

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Representative D. Wood**

A Bill

HOUSE BILL

For An Act To Be Entitled

8 "AN ACT TO AMEND TITLE 3, CHAPTER 9, SUBCHAPTERS 2 AND 4
9 OF THE ARKANSAS CODE OF 1987 TO PERMIT RESTAURANTS HOLDING
10 CAFE AND RESTAURANT WINE PERMITS AND RETAIL BEER PERMITS
11 FOR ON-PREMISES CONSUMPTION TO SELL ALCOHOLIC BEVERAGES ON
12 SUNDAY IN ADDITION TO HOTELS AND RESTAURANTS THAT HOLD
13 MIXED-DRINK PERMITS; AND FOR OTHER PURPOSES."

14
15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

16
17 SECTION 1. Paragraph (1) of Subsection (a) of Arkansas Code
18 §3-9-215 is hereby amended to read as follows:

19 "(a) (1) The provisions of this section shall be applicable to only
20 those cities and counties in this state in which the sale of alcoholic
21 beverages for on-premises consumption in restaurants or hotels has been
22 approved by a majority of the qualified electors of the city or county voting
23 on the issue at a referendum election authorized by §3-9-201 et seq. These
24 provisions shall apply only with respect to the sale of alcoholic beverages in
25 restaurants or hotels which have a valid and current license or permit to sell
26 alcoholic beverages for consumption on the premises thereof issued ."

27
28 SECTION 2. Subsection (b) of Arkansas Code §3-9-215 is hereby amended
29 to read as follows:

30 "(b) Any city of the first class or any county in which the sale of
31 alcoholic beverages for on-premises consumption in licensed restaurants and
32 hotels has been authorized by a majority of the qualified electors of that
33 city or county voting on the issue at an election held therefor pursuant to
34 the provisions of §3-9-201 et seq., by ordinance adopted by the governing body
35 of such city or county, may refer to the voters at an election the issue of

1 whether or not to authorize the sale of alcoholic beverages on Sundays between
2 the hours of 12:00 noon and 10:00 p.m., or within a lesser period within such
3 hours as may be provided in the ordinance. The Sunday sale of alcoholic
4 beverages for on-premises consumption as authorized in this section shall be
5 limited to those restaurants and hotels which possess a current and valid
6 permit or license for the sale of alcoholic beverages for on-premises
7 consumption issued under the authority of §3-5-301 et seq., §3-9-201 et seq.,
8 and §3-9-301 et seq. The election shall be held in accordance with the
9 procedures established by §3-9-201 et seq."

10

11 SECTION 3. Arkansas Code §3-9-404 is hereby amended to read as follows:

12 "3-9-404. Permit - Requirements.

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

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

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

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

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

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

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

10

11 SECTION 4. Subsection (d) of Arkansas Code §3-9-407 is hereby amended
12 to read as follows:

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

18

19 SECTION 5. Paragraph (2) of Subsection (a) of Arkansas Code §3-9-410 is
20 hereby amended to read as follows:

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

24

25 SECTION 6. Subsection (b) of Arkansas Code §3-9-411 is hereby amended
26 to read as follows:

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

31

32 SECTION 7. All provisions of this act of a general and permanent nature
33 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
34 Revision Commission shall incorporate the same in the Code.

35

1 SECTION 8. If any provision of this act or the application thereof to
2 any person or circumstance is held invalid, such invalidity shall not affect
3 other provisions or applications of the act which can be given effect without
4 the invalid provision or application, and to this end the provisions of this
5 act are declared to be severable.

6

7 SECTION 9. All laws and parts of laws in conflict with this act are
8 hereby repealed.

9

10 SECTION 10. EMERGENCY. It is hereby found and determined by the
11 General Assembly that although the sale of alcoholic beverages on Sunday is
12 permitted in some cities of this State, even in those cities the sale of beer
13 and wine is not permitted on Sunday; that it is fundamentally unfair to
14 authorize the Sunday sale of mixed drinks but to prohibit the Sunday sale of
15 beer and wine; that this act would provide equal protection to the purveyors
16 of beer and wine; that to give immediate effect to this act will lessen the
17 possibility of a challenge to the present law allowing the Sunday sale of
18 mixed drinks, and thereby save the taxpayers the cost involved in defending
19 the challenge and the cost of an unsuccessful defense; and that therefore this
20 Act should go into effect immediately. Therefore, an emergency is hereby
21 declared to exist and this act being immediately necessary for the
22 preservation of the public peace, health and safety shall be in full force and
23 effect from and after its passage and approval.

24

25

26

27

28

29