

1 State of Arkansas *As Engrossed: S3/8/13 H3/26/13*

2 89th General Assembly

A Bill

3 Regular Session, 2013

SENATE BILL 374

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5 By: Senators J. English, L. Chesterfield, J. Hutchinson, D. Johnson, Elliott

6 By: Representatives Williams, Perry, Julian, E. Armstrong, Sabin, Davis, *J. Edwards*

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For An Act To Be Entitled

9 AN ACT TO AMEND THE ALCOHOLIC BEVERAGE LAW CONCERNING
10 LOCAL OPTION ELECTIONS FOR A TERRITORIAL SUBDIVISION
11 THAT IS LOCATED IN A WET COUNTY AND WAS VOTED DRY BY
12 A DEFUNCT VOTING DISTRICT THAT RESULTED FROM
13 INITIATED ACT 1 OF 1942; *TO DECLARE AN EMERGENCY; AND*
14 *FOR OTHER PURPOSES.*

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Subtitle

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

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SECTION 1. Arkansas Code Title 3, Chapter 8, is amended to add an
29 additional subchapter to read as follows:

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3-8-601. Definitions.

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As used in this subchapter:

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(1) "Beer" means a fermented liquor made from malt or a malt
33 substitute and containing not more than five percent (5%) alcohol by weight;

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(2) "Defunct voting district" means a voting district that:

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(A) Existed at the time its qualified voters voted to be

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dry;



1 (B) Is no longer recognized by the state or the county in
2 which it was located; and

3 (C) Is currently located in a wet county;

4 (2) "Dry" means a county or territorial subdivision that voted
5 to prohibit the manufacture or sale of intoxicating liquor under Initiated
6 Act No. 1 of 1942, as amended, §§ 3-8-201 – 3-8-203 and 3-8-205 – 3-8-209, or
7 §§ 3-8-302 – 3-8-306;

8 (4) "Malt beverage" means a liquor brewed from the fermented
9 juices of grain and having an alcoholic content of not less than five percent
10 (5%) and not more than twenty-one percent (21%) of alcohol by weight;

11 (5) "Spirituous liquor" means a liquor distilled from the
12 fermented juices of grain, fruits, or vegetables and containing more than
13 twenty-one percent (21%) alcohol by weight or any other liquids containing
14 more than twenty-one percent (21%) alcohol by weight;

15 (6) "Territorial subdivision" means a township, municipality,
16 ward, or precinct of a county of the state;

17 (7) "Vinous beverage" means the fermented juices of fruits or a
18 mixture containing the fermented juices of fruits containing more than five
19 percent (5%) and not more than twenty-one percent (21%) alcohol by weight;

20 (8) "Voting district" means a geographical area of qualified
21 voters of a county in this state; and

22 (9) "Wet" means a county or territorial subdivision that voted
23 to permit the manufacture or sale of intoxicating liquor under Initiated Act
24 No. 1 of 1942, as amended, §§ 3-8-201 – 3-8-203 and 3-8-205 – 3-8-209, or §§
25 3-8-302 – 3-8-306.

26
27 3-8-602. Local option election – Defunct voting district.

28 (a)(1) Under subsection (b) of this section, an area within the
29 boundaries of a defunct voting district may conduct an election to permit the
30 manufacture and sale of alcoholic beverages identified in subdivision (a)(2)
31 of this section.

32 (2) The manufacture and sale of alcoholic beverages under this
33 section shall be limited to:

34 (A) Beer and vinous beverages for off-premises
35 consumption; and

36 (B) Beer, malt beverages, vinous beverages, and spirituous

1 liquor for on-premises consumption.

2 (b) An election for an area within the boundaries of a defunct voting
3 district to permit the manufacture and sale of the alcoholic beverages
4 identified in subdivision (a)(2) of this section shall be held as follows:

5 (1)(A) A registered voter who resides in a county that contains
6 a defunct voting district may request in writing that the county board of
7 election commissioners issue a resolution to identify the boundaries of a
8 territorial subdivision located in a defunct voting district in which
9 qualified voters may reside.

10 (B) The county board of election commissioners shall issue
11 a resolution within thirty (30) days.

12 (C) The resolution shall identify the:

13 (i) Territorial subdivisions that are located wholly
14 or partially within borders of any defunct voting districts in the county;

15 (ii) Formal and informal name or designation of any
16 defunct voting districts in the county as of the last date the defunct voting
17 district held the election resulting in its dry status;

18 (iii) Date on which any defunct voting district held
19 the last local option election that resulted in the defunct voting district
20 becoming dry; and

21 (iv)(a) Boundaries of any defunct voting district at
22 the time of the last local option election that resulted in the defunct
23 voting district becoming dry.

24 (b) The boundaries of the defunct voting
25 district shall be based on state, county, or municipal records or other
26 records publicly identified in the resolution.

27 (D) The resolution shall include a map of the boundaries
28 of the defunct voting district from which qualified electors residing within
29 the defunct voting district can be identified and verified for purposes of
30 obtaining signatures and conducting the local option election.

31 (E) In preparing the resolution and the map, the county
32 board of election commissioners may consult with the county clerk, the state
33 board of election commissioners, the Secretary of State or any other entity
34 able to provide assistance in confirming the data and preparing the map
35 required by subdivision (b)(1)(D) of this section and the precise boundaries
36 of the defunct voting district.

1 (F) The resolution shall be filed with the county clerk
2 and published once a week for two weeks as soon as practicable in a newspaper
3 of general circulation in the county.

4 (2)(A) The petition procedure for a local option election for a
5 defunct voting district shall be conducted pursuant to § 3-8-201 et seq.; and

6 (B) The signatures required under §§ 3-8-204 – 3-8-205 for
7 any defunct voting district shall be obtained from qualified electors
8 residing within the boundaries of a defunct voting district, as identified by
9 the resolution and corresponding map.

10 (3)(A)(i) The election process for a special local option
11 election for a defunct voting district shall be conducted pursuant to § 3-8-
12 201 et seq.

13 (ii) The county clerk shall issue a resolution
14 calling for a special local option election for a defunct voting district for
15 which the requisite number of signatures has been certified under subdivision
16 (b)(2) of this section when:

17 (a) The requisite number of qualified electors
18 sign petitions filed with the county clerk; and

19 (b) The county clerk certifies those
20 signatures to the county board of election commissioners.

21 (iii) The resolution calling the special local
22 option election shall be filed with the county clerk, and the county clerk
23 shall immediately transmit the document to the county board of election
24 commissioners.

25 (iv) The resolution calling the special local option
26 election shall state:

27 (a) The date of the special election;

28 (b) The full text of the measure for which the
29 election is called; and

30 (c) The ballot title for the measure for which
31 the special local option election is called.

32 (v) The county board shall publish the resolution
33 calling the special option election once a week for two weeks as soon as
34 practicable in a newspaper of general circulation in the county.

35 (B) The ballot title shall be in substantially the
36 following form: “TO DETERMINE WHETHER OR NOT ALCOHOLIC BEVERAGES MAY BE SOLD

1 OR MANUFACTURED AS AUTHORIZED BY ARKANSAS CODE § 3-8-602 WITHIN (popular name
2 of the defunct voting district)”

3 (C) The ballot shall be in substantially the following
4 form:

5 “[] FOR the Sale of Alcoholic Beverages, As Authorized by Arkansas
6 Code § 3-8-602.

7 [] AGAINST the Sale of Alcoholic Beverages, As Authorized by Arkansas
8 Code § 3-8-602.”

9 (D) The special local option election shall be called on a
10 Tuesday and shall not be held less than sixty (60) days following the date
11 the resolution calling the special election is filed with the county clerk.

12 (E) The map of the defunct voting district created by the
13 county board of election commissioners shall be placed at each polling site.

14 (F) A majority vote of the qualified electors residing
15 within the boundaries of the defunct voting district shall determine whether
16 or not alcoholic beverages may be sold or manufactured under subdivision
17 (a)(2) of this section within the boundaries of the defunct voting district.

18 (4) The precincts and polling sites to be utilized for
19 conducting elections under this section shall be established by the county
20 board of election commissioners.

21 (c) If a defunct voting district is located entirely within the
22 boundaries of a larger defunct voting district, a vote shall be held only for
23 the larger defunct voting district.

24 (d)(1) If two (2) defunct voting districts overlap, then the
25 overlapping area will only be included in the boundaries of the defunct
26 voting district that first held the local option election that resulted in
27 its dry status to determine whether or not alcoholic beverages may be sold or
28 manufactured under subdivision (a)(2) of this section.

29 (2)(A) The local option elections for more than one defunct
30 voting district may be held simultaneously or on different dates.

31 (B) If local option elections for more than one (1)
32 defunct voting district are held on the same date, the majority vote of all
33 the voters residing within the boundaries of the defunct voting district
34 shall determine the local option status of only the geographic area located
35 within the boundaries of that particular defunct voting district.

36 (e) If the majority of the qualified voters in the special local

1 option election vote:

2 (1) For the sale or manufacture of alcoholic beverages as
3 described under subdivision (a)(2) of this section, then it shall be lawful
4 for the Director of the Alcoholic Beverage Control Division to issue the
5 relevant licenses or permits within the defunct voting district immediately
6 after the certification of the results of an election permitting the sale or
7 manufacture of alcoholic beverages under this section, as required by § 3-8-
8 206; or

9 (2) Against the sale or manufacture of alcoholic beverages as
10 described under subdivision (a)(2) of this section, then it shall be unlawful
11 for the division to issue licenses or permits for such sale or manufacture
12 within the defunct voting district.

13 (f) A subsequent election under this section shall not be held in the
14 same defunct voting district until a period of two (2) years has elapsed
15 since the last special local option election conducted under this section.

16 (g) The cost of a local option election under this section shall be
17 paid by the county in the same manner as the cost of a general election, or
18 in any other manner as properly determined by the quorum court.

19 (h)(1) The boundaries of a defunct voting district as identified by
20 the county board of election commissioners under subsection (b)(1) of this
21 section shall be deemed final and valid unless clearly erroneous or
22 arbitrary.

23 (2) Any challenge to or appeal of the boundaries established by
24 the resolution of the county board of election commissioners shall be made to
25 the county court within eleven (11) days of the first publication of the
26 resolution described in subdivision (b)(1)(F) of this section.

27 (i) To the extent any of the provisions of this section conflict with
28 §§ 3-8-201 et seq., the provisions of this section control.

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30 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the General
31 Assembly of the State of Arkansas that the ability of a territorial
32 subdivision located in a defunct voting district to permit the sale of
33 alcoholic beverages would improve the economic status of local businesses.
34 Therefore, an emergency is declared to exist, and this act being immediately
35 necessary for the preservation of the public peace, health, and safety shall
36 become effective on:

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

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

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

/s/J. English

APPROVED: 04/09/2013