

2020 Second Extraordinary Session

HOUSE BILL NO. 44

BY REPRESENTATIVE MAGEE

LOCAL GOVERNMENT: Provides relative to prohibiting alcoholic beverage sales during a COVID-19 health emergency (Item #35)

1 AN ACT

2 To amend and reenact R.S. 14:329.6(A)(4), R.S. 26:493, 493.1, and 494, and R.S.
3 29:727(F)(8) and 737(B)(7), relative to the sale of alcoholic beverages during certain
4 public health emergencies; to provide relative to the authority of a parish or
5 municipality to prohibit or limit the sale of alcoholic beverages during a public
6 health emergency; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 14:329.6(A)(4) is hereby amended and reenacted to read as follows:
9 §329.6. Proclamation of state of emergency; conditions therefor; effect thereof

10 A. During times of great public crisis, disaster, rioting, catastrophe, or
11 similar public emergency within the territorial limits of any municipality or parish,
12 or in the event of reasonable apprehension of immediate danger thereof, and upon
13 a finding that the public safety is imperiled thereby, the chief executive officer of any
14 political subdivision or the district judge, district attorney, or the sheriff of any parish
15 of this state, or the public safety director of a municipality, may request the governor
16 to proclaim a state of emergency within any part or all of the territorial limits of such
17 local government. Following such proclamation by the governor, and during the
18 continuance of such state of emergency, the chief law enforcement officer of the
19 political subdivision affected by the proclamation may, in order to protect life and

1 property and to bring the emergency situation under control, promulgate orders
2 affecting any part or all of the territorial limits of the municipality or parish:

3 * * *

4 (4) ~~Prohibiting~~ Except as provided in R.S. 26:493, prohibiting the sale and
5 distribution of alcoholic beverages;

6 * * *

7 Section 2. R.S. 26:493, 493.1, and 494 are hereby amended and reenacted to read
8 as follows:

9 §493. Local regulatory ordinances

10 A. Except as limited by the provisions of this Chapter the various
11 subdivisions of the state may regulate but not prohibit, except by referendum vote
12 as provided by Chapter 3 of this Title or by legally authorized zoning laws of
13 municipalities, the business of wholesaling, retailing, and dealing in alcoholic
14 beverages. No parish or municipality shall, in the exercise of its police power,
15 regulate the business of selling such beverages more than is necessary for the
16 protection of the public health, morals, safety, and peace. Local subdivisions, in
17 adopting these regulatory ordinances, may provide, in addition to the ordinary
18 penalties authorized by law for their violation, provisions which subject the
19 permittee to having his permit suspended or revoked in the manner provided by law
20 for the suspension or revocation of permits.

21 B. Notwithstanding any other provision of law to the contrary, no parish or
22 municipality shall prohibit the sale of alcoholic beverages or limit the time of
23 operation of any establishment that sells alcoholic beverages until one year after all
24 COVID-19 public emergencies affecting Louisiana have been terminated.

25 * * *

26 §493.1. Local regulatory ordinances; bar closing in certain municipalities

27 In addition to the provisions of R.S. 26:493 the governing authority of any
28 municipality within a parish with a population between fifty-three thousand and sixty
29 thousand persons according to the most recent federal decennial census may enact

1 ordinances to regulate the closing times of bars located within the municipality,
2 except as provided in R.S. 26:493, subject to approval by a majority of the qualified
3 electors of the municipality voting at an election held for the purpose.

4 * * *

5 §494. Sale of beverages of high alcoholic content in violation of local ordinance
6 ~~No~~ Except as provided in R.S. 26:493, no person shall sell any beverages of
7 high alcoholic content in violation of any lawful ordinance or regulation adopted by
8 authority of this Part by any parish or municipality.

9 Section 3. R.S. 29:727(F)(8) and 737(B)(7) are hereby amended and reenacted to
10 read as follows:

11 §727. Powers of the parish president; penalties for violations

12 * * *

13 F. In addition to any other powers conferred upon the parish president by the
14 constitution, laws, or by a home rule charter or plan of government, such authority
15 may do any or all of the following:

16 * * *

17 (8) ~~Suspend~~ Except as provided in R.S. 26:493, ~~suspend~~ or limit the sale,
18 dispensing, or transportation of alcoholic beverages, explosives, and combustibles,
19 excluding those components of firearm ammunition.

20 * * *

21 §737. Municipalities; authority to respond to emergencies

22 * * *

23 B. As used in this Section, "emergency response measures" includes, but is
24 not limited to, any or all of the following:

25 * * *

26 (7) ~~Suspending~~ Except as provided in R.S. 26:493, ~~suspending~~ or limiting
27 the sale, dispensing, or transportation of alcoholic beverages, explosives, and
28 combustibles, excluding those components of firearm ammunition.

29 * * *

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

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 44 Original

2020 Second Extraordinary Session

Magee

Abstract: Suspends the authority of a parish or municipality to prohibit the sale of alcoholic beverages or to limit the time of operation of any establishment selling alcoholic beverages during any COVID-19 public emergency until one year after any COVID-19 public emergency is terminated.

Present law provides that during times of great public crisis, disaster, rioting, catastrophe, or similar public emergency within the territorial limits of any municipality or parish, the chief law enforcement officer of the political subdivision affected by the proclamation may prohibit the sale and distribution of alcoholic beverages.

Present law also provides that the governing authority of any municipality within a parish with a population between 53,000 and 60,000 persons according to the most recent federal decennial census may enact ordinances to regulate the closing times of bars located within the municipality.

Present law provides that the parish president may suspend or limit the sale, dispensing, or transportation of alcoholic beverages during an emergency.

Present law provides that suspension or limitation of the sale, dispensing, or transportation of alcoholic beverages is included as an emergency response measure for which the chief executive officer of a municipality is authorized to control during an emergency.

Present law provides that local subdivisions of the state may regulate but not prohibit, except by referendum vote, the business of wholesaling, retailing, and dealing in alcoholic beverages.

Present law also provides that no parish or municipality shall, in the exercise of its police power, regulate the business of selling such alcoholic beverages more than is necessary for the protection of the public health, morals, safety, and peace.

Present law allows a local subdivision, in adopting these regulatory ordinances, to provide for the suspension or revocation of a permittee's permit in addition to the ordinary penalties authorized by law for their violation.

Proposed law retains present law, except, while any COVID-19 public health emergency is in effect, suspends a parish or municipality's ability to prohibit the sale of alcoholic beverages and the ability to limit the time of operation of any establishment selling alcoholic beverages until one year after any COVID-19 public emergency has been terminated.

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

(Amends R.S. 14:329.6(A)(4), R.S. 26:493, 493.1, and 494, and R.S. 29:727(F)(8) and 737(B)(7))