

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 S2/26/07

# 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.  
16

## Subtitle

17 TO AMEND THE REGISTRATION REQUIREMENTS  
18 FOR BEER KEGS SOLD FOR OFF-PREMISES  
19 CONSUMPTION BY ALLOWING THE LABEL TO BE  
20 COPIED RATHER THAN PRODUCED IN  
21 TRIPLICATE AND TO REMOVE REGISTRATION  
22 DEPOSIT REQUIREMENT ON EACH KEG.  
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26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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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 approved by the Alcoholic Beverage Control Division to the keg prior to  
8 the sale.

9 (c)(1) The identification label or tag approved by the Alcoholic  
10 Beverage Control Division shall consist of paper within a clear protective  
11 coating made of plastic, metal, or another durable material that is not  
12 easily damaged or destroyed.

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

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

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

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

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

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

27 (B) The name of the purchaser; and

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

30 (7) Each identification label or tag shall be perforated and of  
31 a composition that consistently allows for the full removal of the tag when  
32 common external keg cleaning procedures are performed at retail.

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

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

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

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

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

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

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

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

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

16 (E) The keg identification number required under  
17 subsection (c) of this section.

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

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

25 ~~(f)(1) When a keg of beer or malt beverage is purchased for off-~~  
26 ~~premises consumption, the retail dealer shall collect a seventy-five dollar~~  
27 ~~(\$75.00) registration deposit on each keg of beer or malt beverage purchased.~~

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

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

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

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

36 ~~(4) The registration deposit on each keg returned without the~~

1 ~~identification label or tag or with an identification label or tag so damaged~~  
2 ~~that the information contained on the label or tag could not be verified~~  
3 ~~shall be forfeited as follows:~~

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

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

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

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

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

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

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

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

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

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

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

32 ~~(g)(1)(f)(1) The retail dealer shall notify the Director of the~~  
33 ~~Alcoholic Beverage Control Enforcement Division and remit the Alcoholic~~  
34 ~~Beverage Control Division's portion of the registration deposit on forms~~  
35 ~~promulgated by the Alcoholic Beverage Control Division within ten (10) days~~  
36 ~~of the forfeiture of a registration container deposit by a purchaser under~~

1 ~~subsection (f) of this section.~~

2 (2) The notification form shall consist of:

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

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

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

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

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

11 (i) The keg was not returned;

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

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

15 or

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

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

20 (A) A violation of this subchapter; and

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

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

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

31 ~~(i)(1)(h)(1)~~ The Director of the Alcoholic Beverage Control Division  
32 may promulgate rules and prescribe forms for the proper enforcement of this  
33 section, including an approved identification label or tag for use under this  
34 section.

35 (2) ~~Arkansas licensed beer wholesalers shall maintain and offer~~  
36 ~~for sale to retail dealers any keg identification labels or tags required by~~

1 ~~this section at a price of the cost of manufacturing and maintaining the tags~~  
2 ~~or labels~~ The Alcoholic Beverage Control Division shall seek the input of  
3 licensed brewers and licensed beer importers in developing the label or tag.

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5 /s/ Sumpter  
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