

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

As Engrossed: H1/15/15 H2/3/15

A Bill

HOUSE BILL 1024

5 By: Representative Broadway
6

For An Act To Be Entitled

8 AN ACT TO INCREASE THE POPULATION LIMITATION FOR THE
9 ISSUANCE OF LIQUOR PERMITS; TO REPEAL THE EXCEPTIONS
10 TO THE POPULATION LIMITATION; TO CLARIFY THE LAW
11 REGARDING THE DISTANCE BETWEEN LIQUOR PERMITEES AND
12 *CHURCHES AND SCHOOLS; TO DECLARE AN EMERGENCY; AND*
13 *FOR OTHER PURPOSES.*
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Subtitle

16 TO AMEND THE RULE FOR THE ISSUANCE OF
17 LIQUOR PERMITS; TO CLARIFY PERMITTED
18 DISTANCES BETWEEN LIQUOR STORES,
19 *CHURCHES, AND SCHOOLS; AND TO DECLARE AN*
20 *EMERGENCY.*
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
25

26 SECTION 1. Arkansas Code § 3-4-201(c) and (d), concerning restrictions
27 on the number of permits the Alcoholic Beverage Control Board may issue, is
28 amended to read as follows:

29 (c) The board has the discretion to determine the number of permits to
30 be granted in each county of this state or within the corporate limits of any
31 municipality of this state and to determine the location and the persons to
32 whom the permits shall be issued, under the following conditions:

33 (1)(A) The number of permits allowing the off-premises sale of
34 vinous (except small farm wines), spirituous, or malt liquor in a county or
35 political subdivision of the county which permits the sale shall not exceed a
36 ratio of one (1) permit for every ~~five thousand (5,000)~~ seven thousand five



1 hundred (7,500) population residing in that county or political subdivision
2 of the county.

3 (B) Population of the county or political subdivision of
4 the county shall:

5 (i) Be determined according to the most recent
6 federal decennial census; and

7 (ii) Count all residents of the county or political
8 subdivision of the county, including without limitation the residents of a
9 dry political subdivision of a county; and

10 (2) A new permit that is issued in a county or political
11 subdivision following the most recent federal decennial census shall be
12 issued under the following restrictions:

13 (A) Additional permits may be issued on a ratio of one (1)
14 for every additional ~~five thousand (5,000)~~ seven thousand five hundred
15 (7,500) population within the county or political subdivision of the county;

16 (B)(i) A qualified applicant may apply for a permit.

17 (ii) Qualifications are to be set by the board and
18 its determination of the public convenience and advantage;

19 (3)(A) If it is determined that a county or political
20 subdivision of the county is entitled to additional permits when warranted by
21 the most recent federal decennial census, the board will announce before the
22 last date for applications the number of new permits, if any, which may be
23 issued in the county or political subdivision of the county.

24 (B) In the event that the most recent federal decennial
25 census population figures decline in a county or political subdivision of the
26 county:

27 (i) Existing permits shall not be cancelled or
28 revoked for the decline in population;

29 (ii) The quota ratio shall not be applied to the
30 county or political subdivision of the county until the population in the
31 county or political subdivision of the county reaches a number equaling one
32 (1) permit to every ~~five thousand (5,000)~~ seven thousand five hundred (7,500)
33 population; and

34 (iii) A new permit shall not be issued in the county
35 or political subdivision of the county until the population warrants.

36 (C) A transfer of locations from one county to another

1 county is not allowed.

2 (D) If a holder of a permit for the sale of vinous,
3 ~~{except small farm wines}~~, spirituous, or malt liquor surrenders the permit
4 in a county or political subdivision of the county where the ratio no longer
5 meets the ~~one-to-five-thousand-population~~ one-to-seven-thousand-five-hundred-
6 population requirement, new applications will not be accepted until that
7 *ratio is reestablished at a subsequent federal decennial census;*

8 (4)(A)(i) If a permit holder does not conduct business under a
9 permit issued for a period of more than thirty (30) days, the permit shall be
10 surrendered to the Director of the Alcoholic Beverage Control Division and
11 shall be placed on inactive status.

12 (ii) The permit may remain inactive for six (6)
13 months or until the permit holder notifies the director that he or she is
14 ready to resume business, whichever is longer.

15 (B) To secure the return of the permit, the permit holder
16 shall file with the director a written statement showing:

17 (i) That all taxes and fees owing to the state have
18 been paid;

19 (ii) The reason for the suspension of business
20 activities; and

21 (iii) The date business activity will resume.

22 (C)(i) The permit holder may petition the board for an
23 extension of inactive status for an additional six-month period.

24 (ii) The board may grant an initial extension upon a
25 showing by the permit holder and a finding by the board that:

26 (a) Business circumstances exist to justify an
27 extension;

28 (b) The delay to return to business was not
29 due to mere deferral or inattention on the part of the permit holder; and

30 (c) The inactive status should be extended.

31 (iii)(a) The permit holder may appeal to the board
32 for a second extension of inactive status for an additional six-month period,
33 but only upon a showing by the permit holder and a finding by the board that
34 emergency circumstances exist to justify a final extension.

35 (b) "Emergency circumstances" are those delays
36 in return to business which are beyond the control, planning, or foresight of

1 the permit holder, including without limitation, a:

- 2 (1) Delay due to a natural disaster;
 3 (2) Pending court action;
 4 (3) Building construction problem; ~~and~~

5 or

- 6 (4) Contested insurance claim.

7 (D) A permit remaining on inactive status for a period of
 8 more than eighteen (18) months or which has not been granted an extension
 9 *under this subdivision shall expire; and*

10 (5)(A) *This section and §§ 3-4-202 and 3-4-208, except a permit*
 11 *on inactive status for more than eighteen (18) months after the provisions of*
 12 *subdivision (c)(4) of this section become effective or which has expired in*
 13 *accordance with subdivision (c)(4) of this section, do not divest any permit*
 14 *holder holding the permit on July 1, 1991, regardless of the quota ratio, of*
 15 *his or her permit.*

16 (B) *In a county or political subdivision of the county*
 17 *which has a ratio lower than the permit quota ratio of one-to-five-thousand-*
 18 *population, the permit holder shall be allowed to continue under subdivision*
 19 *(a)(3)(B) of this section.*

20 ~~(d) This section shall apply only to applications for permits to~~
 21 ~~dispense vinous (except small farm wines), spirituous, or malt liquor filed~~
 22 ~~with the board after July 1, 1991.~~

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 24 SECTION 2. Arkansas Code § 3-4-206 is amended to read as follows:

25 3-4-206. Operation of retail liquor business near church or
 26 schoolhouse prohibited.

27 (a) No new permit to engage in the retail liquor business in this
 28 state shall be issued by the Director of the Alcoholic Beverage Control
 29 Division for the location of any business situated within ~~two hundred (200)~~
 30 ~~yards~~ one thousand feet (1,000') of any church or schoolhouse.

31 ~~(b) However, after August 13, 2001:~~

32 ~~(1) No new permit to engage in the retail liquor business in~~
 33 ~~this state may be issued by the director for the location of any business~~
 34 ~~situated within one thousand feet (1,000') of any church or schoolhouse; and~~

35 ~~(2)(A)(b)~~ No existing permit to engage in the retail liquor business
 36 in this state may be transferred to a location within one thousand feet

1 (1,000') of any church or schoolhouse.

2 ~~(B) As an exception to subdivision (b)(2)(A) of this~~
3 ~~section, if any retail liquor business in this state already exists within~~
4 ~~one thousand feet (1,000') of one (1) or more churches or schoolhouses, then~~
5 ~~that same retail liquor store may be allowed to transfer to a new location~~
6 ~~that is within one thousand feet (1,000') of the closest church or~~
7 ~~schoolhouse to the present liquor store location if the new location is~~
8 ~~determined by the Alcoholic Beverage Control Division to serve the public~~
9 ~~convenience and advantage.~~

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11 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
12 General Assembly of the State of Arkansas that this act is essential to the
13 public interest and operation of the alcohol laws in the state of Arkansas;
14 that this act eliminates conflicting language and allows consistent
15 application of the alcohol laws; and that this act is immediately necessary
16 because controlling the number of liquor permits allowable in a county is in
17 the immediate public interest. Therefore, an emergency is declared to exist,
18 and this act being immediately necessary for the preservation of the public
19 peace, health, and safety shall become effective on:

20 (1) The date of its approval by the Governor;

21 (2) If the bill is neither approved nor vetoed by the Governor,
22 the expiration of the period of time during which the Governor may veto the
23 bill; or

24 (3) If the bill is vetoed by the Governor and the veto is
25 overridden, the date the last house overrides the veto.

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27 /s/Broadaway

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