

State of Arkansas
93rd General Assembly
Regular Session, 2021

As Engrossed: S3/9/21 H3/18/21

A Bill

SENATE BILL 339

By: Senator J. English

By: Representative Pilkington

For An Act To Be Entitled

AN ACT TO AUTHORIZE CERTAIN PERMIT HOLDERS TO SELL ALCOHOLIC BEVERAGES DIRECTLY TO CONSUMERS TO BE CONSUMED OFF-PREMISES OR DELIVERED TO THE CONSUMER AT A LOCATION OFF-PREMISES; AND FOR OTHER PURPOSES.

Subtitle

TO AUTHORIZE CERTAIN PERMIT HOLDERS TO SELL ALCOHOLIC BEVERAGES DIRECTLY TO CONSUMERS TO BE CONSUMED OFF-PREMISES OR DELIVERED TO THE CONSUMER AT A LOCATION OFF-PREMISES.

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

SECTION 1. DO NOT CODIFY. Legislative findings.

The General Assembly finds that:

(1) The coronavirus 2019 (COVID-19) pandemic has disrupted the economy and the lives of millions of Americans;

(2) Businesses across the country have shifted operation models in order to comply with consumer demand and government-imposed restrictions;

(3) The food service industry in particular has seen the most disruption, with business revenue diminished by both capacity limitations and increased costs of compliance with new health safety protocols;

(4) With more than one hundred twenty thousand (120,000) food service industry jobs in this state, the food service industry is a driving force in Arkansas's economy;



(5) In this new economy, the food service industry can only survive through adaptation, including without limitation delivery and take-out models;

(6) Current law prohibits business owners in the food service industry from selling and delivering certain products to their consumers;

(7) The Governor's Executive Order eliminated restrictions to allow the food service industry to sell for take-out or to deliver food purchases that included alcoholic beverages with certain limitations;

(8) This flexibility has allowed hundreds of restaurants to adapt in order to keep doors open for business and to keep employees working; and

(9) The Governor's Executive Order allowing this flexibility is temporary and could expire in the near future, leaving hundreds of business owners and thousands of employees with less income and security.

SECTION 2. Arkansas Code Title 3, Chapter 4, Subchapter 1, is amended to add an additional section to read as follows:

3-4-107. Alcoholic beverages with food purchase – Definitions.

(a) A restaurant holding a valid alcoholic beverage permit may sell alcoholic beverages in a sealed container during legal operating hours directly to a consumer twenty-one (21) years of age or older along with the purchase of a meal as defined in § 3-9-202:

(1) At the point of sale to be consumed off-premises;

(2) At the drive-through to be consumed off-premises;

(3) At the curbside to be consumed off-premises; or

(4) Delivered to a consumer at a location off-premises.

(b) A permit holder authorized to deliver alcoholic beverages under this section shall deliver the alcoholic beverages by an employee of the permit holder and not through a third-party delivery system.

(c) A permit holder authorized to deliver alcoholic beverages under this section may deliver alcoholic beverages directly to a consumer only in a wet county or area.

(d) This section does not apply to a:

(1) Private club; or

(2) Restaurant located in a dry area.

(e) A permit holder authorized to sell alcoholic beverages with the

purchase of a meal under this section is limited to the following quantities per sale:

(1) Seventy-two ounces (72 oz.) of beer, malt beverages, or hard cider, or the equivalent of one (1) standard six-pack;

(2) Seven hundred fifty milliliters (750 ml) of wine, or the equivalent of one (1) bottle; and

(3) Thirty-two ounces (32 oz.) of spirituous liquors as defined in subdivision (h)(3) of this section, or the equivalent of four (4) eight-ounce drinks.

(f) Unless authorized by local election under § 3-3-210, a permit holder shall not sell alcoholic beverages under this section on a Sunday.

(g) The Director of the Alcoholic Beverage Control Division shall adopt rules to implement and administer this section.

(h) As used in this section:

(1) "Alcoholic beverages" means beer, malt beverages, hard ciders, vinous liquors, or spirituous liquors;

(2) "Restaurant" means a public or private place that:

(A) Is kept, used, maintained, advertised, and held out to the public or to a private or restricted membership as a place where complete meals are actually and regularly served;

(B) Provides adequate and sanitary kitchen and dining equipment;

(C) Has a seating capacity of at least twenty-five (25) persons;

(D) Employs a sufficient number and variety of employees to prepare, cook, and serve suitable food for its guests or members;

(E) Serves at least one (1) meal per day; and

(F) Is open a minimum of five (5) days per week, with the exception of holidays, vacations, and periods of redecorating; and

(3)(A) "Spirituous liquors" includes mixed drinks or specialty drinks that are made by the permit holder at the premises.

(B) "Spirituous liquors" does not include unmixed spirits or spirits in the manufacturer's original containers.

SECTION 3. DO NOT CODIFY. Rules.

(a) When adopting the initial rules required under this act, the

Alcoholic Beverage Control Division shall file the final rules with the Secretary of State for adoption under § 25-15-204(f):

(1) On or before January 1, 2022; or

(2) If approval under § 10-3-309 has not occurred by January 1, 2022, as soon as practicable after approval under § 10-3-309.

(b) The division shall file the proposed rules with the Legislative Council under § 10-3-309(c) sufficiently in advance of January 1, 2022, so that the Legislative Council may consider the rules for approval before January 1, 2022.

/s/J. English

APPROVED: 4/13/21