

2018 Regular Session

SENATE BILL NO. 429

BY SENATOR LAFLEUR

ALCOHOLIC BEVERAGES. The Louisiana Responsible Adult Consumption Act. (8/1/18)

AN ACT

To amend and reenact R.S. 13:1000.11(A)(3), 1894.2(A)(3), and 2562.27(A)(3), R.S. 14:93.10(2)(b), 93.11(A), 93.12(A), 98.1(A)(1), 98.2(A)(1), 98.3(A)(1), 98.4(A)(1), 98.6(A), and 333(A), R.S. 26:90(A)(1)(b), 286(A)(1)(b), 306(C)(7), 359(B)(1)(a) and (f), R.S. 32:661(A)(3) and (C)(1)(c), 661.1(C)(1)(c), 662(A)(1)(d), 666(A)(2)(c), the introductory paragraph of 667(A), (A)(3), and (B)(1)(b), 668(A)(4) and (B)(1)(b), 670, and 853(A)(1)(c)(i), and to enact R.S. 14:93.10(2)(c), R.S. 26:90(A)(1)(a)(vii), 286(A)(1)(a)(vii), and Chapter 9 of Title 26 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 26:940 through 947 relative to alcoholic beverages; to provide for the Louisiana Responsible Adult Consumption Act; to create the Louisiana Alcohol Consumption Certificate Program; to provide program requirements; to provide program curriculum; to provide for fines for underage purchase or possession of alcoholic beverages; to provide relative to the unlawful sale, purchase, and possession of alcoholic beverages; to provide relative to operating a vehicle while intoxicated; to provide relative to operating a watercraft while intoxicated; to provide relative to chemical testing; to provide for the seizure, suspension, and revocation of driver's licenses under certain circumstances; to

1 provide for the suspension of driving privileges under certain circumstances; to
 2 provide for the admissibility of chemical testing; to provide for the contents of an
 3 operating record; to provide relative to holders of alcoholic retail dealer's permits for
 4 beverages of high alcoholic content and low alcoholic content; to provide for the sale
 5 of malt beverages in keg; to provide for distribution of alcoholic beverages through
 6 wholesalers only; to provide for rulemaking; to provide for fees; to provide for
 7 penalties; to provide for reporting; to provide for exceptions; to provide for
 8 definitions; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 13:1000.11(A)(3), 1894.2(A)(3), and 2562.27(A)(3) are hereby
 11 amended and reenacted to read as follows:

12 §1000.11. Twenty-Fourth Judicial District Court; specialized divisions; additional
 13 costs; certain violations

14 A. Notwithstanding any other provision of law to the contrary, and in
 15 addition to any fines, forfeitures, costs, or penalties, a judge in the Twenty-Fourth
 16 Judicial District Court with a specialized alcohol division as defined in this Section
 17 may assess the following additional costs to any person convicted of the following
 18 offenses:

19 * * *

20 (3) Fifty dollars for a violation of R.S. 14:92, 93.11, 93.12, or 333, or of any
 21 municipal or parochial ordinance prohibiting the purchase or public possession of
 22 alcoholic beverages by persons under the age of twenty-one years old **who do not**
 23 **possess a Louisiana Alcohol Consumption Certificate.**

24 * * *

25 §1894.2. Additional costs; certain violations

26 A. Notwithstanding any other provision of law to the contrary, and in
 27 addition to any fines, forfeitures, costs, or penalties, a person convicted of a felony,
 28 a misdemeanor, or a violation of local ordinance, including a traffic felony,
 29 misdemeanor, or local traffic violation, shall be assessed an additional cost in any

1 matter where the use of alcohol was a factor involved in the commission of a crime.
2 Any court that designates by rule, divisions, or sections of the court as a specialized
3 division or section having subject matter jurisdiction for alcohol related offenses
4 including driving while intoxicated, shall assess the following costs:

5 * * *

6 (3) Fifty dollars for a violation of R.S. 14:92, 93.11, 93.12, or 333, or of any
7 municipal or parochial ordinance prohibiting the purchase and public possession of
8 alcoholic beverages by persons under the age of twenty-one years old **who do not**
9 **possess a Louisiana Alcohol Consumption Certificate.**

10 * * *

11 §2562.27. Parish courts; Jefferson Parish; specialized divisions; additional costs;
12 certain violations

13 A. Notwithstanding any other provision of law to the contrary, and in
14 addition to any fines, forfeitures, costs, or penalties, a judge in a parish court within
15 Jefferson Parish, with a specialized alcohol division or a judge in a parish court that
16 has within the judicial district a specialized alcohol division as defined in this
17 Section, may assess the following additional costs to any person convicted of the
18 following offenses:

19 * * *

20 (3) Fifty dollars for a violation of R.S. 14:92, 93.11, 93.12, or 333, or of any
21 municipal or parochial ordinance prohibiting the purchase or public possession of
22 alcoholic beverages by persons under the age of twenty-one years old **who does not**
23 **possess a Louisiana Alcohol Consumption Certificate.**

24 * * *

25 Section 2. R.S. 14:93.10(2)(b), 93.11(A), 93.12(A), 98.1(A)(1), 98.2(A)(1),
26 98.3(A)(1), 98.4(A)(1), 98.6(A), and 333(A) are hereby amended and reenacted and R.S.
27 14:93.10(2)(c) is hereby enacted to read as follows:

28 §93.10. Definitions

29 * * *

1 (2) "Public possession" means the possession of any alcoholic beverage for
2 any reason, including consumption, on any street, highway, or waterway or in any
3 public place or any place open to the public, including a club which is de facto open
4 to the public. "Public possession" does not include the following:

5 (a) * * *

6 (b) The sale, handling, transport, or service in dispensing of any alcoholic
7 beverage pursuant to lawful ownership of an establishment or to lawful employment
8 of a person under twenty-one years of age **or a person possessing a Louisiana**
9 **Alcohol Consumption Certificate** by a duly licensed manufacturer, wholesaler, or
10 retailer of beverage alcohol.

11 **(c) When a person age nineteen or twenty possesses a Louisiana Alcohol**
12 **Consumption Certificate.**

13 * * *

14 §93.11. Unlawful sales ~~to persons under twenty-one~~ **of alcoholic beverages**

15 A. Unlawful sales ~~to persons under twenty-one~~ **of alcoholic beverages** is the
16 selling or otherwise delivering for value of any alcoholic beverage to any person
17 under twenty-one years of age unless such person is the lawful owner or lawful
18 employee of an establishment to which the sale is being made and is accepting such
19 delivery pursuant to such ownership or employment **or such person possesses a**
20 **Louisiana Alcohol Consumption Certificate.** Lack of knowledge of the person's
21 age shall not be a defense.

22 * * *

23 §93.12. Purchase and public possession of alcoholic beverages; exceptions; penalties

24 A. It is unlawful for any person under twenty-one years of age to purchase
25 or have public possession of any alcoholic beverage **without a Louisiana Alcohol**
26 **Consumption Certificate.**

27 * * *

28 §98.1. Operating while intoxicated; first offense; penalties

29 A.(1) Except as modified by the provisions of Paragraphs (2) and (3) of this

1 Subsection or if the offender possessed a Louisiana Alcohol Consumption
 2 Certificate, on a conviction of a first offense violation of R.S. 14:98, the offender
 3 shall be fined not less than three hundred dollars nor more than one thousand dollars,
 4 and shall be imprisoned for not less than ten days nor more than six months. If the
 5 offender possessed a Louisiana Alcohol Consumption Certificate, he shall be
 6 fined not less than six hundred dollars nor more than two thousand dollars, and
 7 shall be imprisoned for not less than twenty days nor more than one year.

8 Imposition or execution of sentence under this Paragraph shall not be suspended
 9 ~~unless~~ if the offender possessed a Louisiana Alcohol Consumption Certificate at
 10 the time of the offense. Imposition or execution of sentence under this
 11 Paragraph may be suspended if the offender is placed on probation with the
 12 minimum conditions that he complete all of the following:

13 * * *

14 §98.2. Operating while intoxicated; second offense; penalties

15 A.(1) Except as modified by the provisions of Paragraphs (2), (3), and (4) of
 16 this Subsection, or as provided by Subsection D of this Section, or if the offender
 17 possessed a Louisiana Alcohol Consumption Certificate, on a conviction of a
 18 second offense violation of R.S. 14:98, regardless of whether the second offense
 19 occurred before or after the first conviction, the offender shall be fined not less than
 20 seven hundred fifty dollars nor more than one thousand dollars, and shall be
 21 imprisoned for not less than thirty days nor more than six months. If the offender
 22 possessed a Louisiana Alcohol Consumption Certificate, he shall be fined not
 23 less than one thousand five hundred dollars nor more than two thousand
 24 dollars, and shall be imprisoned for not less than sixty days nor more than a
 25 year. At least forty-eight hours of the sentence imposed shall be served without
 26 benefit of parole, probation, or suspension of sentence. Imposition or execution of
 27 the remainder of sentence shall not be suspended ~~unless~~ if the offender possessed
 28 a Louisiana Alcohol Consumption Certificate at the time of the offense.
 29 Imposition or execution of sentence under this Paragraph may be suspended if

1 the offender is placed on probation with the minimum conditions that he complete
2 all of the following:

3 * * *

4 §98.3. Operating while intoxicated; third offense; penalties

5 A.(1) Except as provided in Subsection B of this Section or if the offender
6 possessed a Louisiana Alcohol Consumption Certificate, on a conviction of a third
7 offense violation of R.S. 14:98, regardless of whether the third offense occurred
8 before or after a previous conviction, the offender shall be fined two thousand dollars
9 and shall be imprisoned, with or without hard labor, for not less than one year nor
10 more than five years. If the offender possessed a Louisiana Alcohol Consumption
11 Certificate, he shall be fined four thousand dollars and shall be imprisoned,
12 with or without hard labor, for not less than two years nor more than five years.

13 Except as provided in Paragraph (2) of this Subsection, at least one year of the
14 sentence imposed shall be served without benefit of parole, probation, or suspension
15 of sentence. Except in compliance with R.S. 14:98.5(B)(1), the mandatory minimum
16 sentence cannot be served on home incarceration.

17 * * *

18 §98.4. Operating while intoxicated; fourth offense; penalties

19 A.(1) Except as modified by Subparagraphs (a) and (b) of this Paragraph, or
20 as provided by Subsections B and C of this Section, or if the offender possessed a
21 Louisiana Alcohol Consumption Certificate, on a conviction of a fourth or
22 subsequent offense violation of R.S. 14:98, regardless of whether the fourth offense
23 occurred before or after an earlier conviction, the offender shall be fined five
24 thousand dollars and imprisoned, with or without hard labor, for not less than ten
25 years nor more than thirty years. If the offender possessed a Louisiana Alcohol
26 Consumption Certificate, he shall be fined ten thousand dollars and imprisoned,
27 with or without hard labor, for not less than ten years and not more than thirty
28 years. Two years of the sentence of imprisonment shall be imposed without benefit
29 of parole, probation, or suspension of sentence. Except in compliance with R.S.

1 14:98.5(B)(1), the mandatory minimum sentence cannot be served on home
2 incarceration.

3 * * *

4 §98.6. Underage operating while intoxicated

5 A. The crime of underage operating a vehicle while intoxicated is the
6 operating of any motor vehicle, aircraft, watercraft, vessel, or other means of
7 conveyance when the operator's blood alcohol concentration is 0.02 percent or more
8 by weight based on grams of alcohol per one hundred cubic centimeters of blood, if
9 the operator is under the age of twenty-one **or if the person is nineteen or twenty**
10 **years of age and possesses a Louisiana Alcohol Consumption Certificate.**

11 * * *

12 §333. Misrepresentation of ~~age~~ to obtain alcoholic beverages or gain entry to
13 licensed premises prohibited; penalties

14 A. It is unlawful for any person under the age of twenty-one years to present
15 or offer to any person having a license or permit to sell alcoholic beverages, under
16 Title 26 of the Louisiana Revised Statutes of 1950, or to his agent or employee any
17 written, printed, or photostatic evidence of age and identity **or in possession of a**
18 **Louisiana Alcohol Consumption Certificate** which is false, fraudulent, or not
19 actually his own for the purpose of obtaining or purchasing alcoholic beverages or
20 attempting to enter the licensed premises.

21 * * *

22 Section 3. R.S. 26:90(A)(1)(b), 286(A)(1) (b), 306(C)(7), and 359(B)(1)(a) and (f),
23 are hereby amended and reenacted and R.S. 26:90(A)(1)(a)(vii), 286(A)(1)(a)(vii), and
24 Chapter 9 of Title 26 of the Louisiana Revised Statutes of 1950, comprised of R.S. 26:940
25 through 947 are hereby enacted to read as follows:

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

27 A. * * *

28 (1)(a) * * *

29 **(vii) A valid, current, Louisiana Alcohol Consumption Certificate issued**

1 **pursuant to R.S. 26:940 et seq.**

2 (b) Each form of identification listed above must on its face establish the age
3 of the person as ~~twenty-one years or older~~, and there must be no reason to doubt the
4 authenticity or correctness of the identification. No form of identification mentioned
5 above shall be accepted as proof of age if it is expired, defaced, mutilated, or altered.
6 If the state identification card or lawful identification submitted is a duplicate, the
7 person shall submit additional identification which contains the name, date of birth,
8 and photograph of the person. A duplicate driver's license shall be considered lawful
9 identification for the purposes of this Paragraph, and a person shall not be required
10 to submit additional information containing the name, date of birth, and picture of
11 the person. In addition, an educational institution identification card, check cashing
12 identification card, or employee identification card shall not be considered as lawful
13 identification for the purposes of this Paragraph.

14 * * *

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

16 A. * * *

17 (1)(a) * * *

18 **(vii) A valid, current, Louisiana Alcohol Consumption Certificate issued**
19 **pursuant to R.S. 26:940 et seq.**

20 (b) Each form of identification listed above must on its face establish the age
21 of the person as ~~twenty-one years or older~~, and there must be no reason to doubt the
22 authenticity or correctness of the identification. No form of identification mentioned
23 above shall be accepted as proof of age if it is expired, defaced, mutilated, or altered.
24 If the state identification card or lawful identification submitted is a duplicate, the
25 person shall submit additional information which contains the name, date of birth,
26 and picture of the person. A duplicate driver's license shall be considered lawful
27 identification for the purposes of this Paragraph, and a person shall not be required
28 to submit additional information containing the name, date of birth, and picture of
29 the person. In addition, an educational institution identification card, check cashing

1 identification card, or employee identification card shall not be considered as lawful
2 identification for the purposes of this Paragraph.

3 * * *

4 §306. Sale of malt beverages in keg; tracking; forms

5 * * *

6 C. * * *

7 (7) A declaration signed by the retail purchaser which shall be as follows:

8 "I, _____, am of legal age to purchase and possess this
9 keg of alcoholic beverage identified above and will not knowingly allow any person
10 under the age of 21 years **who does not possess a Louisiana Alcohol Consumption**
11 **Certificate** to illegally consume this beverage. I will not obliterate or allow to be
12 removed the identification number required on this keg.

13 _____
14 Signature of Purchaser"

15 * * *

16 §359. Distribution of alcoholic beverages through wholesalers only

17 B.(1) * * *

18 (a) The consumer is twenty-one years of age or older **or possesses a**
19 **Louisiana Alcohol Consumption Certificate.**

20 * * *

21 (f) The package in which such sparkling wine or still wine is shipped is
22 received by a person twenty-one years of age or older **or by a person nineteen or**
23 **twenty years of age who possesses a Louisiana Alcohol Consumption Certificate.**

24 * * *

25 **CHAPTER 9. RESPONSIBLE ADULT CONSUMPTION ACT**

26 **§940. Short Title**

27 **This Chapter shall be known and may be cited as the "Louisiana**
28 **Responsible Adult Consumption Act".**

29 **§941. Purpose**

1 Persons nineteen and twenty years of age are considered adults in
2 Louisiana, yet are prohibited from purchasing and consuming alcoholic
3 beverages. The legislature finds that celebrations including alcoholic beverages
4 are prevalent in many of Louisiana's most sacred cultural traditions and
5 festivals. The purpose of the Louisiana Responsible Adult Consumption Act is
6 to foster and promote the responsible consumption of alcoholic beverages to
7 aide in the transition of adults ages nineteen and twenty into responsible
8 consumers of alcoholic beverages at age twenty-one. The state sees a benefit to
9 educating those adults ages nineteen and twenty about the consequences,
10 dangers, and legal ramifications of irresponsibly consuming alcoholic beverages.
11 The Louisiana Responsible Adult Consumption Act is hereby enacted to educate
12 and protect the citizens of Louisiana by creating a climate of responsible
13 consumption of alcoholic beverages.

14 §942. Definitions

15 For purposes of this Chapter, the following terms shall have the
16 following meanings unless a different meaning clearly appears from the context:

17 (1) "Approved provider" means an individual, unincorporated
18 association, partnership, or corporation approved by the program
19 administrator to provide alcohol education courses.

20 (2) "Certificate" means a Louisiana Alcohol Consumption Certificate.

21 (3) "Certificate holder" means a person nineteen or twenty years of age
22 who obtains a certificate in accordance with the provisions of this Chapter.

23 (4) "Commissioner" means the commissioner of alcohol and tobacco
24 control.

25 (5) "Program administrator" means a committee of nine persons
26 provided in R.S. 26:933.

27 §943. Establishment of Louisiana Alcohol Consumption Certificate Program

28 A. The program administrator shall be the committee of nine persons
29 provided in R.S. 26:933 for the Louisiana Responsible Vendor Program.

1 B. The program administrator shall approve a Louisiana Alcohol
2 Consumption Certificate Program, hereafter referred to as "the program",
3 designed to educate persons nineteen and twenty years of age about responsible
4 consumption of alcoholic beverages and allow certificate holders to purchase
5 and consume alcoholic beverages. The program shall include all of the
6 following:

7 (1) Enrollment and certification of persons nineteen or twenty years of
8 age in the program.

9 (2) Establishing a curriculum and method of testing for courses for
10 persons nineteen and twenty years of age.

11 (3) Review of the requirements for the issuance and renewal of
12 certificates. Such certificates shall be the property of the certificate holder and,
13 if not expired, suspended, or revoked, valid for the purpose of purchasing and
14 consuming alcoholic beverages in the state of Louisiana.

15 C. The alcohol education courses shall include but not be limited to the
16 following subject areas:

17 (1) Classification of alcohol as a depressant and its effect on the human
18 body, particularly on the ability to operate a motor vehicle.

19 (2) The health risks and consequences associated with alcohol
20 consumption.

21 (3) The effects of alcohol when taken with commonly used prescription
22 and nonprescription drugs.

23 (4) The absorption rate of alcohol, including the rate at which the human
24 body can dispose of alcohol and how food affects the absorption rate.

25 (5) Methods of identifying and dealing with intoxicated persons and how
26 to acquire assistance from law enforcement, if needed.

27 (6) Federal, state, and parish and municipal laws and regulations
28 regarding alcoholic beverages, including the law and penalties for operating a
29 vehicle while intoxicated and causing property damage or bodily injury while

1 operating a vehicle while intoxicated.

2 (7) Resources available to assist persons with an alcohol addiction or who
3 abuse alcohol.

4 D. The commissioner shall promulgate rules and regulations to effectuate
5 the program in accordance with the Administrative Procedure Act including
6 but not limited to a system for the issuance and verification of certificates and
7 a procedure for the revocation of certificates.

8 §944. Requirements

9 In order to qualify, receive, and maintain a certificate, a person nineteen
10 or twenty years of age shall comply with all of the following:

11 (1) Enrollment in the program in accordance with the rules and
12 regulations promulgated by the commissioner.

13 (2) Successful completion of all required alcohol education courses.
14 Certificates shall be valid for a period of one year and shall be issued and
15 renewed in accordance with the rules and regulations promulgated by the
16 commissioner.

17 (3) Once a certificate is obtained, a certificate holder shall keep his
18 certificate on his person at all times.

19 §945. Revocation of certificate

20 The commissioner may revoke a certificate and impose a fine on the
21 certificate holder for noncompliance with this Chapter or any violation of
22 alcohol related laws, rules, and regulations.

23 §946. Fees

24 A. The commissioner may promulgate rules and regulations regarding
25 fees, which fees shall not exceed one hundred dollars per certificate.

26 B. Approved providers may charge fees for the cost of conducting the
27 alcohol education courses provided for in this Chapter. Such fees shall be
28 approved by the program administrator and the commissioner. The fee for each
29 alcohol education course provided for by this Section shall not exceed one

1 **hundred dollars.**

2 **§947. Reports to the commissioner**

3 **Beginning January 1, 2020, the program administrator shall provide the**
4 **commissioner and the legislature with annual reports regarding the program.**

5 Section 4. R.S. 32:661(A)(3) and (C)(1)(c), 661.1(C)(1)(c), 662(A)(1)(d),
6 666(A)(2)(c), the introductory paragraph of 667(A), (A)(3), and (B)(1)(b), 668(A)(4) and
7 (B)(1)(b), 670, and 853(A)(1)(c)(i) are hereby amended and reenacted to read as follows:

8 §661. Operating a vehicle under the influence of alcoholic beverages or illegal
9 substance or controlled dangerous substances; implied consent to
10 chemical tests; administering of test and presumptions

11 A.(1) * * *

12 (3) If the person is under twenty-one years of age **or possesses a Louisiana**
13 **Alcohol Consumption Certificate**, the test or tests shall be administered at the
14 direction of a law enforcement officer having reasonable grounds to believe the
15 person to have been driving or in actual physical control of a motor vehicle upon the
16 public highways of this state after having consumed alcoholic beverages. The law
17 enforcement agency by which the officer is employed shall designate in writing and
18 under what conditions which of the tests shall be administered.

19 * * *

20 C.(1) * * *

21 (c) That his driving privileges can be suspended if he submits to the chemical
22 test and such test results show a blood alcohol level of 0.08 percent or above or, if
23 he is under the age of twenty-one years **or if he possesses a Louisiana Alcohol**
24 **Consumption Certificate**, a blood alcohol level of 0.02 percent or above.

25 * * *

26 §661.1. Operating a watercraft under the influence of alcoholic beverages or
27 controlled dangerous substances; implied consent to chemical tests;
28 administering of test and presumptions

29 * * *

1 C.(1) * * *

2 (c) That his driving privileges can be suspended if he submits to the chemical
3 test and such test results show a blood alcohol level of 0.08 percent or above or, if
4 he is under the age of twenty-one years **or if he possesses a Louisiana Alcohol**
5 **Consumption Certificate**, a blood alcohol level of 0.02 percent or above.

6 * * *

7 §662. Administering chemical tests; use of results as evidence

8 A. * * *

9 (1) * * *

10 (d) If the person was under the age of twenty-one years **or if he possessed**
11 **a Louisiana Alcohol Consumption Certificate** at the time of the test and had a
12 blood alcohol concentration at that time of 0.02 percent or more by weight, it shall
13 be presumed that the person was under the influence of alcoholic beverages.

14 * * *

15 §666. Refusal to submit to chemical test; submission to chemical tests; exception;
16 effects of

17 A.(1)(a)(i) * * *

18 (2) * * *

19 (c) Evidence of his refusal shall be admissible in any criminal action or
20 proceeding arising out of acts alleged to have been committed while the person,
21 regardless of age, was driving or in actual physical control of a motor vehicle upon
22 the public highways of this state while under the influence of alcoholic beverages or
23 any abused substance or controlled dangerous substance as set forth in R.S. 40:964.
24 Additionally, evidence of his refusal shall be admissible in any criminal action or
25 proceeding arising out of acts alleged to have been committed while the person under
26 twenty-one years of age **or the person possessing a Louisiana Alcohol**
27 **Consumption Certificate** was driving or in actual physical control of a motor
28 vehicle upon the public highways of this state after having consumed alcoholic
29 beverages. However, such evidence shall not be admissible in a civil action or

1 proceeding other than to suspend, revoke, or cancel his driving privileges.

2 * * *

3 §667. Seizure of license; circumstances; temporary license

4 A. When a law enforcement officer places a person under arrest for a
5 violation of R.S. 14:98, R.S. 14:98.1, or a violation of a parish or municipal
6 ordinance that prohibits operating a vehicle while intoxicated, and the person either
7 refuses to submit to an approved chemical test for intoxication, or submits to such
8 test and such test results show a blood alcohol level of 0.08 percent or above by
9 weight or, if the person is under the age of twenty-one years **or if the person**
10 **possesses a Louisiana Alcohol Consumption Certificate**, a blood alcohol level of
11 0.02 percent or above by weight, the following procedures shall apply:

12 * * *

13 (3) In a case where a person submits to an approved chemical test for
14 intoxication, but the results of the test are not immediately available, the law
15 enforcement officer shall comply with Paragraphs (1) and (2) of this Subsection, and
16 the person shall have thirty days from the date of arrest to make written request for
17 an administrative hearing. If after thirty days from the date of arrest the test results
18 have not been received or if the person was twenty-one years of age or older **or**
19 **possessed a Louisiana Alcohol Consumption Certificate** on the date of arrest and
20 the test results show a blood alcohol level of less than 0.08 percent by weight, then
21 no hearing shall be held and the license shall be returned without the payment of a
22 reinstatement fee. If the person was under the age of twenty-one years **or possessed**
23 **a Louisiana Alcohol Consumption Certificate** on the date of arrest and the test
24 results show a blood alcohol level of less than 0.02 percent by weight, then no
25 hearing shall be held and the license shall be returned without the payment of a
26 reinstatement fee.

27 * * *

28 B. * * *

29 (1)(a) * * *

1 (b) On or after September 30, 2003, if the person submitted to the test and the
 2 test results show a blood alcohol level of 0.08 percent or above by weight, his
 3 driving privileges shall be suspended for ninety days from the date of suspension on
 4 first offense violation, without eligibility for a hardship license for the first thirty
 5 days, and for three hundred sixty-five days from the date of suspension, without
 6 eligibility for a hardship license, on second and subsequent violations occurring
 7 within five years of the first offense. If the person was under the age of twenty-one
 8 years **or possessed a Louisiana Alcohol Consumption Certificate** on the date of
 9 the test and the test results show a blood alcohol level of 0.02 percent or above by
 10 weight, his driving privileges shall be suspended for one hundred eighty days from
 11 the date of suspension.

* * *

12 §668. Procedure following revocation or denial of license; hearing; court review;
 13 review of final order; restricted licenses

14 A. * * *

15 (4) Whether he voluntarily submitted to an approved chemical test and
 16 whether the test resulted in a blood alcohol reading of 0.08 percent or above by
 17 weight, or of 0.02 percent or above if he was under the age of twenty-one years **or**
 18 **possessed a Louisiana Alcohol Consumption Certificate** on the date of the test.

* * *

19 B.(1)(a) * * *

20 (b) No person who has refused a chemical test for intoxication is eligible for
 21 a restricted license for the first ninety days of the suspension. When a person submits
 22 to a chemical test and the results show a blood alcohol level of 0.08 percent or above
 23 by weight, or of 0.02 percent or above if the person was under the age of twenty-one
 24 years **or possessed a Louisiana Alcohol Consumption Certificate** on the date of
 25 the test, he is not eligible for a restricted license for the first thirty days of the
 26 suspension.
 27
 28

* * *

1 §670. Test results for persons under the age of twenty-one; exclusion from official
2 driving record

3 The submission to a chemical test by any person under the age of twenty-one
4 **or a person with a Louisiana Alcohol Consumption Certificate** which indicates
5 a blood alcohol level of at least 0.02 but less than 0.08 percent shall not be included
6 on his official driving record. However, this provision shall not prohibit the use of
7 those results for administrative purposes or for obtaining a conviction, or the use of
8 a conviction obtained based on those results for any purpose allowed by law.

9 * * *

10 §853. Commissioner to furnish operating records; other information; fees;
11 withdrawal of forms or information

12 A.(1)(a) * * *

13 (c) * * *

14 (i) The person submitted to an approved chemical test and the test resulted
15 in a blood alcohol reading of less than 0.08 percent by weight, or of less than 0.02
16 percent by weight, if the person was under the age of twenty-one years **or possessed**
17 **a Louisiana Alcohol Consumption Certificate** on the date of the test, and the
18 person is found not guilty.

19 * * *

20 Section 5. The provisions of this Act shall become null, void, and of no effect if any
21 funds are withheld pursuant to the provisions of the Surface Transportation Assistance Act
22 (23 U.S.C.§158).

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Ashley E. Menou.

SB 429 Original DIGEST 2018 Regular Session LaFleur

Present law allows any court with an alcohol division, the 24th JDC, and parish courts in Jefferson Parish to charge an additional cost of \$50 to any person convicted of certain offenses or of any municipal or parochial ordinance prohibiting the purchase or public possession of alcoholic beverages by persons under 21.

Proposed law provides that the person under 21 must also not possess La. Alcohol Consumption Certificate and otherwise retains present law.

Present law prohibits the purchase and public possession of alcoholic beverages for persons under 21.

Proposed law changes the prohibition to persons under 21 that do not possess a La. Alcohol Consumption Certificate and otherwise retains present law.

Present law defines "public possession" as the possession of any alcoholic beverage for any reason, including consumption, on any street, highway, or waterway or in any public place or any place open to the public, including a club which is de facto open to the public.

Proposed law retains present law.

Present law provides that "public possession" does not include the sale, handling, transport or service of alcoholic beverages by a person under 21 if the person owns the establishment or is lawfully employed by the establishment. Present law further provides that "public possession" does not include the possession or consumption of any alcoholic beverage when a person under 21 is accompanied by a parent, spouse, or legal guardian 21 years of age or older.

Proposed law provides that "public possession" does not include possession or consumption of alcoholic beverages by a person under 21 or a person with a La. Alcohol Consumption Certificate (certificate) if such person is accompanied by a parent, spouse, or guardian 21 or older or the sale, handling, transport, or service of alcoholic beverages by a person under 21 and without a La. Alcohol Consumption Certificate if the person owns the establishment or is employed by the establishment.

Present law prohibits the sale of alcohol to a person under 21 unless such person is the owner or employee of an establishment to which the sale is being made and is accepting the delivery pursuant to such ownership or employment.

Proposed law prohibits the sale of alcohol to persons under 21 and without a La. Alcohol Consumption Certificate unless such person is the owner or employee of an establishment to which the sale is being made and is accepting the delivery pursuant to such ownership or employment.

Present law prohibits the purchase of alcoholic beverages for a person under 21 unless the purchase is made by a parent, spouse, or legal guardian 21 years of age or older.

Proposed law prohibits the purchase of alcoholic beverages for a person under 21 and without a La. Alcohol Consumption Certificate unless the purchase is made by a parent, spouse, or legal guardian 21 years of age or older.

Present law provides the penalty for the first offense of operating while intoxicated is a fine of not less than \$300 nor more than \$1,000 and imprisonment for not less than 10 days nor more than six months.

Proposed law provides that for persons possessing a certificate, the penalty for a first offense of operating while intoxicated is a fine of not less than \$600 nor more than \$1,000 and imprisonment for not less than 20 days nor more than one year. Further, provides that imposition or execution of sentence cannot be suspended for offenders that possessed a certificate at the time of the offense.

Present law provides the penalty for the second offense of operating while intoxicated is a fine of not less than \$750 nor more than \$1,000 and imprisonment for not less than 30 days nor more than six months.

Proposed law provides that for persons possessing a certificate, the penalty for the second offense of operating while intoxicated is a fine of not less than \$1,500 nor more than \$2,000

and imprisonment for not less than 60 days nor more than one year. Further, provides that imposition or execution of sentence cannot be suspended for offenders that possessed a certificate at the time of the offense.

Present law provides the penalty for the third offense of operating while intoxicated is a fine of \$2,000 and imprisonment, with or without hard labor, for not less than one year nor more than five years.

Proposed law provides that for persons possessing a certificate, the penalty for the third offense of operating while intoxicated is a fine of \$4,000 and imprisonment, with or without hard labor, for not less than two years nor more than ten years.

Present law provides the penalty for the fourth or subsequent offense of operating while intoxicated is a fine of \$5,000 and imprisonment, with or without hard labor, for not less than 10 years nor more than 30 years.

Proposed law provides that for persons possessing a certificate, the penalty for a fourth or subsequent offense of operating while intoxicated is a fine of \$10,000 and imprisonment, with or without hard labor, for not less than 20 years and not more than 60 years.

Present law prohibits the operation of any motor vehicle, aircraft, watercraft, vessel, or other means of conveyance when the operator's blood alcohol concentration is 0.02 percent or higher and the operator is under 21.

Proposed law prohibits the operation of any motor vehicle, aircraft, watercraft, vessel, or other means of conveyance when the operator's blood alcohol concentration is 0.02 percent or higher and the operator is under 21 and does not possess a certificate.

Present law prohibits a person under 21 from attempting to purchase or obtain alcoholic beverages or enter a licensed premises with the identification of another person or with a fraudulent form of identification.

Proposed law prohibits a person under 21 that does not possess a certificate from attempting to purchase or obtain alcoholic beverages or enter a licensed premises with the identification of another person or with a fraudulent form of identification.

Present law prohibits the holder of a retail dealer permit for beverages of high and low alcohol content from selling or serving alcoholic beverages to persons under the age of 21 unless such person presents valid identification establishing the person as 21 years of age or older.

Proposed law prohibits the holder of a retail dealer permit for beverages of high and low alcohol content from selling or serving alcoholic beverages to persons under the age of 21 that do not possess a certificate, unless such persons presents valid identification or a valid certificate.

Present law provides that, for every keg sold, a retail dealer must have the purchaser sign a declaration that the purchaser will not knowingly allow any person under 21 to consume the alcoholic beverage in the keg.

Proposed law provides that, for every keg sold, a retail dealer must have the purchaser sign a declaration that the purchaser will not knowingly allow any person under 21 or any person without a certificate to consume the alcoholic beverage in the keg.

Present law provides that wine may be shipped directly to a consumer in Louisiana if the consumer is 21 years of age or older, the package is received by a person 21 years of age or older, and other conditions are met.

Proposed law provides that wine may be shipped directly to a consumer 21 years of age or older or a consumer with a certificate.

Proposed law creates the "Louisiana Responsible Consumption Act" to foster and promote the responsible consumption of alcoholic beverages by those persons 19 and 20 years of age.

Proposed law defines "approved provider" as an individual, unincorporated association, partnership, or corporation approved by the program administrator to provide alcohol education courses.

Proposed law defines "certificate" as a La. Alcohol Consumption Certificate.

Proposed law defines "certificate holder" as a person 19 or 20 years old who obtains a certificate through the program.

Proposed law provides that the program administrator shall be the same committee as the La. Responsible Vendor Program.

Proposed law provides that the program administrator shall approve the program and the program shall include the following:

- (1) Enrollment and certification of persons 19 or 20 years old in the program.
- (2) Establishing a curriculum and method of testing for courses for persons 19 or 20 years old.
- (3) Review of the requirements for issuance and renewal of certificates. Further provides that certificates shall be valid for the purchase and consumption of alcoholic beverages in the state of Louisiana.

Proposed law provides that the education classes required for the program shall include education on the health risks of alcohol, absorption rates of alcohol, and laws and penalties relating to alcohol.

Proposed law provides that the commissioner shall promulgate rules necessary to implement the program.

Proposed law provides that to qualify, receive, and maintain a certificate a person must enroll in the program, complete all required education, and keep his certificate on his person at all times.

Proposed law allows the commissioner to impose a fine or revoke a certificate for noncompliance with the provisions of the program or a violation of an alcohol-related law.

Proposed law allows the commissioner to promulgate rules regarding fees for the program, including a certificate fee that cannot exceed \$100 per certificate.

Proposed law allows an approved provider to charge no more than \$100 for the required alcohol education courses.

Proposed law provides that on and after January 1, 2020, the program administrator shall provide the commissioner and legislature with annual reports regarding the program.

Present law provides that any person is deemed to have given consent to a chemical test to determine the alcoholic content of his blood if he is arrested for an offense arising out of acts committed while the person was operating a motor vehicle or watercraft and believed to be under the influence of alcoholic beverage or any abused or controlled dangerous substance.

Present law requires that prior to a chemical test, a law enforcement officer inform the person of certain rights and information.

Proposed law retains present law.

Present law requires a law enforcement officer, prior to a chemical test, to inform a person under 21 that his driving privileges can be suspended if he submits to the chemical test and the results show a blood alcohol level of 0.02 percent or above.

Proposed law requires a law enforcement officer to also inform a person possessing a certificate in the same manner as persons under 21 and otherwise retains present law.

Present law provides that for persons under 21, the chemical test shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been operating a motor vehicle under the influence of alcoholic beverages.

Proposed law provides that the chemical test for persons possessing a certificate shall be administered in the same manner as persons under 21 and otherwise retains present law.

Present law provides that, under certain circumstances, a person may refuse to submit to a chemical test to determine the alcoholic content of his blood. Present law further provides that evidence of a refusal shall be admissible in a criminal proceeding regarding acts committed while the person was operating a motor vehicle while under the influence of alcoholic beverages or a controlled dangerous substance.

Proposed law retains present law.

Present law provides that evidence of a refusal to submit to a chemical test by a person under 21 shall be admissible in a criminal proceeding regarding acts committed while the person was operating a motor vehicle while under the influence of alcoholic beverages. However, present law provides that such evidence shall not be admissible in a civil action except to suspend, revoke, or cancel driving privileges.

Proposed law provides that the evidence of a refusal to submit to a chemical test for a person possessing a certificate shall be treated the same by a court as a person under 21 and otherwise retains present law.

Present law provides that if a person under 21 is arrested for operating a vehicle while intoxicated and either refuses to submit to a chemical test or submits and the test results show a blood alcohol level of 0.02 percent or higher, the law enforcement officer shall seize the person's driver's license and issue a temporary receipt of license.

Proposed law provides that a person that possesses a certificate is arrested for operating a vehicle while intoxicated shall have the same consequences as a person under 21 if he either refuses to submit to a chemical test or submits and the tests show a blood alcohol level of .02 or higher and otherwise retains present law.

Present law provides that if the results of a chemical test are not received 30 days after the arrest of a person 21 or older or if the results show a blood alcohol level of less than 0.08 percent by weight, then no administrative hearing shall be held and the person's license shall be returned without payment of a reinstatement fee.

Proposed law provides that the same procedures apply if the results of a chemical test for a person possessing a certificate are not received 30 days after the arrest as a person under 21 and otherwise retains present law.

Present law provides that if the results of a chemical test are not received 30 days after the arrest of a person under 21 or if the results show a blood alcohol level of less than 0.02

percent by weight, then no administrative hearing shall be held and the person's license shall be returned without payment of a reinstatement fee.

Proposed law provides that the same procedures apply if the results of a chemical test for a person possessing a certificate are not received 30 days after the arrest as a person under 21 and otherwise retains present law.

Present law provides that if a person under 21 fails to make a written request for an administrative hearing within 30 days from the date of his arrest and the results of a chemical test show a blood alcohol level of 0.02 percent or higher by weight, his driving privileges will be suspended for 180 days.

Proposed law provides that the same consequences apply to a person possessing a certificate that fails to make a request for a hearing as a person under 21 and otherwise retains present law.

Present law affords an opportunity for a hearing to a person upon the revocation or suspension of a license and the scope of such hearings is limited to certain issues, including whether a person voluntarily submitted to a chemical test and whether the test resulted in a blood alcohol reading of 0.02 percent or higher if he was under 21 at the time of the test.

Proposed law affords the same opportunity for a hearing to a person possessing a certificate as that of a person under 21 and otherwise retains present law.

Present law provides that if a person under 21 submits to a chemical test and the results show a blood alcohol level of 0.02 percent or higher, he is not eligible for a restricted license for the first 30 days of the suspension of his driving privileges.

Proposed law provides that the same consequences apply to a person possessing a certificate as that of a person under 21 and otherwise retains present law.

Present law provides that results from a chemical test of a person under 21 that show a blood alcohol level of at least 0.02 but less than 0.08 percent shall not be included on his official driving record.

Proposed law provides that the results from a chemical test of a person possessing a certificate that show a blood alcohol level of at least 0.02 but less than 0.08 percent shall not be included on his official driving record and otherwise retains present law.

Present law provides that the operating record of a person shall not include any record of any civil sanction imposed as a result of an arrest if the person was under 21, submitted to a chemical test, the test resulted in a blood alcohol reading of less than 0.02 percent by weight, and the person was found not guilty.

Proposed law provides that the operating record of a person shall not include any record of any civil sanction imposed as a result of an arrest if the person possessed a certificate, submitted to a chemical test, the test resulted in a blood alcohol reading of less than 0.02 percent by weight, and the person was found not guilty.

Proposed law provides that the provisions of proposed law shall become void and without effect if any funds are withheld from the state pursuant to the federal law regarding the national minimum drinking age.

Effective August 1, 2018.

(Amends R.S. 13:1000.11(A)(3), 1894.2(A)(3), and 2562.27(A)(3), R.S. 14:93.10(2)(b), 93.11(A), 93.12(A), 98.1(A)(1), 98.2(A)(1), 98.3(A)(1), 98.4(A)(1), 98.6(A), and 333(A), R.S. 26:90(A)(1)(b), 286(A)(1)(b), 306(C)(7), and 359(B)(1)(a) and (f), R.S. 32:661(A)(3)

and (C)(1)(c), 661.1(C)(1)(c), 662(A)(1)(d), 666(A)(2)(c), 667(A)(intro para), (A)(3), and (B)(1)(b), 668(A)(4) and (B)(1)(b), 670, and 853(A)(1)(c)(i); adds R.S. 14:93.10(2)(c), R.S. 26:90(A)(1)(a)(vii), 286(A)(1)(a)(vii), and R.S. 26:940-947)