

ARKANSAS REGISTER

Transmittal Sheet

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



Secretary of State

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For Office

Use Only:

Effective Date _____ Code Number _____

Name of Agency Department of Finance and Administration

Department Alcoholic Beverage Control

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Statutory Authority for Promulgating Rules Act 158, 703, and 1060 of 2021

Rule Title: To Go and Delivery Rules 3.20-3.28

Intended Effective Date
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☐ 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

10/17/2021

11/17/2021

01/26/2022

11/17/2021

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

Doralee Chandler

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02/02/2022

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

501-682-1105

Phone Number

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Director of Alcoholic Beverage Control

Title

02/02/2022

Date

Final Rule

Section 3.20 To go and delivery by a restaurant. A restaurant holding a valid alcoholic beverage permit may sell alcoholic beverages in a sealed container during legal operating hours directly to a consumer twenty-one (21) years of age or older along with the purchase of a meal. The sale of alcoholic beverages under this rule may occur:

- 1) At the point of sale to be consumed off-premises;
- 2) At the drive-through to be consumed off-premises;
- 3) At the curbside to be consumed off-premises, or
- 4) Delivered to a consumer at a location off-premises.

Restaurant as used in this rule means a public or private place that:

- 1) Is kept, used, maintained, advertised, and held out to the public or to a private or restricted membership as a place where complete meals are actually and regularly served;
- 2) Provides adequate and sanitary kitchen and dining equipment;
- 3) Has a seating capacity of at least twenty-five (25) persons;
- 4) Employs a sufficient number and variety of employees to prepare, cook, and serve suitable food for its guest or members;
- 5) Serves at least one (1) meal per day; and
- 6) Is open a minimum of five (5) days per week, with the exception of holidays, vacations, and periods of redecorating.

A meal is defined as the usual assortment of food commonly ordered at various hours of the day.

Sealed container means a container with a secure cap or lid that completely covers the opening for the container and a seal designed to make it evident when the seal has been removed or broken. The seal is affixed to the container by the licensee after the container is filled pursuant to a consumer order for the drink. This may include the use of tape or other adhesive.

The restaurant to go and delivery rules do not apply to private clubs or restaurants located in a dry area.

Section 3.21 Limits on alcohol and quantities for to go or delivery by restaurant. A permit holder authorized to sell alcoholic beverages with the purchase of a meal under Rule 3.20 is limited to the following quantities per sale:

- 1) Seventy-Two ounces (72 oz.) of beer, malt beverage, or hard cider, or the equivalent of one (1) standard six-pack;
- 2) Seven hundred fifty milliliters (750 ml) of wine, or the equivalent of one (1) standard bottle; and

- 3) Thirty-two ounces (32 oz.) of spirituous liquors or the equivalent of four (4) eight-ounce drinks. "Spirituous liquors" includes mixed drinks or specialty drinks that are made by the permit holder at the premises and does not include unmixed spirits or spirits in the manufacturer's original container.

Unless authorized by local election under Ark. Code Ann. Section 3-3-210, a permit holder shall not sell alcoholic beverages under these rules on a Sunday.

Section 3.22 Delivery by retail liquor, microbrewery restaurant, small brewery, or hard cider manufacturer permit holders. Holders of a retail liquor, microbrewery-restaurant, small brewery, or hard cider manufacturer permit shall be authorized to deliver alcoholic beverages directly to the private residence of a consumer twenty-one (21) years of age or older in a wet county or territorial subdivision during legal operating hours. Alcoholic beverages for the purpose of this rule shall mean any intoxicating liquors that the permit holder is allowed to sale.

Section 3.23 Delivery by employee only. The permit holder authorized to deliver alcoholic beverages under Rule 3.20 or Rule 3.22 shall be delivered by an employee of the permit holder and not through a third-party delivery system. The employee responsible for delivery of the alcoholic beverage must be twenty-one (21) years of age and possess a valid driver's license.

Section 3.24 Delivery in wet counties only. A permit holder authorized to deliver alcoholic beverages under Rule 3.20 or Rule 3.22 may deliver alcoholic beverages directly to a consumer only in a wet county or wet area. The delivery must be to the person that placed the order. The delivery must occur within the time of legal operating hours.

Section 3.25 Required information for placing order for alcoholic beverages. The employee or permit holder of the permitted establishment must collect the following information when taking a customer's order under Rule 3.20 or Rule 3.22:

- 1) Name of person making order;
- 2) Address where delivery is to occur;
- 3) Phone number of the person making the order;
- 4) Date of birth for the person making order; and
- 5) Payment information;

Section 3.26 Required information for delivery: The employee or permit holder of the permitted establishment must confirm and collect the following information when completing the delivery:

- 1) Name of person receiving the order;
- 2) Address where delivery occurred;
- 3) Phone number of the person receiving the order;

- 4) Date of birth for the person receiving the order;
- 5) Payment information;
- 6) The recipient of the delivery must present valid state issued identification to the employee of the permitted establishment to confirm date of birth; and
- 7) The recipient must sign for the delivery.

Section 3.27 Record retention. The permitted establishment shall keep and retain a record of all deliveries of alcoholic beverages for a period three (3) years from the date of delivery and shall make such records available to Alcoholic Beverage Control Administration and Alcoholic Beverage Control Enforcement upon request. The records shall contain:

- 1) The name of the person who placed the order and the date, time, and method of order;
- 2) The name of the employee making the delivery and the date, time, and address of the delivery;
- 3) The type, brand, and quantity of each alcoholic beverage delivered; and
- 4) The name, date of birth, and signature of the person that received the delivery.

Section 3.28 Delivery not allowed. Employees delivering alcoholic beverages under this subtitle shall refuse delivery and return alcoholic beverages to the permitted establishment if:

- 1) The delivery is to an address on a campus of any educational building including, but not limited to, any elementary school, secondary school, university, college, technical college or institute;
- 2) The delivery is to any public playground or building used primarily as a church, synagogue, mosque or public library;
- 3) The delivery is outside of the hours that the retailer's physical premise is open to the public;
- 4) The recipient does not produce a valid and current form of state identification;
- 5) There is reason to doubt the authenticity or correctness of the recipient's identification;
- 6) The recipient refused to sign for the receipt of the delivery;
- 7) The recipient is intoxicated; or
- 8) The recipient is in a dry county or located outside the county of the permitted establishment.