

House Engrossed

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

CHAPTER 77

# HOUSE BILL 2570

AN ACT

AMENDING SECTION 4-244, 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 4-244, Arizona Revised Statutes, is amended to  
3 read:

4 4-244. Unlawful acts

5 It is unlawful:

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

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

11 3. For a distiller, vintner, brewer or wholesaler knowingly to sell,  
12 dispose of or give spirituous liquor to any person other than a licensee  
13 except in sampling wares as may be necessary in the ordinary course of  
14 business, except in donating spirituous liquor to a nonprofit organization  
15 which has obtained a special event license for the purpose of charitable fund  
16 raising activities or except in donating spirituous liquor with a cost to the  
17 distiller, brewer or wholesaler of up to one hundred dollars in a calendar  
18 year to an organization that is exempt from federal income taxes under  
19 section 501(c) of the internal revenue code and not licensed under this  
20 title.

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

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

29 6. For a person to take or solicit orders for spirituous liquors  
30 unless the person is a salesman or solicitor of a licensed wholesaler, a  
31 salesman or solicitor of a distiller, brewer, vintner, importer or broker or  
32 a registered retail agent.

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

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

39 9. Except as provided in paragraphs 10 and 11 of this section, for a  
40 licensee or other person to sell, furnish, dispose of or give, or cause to  
41 be sold, furnished, disposed of or given, to a person under the legal  
42 drinking age or for a person under the legal drinking age to buy, receive,  
43 have in the person's possession or consume spirituous liquor. The provisions  
44 of This paragraph shall not prohibit the employment by an off-sale retailer  
45 of persons who are at least sixteen years of age to check out, if supervised

1 by a person on the premises who is at least nineteen years of age, package  
2 or carry merchandise, including spirituous liquor, in unbroken packages, for  
3 the convenience of the customer of the employer, if the employer sells  
4 primarily merchandise other than spirituous liquor.

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

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

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

23 13. For an employee of a retail licensee, during that employee's  
24 working hours or in connection with such employment, to give to or purchase  
25 for any other person, accept a gift of, purchase for himself or consume  
26 spirituous liquor, except that an employee of a licensee, during that  
27 employee's working hours or in connection with the employment, while the  
28 employee is not engaged in waiting on or serving customers, may give  
29 spirituous liquor to or purchase spirituous liquor for any other person. An  
30 unpaid volunteer who is a bona fide member of a club and who is not engaged  
31 in waiting on or serving spirituous liquor to customers may purchase for  
32 himself and consume spirituous liquor while participating in a scheduled  
33 event at the club. An unpaid participant in a food competition may purchase  
34 for himself and consume spirituous liquor while participating in the food  
35 competition.

36 14. For a licensee or other person to serve, sell or furnish spirituous  
37 liquor to a disorderly or obviously intoxicated person, or for a licensee or  
38 employee of the licensee to allow or permit a disorderly or obviously  
39 intoxicated person to come into or remain on or about the premises, except  
40 that a licensee or an employee of the licensee may allow an obviously  
41 intoxicated person to remain on the premises for a period of time of not to  
42 exceed thirty minutes after the state of obvious intoxication is known or  
43 should be known to the licensee in order that a nonintoxicated person may  
44 transport the obviously intoxicated person from the premises. For purposes  
45 of this section, "obviously intoxicated" means inebriated to the extent that

1 a person's physical faculties are substantially impaired and the impairment  
2 is shown by significantly uncoordinated physical action or significant  
3 physical dysfunction that would have been obvious to a reasonable person.

4 15. For an on-sale or off-sale retailer or an employee of such retailer  
5 to sell, dispose of, deliver or give spirituous liquor to a person between  
6 the hours of ~~1:00~~ 2:00 a.m. and 6:00 a.m. on weekdays, and ~~1:00~~ 2:00 a.m. and  
7 10:00 a.m. on Sundays.

8 16. For a licensee or employee to knowingly permit any person on or  
9 about the licensed premises to give or furnish any spirituous liquor to any  
10 person under the age of twenty-one or knowingly permit any person under the  
11 age of twenty-one to have in the person's possession spirituous liquor on the  
12 licensed premises.

13 17. For an on-sale retailer or an employee of such retailer to allow  
14 a person to consume OR POSSESS spirituous liquors on the premises between the  
15 hours of ~~1:15~~ 2:30 a.m. and 6:00 a.m. on weekdays, and ~~1:15~~ 2:30 a.m. and  
16 10:00 a.m. on Sundays.  ~~, or allow a person who is not the licensee or~~  
17 ~~employee to possess spirituous liquors in open containers on the premises~~  
18 ~~between the hours of 1:30 a.m. and 6:00 a.m. on weekdays, and 1:30 a.m. and~~  
19 ~~10:00 a.m. on Sundays.~~

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

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

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

38 21. For a person to have possession of or to transport spirituous  
39 liquor which is manufactured in a distillery, winery, brewery or rectifying  
40 plant contrary to the laws of the United States and this state. Any property  
41 used in transporting such spirituous liquor shall be forfeited to the state  
42 and shall be seized and disposed of as provided in section 4-221.

43 22. For an on-sale retailer or employee to allow a person under the  
44 legal drinking age to remain in an area on the licensed premises during those  
45 hours in which its primary use is the sale, dispensing or consumption of

1 alcoholic beverages after the licensee, or the licensee's employees, know or  
2 should have known that the person is under the legal drinking age. An  
3 on-sale retailer may designate an area of the licensed premises as an area  
4 in which spirituous liquor will not be sold or consumed for the purpose of  
5 allowing underage persons on the premises if the designated area is separated  
6 by a physical barrier and at no time will underage persons have access to the  
7 area in which spirituous liquor is sold or consumed. The director, or a  
8 municipality, may adopt rules to regulate the presence of underage persons  
9 on licensed premises provided the rules adopted by a municipality are more  
10 stringent than those adopted by the director. The rules adopted by the  
11 municipality shall be adopted by local ordinance. This paragraph does not  
12 apply:

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

16 (b) If the owner, lessee or occupant of the premises is a club as  
17 defined in section 4-101, paragraph 7, subdivision (a) and the person under  
18 the legal drinking age is any of the following:

19 (i) An active duty military service member.

20 (ii) A veteran.

21 (iii) A member of the United States army national guard or the United  
22 States air national guard.

23 (iv) A member of the United States military reserve forces.

24 (c) To the area of the premises used primarily for the serving of food  
25 during the hours when food is served.

26 23. For an on-sale retailer or employee to conduct drinking contests,  
27 to sell or deliver to a person an unlimited number of spirituous liquor  
28 beverages during any set period of time for a fixed price, to deliver more  
29 than thirty-two ounces of beer, one liter of wine or four ounces of distilled  
30 spirits in any spirituous liquor drink to one person at one time for that  
31 person's consumption or to advertise any practice prohibited by this  
32 paragraph.

33 24. For a licensee or employee to knowingly permit the unlawful  
34 possession, use, sale or offer for sale of narcotics, dangerous drugs or  
35 marijuana on the premises.

36 25. For a licensee or employee to knowingly permit prostitution or the  
37 solicitation of prostitution on the premises.

38 26. For a licensee or employee to knowingly permit unlawful gambling  
39 on the premises.

40 27. For a licensee or employee to knowingly permit trafficking or  
41 attempted trafficking in stolen property on the premises.

42 28. For a licensee or employee to fail or refuse to make the premises  
43 or records available for inspection and examination as provided in this title  
44 or to comply with a lawful subpoena issued under this title.

1       29. For any person other than a peace officer, the licensee or an  
2 employee of the licensee acting with the permission of the licensee to be in  
3 possession of a firearm while on the licensed premises of an on-sale retailer  
4 knowing such possession is prohibited. This paragraph shall not be construed  
5 to include a situation in which a person is on licensed premises for a  
6 limited time in order to seek emergency aid and such person does not buy,  
7 receive, consume or possess spirituous liquor. This paragraph shall not  
8 apply to hotel or motel guest room accommodations nor to the exhibition or  
9 display of a firearm in conjunction with a meeting, show, class or similar  
10 event.

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

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

27       32. For a person who is obviously intoxicated to buy or attempt to buy  
28 spirituous liquor from a licensee or employee of a licensee or to consume  
29 spirituous liquor on licensed premises.

30       33. For a person under the age of twenty-one years to drive or be in  
31 physical control of a motor vehicle while there is any spirituous liquor in  
32 the person's body.

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

37       35. For a licensee, manager, employee or controlling person to  
38 purposely induce a voter, by means of alcohol, to vote or abstain from voting  
39 for or against a particular candidate or issue on an election day.

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

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

44       38. For a licensee to offer for sale a wine carrying a label including  
45 a reference to Arizona or any Arizona city, town or geographic location

1 unless at least seventy-five per cent by volume of the grapes used in making  
2 the wine were grown in Arizona.

3 39. For a retailer to knowingly allow a customer to bring spirituous  
4 liquor onto the licensed premises, except that an on-sale retailer may allow  
5 a wine and food club to bring wine onto the premises for consumption by the  
6 club's members and guests of the club's members in conjunction with meals  
7 purchased at a meeting of the club that is conducted on the premises and that  
8 at least seven members attend. An on-sale retailer who allows wine and food  
9 clubs to bring wine onto its premises under this paragraph shall comply with  
10 all applicable provisions of this title and any rules adopted pursuant to  
11 this title to the same extent as if the on-sale retailer had sold the wine  
12 to the members of the club and their guests. For the purposes of this  
13 paragraph, "wine and food club" means an association that has more than  
14 twenty bona fide members paying at least six dollars per year in dues and  
15 that has been in existence for at least one year.

16 40. For a person under the age of twenty-one years to have in the  
17 person's body any spirituous liquor. In a prosecution for a violation of  
18 this paragraph:

19 (a) Pursuant to section 4-249, it is a defense that the spirituous  
20 liquor was consumed in connection with the bona fide practice of a religious  
21 belief or as an integral part of a religious exercise and in a manner not  
22 dangerous to public health or safety.

23 (b) Pursuant to section 4-226, it is a defense that the spirituous  
24 liquor was consumed for a bona fide medicinal purpose and in a manner not  
25 dangerous to public health or safety.

APPROVED BY THE GOVERNOR APRIL 13, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 13, 2004.

Passed the House March 1, 2004

Passed the Senate April 6, 2004

by the following vote: 35 Ayes,

by the following vote: 19 Ayes,

25 Nays, 0 Not Voting

11 Nays, 0 Not Voting

Jake Flake  
Speaker of the House

Ken Bluntz  
President of the Senate

Norman L. Moore  
Chief Clerk of the House

Chamin Ballew  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

7<sup>th</sup> day of April, 2004

at 1:05 o'clock P. M.

Jennifer L. Barra  
Secretary to the Governor

Approved this 13 day of

April, 2004,

at 2<sup>00</sup> o'clock P. M.

J. T. Nagel  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 13 day of April, 2004,

at 3:02 o'clock P. M.

Janice K. Brewer  
Secretary of State