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**Jane Dee Hull
Secretary of State**

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CHAPTER 307

HOUSE BILL 2144

AN ACT

AMENDING SECTIONS 4-101, 4-111, 4-201, 4-202, 4-203, 4-203.03, 4-205.02, 4-205.03, 4-205.04, 4-206.01, 4-207, 4-209, 4-210, 4-213, 4-241, 4-243 AND 4-244, ARIZONA REVISED STATUTES; RELATING TO THE DEPARTMENT OF LIQUOR LICENSES AND CONTROL.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 4-101, Arizona Revised Statutes, is amended to read:

4-101. Definitions

In this title, unless the context otherwise requires:

1. "Act of violence" means an incident consisting of a riot, a brawl or a disturbance, in which bodily injuries are sustained by any person and such injuries would be obvious to a reasonable person, or tumultuous conduct of sufficient intensity as to require the intervention of a peace officer to restore normal order, or an incident in which a weapon is brandished, displayed or used.

2. "AGGRIEVED PARTY" MEANS A PERSON WHO RESIDES AT, OWNS OR LEASES PROPERTY WITHIN A ONE MILE RADIUS OF A PREMISES PROPOSED TO BE LICENSED AND WHO FILED A WRITTEN REQUEST WITH THE DEPARTMENT TO SPEAK IN FAVOR OF OR OPPOSITION TO THE ISSUANCE OF THE LICENSE NO LATER THAN SIXTY DAYS AFTER THE FILING OF THE APPLICATION OR FIFTEEN DAYS AFTER ACTION BY THE LOCAL GOVERNING BODY, WHICHEVER IS LATER.

~~2-~~ 3. "Beer" means any beverage obtained by the alcoholic fermentation, infusion or decoction of barley malt, hops, or other ingredients not drinkable, or any combination of them.

~~3-~~ 4. "Board" means the state liquor board.

~~4-~~ 5. "Bona fide guest" means a person who is actually a houseguest or a person whose presence as a guest is in response to a specific and personal invitation.

~~5-~~ 6. "Broken package" means any container of spirituous liquor on which the United States tax seal has been broken or removed, or from which the cap, cork or seal placed thereupon by the manufacturer has been removed.

~~6-~~ 7. "Club" includes any of the following organizations where the sale of spirituous liquor for consumption on the premises is made to members only:

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

(b) A chapter, aerie, parlor, lodge or other local unit of an American national fraternal organization which has as the owner, lessee or occupant operated an establishment for fraternal purposes in this state. An American national fraternal organization as used in this subdivision shall actively operate in not less than thirty-six states or have been in active continuous existence for not less than twenty years.

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

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

(e) A social club with more than one hundred bona fide members who are actual residents of the county in which it is located, which owns, maintains or operates club quarters, and which is authorized and incorporated to operate as a nonprofit club under the laws of this state, and has been continuously incorporated and operating for a period of not less than one year. The club shall have had, during such period of one year, a bona fide membership with regular meetings conducted at least once each month, and the membership shall be and shall have been actively engaged in carrying out the objects of the club. The club's membership shall consist of bona fide dues paying members paying at least six dollars per year, payable monthly, quarterly or annually, which have been recorded by the secretary of the club, and the members at the time of application for a club license shall be in good standing having for at least one full year paid dues. At least fifty-one per cent of the members shall have signified their intention to secure a social club license by personally signing a petition, on a form prescribed by the board, which shall also include the correct mailing address

1 of each signer. The petition shall not have been signed by a member at a
2 date earlier than thirty days prior to the filing of the petition. The club
3 shall qualify for exemption from the payment of state income taxes under the
4 provision of title 43, it being the intent of this paragraph that a license
5 shall not be granted to a club which is, or has been, primarily formed or
6 activated to obtain a license to sell liquor, but solely to a bona fide club,
7 where the sale of liquor is incidental to the main purposes of the club.

8 (f) An airline club operated by or for airlines which are certificated
9 by the United States government and which maintain or operate club quarters
10 located at airports with international status.

11 ~~7-~~ 8. "Company" or "association", when used in reference to a
12 corporation, includes successors or assigns.

13 ~~8-~~ 9. "Control" means the power to direct or cause the direction of
14 the management and policies of an applicant, licensee or controlling person,
15 whether through the ownership of voting securities or a partnership interest,
16 or by agreement or otherwise. Control is presumed to exist if a person has
17 the direct or indirect ownership of or power to vote ten per cent or more of
18 the outstanding voting securities of the applicant, licensee or controlling
19 person or to control in any manner the election of one or more of the
20 directors of the applicant, licensee or controlling person. In the case of
21 a partnership, control is presumed to mean the general partner or a limited
22 partner who holds ten per cent or more of the voting rights of the
23 partnership. For the purposes of determining the percentage of voting
24 securities owned, controlled or held by a person, there shall be aggregated
25 with the voting securities attributed to the person the voting securities of
26 any other person directly or indirectly controlling, controlled by or under
27 common control with the other person, or by an officer, partner, employee or
28 agent of the person or by a spouse, parent or child of the person. Control
29 is also presumed to exist if a creditor of the applicant, licensee or
30 controlling person holds a beneficial interest in ten per cent or more of the
31 liabilities of the licensee or controlling person.

32 ~~9-~~ 10. "Controlling person" means a person directly or indirectly
33 possessing control of an applicant or licensee.

34 ~~10-~~ 11. "Department" means the department of liquor licenses and
35 control.

36 ~~11-~~ 12. "Director" means the director of the department of liquor
37 licenses and control.

38 ~~12-~~ 13. "Distilled spirits" includes alcohol, brandy, whiskey, rum,
39 tequila, mescal, gin, absinthe or a compound or mixture of any of them, or
40 of any of them with any vegetable or other substance, alcohol bitters,
41 bitters containing alcohol, fruits preserved in ardent spirits, and any
42 alcoholic mixture or preparation, whether patented or otherwise, which may
43 in sufficient quantities produce intoxication.

1 ~~13-~~ 14. "Domestic farm winery" means a place within this state where
2 a person engages in the business of manufacturing or producing more than two
3 hundred gallons but less than seventy-five thousand gallons of wine annually
4 from grapes or other suitable agricultural products of which at least
5 seventy-five per cent are grown in this state.

6 ~~14-~~ 15. "Domestic microbrewery" means a place within this state where
7 a person engages in the business of manufacturing or producing at least ten
8 thousand gallons but less than three hundred ten thousand gallons of beer
9 annually.

10 ~~15-~~ 16. "Employee" means any person who performs any service on
11 licensed premises on a full-time, part-time or contract basis with consent
12 of the licensee, whether or not the person is denominated an employee,
13 independent contractor or otherwise. Employee does not include a person
14 exclusively on the premises for repair or maintenance of the premises or for
15 the delivery of goods to the licensee.

16 ~~16-~~ 17. "Government license" means a license to serve and sell
17 spirituous liquor on specified premises available only to a county, city, ~~or~~
18 town, STATE UNIVERSITY OR THE ARIZONA COLISEUM AND EXPOSITION CENTER upon
19 application by the governing body of a county, city, ~~or~~ town OR STATE
20 UNIVERSITY OR THE ARIZONA COLISEUM AND EXPOSITION CENTER BOARD.

21 ~~17-~~ 18. "Legal drinking age" means the age of twenty-one years or
22 older.

23 ~~18-~~ 19. "License" means a license or an interim retail permit issued
24 pursuant to the provisions of this title.

25 ~~19-~~ 20. "License fees" means fees collected for license issuance,
26 license application, license renewal, interim permit issuance and license
27 transfer between persons or locations.

28 ~~20-~~ 21. "Licensee" means a person who has been issued a license or an
29 interim retail permit pursuant to the provisions of this title or a special
30 event licensee.

31 ~~21-~~ 22. "Manager" means a natural person who meets the standards
32 required of licensees and has authority to organize, direct, carry on,
33 control or otherwise operate a licensed business on a temporary or full-time
34 basis.

35 ~~22-~~ 23. "Off-sale retailer" means any person operating a bona fide
36 regularly established retail liquor store selling spirituous liquors, wines
37 and beer, and any established retail store selling commodities other than
38 spirituous liquors and engaged in the sale of spirituous liquors only in the
39 original unbroken package, to be taken away from the premises of the retailer
40 and to be consumed off the premises.

41 ~~23-~~ 24. "On-sale retailer" means any person operating an establishment
42 where spirituous liquors are sold in the original container for consumption
43 on or off the premises or in individual portions for consumption on the
44 premises.

1 ~~24.~~ 25. "Person" includes a partnership, limited liability company,
2 association, company or corporation, as well as a natural person.

3 ~~25.~~ 26. "Premises" or "licensed premises" means the area from which
4 the licensee is authorized to sell, dispense or serve spirituous liquors
5 under the provision of the license.

6 ~~26.~~ 27. "Registered mail" includes certified mail.

7 ~~27.~~ 28. "Registered retail agent" means any person who is authorized
8 pursuant to section 4-222 to purchase spirituous liquors for and on behalf
9 of himself and other retail licensees.

10 29. "REPEATED ACTS OF VIOLENCE" MEANS TWO OR MORE ACTS OF VIOLENCE
11 OCCURRING WITHIN SEVEN DAYS, THREE OR MORE ACTS OF VIOLENCE OCCURRING WITHIN
12 THIRTY DAYS OR ACTS OF VIOLENCE OCCURRING WITH ANY OTHER SIMILAR FREQUENCY
13 WHICH THE DIRECTOR DETERMINES TO BE UNUSUAL OR DESERVING OF REVIEW.

14 ~~28.~~ 30. "Sell" includes soliciting or receiving an order for, keeping
15 or exposing for sale, directly or indirectly delivering for value, peddling,
16 keeping with intent to sell and trafficking in.

17 ~~29.~~ 31. "Spirituous liquor" includes alcohol, brandy, whiskey, rum,
18 tequila, mescal, gin, wine, porter, ale or beer, any malt liquor, malt
19 beverage, absinthe or compound or mixture of any of them, or of any of them
20 with any vegetable or other substance, alcohol bitters, bitters containing
21 alcohol, and any liquid mixture or preparation, whether patented or
22 otherwise, which produces intoxication, fruits preserved in ardent spirits,
23 and beverages containing more than one-half of one per cent of alcohol by
24 volume.

25 ~~30.~~ 32. "Vehicle" means any means of transportation by land, water or
26 air, and includes everything made use of in any way for such transportation.

27 ~~31.~~ 33. "Vending machine" means a machine that dispenses merchandise
28 through the means of coin, token, credit card or other nonpersonal means of
29 accepting payment for merchandise received.

30 ~~32.~~ 34. "Veteran" means a person who has served in the United States
31 air force, army, navy, marine corps or coast guard, as an active nurse in the
32 services of the American red cross, in the army and navy nurse corps in time
33 of war, or in any expedition of the armed forces of the United States, and
34 has received a discharge other than dishonorable.

35 ~~33.~~ 35. "Vintage wine" means a wine bottled more than ten calendar
36 years before the date of sale, as authorized by section 4-203.02, subsection
37 A, paragraph 2.

38 ~~34.~~ 36. "Voting security" means any security presently entitling the
39 owner or holder of the security to vote for the election of directors of an
40 applicant, licensee or controlling person.

41 ~~35.~~ 37. "Wine" means the product obtained by the fermentation of
42 grapes or other agricultural products containing natural or added sugar or
43 any such alcoholic beverage fortified with grape brandy and containing not
44 more than twenty-four per cent of alcohol by volume.

1 Sec. 2. Section 4-111, Arizona Revised Statutes, is amended to read:
2 4-111. State liquor board; department of liquor licenses and
3 control; members; director; appointment and removal

4 A. There is created the department of liquor licenses and control
5 which consists of the state liquor board and the office of director of the
6 department.

7 B. The board consists of seven members to be appointed by the governor
8 pursuant to section 38-211. ~~At least~~ Six of the members of the board shall
9 not be financially interested directly or indirectly in business licensed to
10 deal with spirituous liquors. One member shall currently be engaged in
11 business in the spirituous liquor industry or have been engaged in the past
12 in business in the spirituous liquor industry. The term of members is ~~for~~
13 three years. Members' terms expire on the third Monday in January of the
14 appropriate year. The governor may remove any member of the board for cause.
15 No member may represent a licensee before the board or the department for a
16 period of one year after the conclusion of ~~his~~ THE MEMBER'S service on the
17 board.

18 C. The board shall annually elect from its membership a chairman and
19 vice-chairman. A majority of the board constitutes a quorum, and a
20 concurrence of a majority of a quorum is sufficient for taking any action.
21 If there are unfilled positions on the board, a majority of those persons
22 appointed and serving on the board constitutes a quorum.

23 D. The chairman may designate panels of not less than three members.
24 A panel may take any action which the board is authorized to take pursuant
25 to this title. Such action includes the ability to hold hearings and hear
26 appeals of administrative disciplinary proceedings of licenses issued
27 pursuant to this chapter. A panel shall not, however, adopt rules as
28 provided in section 4-112, subsection A, paragraph 2. The chairman may from
29 time to time add additional members or remove members from a panel. A
30 majority of a panel may upon the concurrence of a majority of the members of
31 the panel take final action on hearings and appeals of administrative
32 disciplinary proceedings concerning licenses issued pursuant to this chapter.

33 E. Members of the board are entitled to receive compensation at the
34 rate of fifty dollars per day while engaged in the business of the board.

35 F. A person shall not be appointed to serve on the board unless ~~he~~ THE
36 PERSON has been a resident of this state for not less than five years prior
37 to ~~his~~ THE PERSON'S appointment. No more than four members may be of the
38 same political party. Persons eligible for appointment shall have a
39 continuous recorded registration pursuant to title 16, chapter 1 with the
40 same political party or as an independent for at least two years immediately
41 preceding appointment. No more than two members may be appointed from the
42 same county. No member of the board or any employee of the board may serve
43 on a committee of a political party nor engage in any political activity
44 other than voting.

1 G. The governor shall appoint the director, pursuant to section
2 38-211, who shall be a qualified elector of the state and experienced in
3 administrative matters and enforcement procedures. He THE DIRECTOR shall
4 serve concurrently with the governor but may be removed by the governor for
5 any of the following causes:

- 6 1. Fraud in securing appointment.
- 7 2. Incompetency.
- 8 3. Inefficiency.
- 9 4. Inexcusable neglect of duty.
- 10 5. Insubordination.
- 11 6. Dishonesty.
- 12 7. Drunkenness on duty.
- 13 8. Addiction to the use of narcotics or habit-forming drugs.
- 14 9. Inexcusable absence without leave.
- 15 10. Final conviction of a felony or a misdemeanor involving moral
16 turpitude.
- 17 11. Discourteous treatment of the public.
- 18 12. Improper political activity.
- 19 13. Wilful disobedience.
- 20 14. Misuse of state property.

21 H. The director is entitled to receive a salary as determined pursuant
22 to section 38-611.

23 Sec. 3. Section 4-201, Arizona Revised Statutes, is amended to read:
24 4-201. Licensing; application procedure in city, town or
25 county; burden of proof

26 A. A person desiring a license to manufacture, sell or deal in
27 spirituous liquors shall make application to the director on a form
28 prescribed and furnished by the director.

29 B. A person desiring a license within an incorporated city or town
30 shall make the application in triplicate and shall file the copies with the
31 director. The director shall remit two copies to the city or town clerk.
32 The city or town clerk shall immediately file one copy in ~~his~~ THE CLERK'S
33 office and post the other for a period of twenty days in a conspicuous place
34 on the front of the premises where the business is proposed to be conducted,
35 with a statement requiring any person who is a bona fide resident residing,
36 owning or leasing property within a one mile radius from the premises
37 proposed to be licensed, and who is in favor of or opposed to the issuance
38 of the license, to file written arguments in favor of or opposed to such
39 issuance with the clerk within twenty days after the date of posting. THE
40 POSTING SHALL CONTAIN SUBSTANTIALLY THE FOLLOWING:

41 NOTICE

42 A HEARING ON A LIQUOR LICENSE APPLICATION SHALL BE HELD BEFORE THE
43 LOCAL GOVERNING BODY AT THE FOLLOWING TIME AND PLACE:

44 (INSERT TIME AND ADDRESS)

1 THE LOCAL GOVERNING BODY WILL RECOMMEND TO THE STATE LIQUOR BOARD
2 WHETHER THE BOARD SHOULD GRANT OR DENY THE LICENSE. THE STATE LIQUOR BOARD
3 MAY HOLD A HEARING TO CONSIDER THE RECOMMENDATION OF THE LOCAL GOVERNING
4 BODY. ANY PERSON RESIDING OR OWNING OR LEASING PROPERTY WITHIN A ONE-MILE
5 RADIUS MAY CONTACT THE STATE LIQUOR BOARD IN WRITING TO REGISTER AS A
6 PROTESTOR. TO REQUEST INFORMATION REGARDING PROCEDURES BEFORE THE BOARD AND
7 NOTICE OF ANY BOARD HEARINGS REGARDING THIS APPLICATION, CONTACT THE STATE
8 LIQUOR BOARD AT:

9 (INSERT ADDRESS AND TELEPHONE NUMBER).

10 No arguments shall be filed or accepted by the city or town clerk thereafter.
11 The provisions of this subsection shall not be construed to prevent a bona
12 fide resident residing, owning or leasing property within a one-mile radius
13 from the premises proposed to be licensed from testifying in favor of or in
14 opposition to the issuance of the license, regardless of whether or not he
15 THE RESIDENT is a user or nonuser of spirituous liquor.

16 C. The governing body of the city or town shall then enter an order
17 recommending approval or disapproval within sixty days after filing of the
18 application and shall file a certified copy of the order with the director.
19 If the recommendation is for disapproval, a statement of the specific reasons
20 containing a summary of the testimony or other evidence supporting the
21 recommendation for disapproval shall be attached to the order. All petitions
22 submitted to the governing body within the twenty-day period for filing the
23 protest shall be transmitted to the ~~superintendent~~ DIRECTOR with the
24 certified copy of the order.

25 D. If a license is applied for to conduct a spirituous liquor business
26 outside an incorporated city or town, the director shall remit two copies of
27 the application to the clerk of the board of supervisors of the county where
28 the applicant desires to do business, and the proceedings by the clerk and
29 board of supervisors shall be as provided for cities and towns.

30 E. Upon receipt of an application for a spirituous liquor license, the
31 director shall set such application for hearing by the board upon a date
32 following the expiration of the time fixed for the submitting of the
33 certified order by the governing body of the city or town or the board of
34 supervisors. If the city or town or the county recommends approval of the
35 license no hearing is required unless the director, the board or any
36 aggrieved party requests a hearing on the grounds that the public convenience
37 and the best interest of the community will not be substantially served if
38 a license is issued. Any person residing, owning or leasing property within
39 a one mile radius of the proposed location may file a written protest with
40 the director that shall be received no later than fifteen calendar days
41 following action by the local governing body or sixty days after filing the
42 application. If no hearing is requested by the director, the board or any
43 aggrieved party, the application may be approved by the director. If the
44 recommendation is for disapproval of an application or if no recommendation

1 is received, the board shall hold a hearing. The certified order, the
2 reasons contained therein and the summary of the testimony and other evidence
3 supporting the city, town or county disapproval of the recommendation shall
4 be read into the record before the board and shall be considered as evidence
5 by the board. The board shall consider the certified order together with
6 other facts and a report of the director relating to the qualifications of
7 the applicant. If the governing body of the city or town or the board of
8 supervisors fails to return to the director, as provided in subsections C and
9 D, its order of approval or disapproval, the board shall proceed with further
10 consideration of the application by holding an administrative hearing. An
11 application shall be approved or disapproved within one hundred five days
12 after filing of the application.

13 F. A hearing may be conducted by a hearing officer at the request of
14 the board to make findings and recommendations for use by the board in
15 determining whether to grant or deny a license. The hearing officer shall
16 submit a report of findings to the board within twenty days of the hearing.
17 The board may affirm, reverse, adopt, modify, supplement, amend or reject the
18 hearing officer's report in whole or in part.

19 G. In all proceedings before the governing body of a city or town, the
20 board of supervisors of a county or the board, the applicant bears the burden
21 of showing that the public convenience requires and that the best interest
22 of the community will be substantially served by the issuance of a license.

23 H. In order to prevent the proliferation of spirituous liquor licenses
24 the department may deny a license to a business on the grounds that such
25 business is inappropriate for the sale of spirituous liquor. An
26 inappropriate business is one that cannot clearly demonstrate that the sale
27 of spirituous liquor is directly connected to its primary purpose and that
28 such sale of spirituous liquor is not merely incidental to its primary
29 purpose.

30 I. The board shall adopt, by rule, guidelines setting forth criteria
31 for use in determining whether the public convenience requires and the best
32 interest of the community will be substantially served by the issuance or
33 transfer of a liquor license at the location applied for. These guidelines
34 shall govern the recommendations and other approvals of the department and
35 the local governing authority.

36 Sec. 4. Section 4-202, Arizona Revised Statutes, is amended to read:

37 4-202. Qualifications of licensees: application; background
38 information; prior convictions

39 A. Every spirituous liquor licensee, other than a club licensee, a
40 corporation licensee, a limited liability company licensee or an out-of-state
41 licensee, shall be a citizen of the United States and a bona fide resident
42 of this state or a legal resident alien who is a bona fide resident of this
43 state. If a partnership, each partner shall be a citizen of the United
44 States and a bona fide resident of this state or a legal resident alien who

1 is a bona fide resident of this state, except that for a limited partnership
2 an individual general partner is required to meet the qualifications of an
3 individual licensee, a corporate general partner is required to meet the
4 qualifications of a corporate licensee and a limited partner is not required
5 to be a bona fide resident of this state. If a corporation or limited
6 liability company, it shall be a domestic corporation or a foreign
7 corporation or a limited liability company which has qualified to do business
8 in this state. A person shall hold a club license, corporation license,
9 limited liability company license, partnership license or out-of-state
10 license through an agent who shall be a natural person and meet the
11 qualifications for licensure, except that an agent for an out-of-state
12 license as specified in section 4-209, subsection B, paragraph 2, need not
13 be a resident of this state. FOR PURPOSES OF THIS SUBSECTION, "AGENT" MEANS
14 A PERSON DESIGNATED BY AN APPLICANT OR LICENSEE TO RECEIVE COMMUNICATIONS
15 FROM THE DEPARTMENT AND TO FILE DOCUMENTS AND SIGN DOCUMENTS FOR FILING WITH
16 THE DEPARTMENT ON BEHALF OF THE APPLICANT OR LICENSEE.

17 B. A person shall file an application for a spirituous liquor license
18 on a form prescribed by the director. The director shall require any
19 applicant and may require any controlling person, other than a bank or
20 licensed lending institution, to furnish background information and a
21 complete, satisfactory set of fingerprints in a manner prescribed by the
22 director. If a license is issued or transferred when fees are waived
23 pursuant to section 4-209, subsection I, no additional background check is
24 required if the person has already completed a background investigation in
25 connection with the continuing business.

26 C. Each applicant or licensee shall designate a person responsible for
27 managing the premises which may be the applicant or licensee. The manager
28 shall be a natural person and meet all the requirements for licensure. The
29 same person may be designated as the manager for more than one premises owned
30 by the same licensee. Notice of a change in the manager shall be filed with
31 the director within ten days after such a change.

32 D. No license shall be issued to any person who, within one year prior
33 to application, has had a license revoked. No license shall be issued to or
34 renewed for any person who, within five years prior to application, has been
35 convicted of a felony, or convicted of an offense in another state that would
36 be a felony in this state, provided that for a conviction of a corporation
37 to be a basis for a denial under the provisions of this section, the
38 limitations provided in section 4-210, subsection A, paragraph 8 shall apply.
39 No corporation shall have its annual license issued or renewed unless it has
40 on file with the department a list of its officers and directors and any
41 stockholders who own ten per cent or more of the corporation.

42 E. The department shall receive criminal history record information
43 from the department of public safety criminal identification section for

1 applicants for employment with the department or for a license issued by the
2 department.
3 F. The department shall not issue or renew a license for any person
4 who on the request of the director fails to provide the department with
5 complete financial disclosure statements indicating all financial holdings
6 of the person or any other person in or relating to the license applied for,
7 including all ~~estates~~ COSIGNATORIES on financial holdings, land,
8 buildings, leases or other forms of indebtedness that the applicant has
9 incurred or will incur.
10 Sec. 5. Section 4-203, Arizona Revised Statutes, is amended to read:
11 4-203. Licenses: issuance: transfer: reversion to state:
12 delivery service
13 A. A spirituous liquor license shall be issued only after satisfactory
14 showing of the capability, qualifications and reliability of the applicant
15 and, with the exception of club licenses, that the public convenience
16 requires and that the best interest of the community will be substantially
17 served by the issuance.
18 B. Prior to making the determinations required by subsection A of this
19 section, the board shall, if there are more applicants than the number of
20 available spirituous liquor licenses, provide a method of random selection
21 within a county to determine which applicant or applicants shall be
22 considered for issuance of a license. The random selection method shall
23 allow each applicant within the county an equal opportunity of obtaining the
24 available license or licenses.
25 C. If there are more applicants than the number of available
26 spirituous liquor licenses within a county, the following limitations shall
27 apply:
28 1. No person shall make more applications than the number of
29 spirituous liquor licenses available.
30 2. If there are more than five spirituous liquor licenses to be
31 issued, notwithstanding the provisions of paragraph 1 of this subsection, no
32 person shall make more than five applications.
33 3. Each applicant shall be required to include on the application the
34 address of the property or building where the licensed establishment is to
35 be located. No address may be submitted more than once by the same
36 applicant.
37 4. If an applicant is selected to be considered for the issuance of
38 a license, such license must be issued for the address provided pursuant to
39 paragraph 3 of this subsection. Use of that license at another location is
40 subject to payment of the person to person transfer fee provided in section
41 4-209, subsection F.
42 D. For the purposes of random selection, the board may set a deadline
43 by which all applicants must file their applications. After all applications
44 are filed with the director, the board shall then determine, by random

1 ~~selection, the order in which each applicant will be evaluated pursuant to~~
2 ~~subsection A of this section.~~

3 ~~E.~~ B. The license shall be to manufacture, sell or deal in spirituous
4 liquors only at the place and in the manner provided in the license. A
5 separate license shall be issued for each specific business, and each shall
6 specify:

7 1. The particular spirituous liquors which the licensee is authorized
8 to manufacture, sell or deal in.

9 2. The place of business for which issued.

10 3. The purpose for which the liquors may be manufactured or sold.

11 ~~F.~~ C. A spirituous liquor license issued to a bar, a liquor store or
12 a beer and wine bar shall be transferable as to any permitted location within
13 the same county, provided such transfer meets the requirements of an original
14 application. Such spirituous liquor license may be transferred to a person
15 qualified to be a licensee, provided such transfer is pursuant to either
16 judicial decree, nonjudicial foreclosure of a legal or equitable lien, a bona
17 fide bulk sale of the entire business and stock in trade, or such other bona
18 fide transactions as may be provided for by rule. Any change in ownership
19 of the business of a licensee, directly or indirectly, as defined by rule is
20 deemed a transfer.

21 ~~G.~~ D. All applications for a new license pursuant to section 4-201
22 or for a transfer to a new location pursuant to subsection ~~F~~ C of this
23 section shall be filed with and determined by the director, except when the
24 governing body of the city or town or the board of supervisors receiving such
25 application pursuant to section 4-201 orders disapproval of such application
26 or makes no recommendation or when the director, the state liquor board or
27 any aggrieved party requests a hearing. Such application shall then be
28 presented to the state liquor board, and the new license or transfer shall
29 not become effective unless approved by the state liquor board.

30 ~~H.~~ E. A person who assigns, transfers or sells a business which has
31 a spirituous liquor license shall notify the director within thirty days of
32 the assignment, transfer or sale. No spirituous liquor license shall be
33 leased or subleased ~~or used by any person not disclosed pursuant to this~~
34 ~~title.~~ A concession agreement entered into under section 4-205.03 is not
35 considered a lease or sublease in violation of this section.

36 ~~I.~~ F. IF a license or licensee ~~that~~ is acquired or controlled by a
37 person other than those persons originally licensed, THE PERSON shall file
38 notice within thirty days of such acquisition and control and a list of
39 officers, directors or other controlling persons on a form prescribed by the
40 director. All officers, directors or other controlling persons shall meet
41 the qualifications for licensure as prescribed by this title. On request,
42 the director shall conduct a preinvestigation prior to the assignment, sale
43 or transfer of a license, the reasonable costs of which, not to exceed one
44 thousand dollars, shall be borne by the applicant. The preinvestigation

1 shall determine whether the qualifications for licensure as prescribed by
2 this title are met. If the director has not conducted a preinvestigation,
3 the director may protest the acquisition of control before the board by
4 issuing notice of a hearing within ninety days of the filing of the notice
5 of acquisition and control. The person who has acquired control of a license
6 or licensee has the burden of an original application at the hearing and the
7 board shall make its determination pursuant to ~~sections~~ SECTION 4-202 and
8 ~~4-203~~ THIS SECTION with respect to capability, reliability and qualification.

9 ~~J.~~ G. A licensee who holds a license in nonuse status for more than
10 five months shall be required to pay a one hundred dollar surcharge for each
11 month thereafter. The surcharge shall be paid at the time the license is
12 returned to active status. A license automatically reverts to the state
13 after being held in continuous nonuse in excess of thirty-six months. The
14 director may waive the surcharge and may extend the time period provided in
15 this subsection for good cause.

16 ~~K.~~ H. A spirituous liquor license issued to a bar or a liquor store
17 or a beer and wine bar license or the right to apply for a spirituous liquor
18 license obtained through the random selection method prescribed in subsection
19 B of this section shall not be voluntarily transferred from the licensee or
20 the holder of the right to apply for a spirituous liquor license to another
21 person unless all of the following apply:

22 1. The license was used in the operation of a bona fide business
23 continually on a full-time basis for at least two years.

24 2. The license was used in the operation of a bona fide business at
25 the same location and on a full-time basis for at least one year.

26 3. The transfer is part of the sale or liquidation of the ongoing
27 business.

28 ~~L.~~ I. A transfer of more than fifty per cent of the stock of a
29 corporation which is the holder of a license prior to the two year period
30 prescribed by subsection ~~K.~~ H of this section is a prohibited transfer of a
31 license as prescribed in subsection ~~K.~~ H of this section.

32 ~~M.~~ J. Notwithstanding subsection ~~E.~~ B of this section, the holder of
33 a retail license having off-sale privileges may deliver spirituous liquor off
34 of the licensed premises in connection with the sale of spirituous liquor.
35 The licensee may maintain a delivery service and shall be liable for any
36 violation committed in connection with any sale or delivery of spirituous
37 liquor, provided that such delivery is made by an employee at least
38 twenty-one years of age. The retail licensee shall collect payment for the
39 price of the spirituous liquor no later than at the time of delivery. The
40 director shall adopt rules that set operational limits for the delivery of
41 spirituous liquors by the holder of a retail license having off-sale
42 privileges.

43 ~~N.~~ K. Nonretail Arizona licensees may transport spirituous liquors
44 for themselves in vehicles owned, leased or rented by such licensee.

1 ~~Q~~ L. Notwithstanding subsection ~~E~~ B of this section, an off-sale
2 retail licensee may provide consumer tasting of wines off of the licensed
3 premises.

4 ~~P~~ M. The director ~~shall~~ MAY adopt reasonable rules to protect the
5 public interest and prevent abuse by licensees of the activities permitted
6 such licensees by subsections ~~M~~ J and ~~Q~~ L of this section.

7 ~~Q~~ N. Failure to pay any surcharge prescribed by subsection ~~J~~ G of
8 this section or failure to report the period of nonuse of a license shall be
9 grounds for revocation of the license or grounds for any other sanction
10 provided by this title. The director may consider extenuating circumstances
11 if control of the license is acquired by another party in determining whether
12 or not to impose any sanctions under this subsection.

13 ~~R~~ O. If a licensed location has not been in use for two years, the
14 location must requalify for a license pursuant to subsection A of this
15 section and shall meet the same qualifications required for issuance of a new
16 license except when the director deems that the nonuse of the location was
17 due to circumstances beyond the licensee's control.

18 Sec. 6. Section 4-203.03, Arizona Revised Statutes, is amended to
19 read:

20 4-203.03. Wine festival license; wine fair license; fee

21 A. The director, subject to the approval of the board of supervisors
22 for events to be held in an unincorporated area or the governing body of a
23 city or town for events to be held in a city or town, may issue up to six
24 wine festival licenses for each calendar year for each licensed domestic farm
25 winery, for up to a total of twenty calendar days per winery, authorizing
26 sampling of domestic farm winery products on the wine festival premises, THE
27 SALE OF SUCH PRODUCTS FOR CONSUMPTION ON THE WINE FESTIVAL PREMISES and the
28 sale of such products in original containers for consumption off the wine
29 festival premises. The fee for a domestic farm winery wine festival license
30 is fifteen dollars for each event.

31 B. Any domestic farm winery may apply for a wine festival license
32 pursuant to this section.

33 C. With the permission of the fair organizers, any domestic farm
34 winery is authorized to allow sampling of domestic farm winery products ON
35 THE FAIR PREMISES, THE SALE OF SUCH PRODUCTS FOR CONSUMPTION ON THE FAIR
36 PREMISES and the sale of such products in original containers for consumption
37 off of the fair premises at any sanctioned county or state fair. The fee for
38 a domestic farm winery fair license is fifteen dollars for each event.

39 D. ~~Sections SECTION 4-201 and 4-206 do~~ DOES not apply to the licenses
40 provided for under this section.

41 Sec. 7. Section 4-205.02, Arizona Revised Statutes, is amended to
42 read:

1 4-205.02. Restaurant license; issuance; regulatory provisions;
2 nontransferability; revocation; definition

3 A. The director may issue a restaurant license to any restaurant in
4 this state which is regularly open for the serving of food to guests for
5 compensation and which has suitable kitchen facilities connected with the
6 restaurant for keeping, cooking and preparing foods required for ordinary
7 meals.

8 ~~B. The provisions of section 4-206 shall not restrict the issuance of~~
9 ~~a restaurant license pursuant to this section.~~

10 ~~C.~~ B. The director shall issue the license in the name of the
11 restaurant upon application for the license by the owner or lessee of the
12 restaurant, provided the applicant is otherwise qualified to hold a
13 spirituous liquor license. The holder of such license is subject to the
14 penalties prescribed for any violation of the law relating to alcoholic
15 beverages.

16 ~~D.~~ C. The holder of a restaurant license may sell and serve
17 spirituous liquors solely for consumption on the licensed premises. For the
18 purpose of this subsection, "licensed premises" may include rooms, areas or
19 locations in which the restaurant normally sells or serves spirituous liquors
20 pursuant to regular operating procedures and practices and which are
21 contiguous to the restaurant. For the purpose of this subsection, a
22 restaurant licensee must submit proof of tenancy or permission from the
23 landowner or lessor for all property to be included in the licensed premises.

24 ~~E.~~ D. In addition to other grounds prescribed in this title upon
25 which a license may be revoked, the director may revoke a restaurant license
26 issued pursuant to this section in any case in which the licensee ceases to
27 operate as a restaurant, as prescribed in subsection A of this section.

28 ~~F.~~ E. ~~Not later than October 1, 1994 the director shall adopt by rule~~
29 ~~the criteria for issuing a restaurant license described in section 4-209,~~
30 ~~subsection B, paragraph 12.~~ Neither the director nor the board may initially
31 issue a RESTAURANT license if either finds that there is sufficient evidence
32 that the operation will not satisfy the ~~adopted~~ criteria ADOPTED BY THE
33 DIRECTOR FOR ISSUING A RESTAURANT LICENSE DESCRIBED IN SECTION 4-209,
34 SUBSECTION B, PARAGRAPH 12. The director shall issue a RESTAURANT license
35 ~~described in section 4-209, subsection B, paragraph 12~~ only if the applicant
36 has submitted a plan for the operation of the restaurant. The plan shall be
37 completed on forms provided by the department and shall include listings of
38 all restaurant equipment and service items, the restaurant seating capacity
39 and other information requested by the department to substantiate that the
40 restaurant will operate in compliance with this section.

41 ~~G.~~ F. The holder of the license described in section 4-209,
42 subsection B, paragraph 12 who intends to alter the seating capacity or
43 dimensions of a restaurant facility shall notify the department in advance
44 on forms provided by the department.

1 ~~H~~ G. For the purpose of this section "restaurant" means an
2 establishment which derives at least forty per cent of its gross revenue from
3 the sale of food.

4 Sec. 8. Section 4-205.03, Arizona Revised Statutes, is amended to
5 read:

6 4-205.03. Government license; issuance; regulatory provisions;
7 agreements with coliseum concessionaires;
8 definitions

9 A. The ~~board~~ DEPARTMENT may issue a government license to any county,
10 city, town or state university OR THE ARIZONA COLISEUM AND EXPOSITION CENTER
11 BOARD upon application authorized by the governing body of the county, city,
12 town or state university OR THE ARIZONA COLISEUM AND EXPOSITION CENTER BOARD.

13 ~~B. The provisions of section 4-206 shall not restrict the issuance of~~
14 ~~a government license pursuant to this section.~~

15 ~~E~~ B. If the ~~board~~ DEPARTMENT decides to issue the license, it shall
16 be issued in the name of the county, city, town, ~~or~~ state university OR
17 ARIZONA COLISEUM AND EXPOSITION CENTER. No application shall be filed unless
18 authorized by the respective governing body. The application shall designate
19 for each location a manager or other individual responsible for administering
20 the license. The county, city, town, ~~or~~ state university OR THE ARIZONA
21 COLISEUM AND EXPOSITION CENTER BOARD shall give notice to the department
22 within ten days of any change in the designee. The county, city, town, ~~or~~
23 state university OR ARIZONA COLISEUM AND EXPOSITION CENTER to which a license
24 is issued is subject to the fine or penalty prescribed for any violation of
25 the statutes relating to alcoholic beverages.

26 ~~D~~ C. The holder of a government license may sell and serve
27 spirituous liquors solely for consumption on the premises for which the
28 license is issued. A separate license is required for each premises upon
29 which spirituous liquors are served.

30 ~~E~~ D. A governing body in possession of a government license may by
31 appropriate legislation OR RULE authorize the use of the license pursuant to
32 a concession agreement approved by the governing body.

33 ~~F~~ E. The ~~board shall~~ DEPARTMENT MAY prescribe rules in order to
34 administer this section.

35 F. ANY AGREEMENT ENTERED INTO BY THE ARIZONA COLISEUM AND EXPOSITION
36 CENTER BOARD ALLOWING AN INDICATED CONCESSIONAIRE TO SERVE ALCOHOLIC
37 BEVERAGES PURSUANT TO THIS SECTION SHALL CONTAIN A PROVISION REQUIRING THE
38 CONCESSIONAIRE TO DO BOTH OF THE FOLLOWING:

- 39 1. FULLY INDEMNIFY AND HOLD HARMLESS THIS STATE AND ANY OF ITS
40 AGENCIES, BOARDS, COMMISSIONS, OFFICERS AND EMPLOYEES AGAINST ANY LIABILITY
41 FOR LOSS OR DAMAGE INCURRED EITHER ON OR OFF STATE PROPERTY AND RESULTING
42 FROM THE NEGLIGENT SERVING OF ALCOHOLIC BEVERAGES BY THE CONCESSIONAIRE OR
43 THE CONCESSIONAIRE'S AGENTS OR EMPLOYEES.

1 2. POST A SURETY BOND IN FAVOR OF THIS STATE IN AN AMOUNT DETERMINED
2 BY THE ARIZONA COLISEUM AND EXPOSITION CENTER BOARD TO BE SUFFICIENT TO
3 INDEMNIFY THIS STATE AGAINST THE POTENTIAL LIABILITY OR NAME THIS STATE AS
4 AN ADDITIONAL INSURED IN A LIABILITY POLICY THAT PROVIDES SUFFICIENT COVERAGE
5 TO INDEMNIFY THIS STATE AS DETERMINED BY THE ARIZONA COLISEUM AND EXPOSITION
6 CENTER BOARD.

7 G. For purposes of this section:

8 1. "ARIZONA COLISEUM AND EXPOSITION CENTER" INCLUDES ALL PROPERTY
9 UNDER THE CONTROL OF THE ARIZONA COLISEUM AND EXPOSITION CENTER BOARD AS
10 PROVIDED IN SECTION 3-1001.

11 2. "State university" means institutions as described in section
12 15-1601 ~~which offer as a part of their curriculum a school of hotel and~~
13 ~~restaurant management.~~

14 Sec. 9. Section 4-205.04, Arizona Revised Statutes, is amended to
15 read:

16 4-205.04. Domestic farm winery or domestic microbrewery
17 license; issuance; regulatory provisions; retail
18 site

19 A. The director may issue a domestic farm winery or domestic
20 microbrewery license to any domestic farm winery or domestic microbrewery.
21 Each location which engages in producing and bottling these products must
22 obtain a separate domestic farm winery or domestic microbrewery license. The
23 licensee may not transfer the domestic farm winery or domestic microbrewery
24 license from person to person or from location to location.

25 B. An applicant for a domestic farm winery or domestic microbrewery
26 license shall, at the time of filing the application for the license,
27 accompany the application with the license fee. Persons holding a domestic
28 farm winery or domestic microbrewery license shall report annually at the end
29 of each fiscal year, at such time and in such manner as the director may
30 prescribe, the amount of wine or beer manufactured by them during the fiscal
31 year. If the total amount of wine or beer manufactured during the year
32 exceeds the amount permitted annually by the license, the licensee shall
33 apply for and receive an in-state producer's license.

34 C. Notwithstanding any other statute, a licensed domestic farm winery
35 may sell wine produced or manufactured on the premises in the original
36 container for consumption on or off the premises and may make sales and
37 deliveries of wine to persons licensed to sell wine under this title. A
38 licensed domestic farm winery may serve wine produced or manufactured on the
39 premises for the purpose of sampling the wine.

40 D. Notwithstanding section 4-101, paragraph ~~13~~ 14, the director may
41 allow a percentage of out-of-state agricultural products greater than
42 twenty-five per cent in wine manufactured or produced by a licensed domestic
43 farm winery if the licensed domestic farm winery can demonstrate to the
44 satisfaction of the director that sufficient in-state agricultural products

1 are not available because of an unexpected failure of suitable in-state crops
2 due to natural causes. The exemption shall remain in effect only for the
3 period of time during which such shortages actually exist.

4 E. Notwithstanding any other statute, a licensed domestic microbrewery
5 may sell beer produced or manufactured on the premises for consumption on or
6 off the premises and may make sales and deliveries of beer to persons
7 licensed to sell beer under this title. A licensed domestic microbrewery may
8 serve beer produced or manufactured on the premises for the purpose of
9 sampling the beer. A licensed domestic microbrewery is subject to all of the
10 following requirements:

11 1. The microbrewery shall produce not less than ten thousand gallons
12 of beer in each year following the first year of operation.

13 2. Any person who is a controlling person shall have an interest in
14 only one microbrewery and this microbrewery shall be operated at only one
15 site.

16 3. If retail operations are conducted in conjunction with the
17 microbrewery, these retail operations shall be conducted from the same site
18 as the location of the microbrewery.

19 F. The director shall adopt rules in order to administer this section.
20 Sec. 10. Section 4-206.01, Arizona Revised Statutes, is amended to
21 read:

22 4-206.01. Bar, beer and wine bar or liquor store licenses;
23 number permitted; fee

24 A. ~~By November 1, 1992,~~ The director shall determine the total number
25 of spirituous liquor licenses by type and in each county. The director shall
26 publish a listing of that information as determined by the director.

27 B. ~~From and after October 31, 1992,~~ In each county having a population
28 of less than five hundred thousand persons according to the most recent
29 United States decennial census, the director ~~shall~~ MAY only issue additional
30 bar, beer and wine bar or liquor store licenses at the rate of one of each
31 type for each additional four thousand person increase over the population
32 in that county as of July 1, 1992. ~~for counties entitled under section 4-206~~
33 ~~to be issued additional licenses.~~

34 C. ~~From and after October 31, 1992,~~ In each county having a population
35 of five hundred thousand or more persons, the director ~~shall~~ MAY only issue
36 bar, beer and wine bar or liquor store licenses at the rate of one of each
37 type for each additional five thousand person increase over the population
38 in that county as of July 1, 1992. ~~for counties entitled under section 4-206~~
39 ~~to be issued additional licenses.~~

40 D. A person issued a license authorized by subsection B or C of this
41 section shall pay an additional issuance fee equal to the license's fair
42 market value which shall be paid to the state general fund. The fair market
43 value shall be defined to mean the mean value of licenses of the same type
44 sold on the open market in the same county during the prior twelve months,

1 but if there are not three or more such sales then the fair market value
2 shall be determined by three appraisals furnished to the department by
3 independent professional appraisers employed by the director.

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

7 F. If more than one person applies for an available license, a
8 priority of applicants shall be determined by a random selection method
9 prescribed by the director.

10 Sec. 11. Section 4-207, Arizona Revised Statutes, is amended to read:

11 4-207. Restrictions on licensing premises near school or church
12 buildings: definition

13 A. No retailer's license shall be issued for any premises which are,
14 at the time the license application is received by the director, within three
15 hundred horizontal feet of a church, within three hundred horizontal feet of
16 a public or private school building with kindergarten programs or any of
17 grades one through twelve or within three hundred horizontal feet of a fenced
18 recreational area adjacent to such school building.

19 ~~B. In addition to the restrictions imposed by subsection A of this~~
20 ~~section, no license shall be issued for use on any premises that are under~~
21 ~~the exclusive jurisdiction of the Arizona coliseum and exposition center~~
22 ~~board, except that the director may issue at the request of the Arizona~~
23 ~~coliseum and exposition center board a temporary permit to an indicated~~
24 ~~concessionaire, approved by the lessee, to serve alcoholic beverages within~~
25 ~~the state fairgrounds to conventions, or groups, from which the general~~
26 ~~public is excluded. If a temporary permit is issued, it shall be issued~~
27 ~~without a fee. Any agreement entered into by the Arizona coliseum and~~
28 ~~exposition center board allowing an indicated concessionaire to serve~~
29 ~~alcoholic beverages pursuant to this section shall contain a provision~~
30 ~~requiring the concessionaire to do both of the following:~~

31 ~~1. Fully indemnify and hold harmless this state and any of its~~
32 ~~agencies, boards, commissions, officers and employees against any liability~~
33 ~~for loss or damage incurred either on or off state property and resulting~~
34 ~~from the negligent serving of alcoholic beverages by the concessionaire or~~
35 ~~his agents or employees.~~

36 ~~2. Post a surety bond in favor of this state in an amount determined~~
37 ~~by the Arizona coliseum and exposition center board to be sufficient to~~
38 ~~indemnify this state against such potential liability or name the state of~~
39 ~~Arizona as an additional insured in a liability policy that provides~~
40 ~~sufficient coverage to indemnify this state as determined by the Arizona~~
41 ~~coliseum and exposition center board.~~

42 ~~C. Wholesale liquor dealers are authorized to sell to concessionaires~~
43 ~~that are issued temporary permits.~~

1 ~~B~~ B. Subsection A of this section does not apply to a:

- 2 1. Restaurant issued a license pursuant to section 4-205.02.
3 2. Special event license issued pursuant to section 4-203.02.
4 3. Hotel-motel issued a license pursuant to section 4-205.01.
5 4. Government license issued pursuant to section 4-205.03.

6 ~~C~~ C. Notwithstanding subsection A of this section:

7 1. A spirituous liquor license which is validly issued and which is,
8 on the date an application for a transfer is filed, within three hundred
9 horizontal feet of a church, within three hundred horizontal feet of a public
10 or private school building with kindergarten programs or any of grades one
11 through twelve or within three hundred horizontal feet of a fenced
12 recreational area adjacent to such school building may be transferred person
13 to person pursuant to sections 4-201, 4-202 and 4-203 and remains in full
14 force until the license is ~~revoked~~ TERMINATED IN ANY MANNER, UNLESS RENEWED
15 PURSUANT TO SECTION 4-209, SUBSECTION A.

16 2. A person may be issued a spirituous liquor license pursuant to
17 sections 4-201, 4-202 and 4-203 of the same class for premises which have ~~had~~
18 a nontransferable spirituous liquor license validly issued if the premises
19 are, on the date an application for such license is filed, within three
20 hundred horizontal feet of a church, within three hundred horizontal feet of
21 a public or private school building with kindergarten programs or any of
22 grades one through twelve or within three hundred horizontal feet of a fenced
23 recreational area adjacent to such school building and the license remains
24 in full force until the license is ~~revoked~~ TERMINATED IN ANY MANNER, UNLESS
25 RENEWED PURSUANT TO SECTION 4-209, SUBSECTION A.

26 3. A person may be issued a liquor store license pursuant to sections
27 4-201, 4-202, 4-203, ~~4-206~~ and 4-206.01 for premises which have ~~had~~ a beer
28 and wine store license validly issued if the premises, on the date an
29 application for such license is filed, are within three hundred horizontal
30 feet of a church, within three hundred horizontal feet of a public or private
31 school building with kindergarten programs or any of grades one through
32 twelve or within three hundred horizontal feet of a fenced recreational area
33 adjacent to such school building and the license remains in full force until
34 the license is ~~revoked~~ TERMINATED IN ANY MANNER, UNLESS RENEWED PURSUANT TO
35 SECTION 4-209, SUBSECTION A.

36 ~~F~~ D. For the purposes of this section "church" means a building
37 which is erected or converted for use as a church, where services are
38 regularly convened, ~~and~~ which is used ~~exclusively~~ PRIMARILY for religious
39 worship and schooling AND WHICH A REASONABLE PERSON WOULD CONCLUDE IS A
40 CHURCH BY REASON OF DESIGN, SIGNS OR ARCHITECTURAL OR OTHER FEATURES.

1 Sec. 12. Section 4-209, Arizona Revised Statutes, is amended to read:
2 4-209. Fees: application, issuance, annual and transfer;
3 seasonal operation; surcharge

4 A. A fee shall accompany an application for an original license or
5 transfer of a license, or in case of renewal, shall be paid in advance.
6 Every license expires annually. A licensee who fails to renew his license
7 on or before the due date shall pay a penalty of one hundred fifty dollars
8 which the licensee shall pay with the renewal fee. A licensee who fails to
9 renew the license on or before the due date may not sell, purchase or
10 otherwise deal in spirituous liquor until the license is renewed. A license
11 which is not renewed within sixty days after the due date is deemed
12 terminated. The director may renew the terminated license if good cause is
13 shown by the licensee. An application fee for an original license or the
14 transfer of a license shall be one hundred dollars, which shall be retained
15 by this state.

16 B. Issuance fees for original licenses shall be:

17 1. For an in-state producer's license, to manufacture or produce
18 spirituous liquor in this state, one thousand five hundred dollars.

19 2. Except as provided in paragraph 15 of this subsection, for an
20 out-of-state producer's, exporter's, importer's or rectifier's license, two
21 hundred dollars.

22 3. For a domestic microbrewery license, three hundred dollars.

23 4. For a wholesaler's license, to sell spirituous liquors, one
24 thousand five hundred dollars.

25 5. For a government license issued in the name of a county, city or
26 town, one hundred dollars.

27 6. For a bar license, which is an on-sale retailer's license to sell
28 all spirituous liquors primarily by individual portions and in the original
29 containers, one thousand five hundred dollars.

30 7. For a beer and wine bar license, which is an on-sale retailer's
31 license to sell beer and wine primarily by individual portions and in the
32 original containers, one thousand five hundred dollars.

33 8. For a conveyance license issued to an operating railroad company,
34 to sell all spirituous liquors in individual portions or in the original
35 containers on all passenger trains operated by the railroad company, or to
36 an operating airline company, to sell or serve spirituous liquors solely in
37 individual portions on all passenger planes operated by the airline company,
38 or to a boat operating in the waters of this state, to sell all spirituous
39 ~~liquor~~ LIQUORS in individual portions or in the original containers for
40 consumption on the boat, one thousand five hundred dollars.

41 9. For a liquor store license, which is an off-sale retailer's license
42 to sell all spirituous liquors, one thousand five hundred dollars.

43 10. For a beer and wine store license, which is an off-sale retailer's
44 license to sell beer and wine, one thousand five hundred dollars.

1 11. For a hotel-motel license issued as such, to sell and serve
2 spirituous liquors solely for consumption on the licensed premises of the
3 hotel or motel, one thousand five hundred dollars.

4 12. For a restaurant license issued as such, to sell and serve
5 spirituous liquors solely for consumption on the licensed premises of the
6 restaurant, one thousand five hundred dollars.

7 13. For a domestic farm winery license, one hundred dollars.

8 14. For a club license issued in the name of a bona fide club qualified
9 under this title to sell all spirituous liquors on-sale, one thousand
10 dollars.

11 15. For an out-of-state winery that sells not more than fifty cases of
12 wine in this state in a calendar year, twenty-five dollars.

13 C. The department may issue licenses with staggered renewal dates to
14 distribute the renewal work load as uniformly as practicable throughout the
15 twelve months of the calendar year. If a license is issued less than six
16 months before the scheduled renewal date of the license, as provided by the
17 department's staggered license renewal system, one-half of the annual license
18 fee shall be charged.

19 D. The annual fees for licenses shall be:

20 1. For an in-state producer's license, to manufacture or produce
21 spirituous liquors in this state, three hundred fifty dollars.

22 2. Except as provided in paragraph 15 of this subsection, for an
23 out-of-state producer's, exporter's, importer's or rectifier's license, fifty
24 dollars.

25 3. For a domestic microbrewery license, three hundred dollars.

26 4. For a wholesaler's license, to sell spirituous liquors, two hundred
27 fifty dollars.

28 5. For a government license issued to a county, city or town, one
29 hundred dollars.

30 6. For a bar license, which is an on-sale retailer's license to sell
31 all spirituous liquors primarily by individual portions and in the original
32 containers, one hundred fifty dollars.

33 7. For a beer and wine bar license, which is an on-sale retailer's
34 license to sell beer and wine primarily by individual portions and in the
35 original containers, seventy-five dollars.

36 8. For a conveyance license issued to an operating railroad company,
37 to sell all spirituous liquors in individual portions or in the original
38 containers on all passenger trains operated by the railroad company, or to
39 an operating airline company, to sell or serve spirituous liquors solely in
40 individual portions on all passenger planes operated by the airline company,
41 or to a boat operating in the waters of this state, to sell all spirituous
42 liquor in individual portions or in the original containers for consumption
43 on the boat, two hundred twenty-five dollars.

1 9. For a liquor store license, which is an off-sale retailer's license
2 to sell all spirituous liquors, fifty dollars.

3 10. For a beer and wine store license, which is an off-sale retailer's
4 license to sell beer and wine, fifty dollars.

5 11. For a hotel-motel license issued as such, to sell and serve
6 spirituous liquors solely for consumption on the licensed premises of the
7 hotel or motel, five hundred dollars.

8 12. For a restaurant license issued as such, to sell and serve
9 spirituous liquors solely for consumption on the licensed premises of the
10 restaurant, five hundred dollars.

11 13. For a domestic farm winery license, one hundred dollars.

12 14. For a club license issued in the name of a bona fide club qualified
13 under this title to sell all spirituous liquors on-sale, one hundred fifty
14 dollars.

15 15. For an out-of-state winery that sells not more than twenty-five
16 cases of wine in this state in a calendar year, twenty-five dollars.

17 E. Where the business of an on-sale retail licensee is seasonal, not
18 extending over periods of more than six months in any calendar year, he may
19 designate the periods of his operation, and a license may be granted for
20 those periods only, upon payment of one-half of the fee prescribed in
21 subsection D of this section.

22 F. Transfer fees from person to person for licenses transferred
23 pursuant to section 4-203, subsection F shall be three hundred dollars.

24 G. Transfer fees from location to location, as provided for in section
25 4-203, shall be one hundred dollars.

26 H. Assignment fees for a change of agent, as provided for in section
27 4-202, subsection C, shall be one hundred dollars, except that where a
28 licensee holds multiple licenses the assignment fee for the first license
29 shall be one hundred dollars and the assignment fee for all remaining
30 licenses transferred to the same agent shall be fifty dollars each, except
31 the aggregate assignment fees shall in no event exceed one thousand dollars.

32 I. No fee shall be charged by the department for an assignment of a
33 liquor license in probate or an assignment pursuant to the provisions of a
34 will or pursuant to a judicial decree in a domestic relations proceeding
35 which assigns ownership of a business which includes a spirituous liquor
36 license to one of the parties in the proceeding. In the case of
37 nontransferable licenses no fee shall be charged by the department for the
38 issuance of a license for a licensed business pursuant to a transfer of the
39 business in probate or pursuant to the provisions of a will or pursuant to
40 a judicial decree in a domestic relations proceeding which assigns ownership
41 of the business to one of the parties in the proceeding.

42 J. The director shall assess a surcharge of twenty dollars on all
43 licenses prescribed in subsection D, paragraphs 6, 7 and 12 of this section.
44 Monies from the surcharge shall be used by the department exclusively for the

1 costs of an auditor and support staff to review compliance by applicants and
2 licensees with the requirements of section 4-205.02, subsection F- E. The
3 department shall assess the surcharge as part of the annual license renewal
4 fee.

5 K. The director shall assess a surcharge of twenty-five dollars on all
6 licenses prescribed in this section. Monies from the surcharge shall be used
7 by the department exclusively for the costs of an enforcement program to
8 investigate licensees who have been the subject of multiple complaints to the
9 department. The enforcement program shall respond to complaints against
10 licensees by neighborhood associations, BY neighborhood civic groups and from
11 municipal and county governments. The department shall assess the surcharge
12 as part of the annual license renewal fee.

13 Sec. 13. Section 4-210, Arizona Revised Statutes, is amended to read:

14 4-210. Grounds for revocation, suspension and refusal to renew:
15 notice; complaints; hearings

16 A. The director may suspend, revoke or refuse to renew any license
17 issued pursuant to this chapter for any of the following reasons:

18 1. There occurs on the licensed premises repeated acts of violence or
19 disorderly conduct.

20 2. The licensee fails to satisfactorily maintain the capability,
21 qualifications and reliability requirements of an applicant for a license
22 prescribed in section 4-202 or 4-203.

23 3. The licensee or controlling person knowingly files with the
24 department an application or other document which contains material
25 information which is false or misleading or while under oath knowingly gives
26 testimony in an investigation or other proceeding under this title which is
27 false or misleading.

28 4. The licensee or controlling person is on the premises habitually
29 intoxicated.

30 5. The licensed business is delinquent for more than ninety days in
31 the payment of taxes, penalties or interest to the state or to any political
32 subdivision of the state.

33 6. The licensee or controlling person assigns, transfers or sells a
34 spirituous liquor license without compliance with this title or leases or
35 subleases a license.

36 7. The licensee fails to keep for two years and make available to the
37 department upon reasonable request all invoices, records, bills or other
38 papers and documents relating to the purchase, sale and delivery of
39 spirituous liquors and, in the case of a restaurant or hotel-motel licensee,
40 all invoices, records, bills or other papers and documents relating to the
41 purchase, sale and delivery of food.

42 8. The licensee or controlling person is convicted of a felony
43 provided that for a conviction of a corporation to serve as a reason for any
44 action by the director, conduct which constitutes the corporate offense and

1 was the basis for the felony conviction must have been engaged in,
2 authorized, solicited, commanded or recklessly tolerated by the directors of
3 the corporation or by a high managerial agent acting within the scope of
4 employment.

5 9. The licensee or controlling person violates or fails to comply with
6 this title, any rule adopted pursuant to this title or any liquor law of this
7 state or any other state.

8 10. The licensee fails to take reasonable steps to protect the safety
9 of a customer of the licensee entering, leaving or remaining on the licensed
10 premises when the licensee knew or reasonably should have known of the danger
11 to such person, or the licensee fails to take reasonable steps to intervene
12 by notifying law enforcement officials or otherwise to prevent or break up
13 an act of violence or an altercation occurring on the licensed premises or
14 immediately adjacent to the premises when the licensee knew or reasonably
15 should have known of such acts of violence or altercations.

16 11. The licensee or controlling person lacks good moral character.

17 12. The licensee or controlling person knowingly associates with a
18 person who has engaged in racketeering, as defined in section 13-2301, or has
19 been convicted of a felony, and the association is of such a nature as to
20 create a reasonable risk that the licensee will fail to conform to the
21 requirements of this title or of any criminal statute of this state.

22 ~~13. The licensee fails to pay for an audit or inspection required by~~
23 ~~the superintendent pursuant to section 4-213.~~

24 B. For the purposes of:

25 1. Subsection A, paragraph 8 of this section, "high managerial agent"
26 means an officer of a corporation or any other agent of the corporation in
27 a position of comparable authority with respect to the formulation of
28 corporate policy.

29 2. Subsection A, paragraphs 9 and 10 of this section, acts or
30 omissions of an employee of a licensee which violate any provision of this
31 title or rules adopted pursuant to this title shall be deemed to be acts or
32 omissions of the licensee. Acts or omissions by an employee or licensee
33 committed during the time the licensed premises were operated pursuant to an
34 interim permit or without a license may be charged as if they had been
35 committed during the period the premises were duly licensed.

36 C. The director may suspend, revoke or refuse to issue, transfer or
37 renew a license under this section based solely on the unrelated conduct or
38 fitness of ~~an~~ ANY officer, director, managing agent or other controlling
39 person if the controlling person retains any interest in or control of the
40 licensee after sixty days following written notice to the licensee. If the
41 controlling person holds stock in a corporate licensee or is a partner in a
42 partnership licensee, the controlling person may only divest himself of his
43 interest by transferring the interest to the existing stockholders or
44 partners who must demonstrate to the department that they meet all the

1 requirements for licensure. For the purposes of this subsection the conduct
2 or fitness of a controlling person is unrelated if it would not be
3 attributable to the licensee.

4 D. The director may refuse to transfer any license or issue a new
5 license at the same location if the director has filed a complaint against
6 the license or location which has not been resolved alleging a violation of
7 any of the grounds set forth in subsection A of this section until such time
8 as said complaint has been finally adjudicated.

9 E. The director shall receive all complaints of alleged violations of
10 this chapter and is responsible for the investigation of all allegations of
11 a violation of, or noncompliance with, this title, any rule adopted pursuant
12 to this title or any condition imposed upon the licensee by the license.
13 When the director receives three such complaints from any law enforcement
14 agency resulting from three separate incidents at a licensed establishment
15 within a twelve-month period, ~~he~~ THE DIRECTOR shall transmit a written report
16 to the board setting forth the complaints, the results of any investigation
17 conducted by the law enforcement agency or the department relating to the
18 complaints and a history of all prior complaints against the license and
19 their disposition. The board shall review the report and may direct the
20 director to conduct further investigation of a complaint or to serve a
21 licensee with a complaint and notice of A hearing pursuant to subsection F
22 of this section.

23 F. Upon the director's initiation of an investigation or upon the
24 receipt of a complaint and an investigation of the complaint as deemed
25 necessary, the director may cause a complaint and notice of A hearing to be
26 directed to the licensee setting forth the violations alleged against the
27 licensee and directing the licensee, within fifteen days after service of the
28 complaint and notice of a hearing, to appear by filing with the director an
29 answer to the complaint. Failure of the licensee to answer may be deemed an
30 admission by ~~him~~ THE LICENSEE of ~~his~~ commission of the act charged in the
31 complaint. The director may then vacate the hearing and impose any sanction
32 provided by this article. The director may waive any sanction for good cause
33 shown including excusable neglect. The director may set the hearing before
34 himself or a duly appointed hearing officer on any of the grounds set forth
35 in subsection A of this section. Instead of issuing a complaint, the
36 director may provide for informal disposition of the matter by consent
37 agreement or may issue a written warning to the licensee. If a warning is
38 issued, the licensee may reply in writing and the director shall keep a
39 record of the warning and the reply.

40 G. A hearing shall conform to the requirements of title 41, chapter 6.
41 Depositions in contested matters are for the purpose of preserving testimony
42 of a witness who cannot be subpoenaed or is unable to attend the hearing and
43 are not for general discovery. Prehearing orders may be issued that provide
44 for the orderly submission of material and the resolution of prehearing

1 issues. At the hearing an attorney or corporate officer or employee of a
2 corporation may represent the corporation. The department shall prepare an
3 official record of the hearing, including all testimony recorded mechanically
4 or stenographically and all exhibits introduced. The department is not
5 required to transcribe such record except pursuant to an appeal to the
6 superior court, except that, upon written request and receipt of a reasonable
7 fee for transcribing such record, the department may transcribe the record
8 or allow for its transcription by the person making the request.

9 H. If the hearing is conducted by a hearing officer at the request of
10 the director, the hearing officer shall submit a report of the findings to
11 the director within twenty days of the hearing. The director may affirm,
12 reverse, adopt, modify, supplement, amend or reject the hearing officer's
13 report in whole or in part. The director shall do so within ten days after
14 receiving the report.

15 I. If the hearing is conducted by the director, the director shall
16 issue a decision within twenty days following the hearing.

17 J. The expiration, cancellation, revocation, reversion, surrender,
18 acceptance of surrender or termination in any other manner of a license does
19 not prevent the initiation or completion of a disciplinary proceeding
20 pursuant to this section against the licensee or license. An order issued
21 pursuant to a disciplinary proceeding against a license is enforceable
22 against other licenses or subsequent licenses in which the licensee or
23 controlling person of the license has a controlling interest.

24 K. The department shall provide the same notice as is provided to the
25 licensee to a lienholder, which has provided a document under section 4-112,
26 subsection B, paragraph 3, of all disciplinary action with respect to a
27 license issued pursuant to this title. The state shall not be liable for
28 damages for any failure to provide any notice pursuant to this subsection.

29 L. In an action to revoke a license issued pursuant to this title, the
30 director shall consider as mitigating factors on behalf of the lienholder the
31 following circumstances:

32 1. Whether a statement of legal or equitable interest was filed with
33 the department before the alleged conduct occurred which is the basis for the
34 action against the license.

35 2. Whether the lienholder took steps to correct the licensee's prior
36 actions, if any, or initiated an action pursuant to available contract rights
37 against the licensee for the forfeiture of the license after being provided
38 with notice by the department of disciplinary action as provided in
39 subsection K of this section.

40 3. Whether the lienholder was free of responsibility for the conduct
41 which is the basis for the proposed revocation.

42 M. In the event the director decides not to revoke the license based
43 on the circumstances provided in subsection L of this section, the director

1 may issue an order requiring the forfeiture of all interest of the licensee
2 in the license.

3 Sec. 14. Section 4-213, Arizona Revised Statutes, is amended to read:

4 4-213. Restaurant audit

5 A. The director may require a restaurant to submit an audit of its
6 records to demonstrate compliance with section 4-205.02. The director shall
7 not require such an audit more than once a year after the initial twelve
8 months of operation.

9 B. EXCEPT FOR INITIAL RESTAURANT AUDITS CONDUCTED PURSUANT TO
10 SUBSECTION D OF THIS SECTION, THE DEPARTMENT SHALL AUDIT ACCOUNTS, RECORDS
11 AND OPERATIONS OF A LICENSEE THAT COVER A TWELVE MONTH PERIOD. THE TWELVE
12 MONTH AUDIT PERIOD SHALL FALL WITHIN THE SIXTEEN MONTHS IMMEDIATELY PRECEDING
13 THE BEGINNING OF THE AUDIT.

14 ~~B. C. A licensee shall pay the cost of the audit~~ If the audit
15 ~~determines~~ REVEALS that the licensee did not meet the definition of a
16 restaurant as prescribed in section 4-205.02, ~~for at least nine of the~~
17 ~~previous twelve months after the initial twelve months of operation~~ THE
18 DEPARTMENT SHALL REVOKE THE LICENSE.

19 ~~C. D.~~ D. The department may conduct an audit of a licensee described in
20 section 4-209, subsection B, paragraph 12 after six months following issuance
21 of the license to the licensee ~~and after one year following issuance of the~~
22 ~~license~~ to determine compliance by the licensee with section 4-205.02.

23 Sec. 15. Section 4-241, Arizona Revised Statutes, is amended to read:

24 4-241. Selling or giving liquor to underage person; illegally
25 obtaining liquor by underage person; violation;
26 classification

27 A. A licensee, an employee or any other person who questions or has
28 reason to question whether or not a person ordering, purchasing, attempting
29 to purchase or otherwise procuring or attempting to procure the serving or
30 delivery of spirituous liquor is under the legal drinking age shall require
31 the person to exhibit a written instrument of identification and may require
32 the person on a card to be retained by the licensee to sign ~~his~~ THE PERSON'S
33 name, the date, and the number of such identification. ~~Except as provided~~
34 ~~by subsection H of this section,~~ The following written instruments are the
35 only acceptable types of identification:

- 36 1. An unexpired driver's license issued by any state, provided such
37 license includes a picture of the licensee.
- 38 2. An identification license issued pursuant to section 28-421.01.
- 39 3. An armed forces identification card.
- 40 4. A valid unexpired passport which is issued by a government and
41 which contains a photograph of the person and the date of birth.

42 B. A licensee, an employee or any other person who sells, gives,
43 serves or furnishes spirituous liquor to a person who is under the legal
44 drinking age without having recorded and retained a record of the person's

1 age as prescribed by subsection A of this section is deemed to have
2 constructive knowledge of the person's age.

3 C. A person who is under the legal drinking age and who misrepresents
4 ~~his~~ THE PERSON'S age to any person by means of a written instrument of
5 identification with the intent to induce a person to sell, serve, give or
6 furnish spirituous liquor contrary to law is guilty of a class 1 misdemeanor.

7 D. A person who is under the legal drinking age and who solicits
8 another person to purchase, sell, give, serve or furnish spirituous liquor
9 contrary to law is guilty of a class 3 misdemeanor.

10 E. A person who is under the legal drinking age and who uses a
11 fraudulent or false written instrument of identification or identification
12 of another person or uses a valid license or identification of another person
13 to gain access to a licensed establishment is guilty of a class 1
14 misdemeanor.

15 F. A person who uses a driver's or identification license in violation
16 of subsection C or E of this section is subject to suspension of the driver's
17 or identification license as provided in section 28-452. A person who does
18 not have a valid driver's or identification license and who uses a driver's
19 or identification license of another in violation of subsection C or E of
20 this section has ~~his~~ THE PERSON'S right to apply for a driver's or
21 identification license suspended as provided by section 28-452.

22 G. A person who knowingly influences the sale, giving or serving of
23 spirituous liquor to a person under the legal drinking age by misrepresenting
24 the age of such person or who orders, requests, receives or procures
25 spirituous liquor from any licensee, employee or other person with the intent
26 of selling, giving or serving it to a person under the legal drinking age is
27 guilty of a class 1 misdemeanor.

28 H. A person who is of legal drinking age and who is an occupant of
29 unlicensed premises is guilty of a class 1 misdemeanor if both of the
30 following apply:

31 1. Such person knowingly allows a gathering on such unlicensed
32 premises of two or more persons who are under the legal drinking age and who
33 are neither:

- 34 (a) Members of the immediate family of such person.
35 (b) Permanently residing with such person.

36 2. Such person knows or should know that one or more of the persons
37 under the legal drinking age is in possession of or consuming spirituous
38 liquor on the unlicensed premises.

39 I. For purposes of ~~this~~ subsection H OF THIS SECTION, "occupant" means
40 a person who has legal possession or the legal right to exclude others from
41 the unlicensed premises.

42 ~~I~~ J. A peace officer shall forward or electronically transfer to the
43 director of the department of transportation the affidavit required by
44 section 28-452 if the peace officer has arrested a person for the commission

1 of an offense for which, on conviction, suspension of the license or
2 privilege to operate a motor vehicle is required by section 28-452,
3 subsection A or B.

4 ~~J~~ K. A person who acts under a program of testing compliance with
5 this title which is approved by the director is not in violation of section
6 4-244.

7 Sec. 16. Section 4-243, Arizona Revised Statutes, is amended to read:
8 4-243. Commercial coercion or bribery unlawful; exceptions

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

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

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

19 3. To acquire an interest in property owned, occupied or used by the
20 retailer in his business, or in a license with respect to the premises of the
21 retailer.

22 4. To furnish, give, rent, lend or sell to the retailer equipment,
23 fixtures, signs, supplies, money, services or other things of value, subject
24 to such exception as the rules adopted pursuant to this title may prescribe,
25 having regard for established trade customs and the purposes of this
26 subsection.

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

30 6. To guarantee a loan or repayment of a financial obligation of the
31 retailer.

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

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

35 9. To offer or give a bonus, premium or compensation to the retailer
36 or any of his officers, employees or representatives.

37 B. This section does not prohibit any distiller, vintner, brewer,
38 rectifier, blender or other producer or wholesaler of any spirituous liquor
39 from giving financial and other forms of event sponsorship assistance to
40 nonprofit or charitable organizations for purposes of charitable fund raising
41 which are issued special event licenses by the department. This section does
42 not prohibit such suppliers from advertising their sponsorship at such
43 special events.

1 C. NOTWITHSTANDING SUBSECTION A, PARAGRAPH 4, ANY WHOLESALER OF ANY
2 SPIRITUOUS LIQUOR MAY SELL TOBACCO PRODUCTS OR FOODSTUFFS TO A RETAILER AT
3 A PRICE NOT LESS THAN THE COST TO THE WHOLESALER.

4 ~~C~~ D. It is unlawful for a retailer to request and knowingly receive
5 anything of value that a distiller, vintner, brewer, rectifier, blender, or
6 other producer or wholesaler is prohibited by subsection A from furnishing
7 to a retailer except that this ~~provision~~ SUBSECTION shall not prohibit
8 special discounts provided to retailers based on quantity purchases.

9 Sec. 17. Section 4-244, Arizona Revised Statutes, is amended to read:

10 4-244. Unlawful acts

11 It is unlawful:

12 1. For a person to buy for resale, sell or deal in spirituous liquors
13 in this state without first having procured a license duly issued by the
14 board.

15 2. For a person to sell or deal in alcohol for beverage purposes
16 without first complying with this title.

17 3. For a distiller, vintner, brewer or wholesaler knowingly to sell,
18 dispose of or give spirituous liquor to any person other than a licensee
19 except in sampling wares as may be necessary in the ordinary course of
20 business or except in donating spirituous liquor to a nonprofit organization
21 which has obtained a special event license for the purpose of charitable fund
22 raising activities.

23 4. For a distiller, vintner or brewer to require a wholesaler to offer
24 or grant a discount to a retailer, unless the discount has also been offered
25 and granted to the wholesaler by the distiller, vintner or brewer.

26 5. For a distiller, vintner or brewer to use a vehicle for trucking
27 or transportation of spirituous liquors unless there is affixed to both sides
28 of the vehicle a sign showing the name and address of the licensee and the
29 type and number of ~~his~~ THE PERSON'S license in letters not less than three
30 and one-half inches in height.

31 6. For a person to take or solicit orders for spirituous liquors
32 unless ~~he~~ THE PERSON is a salesman or solicitor of a licensed wholesaler, a
33 salesman or solicitor of a distiller, brewer, vintner, importer or broker or
34 a registered retail agent.

35 7. For any retail licensee to purchase spirituous liquors from any
36 person other than a solicitor or salesman of a wholesaler licensed in this
37 state.

38 8. For a retailer to acquire an interest in property owned, occupied
39 or used by a wholesaler in his business, or in a license with respect to the
40 premises of the wholesaler.

41 9. Except as provided in paragraphs 10 and 11 of this section, for a
42 licensee or other person to sell, furnish, dispose of or give, or cause to
43 be sold, furnished, disposed of or given, to a person under the legal
44 drinking age, or for a person under the legal drinking age to buy, receive,

1 have in possession or consume, spirituous liquor. The provisions of this
2 paragraph shall not prohibit the employment by an off-sale retailer of
3 persons who are at least sixteen years of age to check out, if supervised by
4 a person on the premises who is at least nineteen years of age, package or
5 carry merchandise, including spirituous liquor, in unbroken packages, for the
6 convenience of the customer of the employer, if the employer sells primarily
7 merchandise other than spirituous liquor.

8 10. For a licensee to employ a person under the age of nineteen years
9 to manufacture, sell or dispose of spirituous liquors. The provisions of
10 this paragraph shall not prohibit the employment by an off-sale retailer of
11 persons who are at least sixteen years of age to check out, if supervised by
12 a person on the premises who is at least nineteen years of age, package or
13 carry merchandise, including spirituous liquor, in unbroken packages, for the
14 convenience of the customer of the employer, if the employer sells primarily
15 merchandise other than spirituous liquor.

16 11. For an on-sale retail licensee to employ a person under the age of
17 nineteen years in any capacity connected with the handling of spirituous
18 liquors. This paragraph does not prohibit the employment by an on-sale
19 retailer of a person under the age of nineteen years who cleans up the tables
20 on the premises for reuse, removes dirty dishes, keeps a ready supply of
21 needed items and helps clean up the premises.

22 12. For a licensee, when engaged in waiting on or serving customers,
23 to consume spirituous liquor or for a licensee or on-duty employee to be on
24 or about the licensed premises while in an intoxicated or disorderly
25 condition.

26 13. For an employee of a RETAIL licensee, during that employee's
27 working hours or in connection with such employment, to give to or purchase
28 for any other person, accept a gift of, purchase for himself or consume
29 spirituous liquor, except that an employee of a licensee, during that
30 employee's working hours or in connection with the employment, while the
31 employee is not engaged in waiting on or serving customers, may give
32 spirituous liquor to or purchase spirituous liquor for any other person. AN
33 UNPAID VOLUNTEER WHO IS A BONA FIDE MEMBER OF A CLUB AND WHO IS NOT ENGAGED
34 IN WAITING ON OR SERVING SPIRITUOUS LIQUOR TO CUSTOMERS MAY PURCHASE FOR
35 HIMSELF AND CONSUME SPIRITUOUS LIQUOR WHILE PARTICIPATING IN A SCHEDULED
36 EVENT AT THE CLUB. AN UNPAID PARTICIPANT IN A FOOD COMPETITION MAY PURCHASE
37 FOR HIMSELF AND CONSUME SPIRITUOUS LIQUOR WHILE PARTICIPATING IN THE FOOD
38 COMPETITION.

39 14. For a licensee or other person to serve, sell or furnish spirituous
40 liquor to a disorderly or obviously intoxicated person, or for a licensee or
41 employee of the licensee to allow or permit a disorderly or obviously
42 intoxicated person to come into or remain on or about the premises, except
43 that a licensee or an employee of the licensee may allow an obviously
44 intoxicated person to remain on the premises for a period of time of not to

1 exceed thirty minutes after the state of obvious intoxication is known or
2 should be known to the licensee in order that a nonintoxicated person may
3 transport the obviously intoxicated person from the premises. For purposes
4 of this section, "obviously intoxicated" means inebriated to the extent that
5 a person's physical faculties are substantially impaired and the impairment
6 is shown by significantly uncoordinated physical action or significant
7 physical dysfunction that would have been obvious to a reasonable person.

8 15. For an on-sale or off-sale retail licensee or an employee of such
9 licensee to sell, dispose of, deliver or give spirituous liquor to a person
10 between the hours of 1:00 a.m. and 6:00 a.m. on weekdays, and 1:00 a.m. and
11 10:00 a.m. on Sundays.

12 16. For a licensee or employee to knowingly permit any person on or
13 about the licensed premises to give or furnish any spirituous liquor to any
14 person under the age of twenty-one or knowingly permit any person under the
15 age of twenty-one to have in ~~his~~ THE PERSON'S possession spirituous liquor
16 on the licensed premises.

17 17. For an on-sale retail licensee or an employee of such licensee to
18 allow a person to consume spirituous liquors on the premises between the
19 hours of 1:15 a.m. and 6:00 a.m. on weekdays, and 1:15 a.m. and 10:00 a.m.
20 on Sundays, or allow a person who is not the licensee or employee to possess
21 spirituous liquors in open containers on the premises between the hours of
22 1:30 a.m. and 6:00 a.m. on weekdays, and 1:30 a.m. and 10:00 a.m. on Sundays.

23 18. For an on-sale retail licensee to permit an employee or for an
24 employee to solicit or encourage others, directly or indirectly, to buy the
25 employee drinks or anything of value in the licensed premises during the
26 employee's working hours. No licensee shall serve employees or allow a
27 patron of the establishment to give spirituous liquor to, or to purchase
28 liquor for or drink liquor with, any employee during the employee's working
29 hours.

30 19. For an off-sale retailer or employee to sell spirituous liquor
31 except in the original unbroken container, to permit spirituous liquor to be
32 consumed on the premises or to knowingly permit spirituous liquor to be
33 consumed on adjacent property under the licensee's exclusive control.

34 20. For a person to consume spirituous liquor in a public place,
35 thoroughfare or gathering. The license of a licensee permitting a violation
36 of this paragraph on the premises shall be subject to revocation. This
37 paragraph does not apply to the sale of spirituous liquors on the premises
38 of and by an on-sale retail licensee. This paragraph also does not apply to
39 a person consuming beer from a broken package in a public recreation area or
40 on private property with permission of the owner or lessor or on the walkways
41 surrounding such private property.

42 21. For a person to have possession of or to transport spirituous
43 liquor which is manufactured in a distillery, winery, brewery or rectifying
44 plant contrary to the laws of the United States and this state. Any property

1 used in transporting such spirituous liquor shall be forfeited to the state
2 and shall be seized and disposed of as provided in section 4-221.

3 22. For a person to operate a motor vehicle on any highway while
4 consuming spirituous liquor.

5 23. For an on-sale retail licensee or employee to allow a person under
6 the legal drinking age to remain in an area on the licensed premises, during
7 those hours in which its primary use is the sale, dispensing or consumption
8 of alcoholic beverages, after the licensee, or ~~his~~ THE LICENSEE'S employees,
9 know or should have known that the person is under the legal drinking age.
10 ~~A licensee may not designate an area of his licensed premises as an area in~~
11 ~~which spirituous liquor will not be sold or consumed for the purpose of~~
12 ~~allowing underage persons on the premises.~~ THE DIRECTOR MAY ADOPT RULES TO
13 REGULATE THE PRESENCE OF UNDERAGE PERSONS ON LICENSED PREMISES. This
14 paragraph does not apply:

15 (a) If the person under the legal drinking age is accompanied by a
16 spouse, parent or legal guardian of legal drinking age or is an on-duty
17 employee of the licensee.

18 (b) ~~To the area of the premises used primarily for the serving of food~~
19 ~~or patron participatory recreation during the hours when food is served or~~
20 ~~patron participatory recreation is the primary use of the premises.~~

21 24. For an on-sale retail licensee or employee to conduct drinking
22 contests, to sell or deliver to a person an unlimited number of spirituous
23 liquor beverages during any set period of time for a fixed price, to deliver
24 more than ~~two spirituous liquor beverages~~ THIRTY-TWO OUNCES OF BEER, ONE
25 LITER OF WINE OR FOUR OUNCES OF DISTILLED SPIRITS IN ANY SPIRITUOUS LIQUOR
26 DRINK to one person at one time for that person's consumption or to advertise
27 any practice prohibited by this paragraph.

28 25. For a licensee or employee to knowingly permit the unlawful
29 possession, use, sale or offer for sale of narcotics, dangerous drugs or
30 marijuana on the premises.

31 26. For a licensee or employee to knowingly permit prostitution or the
32 solicitation of prostitution on the premises.

33 27. For a licensee or employee to knowingly permit unlawful gambling
34 on the premises.

35 28. For a licensee or employee to knowingly permit trafficking or
36 attempted trafficking in stolen property on the premises.

37 29. For a licensee or employee to fail or refuse to make the premises
38 or records available for inspection and examination as provided in this title
39 or to comply with a lawful subpoena issued under this title.

40 30. For any person other than a peace officer or the licensee or an
41 employee of the licensee acting with the permission of the licensee to be in
42 possession of a firearm while on the licensed premises of an on-sale retail
43 establishment knowing such possession is prohibited. This paragraph shall
44 not be construed to include a situation in which a person is on licensed

1 premises for a limited time in order to seek emergency aid and such person
2 does not buy, receive, consume, or possess spirituous liquor. This paragraph
3 shall not apply to hotel or motel guest room accommodations nor to the
4 exhibition or display of a firearm in conjunction with a meeting, show, class
5 or similar event.

6 31. For a licensee or employee to knowingly permit a person in
7 possession of a firearm other than a peace officer or the licensee or an
8 employee of the licensee acting with the permission of the licensee to remain
9 on the licensed premises or to serve, sell, or furnish spirituous liquor to
10 a person in possession of a firearm while on the licensed premises of an
11 on-sale retail establishment. This paragraph shall not apply to hotel or
12 motel guest room accommodations nor to the exhibition or display of a firearm
13 in conjunction with a meeting, show, class or similar event. It shall be a
14 defense to action under this paragraph if the licensee or employee requested
15 assistance of a peace officer to remove such person.

16 32. For a licensee or employee to knowingly permit spirituous liquor
17 to be removed from the licensed premises, except in the original unbroken
18 package. This paragraph shall not apply to a person who removes a bottle of
19 wine which has been partially consumed in conjunction with a purchased meal
20 from the licensed premises if the cork is reinserted flush with the top of
21 the bottle.

22 33. For a person who is obviously intoxicated to buy or attempt to buy
23 spirituous liquor from a licensee or employee of a licensee or to consume
24 spirituous liquor on the licensed premises.

25 34. For a person under the age of twenty-one years to drive or be in
26 physical control of a motor vehicle while there is any spirituous liquor in
27 the person's body.

28 35. For a person under the age of twenty-one years to operate or be in
29 physical control of a motorized watercraft that is underway while there is
30 any spirituous liquor in the person's body. For the purposes of this
31 paragraph, "underway" has the same meaning as prescribed in section 5-301.

32 36. For a licensee, manager, employee, or controlling person to
33 purposely induce a voter, by means of alcohol, to vote or abstain from voting
34 for or against a particular candidate or issue on an election day.

35 37. For a licensee to fail to report an occurrence of an act of
36 violence to either the department or a law enforcement agency.

37 38. For a licensee to use a vending machine for the purpose of
38 dispensing spirituous liquor.

39 39. For a licensee to offer for sale a wine carrying a label including
40 a reference to Arizona or any Arizona city, town or ~~place~~ GEOGRAPHIC LOCATION
41 unless at least seventy-five per cent by volume of the grapes used in making
42 the wine were grown in Arizona.

43 40. For a retailer to knowingly allow a customer to bring spirituous
44 liquor onto the licensed premises, EXCEPT THAT AN ON-SALE RETAILER MAY ALLOW

1 A WINE AND FOOD CLUB TO BRING WINE ONTO THE PREMISES FOR CONSUMPTION BY THE
2 CLUB'S MEMBERS AND GUESTS OF THE CLUB'S MEMBERS IN CONJUNCTION WITH MEALS
3 PURCHASED AT A MEETING OF THE CLUB THAT IS CONDUCTED ON THE PREMISES AND THAT
4 AT LEAST SEVEN MEMBERS ATTEND. AN ON-SALE RETAILER WHO ALLOWS WINE AND FOOD
5 CLUBS TO BRING WINE ONTO ITS PREMISES UNDER THIS PARAGRAPH SHALL COMPLY WITH
6 ALL APPLICABLE PROVISIONS OF THIS TITLE AND ANY RULES ADOPTED PURSUANT TO
7 THIS TITLE TO THE SAME EXTENT AS IF THE ON-SALE RETAILER HAD SOLD THE WINE
8 TO THE MEMBERS OF THE CLUB AND THEIR GUESTS. FOR THE PURPOSES OF THIS
9 PARAGRAPH, "WINE AND FOOD CLUB" MEANS AN ASSOCIATION THAT HAS MORE THAN
10 TWENTY BONA FIDE MEMBERS PAYING AT LEAST SIX DOLLARS PER YEAR IN DUES AND
11 THAT HAS BEEN IN EXISTENCE FOR AT LEAST ONE YEAR.

12 Sec. 18. Exemption from rule making

13 The department of liquor licenses and control is exempt from the rule
14 making provisions of title 41, chapter 6, Arizona Revised Statutes, for the
15 purpose of adopting rules concerning holiday decorations, regulating the
16 presence of underage persons on licensed premises and repealing duplicate or
17 conflicting rules for one year after the effective date of this act, except
18 that the department and the director shall provide for reasonable notice and
19 a hearing on a proposed amendment to an existing rule or proposed new rule.

20 Sec. 19. Filing rules with secretary of state

21 The director of the department of liquor licenses and control shall
2 file all rules adopted by the department before the effective date of this
23 act with the secretary of state by December 31, 1996. The secretary of state
24 shall keep a permanent record of these rules.

APPROVED BY THE GOVERNOR APRIL 30, 1996

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 30, 1996