

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 2320 of the Regular Session

As Engrossed: H3/23/05 S4/1/05 S4/11/05

A Bill

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

HOUSE BILL 2632

4
5 By: Representatives Stovall, Key
6 By: Senator Womack

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9 **For An Act To Be Entitled**

10 AN ACT TO REQUIRE THAT BEER KEGS SOLD FOR OFF-
11 PREMISES CONSUMPTION HAVE AN IDENTIFICATION
12 LABEL; AND FOR OTHER PURPOSES.

13
14 **Subtitle**

15 AN ACT TO REQUIRE THAT BEER KEGS SOLD
16 FOR OFF-PREMISES CONSUMPTION HAVE AN
17 IDENTIFICATION LABEL.

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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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22 SECTION 1. Arkansas Code Title 3, Chapter 5, Subchapter 2 is amended
23 to add an additional section to read as follows:

24 3-5-227. Registration of beer kegs for off-premises consumption.

25 (a) As used in this section:

26 (1) "Beer" means any fermented liquor made from malt or any
27 substitute therefor and having an alcoholic content not in excess of five
28 percent (5%) by weight;

29 (2) "Keg" means a vessel which has a liquid capacity of four (4)
30 or more gallons;

31 (3) "Malt beverage" means any liquor brewed from the fermented
32 juices of grain and having an alcoholic content of no less than five percent
33 (5%) nor more than twenty-one percent (21%) by weight; and

34 (4) "Off-premises" means a place other than the licensed
35 retailer's place of business.



1 (b) All retail dealers that sell a keg of beer or malt beverage for
2 off-premises consumption are required to attach an identification label or
3 tag to the keg prior to the sale.

4 (c)(1) The identification label or tag shall consist of paper within a
5 clear protective coating that is plastic, metal, or another durable material
6 that is not easily damaged or destroyed.

7 (2) The paper shall be of a kind to allow the required
8 information to be automatically produced in triplicate.

9 (3) Identification labels used may contain a nonpermanent
10 adhesive material in order to apply the label directly to an outside surface
11 of a keg at the time of sale.

12 (4) Identification tags shall be attached to the keg at the time
13 of sale with nylon ties or cording, wire ties or other metal attachment
14 devices, or another durable means of tying or attaching the tag to the keg.

15 (5) The identification label or tag shall be designed so that
16 when affixed to a keg, the label or tag will not mar or otherwise physically
17 damage the keg.

18 (6) The identification label or tag shall include:

19 (A) The name and address of the retail dealer;

20 (B) The name of the purchaser; and

21 (C) An individual identification number assigned by the
22 retail dealer that uniquely identifies the keg.

23 (d)(1) Prior to the retail sale of a keg of beer or malt beverage for
24 off-premises consumption, the retail dealer shall require the purchaser to
25 sign a statement promulgated by the Director of the Alcoholic Beverage
26 Control Division attesting under the penalty of perjury:

27 (A) To the accuracy of the purchaser's name as shown on
28 the identification label or tag; and

29 (B)(i) That the purchaser is aware that giving, procuring
30 or otherwise furnishing any alcoholic beverage to any person under twenty-one
31 (21) years of age is a misdemeanor as provided in §§ 3-3-201 and 3-3-202; and

32 (ii) That the purchaser will not allow any person
33 under twenty-one (21) years of age to consume any of the beer or malt
34 beverage in the keg.

35 (2) The retail dealer shall also record the following:

36 (A) The name and address of the purchaser;

1 (B) The identification card or driver's license number
2 from the purchaser's acceptable documentation of age;

3 (C) The amount of the container deposit and registration
4 deposit;

5 (D) The date and time of the purchase; and

6 (E) The keg identification number required under
7 subsection (c) of this section.

8 (e)(1) All records and statements required under this section shall be
9 maintained by the retail dealer for a period of ninety (90) days from the
10 date of the return of the keg.

11 (2) The records and statements shall remain open to inspection
12 by authorized agents of the Alcoholic Beverage Control Enforcement Division
13 and law enforcement officers during the retail dealer's normal business
14 hours.

15 (f)(1) When a keg of beer or malt beverage is purchased for off-
16 premises consumption, the retail dealer shall collect a seventy-five dollar
17 (\$75.00) registration deposit on each keg of beer or malt beverage purchased.

18 (2) The registration deposit shall be collected in addition to
19 the purchase price of the keg of beer or malt beverage, taxes, and any other
20 deposit collected by the retail dealer.

21 (3) When the keg is returned within ninety (90) days of the date
22 of purchase to the retail dealer with the identification label or tag intact,
23 the retail dealer shall:

24 (A) Return the registration deposit to the purchaser; and

25 (B) Remove the identification label or tag from the keg.

26 (4) The registration deposit on each keg returned without the
27 identification label or tag or with an identification label or tag so damaged
28 that the information contained on the label or tag could not be verified
29 shall be forfeited as follows:

30 (A) Twenty-five dollars (\$25.00) shall be paid to the
31 Alcoholic Beverage Control Division; and

32 (B) Fifty dollars (\$50.00) shall be retained by the retail
33 dealer.

34 (5) Except as provided in subdivision (f)(6) of this section,
35 the registration deposit on any keg not returned to the retail dealer within
36 ninety (90) days of the date of purchase shall be forfeited as follows:

1 (A) Twenty-five dollars (\$25.00) shall be paid to the
2 Alcoholic Beverage Control Division; and

3 (B) Fifty dollars (\$50.00) shall be retained by the retail
4 dealer.

5 (6)(A) If the purchaser has not finished consuming all of the
6 beer or malt beverage in the keg, prior to the expiration of the ninety-day
7 period in subsection (f) of this section the purchaser may request a thirty-
8 day extension for the return of the keg before the registration deposit shall
9 be forfeited pursuant to subsection (f) of this section.

10 (B) In order to receive a thirty-day extension, the
11 purchaser must sign a statement promulgated by the Director of the Alcoholic
12 Beverage Control Division attesting under the penalty of perjury that:

13 (i) The keg is still in the purchaser's possession;

14 (ii) The purchaser is aware of the restrictions
15 provided in subsection (d) of this section; and

16 (iii) The purchaser shall forfeit the registration
17 deposit pursuant to subsection (f) of this subsection if the keg is not
18 returned with its identification label or tag within thirty (30) days.

19 (7) The Alcoholic Beverage Control Division shall remit its
20 portion of the forfeited registration to the Treasurer of State for credit to
21 the Miscellaneous Agencies Fund Account.

22 (g)(1) The retail dealer shall notify the Director of the Alcoholic
23 Beverage Control Enforcement Division and remit the Alcoholic Beverage
24 Control Division's portion of the registration deposit on forms promulgated
25 by the Alcoholic Beverage Control Division within ten (10) days of the
26 forfeiture of a registration deposit by a purchaser under subsection (f) of
27 this section.

28 (2) The notification form shall consist of:

29 (A) The name and address of the retail dealer;

30 (B) The name and address of the purchaser;

31 (C) The retail dealer's beer permit or license number;

32 (D) The amount of the deposit being remitted to the
33 Alcoholic Beverage Control Division; and

34 (E) A statement indicating the reason for forfeiture of
35 the registration deposit by the purchaser, including but not limited to the
36 following reasons:

- 1 (i) The keg was not returned;
- 2 (ii) The keg was returned more than ninety (90) days
- 3 after purchase;
- 4 (iii) The identification label or tag was removed;
- 5 or
- 6 (iv) The identification label or tag was damaged.
- 7 (3) Any retail dealer that fails to notify the Director of the
- 8 Alcoholic Beverage Control Enforcement Division within ten (10) days of the
- 9 forfeiture of a registration deposit by a purchaser is guilty of:
- 10 (A) A violation of this subchapter; and
- 11 (B) A Class B violation, as provided in § 3-4-402, against the
- 12 retailer's permit.
- 13 (h)(1) No person other than the retail dealer, a licensed wholesaler,
- 14 or an agent of the Alcoholic Beverage Control Enforcement Division may
- 15 knowingly remove an identification label or tag placed on a keg.
- 16 (2) Any person other than the retail dealer, licensed
- 17 wholesaler, or an agent of the Alcoholic Beverage Control Enforcement
- 18 Division that is knowingly in possession of a keg without an identification
- 19 label or tag or knowingly removes or damages an identification label or tag
- 20 is guilty of a violation of this subchapter.
- 21 (i)(1) The Director of the Alcoholic Beverage Control Division may
- 22 promulgate rules and prescribe forms for the proper enforcement of this
- 23 section.
- 24 (2) Arkansas licensed beer wholesalers shall maintain and offer
- 25 for sale to retail dealers any keg identification labels or tags required by
- 26 this section at a price of the cost of manufacturing and maintaining the tags
- 27 or labels.

/s/ Stovall

APPROVED: 4/14/2005

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