

# ARKANSAS REGISTER

## Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



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For Office

Use Only:

Effective Date \_\_\_\_\_ Code Number \_\_\_\_\_

Name of Agency Department of Finance and Administration

Department Alcoholic Beverage Control

Contact Doralee Chandler E-mail abc.admin@dfa.arkansa Phone 501-682-1105

Statutory Authority for Promulgating Rules Act 681 of 2019

Rule Title: Microbrewery Restaurant Private Club - Rule 5.84-5.89

Intended Effective Date  
(Check One)

☐ Emergency (ACA 25-15-204)

☒ 10 Days After Filing (ACA 25-15-204)

☐ Other \_\_\_\_\_  
(Must be more than 10 days after filing date.)

Legal Notice Published .....

Final Date for Public Comment .....

Reviewed by Legislative Council .....

Adopted by State Agency .....

Date

12/22/2019

01/22/2020

05/15/2020

01/22/2020

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Doralee Chandler

Doralee.chandler@dfa.arkansas.gov

06/22/2020

Contact Person

E-mail Address

Date

### CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted  
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Doralee Chandler  
Signature

682-1105 abc.admin@dfa.arkansas.gov  
Phone Number E-mail Address

Director  
Title

6/22/20  
Date

## **FINAL RULE**

### **SUBTITLE H – OPERATION OF MICROBREWERY-RESTAURANT PRIVATE CLUB**

**Section 5.84** A microbrewery-restaurant private club applicant shall be an entity organized and existing under the laws of this state before applying for a microbrewery-restaurant private club permit. The net revenues of the microbrewery-restaurant private club shall not directly or indirectly benefit its members, except for the payment of bona fide expenses of the microbrewery-restaurant private club's operations. Activities at the microbrewery-restaurant private club shall be conducted for some common recreational, social, patriotic, political, national, benevolent, athletic, community hospitality, professional association, entertainment, or other object or purpose and not solely for the consumption of alcoholic beverages. At the time of application for a microbrewery-restaurant private club permit, the entity shall own or lease, be the holder of a buy-sell agreement or offer and acceptance, or have an option to lease a building, property, or space for the reasonable comfort and accommodation of its members and the families and guests of its members. The microbrewery-restaurant private club shall restrict the use of club facilities to its members and the families and guests of its members. For purposes of the microbrewery-restaurant private club, a person is a member of the *microbrewery-restaurant private club only upon ordering an alcoholic beverage*. If the entity holding a microbrewery-restaurant private club permit additionally holds another alcoholic beverage permit, the hours of operation authorized for the microbrewery-restaurant private club applies to all permits of the entity.

**Section 5.85 Procedure for Obtaining Permit.** A microbrewery-restaurant private club applicant may apply to obtain a microbrewery-restaurant private club through the procedures provided under Section 5.15 and Section 1.20. The application for a microbrewery-restaurant private club shall be submitted to the division and accompanied by an annual permit fee of one thousand five hundred dollars (\$1,500). In an area in which the sale of alcoholic beverages is not authorized by local option under § 3-8-201 *et seq.*, the application for a microbrewery-restaurant private club permit shall be accompanied by an additional application fee of one thousand five hundred dollars (\$1,500). The director may issue a permit as authorized in this section upon determination that the applicant is qualified and that the application is in the public interest.

The Director may issue a microbrewery-restaurant private club permit if the microbrewery-restaurant private club premises are in a dry area and the governing body has approved an applicant.

The Director may issue an additional microbrewery-restaurant private club permit after October 1, 2019, to a person or entity holding a microbrewery-restaurant private club permit as of October 1, 2019, and having more than five percent (5%) common ownership with a person or entity if the person or entity holds a permit under the Arkansas Small Brewery Act, § 3-5-1401 *et seq.*, or qualifies as a supplier under § 3-5-1102.

- (ii) The request is approved by the division; and
- (iii) Written notice is given by the division to the permit holder at least five (5) days before the event.

The microbrewery-restaurant private club shall use only beer, malt beverage, and hard cider produced by the microbrewery-restaurant private club for an event approved.

This section does not authorize the conducting of a beer-tasting, malt beverage-tasting, and hard cider-tasting event at a separate brewing facility of a microbrewery-restaurant private club

**Section 5.88 Separate Facility Authorized.** A microbrewery-restaurant private club may maintain one (1) separate brewing facility for the production or storage of beer, malt liquor, and hard cider as needed to meet demand, except that each facility used by the microbrewery-restaurant private club permittee shall not in the aggregate produce more than forty-five thousand (45,000) barrels of beer, malt beverage, and hard cider per year.

Beer, malt beverage, and hard cider produced by a separate brewing facility of a microbrewery-restaurant private club permittee shall be:

- (i) Sold to a permitted wholesaler; or

- (ii) Transported:

- (a) From the separate brewing facility to a microbrewery-restaurant private club commonly owned by the owner of the separate brewing facility for retail sale for consumption on the permitted premises; or

- (b) To the separate brewing facility from a microbrewery-restaurant private club commonly owned by the owner of the separate brewing facility for storage, production, or packaging.

**5.89 Prohibited Sales** A microbrewery private club may not sell alcoholic beverages to nonmembers. A microbrewery private club shall not sell alcoholic beverages for off-premise consumption. Violation of this provision will result in the permit being revoked.