

State of Arkansas
91st General Assembly
Regular Session, 2017

A Bill

SENATE BILL 284

By: Senator Hester

For An Act To Be Entitled

AN ACT TO ESTABLISH A RETAIL OFF-PREMISES PERMIT FOR
THE SALE OF WINE AT GROCERY STORES; TO PROVIDE
ADDITIONAL GRANT FUNDS TO SUPPORT ARKANSAS WINE
PRODUCTION AND WINE TOURISM; AND FOR OTHER PURPOSES.

Subtitle

TO ESTABLISH A RETAIL OFF-PREMISES PERMIT
FOR THE SALE OF WINE AT GROCERY STORES
AND TO PROVIDE ADDITIONAL GRANT FUNDS TO
SUPPORT ARKANSAS WINE PRODUCTION AND WINE
TOURISM IN THE STATE.

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

SECTION 1. Arkansas Code § 3-4-601 is amended to read as follows:

3-4-601. Kinds of permits generally.

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

- (1) Distiller's permit;
- (2) Brewer's permit;
- (3) Rectifier's permit;
- (4) Wholesaler's permit;
- (5) Dispenser's permit; ~~and~~
- (6) Hotel, restaurant, or club permit; and
- (7) Grocery store wine permit.



SECTION 2. Arkansas Code § 3-5-904 is amended to read as follows:

3-5-904. Eligibility.

(a) ~~Only~~ Except as provided in subsection (c) of this section, only those wineries actively involved in the sale of wine as an Arkansas-bonded winery for five (5) years or that have a federal license and are licensed by the State of Arkansas as of January 1, 2003, shall be eligible to receive grants under the provisions of this subchapter.

(b) ~~Only~~ Except as provided in subsection (c) of this section, only those wineries located in this state which use not less than seventy-five percent (75%) of Arkansas-grown and Arkansas-produced grapes, fruits, berries, or vegetables for producing wine shall be eligible to receive grants under the provisions of this subchapter.

(c) ~~However, in~~ In any year in which there are losses in production of Arkansas-grown grapes, fruits, berries, or vegetables used in the production of wine resulting from droughts, floods, tornadoes, extreme weather conditions, or other natural causes, the percentage of Arkansas-grown and Arkansas-produced grapes, fruits, berries, or vegetables used in producing wine, as required in this subchapter, shall be reduced in the proportion of the losses in production of the products as determined and set forth in a disaster relief order issued by the Director of the Department of Finance and Administration prepared under the same procedures as set forth in the Native Wine Industry Disaster Relief Act, ~~§§ 3-5-405 (repealed) and~~ § 3-5-801 et seq.

SECTION 3. Arkansas Code § 3-5-907(b), concerning the amount of grant fund payments for native wine incentives, is amended to read as follows:

(b) ~~Grant~~ Except for funds received under § 3-5-1802, funds awarded shall be distributed equally to each winery at a base amount not to exceed twenty-five thousand dollars (\$25,000), with any remaining balance of the grant to be divided among each grantee according to the same ratio as the wine taxes paid in the previous calendar year by the grantee, as determined by the Chief Fiscal Officer of the State.

SECTION 4. Arkansas Code § 3-5-1605(a)(4)(A), concerning license fees for small farm wineries, is amended to read as follows:

(4)(A) For the privilege of selling ~~small farm wine~~ small

1 farm wine, light wine, or vinous liquor, except by a manufacturer at the
2 manufacturer's winery, there shall be paid for each wholesale dealer's
3 license a fee of one hundred dollars (\$100).

4
5 SECTION 5. Arkansas Code Title 3, Chapter 5, is amended to add an
6 additional subchapter to read as follows:

7 Subchapter 18 - Wine Sales in Grocery Stores

8
9 3-5-1801. Definitions.

10 As used in this subchapter:

11 (1) "Grocery store" means a single physical establishment that:

12 (A) Has an inventory of human-consumable items; and

13 (B) Is located in a wet territory;

14 (2) "Slotting fee" means a fee paid by a manufacturer to a
15 grocery store for making room for a product on the grocery store's shelves;
16 and

17 (3) "Wine" means port, wine, sherry wine, vermouth wine, or
18 other wines manufactured within or without the State of Arkansas, the
19 alcoholic content of which does not exceed twenty-one percent (21%).

20
21 3-5-1802. Grocery store wine permit – Fees.

22 (a) A grocery store may apply to the Alcoholic Beverage Control Board
23 for a grocery store wine permit.

24 (b)(1) A grocery store wine permit shall allow a permittee to purchase
25 and sell wine for off-premises consumption at a single location.

26 (2) Wine inventory orders or purchases, or both, shall be made
27 only by a permittee for delivery to a single permitted location.

28 (3) An order of wine inventory for one (1) location shall not be
29 combined with an order for another location in a manner that would result in
30 a cumulative discount or quantity discount, or both.

31 (c) A grocery store seeking a grocery store wine permit shall meet the
32 criteria for the holder of an off-premises retail beer permit in addition to
33 the criteria established in this section.

34 (d)(1) For the privilege of selling wine in a grocery store, each
35 grocery store shall pay a grocery store wine permit fee based on the size of
36 the permitted building space.

1 (2) The fee shall be:

2 (A) One thousand dollars (\$1,000) for a permitted building
3 space containing less than thirty-five thousand one square feet (35,001 sq.
4 ft.);

5 (B) Two thousand five hundred dollars (\$2,500) for a
6 permitted building space containing between thirty-five thousand one square
7 feet (35,001 sq. ft.) and fifty thousand square feet (50,000 sq. ft.);

8 (C) Three thousand five hundred dollars (\$3,500) for a
9 permitted building space containing between fifty thousand one square feet
10 (50,001 sq. ft.) and seventy-five thousand square feet (75,000 sq. ft.); and

11 (D) Five thousand dollars (\$5,000) for a permitted
12 building space containing more than seventy-five thousand square feet (75,000
13 sq. ft.).

14 (e) One hundred percent (100%) of the fee shall be paid into the
15 Arkansas Wine Grants Fund.

16 (f) A grocery store wine permittee may conduct tasting events for
17 educational and promotional purposes on the permittee's premises after
18 obtaining a wine sampling permit from the Alcoholic Beverage Control Division
19 under § 3-5-104.

20 (g)(1) A grocery store seeking a grocery store wine permit may derive
21 no more than twenty percent (20%) of its gross sales from the sale of
22 alcoholic beverages.

23 (2) However, the requirement under subdivision (g)(1) of this
24 section does not apply to an otherwise qualifying grocery store that, as of
25 January 1, 2017, derives more than twenty percent (20%) of its gross sales
26 from the sale of alcoholic beverages.

27 (h) A grocery store wine permittee shall offer for sale small farm
28 winery wine as defined in § 3-5-1601 et seq.

29 (i) A grocery store wine permit shall be available for issue only in a
30 county in which the retail sale of alcohol under § 3-4-604 was authorized as
31 of January 1, 2017.

32
33 3-5-1803. Slotting fees prohibited.

34 A grocery store shall not require payment of a slotting fee for
35 products sold under this subchapter by a small farm winery, including without
36 limitation:

- (1) Juice;
- (2) Low alcohol wine; and
- (3) Vinegar.

SECTION 6. Arkansas Code § 19-6-301, concerning special revenue enumerated, is amended to read as follows:

(255) Arkansas Wine Special Revenue Fund, § 19-5-1258.

SECTION 7. Arkansas Code Title 3, Chapter 5, Subchapter 9, is amended to add an additional section to read as follows:

19-5-1258. Arkansas Wine Special Revenue Fund.

(a) There is established on the books of the Treasurer of State, Auditor of State, and Chief Fiscal Officer of the State the "Arkansas Wine Grants Fund", into which shall be paid moneys received from permit fees paid under § 3-5-1802.

(b) Fifty percent (50%) of the grant funds received under § 3-5-1802 shall be divided among each grantee according to the same ratio as the wine taxes paid in the previous calendar year by the grantee as determined by the Chief Fiscal Officer of the State, not to exceed the amount paid in by each grantee.

(c) Fifty percent (50%) of the grant funds received under § 3-5-1802 shall be deposited into the Tourism Development Trust Fund of the Department of Parks and Tourism § 19-5-956 for the purpose of operating and staffing a wine tourism facility and office space for the Arkansas Wine Producers Council within the tourism facility in Franklin County, Arkansas.

(d)(1) Any unused or undesignated grant funds at the end of the fiscal year shall be directed to the Department of Parks and Tourism.

(2)(A) The Department of Parks and Tourism in consultation with the Arkansas Wine Producers' Council, shall use funds provided for in subdivision (d)(1) of this section to support wine tourism, marketing efforts, research to support Arkansas wineries, or the wine tourism facility.

(B) Expenditures under subdivision (d)(2)(A) of this section may include without limitation:

- (i) Biking trails;
- (ii) Brochures;
- (iii) Hiking trails;

- (iv) Museums;
- (v) Signage;
- (vi) Wine education seminars; and
- (vii) Other similar purposes.

SECTION 8. Uncodified Section 4 of Act 668 of 2007 is repealed.

~~SECTION 4. NOT TO BE CODIFIED. In the event that this act, or any part thereof, is determined by a court to be unconstitutional, this act shall become void and all wines, including native wines, distributed for sale in the State of Arkansas shall be distributed under § 3-2-401 et seq. and sold by licensed retailers under § 3-4-201 et seq.~~

SECTION 9. DO NOT CODIFY. Grocery store wine permit issuance delay.

In a county in which the retail sale of alcoholic beverages under § 3-4-604 was authorized between January 1, 2014, and January 1, 2017 and in which at least one (1) permit to sell and dispense vinous or spirituous liquors for beverage purposes at retail is currently active, a grocery store wine permit under this act shall not be issued until January 1, 2019.

SECTION 10. DO NOT CODIFY. Legislative intent.

The Department of Arkansas Heritage, Department of Parks and Tourism, and the Arkansas Wine Producers Council shall, on a top priority basis, actively seek funds for the purpose of construction of the Arkansas Wine Center.