



# Arizona State Senate Issue Brief

January 15, 2016

## Note to Reader:

The Senate Research Staff provides nonpartisan, objective legislative research, policy analysis and related assistance to the members of the Arizona State Senate. The *Research Briefs* series is intended to introduce a reader to various legislatively related issues and provide useful resources to assist the reader in learning more on a given topic. Because of frequent legislative and executive activity, topics may undergo frequent changes. Additionally, nothing in the *Brief* should be used to draw conclusions on the legality of an issue.

## ARIZONA LIQUOR LICENSES

### INTRODUCTION

The regulation of liquor in Arizona precedes statehood. The 1864 Howell Code assessed liquor taxes on vendors of wines and distilled spirits and represented Arizona's first liquor regulations. However, congressional passage of the Volstead Act of 1919 enacted a national Prohibition and eliminated the need for liquor regulation. With the repeal of the Volstead Act and the end of Prohibition in 1933, the 21st Amendment to the U.S. Constitution gave individual states the right to choose their own system for regulating alcoholic beverages. Arizona placed the responsibility for liquor regulation with the Temperance Enforcement Commission under the State Tax Commission until 1939, when the Arizona Legislature established the Department of Liquor Licenses and Control (DLLC).

The courts and the Legislature have stated that the objective and purpose for establishing the DLLC center on protecting the public health, safety and welfare. The Legislature, in Laws 1984, Chapter 322, defined the purpose of the DLLC: "... to regulate the liquor industry through the license control process, collect fees and taxes for the maintenance of government and enforce statutes in order to maintain the health and welfare of the community." As such, the DLLC licenses, investigates and regulates the production, distribution and sale of alcoholic beverages throughout the state. Separate from the DLLC is the Arizona State Liquor Board (Liquor Board), whose members are appointed by the Governor, subject to Senate confirmation. The Liquor Board hears appeals on some of the Director of the DLLC's (Director) disciplinary decisions; and when cities, towns or counties disapprove or make no recommendation on a new liquor license, the Director is required to refer the final decision to the Liquor Board.

### LIQUOR LICENSES

In order to regulate the production, distribution and sale of alcoholic beverages, the DLLC issues 19 license types, commonly referred to by a series number. For example, a microbrewery license is known as a Series 03 license. An application is required for any of the 19 licenses along with payment of the required fee and surcharges, when applicable. Each license expires annually, except that a license may be renewed for a two-year period if no compliance penalties have been issued to the

licensed location during the year before renewal (A.R.S. §§ 4-201 and 4-209). A license is issued only after satisfactory showing of the capability, qualifications and reliability of the applicant and, with the exception of wholesaler, producer, government or club licensees, that the public convenience requires and that the best interest of the community will be substantially served by the issuance of the license. A separate license is required for each specific type of business (A.R.S. § 4-203). Additionally, all on-sale licenses must be displayed in a conspicuous public area of the premises that is readily accessible for inspection by any peace officer, distributor, wholesaler or member of the public (A.R.S. § 4-261.01).

### ***In-State Producer – Series 01***

An in-state producer license is available for the manufacturing or production of spirituous liquor in Arizona (A.R.S. § 4-209). A person who holds a Series 01 license may sell beer produced by the producer if the producer also holds an on-sale retail license and the retail sale of the beer is on or adjacent to the premises of the producer. Additionally, a producer may sell wine produced by the producer at the producer's licensed premises (A.R.S. § 4-243.02).

### ***Out-of-State Producer – Series 02***

An out-of-state producer license allows an out-of-state producer, exporter, importer or rectifier to ship spirituous liquor into Arizona to a licensed wholesaler (A.R.S. § 4-209). The out-of-state producer is required to comply with the alcoholic beverage statutes as if it were an in-state licensee (A.R.S. § 4-250.01). An out-of-state producer is prohibited from selling its products to an Arizona wholesaler at a cost higher than the lowest price at which the item was sold by the producer or supplier, or any other person, to any wholesaler anywhere in any other state or to any other state (A.R.S. § 4-250).

### ***Microbrewery – Series 03***

A microbrewery licensee produces or manufactures at least 5,000 gallons, but less than 6,200,000 gallons of beer annually and may sell its beer produced or manufactured on the

premises for consumption on or off the premises. A microbrewery may conduct retail operations, including the sale of alcohol not manufactured by the licensee, through an associated retail license. The holder of a microbrewery license who manufactures less than 1,240,000 gallons of beer per year may apply for and hold up to a total of seven bar, beer and wine bar, or restaurant licenses. A Microbrewery under this limit is permitted to make sales and deliveries of its beer directly to retail licensees that are under common ownership with the microbrewery in any amount and may also sell and deliver up to 93,000 gallons of its beer directly to other licensed retailers annually.

A licensed microbrewery that produces more than 1,240,000 gallons of beer in a single year may not apply for or receive any retail licenses, but is permitted to maintain any such licenses that it had acquired previously. Additionally, such a microbrewery may not make deliveries of beer it has produced directly to any retail licensee except for those that are on or adjacent to the production premises. (A.R.S. § 4-205.08).

### ***Wholesaler – Series 04***

A wholesaler may warehouse and distribute spirituous liquor for sale to licensed retailers (A.R.S. § 4-209). A wholesaler must purchase the spirituous liquor from the primary source of supply (A.R.S. § 4-243.01).

### ***Government – Series 05***

A government license may be issued to any county, city, town, state university, community college, state agency, state board, state commission, National Guard or the Arizona Exposition and State Fair Board upon application. The license allows the holder to sell and serve spirituous liquor solely for consumption on the premises for which the license is issued. A separate license is required for each premises upon which spirituous liquors are served (A.R.S. §§ 4-209 and 4-205.03).

## ***Bar – Series 06***

A bar license is a retailer's license to sell all spirituous liquors primarily by individual portions to be consumed on the premises and in the original container for consumption on or off the premises (A.R.S. §§ 4-101 and 4-209). The associated off-sale use, by total retail spirituous liquor sales, may not exceed 30 percent of the sales price of on-sale spirituous liquor.

## ***Beer and Wine Bar – Series 07***

A beer and wine bar license is a retailer's license to sell beer and wine primarily by individual portions, to be consumed on the premises and in the original containers for consumption on or off the premises (A.R.S. §§ 4-101 and 4-209). The associated off-sale use, by total retail spirituous liquor sales, may not exceed 30 percent of the sales price of on-sale spirituous liquor.

## ***Conveyance – Series 08***

A conveyance license allows: an operating railroad company to sell all spirituous liquors in individual portions or in the original containers on its passenger trains; an operating airline company to sell or serve spirituous liquors solely in individual portions on its passenger planes; or a boat operating in the waters of this state to sell all spirituous liquors in individual portions or in the original containers for consumption on the boat. Boat operators must designate a dock as the home port for the boat, have a capacity of 80 or more persons and have a current coast guard certification (A.R.S. §§ 4-205.07 and 4-209).

## ***Liquor Store – Series 09***

A liquor store license allows a licensee to sell all spirituous liquors, only in the original unbroken package, to be taken away from the premises of the retailer and consumed off the premises (A.R.S. §§ 4-101 and 4-209). An applicant or licensee of a liquor store license may also apply for sampling privileges.

## ***Beer and Wine Store – Series 10***

A beer and wine store license allows the licensee to sell beer and wine (no other

spirituous liquor), only in the original unbroken package, to be taken away from the premises of the retailer and consumed off of the premises (A.R.S. §§ 4-101 and 4-209). An applicant or licensee of a beer and wine store license may also apply for sampling privileges.

## ***Hotel-Motel – Series 11***

A hotel-motel license allows any Arizona hotel or motel to sell and serve spirituous liquor solely for consumption on the premises if the hotel or motel has a restaurant where food is served on the premises (A.R.S. §§ 4-205.01 and 4-209).

## ***Restaurant – Series 12***

A restaurant license may be issued to any restaurant in this state that is regularly open for the serving of food to guests for compensation, has suitable kitchen facilities connected with the restaurant for keeping, cooking and preparing foods required for ordinary meals, and derives at least 40 percent of its gross revenue from the sale of food. The restaurant licensee may sell and serve spirituous liquor solely for consumption on the licensed premises (A.R.S. §§ 4-205.02 and 4-209).

## ***Farm Winery – Series 13***

A farm winery licensee produces at least 200 gallons of wine but not more than 40,000 gallons of wine annually. If the farm winery produces between 200 and 20,000 gallons of wine annually, the winery may sell and deliver its wine directly to consumers and retailers. Farm wineries may also sell wine for consumption on or off the premises to a consumer who is physically present at the winery. Additionally, farm wineries may hold a beer and wine bar (07), beer and wine store (10), restaurant (12) and craft distillery (18) liquor license, under specified circumstances (A.R.S. § 4-205.04). A microbrewery license (03) may be issued to the same parcel of land as a farm winery if certain conditions are met.

## ***Club – Series 14***

A club licensee may sell all spirituous liquors for consumption on the licensed

premises to bona fide members and guests of the club. Clubs include veteran and fraternal organizations and golf, social and airline clubs (A.R.S. §§ 4-101 and 4-205).

## ***Special Event – Series 15***

A special event license is a temporary license that may be issued to a political party, a campaign committee supporting a candidate for public office or a ballot measure, an organization formed for a specific charitable or civic purpose, a fraternal organization in existence for over five years with a regular membership or a religious organization.

The issuance of the license is subject to the approval of the local governing body where the event is to be held, unless the license is for a physical location that is fully within already licensed premises (A.R.S. § 4-203.02). According to DLLC rule, a special event license may not be granted for more than ten days in a calendar year for a qualifying organization and events must be held on consecutive days and at the same location or additional licenses are required.

## ***Wine Festival and Wine Fair, Craft Distillery Festival and Craft Distillery Fair – Series 16***

A wine or craft distillery festival license allows a farm winery or craft distillery to provide sampling of products on festival premises, to sell its products for consumption on the premises and to sell its products in the original containers for consumption off of the premises. The issuance of the festival license is subject to the approval of the local governing body where the event is held. Each farm winery may be issued up to 50 festival licenses annually, for up to a total of 150 calendar days per winery. Each craft distillery may be issued up to 25 festival licenses annually, for up to a total of 75 calendar days per distillery.

With permission of county or state fair organizers, a wine or craft distillery fair license allows a farm winery or craft distillery to provide samples of products on the fair premises, sell its products for consumption on the fair premises and sell its products in original

containers for consumption off of the fair premises (A.R.S. §§ 4-203.03 and 4-205.11).

## ***Direct Shipment License – Series 17***

A direct shipment license allows an out-of-state distiller, vintner, brewer, rectifier, blender or other producer of spirituous liquor to take orders from retail customers by telephone, mail, catalog or the Internet. The orders must be shipped into the state to a licensed Arizona wholesaler. The wholesaler must sell the product to a licensed retailer. The retailer will deliver the spirituous liquor to the customer. The direct shipment license is valid for three years (A.R.S. §4-203.04)

## ***Craft Distillery – Series 18***

A craft distillery licensee produces or manufactures no more than 20,000 gallons of distilled spirits per calendar year. If the craft distiller manufactures or produces no more than 1,189 gallons annually, the distiller may sell and deliver its product directly to retailers. Craft distilleries may also sell spirits for consumption on or off the premises to a consumer who is physically present at the distillery. Additionally, craft distillers may hold one bar (06) or restaurant (12) license on or adjacent to the licensed premises, under specified circumstances (A.R.S. § 4-205.10)

## ***Remote Tasting Room – Series 19***

A remote tasting room license may only be acquired as an attachment to a currently held farm winery (13) or craft distillery (18) license, including out of state farm winery and craft distillery licenses (02). A farm winery may have two remote tasting room licenses linked to their master license and craft distilleries may have one. Licensees applying for a remote tasting room license must first obtain approval by the local governing body of the remote tasting and retail premises (A.R.S. §§ 4-205.04 and 4-205.10).

## ***On-Sale v. Off-Sale***

Some liquor licensees are categorized as having off-sale and on-sale privileges.

An off-sale retailer is any person selling spirituous liquor in an established retail liquor store or any established retail store selling other commodities. The spirituous liquor must be sold in the original unbroken package and be taken away from the premises of the retailer for consumption off of the premises.

An on-sale retailer is any person selling spirituous liquor in the original container for consumption on or off the premises or in individual portions for consumption on the premises (A.R.S. §4-101).

### ***Transferable Licenses***

The bar (06), beer and wine bar (07) and liquor store (09) licenses are the only licenses that are transferable. These licenses may be transferred from one person to another, and from one location to another within the same county, provided such transfer meets the requirements on the original application. Any change in ownership of the business of a licensee, directly or indirectly, as defined by rule is deemed a transfer (A.R.S. §4-203). Sampling privileges associated with a liquor store (09) license are not transferable.

### ***Quota Licenses***

Bar (06), beer and wine bar (07) and liquor store (09) licenses have traditionally been known as quota licenses. This means that no “new” Series 06, 07 or 09 licenses were available. The license must be purchased privately and the price is based on availability in the county where the license is sought. Once a quota license has been purchased, the buyer must apply for a transfer to have the license put in his or her name, at the same or another location.

In 2005, changes were made to the distribution process for DLLC licenses. Laws 2005, Chapter 284, requires, instead of allows, the DLLC to issue new liquor licenses. For FY 2005-2006 through FY 2009-2010, the DLLC is required to issue a specified amount of bar (06), beer and wine bar (07) and liquor store (09) licenses each year dependent on the population of each county. After FY 2009-2010, the DLLC is required to issue one of each type of license

for each additional 10,000 persons in a county each year. The population of a county is required to be based on Department of Economic Security population estimates as of July 1 of each year. The Director may waive the issuance of any series of new licenses in a county for one year if no request has been made to the DLLC for the issuance of a new license of that series.

### ***300 Foot Rule***

Retail liquor licenses are prohibited from being issued if, at the time of the original application, the retail premises is within 300 horizontal feet of a church, school or a fenced recreational area adjacent to a school. This prohibition does not apply to a restaurant license, special event license, hotel-motel license, government license or the playing area of a golf course. The 300 foot rule also does not apply to a beer and wine license at a not-for-profit performing arts theater with a permanent seating capacity of at least 250 persons (A.R.S. § 4-207).

If a liquor license is validly issued for a premises and, on the date an application is filed for a transfer for the premises, it is within 300 feet of a school, church or fenced recreational area, the license may be transferred person to person (A.R.S. § 4-207).

A person may also be issued a license of the same class for a premises that has a nontransferable license if, on the date of application for a license on the same premises, it is within 300 feet of a church, school or fenced recreational area (A.R.S. § 4-207).

If a beer and wine store license is validly issued for a premises and, on the date an application is filed for a liquor store license for the premises, it is within 300 feet of a school, church or fenced recreational area, the liquor store license may be issued (A.R.S. § 4-207). Similarly, a beer and wine store license may be issued on premises that have a valid liquor store license.

Series	Type	Retail Sales	Transferable
01	In-State Producer	Requires Retail License	No
02	Out-of-State Producer	N/A	No
03	Microbrewery	On and Off Sale	No
04	Wholesaler	N/A	No
05	Government	On Sale	No
06	Bar	On and Off Sale	Yes
07	Beer and Wine Bar	On and Off Sale	Yes
08	Conveyance	On Sale	No
09	Liquor Store	Off Sale	Yes
10	Beer and Wine Store	Off Sale	No
11	Hotel-Motel	On Sale	No
12	Restaurant	On Sale	No
13	Farm Winery	On and Off Sale	No
14	Club	On Sale	No
15	Special Event	On and Off Sale	No
16	Wine or Craft Distillery Festival/ Wine or Craft Distillery Fair	On and Off Sale	No
17	Direct Shipment	N/A	No
18	Craft Distillery	On and Off Sale	No
19	Remote Tasting Room	On and Off Sale	No

**LIQUOR LICENSES CHART**

The following chart illustrates each of the 19 different series of Arizona liquor licenses, whether the license has on sale or off sale privileges and whether the license is transferable.

**ADDITIONAL RESOURCES**

- Arizona Department of Liquor Licenses and Control (Phoenix Office)  
800 W. Washington, 5<sup>th</sup> Floor  
Phoenix, AZ 85007  
602-542-5141  
[www.azliquor.gov](http://www.azliquor.gov)
- Arizona Department of Liquor Licenses and Control Statutes: Arizona Revised Statutes, Title 4
- “Arizona Department of Liquor Licenses and Control,” Office of the Auditor General, August 2009, Report No. 09-08