

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 2311

5 By: Representative Mathis  
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## For An Act To Be Entitled

9 AN ACT TO REVISE THE PROVISIONS CONCERNING THE  
10 DUTY OF CARE OF LICENSE HOLDERS FOR THE SALE OR  
11 DISPENSING OF ALCOHOLIC BEVERAGES; AND FOR OTHER  
12 PURPOSES.  
13

## Subtitle

14 AN ACT TO REVISE THE PROVISIONS  
15 CONCERNING THE DUTY OF CARE OF LICENSE  
16 HOLDERS FOR THE SALE OR DISPENSING OF  
17 ALCOHOLIC BEVERAGES.  
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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23 SECTION 1. Arkansas Code § 3-3-218 is amended to read as follows:

24 3-3-218. Duty of care of privilege license holders - Enforcement.

25 (a) It is the specifically declared policy of the General Assembly  
26 that all licenses issued to establishments for the sale or dispensing of  
27 alcoholic beverages are privilege licenses, and the holder of such privilege  
28 license is to be held to a high duty of care in the operation of the licensed  
29 establishment.

30 (b)(1) It is the duty of every holder of an alcoholic beverage permit  
31 issued by the State of Arkansas to operate the business wherein alcoholic  
32 beverages are sold or dispensed in a manner which is in ~~the public interest,~~  
33 ~~and does not endanger the public health, welfare, or safety.~~ compliance with  
34 the laws of the state of Arkansas and regulations of the Alcoholic Beverage  
35 Control Board.

36 (2) ~~Failure to maintain this duty of care~~ Failure to comply with



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1 these laws and regulations shall be a violation of this section and grounds  
2 for administrative sanctions being taken against the holder of such permit or  
3 permits.

4 (c)~~(1)~~ The standard of review for the director and the Alcoholic  
5 Beverage Control Board in matters arising herein shall be by clear and  
6 convincing evidence;

7 ~~(A) Whether or not the permitted outlet, as it has been~~  
8 ~~operated, promotes the public convenience and advantage;~~

9 ~~(B) Whether or not the continuation of the outlet would~~  
10 ~~promote the public interest; and~~

11 ~~(C) Whether~~ whether or not the outlet's business operation  
12 endangers the public health, welfare, or safety of the area or community in  
13 which it is located.

14 ~~(2) It is specifically granted to the director and the board the~~  
15 ~~power to review the outlet and its operation as if it were a new application,~~  
16 ~~taking into consideration all factors involved in the review of an~~  
17 ~~application as initially filed before the agency.~~

18 (d) The Alcoholic Beverage Control Division and its board are hereby  
19 authorized to adopt regulations to implement each and every provision of this  
20 section.

21 (e) The director and the board are empowered by this section to  
22 administer the full range of penalties available for other administrative  
23 proceedings before it, including, but not limited to, fines, suspension,  
24 cancellation, or revocation of such permits which have been found to endanger  
25 the public health, welfare, or safety.

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