

State of Arkansas

77th General Assembly

Regular Session, 1989

A Bill

HOUSE BILL

1374

By: Representative D. Wood

For An Act To Be Entitled

"AN ACT TO ALLOW RESTAURANTS HOLDING CAFE AND RESTAURANT WINE PERMITS AND RETAIL BEER PERMITS FOR ON PREMISES CONSUMPTION TO SELL ALCOHOLIC BEVERAGES ON SUNDAY, IN ADDITION TO HOTELS AND RESTAURANTS THAT HOLD MIXED-DRINK PERMITS; TO AMEND ARK. CODE ANN. §3-9-215; TO AMEND ARK. CODE ANN. §3-9-401 ET SEQ.; AND FOR OTHER PURPOSES."

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

SECTION 1. Section (a), subsection (1) of Ark. Code Ann. §3-9-215 is hereby amended to read as follows:

"(a) (1) The provisions of this section shall be applicable to only those cities and counties in this state in which the sale of alcoholic beverages for on-premises consumption in restaurants or hotels has been approved by a majority of the qualified electors of the city or county voting on the issue at a referendum election authorized by § 3-9-201 et seq. These provisions shall apply with respect to the sale of alcoholic beverages in restaurants or hotels which have a valid and current license or permit to sell alcoholic beverages for consumption on the premises thereof.

SECTION 2. Section (b) of Ark. Code Ann. §3-9-215 is hereby amended to read as follows:

"(b) Any city of the first class or any county in which the sale of alcoholic beverages for on-premises consumption in licensed restaurants and hotels has been authorized by a majority of the qualified electors of that city or county voting on the issue at an election held therefor pursuant to the provisions of § 3-9-201 et seq., by ordinance adopted by the governing body of such city or county, may refer to the voters at an election the issue

of whether or not to authorize the sale of alcoholic beverages on Sundays between the hours of 12:00 noon and 10:00 p.m., or within a lesser period within such hours as may be provided in the ordinance. The election shall be held in accordance with the procedures established by §3-9-201 et seq. The Sunday sale of alcoholic beverages for on-premises consumption as authorized in this section shall be limited to those restaurants and hotels which possess a current and valid permit or license for the sale of alcoholic beverages for on-premises consumption issued under the authority §3-5-301 et seq., §3-9-201 et seq., and §3-9-301 et seq."

SECTION 3. Section (1) of Ark. Code Ann. §3-9-402 is hereby amended to read as follows:

"(1) 'Alcoholic beverages' means all intoxicating liquors of any sort."

SECTION 4. Sections (a) and (b) of Ark. Code Ann. §3-9-404 are hereby amended to read as follows:

"(a) Notwithstanding any other laws of this state which permit the sale of alcoholic beverages for on-premises consumption on Sundays, no hotel or restaurant that is licensed to sell alcoholic beverages for on-premises consumption under §3-5-301 et seq., §3-9-201 et seq., and/or §3-9-301 et seq. shall be permitted to sell alcoholic beverages for on-premises consumption on Sundays until they obtain a permit, approved and issued by the director in accordance with rules and regulations promulgated by the board for the sale of alcoholic beverages for on-premises consumption on Sundays. However, this subchapter is not intended to impose an additional requirement on private clubs licensed under §3-9-201 et seq. to obtain a permit for Sunday sales of alcoholic beverages for on-premises consumption.

(b) No hotel, motel or restaurant shall obtain a permit to sell alcoholic beverages for on-premises consumption on Sundays unless:

(1) They have a valid and current permit, which is not suspended, cancelled, or revoked, to sell alcoholic beverages for on-premises consumption issued under §3-5-301 et seq., §3-9-201 et seq., and/or §3-9-301 et seq.;

(2) They are located in a city or county where Sunday sales of alcoholic beverages for on-premises consumption has been approved by the voters of the city or county as authorized under Arkansas law;

(3) They meet all the requirements of being a hotel or a restaurant as

those items are defined in § 3-9-402; and

(4) They pay the required fee for a permit as required in this section and § 3-9-407."

SECTION 5. Section (d) of Ark. Code Ann. §3-9-407 is hereby amended to read as follows:

"(d) The fees required in this section are supplemental to the fees and taxes levied by §3-5-301 et seq., § 3-9-201 et seq., and/or §3-9-301 et seq., and do not relieve any restaurant or hotel from paying permit or renewal fees or supplemental gross receipts taxes levied by the State of Arkansas for sales of alcoholic beverages for on-premises consumption made on Sunday."

SECTION 6. Section (a) (2) of Ark. Code Ann. §3-9-410 is hereby amended to read as follows:

"(2) If the permit for on-premises consumption of alcoholic beverages issued under §3-5-301 et seq., §3-9-201 et seq., or §3-9-301 et seq. is suspended, cancelled, or revoked for causes thereunder;"

SECTION 7. Section (b) (1) of Ark. Code Ann. §3-9-411 is hereby amended to read as follows:

(b) However, nothing in this subchapter shall authorize holders of permits for on-premises consumption of alcoholic beverages on Sundays to sell or to dispense alcoholic beverages by the package or by the bottle for consumption off the permitted premises."

SECTION 8. Section (b) (2) of Ark. Code Ann. §3-9-411 is hereby repealed.

SECTION 9. All provisions of this Act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 10. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 11. Emergency. It is hereby found and determined by the General Assembly that although the sale of alcoholic beverages on Sunday is permitted

in some cities of this State, even in those cities the sale of beer and wine is not permitted on Sunday; that it is fundamentally unfair to authorize the Sunday sale of mixed drinks but to prohibit the Sunday sale of beer and wine; that this Act would provide equal protection to the purveyors of beer and wine; that to give immediate effect to this Act will lessen the possibility of a challenge to the present law allowing the Sunday sale of mixed drinks, and thereby save the taxpayers the cost involved in defending the challenge and the cost of an unsuccessful defense; and that therefore this Act should go into effect immediately. Therefore, an emergency is hereby declared to exist and this Act being immediately 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.

