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REFERENCE TITLE: **liquor; restaurant licensees; firearms**

State of Arizona
House of Representatives
Forty-sixth Legislature
First Regular Session
2003

HB 2319

Introduced by
Representatives Graf, Pearce; Barnes, Konopnicki, Senator Verschoor

AN ACT

AMENDING SECTION 4-244, ARIZONA REVISED STATUTES; AMENDING TITLE 4, CHAPTER 2, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 4-244.01; RELATING TO LIQUOR LICENSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 4-244, Arizona Revised Statutes, is amended to
3 read:

4 4-244. Unlawful acts

5 It is unlawful:

6 1. For a person to buy for resale, sell or deal in spirituous liquors
7 in this state without first having procured a license duly issued by the
8 board.

9 2. For a person to sell or deal in alcohol for beverage purposes
10 without first complying with this title.

11 3. For a distiller, vintner, brewer or wholesaler knowingly to sell,
12 dispose of or give spirituous liquor to any person other than a licensee
13 except in sampling wares as may be necessary in the ordinary course of
14 business, except in donating spirituous liquor to a nonprofit organization
15 which has obtained a special event license for the purpose of charitable fund
16 raising activities or except in donating spirituous liquor with a cost to the
17 distiller, brewer or wholesaler of up to one hundred dollars in a calendar
18 year to an organization that is exempt from federal income taxes under
19 section 501(c) of the internal revenue code and not licensed under this
20 title.

21 4. For a distiller, vintner or brewer to require a wholesaler to offer
22 or grant a discount to a retailer, unless the discount has also been offered
23 and granted to the wholesaler by the distiller, vintner or brewer.

24 5. For a distiller, vintner or brewer to use a vehicle for trucking or
25 transportation of spirituous liquors unless there is affixed to both sides of
26 the vehicle a sign showing the name and address of the licensee and the type
27 and number of the person's license in letters not less than three and
28 one-half inches in height.

29 6. For a person to take or solicit orders for spirituous liquors
30 unless the person is a salesman or solicitor of a licensed wholesaler, a
31 salesman or solicitor of a distiller, brewer, vintner, importer or broker or
32 a registered retail agent.

33 7. For any retail licensee to purchase spirituous liquors from any
34 person other than a solicitor or salesman of a wholesaler licensed in this
35 state.

36 8. For a retailer to acquire an interest in property owned, occupied
37 or used by a wholesaler in his business, or in a license with respect to the
38 premises of the wholesaler.

39 9. Except as provided in paragraphs 10 and 11 of this section, for a
40 licensee or other person to sell, furnish, dispose of or give, or cause to be
41 sold, furnished, disposed of or given, to a person under the legal drinking
42 age or for a person under the legal drinking age to buy, receive, have in the
43 person's possession or consume spirituous liquor. The provisions of this
44 paragraph shall not prohibit the employment by an off-sale retailer of
45 persons who are at least sixteen years of age to check out, if supervised by

1 a person on the premises who is at least nineteen years of age, package or
2 carry merchandise, including spirituous liquor, in unbroken packages, for the
3 convenience of the customer of the employer, if the employer sells primarily
4 merchandise other than spirituous liquor.

5 10. For a licensee to employ a person under the age of nineteen years
6 to manufacture, sell or dispose of spirituous liquors. The provisions of
7 this paragraph shall not prohibit the employment by an off-sale retailer of
8 persons who are at least sixteen years of age to check out, if supervised by
9 a person on the premises who is at least nineteen years of age, package or
10 carry merchandise, including spirituous liquor, in unbroken packages, for the
11 convenience of the customer of the employer, if the employer sells primarily
12 merchandise other than spirituous liquor.

13 11. For an on-sale retailer to employ a person under the age of
14 nineteen years in any capacity connected with the handling of spirituous
15 liquors. This paragraph does not prohibit the employment by an on-sale
16 retailer of a person under the age of nineteen years who cleans up the tables
17 on the premises for reuse, removes dirty dishes, keeps a ready supply of
18 needed items and helps clean up the premises.

19 12. For a licensee, when engaged in waiting on or serving customers, to
20 consume spirituous liquor or for a licensee or on-duty employee to be on or
21 about the licensed premises while in an intoxicated or disorderly condition.

22 13. For an employee of a retail licensee, during that employee's
23 working hours or in connection with such employment, to give to or purchase
24 for any other person, accept a gift of, purchase for himself or consume
25 spirituous liquor, except that an employee of a licensee, during that
26 employee's working hours or in connection with the employment, while the
27 employee is not engaged in waiting on or serving customers, may give
28 spirituous liquor to or purchase spirituous liquor for any other person. An
29 unpaid volunteer who is a bona fide member of a club and who is not engaged
30 in waiting on or serving spirituous liquor to customers may purchase for
31 himself and consume spirituous liquor while participating in a scheduled
32 event at the club. An unpaid participant in a food competition may purchase
33 for himself and consume spirituous liquor while participating in the food
34 competition.

35 14. For a licensee or other person to serve, sell or furnish spirituous
36 liquor to a disorderly or obviously intoxicated person, or for a licensee or
37 employee of the licensee to allow or permit a disorderly or obviously
38 intoxicated person to come into or remain on or about the premises, except
39 that a licensee or an employee of the licensee may allow an obviously
40 intoxicated person to remain on the premises for a period of time of not to
41 exceed thirty minutes after the state of obvious intoxication is known or
42 should be known to the licensee in order that a nonintoxicated person may
43 transport the obviously intoxicated person from the premises. For purposes
44 of this section, "obviously intoxicated" means inebriated to the extent that
45 a person's physical faculties are substantially impaired and the impairment

1 is shown by significantly uncoordinated physical action or significant
2 physical dysfunction that would have been obvious to a reasonable person.

3 15. For an on-sale or off-sale retailer or an employee of such retailer
4 to sell, dispose of, deliver or give spirituous liquor to a person between
5 the hours of 1:00 a.m. and 6:00 a.m. on weekdays, and 1:00 a.m. and 10:00
6 a.m. on Sundays.

7 16. For a licensee or employee to knowingly permit any person on or
8 about the licensed premises to give or furnish any spirituous liquor to any
9 person under the age of twenty-one or knowingly permit any person under the
10 age of twenty-one to have in the person's possession spirituous liquor on the
11 licensed premises.

12 17. For an on-sale retailer or an employee of such retailer to allow a
13 person to consume spirituous liquors on the premises between the hours of
14 1:15 a.m. and 6:00 a.m. on weekdays, and 1:15 a.m. and 10:00 a.m. on Sundays,
15 or allow a person who is not the licensee or employee to possess spirituous
16 liquors in open containers on the premises between the hours of 1:30 a.m. and
17 6:00 a.m. on weekdays, and 1:30 a.m. and 10:00 a.m. on Sundays.

18 18. For an on-sale retailer to permit an employee or for an employee to
19 solicit or encourage others, directly or indirectly, to buy the employee
20 drinks or anything of value in the licensed premises during the employee's
21 working hours. No on-sale retailer shall serve employees or allow a patron
22 of the establishment to give spirituous liquor to, purchase liquor for or
23 drink liquor with any employee during the employee's working hours.

24 19. For an off-sale retailer or employee to sell spirituous liquor
25 except in the original unbroken container, to permit spirituous liquor to be
26 consumed on the premises or to knowingly permit spirituous liquor to be
27 consumed on adjacent property under the licensee's exclusive control.

28 20. For a person to consume spirituous liquor in a public place,
29 thoroughfare or gathering. The license of a licensee permitting a violation
30 of this paragraph on the premises shall be subject to revocation. This
31 paragraph does not apply to the sale of spirituous liquors on the premises of
32 and by an on-sale retailer. This paragraph also does not apply to a person
33 consuming beer from a broken package in a public recreation area or on
34 private property with permission of the owner or lessor or on the walkways
35 surrounding such private property.

36 21. For a person to have possession of or to transport spirituous
37 liquor which is manufactured in a distillery, winery, brewery or rectifying
38 plant contrary to the laws of the United States and this state. Any property
39 used in transporting such spirituous liquor shall be forfeited to the state
40 and shall be seized and disposed of as provided in section 4-221.

41 22. For an on-sale retailer or employee to allow a person under the
42 legal drinking age to remain in an area on the licensed premises during those
43 hours in which its primary use is the sale, dispensing or consumption of
44 alcoholic beverages after the licensee, or the licensee's employees, know or
45 should have known that the person is under the legal drinking age. An

1 on-sale retailer may designate an area of the licensed premises as an area in
2 which spirituous liquor will not be sold or consumed for the purpose of
3 allowing underage persons on the premises if the designated area is separated
4 by a physical barrier and at no time will underage persons have access to the
5 area in which spirituous liquor is sold or consumed. The director, or a
6 municipality, may adopt rules to regulate the presence of underage persons on
7 licensed premises provided the rules adopted by a municipality are more
8 stringent than those adopted by the director. The rules adopted by the
9 municipality shall be adopted by local ordinance. This paragraph does not
10 apply:

11 (a) If the person under the legal drinking age is accompanied by a
12 spouse, parent or legal guardian of legal drinking age or is an on-duty
13 employee of the licensee.

14 (b) If the owner, lessee or occupant of the premises is a club as
15 defined in section 4-101, paragraph 7, subdivision (a) and the person under
16 the legal drinking age is any of the following:

17 (i) An active duty military service member.

18 (ii) A veteran.

19 (iii) A member of the United States army national guard or the United
20 States air national guard.

21 (iv) A member of the United States military reserve forces.

22 (c) To the area of the premises used primarily for the serving of food
23 during the hours when food is served.

24 23. For an on-sale retailer or employee to conduct drinking contests,
25 to sell or deliver to a person an unlimited number of spirituous liquor
26 beverages during any set period of time for a fixed price, to deliver more
27 than thirty-two ounces of beer, one liter of wine or four ounces of distilled
28 spirits in any spirituous liquor drink to one person at one time for that
29 person's consumption or to advertise any practice prohibited by this
30 paragraph.

31 24. For a licensee or employee to knowingly permit the unlawful
32 possession, use, sale or offer for sale of narcotics, dangerous drugs or
33 marijuana on the premises.

34 25. For a licensee or employee to knowingly permit prostitution or the
35 solicitation of prostitution on the premises.

36 26. For a licensee or employee to knowingly permit unlawful gambling on
37 the premises.

38 27. For a licensee or employee to knowingly permit trafficking or
39 attempted trafficking in stolen property on the premises.

40 28. For a licensee or employee to fail or refuse to make the premises
41 or records available for inspection and examination as provided in this title
42 or to comply with a lawful subpoena issued under this title.

43 29. For any person other than a peace officer, the licensee or an
44 employee of the licensee acting with the permission of the licensee to be in
45 possession of a firearm while on the licensed premises of an on-sale retailer

1 knowing such possession is prohibited. This paragraph shall not be construed
2 to include a situation in which a person is on licensed premises for a
3 limited time in order to seek emergency aid and such person does not buy,
4 receive, consume or possess spirituous liquor. This paragraph shall not
5 apply to hotel or motel guest room accommodations nor to the exhibition or
6 display of a firearm in conjunction with a meeting, show, class or similar
7 event. THIS PARAGRAPH DOES NOT APPLY TO A PERSON CARRYING A HANDGUN, PISTOL
8 OR REVOLVER INTO A RESTAURANT LICENSED PURSUANT TO SECTION 4-205.02 UNLESS
9 THE LICENSEE HAS POSTED A SIGN PROHIBITING THE CARRYING OF HANDGUNS, PISTOLS
10 AND REVOLVERS IN THE RESTAURANT PURSUANT TO SECTION 4-244.01.

11 30. For a licensee or employee to knowingly permit a person in
12 possession of a firearm other than a peace officer, the licensee or an
13 employee of the licensee acting with the permission of the licensee to remain
14 on the licensed premises or to serve, sell or furnish spirituous liquor to a
15 person in possession of a firearm while on the licensed premises of an
16 on-sale retailer. This paragraph shall not apply to hotel or motel guest
17 room accommodations nor to the exhibition or display of a firearm in
18 conjunction with a meeting, show, class or similar event. It shall be a
19 defense to action under this paragraph if the licensee or employee requested
20 assistance of a peace officer to remove such person. THIS PARAGRAPH DOES NOT
21 APPLY TO A PERSON CARRYING A HANDGUN, PISTOL OR REVOLVER INTO A RESTAURANT
22 LICENSED PURSUANT TO SECTION 4-205.02 UNLESS THE LICENSEE HAS POSTED A SIGN
23 PROHIBITING THE CARRYING OF HANDGUNS, PISTOLS AND REVOLVERS IN THE RESTAURANT
24 PURSUANT TO SECTION 4-244.01.

25 31. For a licensee or employee to knowingly permit spirituous liquor to
26 be removed from the licensed premises, except in the original unbroken
27 package. This paragraph shall not apply to a person who removes a bottle of
28 wine which has been partially consumed in conjunction with a purchased meal
29 from the licensed premises if the cork is reinserted flush with the top of
30 the bottle.

31 32. For a person who is obviously intoxicated to buy or attempt to buy
32 spirituous liquor from a licensee or employee of a licensee or to consume
33 spirituous liquor on licensed premises.

34 33. For a person under the age of twenty-one years to drive or be in
35 physical control of a motor vehicle while there is any spirituous liquor in
36 the person's body.

37 34. For a person under the age of twenty-one years to operate or be in
38 physical control of a motorized watercraft that is underway while there is
39 any spirituous liquor in the person's body. For the purposes of this
40 paragraph, "underway" has the same meaning as prescribed in section 5-301.

41 35. For a licensee, manager, employee or controlling person to
42 purposely induce a voter, by means of alcohol, to vote or abstain from voting
43 for or against a particular candidate or issue on an election day.

44 36. For a licensee to fail to report an occurrence of an act of
45 violence to either the department or a law enforcement agency.

37. For a licensee to use a vending machine for the purpose of dispensing spirituous liquor.

38. For a licensee to offer for sale a wine carrying a label including a reference to Arizona or any Arizona city, town or geographic location unless at least seventy-five per cent by volume of the grapes used in making the wine were grown in Arizona.

39. For a retailer to knowingly allow a customer to bring spirituous liquor onto the licensed premises, except that an on-sale retailer may allow a wine and food club to bring wine onto the premises for consumption by the club's members and guests of the club's members in conjunction with meals purchased at a meeting of the club that is conducted on the premises and that at least seven members attend. An on-sale retailer who allows wine and food clubs to bring wine onto its premises under this paragraph shall comply with all applicable provisions of this title and any rules adopted pursuant to this title to the same extent as if the on-sale retailer had sold the wine to the members of the club and their guests. For the purposes of this paragraph, "wine and food club" means an association that has more than twenty bona fide members paying at least six dollars per year in dues and that has been in existence for at least one year.

40. For a person under the age of twenty-one years to have in the person's body any spirituous liquor. In a prosecution for a violation of this paragraph:

(a) Pursuant to section 4-249, it is a defense that the spirituous liquor was consumed in connection with the bona fide practice of a religious belief or as an integral part of a religious exercise and in a manner not dangerous to public health or safety.

(b) Pursuant to section 4-226, it is a defense that the spirituous liquor was consumed for a bona fide medicinal purpose and in a manner not dangerous to public health or safety.

Sec. 2. Title 4, chapter 2, article 3, Arizona Revised Statutes, is amended by adding section 4-244.01, to read:

4-244.01. Restaurant licensee; prohibiting firearms on premises; posting of notice

A. A RESTAURANT LICENSEE MAY PROHIBIT THE CARRYING OF HANDGUNS, PISTOLS AND REVOLVERS IN THE RESTAURANT BY POSTING A SIGN PURSUANT TO THIS SECTION.

B. THE SIGN REQUIRED BY SUBSECTION A OF THIS SECTION SHALL CONTAIN THE FOLLOWING LANGUAGE:

NOTICE

PURSUANT TO SECTIONS 4-244 AND 4-244.01, ARIZONA REVISED STATUTES, A PERSON MAY NOT CARRY A FIREARM IN THIS RESTAURANT.

1 C. IF A RESTAURANT LICENSEE CHOOSES TO RESTRICT THE CARRYING OF
2 HANDGUNS, PISTOLS AND REVOLVERS TO ONLY THOSE PERSONS LICENSED PURSUANT TO
3 SECTION 13-3112, THE LICENSEE MAY POST A NOTICE THAT CONTAINS THE FOLLOWING
4 LANGUAGE:

5 NOTICE

6 UNLESS LICENSED PURSUANT TO SECTION 13-3112, ARIZONA REVISED
7 STATUTES, A PERSON MAY NOT CARRY A FIREARM IN THIS RESTAURANT.

8 D. THE SIGNS REQUIRED BY THIS SECTION SHALL BE COMPOSED OF BLOCK,
9 CAPITAL LETTERS PRINTED IN BLACK ON WHITE PAPER. THE LETTERING SHALL CONSUME
10 A SPACE AT LEAST SIX INCHES BY EIGHT INCHES. THE LETTERS COMPRISING THE WORD
11 "NOTICE" SHALL BE AT LEAST THREE-FOURTHS OF A VERTICAL INCH AND ALL OTHER
12 LETTERS SHALL BE AT LEAST ONE-HALF OF A VERTICAL INCH.

13 E. A LICENSEE SHALL CONSPICUOUSLY POST THE SIGN REQUIRED BY THIS
14 SECTION EITHER WITHIN TWENTY FEET OF EACH REGISTER WHERE SALES OF SPIRITUOUS
15 LIQUOR ARE MADE OR BEHIND THE BAR FROM WHICH SPIRITUOUS LIQUOR IS SERVED.