

**Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.**

1 State of Arkansas *As Engrossed: H2/22/01 H2/27/01 H3/16/01*

2 83rd General Assembly

# A Bill

3 Regular Session, 2001

HOUSE BILL 1637

4  
5 By: Representatives Bradford, Carson, Rodgers, Jacobs

6 By: Senator Mahony

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## **For An Act To Be Entitled**

10 AN ACT TO ALLOW *COUNTIES* TO CONDUCT LOCAL OPTION  
11 ELECTIONS FOR THE PURPOSE OF ALLOWING VOTERS TO  
12 SELECTIVELY APPROVE SPECIFIC TYPES OF ALCOHOLIC  
13 BEVERAGE SALES; AND FOR OTHER PURPOSES.

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15

## **Subtitle**

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

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25 *SECTION 1. Legislative Determination and Intent.*

26 *Since 1941 the local option laws of Arkansas have provided that*  
27 *counties, municipalities, wards and precincts may hold local option elections*  
28 *on the question of whether to allow the sale and manufacture of intoxicating*  
29 *liquors. If the sale or manufacture of intoxicating liquors was approved by*  
30 *voters under existing law, that approval would necessarily include the*  
31 *approval of most forms of the manufacture and sale of intoxicating liquors,*  
32 *including a multitude of on-premises and off-premises sales as permitted by*  
33 *the Alcoholic Beverage Control Division. It is the determination of this body*  
34 *that Arkansas' local option laws no longer meet the needs and desires of many*  
35 *of our communities which have not chosen to authorize every type of alcoholic*  
36 *beverage sale permitted by law. It is the intent of the Arkansas General*

1 Assembly, as expressed in this act, that more local control of sales of  
2 alcoholic beverages should be vested in county governments. To that end, it  
3 is considered desirable to enact law which would provide for local option  
4 elections which could authorize only selected types of alcoholic beverage  
5 sales deemed to be desirable by counties.

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7 SECTION 2. Applicability of Act.

8 (a)(1) This act is supplemental to existing local option law.

9 (2) The elections provided for in this act are authorized to be  
10 held only in those counties which have not approved the sale of intoxicating  
11 liquors within those counties as of the effective date of this act.

12 (3)(A) From and after the effective date of this act, in addition  
13 to elections authorized to be held under Arkansas Code 3-8-201 through 3-8-  
14 210, a local option election may be held under this act.

15 (B) This act shall authorize any dry county to conduct a local option  
16 election.

17 (4)(A) No county, municipality, ward, or voting precinct which  
18 has previously voted in favor of the manufacture or sale of intoxicating  
19 liquors under existing law will be authorized to conduct an election under  
20 this act, unless provided for in this act.

21 (B) No county, municipality, ward or voting precinct shall  
22 alter the types of alcoholic beverages currently authorized for sale by  
23 conducting an election under this act.

24 (5) Nothing in this act, nor any election conducted under its  
25 provisions, shall be construed to divest any permit holder of any permit  
26 issued under any law which was in effect on the effective date of this act.

27 (b) For purposes of this act, "alcoholic beverages" mean all alcoholic  
28 beverages including spirits, wines and beer and all other alcoholic beverages  
29 approved for sale in Arkansas which contain more than one-half of one percent  
30 (1/2 of 1%) of alcohol by weight.

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32 SECTION 3. Petition Procedure.

33 (a) Petitions for local option elections held under this act shall be  
34 prepared substantially in accordance with Arkansas Code 3-8-204.

35 (b) The petitions for local option elections shall list each city,  
36 having a population exceeding twenty thousand (20,000) according to the last

1 decennial census, within the county in which hotels, restaurants or large  
2 attendance facilities would be authorized to make applications for permits.

3 (c) If a majority of electors vote for the sale of alcoholic beverages  
4 for on-premises consumption in hotels, restaurants and large attendance  
5 facilities, permits would be authorized to be issued only within cities having  
6 a population exceeding twenty thousand (20,000) according to the last  
7 decennial census.

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9 SECTION 4. Determination of sufficiency of petition - Calling of  
10 election.

11 (a)(1) When fifteen percent (15%) of the qualified electors shall file  
12 petitions with the county clerk of any county within this state praying that  
13 an election be held in a designated county to determine whether or not  
14 licenses shall be granted to permit the sale of alcoholic beverages in hotels,  
15 restaurants, and large attendance facilities, the county clerk, within ten  
16 (10) days, shall determine the sufficiency of the petition.

17 (2) The total number of voters registered, as certified by the  
18 county clerk to the Secretary of State by the first of June of each year under  
19 Amendment 51, Constitution of the State of Arkansas, shall be the basis upon  
20 which the number of signatures of qualified electors on petitions shall be  
21 computed.

22 (3) A person shall be a registered voter at the time of signing  
23 the petition.

24 (b) If fifteen percent (15%) of the qualified electors in a county have  
25 signed petitions, the county clerk shall certify that finding to the county  
26 board of election commissioners, and the question shall be placed on the  
27 ballot in the applicable county at a general or special election.

28 (c)(1) If an appeal is taken from the certification of the county  
29 clerk, it shall be taken with ten (10) days and shall be considered by the  
30 circuit court within ten (10) days, or as soon as practicable, after the  
31 appeal is lodged with the court.

32 (2) The circuit court shall render its decision within thirty  
33 (30) days.

34 (d) If an appeal is taken, the election shall be conducted within  
35 thirty (30) days after the appeal is determined, if the decision is in favor  
36 of the election petitioners.

1 (e)(1)(A) The decision shall be certified immediately to the county  
2 board of election commissioners, and the day for the election shall be fixed  
3 by the county board of election commissioners for not earlier than twenty (20)  
4 days nor later than thirty (30) days after the certification of the decision  
5 of the circuit court.

6 (B) Any appeal from the final decision of the circuit court  
7 shall be taken within ten (10) days and shall be advanced and immediately  
8 determined by the Supreme Court.

9 (2) In that event, the county board of election commissioners  
10 may, in its discretion, delay the election until after the final decision of  
11 the Supreme Court.

12 (3) If the decision is in favor of the election petitioners, then  
13 the county board of election commissioners shall set the day for the election,  
14 which shall not be earlier than twenty (20) days nor later than thirty (30)  
15 days after the final decision of the Supreme Court.

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17 SECTION 5. Conduct of Election.

18 (a) Upon the certification of a local option petition under Arkansas  
19 Code 3-8-205 in a county, the county board of election commissioners of the  
20 county shall cause the question to be placed on the ballot at a general or  
21 special election in the following form, consistent with the petition having  
22 been circulated:

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24 [ ] FOR THE SALE OF ALCOHOLIC BEVERAGES FOR ON-PREMISES CONSUMPTION IN  
25 HOTELS, RESTAURANTS, AND LARGE ATTENDANCE FACILITIES

26 [ ] AGAINST THE SALE OF ANY ALCOHOLIC BEVERAGES  
27

28 Each elector shall be instructed on the ballot to vote FOR or AGAINST  
29 the question by placing an "X" in the appropriate box.

30 (b)(1)(A) If voters approve the sale of alcoholic beverages for on-  
31 premises consumption at hotels, restaurants, and large attendance facilities,  
32 the Alcoholic Beverage Control Division is authorized to issue  
33 Hotel/Motel/Restaurant Mixed Drink Permits to qualified applicants located  
34 within cities having a population exceeding twenty thousand (20,000) according  
35 to the last decennial census.

36 (B) The mixed drink permits shall be issued only to

1 restaurants and large attendance facilities as defined by Arkansas Code 3-9-  
2 202(8) and hotels as defined by Arkansas Code 3-9-202(9).

3 (2) If voters approve alcoholic beverage sales , the county may  
4 hold a subsequent election under Arkansas Code 3-8-201 through 3-8-210.

5 (3) If voters approve the sale of alcoholic beverages for on-  
6 premises consumption in hotels, restaurants and large attendance facilities,  
7 the county may hold a subsequent election under Arkansas Code 3-9-215 on the  
8 issue of whether to allow the sale of alcoholic beverages on Sundays as  
9 authorized by law.

10 (c) The county board of election commissioners shall count the votes  
11 cast on the question of the sale of alcoholic beverages in the designated area  
12 and shall deliver its certificate declaring the result of the election,  
13 together with the election returns, within three (3) days after the date of  
14 the election, to the county clerk of the county.

15 (d) Upon petition of twenty-five (25) interested, registered voters in  
16 the territory affected, within ten (10) days after the date of the election,  
17 the county board of election commissioners shall immediately recount the votes  
18 and declare the results of the election as determined by the recount.

19 (e) Within twenty (20) days after the election, the county court shall  
20 make and have entered of record its order declaring the result of the  
21 election.

22 (f)(1) The costs of any special election held under this act shall be  
23 paid by the proponents of the election.

24 (2) The costs of any general election held under this act shall  
25 be paid by the county in the same manner as other costs of general elections.

26 (g)(1) Once an election has been held, a period of at least four (4)  
27 years shall elapse before another election on the same subject may be held in  
28 the territory affected.

29 (2)(A) If a county approves liquor by the drink, opponents of the  
30 measure may petition to place the issue back on the ballot at a subsequent  
31 election by using the same procedures, and subject to the same requirements of  
32 this act.

33 (B) If the majority of the voters at a subsequent election  
34 vote against the sale of alcoholic beverages for on-premises consumption in  
35 hotels, restaurants and large attendance facilities, the Alcoholic Beverage  
36 Control Division shall, within sixty (60) days from the date of the

1 certification of the election, cancel all permits previously issued in the  
2 affected area under Arkansas Code 3-8-310.

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4 SECTION 6. Mandamus of County Officials.

5 Upon petition of ten (10) interested registered voters in the territory  
6 affected, filed with the circuit clerk of the county in which proceedings are  
7 pending, the circuit court shall immediately, by mandamus, compel the county  
8 court or other officials to perform the duties imposed upon them by this act.

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10 SECTION 7. Purchase of Alcoholic Beverages.

11 (a)(1) If a county approves of alcoholic beverage sales, licensed  
12 wholesalers are authorized to sell and deliver alcoholic beverages to licensed  
13 retailers in the affected territory under existing law.

14 (2) However, if a dry county conducts an election under this act,  
15 and approves the sale of alcoholic beverages for on-premises consumption in  
16 hotels, restaurants and large attendance facilities, in addition to normal  
17 delivery methods, wholesalers may make deliveries to licensed retailers by use  
18 of parcel delivery services or by warehouse pick-up.

19 (b) Wholesale distributors of alcoholic beverages may not sell or  
20 deliver any alcoholic beverages to retailers on a Sunday.

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22 SECTION 8. Regulatory Authority.

23 The Alcoholic Beverage Control Division is authorized and directed to  
24 adopt regulations as may be necessary and appropriate to implement the intent  
25 and purposes of this act.

26 /s/ Bradford, et al.  
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