

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

A Bill

HOUSE BILL

For An Act To Be Entitled

8 "AN ACT TO AMEND VARIOUS SECTIONS OF TITLE 3 OF THE
9 ARKANSAS CODE TO MAKE TECHNICAL CORRECTIONS INVOLVING THE
10 ADMINISTRATION OF DUTIES AND POWERS OF THE ALCOHOLIC
11 BEVERAGE CONTROL DIVISION AND THE ALCOHOLIC BEVERAGE
12 CONTROL ENFORCEMENT DIVISION; TO CLARIFY ETHICAL
13 REQUIREMENTS FOR THE EMPLOYEES AND DIRECTORS OF THE
14 ALCOHOLIC BEVERAGE CONTROL DIVISION AND THE ALCOHOLIC
15 BEVERAGE CONTROL ENFORCEMENT DIVISION AND THE BOARD
16 MEMBERS OF THE ALCOHOLIC BEVERAGE CONTROL DIVISION; TO
17 INCREASE THE AMOUNT OF TIME AN ABC PERMIT MAY BE OPERATED
18 BY CERTAIN SUCCESSORS IN INTEREST TO A PERMITTEE OF THE
19 ABC DIVISION; TO INCREASE THE ALCOHOL BY WEIGHT CONTENT OF
20 WINE PRODUCTS THAT MAY BE SOLD BY A RESTAURANT WINE
21 PERMITTEE; AND FOR OTHER PURPOSES."

Subtitle

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24 "AN ACT TO CORRECT AND UPDATE PROVISIONS OF THE ARKANSAS
25 CODE WHICH AFFECT THE OPERATIONS OF THE ABC DIVISION AND
26 THE ABC ENFORCEMENT DIVISION."

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

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30 SECTION 1. Arkansas Code 3-2-201(f) is amended to read as follows:

31 "(f) The director is charged with the management of the Alcoholic
32 Beverage Control Division."

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34 SECTION 2. Arkansas Code 3-2-202 is amended to read as follows:

35 "3-2-202. Director of Alcoholic Beverage Control - Staff.

1 (a) The Director of Alcoholic Beverage Control shall be an attorney
2 duly authorized to practice law by the Supreme Court of Arkansas, who shall
3 present all evidence tending to prove violations of the law or regulations at
4 hearings held by the board.

5 (b) The director shall employ such other personnel as he may deem
6 necessary and as may be authorized by the General Assembly.

7 (c) Any person employed by the director may be removed by him at any
8 time subject to the approval of the board."

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10 SECTION 3. Arkansas Code 3-2-208 is amended to read as follows:

11 "3-2-208. All members of the Alcoholic Beverage Control Board and the
12 Director and any employee of the Alcoholic Beverage Control Division and the
13 Director and any employee of the Alcoholic Beverage Control Enforcement
14 Division shall be subject to all the provisions, sanctions and penalties
15 contained within Chapter 8 of Title 21 of the Arkansas Code Annotated.
16 Further, no such person named above shall accept any employment from any
17 manufacturer, distributor, wholesaler, or retailer of alcoholic beverages or
18 any person who is an applicant for any license under the provisions of this
19 subchapter, or from any officer, agent, or employee thereof."

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21 SECTION 4. Arkansas Code 3-2-210(a) is amended to read as follows:

22 "(a) The right of any enforcement agent or law enforcement officer to
23 enter, search, inspect records, and seize contraband in or on any licensed
24 premises shall be deemed to be a condition of the license or permit to sell
25 or dispense alcoholic beverages granted by this state."

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27 SECTION 5. Arkansas Code 3-2-212(e) (2) is amended to read as follows:

28 "(2) The order shall be mailed by certified mail by the director to the
29 applicant at the address shown on the application, or to the licensee at the
30 address of the premises licensed as the case may be."

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32 SECTION 6. Arkansas Code 3-2-213(a) (2) is amended to read as follows:

33 "(2) The notice of appeal of a director_s decision or order shall be in
34 a written form which shall be mailed or delivered to the offices of the
35 Alcoholic Beverage Control Division."

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2 SECTION 7. Arkansas Code 3-2-213(a)(3) is amended to read as follows:

3 "(3) The notice of appeal must be mailed or delivered to the offices of
4 the Alcoholic Beverage Control Division within fifteen (15) days after the
5 order or decision to be appealed from was received by the recipient, as shown
6 by the certified mail return receipt card returned to the Alcoholic Beverage
7 Control Division. In the event the person filing an appeal of the director_s
8 decision or order was not sent a certified letter of the same, then the
9 fifteen (15) day appeal period begins on the date the director_s decision or
10 order was issued."

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12 SECTION 8. Arkansas Code 3-2-213(a)(4) is amended to read as follows:

13 "(4) Whenever any notice of appeal is filed with the Alcoholic Beverage
14 Control Division, the Director of the Alcoholic Beverage Control Division
15 shall notify the board of that fact."

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17 SECTION 9. Arkansas Code 3-2-213(b)(2) is amended to read as follows:

18 "(2) Not later than ten (10) days before the time fixed for the
19 hearing, the director shall notify the board and the applicant, licensee, or
20 protester of the time when and the place where the appeal shall be heard by
21 the board."

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23 SECTION 10. Arkansas Code 3-2-213(c)(2) is amended to read as follows:

24 "(2) A copy of the opinion, decision, or order shall be mailed by the
25 Alcoholic Beverage Control Division by certified mail to the applicant,
26 licensee, or protester."

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28 SECTION 11. Arkansas Code 3-2-216 is amended to read as follows:

29 "3-2-216. Appeal to courts.

30 An appeal of the decision of the board may be filed in conformance with
31 the provisions of the Arkansas Administrative Procedure Act."

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33 SECTION 12. Arkansas Code 3-2-217(b) is amended to read as follows:

34 "(b) The fee as provided for herein shall be paid to the Director of
35 the Alcoholic Beverage Control Division in conformance with the provisions of

1 the Judicial Review Section of the Arkansas Administrative Procedure Act, and
2 the moneys shall be deposited into the general revenues of the State of
3 Arkansas."

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5 SECTION 13. Arkansas Code 3-4-103(a) is amended to read as follows:

6 "(a) If a corporation or copartnership holding a permit under this act
7 shall be dissolved, or if a receiver or assignee for the benefit of creditors
8 is appointed therefor, or if a receiver or assignee for the benefit of
9 creditors or a committee of the property of an individual holding a permit is
10 appointed during the time for which the permit was granted, or if a person
11 holding a permit dies during the term for which the permit was given, then the
12 corporation, copartnership, receiver, or assignee, or the administrator or
13 executor of the estate of the individual, or a committee of the property of a
14 person adjudged to be incompetent may continue to carry on the business upon
15 the premises for a period not to exceed twenty-four (24) months from such date
16 of dissolution or appointment or death. Said successors in interest shall be
17 allowed to renew the permit as if the original permittee were still in place
18 and the said successor in interest will be able to operate the said business
19 with the same right and subject of the same restrictions and liabilities as if
20 he had been the original applicant for and the original holder of the permit,
21 provided the approval of the Director of the Alcoholic Beverage Control
22 Division shall be first obtained."

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24 SECTION 14. Arkansas Code 3-4-207(1) is amended to read as follows:

25 "3-4-207. No person hereafter described in this section shall receive a
26 permit:

27 (1) A person who has been convicted of a felony;"

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29 SECTION 15. Arkansas Code 3-4-215 is hereby repealed.

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31 SECTION 16. Arkansas Code 3-9-301(2) is amended to read as follows:

32 "(2) Wine or wines means any light wine, port wine, sherry wine,
33 vermouth wine, or other wines, the alcoholic content of which does not exceed
34 twenty-one percent (21%) of alcohol by weight, regardless of whether the wines
35 are manufactured within or without the state of Arkansas;"

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SECTION 17. Arkansas Code 3-5-304(c)(1) is amended to read as follows:

"(c)(1) Upon receipt by the Director of the Alcoholic Beverage Control Division of an application for a permit, written notice thereof, which shall include a copy of the application, shall immediately be mailed by the director to the sheriff, chief of police (if in a city), and prosecuting attorney of the locality in which the premises are situated, and to the city board of directors or other governing body of the city in which the premises are situated, if within an incorporated area."

SECTION 18. Arkansas Code 3-4-210(c)(1) is amended to read as follows:

"(c)(1) Upon receipt by the Director of the Alcoholic Beverage Control Division of an application for a permit, written notice thereof, which shall include a copy of the application shall immediately be mailed by the director to the sheriff, chief of police (if located within a city), and prosecuting attorney of the locality in which the premises are situated, and to the city board of directors or other governing body of the city in which the premises are situated, if within an incorporated area."

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

SECTION 20. 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 21. All laws and parts of laws in conflict with this act are hereby repealed.

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