

CONFERENCE COMMITTEE REPORT
Senate Bill No. 262 By Senator Morrell

June 4, 2012

To the Honorable President and Members of the Senate and to the Honorable Speaker and Members of the House of Representatives.

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning Senate Bill No. 262 by Senator Morrell, recommend the following concerning the Reengrossed bill:

1. That House Committee Amendments No. 1, 2, 3, 5, 6, and 9 through 25 proposed by the House Committee on Judiciary and adopted by the House of Representatives on April 10, 2012 be adopted.
2. That House Committee Amendments No. 4, 7, and 8 proposed by the House Committee on Judiciary and adopted by the House of Representatives on April 10, 2012 be rejected.
3. That Legislative Bureau Amendments No. 1, 2, 3, 5, 6, 7, and 9 proposed by the Legislative Bureau and adopted by the House of Representatives on April 10, 2012 be adopted.
4. That Legislative Bureau Amendments No. 4 and 8 proposed by the Legislative Bureau and adopted by the House of Representatives on April 10, 2012 be rejected.
5. That House Floor Amendments No. 1, 2, 3, 4, and 6 proposed by Representative Arnold and adopted by the House of Representatives on April 26, 2012 be adopted.
6. That House Floor Amendments No. 5 and 7 proposed by Representative Arnold and adopted by the House of Representatives on April 26, 2012 be rejected.
7. That the following amendments to the reengrossed bill be adopted:

AMENDMENT NO. 1

On page 1, line 2, after "80(A)" insert "(introductory paragraph),"

AMENDMENT NO. 2

On page 1, at the beginning of line 3, after "280(A)" insert "(introductory paragraph),"

AMENDMENT NO. 3

On page 1, line 3, change "and (H)" to "(H)(1), and 286(A)(9)"

AMENDMENT NO. 4

On page 1, line 4, delete "and (K), and 280(I), (J), and (K)," and insert "90(K), and 280(A)(11), (I), and (J)"

AMENDMENT NO. 5

On page 1, line 8, after "commissioner;" insert "to provide relative to the sale of certain beverages in automatic mechanical vending machines; to require the commissioner to promulgate rules to accomplish such sales, including provisions to prevent access by certain individuals;"

AMENDMENT NO. 6

On page 1, line 10, after "80(A)" insert "(introductory paragraph)," and after "280(A)" insert "(introductory paragraph),"

AMENDMENT NO. 7

On page 1, line 11, change "and (H)" to "(H)(1), and 286(A)(9)"

AMENDMENT NO. 8

On page 1, delete line 12 and insert "26:80(A)(11), (I), and (J), and 90(K), and 280(A)(11), (I), and (J) are hereby enacted to read as follows:"

AMENDMENT NO. 9

On page 3, line 11, delete the asterisks "* * *" and insert:

"(a) Notwithstanding the provisions of Subsections A and B, a permit may be granted by the commissioner if the applicant has been pardoned, has had any misdemeanor conviction discharged or dismissed, or the applicant's civil rights have been restored, or, if the applicant is a firm, association, partnership, trust, domestic or foreign corporation, or other legal entity, the applicant has terminated its relationship with the person or persons whose action directly contributed to the applicant's conviction.

(b) The provisions of Subparagraph(a) of this Paragraph shall not apply to any applicant who is also applying for a video gaming license under the provisions of Chapter 6 of Title 27 of the Louisiana Revised Statutes of 1950.

AMENDMENT NO. 10

On page 5, between lines 20 and 21, insert:

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

* * *

K. Allow the sale, dispensing, or distribution of beverages of high alcoholic content in any type of automatic mechanical vending machine activated by the use of a coin, token, or similar instrument except in Class A establishments pursuant to rules promulgated by the commissioner in accordance with the Administrative Procedure Act. Such rules shall include procedures for the prevention of access to the machines by underage or intoxicated persons. The provisions of this Subsection shall not apply to establishments exempt from holding permits under this Chapter.

* * *

AMENDMENT NO. 11

On page 7, line 10, delete the asterisks "* * *" and insert the following:

"(a) Notwithstanding the provisions of Subsections A and B, a permit may be granted by the commissioner if the applicant has been pardoned, has had any misdemeanor conviction discharged or dismissed, or the applicant's civil rights have been restored, or, if the applicant is a firm, association, partnership, trust, domestic or foreign corporation, or other legal entity, the applicant has terminated its

relationship with the person or persons whose action directly contributed to the applicant's conviction.

(b) The provisions of Subparagraph (a) of this Paragraph shall not apply to any applicant who is also applying for a video gaming license under the provisions of Chapter 6 of Title 27 of the Louisiana Revised Statutes of 1950.

AMENDMENT NO. 12

On page 9, after line 19, insert:

"* * *

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

A. No person holding a retail dealer's permit and no servant, agent, or employee of the permittee shall do any of the following acts upon the licensed premises:

* * *

(9) Allow the sale, dispensing, or distribution of beverages of low alcoholic content in any type of automatic mechanical vending machine activated by the use of a coin, token, or similar instrument, **except in Class A establishments in accordance with rules promulgated pursuant to the Administrative Procedure Act. Such rules shall include procedures for the prevention of access to the machines by underage or intoxicated persons.** The provisions of this Paragraph shall not apply to establishments exempt from holding permits under this Chapter.

* * *

Respectfully submitted,

Senators:

Representatives:

Senator Jean-Paul J. Morrell

Representative Jared Brossett

Senator Karen Carter Peterson

Representative Jeffery "Jeff" J. Arnold

Senator Gary L. Smith, Jr.

Representative Chuck Kleckley

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

CONFERENCE COMMITTEE REPORT DIGEST

Senate Bill No. 262 by Senator Morrell

Keyword and summary of the bill as proposed by the Conference Committee

FEES/LICENSES/PERMITS: Provides relative to alcoholic beverage permits. (8/1/12)

Report adopts House amendments to:

1. Add that certain exceptions allowing permit to be granted did not apply to an applicant who is also applying for a video draw poker device gaming license.
2. Add Bureau and technical amendments.
3. Add a provision that authorizes the commissioner to consider a person's arrests in determining suitability for low and high alcoholic beverages.
4. Remove the provision that authorized the commissioner when determining suitability for low and high alcoholic beverages, to consider evidence of an arrest, summons, charge or indictment of an applicant when the applicant is also applying for a video gaming license.

Report rejects House amendments which would have:

1. Made reference to an incorrect citation.

Report amends the bill to:

1. Add that certain exceptions allowing permit to be granted do apply to an applicant who is also applying for a video draw poker device gaming license. (Corrects citation reference)
2. Authorize the commissioner to promulgate rules in accordance with the Administrative Procedure Act for the sale, dispensing, or distribution of beverages of low and high alcoholic content in any type of automatic mechanical vending machine activated by the use of a coin, token, or similar instrument except in Class A establishments. Requires such rules to include procedures for the prevention of access to the machines by underage or intoxicated persons.

Digest of the bill as proposed by the Conference Committee

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 adds a provision that allows the commissioner to consider a person's arrests in determining suitability and a person's good character or reputation.

Present law provides that a permit may be granted by the commissioner if the applicant has been pardoned, has had any misdemeanor conviction discharged or dismissed, or the applicant's civil rights have been restored, or, if the applicant is a firm, association, partnership, trust, domestic or foreign corporation, or other legal entity, the applicant has terminated its relationship with the person or persons whose action directly contributed to the applicant's conviction. Also provides that, in the granting of a permit, a conviction or plea of guilty or nolo contendere by the applicant shall not constitute an automatic disqualification of the applicant, if (a) the felony for which the applicant was convicted is not a crime of

violence as defined in R.S. 14:2(B); and (b) 10 years or more have elapsed between the date of application and the successful completion of any sentence, deferred adjudication, or period of probation or parole and the final discharge of the defendant.

Proposed law retains present law but adds that it shall not apply to any applicant who is also applying for a video draw poker device gaming license.

Proposed law 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 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.

Proposed law authorizes the commissioner to promulgate rules in accordance with the APA for the sale, dispensing, or distribution of beverages of low and high alcoholic content in any type of automatic mechanical vending machine activated by the use of a coin, token, or similar instrument except in Class A establishments. Requires such rules to include procedures for the prevention of access to the machines by underage or intoxicated persons.

Effective Aug. 1, 2012.

(Amends R.S. 26:80(A)(intro. para), (1) and (6)-(10), (F)(1) and (2)(intro. para.), (H)(1), 280(A)(intro. para), (1) and (6)-(10), (F)(1) and (2)(intro. para.), and (H)(1), and 286(A)(9); Adds R.S. 26:80(A)(11), (I) and (J), 90(K), and 280(A)(11), (I) and (J))