

REFERENCE TITLE: ready-to-drink spirits products; tax

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HB 2769

Introduced by
Representative Wilmeth

AN ACT

AMENDING SECTIONS 4-101, 4-206.01, 42-3001, 42-3052, 42-3351, 42-3354 AND 42-3355, ARIZONA REVISED STATUTES; RELATING TO LIQUOR TAXES.

(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 that consists of a riot, a fight, an
8 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) IS 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) ~~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 premises proposed to be licensed and
22 who filed a written request with the department to speak in favor of or
23 opposition to the issuance of the license not later than sixty days after
24 filing the application or fifteen days after action by the local governing
25 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 grain,
29 glucose, sugar or molasses, or any combination of them, and may include,
30 as adjuncts in fermentation, honey, fruit, fruit juice, fruit concentrate,
31 herbs, spices and other food materials.

32 (b) Includes beer aged in an empty wooden barrel previously used to
33 contain wine or distilled spirits and as such is not considered a dilution
34 or mixture of any other spirituous liquor.

35 4. "Biometric identity verification device" means a device
36 authorized by the department that instantly verifies the identity and age
37 of a person by an electronic scan of a biometric of the person, through a
38 fingerprint, iris image, facial image or other biometric characteristic,
39 or any combination of these characteristics, that references the person's
40 identity and age against any record described in section 4-241, subsection
41 K, and that meets all of the following conditions:

42 (a) The authenticity of the record was previously verified by an
43 electronic authentication process.

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

1 (i) A secondary, electronic authentication process or set of
2 processes using commercially available data, such as a public records
3 query or a knowledge-based authentication quiz.

4 (ii) Using a state or federal government system of records for
5 digital authentication.

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

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

10 6. "Bona fide guest" means:

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

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

20 7. "Broken package" means any container of spirituous liquor on
21 which the United States tax seal has been broken or removed or from which
22 the cap, cork or seal placed on the container by the manufacturer has been
23 removed.

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

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

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

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

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

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

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

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

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

1 liabilities of the licensee. The presumptions in this paragraph regarding
2 control are rebuttable.

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

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

8 13. "Department" means the department of liquor licenses and
9 control.

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

12 15. "Distilled spirits":

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

19 (b) INCLUDES READY-TO-DRINK SPIRITS PRODUCTS UNLESS EXPRESSLY
20 PROVIDED OTHERWISE.

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 or
24 independent contractor or otherwise. Employee does not include a person
25 who is exclusively on the premises for musical or vocal performances, for
26 repair 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 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. "Menu food item" means a food item from a regular menu, special
9 menu or happy hour menu that is prepared by the licensee or the licensee's
10 employee.

11 25. "Microbrewery" means a brewery in the United States or in a
12 territory or possession of the United States that meets the requirements
13 of section 4-205.08.

14 26. "Mixed cocktail":

15 (a) Means any drink combined at the premises of an authorized
16 licensee that contains a spirituous liquor and that is combined with at
17 least one other ingredient, which may include additional spirituous
18 liquors, fruit juice, vegetable juice, mixers, cream, flavored syrup or
19 other ingredients except water, and that when combined contains more than
20 one-half of one percent of alcohol by volume.

21 (b) Does not include a drink sold in an original manufacturer's
22 packaging or any drink poured from an original manufacturer's package
23 without the addition of all of the cocktail's other ingredients at the
24 premises of the licensed bar, liquor store or restaurant.

25 27. "Off-sale retailer" means any person that operates a bona fide
26 regularly established retail liquor store ~~selling~~ THAT SELLS spirituous
27 liquors, wines and beer and any established retail store that sells
28 commodities other than spirituous liquors and that is engaged in the sale
29 of spirituous liquors only in the original unbroken package, to be taken
30 away from the premises of the retailer and to be consumed off the
31 premises.

32 28. "On-sale retailer" means any person operating an establishment
33 where spirituous liquors are sold in the original container for
34 consumption on or off the premises or in individual portions for
35 consumption on the premises.

36 29. "Permanent occupancy" means the maximum occupancy of the
37 building or facility as set by the office of the state fire marshal for
38 the jurisdiction in which the building or facility is located.

39 30. "Person" includes a partnership, limited liability company,
40 association, company or corporation, as well as a natural person.

41 31. "Premises" or "licensed premises":

42 (a) Means the area from which the licensee is authorized to sell,
43 dispense or serve spirituous liquors under the provision of the license.

44 ~~Premises or licensed premises~~

1 (b) Includes a patio that is not contiguous to the remainder of the
2 premises or licensed premises if the patio is separated from the remainder
3 of the premises or licensed premises by a public or private walkway or
4 driveway not to exceed thirty feet, subject to rules the director may
5 adopt to establish criteria for noncontiguous premises.

6 32. "READY-TO-DRINK SPIRITS PRODUCTS" MEANS DISTILLED SPIRITS MIXED
7 WITH OTHER BEVERAGES THAT MAY CONTAIN FLAVORING OR COLORING MATERIALS AND
8 OTHER INGREDIENTS, THAT DO NOT EXCEED TWELVE PERCENT ALCOHOL BY VOLUME,
9 THAT ARE SEALED IN AN ORIGINAL CONTAINER OF NOT MORE THAN TWENTY-FOUR
10 OUNCES AND THAT ARE SOLD IN THE MANUFACTURER'S ORIGINAL PACKAGING.

11 ~~32.~~ 33. "Registered alcohol delivery contractor":

12 (a) Means a person who delivers spirituous liquor to a consumer on
13 behalf of a bar, beer and wine bar, liquor store, beer and wine store or
14 restaurant.

15 (b) Does not include:

16 (i) A motor carrier as defined in section 28-5201.

17 (ii) An independent contractor, a subcontractor of an independent
18 contractor, an employee of an independent contractor or an employee of a
19 subcontractor as provided in section 4-203, subsection J.

20 ~~33.~~ 34. "Registered mail" includes certified mail.

21 ~~34.~~ 35. "Registered retail agent" means any person who is
22 authorized pursuant to section 4-222 to purchase spirituous liquors for
23 and on behalf of the person and other retail licensees.

24 ~~35.~~ 36. "Repeated acts of violence" means:

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

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

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

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

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

40 ~~36.~~ 37. "Sell" includes soliciting or receiving an order for,
41 keeping or exposing for sale, directly or indirectly delivering for value,
42 peddling, keeping with intent to sell and trafficking in.

43 ~~37.~~ 38. "Spirituous liquor" includes alcohol, brandy, whiskey,
44 rum, tequila, mescal, gin, wine, porter, ale, beer, any malt liquor or
45 malt beverage, absinthe, a compound or mixture of any of them or of any of

1 them with any vegetable or other substance, alcohol bitters, bitters
2 containing alcohol, any liquid mixture or preparation, whether patented or
3 otherwise, that produces intoxication, fruits preserved in ardent spirits,
4 and beverages containing more than one-half of one percent of alcohol by
5 volume.

6 ~~38.~~ 39. "Tamperproof sealed" means designed to prevent consumption
7 without the removal of a tamperproof cap, seal, cork or closure that has a
8 device, mechanism or adhesive that clearly shows whether a container has
9 been opened.

10 ~~39.~~ 40. "Vehicle" means any means of transportation by land, water
11 or air, and includes everything made use of in any way for such
12 transportation.

13 ~~40.~~ 41. "Vending machine" means a machine that dispenses
14 merchandise through the means of coin, token, credit card or other
15 nonpersonal means of accepting payment for merchandise received.

16 ~~41.~~ 42. "Veteran" means a person who has served in the United
17 States air force, army, navy, marine corps or coast guard, as an active
18 nurse in the services of the American red cross, in the army and navy
19 nurse corps in time of war, or in any expedition of the armed forces of
20 the United States, and who has received a discharge other than
21 dishonorable.

22 ~~42.~~ 43. "Voting security" means any security presently entitling
23 the owner or holder of the security to vote for the election of directors
24 of an applicant or a licensee.

25 ~~43.~~ 44. "Wine" means the product obtained by the fermentation of
26 grapes, other agricultural products containing natural or added sugar or
27 cider or any such alcoholic beverage fortified with grape brandy and
28 containing not more than twenty-four percent of alcohol by volume.

29 Sec. 2. Section 4-206.01, Arizona Revised Statutes, is amended to
30 read:

31 4-206.01. Bar, beer and wine bar or liquor store licenses;
32 number permitted; fee; sampling privileges;
33 off-sale permit

34 A. The director shall determine the total number of spirituous
35 liquor licenses by type and in each county. The director shall publish a
36 listing of that information as determined by the director.

37 B. In each county, the director, each year, shall issue additional
38 bar or liquor store licenses at the rate of one of each type for each
39 additional ten thousand person increase over the population in that county
40 as of July 1, 2010. For every license that has been revoked or reverted
41 in any county, the director may issue a new license of the same series in
42 the same county, except that if there are more than five licenses of a
43 particular class, the director may issue five new licenses plus an
44 additional number of new licenses equivalent to twenty percent of the
45 difference between the number of revoked or reverted licenses per year and

1 five. The director may waive the issuance of licenses in a county for one
 2 year where there has been no request made to the department for the
 3 issuance of a new license of that series. For the purposes of this
 4 subsection, the population of a county is deemed to be the population
 5 estimated by the office of economic opportunity as of July 1 of each year.

6 ~~C. In each county, the director, each year, shall issue additional~~
 7 ~~beer and wine bar licenses at the rate of one for each additional five~~
 8 ~~thousand person increase over the population in that county as of July 1,~~
 9 ~~2010. Beginning January 1, 2022,~~ In each county, the director, each year,
 10 shall issue additional beer and wine bar licenses at the rate of one for
 11 each additional ten thousand person increase over the population in that
 12 county as of July 1, 2010. For every license that has been revoked or
 13 reverted in any county, the director may issue a new license of the same
 14 series in the same county, except that if there are more than five
 15 licenses of a particular class, the director may issue five new licenses
 16 plus an additional number of new licenses equivalent to twenty percent of
 17 the difference between the number of revoked or reverted licenses per year
 18 and five. The director may waive the issuance of licenses in a county for
 19 one year if there has been no request made to the department for the
 20 issuance of a new license of that series. For the purposes of this
 21 subsection, the population of a county is deemed to be the population
 22 estimated as of July 1 of each year by the office of economic opportunity.

23 D. A person issued a license authorized by subsection B or C of
 24 this section shall pay an additional issuance fee equal to the license's
 25 fair market value that shall be paid to the state general fund. An
 26 appraisal shall be conducted to determine the fair market value of that
 27 license type in a specific county. The fair market value is defined to
 28 mean the price arrived at in good faith that a knowledgeable and willing
 29 buyer will pay and is computed by determining the average value, or
 30 weighted average value if there are trends in license pricing in that
 31 county, of licenses of the same type, free of any encumbrances, sold on
 32 the open market in the same county during the prior twelve months, but if
 33 there are not three or more sales then the fair market value is determined
 34 by two appraisals furnished to the department by independent professional
 35 appraisers employed by the director. The valuation method under both
 36 approaches shall take into account trends in the value of licenses of the
 37 specific type during the previous twelve months. A new license authorized
 38 pursuant to subsection B or C of this section may not be issued to a
 39 person or entity that has had a similar license revoked or reverted unless
 40 the person or entity provides the director with satisfactory proof that
 41 all previous liens on the revoked or reverted license have been satisfied
 42 in full.

43 E. The director shall employ professional appraisal services to
 44 determine the fair market value of bar, beer and wine bar or liquor store
 45 licenses.

1 F. If more than one person applies for an available license, a
 2 priority of applicants shall be determined by a random selection method
 3 prescribed by the director, except that the number of times that a person
 4 may enter the random selection process shall not exceed the number of
 5 licenses of that series that are available for issuance. For the purposes
 6 of this subsection, a partnership, limited liability company, association,
 7 company or corporation is considered the same person if it is owned,
 8 managed, operated or controlled by the same controlling person.

9 G. Bar licenses and beer and wine bar licenses shall be issued and
 10 used only if the clear primary purpose and actual primary use is for
 11 on-sale retailer privileges. The off-sale privileges associated with a
 12 bar license and a beer and wine bar license shall be limited to use, which
 13 is clearly auxiliary to the active primary on-sale privilege. A bar
 14 license or a beer and wine bar license shall not be issued or used if the
 15 associated off-sale use, by total retail spirituous liquor sales, exceeds
 16 thirty percent of the sales price of on-sale spirituous liquors by the
 17 licensee at that location. For dual licenses issued pursuant to a single
 18 site or where a second license is issued to a site that already has a
 19 spirituous liquor license, other than settlement licenses issued as
 20 provided by law, the applicant has the burden of establishing that public
 21 convenience and the best interest of the community will be served by the
 22 issuance of the license.

23 H. The director may issue a beer and wine store license to the
 24 holder of a beer and wine bar license simultaneously at the same premises.
 25 An applicant for a beer and wine bar license and a beer and wine store
 26 license may consolidate the application and may apply for both licenses at
 27 the same time. The holder of each license shall fully comply with this
 28 title. A beer and wine bar license and beer and wine store license on the
 29 same premises shall be owned by and issued to the same licensee.

30 I. The director may issue a beer and wine bar license to the holder
 31 of a liquor store license issued simultaneously at the same premises. An
 32 applicant for a liquor store license and a beer and wine bar license may
 33 consolidate the application and may apply for both licenses at the same
 34 time. The holder of each license shall fully comply with this title. A
 35 liquor store license and a beer and wine bar license on the same premises
 36 shall be owned by and issued to the same licensee.

37 J. The director may issue a restaurant license to the holder of a
 38 beer and wine bar license issued simultaneously at the same premises. An
 39 applicant for a restaurant license and a beer and wine bar license may
 40 consolidate the application and may apply for both licenses at the same
 41 time. The holder of each license shall fully comply with this title. A
 42 restaurant license and a beer and wine bar license on the same premises
 43 shall be owned by and issued to the same licensee. The limitation stated
 44 in subsection G of this section with respect to the off-sale privileges of
 45 the beer and wine bar licenses shall be measured against the on-sales of

1 beer and wine sales of the establishment. For the purposes of compliance
2 with section 4-205.02, subsection M, paragraph 2, it shall be conclusively
3 presumed that all on-premises sales of spirituous liquors are made under
4 the authority of the restaurant license.

5 K. An applicant for a liquor store license or a beer and wine store
6 license and the licensee of a liquor store license or a beer and wine
7 store license may apply for sampling privileges associated with the
8 license. Beer and wine store premises containing less than five thousand
9 square feet must dedicate at least seventy-five percent of retail shelf
10 space to the sale of spirituous liquor in order to be eligible for
11 sampling privileges. A person desiring a sampling privilege associated
12 with a liquor store license shall apply to the director on a form
13 prescribed and furnished by the director. The application for sampling
14 privileges may be filed for an existing license or may be submitted with
15 an initial license application. The request for sampling approval, the
16 review of the application and the issuance of approval shall be conducted
17 under the same procedures for the issuance of a spirituous liquor license
18 prescribed in section 4-201. After a sampling privilege has been issued
19 for a liquor store license or a beer and wine store license, the sampling
20 privilege shall be noted on the license itself and in the records of the
21 department. The sampling rights associated with a license are not
22 transferable. The director may charge a fee for processing each
23 application for sampling privileges and a renewal fee as provided in this
24 section. A city or town shall not charge any fee relating to the issuance
25 or renewal of a sampling privilege. Notwithstanding section 4-244,
26 paragraph 19, a liquor store licensee or a beer and wine store licensee
27 that holds a license with sampling privileges may provide spirituous
28 liquor sampling subject to the following requirements:

29 1. Any open product shall be kept locked by the licensee when the
30 sampling area is not staffed.

31 2. The licensee is otherwise subject to all other provisions of
32 this title. The licensee is liable for any violation of this title
33 committed in connection with the sampling.

34 3. The licensed retailer shall make sales of sampled products from
35 the licensed retail premises.

36 4. The licensee shall not charge any customer for the sampling of
37 any products, except that the licensee may charge a fee for bona fide
38 educational classes conducted in a classroom by an instructor on the
39 licensed premises where the sampling of any spirituous liquor product is
40 incidental to the course taught and to the course materials presented.

41 5. The sampling shall be conducted under the supervision of an
42 employee of a sponsoring distiller, vintner, brewer, wholesaler or retail
43 licensee.

44 6. Accurate records of sampling products dispensed shall be
45 retained by the licensee.

1 7. Sampling shall be limited to three ounces of beer or cooler-type
2 products, one and one-half ounces of wine and one ounce of distilled
3 spirits per person, per brand, per day.

4 8. The sampling shall be conducted only on the licensed premises.

5 L. If a beer and wine bar license and a beer and wine store license
6 are issued at the same premises, for the purposes of reporting liquor
7 purchases under each license, all spirituous beverages purchased for
8 sampling are conclusively presumed to be purchased under the beer and wine
9 bar license and all spirituous liquor sold off-sale are conclusively
10 presumed to be purchased under the beer and wine store license.

11 M. The director may issue a beer and wine store license to the
12 holder of a bar license simultaneously at the same premises. An applicant
13 for a beer and wine store license and a bar license may consolidate the
14 application and may apply for both licenses at the same time. The holder
15 of each license shall fully comply with this title. A beer and wine store
16 license and a bar license on the same premises shall be owned by and
17 issued to the same licensee. If a beer and wine store license and a bar
18 license are issued at the same premises, for purposes of reporting liquor
19 purchases under each license, all off-sale beer, **READY-TO-DRINK SPIRITS**
20 **PRODUCTS** and wine sales are conclusively presumed to be purchased under
21 the beer and wine store license.

22 Sec. 3. Section 42-3001, Arizona Revised Statutes, is amended to
23 read:

24 42-3001. Definitions

25 In this chapter, unless the context otherwise requires:

26 1. "Affix" and "affixed" include imprinting tax meter stamps on
27 packages and individual containers as authorized by the department.

28 2. "Brand family" has the same meaning prescribed in section
29 44-7111.

30 3. "Cavendish" means a tobacco product that is smoked from a pipe
31 and that meets one of the following criteria:

32 (a) Is described as cavendish, as containing cavendish or as a
33 cavendish blend on its packaging, labeling or promotional materials.

34 (b) Appears to have been processed or manufactured with an amount
35 of flavorings and humectants that exceeds twenty percent of the weight of
36 the tobacco contained in the product.

37 (c) Appears to be blended with or contain a tobacco product
38 described in subdivision (b) of this paragraph.

39 4. "Cider" means vinous liquor that is made from the normal
40 alcoholic fermentation of the juice of sound, ripe apples, pears or other
41 pome fruit, including flavored, sparkling and carbonated cider and cider
42 made from condensed apple, pear or other pome fruit must, and that
43 contains more than one-half of one percent of alcohol by volume but not
44 more than seven percent of alcohol by volume.

1 5. "Cigar" means any roll of tobacco wrapped in leaf tobacco or in
2 any substance containing tobacco other than any roll of tobacco that is a
3 cigarette, as defined in paragraph 6, subdivision (b) of this section.

4 6. "Cigarette" means either of the following:

5 (a) Any roll of tobacco wrapped in paper or any substance not
6 containing tobacco.

7 (b) Any roll of tobacco wrapped in any substance containing tobacco
8 that, because of its appearance, the type of tobacco used in the filler or
9 its packaging and labeling, is likely to be offered to or purchased by a
10 consumer as a cigarette described in subdivision (a) of this paragraph.
11 This subdivision shall be interpreted consistently with the classification
12 guidelines established by the federal alcohol and tobacco tax and trade
13 bureau.

14 7. "Consumer" means a person in this state that comes into
15 possession of any luxury subject to the tax imposed by this chapter and
16 that, on coming into possession of the luxury, is not a distributor
17 intending to sell or distribute the luxury, a retailer or a wholesaler.

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

21 9. "Distributor" means any person that manufactures, produces,
22 ships, transports or imports into this state or in any manner acquires or
23 possesses for the purpose of making the first sale of the following:

24 (a) Cigarettes without Arizona tax stamps affixed as required by
25 this article.

26 (b) Roll-your-own tobacco or other tobacco products on which the
27 taxes have not been paid as required by this chapter.

28 10. "Farm winery" has the same meaning prescribed in section 4-101.

29 11. "First sale" means the initial sale or distribution in
30 intrastate commerce or the initial use or consumption of cigarettes,
31 roll-your-own tobacco or other tobacco products.

32 12. "Luxury" means any article, object or device on which a tax is
33 imposed under this chapter.

34 13. "Malt liquor" means any liquid that contains more than one-half
35 of one percent alcohol by volume and that is made by the process of
36 fermentation and not distillation of hops or grains, but not including:

37 (a) Liquids made by the process of distillation of such substances.

38 (b) Medicines that are unsuitable for beverage purposes.

39 14. "Master settlement agreement" has the same meaning prescribed
40 in section 44-7101.

41 15. "Microbrewery" has the same meaning prescribed in section
42 4-101.

43 16. "Nonparticipating manufacturer" has the same meaning prescribed
44 in section 44-7111.

- 1 17. "Other tobacco products" means tobacco products other than
2 cigarettes and roll-your-own tobacco.
- 3 18. "Participating manufacturer" has the same meaning prescribed in
4 section 44-7111.
- 5 19. "Person" means any individual, firm, partnership, joint
6 venture, association, corporation, municipal corporation, estate, trust,
7 club, society or other group or combination acting as a unit, and the
8 plural as well as the singular number.
- 9 20. "Place of business":
- 10 (a) Means a building, facility site or location where an order is
11 received or where tobacco products are sold, distributed or transferred.
12 ~~Place of business~~
- 13 (b) Does not include a vehicle.
- 14 21. "READY-TO-DRINK SPIRITS PRODUCTS" MEANS DISTILLED SPIRITS MIXED
15 WITH OTHER BEVERAGES THAT MAY CONTAIN FLAVORING OR COLORING MATERIALS AND
16 OTHER INGREDIENTS, THAT DO NOT EXCEED TWELVE PERCENT ALCOHOL BY VOLUME,
17 THAT ARE SEALED IN AN ORIGINAL CONTAINER OF NOT MORE THAN TWENTY-FOUR
18 OUNCES AND THAT ARE SOLD IN THE MANUFACTURER'S ORIGINAL PACKAGING.
- 19 ~~21.~~ 22. "Retailer" means any person that comes into possession of
20 any luxury subject to the taxes imposed by this chapter for the purpose of
21 selling it for consumption and not for resale.
- 22 ~~22.~~ 23. "Roll-your-own tobacco" means any tobacco that, because of
23 its appearance, type, packaging or labeling, is suitable for use and
24 likely to be offered to or purchased by consumers as tobacco for making
25 cigarettes. This paragraph shall be interpreted consistently with the
26 term as used in section 44-7101. This paragraph shall be interpreted
27 consistently with the classification guidelines established by the federal
28 alcohol and tobacco tax and trade bureau.
- 29 ~~23.~~ 24. "Smoking tobacco":
- 30 (a) Means any tobacco that, because of its appearance, type,
31 packaging, labeling or promotion, is suitable for use and likely to be
32 offered to or purchased by consumers as tobacco for making cigarettes or
33 otherwise consumed by burning. ~~Smoking tobacco~~
- 34 (b) Includes pipe tobacco and roll-your-own tobacco.
- 35 ~~24.~~ 25. "Spirituous liquor":
- 36 (a) Means any liquid that contains more than one-half of one
37 percent alcohol by volume, that is produced by distillation of any
38 fermented substance and that is used or prepared for use as a
39 beverage. ~~Spirituous liquor~~
- 40 (b) Does not include medicines that are unsuitable for beverage
41 purposes.
- 42 ~~25.~~ 26. "Tobacco product manufacturer" has the same meaning
43 prescribed in section 44-7101.
- 44 ~~26.~~ 27. "Tobacco products" means all luxuries included in section
45 42-3052, paragraphs 5 through 9.

1 ~~27.~~ 28. "Vehicle" means a device in, on or by which a person or
2 property is or may be transported or drawn on the roads of this state
3 regardless of the means by which it is propelled or whether it runs on a
4 track.

5 ~~28.~~ 29. "Vinous liquor":

6 (a) Means any liquid that contains more than one-half of one
7 percent alcohol by volume and that is made by the process of fermentation
8 of grapes, berries, fruits, vegetables or other substances. ~~But~~

9 (b) Does not include:

10 ~~(a)~~ (i) Liquids in which hops or grains are used in the process of
11 fermentation.

12 ~~(b)~~ (ii) Liquids made by the process of distillation of hops or
13 grains.

14 ~~(c)~~ (iii) Medicines that are unsuitable for beverage purposes.

15 ~~29.~~ 30. "Wholesaler" means a person that sells any spirituous,
16 vinous or malt liquor taxed under this chapter to retail dealers or for
17 the purposes of resale only.

18 Sec. 4. Section 42-3052, Arizona Revised Statutes, is amended to
19 read:

20 42-3052. Classifications of luxuries; rates of tax

21 The taxes under this chapter are imposed at the following rates:

22 1. On each sealed container of spirituous liquor, ~~at the rate of~~
23 ~~three dollars~~ \$3 per gallon and at a proportionate rate for any lesser or
24 greater quantity than one gallon.

25 2. On each container of vinous liquor, except cider, of which the
26 alcoholic content is not greater than twenty-four ~~per cent~~ PERCENT by
27 volume, ~~at the rate of eighty-four cents~~ \$.84 per gallon and at a
28 proportionate rate for any lesser or greater quantity than one gallon.

29 3. On each container of vinous liquor of which the alcoholic
30 content is greater than twenty-four ~~per cent~~ PERCENT by volume, containing
31 eight ounces or less, ~~twenty-five cents~~ \$.25, and for each eight ounces
32 for containers containing more than eight ounces, ~~twenty-five cents~~ \$.25.

33 4. On each gallon of malt liquor or cider, ~~sixteen cents~~ \$.16, and
34 at a proportionate rate for any lesser or greater quantity than one
35 gallon.

36 5. On each cigarette, ~~nine-tenths cent~~ \$.009.

37 6. On smoking tobacco, snuff, fine cut chewing tobacco, cut and
38 granulated tobacco, shorts and refuse of fine cut chewing tobacco, and
39 refuse, scraps, clippings, cuttings and sweepings of tobacco, excluding
40 tobacco powder or tobacco products used exclusively for agricultural or
41 horticultural purposes and unfit for human consumption, ~~two cents~~ \$.02 per
42 ounce or major fraction of an ounce.

43 7. On all cavendish, plug or twist tobacco, ~~one-half cent~~ \$.005 per
44 ounce or fractional part of an ounce.

1 8. On each twenty small cigars or fractional part weighing not more
2 than three pounds per thousand, ~~four cents~~ \$.04.

3 9. On cigars of all descriptions except those included in paragraph
4 8 of this section, made of tobacco or any tobacco substitute:

5 (a) If manufactured to retail at not more than ~~five cents~~ \$.05
6 each, ~~two cents~~ \$.02 on each three cigars.

7 (b) If manufactured to retail at more than ~~five cents~~ \$.05 each,
8 ~~two cents~~ \$.02 on each cigar.

9 10. ON EACH SEALED CONTAINER OF READY-TO-DRINK SPIRITS PRODUCTS,
10 \$1.25 PER GALLON AND AT A PROPORTIONATE RATE FOR ANY LESSER OR GREATER
11 QUANTITY THAN ONE GALLON.

12 Sec. 5. Section 42-3351, Arizona Revised Statutes, is amended to
13 read:

14 42-3351. Bonds required of liquor wholesalers; exemption

15 A. Every wholesaler of spirituous, vinous and malt liquors AND
16 READY-TO-DRINK SPIRITS PRODUCTS shall file with the department, in such
17 form as the department prescribes, a bond or bonds, ~~and~~ duly executed by the
18 wholesaler as principal, ~~and~~ with a corporation duly authorized to
19 execute and write bonds within the state as surety, payable to the
20 state, ~~and~~ conditioned ~~upon~~ ON the payment of all taxes, penalties and
21 other obligations of the wholesaler arising under this chapter.

22 B. The department shall fix the total amount of the bond or bonds
23 required of the wholesaler and may increase or reduce the amount at any
24 time. In fixing the total amount, the department shall require a bond or
25 bonds equivalent in total amount to twice the wholesaler's estimated
26 monthly tax, ascertained in such manner as the department deems proper.
27 The total amount of the bond or bonds required of any wholesaler shall not
28 be less than ~~two thousand dollars~~ \$2,000.

29 C. A wholesaler is exempt from the requirements of this section if
30 the wholesaler has made timely payment of the taxes imposed by this
31 chapter for the twenty-four consecutive months immediately preceding the
32 current month.

33 Sec. 6. Section 42-3354, Arizona Revised Statutes, is amended to
34 read:

35 42-3354. Return and payment by spirituous and vinous liquor
36 and ready-to-drink spirits product wholesalers

37 A. Every wholesaler of spirituous liquors selling spirituous
38 liquors within ~~the~~ THIS state shall pay the tax under this chapter on all
39 such liquor sold within ~~the~~ THIS state and add the amount of the tax to
40 the sales price.

41 B. Every wholesaler of vinous liquors selling vinous liquors other
42 than ciders as defined in section 42-3001 within this state shall pay the
43 tax under this chapter on all such liquors sold within this state and add
44 the amount of tax to the sales price.

1 C. EVERY WHOLESALER OF READY-TO-DRINK SPIRITS PRODUCTS SELLING
2 READY-TO-DRINK SPIRITS PRODUCTS WITHIN THIS STATE SHALL PAY THE TAX
3 PURSUANT TO THIS CHAPTER ON ALL SUCH PRODUCTS SOLD WITHIN THIS STATE AND
4 ADD THE AMOUNT OF TAX TO THE SALES PRICE.

5 ~~E.~~ D. The wholesaler shall pay the tax to the department monthly
6 on or before the twentieth day of the month next succeeding the month in
7 which the tax accrues.

8 ~~F.~~ E. On or before the date prescribed by subsection ~~E.~~ D of this
9 section, the wholesaler shall prepare a sworn return for the month in
10 which the tax accrues in the form prescribed by the department, showing:

11 1. The amount of spirituous liquors sold in this state during the
12 month in which the tax accrues.

13 2. The amount of vinous liquors other than ciders as defined in
14 section 42-3001 sold in ~~the~~ THIS state during the month in which the tax
15 accrues.

16 3. THE AMOUNT OF READY-TO-DRINK SPIRITS PRODUCTS SOLD IN THIS STATE
17 DURING THE MONTH IN WHICH THE TAX ACCRUES.

18 ~~G.~~ 4. The amount of tax for the period covered by the return.

19 ~~H.~~ 5. Any other information that the department deems necessary
20 for the proper administration of this chapter.

21 ~~I.~~ F. The wholesaler shall deliver the return, together with a
22 remittance of the amount of the tax due, to the department.

23 ~~J.~~ G. Any taxpayer that fails to pay the tax within ten days ~~from~~
24 AFTER the date on which the payment becomes due is subject to and shall
25 pay a penalty determined under section 42-1125, plus interest at the rate
26 determined pursuant to section 42-1123 from the time the tax was due and
27 payable until paid.

28 ~~K.~~ H. For reporting periods beginning from and after December 31,
29 2019, or when the department has established an electronic filing program,
30 whichever is later, each taxpayer shall file electronically any report or
31 return required under this chapter. The report or return is considered to
32 be filed and received by the department on the date of the electronic
33 postmark pursuant to section 42-1105.02.

34 Sec. 7. Section 42-3355, Arizona Revised Statutes, is amended to
35 read:

36 42-3355. Return and payment by farm wineries, manufacturers,
37 direct shipment licensees, microbreweries and
38 craft distillers

39 A. Every farm winery selling vinous liquor at retail or to a retail
40 licensee pursuant to title 4, chapter 2 manufactured or produced on the
41 premises, producer of vinous liquor that sells at retail pursuant to
42 section 4-243.02 or direct shipment licensee that sells pursuant to
43 section 4-203.04 shall pay the tax under this chapter on all such liquor
44 sold at retail or to a retail licensee within this state and add the
45 amount of the tax to the sales price.

1 B. Every microbrewery selling malt liquor at retail or to a retail
2 licensee pursuant to title 4, chapter 2 manufactured or produced on the
3 premises or a manufacturer of beer that sells at retail pursuant to
4 section 4-243.02 shall pay the tax under this chapter on all malt liquor
5 sold at retail or to a retail licensee within this state and add the
6 amount of the tax to the sales price.

7 C. Every craft distiller selling spirituous liquor **OR**
8 **READY-TO-DRINK SPIRITS PRODUCTS** at retail or to a retail licensee pursuant
9 to title 4, chapter 2, manufactured or produced on the premises or a
10 distiller of spirituous liquor **OR READY-TO-DRINK SPIRITS PRODUCTS** that
11 sells at retail pursuant to section 4-243.02 shall pay the tax under this
12 chapter on all spirituous liquor **OR READY-TO-DRINK SPIRITS PRODUCTS** sold
13 at retail or to a retail licensee within this state and add the amount of
14 the tax to the sales price.

15 D. The farm winery, manufacturer, microbrewery, craft distiller or
16 direct shipment licensee shall pay the tax to the department monthly on or
17 before the twentieth day of the month next succeeding the month in which
18 the tax accrues.

19 E. On or before that date, the farm winery, manufacturer,
20 microbrewery, craft distiller or direct shipment licensee shall prepare a
21 sworn return for the month in which the tax accrues in the form prescribed
22 by the department, showing:

23 1. The amount of liquors or beer sold in this state during the
24 month in which the tax accrues.

25 2. The amount of tax for the period covered by the return.

26 3. Any other information that the department deems necessary for
27 the proper administration of this chapter.

28 F. The farm winery, manufacturer, microbrewery, craft distiller or
29 direct shipment licensee shall deliver the return, together with a
30 remittance of the amount of the tax due, to the department.

31 G. Any taxpayer that fails to pay the tax within ten days after the
32 date on which the payment becomes due is subject to and shall pay a
33 penalty determined under section 42-1125, plus interest at the rate
34 determined pursuant to section 42-1123 from the time the tax was due and
35 payable until paid.

36 H. For reporting periods beginning from and after December 31,
37 2019, or when the department has established an electronic filing program,
38 whichever is later, each taxpayer shall file electronically any report or
39 return required under this chapter. The report or return is considered to
40 be filed and received by the department on the date of the electronic
41 postmark pursuant to section 42-1105.02.

42 Sec. 8. Applicability

43 This act applies to taxable periods beginning on or after the first
44 day of the month following the general effective date.