

1 State of Arkansas As Engrossed: H1/26/23 H2/2/23 H2/7/23

2 94th General Assembly

A Bill

3 Regular Session, 2023

HOUSE BILL 1162

4

5 By: Representatives Ray, G. Hodges

6 By: Senators J. Boyd, J. English

7

8

For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW REGARDING MICROBREWERY-
10 RESTAURANTS; TO AUTHORIZE MICROBREWERY-RESTAURANTS TO
11 MANUFACTURE AND SELL READY-TO-DRINK PRODUCT; AND FOR
12 OTHER PURPOSES.

13

14

15

Subtitle

16

17

18

19

20

21

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

23

24 SECTION 1. Arkansas Code § 3-5-1202(3), concerning the definition of
25 "beer, malt beverage, and hard cider law or rule", is amended to read as
26 follows:

27

28

29

(3) "Beer, malt beverage, ~~and hard cider,~~ or ready-to-drink product law or rule" means any law of this state, or any rule promulgated and adopted with respect thereto, that is:

30

31

32

(A) Applicable to a person applying for or holding a license to manufacture beer, malt beverage, ~~or hard cider,~~ or ready-to-drink product; or

33

34

35

36

(B) Applicable to a person applying for or holding a license to sell beer, malt beverage, ~~or hard cider,~~ or ready-to-drink product in a restaurant for consumption on or off the licensed premises;



1 SECTION 2. Arkansas Code § 3-5-1202(5), concerning the definition of
2 "conflicting beer, malt beverage, and hard cider law or rule", is amended to
3 read as follows:

4 (5) "Conflicting beer, malt beverage, ~~or~~ hard cider, or ready-
5 to-drink product law or rule" means any beer, malt beverage, ~~or~~ hard cider,
6 or ready-to-drink product law or rule that prohibits or conflicts with the
7 otherwise legal licensing and operation of microbrewery-restaurants, as
8 authorized in this subchapter, by requiring any brewer to sell only to a
9 licensed wholesaler, or requiring any licensed retailer to sell only beer,
10 malt beverage, ~~or~~ hard cider, or ready-to-drink product purchased from a
11 licensed wholesaler, or prohibiting any brewer or retailer from having any
12 ownership or employment interest in the business of the other or the premises
13 of the other, or requiring that the excise and enforcement tax on beer, malt
14 beverage, ~~or~~ hard cider, or ready-to-drink product manufactured by a brewer
15 be paid by a licensed wholesaler, or any beer, malt beverage, ~~or~~ hard cider,
16 or ready-to-drink product law or rule of similar direct or indirect effect;

17
18 SECTION 3. Arkansas Code § 3-5-1202, concerning definitions related to
19 microbrewery-restaurants, is amended to add an additional subdivision to read
20 as follows:

21 (12) "Ready-to-drink product" means a product containing
22 spirituous liquor with a final finished product of no greater than fifteen
23 percent (15%) alcohol by weight.

24
25 SECTION 4. Arkansas Code § 3-5-1203 is amended to read as follows:

26 3-5-1203. Effect on other laws.

27 Every provision of this subchapter shall be subject to all beer, malt
28 beverage, ~~and~~ hard cider, or ready-to-drink product laws and rules, except
29 that conflicting beer, malt beverage, ~~and~~ hard cider, or ready-to-drink
30 product laws and rules shall be inapplicable to any provision of this
31 subchapter to the extent that they conflict herewith.

32
33 SECTION 5. Arkansas Code § 3-5-1204(a), concerning the scope of a
34 microbrewery-restaurant license, is amended to read as follows:

35 (a) The Director of the Alcoholic Beverage Control Division may issue
36 a microbrewery-restaurant license which shall authorize the licensee to do

1 the following:

2 (1)(A) To:

3 (i) Operate a microbrewery which shall manufacture
4 one (1) or more varieties of beer, malt beverage, ready-to-drink product, or
5 hard cider in an aggregate quantity not to exceed forty-five thousand
6 (45,000) barrels per year from all facilities under common ownership with the
7 microbrewery; and

8 (ii) Store the manufactured beer, malt beverage,
9 ready-to-drink product, or hard cider and any other beer, malt beverage,
10 ready-to-drink product, or hard cider which the microbrewery-restaurant
11 licensee may purchase from wholesalers and small brewers licensed by this
12 state on the microbrewery-restaurant licensed premises and on the premises of
13 the one (1) separate brewing facility of a microbrewery-restaurant authorized
14 under subdivision ~~(a)(9)~~(a)(10) of this section.

15 (B) Two (2) or more microbrewery-restaurants sharing
16 common ownership or a brewery of any size sharing common ownership with a
17 microbrewery-restaurant shall be considered one (1) entity for purposes of:

18 (i) Calculating barrel production; and

19 (ii) Transportation of beer, malt beverage, ready-
20 to-drink product, or hard cider produced by one (1) entity among no more than
21 three (3) microbrewery-restaurant facilities of the one (1) entity;

22 (2)(A) To operate a restaurant which shall be the sales outlet
23 for beer, malt beverage, ready-to-drink product, or hard cider manufactured
24 by the microbrewery and which shall sell the beer, malt beverage, ready-to-
25 drink product, or hard cider and any other beer, malt beverage, ready-to-
26 drink product, hard cider, or wine which the microbrewery-restaurant licensee
27 may purchase from wholesalers licensed by this state for consumption on the
28 licensed premises or purchased directly from licensed small brewers allowed
29 to distribute directly to the microbrewery-restaurant.

30 (B) On-premises consumption of a ready-to-drink product
31 shall only be allowed in cities and counties, or portions of cities and
32 counties, in which the manufacture or sale of intoxicating liquor is not
33 prohibited as a result of a local option election held under Initiated Act
34 No. 1 of 1942, §§ 3-8-201 – 3-8-203 and 3-8-205 – 3-8-209, and in which the
35 sale of alcoholic beverages for on-premises consumption has been approved by
36 a majority vote at a referendum election as provided in § 3-9-201 et seq.;

1 (3)(A) To sell on the premises beer, malt beverage, ready-to-
2 drink product, or hard cider manufactured by the microbrewery or commonly
3 owned facility in brewery-sealed packages at retail directly to the consumer
4 for off-premises consumption on any day of the week.

5 (B) A ready-to-drink product authorized for sale for off-
6 premises consumption under subdivision (a)(3)(A) of this section shall be
7 sold only from the location where the ready-to-drink product is manufactured;
8 and

9 ~~(B)(4)~~ To serve on the premises complimentary samples of
10 beer, malt beverages, ready-to-drink product, or hard cider produced by the
11 microbrewery-restaurant;

12 ~~(4)(A)(5)(A)~~ To provide products it manufactures to charitable
13 or nonprofit organizations or sell for resale products it manufactures to
14 charitable or nonprofit organizations holding valid special-event permits as
15 provided for by the Alcoholic Beverage Control Board, except that the
16 microbrewery-restaurant licensee may not sell to nonprofit organizations
17 holding private club licenses.

18 (B) The sale of those products shall be limited to the
19 duration of the particular special event;

20 ~~(5)(6)~~ To sell beer, malt beverages, ready-to-drink product, or
21 hard cider manufactured by the microbrewery-restaurant to a nonprofit
22 corporation leasing space in the microbrewery-restaurant or in an adjoining
23 building;

24 ~~(6)(A)(7)(A)~~ To sell at retail by the drink or by the package
25 beer produced on the premises of the microbrewery-restaurant if all sales
26 occur in a wet territory and at fairs and food and beer festivals, with the
27 permission and the consent of the management of events.

28 (B) A sales and use tax permit is required for sales under
29 this subdivision ~~(a)(6)(a)(7)~~;

30 ~~(7) Sell(8)~~ To sell beer, malt beverage, ready-to-drink
31 product, or hard cider of its own manufacture to a wholesale dealer licensed
32 by this state for the purpose of resale to other retail license holders as
33 set forth by §§ 3-4-605 and 3-5-101, dealing with wholesale distribution of
34 beer, malt beverage, ready-to-drink product, and hard cider;

35 ~~(8)(A) Conduct(9)(A)~~ To conduct beer-, malt beverage-, ready-
36 to-drink product-, and hard cider-tasting events for educational or

1 promotional purposes at any location in wet areas of this state if:

2 (i) A request for approval to conduct a beer-, malt
3 beverage-, ready-to-drink product-, and hard cider-tasting event is received
4 by the Alcoholic Beverage Control Division at least two (2) weeks before the
5 event;

6 (ii) The request is approved by the division; and

7 (iii) Written notice is given by the division to the
8 permit holder at least five (5) days before the event.

9 (B) Only beer, malt beverage, ready-to-drink product, and
10 hard cider produced by the microbrewery-restaurant shall be used for an event
11 approved under this subdivision ~~(a)(8)(a)(9)~~.

12 (C) This subdivision ~~(a)(8)(a)(9)~~ does not authorize the
13 conducting of a beer-, malt beverage-, ready-to-drink product-, and hard
14 cider-tasting event at the one (1) separate brewing facility of a
15 microbrewery-restaurant authorized under subdivision ~~(a)(9)(a)(10)~~ of this
16 section; and

17 ~~(9)(A) Maintain~~ (10)(A) To maintain one (1) separate brewing
18 facility for the production or storage of beer, malt liquor, ready-to-drink
19 product, or hard cider as needed to meet demand, except that each facility
20 used by the microbrewery-restaurant licensee shall not in the aggregate
21 produce more than forty-five thousand (45,000) barrels of beer, malt
22 beverage, ready-to-drink product, and hard cider per year; ~~and.~~

23 (B) Beer, malt beverage, and hard cider produced by a
24 separate brewing facility of a microbrewery-restaurant licensee shall be:

25 (i) Sold to a licensed wholesaler; or

26 (ii) Transported:

27 (a) From the separate brewing facility to a
28 microbrewery-restaurant commonly owned by the owner of the separate brewing
29 facility for retail sale for consumption on or off the licensed premises; and

30 (b) To the separate brewing facility from a
31 microbrewery-restaurant commonly owned by the owner of the separate brewing
32 facility for storage, production, or packaging.

33 (C) Ready-to-drink products produced by a
34 separate brewing facility of a microbrewery-restaurant licensee shall be sold
35 only to a licensed wholesaler.

36 SECTION 6. Arkansas Code § 3-5-1205 is amended to read as follows:

1 3-5-1205. Fees and taxes.

2 A microbrewery-restaurant licensee shall:

3 (1) Pay any applicable city or county license or permit fees and
4 barrelogage or taxes and shall pay a state licensing fee to the Alcoholic
5 Beverage Control Division of seven hundred fifty dollars (\$750) per fiscal
6 year to manufacture and sell its beer, malt beverages, ready-to-drink
7 product, and hard cider for consumption both on and off the premises and to
8 sell any other beer, malt beverages, ready-to-drink product, and hard cider
9 purchased from a licensed wholesaler for consumption on the premises;

10 (2) Measure beer, malt beverages, ready-to-drink product, and
11 hard cider manufactured by the microbrewery, otherwise comply with applicable
12 rules respecting excise and enforcement tax determination of the beer, malt
13 beverages, ready-to-drink product, and hard cider, and pay any applicable
14 bond or deposit and the amount of the state excise tax and enforcement tax to
15 this state, but free from the fees and taxes provided in § 3-5-205, and as
16 required by §§ 3-7-104 and 3-7-111; and

17 (3) Pay a tax at the rate of seven dollars and fifty cents
18 (\$7.50) per barrel, and proportionately for larger and smaller gallonages per
19 barrel, on all beer, malt beverages, and hard cider in quantities of up to
20 forty-five thousand (45,000) barrels per year produced and sold or offered
21 for sale in the state.

22
23 /s/Ray
24
25
26
27
28
29
30
31
32
33
34
35
36