

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

State of Arkansas
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As Engrossed: S3/8/13 H3/26/13
A Bill

SENATE BILL 374

By: Senators J. English, L. Chesterfield, J. Hutchinson, D. Johnson, Elliott
By: Representatives Williams, Perry, Julian, E. Armstrong, Sabin, Davis, *J. Edwards*

For An Act To Be Entitled

AN ACT TO AMEND THE ALCOHOLIC BEVERAGE LAW CONCERNING LOCAL OPTION ELECTIONS FOR A TERRITORIAL SUBDIVISION THAT IS LOCATED IN A WET COUNTY AND WAS VOTED DRY BY A DEFUNCT VOTING DISTRICT THAT RESULTED FROM INITIATED ACT 1 OF 1942; *TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.*

Subtitle

TO AMEND THE ALCOHOLIC BEVERAGE LAW CONCERNING LOCAL OPTION ELECTIONS FOR A TERRITORIAL SUBDIVISION THAT IS LOCATED IN A WET COUNTY AND WAS VOTED DRY BY A DEFUNCT VOTING DISTRICT FROM INITIATED ACT 1 OF 1942, *AND DECLARE AN EMERGENCY.*

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

SECTION 1. Arkansas Code Title 3, Chapter 8, is amended to add an additional subchapter to read as follows:

3-8-601. Definitions.

As used in this subchapter:

(1) "Beer" means a fermented liquor made from malt or a malt substitute and containing not more than five percent (5%) alcohol by weight;

(2) "Defunct voting district" means a voting district that:

(A) Existed at the time its qualified voters voted to be dry;



(B) Is no longer recognized by the state or the county in which it was located; and

(C) Is currently located in a wet county;

(2) "Dry" means a county or territorial subdivision that voted to prohibit the manufacture or sale of intoxicating liquor under Initiated Act No. 1 of 1942, as amended, §§ 3-8-201 – 3-8-203 and 3-8-205 – 3-8-209, or §§ 3-8-302 – 3-8-306;

(4) "Malt beverage" means a liquor brewed from the fermented juices of grain and having an alcoholic content of not less than five percent (5%) and not more than twenty-one percent (21%) of alcohol by weight;

(5) "Spirituous liquor" means a liquor distilled from the fermented juices of grain, fruits, or vegetables and containing more than twenty-one percent (21%) alcohol by weight or any other liquids containing more than twenty-one percent (21%) alcohol by weight;

(6) "Territorial subdivision" means a township, municipality, ward, or precinct of a county of the state;

(7) "Vinous beverage" means the fermented juices of fruits or a mixture containing the fermented juices of fruits containing more than five percent (5%) and not more than twenty-one percent (21%) alcohol by weight;

(8) "Voting district" means a geographical area of qualified voters of a county in this state; and

(9) "Wet" means a county or territorial subdivision that voted to permit the manufacture or sale of intoxicating liquor under Initiated Act No. 1 of 1942, as amended, §§ 3-8-201 – 3-8-203 and 3-8-205 – 3-8-209, or §§ 3-8-302 – 3-8-306.

3-8-602. Local option election – Defunct voting district.

(a)(1) Under subsection (b) of this section, an area within the boundaries of a defunct voting district may conduct an election to permit the manufacture and sale of alcoholic beverages identified in subdivision (a)(2) of this section.

(2) The manufacture and sale of alcoholic beverages under this section shall be limited to:

(A) Beer and vinous beverages for off-premises consumption; and

(B) Beer, malt beverages, vinous beverages, and spirituous

liquor for on-premises consumption.

(b) An election for an area within the boundaries of a defunct voting district to permit the manufacture and sale of the alcoholic beverages identified in subdivision (a)(2) of this section shall be held as follows:

(1)(A) A registered voter who resides in a county that contains a defunct voting district may request in writing that the county board of election commissioners issue a resolution to identify the boundaries of a territorial subdivision located in a defunct voting district in which qualified voters may reside.

(B) The county board of election commissioners shall issue a resolution within thirty (30) days.

(C) The resolution shall identify the:

(i) Territorial subdivisions that are located wholly or partially within borders of any defunct voting districts in the county;

(ii) Formal and informal name or designation of any defunct voting districts in the county as of the last date the defunct voting district held the election resulting in its dry status;

(iii) Date on which any defunct voting district held the last local option election that resulted in the defunct voting district becoming dry; and

(iv)(a) Boundaries of any defunct voting district at the time of the last local option election that resulted in the defunct voting district becoming dry.

(b) The boundaries of the defunct voting district shall be based on state, county, or municipal records or other records publicly identified in the resolution.

(D) The resolution shall include a map of the boundaries of the defunct voting district from which qualified electors residing within the defunct voting district can be identified and verified for purposes of obtaining signatures and conducting the local option election.

(E) In preparing the resolution and the map, the county board of election commissioners may consult with the county clerk, the state board of election commissioners, the Secretary of State or any other entity able to provide assistance in confirming the data and preparing the map required by subdivision (b)(1)(D) of this section and the precise boundaries of the defunct voting district.

(F) The resolution shall be filed with the county clerk and published once a week for two weeks as soon as practicable in a newspaper of general circulation in the county.

(2)(A) The petition procedure for a local option election for a defunct voting district shall be conducted pursuant to § 3-8-201 et seq.; and

(B) The signatures required under §§ 3-8-204 – 3-8-205 for any defunct voting district shall be obtained from qualified electors residing within the boundaries of a defunct voting district, as identified by the resolution and corresponding map.

(3)(A)(i) The election process for a special local option election for a defunct voting district shall be conducted pursuant to § 3-8-201 et seq.

(ii) The county clerk shall issue a resolution calling for a special local option election for a defunct voting district for which the requisite number of signatures has been certified under subdivision (b)(2) of this section when:

(a) The requisite number of qualified electors sign petitions filed with the county clerk; and

(b) The county clerk certifies those signatures to the county board of election commissioners.

(iii) The resolution calling the special local option election shall be filed with the county clerk, and the county clerk shall immediately transmit the document to the county board of election commissioners.

(iv) The resolution calling the special local option election shall state:

(a) The date of the special election;

(b) The full text of the measure for which the election is called; and

(c) The ballot title for the measure for which the special local option election is called.

(v) The county board shall publish the resolution calling the special option election once a week for two weeks as soon as practicable in a newspaper of general circulation in the county.

(B) The ballot title shall be in substantially the following form: "TO DETERMINE WHETHER OR NOT ALCOHOLIC BEVERAGES MAY BE SOLD

OR MANUFACTURED AS AUTHORIZED BY ARKANSAS CODE § 3-8-602 WITHIN (popular name of the defunct voting district)”

(C) The ballot shall be in substantially the following form:

“[] FOR the Sale of Alcoholic Beverages, As Authorized by Arkansas Code § 3-8-602.

[] AGAINST the Sale of Alcoholic Beverages, As Authorized by Arkansas Code § 3-8-602.”

(D) The special local option election shall be called on a Tuesday and shall not be held less than sixty (60) days following the date the resolution calling the special election is filed with the county clerk.

(E) The map of the defunct voting district created by the county board of election commissioners shall be placed at each polling site.

(F) A majority vote of the qualified electors residing within the boundaries of the defunct voting district shall determine whether or not alcoholic beverages may be sold or manufactured under subdivision (a)(2) of this section within the boundaries of the defunct voting district.

(4) The precincts and polling sites to be utilized for conducting elections under this section shall be established by the county board of election commissioners.

(c) If a defunct voting district is located entirely within the boundaries of a larger defunct voting district, a vote shall be held only for the larger defunct voting district.

(d)(1) If two (2) defunct voting districts overlap, then the overlapping area will only be included in the boundaries of the defunct voting district that first held the local option election that resulted in its dry status to determine whether or not alcoholic beverages may be sold or manufactured under subdivision (a)(2) of this section.

(2)(A) The local option elections for more than one defunct voting district may be held simultaneously or on different dates.

(B) If local option elections for more than one (1) defunct voting district are held on the same date, the majority vote of all the voters residing within the boundaries of the defunct voting district shall determine the local option status of only the geographic area located within the boundaries of that particular defunct voting district.

(e) If the majority of the qualified voters in the special local

option election vote:

(1) For the sale or manufacture of alcoholic beverages as described under subdivision (a)(2) of this section, then it shall be lawful for the Director of the Alcoholic Beverage Control Division to issue the relevant licenses or permits within the defunct voting district immediately after the certification of the results of an election permitting the sale or manufacture of alcoholic beverages under this section, as required by § 3-8-206; or

(2) Against the sale or manufacture of alcoholic beverages as described under subdivision (a)(2) of this section, then it shall be unlawful for the division to issue licenses or permits for such sale or manufacture within the defunct voting district.

(f) A subsequent election under this section shall not be held in the same defunct voting district until a period of two (2) years has elapsed since the last special local option election conducted under this section.

(g) The cost of a local option election under this section shall be paid by the county in the same manner as the cost of a general election, or in any other manner as properly determined by the quorum court.

(h)(1) The boundaries of a defunct voting district as identified by the county board of election commissioners under subsection (b)(1) of this section shall be deemed final and valid unless clearly erroneous or arbitrary.

(2) Any challenge to or appeal of the boundaries established by the resolution of the county board of election commissioners shall be made to the county court within eleven (11) days of the first publication of the resolution described in subdivision (b)(1)(F) of this section.

(i) To the extent any of the provisions of this section conflict with §§ 3-8-201 et seq., the provisions of this section control.

SECTION 2. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the ability of a territorial subdivision located in a defunct voting district to permit the sale of alcoholic beverages would improve the economic status of local businesses. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/J. English