

House Engrossed Senate Bill

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
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CHAPTER 302

SENATE BILL 1322

AN ACT

AMENDING SECTIONS 4-101 AND 4-205.04, ARIZONA REVISED STATUTES; AMENDING TITLE 4, CHAPTER 2, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 4-205.08; AMENDING SECTIONS 4-243.01, 42-3001 AND 42-3355, ARIZONA REVISED STATUTES; RELATING TO DOMESTIC MICROBREWERIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 4-101. Definitions

5 In this title, unless the context otherwise requires:

6 1. "Act of violence" means an incident consisting of a riot, a brawl
7 or a disturbance, in which bodily injuries are sustained by any person and
8 such injuries would be obvious to a reasonable person, or tumultuous conduct
9 of sufficient intensity as to require the intervention of a peace officer to
10 restore normal order, or an incident in which a weapon is brandished,
11 displayed or used. Act of violence does not include the use of nonlethal
12 devices by a peace officer.

13 2. "Aggrieved party" means a person who resides at, owns or leases
14 property within a one mile radius of a premises proposed to be licensed and
15 who filed a written request with the department to speak in favor of or
16 opposition to the issuance of the license no later than sixty days after the
17 filing of the application or fifteen days after action by the local governing
18 body, whichever is later.

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

22 4. "Board" means the state liquor board.

23 5. "Bona fide guest" means:

24 (a) A person who is actually a houseguest or a person whose presence
25 as a guest is in response to a specific and personal invitation.

26 (b) In the case of a club that meets the criteria prescribed in
27 paragraph 7, subdivision (a) of this section, a current member of the armed
28 services of the United States who presents proper military identification and
29 any member of a recognized veterans' organization of any country allied with
30 the United States during current or past wars or through treaty arrangements.

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

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

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

41 (b) A chapter, aerie, parlor, lodge or other local unit of an American
42 national fraternal organization which has as the owner, lessee or occupant
43 operated an establishment for fraternal purposes in this state. An American
44 national fraternal organization as used in this subdivision shall actively

1 operate in not less than thirty-six states or have been in active continuous
2 existence for not less than twenty years.

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

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

9 (e) A social club with more than one hundred bona fide members who are
10 actual residents of the county in which it is located, that owns, maintains
11 or operates club quarters, is authorized and incorporated to operate as a
12 nonprofit club under the laws of this state, and has been continuously
13 incorporated and operating for a period of not less than one year. The club
14 shall have had, during this one year period, a bona fide membership with
15 regular meetings conducted at least once each month, and the membership shall
16 be and shall have been actively engaged in carrying out the objects of the
17 club. The club's membership shall consist of bona fide dues paying members
18 paying at least six dollars per year, payable monthly, quarterly or annually,
19 which have been recorded by the secretary of the club, and the members at the
20 time of application for a club license shall be in good standing having for
21 at least one full year paid dues. At least fifty-one per cent of the members
22 shall have signified their intention to secure a social club license by
23 personally signing a petition, on a form prescribed by the board, which shall
24 also include the correct mailing address of each signer. The petition shall
25 not have been signed by a member at a date earlier than thirty days prior to
26 the filing of the petition. The club shall qualify for exemption from the
27 payment of state income taxes under title 43. It is the intent of this
28 paragraph that a license shall not be granted to a club which is, or has
29 been, primarily formed or activated to obtain a license to sell liquor, but
30 solely to a bona fide club, where the sale of liquor is incidental to the
31 main purposes of the club.

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

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

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

1 partner who holds ten per cent or more of the voting rights of the
2 partnership. For the purposes of determining the percentage of voting
3 securities owned, controlled or held by a person, there shall be aggregated
4 with the voting securities attributed to the person the voting securities of
5 any other person directly or indirectly controlling, controlled by or under
6 common control with the other person, or by an officer, partner, employee or
7 agent of the person or by a spouse, parent or child of the person. Control
8 is also presumed to exist if a creditor of the applicant, licensee or
9 controlling person holds a beneficial interest in ten per cent or more of the
10 liabilities of the licensee or controlling person.

11 10. "Controlling person" means a person directly or indirectly
12 possessing control of an applicant or licensee.

13 11. "Department" means the department of liquor licenses and control.

14 12. "Director" means the director of the department of liquor licenses
15 and control.

16 13. "Distilled spirits" includes alcohol, brandy, whiskey, rum,
17 tequila, mescal, gin, absinthe, a compound or mixture of any of them or of
18 any of them with any vegetable or other substance, alcohol bitters, bitters
19 containing alcohol, fruits preserved in ardent spirits, and any alcoholic
20 mixture or preparation, whether patented or otherwise, which may in
21 sufficient quantities produce intoxication.

22 14. "DOMESTIC MICROBREWERY" MEANS A BREWERY IN THE UNITED STATES OR IN
23 A TERRITORY OR POSSESSION OF THE UNITED STATES THAT MEETS THE REQUIREMENTS OF
24 SECTION 4-205.08.

25 ~~14-~~ 15. "Employee" means any person who performs any service on
26 licensed premises on a full-time, part-time or contract basis with consent of
27 the licensee, whether or not the person is denominated an employee,
28 independent contractor or otherwise. Employee does not include a person
29 exclusively on the premises for musical or vocal performances, for repair or
30 maintenance of the premises or for the delivery of goods to the licensee.

31 ~~15-~~ 16. "Government license" means a license to serve and sell
32 spirituous liquor on specified premises available only to a county, city,
33 town or state university or the Arizona coliseum and exposition center upon
34 application by the governing body of a county, city, town or state university
35 or the Arizona exposition and state fair board.

36 ~~16-~~ 17. "Legal drinking age" means the age of twenty-one years or
37 older.

38 ~~17-~~ 18. "License" means a license or an interim retail permit issued
39 pursuant to the provisions of this title.

40 ~~18-~~ 19. "License fees" means fees collected for license issuance,
41 license application, license renewal, interim permit issuance and license
42 transfer between persons or locations.

43 ~~19-~~ 20. "Licensee" means a person who has been issued a license or an
44 interim retail permit pursuant to the provisions of this title or a special
45 event licensee.

1 ~~20-~~ 21. "Manager" means a natural person who meets the standards
2 required of licensees and has authority to organize, direct, carry on,
3 control or otherwise operate a licensed business on a temporary or full-time
4 basis.

5 ~~21-~~ 22. "Off-sale retailer" means any person operating a bona fide
6 regularly established retail liquor store selling spirituous liquors, wines
7 and beer, and any established retail store selling commodities other than
8 spirituous liquors and engaged in the sale of spirituous liquors only in the
9 original unbroken package, to be taken away from the premises of the retailer
10 and to be consumed off the premises.

11 ~~22-~~ 23. "On-sale retailer" means any person operating an establishment
12 where spirituous liquors are sold in the original container for consumption
13 on or off the premises or in individual portions for consumption on the
14 premises.

15 ~~23-~~ 24. "Person" includes a partnership, limited liability company,
16 association, company or corporation, as well as a natural person.

17 ~~24-~~ 25. "Premises" or "licensed premises" means the area from which
18 the licensee is authorized to sell, dispense or serve spirituous liquors
19 under the provision of the license.

20 ~~25-~~ 26. "Registered mail" includes certified mail.

21 ~~26-~~ 27. "Registered retail agent" means any person who is authorized
22 pursuant to section 4-222 to purchase spirituous liquors for and on behalf of
23 himself and other retail licensees.

24 ~~27-~~ 28. "Repeated acts of violence" means two or more acts of violence
25 occurring within seven days, three or more acts of violence occurring within
26 thirty days or acts of violence occurring with any other similar frequency
27 which the director determines to be unusual or deserving of review.

28 ~~28-~~ 29. "Sell" includes soliciting or receiving an order for, keeping
29 or exposing for sale, directly or indirectly delivering for value, peddling,
30 keeping with intent to sell and trafficking in.

31 ~~29-~~ 30. "Spirituous liquor" includes alcohol, brandy, whiskey, rum,
32 tequila, mescal, gin, wine, porter, ale, beer, any malt liquor or malt
33 beverage, absinthe, a compound or mixture of any of them or of any of them
34 with any vegetable or other substance, alcohol bitters, bitters containing
35 alcohol, any liquid mixture or preparation, whether patented or otherwise,
36 which produces intoxication, fruits preserved in ardent spirits, and
37 beverages containing more than one-half of one per cent of alcohol by volume.

38 ~~30-~~ 31. "Vehicle" means any means of transportation by land, water or
39 air, and includes everything made use of in any way for such transportation.

40 ~~31-~~ 32. "Vending machine" means a machine that dispenses merchandise
41 through the means of coin, token, credit card or other nonpersonal means of
42 accepting payment for merchandise received.

43 ~~32-~~ 33. "Veteran" means a person who has served in the United States
44 air force, army, navy, marine corps or coast guard, as an active nurse in the
45 services of the American red cross, in the army and navy nurse corps in time

1 of war, or in any expedition of the armed forces of the United States, and
2 who has received a discharge other than dishonorable.

3 ~~33-~~ 34. "Voting security" means any security presently entitling the
4 owner or holder of the security to vote for the election of directors of an
5 applicant, licensee or controlling person.

6 ~~34-~~ 35. "Wine" means the product obtained by the fermentation of
7 grapes or other agricultural products containing natural or added sugar or
8 any such alcoholic beverage fortified with grape brandy and containing not
9 more than twenty-four per cent of alcohol by volume.

10 Sec. 2. Section 4-205.04, Arizona Revised Statutes, is amended to
11 read:

12 4-205.04. Domestic farm winery license; issuance; regulatory
13 provisions; retail site

14 A. The director may issue a domestic farm winery ~~or domestic~~
15 ~~microbrewery~~ license to any domestic farm winery ~~or domestic~~
16 ~~microbrewery~~. Each location ~~which~~ THAT engages in producing and bottling
17 these products must obtain a separate domestic farm winery ~~or domestic~~
18 ~~microbrewery~~ license, ~~but both such licenses may be issued for a common~~
19 ~~location~~. The licensee may not transfer the domestic farm winery ~~or domestic~~
20 ~~microbrewery~~ license from person to person or from location to location.

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

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

36 D. A licensed domestic farm winery is subject to ~~at~~ BOTH of the
37 following requirements:

38 1. The winery shall produce not less than two hundred gallons and not
39 more than seventy-five thousand gallons of wine annually from grapes or other
40 suitable agricultural products of which at least seventy-five per cent are
41 grown in this state. The director may allow a percentage of out-of-state
42 agricultural products greater than twenty-five per cent in wine manufactured
43 or produced by a licensed domestic farm winery if the licensed domestic farm
44 winery can demonstrate to the satisfaction of the director that sufficient
45 in-state agricultural products are not available because of an unexpected

1 failure of suitable in-state crops due to natural causes. The exemption
2 shall remain in effect only for the period of time during which such
3 shortages actually exist.

4 2. The winery may purchase and sell wine produced from a domestic farm
5 winery if the retail sale of the wine is conducted from the same site as the
6 location of the winery.

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

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

17 ~~2. The microbrewery shall not produce more than three hundred ten
18 thousand gallons of beer annually.~~

19 ~~3. If retail operations are conducted in conjunction with the
20 microbrewery, these retail operations shall be conducted from the same site
21 as the location of the microbrewery.~~

22 ~~4. The microbrewery may sell other spirituous liquor products if:~~

23 ~~(a) The microbrewery holds an on-sale retail license.~~

24 ~~(b) The retail sale of the spirituous liquor is on or adjacent to the
25 premises of the microbrewery.~~

26 ~~F. A person who holds a domestic microbrewery license that meets the
27 requirements of this section and who is not otherwise engaged in the business
28 of a distiller, vintner, brewer, rectifier, blender or other producer of
29 spirituous liquor in any jurisdiction may hold other on-sale retail
30 licenses. The person shall purchase all spirituous liquor for sale at the
31 other on-sale retail premises from wholesalers who are licensed in this
32 state.~~

33 ~~G. E. The director shall adopt rules in order to administer this
34 section.~~

35 Sec. 3. Title 4, chapter 2, article 1, Arizona Revised Statutes, is
36 amended by adding section 4-205.08, to read:

37 4-205.08. Domestic microbrewery license; issuance; regulatory
38 provisions; retail site

39 A. THE DIRECTOR MAY ISSUE A DOMESTIC MICROBREWERY LICENSE TO ANY
40 DOMESTIC MICROBREWERY. EACH LOCATION THAT ENGAGES IN PRODUCING AND BOTTLING
41 THESE PRODUCTS MUST OBTAIN A SEPARATE DOMESTIC MICROBREWERY LICENSE. THE
42 LICENSEE MAY NOT TRANSFER THE DOMESTIC MICROBREWERY LICENSE FROM PERSON TO
43 PERSON OR FROM LOCATION TO LOCATION.

44 B. AN APPLICANT FOR A DOMESTIC MICROBREWERY LICENSE, AT THE TIME OF
45 FILING THE APPLICATION FOR THE LICENSE, SHALL ACCOMPANY THE APPLICATION WITH

1 THE LICENSE FEE. PERSONS HOLDING A DOMESTIC MICROBREWERY LICENSE SHALL
2 REPORT ANNUALLY AT THE END OF EACH CALENDAR YEAR, AT SUCH TIME AND IN SUCH
3 MANNER AS THE DIRECTOR MAY PRESCRIBE, THE AMOUNT OF BEER MANUFACTURED BY THEM
4 DURING THE CALENDAR YEAR AND THE AMOUNT DELIVERED PURSUANT TO SUBSECTION D,
5 PARAGRAPH 5, SUBDIVISION (b). IF THE TOTAL AMOUNT OF BEER MANUFACTURED OR
6 DELIVERED DURING THE CALENDAR YEAR EXCEEDS THE AMOUNT PERMITTED ANNUALLY BY
7 THE LICENSE, THE LICENSEE SHALL APPLY FOR AND RECEIVE A PRODUCER'S LICENSE.

8 C. NOTWITHSTANDING ANY OTHER STATUTE, A LICENSED DOMESTIC MICROBREWERY
9 MAY:

10 1. SELL BEER PRODUCED OR MANUFACTURED ON THE PREMISES FOR CONSUMPTION
11 ON OR OFF THE PREMISES.

12 2. MAKE SALES AND DELIVERIES OF BEER TO PERSONS LICENSED TO SELL BEER
13 UNDER THIS TITLE THROUGH WHOLESALERS LICENSED UNDER THIS TITLE OR AS PROVIDED
14 IN SUBSECTION D, PARAGRAPH 5, SUBDIVISION (a) OR SUBDIVISION (b).

15 3. MAKE SALES AND DELIVERIES OF BEER TO PERSONS LICENSED TO SELL BEER
16 IN ANOTHER STATE IF LAWFUL UNDER THE LAWS OF THAT STATE.

17 4. SERVE BEER PRODUCED OR MANUFACTURED ON THE PREMISES FOR THE PURPOSE
18 OF SAMPLING THE BEER.

19 D. A LICENSED DOMESTIC MICROBREWERY IS SUBJECT TO ALL OF THE FOLLOWING
20 REQUIREMENTS:

21 1. THE MICROBREWERY SHALL PRODUCE NOT LESS THAN FIVE THOUSAND GALLONS
22 OF BEER IN EACH CALENDAR YEAR FOLLOWING THE FIRST YEAR OF OPERATION.

23 2. THE MICROBREWERY SHALL NOT PRODUCE MORE THAN SIX HUNDRED TWENTY
24 THOUSAND GALLONS OF BEER IN A CALENDAR YEAR.

25 3. IF RETAIL OPERATIONS ARE CONDUCTED IN CONJUNCTION WITH THE
26 MICROBREWERY, THESE RETAIL OPERATIONS SHALL BE CONDUCTED FROM THE SAME SITE
27 AS THE LOCATION OF THE MICROBREWERY.

28 4. THE MICROBREWERY MAY SELL OTHER SPIRITUOUS LIQUOR PRODUCTS IF:

29 (a) THE MICROBREWERY HOLDS AN ON-SALE RETAIL LICENSE.

30 (b) THE RETAIL SALE OF THE SPIRITUOUS LIQUOR IS ON OR ADJACENT TO THE
31 PREMISES OF THE MICROBREWERY.

32 5. THE MICROBREWERY MAY MAKE SALES AND DELIVERIES OF BEER THAT IT HAS
33 PRODUCED TO BOTH:

34 (a) RETAIL LICENSEES THAT ARE UNDER COMMON OWNERSHIP WITH THE
35 MICROBREWERY IN ANY AMOUNT.

36 (b) OTHER LICENSED RETAILERS IN AN AMOUNT NOT TO EXCEED NINETY THREE
37 THOUSAND GALLONS IN ANY CALENDAR YEAR.

38 E. A PERSON WHO HOLDS A DOMESTIC MICROBREWERY LICENSE THAT MEETS THE
39 REQUIREMENTS OF THIS SECTION AND WHO IS NOT OTHERWISE ENGAGED IN THE BUSINESS
40 OF A DISTILLER, VINTNER, BREWER, RECTIFIER, BLENDER OR OTHER PRODUCER OF
41 SPIRITUOUS LIQUOR IN ANY JURISDICTION MAY HOLD OTHER ON-SALE RETAIL LICENSES.
42 EXCEPT AS PROVIDED IN SUBSECTION D, PARAGRAPH 5, SUBDIVISION (a), THE PERSON
43 SHALL PURCHASE ALL SPIRITUOUS LIQUOR FOR SALE AT THE OTHER ON-SALE RETAIL
44 PREMISES FROM WHOLESALERS WHO ARE LICENSED IN THIS STATE.

45 F. THE DIRECTOR SHALL ADOPT RULES IN ORDER TO ADMINISTER THIS SECTION.

1 Sec. 4. Section 4-243.01, Arizona Revised Statutes, is amended to
2 read:

3 4-243.01. Purchasing from other than primary source of supply
4 unlawful; definitions

5 A. It is unlawful:

6 1. For any supplier to solicit, accept or fill any order for any
7 spirituous liquor from any wholesaler in this state unless the supplier is
8 the primary source of supply for the brand of spirituous liquor sold or
9 sought to be sold and is duly licensed by the board.

10 2. For any wholesaler or any other licensee in this state to order,
11 purchase or receive any spirituous liquor from any supplier unless the
12 supplier is the primary source of supply for the brand ordered, purchased or
13 received.

14 3. Except as provided by section 4-243.02 for a retailer to order,
15 purchase or receive any spirituous liquor from any source other than any of
16 the following:

17 (a) A wholesaler who has purchased the brand from the primary source
18 of supply.

19 (b) A wholesaler who is the designated representative of the primary
20 source of supply in this state and who has purchased such spirituous liquor
21 from the designated representative of the primary source of supply within or
22 without this state.

23 (c) A registered retail agent pursuant to section 4-101.

24 (d) A domestic farm winery ~~or domestic microbrewery~~ licensed under
25 section 4-205.04.

26 (e) A DOMESTIC MICROBREWERY LICENSED UNDER SECTION 4-205.08.

27 B. All spirituous liquor shipped into this state shall be invoiced to
28 the wholesaler by the primary source of supply. All spirituous liquor shall
29 be unloaded and remain at the wholesaler's premises for at least twenty-four
30 hours. A copy of each invoice shall be transmitted by the wholesaler and the
31 primary source of supply to the department of revenue.

32 C. The director may suspend for a period of one year the license of
33 any wholesaler or retailer who violates this section.

34 D. Upon determination by the department of revenue that a primary
35 source of supply has violated this section, no wholesaler may accept any
36 shipment of spirituous liquor from such primary source of supply for a period
37 of one year.

38 E. For the purposes of this section:

39 1. "Primary source of supply" means the distiller, producer, owner of
40 the commodity at the time it becomes a marketable product, bottler or
41 exclusive agent of any such distributor or owner. In the case of imported
42 products, the primary source of supply means either the foreign producer,
43 owner, bottler or agent or the prime importer from, or the exclusive agent
44 in, the United States of the foreign distiller, producer, bottler or owner.

1 2. "Wholesaler" means any person, firm or corporation that is licensed
2 in this state to sell to retailers and THAT is engaged in the business of
3 warehousing and distributing brands of various suppliers to retailers
4 generally in the marketing area in which the wholesaler is located.

5 Sec. 5. Section 42-3001, Arizona Revised Statutes, is amended to read:
6 42-3001. Definitions

7 In this chapter, unless the context otherwise requires:

8 1. "Affix" and "affixed" includes imprinting tax meter stamps on
9 packages and individual containers as authorized by the department.

10 2. "Cider" means vinous liquor that is made from the normal alcoholic
11 fermentation of the juice of sound, ripe apples, including flavored,
12 sparkling and carbonated cider and cider made from condensed apple must, and
13 that contains more than one-half of one per cent of alcohol by volume but not
14 more than seven per cent of alcohol by volume.

15 3. "Cigar" means any roll of tobacco or any substitute for tobacco
16 wrapped with tobacco.

17 4. "Cigarette" means any roll of tobacco or any substitute for tobacco
18 wrapped in paper or any substance other than tobacco.

19 5. "Distributor" means any person who manufactures, produces, ships,
20 transports or imports into this state or in any manner acquires or possesses
21 for the purpose of making the first sale of the following:

22 (a) Cigarettes without stamps affixed as required by this article.

23 (b) Cigars or other tobacco products upon which the taxes have not
24 been paid as required by this chapter.

25 6. "Domestic farm winery" means a domestic farm winery licensed
26 pursuant to title 4, chapter 2, article 1.

27 7. ~~"Domestic microbrewery" means a domestic microbrewery licensed~~
28 ~~pursuant to title 4, chapter 2, article 1~~ HAS THE SAME MEANING PRESCRIBED IN
29 SECTION 4-101.

30 8. "First sale" means the first sale or distribution in intrastate
31 commerce or the first use or consumption of cigarettes, cigars or other
32 tobacco products.

33 9. "Luxury" means any article, object or device upon which a tax is
34 imposed under the provisions of this chapter.

35 10. "Malt liquor" means any liquid that contains more than one-half of
36 one per cent alcohol by volume and that is made by the process of
37 fermentation and not distillation of hops or grains, but not including:

38 (a) Liquids made by the process of distillation of such substances.

39 (b) Medicines that are unsuitable for beverage purposes.

40 11. "Person" means any individual, firm, partnership, joint venture,
41 association, corporation, municipal corporation, estate, trust, club, society
42 or other group or combination acting as a unit, and the plural as well as the
43 singular number.

1 12. "Retailer" means any person who comes into possession of
2 spirituous, vinous or malt liquor subject to the taxes imposed by this
3 chapter for the purpose of selling it for consumption and not for resale.

4 13. "Spirituous liquor" means any liquid that contains more than
5 one-half of one per cent alcohol by volume, that is produced by distillation
6 of any fermented substance and that is used or prepared for use as a
7 beverage. Spirituous liquor does not include medicines that are unsuitable
8 for beverage purposes.

9 14. "Vinous liquor" means any liquid that contains more than one-half
10 of one per cent alcohol by volume and that is made by the process of
11 fermentation of grapes, berries, fruits, vegetables or other substances but
12 does not include:

13 (a) Liquids in which hops or grains are used in the process of
14 fermentation.

15 (b) Liquids made by the process of distillation of hops or grains.

16 (c) Medicines that are unsuitable for beverage purposes.

17 15. "Wholesaler" means a person who sells any spirituous, vinous or
18 malt liquor taxed under this chapter to retail dealers or for the purposes of
19 resale only.

20 Sec. 6. Section 42-3355, Arizona Revised Statutes, is amended to read:
21 42-3355. Return and payment by domestic farm wineries and
22 domestic microbreweries

23 A. Every domestic farm winery ~~or domestic microbrewery~~ selling vinous
24 liquor ~~or malt liquor~~ at retail or to a retail licensee pursuant to title 4,
25 chapter 2 manufactured or produced on the premises within this state ~~or a~~
26 ~~manufacturer of beer that sells at retail pursuant to section 4-243.02~~ shall
27 pay the tax under this chapter on all such liquor ~~or malt liquor~~ sold at
28 retail or to a retail licensee within this state and add the amount of the
29 tax to the sales price.

30 B. EVERY DOMESTIC MICROBREWERY SELLING MALT LIQUOR AT RETAIL OR TO A
31 RETAIL LICENSEE PURSUANT TO TITLE 4, CHAPTER 2 MANUFACTURED OR PRODUCED ON
32 THE PREMISES OR A MANUFACTURER OF BEER THAT SELLS AT RETAIL PURSUANT TO
33 SECTION 4-243.02 SHALL PAY THE TAX UNDER THIS CHAPTER ON ALL SUCH LIQUOR OR
34 MALT LIQUOR SOLD AT RETAIL OR TO A RETAIL LICENSEE WITHIN THIS STATE AND ADD
35 THE AMOUNT OF THE TAX TO THE SALES PRICE.

36 ~~B.~~ C. The domestic farm winery, manufacturer or domestic microbrewery
37 shall pay the tax to the department monthly on or before the twentieth day of
38 the month next succeeding the month in which the tax accrues.

39 ~~C.~~ D. On or before that date the domestic farm winery, manufacturer
40 or domestic microbrewery shall prepare a sworn return for the month in which
41 the tax accrues in the form prescribed by the department, showing:

42 1. The amount of liquors or beer sold in this state during the month
43 in which the tax accrues.

44 2. The amount of tax for the period covered by the return.

1 3. Any other information that the department deems necessary for the
2 proper administration of this chapter.
3 ~~D~~. E. The domestic farm winery, manufacturer or domestic microbrewery
4 shall deliver the return, together with a remittance of the amount of the tax
5 due, to the department.
6 ~~E~~. F. Any taxpayer who fails to pay the tax within ten days from the
7 date upon which the payment becomes due is subject to and shall pay a penalty
8 determined under section 42-1125, plus interest at the rate determined
9 pursuant to section 42-1123 from the time the tax was due and payable until
10 paid.

APPROVED BY THE GOVERNOR MAY 26, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 26, 2006.