

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 87th General Assembly  
3 Regular Session, 2009

# A Bill

SENATE BILL 67

4  
5 By: Senator Madison  
6  
7

## For An Act To Be Entitled

8  
9 AN ACT TO MAKE VARIOUS CORRECTIONS TO TITLE 3 OF  
10 THE ARKANSAS CODE OF 1987 ANNOTATED; AND FOR  
11 OTHER PURPOSES.  
12

## Subtitle

13  
14 AN ACT TO MAKE VARIOUS CORRECTIONS TO  
15 TITLE 3 OF THE ARKANSAS CODE OF 1987  
16 ANNOTATED.  
17  
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
20

21 SECTION 1. Arkansas Code § 3-3-216 is amended to read as follows to  
22 add a definition incorporated by reference, clarify criminal offenses, and  
23 make stylistic changes:

24 3-3-216. Possession or sale of untaxed intoxicating liquor.

25 (a) As used in this section, "intoxicating liquor" means any beverage  
26 containing more than five-tenths percent (0.5%) of alcohol by weight.

27 (b) It ~~shall be~~ is unlawful for ~~any~~ a person to buy, bargain, sell,  
28 loan, own, have in possession, or knowingly transport in this state ~~any~~ an  
29 intoxicating liquor ~~of any kind, as defined in § 3-8-201,~~ upon which the  
30 Arkansas excise tax prescribed by law has not been paid.

31 ~~(b) (c)(1) Any~~ Except as provided in subdivision (c)(2) of this  
32 section, a person who shall violate the provisions of violation of this  
33 section shall be is guilty of a Class B misdemeanor ~~and, in addition to the~~  
34 ~~applicable criminal penalties, shall be subject to a civil penalty equal to~~  
35 ~~the amount of all excise tax levied on such intoxicating liquor at the rates~~  
36 ~~imposed on alcoholic beverages under § 3-7-101 et seq.~~



1           (2) A violation of this section is a Class A misdemeanor if a  
 2 person transports intoxicating liquor into this state from another state  
 3 without the Arkansas excise tax having been paid on the intoxicating liquor  
 4 and the person was transporting the intoxicating liquor for the purpose of  
 5 resale in this state.

6           (d)(1) In addition to the applicable criminal penalties under  
 7 subsection (c) of this section, a person who violates this section is subject  
 8 to a civil penalty equal to the amount of all excise tax levied on the  
 9 intoxicating liquor at the rates imposed on alcoholic beverages under § 3-7-  
 10 101 et seq.

11           (2) The Department of Finance and Administration shall assess  
 12 and administer the civil penalty set forth in ~~subsection (b) of this section~~  
 13 this subsection under the provisions of the Arkansas Tax Procedure Act, § 26-  
 14 18-101 et seq., and shall promulgate any rules necessary for the proper  
 15 administration and enforcement of the civil penalty.

16           ~~(d) However, it shall constitute a Class A misdemeanor for any person~~  
 17 ~~to transport intoxicating liquor of any kind, as defined in § 3-8-201, from~~  
 18 ~~another state without the Arkansas excise tax having been paid on the~~  
 19 ~~intoxicating liquor of any kind, as defined in § 3-8-201, if the court~~  
 20 ~~determines that the defendant was transporting the liquor of any kind for the~~  
 21 ~~purpose of resale.~~

22  
 23           SECTION 2. Arkansas Code § 3-5-104(b)(3)(A) is amended to read as  
 24 follows to clarify a reference:

25                     (A) Offer special discounts on wine, beer, or spirits sold  
 26 for the purpose of a ~~wine~~ tasting event; or

27  
 28           SECTION 3. Arkansas Code § 3-5-227(d)(1) is amended to read as follows  
 29 to clarify its application and make stylistic changes:

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

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

36                     (B) ~~(i)~~ That the purchaser is aware that giving, procuring,

1 or otherwise furnishing ~~any~~ an alcoholic beverage to ~~any~~ a person under  
 2 twenty-one (21) years of age is a criminal offense as provided in §§ 3-3-201  
 3 and 3-3-202; and

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

7  
 8 SECTION 4. Arkansas Code § 3-5-1605(a)(1)(B) is amended to read as  
 9 follows to clarify its application, correct grammar, and make stylistic  
 10 changes:

11 (B) However, ~~any~~ a person in this state ~~shall have the~~  
 12 ~~right to~~ may manufacture wine from fruits or vegetables in quantities not to  
 13 exceed two hundred gallons (200 gals.) for consumption in the person's home  
 14 by the person and the person's guests but not for sale free from ~~this the~~  
 15 license fee under subdivision (a)(1)(A) of this section ~~from fruits or~~  
 16 ~~vegetables wine for consumption in their homes by themselves and their guests~~  
 17 ~~but not for sale, in quantities not to exceed two hundred (200) gallons;~~

18  
 19 SECTION 5. Arkansas Code § 3-5-1605(a)(4)-(6) are amended to read as  
 20 follows to correct references and make stylistic changes:

21 (4) For the privilege of selling small farm wine except by a  
 22 manufacturer at the manufacturer's winery, there shall be paid for each  
 23 wholesale dealer's license a fee of fifty dollars (\$50.00). This subdivision  
 24 (a)(4) applies to all ~~beverage alcohol~~ alcoholic beverage wholesale  
 25 distributors;

26 (5) For the privilege of selling small farm winery wine at the  
 27 small farm winery or in this state, there is imposed, assessed, and levied a  
 28 tax of seventy-five cents (75¢) per gallon upon all the small farm winery  
 29 wine manufactured and sold in this state under ~~the provisions of this~~  
 30 subchapter; and

31 (6) For the privilege of selling small farm winery light wine at  
 32 the small farm winery or in this state, there is imposed, assessed, and  
 33 levied a tax of twenty-five cents (25¢) per gallon upon all small farm winery  
 34 light wine manufactured and sold in this state under ~~the provisions of this~~  
 35 subchapter.

36

1 SECTION 6. Arkansas Code § 3-5-1605(b) is amended to read as follows  
 2 to add clarifying language:

3 (b) ~~Existing licenses.~~ For existing licenses:

4 (1) A person that holds a license for the sale of native wine  
 5 issued under this chapter before March 29, 2007, may conduct business as a  
 6 small farm winery wholesaler or retailer until the native wine license  
 7 expires; and

8 (2) Upon the expiration of a native wine license issued under  
 9 this chapter on or before March 29, 2007, the Alcoholic Beverage Control  
 10 Board may issue a new license as part of the renewal process if the  
 11 wholesaler or retailer:

12 (A) Meets the criteria under this section; and

13 (B) Is in good standing.

14  
 15 SECTION 7. Arkansas Code § 3-5-1609 is amended to read as follows to  
 16 clarify the criminal offense and make stylistic changes:

17 3-5-1609. Penalty.

18 A Upon conviction, a person who violates ~~any provision of this~~  
 19 ~~subchapter or any reasonable rule or regulation adopted~~ under this subchapter  
 20 by the Director of the Alcoholic Beverage Control Division or the Director of  
 21 the Department of Finance and Administration shall be is guilty of a Class B  
 22 misdemeanor.

23  
 24 SECTION 8. The enactment and adoption of this act shall not repeal,  
 25 expressly or impliedly, the acts passed at the regular session of the 87th  
 26 General Assembly. All such acts shall have full effect and, so far as those  
 27 acts intentionally vary from or conflict with any provision contained in this  
 28 act, those acts shall have the effect of subsequent acts and as amending or  
 29 repealing the appropriate parts of the Arkansas Code of 1987.