

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, 4-205.02, 4-205.05, 4-205.06, 4-206.01, 4-207, 4-207.01, 4-210, 4-224, 4-229, 4-241, 4-244.02, 4-244.05 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,
5 ADDRESS AND SIGNATURE. IF THE WRITTEN ARGUMENTS ARE FILED BY A PERSON ON
6 BEHALF OF AN ASSOCIATION, THE WRITTEN ARGUMENTS MUST BE ACCOMPANIED BY
7 WRITTEN MINUTES OF THE MEETING OF THE ASSOCIATION SHOWING THE NUMBER OF
8 MEMBERS PRESENT AND THE DATE OF THE MEETING IN ORDER FOR THE ARGUMENTS TO BE
9 VALID. The posting shall contain substantially the following:

10 Notice

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

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

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

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

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

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

1 following the expiration of the time fixed for the submitting of the
2 certified order by the governing body of the city or town or the board of
3 supervisors. If the city or town or the county recommends approval of the
4 license no hearing is required unless the director, the board or any
5 aggrieved party requests a hearing on the grounds that the public convenience
6 and the best interest of the community will not be substantially served if a
7 license is issued. Any NATURAL person residing or owning or leasing property
8 within a one mile radius of the proposed location may file a written protest
9 with the director no later than fifteen calendar days following action by the
10 local governing body or sixty days after filing the application. THE WRITTEN
11 PROTEST SHALL CONTAIN THE NATURAL PERSON'S COMPLETE NAME AND ADDRESS. IF THE
12 WRITTEN PROTEST IS FILED BY A PERSON ON BEHALF OF AN ASSOCIATION, THE WRITTEN
13 PROTEST MUST BE ACCOMPANIED BY MINUTES OF THE MEETING OF THE ASSOCIATION
14 SHOWING THE NUMBER OF MEMBERS PRESENT AND THE DATE OF THE MEETING IN ORDER
15 FOR THE PROTEST TO BE VALID. If no hearing is requested by the director, the
16 board or any aggrieved party, the application may be approved by the
17 director. If the recommendation is for disapproval of an application BASED
18 ON ONE OR MORE CRITERIA IN THE BOARD'S RULE GOVERNING NEED AND CONVENIENCE OF
19 A LICENSE or if no recommendation is received, the board shall hold a
20 hearing. If the city, town or county recommends approval of the license
21 pursuant to subsection C OF THIS SECTION, the director may cancel the hearing
22 and issue the license unless the board or any aggrieved party requests a
23 hearing. IF THE REASON FOR THE PROTEST IS CLEARLY REMOVED OR SATISFIED AT
24 ANY TIME, THE BOARD MAY CANCEL THE HEARING. The certified order, the reasons
25 contained in the order and the summary of the testimony and other evidence
26 supporting the city, town or county disapproval of the recommendation shall
27 be read into the record before the board and shall be considered as evidence
28 by the board. The board shall consider the certified order together with
29 other facts and a report of the director relating to the qualifications of
30 the applicant. If the governing body of the city or town or the board of
31 supervisors fails to return to the director, as provided in subsections C and
32 D OF THIS SECTION, its order of approval or disapproval, the board shall
33 proceed with further consideration of the application by holding an
34 administrative hearing. An application shall be approved or disapproved
35 within one hundred five days after filing of the application. IF, AFTER A
36 HEARING BY THE BOARD WHERE A LICENSE HAS BEEN APPROVED, A FORMAL WRITTEN
37 ORDER IS NOT ENTERED WITHIN FIFTEEN DAYS AFTER THE HEARING, THE DECISION OF
38 THE BOARD SHALL BE DEEMED ENTERED ON THE THIRTIETH DAY AFTER THE HEARING.

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

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

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

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

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

28 Sec. 4. Section 4-203, Arizona Revised Statutes, is amended to read:
29 4-203. Licenses; issuance; transfer; reversion to state

30 A. A spirituous liquor license shall be issued only after satisfactory
31 showing of the capability, qualifications and reliability of the applicant
32 and, with the exception of WHOLESALER, PRODUCER, GOVERNMENT OR club
33 licensees, that the public convenience requires and that the best interest of
34 the community will be substantially served by the issuance. IF AN
35 APPLICATION IS FILED FOR THE ISSUANCE OF A NONTRANSFERABLE LICENSE, OTHER
36 THAN FOR A MICROBREWERY LICENSE OR A DOMESTIC FARM WINERY LICENSE, FOR A
37 LOCATION THAT ON THE DATE THE APPLICATION IS FILED HAS A VALID LICENSE OF THE
38 SAME SERIES ISSUED AT THAT LOCATION, IT SHALL BE PRESUMED THAT THE PUBLIC
39 CONVENIENCE AND BEST INTEREST OF THE COMMUNITY WAS ESTABLISHED AT THE TIME
40 THE LOCATION WAS PREVIOUSLY LICENSED. THE PRESUMPTION MAY BE REBUTTED BY
41 COMPETENT CONTRARY EVIDENCE.

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

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

3 2. The place of business for which issued.

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

5 C. A spirituous liquor license issued to a bar, a liquor store or a
6 beer and wine bar shall be transferable as to any permitted location within
7 the same county, provided such transfer meets the requirements of an original
8 application. Such spirituous liquor license may be transferred to a person
9 qualified to be a licensee, provided such transfer is pursuant to either
10 judicial decree, nonjudicial foreclosure of a legal or equitable lien, A SALE
11 OF THE LICENSE, a bona fide ~~bulk~~ sale of the entire business and stock in
12 trade, or such other bona fide transactions as may be provided for by rule.
13 Any change in ownership of the business of a licensee, directly or
14 indirectly, as defined by rule is deemed a transfer.

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

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

30 F. If a person other than those persons originally licensed acquires
31 control over a license or licensee, the person shall file notice of the
32 acquisition with the director within ~~fifteen~~ THIRTY business days after such
33 acquisition of control and a list of officers, directors or other controlling
34 persons on a form prescribed by the director. All officers, directors or
35 other controlling persons shall meet the qualifications for licensure as
36 prescribed by this title. On request, the director shall conduct a
37 preinvestigation ~~prior to~~ BEFORE the assignment, sale or transfer of control
38 of a license or licensee, the reasonable costs of which, not to exceed one
39 thousand dollars, shall be borne by the applicant. The preinvestigation
40 shall determine whether the qualifications for licensure as prescribed by
41 this title are met. On receipt of notice of an acquisition of control or
42 request of a preinvestigation, the director shall forward the notice within
43 fifteen days to the local governing body of the city or town, if the licensed
44 premises is in an incorporated area, or the county, if the licensed premises
45 is in an unincorporated area. The local governing body of the city, town or

1 county may protest the acquisition of control within sixty days based on the
2 capability, reliability and qualification of the person acquiring control.
3 If the director does not receive any protests, the director may protest the
4 acquisition of control or approve the acquisition of control based on the
5 capability, reliability and qualification of the person acquiring control.
6 Any protest shall be set for a hearing before the board. Any transfer shall
7 be approved or disapproved within one hundred five days of the filing of the
8 notice of acquisition ~~and~~ OF control. The person who has acquired control of
9 a license or licensee has the burden of an original application at the
10 hearing, and the board shall make its determination pursuant to section 4-202
11 and this section with respect to capability, reliability and qualification.

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

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

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

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

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

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

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

3 K. EXCEPT AS PROVIDED IN SUBSECTION J OF THIS SECTION, nonretail
4 Arizona licensees may transport spirituous liquors for themselves in vehicles
5 owned, leased or rented by such licensee.

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

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

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

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

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

27 Sec. 5. Section 4-205.02, Arizona Revised Statutes, is amended to
28 read:

29 4-205.02. Restaurant license; issuance; regulatory provisions;
30 expiration; definitions

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

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

41 C. The holder of a restaurant license may sell and serve spirituous
42 liquors solely for consumption on the licensed premises. For the purpose of
43 this subsection, "licensed premises" may include rooms, areas or locations in
44 which the restaurant normally sells or serves spirituous liquors pursuant to
45 regular operating procedures and practices and that are contiguous to the

1 restaurant or a noncontiguous patio pursuant to section 4-101, paragraph 26.
2 For the purposes of this subsection, a restaurant licensee must submit proof
3 of tenancy or permission from the landowner or lessor for all property to be
4 included in the licensed premises.

5 D. In addition to other grounds prescribed in this title on which a
6 license may be revoked, the director may require the holder of a restaurant
7 license issued pursuant to this section to surrender the license in any case
8 in which the licensee ceases to operate as a restaurant, as prescribed in
9 subsection A of this section. The surrender of a license pursuant to this
10 subsection does not prevent the director from revoking the license for other
11 grounds prescribed in this title or for making deliberate material
12 misrepresentations to the department regarding the licensee's equipment,
13 service or entertainment items or seating capacity in applying for the
14 restaurant license.

15 E. Neither the director nor the board may initially issue a restaurant
16 license if either finds that there is sufficient evidence that the operation
17 will not satisfy the criteria adopted by the director for issuing a
18 restaurant license described in section 4-209, subsection B, paragraph 12.
19 The director shall issue a restaurant license only if the applicant has
20 submitted a plan for the operation of the restaurant. The plan shall be
21 completed on forms provided by the department and shall include listings of
22 all restaurant equipment and service items, the restaurant seating capacity
23 and other information requested by the department to substantiate that the
24 restaurant will operate in compliance with this section.

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

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

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

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

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

1 Sec. 6. Section 4-205.05, Arizona Revised Statutes, is amended to
2 read:

3 4-205.05. Permit to dispose of seized liquor

4 The ~~board~~ DIRECTOR may issue a temporary permit authorizing the
5 disposal at public auction of spirituous liquor ~~which~~ THAT has been seized by
6 any agency of this state, the federal government or any political subdivision
7 of this state or the federal government pursuant to statute. A bid at a
8 public auction shall not be accepted from a licensee if the spirituous
9 liquors offered for sale at the auction were seized from that licensee. The
10 ~~board~~ DIRECTOR shall issue the permit only if presented with proper documents
11 of seizure by the appropriate official. SPIRITUOUS LIQUOR WITH A STATED
12 EXPIRATION DATE ON THE LABEL SHALL NOT BE OFFERED FOR SALE AT PUBLIC AUCTION
13 AND SHALL EITHER BE DESTROYED OR RETURNED TO THE LICENSED WHOLESALER THAT
14 DISTRIBUTES THE LIQUOR BRAND IN THAT SALES TERRITORY. THE DIRECTOR MAY
15 DISPOSE OF SEIZED SPIRITUOUS LIQUOR IN WHOLE OR PART BY PROVIDING THE
16 SPIRITUOUS LIQUOR TO LAW ENFORCEMENT FOR TRAINING PURPOSES ONLY.

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

19 4-205.06. Hotel or motel minibars; rules; definitions

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

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

29 ~~2.~~ 1. Before providing a key, magnetic card or other similar device
30 required to attain access to the minibar in a particular guest room to the
31 registered guest, or before otherwise providing access to the minibar to the
32 registered guest, the licensee verifies that each registered guest to whom a
33 key, magnetic card or similar device is provided or to whom access is
34 otherwise provided is not a person under the legal drinking age.

35 ~~3.~~ 2. All employees handling the spirituous liquors to be placed in
36 the minibar in any guest room, including an employee who inventories or
37 restocks and replenishes the spirituous liquors in the minibar, are at least
38 nineteen years of age.

39 ~~4.~~ 3. The minibar is not replenished or restocked with spirituous
40 liquor between the hours of ~~1:00~~ 2:00 a.m. and 6:00 a.m.

41 ~~5.~~ 4. The minibar is located on the premises of a person who has been
42 issued an on-sale retailer's license.

43 ~~6.~~ 5. The minibar contains no more than thirty individual portions of
44 spirituous liquor at any one time.

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

6 C. The director may prescribe rules to regulate the use of a minibar
7 including rules on the size of containers of spirituous liquors and may by
8 rule reduce from thirty the number of containers of spirituous liquor placed
9 in the minibar.

10 D. For the purposes of this section:

11 1. "Hotel" or "motel" means an establishment that is licensed to sell
12 spirituous liquors and that contains guest room accommodations with respect
13 to which the predominant relationship existing between the occupants of the
14 rooms and the owner or operator of the establishment is that of innkeeper and
15 guest. For the purposes of this paragraph, the existence of other legal
16 relationships as between some occupants and the owner or operator is
17 immaterial.

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

22 Sec. 8. Section 4-206.01, Arizona Revised Statutes, is amended to
23 read:

24 4-206.01. Bar, beer and wine bar or liquor store licenses;
25 number permitted; fee; sampling privileges

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

29 B. In each county, the director shall issue additional bar, beer and
30 wine bar or liquor store licenses at the rate of one of each type for each
31 additional ten thousand person increase over the population in that county as
32 of July 1, 2010. For THE purposes of this subsection, the population of a
33 county is deemed to be the population estimated by the department of ~~economic~~
34 ~~security~~ COMMERCE as of July 1 of each year.

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

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

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

4 F. After January 1, 2011, bar licenses and beer and wine bar licenses
5 shall be issued and used only if the clear primary purpose and actual primary
6 use is for on-sale retailer privileges. The off-sale privileges associated
7 with a bar license and a beer and wine bar license shall be limited to
8 ~~a minor~~ use, which is clearly auxiliary to the ACTIVE primary on-sale
9 privilege. A bar license or a beer and wine bar license shall not be issued
10 or used if the associated off-sale use, by total retail SPIRITUOUS liquor
11 sales, exceeds ~~ten~~ THIRTY per cent of the sales price of on-sale spirituous
12 liquors by the licensee at that location.

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

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

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

41 J. An applicant for a liquor store license or A BEER AND WINE STORE
42 LICENSE AND the licensee of a liquor store license OR A BEER AND WINE STORE
43 LICENSE may apply for sampling privileges associated with the license. A
44 BEER AND WINE STORE PREMISES SHALL CONTAIN AT LEAST FIVE THOUSAND SQUARE FEET
45 IN ORDER TO BE ELIGIBLE FOR SAMPLING PRIVILEGES. A person desiring a

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

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

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

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

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

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

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

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

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

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

42 L. THE DIRECTOR MAY ISSUE A BEER AND WINE STORE LICENSE TO THE HOLDER
43 OF A BAR LICENSE SIMULTANEOUSLY AT THE SAME PREMISES. AN APPLICANT FOR A
44 BEER AND WINE STORE LICENSE AND A BAR LICENSE MAY CONSOLIDATE THE APPLICATION
45 AND MAY APPLY FOR BOTH LICENSES AT THE SAME TIME. THE HOLDER OF EACH LICENSE

1 SHALL FULLY COMPLY WITH ALL APPLICABLE PROVISIONS OF THIS TITLE. A BEER AND
2 WINE STORE LICENSE AND A BAR LICENSE ON THE SAME PREMISES SHALL BE OWNED BY
3 AND ISSUED TO THE SAME LICENSEE. IF A BEER AND WINE STORE LICENSE AND A BAR
4 LICENSE ARE ISSUED AT THE SAME PREMISES, FOR PURPOSES OF REPORTING LIQUOR
5 PURCHASES UNDER EACH LICENSE, ALL OFF-SALE BEER AND WINE SALES ARE
6 CONCLUSIVELY PRESUMED TO BE PURCHASED UNDER THE BEER AND WINE STORE LICENSE.

7 Sec. 9. Section 4-207, Arizona Revised Statutes, is amended to read:

8 4-207. Restrictions on licensing premises near school or church
9 buildings; definitions

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

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

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

30 C. Notwithstanding subsection A of this section:

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

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

1 through twelve or within three hundred horizontal feet of a fenced
2 recreational area adjacent to such school building and the license remains in
3 full force until the license is terminated in any manner, unless renewed
4 pursuant to section 4-209, subsection A.

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

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

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

38 D. For the purposes of this section:

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

43 2. "Entertainment district" means a specific contiguous area that is
44 designated an entertainment district by a resolution adopted by the governing
45 body of a city or town, that consists of no more than one square mile, that

1 is no less than one-eighth of a mile in width and that contains a significant
2 number of entertainment, artistic and cultural venues, including music halls,
3 concert facilities, theaters, arenas, stadiums, museums, studios, galleries,
4 restaurants, bars and other related facilities.

5 Sec. 10. Section 4-207.01, Arizona Revised Statutes, is amended to
6 read:

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

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

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

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

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

1 Sec. 11. Section 4-210, Arizona Revised Statutes, is amended to read:
2 4-210. Grounds for revocation, suspension and refusal to renew:
3 notice; complaints; hearings

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

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

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

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

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

19 5. The licensed business is delinquent for more than ninety days in
20 the payment of taxes, penalties or interest to the state or to any political
21 subdivision of the state.

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

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

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

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

41 10. The licensee fails to take reasonable steps to protect the safety
42 of a customer of the licensee entering, leaving or remaining on the licensed
43 premises when the licensee knew or reasonably should have known of the danger
44 to such person, or the licensee fails to take reasonable steps to intervene
45 by notifying law enforcement officials or otherwise to prevent or break up an

1 act of violence or an altercation occurring on the licensed premises or
2 immediately adjacent to the premises when the licensee knew or reasonably
3 should have known of such acts of violence or altercations.

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

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

10 B. For the purposes of:

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

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

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

34 D. If the director finds, based on clear and convincing evidence in
35 the record, that a violation involves the use by the licensee of a
36 drive-through or other physical feature of the licensed premises that allows
37 a customer to purchase spirituous liquor without leaving the customer's
38 vehicle and that the use of that drive-through or other physical feature
39 caused the violation, the director may suspend or terminate the licensee's
40 use of the drive-through or other physical feature for the sale of spirituous
41 liquor, in addition to any other sanction.

42 E. The director may refuse to transfer any license or issue a new
43 license at the same location if the director has filed a complaint against
44 the license or location which has not been resolved alleging a violation of

1 any of the grounds set forth in subsection A of this section until such time
2 as the complaint has been finally adjudicated.

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

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

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

44 I. The expiration, cancellation, revocation, reversion, surrender,
45 acceptance of surrender or termination in any other manner of a license does

1 not prevent the initiation or completion of a disciplinary proceeding
2 pursuant to this section against the licensee or license. An order issued
3 pursuant to a disciplinary proceeding against a license is enforceable
4 against other licenses or subsequent licenses in which the licensee or
5 controlling person of the license has a controlling interest.

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

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

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

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

26 3. That the lienholder took reasonable steps to correct the licensee's
27 prior actions, if any, or initiated an action pursuant to available contract
28 rights against the licensee for the forfeiture of the license after being
29 provided with notice by the department of disciplinary action as provided in
30 subsection J of this section.

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

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

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

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

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

41 M. If any on-sale licensee proposes to provide large capacity
42 entertainment events or sporting events with an attendance capacity exceeding
43 a limit established by the director, the director may request a security plan
44 from the licensee that may include trained security officers, lighting and
45 other requirements. This subsection exclusively prescribes the security

1 requirements for a licensee and does not create any civil liability for the
2 state, its agencies, agents or employees or a person licensed under this
3 title or agents or employees of a licensee.

4 N. AS AN ALTERNATIVE TO THE PROCEDURE IN SUBSECTION G OF THIS SECTION,
5 THE DIRECTOR MAY CONDUCT A CLIENT SETTLEMENT CONFERENCE WITH THE LICENSEE TO
6 DEVELOP A SETTLEMENT OF THE COMPLAINT. THE SETTLEMENT MAY PROVIDE FOR
7 RESTRICTIONS IN THE PAYMENT OF FINES AS PROVIDED IN THIS ARTICLE. THE
8 DIRECTOR MAY ESTABLISH PAYMENT OF THE FINE BY THE LICENSEE IN THE FORM OF
9 INSTALLMENT PAYMENTS OR MAY REQUIRE A SINGLE PAYMENT FOR THE PAYMENT OF THE
10 FINE.

11 Sec. 12. Section 4-224, Arizona Revised Statutes, is amended to read:

12 4-224. Local ordinances; prohibitions

13 A city, town or county shall not adopt ordinances or regulations in
14 conflict with the provisions of this title ~~OR ANY RULES ADOPTED PURSUANT TO~~
15 ~~THIS TITLE~~, including, but not limited to, ordinances or regulations
16 pertaining to hours and days of liquor sales and ordinances or regulations
17 that conflict with the definition of restaurant ~~contained in this title~~ IN
18 SECTION 4-205.02. A CITY, TOWN OR COUNTY SHALL NOT LIMIT ANY RIGHT GRANTED
19 BY THE LICENSE, BY THIS TITLE OR BY ANY RULES ADOPTED PURSUANT TO THIS TITLE.

20 Sec. 13. Section 4-229, Arizona Revised Statutes, is amended to read:

21 4-229. Licenses; handguns; posting of notice

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

27 1. Be posted in a conspicuous location accessible to the general
28 public and immediately adjacent to the liquor license posted on the licensed
29 premises.

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

32 3. Contain the words, "no firearms allowed pursuant to A.R.S. section
33 4-229".

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

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

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

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

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

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

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

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

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

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

- 17 1. Seeking emergency aid.
- 18 2. Determining whether a sign has been posted pursuant to subsection A
19 of this section.

20 Sec. 14. Section 4-241, Arizona Revised Statutes, is amended to read:

21 4-241. Selling or giving liquor to underage person; illegally
22 obtaining liquor by underage person; violation;
23 classification; definitions

24 A. If a licensee, an employee of the licensee or any other person
25 questions or has reason to question that the person ordering, purchasing,
26 attempting to purchase or otherwise procuring or attempting to procure the
27 serving or delivery of spirituous liquor or entering a portion of a licensed
28 premises when the primary use is the sale or service of spirituous liquor is
29 under the legal drinking age, the licensee, employee of the licensee or other
30 person shall do all of the following:

- 31 1. Demand identification from the person.
- 32 2. Examine the identification to determine that the identification
33 reasonably appears to be a valid, unaltered identification that has not been
34 defaced.
- 35 3. Examine the photograph in the identification and determine that the
36 person reasonably appears to be the same person in the identification.
- 37 4. Determine that the date of birth in the identification indicates
38 the person is not under the legal drinking age.

39 B. A licensee or an employee of the licensee who follows the
40 procedures prescribed in subsection A of this section and who records and
41 retains a record of the person's identification on this particular visit is
42 not in violation of subsection J of this section or section 4-244, paragraph
43 9 or 22. This defense applies to actions of the licensee and all employees
44 of the licensee after the procedure has been employed during the particular
45 visit to the licensed premises by the person. A licensee or an employee of

1 the licensee is not required to demand and examine identification of a person
2 pursuant to subsection A of this section if, during this visit to the
3 licensed premises by the person, the licensee or any employee of the licensee
4 has previously followed the procedure prescribed in subsection A of this
5 section.

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

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

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

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

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

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

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

38 1. A writing containing the type of identification, the date of
39 issuance of the identification, the name on the identification, the date of
40 birth on the identification and the signature of the person.

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

1 3. A ~~dated and signed~~ photocopy of the identification.

2 4. A photograph of the identification.

3 5. A digital copy of the identification.

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

10 K. The following written instruments are the only acceptable types of
11 identification:

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

14 2. A nonoperating identification license issued pursuant to section
15 28-3165 or an equivalent form of identification license issued by any state
16 or Canada if the license includes a picture of the person and the person's
17 date of birth.

18 3. An armed forces identification card.

19 4. A valid unexpired passport or border crossing identification card
20 that is issued by a government or a voter card that is issued by the
21 government of Mexico if the passport or card contains a photograph of the
22 person and the person's date of birth.

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

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

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

34 O. A person who uses a driver or nonoperating identification license
35 in violation of subsection ~~C or E~~ L OR N of this section is subject to
36 suspension of the driver or nonoperating identification license as provided
37 in section 28-3309. A person who does not have a valid driver or
38 nonoperating identification license and who uses a driver or nonoperating
39 identification license of another in violation of subsection C or E of this
40 section has the person's right to apply for a driver or nonoperating
41 identification license suspended as provided by section 28-3309.

42 P. A person who knowingly influences the sale, giving or serving of
43 spirituous liquor to a person under the legal drinking age by misrepresenting
44 the age of such person or who orders, requests, receives or procures
45 spirituous liquor from any licensee, employee or other person with the intent

1 of selling, giving or serving it to a person under the legal drinking age is
2 guilty of a class 1 misdemeanor. A licensee or employee of a licensee who
3 has actual knowledge that a person is under the legal drinking age and who
4 admits the person into any portion of the licensed premises in violation of
5 section 4-244, paragraph 22, ~~is~~ is in violation of this subsection. In
6 addition to other penalties provided by law, a judge may suspend a driver
7 license issued to or the driving privilege of a person for not more than
8 thirty days for a first conviction and not more than six months for a second
9 or subsequent conviction under this subsection.

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

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

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

17 (b) Permanently residing with such person.

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

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

24 S. A peace officer shall forward or electronically transfer to the
25 director of the department of transportation the affidavit required by
26 section 28-3310 if the peace officer has arrested a person for the commission
27 of an offense for which, on conviction, suspension of the license or
28 privilege to operate a motor vehicle is required by section 28-3309,
29 subsection A, B or D, or if the peace officer has confiscated a false
30 identification document used by the person to gain access to licensed
31 premises.

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

34 U. Law enforcement agencies may use persons who are under the legal
35 drinking age to test compliance with this section and section 4-244,
36 paragraph 9 by a licensee if the law enforcement agency has reasonable
37 suspicion that the licensee is violating this section or section 4-244,
38 paragraph 9. A person who is under the legal drinking age and who purchases
39 or attempts to purchase spirituous liquor under the direction of a law
40 enforcement agency pursuant to this subsection is immune from prosecution for
41 that purchase or attempted purchase. Law enforcement agencies may use a
42 person under the legal drinking age pursuant to this subsection only if:

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

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

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

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

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

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

16 V. The department may adopt rules to carry out the purposes of this
17 section.

18 Sec. 15. Section 4-244.02, Arizona Revised Statutes, is amended to
19 read:

20 4-244.02. Importation of spirituous liquor unlawful; exceptions

21 A. It is unlawful for any person, ~~WHO IS~~ not a qualified licensee
22 under this title, ~~to~~ import spirituous liquors into this state from a
23 foreign country unless:

24 1. Such person is the legal drinking age.

25 2. Such person has been physically within such foreign country
26 immediately prior to such importation and such importation coincides with ~~his~~
27 ~~THE PERSON'S~~ return from such foreign country.

28 3. ~~EXCEPT AS PROVIDED IN SUBSECTION B,~~ the amount of spirituous liquor
29 imported does not exceed the amount permitted by federal law to be imported
30 duty free, in any period of thirty-one days, except that if the federal law
31 prescribing such duty free limitation is repealed or amended, then in no
32 event shall the amount of duty free importation into this state be more than
33 one liter of spirituous liquor during such period.

34 B. ~~TO THE EXTENT PERMITTED BY FEDERAL LAW, A MEMBER OF THE ARIZONA~~
35 ~~NATIONAL GUARD, THE UNITED STATES ARMED FORCES RESERVES OR THE ARMED FORCES~~
36 ~~OF THE UNITED STATES MAY IMPORT MORE THAN ONE LITER OF SPIRITUOUS LIQUOR FOR~~
37 ~~PERSONAL USE INTO THIS STATE IF THE IMPORTATION COINCIDES WITH THAT PERSON'S~~
38 ~~RETURN FROM A TOUR OF DUTY IN A FOREIGN COUNTRY. A PERSON WHO IMPORTS MORE~~
39 ~~SPIRITUOUS LIQUOR PURSUANT TO THIS SUBSECTION THAN THE AMOUNT PERMITTED BY~~
40 ~~FEDERAL LAW TO BE IMPORTED DUTY-FREE SHALL BE RESPONSIBLE FOR THE PAYMENT OF~~
41 ~~ANY FEDERAL TAXES DUE ON THE QUANTITY OF SPIRITUOUS LIQUOR THAT EXCEEDS THE~~
42 ~~DUTY-FREE AMOUNT. THE DIRECTOR MAY ISSUE LETTERS OF EXEMPTION TO ALLOW~~
43 ~~MILITARY PERSONNEL TO IMPORT SPIRITUOUS LIQUOR PURSUANT TO THIS SUBSECTION.~~

1 Sec. 16. Section 4-244.05, Arizona Revised Statutes, is amended to
2 read:

3 4-244.05. Unlicensed business establishment or premises:
4 unlawful consumption of spirituous liquor; civil
5 penalty; seizure and forfeiture of property

6 A. A person owning, operating, leasing, managing or controlling a
7 business establishment or business premises which are not properly licensed
8 pursuant to this title and in which any of the following occur shall not
9 allow the consumption of spirituous liquor in the establishment or on the
10 premises:

- 11 1. Food or beverages are sold.
- 12 2. Entertainment is provided.
- 13 3. A membership fee or a cover charge for admission is charged.
- 14 4. A minimum purchase or rental requirement for goods or services is
15 charged.

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

21 C. In addition to or in lieu of other fines or civil penalties imposed
22 for a violation of this section or any other action taken by the board or
23 director, the board or director may conduct a hearing subject to the
24 requirements of section 4-210, subsection G to determine whether a person has
25 violated subsection A of this section. If the board or director determines,
26 after a hearing, that a person has violated subsection A of this section the
27 board or director may impose a civil penalty of not less than two hundred nor
28 more than five thousand dollars for each offense. A civil penalty imposed
29 pursuant to this section by the director may be appealed to the board.

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

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

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

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

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

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

5 H. A person who obtains property through a violation of this section
6 is deemed to be an involuntary trustee of that property. An involuntary
7 trustee and any other person who obtains the property, except a bona fide
8 purchaser who purchases the property for value without notice of or
9 participation in the unlawful conduct, holds the property, including its
10 proceeds and other assets, in constructive trust for the benefit of the
11 persons entitled to remedies pursuant to section 13-2314 or title 13,
12 chapter 39.

13 I. The board or director may adopt rules authorizing and prescribing
14 limitations for 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. Rules adopted pursuant to this subsection shall authorize the
17 possession or consumption of spirituous liquor only at establishments or
18 premises which permit the consumption or possession of minimal amounts of
19 spirituous liquor and which meet both of the following criteria:

20 1. The possession or consumption of spirituous liquor is permitted
21 only as an incidental convenience to the customers of the establishment or
22 premises.

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

26 J. Any rules adopted pursuant to subsection I of this section shall
27 prescribe:

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

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

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

33 4. That the director, the director's agents and any peace officer
34 empowered to enforce the provisions of this title, in enforcing the
35 provisions of this title, may visit and inspect the establishment or premises
36 during the business hours of the premises or establishment. **UNTIL JANUARY 1,
37 2015, THE DIRECTOR MAY CHARGE A FEE FOR THE INSPECTION OF UNLICENSED PREMISES
38 TO REVIEW AN APPLICATION FOR EXEMPTION PURSUANT TO THIS SECTION.**

39 K. Any rules adopted pursuant to subsection I of this section may
40 prescribe separate classifications of establishments or premises at which
41 spirituous liquor may be possessed or consumed and may establish any other
42 provisions relating to the possession or consumption of spirituous liquor at
43 establishments or premises falling within the scope of subsections A and B of
44 this section which are necessary to maintain the health and welfare of the
45 community.

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

6 Sec. 17. Section 9-500.06, Arizona Revised Statutes, is amended to
7 read:

8 9-500.06. Hospitality industry; discrimination prohibited; use
9 of tax proceeds; exemption; definitions

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

12 1. "Discriminate" means any increase of fees on hospitality industry
13 businesses by any dollar amount on or after April 1, 1990 without a
14 corresponding equal dollar amount of increase in the privilege license fees
15 or other fees imposed on all other businesses in the city or town. ~~For~~
16 ~~purposes of this subsection~~

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

20 B. On or after April 1, 1990, if a city or town establishes a
21 discriminatory transaction privilege tax or increases its existing
22 discriminatory transaction privilege tax on hospitality industry businesses
23 greater than any increase imposed on other types of businesses in the city or
24 town, the proceeds of the established discriminatory transaction privilege
25 tax, except as provided in subsection D, and the proceeds of any increase
26 above the existing discriminatory transaction privilege tax shall be used
27 exclusively by the city or town for the promotion of tourism. For the
28 purposes of this section a tax which is in effect on April 1, 1990 and is
29 subsequently renewed by a majority of qualified electors voting at an
30 election to approve the renewal is not considered a tax increase.

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

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

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

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

41 D. If a city or town has not imposed a discriminatory transaction
42 privilege tax up to a two per cent tax level on hospitality industry
43 businesses as of April 1, 1990 and thereafter imposes or increases such a
44 discriminatory transaction privilege tax, the first two percentage rate

1 portion of the discriminatory transaction privilege tax is not subject to the
2 provisions of subsection B.

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

6 E. THE COLLECTION BY A CITY OR TOWN OF A FEE OR TAX PROHIBITED BY THIS
7 SECTION SHALL BE VOID AND UNLAWFUL. THE CITY OR TOWN SHALL REPAY ON DEMAND
8 BY A HOSPITALITY INDUSTRY BUSINESS ANY FEE OR TAX PAID BY THE BUSINESS
9 COLLECTED IN VIOLATION OF THIS SECTION. THE CITY OR TOWN SHALL REIMBURSE THE
10 HOSPITALITY BUSINESS FOR ANY REASONABLE EXPENSE INCURRED IN COLLECTING FROM
11 THE CITY OR TOWN ANY FEES OR TAX UNLAWFULLY COLLECTED.

12 F. For THE purposes of this section:

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

18 2. "Hospitality industry businesses" means:

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

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

23 Sec. 18. Laws 2010, chapter 85, section 4 is amended to read:

24 Sec. 4. Existing licenses

25 A. To resolve potential conflicting legal claims between this state
26 and holders of bar liquor licenses that exceed the sale limitation of section
27 4-206.01, subsection F, Arizona Revised Statutes, as amended by this act, the
28 holder of a bar liquor license issued and actively used primarily for
29 off-sale purposes may surrender the bar liquor license to the department of
30 liquor licenses and control before January 1, ~~2011~~ 2012, in exchange for a
31 liquor store license at no additional cost or charge. AFTER JANUARY 1, 2012,
32 USUAL RENEWAL FEES FOR THE REPLACEMENT LICENSE SHALL APPLY. The replacement
33 liquor store license shall be issued without any further application by the
34 licensee, without any further approval by the department and shall
35 immediately be put to use by the licensee at the location where the
36 surrendered bar liquor license was previously used. The licensee shall
37 thereafter have all rights and privileges associated with the liquor store
38 license, notwithstanding any other provisions of title 4, Arizona Revised
39 Statutes. The department of liquor licenses and control shall render void
40 and extinguish any bar liquor license surrendered pursuant to this
41 subsection.

42 B. For any license issued pursuant to subsection A of this section,
43 notwithstanding the requirements prescribed in section 4-206.01,
44 subsection ~~I~~ J, Arizona Revised Statutes, as amended by this act, the
45 original licensee shall have all rights specified in section 4-206.01,

1 subsection ~~I~~ J, Arizona Revised Statutes, as amended by this act, without
2 any further application by the licensee and without any further approval by
3 the department of liquor licenses and control. The department of liquor
4 licenses and control shall identify on the license and in the records of the
5 department that the new license has the sampling privileges specified in
6 section 4-206.01, subsection ~~I~~ J, Arizona Revised Statutes, as amended by
7 this act. The sampling rights prescribed in this subsection are
8 nontransferrable and apply automatically only to the benefit of the licensee
9 that is issued a replacement liquor store license after the surrender of a
10 bar liquor license pursuant to subsection A of this section.

11 C. To resolve potential conflicting legal claims between this state
12 and holders of beer and wine bar liquor licenses that do not meet the
13 requirements of section 4-206.01, subsection F, Arizona Revised Statutes, as
14 amended by this act, the holder of a beer and wine bar license that is issued
15 and actively used primarily for off-sale purposes may apply to the department
16 of liquor licenses and control for a beer and wine store license, which shall
17 be issued at no additional cost or charge IF THE APPLICATION IS FILED PRIOR
18 TO JANUARY 1, 2012. AFTER JANUARY 1, 2012, USUAL RENEWAL FEES APPLY. A beer
19 and wine store license that is issued pursuant to this subsection shall
20 immediately be put to use by the licensee at the location where the beer and
21 wine bar license is being used. The beer and wine bar and beer and wine
22 store licenses shall be held by the same licensee. The licensee shall
23 thereafter have all rights and privileges associated with the beer and wine
24 bar and beer and wine store license. NOTWITHSTANDING THE REQUIREMENTS
25 PRESCRIBED IN SECTION 4-206.01, ARIZONA REVISED STATUTES, AS AMENDED BY THIS
26 ACT, THE LICENSEE OF A BEER AND WINE STORE LICENSE ISSUED PURSUANT TO THIS
27 SUBSECTION SHALL HAVE ALL RIGHTS SPECIFIED IN SECTION 4-206.01, SUBSECTION J,
28 ARIZONA REVISED STATUTES, AS AMENDED BY THIS ACT, WITHOUT ANY FURTHER
29 APPLICATION BY THE LICENSEE AND WITHOUT ANY FURTHER APPROVAL BY THE
30 DEPARTMENT OF LIQUOR LICENSE AND CONTROL. THE DEPARTMENT OF LIQUOR LICENSE
31 AND CONTROL SHALL IDENTIFY ON THE LICENSE AND IN THE RECORDS OF THE
32 DEPARTMENT THAT THE NEW LICENSE HAS THE SAMPLING PRIVILEGES SPECIFIED IN
33 SECTION 4-206.01, SUBSECTION J, ARIZONA REVISED STATUTES, AS AMENDED BY THIS
34 ACT. THE SAMPLING RIGHTS PRESCRIBED IN THIS SECTION ARE NONTRANSFERABLE AND
35 APPLY AUTOMATICALLY ONLY FOR THE BENEFIT OF THE LICENSEE THAT HAS ISSUED A
36 SUPPLEMENTAL BEER AND WINE STORE LICENSE PURSUANT TO THIS SECTION.

37 D. A CITY OR TOWN MAY NOT COLLECT ANY FEE ASSOCIATED WITH THE ISSUANCE
38 OF REPLACEMENT LICENSES AND SUPPLEMENTAL LICENSES AND SAMPLING PRIVILEGES
39 ISSUED PURSUANT TO THIS SECTION.

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

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

43 B. Fees assessed pursuant to this act shall be fairly and equally
44 assessed to all parties for services rendered and must be assessed in a
45 nondiscriminatory manner.

1 Sec. 20. Department of liquor licenses and control: exemption
2 from rulemaking

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

9 Sec. 21. Retroactivity

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