

ARKANSAS REGISTER

Proposed Rule Cover Sheet



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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
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Name of Rule Advertising and Promotional Materials Rule 2.28 (13)
Newspaper Name Arkansas Democrat Gazette
Date of Publishing February 13, 2020 through February 15, 2020
Final Date for Public Comment March 18, 2020
Location and Time of Public Meeting 1515 West 7th Street, 5th Floor, 9:00 a.m.

MARKUP COPY

Section 2.28 (13) *Advertising and Promotion Materials; Exception for Racing Facilities and for Nonprofit Entities holding a Large Attendance Facility Permit.* As an exception to Section 2.28(4) of these Regulations, any manufacturer or wholesaler may pay for the display or other presentation of advertising and promotion materials on or about the premises of the holder of a franchise granted by the Arkansas Racing Commission. In addition, any manufacturer may provide sponsorship of or payment for the display or other presentation of advertising and promotional material on or about the premises of the holder of a Large Attendance Facility permit, as defined by ACA § 3-9-202 (16), owned by a qualifying charitable nonprofit organization that has received tax exempt status under 26 U.S.C. § 501 (c)(3).

SUMMARY OF SUBSTANTIVE CHANGES

Act 744 of 2019 amended ACA § 3-3-212 to allow a manufacturer to sponsor and provide advertising material to nonprofit entities holding a Large Attendance Facility Permit. Rule 2.28(13) is amended to reflect those changes.

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(13) ***Advertising and Promotion Materials; Exception for Racing Facilities and for Nonprofit Entities holding a Large Attendance Facility Permit.*** As an exception to Section 2.28(4) of these Rules, any manufacturer or wholesaler may pay for the display or other presentation of advertising and promotion materials on or about the premises of the holder of a franchise granted by the Arkansas Racing Commission. In addition, any manufacturer may provide sponsorship of or payment for the display or other presentation of advertising and promotional material on or about the premises of the holder of a Large Attendance Facility permit, as defined by ACA § 3-9-202 (16), owned by a qualifying charitable nonprofit organization that has received tax exempt status under 26 U.S.C. § 501 (c)(3).

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 Advertising and Promotion Materials; Exception for Racing Facilities and Nonprofit Entities holding a Large Attendance Facility Permit (Rule 2.28(13))

- 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 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 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;
NA

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

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

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

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

Next Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____
 Total 0

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

Next Fiscal Year

\$ 0

\$ 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

Next Fiscal Year

\$ 0

\$ 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?

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.