

Senate Engrossed House Bill

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-eighth Legislature
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CHAPTER 226

HOUSE BILL 2826

AN ACT

AMENDING SECTION 4-243, ARIZONA REVISED STATUTES; RELATING TO LIQUOR
LICENSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 4-243, Arizona Revised Statutes, is amended to
3 read:

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

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

8 1. To require that a retailer purchase spirituous liquor from the
9 producer or wholesaler to the exclusion, in whole or in part, of spirituous
10 liquor sold or offered for sale by other persons.

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

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

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

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

25 6. To guarantee a loan or repayment of a financial obligation of the
26 retailer.

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

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

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

32 B. This section does not prohibit any distiller, vintner, brewer,
33 rectifier, blender or other producer or wholesaler of any spirituous liquor
34 from:

35 1. Giving financial and other forms of event sponsorship assistance to
36 nonprofit or charitable organizations for purposes of charitable fund-raising
37 which are issued special event licenses by the department. This section does
38 not prohibit such suppliers from advertising their sponsorship at such
39 special events.

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

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

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

4 (c) If requesting the on-sale retailer to prepare a drink for the
5 consumer, the producer's or wholesaler's representative shall pay the
6 retailer for the sample drink.

7 (d) The producer or wholesaler may not buy the on-sale retailer or the
8 retailer's employees a drink during their working hours or while they are
9 engaged in waiting on or serving customers.

10 (e) The producer or wholesaler may not give a keg of beer or any
11 spirituous liquor or any other gifts or benefits to the on-sale retailer.

12 (f) All sampling procedures shall comply with federal sampling laws
13 and regulations.

14 3. Providing samples to retail consumers on an off-sale retailer's
15 premises according to the following procedures:

16 (a) Sampling shall be conducted by an employee of the sponsoring
17 producer or wholesaler.

18 (b) The producer or wholesaler shall notify the department in writing
19 or by electronic means not less than ten days before the sampling of the
20 date, time and location of the sampling.

21 (c) Sampling shall be limited to three ounces of beer, one and
22 one-half ounces of wine or one-half ounce of distilled spirits per person per
23 day.

24 (d) An off-sale retailer shall not permit sampling to be conducted on
25 a licensed premises on more than twelve days in any calendar year.

26 (e) Sampling shall be limited to one wholesaler or producer at any one
27 off-sale retailer's premises on any day and shall not exceed three hours on
28 any day.

29 (f) A producer conducting sampling shall buy the sampled product from
30 a wholesaler.

31 (g) The producer or wholesaler shall not provide samples to any person
32 who is under the legal drinking age.

33 (h) The producer or wholesaler shall designate an area in which
34 sampling is conducted that is in the portion of the licensed premises where
35 spirituous liquor is primarily displayed and separated from the remainder of
36 the off-sale retailer's premises by a wall, rope, door, cable, cord, chain,
37 fence or other barrier. The producer or wholesaler shall not permit persons
38 under the legal drinking age from entering the area in which sampling is
39 conducted.

40 (i) The producer or wholesaler may not provide samples to the retailer
41 or the retailer's employees.

42 (j) Sampling shall not be conducted in retail premises with a total of
43 under five thousand square feet of retail space unless at least seventy-five
44 per cent of the retailer's shelf space is dedicated to the sale of spirituous
45 liquor.

1 (k) The producer or wholesaler may not give spirituous liquor or any
2 other gifts or benefits to the off-sale retailer.

3 (l) All sampling procedures shall comply with federal sampling laws
4 and regulations.

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

8 D. NOTWITHSTANDING SUBSECTION A, PARAGRAPH 4, AND SUBSECTION B,
9 PARAGRAPH 2, SUBDIVISION (e), ANY WHOLESALER MAY FURNISH WITHOUT COST
10 PROMOTIONAL ITEMS TO AN ON-SALE RETAILER, EXCEPT THAT THE TOTAL MARKET VALUE
11 OF THE PROMOTIONAL ITEMS FURNISHED BY THAT WHOLESALER TO THAT RETAILER IN ANY
12 CALENDAR YEAR SHALL NOT EXCEED FIVE HUNDRED DOLLARS. FOR THE PURPOSES OF THIS
13 SUBSECTION, "PROMOTIONAL ITEMS" MEANS ITEMS OF EQUIPMENT, SUPPLIES, NOVELTIES
14 OR OTHER ADVERTISING SPECIALTIES THAT CONSPICUOUSLY DISPLAY THE BRAND NAME OF
15 A SPIRITUOUS LIQUOR PRODUCT. PROMOTIONAL ITEMS DO NOT INCLUDE SIGNS.

16 ~~D.~~ E. 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 OR D from
19 furnishing to a retailer, except that this subsection shall not prohibit
20 special discounts provided to retailers and based on quantity purchases.

APPROVED BY THE GOVERNOR MAY 20, 2008.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 20, 2008.