

Hall of the House of Representatives
84th General Assembly - Regular Session, 2003
Amendment Form

Subtitle of House Bill No. 2290

"AN ACT TO BE KNOWN AS THE ARKANSAS NATIVE BREWERY ACT; TO CREATE A
NEW CATEGORY OF BEER LICENSES; AND TO PROVIDE FOR THE OPERATION OF
THE LICENSED FACILITIES."

Amendment No. 2 to House Bill No. 2290.

Amend House Bill No. 2290 as engrossed, H3/24/03:

Page 1, delete lines 24 through 36 and substitute the following:

"SECTION 1. Title.

This act shall be known, and may be cited as the "Arkansas Native
Brewery Act".

SECTION 2. Legislative determinations and intent.

(a) The General Assembly finds that:

(1) The creation and long-term success of small businesses in
this state is vital to the continued economic well-being and prosperity of
the State of Arkansas; and

(2) All reasonable steps should be taken to retain, foster, and
encourage small business and to create favorable conditions for small
business in this state.

(b) It is the intent and purpose of this act to authorize the legal
operation of native breweries in order to assure that these favorable
conditions exist in this state.

SECTION 3. Definitions.

As used in this act:

(1) "Barrel" means thirty-one (31) gallons;

(2) "Beer" means any fermented liquor made from malt or any
substitute having an alcoholic content of not more than five percent (5%) by
weight;

(3) "Board" means the Alcoholic Beverage Control Board;

(4) "Brewery" means the facilities of a native brewer that
operate a small brewery, contract brewing company, microbrewery, or
restaurant;

(5) "Contract brewing company" means any licensed brewery that
hires another company to produce a portion of its beer or malt beverage;

(6) "Director" means the Director of the Alcoholic Beverage



Control Division;

(7) "Malt beverage" means any liquor brewed from the fermented juices of grain and having an alcoholic content of no less than five percent (5%) nor more than twenty-one percent (21%) by weight;

(8) "Native brewer" means any person who is licensed by the Alcoholic Beverage Control Division to manufacture and sell beer and malt beverages at a small brewery or microbrewery-restaurant;

(9) "Native brewery" means a small brewery or microbrewery-restaurant;

(10) "Microbrewery-restaurant" means any restaurant that manufactures one (1) or more varieties of beer or malt beverage in an aggregate quantity of not more than five thousand (5,000) barrels per year, and stores the beer or malt beverages on the premises or on any adjacent premises;

(11) "Small brewery" means any licensed facility that manufactures less than 60,000 barrels of beer and malt beverages per year for sale or consumption;

(12) "Person" means any natural person, partnership, association, or corporation;

(13) "Producer brewery" is any licensed brewery, domestic or foreign, that manufactures or packages beer or malt beverages for a small brewery, contract brewing company, microbrewery, or restaurant; and

(14) "Restaurant" means any public or private facility that:

(A) Is kept, used, maintained, advertised, and held out to the public or to a private or restricted membership as a place where complete meals are regularly served, the place being provided with adequate and sanitary kitchen and dining equipment and a seating capacity of at least fifty (50) people, and having employed a sufficient number of employees to prepare, cook, and serve food suitable for its guests or members; and

(B) Serves at least one (1) meal per day and the place is open a minimum of five (5) days per week, with the exception of holidays, vacations, and periods of redecorating.

SECTION 4. Effect on other laws.

Every provision of this act is subject to all beer and malt beverage laws and regulations not in conflict with the provisions of this act.

SECTION 5. Licenses - Scope - Restrictions.

(a) The Director of the Alcoholic Beverage Control Division may issue a license for a licensee:

(1) To operate a small brewery that:

(A) Manufactures, at its licensed facility, no less than thirty-five percent (35%) of its beer and malt beverages to be sold in the state, or purchases from a producer brewery, beer or malt beverages in an aggregate quantity not to exceed sixty thousand (60,000) barrels per year;

(B) Sells to wholesale or to the consumer for consumption either on or off the premises; and

(C) Stores any beer and malt beverages legally purchased for resale on the premises; or

(2) To operate a microbrewery-restaurant that:

(A) Manufactures beer and malt beverages in an aggregate quantity not to exceed five thousand (5,000) barrels per year;

(B) Sells to wholesale or retail dealers or to the consumer for consumption either on or off the premises; and

(C) Stores any beer and malt beverages purchased for resale on the premises.

(b) Notwithstanding the provisions of any other law to the contrary, beer and malt beverages may be sold for on-premises or off-premises consumption during all legal operating hours in which business is normally and legally conducted on the premises, if:

(1) The brewery provides tours through its facility; and

(2) Only sealed containers are removed from the premises.

(c)(1) A native brewery may provide beer and malt beverages it manufactures to charitable or nonprofit organizations or sell for resale beer and malt beverages it manufactures to charitable or nonprofit organizations holding valid special event permits issued by the Alcoholic Beverage Control Board.

(2) The sale of those products is limited to the duration of the particular special event.

(d) Any person holding a valid microbrewery-restaurant license is considered a native brewery licensee that maintains production limits according to the definition of microbrewery-restaurant in section three (3) of this act.

SECTION 6. Additional license to sell native beer and malt beverages not required.

(a) Any wholesale or retail dealer that is licensed to sell beer and malt beverages may sell beer and malt beverages produced by native brewers without any additional license fee.

(b) Any retail dealer not licensed to sell beer and malt beverages may sell beer and malt beverages produced by native brewers, if the retailer pays a retail dealer's license fee of fifteen dollars (\$15.00) to the Alcoholic Beverage Control Division.

(c) Any person not licensed as a wholesale dealer of beer and malt beverages may sell, on a wholesale basis, beer and malt beverages produced by native brewers, if the person pays a wholesale dealer's license fee of fifty dollars (\$50.00) to the Alcoholic Beverage Control Division.

SECTION 7. Transportation.

(a) A native brewery may transport its beer and malt beverages along any highway, road, street, or other thoroughfare of travel.

(b) Any native brewery may ship its products out of the state by common carrier or other appropriate parcel delivery service, and common carriers and other appropriate parcel delivery services may accept beer and malt beverages from Arkansas native brewers for delivery outside the state.

(c) Any native brewery in this state may ship its products within the state by common carrier or other appropriate parcel delivery service, and common carriers and other appropriate parcel delivery services may accept beer and malt beverages from Arkansas native breweries for delivery within the state, if the beer and malt beverages are only shipped to persons holding a wholesale permit to purchase, store, sell, or dispense beer and malt beverages.

SECTION 8. Fees and Taxes

A native brewer shall:

(1) Pay any applicable city or county license or permit fees and barrelogage or taxes and shall pay a state licensing fee to the Alcoholic Beverage Control Division of two hundred fifty dollars (\$250) per fiscal year to manufacture and sell its beer and malt beverages for consumption, both on and off the premises and to sell any other beer and malt beverages purchased from a licensed dealer for consumption on or off the premises;

(2) Measure beer and malt beverages manufactured by the native brewer or purchased from a producer brewery, or otherwise comply with applicable regulations respecting excise and enforcement tax determination of the beer and malt beverages, and pay any applicable bond or deposit and the amount of the state excise tax and enforcement tax to this state as required, but is free from the fees and taxes provided in Arkansas Code § 3-5-205 and as required by Arkansas Code §§ 3-7-104 and 3-7-111; and

(3) Pay a tax at the rate of seven dollars and fifty cents (\$7.50) per barrel, and proportionately for larger and smaller gallonages per barrel, on all beer and malt beverages in quantities of up to sixty-thousand (60,000) barrels per year and sold or offered for sale in the state.

SECTION 9. Beer and malt beverage education.

(a)(1) Native brewers may be allowed to conduct beer and malt beverage tasting events for educational or promotional purposes at any location in this state, if approved by the Alcoholic Beverage Control Division and written notice is given by the Alcoholic Beverage Division to the native brewer at least five (5) days before the event.

(2) Requests for approval to conduct beer and malt beverage tasting events must be received by the Alcoholic Beverage Control Division at least two (2) weeks before the event.

(b) Beer and malt beverage tasting events may be held in any facility licensed by the Alcoholic Beverage Control Division if written notice is given by the Alcoholic Beverage Control Division under subsection (a) of this section.

(c) The criminal penalties for drinking in public as prescribed by Arkansas Code § 5-71-212 are not applicable to any beer and malt beverage tasting event approved by the Alcoholic Beverage Control Division under this section.

SECTION 10. Licenses - Application.

No native brewers license shall be issued unless the applicant shall file with the director a verified application, in a form and content as the director shall require, accompanied by payment of the applicable fee.

SECTION 11. Operation without license prohibited.

It is a Class C misdemeanor for any person not holding a valid native brewers license to operate as a native brewer.

SECTION 12. Dry areas prohibited.

It is unlawful for the director to issue a native brewers license in any city, county, township, or other area in this state if the sale or possession of beer and malt beverages is unlawful.

SECTION 13. Rules and regulations.

The Director of the Alcoholic Beverage Control Board and the Director of the Department of Finance and Administration, may adopt rules for the implementation of this act.

SECTION 14. This act is supplemental to all other laws concerning alcoholic beverages and repeals only those laws or parts of laws in direct conflict with it.”

AND

Page 2, delete lines 1 through 36

AND

Page 3, delete lines 1 through 36

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Page 4, delete lines 1 through 36

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Page 5, delete lines 1 through 36

AND

Page 6, delete lines 1 through 36

AND

Page 7, delete lines 1 through 9

The Amendment was read _____
By: Representative Ledbetter
MTB/JGR - 040120031109
JGR646

Chief Clerk