

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: S3/5/07 S3/15/07

A Bill

SENATE BILL 795

5 By: Senators Wilkins, Critcher, Lavery, *Altes*
6
7

For An Act To Be Entitled

9 AN ACT TO LEVY AN EXCISE TAX ON LIQUOR, BEER, AND
10 WINE SOLD IN ARKANSAS; TO PROVIDE AN ARKANSAS
11 SUBSTANCE ABUSE PROGRAMS TRUST FUND; AND FOR
12 OTHER PURPOSES.
13

Subtitle

15 AN ACT TO LEVY AN EXCISE TAX ON LIQUOR,
16 BEER, AND WINE AND TO PROVIDE AN
17 ARKANSAS SUBSTANCE ABUSE PROGRAMS TRUST
18 FUND.
19
20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 *SECTION 1. Arkansas Code Title 3, Chapter 7 is amended to add a new*
24 *subchapter as follows:*

25 *3-7-601. Title.*

26 *This subchapter shall be known and may be cited as the "Arkansas*
27 *Substance Abuse Programs Act".*
28

29 *3-7-602. Definitions.*

30 *As used in this subchapter:*

31 *(1) "Alcoholic beverage" means a beverage suitable for human*
32 *consumption that contains an intoxicating liquor of any sort, including*
33 *without limitation malt liquor, beer, or wine;*

34 *(2) "Beer" shall have the meaning set forth in § 3-5-202;*

35 *(3) "Consumer" means any person that receives or that in any way*
36 *comes into the possession of an alcoholic beverage for the purpose of*



1 consuming it, giving it away, or distributing it in any other way other than
2 by sale, barter, or exchange;

3 (4) "Distributor, manufacturer, or wholesale dealer" means any
4 person that receives, stores, manufactures, bottles, or sells alcoholic
5 beverages to a retail dealer, other distributor, manufacturer, or wholesale
6 dealer for resale purposes;

7 (5) "Malt" shall have the meaning set forth in § 3-1-
8 102(a)(3)(A);

9 (6) "On-premises" means at the licensed retailer's place of
10 business;

11 (7) "Off-premises" means a place other than the licensed
12 retailer's place of business;

13 (8) "Person" means an individual, trust, estate, fiduciary,
14 partnership, limited liability company, limited liability partnership,
15 corporation, or any other legal entity;

16 (9) "Retailer" means any person other than a consumer or a
17 distributor, manufacturer, or wholesale dealer, that receives, stores, mixes,
18 compounds, or manufactures any alcoholic beverage and sells or otherwise
19 dispenses the alcoholic beverage to the ultimate consumer;

20 (10) "Sale" means the transfer of title or possession for a
21 valuable consideration of tangible personal property regardless of the manner
22 by which the transfer is accomplished; and

23 (11) "Wine" means any fermented alcoholic liquor made from
24 grapes, berries, fruits, honey, or vegetables and shall include any other
25 mixture containing the fermented juices of grapes, berries, fruits, honey, or
26 vegetables, or any other wine, the alcoholic content of which is more than
27 one-half of one percent (0.5%) of alcohol by weight and which does not exceed
28 twenty-one percent (21%) of alcohol by weight, regardless of whether the wine
29 is manufactured within or without the State of Arkansas.

30
31 3-7-603. Tax imposed.

32 (a) There is levied an excise tax of five percent (5%) upon all retail
33 receipts or proceeds derived from the sale of an alcoholic beverage for on-
34 premises or off-premises consumption.

35 (b) The excise tax imposed under subsection (a) of this section shall
36 be and is in addition to all other taxes now imposed and cumulative to the

1 Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., and the Arkansas
2 Compensating Tax Act of 1949, § 26-53-101 et seq.

3 (c) The excise tax imposed under subsection (a) of this section is on
4 all retail sales to consumers including without limitation:

5 (1) An alcoholic beverage sold by a liquor store, grocery store,
6 or other retail outlet; and

7 (2) An alcoholic beverage sold by a restaurant, bar, club,
8 brewery, pub, lodge, tourist attraction, hotel, or sporting or special event.

9
10 3-7-604. Duty to collect and report.

11 (a) It shall be the duty of every retailer in this state to collect
12 the tax from the consumer in addition to the established retail price of the
13 alcoholic beverage and to file a return and remittance with the Director of
14 the Department of Finance and Administration on or before the twentieth day
15 of each calendar month for the preceding month.

16 (b) Failure to file the return and remittance on the due date shall be
17 cause for the director to enter an assessment for the return and remittance
18 and add as a penalty ten percent (10%) of the amount of tax found to be due.

19 (c) The return and remittance shall be filed upon forms prescribed by
20 the director in accordance with such rules as the director may promulgate
21 under § 3-7-606(b).

22
23 3-7-605. Border city tax.

24 If a retailer located in a city or incorporated town which is subject
25 to the border city tax rate provided in § 26-52-303 sells an alcoholic
26 beverage to a consumer, then the excise tax levied in this subchapter shall
27 be at the same rate as imposed by the adjoining state, not to exceed the rate
28 imposed by this subchapter.

29
30 3-7-606. Administration.

31 (a) This subchapter is to be administered in all respects and in
32 accordance with the Arkansas Tax Procedure Act, § 26-18-101 et seq., unless
33 otherwise provided.

34 (b) The Director of the Department of Finance and Administration shall
35 promulgate rules to implement this subchapter.

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1 3-7-607. Disposition of tax, interest, and penalties.

2 (a) The tax, interest, fees, and penalties derived and collected from
3 the excise tax levied by this subchapter shall be classified as special
4 revenues and shall be deposited in the State Treasury.

5 (b) The State Treasurer shall transfer the special revenues received
6 under subsection (a) of this section on the last business day of each month
7 as follows:

8 (1) Sixty-nine percent (69%) to the Drug Abuse Prevention and
9 Treatment Fund administered through the Office of Alcohol and Drug Abuse
10 Prevention, Division of Behavioral Health of the Department of Health and
11 Human Services, and utilized as follows:

12 (A) Twenty-eight percent (28%) for specialized women
13 services;

14 (B) Sixteen percent (16%) for adolescent treatment
15 services;

16 (C) Nineteen percent (19%) for adult treatment services;

17 (D) Five percent (5%) for prevention services; and

18 (E) One percent (1%) for the Arkansas Office of Drug Abuse
19 Administration;

20 (2) Sixteen percent (16%) to the Domestic Peace Fund;

21 (3)(A) Five percent (5%) to the Medical Services Fund Account,
22 Department of Health and Human Services, Division of Medical Services, to be
23 used in the event that any future State of Arkansas Medicaid plan, federal or
24 state legislation, or Medicaid waiver allows for substance abuse services to
25 be billed to Medicaid.

26 (B) In such event, the Division of Medical Services shall
27 develop a plan to redistribute the funding formula in such a manner as deemed
28 appropriate and that would include payment for co-occurring substance abuse
29 or mental health disorders;

30 (4) Five percent (5%) to the Department of Arkansas State Police
31 Fund for use by the Crimes Against Children Division; and

32 (5)(A) Five percent (5%) to the State Drug Crime Enforcement and
33 Prosecution Grant Fund.

34 (B) The State Drug Crime Enforcement and Prosecution Grant
35 Fund shall be established as a special revenue on the books of the Treasurer
36 of State, the Auditor of State, and the Chief Fiscal Officer of the State to

1 fund multi-jurisdictional drug task forces.

2 (C)(i) The Department of Finance and Administration shall
3 develop and promulgate grant applications under state law and upon the
4 recommendations of the Arkansas Alcohol and Drug Abuse Coordinating Council.

5 (ii) The department shall administer all grant
6 awards and expenditures by the drug crime task forces under applicable state
7 and federal law.

8 (D) The Arkansas Alcohol and Drug Abuse Coordinating
9 Council shall:

10 (i) Develop and promulgate by rule the criteria for
11 the grant applications and awards process;

12 (ii) Review all grant applications;

13 (iii) Determine which applicants should receive
14 grant awards; and

15 (iv) Retain oversight of all grant expenditures.

16
17 SECTION 2. EMERGENCY CLAUSE. It is hereby found and determined by the
18 General Assembly of the State of Arkansas that there is a serious need to
19 provide treatment services for the abuse of alcohol and drugs; that the use
20 of alcohol and drugs is on the rise; that the effects of drug and alcohol
21 abuse on the citizens of this state is far reaching; that less than thirty
22 percent (30%) of treatment funding currently goes to women; and that
23 additional revenues are necessary to provide adequate funding for these
24 essential services and to prevent irreparable harm to those affected by the
25 abuse of alcohol and drugs. Therefore, an emergency is declared to exist and
26 this act being necessary for the preservation of the public peace, health,
27 and safety shall become effective on June 1, 2007.

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29 /s/ Wilkins
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