

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

State of Arkansas
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As Engrossed: S2/7/17 H2/23/17
A Bill

SENATE BILL 284

By: Senators Hester, L. Chesterfield, *G. Stubblefield*

By: Representative Eubanks

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 WINE TOURISM; TO AMEND THE PROVISIONS OF THE ARKANSAS AGRICULTURAL MARKETING GRANT TO SUPPORT ARKANSAS WINE PRODUCTION AND WINE TOURISM; AND FOR OTHER PURPOSES.*

Subtitle

TO ESTABLISH A RETAIL OFF-PREMISES PERMIT FOR THE SALE OF WINE AT GROCERY STORES AND TO PROVIDE ADDITIONAL GRANT FUNDS TO SUPPORT ARKANSAS WINE PRODUCTION AND WINE TOURISM IN THE STATE.

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

SECTION 1. Arkansas Code § 3-4-218(a), concerning restrictions on permitted alcoholic beverage premises, is amended to read as follows:

(a)(1) No new liquor permits shall be issued to nor shall any outstanding liquor permit be transferred to any person, firm, or corporation by the Alcoholic Beverage Control Division wherein the permitted premises of the liquor permittee is operated as a part of the profit-making business of any drug, grocery, sporting goods, dry goods, hardware, or general mercantile store.

(2) However, the permittee may have tobacco products, mixers,



soft drinks, consumables and edible products that complement alcoholic beverages, and other items customarily associated with the retail package sale of the liquors.

(3) The division shall promulgate rules to facilitate the sale of complementary products under subdivision (a)(2) of this section.

SECTION 2. Arkansas Code § 3-4-501(c), concerning the disposition of fees for alcoholic beverage permits, is amended to read as follows:

(c)(1) All ~~Except for grocery store wine permit fees under § 3-5-1802, all~~ permits or license fees or taxes, penalties, fines, and costs received by the Director of the Department of Finance and Administration under the provisions of this act shall be general revenues and shall be deposited in the State Treasury to the credit of the State Apportionment Fund.

(2) The Treasurer of State shall allocate and transfer the amounts to the various State Treasury funds participating in general revenues in the respective proportions to each as provided by and to be used for the respective purposes set forth in the Revenue Stabilization Law, § 19-5-101 et seq.

SECTION 3. Arkansas Code § 3-4-601 is amended to read as follows:

3-4-601. Kinds of permits generally.

(a) There shall be ~~six (6)~~ various kinds of permits, each of which shall be distinctive in color and design so as to be readily distinguishable from each other, to wit including without limitation:

- (1) Distiller's permit;
- (2) Brewer's permit;
- (3) Rectifier's permit;
- (4) Wholesaler's permit;
- (5) Dispenser's permit; ~~and~~
- (6) Hotel, restaurant, or club permit; and
- (7) Grocery store wine permit.

(b) Each kind of permit shall be distinctive in color and design so as to be readily distinguishable from each other.

SECTION 4. Arkansas Code § 3-5-904(a), concerning eligibility of small

farm wineries for incentive grants, is amended to read as follows:

(a) ~~Only those wineries~~ A winery is eligible to receive a grant under this subchapter if the winery:

(1) Has been actively involved in the sale of wine as an Arkansas-bonded winery for five (5) years; or

(2) ~~that have~~ Has a federal license; and

(3) ~~are~~ Was licensed by the State of Arkansas as of January 1, 2003 2016, shall be eligible to receive grants under the provisions of this subchapter;

(4) Cultivates and maintains two (2) or more acres of marketable grapes in Arkansas using standard commercial vineyard cultivation practices;

(5) Produces by fermentation a minimum of eight hundred gallons (800 gals.) of wine on the winery premises in the previous calendar year; and

(6) Received a certification of eligibility under this section from the Arkansas Wine Producers Council.

SECTION 5. Arkansas Code § 3-5-907(b), concerning the amount of grant fund payments for native wine incentives, is amended to read as follows:

(b)(1) Grant funds awarded shall be distributed equally to each winery at a base amount not to exceed ~~twenty-five thousand dollars (\$25,000)~~ five hundred dollars (\$500), 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 not to exceed one hundred thousand dollars (\$100,000) annually to any one (1) winery, as determined by the Chief Fiscal Officer of the State.

(2) If a winery reaches the annual grant limit under subdivision (b)(1) of this section, the remainder of the grant funds shall be distributed among the remaining eligible wineries.

SECTION 6. 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 single physical establishment that:

(A) Has an inventory of human-consumable items; and

(B) Is located in a wet territory;

(2) "Slotting allowance" means an allowance paid by a manufacturer to a grocery store for making room for a product on the grocery store's shelves; and

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

3-5-1802. Grocery store wine permit – Fees.

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

(b)(1) A grocery store wine permit allows a permittee to purchase and sell wine for off-premises consumption at a single location.

(2) Wine inventory orders or purchases, or both, shall be made only by a permittee for delivery to a single permitted location.

(3) An order of wine inventory for one (1) location shall not be combined with an order for another location in a manner that would result in a cumulative discount or quantity discount, or both.

(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 established in this section.

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

(2) The fee shall be:

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

(B) 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.);

(C) 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.); and

(D) Five thousand dollars (\$5,000) for a permitted

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

(e) One hundred percent (100%) of the fee shall be paid into the Arkansas Wine Grants Fund.

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

(g)(1) A grocery store seeking a grocery store wine permit may derive no more than twenty percent (20%) of its gross sales from the sale of alcoholic beverages.

(2) However, the requirement under subdivision (g)(1) of this section does not apply to an otherwise qualifying grocery store that, as of January 1, 2017, derives more than twenty percent (20%) of its gross sales from the sale of alcoholic beverages.

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

(i) A grocery store wine permit shall be available for issue only in a county in which the retail sale of alcohol under § 3-4-604 was authorized as of January 1, 2017.

3-5-1803. Slotting allowances prohibited.

(a) Slotting allowances, as defined by 27 C.F.R. § 6.152(b), are prohibited.

(b) A grocery store shall not require payment of a slotting allowance for products sold under this subchapter by a small farm winery, including without limitation:

(1) Juice;

(2) Low alcohol wine; and

(3) Vinegar.

SECTION 7. Arkansas Code § 19-5-956, concerning the Tourism Development Trust Fund, is amended to read as follows:

(b) The fund shall consist of those special revenues as specified in § 19-6-301(146) and fifty percent (50%) of those special revenues as specified in § 19-6-301(255), there to be used by the Department of Parks and Tourism

exclusively for the promotion of wine tourism in Arkansas.

SECTION 8. Arkansas Code § 19-6-201(22)(B), concerning the enumeration of general revenues, is amended to read as follows:

(B) Permits and fees for manufacturer and dispensary privileges, as enacted by Acts 1935, No. 108, known as the "Arkansas Alcoholic Control Act", and all laws amendatory thereto, §§ 3-1-101 – 3-1-103, 3-2-101, 3-2-205, 3-3-101 – 3-3-103, 3-3-212, 3-3-401, 3-3-404, 3-3-405, 3-4-101 – 3-4-103, 3-4-201, 3-4-202, 3-4-207 – 3-4-211, 3-4-213, 3-4-214, ~~3-4-215 [repealed]~~, 3-4-217, 3-4-219, 3-4-220, 3-4-301 – 3-4-303, 3-4-501, 3-4-503, 3-4-601 – 3-4-605, 3-8-301, ~~3-8-302 [repealed]~~, 3-8-303, ~~3-8-304 [repealed]~~, 3-8-305 – 3-8-310, ~~3-8-311 [repealed]~~, 3-8-313 – 3-8-317, 3-9-237, and 23-12-708, but not including fees for grocery store wine permits authorized under § 3-5-1802;

SECTION 9. Arkansas Code § 19-6-301, concerning special revenues enumerated, is amended to read as follows:

(255) Grocery store wine permit fees, § 3-5-1802.

SECTION 10. Arkansas Code Title 19, Chapter 6, Subchapter 8, is amended to add an additional section to read as follows:

19-6-833. Arkansas Wine Grants Fund.

(a)(1) There is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the "Arkansas Wine Grants Fund".

(2) The Arkansas Wine Grants Fund shall consist of fees collected from grocery store wine permits under § 3-5-1802 and shall be administered by the Department of Finance and Administration.

(b) Fifty percent (50%) of fees that are deposited into the Arkansas Wine Grants Fund under § 3-5-1802 shall be divided among the wineries seeking grant payments under § 3-5-901 et seq., 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, not to exceed the amount paid in by each grantee.

(c) Fifty percent (50%) of fees that are deposited into the Arkansas Wine Grants Fund under § 3-5-1802 shall be transferred to the Tourism

Development Trust Fund for the purpose of operating and staffing a wine tourism facility and office space for the Arkansas Wine Producers Council within the tourism facility in Franklin County, Arkansas.

(d) Any unused or undesignated fees at the end of the fiscal year shall be transferred to the Tourism Development Trust Fund.

SECTION 11. *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.~~

SECTION 12. *DO NOT CODIFY. Legislative intent.*

(a) The Department of Parks and Tourism and the Arkansas Wine Producers Council shall actively seek, on a top priority basis, funds for construction of the Arkansas Wine Center.

(b) The Department of Arkansas Heritage shall provide technical and professional support, including without limitation assistance with:

(1) Architectural design;

(2) Interior and exterior design;

(3) Streetscaping and signage design; and

(4) Curatorial guidance toward the creation of the Arkansas Wine Center.

SECTION 13. *DO NOT CODIFY. Effective dates.*

(a) Sections 1, 2, 3, 6, 7, 8, 9, 10, 11, and 12 of this act become effective on October 1, 2017.

(b) Sections 4 and 5 of this act become effective on January 1, 2018.

/s/Hester