

### **Title 3. Alcoholic Beverages**

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

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

##### **Part 2. Rules Applicable to Permits to Manufacture and Wholesale**

**Codification Notes.** This part as promulgated prior to codification into the Code Arkansas Rules provided as follows:

"SUBTITLE D – SALES AGENT PERMITS

Section 2.20 Sales Agents Must Make Application to and be Approved by Director.  
Repealed 8-16-11

Section 2.21 Application for Sales Agent Permits. Repealed 8-16-11

Section 2.22 Sales Agent to Possess Qualifications of Principal. Repealed 8-16-11

Section 2.23 Sales Agent to Represent Only Principal in Accordance With Permit.  
Repealed 8-16-11

Section 2.24 Issuance and Duration of Sales Agent Permit. Repealed 8-16-11

Section 2.25 Exhibition of Permits. Repealed 8-16-11

Section 2.26 Surrender of Permit Upon Leaving Employ of Employer. Repealed 8-16-11

Section 2.27 Suspension and Revocation of Sales Agent Permit. Repealed 8-16-11"

##### **Subpart 1. Scope — Definitions**

**3 CAR § 2-101. General.**

(a) This part applies to all permits issued by the authority of the Alcoholic Beverage Control Division of the State of Arkansas to manufacture and wholesale controlled beverages.

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

(c) In addition to this part, other parts applicable to the matter covered by this title may be found under 3 CAR pt. 1.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

**3 CAR § 2-102. Definitions.**

As used in this part:

(1)(A) "Arkansas small brewery" means any facility located in the State of Arkansas and licensed under Arkansas Code § 3-5-1405 that manufactures fewer than forty-five thousand (45,000) barrels of beer, malt, and hard cider per year.

(B) A licensed microbrewery-restaurant is not a "small brewery".

(C) A small brewery permitted under this law shall have the authority to manufacture and sell beer, malt beverages, and hard cider not to exceed an aggregate quantity of forty-five thousand (45,000) barrels per year.

(D) The operator of a small brewery may serve complimentary samples of products produced by the small brewery and may sell at retail by the drink or by the package beer, malt, and hard cider produced by the small brewery if all sales occur in a wet territory.

(E) Authorized sales as described above may occur at the small brewery location property or at fairs and food and beer festivals.

(F) Small breweries may sell and transport beer, malt, and hard cider products produced on the premises of the small brewery to retail license holders and

small brewery license holders if the total production of the permitted brewery does not exceed fifteen thousand (15,000) barrels per year.

(G) If the small brewery determines that it wishes to sell its own products to another small brewery or to retail license holders, it shall obtain a small brewery wholesale permit.

(H) Off-premises sales are limited to those brand name products which are produced at the permitted facility.

(I) Small brewery permittees may sell their beer, malt beverage, and hard cider products for on or off-premises consumption during all legal operating hours of the business in which the business is normally and legally conducted on any day of the week unless otherwise prohibited by law if the small brewer provides tours and provides that only sealed containers are removed from the premises.

(J) In addition to serving their own products on the premises of the small brewery, small brewers may serve wine and products produced by another licensed small brewery;

(2) "Casino licensee" means any individual, corporation, partnership, association, trust, or other entity holding a license issued by the Arkansas Racing Commission to conduct casino gaming at a casino;

(3) "Consumer" means a person who receives or in any way comes into the possession of controlled beverages for the purpose of consuming them, giving them away, or distributing them in any way other than by sale, barter, or exchange;

(4) "Distiller" means the person, firm, or corporation constituting the original source of sale, after distillation, in the United States;

(5) "Importer" means the person, firm, or corporation in the United States holding the basic contract with a foreign supplier, whereby such foreign supplier exports vinous beverages, spirituous liquors, or malt beverages into the United States;

(6) "Manufacturer" means any person who brews, distills, rectifies, or in any other way manufactures controlled beverages for sale in wholesale quantities;

(7)(A) "Mead" means an alcoholic beverage made through the fermentation of honey as the primary ingredient.

(B) Mead includes without limitation cyser, braggot, metheglin, and melomels;

(8)(A) "Microbrewery-restaurant" means any establishment in which beer, malt, and hard cider are brewed and sold at retail in a restaurant setting under the same ownership in the same building or attached buildings.

(B) The operation of the microbrewery-restaurant shall be a limited exception to the three-tier system as defined in other parts of these rules.

(C) A microbrewery-restaurant establishment shall be allowed to brew hard cider, beer, ready-to-drink products, or other malt beverage products, as defined in Arkansas Code § 3-5-1202, and such products may be brewed in one (1) or more varieties to be served in the restaurant operated at the same premises.

(D) The microbrewery-restaurant shall be limited to a production of forty-five thousand (45,000) barrels of products per year, with each barrel having a volume of thirty-one gallons (31 gals.).

(E) The beer, malt beverage, hard cider, or ready-to-drink products brewed at the microbrewery operation may be sold at the restaurant maintained at the same premises for on-premises consumption on any day of the week.

(F) The microbrewery-restaurant may sell on the premises beer, malt beverages, and hard cider manufactured by the microbrewery in brewery-sealed packages at retail directly to the consumer for off-premises consumption on any day of the week.

(G) The microbrewery-restaurant may sell beer, malt, or hard cider of its own manufacture to a wholesale dealer licensed by this state for the purpose of resale to other retail license holders as set forth by Arkansas Code §§ 3-4-605 and 3-5-101, dealing with the wholesale distribution of beer, malt, hard cider, or ready-to-drink products.

(H) The restaurant may purchase beer from other manufacturers of beer as set forth in that act for sale and dispensing at the restaurant operation;

(9)(A) "Product" shall mean a brewed, fermented, or distilled liquor.

(B) A brand for a product registered with the Alcoholic Beverage Control Division shall include the registered product as well as all derivatives or subcategories of a registered product, without regard to whether such derivative or subcategory is brewed, fermented, or distilled.

(C) "Product" shall not be construed to mean a particular malt, spirituous or vinous liquor, or any variety, category, or subcategory thereof;

(10) "Rectifier" means the person, firm, or corporation constituting the original source of sale, after rectification, in the United States;

(11) "Retailer" means any person who holds a permit under any alcoholic beverage control law of the State of Arkansas to sell at retail controlled beverages to consumers only;

(12) "Sales agent" means any person who shall act as agent or salesperson for any wholesaler, manufacturer, or rectifier for the sale of or taking or soliciting orders for the sale of any controlled beverages in the State of Arkansas;

(13) "Warehouse" means a building or portion thereof approved by the Director of the Alcoholic Beverage Control Division in which controlled beverages are stored and which is equipped to maintain such temperatures as may be required for the storage of such controlled beverages; and

(14) "Wholesaler" means any person who holds a permit under any alcoholic beverage control law of the State of Arkansas to purchase controlled beverages from a manufacturer, importer, or domestic wine or brandy producer only and to sell such controlled beverages to retailers only.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

**Codification Notes.** Subdivision (1) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 9-16-15)"

Subdivision (2) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 12-18-19)"

Subdivision (5) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 12-17-82)"

Subdivision (8) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 1-23-24)"

Subdivision (9) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 12-14-11)"

### **3 CAR § 2-103. Definitions of other terms.**

All other terms used in this part shall be defined in accordance with the:

- (1) Definitions under 3 CAR pt. 1;
- (2) Laws of the State of Arkansas; and
- (3) Customs and usages of the trade and the people of the State of Arkansas.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

## **Subpart 2. Conduct of Business of Manufacturing or Wholesaling Controlled Beverages**

**Codification Notes.** This subpart as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "Section 2.12.1 Sale of Wine for On Premises Consumption at Arkansas Native Wineries. Repealed 8-15-07"

### **3 CAR § 2-201. Manufacturer to sell only to wholesalers — Exception for small farm wine and brandy.**

(a) Any person manufacturing controlled beverages under any alcoholic beverage control law of the State of Arkansas shall sell such controlled beverages only to persons holding a permit to sell such controlled beverages at wholesale.

(b) Provided, that manufacturers of small farm wine and brandy may also sell to consumers in accordance with the laws and rules applicable to such permits.

(c) Provided further, a distiller or manufacturer, as permitted under Arkansas Code § 3-4-602, may sell, deliver, and transport to permitted retailers as described in the provisions of 3 CAR § 2-901(2).

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 09/01/2021)"

**3 CAR § 2-202. Wholesalers to sell only to retailers — Hours of sale for wholesalers.**

(a) Any person holding a permit to sell controlled beverages at wholesale under any alcoholic beverage control law of the State of Arkansas shall sell such beverages only to a person holding a permit to sell such beverages at retail or to a casino licensee.

(b)(1) Wholesalers may sell controlled beverages to retailers and casino licensees on all days that retail liquor stores and casino licensees may sell controlled beverages to consumers, except that wholesalers shall not sell or deliver controlled beverages to or service retailers or casino licensees on Sundays or Christmas Day.

(2) The hours of sale shall be from 4:00 a.m. until the closing hours prescribed by state law or local ordinance for retail liquor stores.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 12-18-19)"

**3 CAR § 2-203. Three-tier system of alcohol distribution defined — Violations of prohibitions subject to penalty.**

(a)(1) This section is intended to more clearly delineate the structure of the three-tier system of alcohol distribution established by Arkansas Code provisions and to prohibit ownership and employment interests between the three (3) tiers.

(2) Rule in this area is considered necessary and appropriate for the following reasons:

(A) The State of Arkansas has long recognized and adhered to the three-tier system of alcohol distribution as evidenced by state laws establishing the types of permits authorized and the many Alcoholic Beverage Control Division rules currently in effect implementing those laws;

(B) A clear delineation of the three-tier system that is in place will foster the understanding of the system by those people holding alcoholic beverage sales permits and those seeking to obtain permits;

(C) Such rule will give the State of Arkansas greater control of all facets of alcohol distribution and will enhance the state's ability to more effectively administer those code provisions and rules that are currently in effect;

(D) Such rule will decrease the likelihood of one tier of distribution owning, gaining control over, and/or dictating distribution, brand availability and pricing, or other marketing practices in any other tiers of the system; and

(E) Such rule will enhance and foster free and independent marketing of alcoholic beverages in the state and will help to maintain a wide selection of brands at reasonable prices available to the consuming public.

(b)(1) The three-tier system of alcohol distribution consists of the three (3) broad categories of the marketing chain.

(2) Alcoholic beverage manufacturers, including distilleries, breweries, importers, or rectifiers, whether or not they hold a permit issued by the division, are considered the first tier of the distribution system.

(3) Alcoholic beverage wholesalers, licensed by the State of Arkansas, are considered the second tier of distribution.

(4) Alcoholic beverage retailers and casino licensees licensed by the State of Arkansas are considered the third tier of distribution.

(c) The following ownership and employment interest among the three (3) tiers are prohibited:

(1)(A) No person, firm, or corporation owning any interest in any business involved in the first tier of distribution may own any interest in any business involved in the second or third tiers of distribution, regardless of degree of such interest.

(B) Further, no person, firm, or corporation being employed by or serving as an officer of any business involved in the first tier of distribution shall own any interest in or be employed by any business involved in the second or third tiers of distribution;

(2)(A) No person, firm, or corporation owning any interest in any business involved in the second tier of distribution may own any interest in any business involved in the first or third tiers of distribution, regardless of degree of such interest.

(B) Further, no person, firm, or corporation being employed by or serving as an officer of any business involved in the second tier of distribution shall own any interest in or be employed by any business involved in the first or third tiers of distribution;

(3)(A) No person, firm, or corporation owing any interest in any business involved in the third tier of distribution may own any interest in any business involved in the first or second tiers of distribution, regardless of degree of such interest.

(B) Further, no person, firm, or corporation being employed by or serving as an officer of any business involved in the third tier of distribution shall own any interest in or be employed by any business involved in the first or second tier of distribution;

(4) Notwithstanding the prohibitions contained in subdivisions (c)(2) and (3) of this section, permit holders in the second and third tiers of distribution may hold stock in businesses involved in the first tier where that stock is traded on any national stock exchange, not to exceed one percent (1%) of the total outstanding shares of any one (1) company;

(5) Nothing contained herein shall be construed to prohibit any manufacturer licensed pursuant to the provisions of Arkansas Code § 3-5-408 [repealed] from maintaining or hereafter acquiring a wholesale wine permit or retail permit; and

(6) In addition to any other sanctions or penalties which may be imposed by the Director of the Alcoholic Beverage Control Division pursuant to the procedures outlined in Title 3 of the Arkansas Code and Acts 1907, No. 434, as amended, violation of any provision of this section shall also be considered a Class A permit violation, pursuant to the provisions of Acts 1981, No. 790, as codified in Arkansas Code § 3-4-401 et seq.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

**Codification Notes.** Arkansas Code § 3-5-408 was repealed by Acts 2007, No. 668, § 3.

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

**3 CAR § 2-204. Records to be maintained by manufacturer.**

(a) All persons manufacturing controlled beverages must keep and maintain on the premises the following records:

(1) A record showing the kind, quantity, and date of the receipt of all materials brought upon the premises for use in the manufacture of controlled beverages; and

(2) A record of all controlled beverages sold or otherwise disposed of indicating the date of sale or other disposition, the name of the purchaser, and the quantity of controlled beverages sold or otherwise disposed of.

(b) Such records shall be preserved for a period of three (3) years from the relevant date of the record and shall be available on the premises at all times for reasonable inspection by authorized agents of the Alcoholic Beverage Control Division.

(c) All persons manufacturing controlled beverages for shipment into the State of Arkansas shall submit to the Department of Finance and Administration such reports as may be required by the Commissioner of Revenues.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

**3 CAR § 2-205. Records to be maintained by wholesaler.**

(a) Any person holding a permit to wholesale controlled beverages shall keep and maintain the following records:

(1) A record of all controlled beverages received by the permittee indicating the:

- (A) Name of the manufacturer thereof;
- (B) Date purchased;
- (C) Number of packages and quantity of controlled beverages received;
- (D) Trade name of the goods;
- (E) Date received on the premises; and
- (F) Name of the transportation company making the delivery; and

(2) A record of all sales or other dispositions of controlled beverages indicating the name of the purchaser, the date of the sale, and the number of packages and quantity of controlled beverages sold.

(b) Such records shall be preserved for a period of three (3) years from the relevant date of the record and must be available at all times on the premises for inspection by duly authorized agents of the Alcoholic Beverage Control Division.

(c) All persons holding permits to sell controlled beverages at wholesale shall submit to the Department of Finance and Administration such reports as may be required by the Commissioner of Revenues.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

**3 CAR § 2-206. Manufacturers to register brands of controlled beverages  
— Manufacturers and wholesalers not to change brands without approval of  
director.**

(a)(1) The purpose of this section is to provide guidelines for the business relations between Arkansas wholesalers of alcoholic beverages and distillers, manufacturers, importers, and producers of such alcoholic beverages.

(2) Rule in this area is considered necessary and appropriate for the following reasons:

(A) To prevent unfair business practices, discrimination, and undue control of such wholesalers by distillers, manufacturers, importers, and producers;

(B) To maintain stability and healthy competition in the alcoholic beverage industry;

(C) To promote and maintain a sound and stable system of distribution of alcoholic beverages; and

(D) To promote the public health, safety, and welfare.

(b)(1) Every manufacturer, importer, or producer of spirituous and vinous beverages doing business in the State of Arkansas shall submit to the Alcoholic Beverage Control Division one (1) Alcohol and Tobacco Tax and Trade Bureau Certificate of Label Approval for each brand of spirituous and vinous beverages and the brand label extension of each brand of spirituous and vinous beverages to be shipped for the first time by the shipper into or within the state and shall designate in the application for registration one (1) licensed liquor wholesaler in the state, who shall be the exclusive distributor of such brand or label within the state.

(2) Such designated wholesaler shall be initially approved by the Director of the Alcoholic Beverage Control Division and shall not be changed nor initially disapproved except for good cause, and the director shall determine good cause after a hearing pursuant to the provisions set out in this section.

(3) Any brands or labels previously registered in this state, and which have subsequently been withdrawn from distribution in this state, shall be treated in the

same manner as the initial registration of brands or labels and are subject to the provisions hereof.

(c)(1) A brand label and brand label extension shall be registered by the supplier before the first shipment of each brand label and brand label extension into or within the state on or after July 1, 2013.

(2) A copy of the Alcohol Tobacco Tax and Trade Bureau Certificate of Label Approval for each brand label and brand label extension shall be submitted with the registration of each brand label and brand label extension.

(d) The registration of a brand label and a brand label extension shall:

- (1) Be in writing or electronically submitted;
- (2) Be verified if it is submitted in writing; and
- (3) Set forth information as the director requires.

(e) Each Alcohol and Tobacco Tax and Trade Bureau Certificate of Label Approval submitted for registration shall be accompanied by a registration fee of fifteen dollars (\$15.00) payable by:

- (1) Check;
- (2) Cash;
- (3) Money order; or
- (4) Electronic payment.

(f)(1) All brand label and brand label extensions shall be renewed annually.

(2) In addition to the label registration process provided above, 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 may also be registered under Arkansas Code § 3-2-409.

(g) Any distiller, manufacturer, importer, or producer desiring to change wholesalers with respect to any brand shall file with the director a Wholesaler Change Request containing such of the following information as is applicable:

- (1) The name of each brand involved;
- (2) The case volume in Arkansas for each brand for the current year or portion thereof and the two (2) previous calendar years;

(3) The name of the wholesaler currently distributing such brand;  
(4) The name of the proposed new wholesaler; and  
(5)(A) A detailed explanation of the specific business reasons for the request to change wholesalers.

(B) Business reasons which may be considered by the director in determining good cause for authorizing a change of wholesalers will include:

(i) A wholesaler's bankruptcy or serious financial instability, including its consistent failure to pay its debts as they fall due or its failure to meet or maintain any objective standards of capitalization expressly agreed to between the wholesaler and the distiller, manufacturer, importer, or producer, provided, such standards are determined by the director to be commercially reasonable;

(ii) A wholesaler's repeated violations of any provision of federal or state law or rule, whether or not such violations resulted in official action;

(iii) A wholesaler's failure to maintain reasonable sales volume of the brand, taking into consideration such factors as the:

(a) Extent of the distiller's, manufacturer's, importer's, or producer's advertising and promotion of the particular brand;

(b) Prevailing economic conditions affecting sales generally; or

(c) The extent of the wholesaler's efforts, or lack thereof, to promote a particular brand; and

(iv) Any other factors relevant to such proposed change and which aid the director in determining good cause.

(h)(1) At the same time that the original Wholesaler Change Request is filed with the director, a copy thereof shall be mailed by the distiller, manufacturer, importer, or producer to each wholesaler who may be affected by the proposed changes.

(2) Immediately upon receipt of any Wholesaler Change Request, the director shall notify the currently designated wholesaler of the request by certified mail.

(3) Within fifteen (15) days after receipt of such notice by the affected wholesaler, any such wholesaler or party required to be given notice by this section may interpose written objections thereto.

(4)(A) Such written objections shall be filed in the office of the division and copies thereof shall be served by the objecting party upon the party proposing the change and upon all wholesalers who may be affected by the proposed change.

(B)(i) Upon the receipt of an objection from any party, or upon his or her own motion, the director shall hold a hearing after providing due notice to all parties concerned for the purpose of determining the truth of any matters of fact alleged by any party and determining whether the proposed changes are based upon sufficient cause and are otherwise consistent with the policies set out in subsection (a) of this section.

(ii) If it is determined from the evidence deduced at said hearing that the brand or label involved is the same as, or similar to, or is such a modification of, substitution of, upgrade of, or extension of a brand or label which has already been registered by the distiller, manufacturer, importer, or producer so as to render it unjust or inequitable, without cause being shown, to designate the brand or label to a wholesaler different from the wholesaler designated for the brand or label being so modified, substituted, upgraded, or extended, then such request shall be denied, provided, however, that nothing herein shall be construed to prevent the distiller, manufacturer, importer, or producer from treating the matter as a desire to change wholesalers and from proceeding under the provisions of subsection (g) of this section, either before or after such determination.

(C)(i) No proposed change will be approved by the director which is based upon the failure or refusal of a wholesaler to comply with any demand or request of a distiller, manufacturer, importer, or producer where such demand or request would result in a violation of any provision of federal or state law or rule.

(ii) During such fifteen-day objection period, or until the proposed changes have been finally approved by the director, the party proposing the change shall continue to supply the designated wholesaler, upon commercially reasonable terms, such reasonable quantities of the brand involved as the wholesaler may require.

(iii) If, at any time, the director finds a distiller, manufacturer, importer, or producer is not shipping the wholesaler a reasonable amount of

merchandise, he or she may withdraw approval of all brands registered by such parties within the state.

(i)(1) Any hearing held by the director pursuant to the provisions of subsection (h) of this section shall be held within thirty (30) days after the receipt of any notice of objection to a Wholesaler Change Request.

(2) The findings of the director made after such hearing shall be presented to the Alcoholic Beverage Control Board at its next regularly scheduled meeting.

(3) Any aggrieved party may appeal the decision of the director to the full board to be heard de novo and any such appeal hearing will be scheduled and held pursuant to hearing procedures established for the division by state law and division rules.

(j) If no objection is filed to the Wholesaler Change Request as provided in subsection (i) of this section, the proposed changes shall stand automatically approved by the director at the expiration of such fifteen-day period, conditioned upon the manufacturer or importer repurchasing all inventory of the subject brand from the previously designated wholesaler at such wholesaler's laid-in cost.

(k) Any distiller, manufacturer, importer, or producer who obtains or acquires in any manner the right to sell, ship, or distribute any label shall for the purpose of this section stand in place of, and be subject to, all the rights, privileges, and duties and obligations of its predecessor or its predecessors from whom such brands or labels were obtained or acquired.

(l) Every manufacturer or importer of beer or other malt products or light wine doing business in the State of Arkansas shall submit to the division one (1) label for each brand of beer or malt product or light wine to be shipped for the first time into or within the state and shall designate with the application for registration any number of wholesalers in the state, each of whom shall be the exclusive distributor of such brand within the geographical territory assigned by the manufacturer or importer to such wholesaler.

(m)(1) An unlawful dual distributorship is created when any manufacturer, importer, or other person attempts to designate as its distributor more than one (1)

Arkansas liquor wholesaler in the state or wholesale beer permit holder to distribute the same brand of alcoholic beverage in the same geographic area (city, county, counties, state).

(2) Further, no person shall attempt to register any brand or label which is already distributed by a licensed wholesaler holding a brand registration authorization from the manufacturer or importer for a brand or label.

(3) The creation of such dual distributorships is prohibited.

(4) In addition to any remedies to any aggrieved party authorized by law, the director may withdraw approval of any and all brands registered by any manufacturer or importer found to be in violation of this section, such findings to be made after a hearing pursuant to hearing procedures established for the division by state law and this section.

(5) For purposes of this section, "brand" means the same product or substantially the same product, as evidenced by the product label that must be filed with the Alcoholic Beverage Control Division.

(6) Identical or substantially identical labels will be considered and treated as the same brand.

(7)(A) "Product" means a brewed, fermented, or distilled liquor.

(B) A brand for a product registered with the Alcoholic Beverage Control Division shall include the registered product as well as all derivatives or subcategories of a registered product, without regard to whether such derivative or subcategory is brewed, fermented, or distilled.

(C) "Product" shall not be construed to mean a particular malt, spirituous or vinous liquor, or any variety, category, or subcategory thereof.

(n)(1) The terms, conditions, and requirements of this section are hereby expressly made a part of the terms of and as conditions to the approval granted by the division to distillers, manufacturers, importers, or producers to do business in the state and by the application for, the acceptance of, or the conduct of business under any such approval, a distiller, manufacturer, importer, or producer consents and agrees to comply with the terms, conditions, and requirements of this section.

(2) This section does not apply to manufacturers or wholesalers of small farm wine.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

**Codification Notes.** Subsection (l) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 7-24-87)"

Subdivisions (m)(5) and (6) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-19-03)"

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

**3 CAR § 2-207. Provisions of the preceding section applicable to distribution agreements for beer and light wine in the absence of written distribution agreements.**

(a)(1) The provisions of 3 CAR § 2-206 shall be applicable to distribution agreements entered into in this state by brewers, manufacturers, or importers of beer and light wine, or their agents, in all cases where any distribution agreements between any such brewer, manufacturer, importer, or agent thereof and a licensed Arkansas beer wholesaler, as contemplated by Arkansas Code § 3-5-103, has not been reduced to a written agreement which includes the rights and remedies of the respective parties in the event of default or termination or modification of any agreement by such brewer, manufacturer, importer, or agent.

(2) In such cases, any brewer, manufacturer, or importer desiring to terminate any designated Arkansas wholesaler, appoint a different wholesaler in a previously designated territory, or modify the geographical territory previously assigned to any wholesaler must comply with each and every provision of 3 CAR § 2-206(g) requiring the filing of Wholesaler Change Requests with the Alcoholic Beverage Control Division

and show good cause for any such desired termination, change, or modification of agreement.

(3) In all such cases where 3 CAR § 2-206(g) is determined by the Director of the Alcoholic Beverage Control Division to be applicable because of the lack of required written agreement pursuant to this section, the notice provisions, hearing requirement, procedures, and rights of appeal set out in 3 CAR § 2-206 for manufacturers and distributors of liquor and wine shall apply to manufacturers, brewers, and importers of beer and light wine and to their designated Arkansas wholesalers.

(b) It is further provided that any agreements or appointments entered into by beer manufacturers and beer wholesalers in this state after the effective date of Arkansas Code § 3-5-1101 et seq., are governed by the provisions of that Act.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

**Codification Notes.** Subsection (a) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 7-24-87)"

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

**3 CAR § 2-208. Manufacturer and wholesaler selling malt liquor and certain other controlled beverages must label.**

Any person holding a permit to manufacture and any wholesaler holding a permit to sell malt liquor, stout beer, or any other controlled beverages containing more than five percent (5%) alcohol by weight or six and three-tenths percent (6.3%) alcohol by volume shall state on the container that it contains more than five percent (5%) alcohol by weight or six and three-tenths percent (6.3%) alcohol by volume.

**Authority.** Arkansas Code §§ 3-2-205, 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 § 2-209. Alcohol content of malt beverages containing five percent or less alcohol by weight and six and three-tenths percent by volume may be listed on containers or labels.**

(a) The alcohol content of malt beverages containing five percent (5%) or less alcohol by weight or six and three-tenths percent (6.3%) by volume shipped into or offered for sale in the State of Arkansas may be listed on the malt beverage container or on the malt beverage label, at the option of the manufacturer.

(b) The alcohol content must be shown as alcohol by volume.

(c) The alcohol content information may not be made in a misleading or false manner nor may the alcohol content information be more prominent than any other information contained upon the label.

**Authority.** Arkansas Code §§ 3-2-205, 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 § 2-210. Controlled beverages to be stored in approved warehouses only.**

(a) All controlled beverages in the possession of any manufacturer or wholesaler in this state shall be stored only in warehouses approved by the Director of the Alcoholic Beverage Control Division.

(b) All warehouses for the storage of controlled beverages in this state shall comply with the minimum requirements prescribed by the Department of Health for such warehouses.

(c) Storage of any controlled beverages in any building other than a warehouse approved by the director shall be cause for seizure and forfeiture of all controlled beverages so stored.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

**3 CAR § 2-211. Labels and size of containers to be approved by director.**

(a) The contents of all labels affixed to containers of controlled beverages and the size and combination of such containers shall be approved by the Director of the Alcoholic Beverage Control Division.

(b) In no event shall any label or design be approved by the director which contains any statement, design, device, or representation which is obscene or indecent.

(c) Any product that does not meet the criteria for Alcohol and Tobacco Tax and Trade Bureau Certificate of Label Approval (COLA) or Certification of Exemption, such as IRC beers or ciders under seven percent (7%) ABV, shall submit the following: proposed label or labels, lab certificate of analysis, and a certification that the product does not qualify for Alcohol and Tobacco Tax and Trade Bureau COLA or Certificate of Exemption.

(d) Any Primary American Source (PAS) submitting a brand registration to the Alcoholic Beverage Control Division for distribution of a product shall, in addition to all other requirements, submit to the division a copy of the Alcohol and Tobacco Tax and Trade Bureau COLA or a Certificate of Exemption from label approval.

(e) Any PAS that wishes to register a product for sale where the PAS has obtained a Certificate of Exemption from the Alcohol and Tobacco Tax and Trade Bureau and any PAS that cannot be issued a COLA or Certificate of Exemption by the Alcohol and Tobacco Tax and Trade Bureau shall certify to the director that the labels will still comply with Alcohol and Tobacco Tax and Trade Bureau labeling criteria as found in the Federal Alcohol Administration Act, 27 C.F.R. § 4.39, 27 C.F.R. § 5.42, and 27 C.F.R. § 7.29.

(f) Beer, light wine, and malt beverage products may submit a COLA with an updated label, provided only amended labels with Alcohol and Tobacco Tax and Trade Bureau permitted changes will be accepted.

(g) If the ABV on the amended label differs from the COLA, a certificate of lab analysis must accompany the submission.

(h) In no instance shall permitted containers of spirituous beverages be less than one hundred milliliters (100 ml), vinous beverages or wine be less than one hundred eighty-seven milliliters (187 ml), or beer or malt liquor be less than one hundred sixty-nine milliliters (169 ml) or five and seventy-five-hundredths ounces (5.75 oz.).

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

**Codification Notes.** "IRC" means Internal Revenue Code.

"ABV" means alcohol by volume.

The Federal Alcohol Administration Act is codified as 27 U.S.C. § 201 et seq.

### **3 CAR § 2-212. Private labels prohibited.**

(a) Every brand of alcoholic beverage registered for distribution in the State of Arkansas, pursuant to 3 CAR § 2-206 shall be made available for resale to each permitted retailer authorized to sell such alcoholic beverage.

(b) Registration and distribution of "private labels", which for purposes of this prohibition are those labels intended or contracted for retail sale at a specific outlet or chain of retail outlets, is hereby prohibited.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 12-21-88)"

**3 CAR § 2-213. Manufacturers who sell any alcoholic beverages directly to military reservations or other federal enclaves must label and report.**

The Alcoholic Beverage Control Board, in the interest of promoting responsible use of alcoholic beverages, ensuring orderly market conditions, and fostering the ability of the State of Arkansas to collect appropriate taxes on alcoholic beverages consumed within the state, hereby adopts the following rule:

(1)(A) Each container of liquor, wine, or beer, as such beverages are defined by Arkansas Code provisions and this part, which is shipped by any distillery, winery, brewery or other manufacturer, supplier, broker, or any agent thereof, to any federal military reservation or enclave in Arkansas, which is intended to be sold or consumed on such reservation or enclave and which is not distributed through a licensed Arkansas wholesaler, shall contain and display an identification label which states that such alcoholic beverages shall be intended for consumption within such federal reservation or enclave exclusively.

(B) This mandatory label shall be in a size, configuration, and contain wording as hereinafter specified.

(C) The distillery, winery, brewery, manufacturer, supplier, or broker which ships or causes to be shipped such alcoholic beverages to any federal reservation or enclave within the state is responsible for ensuring that such alcoholic beverages are appropriately labeled as provided for herein.

(D) Each manufacturer or supplier will be responsible for providing their own identification labels as required by this section;

(2) The identification label required to be affixed to each container of alcoholic beverage, as set out above, shall meet the following requirements:

(A) The label shall be a minimum size of one inch (1") in height and two inches (2") in length;

(B) The label shall be made of day-glow orange crack and peel permanent self-adhesive paper with bold black lettering;

(C) Each label shall contain three (3) lines of print, shall be consecutively numbered, and shall state the following:

MILITARY RESERVATION USE ONLY  
NUMBER (Letter plus five-digit number)  
ARKANSAS

(D)(i) One such label shall be placed on the front of each individual container (bottle or can) of any size of three hundred seventy-five milliliters (375 ml) or larger.

(ii) Front shall mean the same side on which the label identifying the product is placed and, if on a bottle, below the neck.

(iii) On containers smaller than three hundred seventy-five milliliters (375 ml), such label may be placed on either the back or front of such container and may be placed lengthwise;

(3)(A) In addition to affixing identification labels as required herein, any distillery, winery, brewery, or other manufacturer or supplier who, after the effective date hereof, ships any alcoholic beverages directly to any federal military reservation or enclave within Arkansas shall file a monthly report with the Miscellaneous Tax Section of the Office of Excise Tax Administration of the Department of Finance and Administration, on such reporting forms as are specified by the department, reflecting by brand, size, and quantity all alcoholic beverages shipped to any such federal reservation or enclave during the preceding calendar month.

(B) The report submitted shall also include a listing of the serial numbers of the identification labels affixed to all bottles and cans so shipped during the previous month.

(C) Such reports shall be filed with the Miscellaneous Tax Section no later than the fifteenth of each month and shall reflect all such shipments made during the previous month.

(D) It is specifically provided that the Miscellaneous Tax Section will have no duty or responsibility pursuant to this section other than the maintenance of a file of any shipment reports received.

(E) Any and all responsibility for the enforcement of any provision herein shall be solely that of the Alcoholic Beverage Control Division; and

(4)(A) Full and complete compliance with each and every requirement contained herein shall be considered a continuing condition of the authority of any manufacturer or supplier to distribute its alcoholic beverage products within the State of Arkansas.

(B) Failure to comply with this section after appropriate notice and hearing could result in revocation of any such manufacturer's or supplier's brand registrations, thereby revoking authorization to do business in Arkansas.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: " (Adopted 6-19-91)"

### **Subpart 3. Prohibited Conduct and Activities — Cancellation, Suspension, and Revocation of Permits to Manufacture and Wholesale Controlled Beverages**

#### **3 CAR § 2-301. Grounds for cancellation, suspension, or revocation of permit.**

Any permit issued pursuant to the authority of any alcoholic beverage control law of the State of Arkansas to manufacture or wholesale controlled beverages may be cancelled, revoked, or suspended by the Director of the Alcoholic Beverage Control Division for any of the following reasons:

(1)(A) **Manufacturer or wholesaler to have no interest in retail establishment.**

(B) That the manufacturer or wholesaler was interested directly or indirectly in any premises where controlled beverages are sold at retail, or in any business devoted wholly or partially to the sale of controlled beverages at retail, or by stock ownership, interlocking directors, mortgage, or lien on any personal or real property in any premises where controlled beverages are sold at retail.

(C) "Interest", as used in Arkansas Code § 3-3-212, means such a substantial ownership or financial interest, whether direct or indirect, in the business of any wholesale or retail licensee or in the premises on which said business is conducted as in the judgment of the Alcoholic Beverage Control Division may tend to influence such licensee to purchase beverages from such manufacturer to the exclusion or detriment of alcoholic beverages offered for sale by others.

(D) In determining whether an interest is prohibited by Arkansas Code § 3-3-212, the Alcoholic Beverage Control Division shall consider the following factors:

(i)(a) Whether the retail licensee is owned directly by the manufacturer or whether the manufacturer and the retailer are merely under common ownership of the same parent company.

(b) In the event a manufacturer and a retail licensee are commonly owned by the same company, the division shall examine the degree to which the management and control of the manufacturing business and the retail business are separate and independent;

(ii) Whether there is a bona fide business reason for owning the retail licensee other than solely to promote the sale of alcoholic beverages;

(iii) Whether a significant portion of the revenues obtained by the manufacturer or its parent company as a result of the interest in a retail business are derived from the sale of alcoholic beverages;

(iv) Whether the retail licensee purchases alcoholic beverages from an independently owned unrelated wholesaler;

(v) Whether more than ten percent (10%) of the total gross annual revenues from the sale of alcoholic beverages by the retail licensee shall be derived

from the sale of the alcoholic beverage products of the manufacturer or any entity affiliated with or related to the manufacturer; and

(vi)(a) Any other factor which the division deems relevant.

(b) Whenever a manufacturer proposes to acquire any interest, to any degree, in a wholesale or retail outlet, such acquisition shall be reviewed by the division.

(c) Such review shall include whatever documentation the division deems necessary to fully define the degree of interest acquired by the manufacturer, in accordance with the above factors.

(d) Upon a finding by the Director of the Alcoholic Beverage Control Division that no "prohibited interest", as defined herein, exists in the proposed purchase, stock transfer, merger, or other means of acquiring an interest in a wholesale or retail licensee by a manufacturer, an order approving such acquisition will be entered;

(2) **Manufacturer or wholesaler not to make loan to retailer.** That the manufacturer or wholesaler made any loan to any person holding a permit to sell controlled beverages at retail;

(3) **Exclusive contracts prohibited.** That the manufacturer or wholesaler entered into a contract with any person holding a permit to sell controlled beverages at retail whereby such person agreed to confine his or her sales to the products manufactured by one (1) manufacturer or sold by one (1) wholesaler; and

(4)(A) **Gifts and services to retailers prohibited.**

(B) That the manufacturer or wholesaler gave an article or articles away of any value or use whatsoever or provided any services for the use or benefit of any person holding a permit to sell controlled beverages at retail.

(C) It is specifically provided that the practice of pricing alcoholic beverages for a retail permit holder by a manufacturer or wholesaler is not considered a prohibited service under this section.

(D) In addition, the following practices are not prohibited gifts or services under this section:

(i) Manufacturers and wholesalers may provide point-of-sale advertising items and related services to retailers in conformity with current federal regulations as long as the furnished item does not constitute a real or secondary gift to the retailer receiving it;

(ii) Notwithstanding any other rule to the contrary, wholesalers may as a permitted service deliver product, provide keg-tapping and cooling equipment, delivery lines, and keg hook-up service to holders of temporary beer permits and temporary restaurant wine permits on any day such permits are in effect;

(iii)(a) Wholesalers may provide keg-tapping and cooling equipment, delivery lines, and keg hook-up service to consumers at the request of and as a permitted service to retail permit holders in any area where the sale of alcoholic beverages is legal.

(b) Provided, a wholesaler may not deliver any alcoholic beverages to a consumer, and a wholesaler's employees may not be involved in any way with the dispensing of alcoholic beverages and serving such beverages to consumers;

(iv)(a) "Product display" means any alcoholic beverage racks, bins, barrels, casks, shelving, or similar items the primary function of which is to hold and display consumer products.

(b) A wholesaler may give or sell a product display to a retailer so long as:

(1) The total value of all product displays provided by the wholesaler does not exceed three hundred dollars (\$300) per brand at any one time in any one retail outlet;

(2) The display bears conspicuous and substantial advertising matter on the product. The name and address of the retailer may appear on the displays; and

(3) The giving or selling may be conditioned upon the purchase of the distilled spirits, wine, or malt beverages advertised on those displays in a quantity necessary for the initial completion of such display.

(c) No other condition can be imposed by the wholesaler on the retailer in order for the retailer to receive or obtain the product display;

(v)(a) A wholesaler may give or sell the following to a retailer or casino licensee:

(1) Point-of-sale advertising materials, which are items designed to be used within a retail establishment to attract consumer attention to the products of the industry member. Such materials include, but are not limited to posters, placards, designs, inside signs (electrical, mechanical, or otherwise), window decorations, trays, coasters, mats, menu cards, foam scrapers, back bar mats, thermometers, clocks, calendars, and alcoholic beverage lists or menus;

(2) Beer wholesalers may give, loan, or sell inside signs (electrical, mechanical, or otherwise). Inside signs for spirits, wines, or malt liquors shall not be loaned; and

(3) Consumer advertising specialties are items designed to be carried away by the consumer, such as trading stamps, nonalcoholic mixers, pouring racks, ash trays, bottle or can openers, cork screws, shopping bags, matches, printed recipes, pamphlets, cards, leaflets, blotters, post cards, and pencils. Umbrellas, caps, shirts, and visors shall be sold, not given, by the wholesalers to the retailer. The minimum value of umbrellas, caps, shirts, and visors shall be the price paid by the industry member who first acquired the merchandise.

(b)(1) All point-of-sale advertising materials and consumer advertising specialties must bear conspicuous and substantial advertising matter about the product or the industry member which is permanently inscribed or securely affixed.

(2) The name, logo, address, and website of the retailer may appear on the point-of-sale advertising material.

(3) Any nonpromotional item that the business would buy in the normal course of business must be sold, not given, by a wholesaler to a retailer; and

(vi)(a) A wholesaler may, without violating the provisions of this section, and subject to approval by the Director of the Alcoholic Beverage Control

Division on such form provided by the division, no less than five (5) working days prior to the qualified event, rent for fifty dollars (\$50.00) per tap and associated cooling equipment or fair market value, whichever is greater, cooling and keg-tapping equipment, keg hook-up service, and delivery lines to a retail permit holder for a special purpose.

(b) These provisions shall apply only to events outside of the normal course of the retail permit holder's ordinary course of business, not to exceed ten (10) days in duration.

(c) It is specifically provided that if a manufacturer or wholesaler provides any of the services for a retailer allowable under this section, he or she must provide the same service upon request to any other retailer who purchases the product.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

**Codification Notes.** Subdivision (1) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 12-15-89)"

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

**3 CAR § 2-302. High alcoholic content beverages — Stocking, pricing, and rotating.**

(a) Persons holding valid Arkansas wholesale alcoholic beverage permits, their agents, servants or employees, manufacturers' agents, importers, and brokers may price, stock, and rotate merchandise at retail premises only to the following extent:

(1)(A) Wholesale dealers in spirituous and vinous beverages and malt beverages of more than five percent (5%) alcohol by weight may build stock displays of their product on the premises of retail dealers.

(B) Displays may in no way be part of the dealer's regular shelving.

(C) Wholesaler dealers may restock displays for a maximum period of one (1) month after the initial display has been installed.

(D) They may not price the displays and are prohibited from pricing and stocking shelves on the premises of retail dealers and from affixing security tags.

(E) Industry members are granted authority to maintain the quality of their product on retail shelves, provided, that products purchased from other industry members are not altered or disturbed.

(F) The act of picking up alcoholic beverages in excess of five percent (5%) alcohol by weight for credit or exchange from a retail dealer by a wholesale dealer is considered a consignment sale and is therefore specifically prohibited;

(2)(A) No wholesale dealer of spirituous and vinous beverages and malt beverages that are more than five percent (5%) alcohol by weight shall handle or move any alcoholic beverages delivered to the premises of a retail dealer by a competing wholesale dealer, nor shall a wholesale dealer reset all or any part of the alcoholic beverages situated on the premises of a retail dealer.

(B) A wholesale dealer may engage in the initial setting of products into a new store, previous to the new store opening for business;

(3)(A) A wholesale dealer whose products are situated on the premises of a retail dealer must be given the opportunity to participate in any movement or reset of those products and no retail dealer shall, under any circumstances, exclude a wholesale dealer from such participation.

(B) The reset of all or any part of the alcoholic beverages situated on the premises of a retail dealer may not occur more than twice during any calendar year.

(C) The stocking of cold boxes by a wholesale dealer in a retail dealer's premises is permitted;

(4)(A) The stocking of shelves by a wholesale dealer of spirituous and vinous beverages in a retail dealer's premises is prohibited.

(B) The act of manually entering delivery or invoice information into the retail dealer's computer system at the time of delivery is prohibited; and

(5) Except as authorized herein, employees of a wholesale dealer shall not, in connection with the sale or delivery of alcoholic beverages to a retail dealer, provide any services whatsoever to a retail dealer.

(b) The Director of the Alcohol Beverage Control Division may suspend or revoke the permit or permits of a violator and may impose such other penalties or administrative remedies as are prescribed by law for violations of the alcoholic beverage control law, as provided below:

(1) **Slotting allowance prohibited.** Slotting allowances, defined as allowances paid by a manufacturer to a grocery store for making room for a product on the grocery store's shelves, are prohibited;

(2) **Inducements prohibited.** That the manufacturer or wholesaler gave any inducement for sale to any person holding a permit to sell controlled beverages at retail, including but not limited to secret discounts, rebates, gifts, or fictitious sales;

(3)(A) **Samples prohibited.**

(B) That the manufacturer or wholesaler gave samples to any person, said samples being either in unbroken packages, partial packages, or by the drink, except that a manufacturer or wholesaler may give a sample of distilled spirits, wine, or malt beverages to a retailer who has not previously purchased the brand from that manufacturer or wholesaler.

(C) No manufacturer or wholesaler may give to any retail outlet more than:

(i) Three gallons (3 gals.) of any brand of malt beverage;

(ii) Seven hundred fifty milliliters (750 ml) of any brand of distilled spirits; or

(iii) Three (3) liters of any brand of wine.

(D) Further, a wholesaler may provide retail package store owners or employees with a small sample of any brand of wine or liquor not previously purchased by such retail package store, with such sample not to exceed one ounce (1 oz.) per owner or employee.

(E) Such samples shall be poured from bottles owned by such wholesaler, brought into the retail package store by such wholesaler or its employees, and removed from the retail package store premises immediately after the conclusion of any such sampling activity.

(F) Any sampling conducted by a wholesaler in accordance with this section shall not violate any other law or rule prohibiting possession of an open container on the premises of a retail package store or violate any other law or rule prohibiting an employee of a retail package store from drinking while on duty.

(G) Sampling parties may not be given to retailers, consumers, or prospective customers by manufacturers, distillers, importers, producers, distributors, retailers, or wholesalers, except as permitted herein.

(H) Manufacturers, distillers, importers, producers, distributors, wholesalers, and retailers may donate intoxicating liquor to charitable or nonprofit organizations for on-premises consumption only at nonprofit functions where such organization receiving the intoxicating liquor does not hold a permit to dispense intoxicating liquors.

(I) The donation of intoxicating liquor by manufacturers, distillers, importers, producers, distributors, retailers, or wholesalers may occur on a permitted premises of an on-premises permittee of this division.

(J) Manufacturers, wholesalers, distillers, importers, producers, distributors, and retailers may provide keg-tapping equipment and hook-up service to a charitable or nonprofit organization at a function.

(K) However, a wholesaler or manufacturing representative may conduct on behalf of or assist the retailer with the tasting event;

(4) **Employment of Unpermitted Sales Agents Prohibited** [repealed];

(5) **Sale, taking of orders, or solicitation of business by wholesale liquor dealers from private clubs.** No holder of any wholesale liquor permit shall sell to, take any order, or solicit any business, directly or indirectly, from a private club permittee;

(6) **Effect of violation of rules or law.** That the manufacturer or wholesaler violated any of these rules or any alcoholic beverage control law of the State of Arkansas;

(7)(A) **Wholesalers furnishing outside signs to retailers governed by federal regulations.**

(B) Notwithstanding the provisions of 3 CAR § 2-301(4), the federal regulations governing the furnishing of outside signs to retailers by wholesalers are hereby adopted by reference and incorporated herein.

(C) Further, any outdoor sign provided by an industry member shall only contain information regarding products sold to the retail outlet by the industry member.

(D) The retail outlets agree, as consideration for receiving the advertising banner, that said outlets will not customize or otherwise edit, add to, or delete from the sign furnished by the industry member.

(E) All employees or agents of the industry member providing the signs are prohibited from erecting any temporary signs for the retail outlet.

(F) It shall not be considered a violation for the industry member to provide a sign to a retail outlet containing the name of the outlet and "Grand Opening" so long as it is not displayed at the outlet for more than twenty-one (21) days;

(8)(A) **Manufacturers not to engage in price fixing.**

(B) No liquor manufacturer or supplier shall take or fail to take any action that would cause any type of fixing of wholesale or retail prices in the state.

(C) This shall include engaging in the industry practice known as "reach-back pricing".

(D) Suggestion of wholesale or retail prices will not be considered to be a violation of the permit.

(E) Further, alcoholic beverage manufacturers or suppliers shall not require any alcoholic beverage wholesaler to contribute to any local or national advertising, marketing, or brand development fund, either directly or indirectly;

(9)(A) **Wholesalers may pay for advertising devices in certain retail outlets.**

(B) Wholesale beer permittees shall be allowed to pay for certain advertising devices used at government-owned facilities which are issued a large attendance facility permit as long as the permitted facility is located in a county which has a population of more than one hundred fifty-five thousand (155,000) people according to the 2000 federal decennial census.

(C) Such advertising devices shall include items such as inside or outside signs, scoreboards, programs, scorecards, and the like.

(D) However, payment for the advertising devices cannot result in the formation or existence of an exclusive buying arrangement between the large attendance facility permittee and the wholesaler who furnishes such advertising items;

**(10)(A) Advertising and promotion materials — Exception for racing facilities and nonprofit entities holding a large attendance facility permit, and casino licensees.**

(B) As an exception to 3 CAR § 2-301(4), any manufacturer or wholesaler may pay for the display or other presentation of advertising and promotion materials on or about the premises of the holder of a franchise or casino license issued by the Arkansas Racing Commission.

(C) In addition, any manufacturer may provide sponsorship of or payment for the display or other presentation of advertising and promotional material on or about the premises of the holder of a large attendance facility permit, as defined by Arkansas Code § 3-9-202(10), owned by a qualifying charitable nonprofit organization that has received tax exempt status under 26 U.S.C. § 501(c)(3);

**(11)(A) Arkansas licensed beer wholesalers to offer keg identification labels for sale.**

(B) Arkansas licensed beer wholesalers shall maintain and offer for sale to retail dealers any keg identification labels or tags required by Acts 2005, No. 2320.

(C) The identification labels or tags, as described by Acts 2005, No. 2320, shall be sold at a price of the cost of manufacturing and maintaining the keg tags or labels.

(D) Any Arkansas native brewery or microbrewery-restaurant that sells kegs for off-premises consumption at their location or which engages in sales to retailers for resale shall also be required to furnish said identification labels or tags as required by law;

**(12)(A) Professional sports teams allowed sponsorship.**

(B) A large attendance facility permitted establishment owned or operated by an owner of a professional sports team franchised by the Minor League Baseball within a county that has a population of more than one hundred fifty-five thousand (155,000), according to the 2000 federal decennial census, may accept sponsorship funds, advertising items, or promotional items from licensed beer wholesalers.

(C) The furnishing of the sponsorship funds, advertising, or promotional items may not result in the formation or existence of an exclusive buying arrangement between the large attendance facility permittee and the wholesaler who furnishes the sponsorship funds, advertising items, or promotional items; and

**(13)(A) Unlawful pricing by brewers and manufacturers.**

(B) Pursuant to Acts 2009, No. 783, it is unlawful for a brewer or manufacturer of malt beverage products to engage in unlawful pricing practices as between the manufacturer or brewer and their respective Arkansas wholesalers.

(C) Any violation of this section, or any violation of Acts 2009, No. 783, shall subject the Arkansas native brewery permit or nonresident beer seller's permit issued to such party or their designee (suppliers) to the full range of penalties as provided by Arkansas Code § 3-2-212 and may also subject said permits to the imposition of a fine as authorized by Arkansas Code § 3-4-401 et seq.

(D) The following rules are hereby adopted to supplement Acts 2009, No. 783:

(i) A supplier shall offer all Arkansas wholesalers to whom it offers product the same:

- (a) Price;
- (b) Allowance;
- (c) Rebate;

- (d)* Refund;
- (e)* Commission; or
- (f)* Discount;

(ii) Suppliers shall act in "good faith" as defined in Arkansas Code § 3-5-1102(a)(6), toward wholesalers with regard to all matters including, but not limited to:

- (a)* Transport costs;
- (b)* Fees;
- (c)* Charges;
- (d)* Product support;
- (e)* Rebates;
- (f)* Commissions;
- (g)* Refunds; and
- (h)* Product availability;

(iii) No supplier may take any retaliatory action as defined in Arkansas Code § 3-5-1102(a)(8) against a wholesaler;

(iv) If a wholesaler believes a supplier has not acted in good faith or has taken retaliatory action against it, a hearing before the director may be requested;

(v)(a) Suppliers with wholesalers that have state-wide distribution rights on or after the effective date of this section may provide those wholesalers quantity discounts.

*(b)* Any wholesaler that obtains state-wide product distribution rights as of the effective date of this section due to the consolidation of one (1) or more wholesalers or suppliers shall not be entitled to quantity discounts from the supplier;

(vi) A supplier shall post the following information with the director in its most current form, FOB-Source for all products offered in Arkansas, and all allowances, rebates, refunds, commissions, or discounts it offers;

(vii)(a) All price information shall be provided by the supplier to the director via email.

(b) It shall be submitted fourteen (14) days prior to any increase and two (2) days prior to any decrease; and

(viii) All information provided to the director by the supplier is proprietary in nature and not subject to freedom of information requests pursuant to the Freedom of Information Act of 1967, Arkansas Code § 25-19-101 et seq.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

**Codification Notes.** Subdivision (b)(1) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 9-20-17)"

Subdivision (b)(3) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-21-13)"

Prior to codification into the Code of Arkansas Rules, subdivision (b)(4) contained the following: "Repealed 8-21-13"

Subdivision (b)(7) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-16-11)"

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

Subdivision (b)(9) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 8-15-07)"

Subdivision (b)(10) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 12-18-19)"

Subdivision (b)(11) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 8-17-05)"

Subdivision (b)(12) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 8-15-07)"

"FOB" means free on board.

#### **Subpart 4. Credit by Manufacturers or Wholesalers**

##### **3 CAR § 2-401. Sales by wholesaler to retailer for cash or check only.**

No person holding a wholesale permit under any alcoholic beverage control law of the State of Arkansas shall sell or offer to sell or deliver any controlled beverages to any person holding a retail permit or casino licensee except for cash or check, to be paid at the time of delivery.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 12-17-80)"

##### **3 CAR § 2-402. Delivery of controlled beverages must be pursuant to invoice.**

(a) Each delivery of controlled beverages by a wholesaler shall be accompanied by an invoice of sale bearing the name of the retailer or casino licensee together with:

- (1) A full description of the controlled beverages delivered;
- (2) The price and terms of sale; and
- (3) The place and date of actual delivery.

(b)(1) One (1) copy of such invoice shall be signed by the retailer, casino licensee or his or her agent showing receipt of the merchandise and shall be retained by the wholesaler.

(2) Another copy shall be retained by the retailer.

(c) The wholesaler and retailer shall maintain a file of such copies for a period of three (3) years following the date of delivery.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

**3 CAR § 2-403. Time within which checks to be deposited — Postdated checks prohibited — Insufficient funds checks.**

(a)(1) All checks given in payment for controlled beverages by a retailer or casino licensee to a wholesaler shall be deposited for payment by the wholesaler not later than the second banking day after the receipt of such check by the wholesaler.

(2) The failure of the wholesaler to deposit any such check for payment by the end of said banking day after receipt thereof shall be deemed a voluntary extension of credit by said wholesaler to the retailer or casino licensee and in violation of this section.

(3) No wholesaler shall accept from any retailer or casino licensee a postdated check.

(b) Any retail permittee or private club permittee who has paid for alcoholic beverages purchased from any wholesaler with an insufficient funds check may be deemed delinquent.

(c)(1) Each wholesaler may report all delinquencies to the Director of the Alcoholic Beverage Control Division in writing, including by electronic mail or facsimile transmission, within two (2) business days after such delinquencies occur.

(2) Such reports shall set forth the:

(A) Name, business address, and permit number of the permittee in default;

(B) Date of sale and delivery of such alcoholic beverages on account of which report is made;

(C) Amount of such delinquency; and

(D) Name, business address, and permit number of the reporting wholesaler.

(d)(1) After receiving such delinquency report, the director shall notify all wholesalers by publishing a delinquent list which specifies an effective date for the list, and after said effective date no sales or deliveries of alcoholic beverages shall be made to any retail permittee or private club permittee whose name appears upon said delinquent list until such time as a notice of removal from such list has been given by the director.

(2) After receiving notice of the delinquent list on which their name appears, no retail permittee or private club permittee may purchase or accept delivery of any alcoholic beverages from any wholesaler until the director has given notice of removal from such list.

(3) After the effective date of the delinquent list, any retail permittee or private club permittee whose name appears on such list must pay the delinquency by:

(A) Cash;

(B) United States Postal Service money order;

(C) Postal note;

(D) Express money order;

(E) Cashier's check;

(F) Certified check; or

(G) Bank exchange.

(4) Within twenty-four (24) hours of receipt of full payment, the wholesaler shall report to the director that payment in full has been made of any account previously reported delinquent.

(e)(1) If a retail permittee or private club permittee contends that he or she has been placed on the delinquent list as the result of a dispute involving the quality or quantity of the alcoholic beverages or any other factor involved in the sale of or

purchase of same, the wholesaler, retail permittee, or private club permittee may file a statement in writing setting forth in detail any reason why a delinquency should or should not be deemed to exist.

(2) The director shall thereupon determine whether the retailer shall be removed from the delinquent list.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

**Codification Notes.** Subsection (a) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 12-18-19)"

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

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

## **Subpart 5. Transportation and Storage of Controlled Beverages**

**Codification Notes.** This subpart as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Article 4 – TRANSPORTATION OF NATIVE BEVERAGES

Section 2.46 Native Beverages Must be Sealed and Stamped Before Transport.

Repealed 8-15-07

Section 2.47 Sealing, Stamping and Printing of Native Beverages Responsibility of Holder of Permit. Repealed 8-15-07

Section 2.48 Sale of Native Beverages for Transportation Without Seal and Stamp Prohibited. Repealed 8-15-07

Section 2.49 Quantity of Native Wine Which May be Transported by Consumer. Repealed 8-15-07

Section 2.50 Transportation of Native Beverages. Repealed 8-15-07

Section 2.51 Opening Container or Breaking Seal of Case or Package Prohibited. Repealed 8-15-07

Section 2.52 Native Beverages to be Available for Inspection While Transported; Procedure for Inspection. Repealed 8-15-07"

**3 CAR § 2-501. Permit to transport controlled beverages.**

**(a) Transportation of controlled beverages interstate by common carrier.**

Persons licensed by the Surface Transportation Board as common carriers may transport controlled beverages into and through the State of Arkansas pursuant to the laws and regulations applicable to such common carrier.

**(b)(1) Contract carrier, private carrier, or permittee to make application for permit to transport controlled beverages, except beer and malt liquor, interstate and into Arkansas.** Any person serving as a contract carrier or a private carrier, as defined in 49 U.S.C. § 303, or any person holding a manufacturer's or wholesaler's permit desiring to transport controlled beverages in interstate commerce through the State of Arkansas, into the State of Arkansas, or out of the State of Arkansas, shall make an application to the Director of the Alcoholic Beverage Control Division therefor which shall set forth the following information and statements:

(A) The point of origin of the shipment, the point where such shipment will enter the State of Arkansas, the destination of such shipment and, if the destination

is outside the State of Arkansas, the point where such shipment will leave the State of Arkansas;

(B) The approximate duration of the entire trip through the State of Arkansas if the destination is outside the State of Arkansas;

(C) A description of the vehicle to be used in such shipment including the motor number, the license plate number, and a description of the make, model, and dimensions of the vehicle;

(D) The approximate number of cases or kegs expected in each shipment;  
and

(E) If shipments are to be made on a regular basis, the schedule of such shipments expected to be followed.

(2) The application shall be verified in the manner provided in 3 CAR pt. 1.

**(c) Transportation by holder of liquor off-premises permit prohibited.**

(1) Only persons, firms, or corporations holding retail liquor off-premises permits may obtain designation as a source of supply for licensed private clubs.

(2) Those distributors so designated by the director may not make deliveries of controlled beverages to licensed private clubs.

(3) Only those retail liquor stores which have obtained a Federal Basic Wholesalers Permit from the Alcohol and Tobacco Tax and Trade Bureau will be designated as a private club distributor by the director.

**(d) Date application for transportation permits to be made.**

(1) If for regularly scheduled shipments, the application for a transportation permit shall be made annually and such permit shall be issued for a period of one (1) year.

(2) If the shipment for which the application is made is not pursuant to a regular schedule, an application shall be made for each shipment.

**(e) Transportation permit to be issued after approval and posting of bond.**

(1) Upon approval by the director and the posting of a surety bond approved by the director, the transportation permit shall be issued.

(2) The surety bond shall be in the amount of two thousand dollars (\$2,000) and shall be conditioned that in the event the person holding the transportation permit violates or fails to comply with any of this part or any alcoholic beverage control law of the State of Arkansas, the amount of the bond shall be forfeited to the State of Arkansas.

(f) **Transportation permit to accompany transportation of controlled beverages.** At all times when controlled beverages are transported pursuant to a transportation permit, such permit shall be present within the vehicle in which such controlled beverages are transported and shall be available for inspection by any law enforcement officer or by any officer of the Alcoholic Beverage Control Division.

(g) **Suspension and revocation of transportation permit.** If any person holding a transportation permit shall violate or fail to comply with any of this part, any rules of the State Highway Commission, or any alcoholic beverage control law of the State of Arkansas, the director may suspend or revoke such permit pursuant to the procedure established by this part.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

**Codification Notes.** Subsection (c) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 7-19-84)"

### **3 CAR § 2-502. Transportation of controlled beverages.**

#### **(a) Bill of lading or invoice to accompany shipment.**

(1) A bill of lading, invoice, or other memorandum of shipment shall accompany each shipment of controlled beverages made pursuant to a transportation permit and shall be present in the cab of the truck in which the controlled beverages described in the bill of lading are transported.

(2) The bill of lading, invoice, or other memorandum of shipment shall show the:

(A) Date of sale of the controlled beverages;

(B) Quantity, brand, and size of container of the controlled beverages transported;

(C) Name and address of the consignor and consignee; and

(D) Permit number of the consignee.

(3) A copy of all bills of lading, invoices, or other memoranda of shipment shall be retained in the custody of the person holding the transportation permit for a period of three (3) years.

**(b) Transportation of controlled beverages except beer within Arkansas by manufacturer or liquor wholesaler.**

(1) Any person holding a manufacturer's permit may transport controlled beverages within Arkansas from his or her premises or other warehouse in his or her own truck to the premises or other warehouse of a person holding a wholesaler's permit, but only pursuant to the sale of such controlled beverages to such wholesaler.

(2) Any person holding a liquor wholesaler's permit may transport controlled beverages within Arkansas from his or her premises or other warehouse in his or her own truck to the premises of a person holding a retailer's permit or casino licensee, but only pursuant to a sale of such controlled beverages to such retailer or casino licensee.

(3) When transporting controlled beverages pursuant to this section, the manufacturer or liquor wholesaler shall comply with the requirements of 3 CAR § 2-501(g) in regard to the issuance and possession of a bill of lading, invoice, or other memorandum of shipment.

(4) A copy of such bill of lading, invoice, or other memorandum of shipment shall be retained by the manufacturer or wholesaler transporting the controlled beverages and by the person to whom such beverages are sold and delivered for a period of three (3) years.

(5) In addition, a manufacturer or liquor wholesaler may transport in his or her own truck controlled beverages owned by such manufacturer or liquor wholesaler from a freight depot to the premises or other warehouse of such manufacturer or liquor wholesaler, from one place of business for which such manufacturer or liquor

wholesaler holds a permit to another, and upon the premises described in his or her permit.

**(c) Transportation of controlled beverages within Arkansas by contract carrier or private carrier.**

(1) A contract carrier or private carrier as defined in 49 U.S.C. § 303 holding an annual transportation permit may transport controlled beverages within the State of Arkansas from the premises or other warehouse of a manufacturer to the premises or other warehouse of a wholesaler, or from the premises or other warehouse of a wholesaler to the premises of a retailer or casino licensee pursuant to a sale by such manufacturer to a wholesaler, or a sale by such wholesaler to a retailer or casino licensee.

(2) Such contract carrier or private carrier shall have a transportation permit as provided in this part and shall comply fully with subsection (a) of this section.

(3) All contract carriers or private carriers and the wholesaler or retailer to whom delivery is made shall retain a copy of the bill of lading, invoice, or other memorandum of shipment required by subsection (a) of this section for a period of three (3) years.

**(d) Truck in which controlled beverages transported by manufacturer or wholesaler to be identified.** A manufacturer or wholesaler which transports controlled beverages in its own truck shall have painted in letters not less than two inches (2") high on each side of each truck used in transporting alcoholic beverages the name and address of the business and the Alcoholic Beverage Control Division permit number assigned to such business.

**(e) Carrier unloading controlled beverages in freight depot must store controlled beverages separate from other freight.** Any carrier who transports controlled beverages shall, when unloading such controlled beverages in any freight depot or other warehouse, store such controlled beverages separate from other freight.

**(f) Manufacturer or wholesaler may store controlled beverages in bonded warehouse.**

(1) A manufacturer or wholesaler may store controlled beverages owned by such manufacturer or wholesaler in a bonded warehouse not located on the premises described in such manufacturer's or wholesaler's permit.

(2) Provided, such warehouse must be in compliance with the requirements of this part for such warehouse, and such manufacturer or wholesaler must maintain records indicating the quantity, brand, and date of storage of all controlled beverages so stored.

(3) Such records shall be retained by such manufacturer or wholesaler for a period of three (3) years.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

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

### **3 CAR § 2-503. Prohibited conduct and activities.**

**Prohibited conduct and activities — Grounds for suspension or revocation of transportation permit.** Any transportation permit issued pursuant to this subpart may be suspended or revoked for any of the following reasons:

(1) **Manufacturer making delivery to retailer or consumer.** That a manufacturer delivered controlled beverages directly to a person holding a permit to sell controlled beverages at retail or to a consumer;

(2) **Wholesaler making delivery to consumer.** That a wholesaler delivered controlled beverages directly to a consumer;

(3) **Variance of described route.** A permittee varied the transportation route as described in the transportation permit;

(4) **Sale or attempt to sell controlled beverages.** A permittee not authorized to do so sold or attempted to sell any controlled beverages in such permittee's possession for purposes of delivery; and

(5) **Storage or delivery of interstate shipment.** A permittee stored or delivered, or attempted to store or deliver, within the State of Arkansas, any controlled beverages in the possession of the permittee for purposes of delivery outside the State of Arkansas.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

## **Subpart 6. Microbrewery-restaurant Operations**

### **3 CAR § 2-601. Microbrewery-restaurant and separate brewing facility application and operations.**

(a)(1) A microbrewery-restaurant shall manufacture beer, malt beverage, hard cider, or ready-to-drink products containing not in excess of twenty-one percent (21%) alcohol by weight and may sell the same or products produced at the permittee's separate brewing facility for consumption on or off the premises.

(2) The microbrewery portion of the microbrewery-restaurant permitted operation (hereinafter "permitted business") shall be separated from the restaurant portion of the permitted business by a solid wall.

(3) The wall may be made of glass or other materials but shall prevent direct access by the public patronizing the restaurant.

(4) If the operator of the permitted business does desire to allow members of the public to take a tour of the brewery, such tour shall only be conducted under the direct supervision of brewery personnel.

(5) Microbrewery-restaurant permittees may store the manufactured beer, malt beverage, hard cider, or ready-to-drink product, and any other beer, malt beverage, hard cider, or ready-to-drink product which the permittee may purchase from wholesalers and small brewers licensed by this state on the microbrewery-restaurant premises and on the premises of the one (1) separate brewing facility of the microbrewery-restaurant.

(6) Two (2) or more microbrewery-restaurants sharing ownership or a brewery of any size sharing common ownership with a microbrewery-restaurant shall be considered one (1) entity for the purposes of calculating barrel production and transportation of beer, malt beverage, or hard cider produced by one (1) entity among no more than three (3) microbrewery-restaurant facilities of the one (1) entity.

(7) A ready-to-drink product authorized for off-premises consumption under this section shall be sold only from the location where the ready-to-drink product is manufactured.

(b) A microbrewery-restaurant permittee may maintain one (1) separate brewing facility for production or storage of beer, malt beverage, hard cider, or ready-to-drink product as needed to meet demand, except that each facility used by the microbrewery-restaurant permittee shall not in the aggregate produce more than forty-five thousand (45,000) barrels of beer, malt beverage, hard cider, and ready-to-drink product per year.

(c) A microbrewery-restaurant permittee shall notify the Alcoholic Beverage Control Division of its intent to operate a separate brewing facility by providing the following documentation:

- (1) A completed Separate Brewing Facility application form;
- (2) A floor plan of the proposed premises;
- (3) At least four (4) photographs of the proposed premises depicting the front, back, and sides of the building;
- (4) Copies of any permits required by the Alcohol and Tobacco Tax and Trade Bureau for production at the location, if applicable; and
- (5) Certification that the proposed facility is in compliance with any local zoning requirements for the location.

(d)(1) Ready-to-drink products produced by a separate brewing facility of a microbrewery-restaurant licensee shall be sold only to a licensed wholesaler.

(2) Upon receipt of the required documentation, the division shall issue an endorsement to the microbrewery-restaurant permittee.

(3) The endorsement shall be posted on the premises in compliance with the specifications set forth in 3 CAR § 1-307.

(e) On-premises consumption of a ready-to-drink product shall only be allowed in cities and counties, or portions of cities and counties, in which the manufacture or sale of intoxicating liquor is not prohibited as a result of a local option election held under Initiated Act No. 1 of 1942, Arkansas Code §§ 3-8-201 – 3-8-203 and Arkansas Code §§ 3-8-205 – 3-8-209, and in which the sale of alcoholic beverages for on-premises consumption has been approved by a majority vote at a referendum election as provided in Arkansas Code § 3-9-201 et seq.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

**Codification Notes.** Subsection (a) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 1-23-24)"

This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 9-20-17)"

**3 CAR § 2-602. Limitation on production.**

(a) Each operator of a microbrewery-restaurant establishment is allowed to manufacture beer, malt beverage, or hard cider products in limited quantities.

(b) The operator shall be allowed to brew one (1) or more varieties of beer, malt beverage, or hard cider products, but in any event shall not brew more than forty-five thousand (45,000) barrels for all products per calendar year.

(c) The forty-five thousand (45,000) barrel limitation applies to all beer, malt beverages, and hard cider brewed, including test runs.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 10-29-19)"

**3 CAR § 2-603. Samples may be offered in brewery portion.**

(a) The operator of a permitted establishment described in this subpart may offer samples of the beer or malt beverages brewed at the microbrewery to persons taking tours of the brewery.

(b) No free samples of beer or malt beverages may be distributed in the restaurant portion of the establishment but may only be sold at retail in the restaurant portion for on or off-premises consumption.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 7-19-95)"

**3 CAR § 2-604. Tastings.**

(a) A microbrewery-restaurant may conduct beer-tasting, malt beverage-tasting, and hard cider-tasting events for educational or promotional purposes at any location in wet areas of this state if:

(1) A request for approval to conduct a beer-tasting, malt beverage-tasting, and hard cider-tasting event is received by the Alcoholic Beverage Control Division at least two (2) weeks before the event;

(2) The request is approved by the division; and

(3) Written notice is given by the division to the permit holder at least five (5) days before the event.

(b)(1) The microbrewery-restaurant shall use only beer, malt beverage, and hard cider produced by the microbrewery-restaurant for an event approved.

(2) This section does not authorize the conducting of a beer-tasting, malt beverage-tasting, and hard cider-tasting event at a separate brewing facility of a microbrewery-restaurant private club.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

**3 CAR § 2-605. Division of premises.**

(a) Such microbrewery-restaurant operation shall be maintained in such a manner by solid walls or other such items as to clearly define and control the travel of persons inside the establishment between the microbrewery portion of the building and the restaurant portion of the building.

(b) However, nothing in this section shall be interpreted to prevent the installation of solid glass walls or other such transparent materials in order that patrons at the restaurant establishment may actually view part of the brewery operations without being able to enter the brewery portion of the establishment.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 7-15-91)"

**3 CAR § 2-606. Floor plan to be furnished with application.**

(a) Each person applying for a microbrewery-restaurant permit as authorized by law shall submit with the application a floor plan of the permitted business which will identify the portion of the building which will be operated as the brewery and the portion which will be operated as the restaurant.

(b) The floor plan will contain such sufficient descriptions and other information as may be required to show how the traffic flow of customers will be separated in the two (2) portions of the permitted business.

(c) The brewery diagram will also show the size and location of various tanks or other devices which will be used to brew and store the beer or malt beverages brewed at such brewery.

(d) In addition, the applicant for the microbrewery-restaurant permit must show or declare in his or her application, to the standards set by the Director of the Alcoholic Beverage Control Division as part of the application process, that he or she has met or will be able to meet the standards for brewery operations as set forth in 27 C.F.R. § 25.25 or other applicable Alcohol and Tobacco Tax and Trade Bureau regulations that may apply to the operation of a microbrewery-restaurant as created by the General Assembly.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 7-19-95)"

### **3 CAR § 2-607. Disposition of microbrewery products.**

A microbrewery-restaurant operation shall be allowed to dispose or sell the products that it brews by the following methods:

(1) A permittee may sell beer or malt beverages in draft form at the restaurant for on-premises consumption only;

(2) The permittee may can or bottle beer or malt beverage products and may sell those products in brewery-sealed packages at retail to the customer for consumption off the premises;

(3)(A) The permittee may distribute beer and malt beverage products to charities and nonprofit corporations on the same basis as a manufacturer under the provisions of 3 CAR § 2-302(b)(3) or the microbrewery-restaurant may sell for resale the products that it manufactures to charitable or nonprofit organizations holding valid special event permits as provided for by the Alcoholic Beverage Control Division, except

they may not sell to nonprofit organizations holding private club licenses except as provided in subdivision (4) of this section.

(B) The sale of said products shall be limited to the duration of the particular special event permitted activity;

(4) The permittee may sell at retail by the drink or by the package products produced on the premises of the microbrewery-restaurant at fairs and food and beer festivals with the permission and the consent of the management of events; and

(5) The permittee may sell beer, malt beverages, hard cider, and ready-to-drink products of its own manufacture to a wholesaler dealer licensed by this state for the purpose of resale to other retail license holders as set forth by Arkansas Code §§ 3-4-605 and 3-5-101, dealing with wholesale distribution of beer, malt beverages, and hard cider.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

**Codification Notes.** Subdivision (4) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 9-16-15)"

This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 9-16-15)"

### **3 CAR § 2-608. Microbrewery-restaurant delivery.**

Microbrewery-restaurant permit holders may deliver or cause to be delivered alcoholic beverages directly to the private residences of a consumer twenty-one (21) years of age or older in a wet county or territorial subdivision in accordance with 3 CAR §§ 3-404 – 3-410.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

### **3 CAR § 2-609. Trademarks or other designs to be used.**

(a) Microbrewery-restaurant operators may can or bottle beer for off-premises consumption.

(b) In order to comply with all applicable state rules and federal regulations, microbrewery-restaurant operators will be required to adopt a label design to be approved by the Director of the Alcoholic Beverage Control Division under the provisions of 3 CAR § 2-211.

(c) In addition, the microbrewery-restaurant operator may design a trademark, logo, graphic design, or representation or other symbol to be used on point-of-sale advertising items inside the restaurant, in newspaper advertisements, billboards, or other printed media, which shall identify the beer or malt beverage which is brewed at the microbrewery-restaurant and sold in the restaurant portion of the business for consumption on or off the premises as provided by law.

(d) Such trademark, logo, graphic design, or other symbol or label shall be allowed as a limited exemption to the private label prohibition contained in 3 CAR § 2-212.

(e) Such graphic design, trademark, logo, or label design shall be submitted for approval by the director.

(f) In addition, the microbrewery-restaurant operation must secure a certificate of label approval, or complete items as may be required by the Alcohol and Tobacco Tax and Trade Bureau of the Department of the Treasury.

(g) Additional labels made after the first application for trademark, label, or design shall have the graphic design for the product approved by the director prior to the sale of the product in the restaurant.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 7-19-95)"

**3 CAR § 2-610. Requirements of design of trademark, logo, symbol, or label to be used by microbrewery-restaurant.**

(a) Any licensed microbrewery-restaurant may adopt a trade name, logo, trademark, symbol or label, or other graphic representation to be used by the microbrewery-restaurant (hereinafter "permitted establishment") in advertising the availability of beer or malt beverage products brewed and sold at the permitted establishment.

(b) In addition, the permitted establishment may advertise the existence of its beer and malt beverage products by use of billboards, newspaper advertisements, outside signs, or other devices away from the permitted establishment and by point-of-sale items at the restaurant.

(c) The trademark, logo, symbol, label, or other graphic design (hereinafter "design") shall be used for the products to be sold by the permitted establishment and shall conform to the following standards:

(1)(A) The design shall contain the brand name of the alcoholic beverage being offered at the permitted establishment.

(B) No design shall contain any brand name which, standing alone or in association with other printed or graphic matter, creates any misleading impression or inference as to the age, origin, identity, or other characteristic of the product.

(C) The design shall contain a statement, if Federal Food, Drug, and Cosmetic Act Yellow No. 5 is used in the product, in conformance with 27 C.F.R. § 7.22(4).

(D) If the product contains saccharin, the design shall contain a statement in conformance with 27 C.F.R. § 7.22(5);

(2)(A) The design shall state the class of malt beverage and, if desired, the type of malt beverage may be stated.

(B) Statements of class and type shall conform to the designation of the product as known to the trade;

(3)(A) The design shall carry, in type not smaller than ten (10) points in size, the name of the microbrewery-restaurant operation brewing and selling the alcoholic beverages.

(B) The type face shall be of a plain Gothic or Roman design;

(4)(A) If the manufacturer desires to make a statement of alcohol content of any beer product, the manufacturer shall be guided by the provisions of 3 CAR § 2-208 in this regard.

(B) In regard to the sale of malt beverage products, the manufacturer shall be guided by the provisions of 3 CAR § 2-208.

(C) In addition, no words shall be used in the design such as "strong", "full strength", or similar words which imply alcohol content;

(5)(A) All information, other than the brand name, shall be in the English language.

(B) Additional statements in foreign languages may be made if desired, if the statements in the foreign language do not conflict with or contradict the statements made in the English language;

(6)(A) No design shall contain any statement that is false or untrue in any particular, or that tends to create a misleading impression.

(B) No design shall contain any statement that is disparaging of a competitor's product.

(C) No design shall contain any statement, device, or other representation which is obscene or indecent.

(D) No design shall contain any statement, device, or representation relating to analysis, standards, or tests of malt beverage products.

(E) No design shall offer any statement, device, or representation relating to any guarantee and permittees are prohibited from offering money back guarantees on beer and malt beverage products they sell.

(F) No design shall resemble or simulate a stamp of the United States government or the State of Arkansas or any other state or foreign government.

(G) No design shall contain any flags, seals, coat of arms, or crests, nor shall it contain any curative or therapeutic claims.

(H) No design shall use any numerals, statements, or other devices in the forms of numerals, letters, characters, figures, or otherwise which are likely to be considered as statements of alcohol content;

(7) Except as specifically provided above, the Director of the Alcoholic Beverage Control Division shall be generally guided by the provisions of 27 C.F.R. § 7.20 et seq., in considering whether a design of a permittee may be used in the state; and

(8) In the event of claims of trademark infringement, service mark infringement, or other such competing claims between microbrewery-restaurant operations, all such claims shall be resolved outside the Alcoholic Beverage Control Division under such provisions of law that may apply to such disputes.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 7-19-95)"

### **3 CAR § 2-611. Small brewery operations allowed.**

A small brewery is allowed to brew beer containing not in excess of five percent (5%) alcohol by weight, to brew malt beverage products containing not in excess of twenty-one percent (21%) alcohol by weight, brew hard cider not in excess of twenty-one percent (21%) alcohol by weight, and to sell the same on the premises of the brewery for consumption on or off the premises.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 9-16-15)"

### **3 CAR § 2-612. Limitation on production.**

(a) Each operator of a small brewery is allowed to manufacture beer, malt beverage products, and hard cider in limited quantities.

(b) The operator shall be allowed to brew one (1) or more varieties of beer, malt beverage products, and hard cider, but in any event shall not brew more than forty-five thousand (45,000) barrels for all products per year.

(c) For purposes of this section, a year is determined to be a calendar year beginning on January 1 of each year and ending on December 31 of the same year.

(d) The forty-five thousand (45,000) barrel limitation applies to all beer, malt beverages, and hard ciders brewed, including test runs.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 9-16-15)"

### **3 CAR § 2-613. Samples may be offered.**

The operator of a permitted establishment described in this subpart may offer complimentary samples of the products produced on the premises of the brewery.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 9-16-15)"

### **3 CAR § 2-614. Floor plan to be furnished with application.**

(a) Each person applying for a small brewery permit as authorized by law shall submit with the application a floor plan of the permitted business that will identify the portion of the building that will be operated as the brewery and the portion that will be operated as the tap room, if any.

(b) The brewery diagram will also show the size and location of various tanks or other devices that will be used to brew and store the products brewed at such brewery.

(c) In addition, the applicant for the small brewery permit must show or declare in his or her application, to the standards set by the Director of the Alcoholic Beverage Control Division as part of the application process, that he or she has met or will be able to meet the standards for brewery operations as set forth in 27 C.F.R. § 25.25 or other applicable Alcohol and Tobacco Tax and Trade Bureau regulations that may apply to the operation of a small brewery as created by the General Assembly.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 9-16-15)"

### **3 CAR § 2-615. Disposition of small brewery products.**

A small brewery operation shall be allowed to dispose or sell the products that it brews by the following methods:

(1) The permittee may sell to wholesale dealers or to the consumer at the small brewery premises for consumption either on or off the premises brand name products of the licensed facility;

(2)(A) The permittee may sell and transport brewery products produced on the premises of the small brewery to retail license holders and small brewery license holders if the total production of the permitted brewery does not exceed fifteen thousand (15,000) barrels per year.

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

(C) If a small brewery wishes to distribute its products in this manner, the brewery shall obtain a small brewery wholesale permit;

(3)(A) The permittee may distribute beer and malt beverage products to charities and nonprofit corporations on the same basis as a manufacturer under the provisions of 3 CAR § 2-302(b)(3) or the microbrewery-restaurant may sell for resale the products that it manufactures to charitable or nonprofit organizations holding valid

special event permits as provided for by the Alcoholic Beverage Control Division, except they may not sell to nonprofit organizations holding private club licenses except as provided in subdivision (4) of this section.

(B) The sale of said products shall be limited to the duration of the particular special event permitted activity; and

(4) The permittee may sell at retail by the drink or by the package products produced on the premises of the small brewery at fairs and food and beer festivals with the permission and the consent of the management of events.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 9-15-15)"

### **3 CAR § 2-616. Small brewery delivery.**

Small brewery permit holders may deliver or cause to be delivered alcoholic beverages directly to the private residences of a consumer twenty-one (21) years of age or older in a wet county or territorial subdivision in accordance with 3 CAR §§ 3-404 – 3-410.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

### **3 CAR § 2-617. Separate brewing facility — Application.**

(a) An Arkansas small brewery permittee shall notify the Alcoholic Beverage Control Division of its intent to operate a separate brewing facility by providing the following documentation:

- (1) A completed Separate Brewing Facility application form;
- (2) A floor plan of the proposed premises;
- (3) At least four (4) photographs of the proposed premises depicting the front, back, and sides of the building;

(4) Copies of any permits required by the Alcohol and Tobacco Tax and Trade Bureau for production at the location, if applicable; and

(5) Certification that the proposed facility is in compliance with any local zoning requirements for the location.

(b)(1) Upon receipt of the required documentation, the division shall issue an endorsement to the small brewery permittee.

(2) The endorsement shall be posted on the premises in compliance with the specifications set forth in 3 CAR § 1-307.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

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

**3 CAR § 2-618. Small brewery tap room — Application.**

(a) An Arkansas small brewery permittee shall complete an application for a small brewery tap room.

(b) The same posting, publication, and notice requirements of applicants for a retail beer permit shall apply to small brewery tap room applicants.

(c)(1) Small brewery permittees shall designate a managing agent for each small brewery tap room and permittees shall notify the Alcoholic Beverage Control Division of any change in the managing agent.

(2) The managing agent shall either live in the same county as the location of the tap room or within thirty-five (35) miles of the tap room.

(d)(1) Upon submission to the division of the required application and completion of the posting, publication, and notice requirements, the Director of the Alcoholic Beverage Control Division may issue an endorsement to the small brewery permittee for the operation of a small brewery tap room.

(2) The endorsement shall be posted on the premises of the tap room in compliance with the specifications set forth in 3 CAR § 1-307.

(e) If the director refuses to issue the small brewery tap room endorsement to the small brewery permittee, the director's decision may be appealed to the Alcoholic Beverage Control Board pursuant to 3 CAR § 1-605.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

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

## **Subpart 7. Small Farm Winery Operations**

### **3 CAR § 2-701. Definitions.**

As used in this subpart:

(1)(A) "Small farm wine convenience store" means an establishment which sells convenience goods, such as a limited range of grocery, snack items, and other human consumables or both convenience goods and motor fuel.

(B) The convenience store must prove, in order to apply for or renew the small farm wine retail permit for convenience stores, that it has in inventory at least seven thousand five hundred dollars (\$7,500) worth of human consumable food items;

(2)(A) "Small farm wine grocery store" means an establishment that has more than fifty thousand dollars (\$50,000) of inventory of human consumable items.

(B) The applicant must prove the inventory requirement to apply for or renew the small farm wine retail permit.

(C)(i) The establishment must be of such a nature and size that it offers a full range of typical grocery store items including, but not limited to, fresh produce, fresh meat, laundry detergents, frozen foods, dairy products, breads, and other such items.

(ii) The above list is not all inclusive; and

(3) "Small farm winery" means a wine-making establishment that does not produce for sale more than two hundred fifty thousand gallons (250,000 gals.) of wine,

the alcoholic content of which is not less than one-half of one percent (0.5%) and which does not exceed twenty-one percent (21%) by weight, per calendar year, as reported on the federal tax report form TTB F 5210-17, as it existed on January 1, 2007.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

**Codification Notes.** Subdivision (1) as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Amended 8-21-13)"

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

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

**3 CAR § 2-702. Small farm winery may bottle and sell wines produced by another licensed small farm winery.**

(a) Under the provisions of Acts 2007, No. 668, a small farm winery license authorizes the permittee to manufacture and bottle wines produced by that small farm winery.

(b) In addition, a small farm winery license authorizes the holder of that permit to bottle and sell wines produced by another small farm winery.

(c) In order for a small farm winery to bottle and sell another small farm winery's products, both the selling winery and the buying winery must be small farm winery permit holders as defined in Acts 2007, No. 668.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

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

**3 CAR § 2-703. Product source for small farm wine.**

(a) "Small farm wine" means wine made from:

- (1) Grapes;
- (2) Berries;
- (3) Other fruits;
- (4) Honey; or
- (5) Vegetables.

(b) "Small farm wine" includes mead.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

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

**3 CAR § 2-704. Direct shipment of vinous liquor or mead to Arkansas residents.**

(a) Any winery licensed by this state or the state where its principal place of business is located and which is registered with the Alcoholic Beverage Control Division pursuant to Arkansas Code § 3-5-1703 may ship vinous liquor or mead to an Arkansas consumer.

(b) Prior to the winery's first shipment into or within the state, the winery shall:

- (1) Register with the division;
- (2) Provide the division with a copy of the winery's current licenses to manufacture wine issued by the:
  - (A) State of domicile; and
  - (B) Alcohol and Tobacco Tax and Trade Bureau; and
- (3) Pay a registration fee of twenty-five dollars (\$25.00).

(c) A consumer must be physically present at the winery to purchase the vinous liquor or mead to be shipped into or within the state and must provide identification to the shipping winery that the consumer is at least twenty-one (21) years old.

(d) A winery shall ship only a vinous liquor or mead to a private residence and may only ship one (1) case of vinous liquor and one (1) case of mead per consumer in any calendar quarter.

(e)(1) A shipment of a vinous liquor or mead shall have a shipping label provided by the division affixed to the shipping package.

(2) The fee for each label shall not exceed ten dollars (\$10.00).

(f) A winery shall have the vinous liquor or mead delivered to an Arkansas consumer during the hours of the day that alcoholic beverages may be purchased in the state.

(g) A winery shall collect and remit to the Department of Finance and Administration all sales taxes and excise taxes due on a sale to an individual of this state as if the sale took place on the premises of an Arkansas small farm winery, including without limitation taxes under Arkansas Code §§ 3-5-1605, 3-7-104, 3-7-111, and 3-7-201.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206, 3-5-1703.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "(Adopted 9-01-2021)"

**3 CAR § 2-705. Small farm winery in a dry area must sell exclusively to wholesalers.**

The Alcoholic Beverage Control Board may issue a license to a small farm winery in a dry area if the small farm winery sells exclusively to wholesalers as authorized under Arkansas Code § 3-8-203.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

## **Subpart 8. Hard Cider Manufacturer Operations**

### **3 CAR § 2-801. Definition.**

As used in this subpart:

(1)(A) "Hard cider manufacturer" means an establishment in Arkansas that:

(i) Does not produce for sale 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) Manufactures at its licensed facility no less than thirty-five percent (35%) of its hard cider to be sold in the state; and

(iii) Has a permit to manufacture, import, transport, store, and sell to a wholesaler, jobber, distributor, or retailer hard cider to be used and sold for beverage purposes as authorized under this section.

(B) In addition, the hard cider manufacturer permittee may:

(i) Include one (1) tap room at its facility and may operate a restaurant in conjunction with its tap room;

(ii) Maintain one (1) separate manufacturing facility;

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

(iv) Sell for on-premises and off-premises consumption as provided in Arkansas Code § 3-4-611.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

### **3 CAR § 2-802. Hard cider manufacturer permit application.**

An application under this section shall:

(1) Be in writing;

(2) Be verified;

(3) State in detail information concerning the applicant for the permit and the premises to be used by the applicant as required by the Director of the Alcoholic Beverage Control Division;

(4) Be accompanied by a certified check, cash, or postal money order for the amount required in Arkansas Code § 3-4-611(f); and

(5) Be in accordance with all other application requirements found in 3 CAR § 1-202.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206, 3-4-611.

**3 CAR § 2-803. Floor plan to be furnished with application.**

(a) Each person applying for a hard cider manufacturer permit as authorized by law shall submit with the application a floor plan of the permitted business that will identify the portion of the building that will be operated as the manufacturing facility and the portion that will be operated as the tap room or restaurant, if any.

(b) The manufacturing facility portion diagram will also show the size and location of various tanks or other devices that will be used to manufacture and store the products manufactured at such manufacturing facility.

(c) In addition, the applicant for the hard cider manufacturer permit must show or declare in his or her application, to the standards set by the Director of the Alcoholic Beverage Control Division as part of the application process, that he or she has met or will be able to meet the standards for hard cider manufacturing operations as set forth by the applicable Alcohol and Tobacco Tax and Trade Bureau regulations that may apply to the operation of a hard cider manufacturer.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

**3 CAR § 2-804. Separate hard cider manufacturing facility.**

(a) A hard cider manufacturer permittee may maintain one (1) separate manufacturing facility for the production or storage of hard cider as needed to meet

demand, except that each facility used by the hard cider manufacturer permittee shall not in the aggregate produce more than forty-five thousand (45,000) barrels of hard cider per year.

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

(1) Sold to a licensed wholesaler; or

(2) Transported:

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

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

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

### **3 CAR § 2-805. Separate hard cider manufacturing facility — Application.**

(a) A hard cider manufacturer permittee shall notify the Alcoholic Beverage Control Division of its intent to operate a separate hard cider manufacturing facility by providing the following documentation:

(1) A completed Separate Hard Cider Manufacturer Facility application form;

(2) A floor plan of the proposed premises;

(3) At least four (4) photographs of the proposed premises depicting the front, back, and sides of the building;

(4) Copies of any permits required by the Alcohol and Tobacco Tax and Trade Bureau for production at the location, if applicable; and

(5) Certification that the proposed facility is in compliance with any local zoning requirements for the location.

(b)(1) Upon receipt of the required documentation, the division shall issue an endorsement to the hard cider manufacturer permittee.

(2) The endorsement shall be posted on the premises in compliance with the specifications set forth in 3 CAR § 1-307.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

**3 CAR § 2-806. Hard cider manufacturing tap room — Application.**

(a) The hard cider manufacturer permittee may include one (1) tap room at its main facility and may operate a restaurant in conjunction with its tap room.

(b) The hard cider manufacturer permittee shall complete an application for a hard cider manufacturer tap room.

(c) The same posting, publication, and notice requirements of applicants for a retail beer permit shall apply to hard cider manufacturer tap room applicants.

(d)(1) Hard cider manufacturer permittees shall designate a managing agent for the tap room and permittees shall notify the Alcoholic Beverage Control Division of any change in the managing agent.

(2) The managing agent shall either live in the same county as the location of the tap room or within thirty-five (35) miles of the tap room.

(e)(1) Upon submission to the division of the required application and completion of the posting, publication, and notice requirements, the Director of the Alcoholic Beverage Control Division may issue an endorsement to the hard cider manufacturer permittee for the operation of a hard cider manufacturer tap room.

(2) The endorsement shall be posted on the premises of the tap room in compliance with the specifications set forth in 3 CAR § 1-307.

(f) If the director refuses to issue the tap room endorsement to the hard cider manufacturer permittee, the director's decision may be appealed to the Alcoholic Beverage Control Board pursuant to 3 CAR § 1-605.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

**3 CAR § 2-807. Distribution of hard cider manufacturer products.**

(a) A hard cider manufacturer may sell, deliver, or transport hard cider manufactured by the hard cider manufacturer to:

- (1) Wholesalers;
- (2) Retail license holders;
- (3) Small brewery license holders;
- (4) Small winery license holders;
- (5) Microbrewery-restaurant license holders; and
- (6) Distillers.

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

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

(d) A hard cider manufacturer may distribute no more than fifteen thousand (15,000) barrels per year.

(e) To sell and transport hard cider to the permittees listed above under this section, the hard cider manufacturing permit holder shall obtain a hard cider manufacturing wholesale permit.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

**3 CAR § 2-808. Disposition of hard cider manufacturer products.**

(a)(1) A hard cider manufacturer permittee may sell for on-premises or off-premises consumption by the drink or by the package hard cider manufactured by the hard cider manufacturer if the manufacturer provides tours through its facility, and if during all legal operating hours in which business is normally and legally conducted on the premises.

- (2) Only sealed containers may be removed from the premises.

(b) A hard cider manufacturer permittee may also sell for on-premises consumption hard cider purchased from wholesalers licensed by the state, wine, beer, and malt beverages purchased from wholesalers.

(c) If a hard cider manufacturer permittee has an endorsed tap room, it may sell for on-premises consumption spirituous liquors (authorized and effective only in cities and counties, or portions of cities and counties, in which the manufacture or sale of intoxicating liquor is not prohibited as a result of a local option election held under Initiated Acts 1942, No. 1, Arkansas Code §§ 3-8-201 – 3-8-203 and 3-8-205 – 3-8-209, and in which the sale of alcoholic beverages for on-premises consumption has been approved by a majority vote at a referendum election as provided).

(d)(1) A hard cider manufacturer permittee may donate hard cider it manufactures to a charitable or nonprofit corporation on the same basis as a manufacturer under the provisions of 3 CAR § 2-302(b)(3) or the hard cider manufacturer may sell for resale the products that it manufactures to charitable or nonprofit organizations holding valid temporary permits as provided for by the Alcoholic Beverage Control Division, except they may not sell to nonprofit organizations holding private club licenses except as provided in subsection (e) of this section.

(2) The sale of said products shall be limited to the duration of the particular temporary permitted activity.

(e) A hard cider manufacturer permittee may sell at retail hard cider manufactured by the manufacturer at fairs and festivals with the permission and the consent of the management of the events if the sale occurs in a wet area.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

### **3 CAR § 2-809. Hard cider manufacturing delivery.**

Hard cider manufacturing permit holders may deliver or cause to be delivered alcoholic beverages directly to the private residences of a consumer twenty-one (21) years of age or older in a wet county or territorial subdivision in accordance with 3 CAR §§ 3-404 – 3-410.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

**3 CAR § 2-810. Samples and tasting events may be offered.**

(a) The hard cider manufacturer permittee may serve on its premises complimentary samples of hard cider manufactured by the manufacturer and may conduct hard cider-tasting events for educational or promotional purposes.

(b) Before an authorization for a tasting event is issued, the manufacturer shall provide written notice of the hard cider-tasting event at least two (2) weeks before the event.

(c) A hard cider-tasting event shall be held in any facility licensed by the Alcoholic Beverage Control Division in a wet territory of this state.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

**Subpart 9. Distiller or Liquor Manufacturer Operations**

**3 CAR § 2-901. Disposition of distiller or liquor manufacturer products.**

Subject to all other product disposition rules, unless specifically allowed under this section, a distiller or liquor manufacturer is permitted to sell, serve, or otherwise dispose of controlled beverage product it produces or otherwise procures as follows:

(1) A distiller or manufacturer may sell, deliver, and transport any liquor product to a wholesaler or rectifier;

(2) A distiller or manufacturer may sell, deliver, and transport to permitted retailers not more than fifteen thousand (15,000) nine-liter-equivalent cases or thirty-five thousand six hundred sixty-seven gallons (35,667 gals.) of spirituous liquor produced by the distiller or manufacturer per year;

(3) A distiller or manufacturer may export any liquor product from this state;

(4) A distiller or manufacturer may sell for off-premises consumption on any day of the week, including Sunday, its own spirituous or vinous liquor product produced either at its in-state premises or its out-of-state premises;

(5) A distiller or manufacturer may sell for on-premises consumption its own liquor, wine, beer, or malt liquor product produced either at its in-state premises or its out-of-state premises;

(6) A distiller or manufacturer may sell for on-premises consumption any liquor product it purchases from an in-state permitted wholesaler;

(7) A distiller or manufacturer may serve for on-premises consumption complimentary samples of any liquor product it produces either in-state or out-of-state;

(8) If a distiller's or manufacturer's permitted location is in a wet territory, that distiller or manufacturer may sell by the drink or by the retail package any spirituous or vinous liquor product produced on the premises, provided that only sealed containers may be removed from the premises;

(9) A distiller or manufacturer may donate its liquor product to a charitable or nonprofit corporation on the same basis as a manufacturer under the provisions of 3 CAR § 2-302(b)(3); and

(10)(A) A distiller or manufacturer may sell for resale its liquor product to charitable or nonprofit organizations holding valid temporary permits as provided for by the Alcoholic Beverage Control Division.

(B) Sales of a distiller's or manufacturer's liquor products to a temporary permitted location shall be limited to the duration of the temporary permitted activity.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

**3 CAR § 2-902. Issuance of permit to distiller or manufacturer in dry area.**

The Alcoholic Beverage Control Division may issue a permit to a distiller or manufacturer in a dry area if the distiller or manufacturer sells exclusively to wholesalers as authorized under Arkansas Code § 3-8-203.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.

## **Subpart 10. State Parks**

### **3 CAR § 2-1001. State parks generally.**

(a)(1) State parks are exempt from the three-tier system and do not need a permit from the Alcoholic Beverage Control Division to sell or serve alcohol, provided notice be given to the division by the Secretary of the Department of Parks, Heritage, and Tourism when a state park is approved to sell or serve alcoholic beverages.

(2) State parks may still be eligible for a division permit.

(b) A state park that has obtained authorization under Arkansas Code § 3-9-103(b)(2)(A) may allow a third-party vendor at the state park to serve alcoholic beverages as described under Arkansas Code § 3-9-103(b)(1).

(c) A state park authorized to sell alcoholic beverages under this section shall serve the alcoholic beverages only during operating hours of the premises, including without limitation:

(1) The hours of operation of a restaurant on the state park property; or

(2) The hours of an outdoor event.

(d)(1) A state park authorized to sell alcoholic beverages under Arkansas Code § 3-9-103(b) shall purchase alcoholic beverages from a wholesaler.

(2) A wholesaler may sell and distribute alcoholic beverages to a state park permitted by the division or the department in any county.

(e) A state park approved under this section to sell or serve alcoholic beverages shall:

(1) Comply with all division rules; and

(2) Renew the state park's approval to sell or serve alcoholic beverages with the secretary yearly.

(f) Therefore, the division and the department will both inspect and monitor to ensure the rules applicable to the sale of controlled beverages are being adhered to.

(g) All violations will be presented to the Alcoholic Beverage Control Board.

**Authority.** Arkansas Code §§ 3-2-205, 3-2-206.