

1 State of Arkansas *As Engrossed: S3/15/17 H3/20/17*

2 91st General Assembly

A Bill

3 Regular Session, 2017

SENATE BILL 659

4

5 By: Senator Bond

6 By: Representatives Leding, *Rushing, Capp*

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For An Act To Be Entitled

9 AN ACT TO CLARIFY THE LAW REGARDING THE SCOPE OF
10 SMALL BREWERY OPERATIONS; TO ALLOW TRANSPORTATION OF
11 IN-HOUSE PRODUCTS BETWEEN COMMONLY OWNED SMALL
12 BREWERIES AND BREWERIES THAT OWN SMALL BREWERIES; TO
13 CREATE SMALL BREWERY TAP ROOMS; AND FOR OTHER
14 PURPOSES.

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Subtitle

18 TO CLARIFY THE LAW REGARDING THE SCOPE OF
19 SMALL BREWERY OPERATIONS; TO ALLOW
20 TRANSPORTATION OF IN-HOUSE PRODUCTS
21 BETWEEN COMMONLY OWNED SMALL BREWERIES
22 AND BREWERIES THAT OWN SMALL BREWERIES;
23 TO CREATE SMALL BREWERY TAP ROOMS.

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25

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

27

28 SECTION 1. Arkansas Code § 3-5-105(a)(1), concerning beer festival
29 permits, is amended to read as follows:

30 (a)(1) The Director of the Alcoholic Beverage Control Division may
31 issue a temporary permit to authorize the following:

32 (A) A festival to be conducted over a period not to exceed
33 three (3) days;

34 (B) The consumption by persons of legal age of beer and
35 malt beverages, as defined by § 3-5-1202, on the festival grounds;

36 (C) The permittee to charge an entry fee for persons



1 wishing to attend the festival and to distribute beer and malt beverages on
2 any day of the week, including Sunday, as provided for in this section,
3 pursuant to the following conditions:

4 (i) The distribution of beer and malt beverages as
5 authorized in this section, shall be limited to the secure area as prescribed
6 in subdivision (a)(1)(D) of this section; and

7 (ii) The distribution of beer and malt beverages on
8 Sunday, as authorized in this section, shall be limited to the hours between
9 12:00 p.m. and 10:00 p.m. central time and be limited to those areas where
10 the retail sale and consumption of alcoholic beverages on Sunday has been
11 approved pursuant to Arkansas law;

12 (D) The festival permittee to designate the permitted area
13 on the festival grounds to be approved by the director, such that it is a
14 secure area which will not allow unsupervised access and egress; and

15 (E) Participation in this event by any legal brewery,
16 microbrewery, microbrewery-restaurant, distributor, wholesaler, ~~or~~ brewpub,
17 small brewery, or small brewery tap room whether or not they are currently
18 registered or their product is licensed in the State of Arkansas.

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20 SECTION 2. Arkansas Code § 3-5-105, concerning beer festival permits,
21 is amended to add an additional subsection to read as follows:

22 (g) A small brewery holding a distribution permit and a beer festival
23 permit may accept and hold beers from out-of-state breweries and distributors
24 for the purpose of pouring at beer festivals.

25

26 SECTION 3. Arkansas Code § 3-5-1403 is amended to read as follows:

27 3-5-1403. Definitions.

28 As used in this subchapter:

29 (1) "Barrel" means thirty-one gallons (31 gals.);

30 (2) "Beer" means any fermented liquor made from malt or any
31 substitute having an alcoholic content of not more than five percent (5%) by
32 weight;

33 (3) "Brewery" means a small brewery or contract brewing company;

34 (4) "Contract brewing company" means any licensed brewery that
35 hires another company to produce a portion of its beer, malt beverage, or
36 hard cider;

1 (5) "Front-of-house employee" means an employee of a small
2 brewery not involved in the production or transportation of brewery beer or
3 wholesale activities of the brewery, including without limitation:

4 (A) A bartender;

5 (B) A host;

6 (C) Kitchen staff;

7 (D) Janitorial staff; and

8 (E) Servers;

9 ~~(5)~~(6) "Hard cider" means liquor brewed from the fermented
10 juices of fruit and containing more than three percent (3%) and not more than
11 twenty-one percent (21%) alcohol by weight;

12 ~~(6)~~(7) "Malt beverage" means any liquor brewed from the
13 fermented juices of grain and having an alcoholic content of no less than
14 five percent (5%) nor more than twenty-one percent (21%) by weight;

15 ~~(7)~~(8) "Person" means any natural person, partnership,
16 association, or corporation; and

17 (9) "Restaurant" means:

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

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

24 (C) Has a seating capacity of at least fifty (50) 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;

30 ~~(8)~~(A)(10)(A) "Small brewery" means any licensed facility
31 located in Arkansas that manufactures fewer than forty-five thousand (45,000)
32 barrels of beer, malt beverage, and hard cider per year for sale or
33 consumption.

34 (B) "Small brewery" does not include a microbrewery-
35 restaurant; and

36 (11) "Small brewery tap room" means a small brewery off-premises

1 retail site located in a wet territory holding a small brewery license.

2
3 SECTION 4. Arkansas Code § 3-5-1405(a), concerning the scope of
4 licenses for small breweries, is amended to read as follows:

5 (a) The Director of the Alcoholic Beverage Control Division may issue
6 a license for a licensee to operate a small brewery that:

7 (1) Manufactures at its licensed facility no less than thirty-
8 five percent (35%) of its beer, malt beverages, and hard cider to be sold in
9 the state and no more than forty-five thousand (45,000) barrels per year;

10 (2) Sells to wholesale or to the consumer at the small brewery
11 premises for consumption, either on or off the premises, brand name products
12 of the licensed facility;

13 (3) Stores any beer, malt beverages, and hard cider legally
14 purchased for resale on the premises and on the premises of the one (1)
15 separate brewing facility of a small brewery authorized under subdivision
16 (a)(9) of this section;

17 (4) Serves on the premises:

18 (A) ~~complimentary~~ Complimentary samples of beer produced
19 by the small brewery; and

20 (B)(i) Spirituous liquors for on-premises consumption in a
21 taproom under the license of the small brewery.

22 (ii) Subdivision (a)(4)(B)(i) of this section
23 authorizing on-premises consumption is effective only in cities and counties,
24 or portions of cities and counties, in which the manufacture or sale of
25 intoxicating liquor is not prohibited as a result of a local option election
26 held under Initiated Act No. 1 of 1942, and in which the sale of alcoholic
27 beverages for on-premises consumption has been approved by a majority vote at
28 a referendum election as provided in this chapter;

29 (5) Sells:

30 (A) At retail, by the drink or by the package, beer
31 produced on the premises of the small brewery if all sales occur in a wet
32 territory; or

33 (B)(i) At fairs and food and beer festivals with the
34 permission and the consent of the management of the events.

35 (ii) A sales and use tax permit also is required for
36 sales under subdivision (a)(5)(B)(i) of this section;

1 (6)(A)(i) Sells and transports:

2 (a) Beer produced on the premises of the small
3 brewery to wholesale and small brewery license holders;

4 (b) Beer, malt beverages, and hard cider
5 produced on the premises of the small brewery to retail license holders and
6 small brewery license holders if the total production of the permitted
7 brewery does not exceed fifteen thousand (15,000) barrels per year from all
8 facilities under common ownership with the small brewery.

9 (ii) Each permitted brewery shall submit
10 documentation of production each year to renew the permit with the Alcoholic
11 Beverage Control Division.

12 (iii) A small brewery may distribute no more than
13 fifteen thousand (15,000) barrels per year.

14 (B)(i) To sell and transport beer under subdivision
15 (a)(6)(A) of this section, the small brewery license holder shall obtain a
16 small brewery wholesale permit.

17 (ii) The small brewery license holder shall pay a
18 fee of two hundred fifty dollars (\$250) per year for the permit under
19 subdivision (a)(6)(B)(i) of this section; and

20 (7) Sells for consumption on the premises of the small brewery:

21 (A) Beer produced by the small brewery or another small
22 brewery; or

23 (B) Wine;

24 (8) Operates no more than two (2) small brewery tap rooms; and

25 (9)(A) Maintains one (1) separate brewing facility for the
26 production or storage of beer, malt liquor, or hard cider as needed to meet
27 demand, except that each facility used by the small brewery licensee shall
28 not in the aggregate produce more than forty-five thousand (45,000) barrels
29 of beer, malt beverage, and hard cider per year.

30 (B) Beer, malt beverage, and hard cider produced by a
31 separate brewing facility of a small brewery licensee shall be:

32 (i) Sold to a licensed wholesaler; or

33 (ii) Transported:

34 (a) From the separate brewing facility to a
35 small brewery commonly owned by the owner of the separate brewing facility
36 for retail sale for consumption on or off the licensed premises; and

1 (b) To the separate brewing facility from a
2 small brewery commonly owned by the owner of the separate brewing facility
3 for storage, production, or packaging.

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5 SECTION 5. Arkansas Code Title 3, Chapter 5, Subchapter 14, is amended
6 to add additional sections to read as follows:

7 3-5-1417. Exemption for front-of-house employees.

8 A front-of-house employee may be employed simultaneously by another
9 holder of a permit or license issued by the Director of the Alcoholic
10 Beverage Control Division.

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12 3-5-1418. Small brewery tap room.

13 (a) A small brewery tap room may:

14 (1) For beer and hard cider produced by the small brewer, sell
15 for both on-premises and off-premises consumption; and

16 (2) For beer, hard cider, and wine not produced by the licensed
17 small brewer, sell for on-premises consumption.

18 (b) A small brewery tap room may operate a restaurant.

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20 */s/Bond*

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23 **APPROVED: 04/05/2017**