Conference Engrossed

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

# CHAPTER 336

# HOUSE BILL 2606

AN ACT

AMENDING SECTIONS 4-101, 4-111, 4-112, 4-119, 4-201, 4-202, 4-203, 4-203.01, 4-205, 4-205.03, 4-205.05, 4-206.01, 4-207, 4-207.01, 4-209, 4-210, 4-222, 4-243, 4-244 AND 9-500.06, ARIZONA REVISED STATUTES; RELATING TO LIQUOR LICENSES AND CONTROL.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4-101. Definitions

In this title, unless the context otherwise requires:

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

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

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

4. "Board" means the state liquor board.

5. "Bona fide guest" means:

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

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

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

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

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

(b) A chapter, aerie, parlor, lodge or other local unit of an American national fraternal organization which has as the owner, lessee or occupant operated an establishment for fraternal purposes in this state. An American

national fraternal organization as used in this subdivision shall actively operate in not less than thirty-six states or have been in active continuous existence for not less than twenty years.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26. "Premises" or "licensed premises" means the area from which the licensee is authorized to sell, dispense or serve spirituous liquors under the provision of the license. Premises or licensed premises includes a patio that is not contiguous to the remainder of the premises or licensed premises if the patio is separated from the remainder of the premises or licensed premises by a public or private walkway or driveway not to exceed thirty feet, subject to rules the director may adopt to establish criteria for noncontiguous premises.

27. "Registered mail" includes certified mail.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

E. Members of the board are entitled to receive compensation at the rate of fifty dollars per day while engaged in the business of the board.

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

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

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

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

Sec. 3. Section 4-112, Arizona Revised Statutes, is amended to read:

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

A. The board shall:

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

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

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

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

1. Adopting rules:

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

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

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

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

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

2. Employing necessary personnel and fixing their compensation.

3. Keeping an index record which shall be a public record open to public inspection and shall contain the name and address of each licensee and the name and address of any person having an interest, either legal or equitable, in each license as shown by any written document, which document shall be placed on file in the office of the board.

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

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

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

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

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

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

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

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

G. The director may:

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

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

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

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

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

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

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

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

9. Accept and expend private grants of monies, gifts and devises for conducting educational programs for parents and students on the repercussions

of underage alcohol consumption. State general fund monies shall not be expended for the purposes of this paragraph. If the director does not receive sufficient monies from private sources to carry out the purposes of this paragraph, the director shall not provide the educational programs prescribed in this paragraph. Grant monies received pursuant to this paragraph are nonlapsing and do not revert to the state general fund at the close of the fiscal year.

10. Procure fingerprint scanning equipment and provide fingerprint services to license applicants and licensees. Until January 1, 2015, the department may charge a fee for providing these services.

11. Accept electronic signatures on all department and licensee forms and documents and applications. The director may adopt requirements that would require facsimile signatures to be followed by original signatures within a specified time period.

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

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

4-119. Records

A licensee shall keep records of licensed business activity in a manner and location and for such duration as prescribed by the director. The rules of the director shall require that each on-sale retailer maintain at the licensed premises a copy of all required records including a current log of all persons employed at the licensed premises including each employee's full legal name, date ~~and place~~ of birth, address and responsibilities. A licensee shall retain records for two years.

Sec. 5. Section 4-201, Arizona Revised Statutes, is amended to read:

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

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

B. A person desiring a license within an incorporated city or town shall make the application in triplicate and shall file the copies with the director. The director shall remit two copies to the city or town clerk. The city or town clerk shall immediately file one copy in the clerk's office and post the other for a period of twenty days in a conspicuous place on the front of the premises where the business is proposed to be conducted, with a statement requiring any natural person who is a bona fide resident residing or owning or leasing property within a one mile radius from the premises proposed to be licensed, and who is in favor of or opposed to the issuance of the license, to file written arguments in favor of or opposed to the issuance of the license with the clerk within twenty days after the date of posting. THE POSTING SHALL BE LIMITED TO A COPY OF THE LICENSE APPLICATION AND SHALL NOT CONTAIN ANY ATTACHMENTS FILED WITH THE APPLICATION. The written argument shall contain the natural person's complete name, street address or post

office box address and written or electronic signature. If the written arguments are filed by a person on behalf of a corporation or other legal entity or association, the written arguments must be accompanied by a copy of the entity's organizing document, a designation of the office or position that the person holds within the organization and a copy of the written appointment of the person to speak on behalf of the organization. If the written arguments are filed by a neighborhood association, block watch or other unincorporated association, written arguments must be accompanied by a letter of authority designating that person as a spokesperson. The posting shall contain substantially the following:

Notice

A hearing on a liquor license application shall be held before the local governing body at the following date, time and place: (Insert date, time and address)

The local governing body will recommend to the state liquor board whether the board should grant or deny the license. The state liquor board may hold a hearing to consider the recommendation of the local governing body. Any person residing or owning or leasing property within a one-mile radius may contact the state liquor board in writing to register as a protestor. To request information regarding procedures before the board and notice of any board hearings regarding this application, contact the state liquor board at: (Insert address and telephone number).

No arguments shall be filed or accepted by the city or town clerk thereafter. This subsection shall not be construed to prevent a bona fide resident residing or owning or leasing property within a one-mile radius from the premises proposed to be licensed from testifying in favor of or in opposition to the issuance of the license, regardless of whether or not the person is a user or nonuser of spirituous liquor.

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

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

E. ~~Upon~~ ON receipt of an application for a spirituous liquor license, the director shall set the application for hearing by the board ~~upon~~ ON a

date following the expiration of the time fixed for the submitting of the certified order by the governing body of the city or town or the board of supervisors. If the city or town or the county recommends approval of the license no hearing is required unless the director, the board or any aggrieved party requests a hearing on the grounds that the public convenience and the best interest of the community will not be substantially served if a license is issued. Any natural person residing or owning or leasing property within a one mile radius of the proposed location may file a written protest with the director no later than fifteen calendar days following action by the local governing body or sixty days after filing the application. The written argument shall contain the natural person's complete name, street address or post office box address and written or electronic signature. If the written arguments are filed by a person on behalf of a corporation or other legal entity or association, the written arguments must be accompanied by a copy of the entity's organizing document, a designation of the office or position that the person holds within the organization and a copy of the written appointment of the person to speak on behalf of the organization. If the written arguments are filed by a neighborhood association, block watch or other unincorporated association, written arguments must be accompanied by a letter of authority designating that person as a spokesperson. If no hearing is requested by the director, the board or any aggrieved party, the application may be approved by the director. If the recommendation is for disapproval of an application ~~or if no recommendation is received~~, the board shall hold a hearing. If the city, town or county recommends approval of the license pursuant to subsection C of this section OR MAKES NO RECOMMENDATION, the director may cancel the hearing and issue the license unless the board or any aggrieved party requests a hearing. If the reason for the protest is clearly removed or DEEMED satisfied BY the director ~~may request~~, the board SHALL cancel the hearing. IF THE BOARD CANCELS THE HEARING, THE DEPARTMENT MAY ADMINISTRATIVELY ISSUE AN ORDER WITHOUT THE APPLICANT LICENSEE OR OTHER PARTIES PRESENT. The certified order, the reasons contained in the order and the summary of the testimony and other evidence supporting the city, town or county disapproval of the recommendation shall be read into the record before the board and shall be considered as evidence by the board. The board shall consider the certified order together with other facts and a report of the director relating to the qualifications of the applicant. If the governing body of the city or town or the board of supervisors fails to return to the director, as provided in subsections C and D of this section, its order of ~~approval or~~ disapproval, ~~the board shall proceed with further consideration of the application by holding an administrative hearing~~ NO HEARING IS REQUIRED. An application shall be approved or disapproved within one hundred five days after filing of the application. If, after a hearing by the board where a license has been approved, a formal written order is not entered within thirty days after the hearing, the decision of the board shall be deemed entered on the thirtieth day after the hearing.

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

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

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

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

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

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

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

A. Every spirituous liquor licensee, other than a club licensee, a corporation licensee, a limited liability company licensee or an out-of-state licensee, shall be a citizen of the United States and a bona fide resident of this state or a legal resident alien who is a bona fide resident of this state. If a partnership, each partner shall be a citizen of the United States and a bona fide resident of this state or a legal resident alien who is a bona fide resident of this state, except that for a limited partnership an individual general partner is required to meet the qualifications of an individual licensee, a corporate general partner is required to meet the qualifications of a corporate licensee and a limited partner is not required

to be A CITIZEN OF THE UNITED STATES, A LEGAL RESIDENT ALIEN OR a bona fide resident of this state. If a corporation or limited liability company, it shall be a domestic corporation or a foreign corporation or a limited liability company that has qualified to do business in this state. A person shall hold a club license, corporation license, limited liability company license, partnership license or out-of-state license through an agent who shall be a natural person and meet the qualifications for licensure, except that an agent for an out-of-state license as specified in section 4-209, subsection B, paragraph 2 need not be a resident of this state. For the purposes of this subsection, "agent" means a person who is designated by an applicant or licensee to receive communications from the department and to file documents and sign documents for filing with the department on behalf of the applicant or licensee.

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

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

D. No license shall be issued to any person who, within one year before application, has had a license revoked. The director shall not issue an interim permit or restaurant license to any person who, at the same location, has been required to surrender a restaurant license pursuant to section 4-205.02, subsection D or section 4-213 until twelve months after the date of the surrender. No license shall be issued to or renewed for any person who, within five years before application, has been convicted of a felony, or convicted of an offense in another state that would be a felony in this state. For a conviction of a corporation to be a basis for a denial under the provisions of this section, the limitations that are provided in section 4-210, subsection A, paragraph 8 shall apply. No corporation shall have its annual license issued or renewed unless it has on file with the

department a list of its officers and directors and any stockholders who own ten per cent or more of the corporation.

E. The department of liquor licenses and control shall receive criminal history record information from the department of public safety for applicants for employment with the department of liquor licenses and control or for a license issued by the department of liquor licenses and control.

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

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

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

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

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

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

2. The place of business for which issued.

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

C. A spirituous liquor license issued to a bar, a liquor store or a beer and wine bar shall be transferable as to any permitted location within the same county, provided such transfer meets the requirements of an original application. Such spirituous liquor license may be transferred to a person qualified to be a licensee, provided such transfer is pursuant to either judicial decree, nonjudicial foreclosure of a legal or equitable lien, INCLUDING SECURITY INTERESTS HELD BY FINANCIAL INSTITUTIONS PURSUANT TO SECTION 4-204, a sale of the license, a bona fide sale of the entire business and stock in trade, or such other bona fide transactions as may be provided

for by rule. Any change in ownership of the business of a licensee, directly or indirectly, as defined by rule is deemed a transfer.

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

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

F. If a person other than those persons originally licensed acquires control over a license or licensee, the person shall file notice of the acquisition with the director within thirty business days after such acquisition of control and a list of officers, directors or other controlling persons on a form prescribed by the director. All officers, directors or other controlling persons shall meet the qualifications for licensure as prescribed by this title. On request, the director shall conduct a preinvestigation before the assignment, sale or transfer of control of a license or licensee, the reasonable costs of which, not to exceed one thousand dollars, shall be borne by the applicant. The preinvestigation shall determine whether the qualifications for licensure as prescribed by this title are met. On receipt of notice of an acquisition of control or request of a preinvestigation, the director shall forward the notice within fifteen days to the local governing body of the city or town, if the licensed premises is in an incorporated area, or the county, if the licensed premises is in an unincorporated area. The local governing body of the city, town or county may protest the acquisition of control within sixty days based on the capability, reliability and qualification of the person acquiring control. If the director does not receive any protests, the director may protest the acquisition of control or approve the acquisition of control based on the capability, reliability and qualification of the person acquiring control. Any protest shall be set for a hearing before the board. Any transfer shall be approved or disapproved within one hundred five days of the filing of the notice of acquisition of control. The person who has acquired control of a license or licensee has the burden of an original application at the hearing, and the board shall make its determination pursuant to section 4-202 and this section with respect to capability, reliability and qualification.

G. A licensee who holds a license in nonuse status for more than five months shall be required to pay a one hundred dollar surcharge for each month

thereafter. The surcharge shall be paid at the time the license is returned to active status. A license automatically reverts to the state after being held in continuous nonuse in excess of thirty-six months. The director may waive the surcharge and may extend the time period provided in this subsection for good cause. A license shall not be deemed to have gone into active status if the license is transferred to a location that at the time of or immediately before the transfer had an active license of the same type, unless the licenses are under common ownership or control.

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

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

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

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

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

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

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

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

N. Failure to pay any surcharge prescribed by subsection G of this section or failure to report the period of nonuse of a license shall be grounds for revocation of the license or grounds for any other sanction provided by this title. The director may consider extenuating circumstances

if control of the license is acquired by another party in determining whether or not to impose any sanctions under this subsection.

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

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

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

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

4-203.01. Interim permit; fee; rules

A. The director may issue an interim permit to ~~the transferee of a transferable license as described in section 4-203, subsection C and section 4-209, subsection B, paragraphs 6, 7 and 9 or an applicant for a nontransferable spirituous liquor license to continue the operation of such premises during the period a transfer application for the license from person to person at the same premises is pending or, in the case of a nontransferable spirituous liquor license, if the application for an original license of the same series at the same premises is pending~~ THE APPLICANT FOR A LICENSE OF THE SAME SERIES AT THE SAME PREMISES WHETHER THAT LICENSE IS TRANSFERRABLE OR NONTRANSFERABLE and any of the following conditions exists:

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

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

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

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

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

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

1. No interim permit has previously been issued.

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

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

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

G. If an application for transfer of a license, person to person, or nontransferable spirituous liquor license is denied or an interim permit is revoked, suspended or expires, the licensee may request the return of the surrendered license ~~which~~ THAT has been issued for such premises.

H. The director may prescribe rules governing the issuance of interim permits under this section.

I. The director may deny an interim permit in situations in which a current licensee holds a license described in section 4-209, subsection B, paragraph 12 and the current license is not in compliance with section 4-205.02.

Sec. 9. Section 4-205, Arizona Revised Statutes, is amended to read:

4-205. Issuance of club license; regulatory provisions; revocation

A. The director may issue one club license to any club as defined in section 4-101.

B. The holder of a club license is authorized to sell and serve alcoholic beverages for consumption only within the licensed establishment owned, leased or occupied by the club, and only to bona fide members of the club, and to serve and sell to members' bona fide guests. ATTENDANCE AT PRIVATE CLUBS IS LIMITED TO ENROLLED MEMBERS OF THE CLUB AND THEIR SPOUSES, FAMILIES AND BONA FIDE GUESTS. ADMITTED NONMEMBER GUESTS SHALL NOT EXCEED MORE THAN FIFTY PER CENT OF ATTENDANCE DURING ANY MONTH. THIS PROVISION SHALL NOT LIMIT THE ABILITY OF A MEMBER OR THE CLUB TO HOST WEDDING RECEPTIONS, GROUP MEETINGS, CIVIC MEETINGS, SCHEDULED SOCIAL FUNCTIONS, INCLUDING BINGO GAMES AND OTHER MEMBER OR CLUB HOSTED FUNCTIONS WHERE INDIVIDUALS ARE NOT ADMITTED ON THE BASIS OF BEING A GUEST OF A MEMBER OF THE

CLUB AND ATTENDANCE AT THE EVENT SHALL NOT BE CONSIDERED IN COMPUTING THE FIFTY PER CENT REQUIREMENT.

C. No member and no officer, agent or employee of a club licensee shall be paid or shall directly or indirectly receive, in the form of salary or other compensation, any of the profits from the revenue producing activities of the club or from the distribution or sale of alcoholic beverages to the members of the club or to its guests, beyond the amount of the salary as fixed and voted on at a regular meeting by the members of the club licensee or by its governing body out of the general revenue of the licensee, nor shall such salaries or compensation be in excess of reasonable compensation for the services actually performed.

D. The director may revoke a club license issued pursuant to this section in any case in which the licensee ceases to operate as a bona fide club as defined in section 4-101.

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

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

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

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

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

C. The holder of a government license may sell and serve spirituous liquors solely for consumption on the premises for which the license is issued. A separate license is required for each premises ~~upon~~ ON which spirituous liquors are served. A single premises licensed under this section may consist of not more than one dock area that is designated by a city or town and that is situated on a lake owned by the city or town and not more

than thirty boats that are operated on the lake. A dock and boats that comprise a premises under this subsection shall be operated in compliance with subsection G of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

H. For THE purposes of this section:

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

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

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

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

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

4-205.05. Disposal of seized or recovered liquor

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

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

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

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

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

B. In each county, the director shall, EACH YEAR, issue additional bar, beer and wine bar or liquor store licenses at the rate of one of each type for each additional ten thousand person increase over the population in that county as of July 1, 2010. THE DIRECTOR MAY WAIVE THE ISSUANCE OF ANY

SERIES OF NEW LICENSES IN A COUNTY FOR ONE YEAR WHERE THERE HAS BEEN NO REQUEST MADE TO THE DEPARTMENT FOR THE ISSUANCE OF A NEW LICENSE OF THAT SERIES. For the purposes of this subsection, the population of a county is deemed to be the population estimated by the office of employment and population statistics within the Arizona department of administration as of July 1 of each year.

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

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

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

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

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

H. The director may issue a beer and wine bar license to the holder of a liquor store license issued simultaneously at the same premises. An applicant for a liquor store license and a beer and wine bar license may

consolidate the application and may apply for both licenses at the same time. The holder of each license shall fully comply with all applicable provisions of this title. A liquor store license and a beer and wine bar license on the same premises shall be owned by and issued to the same licensee.

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

J. An applicant for a liquor store license or a beer and wine store license and the licensee of a liquor store license or a beer and wine store license may apply for sampling privileges associated with the license. ~~A~~ Beer and wine store premises shall contain at least five thousand square feet in order to be eligible for sampling privileges. A person desiring a sampling privilege associated with a liquor store license shall apply to the director on a form prescribed and furnished by the director. The application for sampling privileges may be filed for an existing license or may be submitted with an initial license application. The request for sampling approval, the review of the application and the issuance of approval shall be conducted under the same procedures for the issuance of a spirituous liquor license prescribed in section 4-201. After a sampling privilege has been issued for a liquor store license or a beer and wine store license, the sampling privilege shall be noted on the license itself and in the records of the department. The sampling rights associated with a license are not transferable. Until January 1, 2015, the director may charge a fee for processing the application for sampling privileges and a renewal fee as provided in this section. A city or town shall not charge any fee relating to the issuance or renewal of a sampling privilege. Notwithstanding section 4-244, paragraph 19, a liquor store licensee OR A BEER AND WINE STORE LICENSEE that holds a license with sampling privileges may provide spirituous liquor sampling subject to the following requirements:

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

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

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

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

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

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

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

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

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

L. The director may issue a beer and wine store license to the holder of a bar license simultaneously at the same premises. An applicant for a beer and wine store license and a bar license may consolidate the application and may apply for both licenses at the same time. The holder of each license shall fully comply with all applicable provisions of this title. A beer and wine store license and a bar license on the same premises shall be owned by and issued to the same licensee. If a beer and wine store license and a bar license are issued at the same premises, for purposes of reporting liquor purchases under each license, all off-sale beer and wine sales are conclusively presumed to be purchased under the beer and wine store license.

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

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

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

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

1. Restaurant issued a license pursuant to section 4-205.02.

2. Special event license issued pursuant to section 4-203.02.

3. Hotel-motel issued a license pursuant to section 4-205.01.
4. Government license issued pursuant to section 4-205.03.
5. Fenced playing area of a golf course issued a license pursuant to this article.
C. Notwithstanding subsection A of this section:
1. A spirituous liquor license which is validly issued and which is, on the date an application for a transfer is filed, within three hundred horizontal feet of a church, within three hundred horizontal feet of a public or private school building with kindergarten programs or any of grades one through twelve or within three hundred horizontal feet of a fenced recreational area adjacent to such school building may be transferred person to person pursuant to sections 4-201, 4-202 and 4-203 and remains in full force until the license is terminated in any manner, unless renewed pursuant to section 4-209, subsection A.
2. A person may be issued a spirituous liquor license pursuant to sections 4-201, 4-202 and 4-203 of the same class for premises which have a nontransferable spirituous liquor license validly issued if the premises are, on the date an application for such license is filed, within three hundred horizontal feet of a church, within three hundred horizontal feet of a public or private school building with kindergarten programs or any of grades one through twelve or within three hundred horizontal feet of a fenced recreational area adjacent to such school building and the license remains in full force until the license is terminated in any manner, unless renewed pursuant to section 4-209, subsection A.
3. A person may be issued a liquor store license pursuant to sections 4-201, 4-202, 4-203 and 4-206.01 for premises which have a beer and wine store license validly issued if the premises, on the date an application for such license is filed, are within three hundred horizontal feet of a church, within three hundred horizontal feet of a public or private school building with kindergarten programs or any of grades one through twelve or within three hundred horizontal feet of a fenced recreational area adjacent to such school building and the license remains in full force until the license is terminated in any manner, unless renewed pursuant to section 4-209, subsection A.
4. The governing body of a city or town, on a case-by-case basis, may approve an exemption from the distance restrictions prescribed in this section for a church or ~~charter~~ A PUBLIC OR PRIVATE school that is located in an area that is designated an entertainment district by the governing body of that city or town. A city or town with a population of at least five hundred thousand persons may designate no more than three entertainment districts within the boundaries of the city or town pursuant to this paragraph. A city or town with a population of at least two hundred thousand persons but less than five hundred thousand persons may designate no more than two entertainment districts within the boundaries of the city or town pursuant to this paragraph. A city or town with a population of less than two hundred

thousand persons may designate no more than one entertainment district within the boundaries of the city or town pursuant to this paragraph.

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

D. For the purposes of this section:

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

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

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

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

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

B. No licensee shall alter or change the physical arrangement of his licensed premises so as to encompass greater space or the use of different or additional entrances, openings or accommodations than the space, entrance or entrances, openings or accommodations offered to the public at the time of issuance of the licensee's license or a prior written approval of the licensed premises, without first having filed with the director floor plans and diagrams completely disclosing and designating the proposed physical alterations of the licensed premises, including the addition of a drive-through or other physical feature to the licensed premises that allows a customer to purchase spirituous liquor without leaving the customer's vehicle, and shall have secured the written approval by the director. This subsection shall apply to any person to person transfer of the licensed premises. Until January 1, 2015, the director may charge a fee for review of floor plans and diagrams submitted by a licensee pursuant to this section.

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

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

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

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

A. A fee shall accompany an application for an original license or transfer of a license, or in case of renewal, shall be paid in advance. Every license expires annually, EXCEPT THAT A LICENSE MAY BE RENEWED FOR A TWO-YEAR PERIOD PURSUANT TO SUBSECTION M OF THIS SECTION IF NO COMPLIANCE PENALTIES HAVE BEEN ISSUED TO THAT LOCATION DURING THE YEAR BEFORE THE RENEWAL. A licensee who fails to renew the license on or before the due date shall pay a penalty of one hundred fifty dollars which the licensee shall pay with the renewal fee. A license renewal that is deposited, properly addressed and postage prepaid in an official depository of the United States mail on or before the due date shall be deemed filed and received by the department on the date shown by the postmark or other official mark of the United States postal service stamped on the envelope. If the due date falls on a Saturday, Sunday or other legal holiday, the renewal shall be considered timely if it is received by the department on the next business day. The director may waive a late renewal penalty if good cause is shown by the licensee. A licensee who fails to renew the license on or before the due date may not sell, purchase or otherwise deal in spirituous liquor until the license is renewed. A license ~~which~~ THAT is not renewed

within sixty days after the due date is deemed terminated. The director may renew the terminated license if good cause is shown by the licensee. An application fee for an original license or the transfer of a license shall be one hundred dollars, which shall be retained by this state.

B. Issuance fees for original licenses shall be:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

D. The annual fees for licenses shall be:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

K. The director shall assess a surcharge of thirty-five dollars on all licenses prescribed in this section. Monies from the surcharge shall be used by the department exclusively for the costs of an enforcement program to investigate licensees who have been the subject of multiple complaints to the department. The enforcement program shall respond to complaints against licensees by neighborhood associations, by neighborhood civic groups and from

municipal and county governments. The department shall assess the surcharge as part of the annual license renewal fee.

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

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

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

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

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

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

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

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

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

5. The licensed business is delinquent for more than ~~ninety~~ ONE HUNDRED TWENTY days in the payment of taxes, penalties or interest IN AN AMOUNT THAT EXCEEDS TWO HUNDRED FIFTY DOLLARS to the state or to any political subdivision of the state.

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

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

all invoices, records, bills or other papers and documents relating to the purchase, sale and delivery of food.

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

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

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

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

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

B. For the purposes of:

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

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

C. The director may suspend, revoke or refuse to issue, transfer or renew a license under this section based solely on the unrelated conduct or fitness of any officer, director, managing agent or other controlling person if the controlling person retains any interest in or control of the licensee after sixty days following written notice to the licensee. If the controlling person holds stock in a corporate licensee or is a partner in a partnership licensee, the controlling person may only divest himself of his interest by transferring the interest to the existing stockholders or

partners who must demonstrate to the department that they meet all the requirements for licensure. For the purposes of this subsection, the conduct or fitness of a controlling person is unrelated if it would not be attributable to the licensee.

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

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

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

G. ~~Upon~~ ON the director's initiation of an investigation or ~~upon~~ ON the receipt of a complaint and an investigation of the complaint as deemed necessary, the director may cause a complaint and notice of a hearing to be directed to the licensee setting forth the violations alleged against the licensee and directing the licensee, within fifteen days after service of the complaint and notice of a hearing, to appear by filing with the director an answer to the complaint. Failure of the licensee to answer may be deemed an admission by the licensee of commission of the act charged in the complaint. The director may then vacate the hearing and impose any sanction provided by this article. The director may waive any sanction for good cause shown including excusable neglect. With respect to any violation of this title or any rule adopted pursuant to this title that is based on the act or

omission of a licensee's employee, the director shall consider evidence of mitigation presented by the licensee and established by a preponderance of the evidence that the employee acted intentionally and in violation of the express direction or policy adopted by the licensee and communicated to the employee and that the employee successfully completed training in a course approved by the director pursuant to section 4-112, subsection G, paragraph 2. The director may set the hearing before himself or an administrative law judge on any of the grounds set forth in subsection A of this section. Instead of issuing a complaint, the director may provide for informal disposition of the matter by consent agreement or may issue a written warning to the licensee. If a warning is issued, the licensee may reply in writing and the director shall keep a record of the warning and the reply.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4-222. Registration of retail agents; fees

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

B. A fee of five dollars shall be collected for each registered retailer in this state, and a fee of fifty dollars for each registered agent for a distillery, winery, brewery, importer or broker having its place of manufacture or business ~~without~~ OUTSIDE OF the state.

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

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

4-243. Commercial coercion or bribery unlawful; exceptions

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

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

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

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

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

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

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

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

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

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

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

1. Giving financial and other forms of event sponsorship assistance to nonprofit or charitable organizations for purposes of charitable fund-raising which are issued special event licenses by the department. This section does not prohibit such suppliers from advertising their sponsorship at such special events.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(h) The producer or wholesaler shall designate an area in which sampling is conducted that is in the portion of the licensed premises where spirituous liquor is primarily displayed and separated from the remainder of the off-sale retailer's premises by a wall, rope, door, cable, cord, chain, fence or other barrier. The producer or wholesaler shall not permit persons under the legal drinking age from entering the area in which sampling is conducted.

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

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

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

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

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

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

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

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

4-244. Unlawful acts

It is unlawful:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) An employee of an on-sale retail licensee, during that employee's working hours or in connection with the employment, while the employee is not engaged in waiting on or serving customers, may taste samples of beer or wine not to exceed four ounces per day or distilled spirits not to exceed two

ounces per day provided by an employee of a wholesaler or distributor who is present at the time of the sampling.

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

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

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

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

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

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

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

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

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

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

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

22. For an on-sale retailer or employee to allow a person under the legal drinking age to remain in an area on the licensed premises during those hours in which its primary use is the sale, dispensing or consumption of alcoholic beverages after the licensee, or the licensee's employees, know or should have known that the person is under the legal drinking age. An on-sale retailer may designate an area of the licensed premises as an area in which spirituous liquor will not be sold or consumed for the purpose of allowing underage persons on the premises if the designated area is separated by a physical barrier and at no time will underage persons have access to the area in which spirituous liquor is sold or consumed. A licensee or an employee of a licensee may require a person who intends to enter a licensed premises or a portion of a licensed premises where persons under the legal drinking age are prohibited under this section to exhibit a written instrument of identification that is acceptable under section 4-241 as a condition of entry. The director, or a municipality, may adopt rules to regulate the presence of underage persons on licensed premises provided the rules adopted by a municipality are more stringent than those adopted by the director. The rules adopted by the municipality shall be adopted by local ordinance and shall not interfere with the licensee's ability to comply with this paragraph. This paragraph does not apply:

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

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

(i) An active duty military service member.

(ii) A veteran.

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

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

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

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

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

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

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

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

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

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

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

29. For any person other than a peace officer or a member of a sheriff's volunteer posse while on duty who has received firearms training that is approved by the Arizona peace officer standards and training board, the licensee or an employee of the licensee acting with the permission of the licensee to be in possession of a firearm while on the licensed premises of an on-sale retailer. This paragraph shall not be construed to include a situation in which a person is on licensed premises for a limited time in

order to seek emergency aid and such person does not buy, receive, consume or possess spirituous liquor. This paragraph shall not apply to:

(a) Hotel or motel guest room accommodations.

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

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

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

(a) Hotel or motel guest room accommodations.

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

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

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

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

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

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

(c) A BAR, BEER AND WINE BAR, LIQUOR STORE, BEER AND WINE STORE OR DOMESTIC MICROBREWERY LICENSEE WHO DISPENSES BEER ONLY IN A CLEAN GLASS CONTAINER WITH A MAXIMUM CAPACITY THAT DOES NOT EXCEED ONE GALLON AND NOT FOR CONSUMPTION ON THE PREMISES AS LONG AS:

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

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

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

THE DEPARTMENT SHALL REVIEW THE EFFECTS OF THIS SUBDIVISION AND SUBMIT A REPORT BY JULY 1, 2015 ON THE EFFECTS OF THIS SECTION TO THE GOVERNOR, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE. THE DEPARTMENT SHALL PROVIDE A COPY OF THIS REPORT TO THE SECRETARY OF STATE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45. EXCEPT AS AUTHORIZED BY PARAGRAPH 32, SUBDIVISION (c) OF THIS SECTION, FOR A PERSON TO REUSE A BOTTLE OR OTHER CONTAINER AUTHORIZED FOR USE BY THE LAWS OF THE UNITED STATES OR ANY AGENCY OF THE UNITED STATES FOR THE PACKAGING OF DISTILLED SPIRITS OR FOR A PERSON TO INCREASE THE ORIGINAL CONTENTS OR A PORTION OF THE ORIGINAL CONTENTS REMAINING IN A LIQUOR BOTTLE OR OTHER AUTHORIZED CONTAINER BY ADDING ANY SUBSTANCE.

Sec. 20. Section 9-500.06, Arizona Revised Statutes, is amended to read:

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

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

1. "Discriminate" means any increase of fees on hospitality industry businesses by any dollar amount ~~on or after April 1, 1990~~ without a corresponding equal dollar amount of increase in the privilege license fees or other fees imposed on all other businesses in the city or town OR INCREASING OR IMPOSING THE FEES ON HOSPITALITY INDUSTRY BUSINESSES WHERE NO SIMILAR FEES ARE ESTABLISHED AND IMPOSED ON OTHER BUSINESSES.

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

B. A CITY OR TOWN SHALL NOT INCREASE THE FEES ON HOSPITALITY BUSINESSES IN ANY YEAR BY AN AMOUNT THAT EXCEEDS THE AMOUNT OF ANY INCREASE

IN THE CONSUMER PRICE INDEX COMPARED TO THE AVERAGE OF THE LAST FIVE YEARS OF CONSUMER PRICE INDEXES.

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

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

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

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

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

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

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

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

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

2. "Hospitality industry businesses" means:

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

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

APPROVED BY THE GOVERNOR MAY 11, 2012.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 14, 2012.