

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

State of Arkansas
91st General Assembly
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As Engrossed: S3/15/17 H3/20/17
A Bill

SENATE BILL 659

By: Senator Bond

By: Representatives Leding, *Rushing, Capp*

For An Act To Be Entitled

AN ACT TO CLARIFY THE LAW REGARDING THE SCOPE OF SMALL BREWERY OPERATIONS; TO ALLOW TRANSPORTATION OF IN-HOUSE PRODUCTS BETWEEN COMMONLY OWNED SMALL BREWERIES AND BREWERIES THAT OWN SMALL BREWERIES; TO CREATE SMALL BREWERY TAP ROOMS; AND FOR OTHER PURPOSES.

Subtitle

TO CLARIFY THE LAW REGARDING THE SCOPE OF SMALL BREWERY OPERATIONS; TO ALLOW TRANSPORTATION OF IN-HOUSE PRODUCTS BETWEEN COMMONLY OWNED SMALL BREWERIES AND BREWERIES THAT OWN SMALL BREWERIES; TO CREATE SMALL BREWERY TAP ROOMS.

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

SECTION 1. Arkansas Code § 3-5-105(a)(1), concerning beer festival permits, is amended to read as follows:

(a)(1) The Director of the Alcoholic Beverage Control Division may issue a temporary permit to authorize the following:

(A) A festival to be conducted over a period not to exceed three (3) days;

(B) The consumption by persons of legal age of beer and malt beverages, as defined by § 3-5-1202, on the festival grounds;

(C) The permittee to charge an entry fee for persons



wishing to attend the festival and to distribute beer and malt beverages on any day of the week, including Sunday, as provided for in this section, pursuant to the following conditions:

(i) The distribution of beer and malt beverages as authorized in this section, shall be limited to the secure area as prescribed in subdivision (a)(1)(D) of this section; and

(ii) The distribution of beer and malt beverages on Sunday, as authorized in this section, shall be limited to the hours between 12:00 p.m. and 10:00 p.m. central time and be limited to those areas where the retail sale and consumption of alcoholic beverages on Sunday has been approved pursuant to Arkansas law;

(D) The festival permittee to designate the permitted area on the festival grounds to be approved by the director, such that it is a secure area which will not allow unsupervised access and egress; and

(E) Participation in this event by any legal brewery, microbrewery, microbrewery-restaurant, distributor, wholesaler, ~~or~~ brewpub, small brewery, or small brewery tap room whether or not they are currently registered or their product is licensed in the State of Arkansas.

SECTION 2. Arkansas Code § 3-5-105, concerning beer festival permits, is amended to add an additional subsection to read as follows:

(g) A small brewery holding a distribution permit and a beer festival permit may accept and hold beers from out-of-state breweries and distributors for the purpose of pouring at beer festivals.

SECTION 3. Arkansas Code § 3-5-1403 is amended to read as follows:

3-5-1403. Definitions.

As used in this subchapter:

- (1) "Barrel" means thirty-one gallons (31 gals.);
- (2) "Beer" means any fermented liquor made from malt or any substitute having an alcoholic content of not more than five percent (5%) by weight;
- (3) "Brewery" means a small brewery or contract brewing company;
- (4) "Contract brewing company" means any licensed brewery that hires another company to produce a portion of its beer, malt beverage, or hard cider;

(5) "Front-of-house employee" means an employee of a small brewery not involved in the production or transportation of brewery beer or wholesale activities of the brewery, including without limitation:

- (A) A bartender;
- (B) A host;
- (C) Kitchen staff;
- (D) Janitorial staff; and
- (E) Servers;

~~(5)~~(6) "Hard cider" means liquor brewed from the fermented juices of fruit and containing more than three percent (3%) and not more than twenty-one percent (21%) alcohol by weight;

~~(6)~~(7) "Malt beverage" means any liquor brewed from the fermented juices of grain and having an alcoholic content of no less than five percent (5%) nor more than twenty-one percent (21%) by weight;

~~(7)~~(8) "Person" means any natural person, partnership, association, or corporation; ~~and~~

(9) "Restaurant" means:

(A) A public or private place that is kept, used, maintained, advertised, and held out to the public or to a private or restricted membership as a place where complete meals are actually and regularly served;

(B) Provides adequate and sanitary kitchen and dining equipment;

(C) Has a seating capacity of at least fifty (50) persons;

(D) Employs a sufficient number and variety of employees to prepare, cook, and serve suitable food for its guests or members;

(E) Serves at least one (1) meal per day; and

(F) Is open a minimum of five (5) days per week, with the exception of holidays, vacations, and periods of redecorating;

~~(8)~~(A)(10)(A) "Small brewery" means any licensed facility located in Arkansas that manufactures fewer than forty-five thousand (45,000) barrels of beer, malt beverage, and hard cider per year for sale or consumption.

(B) "Small brewery" does not include a microbrewery-restaurant; ~~and~~

(11) "Small brewery tap room" means a small brewery off-premises

retail site located in a wet territory holding a small brewery license.

SECTION 4. Arkansas Code § 3-5-1405(a), concerning the scope of licenses for small breweries, is amended to read as follows:

(a) The Director of the Alcoholic Beverage Control Division may issue a license for a licensee to operate a small brewery that:

(1) Manufactures at its licensed facility no less than thirty-five percent (35%) of its beer, malt beverages, and hard cider to be sold in the state and no more than forty-five thousand (45,000) barrels per year;

(2) Sells to wholesale or to the consumer at the small brewery premises for consumption, either on or off the premises, brand name products of the licensed facility;

(3) Stores any beer, malt beverages, and hard cider legally purchased for resale on the premises and on the premises of the one (1) separate brewing facility of a small brewery authorized under subdivision (a)(9) of this section;

(4) Serves on the premises:

(A) ~~complimentary~~ Complimentary samples of beer produced by the small brewery; and

(B)(i) Spirituous liquors for on-premises consumption in a taproom under the license of the small brewery.

(ii) Subdivision (a)(4)(B)(i) of this section authorizing on-premises consumption is effective only in cities and counties, or portions of cities and counties, in which the manufacture or sale of intoxicating liquor is not prohibited as a result of a local option election held under Initiated Act No. 1 of 1942, and in which the sale of alcoholic beverages for on-premises consumption has been approved by a majority vote at a referendum election as provided in this chapter;

(5) Sells:

(A) At retail, by the drink or by the package, beer produced on the premises of the small brewery if all sales occur in a wet territory; or

(B)(i) At fairs and food and beer festivals with the permission and the consent of the management of the events.

(ii) A sales and use tax permit also is required for sales under subdivision (a)(5)(B)(i) of this section;

(6)(A)(i) Sells and transports:

(a) Beer produced on the premises of the small brewery to wholesale and small brewery license holders;

(b) Beer, malt beverages, and hard cider produced on the premises of the small brewery to retail license holders and small brewery license holders if the total production of the permitted brewery does not exceed fifteen thousand (15,000) barrels per year from all facilities under common ownership with the small brewery.

(ii) Each permitted brewery shall submit documentation of production each year to renew the permit with the Alcoholic Beverage Control Division.

(iii) A small brewery may distribute no more than fifteen thousand (15,000) barrels per year.

(B)(i) To sell and transport beer under subdivision (a)(6)(A) of this section, the small brewery license holder shall obtain a small brewery wholesale permit.

(ii) The small brewery license holder shall pay a fee of two hundred fifty dollars (\$250) per year for the permit under subdivision (a)(6)(B)(i) of this section; and

(7) Sells for consumption on the premises of the small brewery:

(A) Beer produced by the small brewery or another small brewery; or

(B) Wine;

(8) Operates no more than two (2) small brewery tap rooms; and

(9)(A) Maintains 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 small brewery licensee shall not in the aggregate produce more than forty-five thousand (45,000) barrels of beer, malt beverage, and hard cider per year.

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

(i) Sold to a licensed wholesaler; or

(ii) Transported:

(a) From the separate brewing facility to a small brewery 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 small brewery commonly owned by the owner of the separate brewing facility for storage, production, or packaging.

SECTION 5. Arkansas Code Title 3, Chapter 5, Subchapter 14, is amended to add additional sections to read as follows:

3-5-1417. Exemption for front-of-house employees.

A front-of-house employee may be employed simultaneously by another holder of a permit or license issued by the Director of the Alcoholic Beverage Control Division.

3-5-1418. Small brewery tap room.

(a) A small brewery tap room may:

(1) For beer and hard cider produced by the small brewer, sell for both on-premises and off-premises consumption; and

(2) For beer, hard cider, and wine not produced by the licensed small brewer, sell for on-premises consumption.

(b) A small brewery tap room may operate a restaurant.

/s/Bond