

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 294 of the Regular Session

As Engrossed: S2/4/09 S2/9/09 S2/11/09

A Bill

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

SENATE BILL 121

4
5 By: Senator R. Thompson
6
7

8 **For An Act To Be Entitled**

9 AN ACT TO INCREASE THE PERMIT FEES FOR THE
10 MANUFACTURE, SALE, AND DISTRIBUTION OF ALCOHOLIC
11 BEVERAGES; TO AMEND THE PENALTY PROVISIONS
12 RELATED TO ALCOHOLIC BEVERAGES; AND FOR OTHER
13 PURPOSES.
14

15 **Subtitle**

16 TO INCREASE THE PERMIT FEES FOR THE
17 MANUFACTURE, SALE, AND DISTRIBUTION OF
18 ALCOHOLIC BEVERAGES AND TO AMEND THE
19 PENALTY PROVISIONS RELATED TO ALCOHOLIC
20 BEVERAGES.
21
22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

25 SECTION 1. Arkansas Code § 3-3-204(c), concerning the handling of
26 alcoholic beverages by minors, is amended to read as follows:

27 (c) With the written consent of a parent or guardian, persons nineteen
28 (19) years of age and older may sell and handle alcoholic beverages at an
29 establishment that is licensed for on-premises consumption of alcoholic
30 beverages under § 3-9-202(8) and (9), or § 3-9-301, ~~or § 3-9-501.~~
31

32 SECTION 2. Arkansas Code § 3-3-210 is amended to read as follows:

33 3-3-210. Sale on Sunday or early weekday mornings.

34 (a)(1) ~~Any~~ A person who ~~shall sell~~ sells intoxicating alcoholic liquor
35 on Sunday, except as such sales are authorized by §§ 3-9-215, and 3-9-216,



1 and ~~3-9-401 et seq.~~ subdivision (a)(3) of this section, or between 1:00 a.m.
2 and 7:00 a.m. on weekdays ~~shall be~~ is guilty of a violation and for the first
3 offense shall be punished by a fine of not less than one hundred dollars
4 (\$100) nor more than two hundred fifty dollars (\$250).

5 (2) For the second and subsequent offenses, the person ~~shall be~~
6 is guilty of a Class B misdemeanor.

7 (3) A person that holds a permit that allows the on-premises
8 consumption of alcoholic beverages may operate on Sundays between the hours
9 of 10:00 a.m. and 12:00 midnight.

10 (b)(1)(A) As a further exception to the Sunday sales prohibition set
11 out in subsection (a) of this section, counties and cities in the state ~~in~~
12 ~~which the sale of alcoholic beverages is authorized by the adoption of an~~
13 ~~ordinance by the county quorum court or city board or other governing body~~
14 ~~may refer to the voters~~ may refer to the voters at an election the issue of
15 whether to authorize the sale of alcoholic beverages for off-premises
16 consumption on Sundays between the hours of ~~12:00 noon and 10:00 p.m.~~ 10:00
17 a.m. and 12:00 midnight or within a lesser period within ~~such~~ the hours as
18 may be provided ~~in the ordinance~~ under a referendum election conducted in
19 accordance with the following:

20 (i) A referendum election may be called in a city by a petition
21 filed with the city clerk signed by fifteen percent (15%) of the qualified
22 electors who cast a vote in the city for the Office of Governor in the last
23 general election in which the office appeared on the ballot; or

24 (ii) A referendum election may be called in a county by a
25 petition filed with the county clerk signed by fifteen percent (15%) of the
26 qualified electors who cast a vote in the county for the Office of Governor
27 in the last general election in which the office appeared on the ballot.

28 (B) The Sunday sale of alcoholic beverages ~~as~~ authorized
29 in this subsection shall be limited to those businesses within the county or
30 city that possess a current and valid license for the sale of alcoholic
31 beverages issued by the Alcoholic Beverage Control Division.

32 (2)(A) The election under this subsection shall be conducted on
33 a citywide or countywide basis.

34 (B) All qualified electors within the city or county, as
35 the case may be, shall be eligible to vote even though they may reside in a
36 dry area ~~thereof~~.

1 (C) The election under this subsection on the Sunday sales
2 question shall be held in accordance with the procedures established for on-
3 premises consumption elections by § 3-9-201 et seq., and the ballot for ~~such~~
4 the election shall be printed substantially as follows:

5 “() FOR THE OFF-PREMISES SALE OF ALCOHOLIC BEVERAGES ON SUNDAY IN (NAME OF
6 CITY OR COUNTY), ARKANSAS, AS AUTHORIZED BY LAW.

7 () AGAINST THE OFF-PREMISES SALE OF ALCOHOLIC BEVERAGES ON SUNDAY IN (NAME
8 OF CITY OR COUNTY), ARKANSAS, AS AUTHORIZED BY LAW.”

9 (3)(A) The vote of the majority of the electors in a citywide
10 election approving Sunday sales shall authorize ~~such the~~ sales in all
11 permitted outlets located within the incorporated areas of ~~such the~~ city
12 only.

13 (B) The vote of the majority of the electors in a
14 countywide election approving Sunday sales shall authorize ~~such the~~ sales in
15 all permitted outlets located anywhere within ~~such the~~ county.

16 (4) The vote of the majority of the electors against the off-
17 premises sale of alcoholic beverages on Sunday ~~will have~~ has no effect on ~~any~~
18 ~~area that had previously approved Sunday~~ sales of mixed drinks in hotels and
19 restaurants as authorized by § 3-9-215 or § 3-9-216 or any other on-premises
20 consumption permitted outlet.

21 (c) Notwithstanding the authority granted to counties and cities in
22 this section, wholesale distributors of intoxicating alcoholic liquor may not
23 sell or deliver any alcoholic beverages to retailers on a Sunday.

24
25 SECTION 3. Arkansas Code Title 3, Chapter 4, Subchapter 1 is amended
26 to add a new section as follows:

27 3-4-105. Temporary permits.

28 (a)(1) The Alcoholic Beverage Control Division may issue a temporary
29 permit for the sale of alcoholic beverages within categories set out in
30 subsection (b) of this section at a function sponsored by or for the benefit
31 of a non-profit organization or charitable organization.

32 (2) A temporary permit issued under this subsection may be
33 issued for a period of time not to exceed five (5) consecutive days.

34 (3) An application for a temporary permit issued under this
35 subsection shall meet the requirements as established by the Director of the
36 Alcoholic Beverage Control Division and set out in the application.

1 (b)(1) The categories and application fees for temporary permits
2 issued under subsection (a) of this section are as follows:

3 (A) Temporary beer permit – Fifty dollars (\$50.00) for
4 each event for a temporary permit allowing the sale of beer;

5 (B) Temporary wine permit – Fifty dollars (\$50.00) for
6 each event for a temporary permit allowing the sale of wine; and

7 (C) Temporary spirit permit – Fifty dollars (\$50.00) for
8 each event for a temporary permit allowing the sale of spirituous alcoholic
9 beverages.

10 (2) A temporary permit issued under subsection (a) of this
11 section is only for on-premises consumption at the event specified in the
12 temporary permit.

13 (c) An applicant may apply for one (1) or more of the temporary
14 permits authorized in subsection (a) of this section for an event.

15
16 SECTION 4. Arkansas Code § 3-4-403(11) and (12), concerning Class A
17 violations, is amended to read as follows:

18 (11) The permittee possessed or knew or reasonably should have
19 known that any agent or employee or patron of the establishment possessed on
20 the permitted premises any illegal drug or narcotic or controlled substance
21 or that any agent or employee while acting on the permittee's behalf
22 knowingly allowed the possession on the permitted premises of any illegal
23 drug or narcotic or controlled substance; ~~and~~

24 (12) Selling or allowing the consumption of alcoholic beverages
25 on the permitted premises when the permit is suspended or on inactive status;

26 (13) Selling to minors;

27 (14) Unauthorized employment of a minor;

28 (15)(A) Disorderly conduct or a breach of the peace by a patron
29 or employee on the permitted premises.

30 (B) As used in subdivision (15)(A) of this section,
31 “disorderly conduct” includes without limitation a fight, brawl, or
32 disturbance that results in bodily injury to a person on the permitted
33 premises;

34 (16) Violation of § 3-3-218;

35 (17) Selling to an intoxicated person;

36 (18) Unauthorized manufacturing, selling, offering, dispensing,

1 or giving away of controlled beverages;
 2 (19) Conducting or permitting gambling on premises;
 3 (20) Violation of legal closing hours; and
 4 (21) Possession of a weapon on the permitted premises by a
 5 person without a possessory or proprietary interest in the permitted
 6 premises.

7
 8 SECTION 5. Arkansas Code § 3-4-404(11) – (24), concerning Class B
 9 violations, are amended to read as follows:

10 ~~(11) Selling to minors;~~
 11 ~~(12)(11) Selling to the insane;~~
 12 ~~(13)(12) Selling to bootleggers;~~
 13 ~~(14)(13) Accepting food stamps in payment for controlled~~
 14 ~~beverages;~~
 15 ~~(15) Unauthorized employment of minors;~~
 16 ~~(16) Any disorderly conduct or a breach of the peace by patrons~~
 17 ~~or employees on the permitted premises. Such disorderly conduct shall~~
 18 ~~include, but not be limited to, fights, brawls, or disturbances which result~~
 19 ~~in bodily injury to any degree to any person on the premises;~~
 20 ~~(17) Violation of § 3-3-218, failure to be a good neighbor;~~
 21 ~~(18) Selling to an intoxicated person;~~
 22 ~~(19) Unauthorized manufacturing, selling, offering, dispensing,~~
 23 ~~or giving away of controlled beverages;~~
 24 ~~(20)(14) Unlawful manufacture or sale in a dry area; and~~
 25 ~~(21) Conducting or permitting gambling on premises;~~
 26 ~~(22) Violation of legal closing hours;~~
 27 ~~(23)(15) Sale of controlled beverages by vending machine; and~~
 28 ~~(24) Possession of a weapon on the permitted premises by any~~
 29 ~~person without a possessory or proprietary interest in the permitted~~
 30 ~~premises.~~

31
 32 SECTION 6. Arkansas Code § 3-4-605 is amended to read as follows:

33 3-4-605. Wholesalers.

34 (a) Any person other than a distiller, manufacturer, rectifier, or
 35 importer may apply to the Director of the Alcoholic Beverage Control Division
 36 for a permit to sell spirituous liquor, ~~vinous (except wines)~~ wine as defined

1 in § 3-9-301(2), beer, or malt liquors at wholesale.

2 (b) The application shall be in writing and shall set forth in detail
3 such information concerning the applicant for the permit and the premises to
4 be used by the applicant as the director may require.

5 (c) The application shall be accompanied by a certified check, cash,
6 or postal money order for the amount required by this act for the permit.

7 (d) If the director ~~shall grant~~ grants the application, he or she
8 shall issue a permit in ~~such form as shall be~~ a form as determined by the
9 rules of the Alcoholic Beverage Control Division.

10 (e) The permit shall contain a description of the premises permitted
11 and in form and substance shall be a permit to the person ~~therein~~
12 specifically designated in the permit to sell spirituous liquor, vinous wine
13 as defined in § 3-9-301(2), beer, or malt liquors for beverage purposes.

14 (f) A person holding a distiller's or rectifier's permit need not
15 obtain a wholesaler's permit in order to sell at wholesale spirituous or
16 ~~vinous liquors~~ wine as defined in § 3-9-301(2).

17 (g)(1)(A) ~~No~~ A person other than a person holding a distiller's,
18 manufacturer's, or rectifier's, ~~or wholesaler's~~ permit shall not sell
19 spirituous liquor, vinous (except wines) wine as defined in § 3-9-301(2), or
20 malt liquors at wholesale.

21 (B) A person other than a person holding a wholesaler's
22 permit shall not sell spirituous liquor, wine as defined in § 3-9-301(2), or
23 malt liquors at wholesale.

24 (2) No A wholesaler holding a permit shall not sell or buy from
25 another unless he or she holds a permit, but a wholesaler may export from or
26 import into this state ~~such~~ liquors under rules ~~and regulations~~ promulgated
27 by the Alcoholic Beverage Control Division.

28 (h) ~~No~~ A wholesaler shall not sell or contract to sell any spirituous
29 liquor, vinous wine as defined in § 3-9-301(2), beer, or malt liquors to any
30 a dispensary, hotel, restaurant, or club if the dispensary, hotel,
31 restaurant, or club is not ~~duly~~ authorized under this act to receive,
32 possess, transport, distribute, or sell spirituous liquor, vinous wine as
33 defined in § 3-9-301(2), beer, or malt liquors.

34 (i) Further, a licensed wholesaler of any spirituous liquor, beer, or
35 ~~vinous liquors~~ wine as defined in § 3-9-301(2) in Arkansas can may only
36 purchase spirituous liquor, beer, or ~~vinous liquors~~ wine as defined in § 3-9-

1 301(2) from a distiller, importer, rectifier, or a domestic wine producer,
2 provided that. However, this restriction shall does not apply to the
3 purchase of native wines.

4 (j)(1) For the privilege of storing, transporting, and selling
5 spirituous liquor, vinous wine as defined in § 3-9-301(2), beer, or malt
6 liquors at wholesale, there is assessed and there shall be paid an annual
7 permit fee of and by every person engaged therein. The permit fee shall be in
8 the sum of seven hundred dollars (\$700) for each separate and distinct
9 establishment.

10 (2) However, this section ~~shall~~ does not apply to residents of
11 Arkansas who store, transport, and sell wine at wholesale manufactured by
12 them in this state.

13
14 SECTION 7. Arkansas Code Title 3, Chapter 4, Subchapter 6 is amended
15 to add a new section to read as follows:

16 3-4-607. Minimum wholesale liquor permit.

17 (a)(1) Any person other than a distiller, manufacturer, rectifier, or
18 importer may apply to the Director of the Alcoholic Beverage Control Division
19 for a minimum wholesale liquor permit that allows the person to sell
20 spirituous liquors, wine as defined in § 3-9-301(2), and malt liquors at
21 wholesale.

22 (2) A minimum wholesale liquor permit holder shall not sell more
23 than a combined total of twenty thousand (20,000) cases of spirituous
24 liquors, wine as defined in § 3-9-301(2), or malt liquors.

25 (3) A case is a container that holds nine (9) liters of
26 beverages.

27 (b) The application shall be in writing and shall provide information
28 concerning the applicant for the minimum wholesale liquor permit and the
29 premises to be used by the applicant as the director requires.

30 (c) The application shall be accompanied by a certified check, cash,
31 or postal money order for the amount required by this section for the minimum
32 wholesale liquor permit.

33 (d) If the director grants the application, he or she shall issue a
34 minimum wholesale liquor permit in a form as determined by the rules of the
35 Alcoholic Beverage Control Division.

36 (e) The minimum wholesale liquor permit shall contain a description of

1 the premises permitted and in form and substance shall be a minimum wholesale
2 liquor permit to the person specifically designated to sell spirituous
3 liquors, wine as defined in § 3-9-301(2), and malt liquors for beverage
4 purposes.

5 (f)(1) A person other than a person holding a distiller's,
6 manufacturer's, rectifier's, or minimum wholesale liquor permit shall not
7 sell spirituous liquors, wine as defined in § 3-9-301(2), and malt liquors at
8 wholesale.

9 (2) A wholesaler holding a minimum wholesale liquor permit shall
10 not sell or buy from another person unless the other person holds a minimum
11 wholesale liquor permit, but a wholesaler may export from or import into this
12 state spirituous liquors, wine as defined in § 3-9-301(2), and malt liquors
13 under rules promulgated by the Alcoholic Beverage Control Division.

14 (g) A wholesaler holding a minimum wholesale liquor permit shall not
15 sell or contract to sell any spirituous liquors, wine as defined in § 3-9-
16 301(2), and malt liquors to a dispensary, hotel, restaurant, or club if the
17 dispensary, hotel, restaurant, or club is not authorized under § 3-4-601 to
18 receive, possess, transport, distribute, or sell spirituous liquors, wine as
19 defined in § 3-9-301(2), and malt liquors.

20 (h) A minimum wholesale liquor permittee of any spirituous liquors,
21 wine as defined in § 3-9-301(2), and malt liquors in Arkansas shall purchase
22 spirituous liquors, wine as defined in § 3-9-301(2), and malt liquors only
23 from a distiller, importer, rectifier, or a domestic wine producer. However,
24 this restriction does not apply to the purchase of native wines.

25 (i)(1) The minimum wholesale liquor permit fee is two thousand five
26 hundred dollars (\$2,500) for each separate establishment.

27 (2) This section does not apply to residents of Arkansas who
28 store, transport, and sell wine at wholesale manufactured by them in this
29 state.

30 (j) The provisions of § 3-4-606 shall apply to a wholesaler who has a
31 minimum wholesale liquor permit.

32
33 SECTION 8. Arkansas Code § 3-4-701(c), concerning post exchange
34 package permits, is amended to read as follows:

35 (c) Each permit shall be issued annually for a fee of ~~one hundred~~
36 ~~dollars (\$100)~~ one thousand dollars (\$1,000) and shall expire on June 30 of

1 each ~~and every~~ year.

2
3 SECTION 9. Arkansas Code § 3-4-706(c)(3)(A), concerning the permit fee
4 for military service clubs, is amended to read as follows:

5 (c)(3)(A) The annual fee for each ~~such~~ military service club
6 mixed drink permit shall be ~~five hundred dollars (\$500)~~ seven hundred fifty
7 dollars (\$750), and ~~such fees~~ the annual fee shall be due and collected in
8 the same manner as all other permit fees collected by the division.

9
10 SECTION 10. Arkansas Code § 3-4-902(b), concerning off-premises
11 caterer's permits, is amended to read as follows:

12 (b) The annual fee for ~~a~~ an off-premises caterer's permit shall be ~~two~~
13 ~~hundred dollars (\$200)~~ five hundred dollars (\$500), and ~~it~~ the off-premises
14 caterer's permit shall be renewed on an annual basis.

15
16 SECTION 11. Arkansas Code Title 3, Chapter 4 is amended to add a new
17 subchapter as follows:

18 Subchapter 10. Restaurant Beer and Wine Permit.

19
20 3-4-1001. Creation – Issuance – Expiration.

21 (a)(1) In addition to all other existing alcoholic beverage permits
22 authorized to be issued by the Alcoholic Beverage Control Division for the
23 retail sale of alcoholic beverages, there is hereby created a restaurant beer
24 and wine permit, which authorizes the sale of light beer, and wine as defined
25 in § 3-9-301(2) at restaurants as defined in § 3-9-301(4).

26 (2) The restaurant beer and wine permit is not subject to any
27 quota restrictions.

28 (b) The permit may be issued by the Alcoholic Beverage Control
29 Division to a qualified person.

30 (c) Each restaurant beer and wine permit shall be issued annually for
31 a fee of three hundred and fifty dollars (\$350) and shall expire on June 30
32 of each year.

33
34 3-4-1002. Rules.

35 The Alcoholic Beverage Control Division may adopt rules to carry out
36 this subchapter, to establish appropriate application forms, permit forms,

1 and procedures, and to do all other things necessary to implement this
2 subchapter.

3
4 3-4-1003. Unauthorized sales – Penalties.

5 An unauthorized sale under the restaurant beer and wine permit created
6 in this subchapter is subject to the same penalties as established for other
7 on-premises retail permits pursuant to this title.

8
9 SECTION 12. Arkansas Code § 3-5-105(e), concerning beer festival
10 permits, is amended to read as follows:

11 (e) The permittee shall pay to the board a fee of ~~fifty dollars~~
12 ~~(\$50.00)~~ two hundred fifty dollars (\$250) per event for a temporary permit
13 under this section.

14
15 SECTION 13. Arkansas Code § 3-5-205(a), concerning privilege taxes, is
16 amended to read as follows:

17 (a) For the privilege of doing business, there shall, each fiscal year
18 beginning July 1, be assessed, levied, and collected from each:

19 (1)(A) ~~From each wholesale~~ Wholesale dealer or broker, or
20 distributor in light wine or beer, a special tax of ~~two hundred fifty dollars~~
21 ~~(\$250)~~ one thousand dollars (\$1,000) for each county in which the broker,
22 distributor, or wholesale dealer operates.

23 (B) However, ~~in no event shall~~ the special tax shall not
24 ~~exceed one thousand dollars (\$1,000)~~ five thousand dollars (\$5,000) for any
25 one (1) broker, distributor, or wholesale dealer;

26 (2) ~~From each manufacturer~~ Manufacturer of beer, a special tax
27 of ~~five hundred dollars (\$500)~~ seven hundred fifty dollars (\$750); and

28 (3) ~~From each retail~~ Retail dealer of nonintoxicating liquor, a
29 special tax of ~~two hundred dollars (\$200)~~ three hundred fifty dollars (\$350).

30
31 SECTION 14. Arkansas Code § 3-5-209 is amended to read as follows:

32 3-5-209. Transfer of permit – Dancing privileges – Inspection fee.

33 ~~Any person requesting a transfer of an existing retail liquor or beer~~
34 ~~permit to another location or any person requesting dancing on legally~~
35 ~~licensed premises shall be required to pay a five dollar (\$5.00) special~~
36 ~~inspection fee which shall be payable at the time the application for~~

1 ~~transfer is made~~

2 (a) A person that holds an alcoholic beverage control permit may
3 request that certain special applications be made on the permit as follows:

4 (1) A permit holder may request a transfer of location of a
5 permit to a new location subject to any restrictions or qualifications that
6 may apply to the permit;

7 (2) A permit holder requesting the addition of dancing of any
8 kind on the permit may request dancing subject to any restrictions that may
9 apply to the permit;

10 (3) A permit holder may request a change of trade name for the
11 permitted business subject to any restrictions that apply to the permit;

12 (4) A partnership, corporation, or limited liability company may
13 request a change of manager application so that the existing manager of the
14 partnership, corporation, or limited liability company is replaced by a new
15 manager subject to any restrictions that may apply to the permit; and

16 (5) An on-premises consumption permittee which has filed an
17 entertainment activity sheet as required by the Alcoholic Beverage Control
18 Division rules may file a request for permission to amend the entertainment
19 activity sheet that was filed with the permit, subject to any restrictions or
20 qualifications that apply to the permit.

21 (b)(1) The fee for any of the special applications set forth in
22 subsection (a) of this section is fifty dollars (\$50.00) for each special
23 application.

24 (2) The special application fee is payable at the time the
25 special application is made.

26
27 SECTION 15. Arkansas Code § 3-5-1205(3), concerning microbrewery-
28 restaurant permit fees, is amended to read as follows:

29 (3) Pay a state permit fee to the Alcoholic Beverage Control
30 Board of ~~one hundred fifty dollars (\$150)~~ two hundred dollars (\$200) per year
31 for the rights and privileges provided by the microbrewery-restaurant
32 distribution permit granted as per under § 3-5-1204(b).

33
34 SECTION 16. Arkansas Code § 3-5-1306(b), concerning the permit fees
35 for nonresident beer sellers, is amended to read as follows:

36 (b)(1)(A) In addition, every applicant for a nonresident seller's

1 permit shall pay to the division an annual permit fee, ~~which is established~~
2 ~~at one hundred dollars (\$100)~~ of three hundred fifty dollars (\$350) if ~~such~~
3 the applicant ~~shall have~~ shipped, sold, or otherwise distributed fewer than
4 two hundred (200) barrels, as defined for excise tax purposes under this
5 Code, of any beer or malt in this state in the year immediately preceding the
6 application.

7 (B) If ~~such the~~ applicant ~~shall have~~ shipped, sold, or
8 otherwise distributed in this state from two hundred (200) to one thousand
9 (1,000) barrels in the year immediately preceding application, ~~such the~~
10 applicant shall pay an annual permit fee of ~~five hundred dollars (\$500)~~ one
11 thousand dollars (\$1,000).

12 (C) If ~~such the~~ applicant ~~shall have~~ shipped, sold, or
13 otherwise distributed in this state more than one thousand (1,000) barrels in
14 the year immediately preceding application, ~~such the~~ applicant shall pay an
15 annual permit fee of ~~one thousand dollars (\$1,000)~~ two thousand dollars
16 (\$2,000).

17 (2) Each holder of a nonresident seller's permit shall pay the
18 permit fee based on the previous calendar year's shipments into the state.
19

20 SECTION 17. Arkansas Code § 3-5-1306(d), concerning permit fees for
21 wholesale support centers, is amended to read as follows:

22 (d) An applicant for a wholesaler support center permit shall pay an
23 annual permit fee of ~~one thousand dollars (\$1,000)~~ two thousand dollars
24 (\$2,000).

25
26 SECTION 18. Arkansas Code § 3-5-1605(a), concerning license fees for
27 manufacturing and selling wine, is amended to read as follows:

28 (a) For the privilege of doing business respectively, as indicated in
29 this section, there shall ~~each fiscal year beginning July 1~~ be imposed,
30 assessed, levied, and collected each fiscal year beginning July 1, the
31 following license fees:

32 (1)(A) For the privilege of manufacturing wine in quantities not
33 to exceed five thousand gallons (5,000 gals.), a license fee of ~~one dollar~~
34 ~~(\$1.00) per one thousand (1,000) gallons~~ two hundred dollars (\$200) shall be
35 paid by the manufacturer.

36 (B) However, ~~any a~~ person in this state ~~shall have the~~

1 ~~right to~~ may manufacture wine from fruits or vegetables in quantities not to
 2 exceed two hundred gallons (200 gals.) for consumption in the person's home
 3 by the person and the person's guests but not for sale free from ~~this the~~
 4 license fee under subdivision (a)(1)(A) of this section ~~from fruits or~~
 5 ~~vegetables wine for consumption in their homes by themselves and their guests~~
 6 ~~but not for sale, in quantities not to exceed two hundred gallons (200 gals.);~~

7 (2) For the privilege of manufacturing small farm wine in excess
 8 of five thousand gallons (5,000 gals.), a license fee of ~~two hundred fifty~~
 9 ~~dollars (\$250)~~ four hundred dollars (\$400) shall be paid by the manufacturer;

10 (3)(A) For the privilege of selling small farm winery wine
 11 except by a manufacturer for consumption at the manufacturer's winery, there
 12 shall be paid for each retail dealer's license a fee of ~~fifteen dollars~~
 13 ~~(\$15.00)~~ one hundred dollars (\$100).

14 (B) This subdivision (a)(3) applies to all retail licenses
 15 for *grocery stores, and convenience stores, liquor stores, and package stores*
 16 that sell malt beverages and wine;

17 (4)(A) For the privilege of selling small farm wine except by a
 18 manufacturer at the manufacturer's winery, there shall be paid for each
 19 wholesale dealer's license a fee of ~~fifty dollars (\$50.00)~~ one hundred
 20 dollars (\$100).

21 (B) This subdivision (a)(4) applies to all ~~beverage~~
 22 ~~alcohol~~ alcoholic beverage wholesale distributors;

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

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

32
 33 SECTION 19. Arkansas Code § 3-7-111(a)(1)(C) and (D), concerning
 34 additional fees for operating a dispensary and for the privilege of storing,
 35 transporting, and selling alcoholic beverages, is amended to read as follows:

36 (C) In addition to the fee imposed for the privilege of

1 operating a dispensary under § 3-4-604, an additional fee of ~~one hundred~~
2 ~~dollars (\$100)~~ four hundred fifty dollars (\$450) for the issuance of each
3 permit; and

4 (D) In addition to the permit fee now imposed under § 3-4-
5 605 for the privilege of storing, transporting, and selling at wholesale
6 spirituous, vinous, or malt liquors, an additional tax of ~~three hundred~~
7 ~~dollars (\$300)~~ nine thousand three hundred dollars (\$9,300).

8
9 SECTION 20. Arkansas Code § 3-9-212(a), concerning the permit fees to
10 sell alcoholic beverages for on-premises consumption, is amended to read as
11 follows:

12 (a) Each application for a permit to sell alcoholic beverages for on-
13 premises consumption shall be accompanied by a permit fee in the following
14 applicable amount:

16	Hotel, having fewer than 100 rooms	\$ 500 <u>750</u>
17	Hotel, having 100 or more rooms	1,000 <u>1,500</u>
18	Restaurant, having a seating capacity of less	
19	than 100 persons	500 <u>750</u>
20	Restaurant, having a seating capacity of 100	
21	or more persons	1,000 <u>1,500</u>
22	<u>Large meeting or attendance facility as</u>	
23	<u>defined in § 3-9-202(8)(B)</u>	<u>2,500</u>

24
25 SECTION 21. Arkansas Code § 3-9-215 is amended to read as follows:
26 3-9-215. Authorization of Sunday sales on December 31.

27 ~~(a)(1) The provisions of this section shall be applicable to only~~
28 ~~those cities and counties in this state in which the sale of alcoholic~~
29 ~~beverages for on-premises consumption in restaurants or hotels has been~~
30 ~~approved by a majority of the qualified electors of the city or county voting~~
31 ~~on the issue at a referendum election authorized by this subchapter. These~~
32 ~~provisions shall apply only with respect to the sale of alcoholic beverages~~
33 ~~in restaurants or hotels which have a valid and current license or permit to~~
34 ~~sell alcoholic beverages for consumption on the premises thereof.~~

35 ~~(2) In no event shall this section be construed to authorize the~~
36 ~~sale of alcoholic beverages in any city or county or in any portion thereof~~

1 in which the sale of alcoholic beverages is prohibited by law. Nothing in
 2 this section shall be construed to repeal or modify any law which prohibits
 3 the sale of intoxicating alcoholic liquor, beer, or wine on Sunday unless the
 4 law specifically conflicts with this section.

5 (b)(1) ~~Any city of the first class or any county in which the sale of~~
 6 ~~alcoholic beverages for on premises consumption in licensed restaurants and~~
 7 ~~hotels has been authorized by a majority of the qualified electors of that~~
 8 ~~city or county voting on the issue at an election held therefor pursuant to~~
 9 ~~the provisions of this subchapter, by ordinance adopted by the governing body~~
 10 ~~of such city or county may refer to the voters at an election the issue of~~
 11 ~~whether or not to authorize the sale of alcoholic beverages on Sundays~~
 12 ~~between the hours of 12:00 noon and 10:00 p.m., or within a lesser period~~
 13 ~~within such hours as may be provided in the ordinance.~~

14 (2) ~~Provided, however, when~~ (a) When a Sunday falls on December
 15 31 of any year, such licensed restaurants and hotels authorized to sell
 16 alcoholic beverage under § 3-3-210, may automatically sell alcoholic
 17 beverages for on-premises consumption between the hours of ~~12:00 noon~~ 10:00
 18 a.m. on Sunday and 2:00 a.m. on the following Monday unless the city, town,
 19 or county establishes by ordinance a lesser period of time within which
 20 alcoholic beverages may be sold for on-premises consumption by the licensed
 21 restaurants and hotels.

22 (3) ~~The Sunday sale of alcoholic beverages for on premises~~
 23 ~~consumption as authorized in this section shall be limited to those~~
 24 ~~restaurants and hotels which possess a current and valid permit or license~~
 25 ~~for the sale of alcoholic beverages for on premises consumption issued under~~
 26 ~~the authority of § 3-5-301 et seq., this subchapter, and § 3-9-301 et seq.~~
 27 ~~The election shall be held in accordance with the procedures established by §~~
 28 ~~3-9-201 et seq.~~

29 (4) ~~On the ballot for the election shall be printed~~
 30 ~~substantially the following:~~

31 ~~[] FOR THE SALE OF ALCOHOLIC BEVERAGES FOR ON PREMISES CONSUMPTION ON A~~
 32 ~~SUNDAY IN QUALIFIED HOTELS AND RESTAURANTS IN (NAME OF CITY OR COUNTY),~~
 33 ~~ARKANSAS, AS AUTHORIZED BY LAW.~~

34 ~~[] AGAINST THE SALE OF ALCOHOLIC BEVERAGES FOR ON PREMISES CONSUMPTION ON A~~
 35 ~~SUNDAY IN QUALIFIED HOTELS AND RESTAURANTS IN (NAME OF CITY OR COUNTY),~~
 36 ~~ARKANSAS, AS AUTHORIZED BY LAW.~~

1
2 SECTION 22. Arkansas Code §3-9-222(b), concerning permit fees for
3 private clubs, is amended to read as follows:

4 (b)(1) The application for a private club shall be accompanied by an
5 annual permit fee of ~~five hundred dollars (\$500)~~ one thousand five hundred
6 dollars (\$1,500).

7 (2) The application for a bed and breakfast private club shall
8 *be accompanied by an annual permit fee of seventy-five dollars (\$75.00)*.

9 (3) In a county in which the sale of intoxicating liquor has not
10 been authorized by local option as provided under § 3-8-201 et seq., the
11 application for a private club permit shall be accompanied by an annual
12 permit fee of one thousand five hundred dollars (\$1,500).

13
14 SECTION 23. Arkansas Code § 3-9-227(b), concerning mixed drink permit
15 fees for large attendance facilities, is amended to read as follows:

16 (b)(1) ~~The permit fees and attendance qualifications for such permits~~
17 the large attendance facility mixed drink permit are the same as those
18 currently provided for large attendance facilities as set out in § 3-9-
19 202(8)(B).

20 (2) The annual fee for the large attendance facility mixed drink
21 permit is three thousand dollars (\$3,000) per fiscal year.

22
23 SECTION 24. Arkansas Code § 3-9-301(3), concerning the definition of a
24 license to sell wine in a restaurant or cafe, is amended to read as follows:

25 (3)(A) "License" means a license to sell wine in a restaurant or
26 cafe ~~as defined herein~~.

27 (B) An annual fee of ~~fifty dollars (\$50.00)~~ three hundred
28 dollars (\$300) shall be paid for each license or renewal ~~thereof~~ of a
29 license.

30 (C) All moneys derived from ~~such~~ the annual fees shall be
31 deposited ~~in~~ into the State Treasury as general revenues to the credit of the
32 State Apportionment Fund, ~~there~~ to be allocated and transferred to the
33 various funds, fund accounts, and accounts participating in general revenues
34 in the respective proportions to each as provided by law, and to be used for
35 the respective purposes set forth in the Revenue Stabilization Law, § 19-5-
36 101 et seq.;

1
2 SECTION 25. Arkansas Code §§ 3-9-401 - 3-9-413 are repealed.

3 ~~3-9-401. Purpose.~~

4 ~~The business of handling, distributing, and selling alcoholic beverages~~
5 ~~for on-premises consumption on Sunday is declared to be a privilege under the~~
6 ~~laws of the State of Arkansas and the purpose of this subchapter is to~~
7 ~~require such permits and to impose such fees as are necessary to regulate and~~
8 ~~to limit the business of Sunday sales of alcoholic beverages for on-premises~~
9 ~~consumption to those restaurants serving alcoholic beverages with meals and~~
10 ~~to those hotels and convention centers competing for convention and tourism~~
11 ~~business.~~

12
13 ~~3-9-402. Definitions.~~

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

15 ~~(1) "Alcoholic beverages" means all intoxicating liquors of any~~
16 ~~sort;~~

17 ~~(2) "Board" means the Alcoholic Beverage Control Board of this~~
18 ~~state or any successor agency;~~

19 ~~(3) "Director" means the Director of the Alcoholic Beverage~~
20 ~~Control Division;~~

21 ~~(4) "Hotel" means every building or other structure commonly~~
22 ~~referred to as a hotel, motel, motor hotel, motor lodge, or similar name~~
23 ~~where sleeping accommodations are offered which is kept, used, maintained,~~
24 ~~advertised, and held out to the public to be a place where food is actually~~
25 ~~served and consumed for adequate pay to travellers or guests, whether~~
26 ~~transient, permanent, or residential, and which:~~

27 ~~(A) Has fifty (50) or more rooms for sleeping~~
28 ~~accommodations;~~

29 ~~(B) Is kept, used, maintained, advertised, and held out to~~
30 ~~the public to be a place where food and food items are served;~~

31 ~~(C) Actually serves full and complete meals prepared in a~~
32 ~~fully equipped and sanitary kitchen and prepared from uncooked foods for~~
33 ~~service to and for consumption by the guests and customers on the premises;~~

34 ~~(D) Has a dining room or rooms with a seating capacity of~~
35 ~~at least fifty (50) people where meals are served to guests and customers;~~

36 ~~(E) Has the sleeping accommodations and the dining room or~~

1 ~~rooms in the same building or in separate buildings or structures used in~~
 2 ~~connection therewith that are on the same premises and are a part of the same~~
 3 ~~hotel operation;~~

4 ~~(F) Has employed a sufficient number and kind of employees~~
 5 ~~to prepare, cook, and serve suitable foods or food items to its guests and~~
 6 ~~customers;~~

7 ~~(G) Serves food on all days of operations;~~

8 ~~(H) Maintains separate sales figures for alcoholic~~
 9 ~~beverages; and~~

10 ~~(I) Has gross sales of sixty percent (60%) or more from~~
 11 ~~items in the following categories:~~

12 ~~(i) Food and food items;~~

13 ~~(ii) Nonalcoholic beverages; and~~

14 ~~(iii) Including up to twenty percent (20%) of~~
 15 ~~receipts for sleeping accommodations;~~

16 ~~(5) "On premises consumption" means the sale of alcoholic~~
 17 ~~beverages by the drink or in broken or unsealed containers for consumption on~~
 18 ~~the premises where sold;~~

19 ~~(6) "Person" means any natural person, partnership, association,~~
 20 ~~or corporation;~~

21 ~~(7) "Private club" means a nonprofit organization, association,~~
 22 ~~or corporation as defined as a private club in § 3-9-202(10);~~

23 ~~(8) "Restaurant" means any public or private place, without~~
 24 ~~sleeping accommodations and that place:~~

25 ~~(A) Is kept, used, maintained, advertised, and held out to~~
 26 ~~the public or to a private or restricted membership as a place whose primary~~
 27 ~~function and purpose is to take orders for and to serve food and food items;~~

28 ~~(B) Actually serves full and complete meals prepared in a~~
 29 ~~fully equipped and sanitary kitchen and prepared from uncooked foods for~~
 30 ~~service to and for consumption by its guests or members on the premises;~~

31 ~~(C) Has a seating capacity of at least fifty (50) people;~~

32 ~~(D) Has employed a sufficient number and kind of employees~~
 33 ~~to prepare, cook, and serve suitable foods to its guests or members;~~

34 ~~(E) On Sundays, serves alcoholic beverages on premises~~
 35 ~~only, in conjunction with meals;~~

36 ~~(F) Serves food on all days of operations;~~

1 ~~(G) Maintains separate sales figures for alcoholic~~
2 ~~beverages; and~~

3 ~~(H) Has gross sales of sixty percent (60%) or more from~~
4 ~~the sale of food, food items, and nonalcoholic beverages or in the case of~~
5 ~~excursion boats, has gross sales of sixty percent (60%) of their gross income~~
6 ~~from boat rental fees and sales of food and nonalcoholic beverages;~~

7 ~~(9) "Excursion boat" means any passenger vessel or boat, such as~~
8 ~~a riverboat, floating restaurant, or excursion boat, which meets the~~
9 ~~requirements for a permit for on-premises consumption of alcoholic beverages~~
10 ~~under § 3-9-201 et seq. as a restaurant; and~~

11 ~~(10) "Restaurant" means any place that qualifies as a restaurant~~
12 ~~under subdivision (8) of this section or any large meeting or attendance~~
13 ~~facility as defined in § 3-9-202(8) which meets the requirements for a permit~~
14 ~~for on-premises consumption of alcoholic beverages under § 3-9-201 et seq. as~~
15 ~~a large meeting or attendance facility restaurant.~~

16
17 ~~3-9-403. Penalties.~~

18 ~~(a)(1) It shall be unlawful and shall constitute a Class A misdemeanor~~
19 ~~for any person not holding a valid Sunday sales permit issued under this~~
20 ~~subchapter to sell alcoholic beverages for on-premises consumption.~~

21 ~~(2) Each violation shall constitute a separate offense.~~

22 ~~(b) The Director of the Department of Finance and Administration shall~~
23 ~~have the authority to suspend, cancel, or revoke either the permit issued~~
24 ~~under this subchapter or the on-premises permit issued under § 3-9-201 et~~
25 ~~seq. to any hotel or restaurant, or both, if a permittee is convicted under~~
26 ~~this section.~~

27
28 ~~3-9-404. Permit Requirements.~~

29 ~~(a) Notwithstanding any other laws of this state which permit the sale~~
30 ~~of alcoholic beverages for on-premises consumption on Sundays, no hotel or~~
31 ~~restaurant that is licensed to sell alcoholic beverages for on-premises~~
32 ~~consumption under § 3-5-301 et seq., § 3-9-201 et seq., or § 3-9-301 et seq.~~
33 ~~shall be permitted to sell alcoholic beverages for on-premises consumption on~~
34 ~~Sundays until they obtain a permit, approved and issued by the Director of~~
35 ~~the Alcoholic Beverage Control Division, in accordance with rules and~~
36 ~~regulations promulgated by the Alcoholic Beverage Control Board for the sale~~

1 ~~of alcoholic beverages for on-premises consumption on Sundays. However, this~~
2 ~~subchapter is not intended to impose an additional requirement on private~~
3 ~~clubs licensed under § 3-9-201 et seq. to obtain a permit for Sunday sales of~~
4 ~~alcoholic beverages for on-premises consumption.~~

5 ~~(b) No hotel, motel, or restaurant shall obtain a permit to sell~~
6 ~~alcoholic beverages for on-premises consumption on Sundays unless:~~

7 ~~(1) It has a valid and current permit that is not suspended,~~
8 ~~cancelled, or revoked to sell alcoholic beverages for on-premises consumption~~
9 ~~issued under § 3-5-301 et seq., § 3-9-201 et seq., or § 3-9-301 et seq.;~~

10 ~~(2) It is:~~

11 ~~(A) Located in a city or county where Sunday sale of~~
12 ~~alcoholic beverages for on-premises consumption has been approved by the~~
13 ~~voters of the city or county as authorized under Arkansas law; or~~

14 ~~(B) A large attendance facility under § 3-9-202(8)(B) in~~
15 ~~which pari-mutuel wagering has been authorized by law;~~

16 ~~(3) It meets all the requirements of being a hotel or a~~
17 ~~restaurant as those items are defined in § 3-9-402; and~~

18 ~~(4) It pays the required fee for a permit as required in this~~
19 ~~section and § 3-9-407.~~

20 ~~(c) However, any hotel or restaurant having been in operation for less~~
21 ~~than ninety (90) days and without prior business experience on which to~~
22 ~~determine the gross sales requirements for hotels and restaurants, as defined~~
23 ~~in § 3-9-402, may be issued a temporary Sunday sales permit to sell alcoholic~~
24 ~~beverages for on-premises consumption on Sundays for a period not to exceed~~
25 ~~ninety (90) days. The temporary ninety day time period is to be used to allow~~
26 ~~the business establishment to make a determination of its gross sales. The~~
27 ~~fee for the temporary Sunday sales permit shall be twenty five dollars~~
28 ~~(\$25.00).~~

29
30 ~~3-9-405. Permit Application.~~

31 ~~(a) Any hotel or restaurant as defined in § 3-9-402 desiring to sell~~
32 ~~alcoholic beverages for on-premises consumption on Sundays shall make~~
33 ~~application to the Director of the Alcoholic Beverage Control Division for a~~
34 ~~permit upon the forms prescribed and furnished by the director and in~~
35 ~~accordance with the rules and regulations of the Alcoholic Beverage Control~~
36 ~~Board. The board shall have authority to require an applicant under oath to~~

1 ~~disclose the following information:~~

2 ~~(1) The name of the applicant;~~

3 ~~(2) The location of the hotel or restaurant;~~

4 ~~(3) Sufficient data to establish that the applicant meets the~~
5 ~~requirements of §§ 3-9-402 and 3-9-404;~~

6 ~~(4) The names and addresses of all owners of the hotel or~~
7 ~~restaurant;~~

8 ~~(5) That the applicant is a citizen or resident alien of the~~
9 ~~United States and a resident of Arkansas on the date of application, and if a~~
10 ~~corporation, duly qualified to do business in this state;~~

11 ~~(6) That neither the applicant nor any person to be employed in~~
12 ~~the serving of beverages authorized herein shall be a person who has been~~
13 ~~convicted within five (5) years of the date of his or her employment of any~~
14 ~~violation of the laws against possession, sale, manufacture, or~~
15 ~~transportation of intoxicating liquor, or convicted of a felony;~~

16 ~~(7) That the manager or operator of the hotel or restaurant~~
17 ~~seeking the permit is of good moral character and not a convicted felon; and~~

18 ~~(8) Such other relevant information as may be required.~~

19 ~~(b) Every permit issued under this subchapter shall be for an~~
20 ~~indeterminate period, subject to compliance with the annual renewal~~
21 ~~requirements prescribed in this subchapter, and shall not be transferable or~~
22 ~~assignable as to owner or premises, except upon the written approval of the~~
23 ~~director.~~

24
25 ~~3-9-406. Consent to inspection.~~

26 ~~No permit shall be issued under this subchapter unless the permittee~~
27 ~~has consented in writing that the permitted premises and its books and~~
28 ~~records shall be open at all times to all law enforcement and tax officials~~
29 ~~and officials of the Alcoholic Beverage Control Board and the Director of the~~
30 ~~Department of Finance and Administration without requirement of warrant or~~
31 ~~other legal process.~~

32
33 ~~3-9-407. Fees for permit.~~

34 ~~(a) Each application for a Sunday sales permit shall be accompanied by~~
35 ~~a permit fee in the following applicable amount:~~

36 ~~(1) Hotel, having fewer than one hundred (100) rooms~~

1 \$100.00

2 ~~(2) Hotel, having one hundred (100) or more rooms~~

3 200.00

4 ~~(3) Restaurant, having a seating capacity of less than one~~
5 ~~hundred (100) persons 100.00~~

6 ~~(4) Restaurant, having a seating capacity of one hundred~~
7 ~~(100) or more persons 200.00~~

8 ~~(b) An annual renewal fee in the same amount as provided in subsection~~
9 ~~(a) of this section shall be paid to the Director of the Alcoholic Beverage~~
10 ~~Control Division on or before June 30 of each calendar year for the fiscal~~
11 ~~year beginning July 1.~~

12 ~~(c) The fee for permits issued between January 1 and July 1 shall be~~
13 ~~one-half (1/2) of the amount specified in subsection (a) of this section.~~

14 ~~(d) The fees required in this section are supplemental to the fees and~~
15 ~~taxes levied by § 3-5-301 et seq., § 3-9-201 et seq., and § 3-9-301 et seq.,~~
16 ~~and do not relieve any restaurant or hotel from paying permit or renewal fees~~
17 ~~or supplemental gross receipts taxes levied by the State of Arkansas for~~
18 ~~sales of alcoholic beverages for on premises consumption made on Sunday.~~

19
20 ~~3-9-408. Rules and regulations.~~

21 ~~The Alcoholic Beverage Control Board is authorized to adopt and enforce~~
22 ~~reasonable rules and regulations governing the qualifications for Sunday~~
23 ~~sales permits under this subchapter, the operation of permitted premises on~~
24 ~~Sundays, and otherwise implementing and effectuating the provisions and~~
25 ~~purposes of this subchapter to ensure the strict enforcement of the law. The~~
26 ~~rules and regulations promulgated under this subchapter shall be supplemental~~
27 ~~and in addition to the rules and regulations promulgated to regulate the sale~~
28 ~~of alcoholic beverages for on premises consumption at hotels and restaurants~~
29 ~~under § 3-9-201 et seq.~~

30
31 ~~3-9-409. Suspension, etc., of permit—Appeals.~~

32 ~~Upon his or her own complaint or that of any law enforcement agency~~
33 ~~having jurisdiction over the permitted premises, the Director of the~~
34 ~~Alcoholic Beverage Control Division may suspend, cancel, or revoke any permit~~
35 ~~granted under this subchapter for violation by the permittee of any~~
36 ~~provisions of this subchapter or any rule, regulation, or order of the~~

1 ~~Alcoholic Beverage Control Board. No permit shall be suspended, cancelled, or~~
2 ~~revoked except after hearing by the director with reasonable notice to the~~
3 ~~permittee and an opportunity for him or her to appear and defend himself or~~
4 ~~herself as provided in § 3-2-212. Appeals to the board from an order by the~~
5 ~~director of a suspension, cancellation, or revocation of a permit may be made~~
6 ~~as provided in § 3-2-215. Appeals from a board decision to the Pulaski County~~
7 ~~Circuit Court may be made as provided in § 3-2-216.~~

8
9 ~~3-9-410. Grounds for suspension, etc., of permit.~~

10 ~~(a) Sunday sale permits may be suspended, cancelled, or revoked:~~

11 ~~(1) If the permittee no longer meets the requirements of the~~
12 ~~definition of a hotel or a restaurant under § 3-9-402;~~

13 ~~(2) If the permit for on-premises consumption of alcoholic~~
14 ~~beverages issued under § 3-5-301 et seq., § 3-9-201 et seq., or § 3-9-301 et~~
15 ~~seq. is suspended, cancelled, or revoked for causes thereunder;~~

16 ~~(3) If the permittee's restaurant or hotel is located in a city~~
17 ~~or county where Sunday sales are not authorized or are no longer authorized~~
18 ~~under Arkansas law;~~

19 ~~(4) If the permittee willfully fails to keep any records or make~~
20 ~~any reports required by this subchapter or by rules or regulations adopted~~
21 ~~thereunder; or~~

22 ~~(5) If the permittee makes any materially false statement in any~~
23 ~~application for a permit.~~

24 ~~(b) If any permittee shall fail to remit any fee levied in this~~
25 ~~subchapter for the permit or for the annual renewal, the permit shall be~~
26 ~~revoked. The permit may be restored if the renewal fee is paid within thirty~~
27 ~~(30) days from the date on which due.~~

28
29 ~~3-9-411. Sale of beer and wine.~~

30 ~~(a) Any permit for Sunday sales of alcoholic beverages for on-premises~~
31 ~~consumption shall include authority to sell beer for consumption and to sell~~
32 ~~native and imported wine by the drink as permittees, licensed under § 3-9-201~~
33 ~~et seq., are authorized to do in § 3-9-211.~~

34 ~~(b) However, nothing in this subchapter shall authorize holders of~~
35 ~~permits for on-premises consumption of alcoholic beverages on Sundays to sell~~
36 ~~or to dispense alcoholic beverages by the package or by the bottle for~~

1 ~~consumption off the permitted premises.~~

2
3 ~~3-9-412. Disposition of fees.~~

4 ~~(a) All permit fees collected for the state pursuant to this~~
5 ~~subchapter shall be remitted monthly to the State Treasury as general~~
6 ~~revenues and be credited to the State Apportionment Fund.~~

7 ~~(b) The fees shall be allocated and transferred to the various funds,~~
8 ~~fund accounts, and accounts participating in general revenues in the~~
9 ~~respective portions to each as provided by and to be used for the respective~~
10 ~~purposes set forth in the Revenue Stabilization Law, § 19-5-101 et seq.~~

11
12 ~~3-9-413. Exemptions.~~

13 ~~(a) Any person who on March 1, 1989, holds a Sunday sales permit under~~
14 ~~this subchapter and who has annual gross sales of food, food items, and~~
15 ~~nonalcoholic beverages of ninety thousand dollars (\$90,000) per year shall~~
16 ~~not be required to meet the requirements of § 3-9-402(8)(H) relating to gross~~
17 ~~sales.~~

18 ~~(b) Any person who on March 1, 1989, holds a Sunday sales permit under~~
19 ~~this subchapter and whose business is located in a municipality having a~~
20 ~~population of one hundred thousand (100,000) or more according to the most~~
21 ~~recent decennial census shall not be required to meet the requirements of §~~
22 ~~3-9-402(8)(H) relating to gross sales.~~

23
24 SECTION 26. Arkansas Code §§ 3-9-501 – 3-9-507 are repealed.

25 ~~3-9-501. Definitions.~~

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

27 ~~(1) "Beer" means any fermented liquor made from malt or any~~
28 ~~substitute thereof and having an alcoholic content of more than one half of~~
29 ~~one percent (0.5%) of alcohol by weight but not in excess of five percent~~
30 ~~(5%) by weight;~~

31 ~~(2) "Wine" means any light wine, port wine, sherry, vermouth, or~~
32 ~~any other wine, the alcoholic content of which is more than one half of one~~
33 ~~percent (0.5%) of alcohol by weight and which does not exceed twenty one~~
34 ~~percent (21%) of alcohol by weight, regardless of whether the wine is~~
35 ~~manufactured within or without the State of Arkansas;~~

36 ~~(3) "Director" means the Director of the Department of Alcoholic~~

1 ~~Beverage Control;~~

2 ~~(4) "Board" means any Alcoholic Beverage Control Board of this~~
3 ~~state or any successor agency;~~

4 ~~(5) "Hotel" has the same meaning as prescribed by § 3-9-402(4);~~
5 ~~and~~

6 ~~(6) "Restaurant" means any public or private place without~~
7 ~~sleeping accommodations and that place;~~

8 ~~(A) Is kept, used, maintained, advertised, and held out to~~
9 ~~the public or to a private or restricted membership as a place whose primary~~
10 ~~function and purpose is to take orders for and to serve food and food items;~~

11 ~~(B) Actually serves full and complete meals prepared in a~~
12 ~~fully equipped and sanitary kitchen and prepared from uncooked foods for~~
13 ~~service to and consumption by its guests or members on the premises;~~

14 ~~(C) Has employed a sufficient number and kind of employees~~
15 ~~to prepare, cook, and serve suitable foods to its guests or members;~~

16 ~~(D) On Sundays serves alcoholic beverages on premises~~
17 ~~only, in conjunction with meals;~~

18 ~~(E) Serves food on all days of operations;~~

19 ~~(F) Maintains separate sales figures for alcoholic~~
20 ~~beverages; and~~

21 ~~(G) Has gross sales of sixty percent (60%) or more from~~
22 ~~the sale of food, food items, and nonalcoholic beverages.~~

23
24 ~~3-9-502. Applicability of § 3-9-401 et seq.~~

25 ~~The provisions of § 3-9-401 et seq. are applicable to this subchapter~~
26 ~~to the extent that they are not in conflict herewith.~~

27
28 ~~3-9-503. Permit Requirements.~~

29 ~~(a) Any hotel or restaurant that is licensed to sell beer and wine for~~
30 ~~on-premises consumption under § 3-5-201 et seq. and § 3-9-301 et seq. may~~
31 ~~sell beer and wine for on-premises consumption on Sundays after obtaining a~~
32 ~~permit, approved and issued by the Director of the Alcoholic Beverage Control~~
33 ~~Division in accordance with rules and regulations promulgated by the~~
34 ~~Alcoholic Beverage Control Board, for the sale of beer and wine for on-~~
35 ~~premises consumption on Sundays.~~

36 ~~(b) No hotel or restaurant may obtain a permit to sell beer and wine~~

1 ~~for on-premises consumption on Sundays unless it:~~

2 ~~(1) Has valid and current permits which are not suspended,~~
3 ~~cancelled, or revoked, to sell beer and wine for on-premises consumption~~
4 ~~issued under § 3-5-201 et seq. and § 3-9-301 et seq.;~~

5 ~~(2) Is located in a city of the first class or second class or~~
6 ~~county where Sunday sales of beer and wine for on-premises consumption have~~
7 ~~been approved by the voters of the city or county, said election to be held~~
8 ~~in conformance with the methods used to call elections under § 3-9-201 et~~
9 ~~seq.; and~~

10 ~~(3) Pays the required fee for a permit as required in this~~
11 ~~subchapter.~~

12 ~~(c)(1) However, any hotel or restaurant having been in operation for~~
13 ~~less than ninety (90) days and without prior business experience in which to~~
14 ~~determine the gross sales requirements for hotels and restaurants, as defined~~
15 ~~in § 3-9-402, may be issued a temporary Sunday sales permit to sell beer and~~
16 ~~wine for on-premises consumption on Sundays for a period not to exceed ninety~~
17 ~~(90) days.~~

18 ~~(2) The temporary ninety day time period is to be used to allow~~
19 ~~the business establishment to make a determination of its gross sales.~~

20 ~~(3) The fee for the temporary Sunday sales permit to allow the~~
21 ~~sale of beer and wine on Sunday in such qualified restaurants or hotels shall~~
22 ~~be twenty five dollars (\$25.00).~~

23
24 ~~3-9-504. Permit—Application.~~

25 ~~(a) Any hotel or restaurant desiring to sell beer and wine only for~~
26 ~~on-premises consumption shall make application to the Director of the~~
27 ~~Alcoholic Beverage Control Division for a permit upon forms prescribed and~~
28 ~~furnished by the director in accordance with the rules and regulations of the~~
29 ~~Alcoholic Beverage Control Board.~~

30 ~~(b) No applicant shall be authorized to make any such sales until a~~
31 ~~permit is approved and issued by the director.~~

32 ~~(c) The board shall have authority to require an applicant, under~~
33 ~~oath, to disclose the following information:~~

34 ~~(1) The name of the applicant;~~

35 ~~(2) The location of the hotel or restaurant;~~

36 ~~(3) Sufficient data to establish that the applicant meets the~~

1 ~~requirements of § 3-9-402;~~

2 ~~(4) The names and addresses of all owners of the hotel or~~
 3 ~~restaurant;~~

4 ~~(5) That the applicant is a citizen or resident alien of the~~
 5 ~~United States and a resident of Arkansas on the date of application and, if a~~
 6 ~~corporation, qualified to do business in this state;~~

7 ~~(6) That neither the applicant nor any person to be employed in~~
 8 ~~the serving of the beverages authorized herein shall be a person who has been~~
 9 ~~convicted within five (5) years of the date of his or her employment of any~~
 10 ~~violations of the laws against possession, sale, manufacture, or~~
 11 ~~transportation of intoxicating liquor or convicted of a felony;~~

12 ~~(7) That the manager or operator of the hotel or restaurant~~
 13 ~~seeking the permit is of good moral character and is not a convicted felon;~~
 14 ~~and~~

15 ~~(8) Other such relevant information as may be required.~~

16 ~~(d) Every permit issued under this subchapter shall be for an~~
 17 ~~indeterminate period, subject to compliance with the annual renewal~~
 18 ~~requirements herein prescribed and shall not be transferable or assignable as~~
 19 ~~to owner or premises, except upon the written approval of the director.~~

20
 21 ~~3-9-505. Fees for permit.~~

22 ~~(a) Each application for a Sunday sales permit shall be accompanied by~~
 23 ~~a permit fee in the following applicable amount:~~

24
 25 ~~(1) Hotel, having fewer than one hundred (100) rooms \$100.00~~

26 ~~(2) Hotel, having one hundred (100) or more rooms 200.00~~

27 ~~(3) Restaurant, having a seating capacity of less~~
 28 ~~than one hundred (100) persons 100.00~~

29 ~~(4) Restaurant, having a seating capacity of~~
 30 ~~one hundred (100) or more persons 200.00~~

31 ~~(b) An annual renewal fee in the same amount as provided in subsection~~
 32 ~~(a) of this section shall be paid to the Director of the Alcoholic Beverage~~
 33 ~~Control Division on or before June 30 of each calendar year.~~

34 ~~(c) The fee for a permit issued between January 1 and July 1 shall be~~
 35 ~~one half (½) of the applicable amount specified in subsection (a) of this~~
 36 ~~section.~~

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~~3-9-506. Referendum.~~

~~(a) A referendum election authorizing the Sunday sale of beer and wine in hotels and restaurants as defined herein for on-premises consumption in any city of the first class or city of the second class or any county which already authorizes the sale of intoxicating beverages may be held under the general provisions of § 3-9-201 et seq.~~

~~(b) On the ballot for the election shall be printed substantially the following:~~

~~[] FOR THE SALE OF BEER AND WINE FOR ON-PREMISES CONSUMPTION ON A SUNDAY IN QUALIFIED HOTELS AND RESTAURANTS IN (NAME OF CITY OR COUNTY), ARKANSAS, AS AUTHORIZED BY LAW.~~

~~[] AGAINST THE SALE OF BEER AND WINE FOR ON-PREMISES CONSUMPTION ON A SUNDAY IN QUALIFIED HOTELS AND RESTAURANTS IN (NAME OF CITY OR COUNTY), ARKANSAS, AS AUTHORIZED BY LAW.~~

~~(c) To the extent not in conflict herewith, the referendum provisions of § 3-9-201 et seq. shall apply to this law.~~

~~3-9-507. Sunday sales—Hours of operation.~~

~~The Sunday hours of operation for the Sunday beer and wine permit shall be the same hours of operation established for Sunday mixed drink permits as set by § 3-9-215.~~

SECTION 27 Arkansas Code § 3-9-601(2)(B)(i), concerning the definition of a license to sell wine for consumption on premises, is amended to read as follows:

(B)(i) An annual fee of ~~three hundred dollars (\$300)~~ five hundred dollars (\$500) shall be paid for each license or renewal ~~thereof~~.

SECTION 28 Arkansas Code § 5-73-306(12) and (13), concerning prohibited places to carry a concealed weapon, is amended to read as follows:

(12) Any portion of an establishment, except a restaurant as defined in ~~§ 3-9-402~~ § 3-9-202, licensed to dispense alcoholic beverages for consumption on the premises;

1 (13) Any portion of an establishment, except a restaurant as
2 defined in ~~§ 3-9-402~~, § 3-9-202, where beer or light wine is consumed on the
3 premises;

4
5 SECTION 29. EFFECTIVE DATE. NOT TO BE CODIFIED. The permit fees
6 increased or established in this act shall become effective beginning with
7 the 2010 – 2011 renewal and new permit period.

8
9 SECTION 30. EMERGENCY CLAUSE. It is found and determined by the
10 General Assembly of the State of Arkansas that on-premises consumption
11 outlets in the State of Arkansas are not able to compete on an equal and
12 similar basis with outlets located in states surrounding the State of
13 Arkansas; that the State of Arkansas is in need of additional revenues; that
14 only minor adjustments to the violation fine schedule have been made since
15 its passage in 1981; and that this act is immediately necessary to raise
16 additional revenues and to better address violations committed by Alcoholic
17 Beverage Control Division permit holders. Therefore, an emergency is
18 declared to exist and this act being immediately necessary for the
19 preservation of the public peace, health, and safety shall become effective
20 on:

21 (1) The date of its approval by the Governor;

22 (2) If the bill is neither approved nor vetoed by the Governor,
23 the expiration of the period of time during which the Governor may veto the
24 bill; or

25 (3) If the bill is vetoed by the Governor and the veto is
26 overridden, the date the last house overrides the veto.

27
28 /s/ R. Thompson

29
30 **APPROVED: 3/03/2009**