

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

A Bill

SENATE BILL 432

5 By: Senator R. Thompson
6 By: Representative Wright
7

For An Act To Be Entitled

9 AN ACT TO CHANGE THE POPULATION RATIO TO SELL VINOUS,
10 SPIRITUOUS, OR MALT LIQUOR OFF-PREMISES; AND FOR
11 OTHER PURPOSES.
12
13

Subtitle

15 TO CHANGE THE POPULATION RATIO TO SELL
16 VINOUS, SPIRITUOUS, OR MALT LIQUOR OFF-
17 PREMISES.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code § 3-4-201 is amended to read as follows:

23 3-4-201. Number of permits restricted.

24 (a) ~~It is declared to be the~~ The public policy of the state ~~that is to~~
25 restrict the number of permits in this state to dispense vinous (except small
26 farm wines), spirituous, or malt liquor ~~shall be restricted~~.

27 (b)(1) The Alcoholic Beverage Control Board ~~is empowered to~~ shall
28 determine whether public convenience and advantage will be promoted by
29 issuing ~~the permits~~ a permit and by increasing or decreasing the number
30 ~~thereof~~ of permits it issues.

31 (2) ~~In order to further carry out the policy hereinbefore~~
32 ~~declared, the~~ The number of permits ~~so~~ issued by the board shall be
33 restricted.

34 (c) The board ~~is further given~~ has the discretion to determine the
35 number of permits to be granted in each county of this state or within the
36 corporate limits of any municipality of this state and to determine the



1 location ~~thereof~~ and the persons to whom ~~they~~ the permits shall be issued,
2 under the following conditions:

3 (1)(A) The number of permits allowing the off-premises sale of
4 vinous (except small farm wines), spirituous, or malt liquor in ~~any a~~ a county
5 or political subdivision of the county which permits the sale shall not
6 exceed a ratio of one (1) permit for every ~~four thousand (4,000)~~ five
7 thousand (5,000) population residing in that county or political subdivision
8 of the county.

9 (B) Population of the ~~area involved~~ county or political
10 subdivision of the county shall:

11 (i) ~~be~~ Be determined by ~~the most recent population~~
12 ~~figures established in a census by the Bureau of the Census of the United~~
13 ~~States Department of Commerce or other appropriate governmental subdivision;~~
14 according to the most recent federal decennial census; and

15 (ii) Count all residents of the county or political
16 subdivision of the county, including without limitation the residents of a
17 dry political subdivision of a county; and

18 (2) ~~New permits~~ A new permit ~~which may be~~ that is issued in a
19 county or political subdivision ~~thereof~~ following ~~a regular~~ the most recent
20 decennial census shall be issued under the following restrictions:

21 (A) Additional permits may be issued on a ratio of one (1)
22 for every additional ~~four thousand (4,000)~~ five thousand (5,000) population
23 within the ~~area~~ county or political subdivision of the county;

24 (B)(i) ~~Any~~ A qualified applicant may apply for a permit.

25 (ii) Qualifications are to be set ~~from time to time~~
26 by the board and its determination of the public convenience and advantage;

27 (3)(A) If it is determined that a county or political
28 subdivision ~~thereof~~ of the county is entitled to additional permits when
29 warranted by ~~a~~ the most recent federal decennial census, the board will
30 announce ~~prior to~~ before the last date for applications the number of new
31 permits, if any, which may be issued ~~therein~~ in the county or political
32 subdivision of the county.

33 (B) In the event that ~~such regular~~ the most recent federal
34 decennial census population figures decline in a ~~given~~ county or political
35 subdivision ~~thereof, no existing~~ of the county:

36 (i) Existing permits shall not be cancelled or

1 revoked for ~~that reason,~~ the decline in population;

2 (ii) ~~and the~~ The quota ratio shall not be applied
3 ~~thereto~~ to the county or political subdivision of the county until the
4 population in the county or political subdivision ~~thereof~~ of the county
5 reaches a number ~~equalling~~ equaling one (1) permit to every ~~four thousand~~
6 ~~(4,000)~~ five thousand (5,000) population ~~therein, nor;~~ and

7 (iii) ~~shall any~~ A new permit shall not be issued
8 ~~therein~~ in the county or political subdivision of the county until the
9 population warrants.

10 (C) ~~No~~ A transfer of locations from one county to another
11 county ~~shall be~~ is not allowed.

12 (D) ~~In the event that any~~ If a holder of a permit for the
13 sale of vinous (except small farm wines), spirituous, or malt liquor
14 surrenders ~~a~~ the permit in a county or ~~municipality thereof~~ political
15 subdivision of the county where the ratio no longer meets the ~~one to four~~
16 ~~thousand (1:4,000)~~ one-to-five-thousand-population requirement, ~~no~~ new
17 applications will not be accepted until that ratio is reestablished at ~~an~~
18 ~~approved census~~ a subsequent decennial census;

19 (4)(A)(i) ~~In the event~~ If a permit holder does not conduct business
20 under ~~any~~ a permit issued for a period of more than thirty (30) days, the
21 permit shall be surrendered to the ~~director~~ Director of the Alcoholic
22 Beverage Control Division and shall be placed on inactive status.

23 (ii) The permit may remain inactive for six (6)
24 months or until the permit holder notifies the director that he or she is
25 ready to resume business, whichever is longer.

26 (B) To secure the return of the permit, the permit holder
27 shall file with the director a written statement showing:

28 (i) That all taxes and fees owing to the state have
29 been paid;

30 (ii) The reason for the suspension of business
31 activities; and

32 (iii) The date business activity will resume.

33 (C)(i) The permit holder may petition the board for an
34 extension of inactive status for an additional six-month period.

35 (ii) The board may grant an initial extension upon a
36 showing by the permit holder and a finding by the board that:

1 (a) ~~business~~ Business circumstances exist to
2 justify an extension;

3 (b) ~~that the~~ The delay to return to business
4 was not due to mere deferral or inattention on the part of the permit
5 holder; and

6 (c) ~~that the~~ The inactive status should be
7 extended.

8 (iii)(a) The permit holder may appeal to the board
9 for a second extension of inactive status for an additional six-month period,
10 but only upon a showing by the permit holder and a finding by the board that
11 emergency circumstances exist to justify a final extension.

12 (b) "Emergency circumstances" are those delays
13 in return to business which are beyond the control, planning, or foresight of
14 the permit holder, including, ~~but not limited to,~~ without limitation, a:

15 (1) ~~delays~~ Delay due to a natural
16 ~~disasters,~~ disaster;

17 (2) ~~pending~~ Pending court ~~actions,~~
18 action;

19 (3) ~~building~~ Building construction
20 ~~problems,~~ problem; and

21 (4) ~~contested~~ Contested insurance ~~claims~~
22 claim.

23 (D) ~~Any~~ A permit remaining on inactive status for a period
24 of more than eighteen (18) months or which has not been granted an extension
25 under ~~the provisions of~~ this subdivision shall expire; and

26 (5)(A) ~~Nothing in this~~ This section and §§ 3-4-202 and 3-4-208,
27 except a permit on inactive status for more than eighteen (18) months after
28 the provisions of subdivision (c)(4) of this section become effective or
29 which has expired in accordance with subdivision (c)(4) of this section,
30 ~~shall be construed as to~~ does not divest any permit holder holding the permit
31 on July 1, 1991, regardless of the quota ratio, of his or her permit.

32 (B) ~~In counties or municipalities~~ In a county or political
33 subdivision of the county which ~~have~~ has a ratio lower than the permit quota
34 ratio ~~established herein~~ of one-to-five-thousand-population, the permit
35 holder shall be allowed to continue under subdivision ~~(3)(B)~~ (a)(3)(B) of
36 this ~~subsection~~ section .

1 (d) ~~The provisions of this~~ This section shall apply only to
2 applications for permits to dispense vinous (except small farm wines),
3 spirituous, or malt liquor filed with the board after July 1, 1991.

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5 SECTION 2. Arkansas Code § 3-4-221 is amended to read as follows:
6 3-4-221. Transfer of permitted location.

7 The Alcoholic Beverage Control Board shall not authorize the transfer
8 of a permit to dispense vinous (except small farm wines), spirituous, or malt
9 liquor from ~~any a~~ a location to ~~a~~ another location within a city or town
10 located within a county having a population of two hundred thousand (200,000)
11 or more persons, according to the most recent federal decennial census, if
12 the transfer of such permit to a location in the city or town will result in
13 there being more than one (1) permitted location in the city or town for each
14 ~~four thousand (4,000)~~ five thousand (5,000) population in the city or town,
15 according to the most recent federal decennial census.

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