

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

SENATE BILL 1030

AN ACT

AMENDING SECTION 4-205.08, 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 **4**, 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 **ONLY ON SURRENDER OF THE MICROBREWERY LICENSE OR LICENSES**
21 **AND SHALL HAVE NO CONTINUING RIGHTS AS A MICROBREWERY UNDER THIS SECTION. ON**
22 **THE SURRENDER OF THE MICROBREWERY LICENSE OR LICENSES, THE LICENSEE SHALL**
23 **TRANSFER, SURRENDER OR OTHERWISE RELINQUISH CONTROL OF ALL OF ITS RETAIL**
24 **LICENSES LOCATED REMOTELY FROM A MICROBREWERY.**

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

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

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

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

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

37 5. **SELL BEER PRODUCED OR MANUFACTURED BY OTHER MICROBREWERIES FOR**
38 **CONSUMPTION ONLY ON THE PREMISES OF THE LICENSEE, EXCEPT THAT THE SALES**
39 **PERCENTAGE OF BEER FROM OTHER MICROBREWERIES MAY NOT EXCEED TWENTY PERCENT OF**
40 **THE LICENSEE'S ANNUAL SALES OF BEER BY VOLUME AT THE PREMISES. IF THE OTHER**
41 **MICROBREWERY HAS ESTABLISHED A DISTRIBUTION RELATIONSHIP WITH ONE OR MORE**
42 **WHOLESALERS WHO ARE LICENSED UNDER THIS TITLE, THE BEER SHALL BE PURCHASED**
43 **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~~ SIX
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, ~~THE MICROBREWERY MAY SELL OTHER SPIRITUOUS LIQUOR PRODUCTS IF~~
10 ~~THE MICROBREWERY HOLDS AN ON-SALE RETAIL LICENSE FOR A BAR, BEER AND WINE~~
11 ~~BAR, OR RESTAURANT. THE MICROBREWERY MAY BE ISSUED UP TO A COMBINED TOTAL OF~~
12 ~~SEVEN RETAIL LICENSES IN THIS STATE WHETHER LOCATED ON OR ADJACENT TO A~~
13 ~~MICROBREWERY OR REMOTELY FROM A MICROBREWERY. THE LIMIT ON THE NUMBER OF~~
14 ~~RETAIL LICENSES APPLIES ON AN AGGREGATED BASIS TO ALL MICROBREWERIES THAT ARE~~
15 ~~UNDER COMMON CONTROL OF ANY PERSON WITH CONTROL OF THE MICROBREWERY. ~~these~~~~
16 ~~retail operations shall be conducted from the same site as the location of~~
17 ~~the microbrewery.~~

18 ~~4. The microbrewery may sell other spirituous liquor products if:~~

19 ~~(a) The microbrewery holds an on-sale retail license.~~

20 ~~(b) The retail sale of the spirituous liquor is on or adjacent to the~~
21 ~~premises of the microbrewery.~~

22 ~~5.~~ 4. The microbrewery may make sales and deliveries of beer that it
23 has produced OR MANUFACTURED to both:

24 (a) Retail licensees ~~that are under common ownership with the~~
25 ~~microbrewery~~ THAT MEET THE REQUIREMENTS PRESCRIBED IN PARAGRAPH 3 OF THIS
26 SUBSECTION in any amount.

27 (b) ~~Other licensed retailers~~ ANY OTHER RETAIL LICENSEE in a cumulative
28 amount not to exceed ninety-three thousand gallons in total for all licensed
29 retailers in any calendar year.

30 ~~E. A person who holds a microbrewery license that meets the~~
31 ~~requirements of this section and who is not otherwise engaged in the business~~
32 ~~of a distiller, vintner, brewer, rectifier, blender or other producer of~~
33 ~~spirituous liquor in any jurisdiction may hold other on-sale retail licenses.~~
34 ~~Except as provided in subsection D, paragraph 5, subdivision (a) of this~~
35 ~~section, the person shall purchase all spirituous liquor for sale at the~~
36 ~~other on-sale retail premises from wholesalers that are licensed in this~~
37 ~~state.~~

38 E. A MICROBREWERY THAT PRODUCES OR MANUFACTURES MORE THAN ONE MILLION
39 TWO HUNDRED FORTY THOUSAND GALLONS OF BEER IN A CALENDAR YEAR MAINTAINS ALL
40 OF THE RIGHTS ASSOCIATED WITH A MICROBREWERY LICENSE, WITH THE EXCEPTION THAT
41 IT SHALL NOT:

42 1. APPLY FOR OR RECEIVE A RETAIL LICENSE PURSUANT TO SUBSECTION D,
43 PARAGRAPH 3 OF THIS SECTION THAT IS LOCATED REMOTELY FROM THE MICROBREWERY.

44 2. MAKE SALES OR DELIVERIES OF BEER THAT IT HAS PRODUCED OR
45 MANUFACTURED TO ANY RETAIL LICENSE AS PROVIDED IN SUBSECTION D, PARAGRAPH 4

1 OF THIS SECTION, EXCEPT FOR ITS RETAIL LICENSES ON OR ADJACENT TO THE
2 MICROBREWERY.

3 F. THE GALLONAGE AMOUNTS PRESCRIBED IN SUBSECTION D, PARAGRAPH 2 AND
4 SUBSECTION E OF THIS SECTION APPLY TO THE AGGREGATE MANUFACTURE OR PRODUCTION
5 OF ALL MICROBREWERIES THAT ARE UNDER COMMON CONTROL OF ANY PERSON WITH
6 CONTROL OF THE MICROBREWERY.

7 G. A MICROBREWERY THAT IS OTHERWISE ENGAGED AS A DISTILLER, VINTNER,
8 BREWER, RECTIFIER, BLENDER OR OTHER PRODUCER OF SPIRITUOUS LIQUOR IN ANY
9 JURISDICTION IS PROHIBITED FROM HOLDING ANY RETAIL LICENSE THAT IS LOCATED
10 REMOTELY FROM A MICROBREWERY.

11 ~~F.~~ H. A microbrewery that sells or delivers beer pursuant to this
12 section shall:

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

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

17 ~~G.~~ I. A delivery of beer by a microbrewery to a purchaser in this
18 state is a transaction deemed to have occurred in this state.

19 ~~H.~~ J. The director shall adopt rules in order to administer this
20 section.

21 Sec. 2. Microbrewery licenses; temporary provisions

22 A. Notwithstanding section 4-205.08, Arizona Revised Statutes, as
23 amended by this act, persons who hold microbrewery licenses and who also hold
24 retail licenses or who have applied for retail licenses before the effective
25 date of this act, of retail license types other than allowed or in excess of
26 the total number of licenses allowed under section 4-205.08, subsection D,
27 Arizona Revised Statutes, as amended by this act, may continue to hold each
28 retail license unless that license becomes inactive at that location for more
29 than six months.

30 B. Notwithstanding section 4-205.08, Arizona Revised Statutes, as
31 amended by this act, a person who holds any interest in any microbrewery
32 license that also holds an on-sale retail license on or before December 31,
33 2015, that is not on or adjacent to the microbrewery premises and who becomes
34 a producer as provided by section 4-205.08, Arizona Revised Statutes, as
35 amended by this act, on or before December 31, 2018, may continue to hold
36 those retail licenses, notwithstanding section 4-243, subsection A, paragraph
37 3, Arizona Revised Statutes.

38 C. Notwithstanding section 4-205.08, Arizona Revised Statutes, as
39 amended by Laws 2014, chapter 253, section 13, a person who holds any
40 interest in any microbrewery license issued by the department of liquor
41 licenses and control on or before the effective date of this act and any
42 interest in any retail licenses issued by the department of liquor licenses
43 and control may continue to hold each retail license unless that license
44 becomes inactive at that location for more than six months.

1 D. Notwithstanding section 4-205.08, Arizona Revised Statutes, as
2 amended by Laws 2014, chapter 253, section 13, a person who holds any
3 interest in any microbrewery license issued by the department of liquor
4 licenses and control on or before the effective date of this act and any
5 interest in any producer license or out-of-state producer license issued by
6 the department of liquor licenses and control on or before the effective date
7 of this act, and who also holds any retail licenses issued by the department
8 of liquor licenses and control on or before the effective date of this act,
9 may continue to hold each retail license unless that license becomes inactive
10 at that location for more than six months.

11 E. Notwithstanding section 4-205.08, Arizona Revised Statutes, as
12 amended by Laws 2014, chapter 253, section 13, a person who holds any
13 microbrewery licenses issued by the department of liquor licenses and control
14 on or before the effective date of this act and who also holds or controls
15 any interest in any producer or out-of-state producer license on or before
16 the effective date of this act may continue to hold or control the
17 microbrewery licenses and producer licenses.

18 Sec. 3. Severability

19 If a provision of this act or its application to any person or
20 circumstances is held invalid by a final, nonappealable decision of a court
21 of competent jurisdiction, the invalidity does not affect other provisions or
22 applications of the act that can be given effect without the invalid
23 provision or application, and to this end the provisions of this act are
24 severable.