

1 State of Arkansas

*As Engrossed: S2/7/17*

2 91st General Assembly

# A Bill

3 Regular Session, 2017

SENATE BILL 284

5 By: Senators Hester, *L. Chesterfield*

6 By: Representative Eubanks

## For An Act To Be Entitled

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

## Subtitle

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

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

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

26 3-4-601. Kinds of permits generally.

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

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



1  
2 SECTION 2. Arkansas Code § 3-5-904 is amended to read as follows:

3 3-5-904. Eligibility.

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

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

14 (c) ~~However, in~~ In any year in which there are losses in production of  
15 Arkansas-grown grapes, fruits, berries, or vegetables used in the production  
16 of wine resulting from droughts, floods, tornadoes, extreme weather  
17 conditions, or other natural causes, the percentage of Arkansas-grown and  
18 Arkansas-produced grapes, fruits, berries, or vegetables used in producing  
19 wine, as required in this subchapter, shall be reduced in the proportion of  
20 the losses in production of the products as determined and set forth in a  
21 disaster relief order issued by the Director of the Department of Finance and  
22 Administration prepared under the same procedures as set forth in the Native  
23 Wine Industry Disaster Relief Act, ~~§§ 3-5-405 [repealed] and § 3-5-801 et~~  
24 seq.  
25

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

28 (b) ~~Grant~~ Except for funds received under § 3-5-1802, funds awarded  
29 shall be distributed equally to each winery at a base amount not to exceed  
30 twenty-five thousand dollars (\$25,000), with any remaining balance of the  
31 grant to be divided among each grantee according to the same ratio as the  
32 wine taxes paid in the previous calendar year by the grantee, as determined  
33 by the Chief Fiscal Officer of the State.  
34

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

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

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

8 Subchapter 18 - Wine Sales in Grocery Stores

9  
10 3-5-1801. Definitions.

11 As used in this subchapter:

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

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

14 (B) Is located in a wet territory;

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

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

21  
22 3-5-1802. Grocery store wine permit – Fees.

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

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

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

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

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

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

1 the permitted building space.

2 (2) The fee shall be:

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

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

9 (C) Three thousand five hundred dollars (\$3,500) for a  
10 permitted building space containing between fifty thousand one square feet  
11 (50,001 sq. ft.) and seventy-five thousand square feet (75,000 sq. ft.); and

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

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

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

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

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

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

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

33  
34 3-5-1803. Slotting fees prohibited.

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

1 limitation:

2 (1) Juice;

3 (2) Low alcohol wine; and

4 (3) Vinegar.

5  
6 SECTION 6. Arkansas Code § 19-6-301, concerning special revenue  
7 enumerated, is amended to read as follows:

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

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

12 19-5-1258. Arkansas Wine Special Revenue Fund.

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

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

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

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

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

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

35 (i) Biking trails;

36 (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.

*/s/Hester*