

COMMITTEE ON GOVERNMENT AND HIGHER EDUCATION

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2057

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 4-244, Arizona Revised Statutes, is amended to  
3 read:

4 4-244. Unlawful acts

5 It is unlawful:

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

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

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

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

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

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

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

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

39 9. Except as provided in paragraphs 10 and 11 of this section, for a  
40 licensee or other person to sell, furnish, dispose of or give, or cause to be  
41 sold, furnished, disposed of or given, to a person under the legal drinking

1 age or for a person under the legal drinking age to buy, receive, have in the  
2 person's possession or consume spirituous liquor. This paragraph shall not  
3 prohibit the employment by an off-sale retailer of persons who are at least  
4 sixteen years of age to check out, if supervised by a person on the premises  
5 who is at least nineteen years of age, package or carry merchandise,  
6 including spirituous liquor, in unbroken packages, for the convenience of the  
7 customer of the employer, if the employer sells primarily merchandise other  
8 than spirituous liquor.

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

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

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

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

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

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

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

46 (d) An unpaid volunteer who is a bona fide member of a club and who is  
47 not engaged in waiting on or serving spirituous liquor to customers may  
48 purchase for himself and consume spirituous liquor while participating in a

1 scheduled event at the club. An unpaid participant in a food competition may  
2 purchase for himself and consume spirituous liquor while participating in the  
3 food competition.

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

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

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

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

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

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

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

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

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

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

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

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

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

40 (i) An active duty military service member.

41 (ii) A veteran.

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

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

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

47 23. For an on-sale retailer or employee to conduct drinking contests,  
48 to sell or deliver to a person an unlimited number of spirituous liquor

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

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

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

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

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

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

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

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

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

35 (a) Hotel or motel guest room accommodations.

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

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

41 30. For a licensee or employee to knowingly permit a person in  
42 possession of a firearm other than a peace officer or a member of a sheriff's  
43 volunteer posse while on duty who has received firearms training that is  
44 approved by the Arizona peace officer standards and training board, the  
45 licensee or an employee of the licensee acting with the permission of the  
46 licensee to remain on the licensed premises or to serve, sell or furnish  
47 spirituous liquor to a person in possession of a firearm while on the  
48 licensed premises of an on-sale retailer. It shall be a defense to action

1 under this paragraph if the licensee or employee requested assistance of a  
2 peace officer to remove such person. This paragraph shall not apply to:

3 (a) Hotel or motel guest room accommodations.

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

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

9 31. For any person in possession of a firearm while on the licensed  
10 premises of an on-sale retailer to consume spirituous liquor. This paragraph  
11 does not prohibit the consumption of small amounts of spirituous liquor by an  
12 undercover peace officer on assignment to investigate the licensed  
13 establishment.

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

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

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

26 (c) A bar, beer and wine bar, liquor store, beer and wine store or  
27 microbrewery licensee who dispenses beer only in a clean container composed  
28 of a material approved by a national sanitation organization with a maximum  
29 capacity that does not exceed one gallon and not for consumption on the  
30 premises if:

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

33 (ii) The container is sealed with a plastic adhesive and displays a  
34 government warning label.

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

37 The department shall review the effects of this subdivision and submit a  
38 report by July 1, 2015 on the effects of this subdivision to the governor,  
39 the speaker of the house of representatives and the president of the senate.  
40 The department shall provide a copy of this report to the secretary of state.

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

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

47 35. For a person under twenty-one years of age to operate or be in  
48 physical control of a motorized watercraft that is underway while there is

1 any spirituous liquor in the person's body. For the purposes of this  
2 paragraph, "underway" has the same meaning prescribed in section 5-301.

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

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

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

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

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

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

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

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

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

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

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

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

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

4           45. Except as authorized by paragraph 32, subdivision (c) of this  
5           section, for a person to reuse a bottle or other container authorized for use  
6           by the laws of the United States or any agency of the United States for the  
7           packaging of distilled spirits or for a person to increase the original  
8           contents or a portion of the original contents remaining in a liquor bottle  
9           or other authorized container by adding any substance.

10          46. FOR A PERSON TO POSSESS, CONSUME, INGEST, PURCHASE, SELL, OFFER FOR  
11          SALE OR FURNISH SPIRITUOUS LIQUOR IN POWDERED FORM.

12          Sec. 2. Section 4-246, Arizona Revised Statutes, is amended to read:

13          4-246. Violation: classification

14          A. A person violating any provision of this title is guilty of a class  
15          2 misdemeanor unless another classification is prescribed.

16          B. A person violating section 4-244, paragraph 9, 14, 34, 42, ~~or~~ 44 OR  
17          46 is guilty of a class 1 misdemeanor.

18          C. A person violating section 4-229, subsection B, or section 4-244,  
19          paragraph 31 is guilty of a class 3 misdemeanor.

20          D. In addition to any other penalty prescribed by law, the court may  
21          suspend the privilege to drive of a person under eighteen years of age for a  
22          period of up to one hundred eighty days on receiving the record of the  
23          person's first conviction for a violation of section 4-244, paragraph 9.

24          E. In addition to any other penalty prescribed by law, a person who is  
25          convicted of a violation of section 4-244, paragraph 42 shall pay a fine of  
26          at least five hundred dollars.

27          F. In addition to any other penalty prescribed by law, a person who is  
28          convicted of a violation of section 4-241, subsection L, M or N shall pay a  
29          fine of at least two hundred fifty dollars."

30 Amend title to conform

and, as so amended, it do pass

BOB THORPE  
Chairman

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