

## CHAPTER 8. RESPONSIBLE VENDOR PROGRAM

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## CHAPTER 8. RESPONSIBLE VENDOR PROGRAM

### § 931. Short title

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

### § 932. Definitions

For the 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 training courses.
- (2) "Commissioner" means the commissioner of Alcohol and Tobacco Control.
- (3) "Program administrator" means a committee of nine persons provided for in R. S. 26:933.
- (4) "Responsible vendor" means any vendor as defined in Paragraph (7) who qualifies and maintains certification in accordance with the provisions of this Chapter.
- (5) "Server" means any employee of a vendor who is authorized to sell or serve alcoholic beverages in the normal course of his or her employment or deals with customers who purchase or consume alcoholic beverages. "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.
- (6) "Server permit" means the permit issued to a server upon completion of a server training course and all required refresher courses provided for in this Chapter.
- (7) "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.

### § 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. By January 1, 1998, 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. The program shall include all of the following:

- (1) Enrollment and certification of the vendor in the program.
- (2) Server training courses for servers.
- (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 unlawful age to purchase tobacco products and age verification requirements.

D. 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.

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

#### **§ 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 shall be developed, published, and distributed by the program administrator and approved by the commissioner.
- (2) Successful completion of a server training course offered by an approved provider by each server 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 4 years and shall be issued and renewed in accordance with the rules and regulations promulgated by the commissioner.
- (3) Attendance at a refresher course by each server at least once every 4 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.

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

A. The commissioner may suspend or revoke a server's permit or impose a fine on the server for noncompliance with this Chapter or for any violation, attributable to the server, of the provisions of R. S. 26:90, 91, 286, or 287. The procedure for the suspension or revocation of a server'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, or Class "B" permits.

- B. (1) The alcoholic beverage 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 to an underage or intoxicated 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 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 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.

#### **§ 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 training courses provided for in this Chapter. Such fees shall be approved by the program administrator and the commissioner. The fee for the server training courses provided for by this Section shall not exceed twenty-five dollars.

#### **§ 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 training or licensing program shall be exempt from local server 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.

#### **§ 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.

#### **§ 939. Applicability**

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.