

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

# A Bill

HOUSE BILL 1945

5 By: Representative Bright  
6  
7

## For An Act To Be Entitled

9 AN ACT TO ALLOW THE SERVING OF ALCOHOLIC  
10 BEVERAGES FOR ON PREMISES CONSUMPTION IN  
11 QUALIFIED RESTAURANTS ON ALL DAYS OF THE WEEK;  
12 AND FOR OTHER PURPOSES.  
13

## Subtitle

15 AN ACT TO ALLOW THE SERVING OF ALCOHOLIC  
16 BEVERAGES FOR ON PREMISES CONSUMPTION IN  
17 QUALIFIED RESTAURANTS ON ALL DAYS OF THE  
18 WEEK.  
19  
20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
22

23 SECTION 1. Arkansas Code § 3-9-202(6), concerning the definition of  
24 "on-premises consumption", is amended to read as follows:

25 (6) "On-premises consumption" means the sale of alcoholic  
26 beverages by the drink or in broken or unsealed containers for consumption on  
27 the premises where sold on all days of the week;  
28

29 SECTION 2. Arkansas Code § 3-9-202(8), concerning the definition of  
30 "restaurant", is amended to read as follows:

31 (8) "Restaurant" means any public or private place:  
32 (A) Kept, used, maintained, advertised, and held out to  
33 the public or to a private or restricted membership as a place where complete  
34 meals are served and where complete meals are actually and regularly served,  
35 without sleeping accommodations, such place being provided with adequate and  
36 sanitary kitchen and dining equipment and a seating capacity of at least



1 fifty (50) people and having employed therein a sufficient number and kind of  
 2 employees to prepare, cook, and serve suitable food for its guests or  
 3 members; at least one (1) meal per day shall be served and the place shall be  
 4 open a minimum of five (5) days per week, with the exception of holidays,  
 5 vacations, and periods of redecorating, and which only serves alcohol on days  
 6 when food and meals are served; or

7 (B)(i) Which qualifies as a "large meeting or attendance  
 8 facility" which is hereby defined, without limitation, as a facility housing  
 9 convention center activity, or tourism activity, or trade show and product  
 10 display and related meeting activity, or any other similar large meeting or  
 11 attendance activity, and, either itself or through one or more independent  
 12 contractors, complies with all of the following:

13 (a) Actually serves full and complete meals  
 14 and food on the premises;

15 (b) Has one (1) or more places for food  
 16 service on premises with a seating capacity for not less than five hundred  
 17 (500) people;

18 (c) Employs a sufficient number and kind of  
 19 employees to serve meals and food on the premises capable of handling at  
 20 least five hundred (500) people; and

21 (d) Serves alcoholic beverages on premises at  
 22 one (1) or more places only on days that meals and food are served at one (1)  
 23 or more places on premises.

24 (ii)(a) Any on-premises restaurant permittee as  
 25 licensed by § 3-9-202(8)(A) and any hotel or motel on-premises permittee as  
 26 licensed by § 3-9-202(9) shall be allowed to serve alcoholic beverages  
 27 purchased under their permit at any large meeting or attendance facility  
 28 which is licensed under this subdivision (8)(B). Hotel, motel, and  
 29 restaurant permittees may serve alcoholic beverages purchased under their  
 30 permit only when they have first secured written permission from the  
 31 permittee of the large meeting or attendance facility. Otherwise alcoholic  
 32 beverage service at the large meeting or attendance facility shall be from  
 33 inventory purchased by the large meeting or attendance facility permittee.

34 (b) Written permission shall not be granted  
 35 for more than a five-day period of time. The Alcoholic Beverage Control  
 36 Division shall be given a copy of any such written agreement. Any violations

1 which occur while such permission is being used shall lie against the hotel,  
2 motel, or restaurant using such permission.

3 (c) Any hotel, motel, or restaurant that  
4 serves its alcoholic beverages at a large meeting or attendance facility  
5 shall only do so pursuant to a satellite catering permit to be issued by the  
6 Alcoholic Beverage Control Division for an annual fee of five hundred dollars  
7 (\$500) per fiscal year, or part thereof. The permit shall be applied for on  
8 forms as prescribed by the Alcoholic Beverage Control Board.

9 (d) The Alcoholic Beverage Control Board shall  
10 promulgate such regulations as it deems necessary to implement subdivisions  
11 (8)(B)(i)(a)-(c) of this section;

12 (iii) When a large attendance facilities permit has  
13 been issued to a government-owned facility located in a county which has a  
14 population of more than three hundred thousand (300,000) according to the  
15 1990 Federal Decennial Census, Arkansas-licensed beer wholesalers shall be  
16 allowed to pay for advertising devices used at the government-owned facility.  
17 Such advertising devices shall include items such as inside or outside signs,  
18 scoreboards, programs, scorecards, and the like. Provided, if such  
19 advertising by the beer wholesaler results in the formation or existence of  
20 an exclusive buying arrangement by the large attendance facilities permittee  
21 and the wholesaler who furnishes such items, then such exclusive buying  
22 arrangement will be a violation of the large attendance facilities permit and  
23 the wholesale beer permit involved even if such arrangements are caused by  
24 third parties. To the extent that § 3-5-314 or any other law could be  
25 interpreted to preclude such advertising arrangements allowed in this  
26 subdivision (8)(B)(iii), they are held inapplicable;

27  
28 SECTION 3. Arkansas Code § 3-9-203(b), concerning a referendum  
29 authorizing on-premises consumption, is amended to read as follows:

30 (b) A favorable vote at a referendum election shall authorize on-  
31 premises consumption in licensed premises, as provided in this subchapter, on  
32 all days of the week in only those areas of the city or county which are not  
33 dry areas.

34  
35 SECTION 4. Arkansas Code § 3-9-212(a), concerning permit fees to sell  
36 alcoholic beverages, is amended to read as follows:

1 (a) Each application for a permit shall be accompanied by a permit fee  
2 in the following applicable amount:

3  
4 Hotel, having fewer than 100 rooms ..... \$ 500 1,000

5  
6 Hotel, having 100 or more rooms ..... 1,000 1,500

7  
8 Restaurant, having a seating capacity of less  
9 than 100 persons ..... 500 750

10  
11 Restaurant, having a seating capacity of 100  
12 or more persons ..... 1,000 1,250

13  
14 SECTION 5. Arkansas Code § 3-9-215 is amended to read as follows:

15 3-9-215. ~~Authorization of Sunday sales~~ Hours of operation on Sunday  
16 and New Year's Eve.

17 ~~(a)(1) The provisions of this section shall be applicable to only~~  
18 ~~those cities and counties in this state in which the sale of alcoholic~~  
19 ~~beverages for on premises consumption in restaurants or hotels has been~~  
20 ~~approved by a majority of the qualified electors of the city or county voting~~  
21 ~~on the issue at a referendum election authorized by this subchapter. These~~  
22 ~~provisions shall apply only with respect to the sale of alcoholic beverages~~  
23 ~~in restaurants or hotels which have a valid and current license or permit to~~  
24 ~~sell alcoholic beverages for consumption on the premises thereof.~~

25 ~~(2) In no event shall this section be construed to authorize the~~  
26 ~~sale of alcoholic beverages in any city or county or in any portion thereof~~  
27 ~~in which the sale of alcoholic beverages is prohibited by law. Nothing in~~  
28 ~~this section shall be construed to repeal or modify any law which prohibits~~  
29 ~~the sale of intoxicating alcoholic liquor, beer, or wine on Sunday unless the~~  
30 ~~law specifically conflicts with this section.~~

31 ~~(b)(a)(1) Any city of the first class or any county in which the sale~~  
32 ~~of alcoholic beverages for on premises consumption in licensed restaurants~~  
33 ~~and hotels has been authorized by a majority of the qualified electors of~~  
34 ~~that city or county voting on the issue at an election held therefor pursuant~~  
35 ~~to the provisions of this subchapter, by ordinance adopted by the governing~~  
36 ~~body of such city or county, may refer to the voters at an election the issue~~

1 of whether or not to authorize the sale of alcoholic beverages on Sundays  
2 between the hours of 12:00 noon and 10:00 p.m., or within a lesser period  
3 within such hours as may be provided in the ordinance.

4 (a) Licensed restaurants and hotels may sell on Sundays between the  
5 hours of 10:00 a.m. and 10:00 p.m.

6 ~~(2)(b) Provided, however, when~~ When Sunday falls on December 31 of any  
7 year, such restaurants and hotels may automatically sell alcoholic beverages  
8 for on-premises consumption between the hours of ~~12:00 noon~~ 10:00 a.m. on  
9 Sunday and 2:00 a.m. on the following Monday, ~~unless the city or county~~  
10 ~~establishes by ordinance a lesser period of time within which alcoholic~~  
11 ~~beverages may be sold for on-premises consumption by the restaurants and~~  
12 ~~hotels.~~

13 ~~(3) The Sunday sale of alcoholic beverages for on-premises~~  
14 ~~consumption as authorized in this section shall be limited to those~~  
15 ~~restaurants and hotels which possess a current and valid permit or license~~  
16 ~~for the sale of alcoholic beverages for on-premises consumption issued under~~  
17 ~~the authority of § 3-5-301 et seq., this subchapter, and § 3-9-301 et seq.~~  
18 ~~The election shall be held in accordance with the procedures established by §~~  
19 ~~3-9-201 et seq.~~

20 ~~(4) On the ballot for the election shall be printed~~  
21 ~~substantially the following:~~

22  
23 ~~—[ ] FOR THE SALE OF ALCOHOLIC BEVERAGES FOR ON-PREMISES CONSUMPTION ON A~~  
24 ~~SUNDAY IN QUALIFIED HOTELS AND RESTAURANTS IN (NAME OF CITY OR COUNTY),~~  
25 ~~ARKANSAS, AS AUTHORIZED BY LAW.~~

26  
27 ~~[ ] AGAINST THE SALE OF ALCOHOLIC BEVERAGES FOR ON-PREMISES CONSUMPTION~~  
28 ~~ON A SUNDAY IN QUALIFIED HOTELS AND RESTAURANTS IN (NAME OF CITY OR COUNTY),~~  
29 ~~ARKANSAS, AS AUTHORIZED BY LAW.~~

30  
31 SECTION 6. Arkansas Code § 3-9-501 is amended to read as follows:  
32 3-9-501. Definitions.

33 As used in this subchapter, unless the context otherwise requires:

34 (1) "Beer" means any fermented liquor made from malt or any  
35 substitute thereof and having an alcoholic content of more than one-half of  
36 one percent (0.5%) of alcohol by weight but not in excess of five percent

1 (5%) by weight;

2 (2) "Wine" means any light wine, port wine, sherry, vermouth, or  
3 any other wine, the alcoholic content of which is more than one-half of one  
4 percent (0.5%) of alcohol by weight and which does not exceed fourteen  
5 percent (14%) of alcohol by weight, regardless of whether the wine is  
6 manufactured within or without the State of Arkansas;

7 (3) "Director" means the Director of the ~~Department of Alcoholic~~  
8 Beverage Control Division;

9 (4) "Board" means any Alcoholic Beverage Control Board of this  
10 state or any successor agency; and

11 ~~(5) "Hotel" has the same meaning as prescribed by § 3-9-402(4);~~  
12 ~~and~~

13 ~~(6)(5) "Restaurant" means any public or private place, without~~  
14 ~~sleeping accommodations and that place has the same meaning as provided in §~~  
15 ~~3-9-202(8);~~

16 ~~(A) Is kept, used, maintained, advertised, and held out to~~  
17 ~~the public or to a private or restricted membership as a place whose primary~~  
18 ~~function and purpose is to take orders for and to serve food and food items;~~

19 ~~(B) Actually serves full and complete meals prepared in a~~  
20 ~~fully equipped and sanitary kitchen and prepared from uncooked foods for~~  
21 ~~service to and consumption by its guests or members on the premises;~~

22 ~~(C) Has employed a sufficient number and kind of employees~~  
23 ~~to prepare, cook, and serve suitable foods to its guests or members;~~

24 ~~(D) On Sundays serves alcoholic beverages on premises~~  
25 ~~only, in conjunction with meals;~~

26 ~~(E) Serves food on all days of operations;~~

27 ~~(F) Maintains separate sales figures for alcoholic~~  
28 ~~beverages; and~~

29 ~~(G) Has gross sales of sixty percent (60%) or more from~~  
30 ~~the sale of food, food items, and nonalcoholic beverages.~~

31

32 SECTION 7. Arkansas Code § 3-9-502 is repealed.

33 ~~3-9-502. Applicability of § 3-9-401 et seq.~~

34 ~~The provisions of § 3-9-401 et seq. are applicable to this subchapter~~  
35 ~~to the extent that they are not in conflict herewith~~

36

SECTION 8. Arkansas Code § 3-9-503 is amended to read as follows:

3-9-503. Permit - Requirements.

(a) Any ~~hotel or restaurant that is licensed to sell beer and wine for on-premise consumption under § 3-5-201 et seq. and § 3-9-301 et seq.~~ may sell beer and wine for on-premises consumption on ~~Sundays~~ all days of the week after obtaining a permit, approved and issued by the director in accordance with rules and regulations promulgated by the board, for the sale of beer and wine for on-premises consumption on ~~Sundays~~ all days of the week.

(b) No ~~hotel or restaurant~~ may obtain a permit to sell beer and wine for on-premises consumption on ~~Sundays~~ all days of the week unless it:

~~(1) Has valid and current permits, which are not suspended, cancelled, or revoked, to sell beer and wine for on-premises consumption issued under § 3-5-201 et seq. and § 3-9-301 et seq.;~~

~~(2)(1) Is located in a city of the first or second class or county an area where Sunday alcoholic beverage sales of beer and wine for on-premises consumption have been approved by the voters of the city or county, said election to be held in conformance with the methods used to call elections under § 3-9-201 et seq.; and~~

~~(3)(2) Pays the required fee for a permit as required in this subchapter.~~

~~(c)(1) However, any hotel or restaurant having been in operation for less than ninety (90) days and without prior business experience in which to determine the gross sales requirements for hotels and restaurants, as defined in § 3-9-402, may be issued a temporary Sunday sales permit to sell beer and wine for on-premises consumption on Sundays for a period not to exceed ninety (90) days.~~

~~(2) The temporary ninety day time period is to be used to allow the business establishment to make a determination of its gross sales.~~

~~(3) The fee for the temporary Sunday sales permit to allow the sale of beer and wine on Sunday in such qualified restaurants or hotels shall be twenty five dollars (\$25.00).~~

SECTION 9. Arkansas Code § 3-9-504 is amended to read as follows:

3-9-504. Permit - Application.

(a) Any ~~hotel or restaurant~~ desiring to sell beer and wine only for on-premises consumption shall make application to the director for a permit

1 upon forms prescribed and furnished by the director in accordance with the  
2 rules and regulations of the board.

3 (b) No applicant shall be authorized to make any such sales until a  
4 permit is approved and issued by the director.

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

7 (1) The name of the applicant;

8 (2) The location of the ~~hotel or~~ restaurant;

9 (3) Sufficient data to establish that the applicant meets the  
10 requirements of § ~~3-9-402~~ 3-9-202;

11 (4) The names and addresses of all owners of the ~~hotel or~~  
12 restaurant;

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

16 (6) That neither the applicant nor any person to be employed in  
17 the serving of the beverages authorized herein shall be a person who has been  
18 convicted within five (5) years of the date of his employment of any  
19 violations of the laws against possession, sale, manufacture, or  
20 transportation of intoxicating liquor, or convicted of a felony;

21 (7) That the manager or operator of the ~~hotel or~~ restaurant  
22 seeking the permit is of good moral character, and is not a convicted felon;  
23 and

24 (8) Other such relevant information as may be required.

25 (d) Every permit issued under this subchapter shall be for an  
26 indeterminate period, subject to compliance with the annual renewal  
27 requirements herein prescribed and shall not be transferable or assignable as  
28 to owner or premises, except upon the written approval of the director.

29

30 SECTION 10. Arkansas Code § 3-9-505 is amended to read as follows:

31 3-9-505. Fees for permit.

32 (a) Each application for a ~~Sunday sales~~ restaurant, beer and wine  
33 permit shall be accompanied by a permit fee in the following applicable  
34 amount:

35

36 ~~(1) Hotel, having fewer than one hundred (100) rooms~~



1 .....\$100.00

2

3 ~~(2) Hotel, having one hundred (100) or more rooms~~

4 .....200.00

5

6 ~~(3)~~(1) Restaurant, having a seating capacity of less than one  
7 hundred (100) persons .....100.00 \$500.00

8

9 ~~(4)~~(2) Restaurant, having a seating capacity of one hundred (100)  
10 or more persons .....200.00 750.00

11

12 (b) An annual renewal fee in the same amount as provided in subsection  
13 (a) of this section shall be paid to the director on or before June 30 of  
14 each calendar year.

15 (c) The fee for a permit issued between January 1 and July 1 shall be  
16 one-half (1/2) of the applicable amount specified in subsection (a) of this  
17 section.

18

19 SECTION 11. Arkansas Code § 3-9-506 is repealed.

20 ~~3-9-506. Referendum.~~

21 ~~(a) A referendum election authorizing the Sunday sale of beer and wine~~  
22 ~~in hotels and restaurants as defined herein for on-premises consumption in~~  
23 ~~any city of the first class or city of the second class or any county which~~  
24 ~~already authorizes the sale of intoxicating beverages may be held under the~~  
25 ~~general provisions of § 3-9-201 et seq.~~

26 ~~(b) On the ballot for the election shall be printed substantially the~~  
27 ~~following:~~

28

29 ~~[- ] FOR THE SALE OF BEER AND WINE FOR ON-PREMISES CONSUMPTION ON A SUNDAY IN~~  
30 ~~QUALIFIED HOTELS AND RESTAURANTS IN (NAME OF CITY OR COUNTY), ARKANSAS, AS~~  
31 ~~AUTHORIZED BY LAW.~~

32

33 ~~[- ] AGAINST THE SALE OF BEER AND WINE FOR ON-PREMISES CONSUMPTION ON A~~  
34 ~~SUNDAY IN QUALIFIED HOTELS AND RESTAURANTS IN (NAME OF CITY OR COUNTY),~~  
35 ~~ARKANSAS, AS AUTHORIZED BY LAW.~~

36 ~~(c) To the extent not in conflict herewith, the referendum provisions~~

1 ~~of § 3-9-201 et seq. shall apply to this law.~~

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SECTION 12. Arkansas Code § 3-9-507 is amended to read as follows:

3-9-507. Sunday sales - Hours of operation.

The Sunday hours of operation for the ~~Sunday~~ restaurant beer and wine permit shall be the same hours of operation established for Sunday mixed drink permits as set by § 3-9-215.

SECTION 13. Arkansas Code Title 3, Chapter 9, Subchapter 5 is amended to add additional sections to read as follows:

3-9-508. No off premises sales.

A restaurant, beer and wine permit will not authorize the selling of wine by the package or bottle, nor authorize the sale of beer for off premises consumption on a Sunday .

3-9-509. Permit - Name.

The permit issued under this subchapter shall be known as a restaurant, beer and wine permit.