

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 Sale of Beer and Wine through Drive-up Windows, Rule 1.33(15)

Newspaper Name Arkansas Democrate Gazette

Date of Publishing December 12, 2021 thru December 14, 2021

Final Date for Public Comment January 19, 2022

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

PUBLIC NOTICE

In compliance with the Administrative Procedure Act of the State of Arkansas (Act 434 of 1967), notice is hereby given that the Alcoholic Beverage Control Board proposes to promulgate rules concerning the alcoholic beverage industry in the state of Arkansas.

The Board will consider rules in the following areas: sale of beer and wine through drive-up windows at outlets holding a retail beer off premises permit and small farm wine permits, types of permits for which applications may be made, and manufacturers to register brands of controlled beverages.

The public comment hearing will be held on January 19, 2022, at the hour of 9:00 a.m., in the fifth floor conference room, 1515 West Seventh Street, Little Rock, Arkansas. All interested parties will be afforded an opportunity to present their views at the hearing. The proposed rule is available on our website at: <https://www.dfa.arkansas.gov/alcoholic-beverage-control>

The Alcoholic Beverage Control Division will accept written comments on the proposed rule from December 12, 2021 to January 18, 2022. Please send comments to: The Alcoholic Beverage Control Division, 101 W. CAPITOL AVE, SUITE 401, LITTLE ROCK, AR 72201

All inquiries concerning the public comment hearing should be directed to Michael Lewis, Staff Attorney, ABC Division, 101 W. Capitol Ave, Suite 401, Little Rock, Arkansas, 72201.



DORALEE CHANDLER, DIRECTOR
ALCOHOLIC BEVERAGE CONTROL DIVISION
DEPARTMENT OF FINANCE & ADMINISTRATION

MARKUP COPY

Section 1.33 No Permit to be Issued for Certain Premises. No permit shall be issued pursuant to any alcoholic beverage control law of the State of Arkansas for the following premises:

- (15) ~~**Sale of Beer or Small Farm Wine Through Drive-Up Windows Prohibited at Off Premises Retail Beer and Small Farm Wine Premises.**~~ Off premises retail beer and small farm wine permitted outlets with drive up windows must post a notice not less than three inches by five inches (3" x 5"), clearly affixed to the drive up window and clearly visible to patrons thereof, stating **"NO ALCOHOLIC BEVERAGES SOLD THROUGH THIS DRIVE UP WINDOW"**. The same notice must also be posted on the interior of the permitted outlet so as to be clearly visible to employees selling items, other than beer and small farm wine, through the drive up window. (Amended 8-21-13)

SUMMARY OF SUBSTANTIVE CHANGES

Removes the prohibition on alcohol sales through a drive up windows for Off-Premises Retail Beer and Small Farm Wine premises

Clean copy

Section 1.33 No Permit to be Issued for Certain Premises. No permit shall be issued pursuant to any alcoholic beverage control law of the State of Arkansas for the following premises:

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 Sale of Beer or Small Farm Wine Through Drive Up Windows Prohibited at Off Premises Retail Beer and Small Farm Wine Premises (Title 1, Subtitle C, Rule 1.33(15))

- | | | |
|---|-------|--|
| 1. Does this proposed, amended, or repealed rule have a financial impact? | Yes | No ☒ |
| 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;

(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 ☒

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.