

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Senator Dowd**

A BILL ACT 606 OF 1991
SENATE BILL 331

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED §3-4-207, §3-4-
9 210(a), §3-5-302, §3-9-305, AND §3-9-210(c) AND §3-9-
10 405(a) TO ALLOW RESIDENT ALIENS TO APPLY FOR RETAIL
11 LIQUOR, RETAIL BEER, RESTAURANT WINE, AND PUBLIC MIXED
12 DRINK PERMITS ISSUED BY THE ABC DIVISION; TO AMEND
13 ARKANSAS CODE ANNOTATED §3-5-215 TO PROVIDE THAT A PERSON
14 MAY APPLY FOR AN ABC LICENSE WHEN THEY BECOME A RESIDENT
15 OF ARKANSAS; TO AMEND ARKANSAS CODE ANNOTATED §3-5-215 TO
16 DELETE THE REQUIREMENT THAT PERSONS BE A REGISTERED VOTER
17 IN ORDER TO APPLY FOR A RETAIL BEER PERMIT; TO AMEND
18 ARKANSAS CODE ANNOTATED §3-5-302 AND §3-9-305 TO PROVIDE
19 THAT PERSONS MUST RESIDE IN THE COUNTY IN WHICH THE PERMIT
20 WILL BE OPERATED OR RESIDE WITHIN TWENTY-FIVE (25) MILES
21 OF THE ADDRESS OF THE PROPOSED PERMITTED OUTLET; TO AMEND
22 ARKANSAS CODE §3-4-209, §3-5-304(a) AND §3-9-405(a)
23 CONCERNING THE DISQUALIFICATION OF APPLICANTS FOR FELONIES
24 AND PREVIOUS PERMIT REVOCATIONS; TO REPEAL ARKANSAS CODE
25 ANNOTATED §3-4-203 WHICH REQUIRES PROOF OF PAYMENT OF
26 PERSONAL PROPERTY TAXES IN ORDER TO OBTAIN AN ABC PERMIT
27 AND TO PROVIDE UNIFORMITY REGARDING THE PERSONAL
28 QUALIFICATIONS OF APPLICANTS FOR RETAIL PERMITS ISSUED BY
29 THE ALCOHOLIC BEVERAGE CONTROL DIVISION; AND FOR OTHER
30 PURPOSES."

31
32 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

33
34 SECTION 1. Arkansas Code 3-4-207 is amended to read as follows:

35 "3-4-207. Ineligible persons.

36 No person hereafter described in this section shall receive a permit:

1 (1) A person who has been convicted of a felony within five (5) years
2 preceding the date of his application;

3 (2) A person under the age of twenty-one (21) years;

4 (3) A person who is not a citizen or resident alien of the United
5 States;

6 (4) A copartnership, unless all members of such copartnership are
7 citizens or resident aliens of the United States;

8 (5) A person who shall have had his permit issued under this act
9 revoked for cause, or who has been convicted of a violation of this act until
10 the expiration of two (2) years from the date of such revocation or
11 conviction;

12 (6) A corporation or copartnership, if any of its officers or members
13 have been convicted of a violation of this act or have had a permit issued
14 under this act revoked for cause until two (2) years from the date of the
15 conviction or revocation."

16

17 SECTION 2. Arkansas Code 3-4-209 is amended to read as follows:

18 "3-4-209. Applications - Contents.

19 In addition to such other information as the Director of the Alcoholic
20 Beverage Control Division may determine shall be furnished in any application
21 for permits under this act, the following information shall be given under
22 oath:

23 (1) The name, age, and residence of each applicant and, if there are
24 more than one and they are partners, the partnership name and residence of the
25 several persons so applying, and the facts as to his or their citizenship;

26 (2) The name and residence of each person interested, or to become
27 interested, in the business of any permittee for which the application is
28 made, together with the nature of the interests. If the applicant is a
29 corporation, the application shall set forth the name of the corporation, the
30 names of its directors or other governing body, the names of its officers, and
31 the state under the laws of which it is organized;

32 (3) That the premises to be permitted is identified by stating the
33 street and number, if the premises has a street and number, and otherwise such
34 apt description as will reasonably indicate the locality. The applicant shall
35 also state the name of any other person, either as principal or associate,

1 interested with the applicant either in the premises or in the business to be
2 permitted;

3 (4) A statement that the applicant has not been convicted of a felony
4 and has not had a permit issued to him under this act revoked for cause within
5 five (5) years preceding the date of application."
6

7 SECTION 3. Arkansas Code 3-4-210(a) is amended to read as follows:

8 "(a) (1) After filing an acceptable application with the director, the
9 applicant shall cause to be published at least once a week for two (2)
10 consecutive weeks in a legal newspaper of general circulation in the city in
11 which the premises are situated or, if the premises are not in a city, in a
12 newspaper of general circulation for the locality where the business is to be
13 conducted, a notice that the applicant has applied for a permit to sell
14 alcoholic beverages at retail.

15 (2) The notice shall be in such form as the Director of the
16 Alcoholic Beverage Control Division shall prescribe by rule, regulation, or
17 order and shall be verified.

18 (3) The notice shall give the names of the applicant and the
19 business and shall state that applicant is a resident of Arkansas, a citizen
20 or resident alien of the United States, that he has a good moral character,
21 that he has never been convicted of a felony or had a license to sell
22 alcoholic beverages revoked within the five (5) years preceding the date of
23 notice, whether issued by this state or any other state, and that he has not
24 been convicted of violating laws, of this state or any other state, governing
25 the sale of alcoholic beverages within five (5) years preceding the date of
26 the notice."
27

28 SECTION 4. Arkansas Code 3-5-215 is amended to read as follows:

29 "3-5-215. Qualifications of retail permittees.

30 No permit shall be granted to any permittee by the state or any county
31 or municipality to a person who is not a resident of the State of Arkansas on
32 the date of application."
33

34 SECTION 5. Arkansas Code 3-5-302 is amended to read as follows:

35 "3-5-302. Applications - Qualifications of applicant.

1 No license shall be issued to any person authorizing the sale of beer at
2 retail unless the person shall file a verified application, accompanied by the
3 fee required by law, and shall state in the application that he possesses the
4 following qualifications:

5 (1) Applicant must be a person of good moral character, a citizen or
6 resident alien of the United States, and a resident of the county in which the
7 permit will be operated or reside within twenty-five (25) miles of the address
8 of the premises described in the application;

9 (2) Applicant shall not have been convicted of a felony or have been
10 convicted within five (5) years of the date of his application of any
11 violation of the laws of this state or the laws of any other state relating to
12 the sale of alcoholic beverages;

13 (3) Applicant shall not have had revoked, within five (5) years next
14 preceding his application, any license issued to him pursuant to the laws of
15 this state or any other state to sell alcoholic liquor of any kind;

16 (4) Applicant shall be the owner of the premises for which the license
17 is sought or the holder of an existing lease or option to lease thereon;

18 (5) If applicant is a copartnership, all members of the partnership
19 must be qualified to obtain a license;

20 (6) If applicant is a corporation, all officers and directors, any
21 stockholder owning more than five percent (5%) of the stock of the
22 corporation, and the person or persons who shall conduct and manage the
23 licensed premises for the corporation shall possess all the qualifications
24 required herein for an individual license. The requirement as to residence
25 shall not apply to officers, directors, and stockholders of the corporation,
26 but the requirement shall apply to any officer, director, or stockholder who
27 is also the manager of the licensed premises, in any capacity, in the conduct
28 or operation of the licensed premises."

29

30 SECTION 6. Arkansas Code 3-5-304(a) is amended to read as follows:

31 "(a) (1) After filing an acceptable application with the director, the
32 applicant shall cause to be published at least once a week for two (2)
33 consecutive weeks in a legal newspaper of general circulation in the city in
34 which the premises are situated or, if the premises are not in a city, in a
35 newspaper of general circulation for the locality where the business is to be

1 conducted, a notice that the applicant has applied for a permit to sell beer
2 at retail.

3 (2) The notice shall be in such form as the Director of the
4 Alcoholic Beverage Control Division shall prescribe by rule, regulation, or
5 order, and shall be verified.

6 (3) The notice shall give the names of the applicant and the
7 business and shall state that the applicant is a resident of Arkansas, that he
8 has a good moral character, that he has never been convicted of a felony or
9 had a license to sell alcoholic beverages revoked within the five (5) years
10 preceding the date of this notice, whether issued by this state or any other
11 state, and that he has not been convicted of violating laws, of this state or
12 any other state, governing the sale of alcoholic beverages within five (5)
13 years preceding the date of this notice."

14

15 SECTION 7. Arkansas Code 3-9-210(c) is amended to read as follows:

16 "(c) The board shall have authority to require an applicant, under
17 oath, to disclose the following information:

18 (1) The name of the applicant;

19 (2) Location of the hotel or restaurant;

20 (3) Sufficient data to establish that the applicant meets the
21 requirements of § 3-9-202;

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

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

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

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

34 (8) Such other relevant information as may be required."

35

1 SECTION 8. Arkansas Code 3-9-305 is amended to read as follows:

2 "3-9-305. License applications - Qualifications.

3 (a) No license shall be issued to any person authorizing the sale of
4 wine at retail for consumption on the premises with food served in any cafe or
5 restaurant unless the person shall file with the Director of the Alcoholic
6 Beverage Control Division a verified application therefor, accompanied by the
7 fee required by law, and shall state in the application that he possesses the
8 following qualifications:

9 (1) Applicant is a person of good moral character, a citizen or
10 resident alien of the United States, and a resident of the county in which the
11 permit will be operated or reside within twenty-five (25) miles of the address
12 of the premises described in the application.

13 (2) Applicant has not been convicted of a felony or has not been
14 convicted within five (5) years of the date of his application of any
15 violation of the laws of this state or any other state relating to alcoholic
16 beverages.

17 (3) Applicant has not had revoked within five (5) years next
18 preceding his application any license issued to him pursuant to the laws of
19 this state, or any other state, to sell alcoholic liquor of any kind.

20 (4) Applicant shall be the owner of the premises for which the
21 license is sought or the holder of an existing lease or option to lease
22 thereon.

23 (5) If the applicant is a copartner, all members of the
24 copartnership must be qualified to obtain a license.

25 (6) If applicant is a corporation, all officers and directors
26 thereof, any stockholder owning more than five percent (5%) of the stock of
27 such corporation, and the person or persons who shall conduct and manage the
28 licensed premises for the corporation shall possess all the qualifications
29 required herein for an individual license. The requirement as to residence
30 shall not apply to officers, directors, and stockholders of the corporation,
31 but the requirement shall apply to any officer, director, or stockholder who
32 is also the manager of the licensed premises, in any capacity, in the
33 conducting or operation of the licensed premises.

34 (7) The cafe or restaurant making application for the license is
35 primarily engaged in the business of serving foods to the public prepared for

1 consumption on the premises and must be an established eating place within the
2 rules and regulations promulgated by the Alcoholic Beverage Control Board as
3 provided in § 3-9-301(4).

4 (b) Any misstatement or concealment of fact in the application shall be
5 grounds for the revocation of any license issued pursuant to the application."
6

7 SECTION 9. Arkansas Code 3-9-405(a) is amended to read as follows:

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

14 (1) The name of the applicant;

15 (2) The location of the hotel or restaurant;

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

18 (4) The names and addresses of all owners of the hotel or
19 restaurant;

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

23 (6) That neither the applicant nor any person to be employed in
24 the serving of beverages authorized herein shall be a person who has been
25 convicted within five (5) years of the date of their employment of any
26 violation of the laws against possession, sale, manufacture, or transportation
27 of intoxicating liquor, or convicted of a felony;

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

30 (8) Such other relevant information as may be required."
31

32 SECTION 10. Arkansas Code §3-4-203 is hereby repealed.
33

34 SECTION 11. It is the intent of this law to no longer require
35 citizenship of the United States in order for a person to hold certain ABC

1 licenses and to eliminate the requirement that persons be a resident of the
2 State of Arkansas for two (2) years prior to the time that they make
3 application for an ABC license. It is also the intent of this law that
4 persons no longer be required to be registered voters in the county in which
5 the permit is located and it is further intended that a person must either
6 reside in the county where the premises is located or live within twenty-five
7 (25) miles of the address of the permitted outlet. It is also the intent of
8 this legislation that proof of payment of personal property taxes to the
9 individual counties will no longer be required in order for a person to apply
10 for or renew an ABC license. It is the further intent of this law that
11 various application requirements regarding convicted felon status, status as
12 it relates to violation of liquor laws of this state or any other state and
13 revocation of permits shall be made uniform among various permits issued by
14 the ABC Division. Therefore, any laws that may conflict with this act shall
15 be and the same hereby are repealed.

16

17 SECTION 12. All provisions of this act of a general and permanent
18 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
19 Code Revision Commission shall incorporate the same in the Code.

20

21 SECTION 13. If any provision of this act or the application thereof to
22 any person or circumstance is held invalid, such invalidity shall not affect
23 other provisions or applications of the act which can be given effect without
24 the invalid provision or application, and to this end the provisions of this
25 act are declared to be severable.

26

27 SECTION 14. EMERGENCY. It is hereby found and determined that numerous
28 persons who are resident aliens of the United States desire to operate
29 establishments that dispense alcoholic beverages in the State of Arkansas and
30 that the same are presently prohibited from obtaining a license in their name.
31 It is further found and determined that the requirement of United States
32 citizenship in order to maintain these establishments poses a burden upon
33 commerce and restricts the number of persons who are able to contribute to the
34 overall economy of the State of Arkansas. It is further found and determined
35 that numerous national corporations are hindered in their operations in that

1 they cannot have newly transferred managers or other key employees assume
2 positions of responsibility within their local outlets since those persons do
3 not meet the two (2) year residency requirement and that such requirement
4 poses an unreasonable burden on the conduct of business in this state as it
5 relates to alcohol beverage outlets. It is further found that the present
6 process of applying for or renewing ABC licenses by requiring proof of payment
7 of personal property taxes is cumbersome, unnecessary, and has no direct
8 relationship to the operation of the ABC permitted outlet. It is further
9 found and determined that there are presently numerous conflicting
10 requirements which are applied to applicants for various retail licenses
11 issued by the state ABC Division and that it is necessary and proper that such
12 permit requirements be made uniform. That all of the aforementioned
13 encumbrances are a burden on the transaction of commerce in the state and upon
14 the efficient administration of government in the state. Therefore, an
15 emergency is hereby declared to exist and this act being necessary for the
16 immediate preservation of the public peace, health and safety shall be in full
17 force and effect on and after July 1, 1991.

18
19
20
21
22
23
24
25
26
27
28

APPROVED: 3-19-91