

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas *As Engrossed: H2/19/13 H2/26/13 H3/11/13*
89th General Assembly **A Bill**
Regular Session, 2013

HOUSE BILL 1387

By: Representatives Payton, Miller, Alexander, Ballinger, Biviano, Clemmer, Dale, Davis, Deffenbaugh, Dotson, Fite, Gossage, Hammer, Harris, Hobbs, Lea, Lowery, D. Meeks, S. Meeks, Rice, Scott, Westerman, Womack, *Cozart, D. Douglas, Wren*
By: Senator E. Williams

For An Act To Be Entitled

AN ACT TO REQUIRE A PRIVATE CLUB PERMIT APPLICANT IN
A DRY TERRITORY TO OBTAIN THE APPROVAL OF THE CITY OR
COUNTY GOVERNING BODY; AND FOR OTHER PURPOSES.

Subtitle

TO REQUIRE A PRIVATE CLUB PERMIT
APPLICANT IN A DRY TERRITORY TO OBTAIN
THE APPROVAL OF THE CITY OR COUNTY
GOVERNING BODY.

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

SECTION 1. Arkansas Code § 3-9-222, concerning the issuance of a private club permit in a dry territory, is amended to add an additional subsection to read as follows:

(g)(1) As used in this section, "dry territory" means a county, township, municipality, ward, or precinct of the state that voted to prohibit the manufacture or sale of intoxicating liquor under §§ 3-8-201 – 3-8-203 and 3-8-205 – 3-8-209 or §§ 3-8-302 – 3-8-306.

(2)(A) An applicant for a private club permit in a dry territory under this section shall submit with the application:

(i) A resolution from the city governing body authorizing the applicant to apply for a permit when the premises for which the permit is to be issued are within the city limits;



(ii) A resolution from the county quorum court authorizing the applicant to apply for a permit when the premises for which the permit is to be issued are outside a city but within the county; or

(iii)(a) An affidavit of the applicant that the city governing body or county quorum court has not made a finding of fact under subdivision (g)(2)(C) of this section within sixty (60) days of the applicant's petition.

(b) A copy of the applicant's petition to the city governing body or county quorum court shall be attached to the applicant's affidavit.

(B)(i) A city with a population greater than twenty-three thousand (23,000) is not required to submit a resolution under subdivision (g)(2)(A) of this section.

(ii) Population of a city shall be determined by the most recent population figures established in a census by the Census Bureau of the United States Department of Commerce.

(C) A city governing body or quorum court may make a finding of fact concerning each item listed in subdivision (g)(2)(D) of this section in support of its:

(i) Determination that a resolution authorizing the applicant to apply for a private club permit would serve public convenience and advantage; or

(ii) Refusal to issue a resolution authorizing the applicant to apply for a private club permit because the private club would not serve public convenience and advantage.

(D) When making a finding of fact under subdivision (g)(2)(C) of this section, the city governing body or county quorum court shall:

(i) Consider each request for a resolution on an individual basis; and

(ii) Include in its determination a consideration of the following factors:

(a) The number of private clubs currently in the dry territory;

(b) The likelihood of increased traffic or traffic accidents at the requested location of the private club;

(c) The number and types of alcoholic beverage permits within one-fourth (1/4) of a mile from the requested location of the private club;

(d) The estimated economic impact of the requested private club;

(e) The amount of available law enforcement to serve the private club and the residents of the dry territory;

(f) The input of local law enforcement concerning the effect on public peace of the requested private club; and

(g) Comments by the public concerning the requested private club.

(E)(i) A de novo appeal of a final determination of the city governing body or the quorum court to refuse to issue a resolution may be made within thirty (30) days from the date of the denial to the circuit court of the county in which the private club would be located.

(ii) The appeal shall be made under the same procedure as an appeal in a civil action from a decision of an inferior court.

(iii) The circuit court shall make a finding of fact concerning each item listed in subdivision (g)(2)(D) of this section.

(iv) If the circuit court determines that the private club would serve the public convenience and advantage, it shall issue an order authorizing the applicant to apply for a private club permit.

(3) The director shall not accept an application under this section that does not meet the requirements of subdivision (g)(2) of this section.

/s/Payton