

2023 Regular Session

SENATE BILL NO. 194

BY SENATORS MIZELL AND HEWITT

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

ALCOHOLIC BEVERAGES. Provides relative to the sale or service of alcohol to any person under the age of twenty-one. (2/3-CA7s2.1(A)) (gov sig)

1 AN ACT

2 To amend and reenact R.S. 14:333(B) and R.S. 26:96(A) and 292(A) and to enact R.S.
3 9:2800.1(F) and R.S. 26:90(A)(17) and 286(A)(17), relative to alcohol; to provide
4 for civil penalties; to provide relative to the misrepresentation of age; to provide for
5 civil liability; to provide for terms, conditions, restrictions, and procedures; and to
6 provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 9:2800.1(F) is hereby enacted to read as follows:

9 §2800.1. Limitation of liability for loss connected with sale, serving, or furnishing
10 of alcoholic beverages; **cause of action for certain persons**

11 * * *

12 **F. Notwithstanding any provision of the law to the contrary:**

13 **(1) Any person under the age for the lawful purchase of intoxicating**
14 **beverages of either high or low alcoholic content who is sold or served**
15 **intoxicating beverages by a person holding a Class A-General Permit issued**
16 **pursuant to Chapter 1 and Chapter 2 of Title 26 of the Louisiana Revised**
17 **Statutes of 1950, or by a person holding a permit issued pursuant to Chapter 1**

1 and Chapter 2 of Title 26 of the Louisiana Revised Statutes of 1950 where
2 beverages of either high or low alcoholic content are the principal commodity
3 sold or served to the public for consumption on the permit holder's premises,
4 shall have a cause of action against the permit holder and his agent, servant, or
5 employee for any injury or damages suffered due to his intoxication. The estate,
6 successors, or survivors of the person granted a cause of action in this
7 Paragraph shall also have a right of action against the permit holder and his
8 agent, servant, or employee for any injury or damages, including wrongful
9 death and property damages, suffered by the person due to his intoxication.

10 (2) A person who sustains any injury or damages caused by a person
11 under the age for the lawful purchase of intoxicating beverages of either high
12 or low alcoholic content who was sold or served intoxicating beverages by a
13 person holding a Class A-General Permit issued pursuant to Chapter 1 and
14 Chapter 2 of Title 26 of the Louisiana Revised Statutes of 1950, or by a person
15 holding a permit issued pursuant to Chapter 1 and Chapter 2 of Title 26 of the
16 Louisiana Revised Statutes of 1950 where beverages of either high or low
17 alcoholic content are the principal commodity sold or served to the public for
18 consumption on the permit holder's premises, shall have a cause of action
19 against the permit holder and his agent, servant, or employee for any injury or
20 damages sustained due to the intoxication of the underage person to whom the
21 beverages were sold or served. The estate, successors, or survivors of the person
22 granted a cause of action in this Paragraph shall also have a right of action
23 against the permit holder and his agent, servant, or employee for any injury or
24 damages, including wrongful death and property damages, suffered by such
25 person due to the intoxication of a person under the age for the lawful purchase
26 of intoxicating beverages of either high or low alcoholic content who is sold or
27 served intoxicating beverages by a person holding a Class A-General Permit
28 issued pursuant to Chapter 1 or Chapter 2 of Title 26 of the Louisiana Revised
29 Statutes of 1950 or by a person holding a permit issued pursuant to Chapter 1

1 and Chapter 2 of Title 26 of the Louisiana Revised Statutes of 1950 where
2 beverages of either high or low alcoholic content are the principal commodity
3 sold or served to the public for consumption on the permit holder's premises.

4 (3) Nothing in this Subsection shall be interpreted to prohibit any other
5 cause of action otherwise provided by law.

6 (4) If the person under the age for the lawful purchase of intoxicating
7 beverages of either high or low alcoholic content misrepresents his age by
8 submitting any one of the means of identification or similar means of
9 verification provided through the use of a real-time age verification system
10 authorized by the commissioner pursuant to R.S. 26:90(A)(1) or 286(A)(1)(a) to
11 obtain alcoholic beverages or to gain entry to licensed premises, the right of
12 action otherwise authorized by this Subsection shall not exist.

13 Section 2. R.S. 14:333(B) is hereby amended and reenacted to read as follows:

14 §333. Misrepresentation of age to obtain alcoholic beverages or gain entry to
15 licensed premises prohibited; penalties

16 * * *

17 B. Whoever violates the provisions of this Section shall be punishable by one
18 or more of the following:

19 (1) A fine of not more than ~~two~~ **five** hundred dollars.

20 (2) An appropriate amount of community service not to exceed ~~thirty~~ **sixty**
21 hours.

22 (3) Suspension of the violator's driver's license for ~~ninety~~ **one hundred**
23 **eighty** days.

24 * * *

25 Section 3. R.S. 26:96(A) and 292(A) are hereby amended and reenacted and R.S.
26 26:90(A)(17) and 286(A)(17) are hereby enacted to read as follows:

27 §90. Acts prohibited on licensed premises; suspension or revocation of permits

28 A. No person holding a retail dealer's permit, and no person permitted to sell
29 alcoholic beverages at retail to consumers, and no agent, associate, employee,

1 representative, or servant of any such person shall do or permit any of the following
2 acts to be done on or about the licensed premises:

3 * * *

4 (17) Allow any person under the age of eighteen years to enter a Class A-
5 General retail establishment or an establishment where beverages of either high
6 or low alcoholic content are the principal commodity sold or served to the
7 public for consumption on the establishment's premises, except for the specific
8 purpose as provided in Subparagraph (8)(a) of this Subsection. Any person
9 attempting to enter the Class A-General retail establishment or an
10 establishment where beverages of either high or low alcoholic content are the
11 principal commodity sold or served to the public for consumption on the
12 establishment's premises shall submit any one of the means of identification as
13 provided in Paragraph (1) of this Subsection or a similar means of verification
14 provided through the use of a real-time age verification system authorized by
15 the commissioner. The provisions of Subparagraph (1)(b) of this Subsection
16 shall apply to any one of the means of identification submitted.

17 * * *

18 §96. Revocation and suspensions not exclusive penalty

19 A.(1)~~(a)~~**(a)** Notwithstanding any other provision of this Chapter to the contrary,
20 the commissioner may, in lieu of or in addition to revocation or suspension of a
21 permit issued under the authority of this Chapter, impose the following schedule of
22 fines to be paid into the state treasury for:

23 ~~(a)(i)~~**(i)** A first offense, not less than fifty dollars but not more than five hundred
24 dollars.

25 ~~(b)(ii)~~**(ii)** A second offense that occurs within three years of the first offense, not
26 less than two hundred fifty dollars but not more than one thousand dollars.

27 ~~(c)(iii)~~**(iii)** A third offense that occurs within three years of the first offense, not
28 less than five hundred dollars but not more than two thousand five hundred dollars.

29 ~~(2)(b)~~**(b)** A retail dealer who is required pursuant to R.S. 15:541.1 to post

1 information regarding the National Human Trafficking Center hotline and fails to
2 post such information may be assessed a fine in accordance with the provisions of
3 this Section **Paragraph**.

4 **(2)(a) Notwithstanding the provisions of Paragraph (1) of this**
5 **Subsection, the commissioner may, in lieu of or in addition to revocation or**
6 **suspension of a permit issued under the authority of this Chapter, impose the**
7 **following schedule of fines to be paid into the state treasury for a violation of**
8 **R.S. 26:90(A)(1):**

9 **(i) A first offense, not less than one thousand dollars but not more than**
10 **five thousand dollars.**

11 **(ii) A second offense that occurs within six years of the first offense, not**
12 **less than five thousand dollars but not more than ten thousand dollars.**

13 **(iii) A third offense that occurs within six years of the first offense, not**
14 **less than ten thousand dollars but not more than fifteen thousand dollars.**

15 **(b) In addition to the fines imposed upon first offense of a violation of**
16 **R.S. 26:90(A)(1) pursuant to this Paragraph, the commissioner shall require the**
17 **Class A-General retail permit holder or a permit holder where beverages of**
18 **either high or low alcoholic content are the principal commodity sold or served**
19 **to the public for consumption on the establishment's premises to verify the age**
20 **of each person entering the establishment through an age verification system**
21 **authorized by the commissioner.**

22 **(c) If an agreement or order is entered in lieu of an administrative**
23 **hearing for a violation of R.S. 26:90(A)(1), the commissioner shall require, as**
24 **a part of the agreement or order, the Class A-General retail permit holder or**
25 **a permit holder where beverages of either high or low alcoholic content are the**
26 **principal commodity sold or served to the public for consumption on the**
27 **establishment's premises to verify the age of each person entering the**
28 **establishment through an age verification system authorized by the**
29 **commissioner.**

1 (d) One-half of the fines collected pursuant to this Paragraph shall be
2 used solely for the enforcement of this Part.

3 * * *

4 §286. Acts prohibited on licensed premises; suspension or revocation of permits

5 A. No person holding a retail dealer's permit, and no person permitted to sell
6 alcoholic beverages at retail to consumers, and no servant, agent, or employee of the
7 permittee shall do any of the following acts upon the licensed premises:

8 * * *

9 (17) Allow any person under the age of eighteen years to enter a Class A-
10 General retail establishment or an establishment where beverages of either high
11 or low alcoholic content are the principal commodity sold or served to the
12 public for consumption on the establishment's premises, except for the specific
13 purposes as provided in Paragraph (8)(a) of this Subsection. Any person
14 attempting to enter the Class A-General retail establishment or an
15 establishment where beverages of either high or low alcoholic content are the
16 principal commodity sold or served to the public for consumption on the
17 establishment's premises shall submit any one of the means of identification
18 provided in Paragraph (1) of this Subsection or a similar means of verification
19 provided through the use of a real-time age verification system authorized by
20 the commissioner. The provisions of Subparagraph (1)(b) of this Subsection
21 shall apply to any one of the means of identification submitted.

22 * * *

23 §292. Revocations and suspensions not exclusive penalty

24 A.(1)(a) Notwithstanding any other provision of this Chapter to the contrary,
25 the commissioner may, in lieu of or in addition to revocation or suspension of a
26 permit issued under the authority of this Chapter, impose the following schedule of
27 fines to be paid into the state treasury for:

28 ~~(i)~~(i) The first offense, not less than \$50 fifty dollars but not more than \$500
29 five hundred dollars.

1 ~~(2)(ii)~~ The second offense, which occurs within three years of first offense,
2 not less than \$250 two hundred fifty dollars but not more than \$1,000 one
3 thousand dollars; ~~and.~~

4 ~~(3)(iii)~~ The third offense, which occurs within three years of the first offense,
5 not less than \$500 five hundred dollars but not more than \$2,500 two thousand
6 five hundred dollars.

7 (2)(a) Notwithstanding the provisions of Paragraph (1) of this
8 Subsection, the commissioner may, in lieu of or in addition to revocation or
9 suspension of a permit issued under the authority of this Chapter, impose the
10 following schedule of fines to be paid into the state treasury for a violation of
11 R.S. 26:90(A)(1):

12 (i) A first offense, not less than one thousand dollars but not more than
13 five thousand dollars.

14 (ii) A second offense that occurs within six years of the first offense, not
15 less than five thousand dollars but not more than ten thousand dollars.

16 (iii) A third offense that occurs within six years of the first offense, not
17 less than ten thousand dollars but not more than fifteen thousand dollars.

18 (b) In addition to the fines imposed upon first offense of a violation of
19 R.S. 26:286(A)(1), the commissioner shall require the Class A-General retail
20 permit holder or a permit holder where beverages of either high or low
21 alcoholic content are the principal commodity sold or served to the public for
22 consumption on the establishment's premises to verify the age of each person
23 entering the establishment through an age verification system authorized by the
24 commissioner.

25 (c) If an agreement or order is entered in lieu of an administrative
26 hearing for a violation of R.S. 26:286(A)(1), the commissioner shall require, as
27 a part of the agreement or order, the Class A-General retail permit holder or
28 a permit holder where beverages of either high or low alcoholic content are the
29 principal commodity sold or served to the public for consumption on the

1 establishment's premises to verify the age of each person entering the
 2 establishment through an age verification system authorized by the
 3 commissioner.

4 (d) One-half of the fines collected pursuant to this Paragraph shall be
 5 used solely for the enforcement of this Part.

6 * * *

7 Section 4. This Act shall become effective upon signature by the governor or, if not
 8 signed by the governor, upon expiration of the time for bills to become law without signature
 9 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 10 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 11 effective on the day following such approval.

The original instrument was prepared by Michelle D. Ridge. The following digest, which does not constitute a part of the legislative instrument, was prepared by Alan Miller.

DIGEST

SB 194 Reengrossed

2023 Regular Session

Mizell

Present law provides for the powers and duties of the office of alcohol and tobacco control (office), including the issuance of Class A retail liquor permits for high or low alcoholic content.

Present law provides for three types of Class A retail liquor permits: Class A-General, Class A-Restaurant, and Class A-Special.

Present law provides that a Class A-General retail permit is issued only to a retail outlet where alcohol is sold on the premises for consumption on the premises by paying customers and that meets other requirements provided by present law. Provides that a Class A-General retail permit must be issued only to an establishment where the state law provides that no person under the age of 18 is allowed on the premises. Makes an exception for a minor to be present at the establishment provided the minor is a musician who performs in a band at the establishment under written contract with the permit holder and is under the direct supervision of his parent or guardian.

Proposed law retains present law.

Present law provides for prohibited acts of permit holders, including allowing the sale or service of alcohol to a person under the age of 21 and permitting a person under the age of 18 to work at an establishment where the sale of alcoholic beverages constitutes its main business.

Proposed law retains present law and adds that a Class A-General permit holder shall not allow any person under the age of 18 to enter the establishment, except for a musician under the supervision of his parent or guardian. Requires any person attempting to enter the establishment submit a form of identification allowed under present law.

Present law authorizes the commissioner, in lieu of or in addition to revocation or suspension of a permit issued by the commissioner, to impose fines according to a schedule. Present law fines apply to both high and low alcoholic content.

Proposed law retains present law and provides for increased civil fines if a permit holder serves or sells alcohol to any person under the age of 21 as follows:

- (1) A first offense, not less than \$1,000 but not more than \$5,000.
- (2) A second offense that occurs within six years of the first offense, not less than \$5,000 but not more than \$10,000.
- (3) A third offense that occurs within six years of the third offense, not less than \$10,000 but not more than \$15,000.

Proposed law provides that upon a first violation of serving or selling to any person under the age of 21, the commissioner shall require the Class A-General retail permit holder or a permitted establishment where beverages of either high or low alcoholic content are the principal commodity sold or served to the public for consumption on the permit holder's premises, to verify the age of each person entering the establishment through an age verification system authorized by the commissioner. Requires the use of an age verification system if an order or agreement is entered in lieu of an administrative hearing. Provides that one-half of fines collected in accordance with proposed law be used solely for enforcement.

Proposed law provides that any person under the age of 21 who is sold or served intoxicating beverages by a person holding a Class A-General permit or a permitted establishment where beverages of either high or low alcoholic content are the principal commodity sold or served to the public for consumption on the permit holder's premises, shall have a cause of action against the permit holder for any injury or damages suffered due to his intoxication. Provides that the cause of action extends to the person's estate, successors, or survivors.

Proposed law provides that a person who sustains any injury or damages caused by a person under the age of 21 who is served intoxicating beverages by a person holding a Class A-General permit or a permitted establishment where beverages of either high or low alcoholic content are the principal commodity sold or served to the public for consumption on the permit holder's premises, shall have a cause of action against the permit holder for any injury or damages sustained due to the intoxication of the underage person to whom the beverages were sold. Provides that the cause of action extends to the person's estate, successors, or survivors.

Proposed law does not prohibit any other cause of action otherwise provided by law.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 14:333(B) and R.S. 26:96(A) and 292(A); adds R.S. 9:2800.1(F) and R.S. 26:90(A)(17) and 286(A)(17))

Summary of Amendments Adopted by Senate

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

1. Removes provisions that prohibit any person under the age of 21 from entering a Class A-General permitted establishment.
2. Removes requirement that a bartender be at least 21.

3. Removes provision relative to the unlawful sales to persons under 21.
4. Removes provision relative to employment of minors.
4. Adds to the list of prohibited acts of permit holders of both high and low alcoholic content to include a person under the age of 18 shall not be allowed into a Class A-General permitted establishment.
5. Increases fines only with respect to a violation for serving or selling alcohol to any person under the age of 21.
6. Provides relative to a cause of action for certain persons against a Class A-General permit holder under certain circumstances.

Senate Floor Amendments to engrossed bill

1. Adds applicability to certain permitted establishments where beverages of either high or low alcoholic content are the principal commodity sold or served to the public for consumption on the permits holder's premises.
2. Changes the term "right of action" to "cause of action" where applicable.
3. Adds provision that prohibits anything in proposed law from being interpreted to prohibit any other cause of action otherwise provided by present law.