

1 State of Arkansas
2 91st General Assembly
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4

As Engrossed: H3/14/17

A Bill

HOUSE BILL 2197

5 By: Representatives G. McGill, Penzo
6

For An Act To Be Entitled

8 AN ACT TO AMEND THE LAW REGARDING THE OPERATIONS OF
9 RETAIL LIQUOR STORES AND LIQUOR DISTRIBUTORS; AND FOR
10 OTHER PURPOSES.
11

Subtitle

12
13
14 TO AMEND THE LAW REGARDING THE OPERATIONS
15 OF RETAIL LIQUOR STORES AND LIQUOR
16 DISTRIBUTORS.
17

18
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 *SECTION 1. Arkansas Code § 3-4-404 is amended to read as follows:*

22 *3-4-404. Class B violations.*

23 *The following acts on the part of the permittee are Class B violations:*

24 *(1) Pledge, hypothecation, or use of a permit as collateral;*

25 *(2) Defacing, destroying, or altering a permit;*

26 *(3) Transporting controlled beverages in violation of*
27 *regulations or law;*

28 *(4) Manufacturing, selling, offering, dispensing, or giving*
29 *away, possessing, or transporting controlled beverages upon which tax is not*
30 *paid;*

31 *(5) Failure to maintain proper records by a manufacturer;*

32 *(6) Failure by a wholesaler to maintain proper records;*

33 *(7) Failure by a wholesaler to register new brands;*

34 *(8)(A) Giving samples without authorization.*

35 *(B) Assisting a licensee or permittee under this title is*
36 *not a gift to the licensee or permittee or an affiliate of the licensee or*



1 permittee under this subdivision (8).

2 (C) A rewards program offered by a retail liquor permittee
 3 to a retail customer who frequently makes purchases is not a gift under this
 4 subdivision (8);

5 (9)(A) Sales, including sales from a wholesaler to a retailer
 6 for anything other than cash, ~~or~~ check, debit card, or credit card.

7 (B)(i) A wholesaler's invoice to a retailer shall reflect
 8 separately any credit card surcharge added.

9 (ii) The amount of a surcharge on an invoice under
 10 subdivision (9)(B)(i) of this section shall not exceed the amount charged to
 11 the wholesaler by the credit card processor;

12 (10) Delivery without an invoice by a wholesaler;

13 (11) Selling to the insane;

14 (12) Selling to bootleggers;

15 (13) Accepting food stamps in payment for controlled beverages;

16 (14) Unlawful manufacture or sale in a dry area; and

17 (15) Sale of controlled beverages by vending machine.

18
 19 SECTION 2. Arkansas Code § 3-5-104(c), concerning wine tasting events,
 20 is repealed.

21 ~~(c) No tasting event may be held pursuant to this section in any~~
 22 ~~facility licensed by the division.~~

23
 24 SECTION 3. Arkansas Code § 3-5-104(f)(2)(B), concerning samples at
 25 wine tasting events, is amended to read as follows:

26 (B) The samples shall be limited to a total of:

27 (i) ~~Three (3) one-half ounce (0.5 oz.)~~ Up to six
 28 ounces (6 oz.) wine servings per customer each day for on-premises
 29 consumption;

30 (ii) ~~Two (2) two-ounce (2 oz.)~~ Up to eight ounces (8
 31 oz.) beer servings per customer each day for on-premises consumption; and

32 (iii) ~~Two (2) one-half ounce (0.5 oz.)~~ Up to three
 33 ounces (3 oz.) spirit servings per customer each day for on-premises
 34 consumption.

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 36 SECTION 4. Arkansas Code Title 3, Chapter 4, is amended to add an

1 additional subchapter to read as follows:

2
3 Subchapter 11 – Delivery Service License

4
5 3-4-1101. Delivery service license – Created.

6 (a) Beginning September 1, 2017, there is created a delivery service
7 license to be issued by the Alcoholic Beverage Control Board to a delivery
8 service that:

9 (1) Delivers prepared food from restaurants to customers as part
10 of the delivery service's business; and

11 (2) Seeks to deliver sealed packages of alcoholic beverages or
12 beer or both sold by a retailer licensed under this title.

13 (b)(1)(A) A person, partnership, limited liability company, or
14 corporation desiring to deliver sealed packages of alcoholic beverages or
15 beer sold by a retailer licensed under this title as part of the delivery
16 service shall apply to the board for a delivery service license.

17 (B) The application shall be in writing and verified on
18 forms authorized by the board.

19 (2)(A) A person applying for a delivery service license shall be
20 twenty-one (21) years of age or older and shall not have been convicted of a
21 felony.

22 (B) The board may issue a delivery service license to an
23 individual, partnership, limited liability company, or corporation that is
24 registered to do business in the State of Arkansas regardless of the
25 residence of the ownership of the individual, partnership, limited liability
26 company, or corporation.

27 (c) Each applicant for a delivery service license shall pay to the
28 board an annual license fee of three hundred dollars (\$300).

29 (d)(1) Each delivery service licensee shall conduct or have a third
30 party conduct a local and national criminal background check on a potential
31 employee that seeks to be licensed under this subchapter.

32 (2) A background check under this section shall include a
33 multistate criminal records locator or other similar commercial nationwide
34 database with validation.

35 (e) Each delivery service licensee shall ensure that each employee
36 delivering alcoholic beverages or beer is licensed under this subchapter.

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2 3-4-1102. Delivery employee license – Created.

3 (a) Beginning September 1, 2017, there is created a delivery employee
4 license to be issued by the Alcoholic Beverage Control Board to an individual
5 employed by a person who delivers alcoholic beverages or beer under this
6 subchapter.

7 (b)(1) An individual seeking a delivery employee license shall make
8 application for the license by completing an application form prescribed by
9 the board.

10 (2) An applicant shall demonstrate that the applicant:

11 (A) Is at least twenty-one (21) years of age;

12 (B) Has had a background check done under this subchapter
13 to ensure the individual has not been convicted of a crime involving the sale
14 or distribution of alcohol within the previous eight (8) years and has not
15 been convicted of any felony within the previous five (5) years;

16 (C) Has a valid driver's license; and

17 (D)(i) Has completed a responsible alcohol server course
18 approved by the Alcoholic Beverage Control Division.

19 (ii) A course offered under subdivision (b)(2)(D)(i)
20 of this section shall be completed every two (2) years.

21 (c) An individual applying for a license under this section shall pay
22 to the board a fee of fifty dollars (\$50.00).

23 (d) A delivery employee license shall be valid for two (2) years.

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25 3-4-1103. Delivery service operations.

26 (a) Beginning September 1, 2017, a delivery service that delivers
27 prepared food from restaurants to customers as part of the delivery service's
28 business may deliver sealed packages of alcoholic beverages or beer or both
29 sold by a retailer licensed under this title to the delivery service's
30 customers if:

31 (1) The amount of alcoholic beverages and beer delivered to a
32 customer does not exceed more than one gallon (1 gal.) per customer per
33 delivery;

34 (2) At least fifty percent (50%) of the delivery service's gross
35 sales come from the delivery of food products or prepared food;

36 (3) A delivery service employee who delivers alcoholic beverages

1 or beer or both is twenty-one (21) years of age or older;

2 (4) The delivery service has made more than one hundred thousand
3 (100,000) deliveries in the State of Arkansas;

4 (5) The delivery service has a written agreement with a retailer
5 to deliver the retailer's alcoholic beverages or beer to customers; and

6 (6) Before a customer is allowed possession of alcoholic
7 beverages or beer, a delivery service employee who delivers alcoholic
8 beverages or beer requires the customer to show a valid, government-issued
9 document, such as a driver's license or other form of identification deemed
10 acceptable to the employee that includes the photograph and birth date of the
11 customer establishing that the customer is twenty-one (21) years of age or
12 older.

13 (b) A delivery service shall not be prohibited from charging a fee to
14 customers when delivering sealed packages of alcoholic beverages or beer sold
15 by a retailer.

16 (c) A delivery service shall make its services available to all permit
17 holders under this title in their service area.

18 (d) A delivery under this subchapter shall not be made to any area of
19 the state in which the manufacture or sale of intoxicating liquor is
20 prohibited.

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22 /s/G. McGill
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