

# 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



---

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 \_\_\_\_\_

Contact Person Doralee Chandler

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

Contact Phone 501-682-1105

---

Name of Rule Grocery Store Off Premise Wine Permit - ABC Rule 1.19(4)

Newspaper Name Arkansas Democrat Gazette

Date of Publishing December 22, 2019 thru December 24, 2019

Final Date for Public Comment January 22, 2020

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

## **MARKUP COPY**

Section 1.19(46) **Grocery Store Off Premises Wine Permit** authorizes a permittee to purchase and sell wine and hard cider the alcoholic content of which does not exceed twenty-one percent (21%) alcohol by weight. "Wine" means port, wine, sherry wine, vermouth wine, hard cider or other wines manufactured within or without the State of Arkansas. "Grocery store" means a single physical establishment located in a wet territory that has an inventory of human-consumable items. An order of wine inventory for one (1) location shall not be combined with an order for another location in a manner that would result in a cumulative discount and/or a quantity discount.

A grocery store wine permittee may conduct tasting events for educational and promotional purposes on the permittee's premises after obtaining a wine sampling permit from the Alcoholic Beverage Control Division under ACA § 3-5-104. A grocery store seeking a grocery store wine permit may derive no more than twenty percent (20% a) of its gross sales from the sale of alcoholic beverages. However, this requirement does not apply to an otherwise qualifying grocery store that, as of January 1, 2017, derives more than twenty percent (20% a) of its gross sales from the sale of alcoholic beverages. A grocery store wine permittee shall offer for sale small farm winery wine as defined in ACA § 3-5-1601 et seq. A grocery store wine permit shall be available for issue only in a county in which the retail sale of alcohol under ACA § 3-4-604 was authorized as of January 1, 2017.

## **SUMMARY OF SUBSTANTIVE CHANGES**

Act 508 of 2017 established and defined the grocery store wine permit. Act 691 of 2019 added hard cider as a product that may be sold under the grocery store wine permit. Rule 1.19 (46) has been added to incorporate this new type of permit.

## **Clean Copy**

- (46) **Grocery Store Off Premises Wine Permit** authorizes a permittee to purchase and sell wine, the alcoholic content of which does not exceed twenty-one percent (21%) alcohol by weight. "Wine" means port, wine, sherry wine, vermouth wine, hard cider or other wines manufactured within or without the State of Arkansas. "Grocery store" means a single physical establishment

located in a wet territory that has an inventory of human-consumable items. An order of wine inventory for one (1) location shall not be combined with an order for another location in a manner that would result in a cumulative discount and/or a quantity discount.

A grocery store wine permittee may conduct tasting events for educational and promotional purposes on the permittee's premises after obtaining a wine sampling permit from the Alcoholic Beverage Control Division under ACA § 3-5-104. A grocery store seeking a grocery store wine permit may derive no more than twenty percent (20%) of its gross sales from the sale of alcoholic beverages. However, this requirement does not apply to an otherwise qualifying grocery store that, as of January 1, 2017, derives more than twenty percent (20%) of its gross sales from the sale of alcoholic beverages. A grocery store wine permittee shall offer for sale small farm winery wine as defined in ACA § 3-5-1601 et seq. A grocery store win permit shall be available for issue only in a county in which the retail sale of alcohol under ACA § 3-4-604 was authorized as of January 1, 2017.

**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT**    DFA

**DIVISION**        Alcoholic Beverage Control

**PERSON COMPLETING THIS STATEMENT**    Doralee Chandler

**TELEPHONE** 501-682-2916        **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**    Grocery Store Off Premises Wine Permit

- |   |   |  |
|---|---|--|
| 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 <input checked="" type="checkbox"/> | 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 <input checked="" type="checkbox"/> | 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?

<b><u>Current Fiscal Year</u></b>		<b><u>Next Fiscal Year</u></b>	
General Revenue	_____	General Revenue	_____
Federal Funds	_____	Federal Funds	_____
Cash Funds	_____	Cash Funds	_____
Special Revenue	_____	Special Revenue	_____
Other (Identify)	_____	Other (Identify)	_____
<b>Total</b>	<b>0</b>	<b>Total</b>	<b>0</b>

(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.