

1 **State of Arkansas**  
2 **78th General Assembly**  
3 **Regular Session, 1991**  
4 **By: Senator Dowd**

# A Bill

**SENATE BILL**

## For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED §3-4-207, §3-4-  
9 210 (a), §3-5-302, §3-9-305, AND §3-9-210 (c) AND §3-9-  
10 405 (a) TO ALLOW RESIDENT ALIENS TO APPLY FOR RETAIL  
11 LIQUOR, RETAIL BEER, RESTAURANT WINE, AND PUBLIC MIXED  
12 DRINK PERMITS ISSUED BY THE ABC DIVISION; TO AMEND  
13 ARKANSAS CODE ANNOTATED §3-5-215 TO PROVIDE THAT A PERSON  
14 MAY APPLY FOR AN ABC LICENSE WHEN THEY BECOME A RESIDENT  
15 OF ARKANSAS; TO AMEND ARKANSAS CODE ANNOTATED §3-5-215 TO  
16 DELETE THE REQUIREMENT THAT PERSONS BE A REGISTERED VOTER  
17 IN ORDER TO APPLY FOR A RETAIL BEER PERMIT; TO AMEND  
18 ARKANSAS CODE ANNOTATED §3-5-302 AND §3-9-305 TO PROVIDE  
19 THAT PERSONS MUST RESIDE IN THE COUNTY IN WHICH THE PERMIT  
20 WILL BE OPERATED OR RESIDE WITHIN TWENTY-FIVE (25) MILES  
21 OF THE ADDRESS OF THE PROPOSED PERMITTED OUTLET; TO AMEND  
22 ARKANSAS CODE §3-4-209, §3-5-304 (a) AND §3-9-405 (a)  
23 CONCERNING THE DISQUALIFICATION OF APPLICANTS FOR FELONIES  
24 AND PREVIOUS PERMIT REVOCATIONS; TO REPEAL ARKANSAS CODE  
25 ANNOTATED §3-4-203 WHICH REQUIRES PROOF OF PAYMENT OF  
26 PERSONAL PROPERTY TAXES IN ORDER TO OBTAIN AN ABC PERMIT  
27 AND TO PROVIDE UNIFORMITY REGARDING THE PERSONAL  
28 QUALIFICATIONS OF APPLICANTS FOR RETAIL PERMITS ISSUED BY  
29 THE ALCOHOLIC BEVERAGE CONTROL DIVISION; AND FOR OTHER  
30 PURPOSES."

31  
32 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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34 SECTION 1. Arkansas Code 3-4-207 is amended to read as follows:

35 "3-4-207. Ineligible persons.

1 No person hereafter described in this section shall receive a permit:

2 (1) A person who has been convicted of a felony within five (5) years  
3 preceding the date of his application;

4 (2) A person under the age of twenty-one (21) years;

5 (3) A person who is not a citizen or resident alien of the United  
6 States;

7 (4) A copartnership, unless all members of such copartnership are  
8 citizens or resident aliens of the United States;

9 (5) A person who shall have had his permit issued under this act  
10 revoked for cause, or who has been convicted of a violation of this act until  
11 the expiration of two (2) years from the date of such revocation or  
12 conviction;

13 (6) A corporation or copartnership, if any of its officers or members  
14 have been convicted of a violation of this act or have had a permit issued  
15 under this act revoked for cause until two (2) years from the date of the  
16 conviction or revocation."

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18 SECTION 2. Arkansas Code 3-4-209 is amended to read as follows:

19 "3-4-209. Applications - Contents.

20 In addition to such other information as the Director of the Alcoholic  
21 Beverage Control Division may determine shall be furnished in any application  
22 for permits under this act, the following information shall be given under  
23 oath:

24 (1) The name, age, and residence of each applicant and, if there are  
25 more than one and they are partners, the partnership name and residence of the  
26 several persons so applying, and the facts as to his or their citizenship;

27 (2) The name and residence of each person interested, or to become  
28 interested, in the business of any permittee for which the application is  
29 made, together with the nature of the interests. If the applicant is a  
30 corporation, the application shall set forth the name of the corporation, the  
31 names of its directors or other governing body, the names of its officers, and  
32 the state under the laws of which it is organized;

33 (3) That the premises to be permitted is identified by stating the  
34 street and number, if the premises has a street and number, and otherwise such  
35 apt description as will reasonably indicate the locality. The applicant shall

1 also state the name of any other person, either as principal or associate,  
2 interested with the applicant either in the premises or in the business to be  
3 permitted;

4 (4) A statement that the applicant has not been convicted of a felony  
5 and has not had a permit issued to him under this act revoked for cause within  
6 five (5) years preceding the date of application."

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8 SECTION 3. Arkansas Code 3-4-210(a) is amended to read as follows:

9 "(a) (1) After filing an acceptable application with the director, the  
10 applicant shall cause to be published at least once a week for two (2)  
11 consecutive weeks in a legal newspaper of general circulation in the city in  
12 which the premises are situated or, if the premises are not in a city, in a  
13 newspaper of general circulation for the locality where the business is to be  
14 conducted, a notice that the applicant has applied for a permit to sell  
15 alcoholic beverages at retail.

16 (2) The notice shall be in such form as the Director of the  
17 Alcoholic Beverage Control Division shall prescribe by rule, regulation, or  
18 order and shall be verified.

19 (3) The notice shall give the names of the applicant and the  
20 business and shall state that applicant is a resident of Arkansas, a citizen  
21 or resident alien of the United States, that he has a good moral character,  
22 that he has never been convicted of a felony or had a license to sell  
23 alcoholic beverages revoked within the five (5) years preceding the date of  
24 notice, whether issued by this state or any other state, and that he has not  
25 been convicted of violating laws, of this state or any other state, governing  
26 the sale of alcoholic beverages within five (5) years preceding the date of  
27 the notice."

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29 SECTION 4. Arkansas Code 3-5-215 is amended to read as follows:

30 "3-5-215. Qualifications of retail permittees.

31 No permit shall be granted to any permittee by the state or any county  
32 or municipality to a person who is not a resident of the State of Arkansas on  
33 the date of application."

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35 SECTION 5. Arkansas Code 3-5-302 is amended to read as follows:

1 "3-5-302. Applications - Qualifications of applicant.

2 No license shall be issued to any person authorizing the sale of beer at  
3 retail unless the person shall file a verified application, accompanied by the  
4 fee required by law, and shall state in the application that he possesses the  
5 following qualifications:

6 (1) Applicant must be a person of good moral character, a citizen or  
7 resident alien of the United States, and a resident of the county in which the  
8 permit will be operated or reside within twenty-five (25) miles of the address  
9 of the premises described in the application;

10 (2) Applicant shall not have been convicted of a felony or have been  
11 convicted within five (5) years of the date of his application of any  
12 violation of the laws of this state or the laws of any other state relating to  
13 the sale of alcoholic beverages;

14 (3) Applicant shall not have had revoked, within five (5) years next  
15 preceding his application, any license issued to him pursuant to the laws of  
16 this state or any other state to sell alcoholic liquor of any kind;

17 (4) Applicant shall be the owner of the premises for which the license  
18 is sought or the holder of an existing lease or option to lease thereon;

19 (5) If applicant is a copartnership, all members of the partnership  
20 must be qualified to obtain a license;

21 (6) If applicant is a corporation, all officers and directors, any  
22 stockholder owning more than five percent (5%) of the stock of the  
23 corporation, and the person or persons who shall conduct and manage the  
24 licensed premises for the corporation shall possess all the qualifications  
25 required herein for an individual license. The requirement as to residence  
26 shall not apply to officers, directors, and stockholders of the corporation,  
27 but the requirement shall apply to any officer, director, or stockholder who  
28 is also the manager of the licensed premises, in any capacity, in the conduct  
29 or operation of the licensed premises."

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31 SECTION 6. Arkansas Code 3-5-304(a) is amended to read as follows:

32 "(a) (1) After filing an acceptable application with the director, the  
33 applicant shall cause to be published at least once a week for two (2)  
34 consecutive weeks in a legal newspaper of general circulation in the city in  
35 which the premises are situated or, if the premises are not in a city, in a

1 newspaper of general circulation for the locality where the business is to be  
2 conducted, a notice that the applicant has applied for a permit to sell beer  
3 at retail.

4 (2) The notice shall be in such form as the Director of the  
5 Alcoholic Beverage Control Division shall prescribe by rule, regulation, or  
6 order, and shall be verified.

7 (3) The notice shall give the names of the applicant and the  
8 business and shall state that the applicant is a resident of Arkansas, that he  
9 has a good moral character, that he has never been convicted of a felony or  
10 had a license to sell alcoholic beverages revoked within the five (5) years  
11 preceding the date of this notice, whether issued by this state or any other  
12 state, and that he has not been convicted of violating laws, of this state or  
13 any other state, governing the sale of alcoholic beverages within five (5)  
14 years preceding the date of this notice."

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16 SECTION 7. Arkansas Code 3-9-210(c) is amended to read as follows:

17 "(c) The board shall have authority to require an applicant, under  
18 oath, to disclose the following information:

19 (1) The name of the applicant;

20 (2) Location of the hotel or restaurant;

21 (3) Sufficient data to establish that the applicant meets the  
22 requirements of § 3-9-202;

23 (4) The names and addresses of all owners of the hotel or  
24 restaurant;

25 (5) That the applicant is a citizen or resident alien of the  
26 United States and a resident of Arkansas on the date of application, and if a  
27 corporation, duly qualified to do business in this state;

28 (6) That neither the applicant nor any person to be employed in  
29 the serving of beverages authorized herein shall be a person who has been  
30 convicted within five (5) years of the date of their employment of any  
31 violation of the laws against possession, sale, manufacture, or transportation  
32 of intoxicating liquor, or convicted of a felony;

33 (7) That the manager or operator of the hotel or restaurant  
34 seeking the permit is of good moral character and not a convicted felon; and

35 (8) Such other relevant information as may be required."

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SECTION 8. Arkansas Code 3-9-305 is amended to read as follows:

"3-9-305. License applications - Qualifications.

(a) No license shall be issued to any person authorizing the sale of wine at retail for consumption on the premises with food served in any cafe or restaurant unless the person shall file with the Director of the Alcoholic Beverage Control Division a verified application therefor, accompanied by the fee required by law, and shall state in the application that he possesses the following qualifications:

(1) Applicant is a person of good moral character, a citizen or resident alien of the United States, and a resident of the county in which the permit will be operated or reside within twenty-five (25) miles of the address of the premises described in the application.

(2) Applicant has not been convicted of a felony or has not been convicted within five (5) years of the date of his application of any violation of the laws of this state or any other state relating to alcoholic beverages.

(3) Applicant has not had revoked within five (5) years next preceding his application any license issued to him pursuant to the laws of this state, or any other state, to sell alcoholic liquor of any kind.

(4) Applicant shall be the owner of the premises for which the license is sought or the holder of an existing lease or option to lease thereon.

(5) If the applicant is a copartner, all members of the copartnership must be qualified to obtain a license.

(6) If applicant is a corporation, all officers and directors thereof, any stockholder owning more than five percent (5%) of the stock of such corporation, and the person or persons who shall conduct and manage the licensed premises for the corporation shall possess all the qualifications required herein for an individual license. The requirement as to residence shall not apply to officers, directors, and stockholders of the corporation, but the requirement shall apply to any officer, director, or stockholder who is also the manager of the licensed premises, in any capacity, in the conducting or operation of the licensed premises.

(7) The cafe or restaurant making application for the license is

1 primarily engaged in the business of serving foods to the public prepared for  
2 consumption on the premises and must be an established eating place within the  
3 rules and regulations promulgated by the Alcoholic Beverage Control Board as  
4 provided in § 3-9-301(4).

5 (b) Any misstatement or concealment of fact in the application shall be  
6 grounds for the revocation of any license issued pursuant to the application."

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8 SECTION 9. Arkansas Code 3-9-405(a) is amended to read as follows:

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

15 (1) The name of the applicant;

16 (2) The location of the hotel or restaurant;

17 (3) Sufficient data to establish that the applicant meets the  
18 requirements of §§3-9-402 and 3-9-404;

19 (4) The names and addresses of all owners of the hotel or  
20 restaurant;

21 (5) That the applicant is a citizen or resident alien of the  
22 United States and a resident of Arkansas on the date of application, and if a  
23 corporation, duly qualified to do business in this state;

24 (6) That neither the applicant nor any person to be employed in  
25 the serving of beverages authorized herein shall be a person who has been  
26 convicted within five (5) years of the date of their employment of any  
27 violation of the laws against possession, sale, manufacture, or transportation  
28 of intoxicating liquor, or convicted of a felony;

29 (7) That the manager or operator of the hotel or restaurant  
30 seeking the permit is of good moral character and not a convicted felon; and

31 (8) Such other relevant information as may be required."

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33 SECTION 10. Arkansas Code §3-4-203 is hereby repealed.

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35 SECTION 11. It is the intent of this law to no longer require

1 citizenship of the United States in order for a person to hold certain ABC  
2 licenses and to eliminate the requirement that persons be a resident of the  
3 State of Arkansas for two (2) years prior to the time that they make  
4 application for an ABC license. It is also the intent of this law that  
5 persons no longer be required to be registered voters in the county in which  
6 the permit is located and it is further intended that a person must either  
7 reside in the county where the premises is located or live within twenty-five  
8 (25) miles of the address of the permitted outlet. It is also the intent of  
9 this legislation that proof of payment of personal property taxes to the  
10 individual counties will no longer be required in order for a person to apply  
11 for or renew an ABC license. It is the further intent of this law that  
12 various application requirements regarding convicted felon status, status as  
13 it relates to violation of liquor laws of this state or any other state and  
14 revocation of permits shall be made uniform among various permits issued by  
15 the ABC Division. Therefore, any laws that may conflict with this act shall  
16 be and the same hereby are repealed.

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18 SECTION 12. All provisions of this act of a general and permanent  
19 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
20 Code Revision Commission shall incorporate the same in the Code.

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22 SECTION 13. If any provision of this act or the application thereof to  
23 any person or circumstance is held invalid, such invalidity shall not affect  
24 other provisions or applications of the act which can be given effect without  
25 the invalid provision or application, and to this end the provisions of this  
26 act are declared to be severable.

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28 SECTION 14. EMERGENCY. It is hereby found and determined that numerous  
29 persons who are resident aliens of the United States desire to operate  
30 establishments that dispense alcoholic beverages in the State of Arkansas and  
31 that the same are presently prohibited from obtaining a license in their name.  
32 It is further found and determined that the requirement of United States  
33 citizenship in order to maintain these establishments poses a burden upon  
34 commerce and restricts the number of persons who are able to contribute to the  
35 overall economy of the State of Arkansas. It is further found and determined



1 that numerous national corporations are hindered in their operations in that  
2 they cannot have newly transferred managers or other key employees assume  
3 positions of responsibility within their local outlets since those persons do  
4 not meet the two (2) year residency requirement and that such requirement  
5 poses an unreasonable burden on the conduct of business in this state as it  
6 relates to alcohol beverage outlets. It is further found that the present  
7 process of applying for or renewing ABC licenses by requiring proof of payment  
8 of personal property taxes is cumbersome, unnecessary, and has no direct  
9 relationship to the operation of the ABC permitted outlet. It is further  
10 found and determined that there are presently numerous conflicting  
11 requirements which are applied to applicants for various retail licenses  
12 issued by the state ABC Division and that it is necessary and proper that such  
13 permit requirements be made uniform. That all of the aforementioned  
14 encumbrances are a burden on the transaction of commerce in the state and upon  
15 the efficient administration of government in the state. Therefore, an  
16 emergency is hereby declared to exist and this act being necessary for the  
17 immediate preservation of the public peace, health and safety shall be in full  
18 force and effect on and after July 1, 1991.

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