

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

A Bill

SENATE BILL 374

5 By: Senators J. English, L. Chesterfield, J. Hutchinson, D. Johnson, Elliott
6 By: Representatives Williams, Perry, Julian, E. Armstrong, Sabin, Davis
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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; AND FOR OTHER PURPOSES.
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Subtitle

16 TO AMEND THE ALCOHOLIC BEVERAGE LAW
17 CONCERNING LOCAL OPTION ELECTIONS FOR A
18 TERRITORIAL SUBDIVISION THAT IS LOCATED
19 IN A WET COUNTY AND WAS VOTED DRY BY A
20 DEFUNCT VOTING DISTRICT FROM INITIATED
21 ACT 1 OF 1942.
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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27 SECTION 1. Arkansas Code Title 3, Chapter 8, is amended to add an
28 additional subchapter to read as follows:

29 3-8-601. Definitions.

30 As used in this subchapter:

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

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

34 (A) Existed at the time its qualified voters voted to be
35 dry;

36 (B) Is no longer recognized by the state or the county in



1 which it was located; and

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

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

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

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

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

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

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

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

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

27 (a)(1) Under subsection (b) of this section a current voting district
28 that exists for the purpose of conducting county-wide elections may
29 participate in a vote to permit the manufacture and sale of alcoholic
30 beverages identified in subdivision (a)(2) of this section when the current
31 voting district is located wholly or partially in a defunct voting district.

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.

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3 (b) An election for a current voting district qualified under
4 subdivision (a)(1) of this section to permit the manufacture and sale of
5 alcoholic beverages identified in subdivision (a)(2) of this section shall be
6 held as follows:

7 (1)(A) The judge of the county court in which the defunct voting
8 district is located shall issue a resolution ordering the special local
9 option election to be held in accordance with § 7-11-201 et seq.

10 (B) The resolution shall identify the:

11 (i) Territorial subdivisions that are affected by
12 the election;

13 (ii) Name of the defunct voting district;

14 (iii) Date on which the defunct voting district held
15 the local option election that resulted in the defunct voting district
16 becoming dry;

17 (iv)(a) Boundaries of the defunct voting district at
18 the time of the local option election that resulted in the defunct voting
19 district becoming dry.

20 (b) The boundaries of the defunct voting
21 district shall be based on county records; and

22 (v) Current voting districts that exist for the
23 purpose of conducting county-wide elections that are located wholly or
24 partially within the boundaries of the defunct voting district as determined
25 by the county court;

26 (2)(A) The election shall be submitted to the voters in the
27 current voting districts identified in the county court's resolution.

28 (B) A majority vote of the qualified electors in the
29 current voting districts identified in the county court's resolution shall
30 determine whether or not alcoholic beverages may be sold or manufactured
31 under subdivision (a)(2) of this section within the boundaries of the defunct
32 voting district; and

33 (3)(A) The question shall be placed upon the ballot in the
34 current voting districts identified in the county court's resolution and be
35 conducted in the manner provided by § 3-8-206.

36 (B) The ballot shall be in the following form:

1 "[] FOR the Sale of Alcoholic Beverages, As Authorized by Ark. Code §
2 3-8-602.

3 [] AGAINST the Sale of Alcoholic Beverages, As Authorized by Ark. Code
4 § 3-8-602."

5 (c) If a current voting district is located within the boundaries of
6 two or more defunct voting districts:

7 (1)(A) The district's voters are eligible to vote in the local
8 option election for both of the defunct voting districts.

9 (i)(a) If a defunct voting district is located
10 entirely within the boundaries of a larger defunct voting district, a vote
11 will be held only for the larger defunct voting district.

12 (b) The majority vote of the voters in the
13 current voting districts located wholly or partially within the boundaries of
14 the larger defunct voting district, as identified in the court's resolution,
15 will determine whether or not alcoholic beverages may be sold or manufactured
16 under subdivision (a)(2) of this section within the geographic boundaries of
17 the larger defunct voting district.

18 (ii) If two defunct voting districts overlap,
19 whether or not alcoholic beverages may be sold or manufactured under
20 subdivision (a)(2) of this section within that geographical area located in
21 both defunct districts will be determined by the majority vote of the voters
22 in the current voting districts located wholly or partially within the
23 boundaries of the defunct voting district that first held the local option
24 election resulting in its dry status.

25 (B) The local option elections may be held simultaneously
26 or on different dates.

27 (C) The voters in the local option elections shall be
28 provided separate ballots for each defunct voting district;

29 (2) The judge of the county court may call a local option
30 election for one (1) or more defunct voting districts qualified under
31 subdivision (a)(1) of this section in one (1) resolution or in different
32 resolutions at different times under subsection (b) of this section; and

33 (3) The majority vote of all the current county voting districts
34 lying wholly or partially in each defunct voting district identified in the
35 county court's resolution shall determine the local option status of only the
36 geographic area located within the boundaries of that particular defunct

1 voting district.

2 (d) Immediately after the certification of the results of an election
3 permitting the sale or manufacture of alcoholic beverages under this section,
4 the Director of the Alcoholic Beverage Control Division may issue permits for
5 the sale or manufacture of alcoholic beverages as described under subdivision
6 (a)(1) of this section.

7 (e)(1) The county court in a county with a current voting district
8 qualified under subdivision (a)(1) of this section must order a local option
9 election under subsection (b) of this section within ninety (90) days of the
10 effective date of this act.

11 (2) If the county court in a county with a defunct voting
12 district qualified under subdivision (a)(1) of this section fails to call a
13 local option election under subsection (b) of this section within ninety (90)
14 days of the effective date of this act:

15 (A) A local option election for a defunct voting district
16 may be held pursuant to the petition procedures set forth in § 3-8-201 et
17 seq.; and

18 (B)(i) The signatures required under §§ 3-8-204 and 3-8-
19 205 for the defunct voting district shall be obtained from qualified electors
20 of the current voting district that exist for the purpose of conducting
21 county-wide elections that are located wholly or partially within the
22 boundaries of the defunct voting district.

23 (ii) Upon the request of a registered voter of the
24 county, the county court shall issue a resolution containing the information
25 required under subdivision (b)(1)(B) of this section and that identifies the
26 qualified electors for the voting districts of the county that will
27 participate in an election for the defunct voting district.

28 (f)(1) If a local option election is conducted under subsection (b) of
29 this section and the majority vote of the qualified electors is against the
30 manufacture or sale of intoxicating liquors identified in subdivision
31 (a)(2) of this section in the territorial subdivision, then a subsequent
32 special local option election for that territorial subdivision may be held
33 pursuant to the process set forth in subsection (e) of this section.

34 (2) An election under this subdivision (f)(1) of this section
35 shall not be held in the same territorial subdivision until a period of two
36 (2) years has elapsed since the special local option election conducted under

1 subsection (b) of this section.

2 (g) The cost of a local option election under this section shall be
3 paid by the county in the same manner as it pays costs of a general election.

4 (h) The boundaries of a defunct voting district as identified by the
5 county court in the resolution required by subdivision (b)(1)(B) of this
6 section will be deemed final and valid unless clearly erroneous or arbitrary.

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