

REFERENCE TITLE: **microbreweries; multiple licenses; production; sales**

State of Arizona  
Senate  
Fifty-second Legislature  
First Regular Session  
2015

## **SB 1030**

Introduced by

Senators Ward, Ableser, Barto, Begay, Bradley, Contreras, Dalessandro,  
McGuire, Pancrazi; Representatives Borrelli, Meyer, Mitchell, Otondo,  
Petersen, Steele; Senator Meza; Representatives Clark, Cobb, McCune Davis,  
Norgaard, Thorpe, Weninger

**AN ACT**

**AMENDING SECTIONS 4-205.08 AND 4-243.01, ARIZONA REVISED STATUTES; REPEALING SECTION 4-243.02, ARIZONA REVISED STATUTES; AMENDING SECTION 42-3355, ARIZONA REVISED STATUTES; RELATING TO LIQUOR LICENSES.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 4-205.08, Arizona Revised Statutes, is amended to  
3 read:

4 4-205.08. Microbrewery license; issuance; regulatory  
5 provisions; retail site

6 A. The director may issue a microbrewery license to any microbrewery.  
7 Each location that engages in producing, **MANUFACTURING** and bottling these  
8 products must obtain a separate microbrewery license. The licensee may not  
9 transfer the microbrewery license from person to person or from location to  
10 location.

11 B. An applicant for a microbrewery license, at the time of filing the  
12 application for the license, shall accompany the application with the license  
13 fee. Persons holding a microbrewery license shall report annually at the end  
14 of each calendar year, at such time and in such manner as the director may  
15 prescribe, the amount of beer **PRODUCED OR** manufactured by them during the  
16 calendar year and the amount delivered pursuant to subsection D, paragraph 5,  
17 subdivision (b) of this section. If the total amount of beer that is  
18 produced or manufactured during the calendar year exceeds the amount  
19 permitted annually by the license, the licensee shall apply for and receive a  
20 producer's license **AND SURRENDER THAT MICROBREWERY LICENSE. NOTWITHSTANDING**  
21 **ANY OTHER LAW, THE LICENSEE MAY RETAIN AND IS NOT REQUIRED TO SURRENDER ANY**  
22 **OTHER MICROBREWERY LICENSES OR RETAIL LICENSES THAT ARE HELD BY THE LICENSEE**  
23 **WHEN THE LICENSEE RECEIVES A PRODUCER'S LICENSE.**

24 C. Notwithstanding any other ~~statute~~ **LAW**, a licensed microbrewery may:

25 1. Sell beer produced or manufactured on the premises for consumption  
26 on or off the premises.

27 2. Make sales and deliveries of beer **THAT THE MICROBREWERY PRODUCES OR**  
28 **MANUFACTURES** to persons licensed to sell beer under this title through  
29 wholesalers licensed under this title or as provided in subsection D,  
30 paragraph 5, subdivision (a) or (b) of this section.

31 3. Make sales and deliveries of beer **THAT THE MICROBREWERY PRODUCES OR**  
32 **MANUFACTURES** to persons licensed to sell beer in another state if lawful  
33 under the laws of that state.

34 4. Serve beer produced or manufactured on the premises for the purpose  
35 of sampling the beer.

36 5. **SELL BEER PRODUCED OR MANUFACTURED BY OTHER MICROBREWERIES FOR**  
37 **CONSUMPTION ONLY ON THE PREMISES OF THE LICENSEE, EXCEPT THAT THE SALES**  
38 **PERCENTAGE OF BEER FROM OTHER MICROBREWERIES MAY NOT EXCEED TWENTY PERCENT OF**  
39 **THE LICENSEE'S ANNUAL SALES OF BEER AT THE PREMISES. IF THE OTHER**  
40 **MICROBREWERY HAS ESTABLISHED A DISTRIBUTION RELATIONSHIP WITH ONE OR MORE**  
41 **WHOLESALERS WHO ARE LICENSED UNDER THIS TITLE, THE BEER SHALL BE PURCHASED**  
42 **THROUGH THOSE WHOLESALERS.**

1 D. A licensed microbrewery is subject to all of the following  
2 requirements:

3 1. The microbrewery shall produce OR MANUFACTURE not less than five  
4 thousand gallons of beer in each calendar year following the first year of  
5 operation.

6 2. The microbrewery shall not produce OR MANUFACTURE more than one  
7 million two hundred forty thousand gallons of beer in a calendar year.

8 3. If retail operations are conducted in conjunction with the  
9 microbrewery, these retail operations shall be conducted from the same site  
10 as the location of the microbrewery.

11 4. EXCEPT AS PERMITTED UNDER SUBSECTION C OF THIS SECTION, the  
12 microbrewery may sell other spirituous liquor products if:

13 (a) The microbrewery holds an on-sale retail license AS A BAR, BEER  
14 AND WINE BAR OR RESTAURANT.

15 (b) The retail sale of the OTHER spirituous liquor PRODUCTS is on or  
16 adjacent to the premises of the microbrewery.

17 5. The microbrewery may make sales and deliveries of beer that it has  
18 produced OR MANUFACTURED to both:

19 (a) Retail licensees ~~that are under common ownership with the~~  
20 ~~microbrewery~~ THAT MEET THE REQUIREMENTS PRESCRIBED IN PARAGRAPH 4,  
21 SUBDIVISIONS (a) AND (b) OF THIS SUBSECTION in any amount.

22 (b) ~~Other licensed retailers~~ IF THE MICROBREWERY DOES NOT OTHERWISE  
23 HOLD A PRODUCER'S LICENSE, TO ANY RETAIL LICENSEE in a cumulative amount not  
24 to exceed ninety-three thousand gallons in total for all licensed retailers  
25 in any calendar year.

26 E. A person who holds ~~a~~ ANY microbrewery license that meets the  
27 requirements of this section and who is not otherwise engaged in the business  
28 of a distiller, vintner, brewer, rectifier, blender or other producer of  
29 spirituous liquor in any jurisdiction may ~~hold other on-sale retail licenses~~  
30 BE ISSUED UP TO A COMBINED TOTAL OF SEVEN RETAIL LICENSES IN THIS STATE IF  
31 THOSE LICENSES ARE ISSUED ONLY AS BAR, BEER AND WINE BAR OR RESTAURANT  
32 LICENSES, WHETHER LOCATED ON OR ADJACENT TO THE PERSON'S MICROBREWERY OR  
33 LOCATED REMOTELY FROM THE PERSON'S MICROBREWERY. Except as provided in  
34 subsection D, paragraph 5, ~~subdivision (a)~~ of this section, the person shall  
35 purchase all spirituous liquor for sale at the ~~other on-sale retail~~ premises  
36 OF THE RETAIL LICENSES HELD BY THAT PERSON from wholesalers that are licensed  
37 in this state.

38 F. A microbrewery that sells or delivers beer pursuant to this section  
39 shall:

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

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

1 G. A delivery of beer by a microbrewery to a purchaser in this state  
2 is a transaction deemed to have occurred in this state.

3 H. The director shall adopt rules in order to administer this section.  
4 Sec. 2. Section 4-243.01, Arizona Revised Statutes, is amended to  
5 read:

6 4-243.01. Purchasing from other than primary source of supply  
7 unlawful; definitions

8 A. It is unlawful:

9 1. For any supplier to solicit, accept or fill any order for any  
10 spirituous liquor from any wholesaler in this state unless the supplier is  
11 the primary source of supply for the brand of spirituous liquor sold or  
12 sought to be sold and is duly licensed by the board.

13 2. For any wholesaler or any other licensee in this state to order,  
14 purchase or receive any spirituous liquor from any supplier unless the  
15 supplier is the primary source of supply for the brand ordered, purchased or  
16 received.

17 3. ~~Except as provided by section 4-243.02~~ For a retailer to order,  
18 purchase or receive any spirituous liquor from any source other than any of  
19 the following:

20 (a) A wholesaler that has purchased the brand from the primary source  
21 of supply.

22 (b) A wholesaler that is the designated representative of the primary  
23 source of supply in this state and that has purchased such spirituous liquor  
24 from the designated representative of the primary source of supply within or  
25 without this state.

26 (c) A registered retail agent pursuant to section 4-101.

27 (d) A farm winery licensed under section 4-205.04 and subject to the  
28 limitations prescribed in section 4-205.04, subsection C, paragraph 7.

29 (e) A licensed microbrewery licensed under section 4-205.08.

30 B. All spirituous liquor shipped into this state shall be invoiced to  
31 the wholesaler by the primary source of supply. All spirituous liquor shall  
32 be unloaded and remain at the wholesaler's premises for at least twenty-four  
33 hours. A copy of each invoice shall be transmitted by the wholesaler and the  
34 primary source of supply to the department of revenue.

35 C. The director may suspend for a period of one year the license of  
36 any wholesaler or retailer who violates this section.

37 D. ~~Upon~~ **ON** determination by the department of revenue that a primary  
38 source of supply has violated this section, no wholesaler may accept any  
39 shipment of spirituous liquor from such primary source of supply for a period  
40 of one year.

41 E. For the purposes of this section:

42 1. "Primary source of supply" means the distiller, producer, owner of  
43 the commodity at the time it becomes a marketable product, bottler or  
44 exclusive agent of any such distributor or owner. In the case of imported  
45 products, the primary source of supply means either the foreign producer,

1 owner, bottler or agent or the prime importer from, or the exclusive agent  
2 in, the United States of the foreign distiller, producer, bottler or owner.

3 2. "Wholesaler" means any person, firm or corporation that is licensed  
4 in this state to sell to retailers and that is engaged in the business of  
5 warehousing and distributing brands of various suppliers to retailers  
6 generally in the marketing area in which the wholesaler is located.

7 Sec. 3. Repeal

8 Section ~~4-243.02~~, Arizona Revised Statutes, is repealed.

9 Sec. 4. Section 42-3355, Arizona Revised Statutes, is amended to read:

10 ~~42-3355.~~ Return and payment by farm wineries, microbreweries  
11 and craft distillers

12 A. Every farm winery selling vinous liquor at retail or to a retail  
13 licensee pursuant to title 4, chapter 2 manufactured or produced on the  
14 premises ~~or producer of vinous liquor that sells at retail pursuant to~~  
15 ~~section 4-243.02~~ shall pay the tax under this chapter on all such liquor sold  
16 at retail or to a retail licensee within this state and add the amount of the  
17 tax to the sales price.

18 B. Every microbrewery selling malt liquor at retail or to a retail  
19 licensee pursuant to title 4, chapter 2 manufactured or produced on the  
20 premises ~~or a manufacturer of beer that sells at retail pursuant to section~~  
21 ~~4-243.02~~ shall pay the tax under this chapter on all malt liquor sold at  
22 retail or to a retail licensee within this state and add the amount of the  
23 tax to the sales price. **EVERY PRODUCER THAT IS ISSUED A LICENSE PURSUANT TO**  
24 **SECTION 4-205.08, SUBSECTION B AND THAT SELLS MALT LIQUOR AT A RETAIL**  
25 **ESTABLISHMENT AS PROVIDED IN SECTION 4-205.08, SUBSECTION D, PARAGRAPH 4,**  
26 **SUBDIVISION (b), SHALL PAY THE TAX UNDER THIS CHAPTER ON SUCH MALT LIQUOR**  
27 **SOLD WITHIN THIS STATE AND SHALL ADD THE AMOUNT OF THE TAX TO THE SALES**  
28 **PRICE.**

29 C. Every craft distiller selling ~~a~~ spirituous liquor at retail or to  
30 a retail licensee pursuant to title 4, chapter 2, manufactured or produced on  
31 the premises ~~or a distiller of spirituous liquor that sells at retail~~  
32 ~~pursuant to section 4-243.02~~ shall pay the tax under this chapter on all  
33 spirituous liquor sold at retail or to a retail licensee within this state  
34 and add the amount of the tax to the sales price.

35 D. The farm winery, manufacturer, microbrewery or craft distiller  
36 shall pay the tax to the department monthly on or before the twentieth day of  
37 the month next succeeding the month in which the tax accrues.

38 E. On or before that date the farm winery, manufacturer, microbrewery  
39 or craft distiller shall prepare a sworn return for the month in which the  
40 tax accrues in the form prescribed by the department, showing:

41 1. The amount of liquors or beer sold in this state during the month  
42 in which the tax accrues.

43 2. The amount of tax for the period covered by the return.

44 3. Any other information that the department deems necessary for the  
45 proper administration of this chapter.

1 F. The farm winery, manufacturer, microbrewery or craft distiller  
2 shall deliver the return, together with a remittance of the amount of the tax  
3 due, to the department.

4 G. Any taxpayer who fails to pay the tax within ten days from the date  
5 upon which the payment becomes due is subject to and shall pay a penalty  
6 determined under section 42-1125, plus interest at the rate determined  
7 pursuant to section 42-1123 from the time the tax was due and payable until  
8 paid.

9 Sec. 5. Microbrewery licenses; temporary provisions

10 A. Notwithstanding section 4-205.08, Arizona Revised Statutes, as  
11 amended by this act, persons who hold microbrewery licenses and who also hold  
12 retail licenses or who have applied for retail licenses before the effective  
13 date of this act, of retail license types other than allowed or in excess of  
14 the total number of licenses allowed under section 4-205.08, subsection E,  
15 Arizona Revised Statutes, as amended by this act, may continue to hold and  
16 are not required to surrender any retail license held unless that license is  
17 inactive at that location for more than six months.

18 B. Notwithstanding the repeal of section 4-243.02, Arizona Revised  
19 Statutes, persons who hold producers' licenses and who also hold retail  
20 licenses or who have applied for retail licenses before the effective date of  
21 this act may continue to hold and are not required to surrender any retail  
22 license held unless that license is inactive at that location for more than  
23 six months.