

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011
4

A Bill

HOUSE BILL 2097

5 By: Representative Williams
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For An Act To Be Entitled

8 AN ACT TO ALLOW THE ISSUANCE OF PUBLIC LIQUOR BY THE
9 DRINK PERMITS AUTHORIZED BY ACT 132 OF 1969, AS
10 AMENDED, IN ANY AREA OF THE STATE WHERE THE SALE OF
11 SPIRITUOUS LIQUORS IS ALLOWED WITHOUT A REFERENDUM
12 ELECTION BEING REQUIRED; AND FOR OTHER PURPOSES.
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Subtitle

15 TO ALLOW THE ISSUANCE OF PUBLIC LIQUOR BY
16 THE DRINK PERMITS WITHOUT A REFERENDUM
17 ELECTION.
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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 § 3-3-210(b), concerning prohibited
24 practices, is amended to read as follows:

25 (b)(1)(A) As a further exception to the Sunday sales prohibition set
26 out in subsection (a) of this section, counties and cities in the state may
27 refer to the voters at an election the issue of whether to authorize the sale
28 of alcoholic beverages for off-premises consumption on Sundays between the
29 hours of 10:00 a.m. and 12:00 midnight or within a lesser period within the
30 hours as may be provided under a referendum election conducted in accordance
31 with the following:

32 (i) A referendum election may be called in a city by
33 a petition filed with the city clerk signed by fifteen percent (15%) of the
34 qualified electors who cast a vote in the city for the Office of Governor in
35 the last general election in which the office appeared on the ballot; or

36 (ii) A referendum election may be called in a county



1 by a petition filed with the county clerk signed by fifteen percent (15%) of
 2 the qualified electors who cast a vote in the county for the Office of
 3 Governor in the last general election in which the office appeared on the
 4 ballot.

5 (B)(i) If the requirements of subdivisions (b)(1)(A)(i) or
 6 (b)(1)(A)(ii) of this section are met, the referendum election shall be
 7 called by order of the quorum court or governing body of the city as provided
 8 under § 7-11-201 et seq., and the election shall be held and conducted under
 9 § 7-11-201 et seq.

10 (ii) The results of the election shall be certified
 11 under the supervision of the county board of election commissioners as
 12 provided by the election laws of this state.

13 (iii) The order of the quorum court or governing
 14 body of the city shall fix the date of the election not more than ninety (90)
 15 days from the date of the order and give notice by publication in a newspaper
 16 of general circulation in the city or county by at least two (2) insertions,
 17 the last being not less than ten (10) days before the election.

18 (iv) The county board of election commissioners
 19 shall tabulate the votes and certify the results to the county clerk or city
 20 clerk within ten (10) days after the election.

21 (B) The Sunday sale of alcoholic beverages for off-
 22 premises consumption authorized in this subsection shall be limited to those
 23 businesses within the county or city that possess a current and valid license
 24 for the sale of alcoholic beverages issued by the Alcoholic Beverage Control
 25 Division.

26 (2)(A) The election under this subsection shall be conducted on
 27 a citywide or countywide basis.

28 (B) All qualified electors within the city or county, as
 29 the case may be, shall be eligible to vote even though they may reside in a
 30 dry area.

31 ~~(C) The election under this subsection on the Sunday sales~~
 32 ~~question shall be held in accordance with the procedures established for on-~~
 33 ~~premises consumption elections by § 3-9-201 et seq., and the~~ The ballot for
 34 the election shall be printed substantially as follows:

35 “() FOR THE OFF-PREMISES SALE OF ALCOHOLIC BEVERAGES ON SUNDAY IN (NAME OF
 36 CITY OR COUNTY), ARKANSAS, AS AUTHORIZED BY LAW.

1 () AGAINST THE OFF-PREMISES SALE OF ALCOHOLIC BEVERAGES ON SUNDAY IN (NAME
2 OF CITY OR COUNTY), ARKANSAS, AS AUTHORIZED BY LAW.”.

3 (3)(A) The vote of the majority of the electors in a citywide
4 election approving Sunday sales shall authorize the sales in all permitted
5 outlets located within the incorporated areas of the city only.

6 (B) The vote of the majority of the electors in a
7 countywide election approving Sunday sales shall authorize the sales of of
8 alcoholic beverages for off-premises consumption in all permitted outlets
9 located anywhere within the county.

10 (C)(i) The results of the election may be contested within
11 the time and in the manner provided by law.

12 (ii) Matters concerning the sufficiency of the
13 petitions and the conduct of the election not specifically provided for under
14 this section shall be determined in accordance with the initiative and
15 referendum laws of this state applicable to cities and counties,
16 respectively.

17 (iii) If a majority of those voting in a referendum
18 election under this subchapter vote against Sunday sales of alcoholic
19 beverages for off-premises consumption, an election shall not be held again
20 on the issue in the same voting district for a period of one (1) year.
21 However, an adverse vote in a countywide election shall not prohibit the
22 calling of an election in a city in the county, nor shall an adverse vote in
23 a city election prohibit the calling of an election in the county.

24 (iv) Successive referendum elections may be held in
25 the same city or county to reverse the result of a previous election.
26 However, there shall be a period of not less than one (1) year between each
27 election.

28 (v) After a referendum election has initially been
29 held, subsequent elections in the same city or county shall be held at the
30 regular biennial general election.

31 (4) The vote of the majority of the electors against the off-
32 premises sale of alcoholic beverages on Sunday has no effect on sales of
33 mixed drinks in hotels and restaurants as authorized by § 3-9-215 or § 3-9-
34 216 or any other on-premises consumption permitted outlet.

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36 SECTION 2. Arkansas Code § 3-9-201 is amended to read as follows:

1 3-9-201. Legislative determinations and intent.

2 (a) The General Assembly reaffirms the policy of this state of strict
3 enforcement of alcoholic beverage control laws and further reaffirms the
4 policy of this state that the qualified electors of any city, county, or
5 political subdivision ~~thereof~~ of a city or county shall have the right of
6 local option ~~pursuant to~~ under Initiated Act No. 1 of 1942, as amended, §§ 3-
7 8-201 – 3-8-203 and 3-8-205 – 3-8-209, to prohibit the manufacture or sale of
8 intoxicating liquor ~~therein~~ in the city, county, or political subdivision of
9 the city or county.

10 (b) The General Assembly further declares and recognizes ~~the principle~~
11 ~~of freedom of choice of the people~~ that in any city or county in which the
12 ~~manufacture or sale of spirituous liquors is allowed, alcoholic beverages has~~
13 ~~not been prohibited to determine by a local referendum whether~~ the sale of
14 alcoholic beverages for on-premises consumption ~~shall be~~ is authorized in the
15 manner ~~herein~~ provided in this subchapter.

16 (c) The General Assembly authorizes and directs all law enforcement
17 officials to ~~enforce~~ strictly enforce the alcoholic beverage laws of this
18 state.

19 (d) The General Assembly determines:

20 (1) That the tourist and convention industries contribute
21 substantially to the revenues of business enterprises in this state and that
22 income from the tourist trade, conventions, and allied industries is
23 essential to the continued well-being and prosperity of this state;

24 (2) That there is extreme competition among states throughout
25 the nation for the tourist and convention business; and

26 (3) That all reasonable steps should be taken to retain, foster,
27 and encourage this business and to create favorable competitive conditions
28 ~~therefor~~ in this state.

29 (e) In order to encourage tourists and conventions to come to
30 Arkansas, it is essential that visitors to the state be provided
31 accommodations, services, and facilities of a nature to which they are
32 accustomed and competitive with those offered in other states and areas and
33 especially states adjacent to Arkansas.

34 (f) It is the intent and purpose of this subchapter to authorize ~~the~~
35 ~~qualified electors of cities and counties in which the sale of alcoholic~~
36 ~~beverages is not prohibited by law to approve, by referendum election, the~~

1 legal sale of alcoholic beverages where the sale of spirituous liquors is
2 allowed for consumption ~~on the premises of~~ at restaurants, hotels, and motels
3 ~~as defined herein.~~

4
5 SECTION 3. Arkansas Code § 3-9-202(11), concerning the definition of
6 referendum election, is repealed.

7 ~~(11) "Referendum election" means an election held as provided in this~~
8 ~~subchapter, at which the electors of a city or county shall vote on the~~
9 ~~question of authorizing, as provided herein, the sale of alcoholic beverages~~
10 ~~for on-premises consumption in those areas of the city or county in which the~~
11 ~~lawful sale of alcoholic beverages has not been prohibited by a local option~~
12 ~~election held pursuant to the Initiated Act;~~

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14 SECTION 4. Arkansas Code § 3-9-203 is amended to read as follows:

15 3-9-203. Applicability ~~—Purpose and effect of referendum election.~~

16 ~~(a)~~ The provisions of this subchapter authorizing on-premises
17 consumption ~~shall be~~ are effective only in cities and counties, or portions
18 ~~thereof~~ of cities and counties, in which the manufacture or sale of
19 intoxicating liquor is not prohibited as a result of a local option election
20 held ~~pursuant to~~ under Initiated Act No. 1 of 1942, ~~and in which the sale of~~
21 ~~alcoholic beverages for on-premises consumption has been approved by a~~
22 ~~majority vote at a referendum election as herein provided.~~

23 ~~(b)~~ ~~A favorable vote at a referendum election shall authorize on-~~
24 ~~premises consumption in licensed premises, as provided in this subchapter, in~~
25 ~~only those areas of the city or county which are not dry areas.~~

26 ~~(c)(1)~~ ~~A referendum election held in a city shall be for the purpose~~
27 ~~of determining whether the sale of alcoholic beverages for on-premises~~
28 ~~consumption shall be authorized in the portions of the city in which the sale~~
29 ~~of alcoholic beverages is not otherwise prohibited by law.~~

30 ~~(2)~~ ~~A referendum election held in a county shall be for the~~
31 ~~purpose of determining whether the sale of alcoholic beverages for on-~~
32 ~~premises consumption shall be authorized in all areas of the county,~~
33 ~~including cities of the first class and second class and incorporated towns~~
34 ~~therein, in which the sale of alcoholic beverages is not otherwise prohibited~~
35 ~~by law.~~

36

SECTION 5. Arkansas Code §§ 3-9-206 and 3-9-207 are repealed.

~~3-9-206. Referendum elections—Conduct.~~

~~(a) A referendum election hereunder shall be conducted in accordance with the following:~~

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

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

~~(b)(1) The election shall be called by order of the quorum court in accordance with § 7-11-201 et seq., and held and conducted in accordance with § 7-11-201 et seq., and the results certified under the supervision of the county board of election commissioners in the manner provided by the election laws of this state.~~

~~(2) The order of the quorum court shall fix the date of the election not more than ninety (90) days from the date of the order and give notice thereof by publication in a newspaper of general circulation in the city or county by at least two (2) insertions, the last being not less than ten (10) days prior to the election.~~

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

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

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

~~FOR THE SALE OF ALCOHOLIC BEVERAGES FOR ON PREMISES CONSUMPTION IN (NAME OF CITY OR COUNTY), ARKANSAS, AS AUTHORIZED IN ARKANSAS CODE § 3-9-201 ET SEQ.~~

1 ~~AGAINST THE SALE OF ALCOHOLIC BEVERAGES FOR ON PREMISES CONSUMPTION IN (NAME~~
 2 ~~OF CITY OR COUNTY), ARKANSAS, AS AUTHORIZED IN ARKANSAS CODE § 3-9-201 ET~~
 3 ~~SEQ.~~

4
 5 ~~(e) The results of the election may be contested within the time and~~
 6 ~~in the manner provided by law.~~

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

11
 12 ~~3-9-207. Referendum elections—Effect.~~

13 ~~(a) In the event a majority of those voting in a referendum election~~
 14 ~~under this subchapter shall vote for on-premises consumption, then permits~~
 15 ~~may be issued by the Alcoholic Beverage Control Board to eligible hotels and~~
 16 ~~to restaurants located in other than dry areas of the city or county and~~
 17 ~~which otherwise comply with the provisions of this subchapter.~~

18 ~~(b) In the event a majority of those voting in a referendum election~~
 19 ~~under this subchapter shall vote against on-premises consumption, an election~~
 20 ~~shall not be held again on the issue in the same voting district for a period~~
 21 ~~of one (1) year. However, an adverse vote in a countywide election shall not~~
 22 ~~prohibit the calling of an election in a city in such county, nor shall an~~
 23 ~~adverse vote in a city election prohibit the calling of an election in the~~
 24 ~~county.~~

25 ~~(c) Successive referendum elections may be held in the same city or~~
 26 ~~county to reverse the result of a previous election. However, there shall be~~
 27 ~~a period of not less than one (1) year between each such election.~~

28 ~~(d) After a referendum election has initially been held, subsequent~~
 29 ~~elections in the same city or county shall be held at the regular biennial~~
 30 ~~November general election.~~

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 32 SECTION 6. Arkansas Code § 3-9-208 is amended to read as follows:

33 3-9-208. Subsequent local option elections.

34 ~~(a) If a dry city or county shall subsequently vote at a local option~~
 35 ~~election held pursuant to the Initiated Act No. 1 of 1942 for the manufacture~~
 36 ~~or sale of intoxicating liquors, a referendum election under this subchapter~~

1 may not be held in such city or county for a period of six (6) months
 2 thereafter.

3 ~~(b) If a city or county has approved the sale of alcoholic beverages~~
 4 ~~for on-premises consumption and dry areas within the city or county~~
 5 ~~thereafter vote for the manufacture or sale of intoxicating liquors at a~~
 6 ~~local option election pursuant to the Initiated Act, a referendum election~~
 7 ~~under this subchapter need not be held again in the formerly dry areas, but~~
 8 ~~permits may not be issued for on-premises consumption in such areas for a~~
 9 ~~period of one (1) year thereafter.~~

10 (e) If permits are issued hereunder in a city or county which
 11 subsequently prohibits the manufacture or sale of intoxicating liquors at a
 12 local option election pursuant to under the Initiated Act, then all permits
 13 ~~shall be deemed~~ are automatically revoked and shall be returned to the
 14 Alcoholic Beverage Control Board ~~forthwith~~ immediately.

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