

Appendix

§ 3-4-401. Authorization to impose fines.

In addition to all other sanctions and penalties which may be administratively imposed by the director pursuant to the procedures outlined in this title and the Arkansas Administrative Procedure Act, § 25-15-201 et seq., the Alcoholic Beverage Control Division Director shall have the power and authority to levy fines and suspend them against controlled beverage permit holders when the director determines the permit holder has violated the alcoholic beverage control laws of this state or regulations of the Alcoholic Beverage Control Division.

History. Acts 1981, No. 790, § 2; A.S.A. 1947, § 48-346.

§ 3-4-402. Classes of violations and fines – Multiple offenses.

(a) The following classes of alcoholic beverage control permit violations and fines are authorized to be levied and are established:

- (1) Class A permit violations: Five hundred dollars (\$500) to one thousand dollars (\$1,000);
- (2) Class B permit violations: Two hundred dollars (\$200) to five hundred dollars (\$500);
- (3) Class C permit violations: One hundred dollars (\$100) to two hundred dollars (\$200).

(b) The Director of the Alcoholic Beverage Control Division and the board are hereby authorized to levy additional fines up to double the amount for the classes of violations found in subsection (a) of this section for a second offense of the same violation within a twelve-month period, and up to three (3) times the fine authorized for the classes listed in subsection (a) of this section for a third offense of the same violation within a twelve-month period.

History. Acts 1981, No. 790, § 2; A.S.A. 1947, § 48-346; Acts 1989, No. 296, § 1; 1993, No. 172, § 1.

§ 3-4-403. Class A violations.

The following acts on the part of any permittee are Class A permit violations:

- (1) Failure to furnish access to premises by any law enforcement officer or any authorized Alcoholic Beverage Control personnel or failure to cooperate or take reasonable action to assist any such law enforcement officers or authorized Alcoholic Beverage Control personnel who are on the permitted premises in the performance of their duties;
- (2) Failure to allow inspection of books or records;
- (3) Posting permit on unauthorized premises;
- (4) Manufacture or possession of controlled beverage with excess alcoholic content;
- (5) Sale by a manufacture to other than a wholesaler. Provided, sales authorized by any law of the state relating to native wines shall not constitute a violation;
- (6) Sale by a wholesaler to other than a retailer;
- (7) Ownership or other interest in retail outlet by a manufacturer or a wholesaler. Provided, that such ownership or other interest authorized by any law of this state relating to native wines shall not be a violation;
- (8) Unauthorized gift or service to retailers by a manufacturer or a wholesaler;
- (9) Use of post-dated checks for payment of controlled beverages and merchandise;
- (10) Wholesaler making delivery to a consumer;
- (11) The permittee possessed, or knew or reasonably should have known that any agent or employee or patron of the establishment possessed on the permitted premises, any illegal drug or narcotic or controlled substance, or that any agent or

employee while acting on the permittee's behalf knowingly allowed the possession on the permitted premises of any illegal drug or narcotic or controlled substance;

(12) Selling or allowing the consumption of alcoholic beverages on the permitted premises when the permit is suspended or on inactive status;

(13) Selling to minors;

(14) Unauthorized employment of minors;

(15) (a) Disorderly conduct or a breach of the peace by a patron or employee on the permitted premises; (b) as used in subdivision (15) (A) of this section, "Disorderly conduct" includes without limitation a fight, brawl, or disturbance that results in bodily injury to a person on the permitted premises;

(16) Violation of § 3-3-218; failure to be a good neighbor;

(17) Selling to an intoxicated person;

(18) Unauthorized manufacturing, selling, offering, dispensing, or giving away of controlled beverages;

(19) Conducting or permitting gambling on premises;

(20) Violation of legal closing hours;

(21) Possession of a weapon on the permitted premises by any person without a possessory or proprietary interest in the permitted premises.

History. Acts 1981, No. 790, § 2; A.S.A. 1947, § 48-346; Acts 1991, No. 605, § 2; 1993, No. 172, § 3; Acts 2009, No. 294, § 5.

§ 3-4-404. Class B violations.

The following acts on the part of the permittee are Class B violations:

(1) Pledge, hypothecation, or use of a permit as collateral;

(2) Defacing, destroying, or altering a permit;

(3) Transporting controlled beverages in violation of regulations or law;

(4) Manufacturing, selling, offering, dispensing, or giving away, possessing, or transporting of controlled beverages upon which tax is not paid;

(5) Failure to maintain proper records by a manufacturer;

- (6) Failure by a wholesaler to maintain proper records;
- (7) Failure by a wholesaler to register new brands;
- (8) Giving of samples by a permittee without authorization;
- (9) Sales for anything other than cash or check;
- (10) Delivery without an invoice by a wholesaler;
- (11) Selling to the insane;
- (12) Selling to bootleggers;
- (13) Accepting food stamps in payment for controlled beverages;
- (14) Unlawful manufacture or sale in a dry area;
- (15) Sale of controlled beverages by vending machine.

History. Acts 1981, No. 790, § 2; A.S.A. 1947, § 48-346; Acts 1991, No. 605, § 2; 1993, No. 172, § 3, Acts 2009, No. 294, § 5.

3-4-405. Class C violations.

- (a) The following acts on the part of any permittee are Class C permit violations:
- (1) Sale of controlled beverages when the permit is not posted;
 - (2) Failure to maintain health, safety, and sanitary standards;
 - (3) Removing or obliterating a container label or mark;
 - (4) Consuming a controlled beverage while on duty;
 - (5) Failure to surrender a permit when the business has been voluntarily inoperative for over thirty (30) days;
 - (6) Storing controlled beverages in unauthorized warehouses, with each day constituting a separate offense after notice;
 - (7) Failure to make proper application and obtain approval for acting as a sales agent for a manufacturer, wholesaler, or rectifier unless duly authorized by the director;
 - (8) Use of an unlabeled dispensing faucet;
 - (9) Failure of a retailer to keep and maintain records;
 - (10) Unauthorized sale of broken packages and merchandise;

- (11) Negligently allowing prostitutes to frequent the premises;
- (12) Allowing immoral conduct on the premises;
- (13) Disposing of or receiving samples by a retailer;
- (14) Negligently selling to users of narcotics;
- (15) Delivery of controlled beverages by a retailer away from his permitted premises;
- (16) Sale of controlled beverages in a container or of a size other than that approved;
- (17) Misrepresentation of a brand, or keeping beverages in an unauthorized container, or refilling, diluting, or failing to destroy empty bottles;
- (18) Failure to maintain membership books or properly maintain guestbooks by a private club;
- (19) Allowing an unauthorized guest in a private club;
- (20) Dispensing to nonmembers or nonguests by a private club;
- (21) Unauthorized purchasing by a private club from other than a retailer;
- (22) Failure of a private club to maintain financial records;
- (23) Failure by a private club to furnish the name and address of the authorized public accountant and bookkeeper;
- (24) Unauthorized advertising by a private club;
- (25) Unauthorized transportation of alcoholic beverages through a dry area without a permit;
- (26) Failure to keep and maintain records or make a report.

(b) Any other act that is determined at an appropriate hearing by the director to be a violation will be considered a Class C permit violation and may be fined accordingly.

History. Acts 1981, No. 790, § 2; A.S.A. 1947, § 48-346; Acts 1991, No. 605. §3.