

RS 26:80

§80. Qualifications of applicants for permits

A. Applicants for state and local permits of all kinds shall demonstrate that they meet all of the following qualifications and conditions:

(1) Be a person of good character and reputation and over eighteen years of age. In considering a person's good character or reputation, the commissioner may consider a person's arrests in determining suitability.

(2) Be a citizen of the United States and the state of Louisiana and a resident of the state of Louisiana continuously for a period of not less than two years next preceding the date of the filing of the application. However, the requirements as to Louisiana citizenship do not apply to wholesalers or retailers who held permits on or prior to January 1, 1946.

(3) Be the owner of the premises, have a bona fide written lease therefor, or be a commercial lessor or a noncommercial lessor licensed pursuant to R.S. 4:701 et seq., exclusively for the sole purpose of conducting charitable gaming.

(4) Have not been convicted of distributing or possessing with the intent to distribute any controlled dangerous substance classified in Schedule I of R.S. 40:964, on any premises licensed pursuant to this Title, where the applicant held or holds an interest in the licensed business. The prohibition provided for in this Subsection shall be for the lifetime of the offender.

(5) Have not been convicted of a felony under the laws of the United States, the state of Louisiana, or any other state or country.

(6) Have not been convicted in this or in any other state or by the United States or any other country of soliciting for prostitution, pandering, letting premises for prostitution, contributing to the delinquency of juveniles, keeping a disorderly place, or illegally dealing in controlled dangerous substances.

(7) If also applying for a video gaming license under the provisions of Chapter 6 of Title 27 of the Louisiana Revised Statutes of 1950, have not been convicted in this or in any other state or by the United States or any other country of theft or any crime involving false statements or declarations, or gambling as defined by the laws and ordinances of any municipality, any parish, any state, or the United States.

(8) Have not had a license or permit to sell or deal in alcoholic beverages, issued by the United States, any state, or by any political subdivision of a state authorized to issue permits or licenses, revoked within two years prior to the application, or been convicted or had a judgment of court rendered against the applicant involving the sale or service of alcoholic beverages by this or any other state or by the United States for two years prior to the application.

(9) Have not been adjudged by the commissioner, or convicted by a court of violating any of the provisions of this Chapter.

(10) Have not been convicted of violating any municipal or parish ordinances adopted pursuant to the provisions of this Chapter. If the applicant has been so convicted, the granting of a permit or of a renewal shall be within the discretion of the commissioner.

(11) Not be the spouse of a person who does not meet the requirements of Paragraphs (1) and (3) through (10), and (12) of this Subsection; however, in such cases the age of the ineligible spouse shall be immaterial. For purposes of this Paragraph, the term "spouse" shall also include persons who are considered married outside of the United States, persons who ordinarily hold themselves out as husband and wife, or persons who file their state and federal income tax returns as either "married filing jointly" or "married filing separate".

(12) Not owe the state or the local governmental subdivisions in which the application is made any delinquent sales taxes, penalties, or interest, excluding items under formal appeal pursuant to applicable statutes.

B. If the applicant is a partnership recognized by Louisiana law, or anyone in such partnership with or financed by another, all members of such partnership, or all the persons furnishing the money shall also possess the qualifications required of an applicant. The application shall name all partners or financial backers and furnish their social security numbers and proper addresses. If a partner of a partnership applying for retail or manufacturer's permits is a corporation or limited liability company, the requirements as to citizenship and residence shall not apply to officers, directors, and stockholders of the corporation or members of the limited liability company. The corporation or limited liability company shall either be organized under the laws of the state of Louisiana or qualified to do business within the state of Louisiana.

C.(1) If the applicant is a corporation or a limited liability company, all officers and directors and all stockholders or members owning in the aggregate more than five percent of the stock or of the membership interest in a limited liability company and the person or persons who shall conduct or manage the business shall possess the qualifications required of an applicant and shall furnish their federal identification number, their Louisiana Department of Revenue business account number, their social security number, and their correct home address. The requirements as to citizenship and residence do not apply to either the officers, directors, or stockholders of corporations, or the officers, managers, or members of limited liability companies. The corporation or limited liability company shall be either organized under the laws of the state of Louisiana or qualified to do business within the state of Louisiana.

(2) Notwithstanding any other provisions of law to the contrary, the commissioner may accept from a publicly traded or other corporation or entity, other than any gaming entity regulated pursuant to the provisions of R.S. 27:20 et seq., R.S. 27:41 et seq., or R.S. 27: 401 et seq., the necessary documentation of those persons described in Subsection D of this Section and three officers of the corporation in full satisfaction of the requirements of this Section.

D. If the applicant's business is to be conducted wholly or partly by one or more managers, agents, servants, employees, or other representatives, those persons shall also possess the qualifications required of the applicant and shall furnish verification of suitability in accordance with Paragraph (H)(6) of this Section; however, convicted felons may be employed by an applicant if, in the applicant's business, alcoholic beverages are not the principal commodities sold, handled, or given away.

E. If the applicant, or any other person required to have the same qualifications, does not possess the required qualifications, the permit may be denied; however, if a sales tax clearance is not issued, the permit shall be denied. Nevertheless, if the sales tax clearance request is not processed within the time limitations provided in R.S. 26:78, the permit shall be issued if all other qualifications are met by the applicant.

F.(1)(a) Notwithstanding the provisions of Subsections A and B, a permit may be granted by the commissioner if the applicant has been pardoned, has had any misdemeanor conviction discharged or dismissed, or the applicant's civil rights have been restored, or, if the applicant is a firm, association, partnership, trust, domestic or foreign corporation, or other legal entity, the applicant has terminated its relationship with the person or persons whose action directly contributed to the applicant's conviction.

(b) The provisions of Subparagraph (a) of this Paragraph shall not apply to any applicant who is also applying for a video gaming license under the provisions of Chapter 6 of Title 27 of the Louisiana Revised Statutes of 1950.

(2) In the granting of a permit, a conviction or plea of guilty or nolo contendere by the applicant shall not constitute an automatic disqualification of the applicant as otherwise required

pursuant to the provisions of Paragraphs (A)(5), (6), and (7) of this Section, if all of the following criteria are met:

(a) The felony for which the applicant was convicted is not a crime of violence as defined in R.S. 14:2(B).

(b) Ten years or more have elapsed between the date of application and the successful completion of any sentence, deferred adjudication, or period of probation or parole and the final discharge of the defendant.

G. Notwithstanding the provisions of Subsections A and B, the commissioner may grant or continue a permit with respect to an applicant, even though the applicant's spouse has been convicted of a felony, if the applicant:

(1) Had state and local permits prior to the spouse's felony conviction, and

(2)(a) Has a regime of separation of property, pursuant to Civil Code Article 2370, and is the owner of the premises or has a bona fide written lease therefor, or

(b) Owns the permitted premises as the applicant's separate property, pursuant to Civil Code Article 2341.

H.(1) In order to determine suitability, the applicant, members of a partnership recognized by Louisiana law, the officers and directors of a corporation, the stockholders of a corporation, and members of a limited liability company owning more than five percent of such a corporation or company shall be fingerprinted. If no disqualifying record is identified at the state level, the fingerprints shall be forwarded by the Department of Public Safety and Corrections, public safety services, office of state police, to the Federal Bureau of Investigation (F.B.I.) for a national criminal history record check.

(2) In order to determine the suitability of an applicant, the office of alcohol and tobacco control shall require members of a partnership recognized by Louisiana law, the officers and directors of a corporation, the stockholders of a corporation, and members of a limited liability company owning more than five percent of such a corporation or company, to furnish to the office of alcohol and tobacco control a full set of fingerprints to enable a criminal background investigation to be conducted. The office of alcohol and tobacco control shall submit the completed fingerprint card to the office of state police. The office of state police is authorized to submit the fingerprints to the F.B.I. for a national criminal history background check.

(3) The office of alcohol and tobacco control shall require a background investigation by means of fingerprint checks by the office of state police and the F.B.I. of each applicant, members of a partnership recognized by Louisiana law, the officers and directors of a corporation, the stockholders of a corporation, and members of a limited liability company owning more than five percent of such a corporation or company applying for an alcoholic beverage permit.

(4) In addition to the other requirements established by law, the submittal of fingerprints shall be a prerequisite to the issuance of a permanent alcoholic beverage permit by means of fingerprint checks by the office of state police and the F.B.I.

(5) The office of state police shall require each applicant, members of a partnership recognized by Louisiana law, officers and directors of a corporation, the stockholders of a corporation, and the members of a limited liability company owning more than five percent of such a corporation or company applying for an alcoholic beverage permit pursuant to this Chapter to be fingerprinted. Such fingerprints shall be available for use by the office of state police and for transmittal to the F.B.I. for a national criminal history record check. The information obtained from the national criminal history record check conducted pursuant to this Section may be used by the office of alcohol and tobacco control to determine the applicant's eligibility for an alcoholic beverage permit.

(6) In order to determine the suitability of the spouses of those persons required to submit fingerprints in accordance with this Section, and all other persons required to possess the same qualifications required of the applicant, except for those persons otherwise provided for in this Section, the office of alcohol and tobacco control shall require such persons to provide verification of suitability in accordance with rules adopted by the commissioner pursuant to the Administrative Procedure Act. Fingerprints shall not be required unless the commissioner requests fingerprints based upon credible information that a person may not meet the qualifications of an applicant.

I. All licensees and persons required to be qualified pursuant to the provisions of this Chapter shall have a continuing duty to inform the commissioner of any action which they believe would constitute a violation of this Chapter. No person who so informs the commissioner shall be discriminated against by an applicant or licensee because of supplying such information.

J. All licensees and any other persons who have been found suitable in accordance with the provisions of this Section shall maintain suitability throughout the term of the license.

Amended by Acts 1962, No. 463, §5; Acts 1972, No. 231, §1; Acts 1972, No. 768, §9; Acts 1975, No. 429, §1; Acts 1983, No. 457, §2; Acts 1985, No. 508, §1, eff. July 12, 1985; Acts 1987, No. 696, §1; Acts 1988, No. 865, §1; Acts 1992, No. 976, §1, eff. Jan. 1, 1993; Acts 1993, No. 112, §1; Acts 1993, No. 130, §1; Acts 1995, No. 1016, §1; Acts 1997, No. 766, §1; Acts 1997, No. 778, §1; Acts 2001, No. 1188, §1, eff. June 29, 2001; Acts 2003, No. 519, §1, eff. June 20, 2003; Acts 2003, No. 629, §1; Acts 2006, No. 484, §1; Acts 2008, No. 844, §1; Acts 2011, No. 334, §1, eff. June 29, 2011; Acts 2012, No. 291, §1; Acts 2012, No. 764, §1; Acts 2013, No. 252, §1, eff. June 12, 2013; Acts 2015, No. 382, §1; Acts 2016, No. 63, §1, eff. May 10, 2016.