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2 93rd General Assembly
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4

As Engrossed: S3/17/21

A Bill

SENATE BILL 473

5 By: Senator Irvin
6 By: Representative L. Johnson
7

For An Act To Be Entitled

9 AN ACT TO ESTABLISH A STATE PARK RESTAURANT PRIVATE
10 CLUB PERMIT; TO AUTHORIZE A STATE PARK RESTAURANT
11 PRIVATE CLUB PERMIT HOLDER TO SERVE ALCOHOLIC
12 BEVERAGES; AND FOR OTHER PURPOSES.
13
14

Subtitle

15 TO ESTABLISH A STATE PARK RESTAURANT
16 PRIVATE CLUB PERMIT; AND TO AUTHORIZE A
17 STATE PARK RESTAURANT PRIVATE CLUB PERMIT
18 HOLDER TO SERVE ALCOHOLIC BEVERAGES.
19
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 SECTION 1. Arkansas Code § 3-4-601(a), concerning the various kinds of
25 alcoholic beverage permits, is amended to add an additional subdivision to
26 read as follows:

27 (10) State park restaurant private club permit.
28

29 SECTION 2. Arkansas Code § 3-9-222(a)(1), concerning the procedure for
30 obtaining a private club permit, is amended to read as follows:

31 (a)(1) ~~Application~~ Except as provided in § 3-9-701 et seq.,
32 application for a permit to operate as a private club may be made to the
33 governing body of the county or municipality in which the private club seeks
34 to be located.
35

36 SECTION 3. Arkansas Code Title 3, Chapter 9, is amended to add an



1 additional subchapter to read as follows:

2 Subchapter 7 – State Park Restaurant Private Club Permit

3

4 3-9-701. Definitions.

5 As used in this subchapter:

6 (1) "Alcoholic beverage" means a beverage containing more than
7 five-tenths percent (0.5%) of alcohol by weight;

8 (2) "Restaurant" means a public or private place that:

9 (A) Is kept, used, maintained, advertised, and held out to
10 the public or to a private or restricted membership as a place where complete
11 meals are actually and regularly served;

12 (B) Has adequate and sanitary kitchen and dining
13 equipment;

14 (C) Has seating capacity for a least fifty (50) people;

15 (D) Has sufficient number and type of employees to
16 prepare, cook, and serve suitable food for its guests or members;

17 (E) Serves at least one (1) meal per day; and

18 (F) Is open for business a minimum of five (5) days per
19 week, with the exception of holidays, vacations, and periods of redecorating;
20 and

21 (3) "State park" means a state park classified or reclassified
22 as an official state park under § 22-4-201(1) or § 22-4-202.

23

24 3-9-702. State park restaurant private club.

25 (a) A state park restaurant private club applicant shall be a
26 nonprofit corporation organized and existing under the laws of this state for
27 a period of not less than one (1) year before applying for a state park
28 private club permit under this subchapter.

29 (b) The net revenues of the state park restaurant private club shall
30 not directly or indirectly benefit its members, except for the payment of
31 bona fide expenses of the state park restaurant private club's operations.

32 (c) Activities at the state park restaurant private club shall be
33 conducted for some common recreational, social, patriotic, political,
34 national, benevolent, athletic, community hospitality, professional
35 association, entertainment, or other object or purpose and not solely for the
36 consumption of alcoholic beverages.

1 (d)(1) At the time of application for a state park restaurant private
2 club permit, the entity shall:

3 (A) Have not fewer than one hundred (100) members; and

4 (B) Own or lease, be the holder of a buy-sell agreement or
5 offer and acceptance, or have an option to lease a building, property, or
6 space for the reasonable comfort and accommodation of its members and the
7 families and guests of its members.

8 (2) The state park restaurant private club shall restrict the
9 use of club facilities to its members and the families and guests of its
10 members.

11 (3) The state park restaurant private club shall be located on
12 property classified as a state park and under the control of the Department
13 of Parks, Heritage, and Tourism and the State Parks, Recreation, and Travel
14 Commission.

15 (e) For purposes of this subchapter, a person is a member of the state
16 park restaurant private club only upon ordering an alcoholic beverage as
17 defined in § 3-9-701.

18
19 3-9-703. Procedure for obtaining a state park restaurant private club
20 permit – Scope.

21 (a)(1) Application for a permit to operate as a state park restaurant
22 private club may be made to the:

23 (A) Governing body of the county in which the state park
24 is located; and

25 (B) Secretary of the Department of Parks, Heritage, and
26 Tourism.

27 (2) If the application for a permit to operate as a state park
28 restaurant private club under subdivision (a)(1) of this section is approved
29 by both the governing body of the county by ordinance and by the secretary,
30 the Alcoholic Beverage Control Division may issue a permit to operate as a
31 state park restaurant private club to the applicant for the proposed
32 location.

33 (b)(1) The application for a state park restaurant private club shall
34 be submitted to the division and accompanied by an annual permit fee of one
35 thousand five hundred dollars (\$1,500).

36 (2) In an area in which the sale of alcoholic beverages has not

1 been authorized by local option as provided under § 3-8-201 et seq., the
2 application for a state park restaurant private club permit shall be
3 submitted to the division and accompanied by an additional application fee of
4 one thousand five hundred dollars (\$1,500).

5 (c)(1) After filing an acceptable application with the Director of the
6 Alcoholic Beverage Control Division, the applicant shall cause to be
7 published at least one (1) time each week for four (4) consecutive weeks in a
8 legal newspaper of general circulation in the city in which the premises are
9 situated or, if the premises are not in a city, in a newspaper of general
10 circulation for the locality where the business is to be conducted, a notice
11 that the applicant has applied for a permit to dispense alcoholic beverages
12 on the premises.

13 (2) The notice shall be:

14 (A) In such form as the director shall prescribe by rule
15 or order; and

16 (B) Verified.

17 (3) The notice shall give the names of the managing agent and
18 the nonprofit corporation and shall state:

19 (A) That the manager, at least one (1) partner, or the
20 majority stockholder is a citizen of Arkansas;

21 (B) That he or she is of good moral character;

22 (C) That he or she has never been convicted of a felony or
23 had a license to sell or dispense alcoholic beverages revoked within the five
24 (5) years preceding the date of the notice; and

25 (D) That he or she has never been convicted of violating
26 the laws of this state or of any other state governing the sale or dispensing
27 of alcoholic beverages.

28 (d)(1) Within five (5) days after filing an application for a permit
29 to dispense alcoholic beverages on the premises, a notice of the application
30 shall be posted in a conspicuous place at the entrance to the premises.

31 (2) The applicant shall notify the director of the date when the
32 notice is first posted.

33 (3) A state park restaurant private club permit shall not be
34 issued to an applicant until proper notice has been so posted on the premises
35 for at least thirty (30) consecutive days.

36 (4)(A) The notice shall be in such form as the director shall

1 prescribe by rule or order.

2 (B) The notice shall be:

3 (i) At least eleven inches (11") in width and
4 seventeen inches (17") in height; and

5 (ii) Printed in black lettering on a yellow
6 background.

7 (e)(1) Upon receipt of an application for a state park restaurant
8 private club permit and notification of the posted notice as required under
9 subsection (d) of this section, the director shall immediately mail a copy of
10 the application to the sheriff, chief of police, prosecuting attorney, and
11 city board of directors or other governing body over the city in which the
12 premises are located.

13 (2) A state park restaurant private club permit shall not be
14 issued by the director until at least thirty (30) days have passed from the
15 mailing of the notices required by this section.

16 (3) If the director receives notification of an objection to the
17 issuance of a state park restaurant private club permit from a governing
18 official in the city or county within the thirty (30) days required under
19 subdivision (d)(3) of this section, the director shall not issue the state
20 park restaurant private club permit until he or she has held a public
21 hearing.

22 (f) The director may issue a state park restaurant private club permit
23 as authorized in this section upon determination that the applicant is
24 qualified and that the application is in the public interest.

25 (g) Upon issuance of a state park restaurant private club permit, the
26 state park restaurant private club permit holder may:

27 (1) Serve to members for on-premises consumption during legal
28 operating hours the alcoholic beverages furnished or drawn from private
29 stocks belonging to members, individually or in common under a locker, pool,
30 or revolving fund system as provided in § 3-9-221 or purchased from a retail
31 liquor store that maintains a federal permit;

32 (2) Store alcoholic beverages at the state park restaurant
33 private club to serve to members for on-premises consumption; and

34 (3) Store alcoholic beverages at a separate facility approved by
35 the division as needed to meet the demands of members.

36

1 3-9-704. Permit renewal – Supplemental taxes.

2 (a)(1) A state park restaurant private club permit shall be renewed on
3 or before June 30 of each calendar year for the fiscal year beginning July 1.

4 (2) A state park restaurant private club permit issued between
5 January and July 1 of any year shall be at one-half ($\frac{1}{2}$) of the amount of the
6 fee provided in § 3-9-703.

7 (b)(1) In addition, there is levied a supplemental tax of ten percent
8 (10%) upon the gross proceeds or gross receipts derived by the state park
9 restaurant private club from the charges to members for the preparation and
10 servicing of mixed drinks or for the cooling and serving of beer and wine,
11 drawn from the private stocks of the members as provided in § 3-9-221, for
12 consumption only on the premises where served.

13 (2) In addition to the tax levied under subdivision (b)(1) of
14 this section, a supplemental tax of four percent (4%) is levied on the gross
15 proceeds or gross receipts derived by the state park restaurant private club
16 from the charges to members for the preparation and serving of mixed drinks
17 drawn from the private stocks of the members as provided in § 3-9-221 for
18 consumption only on the premises where served.

19 (c)(1) The supplemental tax shall be reported and paid to the
20 Secretary of the Department of Finance and Administration in the same manner
21 and at the same time as the gross receipts tax under the Arkansas Gross
22 Receipts Act of 1941, § 26-52-101 et seq., and shall be in addition to the
23 tax.

24 (2)(A) The tax levied under subdivision (b)(2) of this section
25 shall be credited as special revenues to the University of Arkansas Medical
26 Center Fund.

27 (B)(i) The funds credited under subdivision (c)(2)(A) of
28 this section shall be used exclusively for making loan repayments for
29 construction projects authorized by Acts 1989 (1st Ex. Sess.), No. 261, until
30 the loan is paid in full.

31 (ii) After the Chancellor of the University of
32 Arkansas for Medical Sciences certifies in writing to the Chief Fiscal
33 Officer of the State that the loan has been repaid in full, then revenue from
34 the tax collected under subdivision (b)(2) of this section may be used for
35 any purpose authorized by law.

36 (d) The secretary shall promulgate reasonable rules for the

1 enforcement and collection of the tax levied herein, including a requirement
2 that each state park restaurant private club permit holder maintain records
3 showing all such charges made.

4 (e) The taxes herein prescribed may be passed on to the members.

5 (f)(1) In addition to the fee or supplemental tax as levied herein,
6 any city or incorporated town or any county in which the permitted premises
7 are located, if located outside the limits of a city or incorporated town,
8 may levy an additional permit fee or supplemental tax or both additional
9 permit fee and supplemental tax not to exceed one-half ($\frac{1}{2}$) of the amount of
10 the fee or rate provided in this section.

11 (2) All fees and taxes levied hereunder by any city or county
12 shall be used for city or county general purposes or for city or county
13 economic development purposes.

14 (g) Holders of a bed and breakfast private club permit are exempt from
15 the supplemental taxes in subsections (b) and (f) of this section.

16 (h)(1) The Department of Finance and Administration shall notify the
17 city or county of an audit for the supplemental tax on the sale of alcoholic
18 beverages consumed on the premises if:

19 (A) The department audits a state park restaurant private
20 club;

21 (B) The department makes an assessment related to the
22 audit against the state park restaurant private club; and

23 (C) The state park restaurant private club operates in a
24 city or county that imposes a supplemental tax on the sale of alcoholic
25 beverages consumed on the premises under subsection (f) of this section.

26 (2) The city or county may use this information to administer
27 its supplemental tax on the sale of alcoholic beverages consumed on the
28 premises.

29 (3) A city or county provided information under this subsection
30 is subject to all of the confidentiality requirements of § 26-18-303.

31
32 3-9-705. Unlawful sales.

33 (a) A state park restaurant private club permit holder shall not sell
34 alcoholic beverages either by the package or drink.

35 (b) Alcoholic beverages, beer, and wine owned by members may be stored
36 on the premises of the state park restaurant private club.

1 (c) If any state park restaurant private club permit holder shall
2 sell, barter, loan, or give away any alcoholic beverages in violation of this
3 subchapter or other alcoholic beverage control laws of this state, the state
4 park restaurant private club permit shall be revoked.

5
6 3-9-706. Rules.

7 The Alcoholic Beverage Control Board shall establish rules with respect
8 to state park restaurant private club permits issued under this subchapter to
9 assure compliance and to prohibit any state park restaurant private club
10 permit holder from engaging in the unlawful sale of alcoholic beverages.

11
12 3-9-707. Advertising.

13 (a) It is unlawful for a state park restaurant private club permit
14 holder to use advertising media, including any signs or trade names on the
15 exterior of the building, to promote the consumption and use of alcoholic
16 beverages or to advertise or announce the price of service of alcoholic
17 beverages for on-premises consumption in a county where its voters have not
18 authorized the sale of alcoholic beverages in a local option election under
19 Initiated Act No. 1 of 1942, as amended, §§ 3-8-201 – 3-8-203, and 3-8-205 –
20 3-8-209.

21 (b)(1) A state park restaurant private club permit, regardless of
22 whether or not the voters in the county authorized the sale of alcoholic
23 beverages in a local option election, shall be entitled to use the
24 advertising media to advertise or announce social functions of general
25 interest, including without limitation:

26 (A) A golf tournament;

27 (B) A charity ball;

28 (C) An entertainment event; or

29 (D) A similar activity.

30 (2) The social function shall be held within the confines of the
31 state park restaurant private club property.

32 (3) The advertising for the social function shall be preceded by
33 the words “Notice to Members” and the name of the club or organization
34 sponsoring such social activity.

35
36 3-9-708. Inspection of premises and records.

1 (a) A state park restaurant private club permit shall not be issued
2 under this subchapter unless the state park restaurant private club permit
3 holder has consented in writing that the permitted premises and its books and
4 records are open at all times to all law enforcement and tax officials and
5 officials of the Alcoholic Beverage Control Division, the Alcoholic Beverage
6 Control Enforcement Division, and the Secretary of the Department of Finance
7 and Administration without requirement of warrant or other legal process.

8 (b) A state park restaurant holding a state park restaurant private
9 club permit under this subchapter shall not market, sell, or otherwise
10 furnish the names of its members or any other information pertaining to its
11 members to any other public or private entity, except as provided in
12 subsection (a) of this section.

13
14 SECTION 4. DO NOT CODIFY. Rules.

15 (a) When adopting the initial rules to implement this act, the final
16 rule shall be filed with the Secretary of State for adoption under § 25-15-
17 204(f):

18 (1) On or before January 1, 2022; or

19 (2) If approval under § 10-3-309 has not occurred by January 1,
20 2022, as soon as practicable after approval under § 10-3-309.

21 (b) The Director of the Alcoholic Beverage Control Division shall file
22 the proposed rule with the Legislative Council under § 10-3-309(c)
23 sufficiently in advance of January 1, 2022, so that the Legislative Council
24 may consider the rule for approval before January 1, 2022.

25
26 SECTION 5. DO NOT CODIFY.

27 An existing private club permit holder located on property classified
28 as a state park that holds a private club permit as of the effective date of
29 this act:

30 (1) Is not required to separately apply for a state park
31 restaurant private club permit; and

32 (2) May be transferred to a state park restaurant private club
33 permit by the Alcoholic Beverage Control Division.

34
35 /s/ Irvin
36