

REFERENCE TITLE: liquor; policies; procedures

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HB 2185

Introduced by
Representatives Gress: Wilmeth

AN ACT

AMENDING SECTIONS 4-203.02, 4-206.01 AND 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 4-203.02, Arizona Revised Statutes, is amended
3 to read:

4 4-203.02. Special event license; rules

5 A. The director may issue THE FOLLOWING on a temporary basis,
6 SUBJECT TO THE APPROVAL OF THE BOARD OF SUPERVISORS FOR EVENTS TO BE HELD
7 IN AN UNINCORPORATED AREA OF THE COUNTY, THE GOVERNING BODY OF A CITY OR
8 TOWN FOR EVENTS TO BE HELD IN THE CITY OR TOWN OR THE PRESIDENT OF A
9 UNIVERSITY UNDER THE JURISDICTION OF THE ARIZONA BOARD OF REGENTS FOR
10 EVENTS TO BE HELD ON THE UNIVERSITY'S PROPERTY:

11 1. A daily on-sale special event license authorizing the sale of
12 spirituous liquor for consumption on the premises where sold. The fee for
13 the license is \$25 per day. The director shall transfer the monies
14 collected to the department of health services for the purposes prescribed
15 in title 36, chapter 18, article 2.

16 2. A daily off-sale special event license authorizing a charitable
17 auction for the sale of spirituous liquor for consumption off premises.

18 B. Before the director may issue a temporary special event license,
19 a special event that is to occur at an otherwise unlicensed location or by
20 a licensee at a location that is not fully within the licensee's existing
21 licensed premises must be approved by the board of supervisors of a
22 county, or the board's designee, if the event is to be held in an
23 unincorporated area or by the governing body of the city or town, or the
24 governing body's designee, if the event is to be held in a city or town.
25 A denial by the county, city or town must be forwarded to the director
26 within sixty days after the submission of an application to the county,
27 city or town, unless the applicant has requested more time for
28 consideration of the application.

29 C. The approval process prescribed in this section does not apply
30 to physical locations that are fully within premises that are licensed
31 pursuant to this title.

32 D. A physical location, other than a physical location that is
33 owned, operated, leased, managed or controlled by the United States, this
34 state or a city, town or county of this state, that is not licensed
35 pursuant to this title may not be issued more than a total of thirty days
36 of special event licenses during the same calendar year. All applications
37 for a special event license issued pursuant to this section must be
38 submitted to the department at least ten days before the scheduled event.
39 The director may waive the ten-day requirement for good cause shown.

40 E. The director may issue the special event license only to a
41 government entity or a political party or campaign committee supporting a
42 candidate for public office or a ballot measure, or a nonprofit entity
43 that is organized as a nonprofit entity in this state or pursuant to the
44 laws of another state and that is a nonprofit entity under section 501(c)
45 of the internal revenue code of the United States. The nonprofit entity

1 shall demonstrate that it is in good standing in this state. An applicant
 2 for a special event license may contract with a special event contractor
 3 for assistance in selling and serving spirituous liquor at the special
 4 event. The special event contractor shall be listed on the application
 5 form. The director shall require a special event contractor to provide
 6 the controlling persons' identification and background information deemed
 7 necessary to identify the special event contractor and to demonstrate
 8 proof of the contractor's authority to conduct business in this state,
 9 including providing copies of any required state or local business
 10 licenses or permits. The department shall maintain a list of special
 11 event contractors that have been employed by special event licensees
 12 during the past year and that are not otherwise in penalty status pursuant
 13 to subsection I of this section. A licensee holding a currently active
 14 series 6, 7, 11 or 12 license may serve as the special event contractor
 15 for a special event license without any additional requirements. A new
 16 applicant for an initial special event license may be required by the
 17 department to demonstrate it is qualified, capable and reliable to conduct
 18 a special event. The department may require new special event contractors
 19 and new special event licensees to require persons who serve or sell
 20 spirituous liquor to patrons at the special event to complete an approved
 21 training course in accordance with section 4-112, subsection G,
 22 paragraph 2. A special event contractor is subject to examinations
 23 conducted pursuant to section 4-112, subsection G, paragraph 1.

24 F. The director may issue a temporary special event license under
 25 subsection E of this section to an affiliate of a national, statewide or
 26 international parent nonprofit organization for a special event if all of
 27 the following requirements are met:

28 1. The affiliate holding the event provides a letter from the
 29 internal revenue service that the parent organization is a nonprofit
 30 entity under section 501(c)(4) of the internal revenue code of the United
 31 States with a group ruling.

32 2. The proceeds of the event are for a charitable or nonprofit
 33 purpose.

34 3. The affiliate provides a copy of a charter or letter from the
 35 parent nonprofit entity or organization that is organized under section
 36 501(c) of the internal revenue code of the United States that recognizes
 37 the affiliate as a subordinate to the parent organization.

38 4. The affiliate and its members have not previously violated this
 39 title, local requirements for special events or any fire code.

40 G. The director may issue a special event license concurrently with
 41 ~~a wine festival license~~ **LICENSES**, ~~and a craft distillery festival license~~
 42 ~~and may approve the location of the wine festival license within an~~
 43 ~~excluded area of a special event license specifically described in each~~
 44 ~~license~~ **LICENSES AND MICROBREWERY LICENSES**. Notwithstanding section

1 4-244, paragraphs 13 and 19, ~~both~~ ALL licenses shall allow the presence of
2 purchased spirituous liquor in the possession of the purchaser.

3 H. For the purposes of this section, a special event licensee or an
4 employee of a special event licensee and a special event contractor or an
5 employee of a special event contractor that has been retained for an
6 approved special event may order or purchase spirituous liquor from the
7 holder of a license authorized to sell off-sale or a licensed wholesaler.
8 If a nonprofit entity has obtained a special event license for the purpose
9 of charitable fundraising activities, the nonprofit entity or special
10 event contractor may receive the spirituous liquor from a wholesaler, farm
11 winery, microbrewery or producer as a donation, except that a licensee
12 licensed pursuant to subsection A, paragraph 2 of this section may receive
13 spirituous liquor from a donor when the donor receives no remuneration or
14 payment of any kind, directly or indirectly, other than any tax benefits
15 that might result. Spirituous liquor may be dispensed and served at the
16 special event only by the following persons:

17 1. The special event licensee or an employee of the special event
18 licensee, unless the special event is at the premises of a licensed
19 retailer and the licensed retailer has agreed to dispense and serve the
20 spirituous liquor.

21 2. The special event contractor or an employee of the special event
22 contractor, unless the special event is at the premises of a licensed
23 retailer and the licensed retailer has agreed to dispense and serve the
24 spirituous liquor.

25 3. The producer or producers who furnished the spirituous liquor.

26 4. The wholesaler or wholesalers who furnished the spirituous
27 liquor.

28 I. In addition to all other actions that may be taken by the
29 director for a violation of this title or the rules adopted pursuant to
30 this title by the special event licensee or special event contractor, the
31 department may limit the right of the licensee to obtain a special event
32 license for a period of up to one year or may limit the right of the
33 special event contractor to support any licensed special event for a
34 period of up to one year. Any penalty issued pursuant to this subsection
35 may be appealed to the board pursuant to section 4-210.02 as if the order
36 was a sanction against a licensee. An organization that is issued a
37 license pursuant to subsection A, paragraph 2 of this section shall
38 receive at least seventy-five percent of the gross receipts of the
39 auction. Up to twenty-five percent of the gross receipts of a special
40 event auction conducted pursuant to subsection A, paragraph 2 of this
41 section may be used to pay reasonable and necessary expenses incurred in
42 connection with the auction. All expenses shall be supported by written
43 contracts, invoices or receipts, which shall be made available to the
44 director on request. An organization that is issued a license pursuant to
45 subsection A, paragraph 2 of this section shall not sell at auction more

1 than twenty twelve-bottle cases of spirituous liquor annually under a
2 special event license.

3 J. The director may adopt those rules the director determines are
4 necessary to implement and administer this section, including a ~~limitation~~
5 ~~LIMIT~~ on the number of times during a calendar year a qualified
6 organization may apply for and be issued a license under this
7 section. The qualified organization issued a license pursuant to
8 subsection A, paragraph 1 of this section must receive at least
9 twenty-five percent of the gross revenues of all spirituous liquor sold at
10 the special events, which shall be supported by a contract between the
11 parties to be supplied at the time of application.

12 K. At an event conducted under a license issued pursuant to
13 subsection A of this section, the licensee may conduct a wine pull or
14 distilled spirits pull of up to twenty twelve-bottle cases of wine and up
15 to ten twelve-bottle cases of distilled spirits per day of a licensed
16 special event not to exceed five days per year. The special event
17 licensee shall be responsible for compliance with the case limits in this
18 section. An organization that is issued a license pursuant to subsection
19 A, paragraph 2 of this section shall not sell more than twenty cases of
20 spirituous liquor annually under a special event license. For the
21 purposes of this subsection, "wine pull" or "distilled spirits pull" means
22 an activity where, for a set price, one or more attendees at a special
23 event pay for the opportunity to select at the event one or more bottles
24 of wine or distilled spirits where the variety and vintage are
25 undisclosed.

26 L. Section 4-201 does not apply to the licenses provided for under
27 this section.

28 M. A licensed producer or wholesaler may donate spirituous liquor
29 directly to a nonprofit entity that is issued a license pursuant to
30 subsection A of this section. The licensed producer or wholesaler, ~~shall~~
31 in such instances, ~~SHALL~~ issue a ~~net-zero~~ NET-ZERO cost billing invoice in
32 the name of the special event licensee. All licensees making or receiving
33 spirituous liquor donations remain subject to the applicable ~~limitations~~
34 ~~LIMITS~~ and requirements stated in this title and in the rules adopted by
35 the department. A licensed producer or wholesaler may also make a
36 monetary donation to a nonprofit entity that is issued a license pursuant
37 to subsection A of this section to help sponsor a special event and the
38 licensed producer or wholesaler may issue a check payable to either the
39 special event licensee or to the approved special event contractor that is
40 contracted to conduct the special event if the special event contractor
41 does not hold a currently active bar license, beer and wine bar license,
42 hotel-motel license or restaurant license.

43 N. A licensed wholesaler may temporarily leave a delivery vehicle
44 and other items of equipment necessary for the sale or service of
45 spirituous liquor on the premises of a licensed special event for the

1 duration of the event and up to one business day before and after the
2 event.

3 0. The holder of a license authorized to sell off-sale or a
4 licensed wholesaler may leave purchased spirituous liquor products at a
5 special event if the products are properly described on a preliminary
6 billing invoice that is issued in the name of the special event licensee.
7 The holder of a license authorized to sell off-sale or the licensed
8 wholesaler has up to five business days after the special event ends to
9 make any necessary billing adjustments and issue a final billing invoice
10 to the special event licensee. Within one business day after the
11 conclusion of the special event, the special event licensee or a special
12 event contractor shall return unbroken packages of spirituous liquor to
13 the appropriate off-sale licensee or wholesaler subject to the applicable
14 rules of the United States alcohol and tobacco tax and trade bureau and
15 the policy of the applicable off-sale licensee or wholesaler.

16 P. The director may adopt rules deemed necessary to implement and
17 administer this section for special event contractors.

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

20 4-206.01. Bar, beer and wine bar or liquor store licenses;
21 number permitted; fee; sampling privileges;
22 off-sale permit

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

26 B. In each county, the director, each year, shall issue additional
27 bar or liquor store licenses at the rate of one of each type for each
28 additional ten thousand person increase over the population in that county
29 as of July 1, 2010. For every license that has been revoked or reverted
30 in any county, the director may issue a new license of the same series in
31 the same county, except that if there are more than five licenses of a
32 particular class, the director may issue five new licenses plus an
33 additional number of new licenses equivalent to twenty percent of the
34 difference between the number of revoked or reverted licenses per year and
35 five. The director may waive the issuance of licenses in a county for one
36 year where there has been no request made to the department for the
37 issuance of a new license of that series. For the purposes of this
38 subsection, the population of a county is deemed to be the population
39 estimated by the office of economic opportunity as of July 1 of each year.

40 C. In each county, the director, each year, shall issue additional
41 beer and wine bar licenses at the rate of one for each additional five
42 thousand person increase over the population in that county as of July 1,
43 2010. Beginning January 1, 2022, in each county, the director, each year,
44 shall issue additional beer and wine bar licenses at the rate of one for
45 each additional ten thousand person increase over the population in that

1 county as of July 1, 2010. For every license that has been SURRENDERED,
 2 revoked or reverted in any county, the director may issue a new license of
 3 the same series in the same county, except that if there are more than
 4 five licenses of a particular class, the director may issue five new
 5 licenses plus an additional number of new licenses equivalent to twenty
 6 percent of the difference between the number of SURRENDERED, revoked or
 7 reverted licenses per year and five. The director may waive the issuance
 8 of licenses in a county for one year if there has been no request made to
 9 the department for the issuance of a new license of that series. For the
 10 purposes of this subsection, the population of a county is deemed to be
 11 the population estimated as of July 1 of each year by the office of
 12 economic opportunity.

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

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

36 F. If more than one person applies for an available license, a
 37 priority of applicants shall be determined by a random selection method
 38 prescribed by the director, except that the number of times that a person
 39 may enter the random selection process shall not exceed the number of
 40 licenses of that series that are available for issuance. For the purposes
 41 of this subsection, a partnership, limited liability company, association,
 42 company or corporation is considered the same person if it is owned,
 43 managed, operated or controlled by the same controlling person.

44 G. Bar licenses and beer and wine bar licenses shall be issued and
 45 used only if the clear primary purpose and actual primary use is for

1 on-sale retailer privileges. The off-sale privileges associated with a
 2 bar license and a beer and wine bar license shall be limited to use, which
 3 is clearly auxiliary to the active primary on-sale privilege. A bar
 4 license or a beer and wine bar license shall not be issued or used if the
 5 associated off-sale use, by total retail spirituous liquor sales, exceeds
 6 thirty percent of the sales price of on-sale spirituous liquors by the
 7 licensee at that location. For dual licenses issued pursuant to a single
 8 site or where a second license is issued to a site that already has a
 9 spirituous liquor license, other than settlement licenses issued as
 10 provided by law, the applicant has the burden of establishing that public
 11 convenience and the best interest of the community will be served by the
 12 issuance of the license.

13 H. The director may issue a beer and wine store license to the
 14 holder of a beer and wine bar license simultaneously at the same premises.
 15 An applicant for a beer and wine bar license and a beer and wine store
 16 license may consolidate the application and may apply for both licenses at
 17 the same time. The holder of each license shall fully comply with this
 18 title. A beer and wine bar license and beer and wine store license on the
 19 same premises shall be owned by and issued to the same licensee.

20 I. The director may issue a beer and wine bar license to the holder
 21 of a liquor store license issued simultaneously at the same premises. An
 22 applicant for a liquor store license and a **BAR OR** beer and wine bar
 23 license may consolidate the application and may apply for both licenses at
 24 the same time. The holder of each license shall fully comply with this
 25 title. A liquor store license and a **BAR OR** beer and wine bar license on
 26 the same premises shall be owned by and issued to the same licensee.

27 J. The director may issue a restaurant license to the holder of a
 28 beer and wine bar license issued simultaneously at the same premises. An
 29 applicant for a restaurant license and a beer and wine bar license may
 30 consolidate the application and may apply for both licenses at the same
 31 time. The holder of each license shall fully comply with this title. A
 32 restaurant license and a beer and wine bar license on the same premises
 33 shall be owned by and issued to the same licensee. The limitation stated
 34 in subsection G of this section with respect to the off-sale privileges of
 35 the beer and wine bar licenses shall be measured against the on-sales of
 36 beer and wine sales of the establishment. For the purposes of compliance
 37 with section 4-205.02, subsection M, paragraph 2, it shall be conclusively
 38 presumed that all on-premises sales of spirituous liquors are made under
 39 the authority of the restaurant license.

40 K. An applicant for a liquor store license or a beer and wine store
 41 license and the licensee of a liquor store license or a beer and wine
 42 store license may apply for sampling privileges associated with the
 43 license. Beer and wine store premises containing less than five thousand
 44 square feet must dedicate at least seventy-five percent of retail shelf
 45 space to the sale of spirituous liquor in order to be eligible for

1 sampling privileges. A person desiring a sampling privilege associated
 2 with a liquor store license shall apply to the director on a form
 3 prescribed and furnished by the director. The application for sampling
 4 privileges may be filed for an existing license or may be submitted with
 5 an initial license application. The request for sampling approval, the
 6 review of the application and the issuance of approval shall be conducted
 7 under the same procedures for the issuance of a spirituous liquor license
 8 prescribed in section 4-201. After a sampling privilege has been issued
 9 for a liquor store license or a beer and wine store license, the sampling
 10 privilege shall be noted on the license itself and in the records of the
 11 department. The sampling rights associated with a license are not
 12 transferable. The director may charge a fee for processing each
 13 application for sampling privileges and a renewal fee as provided in this
 14 section. A city or town shall not charge any fee relating to the issuance
 15 or renewal of a sampling privilege. Notwithstanding section 4-244,
 16 paragraph 19, a liquor store licensee or a beer and wine store licensee
 17 that holds a license with sampling privileges may provide spirituous
 18 liquor sampling subject to the following requirements:

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

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

24 3. The licensed retailer shall make sales of sampled products from
 25 the licensed retail premises.

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

31 5. The sampling shall be conducted under the supervision of an
 32 employee of a sponsoring distiller, vintner, brewer, wholesaler or retail
 33 licensee.

34 6. Accurate records of sampling products dispensed shall be
 35 retained by the licensee.

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

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

40 L. If a beer and wine bar license and a beer and wine store license
 41 are issued at the same premises, for the purposes of reporting liquor
 42 purchases under each license, all spirituous beverages purchased for
 43 sampling are conclusively presumed to be purchased under the beer and wine
 44 bar license and all spirituous liquor sold off-sale are conclusively
 45 presumed to be purchased under the beer and wine store license.

1 M. The director may issue a beer and wine store license to the
2 holder of a bar license simultaneously at the same premises. An applicant
3 for a beer and wine store license and a bar license may consolidate the
4 application and may apply for both licenses at the same time. The holder
5 of each license shall fully comply with this title. A beer and wine store
6 license and a bar license on the same premises shall be owned by and
7 issued to the same licensee. If a beer and wine store license and a bar
8 license are issued at the same premises, for purposes of reporting liquor
9 purchases under each license, all off-sale beer and wine sales are
10 conclusively presumed to be purchased under the beer and wine store
11 license.

12 Sec. 3. Section 4-243, Arizona Revised Statutes, is amended to
13 read:

14 4-243. Commercial coercion or bribery unlawful; exceptions

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

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

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

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

29 4. To furnish, give, rent, lend or sell to the retailer equipment,
30 fixtures, signs, supplies, money, services or other things of value,
31 subject to the exception as the rules adopted pursuant to this title may
32 prescribe, having regard for established trade customs and the purposes of
33 this subsection.

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

37 6. To guarantee a loan or repayment of a financial obligation of
38 the retailer.

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

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

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

1 B. This section does not prohibit any distiller, vintner, brewer,
2 rectifier, blender or other producer or wholesaler of any spirituous
3 liquor from:

4 1. Giving financial and other forms of event sponsorship assistance
5 to nonprofit or charitable organizations for purposes of charitable
6 fundraising that are issued special event licenses by the department.
7 This section does not prohibit suppliers from advertising their
8 sponsorship at such special events.

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

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

13 (b) Sampling shall be limited to sixteen ounces of beer or cooler
14 products, six ounces of wine or two ounces of distilled spirits per person
15 per brand.

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

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

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

24 (f) All sampling procedures shall comply with federal sampling laws
25 and regulations.

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

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

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

34 (c) Sampling is limited to three ounces of beer, one and one-half
35 ounces of wine or one ounce of distilled spirits per person per day for
36 consumption on the premises and up to seventy-two ounces of beer and two
37 ounces of distilled spirits per person per day for consumption off the
38 premises.

39 (d) An off-sale retailer shall not allow sampling to be conducted
40 on a licensed premises on more than twelve days in any calendar year per
41 wholesaler or producer.

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

1 (f) A producer conducting sampling shall buy the sampled product
2 from a wholesaler or from the retailer where the sampling is being
3 conducted. If the product for the sampling is purchased from the
4 retailer, the amount paid for the product must be the same amount that the
5 retailer charges for sale to the general public.

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

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

18 ~~(i)~~ (h) The producer or wholesaler may not provide samples to the
19 retailer or the retailer's employees.

20 ~~(j)~~ (i) Sampling shall not be conducted in retail premises with a
21 total of under five thousand square feet of retail space unless at least
22 seventy-five percent of the retailer's shelf space is dedicated to the
23 sale of spirituous liquor.

24 ~~(k)~~ (j) The producer or wholesaler may not give spirituous liquor
25 or any other gifts or benefits to the off-sale retailer.

26 ~~(l)~~ (k) All sampling procedures shall comply with federal sampling
27 laws and regulations.

28 C. Notwithstanding subsection A, paragraph 4 of this section, any
29 wholesaler of any spirituous liquor may sell tobacco products or
30 foodstuffs to a retailer at a price not less than the cost to the
31 wholesaler.

32 D. Notwithstanding subsection A, paragraph 4, and subsection B,
33 paragraph 2, subdivision (e) of this section, any wholesaler may furnish
34 without cost promotional items to an on-sale retailer, except that the
35 total market value of the promotional items furnished by that wholesaler
36 to that retailer in any calendar year shall not exceed \$700. For the
37 purposes of this subsection, "promotional items":

38 1. Means items of equipment, supplies, novelties or other
39 advertising specialties that conspicuously display the brand name of a
40 spirituous liquor product. ~~Promotional items do~~

41 2. DOES not include signs, dispensing or tapping machines or
42 equipment or refrigerators.

43 E. Notwithstanding subsection A, paragraphs 4 and 7 of this
44 section, a wholesaler may in the wholesaler's sole discretion accept the

1 return of malt beverage products from a retailer under any of the
2 following conditions:

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

6 2. The retailer's licensed premises is used primarily as a music or
7 live sporting venue with a permanent occupancy of more than one thousand
8 people, and the products are likely to spoil or expire during the time
9 period between venue events.

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

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