

## NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. §§ 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

### NOTICE OF EXEMPT RULEMAKING

#### ✓ TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING

#### ✓ CHAPTER 1. DEPARTMENT OF LIQUOR LICENSES AND CONTROL

#### PREAMBLE

- | <b>1. Sections Affected</b> | <b>Rulemaking Action</b> |
|-----------------------------|--------------------------|
| ✓ R19-1-213                 | Amend                    |
| ✓ R19-1-220                 | Amend                    |
| ✓ R19-1-256                 | Repeal                   |
| ✓ R19-1-301                 | Amend                    |
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statute: Laws 1996, Chapter 307, § 18.  
Implementing statutes: A.R.S. § 4-101 et seq.
  3. **The effective date of the rules:**  
June 10, 1997
  4. **A list of all previous notices appearing in the Register addressing the exempt rule:**  
None.
  5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Myron Musfeldt  
Address: Department of Liquor Licenses and Control  
800 West Washington, 5th Floor  
Phoenix, Arizona 85007  
Telephone Number: (602) 542-9041  
Fax Number: (602) 542-6799
  6. **An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from the regular rulemaking procedures:**  
The purpose of this rule package is to correct 4 clerical errors in the Notice of Exempt Rulemaking package that was filed with the Secretary of State on June 4, 1997. The corrections are needed because: (1) The reference to R19-1-301 was omitted on the table of contents and notice pages; (2) The last sentence of R19-1-213, which is in the existing rule, was left out; (3) In R19-1-220(I), the numbers "7" and "8" should be letters "G" and "H"; and (4) R19-1-256 was noticed as being repealed because it is duplicative of statute, but the language in the text of the rules was not stricken. The statutory authority for this rule package to be filed with the Secretary of State is Laws 1996, Chapter 307, § 18.
  7. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**  
Not applicable.
  8. **The summary of the economic, small business, and consumer impact:**  
Not applicable.
  9. **A description of the changes between the proposed rules, including supplemental notices, and the final rules (if applicable):**  
Not applicable.
  10. **A summary of the principal comments and the agency response to them:**  
Not applicable. This package is to correct clerical errors as stated above.
  11. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**  
None

12. Incorporation by reference and their location in the rules:  
None.

13. Was this rule previously adopted as an emergency rule:  
No.

14. The full text of the rules follows:

**TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING**

**CHAPTER 1. DEPARTMENT OF LIQUOR LICENSES AND CONTROL**

(Authority: A.R.S. § 4-101 et seq.)

**ARTICLE 2. DIRECTOR**

Section

- R19-1-213. Violence, Report of  
R19-1-220. Interstate Shipping, Importation, Labeling, Solicitation, Advertising  
R19-1-256. Change in Proprietary Interest

**ARTICLE 3. UNLICENSED PREMISES DEFINITIONS AND HEARING PROCEDURES**

Section

- R19-1-301 Definitions

**ARTICLE 2. DIRECTOR**

**R19-1-213. Violence, Report of**

A licensee upon whose licensed premises an act of violence occurs shall make a detailed, written report of such act of violence to be hand delivered or deposited in the U.S. Mail within 7 days of the act of violence to the Department, unless the act of violence was previously reported to a law enforcement agency pursuant to A.R.S. § 4-244(37). A licensee shall also report in the same manner, acts of violence involving patrons entering or leaving the licensed premises which occur immediately adjacent to the licensed premises when the licensee knew or reasonably should have known of such acts of violence.

**R19-1-220. Interstate Shipping, Importation, Labeling, Solicitation, Advertising**

- A. No person, corporation, partnership or concern shall ship or offer for shipment or transportation to any place within this state from any place without this state any container, package or parcel containing spirituous liquor including beer and wine, unless the same shall be consigned to a licensed Arizona spirituous liquor wholesaler.
- B. Nothing in this rule shall be construed to interfere with through-interstate shipments of spirituous liquors, including beer and wine, originating outside the state and destined to points in other states, when passing through this state in the custody and under the control of a duly authorized common carrier or transportation company.
- C. No person shall ship or introduce into this state any spirituous liquors, including beer and wine, unless such spirituous liquors shall be, from the time they are shipped or introduced into this state until they are delivered to the consignee, in the possession of a duly authorized common carrier or transportation company, except that licensed Arizona wholesalers may transport spirituous liquors for themselves in vehicles owned, leased or rented by such wholesalers when authorized to do so by the Director.
- D. No person, common carrier or transportation company or any other concern shall bring, ship, transport or introduce into this state in any manner whatsoever any spirituous liquors, including beer and wine, unless they are duly consigned to a bona fide Arizona spirituous liquor wholesaler having a license to

sell or traffic in at wholesale the particular spirituous liquors so transported and introduced.

- E. No person, common carrier or transportation company shall deliver any interstate shipment consisting of any parcel package or container of any description containing spirituous liquors, including beer and wine, to any premises other than those premises described and set forth in the license of a duly licensed Arizona spirituous liquor wholesaler, licensed to sell or traffic in the particular liquor so delivered.
- F. No manufacturer, distiller, brewer, vintner or wholesaler or any officer, director, agent or employee of any such business directly or indirectly or through an affiliate shall sell, ship or deliver for sale or shipment or receive or remove from customs custody for consumption any spirituous liquors, including beer and wine, in bottles, unless such products are bottled, packaged, and labeled in conformity with the labeling regulations prescribed by the Federal Alcoholic Administration or any other regulations adopted by the Federal Alcoholic Administration or any other regulations adopted by the government of the United States, officer, bureau or agency thereof. Any amendments or changes in the Federal Alcohol Administration Act or any other regulations adopted by the government of the United States, officer, bureau or agency thereof pertaining to labeling are hereby made a part of this rule without further adoption by the Department.
- G. No person shall send or cause to be sent into this state any letter, postcard, circular, dodger, pamphlet or publication, the purpose of which is the solicitation of an order for any spirituous liquor from and the shipment to any consumer or retail dealer within the state of Arizona.
- H. No person shall issue or publish or cause to be issued or published in this state any letter, postcard, circular, pamphlet or publication containing any advertisement, the purpose or intent of which is the solicitation of an order for any spirituous liquors from any consumer or retailer, where such solicitation is contrary to the laws of this state and the rules of the Director which provide for the shipment of spirituous liquors into this state only when consigned to a duly licensed Arizona spirituous liquor wholesaler who is licensed to sell the particular liquor or liquors so advertised, and only when consigned and delivered to such spirituous liquor wholesaler at the address described and set forth in his license.
- I. Nothing contained in subsection (7) or (8) (G) or (H) shall be construed to prevent newspapers or other publications having circulation in Arizona from accepting institutional advertising from any distillery, brewery, winery, rectifier or distributor.

**R19-1-256. Change in Proprietary Interest**

- ~~A. No licensee shall transfer, assign or make any change in the financial set up of his business which in any way results in a controlling interest being obtained by any party, directly or indirectly, without first promptly filing an application for a transfer with the Department pursuant to A.R.S. § 4-203.~~

B. ~~Any change in the status of the corporate ownership is to be promptly reported to the superintendent including a list of the corporate officers and directors.~~

**ARTICLE 3. UNLICENSED PREMISES DEFINITIONS AND HEARING PROCEDURES**

**R19-1-301. Definitions**

In this Article, unless the context otherwise requires:

1. "Business establishment or premises" means the real property and improvements from which an enterprise or organized undertaking is conducted regularly for profit.
2. "Entertainment", ~~for purposes of A.R.S. § 4-244.05 only,~~ means any form of amusement including, but not limited to, a performance of theater, dance or opera, musical concerts, motion pictures, videotapes, audiotapes, radio, television, carnivals, games of chance or skill, shows, lectures or sports events.
3. "Food" means any edible substance for the nourishment of the body and consists of hot fare commonly ordered at lunch or dinner prepared at the premises.
4. "Membership fee" or "cover charge" means any consideration, direct or indirect, paid to the business establishment by patrons to gain entry.
5. "Minimum purchase" or "rental requirement" means an amount of money or other consideration required to be paid by patrons of the business establishment as a condition to enter or remain on the premises.
6. "Goods or services" includes all types of commodities, stock or wares, and any method of providing the use of something needed or desired.
7. "Incidental convenience" means the goodwill the business receives from permitting patrons to possess and con-

sume a minimal amount of spirituous liquor while they are present to obtain the goods or services regularly offered to all patrons.

8. "Small restaurant" means a public eating place which has facilities for keeping, preparing and cooking foods for lunch or dinner and accommodations to provide food service for up to 40 persons.
9. "Catering establishment" means any premises available for hire for a particular function, occasion or event and which furnishes food and service for up to 300 persons.
10. "Association" means an organization of persons having common interests and purposes, established as a non-profit corporation or fraternal and/or benevolent society, which owns, leases or occupies a premises used exclusively for the organization's purposes, which operates for recreational, social, patriotic, political, benevolent or athletic purposes, and which has accommodations for less than 300 persons.
11. "Private social function" means any occasional communal affair, gathering or party occurring at a business establishment is limited to selected, invited guests.
12. "Front entrance" means the door commonly used by the general public as entrance to an establishment.
13. ~~"Spirituous liquor" includes alcohol, brandy, whiskey, rum, tequila, mescal, gin, wine, porter, ale, beer, any malt liquor, malt beverage, absinthe or compound or mixture of any of them, or of any of them with any vegetable or other substance, alcohol bitters, bitters containing alcohol, and any liquor mixture or preparation, whether patented or otherwise, which produces intoxication, fruits preserved in ardent spirits, and beverages containing more than one-half of one percent alcohol by volume.~~