

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

As Engrossed: H1/15/15
A Bill

HOUSE BILL 1024

5 By: Representative Broadway
6

7 **For An Act To Be Entitled**

8 AN ACT TO INCREASE THE POPULATION LIMITATION FOR THE
9 ISSUANCE OF LIQUOR PERMITS; TO REPEAL THE EXCEPTIONS
10 TO THE POPULATION LIMITATION; TO CLARIFY THE LAW
11 REGARDING THE DISTANCE BETWEEN LIQUOR PERMITEES AND
12 CHURCHES AND SCHOOLS; TO PROHIBIT UNACCOMPANIED
13 MINORS FROM ENTERING RETAIL LIQUOR BUSINESS; AND FOR
14 OTHER PURPOSES.

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17 **Subtitle**

18 TO AMEND THE RULE FOR THE ISSUANCE OF
19 LIQUOR PERMITS; TO CLARIFY PERMITTED
20 DISTANCES BETWEEN LIQUOR STORES,
21 CHURCHES, AND SCHOOLS; AND TO PROHIBIT
22 CERTAIN MINORS FROM ENTERING LIQUOR
23 STORES.

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26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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28 SECTION 1. Arkansas Code § 3-4-201(c) and (d), concerning restrictions
29 on the number of permits the Alcoholic Beverage Control Board may issue, is
30 amended to read as follows:

31 (c) The board has the discretion to determine the number of permits to
32 be granted in each county of this state or within the corporate limits of any
33 municipality of this state and to determine the location and the persons to
34 whom the permits shall be issued, under the following conditions:

35 (1)(A) The number of permits allowing the off-premises sale of
36 vinous (except small farm wines), spirituous, or malt liquor in a county or



1 political subdivision of the county which permits the sale shall not exceed a
2 ratio of one (1) permit for every ~~five thousand (5,000)~~ seven thousand five
3 hundred (7,500) population residing in that county or political subdivision
4 of the county.

5 (B) Population of the county or political subdivision of
6 the county shall:

7 (i) Be determined according to the most recent
8 federal decennial census; and

9 (ii) Count all residents of the county or political
10 subdivision of the county, including without limitation the residents of a
11 dry political subdivision of a county; and

12 (2) A new permit that is issued in a county or political
13 subdivision following the most recent federal decennial census shall be
14 issued under the following restrictions:

15 (A) Additional permits may be issued on a ratio of one (1)
16 for every additional ~~five thousand (5,000)~~ seven thousand five hundred
17 (7,500) population within the county or political subdivision of the county;

18 (B)(i) A qualified applicant may apply for a permit.

19 (ii) Qualifications are to be set by the board and
20 its determination of the public convenience and advantage;

21 (3)(A) If it is determined that a county or political
22 subdivision of the county is entitled to additional permits when warranted by
23 the most recent federal decennial census, the board will announce before the
24 last date for applications the number of new permits, if any, which may be
25 issued in the county or political subdivision of the county.

26 (B) In the event that the most recent federal decennial
27 census population figures decline in a county or political subdivision of the
28 county:

29 (i) Existing permits shall not be cancelled or
30 revoked for the decline in population;

31 (ii) The quota ratio shall not be applied to the
32 county or political subdivision of the county until the population in the
33 county or political subdivision of the county reaches a number equaling one
34 (1) permit to every ~~five thousand (5,000)~~ seven thousand five hundred (7,500)
35 population; and

36 (iii) A new permit shall not be issued in the county

1 or political subdivision of the county until the population warrants.

2 (C) A transfer of locations from one county to another
3 county is not allowed.

4 (D) If a holder of a permit for the sale of vinous,
5 ~~(except small farm wines)~~, spirituous, or malt liquor surrenders the permit
6 in a county or political subdivision of the county where the ratio no longer
7 meets the ~~one-to-five-thousand-population~~ one-to-seven-thousand-five-hundred-
8 population requirement, new applications will not be accepted until that
9 *ratio is reestablished at a subsequent federal decennial census;*

10 (4)(A)(i) If a permit holder does not conduct business under a
11 permit issued for a period of more than thirty (30) days, the permit shall be
12 surrendered to the Director of the Alcoholic Beverage Control Division and
13 shall be placed on inactive status.

14 (ii) The permit may remain inactive for six (6)
15 months or until the permit holder notifies the director that he or she is
16 ready to resume business, whichever is longer.

17 (B) To secure the return of the permit, the permit holder
18 shall file with the director a written statement showing:

19 (i) That all taxes and fees owing to the state have
20 been paid;

21 (ii) The reason for the suspension of business
22 activities; and

23 (iii) The date business activity will resume.

24 (C)(i) The permit holder may petition the board for an
25 extension of inactive status for an additional six-month period.

26 (ii) The board may grant an initial extension upon a
27 showing by the permit holder and a finding by the board that:

28 (a) Business circumstances exist to justify an
29 extension;

30 (b) The delay to return to business was not
31 due to mere deferral or inattention on the part of the permit holder; and

32 (c) The inactive status should be extended.

33 (iii)(a) The permit holder may appeal to the board
34 for a second extension of inactive status for an additional six-month period,
35 but only upon a showing by the permit holder and a finding by the board that
36 emergency circumstances exist to justify a final extension.

1 (b) "Emergency circumstances" are those delays
2 in return to business which are beyond the control, planning, or foresight of
3 the permit holder, including without limitation, a:

- 4 (1) Delay due to a natural disaster;
- 5 (2) Pending court action;
- 6 (3) Building construction problem; ~~and~~
- 7 or
- 8 (4) Contested insurance claim.

9 (D) A permit remaining on inactive status for a period of
10 more than eighteen (18) months or which has not been granted an extension
11 *under this subdivision shall expire; and*

12 (5)(A) *This section and §§ 3-4-202 and 3-4-208, except a permit*
13 *on inactive status for more than eighteen (18) months after the provisions of*
14 *subdivision (c)(4) of this section become effective or which has expired in*
15 *accordance with subdivision (c)(4) of this section, do not divest any permit*
16 *holder holding the permit on July 1, 1991, regardless of the quota ratio, of*
17 *his or her permit.*

18 (B) *In a county or political subdivision of the county*
19 *which has a ratio lower than the permit quota ratio of one-to-five-thousand-*
20 *population, the permit holder shall be allowed to continue under subdivision*
21 *(a)(3)(B) of this section.*

22 ~~(d) This section shall apply only to applications for permits to~~
23 ~~dispense vinous (except small farm wines), spirituous, or malt liquor filed~~
24 ~~with the board after July 1, 1991.~~

25
26 SECTION 2. Arkansas Code § 3-4-206 is amended to read as follows:

27 3-4-206. Operation of retail liquor business near church or
28 schoolhouse prohibited.

29 (a) No new permit to engage in the retail liquor business in this
30 state shall be issued by the Director of the Alcoholic Beverage Control
31 Division for the location of any business situated within ~~two hundred (200)~~
32 yards one thousand feet (1,000') of any church or schoolhouse.

33 ~~(b) However, after August 13, 2001:~~

34 ~~(1) No new permit to engage in the retail liquor business in~~
35 ~~this state may be issued by the director for the location of any business~~
36 ~~situated within one thousand feet (1,000') of any church or schoolhouse; and~~

1 ~~(2)(A)(b)~~ No existing permit to engage in the retail liquor business
2 in this state may be transferred to a location within one thousand feet
3 (1,000') of any church or schoolhouse.

4 ~~(B) As an exception to subdivision (b)(2)(A) of this~~
5 ~~section, if any retail liquor business in this state already exists within~~
6 ~~one thousand feet (1,000') of one (1) or more churches or schoolhouses, then~~
7 ~~that same retail liquor store may be allowed to transfer to a new location~~
8 ~~that is within one thousand feet (1,000') of the closest church or~~
9 ~~schoolhouse to the present liquor store location if the new location is~~
10 ~~determined by the Alcoholic Beverage Control Division to serve the public~~
11 ~~convenience and advantage.~~

12
13 SECTION 3. Arkansas Code Title 3, Chapter 3, Subchapter 2, is amended
14 to add an additional section to read as follows:

15 3-3-220. Underage entry into retail liquor business – Penalty.

16 A person commits an unclassified misdemeanor if the person enters a
17 business that holds a retail liquor permit and the person is:

18 (1) Under twenty-one (21) years of age; and

19 (2) Not accompanied by a parent or guardian.

20
21 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the
22 General Assembly of the State of Arkansas that this act is essential to the
23 public interest and operation of the alcohol laws in the state of Arkansas;
24 that this act eliminates conflicting language and allows consistent
25 application of the alcohol laws; and that this act is immediately necessary
26 because keeping alcohol out of the hands of minors is in the immediate public
27 interest as is controlling the number of permits allowable in a county.
28 Therefore, an emergency is declared to exist, and this act being immediately
29 necessary for the preservation of the public peace, health, and safety shall
30 become effective on:

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

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

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

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/s/Broadway