

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

HOUSE BILL 2391

AN ACT

AMENDING SECTIONS 4-101, 4-205.02, 4-213, 4-241, 4-243.02, 4-244 AND 4-311,
ARIZONA REVISED STATUTES; 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 4-101, Arizona Revised Statutes, is amended to
3 read:
4 4-101. Definitions
5 In this title, unless the context otherwise requires:
6 1. "Act of violence" means an incident consisting of a riot, a brawl
7 or a disturbance, in which bodily injuries are sustained by any person and
8 such injuries would be obvious to a reasonable person, or tumultuous conduct
9 of sufficient intensity as to require the intervention of a peace officer to
10 restore normal order, or an incident in which a weapon is brandished,
11 displayed or used. Act of violence does not include the use of nonlethal
12 devices by a peace officer.
13 2. "Aggrieved party" means a person who resides at, owns or leases
14 property within a one mile radius of a premises proposed to be licensed and
15 who filed a written request with the department to speak in favor of or
16 opposition to the issuance of the license no later than sixty days after the
17 filing of the application or fifteen days after action by the local governing
18 body, whichever is later.
19 3. "Beer" means any beverage obtained by the alcoholic fermentation,
20 infusion or decoction of barley malt, hops, or other ingredients not
21 drinkable, or any combination of them.
22 4. "Board" means the state liquor board.
23 5. "Bona fide guest" means:
24 (a) A person who is actually a houseguest or a person whose presence
25 as a guest is in response to a specific and personal invitation.
26 (b) In the case of a club that meets the criteria prescribed in
27 paragraph 7, subdivision (a) of this section, a current member of the armed
28 services of the United States who presents proper military identification and
29 any member of a recognized veterans' organization of the United States and of
30 any country allied with the United States during current or past wars or
31 through treaty arrangements.
32 6. "Broken package" means any container of spirituous liquor on which
33 the United States tax seal has been broken or removed, or from which the cap,
34 cork or seal placed thereupon by the manufacturer has been removed.
35 7. "Club" includes any of the following organizations where the sale
36 of spirituous liquor for consumption on the premises is made to members only:
37 (a) A post, chapter, camp or other local unit composed solely of
38 veterans and its duly recognized auxiliary which has been chartered by the
39 Congress of the United States for patriotic, fraternal or benevolent purposes
40 and which has, as the owner, lessee or occupant, operated an establishment
41 for that purpose in this state.
42 (b) A chapter, aerie, parlor, lodge or other local unit of an American
43 national fraternal organization which has as the owner, lessee or occupant
44 operated an establishment for fraternal purposes in this state. An American
45 national fraternal organization as used in this subdivision shall actively

1 operate in not less than thirty-six states or have been in active continuous
2 existence for not less than twenty years.

3 (c) A hall or building association of a local unit mentioned in
4 subdivisions (a) and (b) of this paragraph, all of the capital stock of which
5 is owned by the local unit or the members, and which operates the clubroom
6 facilities of the local unit.

7 (d) A golf club which has more than fifty bona fide members and which
8 owns, maintains or operates a bona fide golf links together with a clubhouse.

9 (e) A social club with more than one hundred bona fide members who are
10 actual residents of the county in which it is located, that owns, maintains
11 or operates club quarters, is authorized and incorporated to operate as a
12 nonprofit club under the laws of this state, and has been continuously
13 incorporated and operating for a period of not less than one year. The club
14 shall have had, during this one year period, a bona fide membership with
15 regular meetings conducted at least once each month, and the membership shall
16 be and shall have been actively engaged in carrying out the objects of the
17 club. The club's membership shall consist of bona fide dues paying members
18 paying at least six dollars per year, payable monthly, quarterly or annually,
19 which have been recorded by the secretary of the club, and the members at the
20 time of application for a club license shall be in good standing having for
21 at least one full year paid dues. At least fifty-one per cent of the members
22 shall have signified their intention to secure a social club license by
23 personally signing a petition, on a form prescribed by the board, which shall
24 also include the correct mailing address of each signer. The petition shall
25 not have been signed by a member at a date earlier than thirty days prior to
26 the filing of the petition. The club shall qualify for exemption from the
27 payment of state income taxes under title 43. It is the intent of this
28 paragraph that a license shall not be granted to a club which is, or has
29 been, primarily formed or activated to obtain a license to sell liquor, but
30 solely to a bona fide club, where the sale of liquor is incidental to the
31 main purposes of the club.

32 (f) An airline club operated by or for airlines which are certificated
33 by the United States government and which maintain or operate club quarters
34 located at airports with international status.

35 8. "Company" or "association", when used in reference to a
36 corporation, includes successors or assigns.

37 9. "Control" means the power to direct or cause the direction of the
38 management and policies of an applicant, licensee or controlling person,
39 whether through the ownership of voting securities or a partnership interest,
40 by agreement or otherwise. Control is presumed to exist if a person has the
41 direct or indirect ownership of or power to vote ten per cent or more of the
42 outstanding voting securities of the applicant, licensee or controlling
43 person or to control in any manner the election of one or more of the
44 directors of the applicant, licensee or controlling person. In the case of a
45 partnership, control is presumed to mean the general partner or a limited

1 partner who holds ten per cent or more of the voting rights of the
2 partnership. For the purposes of determining the percentage of voting
3 securities owned, controlled or held by a person, there shall be aggregated
4 with the voting securities attributed to the person the voting securities of
5 any other person directly or indirectly controlling, controlled by or under
6 common control with the other person, or by an officer, partner, employee or
7 agent of the person or by a spouse, parent or child of the person. Control
8 is also presumed to exist if a creditor of the applicant, licensee or
9 controlling person holds a beneficial interest in ten per cent or more of the
10 liabilities of the licensee or controlling person.

11 10. "Controlling person" means a person directly or indirectly
12 possessing control of an applicant or licensee.

13 11. "Department" means the department of liquor licenses and control.

14 12. "Director" means the director of the department of liquor licenses
15 and control.

16 13. "Distilled spirits" includes alcohol, brandy, whiskey, rum,
17 tequila, mescal, gin, absinthe, a compound or mixture of any of them or of
18 any of them with any vegetable or other substance, alcohol bitters, bitters
19 containing alcohol, fruits preserved in ardent spirits, and any alcoholic
20 mixture or preparation, whether patented or otherwise, which may in
21 sufficient quantities produce intoxication.

22 14. "Domestic farm winery" means a winery in the United States or in a
23 territory or possession of the United States that holds a license pursuant to
24 section 4-205.04.

25 15. "Domestic microbrewery" means a brewery in the United States or in
26 a territory or possession of the United States that meets the requirements of
27 section 4-205.08.

28 16. "Employee" means any person who performs any service on licensed
29 premises on a full-time, part-time or contract basis with consent of the
30 licensee, whether or not the person is denominated an employee, independent
31 contractor or otherwise. Employee does not include a person exclusively on
32 the premises for musical or vocal performances, for repair or maintenance of
33 the premises or for the delivery of goods to the licensee.

34 17. "Government license" means a license to serve and sell spirituous
35 liquor on specified premises available only to a county, city, town or state
36 university or the Arizona coliseum and exposition center upon application by
37 the governing body of a county, city, town or state university or the Arizona
38 exposition and state fair board.

39 18. "Legal drinking age" means ~~the age of~~ twenty-one years **OF AGE** or
40 older.

41 19. "License" means a license or an interim retail permit issued
42 pursuant to ~~the provisions of~~ this title.

43 20. "License fees" means fees collected for license issuance, license
44 application, license renewal, interim permit issuance and license transfer
45 between persons or locations.

1 21. "Licensee" means a person who has been issued a license or an
2 interim retail permit pursuant to ~~the provisions of~~ this title or a special
3 event licensee.

4 22. "Manager" means a natural person who meets the standards required
5 of licensees and WHO has authority to organize, direct, carry on, control or
6 otherwise operate a licensed business on a temporary or full-time basis.

7 23. "Off-sale retailer" means any person operating a bona fide
8 regularly established retail liquor store selling spirituous liquors, wines
9 and beer, and any established retail store selling commodities other than
10 spirituous liquors and engaged in the sale of spirituous liquors only in the
11 original unbroken package, to be taken away from the premises of the retailer
12 and to be consumed off the premises.

13 24. "On-sale retailer" means any person operating an establishment
14 where spirituous liquors are sold in the original container for consumption
15 on or off the premises or in individual portions for consumption on the
16 premises.

17 25. "Person" includes a partnership, limited liability company,
18 association, company or corporation, as well as a natural person.

19 26. "Premises" or "licensed premises" means the area from which the
20 licensee is authorized to sell, dispense or serve spirituous liquors under
21 the provision of the license. LICENSED PREMISES MAY INCLUDE A PATIO THAT IS
22 NOT CONTIGUOUS TO THE REMAINDER OF THE LICENSED PREMISES IF THE PATIO IS
23 SEPARATED FROM THE REMAINDER OF THE LICENSED PREMISES BY A PUBLIC OR PRIVATE
24 WALKWAY OR DRIVEWAY NOT TO EXCEED THIRTY FEET, SUBJECT TO RULES THE DIRECTOR
25 MAY ADOPT TO ESTABLISH CRITERIA FOR NON-CONTIGUOUS PREMISES.

26 27. "Registered mail" includes certified mail.

27 28. "Registered retail agent" means any person who is authorized
28 pursuant to section 4-222 to purchase spirituous liquors for and on behalf of
29 himself and other retail licensees.

30 29. "Repeated acts of violence" means two or more acts of violence
31 occurring within seven days, three or more acts of violence occurring within
32 thirty days or acts of violence occurring with any other similar frequency
33 which the director determines to be unusual or deserving of review.

34 30. "Sell" includes soliciting or receiving an order for, keeping or
35 exposing for sale, directly or indirectly delivering for value, peddling,
36 keeping with intent to sell and trafficking in.

37 31. "Spirituous liquor" includes alcohol, brandy, whiskey, rum,
38 tequila, mescal, gin, wine, porter, ale, beer, any malt liquor or malt
39 beverage, absinthe, a compound or mixture of any of them or of any of them
40 with any vegetable or other substance, alcohol bitters, bitters containing
41 alcohol, any liquid mixture or preparation, whether patented or otherwise,
42 which produces intoxication, fruits preserved in ardent spirits, and
43 beverages containing more than one-half of one per cent of alcohol by volume.

44 32. "Vehicle" means any means of transportation by land, water or air,
45 and includes everything made use of in any way for such transportation.

1 33. "Vending machine" means a machine that dispenses merchandise
2 through the means of coin, token, credit card or other nonpersonal means of
3 accepting payment for merchandise received.

4 34. "Veteran" means a person who has served in the United States air
5 force, army, navy, marine corps or coast guard, as an active nurse in the
6 services of the American red cross, in the army and navy nurse corps in time
7 of war, or in any expedition of the armed forces of the United States, and
8 who has received a discharge other than dishonorable.

9 35. "Voting security" means any security presently entitling the owner
10 or holder of the security to vote for the election of directors of an
11 applicant, licensee or controlling person.

12 36. "Wine" means the product obtained by the fermentation of grapes or
13 other agricultural products containing natural or added sugar or any such
14 alcoholic beverage fortified with grape brandy and containing not more than
15 twenty-four per cent of alcohol by volume.

16 Sec. 2. Section 4-205.02, Arizona Revised Statutes, is amended to
17 read:

18 4-205.02. Restaurant license; issuance; regulatory provisions;
19 expiration; definitions

20 A. The director may issue a restaurant license to any restaurant in
21 this state ~~which~~ THAT is regularly open for the serving of food to guests for
22 compensation and ~~which~~ THAT has suitable kitchen facilities connected with
23 the restaurant for keeping, cooking and preparing foods required for ordinary
24 meals.

25 B. The director shall issue the license in the name of the restaurant
26 upon application for the license by the owner or lessee of the restaurant,
27 provided the applicant is otherwise qualified to hold a spirituous liquor
28 license. The holder of such license is subject to the penalties prescribed
29 for any violation of the law relating to alcoholic beverages.

30 C. The holder of a restaurant license may sell and serve spirituous
31 liquors solely for consumption on the licensed premises. For the purpose of
32 this subsection, "licensed premises" may include rooms, areas or locations in
33 which the restaurant normally sells or serves spirituous liquors pursuant to
34 regular operating procedures and practices and ~~which~~ THAT are contiguous to
35 the restaurant. For the ~~purpose~~ PURPOSES of this subsection, a restaurant
36 licensee must submit proof of tenancy or permission from the landowner or
37 lessor for all property to be included in the licensed premises.

38 ~~D. In addition to other grounds prescribed in this title upon which a~~
39 ~~license may be revoked, the director may revoke a restaurant license issued~~
40 ~~pursuant to this section in any case in which the licensee ceases to operate~~
41 ~~as a restaurant, as prescribed in subsection A of this section.~~

42 D. NOTWITHSTANDING SECTION 4-209, SUBSECTION A, THE DIRECTOR MAY DEEM
43 A RESTAURANT LICENSE ISSUED PURSUANT TO THIS SECTION TO HAVE BEEN SURRENDERED
44 ON THE NEXT ANNUAL EXPIRATION DATE AFTER THE DIRECTOR PROVIDES NOTICE TO THE
45 LICENSEE THAT THE DIRECTOR HAS DETERMINED THAT THE LICENSEE HAS CEASED TO

1 OPERATE AS A RESTAURANT AS PRESCRIBED IN SUBSECTION A OF THIS SECTION OR A
2 LICENSEE WHOSE LICENSE HAS BEEN SURRENDERED PURSUANT TO THIS SUBSECTION MAY
3 NOT RENEW THAT RESTAURANT LICENSE BUT MAY APPLY FOR A NEW LICENSE. FOR THE
4 PURPOSES OF THIS TITLE, THE SURRENDER OF A RESTAURANT LICENSE UNDER THIS
5 SUBSECTION SHALL NOT BE DEEMED TO BE A REVOCATION OF A RESTAURANT LICENSE.

6 E. Neither the director nor the board may initially issue a restaurant
7 license if either finds that there is sufficient evidence that the operation
8 will not satisfy the criteria adopted by the director for issuing a
9 restaurant license described in section 4-209, subsection B, paragraph 12.
10 The director shall issue a restaurant license only if the applicant has
11 submitted a plan for the operation of the restaurant. The plan shall be
12 completed on forms provided by the department and shall include listings of
13 all restaurant equipment and service items, the restaurant seating capacity
14 and other information requested by the department to substantiate that the
15 restaurant will operate in compliance with this section.

16 F. The holder of the license described in section 4-209, subsection B,
17 paragraph 12 who intends to alter the seating capacity or dimensions of a
18 restaurant facility shall notify the department in advance on forms provided
19 by the department.

20 G. For the ~~purpose~~ PURPOSES of this section:

21 1. "Gross revenue" means the revenue derived from all sales of food
22 and spirituous liquor on the licensed premises, regardless of whether the
23 sales of spirituous liquor are made under a restaurant license issued
24 pursuant to this section or under any other license that has been issued for
25 the premises pursuant to this article.

26 2. "Restaurant" means an establishment ~~which~~ THAT derives at least
27 forty per cent of its gross revenue from the sale of food, including sales of
28 food for consumption off the licensed premises if the amount of these sales
29 included in the calculation of gross revenue from the sale of food does not
30 exceed fifteen per cent of all gross revenue of the restaurant.

31 Sec. 3. Section 4-213, Arizona Revised Statutes, is amended to read:

32 4-213. Restaurant audit

33 A. The director may require a restaurant to submit an audit of its
34 records to demonstrate compliance with section 4-205.02. The director shall
35 not require an establishment to submit to such an audit more than once a year
36 after the initial twelve months of operation even if the establishment is
37 allowed to continue operating as a restaurant pursuant to subsection E of
38 this section.

39 B. Except as provided in subsection D of this section, the department
40 shall audit accounts, records and operations of a licensee that cover a
41 twelve month period. **WHEN CONDUCTING AN AUDIT, THE DEPARTMENT SHALL USE**
42 **GENERALLY ACCEPTED AUDITING STANDARDS.** An establishment that averages at
43 least forty per cent of its gross revenue from the sale of food during the
44 twelve month audit period shall be deemed to comply with the gross revenue

1 requirements of section 4-205.02. The twelve month audit period shall fall
2 within the sixteen months immediately preceding the beginning of the audit.

3 C. If the audit or a consent agreement that may be offered at the
4 discretion of the director and that is signed by the licensee and the
5 director reveals that the licensee did not meet the definition of a
6 restaurant as prescribed in section 4-205.02 and the percentage of food sales
7 determined by the audit or consent agreement was:

8 1. Less than thirty per cent, **NOTWITHSTANDING SECTION 4-209,**
9 **SUBSECTION A,** the ~~department shall revoke the~~ **DIRECTOR SHALL DEEM THE**
10 **license TO HAVE BEEN SURRENDERED AS PROVIDED IN SECTION 4-205.02, SUBSECTION**
11 **D.**

12 2. At least thirty per cent but less than thirty-seven per cent, the
13 department shall allow the licensee a six month period to **CONTINUE TO OPERATE**
14 **UNDER THE RESTAURANT LICENSE, DURING WHICH THE LICENSEE SHALL** either:

15 (a) Replace the license with a bar or beer and wine bar license,
16 except that, at the end of that six month period, the department shall revoke
17 the restaurant license or the licensee shall surrender the restaurant
18 license.

19 (b) Obtain permission from the department to continue operating with a
20 restaurant license pursuant to subsection E of this section.

21 3. At least thirty-seven per cent but less than forty per cent, the
22 licensee shall be granted a period of one year to **CONTINUE TO OPERATE UNDER**
23 **THE RESTAURANT LICENSE, DURING WHICH THE LICENSEE SHALL ATTEMPT TO** increase
24 the food percentage to at least forty per cent. If the licensee does not
25 increase the percentage of food sales to at least forty per cent, the
26 department shall allow the licensee a six month period to **CONTINUE TO OPERATE**
27 **UNDER THE RESTAURANT LICENSE, DURING WHICH THE LICENSEE SHALL** either:

28 (a) Replace the license with a bar or beer and wine bar license,
29 except that, at the end of the six month period, the department shall revoke
30 the restaurant license or the licensee shall surrender the restaurant
31 license.

32 (b) Obtain permission from the department to continue operating with a
33 restaurant license pursuant to subsection E of this section.

34 D. The department may conduct an audit of a licensee described in
35 section 4-209, subsection B, paragraph 12 after twelve months following the
36 beginning of operations as a restaurant by the licensee to determine
37 compliance by the licensee with section 4-205.02, except that the department
38 may conduct an audit of a licensee within the first twelve months of
39 operation if the licensee has made a substantial modification in the
40 restaurant equipment, service or entertainment items or seating capacity
41 during that twelve month period, in which event the department may conduct
42 the audit for a period of less than twelve months.

43 E. A restaurant licensee may continue to operate with its restaurant
44 license if its food sales are at least thirty per cent and less than forty
45 per cent and the department approves the continuation of the restaurant

1 license pursuant to this subsection and subsections C, F, G, H and I of this
2 section. The department shall not approve more than fifteen restaurant
3 licenses pursuant to this subsection and subsections C, F, G, H and I of this
4 section in each of the fiscal years 2006-2007 and 2007-2008. The department
5 shall not approve any additional licenses pursuant to this subsection and
6 subsections C, F, G, H and I of this section from consent agreements entered
7 into or audits conducted in any fiscal year after 2007-2008. The department
8 may approve a request submitted by the licensee to continue to operate with
9 its restaurant license only if all of the following apply at the time the
10 licensee files its request with the department:

11 1. The restaurant has a sufficient number of cooks, food preparation
12 personnel and wait staff to prepare and provide the restaurant services that
13 are necessary for the menu offered by the licensee.

14 2. The restaurant's equipment is of a sufficient grade and the size of
15 the restaurant's kitchen is appropriate to the menu offered and the kitchen
16 occupies not less than twenty per cent of the total floor space of the
17 licensed premises.

18 3. The menu is of a type consistent with a restaurant operation. In
19 making a determination pursuant to this paragraph, the department may
20 consider the proportion of food sales to alcohol sales, the price of
21 spirituous liquor beverages and food served by the licensee and whether the
22 licensee provides reduced price or complimentary food and beverages.

23 4. Not more than thirty per cent of the public interior area floor
24 space consists of pool tables, dart or arcade games, barstools, cocktail
25 tables and similar types of seating and dance floors, and the aggregate area
26 of all dance floors on the premises is not greater than ten per cent of the
27 total floor space of the public area of the premises.

28 5. The name of the restaurant does not include terms associated with
29 alcohol consumption, such as "bar", "tavern", "pub", "spirits", "club",
30 "lounge", "cabaret", "cantina" or "saloon".

31 6. Disposable dinnerware and smallware, including dining utensils, are
32 not used except in outdoor areas.

33 F. If the department intends to approve a restaurant's continuation of
34 operation pursuant to subsection E of this section:

35 1. The department shall advise the governing body of the city or town
36 if the premises are within the incorporated limits of a city or town or the
37 county of the department's intent.

38 2. The city or town or the county shall post a notice for at least
39 twenty days on the licensed premises that the licensee has made a request for
40 continuation to operate with a restaurant license and invite bona fide
41 residents who own, lease or reside on property within a one mile radius of
42 the licensed premises to file written comments with the department regarding
43 the request within thirty days of the first posting of the notice.

1 G. If the local jurisdiction through its governing body or its
2 authorized agent does not object within ninety days, the licensee may
3 continue its operation as a restaurant.

4 H. If the department intends to disapprove a restaurant's continuation
5 of operation pursuant to subsection E of this section, or if the local
6 jurisdiction or its agent timely objects to its continuation, the department
7 shall set a hearing before the board and the local jurisdiction shall post a
8 notice of the hearing for a period of at least twenty days on the licensed
9 premises. The city or town or the county may testify at the hearing and bona
10 fide residents who own, lease or reside on property within a one mile radius
11 of the licensed premises may testify before the board regarding the
12 licensee's request. The board shall determine whether the restaurant may
13 continue its operation based on consideration of the criteria listed in
14 subsection E of this section.

15 I. A restaurant licensee may continue to operate with its restaurant
16 license pursuant to subsection E of this section, if the restaurant and the
17 restaurant licensee continue to meet the requirements of this subsection,
18 subsection E of this section and any other statute. As a condition of
19 continuing operation as a restaurant under subsection E of this section, the
20 department may require the licensee to specifically acknowledge the
21 representations made by the licensee regarding its operations in support of
22 the licensee's continuing operation as a restaurant. Notwithstanding
23 subsection A of this section, if the licensee changes its operation in any
24 way that materially and detrimentally affects the representations made by the
25 licensee, the department may audit the licensee or terminate the license
26 without an audit.

27 Sec. 4. Section 4-241, Arizona Revised Statutes, is amended to read:

28 4-241. Selling or giving liquor to underage person; illegally
29 obtaining liquor by underage person; violation;
30 classification; definitions

31 A. A licensee, an employee or any other person who questions or has
32 reason to question whether or not a person ordering, purchasing, attempting
33 to purchase or otherwise procuring or attempting to procure the serving or
34 delivery of spirituous liquor is under the legal drinking age shall require
35 the person to exhibit a written instrument of identification and may require
36 the person on a card to be retained by the licensee to sign the person's
37 name, the date, ~~and~~ and the number of such identification. **FOR THE PURPOSES OF**
38 **THIS SECTION AND SECTION 4-244, PARAGRAPHS 9 AND 22, A LICENSEE OR EMPLOYEE**
39 **IS NOT REQUIRED TO REQUEST IDENTIFICATION FROM A PERSON IF DURING THIS VISIT**
40 **TO THE LICENSED PREMISES BY THE PERSON THE LICENSEE OR ANY EMPLOYEE HAS**
41 **PREVIOUSLY REQUESTED IDENTIFICATION PURSUANT TO THIS SECTION, THE PERSON**
42 **PRODUCED IDENTIFICATION PURSUANT TO THIS SECTION AND THE LICENSEE OR EMPLOYEE**
43 **RECORDED THIS INFORMATION AS REQUIRED BY THIS SECTION.** An off-sale retail
44 licensee or employee of an off-sale retail licensee shall require an
45 instrument of identification from any customer who appears to be under

1 twenty-seven years of age and who is using a drive-through or other physical
2 feature of the licensed premises that allows a customer to purchase
3 spirituous liquor without leaving the customer's vehicle. The following
4 written instruments are the only acceptable types of identification:

5 1. An unexpired driver license issued by any state or Canada if the
6 license includes a picture of the licensee.

7 2. A nonoperating identification license issued pursuant to section
8 28-3165 or an equivalent form of identification license issued by any state
9 or Canada if the license includes a picture of the person and the person's
10 date of birth.

11 3. An armed forces identification card.

12 4. A valid unexpired passport or border crossing identification card
13 ~~which~~ THAT is issued by a government or A voter card THAT IS issued by the
14 government of Mexico ~~and which~~ IF THE PASSPORT OR CARD contains a photograph
15 of the person and the person's date of birth.

16 B. A licensee, an employee or any other person who sells, gives,
17 serves or furnishes spirituous liquor to a person who is under the legal
18 drinking age without having recorded and retained a record of the person's
19 age, an electronic file or a printed document produced by a device that reads
20 the person's age from the instrument of identification and obtains a
21 signature from any person ~~who~~ WHOM the licensee has reason to question if the
22 identification belonged to the person presenting the identification, or a
23 dated and signed photocopy of the instrument of identification exhibited as
24 prescribed by subsection A of this section, is deemed to have constructive
25 knowledge of the person's age. IF A LICENSEE OR EMPLOYEE REQUESTS
26 IDENTIFICATION AND RECORDS THE INFORMATION REQUIRED BY THIS SECTION FOR A
27 PERSON, DURING THIS VISIT TO THE LICENSED PREMISES BY THE PERSON, THE
28 LICENSEE OR ANY EMPLOYEE WHO DOES NOT HAVE ACTUAL KNOWLEDGE THAT THE PERSON
29 IS UNDER THE LEGAL DRINKING AGE IS NOT IN VIOLATION OF THIS SECTION OR
30 SECTION 4-244, PARAGRAPH 9 OR 22. This ~~section shall~~ SUBSECTION DOES not
31 shift the presumption of constructive knowledge of a person's age for anyone
32 using a device that reads the person's age from the instrument of
33 identification, if a reasonable person would have reason to question if the
34 identification belonged to the person presenting the identification.

35 C. A person who is under the legal drinking age and who misrepresents
36 the person's age to any person by means of a written instrument of
37 identification with the intent to induce a person to sell, serve, give or
38 furnish spirituous liquor contrary to law is guilty of a class 1 misdemeanor.

39 D. A person who is under the legal drinking age and who solicits
40 another person to purchase, sell, give, serve or furnish spirituous liquor
41 contrary to law is guilty of a class 3 misdemeanor.

42 E. A person who is under the legal drinking age and who uses a
43 fraudulent or false written instrument of identification or identification of
44 another person or uses a valid license or identification of another person to
45 gain access to a licensed establishment is guilty of a class 1 misdemeanor.

1 F. A person who uses a driver or nonoperating identification license
2 in violation of subsection C or E of this section is subject to suspension of
3 the driver or nonoperating identification license as provided in section
4 28-3309. A person who does not have a valid driver or nonoperating
5 identification license and who uses a driver or nonoperating identification
6 license of another in violation of subsection C or E of this section has the
7 person's right to apply for a driver or nonoperating identification license
8 suspended as provided by section 28-3309.

9 G. A person who knowingly influences the sale, giving or serving of
10 spirituous liquor to a person under the legal drinking age by misrepresenting
11 the age of such person or who orders, requests, receives or procures
12 spirituous liquor from any licensee, employee or other person with the intent
13 of selling, giving or serving it to a person under the legal drinking age is
14 guilty of a class 1 misdemeanor. A DOORPERSON WHO ADMITS A PERSON THE
15 DOORPERSON HAS ACTUAL KNOWLEDGE IS UNDER THE LEGAL DRINKING AGE INTO ANY
16 PORTION OF THE LICENSED PREMISES IN VIOLATION OF SECTION 4-244, PARAGRAPH 22,
17 IS IN VIOLATION OF THIS SUBSECTION. In addition to other penalties provided
18 by law, a judge may suspend a driver license issued to or the driving
19 privilege of a person for not more than thirty days for a first conviction
20 and not more than six months for a second or subsequent conviction under this
21 subsection.

22 H. A person who is of legal drinking age and who is an occupant of
23 unlicensed premises is guilty of a class 1 misdemeanor if both of the
24 following apply:

25 1. Such person knowingly allows a gathering on such unlicensed
26 premises of two or more persons who are under the legal drinking age and who
27 are neither:

28 (a) Members of the immediate family of such person.

29 (b) Permanently residing with such person.

30 2. Such person knows or should know that one or more of the persons
31 under the legal drinking age is in possession of or consuming spirituous
32 liquor on the unlicensed premises.

33 I. For the purposes of subsection H of this section, "occupant" means
34 a person who has legal possession or the legal right to exclude others from
35 the unlicensed premises.

36 J. A peace officer shall forward or electronically transfer to the
37 director of the department of transportation the affidavit required by
38 section 28-3310 if the peace officer has arrested a person for the commission
39 of an offense for which, on conviction, suspension of the license or
40 privilege to operate a motor vehicle is required by section 28-3309,
41 subsection A, B or D, or if the peace officer has confiscated a false
42 identification document used by the person to gain access to licensed
43 premises.

1 K. A person who acts under a program of testing compliance with this
2 title ~~which~~ THAT is approved by the director is not in violation of section
3 4-244.

4 L. Law enforcement agencies may use persons who are under the legal
5 drinking age to test compliance with this section and section 4-244,
6 paragraph 9 by a licensee if the law enforcement agency has reasonable
7 suspicion that the licensee is violating this section or section 4-244,
8 paragraph 9. A person who is under the legal drinking age and who purchases
9 or attempts to purchase spirituous liquor under the direction of a law
10 enforcement agency pursuant to this subsection is immune from prosecution for
11 that purchase or attempted purchase. Law enforcement agencies may use a
12 person under the legal drinking age pursuant to this subsection only if:

13 1. The person is at least fifteen but not more than nineteen years of
14 age.

15 2. The person is not employed on an incentive or quota basis.

16 3. The person's appearance is that of a person who is under the legal
17 drinking age.

18 4. A photograph of the person is taken no more than twelve hours
19 before the purchase or attempted purchase. The photograph shall accurately
20 depict the person's appearance and attire. A licensee or an employee of a
21 licensee who is cited for selling spirituous liquor to a person under the
22 legal drinking age pursuant to this subsection shall be permitted to inspect
23 the photograph immediately after the citation is issued. The person's
24 appearance at any trial or administrative hearing that results from a
25 citation shall not be substantially different from the person's appearance at
26 the time the citation was issued.

27 5. The person places, receives and pays for the person's order of
28 spirituous liquor. An adult shall not accompany the person onto the premises
29 of the licensee.

30 6. The person does not consume any spirituous liquor.

31 M. The department may adopt rules to carry out the purposes of this
32 section.

33 Sec. 5. Section 4-243.02, Arizona Revised Statutes, is amended to
34 read:

35 4-243.02. Sale of beer, wine or distilled spirits by producer;
36 limitations

37 A. A person who holds a producer's license may sell beer produced by
38 the producer through the producer's own on-sale retail premises if:

39 1. The producer also holds an on-sale retail license.

40 2. The retail sale of the beer is on or adjacent to the premises of
41 the producer.

42 B. A person who holds a producer's license may sell wine **OR DISTILLED**
43 **SPIRITS** produced by the producer at the producer's licensed premises.

1 Sec. 6. Section 4-244, Arizona Revised Statutes, is amended to read:

2 4-244. Unlawful acts

3 It is unlawful:

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

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

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

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

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

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

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

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

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

1 customer of the employer, if the employer sells primarily merchandise other
2 than spirituous liquor.

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

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

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

20 13. For an employee of a retail licensee, during that employee's
21 working hours or in connection with such employment, to give to or purchase
22 for any other person, accept a gift of, purchase for himself or consume
23 spirituous liquor, except that:

24 (a) An employee of a licensee, during that employee's working hours or
25 in connection with the employment, while the employee is not engaged in
26 waiting on or serving customers, may give spirituous liquor to or purchase
27 spirituous liquor for any other person.

28 (b) An employee of an on-sale retail licensee, during that employee's
29 working hours or in connection with the employment, while the employee is not
30 engaged in waiting on or serving customers, may taste samples of beer or wine
31 not to exceed four ounces per day or distilled spirits not to exceed two
32 ounces per day provided by an employee of a wholesaler or distributor who is
33 present at the time of the sampling.

34 (c) An employee of an on-sale retail licensee, under the supervision
35 of a manager as part of the employee's training and education, while not
36 engaged in waiting on or serving customers may taste samples of distilled
37 spirits not to exceed two ounces per educational session or beer or wine not
38 to exceed four ounces per educational session, and provided that a licensee
39 shall not have more than two educational sessions in any thirty day period.

40 (d) An unpaid volunteer who is a bona fide member of a club and who is
41 not engaged in waiting on or serving spirituous liquor to customers may
42 purchase for himself and consume spirituous liquor while participating in a
43 scheduled event at the club. An unpaid participant in a food competition may
44 purchase for himself and consume spirituous liquor while participating in the
45 food competition.

1 (e) An unpaid volunteer of a special event licensee under section
2 4-203.02 may purchase and consume spirituous liquor while not engaged in
3 waiting on or serving spirituous liquor to customers at the special event.
4 This subdivision does not apply to an unpaid volunteer whose responsibilities
5 include verification of a person's legal drinking age, security or the
6 operation of any vehicle or heavy machinery.

7 14. For a licensee or other person to serve, sell or furnish spirituous
8 liquor to a disorderly or obviously intoxicated person, or for a licensee or
9 employee of the licensee to allow or permit a disorderly or obviously
10 intoxicated person to come into or remain on or about the premises, except
11 that a licensee or an employee of the licensee may allow an obviously
12 intoxicated person to remain on the premises for a period of time of not to
13 exceed thirty minutes after the state of obvious intoxication is known or
14 should be known to the licensee in order that a nonintoxicated person may
15 transport the obviously intoxicated person from the premises. For THE
16 purposes of this ~~section~~ PARAGRAPH, "obviously intoxicated" means inebriated
17 to the extent that a person's physical faculties are substantially impaired
18 and the impairment is shown by significantly uncoordinated physical action or
19 significant physical dysfunction that would have been obvious to a reasonable
20 person.

21 15. For an on-sale or off-sale retailer or an employee of such retailer
22 to sell, dispose of, deliver or give spirituous liquor to a person between
23 the hours of 2:00 a.m. and 6:00 a.m. on weekdays, and 2:00 a.m. and 10:00
24 a.m. on Sundays.

25 16. For a licensee or employee to knowingly permit any person on or
26 about the licensed premises to give or furnish any spirituous liquor to any
27 person under the age of twenty-one or knowingly permit any person under the
28 age of twenty-one to have in the person's possession spirituous liquor on the
29 licensed premises.

30 17. For an on-sale retailer or an employee of such retailer to allow a
31 person to consume or possess spirituous liquors on the premises between the
32 hours of 2:30 a.m. and 6:00 a.m. on weekdays, and 2:30 a.m. and 10:00 a.m.
33 on Sundays.

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

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

44 20. For a person to consume spirituous liquor in a public place,
45 thoroughfare or gathering. The license of a licensee permitting a violation

1 of this paragraph on the premises shall be subject to revocation. This
2 paragraph does not apply to the sale of spirituous liquors on the premises of
3 and by an on-sale retailer. This paragraph also does not apply to a person
4 consuming beer from a broken package in a public recreation area or on
5 private property with permission of the owner or lessor or on the walkways
6 surrounding such private property.

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

12 22. For an on-sale retailer or employee to allow a person under the
13 legal drinking age to remain in an area on the licensed premises during those
14 hours in which its primary use is the sale, dispensing or consumption of
15 alcoholic beverages after the licensee, or the licensee's employees, know or
16 should have known that the person is under the legal drinking age. An
17 on-sale retailer may designate an area of the licensed premises as an area in
18 which spirituous liquor will not be sold or consumed for the purpose of
19 allowing underage persons on the premises if the designated area is separated
20 by a physical barrier and at no time will underage persons have access to the
21 area in which spirituous liquor is sold or consumed. A LICENSEE OR AN
22 EMPLOYEE OF A LICENSEE MAY REQUIRE A PERSON WHO INTENDS TO ENTER A LICENSED
23 PREMISES OR A PORTION OF A LICENSED PREMISES WHERE PERSONS UNDER THE LEGAL
24 DRINKING AGE ARE PROHIBITED UNDER THIS SECTION TO EXHIBIT A WRITTEN
25 INSTRUMENT OF IDENTIFICATION THAT IS ACCEPTABLE UNDER SECTION 4-241 AS A
26 CONDITION OF ENTRY. The director, or a municipality, may adopt rules to
27 regulate the presence of underage persons on licensed premises provided the
28 rules adopted by a municipality are more stringent than those adopted by the
29 director. The rules adopted by the municipality shall be adopted by local
30 ordinance AND SHALL NOT INTERFERE WITH THE LICENSEE'S ABILITY TO COMPLY WITH
31 THIS PARAGRAPH. This paragraph does not apply:

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

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

38 (i) An active duty military service member.

39 (ii) A veteran.

40 (iii) A member of the United States army national guard or the United
41 States air national guard.

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

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

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

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

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

13 26. For a licensee or employee to knowingly permit unlawful gambling on
14 the premises.

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

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

20 29. For any person other than a peace officer, the licensee or an
21 employee of the licensee acting with the permission of the licensee to be in
22 possession of a firearm while on the licensed premises of an on-sale retailer
23 knowing such possession is prohibited. This paragraph shall not be construed
24 to include a situation in which a person is on licensed premises for a
25 limited time in order to seek emergency aid and such person does not buy,
26 receive, consume or possess spirituous liquor. This paragraph shall not
27 apply to hotel or motel guest room accommodations nor to the exhibition or
28 display of a firearm in conjunction with a meeting, show, class or similar
29 event.

30 30. For a licensee or employee to knowingly permit a person in
31 possession of a firearm other than a peace officer, the licensee or an
32 employee of the licensee acting with the permission of the licensee to remain
33 on the licensed premises or to serve, sell or furnish spirituous liquor to a
34 person in possession of a firearm while on the licensed premises of an
35 on-sale retailer. This paragraph shall not apply to hotel or motel guest
36 room accommodations nor to the exhibition or display of a firearm in
37 conjunction with a meeting, show, class or similar event. It shall be a
38 defense to action under this paragraph if the licensee or employee requested
39 assistance of a peace officer to remove such person.

40 31. For a licensee or employee to knowingly permit spirituous liquor to
41 be removed from the licensed premises, except in the original unbroken
42 package. This paragraph shall not apply to EITHER OF THE FOLLOWING:

43 (a) A person who removes a bottle of wine which has been partially
44 consumed in conjunction with a purchased meal from ~~the~~ licensed premises if

1 ~~the~~ A cork is ~~reinserted~~ INSERTED flush with the top of the bottle OR THE
2 BOTTLE IS OTHERWISE SECURELY CLOSED.

3 (b) A PERSON WHO IS IN LICENSED PREMISES THAT HAVE NONCONTIGUOUS
4 PORTIONS THAT ARE SEPARATED BY A PUBLIC OR PRIVATE WALKWAY OR DRIVEWAY AND
5 WHO TAKES SPIRITUOUS LIQUOR FROM ONE PORTION OF THE LICENSED PREMISES ACROSS
6 THE PUBLIC OR PRIVATE WALKWAY DIRECTLY TO THE OTHER PORTION OF THE LICENSED
7 PREMISES.

8 32. For a person who is obviously intoxicated to buy or attempt to buy
9 spirituous liquor from a licensee or employee of a licensee or to consume
10 spirituous liquor on licensed premises. FOR THE PURPOSES OF THIS PARAGRAPH,
11 "OBVIOUSLY INTOXICATED" MEANS INEBRIATED TO THE EXTENT THAT A PERSON'S
12 PHYSICAL FACULTIES ARE SUBSTANTIALLY IMPAIRED AND THE IMPAIRMENT IS SHOWN BY
13 SIGNIFICANTLY UNCOORDINATED PHYSICAL ACTION OR SIGNIFICANT PHYSICAL
14 DYSFUNCTION THAT WOULD HAVE BEEN OBVIOUS TO A REASONABLE PERSON.

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

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

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

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

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

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

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

1 damage as a result of the consumption of spirituous liquor within a
2 reasonable period of time following the sale of the spirituous liquor, it
3 shall create a rebuttable presumption that the underage person consumed the
4 spirituous liquor sold to such person by the licensee.

5 D. For the purposes of this section, "obviously intoxicated" means
6 inebriated to such an extent that a person's physical faculties are
7 substantially impaired and the impairment is shown by significantly
8 uncoordinated physical action or significant physical dysfunction that would
9 have been obvious to a reasonable person.