

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

State of Arkansas
93rd General Assembly
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As Engrossed: S3/17/21
A Bill

SENATE BILL 473

By: Senator Irvin
By: Representative L. Johnson

For An Act To Be Entitled

AN ACT TO ESTABLISH A STATE PARK RESTAURANT PRIVATE CLUB PERMIT; TO AUTHORIZE A STATE PARK RESTAURANT PRIVATE CLUB PERMIT HOLDER TO SERVE ALCOHOLIC BEVERAGES; AND FOR OTHER PURPOSES.

Subtitle

TO ESTABLISH A STATE PARK RESTAURANT PRIVATE CLUB PERMIT; AND TO AUTHORIZE A STATE PARK RESTAURANT PRIVATE CLUB PERMIT HOLDER TO SERVE ALCOHOLIC BEVERAGES.

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

SECTION 1. Arkansas Code § 3-4-601(a), concerning the various kinds of alcoholic beverage permits, is amended to add an additional subdivision to read as follows:

(10) State park restaurant private club permit.

SECTION 2. Arkansas Code § 3-9-222(a)(1), concerning the procedure for obtaining a private club permit, is amended to read as follows:

(a)(1) ~~Application~~ Except as provided in § 3-9-701 et seq., application for a permit to operate as a private club may be made to the governing body of the county or municipality in which the private club seeks to be located.

SECTION 3. Arkansas Code Title 3, Chapter 9, is amended to add an



additional subchapter to read as follows:

Subchapter 7 – State Park Restaurant Private Club Permit

3-9-701. Definitions.

As used in this subchapter:

(1) "Alcoholic beverage" means a beverage containing more than five-tenths percent (0.5%) of alcohol by weight;

(2) "Restaurant" means a public or private place that:

(A) 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) Has adequate and sanitary kitchen and dining equipment;

(C) Has seating capacity for a least fifty (50) people;

(D) Has sufficient number and type 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 for business a minimum of five (5) days per week, with the exception of holidays, vacations, and periods of redecorating; and

(3) "State park" means a state park classified or reclassified as an official state park under § 22-4-201(1) or § 22-4-202.

3-9-702. State park restaurant private club.

(a) A state park restaurant private club applicant shall be a nonprofit corporation organized and existing under the laws of this state for a period of not less than one (1) year before applying for a state park private club permit under this subchapter.

(b) The net revenues of the state park restaurant private club shall not directly or indirectly benefit its members, except for the payment of bona fide expenses of the state park restaurant private club's operations.

(c) Activities at the state park restaurant private club shall be conducted for some common recreational, social, patriotic, political, national, benevolent, athletic, community hospitality, professional association, entertainment, or other object or purpose and not solely for the consumption of alcoholic beverages.

(d)(1) At the time of application for a state park restaurant private club permit, the entity shall:

(A) Have not fewer than one hundred (100) members; and

(B) Own or lease, be the holder of a buy-sell agreement or offer and acceptance, or have an option to lease a building, property, or space for the reasonable comfort and accommodation of its members and the families and guests of its members.

(2) The state park restaurant private club shall restrict the use of club facilities to its members and the families and guests of its members.

(3) The state park restaurant private club shall be located on property classified as a state park and under the control of the Department of Parks, Heritage, and Tourism and the State Parks, Recreation, and Travel Commission.

(e) For purposes of this subchapter, a person is a member of the state park restaurant private club only upon ordering an alcoholic beverage as defined in § 3-9-701.

3-9-703. Procedure for obtaining a state park restaurant private club permit – Scope.

(a)(1) Application for a permit to operate as a state park restaurant private club may be made to the:

(A) Governing body of the county in which the state park is located; and

(B) Secretary of the Department of Parks, Heritage, and Tourism.

(2) If the application for a permit to operate as a state park restaurant private club under subdivision (a)(1) of this section is approved by both the governing body of the county by ordinance and by the secretary, the Alcoholic Beverage Control Division may issue a permit to operate as a state park restaurant private club to the applicant for the proposed location.

(b)(1) The application for a state park restaurant private club shall be submitted to the division and accompanied by an annual permit fee of one thousand five hundred dollars (\$1,500).

(2) In an area in which the sale of alcoholic beverages has not

been authorized by local option as provided under § 3-8-201 et seq., the application for a state park restaurant private club permit shall be submitted to the division and accompanied by an additional application fee of one thousand five hundred dollars (\$1,500).

(c)(1) After filing an acceptable application with the Director of the Alcoholic Beverage Control Division, the applicant shall cause to be published at least one (1) time each week for four (4) consecutive weeks in a legal newspaper of general circulation in the city in which the premises are situated or, if the premises are not in a city, in a newspaper of general circulation for the locality where the business is to be conducted, a notice that the applicant has applied for a permit to dispense alcoholic beverages on the premises.

(2) The notice shall be:

(A) In such form as the director shall prescribe by rule or order; and

(B) Verified.

(3) The notice shall give the names of the managing agent and the nonprofit corporation and shall state:

(A) That the manager, at least one (1) partner, or the majority stockholder is a citizen of Arkansas;

(B) That he or she is of good moral character;

(C) That he or she has never been convicted of a felony or had a license to sell or dispense alcoholic beverages revoked within the five (5) years preceding the date of the notice; and

(D) That he or she has never been convicted of violating the laws of this state or of any other state governing the sale or dispensing of alcoholic beverages.

(d)(1) Within five (5) days after filing an application for a permit to dispense alcoholic beverages on the premises, a notice of the application shall be posted in a conspicuous place at the entrance to the premises.

(2) The applicant shall notify the director of the date when the notice is first posted.

(3) A state park restaurant private club permit shall not be issued to an applicant until proper notice has been so posted on the premises for at least thirty (30) consecutive days.

(4)(A) The notice shall be in such form as the director shall

prescribe by rule or order.

(B) The notice shall be:

(i) At least eleven inches (11") in width and seventeen inches (17") in height; and

(ii) Printed in black lettering on a yellow background.

(e)(1) Upon receipt of an application for a state park restaurant private club permit and notification of the posted notice as required under subsection (d) of this section, the director shall immediately mail a copy of the application to the sheriff, chief of police, prosecuting attorney, and city board of directors or other governing body over the city in which the premises are located.

(2) A state park restaurant private club permit shall not be issued by the director until at least thirty (30) days have passed from the mailing of the notices required by this section.

(3) If the director receives notification of an objection to the issuance of a state park restaurant private club permit from a governing official in the city or county within the thirty (30) days required under subdivision (d)(3) of this section, the director shall not issue the state park restaurant private club permit until he or she has held a public hearing.

(f) The director may issue a state park restaurant private club permit as authorized in this section upon determination that the applicant is qualified and that the application is in the public interest.

(g) Upon issuance of a state park restaurant private club permit, the state park restaurant private club permit holder may:

(1) Serve to members for on-premises consumption during legal operating hours the alcoholic beverages furnished or drawn from private stocks belonging to members, individually or in common under a locker, pool, or revolving fund system as provided in § 3-9-221 or purchased from a retail liquor store that maintains a federal permit;

(2) Store alcoholic beverages at the state park restaurant private club to serve to members for on-premises consumption; and

(3) Store alcoholic beverages at a separate facility approved by the division as needed to meet the demands of members.

3-9-704. Permit renewal – Supplemental taxes.

(a)(1) A state park restaurant private club permit shall be renewed on or before June 30 of each calendar year for the fiscal year beginning July 1.

(2) A state park restaurant private club permit issued between January and July 1 of any year shall be at one-half ($\frac{1}{2}$) of the amount of the fee provided in § 3-9-703.

(b)(1) In addition, there is levied a supplemental tax of ten percent (10%) upon the gross proceeds or gross receipts derived by the state park restaurant private club from the charges to members for the preparation and serving of mixed drinks or for the cooling and serving of beer and wine, drawn from the private stocks of the members as provided in § 3-9-221, for consumption only on the premises where served.

(2) In addition to the tax levied under subdivision (b)(1) of this section, a supplemental tax of four percent (4%) is levied on the gross proceeds or gross receipts derived by the state park restaurant private club from the charges to members for the preparation and serving of mixed drinks drawn from the private stocks of the members as provided in § 3-9-221 for consumption only on the premises where served.

(c)(1) The supplemental tax shall be reported and paid to the Secretary of the Department of Finance and Administration in the same manner and at the same time as the gross receipts tax under the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., and shall be in addition to the tax.

(2)(A) The tax levied under subdivision (b)(2) of this section shall be credited as special revenues to the University of Arkansas Medical Center Fund.

(B)(i) The funds credited under subdivision (c)(2)(A) of this section shall be used exclusively for making loan repayments for construction projects authorized by Acts 1989 (1st Ex. Sess.), No. 261, until the loan is paid in full.

(ii) After the Chancellor of the University of Arkansas for Medical Sciences certifies in writing to the Chief Fiscal Officer of the State that the loan has been repaid in full, then revenue from the tax collected under subdivision (b)(2) of this section may be used for any purpose authorized by law.

(d) The secretary shall promulgate reasonable rules for the

enforcement and collection of the tax levied herein, including a requirement that each state park restaurant private club permit holder maintain records showing all such charges made.

(e) The taxes herein prescribed may be passed on to the members.

(f)(1) In addition to the fee or supplemental tax as levied herein, any city or incorporated town or any county in which the permitted premises are located, if located outside the limits of a city or incorporated town, may levy an additional permit fee or supplemental tax or both additional permit fee and supplemental tax not to exceed one-half ($\frac{1}{2}$) of the amount of the fee or rate provided in this section.

(2) All fees and taxes levied hereunder by any city or county shall be used for city or county general purposes or for city or county economic development purposes.

(g) Holders of a bed and breakfast private club permit are exempt from the supplemental taxes in subsections (b) and (f) of this section.

(h)(1) The Department of Finance and Administration shall notify the city or county of an audit for the supplemental tax on the sale of alcoholic beverages consumed on the premises if:

(A) The department audits a state park restaurant private club;

(B) The department makes an assessment related to the audit against the state park restaurant private club; and

(C) The state park restaurant private club operates in a city or county that imposes a supplemental tax on the sale of alcoholic beverages consumed on the premises under subsection (f) of this section.

(2) The city or county may use this information to administer its supplemental tax on the sale of alcoholic beverages consumed on the premises.

(3) A city or county provided information under this subsection is subject to all of the confidentiality requirements of § 26-18-303.

3-9-705. Unlawful sales.

(a) A state park restaurant private club permit holder shall not sell alcoholic beverages either by the package or drink.

(b) Alcoholic beverages, beer, and wine owned by members may be stored on the premises of the state park restaurant private club.

(c) If any state park restaurant private club permit holder shall sell, barter, loan, or give away any alcoholic beverages in violation of this subchapter or other alcoholic beverage control laws of this state, the state park restaurant private club permit shall be revoked.

3-9-706. Rules.

The Alcoholic Beverage Control Board shall establish rules with respect to state park restaurant private club permits issued under this subchapter to assure compliance and to prohibit any state park restaurant private club permit holder from engaging in the unlawful sale of alcoholic beverages.

3-9-707. Advertising.

(a) It is unlawful for a state park restaurant private club permit holder to use advertising media, including any signs or trade names on the exterior of the building, to promote the consumption and use of alcoholic beverages or to advertise or announce the price of service of alcoholic beverages for on-premises consumption in a county where its voters have not authorized the sale of alcoholic beverages in a local option election under Initiated Act No. 1 of 1942, as amended, §§ 3-8-201 – 3-8-203, and 3-8-205 – 3-8-209.

(b)(1) A state park restaurant private club permit, regardless of whether or not the voters in the county authorized the sale of alcoholic beverages in a local option election, shall be entitled to use the advertising media to advertise or announce social functions of general interest, including without limitation:

- (A) A golf tournament;
- (B) A charity ball;
- (C) An entertainment event; or
- (D) A similar activity.

(2) The social function shall be held within the confines of the state park restaurant private club property.

(3) The advertising for the social function shall be preceded by the words "Notice to Members" and the name of the club or organization sponsoring such social activity.

3-9-708. Inspection of premises and records.

(a) A state park restaurant private club permit shall not be issued under this subchapter unless the state park restaurant private club permit holder has consented in writing that the permitted premises and its books and records are open at all times to all law enforcement and tax officials and officials of the Alcoholic Beverage Control Division, the Alcoholic Beverage Control Enforcement Division, and the Secretary of the Department of Finance and Administration without requirement of warrant or other legal process.

(b) A state park restaurant holding a state park restaurant private club permit under this subchapter shall not market, sell, or otherwise furnish the names of its members or any other information pertaining to its members to any other public or private entity, except as provided in subsection (a) of this section.

SECTION 4. DO NOT CODIFY. Rules.

(a) When adopting the initial rules to implement this act, the final rule shall be filed with the Secretary of State for adoption under § 25-15-204(f):

(1) On or before January 1, 2022; or

(2) If approval under § 10-3-309 has not occurred by January 1, 2022, as soon as practicable after approval under § 10-3-309.

(b) The Director of the Alcoholic Beverage Control Division shall file the proposed rule with the Legislative Council under § 10-3-309(c) sufficiently in advance of January 1, 2022, so that the Legislative Council may consider the rule for approval before January 1, 2022.

SECTION 5. DO NOT CODIFY.

An existing private club permit holder located on property classified as a state park that holds a private club permit as of the effective date of this act:

(1) Is not required to separately apply for a state park restaurant private club permit; and

(2) May be transferred to a state park restaurant private club permit by the Alcoholic Beverage Control Division.

/s/Irvin