

Bobby Jindal
Governor

ATC

Troy Hebert
Commissioner

Alcohol & Tobacco Control

September 1, 2015

Catherine Brindley
Office of the State Register
P.O. Box 94095
Baton Rouge, Louisiana 70804-9095

RE: LAC 55:VII.325

Enclosed are the FEIS and *Notice of Intent* to amend LAC 55:VII.325 under the authority of R.S. 26:793 relative to caterer's permits. The proposed amendment provides for a Class A – Caterer's permit for persons who hold a written concessions agreement to provide food and beverage concession services at any arena, stadium, race track, amphitheater, auditorium, theater, civic center, convention center, or similar facility that is primarily designed and used for live artistic, theatrical, cultural, educational, charitable, musical, sporting, nationally sanctioned automobile or horse racing or entertainment events.

If adopted, this amendment will become effective upon publication in the *Louisiana Register* on December 20, 2015.

Please direct any inquiries regarding the enclosed FEIS to Jessica Starns at (225)925-4607 or by email at Jessica.starns@atc.la.gov.

Sincerely,


Troy M. Hebert, Commissioner

Enclosures

CC:

The Honorable John Alario, President, Louisiana State Senate
The Honorable Chuck Kleckley, Speaker, Louisiana House of Representatives
The Honorable Neil Riser, Chairman, Revenue & Fiscal Affairs Committee
The Honorable Joel Robideaux, Chairman, Ways and Means Committee

OFFICE OF THE STATE REGISTER INSERTION ORDER (eff.08/02)
Claiborne Building 1201 North Third Street Suite 3-220 Post Office Box 94095
Baton Rouge, LA 70804-9095 (225)342-5015 FAX (225)342-0284

(SUBMIT A SEPARATE INSERTION ORDER PER DOCUMENT)

[] EMERGENCY RULE [x] NOTICE OF INTENT [] RULE [] POTPOURRI

REFER TO INSTRUCTIONS ON REVERSE SIDE

This is your authority to publish in the (month) September, 20 15 Louisiana Register the document indicated above.

Alcohol and Tobacco Control
Office/Board/Commission promulgating this document

Department of Revenue
Department under which office/board/commission is classified

Troy Hebert Commissioner
(name) (title)
Name and title of person whose signature will appear in the publication (at the end of the document)

Jessica Starns 225-925-4607 225-925-3975
(name) (phone) (fax)
Name, phone number, and FAX number of person to contact regarding this document
jessica.starns@atc.la.gov
E-mail address of contact person

Provide a short descriptive listing for this document to be used in the Louisiana Register's TABLE OF CONTENTS/INDEX (note: this description should match the fiscal statement title, if sending a Notice of Intent:

*If sending a diskette, indicate the name of the file on diskette:

Caterer's Permit

[Handwritten signature of Troy Hebert]

Important: If submitting both an Emergency Rule (ER) and a Notice of Intent (NOI) to be published this month, AND if the rule text in the ER is identical to the rule text in the NOI, check here: []

Signature of Agency Head or Designee
Troy Hebert, Commissioner
Print Name and Title of Agency Head or Designee

CERTIFICATION OF AVAILABLE FUNDS

DOCUMENT # _____

[x] ISIS AGENCY: I certify the availability of fiscal year 16 appropriated funds for the payment of the above referenced publication and authorize the processing of an Interagency Billing with the following coding on the 30th of the month of the publication. Attach supplemental sheet for additional lines of coding.

Table with 5 columns: AGENCY, ORGANIZATION #, OBJECT, SUB-OBJECT, REPORTING CATEGORY. Values: 440, 3010, 5100, 8V, 9315

[] NON-ISIS AGENCY: I certify the availability of fiscal year _____ appropriated funds for the payment of the above referenced publication and agree to place corresponding invoice in line for payment upon receipt.

Billing Address for Agencies:

Alcohol and Tobacco Control
Agency Name
8585 Archives Avenue, Suite 305
Street Address or Post Office Box
Baton Rouge LA 70809
City State Zip Code

[Handwritten signature of Troy Hebert]

Signature of Agency Head or Designee - Phone #

Box containing: Lines/Other Charges _____ Typesetting \$ _____ TOTAL \$ _____

NOTICE OF INTENT
Department of Revenue
Office of Alcohol and Tobacco Control

LAC 55:VII.325

Under the authority of R.S. 26:793 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Department of Revenue, Office of Alcohol and Tobacco Control, proposes to amend LAC 55.VII.325 relative to caterer's permits.

The proposed amendment to the above-referenced rule is offered under the authority delegated by R.S. 26:793 to provide for a Class A – Caterer's permit for persons who hold a written concessions agreement to provide food and beverage concession services at any arena, stadium, race track, amphitheater, auditorium, theater, civic center, convention center, or similar facility that is primarily designed and used for live artistic, theatrical, cultural, educational, charitable, musical, sporting, nationally sanctioned automobile or horse racing or entertainment events.

Title 55
PUBLIC SAFETY
Part VII. Alcohol and Tobacco Control

Chapter 3. Liquor Credit Regulations

§325. Caterer's Permits

A. The Office of Alcohol and Tobacco Control may issue a Class A—Caterer's permit to persons who meet the qualifications and criteria of either Paragraph 1, 2, 3 or 2 4 below.

A.1. – 3.c. ...

4. Persons who do not otherwise qualify for a retail dealer permit pursuant to the provisions of R.S. 26:71.1 or R.S. 26:271.2, but who hold a written concessions agreement to provide food and beverage concession services at any arena, stadium, race track, amphitheater, auditorium, theater, civic center, convention center, or similar facility that is primarily designed and used for live artistic, theatrical, cultural, educational, charitable, musical, sporting, nationally sanctioned automobile or horse racing or entertainment events will be allowed to obtain a Class A-Caterer's permit for the premises under all of the following conditions.

a. The permit holder must have a written concession agreement to provide food and beverages concession services from the owner, operator or lessee of the premises. The written concession agreement shall contain an affirmative provision disavowing the right of any party to engage in conduct prohibited by the alcoholic beverage control laws and regulations.

b. The permit holder must not be owned, in whole or in part, by the owner, operator, lessee, subsidiary, agent, or company managing the premises.

c. The permit holder must not own, in whole or part, or manage the premises.

d. The permit holder shall receive no monetary benefit, directly or indirectly, by any scheme or device or in any form or degree from the alcoholic beverage industry including a benefit in the form of capital improvements, furniture, fixtures, equipment or supplies excepted as provided in subsection C of this Section, unless otherwise allowed in the alcoholic beverage control laws and regulations. The provision and use of indoor or outdoor signs, or other advertising or marketing products, including mobile dispensing equipment, logo or other branding of an alcoholic beverage manufacturer or wholesaler pursuant to an advertising or sponsorship agreement with the owner, operator, promoter, lessee, party with a right of use or management company of the premises, and the use of proceeds of a manufacturer's or wholesaler's purchase of indoor or outdoor signs or other advertising and marketing products or rights from the owner, operator, promoter, lessee, party with a right of use or management company of the premises, shall not be construed to be a direct or indirect monetary benefit to the permit holder.

e. The permit holder shall not receive any direct monetary benefit from advertising, promotional or sponsorship revenues generated by operation of the premises.

f. The owner, operator, lessee, subsidiary, agent or company managing the premises nor any alcoholic beverage manufacturer or wholesaler or agent thereof shall not, directly or indirectly, control the quantity or brand of alcoholic beverages bought, sold or served by the holder of the Class A – Caterer permit.

g. This Class A-Caterer's permit shall not be utilized to sell, serve or otherwise engage in business as an alcoholic beverage dealer at any premises where the primary purpose is the sale of food or alcoholic beverages, including, but not limited to, a bar, nightclub, restaurant, hotel, bowling alley, pool hall, or dance hall, or any premises that derives 75 percent or more of its gross revenue from the on-premise sale of alcoholic beverages.

B.1. – 3. ...

4. A Class A—Caterer issued under Paragraphs 1, 2 and 3 of Subsection A of this Section must provide the Office of Alcohol and Tobacco Control with written notice of the date, time, and place of each catered event at least one week prior to the date of the event.

B.5. – D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:793.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Alcoholic Beverage Control, LR 19:904 (July 1993), amended by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 26:2631 (November 2000), LR 34:1633 (August 2008).

Family Impact Statement

The proposed rulemaking has no known impact on family formation, stability, or autonomy, as described in LSA-R.S. 49:972.

Poverty Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Statement

The proposed rulemaking will have no adverse impact on small businesses as described in LSA-R.S.49:965.2 *et seq.*

Provider Impact Statement

The proposed rulemaking has no known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session.

Public Comments

Interested persons may submit written comments until 4:00pm on October 30, 2015 to Commissioner Troy M. Hebert, Office of Alcohol and Tobacco Control, P.O. Box 66404, Baton Rouge, LA 70896 or at troy.hebert@atc.la.gov.

Public Hearing

A public hearing will be held on Friday, October 30, 2015 at 4:00 p.m. in the Office of Alcohol and Tobacco Control at 8585 Archives Avenue, Ste. 305 in Baton Rouge, Louisiana.

Troy Hebert
Commissioner

NOTICE OF INTENT
Department of Revenue
Office of Alcohol and Tobacco Control

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The proposed amendment to the above-referenced rule is offered under the authority delegated by R.S. 26:793 to provide for a Class A – Caterer's permit for persons who hold a written concessions agreement to provide food and beverage concession services at any arena, stadium, race track, amphitheater, auditorium, theater, civic center, convention center, or similar facility that is primarily designed and used for live artistic, theatrical, cultural, educational, charitable, musical, sporting, nationally sanctioned automobile or horse racing or entertainment events.

Title 55
PUBLIC SAFETY
Part VII. Alcohol and Tobacco Control

Chapter 3. Liquor Credit Regulations

§325. Caterer's Permits

A. The Office of Alcohol and Tobacco Control may issue a Class A—Caterer's permit to persons who meet the qualifications and criteria of either Paragraph 1, 2, 3 or 4 below.

A.1. – 3. ...

4. Persons who do not otherwise qualify for a retail dealer permit pursuant to the provisions of R.S. 26:71.1 or R.S. 26:271.2, but who hold a written concessions agreement to provide food and beverage concession services at any arena, stadium, race track, amphitheater, auditorium, theater, civic center, convention center, or similar facility that is primarily designed and used for live artistic, theatrical, cultural, educational, charitable, musical, sporting, nationally sanctioned automobile or horse racing or entertainment events will be allowed to obtain a Class A-Caterer's permit for the premises under all of the following conditions.

a. The permit holder must have a written concession agreement to provide food and beverages concession services from the owner, operator or lessee of the premises. The written concession agreement shall contain an affirmative provision disavowing the right of any party to engage in conduct prohibited by the alcoholic beverage control laws and regulations.

b. The permit holder must not be owned, in whole or in part, by the owner, operator, lessee, subsidiary, agent, or company managing the premises.

c. The permit holder must not own, in whole or part, or manage the premises.

d. The permit holder shall receive no monetary benefit, directly or indirectly, by any scheme or device or in any form or degree from the alcoholic beverage industry including a benefit in the form of capital improvements, furniture, fixtures, equipment or supplies excepted as provided in subsection C of this Section, unless otherwise allowed in the alcoholic beverage control laws and regulations. The provision and use of indoor or outdoor signs, or other advertising or marketing products, including mobile dispensing equipment, logo or other branding of an alcoholic beverage manufacturer or wholesaler pursuant to an advertising or sponsorship agreement with the owner, operator, promoter, lessee, party with a right of use or management company of the premises, and the use of proceeds of a manufacturer's or wholesaler's purchase of indoor or outdoor signs or other advertising and marketing products or rights from the owner, operator, promoter, lessee, party with a right of use or management company of the premises, shall not be construed to be a direct or indirect monetary benefit to the permit holder.

e. The permit holder shall not receive any direct monetary benefit from advertising, promotional or sponsorship revenues generated by operation of the premises.

f. The owner, operator, lessee, subsidiary, agent or company managing the premises nor any alcoholic beverage manufacturer or wholesaler or agent thereof shall not, directly or indirectly, control the quantity or brand of alcoholic beverages bought, sold or served by the holder of the Class A – Caterer permit.

g. This Class A-Caterer’s permit shall not be utilized to sell, serve or otherwise engage in business as an alcoholic beverage dealer at any premises where the primary purpose is the sale of food or alcoholic beverages, including, but not limited to, a bar, nightclub, restaurant, hotel, bowling alley, pool hall, or dance hall, or any premises that derives 75 percent or more of its gross revenue from the on-premise sale of alcoholic beverages.

B.1. – 3. ...

4. A Class A—Caterer issued under Paragraphs 1, 2 and 3 of Subsection A of this Section must provide the Office of Alcohol and Tobacco Control with written notice of the date, time, and place of each catered event at least one week prior to the date of the event.

B.5. – D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:793.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Alcoholic Beverage Control, LR 19:904 (July 1993), amended by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 26:2631 (November 2000), LR 34:1633 (August 2008).

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Troy Hebert
Commissioner

Fiscal and Economic Impact Statement For Administrative Rules

Person preparing
statement:

Jessica Starns
(225) 925-4041
P.O. Box 66404
Baton Rouge, LA 70896-6404

Department:

Revenue

Phone:

Office:

Alcohol and Tobacco Control

Return Address:

Rule Title:

LAC 55: VII. 325

Date Rule

Takes Effect:

December 20, 2015

Summary

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. The following summary statements, based on the attached worksheets, will be published in the *Louisiana Register* with the proposed agency rule.

I. Estimated implementation costs (savings) to state or local governmental units (Summary)

The proposed amendment to the above-referenced rule provides for a Class A – Caterer's permit for persons who hold a written concessions agreement to provide food and beverage concession services at any arena, stadium, race track, amphitheater, auditorium, theater, civic center, convention center, or similar facility that is primarily designed and used for live artistic, theatrical, cultural, educational, charitable, musical, sporting, nationally sanctioned automobile or horse racing or entertainment events.

The establishment of a new permit is not expected to materially impact resources needed to administer the effort. Promulgation of this proposed rule and/or amendment will not result in any costs to state or local governmental units. Nor is it likely to result in any savings to any such units.

II. Estimated effect on revenue collections of state or local governmental units (Summary)

The impacted parties are currently obtaining permits that adoption of the proposed rule will allow to more closely match stated missions. Fees for this permit will remain the same as the current permits. Thus, the new permit will better serve for informative purposes but fees, etc., will remain as they are in current practice. Promulgation of this proposed rule and/or amendment will not affect revenue collections of state or local governmental units whatsoever.

III. Estimated costs and/or economic benefits to directly affected persons or non-governmental groups (Summary)

Promulgation of this proposed rule and/or amendment will not result in any costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. Estimated effect on competition and employment (Summary)

This proposed rule and/or amendment will not effect competition and employment.



Signature of Agency Head or Designee

Troy M. Hebert, Commissioner

Printed or Typed Name and Title of Agency Head or Designee

Date of Signature

8/10/15



Legislative Fiscal Officer or Designee

Gregory V. Albrecht, Chief Economist

Printed or Typed Name and Title of Legislative Fiscal Officer or Designee

Date of Signature

8/10/2015

Fiscal and Economic Impact Statement Worksheet

The following information is required in order to assist the Legislative Fiscal Office in the review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

The proposed amendment to the above-referenced rule provides for a Class A – Caterer’s permit for persons who hold a written concessions agreement to provide food and beverage concession services at any arena, stadium, race track, amphitheater, auditorium, theater, civic center, convention center, or similar facility that is primarily designed and used for live artistic, theatrical, cultural, educational, charitable, musical, sporting, nationally sanctioned automobile or horse racing or entertainment events.

- B. Summarize the circumstances that require this action. If the action is required by federal regulations, attach a copy of the applicable regulation.

The proposed amendment to the above-referenced rule is offered under the authority delegated by R.S. 26:793

- C. Compliance with Act 11 of the 1986 First Extraordinary Session

- 1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

This proposed rule will not result in any increase in the expenditure of funds.

- 2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) ___ Yes. If yes, attach documentation.

(b) ___ No. If no, provide justification as to why this rule change should be published at this time.

This question is not applicable to the proposed rule and/or amendment.

Fiscal and Economic Impact Statement Worksheet

I.A. Costs or Savings to State Agencies resulting from the action proposed

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

COSTS	FY 13-14	FY 14-15	FY 15-16
Personal Services	\$0	\$0	\$0
Operating Expenses	\$0	\$0	\$0
Professional Services	\$0	\$0	\$0
Other Charges	\$0	\$0	\$0
Equipment	\$0	\$0	\$0
Major Repairs & Constr.	\$0	\$0	\$0
TOTAL	\$0	\$0	\$0
POSITIONS	0	0	0

2. Provide a narrative explanation of the costs or savings shown in "A.1." including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

Implementation of this proposed rule and/or amendment will have no effect on costs or savings.

3. Sources of funding for implementing the proposed rule or rule change.

This question is not applicable to the proposed rule and/or amendment.

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

ATC currently has sufficient funds to implement the proposed rule and/or amendment.

B. Cost/savings to local governmental units resulting from the action proposed.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions/methods used in calculating this impact.

There will be no appreciable economic effect on local governmental units as a result of this proposed rule and/or amendment.

2. Indicate the sources of funding of the local governmental unit that will be affected by these cost savings.

This question is not applicable to the proposed rule and/or amendment.

Fiscal and Economic Impact Statement Worksheet

II. Effect on Revenue Collections of state and local Governmental Units

A. What increase (decrease) in revenues can be anticipated from the proposed action?

Revenue Increase/Decrease	FY 2013-2014	FY 2014-2015	FY 2015-2016
State General Fund	\$0	\$0	\$0
Agency Self-Generated	\$0	\$0	\$0
Restricted Funds*	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0
Local Funds	\$0	\$0	\$0
Total	\$0	\$0	\$0

*Conservation Fund

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

This question is not applicable to the proposed rule and/or amendment.

III. Costs and/or economic benefits to directly affected persons or nongovernmental groups.

A. What persons or nongovernmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

This question is not applicable to the proposed rule and/or amendment.

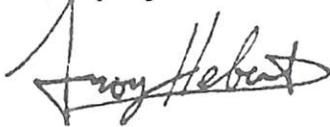
B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

This proposed rule and/or amendment will have no appreciable effect on taxpayer receipts or income.

IV. Effects on Competition and Employment

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

This proposed rule and/or amendment will have no effect on competition and employment.



Signature of Agency Head or Designee

Legislative Fiscal Officer or Designee

Troy Hebert, Commissioner

Typed Name & Title of Agency Head or Designee

Typed Name & Title of Legislative Fiscal Officer or Designee

8/10/15

Date of Signature

Date of Signature