

State of Arkansas

86th General Assembly

Regular Session, 2007

A Bill

HOUSE BILL 1651

By: Representatives Wells, Hall, Adcock, Berry, Burris, Dunn, Edwards, L. Evans, Everett, Gaskill,
George, Hoyt, Kidd, King, Lamoureux, M. Martin, Overbey, Pierce, Pyle, Rosenbaum, Saunders, Wills
By: Senators T. Smith, Whitaker

For An Act To Be Entitled

AN ACT TO PROMOTE FREE TRADE AMONG IN-STATE AND
OUT-OF-STATE SMALL WINERIES; TO PROMOTE ECONOMIC
DEVELOPMENT AND TOURISM IN ARKANSAS; TO LICENSE
SMALL FARM WINERIES; TO ALLOW SMALL FARM WINERIES
TO OBTAIN OFF-PREMISES RETAIL SALES OUTLETS IN
WET COUNTIES; AND FOR OTHER PURPOSES.

Subtitle

AN ACT TO PROMOTE FREE TRADE AMONG IN-
STATE AND OUT-OF-STATE SMALL WINERIES
AND TO PROMOTE ECONOMIC DEVELOPMENT AND
TOURISM IN THE STATE OF ARKANSAS.

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

SECTION 1. Arkansas Code Title 3, Chapter 5 is amended to add an
additional subchapter to read as follows:

3-5-1601. Definition.

As used in this subchapter, "small farm winery" means a wine-making
establishment that does not sell more than two hundred fifty thousand
(250,000) gallons of wine, the alcoholic content of which does not exceed
twenty-one percent (21%), annually as reported on the federal tax report form
TTB 5120-17, as it existed on January 1, 2007.

3-5-1602. Licensing of small farm wineries.



1 (a) An in-state or out-of-state small farm winery may apply to the
 2 Alcoholic Beverage Control Board for a small farm winery license.

3 (b)(1) A small farm winery may be licensed by the board.

4 (2) A license shall:

5 (A) Show the registration number and location of the
 6 winery;

7 (B) Show the name of the person that owns or operates the
 8 winery; and

9 (C) Be conspicuously posted at the small farm winery.

10 (c)(1) A small farm winery license authorizes the licensee to perform
 11 the following functions without the small farm winery having to obtain a
 12 separate license:

13 (A) Manufacture wines and bottle wines produced by that
 14 small farm winery;

15 (B) Bottle wines produced by another small farm winery;

16 (C) Serve on the premises or at small farm winery off-
 17 premises retail sites complimentary samples of wine produced by the small
 18 farm winery or another licensed small farm winery, if the small farm winery
 19 or its off-premises retail site is located in a wet territory;

20 (D) Sell at retail by the drink or by the package wine
 21 produced on the premises of the small farm winery or produced by another
 22 small farm winery, if all sales occur in a wet territory and at:

23 (i) The small farm winery off-premises retail sites;
 24 or

25 (ii) Fairs, festivals, and other similar types of
 26 events;

27 (E) Sell and transport wine produced on the premises of
 28 the small farm winery or of another small farm winery to wholesale and retail
 29 license holders and small farm winery license holders; and

30 (F) Sell for consumption on the premises wine produced by
 31 the small farm winery or another small farm winery and purchased by the drink
 32 or by the package at the licensed premises, if the small farm winery is
 33 located in a wet territory.

34 (2) A small farm winery off-premises retail site shall be
 35 separately licensed under § 3-5-1606(3) before performing the operations
 36 listed in subdivision (c)(1) of this section at the off-premises retail site.

1 (d) An applicant for a small farm winery license shall submit with its
 2 application to the board a copy of the small farm winery's federal basic
 3 permit and proof documenting its annual wine production.

4
 5 3-5-1603. Dry counties – Private Club permit.

6 A small farm winery that is located in a dry territory shall acquire a
 7 private club permit from the Alcoholic Beverage and Control Board to exercise
 8 the privileges under this subchapter.

9
 10 3-5-1604. Restaurant wine license – Retail malt beverage license.

11 (a) The Alcoholic Beverage and Control Board may issue a restaurant
 12 wine license and a retail malt beverage license to a small farm winery
 13 license holder, if the issuance of the restaurant wine license and the retail
 14 malt beverage license are in connection with the establishment and operation
 15 of a restaurant, hotel, inn, bed and breakfast, museum, conference center, or
 16 any similar business enterprise for the purpose of promoting viticulture,
 17 enology, and tourism.

18 (b) The retail malt beverage license issued under this section shall
 19 limit the license to the sale of malt beverages for the consumption on the
 20 premises only.

21
 22 3-5-1605. Existing native winery licenses.

23 (a) A person that holds a license as a native winery issued under this
 24 chapter before January 1, 2007, may conduct business as a small farm winery
 25 until the native wine license expires.

26 (b) Upon the expiration of a native wine license issued under this
 27 chapter before January 1, of 2007, the Alcohol and Beverage Control Board may
 28 issue a small farm winery license as part of the renewal process if the
 29 winery:

- 30 (1) Meets the criteria under § 3-5-1602(c)(1);
 31 (2) Is in good standing; and
 32 (3) Submits the winery's federal basic permit and proof of
 33 annual wine production to the board.

34
 35 3-5-1606. License fees generally.

36 For the privilege of doing business respectively, as indicated in this

section, there shall each fiscal year, beginning July 1, be imposed,
assessed, levied, and collected the following license fees:

(1)(A) For the privilege of manufacturing wine in quantities not
to exceed five thousand (5,000) gallons, a license fee of one dollar (\$1.00)
per thousand gallons shall be paid by the manufacturer.

(B) However, any persons in this state shall have the
right to manufacture free from this license fee from fruits or vegetables,
wine for consumption in their homes by themselves and their guests, but not
sale, in quantities not to exceed two hundred (200) gallons;

(2) For the privilege of manufacturing small farm wine in excess
of five thousand (5,000) gallons, a license fee of two hundred fifty dollars
(\$250) shall be paid by the manufacturer;

(3) For the privilege of selling small farm winery wine, except
by a manufacturer for consumption at the manufacturer's winery there shall be
paid for each retail dealer's license a fee of fifteen dollars (\$15.00);

(4) For the privilege of selling small farm wine except by a
manufacturer at his winery, there shall be paid for each wholesale dealer's
license a fee of fifty dollars (\$50.00); and

(5) Tax on wine shall be based on the amount sold.

3-5-1607. Rules.

The Alcoholic Beverage and Control Board shall promulgate rules to
implement this subchapter.

SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
General Assembly of the State of Arkansas that lawsuits are currently pending
in both Federal Court for the Eastern District of Arkansas and Pulaski County
Circuit Court regarding the constitutionality of the laws being amended by
this subchapter; that the lawsuits are being defended by the office of the
Arkansas Attorney General; and that immediate implementation of this act is
necessary because any delay may result in substantial costs to the state.
Therefore, an emergency is declared to exist and this act being necessary for
the preservation of the public peace, health, and safety shall become
effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor,

1 the expiration of the period of time during which the Governor may veto the
2 bill; or

3 (3) If the bill is vetoed by the Governor and the veto is
4 overridden, the date the last house overrides the veto.