



**State of Arkansas
Department of Finance and Administration
Fiscal Impact Statement**

Bill: HB1578

Bill Subtitle: TO ESTABLISH THE ARKANSAS HEMP BEVERAGE ACT.

Sponsors:

Pilkington

Basic Change:

HB1578 creates the Arkansas Hemp Beverage Act to provide a framework for regulation of hemp-based beverages by the Alcoholic Beverage Control Division of the Department of Finance and Administration (ABC). The bill defines "hemp-based beverage" as a liquid product for human consumption that contains hemp-derived cannabinoids, commensurate with the federal Agriculture Improvement Act of 2018. Hemp-based beverage products must not contain more than 0.3% of delta-9 tetrahydrocannabinol on a dry-weight basis and must be product-tested by an independent laboratory to verify compliance.

HB1578 authorizes ABC to:

- Issue permits to manufacturers, wholesalers, and retailers; and
- Enforce compliance through routine inspections, audits, and product testing with penalties for failure to comply including immediate stop-sale orders, confiscation, and enforcement authorities currently provided in § 3-2-201 et seq.

A manufacturer is a licensed entity authorized to manufacture hemp-based beverages. An in-state manufacturer of a hemp-based beverage must obtain a permit from ABC. An out-of-state manufacturer must hold a permit from the regulatory agency in the state in which it is based. A manufacturer must:

- Submit proof of compliance with state and federal hemp laws;
- Provide a certificate of analysis for each product batch; and
- Ensure manufacturing facilities comply with Department of Health food safety rules.

A manufacturer must place on the packaging:

- A QR code linking the product to the certificate of analysis by an independent laboratory;
- The delta-9 tetrahydrocannabinol and cannabidiol content per serving; and
- The batch number and expiration date.

A hemp-based product label cannot be attractive to children through cartoons or bright colors or resemble alcoholic beverages or candy products.

A wholesaler is a licensed entity authorized to distribute hemp-based beverages to retailers under the three-tier system for alcoholic beverages. A wholesaler must:

- Purchase from a licensed manufacturer;
- Sell products only to licensed retailers; and
- Maintain records of all transactions for inspection.



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A retailer is a licensed entity authorized to sell hemp-based beverages directly to consumers. A retailer must purchase products only from a licensed wholesaler and is prohibited from producing or distributing a hemp-based beverage. Hemp-based beverages may only be sold to individuals 21 years of age or older by a retailer. Hemp-based beverages may be sold off-premises by a retailer only if authorized by ABC.

The bill requires that ABC promulgate rules to (1) implement licensing procedures for manufacturers, wholesalers, and retailers; (2) establish standards for product testing, labeling, and advertising; and (3) establish reporting and recordkeeping requirements for licensed entities.

HB1578 creates a regulatory framework to permit, within a three tier system, those who manufacture, wholesale, or sell at retail, hemp beverages. This bill adopts the federal definition of hemp as that which "includes any part of the plant *Cannabis sativa* L. with a delta-9 tetrahydrocannabinol concentration that does not exceed three-tenths of one percent (.3%) on a dry weight basis."

Manufacturers would be required to obtain a permit from ABC and shall submit a certificate of analysis for each product batch to ensure that an independent laboratory has verified a product's compliance with delta-9 tetrahydrocannabinol and contaminant thresholds. Wholesalers would be required to obtain a permit from ABC and shall only purchase hemp beverage products from a licensed manufacturer and sell only to licensed retailers. Retailers would be required to obtain a permit from ABC to sell hemp beverages. Retailers are only allowed to buy from licensed wholesalers.

If a hemp beverage is manufactured out of state, this bill would require the product complies with all laws and rules applicable to similar beverages in the state of manufacture and must meet all standards and requirements established in Arkansas. Each product must display: a scannable QR code linking to the laboratory's certificate of analysis, the delta-9 tetrahydrocannabinol and cannabidiol content per serving, the bath number and expiration date. Labels shall not be attractive to children to resemble alcoholic beverages or candy products in a misleading way.

HB1578 requires hemp beverages are only sold to persons 21 years of age or older.

ABC Enforcement shall enforce via routine inspections, audits, and product testing and the penalties shall follow those under Title 3 of the Arkansas code. Enforcement is granted authority to confiscate noncompliant products and ABC may issue an immediate stop-sale of a noncompliant product.

HB1578 creates the "Arkansas Hemp Beverage Act." This adds a new code section to the Arkansas Alcoholic Control Act § 3-1-101 et seq. This will add Hemp-based beverages to the structure of alcoholic beverages by the Alcoholic Beverage Control Division. Hemp-based beverages will be subject to permits, who purchase and sell hemp-based beverages in the state. Manufacturers,



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wholesalers, and retailers of "Hemp-based beverages" are required to obtain permits from the Alcoholic Beverage Control Division.

"Hemp-based beverage" means a liquid product for human consumption that contains hemp-derived cannabinoids, commensurate with the Agricultural Improvement Act of 2018, Pub. L. No. 15-334. "Hemp" means the same as defined in the Agriculture Improvement Act of 2018, Pub. L. No. 15-334, and includes any part of the plant cannabis sativa L. with a delta-9 tetrahydrocannabinol concentration that does not exceed three-tenths of one percent (0.3%) on a dry-weight basis.

Fiscal Impact:

ABC would need to set the fee for the permits by rule as none are listed in the bill. ABC would be taking in additional application fees for the 3 new hemp beverage permits created here. With new regulations, come new violations, so the agency could expect to see an increase in fines paid due to creation of new possible violations.

"Hemp-based beverages" will be subject to the Arkansas Soft Drink Tax Act, § 26-57-901 et seq. There will also be increased collection of permit fees for the Arkansas Alcoholic Control Division.

Taxpayer Impact:

Arkansans who choose to purchase hemp drinks would be provided more information on its contents, and sale of these beverages would be restricted to those under the .3% threshold.

Manufacturers, wholesalers, and retailers of "Hemp-based beverages."

Resources Required:

ABC may need additional admin staff to create and process the new hemp applications. ABC may need an additional attorney to specialize in hemp law, as we currently have subject specific legal staff for alcohol, tobacco, and medical marijuana separately. Enforcement may need additional agents and auditors to track and monitor the sales of these products newly regulated in Arkansas.



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None.

Time Required:

ABC will need time to promulgate rules creating licensing procedures, standards for testing and labels, and reporting requirements for the permittees. This may take several months of research and drafting as this would be the first time hemp is regulated in Arkansas, and it is a modern and emerging industry nationwide.

None.

Procedural Changes:

ABC admin and enforcement staff would be trained on the new applications and inspection procedures for newly regulated products.

None.

Other Comments:

Some time ago, the sale of hemp was banned in Arkansas. Litigation ensued and the ban was then stayed. Right now, retailers sell hemp derived products of all kinds not just beverages. The case is ongoing in federal court.

None.

Legal Analysis:



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None.

This bill states "a retailer may sell a hemp beverage for off premises consumption if authorized by the permit issued by ABC." Though it's a little confusing, I would interpret this bill to allow the on premises consumption of hemp beverages as well as off premises sales, same as alcohol retailers. (The alternative approach would be to interpret the above quoted sentence as only allowing off premises, because on premises is never specifically allowed or mentioned in the bill- though I don't believe that is the drafter's intent). Hemp is an intoxicating substance and would likely be sold at the same on premise establishments that sell alcohol for on premise consumption. This bill is silent as to the mixing of hemp beverages with alcoholic beverages in those on premises establishments (think mixers at a bar). If the intent is to prohibit on or off premises that is not clear. It is silent as to on-premise and only states the quoted language above as to off premise.

This bill is silent as to dry counties.