

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas
2 91st General Assembly
3 Second Extraordinary Session, 2017
4

A Bill

DRAFT MGF/TDW
SENATE BILL

5 By: Senator <NA>
6

For An Act To Be Entitled

8 AN ACT TO ENHANCE PENALTIES FOR VIOLATIONS OF
9 ALCOHOLIC BEVERAGE CONTROL LAWS; TO AUTHORIZE
10 SUSPENSION AND REVOCATION OF ALCOHOLIC BEVERAGE
11 CONTROL PERMITS; AND FOR OTHER PURPOSES.
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Subtitle

15 TO ENHANCE PENALTIES FOR VIOLATIONS OF
16 ALCOHOLIC BEVERAGE CONTROL LAWS; AND TO
17 AUTHORIZE SUSPENSION AND REVOCATION OF
18 ALCOHOLIC BEVERAGE CONTROL PERMITS.
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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 §§ 3-4-402 and 3-4-403 are amended to read as
24 follows:

25 3-4-402. Classes of violations and ~~fin~~~~es~~ ~~— Multiple offenses penalties~~
26 ~~— Authority to revoke and suspend permits.~~

27 (a) The following classes of alcoholic beverage control permit
28 violations and ~~fin~~~~es~~ ~~penalties are authorized to~~ may be levied and are
29 established:

30 (1) Class A permit violations: ~~Five hundred dollars (\$500) to~~
31 ~~one thousand dollars (\$1,000)~~ Up to seven (7) days' suspension of the permit
32 or up to one thousand dollars (\$1,000) per day;

33 (2) Class B permit violations: ~~Two hundred dollars (\$200) to~~
34 ~~five hundred dollars (\$500)~~ Up to five (5) days' suspension or up to five
35 hundred dollars (\$500) per day; and

36 (3) Class C permit violations: ~~One hundred dollars (\$100) to~~

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10-10-2017 11:28:52 MGF365

1 ~~two hundred dollars (\$200)~~ Up to three (3) days' suspension or up to five
 2 hundred dollars (\$500) per day.

3 (b) The Director of the Alcoholic Beverage Control Division and the
 4 Alcoholic Beverage Control Board ~~are hereby authorized to~~ may levy additional
 5 days of suspension or fines up to double the amount for the classes of
 6 violations found in ~~subsection (a)~~ subdivisions (a)(2) and (3) of this
 7 section for a second offense of the same violation within a twelve-month
 8 period, and up to three (3) times the days of suspension or fines authorized
 9 for the classes listed in ~~subsection (a)~~ subdivisions (a)(2) and (3) of this
 10 section for a third offense of the same violation within a twelve-month
 11 period.

12 (c)(1) The director and the board may levy additional days of
 13 suspension and fines up to double the amount for the class of violations
 14 found in subdivision (a)(1) of this section for a second offense of the same
 15 violation within a twelve-month period.

16 (2) Upon a finding by the director or the board that a third
 17 offense of the class of violations found in subdivision (a)(1) of this
 18 section has occurred within a twelve-month period, the permit shall be
 19 revoked in accordance with §§ 3-4-302 and 3-4-303.

20 (d)(1) The Alcoholic Beverage Control Division shall adopt a rule
 21 establishing a schedule of penalties consistent with this section.

22 (2) The schedule of penalties shall incorporate the violations
 23 enumerated in §§ 3-4-403, 3-4-404, and 3-4-405.

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 25 3-4-403. Class A violations.

26 (a) The following acts on the part of ~~any~~ a permittee are Class A
 27 permit violations:

28 (1) Failure to furnish access to permitted premises by any law
 29 enforcement officer or any authorized Alcoholic Beverage Control Division
 30 personnel or failure to cooperate or take reasonable action to assist ~~any~~
 31 ~~such~~ the law enforcement ~~officers~~ officer or authorized division personnel
 32 who are on the permitted premises in the performance of their duties;

33 (2) Failure to allow inspection of books or records;

34 (3) Posting the permit on unauthorized premises;

35 (4) Manufacture or possession of a controlled beverage with
 36 excess alcoholic content;

- 1 (5)(A) Sale by a manufacturer to other than a wholesaler.
- 2 (B) ~~Provided However~~, sales authorized by any law of the
3 state relating to native wines ~~shall not constitute~~ is not a violation;
- 4 (6) Sale by a wholesaler to other than a retailer;
- 5 (7)(A) Ownership or other interest in a retail outlet by a
6 manufacturer or a wholesaler.
- 7 (B) ~~Provided However~~, ~~that such~~ ownership or other
8 interest authorized by any law of this state relating to native wines ~~shall~~
9 ~~not be~~ is not a violation;
- 10 (8) Unauthorized gift or service to retailers by a manufacturer
11 or a wholesaler;
- 12 (9) Use of post-dated checks for payment of controlled beverages
13 and merchandise;
- 14 (10) Wholesaler making delivery to a consumer;
- 15 (11) The permittee possessed or knew or reasonably should have
16 known that any agent or employee or patron of the establishment possessed on
17 the permitted premises any illegal drug or narcotic or controlled substance
18 or that any agent or employee while acting on the permittee's behalf
19 knowingly allowed the possession on the permitted premises of any illegal
20 drug or narcotic or controlled substance;
- 21 (12) Selling or allowing the consumption of alcoholic beverages
22 on the permitted premises when the permit is suspended or on inactive status;
- 23 (13) Selling to minors;
- 24 (14) Unauthorized employment of a minor;
- 25 (15)(A) Disorderly conduct or a breach of the peace by a patron
26 or employee on the permitted premises.
- 27 (B) As used in subdivision (15)(A) of this section,
28 "disorderly conduct" includes without limitation a fight, brawl, or
29 disturbance that results in bodily injury to a person on the permitted
30 premises;
- 31 (16) Violation of § 3-3-218;
- 32 (17) Selling to an intoxicated person;
- 33 (18) Unauthorized manufacturing, selling, offering, dispensing,
34 or giving away of controlled beverages;
- 35 (19)(A) Conducting or permitting gambling on the premises.
- 36 (B) Conducting or permitting gambling under subdivision

1 (19)(A) of this section does not include:

2 (i) Charitable bingo and raffles under the
3 Charitable Bingo and Raffles Enabling Act, § 23-114-101 et seq.; or

4 (ii) A lottery under the Arkansas Scholarship
5 Lottery Act, § 23-115-101 et seq.;

6 (20) Violation of legal closing hours; and

7 (21)(A) Possession of a weapon on the permitted premises by a
8 person without a possessory or proprietary interest in the permitted
9 premises.

10 (B) ~~When~~ If the permitted premises is a retail liquor
11 store that sells alcoholic beverages for off-premises consumption, an
12 employee of the retail liquor store ~~that~~ who is licensed to carry a concealed
13 handgun by the state may possess a handgun on the permitted premises if the
14 possession of the handgun is permitted under state law.

15 (b)(1)(A) A permittee that commits a Class A violation shall report
16 the violation to the division within five (5) days after the date on which
17 the violation occurred.

18 (B) The report required under subdivision (b)(1)(A) of
19 this section shall be in writing.

20 (2) If a permittee fails to report a Class A violation within
21 five (5) days after the date on which the violation occurred, the division
22 shall impose the maximum penalty available for the violation.

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