help Restaurants Stay Afloat.” [The Pew Charitable Trusts](#), Jan. 12, 2021.

<sup>18</sup> Ibid.

<sup>19</sup> “Expansion of Off Premise Alcohol Sales.” [ServSafe Compliance](#), May 13, 2021.

<sup>20</sup> Ibid.

