

2 State of Arkansas
3 90th General Assembly
4 Regular Session, 2015

A Bill

DRAFT MGF/LNS
HOUSE BILL

5
6 By: Representative Hammer

7 Filed with: Joint Performance Review Committee
8 pursuant to A.C.A. §10-3-217.

9 For An Act To Be Entitled

10 AN ACT TO LIMIT THE ISSUANCE OF PERMITS FOR THE OFF-
11 PREMISES SALE OF BEER AND WINE IN PROXIMITY TO
12 CHURCHES AND SCHOOLS; AND FOR OTHER PURPOSES.

13 14 15 Subtitle

16 TO LIMIT THE ISSUANCE OF PERMITS FOR THE
17 OFF-PREMISES SALE OF BEER AND WINE IN
18 PROXIMITY TO CHURCHES AND SCHOOLS.

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21 WHEREAS, the provisions concerning alcoholic beverages in Title 3 of
22 the Arkansas Code were enacted beginning in 1933 with the repeal of the
23 Eighteenth Amendment to the United States Arkansas Constitution whereby the
24 entire state became "wet," with prohibition to be determined on a county-by-
25 county basis; and

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27 WHEREAS, a 1935 state law mandated that, in order to hold a referendum
28 on the matter of prohibition, a petition had to be signed by at least thirty-
29 five percent (35%) of a county's electorate; and

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31 WHEREAS, by the end of the twentieth century, the lines between wet and
32 dry counties had solidified, with forty-three (43) counties dry and thirty-
33 two (32) wet; and

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35 WHEREAS, a 1993 bill essentially updated the 1935 legislation,
36 restricting referendums on county-wide prohibition to once every four (4)

1 years. Yet in order to get on the ballot, thirty-eight percent (38%) of the
2 electorate was required to sign a petition; and

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4 WHEREAS, in 2003, the state Alcohol Beverage Control Board began
5 arbitrarily expanding the methods of administering the state's laws, including
6 the discretionary modification of rules and standards; and

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8 WHEREAS, throughout nominally dry counties, private clubs that serve
9 alcohol proliferate, the largest number having been in Benton County, prior
10 to citizens voting that county wet in 2012; and

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12 WHEREAS, in November 2014, a ballot initiative to approve alcohol sales
13 statewide failed, while during the same election Saline County and Columbia
14 County approved the sale of alcohol, evidencing that prohibition of alcohol
15 remains a county-by-county issue in Arkansas and upholding the intent of the
16 18th amendment; and

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18 WHEREAS, the question of Arkansas's role in the sale and control of
19 alcohol has not been studied in a comprehensive way in forty-one (41) years;
20 and

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22 WHEREAS, this lack of an overall stated alcohol policy has resulted in
23 an enigmatic labyrinth of inconsistent alcohol laws, many of which are
24 obsolete and in need of revision; and

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26 WHEREAS, a legislative study of the liquor laws, including free-market
27 business approaches, which would make recommendations for the general
28 updating and revision of the state's liquor laws, while also making
29 recommendations for any fundamental change in the policies underlying the
30 laws, would enhance legislative oversight and be useful to the legislature
31 and the people of Arkansas; and

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33 WHEREAS, the potential state revenue and financial impact of state-
34 controlled sale of alcohol by other states, has not previously been
35 considered by our General Assembly; and

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1 WHEREAS, any unintended consequences from a transformation of the
2 state's liquor laws and all potential state revenue sources should be
3 considered by the stewards of this state,
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5 NOW THEREFORE,

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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8 SECTION 1. Arkansas Code § 3-5-207(a), concerning the scope of state
9 permits for the sale of beer and light wines is amended to read as follows:

10 (a)(1) Except as provided in subsection (b) of this section, any permit
11 issued under the provisions of § 3-5-206 authorizing the sale of light wines
12 or beer for consumption under the provisions prescribed in the permit shall
13 be construed to authorize the sale of such liquor by the bottle, by the glass
14 or draught, and in or from the original package.

15 (2) A new permit under this subchapter shall not be issued by
16 the Director of the Alcoholic Beverage Control Division for a business
17 located within one thousand feet (1,000') of the property line of a church or
18 schoolhouse; and

19 (3)(A) An existing permit under this subchapter shall not be
20 transferred to a location within one thousand feet (1,000') of the property
21 line of any church or schoolhouse.

22 (B) As an exception to subdivision (a)(3)(A) of this
23 section, if a business permitted for under this subchapter already exists
24 within one thousand feet (1,000') of the property line of one (1) or more
25 churches or schoolhouses, that the permit may be transferred to a new
26 location that is within one thousand feet (1,000') of the property line of
27 the closest church or schoolhouse to the present business location if the new
28 location is determined by the Alcoholic Beverage Control Division to serve
29 the public convenience and advantage.

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31 SECTION 2. Arkansas Code § 3-5-226, concerning the on-premises sale of
32 beer by breweries, is amended to add an additional subsection to read as
33 follows:

34 (c)(1) A new permit under this subchapter shall not be issued by the
35 Director of the Alcoholic Beverage Control Division for the location of a

1 business situated within one thousand feet (1,000') of the property line of a
2 church or schoolhouse; and

3 (2)(A) An existing permit under this subchapter shall not be
4 transferred to a location within one thousand feet (1,000') of the property
5 line of any church or schoolhouse.

6 (B) As an exception to subdivision (c)(2)(A) of this
7 section, if a business permitted under this subchapter already exists within
8 one thousand feet (1,000') of the property line of one (1) or more churches
9 or schoolhouses, that the permit may be transferred to a new location that is
10 within one thousand feet (1,000') of the property line of the closest church
11 or schoolhouse to the present business location if the new location is
12 determined by the Alcoholic Beverage Control Division to serve the public
13 convenience and advantage.

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15 SECTION 3. Arkansas Code § 3-5-1204, concerning licenses for
16 microbrewery-restaurants, is amended to add an additional subsection to read
17 as follows:

18 (d)(1) A new permit under this subchapter shall not be issued by the
19 director for the location of a business situated within one thousand feet
20 (1,000') of the property line of a church or schoolhouse; and

21 (2)(A) An existing permit under this subchapter shall not be
22 transferred to a location within one thousand feet (1,000') of the property
23 line of any church or schoolhouse.

24 (B) As an exception to subdivision (d)(2)(A) of this
25 section, if a business permitted under this subchapter already exists within
26 one thousand feet (1,000') of the property line of one (1) or more churches
27 or schoolhouses, that the permit may be transferred to a new location that is
28 within one thousand feet (1,000') of the property line of the closest church
29 or schoolhouse to the present business location if the new location is
30 determined by the Alcoholic Beverage Control Division to serve the public
31 convenience and advantage.

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33 SECTION 4. Arkansas Code § 3-5-1405, concerning licenses for small
34 breweries, is amended to add an additional subsection to read as follows:

1 (e)(1) A new permit under this subchapter shall not be issued by the
2 director for the location of a business situated within one thousand feet
3 (1,000') of the property line of a church or schoolhouse; and

4 (2)(A) An existing permit under this subchapter shall not be
5 transferred to a location within one thousand feet (1,000') of the property
6 line of any church or schoolhouse.

7 (B) As an exception to subdivision (e)(2)(A) of this
8 section, if a business permitted under this subchapter already exists within
9 one thousand feet (1,000') of the property line of one (1) or more churches
10 or schoolhouses, that the permit may be transferred to a new location that is
11 within one thousand feet (1,000') of the property line of the closest church
12 or schoolhouse to the present business location if the new location is
13 determined by the Alcoholic Beverage Control Division to serve the public
14 convenience and advantage.

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16 SECTION 5. Arkansas Code § 3-5-1602, concerning licensing of small
17 farm wineries, is amended to add an additional subsection to read as follows:

18 (e)(1) A new permit under this subchapter shall not be issued by the
19 Director of the Alcoholic Beverage Control Division for the location of a
20 business situated within one thousand feet (1,000') of the property line of a
21 church or schoolhouse; and

22 (2)(A) An existing permit under this subchapter shall not be
23 transferred to a location within one thousand feet (1,000') of the property
24 line of any church or schoolhouse.

25 (B) As an exception to subdivision (c)(2)(A) of this
26 section, if a business permitted under this subchapter already exists within
27 one thousand feet (1,000') of the property line of one (1) or more churches
28 or schoolhouses, that the permit may be transferred to a new location that is
29 within one thousand feet (1,000') of the property line of the closest church
30 or schoolhouse to the present business location if the new location is
31 determined by the Alcoholic Beverage Control Division to serve the public
32 convenience and advantage.

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35 Referral requested by: Representative Kim Hammer

36 Prepared by: KFW

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