

House Engrossed

State of Arizona
House of Representatives
Fifty-second Legislature
First Regular Session
2015

HOUSE BILL 2359

AN ACT

AMENDING SECTION 4-201, ARIZONA REVISED STATUTES; RELATING TO LIQUOR
LICENSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 4-201, Arizona Revised Statutes, is amended to
3 read:

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

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

9 B. A person desiring a license within an incorporated city or town
10 shall make the application in triplicate and shall file the copies with the
11 director. The director shall remit two copies to the city or town clerk.
12 The city or town clerk shall immediately file one copy in the clerk's office
13 and post the other for a period of twenty days in a conspicuous place on the
14 front of the premises where the business is proposed to be conducted, with a
15 statement requiring any natural person who is a bona fide resident residing
16 or owning or leasing property within a one-mile radius from the premises
17 proposed to be licensed, and who is in favor of or opposed to the issuance of
18 the license, to file written arguments in favor of or opposed to the issuance
19 of the license with the clerk within twenty days after the date of posting.
20 The posting shall be limited to a copy of the license application and shall
21 not contain any attachments filed with the application. The written argument
22 shall contain the natural person's complete name, street address or post
23 office box address and written or electronic signature. If the written
24 arguments are filed by a person on behalf of a corporation or other legal
25 entity or association, the written arguments must be accompanied by a copy of
26 the entity's organizing document, a designation of the office or position
27 that the person holds within the organization and a copy of the written
28 appointment of the person to speak on behalf of the organization. If the
29 written arguments are filed by a neighborhood association, block watch or
30 other unincorporated association, written arguments must be accompanied by a
31 letter of authority designating that person as a spokesperson. The posting
32 shall contain substantially the following:

33 Notice

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

37 The local governing body will recommend to the state liquor
38 board whether the board should grant or deny the license. The
39 state liquor board may hold a hearing to consider the
40 recommendation of the local governing body. Any person residing
41 or owning or leasing property within a one-mile radius may
42 contact the state liquor board in writing to register as a
43 protestor. To request information regarding procedures before

1 the board and notice of any board hearings regarding this
2 application, contact the state liquor board at:
3 (Insert address and telephone number).

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

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

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

24 E. On receipt of an application for a spirituous liquor license, the
25 director shall set the application for hearing by the board on a date
26 following the expiration of the time fixed for the submitting of the
27 certified order by the governing body of the city or town or the board of
28 supervisors. If the city or town or the county recommends approval of the
29 license no hearing is required unless the director, the board or ~~any~~
30 aggrieved ~~party requests~~ PARTIES THAT MAKE UP AT LEAST FIVE PERCENT OF THE
31 NATURAL PERSONS WHO RESIDE, OWN OR LEASE PROPERTY WITHIN A ONE-MILE RADIUS OF
32 THE PROPOSED LOCATION REQUEST a hearing on the grounds that the public
33 convenience and the best interest of the community will not be substantially
34 served if a license is issued. Any natural person residing or owning or
35 leasing property within a one mile radius of the proposed location may file a
36 written protest with the director no later than fifteen calendar days
37 following action by the local governing body or sixty days after filing the
38 application. The written argument shall contain the natural person's
39 complete name, street address or post office box address and written or
40 electronic signature. If the written arguments are filed by a person on
41 behalf of a corporation or other legal entity or association, the written
42 arguments must be accompanied by a copy of the entity's organizing document,
43 a designation of the office or position that the person holds within the

1 organization and a copy of the written appointment of the person to speak on
 2 behalf of the organization. If the written arguments are filed by a
 3 neighborhood association, block watch or other unincorporated association,
 4 written arguments must be accompanied by a letter of authority designating
 5 that person as a spokesperson. If no hearing is requested by the director,
 6 the board or ~~any aggrieved party~~ PARTIES THAT MAKE UP AT LEAST FIVE PERCENT
 7 OF THE NATURAL PERSONS WHO RESIDE, OWN OR LEASE PROPERTY WITHIN A ONE-MILE
 8 RADIUS OF THE PROPOSED LOCATION, the application may be approved by the
 9 director. If the recommendation is for disapproval of an application, the
 10 board shall hold a hearing. If the city, town or county recommends approval
 11 of the license pursuant to subsection C of this section or makes no
 12 recommendation, the director may cancel the hearing and issue the license
 13 unless the board or ~~any aggrieved party~~ ~~party-requests~~ PARTIES THAT MAKE UP AT
 14 LEAST FIVE PERCENT OF THE NATURAL PERSONS WHO RESIDE, OWN OR LEASE PROPERTY
 15 WITHIN A ONE-MILE RADIUS OF THE PROPOSED LOCATION REQUEST a hearing. If the
 16 reason for the protest is clearly removed or deemed satisfied by the
 17 director, the board shall cancel the hearing. If the board cancels the
 18 hearing, the department may administratively issue an order without the
 19 applicant licensee or other parties present. The certified order, the
 20 reasons contained in the order and the summary of the testimony and other
 21 evidence supporting the city, town or county disapproval of the
 22 recommendation shall be read into the record before the board and shall be
 23 considered as evidence by the board. The board shall consider the certified
 24 order together with other facts and a report of the director relating to the
 25 qualifications of the applicant. If the governing body of the city or town
 26 or the board of supervisors fails to return to the director, as provided in
 27 subsections C and D of this section, its order of disapproval, no hearing is
 28 required. An application shall be approved or disapproved within one hundred
 29 five days after filing of the application. If, after a hearing by the board
 30 where a license has been approved, a formal written order is not entered
 31 within thirty days after the hearing, the decision of the board shall be
 32 deemed entered on the thirtieth day after the hearing.

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

40 G. Except for a person to person transfer of a transferable license
 41 for use at the same location and as otherwise provided in section 4-203,
 42 subsection A, in all proceedings before the governing body of a city or town,
 43 the board of supervisors of a county or the board, the applicant bears the

1 burden of showing that the public convenience requires and that the best
2 interest of the community will be substantially served by the issuance of a
3 license.

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

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

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