

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: H2/27/03 H3/5/03 H3/13/03 H3/18/03*

2 84th General Assembly

A Bill

3 Regular Session, 2003

HOUSE BILL 1728

4

5 By: Representatives Pickett, Bradford, Mahony, *P. Bookout, Thyer*

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For An Act To Be Entitled

9 AN ACT TO ALLOW CERTAIN CITIES OF THE FIRST CLASS
10 TO CONDUCT LOCAL OPTION ELECTIONS TO DECIDE THE
11 ISSUE OF ALLOWING THE SALE OF ALCOHOLIC BEVERAGES
12 IN HOTELS, RESTAURANTS, AND LARGE ATTENDANCE
13 FACILITIES; AND FOR OTHER PURPOSES.

14

15

Subtitle

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

25

26 SECTION 1. Arkansas Code Title 3, Chapter 8, is amended to add an
27 additional subchapter to read as follows:

28

3-8-501. Legislative Determination and Intent.

29

The General Assembly finds that:

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1 (2) There is currently no provision in Arkansas law allowing
2 certain cities of the first class, in which the manufacture or sale of
3 alcoholic beverages has been prohibited, to decide by local referendum
4 whether the sale of alcoholic beverages in hotels, restaurants, and large
5 attendance facilities should be authorized.

6
7 3-8-502. Definitions.

8 For purposes of this subchapter:

9 (1) "Alcoholic beverages" means all intoxicating beverages including
10 spirits, wines, beer, and all other intoxicating beverages approved for sale
11 in this state which contain more than one-half of one percent ($\frac{1}{2}$ of 1%)
12 alcohol by weight;

13 (2) "Final determination" means the date of certification of the
14 results of an uncontested election or, if contested, the date of the issuance
15 of the mandate by the court finally determining an election contest;

16 (3) "Hotel" has the same meaning as defined in § 3-9-202;

17 (4) "Restaurant" means any public or private place, without sleeping
18 accommodations and that place:

19 (A) Is kept, used, maintained, advertised, and held out to
20 the public or to a private or restricted membership as a place whose primary
21 function and purpose is to take orders for and to serve food and food items;

22 (B) Actually serves full and complete meals prepared in a
23 fully equipped and sanitary kitchen and prepared from uncooked foods for
24 service to and for consumption by its guests or members on the premises;

25 (C) Has a seating capacity of at least fifty (50) people;

26 (D) Has employed a sufficient number and kind of employees
27 to prepare, cook, and serve suitable foods to its guests or members;

28 (E) Serves alcoholic beverages on-premises only, in
29 conjunction with meals;

30 (F) Serves food on all days of operations;

31 (G) Maintains separate sales figures for alcoholic
32 beverages;

33 (H) Has gross sales of sixty percent (60%) or more from
34 the sale of food, food items, and nonalcoholic beverages; and

35 (5) "Large attendance facility" has the same meaning as "large
36 meeting or attendance facility" as defined in § 3-9-202(8)(B)(i).

1
2 3-8-503. Applicability.

3 (a) This subchapter is supplemental to existing on-premises
4 consumption laws.

5 (b) This subchapter only applies to cities of first class with a
6 population exceeding forty-three (43,000) thousand based on the most recent
7 Federal decennial census that have not approved the sale of intoxicating
8 liquors as of the effective date of this subchapter.

9 (c) This subchapter, or any election conducted under its provisions,
10 does not divest any permit holder of any permit issued under any law which
11 was in effect on the effective date of this subchapter.

12
13 3-8-504. Referendum Procedures.

14 (a) A referendum election may be called in an authorized city of the
15 first class by resolution adopted by a majority vote of the governing body of
16 the city at any regular or special meeting or by petition procedure, as
17 provided in this subchapter.

18 (b)(1) Petitions for local option elections held under this subchapter
19 shall be prepared according to § 3-8-204.

20 (2) Petitions for local option elections shall list the city of
21 the first class in which hotels, restaurants, and large attendance facilities
22 will be authorized to apply for permits.

23 (c) If a majority of electors vote for the sale of the alcoholic
24 beverages for on-premises consumption in hotels, restaurants, and large
25 attendance facilities, permits would be authorized to be issued within that
26 city of the first class.

27
28 3-8-505. Determination of sufficiency of petition - Calling of
29 election.

30 (a)(1) If at least thirty-eight percent (38%) of the qualified
31 electors in the authorized city of the first class file a petition with the
32 county clerk praying that an election be held in the city of the first class,
33 to determine whether or not licenses shall be granted to permit the sale of
34 alcoholic beverages in hotels, restaurants, and large attendance facilities,
35 the county clerk shall determine within ten (10) business days the
36 sufficiency of the petition.

1 (2) The total number of voters registered in the city of the
2 first class as certified by the county clerk to the Secretary of State by the
3 first of June of each year pursuant to Amendment 51 of the Arkansas
4 Constitution, shall be the basis upon which the number of signatures of
5 qualified electors on petitions shall be computed.

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

8 (b) If thirty-eight percent (38%) of the qualified electors of a city
9 of the first class have signed the petition, or if the governing body of a
10 city of the first class shall, by majority vote, call for an election
11 pursuant to this subchapter, the county clerk shall certify that finding to
12 the county board of election commissioners, and the question shall be placed
13 on the ballot in the applicable city of the first class at a general or
14 special election.

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

19 (2) The circuit court shall render its decision within thirty
20 (30) calendar days.

21 (d) If an appeal is taken, the election shall be conducted within one
22 hundred twenty (120) calendar days after the appeal is determined by the
23 circuit court, if the decision is in favor of the election petitioners.

24 (e)(1)(A) The decision shall be certified immediately to the county
25 board of election commissioners, and the day for the election shall be fixed
26 by the county board of election commissioners for not earlier than twenty
27 (20) calendar days or later than one hundred twenty (120) calendar days after
28 the certification of the decision of the circuit court.

29 (B) Any appeal from the final decision of the circuit
30 court shall be taken within ten (10) business days and shall be advanced and
31 immediately determined by the Supreme Court.

32 (2) If an appeal is taken from the circuit court, the county
33 board of election commissioners may delay the election until after the final
34 decision of the Supreme Court.

35 (3)(A) If the decision is in favor of the election petitioners,
36 then the county board of election commissioners shall set the day for the

1 election.

2 (B) The date shall not be fewer than twenty (20) calendar
3 days nor more than one hundred twenty (120) calendar days after the final
4 decision of the Supreme Court.

5
6 3-8-506. Conduct of Election.

7 (a)(1) Upon the certification by the county clerk for an election
8 under this subchapter, in a city of the first class, the county board of
9 election commissioners of the county shall cause the question to be placed on
10 the ballot at a general or special election, which shall be fixed by the
11 county board of election commissioners not less than thirty (30) calendar
12 days and no more than one hundred twenty (120) calendar days from date of
13 certification by the county clerk, and shall give notice of the special
14 election by publication in the newspaper of general circulation in the city
15 of first class by at least two insertions, the last being not less than ten
16 (10) business days prior to the election.

17 (2) The form of the ballot, consistent with the petition having
18 been circulated, shall be printed as follows:

19
20 FOR THE SALE OF ALCOHOLIC BEVERAGES FOR ON-PREMISES CONSUMPTION IN HOTELS,
21 RESTAURANTS, AND LARGE ATTENDANCE FACILITIES IN (NAME OF CITY OF THE FIRST
22 CLASS), ARKANSAS, AS AUTHORIZED IN § 3-8-504.

23 AGAINST THE SALE OF ALCOHOLIC BEVERAGES FOR ON-PREMISES CONSUMPTION IN
24 HOTELS, RESTAURANTS, AND LARGE ATTENDANCE FACILITIES IN (NAME OF CITY OF THE
25 FIRST CLASS), ARKANSAS, AS AUTHORIZED IN § 3-8-504.

26 (b)(1) If voters approve the sale of alcoholic beverages for on-
27 premises consumption at hotels, restaurants, and large attendance facilities,
28 the Alcoholic Beverage Control Division may issue hotel, restaurant, and
29 large attendance facility mixed drink permits to qualified applicants located
30 within the city of the first class.

31 (2) If voters approve the sale of alcoholic beverages for
32 on-premises consumption at hotels, restaurants, and large attendance
33 facilities, the city of the first class may hold a subsequent election under
34 §§ 3-8-201 through 3-8-210.

35 (3) If voters approve the sale of alcoholic beverages for
36 on-premises consumption in hotels, restaurants and large attendance

1 facilities, the city of the first class may hold a subsequent election under
2 § 3-9-215 on the issue of whether to allow the sale of alcoholic beverages on
3 Sundays, as authorized by law.

4 (c) The county board of election commissioners shall count the votes
5 cast on the question of the sale of alcoholic beverages in the designated
6 area, and shall deliver its certificate declaring the result of the election,
7 together with the election returns, within three (3) business days after the
8 date of the election, to the county clerk of the county.

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

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

17 (f)(1) The costs of any special election held under this subchapter
18 shall be paid by the proponents of the election.

19 (2) In the case of a referendum election called by a resolution
20 adopted by the governing body of the city, the proponents responsible for
21 paying the costs of the special election shall be named in the resolution.

22 (3) The costs of any general election held under this subchapter
23 shall be paid by the county in the same manner as other costs of general
24 elections.

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

28 (2)(A) If a city of the first class approves the sale of
29 alcoholic beverages for on-premises consumption at hotels, restaurants, and
30 large attendance facilities, opponents of the measure may petition to place
31 the issue back on the ballot at a subsequent election by using the same
32 procedures, and subject to the same requirements of this subchapter.

33 (B)(i) If the majority of the voters at a subsequent
34 election vote against the sale of alcoholic beverages for on-premises
35 consumption in hotels, restaurants and large attendance facilities, the
36 holders of permits shall be allowed a period of one hundred twenty (120)

1 calendar days in which to dispose of stock after the final determination of
2 the results of the local option election by which the political subdivision,
3 in which the holder of the permit is located, shall have voted against the
4 sale of alcoholic beverages for on-premises consumption in hotels,
5 restaurants, and large attendance facilities.

6 (ii) During the one hundred twenty (120) calendar
7 day period, the holder of a permit may not purchase any alcoholic beverages,
8 but must restrict its business to the sale of those items on hand as of the
9 date the election results are finally determined.

10
11 5-8-507. Mandamus of County Officials.

12 Upon petition of ten (10) interested registered voters in the territory
13 affected, filed with the circuit clerk of the county in which proceedings are
14 pending, the circuit court shall immediately by mandamus, compel the county
15 court or other officials to perform the duties imposed upon them by this
16 subchapter.

17
18 5-8-508. Purchase of Alcoholic Beverages.

19 Persons holding a permit to sell alcoholic beverages under this
20 subchapter shall purchase such beverages from a retail liquor store
21 authorized by the Alcoholic Beverage Control Board to sell to the permittee.

22
23 5-8-509. Temporary permit for operation of restaurant.

24 (a) A restaurant may be issued a temporary permit to sell alcoholic
25 beverages for on-premises consumption for a period not to exceed ninety (90)
26 days.

27 (b) The temporary ninety-day time period is to be used to allow the
28 restaurant to make a determination of its gross sales.

29 (c) The fee for the temporary permit shall be twenty-five dollars
30 (\$25.00).

31
32 5-8-510. Regulatory authority.

33 The Alcoholic Beverage Control Board may adopt regulations to implement
34 the intent and purposes of this subchapter.

35
36 */s/ Pickett, et al*