

CONFERENCE COMMITTEE REPORT
House Bill No. 1036 By Representative Arnold

May 27, 2014

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

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning House Bill No. 1036 by Representative Arnold, recommend the following concerning the Reengrossed bill:

1. That the set of Senate Committee Amendments proposed by the Senate Committee on Judiciary B and adopted by the Senate on April 23, 2014, be rejected.
2. That the reengrossed bill be amended as follows:

AMENDMENT NO. 1

On page 1, line 2, after "reenact" delete the remainder of the line and insert "R.S. 26:75(C), 275(B), 352, 793(A)(1) and (5), and 932(4) and (10),"

AMENDMENT NO. 2

On page 1, at the beginning of line 2, delete "(b), (c), and (d),"

AMENDMENT NO. 3

On page 1, line 3, after "beverages;" and before "to" insert "to authorize the sampling of alcoholic beverages under a Special Event permit;"

AMENDMENT NO. 4

On page 1, line 8, after "Section 1." delete the remainder of the line and line 9 in its entirety and insert "R.S. 26:75(C), 275(B), 352, 793(A)(1) and (5), and 932(4) and (10) are hereby amended and reenacted to read as follows:"

AMENDMENT NO. 5

On page 1, between lines 9 and 10, insert the following:

"§75. Operation without permit prohibited

* * *

C.(1) Notwithstanding any law to the contrary, beer, wine, or other spirit sampling for the purpose of allowing a consumer to try the taste of a product may be conducted on the premises of a Class A, ~~or Class B,~~ or a Special Event permit holder.

(2) The commissioner shall promulgate rules and regulations for the conducting of ~~spirit beverage alcohol~~ sampling, which shall allow manufacturers and wholesalers to provide and display a limited amount of point of sales materials.

* * *

§275. Operation without permit prohibited

* * *

B.(1) Notwithstanding any law to the contrary, beer, wine, or other spirits sampling for the purpose of allowing a consumer to try the taste of a product may be conducted on the premises of a Class A, ~~or Class B,~~ or a Special Event permit holder.

(2) The commissioner shall promulgate rules and regulations for the conducting of ~~spirit beverage alcohol~~ sampling, which shall allow manufacturers and wholesalers to provide and display a limited amount of point of sales materials.

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AMENDMENT NO. 6

On page 1, line 10, after "Donated" and before "beverages" and insert "alcoholic"

AMENDMENT NO. 7

On page 1, line 14, after "the" and before "of" change "fulfillment" to "payment"

AMENDMENT NO. 8

On page 1, line 18, after "day" and before "serve" delete "permits to" and insert "retail permits to sell, offer for sale, or"

AMENDMENT NO. 9

On page 1, line 19, after "functions" and before the period "." insert "if the applicant, or any agent, member, officer, or representative thereof, has not had a license or permit to sell or deal in alcoholic beverages, issued by the United States, any state, or by a political subdivision of a state authorized to issue permits or licenses, revoked within two years prior to the application date"

AMENDMENT NO. 10

On page 2, line 7, after "4958(f)" and before the period "." insert "or any similar subsequent provision"

AMENDMENT NO. 11

On page 2, line 12, after "provide" and before "written" delete "some type of"

AMENDMENT NO. 12

On page 2, line 14, after "501(c)(8)" and before the period "." insert "and no transactions, exist, whether directly or indirectly, between the licensed tax exempt organization and any disqualified person as defined by the United States Internal Revenue Code, Section 4958(f) or any similar provision"

AMENDMENT NO. 13

On page 2, line 22, after "regulations" and before "or" delete "promulgated in accordance with the provisions of this Section"

AMENDMENT NO. 14

On page 2, at the end of line 23, insert the following:

"Such regulations shall be promulgated in accordance with the Administrative Procedure Act are necessary to implement the provisions of this Subparagraph.

(e) The commissioner shall not issue a three-day temporary retail permit under this Paragraph to any alcoholic beverage manufacturer, wholesale dealer, homebrewer, or to any association with a membership that is primarily comprised of alcoholic beverage manufacturers, wholesale dealers, and/or homebrewers.

* * *

(5)(a) Notwithstanding any other provision of law to the contrary, the commissioner shall issue a three-day ~~special event~~ homebrew permit to any retail dealer qualified for on premise consumption who applies for such permit at no fee authorizing the retail dealer to allow a person to bring homebrew alcoholic beverages

on his licensed premises for the purpose of possessing, consuming, and serving such homebrew on his licensed premises in connection with homebrew club meetings, organized affairs, exhibitions, or competitions such as homebrewer's contests, tastings, or judging where no general admission or other type of fee or charge is assessed in connection with the homebrew permit and in accordance with all of the following criteria:

(i) Homebrew shall not be sold or offered for sale and the person who makes the homebrew or any association of persons who make the homebrew shall not receive any compensation or any other thing of value, whether directly or indirectly, other than trophies, plaques, certificates, ribbons, medals, or similar awards of nominal value, from any club meetings, organized affairs, exhibitions, competitions or other events where the homebrew is sampled in accordance with the sampling provisions promulgated under the authority of R.S. 26:75(C) and 275(B).

(ii) Homebrew shall be served only to those individuals attending the ~~special event~~ homebrew event and shall not be served to the patrons of the retail establishment or general public.

(iii) All homebrew alcoholic beverages shall be removed from the licensed premises within a reasonable time upon conclusion of the ~~special event~~ homebrew event.

(iv) The retail dealer shall not be required to obtain a special events permit from the Department of Health and Hospitals and shall be exempt from any additional compliance with the state's Sanitary Code but only with regard to the duration and location of the ~~special event~~ homebrew event.

(b) For purposes of this Paragraph, "homebrew" shall mean the brewing of beer, mead, and other alcoholic beverages through fermentation in a residence or other authorized facility by a person of the lawful age to purchase alcoholic beverages on a small scale, not to exceed one hundred gallons per calendar year for a household with one resident of the lawful age to purchase alcoholic beverages or two hundred gallons for a household with two or more residents of the lawful age to purchase alcoholic beverages as a hobby for personal consumption, free distribution at residential social gatherings, and amateur brewing competitions or by that person or his or her family, neighbors, guests, and friends, for use at competitions homebrew club meetings, organized affairs, exhibitions, or competitions on the premises of a licensed Class A retail dealer holding a homebrew permit in accordance with this Paragraph, or for any of the other noncommercial reasons as provided for in Paragraph (1) of this Subsection regarding special event licenses where homebrew is served as an incidental part of the event and in accordance with the sampling provisions promulgated under the authority of R.S. 26:75(C) and 275(B). "Homebrew" shall not include any licensed alcoholic beverages manufactured, distributed or otherwise served for commercial purposes."

AMENDMENT NO. 15

On page 3, line 7, after "of" and before "Retail Dealer Permit" delete "Retail Dealer Registration Certificate or" and insert "a"

AMENDMENT NO. 16

On page 3, after line 9, add:

"Section 2. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval."

Respectfully submitted,

Representative Jeffery "Jeff" J. Arnold

Senator Jean-Paul J. Morrell

Representative Bryan Adams

Senator Rick Gallot

Representative Walt Leger III

Senator Jonathan Perry

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)]

CONFERENCE COMMITTEE REPORT DIGEST

House Bill No. 1036 by Representative Arnold

Keyword and oneliner of the instrument as it left the House

ALCOHOLIC BEVERAGES: Provides for the donation of alcoholic beverages to certain organizations

Report rejects Senate amendments which would have:

1. Eliminated nonprofit organizations that were unable to show proof of tax exempt status under U.S. Internal Revenue Code 501(c)(6) from eligibility for Type B permits.

Report amends the bill to:

1. Authorize Special Event permit holders to provide alcoholic beverage sampling to consumers.
2. Authorize the commissioner to issue a three day retail permit to sell, offer for sale, or serve alcoholic beverages at certain events and nonprofit functions and adds that the permit may be issued only if the applicant has not had a license or permit to sell or deal in alcoholic beverages revoked within two years prior to the application date.
3. Require proof that no transactions exist, directly or indirectly, between the organization and any disqualified person as defined by certain provisions of the U.S. Internal Revenue Code prior to issuance of a Type B permit.
4. Authorize the commissioner to promulgate rules and regulations and prohibits the commissioner from issuing a three-day temporary retail permit to any alcoholic beverage manufacturer, wholesale dealer, homebrewer, or to any association with a membership that is primarily comprised of alcoholic beverage manufacturer, wholesale dealers, or homebrewers.
5. Require the commissioner to issue a three-day homebrew permit and further prohibits the assessment of a general admission fee or other type of fee or charge in connection with the homebrew permit.
6. Prohibit the person or association that makes the homebrew from receiving any compensation or thing of value other than trophies, plaques, certificates, ribbons, medals, or similar awards or nominal value from certain events where the homebrew is sampled.
7. Provide for the definition of "homebrew".
8. Exclude from the definition of "vendor" any holder of a Type A or Type B temporary alcoholic beverage permit issued pursuant to proposed law.

Digest of the bill as proposed by the Conference Committee

Present law authorizes the holder of a Class A or Class B permit to provide sampling of beer, wine, or other spirits on the premises.

Proposed law retains present law and extends authority to Special Event permit holders.

Present law requires the commissioner to promulgate rules and regulations for the conducting of spirit sampling.

Proposed law changes the requirement for the promulgation of rules and regulations from spirits sampling to alcohol beverage sampling.

Present law requires alcoholic beverages of high alcoholic content that are given away for advertising or any other purpose to be taxed.

Proposed law authorizes any person or dealer to donate alcoholic beverages to a licensed Type A special event or an unlicensed civic, religious, or charitable organization subject to the payment of any applicable excise taxes.

Present law authorizes the commissioner to issue by regulation temporary permits for a duration of three consecutive days only and no more than 12 such permits issued to any one person within a single calendar year to serve alcoholic beverages at fairs, festivals, civic and fraternal and religious events, Mardi Gras events, and nonprofit functions, and requires fees for the permits to be provided by regulation.

Proposed law retains present law and creates three types of temporary alcoholic beverage retail permits to sell, offer for sale or serve alcoholic beverages and further adds that the permit may be issued if the applicant has not had a license or permit to sell or deal in alcoholic beverages revoked within two years prior to the application date.

Proposed law requires Type A permits to be issued only to nonprofit organizations with tax exempt status under certain provisions of the U.S. Internal Revenue Code, where no transactions exist, whether directly or indirectly, between the licensed tax exempt organizations and any disqualified person as defined under the U.S. Internal Revenue Code, and requires the applicants to submit all documentation as required in the regulations promulgated in accordance with present law or upon the request of the commissioner of alcohol and tobacco control.

Proposed law requires Type B permits to be issued only to nonprofit organizations which are able to provide written proof of their nonprofit status, but are unable to show written proof of their tax exempt status under the U.S. Internal Revenue Code and where no transactions exist, whether directly or indirectly between the organization and any disqualified person. Proposed law further requires the applicants to submit all documentation as required in the regulations promulgated in accordance with present law or upon the request of the commissioner.

Proposed law requires Type C permits to be issued to persons holding events where alcoholic beverages are sold or supplied as part of a general admission or other type fee or charge, but who do not meet the requirements for Type A or Type B temporary permits, and requires the applicants to submit all documentation as required in the regulations promulgated in accordance with present law or upon the request of the commissioner.

Proposed law prohibits the commissioner from issuing a temporary retail permit to any alcoholic beverage manufacturer, wholesale dealer, homebrewer, or to any association with a membership that is primarily comprised of alcoholic beverage manufacturers, wholesale dealers, or homebrewers.

Present law requires the commissioner to issue a three-day special event permit to any retail dealer qualified for on premise consumption authorizing the retail dealer to allow a person to bring homebrew alcoholic beverages on his licensed premises for the purpose of possessing, consuming, and serving such homebrew on his licensed premises in connection

with homebrew club meetings, organized affairs, exhibitions, or competitions such as homebrewer's contests, tastings, or judging, in accordance with certain criteria.

Proposed law retains present law except that it changes the permit name from three-day "special event" permit to three-day homebrew permit and further prohibits the assessment of a general admission fee or other type of fee or charge in connection with the homebrew permit.

Proposed law prohibits the person or association that makes the homebrew from receiving any compensation or thing of value other than trophies, plaques, certificates, ribbons, medals, or similar awards or nominal value from certain events where the homebrew is sampled.

Present law provides for the definition of "homebrew" to mean the brewing of beer, mead, and other alcoholic beverages through fermentation as a hobby for personal consumption, free distribution at residential social gatherings, and amateur brewing competitions or other noncommercial reasons.

Proposed law provides for the definition of "homebrew" to mean brewing of beer, mead, and other alcoholic beverages through fermentation in a residence or other authorized facility by a person of the lawful age to purchase alcoholic beverages on a small scale, not to exceed 100 gallons per calendar year for a household with one resident or 200 gallons for a household with two or more residents of the lawful age to purchase alcoholic beverages as a hobby for personal consumption by that person or his friends or relatives for use at competitions, meetings, affairs, exhibitions, or competitions on the premises of a licensed Class A retail dealer holding a homebrew permit, where homebrew is served as an incidental part of the event. Proposed law provides that the definition of "Homebrew" shall not include any licensed alcoholic beverages manufactured, distributed or otherwise served for commercial purposes.

Present law provides for the definition of "vendor".

Proposed law retains present law and excludes any holder of a Type A or Type B temporary alcoholic beverage permit issued pursuant to proposed law (R.S. 26:793)(A)(1).

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

(Amends R.S. 26:75(C), 275 (B), 352, 793(A)(1) and (5) and 932(4) and (10))