

1 State of Arkansas  
2 80th General Assembly  
3 Regular Session, 1995

# A Bill

SENATE BILL 472

4 By: Senators Snyder, Malone, Harriman and Jeffries

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## For An Act To Be Entitled

8 "AN ACT TO AMEND VARIOUS SECTIONS OF TITLE 3, CHAPTER 5,  
9 SUBCHAPTER 12 OF THE ARKANSAS CODE ANNOTATED REGARDING  
10 MICROBREWERIES; AND FOR OTHER PURPOSES."

11

## Subtitle

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13 "TO AMEND TITLE 3, CHAPTER 5, SUBCHAPTER  
14 12 OF THE ARKANSAS CODE REGARDING  
15 MICROBREWERIES."

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

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19 SECTION 1. Arkansas Code Annotated § 3-5-1202 is hereby amended to  
20 read as follows:

21 "3-5-1202.

22 As used in this subchapter, unless the context otherwise requires:

23 (1) Barrel means thirty-one (31) gallons;

24 (2) Beer means any fermented liquor made from malt or any substitute  
25 therefor and having an alcoholic content not in excess of five percent (5%)  
26 by weight;

27 (3) Beer and malt beverage law or regulation means any law of this  
28 state, or any regulation promulgated and adopted with respect thereto, which  
29 is:

30 (A) Applicable to a person applying for or holding a license to  
31 manufacture beer or malt beverage; or

32 (B) Applicable to a person applying for or holding a license to  
33 sell beer or malt beverage in a restaurant for consumption on or off the  
34 licensed premises;

35 (4) Board means the Alcoholic Beverage Control Board of this state,

1 or its successor agency;

2 (5) Conflicting beer or malt beverage law or regulation means any  
3 beer or malt beverage law or regulation which prohibits or conflicts with the  
4 otherwise legal licensing and operation of microbrewery-restaurants, as  
5 authorized in this subchapter, by requiring any brewer to sell only to a  
6 licensed wholesaler, or requiring any licensed retailer to sell only beer or  
7 malt beverage purchased from a licensed wholesaler, or prohibiting any brewer  
8 or retailer from having any ownership or employment interest in the business  
9 of the other or the premises of the other, or requiring that the excise and  
10 enforcement tax on beer or malt beverage manufactured by a brewer be paid by  
11 a licensed wholesaler, or any beer or malt beverage law or regulation of  
12 similar direct or indirect effect;

13 (6) Director means the Director of the Alcoholic Beverage Control  
14 Division of this state, or its successor agency;

15 (7) Dry area means any area in this state in which the manufacture  
16 or sale of beer is prohibited by a local-option election heretofore or  
17 hereafter held pursuant to applicable laws of this state;

18 (8) Federal regulations means regulations adopted by the United  
19 States Bureau of Alcohol, Tobacco and Firearms applicable to and consistent  
20 with a microbrewery-restaurant operation as authorized in this subchapter,  
21 incorporated herein by this reference, including but not limited to 27 CFR  
22 Part 25, 25.25;

23 (9) Person means any natural person, partnership, association, or  
24 corporation;

25 (10) Restaurant means any public or private place which is kept,  
26 used, maintained, advertised, and held out to the public or to a private or  
27 restricted membership as a place where complete meals are actually and  
28 regularly served, such place being provided with adequate and sanitary  
29 kitchen and dining equipment and a seating capacity of at least fifty (50)  
30 people and having employed a sufficient number and kind of employees to  
31 prepare, cook, and serve suitable food for its guests or members. At least  
32 one (1) meal per day shall be served and the place shall be open a minimum of  
33 five (5) days per week, with the exception of holidays, vacations, and  
34 periods of redecorating;

35 (11) Malt beverage means any liquor brewed from the fermented juices

1 of grain and having an alcoholic content not less than five percent (5%) nor  
2 more than twenty-one percent (21%) by weight."

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4 SECTION 2. Arkansas Code Annotated § 3-5-1203 is hereby amended to  
5 read as follows:

6 "3-5-1203. Effect on other laws.

7 Every provision of this subchapter shall be subject to all beer and  
8 malt beverage laws and regulations, except that conflicting beer and malt  
9 beverage laws and regulations shall be inapplicable to any provision of this  
10 subchapter to the extent that they conflict therewith."

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12 SECTION 3. Arkansas Code Annotated §3-5-1204 is hereby amended to read  
13 as follows:

14 "3-5-1204. Licenses - Scope - Restrictions.

15 (a) The director may issue a microbrewery-restaurant license which  
16 shall authorize the licensee to do the following:

17 (1) To operate a microbrewery which shall manufacture one (1) or  
18 more varieties of beer or malt beverage in an aggregate quantity not to  
19 exceed five thousand (5,000) barrels per year, and to store any such beer or  
20 malt beverage, and any other beer which the microbrewery-restaurant licensee  
21 may purchase from wholesalers licensed by this state, on the  
22 microbrewery-restaurant licensed premises; and

23 (2) To operate a restaurant which shall be the sales outlet for  
24 beer or malt beverage manufactured by the microbrewery and which shall sell  
25 such beer or malt beverage, and any other beer which the  
26 microbrewery-restaurant licensee may purchase from wholesalers licensed by  
27 this state, for consumption on the licensed premises;

28 (3) To sell on the premises beer or malt beverages, manufactured  
29 by the microbrewery, in brewery-sealed packages at retail directly to the  
30 consumer for off-premise consumption;

31 (4) The microbrewery-restaurant may provide its products to  
32 charitable or non-profit organizations as provided for by the Board;

33 (5) The microbrewery-restaurant licensee may sell beer or malt  
34 beverages manufactured by the microbrewery-restaurant to a non-profit  
35 corporation leasing space in the microbrewery-restaurant or an adjoining

1 building.

2 (b) The director shall not issue a microbrewery-restaurant license if  
3 the microbrewery-restaurant premises is in a dry area."

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5 SECTION 4. Arkansas Code Annotated § 3-5-1205 is hereby amended to  
6 read as follows:

7 "3-5-1205. Fees and taxes.

8 A microbrewery-restaurant licensee shall:

9 (1) Pay any applicable city or county license or permit fees and  
10 barreage or excise taxes, and shall pay a state licensing fee to the Board  
11 of seven hundred fifty dollars (\$750.00) per year to manufacture and sell its  
12 beer and malt beverages and to sell any other beer purchased from a licensed  
13 wholesaler for consumption on the premises; and

14 (2) Measure beer and malt beverages manufactured by the microbrewery,  
15 and otherwise comply with applicable regulations respecting excise and  
16 enforcement tax determination of such beer and malt beverages, and pay any  
17 applicable bond or deposit and the amount of the state excise tax and  
18 enforcement tax to this state, as required by §§ 3-7-104 and 3-7-111."

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20 SECTION 5. All provisions of this act of a general and permanent  
21 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
22 Code Revision Commission shall incorporate the same in the Code.

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24 SECTION 6. If any provision of this act or the application thereof to  
25 any person or circumstance is held invalid, such invalidity shall not affect  
26 other provisions or applications of the act which can be given effect without  
27 the invalid provision or application, and to this end the provisions of this  
28 act are declared to be severable.

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30 SECTION 7. All laws and parts of laws in conflict with this act are  
31 hereby repealed.

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