

REFERENCE TITLE: wineries; microbreweries; distilled spirits

State of Arizona
House of Representatives
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HB 2844

Introduced by
Representatives Weninger: Griffin, Hernandez A, Hernandez D, Kaiser,
Lieberman

AN ACT

AMENDING SECTIONS 4-101, 4-244, 36-136 AND 44-1565, 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 4-101, Arizona Revised Statutes, is amended to
3 read:
4 4-101. Definitions
5 In this title, unless the context otherwise requires:
6 1. "Act of violence":
7 (a) Means an incident ~~consisting~~ THAT CONSISTS of a riot, a fight,
8 an altercation or tumultuous conduct and that meets at least one of the
9 following criteria:
10 (i) In which bodily injuries are sustained by any person and the
11 injuries would be obvious to a reasonable person.
12 (ii) Of sufficient intensity as to require the intervention of a
13 peace officer to restore normal order.
14 (iii) In which a weapon is brandished, displayed or used.
15 (iv) ~~Where~~ IN WHICH a licensee or an employee or contractor of the
16 licensee fails to follow a clear and direct lawful order from a law
17 enforcement officer or a fire marshal.
18 (b) Does not include the use of nonlethal devices by a peace
19 officer.
20 2. "Aggrieved party" means a person who resides at, owns or leases
21 property within a one-mile radius of ~~a~~ premises proposed to be licensed
22 and who filed a written request with the department to speak in favor of
23 or opposition to the issuance of the license ~~no~~ NOT later than sixty days
24 after ~~the~~ filing ~~of~~ the application or fifteen days after action by the
25 local governing body, whichever is sooner.
26 3. "Beer":
27 (a) Means any beverage obtained by the alcoholic fermentation,
28 infusion or decoction of barley malt, hops, RICE, BRAN or other
29 ~~ingredients not drinkable~~ GRAIN, GLUCOSE, SUGAR OR MOLASSES, or any
30 combination of them, AND MAY INCLUDE, AS ADJUNCTS IN FERMENTATION, HONEY,
31 FRUIT, FRUIT JUICE, FRUIT CONCENTRATE, HERBS, SPICES AND OTHER FOOD
32 MATERIALS.
33 (b) INCLUDES BEER AGED IN AN EMPTY WOODEN BARREL PREVIOUSLY USED TO
34 CONTAIN WINE OR DISTILLED SPIRITS AND AS SUCH IS NOT CONSIDERED A DILUTION
35 OR MIXTURE OF ANY OTHER SPIRITUOUS LIQUOR.
36 4. "Biometric identity verification device" means a device
37 authorized by the department that instantly verifies the identity and age
38 of a person by an electronic scan of a biometric of the person, through a
39 fingerprint, iris image, facial image or other biometric characteristic,
40 or any combination of these characteristics, THAT references the person's
41 identity and age against any record described in section 4-241, subsection
42 K, and THAT meets all of the following conditions:
43 (a) The authenticity of the record was previously verified by an
44 electronic authentication process.

1 (b) The identity of and information about the record holder was
2 previously verified through either:

3 (i) A secondary, electronic authentication process or set of
4 processes ~~utilizing~~ USING commercially available data, such as a public
5 records query or a knowledge-based authentication quiz.

6 (ii) ~~utilizing~~ USING a state or federal government system of record
7 for digital authentication.

8 (c) The authenticated record was securely linked to biometrics
9 contemporaneously collected from the verified record holder and is stored
10 in a centralized, highly secured, encrypted biometric database.

11 5. "Board" means the state liquor board.

12 6. "Bona fide guest" means:

13 (a) An individual who is personally familiar to the member, who is
14 personally sponsored by the member and whose presence as a guest is in
15 response to a specific and personal invitation.

16 (b) In the case of a club that meets the criteria prescribed in
17 paragraph 8, subdivision (a) of this section, a current member of the
18 armed services of the United States who presents proper military
19 identification and any member of a recognized veterans' organization of
20 the United States and of any country allied with the United States during
21 current or past wars or through treaty arrangements.

22 7. "Broken package" means any container of spirituous liquor on
23 which the United States tax seal has been broken or removed, ~~or~~ or from
24 which the cap, cork or seal placed ~~thereupon~~ ON THE CONTAINER by the
25 manufacturer has been removed.

26 8. "Club" includes any of the following organizations where the
27 sale of spirituous liquor for consumption on the premises is made only to
28 members, spouses of members, families of members, bona fide guests of
29 members and guests at other events authorized in this title:

30 (a) A post, chapter, camp or other local unit composed solely of
31 veterans and its duly recognized auxiliary that has been chartered by the
32 Congress of the United States for patriotic, fraternal or benevolent
33 purposes and that has, as the owner, lessee or occupant, operated an
34 establishment for that purpose in this state.

35 (b) A chapter, aerie, parlor, lodge or other local unit of an
36 American national fraternal organization that has, as the owner, lessee or
37 occupant, operated an establishment for fraternal purposes in this state.
38 An American national fraternal organization as used in this subdivision
39 shall actively operate in at least thirty-six states or have been in
40 active continuous existence for at least twenty years.

41 (c) A hall or building association of a local unit mentioned in
42 subdivisions (a) and (b) of this paragraph, ~~of which~~ OF WHICH all of the capital
43 stock ~~of which~~ is owned by the local unit or the members, ~~and~~ and that
44 operates the clubroom facilities of the local unit.

1 (d) A golf club that has more than fifty bona fide members and that
2 owns, maintains or operates a bona fide golf links together with a
3 clubhouse.

4 (e) A social club ~~with~~ THAT HAS more than one hundred bona fide
5 members who are actual residents of the county in which it is located,
6 that owns, maintains or operates club quarters, that is authorized and
7 incorporated to operate as a nonprofit club under the laws of this state,
8 and that has been continuously incorporated and operating for a period of
9 at least one year. The club shall have had, during this one-year period,
10 a bona fide membership with regular meetings conducted at least once each
11 month, and the membership shall be and shall have been actively engaged in
12 carrying out the objects of the club. The club's membership shall consist
13 of bona fide dues-paying members paying DUES OF at least \$6 per year,
14 payable monthly, quarterly or annually, which have been recorded by the
15 secretary of the club, and the members at the time of application for a
16 club license shall be in good standing having for at least one full year
17 paid dues. At least fifty-one percent of the members shall have signified
18 their intention to secure a social club license by personally signing a
19 petition, on a form prescribed by the board, which shall also include the
20 correct mailing address of each signer. The petition shall not have been
21 signed by a member at a date earlier than one hundred eighty days before
22 the filing of the application. The club shall qualify for exemption from
23 the payment of state income taxes under title 43. It is the intent of
24 this subdivision that a license shall not be granted to a club that is, or
25 has been, primarily formed or activated to obtain a license to sell
26 liquor, but solely to a bona fide club, where the sale of liquor is
27 incidental to the main purposes of the club.

28 (f) An airline club operated by or for airlines that are
29 certificated by the United States government and that maintain or operate
30 club quarters located at airports with international status.

31 9. "Company" or "association", when used in reference to a
32 corporation, includes successors or assigns.

33 10. "Control" means the power to direct or cause the direction of
34 the management and policies of an applicant or licensee, whether through
35 the ownership of voting securities or a partnership interest, by agreement
36 or otherwise. Control is presumed to exist if a person has the direct or
37 indirect ownership of or power to vote ten percent or more of the
38 outstanding voting securities of the applicant or licensee or to control
39 in any manner the election of one or more of the directors of the
40 applicant or licensee. In the case of a partnership, control is presumed
41 to mean the general partner or a limited partner who holds ten percent or
42 more of the voting rights of the partnership. For the purposes of
43 determining the percentage of voting securities owned, controlled or held
44 by a person, there shall be aggregated with the voting securities
45 attributed to the person the voting securities of an officer, partner,

1 employee or agent of the person or a spouse, parent or child of the
2 person. Control is also presumed to exist if a creditor of the applicant
3 or licensee holds a beneficial interest in ten percent or more of the
4 liabilities of the licensee. The presumptions in this paragraph regarding
5 control are rebuttable.

6 11. "Controlling person" means a person directly or indirectly
7 possessing control of an applicant or licensee.

8 12. "Craft distiller" means a distiller in the United States or in
9 a territory or possession of the United States that holds a license
10 pursuant to section 4-205.10.

11 13. "Department" means the department of liquor licenses and
12 control.

13 14. "Director" means the director of the department of liquor
14 licenses and control.

15 15. "Distilled spirits" includes alcohol, brandy, whiskey, rum,
16 tequila, mescal, gin, absinthe, a compound or mixture of any of them or of
17 any of them with any vegetable or other substance, alcohol bitters,
18 bitters containing alcohol, fruits preserved in ardent spirits, and any
19 alcoholic mixture or preparation, whether patented or otherwise, that may
20 in sufficient quantities produce intoxication.

21 16. "Employee" means any person who performs any service on
22 licensed premises on a full-time, part-time or contract basis with consent
23 of the licensee, whether or not the person is denominated an employee,
24 independent contractor or otherwise. Employee does not include a person
25 exclusively on the premises for musical or vocal performances, for repair
26 or maintenance of the premises or for the delivery of goods to the
27 licensee.

28 17. "Farm winery" means a winery in the United States or in a
29 territory or possession of the United States that holds a license pursuant
30 to section 4-205.04.

31 18. "Government license" means a license to serve and sell
32 spirituous liquor on specified premises available only to a state agency,
33 state board, state commission, county, city, town, community college or
34 state university or the national guard or Arizona coliseum and exposition
35 center on application by the governing body of ~~a~~ THE state agency, state
36 board, state commission, county, city, town, community college or state
37 university or the national guard or Arizona exposition and state fair
38 board.

39 19. "Legal drinking age" means twenty-one years of age or older.

40 20. "License" means a license or an interim retail permit issued
41 pursuant to this title.

42 21. "Licensee" means a person who has been issued a license or an
43 interim retail permit pursuant to this title or a special event licensee.

1 22. "License fees" means fees collected for license issuance,
2 license application, license renewal, interim permit issuance and license
3 transfer between persons or locations.

4 23. "Manager" means a natural person who meets the standards
5 required of licensees and who has authority to organize, direct, carry on,
6 control or otherwise operate a licensed business on a temporary or
7 full-time basis.

8 24. "Microbrewery" means a brewery in the United States or in a
9 territory or possession of the United States that meets the requirements
10 of section 4-205.08.

11 25. "Off-sale retailer" means any person ~~operating~~ THAT OPERATES a
12 bona fide regularly established retail liquor store selling spirituous
13 liquors, wines and beer, and any established retail store ~~selling~~ THAT
14 SELLS commodities other than spirituous liquors and THAT IS engaged in the
15 sale of spirituous liquors only in the original unbroken package, to be
16 taken away from the premises of the retailer and to be consumed off the
17 premises.

18 26. "On-sale retailer" means any person operating an establishment
19 where spirituous liquors are sold in the original container for
20 consumption on or off the premises or in individual portions for
21 consumption on the premises.

22 27. "Permanent occupancy" means the maximum occupancy of the
23 building or facility as set by the office of the state fire marshal for
24 the jurisdiction in which the building or facility is located.

25 28. "Person" includes a partnership, limited liability company,
26 association, company or corporation, as well as a natural person.

27 29. "Premises" or "licensed premises" means the area from which the
28 licensee is authorized to sell, dispense or serve spirituous liquors under
29 the provision of the license. Premises or licensed premises includes a
30 patio that is not contiguous to the remainder of the premises or licensed
31 premises if the patio is separated from the remainder of the premises or
32 licensed premises by a public or private walkway or driveway not to exceed
33 thirty feet, subject to rules the director may adopt to establish criteria
34 for noncontiguous premises.

35 30. "Registered mail" includes certified mail.

36 31. "Registered retail agent" means any person who is authorized
37 pursuant to section 4-222 to purchase spirituous liquors for and on behalf
38 of the person and other retail licensees.

39 32. "Repeated acts of violence" means:

40 (a) For licensed premises with a permanent occupancy of two hundred
41 or fewer persons, two or more acts of violence occurring within seven days
42 or three or more acts of violence occurring within thirty days.

43 (b) For licensed premises with a permanent occupancy of more than
44 two hundred but not more than four hundred persons, four or more acts of
45 violence within thirty days.

1 (c) For licensed premises with a permanent occupancy of more than
2 four hundred but not more than six hundred fifty persons, five or more
3 acts of violence within thirty days.

4 (d) For licensed premises with a permanent occupancy of more than
5 six hundred fifty but not more than one thousand fifty persons, six or
6 more acts of violence within thirty days.

7 (e) For licensed premises with a permanent occupancy of more than
8 one thousand fifty persons, seven or more acts of violence within thirty
9 days.

10 33. "Sell" includes soliciting or receiving an order for, keeping
11 or exposing for sale, directly or indirectly delivering for value,
12 peddling, keeping with intent to sell and trafficking in.

13 34. "Spirituous liquor" includes alcohol, brandy, whiskey, rum,
14 tequila, mescal, gin, wine, porter, ale, beer, any malt liquor or malt
15 beverage, absinthe, a compound or mixture of any of them or of any of them
16 with any vegetable or other substance, alcohol bitters, bitters containing
17 alcohol, any liquid mixture or preparation, whether patented or otherwise,
18 ~~which~~ THAT produces intoxication, fruits preserved in ardent spirits, and
19 beverages containing more than one-half of one percent of alcohol by
20 volume.

21 35. "Vehicle" means any means of transportation by land, water or
22 air, and includes everything made use of in any way for such
23 transportation.

24 36. "Vending machine" means a machine that dispenses merchandise
25 through the means of coin, token, credit card or other nonpersonal means
26 of accepting payment for merchandise received.

27 37. "Veteran" means a person who has served in the United States
28 air force, army, navy, marine corps or coast guard, as an active nurse in
29 the services of the American red cross, in the army and navy nurse corps
30 in time of war, or in any expedition of the armed forces of the United
31 States, and who has received a discharge other than dishonorable.

32 38. "Voting security" means any security presently entitling the
33 owner or holder of the security to vote for the election of directors of
34 an applicant or a licensee.

35 39. "Wine" means the product obtained by the fermentation of
36 grapes, other agricultural products containing natural or added sugar or
37 cider or any such alcoholic beverage fortified with grape brandy and
38 containing not more than twenty-four percent of alcohol by volume.

39 Sec. 2. Section 4-244, Arizona Revised Statutes, is amended to
40 read:

41 4-244. Unlawful acts

42 It is unlawful:

43 1. For a person to buy for resale, sell or deal in spirituous
44 liquors in this state without first having procured a license duly issued
45 by the board, except that the director may issue a temporary permit of any

1 series pursuant to section 4-205.05 to a trustee in bankruptcy to acquire
2 and dispose of the spirituous liquor of a debtor.

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

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

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

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

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

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

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

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

44 10. For a licensee to employ a person under eighteen years of age
45 to manufacture, sell or dispose of spirituous liquors. This paragraph

1 does not prohibit the employment by an off-sale retailer of persons who
2 are at least sixteen years of age to check out, if supervised by a person
3 on the premises who is at least eighteen years of age, package or carry
4 merchandise, including spirituous liquor, in unbroken packages, for the
5 convenience of the customer of the employer, if the employer sells
6 primarily merchandise other than spirituous liquor.

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

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

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

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

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

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

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

44 (e) An unpaid volunteer of a special event licensee under section
45 4-203.02 may purchase and consume spirituous liquor while not engaged in

1 waiting on or serving spirituous liquor to customers at the special event.
2 This subdivision does not apply to an unpaid volunteer whose
3 responsibilities include verification of a person's legal drinking age,
4 security or the operation of any vehicle or heavy machinery.

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

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

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

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

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

42 19. For an off-sale retailer or employee to sell spirituous liquor
43 except in the original unbroken container, to ~~permit~~ ALLOW spirituous
44 liquor to be consumed on the premises or to knowingly ~~permit~~ ALLOW

1 spirituous liquor to be consumed on adjacent property under the licensee's
2 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 THAT**
5 **ALLOWS** a 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 or legal guardian of legal drinking age or is an on-duty
45 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.

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

25 24. For a licensee or employee to knowingly ~~permit~~ ALLOW the
26 unlawful possession, use, sale or offer for sale of narcotics, dangerous
27 drugs or marijuana on the premises. For the purposes of this paragraph,
28 "dangerous drug" has the same meaning prescribed in section 13-3401.

29 25. For a licensee or employee to knowingly ~~permit~~ ALLOW
30 prostitution or the solicitation of prostitution on the premises.

31 26. For a licensee or employee to knowingly ~~permit~~ ALLOW unlawful
32 gambling on the premises.

33 27. For a licensee or employee to knowingly ~~permit~~ ALLOW
34 trafficking or attempted trafficking in stolen property on the premises.

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

38 29. For any person other than a peace officer while on duty or off
39 duty or a member of a sheriff's volunteer posse while on duty who has
40 received firearms training that is approved by the Arizona peace officer
41 standards and training board, a retired peace officer as defined in
42 section 38-1113 or an honorably retired law enforcement officer who has
43 been issued a certificate of firearms proficiency pursuant to section
44 13-3112, subsection T, the licensee or an employee of the licensee acting
45 with the permission of the licensee to be in possession of a firearm while

1 on the licensed premises of an on-sale retailer. This paragraph does not
2 include a situation in which a person is on licensed premises for a
3 limited time in order to seek emergency aid and such person does not buy,
4 receive, consume or possess spirituous liquor. This paragraph does not
5 apply to:

6 (a) Hotel or motel guest room accommodations.

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

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

12 30. For a licensee or employee to knowingly ~~permit~~ ALLOW a person
13 in possession of a firearm other than a peace officer while on duty or off
14 duty or a member of a sheriff's volunteer posse while on duty who has
15 received firearms training that is approved by the Arizona peace officer
16 standards and training board, a retired peace officer as defined in
17 section 38-1113 or an honorably retired law enforcement officer who has
18 been issued a certificate of firearms proficiency pursuant to section
19 13-3112, subsection T, the licensee or an employee of the licensee acting
20 with the permission of the licensee to remain on the licensed premises or
21 to serve, sell or furnish spirituous liquor to a person in possession of a
22 firearm while on the licensed premises of an on-sale retailer. It is a
23 defense to action under this paragraph if the licensee or employee
24 requested assistance of a peace officer to remove such person. This
25 paragraph does not apply to:

26 (a) Hotel or motel guest room accommodations.

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

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

32 31. For any person in possession of a firearm while on the licensed
33 premises of an on-sale retailer to consume spirituous liquor. This
34 paragraph does not prohibit the consumption of small amounts of spirituous
35 liquor by an undercover peace officer on assignment to investigate the
36 licensed establishment.

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

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

44 (b) A person who is in licensed premises that have noncontiguous
45 portions that are separated by a public or private walkway or driveway and

1 who takes spirituous liquor from one portion of the licensed premises
2 across the public or private walkway or driveway directly to the other
3 portion of the licensed premises.

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

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

12 (ii) The container is sealed and displays a government warning
13 label.

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

16 33. For a person who is obviously intoxicated to buy or attempt to
17 buy spirituous liquor from a licensee or employee of a licensee or to
18 consume spirituous liquor on licensed premises.

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

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

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

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

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

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

37 40. For a retailer to knowingly allow a customer to bring
38 spirituous liquor onto the licensed premises, except that an on-sale
39 retailer may allow a wine and food club to bring wine onto the premises
40 for consumption by the club's members and guests of the club's members in
41 conjunction with meals purchased at a meeting of the club that is
42 conducted on the premises and that at least seven members attend. An
43 on-sale retailer that allows wine and food clubs to bring wine onto its
44 premises under this paragraph shall comply with all applicable provisions
45 of this title and any rules adopted pursuant to this title to the same

1 extent as if the on-sale retailer had sold the wine to the members of the
2 club and their guests. For the purposes of this paragraph, "wine and food
3 club" means an association that has more than twenty bona fide members
4 paying at least \$6 per year in dues and that has been in existence for at
5 least one year.

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

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

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

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

18 (a) ~~Permit~~ ALLOW a person who is under twenty-one years of age to
19 enter any portion of the premises where that person is prohibited from
20 entering pursuant to paragraph 22 of this section.

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

23 43. For a person to purchase, offer for sale or use any device,
24 machine or process that mixes spirituous liquor with pure oxygen or
25 another gas to produce a vaporized product for the purpose of consumption
26 by inhalation or to allow patrons to use any item for the consumption of
27 vaporized spirituous liquor.

28 44. For a retail licensee or an employee of a retail licensee to
29 sell spirituous liquor to a person if the retail licensee or employee
30 knows the person intends to resell the spirituous liquor.

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

37 46. For a direct shipment licensee, a farm winery licensee or an
38 employee of those licensees to sell, dispose of, deliver or give
39 spirituous liquor to an individual purchaser between the hours of 2:00
40 a.m. and 6:00 a.m., except that a direct shipment licensee or a farm
41 winery licensee may receive and process orders, accept payment, package,
42 load or otherwise prepare wine for delivery at any time without complying
43 with section 4-241, subsections A and K, if the actual deliveries to
44 individual purchasers are made between the hours of 6:00 a.m. and 2:00

1 a.m. and in accordance with section 4-203.04 for direct shipment licensees
2 and section 4-205.04 for farm winery licensees.

3 Sec. 3. Section 36-136, Arizona Revised Statutes, is amended to
4 read:

5 36-136. Powers and duties of director; compensation of
6 personnel; rules; definitions

7 A. The director shall:

8 1. Be the executive officer of the department of health services
9 and the state registrar of vital statistics but shall not receive
10 compensation for services as registrar.

11 2. Perform all duties necessary to carry out the functions and
12 responsibilities of the department.

13 3. Prescribe the organization of the department. The director
14 shall appoint or remove personnel as necessary for the efficient work of
15 the department and shall prescribe the duties of all personnel. The
16 director may abolish any office or position in the department that the
17 director believes is unnecessary.

18 4. Administer and enforce the laws relating to health and
19 sanitation and the rules of the department.

20 5. Provide for the examination of any premises if the director has
21 reasonable cause to believe that on the premises there exists a violation
22 of any health law or rule of this state.

23 6. Exercise general supervision over all matters relating to
24 sanitation and health throughout this state. When in the opinion of the
25 director it is necessary or advisable, a sanitary survey of the whole or
26 of any part of this state shall be made. The director may enter, examine
27 and survey any source and means of water supply, sewage disposal plant,
28 sewerage system, prison, public or private place of detention, asylum,
29 hospital, school, public building, private institution, factory, workshop,
30 tenement, public washroom, public restroom, public toilet and toilet
31 facility, public eating room and restaurant, dairy, milk plant or food
32 manufacturing or processing plant, and any premises in which the director
33 has reason to believe there exists a violation of any health law or rule
34 of this state that the director has the duty to administer.

35 7. Prepare sanitary and public health rules.

36 8. Perform other duties prescribed by law.

37 B. If the director has reasonable cause to believe that there
38 exists a violation of any health law or rule of this state, the director
39 may inspect any person or property in transportation through this state,
40 and any car, boat, train, trailer, airplane or other vehicle in which that
41 person or property is transported, and may enforce detention or
42 disinfection as reasonably necessary for the public health if there exists
43 a violation of any health law or rule.

44 C. The director, after consultation with the department of
45 administration, may take all necessary steps to enhance the highest and

1 best use of the state hospital property, including contracting with third
2 parties to provide services, entering into short-term lease agreements
3 with third parties to occupy or renovate existing buildings and entering
4 into long-term lease agreements to develop the land and buildings. The
5 director shall deposit any monies collected from contracts and lease
6 agreements entered into pursuant to this subsection in the Arizona state
7 hospital charitable trust fund established by section 36-218. At least
8 thirty days before issuing a request for proposals pursuant to this
9 subsection, the department of health services shall hold a public hearing
10 to receive community and provider input regarding the highest and best use
11 of the state hospital property related to the request for proposals. The
12 department shall report to the joint committee on capital review on the
13 terms, conditions and purpose of any lease or sublease agreement entered
14 into pursuant to this subsection relating to state hospital lands or
15 buildings or the disposition of real property pursuant to this subsection,
16 including state hospital lands or buildings, and the fiscal impact on the
17 department and any revenues generated by the agreement. Any lease or
18 sublease agreement entered into pursuant to this subsection relating to
19 state hospital lands or buildings or the disposition of real property
20 pursuant to this subsection, including state hospital lands or buildings,
21 must be reviewed by the joint committee on capital review.

22 D. The director may deputize, in writing, any qualified officer or
23 employee in the department to do or perform on the director's behalf any
24 act the director is by law empowered to do or charged with the
25 responsibility of doing.

26 E. The director may delegate to a local health department, county
27 environmental department or public health services district any functions,
28 powers or duties that the director believes can be competently,
29 efficiently and properly performed by the local health department, county
30 environmental department or public health services district if:

31 1. The director or superintendent of the local health agency,
32 environmental agency or public health services district is willing to
33 accept the delegation and agrees to perform or exercise the functions,
34 powers and duties conferred in accordance with the standards of
35 performance established by the director of the department of health
36 services.

37 2. Monies appropriated or otherwise made available to the
38 department for distribution to or division among counties or public health
39 services districts for local health work may be allocated or reallocated
40 in a manner designed to ensure the accomplishment of recognized local
41 public health activities and delegated functions, powers and duties in
42 accordance with applicable standards of performance. ~~Whenever~~ IF in the
43 director's opinion there is cause, the director may terminate all or a
44 part of any delegation and may reallocate all or a part of any funds that

1 may have been conditioned on the further performance of the functions,
2 powers or duties conferred.

3 F. The compensation of all personnel shall be as determined
4 pursuant to section 38-611.

5 G. The director may make and amend rules necessary for the proper
6 administration and enforcement of the laws relating to the public health.

7 H. Notwithstanding subsection I, paragraph 1 of this section, the
8 director may define and prescribe emergency measures for detecting,
9 reporting, preventing and controlling communicable or infectious diseases
10 or conditions if the director has reasonable cause to believe that a
11 serious threat to public health and welfare exists. Emergency measures
12 are effective for ~~no~~ NOT longer than eighteen months.

13 I. The director, by rule, shall:

14 1. Define and prescribe reasonably necessary measures for
15 detecting, reporting, preventing and controlling communicable and
16 preventable diseases. The rules shall declare certain diseases
17 reportable. The rules shall prescribe measures, including isolation or
18 quarantine, that are reasonably required to prevent the occurrence of, or
19 to seek early detection and alleviation of, disability, insofar as
20 possible, from communicable or preventable diseases. The rules shall
21 include reasonably necessary measures to control animal diseases
22 transmittable to humans.

23 2. Define and prescribe reasonably necessary measures, in addition
24 to those prescribed by law, regarding the preparation, embalming,
25 cremation, interment, disinterment and transportation of dead human bodies
26 and the conduct of funerals, relating to and restricted to communicable
27 diseases and regarding the removal, transportation, cremation, interment
28 or disinterment of any dead human body.

29 3. Define and prescribe reasonably necessary procedures that are
30 not inconsistent with law in regard to the use and accessibility of vital
31 records, delayed birth registration and the completion, change and
32 amendment of vital records.

33 4. Except as relating to the beneficial use of wildlife meat by
34 public institutions and charitable organizations pursuant to title 17,
35 prescribe reasonably necessary measures to ensure that all food or drink,
36 including meat and meat products and milk and milk products sold at the
37 retail level, provided for human consumption is free from unwholesome,
38 poisonous or other foreign substances and filth, insects or
39 disease-causing organisms. The rules shall prescribe reasonably necessary
40 measures governing the production, processing, labeling, storing,
41 handling, serving and transportation of these products. The rules shall
42 prescribe minimum standards for the sanitary facilities and conditions
43 that shall be maintained in any warehouse, restaurant or other premises,
44 except a meat packing plant, slaughterhouse, wholesale meat processing
45 plant, dairy product manufacturing plant or trade product manufacturing

1 plant. The rules shall prescribe minimum standards for any truck or other
2 vehicle in which food or drink is produced, processed, stored, handled,
3 served or transported. The rules shall provide for the inspection and
4 licensing of premises and vehicles so used, and for abatement as public
5 nuisances of any premises or vehicles that do not comply with the rules
6 and minimum standards. The rules shall provide an exemption relating to
7 food or drink that is:

8 (a) Served at a noncommercial social event such as a potluck.

9 (b) Prepared at a cooking school that is conducted in an
10 owner-occupied home.

11 (c) Not potentially hazardous and prepared in a kitchen of a
12 private home for occasional sale or distribution for noncommercial
13 purposes.

14 (d) Prepared or served at an employee-conducted function that lasts
15 less than four hours and is not regularly scheduled, such as an employee
16 recognition, an employee ~~fund-raising~~ FUNDRAISING or an employee social
17 event.

18 (e) Offered at a child care facility and limited to commercially
19 prepackaged food that is not potentially hazardous and whole fruits and
20 vegetables that are washed and cut on-site for immediate consumption.

21 (f) Offered at locations that sell only commercially prepackaged
22 food or drink that is not potentially hazardous.

23 (g) A cottage food product that is not potentially hazardous or a
24 time or temperature control for safety food and that is prepared in a
25 kitchen of a private home for commercial purposes, including fruit jams
26 and jellies, dry mixes made with ingredients from approved sources, honey,
27 dry pasta and roasted nuts. Cottage food products must be packaged at
28 home with an attached label that clearly states the name and registration
29 number of the food preparer, lists all the ingredients in the product and
30 the product's production date and includes the following statement: "This
31 product was produced in a home kitchen that may process common food
32 allergens and is not subject to public health inspection." If the product
33 was made in a facility for individuals with developmental disabilities,
34 the label must also disclose that fact. The person preparing the food or
35 supervising the food preparation must complete a food handler training
36 course from an accredited program and maintain active certification. The
37 food preparer must register with an online registry established by the
38 department pursuant to paragraph 13 of this subsection. The food preparer
39 must display the preparer's certificate of registration when operating as
40 a temporary food establishment. For the purposes of this subdivision,
41 "not potentially hazardous" means cottage food products that meet the
42 requirements of the food code published by the United States food and drug
43 administration, as modified and incorporated by reference by the
44 department by rule.

1 (h) A whole fruit or vegetable grown in a public school garden that
2 is washed and cut on-site for immediate consumption.

3 (i) Produce in a packing or holding facility that is subject to the
4 United States food and drug administration produce safety rule (21 Code of
5 Federal Regulations part 112) as administered by the Arizona department of
6 agriculture pursuant to title 3, chapter 3, article 4.1. For the purposes
7 of this subdivision, "holding", "packing" and "produce" have the same
8 meanings prescribed in section 3-525.

9 (j) SPIRITUOUS LIQUOR PRODUCED ON THE PREMISES IN THE AREA IN WHICH
10 PRODUCTION AND MANUFACTURING OF SPIRITUOUS LIQUOR OCCURS, AS DEFINED IN AN
11 ACTIVE BASIC PERMIT ON FILE WITH THE UNITED STATES ALCOHOL AND TOBACCO TAX
12 AND TRADE BUREAU. THIS EXEMPTION INCLUDES THE AREA LICENSED BY THE
13 DEPARTMENT OF LIQUOR LICENSES AND CONTROL AS A MICROBREWERY, FARM WINERY
14 OR CRAFT DISTILLER THAT IS OPEN TO THE PUBLIC AND SERVES SPIRITUOUS LIQUOR
15 AND COMMERCIALY PREPACKAGED FOOD, CRACKERS OR PRETZELS FOR CONSUMPTION ON
16 THE PREMISES. A PRODUCER OF SPIRITUOUS LIQUOR MAY NOT PROVIDE, ALLOW OR
17 EXPOSE FOR COMMON USE ANY CUP, GLASS OR OTHER RECEPTACLE USED FOR DRINKING
18 PURPOSES. FOR THE PURPOSES OF THIS SUBDIVISION, "COMMON USE" MEANS THE
19 USE OF A DRINKING RECEPTACLE FOR DRINKING PURPOSES BY OR FOR MORE THAN ONE
20 PERSON WITHOUT THE RECEPTACLE BEING THOROUGHLY CLEANSSED AND SANITIZED
21 BETWEEN CONSECUTIVE USES BY METHODS PRESCRIBED BY OR ACCEPTABLE TO THE
22 DEPARTMENT.

23 5. Prescribe reasonably necessary measures to ensure that all meat
24 and meat products for human consumption handled at the retail level are
25 delivered in a manner and from sources approved by the Arizona department
26 of agriculture and are free from unwholesome, poisonous or other foreign
27 substances and filth, insects or disease-causing organisms. The rules
28 shall prescribe standards for sanitary facilities to be used in identity,
29 storage, handling and sale of all meat and meat products sold at the
30 retail level.

31 6. Prescribe reasonably necessary measures regarding production,
32 processing, labeling, handling, serving and transportation of bottled
33 water to ensure that all bottled drinking water distributed for human
34 consumption is free from unwholesome, poisonous, deleterious or other
35 foreign substances and filth or disease-causing organisms. The rules
36 shall prescribe minimum standards for the sanitary facilities and
37 conditions that shall be maintained at any source of water, bottling plant
38 and truck or vehicle in which bottled water is produced, processed, stored
39 or transported and shall provide for inspection and certification of
40 bottled drinking water sources, plants, processes and transportation and
41 for abatement as a public nuisance of any water supply, label, premises,
42 equipment, process or vehicle that does not comply with the minimum
43 standards. The rules shall prescribe minimum standards for
44 bacteriological, physical and chemical quality for bottled water and for
45 the submission of samples at intervals prescribed in the standards.

1 7. Define and prescribe reasonably necessary measures governing ice
2 production, handling, storing and distribution to ensure that all ice sold
3 or distributed for human consumption or for ~~the preservation~~ PRESERVING or
4 ~~storage of~~ STORING food for human consumption is free from unwholesome,
5 poisonous, deleterious or other foreign substances and filth or
6 disease-causing organisms. The rules shall prescribe minimum standards
7 for the sanitary facilities and conditions and the quality of ice that
8 shall be maintained at any ice plant, storage and truck or vehicle in
9 which ice is produced, stored, handled or transported and shall provide
10 for inspection and licensing of the premises and vehicles, and for
11 abatement as public nuisances of ice, premises, equipment, processes or
12 vehicles that do not comply with the minimum standards.

13 8. Define and prescribe reasonably necessary measures concerning
14 sewage and excreta disposal, garbage and trash collection, storage and
15 disposal, and water supply for recreational and summer camps, campgrounds,
16 motels, tourist courts, trailer coach parks and hotels. The rules shall
17 prescribe minimum standards for ~~preparation of~~ PREPARING food in community
18 kitchens, adequacy of excreta disposal, garbage and trash collection,
19 storage and disposal and water supply for recreational and summer camps,
20 campgrounds, motels, tourist courts, trailer coach parks and hotels and
21 shall provide for inspection of these premises and for abatement as public
22 nuisances of any premises or facilities that do not comply with the rules.
23 Primitive camp and picnic grounds offered by this state or a political
24 subdivision of this state are exempt from rules adopted pursuant to this
25 paragraph but are subject to approval by a county health department under
26 sanitary regulations adopted pursuant to section 36-183.02. Rules adopted
27 pursuant to this paragraph do not apply to two or fewer recreational
28 vehicles as defined in section 33-2102 that are not park models or park
29 trailers, that are parked on owner-occupied residential property for less
30 than sixty days and for which no rent or other compensation is paid. For
31 the purposes of this paragraph, "primitive camp and picnic grounds" means
32 camp and picnic grounds that are remote in nature and without
33 accessibility to public infrastructure such as water, electricity and
34 sewer.

35 9. Define and prescribe reasonably necessary measures concerning
36 the sewage and excreta disposal, garbage and trash collection, storage and
37 disposal, water supply and food preparation of all public schools. The
38 rules shall prescribe minimum standards for sanitary conditions that shall
39 be maintained in any public school and shall provide for inspection of
40 these premises and facilities and for abatement as public nuisances of any
41 premises that do not comply with the minimum standards.

42 10. Prescribe reasonably necessary measures to prevent pollution of
43 water used in public or semipublic swimming pools and bathing places and
44 to prevent deleterious health conditions at these places. The rules shall
45 prescribe minimum standards for sanitary conditions that shall be

1 maintained at any public or semipublic swimming pool or bathing place and
2 shall provide for inspection of these premises and for abatement as public
3 nuisances of any premises and facilities that do not comply with the
4 minimum standards. The rules shall be developed in cooperation with the
5 director of the department of environmental quality and shall be
6 consistent with the rules adopted by the director of the department of
7 environmental quality pursuant to section 49-104, subsection B,
8 paragraph 12.

9 11. Prescribe reasonably necessary measures to keep confidential
10 information relating to diagnostic findings and treatment of patients, as
11 well as information relating to contacts, suspects and associates of
12 communicable disease patients. In no event shall confidential information
13 be made available for political or commercial purposes.

14 12. Prescribe reasonably necessary measures regarding human
15 immunodeficiency virus testing as a means to control the transmission of
16 that virus, including the designation of anonymous test sites as dictated
17 by current epidemiologic and scientific evidence.

18 13. Establish an online registry of food preparers that are
19 authorized to prepare cottage food products for commercial purposes
20 pursuant to paragraph 4 of this subsection. A registered food preparer
21 shall renew the registration every three years and shall provide to the
22 department updated registration information within thirty days after any
23 change.

24 14. Prescribe an exclusion for fetal demise cases from the
25 standardized survey known as "the hospital consumer assessment of
26 healthcare providers and systems".

27 J. The rules adopted under the authority conferred by this section
28 shall be observed throughout the state and shall be enforced by each local
29 board of health or public health services district, but this section does
30 not limit the right of any local board of health or county board of
31 supervisors to adopt ordinances and rules as authorized by law within its
32 jurisdiction, provided that the ordinances and rules do not conflict with
33 state law and are equal to or more restrictive than the rules of the
34 director.

35 K. The powers and duties prescribed by this section do not apply in
36 instances in which regulatory powers and duties relating to public health
37 are vested by the legislature in any other state board, commission, agency
38 or instrumentality, except that with regard to the regulation of meat and
39 meat products, the department of health services and the Arizona
40 department of agriculture within the area delegated to each shall adopt
41 rules that are not in conflict.

42 L. The director, in establishing fees authorized by this section,
43 shall comply with title 41, chapter 6. The department shall not set a fee
44 at more than the department's cost of providing the service for which the

1 fee is charged. State agencies are exempt from all fees imposed pursuant
2 to this section.

3 M. After consultation with the state superintendent of public
4 instruction, the director shall prescribe the criteria the department
5 shall use in deciding whether or not to notify a local school district
6 that a pupil in the district has tested positive for the human
7 immunodeficiency virus antibody. The director shall prescribe the
8 procedure by which the department shall notify a school district if,
9 pursuant to these criteria, the department determines that notification is
10 warranted in a particular situation. This procedure shall include a
11 requirement that before notification the department shall determine to its
12 satisfaction that the district has an appropriate policy relating to
13 nondiscrimination of the infected pupil and confidentiality of test
14 results and that proper educational counseling has been or will be
15 provided to staff and pupils.

16 N. Until the department adopts exemptions by rule as required by
17 subsection I, paragraph 4, subdivision (f) of this section, food and drink
18 are exempt from the rules prescribed in subsection I of this section if
19 offered at locations that sell only commercially prepackaged food or drink
20 that is not potentially hazardous, without a limitation on its display
21 area.

22 O. Until the department adopts exemptions by rule as required by
23 subsection I, paragraph 4, subdivision (h) of this section, a whole fruit
24 or vegetable grown in a public school garden that is washed and cut
25 on-site for immediate consumption is exempt from the rules prescribed in
26 subsection I of this section.

27 P. Until the department adopts an exclusion by rule as required by
28 subsection I, paragraph 14 of this section, the standardized survey known
29 as "the hospital consumer assessment of healthcare providers and systems"
30 may not include patients who experience a fetal demise.

31 Q. UNTIL THE DEPARTMENT ADOPTS EXEMPTIONS BY RULE AS REQUIRED BY
32 SUBSECTION I, PARAGRAPH 4, SUBDIVISION (j) OF THIS SECTION, SPIRITUOUS
33 LIQUOR AND COMMERCIALY PREPACKAGED FOOD, CRACKERS OR PRETZELS THAT MEET
34 THE REQUIREMENTS OF SUBSECTION I, PARAGRAPH 4, SUBDIVISION (j) OF THIS
35 SUBSECTION ARE EXEMPT FROM THE RULES PRESCRIBED IN SUBSECTION I OF THIS
36 SECTION.

37 ~~Q.~~ R. For the purposes of this section:

38 1. "Cottage food product":

39 (a) Means a food that is not potentially hazardous or a time or
40 temperature control for safety food as defined by the department in rule
41 and that is prepared in a home kitchen by an individual who is registered
42 with the department.

43 (b) Does not include foods that require refrigeration, perishable
44 baked goods, salsas, sauces, fermented and pickled foods, meat, fish and

1 shellfish products, beverages, acidified food products, nut butters or
2 other reduced-oxygen packaged products.

3 2. "Fetal demise" means a fetal death that occurs or is confirmed
4 in a licensed hospital. Fetal demise does not include an abortion as
5 defined in section 36-2151.

6 Sec. 4. Section 44-1565, Arizona Revised Statutes, is amended to
7 read:

8 44-1565. Definitions

9 In this article, unless the context otherwise requires:

10 1. "Beer":

11 (a) Means any beverage obtained by the alcoholic fermentation,
12 infusion or decoction of barley malt, hops, RICE, BRAN or other
13 ~~ingredients not drinkable~~ GRAIN, GLUCOSE, SUGAR OR MOLASSES, or any
14 combination of them, ~~. Beer does not include spirituous liquor.~~ AND MAY
15 INCLUDE, AS ADJUNCTS IN FERMENTATION, HONEY, FRUIT, FRUIT JUICE, FRUIT
16 CONCENTRATE, HERBS, SPICES AND OTHER FOOD MATERIALS.

17 (b) INCLUDES BEER AGED IN AN EMPTY WOODEN BARREL PREVIOUSLY USED TO
18 CONTAIN WINE OR DISTILLED SPIRITS AND AS SUCH IS NOT CONSIDERED A DILUTION
19 OR MIXTURE OF ANY OTHER SPIRITUOUS LIQUOR.

20 2. "Franchise" means a commercial relationship between a supplier
21 and a wholesaler ~~which~~ THAT includes all of the following:

22 (a) A commercial relationship of definite duration or continuing
23 indefinite duration is involved.

24 (b) A grant to the wholesaler of the right to offer, sell and
25 distribute within this state or any designated territory such of the
26 supplier's brands of beer as may be agreed ~~upon~~ ON. The requirements of
27 this paragraph ~~are~~ DO not ~~intended to~~ preclude a supplier from
28 establishing more than one commercial relationship of any kind within or
29 with relation to activity in this state or any designated territory
30 therein not in violation of article 1 of this chapter.

31 (c) An agreement relating to transferability of the commercial
32 relationship.

33 3. "Good cause" means failure by the supplier or the wholesaler to
34 comply with the provisions of an agreement as delineated therein, which
35 provisions are not unconscionable. Good cause does not include failure or
36 refusal on the part of the wholesaler or supplier to engage in any trade
37 practice, conduct or activity ~~which~~ THAT would result in a violation of
38 any federal law or regulation or any laws or regulations of this state.

39 4. "Good faith" means the duty of each party to any franchise and
40 all officers, employees or agents ~~thereof~~ OF THE FRANCHISE to act in a
41 fair and equitable manner in carrying out the agreement.

42 5. "Spirituous liquor" includes alcohol, brandy, whiskey, rum,
43 tequila, mescal, gin, wine, porter, absinthe, a compound or mixture of any
44 of them or of any of them with any vegetable or other substance, alcohol
45 bitters, bitters containing alcohol, any liquid mixture or preparation,

1 whether patented or otherwise, that produces intoxication, fruits
2 preserved in ardent spirits and beverages containing more than one-half of
3 one ~~per cent~~ PERCENT of alcohol by volume.

4 6. "Supplier" means any person other than a wholesaler engaged in
5 business as a manufacturer, distiller, rectifier, importer, brewer,
6 vintner, broker or agent ~~which~~ THAT distributes any or all of its beer
7 through duly licensed wholesalers in this state.

8 7. "Wholesaler" means any person licensed by the department of
9 liquor licenses and control to sell at wholesale beer to retailers duly
10 licensed in this state.