

SUMMARY OF PROPOSAL #7
for consideration by the
ARKANSAS TAX REFORM AND RELIEF LEGISLATIVE TASK FORCE

TOPIC: Excise Tax on Beer and Wine

Summary of Proposal for Consideration

To increase the excise tax on wine and beer by twenty percent (20%). The resulting tax rates would be as follows:

Alcoholic Beverage	Tax Rate
Beer and Hard Cider	\$9.00 per barrel (5% alcohol or less)
Wine (imported and native)	6¢ per case
Imported Vinous Liquor	90¢ per gallon
Imported Light Wine	30¢ per gallon

Fiscal Analysis

According to the Department of Finance and Administration (DFA), this proposal would have a total fiscal impact of three million eight thousand dollars (\$3,008,000) if applied to all producers and wholesalers. If the native brewery tax rebate is extended from seven dollars and fifty cents (\$7.50) per barrel to nine dollars (\$9.00) per barrel, the amount of the rebates would increase annually from two hundred fifty-five thousand dollars (\$255,000) to three hundred five thousand dollars (\$305,000).

Legal Analysis

Current Law

Arkansas currently levies taxes on beer and wine at the following rates¹:

Alcoholic Beverage	Tax Rate
Beer and Hard Cider	\$7.50 per barrel (5% alcohol or less)
Wine (imported and native)	5¢ per case
Imported Vinous Liquor	75¢ per gallon
Imported Light Wine	25¢ per gallon

Arkansas also levies a one percent (1%) special excise tax on all retail receipts or proceeds derived from the sale of beer and a three percent (3%) special excise tax on all retail receipts or proceeds derived from the sale of liquor, cordials, liqueurs, specialties, and sparkling and still wines. Ark. Code Ann. § 3-7-201.

¹ The taxes on beer and wine can be found in Arkansas Code §§ 3-7-104 and 3-7-111.

History

Act 7 of 1933 (1st Ex. Sess.) levied a tax of one dollar (\$1.00) per barrel of light wine or beer that has an alcoholic content of three and two-tenths percent (3.2%) or less and that is received, handled, possessed, manufactured, or sold in the state.

Act 109 of 1935 imposed a tax of ten cents (10¢) on each gallon of vinous liquor (except native wine).

Act 18 of 1938 (1st Ex. Sess.) increased the tax on vinous liquor to fifty cents (50¢) per gallon.

Act 310 of 1939 levied a sales tax of three dollars and fifty cents (\$3.50) per barrel of beer and a sales tax of three percent (3%) on each gallon of vinous liquor and wine.

Act 266 of 1941 amended the tax rates to provide for a tax of sixty cents (60¢) for each gallon of vinous liquor. The act also increased the sales tax on beer to five dollars (\$5.00) per barrel.

Act 108 of 1947 repealed the taxes established under Act 109 of 1935 and imposed a tax of seventy-five cents (75¢) on each gallon of vinous liquor (except native wine) and five dollars (\$5.00) per barrel of beer.

Act 282 of 1949 levied a tax of ten cents (10¢) per case of sparkling and still wine.

Act 252 of 1951 levied a tax of three percent (3%) on sparkling and still wine.

Act 385 of 1953 reduced the additional case tax to five cents (5¢) per case of sparkling and still wine.

Act 169 of 1969 increased the tax on beer to seven dollars and fifty cents (\$7.50) per barrel for beer having an alcoholic content of more than three and two-tenths percent (3.2%) but not more than five percent (5%).

Act 271 of 1969 levied an additional tax of five cents (5¢) per case of native wine and twenty-five cents (25¢) per barrel of beer.

Act 844 of 1983 increased the tax on beer having an alcoholic content of more than three and two-tenths percent (3.2%) to eight dollars and seventy-five cents (\$8.75) per barrel. However, the tax increase under this act was temporary and was set to expire when the sales tax increased, which occurred with Act 63 of 1983 (1st Ex. Sess.).

Act 1052 of 1985 subjected native wine to the special alcoholic beverage tax imposed on sparkling and still wine under Act 252 of 1951.

Act 424 of 1987 levied a tax of twenty-five cents (25¢) on each gallon of light wine. This act also extended the tax of seven dollars and fifty cents (\$7.50) per barrel to all beer having an alcoholic content of five percent (5%) or less. Additionally, the act levied a tax of five cents (5¢) on each case of light wine.

Act 1841 of 2001 created an additional special excise tax of three percent (3%) on all retail receipts or proceeds derived from the sale of beer. The revenues from the additional tax were dedicated to providing subsidized child care for low-income families and supporting and expanding the Arkansas Better Chance Program. The additional tax was scheduled to sunset June 30, 2003, but it was extended for two years by Act 272 of 2003 and for another two years by Act 2188 of 2005.

Act 869 of 2007 levied an additional excise tax of one percent (1%) on all retail receipts or proceeds derived from the sale of beer.

Act 671 of 2017 extended the tax of seven dollars and fifty cents (\$7.50) per barrel to hard cider.

Potential Legal Issues

Amendment 19 to the Arkansas Constitution (incorporated at Article 5, § 38) requires an emergency clause and a $\frac{3}{4}$ -vote of the legislature to increase the rate of certain taxes.² The per-barrel beer tax is generally considered to fall under the Amendment 19 requirements. Accordingly, increasing the per-barrel beer tax rate would require an emergency clause and a $\frac{3}{4}$ -vote of the legislature.

² Amendment 19 also allows for the General Assembly to refer such tax rate increases to the voters for their approval, in which case the bill would require only a majority vote of each house.