

# Department of Finance and Administration

## Legislative Impact Statement

**Bill: SB284**

**Amendment Number: H1**

**Bill Subtitle: TO ESTABLISH A RETAIL OFF-PREMISES PERMIT FOR THE SALE OF WINE AT GROCERY STORES AND TO PROVIDE ADDITIONAL GRANT FUNDS TO SUPPORT ARKANSAS WINE PRODUCTION AND WINE TOURISM IN THE STATE.**

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### Basic Change :

**Sponsor: Senator Hester**

Grossment 02/23/17 --- House Amendment 1 --- The amendment adds specific language authorizing retail liquor stores to sell consumables and edible products that complement alcoholic beverages. The amendment also adds language regarding the eligibility of Arkansas wineries eligible for the native wine incentive grant program established in § 3-45-901 et seq. to require eligible wineries to cultivate at least two (2) acres and to produce at least eight hundred (800) gallons of wine annually with certification supplied by the Arkansas Wine Producers Council. Effective January 1, 2018, all wineries would receive a minimum grant amount of \$500 instead of the current \$25,000 with the remaining grant funds distributed based each winery's percentage of Arkansas wine production. The amendment would limit the grant payment to a winery to no more than \$100,000 per year. Any grant amount to a winery that would have exceeded \$100,000 would be returned to the grant fund for subsequent distribution to the other Arkansas wineries. The grant payments are made from the "Arkansas Agricultural Marketing Grants Fund" that receives moneys appropriated by the General Assembly for that purpose.

The amendment also amends the provisions of the "Arkansas Wine Grants Fund" that consists of the revenues from the licensing fees for Grocery Store Wine Permits. Revenues in the fund are to be distributed to Arkansas wineries with the remaining 50% to be transferred to the Tourism Development Trust Fund for the purpose of operating and staffing the Arkansas Wine Center, a wine tourism facility with office space for the Arkansas Wine Producers Council. The Wine Center will be located in Franklin County, Arkansas. The Arkansas Department of Heritage will assist in the design of the Arkansas Wine Center.

Grossment 02/07/17 --- Senate Amendments 1 and 2 --- The amendments add Senator L. Chesterfield and Representative Eubanks as cosponsors of the bill.

Original Bill --- SB284 amends § 3-5-1605(a)(4)(A) to modify the wholesale wine dealer license that currently allows a small farm winery to sell only "small farm wine" to also sell wine, light wine, or vinous liquor. Under current law, a small farm winery permit can be obtained by an Arkansas or out-of-state small farm winery. The yearly small farm winery wholesale dealer license fee is currently \$100.00. A small farm winery may obtain this license provided that the winery does not sell more than 250,000 gallons of wine per year. Arkansas generally operates under a three-tier system for the distribution of alcoholic beverages. That is, a producer must sell exclusively to a licensed wholesaler, and the wholesaler sells to retailers. In an exception to the three-tier system, a small farm winery licensee may sell at retail wine produced on the premises of the small farm winery or at a retail location if all sales occur in a wet territory. A small farm winery licensee may sell wine produced on the premises of a small farm winery to wholesale and retail license holders and other small farm license holders provided that the small farm winery holds a wine wholesale permit. Under Section 4 of SB284 as originally introduced, the holder of a small farm winery wholesale permit would also be able to sell wine, light wine, or vinous liquor. Section 4 of the original bill has been removed by Amendment H-1.

SB284 also amends § 3-4-601 to create a Grocery Store Wine Permit to be issued by the Alcoholic Beverage Control Division to retail sellers of wine. A "grocery store" is defined in the bill as being a

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single physical establishment that has an inventory of human-consumable items. Annual permit fees would be based on the physical size of the retail establishment and would be established as follows:

- One thousand dollars (\$1,000) for a permitted building space containing less than thirty-five thousand and one square feet (35,001 sq. ft.);
- Two thousand five hundred dollars (\$2,500) for a permitted building space containing between thirty-five thousand and one square feet (35,001 sq. ft.) and fifty thousand square feet (50,000 sq. ft.);
- Three thousand five hundred dollars (\$3,500) for a permitted building space containing between fifty thousand and one square feet (50,001 sq. ft.) and seventy-five thousand square feet (75,000 sq. ft.); and
- Five thousand dollars (\$5,000) for a permitted building space containing more than seventy-five thousand square feet (75,000 sq. ft.).

Retailers seeking a grocery store wine permit may derive no more than twenty percent (20%) of its gross sales from the sale of alcoholic beverages unless, as of January 1, 2017, that grocery store derives more than twenty percent (20%) of its gross sales from the sale of alcoholic beverages.

### **Revenue Impact :**

Permit fee revenues would be dependent on the number of permits issued with the fees per retailer based on physical size of the retail store. All revenues would be deposited to the Arkansas Wine Grants Fund with fifty percent (50%) of the funds to be dispersed to Arkansas wineries and fifty percent (50%) transferred to the Tourism Development Trust Fund for the purpose of operating and staffing the Arkansas Wine Center.

### **Taxpayer Impact :**

None.

### **Resources Required :**

None.

### **Time Required :**

Adequate time is provided for implementation.

### **Procedural Changes :**

None.

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### Other Comments :

None.

### Legal Analysis :

SB284-H1 replaces the previous bill with a few substantive changes. The amendment still creates a "grocery store wine permit" that allows grocery stores to carry all types of wine. The amendment leaves intact the permit fee structure provided in SB284 as originally introduced.

The amendment contains a few substantive changes as follows:

- The amendment removes the wine wholesaler permit modification that presented an issue with the bill.
- The amendment clarifies and fixes language regarding the permit fee grants. It clarifies that these grants are special revenues and exempts them specifically from general revenues. The amendment also clarifies that 50% of the fees will be given as grants to qualifying small farm wineries, which was unclear in the earlier bill and the remainder to go to the Tourism Development Trust Fund.
- The amendment clarifies the eligibility requirements for wineries wanting to participate in the incentive grants.