

1 INTERIM STUDY PROPOSAL 2013-123

2 State of Arkansas *As Engrossed: H2/19/13 H2/26/13 H3/11/13*

3 89th General Assembly

A Bill

4 Regular Session, 2013

HOUSE BILL 1387

5
6 By: Representatives Payton, Miller, Alexander, Ballinger, Biviano, Clemmer, Dale, Davis, Deffenbaugh,
7 Dotson, Fite, Gossage, Hammer, Harris, Hobbs, Lea, Lowery, D. Meeks, S. Meeks, Rice, Scott,
8 Westerman, Womack, *Cozart, D. Douglas, Wren*

9 By: Senator E. Williams

10 Filed with: House Select Committee on Rules
11 pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

12
13 AN ACT TO REQUIRE A PRIVATE CLUB PERMIT APPLICANT IN
14 A DRY TERRITORY TO OBTAIN THE APPROVAL OF THE CITY OR
15 COUNTY GOVERNING BODY; AND FOR OTHER PURPOSES.

Subtitle

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19 TO REQUIRE A PRIVATE CLUB PERMIT
20 APPLICANT IN A DRY TERRITORY TO OBTAIN
21 THE APPROVAL OF THE CITY OR COUNTY
22 GOVERNING BODY.

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

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27 SECTION 1. Arkansas Code § 3-9-222, concerning the issuance of a
28 private club permit in a dry territory, is amended to add an additional
29 subsection to read as follows:

30 *(g)(1) As used in this section, "dry territory" means a county,*
31 *township, municipality, ward, or precinct of the state that voted to prohibit*
32 *the manufacture or sale of intoxicating liquor under §§ 3-8-201 – 3-8-203 and*
33 *3-8-205 – 3-8-209 or §§ 3-8-302 – 3-8-306.*

34 *(2)(A) An applicant for a private club permit in a dry territory*
35 *under this section shall submit with the application:*

1 (i) A resolution from the city governing body
2 authorizing the applicant to apply for a permit when the premises for which
3 the permit is to be issued are within the city limits;

4 (ii) A resolution from the county quorum court
5 authorizing the applicant to apply for a permit when the premises for which
6 the permit is to be issued are outside a city but within the county; or

7 (iii)(a) An affidavit of the applicant that the city
8 governing body or county quorum court has not made a finding of fact under
9 subdivision (g)(2)(C) of this section within sixty (60) days of the
10 applicant's petition.

11 (b) A copy of the applicant's petition to the
12 city governing body or county quorum court shall be attached to the
13 applicant's affidavit.

14 (B)(i) A city with a population greater than twenty-three
15 thousand (23,000) is not required to submit a resolution under subdivision
16 (g)(2)(A) of this section.

17 (ii) Population of a city shall be determined by the
18 most recent population figures established in a census by the Census Bureau
19 of the United States Department of Commerce.

20 (C) A city governing body or quorum court may make a
21 finding of fact concerning each item listed in subdivision (g)(2)(D) of this
22 section in support of its:

23 (i) Determination that a resolution authorizing the
24 applicant to apply for a private club permit would serve public convenience
25 and advantage; or

26 (ii) Refusal to issue a resolution authorizing the
27 applicant to apply for a private club permit because the private club would
28 not serve public convenience and advantage.

29 (D) When making a finding of fact under subdivision
30 (g)(2)(C) of this section, the city governing body or county quorum court
31 shall:

32 (i) Consider each request for a resolution on an
33 individual basis; and

34 (ii) Include in its determination a consideration of
35 the following factors:

1 (a) The number of private clubs currently in
2 the dry territory;

3 (b) The likelihood of increased traffic or
4 traffic accidents at the requested location of the private club;

5 (c) The number and types of alcoholic beverage
6 permits within one-fourth (1/4) of a mile from the requested location of the
7 private club;

8 (d) The estimated economic impact of the
9 requested private club;

10 (e) The amount of available law enforcement to
11 serve the private club and the residents of the dry territory;

12 (f) The input of local law enforcement
13 concerning the effect on public peace of the requested private club; and

14 (g) Comments by the public concerning the
15 requested private club.

16 (E)(i) A de novo appeal of a final determination of the
17 city governing body or the quorum court to refuse to issue a resolution may
18 be made within thirty (30) days from the date of the denial to the circuit
19 court of the county in which the private club would be located.

20 (ii) The appeal shall be made under the same
21 procedure as an appeal in a civil action from a decision of an inferior
22 court.

23 (iii) The circuit court shall make a finding of fact
24 concerning each item listed in subdivision (g)(2)(D) of this section.

25 (iv) If the circuit court determines that the
26 private club would serve the public convenience and advantage, it shall issue
27 an order authorizing the applicant to apply for a private club permit.

28 (3) The director shall not accept an application under this
29 section that does not meet the requirements of subdivision (g)(2) of this
30 section.

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33 /s/Payton

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36 Referred by the Arkansas House of Representatives

1 Prepared by: JAM/VJF

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