

2018 Regular Session

SENATE BILL NO. 192

BY SENATOR BISHOP

ALCOHOLIC BEVERAGES. Provides relative to holders of 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 and 934, to enact R.S. 26:90(L), 286(K), and 933(G), and to repeal R.S. 26:90(B)(4)  
4 and 286(B)(4), relative to holders of alcoholic retail dealer's permits for beverages  
5 of high alcoholic content or low alcoholic content; to provide relative acts prohibited  
6 on the premises; to provide for Human Trafficking Guardians; to provide for training  
7 and certification; to provide for a Louisiana Human Trafficking Education Program;  
8 to provide for program requirements; to provide for definitions; to provide relative  
9 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, 933(E) and (F), and 934  
12 are hereby amended and reenacted and R.S. 26:90(L), 286(K), and 933(G) are hereby  
13 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, or 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.~~(1)~~ Subject to the provisions of Subsection D of this Section, entertainers  
18 whose breasts or buttocks are exposed to view shall perform only upon a stage at  
19 least eighteen inches above the immediate floor level and removed at least three feet  
20 from the nearest patron and shall be ~~twenty-one years of age or older.~~ **No permittee**  
21 **shall allow any person to appear in a semi-nude condition upon the licensed**  
22 **premises unless the person is twenty-one years of age or older.**

23 **(2) For purposes of this Section, "semi-nude" means the displaying of the**  
24 **pubic hair, anus, vulva, or genitals, but shall not include any portion of the**  
25 **cleavage of the female breast exhibited by a bikini, dress, blouse, shirt, leotard,**  
26 **or similar apparel provided that the areola is not exposed in whole or in part.**

27 **(3) The provisions of this Subsection shall apply only upon a licensed**  
28 **premises that regularly offers live performances or other conduct involving**  
29 **nudity or semi-nudity and shall not apply to performances by burlesque dancers**

1 who are scheduled or hired to perform for a live audience.

2 \* \* \*

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

6 \* \* \*

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

8 \* \* \*

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

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

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

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

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

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

27 E.(1) ~~Subject to the provisions of Subsection D of this Section, entertainers~~  
28 ~~whose breasts or buttocks are exposed to view shall perform only upon a stage at~~  
29 ~~least eighteen inches above the immediate floor level and removed at least three feet~~

1 from the nearest patron and shall be twenty-one years of age or older. No permittee  
2 shall allow any person to appear in a semi-nude condition upon the licensed  
3 premises unless the person is twenty-one years of age or older.

4 (2) For purposes of this Section, "semi-nude" means the displaying of the  
5 pubic hair, anus, vulva, or genitals, but shall not include any portion of the  
6 cleavage of the female breast exhibited by a bikini, dress, blouse, shirt, leotard,  
7 or similar apparel provided that the areola is not exposed in whole or in part.

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

12 \* \* \*

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

16 \* \* \*

17 §931. Short title

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

20 §932. Definitions

21 For purposes of this Chapter, the following terms have the respective  
22 meanings ascribed to them in this Chapter, unless a different meaning clearly appears  
23 from the context:

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

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

28 (3) "Human Trafficking Education Certificate" means the certificate  
29 issued upon successful completion of all courses and all refresher courses

1 required pursuant to this Chapter.

2 (4) "Human Trafficking Guardian" means any person who owns,  
3 manages, or participates in the hiring of any person to work at an adult  
4 bookstore, an adult paraphernalia store, a sexually oriented business as defined  
5 in R.S. 37:3558(C), or a retail establishment that provides adult-oriented  
6 entertainment in which performers disrobe or perform in an unclothed state for  
7 entertainment purposes.

8 ~~(3)~~(5) "Program administrator" means a committee of seven persons provided  
9 for in R.S. 26:933.

10 ~~(4)~~(6) "Responsible vendor" means any vendor as defined in Paragraph  
11 ~~(10)~~(11) of this Section who qualifies and maintains certification in accordance with  
12 the provisions of this Chapter.

13 ~~(5)~~(7) "Security Personnel" includes any person, other than a server, who  
14 monitors the entrance and other areas of an establishment for purposes of identifying  
15 underage and intoxicated persons, enforcing establishment rules and regulations and  
16 otherwise providing security for the establishment and its customers where alcoholic  
17 beverages are the principal commodity sold for consumption on the premises.  
18 "Security personnel" shall not include persons employed by hotels or motels which  
19 consist of sleeping rooms, cottages or cabins unless the person works primarily in  
20 an area on the licensed premises of a hotel or motel where the principal commodity  
21 sold is alcoholic beverages for consumption on the licensed premises.

22 ~~(6)~~(8) "Server" means any employee of a vendor, other than security  
23 personnel, who is authorized to sell or serve alcoholic beverages, tobacco products,  
24 alternative nicotine products, or vapor products in the normal course of his or her  
25 employment or deals with customers who purchase or consume alcoholic beverages  
26 or tobacco products. "Server" shall not include individuals employed on a temporary  
27 or casual basis by a bona fide hotel or motel for banquets, catering, or other special  
28 events.

29 ~~(7)~~(9) "Server permit" means the permit issued to a server or security

1 personnel upon completion of all required server or security personnel training  
2 courses and all required refresher courses provided for in this Chapter.

3 ~~(8)~~(10) "Tobacco wholesale dealer" means a dealer whose principal business  
4 is that of a wholesaler, who sells cigarettes, cigars, or other tobacco products to retail  
5 dealers for purpose of resale, who is a bona fide wholesaler, and fifty percent or  
6 more of whose total tobacco sales are to retail stores other than its own or its  
7 subsidiaries within Louisiana. Wholesale dealer shall include any person in the state  
8 who acquires cigarettes solely for the purpose of resale in vending machines,  
9 provided such person services fifty or more cigarette vending machines in Louisiana  
10 other than his own, and a Louisiana dealer who was affixing cigarette and tobacco  
11 stamps as of January 1, 1974.

12 ~~(9)~~(11) "Tobacconist" means any bona fide tobacco retailer engaged in  
13 receiving bulk smoking tobacco for the purpose of blending such tobacco for retail  
14 sale at a particular retail outlet where fifty percent or more of the total purchases for  
15 the preceding twelve months were purchases of tobacco products, excluding  
16 cigarettes.

17 ~~(10)~~(12) "Vendor" means any holder of a Class "A" General, Class "A"  
18 Restaurant, or Class "B" retail permit issued pursuant to R.S. 26:71 or 271 or any  
19 holder of a Retail Dealer Permit defined by R.S. 26:902. "Vendor" shall not include  
20 any holder of a Type A or Type B temporary alcoholic beverage permit issued  
21 pursuant to R.S. 26:793(A)(1).

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

24 \* \* \*

25 E. **The commissioner shall approve a Louisiana Human Trafficking**  
26 **Education Training Program, hereafter referred to as "the human trafficking**  
27 **education program", designed to educate Human Trafficking Guardians about**  
28 **opportunities to identify potential or actual victims of human trafficking and**  
29 **services available to assist victims or potential victims. The human trafficking**

1 education program shall include all of the following:

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

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

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

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

7 (5) Education on community assistance programs that help victims or  
8 potential victims of human trafficking and the contact information of the  
9 appropriate law enforcement officials to report human trafficking.

10 (6) Designation by the office of alcohol and tobacco control of good  
11 standing as Certified Human Trafficking Partner.

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

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

18 §934. Requirements for certification

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

21 (1) Enrollment in the program and written verification to the commissioner  
22 that the vendor has read and understands a responsible vendor handbook, and any  
23 periodic amendments thereto, which handbook shall be developed, published, and  
24 distributed by the program administrator and approved by the commissioner.

25 (2) Successful completion of all required server or security personnel training  
26 courses offered by an approved provider by each server or security personnel within  
27 forty-five days after commencing employment and the securing and maintaining of  
28 a valid server permit. Server permits shall be valid for a period of four years and  
29 shall be issued and renewed in accordance with rules and regulations promulgated

1 by the commissioner.

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

6 (4) Maintenance of training verification records of its employees.

7 (5) The posting of signs on the vendor's premises informing customers of the  
8 vendor's policy against selling alcoholic beverages to underage or intoxicated  
9 persons if required by law or selling tobacco products to underage persons.

10 **B. In order to qualify for and maintain certification as a Human**  
11 **Trafficking Guardian, all of the following are required:**

12 **(1) Enrollment in the human trafficking education program and written**  
13 **verification to the commissioner that the Human Trafficking Guardian has read**  
14 **and understands a Human Trafficking Education Handbook, and any periodic**  
15 **amendments thereto, which handbook shall be developed, published, and**  
16 **distributed by the program administrator and approved by the commissioner.**

17 **(2) Successful completion of all human trafficking education courses**  
18 **offered by an approved provider by each Human Trafficking Guardian within**  
19 **forty-five days after commencing employment and securing and maintaining a**  
20 **Human Trafficking Education Certificate. Human Trafficking Education**  
21 **Certificates shall be valid for a period of four years and shall be issued and**  
22 **renewed in accordance with the rules and regulations promulgated by the**  
23 **commissioner.**

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

28 **(4) Regular training of employees on how to recognize human**  
29 **trafficking, how to report human trafficking, and the obligation to report any**

1 suspected or known human trafficking occurring on the premises.

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

3 C.(1) In addition to the requirements set forth in Subsection B of this  
4 Section, all Human Trafficking Guardians and their employees shall be  
5 mandatory reporters. Mandatory reporters shall be required to report to law  
6 enforcement all instances of human trafficking or suspected human trafficking  
7 occurring on the premises set forth in R.S. 26:932(4). The owner of an alcohol  
8 license in good standing as a Human Trafficking Partner shall be immediately  
9 alerted by law enforcement of known illegal activity on the premises.

10 (2) After an investigation, if the office of alcohol and tobacco control has  
11 obtained evidence that a mandatory reporter knew or should have known of  
12 human trafficking or attempted human trafficking on the premises set forth in  
13 R.S. 26:932(4), that shall be grounds for proceedings, as set forth in R.S. 26:93,  
14 for suspension or revocation of a Human Trafficking Guardian's permit issued  
15 pursuant to R.S. 26:71 or R.S. 26:271.

16 (3) For the purpose of this Subsection, "mandatory reporter" shall mean  
17 all Human Trafficking Guardians and all full-time and part-time employees  
18 employed by the Human Trafficking Guardian on the premises set forth in R.S.  
19 26:932(4).

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

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

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The original instrument and the following digest, which does not constitute a part of the legislative instrument, was prepared by Angela L. De Jean.

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DIGEST

SB 192 Original 2018 Regular Session Bishop

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, or genitals.

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 21 years of age or older.

Proposed law defines "semi-nude" as the displaying of the pubic hair, anus, vulva, or genitals, 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 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 provides that the owner of an alcohol license in good standing as a Human Trafficking Partner shall be immediately alerted by law enforcement of known illegal activity on the 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, 933(E) and (F) and 934; adds R.S. 26:90(L), 286(K), and 933(G); repeals R.S. 26:90(B)(4) and 286(B)(4))