

Regular Session, 2010

# ACT No. 953

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

BY REPRESENTATIVE DANAHAHAY

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           ~~(20)~~ (21) "Wine producer" means any person who, directly or indirectly,  
 2           personally or through any agency, cultivates and grows grapes, fruits, berries, honey,  
 3           or vegetables from which wine of an alcoholic content in excess of six percent by  
 4           volume is produced and bottled from a fermentation of such grapes, fruits, berries,  
 5           honey, or vegetables in Louisiana or outside the state for shipments to licensed  
 6           wholesale dealers within the state subject to the provisions of R.S. 26:364.

7           ~~(21)~~ (22) "Winery" means a plot of land located in Louisiana used to  
 8           cultivate and grow grapes, fruits, berries, honey, or vegetables for the purpose of  
 9           fermenting such grapes, fruits, berries, honey, or vegetables to produce and bottle  
 10          wine of an alcoholic content in excess of six percent by volume.

11          ~~(22)~~ (23) "Wine wholesaler" means any dealer who sells only sparkling wine  
 12          and still wine to other licensed wholesale dealers or to licensed retail dealers for  
 13          resale within the state.

\* \* \*

§71.1. Class A permit; definitions

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

\* \* \*

(2) Class A-Restaurant:

A Class A-Restaurant permit shall be issued only to a "restaurant establishment" as defined by ~~R.S. 26:73(B)~~ R.S. 26:73(C)(1) or a dinner theater as defined in R.S. 26:2(6) and issued to a facility in conjunction with a Class "R" restaurant permit under the provisions of R.S. 26:73.

\* \* \*

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

A. No person holding a retail dealer's permit and no agent, associate, employee, representative, or servant of any such person shall do or permit any of the following acts to be done on or about the licensed 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 \* \* \*





