

Title 3. Alcoholic Beverages

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

Subchapter A. Generally

Part 4. Rules Applicable to On-premises Hotel or Motel, and Restaurant Permit

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "Failure to Maintain Food Service Sales Ratio. Repealed 8-16-11."

Subpart 1. Scope and Definitions

3 CAR § 4-101. General.

(a) The rules under this part apply to permits authorizing the sale of controlled beverages for consumption on the premises only of a:

- (1) Hotel or motel; or
- (2) Restaurant.

(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 part.

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

3 CAR § 4-102. Related rules.

In addition to this part, other rules applicable to hotel or motel, or restaurant permits may be found under:

- (1) 3 CAR pt. 1 in regard to all categories of permits; and
- (2) 3 CAR pt. 3 in regard to permits to sell controlled beverages at retail generally.

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

3 CAR § 4-103. Definitions.

(a) As used in this part:

(1) "Alcoholic beverages" means all intoxicating liquors of any sort other than beer and wine;

(2) "Hotel" means every building or other structure commonly referred to as a hotel, motor hotel, motor lodge, or similar name:

(A) That is kept, used, maintained, advertised, and held out to the public to be a place where a restaurant, as defined under this part, is maintained, and sleeping accommodations are offered for adequate pay to travelers or guests whether transient, permanent, or residential;

(B) In which fifty (50) or more rooms are used for sleeping accommodations of such guests; and

(C) Having one (1) or more public dining rooms with adequate and sanitary kitchen facilities where meals are regularly served to such guests, such sleeping accommodations and dining room being conducted in the same building or in separate buildings or structures used in connection therewith that are:

(i) On the same premises; and

(ii) Part of the hotel operation;

(3) "Hotel or motel permit" means a permit issued by authority of Acts 1969, No. 132, under which beverages described in the permit may be sold for consumption only on the premises of the hotel or motel described in the permit;

(4)(A) "Restaurant" means any public place or private place that:

(i) Is primarily engaged in the business of serving a meal for consumption on the premises to a guest;

(ii) Has a seating capacity of at least fifty (50) people; and

(iii) Has a suitable kitchen facility to serve the entire menu approved by the Alcoholic Beverage Control Division.

(B) The menu shall contain a selection of food and shall not be limited to sandwiches or salads.

(C) The kitchen shall:

- (i) Have adequate refrigeration to preserve the food on the menu;
- (ii) Be kept in a sanitary condition; and
- (iii) Comply with the rules of the Department of Health.

(D) Food from the menu shall be available from opening time until two (2) hours before closing time.

(E) "Meal" means the usual assortment of food commonly ordered at various hours of the day, and "guest" means a person who orders and is served a meal inside a restaurant during regular hours.

(F) Provided, that nothing in this part regarding the seating capacity of a restaurant shall preclude a person with a concealed handgun permit issued by the Director of the Division of Arkansas State Police from carrying a concealed handgun into a restaurant as defined herein;

(5) "Restaurant permit" means a permit issued by authority of Acts 1969, No. 132, under which controlled beverages described in the permit may be sold for consumption only on the premises of the restaurant described in the permit; and

(6)(A)(i) "Temporary expansion of premises permit" means a permit issued to hotels or motels with mixed drink permits for the sale of alcoholic beverages on property adjacent to their permitted premises.

(ii) The hours of operation under said permit shall be the same as those under the hotel or motel mixed drink permit held by the outlet.

(iii) The fee for such permit shall be the same as the annual fee for the hotel or motel mixed drink permit and the term of said permit shall, likewise, be the same as the outlet's hotel or motel mixed drink permit.

(B)(i) Applicants for such permit shall meet requirements as:

(a) Established by the Director of the Alcoholic Beverage Control Division; and

(b) Set out in the application and attachments thereto.

(ii) The area of expansion must be designated and controlled in a manner satisfactory to the Director of the Alcoholic Beverage Control Division.

(C)(i) A request must be made in writing for each temporary expansion under this permit at least fourteen (14) days in advance of the date wherein the expansion is requested to occur.

(ii) Approval to sell and serve alcoholic beverages under this permit shall be in writing by the Director of the Alcoholic Beverage Control Division to the permittee and each such authorization shall not exceed a period of three (3) consecutive days.

(iii) A copy of such approval shall be sent by mail to the Alcoholic Beverage Control Enforcement Division and the local law enforcement agency having primary jurisdiction over the permitted outlet.

(D)(i) Any action by the Director of the Alcoholic Beverage Control Division in granting or denying any such permit application is appealable to the Alcoholic Beverage Control Board pursuant to Section 1.51.

(ii) All laws and rules governing the sale and service of alcoholic beverages applicable to the hotel or motel mixed drink permit holder shall likewise apply to the area of approved temporary expansion.

(b) **Definitions of other terms.** All other terms used in this part shall be defined in accordance with the:

- (1) Definitions under the other parts of these rules;
- (2) Laws of the State of Arkansas; or
- (3) Customs and usages of the trade or the people of the State of Arkansas.

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

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules included a notation at the end of subdivision (a)(4)(F) of this section as follows: "(Amended 8-21-13)".

This part as promulgated prior to codification into the Code of Arkansas Rules included a notation at the end of subdivision (a)(6)(D)(ii) of this section as follows: "(Adopted 6-13-91)".

Subpart 2. Permit Procedure

3 CAR § 4-201. Information, statements, and documents to be furnished by applicant in application for permits.

In addition to the information, statements, and documents required to be furnished by an applicant for a permit generally under 3 CAR pt. 1, an applicant for a hotel or motel, or restaurant permit shall submit to the Director of the Alcoholic Beverage Control Division the following:

(1) **Hotel or motel permit.** If the application is for a hotel or motel permit, the following information shall be included in the application:

(A) The exact number of rooms available as sleeping accommodations for guests;

(B) A detailed description of the rooms in the hotel or motel from which controlled beverages will be sold, including:

(i) The dimensions thereof;

(ii) The relation of the location of such rooms to the rest of the hotel or motel;

(iii) A statement of the number of structures composing the hotel or motel; and

(iv) A description of such structures;

(C) A detailed description of the dining rooms or restaurant areas in the hotel, including:

(i) The dimensions thereof;

(ii) A statement of the seating capacity of each room or restaurant area;

(iii) The relation of each room or restaurant area to the rest of the hotel or motel; and

(iv) A statement indicating in which of such dining rooms or restaurant areas controlled beverages will be sold;

(D) A general description of the menu of food usually served, including a general description of the types of food served at each meal served during the day;

(E) A detailed description of the kitchen area in which the food served is prepared, including the:

(i) Dimensions thereof;

(ii) Appliances used in the preparation of the food; and

(iii) Relation of such kitchen area to the rooms in which controlled beverages will be sold and to the rest of the hotel or motel; and

(F) A statement of the number of staff members or employees usually employed in the preparation of food in the kitchen area described; and

(2) **Restaurant permit.** If the application is for a restaurant permit, the following information shall be included in the application:

(A) A description of the rooms in the restaurant in which controlled beverages will be sold, including the:

(i) Dimensions thereof; and

(ii) Relation of the location of such rooms to the rest of the restaurant;

(B) A detailed description of the rooms in the restaurant in which food will be served, including:

(i) The dimensions thereof;

(ii) A statement of the seating capacity of each room;

(iii) The relation of each room to the rest of the restaurant; and

(iv) A statement indicating in which of such rooms controlled beverages will be sold;

(C) A general description of the menu of food usually served, including a general description of the types of food served at each meal served during the day; and

(D) A detailed description of the kitchen area in which the food served is prepared, including:

(i) The dimensions thereof;

(ii) The appliances used in the preparation of the food;

(iii) The relation of such kitchen area to the rooms in which controlled beverages will be sold and to the rest of the restaurant; and

(iv) A statement of the:

(a) Number of staff members and employees usually employed in the preparation and service of food in the kitchen and dining areas described in subdivision (2)(D) of this section; and

(b) The job title in normal usage for the level of employment.

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

3 CAR § 4-202. Person holding hotel or motel, or restaurant permit not to be required to hold other permit for same premises.

No person holding a hotel or motel, or restaurant permit shall be required to hold any other alcoholic beverage permit for the same premises described in the hotel or motel, or restaurant permit.

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

Subpart 3. Conduct of Business

3 CAR § 4-301. Controlled beverages may be served to guest in hotel or motel room.

Any person holding a hotel or motel permit may serve controlled beverages to a guest of the hotel or motel in the room occupied by such guest, provided such guests shall be legally eligible to receive such beverages.

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

3 CAR § 4-302. Controlled beverages to be served only by qualified persons.

Controlled beverages may be served pursuant to a hotel or motel, or restaurant permit only by persons qualified by this part and the laws of the State of Arkansas to serve such controlled beverages, whether such controlled beverages be served:

- (1) On the premises described in the hotel or motel, or restaurant permit; or
- (2) To a guest of a hotel or motel in a room occupied by such guest.

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

3 CAR § 4-303. Hotel or motel in-room hospitality units.

(a)(1) A hotel or motel holding a public mixed drink permit may sell alcoholic beverages for on-premises consumption only in sealed containers from an in-room hospitality unit located in any sleeping room of the permitted hotel or motel occupied by qualified persons.

(2) For the purpose of this section, qualified persons are defined as registered guests, all of whom shall be twenty-one (21) years of age or older.

(b)(1) "In-room hospitality unit" means a closed container, refrigerated or nonrefrigerated, access to the interior of which is restricted by means of a locking device under the control of hotel management.

(2) Each such container shall have permanently affixed thereto a sign that informs the qualified guests of the legal hours the container may be accessed, such hours to correspond to state law regarding the sale or consumption of alcoholic beverages.

(3) The in-room hospitality unit herein described must:

(A) Meet such requirements as may be set forth by the Director of the Alcoholic Beverage Control Division; and

(B) Be approved by the director in writing before sales may commence from such units.

(c)(1) An in-room hospitality unit may be stocked or inventoried only:

(A) By the permittee or its employees who are twenty-one (21) years of age or older; and

(B) During the hours legally prescribed by law for the sale of alcoholic beverages by the hotel or motel.

(2) The following sizes and quantities of alcoholic beverages are authorized to be placed in and sold from an in-room hospitality unit:

(A) Wine and vinous liquor in one-hundred-eighty-seven-milliliter containers, with no more than a total of eight (8) containers per hospitality unit;

(B) Malt beverages in twelve-ounce or less containers, with no more than a total of eight (8) containers per hospitality unit; and

(C)(i) Upon written approval by the director, distilled spirits may be sold only in two-hundred-milliliter or less size containers.

(ii) Any container size less than two hundred milliliters (200 ml):

(a) Is specifically an exception from the provisions of Section 2.19; and

(b) May only be sold in such in-room hospitality units.

(iii) No more than a total of fourteen (14) such distilled spirit containers may be maintained in each hospitality unit.

(iv) Based on container size approval, the director shall determine the appropriate number of such containers allowed in the in-room hospitality unit.

(d) The permittee shall remain accountable under applicable law and rule for sales from the in-room hospitality unit the same as if such were made from any other point of sale within the establishment.

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

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules contained a notation at the end of subsection (d) of this section as follows: "(Amended 7-19-95)".

3 CAR § 4-304. Hotel or motel and restaurant must conform to health, safety, and sanitary standards.

All areas of the premises of a hotel, motel, or restaurant for which a permit has been issued must conform to the minimum health, safety, and sanitary standards prescribed by the Department of Health or by any county or municipality in which such premises is located, whether the area is part of any other part of the premises of such hotel, motel, or restaurant.

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

3 CAR § 4-305. Misrepresentation of brand, keeping beverage in unauthorized container, refilling, diluting, or failing to destroy empty bottles.

No person holding a hotel or motel, or restaurant permit shall:

- (1) Misrepresent the brand of any controlled beverage sold or offered for sale;
- (2) Keep controlled beverages in any bottle or container other than that in which it was purchased;
- (3) Refill or partly refill any bottle or container of controlled beverage or dilute or otherwise tamper with the contents of any bottle or container of controlled beverage; or
- (4) Fail to break and destroy by the close of each business day all such empty bottles or containers other than beer containers.

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

3 CAR § 4-306. All controlled beverages may be sold during legal hours of operating of hotel or motel, or restaurant permit.

All controlled beverages, including beer, may be sold pursuant to a hotel or motel, or restaurant permit at any time authorized by law.

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

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules contained a notation at the end of this section as follows: “(Amended 7-19-95)”.

Subpart 4. Prohibited Conduct and Activities

3 CAR § 4-401. Prohibited conduct and activities under hotel or motel, or restaurant permit.

In addition to the violation or failure to comply with any of the rules under this part and under 3 CAR pt. 1 or with any alcoholic beverage control law of the State of Arkansas, any hotel or motel, or restaurant permit may be suspended or revoked for the violation of or failure to comply with any rule under 3 CAR pt. 3 in regard to retail permits.

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