

State of Arkansas  
91st General Assembly  
Regular Session, 2017

# A Bill

HOUSE BILL 1463

By: Representative Capp

## For An Act To Be Entitled

AN ACT TO PERMIT THE DIRECT SHIPMENT OF WINES FROM  
SMALL FARM WINERIES TO ARKANSAS RESIDENTS WITHOUT AN  
IN-PERSON WINERY VISIT OR IN-PERSON PURCHASE AT THE  
WINERY; TO CREATE A SYSTEM FOR DISTRIBUTING SHIPPING  
PERMITS; TO DECLARE AN EMERGENCY; AND FOR OTHER  
PURPOSES.

## Subtitle

TO PERMIT THE DIRECT SHIPMENT OF WINES  
FROM SMALL FARM WINERIES TO ARKANSAS  
RESIDENTS WITHOUT A WINERY VISIT; TO  
CREATE A SYSTEM FOR DISTRIBUTING SHIPPING  
PERMITS; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code § 3-5-1702 is amended to read as follows:

3-5-1702. Definitions.

As used in this subchapter:

(1) "Small farm winery" means a wine-making establishment that:

(A) Is licensed under § 3-5-1601 et seq.; and

(B) Produced by fermentation at least one thousand gallons

(1,000 gals.) of wine in the previous calendar year, as reported on the  
winery's TTB F 5120-17 Report of Wine Premises Operations;

~~(1)~~(2) "Vinous liquor" means the fermented juices of fruits  
containing more than five percent (5%) and not more than twenty-one percent  
(21%) of alcohol by weight; and



1           ~~(2)~~(3) "Winery" means an establishment that makes vinous liquor.

2  
3           SECTION 2. Arkansas Code § 3-5-1703(a), concerning registration for  
4 direct delivery of wines, is amended to read as follows:

5           (a)(1) Unless registered under this subchapter, a winery licensed by  
6 this state or the state where its principal place of business is located  
7 shall not ship vinous liquor to an Arkansas consumer.

8           (2) This section does not apply to a small farm winery licensed  
9 under § 3-5-1601 et seq.

10  
11          SECTION 3. Arkansas Code Title 3, Chapter 5, Subchapter 17, is amended  
12 to add additional sections to read as follows:

13          3-5-1709. Small farm winery shipment.

14          (a)(1) A small farm winery licensee with a wine wholesale permit under  
15 § 3-5-1602(c)(1)(E) may ship small farm winery wine under this subchapter to  
16 a private resident without the private resident having been physically  
17 present or having made an in-person purchase at the small farm winery if the  
18 shipment includes only small farm winery wine.

19          (2) Additional shipping registration of a small farm winery is  
20 not required for a shipment under subdivision (a)(1) of this section.

21          (b) A private resident shall provide identification to the small farm  
22 winery proving that he or she is twenty-one (21) years of age or older.

23          (c) A small farm winery may ship only one (1) case of small farm  
24 winery wine per private resident in any month.

25          (d) A small farm winery shipping under this subchapter shall ensure  
26 that all containers of small farm winery wine delivered within this state are  
27 conspicuously labeled as follows:

28          "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR  
29 DELIVERY".

30          (e)(1) A small farm winery shall collect all sales taxes and excise  
31 taxes due on a sale to an individual of this state as if the sale took place  
32 on the premises of the small farm winery, including without limitation taxes  
33 under §§ 3-5-1605, 3-7-104, 3-7-111, and 3-7-201.

34          (2) Taxes collected by the small farm winery shall be submitted  
35 to the Department of Finance and Administration as directed without  
36 limitation under §§ 3-5-1605, 3-7-104, 3-7-111, and 3-7-201.

1       (f) A small farm winery that makes a direct shipment of small farm  
2 winery wine under this section shall maintain records regarding each shipment  
3 of small farm winery wine that include the:

4               (1) Name and address of the person to whom the small farm winery  
5 wine is:

6                       (A) Sold; and

7                       (B) Billed; and

8               (2) Date of shipment.

9  
10       3-5-1710. Permits – Drawing.

11       (a)(1) Within sixty (60) days after the effective date of this act,  
12 the Alcoholic Beverage Control Board shall issue thirty (30) small farm  
13 winery private-resident shipping permits to ship small farm winery wine under  
14 § 3-5-1709.

15       (2) In each subsequent year, the board may issue up to five (5)  
16 small farm winery private-resident shipping permits to ship small farm winery  
17 wine as provided in this section.

18       (b)(1) The Alcoholic Beverage Control Division shall notify the public  
19 at large by public notice that a drawing shall be held in Little Rock,  
20 Arkansas, to determine which of the small farm winery licensees holding a  
21 wine wholesale permit are eligible receive a small farm winery private-  
22 resident shipping permit under this section.

23       (2) The public notice under subdivision (b)(1) of this section  
24 shall include without limitation:

25                       (A) Internet notification; and

26                       (B) Notice by mail to each licensee who holds both a small  
27 farm winery license and a wine wholesale permit under § 3-5-1602.

28       (c)(1)(A) No later than fifteen (15) days before the scheduled drawing  
29 for the small farm winery private-resident shipping permit, a licensee  
30 holding both a small farm winery license and a wine wholesale permit who  
31 wishes to be entered into the drawing shall certify to the Alcoholic Beverage  
32 Control Division that the winery has produced by fermentation at least one  
33 thousand gallons (1,000 gals.) of wine in the previous calendar year by  
34 providing the winery's TTB F 5120-17.

35                       (B) A licensee that fails to submit proof of production by  
36 the date provided for in subdivision (c)(1)(A) of this section is not be

1 eligible for the drawing under this section.

2 (2) On the date of the drawing, each licensee holding both a  
3 small farm winery license and wine wholesale permit who has met the  
4 requirements specified in subdivision (c)(1) of this section shall draw a  
5 number between one (1) and the number of eligible licensees.

6 (3) The drawing shall be conducted by the Director of the  
7 Alcoholic Beverage Control Division.

8 (4) The individual of record with the division designated as the  
9 permit holder for the eligible small farm winery shall be present for the  
10 drawing at the location chosen by the director to be awarded a small farm  
11 winery private-resident shipping permit if selected by the drawing.

12 (5) Position numbers may not be assigned or transferred.

13 (d)(1) The director shall issue the small farm winery private-resident  
14 shipping permits authorized through the drawing under this section to those  
15 eligible licensees drawing numbers one (1) through thirty (30) upon payment  
16 of a licensing fee of fifty dollars (\$50.00).

17 (2) In a subsequent year, if the Alcoholic Beverage Control  
18 Board authorizes additional permits, the director shall issue permits  
19 authorized under this section to those eligible licensees drawing numbers one  
20 (1) through the number authorized by the board for the drawing upon payment  
21 of a licensing fee of fifty dollars (\$50.00).

22 (e) A small farm winery shall renew its small farm winery private-  
23 resident shipping permit each year with the division by paying a renewal fee  
24 of fifty dollars (\$50.00).

25  
26 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the  
27 General Assembly of the State of Arkansas that this act calls for public  
28 notice of a drawing for the issuance of small farm winery private-resident  
29 shipping permits to small farm winery licensees holding wine wholesale  
30 permits; that the drawing will require the actual presence in the state of  
31 persons from various states; that sufficient notice must be available to all  
32 potential participants in the drawing; and that this act is immediately  
33 necessary because the Alcoholic Beverage Control Board requires time to make  
34 public notice, to prepare the drawing operations, and to ensure that all  
35 interested persons have the opportunity to seek eligibility for the drawing.  
36 Therefore, an emergency is declared to exist, and this act being immediately

1 necessary for the preservation of the public peace, health, and safety shall  
2 become effective on:

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

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

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