Regular Session, 2011

HOUSE BILL NO. 196

BY REPRESENTATIVE ROSALIND JONES

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

ALCOHOLIC BEVERAGE PERMT: Provides for the issuance of alcohol permits

AN ACT

To amend and reenact R.S. 26:71(A)(introductory paragraph), 76(A)(1), (6), and (7), 79, 88(A) and (B), 89, 271(A)(introductory paragraph), 276(A)(1), (6), and (7), 279, 285(A) and (B), 904, and 905(A) and (C), relative to alcohol permits for high and low alcoholic content and registration certificates and permits for tobacco products; to authorize the commissioner to issue a permit and a registration certificate for two years; to provide for rulemaking; to authorize certain persons to issue permits on a probationary basis; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 26:71(A)(introductory paragraph), 76(A)(1), (6), and (7), 79, 88(A) and (B), 89, 271(A)(introductory paragraph), 276(A)(1), (6), and (7), 279, 285(A) and (B), 904, and 905(A) and (C) are hereby amended and reenacted to read as follows:

§71. Permits required; fees; exception

A. Except as provided in Subsections B and C of this Section, before engaging in the business of manufacturing, supplying, or dealing in alcoholic beverages, all persons shall obtain from the commissioner, according to established rules and regulations, ~~an annual~~ a permit to conduct each separate business and shall pay the commissioner therefor according to the following schedule for each year the permit is valid:

* * *

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§76. Personal nature of permits; return of permits; necessity of display; penalties

A. The following shall apply to permits issued under this Chapter:

(1)(a) Except as otherwise provided in this Subsection, ~~Permits~~ permits are ~~good~~ valid for only one year, unless ~~sooner~~ expired, suspended, or revoked.

(b) Notwithstanding Subparagraph (a) of this Paragraph, the commissioner may issue permits which are valid for two years to applicants in good standing with the office of alcohol and tobacco control.

(c) Prior to issuing any permits valid for more than one year, the commissioner shall promulgate rules in accordance with the Administrative Procedure Act to provide the requirements, qualifications, and conduct which constitutes "good standing" for purposes of qualifying for a two-year permit.

* * *

(6) A partnership may include a surviving spouse not separate in community and that spouse may operate under the partnership permit for the remainder of the ~~one-year~~ term.

(7) A partnership, corporation, or any other authorized legal entity recognized under the laws of the state of Louisiana may include a spouse who has a regime of separation of property, pursuant to Civil Code Article 2370, and may include a spouse who owns the interest in the partnership, corporation, or other legal entity as that spouse's separate property, pursuant to Civil Code Article 2341, and that spouse may operate under the permit of the partnership, corporation, or other legal entity for the remainder of the ~~one-year~~ term after final conviction of the other spouse for any felony that is not directly related to the Alcoholic Beverage Control Law permit.

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§79. Submission of applications; delay

All applications for state permits shall be mailed or delivered to the commissioner in Baton Rouge, Louisiana, and all applications for local permits shall be mailed or delivered to the respective local authorities. An applicant shall mail or

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deliver both his applications for state and local permits within twenty-four hours of each other. If he fails to do so, his state application may be withheld and the permits denied. Upon receipt of an application, the commissioner or the local authorities, as the case may be, shall stamp the day, month, and year received. The commissioner and officers appointed and commissioned by the commissioner and other employees of the office of alcohol and tobacco control according to standards and procedures established by the commissioner and local authorities may issue the permits immediately after proper investigation but, for a period of thirty-five days after issuance, such permits shall operate on a probationary basis subject to final action on, opposition to, or withholding of, the permits as hereinafter provided.

* * *

§88. Renewal of permit

A. Except as otherwise provided by law, ~~Persons~~ persons holding permits under this Chapter, whether state or local, shall annually file application for renewal thereof for the ensuing year and pay the permit fees in accordance with this Chapter and the rules and regulations established by the commissioner. If a dealer fails to file the application and pay the permit fees by the date established by the commissioner, there shall be added to the fee, in addition to other penalties provided in this Chapter, a delinquency penalty of five percent if the failure is for not more than thirty days, with an additional five percent for each additional thirty days or fraction thereof during which the failure continues. If the dealer fails to make his application by the date established by the commissioner, the commissioner may, without notice or hearing, suspend his right to do business.

B. Any dealer whose application for renewal is filed before the date established by the commissioner may continue business until issuance of the new permit, under the previous ~~year's~~ permit if it has not been suspended or revoked or the new permit withheld or denied.

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§89. Form of application for renewal of permit

The commissioner may, by regulation, prescribe the form of application to be used when the applicant is not seeking a new permit but only the ~~annual~~ renewal of a current ~~one~~ permit held by him. Nothing in this regulation shall alter the qualifications required in this Chapter.

* * *

§271. Permits required; fees

A. Before engaging in the business of dealing in malt beverages or beverages of low alcoholic content, all manufacturers, wholesale and retail dealers, and microbrewers shall obtain from the commissioner, according to established rules and regulations, ~~an annual~~ a permit to conduct each separate manufacturing, wholesale, retail, or microbrewery business and shall pay for each permit according to the following schedule for each year the permit is valid:

* * *

§276. Personal nature of permits; return of permits; necessity of display; penalties

A. The following shall apply to permits issued under this Chapter:

(1)(a) Except as otherwise provided in this Subsection, ~~Permits~~ permits are ~~good~~ valid for only one year, unless ~~sooner~~ expired, suspended, or revoked.

(b) Notwithstanding Subparagraph (a) of this Paragraph, the commissioner may issue permits which are valid for two years to applicants in good standing with the office of alcohol and tobacco control.

(c) Prior to issuing any permits valid for more than one year, the commissioner shall promulgate rules in accordance with the Administrative Procedure Act to provide the requirements, qualifications, and conduct which constitutes "good standing" for purposes of qualifying for a two-year permit.

* * *

(6) A partnership may include a surviving spouse not separate in community and that spouse may operate under the partnership permit for the remainder of the ~~one-year~~ term.

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(7) A partnership, corporation, or any other authorized legal entity recognized under the laws of the state of Louisiana may include a spouse who has a regime of separation of property, pursuant to Civil Code Article 2370, and may include a spouse who owns the interest in the partnership, corporation, or legal entity as that spouse's separate property, pursuant to Civil Code Article 2341 and that spouse may operate under the permit of the partnership, corporation, or other legal entity for the remainder of the ~~one-year~~ term after final conviction of the other spouse for any felony not directly related to the Alcoholic Beverage Control Law permit.

* * *

§279. Submission of applications; delay

All applications for state permits shall be mailed or delivered to the commissioner in Baton Rouge at the state capitol, and all applications for local permits shall be mailed or delivered to the respective local authorities. An applicant shall mail or deliver his applications for state and local permits within twenty-four hours of each other. If he fails to do so, his state application may be withheld and the permits denied. Upon receipt of an application, the commissioner or the local authorities, as the case may be, shall stamp the day, month, and year received. The commissioner <u>and officers appointed and commissioned by the commissioner and other employees of the office of alcohol and tobacco control according to standards and procedures established by the commissioner</u> and local authorities may issue the permits immediately after proper investigation but, for a period of thirty-five days after receipt of the application, such permits shall operate on a probationary basis subject to final action on opposition to, or withholding of, the permit as hereinafter provided.

* * *

§285. Renewal of permit

A. <u>Except as otherwise provided by law,</u> ~~Persons~~ <u>persons</u> holding permits under this Chapter, whether state or local, shall file applications for renewal thereof

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for the ensuing year in the manner provided with the commissioner. Anyone filing his renewal application after the date set shall be charged a delinquency penalty of twenty-five ~~per cent~~ percent over and above the regular fee. If a permittee fails to make his application for renewal by the end of the ~~year~~ term, his application may be denied and the commissioner may, without notice or hearing, suspend his right to do business.

B. Any applicant who makes his application for renewal before the end of ~~one year from date of issuance~~ the permit period shall continue business under his old permit unless it has been suspended or revoked or the new permit withheld or denied.

* * *

§904. Registration certificate and permit terms

A. Except as provided in Subsection B of this Section, each registration certificate shall be valid for only one year. The commissioner may issue registration certificates which are valid for two years to applicants in good standing with the office of alcohol and tobacco control.

B. To provide for the even distribution of the expiration and renewal of tobacco product certificates, the commissioner may establish by administrative rule a system by which the expiration dates of the registration certificates are staggered throughout the year. Certificates issued may vary in length from six months to ~~eighteen~~ twenty-four months. The fee for ~~said~~ the registration certificate shall be apportioned to comply with the yearly fee established in this Chapter.

C. Except as provided in Subsection D of this Section, each permit shall be valid for ~~only one year~~ the designated time period unless suspended or revoked. The commissioner may issue permits which are valid for two years to applicants in good standing with the office of alcohol and tobacco control.

D. To provide for the even distribution of the expiration and renewal of tobacco product permits, the commissioner may establish by administrative rule a system by which the expiration dates of the permits are staggered throughout the

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year. Permits issued may vary in length from six months to ~~eighteen~~ twenty-four months. The fee for said permits shall be apportioned to comply with the yearly fee established in this Chapter.

E. Prior to issuing any permits valid for more than one year, the commissioner shall promulgate rules in accordance with the Administrative Procedure Act to provide the requirements, qualifications, and conduct which constitutes "good standing" for purposes of qualifying for a two-year permit.

§905. Renewal of a registration certificate or permit

A. Persons holding registration certificates under this Chapter shall annually file application for renewal for the ensuing year and pay the fees in accordance with this Chapter. If the commissioner has authorized permits which are valid for two years as authorized by the provisions of R.S. 26:904, the person holding the certificate shall file for renewal and pay fees in accordance with this Chapter and as authorized by rules adopted by the commissioner pursuant to the Administrative Procedure Act.

* * *

C. Persons holding permits under this Chapter shall annually file application for renewal for the ensuing year and pay the permit fees in accordance with this Chapter. If the commissioner has authorized permits which are valid for two years as authorized by the provisions of R.S. 26:904, the person holding the certificate shall file for renewal and pay fees in accordance with this Chapter and as authorized by rules adopted by the commissioner pursuant to the Administrative Procedure Act.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Rosalind Jones HB No. 196

Abstract: Authorizes the commissioner of alcohol and tobacco control to issue a permit to sell alcohol of high or low alcoholic content and tobacco products for a two-year term and adds to the list of persons authorized to issue probationary permits.

Present law provides that permits for selling alcohol of high or low content or tobacco products are valid for one year unless suspended or revoked.

Proposed law retains present law and additionally provides that, at the discretion of the commissioner, a permit may be valid for two years unless suspended or revoked.

Proposed law provides that prior to issuing a two-year permit, the commissioner shall promulgate rules to provide for the requirements, qualifications, and conduct which constitutes "good standing" for purposes of qualifying for a two-year permit.

Present law authorizes the commissioner and local authorities to issue alcohol permits on a probationary basis subject to final action on the permit.

Proposed law retains present law and adds officers appointed and commissioned by the commissioner and other employees of the office of alcohol and tobacco control according to standards and procedures established by the commissioner.

(Amends R.S. 26:71(A)(intro. para.), 76(A)(1), (6), and (7), 79, 88(A) and (B), 89, 271(A)(intro. para.), 276(A)(1), (6), and (7), 279, 285(A) and (B), 904, and 905(A) and (C))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Judiciary to the original bill.

1. Added provisions authorizing the commissioner to issue two-year permits for the sale of tobacco products.

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