

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 86th General Assembly
3 Regular Session, 2007
4

As Engrossed: H2/15/07

A Bill

HOUSE BILL 1442

5 By: Representative Sumpter
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For An Act To Be Entitled

9 AN ACT TO AMEND THE REGISTRATION REQUIREMENTS FOR
10 BEER KEGS SOLD FOR OFF-PREMISES CONSUMPTION BY
11 ALLOWING THE IDENTIFICATION LABEL TO BE COPIED
12 RATHER THAN PRODUCED IN TRIPLICATE; TO REMOVE THE
13 REQUIREMENT THAT THE DEALER COLLECT A
14 REGISTRATION DEPOSIT ON EACH KEG OF BEER; AND FOR
15 OTHER PURPOSES.

Subtitle

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18 TO AMEND THE REGISTRATION REQUIREMENTS
19 FOR BEER KEGS SOLD FOR OFF-PREMISES
20 CONSUMPTION BY ALLOWING THE LABEL TO BE
21 COPIED RATHER THAN PRODUCED IN
22 TRIPLICATE AND TO REMOVE REGISTRATION
23 DEPOSIT REQUIREMENT ON EACH KEG.
24
25

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
27

28 SECTION 1. Arkansas Code § 3-5-227 is amended to read as follows:

29 3-5-227. Registration of beer kegs for off-premises consumption.

30 (a) As used in this section:

31 (1) "Beer" means any fermented liquor made from malt or any
32 substitute therefor and having an alcoholic content not in excess of five
33 percent (5%) by weight;

34 (2) "Keg" means a vessel which has a liquid capacity of ~~four~~
35 more than five gallons ~~(4 gals.)~~ (5 gals.) ~~or more~~;

36 (3) "Malt beverage" means any liquor brewed from the fermented



1 juices of grain and having an alcoholic content of no less than five percent
2 (5%) nor more than twenty-one percent (21%) by weight; and

3 (4) "Off-premises" means a place other than the licensed
4 retailer's place of business.

5 (b) All retail dealers that sell a keg of beer or malt beverage for
6 off-premises consumption are required to attach an identification label or
7 tag to the keg prior to the sale.

8 (c)(1) The identification label or tag shall consist of paper within a
9 clear protective coating made of plastic, metal, or another durable material
10 that is not easily damaged or destroyed.

11 (2) The paper shall be of a kind to allow the required
12 information to be ~~automatically produced in triplicate~~ copied and retained by
13 the retail dealer.

14 (3) Identification labels used may contain a nonpermanent
15 adhesive material in order to apply the label directly to an outside surface
16 of a keg at the time of sale.

17 (4) Identification tags shall be attached to the kegs at the
18 time of sale with nylon ties or cording, wire ties or other metal attachment
19 devices, or another durable means of tying or attaching the tag to the keg.

20 (5) The identification label or tag shall be designed so that
21 when affixed to a keg, the label or tag will not mar or otherwise physically
22 damage the keg.

23 (6) The identification label or tag shall include:

24 (A) The name and address of the retail dealer;

25 (B) The name of the purchaser; and

26 (C) An individual identification number assigned by the
27 retail dealer that uniquely identifies the keg.

28 (d)(1) Prior to the retail sale of a keg of beer or malt beverage for
29 off-premises consumption, the retail dealer shall require the purchaser to
30 sign a statement promulgated by the Director of the Alcoholic Beverage
31 Control Division attesting under the penalty of perjury:

32 (A) To the accuracy of the purchaser's name as shown on
33 the identification label or tag; and

34 (B)(i) That the purchaser is aware that giving, procuring,
35 or otherwise furnishing any alcoholic beverage to any person under twenty-one
36 (21) years of age is a misdemeanor as provided in §§ 3-3-201 and 3-3-202; and

1 (ii) That the purchaser will not allow any person
2 under twenty-one (21) years of age to consume any of the beer or malt
3 beverage in the keg.

4 (2) The retail dealer shall also record the following:

5 (A) The name and address of the purchaser;

6 (B) The identification card or driver's license number
7 from the purchaser's acceptable documentation of age;

8 (C) The amount of the container deposit ~~and registration~~
9 deposit of not less than seventy-five dollars (\$75.00);

10 (D) The date and time of the purchase; and

11 (E) The keg identification number required under
12 subsection (c) of this section.

13 (e)(1) All records and statements required under this section shall be
14 maintained by the retail dealer for a period of ninety (90) days from the
15 date of the return of the keg.

16 (2) The records and statements shall remain open to inspection
17 by authorized agents of the Alcoholic Beverage Control Enforcement Division
18 and law enforcement officers during the retail dealer's normal business
19 hours.

20 ~~(f)(1) When a keg of beer or malt beverage is purchased for off-~~
21 ~~premises consumption, the retail dealer shall collect a seventy five dollar~~
22 ~~(\$75.00) registration deposit on each keg of beer or malt beverage purchased.~~

23 ~~(2) The registration deposit shall be collected in addition to~~
24 ~~the purchase price of the keg of beer or malt beverage, taxes, and any other~~
25 ~~deposit collected by the retail dealer.~~

26 ~~(3) When the keg is returned within ninety (90) days of the date~~
27 ~~of purchase to the retail dealer with the identification label or tag intact,~~
28 ~~the retail dealer shall:~~

29 ~~(A) Return the registration deposit to the purchaser; and~~

30 ~~(B) Remove the identification label or tag from the keg.~~

31 ~~(4) The registration deposit on each keg returned without the~~
32 ~~identification label or tag or with an identification label or tag so damaged~~
33 ~~that the information contained on the label or tag could not be verified~~
34 ~~shall be forfeited as follows:~~

35 ~~(A) Twenty five dollars (\$25.00) shall be paid to the~~
36 ~~Alcoholic Beverage Control Division; and~~

1 ~~(B) Fifty dollars (\$50.00) shall be retained by the retail~~
2 ~~dealer.~~

3 ~~(5) Except as provided in subdivision (f)(6) of this section,~~
4 ~~the registration deposit on any keg not returned to the retail dealer within~~
5 ~~ninety (90) days of the date of purchase shall be forfeited as follows:~~

6 ~~(A) Twenty five dollars (\$25.00) shall be paid to the~~
7 ~~Alcoholic Beverage Control Division; and~~

8 ~~(B) Fifty dollars (\$50.00) shall be retained by the retail~~
9 ~~dealer.~~

10 ~~(6)(A) If the purchaser has not finished consuming all of the~~
11 ~~beer or malt beverage in the keg, prior to the expiration of the ninety-day~~
12 ~~period in subsection (f) of this section, the purchaser may request a thirty-~~
13 ~~day extension for the return of the keg before the registration deposit shall~~
14 ~~be forfeited pursuant to subsection (f) of this section.~~

15 ~~(B) In order to receive a thirty-day extension, the~~
16 ~~purchaser must sign a statement promulgated by the Director of the Alcoholic~~
17 ~~Beverage Control Division attesting under the penalty of perjury that:~~

18 ~~(i) The keg is still in the purchaser's possession;~~

19 ~~(ii) The purchaser is aware of the restrictions~~
20 ~~provided in subsection (d) of this section; and~~

21 ~~(iii) The purchaser shall forfeit the registration~~
22 ~~deposit pursuant to subsection (f) of this subsection if the keg is not~~
23 ~~returned with its identification label or tag within thirty (30) days.~~

24 ~~(7) The Alcoholic Beverage Control Division shall remit its~~
25 ~~portion of the forfeited registration to the Treasurer of State for credit to~~
26 ~~the Miscellaneous Agencies Fund Account.~~

27 ~~(g)(1)(f)(1)~~ The retail dealer shall notify the Director of the
28 Alcoholic Beverage Control Enforcement Division and remit the Alcoholic
29 Beverage Control Division's portion of the registration deposit on forms
30 promulgated by the Alcoholic Beverage Control Division within ten (10) days
31 of the forfeiture of a registration container deposit by a purchaser ~~under~~
32 ~~subsection (f) of this section.~~

33 (2) The notification form shall consist of:

34 (A) The name and address of the retail dealer;

35 (B) The name and address of the purchaser;

36 (C) The retail dealer's beer permit or license number;

1 (D) ~~The amount of the deposit being~~ A twenty-five dollar
2 (\$25.00) fee remitted to the Alcoholic Beverage Control Division; and

3 (E) A statement indicating the reason for forfeiture of
4 the ~~registration~~ container deposit by the purchaser, including but not
5 limited to the following reasons:

6 (i) The keg was not returned;

7 (ii) The keg was returned more than ~~ninety (90)~~ one
8 hundred twenty (120) days after purchase;

9 (iii) The identification label or tag was removed;

10 or

11 (iv) The identification label or tag was damaged.

12 (3) Any retail dealer that fails to notify the Director of the
13 Alcoholic Beverage Control Enforcement Division within ten (10) days of the
14 forfeiture of a ~~registration~~ container deposit by a purchaser is guilty of:

15 (A) A violation of this subchapter; and

16 (B) A Class B violation, as provided in § 3-4-402, against
17 the retailer's permit.

18 ~~(h)(1)(g)(1)~~ No person other than the retail dealer, a licensed
19 wholesaler, or an agent of the Alcoholic Beverage Control Enforcement
20 Division may knowingly remove an identification label or tag placed on a keg.

21 (2) Any person other than the retail dealer, licensed
22 wholesaler, or an agent of the Alcoholic Beverage Control Enforcement
23 Division that is knowingly in possession of a keg without an identification
24 label or tag or knowingly removes or damages an identification label or tag
25 is guilty of a violation of this subchapter.

26 ~~(i)(1)(h)(1)~~ The Director of the Alcoholic Beverage Control Division
27 may promulgate rules and prescribe forms for the proper enforcement of this
28 section.

29 (2) Arkansas licensed beer wholesalers shall maintain and offer
30 for sale to retail dealers any keg identification labels or tags required by
31 this section at a price of the cost of manufacturing and maintaining the tags
32 or labels.

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34 /s/ Sumpter