

Regular Session, 2014

HOUSE BILL NO. 346

BY REPRESENTATIVE ARNOLD

REVENUE DEPARTMENT: Provides relative to permits issued by the office of alcohol and tobacco control

1 AN ACT

2 To amend and reenact R.S. 26:76(A)(2), 276(A)(2), and 912(A), relative to permits issued
3 by the office of alcohol and tobacco control; to prohibit the transfer, assignment, or
4 inheritance of tobacco permits by a limited liability company or other legal entities
5 due to change of ownership or termination of business operations; to require that the
6 permit be returned or surrendered under certain circumstances; to provide for
7 notification requirements; to provide for time delays; and to provide for related
8 matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 26:76(A)(2), 276(A)(2), and 912(A) are hereby amended and
11 reenacted to read as follows:

12 §76. Personal nature of permits; return of permits; necessity of display; penalties

13 A. The following shall apply to permits issued under this Chapter:

14 * * *

15 (2) The permit is not transferrable, assignable, or heritable. The permit must
16 be returned to the office of alcohol and tobacco control or surrendered to an agent
17 of the commissioner within five days of closure, when the ownership of the business
18 is transferred or the business is terminated. When the ownership of the business is
19 transferred, the new owner shall be allowed to continue to operate using the
20 transferor's permit until a new permit is issued or denied, if the new owner notifies
21 the office of alcohol and tobacco control of the transfer within five days of the
22 transfer and applies for a new alcoholic beverage permit within fifteen days of the

1 transfer of ownership. If the permit holder is a corporation or limited liability
 2 company, the permit holder shall notify the office of alcohol and tobacco control of
 3 any changes in the officers, directors, managers, shareholders, members, or persons
 4 previously qualified to conduct or manage the business within fifteen days of the
 5 date of such changes. The notification shall include the suitability documents and
 6 information for each new individual required to possess the qualifications of the
 7 applicants. However, in the event of the dissolution of a partnership by death, the
 8 surviving partner or partners may operate under the partnership permit. The office
 9 of alcohol and tobacco control shall be notified of any changes to the licensed
 10 business premises which increase or decrease the previously approved licensed
 11 business premises prior to any such changes.

* * *

13 §276. Personal nature of permits; return of permits; necessity of display; penalties

14 A. The following shall apply to permits issued under this Chapter:

* * *

16 (2) The permit is not transferrable, assignable, or heritable. The permit must
 17 be returned to the office of alcohol and tobacco control or surrendered to an agent
 18 of the commissioner within five days of closure, when the ownership of the business
 19 is transferred or the business is terminated. When the ownership of the business is
 20 transferred, the new owner shall be allowed to continue to operate using the
 21 transferor's permit until a new permit is issued or denied, if the new owner notifies
 22 the office of alcohol and tobacco control of the transfer within five days of the
 23 transfer and applies for a new alcoholic beverage permit within fifteen days of the
 24 transfer of ownership. If the permit holder is a corporation or limited liability
 25 company, the permit holder shall notify the office of alcohol and tobacco control of
 26 any changes in the officers, directors, managers, shareholders, members, or persons
 27 previously qualified to conduct or manage the business within fifteen days of the
 28 date of such changes. The notification shall include the suitability documents and
 29 information for each new individual required to possess the qualifications of the

1 applicants. However, in the event of the dissolution of a partnership by death, the
2 surviving partner or partners may operate under the partnership permit. The office
3 of alcohol and tobacco control shall be notified of any changes to the licensed
4 business premises which increase or decrease the previously approved licensed
5 business premises prior to any such changes.

6 * * *

7 §912. Permits; necessity of display; penalties

8 A. A permit issued under this Chapter is a personal privilege and cannot be
9 transferred, ~~If over fifty-one percent of a corporation is sold or transferred during~~
10 ~~the period for which a permit was issued, a new permit must be applied for, and the~~
11 ~~new owner must comply with the provisions set forth in this Chapter. If the holder~~
12 ~~of the permit is an association, partnership, or limited partnership, change of the~~
13 ~~controlling interest shall constitute a change of ownership under this Chapter.,~~
14 assigned, or inherited. The permit must be returned to the office of alcohol and
15 tobacco control or surrendered to an agent of the commissioner within five days of
16 permanently ceasing business operations or when there is a change in ownership. If
17 the permit holder is a corporation or limited liability company, the permit holder
18 shall notify the office of alcohol and tobacco control of any changes in the officers,
19 directors, managers, shareholders, or members within fifteen days of the date of such
20 changes. The notification shall include the suitability documents and information
21 for each new individual required to possesses the qualifications of the applicants.
22 If the business is physically relocated during ~~such~~ the permit period, the ~~registration~~
23 ~~certificate holder or permittee~~ permit holder must notify the commissioner in writing
24 ~~so that proper change may be noted thereon~~ prior to relocating.

25 * * *

26 Section 2. This Act shall become effective upon signature by the governor or, if not
27 signed by the governor, upon expiration of the time for bills to become law without signature
28 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

- 1 vetoed by the governor and subsequently approved by the legislature, this Act shall become
2 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)]

Arnold

HB No. 346

Abstract: Prohibits the transfer of tobacco permits for certain legal entities and provides for notification requirements.

Present law prohibits permits issued for low and high alcoholic content beverages from being assignable or heritable and requires the permit to be returned or surrendered to the office of alcohol and tobacco control (ATC) within five days of closure or if ownership of the business is transferred or terminated, and unless the dissolution of a partnership is by death, the partners are authorized to operate under the partnership permit.

Proposed law retains present law and adds authorization for the new owner to continue to operate using the permit holder's permit until a new permit is issued or denied, if the new owner notifies the ATC within five days of the transfer and applies for a new permit within 15 days of the transfer of ownership.

Proposed law requires that the permit holder notify the ATC within 15 days of any changes in the officers, directors, managers, shareholders, members, or previously qualified persons and that the notification include the suitability documents and information for each new individual.

Proposed law requires the permit holder to notify the ATC of any changes that increase or decrease the previously approved licensed business premises.

Present law prohibits tobacco permits from being transferred if over 51% of a corporation is sold or transferred during the period for which a permit was issued, and requires an application for a new permit.

Present law provides that a change of the controlling interest shall constitute a change of ownership if the holder of the permit is an association, partnership, or limited partnership, and further requires the registration certificate holder or permittee to notify the commissioner in writing if the business is physically relocated.

Proposed law prohibits a tobacco permit from being transferred, assigned, or inherited and requires the permit to be returned or surrendered to the ATC within five days of permanently ceasing business operations or change in ownership.

Proposed law requires a permit holder who is a corporation or limited liability company to provide notification within 15 days of changes in its officers, directors, managers, shareholders, or members and requires the notification to include suitability documents and information of each new individual required to meet the qualifications of the applicant.

Proposed law requires the permit holder to notify the commissioner in writing prior to relocating if the business is physically relocated during the permit period.

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

(Amends R.S. 26:76(A)(2), 276(A)(2), and 912(A))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Judiciary to the original bill.

1. Added a provision to prohibit the transfer of a permit for low and high alcoholic content beverages.
2. Added requirements for certain permit holders of low and high alcoholic content beverages to notify the ATC within 15 days of any changes in officers, directors, managers, shareholders, members, or previously qualified persons and to include the suitability documents and information for each individual.
3. Added requirements that the permit holder notify the ATC of any changes that increase or decrease the previously approved licensed business premises.
4. Changed requirements relative to the transfer of tobacco permits and requires the return or surrender of a permit within 5 days of permanently ceasing business operations or a change in ownership and provides for certain notification requirements if the business is a corporation or limited liability company.

House Floor Amendments to the engrossed bill.

1. Added authorization for the new owner of a transferred business to operate under the permit holder's permit until a new permit is issued or denied, if the new owner notifies the ATC within five days of the transfer and applies for a new permit within 15 days of the transfer of ownership.