

REFERENCE TITLE: liquor omnibus

State of Arizona  
Senate  
Fifty-second Legislature  
Second Regular Session  
2016

# **SB 1373**

Introduced by  
Senator Kavanagh

AN ACT

AMENDING SECTIONS 4-101, 4-201, 4-202, 4-203, 4-205.02, 4-205.03, 4-205.04, 4-205.05, 4-206.01, 4-209, 4-227, 4-227.01, 4-243, 4-244 AND 4-251, ARIZONA REVISED STATUTES; RELATING TO LIQUOR LICENSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 4-101. Definitions

5 In this title, unless the context otherwise requires:

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

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

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

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

23 5. "Bona fide guest" means:

24 (a) An individual who is personally familiar to the member, who is  
25 personally sponsored by the member and whose presence as a guest is in  
26 response to a specific and personal invitation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 11. "Craft distiller" means a distiller in the United States or in a  
16 territory or possession of the United States that holds a license pursuant to  
17 section 4-205.10.

18 12. "Department" means the department of liquor licenses and control.

19 13. "Director" means the director of the department of liquor licenses  
20 and control.

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

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

33 16. "Farm winery" means a winery in the United States or in a territory  
34 or possession of the United States that holds a license pursuant to section  
35 4-205.04.

36 17. "Government license" means a license to serve and sell spirituous  
37 liquor on specified premises available only to a state agency, state board,  
38 state commission, county, city, town, community college or state university  
39 or the national guard or Arizona coliseum and exposition center on  
40 application by the governing body of a state agency, state board, state  
41 commission, county, city, town, community college or state university or the  
42 national guard or Arizona exposition and state fair board.

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

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

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

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

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

9           23. "Microbrewery" means a brewery in the United States or in a  
10 territory or possession of the United States that meets the requirements of  
11 section 4-205.08.

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

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

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

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

32           28. "Registered mail" includes certified mail.

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

36           30. "Repeated acts of violence" means: ~~two or more acts of violence~~  
37 ~~occurring within seven days, three or more acts of violence occurring within~~  
38 ~~thirty days or acts of violence occurring with any other similar frequency~~  
39 ~~which the director determines to be unusual or deserving of review.~~

40           (a) FOR ALL LICENSED PREMISES, TWO OR MORE ACTS OF VIOLENCE OCCURRING  
41 WITHIN SEVEN DAYS.

42           (b) FOR LICENSED PREMISES WITH A PERMANENT OCCUPANCY OF TWO HUNDRED OR  
43 FEWER PERSONS, THREE OR MORE ACTS OF VIOLENCE OCCURRING WITHIN THIRTY DAYS.

1 (c) FOR LICENSED PREMISES WITH A PERMANENT OCCUPANCY OF MORE THAN TWO  
2 HUNDRED BUT NOT MORE THAN FOUR HUNDRED PERSONS, FOUR OR MORE ACTS OF VIOLENCE  
3 WITHIN THIRTY DAYS.

4 (d) FOR LICENSED PREMISES WITH A PERMANENT OCCUPANCY OF MORE THAN FOUR  
5 HUNDRED BUT NOT MORE THAN SIX HUNDRED FIFTY PERSONS, FIVE OR MORE ACTS OF  
6 VIOLENCE WITHIN THIRTY DAYS.

7 (e) FOR LICENSED PREMISES WITH A PERMANENT OCCUPANCY OF MORE THAN SIX  
8 HUNDRED FIFTY BUT NOT MORE THAN ONE THOUSAND FIFTY PERSONS, SIX OR MORE ACTS  
9 OF VIOLENCE WITHIN THIRTY DAYS.

10 (f) FOR LICENSED PREMISES WITH A PERMANENT OCCUPANCY OF MORE THAN ONE  
11 THOUSAND FIFTY PERSONS, SEVEN OR MORE ACTS OF VIOLENCE WITHIN THIRTY DAYS.

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

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

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

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

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

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

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

40 Sec. 2. Section 4-201, Arizona Revised Statutes, is amended to read:

41 4-201. Licensing; application procedure in city, town or  
42 county; burden of proof

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

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

25 Notice

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

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

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

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

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

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

1 department may administratively issue an order without the applicant licensee  
2 or other parties present. The certified order, the reasons contained in the  
3 order and the summary of the testimony and other evidence supporting the  
4 city, town or county disapproval of the recommendation shall be read into the  
5 record before the board and shall be considered as evidence by the  
6 board. The board shall consider the certified order together with other  
7 facts and a report of the director relating to the qualifications of the  
8 applicant. If the governing body of the city or town or the board of  
9 supervisors fails to return to the director, as provided in subsections C and  
10 D of this section, its order of disapproval, no hearing is required. An  
11 application shall be approved or disapproved within one hundred five days  
12 after filing of the application. If, after a hearing by the board where a  
13 license has been approved, a formal written order is not entered within  
14 thirty days after the hearing, the decision of the board shall be deemed  
15 entered on the thirtieth day after the hearing.

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

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

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

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

43 J. If the governing body of a city or town recommends disapproval by a  
44 two-thirds vote of the members present and voting on an application for the  
45 issuance or transfer of a spirituous liquor license that, if approved, would

1 result in a license being issued at a location either having no license or  
2 having a license of a different series, the application shall not be approved  
3 unless the board decides to approve the application by a two-thirds vote of  
4 the members present and voting.

5 Sec. 3. Section 4-202, Arizona Revised Statutes, is amended to read:  
6 4-202. Qualifications of licensees; application; background  
7 information; prior convictions

8 A. Every spirituous liquor licensee, other than a club licensee, a  
9 corporation licensee, a limited liability company licensee or an out-of-state  
10 licensee, shall be a citizen of the United States and a bona fide resident of  
11 this state or a legal resident alien who is a bona fide resident of this  
12 state. If a partnership, each partner shall be a citizen of the United  
13 States and a bona fide resident of this state or a legal resident alien who  
14 is a bona fide resident of this state, except that for a limited partnership  
15 an individual general partner is required to meet the qualifications of an  
16 individual licensee, a corporate general partner is required to meet the  
17 qualifications of a corporate licensee and a limited partner is not required  
18 to be a citizen of the United States, a legal resident alien or a bona fide  
19 resident of this state. If a corporation or limited liability company, it  
20 shall be a domestic corporation or a foreign corporation or a limited  
21 liability company that has qualified to do business in this state. A person  
22 shall hold a club license, corporation license, limited liability company  
23 license, partnership license or out-of-state license through an agent who  
24 shall be a natural person and meet the qualifications for licensure, except  
25 that an agent for an out-of-state license as specified in section 4-209,  
26 subsection B, paragraph 2 need not be a resident of this state. **NOTICE OF**  
27 **CHANGE OF AGENT SHALL BE FILED WITH THE DIRECTOR WITHIN THIRTY DAYS AFTER A**  
28 **CHANGE.** For the purposes of this subsection, "agent" means a person who is  
29 designated by an applicant or licensee to receive communications from the  
30 department and to file documents and sign documents for filing with the  
31 department on behalf of the applicant or licensee.

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

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

8 D. No license shall be issued to any person who, within one year  
9 before application, has had a license revoked. The director shall not issue  
10 an interim permit or restaurant license to any person who, at the same  
11 location, has been required to surrender a restaurant license pursuant to  
12 section 4-205.02, subsection D or section 4-213 until twelve months after the  
13 date of the surrender. No license shall be issued to or renewed for any  
14 person who, within five years before application, has been convicted of a  
15 felony, or convicted of an offense in another state that would be a felony in  
16 this state. For a conviction of a corporation to be a basis for a denial  
17 under ~~the provisions of~~ this section, the limitations that are provided in  
18 section 4-210, subsection A, paragraph 8 shall apply. No corporation shall  
19 have its annual license issued or renewed unless it has on file with the  
20 department a list of its officers and directors and any stockholders who own  
21 ten ~~per cent~~ PERCENT or more of the corporation.

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

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

32 Sec. 4. Section 4-203, Arizona Revised Statutes, is amended to read:  
33 4-203. Licenses; issuance; transfer; reversion to state

34 A. A spirituous liquor license shall be issued only after satisfactory  
35 showing of the capability, qualifications and reliability of the applicant  
36 and, with the exception of wholesaler, producer, government or club  
37 licensees, that the public convenience requires and that the best interest of  
38 the community will be substantially served by the issuance. If an  
39 application is filed for the issuance of a transferable or nontransferable  
40 license, other than for a craft distiller license, a microbrewery license or  
41 a farm winery license, for a location that on the date the application is  
42 filed has a valid license of the same series, or in the case of a restaurant  
43 license application filed for a location with a valid hotel-motel license,  
44 issued at that location, there shall be a rebuttable presumption that the  
45 public convenience and best interest of the community at that location was

1 established at the time the location was previously licensed. The  
2 presumption may be rebutted by competent contrary evidence. The presumption  
3 shall not apply once the licensed location has not been in use for more than  
4 one hundred eighty days and the presumption shall not extend to the personal  
5 qualifications of the applicant.

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

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

12 2. The place of business for which issued.

13 3. The purpose for which the liquors may be manufactured or sold.

14 C. A spirituous liquor license issued to a bar, a liquor store or a  
15 beer and wine bar shall be transferable as to any permitted location within  
16 the same county, provided such transfer meets the requirements of an original  
17 application. A spirituous liquor license may be transferred to a person  
18 qualified to be a licensee, provided such transfer is pursuant to either  
19 judicial decree, nonjudicial foreclosure of a legal or equitable lien,  
20 including security interests held by financial institutions pursuant to  
21 section 4-205.05, a sale of the license, a bona fide sale of the entire  
22 business and stock in trade, or such other bona fide transactions as may be  
23 provided for by rule. Any change in ownership of the business of a licensee,  
24 directly or indirectly, as defined by rule is deemed a transfer.

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

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

40 F. If a person other than those persons originally licensed acquires  
41 control over a license or licensee, the person shall file notice of the  
42 acquisition with the director within thirty business days after the  
43 acquisition of control and a list of officers, directors or other controlling  
44 persons on a form prescribed by the director. All officers, directors or  
45 other controlling persons shall meet the qualifications for licensure as

1 prescribed by this title. ~~On request, the director shall conduct a~~  
2 ~~preinvestigation before the assignment, sale or transfer of control of a~~  
3 ~~license or licensee, the reasonable costs of which, not to exceed one~~  
4 ~~thousand dollars, shall be borne by the applicant. The preinvestigation~~  
5 ~~shall determine whether the qualifications for licensure as prescribed by~~  
6 ~~this title are met. On receipt of notice of an acquisition of control or~~  
7 ~~request of a preinvestigation, the director shall forward the notice within~~  
8 ~~fifteen days to the local governing body of the city or town, if the licensed~~  
9 ~~premises is in an incorporated area, or the county, if the licensed premises~~  
10 ~~is in an unincorporated area. The local governing body of the city, town or~~  
11 ~~county may protest the acquisition of control within sixty days based on the~~  
12 ~~capability, reliability and qualification of the person acquiring control.~~  
13 ~~If the director does not receive any protests,~~ The director may protest the  
14 acquisition of control or approve the acquisition of control based on the  
15 capability, reliability and qualification of the person acquiring control.  
16 Any THE protest shall be set for a hearing before the board. Any transfer  
17 shall be approved or disapproved within one hundred five days ~~of~~ AFTER the  
18 filing of the notice of acquisition of control. The person who has acquired  
19 control of a license or licensee has the burden of an original application at  
20 the hearing, and the board shall make its determination pursuant to section  
21 4-202 and this section with respect to capability, reliability and  
22 qualification.

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

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

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

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

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

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

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

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

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

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

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

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

39 Q. The director may implement a procedure for the issuance of a  
40 license with a licensing period of two years.



1 restaurant facility shall notify the department in advance on forms provided  
2 by the department.

3 G. The director may charge a fee for site inspections conducted before  
4 the issuance of a restaurant license.

5 H. A RESTAURANT APPLICANT OR LICENSEE MAY APPLY FOR A PERMIT ALLOWING  
6 FOR THE SALE OF BEER FOR CONSUMPTION OFF THE LICENSED PREMISES PURSUANT TO  
7 SECTION 4-244, PARAGRAPH 32, SUBDIVISION (c) ON A FORM PRESCRIBED AND  
8 FURNISHED BY THE DIRECTOR. AFTER THE PERMIT HAS BEEN ISSUED, THE PERMIT  
9 SHALL BE NOTED ON THE LICENSE ITSELF AND IN THE RECORDS OF THE DEPARTMENT.  
10 THE DIRECTOR MAY CHARGE A FEE FOR PROCESSING THE APPLICATION FOR THE PERMIT  
11 AND A RENEWAL FEE.

12 ~~H.~~ I. For the purposes of this section:

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

18 2. "Restaurant" means an establishment that derives at least forty ~~per~~  
19 ~~cent~~ PERCENT of its gross revenue from the sale of food, including sales of  
20 food for consumption off the licensed premises if the amount of these sales  
21 included in the calculation of gross revenue from the sale of food does not  
22 exceed fifteen ~~per-cent~~ PERCENT of all gross revenue of the restaurant.

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

25 4-205.03. Government license; issuance; regulatory provisions;  
26 agreements with coliseum concessionaires;  
27 definitions

28 A. The department may issue a government license to any state agency,  
29 state board, state commission, county, city, town, community college or state  
30 university, the national guard or the Arizona exposition and state fair board  
31 on application authorized by the governing body of the state agency, state  
32 board, state commission, county, city, town, community college or state  
33 university, the national guard or the Arizona exposition and state fair  
34 board.

35 B. If the department issues the license, it shall be issued in the  
36 name of the state agency, state board, state commission, county, city, town,  
37 community college or state university, the national guard or the Arizona  
38 coliseum and exposition center. No application shall be filed unless  
39 authorized by the respective governing body. The application shall designate  
40 for each location a manager or other individual responsible for administering  
41 the license. The state agency, state board, state commission, county, city,  
42 town, community college or state university, the national guard or the  
43 Arizona exposition and state fair board shall give notice to the department  
44 within ten days ~~of~~ AFTER any change in the designee. The state agency, state  
45 board, state commission, county, city, town, community college or state

1 university, the national guard or the Arizona coliseum and exposition center  
2 to which a license is issued is subject to the fine or penalty prescribed for  
3 any violation of the statutes relating to alcoholic beverages.

4 C. The holder of a government license may sell and serve spirituous  
5 liquors solely for consumption on the premises for which the license is  
6 issued. A separate license is required for each premises on which spirituous  
7 liquors are served. A single premises licensed under this section may  
8 consist of not more than one dock area that is designated by a city or town  
9 and that is situated on a lake owned by the city or town and not more than  
10 thirty boats that are operated on the lake. A dock and boats that comprise a  
11 premises under this subsection shall be operated in compliance with  
12 subsection G of this section.

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

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

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

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

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

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

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

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

40 3. A person shall not be served more than ~~thirty-two~~ FIFTY ounces of  
41 beer, one liter of wine or four ounces of distilled spirits AT ONE TIME while  
42 the person is on a boat.

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

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

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

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

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

12           H. For the purposes of this section:

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

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

20           3. "Community college" has the same meaning prescribed in section  
21 15-1401.

22           4. "State university" means institutions as described in section  
23 15-1601.

24           Sec. 7. Section 4-205.04, Arizona Revised Statutes, is amended to  
25 read:

26           4-205.04. Farm winery license; issuance; regulatory provisions;  
27 retail site; fee

28           A. The director may issue a farm winery license to any person who  
29 meets the requirements of subsection C of this section. Each location that  
30 engages in producing or manufacturing these products must obtain a separate  
31 farm winery license. The licensee may not transfer the farm winery license  
32 from person to person or from location to location.

33           B. An applicant for a farm winery license, at the time of filing the  
34 application for the license, shall accompany the application with the license  
35 fee. Persons holding a farm winery license shall report annually at the end  
36 of each calendar year, at such time and in such manner as the director may  
37 prescribe, the amount of wine produced or manufactured by them during the  
38 calendar year. In addition to any provision of this title, if the total  
39 amount of wine produced or manufactured during the year exceeds the amount  
40 permitted annually by the license, the licensee shall apply for and receive a  
41 producer's license only ~~upon~~ ON surrender of the farm winery license or  
42 licenses.

43           C. A person may be licensed as a farm winery to sell wine produced or  
44 manufactured if in a calendar year it produces at least two hundred gallons  
45 and not more than forty thousand gallons of wine and if the winery either

1 holds a winery permit issued by the United States alcohol and tobacco tax and  
2 trade bureau or has a contract pursuant to subsection E of this section for  
3 the production or manufacturing of wine from grapes or other fruit grown on  
4 at least five producing acres of land owned or controlled by the applicant  
5 and the land has been devoted to fruit growing for at least three consecutive  
6 calendar years. A licensed farm winery may make sales and deliveries of wine  
7 only as specifically provided in this section and as follows:

8 1. A licensed farm winery may make sales and deliveries of wine to  
9 wholesalers licensed to sell wine under this title.

10 2. A licensed farm winery may serve wine produced or manufactured on  
11 the premises for the purpose of sampling the wine. The wine may include wine  
12 produced pursuant to subsections D and E of this section.

13 3. A representative of the licensed farm winery may consume small  
14 amounts of the products of the licensed farm winery on the premises for the  
15 purpose of sampling the wine. The wine may include wine produced pursuant to  
16 subsections D and E of this section.

17 4. A licensed farm winery may sell to a consumer physically present on  
18 the premises wine produced or manufactured on the premises in the original  
19 container for consumption on or off the premises. The wine may include wine  
20 produced pursuant to subsections D and E of this section.

21 5. A licensed farm winery may purchase and sell wine produced by  
22 another licensed farm winery for consumption on or off the premises only if  
23 the retail sale is to a consumer physically present on the premises of the  
24 farm winery, except that the sales of wine produced by another winery may not  
25 exceed twenty ~~per cent~~ PERCENT of the farm winery's sales by volume. The  
26 percentage limitation shall not apply to wine produced pursuant to  
27 subsections D and E of this section.

28 6. If the licensed farm winery is not otherwise engaged in the  
29 business of a distiller, vintner, brewer, rectifier, blender or other  
30 producer of spirituous liquor in any jurisdiction, the licensed farm winery  
31 may hold licenses prescribed in section 4-209, subsection B, paragraph 12 on  
32 the licensed farm winery premises or other retail premises. Except as  
33 provided in paragraph 5 of this subsection, the licensed farm winery shall  
34 purchase all other spirituous liquor for sale at the on-sale retail premises  
35 from wholesalers that are licensed in this state, except that a licensed farm  
36 winery may:

37 (a) Purchase wine from other farm wineries pursuant to paragraph 7 of  
38 this subsection.

39 (b) Make deliveries of the wine that the farm winery produces to the  
40 farm winery's own commonly controlled retail licensed premises.

41 7. A licensed farm winery that produces not more than twenty thousand  
42 gallons of wine in a calendar year may make sales and deliveries of the wine  
43 that the licensed farm winery produces to on-sale and off-sale retailers.

1           8. Notwithstanding section 4-244, paragraphs 3 and 7, an on-sale or  
2 off-sale retailer may purchase and accept delivery of wine from a licensed  
3 farm winery pursuant to paragraph 7 of this subsection.

4           9. A licensed farm winery that produces not more than twenty thousand  
5 gallons of wine in a calendar year may make sales and deliveries of wine that  
6 the licensed farm winery produces to consumers off of the licensed premises  
7 and that is ordered by telephone, mail, fax or catalogue, through the  
8 internet or by other means if all of the following apply:

9           (a) The purchaser of the wine provided the licensed farm winery with  
10 verification of the purchaser's legal age to purchase alcohol.

11           (b) The shipping container in which the wine is shipped is marked to  
12 require the signature on delivery of an adult who is of legal age to purchase  
13 alcohol and delivery confirmation.

14           (c) The wine is for personal use only and not for resale.

15           (d) The wine is delivered by the licensed farm winery or shipped by  
16 the licensed farm winery by a common carrier to a residential or business  
17 address other than a premises licensed pursuant to this title.

18           (e) The purchaser could have carried the wine lawfully into or within  
19 this state.

20           (f) The delivery is made by a person who is at least twenty-one years  
21 of age.

22           (g) The farm winery shall collect payment for the price of the  
23 spirituous liquor no later than at the time of delivery.

24           10. A licensed farm winery may make sales and deliveries as expressly  
25 permitted by sections 4-203.03, 4-203.04 and 4-244.04.

26           D. On application by one or more persons, the director may approve  
27 applications for grouping two or more farm winery licenses at one location  
28 under a plan of alternating proprietorships if a licensed winery has received  
29 approval of the alternating proprietorship by the United States alcohol and  
30 tobacco tax and trade bureau and the participating wineries operate under the  
31 regulations and guidelines that are issued by the United States alcohol and  
32 tobacco tax and trade bureau. Each participating winery shall be responsible  
33 for filing all reports that relate to its wine production or manufacturing  
34 with the United States alcohol and tobacco tax and trade bureau and the  
35 department. **ONLY ONE FARM WINERY MAY CONDUCT WINE MAKING ACTIVITIES AT THIS**  
36 **LOCATION AT A TIME.**

37           E. A person otherwise qualified to receive a farm winery license may  
38 enter into a custom crush arrangement where a licensed winery produces or  
39 manufactures wine from grapes or other fruit supplied by the person. The  
40 winery receiving the fruit shall be licensed by the United States alcohol and  
41 tobacco tax and trade bureau and the department and shall be responsible for  
42 filing all reports that relate to its wine production or manufacturing with  
43 the United States alcohol and tobacco tax and trade bureau and the  
44 department. Each person supplying the grapes or other fruit shall first  
45 apply for and receive a farm winery license and shall report to the

1 department all volumes of wine from its custom crush arrangements, which  
2 shall not be allocated to the gallonage of the receiving FARM winery IF THE  
3 SUPPLYING FARM WINERY HAS AN ACTIVE BASIC PERMIT ISSUED BY THE UNITED STATES  
4 ALCOHOL AND TOBACCO TAX AND TRADE BUREAU.

5 F. On application by a farm winery licensee, the director may  
6 authorize a farm winery licensee to operate up to two remote tasting and  
7 retail premises if:

8 1. The wine sold at the premises is limited to wine produced or  
9 manufactured by the licensed farm winery and wines produced or manufactured  
10 by other licensed farm wineries, including wines produced or manufactured  
11 pursuant to subsections D and E of this section. The farm winery may sell  
12 wine to a consumer physically present on the premises for consumption on or  
13 off the premises. Sales of wines not produced or manufactured by the farm  
14 winery shall be limited to no more than twenty ~~per-cent~~ PERCENT of the total  
15 sales by volume at that location. The percentage limitation shall not apply  
16 to wine produced pursuant to subsections D and E of this section.

17 2. The farm winery licensee:

18 (a) Remains responsible for the premises.

19 (b) Obtains approval for the premises from the local governing body  
20 before submitting an application to the department. A copy of an order from  
21 the local governing body recommending approval of the premises must be filed  
22 with the department as part of the application.

23 (c) Does not sublease the premises.

24 (d) Has an agent who is a natural person who meets the qualifications  
25 of licensure in this state.

26 (e) Meets the qualifications for a license pursuant to section 4-203,  
27 subsection A.

28 G. A farm winery licensee may hold a craft ~~distillery~~ DISTILLER  
29 license issued pursuant to section 4-205.10. The farm ~~wine~~ WINERY and craft  
30 ~~distillery~~ DISTILLER licensee may only produce distilled spirits up to a  
31 gallonage of one thousand gallons in a calendar year from fruit processed at  
32 the winery for the primary purpose of making wine. The farm ~~wine~~ WINERY and  
33 craft ~~distillery~~ DISTILLER licensee is subject to all other requirements of  
34 this section and section 4-205.10. The farm winery may provide sampling and  
35 sales of the distilled spirits pursuant to section 4-205.10, subsection C,  
36 paragraphs 2 and 3 on the same premises as the wine sampling and retail  
37 sales.

38 H. The farm winery is liable for any violation committed in connection  
39 with any sale or delivery of the wine. The rules adopted by the director  
40 pursuant to section 4-203, subsection J shall apply to the delivery of wine  
41 under subsection C, paragraph 9 of this section. An act or omission of any  
42 person who makes a sale or delivery of wine for a licensee under subsection  
43 C, paragraph 9 of this section is deemed to be an act or omission of the  
44 licensee for the purposes of section 4-210, subsection A, paragraph 9.

1 I. A farm winery that sells or delivers wine pursuant to this section  
2 shall:

3 1. Pay to the department of revenue all luxury taxes imposed pursuant  
4 to title 42, chapter 3 and all transaction privilege or use taxes imposed  
5 pursuant to title 42, chapter 5.

6 2. File all returns or reports required by law.

7 J. A delivery of wine by a farm winery to a purchaser in this state is  
8 a transaction deemed to have occurred in this state.

9 K. The director shall adopt rules in order to administer this section.

10 L. The director may charge an additional farm winery license fee  
11 adopted pursuant to section 4-209 for the issuance of licenses,  
12 authorizations or approvals pursuant to subsections D, E and F of this  
13 section.

14 Sec. 8. Section 4-205.05, Arizona Revised Statutes, is amended to  
15 read:

16 4-205.05. Disposal of seized or recovered liquor

17 A. The director may issue a temporary permit authorizing the disposal  
18 at public auction of spirituous liquor that has been seized by any agency of  
19 this state, the federal government, any political subdivision of this state,  
20 any financial institution as defined in section 6-101 that has a security  
21 interest in a license or the federal government pursuant to statute. A bid  
22 at a public auction shall not be accepted from a licensee if the spirituous  
23 liquors offered for sale at the auction were seized from that licensee. The  
24 director shall issue the permit only if presented with proper documents of  
25 seizure by the appropriate official. The director may dispose of seized  
26 spirituous liquor in whole or in part by public auction, by providing the  
27 spirituous liquor to law enforcement for training AND INVESTIGATION purposes  
28 only, ~~or both,~~ or by authorizing a qualified person to recycle the spirituous  
29 liquor.

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

36 Sec. 9. Section 4-206.01, Arizona Revised Statutes, is amended to  
37 read:

38 4-206.01. Bar, beer and wine bar or liquor store licenses;  
39 number permitted; fee; sampling privileges

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

43 B. In each county, the director, each year, shall issue additional  
44 bar, beer and wine bar or liquor store licenses at the rate of one of each  
45 type for each additional ten thousand person increase over the population in

1 that county as of July 1, 2010. Any licenses that have been revoked or  
2 reverted in any county after July 1, 2014 may be reissued by the director in  
3 the county of their issuance. The director may waive the issuance of any  
4 series of new, revoked or reverted licenses in a county for one year where  
5 there has been no request made to the department for the issuance of a new  
6 license of that series. For the purposes of this subsection, the population  
7 of a county is deemed to be the population estimated by the office of  
8 employment and population statistics within the Arizona department of  
9 administration as of July 1 of each year.

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

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

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

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

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

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

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

21           J. An applicant for a liquor store license or a beer and wine store  
22 license and the licensee of a liquor store license or a beer and wine store  
23 license may apply for sampling privileges associated with the license. Beer  
24 and wine store premises shall contain at least five thousand square feet in  
25 order to be eligible for sampling privileges. A person desiring a sampling  
26 privilege associated with a liquor store license shall apply to the director  
27 on a form prescribed and furnished by the director. The application for  
28 sampling privileges may be filed for an existing license or may be submitted  
29 with an initial license application. The request for sampling approval, the  
30 review of the application and the issuance of approval shall be conducted  
31 under the same procedures for the issuance of a spirituous liquor license  
32 prescribed in section 4-201. After a sampling privilege has been issued for  
33 a liquor store license or a beer and wine store license, the sampling  
34 privilege shall be noted on the license itself and in the records of the  
35 department. The sampling rights associated with a license are not  
36 transferable. The director may charge a fee for processing ~~the~~ EACH  
37 application for sampling privileges and a renewal fee as provided in this  
38 section. A city or town shall not charge any fee relating to the issuance or  
39 renewal of a sampling privilege. Notwithstanding section 4-244, paragraph  
40 19, a liquor store licensee or a beer and wine store licensee that holds a  
41 license with sampling privileges may provide spirituous liquor sampling  
42 subject to the following requirements:

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

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

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

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

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

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

13          7. Sampling shall be limited to three ounces of beer or cooler-type  
14 products, one and one-half ounces of wine and one ounce of distilled spirits  
15 per person, per brand, per day.

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

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

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

33          Sec. 10. Section 4-209, Arizona Revised Statutes, is amended to read:

34          4-209. Fees for license, application, issuance, renewal and  
35                   transfer; late renewal penalty; seasonal operation;  
36                   surcharges

37          A. A fee shall accompany an application for an original license or  
38 transfer of a license, or in case of renewal, shall be paid in advance.  
39 Every license expires annually, except that a license may be renewed for a  
40 two-year period pursuant to subsection M of this section if no compliance  
41 penalties have been issued to that location during the year before the  
42 renewal. A licensee who fails to renew the license on or before the due date  
43 shall pay a penalty of one hundred fifty dollars, which the licensee shall  
44 pay with the renewal fee. A license renewal that is deposited, properly  
45 addressed and postage prepaid in an official depository of the United States

1 mail on or before the due date shall be deemed filed and received by the  
2 department on the date shown by the postmark or other official mark of the  
3 United States postal service stamped on the envelope. If the due date falls  
4 on a Saturday, Sunday or other legal holiday, the renewal shall be considered  
5 timely if it is received by the department on the next business day. The  
6 director may waive a late renewal penalty if good cause is shown by the  
7 licensee. A licensee who fails to renew the license on or before the due  
8 date may not sell, purchase or otherwise deal in spirituous liquor until the  
9 license is renewed. A license that is not renewed within sixty days after  
10 the due date is deemed terminated. The director may renew the terminated  
11 license if good cause is shown by the licensee. An application fee for an  
12 original license or the transfer of a license shall be one hundred dollars,  
13 which shall be retained by this state.

14 B. Issuance fees for original licenses shall be:

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

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

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

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

23 5. For a government license issued in the name of a state agency,  
24 state commission, state board, county, city, town, community college or state  
25 university or the national guard, one hundred dollars.

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

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

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

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

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

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

4 12. For a restaurant license issued as such, to sell and serve  
5 spirituous liquors solely for consumption on the licensed premises of the  
6 restaurant, one thousand five hundred dollars. FOR A PERMIT ISSUED UNDER  
7 SECTION 4-205.02, SUBSECTION H ALLOWING FOR THE SALE OF BEER FOR THE  
8 CONSUMPTION OFF THE LICENSED PREMISES PURSUANT TO SECTION 4-244, PARAGRAPH  
9 32, SUBDIVISION (c), THE DIRECTOR MAY CHARGE A FEE.

10 13. For a farm winery license, one hundred dollars. The director may  
11 charge a licensed farm winery a fee pursuant to section 4-205.04, subsection  
12 ~~D, E or F~~ L.

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

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

18 16. The department may charge a fee for a craft distiller license.

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

25 D. The annual fees for licenses shall be:

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

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

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

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

34 5. For a government license issued to a county, city or town,  
35 community college or state university or the national guard, one hundred  
36 dollars.

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

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

43 8. For a conveyance license issued to an operating railroad company,  
44 to sell all spirituous liquors in individual portions or in the original  
45 containers on all passenger trains operated by the railroad company, or to an

1 operating airline company, to sell or serve spirituous liquors solely in  
2 individual portions on all passenger planes operated by the airline company,  
3 or to a boat operating in the waters of this state, to sell all spirituous  
4 liquor in individual portions or in the original containers for consumption  
5 on the boat, two hundred twenty-five dollars.

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

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

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

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

20 13. For a farm winery license, one hundred dollars. The director may  
21 charge a licensed farm winery an annual fee pursuant to section 4-205.04,  
22 subsection ~~D, E or F~~ L.

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

26 15. For an out-of-state winery that sells not more than two hundred  
27 forty gallons of wine in this state in a calendar year, twenty-five dollars.

28 16. The director may charge a fee for the annual renewal of a craft  
29 distiller license.

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

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

37 G. Transfer fees from location to location, as provided for in section  
38 4-203, shall be one hundred dollars.

39 H. Assignment fees for a change of agent, as provided for in section  
40 4-202, subsection ~~G~~ A, shall be one hundred dollars, except that where a  
41 licensee holds multiple licenses the assignment fee for the first license  
42 shall be one hundred dollars and the assignment fee for all remaining  
43 licenses transferred to the same **OR A NEW agent, OR WITH THE SAME ACQUIRING**  
44 **PARTY OR PARTIES**, shall be fifty dollars each, except that the aggregate  
45 assignment fees shall in no event exceed one thousand dollars.

1 I. No fee shall be charged by the department for an assignment of a  
 2 liquor license in probate or an assignment pursuant to the provisions of a  
 3 will or pursuant to a judicial decree in a domestic relations proceeding  
 4 ~~which~~ THAT assigns ownership of a business ~~which~~ THAT includes a spirituous  
 5 liquor license to one of the parties in the proceeding. In the case of  
 6 nontransferable licenses no fee shall be charged by the department for the  
 7 issuance of a license for a licensed business pursuant to a transfer of the  
 8 business in probate or pursuant to the provisions of a will or pursuant to a  
 9 judicial decree in a domestic relations proceeding ~~which~~ THAT assigns  
 10 ownership of the business to one of the parties in the proceeding.

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

18 K. The director shall assess a surcharge of thirty-five dollars on all  
 19 licenses prescribed in this section. Monies from the surcharge shall be used  
 20 by the department exclusively for the costs of an enforcement program to  
 21 investigate licensees who have been the subject of multiple complaints to the  
 22 department. The enforcement program shall respond to complaints against  
 23 licensees by neighborhood associations, by neighborhood civic groups and from  
 24 municipal and county governments. The department shall assess the surcharge  
 25 as part of the annual license renewal fee.

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

36 M. Licenses may be renewed every two years with payment of license  
 37 fees that are twice the amount designated in subsection D of this section and  
 38 other applicable fees. Licensees renewing every two years must comply with  
 39 annual reporting requirements. The director may adopt reasonable rules to  
 40 permit licensees to renew every two years.

41 Sec. 11. Section 4-227, Arizona Revised Statutes, is amended to read:

42 4-227. Qualified retail cooperatives; pricing; definitions

43 A. A wholesaler shall sell its product to a qualified retail  
 44 cooperative at prices established by the quantity of spirituous liquor being  
 45 purchased.

1 B. As used in this section:

2 1. "Product" means a particular brand of spirituous liquor in a  
3 designated size container or a mix of brands and containers when sold on a  
4 combined basis established by the wholesaler that is offered on quantity  
5 discount terms established by the wholesaler.

6 2. "Qualified retail cooperative" means a retail cooperative of two **OR**  
7 **MORE** retail licensees **OR LICENSES**.

8 Sec. 12. Section 4-227.01, Arizona Revised Statutes, is amended to  
9 read:

10 4-227.01. Channel pricing; definition

11 A. The wholesaler may employ channel pricing to sell its product to  
12 on-sale licensees at a different price than the wholesaler sells its product  
13 to off-sale licensees. All channel pricing discounts must be:

14 1. Based on the volume of the product delivered within a twenty-four  
15 hour period.

16 2. Made equally available to each retailer in that retailer's channel.

17 **B. IF AN ESTABLISHMENT HAS MULTIPLE LICENSES AT THE SAME LOCATION AND**  
18 **THE LICENSES ARE NOT FROM THE SAME CHANNEL, THE SPIRITUOUS LIQUOR SHALL BE**  
19 **SOLD UNDER THE CHANNEL THAT REPRESENTS THE PRIMARY USE OF THE PREMISES.**

20 ~~B.~~ C. For the purposes of this section, "product" means a particular  
21 brand of spirituous liquor in a designated size container or a mix of brands  
22 and containers when sold on a combined basis as established by the wholesaler  
23 that is offered in quantity discount terms established by the wholesaler.

24 Sec. 13. Section 4-243, Arizona Revised Statutes, is amended to read:

25 4-243. Commercial coercion or bribery unlawful; exceptions

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

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

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

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

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

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

- 1           6. To guarantee a loan or repayment of a financial obligation of the  
2 retailer.
- 3           7. To extend credit to the retailer on a sale of spirituous liquor.
- 4           8. To require the retailer to take and dispose of a certain quota of  
5 spirituous liquor.
- 6           9. To offer or give a bonus, a premium or compensation to the retailer  
7 or any of the retailer's officers, employees or representatives.
- 8           B. This section does not prohibit any distiller, vintner, brewer,  
9 rectifier, blender or other producer or wholesaler of any spirituous liquor  
10 from:
- 11           1. Giving financial and other forms of event sponsorship assistance to  
12 nonprofit or charitable organizations for purposes of charitable fund-raising  
13 that are issued special event licenses by the department. This section does  
14 not prohibit suppliers from advertising their sponsorship at such special  
15 events.
- 16           2. Providing samples to retail consumers at on-sale premises  
17 establishments according to the following procedures:
- 18           (a) Sampling operations shall be conducted under the supervision of an  
19 employee of the sponsoring producer or wholesaler.
- 20           (b) Sampling shall be limited to twelve ounces of beer or cooler  
21 products, six ounces of wine or two ounces of distilled spirits per person  
22 per brand.
- 23           (c) If requesting the on-sale retailer to prepare a drink for the  
24 consumer, the producer's or wholesaler's representative shall pay the  
25 retailer for the sample drink.
- 26           (d) The producer or wholesaler may not buy the on-sale retailer or the  
27 retailer's employees a drink during their working hours or while they are  
28 engaged in waiting on or serving customers.
- 29           (e) The producer or wholesaler may not give a keg of beer or any  
30 spirituous liquor or any other gifts or benefits to the on-sale retailer.
- 31           (f) All sampling procedures shall comply with federal sampling laws  
32 and regulations.
- 33           3. Providing samples to retail consumers on an off-sale retailer's  
34 premises according to the following procedures:
- 35           (a) Sampling shall be conducted by an employee of the sponsoring  
36 producer or wholesaler.
- 37           (b) The producer or wholesaler shall notify the department in writing  
38 or by electronic means not less than ~~ten~~ FIVE days before the sampling of the  
39 date, time and location of the sampling and of the name of the wholesaler or  
40 producer distributing the product.
- 41           (c) Sampling shall be limited to three ounces of beer, one and  
42 one-half ounces of wine or one ounce of distilled spirits per person per day  
43 for consumption on the premises and up to seventy-two ounces of beer and two  
44 ounces of distilled spirits per person per day for consumption off the  
45 premises.

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

4 (e) Sampling shall be limited to ~~one wholesaler~~ TWO WHOLESALERS or  
5 ~~producer~~ PRODUCERS at any one off-sale retailer's premises on any day and  
6 shall not exceed three hours on any day PER APPROVED SAMPLING.

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

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

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

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

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

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

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

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

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

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

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

2           4-244. Unlawful acts

3           It is unlawful:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 20. For a person to consume spirituous liquor in a public place,  
43 thoroughfare or gathering. The license of a licensee permitting a violation  
44 of this paragraph on the premises shall be subject to revocation. This  
45 paragraph does not apply to the sale of spirituous liquors on the premises of

1 and by an on-sale retailer. This paragraph also does not apply to a person  
2 consuming beer from a broken package in a public recreation area or on  
3 private property with permission of the owner or lessor or on the walkways  
4 surrounding such private property or to a person consuming beer or wine from  
5 a broken package in a public recreation area as part of a special event or  
6 festival that is conducted under a license secured pursuant to section  
7 4-203.02 or 4-203.03.

8 21. For a person to have possession of or to transport spirituous  
9 liquor ~~which~~ THAT is manufactured in a distillery, winery, brewery or  
10 rectifying plant contrary to the laws of the United States and this state.  
11 Any property used in transporting such spirituous liquor shall be forfeited  
12 to the state and shall be seized and disposed of as provided in section  
13 4-221.

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

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

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

40 (i) An active duty military service member.

41 (ii) A veteran.

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

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

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

3 23. For an on-sale retailer or employee to conduct drinking contests,  
4 to sell or deliver to a person an unlimited number of spirituous liquor  
5 beverages during any set period of time for a fixed price, to deliver more  
6 than ~~forty~~ FIFTY ounces of beer, one liter of wine or four ounces of  
7 distilled spirits in any spirituous liquor drink to one person at one time  
8 for that person's consumption or to advertise any practice prohibited by this  
9 paragraph. The provisions of this paragraph do not prohibit an on-sale  
10 retailer or employee from selling and delivering an opened, original  
11 container of distilled spirits if:

12 (a) Service or pouring of the spirituous liquor is provided by an  
13 employee of the on-sale retailer.

14 (b) The employee of the on-sale retailer monitors consumption to  
15 ensure compliance with this paragraph. Locking devices may be used, but are  
16 not required.

17 24. For a licensee or employee to knowingly permit the unlawful  
18 possession, use, sale or offer for sale of narcotics, dangerous drugs or  
19 marijuana on the premises. As used in this paragraph, "dangerous drug" has  
20 the same meaning prescribed in section 13-3401.

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

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

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

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

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

39 (a) Hotel or motel guest room accommodations.

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

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

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

11           (a) Hotel or motel guest room accommodations.

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

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

17           31. For any person in possession of a firearm while on the licensed  
18 premises of an on-sale retailer to consume spirituous liquor. This paragraph  
19 does not prohibit the consumption of small amounts of spirituous liquor by an  
20 undercover peace officer on assignment to investigate the licensed  
21 establishment.

22           32. For a licensee or employee to knowingly permit spirituous liquor to  
23 be removed from the licensed premises, except in the original unbroken  
24 package. This paragraph does not apply to any of the following:

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

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

34           (c) A LICENSEE OF a bar, beer and wine bar, liquor store, beer and  
35 wine store, ~~or~~ microbrewery ~~licensee~~ OR RESTAURANT THAT HAS A PERMIT PURSUANT  
36 TO SECTION 4-205.02, SUBSECTION H who dispenses beer only in a clean  
37 container composed of a material approved by a national sanitation  
38 organization with a maximum capacity that does not exceed one gallon and not  
39 for consumption on the premises if:

40           (i) The licensee or the licensee's employee fills the container at the  
41 tap at the time of sale.

42           (ii) The container is sealed ~~with a plastic adhesive~~ and displays a  
43 government warning label.

44           (iii) The dispensing of that beer is not done through a drive-through  
45 or walk-up service window.

~~1 The department shall review the effects of this subdivision and submit a  
2 report by July 1, 2015 on the effects of this subdivision to the governor,  
3 the speaker of the house of representatives and the president of the senate.  
4 The department shall provide a copy of this report to the secretary of state.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 43. For a person to purchase, offer for sale or use any device, machine  
12 or process ~~which~~ THAT mixes spirituous liquor with pure oxygen or another gas  
13 to produce a vaporized product for the purpose of consumption by inhalation  
14 or to allow patrons to use any item for the consumption of vaporized  
15 spirituous liquor.

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

19 45. Except as authorized by paragraph 32, subdivision (c) of this  
20 section, for a person to reuse a bottle or other container authorized for use  
21 by the laws of the United States or any agency of the United States for the  
22 packaging of distilled spirits or for a person to increase the original  
23 contents or a portion of the original contents remaining in a liquor bottle  
24 or other authorized container by adding any substance.

25 Sec. 15. Section 4-251, Arizona Revised Statutes, is amended to read:

26 4-251. Spirituous liquor in motor vehicles: prohibitions:  
27 violation; classification; exceptions; definitions

28 A. It is unlawful for any person to:

29 1. Consume spirituous liquor while operating or while within the  
30 passenger compartment of a motor vehicle that is located on any public  
31 highway or right-of-way of a public highway in this state.

32 2. Possess an open container of spirituous liquor within the passenger  
33 compartment of a motor vehicle that is located on any public highway or  
34 right-of-way of a public highway in this state.

35 B. A person who violates subsection A of this section is guilty of a  
36 class 2 misdemeanor.

37 C. This section does not apply to:

38 1. A passenger in any bus, limousine, ~~or~~ taxi OR TRANSPORTATION  
39 NETWORK COMPANY VEHICLE AS DEFINED IN SECTION 28-9551 WHILE THE VEHICLE IS  
40 BEING USED TO PROVIDE TRANSPORTATION NETWORK SERVICES AS DEFINED IN SECTION  
41 28-9551.

42 2. A passenger in the living quarters of a motor home as defined in  
43 section 28-4301.

1           3. A PERSON WHO REMOVES A CONTAINER OF BEER FROM A BAR, BEER AND WINE  
2 BAR, LIQUOR STORE, BEER AND WINE STORE, MICROBREWERY OR RESTAURANT THAT HAS A  
3 PERMIT PURSUANT TO SECTION 4-205.02, SUBSECTION H THAT IS DISPENSED PURSUANT  
4 TO SECTION 4-244, PARAGRAPH 32, SUBDIVISION (c).

5           D. For the purposes of this section:

6           1. "Motor vehicle" means any vehicle that is driven or drawn by  
7 mechanical power and that is designed primarily for use on public highways.  
8 Motor vehicle does not include a vehicle operated exclusively on rails.

9           2. "Open container" means any bottle, can, jar or other receptacle  
10 that contains spirituous liquor and that has been opened, has had its seal  
11 broken or the contents of which have been partially removed.

12           3. "Passenger compartment" means the area of a motor vehicle designed  
13 for the seating of the driver and other passengers of the vehicle. Passenger  
14 compartment includes an unlocked glove compartment and any unlocked portable  
15 devices within the immediate reach of the driver or any passengers. Passenger  
16 compartment does not include the trunk, a locked glove compartment or the  
17 area behind the last upright seat of a motor vehicle that is not equipped  
18 with a trunk.

19           4. "Public highway or right-of-way of a public highway" means the  
20 entire width between and immediately adjacent to the boundary lines of every  
21 way maintained by the federal government, this state or a county, city or  
22 town if any part of the way is generally open to the use of the public for  
23 purposes of vehicular travel.