

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Representative Hawkins**

A Bill

HOUSE BILL

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED §§3-4-201 AND 3-
9 4-208 TO ESTABLISH THE NUMBER OF PERMITS ALLOWING THE OFF-
10 PREMISES SALE OF BEER AND WINE; AND FOR OTHER PURPOSES."

Subtitle

13 "PERTAINING TO THE NUMBER OF PERMITS ALLOWING OFF-PREMISES
14 SALE OF BEER AND WINE."

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

18 SECTION 1. Arkansas Code Annotated §3-4-201 is hereby amended to read
19 as follows:

20 "§3-4-201. Number of permits restricted.

21 (a) It is declared to be the public policy of the state that the number
22 of permits in this state to dispense vinous (except wines), spirituous, or
23 malt liquor and the number of permits to dispense beer and wine shall be
24 restricted.

25 (b) The Alcoholic Beverage Control Board is empowered to determine
26 whether public convenience and advantage will be promoted by issuing the
27 permits and by increasing or decreasing the number thereof; in order to
28 further carry out the policy hereinbefore declared, the number of permits so
29 issued shall be restricted.

30 (c) The Alcoholic Beverage Control Board is further given the
31 discretion to determine the number of permits to be granted in each county of
32 this state or within the corporate limits of any municipality of this state to
33 determine the location thereof and the persons to whom they shall be issued,
34 under the following conditions:

35 (1) (A) The number of permits allowing the off-premises sale of

1 vinous (except wines), spirituous, or malt liquor in any county which permits
2 the sale shall not exceed a ratio of one (1) permit for every four thousand
3 (4,000) population residing in that county.

4 (B) The number of permits allowing the off-premises sale of beer
5 and wine in any county which permits the sale shall not exceed a ratio of one
6 (1) permit for every 1,200 population residing in that county.

7 (C) Population of the area involved shall be determined by the
8 most recent population figures established in a census by the Bureau of the
9 Census of the United States Department of Commerce or other appropriate
10 governmental subdivision.

11 (2) New permits which may be issued in a county following a
12 regular census shall be issued under the following restrictions:

13 (A) Additional permits allowing the off-premises sale of
14 vinous (except wines), spirituous, or malt liquor may be issued on a ratio of
15 one (1) for every additional four thousand (4,000) population within the area;

16 (B) Additional permits allowing the off-premises sale of
17 beer and wine may be issued on a ratio of one (1) for every additional 1,200
18 population within the area.

19 (C) Any qualified applicant may apply for a permit.
20 Qualifications are to be set from time to time by the Alcoholic Beverage
21 Control Board and its determination of the public convenience and advantage.

22 (3) (A) If it is determined that a county is entitled to
23 additional permits when warranted by a census, the board will announce prior
24 to the last date for applications the number of new permits, if any, which may
25 be issued therein.

26 (B) In the event that such regular census population figures
27 decline in a given county no existing permits shall be canceled or revoked for
28 that reason, and the quota ratio shall not be applied thereto until the
29 population in the county thereof reaches a number equalling one (1) permit to
30 every four thousand (4,000) population therein for vinous (except wine),
31 spirituous, or malt liquor or one (1) permit to every 1,200 population
32 therein for beer and wine, nor shall any new permit be issued therein until
33 the population warrants.

34 (C) No transfer of locations from one (1) county to another
35 county shall be allowed.

1 (D) In the event that any holder of a permit for the sale of
2 vinous (except wines), spirituous, or malt liquor surrenders a permit in a
3 county or municipality thereof where the ratio no longer meets the one (1) to
4 four thousand (4,000) requirement, no new applications will be accepted until
5 that ratio is reestablished at an approved census.

6 (E) In the event that any holder of a permit for the sale of beer
7 and wine surrenders a permit in a county or municipality thereof where the
8 ratio no longer meets the one (1) to 1,200 requirement, no new application
9 will be accepted until that ratio is reestablished at an approved census.

10 (4) Nothing in this section and §§3-4-202 and 3-4-208 shall
11 be construed as to divest any permit holder holding the permit on July 1,
12 1991, regardless of the quota ratio, of his permit. In counties or
13 municipalities which have a ratio lower than the quota ratio established
14 herein, the permit holder shall be allowed to continue under subdivision
15 (3)(B) above.

16 (d) The provisions of this section shall apply only to applications for
17 permits to dispense vinous (except wines), spirituous, or malt liquor filed
18 with the board after July 1, 1991 and permits to dispense beer and wine filed
19 with the board after July 1, 1993.

20

21 SECTION 2. Arkansas Code Annotated §3-4-208 is hereby amended to read
22 as follows:

23 "§3-4-208. Applications - Procedure for acceptance and determination.

24 (a) Applications for new permits will be accepted by the Alcoholic
25 Beverage Control Division after the publication of new census figures if the
26 applications are warranted within a county.

27 (b) When it has been determined that new applications are appropriate,
28 the Alcoholic Beverage Control Division shall notify the public at large by
29 legal notice that it will be accepting applications for a particular county.

30 (c) Applications will then be accepted from the affected area beginning
31 thirty (30) days after the date of publication, and no applications will be
32 accepted after ninety (90) days of the publication date.

33 (d) All applications received from the affected area will then be
34 processed and set for a board meeting. The board meeting shall not be earlier
35 than one hundred fifty (150) days after the publication of the legal notice

1 specified in subsection (b), nor later than one hundred eighty (180) days
2 after publication.

3 (e) No later than fifteen (15) days prior to the hearing, each
4 applicant for a new permit or his agent will be allowed to draw a number
5 between one (1) and a number equal to the number of applicants having filed.
6 The drawing will be conducted by the Director of the Alcoholic Beverage
7 Control Division. Position numbers may not be assigned or transferred.

8 (f) At the meeting the applications will be heard in order of the
9 numbers drawn. There will only be as many applications heard as will equal the
10 number of new permits allowed in the county.

11 (g) (1) If the Alcoholic Beverage Control Board finds that an applicant
12 is qualified and that his or her proposed premises meet the public convenience
13 and advantage of the area in question, then in that event the application will
14 be approved.

15 (2) No permit will issue earlier than thirty (30) days subsequent
16 to the determination, or until such time as the board determines it is
17 necessary for final adjudication in the Arkansas courts, of any appeals
18 arising out of such determinations, whichever is longer.

19 (h) If the board has denied an application and the decision is not
20 appealed or is upheld on appeal, then additional hearings will be held
21 according to numbers already assigned in accordance with this section.

22 (i) There shall be an initial application fee of two thousand dollars
23 (\$2,000). In the event an applicant is not successful in his application, one
24 thousand dollars (\$1,000) of that sum shall be refunded.

25 (j) The annual permit renewal fee for permits authorized by this
26 section and §§3-4-201 and 3-4-202 will be the same as the renewal fee provided
27 by §§3-4-604, 3-7-111(a) (1) (D), or any subsequent amendments thereto.

28 (k) The provisions of this section shall apply only to applications for
29 permits to dispense vinous (except wines), spirituous, or malt liquor filed
30 with the board after July 4, 1983 and permits to dispense beer and wine filed
31 after July 1, 1993.

32

33 SECTION 3. All provisions of this act of a general and permanent nature
34 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
35 Revision Commission shall incorporate the same in the Code.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

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

SECTION 5. All laws and parts of laws in conflict with this act are hereby repealed.

1

2

3