

Conference Engrossed

State of Arizona  
House of Representatives  
Forty-seventh Legislature  
First Regular Session  
2005

CHAPTER 284

# HOUSE BILL 2647

AN ACT

AMENDING SECTIONS 4-112, 4-203, 4-203.04, 4-205.02, 4-206.01, 4-207.01, 4-210, 4-213, 4-241, 4-243, 4-244, 4-244.05 AND 4-246, ARIZONA REVISED STATUTES; REPEALING LAWS 2005, CHAPTER 94, SECTION 6; MAKING APPROPRIATIONS; RELATING TO LIQUOR LICENSING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 4-112, Arizona Revised Statutes, is amended to  
3 read:

4 4-112. Powers and duties of board and director of department of  
5 liquor licenses and control; investigations; county  
6 and municipal regulation

7 A. The board shall:

8 1. Grant and deny applications in accordance with the provisions of  
9 this title.

10 2. Adopt rules in order to carry out the provisions of this section.

11 3. Hear appeals and hold hearings as provided in this section.

12 B. Except as provided in subsection A of this section, the director  
13 shall administer the provisions of this title, including:

14 1. Adopting rules:

15 (a) For carrying out the provisions of this title.

16 (b) For the proper conduct of the business to be carried on under each  
17 specific type of spirituous liquor license.

18 (c) To enable and assist state officials and political subdivisions to  
19 collect taxes levied or imposed in connection with spirituous liquors.

20 (d) For the issuance and revocation of certificates of registration of  
21 retail agents, including provisions governing the shipping, storage and  
22 delivery of spirituous liquors by registered retail agents, the keeping of  
23 records and the filing of reports by registered retail agents.

24 (e) To establish requirements for licensees under section 4-209,  
25 subsection B, paragraph 12.

26 2. Employing necessary personnel and fixing their compensation.

27 3. Keeping an index record which shall be a public record open to  
28 public inspection and shall contain the name and address of each licensee and  
29 the name and address of any person having an interest, either legal or  
30 equitable, in each license as shown by any written document, which document  
31 shall be placed on file in the office of the board.

32 4. Providing the board with such supplies and personnel as may be  
33 directed by the board.

34 5. Responding in writing to any law enforcement agency that submits an  
35 investigative report to the department relating to a violation of this title,  
36 setting forth what action, if any, the department has taken or intends to  
37 take on the report and, if the report lacks sufficient information or is  
38 otherwise defective for use by the department, what the agency must do to  
39 remedy the report.

40 6. Taking such steps as are necessary to maintain effective liaison  
41 with the department of public safety and all local law enforcement agencies  
42 in the enforcement of this title including the laws of this state against the  
43 consumption of spirituous liquor by persons under the legal drinking age.

44 7. Providing training to law enforcement agencies in the proper  
45 investigation and reporting of violations of this title.

1 C. The director shall establish within the department a separate  
2 investigations unit which has as its sole responsibility the investigation of  
3 compliance with this title including the investigation of licensees alleged  
4 to have sold or distributed spirituous liquor in any form to persons under  
5 the legal drinking age. Investigations conducted by this unit may include  
6 covert undercover investigations.

7 D. All employees of the department of liquor licenses and control,  
8 except members of the state liquor board and the director of the department,  
9 shall be employed by the department in the manner prescribed by the  
10 department of administration.

11 E. The director may enter into a contract or agreement with any public  
12 agency for any joint or cooperative action as provided for by title 11,  
13 chapter 7, article 3.

14 F. The board or the director may take evidence, administer oaths or  
15 affirmations, issue subpoenas requiring attendance and testimony of  
16 witnesses, cause depositions to be taken and require by subpoena duces tecum  
17 the production of books, papers and other documents which are necessary for  
18 the enforcement of this title. Proceedings held during the course of a  
19 confidential investigation are exempt from title 38, chapter 3, article 3.1.  
20 If a person refuses to obey a subpoena or fails to answer questions as  
21 provided by this subsection, the board or the director may apply to the  
22 superior court in the manner provided in section 12-2212. The board or  
23 director may serve subpoenas by personal service or certified mail, return  
24 receipt requested.

25 G. The director may:

26 1. Examine books, records and papers of a licensee.

27 2. Require applicants, licensees, employees who serve, sell or furnish  
28 spirituous liquors to retail customers, managers and managing agents to take  
29 training courses approved by the director in spirituous liquor handling and  
30 spirituous liquor laws and rules. The director shall adopt rules that set  
31 standards for approving training courses.

32 3. Delegate to employees of the department authority to exercise  
33 powers of the director in order to administer the department.

34 4. Regulate signs that advertise a spirituous liquor product at  
35 licensed retail premises.

36 5. Cause to be removed from the marketplace spirituous liquor that may  
37 be contaminated.

38 6. Regulate the age and conduct of erotic entertainers at licensed  
39 premises. The age limitation governing these erotic entertainers may be  
40 different from other employees of the licensee.

41 7. Issue and enforce cease and desist orders against any person or  
42 entity that sells beer, wine or spirituous liquor without an appropriate  
43 license or permit.

1           8. Confiscate wines carrying a label including a reference to Arizona  
2 or any Arizona city, town or place unless at least seventy-five per cent by  
3 volume of the grapes used in making the wine were grown in this state.

4           9. ACCEPT AND EXPEND PRIVATE GRANTS OF MONIES, GIFTS AND DEVISES FOR  
5 CONDUCTING EDUCATIONAL PROGRAMS FOR PARENTS AND STUDENTS ON THE REPERCUSSIONS  
6 OF UNDERAGE ALCOHOL CONSUMPTION. STATE GENERAL FUND MONIES SHALL NOT BE  
7 EXPENDED FOR THE PURPOSES OF THIS PARAGRAPH. IF THE DIRECTOR DOES NOT  
8 RECEIVE SUFFICIENT MONIES FROM PRIVATE SOURCES TO CARRY OUT THE PURPOSES OF  
9 THIS PARAGRAPH, THE DIRECTOR SHALL NOT PROVIDE THE EDUCATIONAL PROGRAMS  
10 PRESCRIBED IN THIS PARAGRAPH. GRANT MONIES RECEIVED PURSUANT TO THIS  
11 PARAGRAPH ARE NONLAPSING AND DO NOT REVERT TO THE STATE GENERAL FUND AT THE  
12 CLOSE OF THE FISCAL YEAR.

13           H. A county or municipality may enact and enforce ordinances  
14 regulating the age and conduct of erotic entertainers at licensed premises in  
15 a manner at least as restrictive as rules adopted by the director.

16           Sec. 2. Section 4-203, Arizona Revised Statutes, is amended to read:

17           4-203. Licenses; issuance; transfer; reversion to state

18           A. A spirituous liquor license shall be issued only after satisfactory  
19 showing of the capability, qualifications and reliability of the applicant  
20 and, with the exception of club licensees, that the public convenience  
21 requires and that the best interest of the community will be substantially  
22 served by the issuance.

23           B. The license shall be to manufacture, sell or deal in spirituous  
24 liquors only at the place and in the manner provided in the license. A  
25 separate license shall be issued for each specific business, and each shall  
26 specify:

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

29           2. The place of business for which issued.

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

31           C. A spirituous liquor license issued to a bar, a liquor store or a  
32 beer and wine bar shall be transferable as to any permitted location within  
33 the same county, provided such transfer meets the requirements of an original  
34 application. Such spirituous liquor license may be transferred to a person  
35 qualified to be a licensee, provided such transfer is pursuant to either  
36 judicial decree, nonjudicial foreclosure of a legal or equitable lien, a bona  
37 fide bulk sale of the entire business and stock in trade, or such other bona  
38 fide transactions as may be provided for by rule. Any change in ownership of  
39 the business of a licensee, directly or indirectly, as defined by rule is  
40 deemed a transfer.

41           D. All applications for a new license pursuant to section 4-201 or for  
42 a transfer to a new location pursuant to subsection C of this section shall  
43 be filed with and determined by the director, except when the governing body  
44 of the city or town or the board of supervisors receiving such application  
45 pursuant to section 4-201 orders disapproval of such application or makes no

1 recommendation or when the director, the state liquor board or any aggrieved  
2 party requests a hearing. Such application shall then be presented to the  
3 state liquor board, and the new license or transfer shall not become  
4 effective unless approved by the state liquor board.

5 E. A person who assigns, SURRENDERS, transfers or sells CONTROL OF a  
6 business which has a spirituous liquor license shall notify the director  
7 within ~~thirty~~ FIFTEEN BUSINESS days ~~of~~ AFTER the assignment, SURRENDER,  
8 transfer or sale. No spirituous liquor license shall be leased or  
9 subleased. A concession agreement entered into under section 4-205.03 is not  
10 considered a lease or sublease in violation of this section.

11 F. ~~If a license or licensee is acquired or controlled by a person~~  
12 ~~other than those persons originally licensed, the person~~ ACQUIRES CONTROL  
13 OVER A LICENSE OR LICENSEE, THE PERSON shall file notice OF THE ACQUISITION  
14 WITH THE DIRECTOR within ~~thirty~~ FIFTEEN BUSINESS days ~~of~~ AFTER such  
15 acquisition ~~and~~ OF control and a list of officers, directors or other  
16 controlling persons on a form prescribed by the director. All officers,  
17 directors or other controlling persons shall meet the qualifications for  
18 licensure as prescribed by this title. On request, the director shall  
19 conduct a preinvestigation prior to the assignment, sale or transfer OF  
20 CONTROL of a license OR LICENSEE, the reasonable costs of which, not to  
21 exceed one thousand dollars, shall be borne by the applicant. The  
22 preinvestigation shall determine whether the qualifications for licensure as  
23 prescribed by this title are met. ~~If the director has not conducted a~~  
24 ~~preinvestigation, the director may protest the acquisition of control before~~  
25 ~~the board by issuing notice of a hearing within ninety days of the filing of~~  
26 ~~the notice of acquisition and control.~~ ON RECEIPT OF NOTICE OF AN  
27 ACQUISITION OF CONTROL OR REQUEST OF A PREINVESTIGATION, THE DIRECTOR SHALL  
28 FORWARD THE NOTICE WITHIN FIFTEEN DAYS TO THE LOCAL GOVERNING BODY OF THE  
29 CITY OR TOWN, IF THE LICENSED PREMISES IS IN AN INCORPORATED AREA, OR THE  
30 COUNTY, IF THE LICENSED PREMISES IS IN AN UNINCORPORATED AREA. THE LOCAL  
31 GOVERNING BODY OF THE CITY, TOWN OR COUNTY MAY PROTEST THE ACQUISITION OF  
32 CONTROL WITHIN SIXTY DAYS BASED ON THE CAPABILITY, RELIABILITY AND  
33 QUALIFICATION OF THE PERSON ACQUIRING CONTROL. IF THE DIRECTOR DOES NOT  
34 RECEIVE ANY PROTESTS, THE DIRECTOR MAY PROTEST THE ACQUISITION OF CONTROL OR  
35 APPROVE THE ACQUISITION OF CONTROL BASED ON THE CAPABILITY, RELIABILITY AND  
36 QUALIFICATION OF THE PERSON ACQUIRING CONTROL. ANY PROTEST SHALL BE SET FOR  
37 A HEARING BEFORE THE BOARD. ANY TRANSFER SHALL BE APPROVED OR DISAPPROVED  
38 WITHIN ONE HUNDRED FIVE DAYS OF THE FILING OF THE NOTICE OF ACQUISITION AND  
39 CONTROL. The person who has acquired control of a license or licensee has  
40 the burden of an original application at the hearing, and the board shall  
41 make its determination pursuant to section 4-202 and this section with  
42 respect to capability, reliability and qualification.

43 G. A licensee who holds a license in nonuse status for more than five  
44 months shall be required to pay a one hundred dollar surcharge for each month  
45 thereafter. The surcharge shall be paid at the time the license is returned

1 to active status. A license automatically reverts to the state after being  
2 held in continuous nonuse in excess of thirty-six months. The director may  
3 waive the surcharge and may extend the time period provided in this  
4 subsection for good cause. A LICENSE SHALL NOT BE DEEMED TO HAVE GONE INTO  
5 ACTIVE STATUS IF THE LICENSE IS TRANSFERRED TO A LOCATION THAT AT THE TIME OF  
6 OR IMMEDIATELY BEFORE THE TRANSFER HAD AN ACTIVE LICENSE OF THE SAME TYPE,  
7 UNLESS THE LICENSES ARE UNDER COMMON OWNERSHIP OR CONTROL.

8 H. A restructuring of a licensee's business is an acquisition of  
9 control pursuant to subsection F of this section and is a transfer of a  
10 spirituous liquor license and not the issuance of a new spirituous liquor  
11 license if both of the following apply:

12 1. All of the controlling persons of the licensee and the new business  
13 entity are identical.

14 2. There is no change in control or beneficial ownership.

15 I. If subsection H of this section applies, the licensee's history of  
16 violations of this title is the history of the new business entity. The  
17 director may prescribe a form and shall require the applicant to provide the  
18 necessary information to ensure compliance with this subsection and  
19 subsections F and G of this section.

20 J. Notwithstanding subsection B of this section, the holder of a  
21 retail license having off-sale privileges may deliver spirituous liquor off  
22 of the licensed premises in connection with the sale of spirituous liquor.  
23 The licensee may maintain a delivery service and shall be liable for any  
24 violation committed in connection with any sale or delivery of spirituous  
25 liquor, provided that such delivery is made by an employee at least  
26 twenty-one years of age. The retail licensee shall collect payment for the  
27 price of the spirituous liquor no later than at the time of delivery. The  
28 director shall adopt rules that set operational limits for the delivery of  
29 spirituous liquors by the holder of a retail license having off-sale  
30 privileges. FOR THE PURPOSES OF THIS SUBSECTION, AN INDEPENDENT CONTRACTOR  
31 OR THE EMPLOYEE OF AN INDEPENDENT CONTRACTOR IS DEEMED TO BE AN EMPLOYEE OF  
32 THE LICENSEE WHEN MAKING A SALE OR DELIVERY OF SPIRITUOUS LIQUOR FOR THE  
33 LICENSEE.

34 K. Nonretail Arizona licensees may transport spirituous liquors for  
35 themselves in vehicles owned, leased or rented by such licensee.

36 L. Notwithstanding subsection B of this section, an off-sale retail  
37 licensee may provide consumer tasting of wines off of the licensed premises.

38 M. The director may adopt reasonable rules to protect the public  
39 interest and prevent abuse by licensees of the activities permitted such  
40 licensees by subsections J and L of this section.

41 N. Failure to pay any surcharge prescribed by subsection G of this  
42 section or failure to report the period of nonuse of a license shall be  
43 grounds for revocation of the license or grounds for any other sanction  
44 provided by this title. The director may consider extenuating circumstances

1 if control of the license is acquired by another party in determining whether  
2 or not to impose any sanctions under this subsection.

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

8 P. If the licensee's interest is forfeited pursuant to section 4-210,  
9 subsection ~~K~~- L, the location shall requalify for a license pursuant to  
10 subsection A of this section and shall meet the same qualifications required  
11 for issuance of a new license except when a bona fide lienholder demonstrates  
12 mitigation pursuant to section 4-210, subsection ~~J~~- K.

13 Sec. 3. Section 4-203.04, Arizona Revised Statutes, is amended  
14 to read:

15 4-203.04. Direct shipment license; issuance; fee; requirements;  
16 penalties; cease and desist orders

17 A. The director may issue a direct shipment license to a person who is  
18 engaged in business as a distiller, vintner, brewer, rectifier, blender or  
19 other producer of spirituous liquor if the person is licensed in the state  
20 where the person's principal place of business is located and the director  
21 determines that the person is capable and reliable and is qualified to hold a  
22 direct shipment license.

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

27 1. The address of the premises where the applicant's principal place  
28 of business is located and a copy of the applicant's spirituous liquor  
29 license in that state.

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

32 3. A complete and full disclosure by the applicant and by any officer,  
33 director, administrator or controlling person of the applicant of any  
34 criminal convictions in any state or foreign jurisdiction within the five  
35 years immediately preceding the application.

36 4. The names and addresses of the wholesalers licensed in this state  
37 through which the applicant will ship spirituous liquor into or within this  
38 state.

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

1           6. A statement that the applicant acknowledges that shipments by the  
2 applicant of spirituous liquor into or within this state contrary to this  
3 section will result in the immediate suspension of the applicant's direct  
4 shipment license.

5           C. The director may refuse to issue a direct shipment license for good  
6 cause. After a hearing, the director may suspend or revoke a direct shipment  
7 license for good cause. The director shall not issue a direct shipment  
8 license to any person who:

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

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

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

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

23           F. A person who holds a direct shipment license shall ensure that  
24 shipments of spirituous liquor pursuant to this section are made in  
25 conformance with all applicable provisions of this title and rules adopted  
26 pursuant to this title. A direct shipment licensee who violates this title  
27 or rules adopted pursuant to this title is subject to a civil or criminal  
28 penalty and suspension or revocation of the person's license.

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

35           H. The licensed retailer shall deliver the spirituous liquor or shall  
36 arrange for the delivery of the spirituous liquor to the person who placed  
37 the order and shall collect and pay to the department of revenue all  
38 transaction privilege taxes imposed pursuant to title 42, chapter 5. The  
39 retailer shall:

40           1. Ensure that:

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

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

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

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

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

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

11 (b) The date and time of delivery.

12 (c) The address where the delivery occurred.

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

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

15 (f) The printed name and signature of the person accepting the  
16 delivery, along with the type and serial number of the written identification  
17 the person accepting delivery presented.

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

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

21 I. If the director has reasonable cause to believe that a person who  
22 is licensed pursuant to this section is acting in violation of this section,  
23 the director may serve a cease and desist order requiring the person to cease  
24 and desist the violation. The director may impose a civil penalty of not  
25 more than one hundred fifty thousand dollars against a person who knowingly  
26 violates a cease and desist order issued pursuant to this section.

27 J. This section shall not be construed to prohibit a person from  
28 shipping wine as long as all of the following apply:

29 1. The wine was purchased while the purchaser was physically present  
30 at the winery.

31 2. The purchaser of the wine provided the winery verification of legal  
32 age to purchase alcohol.

33 3. The shipping container in which the wine is shipped is marked to  
34 require an adult's signature on delivery and delivery confirmation.

35 4. The wine is for personal use only and not for resale.

36 5. The winery ships to a residential address.

37 6. The purchaser could have carried the wine lawfully into OR WITHIN  
38 this state.

39 7. The winery ships not more than two cases of wine per winery to the  
40 purchaser in any calendar year.

41 K. Section 4-201 does not apply to licenses issued pursuant to this  
42 section.

1           Sec. 4. Section 4-205.02, Arizona Revised Statutes, is amended to  
2 read:

3           4-205.02. Restaurant license; issuance; regulatory provisions;  
4                           nontransferability; revocation; definitions

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

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

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

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

27          E. Neither the director nor the board may initially issue a restaurant  
28 license if either finds that there is sufficient evidence that the operation  
29 will not satisfy the criteria adopted by the director for issuing a  
30 restaurant license described in section 4-209, subsection B, paragraph 12.  
31 The director shall issue a restaurant license only if the applicant has  
32 submitted a plan for the operation of the restaurant. The plan shall be  
33 completed on forms provided by the department and shall include listings of  
34 all restaurant equipment and service items, the restaurant seating capacity  
35 and other information requested by the department to substantiate that the  
36 restaurant will operate in compliance with this section.

37          F. The holder of the license described in section 4-209, subsection B,  
38 paragraph 12 who intends to alter the seating capacity or dimensions of a  
39 restaurant facility shall notify the department in advance on forms provided  
40 by the department.

41          G. For the purpose of this section:

1           1. "Gross revenue" means the revenue derived from all sales of food  
2 and spirituous liquor on the licensed premises, regardless of whether the  
3 sales of spirituous liquor are made under a restaurant license issued  
4 pursuant to this section or under any other license that has been issued for  
5 the premises pursuant to this article.

6           2. "Restaurant" means an establishment which derives at least forty  
7 per cent of its gross revenue from the sale of food, INCLUDING SALES OF FOOD  
8 FOR CONSUMPTION OFF THE LICENSED PREMISES IF THE AMOUNT OF THESE SALES  
9 INCLUDED IN THE CALCULATION OF GROSS REVENUE FROM THE SALE OF FOOD DOES NOT  
10 EXCEED FIFTEEN PER CENT OF ALL GROSS REVENUE OF THE RESTAURANT.

11           Sec. 5. Section 4-206.01, Arizona Revised Statutes, is amended to  
12 read:

13           4-206.01. Bar, beer and wine bar or liquor store licenses;  
14                                   number permitted; fee

15           A. The director shall determine the total number of spirituous liquor  
16 licenses by type and in each county. The director shall publish a listing of  
17 that information as determined by the director.

18           B. In each county ~~having a population of less than five hundred~~  
19 ~~thousand persons according to the most recent United States decennial census,~~  
20 the director ~~may only~~ SHALL issue additional bar, beer and wine bar or liquor  
21 store licenses at the rate of one of each type for each additional ~~four~~ TEN  
22 thousand person increase over the population in that county as of July 1,  
23 ~~1992~~ 2010. FOR PURPOSES OF THIS PARAGRAPH, THE POPULATION OF A COUNTY IS  
24 DEEMED TO BE THE POPULATION ESTIMATED BY THE DEPARTMENT OF ECONOMIC SECURITY  
25 AS OF JULY 1 OF EACH YEAR.

26           ~~C. In each county having a population of five hundred thousand or more~~  
27 ~~persons, the director may only issue bar, beer and wine bar or liquor store~~  
28 ~~licenses at the rate of one of each type for each additional five thousand~~  
29 ~~person increase over the population in that county as of July 1, 1992.~~

30           ~~D.~~ C. A person issued a license authorized by subsection B ~~or C~~  
31 of this section shall pay an additional issuance fee equal to the license's fair  
32 market value which shall be paid to the state general fund. The fair market  
33 value shall be defined to mean the mean value of licenses of the same type  
34 sold on the open market in the same county during the prior twelve months,  
35 but if there are not three or more such sales then the fair market value  
36 shall be determined by three appraisals furnished to the department by  
37 independent professional appraisers employed by the director.

38           ~~E.~~ D. The director shall employ professional appraisal services to  
39 determine the fair market value of bar, beer and wine bar or liquor store  
40 licenses.

41           ~~F.~~ E. If more than one person applies for an available license, a  
42 priority of applicants shall be determined by a random selection method  
43 prescribed by the director.

1           Sec. 6. Section 4-207.01, Arizona Revised Statutes, is amended to  
2 read:

3           4-207.01. Submission of floor plan required; alteration of  
4                                   licensed premises; ingress and egress to off-sale  
5                                   package sales in on-sale licensed premises

6           A. No licensee of premises approved for transfer or an original  
7 location of on-sale spirituous liquor license shall open such licensed  
8 premises to the public for sale of spirituous liquor until the licensee shall  
9 first have filed with the director floor plans and diagrams completely  
10 disclosing and designating the physical arrangement of the licensed premises,  
11 INCLUDING WHETHER THE LICENSEE INTENDS TO SELL SPIRITUOUS LIQUOR BY MEANS OF  
12 A DRIVE-THROUGH OR OTHER PHYSICAL FEATURE OF THE LICENSED PREMISES THAT  
13 ALLOWS A CUSTOMER TO PURCHASE SPIRITUOUS LIQUOR WITHOUT LEAVING THE  
14 CUSTOMER'S VEHICLE, and shall have secured the written approval of the  
15 director to so open and operate such premises.

16           B. No licensee shall alter or change the physical arrangement of his  
17 licensed premises so as to encompass greater space or the use of different or  
18 additional entrances, openings or accommodations than the space, entrance or  
19 entrances, openings or accommodations offered to the public at the time of  
20 issuance of the licensee's license or a prior written approval of the  
21 licensed premises, without first having filed with the director floor plans  
22 and diagrams completely disclosing and designating the proposed physical  
23 alterations of the licensed premises, INCLUDING THE ADDITION OF A  
24 DRIVE-THROUGH OR OTHER PHYSICAL FEATURE TO THE LICENSED PREMISES THAT ALLOWS  
25 A CUSTOMER TO PURCHASE SPIRITUOUS LIQUOR WITHOUT LEAVING THE CUSTOMER'S  
26 VEHICLE, and shall have secured the written approval by the director. This  
27 ~~provision~~ SUBSECTION shall apply to any person to person transfer of the  
28 licensed premises.

29           C. The provisions of this section shall not be construed to prohibit  
30 in any way off-sale package sales in on-sale licensed premises, but the  
31 permission to open the premises to the public under subsections A and B of  
32 this section shall not be granted if the licensee under the privilege  
33 provided for off-sale under an on-sale license proposes to maintain an  
34 off-sale operation with ingress and egress directly from the outside of such  
35 premises to such off-sale operation other than the ingress and egress  
36 provided for the on-sale operation of the licensed premises.

37           D. The provisions of this section shall apply to all applications,  
38 transfers and alterations.

39           Sec. 7. Section 4-210, Arizona Revised Statutes, is amended to read:

40           4-210. Grounds for revocation, suspension and refusal to renew;  
41                                   notice; complaints; hearings

42           A. After notice and hearing, the director may suspend, revoke or  
43 refuse to renew any license issued pursuant to this chapter for any of the  
44 following reasons:

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

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

6           3. The licensee or controlling person knowingly files with the  
7 department an application or other document which contains material  
8 information which is false or misleading or while under oath knowingly gives  
9 testimony in an investigation or other proceeding under this title which is  
10 false or misleading.

11           4. The licensee or controlling person is on the premises habitually  
12 intoxicated.

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

16           6. The licensee or controlling person OBTAINS, assigns, transfers or  
17 sells a spirituous liquor license without compliance with this title or  
18 leases or subleases a license.

19           7. The licensee fails to keep for two years and make available to the  
20 department upon reasonable request all invoices, records, bills or other  
21 papers and documents relating to the purchase, sale and delivery of  
22 spirituous liquors and, in the case of a restaurant or hotel-motel licensee,  
23 all invoices, records, bills or other papers and documents relating to the  
24 purchase, sale and delivery of food.

25           8. The licensee or controlling person is convicted of a felony  
26 provided that for a conviction of a corporation to serve as a reason for any  
27 action by the director, conduct which constitutes the corporate offense and  
28 was the basis for the felony conviction must have been engaged in,  
29 authorized, solicited, commanded or recklessly tolerated by the directors of  
30 the corporation or by a high managerial agent acting within the scope of  
31 employment.

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

35           10. The licensee fails to take reasonable steps to protect the safety  
36 of a customer of the licensee entering, leaving or remaining on the licensed  
37 premises when the licensee knew or reasonably should have known of the danger  
38 to such person, or the licensee fails to take reasonable steps to intervene  
39 by notifying law enforcement officials or otherwise to prevent or break up an  
40 act of violence or an altercation occurring on the licensed premises or  
41 immediately adjacent to the premises when the licensee knew or reasonably  
42 should have known of such acts of violence or altercations.

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

44           12. The licensee or controlling person knowingly associates with a  
45 person who has engaged in racketeering, as defined in section 13-2301, or has

1 been convicted of a felony, and the association is of such a nature as to  
2 create a reasonable risk that the licensee will fail to conform to the  
3 requirements of this title or of any criminal statute of this state.

4 B. For the purposes of:

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

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

16 C. The director may suspend, revoke or refuse to issue, transfer or  
17 renew a license under this section based solely on the unrelated conduct or  
18 fitness of any officer, director, managing agent or other controlling person  
19 if the controlling person retains any interest in or control of the licensee  
20 after sixty days following written notice to the licensee. If the  
21 controlling person holds stock in a corporate licensee or is a partner in a  
22 partnership licensee, the controlling person may only divest himself of his  
23 interest by transferring the interest to the existing stockholders or  
24 partners who must demonstrate to the department that they meet all the  
25 requirements for licensure. For the purposes of this subsection, the conduct  
26 or fitness of a controlling person is unrelated if it would not be  
27 attributable to the licensee.

28 D. IF THE DIRECTOR FINDS, BASED ON CLEAR AND CONVINCING EVIDENCE IN  
29 THE RECORD, THAT A VIOLATION INVOLVES THE USE BY THE LICENSEE OF A  
30 DRIVE-THROUGH OR OTHER PHYSICAL FEATURE OF THE LICENSED PREMISES THAT ALLOWS  
31 A CUSTOMER TO PURCHASE SPIRITUOUS LIQUOR WITHOUT LEAVING THE CUSTOMER'S  
32 VEHICLE AND THAT THE USE OF THAT DRIVE-THROUGH OR OTHER PHYSICAL FEATURE  
33 CAUSED THE VIOLATION, THE DIRECTOR MAY SUSPEND OR TERMINATE THE LICENSEE'S  
34 USE OF THE DRIVE-THROUGH OR OTHER PHYSICAL FEATURE FOR THE SALE OF SPIRITUOUS  
35 LIQUOR, IN ADDITION TO ANY OTHER SANCTION.

36 ~~D.~~ E. The director may refuse to transfer any license or issue a new  
37 license at the same location if the director has filed a complaint against  
38 the license or location which has not been resolved alleging a violation of  
39 any of the grounds set forth in subsection A of this section until such time  
40 as ~~said~~ THE complaint has been finally adjudicated.

41 ~~E.~~ F. The director shall receive all complaints of alleged violations  
42 of this chapter and is responsible for the investigation of all allegations  
43 of a violation of, or noncompliance with, this title, any rule adopted  
44 pursuant to this title or any condition imposed upon the licensee by the  
45 license. When the director receives three such complaints from any law

1 enforcement agency resulting from three separate incidents at a licensed  
2 establishment within a twelve-month period, the director shall transmit a  
3 written report to the board setting forth the complaints, the results of any  
4 investigation conducted by the law enforcement agency or the department  
5 relating to the complaints and a history of all prior complaints against the  
6 license and their disposition. The board shall review the report and may  
7 direct the director to conduct further investigation of a complaint or to  
8 serve a licensee with a complaint and notice of a hearing pursuant to  
9 subsection ~~F~~- G of this section.

10 ~~F~~- G. Upon the director's initiation of an investigation or upon the  
11 receipt of a complaint and an investigation of the complaint as deemed  
12 necessary, the director may cause a complaint and notice of a hearing to be  
13 directed to the licensee setting forth the violations alleged against the  
14 licensee and directing the licensee, within fifteen days after service of the  
15 complaint and notice of a hearing, to appear by filing with the director an  
16 answer to the complaint. Failure of the licensee to answer may be deemed an  
17 admission by the licensee of commission of the act charged in the complaint.  
18 The director may then vacate the hearing and impose any sanction provided by  
19 this article. The director may waive any sanction for good cause shown  
20 including excusable neglect. WITH RESPECT TO ANY VIOLATION OF THIS TITLE OR  
21 ANY RULE ADOPTED PURSUANT TO THIS TITLE THAT IS BASED ON THE ACT OR OMISSION  
22 OF A LICENSEE'S EMPLOYEE, THE DIRECTOR SHALL CONSIDER EVIDENCE OF MITIGATION  
23 PRESENTED BY THE LICENSEE AND ESTABLISHED BY A PREPONDERANCE OF THE EVIDENCE  
24 THAT THE EMPLOYEE ACTED INTENTIONALLY AND IN VIOLATION OF THE EXPRESS  
25 DIRECTION OR POLICY ADOPTED BY THE LICENSEE AND COMMUNICATED TO THE EMPLOYEE  
26 AND THAT THE EMPLOYEE SUCCESSFULLY COMPLETED TRAINING IN A COURSE APPROVED BY  
27 THE DIRECTOR PURSUANT TO SECTION 4-112, SUBSECTION G, PARAGRAPH 2. The  
28 director may set the hearing before himself or an administrative law judge on  
29 any of the grounds set forth in subsection A of this section. Instead of  
30 issuing a complaint, the director may provide for informal disposition of the  
31 matter by consent agreement or may issue a written warning to the licensee.  
32 If a warning is issued, the licensee may reply in writing and the director  
33 shall keep a record of the warning and the reply.

34 ~~G~~- H. A hearing shall conform to the requirements of title 41,  
35 chapter 6, article 10. At the hearing an attorney or corporate officer or  
36 employee of a corporation may represent the corporation.

37 ~~H~~- I. The expiration, cancellation, revocation, reversion, surrender,  
38 acceptance of surrender or termination in any other manner of a license does  
39 not prevent the initiation or completion of a disciplinary proceeding  
40 pursuant to this section against the licensee or license. An order issued  
41 pursuant to a disciplinary proceeding against a license is enforceable  
42 against other licenses or subsequent licenses in which the licensee or  
43 controlling person of the license has a controlling interest.

44 ~~I~~- J. The department shall provide the same notice as is provided to  
45 the licensee to a lienholder, which has provided a document under section

1 4-112, subsection B, paragraph 3, of all disciplinary or compliance action  
2 with respect to a license issued pursuant to this title. The state shall not  
3 be liable for damages for any failure to provide any notice pursuant to this  
4 subsection.

5 ~~J~~ K. In any disciplinary action pursuant to this title, a lienholder  
6 may participate in the determination of the action. The director shall  
7 consider mitigation on behalf of the lienholder if the lienholder proves all  
8 of the following by a preponderance of the evidence:

9 1. That the lienholder's interest is a bona fide security interest.  
10 For THE purposes of this paragraph, "bona fide security interest" means the  
11 lienholder provides actual consideration to the licensee or the licensee's  
12 predecessor in interest in exchange for the lienholder's interest. Bona fide  
13 security interest includes a lien taken by the seller of a license as  
14 security for the seller's receipt of all or part of the purchase price of the  
15 license.

16 2. That a statement of legal or equitable interest was filed with the  
17 department before the alleged conduct occurred which is the basis for the  
18 action against the license.

19 3. That the lienholder took reasonable steps to correct the licensee's  
20 prior actions, if any, or initiated an action pursuant to available contract  
21 rights against the licensee for the forfeiture of the license after being  
22 provided with notice by the department of disciplinary action as provided in  
23 subsection ~~I~~ J of this section.

24 4. That the lienholder was free of responsibility for the conduct  
25 which is the basis for the proposed revocation.

26 5. That the lienholder reasonably attempted to remain informed by the  
27 licensee about the business' conduct.

28 ~~K~~ L. ~~In the event~~ IF the director decides not to revoke the license  
29 based on the circumstances provided in subsection ~~J~~ K of this section, the  
30 director may issue an order requiring either, or both, of the following:

31 1. The forfeiture of all interest of the licensee in the license.

32 2. The lienholder to pay any civil monetary penalty imposed on the  
33 licensee.

34 ~~L~~ M. If any on-sale licensee proposes to provide large capacity  
35 entertainment events or sporting events with an attendance capacity exceeding  
36 a limit established by the director, the director may request a security plan  
37 from the licensee that may include trained security officers, lighting and  
38 other requirements. This subsection exclusively prescribes the security  
39 requirements for a licensee and does not create any civil liability for the  
40 state, its agencies, agents or employees or a person licensed under this  
41 title or agents or employees of a licensee.

42 Sec. 8. Section 4-213, Arizona Revised Statutes, is amended to read:  
43 4-213. Restaurant audit

44 A. The director may require a restaurant to submit an audit of its  
45 records to demonstrate compliance with section 4-205.02. The director shall

1 not require such an audit more than once a year after the initial twelve  
2 months of operation.

3 ~~B. Except for initial restaurant audits conducted pursuant to~~  
4 ~~subsection D of this section,~~ EXCEPT AS PROVIDED IN SUBSECTION D OF THIS  
5 SECTION, the department shall audit accounts, records and operations of a  
6 licensee that cover a twelve month period. AN ESTABLISHMENT THAT AVERAGES AT  
7 LEAST FORTY PER CENT OF ITS GROSS REVENUE FROM THE SALE OF FOOD DURING THE  
8 TWELVE MONTH AUDIT PERIOD SHALL BE DEEMED TO COMPLY WITH THE GROSS REVENUE  
9 REQUIREMENTS OF SECTION 4-205.02. The twelve month audit period shall fall  
10 within the sixteen months immediately preceding the beginning of the audit.

11 C. If the audit reveals that the licensee did not meet the definition  
12 of a restaurant as prescribed in section 4-205.02, the department shall  
13 revoke the license.

14 D. The department may conduct an audit of a licensee described in  
15 section 4-209, subsection B, paragraph 12 after ~~six~~ TWELVE months following  
16 ~~issuance of the license to~~ THE BEGINNING OF OPERATIONS AS A RESTAURANT BY the  
17 licensee to determine compliance by the licensee with section 4-205.02,  
18 EXCEPT THAT THE DEPARTMENT MAY CONDUCT AN AUDIT OF A LICENSEE WITHIN THE  
19 FIRST TWELVE MONTHS OF OPERATION IF THE LICENSEE HAS MADE A SUBSTANTIAL  
20 MODIFICATION IN THE RESTAURANT EQUIPMENT, SERVICE OR ENTERTAINMENT ITEMS OR  
21 SEATING CAPACITY DURING THAT TWELVE-MONTH PERIOD, IN WHICH EVENT THE  
22 DEPARTMENT MAY CONDUCT THE AUDIT FOR A PERIOD OF LESS THAN TWELVE MONTHS.

23 Sec. 9. 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 the person's  
33 name, the date, and the number of such identification. AN OFF-SALE RETAIL  
34 LICENSEE OR EMPLOYEE OF AN OFF-SALE RETAIL LICENSEE SHALL REQUIRE AN  
35 INSTRUMENT OF IDENTIFICATION FROM ANY CUSTOMER WHO APPEARS TO BE UNDER  
36 TWENTY-SEVEN YEARS OF AGE AND WHO IS USING A DRIVE-THROUGH OR OTHER PHYSICAL  
37 FEATURE OF THE LICENSED PREMISES THAT ALLOWS A CUSTOMER TO PURCHASE  
38 SPIRITUOUS LIQUOR WITHOUT LEAVING THE CUSTOMER'S VEHICLE. The following  
39 written instruments are the only acceptable types of identification:

40 1. An unexpired driver license issued by any state or Canada, ~~provided~~  
41 ~~such~~ IF THE license includes a picture of the licensee.

42 2. A nonoperating identification license issued pursuant to section  
43 28-3165 OR AN EQUIVALENT FORM OF IDENTIFICATION LICENSE ISSUED BY ANY STATE  
44 OR CANADA IF THE LICENSE INCLUDES A PICTURE OF THE PERSON AND THE PERSON'S  
45 DATE OF BIRTH.

1           3. An armed forces identification card.

2           4. A valid unexpired passport or border crossing identification card  
3 which is issued by a government or voter card issued by the government of  
4 Mexico and which contains a photograph of the person and the PERSON'S date of  
5 birth.

6           B. A licensee, an employee or any other person who sells, gives,  
7 serves or furnishes spirituous liquor to a person who is under the legal  
8 drinking age without having recorded and retained a record of the person's  
9 age, AN ELECTRONIC FILE OR A PRINTED DOCUMENT PRODUCED BY A DEVICE THAT READS  
10 THE PERSON'S AGE FROM THE INSTRUMENT OF IDENTIFICATION AND OBTAINS A  
11 SIGNATURE FROM ANY PERSON WHO THE LICENSEE HAS REASON TO QUESTION IF THE  
12 IDENTIFICATION BELONGED TO THE PERSON PRESENTING THE IDENTIFICATION, or a  
13 dated and signed photocopy of the instrument of identification exhibited as  
14 prescribed by subsection A of this section is deemed to have constructive  
15 knowledge of the person's age. THIS SECTION SHALL NOT SHIFT THE PRESUMPTION  
16 OF CONSTRUCTIVE KNOWLEDGE OF A PERSON'S AGE FOR ANYONE USING A DEVICE THAT  
17 READS THE PERSON'S AGE FROM THE INSTRUMENT OF IDENTIFICATION, IF A REASONABLE  
18 PERSON WOULD HAVE REASON TO QUESTION IF THE IDENTIFICATION BELONGED TO THE  
19 PERSON PRESENTING THE IDENTIFICATION.

20           C. A person who is under the legal drinking age and who misrepresents  
21 the person's age to any person by means of a written instrument of  
22 identification with the intent to induce a person to sell, serve, give or  
23 furnish spirituous liquor contrary to law is guilty of a class 1 misdemeanor.

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

27           E. A person who is under the legal drinking age and who uses a  
28 fraudulent or false written instrument of identification or identification of  
29 another person or uses a valid license or identification of another person to  
30 gain access to a licensed establishment is guilty of a class 1 misdemeanor.

31           F. A person who uses a driver or nonoperating identification license  
32 in violation of subsection C or E of this section is subject to suspension of  
33 the driver or nonoperating identification license as provided in section  
34 28-3309. A person who does not have a valid driver or nonoperating  
35 identification license and who uses a driver or nonoperating identification  
36 license of another in violation of subsection C or E of this section has the  
37 person's right to apply for a driver or nonoperating identification license  
38 suspended as provided by section 28-3309.

39           G. A person who knowingly influences the sale, giving or serving of  
40 spirituous liquor to a person under the legal drinking age by misrepresenting  
41 the age of such person or who orders, requests, receives or procures  
42 spirituous liquor from any licensee, employee or other person with the intent  
43 of selling, giving or serving it to a person under the legal drinking age is  
44 guilty of a class 1 misdemeanor.

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

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

7 (a) Members of the immediate family of such person.

8 (b) Permanently residing with such person.

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

12 I. For THE purposes of subsection H of this section, "occupant" means  
13 a person who has legal possession or the legal right to exclude others from  
14 the unlicensed premises.

15 J. A peace officer shall forward or electronically transfer to the  
16 director of the department of transportation the affidavit required by  
17 section 28-3310 if the peace officer has arrested a person for the commission  
18 of an offense for which, on conviction, suspension of the license or  
19 privilege to operate a motor vehicle is required by section 28-3309,  
20 subsection A or B, OR IF THE PEACE OFFICER HAS CONFISCATED A FALSE  
21 IDENTIFICATION DOCUMENT USED BY THE PERSON TO GAIN ACCESS TO LICENSED  
22 PREMISES.

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

25 L. Law enforcement agencies may use persons who are under the legal  
26 drinking age to test compliance with this section and section 4-244,  
27 paragraph 9 by ~~licensees suspected of~~ A LICENSEE IF THE LAW ENFORCEMENT  
28 AGENCY HAS REASONABLE SUSPICION THAT THE LICENSEE IS violating this section  
29 or section 4-244, paragraph 9. A person who is under the legal drinking age  
30 and who purchases or attempts to purchase spirituous liquor under the  
31 direction of a law enforcement agency pursuant to this subsection is immune  
32 from prosecution for that purchase or attempted purchase. Law enforcement  
33 agencies may use a person under the legal drinking age pursuant to this  
34 subsection only if:

35 1. The person is at least fifteen but not more than nineteen years of  
36 age.

37 2. The person is not employed on an incentive or quota basis.

38 3. The person's appearance is that of a person who is under the legal  
39 drinking age.

40 4. A photograph of the person is taken no more than twelve hours  
41 before the purchase or attempted purchase. The photograph shall accurately  
42 depict the person's appearance and attire. A licensee or an employee of a  
43 licensee who is cited for selling spirituous liquor to a person under the  
44 legal drinking age pursuant to this subsection shall be permitted to inspect  
45 the photograph immediately after the citation is issued. The person's

1 appearance at any trial or administrative hearing that results from a  
2 citation shall not be substantially different from the person's appearance at  
3 the time the citation was issued.

4 5. The person places, receives and pays for the person's order of  
5 spirituous liquor. An adult shall not accompany the person onto the premises  
6 of the licensee.

7 6. The person does not consume any spirituous liquor.

8 M. The department may adopt rules to carry out the purposes of this  
9 section.

10 Sec. 10. Section 4-243, Arizona Revised Statutes, is amended to read:

11 4-243. Commercial coercion or bribery unlawful; exceptions

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

15 1. To require that a retailer 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.

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

21 3. To acquire an interest in property owned, occupied or used by the  
22 retailer in the retailer's business, or in a license with respect to the  
23 premises of the retailer.

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

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

32 6. To guarantee a loan or repayment of a financial obligation of the  
33 retailer.

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

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

37 9. To offer or give a bonus, a premium or compensation to the retailer  
38 or any of the retailer's officers, employees or representatives.

39 B. This section does not prohibit any distiller, vintner, brewer,  
40 rectifier, blender or other producer or wholesaler of any spirituous liquor  
41 from:

42 1. Giving financial and other forms of event sponsorship assistance to  
43 nonprofit or charitable organizations for purposes of charitable fund-raising  
44 which are issued special event licenses by the department. This section does

1 not prohibit such suppliers from advertising their sponsorship at such  
2 special events.

3 2. Providing samples to retail consumers at on-sale premises  
4 establishments according to the following procedures:

5 (a) Sampling operations shall be conducted under the supervision of an  
6 employee of the sponsoring producer or wholesaler.

7 (b) Sampling shall be limited to twelve ounces of beer or cooler  
8 products, six ounces of wine or two ounces of distilled spirits per person  
9 per brand.

10 (c) If requesting the on-sale licensee RETAILER to prepare a drink for  
11 the consumer, the producer's or wholesaler's representative shall pay the  
12 licensee RETAILER for the sample drink.

13 (d) The producer or wholesaler may not buy the on-sale licensee  
14 RETAILER or the licensee's RETAILER'S employees a drink during their working  
15 hours or while they are engaged in waiting on or serving customers.

16 (e) The producer or wholesaler may not give a keg of beer or any  
17 spirituous liquor or any other gifts or benefits to the on-sale licensee  
18 RETAILER.

19 (f) All sampling procedures shall comply with federal sampling laws  
20 and regulations.

21 3. PROVIDING SAMPLES TO RETAIL CONSUMERS ON AN OFF-SALE RETAILER'S  
22 PREMISES ACCORDING TO THE FOLLOWING PROCEDURES:

23 (a) SAMPLING SHALL BE CONDUCTED BY AN EMPLOYEE OF THE SPONSORING  
24 PRODUCER OR WHOLESALER.

25 (b) THE PRODUCER OR WHOLESALER SHALL NOTIFY THE DEPARTMENT IN WRITING  
26 OR BY ELECTRONIC MEANS NOT LESS THAN TEN DAYS BEFORE THE SAMPLING OF THE  
27 DATE, TIME AND LOCATION OF THE SAMPLING.

28 (c) SAMPLING SHALL BE LIMITED TO THREE OUNCES OF BEER, ONE AND  
29 ONE-HALF OUNCES OF WINE OR ONE-HALF OUNCE OF DISTILLED SPIRITS PER PERSON PER  
30 DAY.

31 (d) AN OFF-SALE RETAILER SHALL NOT PERMIT SAMPLING TO BE CONDUCTED ON  
32 A LICENSED PREMISES ON MORE THAN TWELVE DAYS IN ANY CALENDAR YEAR.

33 (e) SAMPLING SHALL BE LIMITED TO ONE WHOLESALER OR PRODUCER AT ANY ONE  
34 OFF-SALE RETAILER'S PREMISES ON ANY DAY AND SHALL NOT EXCEED THREE HOURS ON  
35 ANY DAY.

36 (f) A PRODUCER CONDUCTING SAMPLING SHALL BUY THE SAMPLED PRODUCT FROM  
37 A WHOLESALER.

38 (g) THE PRODUCER OR WHOLESALER SHALL NOT PROVIDE SAMPLES TO ANY PERSON  
39 WHO IS UNDER THE LEGAL DRINKING AGE.

40 (h) THE PRODUCER OR WHOLESALER SHALL DESIGNATE AN AREA IN WHICH  
41 SAMPLING IS CONDUCTED THAT IS IN THE PORTION OF THE LICENSED PREMISES WHERE  
42 SPIRITUOUS LIQUOR IS PRIMARILY DISPLAYED AND SEPARATED FROM THE REMAINDER OF  
43 THE OFF-SALE RETAILER'S PREMISES BY A WALL, ROPE, DOOR, CABLE, CORD, CHAIN,  
44 FENCE OR OTHER BARRIER. THE PRODUCER OR WHOLESALER SHALL NOT PERMIT PERSONS

1 UNDER THE LEGAL DRINKING AGE FROM ENTERING THE AREA IN WHICH SAMPLING IS  
2 CONDUCTED.

3 (i) THE PRODUCER OR WHOLESALER MAY NOT PROVIDE SAMPLES TO THE RETAILER  
4 OR THE RETAILER'S EMPLOYEES.

5 (j) SAMPLING SHALL NOT BE CONDUCTED IN RETAIL PREMISES WITH A TOTAL OF  
6 UNDER FIVE THOUSAND SQUARE FEET OF RETAIL SPACE UNLESS AT LEAST SEVENTY-FIVE  
7 PER CENT OF THE RETAILER'S SHELF SPACE IS DEDICATED TO THE SALE OF SPIRITUOUS  
8 LIQUOR.

9 (k) THE PRODUCER OR WHOLESALER MAY NOT GIVE SPIRITUOUS LIQUOR OR ANY  
10 OTHER GIFTS OR BENEFITS TO THE OFF-SALE RETAILER.

11 (l) ALL SAMPLING PROCEDURES SHALL COMPLY WITH FEDERAL SAMPLING LAWS  
12 AND REGULATIONS.

13 C. Notwithstanding subsection A, paragraph 4, any wholesaler of any  
14 spirituous liquor may sell tobacco products or foodstuffs to a retailer at a  
15 price not less than the cost to the wholesaler.

16 D. It is unlawful for a retailer to request and knowingly receive  
17 anything of value that a distiller, vintner, brewer, rectifier or blender or  
18 any other producer or wholesaler is prohibited by subsection A from  
19 furnishing to a retailer, except that this subsection shall not prohibit  
20 special discounts provided to retailers and based on quantity purchases.

21 Sec. 11. Section 4-244, Arizona Revised Statutes, is amended to read:

22 4-244. Unlawful acts

23 It is unlawful:

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

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

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

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

42 5. For a distiller, vintner or brewer to use a vehicle for trucking or  
43 transportation of spirituous liquors unless there is affixed to both sides of  
44 the vehicle a sign showing the name and address of the licensee and the type

1 and number of the person's license in letters not less than three and  
2 one-half inches in height.

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

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

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

13 9. Except as provided in paragraphs 10 and 11 of this section, for a  
14 licensee or other person to sell, furnish, dispose of or give, or cause to be  
15 sold, furnished, disposed of or given, to a person under the legal drinking  
16 age or for a person under the legal drinking age to buy, receive, have in the  
17 person's possession or consume spirituous liquor. This paragraph shall not  
18 prohibit the employment by an off-sale retailer of persons who are at least  
19 sixteen years of age to check out, if supervised by a person on the premises  
20 who is at least nineteen years of age, package or carry merchandise,  
21 including spirituous liquor, in unbroken packages, for the convenience of the  
22 customer of the employer, if the employer sells primarily merchandise other  
23 than spirituous liquor.

24 10. For a licensee to employ a person under the age of nineteen years  
25 to manufacture, sell or dispose of spirituous liquors. This paragraph shall  
26 not prohibit the employment by an off-sale retailer of persons who are at  
27 least sixteen years of age to check out, if supervised by a person on the  
28 premises who is at least nineteen years of age, package or carry merchandise,  
29 including spirituous liquor, in unbroken packages, for the convenience of the  
30 customer of the employer, if the employer sells primarily merchandise other  
31 than spirituous liquor.

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

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

41 13. For an employee of a retail licensee, during that employee's  
42 working hours or in connection with such employment, to give to or purchase  
43 for any other person, accept a gift of, purchase for himself or consume  
44 spirituous liquor, except that:

1 (a) An employee of a licensee, during that employee's working hours or  
2 in connection with the employment, while the employee is not engaged in  
3 waiting on or serving customers, may give spirituous liquor to or purchase  
4 spirituous liquor for any other person.

5 (b) AN EMPLOYEE OF AN ON-SALE RETAIL LICENSEE, DURING THAT EMPLOYEE'S  
6 WORKING HOURS OR IN CONNECTION WITH THE EMPLOYMENT, WHILE THE EMPLOYEE IS NOT  
7 ENGAGED IN WAITING ON OR SERVING CUSTOMERS, MAY TASTE SAMPLES OF BEER OR WINE  
8 NOT TO EXCEED FOUR OUNCES PER DAY OR DISTILLED SPIRITS NOT TO EXCEED TWO  
9 OUNCES PER DAY PROVIDED BY AN EMPLOYEE OF A WHOLESALER OR DISTRIBUTOR WHO IS  
10 PRESENT AT THE TIME OF THE SAMPLING.

11 (c) AN EMPLOYEE OF AN ON-SALE RETAIL LICENSEE, UNDER THE SUPERVISION  
12 OF A MANAGER AS PART OF THE EMPLOYEE'S TRAINING AND EDUCATION, WHILE NOT  
13 ENGAGED IN WAITING ON OR SERVING CUSTOMERS MAY TASTE SAMPLES OF DISTILLED  
14 SPIRITS NOT TO EXCEED TWO OUNCES PER EDUCATIONAL SESSION OR BEER OR WINE NOT  
15 TO EXCEED FOUR OUNCES PER EDUCATIONAL SESSION, AND PROVIDED THAT A LICENSEE  
16 SHALL NOT HAVE MORE THAN TWO EDUCATIONAL SESSIONS IN ANY THIRTY DAY PERIOD.

17 (d) An unpaid volunteer who is a bona fide member of a club and who is  
18 not engaged in waiting on or serving spirituous liquor to customers may  
19 purchase for himself and consume spirituous liquor while participating in a  
20 scheduled event at the club. An unpaid participant in a food competition may  
21 purchase for himself and consume spirituous liquor while participating in the  
22 food competition.

23 (e) AN UNPAID VOLUNTEER OF A SPECIAL EVENT LICENSEE UNDER SECTION  
24 4-203.02 MAY PURCHASE AND CONSUME SPIRITUOUS LIQUOR WHILE NOT ENGAGED IN  
25 WAITING ON OR SERVING SPIRITUOUS LIQUOR TO CUSTOMERS AT THE SPECIAL  
26 EVENT. THIS SUBDIVISION DOES NOT APPLY TO AN UNPAID VOLUNTEER WHOSE  
27 RESPONSIBILITIES INCLUDE VERIFICATION OF A PERSON'S LEGAL DRINKING AGE,  
28 SECURITY OR THE OPERATION OF ANY VEHICLE OR HEAVY MACHINERY.

29 14. For a licensee or other person to serve, sell or furnish spirituous  
30 liquor to a disorderly or obviously intoxicated person, or for a licensee or  
31 employee of the licensee to allow or permit a disorderly or obviously  
32 intoxicated person to come into or remain on or about the premises, except  
33 that a licensee or an employee of the licensee may allow an obviously  
34 intoxicated person to remain on the premises for a period of time of not to  
35 exceed thirty minutes after the state of obvious intoxication is known or  
36 should be known to the licensee in order that a nonintoxicated person may  
37 transport the obviously intoxicated person from the premises. For purposes  
38 of this section, "obviously intoxicated" means inebriated to the extent that  
39 a person's physical faculties are substantially impaired and the impairment  
40 is shown by significantly uncoordinated physical action or significant  
41 physical dysfunction that would have been obvious to a reasonable person.

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

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

10           17. For an on-sale retailer or an employee of such retailer to allow a  
11 person to consume or possess spirituous liquors on the premises between the  
12 hours of 2:30 a.m. and 6:00 a.m. on weekdays, and 2:30 a.m. and 10:00 a.m.  
13 on Sundays.

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

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

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

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

37           22. For an on-sale retailer or employee to allow a person under the  
38 legal drinking age to remain in an area on the licensed premises during those  
39 hours in which its primary use is the sale, dispensing or consumption of  
40 alcoholic beverages after the licensee, or the licensee's employees, know or  
41 should have known that the person is under the legal drinking age. An  
42 on-sale retailer may designate an area of the licensed premises as an area in  
43 which spirituous liquor will not be sold or consumed for the purpose of  
44 allowing underage persons on the premises if the designated area is separated  
45 by a physical barrier and at no time will underage persons have access to the

1 area in which spirituous liquor is sold or consumed. The director, or a  
2 municipality, may adopt rules to regulate the presence of underage persons on  
3 licensed premises provided the rules adopted by a municipality are more  
4 stringent than those adopted by the director. The rules adopted by the  
5 municipality shall be adopted by local ordinance. This paragraph does not  
6 apply:

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

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

13 (i) An active duty military service member.

14 (ii) A veteran.

15 (iii) A member of the United States army national guard or the United  
16 States air national guard.

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

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

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

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

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

32 26. For a licensee or employee to knowingly permit unlawful gambling on  
33 the premises.

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

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

39 29. For any person other than a peace officer, the licensee or an  
40 employee of the licensee acting with the permission of the licensee to be in  
41 possession of a firearm while on the licensed premises of an on-sale retailer  
42 knowing such possession is prohibited. This paragraph shall not be construed  
43 to include a situation in which a person is on licensed premises for a  
44 limited time in order to seek emergency aid and such person does not buy,  
45 receive, consume or possess spirituous liquor. This paragraph shall not

1 apply to hotel or motel guest room accommodations nor to the exhibition or  
2 display of a firearm in conjunction with a meeting, show, class or similar  
3 event.

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

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

20 32. For a person who is obviously intoxicated to buy or attempt to buy  
21 spirituous liquor from a licensee or employee of a licensee or to consume  
22 spirituous liquor on licensed premises.

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

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

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

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

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

37 38. For a licensee to offer for sale a wine carrying a label including  
38 a reference to Arizona or any Arizona city, town or geographic location  
39 unless at least seventy-five per cent by volume of the grapes used in making  
40 the wine were grown in Arizona.

41 39. For a retailer to knowingly allow a customer to bring spirituous  
42 liquor onto the licensed premises, except that an on-sale retailer may allow  
43 a wine and food club to bring wine onto the premises for consumption by the  
44 club's members and guests of the club's members in conjunction with meals  
45 purchased at a meeting of the club that is conducted on the premises and that

1 at least seven members attend. An on-sale retailer who allows wine and food  
2 clubs to bring wine onto its premises under this paragraph shall comply with  
3 all applicable provisions of this title and any rules adopted pursuant to  
4 this title to the same extent as if the on-sale retailer had sold the wine to  
5 the members of the club and their guests. For the purposes of this  
6 paragraph, "wine and food club" means an association that has more than  
7 twenty bona fide members paying at least six dollars per year in dues and  
8 that has been in existence for at least one year.

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

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

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

19 41. FOR AN EMPLOYEE OF A LICENSEE TO ACCEPT ANY GRATUITY, COMPENSATION,  
20 REMUNERATION OR CONSIDERATION OF ANY KIND TO EITHER:

21 (a) PERMIT A PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE TO ENTER ANY  
22 PORTION OF THE PREMISES WHERE THAT PERSON IS PROHIBITED FROM ENTERING  
23 PURSUANT TO PARAGRAPH 22 OF THIS SECTION.

24 (b) SELL, FURNISH, DISPOSE OF OR GIVE SPIRITUOUS LIQUOR TO A PERSON  
25 WHO IS UNDER TWENTY-ONE YEARS OF AGE.

26 42. FOR A PERSON TO PURCHASE, OFFER FOR SALE OR USE ANY DEVICE, MACHINE  
27 OR PROCESS WHICH MIXES SPIRITUOUS LIQUOR WITH PURE OXYGEN OR ANOTHER GAS TO  
28 PRODUCE A VAPORIZED PRODUCT FOR THE PURPOSE OF CONSUMPTION BY INHALATION.

29 43. FOR A RETAIL LICENSEE OR AN EMPLOYEE OF A RETAIL LICENSEE TO SELL  
30 SPIRITUOUS LIQUOR TO A PERSON IF THE RETAIL LICENSEE OR EMPLOYEE KNOWS THE  
31 PERSON INTENDS TO RESELL THE SPIRITUOUS LIQUOR.

32 Sec. 12. Section 4-244.05, Arizona Revised Statutes, is amended to  
33 read:

34 4-244.05. Unlicensed business establishment or premises;  
35 unlawful consumption of spirituous liquor; civil  
36 penalty; seizure and forfeiture of property

37 A. A person owning, operating, leasing, managing or controlling a  
38 business establishment or business premises which are not properly licensed  
39 pursuant to this title and in which any of the following occur shall not  
40 allow the consumption of spirituous liquor in the establishment or on the  
41 premises:

- 42 1. Food or beverages are sold.
- 43 2. Entertainment is provided.
- 44 3. A membership fee or a cover charge for admission is charged.

1           4. A minimum purchase or rental requirement for goods or services is  
2 charged.

3           B. A person shall not consume spirituous liquor in a business  
4 establishment or on business premises which are not properly licensed  
5 pursuant to this title in which food or beverages are sold, entertainment is  
6 provided, a membership fee or a cover charge for admission is charged or a  
7 minimum purchase or rental requirement for goods or services is charged.

8           C. In addition to or in lieu of other fines or civil penalties imposed  
9 for a violation of this section or any other action taken by the board or  
10 director, the board or director may conduct a hearing subject to the  
11 requirements of section 4-210, subsection F- G to determine whether a person  
12 has violated subsection A of this section. If the board or director  
13 determines, after a hearing, that a person has violated subsection A of this  
14 section the board or director may impose a civil penalty of not less than two  
15 hundred nor more than five thousand dollars for each offense. A civil  
16 penalty imposed pursuant to this section by the director may be appealed to  
17 the board.

18           D. In addition to any other remedies provided by law, any monies used  
19 or obtained in violation of this chapter may be seized by any peace officer  
20 if the peace officer has probable cause to believe that the money has been  
21 used or is intended to be used in violation of this section.

22           E. In addition to any other remedies provided by law, the records of  
23 an establishment that is in violation of this section may be seized by any  
24 peace officer if the peace officer has probable cause to believe that the  
25 establishment is operating without a valid license issued pursuant to this  
26 title.

27           F. In addition to any other remedies provided by law, any amount of  
28 alcohol may be seized by any peace officer if the peace officer has probable  
29 cause to believe that the alcohol is being used or is intended to be used in  
30 violation of this section.

31           G. In addition to any other remedies provided by law, the following  
32 property shall be forfeited pursuant to section 13-2314 or title 13, chapter  
33 39:

34           1. All proceeds and other assets that are derived from a violation of  
35 this section.

36           2. Anything of value that is used or intended to be used to facilitate  
37 a violation of this section.

38           H. A person who obtains property through a violation of this section  
39 is deemed to be an involuntary trustee of that property. An involuntary  
40 trustee and any other person who obtains the property, except a bona fide  
41 purchaser who purchases the property for value without notice of or  
42 participation in the unlawful conduct, holds the property, including its  
43 proceeds and other assets, in constructive trust for the benefit of the  
44 persons entitled to remedies pursuant to section 13-2314 or title 13, chapter  
45 39.

1 I. The board or director may adopt rules authorizing and prescribing  
2 limitations for the possession or consumption of spirituous liquor at  
3 establishments or premises falling within the scope of subsections A and B of  
4 this section. Rules adopted pursuant to this subsection shall authorize the  
5 possession or consumption of spirituous liquor only at establishments or  
6 premises which permit the consumption or possession of minimal amounts of  
7 spirituous liquor and which meet both of the following criteria:

8 1. The possession or consumption of spirituous liquor is permitted  
9 only as an incidental convenience to the customers of the establishment or  
10 premises.

11 2. The possession or consumption of spirituous liquor is permitted  
12 only within the hours of lawful sale as prescribed in this title, and is  
13 limited to no more than ten hours per day.

14 J. Any rules adopted pursuant to subsection I of this section shall  
15 prescribe:

16 1. The maximum permitted occupancy of an establishment or premises.

17 2. The hours during which spirituous liquor may be possessed or  
18 consumed.

19 3. The amount of spirituous liquor that a person may possess or  
20 consume.

21 4. That the director, the director's agents and any peace officer  
22 empowered to enforce the provisions of this title may, in enforcing the  
23 provisions of this title, MAY visit and inspect the establishment or premises  
24 during the business hours of the premises or establishment.

25 K. Any rules adopted pursuant to subsection I of this section may  
26 prescribe separate classifications of establishments or premises at which  
27 spirituous liquor may be possessed or consumed and may establish any other  
28 provisions relating to the possession or consumption of spirituous liquor at  
29 establishments or premises falling within the scope of subsections A and B of  
30 this section which are necessary to maintain the health and welfare of the  
31 community.

32 L. This section does not apply to establishments or premises that are  
33 not licensed pursuant to this title and on which occurs the consumption of  
34 spirituous liquor if the establishment or premises are owned, operated,  
35 leased, managed or controlled by the United States, this state or a city or  
36 county of this state.

37 Sec. 13. Section 4-246, Arizona Revised Statutes, is amended to read:

38 4-246. Violation; classification

39 A. A person violating any provision of this title is guilty of a class  
40 2 misdemeanor unless another classification is prescribed.

41 B. A person violating section 4-244, paragraph 9, 14, ~~or~~ 33, 41 OR 43  
42 is guilty of a class 1 misdemeanor.

43 C. IN ADDITION TO ANY OTHER PENALTY PRESCRIBED BY LAW, A PERSON WHO IS  
44 CONVICTED OF A VIOLATION OF SECTION 4-244, PARAGRAPH 41 SHALL PAY A FINE OF  
45 NOT LESS THAN FIVE HUNDRED DOLLARS.

1 D. IN ADDITION TO ANY OTHER PENALTY PRESCRIBED BY LAW, A PERSON WHO IS  
2 CONVICTED OF A VIOLATION OF SECTION 4-241, PARAGRAPH C, D OR E SHALL PAY A  
3 FINE OF NOT LESS THAN TWO HUNDRED FIFTY DOLLARS.

4 Sec. 14. Repeal

5 Laws 2005, chapter 94, section 6 is repealed.

6 Sec. 15. Temporary transfers of licenses

7 Between July 1, 2006 and December 31, 2007, bar, beer and wine bar and  
8 liquor store licenses may be transferred from counties with a population of  
9 five hundred thousand or more persons to counties with a population of less  
10 than five hundred thousand persons.

11 Sec. 16. License issuance

12 A. In each fiscal year, beginning in fiscal year 2005-2006 through  
13 fiscal year 2009-2010, the department of liquor licenses and control shall  
14 issue one bar, beer and wine bar and liquor store license in counties with a  
15 population of less than one hundred thousand persons, three bar, beer and  
16 wine bar and liquor store licenses in counties with a population of one  
17 hundred thousand or more persons but less than five hundred thousand persons,  
18 five bar, beer and wine bar and liquor store licenses in counties with a  
19 population of five hundred thousand or more persons but less than one million  
20 persons and ten bar, beer and wine bar and liquor store licenses in counties  
21 with a population of one million or more persons. If the number of  
22 applicants in a county does not at least equal the number that may be issued  
23 under this section, the department shall issue an amount equal to the number  
24 of applicants. If the number of applicants in a county exceeds the number  
25 that may be issued under this section, a priority of applicants shall be  
26 determined by a random selection method prescribed by the director of the  
27 department.

28 B. If more than one person applies for an available bar or beer and  
29 wine bar license, the director may give priority, to be determined by a  
30 random selection method prescribed by the director, in fiscal year 2005-2006,  
31 for not more than twenty per cent of the then available licenses to the  
32 holders of restaurant licenses under section 4-205.02, Arizona Revised  
33 Statutes, who may be failing to maintain the food sales requirement and who  
34 either:

- 35 1. Have been licensed for a minimum of three years.  
36 2. Have met the food sales requirements according to at least one  
37 state audit.

38 C. A priority of applicants for any remaining bar or beer and wine bar  
39 licenses available after priority has been given to the holders of restaurant  
40 licenses pursuant to subsection B of this section shall be determined by a  
41 random selection method prescribed by the director.

42 D. The department shall retain the amount of any costs incurred by the  
43 department in connection with the random selection method prescribed in this  
44 section from fees collected by the department for the new licenses, and the

1 department shall not be required to deposit the retained portion of the fees  
2 collected in the state general fund.

3 E. For purposes of the random selection method prescribed in this  
4 section only, the department is exempt from any applicable rules adopted  
5 prior to the date of this amendment to this section.

6 Sec. 17. Appropriations; department equipment

7 A. For each of fiscal years 2005-2006 and 2006-2007, the proceeds from  
8 the issuance of licenses pursuant to section 16 of this act, not to exceed  
9 \$1,250,000.00 in any fiscal year, is appropriated to the department of liquor  
10 licenses and control for the exclusive purpose of purchase of equipment and  
11 services necessary to improve the data processing systems of the department.

12 B. The appropriations made in subsection A of this section are exempt  
13 from the provisions of section 35-190, Arizona Revised Statutes, relating to  
14 lapsing of appropriations.

APPROVED BY THE GOVERNOR MAY 11, 2005.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 12, 2005.

Passed the House March 14, 2005

Passed the Senate April 18, 2005

by the following vote: 42 Ayes,

by the following vote: 18 Ayes,

13 Nays, 5 Not Voting

11 Nays, 1 Not Voting

[Signature]  
Speaker of the House

[Signature]  
President of the Senate

[Signature]  
Chief Clerk of the House

[Signature]  
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. 2647

HOUSE FINAL PASSAGE  
as per Joint Conference

Passed the House May 4, 2005,  
by the following vote: 42 Ayes,

15 Nays, 3 Not Voting

Speaker of the House

Chief Clerk of the House

SENATE FINAL PASSAGE  
as per Joint Conference

Passed the Senate May 6, 2005,  
by the following vote: 18 Ayes,

11 Nays, 1 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 10th day of May, 2005

at 1:10 o'clock P. M.

Secretary to the Governor

Approved this 11 day of

May, 2005,  
at 5:00 o'clock P. M.

Governor of Arizona

H.B. 2647

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 12 day of May, 2005,

at 9:16 o'clock A. M.

Secretary of State