

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: H3/7/03 H3/26/03

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

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

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

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

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

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

2 3-9-503. Permit - Requirements.

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

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

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

14 ~~(2)(1) Is located in a city of the first or second class or~~
15 ~~county an area where Sunday alcoholic beverage sales of beer and wine for on-~~
16 ~~premises consumption have been approved by the voters of the city or county,~~
17 ~~said election to be held in conformance with the methods used to call~~
18 ~~elections under § 3-9-201 et seq.; and~~

19 ~~(3)(2) Pays the required fee for a permit as required in this~~
20 ~~subchapter.~~

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

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

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

32
33 SECTION 9. Arkansas Code § 3-9-504 is amended to read as follows:

34 3-9-504. Permit - Application.

35 (a) Any ~~hotel or restaurant~~ desiring to sell beer and wine only for
36 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~~

4200.00

5

6 ~~(3)~~(1) Restaurant, having a seating capacity of less than one
7 hundred (100) persons100.00 \$500.00

8

9 ~~(4)~~(2) Restaurant, having a seating capacity of one hundred (100)
10 or more persons200.00 750.00

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.~~

2

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

4 3-9-507. Sunday sales - Hours of operation.

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

8

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

11 3-9-508. No off premises sales.

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

15

16 3-9-509. Permit - Name.

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

19

20 SECTION 14. Arkansas Code §§ 3-9-401 through 3-9-413 are repealed.

21

22 ~~3-9-401. Purpose.~~

23 ~~The business of handling, distributing, and selling alcoholic beverages~~
24 ~~for on premises consumption on Sunday is declared to be a privilege under the~~
25 ~~laws of the State of Arkansas and the purpose of this subchapter is to~~
26 ~~require such permits and to impose such fees as are necessary to regulate and~~
27 ~~to limit the business of Sunday sales of alcoholic beverages for on premises~~
28 ~~consumption to those restaurants serving alcoholic beverages with meals and~~
29 ~~to those hotels and convention centers competing for convention and tourism~~
30 ~~business.~~

31

32 ~~3-9-402. Definitions.~~

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

34 ~~(1) "Alcoholic beverages" means all intoxicating liquors of any~~
35 ~~sort;~~

36

~~(2) "Board" means the Alcoholic Beverage Control Board of this~~

1 ~~state or any successor agency;~~

2 ~~(3) "Director" means the Director of the Alcoholic Beverage~~
3 ~~Control Division;~~

4 ~~(4) "Hotel" means every building or other structure commonly~~
5 ~~referred to as a hotel, motel, motor hotel, motor lodge, or similar name~~
6 ~~where sleeping accommodations are offered which is kept, used, maintained,~~
7 ~~advertised, and held out to the public to be a place where food is actually~~
8 ~~served and consumed, for adequate pay, to travellers or guests, whether~~
9 ~~transient, permanent, or residential, and which:~~

10 ~~(A) Has fifty (50) or more rooms for sleeping~~
11 ~~accommodations;~~

12 ~~(B) Is kept, used, maintained, advertised, and held out to~~
13 ~~the public to be a place where food and food items are served;~~

14 ~~(C) Actually serves full and complete meals prepared in a~~
15 ~~fully equipped and sanitary kitchen and prepared from uncooked foods for~~
16 ~~service to and for consumption by the guests and customers on the premises;~~

17 ~~(D) Has a dining room or rooms with a seating capacity of~~
18 ~~at least fifty (50) people where meals are served to guests and customers;~~

19 ~~(E) Has the sleeping accommodations and the dining room or~~
20 ~~rooms in the same building or in separate buildings or structures used in~~
21 ~~connection therewith that are on the same premises and are a part of the same~~
22 ~~hotel operation;~~

23 ~~(F) Has employed a sufficient number and kind of employees~~
24 ~~to prepare, cook, and serve suitable foods or food items to its guests and~~
25 ~~customers;~~

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

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

29 ~~(I) Has gross sales of sixty percent (60%) or more from~~
30 ~~items in the following categories:~~

31 ~~(i) Food and food items;~~

32 ~~(ii) Nonalcoholic beverages; and~~

33 ~~(iii) Including up to twenty percent (20%) of~~
34 ~~receipts for sleeping accommodations;~~

35 ~~(5) "On premises consumption" means the sale of alcoholic~~
36 ~~beverages by the drink or in broken or unsealed containers for consumption on~~

1 ~~the premises where sold;~~

2 ~~(6) "Person" means any natural person, partnership, association,~~
3 ~~or corporation;~~

4 ~~(7) "Private club" means a nonprofit organization, association,~~
5 ~~or corporation as defined as a private club in § 3-9-202(10);~~

6 ~~(8) "Restaurant" means any public or private place, without~~
7 ~~sleeping accommodations and that place:~~

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

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

14 ~~(C) Has a seating capacity of at least fifty (50) people;~~

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

17 ~~(E) On Sundays, serves alcoholic beverages on premises~~
18 ~~only, in conjunction with meals;~~

19 ~~(F) Serves food on all days of operations;~~

20 ~~(G) Maintains separate sales figures for alcoholic~~
21 ~~beverages; and~~

22 ~~(H) Has gross sales of sixty percent (60%) or more from~~
23 ~~the sale of food, food items, and nonalcoholic beverages, or, in the case of~~
24 ~~excursion boats, has gross sales of sixty percent (60%) of their gross income~~
25 ~~from boat rental fees and sales of food and nonalcoholic beverages;~~

26 ~~(9) "Excursion boat" means any passenger vessel or boat, such as~~
27 ~~a riverboat, floating restaurant, or excursion boat, which meets the~~
28 ~~requirements for a permit for on-premises consumption of alcoholic beverages~~
29 ~~under § 3-9-201 et seq. as a restaurant; and~~

30 ~~(10) "Restaurant" means any place that qualifies as a restaurant~~
31 ~~under subdivision (8) of this section or any large meeting or attendance~~
32 ~~facility as defined in § 3-9-202(8) which meets the requirements for a permit~~
33 ~~for on-premises consumption of alcoholic beverages under § 3-9-201 et seq. as~~
34 ~~a large meeting or attendance facility restaurant.~~

35
36 ~~3-9-403. Penalties.~~

1 ~~(a)(1) It shall be unlawful and shall constitute a misdemeanor for any~~
2 ~~person not holding a valid Sunday sales permit issued under this subchapter~~
3 ~~to sell alcoholic beverages for on-premises consumption.~~

4 ~~(2) Any person found guilty of this provision may be fined not~~
5 ~~more than one thousand dollars (\$1,000) and, in the discretion of the court,~~
6 ~~imprisoned for not more than six (6) months.~~

7 ~~(3) Each violation shall constitute a separate offense.~~

8 ~~(b) The director shall have the authority to suspend, cancel, or~~
9 ~~revoke either the permit issued under this subchapter or the on-premises~~
10 ~~permit issued under § 3-9-201 et seq. to any hotel or restaurant, or both, if~~
11 ~~a permittee is convicted under this section.~~

12
13 ~~3-9-404. Permit—Requirements.~~

14 ~~(a) Notwithstanding any other laws of this state which permit the sale~~
15 ~~of alcoholic beverages for on-premises consumption on Sundays, no hotel or~~
16 ~~restaurant that is licensed to sell alcoholic beverages for on-premises~~
17 ~~consumption under § 3-5-301 et seq., § 3-9-201 et seq., or § 3-9-301 et seq.~~
18 ~~shall be permitted to sell alcoholic beverages for on-premises consumption on~~
19 ~~Sundays until they obtain a permit, approved and issued by the director, in~~
20 ~~accordance with rules and regulations promulgated by the board for the sale~~
21 ~~of alcoholic beverages for on-premises consumption on Sundays. However, this~~
22 ~~subchapter is not intended to impose an additional requirement on private~~
23 ~~clubs licensed under § 3-9-201 et seq. to obtain a permit for Sunday sales of~~
24 ~~alcoholic beverages for on-premises consumption.~~

25 ~~(b) No hotel, motel, or restaurant shall obtain a permit to sell~~
26 ~~alcoholic beverages for on-premises consumption on Sundays unless:~~

27 ~~(1) It has a valid and current permit, which is not suspended,~~
28 ~~cancelled, or revoked, to sell alcoholic beverages for on-premises~~
29 ~~consumption issued under § 3-5-301 et seq., § 3-9-201 et seq., or § 3-9-301~~
30 ~~et seq.;~~

31 ~~(2) It is located in a city or county where Sunday sale of~~
32 ~~alcoholic beverages for on-premises consumption has been approved by the~~
33 ~~voters of the city or county as authorized under Arkansas law;~~

34 ~~(3) It meets all the requirements of being a hotel or a~~
35 ~~restaurant as those items are defined in § 3-9-402; and~~

36 ~~(4) It pays the required fee for a permit as required in this~~

1 ~~section and § 3-9-407.~~

2 ~~(c) However, any hotel or restaurant having been in operation for less~~
3 ~~than ninety (90) days and without prior business experience on which to~~
4 ~~determine the gross sales requirements for hotels and restaurants, as defined~~
5 ~~in § 3-9-402, may be issued a temporary Sunday sales permit to sell alcoholic~~
6 ~~beverages for on-premises consumption on Sundays for a period not to exceed~~
7 ~~ninety (90) days. The temporary ninety-day time period is to be used to allow~~
8 ~~the business establishment to make a determination of its gross sales. The~~
9 ~~fee for the temporary Sunday sales permit shall be twenty-five dollars~~
10 ~~(\$25.00).~~

11
12 ~~3-9-405. Permit—Application.~~

13 ~~(a) Any hotel or restaurant as defined in § 3-9-402 desiring to sell~~
14 ~~alcoholic beverages for on-premises consumption on Sundays shall make~~
15 ~~application to the director for a permit upon the forms prescribed and~~
16 ~~furnished by the director and in accordance with the rules and regulations of~~
17 ~~the board. The board shall have authority to require an applicant, under~~
18 ~~oath, to disclose the following information:~~

19 ~~(1) The name of the applicant;~~

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

21 ~~(3) Sufficient data to establish that the applicant meets the~~
22 ~~requirements of §§ 3-9-402 and 3-9-404;~~

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

25 ~~(5) That the applicant is a citizen or resident alien of the~~
26 ~~United States and a resident of Arkansas on the date of application, and if a~~
27 ~~corporation, duly qualified to do business in this state;~~

28 ~~(6) That neither the applicant nor any person to be employed in~~
29 ~~the serving of beverages authorized herein shall be a person who has been~~
30 ~~convicted within five (5) years of the date of his employment of any~~
31 ~~violation of the laws against possession, sale, manufacture, or~~
32 ~~transportation of intoxicating liquor, or convicted of a felony;~~

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

35 ~~(8) Such other relevant information as may be required.~~

36 ~~(b) Every permit issued under this subchapter shall be for an~~

~~indeterminate period, subject to compliance with the annual renewal requirements prescribed in this subchapter, and shall not be transferable or assignable, as to owner or premises, except upon the written approval of the director.~~

~~3-9-406. Consent to inspection.~~

~~No permit shall be issued under this subchapter unless the permittee has consented in writing that the permitted premises and its books and records shall be open at all times to all law enforcement and tax officials and officials of the board and the Director of the Department of Finance and Administration without requirement of warrant or other legal process.~~

~~3-9-407. Fees for permit.~~

~~(a) Each application for a Sunday sales permit shall be accompanied by a permit fee in the following applicable amount:~~

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

~~.....\$100.00~~

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

~~.....200.00~~

~~(3) Restaurant, having a seating capacity~~

~~of less than one hundred (100) persons100.00~~

~~(4) Restaurant, having a seating capacity~~

~~of one hundred (100) or more persons200.00~~

~~(b) An annual renewal fee in the same amount as provided in subsection (a) of this section shall be paid to the director on or before June 30 of each calendar year for the fiscal year beginning July 1.~~

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

~~(d) The fees required in this section are supplemental to the fees and~~

1 ~~taxes levied by § 3-5-301 et seq., § 3-9-201 et seq., and § 3-9-301 et seq.,~~
2 ~~and do not relieve any restaurant or hotel from paying permit or renewal fees~~
3 ~~or supplemental gross receipts taxes levied by the State of Arkansas for~~
4 ~~sales of alcoholic beverages for on-premises consumption made on Sunday.~~

5
6 ~~3-9-408. Rules and regulations.~~

7 ~~The board is authorized to adopt and enforce reasonable rules and~~
8 ~~regulations governing the qualifications for Sunday sales permits under this~~
9 ~~subchapter, the operation of permitted premises on Sundays, and otherwise~~
10 ~~implementing and effectuating the provisions and purposes of this subchapter~~
11 ~~to ensure the strict enforcement of the law. The rules and regulations~~
12 ~~promulgated under this subchapter shall be supplemental and in addition to~~
13 ~~the rules and regulations promulgated to regulate the sale of alcoholic~~
14 ~~beverages for on-premises consumption at hotels and restaurants under § 3-9-~~
15 ~~201 et seq.~~

16
17 ~~3-9-409. Suspension, etc., of permit—Appeals.~~

18 ~~Upon his own complaint or that of any law enforcement agency having~~
19 ~~jurisdiction over the permitted premises, the director may suspend, cancel,~~
20 ~~or revoke any permit granted under this subchapter for violation by the~~
21 ~~permittee of any provisions of this subchapter or any rule, regulation, or~~
22 ~~order of the board. No permit shall be suspended, cancelled, or revoked~~
23 ~~except after hearing by the director with reasonable notice to the permittee~~
24 ~~and an opportunity for him or her to appear and defend himself or herself as~~
25 ~~provided in § 3-2-212. Appeals to the board from an order by the director of~~
26 ~~a suspension, cancellation, or revocation of a permit may be made as provided~~
27 ~~in § 3-2-215. Appeals from a board decision to the Circuit Court of Pulaski~~
28 ~~County may be made as provided in § 3-2-216.~~

29
30 ~~3-9-410. Grounds for suspension, etc., of permit.~~

31 ~~(a) Sunday sale permits may be suspended, cancelled, or revoked:~~

32 ~~(1) If the permittee no longer meets the requirements of the~~
33 ~~definition of a hotel or a restaurant under § 3-9-402;~~

34 ~~(2) If the permit for on-premises consumption of alcoholic~~
35 ~~beverages issued under § 3-5-301 et seq., § 3-9-201 et seq., or § 3-9-301 et~~
36 ~~seq. is suspended, cancelled, or revoked for causes thereunder;~~

1 ~~(3) If the permittee's restaurant or hotel is located in a city~~
2 ~~or county where Sunday sales are not authorized or are no longer authorized~~
3 ~~under Arkansas law;~~

4 ~~(4) If the permittee willfully fails to keep any records or make~~
5 ~~any reports required by this subchapter or by rules or regulations adopted~~
6 ~~thereunder; or~~

7 ~~(5) If the permittee makes any materially false statement in any~~
8 ~~application for a permit.~~

9 ~~(b) If any permittee shall fail to remit any fee levied in this~~
10 ~~subchapter for the permit or for the annual renewal, the permit shall be~~
11 ~~revoked. The permit may be restored if the renewal fee is paid within thirty~~
12 ~~(30) days from the date on which due.~~

13
14 ~~3-9-411. Sale of beer and wine.~~

15 ~~(a) Any permit for Sunday sales of alcoholic beverages for on-premises~~
16 ~~consumption shall include authority to sell beer for consumption and to sell~~
17 ~~native and imported wine by the drink as permittees, licensed under § 3-9-201~~
18 ~~et seq., are authorized to do in § 3-9-211.~~

19 ~~(b) However, nothing in this subchapter shall authorize holders of~~
20 ~~permits for on-premises consumption of alcoholic beverages on Sundays to sell~~
21 ~~or to dispense alcoholic beverages by the package or by the bottle for~~
22 ~~consumption off the permitted premises.~~

23
24 ~~3-9-412. Disposition of fees.~~

25 ~~(a) All permit fees collected for the state pursuant to this~~
26 ~~subchapter shall be remitted monthly to the State Treasury as general~~
27 ~~revenues and be credited to the State Apportionment Fund.~~

28 ~~(b) The fees shall be allocated and transferred to the various funds,~~
29 ~~fund accounts, and accounts participating in general revenues in the~~
30 ~~respective portions to each as provided by, and to be used for the respective~~
31 ~~purposes set forth in, the Revenue Stabilization Law, § 19-5-101 et seq.~~

32
33 ~~3-9-413. Exemptions.~~

34 ~~(a) Any person who on March 1, 1989, holds a Sunday sales permit under~~
35 ~~this subchapter and who has annual gross sales of food, food items, and~~

1 ~~nonalcoholic beverages of ninety thousand dollars (\$90,000) per year shall~~
2 ~~not be required to meet the requirements of § 3-9-402(8)(H) relating to gross~~
3 ~~sales.~~

4 ~~(b) Any person who on March 1, 1989, holds a Sunday sales permit under~~
5 ~~this subchapter and whose business is located in a municipality having a~~
6 ~~population of one hundred thousand (100,000) or more according to the most~~
7 ~~recent decennial census shall not be required to meet the requirements of §~~
8 ~~3-9-402(8)(H) relating to gross sales.~~

9
10 SECTION 15. Referendum elections - Sunday sales opt out -Conduct.

11 (a) A referendum election for cities or counties to opt out of the
12 automatic Sunday sales of intoxicating liquors as provided in this act shall
13 be conducted in accordance with the following:

14 (1) A referendum election may be called in a city by resolution
15 adopted by a majority vote of the governing body of the city or by petition
16 filed with the city clerk signed by qualified electors of the city numbering
17 not less than fifteen percent (15%) of the votes cast in the city for the
18 office of Governor in the last general election in which the office appeared
19 on the ballot;

20 (2) A referendum election may be called in a county by
21 resolution adopted by a majority vote of the quorum court at any annual or
22 special session thereof, or by petition filed with the county clerk signed by
23 qualified electors of the county numbering not less than fifteen percent
24 (15%) of the votes cast in the county for the office of Governor in the last
25 general election in which the office appeared on the ballot.

26 (b)(1) The election shall be held and conducted and the results
27 certified under the supervision of the county board of election commissioners
28 in the manner provided by the election laws of this state.

29 (2) The county board shall fix the date of the election not less
30 than thirty (30) days nor more than sixty (60) days from the date the
31 election was called pursuant to subdivision (a)(1) or (a)(2) of this section
32 and give notice thereof by publication in a newspaper of general circulation
33 in the city or county by at least two (2) insertions, the last being not less
34 than ten (10) days prior to the election.

35 (3) The county board shall tabulate the votes and certify the
36 results to the county clerk within ten (10) days after the election.

1 (c) The election shall be conducted on a citywide or countywide basis.
2 All qualified electors within the city or county, as the case may be, shall
3 be eligible to vote even though they reside in a dry area thereof.

4 (d) On the ballot for the election shall be printed substantially the
5 following:

6
7 FOR THE SALE OF ALCOHOLIC BEVERAGES ON A SUNDAY FOR

8
9 ON-PREMISES CONSUMPTION IN (NAME OF CITY OR []

10
11 COUNTY), ARKANSAS, AS AUTHORIZED IN ARKANSAS CODE §§ 3-9-201 ET SEQ. AND 3-
12 9-501 ET SEQ.

13
14 AGAINST THE SALE OF ALCOHOLIC BEVERAGES ON SUNDAY FOR

15
16 ON-PREMISES CONSUMPTION IN (NAME OF CITY OR []

17
18 COUNTY), ARKANSAS, AS AUTHORIZED IN ARKANSAS CODE §§ 3-9-201 ET SEQ. AND 3-
19 9-501 ET SEQ.

20
21 (e) The results of the election may be contested within the time and
22 in the manner provided by law.

23 (f) All matters concerning the sufficiency of the petitions and the
24 conduct of the election not specifically provided for herein shall be
25 determined in accordance with the initiative and referendum laws of this
26 state applicable to cities and counties, respectively.

27
28 SECTION 16. Referendum elections - Effect.

29 (a) In the event a majority of those voting in a referendum election
30 under this subchapter shall vote against on-premises consumption on a Sunday,
31 an election shall not be held again on the issue in the same voting district
32 for a period of one (1) year. However, an adverse vote in a countywide
33 election shall not prohibit the calling of an election in a city in such
34 county, nor shall an adverse vote in a city election prohibit the calling of
35 an election in the county.

36 (b) Successive referendum elections may be held in the same city or

1 county to reverse the result of a previous election. However, there shall be
2 a period of not less than one (1) year between each such election.

3 (c) After a referendum election has initially been held, subsequent
4 elections in the same city or county shall be held at the regular biennial
5 November general election.

6
7 SECTION 15. EMERGENCY CLAUSE. It is found and determined by the
8 General Assembly of the State of Arkansas that all Alcoholic Beverage Control
9 Board permits expire on June 30th of each year and have to be renewed on July
10 1st of each year; that since this act affects existing permits, it would
11 cause unnecessary confusion and unnecessary expense to permit holders to have
12 to buy a new permit part way into a new permit year; that this act is
13 immediately necessary to prevent undue hardship and expense on the permit
14 holders and make the change to the permits coincide with the beginning of a
15 new permit year as well as a new fiscal year. Therefore, an emergency is
16 declared to exist and this act being necessary for the preservation of the
17 public peace, health, and safety shall become effective on July 1, 2003.

18
19 /s/ Bright
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