

## **Title 3. Alcoholic Beverages**

### **Chapter I. Alcoholic Beverage Control Division, Department of Finance and Administration**

#### **Subchapter A. Generally**

#### **Part 1. Rules Applicable to All Categories of Permits**

##### **Subpart 1. Generally**

#### **3 CAR § 1-101. Scope.**

(a) Except where specifically noted, the rules under this part apply to all categories of permits issued by authority of the Alcoholic Beverage Control Division.

(b) This part should be regarded as being supplementary to, and not in replacement of, the laws of this state relating to the matters covered by this part.

(c) The rules not applying to all categories of permits will be found under one (1) of the more specific parts that follow.

(d) In addition, rules governing the division administrative procedures in regard to all hearings and to the suspension or revocation of permits and registrations will be found under this part.

**Authority.** Arkansas Code § 3-2-206.

#### **3 CAR § 1-102. Definitions.**

The following definitions are applicable to Parts 1 – 6 of this chapter:

(1) "Administrator" means the Administrator of the Alcoholic Beverage Control Division, which may also be referred to in this part or other laws as the Alcoholic Beverage Control Division;

(2) "Alcoholic beverage control law of the State of Arkansas" means any law of this state in regard to any beverage containing more than one-half of one percent (0.5%) alcohol by weight;

(3) "Beer" means any fermented liquor made from malt or any substitute therefor and having an alcohol content not in excess of five percent (5%) or less than one-half of one percent (0.5%) alcohol by weight;

(4) "Board" means the Alcoholic Beverage Control Board;

(5) "Controlled beverages" means all beverages of any kind subject to rules under any alcoholic beverage control law of the State of Arkansas;

(6) "Director" means the Director (or Administrator) of the Alcoholic Beverage Control Division;

(7) "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%) of alcohol by weight;

(8) "Invoice" means an invoice of sale bearing name of the seller together with a full description of the:

(A) Controlled beverages sold;

(B) Price and terms of sale; and

(C) Place and date of actual delivery;

(9) "Light wine" means the fermented juices of grapes, berries, or fruits and any other mixture containing the fermented juices of grapes, berries, or fruits, having an alcoholic content of between one-half of one percent (0.5%) and five percent (5%) alcohol by weight;

(10) "Malt liquor" means liquor brewed from the fermented juices of grain;

(11)(A) "Managing agent" means the individual on behalf of a corporation who shall actually be in charge of and responsible for the day-to-day operation of the corporate business on the permitted premises.

(B) However, an individual permittee who is in actual charge of and responsible for the day-to-day operation of his or her business shall not be considered a managing agent;

(12) "Native beverage" means brandy manufactured in the State of Arkansas from the juices of grapes, berries, and other fruits or vegetables grown in the State of Arkansas;

(13) "Permit" means any authorization issued pursuant to any alcoholic beverage control law of the State of Arkansas whether described by law or rule as a permit, license, or otherwise;

(14) "Permittee" means the person to whom the permit to do business is issued;

(15) "Person" means any:

- (A) Natural person;
- (B) Partnership;
- (C) Association;
- (D) Corporation;
- (E) Syndicate; or
- (F) Company;

(16)(A) "Premises" means any place, building, or structure which is shown on a floor plan or site plan submitted to and approved by the Alcoholic Beverage Control Division for the sale or consumption of alcoholic beverages.

(B) Should there be expansion of the permitted premises, notice must be given to the Alcoholic Beverage Control Division;

(17) "Spirituous" means liquor distilled from the fermented juices of grains, fruits, or vegetables containing more than twenty-one percent (21%) alcohol by weight, or any other liquids containing more than twenty-one percent (21%) alcohol by weight; and

(18) "Vinous" means the fermented juices of fruits containing more than five percent (5%) and not more than twenty-one percent (21%) alcohol by weight.

**Authority.** Arkansas Code § 3-2-206.

**Codification Notes.** Subdivision (12) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-15-07)"

Subdivision (16) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-19-93)"

## **Subpart 2. Permit Procedure — Applications for Permits and Transfer of Location**

### **3 CAR § 1-201. Types of permits for which application may be made.**

The categories of permits under which controlled beverages may be sold and the controlled beverages which may be sold pursuant to those permits are as follows:

(1) Beer on-premises permit authorizes the sale of beer or malt liquor containing less than five percent (5%) alcohol by weight for consumption on or off the premises described in the permit;

(2) Beer off-premises permit authorizes the sale of beer or malt liquor containing less than five percent (5%) alcohol by weight for consumption off the premises described in the permit;

(3) Beer wholesale permit authorizes the purchase of beer, malt liquor, or spirituous liquor beverages classified as ready-to-drink products containing spirituous liquor with a final finished product of no greater than fifteen percent (15%) alcohol by weight from a licensed manufacturer or importer and the sale thereof to persons holding permits to sell such products for consumption on or off the premises;

(4) Small farm wine retail off-premises permit authorizes the sale of small farm wines for consumption off the premises described in the permit;

(5) Wine restaurant on-premises permit authorizes the sale of wine and hard cider containing not more than twenty-one percent (21%) alcohol by weight for consumption on the premises of a restaurant;

(6) Small farm wine wholesale permit authorizes the purchase of small farm wine from a licensed manufacturer and the sale thereof to persons holding permits to sell small farm wine for consumption on or off the premises;

(7)(A) Small farm wine manufacturer for sale permit authorizes the sale of small farm wine to persons holding a small farm wholesale wine or small farm retail

wine permit or the sale of small farm wine to the consumer sold upon the premises of the winery.

(B) In addition, the winery may sell wine by the glass.

(C) It is further provided that such on-premises and off-premises sales may occur on any day of the week.

(D) On Monday through Friday, wine may not be sold at a winery for either on-premises or off-premises consumption before 7:00 a.m. or after 1:00 a.m. the next day.

(E) On Saturday, the winery may not sell wine as set out above before 7:00 a.m. or after 12:00 midnight Saturday night.

(F) On a Sunday, the winery may sell wine as set forth above to consumers between the hours of 12:00 p.m. and 10:00 p.m. or within such lesser period as may be provided by an ordinance by any city or county where the winery is located;

(8) Wine Manufacturer For Home Use Permit [repealed];

(9)(A) Liquor off-premises permit authorizes the purchase of spirituous and vinous beverages from persons holding a wholesale liquor or a wholesale wine permit and the sale of such beverages to consumers for consumption off the premises.

(B) Any holder of a liquor off-premises permit may also purchase malt liquors containing more than five percent (5%) alcohol by weight from either persons holding a beer wholesale permit or a liquor wholesale permit and sell such beverages to consumers for consumption off-premises;

(10) Liquor on-premises consumption – hotel or motel permit authorizes the purchase of any controlled beverages from persons holding a wholesale permit and the sale of such beverages for consumption on the premises of the hotel or motel described in the permit;

(11) Liquor on-premises consumption – restaurant permit authorizes the purchase of any controlled beverages from persons holding a wholesale permit and the sale of such beverages for consumption on the premises of the restaurant described in the permit;

(12) Liquor on-premises consumption – private club permit authorizes the purchase of any controlled beverages from persons holding an off-premises retail liquor or beer permit who have been designated by the Director of the Alcoholic Beverage Control Division as a private club distributor and the dispensing of such beverages for consumption on the premises of the private club to members and guests only of the private club;

(13)(A) Liquor wholesale permit authorizes the purchase from licensed manufacturers or licensed importers of spirituous, vinous beverages, or malt liquor containing more than five percent (5%) alcohol by weight and the sale of such beverages to persons holding off-premises liquor permits, or hotel or motel, or restaurant permits.

(B) Effective July 1, 2010, under the provisions of Acts 2009, No. 294, the holder of a wholesale liquor permit is also authorized to sell beer products as defined in the Arkansas Code under this same permit;

(14) Liquor manufacturer permit authorizes the manufacture of and the sale of spirituous, vinous, and malt liquor beverages under the following circumstances:

(A) Sell, deliver, or transport to wholesalers;

(B) Sell, deliver, or transport to rectifiers;

(C) Export out of the state; and

(D) Sell for off-premises consumption spirituous liquors the distiller or manufacturer manufactures on any day of the week;

(15) Temporary beer permit authorizes the sale of beer containing less than five percent (5%) alcohol by weight for consumption on a defined premises as described in the permit application;

(16) Sunday Alcoholic Beverage Permit [repealed];

(17) Temporary wine permit authorizes the sale of wine as defined in Acts 1965, No. 120, as amended, and light wine (less than five percent (5%) alcohol by weight) for consumption on a defined premises as described in the permit;

(18) Microbrewery-restaurant permit authorizes the operation of microbrewery-restaurants as provided in Arkansas Code § 3-5-1204;

(19) Temporary expansion of permitted premises permit authorizes the sale of alcoholic beverages on property adjacent to the permitted premises of hotel or motel outlets with mixed drink permits;

(20) Rectifying permit authorizes the rectifying, purifying, mixing, blending, or flavoring of spirituous liquors or the bottling, warehousing, or other handling or distribution of rectified distilled spirits;

(21)(A) Large attendance facility permit authorizes the sale of all types of alcoholic beverages by a facility which houses a convention center activity or tourism activity where such establishment has a seating capacity of not less than five hundred (500) people and which serves alcoholic beverages only on the premises on days that meals and food are served at one (1) or more places on the premises.

(B) In addition, a large attendance facility permit may be issued to any facility which otherwise meets the definition of a large attendance facility and in which pari-mutuel wagering has been authorized by law.

(C) Such permits for pari-mutuel facilities may only be issued in cities of the first class in which the sale of alcoholic beverages is authorized by law;

(22) Temporary spirits permit authorizes the sale of spirituous beverages for consumption on a defined premises as described in the permit;

(23)(A) Satellite catering permit authorizes any restaurant, hotel, or motel which has a mixed drink permit to serve their alcoholic beverages at any place that is licensed by the Alcoholic Beverage Control Division as a large attendance facility (LAF).

(B) Service by the hotel, motel, or restaurant permittee may occur only pursuant to written permission from the LAF permittee with written notice being given to the division not less than two (2) working days prior to such use of the LAF.

(C) Written permission shall not be granted for a period of more than five (5) days at a time;

(24)(A) Pari-mutuel mixed drink permit authorizes any restaurant as defined by Arkansas Code § 3-9-202(16)(A) to apply for a permit to sell mixed drinks in any county where pari-mutuel wagering has been authorized by law.

(B) Such permits are only allowed in cities of the first class in which the sale of alcoholic beverages is authorized by law.

(C) The seating capacity of any such restaurant must be at least one hundred (100) seats;

(25)(A) Nonresident beer seller's permit authorizes an out-of-state manufacturer or supplier of beer and malt liquor products to sell those beverages to Arkansas wholesalers.

(B) Arkansas wholesalers may only purchase beer and malt liquor supplies from a person who holds a nonresident beer seller's permit.

(C) Said permit is required whether the sale is consummated inside or outside the State of Arkansas;

(26)(A) Military service club mixed drink permit authorizes the sale of alcoholic beverages by the drink on the same basis as the liquor on-premises consumption restaurant permit and the permit may be issued to service clubs on military reservations owned or controlled by the State of Arkansas.

(B) The food service requirements for restaurant mixed drink permits shall not apply and the hours of operation for such military service clubs shall be the same as for new private clubs licensed by the division;

(27)(A) Microbrewery-restaurant distribution permit authorizes a microbrewery-restaurant licensee to sell beer or malt liquors, hard cider, or ready-to-drink product of its own manufacture to a wholesale dealer for the purposes of resale to retail licensees in Arkansas under the three-tier system of distribution.

(B) The total aggregate brewing limitation for a microbrewery-restaurant shall be in the amount of forty-five thousand (45,000) barrels per calendar year.

(C) In addition, any holder of a microbrewery-restaurant distribution permit may transport and ship its beer and malt liquor by appropriate means for delivery outside the State of Arkansas to business entities licensed and qualified to accept such products in their respective states.

(D) "Ready-to-drink product" means a product containing spirituous liquor with a final finished product of no greater than fifteen percent (15%) alcohol by weight;

(28)(A) Wholesaler support center permit authorizes the holder of a nonresident beer seller's permit to store and distribute beer or malt liquor from a wholesale warehouse located in the state.

(B) The beer or malt liquor may then be shipped to Arkansas wholesalers or wholesalers located in other states as directed by the holder of the license;

(29)(A) Beer manufacturing permit authorizes a beer manufacturer to manufacture beer products not in excess of five percent (5%) alcohol by weight for the purpose of resale to Arkansas licensed beer wholesalers or to wholesalers outside the State of Arkansas, where lawful, and to also sell the beer for either on-premises consumption or off-premises consumption at the brewery.

(B) Any Arkansas beer manufacturer that desires to sell beer for off-premises consumption to the consumer may sell beer to the consumer Monday through Saturday at the brewery in lots of less than sixteen (16) gallons.

(C) Any Arkansas beer brewery that desires to sell beer for on-premises consumption at the brewery shall provide certain minimal food service at the brewery tasting room or other facility where beer is sold to the consumer for on-premises consumption.

(D) When beer is sold at retail for on-premises consumption, certain foods identified with the consumption of beer products which are defined to include, at a minimum, items such as hot or cold sandwiches, cheese and crackers, or other types of finger food items must be offered for sale.

(E) In addition, the brewery shall provide tours through the brewery facilities on any date that the brewery is engaged in retail sales operations.

(F) It is further provided that no open container of beer product, whether sold for on or off-premises consumption, shall be removed from the brewery premises;

(30) Wine on-premises permit authorizes the sale of wine containing not more than twenty-one percent (21%) alcohol by weight for consumption on the premises;

(31)(A) Beer festival permit authorizes the sale, on a temporary basis not to exceed three (3) days, of beer and malt and hard cider on festival grounds described in the permit application.

(B) Any legal brewery, microbrewery-restaurant, distributor, wholesaler, brewpub, small brewery, hard cider manufacturer, or small brewery tap room, whether or not registered with the division or located in the State of Arkansas, may participate in the event.

(C) 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;

(32)(A) Off-premises caterer's permit authorizes an off-premises caterer, as licensed under Acts 1999, No. 1170, to serve and sell alcoholic beverages at private parties and at other private functions to which the off-premises caterer transports foods and beverages from the permitted premises to the premises where the private function is being held.

(B) The off-premises caterer's permittee purchases alcoholic beverages from a retail liquor outlet for resale to the person holding or sponsoring the catered function.

(C) Catered functions may only occur under the provisions of this permit in areas of the state where the sale of alcoholic beverages is lawful;

(33) Bed and breakfast private club permit authorizes a corporation, partnership, individual, or limited liability company whose primary function is to provide overnight accommodations to the public not exceeding a total of twenty (20) guest rooms on the premises, whether operated by the business owner or not, where the owner or a person representing the owner lives on the premises, and where a breakfast meal is served to the lodging guests and where there is no restaurant on the premises open to the public except for the lodging guests, to serve beer and wine only to registered guests at the establishment;

(34) Small brewery license authorizes the operation of a small brewery where malt beverage products and hard ciders are manufactured in certain limited quantities as provided in Arkansas Code § 3-5-1405;

(35)(A) Wine charitable auction permit authorizes qualified temporary permittees to sell sealed bottles of wine at a charitable auction.

(B) There is no limit on the amount of wine that may be sold under each separate wine charitable auction permit.

(C) The same organization may not obtain more than two (2) such permits during any calendar year.

(D) The permit shall have a duration of not more than five (5) days;

(36)(A) Sampling permit authorizes a retail liquor store to serve at no charge to the customer servings of alcoholic beverages, as authorized by a permit, for on-premises consumption at the retail liquor store.

(B) Samples may only be offered during the regular hours of operation of liquor stores.

(C) If authorized by the permit, wine samples shall be limited to a total of three (3) samples not to exceed one-half ounce (0.5 oz.) per sample per customer each day.

(D) No more than two (2) two-ounce beer servings may be offered to each customer per day as authorized by the permit and no more than two (2) one-half-ounce samples of spirits may be served to each customer per day if authorized by the permit obtained by the retail liquor store;

(37) Post exchange package permit authorizes the sale of alcoholic beverages at a post exchange facility located upon property owned by the State of Arkansas and operated by the Department of the Military;

(38) Brandy distilling permit authorizes distilling brandy or spirituous liquors for use in fortifying of wines manufactured from the juices of grapes, berries, and other fruits or vegetables grown in Arkansas;

(39) Native brandy permit authorizes the manufacture and sale of brandy, cordials, or other distillates or component parts thereof manufactured from agricultural or horticultural products produced solely in Arkansas;

(40)(A) Retail native beer permit authorizes the permit holder to sell at retail beer and malt beverages produced by small brewers licensed under Arkansas Code § 3-5-1405 and microbrewery-restaurants licensed under Arkansas Code § 3-5-1204.

(B) The native beer and native malt liquor may be sold for consumption either on or off the premises;

(41)(A) Minimum wholesale liquor permit authorizes the sale of spirituous liquors, wine as defined in the Arkansas Code, and malt liquors at wholesale.

(B) A minimum wholesale liquor permit holder shall not sell more than a combined total of twenty thousand (20,000) cases of spirituous liquors, wine, or malt liquors.

(C) A case is a container that holds nine (9) liters of beverage.

(D) A minimum wholesale liquor permit holder may not sell beer products as defined in the Arkansas Code unless he or she receives a separate wholesale beer permit;

(42) Combined restaurant beer and wine permit authorizes the on-premises sale of beer, hard cider, and wine by establishments that qualify as restaurants per 3 CAR § 3-103;

(43)(A) Small restaurant permit authorizes a restaurant to purchase and resell five hundred sixty (560) liters of spirituous liquors or less per fiscal year.

(B) Under Acts 2009, No. 763, if the small restaurant permit holder purchases more than five hundred sixty (560) liters of spirituous liquors in a fiscal year, he or she shall then be required to apply for a permit under the provisions of Arkansas Code § 3-9-212.

(C) The small restaurant shall meet the requirements for a restaurant as set forth in Arkansas Code § 3-9-202(16)(A).

(D) The small restaurant permit does not authorize the purchase or resale of wine products or beer products.

(E) If the small restaurant permit holder desires to sell wine or beer, he or she must purchase additional permits for those products;

(44)(A) Hotel or large event facility private club permit authorizes the on-premises consumption of all types of alcoholic beverages.

(B) This permit carries greater privileges than the on-premises consumption private club permit described in 3 CAR § 1-201(12).

(C) This permit may only be issued to a qualified establishment in a dry area and the permit will allow expanded service of alcoholic beverages at hotel properties and at a large event facility.

(D) Authorization for the new permit is under Acts 2011, No. 1194;

(45)(A) Out-of-state supplier permit authorizes an out-of-state manufacturer, distiller, rectifier, brewer, importer, or producer of spirituous or vinous liquor to sell, deliver, transport, or ship to a wholesaler, distributor, or rectifier.

(B) A holder of this permit may only sell a spirituous or a vinous liquor to a wholesaler, distributor, or to any other person who is legally authorized by the laws of the State of Arkansas and the rules of the division to receive, possess, transport, distribute, or sell a spirituous liquor or vinous liquor;

(46)(A) Grocery store off-premises wine permit authorizes a permittee to purchase and sell wine and hard cider, the alcoholic content of which does not exceed twenty-one percent (21%) alcohol by weight.

(B) "Wine" means port, wine, sherry wine, vermouth wine, hard cider, or other wines manufactured within or without the State of Arkansas.

(C) "Grocery store" means a single physical establishment located in a wet territory that has an inventory of human-consumable items.

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

(E) A grocery store wine permittee may conduct tasting events for educational and promotional purposes on the permittee's premises after obtaining a wine sampling permit from the division under Arkansas Code § 3-5-104.

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

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

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

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

(47)(A) Hard cider manufacturer permit authorizes a permittee to:

(i) Manufacture for sale no more than forty-five thousand (45,000) barrels per year of hard cider, the alcoholic content of which does not exceed twenty-one percent (21%);

(ii) Manufacture at its licensed facility no less than thirty-five percent (35%) of its hard cider to be sold in the state; and

(iii) Manufacture, import, transport, store, and sell to a wholesaler, jobber, distributor, or retailer hard cider to be used and sold for beverage purposes.

(B) In addition, the hard cider manufacturer permittee may include one (1) tap room at its facility and may operate a restaurant in conjunction with its tap room, may maintain one (1) separate manufacturing facility, may export hard cider manufactured by the manufacturer out of the state, and may sell for on-premises and off-premises consumption as provided in Arkansas Code § 3-4-611; and

(48)(A) Microbrewery-restaurant wholesale permit authorizes the sale and transport of beer, malt beverage, or hard cider manufactured by the microbrewery-restaurant licensee to licensed retailers in an amount not to exceed five thousand (5,000) barrels per year.

(B) To sell and transport under Arkansas Code § 3-5-1204(a)(10)(A), the microbrewery-restaurant licensee shall obtain a microbrewery-restaurant wholesale permit.

**Authority.** Arkansas Code § 3-2-206.

**Codification Notes.** Subdivision (4) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-15-07)"

Subdivision (5) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-17-05)"

Subdivision (6) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-15-07)"

Subdivision (7) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-15-07)"

Prior to codification into the Code of Arkansas Rules, subdivision (8) contained the following: "Repealed 8-20-97"

Subdivision (13) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-19-09)"

Subdivision (14) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-16-11)"

Subdivision (15) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 8-19-93)"

Prior to codification into the Code of Arkansas Rules, subdivision (16) contained the following: "Repealed 8-19-09"

Subdivision (17) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-19-93)"

Subdivision (18) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 9-16-15)"

Subdivision (19) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 6-13-91)"

Subdivision (20) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 8-19-93)"

Subdivision (21) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 8-19-93)"

Subdivision (22) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-17-05)"

Subdivision (23) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 7-19-95)"

Subdivision (24) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 7-19-95)"

Subdivision (25) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 7-19-95)"

Subdivision (26) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 8-20-97)"

Subdivision (27) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 1-23-24)"

Subdivision (28) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 8-18-99)"

Subdivision (29) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 8-18-99)"

Subdivision (30) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-17-05)"

Subdivision (32) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 8-18-99)"

Subdivision (33) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 8-15-01)"

Subdivision (34) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 9-16-15)"

Subdivision (35) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 8-17-05)"

Subdivision (37) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 8-15-07)"

Subdivision (38) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 8-15-07)"

Subdivision (39) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 09-01-2021)"

Subdivision (40) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 9-16-15)"

Subdivision (41) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 8-19-09)"

Subdivision (42) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 8-19-09)"

Subdivision (43) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 8-19-09)"

Subdivision (44) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 8-16-11)"

Subdivision (45) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 8-21-13)"

**3 CAR § 1-202. Information, statements, and documents to be furnished by applicant.**

In addition to such other information as the Director of the Alcoholic Beverage Control Division may determine shall be provided, the applicant for any permit issued pursuant to any alcoholic beverage control law of the State of Arkansas shall furnish the following information and make the following statements in the application or affidavits attached thereto:

(1) Information to be furnished in application:

(A) The name, age, and address of:

(i) The applicant, if an individual;

(ii) Each partner, if the applicant is a partnership; and

(iii) Each member of the board of directors or other governing body

and each officer and the managing agent, if the applicant is a partnership, corporation, or an association;

(B) The name and address of each person financially interested in the permitted business for which application is made, together with the nature of such interest, but if such applicant is a corporation, the applicant shall set forth only the name or names and address or addresses of all stockholders holding more than five percent (5%) interest in the permitted business;

(C)(i) The street and number of the premises to be permitted and such description of the premises, including a floor plan showing the dimensions thereof.

(ii) When any on-premises outlet requests an outdoor service area, the following factors, along with any others deemed relevant, will be considered by the Director of the Alcoholic Beverage Control Division or the Alcoholic Beverage Control Board:

*(a)* Area location;

*(b)* Population density;

*(c)* Accessibility to outside traffic (foot or vehicle);

*(d)* Visual compatibility of permitted activities with other area business or resident activity;

*(e)* Type of permitted business; and

*(f)* Potential noise problems.

(iii) Such outdoor service area shall be clearly defined by fences, walls, or barriers that will constitute a recognized boundary or, in approved rural settings where the need for such barriers is found to be minimal to adequately define the premises, the posting of a five-inch-by-seven-inch (5" x 7") sign, at locations to be determined by the Director of the Alcoholic Beverage Control Division or Alcoholic Beverage Control Board, stating "NO ALCOHOLIC BEVERAGES BEYOND THIS POINT"; and

(D)(i) The name and address of the owner of the premises for which the permit is sought.

(ii) If the applicant is not the owner of the premises for which the permit is sought, the name of the owner of the premises and the name or names of any other person or persons holding a leasehold interest in the premises;

(2) Statements to be made in applications:

(A) That the applicant, if the application is by an individual; each partner, if the application is by a partnership; or the managing agent, if the application is by a partnership, corporation, or an association, possesses the following qualifications:

(i) Is a person of good moral character, a citizen or permanent resident alien of the United States, and such person must be a resident of the county in which the permit will be operated, or reside within thirty-five (35) miles of the address of the premises described in the application;

(ii)(a) Shall 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 a permit issued by the Alcoholic Beverage Control Division.

(b) Provided, that any hotel or restaurant, as defined in 3 CAR § 4-103, which is owned by a partnership, whether regular or limited, may have a permit issued to a nonpartner manager or operator provided that he or she meets the other qualifications required by this section and the failure of one (1) or more partners to be residents of this state shall not be grounds for denial of the permit.

(c) Provided further, the residency requirement pursuant to subdivisions (2)(A)(i) and (ii) of this section does not apply to a managing agent of a partnership, corporation, or an association that is an applicant if the applicant:

(1) Currently holds at least two (2) retail beer permits issued by the Alcoholic Beverage Control Division for the sale of alcoholic beverages; and

(2) Designates with the Alcoholic Beverage Control Division a representative who resides within the county of the premises or within thirty-five (35) miles of the address of the premises described in the application.

(d) If a retailer chooses to exercise the exemption to the residency requirements pursuant to subdivisions (2)(A)(i) and (ii) of this section, the retailer, after the issuance of the second permit issued to the permitted retailer by the Alcoholic Beverage Control Division may:

(1) Change the managing agent of each of its permits by completing a form provided by the Alcoholic Beverage Control Division. The managing

agent shall be a person of good moral character and a citizen or resident alien of the United States, but shall not be required to meet the other residency requirements of subdivisions (2)(A)(i) and (ii) of this section; and

(2) Designate a representative for each permitted premises who resides within the county of the premises or within thirty-five (35) miles of the address of the premises stated on the permit; and

(iii) Has never been convicted of a felony or had a license to sell alcoholic beverages revoked within five (5) years preceding the date of application, whether issued by this state or any other state, and that he or she has not been convicted of violating any laws of this state or any other state governing the sale, possession, manufacture, or transportation of alcoholic beverages within five (5) years preceding the date of application;

(B) If the applicant is a corporation or an association, a statement shall be made in the application that all officers and directors, any stockholders holding more than five percent (5%) of the stock of such corporation, and the managing agent or agents possess all of the qualifications required by the laws of the State of Arkansas or by this part for an individual permit, provided, that the requirements as to residence in or citizenship of the United States shall not apply to officers, directors, or stockholders of such corporation or association, and that any application for a hotel, motel, or restaurant permit shall meet the qualifications as set forth in Arkansas Code § 3-9-210;

(C) Every applicant and every managing agent making application for a permit to manufacture, wholesale, or retail beer and/or light wine shall make and subscribe to an oath that he or she will not violate any laws of this state or knowingly allow any other person to violate any laws of this state while in or upon the permitted premises;

(D) Every applicant and every managing agent making application for a permit to sell beer at retail for consumption on the premises shall make and subscribe to an oath that he or she will not allow any intoxicating liquor as defined by Arkansas Code § 3-5-202 of any kind or character, including malt liquor or vinous liquor or distilled spirits having an alcohol content in excess of five percent (5%) by weight, to

be kept, stored, or secreted in or upon the premises described in the permit unless such applicant also holds a permit for the sale and possession of such beverages;

(E) Every applicant for a permit to sell beer at retail for consumption on or off-premises shall make and subscribe to an oath that no manufacturer, distributor, or wholesale dealer shall have any interest, directly or indirectly, in the business of said applicant or in the furnishings or fixtures used in the place of business of said applicant or any lien thereon;

(F) Every applicant for a permit to manufacture, wholesale, or distribute beer and/or light wine shall make and subscribe to an oath that such applicant has no interest and shall acquire no interest, directly or indirectly, in the business of any person, firm, or corporation applying for and securing or holding a permit as a retail dealer of beer and/or light wine, or the furnishings or fixtures used in the place of business of said retail dealer or hold any lien thereon; and

(G) The designation of the category of permit for which the application is made shall be made in the application and shall be binding on the applicant; and

(3) Attachments to application:

(A) If the premises is not constructed or completed at the time of application, the applicant shall attach to the application a plot plan of the premises in a form approved by the Director of the Alcoholic Beverage Control Division which shall clearly show the construction of the premises, including the dimensions thereof, and the relation of the premises to surrounding structures;

(B) If the premises is not owned by the applicant or if the applicant does not hold a valid lease to the premises and application is thereby being made on the basis of a legal buy/sell agreement, an option to lease, or an option to purchase said premises, then a copy of said agreement/option shall accompany the application;

(C) If the applicant is a corporation or association, a copy of the articles of incorporation or other governing charter or document and the bylaws shall be attached to the application;

(D)(i) Any person applying for a new permit or transfer of location permit shall be required to submit with the application three (3) photographs of the proposed building depicting the front, rear, and a side view.

(ii) If there is no building in existence, the applicant shall submit photographs which show the proposed building location;

(E) Financial Statement Required to Apply for Sunday Mixed Drink Permit [repealed];

(F) Application for Temporary Sunday Mixed Drink Permit [repealed];

(G)(i) Any person, corporation, or business entity making application to replace an existing permittee shall submit with the application a replacement notice from the current permit holder authorizing the replacement applicant to operate under the authority of the currently valid permit or permits while the replacement application is pending before the Alcoholic Beverage Control Division.

(ii) The replacement authorization must be on the form provided to the applicant by the Alcoholic Beverage Control Division.

(iii) In no event shall the current permit holder be allowed to withdraw the replacement notice of authorization once the replacement application has been accepted by the Alcoholic Beverage Control Division for processing.

(iv) Once the replacement application has been acted on by final decision, the replacement notice expires and may not be used for subsequent applications;

(H) Any application for an on-premises permit shall be accompanied by an entertainment form, provided by the Alcoholic Beverage Control Division, which shall set forth the proposed activities to occur on the permitted premises, the same being subject to the approval of the Director of the Alcoholic Beverage Control Division; and

(I)(i) Any person applying for an Alcoholic Beverage Control Division permit, other than as excepted below, shall prove that they have not been found guilty of or pleaded guilty or nolo contendere to any felony in the State of Arkansas or any similar offense by a court in another state or of any similar offense by a military or federal court.

(ii)(a) In order to prove this qualification, there shall be attached to the application at the time it is tendered to the Alcoholic Beverage Control Division an in-state criminal background check through the Division of Arkansas State Police.

(b) The applicant shall also furnish fingerprints to the Division of Arkansas State Police, either in person or at an approved Division of Arkansas State Police fingerprint harvester for electronic submission, for transmission to the Federal Bureau of Investigation.

(iii) If the Federal Bureau of Investigation investigation subsequently shows that the applicant is not qualified, proceedings shall be instituted to cancel the permit if it has already been issued.

(iv)(a) No fingerprint submission or criminal background check shall be required for any person or company applying for a nonresident beer seller's permit or for a wholesale support center permit as authorized by Arkansas Code § 3-5-1301 et seq.

(b) Further, no fingerprint submission shall be required for any person applying for any permit which has a stated duration of five (5) days or less.

**Authority.** Arkansas Code § 3-2-206.

**Codification Notes.** Subdivision (1)(C) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-20-97)"

Subdivision (2)(A)(i) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 7-19-95)"

Subdivisions (2)(A)(ii)(a) and (b) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 8-20-97)"

Subdivision (2)(A)(ii)(d) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 9-16-15)"

Subdivision (2)(A)(iii) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-21-13)"

Subdivision (2)(B) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-18-99)"

Subdivision (2)(D) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-19-93)"

Subdivision (3)(B) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-18-99)"

Subdivision (3)(D) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-19-93)"

Prior to codification into the Code of Arkansas Rules, subdivision (3)(E) contained the following: "Repealed 8-19-09"

Prior to codification into the Code of Arkansas Rules, subdivision (3)(F) contained the following: "Repealed 8-19-09"

Subdivision (3)(G) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-15-07)"

Subdivision (3)(H) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 8-18-99)"

Subdivision (3)(I) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 8-17-05)"

**3 CAR § 1-203. Factors that may be considered in determining public convenience and advantage.**

(a) Any permit issued pursuant to any alcoholic beverage control law of the State of Arkansas shall be issued only for use in any county or political subdivision where authorized by law.

(b) In determining whether any such application for a permit would promote the public convenience and advantage or interest, the Director of the Alcoholic Beverage Control Division or the Alcoholic Beverage Control Board, in the appropriate case, may consider, among other relevant factors, the following:

(1) The number of existing alcoholic beverage permits in the proposed area and whether such area is adequately served by existing outlets;

(2) The types of existing alcoholic beverage permits in the proposed area;

(3) Suitability of location of proposed outlet including such factors as possible traffic hazards or traffic congestion, remoteness of area, degree of law enforcement available, character of surrounding neighborhood, and related factors;

(4) Suitability of proposed building including such factors as type of building, building condition, and building security;

(5) The potential impact of the proposed outlet on churches or schools in the area;

(6) Input from law enforcement officials or other public officials in the proposed area; and

(7)(A) Opposition or support comments from adjacent property owners or nearby area residents to any application.

(B) Any group may register their support or opposition to a pending application by submitting petitions to the Alcoholic Beverage Control Division.

(C) Petitions submitted must be on eight-and-one-half-inch-by-eleven-inch (8 1/2" x 11") paper and must contain original signatures only.

(D) The division will not accept as evidence any photocopies of signatures.

(E) In addition, petitions must refer to a specific application that is on file with the division.

(F)(i) A petition in opposition or support that has been filed on a particular application that has been acted on by the director may not be used for any other applications.

(ii) Provided, such petitions will be received by the division only if delivered by mail or hand delivered to the division.

(G) No facsimile or email petitions or letters will be considered by the division or placed in the application file.

**Authority.** Arkansas Code § 3-2-206.

**Codification Notes.** Subdivision (b)(1) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 6-13-91)"

Subdivision (b)(5) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 9-8-97)"

Subdivision (b)(7) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-17-05)"

**3 CAR § 1-204. Factors that shall be considered in determining public convenience and advantage.**

When issuing a permit under Title 3 of the Arkansas Code, the Alcoholic Beverage Control Division shall consider lack of diversity in ownership and financial interest in the geographic area at issue in the permit application.

**Authority.** Arkansas Code § 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 8-17-05)"

**3 CAR § 1-205. Hotel or motel, restaurant, and private club permits.**

(a) In addition to the requirements under this part for all permits, additional requirements for applications for hotel and motel, and restaurant permits will be found under 3 CAR pt. 4.

(b) Additional requirements for application for private club permits will be found under 3 CAR pt. 5 or this part.

**Authority.** Arkansas Code § 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-19-93)"

**3 CAR § 1-206. Temporary beer permit.**

(a)(1) Temporary beer permits for the sale of beer at functions sponsored by or for the benefit of nonprofit or charitable organizations may be issued for a period of time not to exceed five (5) consecutive days.

(2) Applications for such permit shall meet the requirements as established by the Director of the Alcoholic Beverage Control Division and set out in the application and attachments thereto.

(3) The fee for such permit shall be fifty dollars (\$50.00).

(b)(1) The director shall determine whether an application meets the established requirements and whether the function for which the permit is applied is nonprofit or charitable in nature and purpose.

(2) Those requirements shall include but not be limited to:

(A) The location of the event must be in an area which has voted for the sale of intoxicating liquors; and

(B) The application must be received by the Alcoholic Beverage Control Division at least three (3) weeks prior to the event.

(c) Any action by the director in granting or denying such application is appealable to the Alcoholic Beverage Control Board pursuant to 3 CAR § 1-605, provided that any such action on the part of the director shall be effective immediately without the requirement of such action being ratified by the board at the next board meeting.

**Authority.** Arkansas Code § 3-2-206.

**Codification Notes.** Subdivision (d)(2) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-15-07)"

This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 8-19-93)"

**3 CAR § 1-207. Temporary wine permit.**

(a)(1) Temporary wine permits for the sale of wine and light wine by single servings for on-premises consumption at functions sponsored by or for the benefit of nonprofit or charitable organizations may be issued for a period of time not to exceed five (5) consecutive days.

(2) Applications for such permit shall meet the requirements as established by the Director of the Alcoholic Beverage Control Division and set out in the application and attachments thereto.

(3) The fee for such permit shall be fifty dollars (\$50.00).

(b)(1) The director shall determine whether or not an application meets the established requirements and whether or not the function for which the permit is applied is nonprofit or charitable in nature and purpose.

(2) Those requirements shall include but not be limited to:

(A) The location of the event must be in an area which has voted for the sale of intoxicating liquors;

(B) Food Service Requirement [repealed]; and

(C) The application must be received by the Alcoholic Beverage Control Division at least three (3) weeks prior to the event.

(c) Any action by the director in granting or denying such application is appealable to the Alcoholic Beverage Control Board pursuant to 3 CAR § 1-605, provided that any such action on the part of the director shall be effective immediately without the requirement of such action being ratified by the board at the next board meeting.

**Authority.** Arkansas Code § 3-2-206.

**Codification Notes.** Prior to codification into the Code of Arkansas Rules, subdivision (b)(2)(B) contained the following: "Repealed 8-20-97"

Subdivision (b)(2)(C) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-15-07)"

Subsection (c) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-19-93)"

### **3 CAR § 1-208. Temporary spirits permit.**

(a)(1) Temporary permits for the sale of spirituous alcoholic beverages at functions sponsored by or for the benefit of nonprofit or charitable organizations may be issued for a period of time not to exceed five (5) consecutive days.

(2) Such permits allow the sale of any such alcoholic beverages authorized to be sold pursuant to applicable local option election that otherwise meet the criteria set forth herein.

(3) Applications for such permit shall meet the requirements as established by the Director of the Alcoholic Beverage Control Division and set out in the application and attachments thereto.

(4) The fee for such permit shall be fifty dollars (\$50.00).

(b)(1) The director shall determine whether an application meets the established requirements and whether the function for which the permit is applied is nonprofit or charitable in nature and purpose.

(2) Those requirements shall include but not be limited to:

(A) The location of the event must be in an area which has voted for on-premises consumption of spirituous beverages; and

(B) The application must be received by the Alcoholic Beverage Control Division at least three (3) weeks prior to the event.

(c) Any action by the director in granting or denying such application is appealable to the Alcoholic Beverage Control Board pursuant to 3 CAR § 1-605, provided that any such action on the part of the director shall be effective immediately without the requirement of such action being ratified by the board at the next board meeting.

**Authority.** Arkansas Code § 3-2-206.

**Codification Notes.** Subdivision (b)(2)(B) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-15-07)"

### **3 CAR § 1-209. Temporary hard cider permit.**

(a)(1) Temporary hard cider permits for the sale of hard cider at functions sponsored by or for the benefit of nonprofit or charitable organizations may be issued for a period of time not to exceed five (5) consecutive days.

(2) Applications for such permit shall meet the requirements as established by the Director of the Alcoholic Beverage Control Division and set out in the application and attachments thereto.

(3) The fee for such permit shall be fifty dollars (\$50.00).

(b)(1) The director shall determine whether an application meets the established requirements and whether the function for which the permit is applied is nonprofit or charitable in nature and purpose.

(2) Those requirements shall include but not be limited to:

(A) The location of the event must be in an area which has voted for the sale of intoxicating liquors; and

(B) The application must be received by the Alcoholic Beverage Control Division at least three (3) weeks prior to the event.

(c) Any action by the director in granting or denying such application is appealable to the Alcoholic Beverage Control Board pursuant to 3 CAR § 1-605, provided that any such action on the part of the director shall be effective immediately without the requirement of such action being ratified by the board at the next board meeting.

**Authority.** Arkansas Code § 3-2-206.

**Codification Notes.** Subdivision (b)(2)(B) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-15-07)"

**3 CAR § 1-210. Temporary permit holder may solicit wholesalers for sponsorship money.**

(a)(1) A person who holds a temporary permit may, under the following conditions, solicit sponsorship money or other items from a wholesaler who sells the temporary permit holder alcoholic beverage supplies.

(2)(A) Any such wholesaler which supplies the sponsorship money or promotional items, entertainment events, or other such items to the temporary permit holder in conformance with this section shall be free to do so without it being contemplated as a gift or service in violation of 3 CAR § 2-301(4) or an inducement in violation of 3 CAR § 2-302(b)(2).

(B) However, the giving of sponsorship money remains a prohibited activity pursuant to 3 CAR §§ 2-301(3) and 2-302(b)(2) if it is the basis of any exclusive purchase agreement.

(b) In order to solicit sponsorship money, promotional items, or other items from any wholesaler which is supplying beverages to the temporary permit holder, the temporary permit holder shall agree to allow each wholesaler serving the area in which

a temporary permit will be used to participate in supplying alcoholic beverages at the event on equal and similar terms.

(c)(1) If the temporary permit holder has determined that it does not wish to offer all wholesale permit holders an equal chance to offer goods at the event, but determines that beverages will be offered on an exclusive basis, then the temporary permit holder may not accept any gift, service, money, or other such items from the wholesaler who is selected to be the supplier of the alcoholic beverages.

(2) Acceptance of any gift, service, money, or any other such items from the wholesaler who is selected to be the exclusive supplier of alcoholic beverages shall be in violation of 3 CAR §§ 2-301(3) and 2-302(b)(2).

(d) If the temporary permit holder has determined that for security purposes, as to the purchase of alcoholic beverages, cash substitutes in the form of coupons or similar tender are necessary, the temporary retail permit holder may seek approval from the Alcoholic Beverage Control Division for such arrangement at the time of application for the permit.

**Authority.** Arkansas Code § 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-19-93)"

**3 CAR § 1-211. Publication of notice that application has been made for permit.**

(a)(1) After filing an acceptable application with the Director of the Alcoholic Beverage Control Division, the applicant shall cause to be published at least once a week for two (2) consecutive weeks in a legal newspaper of general circulation in the city or locality where the business is to be located a notice that the applicant has applied for a permit to sell, manufacture, or dispense controlled beverages, as applicable.

(2)(A) The newspaper publishing the notice shall have a physical address within the county of the proposed location of the business identified in the application.

(B) If the county does not have a newspaper, then the publication shall be placed in a newspaper with the nearest physical address of the location of the business identified in the application.

(b)(1) The notice shall be verified and shall give the name of the applicant and the name and address or location of the business, and shall state that:

(A) The applicant is a resident of Arkansas;

(B) He or she has good moral character; and

(C) He or she has never been convicted of a felony or had a permit revoked within the five (5) years preceding the date of notice.

(2) Provided, that this requirement shall not apply under the following circumstances:

(A) If the applicant holds a restaurant mixed drink permit and subsequently makes application for a beer and/or wine permit at the same location; and

(B) If the applicant holds a small farm wine retail permit and subsequently makes application for a grocery store wine permit at the same location.

(c) It is further provided that applicants for a retail liquor permit or a private club permit shall be required to publish at least once a week for four (4) consecutive weeks in a legal newspaper as described in this section, per the authority of Acts 2007, No. 735.

**Authority.** Arkansas Code § 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 9-20-17)"

### **3 CAR § 1-212. Application for permit to be verified.**

Applications for permits issued pursuant to any alcoholic beverage control law of the State of Arkansas shall be verified by:

- (1) The named applicant, if the applicant is an individual;
- (2) A general partner of a partnership, if the applicant is a partnership; or
- (3) The managing agent, if the applicant is a corporation.

**Authority.** Arkansas Code § 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-19-93)"

**3 CAR § 1-213. Change of information or statements in application.**

If there is any change in the facts as presented in the original or any renewal application on file with the Director of the Alcoholic Beverage Control Division, written notice thereof must be given to the director within ten (10) days after such change.

**Authority.** Arkansas Code § 3-2-206.

**3 CAR § 1-214. Notice of application to be posted at premises.**

(a)(1) Within five (5) days after filing an application for any permit issued by the Alcoholic Beverage Control Division at any premises, a notice of the application in a form approved by the Director of the Alcoholic Beverage Control Division shall be posted in a conspicuous place at the front entrance to the premises.

(2) The applicant shall notify the director of the date such notice was first posted.

(b)(1) No application may be acted on and no permit issued to any applicant until the application has been in the possession of the division and proper notice has been so posted on the premises for a period of at least thirty (30) consecutive days.

(2) Provided, that this requirement shall not apply to an applicant for a permit to conduct business at a premises for which a valid permit of the same type is in existence at the time of said applicant's application nor shall it apply under the following circumstances:

(A) If the applicant holds a restaurant mixed drink permit and subsequently makes application for a beer and/or wine permit at the same location; or

(B) If the applicant holds a small farm wine retail permit and subsequently makes application for a grocery store wine permit at the same location.

**Authority.** Arkansas Code § 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 9-20-17)"

**3 CAR § 1-215. Application for transfer of location of premises.**

(a)(1) Any person holding a permit issued pursuant to any alcoholic beverage law of the State of Arkansas who desires to transfer the location of the permitted premises shall make application therefor to the Director of the Alcoholic Beverage Control Division.

(2) In addition to such other information as the director may determine shall be provided, such application shall include the following:

(A) Any changes in the information given or statements made in the original application for the permit;

(B)(i) The street and number of the premises to be permitted and a description of the premises, including a floor plan showing the dimensions thereof.

(ii) If the premises to which the permit is to be transferred is not constructed or completed at the time of the application, the applicant shall attach to the application a site plan of the property which shall clearly show the construction of the premises, including the dimensions thereof and the relation of the proposed premises to surrounding structures, if any;

(C)(i) The name and address of the owner of the premises to which the permit is to be transferred.

(ii) If the applicant is not the owner of the premises to which the permit is to be transferred, the applicant must state the name or names of all person or

persons holding a leasehold interest in the premises and a copy of the lease or other agreement for the use of the premises by the applicant shall be attached to the application; and

(D)(i) Any application to transfer a private club permit, including a large event center private club permit, shall be accompanied by an ordinance of the governing body of the county or municipality into which the private club seeks to transfer approving the transfer of the permit into that municipality or county.

(ii) The director shall not accept an application to transfer a private club permit unless a copy of the required ordinance is submitted with the application.

(b) The application for a transfer of location of the permitted premises shall be verified in the same manner as required for an original application under this part.

(c)(1) Under no circumstances shall this section authorize the transfer of the old permit to the new premises by endorsement or otherwise.

(2)(A) In each case, the director shall issue a new permit upon approval of the transfer of location of permitted premises.

(B) Immediately upon receipt of the new permit, the permittee shall surrender the old permit to the director.

**Authority.** Arkansas Code § 3-2-206.

**Codification Notes.** Subdivision (a)(2)(B) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-19-93)"

Subdivision (a)(2)(D) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 9-20-17)"

**3 CAR § 1-216. Transfer of location application or request for inactive status.**

No transfer of location application or request for inactive status may be filed or made with the Alcoholic Beverage Control Division unless the permitted outlet has

completed inspection by the Alcoholic Beverage Control Enforcement Division and has been open for business and prepared to sell or dispense alcoholic beverages for at least one (1) full eight-hour day.

**Authority.** Arkansas Code § 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 8-21-13)"

**3 CAR § 1-217. Publication of notice of application for transfer of location.**

A notice of application for a transfer of location of the permitted premises shall be published by the applicant and filed with the Director of the Alcoholic Beverage Control Division in the same manner and under the same requirements as required by 3 CAR § 1-211.

**Authority.** Arkansas Code § 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-19-93)"

**3 CAR § 1-218. Notice of application for transfer of location of premises to be posted.**

(a)(1) Within five (5) days after filing an application for transfer of location at a permitted premises, a notice of the application on a form approved by the Director of the Alcoholic Beverage Control Division shall be posted in a conspicuous place at the front entrance to the premises to which the permit is to be transferred.

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

(b)(1) No application may be acted on and no permit issued to any applicant until the application has been in the possession of the Alcoholic Beverage Control Division and proper notice has been so posted on the premises for a period of at least thirty (30) consecutive days.

(2) Provided, that this requirement shall not apply to an applicant for a permit to conduct business at a premises for which a valid permit is in existence for like classification at the time of said applicant's application.

**Authority.** Arkansas Code § 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-19-93)"

**3 CAR § 1-219. Reapplication for permit at same location limited unless change of facts.**

(a)(1) Whenever any application for a permit shall be denied, no application for a permit shall be accepted from the same applicant for a period of one (1) year following the date on which such application is finally acted upon by the Director of the Alcoholic Beverage Control Division or by the Alcoholic Beverage Control Board on appeal or by the appellate court system unless the applicant can show a substantial change in the underlying facts which supported the decision to deny the application.

(2) Provided, that this section shall not apply if the application was denied solely because of disapproval of the premises and a new application is for premises other than those described in the original application.

(b)(1) If an application has been made by a private club in an area which does not allow the sale of alcoholic beverages and if that application is denied by final resolution as set forth in subsection (a) of this section, no application may be made by the same nonprofit corporation applicant within a period of two (2) years from the date the application was denied by the director.

(2) If a private club applicant wishes to apply within the two-year period, the application shall be accompanied by a certification from the county clerk of the county where the private club is to be located certifying that the applicant has obtained signatures from not less than twenty-five percent (25%) of the registered voters in the county.

(3) The application shall be filed no later than twenty (20) days from the date the county clerk certifies the count.

(4) The signatures must be obtained on petitions which clearly state that the purpose of the petition is to obtain an alcoholic beverage permit for a private club in the said dry area and to serve alcoholic beverages.

(c) "Same applicant" or "same nonprofit applicant", as used in this section, shall be broadly interpreted by the director or board to be the real party or parties in interest in the original application, notwithstanding the fact that the subsequent application may be made in the name of a:

- (1) Family member;
- (2) Business associate; or
- (3) New nonprofit corporation.

**Authority.** Arkansas Code § 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-17-05)"

### **Subpart 3. Issuance and Posting of Permits**

**Codification Notes.** This subpart as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "Section 1.31 Publication of Notice of Issuance of Permit. Repealed 7-19-95"

### **3 CAR § 1-301. Persons not entitled to issuance of permit.**

No permit shall be issued to:

(1) **Persons not qualified.** Any individual, partnership, or corporation, if such individual or any member of such partnership or any officer, director, managing agent, or stockholder holding more than five percent (5%) of the stock of such corporation, does not possess the qualifications required by this part or by any alcoholic beverage control law of the State of Arkansas of such individual, partner, officer, director, managing agent, or stockholder in making application for a permit;

(2) **Persons giving false information or statements in application or hearing.** Any individual, partnership, or corporation, if such individual or any member of such partnership or any officer, director, managing agent, or stockholder holding more than five percent (5%) of the stock in such corporation, knowingly gave any false information or made any false statements on any application or any hearing required by this part or by any alcoholic beverage control law of the State of Arkansas;

(3) **Persons who hold retail liquor permits when interested in another retail liquor permit.** No off-premises retail liquor permit shall be issued after the effective date of this part, either as a new permit or as a replacement of an existing permit, to any person having any interest in another off-premises retail liquor permit, regardless of the degree of such interest;

(4) **Unauthorized corporation.** Any corporation not legally operating in the State of Arkansas at the time of the application;

(5) **Persons under required age.** A person under the age of twenty-one (21) years;

(6) **Persons convicted of certain crimes.** Any individual, partnership, or corporation, if such individual or any member of such partnership or any officer, director, managing agent, or any stockholder holding more than five percent (5%) of the stock of such corporation, has been convicted of a felony or has within five (5) years before the date of application been under the sentence of any court for the conviction of any violation of the laws of the State of Arkansas or any state of the United States against possession, sale, manufacture, or transportation of alcoholic beverages;

(7) **Certain persons from whom permit revoked.** Any individual, partnership, or corporation, if such individual or any member of such partnership or any officer, director, managing agent, or stockholder holding more than five percent (5%) of the stock of such corporation, has had any permit issued pursuant to the authority of any alcoholic beverage control law of the State of Arkansas revoked within five (5) years preceding the date of application;

(8) **Persons not financially interested or employed in a managerial capacity.** On any retail application filed by an individual or partnership, any person who is not financially interested in the business to be conducted under the permit for which application is being made, or in the case of a corporate applicant, any person as managing agent who is not employed in a managerial capacity at the business seeking a permit; and

(9) **No alcoholic beverage permit granted to any person who owes delinquent taxes to state.**

(A) No alcoholic beverage permit will be issued by the Alcoholic Beverage Control Division to any individual, partnership, or corporation that owes the State of Arkansas delinquent taxes of any kind.

(B)(i) Further, no replacement permit or, in the case of a private club, a change of manager, will be granted to any applicant at any location where the current permittee owes the State of Arkansas delinquent alcoholic beverage sales taxes, excise taxes, supplemental mixed drink taxes, or any other taxes relating to the sale or dispensation of alcoholic beverages.

(ii) Provided, a permittee delinquent in the payment of taxes to the State of Arkansas may not have any interest whatsoever in another permit at the same location where the delinquent taxes accrued.

(C) In addition, no new or replacement permit will be granted to any person or organization mentioned above until such person or organization furnishes proof that an application has been made with the Sales and Use Tax Section of the Revenue Division of the Department of Finance and Administration for a retailer's sales

tax permit and that a tax payment number has been assigned to such person or organization.

**Authority.** Arkansas Code § 3-2-206.

**Codification Notes.** Subdivision (6) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-21-13)"

Subdivision (8) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 7-19-84)"

Subdivision (9) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-20-97)"

**3 CAR § 1-302. Applicant must attend educational seminar.**

(a) Any person who is applying for a retail alcoholic beverage license or private club license must attend an educational seminar offered by the Alcoholic Beverage Control Division.

(b)(1) Attendance at the seminar by the applicant shall be required prior to any action on the application by the Director of the Alcoholic Beverage Control Division.

(2) Provided, that such attendance is not required by those applicants who have held a permit prior to the initial adoption of this section (8-17-88) and have continued to hold the permit to a point within twelve (12) months of filing a new application.

**Authority.** Arkansas Code § 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-15-07)"

**3 CAR § 1-303. No permit to be issued for certain premises.**

No permit shall be issued pursuant to any alcoholic beverage control law of the State of Arkansas for the following premises:

(1) **Premises not complying with health, safety, and sanitary standards.** Any premises which does not comply with the minimum health, safety, and sanitary standards established by the State of Arkansas and the rules and of the State Board of Health;

(2)(A) **Premises operated in conjunction with certain other businesses.** No off-premises retail liquor permit shall be operated as part of the profit-making business of any billiard hall, pool room, drug, grocery, sporting goods, dry goods, hardware, general mercantile store, or any other business unrelated to such permit; however, the retail liquor store permittee may have tobacco products, mixers, soft drinks, consumables and edible products that complement alcoholic beverages, clothing and other promotional or marketing merchandise with logos or graphics of the permittee's business, and other items customarily associated with the retail package sale of the liquors.

(B)(i) Edible products may include:

(a) Lemons, limes, cherries, olives, and other food items used in the preparation or garnishment of alcoholic beverages or mixed alcoholic beverages;

(b) Peanuts, pretzels, chips, crackers, and other packaged snack foods and confectionaries; and

(c) Prepackaged food items, including but not limited to cheese, meat, and appetizers.

(ii) Retail liquor stores shall not cook, prepare, or package food items on the premises of the retail liquor store for the purpose of resale.

(C) Consumable products may include:

(i) Party supplies, party decorations, gift bags, gift baskets, greeting cards, and other items for parties and special events; and

(ii) Ice in any form.

(D) Items customarily associated with the retail package sale of liquors may include:

- (i) Beverage coolers, beverage insulators, and ice chests;
- (ii) Items used in the preparation of mixed drinks, including without limitation beverage strainers, pourers, jiggers, stirrers, ice crushers, and ice molds;
- (iii) Decanters, carafes, glassware, and drinkware;
- (iv) Bottle openers and can openers; and
- (v) Corkscrews, wine aerators, bottle stoppers, and devices designed to preserve wine;

**(3) Premises for which adequate police protection is not available.**

Any premises for which, in the judgement of the Director of the Alcoholic Beverage Control Division, or the Alcoholic Beverage Control Board on appeal, adequate police protection is not available due to the remoteness of the location of the premises;

**(4)(A) Premises which will not promote public convenience and advantage.**

(B) Any premises for which the issuance of a permit would not, in the judgement of the director, or the Alcoholic Beverage Control Board on appeal, promote the public convenience and advantage.

(C) In determining whether the issuance of a permit would promote the public convenience and advantage, the director, or the Alcoholic Beverage Control Board on appeal, may consider, in addition to all other relevant factors, the number of permits issued in the general vicinity of the premises for which application has been made and whether such area is adequately served by existing outlets;

(5) Premises for Which Permit has been Revoked [Repealed 8-19-93];

**(6)(A) Permits not to be issued to premises within the following stated distances from church or schoolhouse.**

(B) No permit for the sale or dispensing of alcoholic beverages shall be issued nor any existing permit transferred to any location within the following prohibited distances of any church or schoolhouse, such distances to be calculated based upon the

existence of the church or school building at the time the application is accepted by the Alcoholic Beverage Control Division for processing:

(i)(a) Retail liquor permit.

(b) One thousand feet (1,000') to be measured from the nearest property line point of the church or school building to the nearest property line point of the building sought to be permitted;

(ii)(a) Off-premises retail beer permit to be issued to retail liquor store.

(b) One thousand feet (1,000') to be measured from the nearest property line point of the church or school building to the nearest property line point of the building sought to be permitted; and

(iii) Exception for Retail Liquor Store Outlets Which are Within One Thousand Feet of a Church or School Building on the Date of August 13, 2001 [repealed].

(C) For purposes of this section, "church" means a church and all immediately adjacent property owned or leased by the church that is used for church purposes.

(D) For purposes of this section, "schoolhouse" means:

(i) A facility owned and operated by a public or private school or an open-enrollment charter school; and

(ii) A public or private daycare facility licensed by the State of Arkansas;

(7) Retail Wine Permit Not to be Issued to a Grocery Sales Outlet [repealed];

(8) Retail Wine Permit Not to be Issued to any Premises that is not a Restaurant Qualified to Hold Restaurant Wine Sales Permit [repealed];

(9) Retail Beer Not to be Issued to Any Establishment Whose Business is Predominantly Motor Fuel Sales [repealed];

(10) **"Wholesale" as part of trade name prohibited.** No retail permit shall be issued to any retail sales outlet any part of whose trade name or firm name includes the word "wholesale";

**(11)(A) New retail beer on-premises consumption permits not to be issued to certain establishments.**

(B) From and after the effective date of this section, no new application for an on-premises retail beer, on-premises retail wine, or wine restaurant on-premises permit will be granted for any grocery store, convenience store, or general mercantile store.

(C) Those grocery stores, convenience stores, or general mercantile stores that hold an off-premises retail beer permit, but within the same building have separate kitchen facilities to prepare food on premises and a designated and physically defined seating area, may qualify to hold an on-premises retail beer permit or wine restaurant on-premises permit in said area.

(D) Further, in those outlets where the permitted area dedicated to retail space contains off-premises food or merchandise sales and on-premises consumption food sales prepared from kitchen facilities on the premises, and the seating for the on-premises food consumption is in space occupying more than fifty percent (50%) of such total retail space, then the outlet, for purposes of this section, shall not be considered to be a grocery store, convenience store, or general mercantile store;

**(12)(A) No permit to be issued for certain premises.**

(B) No new on-premises alcoholic beverage retail permit or private club permit will be issued to any premises which does not have available for the use of patrons the minimum number of restrooms required by the Department of Health;

**(13)(A) Permits not to be issued to outlets with personal living quarters.**

(B)(i) No alcoholic beverage retail permit or private club permit will be issued nor will any such permit be transferred to any building which contains personal living quarters adjacent to the proposed area to be permitted which are accessible from the area to be permitted.

(ii)(a) Provided, that the director or Alcoholic Beverage Control Board may authorize an exception to this section for bona fide bed and breakfast inns, and motels and hotels that hold a permit in a designated restaurant area.

(b) "Bona fide" shall be determined from such evidence as may be presented for consideration by the director or Alcoholic Beverage Control Board;

(14) **Permitted outlets to have at least one telephone.** No new alcoholic beverage permit will be issued by the Alcoholic Beverage Control Division for any premises that does not have at least one (1) telephone on the permitted premises;

(15) Sale of Beer or Small Farm Wine Through Drive Up Windows Prohibited at Off Premises Retail Beer and Small Farm Wine Premises [repealed]; and

(16)(A) **Posting of pregnancy warning.** All permits shall post, in a conspicuous place at the permitted premises, a printed sign measuring eight-and-one-half by eleven inches (8 1/2" x 11"), the following warning "Warning: Drinking alcoholic beverages during pregnancy may cause birth defects".

(B) The warning shall be printed in English and Spanish.

**Authority.** Arkansas Code § 3-2-206.

**Codification Notes.** Subdivision (2) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 9-20-17)"

Subdivision (4) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-19-93)"

Prior to codification into the Code of Arkansas Rules, subdivision (6)(B)(iii) contained the following: "Repealed 9-16-15"

Prior to codification into the Code of Arkansas Rules, subdivision (7) contained the following: "Repealed 8-15-01"

Prior to codification into the Code of Arkansas Rules, subdivision (8) contained the following: "Repealed 8-15-07"

Prior to codification into the Code of Arkansas Rules, subdivision (9) contained the following: "Repealed 8-21-13"

Subdivision (10) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 12-23-86)"

Subdivision (11) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-18-99)"

Subdivision (12) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-18-99)"

Subdivision (13) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-21-13)"

Subdivision (14) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 8-18-99)"

Prior to codification into the Code of Arkansas Rules, subdivision (15) contained the following: "(Repealed 2-25-22)"

**3 CAR § 1-304. Continuation of permit conditioned upon operation of originally proposed business.**

(a) Any permit issued by the Alcoholic Beverage Control Division shall remain valid only for use in the business described in the original application including any attachments, letters, statements, or testimony given at the hearing on such application.

(b)(1) If no written business and/or entertainment plan was required by the division at the time such permit was issued, then the business operation shall be defined as it has historically operated during the two (2) years immediately prior to the adoption of this section.

(2) The maintenance of such business operations shall be deemed a condition of the permittee's right to retain any permit.

(c) Any material change in the business operations proposed in the original application or in the manner the business has historically operated per above, without prior approval of the Director of the Alcoholic Beverage Control Division, shall be grounds for the revocation of any such permit.

**Authority.** Arkansas Code § 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-17-05)"

**3 CAR § 1-305. Applications granted conditional time limit within which to meet conditions.**

(a) Any conditions attached to the granting of a permit by the Director of the Alcoholic Beverage Control Division or Alcoholic Beverage Control Board must be met by the applicant within twelve (12) months of the final Alcoholic Beverage Control Division decision or the application will be cancelled by the division.

(b) In order to extend the twelve-month conditional period, written approval must be obtained from the director or board before the expiration of the twelve-month period.

**Authority.** Arkansas Code § 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-20-03)"

**3 CAR § 1-306. Contents of permits.**

All permits issued under any alcoholic beverage control law of the State of Arkansas shall contain, in addition to any further information or material to be prescribed by the Director of the Alcoholic Beverage Control Division, the following:

- (1) The name of the person to whom the permit is issued;
- (2) The kind of permit and the type of activity thereby permitted;
- (3) A description by street and number or otherwise of the permitted premises; and
- (4) A statement in substance that such permit shall not be deemed a property or vested right and that it may be revoked at any time pursuant to law.

**Authority.** Arkansas Code § 3-2-206.

### **3 CAR § 1-307. Posting of permit.**

Before doing any business under any permit issued pursuant to any alcoholic beverage control law of the State of Arkansas, the permit shall be enclosed in a suitable wood or metal frame having a clear glass face and a substantial wood or metal back so that the whole of said permit may be seen therein, and shall be posted upon and at all times displayed in a conspicuous place in the room where the business permitted by the permit is carried on so that all persons visiting the premises may readily see the permit.

**Authority.** Arkansas Code § 3-2-206.

### **3 CAR § 1-308. Reissue of permit that has been lost, defaced, or destroyed.**

Whenever a permit shall be lost, defaced, or destroyed, a duplicate permit in lieu thereof will be issued by the Director of the Alcoholic Beverage Control Division upon payment of a fee of fifty dollars (\$50.00) and the filing of an application for a duplicate permit which shall be properly verified as provided in this part and shall set forth:

- (1) The date which the permit was lost, defaced, or destroyed; and
- (2) The circumstances under which the permit was lost, defaced, or destroyed.

**Authority.** Arkansas Code § 3-2-206.

**3 CAR § 1-309. Permit renewal — Penalty for failure to renew on time — Exception for personnel called to active duty in the United States Armed Forces who are stationed outside the state — Annual report for nonprofit corporation filed by private club at time of renewal of permit.**

(a)(1) All permits issued by the Alcoholic Beverage Control Division are renewable on or before June 30 of each calendar year for the fiscal year beginning July 1.

(2) Any person renewing a permit after June 30 shall be required to pay a late renewal penalty in the amount of one-half (1/2) of the required yearly renewal fee for the permit for each sixty (60) days, or any portion thereof, after June 30 wherein the renewal is tendered, in addition to the amount of the yearly fee.

(3) Division permits may be renewed late by paying the above stated penalty beginning July 1 and ending October 28 of each fiscal year.

(4) No permit shall be renewed by the division for the current fiscal year after October 28.

(b) For purposes of assessing the penalty, the renewal date shall be considered to be the date of the postmark if mailed, or the date of receipt if hand delivered.

(c) Holders of private club permits must, at the time of renewal of the permit, provide the division with a file marked copy of the Annual Report for Nonprofit Corporation required by Acts 2007, No. 569.

(d)(1) In accordance with Acts 2003, No. 996, any individual owner/operator permittee of the division who is a member of the Arkansas National Guard or any reserve component of the United States Armed Forces who is ordered to active duty to a duty station located outside of Arkansas shall be allowed an extension for renewing an alcoholic beverage permit issued by the division.

(2) As provided by law, the extension shall be allowed without penalty or assessment of a late fee if notification is given to the division on or before June 30 of

any calendar year that said individual owner/operator has been called to active duty as prescribed in Acts 2003, No. 996.

(3) The extension shall not be granted where the person called to active duty is merely a manager for a corporation which is the permittee of the division as other officers of the corporation may renew the permit in the absence of the person called to active duty.

(4) Likewise, the extension shall not be granted to any partnership or limited liability company where any partner or other member of the limited liability company can renew on behalf of the business entity.

(5) In accordance with Acts 2003, No. 996, the individual permittee of the division that has been called to active duty outside the state shall have a grace period of six (6) months to complete the renewal process for his or her permit after release from active duty.

**Authority.** Arkansas Code § 3-2-206.

**Codification Notes.** Subsection (c) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 8-19-09)"

Subsection (d) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-19-09)"

#### **Subpart 4. Sale of Business or Stock and Disposition of Damaged Beverages**

##### **3 CAR § 1-401. Director to be notified of sale of business.**

(a) Whenever any permittee shall sell the business conducted on the permitted premises, such permittee shall give notice of such sale to the Director of the Alcoholic Beverage Control Division within ten (10) days of the date of sale.

(b) The notice shall state the name, address, and permit number of the seller and the name and address of the purchaser.

**Authority.** Arkansas Code § 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-19-93)"

**3 CAR § 1-402. Permit for premises for which new permit issued to be surrendered.**

Whenever a new permit is issued for premises for which a permit is then existing, the permittee holding the old permit shall surrender such permit to the Director of the Alcoholic Beverage Control Division within three (3) days of the date on which any business is conducted on the premises under the new permit.

**Authority.** Arkansas Code § 3-2-206.

**3 CAR § 1-403. Sale by person lawfully in possession of controlled beverages without a permit.**

Any person lawfully coming into possession of any controlled beverages as executor, administrator, trustee, or other fiduciary as surety for or in payment of a debt or as an insurer (or the transferee or assignee of any insurer) for the salvage or liquidation of any insured casualty, damage, or loss may, subject to the order of the Director of the Alcoholic Beverage Control Division and the requirements of this part, sell such controlled beverages in one (1) lot or parcel to a person holding a permit allowing the purchase of such controlled beverages.

**Authority.** Arkansas Code § 3-2-206.

**3 CAR § 1-404. Person lawfully in possession of controlled beverages without permit must notify director and post bond upon taking possession of controlled beverages.**

(a) Any person described in 3 CAR § 1-403 coming lawfully into possession of any controlled beverages shall immediately after taking possession notify the Director of the Alcoholic Beverage Control Division and furnish a detailed description of the controlled beverages.

(b) In addition, such person shall post a bond with the director in such amount as the director deems sufficient to protect the state for any taxes due on the controlled beverages.

(c) Any such person shall notify the director of any sale of the controlled beverages as provided in 3 CAR § 1-403.

**Authority.** Arkansas Code § 3-2-206.

**3 CAR § 1-405. Labeling and sale of controlled beverages involved in casualty.**

(a)(1) Any controlled beverages which have been involved in a fire, wreck, or other casualty shall be labeled or otherwise identified on each bottle, can, or other container as being distressed merchandise salvaged from fire, wreck, or other casualty.

(2) Such labeling shall be under the supervision of an authorized agent of the Alcoholic Beverage Control Enforcement Division who may, if such agent deems it necessary, require that the Department of Health certify such controlled beverages as being safe for human consumption before such beverages may be sold.

(b) No controlled beverages involved in a fire, wreck, or similar casualty shall be sold unless such sale is approved by the Director of the Alcoholic Beverage Control Division as provided for in this part.

(c) Nothing contained herein shall be construed to allow the sale of any alcoholic beverages within the State of Arkansas which were not originally shipped to a licensed Arkansas wholesale distributor as evidenced by shipping invoice, bill of lading, or other shipping document.

**Authority.** Arkansas Code § 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 8-19-93)"

### **Subpart 5. Transfer of Permit by Operation of Law**

#### **3 CAR § 1-501. Permit may be transferred by operation of law or by reason of dissolution, bankruptcy, incompetence, death, or otherwise.**

(a) A corporation or partnership holding a permit and in the process of dissolution; a trustee, receiver, or assignee for the benefit of creditors appointed for any person holding a permit; a committee of the property of any person holding a permit; an executor or administrator of the estate of any person who has held or holds the permit; or any other person who by operation of law has succeeded to the legal title and rights of any person holding a permit may, subject to the approval of the Director of the Alcoholic Beverage Control Division as required under this part, continue to carry on the business of the person to whom the permit was issued at the premises designated in the permit.

(b) Said parties shall be able to renew the license and carry on the business for a period of time not to exceed twenty-four (24) months.

(c) Said persons shall carry on said business with the same rights and subject to the same restrictions and liabilities as would be imposed upon the original holder of the permit.

(d) The twenty-four-month period shall be determined as having begun on the date that the successor takes control of the property of the permittee.

**Authority.** Arkansas Code § 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 8-19-93)"

**3 CAR § 1-502. Person continuing business by operation of law must qualify and be approved.**

(a)(1) Any person seeking to continue the business of another person as described in 3 CAR § 1-501 must file an application therefore with the Director of the Alcoholic Beverage Control Division on a form approved by the director.

(2) Such person must be qualified to hold the class of permit for which he or she is making application to continue.

(b) If the director approves the application, he or she shall have written or stamped across the face of the existing permit or license the following words:

(a) \_\_\_\_\_ is permitted to manufacture or sell (as the case may be) \_\_\_\_\_ (type of beverage or beverages allowed by the permit) as \_\_\_\_\_ (insert representative capacity) of the original permittee. Said \_\_\_\_\_ (representative capacity) shall be allowed to operate the business for a period of time not to exceed twenty-four (24) months. Said term of authority for the \_\_\_\_\_ (representative capacity) shall be considered to have begun on the date the representative first took control of the operation of the business.

(c) The director shall also subscribe his or her signature to the statement required on the permit.

**Authority.** Arkansas Code § 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-19-93)"

**3 CAR § 1-503. No business to be conducted on premises by virtue of transfer of permit by operation of law unless approved by director.**

(a) No person acting in any representative capacity by virtue of the transfer of a permit by operation of law as described in this subpart shall conduct any business on the permitted premises or otherwise by virtue of the transfer of the permit unless such person has been approved by the Director of the Alcoholic Beverage Control Division as provided in this subpart or has applied for and secured a permit in such person's own name as representative.

(b) Any person applying for a permit in such person's own name as representative shall be required to possess all qualifications required of a normal permittee.

**Authority.** Arkansas Code § 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-19-93)"

## **Subpart 6. Hearing Procedure**

### **3 CAR § 1-601. All hearings for cancellation, suspension, or revocation of permits to be before director or designated hearing officer upon notice of hearing — Emergency exception.**

(a) All hearings for the cancellation, suspension, revocation, or monetary fine of permits shall initially be before the Director of the Alcoholic Beverage Control Division or a hearing officer designated as provided in this subpart pursuant to the notice required by this subpart, with an opportunity for interested parties to respond and present evidence and argument on all issues involved.

(b) Hearings, including proceedings on an application for a permit, may initially be held before the director at his or her discretion pursuant to the same notice requirements stated above.

(c) Provided, that if the director finds that the public health, safety, or welfare imperatively requires emergency action and incorporates a finding to that effect in his or her order, summary suspension of the permit may be ordered pending proceedings

for revocation or other action, which proceedings shall be promptly instituted and determined.

**Authority.** Arkansas Code § 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 12-17-82)"

**3 CAR § 1-602. Contents of notice required.**

In every case in which a hearing is required by this part or by any law of the State of Arkansas pursuant to notice, such notice shall include the following:

- (1) A statement of the time, place, and nature of the hearing;
- (2) A statement of the legal authority and jurisdiction under which the hearing is to be held; and
- (3) A short and plain statement of the matters of fact and law asserted.

**Authority.** Arkansas Code § 3-2-206.

**3 CAR § 1-603. Conduct of hearing by director or hearing officer.**

(a) In the conduct of any hearing held by the Director of the Alcoholic Beverage Control Division or the hearing officer designated as provided in this subpart, the director or such hearing officer shall be authorized to:

- (1) Examine or cause to be examined under oath any person;
- (2) Examine or cause to be examined books and records of any permittee;
- (3) Hear testimony;
- (4) Take proof material for his or her information and for the purposes of the hearing;
- (5) Administer or cause to be administered oaths; and

(6) Issue subpoenas to require the appearance of witnesses and the production of books and records, which subpoena shall be effective in any part of this state.

(b) Any circuit court, either in the term time or vacation, may by order duly entered require the attendance of witnesses or the production of relevant books and records subpoenaed by the director and the court may compel obedience to its orders by proceedings for contempt.

(c) Any applicant or permittee involved in a hearing before the director shall be entitled, on request, to a subpoena for the compulsory attendance of witnesses desired by him or her.

(d) All witnesses subpoenaed by the director or the Alcoholic Beverage Control Board shall be entitled to such mileage and fees as are prescribed by law for witnesses in the circuit courts in the state.

(e) The mileage and fees of witnesses subpoenaed at the request of any applicant or permittee shall be paid by him or her.

**Authority.** Arkansas Code § 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-19-93)"

**3 CAR § 1-604. Order denying, cancelling, suspending, revoking, or imposing a monetary fine against the permit.**

(a) Whenever the Director of the Alcoholic Beverage Control Division shall deny an application for any permit or shall cancel, suspend, revoke, or impose a monetary fine against any permit, he or she shall prepare an order so providing, which shall be signed by the director or some person designated by him or her and the seal of the director shall be affixed thereto.

(b) Said order shall include findings of fact and conclusions of law, separately stated.

(c) Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.

(d) Said order shall be mailed by certified mail by the director to the applicant at the address shown on the application or to the permittee at the address of the permitted business as the case may be.

(e) Such order shall be final and binding on all parties until such order has been appealed as provided in this subpart.

**Authority.** Arkansas Code § 3-2-206.

**3 CAR § 1-605. Appeal by person aggrieved by order of director.**

(a)(1) Any applicant or permittee aggrieved by an order of cancellation, denial, suspension, revocation, or the imposition of a monetary fine by the Director of the Alcoholic Beverage Control Division, or any person or group of persons who have formally protested the issuance of any permit before a decision was rendered by the director and are aggrieved by the issuance of such permit, may appeal such order to the Alcoholic Beverage Control Board by filing a notice of appeal with the board.

(2) The notice of appeal must be mailed or delivered to the offices of the Alcoholic Beverage Control Division within fifteen (15) days after the order to be appealed from was received by the recipient, as shown by the certified mail return receipt card returned to the division.

(3) In the event the person filing an appeal of the director's decision or order was not sent a certified letter of the same, then the fifteen-day appeal period begins on the date the director's decision or order was issued.

(4) The notice of appeal shall designate the name of the permittee or applicant.

(b)(1) At least ten (10) days before the time set for the hearing, the division shall notify the applicant, permittee, or protestor of the time and place where said appeal shall be heard by the board or by a hearing officer designated as provided in this subpart.

(2) Such notice to the applicant, permittee, or protestor shall be mailed by regular first-class mail.

(3) Said hearing shall be held within at least sixty (60) days after the date of the filing of the notice of appeal unless the person appealing shall consent to a later hearing.

(4) No request for a continuance of a board hearing made after the Friday before a scheduled board hearing will be considered by the director, absent emergency circumstances, the determination of which is vested in the discretion of the director.

**Authority.** Arkansas Code § 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-16-11)"

**3 CAR § 1-606. Review by board of action of director on own motion — Effective date of director's action.**

(a) The Alcoholic Beverage Control Board may on its own motion review any action of the Director of the Alcoholic Beverage Control Division in granting or failing to grant, renewing or failing to renew, cancelling, revoking or suspending, fining, or failing to cancel, revoke, suspend, or fine upon complaint any permit and, upon such review, set aside any action of the director in any of said respects.

(b)(1) For purposes of this section only, any action by the director in any of said respects shall not become effective until the day following the next meeting of the board following the action by the director, and then only if the board fails to make a motion to exercise its right of review.

(2) In exercising such right of review, the board may hold any hearing deemed necessary and shall have the power to conduct such hearing in the manner required by this subpart.

**Authority.** Arkansas Code § 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-19-93)"

**3 CAR § 1-607. Conduct of hearing by board.**

(a) For the purpose of hearing or conducting any appeal authorized to be heard by it, the Alcoholic Beverage Control Board or any hearing officer designated as provided in this subpart shall have the power to:

(1) Examine or cause to be examined under oath any permittee, the Director of the Alcoholic Beverage Control Division, or any other person;

(2) Examine or cause to be examined the books and records of any such permittee;

(3) Hear testimony and to take proof material for its information or the information of such hearing officer in hearing such appeal; and

(4)(A) Administer or cause to be administered oaths, and for such purposes, to issue subpoenas requiring the attendance of witnesses and the production of books and records, such subpoenas shall be effective in any part of this state.

(B) Any circuit court may by order duly entered require the attendance of witnesses and the production of relevant books and records subpoenaed by the board and the court may compel obedience to its orders by proceedings for contempt.

(b) An applicant involved in a hearing before the board shall be entitled, on request, to a subpoena for the compulsory attendance of witnesses desired by him or her.

(c) All witnesses subpoenaed by the director or the board shall be entitled to such mileage and fees as are prescribed by law for witnesses in the circuit courts of the state, and the mileage and fees of witnesses subpoenaed at the request of an applicant or permittee shall be paid by him or her.

**Authority.** Arkansas Code § 3-2-206.

**3 CAR § 1-608. Decision or order by board.**

(a)(1) Within five (5) days after a hearing is concluded by the Alcoholic Beverage Control Board, the board shall render its written decision or order.

(2)(A) Such written opinion, decision, or order shall include findings of fact and conclusions of law, separately stated.

(B) Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.

(3) A copy of such opinion, decision, or order shall be mailed by the board by certified mail to the applicant, permittee, or protestor.

(b)(1) Such order and decision shall be final and binding on the Director of the Alcoholic Beverage Control Division and the applicant, permittee, or protestor.

(2) Provided, however, that an appeal may be taken from any order cancelling, suspending, revoking, or placing a monetary fine against a permit or failing to grant or deny a permit as provided for in this subpart.

**Authority.** Arkansas Code § 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-19-93)"

**3 CAR § 1-609. Appeal from board to courts.**

(a) Within thirty (30) days after the mailing of the order of the Alcoholic Beverage Control Board, any permittee aggrieved by an order of the board or any person or group of persons who have formally appealed a decision of the Director of the Alcoholic Beverage Control Division to the board and are aggrieved by a decision of the board, may appeal to the circuit court system in accordance with the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

(b) An appeal from the judgment of the circuit court may be taken to the Arkansas Court of Appeals or the Supreme Court in the manner generally provided for the appeal of civil matters from the circuit court.

**Authority.** Arkansas Code § 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-19-93)"

**3 CAR § 1-610. Appellant to pay costs of preparing transcript of Alcoholic Beverage Control Board hearings.**

(a)(1) Pursuant to the provisions of the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq., the Alcoholic Beverage Control Division shall prepare the certified copy of the division record for filing in any appeal filed under the Arkansas Administrative Procedure Act.

(2) However, the division will recover one dollar and fifty cents (\$1.50) per page for each page of the transcript of the division proceedings filed with the circuit court, if the division is determined to be the prevailing party in the Arkansas Administrative Procedure Act review.

(3) In the event any parties request that the division provide a copy of the division record, the division shall be entitled to recover forty cents (40¢) per page for each copy of the transcript.

(4) Any copies of division files, records, or transcripts shall be paid for at the rates noted above.

(b) All moneys received by the division pursuant to the above provisions shall be deposited to the general revenues of the State of Arkansas.

**Authority.** Arkansas Code §§ 3-2-206, 3-2-217.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-19-93)"

**3 CAR § 1-611. Admissibility of evidence in hearings.**

In any hearing provided for by this subpart or by any alcoholic beverage control law of the State of Arkansas, the Director of the Alcoholic Beverage Control Division, the Alcoholic Beverage Control Board, and any hearing officer designated pursuant to this subpart to conduct such hearing, shall not be bound by the legal rules of evidence in conducting any hearing and in making any decision, and may take into consideration any testimony, papers, or documents which may be deemed relevant to the issues involved.

**Authority.** Arkansas Code § 3-2-206.

**3 CAR § 1-612. Record of hearing required — Contents of record.**

In any hearing held pursuant to this subpart or any alcoholic beverage control law of the State of Arkansas, the person conducting such hearing shall cause to be prepared a record of the hearing which shall include:

- (1) All pleadings, motions, and intermediate rulings;
- (2) Evidence received or considered including, on request of the party, a transcript of all proceedings or any part thereof;
- (3) Offers of proof, objections, and rulings thereon; and
- (4) Proposed findings and exceptions thereto.

**Authority.** Arkansas Code § 3-2-206.

**3 CAR § 1-613. Designation of hearing officer.**

Pursuant to the power granted to the Alcoholic Beverage Control Division, in part by Arkansas Code § 25-15-213 and pursuant to other powers granted to the Director of the Alcoholic Beverage Control Division and the Alcoholic Beverage Control Board, the

director or the board may designate any member of the division to conduct any hearing authorized by this subpart or by any alcoholic beverage control law of the State of Arkansas.

**Authority.** Arkansas Code § 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-19-93)"

**3 CAR § 1-614. Decision or order in hearing conducted by hearing officer.**

(a) When in the case of any hearing conducted by a hearing officer designated as provided in this subpart, the Director of the Alcoholic Beverage Control Division or a majority of the Alcoholic Beverage Control Board, as the case may be, has not heard the case or reviewed the record, the decision, if adverse to a party other than the director or board, shall not be made until a proposal for decision is served upon the parties and an opportunity is afforded to each party adversely affected to file exceptions and present briefs and oral arguments to the director or the board, whichever is to render the decision.

(b) The proposal for decision shall contain a statement of the reasons therefor and the issues of fact or law necessary thereto, prepared by the person who conducted the hearing.

(c) If the director or the board, as the case may be, has heard the case or reviewed the record, their decision shall be made and entered as otherwise provided by this subpart.

**Authority.** Arkansas Code § 3-2-206.

**3 CAR § 1-615. Notice required by director to certain persons upon application for permit.**

(a) Upon receipt by the Director of the Alcoholic Beverage Control Division of an application for permit, written notice thereof, which shall include a copy of the application, shall be mailed by the director to the sheriff, chief of police, if located within a city, and prosecuting attorney of the locality in which the premises is situated, and to the mayor and city board of directors or other governing body of the city in which the premises is situated, if within an incorporated area.

(b) No permit shall be issued by the director until at least thirty (30) days have passed from the mailing by the director of the notices required by this section.

(c) Provided, that this requirement shall not apply if the applicant holds a restaurant mixed drink permit and subsequently makes application for a beer and/or wine permit only at the same location.

**Authority.** Arkansas Code § 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-20-03)"

**3 CAR § 1-616. Hearing to be held if protest within 30 days.**

If within the thirty-day period following the date of the mailing of the notices required by 3 CAR § 1-615 the Director of the Alcoholic Beverage Control Division receives any written protest from any person to whom such notice was sent against the issuance of a permit, the director shall not issue the permit until a hearing has been held on the issuance of the permit as provided in this subpart.

**Authority.** Arkansas Code § 3-2-206.

**3 CAR § 1-617. Right to counsel and to cross-examine witnesses for any person compelled to appear at hearing.**

Any person compelled to appear at any hearing provided for by this subpart or by any alcoholic beverage control law of the State of Arkansas shall have the right to be accompanied and advised by counsel and to cross-examine witnesses.

**Authority.** Arkansas Code § 3-2-206.

**3 CAR § 1-618. Cancelled, suspended, or revoked permit to be surrendered.**

(a)(1) Within three (3) days after a permit shall have been cancelled, suspended, or revoked, pursuant to the Director of the Alcoholic Beverage Control Division's summary authority under this subpart or pursuant to any order of the director, Alcoholic Beverage Control Board, or any court which has become final, notice thereof shall be given by the director to the permittee by mailing such notice by certified mail to the permittee at the premises permitted or by personal service thereof upon the permittee.

(2) Upon receipt of such notice, the permittee shall immediately surrender the permit to the director.

(3) The director, immediately upon giving such notice of cancellation, suspension, or revocation, shall cause to be notified in any manner he or she deems appropriate the chief of police of the city or town in which the subject premises is located or the county sheriff in any case where the subject premises is located outside a city or town.

(b)(1) If such permit is not immediately surrendered, the director shall issue a written demand for the surrender of the permit and deliver said demand to the sheriff of the county in which the permitted premises is located or to any authorized agent of the Alcoholic Beverage Control Enforcement Division.

(2) Said sheriff or authorized agent shall immediately take possession of the permit and return it to the director.

**Authority.** Arkansas Code § 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-19-93)"

## **Subpart 7. Procedure upon Seizure and Forfeiture of Controlled Beverages and Personal Property**

### **3 CAR § 1-701. Controlled beverages possessed in violation of rules or law declared contraband.**

All controlled beverages found in the possession of any person where such possession shall violate any of this part or any alcoholic beverage control law of the State of Arkansas are contraband and shall be seized and forfeited.

**Authority.** Arkansas Code § 3-2-206.

### **3 CAR § 1-702. Procedure upon seizure of controlled beverages.**

(a) All controlled beverages seized as provided in this part and the laws of the State of Arkansas in regard thereto shall be immediately turned over to the mayor, if seized within the city limits of a municipality by a law enforcement officer of such municipality, or to the county judge, if seized without the city limits of any municipality or within the city limits of any municipality by the sheriff or any state policeman or any agent of the Alcoholic Beverage Control Division, to be held by such mayor or county judge until such time as a district court of the county wherein such beverages were seized determines such beverages to be contraband and subject to sale.

(b)(1) Such controlled beverages shall not be considered subject to sale if, upon advice of the Department of Health, the district court determines that the controlled beverages are not fit for human consumption.

(2) In such case, the controlled beverages shall not be sold but shall be destroyed under the supervision of an agent of the division.

**Authority.** Arkansas Code § 3-2-206.

### **3 CAR § 1-703. Notice of sale to be published.**

(a) Within three (3) days after being authorized by a district court to sell seized controlled beverages, the mayor or county judge, as the case may be, shall cause to be published in a newspaper having county-wide circulation, a notice, which notice shall appear in said newspaper twice within a thirty-day period, fifteen (15) days apart.

(b) The notice shall contain a list of the beverages authorized to be sold by the court, the approximate retail value thereof, the person, if known, from whom taken, the place where seized, and that the beverage will be sold by the mayor or the county judge, as the case may be, at the expiration of thirty (30) days from the first published notice.

**Authority.** Arkansas Code § 3-2-206.

### **3 CAR § 1-704. Claims against seized beverages.**

(a) Any person claiming any interest in any controlled beverages seized may, at any time within thirty (30) days from the date of seizure of such controlled beverages, present a written petition to the district court having jurisdiction of said controlled beverages, setting out the nature of said interest and requesting that a hearing be held by the court to determine the right or interest of such person therein.

(b) Upon the filing of the petition with the court, the judge of said court shall set a date for a hearing which date shall be ten (10) days from the date the hearing is requested, unless good and sufficient cause is shown and recorded for a further delay.

(c) At the hearing, all witnesses shall be duly sworn and the testimony recorded by a stenographer.

(d) The district judge shall within fifteen (15) days after completion of the hearing enter his or her written findings of fact and order upon the testimony presented.

**Authority.** Arkansas Code § 3-2-206.

**3 CAR § 1-705. Appeal from district court.**

(a) The findings of fact and order of the district judge may be appealed to the circuit court of the county wherein such controlled beverages were seized by filing with said court within fifteen (15) days after the district judge's order has been duly entered a transcript of record of the hearing held before the district judge.

(b) The circuit court shall hear no new evidence on the appeal and shall render its judgment only on errors of law.

(c) An appeal from the judgement of the circuit court may be taken to the Arkansas Court of Appeals.

**Authority.** Arkansas Code § 3-2-206.

**3 CAR § 1-706. Sale of seized beverages.**

(a) Upon the expiration of thirty (30) days from the date of the first notice required to be published as provided in this subpart, the mayor or county judge, as the case may be, shall immediately notify all permitted liquor wholesalers and/or retailers in the county or, if the county is dry, then the permitted liquor wholesalers and/or retailers in the nearest wet county, that said seized controlled beverages will be sold to the highest bidder and shall request all permitted liquor wholesalers and/or retailers to submit sealed bids.

(b) In the event that controlled beverages are seized upon which any tax has not been paid, the retailer or wholesaler buying such beverages shall pay such tax and affix all stamps required by law.

**Authority.** Arkansas Code § 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-19-93)"

**3 CAR § 1-707. Mayor or county judge to file monthly report of seizures and sales of controlled beverages.**

Every mayor or county judge to whom seized controlled beverages are delivered shall file with the Director of the Alcoholic Beverage Control Division a report at the end of each month showing the:

- (1) Number of seizures;
- (2) Amount of controlled beverages seized; and
- (3) Amount of money collected from the sale of the controlled beverages.

**Authority.** Arkansas Code § 3-2-206.

**3 CAR § 1-708. Seizure and forfeiture of vehicles, vessels, and other personal property used in the manufacture, transportation, or storage of illicitly manufactured beverages.**

All vehicles, vessels, and other personal property used, or intended to be used, in the manufacture, transportation, or sale of any beverages manufactured in violation of any of this part or any alcoholic beverage control law of the State of Arkansas may be seized by any law enforcement agent of the State of Arkansas and shall be forfeited to the state and turned over to the Alcoholic Beverage Control Division for disposition.

**Authority.** Arkansas Code § 3-2-206.

**3 CAR § 1-709. Notice of seizure and sale.**

(a) Within fifteen (15) days after any vehicle, vessel, or other personal property is seized, the Director of the Alcoholic Beverage Control Division shall publish a notice in a newspaper having statewide circulation describing the property and stating the time, place, and cause of its seizure, and stating that such property will be sold at public auction at the expiration of thirty (30) days from the date of publication of such notice if no claimants to the property appear within said thirty-day period.

(b) The notice shall also state that, upon disposition of any claims filed, the property will be sold pursuant to notice at public auction.

**Authority.** Arkansas Code § 3-2-206.

**3 CAR § 1-710. Claims against seized property.**

(a) Any person claiming any interest in any property seized under this subpart may at any time within thirty (30) days of the date of the notice of publication required by this subpart present a written petition to the Director of the Alcoholic Beverage Control Division setting out the nature of said interest and requesting that a hearing be held to determine such person's right or interest in the property.

(b) The director shall set a date for said hearing which date shall be within ten (10) days of the date the hearing is requested, unless good and sufficient cause is shown and recorded for further delay.

(c) The director shall conduct such hearing and any appeal from the director shall be made in accordance with the procedure established in this part.

**Authority.** Arkansas Code § 3-2-206.

**3 CAR § 1-711. Offers to compromise by persons claiming interest in property.**

The Director of the Alcoholic Beverage Control Division may accept an offer by a person claiming an interest in the seized property in compromise of such person's claim, taking into consideration mortgages, lender liens, other claims, cost of litigation, and financial gain in the final determination of the matter.

**Authority.** Arkansas Code § 3-2-206.

**3 CAR § 1-712. Notice of sale after disposition of claim.**

(a) Upon disposition of all claims filed against the property seized and upon expiration of thirty (30) days from the date of publication of the first notice of seizure and sale required by this subpart, the Director of the Alcoholic Beverage Control Division shall publish a notice in a newspaper of general statewide circulation stating that the seized property is to be sold at public auction and stating the time, date, and location of such sale.

(b) The notice shall also state that all property will be sold on a unit basis and that the terms of the sale shall be cash.

**Authority.** Arkansas Code § 3-2-206.

### **Subpart 8. Registration of Managing Agent**

#### **3 CAR § 1-801. Certain permittees must designate and register managing agent.**

(a) Any individual applying for or holding any permit who is not in actual charge of the day-to-day business conducted on the permitted premises, and all partnerships and corporations applying for or holding any permit, shall designate a managing agent who shall be in charge of the day-to-day business conducted on the permitted premises.

(b) Such managing agent must be registered with the Director of the Alcoholic Beverage Control Division as managing agent for the permittee at the permitted premises.

(c) Such registration shall be on a form provided by the director and shall set forth in detail such information concerning the managing agent as the director may require.

**Authority.** Arkansas Code § 3-2-206.

#### **3 CAR § 1-802. Qualifications of managing agent.**

A managing agent must be qualified to hold the class of permit held by the permittee designating such individual as managing agent for the permittee's premises.

**Authority.** Arkansas Code § 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-19-93)"

**3 CAR § 1-803. Director to be notified when managing agent ceases to act as such — Designation of new managing agent.**

Within five (5) days of the date when any managing agent designated and registered as required by this subpart ceases to act as such, the permittee shall notify the Director of the Alcoholic Beverage Control Division in writing and within thirty (30) days of the date on which the director is so notified, the permittee shall designate a new managing agent and such managing agent shall be registered as required by this subpart within five (5) days of his or her designation as managing agent.

**Authority.** Arkansas Code § 3-2-206.

**Subpart 9. Prohibited Conduct — Activities and Procedure for Cancellation, Suspension, and Revocation of Permits**

**3 CAR § 1-901. Prohibited activities — Grounds for cancellation, suspension, revocation, or placing of monetary fine against any permit.**

In addition to the violation or failure to comply with any of this part or any alcoholic beverage control law of the State of Arkansas, any permit issued pursuant to any alcoholic beverage control law of the State of Arkansas may be cancelled, suspended, revoked, or assessed a monetary fine for any of the following prohibited activities committed by the permittee or any employee, agent, or servant of the permittee:

- (1)(A) Failure to comply with federal regulations.

(B) The permittee violated or failed to comply with any advertising, inducements, or packaging regulation issued as a regulation of the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of the Treasury as promulgated in Title 27 of the Code of Federal Regulations;

(2)(A) Sale of controlled beverages when permit not posted.

(B) The permittee sold, offered for sale, dispensed, gave away, or possessed on the premises any controlled beverages at any time when the permit of said permittee was not posted as required by this part;

(3) Failure to Furnish Bond [repealed];

(4)(A) Failure to pay tax, fee, penalty, or child support.

(B) The permittee failed to pay when due any tax or fee required by this part, by any law of the State of Arkansas, or by any political subdivision of the State of Arkansas, or any penalty assessed by the Director of the Alcoholic Beverage Control Division, the Alcoholic Beverage Control Board, any court, or any court-ordered child support.

(C) The permittee's failure to pay taxes imposed on alcoholic beverages by any state or local gross receipts and compensating use taxes in a timely manner shall be grounds for the nonrenewal of the permittee's permit or permits by the Alcoholic Beverage Control Board.

(D) Provided further, any permit or permits suspended for nonpayment of the above taxes shall be cancelled if the tax arrearage is not satisfied within six (6) months of the date of suspension;

(5)(A) Giving false information or statements.

(B) The permittee knowingly gave false information or made false statements on any application or in any hearing required by this part or by any alcoholic beverage control law of the State of Arkansas;

(6)(A) Failure to possess qualifications required.

(B) The permittee, if the permittee is an individual, any partner, if the permittee is a partnership, or if the permittee is a corporation, any officer, director, managing agent, or stockholder holding more than five percent (5%) of the stock of the

corporation failed to possess at any time any qualifications required by this part or by any alcoholic beverage control law of the State of Arkansas;

(7)(A) Failure to maintain health, safety, and sanitary standards.

(B) The permittee failed to maintain the minimum health, safety, and sanitary standards established by the State of Arkansas and by the rules of the State Board of Health for the permitted premises;

(8)(A) Violation of oath.

(B) The permittee violated any oath required by this part or by any alcoholic beverage control law of the State of Arkansas;

(9)(A) Failure to keep and maintain records or make report.

(B) The permittee failed to keep and maintain any records required to be kept and maintained, or failed to make any report required to be made by this part or by any alcoholic beverage control law of the State of Arkansas;

(10)(A) Failure to furnish access to premises or failure to cooperate.

(B) The permittee failed to furnish reasonable access to the premises to any law enforcement officer of this state or any county or municipality in which the premises is located or to any duly authorized agent of the Alcoholic Beverage Control Division or failed to cooperate or take reasonable action to assist any such law enforcement officers who are on the permitted premises in the performance of their duties;

(11)(A) Failure to allow inspection of books or records.

(B) The permittee failed to allow a reasonable inspection of the books or records of the permitted business to any duly authorized agent of the Alcoholic Beverage Control Division;

(12)(A) Attempt to transfer or assign permit.

(B) The permittee attempted to transfer or assign the permit to any other person or any premises other than the premises described in the permit by any procedure other than that established by this part and the laws of this state;

(13)(A) Pledge, hypothecation, or use of permit as collateral.

(B) The permittee pledged or hypothecated the permit or deposited the permit as collateral security for any loan or upon any other condition;

(14)(A) Posting permit on unauthorized premises.

(B) The permittee posted or knowingly allowed any other person to post the permit upon premises other than the permitted premises described in the permit;

(15)(A) Defacing, destroying, or altering permit.

(B) The permittee maliciously defaced or destroyed the permit, knowingly altered the permit, or knowingly allowed any other person to maliciously deface or destroy or knowingly alter the permit in any respect;

(16)(A) Transporting controlled beverages in violation of rule or law.

(B) The permittee transported or caused to be transported any controlled beverage in violation of this part or any alcoholic beverage control law of the State of Arkansas;

(17)(A) Manufacture or possession of controlled beverage with excess alcohol content.

(B) The permittee manufactured or possessed on the permitted premises any controlled beverage having an alcohol content as measured by weight in excess of that prescribed by Arkansas Code § 3-1-102 and by this part for such beverages;

(18)(A) Removing or obliterating label, mark, or stamp.

(B) The permittee removed or obliterated any label, mark, or stamp affixed to any bottle or container of controlled beverages offered for sale or delivered or sold the contents of any bottles or containers upon which the label, mark, or stamp had been removed or obliterated;

(19)(A) Consuming and/or under the influence of controlled beverages while on duty.

(B) The owner or permittee was under the influence of alcoholic beverages or any employee consumed alcoholic beverages or was under the influence of alcoholic beverages while on duty on the permitted premises.

(C)(i) "Duty" shall include the sale or service of alcoholic beverages and/or crowd control.

(ii) In determining whether the permittee or any agent, server, or employee is otherwise on duty, the Director of the Alcoholic Beverage Control Division or Alcoholic Beverage Control Board may consider, among other factors:

(a) The size of the permitted establishment;

(b) The number of employees working at the time; and

(c) Whether the permittee has a manager on the premises;

(20)(A) Unauthorized manufacture, sale, offer, dispensing, gift, or possession of controlled beverage.

(B) The permittee manufactured, sold, offered for sale, dispensed, gave away, or possessed any controlled beverage not authorized to be manufactured, sold, offered for sale, dispensed, given away, or possessed under the permit held by the permittee or allowed any of the foregoing on the permitted premises by any employee or patron.

(C) Nothing under this section shall prohibit "home brewed beer", as defined in accordance with Arkansas Code § 3-5-202(5)(A), to be allowed on a permitted premises for organized affairs, exhibitions, competitions, and tastings, but not for sale, if tastings or samplings are allowed under the permittee's permit;

(21)(A) Manufacture or sale in dry area.

(B) The permittee manufactured, sold, offered for sale, solicited, or took orders for any controlled beverage in any area in which the manufacture or sale of such beverage is prohibited by law;

(22)(A) Manufacture, sale, offer, dispensing, gift, possession, or transportation of controlled beverage upon which tax not paid.

(B) The permittee manufactured, sold, offered for sale, dispensed, gave away, possessed, or knowingly transported in this state any controlled beverage of any kind upon which any tax required by this part or by any alcoholic beverage control law of the State of Arkansas has not been paid;

(23)(A) Storing controlled beverages on unauthorized premises.

(B) The permittee stored or caused to be stored controlled beverages manufactured, purchased, or possessed by the permittee by virtue of the permit at any

location other than on the premises described in the permit or in a warehouse approved in accordance with this chapter;

(24)(A) Possession of illegal drugs or narcotics.

(B) The permittee possessed, knew, or reasonably should have known that any agent or employee or patron of the establishment possessed on the permitted premises any illegal drug, narcotic, controlled substance, or drug paraphernalia, as defined in the Uniform Controlled Substance Act, Arkansas Code § 5-64-101 et seq., § 5-64-201 et seq., § 5-64-301 et seq., § 5-64-401 et seq., and § 5-64-501 et seq.

(C) Further, no agent or employee of the permittee shall knowingly allow the possession on the permitted premises of any illegal drug, narcotic, controlled substance, or drug paraphernalia;

(25) Employing a Convicted Felon [repealed];

(26)(A) Failure to file timely change of manager or replacement application.

(B) The permittee of any retail outlet sold or leased the permitted business and the purchaser/lessee of such business failed to file an acceptable replacement application within thirty (30) days of such sale or lease or the managing agent of any incorporated retail outlet or private club became unqualified to serve as such for any reason and such corporate permittee or private club failed to file an acceptable change of manager application within thirty (30) days of such disqualification.

(C) In the event that any replacement or change of manager application required by this section is finally denied, such permit will be presumed abandoned in violation of this section and the Director of the Alcoholic Beverage Control Division may hold a hearing on such permit and make appropriate findings;

(27)(A) Allowing alcoholic beverages to be carried from any on-premises alcoholic beverage outlet or private club.

(B) The permittee allowed any patron to exit the permitted premises carrying any open container of alcoholic beverages or allowed any patron to exit any on-premises retail beer outlet carrying sealed alcoholic beverages in any combination

not authorized by the Director of the Alcoholic Beverage Control Division for off-premises sales, unless otherwise authorized by this part.

(C)(i) Private club permitted outlets are not allowed to sell any alcoholic beverages to be taken off the permitted premises.

(ii) Provided:

(a) Those establishments holding an on-premises wine restaurant or café permit, a combined restaurant beer and wine permit, hotel-motel-restaurant mixed drink permit, or private club permit may allow a customer who purchases an unsealed package of wine in conjunction with a food purchase and consumes a portion of the wine on the premises with the meal to replace the cork and remove the partially filled package from the premises;

(b) Patrons may walk back and forth with an alcoholic beverage between a private club permitted premises and another contiguous permitted premises when both premises are a part of the same business operation and the alcoholic beverage is a type permitted by both premises; and

(c) Patrons may walk back and forth with an alcoholic beverage between an on-premises permitted outlet and a contiguous outlet issued a casino license by the Arkansas Racing Commission as long as the casino licensee is in operation.

(D)(i) It is further provided that any on-premises outlet in a valid entertainment district may allow patrons to leave the permitted premises with alcoholic beverages.

(ii) A city, municipality, or incorporated town that has designated an entertainment district shall notify the Alcoholic Beverage Control Division within ten (10) days of issuance or removal of a district.

(iii)(a) Notification for issuance of an entertainment district shall include:

(1) Whether the district is temporary or permanent;

(2) The days and hours of operation of the entertainment

district; and

(3) Any other regulations within the entertainment district, as well as any on-premises outlets that elect to opt out of the entertainment district.

(b) Any on-premises permit within an entertainment district that opts out of the entertainment district may not permit patrons to leave the premises with alcoholic beverages;

(28)(A) Advertising, selling, or dispensing alcoholic beverages on a two-or-more-for-the-price-of-one basis.

(B) The permittee advertised, sold, dispensed, or served any alcoholic beverages for on-premises consumption on the basis of two (2) or more drinks for the price of one (1).

(C) Further, the permittee advertised, sold, dispensed, or served alcoholic beverages without a limit to any person on the basis of a flat fee or cover charge.

(D) Further, distilled spirits may not be sold by the bottle to patrons for self-pouring at on-premises consumption permitted outlets.

(E) Provided, a fee charged for wine tastings, where such tastings are served in containers of two ounces (2 oz.) or less and each patron is limited to a maximum of four (4) servings per charge, shall not be deemed in violation of this section;

(29)(A) Conviction of any permittee of second or subsequent DWI or unlawful sale of alcohol.

(B) The permittee or any managing agent for any corporate permittee, after the effective date hereof, has been convicted of a second or subsequent driving while intoxicated (DWI) offense or has been convicted for a second or subsequent time for any unlawful sale of alcoholic beverages where such second conviction occurs within five (5) years of the prior conviction;

(30)(A) Strict liability on the part of the permittee for any prohibited advertising.

(B) The permittee, partnership, or corporation holding any permit issued by the Alcoholic Beverage Control Division may be held strictly liable for any type of advertising that is prohibited for such permittee by this part or by code provisions.

(C)(i) When such advertising is promoting any event or activity on a permitted premises it is irrelevant, for the purposes of administrative liability, whether or not the permittee had prior actual knowledge of the contents of the prohibited advertisement.

(ii) However, lack of actual knowledge may be taken into consideration by the Director of the Alcoholic Beverage Control Division, along with all other relevant circumstances, in determining the administrative penalty to be levied for this violation;

(31)(A) Failure of permittee to maintain on file Server Awareness Form for each employee as required by this part.

(B) The permittee failed to have each employee acknowledge by signature the Server Awareness Form promulgated by the Director of the Alcoholic Beverage Control Division and to be maintained in the personnel file of each employee;

(32)(A) Failure to be a good neighbor.

(B)(i) The policy of the General Assembly per Acts 1989, No. 695, and the Alcoholic Beverage Control Board which is empowered to adopt rules thereunder, is that every holder of an Alcoholic Beverage Control Division permit shall be held to a high duty of care and will operate their business where beverages are sold or dispensed in a manner which is in the public interest and which does not endanger the public health, welfare, or safety.

(ii) Failure to maintain this duty of care shall be a violation of Acts 1989, No. 695, and shall constitute grounds for the application of the full range of administrative sanctions and penalties against the subject permit.

(C)(i) Any inquiry made under the provisions of this section or Acts 1989, No. 695, shall be whether or not the outlet, as operated, promotes the public convenience and advantage or whether the continuation of the operation of the outlet would promote the public interest and whether or not the outlet's operation endangers the public health, welfare, or safety in the area of a community in which it is located.

(ii) It is specifically provided that during any hearing called under the provisions of this section or Acts 1989, No. 695, the permitted outlet may be viewed as

if it were a new application and all factors involved in the processing of the application may be redetermined as if the application was being made for the first time.

(D) As to all violations occurring inside the permitted premises, the standard of proof shall be by substantial evidence.

(E) As to all violations occurring outside the permitted premises, the standard of proof shall be by clear and convincing evidence.

(F) In addition to all factors which may be used on an initial application, inquiry may be made upon the control, or lack thereof, that the permittee exercises over parking lots and other areas adjacent to the permitted outlet which are under the direct control of the permittee.

(G) In addition, the permittee may be held accountable under this section for disorderly conduct, excessive noise, or loud music from his or her outlet and which is of such volume and such degree as to constitute a disturbance of the public peace;

(33)(A) Allowing possession of weapons on premises.

(B) That the permittee, or any employee of the permittee, allowed, knew, or reasonably should have known that any person without a possessory or proprietary interest in the permitted outlet was in possession of a weapon on the permitted premises.

(C) As used in this subdivision (33), "weapon" means any firearm that is designed, made, or adapted to be fired, or any knife or club as defined by Arkansas Code § 5-73-120.

(D) Any weapon authorized to be in the permitted outlet pursuant to this section must be kept out of sight and inaccessible to patrons and others who have no legal right to possess a weapon in the outlet.

(E) This section excludes any law enforcement officer, any duly authorized agent of the Alcoholic Beverage Control Enforcement Division, and any licensed security guard while acting in the course and scope of their official duties.

(F) Provided, that any person with a permit issued by the Director of the Division of Arkansas State Police may carry a concealed handgun, as such is defined in

Arkansas Code § 5-73-301 into a restaurant, as such is defined in Arkansas Code § 3-9-202(16).

(G) Provided further, that an employee of a retail liquor store who is licensed to carry a concealed handgun by the state may possess a handgun on the permitted premises;

(34)(A) Sale while permit suspended or on inactive status.

(B) That the permittee or any agent or employee of the permittee sold, offered for sale, dispensed, gave away, or allowed the consumption of any controlled beverages upon the permitted premises at any time the permit is suspended or on inactive status;

(35)(A) Sale of tobacco to minor.

(B) That the permittee or any agent or employee of the permittee sold tobacco in any form or cigarette papers to a minor under eighteen (18) years of age;

(36)(A) Allowing open containers of alcoholic beverages in off-premises permitted outlet.

(B) That the permittee, or any employee of the permittee, allowed, knew, or reasonably should have known that open containers of alcoholic beverages were present in an off-premises permitted outlet;

(37)(A) Duty of permittee to provide certain information to Alcoholic Beverage Control Enforcement Division agents or law enforcement officers.

(B) That the permittee failed to provide to the Alcoholic Beverage Control Division, any Alcoholic Beverage Control Division Enforcement agent, or law enforcement officer, when requested, access to information pertaining to the employment of any person employed by the permittee or gave fraudulent information regarding such employee;

(38)(A) Allowing alcoholic beverages to be removed from permitted outlet when sale or dispensing prohibited.

(B) That the permittee, or any employee or agent, removed or allowed to be removed alcoholic beverages from a retail or private club permitted outlet at any time the sale or dispensing of alcoholic beverages is prohibited by law;

(39)(A) Sale of alcoholic beverages to persons under twenty-one (21) years.

(B) That the permittee or any employee, agent, or servant of the permittee sold to, offered for sale, dispensed, gave away, or allowed the possession or consumption of any controlled beverage by any person under twenty-one (21) years of age; and

(40)(A) Alcohol vaporizers prohibited.

(B) That the permittee or any employee, agent, or servant of the permittee allowed the use or possession on the permitted premises of any alcohol vaporizing device, as such is defined by Acts 2009, No. 466.

**Authority.** Arkansas Code § 3-2-206.

**Codification Notes.** The introductory language of this section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-18-99)"

Prior to codification into the Code of Arkansas Rules, subdivision (3) contained the following: "Repealed 8-18-99"

Subdivision (4) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-17-05)"

Subdivision (10) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 12-23-86)"

Subdivision (17) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-19-93)"

Subdivision (19) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-17-05)"

Subdivision (22) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-19-3)"

Subdivision (24) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-19-93)"

Prior to codification into the Code of Arkansas Rules, subdivision (25) contained the following: "Repealed 8-21-13"

Subdivision (26) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 7-19-84)"

Subdivision (27) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 10-21-20)"

Subdivision (28) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-17-05)"

Subdivision (29) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-19-93)"

Subdivision (30) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 12-23-86)"

Subdivision (31) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 12-15-89)"

Subdivision (32) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-17-05)"

Subdivision (33) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-21-13)"

Subdivision (34) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 8-19-93)"

Subdivision (35) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 8-19-93)"

Subdivision (36) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 7-19-95)"

Subdivision (37) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 7-19-95)"

Subdivision (38) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 8-20-97)"

Subdivision (39) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 8-18-99)"

Subdivision (40) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 8-19-09)"

**3 CAR § 1-902. Acts of servants, agents, or employees imputed to permittee.**

All acts of any servant, agent, or employee of the permittee shall be imputed to the permittee and deemed to be an act of the permittee if done within the scope of such servant's, agent's, or employee's scope of authority under the permittee.

**Authority.** Arkansas Code § 3-2-206.

**3 CAR § 1-903. Suspension of permit when no business conducted for a period of 30 days — Inactive status of permits.**

(a)(1) In the event a permittee does not conduct business under any permit issued for a period of thirty (30) days, the permit shall be surrendered to the Director of the Alcoholic Beverage Control Division and shall be placed on inactive status.

(2) Inactive status shall commence at the end of thirty (30) days after close of business, regardless of whether the permit is surrendered to the director.

(3) In any event, for purposes of this section, a business that has been closed for a period of thirty (30) days shall be deemed to be on inactive status.

(4) The permit may remain inactive for three (3) months.

(b)(1) To secure the return of the permit, the permittee shall file with the director a written statement showing:

(A) That all taxes and fees owing to the state have been paid;

(B) The reason for the suspension of business activities; and

(C) The date business activity will resume.

(2) The date the business activity will resume must be before or on the following day after the expiration of the last day of the inactive status period and includes the resumption of business at the permitted location that means the outlet is open for business and prepared to sell or dispense alcoholic beverages or means the filing of an acceptable application with the Alcoholic Beverage Control Division to transfer the location of the permitted business or such permit shall expire.

(3) If said application to transfer the location of the permitted business is granted conditional, the conditions must be met within twelve (12) months from the final Alcoholic Beverage Control Division decision granting the transfer application or the application will be cancelled.

(4) In order to extend the twelve-month conditional period, written approval must be obtained from the director or Alcoholic Beverage Control Board before the expiration of the twelve-month period or such permit shall expire.

(5) Upon any such expiration or cancellation, the inactive status of the permit will be calculated from the time the final Alcoholic Beverage Control Division decision granting the transfer of location was rendered.

(c)(1) The permittee may petition the board for an extension of inactive status for an additional three-month period.

(2) The board may grant an initial extension upon a showing by the permittee and a finding by the board that:

(A) Business circumstances exist to justify an extension;

(B) The delay to return to business was not due to mere deferral or inattention on the part of the permittee; and

(C) The inactive status should be extended.

(3)(A) The permittee may appeal to the board for a second extension of inactive status for an additional six-month period, but only upon a showing by the permittee and a finding by the board that emergency circumstances exist to justify a final extension.

(B) "Emergency circumstances" means delays in return to business that are beyond the control, planning, or foresight of the permittee including, but not limited to:

(i) Delays due a natural or man-made disaster;

(ii) The pending adjudication of a lawsuit;

(iii) A building construction problem; and

(iv) A contested or delayed insurance claim or settlement.

(4) Any permit remaining on inactive status for a period of more than twelve (12) months or which has not been granted an extension under the provision of this section shall expire pursuant to written notice given to permit holders by the Alcoholic Beverage Control Division or to the provisions of Arkansas Code § 3-4-201 as they apply.

(5)(A) Any permitted outlet which has been on inactive status in excess of six (6) months shall be reinspected by the Alcoholic Beverage Control Enforcement Division to determine if the outlet is in compliance with required health and safety rules and the

outlet is open for business and prepared to sell or dispense alcoholic beverages before the permit or permits may be returned to active status.

(B) As part of the reinspection process, the Alcoholic Beverage Control Enforcement Division shall give notice of the request to return to active status to the law enforcement officer who has primary jurisdiction over the site of the permitted outlet.

(6) The date the business activity will resume must be before or on the following day after the expiration of the last day of the inactive status period and includes the resumption of business at the permitted location that means the outlet is open for business and prepared to sell or dispense alcoholic beverages or such permit shall expire.

**Authority.** Arkansas Code § 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 01-22-20)"

**3 CAR § 1-904. Notice of suspension to be posted on premises.**

(a) Whenever any permit shall be suspended by the Director of the Alcoholic Beverage Control Division, Alcoholic Beverage Control Board, or any court, a notice thereof in a form prescribed by the director shall be posted in a conspicuous place in the front entrance to the premises during the period of time for which such permit is suspended.

(b) No permittee shall remove or knowingly allow any other person to remove a notice so posted during the period when the permit is suspended.

**Authority.** Arkansas Code § 3-2-206.

**3 CAR § 1-905. Procedure governing cancellation, suspension, or revocation of permit.**

The cancellation, suspension, or revocation of any permit issued pursuant to any alcoholic beverage control law of the State of Arkansas shall be in accordance with the procedure established under 3 CAR § 1-601 et seq.

**Authority.** Arkansas Code § 3-2-206.

**3 CAR § 1-906. Employees in permitted outlets to sign Server Awareness Form.**

(a) Every employee in a permitted outlet, excepting kitchen and janitorial personnel, upon commencement of such employment, and every permittee shall acknowledge by signature that he or she has read and understands the content of a form entitled Server Awareness Form, such form being provided by the Director of the Alcoholic Beverage Control Division and setting forth pertinent rules and laws governing the sale and service of alcoholic beverages and other related information as determined appropriate by the director.

(b) The initial form shall be provided to the permitted outlet by the Alcoholic Beverage Control Division, and thereafter the permittee shall duplicate and provide forms to employees.

(c) The form signed by the employees and the permittee shall be maintained in the personnel records in possession of the permittee.

(d) If the original forms are not on the permitted premises, copies of the forms must be available on the permitted premises for inspection by Alcoholic Beverage Control Enforcement Division agents or other law enforcement officers.

**Authority.** Arkansas Code § 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-18-99)"

**3 CAR § 1-907. Warning notice regarding sale to minors to be posted in permitted outlet.**

(a) A warning notice that includes the provisions of Arkansas Code § 3-3-202(a) and (b), knowingly furnishing or knowingly selling alcoholic beverages to a minor, shall be posted in a conspicuous place in every establishment that sells or dispenses alcoholic beverages.

(b) The size of the notice shall not be less than eight and one-half inches by eleven inches (8 1/2" x 11").

(c) The lettering on the notice shall be clearly legible.

**Authority.** Arkansas Code § 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 7-19-95)"