

Senate Bill 208

By: Senators Harbison of the 15th, Ray of the 48th, Paul of the 40th and Butler of the 55th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 10 of the Official Code of Georgia Annotated, relating to commerce and
2 trade, so as to enact the "Electronic Commerce Home Delivery Act of 2001"; to provide for
3 the marketing and sale of tobacco products, malt beverages, and wine by electronic
4 commerce retailers and the delivery of such products to consumers at their homes or
5 businesses in Georgia; to provide a purpose; to define terms; to provide for requirements for
6 electronic commerce retailers to sell and deliver tobacco products, malt beverages, and wine;
7 to require that any sale and delivery of malt beverages, wine, or tobacco products must
8 include more than \$50.00 in products other than malt beverages, wine, or tobacco products;
9 to prohibit the delivery of any malt beverages, wine, or tobacco products by electronic
10 commerce retailers into counties or municipalities in which retail sales of such products are
11 not authorized; to authorize the Department of Revenue to promulgate rules and regulations
12 for enforcement of this Act; to provide for penalties for electronic commerce retailers for
13 violations of laws related to malt beverages and wine and persons under 21 and tobacco
14 products and persons under 18; to provide for related matters; to provide for an effective
15 date; to repeal conflicting laws; and for other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

17 **SECTION 1.**

18 Title 10 of the Official Code of Georgia Annotated, relating to commerce and trade, is
19 amended by adding at its end a new Chapter 15 to read as follows:

20 "CHAPTER 15

21 10-15-1.

22 This chapter shall be known and may be cited as the 'Electronic Commerce Home Delivery
23 Act of 2001.'

1 10-15-2.

2 The General Assembly finds, determines, and declares that electronic commerce represents
3 a new and growing aspect of the economy of Georgia. An important component of
4 electronic commerce involves the lawful sale of consumer goods for delivery in Georgia
5 via electronic means. The General Assembly further finds, determines, and declares that
6 new laws and regulations are necessary to control adequately the electronic sale and
7 delivery of regulated products to consumers of this state to protect the public health, safety,
8 revenue, and economy of Georgia and that this chapter is fully consistent with the powers
9 conferred upon the State of Georgia by the Twenty-first Amendment to the Constitution
10 of the United States.

11 10-15-3.

12 As used in this chapter, the term:

13 (1) 'Electronic commerce' means the marketing, advertising, purchasing, and selling of
14 goods and services using the Internet or other electronic means, including, but not limited
15 to, the telephone or facsimile.

16 (2) 'Electronic commerce retailer' means a retailer who uses electronic means to sell
17 goods or services to consumers and to arrange delivery of such goods or services in
18 vehicles operated and either owned or leased by the electronic commerce retailer.

19 (3) 'Electronic sale' means a commercial transaction whereby a consumer and an
20 electronic commerce retailer agree to the terms for the sale and purchase of goods or
21 services and execute a contract using the Internet or other electronic means, including,
22 but not limited to, the telephone or facsimile.

23 Any term used but not defined in this chapter and defined in Code Section 10-12-3 shall
24 have the meaning provided for that term in Code Section 10-12-3.

25 10-15-4.

26 Every electronic commerce retailer shall:

27 (1) Provide identification badges to drivers and other personnel actually making
28 deliveries to consumers. Such identification badges must contain a clear picture of the
29 individual, the name of the individual, and the name, address, and telephone number of
30 the electronic commerce retailer. The printed information on the identification badge
31 shall be of such size that it reasonably can be read upon presentation through a door
32 window or a peephole;

33 (2) Maintain insurance as required pursuant to Title 33 and Title 40. Each vehicle used
34 by the electronic commerce retailer to make deliveries shall contain a document

1 recording the name of the insurance carrier for the vehicle and the driver, the policy
2 number, the limits of the policy, and a telephone number for reporting claims;

3 (3) Develop and maintain a system for the consumer to report problems regarding the
4 sale or the delivery to the electronic commerce retailer by telephone or other electronic
5 means. The methods for reporting problems must be displayed on the delivery vehicle.

6 10-15-5.

7 (a) An electronic commerce retailer may market and sell tobacco products, malt beverages,
8 and wine via electronic commerce and deliver such products to Georgia consumers at their
9 homes or businesses, notwithstanding the provisions of Code Sections 3-5-28 and 3-6-26
10 or any other provision of law or regulation to the contrary, by strictly complying with the
11 following conditions:

12 (1) Meeting the definition of retailer as defined in Code Section 3-1-2;

13 (2) Holding one or more licenses pursuant to Article 2 of Chapter 5 or Article 2 of
14 Chapter 6 of Title 3;

15 (3) Engaging in electronic commerce and the electronic sale of consumer goods,
16 including tobacco products, malt beverages, or wine; and

17 (4) Holding one or more licenses pursuant to Code Section 26-2-25.

18 (b) Electronic commerce retailers who lawfully sell tobacco products, malt beverages, and
19 wine to consumers in Georgia through electronic commerce may sell and deliver tobacco
20 products or malt beverages or wine or any combination of the three directly to a consumer
21 so long as the delivery order, excluding malt beverages, wine, and tobacco products, has
22 a retail value exceeding \$50.00.

23 (c) Electronic commerce retailers who lawfully sell tobacco products, malt beverages, and
24 wine to consumers in Georgia through electronic commerce may deliver tobacco products,
25 malt beverages, and wine directly to any lawful purchasing consumer within the state, so
26 long as delivery is made by the electronic commerce retailer who must comply in all
27 respects with all applicable state laws including, but not limited to, those in Title 3, Article
28 7 of Chapter 12 of Title 16, Chapter 11 of Title 48, and the applicable rules and regulations
29 of the Department of Revenue.

30 (d) Electronic commerce retailers shall comply with all state laws and local ordinances
31 regulating the retail sale of tobacco products, malt beverages, and wine.

32 (e) Electronic commerce retailers shall not deliver any tobacco products, malt beverages,
33 or wine into any counties or municipalities in which the retail sales of such products are not
34 authorized.

35 (f) Electronic commerce retailers shall purchase all tobacco products, malt beverages, and
36 wine in accordance with state laws and local ordinances.

1 (g) All tobacco products, malt beverages, and wine marketed, sold, and delivered by an
2 electronic commerce retailer pursuant to this chapter shall be delivered from the electronic
3 retailer's licensed premises within this state to the consumer ordering such products and
4 shall not be shipped directly to consumers from outside this state.

5 (h) All deliveries authorized pursuant to this chapter shall be made in vehicles operated
6 and either owned or leased by the electronic commerce retailer and shall be made by
7 drivers who are at least 21 years of age.

8 10-15-6.

9 In addition to those requirements in Code Sections 10-15-4 and 10-15-5, any electronic
10 commerce retailer delivering tobacco products, malt beverages, and wine must hold a local
11 retail license at the location of its licensed premises to which tobacco products, malt
12 beverages, and wine are delivered by licensed wholesalers and a local retail license in each
13 locality where deliveries are made. Notwithstanding the provisions of Article 3 of Chapter
14 5 and Article 3 of Chapter 6 of this title, no other local tobacco product or alcoholic
15 beverage licenses or permits shall be required to comply with this chapter.

16 10-15-7.

17 The Department of Revenue may promulgate such rules and regulations as are necessary
18 and appropriate for the enforcement of this chapter. Such rules and regulations shall
19 include, but shall not be limited to:

20 (1) Requirements for signature forms or other identification procedures to be used by
21 electronic commerce retailers to ensure that tobacco products, malt beverages, or wine
22 is delivered to consumers who meet the legal age requirements for the purchase of
23 tobacco products, malt beverages, or wine; and

24 (2) Procedures for electronic commerce retailers making deliveries throughout the state
25 across wholesaler territories that are appropriate and consistent with the intent and
26 purpose of Code Sections 3-5-30 through 3-5-34 and Code Section 3-6-22.

27 10-15-8.

28 Any electronic commerce retailer who violates Code Section 3-3-23 shall be subject to the
29 penalties in Code Section 3-3-23.1."

30 SECTION 2.

31 This Act shall become effective upon its approval by the Governor or upon its becoming law
32 without such approval.

1

SECTION 3.

2 All laws and parts of laws in conflict with this Act are repealed.