

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: H2/9/17 S2/22/17  
**A Bill**

HOUSE BILL 1463

By: Representatives Capp, *Barker, Dalby, Davis, Eubanks, Gazaway, Lemons, Lynch, Maddox, Penzo, Rye, Vaught, Warren, Watson, J. Williams, Wing*

By: Senator G. Stubblefield

### For An Act To Be Entitled

AN ACT TO PERMIT THE DIRECT SHIPMENT OF WINES FROM SMALL FARM WINERIES TO ARKANSAS RESIDENTS WITHOUT AN IN-PERSON WINERY VISIT OR IN-PERSON PURCHASE AT THE WINERY; TO CREATE A SYSTEM FOR DISTRIBUTING SHIPPING PERMITS; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

### Subtitle

TO PERMIT THE DIRECT SHIPMENT OF WINES FROM SMALL FARM WINERIES TO ARKANSAS RESIDENTS WITHOUT A WINERY VISIT; TO CREATE A SYSTEM FOR DISTRIBUTING SHIPPING PERMITS; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code § 3-5-1702 is amended to read as follows:

3-5-1702. Definitions.

As used in this subchapter:

(1) "Small farm winery" means a wine-making establishment that:

(A) Is licensed under § 3-5-1601 et seq.; and

(B) Produced by fermentation at least *eight hundred*

gallons (800 gals.) of wine in the previous calendar year, as reported on the winery's TTB F 5120-17 Report of Wine Premises Operations;

~~(1)~~(2) "Vinous liquor" means the fermented juices of fruits



containing more than five percent (5%) and not more than twenty-one percent (21%) of alcohol by weight; and

~~(2)(3)~~ "Winery" means an establishment that makes vinous liquor.

SECTION 2. Arkansas Code § 3-5-1703(a), concerning registration for direct delivery of wines, is amended to read as follows:

(a)(1) Unless registered under this subchapter, a winery licensed by this state or the state where its principal place of business is located shall not ship vinous liquor to an Arkansas consumer.

(2) This section does not apply to a small farm winery licensed under § 3-5-1601 et seq.

SECTION 3. Arkansas Code Title 3, Chapter 5, Subchapter 17, is amended to add additional sections to read as follows:

3-5-1709. Small farm winery shipment.

(a)(1) A small farm winery licensee with a wine wholesale permit under § 3-5-1602(c)(1)(E) may ship small farm winery wine under this subchapter to a private resident without the private resident having been physically present or having made an in-person purchase at the small farm winery if the shipment includes only small farm winery wine.

(2) Additional shipping registration of a small farm winery is not required for a shipment under subdivision (a)(1) of this section.

(b) A private resident shall provide identification to the small farm winery proving that he or she is twenty-one (21) years of age or older.

(c) A small farm winery may ship only one (1) case of small farm winery wine per private resident in any month.

(d) A small farm winery shipping under this subchapter shall ensure that all containers of small farm winery wine delivered within this state are conspicuously labeled as follows:

"CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY".

(e)(1) A small farm winery shall collect all sales taxes and excise taxes due on a sale to an individual of this state as if the sale took place on the premises of the small farm winery, including without limitation taxes under §§ 3-5-1605, 3-7-104, 3-7-111, and 3-7-201.

(2) Taxes collected by the small farm winery shall be submitted

to the Department of Finance and Administration as directed without limitation under §§ 3-5-1605, 3-7-104, 3-7-111, and 3-7-201.

(3) A small farm winery shall source the collection of sales and use taxes to the purchaser's delivery address in accordance with § 26-52-521(b)(2).

(f) A small farm winery that makes a direct shipment of small farm winery wine under this section shall maintain records regarding each shipment of small farm winery wine that include the:

(1) Name and address of the person to whom the small farm winery wine is:

(A) Sold; and

(B) Billed; and

(2) Date of shipment.

3-5-1710. Permits – Drawing.

(a)(1) Within sixty (60) days after the effective date of this act, the Alcoholic Beverage Control Board shall issue thirty (30) small farm winery private-resident shipping permits to ship small farm winery wine under § 3-5-1709.

(2) In each subsequent year, the board may issue up to five (5) small farm winery private-resident shipping permits to ship small farm winery wine as provided in this section.

(b)(1) The Alcoholic Beverage Control Division shall notify the public at large by public notice that a drawing shall be held in Little Rock, Arkansas, to determine which of the small farm winery licensees holding a wine wholesale permit are eligible to receive a small farm winery private-resident shipping permit under this section.

(2) The public notice under subdivision (b)(1) of this section shall include without limitation:

(A) Internet notification; and

(B) Notice by mail to each licensee who holds both a small farm winery license and a wine wholesale permit under § 3-5-1602.

(c)(1)(A) No later than fifteen (15) days before the scheduled drawing for the small farm winery private-resident shipping permit, a licensee holding both a small farm winery license and a wine wholesale permit who wishes to be entered into the drawing shall certify to the Alcoholic Beverage

Control Division that the winery has produced by fermentation at least one thousand gallons (1,000 gals.) of wine in the previous calendar year by providing the winery's TTB F 5120-17.

(B) A licensee that fails to submit proof of production by the date provided for in subdivision (c)(1)(A) of this section is not eligible for the drawing under this section.

(2) On the date of the drawing, each licensee holding both a small farm winery license and wine wholesale permit who has met the requirements specified in subdivision (c)(1) of this section shall draw a number between one (1) and the number of eligible licensees.

(3) The drawing shall be conducted by the Director of the Alcoholic Beverage Control Division.

(4) The individual of record with the division designated as the permit holder for the eligible small farm winery shall be present for the drawing at the location chosen by the director to be awarded a small farm winery private-resident shipping permit if selected by the drawing.

(5) Position numbers may not be assigned or transferred.

(d)(1) The director shall issue the small farm winery private-resident shipping permits authorized through the drawing under this section to those eligible licensees drawing numbers one (1) through thirty (30) upon payment of a licensing fee of fifty dollars (\$50.00).

(2) In a subsequent year, if the Alcoholic Beverage Control Board authorizes additional permits, the director shall issue permits authorized under this section to those eligible licensees drawing numbers one (1) through the number authorized by the board for the drawing upon payment of a licensing fee of fifty dollars (\$50.00).

(e) A small farm winery shall renew its small farm winery private-resident shipping permit each year with the division by paying a renewal fee of fifty dollars (\$50.00).

SECTION 4. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that this act calls for public notice of a drawing for the issuance of small farm winery private-resident shipping permits to small farm winery licensees holding wine wholesale permits; that the drawing will require the actual presence in the state of persons from various states; that sufficient notice must be available to all

potential participants in the drawing; and that this act is immediately necessary because the Alcoholic Beverage Control Board requires time to make public notice, to prepare the drawing operations, and to ensure that all interested persons have the opportunity to seek eligibility for the drawing. 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/Capp*