

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 310

SENATE BILL 1276

AN ACT

AMENDING SECTIONS 4-101, 4-203.04, 4-205.04, 4-243.01, 4-243.02, 42-3001 AND 42-3355, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 3, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-3356; RELATING TO LIQUOR LICENSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 4-101. Definitions

5 In this title, unless the context otherwise requires:

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

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

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

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

23 5. "Bona fide guest" means:

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

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

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

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

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

42 (b) A chapter, aerie, parlor, lodge or other local unit of an American
43 national fraternal organization which has as the owner, lessee or occupant
44 operated an establishment for fraternal purposes in this state. An American
45 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 FARM WINERY" MEANS A WINERY IN THE UNITED STATES OR IN A
23 TERRITORY OR POSSESSION OF THE UNITED STATES THAT HOLDS A LICENSE PURSUANT TO
24 SECTION 4-205.04.

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 the
18 licensee is authorized to sell, dispense or serve spirituous liquors under
19 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 grapes
7 or other agricultural products containing natural or added sugar or any such
8 alcoholic beverage fortified with grape brandy and containing not more than
9 twenty-four per cent of alcohol by volume.

10 Sec. 2. Section 4-203.04, Arizona Revised Statutes, is amended to
11 read:

12 4-203.04. Direct shipment license; issuance; fee; requirements;
13 penalties; cease and desist orders; definitions

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

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

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

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

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

33 4. The names and addresses of the wholesalers licensed in this state
34 through which the applicant will ship spirituous liquor into or within this
35 state.

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

40 6. A statement that the applicant acknowledges that shipments by the
41 applicant of spirituous liquor into or within this state contrary to this
42 section will result in the immediate suspension of the applicant's direct
43 shipment license.

44 C. The director may refuse to issue a direct shipment license for good
45 cause. After a hearing, the director may suspend or revoke a direct shipment

1 license for good cause. The director shall not issue a direct shipment
2 license to any person who:

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

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

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

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

17 F. A person who holds a direct shipment license shall ensure that
18 shipments of spirituous liquor pursuant to this section are made in
19 conformance with all applicable provisions of this title and rules adopted
20 pursuant to this title. A direct shipment licensee who violates this title
21 or rules adopted pursuant to this title is subject to a civil or criminal
22 penalty and suspension or revocation of the person's license.

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

29 H. The licensed retailer shall deliver the spirituous liquor or shall
30 arrange for the delivery of the spirituous liquor to the person who placed
31 the order and shall collect and pay to the department of revenue all
32 transaction privilege taxes imposed pursuant to title 42, chapter 5. The
33 retailer shall:

34 1. Ensure that:

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

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

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

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

44 2. Make a record of the delivery at the time of delivery on a form
45 approved by the director of the department of liquor licenses and control.

1 The record shall be retained by the retailer for at least two years and shall
2 include the following information:

- 3 (a) The business name, address and license number of the retailer.
- 4 (b) The date and time of delivery.
- 5 (c) The address where the delivery occurred.
- 6 (d) The type, brand and amount of the spirituous liquor delivered.
- 7 (e) The printed name and signature of the person making the delivery.
- 8 (f) The printed name and signature of the person accepting the
9 delivery, along with the type and serial number of the written identification
10 the person accepting delivery presented.
- 11 (g) The age of the person accepting delivery.

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

14 I. If the director has reasonable cause to believe that a person who
15 is licensed pursuant to this section is acting in violation of this section,
16 the director may serve a cease and desist order requiring the person to cease
17 and desist the violation. The director may impose a civil penalty of not
18 more than one hundred fifty thousand dollars against a person who knowingly
19 violates a cease and desist order issued pursuant to this section.

20 J. ~~This section shall not be construed to prohibit~~ NOTWITHSTANDING ANY
21 OTHER LAW, a person ~~from shipping~~ MAY SHIP wine as long as all of the
22 following apply:

23 1. The wine was purchased while the purchaser was physically present
24 at the winery.

25 2. The purchaser of the wine provided the winery verification of legal
26 age to purchase alcohol.

27 3. The shipping container in which the wine is shipped is marked to
28 require ~~an adult's~~ THE signature on delivery OF AN ADULT WHO IS OF LEGAL AGE
29 TO PURCHASE ALCOHOL and delivery confirmation.

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

31 5. The winery ships to a residential OR BUSINESS address OTHER THAN A
32 PREMISES LICENSED PURSUANT TO THIS TITLE.

33 6. The purchaser could have carried the wine lawfully into or within
34 this state.

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

37 ~~K.~~ L. Section 4-201 does not apply to licenses issued pursuant to
38 this section.

39 Sec. 3. Section 4-205.04, Arizona Revised Statutes, is amended to
40 read:

41 4-205.04. Domestic farm winery or domestic microbrewery
42 license; issuance; regulatory provisions; retail
43 site

44 A. The director may issue a domestic farm winery or domestic
45 microbrewery license to any ~~domestic farm winery~~ PERSON WHO MEETS THE

1 REQUIREMENTS OF SUBSECTION C OF THIS SECTION or domestic microbrewery. Each
2 location which engages in producing and bottling these products must obtain a
3 separate domestic farm winery or domestic microbrewery license, but both such
4 licenses may be issued for a common location. The licensee may not transfer
5 the domestic farm winery or domestic microbrewery license from person to
6 person or from location to location.

7 B. An applicant for a domestic farm winery or domestic microbrewery
8 license shall, at the time of filing the application for the license,
9 accompany the application with the license fee. Persons holding a domestic
10 farm winery or domestic microbrewery license shall report annually at the end
11 of each fiscal year, at such time and in such manner as the director may
12 prescribe, the amount of wine or beer manufactured by them during the fiscal
13 year. If the total amount of wine or beer manufactured during the year
14 exceeds the amount permitted annually by the license, the licensee shall
15 apply for and receive an in-state A producer's license.

16 ~~C. Notwithstanding any other statute, a licensed domestic farm winery
17 may sell wine produced or manufactured on the premises in the original
18 container for consumption on or off the premises and may make sales and
19 deliveries of wine to persons licensed to sell wine under this title. A
20 licensed domestic farm winery may serve wine produced or manufactured on the
21 premises for the purpose of sampling the wine.~~

22 ~~D. A licensed domestic farm winery is subject to all of the following
23 requirements:~~

24 ~~1. The winery shall produce not less than two hundred gallons and not
25 more than seventy five thousand gallons of wine annually from grapes or other
26 suitable agricultural products of which at least seventy five per cent are
27 grown in this state. The director may allow a percentage of out of state
28 agricultural products greater than twenty five per cent in wine manufactured
29 or produced by a licensed domestic farm winery if the licensed domestic farm
30 winery can demonstrate to the satisfaction of the director that sufficient
31 in-state agricultural products are not available because of an unexpected
32 failure of suitable in-state crops due to natural causes. The exemption
33 shall remain in effect only for the period of time during which such
34 shortages actually exist.~~

35 ~~2. The winery may purchase and sell wine produced from a domestic farm
36 winery if the retail sale of the wine is conducted from the same site as the
37 location of the winery.~~

38 C. A PERSON MAY BE LICENSED AS A DOMESTIC FARM WINERY TO SELL WINE
39 PRODUCED OR MANUFACTURED IF IN A CALENDAR YEAR IT PRODUCES AT LEAST TWO
40 HUNDRED GALLONS AND NOT MORE THAN FORTY THOUSAND GALLONS OF WINE AND MAY MAKE
41 SALES AND DELIVERIES OF WINE ONLY AS SPECIFICALLY PROVIDED IN THIS SECTION
42 AND AS FOLLOWS:

43 1. A LICENSED DOMESTIC FARM WINERY MAY MAKE SALES AND DELIVERIES OF
44 WINE TO WHOLESALERS LICENSED TO SELL WINE UNDER THIS TITLE.

1 2. A LICENSED DOMESTIC FARM WINERY MAY SERVE WINE PRODUCED OR
2 MANUFACTURED ON THE PREMISES FOR THE PURPOSE OF SAMPLING THE WINE.

3 3. A REPRESENTATIVE OF THE LICENSED DOMESTIC FARM WINERY MAY CONSUME
4 SMALL AMOUNTS OF THE PRODUCTS OF THE LICENSED DOMESTIC FARM WINERY FOR THE
5 PURPOSE OF SAMPLING THE WINE.

6 4. A LICENSED DOMESTIC FARM WINERY MAY SELL TO A CONSUMER PHYSICALLY
7 PRESENT ON THE PREMISES WINE PRODUCED OR MANUFACTURED ON THE PREMISES IN THE
8 ORIGINAL CONTAINER FOR CONSUMPTION ON OR OFF THE PREMISES.

9 5. A LICENSED DOMESTIC FARM WINERY MAY PURCHASE AND SELL WINE PRODUCED
10 BY ANOTHER LICENSED DOMESTIC FARM WINERY ONLY IF THE RETAIL SALE IS TO A
11 CONSUMER PHYSICALLY PRESENT ON THE PREMISES OF THE DOMESTIC FARM WINERY.

12 6. IF THE LICENSED DOMESTIC FARM WINERY IS NOT OTHERWISE ENGAGED IN
13 THE BUSINESS OF A DISTILLER, VINTNER, BREWER, RECTIFIER, BLENDER OR OTHER
14 PRODUCER OF SPIRITUOUS LIQUOR IN ANY JURISDICTION, THE LICENSED DOMESTIC FARM
15 WINERY MAY HOLD LICENSES PRESCRIBED IN SECTION 4-209, SUBSECTION B,
16 PARAGRAPHS 7, 10 AND 12 ON THE LICENSED DOMESTIC FARM WINERY PREMISES OR
17 OTHER RETAIL PREMISES. THE LICENSED DOMESTIC FARM WINERY SHALL PURCHASE ALL
18 SPIRITUOUS LIQUOR FOR SALE AT THE OTHER ON-SALE RETAIL PREMISES FROM
19 WHOLESALERS WHO ARE LICENSED IN THIS STATE, EXCEPT THAT A LICENSED DOMESTIC
20 FARM WINERY MAY:

21 (a) PURCHASE WINE FROM OTHER DOMESTIC FARM WINERIES PURSUANT TO
22 PARAGRAPH 7 OF THIS SUBSECTION.

23 (b) MAKE DELIVERIES OF THE WINE THAT THE DOMESTIC FARM WINERY PRODUCES
24 TO THE DOMESTIC FARM WINERY'S OWN COMMONLY CONTROLLED RETAIL LICENSED
25 PREMISES.

26 7. A LICENSED DOMESTIC FARM WINERY THAT PRODUCES NOT MORE THAN TWENTY
27 THOUSAND GALLONS OF WINE IN A CALENDAR YEAR MAY MAKE SALES AND DELIVERIES OF
28 THE WINE THAT THE LICENSED DOMESTIC FARM WINERY PRODUCES TO ON-SALE AND
29 OFF-SALE RETAILERS.

30 8. NOTWITHSTANDING SECTION 4-244, PARAGRAPHS 3 AND 7, AN ON-SALE OR
31 OFF-SALE RETAILER MAY PURCHASE AND ACCEPT DELIVERY OF WINE FROM A LICENSED
32 DOMESTIC FARM WINERY PURSUANT TO PARAGRAPH 7 OF THIS SUBSECTION.

33 9. A LICENSED DOMESTIC FARM WINERY THAT PRODUCES NOT MORE THAN TWENTY
34 THOUSAND GALLONS OF WINE IN A CALENDAR YEAR MAY MAKE SALES AND DELIVERIES OF
35 WINE THAT THE LICENSED DOMESTIC FARM WINERY PRODUCES TO CONSUMERS OFF OF THE
36 LICENSED PREMISES AND THAT IS ORDERED BY TELEPHONE, MAIL, FAX OR CATALOGUE,
37 THROUGH THE INTERNET OR BY OTHER MEANS IF ALL OF THE FOLLOWING APPLY:

38 (a) THE PURCHASER OF THE WINE PROVIDED THE LICENSED DOMESTIC FARM
39 WINERY WITH VERIFICATION OF THE PURCHASER'S LEGAL AGE TO PURCHASE ALCOHOL.

40 (b) THE SHIPPING CONTAINER IN WHICH THE WINE IS SHIPPED IS MARKED TO
41 REQUIRE THE SIGNATURE ON DELIVERY OF AN ADULT WHO IS OF LEGAL AGE TO PURCHASE
42 ALCOHOL AND DELIVERY CONFIRMATION.

43 (c) THE WINE IS FOR PERSONAL USE ONLY AND NOT FOR RESALE.

44 (d) THE WINE IS SHIPPED TO A RESIDENTIAL OR BUSINESS ADDRESS OTHER
45 THAN A PREMISES LICENSED PURSUANT TO THIS TITLE.

1 (e) THE PURCHASER COULD HAVE CARRIED THE WINE LAWFULLY INTO OR WITHIN
2 THIS STATE.

3 (f) THE DELIVERY IS MADE BY A PERSON WHO IS AT LEAST TWENTY-ONE YEARS
4 OF AGE.

5 (g) THE DOMESTIC FARM WINERY SHALL COLLECT PAYMENT FOR THE PRICE OF
6 THE SPIRITUOUS LIQUOR NO LATER THAN AT THE TIME OF DELIVERY.

7 10. A LICENSED DOMESTIC FARM WINERY MAY MAKE SALES AND DELIVERIES AS
8 EXPRESSLY PERMITTED BY SECTIONS 4-203.03, 4-203.04 AND 4-244.04.

9 D. THE DOMESTIC FARM WINERY IS LIABLE FOR ANY VIOLATION COMMITTED IN
10 CONNECTION WITH ANY SALE OR DELIVERY OF THE WINE. THE RULES ADOPTED BY THE
11 DIRECTOR PURSUANT TO SECTION 4-203, SUBSECTION J SHALL APPLY TO THE DELIVERY
12 OF WINE UNDER SUBSECTION C, PARAGRAPH 9 OF THIS SECTION. AN ACT OR OMISSION
13 OF ANY PERSON WHO MAKES A SALE OR DELIVERY OF WINE FOR A LICENSEE UNDER
14 SUBSECTION C, PARAGRAPH 9 OF THIS SECTION IS DEEMED TO BE AN ACT OR OMISSION
15 OF THE LICENSEE FOR THE PURPOSES OF SECTION 4-210, SUBSECTION A, PARAGRAPH 9.

16 E. A DOMESTIC FARM WINERY THAT SELLS OR DELIVERS WINE PURSUANT TO THIS
17 SECTION SHALL:

18 1. PAY TO THE DEPARTMENT OF REVENUE ALL LUXURY TAXES IMPOSED PURSUANT
19 TO TITLE 42, CHAPTER 3 AND ALL TRANSACTION PRIVILEGE OR USE TAXES IMPOSED
20 PURSUANT TO TITLE 42, CHAPTER 5.

21 2. FILE ALL RETURNS OR REPORTS REQUIRED BY LAW.

22 F. A DELIVERY OF WINE BY A DOMESTIC FARM WINERY TO A PURCHASER IN THIS
23 STATE IS A TRANSACTION DEEMED TO HAVE OCCURRED IN THIS STATE.

24 ~~E~~ G. Notwithstanding any other statute, a licensed domestic
25 microbrewery may sell beer produced or manufactured on the premises for
26 consumption on or off the premises and may make sales and deliveries of beer
27 to persons licensed to sell beer under this title, including wholesalers
28 licensed under this title. A licensed domestic microbrewery may serve beer
29 produced or manufactured on the premises for the purpose of sampling the
30 beer. A licensed domestic microbrewery is subject to all of the following
31 requirements:

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

34 2. The microbrewery shall not produce more than three hundred ten
35 thousand gallons of beer annually.

36 3. If retail operations are conducted in conjunction with the
37 microbrewery, these retail operations shall be conducted from the same site
38 as the location of the microbrewery.

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

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

41 (b) The retail sale of the spirituous liquor is on or adjacent to the
42 premises of the microbrewery.

43 ~~F~~ H. A person who holds a domestic microbrewery license that meets
44 the requirements of this section and who is not otherwise engaged in the
45 business of a distiller, vintner, brewer, rectifier, blender or other

1 producer of spirituous liquor in any jurisdiction may hold other on-sale
2 retail licenses. The person shall purchase all spirituous liquor for sale at
3 the other on-sale retail premises from wholesalers who are licensed in this
4 state.

5 ~~G.~~ I. The director shall adopt rules in order to administer this
6 section.

7 Sec. 4. Section 4-243.01, Arizona Revised Statutes, is amended to
8 read:

9 4-243.01. Purchasing from other than primary source of supply
10 unlawful; definitions

11 A. It is unlawful:

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

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

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

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

25 (b) A wholesaler who is the designated representative of the primary
26 source of supply in this state and who has purchased such spirituous liquor
27 from the designated representative of the primary source of supply within or
28 without this state.

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

30 (d) A domestic farm winery ~~or domestic microbrewery~~ licensed under
31 section 4-205.04 AND SUBJECT TO THE LIMITATIONS PRESCRIBED IN SECTION
32 4-205.04, SUBSECTION C, PARAGRAPH 7.

33 (e) A LICENSED DOMESTIC MICROBREWERY LICENSED UNDER SECTION 4-205.04.

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

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

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

1 E. For the purposes of this section:

2 1. "Primary source of supply" means the distiller, producer, owner of
3 the commodity at the time it becomes a marketable product, bottler or
4 exclusive agent of any such distributor or owner. In the case of imported
5 products, the primary source of supply means either the foreign producer,
6 owner, bottler or agent or the prime importer from, or the exclusive agent
7 in, the United States of the foreign distiller, producer, bottler or owner.

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

12 Sec. 5. Section 4-243.02, Arizona Revised Statutes, is amended to
13 read:

14 4-243.02. Sale of beer or wine by producer; limitations

15 A. A person who holds an ~~in-state~~ A producer's license may sell beer
16 produced by the ~~in-state~~ producer through the producer's own on-sale retail
17 premises if:

18 1. The ~~in-state~~ producer also holds an on-sale retail license.

19 2. The retail sale of the beer is on or adjacent to the premises of
20 the ~~in-state~~ producer.

21 B. A PERSON WHO HOLDS A PRODUCER'S LICENSE MAY SELL WINE PRODUCED BY
22 THE PRODUCER AT THE PRODUCER'S LICENSED PREMISES.

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

24 42-3001. Definitions

25 In this chapter, unless the context otherwise requires:

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

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

33 3. "Cigar" means any roll of tobacco or any substitute for tobacco
34 wrapped with tobacco.

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

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

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

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

43 6. "~~Domestic farm winery~~" ~~means a domestic farm winery licensed~~
44 ~~pursuant to title 4, chapter 2, article 1~~ HAS THE SAME MEANING PRESCRIBED IN
45 SECTION 4-101.

1 7. "Domestic microbrewery" means a domestic microbrewery licensed
2 pursuant to title 4, chapter 2, article 1.

3 8. "First sale" means the first sale or distribution in intrastate
4 commerce or the first use or consumption of cigarettes, cigars or other
5 tobacco products.

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

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

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

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

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

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

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

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

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

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

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

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

36 Sec. 7. Section 42-3355, Arizona Revised Statutes, is amended to read:
37 42-3355. Return and payment by domestic farm wineries and
38 domestic microbreweries

39 A. Every domestic farm winery or domestic microbrewery selling vinous
40 liquor or malt liquor at retail or to a retail licensee pursuant to title 4,
41 chapter 2 manufactured or produced on the premises ~~within this state~~ OR
42 PRODUCER OF VINOUS LIQUOR THAT SELLS AT RETAIL PURSUANT TO SECTION 4-243.02
43 or a manufacturer of beer that sells at retail pursuant to section 4-243.02
44 shall pay the tax under this chapter on all such liquor or malt liquor sold

1 at retail or to a retail licensee within this state and add the amount of the
2 tax to the sales price.

3 B. The domestic farm winery, manufacturer or domestic microbrewery
4 shall pay the tax to the department monthly on or before the twentieth day of
5 the month next succeeding the month in which the tax accrues.

6 C. On or before that date the domestic farm winery, manufacturer or
7 domestic microbrewery shall prepare a sworn return for the month in which the
8 tax accrues in the form prescribed by the department, showing:

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

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

12 3. Any other information that the department deems necessary for the
13 proper administration of this chapter.

14 D. The domestic farm winery, manufacturer or domestic microbrewery
15 shall deliver the return, together with a remittance of the amount of the tax
16 due, to the department.

17 E. Any taxpayer who fails to pay the tax within ten days from the date
18 upon which the payment becomes due is subject to and shall pay a penalty
19 determined under section 42-1125, plus interest at the rate determined
20 pursuant to section 42-1123 from the time the tax was due and payable until
21 paid.

22 Sec. 8. Title 42, chapter 3, article 8, Arizona Revised Statutes, is
23 amended by adding section 42-3356, to read:

24 42-3356. Bonds required of domestic farm wineries; exemption

25 A. EVERY DOMESTIC FARM WINERY THAT MAKES DELIVERIES PURSUANT TO
26 SECTION 4-205.04, SUBSECTION C, PARAGRAPH 7 OR 9 SHALL FILE WITH THE
27 DEPARTMENT, IN A FORM PRESCRIBED BY THE DEPARTMENT, A BOND OR BONDS, DULY
28 EXECUTED BY THE DOMESTIC FARM WINERY AS PRINCIPAL, AND WITH A CORPORATION
29 DULY AUTHORIZED TO EXECUTE AND WRITE BONDS WITHIN THIS STATE AS SURETY,
30 PAYABLE TO THIS STATE AND CONDITIONED ON THE PAYMENT OF ALL TAXES, PENALTIES
31 AND OTHER OBLIGATIONS OF THE DOMESTIC FARM WINERY ARISING UNDER THIS CHAPTER
32 AND CHAPTER 5 OF THIS TITLE.

33 B. THE DEPARTMENT SHALL FIX THE TOTAL AMOUNT OF THE BOND OR BONDS
34 REQUIRED OF THE DOMESTIC FARM WINERY AND MAY INCREASE OR REDUCE THE TOTAL
35 AMOUNT AT ANY TIME. IN FIXING THE TOTAL AMOUNT, THE DEPARTMENT SHALL REQUIRE
36 A BOND OR BONDS EQUIVALENT IN TOTAL AMOUNT TO TWICE THE DOMESTIC FARM
37 WINERY'S ESTIMATED MONTHLY TAX, ASCERTAINED IN A MANNER DEEMED PROPER BY THE
38 DEPARTMENT. THE TOTAL AMOUNT OF THE BOND OR BONDS REQUIRED OF ANY DOMESTIC
39 FARM WINERY SHALL NOT BE LESS THAN FIVE HUNDRED DOLLARS.

40 C. A DOMESTIC FARM WINERY IS EXEMPT FROM THE REQUIREMENTS OF THIS
41 SECTION IF THE DOMESTIC FARM WINERY HAS MADE TIMELY PAYMENT OF ANY TAXES
42 IMPOSED BY THIS CHAPTER FOR THE TWELVE CONSECUTIVE MONTHS IMMEDIATELY
43 PRECEDING THE CURRENT MONTH.

1 Sec. 9. Purposes and intent; severability

2 A. The purpose of this act is to conform Arizona laws regarding the
3 intrastate and interstate sales and deliveries of wine to the provisions of
4 Public Law 107-273, div. C, Title I, section 11022 and to conform to the
5 requirements of the decision of the United States Supreme Court in *Granholm*
6 *v. Heald*, 544 U.S. 460, 125 S.Ct. 1885 (2005) by adopting nondiscriminatory
7 laws governing the sale and delivery of wine produced by small wineries.
8 This act is intended to provide for a separate method of regulating only the
9 sale and delivery of wine produced by small wineries. Other than the
10 specific exceptions established by existing law and this act for domestic
11 farm wineries, it is the intent of this act to retain the current three-tier
12 method of regulating the sale and delivery of spirituous liquor and the
13 current revenue collection and enforcement law.

14 B. If a provision of this act or its application to any person or
15 circumstance is held invalid, the invalidity does not affect other provisions
16 or applications of the act that can be given effect without the invalid
17 provision or application, and to this end the provisions of this act are
18 severable.

APPROVED BY THE GOVERNOR JUNE 1, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 1, 2006.