

Regular Session, 2012

SENATE BILL NO. 262

BY SENATOR MORRELL

FEES/LICENSES/PERMITS. Provides relative to qualifications of applicants for alcoholic beverage permits. (8/1/12)

1 AN ACT
2 To amend and reenact R.S. 26:80(A), the introductory paragraph of (F)(2), and (H) and
3 280(A), the introductory paragraph of (F)(2), and (H), and to enact R.S. 26:80(I), (J),
4 and (K), and 280(I), (J) and (K), relative to the office of alcohol and tobacco control;
5 to provide relative to the qualifications of applicants for alcoholic beverage permits;
6 to provide relative to the consideration of arrests, summons, charges, or indictments
7 of applicants; to provide relative to the duty of licensees and permittees to provide
8 certain information to the commissioner; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 26:80(A), the introductory paragraph of (F)(2), and (H) and 280(A),
11 the introductory paragraph of (F)(2), and (H) are hereby amended and reenacted, and R.S.
12 26:80(I), (J), and (K), and 280(I), (J) and (K) are hereby enacted to read as follows:

13 §80. Qualifications of applicants for permits

14 A. Applicants for state and local permits of all kinds shall meet all of the
15 following qualifications and conditions:

16 (1) Be a person of good character and reputation and over eighteen years of
17 age.

1 (2) Be a citizen of the United States and the state of Louisiana and a resident
2 of the state of Louisiana continuously for a period of not less than two years next
3 preceding the date of the filing of the application. However, the requirements as to
4 Louisiana citizenship do not apply to wholesalers or retailers who held permits on
5 or prior to January 1, 1946.

6 (3) Be the owner of the premises, have a bona fide written lease therefor, or
7 be a commercial lessor or a non-commercial lessor licensed pursuant to R.S. 4:701
8 et seq., exclusively for the sole purpose of conducting charitable gaming.

9 (4) Have not been convicted of a felony under the laws of the United States,
10 the state of Louisiana, or any other state or country.

11 (5) Have not been convicted in this or in any other state or by the United
12 States or any other country of soliciting for prostitution, pandering, letting premises
13 for prostitution, contributing to the delinquency of juveniles, keeping a disorderly
14 place, or illegally dealing in controlled dangerous substances.

15 (6) **If also applying for a video gaming license under the provisions of**
16 **Chapter 6 of Title 27 of the Louisiana Revised Statutes of 1950, have not been**
17 **convicted in this or in any other state or by the United States or any other**
18 **country of theft or any crime involving false statements or declarations, or**
19 **gambling as defined by the laws and ordinances of any municipality, any parish,**
20 **any state, or the United States.**

21 (7) Have not had a license or permit to sell or deal in alcoholic beverages,
22 issued by the United States, any state, or by any political subdivision of a state
23 authorized to issue permits or licenses, revoked within two years prior to the
24 application, or been convicted or had a judgment of court rendered against the
25 applicant involving alcoholic beverages by this or any other state or by the United
26 States for two years prior to the application.

27 ~~(7)~~(8) Have not been adjudged by the commissioner, or convicted by a court
28 of violating any of the provisions of this Chapter.

29 ~~(8)~~(9) Have not been convicted of violating any municipal or parish

1 ordinances adopted pursuant to the provisions of this Chapter. If the applicant has
2 been so convicted, the granting of a permit or of a renewal shall be within the
3 discretion of the commissioner.

4 ~~(9)~~**(10)** Not be the spouse of a person who does not meet the requirements of
5 Paragraphs (1) and (3) through ~~(8)~~, **(9)**, and ~~(10)~~**(11)** of this Subsection; however, in
6 such cases the age of the ineligible spouse shall be immaterial.

7 ~~(10)~~**(11)** Not owe the state or the local governmental subdivisions in which
8 the application is made any delinquent sales taxes, penalties, or interest, excluding
9 items under formal appeal pursuant to applicable statutes.

10 * * *

11 F.(1) * * *

12 (2) In the granting of a permit, a conviction or plea of guilty or nolo
13 contendere by the applicant shall not constitute an automatic disqualification of the
14 applicant as otherwise required pursuant to the provisions of Paragraphs (A)(4), **(5)**,
15 **and (6)** of this Section, if all of the following criteria are met:

16 * * *

17 **H. If the applicant is also applying for a video gaming license under the**
18 **provisions of Chapter 6 of Title 27 of the Louisiana Revised Statutes of 1950,**
19 **notwithstanding the provisions of Subsections F and G of this Section, evidence**
20 **of or relating to an arrest, summons, charge, or indictment of an applicant, or**
21 **the dismissal thereof, may be considered by the commissioner in determining**
22 **suitability even if the arrest, summons, charge or indictment results in deferred**
23 **adjudication, probation, parole, or pardon.**

24 **I.**(1) In order to determine suitability, the applicant, members of a partnership
25 recognized by Louisiana law, the officers and directors of a corporation, the
26 stockholders of a corporation, and members of a limited liability company owning
27 more than five percent of such a corporation or company shall be fingerprinted. If
28 no disqualifying record is identified at the state level, the fingerprints shall be
29 forwarded by the Department of Public Safety and Corrections, ~~Public Safety~~

1 ~~Services~~ **public safety services**, office of state police, to the Federal Bureau of
2 Investigation (F.B.I.) for a national criminal history record check.

3 (2) In order to determine the suitability of an applicant, the office of alcohol
4 and tobacco control shall require members of a partnership recognized by Louisiana
5 law, the officers and directors of a corporation, the stockholders of a corporation, and
6 members of a limited liability company owning more than five percent of such a
7 corporation or company, to furnish to the office of alcohol and tobacco control a full
8 set of fingerprints to enable a criminal background investigation to be conducted.
9 The office of alcohol and tobacco control shall submit the completed fingerprint card
10 to the office of state police. The office of state police is authorized to submit the
11 fingerprints to the F.B.I. for a national criminal history background check.

12 (3) The office of alcohol and tobacco control shall require a background
13 investigation by means of fingerprint checks by the office of state police and the
14 F.B.I. of each applicant, members of a partnership recognized by Louisiana law, the
15 officers and directors of a corporation, the stockholders of a corporation, and
16 members of a limited liability company owning more than five percent of such a
17 corporation or company applying for an alcoholic beverage permit.

18 (4) In addition to the other requirements established by law, the submittal of
19 fingerprints shall be a prerequisite to the issuance of a permanent alcoholic beverage
20 permit by means of fingerprint checks by the office of state police and the F.B.I.

21 (5) The office of state police shall require each applicant, members of a
22 partnership recognized by Louisiana law, officers and directors of a corporation, the
23 stockholders of a corporation, and the members of a limited liability company
24 owning more than five percent of such a corporation or company applying for an
25 alcoholic beverage permit pursuant to this Chapter to be fingerprinted. Such
26 fingerprints shall be available for use by the office of state police and for transmittal
27 to the F.B.I. for a national criminal history record check. The information obtained
28 from the national criminal history record check conducted pursuant to this Section
29 may be used by the office of alcohol and tobacco control to determine the applicant's

1 eligibility for an alcoholic beverage permit.

2 (6) In order to determine the suitability of the spouses of those persons
 3 required to submit fingerprints in accordance with this Section, and all other persons
 4 required to possess the same qualifications required of the applicant, except for those
 5 persons otherwise provided for in this Section, the office of alcohol and tobacco
 6 control shall require such persons to provide verification of suitability in accordance
 7 with rules adopted by the commissioner pursuant to the Administrative Procedure
 8 Act. Fingerprints shall not be required unless the commissioner requests fingerprints
 9 based upon credible information that a person may not meet the qualifications of an
 10 applicant.

11 **J. All licensees and persons required to be qualified pursuant to the**
 12 **provisions of this Chapter shall have a continuing duty to inform the**
 13 **commissioner of any action which they believe would constitute a violation of**
 14 **this Chapter. No person who so informs the commissioner shall be**
 15 **discriminated against by an applicant or licensee because of supplying such**
 16 **information.**

17 **K. All licensees and any other persons who have been found suitable in**
 18 **accordance with the provisions of this Section shall maintain suitability**
 19 **throughout the term of the license.**

20 * * *

21 §280. Qualifications of applicants for permits

22 A. Applicants for state and local permits of all kinds shall meet the following
 23 qualifications and conditions:

24 (1) Be a person of good character and reputation and over eighteen years of
 25 age.

26 (2) Be a citizen of the United States and of the state of Louisiana and a
 27 resident of the state of Louisiana continuously for a period of not less than two years
 28 next preceding the date of the filing of the application. However, the requirements
 29 as to Louisiana citizenship do not apply to wholesale or retail dealers who have

1 continuously held permits since July 26, 1944.

2 (3) Be the owner of the premises, have a bona fide written lease therefor, or
3 be a commercial lessor or a non-commercial lessor licensed pursuant to R.S. 4:701
4 et seq., exclusively for and for the sole purpose of conducting charitable gaming. In
5 cases where the applicant holds a bona fide written lease, the name and current street
6 address of the lessor shall be shown on the application form filed with the
7 commissioner.

8 (4) Have not been convicted of a felony under the laws of the United States,
9 the state of Louisiana, or any other state or country.

10 (5) Have not been convicted in this or in any other state or by the United
11 States of soliciting for prostitution, pandering, letting premises for prostitution,
12 contributing to the delinquency of juveniles, keeping a disorderly place, letting a
13 disorderly place, or illegally dealing in controlled dangerous substances.

14 (6) **If the applicant is also applying for a video gaming license under the**
15 **provisions of Chapter 6 of Title 27 of the Louisiana Revised Statutes of 1950,**
16 **have not been convicted in this or in any other state or by the United States or**
17 **any other country of theft or any crime involving false statements or**
18 **declarations, or gambling as defined by the laws and ordinances of any**
19 **municipality, any parish, any state, or the United States.**

20 (7) Have not had a license or permit to sell or deal in alcoholic beverages,
21 issued by the United States, any state, or by any political subdivision of a state
22 authorized to issue permits or licenses, revoked within two years prior to the
23 application, or been convicted, or had a judgment of court rendered against the
24 applicant involving alcoholic beverages by this or any other state or by the United
25 States for two years prior to the application.

26 ~~(7)~~(8) Have not been convicted of violating any of the provisions of this
27 Chapter.

28 ~~(8)~~(9) Have not been convicted of violating any municipal or parish
29 ordinance relating to beverages of low alcoholic content adopted pursuant to the

1 provisions of R.S. 26:493. In such a case, the granting or denial of a permit is within
2 the discretion of the local licensing authorities.

3 ~~(9)~~**(10)** Not owe the state or the local governmental subdivisions in which the
4 application is made any delinquent sales taxes, penalties, or interest excluding items
5 under formal appeal pursuant to applicable statutes.

6 ~~(10)~~**(11)** Not be the spouse of a person who does not meet the requirements
7 of Paragraphs (1) and (3) through ~~(9)~~**(10)** of this Subsection; however, in such cases
8 the age of the ineligible spouse shall be immaterial.

9 * * *

10 F.(1)

* * *

11 (2) In the granting of a permit, a conviction or plea of guilty or nolo
12 contendere by the applicant shall not constitute an automatic disqualification of the
13 applicant as otherwise required pursuant to the provisions of Paragraphs (A)(4), ~~(5)~~,
14 **and (6)** of this Section, if all of the following criteria are met:

15 * * *

16 **H. If the applicant is also applying for a video gaming license under the**
17 **provisions of Chapter 6 of Title 27 of the Louisiana Revised Statutes of 1950,**
18 **notwithstanding the provisions of Subsections F and G of this Section, evidence**
19 **of or relating to an arrest, summons, charge, or indictment of an applicant, or**
20 **the dismissal thereof, may be considered by the commissioner in determining**
21 **suitability even if the arrest, summons, charge or indictment results in deferred**
22 **adjudication, probation, parole, or pardon.**

23 **I.** (1) In order to determine suitability, the applicant, members of a
24 partnership recognized by Louisiana law, officers and directors of a corporation, the
25 stockholders of a corporation, and members of a limited liability company owning
26 more than five percent of such corporations and companies shall be fingerprinted.
27 If no disqualifying record is identified at the state level, the fingerprints shall be
28 forwarded by the Department of Public Safety and Corrections, ~~Public Safety~~
29 ~~Services~~, **public safety services**, office of state police, to the Federal Bureau of

1 Investigation (F.B.I.) for a national criminal history record check.

2 (2) In order to determine the suitability of an applicant, the office of alcohol
3 and tobacco control shall require the members of a partnership recognized by
4 Louisiana law, officers and directors of a corporation, the stockholders of a
5 corporation, and members of a limited liability company owning more than five
6 percent of such corporations and companies, to furnish to the office of alcohol and
7 tobacco control a full set of fingerprints to enable a criminal background
8 investigation to be conducted. The office of alcohol and tobacco control shall submit
9 the completed fingerprint card to the office of state police. The office of state police
10 is authorized to submit the fingerprints to the F.B.I. for a national criminal history
11 background check.

12 (3) The office of alcohol and tobacco control shall require a background
13 investigation by means of fingerprint checks by the office of state police and the
14 F.B.I. of each applicant, members of a partnership recognized by Louisiana law,
15 officers and directors of a corporation, the stockholders of a corporation, and the
16 members of a limited liability company owning more than five percent of such
17 corporations or companies applying for an alcoholic beverage permit.

18 (4) In addition to the other requirements established by law, the submittal of
19 fingerprints shall be a prerequisite to the issuance of a permanent alcoholic beverage
20 permit by means of fingerprint checks by the office of state police and the F.B.I.

21 (5) The office of state police shall require each applicant, members of a
22 partnership recognized by Louisiana law, officers and directors of a corporation, the
23 stockholders of a corporation, and members of a limited liability company owning
24 more than five percent of such corporations and companies applying for an alcoholic
25 beverage permit pursuant to this Chapter to be fingerprinted. Such fingerprints shall
26 be available for use by the office of state police and for transmittal to the F.B.I. for
27 a national criminal history record check. The information obtained from the national
28 criminal history record check conducted pursuant to this Section may be used by the
29 office of alcohol and tobacco control to determine the applicant's eligibility for an

1 alcoholic beverage permit.

2 (6) In order to determine the suitability of the spouses of those persons
 3 required to submit fingerprints in accordance with this Section, and all other persons
 4 required to possess the same qualifications required of the applicant, except for those
 5 persons already provided for by this Section, the office of alcohol and tobacco
 6 control shall require such persons to provide verification of suitability in accordance
 7 with rules adopted by the commissioner pursuant to the Administrative Procedure
 8 Act. Fingerprints shall not be required unless the commissioner requests fingerprints
 9 based upon credible information that a person may not meet the qualifications of an
 10 applicant.

11 **J. All licensees and persons required to be qualified pursuant to the**
 12 **provision of this Chapter shall have a continuing duty to inform the**
 13 **commissioner of any action which they believe would constitute a violation of**
 14 **this Chapter. No person who so informs the commissioner shall be**
 15 **discriminated against by an applicant or licensee because of supplying such**
 16 **information.**

17 **K. All licensees and any other persons who have been found suitable in**
 18 **accordance with the provisions of this Section shall maintain suitability**
 19 **throughout the term of the license.**

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Cathy R. Wells.

DIGEST

Morrell (SB 262)

Present law provides for the qualifications an applicant is required to possess in order to receive an alcoholic beverage permit or a dealer of malt/low alcoholic content permit.

Proposed law retains present law and requires that an applicant who is also applying for a video gaming license be a person:

1. Who has not been convicted in this or in any other state or by the United States or any other country of theft or any crime involving false statements or declarations, or gambling as defined by the laws and ordinances of any municipality, any parish, any state, or the United States.
2. Who has a spouse that has not been convicted of the above referenced offenses.

Proposed law provides that if the applicant is also applying for a video gaming license, the Commissioner of ATC is authorized to consider any arrest, summons, charge, or indictment of the applicant, or the dismissal thereof in determining suitability even if the arrest, summons, charge or indictment results in deferred adjudication, probation, parole, or pardon.

Proposed law requires all licensees and persons required to be qualified by ATC have a continuing duty to inform the commissioner of any action which they believe would constitute a violation of alcohol beverage laws and further prohibits discrimination against a person by an applicant or licensee because of supplying such information.

Proposed law requires all licensees and any other persons who have been found suitable to maintain suitability throughout the term of the license.

Effective August 1, 2012.

(Amends R.S. 26:80(A), (F)(2)(intro para), (H) and 280(A), (F)(2)(intro para), and (H); adds R.S. 26:80(I), (J), (K) and 280(I), (J), and (K))

Summary of Amendments Adopted by Senate

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

1. Removes provisions relative to an applicant whose prior activities, criminal record, if any, reputation, habits, and associations do not pose a threat to the public interest of this state or to the effective regulation and control of alcoholic beverages, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and operations in the activities authorized by law and any financial arrangements incidental thereto.
2. Adds prohibition for applicants for a video gaming license from being convicted in this or in any other state or by the United States or any other country of theft or any crime involving false statements or declarations, or gambling as defined by the laws and ordinances of any municipality, any parish, any state, or the United States.