

Regular Session, 1997

HOUSE BILL NO. 551

BY REPRESENTATIVE TOOMY

ALCOHOLIC BEVERAGES: Creates the Louisiana Responsible Vendor Program

1 AN ACT

2 To enact Chapter 7 of Title 26 of the Louisiana Revised Statutes of 1950, to  
3 be comprised of R.S. 26:901 through 909, relative to the Louisiana  
4 Responsible Vendor Program; to establish a program for the  
5 responsible sale, service, and consumption of alcoholic beverages; to  
6 provide for definitions; to provide for qualification and certification as  
7 a responsible vendor; to provide for server training courses; to provide  
8 for suspension and revocation of permits and other penalties; to provide  
9 for fees; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Chapter 7 of Title 26 of the Louisiana Revised Statutes of  
12 1950, comprised of R.S. 26:901 through 909, is hereby enacted to read as  
13 follows:

14 CHAPTER 7. RESPONSIBLE VENDOR PROGRAM

15 §901. Short title

16 This Chapter shall be known and may be cited as the "Louisiana  
17 Responsible Vendor Program".

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1           §902. Definitions

2                   For purposes of this Chapter, the following terms have the  
3           respective meanings ascribed to them in this Chapter, unless a different  
4           meaning clearly appears from the context:

5                   (1) "Approved provider" means an individual, unincorporated  
6           association, partnership, or corporation approved by the program  
7           administrator to provide server training courses.

8                   (2) "Commissioner" means the commissioner of the office of  
9           alcoholic beverage control.

10                  (3) "Program administrator" means a committee of six persons  
11           provided for in R.S. 26:903.

12                  (4) "Responsible vendor" means any vendor as defined in  
13           Paragraph (7) who qualifies and maintains certification in accordance  
14           with the provisions of this Chapter.

15                  (5) "Server" means any employee of a vendor who is authorized  
16           to sell or serve alcoholic beverages in the normal course of his or her  
17           employment or deals with customers who purchase or consume  
18           alcoholic beverages.

19                  (6) "Server permit" means the permit issued to a server upon  
20           completion of a server training course and all required refresher courses  
21           provided for in this Chapter.

22                  (7) "Vendor" means any holder of a Class "A" General, Class  
23           "A" Restaurant, or Class "B" retail permit issued pursuant to R.S. 26:71  
24           or R.S. 26:271.

1           §903. Establishment of responsible vendor program

2                   A.(1) The program administrator shall be a committee of six  
3                   persons, one of whom shall be appointed by the commissioner or his  
4                   designee. Of the other five, each of the following groups or  
5                   associations shall select one person, subject to approval by the  
6                   commissioner:

7                           (a) Louisiana Restaurant Association.

8                           (b) Louisiana Retailer's Association.

9                           (c) Louisiana Association of Alcoholic Beverages Licensees,  
10                   Inc.

11                           (d) Louisiana Oil Marketers Association.

12                           (e) Committee on Alcoholism and Drug Abuse.

13                   (2) Approval by the commissioner shall not be unreasonably  
14                   withheld and shall be provided within thirty days of receipt of each one  
15                   of the nominations selected by the respective groups or associations.

16                   B. By January 1, 1998, the program administrator shall approve  
17                   a Louisiana Responsible Vendor Program, hereafter referred to as "the  
18                   program", designed to educate vendors and their employees and  
19                   customers about selling, serving, and consuming alcoholic beverages  
20                   in a responsible manner. The program shall include all of the  
21                   following:

22                           (1) Enrollment and certification of the vendor in the program.

23                           (2) Server training courses for servers.

24                           (3) Review of the requirements for the issuance and renewal of  
25                   server permits. Such permits shall be the property of the server and, if

1           not expired, suspended, or revoked, valid in connection with his  
2           employment by any vendor in the state of Louisiana.

3           C. The server training courses shall include but not be limited  
4           to the following subject areas:

5           (1) Classification of alcohol as a depressant and its effect on the  
6           human body, particularly on the ability to drive a motor vehicle.

7           (2) Effects of alcohol when taken with commonly used  
8           prescription and nonprescription drugs.

9           (3) Absorption rate, as well as the rate at which the human body  
10          can dispose of alcohol and how food affects the absorption rate.

11          (4) Methods of identifying and dealing with underage and  
12          intoxicated persons, including strategies for delaying and denying sales  
13          and service to intoxicated and underage persons.

14          (5) State laws and regulations regarding the sale and service of  
15          alcoholic beverages for consumption on and off premises.

16          (6) Parish and municipal ordinances and regulations, including  
17          but not limited to the hours of operation, noise, litter, and other  
18          ordinances that affect the sale and service of alcoholic beverages for  
19          consumption on or off premises.

20          (7) State and federal laws and regulations related to the lawful  
21          age to purchase tobacco products and age verification requirements.

22          D. The commissioner, upon recommendation of the program  
23          administrator, may promulgate rules and regulations to effectuate the  
24          program in accordance with the Administrative Procedure Act,  
25          including but not limited to rules and regulations related to the  
26          development, establishment, and maintenance of the entire program.

1           E. The commissioner shall provide a system for vendors to  
2           verify the validity of individual server permits.

3           §904. Requirements for certification

4           In order to qualify for and maintain certification as a responsible  
5           vendor, the vendor shall comply with all of the following:

6           (1) Enrollment in the program and written verification to the  
7           commissioner that the vendor has read and understands a responsible  
8           vendor handbook, and any periodic amendments thereto, which  
9           handbook shall be developed, published, and distributed by the  
10          program administrator and approved by the commissioner.

11          (2) Successful completion of a server training course offered by  
12          an approved provider by each server within forty-five days after  
13          commencing employment and the securing and maintaining of a valid  
14          server permit. Server permits shall be valid for a period of two years  
15          and shall be issued and renewed in accordance with rules and  
16          regulations promulgated by the commissioner.

17          (3) Attendance at a refresher course by each server at least once  
18          every two years as scheduled by any approved provider, which course  
19          shall include the dissemination of new information relating to the  
20          program subject areas as set forth in R.S. 26:903.

21          (4) Maintenance of training verification records of its  
22          employees.

23          (5) The posting of signs on the vendor's premises informing  
24          customers of the vendor's policy against selling alcoholic beverages to  
25          underage or intoxicated persons.

1           §905. Server liability; penalties, fines, suspension or revocation of  
2                           server permit; vendor's defenses

3           A. The commissioner may suspend or revoke a server's permit  
4           or impose a fine on the server for noncompliance with this Chapter or  
5           for any violation, attributable to the server, of the provisions of R.S.  
6           26:90, 91, 286, or 287. The procedure for the suspension or revocation  
7           of a server's permit or for the imposition of fines shall be the same as  
8           are otherwise set forth in this Title for the suspension or revocation of  
9           permits of, or imposition of fines against, holders of Class "A" General,  
10           Class "A" Restaurant, or Class "B" permits.

11                   B.(1) The alcoholic beverage permit of a vendor certified as a  
12                   responsible vendor in accordance with the provisions of this Chapter  
13                   shall not be suspended or revoked on the following grounds:

14                           (a) The first illegal sale or service of an alcoholic beverage by  
15                           any server to an underage or intoxicated person in any twelve-month  
16                           period.

17                           (b) The first citation for consumption by a customer of  
18                           alcoholic beverages on the premises of a Class "B" vendor in any  
19                           twelve-month period, unless the vendor had knowledge of the violation,  
20                           should have known about such violation, or participated in or  
21                           committed such violation.

22                           (2) No vendor may use as a defense to suspension or revocation  
23                           the fact that he was absent from the licensed premises at the time a  
24                           violation of the Alcoholic Beverage Control Law occurred if the  
25                           violations are flagrant, persistent, repeated, or recurring.

1           C. Certification under this Chapter as a responsible vendor shall  
2           be considered in mitigation of a vendor's administrative penalties or  
3           finer for a server's illegal sale or service of an alcoholic beverage to an  
4           underage or intoxicated person, or consumption of alcoholic beverages  
5           by a customer on the premises of a Class "B" vendor.

6           §906. Fees

7           A. The commissioner may promulgate rules and regulations  
8           regarding fees, which fees shall not exceed fifty dollars per licensed  
9           establishment for the costs of developing and administering the  
10          program. In no event shall the fees exceed administrative costs of the  
11          program.

12          B. Approved providers may charge fees for the cost of  
13          conducting the server training courses provided for in this Chapter.  
14          Such fees shall be approved by the program administrator and the  
15          commissioner.

16          §907. Preexisting server training programs

17          Any vendor or server subject to a local ordinance requiring  
18          participation by the vendor or its employees in a server training  
19          program shall be exempt from such local regulation if the vendor is  
20          certified as a responsible vendor under the provisions of this Chapter.

21          §908. Reports to the commissioner

22          Beginning January 1, 1999, the program administrator shall  
23          provide the commissioner and the legislature with annual reports  
24          regarding the program.

1           §909. Applicability  
2                   Any vendor may become certified in accordance with the  
3           provisions of this Chapter after January 1, 1998. Effective January 1,  
4           2000, all vendors shall participate in the program.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument.

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Toomy

HB No. 551

Proposed law establishes the Louisiana Responsible Vendor Program and provides for definitions. Further provides that the "program administrator" is a committee of six people composed of one selected by each of five associations and groups, and one selected by the commissioner of the ABC or his designee.

Proposed law requires the program administrator to approve a program by January 1, 1998, for the enrollment and certification of the vendor, for the server training courses for the servers, and for the review of the requirements for the issuance and renewal of server permits.

Proposed law requires the server training courses to include the following subjects:

- (1) Effects of alcohol on the human body.
- (2) Effects of alcohol when combined with other drugs.
- (3) Human absorption rate of alcohol.
- (4) Methods of identifying and dealing with underage and intoxicated persons.
- (5) State laws regarding the sale and service of alcoholic beverages.
- (6) Parish and municipal ordinances affecting the sale and service of alcoholic beverages.
- (7) State and federal laws regarding the lawful age to purchase tobacco products.

Proposed law sets forth the following requirements for vendor certification:

- (1) Enrollment in the program and written verification to the commissioner of the vendor's understanding of the vendor handbook.

- (2) Successful completion of a server training course and possession of a valid server permit, which permit is valid for two years.
- (3) Attendance at a refresher course by each server at least once every two years.
- (4) Maintenance of training verification records of employees.
- (5) The posting of signs on the premises concerning underage or intoxicated persons.

Proposed law grants authority to the commissioner upon recommendation of the program administrator to promulgate rules and regulations related to the development, establishment, and maintenance of the program.

Proposed law permits the commissioner to suspend or revoke a server's permit or to impose a fine for noncompliance with the Louisiana Responsible Vendor Program or for a violation of the Alcoholic Beverage Control Law.

Proposed law prohibits the suspension or revocation of a certified responsible vendor under the following circumstances:

- (1) The first illegal sale or service of an alcoholic beverage by and server to an underage or intoxicated person in any 12-month period.
- (2) The first citation for consumption by a customer of alcoholic beverages on the premises of a Class "B" vendor in any 12-month period, unless the vendor had knowledge or should have had knowledge about such violation or participated in or committed such violation.

Proposed law permits the commissioner to promulgate a rule concerning fees, not to exceed \$50 per licensed establishment, for the costs of developing and administering the program. Further permits approved providers to charge a fee for the cost of conducting the server training courses.

Proposed law permits a vendor to become a certified vendor after January 1, 1998, and requires all vendors to participate in the program on or after January 1, 2000.

(Adds R.S. 26:901-909)