



STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
P.O. BOX 087, 140 EAST FRONT STREET
TRENTON, NJ 08625-0087

**Method of Operation Affidavit
Guidelines for Third-Party
Delivery Permit Applicant
([Special Ruling 2022-15](#))**

Method of Operation Affidavit Guidelines for Third-Party Delivery Permit Applicant

A notarized affidavit or certification describing the proposed Method of Operation must be submitted with a Third-Party Delivery Permit application. The following information should be provided using separate numbered paragraphs:

1. Describe the Permit Applicant's experience in the industry.
2. State the name, address, and current employer of each shareholder of the Permit Applicant (if a corporation), member (if a limited liability company), partner (if a partnership), or individual (if a sole proprietorship) who is actively involved in the decision-making or day-to-day operation of the Permit Applicant.
3. State the name of the individual(s) in charge of the Permit Applicant's day-to-day operation.
4. State the hours of operation of the Permit Applicant's alcoholic beverage delivery service.
5. Identify the physical address of the Permit Applicant. If the address (i.e., premises) is located in New Jersey, the Permit Applicant should state the premises is zoned for commercial use and exclusive to the Permit Applicant (i.e., separate and apart from all other entities).
6. State the anticipated start date for the Permit Applicant's alcoholic beverage delivery service.
7. Identify the target customers of the Permit Applicant (e.g., New Jersey licensed bars, restaurants, liquor stores, supermarkets, hereinafter referred to collectively as "Merchants").
8. Describe the Permit Applicant's procedure for conducting initial and recurring background checks of Delivery Workers (i.e., independent contractor or payroll employee performing alcohol-delivery services at the direction and control of Permit Applicant), including criminal history and driving record. The procedure must require that all Delivery Workers be 21 years or older, hold a valid driver's license and vehicle registration, and have adequate vehicle insurance coverage.
9. Describe the Permit Applicant's procedure for providing alcohol compliance training and certification (e.g., TIPS® or other national training and certifying program approved by other states) to Delivery Workers who are eligible to deliver alcoholic beverages. Identify the name and briefly describe the curriculum of the training and certifying program.
10. Describe the Permit Applicant's procedure for transmitting delivery-related information to Delivery Workers and alerting them in real-time that an order contains an age-restricted alcoholic beverage, including: (1) the name and address of the Merchant; (2) alcoholic beverage product (type, brand, quantity); and (3) receiving customer's name and address.
11. Describe the Permit Applicant's procedure for ensuring that Delivery Workers have a copy (electronic or paper) of the permit and invoice or bill of sale for each order in their possession during deliveries. The invoice or bill of sale must state the name and address of the receiving customer and the type, brand, and quantity of each alcoholic beverage being delivered.

12. Describe the Permit Applicant's procedure for verifying that receiving customers are of legal age and not visibly intoxicated. The procedure should include electronic verification of a customer's identification as well as verbal and observable verification. The procedure must require that all Delivery Workers must obtain the signature (electronic or paper) or "finger scan" of the receiving customer before handing the alcoholic beverage to the receiving customer (Delivery Workers are prohibited from engaging in no-contact deliveries without face-to-face interaction with the receiving customer).
13. Describe the Permit Applicant's procedure for recording and preserving, as allowed by law, all information related to the order and delivery of alcoholic beverages, including product (type, brand, quantity, etc.); date and time of delivery; and Delivery Worker's name.
14. Describe the Permit Applicant's procedure (and criteria) for refusing delivery and returning alcoholic beverages to Merchant if and when necessary (e.g., customer is underage or intoxicated; customer refuses to sign for delivery; there is reason to doubt the authenticity of the customer's ID; there is reason to suspect the customer is accepting delivery on behalf of an underage person; etc.).
15. Describe the Permit Applicant's procedure for ensuring that if an alcoholic beverage is undeliverable, the Delivery Worker will have sufficient time to return the beverage before the Merchant closes.
16. Describe the Permit Applicant's procedure for retaining electronic records of each alcoholic beverage delivery for three years. The record of each delivery must include the following: (1) Merchant's name and address; (2) name of customer who placed the order and the date, time and method of the order; (3) name of Delivery Worker and the date, time and address of the delivery; and (4) type, brand, and quantity of each alcoholic beverage delivered.
17. Describe the Permit Applicant's procedure for retaining electronic records of all Delivery Workers by name, address and training certification for three years.
18. Describe all forms of the Permit Applicant's compensation (e.g., delivery fees, Delivery Worker tips, etc.) from Merchants and receiving customers, including routing or remitting payments. The Permit Applicant must state that it will charge a fixed fee only (i.e., a pre-determined fee that is not dependent, directly or indirectly, on the sales, profits or revenues earned by the retail licensee) to Merchants and consumers for delivering or arranging for the delivery of alcoholic beverages. The Permit Applicant must also state that it will not charge a commission or receive a percentage of the proceeds from the sale of alcoholic beverages.
19. Describe the contractual agreement between the Permit Applicant and Merchant. The agreement should include all fees, costs, and other forms of compensation between the parties; responsibility for sales tax collection and remittance; and responsibility for insurance and indemnity. Please note that a sample agreement must be submitted in conjunction with the permit application. Also, please note that proof of general liability insurance coverage (with liquor liability endorsement) must also be submitted with the application.
20. Describe the contractual agreement between Permit Applicant and Delivery Worker. Please note that a sample agreement must be submitted in conjunction with the permit application. The sample agreement should describe the compensation arrangement and include the following terms:
 - (a) Delivery Worker is 21 years or older;
 - (b) Delivery Worker consents to a voluntary background check to include criminal background and driver history checks by Permit Applicant or Permit Applicant's vendor;
 - (c) Delivery Worker is responsible for maintaining a valid driver's license and adequate vehicle insurance coverage;

- (d) Delivery Worker will receive alcohol awareness training and certification from a nationally recognized alcohol awareness program (e.g. TIPS) before they deliver alcoholic beverages;
- (e) Delivery Worker must have a copy of the Third Party Delivery Permit issued to the Permit Applicant (paper or electronic) in their possession during the delivery of alcoholic beverages as well as an invoice or bill of sale stating the name and address of the receiving customer, and the type, brand, and quantity of each alcoholic beverage being delivered;
- (f) Delivery Worker must verify that receiving customers are of legal age and not visibly intoxicated to include electronic verification of a customer's identification as well as a verbal and observable verification;
- (g) Delivery Worker must obtain the signature (paper or electronic) or "finger scan" of the receiving customer before handing over alcoholic beverages;
- (h) Delivery Worker is prohibited from engaging in no-contact deliveries without a face-to-face interaction with the receiving customer;
- (i) Delivery Worker must refuse delivery and return all alcoholic beverages to the Merchant if and when necessary (e.g., customer is underage or intoxicated; customer refuses to sign for delivery; there is reason to doubt the authenticity of the customer's ID; there is a reason to suspect customer is accepting delivery on behalf of an underage person, etc.);
- (j) Delivery Worker is prohibited from collecting payment for alcoholic beverages from the receiving customer, prohibited from subcontracting or delegating to another person the delivery of alcoholic beverages, and prohibited from delivering alcoholic beverages to a non-residence (e.g. hotel rooms, offices, campus of any college or university, BYOB restaurant, etc.);
- (k) Delivery Worker is prohibited from leaving alcoholic beverages unattended or storing alcoholic beverages overnight; and
- (l) Delivery Worker will not deliver alcoholic beverages without this valid written and executed agreement with the Permit Applicant, signed by both the Permit Applicant and the Delivery Worker.

21. State whether the Permit Applicant will collect and remit sales taxes for the purchase and delivery of alcoholic beverages. In addition, the Permit Applicant must state whether it is registered (or intends to register) with the New Jersey Division of Taxation as a "marketplace facilitator," pursuant to N.J.S.A. 54:32B-3.6). Please note that a marketplace facilitator must collect and remit sales taxes unless the marketplace facilitator and the "marketplace seller" (i.e., Merchant) enter into an alternate agreement as allowed by N.J.S.A. 54:32B-3.6(c).

The Division may require additional information regarding a Permit Applicant's Method of Operation.