

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

1 State of Arkansas As Engrossed: S1/23/97 S1/28/97 S1/30/97 S2/19/97

2 81st General Assembly

A Bill

3 Regular Session, 1997

SENATE BILL 43

4 By: Senator Scott

5 By: Representative Miller

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For An Act To Be Entitled

9 "AN ACT TO AMEND SUBCHAPTER 2 OF TITLE 3, CHAPTER 3 OF THE
10 ARKANSAS CODE OF 1987, ANNOTATED, TO MAKE IT UNLAWFUL TO
11 SHIP OUT-OF-STATE LIQUOR DIRECTLY TO PERSONS IN ARKANSAS;
12 TO AMEND ARKANSAS CODE § 3-7-106 TO EXPAND THE COVERAGE OF
13 THE LAWS REGULATING THE SHIPMENT OF LIQUOR INTO THE STATE
14 OF ARKANSAS; AND FOR OTHER PURPOSES."

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Subtitle

17 "TO MAKE IT UNLAWFUL TO SHIP LIQUOR
18 DIRECTLY TO PERSONS IN ARKANSAS AND TO
19 EXPAND THE REGULATION OF SHIPPING
20 UNPERMITTED LIQUOR INTO ARKANSAS"

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

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24 SECTION 1. Subchapter 2 of Title 3, Chapter 3 of the Arkansas Code of
25 1987, Annotated, is amended to add a new Section 3-3-219 to read as follows:

26 "3-3-219. Direct shipment of intoxicating liquor unlawful.

27 (a) It shall be unlawful for any person, firm, or corporation in the
28 business of selling intoxicating liquor, as defined by 3-8-201, in another
29 state or country to ship or cause to be shipped any intoxicating liquor, as
30 defined by 3-8-201, directly to any Arkansas resident who does not hold a
31 valid wholesaler or wholesale dealer and distributor permit issued by the
32 Arkansas Alcoholic Beverage Control Board.

33 (b) Any person or other entity who is determined to be in violation of
34 this section for the first time shall be mailed a certified letter with a
35 return receipt requested by the Director of the Alcoholic Beverage Control
36 Division ordering that person or other entity to cease and desist any

1 shipments of intoxicating liquor, as defined by 3-8-201, to Arkansas
2 residents. Any person or other entity who commits a violation of this section
3 on a second or subsequent occasion shall be reported to the prosecuting
4 attorney of the county in which the second or subsequent violation occurred.

5 (c) For a second and any subsequent violation, any person who pleads
6 guilty, nolo contendere, or is found guilty of violating the provisions of
7 this section on a second or subsequent occasion, upon an additional finding
8 that such person acted purposely or knowingly as defined by 5-2-202, shall be
9 guilty of a Class D felony and shall be punished accordingly.

10 (d) A person in Arkansas may receive limited shipments of intoxicating
11 liquors from wineries or other manufacturers outside of the State of Arkansas
12 under an exception to this section if:

13 (1) The shipments are delivered to a retail package store,
14 designated by such person, which holds a retail liquor permit issued by the
15 State of Arkansas. Such designated package store shall have the
16 responsibility of ensuring the person to receive such shipment is twenty-one
17 (21) years old or older and that all applicable sales and excise taxes are
18 paid on such shipment;

19 (2) The out-of-state winery, manufacturer or other Primary
20 American Source has registered the brand or brands to be shipped into the
21 State of Arkansas with the Director of the Alcoholic Beverage Control
22 Division;

23 (3) The out-of-state winery, manufacturer or other Primary
24 American Source sending such shipments ensures that reports of such shipments
25 are received by the Department of Finance and Administration and that the
26 wholesaler designated in the brand registration pays all applicable wholesale
27 taxes due the State of Arkansas;

28 (4) Nothing contained in this section shall be construed as being
29 violative of Arkansas three-tier system of distribution nor shall compliance
30 with this section be construed as placing any permittee in violation of any
31 existing laws or regulations;

32 (5) The Arkansas Alcoholic Beverage Control Division is
33 authorized to promulgate and adopt reasonable rules and regulations to
34 implement the intent and purposes of this act.'"

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36 SECTION 2. Arkansas Code § 3-7-106 is amended to read as follows:

1 "3-7-106. Shipping permits.

2 (a)(1) ~~It~~ Except as is allowed under the exception in § 3-3-219(d) and
3 rules or regulations promulgated thereunder, it shall be unlawful for any
4 person to ship or transport into the State of Arkansas any spirituous liquors,
5 vinous liquors, wines other than Arkansas wines, or beer or malt beverages
6 from points without the state without first having obtained a permit from the
7 Director of the Alcoholic Beverage Control Division.

8 (2) No railroad company, express company, bonded truck company or truck
9 line operating under a certificate or permit issued by the Arkansas State
10 Highway and Transportation Department, nor any river transportation company,
11 nor any air carrier or carrier affiliated with a direct air carrier shall
12 receive for shipment or ship into this state any package or receptacle
13 containing distilled spirits unless a copy of the permit showing that payment
14 of the taxes as are required by law has been made shall accompany the
15 shipment.

16 (3) The permit shall be in such form as may be prescribed by the
17 Director of the Alcoholic Beverage Control Division, and all such shipments
18 into the state shall be governed by such rules and regulations as may be
19 promulgated by the director.

20 (4) However, the railroad or express company or river transportation
21 company or air carrier or carrier affiliated with a direct air carrier shall
22 not be required to obtain any permit to transport distilled spirits but shall
23 be subject to all rules and regulations promulgated by the Director of the
24 Alcoholic Beverage Control Division and shall be subject to a levy of fines as
25 if they were a permittee.

26 (b)(1) It shall be unlawful for any person who is permitted by law to
27 manufacture, sell, or transport spirituous liquors, vinous liquors, wines
28 other than Arkansas wines, or beer or malt beverages to transport or cause
29 spirituous liquors, vinous liquors, wines other than Arkansas wines, or beer
30 or malt beverages to be transported by any means of transportation except as
31 may be prescribed by the rules and regulations of the Director of the
32 Alcoholic Beverage Control Division.

33 (2) However, spirits may be transported by truck or wagon from
34 and to freight or express depots, to and from the place or places of business
35 of the permittees and upon the premises of the permittees, from and to one (1)
36 place of business to another place of business of the permittee, provided that

1 the owner of trucks or wagons transporting distilled liquor as aforesaid,
2 excepting trucks and wagons owned and operated by a railroad or express
3 company, or bonded truck company or truck line operating under a certificate
4 or permit issued by the State Highway and Transportation Department, or a
5 river transportation company, or by the person permitted by law to
6 manufacture, sell, or transport spirituous liquors, vinous liquors, wines
7 other than Arkansas wines, or beer or malt beverages shall procure a permit to
8 engage in transportation and shall execute a bond satisfactory in amount,
9 form, and as to surety, to be approved by the Director of the Alcoholic
10 Beverage Control Division, conditioned upon the lawful transportation of
11 spirituous liquors, vinous liquors, wines other than Arkansas wines, or beer
12 or malt beverages."

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14 SECTION 3. All provisions of this act of general and permanent nature
15 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
16 Revision Commission shall incorporate the same in the Code.

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18 SECTION 4. If any provisions of this act or the application thereof to
19 any person or circumstance is held invalid, the invalidity shall not affect
20 other provisions or applications of the act which can be given effect without
21 the invalid provisions or application, and to this end the provisions of this
22 act are declared to be severable.

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24 SECTION 5. All laws and parts of laws in conflict with this act are
25 hereby repealed.

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27 /s/Scott et al

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