

House Engrossed

liquor; purchase; identification

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

**CHAPTER 27**

**HOUSE BILL 2293**

AN ACT

AMENDING SECTION 4-241, 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 4-241, Arizona Revised Statutes, is amended to  
3 read:

4 4-241. Selling or giving liquor to underage person; illegally  
5 obtaining liquor by underage person; violation;  
6 classification

7 A. If a licensee, an employee of the licensee or any other person  
8 questions or has reason to question that the person ordering, purchasing,  
9 attempting to purchase or otherwise procuring or attempting to procure the  
10 serving or delivery of spirituous liquor or entering a portion of a  
11 licensed premises when the primary use is the sale or service of  
12 spirituous liquor is under the legal drinking age, the licensee, employee  
13 of the licensee or other person shall do all of the following:

14 1. Demand identification from the person.

15 2. Examine the identification to determine that the identification  
16 reasonably appears to be a valid, unaltered identification that has not  
17 been defaced.

18 3. Examine the photograph in the identification and determine that  
19 the person reasonably appears to be the same person in the identification.

20 4. Determine that the date of birth in the identification indicates  
21 the person is not under the legal drinking age.

22 B. A licensee or an employee of the licensee who follows the  
23 procedures prescribed in subsection A of this section and who records and  
24 retains a record of the person's identification on this particular visit,  
25 or a licensee or an employee of the licensee who uses a biometric identity  
26 verification device to verify a person is not under the legal drinking age  
27 as provided in subsection W of this section, is not in violation of  
28 subsection J of this section or section 4-244, paragraph 9 or 22. This  
29 defense applies to actions of the licensee and all employees of the  
30 licensee after the procedure prescribed in subsection A or W of this  
31 section has been employed during the particular visit to the licensed  
32 premises by the person. A licensee or an employee of the licensee is not  
33 required to demand and examine identification of a person pursuant to  
34 subsection A or W of this section if, during this visit to the licensed  
35 premises by the person, the licensee or any employee of the licensee has  
36 previously followed the procedure prescribed in subsection A or W of this  
37 section.

38 C. Proof that the licensee or employee followed the entire  
39 procedure prescribed in subsection A of this section but did not record  
40 and retain a record as prescribed in subsection B of this section is an  
41 affirmative defense to a criminal charge under subsection J of this  
42 section or under section 4-244, paragraph 9 or 22 or a disciplinary action  
43 under section 4-210 for a violation of subsection J of this section or  
44 section 4-244, paragraph 9 or 22. This defense applies to actions of the  
45 licensee and all employees of the licensee after the procedure has been

1 employed during the particular visit to the licensed premises by the  
2 person.

3 D. A licensee or an employee who has not recorded and retained a  
4 record of the identification prescribed by subsection B of this section is  
5 presumed not to have followed any of the elements prescribed in subsection  
6 A of this section.

7 E. For the purposes of section 4-244, paragraph 22, a licensee or  
8 an employee who has not recorded and retained a record of the  
9 identification prescribed by subsection B of this section is presumed to  
10 know that the person entering or attempting to enter a portion of a  
11 licensed premises when the primary use is the sale or service of  
12 spirituous liquor is under the legal drinking age.

13 F. It is a defense to a violation of subsection A of this section  
14 if the person ordering, purchasing, attempting to purchase or otherwise  
15 procuring or attempting to procure the serving or delivery of spirituous  
16 liquor or to enter a portion of a licensed premises when the primary use  
17 is the sale or service of spirituous liquor is not under the legal  
18 drinking age.

19 G. A person penalized for a violation of subsection J of this  
20 section or section 4-244, paragraph 22 shall not be additionally penalized  
21 for a violation of subsection A or W of this section relating to the same  
22 event.

23 H. The defenses provided in this section do not apply to a licensee  
24 or an employee who has actual knowledge that the person exhibiting the  
25 identification is under the legal drinking age.

26 I. Any of the following types of records are acceptable forms for  
27 recording the person's identification:

28 1. A writing containing the type of identification, the date of  
29 issuance of the identification, the name on the identification, the date  
30 of birth on the identification and the signature of the person.

31 2. An electronic file or printed document produced by a device that  
32 reads the person's age from the identification.

33 3. A dated and signed photocopy of the identification.

34 4. A photograph of the identification.

35 5. A digital copy of the identification.

36 J. An off-sale retail licensee or employee of an off-sale retail  
37 licensee shall require an instrument of identification from any customer  
38 who appears to be under twenty-seven years of age and who is using a  
39 drive-through or other physical feature of the licensed premises that  
40 allows a customer to purchase spirituous liquor without leaving the  
41 customer's vehicle.

42 K. The following written instruments are the only types of  
43 identification that are acceptable under subsection A of this section:

44 1. An unexpired driver license issued by this state. A driver  
45 license issued to a person who is under twenty-one years of age is no

1 longer an acceptable type of identification under this paragraph thirty  
2 days after the person turns twenty-one years of age.

3 2. An unexpired driver license issued by any other state, the  
4 District of Columbia, any territory of the United States or Canada if the  
5 license includes a picture of the person and the person's date of birth.

6 3. An unexpired nonoperating identification license issued pursuant  
7 to section 28-3165. An unexpired nonoperating license issued to a person  
8 who is under twenty-one years of age is no longer an acceptable type of  
9 identification under this paragraph thirty days after the person turns  
10 twenty-one years of age.

11 4. A form of identification license issued by any other state, the  
12 District of Columbia, any territory of the United States or Canada if the  
13 license is substantially equivalent to a nonoperating identification  
14 license issued pursuant to section 28-3165 and includes a picture of the  
15 person and the person's date of birth.

16 5. An unexpired armed forces identification card that includes the  
17 person's picture and date of birth.

18 6. A valid unexpired passport or a valid unexpired resident alien  
19 card that contains a photograph of the person and the person's date of  
20 birth.

21 7. A VALID UNEXPIRED BORDER CROSSING CARD ISSUED BY THE UNITED  
22 STATES GOVERNMENT THAT CONTAINS A PHOTOGRAPH OF THE PERSON AND THE  
23 PERSON'S DATE OF BIRTH.

24 L. A person who is under the legal drinking age and who  
25 misrepresents the person's age to any person by means of a written  
26 instrument of identification with the intent to induce a person to sell,  
27 serve, give or furnish spirituous liquor contrary to law is guilty of a  
28 class 1 misdemeanor.

29 M. A person who is under the legal drinking age and who solicits  
30 another person to purchase, sell, give, serve or furnish spirituous liquor  
31 contrary to law is guilty of a class 3 misdemeanor.

32 N. A person who is under the legal drinking age and who uses a  
33 fraudulent or false written instrument of identification or identification  
34 of another person or uses a valid license or identification of another  
35 person to gain access to a licensed establishment is guilty of a class 1  
36 misdemeanor.

37 O. A person who uses a driver or nonoperating identification  
38 license in violation of subsection L or N of this section is subject to  
39 suspension of the driver or nonoperating identification license as  
40 provided in section 28-3309. A person who does not have a valid driver or  
41 nonoperating identification license and who uses a driver or nonoperating  
42 identification license of another in violation of subsection N of this  
43 section has the person's right to apply for a driver or nonoperating  
44 identification license suspended as provided by section 28-3309.

1 P. A person who knowingly influences the sale, giving or serving of  
2 spirituous liquor to a person under the legal drinking age by  
3 misrepresenting the age of such person or who orders, requests, receives  
4 or procures spirituous liquor from any licensee, employee or other person  
5 with the intent of selling, giving or serving it to a person under the  
6 legal drinking age is guilty of a class 1 misdemeanor. A licensee or  
7 employee of a licensee who has actual knowledge that a person is under the  
8 legal drinking age and who admits the person into any portion of the  
9 licensed premises in violation of section 4-244, paragraph 22 is in  
10 violation of this subsection. In addition to other penalties provided by  
11 law, a judge may suspend a driver license issued to or the driving  
12 privilege of a person for not more than thirty days for a first conviction  
13 and not more than six months for a second or subsequent conviction under  
14 this subsection.

15 Q. A person who is at least eighteen years of age and who is an  
16 occupant of an unlicensed premises is guilty of a class 1 misdemeanor if  
17 the person knowingly hosts on the unlicensed premises a gathering of two  
18 or more persons who are under the legal drinking age and if the person  
19 knows that one or more of the persons under the legal drinking age are in  
20 possession of or consuming spirituous liquor on the unlicensed premises.

21 R. For the purposes of subsection Q of this section:

22 1. "Hosts" means allowing or promoting a party, gathering or event  
23 at a person's place of residence or other premises under the person's  
24 ownership or control where spirituous liquor is served to, in the  
25 possession of or consumed by an underage person.

26 2. "Occupant" means a person who has legal possession or the legal  
27 right to exclude others from the unlicensed premises.

28 S. A peace officer shall forward or electronically transfer to the  
29 director of the department of transportation the affidavit required by  
30 section 28-3310 if the peace officer has arrested a person for ~~the~~  
31 ~~commission of~~ COMMITTING an offense for which, on conviction, suspension  
32 of the license or privilege to operate a motor vehicle is required by  
33 section 28-3309, subsection A, B, C or D, or if the peace officer has  
34 confiscated a false identification document used by the person to gain  
35 access to licensed premises.

36 T. A person who acts under a program of testing compliance with  
37 this title that is approved by the director is not in violation of section  
38 4-244.

39 U. Law enforcement agencies may use persons who are under the legal  
40 drinking age to test compliance with this section and section 4-244,  
41 paragraph 9 by a licensee if the law enforcement agency has reasonable  
42 suspicion that the licensee is violating this section or section 4-244,  
43 paragraph 9. A person who is under the legal drinking age and who  
44 purchases or attempts to purchase spirituous liquor under the direction of  
45 a law enforcement agency pursuant to this subsection is immune from

1 prosecution for that purchase or attempted purchase. Law enforcement  
2 agencies may use a person under the legal drinking age pursuant to this  
3 subsection only if:

4 1. The person is at least fifteen but not more than nineteen years  
5 of age.

6 2. The person is not employed on an incentive or quota basis.

7 3. The person's appearance is that of a person who is under the  
8 legal drinking age.

9 4. A photograph of the person is taken ~~no~~ NOT more than twelve  
10 hours before the purchase or attempted purchase. The photograph shall  
11 accurately depict the person's appearance and attire. A licensee or an  
12 employee of a licensee who is cited for selling spirituous liquor to a  
13 person under the legal drinking age pursuant to this subsection is allowed  
14 to inspect the photograph immediately after the citation is issued. The  
15 person's appearance at any trial or administrative hearing that results  
16 from a citation shall not be substantially different from the person's  
17 appearance at the time the citation was issued.

18 5. The person places, receives and pays for the person's order of  
19 spirituous liquor. An adult shall not accompany the person onto the  
20 premises of the licensee.

21 6. The person does not consume any spirituous liquor.

22 V. The department may adopt rules to carry out the purposes of this  
23 section.

24 W. In lieu of or in addition to the procedures prescribed in  
25 subsection A of this section, a licensee, an employee of the licensee or  
26 any other person who questions or has reason to question ~~that~~ WHETHER the  
27 person ordering, purchasing, attempting to purchase or otherwise procuring  
28 or attempting to procure the serving or delivery of spirituous liquor or  
29 entering a portion of a licensed premises when the primary use is the sale  
30 or service of spirituous liquor is under the legal drinking age, the  
31 licensee, employee of the licensee or other person may use a biometric  
32 identity verification device to determine the person's age. In any  
33 instance where the device indicates the person is under the legal drinking  
34 age, the attempted purchase, procurement or entry shall be denied.

APPROVED BY THE GOVERNOR APRIL 6, 2023.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 6, 2023.