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Senate Engrossed

State of Arizona
Senate
Forty-seventh Legislature
First Regular Session
2005

SENATE BILL 1169

AN ACT

AMENDING SECTIONS 4-226, 4-243.01, 42-3353 AND 42-3354, ARIZONA REVISED STATUTES; RELATING TO LIQUOR WHOLESALERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 4-226, Arizona Revised Statutes, is amended to
3 read:

4 4-226. Exemptions

5 The provisions of this title do not apply to:

6 1. Drugstores selling spirituous liquors only upon prescription.

7 2. Any confectionery candy containing less than five per cent by
8 weight of alcohol.

9 3. Ethyl alcohol intended for use or used for the following purposes:

10 (a) Scientific, chemical, mechanical, industrial and medicinal
11 purposes.

12 (b) Use by those authorized to procure spirituous liquor or ethyl
13 alcohol tax-free, as provided by the acts of Congress and regulations
14 promulgated thereunder.

15 (c) In the manufacture of denatured alcohol produced and used as
16 provided by the acts of Congress and regulations promulgated thereunder.

17 (d) In the manufacture of patented, patent, proprietary, medicinal,
18 pharmaceutical, antiseptic, toilet, scientific, chemical, mechanical and
19 industrial preparations or products, unfit and not used for beverage
20 purposes.

21 (e) In the manufacture of flavoring extracts and syrups unfit for
22 beverage purposes.

23 4. THE PURCHASE, STORAGE, DISTRIBUTION, SERVICE OR CONSUMPTION OF WINE
24 IN CONNECTION WITH THE BONA FIDE PRACTICE OF A RELIGIOUS BELIEF OR AS AN
25 INTEGRAL PART OF A RELIGIOUS EXERCISE BY A CHURCH RECOGNIZED BY THE UNITED
26 STATES INTERNAL REVENUE SERVICE UNDER SECTION 501(c)(3) OF THE INTERNAL
27 REVENUE CODE AND IN A MANNER NOT DANGEROUS TO PUBLIC HEALTH OR SAFETY. THIS
28 EXEMPTION DOES NOT APPLY TO ANY ALLEGED VIOLATION OF SECTION 4-244, PARAGRAPH
29 9, 33, 34 OR 40.

30 Sec. 2. Section 4-243.01, Arizona Revised Statutes, is amended to
31 read:

32 4-243.01. Purchasing from other than primary source of supply
33 unlawful; definitions

34 A. It is unlawful:

35 1. For any supplier to solicit, accept or fill any order for any
36 spirituous liquor from any wholesaler in this state unless the supplier is
37 the primary source of supply for the brand of spirituous liquor sold or
38 sought to be sold and is duly licensed by the board.

39 2. For any wholesaler or any other licensee in this state to order,
40 purchase or receive any spirituous liquor from any supplier unless the
41 supplier is the primary source of supply for the brand ordered, purchased or
42 received.

43 3. Except as provided by section 4-243.02 for a retailer to order,
44 purchase or receive any spirituous liquor from any source other than any of
45 the following:

1 (a) A wholesaler who has purchased the brand from the primary source
2 of supply.

3 (b) A wholesaler who is the designated representative of the primary
4 source of supply in this state and who has purchased such spirituous liquor
5 from the designated representative of the primary source of supply within or
6 without this state.

7 (c) A registered retail agent pursuant to section 4-101.

8 (d) A domestic farm winery or domestic microbrewery licensed under
9 section 4-205.04.

10 B. All spirituous liquor shipped into this state shall be invoiced to
11 the wholesaler by the primary source of supply. ~~Beer~~ ALL SPIRITUOUS LIQUOR
12 shall be unloaded and remain at the wholesaler's premises for at least
13 twenty-four hours. A copy of each invoice shall be transmitted by the
14 wholesaler and the primary source of supply to the department of revenue.

15 C. The director may suspend for a period of one year the license of
16 any wholesaler or retailer who violates ~~the provisions of~~ this section.

17 D. Upon determination by the department of revenue that a primary
18 source of supply has violated ~~the provisions of~~ this section, no wholesaler
19 may accept any shipment of spirituous liquor from such primary source of
20 supply for a period of one year.

21 E. For the purposes of this section:

22 1. "Primary source of supply" means the distiller, producer, owner of
23 the commodity at the time it becomes a marketable product, bottler or
24 exclusive agent of any such distributor or owner. In the case of imported
25 products, the primary source of supply means either the foreign producer,
26 owner, bottler or agent or the prime importer from, or the exclusive agent
27 in, the United States of the foreign distiller, producer, bottler or owner.

28 2. "Wholesaler" means any person, firm or corporation that is licensed
29 in this state to sell to retailers and is engaged in the business of
30 warehousing and distributing brands of various suppliers to retailers
31 generally in the marketing area in which the wholesaler is located.

32 Sec. 3. Section 42-3353, Arizona Revised Statutes, is amended to read:

33 42-3353. Return and payment by vinous or malt liquor
34 wholesalers

35 A. Every wholesaler of ~~vinous or~~ malt liquors purchasing ~~vinous or~~
36 malt liquors for resale within the state shall pay the tax under this chapter
37 on all such liquors so purchased and add the amount of the tax to the sales
38 price.

39 B. BEFORE JANUARY 1, 2007, EVERY WHOLESALER OF VINOUS LIQUORS
40 PURCHASING VINOUS LIQUORS FOR RESALE WITHIN THIS STATE SHALL PAY THE TAX
41 UNDER THIS CHAPTER ON ALL SUCH LIQUORS SO PURCHASED AND ADD THE AMOUNT OF TAX
42 TO THE SALES PRICE.

43 ~~B.~~ C. The wholesaler shall pay the tax to the department monthly on
44 or before the twentieth day of the month next succeeding the month in which
45 the tax accrues.

1 ~~C.~~ D. On or before ~~that~~ THE date PRESCRIBED BY SUBSECTION C OF THIS
2 SECTION the wholesaler shall prepare a sworn return for the month in which
3 the tax accrues in the form prescribed by the department, showing:

4 1. The amount of ~~vinous and~~ malt liquors purchased during the month in
5 which the tax accrues.

6 2. BEFORE JANUARY 1, 2007, THE AMOUNT OF VINOUS LIQUORS PURCHASED
7 DURING THE MONTH IN WHICH THE TAX ACCRUES.

8 ~~2.~~ 3. The amount of tax for the period covered by the return.

9 ~~3.~~ 4. Any other information that the department deems necessary for
10 the proper administration of this chapter.

11 ~~D.~~ E. The taxpayer shall deliver the return, together with a
12 remittance of the amount of the tax due, to the department.

13 ~~E.~~ F. Any taxpayer who fails to pay the tax within ten days from the
14 date upon which the payment becomes due shall be subject to and shall pay a
15 penalty determined under section 42-1125, plus interest at the rate
16 determined pursuant to section 42-1123 from the time the tax was due and
17 payable until paid.

18 Sec. 4. Section 42-3354, Arizona Revised Statutes, is amended to read:

19 ~~42-3354.~~ Return and payment by spirituous or vinous liquor
20 wholesalers

21 A. Every wholesaler of spirituous liquors selling spirituous liquors
22 within the state shall pay the tax under this chapter on all such liquor sold
23 within the state and add the amount of the tax to the sales price.

24 B. BEGINNING JANUARY 1, 2007, EVERY WHOLESALER OF VINOUS LIQUORS
25 SELLING VINOUS LIQUORS WITHIN THIS STATE SHALL PAY THE TAX UNDER THIS CHAPTER
26 ON ALL SUCH LIQUORS SOLD WITHIN THIS STATE AND ADD THE AMOUNT OF TAX TO THE
27 SALES PRICE.

28 ~~B.~~ C. The wholesaler shall pay the tax to the department monthly on
29 or before the twentieth day of the month next succeeding the month in which
30 the tax accrues.

31 ~~C.~~ D. On or before ~~that~~ THE date PRESCRIBED BY SUBSECTION C OF THIS
32 SECTION the wholesaler shall prepare a sworn return for the month in which
33 the tax accrues in the form prescribed by the department, showing:

34 1. The amount of spirituous liquors sold in this state during the
35 month in which the tax accrues.

36 2. BEGINNING JANUARY 1, 2007, THE AMOUNT OF SPIRITUOUS LIQUORS SOLD IN
37 THE STATE DURING THE MONTH IN WHICH THE TAX ACCRUES.

38 ~~2.~~ 3. The amount of tax for the period covered by the return.

39 ~~3.~~ 4. Any other information that the department deems necessary for
40 the proper administration of this chapter.

41 ~~D.~~ E. The wholesaler shall deliver the return, together with a
42 remittance of the amount of the tax due, to the department.

1 ~~E.~~ F. Any taxpayer who fails to pay the tax within ten days from the
2 date upon which the payment becomes due shall be subject to and shall pay a
3 penalty determined under section 42-1125, plus interest at the rate
4 determined pursuant to section 42-1123 from the time the tax was due and
5 payable until paid.

6 Sec. 5. Vinous liquors purchased before January 1, 2007

7 Notwithstanding section 42-3354, subsection B, Arizona Revised
8 Statutes, a wholesaler of vinous liquors that purchases vinous liquors before
9 January 1, 2007 shall pay the tax under this chapter only at the time of
10 purchase, pursuant to section 42-3353, subsection B, Arizona Revised
11 Statutes.

12 Sec. 6. Effective date

13 This act is effective for taxable years beginning from and after
14 December 31, 2006.