

Hall of the House of Representatives
84th General Assembly - Regular Session, 2003
Amendment Form

Subtitle of House Bill No. 1945

"AN ACT TO ALLOW THE SERVING OF ALCOHOLIC BEVERAGES FOR ON PREMISES
CONSUMPTION IN QUALIFIED RESTAURANTS ON ALL DAYS OF THE WEEK."

Amendment No. 1 to House Bill No. 1945.

Amend House Bill No. 1945 as originally introduced:

Page 10, line 20 add the following new section:

SECTION 14. Arkansas Code §§ 3-9-401 through 3-9-413 are repealed.

~~3-9-401. Purpose.~~

~~The business of handling, distributing, and selling alcoholic beverages for on premises consumption on Sunday is declared to be a privilege under the laws of the State of Arkansas and the purpose of this subchapter is to require such permits and to impose such fees as are necessary to regulate and to limit the business of Sunday sales of alcoholic beverages for on premises consumption to those restaurants serving alcoholic beverages with meals and to those hotels and convention centers competing for convention and tourism business.~~

~~3-9-402. Definitions.~~

~~As used in this subchapter, unless the context otherwise requires:~~

- ~~(1) "Alcoholic beverages" means all intoxicating liquors of any sort;~~
- ~~(2) "Board" means the Alcoholic Beverage Control Board of this state or any successor agency;~~
- ~~(3) "Director" means the Director of the Alcoholic Beverage Control Division;~~
- ~~(4) "Hotel" means every building or other structure commonly referred to as a hotel, motel, motor hotel, motor lodge, or similar name where sleeping accommodations are offered which is kept, used, maintained, advertised, and held out to the public to be a place where food is actually served and consumed, for adequate pay, to travellers or guests, whether transient, permanent, or residential, and which:
 - ~~(A) Has fifty (50) or more rooms for sleeping accommodations;~~
 - ~~(B) Is kept, used, maintained, advertised, and held out to the public to be a place where food and food items are served;~~
 - ~~(C) Actually serves full and complete meals prepared in a~~~~



~~fully equipped and sanitary kitchen and prepared from uncooked foods for service to and for consumption by the guests and customers on the premises;~~

~~(D) Has a dining room or rooms with a seating capacity of at least fifty (50) people where meals are served to guests and customers;~~

~~(E) Has the sleeping accommodations and the dining room or rooms in the same building or in separate buildings or structures used in connection therewith that are on the same premises and are a part of the same hotel operation;~~

~~(F) Has employed a sufficient number and kind of employees to prepare, cook, and serve suitable foods or food items to its guests and customers;~~

~~(G) Serves food on all days of operations;~~

~~(H) Maintains separate sales figures for alcoholic beverages; and~~

~~(I) Has gross sales of sixty percent (60%) or more from items in the following categories:~~

~~(i) Food and food items;~~

~~(ii) Nonalcoholic beverages; and~~

~~(iii) Including up to twenty percent (20%) of receipts for sleeping accommodations;~~

~~(5) "On premises consumption" means the sale of alcoholic beverages by the drink or in broken or unsealed containers for consumption on the premises where sold;~~

~~(6) "Person" means any natural person, partnership, association, or corporation;~~

~~(7) "Private club" means a nonprofit organization, association, or corporation as defined as a private club in § 3-9-202(10);~~

~~(8) "Restaurant" means any public or private place, without sleeping accommodations and that place:~~

~~(A) Is kept, used, maintained, advertised, and held out to the public or to a private or restricted membership as a place whose primary function and purpose is to take orders for and to serve food and food items;~~

~~(B) Actually serves full and complete meals prepared in a fully equipped and sanitary kitchen and prepared from uncooked foods for service to and for consumption by its guests or members on the premises;~~

~~(C) Has a seating capacity of at least fifty (50) people;~~

~~(D) Has employed a sufficient number and kind of employees to prepare, cook, and serve suitable foods to its guests or members;~~

~~(E) On Sundays, serves alcoholic beverages on premises only, in conjunction with meals;~~

~~(F) Serves food on all days of operations;~~

~~(G) Maintains separate sales figures for alcoholic beverages; and~~

~~(H) Has gross sales of sixty percent (60%) or more from the sale of food, food items, and nonalcoholic beverages, or, in the case of excursion boats, has gross sales of sixty percent (60%) of their gross income from boat rental fees and sales of food and nonalcoholic beverages;~~

~~(9) "Excursion boat" means any passenger vessel or boat, such as a riverboat, floating restaurant, or excursion boat, which meets the requirements for a permit for on premises consumption of alcoholic beverages under § 3-9-201 et seq. as a restaurant; and~~

~~(10) "Restaurant" means any place that qualifies as a restaurant~~

~~under subdivision (8) of this section or any large meeting or attendance facility as defined in § 3-9-202(8) which meets the requirements for a permit for on premises consumption of alcoholic beverages under § 3-9-201 et seq. as a large meeting or attendance facility restaurant.~~

~~3-9-403. Penalties.~~

~~(a)(1) It shall be unlawful and shall constitute a misdemeanor for any person not holding a valid Sunday sales permit issued under this subchapter to sell alcoholic beverages for on premises consumption.~~

~~(2) Any person found guilty of this provision may be fined not more than one thousand dollars (\$1,000) and, in the discretion of the court, imprisoned for not more than six (6) months.~~

~~(3) Each violation shall constitute a separate offense.~~

~~(b) The director shall have the authority to suspend, cancel, or revoke either the permit issued under this subchapter or the on-premises permit issued under § 3-9-201 et seq. to any hotel or restaurant, or both, if a permittee is convicted under this section.~~

~~3-9-404. Permit Requirements.~~

~~(a) Notwithstanding any other laws of this state which permit the sale of alcoholic beverages for on premises consumption on Sundays, no hotel or restaurant that is licensed to sell alcoholic beverages for on premises consumption under § 3-5-301 et seq., § 3-9-201 et seq., or § 3-9-301 et seq. shall be permitted to sell alcoholic beverages for on premises consumption on Sundays until they obtain a permit, approved and issued by the director, in accordance with rules and regulations promulgated by the board for the sale of alcoholic beverages for on premises consumption on Sundays. However, this subchapter is not intended to impose an additional requirement on private clubs licensed under § 3-9-201 et seq. to obtain a permit for Sunday sales of alcoholic beverages for on premises consumption.~~

~~(b) No hotel, motel, or restaurant shall obtain a permit to sell alcoholic beverages for on premises consumption on Sundays unless:~~

~~(1) It has a valid and current permit, which is not suspended, cancelled, or revoked, to sell alcoholic beverages for on premises consumption issued under § 3-5-301 et seq., § 3-9-201 et seq., or § 3-9-301 et seq.;~~

~~(2) It is located in a city or county where Sunday sale of alcoholic beverages for on premises consumption has been approved by the voters of the city or county as authorized under Arkansas law;~~

~~(3) It meets all the requirements of being a hotel or a restaurant as those items are defined in § 3-9-402; and~~

~~(4) It pays the required fee for a permit as required in this section and § 3-9-407.~~

~~(c) However, any hotel or restaurant having been in operation for less than ninety (90) days and without prior business experience on which to determine the gross sales requirements for hotels and restaurants, as defined in § 3-9-402, may be issued a temporary Sunday sales permit to sell alcoholic beverages for on premises consumption on Sundays for a period not to exceed ninety (90) days. The temporary ninety day time period is to be used to allow the business establishment to make a determination of its gross sales. The fee for the temporary Sunday sales permit shall be twenty-five dollars (\$25.00).~~

~~3-9-405. Permit Application.~~

~~(a) Any hotel or restaurant as defined in § 3-9-402 desiring to sell alcoholic beverages for on premises consumption on Sundays shall make application to the director for a permit upon the forms prescribed and furnished by the director and in accordance with the rules and regulations of the board. The board shall have authority to require an applicant, under oath, to disclose the following information:~~

- ~~(1) The name of the applicant;~~
- ~~(2) The location of the hotel or restaurant;~~
- ~~(3) Sufficient data to establish that the applicant meets the requirements of §§ 3-9-402 and 3-9-404;~~
- ~~(4) The names and addresses of all owners of the hotel or restaurant;~~
- ~~(5) That the applicant is a citizen or resident alien of the United States and a resident of Arkansas on the date of application, and if a corporation, duly qualified to do business in this state;~~
- ~~(6) That neither the applicant nor any person to be employed in the serving of beverages authorized herein shall be a person who has been convicted within five (5) years of the date of his employment of any violation of the laws against possession, sale, manufacture, or transportation of intoxicating liquor, or convicted of a felony;~~
- ~~(7) That the manager or operator of the hotel or restaurant seeking the permit is of good moral character and not a convicted felon; and~~
- ~~(8) Such other relevant information as may be required.~~

~~(b) Every permit issued under this subchapter shall be for an indeterminate period, subject to compliance with the annual renewal requirements prescribed in this subchapter, and shall not be transferable or assignable, as to owner or premises, except upon the written approval of the director.~~

~~3-9-406. Consent to inspection.~~

~~No permit shall be issued under this subchapter unless the permittee has consented in writing that the permitted premises and its books and records shall be open at all times to all law enforcement and tax officials and officials of the board and the Director of the Department of Finance and Administration without requirement of warrant or other legal process.~~

~~3-9-407. Fees for permit.~~

~~(a) Each application for a Sunday sales permit shall be accompanied by a permit fee in the following applicable amount:~~

- ~~(1) Hotel, having fewer than one hundred (100) rooms
.....\$100.00~~
- ~~(2) Hotel, having one hundred (100) or more rooms
.....200.00~~
- ~~(3) Restaurant, having a seating capacity
of less than one hundred (100) persons100.00~~

~~(4) Restaurant, having a seating capacity~~

~~of one hundred (100) or more persons200.00~~

~~(b) An annual renewal fee in the same amount as provided in subsection (a) of this section shall be paid to the director on or before June 30 of each calendar year for the fiscal year beginning July 1.~~

~~(c) The fee for permits issued between January 1 and July 1 shall be one half (1/2) of the amount specified in subsection (a) of this section.~~

~~(d) The fees required in this section are supplemental to the fees and taxes levied by § 3-5-301 et seq., § 3-9-201 et seq., and § 3-9-301 et seq., and do not relieve any restaurant or hotel from paying permit or renewal fees or supplemental gross receipts taxes levied by the State of Arkansas for sales of alcoholic beverages for on premises consumption made on Sunday.~~

~~3-9-408. Rules and regulations.~~

~~The board is authorized to adopt and enforce reasonable rules and regulations governing the qualifications for Sunday sales permits under this subchapter, the operation of permitted premises on Sundays, and otherwise implementing and effectuating the provisions and purposes of this subchapter to ensure the strict enforcement of the law. The rules and regulations promulgated under this subchapter shall be supplemental and in addition to the rules and regulations promulgated to regulate the sale of alcoholic beverages for on premises consumption at hotels and restaurants under § 3-9-201 et seq.~~

~~3-9-409. Suspension, etc., of permit— Appeals.~~

~~Upon his own complaint or that of any law enforcement agency having jurisdiction over the permitted premises, the director may suspend, cancel, or revoke any permit granted under this subchapter for violation by the permittee of any provisions of this subchapter or any rule, regulation, or order of the board. No permit shall be suspended, cancelled, or revoked except after hearing by the director with reasonable notice to the permittee and an opportunity for him or her to appear and defend himself or herself as provided in § 3-2-212. Appeals to the board from an order by the director of a suspension, cancellation, or revocation of a permit may be made as provided in § 3-2-215. Appeals from a board decision to the Circuit Court of Pulaski County may be made as provided in § 3-2-216.~~

~~3-9-410. Grounds for suspension, etc., of permit.~~

~~(a) Sunday sale permits may be suspended, cancelled, or revoked:~~

~~(1) If the permittee no longer meets the requirements of the definition of a hotel or a restaurant under § 3-9-402;~~

~~(2) If the permit for on premises consumption of alcoholic beverages issued under § 3-5-301 et seq., § 3-9-201 et seq., or § 3-9-301 et seq. is suspended, cancelled, or revoked for causes thereunder;~~

~~(3) If the permittee's restaurant or hotel is located in a city or county where Sunday sales are not authorized or are no longer authorized under Arkansas law;~~

~~(4) If the permittee willfully fails to keep any records or make any reports required by this subchapter or by rules or regulations adopted thereunder; or~~

~~(5) If the permittee makes any materially false statement in any~~

~~application for a permit.~~

~~(b) If any permittee shall fail to remit any fee levied in this subchapter for the permit or for the annual renewal, the permit shall be revoked. The permit may be restored if the renewal fee is paid within thirty (30) days from the date on which due.~~

~~3-9-411. Sale of beer and wine.~~

~~(a) Any permit for Sunday sales of alcoholic beverages for on-premises consumption shall include authority to sell beer for consumption and to sell native and imported wine by the drink as permittees, licensed under § 3-9-201 et seq., are authorized to do in § 3-9-211.~~

~~(b) However, nothing in this subchapter shall authorize holders of permits for on-premises consumption of alcoholic beverages on Sundays to sell or to dispense alcoholic beverages by the package or by the bottle for consumption off the permitted premises.~~

~~3-9-412. Disposition of fees.~~

~~(a) All permit fees collected for the state pursuant to this subchapter shall be remitted monthly to the State Treasury as general revenues and be credited to the State Apportionment Fund.~~

~~(b) The fees shall be allocated and transferred to the various funds, fund accounts, and accounts participating in general revenues in the respective portions to each as provided by, and to be used for the respective purposes set forth in, the Revenue Stabilization Law, § 19-5-101 et seq.~~

~~3-9-413. Exemptions.~~

~~(a) Any person who on March 1, 1989, holds a Sunday sales permit under this subchapter and who has annual gross sales of food, food items, and nonalcoholic beverages of ninety thousand dollars (\$90,000) per year shall not be required to meet the requirements of § 3-9-402(8)(H) relating to gross sales.~~

~~(b) Any person who on March 1, 1989, holds a Sunday sales permit under this subchapter and whose business is located in a municipality having a population of one hundred thousand (100,000) or more according to the most recent decennial census shall not be required to meet the requirements of § 3-9-402(8)(H) relating to gross sales.~~

The Amendment was read _____
By: Representative Bright
PBB/RCK - 030320031514
RCK496

Chief Clerk