

1 State of Arkansas *As Engrossed: H2/9/17 S2/22/17*

2 91st General Assembly

A Bill

3 Regular Session, 2017

HOUSE BILL 1463

4

5 By: Representatives Capp, *Barker, Dalby, Davis, Eubanks, Gazaway, Lemons, Lynch, Maddox, Penzo,*
6 *Rye, Vaught, Warren, Watson, J. Williams, Wing*

7 *By: Senator G. Stubblefield*

8

9

For An Act To Be Entitled

10 AN ACT TO PERMIT THE DIRECT SHIPMENT OF WINES FROM
11 SMALL FARM WINERIES TO ARKANSAS RESIDENTS WITHOUT AN
12 IN-PERSON WINERY VISIT OR IN-PERSON PURCHASE AT THE
13 WINERY; TO CREATE A SYSTEM FOR DISTRIBUTING SHIPPING
14 PERMITS; TO DECLARE AN EMERGENCY; AND FOR OTHER
15 PURPOSES.

16

17

18

Subtitle

19 TO PERMIT THE DIRECT SHIPMENT OF WINES
20 FROM SMALL FARM WINERIES TO ARKANSAS
21 RESIDENTS WITHOUT A WINERY VISIT; TO
22 CREATE A SYSTEM FOR DISTRIBUTING SHIPPING
23 PERMITS; AND TO DECLARE AN EMERGENCY.

24

25

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

27

28 SECTION 1. Arkansas Code § 3-5-1702 is amended to read as follows:
29 3-5-1702. Definitions.

30 As used in this subchapter:

31 (1) "Small farm winery" means a wine-making establishment that:

32 (A) Is licensed under § 3-5-1601 et seq.; and

33 (B) Produced by fermentation at least *eight hundred*
34 gallons (800 gals.) of wine in the previous calendar year, as reported on the
35 winery's TTB F 5120-17 Report of Wine Premises Operations;

36 ~~(1)~~(2) "Vinous liquor" means the fermented juices of fruits



1 containing more than five percent (5%) and not more than twenty-one percent
2 (21%) of alcohol by weight; and

3 ~~(2)~~(3) "Winery" means an establishment that makes vinous liquor.
4

5 SECTION 2. Arkansas Code § 3-5-1703(a), concerning registration for
6 direct delivery of wines, is amended to read as follows:

7 (a)(1) Unless registered under this subchapter, a winery licensed by
8 this state or the state where its principal place of business is located
9 shall not ship vinous liquor to an Arkansas consumer.

10 (2) This section does not apply to a small farm winery licensed
11 under § 3-5-1601 et seq.
12

13 SECTION 3. Arkansas Code Title 3, Chapter 5, Subchapter 17, is amended
14 to add additional sections to read as follows:

15 3-5-1709. Small farm winery shipment.

16 (a)(1) A small farm winery licensee with a wine wholesale permit under
17 § 3-5-1602(c)(1)(E) may ship small farm winery wine under this subchapter to
18 a private resident without the private resident having been physically
19 present or having made an in-person purchase at the small farm winery if the
20 shipment includes only small farm winery wine.

21 (2) Additional shipping registration of a small farm winery is
22 not required for a shipment under subdivision (a)(1) of this section.

23 (b) A private resident shall provide identification to the small farm
24 winery proving that he or she is twenty-one (21) years of age or older.

25 (c) A small farm winery may ship only one (1) case of small farm
26 winery wine per private resident in any month.

27 (d) A small farm winery shipping under this subchapter shall ensure
28 that all containers of small farm winery wine delivered within this state are
29 conspicuously labeled as follows:

30 "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR
31 DELIVERY".

32 (e)(1) A small farm winery shall collect all sales taxes and excise
33 taxes due on a sale to an individual of this state as if the sale took place
34 on the premises of the small farm winery, including without limitation taxes
35 under §§ 3-5-1605, 3-7-104, 3-7-111, and 3-7-201.

36 (2) Taxes collected by the small farm winery shall be submitted

1 to the Department of Finance and Administration as directed without
2 limitation under §§ 3-5-1605, 3-7-104, 3-7-111, and 3-7-201.

3 (3) A small farm winery shall source the collection of sales and
4 use taxes to the purchaser's delivery address in accordance with § 26-52-
5 521(b)(2).

6 (f) A small farm winery that makes a direct shipment of small farm
7 winery wine under this section shall maintain records regarding each shipment
8 of small farm winery wine that include the:

9 (1) Name and address of the person to whom the small farm winery
10 wine is:

11 (A) Sold; and

12 (B) Billed; and

13 (2) Date of shipment.

14
15 3-5-1710. Permits – Drawing.

16 (a)(1) Within sixty (60) days after the effective date of this act,
17 the Alcoholic Beverage Control Board shall issue thirty (30) small farm
18 winery private-resident shipping permits to ship small farm winery wine under
19 § 3-5-1709.

20 (2) In each subsequent year, the board may issue up to five (5)
21 small farm winery private-resident shipping permits to ship small farm winery
22 wine as provided in this section.

23 (b)(1) The Alcoholic Beverage Control Division shall notify the public
24 at large by public notice that a drawing shall be held in Little Rock,
25 Arkansas, to determine which of the small farm winery licensees holding a
26 wine wholesale permit are eligible to receive a small farm winery private-
27 resident shipping permit under this section.

28 (2) The public notice under subdivision (b)(1) of this section
29 shall include without limitation:

30 (A) Internet notification; and

31 (B) Notice by mail to each licensee who holds both a small
32 farm winery license and a wine wholesale permit under § 3-5-1602.

33 (c)(1)(A) No later than fifteen (15) days before the scheduled drawing
34 for the small farm winery private-resident shipping permit, a licensee
35 holding both a small farm winery license and a wine wholesale permit who
36 wishes to be entered into the drawing shall certify to the Alcoholic Beverage

1 Control Division that the winery has produced by fermentation at least one
2 thousand gallons (1,000 gals.) of wine in the previous calendar year by
3 providing the winery's TTB F 5120-17.

4 (B) A licensee that fails to submit proof of production by
5 the date provided for in subdivision (c)(1)(A) of this section is not
6 eligible for the drawing under this section.

7 (2) On the date of the drawing, each licensee holding both a
8 small farm winery license and wine wholesale permit who has met the
9 requirements specified in subdivision (c)(1) of this section shall draw a
10 number between one (1) and the number of eligible licensees.

11 (3) The drawing shall be conducted by the Director of the
12 Alcoholic Beverage Control Division.

13 (4) The individual of record with the division designated as the
14 permit holder for the eligible small farm winery shall be present for the
15 drawing at the location chosen by the director to be awarded a small farm
16 winery private-resident shipping permit if selected by the drawing.

17 (5) Position numbers may not be assigned or transferred.

18 (d)(1) The director shall issue the small farm winery private-resident
19 shipping permits authorized through the drawing under this section to those
20 eligible licensees drawing numbers one (1) through thirty (30) upon payment
21 of a licensing fee of fifty dollars (\$50.00).

22 (2) In a subsequent year, if the Alcoholic Beverage Control
23 Board authorizes additional permits, the director shall issue permits
24 authorized under this section to those eligible licensees drawing numbers one
25 (1) through the number authorized by the board for the drawing upon payment
26 of a licensing fee of fifty dollars (\$50.00).

27 (e) A small farm winery shall renew its small farm winery private-
28 resident shipping permit each year with the division by paying a renewal fee
29 of fifty dollars (\$50.00).

30
31 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the
32 General Assembly of the State of Arkansas that this act calls for public
33 notice of a drawing for the issuance of small farm winery private-resident
34 shipping permits to small farm winery licensees holding wine wholesale
35 permits; that the drawing will require the actual presence in the state of
36 persons from various states; that sufficient notice must be available to all

1 potential participants in the drawing; and that this act is immediately
2 necessary because the Alcoholic Beverage Control Board requires time to make
3 public notice, to prepare the drawing operations, and to ensure that all
4 interested persons have the opportunity to seek eligibility for the drawing.
5 Therefore, an emergency is declared to exist, and this act being immediately
6 necessary for the preservation of the public peace, health, and safety shall
7 become effective on:

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

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

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

14
15 */s/Capp*

16
17
18 **APPROVED: 03/01/2017**
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36