

Regular Session, 2010

HOUSE BILL NO. 1484 (Substitute for House Bill No. 503 by Representative Danahay)

BY REPRESENTATIVE DANAHAAY

1 AN ACT

2 To amend and reenact R.S. 26:2(6) through (22), 71.1(2), 90(A)(5), 241(5) through (18),
3 271.2(2), and 286(A)(5) and to enact R.S. 26:2(23), 241(19), and 793(A)(5), relative
4 to alcoholic beverages; to provide for exceptions to the prohibitions for alcohol of
5 high and low alcoholic content for homebrew beer; to provide for a three-day special
6 event permit for a retail dealer to authorize homebrew on the licensed permits; to
7 provide for purposes for which homebrew beer is authorized; to provide for
8 limitations; to include a dinner theater within the permitting process; to provide for
9 definitions; to provide for an effective date; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 26:2(6) through (22), 71.1(2), 90(A)(5), 241(5) through (18),
12 271.2(2), and 286(A)(5) are hereby amended and reenacted and R.S. 26:2(23), 241(19), and
13 793(A)(5) are hereby enacted to read as follows:

14 §2. Definitions

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

18 * * *

19 (6) "Dinner theater" means an establishment that is a "restaurant
20 establishment", as defined by R.S. 26:73(C)(1), where food orders are taken and food
21 service is provided in both a restaurant dining area and where patrons are seated to
22 view live theatrical productions or the showing of film, still pictures, electronic or
23 digital reproductions, or other visual reproductions.

1 ~~(6)~~ (7) "Liquor" means all distilled or rectified alcoholic spirits, brandy,
2 whiskey, rum, gin, and all similar distilled alcoholic beverages, including all
3 dilutions and mixtures of one or more of the foregoing, such as liquors, cordials, and
4 similar compounds.

5 ~~(7)~~ (8) "Liquor retail distribution center" means any liquor retailer who has
6 continuously maintained a distribution center or centers for distribution to its wholly
7 owned retail permittees on or prior to January 1, 1961, in this state, or any
8 commercial airline which stores alcoholic beverages in sealed containers of any size
9 at any airport regularly served by the permittee. Such possession for retail sale or
10 distribution therefrom shall be limited to alcohol of high volume content in any
11 quantity.

12 ~~(8)~~ (9) "Liquor retailer" means any dealer, other than a manufacturer or
13 wholesaler, who sells, offers for sale, exposes for sale, or has in his possession for
14 sale or distribution any alcoholic beverages in any quantity.

15 ~~(9)~~ (10) "Liquor wholesaler" means any dealer who sells any alcoholic
16 beverage to other licensed liquor wholesale dealers or to licensed retail liquor dealers
17 in the state or who sells alcoholic beverages for delivery beyond the borders of the
18 state in amounts to be fixed by the commissioner, or who imports any alcoholic
19 beverages into the state, and who meets the standards set forth in this Chapter.

20 ~~(10)~~ (11) "Manufacturer" means any person, other than a wine producer, who
21 personally or through any agent whatever engages in the making, blending,
22 rectifying, or processing of any alcoholic beverage in Louisiana; engages in the
23 making, blending, rectifying, or processing any alcoholic beverage outside Louisiana
24 for sale in Louisiana; or engages in the business of supplying alcoholic beverages to
25 licensed wholesale dealers in Louisiana.

26 ~~(11)~~ (12) "Outlet" means a place where any person draws or removes any
27 alcoholic beverage from its container for consumption on the premises.

28 ~~(12)~~ (13) "Package house-Class B" means a place consisting of no less than
29 five hundred square feet of public habitable area which sells alcoholic beverages in
30 factory sealed containers for transportation and consumption off the premises and

1 where no person is allowed to tamper with or otherwise disrupt the manufacturer's
2 seal on or about the licensed premises.

3 ~~(13)~~ (14) "Regulated beverage" means any alcoholic beverage.

4 ~~(14)~~ (15) "Solicitor" means any person who offers for sale or solicits any
5 orders for the sale of any regulated beverage, other than in a regularly established
6 and licensed place of business in this state, for delivery or shipment to any point in
7 the state, whether done as owner, agent, or servant.

8 ~~(15)~~ (16) "Sparkling wine" means any effervescent alcoholic beverage
9 derived from the juice of any fruit, or synthesis thereof, charged with carbon dioxide,
10 either artificially or as the result of secondary fermentation within the container.

11 ~~(16)~~ (17) "Still wine" means any non-effervescent alcoholic beverage
12 derived from the juice of any fruit, or synthesis thereof.

13 ~~(17)~~ (18) "Supplier" means any person, other than a wine producer, who
14 manufactures, makes, blends, rectifies, distills, processes, or purchases alcoholic
15 beverages outside the state of Louisiana and imports, sells, offers for sale, solicits
16 orders for sale, distributes, or delivers such alcoholic beverages in Louisiana.

17 ~~(18)~~ (19) "Wholesale dealer" means those persons who sell alcoholic
18 beverages of high alcoholic content to licensed wholesale dealers or licensed retail
19 dealers exclusively, within the state or to any person for delivery beyond the borders
20 of the state to a licensed dealer in that state and who conduct a bona fide wholesale
21 business and maintain a warehouse or warehouses for the storage and warehousing
22 of alcoholic beverages of high alcoholic content in the area where domiciled and
23 licensed by the state, and conduct and maintain systematic and regular solicitations,
24 distribution, deliveries, and sales of said beverages to licensed retail dealers located
25 within the boundary of each parish, municipality, or geographic area, as contractually
26 defined between the wholesaler and his supplier, in which the wholesale dealer
27 makes any sale or delivery.

28 ~~(19)~~ (20) "Wine package house" means a place where a person sells only
29 sparkling wine and still wine in the original package or closed container, prepared
30 for transportation and consumption off the premises.

1 (5) Sell, offer for sale, possess, or permit the consumption on or about the
 2 licensed premises of any kind or type of alcoholic beverage, the sale or possession
 3 of which is not authorized under his permit, except as provided for in R.S.
 4 26:793(A)(5).

* * *

§241. Definitions

The following terms have the respective meanings ascribed to them except in those instances where the context indicates a different meaning:

* * *

(5) "Dinner theater" means an establishment that is a "restaurant establishment", as defined by R.S. 26:73(C)(1), where food orders are taken and food service is provided in both a restaurant dining area and where patrons are seated to view live theatrical productions or the showing of film, still pictures, electronic or digital reproductions, or other visual reproductions.

~~(5)~~ (6) "Handle" means sell, use, distribute, store, consume, or otherwise handle.

~~(6)~~ (7) "Liquors" means all distilled or rectified alcoholic spirits, brandy, whiskey, rum, gin, and all similar distilled alcoholic beverages, including all dilutions and mixtures of one or more of the foregoing, such as liquors, cordials, and similar compounds.

~~(7)~~ (8) "Liter" means a metric unit of capacity equal to one thousand cubic centimeters at four degrees centigrade, and it is equivalent to 33.814 United States fluid ounces. For the purposes of this Part, a liter is subdivided into one thousand equal milliliters.

~~(8)~~ (9)(a) "Malt beverages containing not more than six percent alcohol by volume" means beverages obtained by alcoholic fermentation of an infusion or by a brewing process or concoction of barley or other grain, malt, sugars, and hops in water, including among other things, ale, beer, stout, porter, and the like. Malt beverages are exclusive of all "liquors" whether they be defined as intoxicating or

1 spirituous liquors, or as alcoholic, vinous, or malt liquors, or however otherwise
2 defined as liquors, which are produced by distillation.

3 (b) "Malt beverages containing more than six percent alcohol by volume"
4 means beverages obtained by alcoholic fermentation of an infusion or by a brewing
5 process or concoction of barley or other grain, malt, sugars, and hops in water,
6 including among other things, ale, beer, stout, porter, and the like. Malt beverages
7 are exclusive of all "liquors" whether they be defined as intoxicating or spirituous
8 liquors, or as alcoholic, vinous, or malt liquors, or however otherwise defined as
9 liquors, which are produced by distillation.

10 (c) For purposes of R.S. 26:287(A)(9) and (10) and 741 only, malt beverages
11 shall mean all beverages, regardless of alcoholic content, as defined in this Paragraph
12 and all beverages of low alcoholic content as defined in Paragraphs (16) and (17) of
13 this Section.

14 ~~(9)~~ (10) "Manufacturer or brewer" means any person who, directly or
15 indirectly, personally or through any agency, person, or establishment, engages in
16 the making, blending, rectifying, brewing, or other processing of alcoholic beverages
17 in Louisiana or outside the state for shipments to licensed wholesale dealers within
18 the state subject to the provisions of R.S. 26:364.

19 ~~(10)~~ (11) "Microbrewer" means any person who, directly or indirectly,
20 personally or through any agency, engages in the making, blending, rectifying, or
21 other processing of beer or other malt beverages for sale in an amount not to exceed
22 twelve thousand five hundred barrels per year.

23 ~~(11)~~ (12) "Microbrewery" means an establishment wherein beer and other
24 malt beverages are brewed in small quantities, not to exceed twelve thousand five
25 hundred barrels per year, and where such beverages are sold on or off the licensed
26 premises at retail.

27 ~~(12)~~ (13) "Package house-Class B" means a place consisting of no less than
28 five hundred square feet of public habitable area which sells alcoholic beverages in
29 factory sealed containers for transportation and consumption off the premises and

1 where no person is allowed to tamper with or otherwise disrupt the manufacturer's
2 seal on or about the licensed premises.

3 ~~(13)~~ (14) "Premises", or "premises to be licensed", means the building or that
4 part of the building as defined in the application for the permit in which beverages
5 of low alcoholic content are sold, except in cases where such beverages are regularly
6 sold or served outside the building, the terms shall also include such outside area.

7 ~~(14)~~ (15) "Retail dealer" means every person who offers for sale, exposes for
8 sale, has in his possession for sale or distribution, or sells alcoholic beverages in any
9 quantity to persons other than licensed wholesale or retail dealers.

10 ~~(15)~~ (16) "Secretary" means the secretary of the Department of Revenue, or
11 his duly authorized agents.

12 ~~(16)~~ (17) "Sparkling wine" means champagne and any other effervescent
13 wine charged with carbon dioxide, whether artificially or as the result of secondary
14 fermentation of the wine within the container.

15 ~~(17)~~ (18) "Still wine" means any noneffervescent wine, including any
16 fortified wine, vermouth, any artificial imitation wine, any compound sold as "still
17 wine", and any fruit juice.

18 ~~(18)~~ (19)(a) "Wholesale dealer of malt beverages containing not more than
19 six percent alcohol by volume" means those persons who sell malt beverages
20 containing not more than six percent alcohol by volume and alcoholic beverages of
21 low alcoholic content to licensed wholesale dealers or licensed retail dealers
22 exclusively, within the state or to any person for delivery beyond the borders of the
23 state to a licensed dealer in that state and who conduct a bona fide wholesale
24 business and maintain a warehouse or warehouses for the storage and warehousing
25 of malt beverages and alcoholic beverages of low alcoholic content in the area where
26 domiciled and licensed by the state, and conduct and maintain systematic and regular
27 solicitations, distribution, deliveries, and sales of said beverages to licensed retail
28 dealers located within the boundary of each parish, municipality, or geographic area,
29 as contractually defined between the wholesaler and his supplier, in which the
30 wholesale dealer makes any sale or delivery.

1 (b) "Wholesale dealer of malt beverages containing more than six percent
 2 alcohol by volume" means those persons who sell malt beverages containing more
 3 than six percent alcohol by volume and alcoholic beverages of low alcoholic content
 4 to licensed wholesale dealers or licensed retail dealers exclusively, within the state
 5 or to any person for delivery beyond the borders of the state to a licensed dealer in
 6 that state and who conduct a bona fide wholesale business and maintain a warehouse
 7 or warehouses for the storage and warehousing of malt beverages and alcoholic
 8 beverages of low alcoholic content in the area where domiciled and licensed by the
 9 state, and conduct and maintain systematic and regular solicitations, distribution,
 10 deliveries, and sales of said beverages to licensed retail dealers located within the
 11 boundary of each parish, municipality, or geographic area, as contractually defined
 12 between the wholesaler and his supplier, in which the wholesale dealer makes any
 13 sale or delivery.

* * *

14 §271.2. Class A permit; definitions

15 The commissioner shall issue the following four types of Class A retail
 16 permits for beverages of low alcoholic content:
 17

18 * * *

19 (2) Class A-Restaurant:

20 A Class A-Restaurant permit shall be issued only to a "restaurant
 21 establishment" as defined by ~~R.S. 26:272(B)~~ R.S. 26:272(C)(1) or a dinner theater
 22 as defined in R.S. 26:241(5), and issued to a facility in conjunction with a Class "R"
 23 restaurant permit under the provisions of R.S. 26:272.

24 * * *

25 §286. Acts prohibited on licensed premises; suspension or revocation of permits

26 A. No person holding a retail dealer's permit and no servant, agent, or
 27 employee of the permittee shall do any of the following acts upon the licensed
 28 premises:

29 * * *

