

State of Arkansas
87th General Assembly
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A Bill

SENATE BILL 334

By: Senator Bryles
By: Representative Webb

For An Act To Be Entitled

AN ACT TO BE KNOWN AS THE ARKANSAS SMALL BREWERY
ACT; TO CREATE A NEW CATEGORY OF BEER LICENSES;
TO PROVIDE FOR THE OPERATION OF THE LICENSED
FACILITIES; AND FOR OTHER PURPOSES.

Subtitle

AN ACT TO BE KNOWN AS THE ARKANSAS SMALL
BREWERY ACT; TO CREATE A NEW CATEGORY OF
BEER LICENSES; TO PROVIDE FOR THE
OPERATION OF THE LICENSED FACILITIES.

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

SECTION 1. Arkansas Code § 3-2-411(b), concerning the applicability of
the Arkansas Code subchapter regarding distribution of spirituous and vinous
beverages, is amended to read as follows:

(b)(1) This subchapter does not apply to manufacturers or wholesalers
of:

(A) ~~small~~ Small farm winery wines; or

(B) Small brewery beer.

(2) ~~For the purpose of~~ As used in this section:

(A) ~~“small~~ “Small farm winery” has the same meaning as
defined by § 3-5-1601; and

(B) “Small brewery” has the same meaning as defined by §
3-5-1403.



SECTION 2. Arkansas Code §§ 3-5-1401 - 3-5-1403 are amended to read as follows:

3-5-1401. Title.

This subchapter shall be known and may be cited as the “Arkansas ~~Native~~ Small Brewery Act”.

3-5-1402. Legislative determinations and intent.

(a) The General Assembly finds that:

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

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

(b) It is the intent and purpose of this subchapter to authorize the legal operation of ~~native~~ small breweries in order to assure that these favorable conditions exist in this state.

3-5-1403. Definitions.

As used in this subchapter:

(1) “Barrel” means thirty-one (31) gallons;

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

~~(3) “Board” means the Alcoholic Beverage Control Board;~~

~~(4)~~(3) “Brewery” means the facilities of a ~~native~~ small brewer that operate a small brewery, contract brewing company, microbrewery, or restaurant;

~~(5)~~(4) “Contract brewing company” means any licensed brewery that hires another company to produce a portion of its beer or malt beverage;

~~(6)~~(5) “Director” means the Director of the Alcoholic Beverage Control Division of the Department of Finance and Administration;

~~(7)~~(6) “Malt beverage” means any liquor brewed from the fermented juices of grain and having an alcoholic content of no less than five percent (5%) nor more than twenty-one percent (21%) by weight;

~~(8)~~(7) “Microbrewery-restaurant” means any restaurant that

1 manufactures one (1) or more varieties of beer or malt beverage in an
 2 aggregate quantity of not more than five thousand (5,000) barrels per year
 3 and stores the beer or malt beverages on the premises or on any adjacent
 4 premises;

5 ~~(9) "Native brewer" means any person who is licensed by the~~
 6 ~~division to manufacture and sell beer and malt beverages at a small brewery~~
 7 ~~or microbrewery restaurant;~~

8 ~~(10) "Native brewery" means a small brewery or microbrewery-~~
 9 ~~restaurant;~~

10 ~~(11)~~(8) "Person" means any natural person, partnership,
 11 association, or corporation;

12 ~~(12)~~(9) "Producer brewery" means any licensed brewery, domestic
 13 or foreign, that manufactures or packages beer or malt beverages for a small
 14 brewery, contract brewing company, microbrewery, or restaurant;

15 ~~(13)~~(10) "Restaurant" means any public or private facility that:

16 (A) Is kept, used, maintained, advertised, and held out to
 17 the public or to a private or restricted membership as a place where complete
 18 meals are regularly served, and the place is provided with adequate and
 19 sanitary kitchen and dining equipment and has a seating capacity of at least
 20 fifty (50) people and employs a sufficient number of employees to prepare,
 21 cook, and serve food suitable for its guests or members; and

22 (B) Serves at least one (1) meal per day, and the place is
 23 open a minimum of five (5) days per week, with the exception of holidays,
 24 vacations, and periods of redecorating; ~~and~~

25 (11) "Small brewer" means any person who is licensed by the
 26 Alcoholic Beverage Control Division to manufacture and sell beer and malt
 27 beverages at a small brewery or microbrewery-restaurant; and

28 ~~(14)~~(12) "Small brewery" means any licensed facility that
 29 manufactures fewer than ~~60,000~~ sixty thousand (60,000) barrels of beer and
 30 malt beverages per year for sale or consumption.

31
 32 SECTION 3. Arkansas Code §§ 3-5-1405 - 3-5-1412 are amended to read as
 33 follows:

34 3-5-1405. Licenses – Scope – Restrictions.

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

1 (1) To operate a small brewery that:

2 (A) Manufactures at its licensed facility:

3 (i) ~~no~~ No less than thirty-five percent (35%) of its
4 beer and malt beverages to be sold in the state ~~and no more than sixty~~
5 thousand (60,000) barrels per year; or

6 (ii) ~~purchases~~ Purchases from a producer brewery
7 beer or malt beverages in an aggregate quantity not to exceed sixty thousand
8 (60,000) barrels per year;

9 (B) Sells to wholesale or to the consumer for consumption
10 either on or off the premises brand name products of the licensed facility or
11 another small brewery; ~~and~~

12 (C) Stores any beer and malt beverages legally purchased
13 for resale on the premises;

14 (D) Serves on the premises or at small brewery off-
15 premises retail sites complimentary samples of beer produced by the small
16 brewery or another licensed small brewery, if the small brewery or its off-
17 premises retail sites are located in a wet territory;

18 (E) Sells at retail by the drink or by the package beer
19 produced on the premises of the small brewery or produced by another small
20 brewery if all sales occur in a wet territory and at:

21 (i) The small brewery off-premises retail sites; or

22 (ii)(a) Fairs and food and beer festivals, with the
23 permission and the consent of the management of the events.

24 (b) A sales and use tax permit also is
25 required for sales under this subdivision (a)(1)(E)(ii);

26 (F)(i) Sells and transports beer produced on the premises
27 of the small brewery or of another small brewery to wholesale and retail
28 license holders and small brewery license holders.

29 (ii) To sell and transport beer under subdivision
30 (a)(1)(F)(i) of this section, the small brewery shall obtain a beer wholesale
31 permit; and

32 (G) Sell for consumption on the premises of the small
33 brewery beer produced by the small brewery or another small brewery and
34 purchased by the drink or by the package at the licensed premises, if the
35 small brewery is located in a wet territory; or

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

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

3 (B)(i) Sells to wholesale or retail dealers or to the
4 consumer for consumption either on or off the premises.

5 (ii) However, off-premise sales are limited to brand
6 name products of the licensed facility or another small brewery; and

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

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

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

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

15 (c)(1) A ~~native~~ small brewery may provide beer and malt beverages it
16 manufactures to charitable or nonprofit organizations or sell for resale beer
17 and malt beverages it manufactures to charitable or nonprofit organizations
18 holding valid special event permits issued by the Alcoholic Beverage Control
19 Board.

20 (2) The sale of those products is limited to the duration of the
21 particular special event.

22 (d) Any person holding a valid microbrewery-restaurant license is
23 considered a ~~native~~ small brewery licensee that maintains production limits
24 according to the definition of microbrewery-restaurant in § 3-5-1403.

25
26 3-5-1406. Additional license to sell ~~native~~ small brewery beer and
27 malt beverages not required.

28 (a) Any wholesale or retail dealer that is licensed to sell beer and
29 malt beverages may sell beer and malt beverages produced by ~~native brewers~~ a
30 small brewery without any additional license fee.

31 (b) Any retail dealer not licensed to sell beer and malt beverages may
32 sell beer and malt beverages produced by ~~native brewers~~ a small brewery if
33 the retailer pays a retail dealer's license fee of fifteen dollars (\$15.00)
34 to the Alcoholic Beverage Control Division.

35 (c) Any person not licensed as a wholesale dealer of beer and malt
36 beverages may sell on a wholesale basis beer and malt beverages produced by

1 ~~native brewers~~ a small brewery if the person pays a wholesale dealer's
 2 license fee of fifty dollars (\$50.00) to the division.

3
 4 3-5-1407. Transportation.

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

7 (b)(1) Any ~~native~~ small brewery may ship its products out of the state
 8 by common carrier or other appropriate parcel delivery service, ~~and~~.

9 (2) ~~common~~ Common carriers and other appropriate parcel delivery
 10 services may accept beer and malt beverages from ~~Arkansas native~~ small
 11 brewers for delivery outside the state.

12 (c)(1) Any ~~native~~ small brewery in this state may ship its products
 13 within the state by common carrier or other appropriate parcel delivery
 14 service, ~~and~~.

15 (2) ~~common~~ Common carriers and other appropriate parcel delivery
 16 services may accept beer and malt beverages from ~~Arkansas native breweries~~ a
 17 small brewery for delivery within the state if the beer and malt beverages
 18 are only shipped to persons holding a wholesale permit to purchase, store,
 19 sell, or dispense beer and malt beverages.

20
 21 3-5-1408. Fees and taxes.

22 A ~~native~~ small brewer shall:

23 (1) Pay any applicable city or county license or permit fees and
 24 barrelage or taxes and shall pay a state licensing fee to the Alcoholic
 25 Beverage Control Division of two hundred fifty dollars (\$250) per fiscal year
 26 to:

27 (A) Manufacture and sell its beer and malt beverages for
 28 consumption, both on and off the premises; and

29 (B) Sell any other beer and malt beverages purchased from
 30 a licensed dealer for consumption on or off the premises;

31 (2) Measure beer and malt beverages manufactured by the ~~native~~
 32 small brewer or purchased from a producer brewery, or otherwise comply with
 33 applicable regulations respecting excise and enforcement tax determination of
 34 the beer and malt beverages, and pay any applicable bond or deposit and the
 35 amount of the state excise tax and enforcement tax to this state as required,
 36 but is free from the fees and taxes provided in § 3-5-205 and as required by

1 §§ 3-7-104 and 3-7-111; and

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

7
8 3-5-1409. Beer and malt beverage education.

9 (a)(1) ~~Native brewers~~ A small brewery may be allowed to conduct beer
10 and malt beverage tasting events for educational or promotional purposes at
11 any location in this state if approved by the Alcoholic Beverage Control
12 Division and if written notice is given by the division to the ~~native brewers~~
13 small brewery at least five (5) days before the event.

14 (2) Requests for approval to conduct beer and malt beverage
15 tasting events ~~must~~ shall be received by the division at least two (2) weeks
16 before the event.

17 (b) Beer and malt beverage tasting events may be held in any facility
18 licensed by the division if written notice is given by the division under
19 subsection (a) of this section.

20 (c) The criminal penalties for drinking in public as prescribed by §
21 5-71-212 are not applicable to any beer and malt beverage tasting event
22 approved by the division under this section.

23
24 3-5-1410. Licenses – Application.

25 ~~No native brewers license shall~~ A license as a small brewer shall not
26 be issued unless the applicant files with the Director of the Alcoholic
27 Beverage Control Division a verified application in a form and content that
28 the director requires, accompanied by payment of the applicable fee.

29
30 3-5-1411. Operation without license prohibited.

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

33
34 3-5-1412. Dry areas prohibited.

35 It is unlawful for the Director of the Alcoholic Beverage Control
36 Division to issue a ~~native brewers~~ license as a small brewer in any city,

county, township, or other area in this state if the sale or possession of
beer and malt beverages is unlawful.

SECTION 5. Arkansas Code Title 3, Chapter 5, Subchapter 14 is amended
to add an additional section to read as follows:

3-5-1415. Sales on any day of the week.

Small brewery beer and malt beverages may be sold at any small brewery
located in this state for on-premises or off-premises consumption on any day
of the week.