

SENATE BILL NO. 18

BY SENATOR CATHEY



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AN ACT

To enact R.S. 26:71(A)(8) and 271(A)(7), relative to the Alcoholic Beverage Control Law; to provide for certain permit fee payments; to provide for certain malt beverages or beverages of low alcoholic content permit fee payments; to provide for permit fee credits and refunds under certain exceptions related to COVID-19; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 26:71(A)(8) and 271(A)(7) are hereby enacted to read as follows:

§71. Permits required; fees; exception

A. Except as provided in Subsections B and C of this Section, before engaging in the business of manufacturing, supplying, or dealing in alcoholic beverages, all persons shall obtain from the commissioner, according to established rules and regulations, a permit to conduct each separate business and shall pay the commissioner a fee not to exceed the amounts provided for in the following schedule and in accordance with regulations promulgated pursuant to the provisions of the Administrative Procedure Act for each year the permit is valid:

* * *

(8) COVID-19 exceptions:

(a) A permit holder that timely paid its permit fee due to the commissioner during the 2020 calendar year pursuant to Subparagraph (1)(a), Item (3)(a)(i), and Subparagraph (3)(d) of this Subsection, shall have its permit fees due during the 2021 calendar year reduced on a pro rata basis for the number of days in calendar year 2020 that the permit holder was required to temporarily close operations pursuant to Proclamation Number 30 JBE 2020, or any subsequent proclamation declaring the existence of a statewide COVID-19 public health emergency.

1 (b) A permit holder that timely paid its permit fee due to the
 2 commissioner during the 2020 calendar year pursuant to Subparagraph (1)(a),
 3 Item (3)(a)(i), and Subparagraph (3)(d) of this Subsection, subsequently
 4 surrendered its permit to the commissioner during the 2020 calendar year, and
 5 was in good standing with the commissioner at the time of the surrender, shall
 6 be issued a refund in the amount paid, but reduced on a pro rata basis for the
 7 number of days in calendar year 2020 that the permit holder was required to
 8 temporarily close operations pursuant to Proclamation Number 30 JBE 2020,
 9 or any subsequent proclamation declaring the existence of a statewide
 10 COVID-19 public health emergency, no later than December 31, 2020.

11 * * *

12 §271. Permits required; fees

13 A. Before engaging in the business of dealing in malt beverages or beverages
 14 of low alcoholic content, all manufacturers, wholesale and retail dealers, and
 15 microbrewers shall obtain from the commissioner, according to established rules and
 16 regulations, a permit to conduct each separate manufacturing, wholesale, retail, or
 17 microbrewery business and shall pay for each permit a fee not to exceed the amounts
 18 provided for in the following schedule and in accordance with regulations
 19 promulgated pursuant to the provisions of the Administrative Procedure Act for each
 20 year the permit is valid:

21 (1) * * *

22 (7) COVID-19 exceptions:

23 (a) A permit holder that timely paid its permit fee due to the
 24 commissioner during the 2020 calendar year pursuant to Subparagraph (2)(a),
 25 Paragraph (5), and Subparagraph (6)(a) of this Subsection, shall have its permit
 26 fees due during the 2021 calendar year reduced on a pro rata basis for the
 27 number of days in calendar year 2020 that the permit holder was required to
 28 temporarily close operations pursuant to Proclamation Number 30 JBE 2020,
 29 or any subsequent proclamation declaring the existence of a statewide
 30 COVID-19 public health emergency.

1 **(b) A permit holder that timely paid its permit fee due to the**
 2 **commissioner during the 2020 calendar year pursuant to Subparagraph (2)(a),**
 3 **Paragraph (5), and Subparagraph (6)(a) of this Subsection, subsequently**
 4 **surrendered its permit to the commissioner during the 2020 calendar year, and**
 5 **was in good standing with the commissioner at the time of the surrender, shall**
 6 **be issued a refund in the amount paid, but reduced on a pro rata basis for the**
 7 **number of days in calendar year 2020 that the permit holder was required to**
 8 **temporarily close operations pursuant to Proclamation Number 30 JBE 2020,**
 9 **or any subsequent proclamation declaring the existence of a statewide**
 10 **COVID-19 public health emergency, no later than December 31, 2020.**

11 * * *

12 Section 2. This Act shall become effective upon signature by the governor or, if not
 13 signed by the governor, upon expiration of the time for bills to become law without signature
 14 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 15 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 16 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

VETO MESSAGE

"Please be advised that I have vetoed Senate Bill 18 of the Second Extraordinary Session.

This bill purported to provide financial relief for certain alcohol manufacturer and retail sales permit holders by allowing a permit holder's 2021 permit fees to be reduced on a pro rata basis if that permit holder was required to temporarily close operations pursuant to any of the governor's COVID-19 proclamations. The language of the bill is unclear on what "required to temporarily close operations" means. Even during the most restrictive Stay at Home orders, businesses holding these permits were only required to be closed to the public

and in fact were able to be open for other business purposes. Although well-intentioned, clear reading of the language would likely not provide the relief to businesses that Senator Cathey sought through passage of the bill. Furthermore, assuming for argument's sake that the language could be construed so liberally as to allow permit holders to apply current year permit fees to next year's permit renewals, the Office of Alcohol and Tobacco Control would likely be heavily impacted because they are a self-generated revenue funded agency and would not collect revenue that their current budget is based upon.

I have, however, signed into law Senate Bill 72 of the Second Extraordinary Session, which became Act 60. This bill provides an income tax credit based on permit amounts for those businesses Senator Cathey was attempting to provide aid for in Senate Bill 18."