

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

Other Subdivision or Department, If Applicable _____

Previous Agency Name, If Applicable _____

Contact Person Doralee Chandler

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Contact Phone 501-682-1105

Name of Rule Prohibited Activities Rule 1.79(27)

Newspaper Name Arkansas Democrat Gazette

Date of Publishing October 17, 2021 thru October 19, 2021

Final Date for Public Comment November 17, 2021

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

MARKUP COPY

Section 1.79 (27) Allowing Alcoholic Beverages to be Carried From Any On Premises Alcoholic Beverage Outlet or Private Club. The permittee allowed any patron to exit the permitted premises carrying any open container of alcoholic beverages or allowed any patron to exit any on premises retail beer outlet carrying sealed alcoholic beverages in any combination not authorized by the Director for off premises sales, unless otherwise authorized by these rules. Private ~~clubs and hotel-motel-restaurant mixed drink~~ permitted outlets are not allowed to sell any alcoholic beverages to be taken off the permitted premises. **Provided,** (1) those establishments holding an on premises wine restaurant or café permit, a combined restaurant beer and wine permit, hotel-motel-restaurant mixed drink permit, or private club permit, may allow a customer, who purchases an unsealed package of wine in conjunction with a food purchase and consumes a portion of the wine on the premises with the meal, to replace the cork and remove the partially filled package from the premises and (2) patrons may walk back and forth with an alcoholic beverage between a private club permitted premises and another contiguous permitted premises when both premises are a part of the same business operation and the alcoholic beverage is a type permitted by both premises; and (3) patrons may walk back and forth with an alcoholic beverage between an on premises permitted outlet and a contiguous outlet issued a casino license by the Arkansas Racing Commission as long as the casino licensee is in operation. (Amended 10-21-20)

It is further provided that any on-premises outlet in a valid Entertainment District may allow patrons to leave the permitted premises with alcoholic beverages. A city, municipality, or incorporated town that has designated an Entertainment District shall notify the ABC within ten (10) days of issuance or removal of a district. Notification for issuance of an Entertainment District shall include: whether the district is temporary or permanent, the days and hours of operation of the Entertainment District, any other regulations within the Entertainment District, as well as any on-premises outlets that elect to opt out of the Entertainment District. Any on-premise permit within an Entertainment District that opts out of the Entertainment District may not permit patrons to leave the premises with alcoholic beverages.

SUMMARY OF SUBSTANTIVE CHANGES

Act 703 of 2021 authorized certain permit holders that have a restaurant to sell alcoholic beverages to consumers for off-premise consumption via delivery and to-go food orders.

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FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT DFA

DIVISION Alcoholic Beverage Control

PERSON COMPLETING THIS STATEMENT Doralee Chandler

TELEPHONE 501-682-1105 FAX 501-682-2221 EMAIL: Doralee.Chandler@dfa.arkansas.gov

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 Prohibited Activities; Grounds for Cancellation, Suspension, Revocation, or Placing of Monetary Fine Against Any Permit (Title 1, Subtitle G, Rule 1.79(27))

- | | | |
|---|-------|--|
| 1. Does this proposed, amended, or repealed rule have a financial impact? | Yes | No <input checked="" type="checkbox"/> |
| 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 <input type="checkbox"/> |
| 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 <input type="checkbox"/> |

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;

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

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

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

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

General Revenue	_____
Federal Funds	_____
Cash Funds	_____
Special Revenue	_____
Other (Identify)	_____

Next Fiscal Year

General Revenue	_____
Federal Funds	_____
Cash Funds	_____
Special Revenue	_____
Other (Identify)	_____

Total 0

Total 0

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

Current Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total 0

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

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

\$ 0

Next Fiscal Year

\$ 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

\$ 0

Next Fiscal Year

\$ 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?

Yes 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.