

## **MARKUP COPY**

**Section 1.79 (27) Allowing Alcoholic Beverages to be Carried From Any On Premises Alcoholic Beverage Outlet or Private Club.** The permittee allowed any patron to exit the permitted premises carrying any open container of alcoholic beverages or allowed any patron to exit any on premises retail beer outlet carrying sealed alcoholic beverages in any combination not authorized by the Director for off premises sales, unless otherwise authorized by these rules. Private clubs and hotel-motel-restaurant mixed drink-permitted outlets are not allowed to sell any alcoholic beverages to be taken off the permitted premises. **Provided,** (1) those establishments holding an on premises wine restaurant or café permit, a combined restaurant beer and wine permit, hotel-motel-restaurant mixed drink permit, or private club permit, may allow a customer, who purchases an unsealed package of wine in conjunction with a food purchase and consumes a portion of the wine on the premises with the meal, to replace the cork and remove the partially filled package from the premises and (2) patrons may walk back and forth with an alcoholic beverage between a private club permitted premises and another contiguous permitted premises when both premises are a part of the same business operation and the alcoholic beverage is a type permitted by both premises; and (3) patrons may walk back and forth with an alcoholic beverage between an on premises permitted outlet and a contiguous outlet issued a casino license by the Arkansas Racing Commission as long as the casino licensee is in operation. (Amended 10-21-20)

It is further provided that any on-premises outlet in a valid Entertainment District may allow patrons to leave the permitted premises with alcoholic beverages. A city, municipality, or incorporated town that has designated an Entertainment District shall notify the ABC within ten (10) days of issuance or removal of a district. Notification for issuance of an Entertainment District shall include: whether the district is temporary or permanent, the days and hours of operation of the Entertainment District, any other regulations within the Entertainment District, as well as any on-premises outlets that elect to opt out of the Entertainment District. Any on-premise permit within an Entertainment District that opts out of the Entertainment District may not permit patrons to leave the premises with alcoholic beverages.

## **SUMMARY OF SUBSTANTIVE CHANGES**

Act 703 of 2021 authorized certain permit holders that have a restaurant to sell alcoholic beverages to consumers for off-premise consumption via delivery and to-go food orders.

1 State of Arkansas  
2 93rd General Assembly  
3 Regular Session, 2021  
4

As Engrossed: S3/9/21 H3/18/21

# A Bill

SENATE BILL 339

5 By: Senator J. English  
6 By: Representative Pilkington  
7

## For An Act To Be Entitled

9 AN ACT TO AUTHORIZE CERTAIN PERMIT HOLDERS TO SELL  
10 ALCOHOLIC BEVERAGES DIRECTLY TO CONSUMERS TO BE  
11 CONSUMED OFF-PREMISES OR DELIVERED TO THE CONSUMER AT  
12 A LOCATION OFF-PREMISES; AND FOR OTHER PURPOSES.  
13

## Subtitle

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16 TO AUTHORIZE CERTAIN PERMIT HOLDERS TO  
17 SELL ALCOHOLIC BEVERAGES DIRECTLY TO  
18 CONSUMERS TO BE CONSUMED OFF-PREMISES OR  
19 DELIVERED TO THE CONSUMER AT A LOCATION  
20 OFF-PREMISES.  
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22  
23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
24

25 SECTION 1. DO NOT CODIFY. Legislative findings.

26 The General Assembly finds that:

27 (1) The coronavirus 2019 (COVID-19) pandemic has disrupted the  
28 economy and the lives of millions of Americans;

29 (2) Businesses across the country have shifted operation models  
30 in order to comply with consumer demand and government-imposed restrictions;

31 (3) The food service industry in particular has seen the most  
32 disruption, with business revenue diminished by both capacity limitations and  
33 increased costs of compliance with new health safety protocols;

34 (4) With more than one hundred twenty thousand (120,000) food  
35 service industry jobs in this state, the food service industry is a driving  
36 force in Arkansas's economy;



1           (5) In this new economy, the food service industry can only  
2 survive through adaptation, including without limitation delivery and take-  
3 out models;

4           (6) Current law prohibits business owners in the food service  
5 industry from selling and delivering certain products to their consumers;

6           (7) The Governor's Executive Order eliminated restrictions to  
7 allow the food service industry to sell for take-out or to deliver food  
8 purchases that included alcoholic beverages with certain limitations;

9           (8) This flexibility has allowed hundreds of restaurants to  
10 adapt in order to keep doors open for business and to keep employees working;  
11 and

12           (9) The Governor's Executive Order allowing this flexibility is  
13 temporary and could expire in the near future, leaving hundreds of business  
14 owners and thousands of employees with less income and security.

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16           SECTION 2. Arkansas Code Title 3, Chapter 4, Subchapter 1, is amended  
17 to add an additional section to read as follows:

18           3-4-107. Alcoholic beverages with food purchase – Definitions.

19           (a) A restaurant holding a valid alcoholic beverage permit may sell  
20 alcoholic beverages in a sealed container during legal operating hours  
21 directly to a consumer twenty-one (21) years of age or older along with the  
22 purchase of a meal as defined in § 3-9-202:

23           (1) At the point of sale to be consumed off-premises;

24           (2) At the drive-through to be consumed off-premises;

25           (3) At the curbside to be consumed off-premises; or

26           (4) Delivered to a consumer at a location off-premises.

27           (b) A permit holder authorized to deliver alcoholic beverages under  
28 this section shall deliver the alcoholic beverages by an employee of the  
29 permit holder and not through a third-party delivery system.

30           (c) A permit holder authorized to deliver alcoholic beverages under  
31 this section may deliver alcoholic beverages directly to a consumer only in a  
32 wet county or area.

33           (d) This section does not apply to a:

34           (1) Private club; or

35           (2) Restaurant located in a dry area.

36           (e) A permit holder authorized to sell alcoholic beverages with the

1 purchase of a meal under this section is limited to the following quantities  
2 per sale:

3 (1) Seventy-two ounces (72 oz.) of beer, malt beverages, or hard  
4 cider, or the equivalent of one (1) standard six-pack;

5 (2) Seven hundred fifty milliliters (750 ml) of wine, or the  
6 equivalent of one (1) bottle; and

7 (3) Thirty-two ounces (32 oz.) of spirituous liquors as defined  
8 in subdivision (h)(3) of this section, or the equivalent of four (4) eight-  
9 ounce drinks.

10 (f) Unless authorized by local election under § 3-3-210, a permit  
11 holder shall not sell alcoholic beverages under this section on a Sunday.

12 (g) The Director of the Alcoholic Beverage Control Division shall  
13 adopt rules to implement and administer this section.

14 (h) As used in this section:

15 (1) "Alcoholic beverages" means beer, malt beverages, hard  
16 ciders, vinous liquors, or spirituous liquors;

17 (2) "Restaurant" means a public or private place that:

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

21 (B) Provides adequate and sanitary kitchen and dining  
22 equipment;

23 (C) Has a seating capacity of at least twenty-five (25)  
24 persons;

25 (D) Employs a sufficient number and variety of employees  
26 to prepare, cook, and serve suitable food for its guests or members;

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

28 (F) Is open a minimum of five (5) days per week, with the  
29 exception of holidays, vacations, and periods of redecorating; and

30 (3)(A) "Spirituous liquors" includes mixed drinks or specialty  
31 drinks that are made by the permit holder at the premises.

32 (B) "Spirituous liquors" does not include unmixed spirits  
33 or spirits in the manufacturer's original containers.

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35 SECTION 3. DO NOT CODIFY. Rules.

36 (a) When adopting the initial rules required under this act, the

1 Alcoholic Beverage Control Division shall file the final rules with the  
2 Secretary of State for adoption under § 25-15-204(f):

3 (1) On or before January 1, 2022; or

4 (2) If approval under § 10-3-309 has not occurred by January 1,  
5 2022, as soon as practicable after approval under § 10-3-309.

6 (b) The division shall file the proposed rules with the Legislative  
7 Council under § 10-3-309(c) sufficiently in advance of January 1, 2022, so  
8 that the Legislative Council may consider the rules for approval before  
9 January 1, 2022.

10  
11 */s/J. English*

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14 **APPROVED: 4/13/21**