

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

# A Bill

HOUSE BILL 1590

5 By: Representative House  
6 By: Senator K. Ingram  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND TITLE 3 OF THE ARKANSAS CODE  
10 REGARDING PERMITS FOR ALCOHOLIC BEVERAGE BUSINESSES;  
11 TO AMEND THE POPULATION RATIO FOR PERMITS TO SELL  
12 ALCOHOLIC BEVERAGES OFF-PREMISES; TO SHORTEN THE TIME  
13 PERIOD A PERMIT IS ON INACTIVE STATUS; AND FOR OTHER  
14 PURPOSES.  
15

## Subtitle

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18 TO AMEND TITLE 3 OF THE ARKANSAS CODE  
19 REGARDING PERMITS FOR ALCOHOLIC BEVERAGE  
20 BUSINESSES; TO AMEND THE POPULATION RATIO  
21 FOR PERMITS TO SELL OFF-PREMISES; AND TO  
22 SHORTEN THE TIME PERIOD A PERMIT IS ON  
23 INACTIVE STATUS.  
24  
25

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
27

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

29 3-4-201. Number of permits restricted.

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

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

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



1 restricted.

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

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

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

17 (B) Population of the county or political subdivision of  
 18 the county shall:

19 (i) Be determined according to the most recent  
 20 federal decennial census; and

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

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

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

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

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

34 ~~(3)(A)(4)(A)~~ If it is determined that a county or political  
 35 subdivision of the county is entitled to additional permits when warranted by  
 36 the most recent federal decennial census, the board ~~will~~ shall announce

1 before the last date for applications the number of new permits, if any,  
 2 ~~which that~~ may be issued in the county or political subdivision of the  
 3 county.

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

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

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

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

16 (C) A transfer of locations from one county to another  
 17 county is not allowed.

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

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

29 (ii) The permit may remain inactive for ~~six (6)~~  
 30 three (3) months ~~or until the permit holder notifies the director that he or~~  
 31 ~~she is ready to resume business, whichever is longer.~~

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

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

36 (ii) The reason for the suspension of business

1 activities; and

2 (iii) The date business activity will resume.

3 (C)(i) The permit holder may petition the board for an  
 4 extension of inactive status for an additional ~~six-month~~ three-month period.

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

7 (a) Business circumstances exist to justify an  
 8 extension;

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

11 (c) The inactive status should be extended.

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

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

19 (1) ~~Delay~~ A delay due to a natural or  
 20 man-made disaster;

21 (2) ~~Pending court action~~ The pending  
 22 adjudication of a lawsuit;

23 (3) ~~Building~~ A building construction  
 24 problem; and

25 (4) ~~Contested~~ A contested or delayed  
 26 insurance claim or settlement.

27 (D) A permit remaining on inactive status for a period of  
 28 more than ~~eighteen (18)~~ twelve (12) months or which has not been granted an  
 29 extension under this subdivision ~~(e)(4)~~ (c)(5) shall expire; and

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

1 (B) In a county or political subdivision of the county  
 2 ~~which that~~ has a ratio lower than the permit quota ratio of ~~one to five-~~  
 3 ~~thousand population~~ one (1) permit for every seven thousand five hundred  
 4 (7,500) population, the permit holder shall be allowed to continue under  
 5 subdivision ~~(e)(3)(B)~~ (c)(4)(B) of this section.

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

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 one 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.