

1 **State of Arkansas**
2 **80th General Assembly**
3 **Regular Session, 1995**

A Bill

ACT 491 OF 1995
SENATE BILL 472

4 **By: Senators Snyder, Malone, Harriman and Jeffries**

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For An Act To Be Entitled

8 "AN ACT TO AMEND VARIOUS SECTIONS OF TITLE 3, CHAPTER 5,
9 SUBCHAPTER 12 OF THE ARKANSAS CODE ANNOTATED REGARDING
10 MICROBREWERIES; AND FOR OTHER PURPOSES."

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Subtitle

13 "TO AMEND TITLE 3, CHAPTER 5, SUBCHAPTER
14 12 OF THE ARKANSAS CODE REGARDING
15 MICROBREWERIES."

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

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19 SECTION 1. Arkansas Code Annotated § 3-5-1202 is hereby amended to read
20 as follows:

21 "3-5-1202.

22 As used in this subchapter, unless the context otherwise requires:

23 (1) Barrel means thirty-one (31) gallons;

24 (2) Beer means any fermented liquor made from malt or any substitute
25 therefor and having an alcoholic content not in excess of five percent (5%) by
26 weight;

27 (3) Beer and malt beverage law or regulation means any law of this
28 state, or any regulation promulgated and adopted with respect thereto, which
29 is:

30 (A) Applicable to a person applying for or holding a license to
31 manufacture beer or malt beverage; or

32 (B) Applicable to a person applying for or holding a license to
33 sell beer or malt beverage in a restaurant for consumption on or off the
34 licensed premises;

35 (4) Board means the Alcoholic Beverage Control Board of this state,
36 or its successor agency;

1 (5) Conflicting beer or malt beverage law or regulation means any
2 beer or malt beverage law or regulation which prohibits or conflicts with the
3 otherwise legal licensing and operation of microbrewery-restaurants, as
4 authorized in this subchapter, by requiring any brewer to sell only to a
5 licensed wholesaler, or requiring any licensed retailer to sell only beer or
6 malt beverage purchased from a licensed wholesaler, or prohibiting any brewer
7 or retailer from having any ownership or employment interest in the business
8 of the other or the premises of the other, or requiring that the excise and
9 enforcement tax on beer or malt beverage manufactured by a brewer be paid by a
10 licensed wholesaler, or any beer or malt beverage law or regulation of similar
11 direct or indirect effect;

12 (6) Director means the Director of the Alcoholic Beverage Control
13 Division of this state, or its successor agency;

14 (7) Dry area means any area in this state in which the manufacture or
15 sale of beer is prohibited by a local-option election heretofore or hereafter
16 held pursuant to applicable laws of this state;

17 (8) Federal regulations means regulations adopted by the United
18 States Bureau of Alcohol, Tobacco and Firearms applicable to and consistent
19 with a microbrewery-restaurant operation as authorized in this subchapter,
20 incorporated herein by this reference, including but not limited to 27 CFR
21 Part 25, 25.25;

22 (9) Person means any natural person, partnership, association, or
23 corporation;

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

33 (11) Malt beverage means any liquor brewed from the fermented juices
34 of grain and having an alcoholic content not less than five percent (5%) nor
35 more than twenty-one percent (21%) by weight."

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SECTION 2. Arkansas Code Annotated § 3-5-1203 is hereby amended to read as follows:

"3-5-1203. Effect on other laws.

Every provision of this subchapter shall be subject to all beer and malt beverage laws and regulations, except that conflicting beer and malt beverage laws and regulations shall be inapplicable to any provision of this subchapter to the extent that they conflict therewith."

SECTION 3. Arkansas Code Annotated §3-5-1204 is hereby amended to read as follows:

"3-5-1204. Licenses - Scope - Restrictions.

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

(1) To operate a microbrewery which shall manufacture one (1) or more varieties of beer or malt beverage in an aggregate quantity not to exceed five thousand (5,000) barrels per year, and to store any such beer or malt beverage, and any other beer which the microbrewery-restaurant licensee may purchase from wholesalers licensed by this state, on the microbrewery-restaurant licensed premises; and

(2) To operate a restaurant which shall be the sales outlet for beer or malt beverage manufactured by the microbrewery and which shall sell such beer or malt beverage, and any other beer which the microbrewery-restaurant licensee may purchase from wholesalers licensed by this state, for consumption on the licensed premises;

(3) To sell on the premises beer or malt beverages, manufactured by the microbrewery, in brewery-sealed packages at retail directly to the consumer for off-premise consumption;

(4) The microbrewery-restaurant may provide its products to charitable or non-profit organizations as provided for by the Board;

(5) The microbrewery-restaurant licensee may sell beer or malt beverages manufactured by the microbrewery-restaurant to a non-profit corporation leasing space in the microbrewery-restaurant or an adjoining building.

(b) The director shall not issue a microbrewery-restaurant license if

1 the microbrewery-restaurant premises is in a dry area."

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3 SECTION 4. Arkansas Code Annotated § 3-5-1205 is hereby amended to read
4 as follows:

5 "3-5-1205. Fees and taxes.

6 A microbrewery-restaurant licensee shall:

7 (1) Pay any applicable city or county license or permit fees and
8 barrelage or excise taxes, and shall pay a state licensing fee to the Board of
9 seven hundred fifty dollars (\$750.00) per year to manufacture and sell its
10 beer and malt beverages and to sell any other beer purchased from a licensed
11 wholesaler for consumption on the premises; and

12 (2) Measure beer and malt beverages manufactured by the microbrewery,
13 and otherwise comply with applicable regulations respecting excise and
14 enforcement tax determination of such beer and malt beverages, and pay any
15 applicable bond or deposit and the amount of the state excise tax and
16 enforcement tax to this state, as required by §§ 3-7-104 and 3-7-111."

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18 SECTION 5. All provisions of this act of a general and permanent nature
19 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
20 Revision Commission shall incorporate the same in the Code.

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22 SECTION 6. If any provision of this act or the application thereof to
23 any person or circumstance is held invalid, such invalidity shall not affect
24 other provisions or applications of the act which can be given effect without
25 the invalid provision or application, and to this end the provisions of this
26 act are declared to be severable.

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

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31 APPROVED: 2-28-95

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