

Regular Session, 2012

SENATE BILL NO. 234

BY SENATOR GARY SMITH

ALCOHOLIC BEVERAGES. Provides for the Louisiana Responsible Vendor Program.  
(8/1/12)

1 AN ACT  
2 To amend and reenact R.S. 26:932(1) and (5) through (9), 933(B)(2), (D) and (E), 934(2)  
3 and (3), 935(A), (B)(1)(a), and (C), 936(B), and 937 and to enact R.S. 26:932(10) and  
4 933(F), relative to alcoholic beverages; to provide with respect to terms and  
5 definitions; to provide relative to a responsible vendor program; to provide with  
6 respect to security personnel training courses for servers; to provide relative to  
7 requirements for certification as a responsible vendor; to provide with respect to  
8 server liability, penalties, fines, and suspension or revocation of server permit and  
9 fees; to provide relative to server training programs; and to provide for related  
10 matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 26:932(1) and (5) through (9), 933(B)(2), (D) and (E), 934(2) and  
13 (3), 935(A), (B)(1)(a) and (C), 936(B), and 937 are hereby amended and reenacted and R.S.  
14 26:932(10) and 933(F) are hereby enacted to read as follows:

15 §932. Definitions

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

1 from the context:

2 (1) "Approved provider" means an individual, unincorporated association,  
3 partnership, or corporation approved by the program administrator to provide server  
4 **or security personnel** training courses.

5 \* \* \*

6 **(5) "Security Personnel" means any person, other than a server, who**  
7 **monitors the entrance and other areas of an establishment for purposes of**  
8 **identifying underage and intoxicated persons, enforcing establishment rules and**  
9 **regulations and otherwise providing security for the establishment and its**  
10 **customers.**

11 ~~(5)~~ **(6)** "Server" means any employee of a vendor, **other than security**  
12 **personnel**, who is authorized to sell or serve alcoholic beverages or tobacco products  
13 in the normal course of his or her employment or deals with customers who purchase  
14 or consume alcoholic beverages or tobacco products. "Server" shall not include  
15 individuals employed on a temporary or casual basis by a bona fide hotel or motel  
16 for banquets, catering, or other special events.

17 ~~(6)~~ **(7)** "Server permit" means the permit issued to a server **or security**  
18 **personnel** upon completion of a server **or security personnel** training course and  
19 all required refresher courses provided for in this Chapter.

20 ~~(7)~~ **(8)** "Tobacco wholesale dealer" means a dealer whose principal business  
21 is that of a wholesaler, who sells cigarettes, cigars, or other tobacco products to retail  
22 dealers for purpose of resale, who is a bona fide wholesaler, and fifty percent or  
23 more of whose total tobacco sales are to retail stores other than its own or its  
24 subsidiaries within Louisiana. Wholesale dealer shall include any person in the state  
25 who acquires cigarettes solely for the purpose of resale in vending machines,  
26 provided such person services fifty or more cigarette vending machines in Louisiana  
27 other than his own, and a Louisiana dealer who was affixing cigarette and tobacco  
28 stamps as of January 1, 1974.

29 ~~(8)~~ **(9)** "Tobacconist" means any bona fide tobacco retailer engaged in

1 receiving bulk smoking tobacco for the purpose of blending such tobacco for retail  
2 sale at a particular retail outlet where fifty percent or more of the total purchases for  
3 the preceding twelve months were purchases of tobacco products, excluding  
4 cigarettes.

5 ~~(9)~~ **(10)** "Vendor" means any holder of a Class "A" General, Class "A"  
6 Restaurant, or Class "B" retail permit issued pursuant to R.S. 26:71 or R.S. 26:271  
7 or any holder of Retail Dealer Registration Certificate or Retail Dealer Permit  
8 defined by R.S. 26:902.

9 §933. Establishment of responsible vendor program

10 \* \* \*

11 B. The program administrator shall approve a Louisiana Responsible Vendor  
12 Program, hereafter referred to as "the program", designed to educate vendors and  
13 their employees and customers about selling, serving, and consuming alcoholic  
14 beverages in a responsible manner and selling and serving tobacco products. The  
15 program shall include all of the following:

16 \* \* \*

17 (2) Server **or security personnel** training courses for servers.

18 \* \* \*

19 **D. Security personnel training courses shall include everything required**  
20 **in a server training course set forth in Subsection C of this Section as well as**  
21 **specific curriculum approved by the program administrator including, but not**  
22 **limited to, handling disruptive customer and customer altercations.**

23 ~~D.~~ **E.** The commissioner, upon recommendation of the program  
24 administrator, may promulgate rules and regulations to effectuate the program in  
25 accordance with the Administrative Procedure Act, including but not limited to rules  
26 and regulations related to the development, establishment, and maintenance of the  
27 entire program.

28 ~~E.~~ **F.** The commissioner shall provide a system for vendors to verify the  
29 validity of individual server permits.

1 §934. Requirements for certification

2 In order to qualify for and maintain certification as a responsible vendor, the  
3 vendor shall comply with all of the following:

4 \* \* \*

5 (2) Successful completion of a server **or security personnel** training course  
6 offered by an approved provider by each server **or security personnel** within  
7 forty-five days after commencing employment and the securing and maintaining of  
8 a valid server permit. Server permits shall be valid for a period of four years and  
9 shall be issued and renewed in accordance with rules and regulations promulgated  
10 by the commissioner.

11 (3) Attendance at a refresher course by each server **or security personnel** at  
12 least once every ~~two~~ years as scheduled by any approved provider, which course  
13 shall include the dissemination of new information relating to the program subject  
14 areas as set forth in R.S. 26:933.

15 \* \* \*

16 §935. Server liability; penalties, fines, suspension or revocation of server permit;  
17 vendor's defenses

18 A. The commissioner may suspend or revoke a server's **or security**  
19 **personnel's** permit or impose a fine on the server **or security personnel** for  
20 noncompliance with this Chapter or for any violation, attributable to the server **or**  
21 **security personnel**, of the provisions of R.S. 26:90, 91, 286, or 287 or R.S. 26:911  
22 or related tobacco product laws, rules, and regulations. The procedure for the  
23 suspension or revocation of a server's **or security personnel's** permit or for the  
24 imposition of fines shall be the same as are otherwise set forth in this Title for the  
25 suspension or revocation of permits of, or imposition of fines against, holders of  
26 Class "A" General, Class "A" Restaurant, Class "B" permits, or Retail Dealer  
27 Registration Certificates or Retail Dealer Permits.

28 B.(1) The alcoholic beverage or tobacco products permit of a vendor certified  
29 as a responsible vendor in accordance with the provisions of this Chapter shall not

1 be suspended or revoked on the following grounds:

2 (a) The first illegal sale or service of an alcoholic beverage by any server **or**  
3 **security personnel** to an underage or intoxicated person or the first illegal sale or  
4 service of a tobacco product by any server **or security personnel** to an underage  
5 person in any twelve-month period.

6 \* \* \*

7 C. Certification under this Chapter as a responsible vendor shall be  
8 considered in mitigation of a vendor's administrative penalties or fines for a server's  
9 **or security personnel's** illegal sale or service of an alcoholic beverage to an  
10 underage or intoxicated person, or consumption of alcoholic beverages by a customer  
11 on the premises of a Class "B" vendor or for a server's illegal sale or service of a  
12 tobacco product to an underage person.

13 §936. Fees

14 \* \* \*

15 B. Approved providers may charge fees for the cost of conducting the server  
16 **or security personnel** training courses provided for in this Chapter. Such fees shall  
17 be approved by the program administrator and the commissioner. The fee for the  
18 server **or security personnel** training course provided for by this Section shall not  
19 exceed fifty dollars.

20 §937. Preexisting server training programs

21 Any vendor or server subject to a local ordinance requiring participation by  
22 the vendor or its employees in a server **or security personnel** training or licensing  
23 program shall be exempt from local server **or security personnel** training and  
24 licensing regulation if the vendor is certified as a responsible vendor under the  
25 provisions of this Chapter. Nothing in this Chapter shall be construed to apply to any  
26 local seller or server licensing requirements in effect on June 1, 1997.

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Angela L. De Jean.

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#### DIGEST

Present law defines "approved provider" as an individual, unincorporated association, partnership, or corporation approved by the program administrator to provide server training courses.

Proposed law retains present law but also requires the program administrator to provide servers with security personnel training courses.

Proposed law defines "security personnel" as any person, other than a server, who monitors the entrance and other areas of an establishment for purposes of identifying underage and intoxicated persons, enforcing establishment rules and regulations and otherwise providing security for the establishment and its customers.

Present law defines "server" as any employee of a vendor who is authorized to sell or serve alcoholic beverages or tobacco products in the normal course of his or her employment or deals with customers who purchase or consume alcoholic beverages or tobacco products. "Server" shall not include individuals employed on a temporary or casual basis by a bona fide hotel or motel for banquets, catering, or other special events.

Proposed law retains present law but excludes security personnel from the definition of "server".

Present law defines "server permit" as the permit issued to a server upon completion of a server training course and all required refresher courses provided for in present law.

Proposed law retains present law but also includes in the definition of "server permit", a permit issued to a security personnel upon completion of a security personnel training course and all required refresher courses provided for in present law.

Present law provides that the program administrator shall approve a Louisiana Responsible Vendor Program, designed to educate vendors and their employees and customers about selling, serving, and consuming alcoholic beverages in a responsible manner and selling and serving tobacco products.

Present law provides that the program shall include all of the following:

- (1) Enrollment and certification of the vendor in the program.
- (2) Server training courses for servers.
- (3) Review of the requirements for the issuance and renewal of server permits. Such permits shall be the property of the server and, if not expired, suspended, or revoked, valid in connection with his employment by any vendor in the state of Louisiana.

Proposed law retains present law but also includes security personnel training courses in the responsible vendor program.

Proposed law provides that security personnel training courses shall include everything required in a server training course set forth in present law as well as specific curriculum approved by the program administrator including, but not limited to, handling disruptive customer and customer altercations.

Present law provides that successful completion of a server training course offered by an

approved provider by each server within 45 days after commencing employment and the securing and maintaining of a valid server permit. Server permits shall be valid for a period of four years and shall be issued and renewed in accordance with rules and regulations promulgated by the commissioner.

Proposed law retains present law but also requires the vendor to comply with successful completion of security personnel training by each security personnel to qualify for and maintain certification as a responsible vendor.

Present law provides that attendance at a refresher course by each server at least once every two years as scheduled by any approved provider, which course shall include the dissemination of new information relating to the program subject areas as set forth in present law.

Proposed law requires each security personnel to attend a refresher course at least once as scheduled by any approved provider which course shall include the dissemination of new information relating to the program subject areas as set forth in present law.

Proposed law provides that each server must attend a refresher course at least once as scheduled by any approved provider.

Present law provides that the commissioner may suspend or revoke a server's permit or impose a fine on the server for noncompliance with present law or for any violation, attributable to the server, of the provisions of present law or related tobacco product laws, rules, and regulations. The procedure for the suspension or revocation of a server's permit or for the imposition of fines shall be the same as are otherwise set forth in present law for the suspension or revocation of permits of, or imposition of fines against, holders of Class "A" General, Class "A" Restaurant, Class "B" permits, or Retail Dealer Registration Certificates or Retail Dealer Permits.

Proposed law retains present law but also provides that the commissioner may suspend or revoke a security personnel's permit or impose a fine on the or security personnel for noncompliance with present law or for any violation, attributable to the security personnel, of the provisions of present law or related tobacco product laws, rules, and regulations. The procedure for the suspension or revocation of a security personnel's permit or for the imposition of fines shall be the same as are otherwise set forth in present law for the suspension or revocation of permits of, or imposition of fines against, holders of Class "A" General, Class "A" Restaurant, Class "B" permits, or Retail Dealer Registration Certificates or Retail Dealer Permits.

Present law provides that the alcoholic beverage or tobacco products permit of a vendor certified as a responsible vendor in accordance with the provisions of present law shall not be suspended or revoked on the ground that the first illegal sale or service of an alcoholic beverage by any server to an underage or intoxicated person or the first illegal sale or service of a tobacco product by any server to an underage person in any 12 month period.

Proposed law retains present law but also includes that the alcoholic beverage or tobacco products permit of a vendor certified as a responsible vendor in accordance with the provisions of present law shall not be suspended or revoked on the first illegal sale or service of an alcoholic beverage by any security personnel to an underage or intoxicated person or the first illegal sale or service of a tobacco product by any security personnel to an underage person in any 12 month period.

Present law provides that certification under present law as a responsible vendor shall be considered in mitigation of a vendor's administrative penalties or fines for a server's illegal sale or service of an alcoholic beverage to an underage or intoxicated person, or consumption of alcoholic beverages by a customer on the premises of a Class "B" vendor or for a server's illegal sale or service of a tobacco product to an underage person.

Proposed law retains present law but also considers in mitigation of a vendor's administrative penalties or fines for a security personnel's illegal sale or service of an alcoholic beverage to an underage or intoxicated person, or consumption of alcoholic beverages by a customer on the premises of a Class "B" vendor or for a server's illegal sale or service of a tobacco product to an underage person.

Present law provides that approved providers may charge fees for the cost of conducting the server training courses provided for in present law. Such fees shall be approved by the program administrator and the commissioner. The fee for the server training course provided for by present law shall not exceed \$50.00.

Proposed law retains present law but also authorizes approved providers to charge fees for the cost of conducting the security personnel training courses provided for in present law. Such fees shall be approved by the program administrator and the commissioner. The fee for the security personnel training course provided for by present law shall not exceed \$50.00.

Present law provides that any vendor or server subject to a local ordinance requiring participation by the vendor or its employees in a server training or licensing program shall be exempt from local server training and licensing regulation if the vendor is certified as a responsible vendor under the provisions of present law. Nothing in present law shall be construed to apply to any local seller or server licensing requirements in effect on June 1, 1997.

Proposed law retains present law but also provides that any vendor or server subject to a local ordinance requiring participation by the vendor or its employees in a security personnel training or licensing program shall be exempt from local security personnel training and licensing regulation if the vendor is certified as a responsible vendor under the provisions of present law.

Effective August 1, 2012.

(Amends R.S. 26:932(1) and (5)-(9), 933(B)(2), (D) and (E), 934(2) and (3), 935(A), (B)(1)(a) and (C), 936(B), and 937; adds R.S. 26:932(10) and 933(F))