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Section 3.20 To go and delivery by a restaurant. A restaurant holding a valid alcoholic beverage permit may sell alcoholic beverages in a sealed container during legal operating hours directly to a consumer twenty-one (21) years of age or older along with the purchase of a meal. The sale of alcoholic beverages under this rule may occur:

- 1) At the point of sale to be consumed off-premises;
- 2) At the drive-through to be consumed off-premises;
- 3) At the curbside to be consumed off-premises, or
- 4) Delivered to a consumer at a location off-premises.

Restaurant as used in this rule means a public or private place that:

- 1) Is kept, used, maintained, advertised, and held out to the public or to a private or restricted membership as a place where complete meals are actually and regularly served;
- 2) Provides adequate and sanitary kitchen and dining equipment;
- 3) Has a seating capacity of at least twenty-five (25) persons;
- 4) Employs a sufficient number and variety of employees to prepare, cook, and serve suitable food for its guest or members;
- 5) Serves at least one (1) meal per day; and
- 6) Is open a minimum of five (5) days per week, with the exception of holidays, vacations, and periods of redecorating.

A meal is defined as the usual assortment of food commonly ordered at various hours of the day.

Sealed container means a container with a secure cap or lid that completely covers the opening for the container and a seal designed to make it evident when the seal has been removed or broken. The seal is affixed to the container by the licensee after the container is filled pursuant to a consumer order for the drink. This may include the use of tape or other adhesive.

The restaurant to go and delivery rules do not apply to private clubs or restaurants located in a dry area.

Section 3.21 Limits on alcohol and quantities for to go or delivery by restaurant. A permit holder authorized to sell alcoholic beverages with the purchase of a meal under Rule 3.20 is limited to the following quantities per sale:

- 1) Seventy-Two ounces (72 oz.) of beer, malt beverage, or hard cider, or the equivalent of one (1) standard six-pack;

- 2) Seven hundred fifty milliliters (750 ml) of wine, or the equivalent of one (1) standard bottle; and
- 3) Thirty-two ounces (32 oz.) of spirituous liquors or the equivalent of four (4) eight-ounce drinks. "Spirituous liquors" includes mixed drinks or specialty drinks that are made by the permit holder at the premises and does not include unmixed spirits or spirits in the manufacturer's original container.

Unless authorized by local election under Ark. Code Ann. Section 3-3-210, a permit holder shall not sell alcoholic beverages under these rules on a Sunday.

Section 3.22 Delivery by retail liquor, microbrewery restaurant, small brewery, or hard cider manufacturer permit holders. Holders of a retail liquor, microbrewery-restaurant, small brewery, or hard cider manufacturer permit shall be authorized to deliver alcoholic beverages directly to the private residence of a consumer twenty-one (21) years of age or older in a wet county or territorial subdivision during legal operating hours. Alcoholic beverages for the purpose of this rule shall mean any intoxicating liquors that the permit holder is allowed to sale.

Section 3.23 Delivery by employee only. The permit holder authorized to deliver alcoholic beverages under Rule 3.20 or Rule 3.22 shall be delivered by an employee of the permit holder and not through a third-party delivery system. The employee responsible for delivery of the alcoholic beverage must be twenty-one (21) years of age and possess a valid driver's license.

Section 3.24 Delivery in wet counties only. A permit holder authorized to deliver alcoholic beverages under Rule 3.20 or Rule 3.22 may deliver alcoholic beverages directly to a consumer only in a wet county or wet area. The delivery must be to the person that placed the order. The delivery must occur within the time of legal operating hours.

Section 3.25 Required information for placing order for alcoholic beverages. The employee or permit holder of the permitted establishment must collect the following information when taking a customer's order under Rule 3.20 or Rule 3.22:

- 1) Name of person making order;
- 2) Address where delivery is to occur;
- 3) Phone number of the person making the order;
- 4) Date of birth for the person making order; and
- 5) Payment information;

Section 3.26 Required information for delivery: The employee or permit holder of the permitted establishment must confirm and collect the following information when completing the delivery:

- 1) Name of person receiving the order;
- 2) Address where delivery occurred;

- 3) Phone number of the person receiving the order;
- 4) Date of birth for the person receiving the order;
- 5) Payment information;
- 6) The recipient of the delivery must present valid state issued identification to the employee of the permitted establishment to confirm date of birth; and
- 7) The recipient must sign for the delivery.

Section 3.27 Record retention. The permitted establishment shall keep and retain a record of all deliveries of alcoholic beverages for a period three (3) years from the date of delivery and shall make such records available to Alcoholic Beverage Control Administration and Alcoholic Beverage Control Enforcement upon request. The records shall contain:

- 1) The name of the person who placed the order and the date, time, and method of order;
- 2) The name of the employee making the delivery and the date, time, and address of the delivery;
- 3) The type, brand, and quantity of each alcoholic beverage delivered; and
- 4) The name, date of birth, and signature of the person that received the delivery.

Section 3.28 Delivery not allowed. Employees delivering alcoholic beverages under this subtitle shall refuse delivery and return alcoholic beverages to the permitted establishment if:

- 1) The delivery is to an address on a campus of any educational building including, but not limited to, any elementary school, secondary school, university, college, technical college or institute;
- 2) The delivery is to any public playground or building used primarily as a church, synagogue, mosque or public library;
- 3) The delivery is outside of the hours that the retailer's physical premise is open to the public;
- 4) The recipient does not produce a valid and current form of state identification;
- 5) There is reason to doubt the authenticity or correctness of the recipient's identification;
- 6) The recipient refused to sign for the receipt of the delivery;
- 7) The recipient is intoxicated; or

8) The recipient is in a dry county or located outside the county of the permitted establishment.

SUMMARY OF SUBSTANTIVE CHANGES

Act 703 of 2021 authorized certain permit holders that have a restaurant to sell alcoholic beverages to consumers for off-premise consumption via delivery and to-go food orders.

Act 158 and 1060 of 2021 authorized certain permit holders to deliver alcoholic beverages directly to consumers.

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- 1) Is kept, used, maintained, advertised, and held out to the public or to a private or restricted membership as a place where complete meals are actually and regularly served;
- 2) Provides adequate and sanitary kitchen and dining equipment;
- 3) Has a seating capacity of at least twenty-five (25) persons;
- 4) Employs a sufficient number and variety of employees to prepare, cook, and serve suitable food for its guest or members;
- 5) Serves at least one (1) meal per day; and
- 6) Is open a minimum of five (5) days per week, with the exception of holidays, vacations, and periods of redecorating.

A meal is defined as the usual assortment of food commonly ordered at various hours of the day.

Sealed container means a container with a secure cap or lid that completely covers the opening for the container and a seal designed to make it evident when the seal has been removed or broken. The seal is affixed to the container by the licensee after the container is filled pursuant to a consumer order for the drink. This may include the use of tape or other adhesive.

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- 5) Seven hundred fifty milliliters (750 ml) of wine, or the equivalent of one (1) standard bottle; and
- 6) Thirty-two ounces (32 oz.) of spirituous liquors or the equivalent of four (4) eight-ounce drinks. "Spirituous liquors" includes mixed drinks or specialty drinks that are made by the permit holder at the premises and does not include unmixed spirits or spirits in the manufacturer's original container.

Unless authorized by local election under Ark. Code Ann. Section 3-3-210, a permit holder shall not sell alcoholic beverages under these rules on a Sunday.

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- 2) Address where delivery is to occur;
- 3) Phone number of the person making the order;
- 4) Date of birth for the person making order; and
- 5) Payment information;

Section 3.26 Required information for delivery: The employee or permit holder of the permitted establishment must confirm and collect the following information when completing the delivery:

- 8) Name of person receiving the order;
- 9) Address where delivery occurred;
- 10) Phone number of the person receiving the order;
- 11) Date of birth for the person receiving the order;
- 12) Payment information;
- 13) The recipient of the delivery must present valid state issued identification to the employee of the permitted establishment to confirm date of birth; and
- 14) The recipient must sign for the delivery.

Section 3.27 Record retention. The permitted establishment shall keep and retain a record of all deliveries of alcoholic beverages for a period three (3) years from the date of delivery and shall make such records available to Alcoholic Beverage Control Administration and Alcoholic Beverage Control Enforcement upon request. The records shall contain:

- 1) The name of the person who placed the order and the date, time, and method of order;
- 2) The name of the employee making the delivery and the date, time, and address of the delivery;
- 3) The type, brand, and quantity of each alcoholic beverage delivered; and
- 4) The name, date of birth, and signature of the person that received the delivery.

Section 3.28 Delivery not allowed. Employees delivering alcoholic beverages under this subtitle shall refuse delivery and return alcoholic beverages to the permitted establishment if:

- 1) The delivery is to an address on a campus of any educational building including, but not limited to, any elementary school, secondary school, university, college, technical college or institute;

- 2) The delivery is to any public playground or building used primarily as a church, synagogue, mosque or public library;
- 3) The delivery is outside of the hours that the retailer's physical premise is open to the public;
- 4) The recipient does not produce a valid and current form of state identification;
- 5) There is reason to doubt the authenticity or correctness of the recipient's identification;
- 6) The recipient refused to sign for the receipt of the delivery;
- 7) The recipient is intoxicated; or
- 8) The recipient is in a dry county or located outside the county of the permitted establishment.

State of Arkansas
93rd General Assembly
Regular Session, 2021

As Engrossed: H2/4/21

A Bill

SENATE BILL 32

By: Senator J. English
By: Representative Brown

For An Act To Be Entitled

AN ACT TO AUTHORIZE CERTAIN PERMIT HOLDERS TO DELIVER
ALCOHOLIC BEVERAGES DIRECTLY TO A CONSUMER; AND FOR
OTHER PURPOSES.

Subtitle

TO AUTHORIZE CERTAIN PERMIT HOLDERS TO
DELIVER ALCOHOLIC BEVERAGES DIRECTLY TO A
CONSUMER.

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

SECTION 1. Arkansas Code Title 3, Chapter 4, Subchapter 1, is amended
to add an additional section to read as follows:

3-4-107. Delivery of alcoholic beverages.

(a) The following permit holders may deliver or cause to be delivered
alcoholic beverages directly to the private residence of a consumer twenty-
one (21) years of age or older in a wet county or territorial subdivision
during legal operating hours:

(1) Retail liquor;

(2) Microbrewery-restaurant; and

(3) Small brewery.

(b) The permit holder authorized under subsection (a) of this section
shall not deliver or cause to be delivered alcoholic beverages to an area
outside of the county in which the permitted business is located.

(c) Alcoholic beverages shall be delivered by an employee of the
permit holder and shall not be delivered through a third-party delivery



system.

/s/J. English

APPROVED: 3/1/21

State of Arkansas *As Engrossed: S3/9/21 H3/18/21*

93rd General Assembly

Regular Session, 2021

A Bill

SENATE BILL 339

By: Senator J. English

By: Representative Pilkington

For An Act To Be Entitled

AN ACT TO AUTHORIZE CERTAIN PERMIT HOLDERS TO SELL
ALCOHOLIC BEVERAGES DIRECTLY TO CONSUMERS TO BE
CONSUMED OFF-PREMISES OR DELIVERED TO THE CONSUMER AT
A LOCATION OFF-PREMISES; AND FOR OTHER PURPOSES.

Subtitle

TO AUTHORIZE CERTAIN PERMIT HOLDERS TO
SELL ALCOHOLIC BEVERAGES DIRECTLY TO
CONSUMERS TO BE CONSUMED OFF-PREMISES OR
DELIVERED TO THE CONSUMER AT A LOCATION
OFF-PREMISES.

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

SECTION 1. DO NOT CODIFY. Legislative findings.

The General Assembly finds that:

(1) The coronavirus 2019 (COVID-19) pandemic has disrupted the
economy and the lives of millions of Americans;

(2) Businesses across the country have shifted operation models
in order to comply with consumer demand and government-imposed restrictions;

(3) The food service industry in particular has seen the most
disruption, with business revenue diminished by both capacity limitations and
increased costs of compliance with new health safety protocols;

(4) With more than one hundred twenty thousand (120,000) food
service industry jobs in this state, the food service industry is a driving
force in Arkansas's economy;



1 (5) In this new economy, the food service industry can only
2 survive through adaptation, including without limitation delivery and take-
3 out models;

4 (6) Current law prohibits business owners in the food service
5 industry from selling and delivering certain products to their consumers;

6 (7) The Governor's Executive Order eliminated restrictions to
7 allow the food service industry to sell for take-out or to deliver food
8 purchases that included alcoholic beverages with certain limitations;

9 (8) This flexibility has allowed hundreds of restaurants to
10 adapt in order to keep doors open for business and to keep employees working;
11 and

12 (9) The Governor's Executive Order allowing this flexibility is
13 temporary and could expire in the near future, leaving hundreds of business
14 owners and thousands of employees with less income and security.

15
16 SECTION 2. Arkansas Code Title 3, Chapter 4, Subchapter 1, is amended
17 to add an additional section to read as follows:

18 3-4-107. Alcoholic beverages with food purchase – Definitions.

19 (a) A restaurant holding a valid alcoholic beverage permit may sell
20 alcoholic beverages in a sealed container during legal operating hours
21 directly to a consumer twenty-one (21) years of age or older along with the
22 purchase of a meal as defined in § 3-9-202:

23 (1) At the point of sale to be consumed off-premises;

24 (2) At the drive-through to be consumed off-premises;

25 (3) At the curbside to be consumed off-premises; or

26 (4) Delivered to a consumer at a location off-premises.

27 (b) A permit holder authorized to deliver alcoholic beverages under
28 this section shall deliver the alcoholic beverages by an employee of the
29 permit holder and not through a third-party delivery system.

30 (c) A permit holder authorized to deliver alcoholic beverages under
31 this section may deliver alcoholic beverages directly to a consumer only in a
32 wet county or area.

33 (d) This section does not apply to a:

34 (1) Private club; or

35 (2) Restaurant located in a dry area.

36 (e) A permit holder authorized to sell alcoholic beverages with the

purchase of a meal under this section is limited to the following quantities per sale:

(1) Seventy-two ounces (72 oz.) of beer, malt beverages, or hard cider, or the equivalent of one (1) standard six-pack;

(2) Seven hundred fifty milliliters (750 ml) of wine, or the equivalent of one (1) bottle; and

(3) Thirty-two ounces (32 oz.) of spirituous liquors as defined in subdivision (h)(3) of this section, or the equivalent of four (4) eight-ounce drinks.

(f) Unless authorized by local election under § 3-3-210, a permit holder shall not sell alcoholic beverages under this section on a Sunday.

(g) The Director of the Alcoholic Beverage Control Division shall adopt rules to implement and administer this section.

(h) As used in this section:

(1) "Alcoholic beverages" means beer, malt beverages, hard ciders, vinous liquors, or spirituous liquors;

(2) "Restaurant" means a public or private place that:

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

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

(C) Has a seating capacity of at least twenty-five (25) persons;

(D) Employs a sufficient number and variety of employees to prepare, cook, and serve suitable food for its guests or members;

(E) Serves at least one (1) meal per day; and

(F) Is open a minimum of five (5) days per week, with the exception of holidays, vacations, and periods of redecorating; and

(3)(A) "Spirituous liquors" includes mixed drinks or specialty drinks that are made by the permit holder at the premises.

(B) "Spirituous liquors" does not include unmixed spirits or spirits in the manufacturer's original containers.

SECTION 3. DO NOT CODIFY. Rules.

(a) When adopting the initial rules required under this act, the

1 Alcoholic Beverage Control Division shall file the final rules with the
2 Secretary of State for adoption under § 25-15-204(f):

3 (1) On or before January 1, 2022; or

4 (2) If approval under § 10-3-309 has not occurred by January 1,
5 2022, as soon as practicable after approval under § 10-3-309.

6 (b) The division shall file the proposed rules with the Legislative
7 Council under § 10-3-309(c) sufficiently in advance of January 1, 2022, so
8 that the Legislative Council may consider the rules for approval before
9 January 1, 2022.

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11 */s/J. English*
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14 **APPROVED: 4/13/21**
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State of Arkansas *As Engrossed: S4/7/21 S4/8/21 H4/20/21*

93rd General Assembly

Regular Session, 2021

A Bill

SENATE BILL 631

By: Senator L. Eads

By: Representative Penzo

For An Act To Be Entitled

AN ACT TO AMEND THE LAW REGARDING HARD CIDER; TO
AUTHORIZE A HARD CIDER MANUFACTURER TO DELIVER HARD
CIDER; AND FOR OTHER PURPOSES.

Subtitle

*TO AMEND THE LAW REGARDING HARD CIDER;
AND TO AUTHORIZE A HARD CIDER
MANUFACTURER TO DELIVER HARD CIDER.*

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

SECTION 1. Arkansas Code § 3-4-611, concerning the hard cider
manufacturing permit, is amended to add an additional subsection to read as
follows:

(n)(1) A hard cider manufacturer may deliver or cause to be delivered
hard cider directly to the private residence of a consumer twenty- one (21)
years of age or older in a wet county or territorial subdivision during legal
operating hours.

(2) The hard cider manufacturer shall not deliver or cause to be
delivered hard cider to an area outside of the county in which the permitted
business is located.

(3) Hard cider shall be delivered by an employee of the hard
cider manufacturer permit holder and shall not be delivered through a third-
party delivery.

APPROVED: 4/30/21

