

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: S3/17/15
A Bill

SENATE BILL 771

By: Senator J. Hutchinson

For An Act To Be Entitled

AN ACT TO ESTABLISH A RETAIL OFF-PREMISES PERMIT FOR THE SALE OF WINE AT GROCERY STORES; TO PROVIDE ADDITIONAL GRANT FUNDS TO SUPPORT ARKANSAS WINE PRODUCTION AND TO PROVIDE ECONOMIC STIMULUS TO THE FRUIT GROWERS IN THE STATE BY EXPANDING THE ELIGIBILITY OF FRUIT GROWERS IN THIS STATE TO RECEIVE GRANT FUNDS; AND FOR OTHER PURPOSES.

Subtitle

TO ESTABLISH A RETAIL OFF-PREMISES PERMIT FOR THE SALE OF WINE AT GROCERY STORES AND TO PROVIDE ECONOMIC STIMULUS TO *THE WINE PRODUCERS AND THE FRUIT GROWERS* IN THE STATE.

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

SECTION 1. Arkansas Code § 3-5-904 is amended to read as follows:
3-5-904. Eligibility.

(a) ~~Only~~ Except as provided in subsection (c) of this section, only those wineries actively involved in the sale of wine as an Arkansas-bonded winery for five (5) years or that have a federal license and are licensed by the State of Arkansas as of January 1, 2003, shall be eligible to receive grants under the provisions of this subchapter.

(b) ~~Only~~ Except as provided in subsection (c) of this section, only those wineries located in this state which use not less than seventy-five percent (75%) of Arkansas-grown and Arkansas-produced grapes, fruits,



berries, or vegetables for producing wine shall be eligible to receive grants under the provisions of this subchapter.

(c) Only a grower having at least twenty (20) acres of land in Arkansas cultivated for the production of grapes, fruits, berries, or vegetables that is actually sold to or used by wineries actively involved in the sale of wine as an Arkansas-bonded winery is eligible to receive grants under this subchapter.

~~(e)(d)~~ However, in any year in which there are losses in production of Arkansas-grown grapes, fruits, berries, or vegetables used in the production of wine resulting from droughts, floods, tornadoes, extreme weather conditions, or other natural causes, the percentage of Arkansas-grown and Arkansas-produced grapes, fruits, berries, or vegetables used in producing wine, as required in this subchapter, shall be reduced in the proportion of the losses in production of the products as determined and set forth in a disaster relief order issued by the Director of the Department of Finance and Administration prepared under the same procedures as set forth in ~~the Native Wine Industry Disaster Relief Act, §§ 3-5-405 and § 3-5-801 et seq.~~

SECTION 2. Arkansas Code § 3-5-905 is amended to read as follows:
3-5-905. Applications.

Any winery or grower in this state that produces wine from grapes, fruits, berries, or vegetables grown in this state and complies with the provisions of § 3-5-904, that desires to receive the grants authorized in this subchapter with respect to the purchase of such products or with respect to such products produced in vineyards or of other growing facilities in this state belonging to the winery, may make application for grant payments under this subchapter upon forms and in accordance with the rules and regulations promulgated by the Director of the Department of Finance and Administration.

SECTION 3. Arkansas Code § 3-5-906 is amended to read as follows:
3-5-906. Records.

(a) Any winery seeking grant payments under the provisions of this subchapter shall keep records to establish the quantities of grapes, fruits, berries, or vegetables grown in this state purchased or produced by the winery and used in the making of wine.

(b) A grower seeking grant payments under this subchapter shall keep

records to establish the quantities of grapes, fruits, berries, or vegetables grown in this state and sold to a winery as provided in § 3-5-904.

~~(b)~~(c)(1) The records shall include weight receipts for grapes, fruits, berries, or vegetables used in wine-making, together with proof of purchase of the grapes, fruits, berries, or vegetables from Arkansas producers, or proof of production of the grapes, fruits, berries, or vegetables in production facilities belonging to the winery, a copy of which shall accompany a request for grant payments under this subchapter.

(2) Proof of purchase shall consist of a copy of a sales and weight receipt indicating the Arkansas grower's name and address from whom purchased or indicating the weight of the products produced from production facilities belonging to the winery.

(3) All weights shall be made upon scales inspected and certified by the Bureau of Standards of the State Plant Board.

SECTION 4. Arkansas Code § 3-5-907 is amended to read as follows:

3-5-907. Payments – Amount.

(a) Grant payments as authorized in this subchapter shall be made by the Director of the Department of Finance and Administration from moneys appropriated by the General Assembly for that purpose at each regular session and fiscal session of the General Assembly.

(b) ~~Grant~~ Except for grant funds received under § 3-5-1802, grant funds awarded shall be distributed equally to each winery at a base amount not to exceed twenty-five thousand dollars (\$25,000), with any remaining balance of the grant to be divided among each grantee according to the same ratio as the wine taxes paid in the previous calendar year by the grantee, as determined by the Chief Fiscal Officer of the State.

(c) Grant funds received under § 3-5-1802 shall be divided among each grantee according to the same ratio as the wine taxes paid in the previous calendar year by the grantee as determined by the Chief Fiscal Officer of the State.

~~(e)~~(d) Applications for grants shall be submitted to the Chief Fiscal Officer of the State on or by the 15th of June.

SECTION 5. Arkansas Code Title 3, Chapter 5, is amended to add an additional subchapter to read as follows:

Subchapter 18 – Wine Sales in Grocery Stores

3-5-1801. Definitions.

As used in this subchapter:

(1) "Grocery store" means a retail store or supermarket located in a wet territory dedicating at least ten thousand square feet (10,000 sq. ft.) of showroom floor area to the sale of groceries, including the aisle space adjacent to any shelving or display case used for the display of groceries; and

(2) "Wine" means port wine, sherry wine, vermouth wine, or other wines, the alcoholic content of which does not exceed twenty-one percent (21%) regardless of whether the wines are manufactured within or without the State of Arkansas.

3-5-1802. Grocery store wine permit.

(a) A grocery store may apply to the Alcoholic Beverage Control Board for a grocery store wine permit.

(b) A grocery store wine permit shall allow a permittee to sell wine for off-premises consumption.

(c) A grocery store seeking a grocery store wine permit shall meet the criteria for the holder of an off-premises retail beer permit in addition to the criteria of this section.

(d)(1) For the privilege of selling wine in a grocery store, there shall be paid for each grocery store wine permit a fee based on the size of the permitted building space.

(2) The fee shall be one thousand dollars (\$1,000) for a permitted building space containing less than thirty-five thousand one square feet (35,001 sq. ft.);

(3) The fee shall be two thousand five hundred dollars (\$2,500) for a permitted building space containing between thirty-five thousand one square feet (35,001 sq. ft.) and fifty thousand square feet (50,000 sq. ft.);

(4) The fee shall be three thousand five hundred dollars (\$3,500) for a permitted building space containing between fifty thousand one square feet (50,001 sq. ft.) and seventy-five thousand square feet (75,000 sq. ft.);

(5) The fee shall be five thousand dollars (\$5,000) for a

permitted building space containing more than seventy-five thousand square feet (75,000 sq. ft.).

(e)(1) The first one hundred dollars (\$100) of each fee collected under subsection (d) of this section shall be retained by the Alcoholic Beverage Control Division.

(2) The balance of the fee shall be paid into the Arkansas Agricultural Marketing Grants Fund under § 3-5-901 et seq.

(f) A grocery store wine permittee may conduct tasting events for educational and promotional purposes on the permittee's premises after obtaining a sampling permit from the division under § 3-5-104(f).

(g) A grocery store wine permittee may derive no more than thirty-five percent (35%) of its gross sales from the sale of vehicle fuels.

(h) A grocery store wine permittee may derive no more than twenty percent (20%) of its gross sales from the sale of alcoholic beverages.

(i) A grocery store wine permittee shall offer for sale small farm wine as defined in § 3-5-1601 et seq.

SECTION 6. DO NOT CODIFY. Uncodified Section 4 of Act 668 of 2007 is repealed.

~~SECTION 4. NOT TO BE CODIFIED. In the event that this act, or any part thereof, is determined by a court to be unconstitutional, this act shall become void and all wines, including native wines, distributed for sale in the State of Arkansas shall be distributed under § 3-2-401 et seq. and sold by licensed retailers under § 3-4-201 et seq.~~

/s/J. Hutchinson