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Section 2.54 Limitation on Production. Each operator of a microbrewery-restaurant establishment is allowed to manufacture beer, ~~or malt beverage, or hard cider~~ products in limited quantities. The operator shall be allowed to brew one or more varieties of beer, ~~or malt beverage, or hard cider~~ products, but in any event shall not brew more than ~~45,000~~ barrels, ~~as defined by ACA § 3-5-1202(1), for all products per calendar year. For purposes of this Regulation, a year is determined to be a calendar year beginning on January 1st of each year and ending on December 31st of the same year.~~ The ~~5,000~~45,000 barrel limitation applies to all beer, ~~and malt beverages, and hard cider~~ brewed, including test runs. (Amended ~~7-19-95~~ 10-29-19)

SUMMARY OF SUBSTANTIVE CHANGES

Act 308 of 2017 increased the barrel production to 45,000 barrels. This change reflects that current limitation. Hard cider is also included as a result of Act 691.

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Section 2.54 Limitation on Production. Each operator of a microbrewery-restaurant establishment is allowed to manufacture beer, malt beverage, or hard cider products in limited quantities. The operator shall be allowed to brew one or more varieties of beer, malt beverage, or hard cider products, but in any event shall not brew more than 45,000 barrels, for all products per calendar year. The 45,000 barrel limitation applies to all beer, malt beverages, and hard cider brewed, including test runs. (Amended 10-29-19)

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4

As Engrossed: H1/31/17
A Bill

HOUSE BILL 1272

5 By: Representative G. Hodges
6

7 **For An Act To Be Entitled**

8 AN ACT TO CLARIFY THE LAW REGARDING PRODUCTION
9 CAPACITIES OF MICROBREWERY RESTAURANTS; TO ALLOW
10 TRANSPORTATION OF IN-HOUSE PRODUCTS BETWEEN COMMONLY
11 OWNED MICROBWERIES AND BREWERIES THAT OWN
12 MICROBWERIES; AND FOR OTHER PURPOSES.
13
14

15 **Subtitle**

16 TO CLARIFY THE LAW REGARDING PRODUCTION
17 CAPACITIES OF MICROBREWERY RESTAURANTS;
18 TO ALLOW TRANSPORTATION OF IN-HOUSE
19 PRODUCTS BETWEEN COMMONLY OWNED
20 MICROBWERIES AND BREWERIES THAT OWN
21 MICROBWERIES.
22
23

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

26 SECTION 1. Arkansas Code § 3-5-1204(a), concerning licenses for
27 microbrewery restaurants, is amended to read as follows:

28 (a) The Director of the Alcoholic Beverage Control Division may issue
29 a microbrewery-restaurant license which shall authorize the licensee to do
30 the following:

31 (1)(A) To:

32 (i) Operate a microbrewery which *shall* manufacture
33 one (1) or more varieties of beer, malt beverage, or hard cider in an
34 aggregate quantity not to exceed ~~twenty thousand (20,000)~~ forty-five thousand
35 thousand (45,000) barrels per year from all facilities under common ownership
36 with the microbrewery; and



1 (ii) Store the manufactured beer, malt beverage, or
2 hard cider and any other beer, malt beverage, or hard cider which the
3 microbrewery-restaurant licensee may purchase from wholesalers and small
4 brewers licensed by this state on the microbrewery-restaurant licensed
5 premises and on the premises of the one (1) separate brewing facility of a
6 microbrewery-restaurant authorized under subdivision (a)(9) of this section.

7 (B) Two (2) or more microbrewery-restaurants sharing
8 common ownership or a brewery of any size sharing common ownership with a
9 microbrewery-restaurant shall be considered one (1) entity for purposes of;
10 (i) ~~ealeulating~~ Calculating barrel production; and
11 (ii) Transportation of beer, malt beverage, or hard
12 cider produced by one (1) entity among no more than three (3) microbrewery-
13 restaurant facilities of the one (1) entity;

14 (2) To operate a restaurant which shall be the sales outlet for
15 beer, malt beverage, or hard cider manufactured by the microbrewery and which
16 shall sell the beer, malt beverage, or hard cider and any other beer, malt
17 beverage, hard cider, or wine which the microbrewery-restaurant licensee may
18 purchase from wholesalers licensed by this state for consumption on the
19 licensed premises or purchased directly from licensed small brewers allowed
20 to distribute directly to the microbrewery-restaurant;

21 (3)(A) To sell on the premises beer, malt beverage, or hard
22 cider manufactured by the microbrewery or commonly owned facility in brewery-
23 sealed packages at retail directly to the consumer for off-premises
24 consumption on any day of the week; and

25 (B) To serve on the premises complimentary samples of
26 beer, malt beverages, or hard cider produced by the microbrewery-restaurant;

27 (4)(A) To provide products it manufactures to charitable or
28 nonprofit organizations or sell for resale products it manufactures to
29 charitable or nonprofit organizations holding valid special-event permits as
30 provided for by the Alcoholic Beverage Control Board, except that the
31 microbrewery-restaurant licensee may not sell to nonprofit organizations
32 holding private club licenses.

33 (B) The sale of those products shall be limited to the
34 duration of the particular special event;

35 (5) To sell beer, malt beverages, or hard cider manufactured by
36 the microbrewery-restaurant to a nonprofit corporation leasing space in the

1 microbrewery-restaurant or in an adjoining building;

2 (6)(A) To sell at retail by the drink or by the package beer
3 produced on the premises of the microbrewery-restaurant if all sales occur in
4 a wet territory and at fairs and food and beer festivals, with the permission
5 and the consent of the management of events.

6 (B) A sales and use tax permit is required for sales under
7 this subdivision (a)(6);

8 (7) Sell beer, malt beverage, or hard cider of its own
9 manufacture to a wholesale dealer licensed by this state for the purpose of
10 resale to other retail license holders as set forth by §§ 3-4-605 and 3-5-
11 101, dealing with wholesale distribution of beer, malt beverage, and hard
12 cider; ~~and~~

13 (8)(A) Conduct beer-, malt beverage-, and hard cider-tasting
14 events for educational or promotional purposes at any location in wet areas
15 of this state if:

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

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

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

22 (B) Only beer, malt beverage, and hard cider produced by
23 the microbrewery-restaurant shall be used for an event approved under this
24 subdivision (a)(8);

25 (C) This subdivision (a)(8) does not authorize the
26 conducting of a beer-, malt beverage-, and hard cider-tasting event at the
27 one (1) separate brewing facility of a microbrewery-restaurant authorized
28 under subdivision (a)(9) of this section; and

29 (9)(A) Maintain one (1) separate brewing facility for the
30 production or storage of beer, malt liquor, or hard cider as needed to meet
31 demand, except that each facility used by the microbrewery-restaurant
32 licensee shall not in the aggregate produce more than forty-five thousand
33 (45,000) barrels of beer, malt beverage, and hard cider per year; and

34 (B) Beer, malt beverage, and hard cider produced by a
35 separate brewing facility of a microbrewery-restaurant licensee shall be:

36 (i) Sold to a licensed wholesaler; or

(ii) Transported:

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

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

SECTION 2. Arkansas Code § 3-5-1205 is amended to read as follows:

3-5-1205. Fees and taxes.

A microbrewery-restaurant licensee 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 seven hundred fifty dollars (\$750) per fiscal year to manufacture and sell its beer, malt beverages, and hard cider for consumption both on and off the premises and to sell any other beer, malt beverages, and hard cider purchased from a licensed wholesaler for consumption on the premises;

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

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

/s/G. Hodges

APPROVED: 03/01/2017