

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

A Bill

HOUSE BILL 1107

5 By: Representative House
6

For An Act To Be Entitled

8 AN ACT TO AMEND TITLE 3 OF THE ARKANSAS CODE
9 REGARDING PERMITS FOR ALCOHOLIC BEVERAGE BUSINESSES;
10 TO AMEND THE POPULATION RATIO FOR PERMITS TO SELL
11 ALCOHOLIC BEVERAGES OFF-PREMISES; TO AUTHORIZE THE
12 TRANSFER OF ALCOHOLIC BEVERAGE PERMITS ACROSS COUNTY
13 LINES; AND FOR OTHER PURPOSES.
14

Subtitle

15
16 TO AMEND TITLE 3 OF THE ARKANSAS CODE
17 REGARDING PERMITS FOR ALCOHOLIC BEVERAGE
18 BUSINESSES; TO AMEND THE POPULATION RATIO
19 FOR PERMITS TO SELL OFF-PREMISES; AND TO
20 AUTHORIZE THE TRANSFER OF PERMITS ACROSS
21 COUNTY LINES.
22

23
24
25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
26

27 SECTION 1. Arkansas Code § 3-4-201 is amended to read as follows:

28 3-4-201. Number of permits restricted.

29 (a) The public policy of the state is to restrict the number of
30 permits in this state to dispense vinous (except small farm wines),
31 spirituous, or malt liquor.

32 (b)(1) The Alcoholic Beverage Control Board shall determine whether
33 public convenience and advantage will be promoted by issuing a permit and by
34 increasing or decreasing the number of permits ~~it~~ the board issues.

35 (2) The number of permits issued by the board shall be
36 restricted.



1 (c) The board has the discretion to determine the number of permits to
 2 be granted in each county of this state or within the corporate limits of any
 3 municipality of this state and to determine the location and the persons to
 4 whom the permits shall be issued, under the following conditions:

5 (1) The number of permits allowing the off-premises sale of
 6 vinous (except small farm wines), spirituous, or malt liquor in the State of
 7 Arkansas shall not exceed a ratio of one (1) permit for every seven thousand
 8 five hundred (7,500) population residing in the state;

9 ~~(1)(A)(2)(A)~~ The number of permits allowing the off-premises
 10 sale of vinous (except small farm wines), spirituous, or malt liquor in a
 11 county or political subdivision of the county ~~which~~ that permits the sale
 12 shall not exceed a ratio of one (1) permit for every ~~five thousand (5,000)~~
 13 seven thousand five hundred (7,500) population residing in that county or
 14 political subdivision of the county.

15 (B) Population of the state, county, or political
 16 subdivision of the county shall:

17 (i) Be determined according to the most recent
 18 federal decennial census; and

19 (ii) Count all residents of the state, county, or
 20 political subdivision of the county, including without limitation the
 21 residents of a dry political subdivision of a county; ~~and~~

22 ~~(2)(3)~~ A new permit that is issued in a county or political
 23 subdivision of the county following the most recent federal decennial census
 24 shall be issued under the following restrictions:

25 (A) Additional permits may be issued ~~on~~ at a ratio of one
 26 (1) permit for every additional ~~five thousand (5,000)~~ seven thousand five
 27 hundred (7,500) population within the county or political subdivision of the
 28 county; and

29 (B)(i) A qualified applicant may apply for a permit.

30 (ii) Qualifications are to be set by the board and
 31 ~~its~~ the board's determination of the public convenience and advantage;

32 ~~(3)(A)(4)(A)~~ If it is determined that a county or political
 33 subdivision of the county is entitled to additional permits when warranted by
 34 the most recent federal decennial census, the board ~~will~~ shall announce
 35 before the last date for applications the number of new permits, if any,
 36 ~~which~~ that may be issued in the county or political subdivision of the

1 county.

2 (B) In the event that the most recent federal decennial
3 census population figures decline in a county or political subdivision of the
4 county:

5 (i) Existing permits shall not be cancelled or
6 revoked for the decline in population;

7 (ii) The quota ratio shall not be applied to the
8 county or political subdivision of the county until the population in the
9 county or political subdivision of the county reaches a number equaling one
10 (1) permit to every ~~five thousand (5,000)~~ seven thousand five hundred (7,500)
11 population; and

12 (iii) A new permit shall not be issued in the county
13 or political subdivision of the county until the population warrants.

14 ~~(C) A transfer of locations from one county to another
15 county is not allowed.~~

16 ~~(D)~~(C) If a holder of a permit for the sale of vinous
17 (except small farm wines), spirituous, or malt liquor surrenders the permit
18 in a county or political subdivision of the county where the ratio no longer
19 meets the ~~one to five thousand population~~ requirement of one (1) permit for
20 every seven thousand five hundred (7,500) population, new applications ~~will~~
21 shall not be accepted until that ratio is reestablished at a subsequent
22 federal decennial census;

23 ~~(4)(A)(i)~~(5)(A)(i) If a permit holder does not conduct business
24 under a permit issued for a period of more than thirty (30) days, the permit
25 shall be surrendered to the Director of the Alcoholic Beverage Control
26 Division and shall be placed on inactive status.

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

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

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

34 (ii) The reason for the suspension of business
35 activities; and

36 (iii) The date business activity will resume.

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

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

5 (a) Business circumstances exist to justify an
 6 extension;

7 (b) The delay to return to business was not
 8 due to mere deferral or inattention on the part of the permit holder; and

9 (c) The inactive status should be extended.

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

14 (b) "Emergency circumstances" means ~~are those~~
 15 delays in return to business ~~which~~ that are beyond the control, planning, or
 16 foresight of the permit holder, including without limitation, ~~a~~:

17 (1) ~~Delay~~ A delay due to a natural or
 18 manmade disaster;

19 (2) ~~Pending court action~~ The pending
 20 adjudication of a lawsuit;

21 (3) ~~Building~~ A building construction
 22 problem; and

23 (4) ~~Contested~~ A contested or delayed
 24 insurance claim or settlement.

25 (D) A permit remaining on inactive status for a period of
 26 more than eighteen (18) months or which has not been granted an extension
 27 under this subdivision ~~(e)(4)~~ (c)(5) shall expire; and

28 ~~(5)(A)(6)(A)~~ This section and §§ 3-4-202 and 3-4-208, except
 29 with regard to a permit on inactive status for more than eighteen (18) months
 30 after the provisions of subdivision ~~(e)(4)~~ (c)(5) of this section have become
 31 effective or ~~which~~ a permit that has expired in accordance with subdivision
 32 ~~(e)(4)~~ (c)(5) of this section, do not divest any permit holder holding the
 33 permit on ~~July 1, 1991~~ September 1, 2019, regardless of the quota ratio, of
 34 his or her permit.

35 (B) In a county or political subdivision of the county
 36 ~~which~~ that has a ratio lower than the permit quota ratio of ~~one to five~~

1 ~~thousand population~~ one (1) permit for every seven thousand five hundred
 2 (7,500) population, the permit holder shall be allowed to continue under
 3 subdivision ~~(e)(3)(B)~~ (c)(4)(B) of this section.

4 ~~(d) This section shall apply only to applications for permits to~~
 5 ~~dispense vinous (except small farm wines), spirituous, or malt liquor filed~~
 6 ~~with the board after July 1, 1991.~~

7 (d) Upon application and approval by the board, a permit holder may
 8 transfer a permit to a location in another county.

9
 10 SECTION 2. Arkansas Code § 3-4-221 is amended to read as follows:

11 3-4-221. Transfer of permitted location.

12 The Alcoholic Beverage Control Board shall not authorize the transfer
 13 of a permit to dispense vinous (except small farm wines), spirituous, or malt
 14 liquor from a location to another location within a city or town located
 15 within a county having a population of two hundred thousand (200,000) or more
 16 persons, according to the most recent federal decennial census, if the
 17 transfer of ~~such~~ the permit to a location in the city or town will result in
 18 there being more than one (1) permitted location in the city or town for ~~each~~
 19 every five thousand (5,000) seven thousand five hundred (7,500) population in
 20 the city or town, according to the most recent federal decennial census.