

Regular Session, 2009

SENATE BILL NO. 136

BY SENATOR JACKSON

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

ALCOHOLIC BEVERAGES. Provides relative to restaurant "R" permit, application and fees. (8/15/09)

1 AN ACT

2 To amend and reenact R.S. 26:73, 272, and 583(C), relative to alcoholic beverage permits;  
3 to provide for legal sales characteristics in certain parishes; to provide for restaurant  
4 "R" permits, applications and fees; to provide for definitions; to provide for  
5 qualifications; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 26:73, 272, and 583(C) are hereby amended and reenacted to read  
8 as follows:

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

10 **A. The legislature hereby finds and declares that the food service**  
11 **industry is a viable industry in Louisiana with significant economic impact and**  
12 **finds that a restaurant establishment's purpose and primary function is to take**  
13 **orders for and serve food and food items. Such service of food may include the**  
14 **servng of alcoholic beverages in conjunction with meals.**

15 ~~A.~~B.(1) The commissioner shall issue, upon proper application and payment  
16 of an administrative fee, a special Class "R" restaurant permit to any restaurant  
17 establishment as defined in Subsection ~~B~~ C of this Section which has been issued a

1 state Class A Retail Liquor Permit for the sale of beverages of high alcohol content.

2 (2) Municipal and parish governing authorities may issue "R" permits similar  
3 to those provided for in this Section; ~~however, the requirements and fees for such~~  
4 ~~permits shall not exceed that required by this Section.~~ The provisions of this  
5 Paragraph shall not apply to those municipal and parish governing authorities that  
6 are issuing such permits on July 1, 1984.

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

9 (a) Which operates a place of business whose ~~purpose and primary function~~  
10 ~~is to take orders for and serve food and food items~~ **average monthly revenue from**  
11 **food and nonalcoholic beverages exceeds fifty percent of its total average**  
12 **monthly revenue from the sale of food, nonalcoholic beverages, and alcoholic**  
13 **beverages.**

14 (b) ~~Which serves alcoholic beverages in conjunction with meals.~~

15 (c) ~~(b)~~ Which serves food on all days of operation.

16 (d) ~~(c)~~ Which maintains separate sales figures for alcoholic beverages.

17 (e) ~~(d)~~ Which operates a fully equipped kitchen used for the preparation of  
18 uncooked foods for service and consumption of such foods on the premises **when**  
19 **food is being offered and served.**

20 (f) ~~(e)~~ Which has a public habitable floor area of no less than five hundred  
21 square feet. This Subparagraph shall not apply to business locations that apply to or  
22 have been licensed to sell or serve alcoholic beverages prior to August 1, 2006, and  
23 have not discontinued the sale and service of such beverages for more than six  
24 months.

25 (2) Sparkling or still wine sold or served by the bottle in conjunction with  
26 food service shall not be considered an alcoholic beverage by the commissioner  
27 when determining gross revenue for purposes of this Section only.

28 **(3) Notwithstanding any other provision of law to the contrary, a**  
29 **business's trade name shall not disqualify such business as a restaurant**

1 establishment provided the business meets the qualifications set forth in this  
2 Subsection.

3 (4) Notwithstanding any other provision of law to the contrary, a  
4 business which provides live entertainment, requires cover charges, offers  
5 alcoholic or other beverages at a reduced cost or engages in similar activity shall  
6 not be disqualified as a restaurant establishment provided the business meets  
7 the qualifications set forth in this Subsection.

8 (5) The provisions of this Section shall not prohibit a parish or  
9 municipality from enacting ordinances that establish more restrictive  
10 requirements for parish or municipal licenses or permits to sell alcoholic  
11 beverages at restaurant establishments.

12 ~~C.~~ D. For new restaurant establishments without prior business experience  
13 on which to determine the gross revenue from the sale of the items in Paragraph B(4)  
14 of this Section, the commissioner may issue a temporary license, which shall be valid  
15 for sixty days to allow the establishment to make such determination.

16 ~~D.~~ E.(1) The permit provided for in this Section shall be applied for annually.

17 (2) Both the original and renewal applications for such permit shall be in  
18 writing, be sworn to in front of a notary public, and shall contain all of the following:

19 (a) The full name of the applicant.

20 (b) A complete description and correct street address of the premises in which  
21 the restaurant is located.

22 (c) Proof of issuance of state Class "A" permit.

23 ~~E.~~ F. All applications shall be accompanied by an administrative fee, which  
24 shall be remitted to the office of alcohol and tobacco control, as follows:

25 (1) For administrative fees for new or renewal of permit - twenty-five dollars.

26 (2) For a temporary permit as provided for in Subsection C - ten dollars.

27 ~~F.~~ G. The permit shall be revoked whenever the establishment's Class A  
28 permit is revoked by the state or local Alcohol Beverage Control Board for failure  
29 to meet or maintain criteria required for the permit.



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

3            (a) Which operates a place of business whose ~~purpose and primary function~~  
4 ~~is to take orders for and serve food and food items~~ **average monthly revenue from**  
5 **food and nonalcoholic beverages exceeds fifty percent of its total average**  
6 **monthly revenue from the sale of food, nonalcoholic beverages, and alcoholic**  
7 **beverages.**

8            ~~(b) Which serves alcoholic beverages in conjunction with meals.~~

9            ~~(c)~~ **(b)** Which serves food on all days of operation.

10           ~~(d)~~ **(c)** Which maintains separate sales figures for alcoholic beverages.

11           ~~(e)~~ **(d)** Which operates a fully equipped kitchen used for the preparation of  
12 uncooked foods for service and consumption of such foods on the premises **when**  
13 **food is being offered and served.**

14           ~~(f)~~ **(e)** Which has a public habitable floor area of no less than five hundred  
15 square feet. This Subparagraph shall not apply to business locations that have applied  
16 to or have been licensed to sell or serve alcoholic beverages prior to August 1, 2006,  
17 and have not discontinued the sale and service of such beverages for more than six  
18 months.

19           (2) Sparkling or still wine sold or served by the bottle in conjunction with  
20 food service shall not be considered an alcoholic beverage by the commissioner  
21 when determining gross revenue for purposes of this Section only.

22           **(3) Notwithstanding any other provision of law to the contrary, a**  
23 **business's trade name shall not disqualify such business as a restaurant**  
24 **establishment provided the business meets the qualifications set forth in this**  
25 **Subsection.**

26           **(4) Notwithstanding any other provision of law to the contrary, a**  
27 **business which provides live entertainment, requires cover charges, offers**  
28 **alcoholic or other beverages at a reduced cost or engages in similar activity shall**  
29 **not be disqualified as a restaurant establishment provided the business meets**

1 the qualifications set forth in this Subsection.

2 (5) The provisions of this Section shall not prohibit a parish or  
 3 municipality from enacting ordinances that establish more restrictive  
 4 requirements for parish or municipal licenses or permits to sell alcoholic  
 5 beverages at restaurant establishments.

6 ~~C.~~ D. For new restaurant establishments without prior business experience  
 7 on which to determine the gross revenue from the sale of the items in Paragraph B(4)  
 8 of this Section, the commissioner may issue a temporary license, which shall be valid  
 9 for sixty days to allow the establishment to make such determination.

10 ~~D.~~ E.(1) The permit provided for in this Section shall be applied for and  
 11 issued annually as determined by the commissioner.

12 (2) Both the original and renewal applications for such permit shall be in  
 13 writing, be sworn to in front of a notary public, and shall contain the following:

14 (a) The full name of the applicant.

15 (b) A complete description and correct address of the premises in which the  
 16 restaurant is located.

17 (c) Proof of issuance of a state Class A permit.

18 ~~E.~~ F. All applications shall be accompanied by an administrative fee, which  
 19 shall be remitted to the commissioner as follows:

20 (1) For administrative fees for annual new or renewal of permit -- twenty-five  
 21 dollars.

22 (2) For a temporary permit as provided for in Subsection C -- ten dollars.

23 ~~F.~~ G. The permit shall be revoked whenever the establishment's Class A  
 24 permit is revoked by the state or local political subdivision for failure to meet or  
 25 maintain criteria required for the permit.

26 ~~G.~~ H. Notwithstanding the provisions of R.S. 26:81(B)(1) and (C), 273(A)(1),  
 27 281(B) and (C)(1), 582, and 595, and if all other pertinent qualifications and  
 28 conditions of this Title are satisfied, the commissioner shall issue a Class A Retail  
 29 Liquor Permit and a Class "R" restaurant permit and the municipal governing

1 authority or the parish governing authority shall issue any and all required local  
 2 permits to serve low alcohol content beverages for a restaurant establishment, as  
 3 defined in R.S. 26:73(B), if the restaurant is located within a geographically  
 4 definable area within any municipality which has been designated by the appropriate  
 5 authority of the United States Department of the Interior as a national historic  
 6 landmark district. The provisions of this Subsection shall be applicable only to an  
 7 establishment that grosses sixty percent of its average monthly sales from the retail  
 8 sale of food or food items that are prepared for service and consumption on the  
 9 premises of the establishment.

10 H. **I.** If proposition five on the local option ballot, as delineated in R.S.  
 11 26:588(A), is approved by a majority vote cast in the election, a "Retailers, Class A"  
 12 state permit shall be authorized for a Class "R" restaurant permittee in the locality  
 13 for which the local election was held.

14 \* \* \*

15 §583. Effect of merger

16 \* \* \*

17 C. **(1)** Notwithstanding the provisions of Subsections A and B of this Section,  
 18 any package house in existence and operating as such on August 15, 1995, in an area  
 19 that is subsequently annexed into a ward, election district, municipality, or city-  
 20 parish government that prohibits the sale of alcoholic beverages shall be allowed to  
 21 continue operation and shall not be subject to the provisions of Subsections A and  
 22 B of this Section.

23 **(2) Notwithstanding any other provision of law to the contrary, any**  
 24 **parish with a population between forty thousand and forty-five thousand, based**  
 25 **upon the latest federal decennial census, shall not be subject to the provisions**  
 26 **of Subsections A and B of this Section and shall retain the legal sales**  
 27 **characteristics as provided for by referendum prior to any annexation or**  
 28 **reapportionment.**

29 \* \* \*

---

The original instrument was prepared by Michael Bell. The following digest, which does not constitute a part of the legislative instrument, was prepared by Michelle Ducharme.

---

## DIGEST

Jackson (SB 136)

Present law defines "restaurant establishment" as an establishment:

- (a) Which operates a place of business whose purposes and primary function is to take orders for and serve food and food items.
- (b) Which serves alcoholic beverages in conjunction with meals.
- (c) Which serves food on all days of operation.
- (d) Which maintains separate sales figures for alcoholic beverages.
- (e) Which operates a fully equipped kitchen used for the preparation of uncooked foods for service and consumption of such foods on the premises.
- (f) Which has a public habitable floor area of no less than 500 square feet. Also, present law does not apply to business locations that applied to or have been licensed to sell or serve alcoholic beverages prior to August 1, 2006, and have not discontinued the sale and service of such beverages for more than six months.

Proposed law provides for legislative intent.

Proposed law defines "restaurant establishment" as an establishment:

- (a) Which operates a place of business whose average monthly revenue from food and nonalcoholic beverages shall exceed fifty percent of its total average monthly revenue from the sale of food, nonalcoholic beverages, and alcoholic beverages.
- (b) Which serves food on all days of operation.
- (c) Which maintains separate sales figures for alcoholic beverages.
- (d) Which operates a fully equipped kitchen used for the preparation of uncooked foods for service and consumption of such foods on the premises when food is being offered and served.
- (e) Which has a public habitable floor area of no less than 500 square feet. Proposed law does not apply to business locations that applied to or have been licensed to sell or serve alcoholic beverages prior to August 1, 2006, and have not discontinued the sale and service of such beverages for more than six months.

Proposed law provides that notwithstanding any provision of law to the contrary, a business's trade name shall not disqualify such business as a restaurant establishment provided the business meets the qualifications set forth in proposed law.

Proposed law provides that notwithstanding any provision of law to the contrary, a business which provides live entertainment, requires cover charges, offers alcoholic or other beverages at a reduced cost or engages in similar activity shall not be disqualified as a

restaurant establishment provided the business meets the qualifications set forth in proposed law.

Proposed law does not prohibit adoption of municipal or parish ordinance that are more restrictive in order to obtain a municipal or parish permit to sell alcoholic beverages at a restaurant.

Present law provides that when a portion of a ward, election district, or municipality is annexed or made a part of another ward, election district, municipality, or city-parish government, the portion annexed or made a part of shall take on the legal sales characteristics of the ward, election district, municipality, or city-parish government to which it is annexed or made a part of.

Proposed law provides that notwithstanding any provision of law to the contrary, any parish with a population between 40,000 and 45,000, based upon the latest federal decennial census, shall retain the legal sales characteristics as provided for by a referendum prior to any annexation or reapportionment.

Effective August 15, 2009.

(Amends R.S. 26:73, 272, and 583(C))

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Judiciary B to the original bill.

1. Provides for legislative intent.
2. Makes technical changes.
3. Limits the requirement of operating a fully equipped kitchen to the time period food is being offered and served.

##### Senate Floor Amendments to engrossed bill.

1. Provides for the legal sales characteristics in certain parishes when a merger occurs.
2. Authorizes a parish or municipality to enact ordinances that establish more restrictive requirements for parish or municipal licenses or permits to sell alcoholic beverages at restaurant establishments.
3. Removes the provision which limits the ability of municipal and parish governing authorities to set requirements and fees for restaurant permits.
4. Clarifies that the average monthly revenue from food and nonalcoholic beverages shall exceed fifty percent of its total average monthly revenue from the sale of food, nonalcoholic beverages, and alcoholic beverages.