

State of Arkansas

76th General Assembly

Regular Session, 1987

HOUSE BILL 1395

By: Representative Dugger

"AN ACT TO AMEND PARAGRAPH (1) OF SUBSECTION (b) OF SECTION 10 OF ACT 132 OF 1969 [ARK. STATS. 48-1410(b)(1)] TO PROVIDE THAT WHEN AN APPLICATION IS FILED WITH THE ALCOHOLIC BEVERAGE CONTROL BOARD FOR A PRIVATE CLUB PERMIT FOR A CLUB LOCATED IN AN AREA IN WHICH THE SALE OF ALCOHOLIC BEVERAGES IS NOT LAWFUL, THE HEARING CONDUCTED ON THE APPLICATION BY THE ALCOHOLIC BEVERAGE CONTROL BOARD OR ITS STAFF SHALL BE HELD IN THE COUNTY IN WHICH THE PROPOSED PRIVATE CLUB IS TO BE LOCATED, UNLESS THE APPLICATION IS ACCOMPANIED BY AN ORDINANCE ADOPTED BY THE QUORUM COURT OF THE COUNTY IN WHICH THE PROPOSED CLUB IS TO BE LOCATED APPROVING ISSUANCE OF THE PERMIT; AND FOR OTHER PURPOSES."

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

SECTION 1. Paragraph (1) of subsection (b) of Section 10 of Act 132 of 1969, the same being Arkansas Statutes 48-1410(b)(1), is hereby amended to read as follows:

"(1) (i) Upon the filing of an application for a private club permit for a private club to be located in an area in which the sale of alcoholic beverages is lawful, the Director shall set a date for hearing the application and shall notify the applicant of such date and place of the hearing, the date of the hearing to be no earlier than thirty (30) days nor later than sixty (60) days after receipt of the application, except such hearing date may be more than sixty (60) days after the date of application if so requested by the applicant or for cause in writing given to the applicant. At the hearing, the Director shall hear all parties interested and upon conclusion of the hearing, the Director shall issue a written order either granting or denying the permit and stating his reasons for such decision.

After filing the application for a private club permit, the applicant, at his own expense, shall cause notice, as hereafter described, to be published at least three (3) weeks prior to the date of the hearing on the application, in a newspaper published in a county wherein the premises to be permitted are located and of general circulation in that county, or if there is no such newspaper published in that county, then such notice shall be published in any newspaper of general circulation in that county. The notice shall state that the applicant has applied for a private club permit, the date and place of the hearing on the application, if any, the name of the applicant, the name and address or location of the premises to be permitted and a statement that anyone interested may appear at the hearing. At least ten (10) days prior to the date of the hearing, the applicant shall certify to the Director that notice has been published as provided herein. Upon the Director determining that the applicant is qualified hereunder and the issuance of the permit is in the public interest, a permit may be issued as authorized in this Section.

(ii) Each application for a permit for a private club to be located in an area in which the sale of alcoholic beverages is not lawful shall be accompanied by either an ordinance of the quorum court of the county in which the proposed club is to be located approving the issuance of the permit or by a cash bond or other security to pay the reasonable expenses to be incurred by the Director and staff in conducting a hearing on the application in the county in which the proposed private club is to be located. If the application is accompanied by an ordinance of the quorum court approving issuance of the permit, the Director and the applicant shall proceed in the same manner as provided in paragraph (i) above. If the application is not accompanied by an ordinance of the quorum court approving issuance of the permit but is accompanied by the cash bond or other security provided for herein, the Director shall set a date for hearing the application and shall notify the applicant of such date and place of the hearing. The hearing shall be held at an appropriate location in the county in which the proposed private club is to be located and the date set for the hearing shall be no earlier than thirty (30) days nor later than sixty (60) days after receipt of the application, except that the hearing date may be more than sixty (60) days after the date of application if so requested by the applicant or for cause in writing given to the applicant. The applicant shall at his own expense cause notice as herein described to be published at least three (3) weeks prior to the date of the

hearing on the application in a newspaper published in the county wherein the premises to be permitted are located and of general circulation in that county, or if there is no such newspaper published in the county, the notice shall be published in any newspaper of general circulation in the county. The notice shall state that the applicant has applied for a private club permit, the date and place of hearing on the application, the name of the applicant, the name and address or location of the premises to be permitted and a statement that anyone interested may appear and be heard at the hearing. At least ten (10) days prior to the date of the hearing the applicant shall certify to the Director that notice has been published as provided herein. At the hearing, the Director shall hear all parties interested and upon conclusion of the hearing, if the Director determines that the applicant is qualified and that the issuance of the permit is in the public interest, a permit may be issued as authorized herein. If the Director determines that the applicant is not qualified or that the issuance of the permit is not in the public interest, no such permit shall be issued. The provisions of this paragraph shall be applicable with respect to the proposed establishment of any private club which is not in operation and open for business on January 30, 1987, but shall not be applicable with respect to the renewal of the permit of any private club holding a current valid private club permit and open for business on January 30, 1987."

SECTION 2. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

SECTION 3. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 4. EMERGENCY. It is hereby found and determined by the General Assembly that when application is made to the Alcoholic Beverage Control Board for a permit for a private club to be located in a dry area, the residents of the area should have an opportunity to express their views on the matter at a hearing held by the Director of the Alcoholic Beverage Control Board in the

area where the club is proposed to be located; that this Act is designed to assure such opportunity and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

