

## MARKUP COPY

### SUBTITLE H – OPERATION OF MICROBREWERY-RESTAURANT PRIVATE CLUB

**Section 5.84** A microbrewery-restaurant private club applicant shall be an entity organized and existing under the laws of this state before applying for a microbrewery-restaurant private club permit. The net revenues of the microbrewery-restaurant private club shall not directly or indirectly benefit its members, except for the payment of bona fide expenses of the microbrewery-restaurant private club's operations. Activities at the microbrewery-restaurant private club shall be conducted for some common recreational, social, patriotic, political, national, benevolent, athletic, community hospitality, professional association, entertainment, or other object or purpose and not solely for the consumption of alcoholic beverages. At the time of application for a microbrewery-restaurant private club permit, the entity shall own or lease, be the holder of a buy-sell agreement or offer and acceptance, or have an option to lease a building, property, or space for the reasonable comfort and accommodation of its members and the families and guests of its members. The microbrewery-restaurant private club shall restrict the use of club facilities to its members and the families and guests of its members. For purposes of the microbrewery-restaurant private club, a person is a member of the *microbrewery-restaurant private club only upon ordering an alcoholic beverage*. If the entity holding a microbrewery-restaurant private club permit additionally holds another alcoholic beverage permit, the hours of operation authorized for the microbrewery-restaurant private club applies to all permits of the entity.

**Section 5.85 Procedure for Obtaining Permit.** A microbrewery-restaurant private club applicant may apply to obtain a microbrewery-restaurant private club through the procedures provided under Section 5.15 and Section 1.20. The application for a microbrewery-restaurant private club shall be submitted to the division and accompanied by an annual permit fee of one thousand five hundred dollars (\$1,500). In an area in which the sale of alcoholic beverages is not authorized by local option under § 3-8-201 *et seq.*, the application for a microbrewery-restaurant private club permit shall be accompanied by an additional application fee of one thousand five hundred dollars (\$1,500). The director may issue a permit as authorized in this section upon determination that the applicant is qualified and that the application is in the public interest.

The Director may issue a microbrewery-restaurant private club permit if the microbrewery-restaurant private club premises are in a dry area and the governing body has approved an applicant.

The Director may issue an additional microbrewery-restaurant private club permit after October 1, 2019, to a person or entity holding a microbrewery-restaurant private club permit as of October 1, 2019, and having more than five percent (5%) common ownership with a person or entity if the person or entity holds a permit under the Arkansas Small Brewery Act, § 3-5-1401 *et seq.*, or qualifies as a supplier under § 3-5-1102.

**Section 5.85.1 Reapplication** An entity denied a microbrewery-restaurant private club permit may reapply with ABC for a permit, pursuant to Section 1.30 of these Rules.

**Section 5.86 Permit Scope and Restrictions.** The Director of the Alcoholic Beverage Control Division may issue a microbrewery-restaurant private club permit that authorizes the permittee to:

Operate a microbrewery-restaurant private club and manufacture one (1) or more varieties of beer, malt beverage, or hard cider in an aggregate quantity not to exceed forty-five thousand (45,000) barrels per year from all facilities under common ownership with the microbrewery;

Store beer, malt beverage, and hard cider manufactured by the microbrewery-restaurant private club and any other beer, malt beverage, and hard cider that the microbrewery-restaurant private club permittee may purchase from retailers and small brewers permitted by this state on the microbrewery-restaurant private club permitted premises and on the premises of the one (1) separate brewing facility of a microbrewery-restaurant private club.

Two (2) or more microbrewery-restaurant private clubs sharing common ownership or a brewery of any size sharing common ownership with a microbrewery-restaurant private club shall be considered one (1) entity for purposes of: calculating barrel production; and the transportation of beer, malt beverage, or hard cider produced by one (1) entity among no more than three (3) microbrewery-restaurant private clubs of the one (1) entity; Operate a restaurant that is the sales outlet for beer, malt beverage, or hard cider manufactured by the microbrewery-restaurant private club and that sells the beer, malt beverage, or hard cider and any other beer, malt beverage, hard cider, or wine that the microbrewery-restaurant private club permittee may purchase from retailers permitted by this state for consumption on the permitted premises or purchased directly from permitted small brewers allowed to distribute directly to the microbrewery-restaurant private club; Sell on the premises beer, malt beverage, or hard cider manufactured by the microbrewery-restaurant private club or commonly owned facility to a member for on-premises consumption during legal operating hours

Serve to a member on-premises complimentary samples of beer, malt beverages, or hard cider produced by the microbrewery-restaurant private club

Sell beer, malt beverage, or hard cider of its own manufacture to a wholesale dealer permitted by this state for the purpose of resale to other retail permit holders.

**Section 5.87 Tastings.** A microbrewery-restaurant private club may conduct beer-tasting, malt beverage-tasting, and hard cider-tasting events for educational or promotional purposes at any location in wet areas of this state if:

- (i) A request for approval to conduct a beer-tasting, malt beverage-tasting, and hard cider-tasting event is received by the Alcoholic Beverage Control Division at least two (2) weeks before the event;
- (ii) The request is approved by the division; and

(iii) Written notice is given by the division to the permit holder at least five (5) days before the event.

The microbrewery-restaurant private club shall use only beer, malt beverage, and hard cider produced by the microbrewery-restaurant private club for an event approved.

This section does not authorize the conducting of a beer-tasting, malt beverage-tasting, and hard cider-tasting event at a separate brewing facility of a microbrewery-restaurant private club

**Section 5.88 Separate Facility Authorized.** A microbrewery-restaurant private club may maintain one (1) separate brewing facility for the production or storage of beer, malt liquor, and hard cider as needed to meet demand, except that each facility used by the microbrewery-restaurant private club permittee shall not in the aggregate produce more than forty-five thousand (45,000) barrels of beer, malt beverage, and hard cider per year.

Beer, malt beverage, and hard cider produced by a separate brewing facility of a microbrewery-restaurant private club permittee shall be:

(i) Sold to a permitted wholesaler; or

(ii) Transported:

(a) From the separate brewing facility to a microbrewery-restaurant private club commonly owned by the owner of the separate brewing facility for retail sale for consumption on the permitted premises; or

(b) To the separate brewing facility from a microbrewery-restaurant private club commonly owned by the owner of the separate brewing facility for storage, production, or packaging.

**5.89 Prohibited Sales** A microbrewery private club may not sell alcoholic beverages to nonmembers. A microbrewery private club shall not sell alcoholic beverages for off-premise consumption. Violation of this provision will result in the permit being revoked.

### **SUMMARY OF SUBSTANTIVE CHANGES**

Act 681 establishes the Microbrewery-restaurant Private Club Permit. Subtitle H has been added to Title 5 of the ABC Rules to incorporate this Act.

## Clean copy

### **SUBTITLE H – OPERATION OF MICROBREWERY-RESTAURANT PRIVATE CLUB**

**Section 5.84** A microbrewery-restaurant private club applicant shall be an entity organized and existing under the laws of this state before applying for a microbrewery-restaurant private club permit. The net revenues of the microbrewery-restaurant private club shall not directly or indirectly benefit its members, except for the payment of bona fide expenses of the microbrewery-restaurant private club's operations. Activities at the microbrewery-restaurant private club shall be conducted for some common recreational, social, patriotic, political, national, benevolent, athletic, community hospitality, professional association, entertainment, or other object or purpose and not solely for the consumption of alcoholic beverages. At the time of application for a microbrewery-restaurant private club permit, the entity shall own or lease, be the holder of a buy-sell agreement or offer and acceptance, or have an option to lease a building, property, or space for the reasonable comfort and accommodation of its members and the families and guests of its members. The microbrewery-restaurant private club shall restrict the use of club facilities to its members and the families and guests of its members. For purposes of the microbrewery-restaurant private club, a person is a member of the *microbrewery-restaurant private club only upon ordering an alcoholic beverage*. If the entity holding a microbrewery-restaurant private club permit additionally holds another alcoholic beverage permit, the hours of operation authorized for the microbrewery-restaurant private club applies to all permits of the entity.

**Section 5.85 Procedure for Obtaining Permit.** A microbrewery-restaurant private club applicant may apply to obtain a microbrewery-restaurant private club through the procedures provided under Section 5.15 and Section 1.20. The application for a microbrewery-restaurant private club shall be submitted to the division and accompanied by an annual permit fee of one thousand five hundred dollars (\$1,500). In an area in which the sale of alcoholic beverages is not authorized by local option under § 3-8-201 *et seq.*, the application for a microbrewery-restaurant private club permit shall be accompanied by an additional application fee of one thousand five hundred dollars (\$1,500). The director may issue a permit as authorized in this section upon determination that the applicant is qualified and that the application is in the public interest.

The Director may issue a microbrewery-restaurant private club permit if the microbrewery-restaurant private club premises are in a dry area and the governing body has approved an applicant.

The Director may issue an additional microbrewery-restaurant private club permit after October 1, 2019, to a person or entity holding a microbrewery-restaurant private club permit as of October 1, 2019, and having more than five percent (5%) common ownership with a person or entity if the person or entity holds a permit under the Arkansas Small Brewery Act, § 3-5-1401 *et seq.*, or qualifies as a supplier under § 3-5-1102.

**Section 5.85.1 Reapplication** An entity denied a microbrewery-restaurant private club permit may reapply with ABC for a permit, pursuant to Section 1.30 of these Rules.

**Section 5.86 Permit Scope and Restrictions.** The Director of the Alcoholic Beverage Control Division may issue a microbrewery-restaurant private club permit that authorizes the permittee to:

Operate a microbrewery-restaurant private club and manufacture one (1) or more varieties of beer, malt beverage, or hard cider in an aggregate quantity not to exceed forty-five thousand (45,000) barrels per year from all facilities under common ownership with the microbrewery;

Store beer, malt beverage, and hard cider manufactured by the microbrewery-restaurant private club and any other beer, malt beverage, and hard cider that the microbrewery-restaurant private club permittee may purchase from retailers and small brewers permitted by this state on the microbrewery-restaurant private club permitted premises and on the premises of the one (1) separate brewing facility of a microbrewery-restaurant private club.

Two (2) or more microbrewery-restaurant private clubs sharing common ownership or a brewery of any size sharing common ownership with a microbrewery-restaurant private club shall be considered one (1) entity for purposes of: calculating barrel production; and the transportation of beer, malt beverage, or hard cider produced by one (1) entity among no more than three (3) microbrewery-restaurant private clubs of the one (1) entity; Operate a restaurant that is the sales outlet for beer, malt beverage, or hard cider manufactured by the microbrewery-restaurant private club and that sells the beer, malt beverage, or hard cider and any other beer, malt beverage, hard cider, or wine that the microbrewery-restaurant private club permittee may purchase from retailers permitted by this state for consumption on the permitted premises or purchased directly from permitted small brewers allowed to distribute directly to the microbrewery-restaurant private club;

Sell on the premises beer, malt beverage, or hard cider manufactured by the microbrewery-restaurant private club or commonly owned facility to a member for on-premises consumption during legal operating hours

Serve to a member on-premises complimentary samples of beer, malt beverages, or hard cider produced by the microbrewery-restaurant private club

Sell beer, malt beverage, or hard cider of its own manufacture to a wholesale dealer permitted by this state for the purpose of resale to other retail permit holders.

**Section 5.87 Tastings.** A microbrewery-restaurant private club may conduct beer-tasting, malt beverage-tasting, and hard cider-tasting events for educational or promotional purposes at any location in wet areas of this state if:

- (i) A request for approval to conduct a beer-tasting, malt beverage-tasting, and hard cider-tasting event is received by the Alcoholic Beverage Control Division at least two (2) weeks before the event;
- (ii) The request is approved by the division; and

- (iii) Written notice is given by the division to the permit holder at least five (5) days before the event.

The microbrewery-restaurant private club shall use only beer, malt beverage, and hard cider produced by the microbrewery-restaurant private club for an event approved.

This section does not authorize the conducting of a beer-tasting, malt beverage-tasting, and hard cider-tasting event at a separate brewing facility of a microbrewery-restaurant private club

**Section 5.88 Separate Facility Authorized.** A microbrewery-restaurant private club may maintain one (1) separate brewing facility for the production or storage of beer, malt liquor, and hard cider as needed to meet demand, except that each facility used by the microbrewery-restaurant private club permittee shall not in the aggregate produce more than forty-five thousand (45,000) barrels of beer, malt beverage, and hard cider per year.

Beer, malt beverage, and hard cider produced by a separate brewing facility of a microbrewery-restaurant private club permittee shall be:

- (i) Sold to a permitted wholesaler; or
- (ii) Transported:
  - (a) From the separate brewing facility to a microbrewery-restaurant private club commonly owned by the owner of the separate brewing facility for retail sale for consumption on the permitted premises; or
  - (b) To the separate brewing facility from a microbrewery-restaurant private club commonly owned by the owner of the separate brewing facility for storage, production, or packaging.

**5.89 Prohibited Sales** A microbrewery private club may not sell alcoholic beverages to nonmembers. A microbrewery private club shall not sell alcoholic beverages for off-premise consumption. Violation of this provision will result in the permit being revoked.

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

As Engrossed: H3/25/19

# A Bill

HOUSE BILL 1852

5 By: Representatives Hawks, Magie  
6 By: Senator K. Ingram  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW REGARDING ALCOHOLIC  
10 BEVERAGES; TO ESTABLISH A MICROBREWERY-RESTAURANT  
11 PRIVATE CLUB PERMIT; TO AMEND PORTIONS OF THE LAW  
12 RESULTING FROM INITIATED ACT 1 OF 1942; AND FOR OTHER  
13 PURPOSES.  
14  
15

## Subtitle

16 TO AMEND THE LAW REGARDING ALCOHOLIC  
17 BEVERAGES; TO AMEND PORTIONS OF THE LAW  
18 RESULTING FROM INITIATED ACT 1 OF 1942;  
19 AND TO ESTABLISH A MICROBREWERY-  
20 RESTAURANT PRIVATE CLUB PERMIT.  
21  
22  
23

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

26 SECTION 1. Arkansas Code Title 3, Chapter 5, is amended to add an  
27 additional subchapter to read as follows:

### Subchapter 19 – Microbrewery-Restaurant Private Club Permit

#### 3-5-1901. Definitions.

#### As used in this subchapter:

30 (1) "Alcoholic beverage" means a beverage containing more than  
31 five-tenths percent (0.5%) of alcohol by weight;  
32

33 (2) "Barrel" means thirty-one gallons (31 gals.);  
34

35 (3) "Beer" means a fermented liquor made from malt or a  
36 substitute and having an alcoholic content not in excess of five percent (5%)



1 by volume;

2 (4) "Dry area" means an area in this state in which the  
3 manufacture or sale of beer is prohibited by a local-option election held  
4 pursuant to applicable laws of this state;

5 (5) "Malt beverage" means a liquor brewed from the fermented  
6 juices of grain and having an alcoholic content of at least five percent (5%)  
7 but not more than twenty-one percent (21%) by weight;

8 (6) "Microbrewery" means a brewery that manufactures one (1) or  
9 more varieties of beer, malt beverage, or hard cider in an aggregate quantity  
10 not to exceed forty-five thousand (45,000) barrels per year from all  
11 facilities under common ownership with the microbrewery;

12 (7) "Microbrewery-restaurant private club" means a nonprofit  
13 organization organized and existing under the laws of this state that:

14 (A) Is both a microbrewery and a restaurant;

15 (B) Has members, which are not directly or indirectly  
16 benefitted by the entity's net revenues;

17 (C) Exists for some common recreational, social,  
18 patriotic, political, national, benevolent, athletic, community hospitality,  
19 professional association, entertainment, or other object or purpose other  
20 than the consumption of alcoholic beverages; and

21 (D) Has existed for at least one (1) year; and

22 (8) "Restaurant" means a public or private place that:

23 (A) Is kept, used, maintained, advertised, and held out to  
24 the public or to a private or restricted membership as a place where complete  
25 meals are actually and regularly served;

26 (B) Has adequate and sanitary kitchen and dining  
27 equipment;

28 (C) Has seating capacity for at least fifty (50) people;

29 (D) Has sufficient number and type of employees to  
30 prepare, cook, and serve suitable food for its guests or members;

31 (E) Serves at least one (1) meal per day; and

32 (F) Is open for business a minimum of five (5) days per  
33 week, with the exception of holidays, vacations, and periods of redecorating.

34  
35 3-5-1902. Microbrewery-restaurant private club.

36 (a) A microbrewery-restaurant private club applicant shall be an



1 entity organized and existing under the laws of this state before applying  
2 for a microbrewery-restaurant private club permit as prescribed in this  
3 subchapter.

4 (b) The net revenues of the microbrewery-restaurant private club shall  
5 not directly or indirectly benefit its members, except for the payment of  
6 bona fide expenses of the microbrewery-restaurant private club's operations.

7 (c) Activities at the microbrewery-restaurant private club shall be  
8 conducted for some common recreational, social, patriotic, political,  
9 national, benevolent, athletic, community hospitality, professional  
10 association, entertainment, or other object or purpose and not solely for the  
11 consumption of alcoholic beverages.

12 (d)(1) At the time of application for a microbrewery-restaurant  
13 private club permit, the entity shall own or lease, be the holder of a buy-  
14 sell agreement or offer and acceptance, or have an option to lease a  
15 building, property, or space for the reasonable comfort and accommodation of  
16 its members and the families and guests of its members.

17 (2) The microbrewery-restaurant private club shall restrict the  
18 use of club facilities to its members and the families and guests of its  
19 members.

20 (e) For purposes of this subchapter, a person is a member of the  
21 microbrewery-restaurant private club only upon ordering an alcoholic beverage  
22 as defined in § 3-5-1901.

23 (f) If the entity holding a microbrewery-restaurant private club  
24 permit additionally holds another alcoholic beverage permit, the hours of  
25 operation authorized for the microbrewery-restaurant private club applies to  
26 all permits of the entity.

27  
28 3-5-1903. Microbrewery-restaurant private club – Procedure for  
29 obtaining permit.

30 (a) A microbrewery-restaurant private club applicant may apply to  
31 obtain a microbrewery-restaurant private club through the procedures provided  
32 under § 3-9-222.

33 (b)(1) The application for a microbrewery-restaurant private club  
34 shall be submitted to the division and accompanied by an annual permit fee of  
35 one thousand five hundred dollars (\$1,500).

36 (2) In an area in which the sale of alcoholic beverages is not

1 authorized by local option under § 3-8-201 et. seq., the application for a  
2 microbrewery-restaurant private club permit shall be accompanied by an  
3 additional application fee of one thousand five hundred dollars (\$1,500).

4 (c)(1) After filing an acceptable application with the Director of the  
5 Alcoholic Beverage Control Division, the applicant shall publish at least one  
6 (1) time each week for four (4) consecutive weeks in a legal newspaper of  
7 general circulation in the city in which the premises are situated or, if the  
8 premises are not in a city, in a newspaper of general circulation for the  
9 locality where the business is to be conducted, a notice that the applicant  
10 has applied for a permit to dispense alcoholic beverages on the premises.

11 (2) The notice shall be:

12 (A) In such form as the director prescribes; and

13 (B) Verified.

14 (3) The notice shall list the name of the business owner and the  
15 managing agent, as applicable, and shall state:

16 (A) That the manager, owner, at least one (1) partner, or  
17 the majority stockholder is a resident of Arkansas;

18 (B) That he or she is of good moral character;

19 (C) That he or she has never been convicted of a felony;

20 (D) That he or she has never had a permit to sell or  
21 dispense alcoholic beverages revoked within the five (5) years preceding the  
22 date of the notice; and

23 (E) That he or she has never been convicted of violating  
24 the laws of this state or of any other state governing the sale or dispensing  
25 of alcoholic beverages.

26 (d)(1) Within five (5) days after filing an application for a permit  
27 to dispense alcoholic beverages on the premises, a notice of the application  
28 shall be posted in a conspicuous place at the entrance to the planned  
29 premises.

30 (2) The applicant shall notify the director of the date when the  
31 notice is first posted.

32 (3) A permit shall not be issued to an applicant until proper  
33 notice has been posted on the premises for at least thirty (30) consecutive  
34 days.

35 (4) The notice shall be in such form as the director shall  
36 prescribe and shall be:

1 (A) At least eleven inches (11") in width and seventeen  
2 inches (17") in height; and

3 (B) Printed in black lettering on a yellow background.

4 (e)(1) Upon receipt of an application for a permit and notification of  
5 the posted notice as required under subsection (d) of this section, the  
6 director shall immediately mail a copy of the application to the sheriff,  
7 chief of police, if located within a city, prosecuting attorney of the  
8 locality in which the premises are situated, and city board of directors or  
9 other governing body of the city in which the premises are located.

10 (2) A permit shall not be issued by the director under this  
11 section until at least thirty (30) days have passed from the mailing of the  
12 notices required by this section.

13 (3) If the director receives notification of an objection to the  
14 issuance of a permit from a governing official of the city or county within  
15 the thirty (30) days required under subdivision (d)(3) of this section, the  
16 director shall not issue the permit until he or she has held a public  
17 hearing.

18 (f) The director may issue a permit as authorized in this section upon  
19 determination that the applicant is qualified and that the application is in  
20 the public interest.

21  
22 3-5-1904. Permit – Scope – Restrictions.

23 (a) The Director of the Alcoholic Beverage Control Division may issue  
24 a microbrewery-restaurant private club permit that authorizes the permittee  
25 to:

26 (1) Operate a microbrewery-restaurant private club and  
27 manufacture one (1) or more varieties of beer, malt beverage, or hard cider  
28 in an aggregate quantity not to exceed forty-five thousand (45,000) barrels  
29 per year from all facilities under common ownership with the microbrewery;

30 (2)(A) Store beer, malt beverage, and hard cider manufactured by  
31 the microbrewery-restaurant private club and any other beer, malt beverage,  
32 and hard cider that the microbrewery-restaurant private club permittee may  
33 purchase from retailers and small brewers permitted by this state on the  
34 microbrewery-restaurant private club permitted premises and on the premises  
35 of the one (1) separate brewing facility of a microbrewery-restaurant private  
36 club authorized under subdivision (a)(8) of this section.

1                   (B) Two (2) or more microbrewery-restaurant private clubs  
2 sharing common ownership or a brewery of any size sharing common ownership  
3 with a microbrewery-restaurant private club shall be considered one (1)  
4 entity for purposes of:

5                   (i) Calculating barrel production; and

6                   (ii) The transportation of beer, malt beverage, or  
7 hard cider produced by one (1) entity among no more than three (3)  
8 microbrewery-restaurant private clubs of the one (1) entity;

9                   (3) Operate a restaurant that is the sales outlet for beer, malt  
10 beverage, or hard cider manufactured by the microbrewery-restaurant private  
11 club and that sells the beer, malt beverage, or hard cider and any other  
12 beer, malt beverage, hard cider, or wine that the microbrewery-restaurant  
13 private club permittee may purchase from retailers permitted by this state for  
14 consumption on the permitted premises or purchased directly from permitted  
15 small brewers allowed to distribute directly to the microbrewery-restaurant  
16 private club;

17                   (4) Sell on the premises beer, malt beverage, or hard cider  
18 manufactured by the microbrewery-restaurant private club or commonly owned  
19 facility to a member for on-premises consumption during legal operating  
20 hours;

21                   (5) Serve to a member on-premises complimentary samples of beer,  
22 malt beverages, or hard cider produced by the microbrewery-restaurant private  
23 club;

24                   (6) Sell beer, malt beverage, or hard cider of its own  
25 manufacture to a wholesale dealer permitted by this state for the purpose of  
26 resale to other retail permit holders under §§ 3-4-605 and 3-5-101, dealing  
27 with wholesale distribution of beer, malt beverage, and hard cider;

28                   (7)(A) Conduct beer-tasting, malt beverage-tasting, and hard  
29 cider-tasting events for educational or promotional purposes at any location  
30 in wet areas of this state if:

31                   (i) A request for approval to conduct a beer-  
32 tasting, malt beverage-tasting, and hard cider-tasting event is received by  
33 the Alcoholic Beverage Control Division at least two (2) weeks before the  
34 event;

35                   (ii) The request is approved by the division; and

36                   (iii) Written notice is given by the division to the

1 permit holder at least five (5) days before the event.

2 (B) The microbrewery-restaurant private club shall use  
3 only beer, malt beverage, and hard cider produced by the microbrewery-  
4 restaurant private club for an event approved under subdivision (a)(8)(A) of  
5 this section.

6 (C) Subdivision (a)(8)(A) of this section does not  
7 authorize the conducting of a beer-tasting, malt beverage-tasting, and hard  
8 cider-tasting event at a separate brewing facility of a microbrewery-  
9 restaurant private club authorized under subdivision (a)(9) of this section;  
10 and

11 (8)(A) Maintain one (1) separate brewing facility for the  
12 production or storage of beer, malt liquor, and hard cider as needed to meet  
13 demand, except that each facility used by the microbrewery-restaurant private  
14 club permittee shall not in the aggregate produce more than forty-five  
15 thousand (45,000) barrels of beer, malt beverage, and hard cider per year.

16 (B) Beer, malt beverage, and hard cider produced by a  
17 separate brewing facility of a microbrewery-restaurant private club permittee  
18 shall be:

19 (i) Sold to a permitted wholesaler; or

20 (ii) Transported:

21 (a) From the separate brewing facility to a  
22 microbrewery-restaurant private club commonly owned by the owner of the  
23 separate brewing facility for retail sale for consumption on the permitted  
24 premises; or

25 (b) To the separate brewing facility from a  
26 microbrewery-restaurant private club commonly owned by the owner of the  
27 separate brewing facility for storage, production, or packaging.

28 (b) The director may issue a microbrewery-restaurant private club  
29 permit if the microbrewery-restaurant private club premises are in a dry area  
30 and the governing body has approved an applicant under § 3-5-1903.

31 (c)(1) Except as provided in subdivision (c)(2) of this section, after  
32 October 1, 2019, the director shall not issue a microbrewery-restaurant  
33 private club permit to a person or entity having more than five percent (5%)  
34 common ownership with a person or entity holding a permit under the Arkansas  
35 Small Brewery Act, § 3-5-1401 et seq., or qualifying as a supplier under § 3-  
36 5-1102.

1           (2) The director may issue an additional microbrewery-restaurant  
2 private club permit after October 1, 2019, to a person or entity holding a  
3 microbrewery-restaurant private club permit as of October 1, 2019, and having  
4 more than five percent (5%) common ownership with a person or entity if the  
5 person or entity holds a permit under the Arkansas Small Brewery Act, § 3-5-  
6 1401 et seq., or qualifies as a supplier under § 3-5-1102.

7  
8           3-5-1905. Microbrewery-restaurant private clubs – Sales prohibited.

9           (a) A microbrewery-restaurant private club permitted under this  
10 subchapter shall not sell alcoholic beverages either by the package or by the  
11 drink to a:

12                 (1) Nonmember for on-premises or off-premises consumption; or

13                 (2) Member for off-premises consumption.

14           (b) If a permittee sells, barter, loans, or gives away an alcoholic  
15 beverage in violation of this subchapter or other alcoholic beverage control  
16 laws of this state, the permit of the club shall be revoked.

17  
18           3-5-1906. Fees and taxes.

19           A microbrewery-restaurant private club permittee shall:

20                 (1) Pay the applicable city or county permit fees and barrelage  
21 or taxes and shall pay a state permitting fee to the Alcoholic Beverage  
22 Control Division of seven hundred fifty dollars (\$750) per fiscal year to  
23 manufacture and sell to members its beer, malt beverages, and hard cider for  
24 consumption on the premises and to sell to members other beer, malt  
25 beverages, and hard cider purchased from a permitted wholesaler for  
26 consumption on the premises;

27                 (2) Measure beer, malt beverages, and hard cider manufactured by  
28 the microbrewery-restaurant private club, otherwise comply with applicable  
29 excise and enforcement tax determinations of the beer, malt beverages, and  
30 hard cider, and pay any applicable bond or deposit and the amount of the  
31 state excise tax and enforcement tax to this state, except the fees and taxes  
32 provided in § 3-5-205, and as required by §§ 3-7-104 and 3-7-111; and

33                 (3) Pay a tax at the rate of seven dollars and fifty cents  
34 (\$7.50) per barrel, and proportionately for larger and smaller gallonages per  
35 barrel, on all beer, malt beverages, and hard cider in quantities of up to  
36 forty-five thousand (45,000) barrels per year produced and sold or offered

1 for sale in the state.

2  
3 3-5-1907. Microbrewery-restaurant private clubs – Reapplication for  
4 permit.

5 (a) An entity that is denied upon application to the Director of the  
6 Alcoholic Beverage Control Division for a permit to operate as a  
7 microbrewery-restaurant private club in a dry territory may reapply by  
8 following the procedures stated in § 3-5-1903 and the additional procedures  
9 provided for in subsection (b) of this section.

10 (b)(1) If the applicant is reapplying within two (2) years from the  
11 date an application was denied by the director, the application shall be  
12 accompanied by certification from the county clerk of the county in which the  
13 microbrewery-restaurant private club is to be located certifying that the  
14 applicant obtained signatures from at least twenty-five percent (25%) of the  
15 registered voters in the county.

16 (2) The application under this section shall be filed no later  
17 than twenty (20) days from the date that the county clerk certifies the  
18 petition.

19 (3) The petition on which the signatures are obtained under this  
20 section shall state clearly that the purpose of the petition is to obtain an  
21 alcoholic beverage permit for a microbrewery-restaurant private club and to  
22 serve alcoholic beverages to members.

23 (4) The person obtaining signatures shall verify the signatures  
24 by affidavit that shall be filed with the county clerk at the time of filing  
25 the petition for certification.

26  
27 3-5-1908. Collection of taxes.

28 (a) The Director of the Department of Finance and Administration shall  
29 assess and collect delinquent state and local taxes from the owner or owners  
30 of the microbrewery-restaurant private club, file claims for unpaid taxes  
31 against bonds or other security required to be posted by the permittee, and  
32 enforce liens against assets held by the owner or owners.

33 (b) The Alcoholic Beverage Control Division may suspend or refuse to  
34 renew a permit held by a nonpartner if the microbrewery-restaurant private  
35 club owner fails to remit state or local taxes.

36

