

REFERENCE TITLE: refrigerated product display; retailers

State of Arizona  
Senate  
Fifty-fifth Legislature  
First Regular Session  
2021

## **SB 1293**

Introduced by  
Senator Shope

AN ACT

AMENDING SECTION 4-243, ARIZONA REVISED STATUTES; RELATING TO LIQUOR.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 4-243, Arizona Revised Statutes, is amended to  
3 read:

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

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

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

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

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

19 4. To furnish, give, rent, lend or sell to the retailer equipment,  
20 fixtures, signs, supplies, money, services or other things of value,  
21 subject to the exception as the rules adopted pursuant to this title may  
22 prescribe, having regard for established trade customs and the purposes of  
23 this subsection. THIS PARAGRAPH DOES NOT APPLY TO A REFRIGERATED COOLER  
24 THAT SERVES ONLY AS A TEMPERATURE-CONTROLLED PRODUCT DISPLAY FOR  
25 SPIRITUOUS LIQUOR, THAT HAS A VALUE OF LESS THAN \$300 AND THAT BEARS  
26 ADVERTISING OF A SPIRITUOUS LIQUOR PRODUCT THAT IS CONSPICUOUS,  
27 SUBSTANTIAL AND PERMANENTLY INSCRIBED OR SECURELY AFFIXED. THE COOLERS  
28 MAY BE LOANED OR SOLD TO A RETAILER. A PRODUCER OR WHOLESALER THAT LOANS  
29 OR SELLS THE COOLERS SHALL NOT BE RESPONSIBLE FOR MAINTENANCE OR REPAIR OF  
30 THE COOLERS.

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

34 6. To guarantee a loan or repayment of a financial obligation of  
35 the retailer.

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

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

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

41 B. This section does not prohibit any distiller, vintner, brewer,  
42 rectifier, blender or other producer or wholesaler of any spirituous  
43 liquor from:

44 1. Giving financial and other forms of event sponsorship assistance  
45 to nonprofit or charitable organizations for purposes of charitable

1 ~~fund-raising~~ FUNDRAISING that are issued special event licenses by the  
2 department. This section does not prohibit suppliers from advertising  
3 their sponsorship at such special events.

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

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

8 (b) Sampling shall be limited to twelve ounces of beer or cooler  
9 products, six ounces of wine or two ounces of distilled spirits per person  
10 per brand.

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

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

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

19 (f) All sampling procedures shall comply with federal sampling laws  
20 and regulations.

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

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

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

29 (c) Sampling is limited to three ounces of beer, one and one-half  
30 ounces of wine or one ounce of distilled spirits per person per day for  
31 consumption on the premises and up to seventy-two ounces of beer and two  
32 ounces of distilled spirits per person per day for consumption off the  
33 premises.

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

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

40 (f) A producer conducting sampling shall buy the sampled product  
41 from a wholesaler or from the retailer where the sampling is being  
42 conducted. If the product for the sampling is purchased from the  
43 retailer, the amount paid for the product must be the same amount that the  
44 retailer charges for sale to the general public.

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

3 (h) The producer or wholesaler shall designate an area in which  
4 sampling is conducted that is in the portion of the licensed premises  
5 where spirituous liquor is primarily displayed and separated from the  
6 remainder of the off-sale retailer's premises by a wall, rope, door,  
7 cable, cord, chain, fence or other barrier. The producer or wholesaler  
8 shall not ~~permit~~ ALLOW persons under the legal drinking age ~~from entering~~  
9 TO ENTER the area in which sampling is conducted. If the retail location  
10 has been issued a permanent sampling privilege from the department, the  
11 requirement for separation from the remainder of the premises by wall,  
12 rope, door, cable, cord, chain, fence or other barrier is not required.

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

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

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

21 (l) All sampling procedures shall comply with federal sampling laws  
22 and regulations.

23 C. Notwithstanding subsection A, paragraph 4 of this section, any  
24 wholesaler of any spirituous liquor may sell tobacco products or  
25 foodstuffs to a retailer at a price not less than the cost to the  
26 wholesaler.

27 D. Notwithstanding subsection A, paragraph 4, and subsection B,  
28 paragraph 2, subdivision (e) of this section, any wholesaler may furnish  
29 without cost promotional items to an on-sale retailer, except that the  
30 total market value of the promotional items furnished by that wholesaler  
31 to that retailer in any calendar year shall not exceed ~~five hundred~~  
32 ~~dollars~~ \$500. For the purposes of this subsection, "promotional items"  
33 means items of equipment, supplies, novelties or other advertising  
34 specialties that conspicuously display the brand name of a spirituous  
35 liquor product. Promotional items do not include signs.

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

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

43 2. The retailer's licensed premises is used primarily as a music or  
44 live sporting venue with a permanent occupancy of more than one thousand

1 people, and the products are likely to spoil or expire during the time  
2 period between venue events.

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

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