

2017 Regular Session

SENATE BILL NO. 144

BY SENATOR JOHNS

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

ALCOHOLIC BEVERAGES. Provides relative to holders to alcoholic retail dealer's permits for beverages of high and low alcoholic content. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 26:90(D) and (E), 286(D) and (E), 931, 932, and 933(E) and (F),

3 to enact R.S. 26:90(L), 286(K), 933(G), and 934(A), (B), and (C) and to repeal R.S.

4 26:90(B)(4) and 286(B)(4), relative to holders of alcoholic retail dealer's permits for

5 beverages of high alcoholic content or low alcoholic content; to provide relative acts

6 prohibited on the premises; to provide for Human Trafficking Guardians; to provide

7 for training and certification; to provide for a Louisiana Human Trafficking

8 Education Program; to provide for program requirements; to provide for definitions;

9 to provide relative to legislative intent; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 26:90(D) and (E), 286(D) and (E), 931, 932, and 933(E) and (F) are

12 hereby amended and reenacted and R.S. 26:90(L), 286(K), 933(G), and 934(A), (B), and (C)

13 are hereby enacted to read as follows:

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

15 * * *

16 ~~D. Live entertainment is permitted on any licensed premises, except that no~~

17 No permittee shall permit any person on the licensed premises to ~~perform acts of~~

1 or acts which simulate: **engage in:**

2 (1) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation,
3 flagellation, or any sexual acts which are prohibited by law.

4 (2) ~~The touching, caressing or fondling of the breast, buttocks, anus, or~~
5 ~~genitals.~~

6 (3) ~~The displaying of the pubic hair, anus, vulva, genitals, or nipple of the~~
7 ~~female breast.~~

8 **(3)(a) The provisions of Paragraph (2) of this Subsection shall not apply**
9 **to conduct in theaters, concert halls, art centers, museums, or similar**
10 **establishments that are primarily devoted to the arts or theatrical performances**
11 **when the performances that are presented are expressing matters of serious**
12 **literary, artistic, scientific, or political value.**

13 **(b)The provisions of Subparagraph(a) of this Paragraph shall not be**
14 **construed to apply to any sexually oriented business as defined in R.S.**
15 **46:231(25) or any commercial establishment that regularly offers live semi-nude**
16 **conduct.**

17 E. ~~Subject to the provisions of Subsection D of this Section, entertainers~~
18 ~~whose breasts or buttocks are exposed to view shall perform only~~ **(1) No permittee**
19 **shall allow any person to appear in a semi-nude condition upon the licensed**
20 **premises unless the person is eighteen years of age or older and, while semi-**
21 **nude, the person remains** upon a stage at least eighteen inches above the immediate
22 floor level and removed at least three feet from the nearest patron ~~and shall be~~
23 ~~twenty-one years of age or older.~~

24 **(2) For purposes of this Section, "semi-nude" means the showing of the**
25 **female breast below a horizontal line across the top of the areola and extending**
26 **across the width of the breast at that point, or the showing of a majority of the**
27 **male or female buttocks, and shall include the lower portion of the female**
28 **breast, but shall not include any portion of the cleavage of the female breast**
29 **exhibited by a bikini, dress, blouse, shirt, leotard, or similar apparel provided**

1 that the areola is not exposed in whole or in part.

2 (3) The provisions of this Subsection shall only apply upon a licensed
3 premises that regularly offers live performances or other conduct involving
4 nudity or semi-nudity and shall not apply to performances by burlesque dancers
5 who are scheduled or hired to perform for a live audience.

6 * * *

7 L. Legislative findings and intent. It is the purpose of this Section to
8 regulate conduct in establishments licensed to sell alcoholic beverages, so as to
9 promote the health, safety, and general welfare of the public.

10 * * *

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

12 * * *

13 ~~D. Live entertainment is permitted on any licensed premises, except that no~~
14 ~~No~~ permittee shall permit any person on the licensed premises to ~~perform acts of~~
15 ~~or acts which simulate:~~ engage in:

16 (1) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation,
17 flagellation, or any sexual acts which are prohibited by law.

18 ~~(2) The touching, caressing or fondling of the breast, buttocks, anus, or~~
19 ~~genitals.~~

20 ~~(3)~~ The displaying of the pubic hair, anus, vulva, genitals, or nipple of the
21 female breast.

22 (3)(a) The provisions of Paragraph (2) of this Subsection shall not apply
23 to conduct in theaters, concert halls, art centers, museums, or similar
24 establishments that are primarily devoted to the arts or theatrical performances
25 when the performances that are presented are expressing matters of serious
26 literary, artistic, scientific, or political value.

27 (b) The provisions of Subparagraph(a) of this Paragraph shall not be
28 construed to apply to any sexually oriented business as defined in R.S.
29 46:231(25) or any commercial establishment that regularly offers live semi-nude

1 **conduct.**

2 E.~~(1)~~ Subject to the provisions of Subsection D of this Section, entertainers
3 whose breasts or buttocks are exposed to view shall perform only **No permittee**
4 **shall allow any person to appear in a semi-nude condition upon the licensed**
5 **premises unless the person is eighteen years of age or older and, while semi-**
6 **nude, the person remains** upon a stage at least eighteen inches above the immediate
7 floor level and removed at least three feet from the nearest patron ~~and shall be~~
8 ~~twenty-one years of age or older.~~

9 **(2) For purposes of this Section, "semi-nude" means the showing of the**
10 **female breast below a horizontal line across the top of the areola and extending**
11 **across the width of the breast at that point, or the showing of a majority of the**
12 **male or female buttocks, and shall include the lower portion of the female**
13 **breast, but shall not include any portion of the cleavage of the female breast**
14 **exhibited by a bikini, dress, blouse, shirt, leotard, or similar apparel provided**
15 **that the areola is not exposed in whole or in part.**

16 **(3) The provisions of this Subsection shall only apply upon a licensed**
17 **premises that regularly offers live performances or other conduct involving**
18 **nudity or semi-nudity and shall not apply to performances by burlesque dancers**
19 **who are scheduled or hired to perform for a live audience.**

20 * * *

21 **K. Legislative findings and intent. It is the purpose of this Section to**
22 **regulate conduct in establishments licensed to sell alcoholic beverages, so as to**
23 **promote the health, safety, and general welfare of the public.**

24 * * *

25 §931. Short title

26 This Chapter shall be known and may be cited as the "Louisiana Responsible
27 Vendor **and Human Trafficking Education Training** Program ".

28 §932. Definitions

29 For purposes of this Chapter, the following terms have the respective

1 meanings ascribed to them in this Chapter, unless a different meaning clearly appears
2 from the context:

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

6 (2) "Commissioner" means the commissioner of alcohol and tobacco control.

7 **(3) "Human Trafficking Education Certificate" means the certificate**
8 **issued upon successful completion of all courses and all refresher courses**
9 **required pursuant to this Chapter.**

10 **(4) "Human Trafficking Guardian" means any person who owns,**
11 **manages, or participates in the hiring of any person to work at a qualified truck**
12 **stop as defined in R.S. 27:417, an official gaming establishment as defined in**
13 **R.S. 27:205(26), an adult bookstore, an adult paraphernalia store, a sexually**
14 **oriented business as defined in R.S. 37:3558(C), or a retail establishment that**
15 **provides adult-oriented entertainment in which performers disrobe or perform**
16 **in an unclothed state for entertainment purposes.**

17 ~~(35)~~ "Program administrator" means a committee of seven persons provided
18 for in R.S. 26:933.

19 ~~(46)~~ "Responsible vendor" means any vendor as defined in Paragraph ~~(4011)~~
20 of this Section who qualifies and maintains certification in accordance with the
21 provisions of this Chapter.

22 ~~(57)~~ "Security Personnel" includes any person, other than a server, who
23 monitors the entrance and other areas of an establishment for purposes of identifying
24 underage and intoxicated persons, enforcing establishment rules and regulations and
25 otherwise providing security for the establishment and its customers where alcoholic
26 beverages are the principal commodity sold for consumption on the premises.
27 "Security personnel" shall not include persons employed by hotels or motels which
28 consist of sleeping rooms, cottages or cabins unless the person works primarily in
29 an area on the licensed premises of a hotel or motel where the principal commodity

1 sold is alcoholic beverages for consumption on the licensed premises.

2 (~~68~~) "Server" means any employee of a vendor, other than security
3 personnel, who is authorized to sell or serve alcoholic beverages, tobacco products,
4 alternative nicotine products, or vapor products in the normal course of his or her
5 employment or deals with customers who purchase or consume alcoholic beverages
6 or tobacco products. "Server" shall not include individuals employed on a temporary
7 or casual basis by a bona fide hotel or motel for banquets, catering, or other special
8 events.

9 (~~79~~) "Server permit" means the permit issued to a server or security
10 personnel upon completion of all required server or security personnel training
11 courses and all required refresher courses provided for in this Chapter.

12 (~~810~~) "Tobacco wholesale dealer" means a dealer whose principal business
13 is that of a wholesaler, who sells cigarettes, cigars, or other tobacco products to retail
14 dealers for purpose of resale, who is a bona fide wholesaler, and fifty percent or
15 more of whose total tobacco sales are to retail stores other than its own or its
16 subsidiaries within Louisiana. Wholesale dealer shall include any person in the state
17 who acquires cigarettes solely for the purpose of resale in vending machines,
18 provided such person services fifty or more cigarette vending machines in Louisiana
19 other than his own, and a Louisiana dealer who was affixing cigarette and tobacco
20 stamps as of January 1, 1974.

21 (~~911~~) "Tobacconist" means any bona fide tobacco retailer engaged in
22 receiving bulk smoking tobacco for the purpose of blending such tobacco for retail
23 sale at a particular retail outlet where fifty percent or more of the total purchases for
24 the preceding twelve months were purchases of tobacco products, excluding
25 cigarettes.

26 (~~1012~~) "Vendor" means any holder of a Class "A" General, Class "A"
27 Restaurant, or Class "B" retail permit issued pursuant to R.S. 26:71 or 271 or any
28 holder of a Retail Dealer Permit defined by R.S. 26:902. "Vendor" shall not include
29 any holder of a Type A or Type B temporary alcoholic beverage permit issued

1 pursuant to R.S. 26:793(A)(1).

2 §933. Establishment of responsible vendor program **and Louisiana Human**
3 **Trafficking Education Training Program**

4 * * *

5 E. **The commissioner shall approve a Louisiana Human Trafficking**
6 **Education Training Program, hereafter referred to as "the human trafficking**
7 **education program", designed to educate Human Trafficking Guardians about**
8 **opportunities to identify potential or actual victims of human trafficking and**
9 **services available to assist victims or potential victims. The human trafficking**
10 **education program shall include all of the following:**

11 **(1) Enrollment and certification of the vendor in the program.**

12 **(2) Education on the extent of the problem of human trafficking.**

13 **(3) Education on understanding the definition of human trafficking.**

14 **(4) Education on recognizing the signs that a person is or may become**
15 **a victim of human trafficking.**

16 **(5) Education on community assistance programs that help victims or**
17 **potential victims of human trafficking and the contact information of the**
18 **appropriate law enforcement officials to report human trafficking.**

19 F. The commissioner, upon recommendation of the program administrator,
20 may promulgate rules and regulations to effectuate the program in accordance with
21 the Administrative Procedure Act, including but not limited to rules and regulations
22 related to the development, establishment, and maintenance of the entire program.

23 ~~F.G.~~ The commissioner shall provide a system for vendors to verify the
24 validity of individual server permits.

25 §934. Requirements for certification

26 **A.** In order to qualify for and maintain certification as a responsible vendor,
27 the vendor shall comply with all of the following:

28 * * *

29 **B. In order to qualify for and maintain certification as a Human**

1 Trafficking Guardian, all of the following are required:

2 (1) Enrollment in the human trafficking education program and written
3 verification to the commissioner that the Human Trafficking Guardian has read
4 and understands a Human Trafficking Education Handbook, and any periodic
5 amendments thereto, which handbook shall be developed, published and
6 distributed by the program administrator and approved by the commissioner.

7 (2) Successful completion of all human trafficking education courses
8 offered by an approved provider by each Human Trafficking Guardian within
9 forty-five days after commencing employment and securing and maintaining a
10 Human Trafficking Education Certificate. Human Trafficking Education
11 Certificates shall be valid for a period of four years and shall be issued and
12 renewed in accordance with the rules and regulations promulgated by the
13 commissioner.

14 (3) Attendance at a refresher course by each Human Trafficking
15 Guardian at least once every four years as scheduled by any approved provider,
16 which course shall include the dissemination of new information relating to the
17 human trafficking education program subject areas as set forth in R.S. 26:933.

18 (4) Regular training of employees on how to recognize human
19 trafficking, how to report human trafficking, and the obligation to report any
20 suspected or known human trafficking occurring on the premises.

21 (5) Maintenance of training verification records of its employees.

22 C.(1) In addition to the requirements set forth in Subsection B of this
23 Section, all Human Trafficking Guardians and their employees shall be
24 mandatory reporters. Mandatory reporters shall be required to report to law
25 enforcement all instances of human trafficking or suspected human trafficking
26 occurring on the premises set forth in R.S. 26:932(4).

27 (2) After an investigation, if the office of alcohol and tobacco control has
28 obtained evidence that a mandatory reporter knew or should have known of
29 human trafficking or attempted human trafficking on the premises set forth in

1 **R.S. 26:932(4), that shall be grounds for proceedings, as set forth in R.S. 26:93,**
 2 **for suspension or revocation of a Human Trafficking Guardian's permit issued**
 3 **pursuant to R.S. 26:71 or R.S. 26:271.**

4 **(3) For the purpose of this Subsection, "mandatory reporter" shall mean**
 5 **all Human Trafficking Guardians and all full-time and part-time employees**
 6 **employed by the Human Trafficking Guardian on the premises set forth in R.S.**
 7 **26:932(4).**

8 Section 2. R.S. 26:90(B)(4) and 286(B)(4) are hereby repealed in their entirety.

9 Section 3. This Act shall become effective upon signature by the governor or, if not
 10 signed by the governor, upon expiration of the time for bills to become law without signature
 11 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 12 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 13 effective on the day following such approval.

The original instrument was prepared by Alden A. Clement Jr. The following digest, which does not constitute a part of the legislative instrument, was prepared by Ashley Menou.

DIGEST

SB 144 Engrossed

2017 Regular Session

Johns

Present law provides relative to holders of alcoholic retail dealer's permits for beverages of high alcoholic content or low alcoholic content.

Present law provides that for holders of alcoholic retail dealer's permits for beverages of high alcoholic content or low alcoholic content, the following acts or conduct on licensed premises are deemed to constitute lewd, immoral, or improper entertainment as prohibited by present law and therefore no on-sale permit for beverages of high alcoholic content can be held at any premises where such conduct or acts are permitted:

- (1) Employment or use of any person in the sale or service of alcoholic beverages in or upon the licensed premises while such person is unclothed or in such attire, costume, or clothing as to expose to view any portion of the female breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva, or genitals.
- (2) Employment or use of the services of any hostess or other person to mingle with the patrons while such hostess or other person is unclothed or in such attire, costume, or clothing.
- (3) Encouraging or permitting any person on the licensed premises to touch, caress or fondle the breasts, buttocks, anus, or genitals of any other person.
- (4) Permitting any employee or person to wear or use any device or covering, exposed to view, which simulates the breast, genitals, anus, pubic hair, or any portion thereof.

Proposed law deletes item (4) from the list, above, as the same subject matter is covered by other provisions of proposed law. Proposed law otherwise retains present law.

Proposed law provides that proposed law shall apply to holders of alcoholic retail dealer's permits for beverages of high alcoholic content and low alcoholic content.

Present law provides that for holders of alcoholic retail dealer's permits for beverages of both high alcoholic content or low alcoholic content, live entertainment is permitted on any licensed premises, except that no permittee can permit any person to perform acts of or acts that simulate:

- (1) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law.
- (2) The touching, caressing or fondling of the breast, buttocks, anus, or genitals.
- (3) The displaying of the pubic hair, anus, vulva, genitals, or nipple of the female breast.

Proposed law deletes the present law reference to "live entertainment" and provides that no permittee shall permit any person on the licensed premises to engage in the following:

- (1) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law.
- (2) The displaying of the pubic hair, anus, vulva, genitals, or nipple of the female breast.

Proposed law provides an exception for conduct in theaters, concert halls, art centers, museums, or similar establishments that are primarily devoted to the arts or theatrical performances. Proposed law further provides that such exception shall never apply to any sexually oriented business.

Proposed law provides that the provisions and exception of proposed law shall apply to holders of alcoholic retail dealer's permits for beverages of high alcoholic content and low alcoholic content.

Present law provides that, subject to provisions of present law, entertainers whose breasts or buttocks are exposed to view shall perform only upon a stage at least 18 inches above the immediate floor level and removed at least three feet from the nearest patron and shall be 21 years of age or older.

Proposed law provides that, only in a licensed premises that regularly offers live performances or other conduct involving nudity or semi-nudity, no permittee can allow any person to appear in a semi-nude condition upon the licensed premises unless the person is 18 years of age or older and, while semi-nude, the person remains upon a stage at least 18 inches above the immediate floor level and is removed at least three feet from the nearest patron.

Proposed law defines "semi-nude" as the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of a majority of the male or female buttocks, and includes the lower portion of the female breast, but does not include any portion of the cleavage of the female breast exhibited by a bikini, dress, blouse, shirt, leotard, or similar apparel provided that the areola is not exposed in whole or in part.

Proposed law provides an exception for performances by burlesque dancers who are scheduled or hired to perform for a live audience.

Proposed law provides that the provisions and exception of proposed law shall apply to

holders of alcoholic retail dealer's permits for beverages of both high alcoholic content and low alcoholic content.

Proposed law provides that the purpose of proposed law is to regulate conduct in establishments licensed to sell beverages of high alcoholic content and low alcoholic content so as to promote the health, safety, and general welfare of the public.

Proposed law creates the Human Trafficking Education Program to be approved by the commissioner and designed to educate Human Trafficking Guardians about opportunities to identify potential or actual victims of human trafficking and services available to help victims.

Proposed law defines "Human Trafficking Guardian" as any person who owns, manages, or participates in the hiring of any person to work at a qualified truck stop, an official gaming establishment, an adult bookstore, an adult paraphernalia store, a sexually oriented business, or a retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment purposes.

Proposed law provides that in order for a Human Trafficking Guardian to qualify for and maintain certification, all of the following are required:

- (1) Enrollment in the human trafficking education program and verification that the Human Trafficking Guardian has read and understands a Human Trafficking Education Handbook.
- (2) Completion of all human trafficking education courses within forty-five days after commencing employment and securing and maintaining a Human Trafficking Education Certificate.
- (3) Attendance at a refresher course by each Human Trafficking Guardian at least once every four years.
- (4) Regular training of employees on how to recognize human trafficking, how to report human trafficking, and the obligation to report any suspected or known human trafficking occurring on the premises.
- (5) Maintenance of training verification records of its employees.

Proposed law provides that all Human Trafficking Guardians and their employees shall be mandatory reporters and required to report any instance of human trafficking or suspected human trafficking occurring on the licensed premises.

Proposed law defines "mandatory reporter" as all Human Trafficking Guardians and all full-time and part-time employees employed by the Human Trafficking Guardian.

Proposed law provides that, after an investigation, if ATC has evidence that a mandatory reporter knew or should have known of human trafficking or attempted human trafficking, it shall be grounds for proceedings for suspension or revocation of the Human Trafficking Guardian's alcoholic retail dealer's permit.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends 26:90(D) and (E), 286(D) and (E), 931, 932, and 933(E) and (F); adds R.S. 26:90(L), 286(K), 933(G), and 934(A) and (B) and (C); repeals R.S. 26:90(B)(4) and 286(B)(4))

Summary of Amendments Adopted by SenateCommittee Amendments Proposed by Senate Committee on Judiciary B to the original bill

1. Changes what acts a retail dealer's permit holder of low or high alcoholic content must prohibit on the licensed premises and provides an exception for conduct in establishments, except sexually oriented businesses, primarily devoted to arts or theatrical performances.
2. Lowers the age at which a holder of a retail dealer's permit for beverages of high alcoholic content and low alcoholic content can allow a person to appear in a semi-nude condition from 21 to 18.
3. Clarifies the restrictions that a person under 18 can appear in a semi-nude condition.
4. Deletes the amendments to present law regarding artificial devices and conduct on licensed premises, for permits of both high and low alcoholic content beverages, that constitutes lewd, immoral, or improper behavior.
5. Clarifies that the legislative intent.
6. Creates the Human Trafficking Education Training Program and its contents and requirements for certification.
7. Creates and defines Human Trafficking Guardians, Human Trafficking Education Certificate, and mandatory reporter.
8. Provides for the requirements of a mandatory reporter.