

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

State of Arkansas  
90th General Assembly  
Regular Session, 2015

As Engrossed: H1/15/15 H2/3/15  
**A Bill**

HOUSE BILL 1024

By: Representative Broadway

### **For An Act To Be Entitled**

AN ACT TO INCREASE THE POPULATION LIMITATION FOR THE  
ISSUANCE OF LIQUOR PERMITS; TO REPEAL THE EXCEPTIONS  
TO THE POPULATION LIMITATION; TO CLARIFY THE LAW  
REGARDING THE DISTANCE BETWEEN LIQUOR PERMITEES AND  
*CHURCHES AND SCHOOLS; TO DECLARE AN EMERGENCY; AND  
FOR OTHER PURPOSES.*

### **Subtitle**

TO AMEND THE RULE FOR THE ISSUANCE OF  
LIQUOR PERMITS; TO CLARIFY PERMITTED  
DISTANCES BETWEEN LIQUOR STORES,  
*CHURCHES, AND SCHOOLS; AND TO DECLARE AN  
EMERGENCY.*

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

SECTION 1. Arkansas Code § 3-4-201(c) and (d), concerning restrictions on the number of permits the Alcoholic Beverage Control Board may issue, is amended to read as follows:

(c) The board has the discretion to determine the number of permits to be granted in each county of this state or within the corporate limits of any municipality of this state and to determine the location and the persons to whom the permits shall be issued, under the following conditions:

(1)(A) The number of permits allowing the off-premises sale of vinous (except small farm wines), spirituous, or malt liquor in a county or political subdivision of the county which permits the sale shall not exceed a ratio of one (1) permit for every ~~five thousand (5,000)~~ seven thousand five



hundred (7,500) population residing in that county or political subdivision of the county.

(B) Population of the county or political subdivision of the county shall:

(i) Be determined according to the most recent federal decennial census; and

(ii) Count all residents of the county or political subdivision of the county, including without limitation the residents of a dry political subdivision of a county; and

(2) A new permit that is issued in a county or political subdivision following the most recent federal decennial census shall be issued under the following restrictions:

(A) Additional permits may be issued on a ratio of one (1) for every additional ~~five thousand (5,000)~~ seven thousand five hundred (7,500) population within the county or political subdivision of the county;

(B)(i) A qualified applicant may apply for a permit.

(ii) Qualifications are to be set by the board and its determination of the public convenience and advantage;

(3)(A) If it is determined that a county or political subdivision of the county is entitled to additional permits when warranted by the most recent federal decennial census, the board will announce before the last date for applications the number of new permits, if any, which may be issued in the county or political subdivision of the county.

(B) In the event that the most recent federal decennial census population figures decline in a county or political subdivision of the county:

(i) Existing permits shall not be cancelled or revoked for the decline in population;

(ii) The quota ratio shall not be applied to the county or political subdivision of the county until the population in the county or political subdivision of the county reaches a number equaling one (1) permit to every ~~five thousand (5,000)~~ seven thousand five hundred (7,500) population; and

(iii) A new permit shall not be issued in the county or political subdivision of the county until the population warrants.

(C) A transfer of locations from one county to another

county is not allowed.

(D) If a holder of a permit for the sale of vinous, ~~except small farm wines~~, spirituous, or malt liquor surrenders the permit in a county or political subdivision of the county where the ratio no longer meets the ~~one-to-five-thousand-population~~ one-to-seven-thousand-five-hundred-population requirement, new applications will not be accepted until that *ratio is reestablished at a subsequent federal decennial census*;

(4)(A)(i) If a permit holder does not conduct business under a permit issued for a period of more than thirty (30) days, the permit shall be surrendered to the Director of the Alcoholic Beverage Control Division and shall be placed on inactive status.

(ii) The permit may remain inactive for six (6) months or until the permit holder notifies the director that he or she is ready to resume business, whichever is longer.

(B) To secure the return of the permit, the permit holder shall file with the director a written statement showing:

(i) That all taxes and fees owing to the state have been paid;

(ii) The reason for the suspension of business activities; and

(iii) The date business activity will resume.

(C)(i) The permit holder may petition the board for an extension of inactive status for an additional six-month period.

(ii) The board may grant an initial extension upon a showing by the permit holder and a finding by the board that:

(a) Business circumstances exist to justify an extension;

(b) The delay to return to business was not due to mere deferral or inattention on the part of the permit holder; and

(c) The inactive status should be extended.

(iii)(a) The permit holder may appeal to the board for a second extension of inactive status for an additional six-month period, but only upon a showing by the permit holder and a finding by the board that emergency circumstances exist to justify a final extension.

(b) "Emergency circumstances" are those delays in return to business which are beyond the control, planning, or foresight of

the permit holder, including without limitation, a:

- (1) Delay due to a natural disaster;
- (2) Pending court action;
- (3) Building construction problem; ~~and~~

or

- (4) Contested insurance claim.

(D) A permit remaining on inactive status for a period of more than eighteen (18) months or which has not been granted an extension *under this subdivision shall expire; and*

*(5)(A) This section and §§ 3-4-202 and 3-4-208, except a permit on inactive status for more than eighteen (18) months after the provisions of subdivision (c)(4) of this section become effective or which has expired in accordance with subdivision (c)(4) of this section, do not divest any permit holder holding the permit on July 1, 1991, regardless of the quota ratio, of his or her permit.*

*(B) In a county or political subdivision of the county which has a ratio lower than the permit quota ratio of one-to-five-thousand-population, the permit holder shall be allowed to continue under subdivision (a)(3)(B) of this section.*

~~(d) This section shall apply only to applications for permits to dispense vinous (except small farm wines), spirituous, or malt liquor filed with the board after July 1, 1991.~~

SECTION 2. Arkansas Code § 3-4-206 is amended to read as follows:

3-4-206. Operation of retail liquor business near church or schoolhouse prohibited.

(a) No new permit to engage in the retail liquor business in this state shall be issued by the Director of the Alcoholic Beverage Control Division for the location of any business situated within ~~two hundred (200) yards~~ one thousand feet (1,000') of any church or schoolhouse.

~~(b) However, after August 13, 2001:~~

~~(1) No new permit to engage in the retail liquor business in this state may be issued by the director for the location of any business situated within one thousand feet (1,000') of any church or schoolhouse; and~~

~~(2)(A)(b)~~ No existing permit to engage in the retail liquor business in this state may be transferred to a location within one thousand feet

(1,000') of any church or schoolhouse.

~~(B) As an exception to subdivision (b)(2)(A) of this section, if any retail liquor business in this state already exists within one thousand feet (1,000') of one (1) or more churches or schoolhouses, then that same retail liquor store may be allowed to transfer to a new location that is within one thousand feet (1,000') of the closest church or schoolhouse to the present liquor store location if the new location is determined by the Alcoholic Beverage Control Division to serve the public convenience and advantage.~~

/s/Broadaway