

Regular Session, 2014

HOUSE BILL NO. 471

BY REPRESENTATIVE HUNTER

ALCOHOLIC BEVERAGES: Authorizes the sale of wine ice cream in the state of Louisiana

1 AN ACT

2 To amend and reenact R.S. 26:2(9), 3(A)(2), 241(15), and 421(A)(2) and R.S. 40:607(A)(11)
3 and (D), and to enact R.S. 26:90(A)(17) and 286(A)(17), relative to the sale of
4 certain food products with alcoholic content; to provide relative to the definition of
5 adulterated foods; to provide for definitions; to prohibit certain acts on licensed
6 premises; to prohibit the sale of certain types of ice cream to persons under the legal
7 age for purchasing alcoholic beverages; to provide for certain notice requirements;
8 and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 26:2(9), 3(A)(2), 241(15), and 421(A)(2) are hereby amended and
11 reenacted and R.S. 26:90(A)(17) and 286(A)(17) are hereby enacted to read as follows:

12 §2. Definitions

13 For purposes of this Chapter, the following terms have the respective
14 meanings ascribed to them in this Section, unless a different meaning clearly appears
15 from the context:

16 * * *

17 (9) "Liquor retailer" means any dealer, other than a manufacturer or
18 wholesaler, who sells, offers for sale, exposes for sale, or has in his possession for
19 sale or distribution any alcoholic beverages or any adulterated confectionery or ice
20 cream as defined in R.S. 40:607(A) in any quantity.

21 * * *

1 §3. Exempt products

2 A. The provisions of this Chapter do not apply to the sale of:

3 * * *

4 (2) Flavoring extracts, syrups, and food products. For purposes of this
5 Subsection, the term "food" shall include ice cream.

6 * * *

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

8 A. No person holding a retail dealer's permit and no agent, associate,
9 employee, representative, or servant of any such person shall do or permit any of the
10 following acts to be done on or about the licensed premises:

11 * * *

12 (17) Sell or serve any confectionery or ice cream product in violation of R.S.
13 40:607(D).

14 * * *

15 §241. Definitions

16 The following terms have the respective meanings ascribed to them except
17 in those instances where the context indicates a different meaning:

18 * * *

19 (15) "Retail dealer" means every person who offers for sale, exposes for sale,
20 has in his possession for sale or distribution, or sells alcoholic beverages or any
21 adulterated confectionery or ice cream as defined in R.S. 40:607(A) in any quantity
22 to persons other than licensed wholesale or retail dealers.

23 * * *

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

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

28 * * *

1 beverage purposes shall bear a label containing the statement: "Sale of this product
2 to persons under the legal age for purchasing alcoholic beverages is unlawful." A
3 person who violates the provisions of this Paragraph shall be fined not more than
4 three hundred dollars or imprisoned for not more than six months, or both.

5 (3) No confectionery or ice cream containing more than one-half of one
6 percent alcohol rendered unfit for beverage purposes shall be sold or offered for sale
7 in this state unless ~~the product bears a label that meets the requirements of Paragraph~~
8 ~~(2) of this Subsection~~ or a sign containing the statement: "Sale of confectionery or
9 ice cream containing more than one-half of one percent alcohol to persons under the
10 legal age for purchasing alcoholic beverages is unlawful" is displayed at the place
11 where the product is sold or offered for sale. A person who violates the provisions
12 of this Paragraph shall be fined not more than three hundred dollars or imprisoned
13 for not more than six months, or both.

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)]

Hunter

HB No. 471

Abstract: Authorizes the sale of ice cream as an alcoholic beverage with low and high alcoholic content and provides for certain restrictions.

Present law provides for the definition "liquor retailer" for low and high alcoholic content beverages to mean any dealer, other than a manufacturer or wholesaler, who sells, offers for sale, exposes for sale, or has in his possession for sale or distribution, any alcoholic beverages in any quantity.

Proposed law retains present law and adds the sale or distribution of any adulterated confectionery or ice cream to the definition.

Present law exempts certain products, including flavoring extracts, syrups, and food products from the provisions of present law related to the regulation of alcoholic beverages with low and high alcoholic content.

Proposed law retains present law and adds that ice cream is included in the term "food products".

Present law prohibits any person holding a retail dealer's permit for low or high alcoholic content, or any agent, associate, employee, representative, or servant for a retail dealer from doing or permitting certain acts to be done on or about the licensed premises.

Proposed law retains present law and adds the prohibition from selling or serving certain confectionery or ice cream products to any person under the legal age to purchase alcoholic beverages on licensed premises.

Present law provides that a food is considered adulterated if it is confectionery or ice cream and it contains any alcohol, resinous glaze, or nonnutritive substance, except harmless coloring, harmless resinous glaze, harmless flavoring, natural gum, and pectin.

Provides that present law shall not apply to any confectionery by reason of its containing less than ten percent by volume of alcohol or to any chewing gum by reason of its containing harmless nonnutritive masticatory substance.

Proposed law retains present law and adds ice cream to the exemption by reason of its containing less than ten percent by volume of alcohol.

Present law requires anyone who sells confectionery that contains more than one-half of one percent alcohol rendered unfit for beverage purposes to a person who is under the legal age for purchasing alcoholic beverages and requires the product to bear a label or the seller to post a sign in the place where the product is sold containing a statement that it is unlawful to sell such product to the under age person, and further provides for penalties for any person who violates these provisions to be fined not more than \$300, imprisoned for not more than six months, or both.

Proposed law retains present law and expands the prohibition and penalties to ice cream that contains more than one-half of one percent alcohol and changes the application from confectionery that is manufactured in this state to confectionery and ice cream that is sold or offered for sale in this state.

Proposed law requires labeling on the product and posting of a sign providing notification that is unlawful to sell such products to any person under the legal age for purchasing alcoholic beverages.

(Amends R.S. 26:2(9), 3(A)(2), 241(15), and 421(A)(2) and R.S. 40:607(A)(11) and (D); Adds R.S. 26:90(A)(17) and 286(A)(17))

Summary of Amendments Adopted by House

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

1. Amended the definition of "liquor retailer" for low and high alcoholic content beverages to include the sale or distribution of any adulterated confectionery or ice cream.
2. Added the prohibition for any person associated with a retail dealer's permit for low and high alcoholic content beverages from selling or serving confectionery or ice cream products to any person under the legal age to purchase alcoholic beverages.
3. Provided that ice cream is not considered adulterated if it contains less than ten percent by volume of alcohol.
4. Deleted the exclusion of ice cream from the meaning of the term "adulterated".
5. Expanded the prohibition and penalties regarding the sale to persons under the legal age for purchasing alcohol, to ice cream that contains more than one-half of one percent alcohol and changed the application from confectionery that is manufactured in this state to confectionery and ice cream that is sold or offered for sale in this state.

6. Added a provision which required labeling on the ice cream product and posting of a sign providing notification that is unlawful to sell such products to any person under the legal age for purchasing alcoholic beverages.