

State of Arizona
House of Representatives
Fifty-fourth Legislature
Second Regular Session
2020

HB 2739

Introduced by
Representative Weninger

AN ACT

AMENDING SECTIONS 4-203, 4-205.09, 4-205.10, 4-207.02 AND 4-210, ARIZONA REVISED STATUTES; AMENDING TITLE 4, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 4-225; AMENDING SECTIONS 4-226, 4-243, 4-243.01 AND 4-244, ARIZONA REVISED STATUTES; RELATING TO SPIRITUOUS LIQUOR.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 4-203, Arizona Revised Statutes, is amended to
3 read:

4 4-203. Licenses; issuance; transfer; reversion to state

5 A. A spirituous liquor license shall be issued only after
6 satisfactory showing of the capability, qualifications and reliability of
7 the applicant and, with the exception of wholesaler, producer, government
8 or club licenses, that the public convenience requires and that the best
9 interest of the community will be substantially served by the issuance.
10 If an application is filed for the issuance of a transferable or
11 nontransferable license, other than for a craft distiller license, a
12 microbrewery license or a farm winery license, for a location that on the
13 date the application is filed has a valid license of the same series, or
14 in the case of a restaurant license application filed for a location with
15 a valid hotel-motel license, issued at that location, there shall be a
16 rebuttable presumption that the public convenience and best interest of
17 the community at that location was established at the time the location
18 was previously licensed. The presumption may be rebutted by competent
19 contrary evidence. The presumption shall not apply once the licensed
20 location has not been in use for more than one hundred eighty days and the
21 presumption shall not extend to the personal qualifications of the
22 applicant.

23 B. The license shall be to manufacture, sell or deal in spirituous
24 liquors only at the place and in the manner provided in the license. A
25 separate license shall be issued for each specific business, and each
26 shall specify:

- 27 1. The particular spirituous liquors that the licensee is
28 authorized to manufacture, sell or deal in.
- 29 2. The place of business for which issued.
- 30 3. The purpose for which the liquors may be manufactured or sold.

31 C. A spirituous liquor license issued to a bar, a liquor store or a
32 beer and wine bar shall be transferable as to any permitted location
33 within the same county, if the transfer meets the requirements of an
34 original application. A spirituous liquor license may be transferred to a
35 person qualified to be a licensee, if the transfer is pursuant to either
36 judicial decree, nonjudicial foreclosure of a legal or equitable lien,
37 including security interests held by financial institutions pursuant to
38 section 4-205.05, a sale of the license, a bona fide sale of the entire
39 business and stock in trade, or other bona fide transactions that are
40 provided for by rule. Any change in ownership of the business of a
41 licensee, directly or indirectly, as defined by rule is deemed a transfer,
42 except that there is no transfer if a new artificial person is added to
43 the ownership of a licensee's business but the controlling persons remain
44 identical to the controlling persons that have been previously disclosed
45 to the director as part of the licensee's existing ownership.

1 D. All applications for a new license pursuant to section 4-201 or
2 for a transfer to a new location pursuant to subsection C of this section
3 shall be filed with and determined by the director, except when the
4 governing body of the city or town or the board of supervisors receiving
5 an application pursuant to section 4-201 orders disapproval of the
6 application or when the director, the state liquor board or any aggrieved
7 party requests a hearing. The application shall then be presented to the
8 state liquor board, and the new license or transfer shall not become
9 effective unless approved by the state liquor board.

10 E. A person who assigns, surrenders, transfers or sells control of
11 a liquor license or business that has a spirituous liquor license shall
12 notify the director within thirty business days after the assignment,
13 surrender, transfer or sale. A spirituous liquor license shall not be
14 leased or subleased. A concession agreement entered into under section
15 4-205.03 is not considered a lease or sublease in violation of this
16 section.

17 F. If a person other than those persons originally licensed
18 acquires control over a license or licensee, the person shall file notice
19 of the acquisition with the director within thirty business days after the
20 acquisition of control and a list of officers, directors or other
21 controlling persons on a form prescribed by the director. There is no
22 acquisition of control if a new person is added to the ownership of a
23 licensee's business but the controlling persons remain identical to the
24 controlling persons that have been previously disclosed to the director as
25 part of the licensee's existing ownership. All officers, directors or
26 other controlling persons shall meet the qualifications for licensure as
27 prescribed by this title. On request, the director shall conduct a
28 preinvestigation before the assignment, sale or transfer of control of a
29 license or licensee, the reasonable costs of which, not more than \$1,000,
30 shall be borne by the applicant. The preinvestigation shall determine
31 whether the qualifications for licensure as prescribed by this title are
32 met. On receipt of notice of an acquisition of control or request of a
33 preinvestigation, the director, within fifteen days after receipt, shall
34 forward the notice of the acquisition of control to the local governing
35 body of the city or town, if the licensed premises is in an incorporated
36 area, or the county, if the licensed premises is in an unincorporated
37 area. The director shall include in the notice to the local governing
38 body written instructions on how the local governing body may examine,
39 free of charge, the results of the department's investigation regarding
40 the capabilities, qualifications and reliability of all officers,
41 directors or other controlling persons listed in the application for
42 acquisition of control. The local governing body, or the governing body's
43 designee, may provide the director with a recommendation, either in favor
44 of or against the acquisition of control, within sixty days after the
45 director mails the notice, but section 4-201 does not apply to the

1 acquisition of control provided for in this section. A local governing
 2 body may charge not more than one fee, regardless of the number of
 3 licenses held by the applicant, for review of one or more applications for
 4 acquisition of control submitted to the department at the same time and
 5 for the same entity. Within one hundred five days after filing the notice
 6 of the acquisition of control, the director shall determine whether the
 7 applicant is qualified, capable and reliable for licensure. A
 8 recommendation by the local governing body, or the governing body's
 9 designee, against the acquisition of control or denial by the director
 10 shall be set for a hearing before the board. The person who has acquired
 11 control of a license or licensee has the burden of an original application
 12 at the hearing, and the board shall make its determination pursuant to
 13 section 4-202 and this section with respect to capability, reliability and
 14 qualification.

15 G. A licensee who holds a license in nonuse status for more than
 16 five months shall be required to pay a \$100 surcharge for each month
 17 thereafter. The surcharge shall be paid at the time the license is
 18 returned to active status. A license automatically reverts to the state
 19 after being held in continuous nonuse for more than thirty-six
 20 months. The director may waive the surcharge and may extend the time
 21 period provided in this subsection for good cause if the licensee files a
 22 written request for an extension of time to place the license in active
 23 status before the date of the automatic reversion. **UNLESS THE REVERTED**
 24 **LICENSE OF THE LICENSEE HAS BEEN SUBSEQUENTLY REISSUED, THE DIRECTOR SHALL**
 25 **RELIEVE A LICENSEE OR ITS LEGAL REPRESENTATIVE FROM A PRIOR LICENSE**
 26 **REVERSION UNDER THIS SECTION IF THE REQUEST FOR SUCH RELIEF IS FILED IN**
 27 **WRITING NOT LATER THAN TWO YEARS AFTER THE DATE OF REVERSION.** A license
 28 shall not be deemed to have gone into active status if the license is
 29 transferred to a location that at the time of or immediately before the
 30 transfer had an active license of the same type, unless the licenses are
 31 under common ownership or control.

32 H. A restructuring of a licensee's business is not an acquisition
 33 of control, a transfer of a spirituous liquor license or the issuance of a
 34 new spirituous liquor license if both of the following apply:

35 1. All of the controlling persons of the licensee and the new
 36 business entity are identical.

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

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

43 J. Notwithstanding subsection B of this section, the holder of a
 44 retail license in this state having off-sale privileges may take orders by
 45 telephone, mail, fax, ~~OR~~ OR catalog, through the internet or by other means

1 for the sale and delivery of spirituous liquor off of the licensed
2 premises to a person in this state in connection with the sale of
3 spirituous liquor. Notwithstanding the definition of "sell" **PRESCRIBED** in
4 section 4-101, the placement of an order and payment pursuant to this
5 section is not a sale until delivery has been made. At the time that the
6 order is placed, the licensee shall inform the purchaser that state law
7 requires a purchaser of spirituous liquor to be at least twenty-one years
8 of age and that the person accepting delivery of the spirituous liquor is
9 required to comply with this state's age identification requirements as
10 prescribed in section 4-241, subsections A and K. The licensee may
11 maintain a delivery service and may contract with one or more independent
12 contractors, that may also contract with one or more independent
13 contractors, or may contract with a common carrier for delivery of
14 spirituous liquor if the spirituous liquor is loaded for delivery at the
15 premises of the retail licensee in this state and delivered in this state.
16 All containers of spirituous liquor delivered pursuant to this subsection
17 shall be conspicuously labeled with the words "contains alcohol, signature
18 of person who is twenty-one years of age or older is required for
19 delivery". The licensee is responsible for any violation of this title or
20 any rule adopted pursuant to this title that is committed in connection
21 with any sale or delivery of spirituous liquor. Delivery must be made by
22 an employee of the licensee or other authorized person as provided by this
23 section who is at least twenty-one years of age to a customer who is at
24 least twenty-one years of age and who displays an identification at the
25 time of delivery that complies with section 4-241, subsection K. The
26 retail licensee shall collect payment for the full price of the spirituous
27 liquor from the purchaser before the product leaves the licensed
28 premises. The director shall adopt rules that set operational limits for
29 the delivery of spirituous liquors by the holder of a retail license
30 having off-sale privileges. With respect to the delivery of spirituous
31 liquor, for any violation of this title or any rule adopted pursuant to
32 this title that is based on the act or omission of a licensee's employee
33 or other authorized person, the mitigation ~~provisions~~ **PROVISION** of section
34 4-210, subsection G apply, with the exception of the training
35 requirement. For the purposes of this subsection and notwithstanding the
36 definition of "sell" prescribed in section 4-101, section 4-241,
37 subsections A and K apply only at the time of delivery. For the purposes
38 of compliance with this subsection, an independent contractor, a
39 subcontractor of an independent contractor, the employee of an independent
40 contractor or the employee of a subcontractor is deemed to be acting on
41 behalf of the licensee when making a delivery of spirituous liquor for the
42 licensee.

43 K. Except as provided in subsection J of this section, Arizona
44 licensees may transport spirituous liquors for themselves in vehicles
45 owned, leased or rented by the licensee.

1 L. Notwithstanding subsection B of this section, an off-sale retail
2 licensee may provide consumer tasting of wines off of the licensed
3 premises subject to all applicable provisions of section 4-206.01.

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

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

13 O. If a licensed location has not been in use for three years, the
14 location must requalify for a license pursuant to subsection A of this
15 section and shall meet the same qualifications required for issuance of a
16 new license except when the director deems that the nonuse of the location
17 was due to circumstances beyond the licensee's control and an extension of
18 time has been granted pursuant to subsection G of this section.

19 P. If the licensee's interest is forfeited pursuant to section
20 4-210, subsection L, the location shall requalify for a license pursuant
21 to subsection A of this section and shall meet the same qualifications
22 required for issuance of a new license except when a bona fide lienholder
23 demonstrates mitigation pursuant to section 4-210, subsection K.

24 Q. The director may implement a procedure for the issuance of a
25 license with a licensing period of two years.

26 R. For any sale of a farm winery or craft distiller or change in
27 ownership of a farm winery or craft distiller directly or indirectly, the
28 business, stock-in-trade and spirituous liquor may be transferred with the
29 ownership, in compliance with the applicable requirements of this title.

30 Sec. 2. Section 4-205.09, Arizona Revised Statutes, is amended to
31 read:

32 4-205.09. Microbrewery and farm winery licenses on same land:
33 requirements

34 A. The director may issue a ~~domestic~~ microbrewery license located
35 on the same parcel of land as a ~~domestic~~ farm winery subject to the
36 following conditions:

37 1. The licenses of the ~~domestic~~ microbrewery and the ~~domestic~~ farm
38 winery shall be held by different persons, EXCEPT THAT THE DIRECTOR MAY
39 ISSUE BOTH LICENSES TO THE SAME BONA FIDE EDUCATIONAL INSTITUTION FOR THE
40 PURPOSES OF POSTSECONDARY EDUCATIONAL INSTRUCTION.

41 2. The ~~domestic~~ microbrewery and the ~~domestic~~ farm winery shall be
42 located in separate buildings that are licensed separately.

43 3. The ~~domestic~~ microbrewery and the ~~domestic~~ farm winery may share
44 a common tasting room and indoor and outdoor premises for tasting and for
45 consumption of microbrewery and farm winery products.

1 4. The ~~domestic~~ microbrewery and ~~domestic~~ farm winery shall each
2 comply fully with all applicable requirements prescribed in ~~section~~
3 ~~SECTIONS~~ 4-205.04 and ~~section~~ 4-205.08.

4 5. Persons who hold a ~~domestic~~ microbrewery license or a ~~domestic~~
5 farm winery license with combined premises under this section shall not
6 hold any other license issued pursuant to this title.

7 B. A ~~domestic~~ microbrewery and a ~~domestic~~ farm winery that share a
8 common tasting room and indoor and outdoor premises as provided in
9 subsection A, paragraph 3 of this section may each be held liable for any
10 violation of this title.

11 Sec. 3. Section 4-205.10, Arizona Revised Statutes, is amended to
12 read:

13 4-205.10. Craft distiller license; issuance; regulatory
14 provisions; fee

15 A. The director may issue a craft distiller license to any person
16 that meets the requirements of subsection C of this section. Each
17 location that engages in producing and bottling these products must obtain
18 a separate craft distiller license. The licensee may not transfer the
19 craft distiller license from person to person or from location to location
20 and may not also hold a producer's license. The licensee and all commonly
21 controlled craft distiller licensees may not manufacture or produce more
22 than twenty thousand gallons of distilled spirits in a calendar year. For
23 the purposes of this section, annual gallonage shall be the total proof
24 gallons of finished distilled product available for wholesale or retail
25 sale as defined by 26 United States Code section 5002 and rules adopted
26 pursuant to this section or its successor.

27 B. Persons holding a craft distiller license shall report annually
28 at the end of each calendar year, at the time and in the manner as the
29 director prescribes, the amount of distilled spirits that is produced or
30 manufactured by that licensee during the calendar year. In addition to
31 any other provision of this title, if the total amount of distilled
32 spirits that is produced or manufactured during the year exceeds the
33 amount that is permitted annually by the license, the licensee shall apply
34 for and, on qualification, receive a producer's license only on the
35 surrender of the craft distiller license and shall have no continuing
36 rights as a craft distiller licensee under this section.

37 C. A person may be licensed as a craft distiller to sell distilled
38 spirits that are produced or manufactured by the person if in a calendar
39 year the person produces or manufactures not more than twenty thousand
40 gallons of distilled spirits and may make sales and deliveries of
41 distilled spirits only as specified in this section and subject to the
42 following criteria:

43 1. A licensed craft distiller may make sales and deliveries of
44 distilled spirits to wholesalers that are licensed to sell distilled
45 spirits under this title.

1 2. A licensed craft distiller may serve distilled spirits that are
2 produced or manufactured on the premises for the purpose of consumption on
3 the premises and may charge for samples on the premises of the craft
4 distiller.

5 3. A licensed craft distiller may sell distilled spirits that are
6 produced or manufactured on the premises in the original container for
7 consumption off the premises to a consumer who is physically present on
8 the premises.

9 4. The licensed craft distiller may hold one license prescribed in
10 section 4-209, subsection B, paragraph 6 or 12 on or adjacent to the
11 licensed craft distiller premises. The licensed craft distiller shall
12 purchase all other spirituous liquor for sale at the on-sale retail
13 premises from wholesalers that are licensed in this state, except that a
14 licensed craft distiller may:

15 (a) Purchase distilled spirits from other craft distillers that are
16 licensed in this state. Sales of craft distillery products not produced
17 or manufactured by the craft distiller shall be limited to no more than
18 twenty percent of the total sales by volume.

19 (b) Make deliveries of the distilled spirits that the craft
20 distiller manufactures or produces to any commonly controlled retail
21 licensed premises or to the craft distiller's remote tasting rooms and
22 that are authorized pursuant to this paragraph.

23 5. A licensed craft distiller that produces not more than ~~one~~
24 ~~thousand one hundred eighty-nine~~ THREE THOUSAND FIVE HUNDRED SIXTY-SIX
25 gallons of distilled spirits in a calendar year may make sales and
26 deliveries of distilled spirits that the licensed craft distiller produces
27 to on-sale and off-sale retailers.

28 6. Notwithstanding section 4-244, paragraphs 3 and 7, an on-sale or
29 off-sale retailer may purchase and accept delivery of distilled spirits
30 from a licensed craft distiller pursuant to paragraph 5 of this
31 subsection.

32 7. A licensed craft distiller may make sales and deliveries of
33 distilled spirits that the licensed craft distiller manufactures or
34 produces to consumers off of the licensed premises if the sale or delivery
35 is ordered by telephone, mail, fax, catalogue, the internet or by other
36 means if all of the following conditions exist:

37 (a) The purchaser of the distilled spirits provided the licensed
38 craft distiller with verification of the purchaser's legal age to purchase
39 alcohol and a copy of same is maintained in the records of the craft
40 distiller.

41 (b) The shipping container in which the distilled spirits are
42 shipped is marked to require the signature on delivery of an adult who is
43 of legal age to purchase alcohol and delivery confirmation.

44 (c) The distilled spirits are for personal use only and not for
45 resale.

1 (d) The distilled spirits are shipped to a residential or business
2 address other than a premises licensed pursuant to this title.

3 (e) The purchaser could have carried the distilled spirits lawfully
4 into or within this state.

5 (f) A person who is at least twenty-one years of age makes the
6 delivery.

7 (g) The craft distiller collects payment for the price of the
8 spirituous liquor no later than at the time of delivery.

9 D. On application by a craft distiller licensee, the director may
10 authorize a craft distiller licensee to operate two other remote tasting
11 and retail premises if:

12 1. The distilled spirits sold at the premises are limited to
13 distilled spirits produced or manufactured by the licensed craft
14 distillery and distilled spirits produced or manufactured by another
15 licensed craft distillery. The craft distillery may sell to a consumer
16 physically present on the premises distilled spirits produced by the craft
17 distillery or by other licensed craft distilleries in the original
18 container for consumption on or off the premises. The sales of the
19 distilled spirits produced or manufactured by other craft distilleries
20 shall not exceed twenty percent of the craft distillery's total sales by
21 volume.

22 2. The craft distiller licensee:

23 (a) Remains responsible for the premises.

24 (b) Obtains approval for the premises from the local governing body
25 before submitting an application to the department. A copy of an order
26 from the local governing body recommending approval of the premises must
27 be filed with the department as part of the application.

28 (c) Does not sublease the premises.

29 (d) Has an agent who is a natural person who meets the
30 qualifications of licensure in this state.

31 (e) Meets the qualifications for a license pursuant to section
32 4-203, subsection A.

33 (f) For a tasting room with a shared patio, meets the requirements
34 prescribed in section 4-205.12.

35 E. A craft distiller licensee may hold a farm winery license issued
36 pursuant to section 4-205.04. The craft distiller licensee and farm
37 winery licensee are subject to all other requirements of this section and
38 section 4-205.04. The craft distiller may provide sampling and retail
39 sales of distilled spirits pursuant to subsection C, paragraphs 2 and 3 of
40 this section on the same premises as the wine sampling and retail sales.

41 F. The craft distiller is liable for any violation that is
42 committed in connection with any sale or delivery of the distilled
43 spirits. The rules adopted by the director pursuant to section 4-203,
44 subsection J apply to the delivery of distilled spirits under subsection C
45 of this section. An act or omission of any person who makes a sale or

1 delivery of distilled spirits for a licensee under subsection C of this
2 section is deemed to be an act or omission of the licensee for the
3 purposes of section 4-210, subsection A, paragraph 9.

4 G. A craft distiller that sells or delivers distilled spirits
5 pursuant to this section shall:

6 1. Pay to the department of revenue all luxury taxes that are
7 imposed pursuant to title 42, chapter 3 and all transaction privilege or
8 use taxes that are imposed pursuant to title 42, chapter 5.

9 2. File all returns or reports that are required by law.

10 H. A delivery of distilled spirits by a craft distiller to a
11 purchaser in this state is a transaction deemed to have occurred in this
12 state.

13 I. The production and storage space of the craft distiller are
14 excluded from the public area of the licensed craft distiller premises.
15 Pursuant to section 4-118, the director, the director's agents or any
16 peace officer may inspect spaces excluded by this subsection. For the
17 purposes of this subsection:

18 1. "Production and storage ~~spaces~~ SPACE" means A bonded ~~areas~~ AREA,
19 tax-paid storage ~~areas~~ AREA and ~~areas~~ AREA that ~~provide~~ PROVIDES no
20 services to the public.

21 2. "Public area" means a place within a licensed and bonded craft
22 distiller that is accessible to the public and in which the craft
23 distiller sells and samples tax-paid product and authorizes the presence
24 of members of the public.

25 J. The director may adopt rules in order to administer this
26 section.

27 K. The director may charge a fee adopted pursuant to section 4-209
28 for the issuance of a license pursuant to this section.

29 L. The director may issue a craft distiller license to be located
30 on the same parcel of land as a farm winery licensed pursuant to section
31 4-205.04.

32 Sec. 4. Section 4-207.02, Arizona Revised Statutes, is amended to
33 read:

34 4-207.02. Multiple licensees with joint premises

35 A. One or more on-sale spirituous liquor licensees with the same
36 type of bar, beer and wine bar, restaurant or remote tasting room license
37 may apply to the director for a joint premises permit. The premises of
38 each applicant shall be adjacent to and fully contiguous to the joint
39 premises. The proposed joint premises shall be limited to common areas
40 that are pedestrian only and that are not immediately adjacent to a road,
41 driveway or parking area. Application for a joint premises permit shall
42 be on a form prescribed by the director. The application shall contain
43 plans and diagrams that completely disclose and designate the physical
44 arrangement of the proposed joint premises. The applicant licensee shall
45 submit a copy of the application to the local governing body before

1 submitting the application to the director. The local governing body may
2 review the application and provide an advisory recommendation to the
3 director. The applicants shall submit a security plan that addresses the
4 requirements prescribed in this section. The director may approve or deny
5 the application, or approve the application for some but not all of the
6 applicants based on the applicant's demonstration of ability to comply
7 with the requirements prescribed in this section. If the application is
8 approved, the joint premises area shall be considered an extension of
9 premises for each of the approved applicants, subject to the following
10 conditions:

11 1. The licensees implement security measures necessary to ensure
12 that an individual under the legal drinking age does not purchase, possess
13 or consume spirituous liquor on the licensed premises.

14 2. The licensees install and maintain temporary or permanent
15 physical barriers around the joint premises or other security measures,
16 including electronic surveillance and the use of security personnel and
17 signage, that are fully in place while spirituous liquor is served and
18 consumed. The barriers or other security measures shall be placed to
19 achieve the following purposes:

20 (a) To control spirituous liquor service.

21 (b) To delineate the licensed premises.

22 (c) To control the ingress ~~TO~~ and egress from the licensed
23 premises.

24 (d) To provide for the safety of patrons.

25 (e) To prevent underage possession and consumption of spirituous
26 liquor.

27 (f) To prevent the removal of spirituous liquor from the premises.

28 (g) To prevent the unauthorized carrying of spirituous liquor onto
29 the premises.

30 (h) To prevent the unauthorized consumption of spirituous liquor in
31 a public area or thoroughfare.

32 3. The director may require that, during the time the premises are
33 being used as ~~a~~ joint premises under a permit, ~~that~~ the participating
34 licensees identify the spirituous liquor beverages sold by each licensee
35 by using distinguishable containers.

36 B. The licensees shall file with the director and may modify from
37 time to time a schedule showing the days and time periods when the joint
38 premises will be in use.

39 C. Each licensee that is approved for the joint premises shall
40 comply fully with all applicable requirements of this title and any rules
41 adopted pursuant to this title.

42 D. Each joint licensee that shares ~~a~~ ~~THE~~ joint premises as
43 provided in this section may be held liable for any violation of this
44 title. One or more licensees may be cited for a violation of this title
45 that occurs on the premises, if the circumstances warrant the citation.

1 E. A licensee with joint premises privileges may not allow a person
2 under the legal drinking age who is not accompanied by ~~an adult~~ A SPOUSE,
3 PARENT, GRANDPARENT OR LEGAL GUARDIAN OF LEGAL DRINKING AGE to remain in
4 an area on the joint premises during hours in which the primary use is the
5 sale, dispensing or consumption of spirituous liquor after the licensee,
6 or the licensee's employees, know or should have known that the person is
7 under the legal drinking age.

8 F. The department may consolidate complaints, proceedings and
9 hearings with respect to complaints or matters against one or more
10 licensees with joint ~~premise~~ PREMISES permits.

11 G. The right of a licensee to use the joint premises may be limited
12 or revoked by the director for a violation of this title or any rule
13 adopted pursuant to this title.

14 H. The department may charge a fee in an amount prescribed by the
15 director for the review and processing of an application submitted
16 pursuant to this section.

17 I. Notwithstanding any other law, a joint premises permit may be
18 suspended summarily and without appeal for up to ten days if the director
19 determines that good cause exists for the suspension.

20 J. A permit issued pursuant to this section is not transferable.

21 K. A permit issued pursuant to this section shall be issued for one
22 year and may be annually renewed.

23 Sec. 5. Section 4-210, Arizona Revised Statutes, is amended to
24 read:

25 4-210. Grounds for revocation, suspension and refusal to
26 renew; notice; complaints; hearings; defense

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

30 1. There occurs on the licensed premises repeated acts of violence.

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

34 3. The licensee or controlling person knowingly files with the
35 department an application or other document that contains material
36 information that is false or misleading or while under oath knowingly
37 gives testimony in an investigation or other proceeding under this title
38 that is false or misleading.

39 4. The licensee or controlling person is on the premises habitually
40 intoxicated.

41 5. The licensed business is delinquent for more than one hundred
42 twenty days in the payment of taxes, penalties or interest in an amount
43 that exceeds \$250 to the state or to any political subdivision of the
44 state.

1 6. The licensee or controlling person obtains, assigns, transfers
2 or sells a spirituous liquor license without compliance with this title or
3 leases or subleases a license.

4 7. The licensee fails to keep for two years and make available to
5 the department on reasonable request all invoices, records, bills or other
6 papers and documents relating to the purchase, sale and delivery of
7 spirituous liquors and, in the case of a restaurant or hotel-motel
8 licensee, all invoices, records, bills or other papers and documents
9 relating to the purchase, sale and delivery of food.

10 8. The licensee or controlling person is convicted of a felony
11 provided that for a conviction of a corporation to serve as a reason for
12 any action by the director, conduct that constitutes the corporate offense
13 and was the basis for the felony conviction must have been engaged in,
14 authorized, solicited, commanded or recklessly tolerated by the directors
15 of the corporation or by a high managerial agent acting within the scope
16 of employment.

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

20 10. The licensee fails to take reasonable steps to protect the
21 safety of a customer of the licensee or any other person entering, leaving
22 or remaining on the licensed premises when the licensee knew or reasonably
23 should have known of the danger to the person, or the licensee fails to
24 take reasonable steps to intervene by notifying law enforcement officials
25 or otherwise to prevent or break up an act of violence occurring on the
26 licensed premises or immediately adjacent to the premises when the
27 licensee knew or reasonably should have known of the acts of violence.
28 THIS DUTY DOES NOT EXTEND TO A PERSON WHO ENTERS THE PREMISES OR WHO
29 REMAINS ON THE PREMISES TO DISRUPT OR DAMAGE THE PREMISES OR TO CAUSE HARM
30 TO ANOTHER PERSON ON THE PREMISES.

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

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

37 13. A licensee that is a liquor store as defined in section 46-297
38 violates the restrictions on use of automatic teller machines or
39 point-of-sale terminals regarding electronic benefit transfer cards
40 prescribed in section 4-242.01.

41 14. There occurs on the licensed premises a serious act of
42 violence. For the purposes of this paragraph, "serious act of violence"
43 means an act of violence in which a serious injury causes the death or
44 critical injury of a person and the injuries would be obvious to a
45 reasonable person.

1 15. The licensee fails to report a serious act of violence that
2 occurs on the licensed premises. For the purposes of this paragraph,
3 "serious act of violence" means an act of violence in which a serious
4 injury causes death or critical injury of a person and the injuries would
5 be obvious to a reasonable person.

6 16. The licensee violates an order of the board.

7 B. For the purposes of:

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

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

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

31 D. If the director finds, based on clear and convincing evidence in
32 the record, that a violation involves the use by the licensee of a
33 drive-through or walk-up service window or other physical feature of the
34 licensed premises that allows a customer to purchase spirituous liquor
35 without leaving the customer's vehicle or, with respect to a walk-up
36 service window that prevents the licensee from fully observing the
37 customer, and that the use of that drive-through or walk-up service window
38 or other physical feature caused the violation, the director may suspend
39 or terminate the licensee's use of the drive-through or walk-up service
40 window or other physical feature for the sale of spirituous liquor, in
41 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 that has not been resolved alleging a violation of

1 any of the grounds stated in subsection A of this section until the time
 2 the complaint has been finally adjudicated.

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

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

42 H. A hearing shall conform to the requirements of title 41, chapter
 43 6, article 10. At the hearing an attorney or corporate officer or
 44 employee of a corporation may represent the corporation. The revoking,
 45 suspending or refusing to renew a license for unpaid taxes, penalties or

1 interest pursuant to subsection A, paragraph 5 of this section is a
2 contested case with the department of revenue pursuant to section
3 42-1251.01.

4 I. The expiration, cancellation, revocation, reversion, surrender,
5 acceptance of surrender or termination in any other manner of a license
6 does not prevent the initiation or completion of a disciplinary proceeding
7 pursuant to this section against the licensee or license. An order issued
8 pursuant to a disciplinary proceeding against a license is enforceable
9 against other licenses or subsequent licenses in which the licensee or
10 controlling person of the license has a controlling interest.

11 J. The department shall provide the same notice as is provided to
12 the licensee to a lienholder, which has provided a document under section
13 4-112, subsection B, paragraph 3, of all disciplinary or compliance action
14 with respect to a license issued pursuant to this title. The state is not
15 liable for damages for any failure to provide any notice pursuant to this
16 subsection.

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

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

28 2. That a statement of legal or equitable interest was filed with
29 the department before the alleged conduct occurred that is the basis for
30 the action against the license.

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

36 4. That the lienholder was free of responsibility for the conduct
37 that is the basis for the proposed revocation.

38 5. That the lienholder reasonably attempted to remain informed by
39 the licensee about the business's conduct.

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

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

44 2. The lienholder to pay any civil monetary penalty imposed on the
45 licensee.

1 M. If any on-sale licensee proposes to provide large capacity
2 entertainment events or sporting events with an attendance capacity
3 exceeding a limit established by the director, the director may request a
4 security plan from the licensee that may include trained security
5 officers, lighting and other requirements. This subsection exclusively
6 prescribes the security requirements for a licensee and does not create
7 any civil liability for the state, its agencies, agents or employees or a
8 person licensed under this title or agents or employees of a licensee.

9 N. The director may consider as a mitigating factor or defense to a
10 complaint against a licensee for a violation of subsection A, paragraph 10
11 or 14 of this section that the licensee acted reasonably, responsibly and
12 as expeditiously as possible by asking for intervention by a peace officer
13 to prevent or to break up a riot, a fight, an altercation or tumultuous
14 conduct.

15 Sec. 6. Title 4, chapter 2, article 2, Arizona Revised Statutes, is
16 amended by adding section 4-225, to read:

17 4-225. Department of health services exemption; definitions

18 A. ALCOHOLIC BEVERAGES THAT ARE COMMERCIALY PRODUCED BY A DULY
19 LICENSED PRODUCER ARE EXEMPT FROM TITLE 36, CHAPTERS 1 AND 8 AND THE RULES
20 ADOPTED PURSUANT TO TITLE 36, CHAPTERS 1 AND 8.

21 B. FOR THE PURPOSES OF THIS SECTION:

22 1. "ALCOHOLIC BEVERAGE" MEANS ANY BEVERAGE IN LIQUID FORM THAT
23 CONTAINS NOT LESS THAN ONE-HALF OF ONE PERCENT OF ALCOHOL BY VOLUME AND
24 THAT IS INTENDED FOR HUMAN CONSUMPTION.

25 2. "COMMERCIALY PRODUCED" MEANS AN ALCOHOLIC BEVERAGE THAT IS
26 PRODUCED BY A DOMESTIC OR FOREIGN BREWERY, DISTILLERY OR WINERY THAT IS
27 LICENSED IN ACCORDANCE WITH THE FEDERAL LAWS GOVERNING THE PRODUCTION OF
28 ALCOHOLIC BEVERAGES AND THAT IS ALLOWED TO BE PRODUCED, SOLD AND OR
29 IMPORTED INTO THE UNITED STATES BY THE UNITED STATES ALCOHOL AND TOBACCO
30 TAX AND TRADE BUREAU.

31 Sec. 7. Section 4-226, Arizona Revised Statutes, is amended to
32 read:

33 4-226. Exemptions

34 ~~The provisions of~~ This title ~~do~~ DOES not apply to THE FOLLOWING:

35 1. Drugstores selling spirituous liquors only on prescription.

36 2. Any confectionery candy containing less than five ~~per cent~~
37 PERCENT by weight of alcohol.

38 3. Ethyl alcohol intended for use or used for the following
39 purposes:

40 (a) Scientific, chemical, mechanical, industrial and medicinal
41 purposes. For the purposes of this paragraph, medicinal purposes ~~does~~ DO
42 not include ethyl alcohol or spirituous liquor that contains marijuana or
43 usable marijuana as defined in section 36-2801.

1 (b) ~~Use~~ By those authorized to procure spirituous liquor or ethyl
2 alcohol tax-free, as provided by the acts of Congress and regulations
3 promulgated ~~thereunder~~ UNDER THE ACTS OF CONGRESS.

4 (c) In the manufacture of denatured alcohol produced and used as
5 provided by the acts of Congress and regulations promulgated ~~thereunder~~
6 UNDER THE ACTS OF CONGRESS.

7 (d) In the manufacture of patented, patent, proprietary, medicinal,
8 pharmaceutical, antiseptic, toilet, scientific, chemical, mechanical and
9 industrial preparations or products, unfit and not used for beverage
10 purposes.

11 (e) In the manufacture of flavoring extracts and syrups unfit for
12 beverage purposes.

13 4. The purchase, storage, distribution, service or consumption of
14 wine in connection with the bona fide practice of a religious belief or as
15 an integral part of a religious exercise by a church recognized by the
16 United States internal revenue service under section 501(c)(3) of the
17 internal revenue code and in a manner not dangerous to public health or
18 safety. This exemption does not apply to any alleged violation of section
19 4-244, paragraph 9, 34, 35 or 41.

20 5. Beer OR WINE produced for personal or family use that is not for
21 sale. The beer OR WINE may be removed from the premises where it was made
22 and exhibited at organized affairs, exhibitions or competitions such as
23 homebrewers' OR HOME WINEMAKERS' contests, tasting or judging.

24 Sec. 8. Section 4-243, Arizona Revised Statutes, is amended to
25 read:

26 4-243. Commercial coercion or bribery unlawful; exceptions

27 A. It is unlawful for a person engaged in the business of
28 distiller, vintner, brewer, rectifier or blender or any other producer or
29 wholesaler of any spirituous liquor, directly or indirectly, or through an
30 affiliate:

31 1. To require that a retailer purchase spirituous liquor from the
32 producer or wholesaler to the exclusion, in whole or in part, of
33 spirituous liquor sold or offered for sale by other persons.

34 2. To induce a retailer by any form of commercial bribery to
35 purchase spirituous liquor from the producer or wholesaler to the
36 exclusion, in whole or in part, of spirituous liquor sold or offered for
37 sale by other persons.

38 3. To acquire an interest in property owned, occupied or used by
39 the retailer in the retailer's business, or in a license with respect to
40 the premises of the retailer.

41 4. To furnish, give, rent, lend or sell to the retailer equipment,
42 fixtures, signs, supplies, money, services or other things of value,
43 subject to the exception as the rules adopted pursuant to this title may
44 prescribe, having regard for established trade customs and the purposes of
45 this subsection.

1 5. To pay or credit the retailer for advertising, display or
2 distribution service, except that the director may adopt rules regarding
3 advertising in conjunction with seasonal sporting events.

4 6. To guarantee a loan or repayment of a financial obligation of
5 the retailer.

6 7. To extend credit to the retailer on a sale of spirituous liquor.

7 8. To require the retailer to take and dispose of a certain quota
8 of spirituous liquor.

9 9. To offer or give a bonus, a premium or compensation to the
10 retailer or any of the retailer's officers, employees or representatives.

11 B. This section does not prohibit any distiller, vintner, brewer,
12 rectifier, blender or other producer or wholesaler of any spirituous
13 liquor from:

14 1. Giving financial and other forms of event sponsorship assistance
15 to nonprofit or charitable organizations for purposes of charitable
16 fund-raising that are issued special event licenses by the department.
17 This section does not prohibit suppliers from advertising their
18 sponsorship at such special events.

19 2. Providing samples to retail consumers at on-sale premises
20 establishments according to the following procedures:

21 (a) Sampling operations shall be conducted under the supervision of
22 an employee of the sponsoring producer or wholesaler.

23 (b) Sampling shall be limited to ~~twelve~~ SIXTEEN ounces of beer or
24 cooler products, six ounces of wine or two ounces of distilled spirits per
25 person per brand.

26 (c) If requesting the on-sale retailer to prepare a drink for the
27 consumer, the producer's or wholesaler's representative shall pay the
28 retailer for the sample drink.

29 (d) The producer or wholesaler may not buy the on-sale retailer or
30 the retailer's employees a drink during their working hours or while they
31 are engaged in waiting on or serving customers.

32 (e) The producer or wholesaler may not give a keg of beer or any
33 spirituous liquor or any other gifts or benefits to the on-sale retailer.

34 (f) All sampling procedures shall comply with federal sampling laws
35 and regulations.

36 3. Providing samples to retail consumers on an off-sale retailer's
37 premises according to the following procedures:

38 (a) Sampling shall be conducted by an employee of the sponsoring
39 producer or wholesaler.

40 (b) The producer or wholesaler shall notify the department in
41 writing or by electronic means at least five days before the sampling of
42 the date, time and location of the sampling and of the name of the
43 wholesaler or producer distributing the product.

44 (c) Sampling is limited to three ounces of beer, one and one-half
45 ounces of wine or one ounce of distilled spirits per person per day for

1 consumption on the premises and up to seventy-two ounces of beer and two
2 ounces of distilled spirits per person per day for consumption off the
3 premises.

4 (d) An off-sale retailer shall not ~~permit~~ ALLOW sampling to be
5 conducted on a licensed premises on more than twelve days in any calendar
6 year per wholesaler or producer.

7 (e) Sampling shall be limited to two wholesalers or producers at
8 any one off-sale retailer's premises on any day and shall not exceed three
9 hours on any day per approved sampling.

10 (f) A producer conducting sampling shall buy the sampled product
11 from a wholesaler or from the retailer where the sampling is being
12 conducted. If the product for the sampling is purchased from the
13 retailer, the amount paid for the product must be the same amount that the
14 retailer charges for sale to the general public.

15 (g) The producer or wholesaler shall not provide samples to any
16 person who is under the legal drinking age.

17 (h) The producer or wholesaler shall designate an area in which
18 sampling is conducted that is in the portion of the licensed premises
19 where spirituous liquor is primarily displayed and separated from the
20 remainder of the off-sale retailer's premises by a wall, rope, door,
21 cable, cord, chain, fence or other barrier. The producer or wholesaler
22 shall not ~~permit~~ ALLOW persons under the legal drinking age from entering
23 the area in which sampling is conducted. If the retail location has been
24 issued a permanent sampling privilege from the department, the requirement
25 for separation from the remainder of the premises by wall, rope, door,
26 cable, cord, chain, fence or other barrier is not required.

27 (i) The producer or wholesaler may not provide samples to the
28 retailer or the retailer's employees.

29 (j) Sampling shall not be conducted in retail premises with a total
30 of under five thousand square feet of retail space unless at least
31 seventy-five percent of the retailer's shelf space is dedicated to the
32 sale of spirituous liquor.

33 (k) The producer or wholesaler may not give spirituous liquor or
34 any other gifts or benefits to the off-sale retailer.

35 (l) All sampling procedures shall comply with federal sampling laws
36 and regulations.

37 C. Notwithstanding subsection A, paragraph 4 of this section, any
38 wholesaler of any spirituous liquor may sell tobacco products or
39 foodstuffs to a retailer at a price not less than the cost to the
40 wholesaler.

41 D. Notwithstanding subsection A, paragraph 4, and subsection B,
42 paragraph 2, subdivision (e) of this section, any wholesaler may furnish
43 without cost promotional items to an on-sale retailer, except that the
44 total market value of the promotional items furnished by that wholesaler
45 to that retailer in any calendar year shall not exceed ~~five hundred~~

1 ~~dollars~~ \$500. For the purposes of this subsection, "promotional items"
2 means items of equipment, supplies, novelties or other advertising
3 specialties that conspicuously display the brand name of a spirituous
4 liquor product. Promotional items do not include signs.

5 E. Notwithstanding subsection A, paragraphs 4 and 7 of this
6 section, a wholesaler may in the wholesaler's sole discretion accept the
7 return of malt beverage products from a retailer under any of the
8 following conditions:

9 1. The retailer's licensed premises will be closed for business for
10 thirty or more consecutive days, and the products are likely to spoil or
11 expire during the business closing period.

12 2. The retailer's licensed premises is used primarily as a music or
13 live sporting venue with a permanent occupancy of more than one thousand
14 people, and the products are likely to spoil or expire during the time
15 period between venue events.

16 3. The retailer holds a governmental entity license and conducts
17 less than six events per year at which products are sold, and the products
18 are likely to spoil or expire during the time period between events.

19 F. It is unlawful for a retailer to request or knowingly receive
20 anything of value that a distiller, vintner, brewer, rectifier or blender
21 or any other producer or wholesaler is prohibited by subsection A, D or E
22 of this section from furnishing to a retailer, except that this subsection
23 does not prohibit special discounts provided to retailers and based on
24 quantity purchases.

25 Sec. 9. Section 4-243.01, Arizona Revised Statutes, is amended to
26 read:

27 4-243.01. Purchasing from other than primary source of supply
28 unlawful; definitions

29 A. It is unlawful:

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

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

38 3. Except as provided by section 4-243.02 for a retailer to order,
39 purchase or receive any spirituous liquor from any source other than any
40 of the following:

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

43 (b) A wholesaler that is the designated representative of the
44 primary source of supply in this state and that has purchased such

1 spirituous liquor from the designated representative of the primary source
2 of supply within or without this state.

3 (c) A registered retail agent ~~pursuant to~~ AS DEFINED IN section
4 4-101.

5 (d) A farm winery THAT IS licensed under section 4-205.04 and THAT
6 IS subject to the ~~limitations~~ LIMITS prescribed in section 4-205.04,
7 subsection C, paragraph 7.

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

9 (f) A CRAFT DISTILLER THAT IS LICENSED UNDER SECTION 4-205.10 AND
10 THAT IS SUBJECT TO THE LIMITS PRESCRIBED IN SECTION 4-205.10, SUBSECTION
11 C, PARAGRAPH 5.

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

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

19 D. ~~Upon~~ ON determination by the department of revenue that a
20 primary source of supply has violated this section, ~~no~~ A wholesaler may
21 NOT accept any shipment of spirituous liquor from such primary source of
22 supply for a period of one year.

23 E. For the purposes of this section:

24 1. "Primary source of supply" means the distiller, producer, owner
25 of the commodity at the time it becomes a marketable product, bottler or
26 exclusive agent of any such distributor or owner. In the case of imported
27 products, the primary source of supply means either the foreign producer,
28 owner, bottler or agent or the prime importer from, or the exclusive agent
29 in, the United States of the foreign distiller, producer, bottler or
30 owner.

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

36 Sec. 10. Section 4-244, Arizona Revised Statutes, is amended to
37 read:

38 4-244. Unlawful acts

39 It is unlawful:

40 1. For a person to buy for resale, sell or deal in spirituous
41 liquors in this state without first having procured a license duly issued
42 by the board, except that the director may issue a temporary permit of any
43 series pursuant to section 4-205.05 to a trustee in bankruptcy to acquire
44 and dispose of the spirituous liquor of a debtor.

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

3 3. For a distiller, vintner, brewer or wholesaler knowingly to
4 sell, dispose of or give spirituous liquor to any person other than a
5 licensee except in sampling wares as may be necessary in the ordinary
6 course of business, except in donating spirituous liquor to a nonprofit
7 organization that has obtained a special event license for the purpose of
8 charitable fund-raising activities or except in donating spirituous liquor
9 with a cost to the distiller, brewer or wholesaler of up to \$500 in a
10 calendar year to an organization that is exempt from federal income taxes
11 under section 501(c) (3), (4), (6) or (7) of the internal revenue code and
12 not licensed under this title.

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

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

21 6. For a person to take or solicit orders for spirituous liquors
22 unless the person is a salesman or solicitor of a licensed wholesaler, a
23 salesman or solicitor of a distiller, brewer, vintner, importer or broker
24 or a registered retail agent.

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

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

31 9. Except as provided in paragraphs 10 and 11 of this section, for
32 a licensee or other person to sell, furnish, dispose of or give, or cause
33 to be sold, furnished, disposed of or given, to a person under the legal
34 drinking age or for a person under the legal drinking age to buy, receive,
35 have in the person's possession or consume spirituous liquor. This
36 paragraph does not prohibit the employment by an off-sale retailer of
37 persons who are at least sixteen years of age to check out, if supervised
38 by a person on the premises who is at least eighteen years of age, package
39 or carry merchandise, including spirituous liquor, in unbroken packages,
40 for the convenience of the customer of the employer, if the employer sells
41 primarily merchandise other than spirituous liquor.

42 10. For a licensee to employ a person under eighteen years of age
43 to manufacture, sell or dispose of spirituous liquors. This paragraph
44 does not prohibit the employment by an off-sale retailer of persons who
45 are at least sixteen years of age to check out, if supervised by a person

1 on the premises who is at least eighteen years of age, package or carry
2 merchandise, including spirituous liquor, in unbroken packages, for the
3 convenience of the customer of the employer, if the employer sells
4 primarily merchandise other than spirituous liquor.

5 11. For an on-sale retailer to employ a person under eighteen years
6 of age in any capacity connected with the handling of spirituous liquors.
7 This paragraph does not prohibit the employment by an on-sale retailer of
8 a person under eighteen years of age who cleans up the tables on the
9 premises for reuse, removes dirty dishes, keeps a ready supply of needed
10 items and helps clean up the premises.

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

15 13. For an employee of a retail licensee, during that employee's
16 working hours or in connection with such employment, to give to or
17 purchase for any other person, accept a gift of, purchase for the employee
18 or consume spirituous liquor, except that:

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

23 (b) An employee of an on-sale retail licensee, during that
24 employee's working hours or in connection with the employment, while the
25 employee is not engaged in waiting on or serving customers, may taste
26 samples of beer or wine of not more than four ounces per day or distilled
27 spirits of not more than two ounces per day provided by an employee of a
28 wholesaler or distributor who is present at the time of the sampling.

29 (c) An employee of an on-sale retail licensee, under the
30 supervision of a manager as part of the employee's training and education,
31 while not engaged in waiting on or serving customers may taste samples of
32 distilled spirits of not more than two ounces per educational session or
33 beer or wine of not more than four ounces per educational session, and
34 provided that a licensee does not have more than two educational sessions
35 in any thirty-day period.

36 (d) An unpaid volunteer who is a bona fide member of a club and who
37 is not engaged in waiting on or serving spirituous liquor to customers may
38 purchase for himself and consume spirituous liquor while participating in
39 a scheduled event at the club. An unpaid participant in a food
40 competition may purchase for himself and consume spirituous liquor while
41 participating in the food competition.

42 (e) An unpaid volunteer of a special event licensee under section
43 4-203.02 may purchase and consume spirituous liquor while not engaged in
44 waiting on or serving spirituous liquor to customers at the special event.
45 This subdivision does not apply to an unpaid volunteer whose

1 responsibilities include verification of a person's legal drinking age,
2 security or the operation of any vehicle or heavy machinery.

3 (f) A REPRESENTATIVE OF A PRODUCER OR WHOLESALER PARTICIPATING AT A
4 SPECIAL EVENT UNDER SECTION 4-203.02 MAY CONSUME SMALL AMOUNTS OF THE
5 PRODUCTS OF THE PRODUCER OR WHOLESALER ON THE PREMISES OF THE SPECIAL
6 EVENT FOR THE PURPOSE OF QUALITY CONTROL.

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

21 15. For an on-sale or off-sale retailer or an employee of such
22 retailer to sell, dispose of, deliver or give spirituous liquor to a
23 person between the hours of 2:00 a.m. and 6:00 a.m., except that a
24 retailer with off-sale privileges may receive and process orders, accept
25 payment or package, load or otherwise prepare spirituous liquor for
26 delivery at any time, if the actual deliveries to customers are made
27 between the hours of 6:00 a.m. and 2:00 a.m., at which time section 4-241,
28 subsections A and K apply.

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

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

37 18. For an on-sale retailer to permit an employee or for an
38 employee to solicit or encourage others, directly or indirectly, to buy
39 the employee drinks or anything of value in the licensed premises during
40 the employee's working hours. An on-sale retailer shall not serve
41 employees or allow a patron of the establishment to give spirituous liquor
42 to, purchase liquor for or drink liquor with any employee during the
43 employee's working hours.

44 19. For an off-sale retailer or employee to sell spirituous liquor
45 except in the original unbroken container, to permit spirituous liquor to

1 be consumed on the premises or to knowingly permit spirituous liquor to be
 2 consumed on adjacent property under the licensee's exclusive control.

3 20. For a person to consume spirituous liquor in a public place,
 4 thoroughfare or gathering. The license of a licensee permitting a
 5 violation of this paragraph on the premises shall be subject to
 6 revocation. This paragraph does not apply to the sale of spirituous
 7 liquors on the premises of and by an on-sale retailer. This paragraph
 8 also does not apply to a person consuming beer or wine from a broken
 9 package in a public recreation area or on private property with permission
 10 of the owner or lessor or on the walkways surrounding such private
 11 property or to a person consuming beer or wine from a broken package in a
 12 public recreation area as part of a special event or festival that is
 13 conducted under a license secured pursuant to section 4-203.02 or
 14 4-203.03.

15 21. For a person to have possession of or to transport spirituous
 16 liquor that is manufactured in a distillery, winery, brewery or rectifying
 17 plant contrary to the laws of the United States and this state. Any
 18 property used in transporting such spirituous liquor shall be forfeited to
 19 the state and shall be seized and disposed of as provided in section
 20 4-221.

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

43 (a) If the person under the legal drinking age is accompanied by a
 44 spouse, parent, GRANDPARENT or legal guardian of legal drinking age or is
 45 an on-duty employee of the licensee.

1 (b) If the owner, lessee or occupant of the premises is a club as
2 defined in section 4-101, paragraph 8, subdivision (a) and the person
3 under the legal drinking age is any of the following:

4 (i) An active duty military service member.

5 (ii) A veteran.

6 (iii) A member of the United States army national guard or the
7 United States air national guard.

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

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

11 23. For an on-sale retailer or employee to conduct drinking
12 contests, to sell or deliver to a person an unlimited number of spirituous
13 liquor beverages during any set period of time for a fixed price, to
14 deliver more than fifty ounces of beer, one liter of wine or four ounces
15 of distilled spirits in any spirituous liquor drink to one person at one
16 time for that person's consumption or to advertise any practice prohibited
17 by this paragraph. The provisions of this paragraph do not prohibit an
18 on-sale retailer or employee from selling and delivering an opened,
19 original container of distilled spirits if:

20 (a) Service or pouring of the spirituous liquor is provided by an
21 employee of the on-sale retailer. A LICENSEE SHALL NOT BE CHARGED FOR A
22 VIOLATION OF THIS SUBDIVISION IF A CUSTOMER, WITHOUT THE KNOWLEDGE OF THE
23 RETAILER, REMOVES OR TAMPERS WITH THE LOCKING DEVICE ON A BOTTLE DELIVERED
24 TO THE CUSTOMER FOR BOTTLE SERVICE AND THE CUSTOMER POURS THE CUSTOMER'S
25 OWN DRINK FROM THE BOTTLE, IF WHEN THE LICENSEE BECOMES AWARE OF THE
26 REMOVAL OR TAMPERING OF THE LOCKING DEVICE THE LICENSEE IMMEDIATELY
27 INSTALLS A FUNCTIONING LOCKING DEVICE ON THE BOTTLE OR REMOVES THE BOTTLE
28 AND LOCK FROM BOTTLE SERVICE.

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

32 24. For a licensee or employee to knowingly permit the unlawful
33 possession, use, sale or offer for sale of narcotics, dangerous drugs or
34 marijuana on the premises. For the purposes of this paragraph, "dangerous
35 drug" has the same meaning prescribed in section 13-3401.

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

38 26. For a licensee or employee to knowingly permit unlawful
39 gambling on the premises.

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

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

1 29. For any person other than a peace officer while on duty or off
2 duty or a member of a sheriff's volunteer posse while on duty who has
3 received firearms training that is approved by the Arizona peace officer
4 standards and training board, a retired peace officer as defined in
5 section 38-1113 or an honorably retired law enforcement officer who has
6 been issued a certificate of firearms proficiency pursuant to section
7 13-3112, subsection T, the licensee or an employee of the licensee acting
8 with the permission of the licensee to be in possession of a firearm while
9 on the licensed premises of an on-sale retailer. This paragraph does not
10 include a situation in which a person is on licensed premises for a
11 limited time in order to seek emergency aid and such person does not buy,
12 receive, consume or possess spirituous liquor. This paragraph does not
13 apply to:

14 (a) Hotel or motel guest room accommodations.

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

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

20 30. For a licensee or employee to knowingly permit a person in
21 possession of a firearm other than a peace officer while on duty or off
22 duty or a member of a sheriff's volunteer posse while on duty who has
23 received firearms training that is approved by the Arizona peace officer
24 standards and training board, a retired peace officer as defined in
25 section 38-1113 or an honorably retired law enforcement officer who has
26 been issued a certificate of firearms proficiency pursuant to section
27 13-3112, subsection T, the licensee or an employee of the licensee acting
28 with the permission of the licensee to remain on the licensed premises or
29 to serve, sell or furnish spirituous liquor to a person in possession of a
30 firearm while on the licensed premises of an on-sale retailer. It is a
31 defense to action under this paragraph if the licensee or employee
32 requested assistance of a peace officer to remove such person. This
33 paragraph does not apply to:

34 (a) Hotel or motel guest room accommodations.

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

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

40 31. For any person in possession of a firearm while on the licensed
41 premises of an on-sale retailer to consume spirituous liquor. This
42 paragraph does not prohibit the consumption of small amounts of spirituous
43 liquor by an undercover peace officer on assignment to investigate the
44 licensed establishment.

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

4 (a) A person who removes a bottle of wine that has been partially
5 consumed in conjunction with a purchased meal from licensed premises if a
6 cork is inserted flush with the top of the bottle or the bottle is
7 otherwise securely closed.

8 (b) A person who is in licensed premises that have noncontiguous
9 portions that are separated by a public or private walkway or driveway and
10 who takes spirituous liquor from one portion of the licensed premises
11 across the public or private walkway or driveway directly to the other
12 portion of the licensed premises.

13 (c) A licensee of a bar, beer and wine bar, liquor store, beer and
14 wine store, microbrewery or restaurant that has a permit pursuant to
15 section 4-205.02, subsection H that dispenses beer only in a clean
16 container composed of a material approved by a national sanitation
17 organization with a maximum capacity that does not exceed one gallon and
18 not for consumption on the premises if:

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

21 (ii) The container is sealed and displays a government warning
22 label.

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

25 33. For a person who is obviously intoxicated to buy or attempt to
26 buy spirituous liquor from a licensee or employee of a licensee or to
27 consume spirituous liquor on licensed premises.

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

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

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

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

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

1 39. For a licensee to offer for sale a wine carrying a label
2 including a reference to Arizona or any Arizona city, town or geographic
3 location unless at least seventy-five percent by volume of the grapes used
4 in making the wine were grown in Arizona.

5 40. For a retailer to knowingly allow a customer to bring
6 spirituous liquor onto the licensed premises, except that an on-sale
7 retailer may allow a wine and food club to bring wine onto the premises
8 for consumption by the club's members and guests of the club's members in
9 conjunction with meals purchased at a meeting of the club that is
10 conducted on the premises and that at least seven members attend. An
11 on-sale retailer that allows wine and food clubs to bring wine onto its
12 premises under this paragraph shall comply with all applicable provisions
13 of this title and any rules adopted pursuant to this title to the same
14 extent as if the on-sale retailer had sold the wine to the members of the
15 club and their guests. For the purposes of this paragraph, "wine and food
16 club" means an association that has more than twenty bona fide members
17 paying at least \$6 per year in dues and that has been in existence for at
18 least one year.

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

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

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

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

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

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

36 43. For a person to purchase, offer for sale or use any device,
37 machine or process that mixes spirituous liquor with pure oxygen or
38 another gas to produce a vaporized product for the purpose of consumption
39 by inhalation or to allow patrons to use any item for the consumption of
40 vaporized spirituous liquor.

41 44. For a retail licensee or an employee of a retail licensee to
42 sell spirituous liquor to a person if the retail licensee or employee
43 knows the person intends to resell the spirituous liquor.

44 45. Except as authorized by paragraph 32, subdivision (c) of this
45 section, for a person to reuse a bottle or other container authorized for

1 use by the laws of the United States or any agency of the United States
2 for the packaging of distilled spirits or for a person to increase the
3 original contents or a portion of the original contents remaining in a
4 liquor bottle or other authorized container by adding any substance.
5 46. For a direct shipment licensee, a farm winery licensee or an
6 employee of those licensees to sell, dispose of, deliver or give
7 spirituous liquor to an individual purchaser between the hours of 2:00
8 a.m. and 6:00 a.m., except that a direct shipment licensee or a farm
9 winery licensee may receive and process orders, accept payment, package,
10 load or otherwise prepare wine for delivery at any time without complying
11 with section 4-241, subsections A and K, if the actual deliveries to
12 individual purchasers are made between the hours of 6:00 a.m. and 2:00
13 a.m. and in accordance with section 4-203.04 for direct shipment licensees
14 and section 4-205.04 for farm winery licensees.