

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
2 84th General Assembly
3 Regular Session, 2003
4

As Engrossed: H3/24/03

A Bill

HOUSE BILL 2290

5 By: Representatives Ledbetter, Hathorn, Bond, Stovall, Rosenbaum
6
7

For An Act To Be Entitled

9 AN ACT TO BE KNOWN AS THE ARKANSAS NATIVE BREWERY
10 ACT; TO CREATE A NEW CATEGORY OF BEER LICENSES;
11 TO PROVIDE FOR THE OPERATION OF THE LICENSED
12 FACILITIES; AND FOR OTHER PURPOSES.
13

Subtitle

15 AN ACT TO BE KNOWN AS THE ARKANSAS
16 NATIVE BREWERY ACT; TO CREATE A NEW
17 CATEGORY OF BEER LICENSES; AND TO
18 PROVIDE FOR THE OPERATION OF THE
19 LICENSED FACILITIES.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

SECTION 1. Title.

25 This act shall be known, and may be cited as the "Arkansas Native
26 Brewery Act".
27

SECTION 2. Legislative determinations and intent.

(a) The General Assembly finds that:

30 (1) The creation and long-term success of small businesses in
31 this state is vital to the continued economic well-being and prosperity of
32 the State of Arkansas; and

33 (2) All reasonable steps should be taken to retain, foster, and
34 encourage small business and to create favorable conditions for small
35 business in this state.

36 (b) It is the intent and purpose of this act to authorize the legal



1 operation of native breweries in order to assure that these favorable
2 conditions exist in this state.

3
4 SECTION 3. Definitions.

5 As used in this act:

6 (1) "Barrel" means thirty-one (31) gallons;

7 (2) "Beer" means any fermented liquor made from malt or any
8 substitute having an alcoholic content of not more than five percent (5%) by
9 weight;

10 (3) "Board" means the Alcoholic Beverage Control Board;

11 (4) "Brewery" means the facilities of a native brewer that
12 operate a small brewery, contract brewing company, microbrewery, or
13 restaurant;

14 (5) "Contract brewing company" means any licensed brewery that
15 hires another company to produce a portion of its beer or malt beverage;

16 (6) "Director" means the Director of the Alcoholic Beverage
17 Control Division;

18 (7) "Malt beverage" means any liquor brewed from the fermented
19 juices of grain and having an alcoholic content of no less than five percent
20 (5%) nor more than twenty-one percent (21%) by weight;

21 (8) "Native brewer" means any person who is licensed by the
22 Alcoholic Beverage Control Division to manufacture and sell beer and malt
23 beverages at a small brewery or microbrewery-restaurant;

24 (9) "Native brewery" means a small brewery or microbrewery-
25 restaurant;

26 (10) "Microbrewery-restaurant" means any restaurant that
27 manufactures one (1) or more varieties of beer or malt beverage in an
28 aggregate quantity of not more than five thousand (5,000) barrels per year,
29 and stores the beer or malt beverages on the premises or on any adjacent
30 premises;

31 (11) "Small brewery" means any licensed facility that
32 manufactures less than 60,000 barrels of beer and malt beverages per year for
33 sale or consumption;

34 (12) "Person" means any natural person, partnership,
35 association, or corporation;

36 (13) "Producer brewery" is any licensed brewery, domestic or

1 foreign, that manufactures or packages beer or malt beverages for a small
2 brewery, contract brewing company, microbrewery, or restaurant; and

3 (14) "Restaurant" means any public or private facility that:

4 (A) Is kept, used, maintained, advertised, and held out to
5 the public or to a private or restricted membership as a place where complete
6 meals are regularly served, the place being provided with adequate and
7 sanitary kitchen and dining equipment and a seating capacity of at least
8 fifty (50) people, and having employed a sufficient number of employees to
9 prepare, cook, and serve food suitable for its guests or members; and

10 (B) Serves at least one (1) meal per day and the place is
11 open a minimum of five (5) days per week, with the exception of holidays,
12 vacations, and periods of redecorating.

13
14 SECTION 4. Effect on other laws.

15 Every provision of this act is subject to all beer and malt beverage
16 laws and regulations not in conflict with the provisions of this act.

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18 SECTION 5. Licenses - Scope - Restrictions.

19 (a) The Director of the Alcoholic Beverage Control Division may issue
20 a license for a licensee:

21 (1) To operate a small brewery that:

22 (A) Manufactures, at its licensed facility, no less than
23 thirty-five percent (35%) of its beer and malt beverages to be sold in the
24 state, or purchases from a producer brewery, beer or malt beverages in an
25 aggregate quantity not to exceed sixty thousand (60,000) barrels per year;

26 (B) Sells to wholesale or to the consumer for consumption
27 either on or off the premises; and

28 (C) Stores any beer and malt beverages legally purchased
29 for resale on the premises; or

30 (2) To operate a microbrewery-restaurant that:

31 (A) Manufactures beer and malt beverages in an aggregate
32 quantity not to exceed five thousand (5,000) barrels per year;

33 (B) Sells to wholesale or retail dealers or to the
34 consumer for consumption either on or off the premises; and

35 (C) Stores any beer and malt beverages purchased for
36 resale on the premises.

1 (b) Notwithstanding the provisions of any other law to the contrary,
2 beer and malt beverages may be sold for on-premises or off-premises
3 consumption during all legal operating hours in which business is normally
4 and legally conducted on the premises, if:

5 (1) The brewery provides tours through its facility; and

6 (2) Only sealed containers are removed from the premises.

7 (c) A native brewery may:

8 (1) Produce brand name beer or malt beverages specific in name
9 to any other outlet licensed to sell beer and malt beverage; and

10 (2)(A) Provide beer and malt beverages it manufactures to
11 charitable or nonprofit organizations or sell for resale beer and malt
12 beverages it manufactures to charitable or nonprofit organizations holding
13 valid special event permits issued by the Alcoholic Beverage Control Board.

14 (B) The sale of those products is limited to the duration
15 of the particular special event.

16 (d) Any person holding a valid microbrewery-restaurant license is
17 considered a native brewery licensee.

18
19 SECTION 6. Additional license to sell native beer and malt beverages
20 not required.

21 (a) Any wholesale or retail dealer that is licensed to sell beer and
22 malt beverages may sell beer and malt beverages produced by native brewers
23 without any additional license fee.

24 (b) Any retail dealer not licensed to sell beer and malt beverages
25 may sell beer and malt beverages produced by native brewers, if the retailer
26 pays a retail dealer's license fee of fifteen dollars (\$15.00) to the
27 Alcoholic Beverage Control Division.

28 (c) Any person not licensed as a wholesale dealer of beer and malt
29 beverages may sell, on a wholesale basis, beer and malt beverages produced by
30 native brewers, if the person pays a wholesale dealer's license fee of fifty
31 dollars (\$50.00) to the Alcoholic Beverage Control Division.

32
33 SECTION 7. Transportation.

34 (a) A native brewery may transport its beer and malt beverages along
35 any highway, road, street, or other thoroughfare of travel.

36 (b) Any native brewery may ship its products out of the state by

1 common carrier or other appropriate parcel delivery service, and common
2 carriers and other appropriate parcel delivery services may accept beer and
3 malt beverages from Arkansas native brewers for delivery outside the state.

4 (c) Any native brewery in this state may ship its products within the
5 state by common carrier or other appropriate parcel delivery service, and
6 common carriers and other appropriate parcel delivery services may accept
7 beer and malt beverages from Arkansas native breweries for delivery within
8 the state, if the beer and malt beverages are only shipped to persons holding
9 a permit to purchase, store, sell, or dispense beer and malt beverages.

10
11 SECTION 8. Fees and Taxes

12 A native brewer shall:

13 (1) Pay any applicable city or county license or permit fees and
14 barrelage or taxes and shall pay a state licensing fee to the Alcoholic
15 Beverage Control Division of two hundred fifty dollars (\$250) per fiscal year
16 to manufacture and sell its beer and malt beverages for consumption, both on
17 and off the premises and to sell any other beer and malt beverages purchased
18 from a licensed dealer for consumption on or off the premises;

19 (2) Measure beer and malt beverages manufactured by the native
20 brewer or purchased from a producer brewery, or otherwise comply with
21 applicable regulations respecting excise and enforcement tax determination of
22 the beer and malt beverages, and pay any applicable bond or deposit and the
23 amount of the state excise tax and enforcement tax to this state as required,
24 but is free from the fees and taxes provided in Arkansas Code § 3-5-205 and
25 as required by Arkansas Code §§ 3-7-104 and 3-7-111; and

26 (3) Pay a tax at the rate of seven dollars and fifty cents
27 (\$7.50) per barrel, and proportionately for larger and smaller gallonages per
28 barrel, on all beer and malt beverages in quantities of up to sixty-thousand
29 (60,000) barrels per year and sold or offered for sale in the state.

30
31 SECTION 9. Beer and malt beverage education.

32 (a)(1) Native brewers may be allowed to conduct beer and malt beverage
33 tasting events for educational or promotional purposes at any location in
34 this state, if approved by the Alcoholic Beverage Control Division and
35 written notice is given by the Alcoholic Beverage Division to the native
36 brewer at least five (5) days before the event.

1 (2) Requests for approval to conduct beer and malt beverage
2 tasting events must be received by the Alcoholic Beverage Control Division at
3 least two (2) weeks before the event.

4 (b) Beer and malt beverage tasting events may be held in any facility
5 licensed by the Alcoholic Beverage Control Division if written notice is
6 given by the Alcoholic Beverage Control Division under subsection (a) of this
7 section.

8 (c) The criminal penalties for drinking in public as prescribed by
9 Arkansas Code § 5-71-212 are not applicable to any beer and malt beverage
10 tasting event approved by the Alcoholic Beverage Control Division under this
11 section.

12
13 SECTION 10. Availability of Arkansas Beer at Public Facilities.

14 (a) At every permanent or temporary building or structure owned or
15 operated by the state, a political subdivision, or an instrumentality
16 thereof, where beer is sold for on-premise consumption, the entity owning or
17 operating the building or structure must insure that an Arkansas produced
18 beer is available for purchase at each station where beer is sold.

19 (b) This section applies to all permanent or temporary buildings or
20 structures without regard to whether sales of beer are made by the owning or
21 operating government entity or employees thereof or by a person holding a
22 lease or concession contract with the government entity.

23
24 SECTION 11. Licenses - Application.

25 No native brewers license shall be issued unless the applicant shall
26 file with the director a verified application, in a form and content as the
27 director shall require, accompanied by payment of the applicable fee.

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29 SECTION 12. Operation without license prohibited.

30 It is a Class C misdemeanor for any person not holding a valid native
31 brewers license to operate as a native brewer.

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33 SECTION 13. Dry areas prohibited.

34 It is unlawful for the director to issue a native brewers license in
35 any city, county, township, or other area in this state if the sale or
36 possession of beer and malt beverages is unlawful.

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SECTION 14. Rules and regulations.

The Director of the Alcoholic Beverage Control Board and the Director of the Department of Finance and Administration, may adopt rules for the implementation of this act.

SECTION 15. This act is supplemental to all other laws concerning alcoholic beverages and repeals only those laws or parts of laws in direct conflict with it.

/s/ Ledbetter, et al

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