

ACT No. 382

2015 Regular Session

HOUSE BILL NO. 233

BY REPRESENTATIVE ADAMS

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AN ACT

To amend and reenact R.S. 26:2(13) through (24), 71(A)(3)(d), 71.1(4)(a), 78(A), 79, 80(A)(8), 86, 142, 271.2(4)(a), 278(A), 279, 280(A)(8), and 283 and to enact R.S. 26:2(25) and (26), 71(A)(3)(e), and 71.3, relative to microdistillery permits; to provide for definitions; to establish criteria for microdistillery permitting; to provide for permit fees; to provide for the taxation of beverages produced by a microdistiller; to provide relative to Class A-Restaurant-Conditional permits; to provide relative to permit application requirements; to authorize microdistillers to reuse certain alcoholic beverage containers; to require microdistillers to receive approval from the state fire marshal; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 26:2(13) through (24), 71(A)(3)(d), 71.1(4)(a), 78(A), 79, 80(A)(8), 86, 142, 271.2(4)(a), 278(A), 279, 280(A)(8), and 283 are hereby amended and reenacted and R.S. 26:2(25) and (26), 71(A)(3)(e), and 71.3 are hereby enacted to read as follows:

§2. Definitions

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

* * *

(13) "Microdistiller" means any person who operates a microdistillery.

(14) "Microdistillery" means a retail outlet where a microdistiller engages in the distilling, making, blending, rectifying, or processing of any alcoholic beverage in Louisiana in quantities of not more than twelve thousand gallons per

1 year for retail sale for consumption on or off the licensed premises in accordance
2 with the provisions of this Chapter and regulations, if any, promulgated by the
3 commissioner.

4 ~~(13)~~ (15) "Outlet" means a place where any person draws or removes any
5 alcoholic beverage from its container for consumption on the premises.

6 ~~(14)~~ (16) "Package house-Class B" means a place consisting of no less than
7 five hundred square feet of public habitable area which sells alcoholic beverages in
8 factory sealed containers for transportation and consumption off the premises and
9 where no person is allowed to tamper with or otherwise disrupt the manufacturer's
10 seal on or about the licensed premises.

11 ~~(15)~~ (17) "Regulated beverage" means any alcoholic beverage.

12 ~~(16)~~ (18) "Solicitor" means any person who offers for sale or solicits any
13 orders for the sale of any regulated beverage, other than in a regularly established
14 and licensed place of business in this state, for delivery or shipment to any point in
15 the state, whether done as owner, agent, or servant.

16 ~~(17)~~ (19) "Sparkling wine" means any effervescent alcoholic beverage
17 derived from the juice of any fruit, or synthesis thereof, charged with carbon dioxide,
18 either artificially or as the result of secondary fermentation within the container.

19 ~~(18)~~ (20) "Still wine" means any non-effervescent alcoholic beverage
20 derived from the juice of any fruit, or synthesis thereof.

21 ~~(19)~~ (21) "Supplier" means any person, other than a wine producer, who
22 manufactures, makes, blends, rectifies, distills, processes, or purchases alcoholic
23 beverages outside the state of Louisiana and imports, sells, offers for sale, solicits
24 orders for sale, distributes, or delivers such alcoholic beverages in Louisiana.

25 ~~(20)~~ (22) "Wholesale dealer" means a person who sells alcoholic beverages
26 of high alcoholic content to licensed wholesale dealers or licensed retail dealers
27 exclusively, within the state or to any person for delivery beyond the borders of the
28 state to a licensed dealer in that state and who conducts a bona fide wholesale
29 business and maintains a warehouse or warehouses for the storage and warehousing
30 of alcoholic beverages of high alcoholic content in the area where domiciled and

1 licensed by the state, and conducts and maintains systematic and regular
 2 solicitations, distribution, deliveries, and sales of the beverages to licensed retail
 3 dealers located within the boundary of each parish, municipality, or geographic area,
 4 as contractually defined between the wholesaler and his supplier, in which the
 5 wholesale dealer makes any sale or delivery.

6 ~~(21)~~ (23) "Wine package house" means a place where a person sells only
 7 sparkling wine and still wine in the original package or closed container, prepared
 8 for transportation and consumption off the premises.

9 ~~(22)~~ (24) "Wine producer" means any person who, directly or indirectly,
 10 personally or through any agency, cultivates and grows grapes, fruits, berries, honey,
 11 or vegetables from which wine of an alcoholic content in excess of six percent by
 12 volume is produced and bottled from a fermentation of such grapes, fruits, berries,
 13 honey, or vegetables in Louisiana or outside the state for shipments to licensed
 14 wholesale dealers within the state subject to the provisions of R.S. 26:364.

15 ~~(23)~~ (25) "Winery" means a plot of land located in Louisiana used to
 16 cultivate and grow grapes, fruits, berries, honey, or vegetables for the purpose of
 17 fermenting such grapes, fruits, berries, honey, or vegetables to produce and bottle
 18 wine of an alcoholic content in excess of six percent by volume.

19 ~~(24)~~ (26) "Wine wholesaler" means any dealer who sells only sparkling wine
 20 and still wine to other licensed wholesale dealers or to licensed retail dealers for
 21 resale within the state.

22 * * *

23 §71. Permits required; fees; exception

24 A. Except as provided in Subsections B and C of this Section, before
 25 engaging in the business of manufacturing, supplying, or dealing in alcoholic
 26 beverages, all persons shall obtain from the commissioner, according to established
 27 rules and regulations, a permit to conduct each separate business and shall pay the
 28 commissioner a fee not to exceed the amounts provided for in the following schedule

1 and in accordance with regulations promulgated pursuant to the provisions of the
2 Administrative Procedure Act for each year the permit is valid:

3 * * *

4 (3) Retailers - (a) There shall be three types of Class A retail liquor permits:

5 * * *

6 (d) Microdistiller, which authorizes the holder of a Retailers Class A permit
7 to engage in the distilling, making, blending, rectifying, or processing of any
8 alcoholic beverage in Louisiana at a single location in an amount not to exceed
9 twelve thousand gallons per year, and which further authorizes the sale at retail of
10 such distilled beverages from that location-one thousand dollars.

11 (e) A fee of one hundred dollars for each one hundred thousand dollars of
12 gross retail liquor sales, after the first one hundred thousand dollars of gross retail
13 liquor sales, shall be levied according to the schedule below which shall be in
14 addition to those fees enumerated in Subparagraphs (a) and (b) of ~~Paragraph (3) of~~
15 ~~this Subsection:~~ this Paragraph:

| GROSS SALES | ADDITIONAL FEES |
|------------------------------|-----------------|
| \$0.00 to \$99,999.99 | -0- |
| \$100,000.00 to \$199,999.99 | \$100.00 |
| \$200,000.00 to \$299,999.99 | \$200.00 |
| \$300,000.00 to \$399,999.99 | \$300.00 |
| \$400,000.00 to \$499,999.99 | \$400.00 |
| \$500,000.00 to \$599,999.99 | \$500.00 |
| \$600,000.00 and over | \$600.00 |

24 * * *

25 §71.1. Class A permit; definitions

26 The commissioner shall issue the following four types of Class A retail liquor
27 permits:

28 * * *

1 (4) Class A-Restaurant-Conditional:

2 (a) Any retail establishment holding a Class A-General permit issued
3 pursuant to this Section may be issued a Class-A-Restaurant-Conditional permit,
4 provided it meets the requirements of ~~R.S. 26:73(B)(1), (2), (3), (5), and (6)~~ R.S.
5 26:73(C)(1)(a), (b), (c), and (d) during the hours from 7:00 a.m. until 11:00 p.m.
6 each day of operation.

7 * * *

8 §71.3. Microdistillery; retail sales for consumption on or off premises

9 A. Any person who has properly obtained a microdistiller's permit as
10 provided for in R.S. 26:71, shall be authorized to engage in the distilling, making,
11 blending, rectifying, or processing of any alcoholic beverage in Louisiana in a
12 quantity not to exceed twelve thousand gallons during the licensed year. The holder
13 of such permit shall also be authorized to sell the manufactured beverages at retail
14 for consumption on or off the licensed premises, if the holder also has been issued
15 a Retailer Class A permit.

16 B. The provisions of this Section shall not authorize the holder of a
17 microdistiller's permit to sell the manufactured beverages at wholesale or to any
18 wholesale dealer.

19 C. The microdistiller shall not sell any alcoholic beverages for transportation
20 off the premises to any other licensed alcoholic beverage retail dealer.

21 D. Beverages produced by a microdistiller shall be taxed in the same manner
22 and at the same rate as beverages produced by other manufacturers, as provided by
23 law.

24 E. Notwithstanding the provisions of R.S. 26:149, microdistillers may reuse
25 alcoholic beverage containers in connection with distilling and bottling operations.

26 F. Prior to commencing distilling operations, microdistillers shall obtain
27 approval from the state fire marshal.

28 * * *

1 §78. Content of application for permit; commissioner power as ex officio notary

2 A. Applications for state and local permits to engage in any business or
 3 operation regulated by this Chapter shall be in writing and sworn to, and shall
 4 contain the full name of the applicant, his social security number, his federal
 5 employer identification number, if applicable, his Louisiana Department of Revenue
 6 business account number, if applicable, his correct home address, and an accurate
 7 description and correct street address of the premises wherein the business or
 8 operation is to be conducted, which address shall be considered the proper address
 9 for all notices to the applicant or permittee required by this Chapter, and shall be
 10 accompanied by an affidavit of the applicant showing that he meets the qualifications
 11 and conditions set out in R.S. 26:80. ~~Original and renewal applications shall also be~~
 12 ~~accompanied by a signed sales tax clearance from the sales tax collection agency or~~
 13 ~~agencies in the parish in which the application is made, which clearance request shall~~
 14 ~~be processed within seven business days.~~

15 * * *

16 §79. Submission of applications; delay

17 All applications for state permits shall be mailed or delivered to the
 18 commissioner in Baton Rouge, Louisiana, and all applications for local permits shall
 19 be mailed or delivered to the respective local authorities. An applicant shall mail or
 20 deliver both his applications for state and local permits within twenty-four hours of
 21 each other. If he fails to do so, his state application may be withheld and the permits
 22 denied. Upon receipt of an application, the commissioner or the local authorities, as
 23 the case may be, shall stamp the day, month, and year received, and the
 24 commissioner shall verify that the applicant does not owe the state or the political
 25 subdivision in which the business is located any delinquent sales taxes, penalties, or
 26 interest, excluding items under formal appeal pursuant to the applicable statutes.
 27 The commissioner and officers or employees specifically so authorized by the
 28 commissioner and local authorities may issue the permits immediately after proper
 29 investigation but, for a period of thirty-five days after issuance, such permits shall

1 operate on a probationary basis subject to final action on, opposition to, or
2 withholding of, the permits as hereinafter provided.

3 * * *

4 §80. Qualifications of applicants for permits

5 A. Applicants for state and local permits of all kinds shall demonstrate that
6 they meet all of the following qualifications and conditions:

7 * * *

8 (8) Have not had a license or permit to sell or deal in alcoholic beverages,
9 issued by the United States, any state, or by any political subdivision of a state
10 authorized to issue permits or licenses, revoked within two years prior to the
11 application, or been convicted or had a judgment of court rendered against the
12 applicant involving the sale or service of alcoholic beverages by this or any other
13 state or by the United States for two years prior to the application.

14 * * *

15 §86. Authority of commissioner and local authorities to withhold permit

16 The commissioner with respect to state permits and municipal authorities and
17 parish governing authorities with respect to local permits may withhold the issuance
18 of permits in the manner and under the terms and conditions specified in this
19 Chapter; ~~however, if a sales tax clearance is not issued, the permit shall be withheld.~~
20 ~~Nevertheless, if the sales tax clearance request is not processed within the time~~
21 ~~limitations provided in R.S. 26:78, the permit shall be issued if all other~~
22 ~~qualifications are met by the applicant.~~

23 * * *

24 §142. Distribution through wholesalers only

25 Except as provided for in ~~R.S. 26:85~~ R.S. 26:71.3, 85, 271.1, and 359, no
26 alcoholic beverage produced or manufactured inside or outside of this state shall be
27 sold or offered for sale in Louisiana or shipped or transported into or within the state
28 except to the holder of a wholesaler's permit and for delivery at the place of business
29 of the wholesaler as shown in his permit.

30 * * *

1 §271.2. Class A permit; definitions

2 The commissioner shall issue the following four types of Class A retail
3 permits for beverages of low alcoholic content:

4 * * *

5 (4) Class A-Restaurant-Conditional:

6 (a) Any retail establishment holding a Class A-General permit issued
7 pursuant to this Section may be issued a Class-A-Restaurant-Conditional permit
8 provided it meets the requirements of ~~R.S. 26:73(B)(1), (2), (3), (5), and (6)~~ R.S.
9 26:73(C)(1)(a), (b), (c), and (d) during the hours from 7:00 a.m. until 11:00 p.m.
10 each day of operation.

11 * * *

12 §278. Contents of application for permit; commissioner power as ex officio notary

13 A. Applications for state and local wholesaler or retailer permits shall be in
14 writing and sworn to and shall contain the full name of the applicant, his social
15 security number, his federal employer identification number, if applicable, his
16 Louisiana Department of Revenue business account number, if applicable, his correct
17 home address, and an accurate description and correct address of the premises
18 wherein the business or operation is to be conducted, which address shall be
19 considered the proper address for all notices to the applicant or permittee required
20 by this Chapter, and shall be accompanied by an affidavit of the applicant showing
21 that he meets the qualifications and conditions set out in R.S. 26:280, and that he has
22 no interest in a retail dealer establishment in the case of applicants for wholesaler
23 permits, and that he has no interest in a wholesaler dealer establishment in the case
24 of applicants for retail dealer permits unless such interest was held prior to July 31,
25 1946. ~~Original and renewal applications shall be accompanied by a signed sales tax
26 clearance from the sales tax collection agency or agencies in the parish in which the
27 application is made, which clearance request shall be processed within seven
28 business days.~~

29 * * *

1 §279. Submission of applications; delay

2 All applications for state permits shall be mailed or delivered to the
3 commissioner in Baton Rouge at the state capitol, and all applications for local
4 permits shall be mailed or delivered to the respective local authorities. An applicant
5 shall mail or deliver his applications for state and local permits within twenty-four
6 hours of each other. If he fails to do so, his state application may be withheld and
7 the permits denied. Upon receipt of an application, the commissioner or the local
8 authorities, as the case may be, shall stamp the day, month, and year received, and
9 the commissioner shall verify that the applicant does not owe the state or the political
10 subdivision in which the business is located any delinquent sales taxes, penalties, or
11 interest, excluding items under formal appeal pursuant to applicable statutes. The
12 commissioner and officers or employees specifically so authorized by the
13 commissioner and local authorities may issue the permits immediately after proper
14 investigation but, for a period of thirty-five days after receipt of the application, such
15 permits shall operate on a probationary basis subject to final action on opposition to,
16 or withholding of, the permit as hereinafter provided.

17 §280. Qualifications of applicants for permits

18 A. Applicants for state and local permits of all kinds shall demonstrate that
19 they meet the following qualifications and conditions:

20 * * *

21 (8) Have not had a license or permit to sell or deal in alcoholic beverages,
22 issued by the United States, any state, or by any political subdivision of a state
23 authorized to issue permits or licenses, revoked within two years prior to the
24 application, or been convicted, or had a judgment of court rendered against the
25 applicant involving the sale or service of alcoholic beverages by this or any other
26 state or by the United States for two years prior to the application.

27 * * *

28 §283. Authority of commissioner and local authorities to withhold permits

29 The commissioner with respect to state permits and municipal authorities or
30 parish governing authorities with respect to local permits may withhold the issuance

1 of permits in the manner and under the terms and conditions specified in this
 2 Chapter; ~~however, if a sales tax clearance has not been issued, the permit shall be~~
 3 ~~withheld. Nevertheless, if the sales tax clearance request is not processed within the~~
 4 ~~time limitation provided in R.S. 26:278, the permit shall be issued if all other~~
 5 ~~qualifications are met by the applicant.~~

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____