

Chapter 3

ALCOHOLIC BEVERAGES*

Art. I. In General, §§ 3-1—3-25

Art. II. Dealer's Permit, §§ 3-26—3-40

ARTICLE I. IN GENERAL

Sec. 3-1. Definitions.

For the purposes of this chapter, the following terms shall have the respective meanings ascribed to them in this section, except in those instances where the context indicates a different meaning:

Alcoholic beverage means any fluid or any solid capable of being converted into fluid, suitable for human consumption, and containing more than one-half of one (0.5) percent alcohol by volume, including malt, vinous, spirituous, alcoholic or intoxicating liquors, beer, porter, ale, stout, fruit juices, cider or wine.

- (1) *Beverages of low alcoholic content* means alcoholic beverages containing not more than six (6) percent alcohol by volume.
- (2) *Beverages of high alcoholic content* means alcoholic beverages containing more than six (6) percent alcohol by volume.

Collector means the collector of revenue of the state or his duly authorized agents.

Handle means sell, use, distribute, store, consume or otherwise handle.

Malt beverage means beverages obtained by alcoholic fermentation of an infusion, or concoction of barley or other grain, malt and hops in water; including among other things, ale, beer, stout, porter and the like. Malt beverages are exclusive of all "liquors" whether they be defined as intoxicating or spiritous liquor, or as alcoholic, vinous, or malt liquors, or otherwise defined as liquors.

Package house means a place where a person sells alcoholic beverages in closed containers, prepared for transportation and consumption off the premises.

***Charter references**—Authority of mayor and selectmen to regulate drinking saloons, § 5; to prohibit and suppress saloons, § 16(16).

Cross references—Drunkenness in public, § 11-7; consumption of alcoholic beverages in poolrooms prohibited, § 11-17(a).

State law references—Alcoholic beverages generally, R.S. Title 26; authority to regulate sale of alcoholic beverages, R.S. 26:493.

Retail dealer means every person who offers for sale, exposes for sale, has in his possession for sale or distribution, or sells alcoholic beverages in any quantity to persons other than licensed wholesale or retail dealers.

Wholesale dealer means those persons who sell alcoholic beverages to licensed wholesale dealers or licensed retail dealers within the state or to any person for delivery beyond the borders of the state.

(Code 1964, § 3-14)

Cross reference—Definitions and rules of construction generally, § 1-2.

State law reference—Similar definitions, R.S. 26:241.

Sec. 3-2. Possession, consumption restricted.

(a) It shall be unlawful for any person to consume or to have in his possession any alcoholic beverages in a publicly owned park or recreation area, or on any public school property, or at any municipally owned and operated recreation center.

(b) It shall be unlawful for any person to consume or have in his possession any alcoholic beverages in any open container on any public street, thoroughfare, sidewalk, or on any publicly owned parking facility in the town, nor shall any person consume or have in his possession any alcoholic beverages in an open container on any private property, except as a lawful guest and with the consent of the owner or person in charge of such private property.

(c) For purposes of this section the following terms shall have the meanings ascribed to them in this subsection:

Alcoholic beverages means beverages of high and low alcoholic content as defined in section 3-1.

Open container means any container or receptacle wherein the seal or stamp has been broken or any container, bottle or can that has been open subsequent to the filling of such container by the manufactory, brewery or distillery of such alcoholic beverages. Alcoholic beverages contained in drinking glasses, cups, including plastic glasses and styrofoam cups regardless of whether such container has a top affixed thereto shall be deemed an open container.

Public streets, parks and highways means any public street, park or highway or public parking lots including privately owned parking lots within the city wherein parking is allowed without charge, public school parking lots, city parks and public playgrounds.

(Ord. No. 768, 9-18-89; Ord. No. 769, 10-2-89)

Sec. 3-3. Blind tigers.

(a) *Defined.* A "blind tiger" is any place in the town where alcoholic beverages are kept for sale, barter, exchange or habitual giving away in violation of this Code or any ordinance of the Claiborne Parish Police Jury, whether in connection with a business conducted at the place or not.

(b) *Prohibited.* It shall be unlawful to keep a blind tiger.
(Code 1964, § 3-2)

State law reference—Blind tigers, R.S. 26:711, 26:712.

Sec. 3-4. Penalty for violations.

Any person convicted of violation of any provision of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished in accordance with section 1-11.
(Code 1964, § 3-30)

Secs. 3-5—3-25. Reserved.

ARTICLE II. DEALER'S PERMIT*

Sec. 3-26. State and local permit required.

No person shall do any act for which a permit is required by this article unless he holds the proper state and local permit. Each day's business by a wholesaler or retailer without such a valid, unsuspended permit constitutes a separate violation of this section.

(Code 1964, § 3-17)

State law reference—Similar provisions, R.S. 26:75.

Sec. 3-27. Permit fees for sale of beverages of low alcoholic content.

There is hereby imposed an annual fee for permits for dealers of beverages of alcoholic content of less than six (6) percent:

(1) Wholesale dealer's permit	\$100.00
(2) Class A retail dealer's permit.....	75.00
(3) Class B retail dealer's permit.....	60.00

(Code 1964, § 3-15; Ord. No. 794-A, 1-4-93)

State law reference—Limitation on permit fees, R.S. 26:274.

Sec. 3-28. Permit fees for sale of beverages of high alcoholic content.

There is hereby levied an annual permit fee on all persons who engage in the business of selling, either retail or wholesale, in the town, beverages of high alcoholic content as follows:

(1) Wholesale dealer	\$500.00
(2) Retail dealer	500.00

(Code 1964, § 3-16)

State law reference—Limitation on permit fees, R.S. 26:74.

*State law reference—Authority to require permits, R.S. 26:74, 26:274.

Sec. 3-29. Transferability; change of location; display.

(a) Permits issued under this article are not assignable or heritable and are good only from the time of issuance to December thirty-first of the year for which issued, unless sooner suspended or revoked.

(b) Where the location of the business is changed, the change shall be noted on the permit by the issuing authority.

(c) The permit shall be prominently displayed by the licensee in his place of business so as to be easily seen and read by the public.

(Code 1964, § 3-18)

State law reference—Similar provisions, R.S. 26:76, 26:276.

Sec. 3-30. Application for renewal.

All applications for renewal permits shall be filed with the mayor of the town on or before the first day of November each year and the remittance must accompany the applications.

(Code 1964, § 3-19)

State law reference—Similar provisions, R.S. 26:88, 26:285.

Sec. 3-31. Penalty for late application for renewal.

Should any retail dealer or wholesale dealer fail to file his application for renewal of the permit for an ensuing year on or before the first day of November of each year, a penalty shall be imposed of twenty-five (25) percent of the amount due for the permit applied for. If the application for the renewal of a permit is not filed until on or after January first of the year for which the permit is required, the application may be denied without notice or hearing and the applicant's right to do business suspended.

(Code 1964, § 3-20)

State law reference—Similar provisions, R.S. 26:88, 26:285.

Sec. 3-32. Qualifications of applicant.

(a) Applicants for permits of all kinds required by this article shall meet the following qualifications and conditions:

- (1) Is a person of good character and reputation and over eighteen (18) years of age;
- (2) Is a citizen of the United States and of this state and a resident of this state continuously for a period of not less than two (2) years next preceding the date of the filing of the application;
- (3) Is the owner of the premises or has a bona fide written lease therefor;
- (4) Has not been convicted of a felony under the laws of the United States, this state or any other state;
- (5) Has not been convicted of this or in any other state or by the United States of soliciting for prostitution, pandering, letting premises for prostitution, contributing

to the delinquency of juveniles, keeping a disorderly place, letting a disorderly place or illegally dealing in controlled dangerous substances;

- (6) Not have had a license or permit to sell or deal in alcoholic beverages, issued by the United States or by any state authorized to issue permits or licenses, revoked within one (1) year prior to the date of filing of application, in the case of permits for the sale of beverages of high alcoholic content, or within five (5) years prior to the date of filing of application, in the case of beverages of low alcoholic content, or been convicted or had a judgment of court rendered against him involving alcoholic beverages by this or any other state or by the United States for one (1) year prior to date of filing of application, in the case of beverages of high alcoholic content, or for five (5) years prior to the date of filing of application, in the case of beverages of low alcoholic content, or been convicted or had a judgment of court rendered against him involving alcoholic beverages by this or any other state or by the United States for one (1) year prior to date of filing of application, in the case of beverages of high alcoholic content, or for five (5) years prior to the date of filing of application, in the case of beverages of low alcoholic content;
- (7) Not have been convicted of violating this chapter, or any municipal or parish ordinance adopted pursuant to the provisions of the alcoholic beverages laws of the state. If the applicant has been so convicted, the granting of a permit or renewal is within the discretion of the mayor and selectmen;
- (8) Has not been convicted of violating any of the provisions of the state laws regulating the sale of alcoholic beverages;
- (9) Not be the spouse of a person whose application has been denied or whose permit has been revoked, unless judicially separated or divorced, in the case of application for a permit to sell beverages of high alcoholic content; or not be the spouse of a person who does not meet the requirements of subsections (1) and (4) through (7) herein, provided that in such cases the age of the ineligible spouse shall be immaterial, in the case of application for a permit to sell beverages of low alcoholic content.

(b) If the applicant is a partnership or anyone in a partnership with or financed by another, all members of the partnership or all the persons furnishing the money shall also possess the qualifications required of the applicant. The application shall name all partners or financial backers and furnish their proper addresses. Each partner or person financially interested shall furnish the same information as required of applicant. If the applicant is a corporation, all officers and directors and all stockholders owning in the aggregate more than five (5) percent of the stock and the person who shall conduct or manage the business shall possess the qualifications required of an applicant. However, the requirements as to citizenship and residence do not apply to officers, directors and stockholders of corporations. The corporation shall be either organized under the laws of this state or qualified to do business within this state. If the applicant's business is to be conducted wholly or partly by one (1) or more managers, agents, servants, employees or other representatives, that person shall also

possess the qualifications required of the applicant, to be shown by the affidavit of each accompanying the application.

(c) If the applicant, or any other person required to have the same qualifications, does not possess the required qualifications, the permit may be denied, suspended or revoked.

(Code 1964, § 3-21)

State law reference—Similar provisions, R.S. 26:80, 26:280.

Sec. 3-33. Proximity to churches, schools, etc.

No permit required by this article shall be granted for any premises situated within three hundred (300) feet or less of a public playground or of a building used exclusively as a church or synagogue, public library or school, except a school for business education conducted as a business college or school. This distance shall be measured as a person walks using the sidewalk from the nearest point of the property line of the church or synagogue, library, playground or school to the nearest point of the premises to be licensed, or by such method as may hereafter be prescribed by the laws of the state. The restrictions contained in this section do not apply to premises which are maintained as a bona fide hotel, railway car or fraternal organization.

(Code 1964, § 3-22)

State law reference—Authority to limit location of business, R.S. 26:81, 26:281.

Sec. 3-34. Misstatement or suppression of fact in application.

Any misstatement or suppression of fact in an application or accompanying affidavit is a ground for denial of a permit.

(Code 1964, § 3-23)

State law reference—Similar provisions, R.S. 26:84, 26:282.

Sec. 3-35. Acts prohibited on licensed premises.

No person holding a retail dealer's permit required by this article and no servant, agent or employee of the permittee shall do any of the following acts upon the licensed premises:

- (1) Sell or serve alcoholic beverages to any person under the age of eighteen (18) years, unless such person submits a driver's license, selective service card, or other lawful identification which, on its face, establishes the age of the person as eighteen (18) years or older and there is no reason to doubt the authenticity or correctness of the identification;
- (2) Sell or serve alcoholic beverages to any intoxicated person;
- (3) Intentionally entice, aid, or permit any person under the age of eighteen (18) years to visit or loiter in or about any place where alcoholic beverages or beer are the principal commodities sold, handled, or given away. The provisions of this subsection shall in no way prohibit the presence of any person under the age of eighteen (18) years on or about a licensed premises for any function sponsored by a religious or charitable organization with tax exempt status under section 501(3) of the Internal Revenue

- Code of the United States, or by a fraternal beneficiary society with tax exempt status under section 501(8) of the code, and no alcoholic beverages are sold, handled, given away, or accessible during the presence of any such person;
- (4) Permit any prostitute to frequent the licensed premises or to solicit patrons for prostitution on the licensed premises;
 - (5) Sell, offer for sale, possess, or permit the consumption on or about the licensed premises of any kind or type of alcoholic beverage, the sale or possession of which is not authorized under his permit;
 - (6) Intentionally conduct illegal gambling, as defined by law, on the premises described in the application for the permit;
 - (7) Employ or permit persons, commonly known as B drinkers, to solicit patrons for drinks and to accept drinks from patrons and receive therefor any commission or remuneration in any other way;
 - (8) Employ anyone under the age of eighteen (18) in any capacity in an establishment where the sale of alcoholic beverages constitutes its main business. If the sale of alcoholic beverages does not constitute the main business of the establishment, anyone under the age of eighteen (18) may be employed as long as the employment does not directly involve the sale of alcoholic beverages for consumption on the premises. If the sale or handling of alcoholic beverages does not constitute the main business and alcoholic beverages are not sold for consumption on the premises, an employee under the age of eighteen (18) years may be permitted to participate in the sale of packaged alcoholic beverages to collect the price and taxes and issue receipts therefor, or may be permitted to bag packaged alcoholic beverages, or both, where immediate supervision is provided;
 - (9) Fail to keep the premises clean and sanitary;
 - (10) Permit the playing of pool or billiards by any person under eighteen (18) years of age, or permit such a person to visit or frequent the licensed premises operating a pool or billiard hall;
 - (11) Illegally sell, offer for sale, possess, or permit the consumption on or about the licensed premises of any kind or type of narcotics or habit forming drugs;
 - (12) Accept food stamp coupons as payment for alcoholic beverages in violation of the provisions of Public Law 88-525 and regulation 1600.2(i) issued pursuant to that section of the federal statute by the United States secretary of agriculture;
 - (13) Permit any disturbance of the peace or obscenity, or any lewd, immoral, or improper entertainment, conduct, or practices on the licensed premises;
 - (14) Play live or recorded music which is so unreasonably intrusive or offensive as to interfere with the comfortable enjoyment of the property of a person residing within two hundred (200) feet of the premises. This prohibition shall not apply to any licensed

premises which are not located within two hundred (200) feet of a residence or which were not located within two hundred (200) feet of a residence on the date that the first permit was granted for the premises or to any licensed premises which are not located in an unzoned unincorporated area. This prohibition shall not apply to any premises which provide an entry area with two (2) separate doors or sets of doors separating the exterior of the entrance from the area where music is played. Any licensed premises which are not, on the effective date of ordinance from which this section derives in compliance with the provisions of this subsection, shall have a reasonable time either to modify the premises to comply with this subsection or to cease the playing of music as described herein. Any person residing within two hundred (200) feet of a licensed premises on which is played live or recorded music which is so unreasonable, intrusive or offensive as to interfere with the comfortable enjoyment of his property shall have a cause of action for damages and may obtain injunctive relief if the premises are not in compliance with the provisions of this subsection.

(Code 1964, § 3-24)

State law reference—Similar provisions, R.S. 26:90, 26:286.

Sec. 3-36. Additional causes for suspension or revocation of permits.

In addition to any other causes enumerated in this article, the town may deny any permit for any one (1) of the following causes:

- (1) If the holder of a permit to sell alcoholic beverages, or any of the persons who must possess the same qualifications, fails to possess the qualifications required in section 3-32;
- (2) If the permit was granted to any person who is or has been engaged in an alcoholic beverage business with a person whose application for a permit has been denied or whose permit has been revoked;
- (3) If there was any misstatement or suppression of fact in the application for the permit;
- (4) If the holder of any permit has been convicted by any court of competent jurisdiction of any one (1) of the following offenses:
 - a. Violation of the Sunday closing law;
 - b. Violation of any municipal or parish ordinance providing for Sunday closing hours.
- (5) If, without a proper license, a retailer allows any person to consume any alcoholic beverage on the licensed premises or on any parking lot or open or closed space within or contiguous to the licensed premises;
- (6) If any dealer or any person described in section 3-32(b) of this article violates or has violated any provision of this article;
- (7) If any dealer fails to pay any excise taxes due by any regulated business to the state or to any parish or municipality;

(8) If the permit was issued to an interposed person in contravention of state law.
(Code 1964, § 3-25)

State law reference—Similar provisions, R.S. 26:91, 26:287.

Sec. 3-37. Permit required for each location where business is done.

Any retail liquor dealer making delivery of spirits, wine, beer or other malt liquors, or any retail dealer in malt liquors making delivery of beer or other malt liquors, at places other than the place of business specified on the permit, except pursuant to prior specific orders therefor received at such place of business, is subject to separate tax as retail liquor dealer, or retail dealer in fermented malt liquor, as the case may be, at such place where such sales are made. Each such dealer who has paid the tax at one (1) place of business does not incur further tax for sales of beer or other malt liquors to another such dealer holding a proper tax stamp if the sales are consummated at the place of business where the latter's tax stamp is held.

(Code 1964, § 3-27)

Sec. 3-38. Closing hours.

No retail dealer, nor his servant, agent or employee shall sell, offer to sell, dispense or give away beverages of either low or high alcoholic content within the corporate limits of the town between the hours of 12:00 midnight on Saturday night and 6:00 a.m. on the following Monday morning or between the hours of 12:00 midnight and 6:00 a.m., on the following morning.

(Code 1964, § 3-29)

Sec. 3-39. Imposition of gallonage tax on beverages of low alcoholic content.

In addition to all other taxes presently imposed, there is hereby levied a tax on beverages of low alcoholic content sold and consumed in the territorial limits of the town of one dollar and fifty cents (\$1.50) per standard barrel of thirty-one (31) gallons and at a like rate for fractional parts of a barrel, such tax to be collected for the town by the collector of revenue of the state as is provided by state law.

(Code 1964, § 3-28)

State law reference—Gallonage tax authorized, R.S. 26:492.

Sec. 3-40. Collection of permit fees and gallonage tax by collector.

The collector of revenue of the state is hereby requested to collect the permit fees and gallonage tax fixed and levied herein and remit such fees and tax collected by him quarterly to the town after deducting such collection costs as are fixed by law.

(Code 1964, § 3-26)

State law reference—State collector authorized to collect gallonage tax, R.S. 26:492.

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