

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.
Act 548 of the Regular Session

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009

A Bill

SENATE BILL 67

4
5 By: Senator Madison
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7

For An Act To Be Entitled

8
9 AN ACT TO MAKE VARIOUS CORRECTIONS TO TITLE 3 OF
10 THE ARKANSAS CODE OF 1987 ANNOTATED; AND FOR
11 OTHER PURPOSES.
12

Subtitle

13
14 AN ACT TO MAKE VARIOUS CORRECTIONS TO
15 TITLE 3 OF THE ARKANSAS CODE OF 1987
16 ANNOTATED.
17
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. Arkansas Code § 3-3-216 is amended to read as follows to
22 add a definition incorporated by reference, clarify criminal offenses, and
23 make stylistic changes:

24 3-3-216. Possession or sale of untaxed intoxicating liquor.

25 (a) As used in this section, "intoxicating liquor" means any beverage
26 containing more than five-tenths percent (0.5%) of alcohol by weight.

27 (b) It ~~shall be~~ is unlawful for ~~any a~~ a person to buy, bargain, sell,
28 loan, own, have in possession, or knowingly transport in this state ~~any an~~
29 intoxicating liquor ~~of any kind, as defined in § 3-8-201,~~ upon which the
30 Arkansas excise tax prescribed by law has not been paid.

31 ~~(b) (c)(1) Any~~ Except as provided in subdivision (c)(2) of this
32 section, a person who shall violate the provisions of violation of this
33 section shall be is guilty of a Class B misdemeanor ~~and, in addition to the~~
34 ~~applicable criminal penalties, shall be subject to a civil penalty equal to~~
35 ~~the amount of all excise tax levied on such intoxicating liquor at the rates~~



1 ~~imposed on alcoholic beverages under § 3-7-101 et seq.~~

2 (2) A violation of this section is a Class A misdemeanor if a
 3 person transports intoxicating liquor into this state from another state
 4 without the Arkansas excise tax having been paid on the intoxicating liquor
 5 and the person was transporting the intoxicating liquor for the purpose of
 6 resale in this state.

7 (d)(1) In addition to the applicable criminal penalties under
 8 subsection (c) of this section, a person who violates this section is subject
 9 to a civil penalty equal to the amount of all excise tax levied on the
 10 intoxicating liquor at the rates imposed on alcoholic beverages under § 3-7-
 11 101 et seq.

12 (2) The Department of Finance and Administration shall assess
 13 and administer the civil penalty set forth in subsection (b) of this section
 14 this subsection under the provisions of the Arkansas Tax Procedure Act, § 26-
 15 18-101 et seq., and shall promulgate any rules necessary for the proper
 16 administration and enforcement of the civil penalty.

17 ~~(d) However, it shall constitute a Class A misdemeanor for any person~~
 18 ~~to transport intoxicating liquor of any kind, as defined in § 3-8-201, from~~
 19 ~~another state without the Arkansas excise tax having been paid on the~~
 20 ~~intoxicating liquor of any kind, as defined in § 3-8-201, if the court~~
 21 ~~determines that the defendant was transporting the liquor of any kind for the~~
 22 ~~purpose of resale.~~

23
 24 SECTION 2. Arkansas Code § 3-5-104(b)(3)(A) is amended to read as
 25 follows to clarify a reference:

26 (A) Offer special discounts on wine, beer, or spirits sold
 27 for the purpose of a ~~wine~~ tasting event; or

28
 29 SECTION 3. Arkansas Code § 3-5-227(d)(1) is amended to read as follows
 30 to clarify its application and make stylistic changes:

31 (d)(1) ~~Prior to~~ Before the retail sale of a keg of beer or malt
 32 beverage for off-premises consumption, the retail dealer shall require the
 33 purchaser to sign a statement promulgated by the Director of the Alcoholic
 34 Beverage Control Division attesting under the penalty of perjury:

35 (A) To the accuracy of the purchaser's name as shown on
 36 the identification label or tag; ~~and~~

1 (B)~~(i)~~ That the purchaser is aware that giving, procuring,
2 or otherwise furnishing ~~any~~ an alcoholic beverage to ~~any~~ a person under
3 twenty-one (21) years of age is a criminal offense as provided in §§ 3-3-201
4 and 3-3-202; and

5 ~~(ii)~~(C) That the purchaser will not allow any person under
6 twenty-one (21) years of age to consume any of the beer or malt beverage in
7 the keg.

8
9 SECTION 4. Arkansas Code § 3-5-1605(a)(1)(B) is amended to read as
10 follows to clarify its application, correct grammar, and make stylistic
11 changes:

12 (B) However, ~~any~~ a person in this state ~~shall have the~~
13 ~~right to~~ may manufacture wine from fruits or vegetables in quantities not to
14 exceed two hundred gallons (200 gals.) for consumption in the person's home
15 by the person and the person's guests but not for sale free from ~~this~~ the
16 license fee under subdivision (a)(1)(A) of this section ~~from fruits or~~
17 ~~vegetables wine for consumption in their homes by themselves and their guests~~
18 ~~but not for sale, in quantities not to exceed two hundred (200) gallons;~~

19
20 SECTION 5. Arkansas Code § 3-5-1605(a)(4)-(6) are amended to read as
21 follows to correct references and make stylistic changes:

22 (4) For the privilege of selling small farm wine except by a
23 manufacturer at the manufacturer's winery, there shall be paid for each
24 wholesale dealer's license a fee of fifty dollars (\$50.00). This subdivision
25 (a)(4) applies to all ~~beverage alcohol~~ alcoholic beverage wholesale
26 distributors;

27 (5) For the privilege of selling small farm winery wine at the
28 small farm winery or in this state, there is imposed, assessed, and levied a
29 tax of seventy-five cents (75¢) per gallon upon all the small farm winery
30 wine manufactured and sold in this state under ~~the provisions of~~ this
31 subchapter; and

32 (6) For the privilege of selling small farm winery light wine at
33 the small farm winery or in this state, there is imposed, assessed, and
34 levied a tax of twenty-five cents (25¢) per gallon upon all small farm winery
35 light wine manufactured and sold in this state under ~~the provisions of~~ this
36 subchapter.

1
2 SECTION 6. Arkansas Code § 3-5-1605(b) is amended to read as follows
3 to add clarifying language:

4 (b) ~~Existing licenses.~~ For existing licenses:

5 (1) A person that holds a license for the sale of native wine
6 issued under this chapter before March 29, 2007, may conduct business as a
7 small farm winery wholesaler or retailer until the native wine license
8 expires; and

9 (2) Upon the expiration of a native wine license issued under
10 this chapter on or before March 29, 2007, the Alcoholic Beverage Control
11 Board may issue a new license as part of the renewal process if the
12 wholesaler or retailer:

13 (A) Meets the criteria under this section; and

14 (B) Is in good standing.
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16 SECTION 7. Arkansas Code § 3-5-1609 is amended to read as follows to
17 clarify the criminal offense and make stylistic changes:

18 3-5-1609. Penalty.

19 A Upon conviction, a person who violates any provision of this
20 subchapter or any reasonable rule or regulation adopted under this subchapter
21 by the Director of the Alcoholic Beverage Control Division or the Director of
22 the Department of Finance and Administration shall be is guilty of a Class B
23 misdemeanor.
24

25 SECTION 8. The enactment and adoption of this act shall not repeal,
26 expressly or impliedly, the acts passed at the regular session of the 87th
27 General Assembly. All such acts shall have full effect and, so far as those
28 acts intentionally vary from or conflict with any provision contained in this
29 act, those acts shall have the effect of subsequent acts and as amending or
30 repealing the appropriate parts of the Arkansas Code of 1987.
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32 APPROVED: 3/24/2009
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