

Hall of the House of Representatives
83rd General Assembly - Regular Session, 2001
Amendment Form

Subtitle of House Bill No. 1637

"AN ACT TO ALLOW LOCAL GOVERNMENTS TO CONDUCT LOCAL OPTION
ELECTIONS FOR THE PURPOSE OF ALLOWING VOTERS TO SELECTIVELY APPROVE
SPECIFIC TYPES OF ALCOHOLIC BEVERAGE SALES."

Amendment No. 3 to House Bill No. 1637.

Amend House Bill No. 1637 as engrossed, H2/27/01:

Page 1, line 10, delete "LOCAL GOVERNMENTS" and substitute "COUNTIES"

AND

Page 1, line 16 delete "LOCAL GOVERNMENTS" and substitute "COUNTIES"

AND

Delete everything after the enacting clause and substitute
"SECTION 1. Legislative Determination and Intent.

Since 1941 the local option laws of Arkansas have provided that counties, municipalities, wards and precincts may hold local option elections on the question of whether to allow the sale and manufacture of intoxicating liquors. If the sale or manufacture of intoxicating liquors was approved by voters under existing law, that approval would necessarily include the approval of most forms of the manufacture and sale of intoxicating liquors, including a multitude of on-premises and off-premises sales as permitted by the Alcoholic Beverage Control Division. It is the determination of this body that Arkansas' local option laws no longer meet the needs and desires of many of our communities which have not chosen to authorize every type of alcoholic beverage sale permitted by law. It is the intent of the Arkansas General Assembly, as expressed in this act, that more local control of sales of alcoholic beverages should be vested in county governments. To that end, it is considered desirable to enact law which would provide for local option elections which could authorize only selected types of alcoholic beverage sales deemed to be desirable by counties.

SECTION 2. Applicability of Act.

(a)(1) This act is supplemental to existing local option law.

(2) The elections provided for in this act are authorized to be

held only in those counties which have not approved the sale of intoxicating liquors within those counties as of the effective date of this act.

(3)(A) From and after the effective date of this act, in addition to elections authorized to be held under Arkansas Code 3-8-201 through 3-8-210, a local option election may be held under this act.

(B) This act shall authorize any dry county to conduct a local option election.

(4)(A) No county, municipality, ward, or voting precinct which has previously voted in favor of the manufacture or sale of intoxicating liquors under existing law will be authorized to conduct an election under this act, unless provided for in this act.

(B) No county, municipality, ward or voting precinct shall alter the types of alcoholic beverages currently authorized for sale by conducting an election under this act.

(5) Nothing in this act, nor any election conducted under its provisions, shall be construed to divest any permit holder of any permit issued under any law which was in effect on the effective date of this act.

(b) For purposes of this act, "alcoholic beverages" mean all alcoholic beverages including spirits, wines and beer and all other alcoholic beverages approved for sale in Arkansas which contain more than one-half of one percent (1/2 of 1%) of alcohol by weight.

SECTION 3. Petition Procedure.

(a) Petitions for local option elections held under this act shall be prepared substantially in accordance with Arkansas Code 3-8-204.

(b) The petitions for local option elections shall list each city, having a population exceeding twenty thousand (20,000) according to the last decennial census, within the county in which hotels, restaurants or large attendance facilities would be authorized to make applications for permits.

(c) If a majority of electors vote for the sale of alcoholic beverages for on-premises consumption in hotels, restaurants and large attendance facilities, permits would be authorized to be issued only within cities having a population exceeding twenty thousand (20,000) according to the last decennial census.

SECTION 4. Determination of sufficiency of petition - Calling of election.

(a)(1) When fifteen percent (15%) of the qualified electors shall file petitions with the county clerk of any county within this state praying that an election be held in a designated county to determine whether or not licenses shall be granted to permit the sale of alcoholic beverages in hotels, restaurants, and large attendance facilities, the county clerk, within ten (10) days, shall determine the sufficiency of the petition.

(2) The total number of voters registered, as certified by the county clerk to the Secretary of State by the first of June of each year under Amendment 51, Constitution of the State of Arkansas, shall be the basis upon which the number of signatures of qualified electors on petitions shall be computed.

(3) A person shall be a registered voter at the time of signing the petition.

(b) If fifteen percent (15%) of the qualified electors in a county have signed petitions, the county clerk shall certify that finding to the

county board of election commissioners, and the question shall be placed on the ballot in the applicable county at a general or special election.

(c)(1) If an appeal is taken from the certification of the county clerk, it shall be taken with ten (10) days and shall be considered by the circuit court within ten (10) days, or as soon as practicable, after the appeal is lodged with the court.

(2) The circuit court shall render its decision within thirty (30) days.

(d) If an appeal is taken, the election shall be conducted within thirty (30) days after the appeal is determined, if the decision is in favor of the election petitioners.

(e)(1)(A) The decision shall be certified immediately to the county board of election commissioners, and the day for the election shall be fixed by the county board of election commissioners for not earlier than twenty (20) days nor later than thirty (30) days after the certification of the decision of the circuit court.

(B) Any appeal from the final decision of the circuit court shall be taken within ten (10) days and shall be advanced and immediately determined by the Supreme Court.

(2) In that event, the county board of election commissioners may, in its discretion, delay the election until after the final decision of the Supreme Court.

(3) If the decision is in favor of the election petitioners, then the county board of election commissioners shall set the day for the election, which shall not be earlier than twenty (20) days nor later than thirty (30) days after the final decision of the Supreme Court.

SECTION 5. Conduct of Election.

(a) Upon the certification of a local option petition under Arkansas Code 3-8-205 in a county, the county board of election commissioners of the county shall cause the question to be placed on the ballot at a general or special election in the following form, consistent with the petition having been circulated:

[] FOR THE SALE OF ALCOHOLIC BEVERAGES FOR ON-PREMISES CONSUMPTION IN HOTELS, RESTAURANTS, AND LARGE ATTENDANCE FACILITIES

[] AGAINST THE SALE OF ANY ALCOHOLIC BEVERAGES

Each elector shall be instructed on the ballot to vote FOR or AGAINST the question by placing an "X" in the appropriate box.

(b)(1)(A) If voters approve the sale of alcoholic beverages for on-premises consumption at hotels, restaurants, and large attendance facilities, the Alcoholic Beverage Control Division is authorized to issue Hotel/Motel/Restaurant Mixed Drink Permits to qualified applicants located within cities having a population exceeding twenty thousand (20,000) according to the last decennial census.

(B) The mixed drink permits shall be issued only to restaurants and large attendance facilities as defined by Arkansas Code 3-9-202(8) and hotels as defined by Arkansas Code 3-9-202(9).

(2) If voters approve alcoholic beverage sales, the county may hold a subsequent election under Arkansas Code 3-8-201 through 3-8-210.

(3) If voters approve the sale of alcoholic beverages for on-

premises consumption in hotels, restaurants and large attendance facilities, the county may hold a subsequent election under Arkansas Code 3-9-215 on the issue of whether to allow the sale of alcoholic beverages on Sundays as authorized by law.

(c) The county board of election commissioners shall count the votes cast on the question of the sale of alcoholic beverages in the designated area and shall deliver its certificate declaring the result of the election, together with the election returns, within three (3) days after the date of the election, to the county clerk of the county.

(d) Upon petition of twenty-five (25) interested, registered voters in the territory affected, within ten (10) days after the date of the election, the county board of election commissioners shall immediately recount the votes and declare the results of the election as determined by the recount.

(e) Within twenty (20) days after the election, the county court shall make and have entered of record its order declaring the result of the election.

(f)(1) The costs of any special election held under this act shall be paid by the proponents of the election.

(2) The costs of any general election held under this act shall be paid by the county in the same manner as other costs of general elections.

(g)(1) Once an election has been held, a period of at least four (4) years shall elapse before another election on the same subject may be held in the territory affected.

(2)(A) If a county approves liquor by the drink, opponents of the measure may petition to place the issue back on the ballot at a subsequent election by using the same procedures, and subject to the same requirements of this act.

(B) If the majority of the voters at a subsequent election vote against the sale of alcoholic beverages for on-premises consumption in hotels, restaurants and large attendance facilities, the Alcoholic Beverage Control Division shall, within sixty (60) days from the date of the certification of the election, cancel all permits previously issued in the affected area under Arkansas Code 3-8-310.

SECTION 6. Mandamus of County Officials.

Upon petition of ten (10) interested registered voters in the territory affected, filed with the circuit clerk of the county in which proceedings are pending, the circuit court shall immediately, by mandamus, compel the county court or other officials to perform the duties imposed upon them by this act.

SECTION 7. Purchase of Alcoholic Beverages.

(a)(1) If a county approves of alcoholic beverage sales, licensed wholesalers are authorized to sell and deliver alcoholic beverages to licensed retailers in the affected territory under existing law.

(2) However, if a dry county conducts an election under this act, and approves the sale of alcoholic beverages for on-premises consumption in hotels, restaurants and large attendance facilities, in addition to normal delivery methods, wholesalers may make deliveries to licensed retailers by use of parcel delivery services or by warehouse pick-up.

(b) Wholesale distributors of alcoholic beverages may not sell or deliver any alcoholic beverages to retailers on a Sunday.

SECTION 8. Regulatory Authority.

The Alcoholic Beverage Control Division is authorized and directed to adopt regulations as may be necessary and appropriate to implement the intent and purposes of this act."

The Amendment was read _____

By: Representative Bradford

PBB/RTK - 031520011059

RTK213

Chief Clerk