

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

A Bill

HOUSE BILL 1109

5 By: Representative Broadaway
6

For An Act To Be Entitled

8 AN ACT TO AMEND THE LAW CONCERNING SPECIFIC ALCOHOLIC
9 BEVERAGE CONTROL DIVISION PERMITS RELATED TO
10 RESTAURANTS; TO MAKE TECHNICAL CORRECTIONS; TO
11 DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.
12
13

Subtitle

14 TO AMEND THE LAW CONCERNING SPECIFIC
15 ALCOHOLIC BEVERAGE CONTROL DIVISION
16 PERMITS RELATED TO RESTAURANTS; TO
17 DECLARE AN EMERGENCY AND MAKE TECHNICAL
18 CORRECTIONS.
19
20
21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 SECTION 1. Arkansas Code § 3-4-605 is amended to read as follows:
25 3-4-605. Wholesalers.

26 (a) ~~Any~~ A person other than a distiller, manufacturer, rectifier, or
27 importer may apply to the Director of the Alcoholic Beverage Control Division
28 for a permit to sell spirituous liquor, wine as defined in § 3-9-301~~(2)~~,
29 beer, or malt ~~liquors~~ liquor at wholesale.

30 (b) The application shall be in writing and shall set forth in detail
31 ~~such~~ information concerning the applicant for the permit and the premises to
32 be used by the applicant as the director may require.

33 (c) The application shall be accompanied by a certified check, cash,
34 or postal money order for the amount required ~~by this act~~ by law for the
35 permit.

36 (d) If the director grants the application, he or she shall issue a



1 permit in a form as determined by the rules of the Alcoholic Beverage Control
2 Division.

3 (e) The permit shall contain a description of the premises permitted
4 and in form and substance shall be a permit to the person specifically
5 designated in the permit to sell spirituous liquor, wine as defined ~~in~~ under
6 § 3-9-301(2), beer, or malt ~~liquors~~ liquor for beverage purposes.

7 (f) A person holding a distiller's or rectifier's permit need not
8 obtain a wholesaler's permit in order to sell at wholesale spirituous liquor
9 or wine as defined ~~in~~ under § 3-9-301(2).

10 (g)(1)(A) A person other than a person holding a distiller's,
11 manufacturer's, or rectifier's permit shall not sell spirituous liquor, wine
12 as defined in § 3-9-301(2), or malt ~~liquors~~ liquor at wholesale.

13 (B) A person other than a person holding a wholesaler's
14 permit shall not sell spirituous liquor, wine as defined ~~in~~ under § 3-9-
15 301(2), or malt ~~liquors~~ liquor at wholesale.

16 (2) A wholesaler holding a permit shall not sell or buy from
17 another unless he or she holds a permit, but a wholesaler may export from or
18 import into this state liquors under rules promulgated by the ~~Alcoholic~~
19 ~~Beverage Control Division~~ division.

20 (h)(1) A wholesaler shall not sell or contract to sell any spirituous
21 liquor, wine as defined ~~in~~ under § 3-9-301(2), beer, or malt ~~liquors~~ liquor
22 to a dispensary, hotel, restaurant, or club if the dispensary, hotel,
23 restaurant, or club is not authorized under this act to receive, possess,
24 transport, distribute, or sell spirituous liquor, wine as defined ~~in~~ under §
25 3-9-301(2), beer, or malt ~~liquors~~ liquor.

26 ~~(i)(2)(A)~~ Further, a licensed wholesaler of any spirituous liquor,
27 beer, or wine as defined ~~in~~ under § 3-9-301(2) in Arkansas may only purchase
28 spirituous liquor, beer, or wine as defined ~~in~~ under § 3-9-301(2) from a
29 distiller, importer, rectifier, or a domestic wine producer.

30 (B) However, this restriction does not apply to the
31 purchase of ~~native wines~~ small farm wine.

32 ~~(j)(i)(1)~~ For the privilege of storing, transporting, and selling
33 spirituous liquor, wine as defined ~~in~~ under § 3-9-301(2), beer, or malt
34 ~~liquors~~ liquor at wholesale, there is assessed and ~~there~~ shall be paid by
35 each permittee an annual permit fee ~~of and by every person engaged therein.~~
36 ~~The permit fee shall be in the sum of~~ seven hundred dollars (\$700) for each

1 separate and distinct establishment.

2 (2) ~~However, this~~ This section does not apply to residents of
3 Arkansas who store, transport, and sell wine at wholesale manufactured by
4 them in this state.

5
6 SECTION 2. Arkansas Code § 3-4-607 is amended to read as follows:

7 3-4-607. Minimum wholesale liquor permit.

8 (a)(1) ~~Any~~ A person other than a distiller, manufacturer, rectifier,
9 or importer may apply to the Director of the Alcoholic Beverage Control
10 Division for a minimum wholesale liquor permit that allows the person to sell
11 spirituous ~~liquors~~ liquor, wine as defined ~~in~~ under § 3-9-301(2), and malt
12 ~~liquors~~ liquor at wholesale.

13 (2) A minimum wholesale liquor permit holder shall not sell more
14 than a combined total of twenty thousand (20,000) cases of spirituous ~~liquors~~
15 liquor, wine as defined ~~in~~ under § 3-9-301(2), or malt ~~liquors~~ liquor.

16 (3) A case is a container that holds nine liters (9 l) of
17 beverages.

18 (b) The application shall be in writing and shall provide information
19 concerning the applicant for the minimum wholesale liquor permit and the
20 premises to be used by the applicant as the director requires.

21 (c) The application shall be accompanied by a certified check, cash,
22 or postal money order for the amount required by this section for the minimum
23 wholesale liquor permit.

24 (d) If the director grants the application, he or she shall issue a
25 minimum wholesale liquor permit in a form as determined by the rules of the
26 Alcoholic Beverage Control Division.

27 (e) The minimum wholesale liquor permit shall contain a description of
28 the premises permitted and in form and substance shall be a minimum wholesale
29 liquor permit to the person specifically designated to sell spirituous
30 ~~liquors~~ liquor, wine as defined ~~in~~ under § 3-9-301(2), and malt ~~liquors~~
31 liquor for beverage purposes.

32 (f)(1) A person other than a person holding a distiller's,
33 manufacturer's, rectifier's, or minimum wholesale liquor permit shall not
34 sell spirituous ~~liquors~~ liquor, wine as defined ~~in~~ under § 3-9-301(2), ~~and~~ or
35 malt ~~liquors~~ liquor at wholesale.

36 (2) A wholesaler holding a minimum wholesale liquor permit shall

1 not sell or buy from another person unless the other person holds a minimum
 2 wholesale liquor permit, but a wholesaler may export from or import into this
 3 state spirituous ~~liquors~~ liquor, wine as defined ~~in~~ under § 3-9-301(2), and
 4 malt ~~liquors~~ liquor under rules promulgated by the ~~Alcoholic Beverage Control~~
 5 ~~Division~~ division.

6 (g) A wholesaler holding a minimum wholesale liquor permit shall not
 7 sell or contract to sell any spirituous ~~liquors~~ liquor, wine as defined ~~in~~
 8 under § 3-9-301(2), ~~and or~~ malt ~~liquors~~ liquor to a dispensary, hotel,
 9 restaurant, or club if the dispensary, hotel, restaurant, or club ~~is not~~
 10 ~~authorized under § 3-4-601~~ does not hold a permit recognized by law or a rule
 11 of the division to receive, possess, transport, distribute, or sell
 12 spirituous ~~liquors~~ liquor, wine as defined ~~in~~ under § 3-9-301(2), and malt
 13 ~~liquors~~ liquor.

14 (h) A minimum wholesale liquor permittee of any spirituous ~~liquors~~
 15 liquor, wine as defined ~~in~~ under § 3-9-301(2), and malt ~~liquors~~ liquor in
 16 Arkansas ~~shall~~ may purchase spirituous ~~liquors~~ liquor, wine as defined ~~in~~
 17 under § 3-9-301(2), ~~and or~~ malt ~~liquors~~ liquor only from a distiller,
 18 importer, rectifier, or a domestic wine producer. However, this restriction
 19 does not apply to the purchase of ~~native wines~~ small farm wine.

20 (i)(1) The minimum wholesale liquor permit fee is two thousand five
 21 hundred dollars (\$2,500) for each ~~separate~~ establishment.

22 (2) This section does not apply to residents of Arkansas who
 23 store, transport, and sell wine at wholesale manufactured by them in this
 24 state.

25 (j) The provisions of § 3-4-606 ~~shall~~ apply to a wholesaler who has a
 26 minimum wholesale liquor permit.

27
 28 SECTION 3. Arkansas Code § 3-4-1001(a)(1), concerning a permit to sell
 29 alcoholic beverages, is amended to read as follows:

30 (a)(1) In addition to all other existing alcoholic beverage permits
 31 ~~authorized to be~~ issued by the Alcoholic Beverage Control Division for the
 32 retail sale of alcoholic beverages, there is created a restaurant beer and
 33 wine permit, ~~which~~ that authorizes the sale of beer and wine as defined ~~in~~
 34 under § 3-9-301(2) at restaurants as defined ~~in~~ under § 3-9-301(4).

35
 36 SECTION 4. Arkansas Code § 3-9-202(7)-(15), concerning the definitions

1 related to on-premises consumption of alcoholic beverages is amended to read
2 as follows:

3 (7) "Guest" means a person who orders and is served a meal
4 inside a restaurant during regular hours;

5 ~~(7)(8)(A) "Hotel" means every commonly referred to as a hotel,~~
6 ~~motel, motor hotel, motor lodge, or by similar name, which is kept, used,~~
7 ~~maintained, advertised, and held out to the public to be a place where food~~
8 ~~is actually served and consumed and sleeping accommodations are offered for~~
9 ~~adequate pay to travelers or guests, whether transient, permanent, or~~
10 ~~residential, in which fifty (50) or more rooms are used for the sleeping~~
11 ~~accommodations of such guests, and having one (1) or more public dining rooms~~
12 ~~with adequate and sanitary kitchen facilities, and a seating capacity for at~~
13 ~~least fifty (50) persons, where meals are regularly served to such guests,~~
14 ~~such sleeping accommodations and dining room being conducted in the same~~
15 ~~building or in separate buildings or structures used in connection therewith~~
16 ~~that are on the same premises and are a part of the hotel operation a~~
17 building or other structure, including without limitation a structure
18 referred to as a hotel, motel, motor hotel, or motor lodge that:

19 (i) Is used, advertised, and held out to the public
20 to be a place where food is actually served and consumed;

21 (ii) Has sleeping accommodations that are offered
22 for adequate pay to travelers or guests, whether transient, permanent, or
23 residential; and

24 (iii) Has fifty (50) or more rooms that are used for
25 the sleeping accommodations of guests.

26 (B) The hotel shall have one (1) or more public dining
27 rooms with adequate kitchen facilities and a seating capacity for at least
28 fifty (50) persons where meals are regularly served to such guests.

29 (C) The sleeping accommodations and dining room may be in
30 the same building or in separate buildings that are on the same premises and
31 are a part of the hotel operation;

32 ~~(8)(9) "Initiated Act" means Initiated Act No. 1 of 1942, as~~
33 ~~amended, §§ 3-8-201 – 3-8-203 and 3-8-205 – 3-8-209, which establishes the~~
34 ~~procedure for local option elections to prohibit the manufacture or sale of~~
35 ~~intoxicating liquor;~~

36 ~~(9)(10) "Large event facility" means a facility that houses~~

1 convention center activity, tourism activity, trade show and product display
 2 and related meeting activity, or any other similar large meeting or
 3 attendance activity and that either itself or through one (1) or more
 4 independent contractors complies with all of the following:

5 (A) Serves full and complete meals and food on the
 6 premises;

7 (B) Has one (1) or more places for food service on the
 8 premises with a seating capacity for not ~~fewer~~ less than five hundred (500)
 9 people; and

10 (C) Employs a sufficient number and kind of employees to
 11 serve meals and food on the premises who are capable of handling at least
 12 five hundred (500) people;

13 (11) "Meal" means the usual assortment of food commonly ordered
 14 at various hours of the day;

15 ~~(10)~~(12) "On-premises consumption" means the sale of alcoholic
 16 beverages by the drink or in broken or unsealed containers for consumption on
 17 the premises where sold;

18 ~~(11)~~(13) "Person" means any natural person, partnership,
 19 association, or corporation;

20 ~~(12)~~(14)(A)(i) "Private club" means a nonprofit corporation:

21 (a) organized and existing Organized under the
 22 laws of this state;

23 (b) no part of the Whose net revenues ~~of which~~
 24 ~~shall do not~~ inure directly or indirectly to the benefit of any of its
 25 members or any other individual, except for the payment of bona fide expenses
 26 of the club's operations; and

27 (c) which Whose business is conducted for some
 28 common recreational, social, patriotic, political, national, benevolent,
 29 athletic, community hospitality, professional association, entertainment, or
 30 other nonprofit object or purpose other than the consumption of alcoholic
 31 beverages.

32 (ii) The nonprofit corporation shall have been in
 33 existence for a period of not less than one (1) year before applying for a
 34 permit, as prescribed in this subchapter.

35 (iii) At the time of application for the permit, the
 36 nonprofit corporation shall:

1 ~~exception of holidays, vacations, and periods of redecorating; or~~

2 (A)(i) Is primarily engaged in the business of serving a
 3 meal for consumption on the premises to a guest and has a suitable kitchen
 4 facility to serve the entire menu approved by the Alcoholic Beverage Control
 5 Division.

6 (ii) The menu shall contain a selection of food and
 7 shall not be limited to sandwiches or salads.

8 (iii) The kitchen shall:

9 (a) Have adequate refrigeration to preserve
 10 the food on the menu;

11 (b) Be kept in a sanitary condition; and

12 (c) Comply with the regulations of the local
 13 department of health.

14 (iv) Food from the menu shall be available from
 15 opening time until two hours before closing time; or

16 ~~(B)(i) Which qualifies~~ Qualifies as a “large meeting or
 17 attendance facility”, ~~which that~~ is defined, without limitation, as a
 18 facility housing convention center activity, tourism activity, trade show and
 19 product display and related meeting activity, or any other similar large
 20 meeting or attendance activity and ~~which that~~ either itself or through one
 21 (1) or more independent contractors complies with all of the following:

22 ~~(a) Actually serves~~ Serves full and complete
 23 meals and food on the premises;

24 (b) Has one (1) or more places for ~~food~~ meal
 25 service on the premises with a seating capacity for not ~~fewer~~ less than five
 26 hundred (500) people;

27 (c) Employs a sufficient number and kind of
 28 employees to serve meals and food on the premises ~~capable of handling~~ who are
 29 capable of serving at least five hundred (500) people; and

30 (d) Serves alcoholic beverages on the premises
 31 at one (1) or more places only on days that meals and food are served at one
 32 (1) or more places on the premises.

33 (ii)(a)(1) ~~Any An~~ on-premises restaurant permittee
 34 as licensed by under subdivision ~~(14)(A)~~ (16)(A) of this section and any a
 35 hotel or motel on-premises permittee as licensed by under subdivision ~~(7)(8)~~
 36 of this section shall be allowed to may serve alcoholic beverages purchased

1 under its permit at any large meeting or attendance facility ~~which~~ that is
 2 licensed under this subdivision ~~(14)(B)(16)(B)~~.

3 (2)(A) Hotel A hotel, motel, and or
 4 restaurant ~~permittees~~ permittee may serve alcoholic beverages purchased under
 5 ~~their permits~~ its permit only when ~~they have~~ it has first secured written
 6 permission from the permittee of the large meeting or attendance facility.

7 (B) Otherwise, If the hotel, motel, or
 8 restaurant permittee does not secure written permission from the permittee of
 9 the large meeting or attendance facility to serve alcoholic beverages
 10 purchased by the hotel, motel, or restaurant permittee the alcoholic beverage
 11 service at the large meeting or attendance facility shall be from inventory
 12 purchased by the large meeting or attendance facility permittee.

13 (C) Written permission shall not
 14 be granted for more than a five-day period. The ~~Alcoholic Beverage Control~~
 15 ~~Division~~ division shall be given a copy of any written agreement. ~~Any~~
 16 ~~violations which occur~~ A violation that occurs while ~~such~~ this permission is
 17 being used shall lie against the hotel, motel, or restaurant using such
 18 permission.

19 (b) Any A hotel, motel, or restaurant that
 20 serves its alcoholic beverages at a large meeting or attendance facility
 21 shall only do so pursuant to a satellite catering permit to be issued by the
 22 division for an annual fee of five hundred dollars (\$500) per fiscal year or
 23 part thereof. The permit shall be applied for on forms as prescribed by the
 24 board.

25 (c) The board shall promulgate regulations as
 26 it deems necessary to implement and administer subdivisions ~~(14)(B)(ii)(a)-(e)~~
 27 (16)(B)(ii)(a) and (b) of this section.

28 (iii)(a) When a large attendance facilities facility
 29 permit has been issued to a government-owned facility located in a county
 30 that has a population of more than one hundred fifty-five thousand (155,000)
 31 according to the 2000 Federal Decennial Census, Arkansas-licensed beer
 32 wholesalers shall be allowed to pay for advertising devices used at the
 33 government-owned facility.

34 (b) Such The advertising devices shall include
 35 without limitation items such as an inside or outside ~~signs, scoreboards,~~
 36 ~~programs, scorecards, and the like~~ sign, a scoreboard, a program, and a

1 scorecard.

2 (c) Provided, if such If the advertising by
 3 the beer wholesaler results in the formation ~~or existence~~ of an exclusive
 4 buying arrangement by the large attendance ~~facilities~~ facility permittee and
 5 the wholesaler who furnishes ~~such~~ the advertising items, then ~~such an~~ the
 6 exclusive buying arrangement ~~will be~~ is a violation of the large attendance
 7 ~~facilities~~ facility permit and the wholesale beer permit involved even if the
 8 arrangements are caused by third parties.

9 (d) To the extent that § 3-5-214 or any other
 10 law could be interpreted to preclude such advertising arrangements allowed in
 11 this subdivision ~~(14)(B)(iii)~~ (16)(B)(iii), they are held inapplicable.

12 (iv)(a)(1) When a large attendance ~~facilities~~
 13 facility permit has been issued to a facility owned or operated by the owner
 14 of a professional sports team franchised by Minor League Baseball and within
 15 a county that has a population of more than one hundred fifty-five thousand
 16 (155,000) according to the 2000 Federal Decennial Census, the operator of the
 17 facility may accept sponsorship funds, advertising items, or promotional
 18 items from a licensed beer wholesaler ~~wholesalers~~ wholesaler.

19 (2) Promotional items ~~shall~~ include
 20 items used by the facility to promote attendance.

21 (b) ~~However, if~~ If the use of sponsorship
 22 funds, advertising items, or promotional items by the beer wholesaler results
 23 in the formation ~~or existence~~ of an exclusive buying arrangement by the large
 24 attendance ~~facilities~~ facility permittee and the wholesaler who furnishes the
 25 sponsorship funds, advertising items, or promotional items, then the
 26 exclusive buying arrangement ~~will be~~ is a violation of the large attendance
 27 ~~facilities~~ facility permit and the wholesaler's wholesale beer permit even if
 28 the arrangements are caused by third parties.

29 (c) Section 3-5-214 or any other law that
 30 could be interpreted to preclude arrangements to use the sponsorship funds,
 31 advertising items, or promotional items allowed in this subdivision
 32 ~~(14)(B)(iv)~~ (16)(B)(iv) ~~shall~~ does not apply to this subdivision ~~(14)(B)(iv)~~
 33 (16)(B)(iv).

34
 35 SECTION 5. Arkansas Code § 3-9-216 is amended to read as follows:
 36 3-9-216. Authorization of sales for certain large attendance facilities

1 and restaurants.

2 (a) A large attendance facility under § 3-9-202~~(14)(B)~~ in which pari-
3 mutuel wagering has been authorized and ~~which~~ that has a valid and current
4 license or permit to sell alcoholic beverages for on-premises consumption may
5 sell alcoholic beverages for on-premises consumption on any day of the week
6 during hours in which the large attendance facility is open for business
7 except on:

8 (1) Christmas Day under § 3-3-211; and

9 (2)(A) Easter Sunday.

10 (B) However, the large attendance facility may sell
11 alcoholic beverages on Easter Sunday between the hours of 12:00 midnight and
12 2:00 a.m.

13 (b) A restaurant under § 3-9-202~~(14)(A)~~ may sell alcoholic beverages
14 for on-premises consumption on Sundays between the hours of 12:00 midnight
15 and 2:00 a.m. and on Sundays between the hours of 12:00 noon and 2:00 a.m. on
16 the following Monday in addition to other times authorized by law for selling
17 alcoholic beverages for on-premises consumption if the restaurant:

18 (1) Is located in the same city as a large attendance facility
19 authorized to sell alcoholic beverages for on-premises consumption on Sundays
20 under subsection (a) of this section; and

21 (2) Has a valid and current license or permit to sell alcoholic
22 beverages for on-premises consumption.

23 (c) This section does not:

24 (1) Authorize the sale of alcoholic beverages in any city or
25 county or in any portion of a city or county in which the sale of alcoholic
26 beverages is prohibited by law; or

27 (2) Repeal or modify any law that prohibits the sale of
28 intoxicating alcoholic liquor, beer, or wine on Sunday unless the law
29 specifically conflicts with this section.

30

31 SECTION 6. Arkansas Code § 3-9-221(b)(1), concerning the private club
32 exception to alcoholic beverage laws, is amended to read as follows:

33 (b)(1) In order to clarify the alcoholic beverage control laws of this
34 state and to regulate and prohibit the sale of alcoholic beverages in
35 violation of the provisions of this subchapter and other applicable alcoholic
36 beverage control laws of this state, the General Assembly determines that the

1 preparation, mixing, and serving of mixed drinks, beer, and wine for
 2 consumption only on the premises of a private club as defined in § 3-9-
 3 202(12) by the members thereof and their guests and the making of a charge
 4 for such services ~~shall not be deemed to be a sale or be in~~ is not a sale or
 5 a violation of any law of this state prohibiting the manufacture, sale,
 6 barter, loan, or giving away of intoxicating liquor whenever:

7
 8 SECTION 7. Arkansas Code § 3-9-221(c), concerning the private club
 9 exception to alcoholic beverage laws, is amended to read as follows:

10 (c) In order to clarify the alcoholic beverage control laws of this
 11 state and to regulate and prohibit the sale of alcoholic beverages in
 12 violation of the provisions of this subchapter and other applicable alcoholic
 13 beverage control laws of this state, the General Assembly determines that the
 14 preparation, mixing, and serving of wine and beer for consumption only by the
 15 lodging guests on the premises of a bed and breakfast private club as defined
 16 in § 3-9-202(2) and the making of a charge for such services ~~shall not be~~
 17 ~~deemed to be a sale or to be in~~ is not a sale or a violation of any law of
 18 this state prohibiting the manufacture, sale, barter, loan, or giving away of
 19 intoxicating liquor whenever:

20
 21 SECTION 8. Arkansas Code § 3-9-226(a), concerning private club
 22 advertising, is amended to read as follows:

23 (a) It ~~shall be~~ is unlawful for any private club, as defined by § 3-9-
 24 202(10), to use the advertising media to promote the consumption and use of
 25 alcoholic beverages or to advertise or announce the price of service of
 26 alcoholic beverages for on-premises consumption.

27
 28 SECTION 9. Arkansas Code § 3-9-227 is amended to read as follows:

29 3-9-227. Large attendance facility mixed drink permit.

30 (a)(1) ~~There is hereby created a~~ A large attendance facility mixed
 31 drink permit ~~which~~ is to be issued ~~for any~~ to a large attendance facility, as
 32 defined by § 3-9-202(14)(B), in which pari-mutuel wagering has been
 33 authorized by law.

34 (2) ~~Such permits~~ A permit may only be issued in ~~cities~~ a city of
 35 the first class in which the sale of alcoholic beverages is authorized by
 36 law.

1 (b)(1) The attendance qualifications for the large attendance_facility
2 mixed drink permit are the same as those currently provided for large
3 attendance facilities as set out in § 3-9-202(~~14~~)(B).

4 (2) The annual fee for the large attendance facility mixed drink
5 permit is three thousand dollars (\$3,000) per fiscal year.

6
7 SECTION 10. Arkansas Code § 3-9-236(12)(B), concerning the minimum
8 legal age to serve alcohol, is amended to read as follows:

9 (B) ~~Provided, that any~~ However, a permittee that has
10 obtained a permit under the provisions of § 3-9-202(~~7~~) ~~or § 3-9-202(14)~~ may
11 employ ~~persons~~ a person nineteen (19) years of age or older in the serving of
12 alcoholic beverages.

13
14 SECTION 11. Arkansas Code § 3-9-238 is amended to read as follows:

15 3-9-238. Pari-mutuel mixed drink permit.

16 (a)(1) ~~There is hereby created a~~ A pari-mutuel mixed drink permit
17 ~~which~~ is to be issued ~~for any~~ to a restaurant, as defined by § 3-9-202(~~8~~)(A),
18 in ~~any~~ a county where pari-mutuel wagering has been authorized by law.

19 (2) ~~The permits~~ A permit may be issued only in ~~cities~~ a city of
20 the first class in which the sale of alcoholic beverages is authorized by
21 law.

22 (b) The permit fees and qualifications for the permits are the same as
23 those currently provided for restaurants as set out in § 3-9-202(~~8~~)(A).
24 However, the seating capacity of these restaurants must be at least one
25 hundred (100) seats.

26
27 SECTION 12. Arkansas Code § 3-9-301 is amended to read as follows:

28 3-9-301. Definitions.

29 As used in this subchapter, unless the context otherwise requires:

30 (1) "Director" means the Director of the Alcoholic Beverage
31 Control Division;

32 (2) "Guest" means a person who orders and is served a meal
33 inside a restaurant during regular hours.

34 ~~(2)(3)~~(A) "License" means a license to sell wine in a restaurant
35 or cafe.

36 (B) An annual fee of three hundred dollars (\$300) shall be

1 paid for each license or renewal of a license.

2 (C) All moneys derived from the annual fees shall be
3 deposited into the State Treasury as general revenues to the credit of the
4 State Apportionment Fund, to be allocated and transferred to the various
5 funds, fund accounts, and accounts participating in general revenues in the
6 respective proportions to each as provided by law, and to be used for the
7 respective purposes set forth in the Revenue Stabilization Law, § 19-5-101 et
8 seq.;

9 (4) "Meal" means food commonly ordered at various hours of the
10 day;

11 ~~(3)~~(5) "Person" means ~~any~~ a person, firm, partnership,
12 association, or corporation;

13 ~~(4)~~(6)(A) "Restaurant" or "cafe" means a place of business
14 ~~serving food to the public prepared for consumption on the premises at an~~
15 ~~established eating place, as defined by reasonable rules and regulations~~
16 ~~promulgated by the Alcoholic Beverage Control Board~~ that is regularly used to
17 serve a meal to a guest for compensation and has a suitable kitchen facility
18 to serve an entire menu approved by the Alcoholic Beverage Control Division.

19 (B) The menu shall contain a selection of food and shall
20 not be limited to sandwiches or salads.

21 (C) The kitchen shall:

22 (i) Have adequate refrigeration to preserve the food
23 on the menu;

24 (ii) Be kept in a sanitary condition; and

25 (iii) Comply with the regulations of the local
26 department of health;

27 ~~(B)~~(D)(i) ~~The board~~ division ~~is authorized and directed to~~
28 ~~establish appropriate rules and regulations defining "established eating~~
29 ~~places" to the extent that licenses granted~~ shall promulgate and enforce
30 rules ~~under the provisions of this subchapter shall be issued only to those~~
31 ~~business establishments~~ to ensure a license is issued to a business
32 establishment whose principal business is serving food for consumption on the
33 premises.

34 ~~(ii) However, a~~ A drive-in shall not be classified
35 ~~as an established eating place~~ a restaurant or cafe; and

36 ~~(5)~~(7) "Wine" ~~or "wines"~~ means ~~any~~ a port wine, sherry wine,

1 vermouth wine, or other ~~wines~~ wine, the alcoholic content of which does not
 2 exceed twenty-one percent (21%), regardless of whether the ~~wines are~~ wine is
 3 manufactured ~~within or without~~ in the State of Arkansas.

4
 5 SECTION 13. Arkansas Code § 3-9-304 is repealed.

6 ~~3-9-304. Sale by restaurant located near certain cities.~~

7 ~~Any restaurant, as defined in § 3-9-301(4), which is located within two~~
 8 ~~(2) miles of a city having a population of at least fifty-five thousand~~
 9 ~~(55,000) but not more than sixty thousand (60,000) persons according to the~~
 10 ~~1970 Federal Decennial Census, and in an area in which the sale of alcoholic~~
 11 ~~beverages is lawful, shall be entitled to make application for and obtain a~~
 12 ~~permit to serve wine with food in such restaurants in the manner prescribed~~
 13 ~~in this subchapter.~~

14
 15 SECTION 14. Arkansas Code § 3-9-305(7), concerning a permit to sell
 16 wine, is amended to read as follows:

17 (7) The cafe or restaurant making application for the license is
 18 primarily engaged in the business of serving foods to the public prepared for
 19 consumption on the premises ~~and must be an established eating place within~~
 20 ~~the rules and regulations promulgated by the Alcoholic Beverage Control Board~~
 21 ~~as provided in § 3-9-301(4).~~

22
 23 SECTION 15. EMERGENCY CLAUSE. It is found and determined by the
 24 General Assembly of the State of Arkansas that the law regarding the
 25 definition of a restaurant is necessary to avoid ambiguity in state law and
 26 the Arkansas Beverage Control Division's rules. Therefore, an emergency is
 27 declared to exist and this act being immediately necessary for the
 28 preservation of the public peace, health, and safety shall become effective
 29 on:

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

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

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

36