

State of Arkansas
89th General Assembly
Regular Session, 2013

A Bill

SENATE BILL 432

By: Senator R. Thompson
By: Representative Wright

For An Act To Be Entitled

AN ACT TO CHANGE THE POPULATION RATIO TO SELL VINOUS,
SPIRITUOUS, OR MALT LIQUOR OFF-PREMISES; AND FOR
OTHER PURPOSES.

Subtitle

TO CHANGE THE POPULATION RATIO TO SELL
VINOUS, SPIRITUOUS, OR MALT LIQUOR OFF-
PREMISES.

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

SECTION 1. Arkansas Code § 3-4-201 is amended to read as follows:

3-4-201. Number of permits restricted.

(a) ~~It is declared to be the~~ The public policy of the state ~~that is to~~ restrict the number of permits in this state to dispense vinous (except small farm wines), spirituous, or malt liquor ~~shall be restricted~~.

(b)(1) The Alcoholic Beverage Control Board ~~is empowered to~~ shall determine whether public convenience and advantage will be promoted by issuing ~~the permits~~ a permit and by increasing or decreasing the number ~~thereof~~ of permits it issues.

(2) ~~In order to further carry out the policy hereinbefore declared, the~~ The number of permits ~~so~~ issued by the board shall be restricted.

(c) The board ~~is further given~~ has the discretion to determine the number of permits to be granted in each county of this state or within the corporate limits of any municipality of this state and to determine the



location ~~thereof~~ and the persons to whom ~~they~~ the permits shall be issued, under the following conditions:

(1)(A) The number of permits allowing the off-premises sale of vinous (except small farm wines), spirituous, or malt liquor in ~~any a~~ county or political subdivision of the county which permits the sale shall not exceed a ratio of one (1) permit for every ~~four thousand (4,000)~~ five thousand (5,000) population residing in that county or political subdivision of the county.

(B) Population of the ~~area involved~~ county or political subdivision of the county shall:

~~(i) be~~ Be determined by ~~the most recent population figures established in a census by the Bureau of the Census of the United States Department of Commerce or other appropriate governmental subdivision;~~ according to the most recent federal decennial census; and

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

(2) ~~New permits~~ A new permit ~~which may be~~ that is issued in a county or political subdivision ~~thereof~~ following ~~a regular~~ the most recent decennial census shall be issued under the following restrictions:

(A) Additional permits may be issued on a ratio of one (1) for every additional ~~four thousand (4,000)~~ five thousand (5,000) population within the ~~area~~ county or political subdivision of the county;

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

~~(ii) Qualifications are to be set from time to time~~ by the board and its determination of the public convenience and advantage;

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

(B) In the event that ~~such regular~~ the most recent federal decennial census population figures decline in a ~~given~~ county or political subdivision ~~thereof, no existing~~ of the county:

~~(i) Existing permits shall~~ not be cancelled or

revoked for ~~that reason,~~ the decline in population;

(ii) ~~and the~~ The quota ratio shall not be applied ~~thereto~~ to the county or political subdivision of the county until the population in the county or political subdivision ~~thereof~~ of the county reaches a number ~~equalling~~ equaling one (1) permit to every ~~four thousand~~ (4,000) five thousand (5,000) population therein, nor; and

(iii) ~~shall any~~ A new permit shall not be issued ~~therein~~ in the county or political subdivision of the county until the population warrants.

(C) ~~No~~ A transfer of locations from one county to another county ~~shall be~~ is not allowed.

(D) ~~In the event that any~~ If a holder of a permit for the sale of vinous (except small farm wines), spirituous, or malt liquor surrenders ~~a~~ the permit in a county or ~~municipality thereof~~ political subdivision of the county where the ratio no longer meets the ~~one to four thousand (1:4,000)~~ one-to-five-thousand-population requirement, ~~no~~ new applications will not be accepted until that ratio is reestablished at ~~an approved census~~ a subsequent decennial census;

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

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

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

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

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

(iii) The date business activity will resume.

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

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

(a) ~~business~~ Business circumstances exist to justify an extension;⁷

(b) ~~that the~~ The delay to return to business was not due to mere deferral or inattention on the part of the permit holder;⁷ and

(c) ~~that the~~ The inactive status should be extended.

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

(b) "Emergency circumstances" are those delays in return to business which are beyond the control, planning, or foresight of the permit holder, including, ~~but not limited to,~~ without limitation, a:

(1) ~~delays~~ Delay due to a natural ~~disasters,~~ disaster;

(2) ~~pending~~ Pending court ~~actions,~~ action;

(3) ~~building~~ Building construction ~~problems,~~ problem; and

(4) ~~contested~~ Contested insurance ~~claims~~ claim.

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

(5)(A) ~~Nothing in this~~ This section and §§ 3-4-202 and 3-4-208, except a permit on inactive status for more than eighteen (18) months after the provisions of subdivision (c)(4) of this section become effective or which has expired in accordance with subdivision (c)(4) of this section, ~~shall be construed as to~~ does not divest any permit holder holding the permit on July 1, 1991, regardless of the quota ratio, of his or her permit.

(B) ~~In counties or municipalities~~ In a county or political subdivision of the county which ~~have~~ has a ratio lower than the permit quota ratio ~~established herein~~ of one-to-five-thousand-population, the permit holder shall be allowed to continue under subdivision ~~(3)(B)~~ (a)(3)(B) of this ~~subsection~~ section .

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

SECTION 2. Arkansas Code § 3-4-221 is amended to read as follows:

3-4-221. Transfer of permitted location.

The Alcoholic Beverage Control Board shall not authorize the transfer of a permit to dispense vinous (except small farm wines), spirituous, or malt liquor from ~~any a~~ a location to ~~a~~ another location within a city or town located within a county having a population of two hundred thousand (200,000) or more persons, according to the most recent federal decennial census, if the transfer of such permit to a location in the city or town will result in there being more than one (1) permitted location in the city or town for each ~~four thousand (4,000)~~ five thousand (5,000) population in the city or town, according to the most recent federal decennial census.

APPROVED: 04/11/2013