

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011  
4

# A Bill

SENATE BILL 44

5 By: Senator Madison  
6

## For An Act To Be Entitled

8 AN ACT TO CREATE AN ARKANSAS STATE IMPORTER PERMIT;  
9 TO PROVIDE AN EXCEPTION TO THE POSSESSION OF UNTAXED  
10 INTOXICATING LIQUOR FOR PERSONS WHO HAVE BEEN ISSUED  
11 A LICENSE BY THE UNITED STATES DEPARTMENT OF THE  
12 TREASURY - ALCOHOL AND TOBACCO TAX AND TRADE BUREAU;  
13 TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.  
14  
15

## Subtitle

16 TO CREATE A STATE IMPORTER PERMIT AND TO  
17 PROVIDE AN EXCEPTION TO THE POSSESSION OF  
18 UNTAXED INTOXICATING LIQUOR FOR PERSONS  
19 WHO HAVE BEEN ISSUED A LICENSE BY THE  
20 DEPARTMENT OF THE TREASURY AND TO DECLARE  
21 AN EMERGENCY.  
22  
23  
24

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
26

27 SECTION 1. Arkansas Code § 3-3-216 is amended to read as follows:

28 3-3-216. Possession or sale of untaxed intoxicating liquor.

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

31 (b) ~~It~~ Except as provided in subsection (e) of this section, it is  
32 unlawful for a person to buy, bargain, sell, loan, own, have in possession,  
33 or knowingly transport in this state an intoxicating liquor upon which the  
34 Arkansas excise tax prescribed by law has not been paid.

35 (c)(1) Except as provided in subdivision (c)(2) of this section, a  
36 violation of this section is a Class B misdemeanor.



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 this subsection under the  
13 Arkansas Tax Procedure Act, § 26-18-101 et seq., and shall promulgate any  
14 rules necessary for the proper administration and enforcement of the civil  
15 penalty.

16           (e) The possession, owning, bargaining, or transportation of untaxed  
17 intoxicating liquor is lawful if the person in possession or transporting the  
18 untaxed intoxicating liquor has been issued a state importer permit under §  
19 3-4-608.

20  
21           SECTION 2. Arkansas Code § 3-4-601 is amended to read as follows:

22           3-4-601. Kinds of permits generally.

23           There ~~shall be~~ are six (6) seven (7) kinds of permits, each of which  
24 shall be distinctive in color and design so as to be readily distinguishable  
25 from each other, ~~to wit~~ as follows:

- 26           (1) Distiller's permit;  
27           (2) Brewer's permit;  
28           (3) Rectifier's permit;  
29           (4) Wholesaler's permit;  
30           (5) Dispenser's permit; ~~and~~  
31           (6) Hotel, restaurant, or club permit; and  
32           (7) State importer permit.

33  
34           SECTION 3. Arkansas Code Title 3, Chapter 4, Subchapter 6 is amended  
35 to add a new section to read as follows:

36           3-4-608. State importer permit.

1       (a) A person other than a distiller, manufacturer, rectifier, or  
2 wholesaler who has received a basic permit for malt beverages, wine, and  
3 distilled spirits under 27 C.F.R. § 1.1 et seq. as existed on January 1,  
4 2011, from the United States Department of the Treasury may apply to the  
5 Director of the Alcoholic Beverage Control Division for a state importer  
6 permit that allows the person to receive and to provide samples to  
7 wholesalers of:

8               (1) Beer, as defined by § 3-5-202;

9               (2) Wine, as defined by § 3-9-301; and

10              (3) Spirituous liquor, as defined by § 3-1-102.

11       (b) The application for a state importer permit shall be in writing  
12 and shall provide information concerning the applicant for the state importer  
13 permit and the premises to be used by the applicant as the director requires.

14       (c) The application for a state importer permit shall be accompanied  
15 by a:

16              (1) Certified check, cash, or postal money order for the amount  
17 required by this section for the state importer permit; and

18              (2) Copy of the basic permit issued by the United States  
19 Department of the Treasury.

20       (d) If the director grants the application for a state importer  
21 permit, he or she shall issue a state importer permit in a form as determined  
22 by the rules of the Alcoholic Beverage Control Division.

23       (e) The state importer permit shall contain a description of the  
24 premises permitted.

25       (f)(1) A state importer permit holder shall not receive or transport  
26 per calendar quarter more than two (2) cases of:

27              (A) Beer per stock keeping unit;

28              (B) Wine per stock keeping unit; and

29              (C) Spirituous liquors per stock keeping unit.

30              (2) As used in subdivision (f)(1) of this section, "case" means  
31 a container that holds:

32              (A) Twenty-four (24) bottles of beer;

33              (B) Twelve (12) bottles of wine; or

34              (C) Twelve (12) bottles of spirituous liquors.

35       (g) A person holding a state importer permit shall not sell spirituous  
36 liquors, wine, and beer at wholesale.

1       (h) The fee for a state importer permit is one thousand dollars  
2 (\$1,000) per year payable on or before June 30 of each calendar year for the  
3 fiscal year beginning July 1.

4  
5       SECTION 4. EMERGENCY CLAUSE. It is found and determined by the  
6 General Assembly of the State of Arkansas that the state does not allow the  
7 import of untaxed intoxicating liquors; that the State of Arkansas can  
8 benefit in a positive manner by creating a permit for the possession of  
9 untaxed intoxicating liquors for the purpose of providing samples to  
10 wholesalers; and that this act is immediately necessary because the  
11 permitting process begins prior to June 30, 2011. Therefore, an emergency is  
12 declared to exist and this act being immediately necessary for the  
13 preservation of the public peace, health, and safety shall become effective  
14 on:

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

16             (2) If the bill is neither approved nor vetoed by the Governor,  
17 the expiration of the period of time during which the Governor may veto the  
18 bill; or

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

21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36