

Senate Engrossed House Bill

FILED

**KEN BENNETT
SECRETARY OF STATE**

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

CHAPTER 85

HOUSE BILL 2002

AN ACT

AMENDING TITLE 4, CHAPTER 2, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 4-203.05; AMENDING SECTION 4-206.01, ARIZONA REVISED STATUTES; AMENDING TITLE 4, CHAPTER 2, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 4-261.01; RELATING TO SPIRITUOUS LIQUOR LICENSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 4, chapter 2, article 1, Arizona Revised Statutes, is
3 amended by adding section 4-203.05, to read:

4 4-203.05. Licenses held in nonuse status

5 A LICENSEE WHO HOLDS A LICENSE IN NONUSE STATUS SHALL NOT BE
6 RESPONSIBLE FOR AND SHALL NOT ACCRUE ANY MUNICIPAL LICENSE FEE OR TAX OR
7 MUNICIPAL RENEWAL FEE OR TAX ATTRIBUTED TO THE TIME THAT THE LICENSE IS
8 PROPERLY HELD IN NONUSE STATUS.

9 Sec. 2. Section 4-206.01, Arizona Revised Statutes, is amended to
10 read:

11 4-206.01. Bar, beer and wine bar or liquor store licenses;
12 number permitted; fee; sampling privileges

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

16 B. In each county, the director shall issue additional bar, beer and
17 wine bar or liquor store licenses at the rate of one of each type for each
18 additional ten thousand person increase over the population in that county as
19 of July 1, 2010. For purposes of this ~~paragraph~~ SUBSECTION, the population
20 of a county is deemed to be the population estimated by the department of
21 economic security as of July 1 of each year.

22 C. A person issued a license authorized by subsection B of this
23 section shall pay an additional issuance fee equal to the license's fair
24 market value ~~which~~ THAT shall be paid to the state general fund. The fair
25 market value shall be defined to mean the mean value of licenses of the same
26 type sold on the open market in the same county during the prior twelve
27 months, but if there are not three or more such sales then the fair market
28 value shall be determined by three appraisals furnished to the department by
29 independent professional appraisers employed by the director.

30 D. The director shall employ professional appraisal services to
31 determine the fair market value of bar, beer and wine bar or liquor store
32 licenses.

33 E. If more than one person applies for an available license, a
34 priority of applicants shall be determined by a random selection method
35 prescribed by the director.

36 F. AFTER JANUARY 1, 2011, BAR LICENSES AND BEER AND WINE BAR LICENSES
37 SHALL BE ISSUED AND USED ONLY IF THE CLEAR PRIMARY PURPOSE AND ACTUAL PRIMARY
38 USE IS FOR ON-SALE RETAILER PRIVILEGES. THE OFF-SALE PRIVILEGES ASSOCIATED
39 WITH A BAR LICENSE AND A BEER AND WINE BAR LICENSE SHALL BE LIMITED TO A
40 MINOR USE, WHICH IS CLEARLY AUXILIARY TO THE PRIMARY ON-SALE PRIVILEGE. A
41 BAR LICENSE OR A BEER AND WINE BAR LICENSE SHALL NOT BE ISSUED OR USED IF THE
42 ASSOCIATED OFF-SALE USE, BY TOTAL RETAIL LIQUOR SALES, EXCEEDS TEN PER CENT
43 OF THE SALES PRICE OF ON-SALE SPIRITUOUS LIQUORS BY THE LICENSEE AT THAT
44 LOCATION.

1 G. THE DIRECTOR MAY ISSUE A BEER AND WINE STORE LICENSE TO THE HOLDER
2 OF A BEER AND WINE BAR LICENSE SIMULTANEOUSLY AT THE SAME PREMISES. AN
3 APPLICANT FOR A BEER AND WINE BAR LICENSE AND A BEER AND WINE STORE LICENSE
4 MAY CONSOLIDATE THE APPLICATION AND MAY APPLY FOR BOTH LICENSES AT THE SAME
5 TIME. THE HOLDER OF EACH LICENSE SHALL FULLY COMPLY WITH ALL APPLICABLE
6 PROVISIONS OF THIS TITLE. A BEER AND WINE BAR LICENSE AND BEER AND WINE
7 STORE LICENSE ON THE SAME PREMISES SHALL BE OWNED BY AND ISSUED TO THE SAME
8 LICENSEE.

9 H. THE DIRECTOR MAY ISSUE A BEER AND WINE BAR LICENSE TO THE HOLDER OF
10 A LIQUOR STORE LICENSE ISSUED SIMULTANEOUSLY AT THE SAME PREMISES. AN
11 APPLICANT FOR A LIQUOR STORE LICENSE AND A BEER AND WINE BAR LICENSE MAY
12 CONSOLIDATE THE APPLICATION AND MAY APPLY FOR BOTH LICENSES AT THE SAME TIME.
13 THE HOLDER OF EACH LICENSE SHALL FULLY COMPLY WITH ALL APPLICABLE PROVISIONS
14 OF THIS TITLE. A LIQUOR STORE LICENSE AND A BEER AND WINE BAR LICENSE ON THE
15 SAME PREMISES SHALL BE OWNED BY AND ISSUED TO THE SAME LICENSEE.

16 I. THE DIRECTOR MAY ISSUE A RESTAURANT LICENSE TO THE HOLDER OF A BEER
17 AND WINE BAR LICENSE ISSUED SIMULTANEOUSLY AT THE SAME PREMISES. AN
18 APPLICANT FOR A RESTAURANT LICENSE AND A BEER AND WINE BAR LICENSE MAY
19 CONSOLIDATE THE APPLICATION AND MAY APPLY FOR BOTH LICENSES AT THE SAME TIME.
20 THE HOLDER OF EACH LICENSE SHALL FULLY COMPLY WITH ALL APPLICABLE PROVISIONS
21 OF THIS TITLE. A RESTAURANT LICENSE AND A BEER AND WINE BAR LICENSE ON THE
22 SAME PREMISES SHALL BE OWNED BY AND ISSUED TO THE SAME LICENSEE. THE
23 LIMITATION SET FORTH IN SUBSECTION F WITH RESPECT TO THE OFF-SALE PRIVILEGES
24 OF THE BEER AND WINE BAR LICENSES SHALL BE MEASURED AGAINST THE ON-SALES OF
25 BEER AND WINE SALES OF THE ESTABLISHMENT. FOR PURPOSES OF COMPLIANCE WITH
26 SECTION 4-205.02, SUBSECTION G, PARAGRAPH 2, IT SHALL BE CONCLUSIVELY
27 PRESUMED THAT ALL ON PREMISES SALES OF SPIRITUOUS LIQUORS ARE MADE UNDER THE
28 AUTHORITY OF THE RESTAURANT LICENSE.

29 J. AN APPLICANT FOR A LIQUOR STORE LICENSE OR THE LICENSEE OF A LIQUOR
30 STORE LICENSE MAY APPLY FOR SAMPLING PRIVILEGES ASSOCIATED WITH THE LICENSE.
31 A PERSON DESIRING A SAMPLING PRIVILEGE ASSOCIATED WITH A LIQUOR STORE LICENSE
32 SHALL APPLY TO THE DIRECTOR ON A FORM PRESCRIBED AND FURNISHED BY THE
33 DIRECTOR. THE APPLICATION FOR SAMPLING PRIVILEGES MAY BE FILED FOR AN
34 EXISTING LICENSE OR MAY BE SUBMITTED WITH AN INITIAL LICENSE APPLICATION.
35 THE REQUEST FOR SAMPLING APPROVAL, THE REVIEW OF THE APPLICATION AND THE
36 ISSUANCE OF APPROVAL SHALL BE CONDUCTED UNDER THE SAME PROCEDURES FOR THE
37 ISSUANCE OF A SPIRITUOUS LIQUOR LICENSE PRESCRIBED IN SECTION 4-201. AFTER A
38 SAMPLING PRIVILEGE HAS BEEN ISSUED FOR A LIQUOR STORE LICENSE, THE SAMPLING
39 PRIVILEGE SHALL BE NOTED ON THE LICENSE ITSELF AND IN THE RECORDS OF THE
40 DEPARTMENT. THE SAMPLING RIGHTS ASSOCIATED WITH A LICENSE ARE NOT
41 TRANSFERABLE. NOTWITHSTANDING SECTION 4-244, PARAGRAPH 19, A LIQUOR STORE
42 LICENSEE THAT HOLDS A LICENSE WITH SAMPLING PRIVILEGES MAY PROVIDE SPIRITUOUS
43 LIQUOR SAMPLING SUBJECT TO THE FOLLOWING REQUIREMENTS:

44 1. ANY OPEN PRODUCT SHALL BE KEPT LOCKED BY THE LICENSEE WHEN THE
45 SAMPLING AREA IS NOT STAFFED.

1 2. THE LICENSEE IS OTHERWISE SUBJECT TO ALL OTHER PROVISIONS OF THIS
2 TITLE. THE LICENSEE IS LIABLE FOR ANY VIOLATION OF THIS TITLE COMMITTED IN
3 CONNECTION WITH THE SAMPLING.

4 3. THE LICENSED RETAILER SHALL MAKE SALES OF SAMPLED PRODUCTS FROM THE
5 LICENSED RETAIL PREMISES.

6 4. THE LICENSEE SHALL NOT CHARGE ANY CUSTOMER FOR THE SAMPLING OF ANY
7 PRODUCTS.

8 5. THE SAMPLING SHALL BE CONDUCTED UNDER THE SUPERVISION OF AN
9 EMPLOYEE OF A SPONSORING DISTILLER, VINTNER, BREWER, WHOLESALER OR RETAIL
10 LICENSEE.

11 6. ACCURATE RECORDS OF SAMPLING PRODUCTS DISPENSED SHALL BE RETAINED
12 BY THE LICENSEE.

13 7. SAMPLING SHALL BE LIMITED TO THREE OUNCES OF BEER OR COOLER-TYPE
14 PRODUCTS, ONE OUNCE OF WINE AND ONE OUNCE OF DISTILLED SPIRITS PER PERSON,
15 PER BRAND, PER DAY.

16 8. THE SAMPLING SHALL BE CONDUCTED ONLY ON THE LICENSED PREMISES.

17 K. IF A BEER AND WINE BAR LICENSE AND A BEER AND WINE STORE LICENSE
18 ARE ISSUED AT THE SAME PREMISES, FOR PURPOSES OF REPORTING LIQUOR PURCHASES
19 UNDER EACH LICENSE, ALL SPIRITUOUS BEVERAGES PURCHASED FOR SAMPLING ARE
20 CONCLUSIVELY PRESUMED TO BE PURCHASED UNDER THE BEER AND WINE BAR LICENSE AND
21 ALL SPIRITUOUS LIQUOR SOLD OFF-SALE ARE CONCLUSIVELY PRESUMED TO BE PURCHASED
22 UNDER THE BEER AND WINE STORE LICENSE.

23 Sec. 3. Title 4, chapter 2, article 4, Arizona Revised Statutes, is
24 amended by adding section 4-261.01, to read:

25 4-261.01. Display of license

26 ALL ON-SALE LICENSEES SHALL DISPLAY THE LIQUOR LICENSE IN A CONSPICUOUS
27 PUBLIC AREA OF THE LICENSED PREMISES THAT IS READILY ACCESSIBLE FOR
28 INSPECTION BY ANY PEACE OFFICER, DISTRIBUTOR, WHOLESALER OR MEMBER OF THE
29 PUBLIC.

30 Sec. 4. Existing licenses

31 A. To resolve potential conflicting legal claims between this state
32 and holders of bar liquor licenses that exceed the sale limitation of section
33 4-206.01, subsection F, Arizona Revised Statutes, as amended by this act, the
34 holder of a bar liquor license issued and actively used primarily for
35 off-sale purposes may surrender the bar liquor license to the department of
36 liquor licenses and control before January 1, 2011, in exchange for a liquor
37 store license at no additional cost or charge. The replacement liquor store
38 license shall be issued without any further application by the licensee,
39 without any further approval by the department and shall immediately be put
40 to use by the licensee at the location where the surrendered bar liquor
41 license was previously used. The licensee shall thereafter have all rights
42 and privileges associated with the liquor store license, notwithstanding any
43 other provisions of title 4, Arizona Revised Statutes. The department of
44 liquor licenses and control shall render void and extinguish any bar liquor
45 license surrendered pursuant to this subsection.

1 B. For any license issued pursuant to subsection A of this section,
2 notwithstanding the requirements prescribed in section 4-206.01,
3 subsection I, Arizona Revised Statutes, as amended by this act, the original
4 licensee shall have all rights specified in section 4-206.01, subsection I,
5 Arizona Revised Statutes, as amended by this act, without any further
6 application by the licensee and without any further approval by the
7 department of liquor licenses and control. The department of liquor licenses
8 and control shall identify on the license and in the records of the
9 department that the new license has the sampling privileges specified in
10 section 4-206.01, subsection I, Arizona Revised Statutes, as amended by this
11 act. The sampling rights prescribed in this subsection are nontransferrable
12 and apply automatically only to the benefit of the licensee that is issued a
13 replacement liquor store license after the surrender of a bar liquor license
14 pursuant to subsection A of this section.

15 C. To resolve potential conflicting legal claims between this state
16 and holders of beer and wine bar liquor licenses that do not meet the
17 requirements of section 4-206.01, subsection F, Arizona Revised Statutes, as
18 amended by this act, the holder of a beer and wine bar license that is issued
19 and actively used primarily for off-sale purposes may apply to the department
20 of liquor licenses and control for a beer and wine store license, which shall
21 be issued at no additional cost or charge. A beer and wine store license
22 that is issued pursuant to this subsection shall immediately be put to use by
23 the licensee at the location where the beer and wine bar license is being
24 used. The beer and wine bar and beer and wine store licenses shall be held
25 by the same licensee. The licensee shall thereafter have all rights and
26 privileges associated with the beer and wine bar and beer and wine store
27 license.

APPROVED BY THE GOVERNOR APRIL 19, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 20, 2010.

Passed the House March 8, 2010

Passed the Senate April 5, 2010

by the following vote: 56 Ayes,

by the following vote: 24 Ayes,

0 Nays, 3 Not Voting

4 Nays, 2 Not Voting

[Signature]
Speaker of the House

[Signature]
President of the Senate

[Signature]
Chief Clerk of the House

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill 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. 2002

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

April 14, 2010,

by the following vote: 54 Ayes,

1 Nays, 5 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
14th day of April, 2010,

at 3:40 o'clock P. M.

[Signature]
Secretary to the Governor

Approved this 14th day of

April, 2010,

at 5:35 o'clock P. M.

[Signature]
Governor of Arizona

H.B. 2002

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this 20th day of April, 2010,

at 10:21 o'clock a M.

[Signature]
Secretary of State