Officials say drinking law is confusing

Advocate news services

Although the state's new drinking-age law went into effect at midnight Saturday, authorities are still confused about just who it affects and how it can be enforced.

One bar owner, on the other hand, already has decided how he will handle the law. Peppy's on Perkins Road will soon close its doors. Other owners aren't quite so sure — some might begin charging a "membership fee" to become "private" clubs, and for the rest it will be business as usual.

Lawmakers left loopholes in the law, including a provision that grandfathers many young people who have reached the age of 19½. Anyone who was born before Oct. 1, 1967, can continue buying alcohol and drinking it legally.

The law's loopholes and other exemptions, according to state police:
- It does not apply to established religious purposes.
- It does not apply when the person is accompanied by a parent, spouse or legal guardian at least 21 years old.
- It does not apply to medical purposes when prescribed by a licensed authority.
- It does not apply to the sale, handling, transport or service in dispensing any alcoholic beverage when lawfully employed by a licensed enterprise.
- It does not apply in private residences, private clubs or establishments.
- It makes reference to "private residences, private clubs or establishments" but not "private" establishments. That omission, state police fear, could pose problems for enforcement, depending on how the court views "establishments."

Critics blast the law as being watered down; many lawmakers regard it as the salvation of more than $15 million in federal highway funds, and some people born after Sept. 30, 1967, complain it just isn't fair.

Michele Simoneaux is one of those. She was born too late.

"I've been drinking for a year and a half now, and now I can't," she said. "I don't understand it."

Simoneaux, a department store sales clerk from suburban New Orleans, was born on Oct. 9, 1967.

"I don't agree with it," she said. "I think it's going to encourage more people to drink in their cars."

It's not that she won't be able to drink, she says. "If I really wanted to drink I could get around it.' But she's not certain she'll be able to hang out at her favorite New Orleans bars.

"I just don't know if I'll be able to get in these places anymore."

Then there is Leigh Ann Maddox, born Oct. 11, 1967. She is a nursing student at LSU.

"I'm married and they're going to tell me I can't go out and have a drink with my husband," she said.

But Maddox, the mother of a 14-month-old girl, added that she knows one way to avoid being asked for identification.

"I guess I'll have to bring my daughter out so they won't card me," she said. "They never card mothers."

Bret Bourgeois, a sophomore at LSU, had a different view entirely. He was born on Sept. 30, so he can drink legally. He doesn't want to.

"I personally don't drink. So I guess I'm in favor of the law," said Bourgeois. "I really don't like it because of all the enforcement, depending on how the court views "establishments."

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loopholes. I'm in favor of the law now because if we enact it, it could save us some problems in the future."

Either way, the new law, with its many exclusions, is confusing. And it won't be easy to enforce, authorities said.

The city police legal adviser has issued a memorandum trying to explain the law to officers.

State police spokesman Capt. Mike Roop said most of the complaints they get will be forwarded to local agencies.

"We cannot handle that many complaints physically," he said.

The director of the Alcohol Beverage Control Board said his office has no jurisdiction to enforce the new law because it does not affect the sale of alcohol. He said it is a police matter.

According to state police, violators will be ticketed, in much the same way as traffic violators, and fined not more than $50. A memo from police legal adviser Richard Redd to all officers says they are not to issue citations in local bars.

"I see a law that will be difficult in enforcement," Redd said. "To the extent it's possible, we will enforce it."

"The Legislature created a loophole that renders the statute unenforceable except for the people who fall in that age group being in an outdoor public place and not having a parent with them," Redd said. "Except for that, I don't see any reasonable possibility of enforcement. I think it would be hard for you to violate that law."

Nevertheless, "We're closing Peppy's," said the bar's owner, Danny Kertacy, who also owns Miami The Bar. Kertacy said he has also considered reopening the nightclub as a non-alcohol bar.

He said that because 70 percent of the business at Peppy's falls into the age group that will be affected by the new law, the lounge would not be profitable, and will close before spring break.

Marc Fraioli, owner of Fred's Bar and Grill and Murphy's Bar, said his clubs will take no immediate action with respect to the new law.

Fraioli said he is waiting for a ruling from the U.S. Supreme Court in a challenge to the federal requirements for states to enact such laws or lose federal highway money.

"We're not taking any type of action right now," he said.

The possibility of some bars charging "membership fees" exists, Fraioli said, but he added, "It's most probable that most won't."

Louisiana Highway Safety Commission Executive Director Bette Theis said that while the law is not the best, "It's important to have a law on the books."

"Even though it's not the strongest of laws, we are going to have law-abiding people who will obey it," she said.