

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

# A Bill

SENATE BILL 502

4  
5 By: Senator Broadway  
6  
7

## For An Act To Be Entitled

9 AN ACT TO ALLOW OUT-OF-STATE MANUFACTURERS TO  
10 OBTAIN PERMITS TO SHIP A LIMITED QUANTITY OF WINE  
11 TO ADULT RESIDENTS OF THE STATE OF ARKANSAS; AND  
12 FOR OTHER PURPOSES.

## Subtitle

13  
14 AN ACT TO ALLOW OUT-OF-STATE  
15 MANUFACTURERS TO OBTAIN PERMITS TO SHIP  
16 A LIMITED QUANTITY OF WINE TO ADULT  
17 RESIDENTS OF THE STATE OF ARKANSAS.  
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20

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

22  
23 SECTION 1. Arkansas Code § 3-7-106 is amended to read as  
24 follows:

25 (a)(1) Except as provided in subsection (c) of this section, ~~It~~ it  
26 shall be unlawful for any person to ship or transport or cause to be shipped  
27 or transported into the State of Arkansas any spirituous liquors, vinous  
28 liquors, wines other than Arkansas wines, or beer or malt beverages from  
29 points without the state without first having obtained a permit from the  
30 Director of the Alcoholic Beverage Control Division.

31 (2) Except as provided in subsection (c) of this section, ~~No~~ no  
32 railroad company, express company, bonded truck company or truck line  
33 operating under a certificate or permit issued by the Arkansas State Highway  
34 and Transportation Department, nor any river transportation company shall  
35 receive for shipment or ship into this state any package or receptacle  
36 containing distilled spirits unless a copy of the permit showing that payment



1 of the taxes as are required by law has been made shall accompany the  
 2 shipment.

3 (3) The permit issued under this subsection (a) shall be in such  
 4 form as may be prescribed by the Director of the Alcoholic Beverage Control  
 5 Division, and all such shipments into the state shall be governed by such  
 6 rules and regulations as may be promulgated by the director.

7 (4) However, under this subsection (a), the railroad or express  
 8 company or river transportation company shall not be required to obtain any  
 9 permit to transport distilled spirits but shall be subject to all rules and  
 10 regulations promulgated by the Director of the Alcoholic Beverage Control  
 11 Division.

12 (b)(1) Except as provided in subsection (c) of this section, ~~It~~ it  
 13 shall be unlawful for any person who is permitted by law to manufacture,  
 14 sell, or transport spirituous liquors, vinous liquors, wines other than  
 15 Arkansas wines, or beer or malt beverages to transport or cause spirituous  
 16 liquors, vinous liquors, wines other than Arkansas wines, or beer or malt  
 17 beverages to be transported by any means of transportation except as may be  
 18 prescribed by the rules and regulations of the Director of the Alcoholic  
 19 Beverage Control Division.

20 (2) However, under this subsection (b), spirits may be  
 21 transported by truck or wagon from and to freight or express depots, to and  
 22 from the place or places of business of the permittees and upon the premises  
 23 of the permittees, from and to one (1) place of business to another place of  
 24 business of the permittee, provided that the owner of trucks or wagons  
 25 transporting distilled liquor as aforesaid, excepting trucks and wagons owned  
 26 and operated by a railroad or express company, or bonded truck company or  
 27 truck line operating under a certificate or permit issued by the State  
 28 Highway and Transportation Department, or a river transportation company, or  
 29 by the person permitted by law to manufacture, sell, or transport spirituous  
 30 liquors, vinous liquors, wines other than Arkansas wines, or beer or malt  
 31 beverages shall procure a permit to engage in transportation and shall  
 32 execute a bond satisfactory in amount, form, and as to surety, to be approved  
 33 by the Director of the Alcoholic Beverage Control Division, conditioned upon  
 34 the lawful transportation of spirituous liquors, vinous liquors, wines other  
 35 than Arkansas wines, or beer or malt beverages.

36 (c)(1) A licensed manufacturer of wine, light wine, or vinous liquor

1 in another state with reciprocal shipping privileges shall obtain a wine  
 2 shipment permit from the Alcoholic Beverage Control Division.

3 (2) The annual permit fee for the wine shipment permit is one  
 4 hundred dollars (\$100) and shall not be prorated.

5 (3)(A) Any person or entity with a wine shipment permit issued  
 6 by the Alcoholic Beverage Control Division may ship to an Arkansas resident,  
 7 who is twenty-one (21) years of age or older, a maximum of two (2) cases of  
 8 wine, light wine, or vinous liquor each month.

9 (B)(i) Any person or entity with a wine shipment permit  
 10 issued under this subsection is required to file an annual report with the  
 11 Director of the Alcoholic Beverage Control Division that states the quantity  
 12 of wine shipped into the state from January 1 to December 31 of the previous  
 13 year and the delivery service used for the shipments.

14 (ii) The annual report shall be filed by March 15 of  
 15 the year following the year for which the report is made.

16 (iii) The Director of the Alcoholic Beverage Control  
 17 Division shall promulgate rules and regulations for the administration of  
 18 this subsection.

19 (4) Delivery of a shipment under this subsection (c) shall not  
 20 be a sale in this state.

21 (5)(A) Any shipment of wine made under this subsection (c) and  
 22 accepted for delivery by a public or private delivery service shall contain a  
 23 clear and visible label with the following notice in red lettering at least  
 24 one-half inch (1/2") high on white background: "THIS PACKAGE CONTAINS  
 25 ALCOHOLIC BEVERAGES AND REQUIRES THE SIGNATURE OF A PERSON TWENTY ONE (21)  
 26 YEARS OLD OR OLDER AND WHO IS NOT INTOXICATED TO LAWFULLY RECEIVE IT."

27 (B) An employee or agent of a public or private package  
 28 delivery service who knowingly delivers alcoholic beverages to a person under  
 29 the age of twenty one (21) or an intoxicated person shall be deemed guilty of  
 30 a violation of this subsection (c) and subject to the following penalties:

31 (i) If the alleged violator has received a notice of  
 32 an alleged violation from the Alcoholic Beverage Control Division or other  
 33 agency or official with the authority to assess penalties under this chapter,  
 34 a fine not to exceed one hundred dollars (\$100) for a first violation within  
 35 a forty-eight (48) month period;

36 (ii) A fine not to exceed two hundred dollars (\$200)

1 for a second violation within a forty-eight (48) month period;  
 2 (iii) A fine not to exceed three hundred dollars  
 3 (\$300) for a third violation within a forty-eight (48) month period;  
 4 (iv) A fine not to exceed four hundred dollars  
 5 (\$400) for a fourth violation within a forty-eight (48) month period; and  
 6 (v) A fine not to exceed five hundred dollars (\$500)  
 7 for a fifth violation and any additional violations within a forty-eight (48)  
 8 month period.

9  
 10 SECTION 2. Arkansas Code § 3-3-310(a), regarding the solicitation or  
 11 taking orders of alcoholic beverages, is amended to read as follows:

12 (a) Except as provided in § 3-7-106(c), ~~It~~ it shall be unlawful for  
 13 any person, firm, or corporation in this state in person, by letter,  
 14 circular, or other printed matter, or in any other manner, to solicit or take  
 15 orders in this state for any alcoholic, vinous, malt, spirituous, or  
 16 fermented liquors or any compound or preparation thereof commonly called  
 17 tonic, bitters, or medicated liquors, or any other liquors, bitters, or  
 18 drinks prohibited by the laws of this state to be sold, bartered, or  
 19 otherwise disposed of.

20  
 21 SECTION 3. Arkansas Code § 3-3-310(b), regarding the solicitation or  
 22 taking orders of alcoholic beverages, is amended to read as follows:

23 (b) Except as provided in § 3-7-106(c), ~~The~~ the prohibition of this  
 24 section shall apply to such liquors, bitters, and drinks, whether the parties  
 25 intend that the liquors, bitters, or drinks shall be shipped into this state  
 26 from outside of the state or from one point in this state to another point in  
 27 this state.

28  
 29 SECTION 4. Arkansas Code § 3-3-310(c), regarding the solicitation or  
 30 taking orders of alcoholic beverages, is amended to read as follows:

31 (c) Except as provided in § 3-7-106(c), ~~The~~ the taking or soliciting  
 32 of orders for the above-described liquors is within the inhibition of this  
 33 section, although the orders are subject to approval by some other person,  
 34 and no part of the price is paid, nor any part of the goods is delivered when  
 35 the order is taken.

1 SECTION 5. Arkansas Code § 3-3-216(a), regarding the possession or  
2 sale of untaxed liquor, is amended to read as follows:

3 (a) Except as provided in § 3-7-106(c), ~~It~~ it shall be unlawful for  
4 any person to buy, bargain, sell, loan, own, have in possession, or knowingly  
5 transport in this state any intoxicating liquor of any kind upon which the  
6 Arkansas excise tax prescribed by law has not been paid.

7  
8 SECTION 6. Arkansas Code § 3-8-208(b), regarding the effects of the  
9 election results for the manufacture or sale of intoxicating liquors, is  
10 amended to read as follows:

11 (b)(1) If a majority of the electors voting at the election vote  
12 against the Manufacture or Sale of Intoxicating Liquors, then it shall be  
13 unlawful for the Director of the Alcoholic Beverage Control Division or any  
14 county or municipal official to issue any license, or permit, for the  
15 manufacture, sale, barter, loan, or giving away of any intoxicating liquor as  
16 defined in this subchapter unless and until the prohibition shall be repealed  
17 by a majority vote as provided for in §§ 3-8-201 - 3-8-203 and 3-8-205 - 3-8-  
18 209.

19 (2) This subsection (b) shall not apply to shipments of wine  
20 under § 3-7-106(c).

21  
22 SECTION 7. Arkansas Code § 3-8-208(d), regarding the effects of the  
23 election results for the manufacture or sale of intoxicating liquors, is  
24 amended to read as follows:

25 (d)(1) If a majority of electors voting on the issue at any such  
26 election vote against the manufacture or sale of intoxicating liquors, any  
27 license or permit which has already been issued, authorizing the  
28 manufacturing or sale or the bartering, loaning, or giving away of  
29 intoxicating liquor within the territory affected shall be immediately  
30 cancelled, and the unearned part of the license or permit fee shall be  
31 returned. It shall then be unlawful for any person, firm, or corporation to  
32 manufacture, sell, barter, loan, or give away any intoxicating liquor within  
33 the territory covered by the petition.

34 (2) This subsection (d) shall not apply to shipments of wine  
35 under § 3-7-106(c).

36

1 SECTION 8. Arkansas Code § 3-8-209 is amended to read as follows:

2 3-8-209. Sales, or furnishing place for sale, in dry territory  
3 prohibited - Penalty.

4 (a) Except as provided in § 3-7-106(c), ~~It~~ it shall be unlawful for  
5 any person, firm, or corporation to manufacture, sell, barter, loan, or give  
6 away intoxicating liquor in any county, township, municipality, ward, or  
7 precinct in which the manufacture or sale of intoxicating liquor is or shall  
8 be prohibited under the provisions of Initiated Act No. 1 of 1942, §§ 3-8-201  
9 - 3-8-203 and 3-8-205 - 3-8-209.

10 (b)(1) Any person who or officers of any firm or corporation which  
11 shall manufacture, sell, barter, loan, or give away any intoxicating liquor  
12 in any territory which has been made dry under the provisions of this  
13 subchapter shall, upon first conviction, be deemed guilty of a misdemeanor  
14 and shall be fined not less than one hundred dollars (\$100) nor more than one  
15 thousand dollars (\$1,000). For a second conviction, he shall be fined not  
16 less than two hundred dollars (\$200) nor more than two thousand dollars  
17 (\$2,000); and for any subsequent conviction shall be guilty of a felony and  
18 shall be sentenced to not less than one (1) year nor more than five (5) years  
19 in the Department of Corrections. If any person so convicted is punished by a  
20 fine only, if such fine is not paid immediately, he shall be confined in the  
21 Department of Corrections at hard labor until such fine and costs are paid at  
22 the rate of two dollars (\$2.00) per day.

23 (2) This subsection (b) shall not apply to shipments of wine  
24 under § 3-7-106(c).

25 (c)(1) Any person who or officers of a firm or corporation which  
26 knowingly furnishes or rents a house, room, wagon, vehicle, or any conveyance  
27 or thing in which intoxicating liquor is manufactured or sold, bartered,  
28 loaned, or given away in violation of prohibition secured under the  
29 provisions of this subchapter is declared to be a particeps criminis and,  
30 upon conviction, shall be subject to the same punishment as the principal.  
31 The house, room, wagon, vehicle, conveyance, or other thing in which the  
32 intoxicating liquor is manufactured or sold, bartered, loaned, or given away  
33 shall be liable for all fines adjudged against either the principal or the  
34 particeps criminis or both, as defined in this subsection.

35 (2) This subsection (c) shall not apply to shipments of wine  
36 under § 3-7-106(c).