

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013

# A Bill

HOUSE BILL 1109

4  
5 By: Representative Broadaway  
6

## 7 For An Act To Be Entitled

8 AN ACT TO AMEND THE LAW CONCERNING SPECIFIC ALCOHOLIC  
9 BEVERAGE CONTROL DIVISION PERMITS RELATED TO  
10 RESTAURANTS; TO MAKE TECHNICAL CORRECTIONS; TO  
11 DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

12  
13  
14 Subtitle

15 TO AMEND THE LAW CONCERNING SPECIFIC  
16 ALCOHOLIC BEVERAGE CONTROL DIVISION  
17 PERMITS RELATED TO RESTAURANTS; TO  
18 DECLARE AN EMERGENCY AND MAKE TECHNICAL  
19 CORRECTIONS.

20  
21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

22  
23 SECTION 1. Arkansas Code § 3-4-605 is amended to read as follows:  
24 3-4-605. Wholesalers.

25  
26 (a) Any A person other than a distiller, manufacturer, rectifier, or  
27 importer may apply to the Director of the Alcoholic Beverage Control Division  
28 for a permit to sell spirituous liquor, wine as defined in § 3-9-301(2),  
29 beer, or malt liquors liquor at wholesale.

30  
31 (b) The application shall be in writing and shall set forth in detail  
32 such information concerning the applicant for the permit and the premises to  
33 be used by the applicant as the director may require.

34  
35 (c) The application shall be accompanied by a certified check, cash,  
36 or postal money order for the amount required ~~by this act~~ by law for the  
37 permit.

38 (d) If the director grants the application, he or she shall issue a



1 permit in a form as determined by the rules of the Alcoholic Beverage Control  
2 Division.

3 (e) The permit shall contain a description of the premises permitted  
4 and in form and substance shall be a permit to the person specifically  
5 designated in the permit to sell spirituous liquor, wine as defined in under  
6 § 3-9-301(2), beer, or malt liquors liquor for beverage purposes.

7 (f) A person holding a distiller's or rectifier's permit need not  
8 obtain a wholesaler's permit in order to sell at wholesale spirituous liquor  
9 or wine as defined in under § 3-9-301(2).

10 (g)(1)(A) A person other than a person holding a distiller's,  
11 manufacturer's, or rectifier's permit shall not sell spirituous liquor, wine  
12 as defined in § 3-9-301(2), or malt liquors liquor at wholesale.

13 (B) A person other than a person holding a wholesaler's  
14 permit shall not sell spirituous liquor, wine as defined in under § 3-9-  
15 301(2), or malt liquors liquor at wholesale.

16 (2) A wholesaler holding a permit shall not sell or buy from  
17 another unless he or she holds a permit, but a wholesaler may export from or  
18 import into this state liquors under rules promulgated by the Alcoholic  
19 Beverage Control Division division.

20 (h)(1) A wholesaler shall not sell or contract to sell any spirituous  
21 liquor, wine as defined in under § 3-9-301(2), beer, or malt liquors liquor  
22 to a dispensary, hotel, restaurant, or club if the dispensary, hotel,  
23 restaurant, or club is not authorized under this act to receive, possess,  
24 transport, distribute, or sell spirituous liquor, wine as defined in under §  
25 3-9-301(2), beer, or malt liquors liquor.

26 (i)(2)(A) Further, a licensed wholesaler of any spirituous liquor,  
27 beer, or wine as defined in under § 3-9-301(2) in Arkansas may only purchase  
28 spirituous liquor, beer, or wine as defined in under § 3-9-301(2) from a  
29 distiller, importer, rectifier, or a domestic wine producer.

30 (B) However, this restriction does not apply to the  
31 purchase of native wines small farm wine.

32 (j)(i)(1) For the privilege of storing, transporting, and selling  
33 spirituous liquor, wine as defined in under § 3-9-301(2), beer, or malt  
34 liquors liquor at wholesale, there is assessed and there shall be paid by  
35 each permittee an annual permit fee of and by every person engaged therein.  
36 The permit fee shall be in the sum of seven hundred dollars (\$700) for each

1 separate and distinct establishment.

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

5

6 SECTION 2. Arkansas Code § 3-4-607 is amended to read as follows:

7 3-4-607. Minimum wholesale liquor permit.

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

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

16 (3) A case is a container that holds nine liters (9 l) of  
17 beverages.

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

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

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

27 (e) The minimum wholesale liquor permit shall contain a description of  
28 the premises permitted and in form and substance shall be a minimum wholesale  
29 liquor permit to the person specifically designated to sell spirituous  
30 ~~liquors~~ liquor, wine as defined ~~in~~ under § 3-9-301(2), and malt ~~liquors~~  
31 liquor for beverage purposes.

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

36 (2) A wholesaler holding a minimum wholesale liquor permit shall

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

6 (g) A wholesaler holding a minimum wholesale liquor permit shall not  
 7 sell or contract to sell any spirituous ~~liquors~~ liquor, wine as defined ~~in~~  
 8 under § 3-9-301(2), and ~~or~~ or malt ~~liquors~~ liquor to a dispensary, hotel,  
 9 restaurant, or club if the dispensary, hotel, restaurant, or club ~~is not~~  
 10 ~~authorized under § 3-4-601 does not hold a permit recognized by law or a rule~~  
 11 of the division to receive, possess, transport, distribute, or sell  
 12 spirituous ~~liquors~~ liquor, wine as defined ~~in~~ under § 3-9-301(2), and malt  
 13 ~~liquors~~ liquor.

14 (h) A minimum wholesale liquor permittee of any spirituous ~~liquors~~  
 15 liquor, wine as defined ~~in~~ under § 3-9-301(2), and malt ~~liquors~~ liquor in  
 16 Arkansas ~~shall~~ may purchase spirituous ~~liquors~~ liquor, wine as defined ~~in~~  
 17 under § 3-9-301(2), and ~~or~~ or malt ~~liquors~~ liquor only from a distiller,  
 18 importer, rectifier, or a domestic wine producer. However, this restriction  
 19 does not apply to the purchase of ~~native wines~~ small farm wine.

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

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

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

27

28 SECTION 3. Arkansas Code § 3-4-1001(a)(1), concerning a permit to sell  
 29 alcoholic beverages, is amended to read as follows:

30 (a)(1) In addition to all other existing alcoholic beverage permits  
 31 ~~authorized to be~~ issued by the Alcoholic Beverage Control Division for the  
 32 retail sale of alcoholic beverages, there is created a restaurant beer and  
 33 wine permit, ~~which~~ that authorizes the sale of beer and wine as defined ~~in~~  
 34 under § 3-9-301(2) at restaurants as defined ~~in~~ under § 3-9-301(4).

35

36 SECTION 4. Arkansas Code § 3-9-202(7)–(15), concerning the definitions

1 related to on-premises consumption of alcoholic beverages is amended to read  
2 as follows:

19 (i) Is used, advertised, and held out to the public  
20 to be a place where food is actually served and consumed;

24 (iii) Has fifty (50) or more rooms that are used for  
25 the sleeping accommodations of guests.

32                           (8)(9) "Initiated Act" means Initiated Act No. 1 of 1942, as  
33 amended, §§ 3-8-201 – 3-8-203 and 3-8-205 – 3-8-209, which establishes the  
34 procedure for local option elections to prohibit the manufacture or sale of  
35 intoxicating liquor;

36 (9)(10) "Large event facility" means a facility that houses

1 convention center activity, tourism activity, trade show and product display  
2 and related meeting activity, or any other similar large meeting or  
3 attendance activity and that either itself or through one (1) or more  
4 independent contractors complies with all of the following:

5 (A) Serves full and complete meals and food on the  
6 premises;

7 (B) Has one (1) or more places for food service on the  
8 premises with a seating capacity for not ~~fewer~~ less than five hundred (500)  
9 people; and

10 (C) Employs a sufficient number and kind of employees to  
11 serve meals and food on the premises who are capable of handling at least  
12 five hundred (500) people;

13 (11) "Meal" means the usual assortment of food commonly ordered  
14 at various hours of the day;

15 (10)(12) "On-premises consumption" means the sale of alcoholic  
16 beverages by the drink or in broken or unsealed containers for consumption on  
17 the premises where sold;

18 (11)(13) "Person" means any natural person, partnership,  
19 association, or corporation;

20 (12)(14)(A)(i) "Private club" means a nonprofit corporation:  
21 (a) ~~organized and existing~~ Organized under the  
22 laws of this state,;

23 (b) ~~no part of the~~ Whose net revenues of which  
24 ~~shall do not~~ inure directly or indirectly to the benefit of any of its  
25 members or any other individual, except for the payment of bona fide expenses  
26 of the club's operations,; and

27 (c) which Whose business is conducted for some  
28 common recreational, social, patriotic, political, national, benevolent,  
29 athletic, community hospitality, professional association, entertainment, or  
30 other nonprofit object or purpose other than the consumption of alcoholic  
31 beverages.

32 (ii) The nonprofit corporation shall have been in  
33 existence for a period of not less than one (1) year before applying for a  
34 permit, as prescribed in this subchapter.

35 (iii) At the time of application for the permit, the  
36 nonprofit corporation shall:

(a) must not fewer than Have one hundred (100)

(b) at the time of application must own own or lease, be the holder of a buy-sell agreement or offer and acceptance, or have an option to lease a building, property, or space therein for the reasonable comfort and accommodation of its members and their families and guests and restrict the use of club facilities to those persons.

(B) For purposes of this subdivision ~~(12)~~ (14), a person shall be is required to become a member of the private club in any wet area of the state only upon ordering an alcoholic beverage as defined under subdivision (1) of this section.

(C) Furthermore, where the When a business entity that holds a private club permit ~~additionally holds and~~ a retail beer permit, retail wine for consumption on the premises permit, or cafe or restaurant wine permit, the hours of operation authorized for the private club shall ~~likewise~~ apply to all permits of the business entity;

(13)-(15) “Referendum election” means an election:

(A) held as provided in Held under this subchapter,  
~~at which; and~~

(B) In which the electors of a city or county shall vote on the question of authorizing, ~~as provided herein~~, the sale of alcoholic beverages for on-premises consumption in those areas of the city or county in which the lawful sale of alcoholic beverages has not been prohibited by a local option election held pursuant to the ~~Initiated Act~~ initiated act; and

(14)(16) "Restaurant" means any a public or private place that:

(A)(i) Kept, used, maintained, advertised, and held out to the public or to a private or restricted membership as a place where complete meals are served and where complete meals are actually and regularly served, without sleeping accommodations, such a place being provided with adequate and sanitary kitchen and dining equipment and a seating capacity of at least fifty (50) people and having employed therein a sufficient number and kind of employees to prepare, cook, and serve suitable food for its guests or members.

(ii) At least one (1) meal per day shall be served, open a minimum of five (5) days per week, with the

1 exception of holidays, vacations, and periods of redecorating; or  
 2 (A)(i) Is primarily engaged in the business of serving a  
 3 meal for consumption on the premises to a guest and has a suitable kitchen  
 4 facility to serve the entire menu approved by the Alcoholic Beverage Control  
 5 Division.

6 (ii) The menu shall contain a selection of food and  
 7 shall not be limited to sandwiches or salads.

8 (iii) The kitchen shall:

9 (a) Have adequate refrigeration to preserve  
 10 the food on the menu;  
 11 (b) Be kept in a sanitary condition; and  
 12 (c) Comply with the regulations of the local  
 13 department of health.

14 (iv) Food from the menu shall be available from  
 15 opening time until two hours before closing time; or

16 (B)(i) Which qualifies Qualifies as a "large meeting or  
 17 attendance facility", which that is defined, without limitation, as a  
 18 facility housing convention center activity, tourism activity, trade show and  
 19 product display and related meeting activity, or any other similar large  
 20 meeting or attendance activity and which that either itself or through one  
 21 (1) or more independent contractors complies with all of the following:

22 (a) Actually serves Serves full and complete  
 23 meals and food on the premises;

24 (b) Has one (1) or more places for food meal  
 25 service on the premises with a seating capacity for not fewer less than five  
 26 hundred (500) people;

27 (c) Employs a sufficient number and kind of  
 28 employees to serve meals and food on the premises capable of handling who are  
 29 capable of serving at least five hundred (500) people; and

30 (d) Serves alcoholic beverages on the premises  
 31 at one (1) or more places only on days that meals and food are served at one  
 32 (1) or more places on the premises.

33 (ii)(a)(1) Any An on-premises restaurant permittee  
 34 as licensed by under subdivision (14)(A) (16)(A) of this section and any a  
 35 hotel or motel on-premises permittee as licensed by under subdivision (7)(8)  
 36 of this section shall be allowed to may serve alcoholic beverages purchased

1 under its permit at any large meeting or attendance facility which that is  
2 licensed under this subdivision ~~(14)(B)~~(16)(B).

25 (c) The board shall promulgate regulations as  
26 it deems necessary to implement and administer subdivisions (14)(B)(ii)(a)-(e)  
27 & (16)(B)(ii)(a) and (b) of this section.

1 scorecard.

12 (iv)(a)(1) When a large attendance facilities  
13 facility permit has been issued to a facility owned or operated by the owner  
14 of a professional sports team franchised by Minor League Baseball and within  
15 a county that has a population of more than one hundred fifty-five thousand  
16 (155,000) according to the 2000 Federal Decennial Census, the operator of the  
17 facility may accept sponsorship funds, advertising items, or promotional  
18 items from a licensed beer wholesalers wholesaler.

21 (b) However, if If the use of sponsorship  
22 funds, advertising items, or promotional items by the beer wholesaler results  
23 in the formation ~~or existenee~~ of an exclusive buying arrangement by the large  
24 attendance ~~faeililities~~ facility permittee and the wholesaler who furnishes the  
25 sponsorship funds, advertising items, or promotional items, then the  
26 exclusive buying arrangement ~~will be~~ is a violation of the large attendance  
27 ~~faeililities~~ facility permit and the wholesaler's wholesale beer permit even if  
28 the arrangements are caused by third parties.

29 (c) Section 3-5-214 or any other law that  
30 could be interpreted to preclude arrangements to use the sponsorship funds,  
31 advertising items, or promotional items allowed in this subdivision  
32 ~~(14)(B)(iv) (16)(B)(iv) shall does~~ not apply to this subdivision ~~(14)(B)(iv)~~  
33 (16)(B)(iv).

35 SECTION 5. Arkansas Code § 3-9-216 is amended to read as follows:  
36 3-9-216. Authorization of sales for certain large attendance facilities

1 and restaurants.

2 (a) A large attendance facility under § 3-9-202~~(14)~~(B) in which pari-  
3 mutuel wagering has been authorized and ~~which~~ that has a valid and current  
4 license or permit to sell alcoholic beverages for on-premises consumption may  
5 sell alcoholic beverages for on-premises consumption on any day of the week  
6 during hours in which the large attendance facility is open for business  
7 except on:

8 (1) Christmas Day under § 3-3-211; and  
9 (2)(A) Easter Sunday.

10 (B) However, the large attendance facility may sell  
11 alcoholic beverages on Easter Sunday between the hours of 12:00 midnight and  
12 2:00 a.m.

13 (b) A restaurant under § 3-9-202~~(14)~~(A) may sell alcoholic beverages  
14 for on-premises consumption on Sundays between the hours of 12:00 midnight  
15 and 2:00 a.m. and on Sundays between the hours of 12:00 noon and 2:00 a.m. on  
16 the following Monday in addition to other times authorized by law for selling  
17 alcoholic beverages for on-premises consumption if the restaurant:

18 (1) Is located in the same city as a large attendance facility  
19 authorized to sell alcoholic beverages for on-premises consumption on Sundays  
20 under subsection (a) of this section; and

21 (2) Has a valid and current license or permit to sell alcoholic  
22 beverages for on-premises consumption.

23 (c) This section does not:

24 (1) Authorize the sale of alcoholic beverages in any city or  
25 county or in any portion of a city or county in which the sale of alcoholic  
26 beverages is prohibited by law; or

27 (2) Repeal or modify any law that prohibits the sale of  
28 intoxicating alcoholic liquor, beer, or wine on Sunday unless the law  
29 specifically conflicts with this section.

30  
31 SECTION 6. Arkansas Code § 3-9-221(b)(1), concerning the private club  
32 exception to alcoholic beverage laws, is amended to read as follows:

33 (b)(1) In order to clarify the alcoholic beverage control laws of this  
34 state and to regulate and prohibit the sale of alcoholic beverages in  
35 violation of the provisions of this subchapter and other applicable alcoholic  
36 beverage control laws of this state, the General Assembly determines that the

1 preparation, mixing, and serving of mixed drinks, beer, and wine for  
2 consumption only on the premises of a private club as defined in § 3-9-  
3 202(12) by the members thereof and their guests and the making of a charge  
4 for such services ~~shall not be deemed to be a sale or be in is not a sale or~~  
5 ~~a violation of any law of this state prohibiting the manufacture, sale,~~  
6 barter, loan, or giving away of intoxicating liquor whenever:

7

8 SECTION 7. Arkansas Code § 3-9-221(c), concerning the private club  
9 exception to alcoholic beverage laws, is amended to read as follows:

10 (c) In order to clarify the alcoholic beverage control laws of this  
11 state and to regulate and prohibit the sale of alcoholic beverages in  
12 violation of the provisions of this subchapter and other applicable alcoholic  
13 beverage control laws of this state, the General Assembly determines that the  
14 preparation, mixing, and serving of wine and beer for consumption only by the  
15 lodging guests on the premises of a bed and breakfast private club as defined  
16 in § 3-9-202(2) and the making of a charge for such services ~~shall not be~~  
17 ~~deemed to be a sale or to be in is not a sale or a violation of any law of~~  
18 this state prohibiting the manufacture, sale, barter, loan, or giving away of  
19 intoxicating liquor whenever:

20

21 SECTION 8. Arkansas Code § 3-9-226(a), concerning private club  
22 advertising, is amended to read as follows:

23 (a) It ~~shall be~~ is unlawful for any private club, as defined by § 3-9-  
24 202(10), to use the advertising media to promote the consumption and use of  
25 alcoholic beverages or to advertise or announce the price of service of  
26 alcoholic beverages for on-premises consumption.

27

28 SECTION 9. Arkansas Code § 3-9-227 is amended to read as follows:

29 3-9-227. Large attendance facility mixed drink permit.

30 (a)(1) ~~There is hereby created a~~ A large attendance facility mixed  
31 drink permit ~~which~~ is to be issued ~~for any~~ to a large attendance facility, as  
32 defined by § 3-9-202(14)(B), in which pari-mutuel wagering has been  
33 authorized by law.

34 (2) ~~Such permits~~ A permit may only be issued in ~~cities~~ a city of  
35 the first class in which the sale of alcoholic beverages is authorized by  
36 law.

(b)(1) The attendance qualifications for the large attendance\_facility mixed drink permit are the same as those currently provided for large attendance facilities as set out in § 3-9-202(14)(B).

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

SECTION 10. Arkansas Code § 3-9-236(12)(B), concerning the minimum legal age to serve alcohol, is amended to read as follows:

(B) ~~Provided, that any~~ However, a permittee that has obtained a permit under the provisions of § 3-9-202(7) or § 3-9-202(14) may employ ~~persons~~ a person nineteen (19) years of age or older in the serving of alcoholic beverages.

SECTION 11. Arkansas Code § 3-9-238 is amended to read as follows:

3-9-238. Pari-mutuel mixed drink permit.

(a)(1) ~~There is hereby created a~~ A pari-mutuel mixed drink permit which is to be issued ~~for any~~ to a restaurant, as defined by § 3-9-202(8)(A), in ~~any~~ a county where pari-mutuel wagering has been authorized by law.

(2) The permits A permit may be issued only in cities a city of the first class in which the sale of alcoholic beverages is authorized by law.

(b) The permit fees and qualifications for the permits are the same as those currently provided for restaurants as set out in § 3-9-202(8)(A). However, the seating capacity of these restaurants must be at least one hundred (100) seats.

SECTION 12. Arkansas Code § 3-9-301 is amended to read as follows:

### 3-9-301. Definitions.

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

(1) "Director" means the Director of the Alcoholic Beverage Control Division;

(2) "Guest" means a person who orders and is served a meal inside a restaurant during regular hours.

(2)(3)(A) “License” means a license to sell wine in a restaurant or cafe.

(B) An annual fee of three hundred dollars (\$300) shall be

1 paid for each license or renewal of a license.

2 (C) All moneys derived from the annual fees shall be  
 3 deposited into the State Treasury as general revenues to the credit of the  
 4 State Apportionment Fund, to be allocated and transferred to the various  
 5 funds, fund accounts, and accounts participating in general revenues in the  
 6 respective proportions to each as provided by law, and to be used for the  
 7 respective purposes set forth in the Revenue Stabilization Law, § 19-5-101 et  
 8 seq.;

9 (4) "Meal" means food commonly ordered at various hours of the  
 10 day;

11 (3)(5) "Person" means any a person, firm, partnership,  
 12 association, or corporation;

13 (4)(6)(A) "Restaurant" or "cafe" means a place of business  
 14 ~~serving food to the public prepared for consumption on the premises at an~~  
 15 ~~established eating place, as defined by reasonable rules and regulations~~  
 16 ~~promulgated by the Alcoholic Beverage Control Board that is regularly used to~~  
 17 ~~serve a meal to a guest for compensation and has a suitable kitchen facility~~  
 18 ~~to serve an entire menu approved by the Alcoholic Beverage Control Division~~;

19 (B) The menu shall contain a selection of food and shall  
 20 not be limited to sandwiches or salads.

21 (C) The kitchen shall:

22 (i) Have adequate refrigeration to preserve the food  
 23 on the menu;

24 (ii) Be kept in a sanitary condition; and  
 25 (iii) Comply with the regulations of the local  
department of health;

27 (B)(D)(i) ~~The board division is authorized and directed to~~  
 28 ~~establish appropriate rules and regulations defining "established eating~~  
 29 ~~places" to the extent that licenses granted shall promulgate and enforce~~  
 30 ~~rules under the provisions of this subchapter shall be issued only to those~~  
 31 ~~business establishments to ensure a license is issued to a business~~  
 32 ~~establishment~~ whose principal business is serving food for consumption on the  
 33 premises.

34 (ii) ~~However, a~~ A drive-in shall not be classified  
 35 ~~as an established eating place a restaurant or cafe; and~~

36 (5)(7) "Wine" or "wines" means any a port wine, sherry wine,

1 vermouth wine, or other ~~wines~~ wine, the alcoholic content of which does not  
2 exceed twenty-one percent (21%), regardless of whether the ~~wines are~~ wine is  
3 manufactured ~~within or without~~ in the State of Arkansas.

4

5 SECTION 13. Arkansas Code § 3-9-304 is repealed.

6 ~~3-9-304. Sale by restaurant located near certain cities.~~

7 ~~Any restaurant, as defined in § 3-9-301(4), which is located within two~~  
8 ~~(2) miles of a city having a population of at least fifty five thousand~~  
9 ~~(55,000) but not more than sixty thousand (60,000) persons according to the~~  
10 ~~1970 Federal Decennial Census, and in an area in which the sale of alcoholic~~  
11 ~~beverages is lawful, shall be entitled to make application for and obtain a~~  
12 ~~permit to serve wine with food in such restaurants in the manner prescribed~~  
13 ~~in this subchapter.~~

14

15 SECTION 14. Arkansas Code § 3-9-305(7), concerning a permit to sell  
16 wine, is amended to read as follows:

17 (7) The cafe or restaurant making application for the license is  
18 primarily engaged in the business of serving foods to the public prepared for  
19 consumption on the premises ~~and must be an established eating place within~~  
20 ~~the rules and regulations promulgated by the Alcoholic Beverage Control Board~~  
21 ~~as provided in § 3-9-301(4).~~

22

23 SECTION 15. EMERGENCY CLAUSE. It is found and determined by the  
24 General Assembly of the State of Arkansas that the law regarding the  
25 definition of a restaurant is necessary to avoid ambiguity in state law and  
26 the Arkansas Beverage Control Division's rules. Therefore, an emergency is  
27 declared to exist and this act being immediately necessary for the  
28 preservation of the public peace, health, and safety shall become effective  
29 on:

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

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

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

36