

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

A Bill

HOUSE BILL 1857

4
5 By: Representatives Flanagin and Goodwin

For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED § 3-4-201 TO
10 FURTHER RESTRICT THE ISSUANCE OF RETAIL LIQUOR PERMITS;
11 AND FOR OTHER PURPOSES."

Subtitle

13 "TO FURTHER RESTRICT THE ISSUANCE OF
14 RETAIL LIQUOR PERMITS"

16
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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19 SECTION 1. Arkansas Code Annotated § 3-4-201 is amended to read as
20 follows:

21 "3-4-201. Number of permits restricted.

22 (a) It is declared to be the public policy of the state that the number
23 of permits in this state to dispense vinous (except wines), spirituous, or
24 malt liquor shall be restricted.

25 (b) The Alcoholic Beverage Control Board is empowered to determine
26 whether public convenience and advantage will be promoted by issuing the
27 permits and by increasing or decreasing the number thereof; in order to
28 further carry out the policy hereinbefore declared, the number of permits so
29 issued shall be restricted.

30 (c) The Alcoholic Beverage Control Board is further given the
31 discretion to determine the number of permits to be granted in each county of
32 this state or within the corporate limits of any municipality of this state to
33 determine the location thereof and the persons to whom they shall be issued,
34 under the following conditions:

35 (1)(A) The number of permits allowing the off-premises sale of
36 vinous (except wines), spirituous, or malt liquor in any county or political

1 subdivision which permits the sale shall not exceed a ratio of one (1) permit
2 for every ~~four thousand (4,000)~~ six thousand (6,000) population residing in
3 that county or subdivision.

4 (B) Population of the area involved shall be determined by
5 the most recent population figures established in a census by the Bureau of
6 the Census of the United States Department of Commerce or other appropriate
7 governmental subdivision.

8 (2) New permits which may be issued in a county or subdivision
9 thereof following a regular census shall be issued under the following
10 restrictions:

11 (A) Additional permits may be issued on a ratio of one (1)
12 for every additional ~~four thousand (4,000)~~ six thousand (6,000) population
13 within the area;

14 (B) Any qualified applicant may apply for a permit.
15 Qualifications are to be set from time to time by the Alcoholic Beverage
16 Control Board and its determination of the public convenience and advantage.

17 (3)(A) If it is determined that a county or political subdivision
18 thereof is entitled to additional permits when warranted by a census, the
19 board will announce prior to the last date for applications the number of new
20 permits, if any, which may be issued therein.

21 (B) In the event that such regular census population
22 figures decline in a given county or political subdivision thereof, no
23 existing permits shall be cancelled or revoked for that reason, and the quota
24 ratio shall not be applied thereto until the population in the county or
25 political subdivision thereof reaches a number equalling one (1) permit to
26 every ~~four thousand (4,000)~~ six thousand (6,000) population therein, nor shall
27 any new permit be issued therein until the population warrants.

28 (C) No transfer of locations from one county to another
29 county shall be allowed.

30 (D) In the event that any holder of a permit for the sale
31 of vinous (except wines), spirituous, or malt liquor surrenders a permit in a
32 county or municipality thereof where the ratio no longer meets the one (1) to
33 ~~four thousand (4,000)~~ six thousand (6,000) requirement, no new applications
34 will be accepted until that ratio is reestablished at an approved census.

35 (4)(A)(i) In the event a permit holder does not conduct business
36 under any permit issued for a period of more than thirty (30) days, the permit

1 shall be surrendered to the director and shall be placed on inactive status.

2 (ii) The permit may remain inactive for six (6)
 3 months or until the permit holder notifies the director that he is ready to
 4 resume business, whichever is longer.

5 (B) To secure the return of the permit, the permit holder
 6 shall file with the director a written statement showing:

7 (i) That all taxes and fees owing to the state have
 8 been paid;

9 (ii) The reason for the suspension of business
 10 activities; and

11 (iii) The date business activity will resume.

12 (C)(i) The permit holder may petition the Alcoholic
 13 Beverage Control Board for an extension of inactive status for an additional
 14 six-month period.

15 (ii) The board may grant an initial extension upon a
 16 showing by the permit holder and a finding by the board that business
 17 circumstances exist to justify an extension, that the delay to return to
 18 business was not due to mere deferral or inattention on the part of the permit
 19 holder, and that the inactive status should be extended.

20 (iii)(a) The permit holder may appeal to the
 21 Alcoholic Beverage Control Board for a second extension of inactive status for
 22 an additional six-month period, but only upon a showing by the permit holder
 23 and a finding by the board that emergency circumstances exist to justify a
 24 final extension.

25 (b) Emergency circumstances are those delays
 26 in return to business which are beyond the control, planning, or foresight of
 27 the permit holder, including, but not limited to, delays due to natural
 28 disasters, pending court actions, building construction problems, and
 29 contested insurance claims.

30 (D) Any permit remaining on inactive status for a period of
 31 more than eighteen (18) months or which has not been granted an extension
 32 under the provisions of this subdivision shall expire.

33 (5) Nothing in this section and §§ 3-4-202 and 3-4-208, except a
 34 permit on inactive status for more than eighteen (18) months after the
 35 provisions of subdivision (c)(4) of this section become effective or which has
 36 expired in accordance with subdivision (c)(4) of this section, shall be

1 construed as to divest any permit holder holding the permit on July 1, ~~1991~~
2 1997, regardless of the quota ratio, of his permit. In counties or
3 municipalities which have a ratio lower than the quota ratio established
4 herein, the permit holder shall be allowed to continue under subdivision
5 (3)(B) of this subsection.

6 (d) The provisions of this section shall apply only to applications for
7 permits to dispense vinous (except wines), spirituous, or malt liquor filed
8 with the board after July 1, ~~1991~~ 1997."

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10 SECTION 2. All provisions of this act of a general and permanent nature
11 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
12 Revision Commission shall incorporate the same in the Code.

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14 SECTION 3. If any provision of this act or the application thereof to
15 any person or circumstance is held invalid, such invalidity shall not affect
16 other provisions or applications of the act which can be given effect without
17 the invalid provision or application, and to this end the provisions of this
18 act are declared to be severable.

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20 SECTION 4. All laws and parts of laws in conflict with this act are
21 hereby repealed.

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