

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

State of Arkansas *As Engrossed: H3/14/17 H3/23/17 H3/29/17*
91st General Assembly **A Bill**
Regular Session, 2017

HOUSE BILL 2197

By: Representative Penzo
By: Senator J. Hutchinson

For An Act To Be Entitled

AN ACT TO AMEND THE LAW REGARDING THE OPERATIONS OF
RETAIL LIQUOR STORES AND LIQUOR DISTRIBUTORS; AND FOR
OTHER PURPOSES.

Subtitle

TO AMEND THE LAW REGARDING THE OPERATIONS
OF RETAIL LIQUOR STORES AND LIQUOR
DISTRIBUTORS.

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

*SECTION 1. Arkansas Code Title 3, Chapter 4, is amended to add
additional subchapters to read as follows:*

Subchapter 11 – Pool Buying

3-4-1101- Definitions.

As used in this subchapter:

*(1) "Member of a pool buying group" means a licensee reported by
a pool buying agent and approved by the Alcoholic Beverage Control Division;*

*(2) "Pool buying" means the combining of orders into a single
transaction, by two (2) but no more than ten (10) retail liquor permittees,
who are members of a cooperative or pool buying group for maximizing
purchasing power and approved by the division; and*

*(3) "Pool buying agent" means a vendor designated by a pool
buying group in a pool buying agreement.*



3-4-1102. Pool buying agent Licensure.

(a) A pool buying agent must be licensed under this subchapter.

(b) A license under this section shall authorize a pool buying agent to purchase the types of alcoholic beverages that the agent orders on behalf of the members of a pool buying group.

(c) The Alcoholic Beverage Control Board shall adopt rules to create a pool buying agent license.

3-4-1103. Pool buying agreements.

(a)(1) Before beginning operations, a pool buying group shall file with the Alcoholic Beverage Control Division a copy of the agreement under which the members of the pool buying group will operate.

(2) The division shall review the agreement and if the requirements of applicable law and the rules are met, shall approve the agreement.

(b) A proposed amendment to a pool buying agreement shall be filed with and approved by the division in the same manner as the original agreement before the proposed amendment becomes effective.

(c) A pool buying agreement shall include without limitation:

(1) The name and address of the members of a pool buying group;

(2) The name of the buying agent for the pool buying group; and

(3) For each member of the pool buying group, the licensee's name, business name, license number, and the date on which the licensee joined the pool buying group.

3-4-1104. Pool buying group operations.

(a) A pool buying group may hire employees to act in an administrative or management capacity for the members of a pool buying group's purchase of alcoholic beverages.

(b) Except for products purchased as part of a pool order documented under § 3-4-1106, members of a pool buying group shall not make sales or transfers of alcoholic beverages between members of the pool buying group.

(c) A member of a pool buying group is not eligible to place an order with the pool buying group until the member has executed the pool buying agreement and the licensee's name, business name, license number and date of membership have been filed with and approved by the Alcoholic Beverage

Control Division.3-4-1105. Procedures for pool buying group orders.

(a) All changes, additions, and deletions to the membership of a pool buying group shall be made using forms approved by the Alcoholic Beverage Control Division.

(b) Upon the transfer, suspension, or revocation of an alcoholic beverage license or permit held by a member of a pool buying group, the division shall delete the licensee or permittee from membership in the pool buying group.

(c)(1) An individual member of a pool buying group shall place orders under this subchapter with and remit payment to the pool buying agent.

(2) Payments under this subchapter shall be made payable to the pool buying agent or the distributor.

(3) Distributors of alcoholic beverages may accept pool buying group orders and payment only from the designated buying agent of a pool buying group.

(d)(1) All pool buying orders for alcoholic beverages shall be ordered from distributors by the pool buying agent.

(2) All pool buying group orders shall place the order under the name of the pool buying group and indicate each licensed vendor's part of the pool buying group order.

(3)(A) Each distributor and pool buying agent shall keep the individual invoices for each member's portion of the pool buying order.

(B) A master invoice under § 3-4-1106 shall include all alcoholic beverages ordered under this subchapter and shall refer to each associated invoice supporting the master invoice.

(4) Each wholesaler shall deliver each licensee's or permittee's part of the pool buying group order to the licensee's or permittee's place of business.

(5) All parties to a transaction under this subchapter shall maintain records of purchases made between permit holders.

(e) If a payment is not timely made for a pool buying order, the pool buying group and all members of the pool buying group shall be considered delinquent accounts and reported to the division.

3-4-1106. Recordkeeping.

(a) A distributor shall prepare and keep a master invoice that identifies:

(1) The total pool buying group order placed by the pool buying agent; and

(2) Each pool buying group order member's portion of the total pool buying group order by setting forth the name of the pool buying agent making the order.

(b)(1) Distributors and pool buying agents shall keep invoices for members of a pool buying group purchases for a period of three (3) years.

(2) For each pool buying group order, an invoice shall include without limitation:

(A) The date and the name of the distributor with whom the order was placed;

(B) The names and license or permit numbers of each member of a pool buying group participating in the pool buying group order;

(C) The brand, size, and quantity of alcoholic beverages ordered by each member of a pool buying group; and

(D) The cost to each member of the pool buying group for his or her share of the pool buying group order and any vinous and spirituous beverage discount given on the pool buying group order.

(c)(1) Sale of alcoholic beverages ordered as part of a single pool buying group order from a permit holder who received the products is a purchase between members of a pool buying group, if a record of the transaction is made by the member of the pool buying group member transferring the products to another member of a pool buying group and retained by both pool buying group members for a period of three (3) years after the date of transfer.

(2) A record created under subdivision (c)(1) of this section shall include without limitation the:

(A) Business name and license or permit number of each license or permit holder;

(B) Names, sizes, and quantities of products transferred;

(C) Date of original delivery of products from the pool buying group order;

(D) Date physical transfer of products was made; and

(E) Unique identifier that links the record with the pool buying group order.

(d) Upon written request, a pool buying agent shall make available to an employee of the Alcoholic Beverage Control Division for inspection all papers and reports related to pool buying group orders, purchases, and payments within ten (10) days of the request by the employee of the division.

Subchapter 12 – Delivery Service License

3-4-1201. Delivery service license – Creation.

(a) Effective September 1, 2017, there is created a delivery service license to be issued by the Alcoholic Beverage Control Board to a delivery service that:

(1) Delivers prepared food from restaurants to customers as part of the delivery service's business; and

(2) Seeks to deliver sealed packages of alcoholic beverages or beer or both sold by a retailer licensed under this title.

(b)(1)(A) A person, partnership, limited liability company, or corporation desiring to deliver sealed packages of alcoholic beverages or beer sold by a retailer licensed under this title as part of the delivery service shall apply to the board for a delivery service license.

(B) The application shall be in writing and verified on forms authorized by the board.

(2)(A) A person applying for a delivery service license shall be twenty-one (21) years of age or older and shall not have been convicted of a felony.

(B) The board may issue a delivery service license to an individual, partnership, limited liability company, or corporation that is registered to do business in the State of Arkansas regardless of the residence of the ownership of the individual, partnership, limited liability company, or corporation.

(c) Each applicant for a delivery service license shall pay to the board an annual license fee of three hundred dollars (\$300).

(d)(1) Each delivery service licensee shall conduct or have a third party conduct a local and national criminal background check on a potential employee that seeks to be licensed under this subchapter.

(2) A background check under this section shall include a multistate criminal records locator or other similar commercial nationwide database with validation.

(e) Each delivery service licensee shall ensure that each employee delivering alcoholic beverages or beer is licensed under this subchapter.

3-4-1202. Delivery employee license – Creation.

(a) Effective September 1, 2017, there is created a delivery employee license to be issued by the Alcoholic Beverage Control Board to an individual employed by a person who delivers alcoholic beverages or beer under this subchapter.

(b)(1) An individual seeking a delivery employee license shall make application for the license by completing an application form prescribed by the board.

(2) An applicant shall demonstrate that the applicant:

(A) Is at least twenty-one (21) years of age;

(B) Has been subject to a state and federal criminal background check under this subchapter to ensure the individual has not been convicted of a crime involving the sale or distribution of alcohol within the previous eight (8) years and has not been convicted of any felony within the previous five (5) years;

(C) Has a valid driver's license; and

(D)(i) Has completed a responsible alcohol server course approved by the Alcoholic Beverage Control Division.

(ii) A course offered under subdivision (b)(2)(D)(i) of this section shall be completed every two (2) years.

(c) An individual applying for a license under this section shall pay to the board a fee of fifty dollars (\$50.00).

(d) A delivery employee license shall be valid for two (2) years.

3-4-1203. Delivery service operations.

(a) Effective September 1, 2017, a delivery service that delivers prepared food from restaurants to customers as part of the delivery service's business may deliver sealed packages of alcoholic beverages or beer or both sold by a retailer licensed under this title to the delivery service's customers if:

(1) The amount of alcoholic beverages and beer delivered to a customer does not exceed more than two gallons (2 gal.) per customer per delivery;

(2) At least fifty percent (50%) of the delivery service's gross sales come from the delivery of food products or prepared food;

(3) A delivery service employee who delivers alcoholic beverages or beer or both is twenty-one (21) years of age or older;

(4) The delivery service has:

(A) Made more than five thousand (5,000) deliveries in the State of Arkansas;

(B) Posted a performance bond of five hundred thousand dollars (\$500,000); and

(C) Insurance coverage for the delivery of alcoholic beverages;

(5) The delivery service has a written agreement with a retailer to deliver the retailer's alcoholic beverages or beer to customers; and

(6) Before a customer is allowed possession of alcoholic beverages or beer, a delivery service employee who delivers alcoholic beverages or beer requires the customer to show a valid, government-issued document, such as a driver's license or other form of identification deemed acceptable to the employee, that includes the photograph and birth date of the customer establishing that the customer is twenty-one (21) years of age or older.

(b) A delivery service shall not be prohibited from charging a fee to customers when delivering sealed packages of alcoholic beverages or beer sold by a retailer.

(c) A delivery service shall make its services available to all permit holders under this title in the service area of the delivery service.

(d) A delivery under this subchapter shall not be made to any area of the state in which the manufacture or sale of intoxicating liquor is prohibited.

3-4-1204. Rules.

The Alcoholic Beverage Control Board may adopt rules to implement this subchapter.

/s/Penzo