

State of Arizona  
Senate  
Forty-fifth Legislature  
Second Regular Session  
2002

CHAPTER 155

# SENATE BILL 1073

AN ACT

AMENDING SECTION 4-203.04, ARIZONA REVISED STATUTES; RELATING TO THE  
REGULATION OF WINE SHIPMENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 4-203.04, Arizona Revised Statutes, is amended to  
3 read:

4 4-203.04. Direct shipment license; issuance; fee; requirements;  
5 penalties; cease and desist orders

6 A. The director may issue a direct shipment license to an out-of-state  
7 person who is engaged in business as a distiller, vintner, brewer, rectifier,  
8 blender or other producer of spirituous liquor if the person is licensed in  
9 the state where the person's principal place of business is located and the  
10 director determines that the person is capable and reliable and is qualified  
11 to hold a direct shipment license.

12 B. A person shall apply for a direct shipment license on a form  
13 prescribed by the director. The director may charge an application fee. In  
14 addition to other matters required by the director, an application for a  
15 direct shipment license shall include:

16 1. The address of the out-of-state premises where the applicant's  
17 principal place of business is located and a copy of the applicant's  
18 spirituous liquor license in that state.

19 2. The name, address and telephone number of an officer of the  
20 applicant who is authorized to represent the applicant before the director.

21 3. A complete and full disclosure by the applicant and by any officer,  
22 director, administrator or controlling person of the applicant of any  
23 criminal convictions in any state or foreign jurisdiction within the five  
24 years immediately preceding the application.

25 4. The names and addresses of the wholesalers licensed in this state  
26 through which the applicant will ship spirituous liquor into this state.

27 5. The number of individual orders of spirituous liquor, if any, that  
28 the applicant shipped to wholesalers in this state during the previous three  
29 years and the names and addresses of each wholesaler who received the  
30 shipments.

31 6. A statement that the applicant acknowledges that shipments by the  
32 applicant of spirituous liquor into this state contrary to this section will  
33 result in the immediate suspension of the applicant's direct shipment  
34 license.

35 C. The director may refuse to issue a DIRECT SHIPMENT license for good  
36 cause. After a hearing, the director may suspend or revoke a direct shipment  
37 license for good cause. The director shall not issue a direct shipment  
38 license to any person who:

39 1. Has had a direct shipment license or any license to deal in  
40 spirituous liquor revoked in this state or any other state within one year  
41 preceding the application.

42 2. Has been convicted of a felony in this state or any other state or  
43 has been convicted of an offense in another state that would be a felony if  
44 convicted in this state within five years preceding the application.

1 D. A direct shipment license is valid for three years. Direct  
2 shipment licenses may not be renewed or transferred. A person who holds a  
3 direct shipment license may apply for a new license not more than ninety days  
4 before expiration of the person's current license.

5 E. A resident of this state who is twenty-one years of age or older  
6 may place an order in person, by telephone, mail or catalog or on the  
7 internet for spirituous liquor for the person's own personal use with an  
8 out-of-state person who holds a direct shipment license.

9 F. A person who holds a direct shipment license shall ensure that  
10 shipments of spirituous liquor pursuant to this section are made in  
11 conformance with all applicable provisions of this title and rules adopted  
12 pursuant to this title. A direct shipment licensee who violates this title  
13 or rules adopted pursuant to this title is subject to ~~a fine~~, a civil or  
14 criminal penalty and suspension or revocation of the person's license.

15 G. A person who holds a direct shipment license shall deliver  
16 spirituous liquor ordered pursuant to subsection E of this section to a  
17 wholesaler who is licensed in this state. The wholesaler shall pay all  
18 luxury taxes imposed on the shipment pursuant to title 42, chapter 3 to the  
19 department of revenue and shall deliver the liquor to a retailer with  
20 off-sale privileges who is licensed in this state.

21 H. The licensed retailer shall deliver the spirituous liquor or shall  
22 arrange for the delivery of the spirituous liquor to the person who placed  
23 the order and shall collect and pay to the department of revenue all  
24 transaction privilege taxes imposed pursuant to title 42, chapter 5. The  
25 retailer shall:

26 1. Ensure that:

27 (a) The person making the delivery is twenty-one years of age or  
28 older.

29 (b) The delivery occurs only during the hours that spirituous liquor  
30 may be lawfully served in this state.

31 (c) Deliveries are not made to persons who are obviously intoxicated  
32 or are otherwise disorderly.

33 (d) The person accepting the delivery is twenty-one years of age or  
34 older and exhibits an acceptable written instrument of identification  
35 pursuant to section 4-241.

36 2. Make a record of the delivery at the time of delivery on a form  
37 approved by the director of the department of liquor licenses and control.  
38 The record shall be retained by the retailer for at least two years and shall  
39 include the following information:

40 (a) The business name, address and license number of the retailer.

41 (b) The date and time of delivery.

42 (c) The address where the delivery occurred.

43 (d) The type, brand and amount of the spirituous liquor delivered.

44 (e) The printed name and signature of the person making the delivery.

1 (f) The printed name and signature of the person accepting the  
2 delivery, along with the type and serial number of the written identification  
3 the person accepting delivery presented.

4 (g) The age of the person accepting delivery.

5 3. Refuse to complete a delivery if the retailer believes that the  
6 delivery would violate any applicable provision of this title.

7 I. If the director has reasonable cause to believe that a person who  
8 is licensed pursuant to this section is acting in violation of this section,  
9 the director may serve a cease and desist order requiring the person to cease  
10 and desist the violation. The director may impose a civil penalty of not  
11 more than one hundred fifty thousand dollars against a person who knowingly  
12 violates a cease and desist order issued pursuant to this section.

13 J. THIS SECTION SHALL NOT BE CONSTRUED TO PROHIBIT A PERSON FROM  
14 SHIPPING WINE TO CONSUMERS IN THIS STATE AS LONG AS ALL OF THE FOLLOWING  
15 APPLY:

16 1. THE PERSON IS NOT DIRECTLY OR INDIRECTLY, OR THROUGH AN AFFILIATE,  
17 ENGAGED IN THE BUSINESS OF PRODUCER OF SPIRITUOUS LIQUOR OR IN BUYING OR  
18 SELLING OR DEALING IN SPIRITUOUS LIQUOR.

19 2. THE PERSON SHIPS ONLY AS A CONVENIENCE FOR CONSUMERS WHO ARE  
20 PHYSICALLY PRESENT AT THE PERSON'S RETAIL LOCATION IN THE OTHER STATE.

21 3. THE PERSON IS A COMMON CARRIER.

22 4. THE PERSON SHIPS ONLY WINE TO THE CUSTOMER.

23 5. THE PERSON SHIPS NO MORE THAN ONE CASE OF WINE ANNUALLY TO ANY ONE  
24 CONSUMER.

25 6. THE PERSON SHIPS TO THE CONSUMER'S RESIDENCE ADDRESS AND NOT TO ANY  
26 BUSINESS ADDRESS.

27 J. K. Section 4-201 does not apply to licenses issued pursuant to  
28 this section.

APPROVED BY THE GOVERNOR MAY 6, 2002.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 7, 2002.



SENATE CONCURS IN HOUSE AMENDMENTS  
AND FINAL PASSAGE

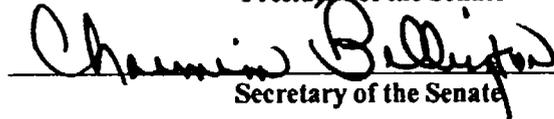
Passed the Senate April 30, 2002,

by the following vote: 17 Ayes,

10 Nays, 3 Not Voting



President of the Senate



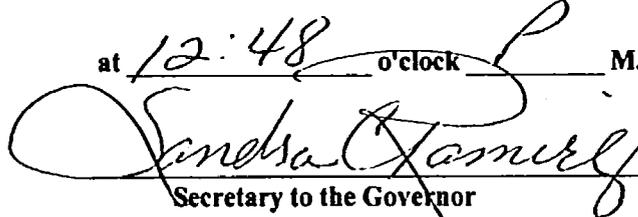
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

30 day of April, 2002

at 12:48 o'clock P M.



Secretary to the Governor

Approved this 6 day of

May, 2002,

at 3:20 o'clock P M.



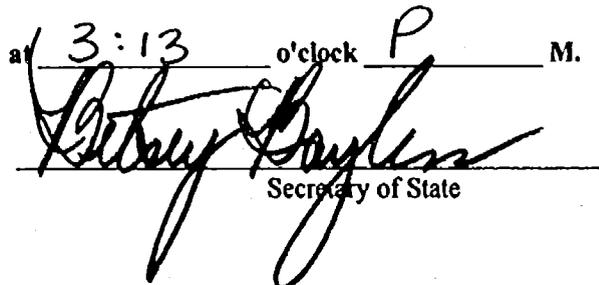
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 7 day of May, 2002,

at 3:13 o'clock P M.



Secretary of State

S.B. 1073