

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Senator Dowd**

A Bill

SENATE BILL

For An Act To Be Entitled

8 "AN ACT TO CLASSIFY PRIVATE CLUB PERMIT HOLDERS IN THE
9 STATE OF ARKANSAS; TO PROVIDE FOR TEMPORARY MEMBERSHIPS TO
10 BE USED IN CERTAIN PRIVATE CLUBS IN ARKANSAS; TO PROVIDE
11 THAT FEES COLLECTED FROM THE SALE OF TEMPORARY MEMBERSHIP
12 CARDS FOR USE IN PRIVATE CLUBS BE PAID TO THE STATE OF
13 ARKANSAS FOR USE AS GENERAL REVENUES; TO PROVIDE THAT
14 EXISTING AND NEW PRIVATE CLUB APPLICANTS ELECT WHETHER
15 THEY WILL USE TEMPORARY MEMBERSHIP CARDS WITHIN THEIR
16 PERMITTED OPERATION; TO PROVIDE PENALTIES FOR FAILURE OF
17 THE PRIVATE CLUB TO ISSUE TEMPORARY MEMBERSHIP CARDS TO
18 PERSONS WHO ARE TEMPORARY MEMBERS OF THE ORGANIZATION; TO
19 PROVIDE A PENALTY WHEN A PRIVATE CLUB FAILS TO MAKE SURE
20 THAT TEMPORARY MEMBERS HAVE A TEMPORARY MEMBERSHIP CARD IN
21 THEIR POSSESSION WHILE IN THE PRIVATE CLUB PERMITTED
22 OUTLET; TO PROVIDE METHODS WHEREBY A PERSON IS ELECTED TO
23 MEMBERSHIP IN A PRIVATE CLUB ORGANIZATION WHICH HOLDS A
24 PRIVATE CLUB MIXED DRINK PERMIT FROM THE ABC DIVISION; AND
25 FOR OTHER PURPOSES."

Subtitle

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28 "AN ACT TO CLASSIFY AND SET RULES FOR PRIVATE CLUB PERMIT
29 HOLDERS OF THE ABC DIVISION."

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

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33 SECTION 1. Arkansas Code 3-9-221 is amended by adding the following new
34 subsections:

35 "(c) As used in this subchapter, unless the context otherwise requires:

1 (1) Private Club shall have the same meaning as defined at
2 A.C.A. §3-9-202(10).

3 (2) Member shall mean a person who has applied for and been
4 accepted for membership by a private club.

5 (3) Family Member means the spouse and minor children of a
6 member.

7 (4) Guest means a person who is not a member or a family member
8 who is within the confines of a delayed payment operation private club.

9 (5) Temporary Member means a person who has been issued a
10 temporary membership card by a contemporaneous payment operation private club.

11 (6) Temporary Membership is a provisional membership in a
12 private club organization. A temporary membership shall not have a duration
13 of more than seventy-two (72) hours from the date and time of issuance.

14 (7) Temporary Membership Card means a card sold and supplied by
15 the State Department of Revenue. The temporary membership card shall be sold
16 by the State Department of Revenue for a price of one dollar and seventy-five
17 cents (\$1.75) each and may only be purchased by contemporaneous payment
18 operation private club permit holders that have a current and valid permit
19 issued by the ABC Division. The temporary membership card shall have a space
20 for the name of the private club to be filled in by the private club and shall
21 indicate the date and time of issuance by the private club to the temporary
22 member. The private club may resell the temporary membership cards for a
23 price not to exceed two dollars (\$2.00). If a private club elects to do so it
24 may furnish the temporary membership cards to its temporary members for free.

25 (8) Delayed Payment Operation means that a private club bills
26 its members to receive payment for the dispensing of alcoholic beverages that
27 are served within the private club. A delayed payment operation club will
28 only allow a member of the club to have charges placed for alcoholic beverages
29 placed upon his membership account and shall render a bill to the member by
30 mail, in the calendar month following the month of the alcoholic beverage
31 service.

32 (9) Contemporaneous Payment Operation Club shall mean a private
33 club organization which accepts payment by cash, personal check dated the same
34 day as the transaction or nationally recognized credit card at the time the
35 alcoholic beverages are dispensed to members and temporary members inside the

1 private club space. No contemporaneous payment operation private club shall
2 bill or shall charge for the dispensing of any alcoholic beverages within the
3 confines of the private club.

4 (d) All private club permitted organizations holding a permit from the
5 ABC Division on July 1, 1993, shall elect to be either a delayed payment
6 operation private club or a contemporaneous payment operation private club,
7 and shall give notice to the ABC Division of said election on or before that
8 date. Any private club organization making application for a private club
9 permit on or after May 1, 1993, shall make an election in their application
10 materials filed with the ABC Division as to whether they desire to be a
11 delayed payment operation private club or a contemporaneous payment operation
12 private club. The election shall be binding for the life of the permit.

13 (e) The only persons who shall be inside a delayed payment operation
14 private club are persons who are members, a family member, or their guests.
15 Services and charges for the dispensing of alcoholic beverages in a delayed
16 payment operation club shall be billed to the member_s account number.
17 Payment shall be made after the private club has rendered a bill by mail to
18 the member in the month following the month in which the alcoholic beverages
19 were dispensed.

20 (f) The only persons who shall be allowed in a contemporaneous payment
21 operation private club are members and temporary members. There shall be no
22 guest status recognized inside a contemporaneous payment operation private
23 club. Contemporaneous payment operation private clubs shall be authorized to
24 issue temporary membership cards to persons who have not been elected to
25 regular membership status. The temporary membership cards shall be good for a
26 period not to exceed seventy-two (72) hours from the date and time of issue.
27 The temporary membership cards shall plainly show on the face the date and
28 time of issuance of the same.

29 (g) The Arkansas Department of Revenue shall design and prepare
30 temporary membership cards for sale to private club permitted organizations
31 licensed by the ABC Division. Prior to making a sale of temporary memberships
32 to a private club the Revenue Department must determine that the private club
33 organization is a contemporaneous payment operation private club and that they
34 are in good standing with the ABC Division and that they are current in their
35 tax obligations to the State of Arkansas. The temporary membership card shall

1 be sold by the Arkansas State Department of Revenue for a price of one dollar
2 and seventy-five cents (\$1.75) per card and the revenues gained from sales of
3 such temporary membership cards to private club organizations shall be
4 remitted to the State Treasury as General Revenues. The cards shall be
5 tamper-proof. The face of the card shall have a space for the name of the
6 private club organization and shall also have a space for the private club to
7 indicate the date and time the temporary membership card was issued. The
8 temporary membership card shall disclose that the temporary membership card
9 expires seventy-two (72) hours after issuance.

10 (h) If it shall be found that any contemporaneous payment operation
11 private club has allowed any person inside the confines of the private club
12 other than a member or temporary member, with the exceptions of employees,
13 then the same shall be determined to be a class B violation against the
14 private club permit and punishment may be levied pursuant to A.C.A. 3-4-401,
15 et seq.

16 (i) If it shall be found that the contemporaneous payment operation
17 private club organization has allowed persons inside the private club to
18 possess or have temporary membership cards in which the date and time of
19 issuance has not been placed by the private club organization, then the same
20 shall be considered to be a class B violation against the permit and
21 punishment may be levied pursuant to A.C.A. 3-4-401, et seq.

22 (j) Temporary members of the contemporaneous payment operation private
23 club organization shall have their private club membership cards in their
24 possession when they are on the private club permitted property. Persons who
25 are members of the private club organization shall have their membership
26 status proven by club records maintained at the club property or by having
27 their private club membership cards in their possession when they are on the
28 permitted premises. Failure by any contemporaneous payment operation private
29 club to insure that all persons within the club premises, with the exception
30 of employees, maintain proof of their status on the premises in accordance
31 with these provisions shall constitute a Class C violation and punishment may
32 be levied pursuant to A.C.A. 3-4-401, et seq.

33 (k) No person shall be considered to be a member, as defined in A.C.A.
34 3-9-221 (c) (2), of either a contemporaneous payment operation private club or
35 a delayed payment operation private club unless they have made written

1 application to become a member of said club and have been approved for
2 membership by the appropriate body of the private club organization.
3 Membership applications shall be in writing and election to club membership
4 status shall be shown by minutes kept by the membership committee organization
5 of the private club and as evidenced by issuance of a regular membership card
6 to the member. Additional membership cards may be issued to persons who are
7 family members. All members, other than charter members, shall be approved by
8 at least a two-thirds majority of the members of the membership committee
9 present at a meeting of such committee. However, in no event shall an
10 individual be approved for membership by less than three (3) members of the
11 membership committee at a meeting of such committee."

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13 SECTION 2. All provisions of this act of a general and permanent
14 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
15 Code Revision Commission shall incorporate the same in the Code.

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17 SECTION 3. If any provision of this act or the application thereof to
18 any person or circumstance is held invalid, such invalidity shall not affect
19 other provisions or applications of the act which can be given effect without
20 the invalid provision or application, and to this end the provisions of this
21 act are declared to be severable.

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23 SECTION 4. All laws and parts of laws in conflict with this act are
24 hereby repealed.

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26 SECTION 5. EMERGENCY. It is hereby found and determined by the General
27 Assembly that it is necessary that improved regulation and control of private
28 club permitted organizations is highly desirable, that by creating a temporary
29 membership classification and creating a charge for the same that revenues of
30 the state of Arkansas will be enhanced and that the general welfare of the
31 public will be promoted by the same, and that since the state operates on a
32 fiscal year beginning July 1 that it is imperative that this law be given
33 effect at once in order that the provisions of the same coincide to the fiscal
34 year beginning July 1, 1993. Therefore, an emergency is hereby declared to
35 exist and this act being necessary for the immediate preservation of the

1 public peace, health and safety shall be in full force and effect from and
2 after its passage and approval.

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