2018 Regular Session

HOUSE BILL NO. 585

## BY REPRESENTATIVE STOKES

## ALCOHOLIC BEVERAGES: Provides relative to establishments that sell alcoholic beverages

1	AN ACT
2	To amend and reenact R.S. 26:90(D) through (G), R.S. 26:286(D) through (G), and R.S.
3	26:933(B)(introductory paragraph) and to enact R.S. 26:932(11), 933(C)(9), and
4	935(D), relative to establishments selling alcoholic beverages; to provide relative to
5	the prohibition of certain activity at permitted establishments; to provide for
6	definitions; to provide relative to human trafficking; to provide for the inclusion of
7	certain issues the Louisiana Responsible Vendor Program; to provide for certain
8	notifications to permit holders; and to provide for related matters.
9	Be it enacted by the Legislature of Louisiana:
10	Section 1. R.S. 26:90(D) through (G), R.S. 26:286(D) through (G), and R.S.
11	26:933(B)(introductory paragraph) are hereby amended and reenacted and R.S. 26:932(11),
12	933(C)(9), and 935(D) are hereby enacted to read as follows:
13	§90. Acts prohibited on licensed premises; suspension or revocation of permits
14	* * *
15	D. Live entertainment is permitted on any licensed premises, except that no
16	permittee shall permit any person to perform acts of or acts which simulate: No
17	permittee shall permit any person to engage in sexual intercourse, masturbation,
18	sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are
19	prohibited by law.

## Page 1 of 7

CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1	(1) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation,
2	flagellation, or any sexual acts which are prohibited by law.
3	(2) The touching, caressing or fondling of the breast, buttocks, anus, or
4	genitals.
5	(3) The displaying of the pubic hair, anus, vulva, genitals, or nipple of the
6	female breast.
7	E. Subject to the provisions of Subsection D of this Section, entertainers
8	whose breasts or buttocks are exposed to view shall perform only upon a stage at
9	least eighteen inches above the immediate floor level and removed at least three feet
10	from the nearest patron and shall be twenty-one years of age or older. No permittee
11	shall allow any person to appear in a semi-nude condition upon the licensed premises
12	unless the person is twenty-one years of age or older. For purposes of this
13	Subsection, "semi-nude" shall mean the showing of the male or female genitals,
14	pubic area, vulva, or anus with less than a fully opaque covering. For purposes of this
15	Subsection, a "fully opaque covering" shall not be flesh colored, shall not consist of
16	any substance that can be washed off of the skin, including paint or makeup, and
17	shall not simulate the appearance of the anatomical area that it covers, and shall not
18	include any portion of the cleavage of the female breast exhibited by a bikini, dress,
19	blouse, shirt, leotard, or similar apparel.
20	F. No permittee shall permit any person to use artificial devices or inanimate
21	objects to depict any of the prohibited activities described above. No permittee shall
22	permit any person to appear upon the licensed premises in a state of nudity. For
23	purposes of this Subsection, "nudity" shall mean the showing of the pubic hair, anus,
24	vulva, or genitals.
25	G. The following acts or conduct on licensed premises are deemed to
26	constitute lewd, immoral, or improper entertainment as prohibited by this Section
27	and therefore no on-sale permit for beverages of high alcoholic content shall be held
28	at any premises where such conduct or acts are permitted, including the showing of
29	film, still pictures, electronic reproduction, or other visual reproductions depicting:

CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1	Subsections E and F of this Section shall apply only to licensed premises that
2	regularly offer live performances or other conduct involving nudity or semi-nudity
3	and shall not apply to performances by burlesque dancers who are scheduled or hired
4	to perform for a live audience.
5	(1) Acts or simulated acts of sexual intercourse, masturbation, sodomy,
6	bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by
7	<del>law.</del>
8	(2) Any person being touched, caressed or fondled on the breast, buttocks,
9	anus, or genitals.
10	(3) Scenes wherein a person displays the vulva or the anus or the genitals.
11	(4) Scenes wherein artificial devices or inanimate objects are employed to
12	depict, or drawings are employed to portray, any of the prohibited activities
13	described above.
14	* * *
15	§286. Acts prohibited on licensed premises; suspension or revocation of permits
16	* * *
17	D. Live entertainment is permitted on any licensed premises, except that no
18	permittee shall permit any person to perform acts of or acts which simulate: No
19	permittee shall permit any person to engage in sexual intercourse, masturbation,
20	sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are
21	prohibited by law.
22	(1) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation,
23	flagellation, or any sexual acts which are prohibited by law.
24	(2) The touching, caressing, or fondling of the breast, buttocks, anus, or
25	genitals.
26	(3) The displaying of the pubic hair, anus, vulva, genitals, or nipple of the
27	female breast.
28	E. Subject to the provisions of Subsection D of this Section, entertainers
29	whose breasts or buttocks are exposed to view shall perform only upon a stage at

1	least eighteen inches above the immediate floor level and removed at least three feet
2	from the nearest patron and shall be twenty-one years of age or older. No permittee
3	shall allow any person to appear in a semi-nude condition upon the licensed premises
4	unless the person is twenty-one years of age or older. For purposes of this
5	Subsection, "semi-nude" shall mean the showing of the male or female genitals,
6	pubic area, vulva, or anus with less than a fully opaque covering. For purposes of this
7	Subsection, a "fully opaque covering" shall not be flesh colored, shall not consist of
8	any substance that can be washed off of the skin, including paint or makeup, and
9	shall not simulate the appearance of the anatomical area that it covers, and shall not
10	include any portion of the cleavage of the female breast exhibited by a bikini, dress,
11	blouse, shirt, leotard, or similar apparel.
12	F. No permittee shall permit any person to use artificial devices or inanimate
13	objects to depict any of the prohibited activities described above. No permittee shall
14	permit any person to appear upon the licensed premises in a state of nudity. For
15	purposes of this Subsection, "nudity" shall mean the showing of the pubic hair, anus,
16	vulva, or genitals.
17	G. The following acts or conduct on licensed premises are deemed to
18	constitute lewd, immoral, or improper entertainment as prohibited by this Section
19	and therefore no on-sale permit for beverages of low alcoholic content shall be held
20	at any premises where such conduct or acts are permitted: including the showing of
21	film, still pictures, electronic reproduction, or other visual reproductions depicting:
22	Subsections E and F of this Section shall only apply to licensed premises that
23	regularly offer live performances or other conduct involving nudity or semi-nudity
24	and shall not apply to performances by burlesque dancers who are scheduled or hired
25	to perform for a live audience.
26	(1) Acts or simulated acts of sexual intercourse, masturbation, sodomy,
27	bestiality, oral copulation, flagellation or any sexual acts which are prohibited by
28	<del>law.</del>

1	(2) Any person being touched, caressed, or fondled on the breast, buttocks,
2	anus, or genitals.
3	(3) Scenes wherein a person displays the vulva or the anus or the genitals.
4	(4) Scenes wherein artificial devices or inanimate objects are employed to
5	depict, or drawings are employed to portray, any of the prohibited activities
6	described above.
7	* * *
8	§932. Definitions
9	For purposes of this Chapter, the following terms have the respective
10	meanings ascribed to them in this Chapter, unless a different meaning clearly appears
11	from the context:
12	* * *
13	(11) "Human trafficking guardian" includes any person who owns or
14	manages an adult business as described in R.S. 46:231.14(B)(3) through (6), the
15	official gaming establishment as defined in R.S. 27:205(26), or a qualified truck stop
16	facility as defined in R.S. 27:417, or who participates in the hiring of any person to
17	work in an adult business, the official gaming establishment, or a qualified truck stop
18	facility and successfully completes and maintains continuous certification in the
19	Louisiana Responsible Vendor Program. Human trafficking guardian also includes
20	any vendor as defined in R.S. 26:932(10), server as defined in R.S. 26:932(6), or
21	security personnel as defined in R.S. 26:932(5) who successfully completes and
22	maintains continuous certification in the Louisiana Responsible Vendor Program.
23	§933. Establishment of responsible vendor program
24	* * *
25	B. The program administrator shall approve a Louisiana Responsible Vendor
26	Program, hereafter referred to as "the program", designed to educate vendors and
27	their employees and customers about selling, serving, and consuming alcoholic
28	beverages in a responsible manner and selling and serving tobacco products, and
29	issues related to the problem, identification, and reporting of potential or actual

1	victims of human trafficking and available prevention and assistance services. The
2	program shall include all of the following:
3	* * *
4	C. The server training courses shall include but not be limited to the
5	following subject areas:
6	* * *
7	(9) Issues related to the definition and prevalence of human trafficking, and
8	techniques to identify and report suspected human trafficking.
9	* * *
10	§935. Server liability; penalties, fines, suspension or revocation of server permit;
11	vendor's defenses
12	* * *
13	D. The commissioner shall notify permit holders in the event the
14	commissioner's office becomes aware of illegal activity and provide notice to the
15	owner to cure the illegal activity. For purposes of this Section, illegal activity may
16	include instances of human trafficking, prostitution, or solicitation of prostitution.

## DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Abstract: Provides relative to establishments selling low and high alcoholic content beverages, prohibits certain nude and semi-nude activities at permitted establishments, and provides for the inclusion of certain issues in the Louisiana Responsible Vendor Program relating to human trafficking.

<u>Present law</u> provides for the permitting requirements for establishments selling beverages of high and low alcoholic content.

<u>Present law</u> authorizes live entertainment in any licensed premises, but prohibits performance of acts, or simulation of acts, of:

- (1) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law.
- (2) The touching, caressing or fondling of the breast, buttocks, anus, or genitals.

(3) The displaying of the pubic hair, anus, vulva, genitals, or nipple of the female breast.

<u>Proposed law</u> retains the <u>present law</u> prohibition on the permittee from allowing any person to engage in sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law, but removes the prohibition of touching, caressing or fondling of the breast, buttocks, anus, or genitals, or the displaying of the pubic hair, anus, vulva, genitals, or nipple of the female breast.

<u>Present law</u> further provides that entertainers whose breasts or buttocks are exposed to view shall perform only upon a stage at least 18 inches above the immediate floor level and removed at least three feet from the nearest patron, and requires such entertainers to be 21 years of age or older.

<u>Proposed law</u> prohibits any permittee from allowing any person to appear in a semi-nude condition upon the licensed premises unless the person is 21 years of age or older.

Proposed law provides definitions for "semi-nude" and "fully opaque covering".

<u>Present law</u> prohibits persons from using artificial devices or inanimate objects to depict any of the prohibited activities provided in <u>present law</u>.

<u>Proposed law</u> deletes <u>present law</u> but prohibits persons from appearing upon the licensed premises in a state of nudity, and defines "nudity" as the showing of the pubic hair, anus, vulva, or genitals.

<u>Present law</u> provides a list of acts or conduct on licensed premises which are deemed to constitute lewd, immoral, or improper entertainment, and prohibits permits for the sale of high and low alcohol for premises where such conduct or acts are permitted.

<u>Proposed law</u> amends <u>present law</u> to provide that the provisions of <u>proposed law</u> only apply to licensed premises that regularly offer live performances or other conduct involving nudity or semi-nudity, and shall not apply to performances by burlesque dancers who are scheduled or hired to perform for a live audience.

Proposed law provides a definition for "human trafficking guardian".

<u>Present law</u> provides for the approval of a Louisiana Responsible Vendor Program, designed to educate vendors and their employees and customers about selling, serving, and consuming alcoholic beverages in a responsible manner and selling and serving tobacco products.

<u>Proposed law</u> retains <u>present law</u> and provides for the program to include issues related to the problem, identification, and reporting of potential or actual victims of human trafficking and available prevention and assistance services.

<u>Proposed law</u> specifies that the server training courses include issues related to human trafficking and techniques to identify and report suspected human trafficking.

<u>Proposed law</u> requires the commissioner to notify permit holders of known illegal activity and to provide notice to the owner to cure the illegal activity.

(Amends R.S. 26:90(D)-(G), R.S. 26:286(D)-(G), and R.S. 26:933(B)(intro. para.); Adds R.S. 26:932(11), 933(C)(9), and 935(D))