

COMMITTEE ON ECONOMIC DEVELOPMENT AND JOBS CREATION

SENATE AMENDMENTS TO S.B. 1460

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 4-112, Arizona Revised Statutes, is amended to
3 read:

4 4-112. Powers and duties of board and director of department of
5 liquor licenses and control; investigations; county and
6 municipal regulation

7 A. The board shall:

8 1. Grant and deny applications in accordance with the provisions of
9 this title.

10 2. Adopt rules in order to carry out the provisions of this section.

11 3. Hear appeals and hold hearings as provided in this section.

12 B. Except as provided in subsection A of this section, the director
13 shall administer the provisions of this title, including:

14 1. Adopting rules:

15 (a) For carrying out the provisions of this title.

16 (b) For the proper conduct of the business to be carried on under each
17 specific type of spirituous liquor license.

18 (c) To enable and assist state officials and political subdivisions to
19 collect taxes levied or imposed in connection with spirituous liquors.

20 (d) For the issuance and revocation of certificates of registration of
21 retail agents, including provisions governing the shipping, storage and
22 delivery of spirituous liquors by registered retail agents, the keeping of
23 records and the filing of reports by registered retail agents.

24 (e) To establish requirements for licensees under section 4-209,
25 subsection B, paragraph 12.

26 2. Employing necessary personnel and fixing their compensation.

27 3. Keeping an index record which shall be a public record open to
28 public inspection and shall contain the name and address of each licensee and
29 the name and address of any person having an interest, either legal or

1 equitable, in each license as shown by any written document, which document
2 shall be placed on file in the office of the board.

3 4. Providing the board with such supplies and personnel as may be
4 directed by the board.

5 5. Responding in writing to any law enforcement agency that submits an
6 investigative report to the department relating to a violation of this title,
7 setting forth what action, if any, the department has taken or intends to
8 take on the report and, if the report lacks sufficient information or is
9 otherwise defective for use by the department, what the agency must do to
10 remedy the report.

11 6. Taking such steps as are necessary to maintain effective liaison
12 with the department of public safety and all local law enforcement agencies
13 in the enforcement of this title including the laws of this state against the
14 consumption of spirituous liquor by persons under the legal drinking age.

15 7. Providing training to law enforcement agencies in the proper
16 investigation and reporting of violations of this title.

17 C. The director shall establish within the department a separate
18 investigations unit which has as its sole responsibility the investigation of
19 compliance with this title including the investigation of licensees alleged
20 to have sold or distributed spirituous liquor in any form to persons under
21 the legal drinking age. Investigations conducted by this unit may include
22 covert undercover investigations.

23 D. All employees of the department of liquor licenses and control,
24 except members of the state liquor board and the director of the department,
25 shall be employed by the department in the manner prescribed by the
26 department of administration.

27 E. The director may enter into a contract or agreement with any public
28 agency for any joint or cooperative action as provided for by title 11,
29 chapter 7, article 3.

30 F. The board or the director may take evidence, administer oaths or
31 affirmations, issue subpoenas requiring attendance and testimony of
32 witnesses, cause depositions to be taken and require by subpoena duces tecum
33 the production of books, papers and other documents which are necessary for
34 the enforcement of this title. Proceedings held during the course of a
35 confidential investigation are exempt from title 38, chapter 3, article
36 3.1. If a person refuses to obey a subpoena or fails to answer questions as
37 provided by this subsection, the board or the director may apply to the

1 superior court in the manner provided in section 12-2212. The board or
2 director may serve subpoenas by personal service or certified mail, return
3 receipt requested.

4 G. The director may:

5 1. Examine books, records and papers of a licensee.

6 2. Require applicants, licensees, employees who serve, sell or furnish
7 spirituous liquors to retail customers, managers and managing agents to take
8 training courses approved by the director in spirituous liquor handling and
9 spirituous liquor laws and rules. The director shall adopt rules that set
10 standards for approving training courses.

11 3. Delegate to employees of the department authority to exercise
12 powers of the director in order to administer the department.

13 4. Regulate signs that advertise a spirituous liquor product at
14 licensed retail premises.

15 5. Cause to be removed from the marketplace spirituous liquor that may
16 be contaminated.

17 6. Regulate the age and conduct of erotic entertainers at licensed
18 premises. The age limitation governing these erotic entertainers may be
19 different from other employees of the licensee.

20 7. Issue and enforce cease and desist orders against any person or
21 entity that sells beer, wine or spirituous liquor without an appropriate
22 license or permit.

23 8. Confiscate wines carrying a label including a reference to Arizona
24 or any Arizona city, town or place unless at least seventy-five per cent by
25 volume of the grapes used in making the wine were grown in this state.

26 9. Accept and expend private grants of monies, gifts and devises for
27 conducting educational programs for parents and students on the repercussions
28 of underage alcohol consumption. State general fund monies shall not be
29 expended for the purposes of this paragraph. If the director does not
30 receive sufficient monies from private sources to carry out the purposes of
31 this paragraph, the director shall not provide the educational programs
32 prescribed in this paragraph. Grant monies received pursuant to this
33 paragraph are nonlapsing and do not revert to the state general fund at the
34 close of the fiscal year.

35 10. PROCURE FINGERPRINT SCANNING EQUIPMENT AND PROVIDE FINGERPRINT
36 SERVICES TO LICENSE APPLICANTS AND LICENSEES. UNTIL JANUARY 1, 2015, THE
37 DEPARTMENT MAY CHARGE A FEE FOR PROVIDING THESE SERVICES.

1 11. ACCEPT ELECTRONIC SIGNATURES ON ALL DEPARTMENT AND LICENSEE FORMS
2 AND DOCUMENTS AND APPLICATIONS. THE DIRECTOR MAY ADOPT REQUIREMENTS THAT
3 WOULD REQUIRE FACSIMILE SIGNATURES TO BE FOLLOWED BY ORIGINAL SIGNATURES
4 WITHIN A SPECIFIED TIME PERIOD.

5 H. A county or municipality may enact and enforce ordinances
6 regulating the age and conduct of erotic entertainers at licensed premises in
7 a manner at least as restrictive as rules adopted by the director.

8 Sec. 2. Section 4-119, Arizona Revised Statutes, is amended to read:

9 4-119. Records

10 A licensee shall keep records of licensed business activity in a manner
11 and location and for such duration as prescribed by the director. The rules
12 of the director shall require that each on-sale retailer maintain at the
13 licensed premises A COPY OF ALL REQUIRED RECORDS INCLUDING a current log of
14 all persons employed at the licensed premises including each employee's full
15 legal name, date and place of birth, address and responsibilities. A
16 LICENSEE SHALL RETAIN RECORDS FOR TWO YEARS.

17 Sec. 3. Section 4-201, Arizona Revised Statutes, is amended to read:

18 4-201. Licensing; application procedure in city, town or county;
19 burden of proof

20 A. A person desiring a license to manufacture, sell or deal in
21 spirituous liquors shall make application to the director on a form
22 prescribed and furnished by the director.

23 B. A person desiring a license within an incorporated city or town
24 shall make the application in triplicate and shall file the copies with the
25 director. The director shall remit two copies to the city or town
26 clerk. The city or town clerk shall immediately file one copy in the clerk's
27 office and post the other for a period of twenty days in a conspicuous place
28 on the front of the premises where the business is proposed to be conducted,
29 with a statement requiring any NATURAL person who is a bona fide resident
30 residing or owning or leasing property within a one mile radius from the
31 premises proposed to be licensed, and who is in favor of or opposed to the
32 issuance of the license, to file written arguments in favor of or opposed to
33 THE issuance of the license with the clerk within twenty days after the date
34 of posting. THE WRITTEN ARGUMENT SHALL CONTAIN THE NATURAL PERSON'S COMPLETE
35 NAME, ADDRESS, TELEPHONE NUMBER AND SIGNATURE. IF THE WRITTEN ARGUMENTS ARE
36 FILED BY A PERSON ON BEHALF OF AN ASSOCIATION, THE WRITTEN ARGUMENTS MUST BE
37 ACCOMPANIED BY WRITTEN MINUTES OF THE MEETING OF THE ASSOCIATION SHOWING THE

1 E. Upon receipt of an application for a spirituous liquor license, the
2 director shall set the application for hearing by the board upon a date
3 following the expiration of the time fixed for the submitting of the
4 certified order by the governing body of the city or town or the board of
5 supervisors. If the city or town or the county recommends approval of the
6 license no hearing is required unless the director, the board or any
7 aggrieved party requests a hearing on the grounds that the public convenience
8 and the best interest of the community will not be substantially served if a
9 license is issued. Any NATURAL person residing or owning or leasing property
10 within a one mile radius of the proposed location may file a written protest
11 with the director no later than ~~fifteen~~ THIRTY calendar days following action
12 by the local governing body or sixty days after filing the application. THE
13 WRITTEN PROTEST SHALL CONTAIN THE NATURAL PERSON'S COMPLETE NAME, ADDRESS AND
14 TELEPHONE NUMBER. IF THE WRITTEN PROTEST IS FILED BY A PERSON ON BEHALF OF
15 AN ASSOCIATION, THE WRITTEN PROTEST MUST BE ACCOMPANIED BY MINUTES OF THE
16 MEETING OF THE ASSOCIATION SHOWING THE NUMBER OF MEMBERS PRESENT AND THE DATE
17 OF THE MEETING IN ORDER FOR THE PROTEST TO BE VALID. If no hearing is
18 requested by the director, the board or any aggrieved party, the application
19 may be approved by the director. If the recommendation is for disapproval of
20 an application BASED ON ONE OR MORE CRITERIA IN THE BOARD'S RULE GOVERNING
21 NEED AND CONVENIENCE OF A LICENSE or if no recommendation is received, the
22 board shall hold a hearing. If the city, town or county recommends approval
23 of the license pursuant to subsection C OF THIS SECTION, the director may
24 cancel the hearing and issue the license unless the board or any aggrieved
25 party requests a hearing. IF THE REASON FOR THE PROTEST IS CLEARLY REMOVED
26 OR SATISFIED AT ANY TIME, THE DIRECTOR MAY CANCEL THE HEARING. The certified
27 order, the reasons contained in the order and the summary of the testimony
28 and other evidence supporting the city, town or county disapproval of the
29 recommendation shall be read into the record before the board and shall be
30 considered as evidence by the board. The board shall consider the certified
31 order together with other facts and a report of the director relating to the
32 qualifications of the applicant. If the governing body of the city or town
33 or the board of supervisors fails to return to the director, as provided in
34 subsections C and D OF THIS SECTION, its order of approval or disapproval,
35 the board shall proceed with further consideration of the application by
36 holding an administrative hearing. An application shall be approved or
37 disapproved within one hundred five days after filing of the application.

1 IF, AFTER A HEARING BY THE BOARD WHERE A LICENSE HAS BEEN APPROVED, A FORMAL
2 WRITTEN ORDER IS NOT ENTERED WITHIN FIFTEEN DAYS AFTER THE HEARING, THE
3 DECISION OF THE BOARD SHALL BE DEEMED ENTERED ON THE FIFTEENTH DAY AFTER THE
4 HEARING.

5 F. A hearing may be conducted by an administrative law judge at the
6 request of the board to make findings and recommendations for use by the
7 board in determining whether to grant or deny a license. The administrative
8 law judge shall submit a report of findings to the board within twenty days
9 of the hearing. The board may affirm, reverse, adopt, modify, supplement,
10 amend or reject the administrative law judge's report in whole or in part.

11 G. EXCEPT FOR A PERSON TO PERSON TRANSFER OF A TRANSFERABLE LICENSE
12 FOR USE AT THE SAME LOCATION AND AS OTHERWISE PROVIDED IN SECTION 4-203,
13 SUBSECTION A, in all proceedings before the governing body of a city or town,
14 the board of supervisors of a county or the board, the applicant bears the
15 burden of showing that the public convenience requires and that the best
16 interest of the community will be substantially served by the issuance of a
17 license.

18 H. In order to prevent the proliferation of spirituous liquor licenses
19 the department may deny a license to a business on the grounds that such
20 business is inappropriate for the sale of spirituous liquor. An
21 inappropriate business is one that cannot clearly demonstrate that the sale
22 of spirituous liquor is directly connected to its primary purpose and that
23 the sale of spirituous liquor is not merely incidental to its primary
24 purpose.

25 I. The board shall adopt, by rule, guidelines setting forth criteria
26 for use in determining whether the public convenience requires and the best
27 interest of the community will be substantially served by the issuance or
28 transfer of a liquor license at the location applied for. These guidelines
29 shall govern the recommendations and other approvals of the department and
30 the local governing authority.

31 J. If the governing body of a city or town recommends disapproval by a
32 two-thirds vote of the members present and voting on an application for the
33 issuance or transfer of a spirituous liquor license that, if approved, would
34 result in a license being issued at a location either having no license or
35 having a license of a different series, the application shall not be approved
36 unless the board decides to approve the application by a two-thirds vote of
37 the members present and voting.

1 Sec. 4. Section 4-203, Arizona Revised Statutes, is amended to read:

2 4-203. Licenses: issuance: transfer: reversion to state

3 A. A spirituous liquor license shall be issued only after satisfactory
4 showing of the capability, qualifications and reliability of the applicant
5 and, with the exception of **WHOLESALE, PRODUCER, GOVERNMENT OR** club
6 licensees, that the public convenience requires and that the best interest of
7 the community will be substantially served by the issuance. **IF AN**
8 **APPLICATION IS FILED FOR THE ISSUANCE OF A NONTRANSFERABLE LICENSE FOR A**
9 **LOCATION THAT ON THE DATE THE APPLICATION IS FILED HAS A VALID LICENSE OF THE**
10 **SAME SERIES ISSUED AT THAT LOCATION, IT SHALL BE PRESUMED THAT THE PUBLIC**
11 **CONVENIENCE AND BEST INTEREST OF THE COMMUNITY WAS ESTABLISHED AT THE TIME**
12 **THE LOCATION WAS PREVIOUSLY LICENSED. THE PRESUMPTION MAY BE REBUTTED BY**
13 **COMPETENT CONTRARY EVIDENCE.**

14 B. The license shall be to manufacture, sell or deal in spirituous
15 liquors only at the place and in the manner provided in the license. A
16 separate license shall be issued for each specific business, and each shall
17 specify:

18 1. The particular spirituous liquors ~~which~~ **THAT** the licensee is
19 authorized to manufacture, sell or deal in.

20 2. The place of business for which issued.

21 3. The purpose for ~~which~~ **THAT** the liquors may be manufactured or sold.

22 C. A spirituous liquor license issued to a bar, a liquor store or a
23 beer and wine bar shall be transferable as to any permitted location within
24 the same county, provided such transfer meets the requirements of an original
25 application. Such spirituous liquor license may be transferred to a person
26 qualified to be a licensee, provided such transfer is pursuant to either
27 judicial decree, nonjudicial foreclosure of a legal or equitable lien, **A SALE**
28 **OF THE LICENSE**, a bona fide ~~bulk~~ sale of the entire business and stock in
29 trade, or such other bona fide transactions as may be provided for by rule.
30 Any change in ownership of the business of a licensee, directly or
31 indirectly, as defined by rule is deemed a transfer.

32 D. All applications for a new license pursuant to section 4-201 or for
33 a transfer to a new location pursuant to subsection C of this section shall
34 be filed with and determined by the director, except when the governing body
35 of the city or town or the board of supervisors receiving such application
36 pursuant to section 4-201 orders disapproval of such application or makes no
37 recommendation or when the director, the state liquor board or any aggrieved

1 party requests a hearing. Such application shall then be presented to the
2 state liquor board, and the new license or transfer shall not become
3 effective unless approved by the state liquor board.

4 E. A person who assigns, surrenders, transfers or sells control of a
5 business which has a spirituous liquor license shall notify the director
6 within ~~fifteen~~ THIRTY business days after the assignment, surrender, transfer
7 or sale. No spirituous liquor license shall be leased or subleased. A
8 concession agreement entered into under section 4-205.03 is not considered a
9 lease or sublease in violation of this section.

10 F. If a person other than those persons originally licensed acquires
11 control over a license or licensee, the person shall file notice of the
12 acquisition with the director within ~~fifteen~~ THIRTY business days after such
13 acquisition of control and a list of officers, directors or other controlling
14 persons on a form prescribed by the director. All officers, directors or
15 other controlling persons shall meet the qualifications for licensure as
16 prescribed by this title. On request, the director shall conduct a
17 preinvestigation ~~prior to~~ BEFORE the assignment, sale or transfer of control
18 of a license or licensee, the reasonable costs of which, not to exceed one
19 thousand dollars, shall be borne by the applicant. The preinvestigation
20 shall determine whether the qualifications for licensure as prescribed by
21 this title are met. ~~On receipt of notice of an acquisition of control or~~
22 ~~request of a preinvestigation, the director shall forward the notice within~~
23 ~~fifteen days to the local governing body of the city or town, if the licensed~~
24 ~~premises is in an incorporated area, or the county, if the licensed premises~~
25 ~~is in an unincorporated area. The local governing body of the city, town or~~
26 ~~county may protest the acquisition of control within sixty days based on the~~
27 ~~capability, reliability and qualification of the person acquiring~~
28 ~~control. If the director does not receive any protests,~~ The director may
29 protest the acquisition of control or approve the acquisition of control
30 based on the capability, reliability and qualification of the person
31 acquiring control. Any protest shall be set for a hearing before the
32 board. Any transfer shall be approved or disapproved within one hundred five
33 days of the filing of the notice of acquisition ~~and~~ OF control. The person
34 who has acquired control of a license or licensee has the burden of an
35 original application at the hearing, and the board shall make its
36 determination pursuant to section 4-202 and this section with respect to
37 capability, reliability and qualification.

1 G. A licensee who holds a license in nonuse status for more than five
2 months shall be required to pay a one hundred dollar surcharge for each month
3 thereafter. The surcharge shall be paid at the time the license is returned
4 to active status. A license automatically reverts to the state after being
5 held in continuous nonuse in excess of thirty-six months. The director may
6 waive the surcharge and may extend the time period provided in this
7 subsection for good cause. A license shall not be deemed to have gone into
8 active status if the license is transferred to a location that at the time of
9 or immediately before the transfer had an active license of the same type,
10 unless the licenses are under common ownership or control.

11 H. A restructuring of a licensee's business is an acquisition of
12 control pursuant to subsection F of this section and is a transfer of a
13 spirituous liquor license and not the issuance of a new spirituous liquor
14 license if both of the following apply:

15 1. All of the controlling persons of the licensee and the new business
16 entity are identical.

17 2. There is no change in control or beneficial ownership.

18 I. If subsection H of this section applies, the licensee's history of
19 violations of this title is the history of the new business entity. The
20 director may prescribe a form and shall require the applicant to provide the
21 necessary information to ensure compliance with this subsection and
22 subsections F and G of this section.

23 J. Notwithstanding subsection B of this section, the holder of a
24 retail license having off-sale privileges may deliver spirituous liquor off
25 of the licensed premises in connection with the sale of spirituous liquor.
26 The licensee may maintain a delivery service and shall be liable for any
27 violation committed in connection with any sale or delivery of spirituous
28 liquor, provided that such delivery is made by an employee WHO IS at least
29 twenty-one years of age. The retail licensee shall collect payment for the
30 price of the spirituous liquor no later than at the time of delivery. The
31 director shall adopt rules that set operational limits for the delivery of
32 spirituous liquors by the holder of a retail license having off-sale
33 privileges. For the purposes of this subsection, an independent contractor
34 or the employee of an independent contractor is deemed to be an employee of
35 the licensee when making a sale or delivery of spirituous liquor for the
36 licensee.

1 license. The holder of such license is subject to the penalties prescribed
2 for any violation of the law relating to alcoholic beverages.

3 C. The holder of a restaurant license may sell and serve spirituous
4 liquors solely for consumption on the licensed premises. For the purpose of
5 this subsection, "licensed premises" may include rooms, areas or locations in
6 which the restaurant normally sells or serves spirituous liquors pursuant to
7 regular operating procedures and practices and that are contiguous to the
8 restaurant or a noncontiguous patio pursuant to section 4-101, paragraph 26.
9 For the purposes of this subsection, a restaurant licensee must submit proof
10 of tenancy or permission from the landowner or lessor for all property to be
11 included in the licensed premises.

12 D. In addition to other grounds prescribed in this title on which a
13 license may be revoked, the director may require the holder of a restaurant
14 license issued pursuant to this section to surrender the license in any case
15 in which the licensee ceases to operate as a restaurant, as prescribed in
16 subsection A of this section. The surrender of a license pursuant to this
17 subsection does not prevent the director from revoking the license for other
18 grounds prescribed in this title or for making deliberate material
19 misrepresentations to the department regarding the licensee's equipment,
20 service or entertainment items or seating capacity in applying for the
21 restaurant license.

22 E. Neither the director nor the board may initially issue a restaurant
23 license if either finds that there is sufficient evidence that the operation
24 will not satisfy the criteria adopted by the director for issuing a
25 restaurant license described in section 4-209, subsection B, paragraph 12.
26 The director shall issue a restaurant license only if the applicant has
27 submitted a plan for the operation of the restaurant. The plan shall be
28 completed on forms provided by the department and shall include listings of
29 all restaurant equipment and service items, the restaurant seating capacity
30 and other information requested by the department to substantiate that the
31 restaurant will operate in compliance with this section.

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

36 G. UNTIL JANUARY 1, 2015, THE DIRECTOR MAY CHARGE A FEE FOR SITE
37 INSPECTIONS CONDUCTED BEFORE THE ISSUANCE OF A RESTAURANT LICENSE.

1 ~~G.~~ H. For the purposes of this section:

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

7 2. "Restaurant" means an establishment that derives at least forty per
8 cent of its gross revenue from the sale of food, including sales of food for
9 consumption off the licensed premises if the amount of these sales included
10 in the calculation of gross revenue from the sale of food does not exceed
11 fifteen per cent of all gross revenue of the restaurant.

12 Sec. 6. Section 4-205.05, Arizona Revised Statutes, is amended to
13 read:

14 4-205.05. Permit to dispose of seized liquor

15 The ~~board~~ DIRECTOR may issue a temporary permit authorizing the
16 disposal at public auction of spirituous liquor ~~which~~ THAT has been seized by
17 any agency of this state, the federal government or any political subdivision
18 of this state or the federal government pursuant to statute. A bid at a
19 public auction shall not be accepted from a licensee if the spirituous
20 liquors offered for sale at the auction were seized from that licensee. The
21 ~~board~~ DIRECTOR shall issue the permit only if presented with proper documents
22 of seizure by the appropriate official. SPIRITUOUS LIQUOR WITH A STATED
23 EXPIRATION DATE ON THE LABEL SHALL NOT BE OFFERED FOR SALE AT PUBLIC AUCTION
24 AND SHALL EITHER BE DESTROYED OR RETURNED TO THE LICENSED WHOLESALER THAT
25 DISTRIBUTES THE LIQUOR BRAND IN THAT SALES TERRITORY. THE DIRECTOR MAY
26 DISPOSE OF SEIZED SPIRITUOUS LIQUOR IN WHOLE OR PART BY PROVIDING THE
27 SPIRITUOUS LIQUOR TO LAW ENFORCEMENT FOR TRAINING PURPOSES ONLY.

28 Sec. 7. Section 4-205.06, Arizona Revised Statutes, is amended to
29 read:

30 4-205.06. Hotel or motel minibars; rules; definitions

31 A. Notwithstanding any other statute, a hotel or motel may sell
32 spirituous liquor in sealed containers in individual portions to its
33 registered guests at any time by means of a minibar located in the guest
34 rooms of those registered guests, if all of the following conditions are met:

35 ~~1. Access to a minibar in a particular guest room is provided, whether~~
36 ~~by furnishing a key, magnetic card or similar device, only to a registered~~
37 ~~guest of legal drinking age, if any, registered to stay in the guest room,~~

1 ~~and the key, magnetic card or similar device is not furnished to a guest~~
2 ~~between the hours of 1:00 a.m. and 6:00 a.m.~~

3 ~~2.~~ 1. Before providing a key, magnetic card or other similar device
4 required to attain access to the minibar in a particular guest room to the
5 registered guest, or before otherwise providing access to the minibar to the
6 registered guest, the licensee verifies that each registered guest to whom a
7 key, magnetic card or similar device is provided or to whom access is
8 otherwise provided is not a person under the legal drinking age.

9 ~~3.~~ 2. All employees handling the spirituous liquors to be placed in
10 the minibar in any guest room, including an employee who inventories or
11 restocks and replenishes the spirituous liquors in the minibar, are at least
12 nineteen years of age.

13 ~~4.~~ 3. The minibar is not replenished or restocked with spirituous
14 liquor between the hours of ~~1:00~~ 2:00 a.m. and 6:00 a.m.

15 ~~5.~~ 4. The minibar is located on the premises of a person who has been
16 issued an on-sale retailer's license.

17 ~~6.~~ 5. The minibar contains no more than thirty individual portions of
18 spirituous liquor at any one time.

19 B. A minibar may be part of another cabinet or similar device, whether
20 refrigerated in whole or in part or nonrefrigerated, from which nonalcoholic
21 beverages or food may be purchased by the guests in hotel or motel guest
22 rooms. The portion of the cabinet or similar device in which spirituous
23 liquors are stored shall comply with the requirements of this section.

24 C. The director may prescribe rules to regulate the use of a minibar
25 including rules on the size of containers of spirituous liquors and may by
26 rule reduce from thirty the number of containers of spirituous liquor placed
27 in the minibar.

28 D. For the purposes of this section:

29 1. "Hotel" or "motel" means an establishment that is licensed to sell
30 spirituous liquors and that contains guest room accommodations with respect
31 to which the predominant relationship existing between the occupants of the
32 rooms and the owner or operator of the establishment is that of innkeeper and
33 guest. For the purposes of this paragraph, the existence of other legal
34 relationships as between some occupants and the owner or operator is
35 immaterial.

1 2. "Minibar" means a closed container, either refrigerated in whole or
2 in part or nonrefrigerated, where access to the interior is restricted by
3 means of a locking device that requires the use of a key, magnetic card or
4 similar device.

5 Sec. 8. Section 4-206.01, Arizona Revised Statutes, is amended to
6 read:

7 4-206.01. Bar, beer and wine bar or liquor store licenses;
8 number permitted; fee; sampling privileges

9 A. The director shall determine the total number of spirituous liquor
10 licenses by type and in each county. The director shall publish a listing of
11 that information as determined by the director.

12 B. In each county, the director shall issue additional bar, beer and
13 wine bar or liquor store licenses at the rate of one of each type for each
14 additional ten thousand person increase over the population in that county as
15 of July 1, 2010. For THE purposes of this subsection, the population of a
16 county is deemed to be the population estimated by the department of ~~economic~~
17 ~~security~~ COMMERCE as of July 1 of each year.

18 C. A person issued a license authorized by subsection B of this
19 section shall pay an additional issuance fee equal to the license's fair
20 market value that shall be paid to the state general fund. The fair market
21 value shall be defined to mean the mean value of licenses of the same type
22 sold on the open market in the same county during the prior twelve months,
23 but if there are not three or more such sales then the fair market value
24 shall be determined by three appraisals furnished to the department by
25 independent professional appraisers employed by the director.

26 D. The director shall employ professional appraisal services to
27 determine the fair market value of bar, beer and wine bar or liquor store
28 licenses.

29 E. If more than one person applies for an available license, a
30 priority of applicants shall be determined by a random selection method
31 prescribed by the director.

32 F. After January 1, 2011, bar licenses and beer and wine bar licenses
33 shall be issued and used only if the clear primary purpose and actual primary
34 use is for on-sale retailer privileges. The off-sale privileges associated
35 with a bar license and a beer and wine bar license shall be limited to
36 ~~a-minor~~ use, which is clearly auxiliary to the ACTIVE primary on-sale
37 privilege. A bar license or a beer and wine bar license shall not be issued

1 or used if the associated off-sale use, by total retail **SPIRITUOUS** liquor
2 sales, exceeds ~~ten~~ **FORTY** per cent of the sales price of on-sale spirituous
3 liquors by the licensee at that location.

4 G. The director may issue a beer and wine store license to the holder
5 of a beer and wine bar license simultaneously at the same premises. An
6 applicant for a beer and wine bar license and a beer and wine store license
7 may consolidate the application and may apply for both licenses at the same
8 time. The holder of each license shall fully comply with all applicable
9 provisions of this title. A beer and wine bar license and beer and wine
10 store license on the same premises shall be owned by and issued to the same
11 licensee.

12 H. The director may issue a beer and wine bar license to the holder of
13 a liquor store license issued simultaneously at the same premises. An
14 applicant for a liquor store license and a beer and wine bar license may
15 consolidate the application and may apply for both licenses at the same time.
16 The holder of each license shall fully comply with all applicable provisions
17 of this title. A liquor store license and a beer and wine bar license on the
18 same premises shall be owned by and issued to the same licensee.

19 I. The director may issue a restaurant license to the holder of a beer
20 and wine bar license issued simultaneously at the same premises. An
21 applicant for a restaurant license and a beer and wine bar license may
22 consolidate the application and may apply for both licenses at the same time.
23 The holder of each license shall fully comply with all applicable provisions
24 of this title. A restaurant license and a beer and wine bar license on the
25 same premises shall be owned by and issued to the same licensee. The
26 limitation set forth in subsection F **OF THIS SECTION** with respect to the
27 off-sale privileges of the beer and wine bar licenses shall be measured
28 against the on-sales of beer and wine sales of the establishment. For **THE**
29 purposes of compliance with section 4-205.02, subsection G, paragraph 2, it
30 shall be conclusively presumed that all on premises sales of spirituous
31 liquors are made under the authority of the restaurant license.

32 J. An applicant for a liquor store license or **A BEER AND WINE STORE**
33 **LICENSE AND** the licensee of a liquor store license **OR A BEER AND WINE STORE**
34 **LICENSE** may apply for sampling privileges associated with the license. **A**
35 **BEER AND WINE STORE PREMISES SHALL CONTAIN AT LEAST FIVE THOUSAND SQUARE FEET**
36 **IN ORDER TO BE ELIGIBLE FOR SAMPLING PRIVILEGES.** A person desiring a
37 sampling privilege associated with a liquor store license shall apply to the

1 director on a form prescribed and furnished by the director. The application
2 for sampling privileges may be filed for an existing license or may be
3 submitted with an initial license application. The request for sampling
4 approval, the review of the application and the issuance of approval shall be
5 conducted under the same procedures for the issuance of a spirituous liquor
6 license prescribed in section 4-201. After a sampling privilege has been
7 issued for a liquor store license OR A BEER AND WINE STORE LICENSE, the
8 sampling privilege shall be noted on the license itself and in the records of
9 the department. The sampling rights associated with a license are not
10 transferable. UNTIL JANUARY 1, 2015, THE DIRECTOR MAY CHARGE A FEE FOR
11 PROCESSING THE APPLICATION FOR SAMPLING PRIVILEGES AND A RENEWAL FEE AS
12 PROVIDED IN THIS SECTION. A CITY OR TOWN SHALL NOT CHARGE ANY FEE RELATING
13 TO THE ISSUANCE OR RENEWAL OF A SAMPLING PRIVILEGE. Notwithstanding section
14 4-244, paragraph 19, a liquor store licensee that holds a license with
15 sampling privileges may provide spirituous liquor sampling subject to the
16 following requirements:

17 1. Any open product shall be kept locked by the licensee when the
18 sampling area is not staffed.

19 2. The licensee is otherwise subject to all other provisions of this
20 title. The licensee is liable for any violation of this title committed in
21 connection with the sampling.

22 3. The licensed retailer shall make sales of sampled products from the
23 licensed retail premises.

24 4. The licensee shall not charge any customer for the sampling of any
25 products.

26 5. The sampling shall be conducted under the supervision of an
27 employee of a sponsoring distiller, vintner, brewer, wholesaler or retail
28 licensee.

29 6. Accurate records of sampling products dispensed shall be retained
30 by the licensee.

31 7. Sampling shall be limited to three ounces of beer or cooler-type
32 products, one ounce of wine and one ounce of distilled spirits per person,
33 per brand, per day.

34 8. The sampling shall be conducted only on the licensed premises.

35 K. If a beer and wine bar license and a beer and wine store license
36 are issued at the same premises, for purposes of reporting liquor purchases
37 under each license, all spirituous beverages purchased for sampling are

1 conclusively presumed to be purchased under the beer and wine bar license and
2 all spirituous liquor sold off-sale are conclusively presumed to be purchased
3 under the beer and wine store license.

4 L. THE DIRECTOR MAY ISSUE A BEER AND WINE STORE LICENSE TO THE HOLDER
5 OF A BAR LICENSE SIMULTANEOUSLY AT THE SAME PREMISES. AN APPLICANT FOR A
6 BEER AND WINE STORE LICENSE AND A BAR LICENSE MAY CONSOLIDATE THE APPLICATION
7 AND MAY APPLY FOR BOTH LICENSES AT THE SAME TIME. THE HOLDER OF EACH LICENSE
8 SHALL FULLY COMPLY WITH ALL APPLICABLE PROVISIONS OF THIS TITLE. A BEER AND
9 WINE STORE LICENSE AND A BAR LICENSE ON THE SAME PREMISES SHALL BE OWNED BY
10 AND ISSUED TO THE SAME LICENSEE. IF A BEER AND WINE STORE LICENSE AND A BAR
11 LICENSE ARE ISSUED AT THE SAME PREMISES, FOR PURPOSES OF REPORTING LIQUOR
12 PURCHASES UNDER EACH LICENSE, ALL OFF-SALE BEER AND WINE SALES ARE
13 CONCLUSIVELY PRESUMED TO BE PURCHASED UNDER THE BEER AND WINE STORE LICENSE.

14 M. THE DIRECTOR MAY ISSUE A BEER AND WINE STORE LICENSE TO THE HOLDER
15 OF A HOTEL LICENSE SIMULTANEOUSLY AT THE SAME PREMISES. AN APPLICANT FOR A
16 BEER AND WINE STORE LICENSE AND HOTEL LICENSE MAY CONSOLIDATE THE APPLICATION
17 AND MAY APPLY FOR BOTH LICENSES AT THE SAME TIME. THE HOLDER OF EACH LICENSE
18 SHALL FULLY COMPLY WITH ALL APPLICABLE PROVISIONS OF THIS TITLE. A BEER AND
19 WINE STORE LICENSE AND HOTEL LICENSE ON THE SAME PREMISES SHALL BE OWNED BY
20 AND ISSUED TO THE SAME LICENSEE.

21 Sec. 9. Section 4-207, Arizona Revised Statutes, is amended to read:

22 4-207. Restrictions on licensing premises near school or church
23 buildings; definitions

24 A. A retailer's license shall not be issued for any premises which
25 are, at the time the license application is received by the director, within
26 three hundred horizontal feet of a church, within three hundred horizontal
27 feet of a public or private school building with kindergarten programs or any
28 of grades one through twelve or within three hundred horizontal feet of a
29 fenced recreational area adjacent to such school building. This section does
30 not prohibit the renewal of a valid license issued pursuant to this title if,
31 on the date that the original application for the license is filed, the
32 premises were not within three hundred horizontal feet of a church, within
33 three hundred horizontal feet of a public or private school building with
34 kindergarten programs or any of grades one through twelve or within three
35 hundred horizontal feet of a fenced recreational area adjacent to such school
36 building.

1 B. Subsection A of this section does not apply to a:
2 1. Restaurant issued a license pursuant to section 4-205.02.
3 2. Special event license issued pursuant to section 4-203.02.
4 3. Hotel-motel issued a license pursuant to section 4-205.01.
5 4. Government license issued pursuant to section 4-205.03.
6 5. Fenced playing area of a golf course issued a license pursuant to
7 this article.

8 C. Notwithstanding subsection A of this section:

9 1. A spirituous liquor license which is validly issued and which is,
10 on the date an application for a transfer is filed, within three hundred
11 horizontal feet of a church, within three hundred horizontal feet of a public
12 or private school building with kindergarten programs or any of grades one
13 through twelve or within three hundred horizontal feet of a fenced
14 recreational area adjacent to such school building may be transferred person
15 to person pursuant to sections 4-201, 4-202 and 4-203 and remains in full
16 force until the license is terminated in any manner, unless renewed pursuant
17 to section 4-209, subsection A.

18 2. A person may be issued a spirituous liquor license pursuant to
19 sections 4-201, 4-202 and 4-203 of the same class for premises which have a
20 nontransferable spirituous liquor license validly issued if the premises are,
21 on the date an application for such license is filed, within three hundred
22 horizontal feet of a church, within three hundred horizontal feet of a public
23 or private school building with kindergarten programs or any of grades one
24 through twelve or within three hundred horizontal feet of a fenced
25 recreational area adjacent to such school building and the license remains in
26 full force until the license is terminated in any manner, unless renewed
27 pursuant to section 4-209, subsection A.

28 3. A person may be issued a liquor store license pursuant to sections
29 4-201, 4-202, 4-203 and 4-206.01 for premises which have a beer and wine
30 store license validly issued if the premises, on the date an application for
31 such license is filed, are within three hundred horizontal feet of a church,
32 within three hundred horizontal feet of a public or private school building
33 with kindergarten programs or any of grades one through twelve or within
34 three hundred horizontal feet of a fenced recreational area adjacent to such
35 school building and the license remains in full force until the license is
36 terminated in any manner, unless renewed pursuant to section 4-209,
37 subsection A.

1 4. The governing body of a city or town, on a case-by-case basis, may
2 approve an exemption from the distance restrictions prescribed in this
3 section for a church or charter school that is located in an area that is
4 designated an entertainment district by the governing body of that city or
5 town. A city or town with a population of at least five hundred thousand
6 persons may designate no more than three entertainment districts within the
7 boundaries of the city or town pursuant to this paragraph. A city or town
8 with a population of at least two hundred thousand persons but less than five
9 hundred thousand persons may designate no more than two entertainment
10 districts within the boundaries of the city or town pursuant to this
11 paragraph. A city or town with a population of less than two hundred
12 thousand persons may designate no more than one entertainment district within
13 the boundaries of the city or town pursuant to this paragraph.

14 5. A PERSON MAY BE ISSUED A BEER AND WINE STORE LICENSE PURSUANT TO
15 SECTIONS 4-201, 4-202, 4-203 AND 4-206.01 FOR PREMISES THAT HAVE A LIQUOR
16 STORE LICENSE VALIDLY ISSUED IF THE PREMISES, ON THE DATE OF AN APPLICATION
17 FOR WHICH SUCH LICENSE IS FILED, ARE WITHIN THREE HUNDRED HORIZONTAL FEET OF
18 A CHURCH, WITHIN THREE HUNDRED HORIZONTAL FEET OF A PUBLIC OR PRIVATE SCHOOL
19 BUILDING WITH KINDERGARTEN PROGRAMS OR ANY OF GRADES ONE THROUGH TWELVE OR
20 WITHIN THREE HUNDRED HORIZONTAL FEET OF A FENCED RECREATION AREA ADJACENT TO
21 SUCH SCHOOL BUILDING AND THE LICENSE REMAINS IN FULL FORCE UNTIL THE LICENSE
22 IS TERMINATED IN ANY MANNER, UNLESS RENEWED PURSUANT TO SECTION 4-209,
23 SUBSECTION A.

24 D. For the purposes of this section:

25 1. "Church" means a building which is erected or converted for use as
26 a church, where services are regularly convened, which is used primarily for
27 religious worship and schooling and which a reasonable person would conclude
28 is a church by reason of design, signs or architectural or other features.

29 2. "Entertainment district" means a specific contiguous area that is
30 designated an entertainment district by a resolution adopted by the governing
31 body of a city or town, that consists of no more than one square mile, that
32 is no less than one-eighth of a mile in width and that contains a significant
33 number of entertainment, artistic and cultural venues, including music halls,
34 concert facilities, theaters, arenas, stadiums, museums, studios, galleries,
35 restaurants, bars and other related facilities.

1 Sec. 10. Section 4-207.01, Arizona Revised Statutes, is amended to
2 read:

3 4-207.01. Submission of floor plan required; alteration of
4 licensed premises; ingress and egress to off-sale
5 package sales in on-sale licensed premises

6 A. No licensee of premises approved for transfer or an original
7 location of on-sale spirituous liquor license shall open such licensed
8 premises to the public for sale of spirituous liquor until the licensee shall
9 first have filed with the director floor plans and diagrams completely
10 disclosing and designating the physical arrangement of the licensed premises,
11 including whether the licensee intends to sell spirituous liquor by means of
12 a drive-through or other physical feature of the licensed premises that
13 allows a customer to purchase spirituous liquor without leaving the
14 customer's vehicle, and shall have secured the written approval of the
15 director to so open and operate such premises.

16 B. No licensee shall alter or change the physical arrangement of his
17 licensed premises so as to encompass greater space or the use of different or
18 additional entrances, openings or accommodations than the space, entrance or
19 entrances, openings or accommodations offered to the public at the time of
20 issuance of the licensee's license or a prior written approval of the
21 licensed premises, without first having filed with the director floor plans
22 and diagrams completely disclosing and designating the proposed physical
23 alterations of the licensed premises, including the addition of a
24 drive-through or other physical feature to the licensed premises that allows
25 a customer to purchase spirituous liquor without leaving the customer's
26 vehicle, and shall have secured the written approval by the director. This
27 subsection shall apply to any person to person transfer of the licensed
28 premises. UNTIL JANUARY 1, 2015, THE DIRECTOR MAY CHARGE A FEE FOR REVIEW OF
29 FLOOR PLANS AND DIAGRAMS SUBMITTED BY A LICENSEE PURSUANT TO THIS SECTION.

30 C. The provisions of this section shall not be construed to prohibit
31 in any way off-sale package sales in on-sale licensed premises, but the
32 permission to open the premises to the public under subsections A and B ~~of~~
33 ~~this section~~ shall not be granted if the licensee under the privilege
34 provided for off-sale under an on-sale license proposes to maintain an
35 off-sale operation with ingress and egress directly from the outside of such
36 premises to such off-sale operation other than the ingress and egress
37 provided for the on-sale operation of the licensed premises.

1 D. The provisions of this section shall apply to all applications,
2 transfers and alterations.

3 Sec. 11. Section 4-224, Arizona Revised Statutes, is amended to read:

4 4-224. Local ordinances; prohibitions

5 A city, town or county shall not adopt ordinances or regulations in
6 conflict with the provisions of this title OR ANY RULES ADOPTED PURSUANT TO
7 THIS TITLE, including, but not limited to, ordinances or regulations
8 pertaining to hours and days of liquor sales and ordinances or regulations
9 that conflict with the definition of restaurant ~~contained in this title~~ IN
10 SECTION 4-205.02. A CITY, TOWN OR COUNTY SHALL NOT LIMIT ANY RIGHT GRANTED
11 BY THE LICENSE, BY THIS TITLE OR BY ANY RULES ADOPTED PURSUANT TO THIS TITLE.

12 Sec. 12. Section 4-229, Arizona Revised Statutes, is amended to read:

13 4-229. Licenses; handguns; posting of notice

14 A. A person with a permit issued pursuant to section 13-3112 may carry
15 a concealed handgun on the premises of a licensee who is an on-sale retailer
16 unless the licensee posts a sign that clearly prohibits the possession of
17 weapons on the licensed premises. The sign shall conform to the following
18 requirements:

19 1. Be posted in a conspicuous location accessible to the general
20 public and immediately adjacent to the liquor license posted on the licensed
21 premises.

22 2. Contain a pictogram that shows a firearm within a red circle and a
23 diagonal red line across the firearm.

24 3. Contain the words, "no firearms allowed pursuant to A.R.S. section
25 4-229".

26 B. A person shall not carry a firearm on the licensed premises of an
27 on-sale retailer if the licensee has posted the notice prescribed in
28 subsection A of this section.

29 C. It is an affirmative defense to a violation of subsection B of this
30 section if:

31 1. The person was not informed of the notice prescribed in
32 subsection A of this section before the violation.

33 2. Any one or more of the following apply:

34 (a) At the time of the violation the notice prescribed in subsection A
35 of this section had fallen down.

36 (b) At the time of the violation the person was not a resident of this
37 state.

1 (c) The licensee had posted the notice prescribed in subsection A of
2 this section not more than thirty days before the violation.

3 D. The department of liquor licenses and control shall prepare the
4 signs required by this section and make them available at no cost to
5 licensees.

6 E. The signs required by this section shall be composed of block,
7 capital letters printed in black on white laminated paper at a minimum weight
8 of one hundred ten pound index. The lettering and pictogram shall consume a
9 space at least six inches by nine inches. The letters comprising the words
10 "no firearms allowed" shall be at least three-fourths of a vertical inch and
11 all other letters shall be at least one-half of a vertical inch. **NOTHING**
12 **SHALL PROHIBIT A LICENSEE FROM POSTING ADDITIONAL SIGNS AT ONE OR MORE**
13 **LOCATIONS ON THE PREMISES.**

14 F. This section does not prohibit a person who possesses a handgun
15 from entering the licensed premises for a limited time for the specific
16 purpose of either:

17 1. Seeking emergency aid.

18 2. Determining whether a sign has been posted pursuant to subsection A
19 of this section.

20 Sec. 13. Section 4-241, Arizona Revised Statutes, is amended to read:

21 4-241. Selling or giving liquor to underage person; illegally
22 obtaining liquor by underage person; violation;
23 classification; definitions

24 A. If a licensee, an employee of the licensee or any other person
25 questions or has reason to question that the person ordering, purchasing,
26 attempting to purchase or otherwise procuring or attempting to procure the
27 serving or delivery of spirituous liquor or entering a portion of a licensed
28 premises when the primary use is the sale or service of spirituous liquor is
29 under the legal drinking age, the licensee, employee of the licensee or other
30 person shall do all of the following:

31 1. Demand identification from the person.

32 2. Examine the identification to determine that the identification
33 reasonably appears to be a valid, unaltered identification that has not been
34 defaced.

35 3. Examine the photograph in the identification and determine that the
36 person reasonably appears to be the same person in the identification.

1 4. Determine that the date of birth in the identification indicates
2 the person is not under the legal drinking age.

3 B. A licensee or an employee of the licensee who follows the
4 procedures prescribed in subsection A of this section and who records and
5 retains a record of the person's identification on this particular visit is
6 not in violation of subsection J of this section or section 4-244, paragraph
7 9 or 22. This defense applies to actions of the licensee and all employees
8 of the licensee after the procedure has been employed during the particular
9 visit to the licensed premises by the person. A licensee or an employee of
10 the licensee is not required to demand and examine identification of a person
11 pursuant to subsection A of this section if, during this visit to the
12 licensed premises by the person, the licensee or any employee of the licensee
13 has previously followed the procedure prescribed in subsection A of this
14 section.

15 C. Proof that the licensee or employee followed the entire procedure
16 prescribed in subsection A of this section but did not record and retain a
17 record as prescribed in subsection B of this section is an affirmative
18 defense to a criminal charge under subsection J of this section or under
19 section 4-244, paragraph 9 or 22 or a disciplinary action under section 4-210
20 for a violation of subsection J of this section or section 4-244, ~~paragraphs~~
21 ~~PARAGRAPH~~ 9 or 22. This defense applies to actions of the licensee and all
22 employees of the licensee after the procedure has been employed during the
23 particular visit to the licensed premises by the person.

24 D. A licensee or an employee who has not recorded and retained a
25 record of the identification prescribed by subsection B of this section is
26 presumed not to have followed any of the elements prescribed in subsection A
27 of this section.

28 E. For purposes of section 4-244, paragraph 22, a licensee or an
29 employee who has not recorded and retained a record of the identification
30 prescribed by subsection B of this section is presumed to know that the
31 person entering or attempting to enter a portion of a licensed premises when
32 the primary use is the sale or service of spirituous liquor is under the
33 legal drinking age.

34 F. It is a defense to a violation of subsection A of this section if
35 the person ordering, purchasing, attempting to purchase or otherwise
36 procuring or attempting to procure the serving or delivery of spirituous

1 liquor or to enter a portion of a licensed premises when the primary use is
2 the sale or service of spirituous liquor is not under the legal drinking age.

3 G. A person penalized for a violation of subsection J of this section
4 or section 4-244, paragraph 22 shall not be additionally penalized for a
5 violation of subsection A of this section relating to the same event.

6 H. The defenses provided in this section do not apply to a licensee or
7 an employee who has actual knowledge that the person exhibiting the
8 identification is under the legal drinking age.

9 I. Any of the following types of records are acceptable forms for
10 recording the person's identification:

11 1. A writing containing the type of identification, the date of
12 issuance of the identification, the name on the identification, the date of
13 birth on the identification and the signature of the person.

14 2. An electronic file or printed document produced by a device that
15 reads the person's age from the identification and that requires the
16 signature of the person.

17 3. A dated and signed photocopy of the identification.

18 4. A photograph of the identification.

19 5. A digital copy of the identification.

20 6. A CASH REGISTER TAPE CONTAINING THE DATE OF BIRTH OF THE PERSON
21 THAT IS CONSISTENT WITH THE DATE OF BIRTH SHOWN ON THE PERSON'S
22 IDENTIFICATION.

23 J. An off-sale retail licensee or employee of an off-sale retail
24 licensee shall require an instrument of identification from any customer who
25 appears to be under twenty-seven years of age and who is using a
26 drive-through or other physical feature of the licensed premises that allows
27 a customer to purchase spirituous liquor without leaving the customer's
28 vehicle.

29 K. The following written instruments are the only acceptable types of
30 identification:

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

33 2. A nonoperating identification license issued pursuant to section
34 28-3165 or an equivalent form of identification license issued by any state
35 or Canada if the license includes a picture of the person and the person's
36 date of birth.

37 3. An armed forces identification card.

1 4. A valid unexpired passport or border crossing identification card
2 that is issued by a government or a voter card that is issued by the
3 government of Mexico if the passport or card contains a photograph of the
4 person and the person's date of birth.

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

9 M. A person who is under the legal drinking age and who solicits
10 another person to purchase, sell, give, serve or furnish spirituous liquor
11 contrary to law is guilty of a class 3 misdemeanor.

12 N. A person who is under the legal drinking age and who uses a
13 fraudulent or false written instrument of identification or identification of
14 another person or uses a valid license or identification of another person to
15 gain access to a licensed establishment is guilty of a class 1 misdemeanor.

16 O. A person who uses a driver or nonoperating identification license
17 in violation of subsection ~~C or E~~ L OR N of this section is subject to
18 suspension of the driver or nonoperating identification license as provided
19 in section 28-3309. A person who does not have a valid driver or
20 nonoperating identification license and who uses a driver or nonoperating
21 identification license of another in violation of subsection C or E of this
22 section has the person's right to apply for a driver or nonoperating
23 identification license suspended as provided by section 28-3309.

24 P. A person who knowingly influences the sale, giving or serving of
25 spirituous liquor to a person under the legal drinking age by misrepresenting
26 the age of such person or who orders, requests, receives or procures
27 spirituous liquor from any licensee, employee or other person with the intent
28 of selling, giving or serving it to a person under the legal drinking age is
29 guilty of a class 1 misdemeanor. A licensee or employee of a licensee who
30 has actual knowledge that a person is under the legal drinking age and who
31 admits the person into any portion of the licensed premises in violation of
32 section 4-244, paragraph 22, ~~is~~ is in violation of this subsection. In
33 addition to other penalties provided by law, a judge may suspend a driver
34 license issued to or the driving privilege of a person for not more than
35 thirty days for a first conviction and not more than six months for a second
36 or subsequent conviction under this subsection.

1 Q. A person who is of legal drinking age and who is an occupant of
2 unlicensed premises is guilty of a class 1 misdemeanor if both of the
3 following apply:

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

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

8 (b) Permanently residing with such person.

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

12 R. For the purposes of subsection ~~H~~ Q of this section, "occupant"
13 means a person who has legal possession or the legal right to exclude others
14 from the unlicensed premises.

15 S. A peace officer shall forward or electronically transfer to the
16 director of the department of transportation the affidavit required by
17 section 28-3310 if the peace officer has arrested a person for the commission
18 of an offense for which, on conviction, suspension of the license or
19 privilege to operate a motor vehicle is required by section 28-3309,
20 subsection A, B or D, or if the peace officer has confiscated a false
21 identification document used by the person to gain access to licensed
22 premises.

23 T. A person who acts under a program of testing compliance with this
24 title that is approved by the director is not in violation of section 4-244.

25 U. Law enforcement agencies may use persons who are under the legal
26 drinking age to test compliance with this section and section 4-244,
27 paragraph 9 by a licensee if the law enforcement agency has reasonable
28 suspicion that the licensee is violating this section or section 4-244,
29 paragraph 9. A person who is under the legal drinking age and who purchases
30 or attempts to purchase spirituous liquor under the direction of a law
31 enforcement agency pursuant to this subsection is immune from prosecution for
32 that purchase or attempted purchase. Law enforcement agencies may use a
33 person under the legal drinking age pursuant to this subsection only if:

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

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

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

3 4. A photograph of the person is taken no more than twelve hours
4 before the purchase or attempted purchase. The photograph shall accurately
5 depict the person's appearance and attire. A licensee or an employee of a
6 licensee who is cited for selling spirituous liquor to a person under the
7 legal drinking age pursuant to this subsection shall be permitted to inspect
8 the photograph immediately after the citation is issued. The person's
9 appearance at any trial or administrative hearing that results from a
10 citation shall not be substantially different from the person's appearance at
11 the time the citation was issued.

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

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

16 V. The department may adopt rules to carry out the purposes of this
17 section.

18 Sec. 14. Section 4-244, Arizona Revised Statutes, is amended to read:

19 4-244. Unlawful acts

20 It is unlawful:

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

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

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

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

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

9 6. For a person to take or solicit orders for spirituous liquors
10 unless the person is a salesman or solicitor of a licensed wholesaler, a
11 salesman or solicitor of a distiller, brewer, vintner, importer or broker or
12 a registered retail agent.

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

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

19 9. Except as provided in paragraphs 10 and 11 of this section, for a
20 licensee or other person to sell, furnish, dispose of or give, or cause to be
21 sold, furnished, disposed of or given, to a person under the legal drinking
22 age or for a person under the legal drinking age to buy, receive, have in the
23 person's possession or consume spirituous liquor. This paragraph shall not
24 prohibit the employment by an off-sale retailer of persons who are at least
25 sixteen years of age to check out, if supervised by a person on the premises
26 who is at least nineteen years of age, package or carry merchandise,
27 including spirituous liquor, in unbroken packages, for the convenience of the
28 customer of the employer, if the employer sells primarily merchandise other
29 than spirituous liquor.

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

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

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

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

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

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

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

30 (d) An unpaid volunteer who is a bona fide member of a club and who is
31 not engaged in waiting on or serving spirituous liquor to customers may
32 purchase for himself and consume spirituous liquor while participating in a
33 scheduled event at the club. An unpaid participant in a food competition may
34 purchase for himself and consume spirituous liquor while participating in the
35 food competition.

36 (e) An unpaid volunteer of a special event licensee under section
37 4-203.02 may purchase and consume spirituous liquor while not engaged in

1 waiting on or serving spirituous liquor to customers at the special event.
2 This subdivision does not apply to an unpaid volunteer whose responsibilities
3 include verification of a person's legal drinking age, security or the
4 operation of any vehicle or heavy machinery.

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

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

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

27 17. For an on-sale retailer or an employee of such retailer to allow a
28 person to consume or possess spirituous liquors on the premises between the
29 hours of 2:30 a.m. and 6:00 a.m.

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

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

5 20. For a person to consume spirituous liquor in a public place,
6 thoroughfare or gathering. The license of a licensee permitting a violation
7 of this paragraph on the premises shall be subject to revocation. This
8 paragraph does not apply to the sale of spirituous liquors on the premises of
9 and by an on-sale retailer. This paragraph also does not apply to a person
10 consuming beer from a broken package in a public recreation area or on
11 private property with permission of the owner or lessor or on the walkways
12 surrounding such private property or to a person consuming beer or wine from
13 a broken package in a public recreation area as part of a special event or
14 festival that is conducted under a license secured pursuant to section
15 4-203.02 or 4-203.03.

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

21 22. For an on-sale retailer or employee to allow a person under the
22 legal drinking age to remain in an area on the licensed premises during those
23 hours in which its primary use is the sale, dispensing or consumption of
24 alcoholic beverages after the licensee, or the licensee's employees, know or
25 should have known that the person is under the legal drinking age. An
26 on-sale retailer may designate an area of the licensed premises as an area in
27 which spirituous liquor will not be sold or consumed for the purpose of
28 allowing underage persons on the premises if the designated area is separated
29 by a physical barrier and at no time will underage persons have access to the
30 area in which spirituous liquor is sold or consumed. A licensee or an
31 employee of a licensee may require a person who intends to enter a licensed
32 premises or a portion of a licensed premises where persons under the legal
33 drinking age are prohibited under this section to exhibit a written
34 instrument of identification that is acceptable under section 4-241 as a
35 condition of entry. The director, or a municipality, may adopt rules to
36 regulate the presence of underage persons on licensed premises provided the
37 rules adopted by a municipality are more stringent than those adopted by the

1 director. The rules adopted by the municipality shall be adopted by local
2 ordinance and shall not interfere with the licensee's ability to comply with
3 this paragraph. This paragraph does not apply:

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

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

10 (i) An active duty military service member.

11 (ii) A veteran.

12 (iii) A member of the United States army national guard or the United
13 States air national guard.

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

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

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

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

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

29 26. For a licensee or employee to knowingly permit unlawful gambling on
30 the premises.

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

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

36 29. For any person other than a peace officer or a member of a
37 sheriff's volunteer posse while on duty who has received firearms training

1 that is approved by the Arizona peace officer standards and training board,
2 the licensee or an employee of the licensee acting with the permission of the
3 licensee to be in possession of a firearm while on the licensed premises of
4 an on-sale retailer. This paragraph shall not be construed to include a
5 situation in which a person is on licensed premises for a limited time in
6 order to seek emergency aid and such person does not buy, receive, consume or
7 possess spirituous liquor. This paragraph shall not apply to:

8 (a) Hotel or motel guest room accommodations.

9 (b) The exhibition or display of a firearm in conjunction with a
10 meeting, show, class or similar event.

11 (c) A person with a permit issued pursuant to section 13-3112 who
12 carries a concealed handgun on the licensed premises of any on-sale retailer
13 that has not posted a notice pursuant to section 4-229.

14 30. For a licensee or employee to knowingly permit a person in
15 possession of a firearm other than a peace officer or a member of a sheriff's
16 volunteer posse while on duty who has received firearms training that is
17 approved by the Arizona peace officer standards and training board, the
18 licensee or an employee of the licensee acting with the permission of the
19 licensee to remain on the licensed premises or to serve, sell or furnish
20 spirituous liquor to a person in possession of a firearm while on the
21 licensed premises of an on-sale retailer. It shall be a defense to action
22 under this paragraph if the licensee or employee requested assistance of a
23 peace officer to remove such person. This paragraph shall not apply to:

24 (a) Hotel or motel guest room accommodations.

25 (b) The exhibition or display of a firearm in conjunction with a
26 meeting, show, class or similar event.

27 (c) A person with a permit issued pursuant to section 13-3112 who
28 carries a concealed handgun on the licensed premises of any on-sale retailer
29 that has not posted a notice pursuant to section 4-229.

30 31. For any person in possession of a firearm while on the licensed
31 premises of an on-sale retailer to consume spirituous liquor. **THIS PARAGRAPH**
32 **SHALL NOT APPLY TO PEACE OFFICERS WHO ARE PERFORMING THEIR ASSIGNED DUTIES.**

33 32. For a licensee or employee to knowingly permit spirituous liquor to
34 be removed from the licensed premises, except in the original unbroken
35 package. This paragraph shall not apply to either of the following:

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

1 cork is inserted flush with the top of the bottle or the bottle is otherwise
2 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 or driveway directly to the other portion of
7 the licensed premises.

8 33. 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.

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

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

18 36. For a licensee, manager, employee or controlling person to
19 purposely induce a voter, by means of alcohol, to vote or abstain from voting
20 for or against a particular candidate or issue on an election day.

21 37. For a licensee to fail to report an occurrence of an act of
22 violence to either the department or a law enforcement agency.

23 38. For a licensee to use a vending machine for the purpose of
24 dispensing spirituous liquor.

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

29 40. For a retailer to knowingly allow a customer to bring spirituous
30 liquor onto the licensed premises, except that an on-sale retailer may allow
31 a wine and food club to bring wine onto the premises for consumption by the
32 club's members and guests of the club's members in conjunction with meals
33 purchased at a meeting of the club that is conducted on the premises and that
34 at least seven members attend. An on-sale retailer who allows wine and food
35 clubs to bring wine onto its premises under this paragraph shall comply with
36 all applicable provisions of this title and any rules adopted pursuant to
37 this title to the same extent as if the on-sale retailer had sold the wine to

1 the members of the club and their guests. For the purposes of this
2 paragraph, "wine and food club" means an association that has more than
3 twenty bona fide members paying at least six dollars per year in dues and
4 that has been in existence for at least one year.

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

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

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

15 42. For an employee of a licensee to accept any gratuity, compensation,
16 remuneration or consideration of any kind to either:

17 (a) Permit a person who is under twenty-one years of age to enter any
18 portion of the premises where that person is prohibited from entering
19 pursuant to paragraph 22 of this section.

20 (b) Sell, furnish, dispose of or give spirituous liquor to a person
21 who is under twenty-one years of age.

22 43. For a person to purchase, offer for sale or use any device, machine
23 or process which mixes spirituous liquor with pure oxygen or another gas to
24 produce a vaporized product for the purpose of consumption by inhalation.

25 44. For a retail licensee or an employee of a retail licensee to sell
26 spirituous liquor to a person if the retail licensee or employee knows the
27 person intends to resell the spirituous liquor.

28 Sec. 15. Section 4-244.02, Arizona Revised Statutes, is amended to
29 read:

30 4-244.02. Importation of spirituous liquor unlawful; exceptions

31 A. It is unlawful for any person, ~~WHO IS~~ not a qualified licensee
32 under this title, ~~to~~ import spirituous liquors into this state from a
33 foreign country unless:

34 1. Such person is the legal drinking age.

35 2. Such person has been physically within such foreign country
36 immediately prior to such importation and such importation coincides with ~~his~~
37 ~~THE PERSON'S~~ return from such foreign country.

1 3. EXCEPT AS PROVIDED IN SUBSECTION B, the amount of spirituous liquor
2 imported does not exceed the amount permitted by federal law to be imported
3 duty free, in any period of thirty-one days, except that if the federal law
4 prescribing such duty free limitation is repealed or amended, then in no
5 event shall the amount of duty free importation into this state be more than
6 one liter of spirituous liquor during such period.

7 B. TO THE EXTENT PERMITTED BY FEDERAL LAW, A MEMBER OF THE ARIZONA
8 NATIONAL GUARD, THE UNITED STATES ARMED FORCES RESERVES OR THE ARMED FORCES
9 OF THE UNITED STATES MAY IMPORT MORE THAN ONE LITER OF SPIRITUOUS LIQUOR FOR
10 PERSONAL USE INTO THIS STATE IF THE IMPORTATION COINCIDES WITH THAT PERSON'S
11 RETURN FROM A TOUR OF DUTY IN A FOREIGN COUNTRY. A PERSON WHO IMPORTS MORE
12 SPIRITUOUS LIQUOR PURSUANT TO THIS SUBSECTION THAN THE AMOUNT PERMITTED BY
13 FEDERAL LAW TO BE IMPORTED DUTY-FREE SHALL BE RESPONSIBLE FOR THE PAYMENT OF
14 ANY FEDERAL TAXES DUE ON THE QUANTITY OF SPIRITUOUS LIQUOR THAT EXCEEDS THE
15 DUTY-FREE AMOUNT. THE DIRECTOR MAY ISSUE LETTERS OF EXEMPTION TO ALLOW
16 MILITARY PERSONNEL TO IMPORT SPIRITUOUS LIQUOR PURSUANT TO THIS SUBSECTION.

17 Sec. 16. Section 4-244.05, Arizona Revised Statutes, is amended to
18 read:

19 4-244.05. Unlicensed business establishment or premises;
20 unlawful consumption of spirituous liquor; civil
21 penalty; seizure and forfeiture of property

22 A. A person owning, operating, leasing, managing or controlling a
23 business establishment or business premises which are not properly licensed
24 pursuant to this title and in which any of the following occur shall not
25 allow the consumption of spirituous liquor in the establishment or on the
26 premises:

- 27 1. Food or beverages are sold.
- 28 2. Entertainment is provided.
- 29 3. A membership fee or a cover charge for admission is charged.
- 30 4. A minimum purchase or rental requirement for goods or services is
31 charged.

32 B. A person shall not consume spirituous liquor in a business
33 establishment or on business premises which are not properly licensed
34 pursuant to this title in which food or beverages are sold, entertainment is
35 provided, a membership fee or a cover charge for admission is charged or a
36 minimum purchase or rental requirement for goods or services is charged.

1 C. In addition to or in lieu of other fines or civil penalties imposed
2 for a violation of this section or any other action taken by the board or
3 director, the board or director may conduct a hearing subject to the
4 requirements of section 4-210, subsection G to determine whether a person has
5 violated subsection A of this section. If the board or director determines,
6 after a hearing, that a person has violated subsection A of this section the
7 board or director may impose a civil penalty of not less than two hundred nor
8 more than five thousand dollars for each offense. A civil penalty imposed
9 pursuant to this section by the director may be appealed to the board.

10 D. In addition to any other remedies provided by law, any monies used
11 or obtained in violation of this chapter may be seized by any peace officer
12 if the peace officer has probable cause to believe that the money has been
13 used or is intended to be used in violation of this section.

14 E. In addition to any other remedies provided by law, the records of
15 an establishment that is in violation of this section may be seized by any
16 peace officer if the peace officer has probable cause to believe that the
17 establishment is operating without a valid license issued pursuant to this
18 title.

19 F. In addition to any other remedies provided by law, any amount of
20 alcohol may be seized by any peace officer if the peace officer has probable
21 cause to believe that the alcohol is being used or is intended to be used in
22 violation of this section.

23 G. In addition to any other remedies provided by law, the following
24 property shall be forfeited pursuant to section 13-2314 or title 13,
25 chapter 39:

26 1. All proceeds and other assets that are derived from a violation of
27 this section.

28 2. Anything of value that is used or intended to be used to facilitate
29 a violation of this section.

30 H. A person who obtains property through a violation of this section
31 is deemed to be an involuntary trustee of that property. An involuntary
32 trustee and any other person who obtains the property, except a bona fide
33 purchaser who purchases the property for value without notice of or
34 participation in the unlawful conduct, holds the property, including its
35 proceeds and other assets, in constructive trust for the benefit of the
36 persons entitled to remedies pursuant to section 13-2314 or title 13,
37 chapter 39.

1 I. The board or director may adopt rules authorizing and prescribing
2 limitations for the possession or consumption of spirituous liquor at
3 establishments or premises falling within the scope of subsections A and B of
4 this section. Rules adopted pursuant to this subsection shall authorize the
5 possession or consumption of spirituous liquor only at establishments or
6 premises which permit the consumption or possession of minimal amounts of
7 spirituous liquor and which meet both of the following criteria:

8 1. The possession or consumption of spirituous liquor is permitted
9 only as an incidental convenience to the customers of the establishment or
10 premises.

11 2. The possession or consumption of spirituous liquor is permitted
12 only within the hours of lawful sale as prescribed in this title, and is
13 limited to no more than ten hours per day.

14 J. Any rules adopted pursuant to subsection I of this section shall
15 prescribe:

16 1. The maximum permitted occupancy of an establishment or premises.

17 2. The hours during which spirituous liquor may be possessed or
18 consumed.

19 3. The amount of spirituous liquor that a person may possess or
20 consume.

21 4. That the director, the director's agents and any peace officer
22 empowered to enforce the provisions of this title, in enforcing the
23 provisions of this title, may visit and inspect the establishment or premises
24 during the business hours of the premises or establishment. UNTIL JANUARY 1,
25 2015, THE DIRECTOR MAY CHARGE A FEE FOR THE INSPECTION OF UNLICENSED PREMISES
26 TO REVIEW AN APPLICATION FOR EXEMPTION PURSUANT TO THIS SECTION.

27 K. Any rules adopted pursuant to subsection I of this section may
28 prescribe separate classifications of establishments or premises at which
29 spirituous liquor may be possessed or consumed and may establish any other
30 provisions relating to the possession or consumption of spirituous liquor at
31 establishments or premises falling within the scope of subsections A and B of
32 this section which are necessary to maintain the health and welfare of the
33 community.

34 L. This section does not apply to establishments or premises that are
35 not licensed pursuant to this title and on which occurs the consumption of
36 spirituous liquor if the establishment or premises are owned, operated,

1 leased, managed or controlled by the United States, this state or a city or
2 county of this state.

3 Sec. 17. Section 9-500.06, Arizona Revised Statutes, is amended to
4 read:

5 9-500.06. Hospitality industry; discrimination prohibited; use
6 of tax proceeds; exemption; definitions

7 A. A city or town shall not discriminate against hospitality industry
8 businesses in the collection of fees. For THE purposes of this subsection:

9 1. "Discriminate" means any increase of fees on hospitality industry
10 businesses by any dollar amount on or after April 1, 1990 without a
11 corresponding equal dollar amount of increase in the privilege license fees
12 or other fees imposed on all other businesses in the city or town. ~~For~~
13 ~~purposes of this subsection~~

14 2. "Fees on hospitality industry businesses" means annual liquor
15 license taxes or fees or annual renewal or reissuance fees for municipal
16 business privilege licenses, however denominated.

17 B. On or after April 1, 1990, if a city or town establishes a
18 discriminatory transaction privilege tax or increases its existing
19 discriminatory transaction privilege tax on hospitality industry businesses
20 greater than any increase imposed on other types of businesses in the city or
21 town, the proceeds of the established discriminatory transaction privilege
22 tax, except as provided in subsection D, and the proceeds of any increase
23 above the existing discriminatory transaction privilege tax shall be used
24 exclusively by the city or town for the promotion of tourism. For the
25 purposes of this section a tax which is in effect on April 1, 1990 and is
26 subsequently renewed by a majority of qualified electors voting at an
27 election to approve the renewal is not considered a tax increase.

28 C. For THE purposes of subsection B, expenditures by a city or town
29 for the promotion of tourism include:

30 1. Direct expenditures by the city or town to promote tourism,
31 including but not limited to sporting events or cultural exhibits.

32 2. Contracts between the city or town and nonprofit organizations or
33 associations for the promotion of tourism by the nonprofit organization or
34 association.

35 3. Expenditures by the city or town to develop, improve or operate
36 tourism related attractions or facilities or to assist in the planning and
37 promotion of such attractions and facilities.

1 D. If a city or town has not imposed a discriminatory transaction
2 privilege tax up to a two per cent tax level on hospitality industry
3 businesses as of April 1, 1990 and thereafter imposes or increases such a
4 discriminatory transaction privilege tax, the first two percentage rate
5 portion of the discriminatory transaction privilege tax is not subject to the
6 provisions of subsection B.

7 ~~E. The provisions of this section do not apply to cities or towns with~~
8 ~~populations of one hundred thousand persons or less according to the most~~
9 ~~recent United States decennial census.~~

10 E. THE COLLECTION BY A CITY OR TOWN OF A FEE OR TAX PROHIBITED BY THIS
11 SECTION SHALL BE VOID AND UNLAWFUL. THE CITY OR TOWN SHALL REPAY ON DEMAND
12 BY A HOSPITALITY INDUSTRY BUSINESS ANY FEE OR TAX PAID BY THE BUSINESS
13 COLLECTED IN VIOLATION OF THIS SECTION. THE CITY OR TOWN SHALL REIMBURSE THE
14 HOSPITALITY BUSINESS FOR ANY REASONABLE EXPENSE INCURRED IN COLLECTING FROM
15 THE CITY OR TOWN ANY FEES OR TAX UNLAWFULLY COLLECTED.

16 F. For THE purposes of this section:

17 1. "Discriminatory transaction privilege tax" means any transaction
18 privilege tax rate imposed by a city or town on hospitality industry
19 businesses which is above the transaction privilege tax rate imposed by a
20 city or town equally on all businesses subject to a transaction privilege
21 tax.

22 2. "Hospitality industry businesses" means:

23 (a) A restaurant, bar, hotel, motel, liquor store, grocery store,
24 convenience store or recreational vehicle park.

25 (b) A motor vehicle rental agency in a county stadium district which
26 has imposed the car rental surcharge pursuant to section 48-4234.

27 Sec. 18. Laws 2010, chapter 85, section 4, is amended to read:

28 Sec. 4. Existing licenses

29 A. To resolve potential conflicting legal claims between this state
30 and holders of bar liquor licenses that exceed the sale limitation of section
31 4-206.01, subsection F, Arizona Revised Statutes, as amended by this act, the
32 holder of a bar liquor license issued and actively used primarily for
33 off-sale purposes may surrender the bar liquor license to the department of
34 liquor licenses and control before January 1, 2011, in exchange for a liquor
35 store license at no additional cost or charge. The replacement liquor store
36 license shall be issued without any further application by the licensee,
37 without any further approval by the department and shall immediately be put

1 to use by the licensee at the location where the surrendered bar liquor
2 license was previously used. The licensee shall thereafter have all rights
3 and privileges associated with the liquor store license, notwithstanding any
4 other provisions of title 4, Arizona Revised Statutes. The department of
5 liquor licenses and control shall render void and extinguish any bar liquor
6 license surrendered pursuant to this subsection.

7 B. For any license issued pursuant to subsection A of this section,
8 notwithstanding the requirements prescribed in section 4-206.01,
9 subsection ~~F~~ J, Arizona Revised Statutes, as amended by this act, the
10 original licensee shall have all rights specified in section 4-206.01,
11 subsection ~~F~~ J, Arizona Revised Statutes, as amended by this act, without
12 any further application by the licensee and without any further approval by
13 the department of liquor licenses and control. The department of liquor
14 licenses and control shall identify on the license and in the records of the
15 department that the new license has the sampling privileges specified in
16 section 4-206.01, subsection ~~F~~ J, Arizona Revised Statutes, as amended by
17 this act. The sampling rights prescribed in this subsection are
18 nontransferrable and apply automatically only to the benefit of the licensee
19 that is issued a replacement liquor store license after the surrender of a
20 bar liquor license pursuant to subsection A of this section.

21 C. To resolve potential conflicting legal claims between this state
22 and holders of beer and wine bar liquor licenses that do not meet the
23 requirements of section 4-206.01, subsection F, Arizona Revised Statutes, as
24 amended by this act, the holder of a beer and wine bar license that is issued
25 and actively used primarily for off-sale purposes may apply to the department
26 of liquor licenses and control for a beer and wine store license, which shall
27 be issued at no additional cost or charge. A beer and wine store license
28 that is issued pursuant to this subsection shall immediately be put to use by
29 the licensee at the location where the beer and wine bar license is being
30 used. The beer and wine bar and beer and wine store licenses shall be held
31 by the same licensee. The licensee shall thereafter have all rights and
32 privileges associated with the beer and wine bar and beer and wine store
33 license.

