



ARIZONA HOUSE OF REPRESENTATIVES

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First Regular Session

House: COM DPA 7-3-0-0 | 3rd Read 34-26-0-0

Senate: COM DPA 8-0-1-0 | 3rd Read 22-8-0-0

HB 2773: spirituous liquor; delivery; off-sale permits

Sponsor: Representative Weninger, LD 17

Senate Engrossed

Overview

Establishes requirements to allow restaurants and bars to conduct sales and delivery of mixed cocktails off-premises.

History

The Department of Liquor Licenses and Control ([Department](#)), which consists of the State Liquor Board and the Office of the Director (Director) of the Department regulates the manufacture, distribution and sale of liquor in this state through the issuance of [21 license types or series](#).

Under current law, it is unlawful for a licensee or employee to knowingly allow spirituous liquor to be removed from the licensed premises, except in the original unbroken package unless:

- 1) It is a bottle of wine that has been partially consumed in conjunction with a purchased meal and is properly sealed;
- 2) There is a noncontiguous portion of the licensed premises that is separated by a public or private walkway or driveway and the liquor is taken from one portion of the premises directly to the other; or
- 3) The licensee has an appropriate permit that dispenses beer only in a clean container and that is not for consumption on the premises if:
 - a) The licensee fills the container at the tap at the time of sale; and
 - b) The container is sealed and displays a government warning label. ([A.R.S. § 4-244](#)).

Spirituous liquor means alcohol, brandy, whiskey, rum, tequila, mescal, gin, wine, porter, ale, beer, any malt liquor or malt beverage, absinthe, a compound or mixture of any of them or of any of them with any vegetable or other substance, alcohol bitters, bitters containing alcohol, any liquid mixture or preparation, whether patented or otherwise, which produces intoxication, fruits preserved in ardent spirits and beverages containing more than one-half of one percent of alcohol by volume ([A.R.S. § 4-101](#)).

Provisions

Spirituous Liquor Delivery; Bar (Series 6) and Restaurant (Series 12) (Sec. 2)

1. Allows a bar or a restaurant licensee to take orders for the sale and delivery of spirituous liquor off the licensed premises by telephone, mail, fax or catalog, through a third-party facilitator or internet or other means as follows:
 - a) Spirituous liquor for a bar includes beer, wine, distilled spirits or mixed cocktails.
 - b) Spirituous liquor for a restaurant includes:
 - i) Mixed cocktails, with the sale of food, if the licensee holds a permit allowing for the sale of mixed cocktails for off premises consumption; and
 - ii) Beer, if the licensee holds a permit allowing for the sale of beer for off premises consumption.

☐ Prop 105 (45 votes)

☐ Prop 108 (40 votes)

☐ Emergency (40 votes)

☐ Fiscal Note

2. Specifies that the transaction is not considered a sale until delivery has been made.
3. Requires the licensee to inform the purchaser of state liquor laws relating to minimum age and identification requirements.
4. Allows the licensee to maintain a delivery service or contract with one or more licensed third-party facilitators for delivery of spirituous liquor provided it is loaded at the premises of the restaurant or bar and delivered within the state.
 - a) Outlines container labeling requirements.
5. Asserts the licensee is responsible for any violation law or rules regarding the sale or delivery of spirituous liquor, except when a violation is attributable to licensed third-party facilitator.
6. Requires deliveries be made by an employee, or an independent contractor of an authorized third-party facilitator and to a customer who is at least 21 years old.
7. Requires the restaurant or bar licensee or third-party facilitator to collect the full payment for the liquor before the product leaves the premises.
8. Directs the Director to adopt rules that set operational limits for the delivery of spirituous liquors.
 - a) Adds any violation based on an act or omission of a licensee's employee or third-party facilitator will be mitigated in accordance with statute.

Restaurant License (Series 12); Permit to Sell Mixed Cocktails (Sec. 3)

9. Allows a restaurant applicant or licensee to apply for a permit to sell mixed cocktails off the licensed premises.
10. Specifies the sale of mixed cocktails for consumption off the licensed premises must be accompanied by the sale of food.
11. Requires the issuance of the permit only after the Director has determined the convenience and interest of the community will be substantially served.
 - a) Specifies after issuance, the permit must be noted on the license and in the records of the Department.
 - b) Allows the Department to establish an application and renewal fee.
12. Stipulates all applicants for the permit and their employees, managers and managing agents complete alcohol training.
13. Specifies the Director cannot treat a contracted third-party facilitator's violation as a violation by the restaurant.

Bar License (Series 6) (Sec. 5)

14. Specifies the Director cannot treat a contracted third-party facilitator's violation as a violation by the bar.

Third-Party Facilitator Licensure (Sec. 4)

15. Allows the Director to issue a third-party facilitator license for the purpose of facilitating the delivery of spirituous liquor.
 - a) Allows the Director to establish a license and renewal fee and outlines the required content of the application.
 - b) Permits the Director the refuse to issue a third-party facilitator license for good cause.
 - c) Outlines conditions in which the Director may not issue a license.
16. Asserts a license is valid for one year and cannot be transferred.
17. Permits the Director the establish a license renewal fee to be used for administrative costs associated with the license, auditing and enforcement.

18. Allows the Director to suspend, revoke or refuse to renew a license for any violation or good cause or to impose a civil penalty against the licensee for each violation.
 - a) Allows the licensee to appeal the finding or decision of the Director.
 - b) Specifies the civil penalty imposed is at least \$200 but not more than \$300. (Sec. 7)
19. Permits a licensee to deliver spirituous liquor to a consumer on behalf of a bar or a restaurant.
 - a) Requires the Director to adopt rules that set age verification and record standards.
20. Requires a licensee to provide requested information of an investigation to the Department or law enforcement.
21. Permits a licensee to take orders for spirituous liquor on behalf of another licensee provided 100% of the monies are transferred to the other licensee.
22. Requires all third-party facilitator applicants, licensees and their employees, managers and managing agents to complete alcohol training.

Fees for Licensure (Sec. 6)

23. Permits the Director to charge an application fee for a permit for a restaurant to sell mixed cocktails off the premises is set by the Director.
24. Clarifies the Department may charge a fee for a third-party facilitator license.
25. Permits the Director to establish an annual fee for a permit for a restaurant to sell mixed cocktails off the premises.
26. Permits the Director to charge a fee for the annual renewal of a third-party facilitator license.
27. Instructs the Director to use monies received from the permit allowing restaurants to sell mixed cocktails and a license for a third-party facilitator for administrative costs associated with the permit or license and enforcement.

Miscellaneous

28. Defines *mixed cocktail* as a drink containing one or more spirituous liquors that when combined with at least one other ingredient, except water, contains more than .5% of alcohol by volume and that are combined at the licensed premises. (Sec. 1)
29. Defines *third-party facilitator* as a person or company who delivers spirituous liquor to a consumer on behalf of a bar or restaurant. Third-party facilitator does not include a motor carrier. (Sec. 1)
30. Excludes, as an unlawful act, to knowingly allow spirituous liquor to be removed from the licensed premises with respect to a bar licensee that prepares a mixed cocktail, or a restaurant licensee that holds the appropriate permit and prepares a mixed cocktail and transfers it to a clean container and is not for consumption on the premises if:
 - a) The licensee or employee fills the container on the premises;
 - b) The container is sealed and displays a government warning label;
 - c) The container clearly displays the bar's or restaurant's logo or name; and
 - d) The sale of mixed cocktails from a restaurant is accompanied by the sale of food. (Sec. 8)
31. Makes technical and conforming changes.

Senate Amendments

Spirituous Liquor Delivery

1. Specifies the current statutory authorization for a retail licensee with off-sale privileges for the sale and delivery of spirituous liquor off the licensed premises by an independent contractor does not apply to a bar, beer and wine bar or restaurant licensee.

2. Includes beer and wine bars, liquor stores and beer and wine stores as licensees authorized to take orders for the sale and delivery of spirituous liquor off the licensed premises by a registered alcohol delivery contractor.
3. Allows a restaurant licensee that holds an off-sale privileges lease to deliver spirituous liquor pursuant to such lease.
4. Provides a bar, beer and wine bar, liquor store, beer and wine store or restaurant licensee may contract with a registered alcohol delivery contractor for delivery of spirituous liquor provided the liquor is:
 - a) *packaged and tamper proof sealed by the licensee;*
 - b) loaded for delivery at the premises; and
 - c) *delivered on the same business day.*
5. Allows a liquor store or beer and wine store licensee to contract with an independent contractor for delivery of spirituous liquors as authorized by current statute.
6. Deems an alcohol delivery contractor, subcontractor or such employee to be acting on behalf of the licensee when making a delivery of spirituous liquor for the licensee.

Lease Mixed Cocktails Privilege

7. Requires, through December 31, 2025, bar and liquor store licensees (lessor) to lease the privilege of selling mixed cocktails for consumption off the premises to restaurant licensees (lessee).
 - a) Specifies the lease and renewal periods.
 - b) Provides requirements for establishing the amount of the lease by the Department.
8. Outlines the conditions for the lease, which include:
 - a) application fees;
 - b) random selection process of lessor and lessee;
 - c) establishing a process to facilitate and approve the lease conveyance and governance;
 - d) lease payment requirements; and
 - e) lease violations and restrictions.
9. Stipulates the Director to return the lessor to a random selection process if the lessee does not renew a lease.
10. Requires the Director to transfer the lease to another lessor at the end of the lease term if the original lessor has its license suspended or revoked.
11. Repeals the lease of mixed cocktails privilege on January 1, 2026.
12. Requires the Director, beginning January 1, 2026, to make to-go mixed cocktail permits available for a restaurant licensee to purchase from the Department equal in number to the total number of bar and liquor store licensees.
 - a) Allows the Director to charge a permit fee.

Lease Off-Sale Privilege

13. Permits a bar, beer and wine bar and liquor store licensee (lessor) to lease the off-sale privileges associated with the license to a restaurant licensee (lessee).
 - a) Specifies the privilege does not include mixed cocktail privilege.
 - b) Specifies the lease is for a period of one year and may be renewed.
 - c) Allows licenses that are held in non-use status to be leased.
14. Outlines the conditions for the lease, which include:
 - a) establishing lease windows, by the Department, in which a lease may be agreed upon by the lessor and lessee;

- b) application fees;
 - c) establishing a process to facilitate and approve the lease conveyance and governance;
 - d) lease payment requirements; and
 - e) lease violations and restrictions.
15. Instructs the Director to publish lease amounts and provides requirements for establishing the amount of the lease.
- a) Specifies the lease amount applies unless the lessor and lessee agree to a different amount.

Restaurant License

16. Permits a licensee to apply to the Department for a lease for the privilege of selling mixed cocktails for consumption off the licensed premises.
17. Specifies a licensee may apply for the permit to sale mixed cocktails off the premises beginning January 1, 2026.
18. Requires the licensee to stop selling spirituous liquor for consumption off the premises when the licensee stops regular kitchen service for food.
19. Modifies *gross revenue* to include revenue derived from spirituous liquor sold for off-sale consumption.

Registration Alcohol Delivery Contractor

20. Permits the Director to register a person as an alcohol delivery contractor for delivering spirituous liquor from specified licensees to an Arizona consumer.
21. Requires the person to apply to the Department and provide certain information as required by the Director.
22. Permits the Director to establish a registration and renewal fee to cover administrative and enforcement costs.
23. Instructs the Department to maintain a list of registered alcohol delivery contractors.
24. Allows the Director to require completion of approved training course regarding spirituous liquor handling, laws and rules.
25. Subjects alcohol delivery contractors to examinations.
26. Provides circumstances in which the Director may refuse to register a person.
27. Authorizes registered alcohol delivery contractors who comply with Alcoholic Beverage statutes to deliver spirituous liquor on behalf of a bar, beer and wine bar, liquor store, beer and wine store or restaurant.
28. Allows registered alcohol delivery contractors to contract with an independent contractor for delivery of spirituous liquor.
29. Permits the Department, in addition to all other actions that may be taken for violations of statute or rules, to limit the right of registered alcohol delivery contractors to deliver liquor for a period of up to one year.
- a) allows the limitation to be appealed to the Liquor Board.
30. Permits the Director to impose civil penalties for violations.
31. Allows the Director to require attendance of a training program.
32. Prohibits registered alcohol delivery contractors from delivering spirituous liquor between the hours of 2:00 a.m. and 6:00 a.m.

- 33. Replaces *third-party facilitator* with *alcohol delivery contractor*.
- 34. Removes references to a *third-party facilitator*.

Miscellaneous

- 35. Specifies monies received from application fees for permits, leases or registrations must be used for administration and enforcement costs.
- 36. Extends statute relating to revocation, suspension and refusing to renew a license to a registrant, lessee or permittee.
- 37. Exempts, retroactive to July 1, 2020, from Alcoholic Beverages statutes, the manufacture or sale of bitters products that have been classified and approved as a nonbeverage product or unfit for beverage purposes by the U.S. Alcohol and Tobacco, Tax and Trade Bureau (U.S. TTB) and specifies that the exemption is consistent with U.S. TTB classification guidelines.
- 38. Extends, to a liquor store, the exemption from the prohibition on removing a mixed cocktail from the license premises.
- 39. Redefines *mixed cocktail*.
- 40. Defines *menu food item*, *registered alcohol delivery contractor*, and *tamper proof sealed*.
- 41. Includes a severability clause.
- 42. Includes a delayed effective date of October 1, 2021 for specified sections of the act.