

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

State of Arkansas  
91st General Assembly  
Regular Session, 2017

As Engrossed: H1/31/17  
**A Bill**

HOUSE BILL 1272

By: Representative G. Hodges

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

AN ACT TO CLARIFY THE LAW REGARDING PRODUCTION CAPACITIES OF MICROBREWERY RESTAURANTS; TO ALLOW TRANSPORTATION OF IN-HOUSE PRODUCTS BETWEEN COMMONLY OWNED MICROBREWERIES AND BREWERIES THAT OWN MICROBREWERIES; AND FOR OTHER PURPOSES.

### **Subtitle**

TO CLARIFY THE LAW REGARDING PRODUCTION CAPACITIES OF MICROBREWERY RESTAURANTS; TO ALLOW TRANSPORTATION OF IN-HOUSE PRODUCTS BETWEEN COMMONLY OWNED MICROBREWERIES AND BREWERIES THAT OWN MICROBREWERIES.

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

SECTION 1. Arkansas Code § 3-5-1204(a), concerning licenses for microbrewery restaurants, is amended to read as follows:

(a) The Director of the Alcoholic Beverage Control Division may issue a microbrewery-restaurant license which shall authorize the licensee to do the following:

(1)(A) To:

(i) Operate a microbrewery which *shall* manufacture one (1) or more varieties of beer, malt beverage, or hard cider in an aggregate quantity not to exceed ~~twenty thousand (20,000)~~ forty-five thousand thousand (45,000) barrels per year from all facilities under common ownership with the microbrewery; and



(ii) Store the manufactured beer, malt beverage, or hard cider and any other beer, malt beverage, or hard cider which the microbrewery-restaurant licensee may purchase from wholesalers and small brewers licensed by this state on the microbrewery-restaurant licensed premises and on the premises of the one (1) separate brewing facility of a microbrewery-restaurant authorized under subdivision (a)(9) of this section.

(B) Two (2) or more microbrewery-restaurants sharing common ownership or a brewery of any size sharing common ownership with a microbrewery-restaurant shall be considered one (1) entity for purposes of;  
(i) calculating Calculating barrel production; and  
(ii) Transportation of beer, malt beverage, or hard cider produced by one (1) entity among no more than three (3) microbrewery-restaurant facilities of the one (1) entity;

(2) To operate a restaurant which shall be the sales outlet for beer, malt beverage, or hard cider manufactured by the microbrewery and which shall sell the beer, malt beverage, or hard cider and any other beer, malt beverage, hard cider, or wine which the microbrewery-restaurant licensee may purchase from wholesalers licensed by this state for consumption on the licensed premises or purchased directly from licensed small brewers allowed to distribute directly to the microbrewery-restaurant;

(3)(A) To sell on the premises beer, malt beverage, or hard cider manufactured by the microbrewery or commonly owned facility in brewery-sealed packages at retail directly to the consumer for off-premises consumption on any day of the week; and

(B) To serve on the premises complimentary samples of beer, malt beverages, or hard cider produced by the microbrewery-restaurant;

(4)(A) To provide products it manufactures to charitable or nonprofit organizations or sell for resale products it manufactures to charitable or nonprofit organizations holding valid special-event permits as provided for by the Alcoholic Beverage Control Board, except that the microbrewery-restaurant licensee may not sell to nonprofit organizations holding private club licenses.

(B) The sale of those products shall be limited to the duration of the particular special event;

(5) To sell beer, malt beverages, or hard cider manufactured by the microbrewery-restaurant to a nonprofit corporation leasing space in the

microbrewery-restaurant or in an adjoining building;

(6)(A) To sell at retail by the drink or by the package beer produced on the premises of the microbrewery-restaurant if all sales occur in a wet territory and at fairs and food and beer festivals, with the permission and the consent of the management of events.

(B) A sales and use tax permit is required for sales under this subdivision (a)(6);

(7) Sell beer, malt beverage, or hard cider of its own manufacture to a wholesale dealer licensed by this state for the purpose of resale to other retail license holders as set forth by §§ 3-4-605 and 3-5-101, dealing with wholesale distribution of beer, malt beverage, and hard cider; ~~and~~

(8)(A) Conduct beer-, malt beverage-, and hard cider-tasting events for educational or promotional purposes at any location in wet areas of this state if:

(i) A request for approval to conduct a beer-, malt beverage-, and hard cider-tasting event is received by the Alcoholic Beverage Control Division at least two (2) weeks before the event;

(ii) The request is approved by the division; and

(iii) Written notice is given by the division to the permit holder at least five (5) days before the event.

(B) Only beer, malt beverage, and hard cider produced by the microbrewery-restaurant shall be used for an event approved under this subdivision (a)(8);

(C) This subdivision (a)(8) does not authorize the conducting of a beer-, malt beverage-, and hard cider-tasting event at the one (1) separate brewing facility of a microbrewery-restaurant authorized under subdivision (a)(9) of this section; and

(9)(A) Maintain one (1) separate brewing facility for the production or storage of beer, malt liquor, or hard cider as needed to meet demand, except that each facility used by the microbrewery-restaurant licensee shall not in the aggregate produce more than forty-five thousand (45,000) barrels of beer, malt beverage, and hard cider per year; and

(B) Beer, malt beverage, and hard cider produced by a separate brewing facility of a microbrewery-restaurant licensee shall be:

(i) Sold to a licensed wholesaler; or

(ii) Transported:

(a) From the separate brewing facility to a microbrewery-restaurant commonly owned by the owner of the separate brewing facility for retail sale for consumption on or off the licensed premises; and

(b) To the separate brewing facility from a microbrewery-restaurant commonly owned by the owner of the separate brewing facility for storage, production, or packaging.

SECTION 2. Arkansas Code § 3-5-1205 is amended to read as follows:

3-5-1205. Fees and taxes.

A microbrewery-restaurant licensee shall:

(1) Pay any applicable city or county license or permit fees and barrelege or taxes and shall pay a state licensing fee to the Alcoholic Beverage Control Division of seven hundred fifty dollars (\$750) per fiscal year to manufacture and sell its beer, malt beverages, and hard cider for consumption both on and off the premises and to sell any other beer, malt beverages, and hard cider purchased from a licensed wholesaler for consumption on the premises;

(2) Measure beer, malt beverages, and hard cider manufactured by the microbrewery, otherwise comply with applicable regulations respecting excise and enforcement tax determination of the beer, malt beverages, and hard cider, and pay any applicable bond or deposit and the amount of the state excise tax and enforcement tax to this state, but free from the fees and taxes provided in § 3-5-205, and as required by §§ 3-7-104 and 3-7-111; and

(3) Pay a tax at the rate of seven dollars fifty cents (\$7.50) per barrel, and proportionately for larger and smaller gallonages per barrel, on all beer, malt beverages, and hard cider in quantities of up to ~~twenty thousand~~ forty-five thousand (45,000) barrels per year produced and sold or offered for sale in the state.

*/s/G. Hodges*