

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 254 of the Regular Session

1 State of Arkansas

As Engrossed: H2/15/07 S2/26/07

2 86th General Assembly

A Bill

3 Regular Session, 2007

HOUSE BILL 1442

4  
5 By: Representative Sumpter

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8 **For An Act To Be Entitled**

9 AN ACT TO AMEND THE REGISTRATION REQUIREMENTS FOR  
10 BEER KEGS SOLD FOR OFF-PREMISES CONSUMPTION BY  
11 ALLOWING THE IDENTIFICATION LABEL TO BE COPIED  
12 RATHER THAN PRODUCED IN TRIPLICATE; TO REMOVE THE  
13 REQUIREMENT THAT THE DEALER COLLECT A  
14 REGISTRATION DEPOSIT ON EACH KEG OF BEER; AND FOR  
15 OTHER PURPOSES.

16  
17 **Subtitle**

18 TO AMEND THE REGISTRATION REQUIREMENTS  
19 FOR BEER KEGS SOLD FOR OFF-PREMISES  
20 CONSUMPTION BY ALLOWING THE LABEL TO BE  
21 COPIED RATHER THAN PRODUCED IN  
22 TRIPLICATE AND TO REMOVE REGISTRATION  
23 DEPOSIT REQUIREMENT ON EACH KEG.

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

27  
28 *SECTION 1. Arkansas Code § 3-5-227 is amended to read as follows:*

29 *3-5-227. Registration of beer kegs for off-premises consumption.*

30 *(a) As used in this section:*

31 *(1) "Beer" means any fermented liquor made from malt or any*  
32 *substitute therefor and having an alcoholic content not in excess of five*  
33 *percent (5%) by weight;*

34 *(2) "Keg" means a vessel which has a liquid capacity of ~~four~~*  
35 *more than five gallons ~~(4 gals.)~~ (5 gals.) ~~or more~~;*



1           (3) "Malt beverage" means any liquor brewed from the fermented  
2 juices of grain and having an alcoholic content of no less than five percent  
3 (5%) nor more than twenty-one percent (21%) by weight; and

4           (4) "Off-premises" means a place other than the licensed  
5 retailer's place of business.

6           (b) All retail dealers that sell a keg of beer or malt beverage for  
7 off-premises consumption are required to attach an identification label or  
8 tag approved by the Alcoholic Beverage Control Division to the keg prior to  
9 the sale.

10          (c)(1) The identification label or tag approved by the Alcoholic  
11 Beverage Control Division shall consist of paper within a clear protective  
12 coating made of plastic, metal, or another durable material that is not  
13 easily damaged or destroyed.

14          (2) The paper shall be of a kind to allow the required  
15 information to be ~~automatically produced in triplicate~~ copied and retained by  
16 the retail dealer.

17          (3) Identification labels used may contain a nonpermanent  
18 adhesive material in order to apply the label directly to an outside surface  
19 of a keg at the time of sale.

20          (4) Identification tags shall be attached to the kegs at the  
21 time of sale with nylon ties or cording, wire ties or other metal attachment  
22 devices, or another durable means of tying or attaching the tag to the keg.

23          (5) The identification label or tag shall be designed so that  
24 when affixed to a keg, the label or tag will not mar or otherwise physically  
25 damage the keg.

26          (6) The identification label or tag shall include:

27               (A) The name and address of the retail dealer;

28               (B) The name of the purchaser; and

29               (C) An individual identification number assigned by the  
30 retail dealer that uniquely identifies the keg.

31          (7) Each identification label or tag shall be perforated and of  
32 a composition that consistently allows for the full removal of the tag when  
33 common external keg cleaning procedures are performed at retail.

34          (d)(1) Prior to the retail sale of a keg of beer or malt beverage for  
35 off-premises consumption, the retail dealer shall require the purchaser to  
36 sign a statement promulgated by the Director of the Alcoholic Beverage

1 Control Division attesting under the penalty of perjury:

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

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

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

10 (2) The retail dealer shall also record the following:

11 (A) The name and address of the purchaser;

12 (B) The identification card or driver's license number  
13 from the purchaser's acceptable documentation of age;

14 (C) The amount of the container deposit ~~and registration~~  
15 ~~deposit~~ of not less than seventy-five dollars (\$75.00);

16 (D) The date and time of the purchase; and

17 (E) The keg identification number required under  
18 subsection (c) of this section.

19 (e)(1) All records and statements required under this section shall be  
20 maintained by the retail dealer for a period of ninety (90) days from the  
21 date of the return of the keg.

22 (2) The records and statements shall remain open to inspection  
23 by authorized agents of the Alcoholic Beverage Control Enforcement Division  
24 and law enforcement officers during the retail dealer's normal business  
25 hours.

26 ~~(f)(1) When a keg of beer or malt beverage is purchased for off-~~  
27 ~~premises consumption, the retail dealer shall collect a seventy-five dollar~~  
28 ~~(\$75.00) registration deposit on each keg of beer or malt beverage purchased.~~

29 ~~(2) The registration deposit shall be collected in addition to~~  
30 ~~the purchase price of the keg of beer or malt beverage, taxes, and any other~~  
31 ~~deposit collected by the retail dealer.~~

32 ~~(3) When the keg is returned within ninety (90) days of the date~~  
33 ~~of purchase to the retail dealer with the identification label or tag intact,~~  
34 ~~the retail dealer shall:~~

35 ~~(A) Return the registration deposit to the purchaser; and~~

36 ~~(B) Remove the identification label or tag from the keg.~~

1           ~~(4) The registration deposit on each keg returned without the~~  
2 ~~identification label or tag or with an identification label or tag so damaged~~  
3 ~~that the information contained on the label or tag could not be verified~~  
4 ~~shall be forfeited as follows:~~

5                     ~~(A) Twenty five dollars (\$25.00) shall be paid to the~~  
6 ~~Alcoholic Beverage Control Division; and~~

7                     ~~(B) Fifty dollars (\$50.00) shall be retained by the retail~~  
8 ~~dealer.~~

9           ~~(5) Except as provided in subdivision (f)(6) of this section,~~  
10 ~~the registration deposit on any keg not returned to the retail dealer within~~  
11 ~~ninety (90) days of the date of purchase shall be forfeited as follows:~~

12                     ~~(A) Twenty five dollars (\$25.00) shall be paid to the~~  
13 ~~Alcoholic Beverage Control Division; and~~

14                     ~~(B) Fifty dollars (\$50.00) shall be retained by the retail~~  
15 ~~dealer.~~

16           ~~(6)(A) If the purchaser has not finished consuming all of the~~  
17 ~~beer or malt beverage in the keg, prior to the expiration of the ninety-day~~  
18 ~~period in subsection (f) of this section, the purchaser may request a thirty-~~  
19 ~~day extension for the return of the keg before the registration deposit shall~~  
20 ~~be forfeited pursuant to subsection (f) of this section.~~

21                     ~~(B) In order to receive a thirty-day extension, the~~  
22 ~~purchaser must sign a statement promulgated by the Director of the Alcoholic~~  
23 ~~Beverage Control Division attesting under the penalty of perjury that:~~

24                             ~~(i) The keg is still in the purchaser's possession;~~

25                             ~~(ii) The purchaser is aware of the restrictions~~  
26 ~~provided in subsection (d) of this section; and~~

27                             ~~(iii) The purchaser shall forfeit the registration~~  
28 ~~deposit pursuant to subsection (f) of this subsection if the keg is not~~  
29 ~~returned with its identification label or tag within thirty (30) days.~~

30           ~~(7) The Alcoholic Beverage Control Division shall remit its~~  
31 ~~portion of the forfeited registration to the Treasurer of State for credit to~~  
32 ~~the Miscellaneous Agencies Fund Account.~~

33           ~~(g)(1)(f)(1)~~ The retail dealer shall notify the Director of the  
34 Alcoholic Beverage Control Enforcement Division and remit the Alcoholic  
35 Beverage Control Division's portion of the registration deposit on forms  
36 promulgated by the Alcoholic Beverage Control Division within ten (10) days

1 of the forfeiture of a ~~registration~~ container deposit by a purchaser ~~under~~  
2 ~~subsection (f) of this section.~~

3 (2) The notification form shall consist of:

4 (A) The name and address of the retail dealer;

5 (B) The name and address of the purchaser;

6 (C) The retail dealer's beer permit or license number;

7 (D) ~~The amount of the deposit being~~ A fee of twenty-five  
8 dollars (\$25.00) remitted to the Alcoholic Beverage Control Division; and

9 (E) A statement indicating the reason for forfeiture of  
10 the ~~registration~~ container deposit by the purchaser, including but not  
11 limited to the following reasons:

12 (i) The keg was not returned;

13 (ii) The keg was returned more than ~~ninety (90)~~ one  
14 hundred twenty (120) days after purchase;

15 (iii) The identification label or tag was removed;

16 or

17 (iv) The identification label or tag was damaged.

18 (3) Any retail dealer that fails to notify the Director of the  
19 Alcoholic Beverage Control Enforcement Division within ten (10) days of the  
20 forfeiture of a ~~registration~~ container deposit by a purchaser is guilty of:

21 (A) A violation of this subchapter; and

22 (B) A Class B violation, as provided in § 3-4-402, against  
23 the retailer's permit.

24 ~~(h)(1)(g)(1)~~ No person other than the retail dealer, a licensed  
25 wholesaler, or an agent of the Alcoholic Beverage Control Enforcement  
26 Division may knowingly remove an identification label or tag placed on a keg.

27 (2) Any person other than the retail dealer, licensed  
28 wholesaler, or an agent of the Alcoholic Beverage Control Enforcement  
29 Division that is knowingly in possession of a keg without an identification  
30 label or tag or knowingly removes or damages an identification label or tag  
31 is guilty of a violation of this subchapter.

32 ~~(i)(1)(h)(1)~~ The Director of the Alcoholic Beverage Control Division  
33 may promulgate rules and prescribe forms for the proper enforcement of this  
34 section, including an approved identification label or tag for use under this  
35 section.

36 (2) ~~Arkansas licensed beer wholesalers shall maintain and offer~~

1 ~~for sale to retail dealers any keg identification labels or tags required by~~  
2 ~~this section at a price of the cost of manufacturing and maintaining the tags~~  
3 ~~or labels~~ The Alcoholic Beverage Control Division shall seek the input of  
4 licensed brewers and licensed beer importers in developing the label or tag.

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/s/ Sumpter

APPROVED: 3/9/2007