

COMMITTEE ON COMMERCE

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2606

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 4-101, Arizona Revised Statutes, is amended to
3 read:

4 4-101. Definitions

5 In this title, unless the context otherwise requires:

6 1. "Act of violence" means an incident consisting of a riot, a brawl
7 or a disturbance, in which bodily injuries are sustained by any person and
8 such injuries would be obvious to a reasonable person, or tumultuous conduct
9 of sufficient intensity as to require the intervention of a peace officer to
10 restore normal order, or an incident in which a weapon is brandished,
11 displayed or used. Act of violence does not include the use of nonlethal
12 devices by a peace officer.

13 2. "Aggrieved party" means a person who resides at, owns or leases
14 property within a one mile radius of a premises proposed to be licensed and
15 who filed a written request with the department to speak in favor of or
16 opposition to the issuance of the license no later than sixty days after the
17 filing of the application or fifteen days after action by the local governing
18 body, whichever is later.

19 3. "Beer" means any beverage obtained by the alcoholic fermentation,
20 infusion or decoction of barley malt, hops, or other ingredients not
21 drinkable, or any combination of them.

22 4. "Board" means the state liquor board.

23 5. "Bona fide guest" means:

24 (a) ~~A person who is actually a houseguest or a person~~ AN INDIVIDUAL
25 WHO IS PERSONALLY FAMILIAR TO THE MEMBER, IS PERSONALLY SPONSORED BY THE
26 MEMBER AND whose presence as a guest is in response to a specific and
27 personal invitation.

28 (b) In the case of a club that meets the criteria prescribed in
29 paragraph 7, subdivision (a) of this section, a current member of the armed
30 services of the United States who presents proper military identification and
31 any member of a recognized veterans' organization of the United States and of
32 any country allied with the United States during current or past wars or
33 through treaty arrangements.

34 6. "Broken package" means any container of spirituous liquor on which
35 the United States tax seal has been broken or removed, or from which the cap,
36 cork or seal placed thereupon by the manufacturer has been removed.

1 7. "Club" includes any of the following organizations where the sale
2 of spirituous liquor for consumption on the premises is made to members only:

3 (a) A post, chapter, camp or other local unit composed solely of
4 veterans and its duly recognized auxiliary which has been chartered by the
5 Congress of the United States for patriotic, fraternal or benevolent purposes
6 and which has, as the owner, lessee or occupant, operated an establishment
7 for that purpose in this state.

8 (b) A chapter, aerie, parlor, lodge or other local unit of an American
9 national fraternal organization which has as the owner, lessee or occupant
10 operated an establishment for fraternal purposes in this state. An American
11 national fraternal organization as used in this subdivision shall actively
12 operate in not less than thirty-six states or have been in active continuous
13 existence for not less than twenty years.

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

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

20 (e) A social club with more than one hundred bona fide members who are
21 actual residents of the county in which it is located, that owns, maintains
22 or operates club quarters, **THAT** is authorized and incorporated to operate as
23 a nonprofit club under the laws of this state, and **THAT** has been continuously
24 incorporated and operating for a period of not less than one year. The club
25 shall have had, during this one year period, a bona fide membership with
26 regular meetings conducted at least once each month, and the membership shall
27 be and shall have been actively engaged in carrying out the objects of the
28 club. The club's membership shall consist of bona fide dues paying members
29 paying at least six dollars per year, payable monthly, quarterly or annually,
30 which have been recorded by the secretary of the club, and the members at the
31 time of application for a club license shall be in good standing having for
32 at least one full year paid dues. At least fifty-one per cent of the members
33 shall have signified their intention to secure a social club license by
34 personally signing a petition, on a form prescribed by the board, which shall
35 also include the correct mailing address of each signer. The petition shall
36 not have been signed by a member at a date earlier than **thirty ONE HUNDRED**
37 **EIGHTY** days ~~prior to~~ **BEFORE** the filing of the ~~petition~~ **APPLICATION**. The club
38 shall qualify for exemption from the payment of state income taxes under
39 title 43. It is the intent of this ~~paragraph~~ **SUBDIVISION** that a license
40 shall not be granted to a club which is, or has been, primarily formed or

1 activated to obtain a license to sell liquor, but solely to a bona fide club,
2 where the sale of liquor is incidental to the main purposes of the club.

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

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

8 9. "Control" means the power to direct or cause the direction of the
9 management and policies of an applicant, licensee or controlling person,
10 whether through the ownership of voting securities or a partnership interest,
11 by agreement or otherwise. Control is presumed to exist if a person has the
12 direct or indirect ownership of or power to vote ten per cent or more of the
13 outstanding voting securities of the applicant, licensee or controlling
14 person or to control in any manner the election of one or more of the
15 directors of the applicant, licensee or controlling person. In the case of a
16 partnership, control is presumed to mean the general partner or a limited
17 partner who holds ten per cent or more of the voting rights of the
18 partnership. For the purposes of determining the percentage of voting
19 securities owned, controlled or held by a person, there shall be aggregated
20 with the voting securities attributed to the person the voting securities of
21 any other person directly or indirectly controlling, controlled by or under
22 common control with the other person, or by an officer, partner, employee or
23 agent of the person or by a spouse, parent or child of the person. Control
24 is also presumed to exist if a creditor of the applicant, licensee or
25 controlling person holds a beneficial interest in ten per cent or more of the
26 liabilities of the licensee or controlling person.

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

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

30 12. "Director" means the director of the department of liquor licenses
31 and control.

32 13. "Distilled spirits" includes alcohol, brandy, whiskey, rum,
33 tequila, mescal, gin, absinthe, a compound or mixture of any of them or of
34 any of them with any vegetable or other substance, alcohol bitters, bitters
35 containing alcohol, fruits preserved in ardent spirits, and any alcoholic
36 mixture or preparation, whether patented or otherwise, which may in
37 sufficient quantities produce intoxication.

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

1 15. "Domestic microbrewery" means a brewery in the United States or in
2 a territory or possession of the United States that meets the requirements of
3 section 4-205.08.

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

10 17. "Government license" means a license to serve and sell spirituous
11 liquor on specified premises available only to a county, city, town,
12 **COMMUNITY COLLEGE** or state university **OR NATIONAL GUARD** or the Arizona
13 coliseum and exposition center ~~upon~~ **ON** application by the governing body of a
14 county, city, town, **COMMUNITY COLLEGE** or state university **OR NATIONAL GUARD**
15 or the Arizona exposition and state fair board.

16 18. "Legal drinking age" means twenty-one years of age or older.

17 19. "License" means a license or an interim retail permit issued
18 pursuant to this title.

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

22 21. "Licensee" means a person who has been issued a license or an
23 interim retail permit pursuant to this title or a special event licensee.

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

27 23. "Off-sale retailer" means any person operating a bona fide
28 regularly established retail liquor store selling spirituous liquors, wines
29 and beer, and any established retail store selling commodities other than
30 spirituous liquors and engaged in the sale of spirituous liquors only in the
31 original unbroken package, to be taken away from the premises of the retailer
32 and to be consumed off the premises.

33 24. "On-sale retailer" means any person operating an establishment
34 where spirituous liquors are sold in the original container for consumption
35 on or off the premises or in individual portions for consumption on the
36 premises.

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

39 26. "Premises" or "licensed premises" means the area from which the
40 licensee is authorized to sell, dispense or serve spirituous liquors under

1 the provision of the license. Premises or licensed premises includes a patio
2 that is not contiguous to the remainder of the premises or licensed premises
3 if the patio is separated from the remainder of the premises or licensed
4 premises by a public or private walkway or driveway not to exceed thirty
5 feet, subject to rules the director may adopt to establish criteria for
6 noncontiguous premises.

7 27. "Registered mail" includes certified mail.

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

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

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

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

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

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

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

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

38 36. "Wine" means the product obtained by the fermentation of grapes or
39 other agricultural products containing natural or added sugar or any such

1 alcoholic beverage fortified with grape brandy and containing not more than
2 twenty-four per cent of alcohol by volume.

3 Sec. 2. Section 4-111, Arizona Revised Statutes, is amended to read:

4 4-111. State liquor board; department of liquor licenses and
5 control; members; director; appointment and removal

6 A. ~~There is created~~ The department of liquor licenses and control
7 ~~which consists~~ IS ESTABLISHED CONSISTING of the state liquor board and the
8 office of director of the department.

9 B. From and after January 31, 2003, the board consists of seven
10 members to be appointed by the governor pursuant to section 38-211. Five of
11 the members of the board shall not be financially interested directly or
12 indirectly in business licensed to deal with spirituous liquors. Two members
13 shall currently be engaged in business in the spirituous liquor industry or
14 have been engaged in the past in business in the spirituous liquor industry,
15 at least one of whom shall currently be a retail licensee or employee of a
16 retail licensee. One member shall be a member of a neighborhood association
17 recognized by a county, city or town. The term of members is three
18 years. Members' terms expire on the third Monday in January of the
19 appropriate year. The governor may remove any member of the board for
20 cause. No member may represent a licensee before the board or the department
21 for a period of one year after the conclusion of the member's service on the
22 board.

23 C. The board shall annually elect from its membership a chairman and
24 vice-chairman. A majority of the board constitutes a quorum, and a
25 concurrence of a majority of a quorum is sufficient for taking any
26 action. If there are unfilled positions on the board, a majority of those
27 persons appointed and serving on the board constitutes a quorum.

28 D. The chairman may designate panels of not less than three
29 members. A panel may take any action ~~which~~ THAT the board is authorized to
30 take pursuant to this title. Such action includes the ability to hold
31 hearings and hear appeals of administrative disciplinary proceedings of
32 licenses issued pursuant to this chapter. A panel shall not, however, adopt
33 rules as provided in section 4-112, subsection A, paragraph 2. The chairman
34 may from time to time add additional members or remove members from a
35 panel. A majority of a panel may upon the concurrence of a majority of the
36 members of the panel take final action on hearings and appeals of
37 administrative disciplinary proceedings concerning licenses issued pursuant
38 to this chapter.

1 E. Members of the board are entitled to receive compensation at the
2 rate of ~~fifty~~ ONE HUNDRED dollars per day while engaged in the business of
3 the board.

4 F. A person shall not be appointed to serve on the board unless the
5 person has been a resident of this state for not less than five years ~~prior~~
6 ~~to~~ BEFORE the person's appointment. No more than four members may be of the
7 same political party. Persons eligible for appointment shall have a
8 continuous recorded registration pursuant to title 16, chapter 1 with the
9 same political party or as an independent for at least two years immediately
10 preceding appointment. No more than two members may be appointed from the
11 same county.

12 G. The governor shall appoint the director, pursuant to section
13 38-211, who shall be a qualified elector of the state and experienced in
14 administrative matters and enforcement procedures. The director shall serve
15 concurrently with the governor but may be removed by the governor for any of
16 the following causes:

- 17 1. Fraud in securing appointment.
- 18 2. Incompetency.
- 19 3. Inefficiency.
- 20 4. Inexcusable neglect of duty.
- 21 5. Insubordination.
- 22 6. Dishonesty.
- 23 7. Drunkenness on duty.
- 24 8. Addiction to the use of narcotics or habit-forming drugs.
- 25 9. Inexcusable absence without leave.
- 26 10. Final conviction of a felony or a misdemeanor involving moral
27 turpitude.
- 28 11. Discourteous treatment of the public.
- 29 12. Improper political activity.
- 30 13. Wilful disobedience.
- 31 14. Misuse of state property.

32 H. The director is entitled to receive a salary as determined pursuant
33 to section 38-611.

34 Sec. 3. Section 4-112, Arizona Revised Statutes, is amended to read:
35 4-112. Powers and duties of board and director of department of
36 liquor licenses and control; investigations; county
37 and municipal regulation

38 A. The board shall:

- 39 1. Grant and deny applications in accordance with the provisions of
40 this title.

- 1 2. Adopt rules in order to carry out the provisions of this section.
- 2 3. Hear appeals and hold hearings as provided in this section.
- 3 B. Except as provided in subsection A of this section, the director
- 4 shall administer the provisions of this title, including:
- 5 1. Adopting rules:
- 6 (a) For carrying out the provisions of this title.
- 7 (b) For the proper conduct of the business to be carried on under each
- 8 specific type of spirituous liquor license.
- 9 (c) To enable and assist state officials and political subdivisions to
- 10 collect taxes levied or imposed in connection with spirituous liquors.
- 11 (d) For the issuance and revocation of certificates of registration of
- 12 retail agents, including provisions governing the shipping, storage and
- 13 delivery of spirituous liquors by registered retail agents, the keeping of
- 14 records and the filing of reports by registered retail agents.
- 15 (e) To establish requirements for licensees under section 4-209,
- 16 subsection B, paragraph 12.
- 17 2. Employing necessary personnel and fixing their compensation.
- 18 3. Keeping an index record which shall be a public record open to
- 19 public inspection and shall contain the name and address of each licensee and
- 20 the name and address of any person having an interest, either legal or
- 21 equitable, in each license as shown by any written document, which document
- 22 shall be placed on file in the office of the board.
- 23 4. Providing the board with such supplies and personnel as may be
- 24 directed by the board.
- 25 5. Responding in writing to any law enforcement agency that submits an
- 26 investigative report to the department relating to a violation of this title,
- 27 setting forth what action, if any, the department has taken or intends to
- 28 take on the report and, if the report lacks sufficient information or is
- 29 otherwise defective for use by the department, what the agency must do to
- 30 remedy the report.
- 31 6. Taking such steps as are necessary to maintain effective liaison
- 32 with the department of public safety and all local law enforcement agencies
- 33 in the enforcement of this title including the laws of this state against the
- 34 consumption of spirituous liquor by persons under the legal drinking age.
- 35 7. Providing training to law enforcement agencies in the proper
- 36 investigation and reporting of violations of this title.
- 37 C. The director shall establish within the department a separate
- 38 investigations unit which has as its sole responsibility the investigation of
- 39 compliance with this title including the investigation of licensees alleged
- 40 to have sold or distributed spirituous liquor in any form to persons under

1 the legal drinking age. Investigations conducted by this unit may include
2 covert undercover investigations.

3 D. All employees of the department of liquor licenses and control,
4 except members of the state liquor board and the director of the department,
5 shall be employed by the department in the manner prescribed by the
6 department of administration.

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

10 F. The board or the director may take evidence, administer oaths or
11 affirmations, issue subpoenas requiring attendance and testimony of
12 witnesses, cause depositions to be taken and require by subpoena duces tecum
13 the production of books, papers and other documents which are necessary for
14 the enforcement of this title. Proceedings held during the course of a
15 confidential investigation are exempt from title 38, chapter 3, article 3.1.
16 If a person refuses to obey a subpoena or fails to answer questions as
17 provided by this subsection, the board or the director may apply to the
18 superior court in the manner provided in section 12-2212. The board or
19 director may serve subpoenas by personal service or certified mail, return
20 receipt requested.

21 G. The director may:

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

23 2. Require applicants, licensees, employees who serve, sell or furnish
24 spirituous liquors to retail customers, managers and managing agents to take
25 training courses approved by the director in spirituous liquor handling and
26 spirituous liquor laws and rules. The director shall adopt rules that set
27 standards for approving training courses. **THE DEPARTMENT'S LICENSED**
28 **INVESTIGATORS MAY PARTICIPATE AND RECEIVE COMPENSATION AS LECTURERS AT**
29 **APPROVED TRAINING COURSES CONDUCTED BY OTHER ENTITIES BUT SHALL NOT**
30 **PARTICIPATE IN IN-HOUSE TRAINING PROGRAMS FOR LICENSEES.**

31 3. Delegate to employees of the department authority to exercise
32 powers of the director in order to administer the department.

33 4. Regulate signs that advertise a spirituous liquor product at
34 licensed retail premises.

35 5. Cause to be removed from the marketplace spirituous liquor that may
36 be contaminated.

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

1 resident residing or owning or leasing property within a one-mile radius from
2 the premises proposed to be licensed from testifying in favor of or in
3 opposition to the issuance of the license, regardless of whether or not the
4 person is a user or nonuser of spirituous liquor.

5 C. The governing body of the city, town or county shall then enter an
6 order recommending approval or disapproval within sixty days after filing of
7 the application and shall file a certified copy of the order with the
8 director. If the recommendation is for disapproval, a statement of the
9 specific reasons containing a summary of the testimony or other evidence
10 supporting the recommendation for disapproval shall be attached to the order.
11 All petitions submitted to the governing body within the twenty-day period
12 for filing protests shall be transmitted to the director with the certified
13 copy of the order.

14 D. If a person applies for a license to conduct a spirituous liquor
15 business outside an incorporated city or town, the director shall remit two
16 copies of the application to the clerk of the board of supervisors of the
17 county where the applicant desires to do business, and the proceedings by the
18 clerk and board of supervisors shall be as provided for cities and towns.

19 E. ~~Upon~~ ON receipt of an application for a spirituous liquor license,
20 the director shall set the application for hearing by the board ~~upon~~ ON a
21 date following the expiration of the time fixed for the submitting of the
22 certified order by the governing body of the city or town or the board of
23 supervisors. If the city or town or the county recommends approval of the
24 license no hearing is required unless the director, the board or any
25 aggrieved party requests a hearing on the grounds that the public convenience
26 and the best interest of the community will not be substantially served if a
27 license is issued. Any natural person residing or owning or leasing property
28 within a one mile radius of the proposed location may file a written protest
29 with the director no later than fifteen calendar days following action by the
30 local governing body or sixty days after filing the application. The written
31 argument shall contain the natural person's complete name, street address or
32 post office box address and written or electronic signature. If the written
33 arguments are filed by a person on behalf of a corporation or other legal
34 entity or association, the written arguments must be accompanied by a copy of
35 the entity's organizing document, a designation of the office or position
36 that the person holds within the organization and a copy of the written
37 appointment of the person to speak on behalf of the organization. If the
38 written arguments are filed by a neighborhood association, block watch or
39 other unincorporated association, written arguments must be accompanied by a
40 letter of authority designating that person as a spokesperson. If no hearing

1 is requested by the director, the board or any aggrieved party, the
2 application may be approved by the director. If the recommendation is for
3 disapproval of an application ~~or if no recommendation is received~~, the board
4 shall hold a hearing. If the city, town or county recommends approval of the
5 license pursuant to subsection C of this section **OR MAKES NO RECOMMENDATION**,
6 the director may cancel the hearing and issue the license unless the board or
7 any aggrieved party requests a hearing. If the reason for the protest is
8 clearly removed or satisfied the director ~~may request the~~ board **SHALL** cancel
9 the hearing. **IF THE BOARD CANCELS THE HEARING, THE DEPARTMENT MAY**
10 **ADMINISTRATIVELY ISSUE AN ORDER WITHOUT THE APPLICANT LICENSEE OR OTHER**
11 **PARTIES PRESENT.** The certified order, the reasons contained in the order and
12 the summary of the testimony and other evidence supporting the city, town or
13 county disapproval of the recommendation shall be read into the record before
14 the board and shall be considered as evidence by the board. The board shall
15 consider the certified order together with other facts and a report of the
16 director relating to the qualifications of the applicant. If the governing
17 body of the city or town or the board of supervisors fails to return to the
18 director, as provided in subsections C and D of this section, its order of
19 ~~approval or~~ disapproval, ~~the board shall proceed with further consideration~~
20 ~~of the application by holding an administrative hearing~~ **NO HEARING IS**
21 **REQUIRED.** An application shall be approved or disapproved within one hundred
22 five days after filing of the application. If, after a hearing by the board
23 where a license has been approved, a formal written order is not entered
24 within thirty days after the hearing, the decision of the board shall be
25 deemed entered on the thirtieth day after the hearing.

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

32 G. Except for a person to person transfer of a transferable license
33 for use at the same location and as otherwise provided in section 4-203,
34 subsection A, in all proceedings before the governing body of a city or town,
35 the board of supervisors of a county or the board, the applicant bears the
36 burden of showing that the public convenience requires and that the best
37 interest of the community will be substantially served by the issuance of a
38 license.

39 H. In order to prevent the proliferation of spirituous liquor licenses
40 the department may deny a license to a business on the grounds that such

1 business is inappropriate for the sale of spirituous liquor. An
2 inappropriate business is one that cannot clearly demonstrate that the sale
3 of spirituous liquor is directly connected to its primary purpose and that
4 the sale of spirituous liquor is not merely incidental to its primary
5 purpose.

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

12 J. If the governing body of a city or town recommends disapproval by a
13 two-thirds vote of the members present and voting on an application for the
14 issuance or transfer of a spirituous liquor license that, if approved, would
15 result in a license being issued at a location either having no license or
16 having a license of a different series, the application shall not be approved
17 unless the board decides to approve the application by a two-thirds vote of
18 the members present and voting.

19 Sec. 6. Section 4-202, Arizona Revised Statutes, is amended to read:

20 4-202. Qualifications of licensees; application; background
21 information; prior convictions

22 A. Every spirituous liquor licensee, other than a club licensee, a
23 corporation licensee, a limited liability company licensee or an out-of-state
24 licensee, shall be a citizen of the United States and a bona fide resident of
25 this state or a legal resident alien who is a bona fide resident of this
26 state. If a partnership, each partner shall be a citizen of the United
27 States and a bona fide resident of this state or a legal resident alien who
28 is a bona fide resident of this state, except that for a limited partnership
29 an individual general partner is required to meet the qualifications of an
30 individual licensee, a corporate general partner is required to meet the
31 qualifications of a corporate licensee and a limited partner is not required
32 to be A CITIZEN OF THE UNITED STATES, A LEGAL RESIDENT ALIEN OR a bona fide
33 resident of this state. If a corporation or limited liability company, it
34 shall be a domestic corporation or a foreign corporation or a limited
35 liability company that has qualified to do business in this state. A person
36 shall hold a club license, corporation license, limited liability company
37 license, partnership license or out-of-state license through an agent who
38 shall be a natural person and meet the qualifications for licensure, except
39 that an agent for an out-of-state license as specified in section 4-209,
40 subsection B, paragraph 2 need not be a resident of this state. For the

1 purposes of this subsection, "agent" means a person who is designated by an
2 applicant or licensee to receive communications from the department and to
3 file documents and sign documents for filing with the department on behalf of
4 the applicant or licensee.

5 B. A person shall file an application for a spirituous liquor license
6 on a form prescribed by the director. The director shall require any
7 applicant and may require any controlling person, other than a bank or
8 licensed lending institution, to furnish background information and to submit
9 a full set of fingerprints to the department. The department of liquor
10 licenses and control shall submit the fingerprints to the department of
11 public safety for the purpose of obtaining a state and federal criminal
12 records check pursuant to section 41-1750 and Public Law 92-544. The
13 department of public safety may exchange this fingerprint data with the
14 federal bureau of investigation. If a license is issued or transferred when
15 fees are waived pursuant to section 4-209, subsection I, no additional
16 background check is required if the person has already completed a background
17 investigation in connection with the continuing business.

18 C. Each applicant or licensee shall designate a person who shall be
19 responsible for managing the premises. The designated person may be the
20 applicant or licensee. The manager shall be a natural person and shall meet
21 all the requirements for licensure. The same person may be designated as the
22 manager for more than one premises owned by the same licensee. Notice of a
23 change in the manager shall be filed with the director within thirty days
24 after a change.

25 D. No license shall be issued to any person who, within one year
26 before application, has had a license revoked. The director shall not issue
27 an interim permit or restaurant license to any person who, at the same
28 location, has been required to surrender a restaurant license pursuant to
29 section 4-205.02, subsection D or section 4-213 until twelve months after the
30 date of the surrender. No license shall be issued to or renewed for any
31 person who, within five years before application, has been convicted of a
32 felony, or convicted of an offense in another state that would be a felony in
33 this state. For a conviction of a corporation to be a basis for a denial
34 under the provisions of this section, the limitations that are provided in
35 section 4-210, subsection A, paragraph 8 shall apply. No corporation shall
36 have its annual license issued or renewed unless it has on file with the
37 department a list of its officers and directors and any stockholders who own
38 ten per cent or more of the corporation.

39 E. The department of liquor licenses and control shall receive
40 criminal history record information from the department of public safety for

1 applicants for employment with the department of liquor licenses and control
2 or for a license issued by the department of liquor licenses and control.

3 F. The department shall not issue or renew a license for any person
4 who on the request of the director fails to provide the department with
5 complete financial disclosure statements indicating all financial holdings of
6 the person or any other person in or relating to the license applied for,
7 including all cosignatories on financial holdings, land, buildings, leases or
8 other forms of indebtedness that the applicant has incurred or will incur.

9 Sec. 7. Section 4-203, Arizona Revised Statutes, is amended to read:

10 4-203. Licenses; issuance; transfer; reversion to state

11 A. A spirituous liquor license shall be issued only after satisfactory
12 showing of the capability, qualifications and reliability of the applicant
13 and, with the exception of wholesaler, producer, government or club
14 licensees, that the public convenience requires and that the best interest of
15 the community will be substantially served by the issuance. If an
16 application is filed for the issuance of a nontransferable license, other
17 than for a microbrewery license or a domestic farm winery license, for a
18 location that on the date the application is filed has a valid license of the
19 same series issued at that location, there shall be a rebuttable presumption
20 that the public convenience and best interest of the community at that
21 location was established at the time the location was previously licensed.
22 The presumption may be rebutted by competent contrary evidence. The
23 presumption shall not apply once the licensed location has not been in use
24 for more than one hundred eighty days and the presumption shall not extend to
25 the personal qualifications of the applicant.

26 B. The license shall be to manufacture, sell or deal in spirituous
27 liquors only at the place and in the manner provided in the license. A
28 separate license shall be issued for each specific business, and each shall
29 specify:

30 1. The particular spirituous liquors that the licensee is authorized
31 to manufacture, sell or deal in.

32 2. The place of business for which issued.

33 3. The purpose for ~~that~~ WHICH the liquors may be manufactured or sold.

34 C. A spirituous liquor license issued to a bar, a liquor store or a
35 beer and wine bar shall be transferable as to any permitted location within
36 the same county, provided such transfer meets the requirements of an original
37 application. Such spirituous liquor license may be transferred to a person
38 qualified to be a licensee, provided such transfer is pursuant to either
39 judicial decree, nonjudicial foreclosure of a legal or equitable lien,
40 INCLUDING SECURITY INTERESTS HELD BY FINANCIAL INSTITUTIONS PURSUANT TO

1 **SECTION 4-205.05**, a sale of the license, a bona fide sale of the entire
2 business and stock in trade, or such other bona fide transactions as may be
3 provided for by rule. Any change in ownership of the business of a licensee,
4 directly or indirectly, as defined by rule is deemed a transfer.

5 D. All applications for a new license pursuant to section 4-201 or for
6 a transfer to a new location pursuant to subsection C of this section shall
7 be filed with and determined by the director, except when the governing body
8 of the city or town or the board of supervisors receiving such application
9 pursuant to section 4-201 orders disapproval of such application or makes no
10 recommendation or when the director, the state liquor board or any aggrieved
11 party requests a hearing. Such application shall then be presented to the
12 state liquor board, and the new license or transfer shall not become
13 effective unless approved by the state liquor board.

14 E. A person who assigns, surrenders, transfers or sells control of a
15 **LIQUOR LICENSE OR** business which has a spirituous liquor license shall notify
16 the director within thirty business days after the assignment, surrender,
17 transfer or sale. No spirituous liquor license shall be leased or
18 subleased. A concession agreement entered into under section 4-205.03 is not
19 considered a lease or sublease in violation of this section.

20 F. If a person other than those persons originally licensed acquires
21 control over a license or licensee, the person shall file notice of the
22 acquisition with the director within thirty business days after such
23 acquisition of control and a list of officers, directors or other controlling
24 persons on a form prescribed by the director. All officers, directors or
25 other controlling persons shall meet the qualifications for licensure as
26 prescribed by this title. On request, the director shall conduct a
27 preinvestigation before the assignment, sale or transfer of control of a
28 license or licensee, the reasonable costs of which, not to exceed one
29 thousand dollars, shall be borne by the applicant. The preinvestigation
30 shall determine whether the qualifications for licensure as prescribed by
31 this title are met. On receipt of notice of an acquisition of control or
32 request of a preinvestigation, the director shall forward the notice within
33 fifteen days to the local governing body of the city or town, if the licensed
34 premises is in an incorporated area, or the county, if the licensed premises
35 is in an unincorporated area. The local governing body of the city, town or
36 county may protest the acquisition of control within sixty days based on the
37 capability, reliability and qualification of the person acquiring control.
38 If the director does not receive any protests, the director may protest the
39 acquisition of control or approve the acquisition of control based on the
40 capability, reliability and qualification of the person acquiring control.

1 Any protest shall be set for a hearing before the board. Any transfer shall
2 be approved or disapproved within one hundred five days of the filing of the
3 notice of acquisition of control. The person who has acquired control of a
4 license or licensee has the burden of an original application at the hearing,
5 and the board shall make its determination pursuant to section 4-202 and this
6 section with respect to capability, reliability and qualification.

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

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

21 1. All of the controlling persons of the licensee and the new business
22 entity are identical.

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

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

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

1 the licensee when making a sale or delivery of spirituous liquor for the
2 licensee.

3 K. Except as provided in subsection J of this section, Arizona
4 licensees may transport spirituous liquors for themselves in vehicles owned,
5 leased or rented by such licensee.

6 L. Notwithstanding subsection B of this section, an off-sale retail
7 licensee may provide consumer tasting of wines off of the licensed premises.

8 M. The director may adopt reasonable rules to protect the public
9 interest and prevent abuse by licensees of the activities permitted such
10 licensees by subsections J and L of this section.

11 N. Failure to pay any surcharge prescribed by subsection G of this
12 section or failure to report the period of nonuse of a license shall be
13 grounds for revocation of the license or grounds for any other sanction
14 provided by this title. The director may consider extenuating circumstances
15 if control of the license is acquired by another party in determining whether
16 or not to impose any sanctions under this subsection.

17 O. If a licensed location has not been in use for two years, the
18 location must requalify for a license pursuant to subsection A of this
19 section and shall meet the same qualifications required for issuance of a new
20 license except when the director deems that the nonuse of the location was
21 due to circumstances beyond the licensee's control.

22 P. If the licensee's interest is forfeited pursuant to section 4-210,
23 subsection L, the location shall requalify for a license pursuant to
24 subsection A of this section and shall meet the same qualifications required
25 for issuance of a new license except when a bona fide lienholder demonstrates
26 mitigation pursuant to section 4-210, subsection K.

27 Q. THE DIRECTOR MAY IMPLEMENT A PROCEDURE FOR THE ISSUANCE OF A
28 LICENSE WITH A LICENSING PERIOD OF TWO YEARS.

29 Sec. 8. Section 4-203.01, Arizona Revised Statutes, is amended to
30 read:

31 4-203.01. Interim permit; fee; rules

32 A. The director may issue an interim permit to ~~the transferee of a~~
33 ~~transferable license as described in section 4-203, subsection C and section~~
34 ~~4-209, subsection B, paragraphs 6, 7 and 9 or an applicant for a~~
35 ~~nontransferable spirituous liquor license to continue the operation of such~~
36 ~~premises during the period a transfer application for the license from person~~
37 ~~to person at the same premises is pending or, in the case of a~~
38 ~~nontransferable spirituous liquor license, if the application for an original~~
39 ~~license of the same series at the same premises is pending~~ THE APPLICANT FOR

1 A LICENSE OF THE SAME SERIES AT THE SAME PREMISES WHETHER THAT LICENSE IS
2 TRANSFERRABLE OR NONTRANSFERABLE and any of the following conditions exists:

3 1. The director has good cause to believe the licensee is no longer in
4 possession of the licensed premises.

5 2. The license for such premises was surrendered pursuant to rules of
6 the department.

7 3. The applicant for the interim permit filed with the department an
8 application for ~~transfer of the license at such premises to himself or, in~~
9 ~~the case of a nontransferable spirituous liquor license, filed an application~~
10 ~~for an original license at such premises~~ THE ISSUANCE OF A LICENSE OF THE
11 SAME SERIES OF NONTRANSFERABLE LICENSE OR THE TRANSFER OR REPLACEMENT OF A
12 TRANSFERABLE LICENSE OF THE SAME SERIES AT THE SAME PREMISES.

13 B. The application for the interim permit shall be accompanied by an
14 interim permit fee of one hundred dollars.

15 C. An interim permit issued by the director pursuant to this section
16 shall be for a period of not to exceed one hundred five days and shall not be
17 extended except as provided in subsection D of this section. An interim
18 permit is a conditional permit and authorizes the holder to sell such
19 alcoholic beverages as would be permitted to be sold under the privileges of
20 the license for which application has been filed with the department.

21 D. Notwithstanding subsection C of this section, if the director
22 extends the time limit for action by the department in connection with a
23 license issuance or transfer pursuant to section 4-201.01, subsection B, the
24 director shall issue an additional interim permit for a period equal to such
25 extension unless either:

26 1. No interim permit has previously been issued.

27 2. For good cause shown the director denies the additional interim
28 permit.

29 E. Notwithstanding any other provision of law, an interim permit may
30 be canceled or suspended summarily at any time, if the director determines
31 that good cause for such cancellation or suspension exists. There shall be
32 no appeal from such cancellation or suspension of an interim permit to the
33 board. The board may cancel an interim permit on applications that have been
34 disapproved by the board. The cancellation or suspension of an interim
35 permit may be appealed directly to the superior court.

36 F. Application for an interim permit shall be on such form as the
37 director shall prescribe. If an application for an interim permit is
38 withdrawn before issuance or is refused by the director, the fee which
39 accompanies such application shall be refunded.

1 E. No club may hold a spirituous liquor license other than one issued
2 pursuant to this section, except that any club which on January 1, 1975 holds
3 a spirituous liquor license other than one issued pursuant to this section
4 may use such license until such time as the license is revoked or reverted.

5 Sec. 10. Section 4-205.03, Arizona Revised Statutes, is amended to
6 read:

7 4-205.03. Government license; issuance; regulatory provisions;
8 agreements with coliseum concessionaires;
9 definitions

10 A. The department may issue a government license to any county, city,
11 town, **COMMUNITY COLLEGE** or state university **OR NATIONAL GUARD** or the Arizona
12 exposition and state fair board ~~upon~~ **ON** application authorized by the
13 governing body of the county, city, town, **COMMUNITY COLLEGE** or state
14 university **OR NATIONAL GUARD** or the Arizona exposition and state fair board.

15 B. If the department decides to issue the license, it shall be issued
16 in the name of the county, city, town, **COMMUNITY COLLEGE** or state university
17 **OR NATIONAL GUARD** or Arizona coliseum and exposition center. No application
18 shall be filed unless authorized by the respective governing body. The
19 application shall designate for each location a manager or other individual
20 responsible for administering the license. The county, city, town, **COMMUNITY**
21 **COLLEGE** or state university **OR NATIONAL GUARD** or Arizona exposition and state
22 fair board shall give notice to the department within ten days of any change
23 in the designee. The county, city, town, **COMMUNITY COLLEGE** or state
24 university **OR NATIONAL GUARD** or Arizona coliseum and exposition center to
25 which a license is issued is subject to the fine or penalty prescribed for
26 any violation of the statutes relating to alcoholic beverages.

27 C. The holder of a government license may sell and serve spirituous
28 liquors solely for consumption on the premises for which the license is
29 issued. A separate license is required for each premises ~~upon~~ **ON** which
30 spirituous liquors are served. A single premises licensed under this section
31 may consist of not more than one dock area that is designated by a city or
32 town and that is situated on a lake owned by the city or town and not more
33 than thirty boats that are operated on the lake. A dock and boats that
34 comprise a premises under this subsection shall be operated in compliance
35 with subsection G of this section.

36 D. A governing body in possession of a government license may by
37 appropriate legislation or rule authorize the use of the license pursuant to
38 a concession agreement approved by the governing body.

39 E. The department may adopt rules in order to administer this section.

1 F. Any agreement entered into by the Arizona exposition and state fair
2 board allowing an indicated concessionaire to serve alcoholic beverages
3 pursuant to this section shall contain a provision requiring the
4 concessionaire to do both of the following:

5 1. Fully indemnify and hold harmless this state and any of its
6 agencies, boards, commissions, officers and employees against any liability
7 for loss or damage incurred either on or off state property and resulting
8 from the negligent serving of alcoholic beverages by the concessionaire or
9 the concessionaire's agents or employees.

10 2. Post a surety bond in favor of this state in an amount determined
11 by the Arizona exposition and state fair board to be sufficient to indemnify
12 this state against the potential liability or name this state as an
13 additional insured in a liability policy that provides sufficient coverage to
14 indemnify this state as determined by the Arizona exposition and state fair
15 board.

16 G. The following apply to the operation of a dock and boats as a
17 licensed premises pursuant to subsection C of this section:

18 1. Liquor may be sold only for consumption on the premises in
19 conjunction with consumption of food.

20 2. Liquor shall not be served or consumed on the dock. Liquor shall
21 not be served on a boat earlier than fifteen minutes before the boat is
22 scheduled to depart from the dock and shall not be served after a boat
23 returns to the dock.

24 3. A person shall not be served more than thirty-two ounces of beer,
25 one liter of wine or four ounces of distilled spirits while the person is on
26 a boat.

27 4. A person shall not bring spirituous liquor onto a boat other than
28 liquor purchased by the licensee or a concessionaire for resale under the
29 provisions of this title.

30 5. The pilot of each boat, all crew members and all persons who sell
31 or serve spirituous liquor on each boat are deemed employees of the licensee
32 for purposes of this title.

33 6. The pilot of each boat shall either have a current and valid coast
34 guard operator's license or shall have successfully completed a safety and
35 operator training course approved by the city or town.

36 7. Spirituous liquor shall not be served, consumed or possessed by a
37 customer on the boat between the hours of 11:00 p.m. and 5:00 p.m.

38 8. All provisions of this title and rules adopted pursuant to this
39 title that are not inconsistent with this section apply to sales and
40 consumption of spirituous liquor on the licensed premises.

1 H. For THE purposes of this section:

2 1. "Arizona coliseum and exposition center" includes all property
3 under the control of the Arizona exposition and state fair board as provided
4 in section 3-1001.

5 2. "Boat" means a seaworthy vessel that is designed to carry and that
6 is capable of carrying not less than fifteen nor more than forty-five
7 passengers, that has a displacement of not more than ten tons and that
8 possesses a current coast guard certificate.

9 3. "COMMUNITY COLLEGE" HAS THE SAME MEANING PRESCRIBED IN SECTION
10 15-1401.

11 ~~3.~~ 4. "State university" means institutions as described in section
12 15-1601.

13 Sec. 11. Section 4-205.05, Arizona Revised Statutes, is amended to
14 read:

15 4-205.05. Disposal of seized or recovered liquor

16 A. The director may issue a temporary permit authorizing the disposal
17 at public auction of spirituous liquor that has been seized by any agency of
18 this state, the federal government, ~~or~~ any political subdivision of this
19 state, ANY FINANCIAL INSTITUTION AS DEFINED IN SECTION 6-101 THAT HAS A
20 SECURITY INTEREST IN A LICENSE, or the federal government pursuant to
21 statute. A bid at a public auction shall not be accepted from a licensee if
22 the spirituous liquors offered for sale at the auction were seized from that
23 licensee. The director shall issue the permit only if presented with proper
24 documents of seizure by the appropriate official. The director may dispose
25 of seized spirituous liquor in whole or in part by providing the spirituous
26 liquor to law enforcement for training purposes only.

27 B. Spirituous liquor with a stated expiration date on the label shall
28 not be offered for sale at public auction AFTER THE EXPIRATION DATE and shall
29 either be destroyed or disposed of as provided in this section. The licensed
30 wholesaler that distributes the spirituous liquor brand in that sales
31 territory may, but is not required to, accept a return of the liquor at no
32 cost for disposal or to enable it to be returned to the supplier.

33 Sec. 12. Section 4-206.01, Arizona Revised Statutes, is amended to
34 read:

35 4-206.01. Bar, beer and wine bar or liquor store licenses:
36 number permitted; fee; sampling privileges

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

1 B. In each county, the director shall, EACH YEAR, issue additional
2 bar, beer and wine bar or liquor store licenses at the rate of one of each
3 type for each additional ten thousand person increase over the population in
4 that county as of July 1, 2010. THE DIRECTOR MAY WAIVE THE ISSUANCE OF ANY
5 SERIES OF NEW LICENSES IN A COUNTY FOR ONE YEAR WHERE THERE HAS BEEN NO
6 REQUEST MADE TO THE DEPARTMENT FOR THE ISSUANCE OF A NEW LICENSE OF THAT
7 SERIES. For the purposes of this subsection, the population of a county is
8 deemed to be the population estimated by the office of employment and
9 population statistics within the Arizona department of administration as of
10 July 1 of each year.

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

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

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

25 F. After January 1, 2011, bar licenses and beer and wine bar licenses
26 shall be issued and used only if the clear primary purpose and actual primary
27 use is for on-sale retailer privileges. The off-sale privileges associated
28 with a bar license and a beer and wine bar license shall be limited to use,
29 which is clearly auxiliary to the active primary on-sale privilege. A bar
30 license or a beer and wine bar license shall not be issued or used if the
31 associated off-sale use, by total retail spirituous liquor sales, exceeds
32 thirty per cent of the sales price of on-sale spirituous liquors by the
33 licensee at that location. For dual licenses issued pursuant to a single
34 site or where a second license is issued to a site ~~which~~ THAT already has a
35 spirituous liquor license, other than settlement licenses issued ~~pursuant to~~
36 ~~Laws 2010, chapter 85, section 4, as amended by this act~~ AS PROVIDED BY LAW,
37 the applicant shall have the burden of establishing that public convenience
38 and the best interest of the community will be served by the issuance of the
39 license.

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

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

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

29 J. An applicant for a liquor store license or a beer and wine store
30 license and the licensee of a liquor store license or a beer and wine store
31 license may apply for sampling privileges associated with the license. ~~A~~
32 Beer and wine store premises shall contain at least five thousand square feet
33 in order to be eligible for sampling privileges. A person desiring a
34 sampling privilege associated with a liquor store license shall apply to the
35 director on a form prescribed and furnished by the director. The application
36 for sampling privileges may be filed for an existing license or may be
37 submitted with an initial license application. The request for sampling
38 approval, the review of the application and the issuance of approval shall be
39 conducted under the same procedures for the issuance of a spirituous liquor
40 license prescribed in section 4-201. After a sampling privilege has been

1 issued for a liquor store license or a beer and wine store license, the
2 sampling privilege shall be noted on the license itself and in the records of
3 the department. The sampling rights associated with a license are not
4 transferable. Until January 1, 2015, the director may charge a fee for
5 processing the application for sampling privileges and a renewal fee as
6 provided in this section. A city or town shall not charge any fee relating
7 to the issuance or renewal of a sampling privilege. Notwithstanding section
8 4-244, paragraph 19, a liquor store licensee OR A BEER AND WINE STORE
9 LICENSEE that holds a license with sampling privileges may provide spirituous
10 liquor sampling subject to the following requirements:

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

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

16 3. The licensed retailer shall make sales of sampled products from the
17 licensed retail premises.

18 4. The licensee shall not charge any customer for the sampling of any
19 products.

20 5. The sampling shall be conducted under the supervision of an
21 employee of a sponsoring distiller, vintner, brewer, wholesaler or retail
22 licensee.

23 6. Accurate records of sampling products dispensed shall be retained
24 by the licensee.

25 7. Sampling shall be limited to three ounces of beer or cooler-type
26 products, ~~one ounce~~ ONE AND ONE-HALF OUNCE of wine and one ounce of distilled
27 spirits per person, per brand, per day.

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

29 K. If a beer and wine bar license and a beer and wine store license
30 are issued at the same premises, for purposes of reporting liquor purchases
31 under each license, all spirituous beverages purchased for sampling are
32 conclusively presumed to be purchased under the beer and wine bar license and
33 all spirituous liquor sold off-sale are conclusively presumed to be purchased
34 under the beer and wine store license.

35 L. The director may issue a beer and wine store license to the holder
36 of a bar license simultaneously at the same premises. An applicant for a
37 beer and wine store license and a bar license may consolidate the application
38 and may apply for both licenses at the same time. The holder of each license
39 shall fully comply with all applicable provisions of this title. A beer and
40 wine store license and a bar license on the same premises shall be owned by

1 and issued to the same licensee. If a beer and wine store license and a bar
2 license are issued at the same premises, for purposes of reporting liquor
3 purchases under each license, all off-sale beer and wine sales are
4 conclusively presumed to be purchased under the beer and wine store license.

5 Sec. 13. Section 4-207, Arizona Revised Statutes, is amended to read:

6 4-207. Restrictions on licensing premises near school or church
7 buildings; definitions

8 A. A retailer's license shall not be issued for any premises which
9 are, at the time the license application is received by the director, within
10 three hundred horizontal feet of a church, within three hundred horizontal
11 feet of a public or private school building with kindergarten programs or any
12 of grades one through twelve or within three hundred horizontal feet of a
13 fenced recreational area adjacent to such school building. This section does
14 not prohibit the renewal of a valid license issued pursuant to this title if,
15 on the date that the original application for the license is filed, the
16 premises were not within three hundred horizontal feet of a church, within
17 three hundred horizontal feet of a public or private school building with
18 kindergarten programs or any of grades one through twelve or within three
19 hundred horizontal feet of a fenced recreational area adjacent to such school
20 building.

21 B. Subsection A of this section does not apply to a:

- 22 1. Restaurant issued a license pursuant to section 4-205.02.
- 23 2. Special event license issued pursuant to section 4-203.02.
- 24 3. Hotel-motel issued a license pursuant to section 4-205.01.
- 25 4. Government license issued pursuant to section 4-205.03.
- 26 5. ~~Fenced~~ **THE** playing area of a golf course issued a license pursuant

27 to this article.

28 C. Notwithstanding subsection A of this section:

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

38 2. A person may be issued a spirituous liquor license pursuant to
39 sections 4-201, 4-202 and 4-203 of the same class for premises which have a
40 nontransferable spirituous liquor license validly issued if the premises are,

1 on the date an application for such license is filed, within three hundred
2 horizontal feet of a church, within three hundred horizontal feet of a public
3 or private school building with kindergarten programs or any of grades one
4 through twelve or within three hundred horizontal feet of a fenced
5 recreational area adjacent to such school building and the license remains in
6 full force until the license is terminated in any manner, unless renewed
7 pursuant to section 4-209, subsection A.

8 3. A person may be issued a liquor store license pursuant to sections
9 4-201, 4-202, 4-203 and 4-206.01 for premises which have a beer and wine
10 store license validly issued if the premises, on the date an application for
11 such license is filed, are within three hundred horizontal feet of a church,
12 within three hundred horizontal feet of a public or private school building
13 with kindergarten programs or any of grades one through twelve or within
14 three hundred horizontal feet of a fenced recreational area adjacent to such
15 school building and the license remains in full force until the license is
16 terminated in any manner, unless renewed pursuant to section 4-209,
17 subsection A.

18 4. The governing body of a city or town, on a case-by-case basis, may
19 approve an exemption from the distance restrictions prescribed in this
20 section for a church or charter school that is located in an area that is
21 designated an entertainment district by the governing body of that city or
22 town. A city or town with a population of at least five hundred thousand
23 persons may designate no more than three entertainment districts within the
24 boundaries of the city or town pursuant to this paragraph. A city or town
25 with a population of at least two hundred thousand persons but less than five
26 hundred thousand persons may designate no more than two entertainment
27 districts within the boundaries of the city or town pursuant to this
28 paragraph. A city or town with a population of less than two hundred
29 thousand persons may designate no more than one entertainment district within
30 the boundaries of the city or town pursuant to this paragraph.

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

1 D. For the purposes of this section:

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

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

13 Sec. 14. Section 4-207.01, Arizona Revised Statutes, is amended to
14 read:

15 4-207.01. Submission of floor plan required; alteration of
16 licensed premises; ingress and egress to off-sale
17 package sales in on-sale licensed premises

18 A. No licensee of premises approved for transfer or an original
19 location of on-sale spirituous liquor license shall open such licensed
20 premises to the public for sale of spirituous liquor until the licensee shall
21 first have filed with the director floor plans and diagrams completely
22 disclosing and designating the physical arrangement of the licensed premises,
23 including whether the licensee intends to sell spirituous liquor by means of
24 a drive-through or other physical feature of the licensed premises that
25 allows a customer to purchase spirituous liquor without leaving the
26 customer's vehicle, and shall have secured the written approval of the
27 director to so open and operate such premises. **THE DIRECTOR MAY REQUIRE THE**
28 **INSTALLATION AND MAINTENANCE OF PHYSICAL BARRIERS AROUND OUTSIDE SERVING**
29 **AREAS TO CONTROL LIQUOR SERVICE, DELINEATE LICENSED PREMISES AND CONTROL THE**
30 **INGRESS AND EGRESS TO AND FROM THE LICENSED PREMISES. FOR THE PURPOSE OF**
31 **PROVIDING FOR THE SAFETY OF PATRONS AND PREVENTING UNDERAGE POSSESSION AND**
32 **CONSUMPTION, THE REMOVAL OF ALCOHOL FROM THE PREMISES, THE UNAUTHORIZED**
33 **BRINGING OF ALCOHOL ONTO THE PREMISES AND THE UNAUTHORIZED CONSUMPTION OF**
34 **ALCOHOL IN A PUBLIC AREA OR THOROUGHFARE.**

35 B. No licensee shall alter or change the physical arrangement of his
36 licensed premises so as to encompass greater space or the use of different or
37 additional entrances, openings or accommodations than the space, entrance or
38 entrances, openings or accommodations offered to the public at the time of
39 issuance of the licensee's license or a prior written approval of the
40 licensed premises, without first having filed with the director floor plans

1 and diagrams completely disclosing and designating the proposed physical
2 alterations of the licensed premises, including the addition of a
3 drive-through or other physical feature to the licensed premises that allows
4 a customer to purchase spirituous liquor without leaving the customer's
5 vehicle, and shall have secured the written approval by the director. This
6 subsection shall apply to any person to person transfer of the licensed
7 premises. Until January 1, 2015, the director may charge a fee for review of
8 floor plans and diagrams submitted by a licensee pursuant to this section.

9 C. The provisions of this section shall not be construed to prohibit
10 in any way off-sale package sales in on-sale licensed premises, but the
11 permission to open the premises to the public under subsections A and B shall
12 not be granted if the licensee under the privilege provided for off-sale
13 under an on-sale license proposes to maintain an off-sale operation with
14 ingress and egress directly from the outside of such premises to such
15 off-sale operation other than the ingress and egress provided for the on-sale
16 operation of the licensed premises.

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

19 Sec. 15. Section 4-209, Arizona Revised Statutes, is amended to read:

20 4-209. Fees for license, application, issuance, renewal and
21 transfer; late renewal penalty; seasonal operation;
22 surcharges

23 A. A fee shall accompany an application for an original license or
24 transfer of a license, or in case of renewal, shall be paid in
25 advance. Every license expires annually, EXCEPT THAT A LICENSE MAY BE
26 RENEWED FOR A TWO-YEAR PERIOD PURSUANT TO SUBSECTION M OF THIS SECTION. A
27 licensee who fails to renew the license on or before the due date shall pay a
28 penalty of one hundred fifty dollars which the licensee shall pay with the
29 renewal fee. A license renewal that is deposited, properly addressed and
30 postage prepaid in an official depository of the United States mail on or
31 before the due date shall be deemed filed and received by the department on
32 the date shown by the postmark or other official mark of the United States
33 postal service stamped on the envelope. If the due date falls on a Saturday,
34 Sunday or other legal holiday, the renewal shall be considered timely if it
35 is received by the department on the next business day. The director may
36 waive a late renewal penalty if good cause is shown by the licensee. A
37 licensee who fails to renew the license on or before the due date may not
38 sell, purchase or otherwise deal in spirituous liquor until the license is
39 renewed. A license which THAT is not renewed within sixty days after the due
40 date is deemed terminated. The director may renew the terminated license if

1 good cause is shown by the licensee. An application fee for an original
2 license or the transfer of a license shall be one hundred dollars, which
3 shall be retained by this state.

4 B. Issuance fees for original licenses shall be:

5 1. For an in-state producer's license, to manufacture or produce
6 spirituous liquor in this state, one thousand five hundred dollars.

7 2. Except as provided in paragraph 15 of this subsection, for an
8 out-of-state producer's, exporter's, importer's or rectifier's license, two
9 hundred dollars.

10 3. For a domestic microbrewery license, three hundred dollars.

11 4. For a wholesaler's license, to sell spirituous liquors, one
12 thousand five hundred dollars.

13 5. For a government license issued in the name of a county, city, ~~or~~
14 town, **COMMUNITY COLLEGE OR STATE UNIVERSITY OR NATIONAL GUARD**, one hundred
15 dollars.

16 6. For a bar license, which is an on-sale retailer's license to sell
17 all spirituous liquors primarily by individual portions and in the original
18 containers, one thousand five hundred dollars.

19 7. For a beer and wine bar license, which is an on-sale retailer's
20 license to sell beer and wine primarily by individual portions and in the
21 original containers, one thousand five hundred dollars.

22 8. For a conveyance license issued to an operating railroad company,
23 to sell all spirituous liquors in individual portions or in the original
24 containers on all passenger trains operated by the railroad company, or to an
25 operating airline company, to sell or serve spirituous liquors solely in
26 individual portions on all passenger planes operated by the airline company,
27 or to a boat operating in the waters of this state, to sell all spirituous
28 liquors in individual portions or in the original containers for consumption
29 on the boat, one thousand five hundred dollars.

30 9. For a liquor store license, which is an off-sale retailer's license
31 to sell all spirituous liquors, one thousand five hundred dollars.

32 10. For a beer and wine store license, which is an off-sale retailer's
33 license to sell beer and wine, one thousand five hundred dollars.

34 11. For a hotel-motel license issued as such, to sell and serve
35 spirituous liquors solely for consumption on the licensed premises of the
36 hotel or motel, one thousand five hundred dollars.

37 12. For a restaurant license issued as such, to sell and serve
38 spirituous liquors solely for consumption on the licensed premises of the
39 restaurant, one thousand five hundred dollars.

40 13. For a domestic farm winery license, one hundred dollars.

1 14. For a club license issued in the name of a bona fide club qualified
2 under this title to sell all spirituous liquors on-sale, one thousand
3 dollars.

4 15. For an out-of-state winery that sells not more than fifty cases of
5 wine in this state in a calendar year, twenty-five dollars.

6 C. The department may issue licenses with staggered renewal dates to
7 distribute the renewal workload as uniformly as practicable throughout the
8 twelve months of the calendar year. If a license is issued less than six
9 months before the scheduled renewal date of the license, as provided by the
10 department's staggered license renewal system, one-half of the annual license
11 fee shall be charged.

12 D. The annual fees for licenses shall be:

13 1. For an in-state producer's license, to manufacture or produce
14 spirituous liquors in this state, three hundred fifty dollars.

15 2. Except as provided in paragraph 15 of this subsection, for an
16 out-of-state producer's, exporter's, importer's or rectifier's license, fifty
17 dollars.

18 3. For a domestic microbrewery license, three hundred dollars.

19 4. For a wholesaler's license, to sell spirituous liquors, two hundred
20 fifty dollars.

21 5. For a government license issued to a county, city or town **COMMUNITY**
22 **COLLEGE, STATE UNIVERSITY OR NATIONAL GUARD**, one hundred dollars.

23 6. For a bar license, which is an on-sale retailer's license to sell
24 all spirituous liquors primarily by individual portions and in the original
25 containers, one hundred fifty dollars.

26 7. For a beer and wine bar license, which is an on-sale retailer's
27 license to sell beer and wine primarily by individual portions and in the
28 original containers, seventy-five dollars.

29 8. For a conveyance license issued to an operating railroad company,
30 to sell all spirituous liquors in individual portions or in the original
31 containers on all passenger trains operated by the railroad company, or to an
32 operating airline company, to sell or serve spirituous liquors solely in
33 individual portions on all passenger planes operated by the airline company,
34 or to a boat operating in the waters of this state, to sell all spirituous
35 liquor in individual portions or in the original containers for consumption
36 on the boat, two hundred twenty-five dollars.

37 9. For a liquor store license, which is an off-sale retailer's license
38 to sell all spirituous liquors, fifty dollars.

39 10. For a beer and wine store license, which is an off-sale retailer's
40 license to sell beer and wine, fifty dollars.

1 11. For a hotel-motel license issued as such, to sell and serve
2 spirituous liquors solely for consumption on the licensed premises of the
3 hotel or motel, five hundred dollars.

4 12. For a restaurant license issued as such, to sell and serve
5 spirituous liquors solely for consumption on the licensed premises of the
6 restaurant, five hundred dollars, and for a restaurant license that is
7 permitted to continue operating as a restaurant pursuant to section 4-213,
8 subsection E, an additional amount established by the director. The
9 department shall transfer this amount to the state treasurer for deposit in
10 the state general fund.

11 13. For a domestic farm winery license, one hundred dollars.

12 14. For a club license issued in the name of a bona fide club qualified
13 under this title to sell all spirituous liquors on-sale, one hundred fifty
14 dollars.

15 15. For an out-of-state winery that sells not more than twenty-five
16 cases of wine in this state in a calendar year, twenty-five dollars.

17 E. Where the business of an on-sale retail licensee is seasonal, not
18 extending over periods of more than six months in any calendar year, the
19 licensee may designate the periods of operation, and a license may be granted
20 for those periods only, ~~upon~~ ON payment of one-half of the fee prescribed in
21 subsection D of this section.

22 F. Transfer fees from person to person for licenses transferred
23 pursuant to section 4-203, subsection C shall be three hundred dollars.

24 G. Transfer fees from location to location, as provided for in section
25 4-203, shall be one hundred dollars.

26 H. Assignment fees for a change of agent, as provided for in section
27 4-202, subsection C, shall be one hundred dollars, except that where a
28 licensee holds multiple licenses the assignment fee for the first license
29 shall be one hundred dollars and the assignment fee for all remaining
30 licenses transferred to the same agent shall be fifty dollars each, except
31 that the aggregate assignment fees shall in no event exceed one thousand
32 dollars.

33 I. No fee shall be charged by the department for an assignment of a
34 liquor license in probate or an assignment pursuant to the provisions of a
35 will or pursuant to a judicial decree in a domestic relations proceeding
36 which assigns ownership of a business which includes a spirituous liquor
37 license to one of the parties in the proceeding. In the case of
38 nontransferable licenses no fee shall be charged by the department for the
39 issuance of a license for a licensed business pursuant to a transfer of the
40 business in probate or pursuant to the provisions of a will or pursuant to a

1 judicial decree in a domestic relations proceeding which assigns ownership of
2 the business to one of the parties in the proceeding.

3 J. The director shall assess a surcharge of thirty dollars on all
4 licenses prescribed in subsection D, paragraphs 6, 7 and 12 of this section.
5 Monies from the surcharge shall be used by the department exclusively for the
6 costs of an auditor and support staff to review compliance by applicants and
7 licensees with the requirements of section 4-205.02, subsection E. The
8 department shall assess the surcharge as part of the annual license renewal
9 fee.

10 K. The director shall assess a surcharge of thirty-five dollars on all
11 licenses prescribed in this section. Monies from the surcharge shall be used
12 by the department exclusively for the costs of an enforcement program to
13 investigate licensees who have been the subject of multiple complaints to the
14 department. The enforcement program shall respond to complaints against
15 licensees by neighborhood associations, by neighborhood civic groups and from
16 municipal and county governments. The department shall assess the surcharge
17 as part of the annual license renewal fee.

18 L. The director shall assess a surcharge of twenty dollars on all
19 licenses prescribed in subsection D, paragraphs 11 and 12 of this section and
20 thirty-five dollars on all other licenses prescribed in this section. Monies
21 from the surcharge and from surcharges imposed pursuant to subsection K of
22 this section shall be used by the department exclusively for the costs of a
23 neighborhood association interaction and liquor enforcement management
24 unit. The unit shall respond to complaints from neighborhood associations,
25 neighborhood civic groups and local governing authorities regarding liquor
26 violations. The director shall report the unit's activities to the board at
27 each board meeting or as the board may direct.

28 M. LICENSES MAY BE RENEWED BIANNUALLY WITH PAYMENT OF LICENSE FEES
29 THAT ARE TWICE THE AMOUNT DESIGNATED IN SUBSECTION D OF THIS SECTION AND
30 OTHER APPLICABLE FEES. LICENSEES RENEWING BIANNUALLY MUST COMPLY WITH ANNUAL
31 REPORTING REQUIREMENTS. THE DIRECTOR MAY ADOPT REASONABLE RULES TO PERMIT
32 LICENSEES TO RENEW BIANNUALLY.

33 Sec. 16. Section 4-210, Arizona Revised Statutes, is amended to read:

34 4-210. Grounds for revocation, suspension and refusal to renew;
35 notice; complaints; hearings

36 A. After notice and hearing, the director may suspend, revoke or
37 refuse to renew any license issued pursuant to this chapter for any of the
38 following reasons:

39 1. There occurs on the licensed premises repeated acts of violence or
40 disorderly conduct.

1 2. The licensee fails to satisfactorily maintain the capability,
2 qualifications and reliability requirements of an applicant for a license
3 prescribed in section 4-202 or 4-203.

4 3. The licensee or controlling person knowingly files with the
5 department an application or other document which contains material
6 information which is false or misleading or while under oath knowingly gives
7 testimony in an investigation or other proceeding under this title which is
8 false or misleading.

9 4. The licensee or controlling person is on the premises habitually
10 intoxicated.

11 5. The licensed business is delinquent for more than ~~ninety~~ ONE
12 HUNDRED EIGHTY days in the payment of taxes, penalties or interest to the
13 state ~~or to any political subdivision of the state.~~

14 6. The licensee or controlling person obtains, assigns, transfers or
15 sells a spirituous liquor license without compliance with this title or
16 leases or subleases a license.

17 7. The licensee fails to keep for two years and make available to the
18 department ~~upon~~ ON reasonable request all invoices, records, bills or other
19 papers and documents relating to the purchase, sale and delivery of
20 spirituous liquors and, in the case of a restaurant or hotel-motel licensee,
21 all invoices, records, bills or other papers and documents relating to the
22 purchase, sale and delivery of food.

23 8. The licensee or controlling person is convicted of a felony
24 provided that for a conviction of a corporation to serve as a reason for any
25 action by the director, conduct which constitutes the corporate offense and
26 was the basis for the felony conviction must have been engaged in,
27 authorized, solicited, commanded or recklessly tolerated by the directors of
28 the corporation or by a high managerial agent acting within the scope of
29 employment.

30 9. The licensee or controlling person violates or fails to comply with
31 this title, any rule adopted pursuant to this title or any liquor law of this
32 state or any other state.

33 10. The licensee fails to take reasonable steps to protect the safety
34 of a customer of the licensee entering, leaving or remaining on the licensed
35 premises when the licensee knew or reasonably should have known of the danger
36 to such person, or the licensee fails to take reasonable steps to intervene
37 by notifying law enforcement officials or otherwise to prevent or break up an
38 act of violence or an altercation occurring on the licensed premises or
39 immediately adjacent to the premises when the licensee knew or reasonably
40 should have known of such acts of violence or altercations.

1 11. The licensee or controlling person lacks good moral character.

2 12. The licensee or controlling person knowingly associates with a
3 person who has engaged in racketeering, as defined in section 13-2301, or WHO
4 has been convicted of a felony, and the association is of such a nature as to
5 create a reasonable risk that the licensee will fail to conform to the
6 requirements of this title or of any criminal statute of this state.

7 B. For the purposes of:

8 1. Subsection A, paragraph 8 of this section, "high managerial agent"
9 means an officer of a corporation or any other agent of the corporation in a
10 position of comparable authority with respect to the formulation of corporate
11 policy.

12 2. Subsection A, paragraphs 9 and 10 of this section, acts or
13 omissions of an employee of a licensee, which violate any provision of this
14 title or rules adopted pursuant to this title shall be deemed to be acts or
15 omissions of the licensee. Acts or omissions by an employee or licensee
16 committed during the time the licensed premises were operated pursuant to an
17 interim permit or without a license may be charged as if they had been
18 committed during the period the premises were duly licensed.

19 C. The director may suspend, revoke or refuse to issue, transfer or
20 renew a license under this section based solely on the unrelated conduct or
21 fitness of any officer, director, managing agent or other controlling person
22 if the controlling person retains any interest in or control of the licensee
23 after sixty days following written notice to the licensee. If the
24 controlling person holds stock in a corporate licensee or is a partner in a
25 partnership licensee, the controlling person may only divest himself of his
26 interest by transferring the interest to the existing stockholders or
27 partners who must demonstrate to the department that they meet all the
28 requirements for licensure. For the purposes of this subsection, the conduct
29 or fitness of a controlling person is unrelated if it would not be
30 attributable to the licensee.

31 D. If the director finds, based on clear and convincing evidence in
32 the record, that a violation involves the use by the licensee of a
33 drive-through OR WALK-UP SERVICE WINDOW or other physical feature of the
34 licensed premises that allows a customer to purchase spirituous liquor
35 without leaving the customer's vehicle OR, WITH RESPECT TO A WALK-UP SERVICE
36 WINDOW THAT PREVENTS THE LICENSEE FROM FULLY OBSERVING THE CUSTOMER, and that
37 the use of that drive-through OR WALK-UP SERVICE WINDOW or other physical
38 feature caused the violation, the director may suspend or terminate the
39 licensee's use of the drive-through OR WALK-UP SERVICE WINDOW or other

1 physical feature for the sale of spirituous liquor, in addition to any other
2 sanction.

3 E. The director may refuse to transfer any license or issue a new
4 license at the same location if the director has filed a complaint against
5 the license or location which has not been resolved alleging a violation of
6 any of the grounds set forth in subsection A of this section until such time
7 as the complaint has been finally adjudicated.

8 F. The director shall receive all complaints of alleged violations of
9 this chapter and is responsible for the investigation of all allegations of a
10 violation of, or noncompliance with, this title, any rule adopted pursuant to
11 this title or any condition imposed ~~upon~~ ON the licensee by the
12 license. When the director receives three such complaints from any law
13 enforcement agency resulting from three separate incidents at a licensed
14 establishment within a twelve-month period, the director shall transmit a
15 written report to the board setting forth the complaints, the results of any
16 investigation conducted by the law enforcement agency or the department
17 relating to the complaints and a history of all prior complaints against the
18 license and their disposition. The board shall review the report and may
19 direct the director to conduct further investigation of a complaint or to
20 serve a licensee with a complaint and notice of a hearing pursuant to
21 subsection G of this section.

22 G. ~~Upon~~ ON the director's initiation of an investigation or ~~upon~~ ON
23 the receipt of a complaint and an investigation of the complaint as deemed
24 necessary, the director may cause a complaint and notice of a hearing to be
25 directed to the licensee setting forth the violations alleged against the
26 licensee and directing the licensee, within fifteen days after service of the
27 complaint and notice of a hearing, to appear by filing with the director an
28 answer to the complaint. Failure of the licensee to answer may be deemed an
29 admission by the licensee of commission of the act charged in the
30 complaint. The director may then vacate the hearing and impose any sanction
31 provided by this article. The director may waive any sanction for good cause
32 shown including excusable neglect. With respect to any violation of this
33 title or any rule adopted pursuant to this title that is based on the act or
34 omission of a licensee's employee, the director shall consider evidence of
35 mitigation presented by the licensee and established by a preponderance of
36 the evidence that the employee acted intentionally and in violation of the
37 express direction or policy adopted by the licensee and communicated to the
38 employee and that the employee successfully completed training in a course
39 approved by the director pursuant to section 4-112, subsection G, paragraph
40 2. The director may set the hearing before himself or an administrative law

1 judge on any of the grounds set forth in subsection A of this
2 section. Instead of issuing a complaint, the director may provide for
3 informal disposition of the matter by consent agreement or may issue a
4 written warning to the licensee. If a warning is issued, the licensee may
5 reply in writing and the director shall keep a record of the warning and the
6 reply.

7 H. A hearing shall conform to the requirements of title 41, chapter 6,
8 article 10. At the hearing an attorney or corporate officer or employee of a
9 corporation may represent the corporation.

10 I. The expiration, cancellation, revocation, reversion, surrender,
11 acceptance of surrender or termination in any other manner of a license does
12 not prevent the initiation or completion of a disciplinary proceeding
13 pursuant to this section against the licensee or license. An order issued
14 pursuant to a disciplinary proceeding against a license is enforceable
15 against other licenses or subsequent licenses in which the licensee or
16 controlling person of the license has a controlling interest.

17 J. The department shall provide the same notice as is provided to the
18 licensee to a lienholder, which has provided a document under section 4-112,
19 subsection B, paragraph 3, of all disciplinary or compliance action with
20 respect to a license issued pursuant to this title. The state shall not be
21 liable for damages for any failure to provide any notice pursuant to this
22 subsection.

23 K. In any disciplinary action pursuant to this title, a lienholder may
24 participate in the determination of the action. The director shall consider
25 mitigation on behalf of the lienholder if the lienholder proves all of the
26 following by a preponderance of the evidence:

27 1. That the lienholder's interest is a bona fide security interest.
28 For the purposes of this paragraph, "bona fide security interest" means the
29 lienholder provides actual consideration to the licensee or the licensee's
30 predecessor in interest in exchange for the lienholder's interest. Bona fide
31 security interest includes a lien taken by the seller of a license as
32 security for the seller's receipt of all or part of the purchase price of the
33 license.

34 2. That a statement of legal or equitable interest was filed with the
35 department before the alleged conduct occurred which is the basis for the
36 action against the license.

37 3. That the lienholder took reasonable steps to correct the licensee's
38 prior actions, if any, or initiated an action pursuant to available contract
39 rights against the licensee for the forfeiture of the license after being

1 provided with notice by the department of disciplinary action as provided in
2 subsection J of this section.

3 4. That the lienholder was free of responsibility for the conduct
4 which is the basis for the proposed revocation.

5 5. That the lienholder reasonably attempted to remain informed by the
6 licensee about the business' conduct.

7 L. If the director decides not to revoke the license based on the
8 circumstances provided in subsection K of this section, the director may
9 issue an order requiring either, or both, of the following:

10 1. The forfeiture of all interest of the licensee in the license.

11 2. The lienholder to pay any civil monetary penalty imposed on the
12 licensee.

13 M. If any on-sale licensee proposes to provide large capacity
14 entertainment events or sporting events with an attendance capacity exceeding
15 a limit established by the director, the director may request a security plan
16 from the licensee that may include trained security officers, lighting and
17 other requirements. This subsection exclusively prescribes the security
18 requirements for a licensee and does not create any civil liability for the
19 state, its agencies, agents or employees or a person licensed under this
20 title or agents or employees of a licensee.

21 Sec. 17. Section 4-222, Arizona Revised Statutes, is amended to read:

22 4-222. Registration of retail agents; fees

23 A. Every person who holds a bar, beer and wine bar, liquor store, beer
24 and wine store, club, hotel-motel or restaurant license and who is authorized
25 by other similarly licensed retailers to act as their retail agent shall
26 register with the director. Such registration shall be in accordance with
27 the regulations adopted by the director pursuant to section 4-112 and shall
28 also include a listing of the names and business addresses of those similarly
29 licensed retailers who have authorized him to act as their retail
30 agent. While possessing a certificate of registration, a retail agent shall
31 be entitled to purchase and shall accept delivery of spirituous liquors for
32 which he is licensed for and on behalf of himself and those similarly
33 licensed retailers who have authorized him to act as their retail
34 agent. ~~Upon~~ **ON** the termination of such authorization by any retailer, the
35 retail agent shall promptly notify the director. Nothing in this section
36 shall require a wholesaler to sell malt beverages to a registered retail
37 agent for distribution to other retailers.

38 B. A fee of five dollars shall be collected for each registered
39 retailer in this state, and a fee of fifty dollars for each registered agent

1 for a distillery, winery, brewery, importer or broker having its place of
2 manufacture or business ~~without~~ OUTSIDE OF the state.

3 C. The director shall issue a certificate of registration to each
4 person so registered as provided in this section, and may, for good cause
5 shown, cancel any certificate of registration so issued.

6 Sec. 18. Section 4-243, Arizona Revised Statutes, is amended to read:

7 4-243. Commercial coercion or bribery unlawful; exceptions

8 A. It is unlawful for a person engaged in the business of distiller,
9 vintner, brewer, rectifier, ~~OR~~ blender or any other producer or wholesaler
10 of any spirituous liquor, directly or indirectly, or through an affiliate:

11 1. To require that a retailer purchase spirituous liquor from the
12 producer or wholesaler to the exclusion, in whole or in part, of spirituous
13 liquor sold or offered for sale by other persons.

14 2. To induce a retailer by any form of commercial bribery to purchase
15 spirituous liquor from the producer or wholesaler to the exclusion, in whole
16 or in part, of spirituous liquor sold or offered for sale by other persons.

17 3. To acquire an interest in property owned, occupied or used by the
18 retailer in the retailer's business, or in a license with respect to the
19 premises of the retailer.

20 4. To furnish, give, rent, lend or sell to the retailer equipment,
21 fixtures, signs, supplies, money, services or other things of value, subject
22 to such exception as the rules adopted pursuant to this title may prescribe,
23 having regard for established trade customs and the purposes of this
24 subsection.

25 5. To pay or credit the retailer for advertising, display or
26 distribution service, except that the director may adopt rules regarding
27 advertising in conjunction with seasonal sporting events.

28 6. To guarantee a loan or repayment of a financial obligation of the
29 retailer.

30 7. To extend credit to the retailer on a sale of spirituous liquor.

31 8. To require the retailer to take and dispose of a certain quota of
32 spirituous liquor.

33 9. To offer or give a bonus, a premium or compensation to the retailer
34 or any of the retailer's officers, employees or representatives.

35 B. This section does not prohibit any distiller, vintner, brewer,
36 rectifier, blender or other producer or wholesaler of any spirituous liquor
37 from:

38 1. Giving financial and other forms of event sponsorship assistance to
39 nonprofit or charitable organizations for purposes of charitable fund-raising
40 which are issued special event licenses by the department. This section does

1 not prohibit such suppliers from advertising their sponsorship at such
2 special events.

3 2. Providing samples to retail consumers at on-sale premises
4 establishments according to the following procedures:

5 (a) Sampling operations shall be conducted under the supervision of an
6 employee of the sponsoring producer or wholesaler.

7 (b) Sampling shall be limited to twelve ounces of beer or cooler
8 products, six ounces of wine or two ounces of distilled spirits per person
9 per brand.

10 (c) If requesting the on-sale retailer to prepare a drink for the
11 consumer, the producer's or wholesaler's representative shall pay the
12 retailer for the sample drink.

13 (d) The producer or wholesaler may not buy the on-sale retailer or the
14 retailer's employees a drink during their working hours or while they are
15 engaged in waiting on or serving customers.

16 (e) The producer or wholesaler may not give a keg of beer or any
17 spirituous liquor or any other gifts or benefits to the on-sale retailer.

18 (f) All sampling procedures shall comply with federal sampling laws
19 and regulations.

20 3. Providing samples to retail consumers on an off-sale retailer's
21 premises according to the following procedures:

22 (a) Sampling shall be conducted by an employee of the sponsoring
23 producer or wholesaler.

24 (b) The producer or wholesaler shall notify the department in writing
25 or by electronic means not less than ten days before the sampling of the
26 date, time and location of the sampling.

27 (c) Sampling shall be limited to three ounces of beer, one and
28 one-half ounces of wine or ~~one-half~~ ONE ounce of distilled spirits per person
29 per day.

30 (d) An off-sale retailer shall not permit sampling to be conducted on
31 a licensed premises on more than twelve days in any calendar year.

32 (e) Sampling shall be limited to one wholesaler or producer at any one
33 off-sale retailer's premises on any day and shall not exceed three hours on
34 any day.

35 (f) A producer conducting sampling shall buy the sampled product from
36 a wholesaler.

37 (g) The producer or wholesaler shall not provide samples to any person
38 who is under the legal drinking age.

39 (h) The producer or wholesaler shall designate an area in which
40 sampling is conducted that is in the portion of the licensed premises where

1 spirituous liquor is primarily displayed and separated from the remainder of
2 the off-sale retailer's premises by a wall, rope, door, cable, cord, chain,
3 fence or other barrier. The producer or wholesaler shall not permit persons
4 under the legal drinking age from entering the area in which sampling is
5 conducted.

6 (i) The producer or wholesaler may not provide samples to the retailer
7 or the retailer's employees.

8 (j) Sampling shall not be conducted in retail premises with a total of
9 under five thousand square feet of retail space unless at least seventy-five
10 per cent of the retailer's shelf space is dedicated to the sale of spirituous
11 liquor.

12 (k) The producer or wholesaler may not give spirituous liquor or any
13 other gifts or benefits to the off-sale retailer.

14 (l) All sampling procedures shall comply with federal sampling laws
15 and regulations.

16 C. Notwithstanding subsection A, paragraph 4, any wholesaler of any
17 spirituous liquor may sell tobacco products or foodstuffs to a retailer at a
18 price not less than the cost to the wholesaler.

19 D. Notwithstanding subsection A, paragraph 4, and subsection B,
20 paragraph 2, subdivision (e), any wholesaler may furnish without cost
21 promotional items to an on-sale retailer, except that the total market value
22 of the promotional items furnished by that wholesaler to that retailer in any
23 calendar year shall not exceed five hundred dollars. For the purposes of
24 this subsection, "promotional items" means items of equipment, supplies,
25 novelties or other advertising specialties that conspicuously display the
26 brand name of a spirituous liquor product. Promotional items do not include
27 signs.

28 E. It is unlawful for a retailer to request and knowingly receive
29 anything of value that a distiller, vintner, brewer, rectifier or blender or
30 any other producer or wholesaler is prohibited by subsection A or D from
31 furnishing to a retailer, except that this subsection shall not prohibit
32 special discounts provided to retailers and based on quantity purchases.

33 Sec. 19. Section 4-244, Arizona Revised Statutes, is amended to read:

34 4-244. Unlawful acts

35 It is unlawful:

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

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

1 3. For a distiller, vintner, brewer or wholesaler knowingly to sell,
2 dispose of or give spirituous liquor to any person other than a licensee
3 except in sampling wares as may be necessary in the ordinary course of
4 business, except in donating spirituous liquor to a nonprofit organization
5 which has obtained a special event license for the purpose of charitable fund
6 raising activities or except in donating spirituous liquor with a cost to the
7 distiller, brewer or wholesaler of up to five hundred dollars in a calendar
8 year to an organization that is exempt from federal income taxes under
9 ~~subsections (3), (4), (6) or (7) of~~ section 501(c) (3), (4), (6) OR (7) of
10 the internal revenue code and not licensed under this title.

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

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

19 6. For a person to take or solicit orders for spirituous liquors
20 unless the person is a salesman or solicitor of a licensed wholesaler, a
21 salesman or solicitor of a distiller, brewer, vintner, importer or broker or
22 a registered retail agent.

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

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

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

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

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

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

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

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

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

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

38 (d) An unpaid volunteer who is a bona fide member of a club and who is
39 not engaged in waiting on or serving spirituous liquor to customers may
40 purchase for himself and consume spirituous liquor while participating in a

1 scheduled event at the club. An unpaid participant in a food competition may
2 purchase for himself and consume spirituous liquor while participating in the
3 food competition.

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

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

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

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

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

35 18. For an on-sale retailer to permit an employee or for an employee to
36 solicit or encourage others, directly or indirectly, to buy the employee
37 drinks or anything of value in the licensed premises during the employee's
38 working hours. No on-sale retailer shall serve employees or allow a patron
39 of the establishment to give spirituous liquor to, purchase liquor for or
40 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
38 director. The rules adopted by the municipality shall be adopted by local
39 ordinance and shall not interfere with the licensee's ability to comply with
40 this paragraph. This paragraph does not apply:

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

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

7 (i) An active duty military service member.

8 (ii) A veteran.

9 (iii) A member of the United States army national guard or the United
10 States air national guard.

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

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

14 23. For an on-sale retailer or employee to conduct drinking contests,
15 to sell or deliver to a person an unlimited number of spirituous liquor
16 beverages during any set period of time for a fixed price, to deliver more
17 than thirty-two ounces of beer, one liter of wine or four ounces of distilled
18 spirits in any spirituous liquor drink to one person at one time for that
19 person's consumption or to advertise any practice prohibited by this
20 paragraph. THE PROVISIONS OF THIS SUBSECTION DO NOT PROHIBIT AN ON-SALE
21 RETAILER OR EMPLOYEE FROM SELLING AND DELIVERING AN UNOPENED, ORIGINAL
22 CONTAINER OF DISTILLED SPIRITS IF:

23 (a) SERVICE OR POURING OF THE SPIRITUOUS LIQUOR IS PROVIDED BY AN
24 EMPLOYEE OF THE ON-SALE RETAILER.

25 (b) THE EMPLOYEE OF THE ON-SALE RETAILER MONITORS CONSUMPTION TO
26 ENSURE COMPLIANCE WITH THIS SUBSECTION. LOCKING DEVICES MAY BE USED, BUT ARE
27 NOT REQUIRED.

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

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

33 26. For a licensee or employee to knowingly permit unlawful gambling on
34 the premises.

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

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

1 29. For any person other than a peace officer or a member of a
2 sheriff's volunteer posse while on duty who has received firearms training
3 that is approved by the Arizona peace officer standards and training board,
4 the licensee or an employee of the licensee acting with the permission of the
5 licensee to be in possession of a firearm while on the licensed premises of
6 an on-sale retailer. This paragraph shall not be construed to include a
7 situation in which a person is on licensed premises for a limited time in
8 order to seek emergency aid and such person does not buy, receive, consume or
9 possess spirituous liquor. This paragraph shall not apply to:

10 (a) Hotel or motel guest room accommodations.

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

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

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

26 (a) Hotel or motel guest room accommodations.

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

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

32 31. For any person in possession of a firearm while on the licensed
33 premises of an on-sale retailer to consume spirituous liquor. **THIS PARAGRAPH
34 DOES NOT PROHIBIT THE CONSUMPTION OF SMALL AMOUNTS OF SPIRITUOUS LIQUORS BY
35 AN UNDERCOVER PEACE OFFICER ON ASSIGNMENT TO INVESTIGATE THE LICENSED
36 ESTABLISHMENT.**

37 32. For a licensee or employee to knowingly permit spirituous liquor to
38 be removed from the licensed premises, except in the original unbroken
39 package. This paragraph shall not apply to ~~either~~ **ANY** of the following:

1 (a) A person who removes a bottle of wine which has been partially
2 consumed in conjunction with a purchased meal from licensed premises if a
3 cork is inserted flush with the top of the bottle or the bottle is otherwise
4 securely closed.

5 (b) A person who is in licensed premises that have noncontiguous
6 portions that are separated by a public or private walkway or driveway and
7 who takes spirituous liquor from one portion of the licensed premises across
8 the public or private walkway or driveway directly to the other portion of
9 the licensed premises.

10 (c) A SERIES SIX, SEVEN OR NINE LICENSEE WHO DISPENSES BEER ONLY IN A
11 CLEAN GLASS CONTAINER WITH A MAXIMUM CAPACITY THAT DOES NOT EXCEED ONE GALLON
12 AND NOT FOR CONSUMPTION ON THE PREMISES WHERE SOLD SO LONG AS:

13 (i) THE LICENSEE OR THE LICENSEE'S EMPLOYEE FILLS THE CONTAINER AT THE
14 TAP AT THE TIME OF SALE.

15 (ii) THE CONTAINER IS SEALED WITH A PLASTIC ADHESIVE AND DISPLAYS A
16 GOVERNMENT WARNING LABEL.

17 (iii) THE DISPENSING OF THAT BEER IS NOT DONE THROUGH A DRIVE-THROUGH
18 OR WALK-UP SERVICE WINDOW.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 44. For a retail licensee or an employee of a retail licensee to sell
35 spirituous liquor to a person if the retail licensee or employee knows the
36 person intends to resell the spirituous liquor.

37 45. EXCEPT AS AUTHORIZED BY PARAGRAPH 32, SUBDIVISION (c) OF THIS
38 SECTION, FOR A PERSON TO REUSE A BOTTLE OR OTHER CONTAINER AUTHORIZED FOR USE
39 BY THE LAWS OF THE UNITED STATES OR ANY AGENCY OF THE UNITED STATES FOR THE
40 PACKAGING OF DISTILLED SPIRITS OR FOR A PERSON TO INCREASE THE ORIGINAL

1 CONTENTS OF A PORTION OF THE ORIGINAL CONTENTS REMAINING IN A LIQUOR BOTTLE
2 OR OTHER AUTHORIZED CONTAINER BY ADDING ANY SUBSTANCE.

3 Sec. 20. 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 OR
13 INCREASING OR IMPOSING THE FEES ON HOSPITALITY INDUSTRY BUSINESSES WHERE NO
14 SIMILAR FEES ARE ESTABLISHED AND IMPOSED ON OTHER BUSINESSES.

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

18 B. A CITY OR TOWN SHALL NOT INCREASE THE FEES ON HOSPITALITY
19 BUSINESSES IN ANY YEAR BY AN AMOUNT THAT EXCEEDS THE AMOUNT OF ANY INCREASE
20 IN THE CONSUMER PRICE INDEX COMPARED TO THE CONSUMER PRICE INDEX IN THE PRIOR
21 YEAR.

22 ~~B.~~ C. On or after ~~April 1, 1990~~ THE EFFECTIVE DATE OF THIS AMENDMENT
23 TO THIS SECTION, if a city or town, BY PASSING AN ORDINANCE OR CHARTER
24 AMENDMENT BY ITS GOVERNING COUNCIL OR BY A PUBLIC VOTE, establishes a
25 discriminatory transaction privilege tax or increases its existing
26 discriminatory transaction privilege tax on hospitality industry businesses
27 greater than any increase imposed on other types of businesses in the city or
28 town, the proceeds of the established discriminatory transaction privilege
29 tax, except as provided in subsection D, and the proceeds of any increase
30 above the existing discriminatory transaction privilege tax shall be used
31 exclusively by the city or town for the promotion of tourism. For the
32 purposes of this section a tax which is in effect on April 1, 1990 and is
33 subsequently renewed by a majority of qualified electors voting at an
34 election to approve the renewal is not considered a tax increase.

35 ~~C.~~ D. For the purposes of subsection ~~B- C~~, expenditures by a city or
36 town for the promotion of tourism include:

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

1 2. Contracts between the city or town and nonprofit organizations or
2 associations for the promotion of tourism by the nonprofit organization or
3 association.

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

7 ~~D.~~ E. If a city or town has not imposed a discriminatory transaction
8 privilege tax up to a two per cent tax level on hospitality industry
9 businesses as of April 1, 1990 and thereafter imposes or increases such a
10 discriminatory transaction privilege tax, the first two percentage rate
11 portion of the discriminatory transaction privilege tax is not subject to the
12 provisions of subsection ~~B-~~ C.

13 ~~E.~~ F. The collection by a city or town of a fee or tax prohibited by
14 this section shall be void and unlawful. For a five year period following
15 the unlawful collection of the fee, the city or town shall reimburse the
16 hospitality business for any reasonable expense incurred in collecting from
17 the city or town any fees or tax unlawfully collected.

18 ~~F.~~ G. For the purposes of this section:

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

24 2. "Hospitality industry businesses" means:

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

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

29 Amend title to conform

and, as so amended, it do pass

JAVAN D. MESNARD
Vice-Chairman

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