

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 1459 of the Regular Session

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009
4

As Engrossed: H3/26/09

A Bill

SENATE BILL 334

5 By: Senator Bryles
6 By: Representative Webb
7
8

9 **For An Act To Be Entitled**

10 AN ACT TO BE KNOWN AS THE ARKANSAS SMALL BREWERY
11 ACT; TO CREATE A NEW CATEGORY OF BEER LICENSES;
12 TO PROVIDE FOR THE OPERATION OF THE LICENSED
13 FACILITIES; AND FOR OTHER PURPOSES.
14

15 **Subtitle**

16 AN ACT TO BE KNOWN AS THE ARKANSAS SMALL
17 BREWERY ACT; TO CREATE A NEW CATEGORY OF
18 BEER LICENSES; TO PROVIDE FOR THE
19 OPERATION OF THE LICENSED FACILITIES.
20
21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 *SECTION 1. Arkansas Code § 3-5-1403 is amended to read as follows:*
25 *3-5-1403. Definitions.*

26 *As used in this subchapter:*

27 *(1) "Barrel" means thirty-one (31) gallons;*

28 *(2) "Beer" means any fermented liquor made from malt or any*
29 *substitute having an alcoholic content of not more than five percent (5%) by*
30 *weight;*

31 ~~*(3) "Board" means the Alcoholic Beverage Control Board;*~~

32 ~~*(4)(3) "Brewery" means the facilities of a native brewer that*~~
33 ~~*operate a small brewery, contract brewing company, microbrewery, or*~~
34 ~~*restaurant;*~~

35 ~~*(5)(4) "Contract brewing company" means any licensed brewery*~~



1 that hires another company to produce a portion of its beer or malt beverage;

2 ~~(6)~~(5) "Director" means the Director of the Alcoholic Beverage
3 Control Division of the Department of Finance and Administration;

4 ~~(7)~~(6) "Malt beverage" means any liquor brewed from the
5 fermented juices of grain and having an alcoholic content of no less than
6 five percent (5%) nor more than twenty-one percent (21%) by weight;

7 ~~(8)~~(7) "Microbrewery-restaurant" means any restaurant that
8 manufactures one (1) or more varieties of beer or malt beverage in an
9 aggregate quantity of not more than five thousand (5,000) barrels per year
10 and stores the beer or malt beverages on the premises or on any adjacent
11 premises;

12 ~~(9)~~(8) "Native brewer" means any person who is licensed by the
13 division to manufacture and sell beer and malt beverages at a small brewery
14 or microbrewery-restaurant;

15 ~~(10)~~(9) "Native brewery" means a small brewery or microbrewery-
16 restaurant;

17 ~~(11)~~(10) "Person" means any natural person, partnership,
18 association, or corporation;

19 ~~(12)~~(11) "Producer brewery" means any licensed brewery, domestic
20 or foreign, that manufactures or packages beer or malt beverages for a small
21 brewery, contract brewing company, microbrewery, or restaurant;

22 ~~(13)~~(12) "Restaurant" means any public or private facility that:
23 (A) Is kept, used, maintained, advertised, and held out to
24 the public or to a private or restricted membership as a place where complete
25 meals are regularly served, and the place is provided with adequate and
26 sanitary kitchen and dining equipment and has a seating capacity of at least
27 fifty (50) people and employs a sufficient number of employees to prepare,
28 cook, and serve food suitable for its guests or members; and

29 (B) Serves at least one (1) meal per day, and the place is
30 open a minimum of five (5) days per week, with the exception of holidays,
31 vacations, and periods of redecorating; and

32 ~~(14)~~(13) "Small brewery" means any licensed facility that
33 manufactures fewer than ~~60,000~~ thirty thousand (30,000) barrels of beer and
34 malt beverages per year for sale or consumption.

35
36 SECTION 2. Arkansas Code § 3-5-1405(a) is amended to read as

1 follows:

2 3-5-1405. Licenses – Scope – Restrictions.

3 (a) The Director of the Alcoholic Beverage Control Division may issue
4 a license for a licensee:

5 (1) To operate a small brewery that:

6 (A) Manufactures at its licensed facility:

7 (i) ~~no~~ No less than thirty-five percent (35%) of its
8 beer and malt beverages to be sold in the state and no more than
9 thirty thousand (30,000) barrels per year; or

10 (ii) ~~purchases~~ Purchases from a producer brewery
11 beer or malt beverages in an aggregate quantity not to exceed sixty thousand
12 (60,000) barrels per year;

13 (B) Sells to wholesale or to the consumer for consumption
14 either on or off the premises brand name products of the licensed *facility*;
15 *and*

16 (C) Stores any beer and malt beverages legally purchased
17 for resale on the premises;

18 (D) Serves on the premises or at small brewery off-
19 premises retail sites complimentary samples of beer produced by the small
20 brewery or another licensed small brewery, if the small brewery or its off-
21 premises retail sites are located in a wet territory;

22 (E) Sells at retail by the drink or by the package beer
23 produced on the premises of the small brewery or produced by another small
24 brewery if all sales occur in a wet territory and at:

25 (i) The small brewery off-premises retail sites; or

26 (ii)(a) Fairs and food and beer festivals, with the
27 permission and the consent of the management of the events.

28 (b) A sales and use tax permit also is
29 required for sales under this subdivision (a)(1)(E)(ii);

30 (F)(i) Sells and transports beer produced on the premises
31 of the small brewery or of another small brewery to wholesale and retail
32 license holders and small brewery license holders.

33 (ii) To sell and transport beer under subdivision
34 (a)(1)(F)(i) of this section, the small brewery shall obtain a small brewery
35 wholesale permit; and

36 (G) Sells for consumption on the premises of the small

1 brewery beer produced by the small brewery or another small brewery and
 2 purchased by the drink or by the package at the licensed premises, if the
 3 small brewery is located in a wet territory; or

4 (2) To operate a microbrewery-restaurant that:

5 (A) Manufactures beer and malt beverages in an aggregate
 6 quantity not to exceed five thousand (5,000) barrels per year;

7 (B)(i) Sells to wholesale or retail dealers or to the
 8 consumer for consumption either on or off the premises.

9 (ii) However, off-premise sales are limited to brand
 10 *name products of the licensed facility; and*

11 (C) Stores any beer and malt beverages purchased for
 12 *resale on the premises; and*

13 (D) Sells wine on the premises.

14
 15 *SECTION 3. Arkansas Code § 3-5-1408 is amended to read as follows:*
 16 *3-5-1408. Fees and taxes.*

17 *A native brewer shall:*

18 (1) Pay any applicable city or county license or permit fees and
 19 barrelage or taxes and shall pay a state licensing fee to the Alcoholic
 20 *Beverage Control Division of ~~two hundred fifty dollars (\$250)~~ three hundred*
 21 *dollars (\$300) per fiscal year to:*

22 (A) Manufacture and sell its beer and malt beverages for
 23 consumption, both on and off the premises; and

24 (B) Sell any other beer and malt beverages purchased from
 25 a licensed dealer for consumption on or off the premises;

26 (2) Measure beer and malt beverages manufactured by the ~~native~~
 27 small brewer or purchased from a producer brewery, or otherwise comply with
 28 applicable regulations respecting excise and enforcement tax determination of
 29 the beer and malt beverages, and pay any applicable bond or deposit and the
 30 amount of the state excise tax and enforcement tax to this state as required,
 31 but is free from the fees and taxes provided in § 3-5-205 and as required by
 32 §§ 3-7-104 and 3-7-111; and

33 (3) Pay a tax at the rate of seven dollars and fifty cents
 34 (\$7.50) per barrel, and proportionately for larger and smaller gallonages per
 35 barrel, on all beer and malt beverages in quantities of up to ~~sixty thousand~~
 36 ~~(60,000)~~ thirty thousand (30,000) barrels per year and sold or offered for

1 *sale in the state.*

2 *SECTION 4. Arkansas Code Title 3, Chapter 5, Subchapter 14 is amended*
3 *to add additional sections to read as follows:*

4 3-5-1415. Sales on any day of the week.

5 Small brewery beer and malt beverages may be sold at any small brewery
6 located in this state for on-premises or off-premises consumption on any day
7 of the week.

8
9 3-5-1416. Small brewery not a supplier.

10 A small brewery is not a supplier under § 3-5-1102.

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12
13 */s/ Bryles*

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15 **APPROVED: 4/10/2009**

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