

Louisiana Revised Statutes Title 26

CHAPTER 8. RESPONSIBLE VENDOR PROGRAM

§931. Short title

This Chapter shall be known and may be cited as the "Louisiana Responsible Vendor Program".

Acts 1997, No. 1054, §1.

§932. Definitions

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

- (1) "Approved provider" means an individual, unincorporated association, partnership, or corporation approved by the program administrator to provide server or security personnel training courses.
- (2) "Commissioner" means the commissioner of alcohol and tobacco control.
- (3) "Program administrator" means a committee of seven persons provided for in R.S. 26:933.
- (4) "Responsible vendor" means any vendor as defined in Paragraph (9) who qualifies and maintains certification in accordance with the provisions of this Chapter.
- (5) "Security Personnel" includes any person, other than a server, who monitors the entrance and other areas of an establishment for purposes of identifying underage and intoxicated persons, enforcing establishment rules and regulations and otherwise providing security for the establishment and its customers where alcoholic beverages are the principal commodity sold for consumption on the premises. "Security personnel" shall not include persons employed by hotels or motels which consist of sleeping rooms, cottages or cabins unless the person works primarily in an area on the licensed premises of a hotel or motel where the principal commodity sold is alcoholic beverages for consumption on the licensed premises.
- (6) "Server" means any employee of a vendor, other than security personnel, who is authorized to sell or serve alcoholic beverages or tobacco products in the normal course of his or her employment or deals with customers who purchase or consume alcoholic beverages or tobacco products. "Server" shall not include individuals employed on a temporary or casual basis by a bona fide hotel or motel for banquets, catering, or other special events.
- (7) "Server permit" means the permit issued to a server or security personnel upon completion of all required server or security personnel training courses and all required refresher courses provided for in this Chapter.

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

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

(10) "Vendor" means any holder of a Class "A" General, Class "A" Restaurant, or Class "B" retail permit issued pursuant to R.S. 26:71 or R.S. 26:271 or any holder of Retail Dealer Registration Certificate or Retail Dealer Permit defined by R.S. 26:902.

Acts 1997, No. 1054, §1; Acts 1997, No. 1370, §4, eff. Oct. 1, 1997; Acts 2003, No. 881, §1; Acts 2010, No. 412, §1; Acts 2012, No. 463, §1.

#### §933. Establishment of responsible vendor program

A.(1) The program administrator shall be a committee of nine persons, one of whom shall be appointed by the commissioner or his designee. Of the other eight, each of the following groups or associations shall select one person, subject to approval by the commissioner:

- (a) Louisiana Restaurant Association.
- (b) Louisiana Retailer's Association.
- (c) Louisiana Association of Alcoholic Beverage Licensees, Inc.
- (d) Louisiana Oil Marketers Association.
- (e) Council on Alcohol and Drug Abuse (C.A.D.A.).
- (f) Louisiana Hotel/Motel Association.
- (g) Highway Safety Council.
- (h) Mothers Against Drunk Driving.

(2) Approval by the commissioner shall not be unreasonably withheld and shall be provided within thirty days of receipt of each one of the nominations selected by the respective groups or associations.

B. The program administrator shall approve a Louisiana Responsible Vendor Program, hereafter referred to as "the program", designed to educate vendors and their employees and customers about selling, serving, and consuming alcoholic beverages in a responsible manner and selling and serving tobacco products. The program shall include all of the following:

- (1) Enrollment and certification of the vendor in the program.
- (2) Server or security personnel training courses for servers or security personnel.
- (3) Review of the requirements for the issuance and renewal of server permits. Such permits shall be the property of the server and, if not expired, suspended, or revoked, valid in connection with his employment by any vendor in the state of Louisiana.

C. The server training courses shall include but not be limited to the following subject areas:

- (1) Classification of alcohol as a depressant and its effect on the human body, particularly on the ability to drive a motor vehicle.
- (2) Effects of alcohol when taken with commonly used prescription and nonprescription drugs.
- (3) Absorption rate, as well as the rate at which the human body can dispose of alcohol and how food affects the absorption rate.
- (4) Methods of identifying and dealing with underage and intoxicated persons, including strategies for delaying and denying sales and service to intoxicated and underage persons.
- (5) State laws and regulations regarding the sale and service of alcoholic beverages for consumption on and off premises.
- (6) Parish and municipal ordinances and regulations, including but not limited to the hours of operation, noise, litter, and other ordinances that affect the sale and service of alcoholic beverages for consumption on or off premises.
- (7) State and federal laws and regulations related to the lawful age to purchase tobacco products and age verification procedures and requirements.
- (8) The health risks and consequences associated with the consumption of tobacco products including but not limited to their addictive nature.

D. Security personnel training courses shall include training on the subject matter as required by the provisions of Subsection C of this Section as well as specific curriculum approved by the program administrator including but not limited to handling disruptive customers and customer altercations.

E. The commissioner, upon recommendation of the program administrator, may promulgate rules and regulations to effectuate the program in accordance with the Administrative Procedure

Act, including but not limited to rules and regulations related to the development, establishment, and maintenance of the entire program.

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

Acts 1997, No. 1054, §1; Acts 2003, No. 881, §1; Acts 2012, No. 463, §1.

#### §934. Requirements for certification

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

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

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

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

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

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

Acts 1997, No. 1054, §1; Acts 2003, No. 881, §1; Acts 2006, No. 482, §1; Acts 2012, No. 463, §1.

#### §935. Server liability; penalties, fines, suspension or revocation of server permit; vendor's defenses

A. The commissioner may suspend or revoke a server's or security personnel's permit or impose a fine on the server or security personnel for noncompliance with this Chapter or for any violation, attributable to the server or security personnel, of the provisions of R.S. 26:90, 91, 286, 287, or 911 or related tobacco product laws, rules, and regulations. The procedure for the suspension or revocation of a server's or security personnel's permit or for the imposition of fines shall be the same as are otherwise set forth in this Title for the suspension or revocation of

permits of, or imposition of fines against, holders of Class "A" General, Class "A" Restaurant, Class "B" permits, or Retail Dealer Registration Certificates or Retail Dealer Permits.

B.(1) The alcoholic beverage or tobacco products permit of a vendor certified as a responsible vendor in accordance with the provisions of this Chapter shall not be suspended or revoked on the following grounds:

(a) The first illegal sale or service of an alcoholic beverage by any server or security personnel to an underage or intoxicated person or the first illegal sale or service of a tobacco product by any server or security personnel to an underage person in any twelve-month period.

(b) The first citation for consumption by a customer of alcoholic beverages on the premises of a Class "B" vendor in any twelve-month period, unless the vendor had knowledge of the violation, should have known about such violation, or participated in or committed such violation.

(2) No vendor may use as a defense to suspension or revocation the fact that he was absent from the licensed premises at the time a violation of the Alcoholic Beverage Control Law or tobacco products law occurred if the violations are flagrant, persistent, repeated, or recurring.

C. Certification under this Chapter as a responsible vendor shall be considered in mitigation of a vendor's administrative penalties or fines for a server's or security personnel's illegal sale or service of an alcoholic beverage to an underage or intoxicated person, or consumption of alcoholic beverages by a customer on the premises of a Class "B" vendor or for a server's illegal sale or service of a tobacco product to an underage person.

Acts 1997, No. 1054, §1; Acts 2003, No. 881, §1; Acts 2012, No. 463, §1.

#### §936. Fees

A. The commissioner may promulgate rules and regulations regarding fees, which fees shall not exceed fifty dollars per licensed establishment, for the costs of developing and administering the program. In no event shall the fees exceed administrative costs of the program.

B. Approved providers may charge fees for the cost of conducting the server or security personnel training courses provided for in this Chapter. Such fees shall be approved by the program administrator and the commissioner. The fee for each server or security personnel training course provided for by this Section shall not exceed fifty dollars.

Acts 1997, No. 1054, §1; Acts 2006, No. 482, §1; Acts 2012, No. 463, §1.

#### §937. Preexisting server training programs

Any vendor or server subject to a local ordinance requiring participation by the vendor or its employees in a server or security personnel training or licensing program shall be exempt from local server or security personnel training and licensing regulation if the vendor is certified as a

responsible vendor under the provisions of this Chapter. Nothing in this Chapter shall be construed to apply to any local seller or server licensing requirements in effect on June 1, 1997.

Acts 1997, No. 1054, §1; Acts 2012, No. 463, §1.

§938. Reports to the commissioner

Beginning January 1, 1999, the program administrator shall provide the commissioner and the legislature with annual reports regarding the program.

Acts 1997, No. 1054, §1.

§939. Applicability

A. Any vendor may become certified in accordance with the provisions of this Chapter after January 1, 1998. Effective January 1, 2000, all vendors shall participate in the program.

B. The provisions of this Chapter shall not apply to any tobacco wholesale dealer or tobacconist.

Acts 1997, No. 1054, §1; Acts 2003, No. 881, §1.