

As Engrossed: 3/10/93 3/17/93

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**

A Bill

ACT 779 OF 1993
SENATE BILL 719

4 **By: *Senators Keet and Bearden***

5

6

7

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE § 3-2-205 TO REQUIRE THE
9 DEPARTMENT OF FINANCE AND ADMINISTRATION TO REPORT
10 DELINQUENT STATE TAXES TO THE ALCOHOLIC BEVERAGE CONTROL
11 BOARD; TO AMEND ARKANSAS CODE § 3-4-201 TO PROVIDE FOR AN
12 INACTIVE STATUS FOR LIQUOR PERMITS WHICH HAVE NOT
13 CONDUCTED ANY BUSINESS UNDER THE PERMIT FOR MORE THAN
14 THIRTY (30) DAYS; TO AMEND ARKANSAS CODE § 3-4-216 TO
15 PROHIBIT THE RENEWAL OF ANY ALCOHOLIC BEVERAGE PERMIT OR
16 LICENSE BY A PERSON WHO IS MORE THAN NINETY (90) DAYS
17 DELINQUENT ON *CERTAIN* STATE TAXES; AND FOR OTHER
18 PURPOSES."

19

20

Subtitle

21 "AN ACT TO REQUIRE DFA TO REPORT DELINQUENT STATE TAXES TO
22 THE ABC BOARD AND TO PROVIDE FOR AN INACTIVE STATUS FOR
23 LIQUOR PERMITS AND NONRENEWAL OF PERMITS."

24

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

26

27 SECTION 1. Subsection (e) of Arkansas Code § 3-2-205 is hereby amended
28 to read as follows:

29 "(e) (1) The power and duty to collect taxes imposed on alcoholic
30 beverages and to collect permit and license fees levied for the privilege of
31 manufacturing, processing, selling, and transporting alcoholic beverages is
32 specifically excepted from the powers and duties granted or assigned to the
33 Alcoholic Beverage Control Division and the Alcoholic Beverage Control
34 Enforcement Division. Provided, however, the permit or license holders
35 failure to pay taxes imposed on alcoholic beverages or any *state or local*
36 *gross receipts and compensating use taxes* in a timely manner shall be grounds

1 for the revocation or nonrenewal of their permit or license by the Board.

2 (2) The collection of all such taxes and permit or license fees
3 shall be by the Director of the Department of Finance and Administration and
4 his agents and employees, as provided by law.

5 (3) The Director of the Department of Finance and Administration
6 shall make a biennial report to the Governor and the General Assembly of his
7 activities for the past year, which shall include statistics as to the amount
8 of vinous (except wines), spirituous, or malt liquors manufactured in the
9 State of Arkansas and the disposition thereof; the increase or decrease in
10 their consumption over the preceding year; the amount of taxes and permit fees
11 collected; and such other information as he deems advisable.

12 (4) The Director of the Department of Finance and Administration
13 shall report by June 1 of each year to the Alcoholic Beverage Control Division
14 and the Alcoholic Beverage Control Board any and all permit and license
15 *holders who are more than ninety (90) days delinquent on any alcoholic*
16 *beverage sales tax, excise tax, supplemental mixed drink tax, any other tax*
17 *relating to the sale or dispensing of alcoholic beverages, or any state or*
18 *local gross receipts or compensating use taxes."*

19

20 SECTION 2. Arkansas Code § 3-4-201 is hereby amended to read as
21 follows:

22 "3-4-201. Number of permits restricted.

23 (a) It is declared to be the public policy of the state that the number
24 of permits in this state to dispense vinous (except wines), spirituous, or
25 malt liquor shall be restricted.

26 (b) The Alcoholic Beverage Control Board is empowered to determine
27 whether public convenience and advantage will be promoted by issuing the
28 permits and by increasing or decreasing the number thereof; in order to
29 further carry out the policy hereinbefore declared, the number of permits so
30 issued shall be restricted.

31 (c) The Alcoholic Beverage Control Board is further given the
32 discretion to determine the number of permits to be granted in each county of
33 this state or within the corporate limits of any municipality of this state to
34 determine the location thereof and the persons to whom they shall be issued,
35 under the following conditions:

1 (1) (A) The number of permits allowing the off-premises sale of
2 vinous (except wines), spirituous, or malt liquor in any county or political
3 subdivision which permits the sale shall not exceed a ratio of one (1) permit
4 for every four thousand (4,000) population residing in that county or
5 subdivision.

6 (B) Population of the area involved shall be determined by
7 the most recent population figures established in a census by the Bureau of
8 the Census of the United States Department of Commerce or other appropriate
9 governmental subdivision.

10 (2) New permits which may be issued in a county or subdivision
11 thereof following a regular census shall be issued under the following
12 restrictions:

13 (A) Additional permits may be issued on a ratio of one (1)
14 for every additional four thousand (4,000) population within the area;

15 (B) Any qualified applicant may apply for a permit.
16 Qualifications are to be set from time to time by the Alcoholic Beverage
17 Control Board and its determination of the public convenience and advantage.

18 (3) (A) If it is determined that a county or political subdivision
19 thereof is entitled to additional permits when warranted by a census, the
20 board will announce prior to the last date for applications the number of new
21 permits, if any, which may be issued therein.

22 (B) In the event that such regular census population
23 figures decline in a given county or political subdivision thereof, no
24 existing permits shall be cancelled or revoked for that reason, and the quota
25 ratio shall not be applied thereto until the population in the county or
26 political subdivision thereof reaches a number equalling one (1) permit to
27 every four thousand (4,000) population therein, nor shall any new permit be
28 issued therein until the population warrants.

29 (C) No transfer of locations from one (1) county to another
30 county shall be allowed.

31 (D) In the event that any holder of a permit for the sale
32 of vinous (except wines), spirituous, or malt liquor surrenders a permit in a
33 county or municipality thereof where the ratio no longer meets the one (1) to
34 four thousand (4,000) requirement, no new applications will be accepted until
35 that ratio is reestablished at an approved census.

1 (4) In the event, a permit holder does not conduct business under
2 any permit issued for a period of more than thirty (30) days, the permit shall
3 be surrendered to the Director and shall be placed on inactive status. The
4 permit may remain inactive for six (6) months or until the permit holder
5 notifies the Director that he is ready to resume business, whichever is
6 longer. To secure the return of the permit, the permit holder shall file with
7 the Director a written statement showing that all taxes and fees owing to the
8 State have been paid, the reason for the suspension of business activities and
9 *the date business activity will resume. The permit holder may petition the*
10 *Alcoholic Beverage Control Board for an extension of inactive status for an*
11 *additional six (6) month period. The Board may grant an initial extension*
12 *upon a showing by the permit holder and a finding by the Board that business*
13 *circumstances exist to justify an extension, that the delay to return to*
14 *business was not due to mere deferral or inattention on the part of the permit*
15 *holder, and that the inactive status should be extended. The permit holder*
16 *may appeal to the Alcoholic Beverage Control Board for a second extension of*
17 *inactive status for an additional six (6) month period, but only upon a*
18 *showing by the permit holder and a finding by the Board that emergency*
19 *circumstances exist to justify a final extension. Emergency circumstances are*
20 *those delays in return to business which are beyond the control, planning, or*
21 *foresight of the permit holder, including, but not limited to, delays due to*
22 *natural disasters, pending court actions, building construction problems, and*
23 *contested insurance claims. Any permit remaining on inactive status for a*
24 *period of more than eighteen (18) months or which has not been granted an*
25 *extension under the provisions of this subdivision shall expire.*

26 (5) Nothing in this section and §§ 3-4-202 and 3-4-208, except a
27 permit on inactive status for more than *eighteen (18) months after the*
28 *provisions of subdivision (c)(4) of this section become effective or which has*
29 *expired in accordance with subdivision (c)(4), shall be construed as to divest*
30 any permit holder holding the permit on July 1, 1991, regardless of the quota
31 ratio, of his permit. In counties or municipalities which have a ratio lower
32 than the quota ratio established herein, the permit holder shall be allowed to
33 continue under subdivision (3)(B) above.

34 (d) The provisions of this section shall apply only to applications for
35 permits to dispense vinous (except wines), spirituous, or malt liquor filed

1 with the board after July 1, 1991."

2

3 SECTION 3. Arkansas Code § 3-4-216 is hereby amended to read as
4 follows:

5 "3-4-216. Renewal.

6 (a) All permits issued by the Alcoholic Beverage Control Division
7 authorizing the dispensing, sale, or manufacture of alcoholic beverages are
8 renewable on or before June 30 of each calendar year for the fiscal year
9 beginning July 1.

10 (b) Any person holding a permit who desires to renew the permit after
11 June 30 shall be required to pay a late renewal penalty in the amount of one
12 half (1/2) of the required yearly renewal fee for the permit for each sixty-
13 day period, or any portion thereof, after June 30, wherein the renewal is
14 tendered, in addition to the amount of the yearly fee.

15 (c) Alcoholic Beverage Control permits may be renewed late, by paying
16 the stated penalty, between July 1 and March 1 of each fiscal year.

17 (d) No permit shall be renewed by the Alcoholic Beverage Control
18 Division for the current fiscal year after March 1.

19 (e) No permit or license issued by the Alcoholic Beverage Control Board
20 to sell intoxicating liquor, or beer, or any other form of alcoholic beverage
21 shall be renewed by Alcoholic Beverage Control Division for a permit or
22 license holder who is delinquent more than ninety (90) days on any alcoholic
23 beverage sales tax, excise tax, supplemental mixed drink tax, or any other
24 taxes relating to the sale or dispensation of alcoholic beverages, or any
25 *state and local gross receipts or compensating use taxes.*"

26

27 SECTION 4. All provisions of this act of general and permanent nature
28 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
29 Revision Commission shall incorporate the same in the Code.

30

31 SECTION 5. If any provisions of this act or the application thereof to
32 any person or circumstance is held invalid, the invalidity shall not affect
33 other provisions or applications of the act which can be given effect without
34 the invalid provisions or application, and to this end the provisions of this
35 act are declared to be severable.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

SECTION 6. All laws and parts of laws in conflict with this act are hereby repealed.

/s/ Senator Keet

APPROVED: 3/29/93

As Engrossed: 3/10/93 3/17/93

SB 719

1
2
3
4
5

vjf460