Senate Engrossed House Bill

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 220

HOUSE BILL 2213

AN ACT

AMENDING SECTION 4-101, ARIZONA REVISED STATUTES; RELATING TO LIQUOR LICENSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 4-101, Arizona Revised Statutes, is amended to
3 read:
4 4-101. Definitions
5 In this title, unless the context otherwise requires:
6 1. "Act of violence" means an incident consisting of a riot, a brawl
7 or a disturbance, in which bodily injuries are sustained by any person and
8 such injuries would be obvious to a reasonable person, or tumultuous conduct
9 of sufficient intensity as to require the intervention of a peace officer to
10 restore normal order, or an incident in which a weapon is brandished,
11 displayed or used. ACT OF VIOLENCE DOES NOT INCLUDE THE USE OF NONLETHAL
12 DEVICES BY A PEACE OFFICER.
13 2. "Aggrieved party" means a person who resides at, owns or leases
14 property within a one mile radius of a premises proposed to be licensed and
15 who filed a written request with the department to speak in favor of or
16 opposition to the issuance of the license no later than sixty days after the
17 filing of the application or fifteen days after action by the local governing
18 body, whichever is later.
19 3. "Beer" means any beverage obtained by the alcoholic fermentation,
20 infusion or decoction of barley malt, hops, or other ingredients not
21 drinkable, or any combination of them.
22 4. "Board" means the state liquor board.
23 5. "Bona fide guest" means:
24 (a) A person who is actually a houseguest or a person whose presence
25 as a guest is in response to a specific and personal invitation.
26 (b) In the case of a club that meets the criteria prescribed in
27 paragraph 7, subdivision (a) of this section, a current member of the armed
28 services of the United States who presents proper military identification and
29 any member of a recognized veterans' organization of any country allied with
30 the United States during current or past wars or through treaty arrangements.
31 6. "Broken package" means any container of spirituous liquor on which
32 the United States tax seal has been broken or removed, or from which the cap,
33 cork or seal placed thereupon by the manufacturer has been removed.
34 7. "Club" includes any of the following organizations where the sale
35 of spirituous liquor for consumption on the premises is made to members only:
36 (a) A post, chapter, camp or other local unit composed solely of
37 veterans and its duly recognized auxiliary which has been chartered by the
38 Congress of the United States for patriotic, fraternal or benevolent purposes
39 and which has, as the owner, lessee or occupant, operated an establishment
40 for that purpose in this state.
41 (b) A chapter, aerie, parlor, lodge or other local unit of an American
42 national fraternal organization which has as the owner, lessee or occupant
43 operated an establishment for fraternal purposes in this state. An American
44 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 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, that owns, maintains or operates club quarters, 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 this one year period, 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 of each signer. The petition shall not have been signed by a member at a date earlier than thirty days prior to the filing of the petition. The club shall qualify for exemption from the payment of state income taxes under title 43. It is the intent of this paragraph that a license shall not be granted to a club which is, or has been, primarily formed or activated to obtain a license to sell liquor, but solely to a bona fide club, where the sale of liquor is incidental to the main purposes of the club.

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

8. "Company" or "association", when used in reference to a corporation, includes successors or assigns.

9. "Control" means the power to direct or cause the direction of the management and policies of an applicant, licensee or controlling person, whether through the ownership of voting securities or a partnership interest, by agreement or otherwise. Control is presumed to exist if a person has the direct or indirect ownership of or power to vote ten per cent or more of the outstanding voting securities of the applicant, licensee or controlling person or to control in any manner the election of one or more of the directors of the applicant, licensee or controlling person. In the case of a partnership, control is presumed to mean the general partner or a limited

1 partner who holds ten per cent or more of the voting rights of the
2 partnership. For the purposes of determining the percentage of voting
3 securities owned, controlled or held by a person, there shall be aggregated
4 with the voting securities attributed to the person the voting securities of
5 any other person directly or indirectly controlling, controlled by or under
6 common control with the other person, or by an officer, partner, employee or
7 agent of the person or by a spouse, parent or child of the person. Control
8 is also presumed to exist if a creditor of the applicant, licensee or
9 controlling person holds a beneficial interest in ten per cent or more of the
10 liabilities of the licensee or controlling person.
11 10. "Controlling person" means a person directly or indirectly
12 possessing control of an applicant or licensee.
13 11. "Department" means the department of liquor licenses and control.
14 12. "Director" means the director of the department of liquor licenses
15 and control.
16 13. "Distilled spirits" includes alcohol, brandy, whiskey, rum,
17 tequila, mescal, gin, absinthe, a compound or mixture of any of them or of
18 any of them with any vegetable or other substance, alcohol bitters, bitters
19 containing alcohol, fruits preserved in ardent spirits, and any alcoholic
20 mixture or preparation, whether patented or otherwise, which may in
21 sufficient quantities produce intoxication.
22 14. "Employee" means any person who performs any service on licensed
23 premises on a full-time, part-time or contract basis with consent of the
24 licensee, whether or not the person is denominated an employee, independent
25 contractor or otherwise. Employee does not include a person exclusively on
26 the premises for musical or vocal performances, for repair or maintenance of
27 the premises or for the delivery of goods to the licensee.
28 15. "Government license" means a license to serve and sell spirituous
29 liquor on specified premises available only to a county, city, town or state
30 university or the Arizona coliseum and exposition center upon application by
31 the governing body of a county, city, town or state university or the Arizona
32 exposition and state fair board.
33 16. "Legal drinking age" means the age of twenty-one years or older.
34 17. "License" means a license or an interim retail permit issued
35 pursuant to the provisions of this title.
36 18. "License fees" means fees collected for license issuance, license
37 application, license renewal, interim permit issuance and license transfer
38 between persons or locations.
39 19. "Licensee" means a person who has been issued a license or an
40 interim retail permit pursuant to the provisions of this title or a special
41 event licensee.
42 20. "Manager" means a natural person who meets the standards required
43 of licensees and has authority to organize, direct, carry on, control or
44 otherwise operate a licensed business on a temporary or full-time basis.

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

22. "On-sale retailer" means any person operating an establishment where spirituous liquors are sold in the original container for consumption on or off the premises or in individual portions for consumption on the premises.

23. "Person" includes a partnership, limited liability company, association, company or corporation, as well as a natural person.

24. "Premises" or "licensed premises" means the area from which the licensee is authorized to sell, dispense or serve spirituous liquors under the provision of the license.

25. "Registered mail" includes certified mail.

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

27. "Repeated acts of violence" means two or more acts of violence occurring within seven days, three or more acts of violence occurring within thirty days or acts of violence occurring with any other similar frequency which the director determines to be unusual or deserving of review.

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

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

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

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

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

1 33. "Voting security" means any security presently entitling the
2 owner or holder of the security to vote for the election of directors of an
3 applicant, licensee or controlling person.
4 34. "Wine" means the product obtained by the fermentation of grapes
5 or other agricultural products containing natural or added sugar or any such
6 alcoholic beverage fortified with grape brandy and containing not more than
7 twenty-four per cent of alcohol by volume.
8 Sec. 2. Purpose
9 This amendment to section 4-101, Arizona Revised Statutes, is a
10 clarification of existing administrative authority and is not intended to be
11 a substantive change.

APPROVED BY THE GOVERNOR MAY 11, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 11, 2004.

Passed the House March 11, 2004

by the following vote: 56 Ayes,

0 Nays, 4 Not Voting

Jake Flake
Speaker of the House

Norman L. Moore
Chief Clerk of the House

Passed the Senate April 22, 2004

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

Ken Bennett
President of the Senate

Charmin Billington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

_____ day of _____, 20___,

at _____ o'clock _____ M.

_____
Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

_____
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20___,

at _____ o'clock _____ M.

_____
Secretary of State

H.B. 2213

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

May 5, 2004,

by the following vote: 56 Ayes,

0 Nays, 4 Not Voting

Jake Flake
Speaker of the House

Norman L. Moore
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

5th day of May, 2004,

at 11:45 o'clock a. M.

Jennifer Ybarra
Secretary to the Governor

Approved this 11 day of

May, 2004,

at 10:20 o'clock A. M.

J. Napolitano
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 11 day of May, 2004,

at 11:25 o'clock A M.

Jeanne K. Brewer
Secretary of State

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