

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SENATE BILL 1460

AN ACT

AMENDING SECTIONS 4-112, 4-119, 4-201, 4-203, 4-203.02, 4-205.02, 4-205.05 AND 4-205.06, ARIZONA REVISED STATUTES; AMENDING SECTIONS 4-206.01, 4-207, 4-207.01, 4-210.01, 4-224, 4-229, 4-241, 4-244, 4-244.05, 4-262 AND 9-500.06, ARIZONA REVISED STATUTES; AMENDING LAWS 2010, CHAPTER 85, SECTION 4; RELATING TO ALCOHOLIC BEVERAGES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

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

7 A. The board shall:

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

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

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

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

14 1. Adopting rules:

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

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

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

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

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

26 2. Employing necessary personnel and fixing their compensation.

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

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

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

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

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

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

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

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

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

25 G. The director may:

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

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

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

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

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

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

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

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

4 9. Accept and expend private grants of monies, gifts and devises for
5 conducting educational programs for parents and students on the repercussions
6 of underage alcohol consumption. State general fund monies shall not be
7 expended for the purposes of this paragraph. If the director does not
8 receive sufficient monies from private sources to carry out the purposes of
9 this paragraph, the director shall not provide the educational programs
10 prescribed in this paragraph. Grant monies received pursuant to this
11 paragraph are nonlapsing and do not revert to the state general fund at the
12 close of the fiscal year.

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

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

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

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

24 4-119. Records

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

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

33 4-201. Licensing; application procedure in city, town or
34 county; burden of proof

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

38 B. A person desiring a license within an incorporated city or town
39 shall make the application in triplicate and shall file the copies with the
40 director. The director shall remit two copies to the city or town clerk.
41 The city or town clerk shall immediately file one copy in the clerk's office
42 and post the other for a period of twenty days in a conspicuous place on the
43 front of the premises where the business is proposed to be conducted, with a
44 statement requiring any NATURAL person who is a bona fide resident residing
45 or owning or leasing property within a one mile radius from the premises

1 proposed to be licensed, and who is in favor of or opposed to the issuance of
2 the license, to file written arguments in favor of or opposed to THE issuance
3 of the license with the clerk within twenty days after the date of posting.
4 THE WRITTEN ARGUMENT SHALL CONTAIN THE NATURAL PERSON'S COMPLETE NAME, STREET
5 ADDRESS OR POST OFFICE BOX ADDRESS AND WRITTEN OR ELECTRONIC SIGNATURE. IF
6 THE WRITTEN ARGUMENTS ARE FILED BY A PERSON ON BEHALF OF A CORPORATION OR
7 OTHER LEGAL ENTITY OR ASSOCIATION, THE WRITTEN ARGUMENTS MUST BE ACCOMPANIED
8 BY A COPY OF THE ENTITY'S ORGANIZING DOCUMENT, A DESIGNATION OF THE OFFICE OR
9 POSITION THAT THE PERSON HOLDS WITHIN THE ORGANIZATION AND A COPY OF THE
10 WRITTEN APPOINTMENT OF THE PERSON TO SPEAK ON BEHALF OF THE ORGANIZATION. IF
11 THE WRITTEN ARGUMENTS ARE FILED BY A NEIGHBORHOOD ASSOCIATION, BLOCK WATCH OR
12 OTHER UNINCORPORATED ASSOCIATION, WRITTEN ARGUMENTS MUST BE ACCOMPANIED BY A
13 LETTER OF AUTHORITY DESIGNATING THAT PERSON AS A SPOKESPERSON. The posting
14 shall contain substantially the following:

15 Notice

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

19 The local governing body will recommend to the state liquor
20 board whether the board should grant or deny the license. The
21 state liquor board may hold a hearing to consider the
22 recommendation of the local governing body. Any person residing
23 or owning or leasing property within a one-mile radius may
24 contact the state liquor board in writing to register as a
25 protestor. To request information regarding procedures before
26 the board and notice of any board hearings regarding this
27 application, contact the state liquor board at:

28 (Insert address and telephone number).

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

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

44 D. If a person applies for a license to conduct a spirituous liquor
45 business outside an incorporated city or town, the director shall remit two

1 copies of the application to the clerk of the board of supervisors of the
2 county where the applicant desires to do business, and the proceedings by the
3 clerk and board of supervisors shall be as provided for cities and towns.

4 E. Upon receipt of an application for a spirituous liquor license, the
5 director shall set the application for hearing by the board upon a date
6 following the expiration of the time fixed for the submitting of the
7 certified order by the governing body of the city or town or the board of
8 supervisors. If the city or town or the county recommends approval of the
9 license no hearing is required unless the director, the board or any
10 aggrieved party requests a hearing on the grounds that the public convenience
11 and the best interest of the community will not be substantially served if a
12 license is issued. Any NATURAL person residing or owning or leasing property
13 within a one mile radius of the proposed location may file a written protest
14 with the director no later than fifteen calendar days following action by the
15 local governing body or sixty days after filing the application. THE WRITTEN
16 ARGUMENT SHALL CONTAIN THE NATURAL PERSON'S COMPLETE NAME, STREET ADDRESS OR
17 POST OFFICE BOX ADDRESS AND WRITTEN OR ELECTRONIC SIGNATURE. IF THE WRITTEN
18 ARGUMENTS ARE FILED BY A PERSON ON BEHALF OF A CORPORATION OR OTHER LEGAL
19 ENTITY OR ASSOCIATION, THE WRITTEN ARGUMENTS MUST BE ACCOMPANIED BY A COPY OF
20 THE ENTITY'S ORGANIZING DOCUMENT, A DESIGNATION OF THE OFFICE OR POSITION
21 THAT THE PERSON HOLDS WITHIN THE ORGANIZATION AND A COPY OF THE WRITTEN
22 APPOINTMENT OF THE PERSON TO SPEAK ON BEHALF OF THE ORGANIZATION. IF THE
23 WRITTEN ARGUMENTS ARE FILED BY A NEIGHBORHOOD ASSOCIATION, BLOCK WATCH OR
24 OTHER UNINCORPORATED ASSOCIATION, WRITTEN ARGUMENTS MUST BE ACCOMPANIED BY A
25 LETTER OF AUTHORITY DESIGNATING THAT PERSON AS A SPOKESPERSON. If no hearing
26 is requested by the director, the board or any aggrieved party, the
27 application may be approved by the director. If the recommendation is for
28 disapproval of an application or if no recommendation is received, the board
29 shall hold a hearing. If the city, town or county recommends approval of the
30 license pursuant to subsection C OF THIS SECTION, the director may cancel the
31 hearing and issue the license unless the board or any aggrieved party
32 requests a hearing. IF THE REASON FOR THE PROTEST IS CLEARLY REMOVED OR
33 SATISFIED THE DIRECTOR MAY REQUEST THE BOARD CANCEL THE HEARING. The
34 certified order, the reasons contained in the order and the summary of the
35 testimony and other evidence supporting the city, town or county disapproval
36 of the recommendation shall be read into the record before the board and
37 shall be considered as evidence by the board. The board shall consider the
38 certified order together with other facts and a report of the director
39 relating to the qualifications of the applicant. If the governing body of
40 the city or town or the board of supervisors fails to return to the director,
41 as provided in subsections C and D OF THIS SECTION, its order of approval or
42 disapproval, the board shall proceed with further consideration of the
43 application by holding an administrative hearing. An application shall be
44 approved or disapproved within one hundred five days after filing of the
45 application. IF, AFTER A HEARING BY THE BOARD WHERE A LICENSE HAS BEEN

1 APPROVED, A FORMAL WRITTEN ORDER IS NOT ENTERED WITHIN THIRTY DAYS AFTER THE
2 HEARING, THE DECISION OF THE BOARD SHALL BE DEEMED ENTERED ON THE THIRTIETH
3 DAY AFTER THE HEARING.

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

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

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

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

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

37 Sec. 4. Section 4-203, Arizona Revised Statutes, is amended to read:
38 4-203. Licenses; issuance; transfer; reversion to state

39 A. A spirituous liquor license shall be issued only after satisfactory
40 showing of the capability, qualifications and reliability of the applicant
41 and, with the exception of WHOLESALER, PRODUCER, GOVERNMENT OR club
42 licensees, that the public convenience requires and that the best interest of
43 the community will be substantially served by the issuance. IF AN
44 APPLICATION IS FILED FOR THE ISSUANCE OF A NONTRANSFERABLE LICENSE, OTHER
45 THAN FOR A MICROBREWERY LICENSE OR A DOMESTIC FARM WINERY LICENSE, FOR A

1 LOCATION THAT ON THE DATE THE APPLICATION IS FILED HAS A VALID LICENSE OF THE
2 SAME SERIES ISSUED AT THAT LOCATION, THERE SHALL BE A REBUTTABLE PRESUMPTION
3 THAT THE PUBLIC CONVENIENCE AND BEST INTEREST OF THE COMMUNITY AT THAT
4 LOCATION WAS ESTABLISHED AT THE TIME THE LOCATION WAS PREVIOUSLY LICENSED.
5 THE PRESUMPTION MAY BE REBUTTED BY COMPETENT CONTRARY EVIDENCE. THE
6 PRESUMPTION SHALL NOT APPLY ONCE THE LICENSED LOCATION HAS NOT BEEN IN USE
7 FOR MORE THAN ONE HUNDRED EIGHTY DAYS AND THE PRESUMPTION SHALL NOT EXTEND TO
8 THE PERSONAL QUALIFICATIONS OF THE APPLICANT.

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

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

15 2. The place of business for which issued.

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

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

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

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

42 F. If a person other than those persons originally licensed acquires
43 control over a license or licensee, the person shall file notice of the
44 acquisition with the director within ~~fifteen~~ THIRTY business days after such
45 acquisition of control and a list of officers, directors or other controlling

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

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

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

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

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

41 I. If subsection H of this section applies, the licensee's history of
42 violations of this title is the history of the new business entity. The
43 director may prescribe a form and shall require the applicant to provide the
44 necessary information to ensure compliance with this subsection and
45 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, ~~nonretail~~
16 Arizona licensees may transport spirituous liquors for themselves in vehicles
17 owned, 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 Sec. 5. Section 4-203.02, Arizona Revised Statutes, is amended to
40 read:

41 4-203.02. Special event license; rules

42 A. The director may, subject to the approval of the board of
43 supervisors of a county for events to be held in an unincorporated area or
44 the governing body of a city or town for events to be held in a city or town,
45 issue on a temporary basis:

1 1. A daily on-sale special event license authorizing the sale of
2 spirituous liquor for consumption on the premises where sold. The fee for
3 the license is twenty-five dollars per day. The director shall transfer the
4 monies collected to the department of health services for the purpose
5 prescribed in title 36, chapter 18, article 2.

6 2. A daily off-sale special event license authorizing a charitable
7 auction for the sale of spirituous liquor for consumption off premises.

8 B. The director may only issue the special event license to a
9 political party or campaign committee supporting a candidate for public
10 office or a ballot measure, an organization formed for a specific charitable
11 or civic purpose, a fraternal organization in existence for over five years
12 with a regular membership or a religious organization.

13 C. An organization selling spirituous liquor under a special event
14 license pursuant to subsection A, paragraph 1 of this section shall purchase
15 such spirituous liquor from the holder of a license authorized to sell
16 off-sale, or, in the case of a nonprofit organization which has obtained a
17 special event license for the purpose of charitable fund raising activities,
18 the nonprofit organization may receive the spirituous liquor from a
19 wholesaler as a donation, except that a licensee licensed pursuant to
20 subsection A, paragraph 2 of this section may receive spirituous liquor from
21 a donor when the donor receives no remuneration or payment of any kind,
22 directly or indirectly, other than any tax benefits that might result.

23 D. An organization that is issued a license pursuant to subsection A,
24 paragraph 2 of this section shall receive at least seventy-five per cent of
25 the gross receipts of the auction. Up to twenty-five per cent of the gross
26 receipts of a special event auction conducted pursuant to subsection A,
27 paragraph 2 of this section may be used to pay reasonable and necessary
28 expenses incurred in connection with the auction. All expenses shall be
29 supported by written contracts, invoices or receipts, which shall be made
30 available to the director on request.

31 E. The director may adopt those rules the director determines are
32 necessary to implement and administer this section including a limitation on
33 the number of times during a calendar year a qualified organization may apply
34 for and be issued a license under this section. The qualified organization
35 issued a license pursuant to subsection A, paragraph 1 of this section must
36 receive at least twenty-five per cent of the gross revenues of the special
37 events, which shall be supported by a contract between the parties to be
38 supplied at the time of application.

39 F. An organization that is issued a license pursuant to subsection A,
40 paragraph 2 of this section shall not sell more than twenty cases of
41 spirituous liquor annually under a special event license.

42 G. Section 4-201 does not apply to the licenses provided for under
43 this section.

44 H. A LICENSED WHOLESALER MAY DONATE SPIRITUOUS LIQUOR DIRECTLY TO AN
45 ORGANIZATION THAT IS ISSUED A LICENSE PURSUANT TO SUBSECTION A. THE LICENSED

1 WHOLESALER SHALL IN SUCH INSTANCES ISSUE A NET ZERO COST BILLING INVOICE IN
2 THE NAME OF THE SPECIAL EVENT LICENSEE. ALL LICENSEES MAKING OR RECEIVING
3 SPIRITUOUS LIQUOR DONATIONS REMAIN SUBJECT TO THE APPLICABLE LIMITATIONS AND
4 REQUIREMENTS SET FORTH IN THIS TITLE AND IN THE RULES PROMULGATED BY THE
5 DEPARTMENT.

6 I. A LICENSED WHOLESALER MAY TEMPORARILY LEAVE A DELIVERY VEHICLE AND
7 OTHER ITEMS OF EQUIPMENT NECESSARY FOR THE SALE OR SERVICE OF SPIRITUOUS
8 LIQUOR ON THE PREMISES OF A LICENSED SPECIAL EVENT FOR THE DURATION OF THE
9 EVENT AND UP TO ONE BUSINESS DAY BEFORE AND AFTER THE EVENT.

10 J. A LICENSED WHOLESALER MAY LEAVE SPIRITUOUS LIQUOR PRODUCTS AT A
11 SPECIAL EVENT IF THE PRODUCTS ARE PROPERLY DESCRIBED ON A PRELIMINARY BILLING
12 INVOICE FROM THE WHOLESALER THAT IS ISSUED IN THE NAME OF THE OFF-SALE
13 RETAILER WHICH ALSO NAMES THE SPECIAL EVENT LICENSEE. THE LICENSED
14 WHOLESALER HAS UP TO FIVE BUSINESS DAYS AFTER THE SPECIAL EVENT ENDS TO MAKE
15 ANY NECESSARY BILLING ADJUSTMENTS AND ISSUE A FINAL BILLING INVOICE TO THE
16 OFF-SALE RETAILER WHICH ALSO NAMES THE SPECIAL EVENT LICENSEE.

17 Sec. 6. Section 4-205.02, Arizona Revised Statutes, is amended to
18 read:

19 4-205.02. Restaurant license; issuance; regulatory provisions;
20 expiration; definitions

21 A. The director may issue a restaurant license to any restaurant in
22 this state that is regularly open for the serving of food to guests for
23 compensation and that has suitable kitchen facilities connected with the
24 restaurant for keeping, cooking and preparing foods required for ordinary
25 meals.

26 B. The director shall issue the license in the name of the restaurant
27 upon application for the license by the owner or lessee of the restaurant,
28 provided the applicant is otherwise qualified to hold a spirituous liquor
29 license. The holder of such license is subject to the penalties prescribed
30 for any violation of the law relating to alcoholic beverages.

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

40 D. In addition to other grounds prescribed in this title on which a
41 license may be revoked, the director may require the holder of a restaurant
42 license issued pursuant to this section to surrender the license in any case
43 in which the licensee ceases to operate as a restaurant, as prescribed in
44 subsection A of this section. The surrender of a license pursuant to this
45 subsection does not prevent the director from revoking the license for other

1 grounds prescribed in this title or for making deliberate material
2 misrepresentations to the department regarding the licensee's equipment,
3 service or entertainment items or seating capacity in applying for the
4 restaurant license.

5 E. Neither the director nor the board may initially issue a restaurant
6 license if either finds that there is sufficient evidence that the operation
7 will not satisfy the criteria adopted by the director for issuing a
8 restaurant license described in section 4-209, subsection B, paragraph 12.
9 The director shall issue a restaurant license only if the applicant has
10 submitted a plan for the operation of the restaurant. The plan shall be
11 completed on forms provided by the department and shall include listings of
12 all restaurant equipment and service items, the restaurant seating capacity
13 and other information requested by the department to substantiate that the
14 restaurant will operate in compliance with this section.

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

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

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

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

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

32 Sec. 7. Section 4-205.05, Arizona Revised Statutes, is amended to
33 read:

34 4-205.05. Permit to dispose of seized liquor

35 A. The ~~board~~ DIRECTOR may issue a temporary permit authorizing the
36 disposal at public auction of spirituous liquor ~~which~~ THAT has been seized by
37 any agency of this state, the federal government or any political subdivision
38 of this state or the federal government pursuant to statute. A bid at a
39 public auction shall not be accepted from a licensee if the spirituous
40 liquors offered for sale at the auction were seized from that licensee. The
41 ~~board~~ DIRECTOR shall issue the permit only if presented with proper documents
42 of seizure by the appropriate official. THE DIRECTOR MAY DISPOSE OF SEIZED
43 SPIRITUOUS LIQUOR IN WHOLE OR IN PART BY PROVIDING THE SPIRITUOUS LIQUOR TO
44 LAW ENFORCEMENT FOR TRAINING PURPOSES ONLY.

1 B. SPIRITUOUS LIQUOR WITH A STATED EXPIRATION DATE ON THE LABEL SHALL
2 NOT BE OFFERED FOR SALE AT PUBLIC AUCTION AND SHALL EITHER BE DESTROYED OR
3 DISPOSED OF AS PROVIDED IN THIS SECTION. THE LICENSED WHOLESALER THAT
4 DISTRIBUTES THE SPIRITUOUS LIQUOR BRAND IN THAT SALES TERRITORY MAY, BUT IS
5 NOT REQUIRED TO, ACCEPT A RETURN OF THE LIQUOR AT NO COST FOR DISPOSAL OR TO
6 ENABLE IT TO BE RETURNED TO THE SUPPLIER.

7 Sec. 8. Section 4-205.06, Arizona Revised Statutes, is amended to
8 read:

9 4-205.06. Hotel or motel minibars; rules; definitions

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

14 ~~1. Access to a minibar in a particular guest room is provided, whether~~
15 ~~by furnishing a key, magnetic card or similar device, only to a registered~~
16 ~~guest of legal drinking age, if any, registered to stay in the guest room,~~
17 ~~and the key, magnetic card or similar device is not furnished to a guest~~
18 ~~between the hours of 1:00 a.m. and 6:00 a.m.~~

19 ~~2.~~ 1. Before providing a key, magnetic card or other similar device
20 required to attain access to the minibar in a particular guest room to the
21 registered guest, or before otherwise providing access to the minibar to the
22 registered guest, the licensee verifies that each registered guest to whom a
23 key, magnetic card or similar device is provided or to whom access is
24 otherwise provided is not a person under the legal drinking age.

25 ~~3.~~ 2. All employees handling the spirituous liquors to be placed in
26 the minibar in any guest room, including an employee who inventories or
27 restocks and replenishes the spirituous liquors in the minibar, are at least
28 nineteen years of age.

29 ~~4.~~ 3. The minibar is not replenished or restocked with spirituous
30 liquor between the hours of ~~1:00~~ 2:00 a.m. and 6:00 a.m.

31 ~~5.~~ 4. The minibar is located on the premises of a person who has been
32 issued an on-sale retailer's license.

33 ~~6.~~ 5. The minibar contains no more than thirty individual portions of
34 spirituous liquor at any one time.

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

40 C. The director may prescribe rules to regulate the use of a minibar
41 including rules on the size of containers of spirituous liquors and may by
42 rule reduce from thirty the number of containers of spirituous liquor placed
43 in the minibar.

1 D. For the purposes of this section:

2 1. "Hotel" or "motel" means an establishment that is licensed to sell
3 spirituous liquors and that contains guest room accommodations with respect
4 to which the predominant relationship existing between the occupants of the
5 rooms and the owner or operator of the establishment is that of innkeeper and
6 guest. For the purposes of this paragraph, the existence of other legal
7 relationships as between some occupants and the owner or operator is
8 immaterial.

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

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

15 4-206.01. Bar, beer and wine bar or liquor store licenses;
16 number permitted; fee; sampling privileges

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

20 B. In each county, the director shall issue additional bar, beer and
21 wine bar or liquor store licenses at the rate of one of each type for each
22 additional ten thousand person increase over the population in that county as
23 of July 1, 2010. For THE purposes of this subsection, the population of a
24 county is deemed to be the population estimated by the ~~department of economic~~
25 ~~security~~ OFFICE OF EMPLOYMENT AND POPULATION STATISTICS WITHIN THE ARIZONA
26 DEPARTMENT OF ADMINISTRATION as of July 1 of each year.

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

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

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

41 F. After January 1, 2011, bar licenses and beer and wine bar licenses
42 shall be issued and used only if the clear primary purpose and actual primary
43 use is for on-sale retailer privileges. The off-sale privileges associated
44 with a bar license and a beer and wine bar license shall be limited to
45 ~~a-minor~~ use, which is clearly auxiliary to the ACTIVE primary on-sale

1 privilege. A bar license or a beer and wine bar license shall not be issued
2 or used if the associated off-sale use, by total retail SPIRITUOUS liquor
3 sales, exceeds ~~ten~~ THIRTY per cent of the sales price of on-sale spirituous
4 liquors by the licensee at that location. FOR DUAL LICENSES ISSUED PURSUANT
5 TO A SINGLE SITE OR WHERE A SECOND LICENSE IS ISSUED TO A SITE WHICH ALREADY
6 HAS A SPIRITUOUS LIQUOR LICENSE, OTHER THAN SETTLEMENT LICENSES ISSUED
7 PURSUANT TO LAWS 2010, CHAPTER 85, SECTION 4, AS AMENDED BY THIS ACT, THE
8 APPLICANT SHALL HAVE THE BURDEN OF ESTABLISHING THAT PUBLIC CONVENIENCE AND
9 THE BEST INTEREST OF THE COMMUNITY WILL BE SERVED BY THE ISSUANCE OF THE
10 LICENSE.

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

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

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

39 J. An applicant for a liquor store license or A BEER AND WINE STORE
40 LICENSE AND the licensee of a liquor store license OR A BEER AND WINE STORE
41 LICENSE may apply for sampling privileges associated with the license. A
42 BEER AND WINE STORE PREMISES SHALL CONTAIN AT LEAST FIVE THOUSAND SQUARE FEET
43 IN ORDER TO BE ELIGIBLE FOR SAMPLING PRIVILEGES. A person desiring a
44 sampling privilege associated with a liquor store license shall apply to the
45 director on a form prescribed and furnished by the director. The application

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

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

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

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

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

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

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

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

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

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

40 L. THE DIRECTOR MAY ISSUE A BEER AND WINE STORE LICENSE TO THE HOLDER
41 OF A BAR LICENSE SIMULTANEOUSLY AT THE SAME PREMISES. AN APPLICANT FOR A
42 BEER AND WINE STORE LICENSE AND A BAR LICENSE MAY CONSOLIDATE THE APPLICATION
43 AND MAY APPLY FOR BOTH LICENSES AT THE SAME TIME. THE HOLDER OF EACH LICENSE
44 SHALL FULLY COMPLY WITH ALL APPLICABLE PROVISIONS OF THIS TITLE. A BEER AND
45 WINE STORE LICENSE AND A BAR LICENSE ON THE SAME PREMISES SHALL BE OWNED BY

1 AND ISSUED TO THE SAME LICENSEE. IF A BEER AND WINE STORE LICENSE AND A BAR
2 LICENSE ARE ISSUED AT THE SAME PREMISES, FOR PURPOSES OF REPORTING LIQUOR
3 PURCHASES UNDER EACH LICENSE, ALL OFF-SALE BEER AND WINE SALES ARE
4 CONCLUSIVELY PRESUMED TO BE PURCHASED UNDER THE BEER AND WINE STORE LICENSE.

5 Sec. 10. Section 4-207, Arizona Revised Statutes, is amended to read:
6 4-207. Restrictions on licensing premises near school or church
7 buildings; definitions

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

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

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

27 this article.

28 C. Notwithstanding subsection A of this section:

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

38 2. A person may be issued a spirituous liquor license pursuant to
39 sections 4-201, 4-202 and 4-203 of the same class for premises which have a
40 nontransferable spirituous liquor license validly issued if the premises are,
41 on the date an application for such license is filed, within three hundred
42 horizontal feet of a church, within three hundred horizontal feet of a public
43 or private school building with kindergarten programs or any of grades one
44 through twelve or within three hundred horizontal feet of a fenced
45 recreational area adjacent to such school building and the license remains in

1 full force until the license is terminated in any manner, unless renewed
2 pursuant to section 4-209, subsection A.

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

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

26 5. A PERSON MAY BE ISSUED A BEER AND WINE STORE LICENSE PURSUANT TO
27 SECTIONS 4-201, 4-202, 4-203 AND 4-206.01 FOR PREMISES THAT HAVE A LIQUOR
28 STORE LICENSE VALIDLY ISSUED IF THE PREMISES, ON THE DATE OF AN APPLICATION
29 FOR WHICH SUCH LICENSE IS FILED, ARE WITHIN THREE HUNDRED HORIZONTAL FEET OF
30 A CHURCH, WITHIN THREE HUNDRED HORIZONTAL FEET OF A PUBLIC OR PRIVATE SCHOOL
31 BUILDING WITH KINDERGARTEN PROGRAMS OR ANY OF GRADES ONE THROUGH TWELVE OR
32 WITHIN THREE HUNDRED HORIZONTAL FEET OF A FENCED RECREATION AREA ADJACENT TO
33 SUCH SCHOOL BUILDING AND THE LICENSE REMAINS IN FULL FORCE UNTIL THE LICENSE
34 IS TERMINATED IN ANY MANNER, UNLESS RENEWED PURSUANT TO SECTION 4-209,
35 SUBSECTION A.

36 D. For the purposes of this section:

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

41 2. "Entertainment district" means a specific contiguous area that is
42 designated an entertainment district by a resolution adopted by the governing
43 body of a city or town, that consists of no more than one square mile, that
44 is no less than one-eighth of a mile in width and that contains a significant
45 number of entertainment, artistic and cultural venues, including music halls,

1 concert facilities, theaters, arenas, stadiums, museums, studios, galleries,
2 restaurants, bars and other related facilities.

3 Sec. 11. Section 4-207.01, Arizona Revised Statutes, is amended to
4 read:

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

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

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

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

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

1 Sec. 12. Section 4-210.01, Arizona Revised Statutes, is amended to
2 read:

3 4-210.01. Authority to impose civil penalty; training

4 A. In lieu of or in addition to the suspension or revocation of or
5 refusal to renew a license authorized by section 4-210, subsection A, the
6 director may impose a civil penalty of not less than two hundred nor more
7 than three thousand dollars for each violation. The licensee is entitled to
8 appeal the decision of the director to the board. The board may affirm,
9 modify or reverse the finding and decision of the director and may decrease
10 the civil penalty imposed by the director.

11 B. THE DIRECTOR MAY ESTABLISH PAYMENT OF THE CIVIL PENALTY AS
12 AUTHORIZED IN SUBSECTION A OF THIS SECTION, BY THE LICENSEE IN THE FORM OF A
13 SINGLE PAYMENT OR INSTALLMENT PAYMENTS.

14 ~~B.~~ C. In addition to the imposition of any other penalty authorized
15 by this title, the director may impose a requirement that the licensee or
16 other person attend a training program approved by the department.

17 Sec. 13. Section 4-224, Arizona Revised Statutes, is amended to read:

18 4-224. Local ordinances; prohibitions

19 A city, town or county shall not adopt ordinances or regulations in
20 conflict with the provisions of this title ~~OR ANY RULES ADOPTED PURSUANT TO~~
21 ~~THIS TITLE~~, including, but not limited to, ordinances or regulations
22 pertaining to hours and days of liquor sales and ordinances or regulations
23 that conflict with the definition of restaurant ~~contained in this title~~ IN
24 SECTION 4-205.02. A CITY, TOWN OR COUNTY SHALL NOT LIMIT ANY RIGHT GRANTED
25 BY THE LICENSE, BY THIS TITLE OR BY ANY RULES ADOPTED PURSUANT TO THIS TITLE.
26 A CITY, TOWN OR COUNTY MAY ENFORCE LAWFUL ZONING REQUIREMENTS. ZONING SHALL
27 NOT BE A BASIS FOR PROTESTING OR DENYING A LICENSE UNDER THIS TITLE.

28 Sec. 14. Section 4-229, Arizona Revised Statutes, is amended to read:

29 4-229. Licenses; handguns; posting of notice

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

35 1. Be posted in a conspicuous location accessible to the general
36 public and immediately adjacent to the liquor license posted on the licensed
37 premises.

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

40 3. Contain the words, "no firearms allowed pursuant to A.R.S. section
41 4-229".

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

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

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

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

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

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

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

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

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

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

26 1. Seeking emergency aid.

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

29 Sec. 15. Section 4-241, Arizona Revised Statutes, is amended to read:

30 4-241. Selling or giving liquor to underage person; illegally
31 obtaining liquor by underage person; violation;
32 classification; definitions

33 A. If a licensee, an employee of the licensee or any other person
34 questions or has reason to question that the person ordering, purchasing,
35 attempting to purchase or otherwise procuring or attempting to procure the
36 serving or delivery of spirituous liquor or entering a portion of a licensed
37 premises when the primary use is the sale or service of spirituous liquor is
38 under the legal drinking age, the licensee, employee of the licensee or other
39 person shall do all of the following:

40 1. Demand identification from the person.

41 2. Examine the identification to determine that the identification
42 reasonably appears to be a valid, unaltered identification that has not been
43 defaced.

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

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

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

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

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

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

34 F. It is a defense to a violation of subsection A of this section if
35 the person ordering, purchasing, attempting to purchase or otherwise
36 procuring or attempting to procure the serving or delivery of spirituous
37 liquor or to enter a portion of a licensed premises when the primary use is
38 the sale or service of spirituous liquor is not under the legal drinking age.

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

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

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

3 1. A writing containing the type of identification, the date of
4 issuance of the identification, the name on the identification, the date of
5 birth on the identification and the signature of the person.

6 2. An electronic file or printed document produced by a device that
7 reads the person's age from the identification ~~and that requires the~~
8 ~~signature of the person.~~

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

10 4. A photograph of the identification.

11 5. A digital copy of the identification.

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

18 K. The following written instruments are the only acceptable types of
19 identification:

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

22 2. A nonoperating identification license issued pursuant to section
23 28-3165 or an equivalent form of identification license issued by any state
24 or Canada if the license includes a picture of the person and the person's
25 date of birth.

26 3. An armed forces identification card.

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

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

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

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

42 O. A person who uses a driver or nonoperating identification license
43 in violation of subsection ~~C or E~~ L OR N of this section is subject to
44 suspension of the driver or nonoperating identification license as provided
45 in section 28-3309. A person who does not have a valid driver or

1 nonoperating identification license and who uses a driver or nonoperating
2 identification license of another in violation of subsection C or E of this
3 section has the person's right to apply for a driver or nonoperating
4 identification license suspended as provided by section 28-3309.

5 P. A person who knowingly influences the sale, giving or serving of
6 spirituous liquor to a person under the legal drinking age by misrepresenting
7 the age of such person or who orders, requests, receives or procures
8 spirituous liquor from any licensee, employee or other person with the intent
9 of selling, giving or serving it to a person under the legal drinking age is
10 guilty of a class 1 misdemeanor. A licensee or employee of a licensee who
11 has actual knowledge that a person is under the legal drinking age and who
12 admits the person into any portion of the licensed premises in violation of
13 section 4-244, paragraph 22, ~~is~~ is in violation of this subsection. In
14 addition to other penalties provided by law, a judge may suspend a driver
15 license issued to or the driving privilege of a person for not more than
16 thirty days for a first conviction and not more than six months for a second
17 or subsequent conviction under this subsection.

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

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

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

25 (b) Permanently residing with such person.

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

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

32 S. A peace officer shall forward or electronically transfer to the
33 director of the department of transportation the affidavit required by
34 section 28-3310 if the peace officer has arrested a person for the commission
35 of an offense for which, on conviction, suspension of the license or
36 privilege to operate a motor vehicle is required by section 28-3309,
37 subsection A, B or D, or if the peace officer has confiscated a false
38 identification document used by the person to gain access to licensed
39 premises.

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

42 U. Law enforcement agencies may use persons who are under the legal
43 drinking age to test compliance with this section and section 4-244,
44 paragraph 9 by a licensee if the law enforcement agency has reasonable
45 suspicion that the licensee is violating this section or section 4-244,

1 paragraph 9. A person who is under the legal drinking age and who purchases
2 or attempts to purchase spirituous liquor under the direction of a law
3 enforcement agency pursuant to this subsection is immune from prosecution for
4 that purchase or attempted purchase. Law enforcement agencies may use a
5 person under the legal drinking age pursuant to this subsection only if:

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

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

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

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

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

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

24 V. The department may adopt rules to carry out the purposes of this
25 section.

26 Sec. 16. Section 4-244, Arizona Revised Statutes, is amended to read:

27 4-244. Unlawful acts

28 It is unlawful:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (e) An unpaid volunteer of a special event licensee under section
31 4-203.02 may purchase and consume spirituous liquor while not engaged in
32 waiting on or serving spirituous liquor to customers at the special event.
33 This subdivision does not apply to an unpaid volunteer whose responsibilities
34 include verification of a person's legal drinking age, security or the
35 operation of any vehicle or heavy machinery.

36 14. For a licensee or other person to serve, sell or furnish spirituous
37 liquor to a disorderly or obviously intoxicated person, or for a licensee or
38 employee of the licensee to allow or permit a disorderly or obviously
39 intoxicated person to come into or remain on or about the premises, except
40 that a licensee or an employee of the licensee may allow an obviously
41 intoxicated person to remain on the premises for a period of time of not to
42 exceed thirty minutes after the state of obvious intoxication is known or
43 should be known to the licensee in order that a nonintoxicated person may
44 transport the obviously intoxicated person from the premises. For the
45 purposes of this section, "obviously intoxicated" means inebriated to the

1 extent that a person's physical faculties are substantially impaired and the
2 impairment is shown by significantly uncoordinated physical action or
3 significant physical dysfunction that would have been obvious to a reasonable
4 person.

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

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

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

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

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

26 20. For a person to consume spirituous liquor in a public place,
27 thoroughfare or gathering. The license of a licensee permitting a violation
28 of this paragraph on the premises shall be subject to revocation. This
29 paragraph does not apply to the sale of spirituous liquors on the premises of
30 and by an on-sale retailer. This paragraph also does not apply to a person
31 consuming beer from a broken package in a public recreation area or on
32 private property with permission of the owner or lessor or on the walkways
33 surrounding such private property or to a person consuming beer or wine from
34 a broken package in a public recreation area as part of a special event or
35 festival that is conducted under a license secured pursuant to section
36 4-203.02 or 4-203.03.

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

42 22. For an on-sale retailer or employee to allow a person under the
43 legal drinking age to remain in an area on the licensed premises during those
44 hours in which its primary use is the sale, dispensing or consumption of
45 alcoholic beverages after the licensee, or the licensee's employees, know or

1 should have known that the person is under the legal drinking age. An
2 on-sale retailer may designate an area of the licensed premises as an area in
3 which spirituous liquor will not be sold or consumed for the purpose of
4 allowing underage persons on the premises if the designated area is separated
5 by a physical barrier and at no time will underage persons have access to the
6 area in which spirituous liquor is sold or consumed. A licensee or an
7 employee of a licensee may require a person who intends to enter a licensed
8 premises or a portion of a licensed premises where persons under the legal
9 drinking age are prohibited under this section to exhibit a written
10 instrument of identification that is acceptable under section 4-241 as a
11 condition of entry. The director, or a municipality, may adopt rules to
12 regulate the presence of underage persons on licensed premises provided the
13 rules adopted by a municipality are more stringent than those adopted by the
14 director. The rules adopted by the municipality shall be adopted by local
15 ordinance and shall not interfere with the licensee's ability to comply with
16 this paragraph. This paragraph does not apply:

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

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

23 (i) An active duty military service member.

24 (ii) A veteran.

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

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

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

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

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

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

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

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

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

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

13 (a) Hotel or motel guest room accommodations.

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

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

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

29 (a) Hotel or motel guest room accommodations.

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

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

35 31. For any person in possession of a firearm while on the licensed
36 premises of an on-sale retailer to consume spirituous liquor.

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

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

44 (b) A person who is in licensed premises that have noncontiguous
45 portions that are separated by a public or private walkway or driveway and

1 who takes spirituous liquor from one portion of the licensed premises across
2 the public or private walkway or driveway directly to the other portion of
3 the licensed premises.

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

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

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

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

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

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

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

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

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

41 (a) Pursuant to section 4-249, it is a defense that the spirituous
42 liquor was consumed in connection with the bona fide practice of a religious
43 belief or as an integral part of a religious exercise and in a manner not
44 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 mixes spirituous liquor with pure oxygen or another gas to
13 produce a vaporized product for the purpose of consumption by inhalation.

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

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

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

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

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

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

37 C. In addition to or in lieu of other fines or civil penalties imposed
38 for a violation of this section or any other action taken by the board or
39 director, the board or director may conduct a hearing subject to the
40 requirements of section 4-210, subsection G to determine whether a person has
41 violated subsection A of this section. If the board or director determines,
42 after a hearing, that a person has violated subsection A of this section the
43 board or director may impose a civil penalty of not less than two hundred nor
44 more than five thousand dollars for each offense. A civil penalty imposed
45 pursuant to this section by the director may be appealed to the board.

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

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

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

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

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

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

21 H. A person who obtains property through a violation of this section
22 is deemed to be an involuntary trustee of that property. An involuntary
23 trustee and any other person who obtains the property, except a bona fide
24 purchaser who purchases the property for value without notice of or
25 participation in the unlawful conduct, holds the property, including its
26 proceeds and other assets, in constructive trust for the benefit of the
27 persons entitled to remedies pursuant to section 13-2314 or title 13,
28 chapter 39.

29 I. The board or director may adopt rules authorizing and prescribing
30 limitations for the possession or consumption of spirituous liquor at
31 establishments or premises falling within the scope of subsections A and B of
32 this section. Rules adopted pursuant to this subsection shall authorize the
33 possession or consumption of spirituous liquor only at establishments or
34 premises which permit the consumption or possession of minimal amounts of
35 spirituous liquor and which meet both of the following criteria:

36 1. The possession or consumption of spirituous liquor is permitted
37 only as an incidental convenience to the customers of the establishment or
38 premises.

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

42 J. Any rules adopted pursuant to subsection I of this section shall
43 prescribe:

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

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

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

5 4. That the director, the director's agents and any peace officer
6 empowered to enforce the provisions of this title, in enforcing the
7 provisions of this title, may visit and inspect the establishment or premises
8 during the business hours of the premises or establishment. UNTIL JANUARY 1,
9 2015, THE DIRECTOR MAY CHARGE A FEE FOR THE INSPECTION OF UNLICENSED PREMISES
10 TO REVIEW AN APPLICATION FOR EXEMPTION PURSUANT TO THIS SECTION.

11 K. Any rules adopted pursuant to subsection I of this section may
12 prescribe separate classifications of establishments or premises at which
13 spirituous liquor may be possessed or consumed and may establish any other
14 provisions relating to the possession or consumption of spirituous liquor at
15 establishments or premises falling within the scope of subsections A and B of
16 this section which are necessary to maintain the health and welfare of the
17 community.

18 L. This section does not apply to establishments or premises that are
19 not licensed pursuant to this title and on which occurs the consumption of
20 spirituous liquor if the establishment or premises are owned, operated,
21 leased, managed or controlled by the United States, this state or a city or
22 county of this state.

23 Sec. 18. Section 4-262, Arizona Revised Statutes, is amended to read:
24 4-262. Display of license

25 All ~~on-sale~~ RETAIL licensees shall display the liquor license in a
26 conspicuous public area of the licensed premises that is readily accessible
27 for inspection by any peace officer, distributor, wholesaler or member of the
28 public.

29 Sec. 19. Section 9-500.06, Arizona Revised Statutes, is amended to
30 read:

31 9-500.06. Hospitality industry; discrimination prohibited; use
32 of tax proceeds; exemption; definitions

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

35 1. "Discriminate" means any increase of fees on hospitality industry
36 businesses by any dollar amount on or after April 1, 1990 without a
37 corresponding equal dollar amount of increase in the privilege license fees
38 or other fees imposed on all other businesses in the city or town. ~~For~~
39 ~~purposes of this subsection~~

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

43 B. On or after April 1, 1990, if a city or town establishes a
44 discriminatory transaction privilege tax or increases its existing
45 discriminatory transaction privilege tax on hospitality industry businesses

1 greater than any increase imposed on other types of businesses in the city or
2 town, the proceeds of the established discriminatory transaction privilege
3 tax, except as provided in subsection D, and the proceeds of any increase
4 above the existing discriminatory transaction privilege tax shall be used
5 exclusively by the city or town for the promotion of tourism. For the
6 purposes of this section a tax which is in effect on April 1, 1990 and is
7 subsequently renewed by a majority of qualified electors voting at an
8 election to approve the renewal is not considered a tax increase.

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

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

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

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

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

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

28 E. THE COLLECTION BY A CITY OR TOWN OF A FEE OR TAX PROHIBITED BY THIS
29 SECTION SHALL BE VOID AND UNLAWFUL. FOR A FIVE YEAR PERIOD FOLLOWING THE
30 UNLAWFUL COLLECTION OF THE FEE, THE CITY OR TOWN SHALL REIMBURSE THE
31 HOSPITALITY BUSINESS FOR ANY REASONABLE EXPENSE INCURRED IN COLLECTING FROM
32 THE CITY OR TOWN ANY FEES OR TAX UNLAWFULLY COLLECTED.

33 F. For THE purposes of this section:

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

39 2. "Hospitality industry businesses" means:

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

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

1 Sec. 20. Laws 2010, chapter 85, section 4 is amended to read:

2 Sec. 4. Existing licenses

3 A. To resolve potential conflicting legal claims between this state
4 and holders of bar liquor licenses that exceed the sale limitation of section
5 4-206.01, subsection F, Arizona Revised Statutes, as amended by this act, the
6 holder of a bar liquor license issued and actively used primarily for
7 off-sale purposes may surrender the bar liquor license to the department of
8 liquor licenses and control before January 1, ~~2011~~ 2012, in exchange for a
9 liquor store license at no additional cost or charge. **AFTER JANUARY 1, 2012,**
10 **USUAL RENEWAL FEES FOR THE REPLACEMENT LICENSE SHALL APPLY.** The replacement
11 liquor store license shall be issued without any further application by the
12 licensee, without any further approval by the department and shall
13 immediately be put to use by the licensee at the location where the
14 surrendered bar liquor license was previously used. The licensee shall
15 thereafter have all rights and privileges associated with the liquor store
16 license, notwithstanding any other provisions of title 4, Arizona Revised
17 Statutes. The department of liquor licenses and control shall render void
18 and extinguish any bar liquor license surrendered pursuant to this
19 subsection.

20 B. For any license issued pursuant to subsection A of this section,
21 notwithstanding the requirements prescribed in section 4-206.01,
22 subsection ~~I~~ J, Arizona Revised Statutes, as amended by this act, the
23 original licensee shall have all rights specified in section 4-206.01,
24 subsection ~~I~~ J, Arizona Revised Statutes, as amended by this act, without
25 any further application by the licensee and without any further approval by
26 the department of liquor licenses and control. The department of liquor
27 licenses and control shall identify on the license and in the records of the
28 department that the new license has the sampling privileges specified in
29 section 4-206.01, subsection ~~I~~ J, Arizona Revised Statutes, as amended by
30 this act. The sampling rights prescribed in this subsection are
31 nontransferrable and apply automatically only to the benefit of the licensee
32 that is issued a replacement liquor store license after the surrender of a
33 bar liquor license pursuant to subsection A of this section.

34 C. To resolve potential conflicting legal claims between this state
35 and holders of beer and wine bar liquor licenses that do not meet the
36 requirements of section 4-206.01, subsection F, Arizona Revised Statutes, as
37 amended by this act, the holder of a beer and wine bar license that is issued
38 and actively used primarily for off-sale purposes may apply to the department
39 of liquor licenses and control for a beer and wine store license, which shall
40 be issued at no additional cost or charge **IF THE APPLICATION IS FILED PRIOR**
41 **TO JANUARY 1, 2012. AFTER JANUARY 1, 2012, USUAL RENEWAL FEES APPLY.** A beer
42 and wine store license that is issued pursuant to this subsection shall
43 immediately be put to use by the licensee at the location where the beer and
44 wine bar license is being used. The beer and wine bar and beer and wine
45 store licenses shall be held by the same licensee. The licensee shall

1 thereafter have all rights and privileges associated with the beer and wine
2 bar and beer and wine store license. NOTWITHSTANDING THE REQUIREMENTS
3 PRESCRIBED IN SECTION 4-206.01, ARIZONA REVISED STATUTES, AS AMENDED BY THIS
4 ACT, THE LICENSEE OF A BEER AND WINE STORE LICENSE ISSUED PURSUANT TO THIS
5 SUBSECTION SHALL HAVE ALL RIGHTS SPECIFIED IN SECTION 4-206.01, SUBSECTION J,
6 ARIZONA REVISED STATUTES, AS AMENDED BY THIS ACT, WITHOUT ANY FURTHER
7 APPLICATION BY THE LICENSEE AND WITHOUT ANY FURTHER APPROVAL BY THE
8 DEPARTMENT OF LIQUOR LICENSE AND CONTROL. THE DEPARTMENT OF LIQUOR LICENSE
9 AND CONTROL SHALL IDENTIFY ON THE LICENSE AND IN THE RECORDS OF THE
10 DEPARTMENT THAT THE NEW LICENSE HAS THE SAMPLING PRIVILEGES SPECIFIED IN
11 SECTION 4-206.01, SUBSECTION J, ARIZONA REVISED STATUTES, AS AMENDED BY THIS
12 ACT. THE SAMPLING RIGHTS PRESCRIBED IN THIS SECTION ARE NONTRANSFERABLE AND
13 APPLY AUTOMATICALLY ONLY FOR THE BENEFIT OF THE LICENSEE THAT HAS ISSUED A
14 SUPPLEMENTAL BEER AND WINE STORE LICENSE PURSUANT TO THIS SECTION.

15 D. A CITY, TOWN OR COUNTY MAY NOT COLLECT ANY FEE ASSOCIATED WITH THE
16 ISSUANCE OF ANY SUPPLEMENTAL LICENSES AND SAMPLING PRIVILEGES ISSUED PURSUANT
17 TO THIS SECTION AND MAY NOT COLLECT ANY FEE ASSOCIATED WITH THE ORIGINAL
18 PLACEMENT LICENSE.

19 Sec. 21. Department of liquor licenses and control; new fees

20 A. Monies received from new fees that may be collected by the Arizona
21 department of liquor license and control are appropriated to the department.

22 B. Fees assessed pursuant to this act shall be fairly and equally
23 assessed to all parties for services rendered and must be assessed in a
24 nondiscriminatory manner.

25 Sec. 22. Department of liquor licenses and control; exemption
26 from rulemaking

27 The department of liquor licenses and control is exempt from the
28 rulemaking requirement of title 41, chapter 6, Arizona Revised Statutes, for
29 the purpose of establishing new fees permitted by this act until July 1,
30 2015. The department shall provide public notice and an opportunity for
31 public comment on proposed rules at least thirty days before rules are
32 adopted or amended pursuant to this section.

33 Sec. 23. Retroactivity

34 Section 4-206.01, Arizona Revised Statutes, as amended by this act,
35 applies retroactively to from and after December 31, 2010.