

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.

1 State of Arkansas  
2 86th General Assembly  
3 Regular Session, 2007

# A Bill

SENATE BILL 593

4  
5 By: Senator Whitaker

## For An Act To Be Entitled

9 AN ACT TO CREATE A VINOUS BEVERAGE WHOLESALE  
10 PERMIT; TO ENSURE A CLEAR AND ENFORCEABLE  
11 DISTRIBUTION OF ALCOHOLIC BEVERAGES; AND FOR  
12 OTHER PURPOSES.

## Subtitle

15 AN ACT TO CREATE A VINOUS BEVERAGE  
16 WHOLESALE PERMIT.

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

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21 SECTION 1. Arkansas Code § 3-4-601 is amended to read as follows:

22 3-4-601. Kinds of permits generally.

23 There shall be ~~six (6)~~ seven (7) kinds of permits, each of which shall  
24 be distinctive in color and design so as to be readily distinguishable from  
25 each other, to wit:

- 26 (1) Distiller's permit;
- 27 (2) Brewer's permit;
- 28 (3) Rectifier's permit;
- 29 (4) Wholesaler's permit;
- 30 (5) Dispenser's permit; ~~and~~
- 31 (6) Hotel, restaurant, or club permit; and
- 32 (7) Vinous beverage wholesale permit.

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34 SECTION 2. Arkansas Code Title 3, Chapter 5 is amended to add an  
35 additional section to read as follows;

36 3-5-1601. Short Title.



1       This subchapter shall be known and may be cited as the "Vinous Beverage  
2 Wholesale Permit Law".

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4       3-5-1602. Findings – Intent.

5       (a) The General Assembly finds that:

6               (1) Changes to Arkansas laws regarding interstate shipments of  
7 wine are necessary to comply with the Unites States Supreme Court decision in  
8 Granholm v. Heald, 544 U.S. 460 (2005); and

9               (2) The long-standing practice under which Arkansas native  
10 wineries deliver native wines directly to retail dealers should be extended  
11 to out-of-state wineries.

12       (b) This subchapter is intended to:

13               (1) Authorize, on a limited basis, out-of-state wineries to ship  
14 and deliver directly to retail dealers within the State of Arkansas;

15               (2) Collect all state excise and sales taxes due on direct  
16 shipments of vinous beverages; and

17               (3) Ensure that the distribution system for vinous beverages is  
18 clear and enforceable.

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20       3-5-1603. Definitions.

21       As used in this subchapter:

22               (1) "Person" means one (1) or more natural persons, a company,  
23 corporation, partnership, syndicate, or association;

24               (2) "Retail dealer" means any person who sells vinous beverages  
25 in quantities of five (5) gallons or less to the consumer and holds a valid  
26 retail liquor permit or restaurant permit issued by the Alcoholic Beverage  
27 Control Division;

28               (3) "Transport" means to carry, convey, move, or haul by person,  
29 animal, or vehicle, or by any other means, vinous beverages from one (1)  
30 place to another place, whether the places are definitely designated or not;

31               (4) "Vinous beverage" means the fermented juices of fruits,  
32 except native wine, containing more than five percent (5%) and not more than  
33 twenty-one percent (21%) of alcohol by weight;

34               (5) "Warehouse" means a house or building equipped to maintain a  
35 temperature as may be required by the rules promulgated by the Alcoholic  
36 Beverage Control Division for the storage of vinous beverages; and

1           (6) "Winery" means any place or establishment where vinous  
2 beverages are manufactured in whole or in part.

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4           3-5-1604. Permit Required.

5           (a) For the privilege of an out-of-state winery selling vinous  
6 beverages within this state, there is assessed an annual vinous beverage  
7 wholesale permit fee of two hundred fifty dollars (\$250).

8           (b) A person may apply for a permit under this subchapter if the  
9 person is an out-of-state winery that:

10           (1) Holds both a federal basic permit issued by the Alcohol Tax  
11 and Trade Bureau and a license to manufacture wine in its state of domicile;  
12 and

13           (2) Is an out-of-state winery that produced less than two  
14 hundred fifty thousand gallons (250,000 gal.) of vinous beverages during the  
15 year preceding the year for which the permit is requested.

16           (b)(1)(A) A winery holding a permit under this subchapter may  
17 distribute only its own brands.

18           (B) Each bottle of vinous beverage distributed under  
19 subdivision (b)(1)(A) of this section shall carry the winery's own label.

20           (2) The Alcoholic Beverage Control Division shall not require  
21 registration of brands or labels for wineries permitted under this  
22 subchapter.

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24           3-5-1605. Transportation.

25           (a) It is lawful to transport vinous beverages into this state if the  
26 Arkansas excise tax prescribed by law has been paid.

27           (b) It is lawful for any winery holding a vinous beverage wholesale  
28 permit to transport and ship vinous beverages into the state of Arkansas by  
29 common carrier or other appropriate parcel delivery service.

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31           3-5-1606. Warehousing.

32           (a) Vinous beverages upon which the Arkansas excise tax prescribed by  
33 law has not been paid shall be transported from without this state to a  
34 warehouse within this state and may be received and kept in storage in this  
35 state, upon the execution of a bond that the Alcoholic Beverage Control  
36 Division prescribes by rule.

1           (b) The division shall:

2                   (1) Require the storage of all vinous beverages upon which the  
3 Arkansas excise tax prescribed by law has not been paid in state-supervised  
4 warehouses, designated and licensed by the director before the sale of the  
5 vinous beverages; and

6                   (2) Provide for the supervision, inspection, and collection of  
7 the costs of the designated warehouses.

8                   (c) The division shall issue a warehouse permit to a holder of a  
9 vinous beverage wholesale permit upon payment of the fee required under § 3-  
10 5-1604.

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12           3-5-1607. Rules.

13                   The Alcoholic Beverage Control Division shall promulgate rules for the  
14 levy, assessment and collection of the tax under this section.

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