

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas *As Engrossed: H3/20/15 S3/31/15*

2 90th General Assembly

# A Bill

3 Regular Session, 2015

HOUSE BILL 1790

4

5 By: Representatives Vines, Broadaway

6 By: Senator K. Ingram

7

8

## For An Act To Be Entitled

9 AN ACT TO CLARIFY THE LAW CONCERNING THE PETITION  
10 PROCEDURE FOR PETITIONS FOR A LOCAL OPTION ELECTION;  
11 TO AMEND THE LAW CONCERNING LOCAL OPTION ELECTIONS;  
12 TO MAKE TECHNICAL CORRECTIONS TO THE LAW; AMENDING  
13 PORTIONS OF THE LAW RESULTING FROM INITIATED ACT 1 OF  
14 1942; AND FOR OTHER PURPOSES.

15

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17

## Subtitle

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

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SECTION 1. Arkansas Code § 3-8-205 is amended to read as follows:

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3-8-205. Determination of sufficiency of petition – Calling of  
29 election.

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~~(a)(1) When thirty-eight percent (38%) of the qualified electors shall  
file petitions with the county clerk of any county within this state praying  
that an election be held in a designated county, township, municipality,  
ward, or precinct to determine whether or not licenses shall be granted for  
the manufacture or sale or the bartering, loaning, or giving away of  
intoxicating liquor within the designated territory, the county clerk within  
ten (10) days thereafter shall determine the sufficiency of the petition.~~



1           ~~(2) The total number of voters registered as certified by the~~  
2 ~~county clerk to the Secretary of State by the first of June of each year~~  
3 ~~pursuant to Arkansas Constitution, Amendment 51, shall be the basis upon~~  
4 ~~which the number of signatures of qualified electors on petitions shall be~~  
5 ~~computed.~~

6           ~~(3) A person shall be a registered voter at the time of signing~~  
7 ~~the petition.~~

8           ~~(b) If it is found that thirty eight percent (38%) of the qualified~~  
9 ~~electors have signed the petition~~

10           ~~(a) If the petition is determined to be sufficient under § 3-8-801 et~~  
11 ~~seq., the county clerk shall certify that finding to the county board of~~  
12 ~~election commissioners, and the question shall be placed on the ballot in the~~  
13 ~~county, township, municipality, ward, or precinct at the next biennial~~  
14 ~~general election as provided in § 3-8-101.~~

15           ~~(e)-(1)-(b)(1) If an appeal is taken from the certification of the county~~  
16 ~~clerk, it shall be taken within ten (10) days and shall be considered by the~~  
17 ~~circuit court within ten (10) days, or as soon as practicable, after the~~  
18 ~~appeal is lodged with the court.~~

19           (2) The circuit court shall render its decision within thirty  
20 (30) days thereafter.

21           ~~(d)-(c) If an appeal is taken, the election shall be had no sooner than~~  
22 ~~sixty-five (65) days after the appeal is determined, if the decision is in~~  
23 ~~favor of the petitioners.~~

24           ~~(e)-(1)-(A)-(d)(1)(A) The decision shall be certified immediately to the~~  
25 ~~county board of election commissioners, and the day for the election shall be~~  
26 ~~fixed by the county board of election commissioners for not earlier than~~  
27 ~~sixty-five (65) days nor later than ninety (90) days after the certification~~  
28 ~~of the decision of the circuit court.~~

29           (B) Any appeal from the final decision of the circuit court  
30 shall be taken within ten (10) days and shall be advanced and immediately  
31 determined by the Supreme Court.

32           (2) In that event, the county board of election commissioners  
33 may, in its discretion, delay the election until after the final decision of  
34 the Supreme Court.

35           (3) If the decision is in favor of the petitioners, then the  
36 county board of election commissioners shall set the day for the election,

1 which shall be not earlier than sixty-five (65) days nor later than ninety  
2 (90) days after the final decision of the Supreme Court.

3 ~~(f)~~(e) Except as provided in this section, a petition for local option  
4 election shall be governed by § 7-9-101 et seq. and the Disclosure Act for  
5 *Initiative Proceedings, § 3-8-701 et seq.*

6

7 *SECTION 2. Arkansas Code, Title 3, Chapter 8, the title of Subchapter*  
8 *8 is amended to read as follows:*

9 *Subchapter 8 – ~~Paid Canvassers~~ Petition for Local Option Election*

10

11 SECTION 3. Arkansas Code § 3-8-801 is amended to read as follows:  
12 3-8-801. Definitions.

13 As used in this subchapter:

14 (1) “Canvasser” means a person who circulates a local option  
15 election petition or a part or parts of a local option election petition to  
16 obtain the signatures of petitioners thereto;

17 (2) “Intoxicating liquor” means any beverage containing more  
18 than one-half of one percent (0.5%) of alcohol by weight.

19 ~~(2)~~(3) “Paid canvasser” means a person who is paid or with whom  
20 there is an agreement to pay money or anything of value before or after a  
21 signature on a local option election petition is solicited in exchange for  
22 soliciting or obtaining a signature on a petition;

23 (4) “Petition part” means a petition signature sheet containing  
24 the information required under this subchapter;

25 ~~(3)~~(5) “Petitioner” means a person who signs a petition  
26 requesting a local option election; ~~and~~

27 (6) “Registered voter” means a person who is registered at the  
28 time of signing the petition pursuant to Arkansas Constitution, Amendment 51;  
29 and

30 ~~(4)~~(7) “Sponsor” means a person who arranges for the circulation  
31 of a local option election petition or who files a local option election  
32 petition with the official charged with verifying the signatures.

33

34 SECTION 4. Arkansas Code § 3-8-802 is amended to read as follows:  
35 3-8-802. Hiring and training of paid canvassers.

36 (a)(1) A person shall not provide money or anything of value to another

1 person for obtaining signatures on a local option election petition unless  
2 the person receiving the money or item of value meets the requirements of  
3 this section.

4 (2) Before a signature is solicited by a paid canvasser, the  
5 sponsor shall:

6 (A) ~~Provide the paid canvasser with a copy of the most~~  
7 ~~recent edition of the Secretary of State's initiatives and referenda~~  
8 ~~handbook;~~

9 ~~(B)~~ Explain the Arkansas law applicable to obtaining  
10 signatures on a local option election petition to the canvasser; and

11 ~~(C)(i)(B)(i)~~ Provide a complete list of all paid  
12 canvassers' names and current residential addresses to the ~~Secretary of State~~  
13 county clerk.

14 (ii) If additional paid canvassers agree to solicit  
15 signatures on behalf of a sponsor after the complete list is provided, the  
16 sponsor shall provide an updated list of all paid canvassers' names and  
17 current residential addresses to the ~~Secretary of State~~ county clerk.

18 (b) Before obtaining a signature on a local option election petition as  
19 a paid canvasser, a person shall submit in person or by mail to the sponsor:

20 (1) The full name and any assumed name of the person;

21 (2) The current residence address of the person and the person's  
22 permanent domicile address if the person's permanent domicile address is  
23 different from the person's current residence address;

24 (3) A signed statement taken under oath or solemn affirmation  
25 that states that the person has not pleaded guilty or nolo contendere to or  
26 been found guilty of a criminal offense involving a violation of the election  
27 laws, fraud, forgery, or identification theft in any state;

28 (4) A signed statement that the person has read and understands  
29 the Arkansas law applicable to obtaining signatures on a local option  
30 election petition;

31 ~~(5) A signed statement that the person has been provided a copy~~  
32 ~~of the most recent edition of the Secretary of State's initiatives and~~  
33 ~~referenda handbook by the sponsor;~~ and

34 ~~(6)(5)~~ A photograph of the person taken within ninety (90) days  
35 of the submission of the information required under this section.

36 (c) A sponsor shall maintain the information required under this

1 section for each paid canvasser for three (3) years after the general  
2 election.

3  
4 SECTION 5. Arkansas Code Title 3, Chapter 8, Subchapter 8, is amended  
5 to add additional sections to read as follows:

6 3-8-803. Petition to determine granting of licenses for the  
7 manufacture or sale or the bartering, loaning, or giving away of intoxicating  
8 liquor.

9 (a) An election to determine whether licenses will be granted for the  
10 manufacture or sale or the bartering, loaning, or giving away of intoxicating  
11 liquor shall be called by a petition signed by registered voters in the  
12 designated county, township, municipality, ward, or precinct in a number  
13 equal to thirty-eight percent (38%) of the registered voters.

14 (b) The petition shall be filed with the county clerk.

15 (c) The county clerk shall verify the signatures on the petition and  
16 determine the sufficiency of the petition no later than ten (10) days after  
17 the petition is submitted.

18 (d) The total number of voters registered as certified by the county  
19 clerk to the Secretary of State by the first of June of each year pursuant to  
20 Arkansas Constitution, Amendment 51, shall be the basis upon which the number  
21 of signatures of qualified electors on petitions shall be computed.

22  
23 3-8-804. Duties of election officers – Penalty for failure to perform.

24 (a) The duties imposed by this subchapter upon members of the State  
25 Board of Election Commissioners, members of the county boards of election  
26 commissioners, election officials, and other officers expressly named in this  
27 act shall be performed:

28 (1) In good faith;

29 (2) Within the time provided by this subchapter; and

30 (3) In the manner provided by this subchapter.

31 (b) If a member of a board, an election official, or another officer  
32 charged with a duty under this subchapter knowingly fails to perform that  
33 duty, he or she shall be upon conviction:

34 (1) Fined not less than one hundred dollars (\$100) nor more than  
35 one thousand dollars (\$1,000); and

36 (2) Removed from his or her office.

1  
2 3-8-805. Signing of petition – Penalty for falsification – Notice of  
3 suspected forgery.

4 (a)(1) A person signing a petition under this subchapter shall:

5 (A) Be a registered voter; and

6 (B) Sign his or her own name and print his or her own  
7 name, address, birth date, and the date of signing on a petition in his or  
8 her own handwriting.

9 (2) If a person signing a petition under subdivision (a)(1) of  
10 this section requires assistance due to disability, another person:

11 (A) May print the name, address, birth date, and the date  
12 of signing; and

13 (B) Shall sign and print his or her name in the margin of  
14 the petition.

15 (3) A person who is under eighteen (18) years of age shall not  
16 act as a canvasser.

17 (b) A person commits a Class A misdemeanor if the person, acting as a  
18 canvasser, notary, sponsor, or agent of a sponsor knowingly:

19 (1) Signs a name other than his or her own to a petition;

20 (2) Prints a name, address, or birthdate other than his or her  
21 own on a petition unless the signer requires assistance due to disability and  
22 the person complies with this section;

23 (3) Solicits or obtains a signature to a petition knowing that  
24 the person signing is not qualified to sign the petition;

25 (4) Pays a person any form of compensation in exchange for  
26 signing a petition as a petitioner;

27 (5) Accepts or pays money or anything of value for obtaining  
28 signatures on a petition when the person acting as a canvasser, sponsor, or  
29 agent of a sponsor knows that the person acting as canvasser's name or  
30 address is not included on the sponsor's list filed with the county clerk; or

31 (6) As a sponsor, files a petition part with the official  
32 charged with verifying the signatures knowing that the petition part contains  
33 one (1) or more false or fraudulent signatures unless each false or  
34 fraudulent signature is clearly stricken by the sponsor before filing.

35 (c) When the official charged with verifying the signatures has  
36 reasonable grounds to believe that one (1) or more signatures on a petition

1 is forged, excluding signatures apparently signed by one (1) spouse for  
2 another, the official shall report the suspected forgery and basis for  
3 suspecting forgery to:

4 (1) The Department of Arkansas State Police, in the case of a  
5 statewide petition; or

6 (2) The prosecuting attorney of the county, in the case of a  
7 local petition.

8  
9 3-8-806. Form of initiative petition – Sufficiency of signatures.

10 (a) The petition for an ordinance, act, or amendment proposed by  
11 initiative shall be on substantially the following form:

12 “PETITION FOR LOCAL OPTION ELECTION

13  
14 To the Honorable \_\_\_\_\_,

15 County Clerk or City Clerk

16  
17 We, the undersigned registered voters of the State of Arkansas, or  
18 \_\_\_\_\_ County, Arkansas, or City or Incorporated Town of \_\_\_\_\_, Arkansas,  
19 respectfully request that an election be held to determine whether licenses  
20 will be granted for the manufacture or sale or the bartering, loaning, or  
21 giving away of intoxicating liquor in the district described below, to the  
22 end that the same may be adopted, enacted, or rejected by the vote of the  
23 registered voters of said district. Each of us for himself or herself says:

24 I have personally signed this petition; I am a registered voter of  
25 \_\_\_\_\_ County, Arkansas, or City or Incorporated Town of \_\_\_\_\_, Arkansas,  
26 and my printed name, date of birth, residence, city or town of residence, and  
27 date of signing this petition are correctly written after my signature.

28 (Here insert a description of the district in which the election shall  
29 be held.)”

30  
31 (b) The information on the petition provided by the person may be used  
32 as evidence of the validity or invalidity of the signature. However, if a  
33 signature of a registered voter on the petition is sufficient to verify the  
34 voter’s name, then it shall not be adjudged invalid for failure to sign the  
35 name or write the residence and city or town of residence exactly as it  
36 appears on voter registration records, for failure to print the name in the

1 space provided, for failure to provide the correct date of birth, nor for  
2 failure to provide the correct date of signing the petition, all the  
3 information being an aid to verification rather than a mandatory requirement  
4 to perfect the validity of the signature.

5 (c) No additional sheets of voter signatures shall be attached to any  
6 petition unless the sheets contain the full language of the petition.

7 (d)(1) The signature section of the petition shall be formatted and  
8 shall contain the number of signature lines prescribed by the county clerk.

9 (2) Before the circulation of a petition for signatures, the  
10 sponsor shall file a printed petition part with the county clerk in the exact  
11 form that will be used for obtaining signatures.

12  
13 3-8-807. Procedure for circulation of petition.

14 (a)(1) Each petition under this subchapter for an election to be held  
15 in a district that includes more than one county shall be prepared and  
16 circulated in a petition part, and each petition part shall be an exact copy  
17 of all other such petition parts upon which signatures of petitioners are to  
18 be solicited.

19 (2) When a sufficient number of petition parts are signed by a  
20 requisite number of qualified electors and are filed and duly certified by  
21 the county clerk, they shall be treated and considered as one (1) petition.

22 (b) Each petition part shall have attached to it the affidavit of the  
23 canvasser stating that:

24 (1) The canvasser's current residence address appearing on the  
25 verification is correct;

26 (2) All signatures appearing on the petition part were made in  
27 the presence of the affiant; and

28 (3) To the best of the affiant's knowledge and belief each  
29 signature is genuine and each person signing is a registered voter.

30 (c) No petition part under this section shall contain signatures of  
31 petitioners from more than one (1) county.

32  
33 3-8-808. Form of verification – Penalty for false statement.

34 (a) Each petition containing signatures shall be verified in  
35 substantially the following form by the canvasser's affidavit thereon as a  
36 part thereof:



1 “State of Arkansas County of \_\_\_\_\_

2

3 I, \_\_\_\_\_ (print name of canvasser) \_\_\_\_\_, being duly sworn, state that  
4 each of the foregoing persons signed his or her own name to this sheet of the  
5 petition in my presence. To the best of my knowledge and belief, each  
6 signature is genuine and each signer is a registered voter of \_\_\_\_\_  
7 County, or City or Incorporated Town of \_\_\_\_\_. At all times during  
8 the circulation of this signature sheet, an exact copy of the popular name,  
9 ballot title, and text was attached to the signature sheet. My current  
10 residence address is correctly stated below.

11 Signature \_\_\_\_\_

12 Residence \_\_\_\_\_

13 Indicate one: \_\_\_\_\_ Paid Canvasser \_\_\_\_\_ Volunteer/Unpaid Canvasser

14 Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

15 Signature \_\_\_\_\_

16 Clerk, Notary, Judge, or Justice of the Peace

17 Seal \_\_\_\_\_”

18

19 (b)(1) If the form under this section is substantially followed in a  
20 petition it is sufficient

21 (2) The form shall not be held insufficient for clerical and  
22 merely technical errors.

23 (c)(1) Petitions shall not be disqualified due to clerical or technical  
24 errors made by a clerk, notary, judge, or justice of the peace when verifying  
25 the canvasser’s signature.

26 (2) Petitions shall not be disqualified for failure of a clerk,  
27 notary, judge, or justice of the peace to sign exactly as his or her name  
28 appears on his or her seal if the signature of a clerk, notary, judge, or  
29 justice of the peace is sufficient to verify his or her name.

30 (d) A canvasser or paid canvasser who knowingly makes a false statement  
31 on a petition verification form required by this section shall be deemed  
32 guilty of a Class D felony.

33

34 3-8-809. Failure to act on petition – Mandamus – Injunction.

35 (a) If the county clerk does not examine and certify a petition under  
36 this chapter within the time prescribed in § 3-8-803, the sponsors may apply

1 to the circuit court with jurisdiction for appropriate relief.

2 (b) If the court decides that the petition is legally sufficient, it  
3 shall order the county clerk to certify the sufficiency of the petition and  
4 set an election date.

5 (c) On a proper showing that any petition is not sufficient, the court  
6 may enjoin the county clerk from:

7 (1) Certifying its sufficiency; or

8 (2) Setting an election date.

9  
10  
11 3-8-810. Preservation of records.

12 All petitions, notices, certificates, or other documentary evidence of  
13 procedural steps taken under this subchapter shall be filed and preserved.  
14 Petitions with signatures shall be retained for two (2) years after  
15 submission to the county clerk.

16  
17 3-8-811. Count of signatures.

18 (a) Upon the initial filing of a petition under this subchapter, the  
19 official charged with verifying the signatures shall:

20 (1) Perform an initial count of the signatures; and

21 (2) Determine whether the petition contains, on its face and  
22 before verification of the signatures of registered voters, the designated  
23 number of signatures required by the Arkansas Constitution and statutory law  
24 in order to call an election.

25 (b) A petition part and all signatures appearing on the petition part  
26 shall not be counted for any purpose by the official charged with verifying  
27 the signatures, including the initial count of signatures, if one (1) or more  
28 of the following is true:

29 (1) The petition is not an original petition, including without  
30 limitation a petition that is photocopied or is a facsimile transmission;

31 (2) The petition lacks the signature, printed name, and  
32 residence address of the canvasser or is signed by more than one (1)  
33 canvasser;

34 (3)(A) The canvasser is a paid canvasser whose name and the  
35 information required under § 3-8-802 were not submitted by the sponsor to the  
36 county clerk before the petitioner signed the petition.

