

RÉSUMÉ DIGEST

ACT 460 (SB 235)

2015 Regular Session

Murray

Prior law requires that alcoholic beverages be distributed only through wholesalers.

Prior law made an exception for sparkling wine and still wine. Provided that such products may be sold and shipped directly to a consumer in Louisiana by the manufacturer or retailer domiciled inside or outside of Louisiana, or by a wine producer domiciled inside or outside of Louisiana, provided that all taxes levied have been paid in full and that all of the following apply:

- (1) The consumer is 21 years of age or older.
- (2) The sparkling wine or still wine is for that consumer's personal consumption.
- (3) The total amount of sparkling wine or still wine shipped in 750 ml bottles does not exceed 144 bottles per adult person per household address per calendar year.
- (4) The wine producer, manufacturer, or retailer engaging in such direct sales holds a valid wine producer's, manufacturer's, or retailer's license issued by the state of its domicile.
- (5) The package in which the sparkling wine or still wine is shipped is prominently labeled as containing beverage alcohol.
- (6) The package in which such sparkling wine or still wine is shipped is received by a person 21 years of age or older.
- (7) The package contains an invoice indicating the date of the shipment, providing a full and complete description of all items included in the shipment, and stating the price thereof.
- (8) The wine producer, manufacturer, or retailer domiciled outside of Louisiana has complied with prior law relating to annual application and quarterly statement to the secretary of revenue.
- (9) The seller or shipper who is a wine producer or manufacturer is not a party, directly or indirectly, to any agreement in which a wholesaler licensed by Louisiana has been granted the right to purchase and to sell any sparkling wine or still wine produced by the manufacturer.

New law retains prior law and adds a requirement that prior to selling or shipping any sparkling wine or still wine directly to a consumer in Louisiana, a wine producer or manufacturer or retailer domiciled outside Louisiana register with the state office of alcohol and tobacco control. The registration is required to be renewed annually and updated within 30 days of any change to the information contained on the form.

Prior law provided that prior to 2012, a wine producer, manufacturer or out-of-state retailer selling directly to consumers in Louisiana had to file monthly statements with the secretary of revenue regarding shipments. New law deletes prior law.

Prior law provided that beginning in 2012, wine producers, manufacturers and out-of-state retailers are required to file quarterly statements regarding shipments. New law retains prior law.

New law authorizes the secretary of revenue to release to the commissioner of the office of alcohol and tobacco copies of annual applications and quarterly statements of wine producers, manufacturers and out-of-state retailers authorized to sell directly to consumers.

New law requires any person who transports sparkling wine or still wine for direct shipment into or out of Louisiana to register with the commissioner. Requires the commissioner to promulgate rules for transport registrants that include regular reporting requirements related to size of containers and quantities of sparkling wine and still wine contained in each

shipment. Requires the rules to also include requirements that prevent sales and deliveries to underage persons.

New law provides that any person who transports sparkling wine or still wine for direct shipment into or out of Louisiana in violation of new law or rules shall be subject to a civil penalty of up to \$25,000.

Prior law, relative to restaurant "R" permits, defined "restaurant establishment", in part, as an establishment which has a public habitable floor area of no less than 500 square feet. However this shall not apply to business locations that apply to or have been licensed to sell or serve alcoholic beverages prior to August 1, 2006, and have not discontinued the sale and service of such beverages for more than six months. New law specifies that the 500 square feet must be dedicated to the exclusive use of the applicant's or licensee's business.

New law provides that the commissioner may waive this requirement for any building listed as a historic building on an official registry or located within an officially designated historic district.

Prior law provided that all applications for state alcoholic beverage permits shall be mailed or delivered to the commissioner in Baton Rouge, Louisiana, and all applications for local permits shall be mailed or delivered to the respective local authorities. Required that an applicant mail or deliver both his applications for state and local permits within 24 hours of each other. Provided that if he fails to do so, his state application may be withheld and the permits denied. Required that upon receipt of an application, the commissioner or the local authorities, as the case may be, stamp the day, month, and year received, and the commissioner shall verify that the applicant does not owe the state any delinquent sales taxes, penalties, or interest, excluding items under formal appeal pursuant to the applicable statutes. Authorized the commissioner and officers or employees specifically so authorized by the commissioner and local authorities to issue the permits immediately after proper investigation but, for a period of 35 days after issuance, such permits shall operate on a probationary basis subject to final action on, opposition to, or withholding of, the permits as hereinafter provided.

New law provides that prior to August 1, 2016, the commissioner may waive all state application fees or provide an equal credit to an applicant's account when a permit is not issued within three business days after receipt of a fully and properly completed application. Otherwise retains prior law.

Prior law, relative to the Prevention of Youth Access to Tobacco Law, required that the commissioner annually conduct random, unannounced inspections at locations where tobacco products are sold or distributed. Provided that persons under the age of 18 may be enlisted by employees of the office of alcohol and tobacco control to test compliance, but such persons may be used only if the testing is conducted under the direct supervision of such employees and written parental consent has been provided. Provided that any person under the age of 18 shall either carry the person's own identification showing the person's correct date of birth or shall carry no identification. Provided that a person under the age of 18 who carries identification shall, on request, present it to any seller of tobacco products. In addition, any person under the age of 18 enlisted under prior law shall truthfully answer any questions about the person's age. Provides that any other use of persons under the age of 18 to test compliance with prior law or any other prohibition of like or similar import shall be unlawful and the person or persons responsible for such use shall be subject to the penalties prescribed in prior law.

New law, relative to laws prohibiting the sale or service of alcoholic beverages, tobacco, alternative nicotine, or vapor products to underage persons, requires that the commissioner annually conduct random, unannounced inspections at locations where alcoholic beverages, tobacco, alternative nicotine, or vapor products are sold, served, or distributed. Provides that persons under the age of 18 or 21 may be enlisted by employees of the office of alcohol and tobacco control to test compliance, but such persons may be used only if the testing is conducted under the direct supervision of such employees and written parental consent has been provided if the person is under the age of 18. Provides that any person under the age of 18 or 21 shall either carry the person's own identification showing the person's correct date of birth or shall carry no identification. Provides that a person under the age of 18 or 21 who carries identification shall, on request, present it to any seller or server of alcoholic

beverages, tobacco, alternative nicotine, or vapor products. In addition, any person under the age of 18 or 21 enlisted under prior law shall truthfully answer any questions about the person's age. Provides that except where expressly authorized in writing by the commission in furtherance of the objectives of new law, any other use of persons under the age of 18 or 21 to test compliance with new law or any other prohibition of like or similar import shall be unlawful and the person or persons responsible for such use shall be subject to the penalties prescribed in prior law.

Effective January 1, 2016.

(Amends R.S. 26:73(C)(1)(e), 79, 272(C)(1)(e), 279, and 359(D), (E), (F), and (G) and 793(C)(1); adds R.S. 26:359(B)(3))