ARKANSAS REGISTER

Proposed Rule Cover Sheet

Secretary of State
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Name of Department Department of Finance and Administration

Agency or Division Name Alcoholic Beverage Control Division

Other Subdivision or Department, If Applicable ________

Previous Agency Name, If Applicable ________

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Name of Rule Limitation on Production Rule 2.54

Newspaper Name Arkansas Democrat Gazette

Date of Publishing February 13, 2020 through February 15, 2020

Final Date for Public Comment March 18, 2020

Location and Time of Public Meeting 1515 West 7th Street, 5th Floor, 9:00 a.m.

MARKUP COPY

Section 2.54 ***Limitation on Production.*** Each operator of a microbrewery-restaurant establishment is allowed to manufacture beer, ~~or~~ malt beverage, or hard cider products in limited quantities. The operator shall be allowed to brew one or more varieties of beer, ~~or~~ malt beverage, or hard cider products, but in any event shall not brew more than 45,000 barrels~~, as defined by ACA § 3-5-1202(1~~), for all products per calendar year. ~~For purposes of this Regulation, a year is determined to be a calendar year beginning on January 1st of each year and ending on December 31st of the same year.~~ The ~~5,000~~45,000 barrel limitation applies to all beer, ~~and~~ malt beverages, and hard cider brewed, including test runs. (Amended 7-19-95)

SUMMARY OF SUBSTANTIVE CHANGES

Act 308 of 2017 increased the barrel production to 45,000 barrels. This change reflects that current limitation. Hard cider is also included as a result of Act 691.

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FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT DFA

DIVISION Alcoholic Beverage Control

PERSON COMPLETING THIS STATEMENT Doralee Chandler

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To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE *Limitation on Production (Rule 2.54)*

1. Does this proposed, amended, or repealed rule have a financial impact? Yes No x

2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule? Yes x No ☐

3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes x No ☐

   If an agency is proposing a more costly rule, please state the following:

   (a) How the additional benefits of the more costly rule justify its additional cost;
   NA

   (b) The reason for adoption of the more costly rule;
   NA

   (c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;
   NA

   (d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.
   NA

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following: N/A

   (a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year		**Next Fiscal Year**	
General Revenue		General Revenue	
Federal Funds		Federal Funds	
Cash Funds		Cash Funds	
Special Revenue		Special Revenue	
Other (Identify)		Other (Identify)	
Total	0	Total	0

(b) What is the additional cost of the state rule?

Current Fiscal Year		**Next Fiscal Year**	
General Revenue		General Revenue	
Federal Funds		Federal Funds	
Cash Funds		Cash Funds	
Special Revenue		Special Revenue	
Other (Identify)		Other (Identify)	
Total	0	Total	0

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year	**Next Fiscal Year**
$ 0	$ 0

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year	**Next Fiscal Year**
$ 0	$ 0

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars ($100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

No x

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

(1) a statement of the rule's basis and purpose;

(2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;

(3) a description of the factual evidence that:
   (a) justifies the agency's need for the proposed rule; and
   (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;

(4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;

(5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;

(6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and

(7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
   (a) the rule is achieving the statutory objectives;
   (b) the benefits of the rule continue to justify its costs; and
   (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.