

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

A Bill

SENATE 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; INCREASE PER DIEM PAYABLE TO
13 ABC BOARD MEMBERS; TO CLARIFY ETHICAL REQUIREMENTS FOR THE
14 EMPLOYEES AND DIRECTORS OF THE ALCOHOLIC BEVERAGE CONTROL
15 DIVISION AND THE ALCOHOLIC BEVERAGE CONTROL ENFORCEMENT
16 DIVISION AND THE BOARD MEMBERS OF THE ALCOHOLIC BEVERAGE
17 CONTROL DIVISION; TO PROHIBIT PARALLEL WHOLESALER
18 DISTRIBUTION OF ALCOHOLIC BEVERAGES; TO INCREASE THE
19 AMOUNT OF TIME AN ABC PERMIT MAY BE OPERATED BY CERTAIN
20 SUCCESSORS IN INTEREST TO A PERMITTEE OF THE ABC DIVISION;
21 TO INCREASE THE ALCOHOL BY WEIGHT CONTENT OF WINE PRODUCTS
22 THAT MAY BE SOLD BY A RESTAURANT WINE PERMITTEE; AND FOR
23 OTHER PURPOSES."

Subtitle

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

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

31

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

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

35

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

2 "(i) The members of the Alcoholic Beverage Control Board are authorized
3 to draw per diem at the rate of one hundred dollars (\$100.00) per day for each
4 regular or special meeting in which they are in attendance, plus lodging and
5 mileage from their homes to the place of the meeting and returning."

6

7 SECTION 3. Arkansas Code §3-2-202(c) is hereby repealed.

8

9 SECTION 4. Arkansas Code §3-2-202(d) is amended to read as follows:

10 "§ 3-2-202. Director of Alcoholic Beverage Control - Staff.

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

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

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

19

20 SECTION 5. Arkansas Code §3-2-208 is amended to read as follows:

21 "§3-2-208. Solicitation or acceptance of bribe prohibited.

22 (a) All members of the Alcoholic Beverage Control Board and the
23 director and any employee of the Alcoholic Beverage Control Division or the
24 Alcoholic Beverage Control Enforcement Division shall be subject to all
25 provisions, sanctions, and penalties contained within Chapter 8 of Title 21 of
26 the Arkansas Code Annotated."

27

28 SECTION 6. Arkansas Code §3-2-210(a) is amended to read as follows:

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

33

34 SECTION 7. Arkansas Code §3-2-212(e) (2) is amended to read as follows:

35 "(2) The order shall be mailed by certified mail by the director to the

1 applicant at the address shown on the application, or to the licensee at the
2 address of the premises licensed as the case may be."

3

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

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

8

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

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

18

19 SECTION 10. Arkansas Code §3-2-213(a)(4) is amended to read as follows:

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

23

24 SECTION 11. Arkansas Code §3-2-213(b)(2) is amended to read as follows:

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

29

30 SECTION 12. Arkansas Code §3-2-213(c)(2) is amended to read as follows:

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

34

35 SECTION 13. Arkansas Code §3-2-216 is amended to read as follows:

1 "§3-2-216. Appeal to courts.

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

4

5 SECTION 14. Arkansas Code §3-2-217(b) is amended to read as follows:

6 "(b) The fee as provided for herein shall be paid to the Director of
7 the Alcoholic Beverage Control Division in conformance with the provisions of
8 the Judicial Review Section of the Arkansas Administrative Procedure Act."

9

10 SECTION 15. Arkansas Code §3-2-412(a) (2) is amended to read as follows:

11 "(2) An unlawful dual distributorship is created when any
12 manufacturer, importer, or other person attempts to designate as its
13 distributor more than one (1) Arkansas liquor wholesaler in the state or
14 wholesale beer permit holder to distribute the same brand of alcoholic
15 beverage in the same geographical territory: city; county; counties; or state.
16 Further, no person shall attempt to register any brand or label which is
17 already distributed by a licensed wholesaler holding a brand registration
18 authorization from the manufacturer or importer for any said brand or label."

19

20 SECTION 16. Arkansas Code §3-4-103(a) is amended to read as follows:

21 "(a) If a corporation or copartnership holding a permit under this act
22 shall be dissolved, or if a receiver or assignee for the benefit of creditors
23 is appointed therefor, or if a receiver or assignee for the benefit of
24 creditors or a committee of the property of an individual holding a permit is
25 appointed during the time for which the permit was granted, or if a person
26 holding a permit dies during the term for which the permit was given, then the
27 corporation, copartnership, receiver, or assignee, or the administrator or
28 executor of the estate of the individual, or a committee of the property of a
29 person adjudged to be incompetent may continue to carry on the business upon
30 the premises for a period not to exceed twenty-four (24) months from such date
31 of dissolution or appointment or death. Said successors in interest shall be
32 allowed to renew the permit as if the original permittee were still in place
33 and the said successor in interest will be able to operate the said business
34 with the same right and subject of the same restrictions and liabilities as if
35 he had been the original applicant for and the original holder of the permit,

1 provided the approval of the Director of the Alcoholic Beverage Control
2 Division shall be first obtained."

3

4 SECTION 17. Arkansas Code §3-4-207(1) is amended to read as follows:

5 "§3-4-207. No person hereafter described in this section shall receive
6 a permit:

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

8

9 SECTION 18. Arkansas Code §3-4-215 is hereby repealed.

10

11 SECTION 19. Arkansas Code §3-9-301(2) is amended to read as follows:

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

16

17 SECTION 20. Arkansas Code §3-5-304(c)(1) is amended to read as follows:

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

25

26 SECTION 21. Arkansas Code §3-4-210(c)(1) is amended to read as follows:

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

34

35 SECTION 22. All provisions of this act of a general and permanent

1 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
2 Code Revision Commission shall incorporate the same in the Code.

3

4 SECTION 23. If any provision of this act or the application thereof to
5 any person or circumstance is held invalid, such invalidity shall not affect
6 other provisions or applications of the act which can be given effect without
7 the invalid provision or application, and to this end the provisions of this
8 act are declared to be severable.

9

10 SECTION 24. All laws and parts of laws in conflict with this act are
11 hereby repealed.

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

- 1
- 2
- 3
- 4
- 5
- 6