

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 84th General Assembly  
3 Regular Session, 2003  
4

*As Engrossed: H2/27/03*

# A Bill

HOUSE BILL 1728

5 By: Representatives Pickett, Bradford, Mahony  
6  
7

## For An Act To Be Entitled

9 AN ACT TO ALLOW CERTAIN COUNTIES AND CITIES OF  
10 THE FIRST CLASS TO CONDUCT LOCAL OPTION ELECTIONS  
11 TO DECIDE THE ISSUE OF ALLOWING THE SALE OF  
12 ALCOHOLIC BEVERAGES IN HOTELS, RESTAURANTS, AND  
13 LARGE ATTENDANCE FACILITIES; AND FOR OTHER  
14 PURPOSES.

## Subtitle

15  
16 AN ACT TO ALLOW CERTAIN COUNTIES AND  
17 CITIES OF THE FIRST CLASS TO CONDUCT  
18 LOCAL OPTION ELECTIONS TO DECIDE THE  
19 ISSUE OF ALLOWING THE SALE OF ALCOHOLIC  
20 BEVERAGES IN HOTELS, RESTAURANTS, AND  
21 LARGE ATTENDANCE FACILITIES.  
22  
23  
24

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
26

27 SECTION 1. Arkansas Code Title 3, Chapter 8, is amended to add an  
28 additional subchapter to read as follows:

29 3-8-501. Legislative Determination and Intent.

30 The General Assembly finds that:

31 (1) Local option laws of Arkansas no longer meet the needs and  
32 desires of certain communities which have chosen not to authorize every type  
33 of alcoholic beverage sale permitted by law, in that if the sale of  
34 intoxicating liquors is approved by voters under existing law, that approval  
35 would necessarily include the approval of most forms of the manufacture and  
36 sale of intoxicating liquors, including a multitude of on-premises and off-



1 premises sales as permitted by the Alcoholic Beverage Control Division; and  
2 (2) There is currently no provision in Arkansas law allowing  
3 certain counties and cities of the first class, in which the manufacture or  
4 sale of alcoholic beverages has been prohibited, to decide by local  
5 referendum whether the sale of alcoholic beverages in hotels, restaurants,  
6 and large attendance facilities should be authorized.

7  
8 3-8-502. Definitions.

9 For purposes of this subchapter:

10 (1) "Alcoholic beverages" means all intoxicating beverages including  
11 spirits, wines, beer, and all other intoxicating beverages approved for sale  
12 in this state which contain more than one-half of one percent ( $\frac{1}{2}$  of 1%)  
13 alcohol by weight;

14 (2) "Final determination" means the date of certification of the  
15 results of an uncontested election or, if contested, the date of the issuance  
16 of the mandate by the court finally determining an election contest;

17 (3) "Hotel" has the same meaning as defined in § 3-9-202; and

18 (4) "Restaurant" has the same meaning as defined in § 3-9-202.

19  
20 3-8-503. Applicability.

21 (a) This subchapter is supplemental to existing on-premises  
22 consumption laws.

23 (b) This subchapter only applies to:

24 (1) Counties having a population between seventy thousand  
25 (70,000) and eighty-seven thousand (87,000) based on the most recent Federal  
26 decennial census that have not approved the sale of intoxicating liquors as  
27 of the date of this subchapter, that have cities of first class located in  
28 those counties, with a population exceeding forty-three (43,000) based on the  
29 most recent decennial census; and

30 (2) Cities of first class with a population exceeding forty-  
31 three (43,000) based on the most recent Federal decennial census that have  
32 not approved the sale of intoxicating liquors as of the effective date of  
33 this subchapter.

34 (c) This subchapter, or any election conducted under its provisions,  
35 does not divest any permit holder of any permit issued under any law which  
36 was in effect on the effective date of this subchapter.

1  
2 3-8-504. Referendum Procedures.

3 (a) A referendum election may be called in an authorized city of the  
4 first class by resolution adopted by a majority vote of the governing body of  
5 the city at any regular or special meeting or by petition procedure, as  
6 provided in this subchapter.

7 (b) A referendum election may be called in an authorized county by a  
8 resolution adopted by a majority vote of the quorum court at any regular or  
9 special meeting or by petition procedure, as provided in this subchapter.

10 (c)(1) Petitions for local option elections held under this subchapter  
11 shall be prepared according to § 3-8-204.

12 (2) Petitions for local option elections shall list the city of  
13 the first class or county in which hotels, restaurants, and large attendance  
14 facilities will be authorized to apply for permits.

15 (d) If a majority of electors vote for the sale of the alcoholic  
16 beverages for on-premises consumption in hotels, restaurants, and large  
17 attendance facilities, permits would be authorized to be issued within that  
18 city of the first class or county.

19  
20 3-8-505. Determination of sufficiency of petition - Calling of  
21 election.

22 (a)(1) If at least thirty-eight percent (38%) of the qualified  
23 electors in the authorized county or city of the first class file a petition  
24 with the county clerk praying that an election be held in the county or city  
25 of the first class, to determine whether or not licenses shall be granted to  
26 permit the sale of alcoholic beverages in hotels, restaurants, and large  
27 attendance facilities, the county clerk shall determine within ten (10)  
28 business days the sufficiency of the petition.

29 (2) The total number of voters registered in the county or city  
30 of the first class as certified by the county clerk to the Secretary of State  
31 by the first of June of each year pursuant to Amendment 51 of the Arkansas  
32 Constitution, shall be the basis upon which the number of signatures of  
33 qualified electors on petitions shall be computed.

34 (3) A person shall be a registered voter at the time of signing  
35 the petition.

36 (b) If thirty-eight percent (38%) of the qualified electors of a county

1 or city of the first class have signed the petition, or if the governing body  
2 of a county or city of the first class shall, by majority vote, call for an  
3 election pursuant to this subchapter, the county clerk shall certify that  
4 finding to the county board of election commissioners, and the question shall  
5 be placed on the ballot in the applicable county or city of the first class  
6 at a general or special election.

7 (c)(1) If an appeal is taken from the certification of the county  
8 clerk, it shall be taken within ten (10) business days and shall be  
9 considered by the circuit court within ten (10) business days, or as soon as  
10 practicable, after the appeal is lodged with the court.

11 (2) The circuit court shall render its decision within thirty  
12 (30) calendar days.

13 (d) If an appeal is taken, the election shall be conducted within one  
14 hundred twenty (120) calendar days after the appeal is determined by the  
15 circuit court, if the decision is in favor of the election petitioners.

16 (e)(1)(A) The decision shall be certified immediately to the county  
17 board of election commissioners, and the day for the election shall be fixed  
18 by the county board of election commissioners for not earlier than twenty  
19 (20) calendar days or later than one hundred twenty (120) calendar days after  
20 the certification of the decision of the circuit court.

21 (B) Any appeal from the final decision of the circuit  
22 court shall be taken within ten (10) business days and shall be advanced and  
23 immediately determined by the Supreme Court.

24 (2) If an appeal is taken from the circuit court, the county  
25 board of election commissioners may delay the election until after the final  
26 decision of the Supreme Court.

27 (3)(A) If the decision is in favor of the election petitioners,  
28 then the county board of election commissioners shall set the day for the  
29 election.

30 (B) The date shall not be fewer than twenty (20) calendar  
31 days nor more than one hundred twenty (120) calendar days after the final  
32 decision of the Supreme Court.

33  
34 3-8-506. Conduct of Election.

35 (a)(1) Upon the certification by the county clerk for an election  
36 under this subchapter, in a city of the first class or county, the county

1 board of election commissioners of the county shall cause the question to be  
2 placed on the ballot at a general or special election, which shall be fixed  
3 by the county board of election commissioners not less than thirty (30)  
4 calendar days and no more than one hundred twenty (120) calendar days from  
5 date of certification by the county clerk, and shall give notice of the  
6 special election by publication in the newspaper of general circulation in  
7 the city of first class or county by at least two insertions, the last being  
8 not less than ten (10) business days prior to the election.

9 (2) The form of the ballot, consistent with the petition having  
10 been circulated, shall be printed as follows:

11  
12 FOR THE SALE OF ALCOHOLIC BEVERAGES FOR ON-PREMISES CONSUMPTION IN HOTELS,  
13 RESTAURANTS, AND LARGE ATTENDANCE FACILITIES IN (NAME OF CITY OF THE FIRST  
14 CLASS OR COUNTY), ARKANSAS, AS AUTHORIZED IN § 3-8-504.

15 AGAINST THE SALE OF ALCOHOLIC BEVERAGES FOR ON-PREMISES CONSUMPTION IN  
16 HOTELS, RESTAURANTS, AND LARGE ATTENDANCE FACILITIES IN (NAME OF CITY OF THE  
17 FIRST CLASS OR COUNTY), ARKANSAS, AS AUTHORIZED IN § 3-8-504.

18 (b)(1) If voters approve the sale of alcoholic beverages for on-  
19 premises consumption at hotels, restaurants, and large attendance facilities,  
20 the Alcoholic Beverage Control Division may issue hotel, restaurant, and  
21 large attendance facility mixed drink permits to qualified applicants located  
22 within the city of the first class or the county.

23 (2) If voters approve the sale of alcoholic beverages for  
24 on-premises consumption at hotels, restaurants, and large attendance  
25 facilities, the city of the first class or county may hold a subsequent  
26 election under §§ 3-8-201 through 3-8-210.

27 (3) If voters approve the sale of alcoholic beverages for  
28 on-premises consumption in hotels, restaurants and large attendance  
29 facilities, the city of the first class or county may hold a subsequent  
30 election under § 3-9-215 on the issue of whether to allow the sale of  
31 alcoholic beverages on Sundays, as authorized by law.

32 (c) The county board of election commissioners shall count the votes  
33 cast on the question of the sale of alcoholic beverages in the designated  
34 area, and shall deliver its certificate declaring the result of the election,  
35 together with the election returns, within three (3) business days after the  
36 date of the election, to the county clerk of the county.

1       (d) Upon petition of twenty-five (25) interested, registered voters in  
2 the territory affected, within ten (10) business days after the date of the  
3 election, the county board of election commissioners shall immediately  
4 recount the votes and declare the results of the election as determined by  
5 the recount.

6       (e) Within twenty (20) calendar days after the election, the county  
7 court shall make and have entered of record its order declaring the result of  
8 the election.

9       (f)(1) The costs of any special election held under this subchapter  
10 shall be paid by the proponents of the election.

11       (2) In the case of a referendum election called by a resolution  
12 adopted by the governing body of the city or quorum court, the proponents  
13 responsible for paying the costs of the special election shall be named in  
14 the resolution.

15       (3) The costs of any general election held under this subchapter  
16 shall be paid by the county in the same manner as other costs of general  
17 elections.

18       (g)(1)(A) After an election is held, a period of at least four (4)  
19 years shall elapse before another election on the same subject may be held in  
20 the territory affected.

21       (B) An adverse vote in a countywide election shall not  
22 prohibit the calling of an election in a city in that county, nor shall an  
23 adverse vote in a city election prohibit the calling of an election in the  
24 county.

25       (2)(A) If a city of the first class or county approves the sale  
26 of alcoholic beverages for on-premises consumption at hotels, restaurants,  
27 and large attendance facilities, opponents of the measure may petition to  
28 place the issue back on the ballot at a subsequent election by using the same  
29 procedures, and subject to the same requirements of this subchapter.

30       (B)(i) If the majority of the voters at a subsequent  
31 election vote against the sale of alcoholic beverages for on-premises  
32 consumption in hotels, restaurants and large attendance facilities, the  
33 holders of permits shall be allowed a period of one hundred twenty (120)  
34 calendar days in which to dispose of stock after the final determination of  
35 the results of the local option election by which the political subdivision,  
36 in which the holder of the permit is located, shall have voted against the

1 sale of alcoholic beverages for on-premises consumption in hotels,  
2 restaurants, and large attendance facilities.

3 (ii) During the one hundred twenty (120) calendar  
4 day period, the holder of a permit may not purchase any alcoholic beverages,  
5 but must restrict its business to the sale of those items on hand as of the  
6 date the election results are finally determined.

7  
8 5-8-507. Mandamus of County Officials.

9 Upon petition of ten (10) interested registered voters in the territory  
10 affected, filed with the circuit clerk of the county in which proceedings are  
11 pending, the circuit court shall immediately by mandamus, compel the county  
12 court or other officials to perform the duties imposed upon them by this  
13 subchapter.

14  
15 5-8-508. Purchase of Alcoholic Beverages.

16 Persons holding a permit to sell alcoholic beverages under this  
17 subchapter shall purchase such beverages from a retail liquor store  
18 authorized by the Alcoholic Beverage Control Board to sell to the permittee.

19  
20 5-8-509. Regulatory Authority.

21 The Alcoholic Beverage Control Board may adopt regulations to implement  
22 the intent and purposes of this subchapter..

23  
24 */s/ Pickett, et al*