

Senate Engrossed House Bill

FILED

**KEN BENNETT
SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

CHAPTER 224

HOUSE BILL 2143

AN ACT

AMENDING SECTIONS 4-205.06 AND 4-244, ARIZONA REVISED STATUTES; REPEALING SECTION 41-3010.18, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3015.12; RELATING TO THE DEPARTMENT OF LIQUOR LICENSES AND CONTROL.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 4-205.06, Arizona Revised Statutes, is amended to
3 read:

4 4-205.06. Hotel or motel minibars; rules; definitions

5 A. Notwithstanding any other statute, a hotel or motel may sell
6 spirituous liquor in sealed containers in individual portions to its
7 registered guests at any time by means of a minibar located in the guest
8 rooms of those registered guests, if all of the following conditions are met:

9 1. Access to a minibar in a particular guest room is provided, whether
10 by furnishing a key, magnetic card or similar device, only to a registered
11 guest of legal drinking age, if any, registered to stay in the guest room,
12 and the key, magnetic card or similar device is not furnished to a guest
13 between the hours of 1:00 a.m. and 6:00 a.m. ~~on weekdays and 1:00 a.m. and~~
14 ~~10:00 a.m. on Sundays.~~

15 2. Before providing a key, magnetic card or other similar device
16 required to attain access to the minibar in a particular guest room to the
17 registered guest, or before otherwise providing access to the minibar to the
18 registered guest, the licensee verifies that each registered guest to whom a
19 key, magnetic card or similar device is provided or to whom access is
20 otherwise provided is not a person under the legal drinking age.

21 3. All employees handling the spirituous liquors to be placed in the
22 minibar in any guest room, including an employee who inventories or restocks
23 and replenishes the spirituous liquors in the minibar, are at least nineteen
24 years of age.

25 4. The minibar is not replenished or restocked with spirituous liquor
26 between the hours of 1:00 a.m. and 6:00 a.m. ~~on weekdays and 1:00 a.m. and~~
27 ~~10:00 a.m. on Sundays.~~

28 5. The minibar is located on the premises of a person who has been
29 issued an on-sale retailer's license.

30 6. The minibar contains no more than thirty individual portions of
31 spirituous liquor at any one time.

32 B. A minibar may be part of another cabinet or similar device, whether
33 refrigerated in whole or in part or nonrefrigerated, from which nonalcoholic
34 beverages or food may be purchased by the guests in hotel or motel guest
35 rooms. The portion of the cabinet or similar device in which spirituous
36 liquors are stored shall comply with the requirements of this section.

37 C. The director may prescribe rules to regulate the use of a minibar
38 including rules on the size of containers of spirituous liquors and may by
39 rule reduce from thirty the number of containers of spirituous liquor placed
40 in the minibar.

41 D. For THE purposes of this section:

42 1. "Hotel" or "motel" means an establishment ~~which~~ THAT is licensed to
43 sell spirituous liquors and ~~which~~ THAT contains guest room accommodations
44 with respect to which the predominant relationship existing between the
45 occupants of the rooms and the owner or operator of the establishment is that

1 of innkeeper and guest. For THE purposes of this paragraph, the existence of
2 other legal relationships as between some occupants and the owner or operator
3 is immaterial.

4 2. "Minibar" means a closed container, either refrigerated in whole or
5 in part or nonrefrigerated, where access to the interior is restricted by
6 means of a locking device which THAT requires the use of a key, magnetic card
7 or similar device.

8 Sec. 2. Section 4-244, Arizona Revised Statutes, is amended to read:
9 4-244. Unlawful acts

10 It is unlawful:

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

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

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

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

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

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

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

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

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

12 10. For a licensee to employ a person under nineteen years of age to
13 manufacture, sell or dispose of spirituous liquors. This paragraph shall not
14 prohibit the employment by an off-sale retailer of persons who are at least
15 sixteen years of age to check out, if supervised by a person on the premises
16 who is at least nineteen years of age, package or carry merchandise,
17 including spirituous liquor, in unbroken packages, for the convenience of the
18 customer of the employer, if the employer sells primarily merchandise other
19 than spirituous liquor.

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

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

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

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

37 (b) An employee of an on-sale retail licensee, during that employee's
38 working hours or in connection with the employment, while the employee is not
39 engaged in waiting on or serving customers, may taste samples of beer or wine
40 not to exceed four ounces per day or distilled spirits not to exceed two
41 ounces per day provided by an employee of a wholesaler or distributor who is
42 present at the time of the sampling.

43 (c) An employee of an on-sale retail licensee, under the supervision
44 of a manager as part of the employee's training and education, while not
45 engaged in waiting on or serving customers may taste samples of distilled

1 spirits not to exceed two ounces per educational session or beer or wine not
2 to exceed four ounces per educational session, and provided that a licensee
3 shall not have more than two educational sessions in any thirty day period.

4 (d) An unpaid volunteer who is a bona fide member of a club and who is
5 not engaged in waiting on or serving spirituous liquor to customers may
6 purchase for himself and consume spirituous liquor while participating in a
7 scheduled event at the club. An unpaid participant in a food competition may
8 purchase for himself and consume spirituous liquor while participating in the
9 food competition.

10 (e) An unpaid volunteer of a special event licensee under section
11 4-203.02 may purchase and consume spirituous liquor while not engaged in
12 waiting on or serving spirituous liquor to customers at the special event.
13 This subdivision does not apply to an unpaid volunteer whose responsibilities
14 include verification of a person's legal drinking age, security or the
15 operation of any vehicle or heavy machinery.

16 14. For a licensee or other person to serve, sell or furnish spirituous
17 liquor to a disorderly or obviously intoxicated person, or for a licensee or
18 employee of the licensee to allow or permit a disorderly or obviously
19 intoxicated person to come into or remain on or about the premises, except
20 that a licensee or an employee of the licensee may allow an obviously
21 intoxicated person to remain on the premises for a period of time of not to
22 exceed thirty minutes after the state of obvious intoxication is known or
23 should be known to the licensee in order that a nonintoxicated person may
24 transport the obviously intoxicated person from the premises. For the
25 purposes of this section, "obviously intoxicated" means inebriated to the
26 extent that a person's physical faculties are substantially impaired and the
27 impairment is shown by significantly uncoordinated physical action or
28 significant physical dysfunction that would have been obvious to a reasonable
29 person.

30 15. For an on-sale or off-sale retailer or an employee of such retailer
31 to sell, dispose of, deliver or give spirituous liquor to a person between
32 the hours of 2:00 a.m. and 6:00 a.m. ~~on weekdays, and 2:00 a.m. and~~
33 ~~10:00 a.m. on Sundays.~~

34 16. For a licensee or employee to knowingly permit any person on or
35 about the licensed premises to give or furnish any spirituous liquor to any
36 person under twenty-one years of age or knowingly permit any person under
37 twenty-one years of age to have in the person's possession spirituous liquor
38 on the licensed premises.

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

43 18. For an on-sale retailer to permit an employee or for an employee to
44 solicit or encourage others, directly or indirectly, to buy the employee
45 drinks or anything of value in the licensed premises during the employee's

1 working hours. No on-sale retailer shall serve employees or allow a patron
2 of the establishment to give spirituous liquor to, purchase liquor for or
3 drink liquor with any employee during the employee's working hours.

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

8 20. For a person to consume spirituous liquor in a public place,
9 thoroughfare or gathering. The license of a licensee permitting a violation
10 of this paragraph on the premises shall be subject to revocation. This
11 paragraph does not apply to the sale of spirituous liquors on the premises of
12 and by an on-sale retailer. This paragraph also does not apply to a person
13 consuming beer from a broken package in a public recreation area or on
14 private property with permission of the owner or lessor or on the walkways
15 surrounding such private property or to a person consuming beer or wine from
16 a broken package in a public recreation area as part of a special event or
17 festival that is conducted under a license secured pursuant to section
18 4-203.02 or 4-203.03.

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

24 22. For an on-sale retailer or employee to allow a person under the
25 legal drinking age to remain in an area on the licensed premises during those
26 hours in which its primary use is the sale, dispensing or consumption of
27 alcoholic beverages after the licensee, or the licensee's employees, know or
28 should have known that the person is under the legal drinking age. An
29 on-sale retailer may designate an area of the licensed premises as an area in
30 which spirituous liquor will not be sold or consumed for the purpose of
31 allowing underage persons on the premises if the designated area is separated
32 by a physical barrier and at no time will underage persons have access to the
33 area in which spirituous liquor is sold or consumed. A licensee or an
34 employee of a licensee may require a person who intends to enter a licensed
35 premises or a portion of a licensed premises where persons under the legal
36 drinking age are prohibited under this section to exhibit a written
37 instrument of identification that is acceptable under section 4-241 as a
38 condition of entry. The director, or a municipality, may adopt rules to
39 regulate the presence of underage persons on licensed premises provided the
40 rules adopted by a municipality are more stringent than those adopted by the
41 director. The rules adopted by the municipality shall be adopted by local
42 ordinance and shall not interfere with the licensee's ability to comply with
43 this paragraph. This paragraph does not apply:

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

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

7 (i) An active duty military service member.

8 (ii) A veteran.

9 (iii) A member of the United States army national guard or the United
10 States air national guard.

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

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

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

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

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

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

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

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

33 29. For any person other than a peace officer or a member of a
34 sheriff's volunteer posse while on duty who has received firearms training
35 that is approved by the Arizona peace officer standards and training board,
36 the licensee or an employee of the licensee acting with the permission of the
37 licensee to be in possession of a firearm while on the licensed premises of
38 an on-sale retailer. This paragraph shall not be construed to include a
39 situation in which a person is on licensed premises for a limited time in
40 order to seek emergency aid and such person does not buy, receive, consume or
41 possess spirituous liquor. This paragraph shall not apply to:

42 (a) Hotel or motel guest room accommodations.

43 (b) The exhibition or display of a firearm in conjunction with a
44 meeting, show, class or similar event.

1 (c) A person with a permit issued pursuant to section 13-3112 who
2 carries a concealed handgun on the licensed premises of any on-sale retailer
3 that has not posted a notice pursuant to section 4-229.

4 30. For a licensee or employee to knowingly permit a person in
5 possession of a firearm other than a peace officer or a member of a sheriff's
6 volunteer posse while on duty who has received firearms training that is
7 approved by the Arizona peace officer standards and training board, the
8 licensee or an employee of the licensee acting with the permission of the
9 licensee to remain on the licensed premises or to serve, sell or furnish
10 spirituous liquor to a person in possession of a firearm while on the
11 licensed premises of an on-sale retailer. It shall be a defense to action
12 under this paragraph if the licensee or employee requested assistance of a
13 peace officer to remove such person. This paragraph shall not apply to:

14 (a) Hotel or motel guest room accommodations.

15 (b) The exhibition or display of a firearm in conjunction with a
16 meeting, show, class or similar event.

17 (c) A person with a permit issued pursuant to section 13-3112 who
18 carries a concealed handgun on the licensed premises of any on-sale retailer
19 that has not posted a notice pursuant to section 4-229.

20 31. For any person in possession of a firearm while on the licensed
21 premises of an on-sale retailer to consume spirituous liquor.

22 32. For a licensee or employee to knowingly permit spirituous liquor to
23 be removed from the licensed premises, except in the original unbroken
24 package. This paragraph shall not apply to either of the following:

25 (a) A person who removes a bottle of wine which has been partially
26 consumed in conjunction with a purchased meal from licensed premises if a
27 cork is inserted flush with the top of the bottle or the bottle is otherwise
28 securely closed.

29 (b) A person who is in licensed premises that have noncontiguous
30 portions that are separated by a public or private walkway or driveway and
31 who takes spirituous liquor from one portion of the licensed premises across
32 the public or private walkway or driveway directly to the other portion of
33 the licensed premises.

34 33. For a person who is obviously intoxicated to buy or attempt to buy
35 spirituous liquor from a licensee or employee of a licensee or to consume
36 spirituous liquor on licensed premises.

37 34. For a person under twenty-one years of age to drive or be in
38 physical control of a motor vehicle while there is any spirituous liquor in
39 the person's body.

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

1 36. For a licensee, manager, employee or controlling person to
2 purposely induce a voter, by means of alcohol, to vote or abstain from voting
3 for or against a particular candidate or issue on an election day.

4 37. For a licensee to fail to report an occurrence of an act of
5 violence to either the department or a law enforcement agency.

6 38. For a licensee to use a vending machine for the purpose of
7 dispensing spirituous liquor.

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

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

25 41. For a person under twenty-one years of age to have in the person's
26 body any spirituous liquor. In a prosecution for a violation of this
27 paragraph:

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

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

35 42. For an employee of a licensee to accept any gratuity, compensation,
36 remuneration or consideration of any kind to either:

37 (a) Permit a person who is under twenty-one years of age to enter any
38 portion of the premises where that person is prohibited from entering
39 pursuant to paragraph 22 of this section.

40 (b) Sell, furnish, dispose of or give spirituous liquor to a person
41 who is under twenty-one years of age.

42 43. For a person to purchase, offer for sale or use any device, machine
43 or process which mixes spirituous liquor with pure oxygen or another gas to
44 produce a vaporized product for the purpose of consumption by inhalation.

Passed the House March 3, 2010

by the following vote: 44 Ayes,

16 Nays, 0 Not Voting

[Signature]
Speaker of the House

[Signature]
Chief Clerk of the House

Passed the Senate April 5, 2010

by the following vote: 23 Ayes,

5 Nays, 2 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

 day of , 20

at o'clock M.

Secretary to the Governor

Approved this day of

at o'clock M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this day of , 20

at o'clock M.

Secretary of State

H.B. 2143

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

April 28, 2010,

by the following vote: 41 Ayes,

18 Nays, 1 Not Voting

[Signature]
Speaker of the House

Cheryl Laube
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

29 day of April, 2010

at 11:50 o'clock A. M.

[Signature]
Secretary to the Governor

Approved this 6 day of

May, 2010,

at 10:45 o'clock A. M.

[Signature]
Governor of Arizona

H.B. 2143

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 6th day of May, 2010,

at 3:08 o'clock P. M.

[Signature]
Secretary of State