

**QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS  
WITH THE ARKANSAS LEGISLATIVE COUNCIL**

DEPARTMENT/AGENCY Department of Finance and Administration  
DIVISION Alcoholic Beverage Control Administration  
DIVISION DIRECTOR Mary Robin Casteel  
CONTACT PERSON Mary Robin Casteel  
ADDRESS 1515 W. 7<sup>th</sup> Street, Suite 503 Little Rock 72201  
PHONE NO. 501-682-1105 FAX NO. 501-682-2221 E-MAIL Mary.Casteel@dfa.arkansas.gov  
NAME OF PRESENTER AT COMMITTEE MEETING Mary Robin Casteel  
PRESENTER E-MAIL Mary Robin Casteel

**INSTRUCTIONS**

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Donna K. Davis  
Administrative Rules Review Section  
Arkansas Legislative Council  
Bureau of Legislative Research  
One Capitol Mall, 5<sup>th</sup> Floor  
Little Rock, AR 72201

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1. What is the short title of this rule? Section 2.67 Small Brewery Tap Room - Application.
2. What is the subject of the proposed rule? Create procedures for brewery to begin operating an off-site tap room.
3. Is this rule required to comply with a federal statute, rule, or regulation? Yes  No   
If yes, please provide the federal rule, regulation, and/or statute citation. \_\_\_\_\_
4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes  No   
If yes, what is the effective date of the emergency rule? October 1, 2017  
When does the emergency rule December 30, 2017

expire?

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act?

Yes

No

5. Is this a new rule? Yes  No

If yes, please provide a brief summary explaining the regulation. Describes the procedure required for a small brewery to begin operating an off-site tap room.

Does this repeal an existing rule? Yes  No

If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does. \_\_\_\_\_

Is this an amendment to an existing rule?

Yes

No

If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. Act 950 of 2017 / ACA 3-5-1405; ACA 3-5-1418

7. What is the purpose of this proposed rule? Why is it necessary? Amend existing body of rules to be consistent with Arkansas law. A separate brewing facility for small breweries was created by Act 950 of 2017. The act did not provide procedures for the small brewery to notify ABC, local officials, or general public of their intent to operate an off-site tap room. This rule creates those procedures.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b). <http://www.dfa.arkansas.gov/offices/abc/Pages/default.aspx>

9. Will a public hearing be held on this proposed rule? Yes  No   
If yes, please complete the following:

Date: \_\_\_\_\_

Time: \_\_\_\_\_

Place: \_\_\_\_\_

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

September 18, 2017

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

November 1, 2017

12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice. See attached.

13. Please provide proof of filing the rule with the Secretary of State and the Arkansas State Library as required pursuant to Ark. Code Ann. § 25-15-204(e). See Attached.
14. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known. For the rule: Arkansas Brewers. Opponents: Unknown.

**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT** Department of Finance and Administration

**DIVISION** Alcoholic Beverage Control Administration

**PERSON COMPLETING THIS STATEMENT** Mary Robin Casteel

**TELEPHONE** 501-682-1105 **FAX** 501-682-2221 **EMAIL:** Mary.Casteel@dfa.arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

**SHORT TITLE OF THIS RULE** Section 2.67 Small Brewery Tap Room -Application

1. Does this proposed, amended, or repealed rule have a financial impact?      Yes       No
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?      Yes       No
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered?      Yes       No

If an agency is proposing a more costly rule, please state the following:

- (a) How the additional benefits of the more costly rule justify its additional cost;  
\_\_\_\_\_
- (b) The reason for adoption of the more costly rule;  
\_\_\_\_\_
- (c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;  
\_\_\_\_\_
- (d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.  
\_\_\_\_\_

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

- (a) What is the cost to implement the federal rule or regulation?

**Current Fiscal Year**

**Next Fiscal Year**

General Revenue \_\_\_\_\_  
 Federal Funds \_\_\_\_\_  
 Cash Funds \_\_\_\_\_  
 Special Revenue \_\_\_\_\_  
 Other (Identify) \_\_\_\_\_  
 Total \_\_\_\_\_

General Revenue \_\_\_\_\_  
 Federal Funds \_\_\_\_\_  
 Cash Funds \_\_\_\_\_  
 Special Revenue \_\_\_\_\_  
 Other (Identify) \_\_\_\_\_  
 Total \_\_\_\_\_

(b) What is the additional cost of the state rule?

**Current Fiscal Year**

General Revenue 0 \_\_\_\_\_  
 Federal Funds \_\_\_\_\_  
 Cash Funds \_\_\_\_\_  
 Special Revenue \_\_\_\_\_  
 Other (Identify) \_\_\_\_\_  
 Total \_\_\_\_\_

**Next Fiscal Year**

General Revenue 0 \_\_\_\_\_  
 Federal Funds \_\_\_\_\_  
 Cash Funds \_\_\_\_\_  
 Special Revenue \_\_\_\_\_  
 Other (Identify) \_\_\_\_\_  
 Total \_\_\_\_\_

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

**Current Fiscal Year**

\$ 0 \_\_\_\_\_

**Next Fiscal Year**

\$ 0 \_\_\_\_\_

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

**Current Fiscal Year**

\$ 0 \_\_\_\_\_

**Next Fiscal Year**

\$ 0 \_\_\_\_\_

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes  No

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:

- (a) justifies the agency's need for the proposed rule; and
  - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
- (a) the rule is achieving the statutory objectives;
  - (b) the benefits of the rule continue to justify its costs; and
  - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

## **Proposed New Rule**

**Section 2.67 Small Brewery Tap Room - Application.** An Arkansas Small Brewery permittee shall complete an application for a small brewery tap room. The same posting, publication, and notice requirements of applicants for a retail beer permit shall apply to small brewery tap room applicants. Small Brewery permittees shall designate a managing agent for each small brewery tap room and permittees shall notify the Alcoholic Beverage Control of any change in the managing agent. The managing agent shall either live in the same county as the location of the tap room or within thirty five (35) miles of the tap room. Upon submission to the ABC of the required application and completion of the posting, publication, and notice requirements, the Director of the ABC may issue an endorsement to the Small Brewery Permittee for the operation of a Small Brewery Tap Room. The endorsement shall be posted on the premises of the tap room in compliance with the specifications set forth in Section 1.37. If the Director refuses to issue the Small Brewery Tap Room endorsement to the Small Brewery permittee, the Director's decision may be appealed to the Alcoholic Beverage Control Board pursuant to Section 1.51.

**LEGAL NOTICE**

In compliance with the Administrative Procedure Act of the State of Arkansas (Act 434 of 1967), notice is hereby given that the Alcoholic Beverage Control Board proposes to promulgate regulations concerning the alcoholic beverage industry in Arkansas.

The Board will consider regulations in the following areas: grocery store wine permit application procedures, retailer loyalty programs, non-alcoholic merchandise sold by retail liquor stores, prohibited gifts and services to retailers by wholesalers and manufacturers, small brewery off-site tap rooms, small brewery off-site brewing facilities, microbrewery restaurant off-site brewing facilities, local ordinance required for private club applications and other private club-related permit transactions.

The regulation hearing will be held on September 20, 2017 at the hour of 8:30 a.m., in the fifth floor conference room, 1515 West Seventh Street, Little Rock, Arkansas.

All public comment concerning the regulation hearing should be mailed to ABC Division, 1515 West Seventh Street, Suite 503, Little Rock, Arkansas, 72201.

## Mary Robin Casteel

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**From:** Legal Ads <legalads@arkansasonline.com>  
**Sent:** Thursday, August 17, 2017 3:35 PM  
**To:** Mary Robin Casteel  
**Subject:** Re: Legal Notice for ABC Rules

Thanks, Mary Robin. Will run Sun 8/20, Mon 8/21, and Tues 8/22.

Gregg

On 8/17/2017 3:30 PM, Mary Robin Casteel wrote:

Dear Gregg:

I need to publish the attached document as a legal notice on Sunday August 20 through Tuesday August 22 for a total of three consecutive days.

Please submit a bill to the following address:  
Alcoholic Beverage Control Administration  
1515 W. 7<sup>th</sup> Street, Suite 503  
Little Rock, AR 72201

Please give me a call if you need additional information or if you have any questions.

Thanks,  
Mary Robin

Mary Robin Casteel  
ABC Administration  
501-682-1105  
[Mary.Casteel@dfa.arkansas.gov](mailto:Mary.Casteel@dfa.arkansas.gov)



## Mary Robin Casteel

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**From:** Mary Robin Casteel  
**Sent:** Thursday, August 17, 2017 4:23 PM  
**To:** 'register@sos.arkansas.gov'  
**Subject:** Notice of Rules and Proposed Rules for Alcoholic Beverage Control  
**Attachments:** Newspaper Notice\_ABC Rules1.pdf; ABC Proposed Rules1\_Rules Only\_SOS.pdf

Dear Ms. Walters:

I've attached administrative rules proposed by the Alcoholic Beverage Control Board. I've also attached the public notice for these rules. The notice is set to run for three consecutive days in the Arkansas Democrat Gazette beginning on Sunday August 20, 2017.

If you have any questions, or if there are any issues with these documents, please contact me at 501-682-1105.

Thank you,  
Mary Robin

Mary Robin Casteel  
ABC Administration  
501-682-1105  
[Mary.Casteel@dfa.arkansas.gov](mailto:Mary.Casteel@dfa.arkansas.gov)



**State of Arkansas**  
**Bureau of**  
**Legislative Research**

Marty Garrity, Director  
Kevin Anderson, Assistant Director  
for Fiscal Services  
Tim Carlock, Assistant Director  
for Information Technology  
Matthew Miller, Assistant Director  
for Legal Services  
Richard Wilson, Assistant Director  
for Research Services

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## Memorandum

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**TO: Members, ALC – Executive Subcommittee**

**FROM: Rebecca Miller-Rice, Legislative Attorney, Administrative Rules Review Section, Legal Services Division**

**CC: Marty Garrity, Director, Bureau of Legislative Research;  
Jessica Sutton, Administrator, Administrative Rules Review Section, Legal Services Division**

**DATE: September 5, 2017**

**SUBJECT: Legal Authorization for Emergency Promulgation of Section 2.67: Small Brewery Tap Room – Application by the Department of Finance and Administration, Alcoholic Beverage Control Administration**

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The instant proposed rule establishes the procedure for the submission of an application by an Arkansas small brewery permittee seeking to obtain an endorsement from the Alcoholic Beverage Control to operate a small brewery tap room. Act 950 of 2017, § 4, amended Arkansas Code Annotated § 3-5-1405(a), which concerns the scope of licenses for small breweries, to allow a small brewery to operate no more than two (2) small brewery tap rooms. See Ark. Code Ann. § 3-5-1405(a)(8), as amended by Act 950, § 4. Section 3-5-1405 is found within the Arkansas Small Brewery Act (“Act”), Ark. Code Ann. §§ 3-5-1401 through 3-5-1418, as amended by Act 950. The purpose of the Act is to authorize the legal operation of native breweries in order to assure favorable conditions for small businesses, the creation and long-term success of which is vital to the continued economic well-being and prosperity of the State of Arkansas. See Ark. Code Ann. § 3-5-1402. Pursuant to Ark. Code Ann. § 3-5-1413, 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 the Act.