

1 State of Arkansas  
2 82nd General Assembly  
3 Regular Session, 1999

# A Bill

SENATE BILL 50

4  
5 By: Senator Scott  
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## For An Act To Be Entitled

8  
9 "AN ACT TO MAKE IT UNLAWFUL TO SHIP OUT-OF-STATE  
10 LIQUOR DIRECTLY TO PERSONS IN ARKANSAS; TO EXPAND THE  
11 COVERAGE OF THE LAWS REGULATING THE SHIPMENT OF LIQUOR  
12 INTO THE STATE OF ARKANSAS; AND FOR OTHER PURPOSES."

## Subtitle

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15 "TO MAKE IT UNLAWFUL TO SHIP LIQUOR  
16 DIRECTLY TO PERSONS IN ARKANSAS AND TO  
17 EXPAND THE REGULATION OF SHIPPING  
18 UNPERMITTED LIQUOR INTO ARKANSAS."  
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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23 SECTION 1. Arkansas Code Title 3, Chapter 3, Subchapter 2 is amended to  
24 add the following language:

25 "3-3-219. Direct shipment of intoxicating liquor unlawful.

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

32 (b) Any person or other entity who is determined to be in violation of  
33 this section for the first time shall be mailed a certified letter with a  
34 return receipt requested by the Director of the Alcoholic Beverage Control  
35 Division ordering that person or other entity to cease and desist any  
36 shipments of intoxicating liquor, as defined by 3-8-201, to Arkansas

1 residents. Any person or other entity who commits a violation of this section  
 2 on a second or subsequent occasion shall be reported to the prosecuting  
 3 attorney of the county in which the second or subsequent violation occurred.

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

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

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

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

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

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

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

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

36 "3-7-106. Shipping permits.

1           (a)(1) ~~It~~ Except as is allowed under the exception in § 3-3-219(d) and  
2 rules or regulations promulgated thereunder, it shall be unlawful for any  
3 person to ship or transport ~~or cause to be shipped or transported~~ into the  
4 State of Arkansas any spirituous liquors, vinous liquors, wines other than  
5 Arkansas wines, or beer or malt beverages from points without the state  
6 without first having obtained a permit from the Director of the Alcoholic  
7 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 a 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 provision of this Act or the application thereof to  
 19 any person or circumstance is held invalid, such invalidity shall not affect  
 20 other provisions or applications of the Act which can be given effect without  
 21 the invalid provision 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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