

ACT No. 835

Regular Session, 2014

HOUSE BILL NO. 1036

BY REPRESENTATIVES ARNOLD, ABRAMSON, CONNICK, HARRISON, AND
THIERRY

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AN ACT

To amend and reenact R.S. 26:75(C), 275(B), 352, 793(A)(1) and (5), and 932(4) and (10), relative to the donation of alcoholic beverages; to authorize the sampling of alcoholic beverages under a Special Event permit; to authorize the donation of alcoholic beverages to certain events and organizations; to provide for certain types of temporary alcoholic beverage permits; to provide for definitions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 26:75(C), 275(B), 352, 793(A)(1) and (5), and 932(4) and (10) are hereby amended and reenacted to read as follows:

§75. Operation without permit prohibited

* * *

C.(1) Notwithstanding any law to the contrary, beer, wine, or other spirit sampling for the purpose of allowing a consumer to try the taste of a product may be conducted on the premises of a Class A, ~~or Class B,~~ or a Special Event permit holder.

(2) The commissioner shall promulgate rules and regulations for the conducting of spirit beverage alcohol sampling, which shall allow manufacturers and wholesalers to provide and display a limited amount of point of sales materials.

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§275. Operation without permit prohibited

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1 B.(1) Notwithstanding any law to the contrary, beer, wine, or other spirits
2 sampling for the purpose of allowing a consumer to try the taste of a product may be
3 conducted on the premises of a Class A, ~~or Class B,~~ or a Special Event permit holder.

4 (2) The commissioner shall promulgate rules and regulations for the
5 conducting of ~~spirit beverage alcohol~~ sampling, which shall allow manufacturers and
6 wholesalers to provide and display a limited amount of point of sales materials.

7 * * *

8 §352. Donated alcoholic beverages of high alcoholic content taxable

9 ~~When a~~ Any person gives away or any dealer may donate alcoholic beverages
10 ~~of high alcoholic content for advertising or for any other purpose, the beverages shall~~
11 ~~be taxed~~ to a licensed Type A special event or to an unlicensed civic, religious, or
12 charitable organization subject to the payment of any applicable excise taxes.

13 * * *

14 §793. Additional powers of the commissioner

15 A.(1) The commissioner may provide by regulation for the issuance of three-
16 day ~~permits to~~ retail permits to sell, offer for sale, or serve alcoholic beverages at
17 fairs, festivals, civic and fraternal and religious events, Mardi Gras events, and
18 nonprofit functions if the applicant, or any agent, member, officer, or representative
19 thereof, has not had a license or permit to sell or deal in alcoholic beverages, issued
20 by the United States, any state, or by a political subdivision of a state authorized to
21 issue permits or licenses, revoked within two years prior to the application date. The
22 permits shall be for a duration of three consecutive days only and no more than
23 twelve such permits may be issued to any one person within a single calendar year.
24 Fees for the permits shall be as provided by regulation.

25 (a) There shall be three types of temporary alcoholic beverage permits: Type
26 A, Type B, and Type C.

27 (b) Type A permits shall be issued only to nonprofit organizations with tax
28 exempt status under the United States Internal Revenue Code, Sections 501(c)(3),
29 501(c)(6), and 501(c)(8), where no transactions exist, whether directly or indirectly,
30 between the licensed tax exempt organizations and any disqualified person as

1 defined by the United States Internal Revenue Code Section 4958(f) or any similar
2 subsequent provision. To qualify for this permit, applicants shall submit all
3 documentation as required in the regulations promulgated in accordance with the
4 provisions of this Section or upon the request of the commissioner.

5 (c) Type B permits shall be issued only to nonprofit organizations, which are
6 able to provide written proof of their nonprofit status, but are unable to show written
7 proof of their tax exempt status under the United States Internal Revenue Code,
8 Sections 501(c)(3), 501(c)(6), or 501(c)(8) and no transactions, exist, whether
9 directly or indirectly, between the licensed tax exempt organization and any
10 disqualified person as defined by the United States Internal Revenue Code, Section
11 4958(f) or any similar provision. To qualify for this permit, applicants shall submit
12 all documentation as required in the regulations promulgated in accordance with the
13 provisions of this Section or upon the request of the commissioner.

14 (d) Type C permits shall be issued to persons holding events where alcoholic
15 beverages are sold or supplied as part of a general admission or other type fee, but
16 who do not meet the requirements for Type A or Type B temporary permits. To
17 qualify for this permit, applicants shall submit all documentation as required in the
18 regulations or upon the request of the commissioner. Such regulations shall be
19 promulgated in accordance with the Administrative Procedure Act are necessary to
20 implement the provisions of this Subparagraph.

21 (e) The commissioner shall not issue a three-day temporary retail permit
22 under this Paragraph to any alcoholic beverage manufacturer, wholesale dealer,
23 homebrewer, or to any association with a membership that is primarily comprised
24 of alcoholic beverage manufacturers, wholesale dealers, and/or homebrewers.

25 * * *

26 (5)(a) Notwithstanding any other provision of law to the contrary, the
27 commissioner shall issue a three-day ~~special event~~ homebrew permit to any retail
28 dealer qualified for on premise consumption who applies for such permit at no fee
29 authorizing the retail dealer to allow a person to bring homebrew alcoholic beverages
30 on his licensed premises for the purpose of possessing, consuming, and serving such

1 homebrew on his licensed premises in connection with homebrew club meetings,
2 organized affairs, exhibitions, or competitions such as homebrewer's contests,
3 tastings, or judging where no general admission or other type of fee or charge is
4 assessed in connection with the homebrew permit and in accordance with all of the
5 following criteria:

6 (i) Homebrew shall not be sold or offered for sale and the person who makes
7 the homebrew or any association of persons who make the homebrew shall not
8 receive any compensation or any other thing of value, whether directly or indirectly,
9 other than trophies, plaques, certificates, ribbons, medals, or similar awards of
10 nominal value, from any club meetings, organized affairs, exhibitions, competitions
11 or other events where the homebrew is sampled in accordance with the sampling
12 provisions promulgated under the authority of R.S. 26:75(C) and 275(B).

13 (ii) Homebrew shall be served only to those individuals attending the ~~special~~
14 ~~event~~ homebrew event and shall not be served to the patrons of the retail
15 establishment or general public.

16 (iii) All homebrew alcoholic beverages shall be removed from the licensed
17 premises within a reasonable time upon conclusion of the ~~special event~~ homebrew
18 event.

19 (iv) The retail dealer shall not be required to obtain a special events permit
20 from the Department of Health and Hospitals and shall be exempt from any
21 additional compliance with the state's Sanitary Code but only with regard to the
22 duration and location of the ~~special event~~ homebrew event.

23 (b) For purposes of this Paragraph, "homebrew" shall mean the brewing of
24 beer, mead, and other alcoholic beverages through fermentation in a residence or
25 other authorized facility by a person of the lawful age to purchase alcoholic
26 beverages on a small scale, not to exceed one hundred gallons per calendar year for
27 a household with one resident of the lawful age to purchase alcoholic beverages or
28 two hundred gallons for a household with two or more residents of the lawful age to
29 purchase alcoholic beverages as a hobby for personal consumption, ~~free distribution~~
30 at residential social gatherings, and amateur brewing competitions or by that person

1 or his or her family, neighbors, guests, and friends, for use at competitions
 2 homebrew club meetings, organized affairs, exhibitions, or competitions on the
 3 premises of a licensed Class A retail dealer holding a homebrew permit in
 4 accordance with this Paragraph, or for any of the other noncommercial reasons as
 5 provided for in Paragraph (1) of this Subsection regarding special event licenses
 6 where homebrew is served as an incidental part of the event and in accordance with
 7 the sampling provisions promulgated under the authority of R.S. 26:75(C) and
 8 275(B). "Homebrew" shall not include any licensed alcoholic beverages
 9 manufactured, distributed or otherwise served for commercial purposes.

* * *

§932. Definitions

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

* * *

(4) "Responsible vendor" means any vendor as defined in Paragraph ~~(9)~~ (10) of this Section who qualifies and maintains certification in accordance with the provisions of this Chapter.

* * *

(10) "Vendor" means any holder of a Class "A" General, Class "A" Restaurant, or Class "B" retail permit issued pursuant to R.S. 26:71 or ~~R.S. 26:271~~ or any holder of ~~Retail Dealer Registration Certificate~~ or a Retail Dealer Permit defined by R.S. 26:902. "Vendor" shall not include any holder of a Type A or Type B temporary alcoholic beverage permit issued pursuant to R.S. 26:793(A)(1).

1 Section 2. 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.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____