

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

State of Arkansas
92nd General Assembly
Regular Session, 2019

As Engrossed: S2/26/19 S3/7/19
A Bill

SENATE BILL 348

By: Senator L. Eads
By: Representative Penzo

For An Act To Be Entitled

AN ACT TO ESTABLISH A HARD CIDER MANUFACTURING PERMIT; TO AMEND EXISTING ALCOHOLIC BEVERAGE PERMITS TO AUTHORIZE THE SALE OF HARD CIDER; TO AMEND PORTIONS OF THE LAW RESULTING FROM INITIATED ACT 1 OF 1942; AND FOR OTHER PURPOSES.

Subtitle

TO ESTABLISH A HARD CIDER MANUFACTURING PERMIT; TO AMEND EXISTING ALCOHOLIC BEVERAGE PERMITS TO AUTHORIZE THE SALE OF HARD CIDER; AND TO AMEND PORTIONS OF THE LAW RESULTING FROM INITIATED ACT 1 OF 1942.

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

SECTION 1. Arkansas Code Title 3, Chapter 4, Subchapter 6, is amended to add an additional section to read as follows:

3-4-611. Hard cider manufacturing permit.

(a) A person may apply to the Director of the Alcoholic Beverage Control Division for a permit to manufacture, import, transport, store, and sell to a wholesaler, jobber, distributor, or retailer hard cider to be used and sold for beverage purposes as authorized under this section.

(b) An application under this section shall:

(1) Be in writing;

(2) Be verified;



(3) State in detail information concerning the applicant for the permit and the premises to be used by the applicant as required by the director; and

(4) Be accompanied by a certified check, cash, or postal money order for the amount required in subsection (f) of this section for the permit.

(c) If the director grants an application under this section, he or she shall issue the permit in a form prescribed by rule.

(d) A permit under this section shall:

(1) Contain a description of the premises to be used by the applicant; and

(2) Permit the applicant to manufacture, transport, and sell to a wholesaler, jobber, distributor, or retailer hard cider in or from the premises specifically authorized under this section.

(e) A hard cider manufacturer may:

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

(2)(A) Sell, deliver, or transport hard cider manufactured by the hard cider manufacturer to, including without limitation:

(i) Wholesalers;

(ii) Retail license holders;

(iii) Small brewery license holders;

(iv) Small winery license holders;

(v) Microbrewery-restaurant license holders; and

(vi) Distillers;

(B)(i) A hard cider manufacturer may only sell, deliver, or transport hard cider produced on the premises of the hard cider manufacturer under subdivision (e)(2)(A) of this section if the total production of the permitted hard cider manufacturer does not exceed fifteen thousand (15,000) barrels of hard cider per year from all facilities under common ownership with the hard cider manufacturer.

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

(iii) A hard cider manufacturer may distribute no

more than fifteen thousand (15,000) barrels per year.

(C)(i) To sell and transport hard cider under subdivision (e)(2)(A) of this section, the hard cider manufacturing permit holder shall obtain a hard cider manufacturing wholesale permit.

(ii) The hard cider manufacturing permit holder shall pay a fee of two hundred fifty dollars (\$250) per year for the permit under subdivision (e)(2)(C)(i) of this section;

(3)(A) Maintain one (1) separate manufacturing facility for the production or storage of hard cider as needed to meet demand, except that each facility used by the hard cider manufacturer permittee shall not in the aggregate produce more than forty-five thousand (45,000) barrels of hard cider per year.

(B) Hard cider manufactured by a separate manufacturing facility of a hard cider manufacturing permittee shall be:

(i) Sold to a licensed wholesaler; or

(ii) Transported:

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

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

(4) Export hard cider manufactured by the manufacturer out of the state;

(5) Sell for on-premises or off-premises consumption during legal operating hours hard cider manufactured by the manufacturer;

(6) Serve on the premises:

(A) Complimentary samples of hard cider manufactured by the manufacturer; and

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

(ii) Subdivision (e)(6)(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, §§ 3-8-201 – 3-8-203 and 3-8-205 – 3-

8-209, 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;

(7) Sell at retail, by the drink or by the package, hard cider manufactured by the manufacturer;

(8) Sell for consumption on the premises of the manufacturer:

(A) Hard cider manufactured by the manufacturer;

(B) Hard cider that the manufacturer may purchase from wholesalers licensed by the state;

(C) Wine;

(D) Beer; and

(E) Malt beverages;

(9) Store beer, malt beverages, wine, and hard cider legally purchased for resale on the premises; and

(10) Sell hard cider manufactured by the manufacturer at fairs and festivals with the permission and the consent of the management of the events if the sale occurs in a wet area and the hard cider sold is for consumption by persons of legal age.

(f) For the privilege of manufacturing hard cider, each person engaged in manufacturing hard cider shall pay an annual permit fee of three hundred dollars (\$300) for each manufacturing plant.

(g) Hard cider may be sold for consumption on-premises or off-premises, or both, during all legal operating hours in which business is normally and legally conducted on the premises, if:

(1) The manufacturer provides tours through its facility; and

(2) Only sealed containers are removed from the premises.

(h) A manufacturer may donate or sell for resale hard cider it manufactures to a charitable or nonprofit organization holding a valid temporary permit issued by the Alcoholic Beverage Control Board.

(i)(1) The division may authorize a manufacturer to conduct a hard cider-tasting event for educational or promotional purposes.

(2)(A) Before an authorization is issued under subdivision (i)(1) of this section, the manufacturer shall provide written notice of the hard cider-tasting event at least two (2) weeks before the event.

(B) A hard cider-tasting event under this subsection shall be held in any facility licensed by the division in a wet territory of this

state.

(j)(1) A hard cider manufacturer may transport its hard cider along any highway, road, street, or other thoroughfare of travel.

(2) A hard cider manufacturer may ship hard cider it manufactures out of the state by common carrier or other appropriate parcel delivery service, and common carriers and other appropriate parcel delivery services may accept hard cider from Arkansas manufacturers for delivery outside the state.

(3) A hard cider manufacturer in this state may ship hard cider it manufactures within the state by common carrier or other appropriate parcel delivery service, and common carriers and other appropriate parcel delivery services may accept hard cider from Arkansas manufacturers for delivery within the state if the hard cider is shipped only to persons holding a wholesale permit to purchase, store, sell, or dispense hard cider.

(k)(1) A hard cider manufacturer may include a tap room at its facility and may:

(A) Sell for both on-premises and off-premises consumption hard cider manufactured at the facility; and

(B) Sell for on-premises consumption beer, hard cider, malt beverages, and wine not manufactured at the facility.

(2) A hard cider manufacturer may operate a restaurant in conjunction with its tap room.

(1)(1) A hard cider manufacturer selling and transporting hard cider manufactured on the premises of the facility is a supplier.

(2) A hard cider manufacturer is not subject to § 3-5-1101 et seq. unless the hard cider manufacturer exceeds annual production of hard cider of fifteen thousand (15,000) barrels.

(m) The director shall adopt rules to implement and administer this section.

SECTION 2. Arkansas Code § 3-1-102(6), concerning the definition of manufacturer, is amended to read as follows:

(6) "Manufacturer" means any person engaged in the business of distilling, brewing, making, blending, rectifying, or producing for sale in wholesale quantities alcoholic liquors of any kind, including whiskey, brandy, cordials, liquors, ales, beers, hard cider, or other liquids

containing alcohol, except wines;

SECTION 3. Arkansas Code § 3-4-101 is amended to read as follows:

3-4-101. Permit required.

(a) ~~No vinous~~ Vinous (except wines), spirituous, or malt liquors or hard cider shall not be manufactured in this state for storage or sale at retail within the state without a permit ~~therefor~~ issued by the Director of the Alcoholic Beverage Control Division ~~as herein provided~~.

(b) ~~No~~ A person shall not sell vinous, spirituous, or malt liquors or hard cider in this state, except as provided in this act. However, the provisions of this act shall not apply to the manufacture, sale, and distribution of wines in this state.

SECTION 4. Arkansas Code § 3-4-105(b)(1), concerning categories of temporary permits, is amended to add an additional subdivision to read as follows:

(D) Temporary hard cider permit – Fifty dollars (\$50.00) for each event for a temporary permit allowing the sale of hard cider.

SECTION 5. Arkansas Code § 3-4-601(a), concerning kinds of permits, is amended to add an additional subdivision to read as follows:

(9) Hard cider manufacturing permit.

SECTION 6. Arkansas Code § 3-4-604(a), concerning an applicant for retail permit, is amended to read as follows:

(a) ~~Any~~ A person, other than a distiller, importer, rectifier, or wholesaler, may apply to the Director of the Alcoholic Beverage Control Division for a permit to sell and dispense vinous or spirituous liquors or hard cider for beverage purposes at retail.

SECTION 7. Arkansas Code § 3-4-604(e)-(g), concerning retail permits, are amended to read as follows:

(e) The permit shall contain a description of the premises permitted and in form and substance shall be a permit to the person specifically designated in the permit to sell and dispense at retail spirituous or vinous liquors or hard cider.

(f) All such sales shall be in unbroken packages ~~which~~ that shall not be opened or the contents or any part consumed on the premises where purchased.

(g) For the privilege of operating a dispensary from which the vinous, spirituous, and malt liquors (except wines), or hard cider are to be dispensed in the manner provided in this act, there is assessed and there shall be paid a permit fee of and by the person engaged therein in the sum of four hundred dollars (\$400) per annum payable on or before June 30 of each calendar year for the fiscal year beginning July 1.

SECTION 8. Arkansas Code § 3-4-605(a), concerning an applicant for a wholesale permit, is amended to read as follows:

(a) ~~Any~~ A person other than a distiller, manufacturer, rectifier, or importer may apply to the Director of the Alcoholic Beverage Control Division for a permit to sell spirituous liquor, wine as defined in § 3-9-301(7), beer, hard cider, or malt liquors at wholesale.

SECTION 9. Arkansas Code § 3-4-605(e)-(j), concerning wholesale permits, are amended to read as follows:

(e) The permit shall contain a description of the premises permitted and in form and substance shall be a permit to the person specifically designated in the permit to sell spirituous liquor, wine as defined in § 3-9-301(7), beer, hard cider, or malt liquors for beverage purposes.

(f) A person holding a distiller's or rectifier's permit need not obtain a wholesaler's permit in order to sell at wholesale spirituous liquor or wine as defined in § 3-9-301(7).

(g)(1)(A) A person other than a person holding a distiller's, manufacturer's, or rectifier's permit shall not sell spirituous liquor, wine as defined in § 3-9-301(7), hard cider, or malt liquors at wholesale.

(B) A person other than a person holding a wholesaler's permit shall not sell spirituous liquor, wine as defined in § 3-9-301(7), or malt liquors at wholesale.

(2) A wholesaler holding a permit shall not sell or buy from another unless he or she holds a permit, but a wholesaler may export from or import into this state liquors under rules promulgated by the Alcoholic Beverage Control Division.

(h) A wholesaler shall not sell or contract to sell ~~any~~ spirituous liquor, wine as defined in § 3-9-301(7), beer, hard cider, or malt liquors to a dispensary, hotel, restaurant, or club if the dispensary, hotel, restaurant, or club is not authorized under this act to receive, possess, transport, distribute, or sell spirituous liquor, wine as defined in § 3-9-301(7), beer, hard cider, or malt liquors.

(i) Further, a licensed wholesaler in Arkansas of ~~any~~ spirituous liquor, beer, hard cider, or wine as defined in § 3-9-301(7) may only purchase spirituous liquor, beer, hard cider, or wine as defined in § 3-9-301(7) from a distiller, importer, rectifier, hard cider manufacturer, or a domestic wine producer. However, this restriction does not apply to the purchase of native wines.

(j)(1) For the privilege of storing, transporting, and selling spirituous liquor, wine as defined in § 3-9-301(7), beer, hard cider, or malt liquors at wholesale, there is assessed and there shall be paid an annual permit fee of and by every person engaged therein. The permit fee shall be in the sum of seven hundred dollars (\$700) for each separate and distinct establishment.

(2) However, this section does not apply to residents of Arkansas who store, transport, and sell wine or hard cider at wholesale manufactured by them in this state.

SECTION 10. Arkansas Code § 3-4-607(a), concerning an applicant for minimum wholesale liquor permit, is amended to read as follows:

(a)(1) ~~Any~~ A person other than a distiller, manufacturer, rectifier, or importer may apply to the Director of the Alcoholic Beverage Control Division for a minimum wholesale liquor permit that allows the person to sell spirituous liquors, wine as defined in § 3-9-301(7), hard cider, and malt liquors at wholesale.

(2) A minimum wholesale liquor permit holder shall not sell more than a combined total of twenty thousand (20,000) cases of spirituous liquors, wine as defined in § 3-9-301(7), hard cider, or malt liquors.

(3) A case is a container that holds nine liters (9 l) of beverages.

SECTION 11. Arkansas Code § 3-4-607(e)-(h), concerning minimum

wholesale permits, are amended to read as follows:

(e) The minimum wholesale liquor permit shall contain a description of the premises permitted and in form and substance shall be a minimum wholesale liquor permit to the person specifically designated to sell spirituous liquors, wine as defined in § 3-9-301(7), hard cider, and malt liquors for beverage purposes.

(f)(1) A person other than a person holding a distiller's, manufacturer's, rectifier's, or minimum wholesale liquor permit shall not sell spirituous liquors, wine as defined in § 3-9-301(7), and malt liquors at wholesale.

(2) A wholesaler holding a minimum wholesale liquor permit shall not sell or buy from another person unless the other person holds a minimum wholesale liquor permit, but a wholesaler may export from or import into this state spirituous liquors, wine as defined in § 3-9-301(7), hard cider, and malt liquors under rules promulgated by the Alcoholic Beverage Control Division.

(g) A wholesaler holding a minimum wholesale liquor permit shall not sell or contract to sell any spirituous liquors, wine as defined in § 3-9-301(7), hard cider, and malt liquors to a dispensary, hotel, restaurant, or club if the dispensary, hotel, restaurant, or club is not authorized under § 3-4-601 to receive, possess, transport, distribute, or sell spirituous liquors, wine as defined in § 3-9-301(7), hard cider, and malt liquors.

(h) A minimum wholesale liquor permittee of ~~any~~ spirituous liquors, wine as defined in § 3-9-301(7), hard cider, and malt liquors in Arkansas shall purchase spirituous liquors, wine as defined in § 3-9-301(7), hard cider, and malt liquors only from a distiller, importer, rectifier, or a domestic wine producer. However, this restriction does not apply to the purchase of native wines.

SECTION 12. Arkansas Code § 3-4-1001(a)(1), concerning retail sale of alcoholic beverages at restaurants, is amended to read as follows:

(a)(1) In addition to all other existing alcoholic beverage permits authorized to be issued by the Alcoholic Beverage Control Division for the retail sale of alcoholic beverages, there is created a restaurant beer and wine permit, which authorizes the sale of beer, hard cider, and wine as defined in § 3-9-301(7) at restaurants as defined in § 3-9-301(6).

SECTION 13. 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, and hard cider 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, and hard cider 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, and hard cider, 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, and hard cider on Sunday, as authorized in this section, shall be limited to the hours between 12:00 noon 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, brewpub, small brewery, hard cider manufacturer, or small brewery tap room, whether or not it is currently registered or its product is licensed in the State of Arkansas.

SECTION 14. Arkansas Code § 3-5-105(b)(4)(A), concerning wholesaler tax for products sold at beer festivals, is amended to read as follows:

(4)(A) The designated wholesaler shall pay the Miscellaneous Tax Section of the Office of Excise Tax Administration of the Department of Finance and Administration a wholesalers tax of \$7.507808 per barrel equal to

thirty-one gallons (31 gals.) for each barrel of beer, ~~or~~ malt beverage, or hard cider provided for this festival by any participant whose product is not currently licensed or registered in the State of Arkansas.

SECTION 15. Arkansas Code § 3-5-105(f), concerning laws conflicting with a beer festival permit, is amended to read as follows:

(f) Every provision of this section shall be subject to all beer, ~~and~~ malt beverage, and hard cider laws and regulations, except that conflicting beer, ~~and~~ malt beverage, and hard cider laws and regulations shall be inapplicable to any provision of this section to the extent that they conflict herewith.

SECTION 16. Arkansas Code § 3-5-1405(a)(7), concerning alcoholic beverages authorized for on-premises consumption at a small brewery, is amended to read as follows:

(C) Hard cider.

SECTION 17. Arkansas Code § 3-5-1602(c)(1), concerning the scope of a small farm winery license, is amended to add an additional subdivision to read as follows:

(H) Sell for on-premises or off-premises consumption hard cider manufactured by a hard cider manufacturer, if all sales occur in a wet territory.

SECTION 18. Arkansas Code § 3-5-1801(3), concerning the definition of "wine", is amended to read as follows:

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

SECTION 19. Arkansas Code § 3-5-1802(a) and (b), concerning permitted sales of alcohol for off-premises consumption, are amended to read as follows:

(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 and hard cider for off-premises consumption at a single location.

(2) Wine and hard cider 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 and hard cider inventory for one 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.

SECTION 20. Arkansas Code § 3-5-1802(d)(1), concerning permitted sales of alcohol for off-premises consumption, is amended to read as follows:

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

SECTION 21. Arkansas Code § 3-9-211 is amended to add an additional subsection to read as follows:

(d) A permit to sell alcoholic beverages for on-premises consumption includes the authority to sell hard cider.

SECTION 22. Arkansas Code § 3-9-303 is amended to read as follows:

3-9-303. Sale by licensed cafe or restaurant authorized –
Restrictions.

(a) It shall be lawful for ~~any a~~ a cafe or restaurant, as defined in § 3-9-301, in this state to sell wines, as defined in § 3-9-301, or hard cider for consumption with food served in ~~such the~~ the cafe or restaurant upon obtaining a license, and paying the fee therefor, from the Director of the Alcoholic Beverage Control Division as provided in this subchapter.

(b) However, it shall be unlawful for the director to issue ~~any a~~ a license to a cafe or restaurant for sales of wine or hard cider served with food in ~~any a~~ a city, county, township, or other area in this state wherein the sale and possession of wines or hard cider is unlawful.

(c) All licenses shall be renewed annually in the manner provided by law.

(d) The holder of a license to sell wine or hard cider in a restaurant or cafe, as defined in § 3-9-301, which is located in any city having a population of less than six hundred (600) persons and in a county having a

population of less than seventeen thousand five hundred (17,500) persons according to the 1990 Federal Decennial Census and within three (3) miles of a river which serves as a common boundary between that county and another state shall be entitled, in addition to other privileges inherent under the permit, to sell wine or hard cider in unopened containers from such restaurant for off-premises consumption.

SECTION 23. Arkansas Code § 3-9-304 is amended to read as follows:

3-9-304. Sale by restaurant located near certain cities.

~~Any~~ A restaurant, as defined in § 3-9-301, ~~which~~ that is located within two (2) miles of a city having a population of at least fifty-five thousand (55,000) but not more than sixty thousand (60,000) persons according to the 1970 Federal Decennial Census, and in an area in which the sale of alcoholic beverages is lawful, shall be entitled to make application for and obtain a permit to serve wine or hard cider, or both, with food in such restaurants in the manner prescribed in this subchapter.

SECTION 24. Arkansas Code § 3-9-305(a), concerning license applications for restaurant sale of wine, is amended to read as follows:

(a) ~~No~~ A license shall not be issued to ~~any~~ a person authorizing the sale of wine or hard cider, or both, at retail for consumption on the premises with food served in any cafe or restaurant unless the person ~~shall~~ file files with the Director of the Alcoholic Beverage Control Division a verified application therefor, accompanied by the fee required by law, and shall state in the application that he or she possesses the following qualifications:

(1) The applicant is a person of good moral character, a citizen or resident alien of the United States, and a resident of the county in which the permit will be operated, or resides within thirty-five (35) miles of the address of the premises described in the application;

(2) The applicant has not been convicted of a felony or has not been convicted within five (5) years of the date of his or her application of any violation of the laws of this state or any other state relating to alcoholic beverages;

(3) The applicant has not had revoked within five (5) years next preceding his or her application any license issued to him or her pursuant to

the laws of this state or any other state to sell alcoholic liquor of any kind;

(4) The applicant shall be the owner of the premises for which the license is sought or the holder of an existing lease, buy-sell agreement, offer and acceptance, or option to lease thereon;

(5) If the applicant is a copartner, all members of the copartnership must be qualified to obtain a license;

(6)(A)(i) If the applicant is a corporation, the president and directors thereof, any stockholder owning more than five percent (5%) of the stock of such corporation who is not exempted under subdivision (6)(A)(ii) of this section, and the person or persons who shall conduct and manage the licensed premises for the corporation shall possess all the qualifications required herein for an individual license.

(ii) An applicant is not required to state the identity of its shareholders who are not the president or the director when the corporation:

(a) Is publicly traded on a nationally recognized stock exchange; or

(b) Holds at least ten (10) permits issued by the Alcoholic Beverage Control Division for the sale of alcoholic beverages.

(B) The requirement as to residence in the United States or citizenship of the United States shall not apply to officers, directors, and stockholders of the corporation, but the requirement shall apply to any officer, director, or stockholder who is also the manager of the licensed premises in any capacity in the conduct or operation of the licensed premises; and

(7) The cafe or restaurant making application for the license is primarily engaged in the business of serving foods to the public prepared for consumption on the premises and must be an established eating place within the rules and regulations promulgated by the Alcoholic Beverage Control Board as provided in § 3-9-301(6).

SECTION 25. Arkansas Code § 3-9-306 is amended to read as follows:

3-9-306. Prohibited acts.

~~No~~ A holder of a license authorizing the sale of wine or hard cider, or both, for consumption with food served on the premises where sold, ~~nor any or~~

a servant, agent, or employee of the licensee, shall not do any of the following upon the licensed premises:

- (1) Knowingly sell wine or hard cider to a minor;
- (2) Knowingly sell wine or hard cider to ~~any~~ a person while the person is in an intoxicated condition;
- (3) Sell wine or hard cider upon the licensed premises or permit wine or hard cider to be consumed thereon on any day or at any time when the sale or consumption is prohibited by law; or
- (4) Permit on the licensed premises any disorderly conduct, breach of peace, or any lewd, immoral, or improper entertainment, conduct, or practices.

SECTION 26. Arkansas Code § 3-9-602 is amended to read as follows:

3-9-602. Sale by licensed facility authorized – Restrictions.

(a) It ~~shall be~~ is lawful for ~~any~~ a facility in this state to sell wines or hard cider for consumption on the premises upon obtaining a license from the Director of the Alcoholic Beverage Control Division and paying the fee therefor, as provided in this subchapter.

(b) However, it shall be unlawful for the director to issue ~~any~~ a license to a facility for sales of wine or hard cider, or both, for consumption on the premises in ~~any~~ a city, county, township, or other area in this state wherein the sale and possession of wines or hard cider is unlawful.

(c) All licenses shall be renewed annually in the manner as is provided by law.

SECTION 27. Arkansas Code § 3-9-603(a), concerning license applications for on-premises wine consumption, is amended to read as follows:

(a) ~~No~~ A license shall not be issued to ~~any~~ a person authorizing the sale of wine or hard cider, or both, at retail for consumption on the premises unless the person ~~shall file~~ files with the Director of the Alcoholic Beverage Control Division a verified application therefor accompanied by the fee required by law and ~~shall state~~ states in the application that he or she possesses the following qualifications:

(1) The applicant is a person of good moral character, a citizen or resident alien of the United States, and a resident of the county in which

the permit will be operated or resides within thirty-five (35) miles of the address of the premises described in the application;

(2) The applicant must be a resident of the State of Arkansas on the date of the application and maintain such residency within the state as a continuing qualification to hold the permit issued by the Director of the Alcoholic Beverage Control Division;

(3) The applicant has never been convicted of a felony or has not been convicted within five (5) years of the date of his or her application of any violation of the laws of this state or any other state relating to alcoholic beverages;

(4) The applicant has not had revoked within five (5) years immediately preceding his or her application any license issued to him or her pursuant to the laws of this state or any other state to sell alcoholic liquor of any kind;

(5) The applicant must be the owner of the premises for which the license is sought or the holder of an existing lease, buy-sell agreement, offer and acceptance, or option to lease thereon;

(6) If the applicant is a copartner, all members of the copartnership must be qualified to obtain a license; and

(7)(A)(i) If the applicant is a corporation, the president and directors thereof, any stockholder owning more than five percent (5%) of the stock of such corporation who is not exempted under subdivision (a)(7)(A)(ii) of this section, and the person or persons who shall conduct and manage the licensed premises for the corporation shall possess all the qualifications required herein for an individual license.

(ii) An applicant is not required to state the identity of its shareholders who are not the president or the director when a corporation:

(a) Is publicly traded on a nationally recognized stock exchange; or

(b) Holds at least ten (10) permits issued by the Alcoholic Beverage Control Division for the sale of alcoholic beverages.

(B) The requirement as to residence shall not apply to officers, directors, and stockholders of the corporation, but the requirement shall apply to any officer, director, or stockholder who is also the manager of the licensed premises in any capacity in the conduct or operation of the

licensed premises.

SECTION 28. Arkansas Code § 3-9-604 is amended to read as follows:

3-9-604. Prohibited acts.

~~No~~ A holder of a license authorizing the sale of wine or hard cider, or both, for consumption on the premises where sold ~~nor any~~ or a servant, agent, or employee of the licensee shall not do any of the following upon the licensed premises:

- (1) Knowingly sell wine or hard cider to a minor;
- (2) Knowingly sell wine or hard cider to ~~any~~ a person while the person is in an intoxicated condition;
- (3) Sell wine or hard cider upon the licensed premises or permit wine or hard cider to be consumed thereon on any day or at any time when the sale or consumption is prohibited by law; or
- (4) Permit on the licensed premises any disorderly conduct, breach of the peace, or any lewd, immoral, or improper entertainment, conduct, or practices.

SECTION 29. Arkansas Code § 3-9-605 is amended to read as follows:

3-9-605. Penalties.

If ~~any~~ a facility licensed under this subchapter to sell wine or hard cider, or both, for consumption on the premises ~~shall violate any of the provisions of~~ violates this subchapter or ~~any of the provisions of~~ the other laws of this state regarding the sale of wine or hard cider at retail, the owner or operator of the facility ~~shall be~~ is guilty of a Class B misdemeanor.

/s/L. Eads