

Hall of the House of Representatives
91st General Assembly - Regular Session, 2017
Amendment Form

Subtitle of House Bill No. 2197

TO AMEND THE LAW REGARDING THE OPERATIONS OF RETAIL LIQUOR STORES AND LIQUOR
DISTRIBUTORS.

Amendment No. 1 to House Bill No. 2197

Amend House Bill No. 2197 as originally introduced:

Delete everything after the enacting clause and substitute the following:

"SECTION 1. Arkansas Code § 3-4-404 is amended to read as follows:
3-4-404. Class B violations.

The following acts on the part of the permittee are Class B violations:

- (1) Pledge, hypothecation, or use of a permit as collateral;
- (2) Defacing, destroying, or altering a permit;
- (3) Transporting controlled beverages in violation of regulations or law;
- (4) Manufacturing, selling, offering, dispensing, or giving away, possessing, or transporting controlled beverages upon which tax is not paid;
- (5) Failure to maintain proper records by a manufacturer;
- (6) Failure by a wholesaler to maintain proper records;
- (7) Failure by a wholesaler to register new brands;
- (8)(A) Giving samples without authorization.
- (B) Assisting a licensee or permittee under this title is not a gift to the licensee or permittee or an affiliate of the licensee or permittee under this subdivision (8).
- (C) A rewards program offered by a retail liquor permittee to a retail customer who frequently makes purchases is not a gift under this subdivision (8);
- (9)(A) Sales, including sales from a wholesaler to a retailer for anything other than cash, ~~or~~ check, debit card, or credit card.
- (B)(i) A wholesaler's invoice to a retailer shall reflect separately any credit card surcharge added.
 - (ii) The amount of a surcharge on an invoice under subdivision (9)(B)(i) of this section shall not exceed the amount charged to the wholesaler by the credit card processor;
- (10) Delivery without an invoice by a wholesaler;
- (11) Selling to the insane;
- (12) Selling to bootleggers;
- (13) Accepting food stamps in payment for controlled beverages;



- (14) Unlawful manufacture or sale in a dry area; and
- (15) Sale of controlled beverages by vending machine.

SECTION 2. Arkansas Code § 3-5-104(c), concerning wine tasting events, is repealed.

~~(c) No tasting event may be held pursuant to this section in any facility licensed by the division.~~

SECTION 3. Arkansas Code § 3-5-104(f)(2)(B), concerning samples at wine tasting events, is amended to read as follows:

(B) The samples shall be limited to a total of:

(i) ~~Three (3) one half ounce (0.5 oz.)~~ Up to six ounces (6 oz.) wine servings per customer each day for on-premises consumption;

(ii) ~~Two (2) two ounce (2 oz.)~~ Up to eight ounces (8 oz.) beer servings per customer each day for on-premises consumption; and

(iii) ~~Two (2) one half ounce (0.5 oz.)~~ Up to three ounces (3 oz.) spirit servings per customer each day for on-premises consumption.

SECTION 4. Arkansas Code Title 3, Chapter 4, is amended to add an additional subchapter to read as follows:

Subchapter 11 – Delivery Service License

3-4-1101. Delivery service license – Created.

(a) Beginning September 1, 2017, there is created a delivery service license to be issued by the Alcoholic Beverage Control Board to a delivery service that:

(1) Delivers prepared food from restaurants to customers as part of the delivery service’s business; and

(2) Seeks to deliver sealed packages of alcoholic beverages or beer or both sold by a retailer licensed under this title.

(b)(1)(A) A person, partnership, limited liability company, or corporation desiring to deliver sealed packages of alcoholic beverages or beer sold by a retailer licensed under this title as part of the delivery service shall apply to the board for a delivery service license.

(B) The application shall be in writing and verified on forms authorized by the board.

(2)(A) A person applying for a delivery service license shall be twenty-one (21) years of age or older and shall not have been convicted of a felony.

(B) The board may issue a delivery service license to an individual, partnership, limited liability company, or corporation that is registered to do business in the State of Arkansas regardless of the residence of the ownership of the individual, partnership, limited liability company, or corporation.

(c) Each applicant for a delivery service license shall pay to the board an annual license fee of three hundred dollars (\$300).

(d)(1) Each delivery service licensee shall conduct or have a third party conduct a local and national criminal background check on a potential employee that seeks to be licensed under this subchapter.

(2) A background check under this section shall include a multistate criminal records locator or other similar commercial nationwide database with validation.

(e) Each delivery service licensee shall ensure that each employee delivering alcoholic beverages or beer is licensed under this subchapter.

3-4-1102. Delivery employee license – Created.

(a) Beginning September 1, 2017, there is created a delivery employee license to be issued by the Alcoholic Beverage Control Board to an individual employed by a person who delivers alcoholic beverages or beer under this subchapter.

(b)(1) An individual seeking a delivery employee license shall make application for the license by completing an application form prescribed by the board.

(2) An applicant shall demonstrate that the applicant:

(A) Is at least twenty-one (21) years of age;

(B) Has had a background check done under this subchapter to ensure the individual has not been convicted of a crime involving the sale or distribution of alcohol within the previous eight (8) years and has not been convicted of any felony within the previous five (5) years;

(C) Has a valid driver's license; and

(D)(i) Has completed a responsible alcohol server course approved by the Alcoholic Beverage Control Division.

(ii) A course offered under subdivision (b)(2)(D)(i) of this section shall be completed every two (2) years.

(c) An individual applying for a license under this section shall pay to the board a fee of fifty dollars (\$50.00).

(d) A delivery employee license shall be valid for two (2) years.

3-4-1103. Delivery service operations.

(a) Beginning September 1, 2017, a delivery service that delivers prepared food from restaurants to customers as part of the delivery service's business may deliver sealed packages of alcoholic beverages or beer or both sold by a retailer licensed under this title to the delivery service's customers if:

(1) The amount of alcoholic beverages and beer delivered to a customer does not exceed more than one gallon (1 gal.) per customer per delivery;

(2) At least fifty percent (50%) of the delivery service's gross sales come from the delivery of food products or prepared food;

(3) A delivery service employee who delivers alcoholic beverages or beer or both is twenty-one (21) years of age or older;

(4) The delivery service has made more than one hundred thousand (100,000) deliveries in the State of Arkansas;

(5) The delivery service has a written agreement with a retailer to deliver the retailer's alcoholic beverages or beer to customers; and

(6) Before a customer is allowed possession of alcoholic beverages or beer, a delivery service employee who delivers alcoholic beverages or beer requires the customer to show a valid, government-issued document, such as a driver's license or other form of identification deemed acceptable to the employee that includes the photograph and birth date of the customer establishing that the customer is twenty-one (21) years of age or

older.

(b) A delivery service shall not be prohibited from charging a fee to customers when delivering sealed packages of alcoholic beverages or beer sold by a retailer.

(c) A delivery service shall make its services available to all permit holders under this title in their service area.

(d) A delivery under this subchapter shall not be made to any area of the state in which the manufacture or sale of intoxicating liquor is prohibited."

The Amendment was read _____

By: Representative G. McGill

MGF/TDW - 03-13-2017 14:19:06

MGF271

Chief Clerk