

SENATE BILL NO. 235

BY SENATOR MURRAY

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

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AN ACT

To amend and reenact R.S. 26:73(C)(1)(e), 79, 272(C)(1)(e), 279, and 359(D), (E), (F), and (G) and 793(C)(1) and to enact R.S. 26:359(B)(3), relative to regulation of alcoholic beverages; to authorize the commissioner to waive certain requirements relative to the use and square footage for restaurant establishments; to authorize the commissioner to waive all state application fees or provide a certain credit for failure to issue a permit within a certain period of time; to provide for registration of certain wine producers, manufacturers, and retailers; to provide for registration of certain transporters; to authorize the secretary of Revenue to provide copies of certain records to the commissioner of the office of alcohol and tobacco; to provide certain civil penalties; to provide relative to compliance of laws prohibiting the sale or service of certain products to underage persons; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 26:73(C)(1)(e), 79, 272(C)(1)(e), 279, and 359(D), (E), (F), and (G) and 793(C)(1) are hereby amended and reenacted and R.S. 26:359(B)(3) is hereby enacted to read as follows:

§73. Restaurant "R" permit; application; fees

* * *

C.(1) For purposes of this Section, "restaurant establishment" shall be defined as an establishment:

1 * * *

2 (e) Which has a public habitable floor area of no less than five hundred
3 square feet **dedicated to the exclusive use of the applicant's or licensee's business.**

4 This Subparagraph shall not apply to business locations that apply to or have been
5 licensed to sell or serve alcoholic beverages prior to August 1, 2006, and have not
6 discontinued the sale and service of such beverages for more than six months.

7 **Notwithstanding any other provision of this Chapter, the commissioner may**
8 **waive this requirement for any building listed as a historic building on an**
9 **official registry or located within an officially designated historic district.**

10 * * *

11 §79. Submission of applications; delay

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

26 **Notwithstanding any other provision of this Chapter, prior to August 1, 2016,**
27 **the commissioner may waive all state application fees or provide an equal credit**
28 **to an applicant's account when a permit is not issued within three business days**
29 **after receipt of a fully and properly completed application.**

30 * * *

1 §272. Restaurant "R" permit; application; fees

2 * * *

3 C.(1) For purposes of this Section, "restaurant establishment" shall be defined
4 as an establishment:

5 * * *

6 (e) Which has a public habitable floor area of no less than five hundred
7 square feet **dedicated to the exclusive use of the applicant's or licensee's business.**

8 This Subparagraph shall not apply to business locations that have applied to or have
9 been licensed to sell or serve alcoholic beverages prior to August 1, 2006, and have
10 not discontinued the sale and service of such beverages for more than six months.

11 **Notwithstanding any other provision of this Chapter, the commissioner may**
12 **waive this requirement for any building listed as a historic building on an**
13 **official registry or located within an officially designated historic district.**

14 * * *

15 §279. Submission of applications; delay

16 All applications for state permits shall be mailed or delivered to the
17 commissioner in Baton Rouge at the state capitol, and all applications for local
18 permits shall be mailed or delivered to the respective local authorities. An applicant
19 shall mail or deliver his applications for state and local permits within twenty-four
20 hours of each other. If he fails to do so, his state application may be withheld and the
21 permits denied. Upon receipt of an application, the commissioner or the local
22 authorities, as the case may be, shall stamp the day, month, and year received, and
23 the commissioner shall verify that the applicant does not owe the state any
24 delinquent sales taxes, penalties, or interest, excluding items under formal appeal
25 pursuant to applicable statutes. The commissioner and officers or employees
26 specifically so authorized by the commissioner and local authorities may issue the
27 permits immediately after proper investigation but, for a period of thirty-five days
28 after receipt of the application, such permits shall operate on a probationary basis
29 subject to final action on opposition to, or withholding of, the permit as hereinafter
30 provided. **Notwithstanding any other provision of this Chapter, prior to August**

1 **1, 2016, the commissioner may waive all state application fees or provide an**
2 **equal credit to an applicant's account when a permit is not issued within three**
3 **business days after receipt of a fully and properly completed application.**

4 * * *

5 §359. Distribution of alcoholic beverages through wholesalers only

6 * * *

7 B.

8 * * *

9 **(3) In addition to the provisions of Paragraph (1) of this Subsection,**
10 **prior to selling or shipping any sparkling wine or still wine directly to any**
11 **consumer in Louisiana, a wine producer or manufacturer or retailer domiciled**
12 **outside of Louisiana shall register with the state office of alcohol and tobacco**
13 **control on a registration form promulgated by the commissioner. The**
14 **registration shall be renewed on an annual basis and updated within thirty days**
15 **of any change of any information contained on the registration form.**

16 * * *

17 D.(1) ~~Except as provided in Paragraph (2) of this Subsection, any wine~~
18 ~~producer, manufacturer, or out of state retailer who sells and ships directly to a~~
19 ~~consumer in Louisiana pursuant to Subsection B of this Section shall, within twenty~~
20 ~~days after the end of each calendar month, file with the secretary of the Department~~
21 ~~of Revenue a statement showing the total number of bottles sold and shipped during~~
22 ~~the preceding calendar month, the sizes of those bottles, the name brand of each~~
23 ~~sparkling wine or still wine included in such shipments, the quantities of each~~
24 ~~sparkling wine or still wine included in such shipments, and the price of each item~~
25 ~~included in such shipments. All excise and sales and use taxes due to the state of~~
26 ~~Louisiana on the sparkling wine or still wine sold and shipped pursuant to Subsection~~
27 ~~B of this Section shall be remitted by company check drawn on an account in the~~
28 ~~name of the permit holder or by electronic funds transfer at the time of the filing of~~
29 ~~the required statement, and copies of all invoices transmitted with each such~~
30 ~~shipment shall be attached to the statement. This statement shall be made on forms~~

1 ~~prescribed and furnished by the secretary of the Department of Revenue and shall~~
2 ~~include such other information as the secretary of the Department of Revenue may~~
3 ~~require.~~

4 ~~(2) Beginning on January 1, 2012, any~~ **Any** wine producer, manufacturer, or
5 ~~out-of-state~~ **out-of-state** retailer who sells and ships directly to a consumer in
6 Louisiana pursuant to Subsection B of this Section shall file a statement quarterly
7 indicating the amount of sparkling wine or still wine shipped to the state of Louisiana
8 with the secretary of the Department of Revenue. The statement shall be filed by
9 January twentieth, April twentieth, July twentieth, and October twentieth of each
10 calendar year and shall indicate the total number of bottles sold and shipped during
11 the preceding three-month period, the sizes of those bottles, the name brand of each
12 sparkling wine or still wine included in such shipments, the quantities of each
13 sparkling wine or still wine included in such shipments, and the price of each item
14 included in such shipments. All excise and sales and use taxes due to the state of
15 Louisiana on the sparkling wine or still wine sold and shipped pursuant to Subsection
16 B of this Section shall be remitted by company check drawn on an account in the
17 name of the permit holder or by electronic funds transfer at the time of the filing of
18 the required statement, and copies of all invoices transmitted with each shipment
19 shall be attached to the statement. This statement shall be made on forms prescribed
20 and furnished by the secretary of the Department of Revenue and shall include such
21 other information as the secretary of the Department of Revenue may require.

22 **(2) Upon the request of the commissioner, the secretary of the**
23 **Department of Revenue may provide copies of the annual application or**
24 **quarterly statements filed by any wine producer or manufacturer or any out-of-**
25 **state retailer selling or shipping wine directly to a Louisiana consumer.**

26 **(3)(a) Any person who transports sparkling wine or still wine for direct**
27 **shipment into or out of the state in accordance with this Section shall register**
28 **with the commissioner of the state office of alcohol and tobacco control.**

29 **(b) The commissioner shall promulgate rules in accordance with the**
30 **Administrative Procedure Act for transport registrants that shall include**

1 regular reporting requirements related to size of containers and quantities of
 2 sparkling wine and still wine contained in each shipment. The rules shall
 3 include requirements that prevent sales and deliveries to underage persons.

4 (c) Any person who transports sparkling wine or still wine for direct
 5 shipment into or out of the state in violation of this Section or the administrative
 6 rules shall be subject to a civil penalty of up to twenty-five thousand dollars.

7 E. The provisions of R.S. 26:85, 142, 143, 348 through 350, 360, 364, and
 8 365 shall not apply to wine producers, manufacturers, and retailers only in
 9 connection with direct sales and shipments when authorized to engage in the
 10 direct sale and shipment of sparkling wine or still wine under the provisions of
 11 Subsection B of this Section.

12 F. Any retailer of alcoholic beverages domiciled outside of Louisiana or
 13 any wine producer or manufacturer who violates any provision of this Section
 14 shall be subject to a civil penalty in the amount of twenty-five thousand dollars. Any
 15 retailer domiciled outside of Louisiana or any wine producer or manufacturer
 16 that sells and ships directly to consumers in Louisiana pursuant to Subsection B of
 17 this Section shall, on the application for authority to make such shipments filed with
 18 the secretary of the Department of Revenue in accordance with Subsection C of this
 19 Section, acknowledge in writing the civil penalty established in this Subsection and
 20 shall consent to the imposition thereof upon violation of this Section. The secretary
 21 may initiate and maintain a civil action in a court of competent jurisdiction to enjoin
 22 any violation of this Section and to recover the civil penalty established in this
 23 Subsection, together with all costs and attorney fees incurred by the secretary
 24 incidental to any such action.

25 G. Upon determination by the secretary of the Department of Revenue or by
 26 the commissioner that an illegal sale or shipment of alcoholic beverages has been
 27 made to a consumer in Louisiana by either a wine producer, manufacturer, or retailer
 28 of such alcoholic beverages, the secretary or commissioner shall notify both the
 29 ~~Alcohol, Tobacco, Tax, and Trade Bureau~~ Alcohol and Tobacco Tax and Trade
 30 Bureau of the United States Department of the Treasury and the licensing authority

1 for the state in which the wine producer, manufacturer, or retailer is domiciled that
 2 a state law pertaining to the regulation of alcoholic beverages has been violated and
 3 shall request those agencies to take appropriate action.

4 * * *

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 6 §793. Additional powers of the commissioner

7 * * *

8 C.(1) In order to ensure compliance with ~~"Prevention of Youth Access to~~
 9 ~~Tobacco Law"~~ **laws prohibiting the sale or service of alcoholic beverages,**
 10 **tobacco, alternative nicotine, or vapor products to underage persons,** the
 11 commissioner shall annually conduct random, unannounced inspections at locations
 12 where **alcoholic beverages, tobacco, or alternative nicotine, or vapor** products are
 13 sold, **served,** or distributed. Persons under the age of eighteen **or twenty-one** may
 14 be enlisted by employees of the office of alcohol and tobacco control to test
 15 compliance, but such persons may be used only if the testing is conducted under the
 16 direct supervision of such employees and written parental consent has been provided
 17 **if the person is under the age of eighteen.** Any person under the age of eighteen
 18 **or twenty-one** shall either carry the person's own identification showing the person's
 19 correct date of birth or shall carry no identification. A person under the age of
 20 eighteen **or twenty-one** who carries identification shall, on request, present it to any
 21 seller **or server** of **alcoholic beverages, tobacco, or alternative nicotine or vapor**
 22 products. In addition, any person under the age of eighteen **or twenty-one** enlisted
 23 under this Subsection shall truthfully answer any questions about the person's age.
 24 **Except where expressly authorized in writing by the commissioner in**
 25 **furtherance of the objectives of this Section, Any any** other use of persons under
 26 the age of eighteen **or twenty-one** to test compliance with the provisions of this
 27 Section or any other prohibition of like or similar import shall be unlawful and the
 28 person or persons responsible for such use shall be subject to the penalties prescribed
 29 in **this Title or R.S. 14:91.8(H) 14:91.6, 91.8(H), 92, or 93.11.**

30 * * *

1 Section 2. This Act shall become effective on January 1, 2016; if vetoed by the
2 governor and subsequently approved by the legislature, this Act shall become effective on
3 January 1, 2016, or on the day following such approval by the legislature, whichever is later.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____