

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 1964 of the Regular Session

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

As Engrossed: H3/23/05

A Bill

HOUSE BILL 2841

5 By: Representative Anderson
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7

8 **For An Act To Be Entitled**

9 AN ACT CONCERNING THE STORAGE, POSSESSION, AND
10 TRANSPORTATION OF ALCOHOLIC BEVERAGES IN DRY
11 COUNTIES; AMENDING ARKANSAS LAWS TO INCREASE THE
12 PENALTY FOR THE SALE OF INTOXICATING LIQUOR IN
13 DRY COUNTIES; AMENDING A PORTION OF ARKANSAS LAW
14 RESULTING FROM INITIATED ACT 1 OF 1942; AND FOR
15 OTHER PURPOSES.

16 **Subtitle**

17 AN ACT CONCERNING THE STORAGE,
18 POSSESSION, AND TRANSPORTATION OF
19 ALCOHOLIC BEVERAGES IN DRY COUNTIES; AND
20 TO INCREASE THE PENALTIES FOR THE SALE
21 OF INTOXICATING LIQUOR IN DRY COUNTIES.
22
23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
25

26 SECTION 1. Arkansas Code § 3-3-304 is repealed.

27 ~~3-3-304. Shipment or transportation generally.~~

28 ~~(a) It shall be unlawful for any person to ship or transport, to cause~~
29 ~~to be shipped or transported, or to accept or receive for shipment or~~
30 ~~transportation, in any type of vehicle or conveyance into or through any~~
31 ~~county of this state which has legally voted "dry" pursuant to §§ 3-8-201-~~
32 ~~3-8-203 and 3-8-205-3-8-209, any spirituous, vinous, or malt liquors or~~
33 ~~beverages, other than beer, in quantities or amounts in excess of one (1)~~
34 ~~gallon, in toto, at any one time.~~

35 ~~(b) However, this section shall not apply to properly licensed~~



~~retailers and wholesalers when so authorized by the Director of the Alcoholic Beverage Control Division or to common carriers or bonded carriers duly licensed by the Arkansas State Highway and Transportation Department or to a private or contract carrier holding a proper permit from the director to transport such intoxicating liquors within the State of Arkansas where the liquors are consigned to a point beyond the prohibited territory.~~

SECTION 2. Arkansas Code § 3-3-305 is repealed.

~~3-3-305. Transportation by motor vehicle.~~

~~(a) It is unlawful for a motor vehicle to carry at any one time in any county or part of a county in which it is unlawful to manufacture, sell, barter, loan, or give away intoxicating liquors, more than one (1) gallon of spirituous, vinous, or malt liquor and three (3) gallons or one (1) case of beer.~~

~~(b) Any alcoholic beverages in excess of the amounts prescribed above found inside or on a vehicle in violation of this section shall be confiscated pursuant to an order of a court of competent jurisdiction.~~

~~(c) The provisions of this section shall not apply to properly licensed retailers and wholesalers when so authorized by the Director of the Alcoholic Beverage Control Division, to common carriers or bonded carriers duly licensed by the Arkansas State Highway and Transportation Department, to a private or contract carrier holding a proper permit from the Director of the Alcoholic Beverage Control Division to transport intoxicating liquors within the State of Arkansas where the liquors are consigned to a point beyond the dry territory, or to individuals in transit when the individuals are not residents of the dry territory.~~

~~(d) The operator of any motor vehicle violating the provisions of this section shall be guilty of a misdemeanor and shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500).~~

~~(e) This section shall not be deemed to repeal any acts pertaining to possession of alcoholic beverages in dry territory, but shall be cumulative thereto.~~

SECTION 3. Arkansas Code § 3-3-306 is repealed.

~~3-3-306. Possession of alcoholic beverages other than beer.~~

~~(a) It shall be unlawful for any person, firm, or corporation to~~

1 ~~possess more than one (1) gallon of spirituous, vinous, or malt liquors other~~
 2 ~~than beer, in any county or part of a county in which it is unlawful to~~
 3 ~~manufacture, sell, barter, loan, or give away intoxicating liquors.~~

4 ~~(b) Such liquor or liquors found in the possession of any person shall~~
 5 ~~be confiscated pursuant to an order of a court of competent jurisdiction.~~

6 ~~(c) The provisions of this section shall not apply to common carriers~~
 7 ~~in transit through such county providing further that the provisions of this~~
 8 ~~section shall not apply to licensed bonded dealers or individuals in transit,~~
 9 ~~when those individuals are not residents of the dry county.~~

10 ~~(d) Any person, firm, or corporation violating the provisions of this~~
 11 ~~section shall be guilty of a misdemeanor and shall be fined not less than~~
 12 ~~fifty dollars (\$50.00) nor more than five hundred dollars (\$500).~~

13
 14 SECTION 4. Arkansas Code § 3-3-307 is repealed.

15 ~~3-3-307. Possession of beer.~~

16 ~~It shall be legal to possess, for the possessor's own use, not~~
 17 ~~exceeding one (1) case of beer which contains not more than three (3) gallons~~
 18 ~~of beer in any dry county or political subdivision thereof in the State of~~
 19 ~~Arkansas.~~

20
 21 SECTION 5. Arkansas Code § 3-3-308 is repealed.

22 ~~3-3-308. Presumption of possession for sale, etc.~~

23 ~~(a) Any person who shall have in his possession in any county which~~
 24 ~~has legally voted "dry" pursuant to §§ 3-8-201—3-8-203 and 3-8-205—3-8-~~
 25 ~~209, any spirituous, vinous, or malt liquors or beverages, other than beer,~~
 26 ~~in quantities or amounts in excess of one (1) gallon, in toto, shall be~~
 27 ~~presumed to possess such intoxicating liquors for sale, barter, gift, or~~
 28 ~~exchange, and he shall be subject to the penalties of this subchapter.~~

29 ~~(b) However, this presumption may be overcome by proper proof in a~~
 30 ~~court in the county in which the person shall have been found in possession~~
 31 ~~of the intoxicating liquors in excess of the quantity or amount provided for~~
 32 ~~in this section.~~

33
 34 SECTION 6. Arkansas Code § 3-8-209(b), concerning penalties for the
 35 sale of intoxicating liquor in dry counties, resulting from Initiated Act 1
 36 of 1942, is amended to read as follows:

1 (b) Any person who or officers of any firm or corporation which shall
 2 manufacture, sell, barter, loan, or give away any intoxicating liquor in any
 3 territory which has been made dry under the provisions of this subchapter
 4 shall, upon first conviction, be deemed guilty of a ~~misdemeanor~~ violation and
 5 shall be fined not less than ~~one hundred dollars (\$100)~~ four hundred dollars
 6 (\$400) ~~nor or more than one thousand dollars (\$1,000)~~ four thousand dollars
 7 (\$4,000). For a second conviction, he or she shall be fined not less than ~~two~~
 8 ~~hundred dollars (\$200)~~ eight hundred dollars (\$800) ~~nor or more than two~~
 9 ~~thousand dollars (\$2,000)~~ eight thousand dollars (\$8,000); and for any
 10 subsequent conviction shall be guilty of a felony and shall be sentenced to
 11 not less than one (1) year nor more than five (5) years in the Department of
 12 Corrections. ~~If any person so convicted is punished by a fine only, if such~~
 13 ~~fine is not paid immediately, he shall be confined in the Department of~~
 14 ~~Corrections at hard labor until such fine and costs are paid at the rate of~~
 15 ~~two dollars (\$2.00) per day.~~

16
 17 SECTION 7. Arkansas Code § 3-8-310 is amended to read as follows:

18 3-8-310. Effect of voting for or against sale — ~~Penalty for unlawful~~
 19 ~~sales.~~

20 (a)(1) Whenever a local option election shall be held in any county,
 21 city, town, district, or precinct in this state and a majority of the votes
 22 cast at the election shall be in favor of prohibiting the sale of liquor in
 23 the territory in which the election shall have been held, the law prohibiting
 24 the sale shall be in full force and effect at the expiration of sixty (60)
 25 days from the date of the entry of the certificate of the canvassing board in
 26 the record of the county court.

27 (2) After the expiration of sixty (60) days, no liquor license
 28 ~~theretofore~~ previously issued in the territory under the laws of this state
 29 shall be of any force or effect ~~whatever~~, but the owner of the license shall
 30 be entitled to recover from the county, city, town, district, or precinct to
 31 which the license money was paid, the proportional part ~~thereof~~ of the money
 32 as the unexpired period of license bears to the whole of the year.

33 ~~(b)(1) Any person who shall, after the sixty (60) days, sell, barter,~~
 34 ~~or loan, directly or indirectly, any such liquors in the city, county, town,~~
 35 ~~district, or precinct, shall upon conviction be fined not less than sixty~~
 36 ~~dollars (\$60.00) nor more than one hundred dollars (\$100) and be confined in~~

1 ~~the county jail for not less than twenty (20) nor more than forty (40) days~~
2 ~~for each offense.~~

3 ~~(2) Any person who knowingly furnishes or rents a house, room,~~
4 ~~wagon, or any conveyance or thing in which spirituous, vinous, or malt~~
5 ~~liquors are sold, bartered, or loaned, in violation of this act, shall upon~~
6 ~~conviction thereof be fined not less than sixty dollars (\$60.00) nor more~~
7 ~~than one hundred dollars (\$100). The house, wagon, vehicle, or other thing in~~
8 ~~which the liquors were sold, bartered, or loaned shall be liable for all~~
9 ~~finer adjudged against the person selling, bartering, or loaning the same.~~

10 ~~(e)(b) In the event that a majority of the votes cast at the local~~
11 ~~option election shall be in favor of the sale of liquors, then no license~~
12 ~~shall be granted to any person, firm, or corporation to sell such the liquors~~
13 ~~in the territory until after the expiration of the aforesaid sixty (60) days~~
14 ~~sixty-day period under subsection (a) of this section, if the issuing of the~~
15 ~~liquor license was in that territory prohibited by law prior to the holding~~
16 ~~of the election.~~

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18
19 SECTION 8. Arkansas Code §3-8-311 is repealed.

20 ~~3-8-311. Sale, barter, or loan in dry territory—Penalties.~~

21 ~~(a)(1) It shall be unlawful for anyone to sell, barter, or loan,~~
22 ~~directly or indirectly, any beverage containing any alcohol or any liquid~~
23 ~~mixture or decoction of any kind which produces or causes intoxication in any~~
24 ~~county, city, town, district, or precinct in which the sale, barter, or loan~~
25 ~~of spirituous, vinous, or malt liquors is or shall be prohibited in~~
26 ~~accordance with the local option law.~~

27 ~~(2) Any sale, barter, or loan of any article with the agreement,~~
28 ~~expressed or implied, that the right or title to or possession of any such~~
29 ~~beverage, liquid mixture, or decoction shall also pass, shall be considered a~~
30 ~~sale, barter, or loan within the terms of this subsection.~~

31 ~~(3) Any person who shall sell, barter, or loan, directly or~~
32 ~~indirectly, any such beverage, liquid mixture, or decoction in any such~~
33 ~~county, city, town, or precinct, shall, upon conviction, be fined the sum of~~
34 ~~not less than twenty dollars (\$20.00) nor more than one hundred dollars~~
35 ~~(\$100) for each offense.~~

36 ~~(b) It shall be unlawful for any person to sell, lend, give, procure~~

1 ~~for, or furnish to another, any spirituous, vinous, or malt liquors, or to~~
 2 ~~have in his possession spirituous, vinous, or malt liquors, for the purpose~~
 3 ~~of selling them in any territory where this act is in force. Any person so~~
 4 ~~offending shall be fined not less than fifty dollars (\$50.00) nor more than~~
 5 ~~one hundred dollars (\$100) and imprisoned not less than ten (10) nor more~~
 6 ~~than fifty (50) days.~~

7 ~~(c) The possession of a United States special tax stamp commonly~~
 8 ~~called United States license for carrying on the business of a retail dealer~~
 9 ~~in spirituous, vinous, or malt liquors, or the having of the tax permit~~
 10 ~~issued by the Director of the Department of Finance and Administration or~~
 11 ~~license at the place of business in the territory shall be prima facie~~
 12 ~~evidence of guilt under this section.~~

13 ~~(d) Nothing herein shall prohibit the sale, barter, loan, or having in~~
 14 ~~the custody or possession of any person any beverage, liquid mixture, or~~
 15 ~~decoction for the sale of which the United States does not require the~~
 16 ~~payment of the special tax on retail liquor dealers.~~

17
 18 SECTION 9. Arkansas Code § 3-8-312(b), concerning sale, barter, or
 19 possession of intoxicating liquor for sale in a dry area, is amended to read
 20 as follows:

21 (b) Any person, or officers of any firm or corporation, who ~~shall do~~
 22 ~~so~~ violates subsection (a) of this section shall upon first conviction be
 23 deemed guilty of a ~~misdemeanor violation~~ and shall be fined not less than ~~one~~
 24 ~~hundred dollars (\$100)~~ four hundred dollars (\$400) ~~nor or~~ more than ~~one~~
 25 ~~thousand dollars (\$1,000)~~ four thousand dollars (\$4,000). The person or
 26 officers of a firm or corporation for a second conviction shall be fined not
 27 less than ~~two hundred dollars (\$200)~~ eight hundred dollars (\$800) ~~nor or~~ more
 28 than ~~two thousand dollars (\$2,000)~~ eight thousand dollars (\$8,000). For any
 29 subsequent conviction, the person or officers of a firm or corporation shall
 30 be deemed guilty of a felony and shall be sentenced to not less than one (1)
 31 year nor more than five (5) years in the Department of Corrections.

32
 33 /s/ Anderson
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APPROVED: 04/11/2005

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