

*As Engrossed: 2/20/91*

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

**A BILL ACT 611 OF 1991**  
**SENATE BILL 444**

**For An Act To Be Entitled**

8 "AN ACT TO AMEND TITLE 3, CHAPTER 5 OF THE ARKANSAS CODE  
9 OF 1987 TO AUTHORIZE THE ESTABLISHMENT OF MICROBREWERY-  
10 RESTAURANTS; TO PROVIDE FOR TAXATION OF MICROBREWERY-  
11 RESTAURANTS; AND FOR OTHER PURPOSES."

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

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15 SECTION 1. Title 3, Chapter 5 of the Arkansas Code of 1987 is hereby  
16 amended by adding a new subchapter to read as follows:

17 "3-5-1101. Legislative determinations and intent.

18 (a) The General Assembly reaffirms the policy of this state of strict  
19 enforcement of laws and regulations applicable to the manufacture or sale of  
20 beer including, but not limited to, those establishing the three-tier  
21 distribution system with prohibitions against ownership and employment  
22 interests between the three tiers (the 'three-tier system').

23 (b) The General Assembly determines:

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

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

30 (3) That all reasonable steps should be taken to retain, foster,  
31 and encourage this business and to create favorable competitive conditions  
32 therefor in this state.

33 (c) In order to encourage tourist and conventions to come to Arkansas,  
34 it is essential that visitors to the state be provided accommodations,  
35 services and facilities of a nature to which they are accustomed and  
36 competitive with those offered in other states and areas.

1 (d) It is the intent and purpose of this subchapter to authorize the  
2 legal operation of microbrewery-restaurants as herein provided, as a limited  
3 exception to the three-tier system.

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5 3-5-1102. Definitions. As used in this subchapter, unless the context  
6 otherwise requires.

7 (1) 'Barrel' means thirty-one (31) gallons.

8 (2) 'Beer' means any fermented liquor made from malt or any substitute  
9 therefor and having an alcoholic content not in excess of five percent (5%) by  
10 weight.

11 (3) 'Beer law or regulation' means any law of this state (or any  
12 regulation promulgated and adopted with respect thereto) which is (1)  
13 applicable to a person applying for or holding a license to manufacture beer  
14 or (2) applicable to a person applying for or holding a license to sell beer  
15 in a restaurant for consumption on the licensed premises.

16 (4) 'Board' means the Alcoholic Beverage Control Board of this state,  
17 or its successor agency.

18 (5) 'Conflicting beer law or regulation' means any beer law or  
19 regulation which prohibits or conflicts with the otherwise legal licensing and  
20 operation of microbrewery-restaurants, as authorized in this subchapter, by  
21 requiring any brewer to sell only to a licensed wholesaler, or requiring any  
22 licensed retailer to sell only beer purchased from a licensed wholesaler, or  
23 prohibiting any brewer or retailer from having any ownership or employment  
24 interest in the business of the other or the premises of the other, or  
25 requiring that the excise and enforcement tax on beer manufactured by a brewer  
26 be paid by a licensed wholesaler, or any beer law or regulation of similar  
27 direct or indirect effect.

28 (6) 'Director' means the Director of the Alcoholic Beverage Control  
29 Division of this state, or its successor agency.

30 (7) 'Dry area' means any area in this state in which the manufacture  
31 or sale of beer is prohibited by a local option election heretofore or  
32 hereafter held pursuant to applicable laws of this state.

33 (8) 'Federal regulations' means regulations adopted by the United  
34 States Bureau of Alcohol, Tobacco and Firearms applicable to and consistent  
35 with a microbrewery-restaurant operation as authorized in this subchapter,

1 incorporated herein by this reference, including but not limited to 27 CFR  
2 Part 25, §25.25.

3 (9) 'Person' means any natural person, partnership, association, or  
4 corporation.

5 (10) 'Restaurant' means any public or private place which is kept,  
6 used, maintained, advertised and held out to the public or to a private or  
7 restricted membership as a place where complete meals are actually and  
8 regularly served, such place being provided with adequate and sanitary kitchen  
9 and dining equipment and a seating capacity of at least fifty (50) people and  
10 having employed a sufficient number and kind of employees to prepare, cook and  
11 serve suitable food for its guests or members, at least one (1) meal per day  
12 shall be served and the place shall be open a minimum of five (5) days per  
13 week, with the exception of holidays, vacations and periods of redecorating.

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15 3-5-1103. Effect on other laws.

16 Every provision of this subchapter shall be subject to all beer laws and  
17 regulations except that conflicting beer laws and regulations shall be  
18 inapplicable to any provision of this subchapter to the extent that they  
19 conflict therewith.

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21 3-5-1104. Microbrewery-restaurant license.

22 (a) The director may issue a microbrewery-restaurant license which  
23 shall authorize the licensee to do the following on the licensed premises:

24 (1) to operate a microbrewery which shall manufacture one (1) or  
25 more varieties of beer in an aggregate quantity not to exceed fifteen hundred  
26 (1500) barrels per year, and to store any such beer (and any other beer which  
27 the microbrewery-restaurant licensee may purchase from wholesalers licensed by  
28 this state) on the microbrewery-restaurant licensed premises; and

29 (2) to operate a restaurant which shall be the only sales outlet  
30 for beer manufactured by the microbrewery and which shall sell such beer, and  
31 any other beer which the microbrewery-restaurant licensee may purchase from  
32 wholesalers licensed by this state, only for consumption on the licensed  
33 premises.

34 (b) The director shall not issue a microbrewery-restaurant license if  
35 the microbrewery-restaurant premises is in a dry area.

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3-5-1105. Fees and taxes.

A microbrewery-restaurant licensee shall:

(1) pay all state and city or county license or permit fees, taxes and bonds or deposits applicable to a person licensed by this state to manufacture beer and to a person licensed by this state to sell beer in a restaurant for consumption on the licensed premises; and

(2) measure beer manufactured by the microbrewery, and otherwise comply with applicable regulations respecting excise and enforcement tax

determination of such beer, and pay any applicable bond or deposit and *the amount of the state excise tax and enforcement tax to this state, as required by Arkansas Code Annotated §3-7-104 and §3-7-111.*

3-5-1106. Application.

No microbrewery-restaurant license shall be issued unless the applicant shall file with the director a verified application, in such form and with such content as the director shall require, accompanied by payment of the applicable fee.

3-5-1107. Operation without license prohibited.

It shall be unlawful and constitute a misdemeanor for any person not holding a valid microbrewery-restaurant license to operate as a microbrewery-restaurant as herein provided.

3-5-1108. Implementing regulations.

The director and the board, and the Director of the Department of Finance and Administration, and any other applicable agency of this state, shall promulgate and adopt such regulations as they deem necessary for the implementation of this subchapter which regulations may consist in whole or in part of the federal regulations."

SECTION 2. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 3. If any provision of this act or the application thereof to

1 any person or circumstance is held invalid, such invalidity shall not affect  
2 other provisions or applications of the act which can be given effect without  
3 the invalid provision or application, and to this end the provisions of this  
4 act are declared to be severable.

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6 SECTION 4. All laws and parts of laws in conflict with this act are  
7 hereby repealed.

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*/s/Dowd, et al*

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APPROVED: 3-19-91

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