

# ARKANSAS REGISTER



## Proposed Rule Cover Sheet

Secretary of State  
John Thurston  
500 Woodlane Street, Suite 026  
Little Rock, Arkansas 72201-1094  
(501) 682-5070  
[www.sos.arkansas.gov](http://www.sos.arkansas.gov)



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

Contact E-mail doralee.chandler@dfa.arkansas.gov

Contact Phone 501-682-1105

Name of Rule Disposition of Distiller or Liquor Manufacturer Products Rule 2.85

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**

### **SUBTITLE K – DISTILLERS OR LIQUOR MANUFACTURER OPERATIONS**

**Section 2.85 Disposition of Distiller or Liquor Manufacturer Products.** Subject to all other product disposition rules, unless specifically allowed under this rule section, a distiller or liquor manufacturer is permitted to sell, serve, or otherwise dispose of controlled beverage product it produces or otherwise procures as follows:

(1) A distiller or manufacturer may sell, deliver, and transport any liquor product to a wholesaler or rectifier;

(2) A distiller or manufacturer may sell, deliver, and transport to permitted retailers not more than fifteen thousand (15,000) nine-liter-equivalent cases or thirty-five thousand six hundred sixty-seven gallons (35,667 gals.) of spiritous liquor produced by the distiller or manufacturer per year.

(2 3) A distiller or manufacturer may export any liquor product from this state;

(3 4) A distiller or manufacturer may sell for off-premises consumption on any day of the week, including Sunday, its own spiritous or vinous liquor product produced either at its in-state premises or its out-of-state premises;

(4-5) A distiller or manufacturer may sell for on-premises consumption its own liquor, wine, beer, or malt liquor product produced either at its in-state premises or its out-of-state premises;

(5 6) A distiller or manufacturer may sell for on-premises consumption any liquor product it purchases from an in-state permitted wholesaler;

(6 7) A distiller or manufacturer may serve for on-premises consumption complimentary samples of any liquor product it produces either in-state or out-of-state;

(7 8) If a distiller's or manufacturer's permitted location is in a wet territory, that distiller or manufacturer may sell by the drink or by the retail package any spiritous or vinous liquor product produced on the premises, provided that only sealed containers may be removed from the premises;

(8 9) A distiller or manufacturer may donate its liquor product to a charitable or non-profit corporation on the same basis as a manufacturer under the provisions of Section 2.28(6) of these Regulations;

(9 10) A distiller or manufacturer may sell for resale its liquor product to charitable or non-profit organizations holding valid temporary permits as provided for by the Alcoholic Beverage Control Division, ~~except that a distiller or manufacturer may sell to non-profit organizations holding private club licenses only as provided in subparagraph number four (4) of this Section.~~ Sales of a distiller's or manufacturer's liquor products to a temporary permitted location shall be limited to the duration of the temporary permitted activity.



### **SUMMARY OF SUBSTANTIVE CHANGES**

Act 706 of 2021 modifies Ark. Code Ann. §3-4-602 to allow a distiller to self-distribute licensed retailers not more than fifteen thousand (15,000) nine-liter-equivalent cases or thirty-five thousand six hundred sixty-seven gallons (35,667 gals.) of spirituous liquors per year.

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#### **SUBTITLE K – DISTILLERS OR LIQUOR MANUFACTURER OPERATIONS**

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- (3) A distiller or manufacturer may export any liquor product from this state;
- (4) A distiller or manufacturer may sell for off-premises consumption on any day of the week, including Sunday, its own spiritous or vinous liquor product produced either at its in-state premises or its out-of-state premises;
- (5) A distiller or manufacturer may sell for on-premises consumption its own liquor, wine, beer, or malt liquor product produced either at its in-state premises or its out-of-state premises;
- (6) A distiller or manufacturer may sell for on-premises consumption any liquor product it purchases from an in-state permitted wholesaler;
- (7) A distiller or manufacturer may serve for on-premises consumption complimentary samples of any liquor product it produces either in-state or out-of-state;

(8) If a distiller's or manufacturer's permitted location is in a wet territory, that distiller or manufacturer may sell by the drink or by the retail package any spiritous or vinous liquor product produced on the premises, provided that only sealed containers may be removed from the premises;

(9) A distiller or manufacturer may donate its liquor product to a charitable or non-profit corporation on the same basis as a manufacturer under the provisions of Section 2.28(6) of these Regulations;

(10) A distiller or manufacturer may sell for resale its liquor product to charitable or non-profit organizations holding valid temporary permits as provided for by the Alcoholic Beverage Control Division. Sales of a distiller's or manufacturer's liquor products to a temporary permitted location shall be limited to the duration of the temporary permitted activity.

## 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 Disposition of Distiller or Liquor Manufacturer Products (Title 2, Subtitle K, Rule 2.85)

- |   |       |  |
|---|-------|--|
| 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)	_____
Total	<u>0</u>

### Next Fiscal Year

General Revenue	_____
Federal Funds	_____
Cash Funds	_____
Special Revenue	_____
Other (Identify)	_____
Total	<u>0</u>



(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 ☒

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.