

## **Title 3. Alcoholic Beverages**

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

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

#### **Part 6. Rules of General Applicability**

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

#### **3 CAR § 6-101. Establishment of special fund.**

(a)(1) In order to maintain adequate funding within the Alcoholic Beverage Control Division to provide for all necessary copying and miscellaneous legal costs, and to ensure the maintenance of regulation books in sufficient quantities within existing budgetary constraints, it is necessary that a fee be charged for regulation books.

(2) Further, it is necessary that a division fund be established into which the fee charged for the books will be deposited.

(3) These revenues may be used for the purpose of printing additional books, official publications, documents, pleadings, or postage costs, as well as for paying any necessary filing fees or costs on any court appeals filed by the division.

(b)(1) Therefore, a fee of ten dollars (\$10.00) shall be charged for each regulation book, and such revenues shall be:

(A) Deposited into the Alcoholic Beverage Control Fund, to be established pursuant to this part; and

(B) Used for the purposes stated hereinabove, as such payment is deemed necessary and proper by the Director of the Alcoholic Beverage Control Division.

(2) Any other miscellaneous fees or receipts may also be deposited into the fund and used as herein provided, as may be subsequently authorized by the General Assembly of 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 1-18-84)”.

**3 CAR § 6-102. Tasting rooms authorized on premises of any licensed winery, brewery, distillery, and rectifying plant — Restrictions.**

As a further exception to the prohibitions contained in 3 CAR § 2-301(6), any winery, brewery, distillery, or rectifying plant operating within the State of Arkansas and licensed by the Alcoholic Beverage Control Division is authorized to maintain a tasting room on their licensed premises where samples of their products can be given to persons touring such facilities, subject to the following restrictions:

(1)(A) Such samples may not be given to any person at any time when the retail sale of such beverages is prohibited by state law.

(B) Samples may not be given to:

(i) Any person who is a minor;

(ii) Any person who is intoxicated; or

(iii) Anyone who would otherwise be disqualified from purchasing alcoholic beverages under state code provisions or these rules;

(2) Not more than two (2) samples of a product may be given to each person; and

(3) The size of spirituous or wine samples shall not exceed two hundred milliliters (200 ml) and the size of malt beverage samples shall not exceed twelve ounces (12 oz.).

**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 2-20-85)”.

**3 CAR § 6-103. Description of the Alcoholic Beverage Control Division and its methods of operation.**

(a)(1) Pursuant to the provisions of the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq., the Alcoholic Beverage Control Division hereby adopts as a rule the following description of its organization as required by said law:

(A) The Alcoholic Beverage Control Division is composed of a five-member Alcoholic Beverage Control Board, a Director of the Alcoholic Beverage Control Division, and staff employees;

(B) The director is the person who is:

(i) In charge of the daily operations of the Alcoholic Beverage Control Division; and

(ii) Statutorily responsible for making the initial decision on whether or not an application for a permit is granted or denied;

(C) The director is the person who also makes the initial decision on any subsequent action taken against a permit for violation of alcoholic beverage control laws and rules;

(D) The five-member board acts as an appeal body from decisions made by the director; and

(E) The Alcoholic Beverage Control Division receives and acts upon applications for permits as authorized by law and rules.

(2) Once an application has been accepted, the Alcoholic Beverage Control Enforcement Division conducts a background investigation of the applicant seeking the permit, as well as an inspection of the location where the permit is sought.

(3) When this information has been returned to the Administration Division, and other statutory time periods are satisfied, an initial decision is made by the director.

(4) This decision can be appealed to the five-member board, which can be appealed in turn to the circuit courts of the State of Arkansas under the provisions of the Arkansas Administrative Procedure Act.

(b)(1) The rules of practice of the Alcoholic Beverage Control Division are set forth by code provisions and by rule, copies of which are available for inspection at the offices of the Alcoholic Beverage Control Division Administration.

(2) On an informal basis, without benefit of a hearing, persons may make inquiry of the director as to the legality of certain operations which may be conducted on or around permitted premises.

(3) Application instruction sheets for each type of permit issued by the Alcoholic Beverage Control Division are available for public inspection and use at the offices of the Alcoholic Beverage Control Division, and persons wishing to seek information or make submissions or requests may address their correspondence to the Alcoholic Beverage Control Division.

(c)(1) All orders, decisions, and opinions adopted by the Alcoholic Beverage Control Division and the board are available for public inspection in conformance with the Arkansas Administrative Procedure Act.

(2) Files of permitted outlets are available for review by the public in the offices of the Alcoholic Beverage Control Division as well.

(d)(1) When a permit is issued, the permit may be disciplined according to various code provisions contained in the:

- (A) Acts of the General Assembly of the State of Arkansas; and
- (B) Rules adopted by the board.

(2) Discipline of a permit can include, but is not limited to:

- (A) Administrative sanctions of revocation;
- (B) Cancellation;
- (C) Suspension;
- (D) Levying of a monetary fine;
- (E) The imposition of more restrictive hours of operation;
- (F) Placement of a warning letter in the file; or
- (G) An order of reprimand.

(3) Any person aggrieved by a decision of the director and who has legal standing to do so may appeal a decision to the board, which is heard on a de novo basis.

(e)(1) Permits are renewable as provided by law on an annual basis, with a late penalty statutorily imposed for renewals tendered after the expiration of the previously issued permit.

(2) No permit may be renewed after October 28 of the calendar year following when the permit expired.

(3) All permits not renewed by that date are automatically cancelled, pursuant to code provisions.

**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 8-20-97)".

**3 CAR § 6-104. Procedure for adoption of rules.**

(a)(1) Pursuant to powers granted by the General Assembly of the State of Arkansas, the Alcoholic Beverage Control Division may adopt or review rules which govern the alcohol distribution business in the State of Arkansas.

(2) The Alcoholic Beverage Control Board shall meet to consider the adoption of proposed rules every two (2) years within one hundred twenty (120) days of adjournment sine die of the General Assembly.

(3) All interested parties may submit proposed rules with this agency for the Director of the Alcoholic Beverage Control Division's consideration within thirty (30) days of adjournment sine die of the General Assembly.

(4) The director shall review all such proposed rules and thereupon determine which, if any, are to be submitted to the board for adoption pursuant to notice and public hearing.

(b)(1) Prior to the adoption of any division rules, a notice shall be placed in a newspaper which has general statewide circulation.

(2) The legal notice requirements will be fulfilled by the publication of a notice of a public hearing in such newspaper at least thirty (30) days prior to the date set for the public hearing.

(c)(1) At the public hearing, individuals who are interested in any rule that is proposed will be allowed to present either oral testimony or submit written comments for consideration by the board as part of the rulemaking process.

(2) Rules adopted by the board shall be filed with the Legislative Council of the General Assembly, the Secretary of State, the office of the Governor, and the Arkansas State Library in conformance with the applicable provisions of the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

**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 8-20-97)".

### **3 CAR § 6-105. The Arkansas responsible permittee program.**

(a)(1) The Alcoholic Beverage Control Board shall oversee a server training program designed to encourage permittees and their employees to treat the sale and service of alcoholic beverages in a responsible manner.

(2) The program shall be entitled "the responsible permittee program".

(b)(1) A permittee who seeks to qualify under the responsible permittee program must provide to the board evidence of compliance with the requirements of this section.

(2) Upon satisfactory proof that the permittee or his or her employees have complied with the requirements, the board shall certify the permittee under the responsible permittee program.

(3) Certification as a responsible permittee shall be renewed annually.

(4) The board may revoke or suspend a permittee's certification for noncompliance with this section.

(c) In order to qualify for certification, the permittee shall comply with the following requirements:

(1) Attend a course of instruction approved and certified by the board which shall include subjects dealing with alcoholic beverages as follows:

- (A) Education on the dangers of drinking and driving;
- (B) State laws regarding the sale of alcoholic beverages for:
  - (i) On-premises consumption;
  - (ii) Off-premises consumption; or
  - (iii) Both;

(C) Methods of recognizing and dealing with underage customers; and

(D) The development of specific procedures for:

- (i) Refusing to sell alcoholic beverages to underage customers;
- (ii) Assisting employees in dealing with underage customers;
- (iii) Dealing with intoxicated customers; and
- (iv) Such other matters as may be deemed appropriate and approved

by the board;

(2) Require each employee who is authorized to sell alcoholic beverages in the normal course of his or her employment to complete the responsible permittee training course set out in subdivision (c)(1) of this section within thirty (30) days of commencing employment; and

(3) Maintain employment records of the training of its employees required by this section.

(d) The board shall consider certification of a permittee in the responsible permittee program in mitigation of administrative penalties or fines for a permittee's or employee's violation of state laws and rules relating to the sale of alcoholic beverages.

(e)(1) There is imposed on each permittee and each employee who applies for certification under this program a maximum attendance fee of twenty-five dollars (\$25.00).

(2) All monies collected under this section shall be:

- (A) Payable directly to the program provider; and

(B) Used to fund such server training programs as may be approved by the board.

(3) Neither permittees nor employees attending such approved programs shall be charged any additional fee by the program provider.

(f)(1) Any applicant seeking to become a program provider under the responsible permittee program must submit to the board a course curriculum that shows how the applicant meets the requirements of subdivision (c)(1) of this section.

(2) The board will send the applicant written notification of certification approval or denial.

(g) A list of the program providers approved by the board under the responsible permittee program shall be:

- (1) Maintained by the Alcoholic Beverage Control Division; and
- (2) Made available upon request by any permittee.

**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 8-19-93)".

**3 CAR § 6-106. Small farm wineries and liquor wholesalers may be authorized to distribute free wine samples in any area of the state.**

(a) Any small farm winery or Arkansas liquor wholesaler licensed by the Alcoholic Beverage Control Division may petition the division for permission to conduct a wine tasting event for educational and promotional purposes in any area of the state, including areas in which the retail sale of alcoholic beverages is not authorized by law.

(b)(1) Application for permission to distribute wine samples must be received by the division at least three (3) weeks prior to the event.

(2) Written notice of the application shall be mailed by the division to the law enforcement officer who has primary jurisdiction over the site where the event will be held.

(3) If the Director of the Alcoholic Beverage Control Division finds that circumstances exist which precluded the timely filing of the application with the division, written approval of the event by the law enforcement officer having primary jurisdiction over the site of the event must accompany any such late filed application received by the division.

(c)(1) The request must be submitted with authorization from the landowner or the party exercising legal control over the area where the event will be held.

(2) The application for permission must describe the area where the event will be held, including the size and dimensions of the area, and the request must clearly describe the character of the location.

(3) No wine tasting event shall be held in any facility already licensed by the division.

(d)(1) As used in this part, "wine" means any product made from grapes, fruits, berries, or other similar products which contains more than one-half of one percent (0.5%) alcohol by weight but which does not contain more than fourteen percent (14%) alcohol by weight, regardless of the location of the manufacturer.

(2) Samples may be distributed Monday through Friday between the hours of 7:00 a.m. and 1:00 a.m. of the next day.

(3) On a Saturday, samples may be distributed only between the hours of 7:00 a.m. and 12:00 midnight.

(4) No sampling activity may take place on a Sunday unless the event is taking place in an area which has voted for the sale of liquor by the drink on a Sunday and, in such event, samples may be distributed between the hours of 10:00 a.m. until 12:00 midnight, or such lesser period of time as may be provided by local ordinance for the retail sale of alcoholic beverages on a Sunday.

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

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

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

**3 CAR § 6-107. Arkansas native brewers authorized to distribute samples of alcoholic beverages in any wet area of the state.**

(a)(1) An Arkansas native brewery, as defined in Acts 2003, No. 1805, is authorized to seek permission from the Alcoholic Beverage Control Division for permission to conduct a beer tasting event for educational and promotional purposes in any wet area of the state.

(2) The request for permission to distribute beer samples must be received by the division at least three (3) weeks prior to the event.

(3) Written notice of the request shall be mailed by the division to the law enforcement officer who has primary jurisdiction over the site where the event will be held.

(4) If the Director of the Alcoholic Beverage Control Division finds that circumstances exist which precluded the timely filing of the request with the division, written approval of the event by the law enforcement officer having primary jurisdiction over the site of the event must accompany any such late filed request received by the division.

(b)(1) The request must be submitted with authorization from the landowner or the party exercising legal control over the area where the event will be held.

(2) The request for permission must:

(A) Describe the area where the event will be held including the size and dimensions of the area; and

(B) Clearly describe the character of the location.

(3) Beer tasting events conducted by Arkansas native brewer permittees may be held in any facility in any wet area of the state permitted by the division if written notice is given to the division as previously described.

(c) The criminal penalties for drinking in public as prohibited by Arkansas Code § 5-71-212 are not applicable to any beer and malt beverage tasting event approved by the division under Acts 2003, No. 1805.

(d)(1) As used in this part, "beer" or "malt" means any malt beverage product manufactured by an Arkansas native brewer permittee.

(2) Samples may be distributed Monday through Friday between the hours of 7:00 a.m. and 1:00 a.m. the next day.

(3) On a Saturday, samples may be distributed only between the hours of 7:00 a.m. and 12:00 midnight.

(4) No sampling activity may take place on a Sunday unless the event is taking place in an area which has voted for the sale of liquor by the drink on a Sunday and, in such event, samples may be distributed between the hours of 12:00 noon and 12:00 p.m. or such lesser period of time as may be provided by local ordinance for the retail sale of alcoholic beverages on a Sunday.

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

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

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

## **Appendix A. Violations and Fines**

**Link:**

<https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/312/3CARpt.6Appendix.pdf>