

ARKANSAS SENATE
86th General Assembly - Regular Session, 2007
Amendment Form

Subtitle of House Bill No. 1442

"TO AMEND THE REGISTRATION REQUIREMENTS FOR BEER KEGS SOLD FOR OFF-
PREMISES CONSUMPTION BY ALLOWING THE LABEL TO BE COPIED RATHER THAN
PRODUCED IN TRIPLICATE AND TO REMOVE REGISTRATION DEPOSIT
REQUIREMENT ON EACH KEG."

Amendment No. 1 to House Bill No. 1442.

Amend House Bill No. 1442 as engrossed, H2/15/07 (version: 02-15-2007 08:49):

Delete everything following the enacting clause and substitute the following:

"SECTION 1. Arkansas Code § 3-5-227 is amended to read as follows:
3-5-227. Registration of beer kegs for off-premises consumption.

(a) As used in this section:

(1) "Beer" means any fermented liquor made from malt or any
substitute therefor and having an alcoholic content not in excess of five
percent (5%) by weight;

(2) "Keg" means a vessel which has a liquid capacity of ~~four~~
more than five gallons ~~(4 gals.)~~ (5 gals.) ~~or more~~;

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

(4) "Off-premises" means a place other than the licensed
retailer's place of business.

(b) All retail dealers that sell a keg of beer or malt beverage for
off-premises consumption are required to attach an identification label or
tag approved by the Alcoholic Beverage Control Division to the keg prior to
the sale.

(c)(1) The identification label or tag approved by the Alcoholic
Beverage Control Division shall consist of paper within a clear protective
coating made of plastic, metal, or another durable material that is not
easily damaged or destroyed.

(2) The paper shall be of a kind to allow the required
information to be ~~automatically produced in triplicate~~ copied and retained by
the retail dealer.

(3) Identification labels used may contain a nonpermanent
adhesive material in order to apply the label directly to an outside surface
of a keg at the time of sale.

(4) Identification tags shall be attached to the kegs at the



time of sale with nylon ties or cording, wire ties or other metal attachment devices, or another durable means of tying or attaching the tag to the keg.

(5) The identification label or tag shall be designed so that when affixed to a keg, the label or tag will not mar or otherwise physically damage the keg.

(6) The identification label or tag shall include:

(A) The name and address of the retail dealer;

(B) The name of the purchaser; and

(C) An individual identification number assigned by the retail dealer that uniquely identifies the keg.

(7) Each identification label or tag shall be perforated and of a composition that consistently allows for the full removal of the tag when common external keg cleaning procedures are performed at retail.

(d)(1) Prior to the retail sale of a keg of beer or malt beverage for off-premises consumption, the retail dealer shall require the purchaser to sign a statement promulgated by the Director of the Alcoholic Beverage Control Division attesting under the penalty of perjury:

(A) To the accuracy of the purchaser's name as shown on the identification label or tag; and

(B)(i) That the purchaser is aware that giving, procuring, or otherwise furnishing any alcoholic beverage to any person under twenty-one (21) years of age is a misdemeanor as provided in §§ 3-3-201 and 3-3-202; and

(ii) That the purchaser will not allow any person under twenty-one (21) years of age to consume any of the beer or malt beverage in the keg.

(2) The retail dealer shall also record the following:

(A) The name and address of the purchaser;

(B) The identification card or driver's license number from the purchaser's acceptable documentation of age;

(C) The amount of the container deposit ~~and registration deposit~~ of not less than seventy-five dollars (\$75.00);

(D) The date and time of the purchase; and

(E) The keg identification number required under subsection (c) of this section.

(e)(1) All records and statements required under this section shall be maintained by the retail dealer for a period of ninety (90) days from the date of the return of the keg.

(2) The records and statements shall remain open to inspection by authorized agents of the Alcoholic Beverage Control Enforcement Division and law enforcement officers during the retail dealer's normal business hours.

~~(f)(1) When a keg of beer or malt beverage is purchased for off-premises consumption, the retail dealer shall collect a seventy five dollar (\$75.00) registration deposit on each keg of beer or malt beverage purchased.~~

~~(2) The registration deposit shall be collected in addition to the purchase price of the keg of beer or malt beverage, taxes, and any other deposit collected by the retail dealer.~~

~~(3) When the keg is returned within ninety (90) days of the date of purchase to the retail dealer with the identification label or tag intact, the retail dealer shall:~~

~~(A) Return the registration deposit to the purchaser; and~~

~~(B) Remove the identification label or tag from the keg.~~

~~(4) The registration deposit on each keg returned without the identification label or tag or with an identification label or tag so damaged that the information contained on the label or tag could not be verified shall be forfeited as follows:~~

~~(A) Twenty five dollars (\$25.00) shall be paid to the Alcoholic Beverage Control Division; and~~

~~(B) Fifty dollars (\$50.00) shall be retained by the retail dealer.~~

~~(5) Except as provided in subdivision (f)(6) of this section, the registration deposit on any keg not returned to the retail dealer within ninety (90) days of the date of purchase shall be forfeited as follows:~~

~~(A) Twenty five dollars (\$25.00) shall be paid to the Alcoholic Beverage Control Division; and~~

~~(B) Fifty dollars (\$50.00) shall be retained by the retail dealer.~~

~~(6)(A) If the purchaser has not finished consuming all of the beer or malt beverage in the keg, prior to the expiration of the ninety day period in subsection (f) of this section, the purchaser may request a thirty day extension for the return of the keg before the registration deposit shall be forfeited pursuant to subsection (f) of this section.~~

~~(B) In order to receive a thirty day extension, the purchaser must sign a statement promulgated by the Director of the Alcoholic Beverage Control Division attesting under the penalty of perjury that:~~

~~(i) The keg is still in the purchaser's possession;~~

~~(ii) The purchaser is aware of the restrictions provided in subsection (d) of this section; and~~

~~(iii) The purchaser shall forfeit the registration deposit pursuant to subsection (f) of this subsection if the keg is not returned with its identification label or tag within thirty (30) days.~~

~~(7) The Alcoholic Beverage Control Division shall remit its portion of the forfeited registration to the Treasurer of State for credit to the Miscellaneous Agencies Fund Account.~~

~~(g)(1)(f)(1) The retail dealer shall notify the Director of the Alcoholic Beverage Control Enforcement Division and remit the Alcoholic Beverage Control Division's portion of the registration deposit on forms promulgated by the Alcoholic Beverage Control Division within ten (10) days of the forfeiture of a registration container deposit by a purchaser under subsection (f) of this section.~~

(2) The notification form shall consist of:

(A) The name and address of the retail dealer;

(B) The name and address of the purchaser;

(C) The retail dealer's beer permit or license number;

(D) The amount of the deposit being A fee of twenty-five dollars (\$25.00) remitted to the Alcoholic Beverage Control Division; and

(E) A statement indicating the reason for forfeiture of the registration container deposit by the purchaser, including but not limited to the following reasons:

(i) The keg was not returned;

(ii) The keg was returned more than ~~ninety (90)~~ one hundred twenty (120) days after purchase;

(iii) The identification label or tag was removed;

or

(iv) The identification label or tag was damaged.

(3) Any retail dealer that fails to notify the Director of the Alcoholic Beverage Control Enforcement Division within ten (10) days of the forfeiture of a ~~registration~~ container deposit by a purchaser is guilty of:

(A) A violation of this subchapter; and

(B) A Class B violation, as provided in § 3-4-402, against the retailer's permit.

~~(h)(1)(g)(1)~~ No person other than the retail dealer, a licensed wholesaler, or an agent of the Alcoholic Beverage Control Enforcement Division may knowingly remove an identification label or tag placed on a keg.

(2) Any person other than the retail dealer, licensed wholesaler, or an agent of the Alcoholic Beverage Control Enforcement Division that is knowingly in possession of a keg without an identification label or tag or knowingly removes or damages an identification label or tag is guilty of a violation of this subchapter.

~~(i)(1)(h)(1)~~ The Director of the Alcoholic Beverage Control Division may promulgate rules and prescribe forms for the proper enforcement of this section, including an approved identification label or tag for use under this section.

~~(2) Arkansas licensed beer wholesalers shall maintain and offer for sale to retail dealers any keg identification labels or tags required by this section at a price of the cost of manufacturing and maintaining the tags or labels. The Alcoholic Beverage Control Division shall seek the input of licensed brewers and licensed beer importers in developing the label or tag."~~

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator Faris

MBM/CDS - 02-22-2007 09:23

MBM431

Secretary