

2019 Regular Session

SENATE BILL NO. 94

BY SENATOR MORRELL

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

ALCOHOLIC BEVERAGES. Provides an exception for certain applicants for employee permits seeking to work in locations permitted by ATC as a restaurant. (8/1/19)

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AN ACT

To enact R.S. 26:80(F)(3) and 280(F)(3), relative to alcohol and tobacco control; to provide relative to qualifications of applicants for permits; to provide certain exceptions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 26:80(F)(3) and 280(F)(3) are hereby enacted to read as follows:

§80. Qualifications of applicants for permits

* * *

F.

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(3)(a) Notwithstanding any other provision of this Section, if the felony for which the applicant was convicted was not a crime of violence as defined in R.S. 14:2(B) nor the crime of distributing or possessing with intent to distribute any controlled dangerous substance classified in Schedule I of R.S. 40:964 nor a sex offense as defined in R.S. 15:541, the applicant may be eligible to be an employee of a location permitted as a restaurant. To be eligible, the applicant must not have a subsequent conviction for a crime of violence or a crime of

1 distributing or possessing with intent to distribute or possessing any controlled
 2 dangerous substance classified in Schedule I of R.S. 40:964 or a sex offense
 3 within ten years of the date of the earlier conviction and the applicant must
 4 submit a letter to the commissioner of alcohol and tobacco control requesting
 5 approval for employment at the location along with proof of compliance with
 6 this Paragraph.

7 (b) The location permitted as a restaurant may not employ the applicant
 8 unless and until the commissioner approves the applicant's request.

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10 §280. Qualifications of applicants for permits

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12 F.

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14 (3)(a) Notwithstanding any other provision of this Section, if the felony
 15 for which the applicant was convicted was not a crime of violence as defined in
 16 R.S. 14:2(B) nor the crime of distributing or possessing with intent to distribute
 17 any controlled dangerous substance classified in Schedule I of R.S. 40:964 nor
 18 a sex offense as defined in R.S. 15:541, the applicant may be eligible to be an
 19 employee of a location permitted as a restaurant. To be eligible, the applicant
 20 must not have a subsequent conviction for a crime of violence or a crime of
 21 distributing or possessing with intent to distribute or possessing any controlled
 22 dangerous substance classified in Schedule I of R.S. 40:964 or a sex offense
 23 within ten years of the date of the earlier conviction and the applicant must
 24 submit a letter to the commissioner of alcohol and tobacco control requesting
 25 approval for employment at the location along with proof of compliance with
 26 this Paragraph.

27 (b) The location permitted as a restaurant may not employ the applicant
 28 unless and until the commissioner approves the person's request.

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The original instrument was prepared by Dawn Romero Watson. The following digest, which does not constitute a part of the legislative instrument, was prepared by Thomas L. Tyler.

DIGEST

SB 94 Engrossed 2019 Regular Session Morrell

Present law, relative to the Alcohol Beverage Control Law, provides for several different types of permits for producers, distributors, retailers, restaurants, bars, package stores, caterers, special events, etc. The Responsible Vendors Program also provides for permits for servers of alcoholic beverages and security personnel for places that sell alcohol.

Present law requires applicants for all the various permits to meet the same suitability standards. Those standards include:

- (1) Be a person of good character and reputation and over 18 years of age; authorizes an applicant's arrests to be considered.
- (2) Be a citizen of the United States and the state of Louisiana and a resident of the state of Louisiana continuously for a period of not less than two years next preceding the date of the filing of the application.
- (3) Be the owner of the premises, have a bona fide written lease therefor, or be a commercial lessor or a noncommercial lessor licensed exclusively for the sole purpose of conducting charitable gaming.
- (4) Have not been convicted of distributing or possessing with the intent to distribute any controlled dangerous substance classified in Schedule I, on any premises licensed pursuant to the Alcohol Beverage Control Law, where the applicant held or holds an interest in the licensed business. Provides that this prohibition is for the lifetime of the offender.
- (5) Have not been convicted of a felony under the laws of the United States, the state of Louisiana, or any other state or country.
- (6) Have not been convicted in this or in any other state or by the United States or any other country of soliciting for prostitution, pandering, letting premises for prostitution, contributing to the delinquency of juveniles, keeping a disorderly place, or illegally dealing in controlled dangerous substances.
- (7) If also applying for a video draw poker license, have not been convicted in this or in any other state or by the United States or any other country of theft or any crime involving false statements or declarations, or gambling as defined by the laws and ordinances of any municipality, any parish, any state, or the United States.
- (8) Have not had a license or permit to sell or deal in alcoholic beverages issued by the United States, any state, or by any political subdivision of a state authorized to issue permits or licenses, revoked within two years prior to the application, or been convicted or had a judgment of court rendered against the applicant involving the sale or service of alcoholic beverages by this or any other state or by the United States for two years prior to the application.
- (9) Have not been adjudged by the commissioner, or convicted by a court of violating any of the provisions of the Alcohol Beverage Control Law.
- (10) Have not been convicted of violating any municipal or parish ordinances adopted pursuant to the provisions of this Chapter. If the applicant has been so convicted, the

granting of a permit or of a renewal shall be within the discretion of the commissioner.

- (11) Not be the spouse of a person who does not meet the requirements of (1) and (3) through (10) above, and (12) below; provides that the age of the ineligible spouse shall be immaterial. Provides that for purposes of this standard, the term "spouse" shall also include persons who are considered married outside of the United States, persons who ordinarily hold themselves out as husband and wife, or persons who file their state and federal income tax returns as either "married filing jointly" or "married filing separate".
- (12) Not owe the state or the local governmental subdivisions in which the application is made any delinquent sales taxes, penalties, or interest, excluding items under formal appeal.

Present law provides certain exceptions in the instances of a pardon, restoration of civil rights, etc. Also provides, as a further exception, that in the granting of a permit, a conviction or plea of guilty or nolo contendere by the applicant shall not constitute an automatic disqualification of the applicant as otherwise required pursuant to (5), (6), and (7) above, if all of the following criteria are met:

- (1) The felony for which the applicant was convicted is not a crime of violence.
- (2) Ten years or more have elapsed between the date of application and the successful completion of any sentence, deferred adjudication, or period of probation or parole and the final discharge of the defendant.

Proposed law provides a further exception. Provides that notwithstanding any other provision of present law, if the felony for which the applicant was convicted was not a crime of violence nor the crime of distributing or possessing with intent to distribute any controlled dangerous substance nor a sex offense, the applicant may be eligible to be an employee of a restaurant. Provides that to be eligible, the applicant must not have a subsequent conviction for a crime of violence or a crime of distributing or possessing with intent to distribute or possessing any controlled dangerous substance or a sex offense within ten years of the date of the earlier conviction. Requires the applicant to submit a letter to the commissioner of ATC requesting approval for employment at the restaurant along with proof of compliance with proposed law. Prohibits the restaurant from employing the applicant until the commissioner approves the applicant's request.

Effective August 1, 2019.

(Adds R.S. 26:80(F)(3) and 280(F)(3))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary B to the engrossed bill

1. Authorizes a person convicted of a sex offense to the work in a restaurant provided ten years have passed since the conviction and there have been no subsequent convictions.