

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

State of Arkansas
93rd General Assembly
Regular Session, 2021

A Bill

HOUSE BILL 1148

By: Representatives Cavanaugh, M. Gray, Hillman, Maddox, Richmond, Watson
By: Senator Irvin

For An Act To Be Entitled

AN ACT TO AMEND THE LAW REGARDING LOCAL OPTION ELECTIONS; TO AMEND THE REQUIREMENTS FOR CALLING A LOCAL OPTION ELECTION IN A COUNTY; TO AUTHORIZE A TERRITORIAL SUBDIVISION TO CONDUCT A LOCAL OPTION ELECTION FOR THE MANUFACTURE AND SALE OF ALCOHOLIC BEVERAGES; TO AMEND PORTIONS OF THE LAW RESULTING FROM INITIATED ACT 1 OF 1942; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW REGARDING CALLING A LOCAL OPTION ELECTION IN A COUNTY; TO AUTHORIZE A TERRITORIAL SUBDIVISION TO CONDUCT A LOCAL OPTION ELECTION; 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 § 3-8-102 is amended to read as follows:

3-8-102. Effect of dry vote – Retail dealers — ~~Definition.~~

(a) ~~Retail dealers~~ A retail dealer that held a valid license at the time of the local option election in alcoholic beverages shall be allowed a period of sixty (60) days in which to dispose of stock after may retain the license even if a majority of the electors voting at the final determination of the results of local option election held by which the political territorial subdivision in which the dealer is located shall have voted



against the manufacture and sale of alcoholic beverages and may operate under the license in the same manner as before the local option election.

~~(b) During the sixty day period defined in subsection (a) of this section, the retailer may not purchase any alcoholic beverages, but must restrict his or her business to the sale of those items on hand as of the date the election results are finally determined. A retail dealer retaining a license under subsection (a) of this section shall not transfer or sell the license or transfer the license to another premises.~~

~~(c) As used in this section, "final determination" means the date of certification of the results of an uncontested election or, if contested, the date of the issuance of the mandate by the court finally determining an election contest.~~

SECTION 2. Arkansas Code Title 3, Chapter 8, Subchapter 1, is amended to add an additional section to read as follows:

3-8-104. Definitions.

As used in this chapter:

(1) "Governing body" means a city council or quorum court; and

(2) "Territorial subdivision" means a city, township,

municipality, ward, or precinct of a county of the state.

SECTION 3. Arkansas Code § 3-8-202, resulting from Initiated Act 1 of 1942, is amended to read as follows:

3-8-202. Sections 3-8-201 – 3-8-203, 3-8-205 – 3-8-209 cumulative – Construction.

It is expressly declared that §§ 3-8-201 – 3-8-203 and 3-8-205 – 3-8-209 shall be cumulative to the liquor laws now in force in this state. These sections shall at all times be construed so as to permit, upon petition of fifteen percent (15%) of the qualified electors in any area to be affected or by a majority vote of the governing body of the county or territorial subdivision, the qualified voters therein at one (1) election to determine whether or not all alcoholic beverages, including all kinds and types of whiskey, beer, and wine, shall be manufactured or sold, bartered, loaned, or given away therein.

SECTION 4. Arkansas Code § 3-8-205, resulting from Initiated Act 1 of

1942, is amended to read as follows:

3-8-205. Determination of sufficiency of petition – Certification – Calling of election – Contest.

(a)(1) ~~If the petition is determined to be sufficient under § 3-8-801 et seq., the county clerk shall certify that finding to the county board of election commissioners, and the question shall be placed on the ballot in the county, township, municipality, ward, or precinct at the next biennial general election as provided in § 3-8-101. If the petition is determined to be sufficient under § 3-8-801 et seq., or if the governing body of the county or territorial subdivision adopts, by a majority vote of its members, an ordinance or resolution requesting a local option election shall be submitted to the county clerk.~~

(2) The county clerk shall certify that finding to the county board of election commissioners, and the question shall be placed on the ballot in the county or territorial subdivision at the next biennial general election as provided in § 3-8-101.

(b)(1) If an appeal is taken from the certification of the petition of the county clerk, it shall be taken within ten (10) days and shall be considered by the circuit court within ten (10) days, or as soon as practicable, after the appeal is lodged with the court.

(2) The circuit court shall render its decision within thirty (30) days thereafter.

(c) If an appeal is taken, the election shall be ~~had~~ held no sooner than sixty-five (65) days after the appeal is determined, if the decision is in favor of the petitioners.

(d)(1)(A) The decision shall be certified immediately to the county board of election commissioners, and the day for the election shall be fixed by the county board of election commissioners for not earlier than sixty-five (65) days nor later than ninety (90) days after the certification of the decision of the circuit court.

(B) Any appeal from the final decision of the circuit court shall be taken within ten (10) days and shall be advanced and immediately determined by the Supreme Court.

(2) In that event, the county board of election commissioners may, in its discretion, delay the election until after the final decision of the Supreme Court.

(3) If the decision is in favor of the petitioners, then the county board of election commissioners shall set the day for the election, which shall be not earlier than sixty-five (65) days nor later than ninety (90) days after the final decision of the Supreme Court.

(e) ~~Except as provided in this section, a petition for local option election shall be governed by § 7-9-101 et seq. and the Disclosure Act for Initiative Proceedings, § 3-8-701 et seq.~~ An election held under the governing body's ordinance under subsection (a) of this section may be contested as provided for in § 3-8-309.

(f) Except as provided in this section, a petition for local option election shall be governed by § 7-9-101 et seq. and the Disclosure Act for Initiative Proceedings, § 3-8-701 et seq.

SECTION 5. Arkansas Code § 3-8-208, resulting from Initiated Act 1 of 1942, is amended to read as follows:

3-8-208. Election results – Effects.

(a) If the majority of the electors voting on the issue at the election vote for the manufacture or sale of intoxicating liquors, then it ~~shall be~~ is lawful for the Director of the Alcoholic Beverage Control Division to continue to issue licenses or permits for such manufacture or sale within the designated territory as if no election had been held.

(b) If a majority of the electors voting at the election vote against the manufacture or sale of intoxicating liquors, then it ~~shall be~~ is unlawful for the director or any county or municipal official to issue ~~any~~ a license or permit for the manufacture, sale, barter, loan, or giving away of any intoxicating liquor as defined in this subchapter ~~unless and until the prohibition shall be~~ is repealed by a majority vote ~~as provided for in under~~ §§ 3-8-201 – 3-8-203, and 3-8-205 – 3-8-209, and 3-8-603.

(c) In either case, a period of at least four (4) years shall elapse before another election on the same subject may be held in the territory affected.

(d) If a majority of electors voting on the issue at ~~any such an~~ an election vote against the manufacture or sale of intoxicating liquors, ~~any a~~ a license or permit ~~which~~ that has already been issued, authorizing the manufacturing or sale or the bartering, loaning, or giving away of intoxicating liquor within the territory affected remains valid ~~shall be~~

~~immediately cancelled, and the unearned part of the license or permit fee shall be returned. It shall then be unlawful for any person, firm, or corporation to manufacture, sell, barter, loan, or give away any intoxicating liquor within the territory covered by the petition.~~

(e)(1) A territorial subdivision may hold an election under § 3-8-603 for the manufacture or sale of intoxicating liquor within the territorial subdivision even if an election for an entire county is not held under this section for an entire county.

(2) If an election for an entire county is held, if the majority of electors voting at the election held for the territorial subdivision vote differently from the majority of electors voting at the election held for the county, the results of the election held for the territorial subdivision override the results of the election held for the county for the manufacture or sale of intoxicating liquor in the territorial subdivision.

SECTION 6. Arkansas Code § 3-8-209(a) and (b), concerning the penalty for selling or furnishing a place for sale in a dry territory and resulting from Initiated Act 1 of 1942, are amended to read as follows:

(a) Except as provided in § 3-5-1901 et seq., ~~it is unlawful for a person, firm, or corporation to~~ shall not manufacture, sell, barter, loan, or give away intoxicating liquor in a county, ~~township, municipality, ward, or precinct~~ or territorial subdivision in which the manufacture or sale of intoxicating liquor is prohibited under ~~Initiated Act No. 1 of 1942, §§ 3-8-201 - 3-8-203, and 3-8-205 - 3-8-209, and 3-8-603.~~

(b)(1) Upon a first conviction, ~~any a person or officers~~ officer of ~~any a firm or corporation that shall manufacture, sell, barter, loan, or give away any manufactures, sells, barters, loans, or gives away an~~ intoxicating liquor in ~~any a territory which that has been made is~~ dry under the ~~provisions of this subchapter shall be~~ is guilty of a violation and shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).

(2) For a second conviction, ~~he or she shall be~~ a person or officer of a firm or corporation is guilty of a violation and shall be fined not less than two hundred dollars (\$200) nor more than two thousand dollars (\$2,000), ~~and for any subsequent conviction shall be guilty of a Class D felony.~~

(3) For each subsequent conviction, a person or officer of a firm or corporation is guilty of a Class D felony.

SECTION 7. Arkansas Code § 3-8-210 is amended to read as follows:

3-8-210. Authority to continue to issue sale permits.

The Alcoholic Beverage Control Division ~~shall have~~ has the authority to continue to issue permits for the manufacture or sale of beer and of vinous, spirituous, and malt liquors in ~~any a~~ a political subdivision of the State of Arkansas of the same kind and type issued prior to July 4, 1996, provided that the electorate of ~~such the~~ the political subdivision has not since July 4, 1996, held an election under ~~the provisions of Initiated Act No. 1 of 1942,~~ §§ 3-8-201 – 3-8-203, ~~and~~ 3-8-205 – 3-8-209, ~~and~~ 3-8-603.

SECTION 8. Arkansas Code § 3-8-305 is amended to read as follows:

3-8-305. Elections for entire county, ~~district,~~ or ~~city~~ territorial subdivision – Effect.

(a)~~(1)~~ ~~No~~ An election in ~~any town, city, district, or precinct of a~~ territorial subdivision of a county shall not be held under this subchapter on the same day ~~on which~~ that an election for the entire county is held.

~~(2)~~(b) When an election is held in an entire county and a majority of the legal votes cast at the election are against the manufacture, sale, barter, or loan of spirituous, vinous, malt, or other intoxicating liquors, then it shall not be lawful to manufacture, sell, barter, or loan any liquors in ~~any a~~ a portion of the county unless the territorial subdivision has held an election under § 3-8-603 and has voted for the sale and manufacture of intoxicating liquors.

~~(3)~~(c) If, at an election for the entire county, the majority of the legal votes cast are in favor of the manufacture, sale, barter, or loan of any liquors, the election shall not ~~operate to~~ make it legal to grant license to manufacture, sell, barter, or loan such liquors in ~~any a~~ a territorial ~~division~~ subdivision of the county from which the manufacture, sale, barter, or loan has been excluded by an election held under this subchapter, but the status of the territorial ~~division~~ subdivision shall remain as if no election had been held.

~~(b)(1) No election shall be held in any election precinct under this act on the same day on which an election is held for the district or city of~~

~~which the precinct is a part.~~

~~(2) If, at an election held for the entire district or city, the majority of legal votes cast shall be in favor of the sale, barter, or loan of spirituous, vinous, malt, or other liquors, then the status in the several precincts thereof shall remain as it was before the election.~~

~~(3) If the majority should be against the sale, then the sale, barter, or loan of such liquors shall be unlawful in every portion of the district or city.~~

SECTION 9. Arkansas Code § 3-8-307 is amended to read as follows:

3-8-307. Effect of vote against sale.

If, at ~~any~~ an election provided for in this act, a majority of the legal votes cast are against the manufacture, sale, barter, or loan of spirituous, vinous, or malt liquors, then the manufacture, sale, barter, or loan of any such liquors ~~shall be~~ is unlawful in ~~such~~ the county, ~~city, town, district, or precinct, or territorial subdivision as the case may be,~~ except as provided, unless a majority of voters vote for the manufacture or sale of intoxicating liquors at a subsequent election ~~held under this act, a majority of the legal votes cast shall be in favor of the sale of the liquors.~~

SECTION 10. Arkansas Code § 3-8-309 is amended to read as follows:

3-8-309. Contests of elections.

(a) ~~Any~~ An election held under this act may be contested as provided for in this section.

(b)(1) Any number of the citizens and legal voters, but not less than ten (10), of the county, ~~city, town, district, or precinct~~ or territorial subdivision in which the elections have been held, shall have the right to contest ~~any~~ an election held under this act and shall be designated the contestants.

(2)(A) The contestants shall file, within ten (10) days after the final action of the examining board, in the office of the clerk of the county court a written statement of the grounds of the contest.

(B) ~~They~~ The contestants shall ~~cause~~ serve a copy of the statement ~~to be served~~ on the county judge and shall ~~give notice thereof by~~ post written or printed notice ~~to be posted~~ at the courthouse door of the county, and in three (3) or more public places in the county, ~~city, town,~~

~~district, or precinct~~ or territorial subdivision in which the election ~~has~~ been ~~was~~ held.

~~(C) They shall cause the~~ The contestants shall publish notice ~~to be published in some~~ in a newspaper of the county, when possible, for two (2) consecutive issues, commencing not later than the first issue of the paper after filing the statement.

(3) When a notice of the contest ~~shall be~~ is executed on the county judge, the certificate under § 3-8-306 shall not be recorded.

(c) Any number of the citizens and legal voters, not less than ten (10), of the county, ~~city, town, district, or precinct~~ or territorial subdivision in which the election has been held, may resist the contest by filing in the office of the clerk of the county court a statement controverting the grounds of the contestants and may state any additional grounds to sustain the election, and they shall be designated as the contestees.

~~(d)(1) The contest shall be heard and determined by the same board which, by law, that~~ is authorized and empowered by law to hear and determine a contest of an election for county officers.

~~(2) The same provisions of the statutes shall~~ apply to the contest of any election held under this act as are provided for the contest of ~~any~~ an election for county officers, except as provided in this section.

(e) Notice ~~for the taking~~ of depositions or other proceedings in the contest may be executed on the person whose name appears first as contestant or contestee, which shall be deemed notice to all his or her associates.

(f) In case the required number shall fail to appear as contestees, ex parte testimony ~~shall be~~ is competent before the contesting board.

~~(g)(1) The trial of the case shall be on the fourth Monday after the filing in the county clerk's office of the grounds of the contest, however, the board, for good cause, may allow further time.~~

(2) A continuance of the trial date may be granted one (1) time at the request of either party for good cause shown.

(h) The decision of the board shall be:

~~(1) given~~ Given in writing and signed in triplicate, ~~with~~ One one (1) copy ~~shall be~~ delivered to the contestants, ~~and~~ one (1) copy delivered to the contestees, and one (1) copy delivered ~~the other shall be~~ ~~delivered~~ to the county clerk of the county in which the contest is pending,

~~which; and shall be entered~~

(2) Entered on the record of the county court.

(i) If the decision of the board is that a majority of the legal votes cast at the election were against the manufacture or sale of such liquors, the entry of the decision shall have the same effect as the recording of the certificates of the examining board ~~as provided~~ in § 3-8-306.

(j) The contestants or contestees ~~shall~~ have the right to appeal ~~from~~ the decision of the board to the circuit court of the county ~~where in which~~ the contest is pending, in the same way as appeals are taken from the lower courts to the circuit court, and the right to appeal the circuit court's decision as provided by law. ~~An appeal from the circuit court may be taken as provided by law.~~

(k) The cost of the contest shall be adjudged against the unsuccessful parties.

SECTION 11. Arkansas Code § 3-8-310(a), concerning the effect of voting against the sale of liquor at a local option election, is amended to read as follows:

(a)(1) Whenever a local option election ~~shall be~~ is held in ~~any a~~ county, ~~city, town, district, or precinct~~ or territorial subdivision of the ~~in this~~ state and a majority of the votes cast at the election ~~shall be~~ are ~~in favor of prohibiting~~ against the manufacture or sale of liquor in the territory in which the election ~~shall have been~~ is held, the law prohibiting the sale ~~shall be in full force and effect~~ is effective at the expiration of sixty (60) days from the date of the entry of the certificate of the canvassing board in the record of the county court.

(2)(A) ~~After the expiration of sixty (60) days, no liquor license theretofore issued in the territory under the laws of this state shall be of any force or effect whatever, but the owner of the license shall be entitled to recover from the county, city, town, district, or precinct to which the license money was paid, the proportional part thereof as the unexpired period of license bears to the whole of the year. A license holder that held a valid license at the time of the local option election may retain the license and may operate under the license in the same manner as before the local option election was held.~~

(B) A license holder retaining a license under subdivision

(a)(2)(A) of this section shall not transfer or sell the license or transfer the license to another premises.

SECTION 12. Arkansas Code § 3-8-310(b)(1), concerning the penalty for selling, bartering, or loaning liquors following a local option election, is amended to read as follows:

(b)(1) Upon conviction, ~~any a person who that shall sell, barter, or loan directly or indirectly any manufactures, sells, barthers, or loans~~ such liquors in the ~~city, county, town, district, or precinct~~ or territorial subdivision after sixty (60) days ~~shall be~~ is guilty of a Class C misdemeanor.

SECTION 13. Arkansas Code § 3-8-502(a), concerning the qualifications for local option elections in certain annexed areas, is amended to read as follows:

(a)(1)(A) If an area meets the qualifications provided in subdivision (a)(1)(B) of this section, the residents of the area may petition the county clerk of the county for or the governing body may request, by a majority vote of its members, a local option election to determine whether off-premises retail beer permits and off-premises Arkansas native wine retail permits shall be issued within the annexed area.

(B) An area qualifies to hold a local option election under this subchapter if:

(i) The area has been annexed from a dry township into a wet contiguous and adjoining city or incorporated town;

(ii) The annexed area is separated from the remainder of the dry township by a four-lane divided highway; and

(iii) A nonbinding election was held between November 1, 2004, and January 1, 2005, in the annexed area on the issue of whether intoxicating liquors may be manufactured, sold, bartered, loaned, or given away within the annexed area.

(2) ~~The petition requesting~~ A request for a local option election shall be prepared in the manner provided by § 3-8-205.

(3)(A) When ~~thirty-eight percent (38%)~~ fifteen percent (15%) of the qualified electors of the annexed area, as shown on county voter registration records, sign a petition requesting a local option election or

the governing body of the annexed area approves, by majority vote, an ordinance or resolution requesting a local option election, the county clerk shall determine the sufficiency of the petition or certify the governing body's ordinance or resolution requesting the local option election within ten (10) days of the filing of the petition or request by ordinance or resolution.

(B) If the county clerk verifies that ~~thirty-eight percent (38%)~~ fifteen percent (15%) of the qualified electors of the annexed area have signed the petition or has certified the governing body's ordinance or resolution, the county clerk shall certify that finding to the county board of election commissioners.

(C) The question shall be placed upon the ballot in the annexed area at the next biennial November general election, as provided in § 3-8-101.

(D) Any appeal of the order of the county court shall be taken in the manner provided by § 3-8-205~~(e)-(e)~~ (c)-(f).

(4)(A) The election shall be conducted in the manner provided by § 3-8-206(a) and (b).

(B) Upon petition of fifteen percent (15%) of the interested legal voters in the annexed area, within ten (10) days after the date of the election, the county board of election commissioners shall immediately recount the votes and declare the result of the election as determined by the recount.

(C) Within twenty (20) days after the election, the county court shall make and enter of record its order declaring the result of the election.

(D) The costs of any elections held under this subchapter shall be paid by the county in the same manner as other costs of general elections.

(5) Upon petition of fifteen percent (15%) of the interested legal voters in the annexed area filed with the circuit clerk of the county in which proceedings are pending, the circuit court shall immediately by mandamus compel the county court or other officials to perform the duties imposed upon them under this section.

SECTION 14. Arkansas Code § 3-8-602(b), concerning a request for a

local option election in a defunct voting district, is amended to read as follows:

(b) An election for an area within the boundaries of a defunct voting district to permit the sale of the alcoholic beverages identified in subdivision (a)(2) of this section shall be held as follows:

(1)(A) A registered voter who resides in a county that contains a defunct voting district may request in writing or a city council of a city of the first class that includes a defunct voting district may request by ordinance that the county board of election commissioners issue a resolution to identify the boundaries of a territorial subdivision located in a defunct voting district in which qualified voters may reside.

(B) The county board of election commissioners shall issue a resolution within thirty (30) days.

(C) The resolution shall identify the:

(i) Territorial subdivisions that are located wholly or partially within borders of any defunct voting districts in the county;

(ii) Formal and informal name or designation of any defunct voting districts in the county as of the last date the defunct voting district held the election resulting in its dry status;

(iii) Date on which any defunct voting district held the last local option election that resulted in the defunct voting district's becoming dry; and

(iv)(a) Boundaries of any defunct voting district at the time of the last local option election that resulted in the defunct voting district's becoming dry.

(b) The boundaries of the defunct voting district shall be based on state, county, or municipal records or other records publicly identified in the resolution.

(D) The resolution shall include a map of the boundaries of the defunct voting district from which qualified electors residing within the defunct voting district can be identified and verified for purposes of obtaining signatures and conducting the local option election.

(E) In preparing the resolution and the map, the county board of election commissioners may consult with the county clerk, the State Board of Election Commissioners, the Secretary of State, or any other entity able to provide assistance in confirming the data and preparing the map

required by subdivision (b)(1)(D) of this section and the precise boundaries of the defunct voting district.

(F) The resolution shall be filed with the county clerk and published one (1) time a week for two (2) weeks as soon as practicable in a newspaper of general circulation in the county;

(2)(A)(i) A petition procedure for a local option election for a defunct voting district shall be conducted under § 3-8-201 et seq.

(ii) The city council of a city of the first class that includes a defunct voting district may adopt an ordinance to hold a local option election to be conducted under § 3-8-201 et seq.

(B) Signatures shall be obtained from fifteen percent (15%) of the qualified electors residing within the boundaries of a defunct voting district, as identified by the resolution and corresponding map.

(C) When fifteen percent (15%) of the qualified voters have filed petitions or when the governing body of the defunct voting district requesting a local option election files an ordinance or resolution requesting a local option election with the county clerk ~~under this subdivision (b)(2)~~, the county clerk shall determine within ten (10) days the sufficiency of the petitions or certify the ordinance or resolution under § 3-8-205;

(3)(A)(i) The election process for a special local option election for a defunct voting district shall be conducted pursuant to § 3-8-201 et seq.

(ii) The county clerk shall issue a resolution calling for a special local option election for a defunct voting district for which the requisite number of signatures or the ordinance or resolution of the governing body when the petition, ordinance, or resolution has been certified ~~under subdivision (b)(2) of this section when:~~

~~(a) The requisite number of qualified electors sign petitions filed with the county clerk; and~~

~~(b) The county clerk certifies those signatures to the county board of election commissioners~~ by the county clerk pursuant to § 3-8-201 et seq.

(iii) The resolution prepared by the county clerk calling the special local option election shall be filed with the county clerk, and the county clerk shall immediately transmit the document to the

county board of election commissioners.

(iv) The resolution calling the special local option election shall state:

(a) The date of the special election;

(b) The full text of the measure for which the election is called; and

(c) The ballot title for the measure for which the special local option election is called.

(v) The county board of election commissioners shall publish the resolution calling the special local option election one (1) time a week for two (2) weeks as soon as practicable in a newspaper of general circulation in the county.

(B) The ballot title shall be in substantially the following form: "TO DETERMINE WHETHER OR NOT ALCOHOLIC BEVERAGES MAY BE SOLD AS AUTHORIZED BY ARKANSAS CODE § 3-8-602 WITHIN (popular name of the defunct voting district)".

(C) The ballot shall be in substantially the following form:

"[] FOR the Sale of Alcoholic Beverages, As Authorized by Arkansas Code § 3-8-602.

[] AGAINST the Sale of Alcoholic Beverages, As Authorized by Arkansas Code § 3-8-602."

(D) The special local option election shall be called on a Tuesday and shall not be held less than sixty (60) days following the date the resolution calling the special election is filed with the county clerk.

(E) The map of the defunct voting district created by the county board of election commissioners shall be placed at each polling site.

(F) A majority vote of the qualified electors residing within the boundaries of the defunct voting district shall determine whether or not alcoholic beverages may be sold or manufactured under subdivision (a)(2) of this section within the boundaries of the defunct voting district; and

(4) The precincts and polling sites to be utilized for conducting elections under this section shall be established by the county board of election commissioners.

SECTION 15. Arkansas Code Title 3, Chapter 8, Subchapter 6, is amended to add an additional section to read as follows:

3-8-603. Local option election – Territorial subdivision.

(a)(1) Upon receipt of an ordinance or resolution of the governing body of a territorial subdivision or upon a petition signed by fifteen percent (15%) of the qualified voters of the territorial subdivision, the territorial subdivision shall hold a local option election to determine whether the territorial subdivision is for or against the manufacture or sale of intoxicating liquors within the territorial subdivision.

(2) The ordinance or resolution of the governing body of the territorial subdivision requesting a local option election or the petition signed by fifteen (15%) of the qualified voters shall be submitted to the county clerk for certification.

(3)(A) The county clerk shall certify the ordinance or resolution or petition under this section within ten (10) days of the filing of the ordinance, resolution, or other action.

(B) If the county clerk certifies the ordinance or resolution of the governing body of the territorial subdivision or the petition, the county clerk shall certify the finding to the county board of election commissioners.

(C) The question shall be placed upon the ballot in the territorial subdivision at the next biennial November general election as required under § 3-8-101.

(4)(A) A local option election under this section shall be conducted in the manner stated in § 3-8-206(a) and (b).

(B) Upon petition of at least fifteen percent (15%) of the qualified electors in the territorial subdivision, within ten (10) days after the date of the local option election, the county board of election commissioners shall immediately recount the votes and declare the result of the local option election as determined by the recount.

(C) Within twenty (20) days after the local option election, the county court shall enter its order declaring the result of the local option election.

(D) The costs of a local option election held under this subchapter shall be paid by the county in the same manner as other costs of general elections.

(5) Upon petition of at least fifteen percent (15%) of the qualified electors in the territorial subdivision filed with the circuit clerk of the county in which proceedings are pending, the circuit court may immediately by mandamus compel the county court or other officials to perform the duties imposed upon them under this section.

(b)(1) If a majority of the qualified electors of the territorial subdivision vote to change from a wet to a dry territory, a license holder that held a valid license at the time of the local option election may retain the license and may operate under the license in the same manner as before the local option election was held.

(2) A license holder retaining a license under subdivision (b)(1) of this section shall not transfer or sell the license or transfer the license to another premises.

(c) If a majority of the qualified electors of the territorial subdivision vote to change from a dry to a wet territory, the Director of the Alcoholic Beverage Control Division may issue a license to a qualified applicant to manufacture or sell intoxicating liquors within the territorial subdivision.

(d) If a territorial subdivision conducts a local option election under this section, the results of a local option election held for the county in which the territorial subdivision is located do not override the results of the local option election for the territorial subdivision if a discrepancy exists between the results of the local option election for the county and the results of the local option election for the territorial subdivision.

(e) A local option election under this section may be held in the territorial subdivision only one (1) time every four (4) years.

(f) Except as provided in this section, a petition for a local option election is governed by § 3-8-801 et seq. and § 7-9-101 et seq.

(g) To the extent this section conflicts with § 3-8-201 et seq., this section controls.

SECTION 16. Arkansas Code § 3-8-803(a), concerning the calling of a local option election by voter petition, is amended to read as follows:

(a) ~~An~~ If an election to determine whether licenses will be granted for the manufacture or sale or the bartering, loaning, or giving away of

intoxicating liquor ~~shall be~~ is called by a petition, the petition shall be signed by fifteen percent (15%) of the registered voters in the designated county, ~~township, municipality, ward, or precinct~~ or territorial subdivision ~~in a number equal to thirty eight percent (38%) of the registered voters.~~