

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

**Act 1157 of the Regular Session**

*As Engrossed: S2/23/05 S3/2/05*

**A Bill**

1 State of Arkansas  
2 85th General Assembly  
3 Regular Session, 2005

SENATE BILL 428

4  
5 By: Senator Hill  
6 By: Representative Cowling

7  
8  
9 **For An Act To Be Entitled**

10 AN ACT TO AUTHORIZE THE ISSUANCE OF A TEMPORARY  
11 WINE CHARITABLE AUCTION LICENSE; AND FOR OTHER  
12 PURPOSES.

13  
14 **Subtitle**

15 AN ACT TO AUTHORIZE THE ISSUANCE OF A  
16 TEMPORARY WINE CHARITABLE AUCTION  
17 LICENSE.

18  
19  
20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

21  
22 SECTION 1. Arkansas Code Title 3, Chapter 5 is amended to add an  
23 additional subchapter to read as follows:

24 3-5-1501. Temporary wine charitable auction permit.

25 (a) There is established a temporary wine charitable auction permit.

26 (b) The Alcoholic Beverage Control Division shall issue the permit to  
27 qualifying charitable nonprofit organizations that are exempt from taxation  
28 under Section 501 of the Internal Revenue Code of 1986, as it existed on  
29 January 1, 2005, and that have received tax exempt status from the Internal  
30 Revenue Service pursuant to Section 501(c)(3) or (4) of the Internal Revenue  
31 Code, as it existed on January 1, 2005.

32 (c) The permit shall authorize the qualifying charitable nonprofit  
33 organization to sell wine for purposes of raising funds for the charitable  
34 organization during a live or silent auction conducted by the charitable  
35 organization.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36

3-5-1502. Authorized location of auction.

(a) The holder of a temporary wine charitable auction permit may conduct an auction in any area of the State of Arkansas where the sale of the wine is authorized.

(b) The holder of a permit may conduct an auction at a premises of another on-premises permit that is licensed to sell or dispense the wine if:

(1) The wine to be auctioned is kept separate from the wine sold, stored, or served at the permitted premises; and

(2) The wine, whether sold or unsold, is removed from the premises immediately following the auction.

3-5-1503. Disposition of auction proceeds.

The proceeds from the sale of wine sold at a charitable auction as authorized by this subchapter shall be deposited into the account of the charitable organization that holds the temporary wine charitable auction permit.

3-5-1504. Origination of wine to be auctioned.

(a) The wine to be auctioned shall be obtained by:

(1) Donation from any person or an out-of-state winery, if the laws of the out-of-state winery allows the donation;

(2) Donation or purchase from a licensed winery within the state; or

(3) Donation or purchase from a licensed Arkansas wholesaler.

(b) If wine to be auctioned is obtained as provided in this subchapter, the provisions of § 3-3-216 shall not apply to any person who, for purposes of sale of the wine at a charitable auction:

(1) Ships or transports the wine into Arkansas;

(2) Stores or possesses the wine in Arkansas; or

(3) Purchases the wine at a charitable auction as provided for in this subchapter.

3-5-1505. Prohibited activities.

The holder of a temporary wine charitable auction permit shall not:

(1) Auction any wine that has not been obtained as provided for

1 in this subchapter;

2 (2) Conduct more than two (2) auctions during any calendar year;

3 (3) When the auction is conducted on a premises that holds a  
4 permit for the sale or dispensing of wine, allow the auctioned wine to be  
5 consumed on the permitted premises; and

6 (4) Pay a commission or promotional fee to:

7 (A) Any person to arrange or conduct an auction authorized  
8 under this subchapter; or

9 (B) Arrange for the donation of wine to be auctioned by  
10 the charitable organization.

11  
12 3-5-1506. Permit duration, fees, and gross receipts.

13 (a) The temporary wine charitable auction permit shall be issued for a  
14 period of not more than five (5) days.

15 (b) The fee for the permit shall be fifty dollars (\$50.00).

16 (c) The gross receipts from the sale of wine at a charitable auction  
17 under this section shall not be subject to the Arkansas Gross Receipts Tax  
18 Act of 1941, as amended, nor shall the taxes imposed under Title 3 of the  
19 Arkansas Code be applicable.

20  
21 3-5-1507. Administrative rules.

22 (a) The Alcoholic Beverage Control Division shall adopt regulations  
23 governing the application, issuance, and use of a temporary wine charitable  
24 auction permit.

25 (b)(1) The Alcoholic Beverage Control Division shall also adopt rules  
26 establishing penalties for violation of this subchapter or rules adopted  
27 pursuant to this subchapter.

28 (2) However, penalties adopted by the division shall not exceed  
29 penalties which may be imposed on charitable organizations holding other  
30 types of temporary permits.

31  
32 */s/ Hill*

33  
34  
35 *APPROVED: 3/22/2005*

1