

Conference Engrossed

FILED
MICHELE REAGAN
SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

CHAPTER 285

HOUSE BILL 2030

AN ACT

AMENDING SECTIONS 4-205.05 AND 4-244, ARIZONA REVISED STATUTES; RELATING TO LIQUOR REGULATIONS AND PROHIBITIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 4-205.05, Arizona Revised Statutes, is amended to
3 read:

4 4-205.05. Disposal of seized or recovered liquor

5 A. The director may issue a temporary permit OF ANY SERIES authorizing
6 the disposal at public auction of spirituous liquor that has been seized by
7 any agency of this state, the federal government, any political subdivision
8 of this state, any financial institution as defined in section 6-101 that has
9 a security interest in a license, ~~or~~ the federal government pursuant to
10 statute OR A TRUSTEE IN BANKRUPTCY THAT ACQUIRES THE SPIRITUOUS LIQUOR OF A
11 DEBTOR. A bid at a public auction shall not be accepted from a licensee if
12 the spirituous liquors offered for sale at the auction were seized OR
13 ACQUIRED from that licensee. The director shall issue the permit only if
14 presented with proper documents of seizure by the appropriate official OR THE
15 APPOINTMENT OF A TRUSTEE IN BANKRUPTCY. The director may dispose of seized
16 spirituous liquor in whole or in part by public auction, by providing the
17 spirituous liquor to law enforcement for training purposes only, or both, or
18 by authorizing a qualified person to recycle the spirituous liquor.

19 B. Spirituous liquor with a stated expiration date on the label shall
20 not be offered for sale at public auction after the expiration date and shall
21 either be destroyed or disposed of as provided in this section. The licensed
22 wholesaler that distributes the spirituous liquor brand in that sales
23 territory may, but is not required to, accept a return of the liquor at no
24 cost for disposal or to enable it to be returned to the supplier.

25 Sec. 2. Section 4-244, Arizona Revised Statutes, is amended to read:

26 4-244. Unlawful acts

27 It is unlawful:

28 1. For a person to buy for resale, sell or deal in spirituous liquors
29 in this state without first having procured a license duly issued by the
30 board, EXCEPT THAT THE DIRECTOR MAY ISSUE A TEMPORARY PERMIT OF ANY SERIES
31 PURSUANT TO SECTION 4-205.05 TO A TRUSTEE IN BANKRUPTCY TO ACQUIRE AND
32 DISPOSE OF THE SPIRITUOUS LIQUOR OF A DEBTOR.

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

35 3. For a distiller, vintner, brewer or wholesaler knowingly to sell,
36 dispose of or give spirituous liquor to any person other than a licensee
37 except in sampling wares as may be necessary in the ordinary course of
38 business, except in donating spirituous liquor to a nonprofit organization
39 ~~which~~ THAT has obtained a special event license for the purpose of charitable
40 fund raising activities or except in donating spirituous liquor with a cost
41 to the distiller, brewer or wholesaler of up to five hundred dollars in a
42 calendar year to an organization that is exempt from federal income taxes
43 under section 501(c) (3), (4), (6) or (7) of the internal revenue code and
44 not licensed under this title.

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

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

9 6. For a person to take or solicit orders for spirituous liquors
10 unless the person is a salesman or solicitor of a licensed wholesaler, a
11 salesman or solicitor of a distiller, brewer, vintner, importer or broker or
12 a registered retail agent.

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

16 8. For a retailer to acquire an interest in property owned, occupied
17 or used by a wholesaler in the wholesaler's business, or in a license with
18 respect to the premises of the wholesaler.

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

30 10. For a licensee to employ a person under nineteen years of age to
31 manufacture, sell or dispose of spirituous liquors. This paragraph shall not
32 prohibit the employment by an off-sale retailer of persons who are at least
33 sixteen years of age to check out, if supervised by a person on the premises
34 who is at least nineteen years of age, package or carry merchandise,
35 including spirituous liquor, in unbroken packages, for the convenience of the
36 customer of the employer, if the employer sells primarily merchandise other
37 than spirituous liquor.

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

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

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

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

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

18 (c) An employee of an on-sale retail licensee, under the supervision
19 of a manager as part of the employee's training and education, while not
20 engaged in waiting on or serving customers may taste samples of distilled
21 spirits not to exceed two ounces per educational session or beer or wine not
22 to exceed four ounces per educational session, and provided that a licensee
23 shall not have more than two educational sessions in any thirty day period.

24 (d) An unpaid volunteer who is a bona fide member of a club and who is
25 not engaged in waiting on or serving spirituous liquor to customers may
26 purchase for himself and consume spirituous liquor while participating in a
27 scheduled event at the club. An unpaid participant in a food competition may
28 purchase for himself and consume spirituous liquor while participating in the
29 food competition.

30 (e) An unpaid volunteer of a special event licensee under section
31 4-203.02 may purchase and consume spirituous liquor while not engaged in
32 waiting on or serving spirituous liquor to customers at the special event.
33 This subdivision does not apply to an unpaid volunteer whose responsibilities
34 include verification of a person's legal drinking age, security or the
35 operation of any vehicle or heavy machinery.

36 14. For a licensee or other person to serve, sell or furnish spirituous
37 liquor to a disorderly or obviously intoxicated person, or for a licensee or
38 employee of the licensee to allow or permit a disorderly or obviously
39 intoxicated person to come into or remain on or about the premises, except
40 that a licensee or an employee of the licensee may allow an obviously
41 intoxicated person to remain on the premises for a period of time of not to
42 exceed thirty minutes after the state of obvious intoxication is known or
43 should be known to the licensee in order that a nonintoxicated person may
44 transport the obviously intoxicated person from the premises. For the
45 purposes of this section, "obviously intoxicated" means inebriated to the

1 extent that a person's physical faculties are substantially impaired and the
2 impairment is shown by significantly uncoordinated physical action or
3 significant physical dysfunction that would have been obvious to a reasonable
4 person.

5 15. For an on-sale or off-sale retailer or an employee of such retailer
6 to sell, dispose of, deliver or give spirituous liquor to a person between
7 the hours of 2:00 a.m. and 6:00 a.m.

8 16. For a licensee or employee to knowingly permit any person on or
9 about the licensed premises to give or furnish any spirituous liquor to any
10 person under twenty-one years of age or knowingly permit any person under
11 twenty-one years of age to have in the person's possession spirituous liquor
12 on the licensed premises.

13 17. For an on-sale retailer or an employee of such retailer to allow a
14 person to consume or possess spirituous liquors on the premises between the
15 hours of 2:30 a.m. and 6:00 a.m.

16 18. For an on-sale retailer to permit an employee or for an employee to
17 solicit or encourage others, directly or indirectly, to buy the employee
18 drinks or anything of value in the licensed premises during the employee's
19 working hours. No on-sale retailer shall serve employees or allow a patron
20 of the establishment to give spirituous liquor to, purchase liquor for or
21 drink liquor with any employee during the employee's working hours.

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

26 20. For a person to consume spirituous liquor in a public place,
27 thoroughfare or gathering. The license of a licensee permitting a violation
28 of this paragraph on the premises shall be subject to revocation. This
29 paragraph does not apply to the sale of spirituous liquors on the premises of
30 and by an on-sale retailer. This paragraph also does not apply to a person
31 consuming beer from a broken package in a public recreation area or on
32 private property with permission of the owner or lessor or on the walkways
33 surrounding such private property or to a person consuming beer or wine from
34 a broken package in a public recreation area as part of a special event or
35 festival that is conducted under a license secured pursuant to section
36 4-203.02 or 4-203.03.

37 21. For a person to have possession of or to transport spirituous
38 liquor ~~which~~ THAT is manufactured in a distillery, winery, brewery or
39 rectifying plant contrary to the laws of the United States and this
40 state. Any property used in transporting such spirituous liquor shall be
41 forfeited to the state and shall be seized and disposed of as provided in
42 section 4-221.

43 22. For an on-sale retailer or employee to allow a person under the
44 legal drinking age to remain in an area on the licensed premises during those
45 hours in which its primary use is the sale, dispensing or consumption of

1 alcoholic beverages after the licensee, or the licensee's employees, know or
2 should have known that the person is under the legal drinking age. An
3 on-sale retailer may designate an area of the licensed premises as an area in
4 which spirituous liquor will not be sold or consumed for the purpose of
5 allowing underage persons on the premises if the designated area is separated
6 by a physical barrier and at no time will underage persons have access to the
7 area in which spirituous liquor is sold or consumed. A licensee or an
8 employee of a licensee may require a person who intends to enter a licensed
9 premises or a portion of a licensed premises where persons under the legal
10 drinking age are prohibited under this section to exhibit a written
11 instrument of identification that is acceptable under section 4-241 as a
12 condition of entry. The director, or a municipality, may adopt rules to
13 regulate the presence of underage persons on licensed premises provided the
14 rules adopted by a municipality are more stringent than those adopted by the
15 director. The rules adopted by the municipality shall be adopted by local
16 ordinance and shall not interfere with the licensee's ability to comply with
17 this paragraph. This paragraph does not apply:

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

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

24 (i) An active duty military service member.

25 (ii) A veteran.

26 (iii) A member of the United States army national guard or the United
27 States air national guard.

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

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

31 23. For an on-sale retailer or employee to conduct drinking contests,
32 to sell or deliver to a person an unlimited number of spirituous liquor
33 beverages during any set period of time for a fixed price, to deliver more
34 than forty ounces of beer, one liter of wine or four ounces of distilled
35 spirits in any spirituous liquor drink to one person at one time for that
36 person's consumption or to advertise any practice prohibited by this
37 paragraph. The provisions of this paragraph do not prohibit an on-sale
38 retailer or employee from selling and delivering an opened, original
39 container of distilled spirits if:

40 (a) Service or pouring of the spirituous liquor is provided by an
41 employee of the on-sale retailer.

42 (b) The employee of the on-sale retailer monitors consumption to
43 ensure compliance with this paragraph. Locking devices may be used, but are
44 not required.

1 24. For a licensee or employee to knowingly permit the unlawful
2 possession, use, sale or offer for sale of narcotics, dangerous drugs or
3 marijuana on the premises. As used in this paragraph, "dangerous drug" has
4 the same meaning prescribed in section 13-3401.

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

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

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

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

14 29. For any person other than a peace officer or a member of a
15 sheriff's volunteer posse while on duty who has received firearms training
16 that is approved by the Arizona peace officer standards and training board, A
17 RETIRED PEACE OFFICER AS DEFINED IN SECTION 38-1113 OR AN HONORABLY RETIRED
18 LAW ENFORCEMENT OFFICER WHO HAS BEEN ISSUED A CERTIFICATE OF FIREARMS
19 PROFICIENCY PURSUANT TO SECTION 13-3112, SUBSECTION T, the licensee or an
20 employee of the licensee acting with the permission of the licensee to be in
21 possession of a firearm while on the licensed premises of an on-sale
22 retailer. This paragraph shall not be construed to include a situation in
23 which a person is on licensed premises for a limited time in order to seek
24 emergency aid and such person does not buy, receive, consume or possess
25 spirituous liquor. This paragraph shall not apply to:

26 (a) Hotel or motel guest room accommodations.

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

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

32 30. For a licensee or employee to knowingly permit a person in
33 possession of a firearm other than a peace officer or a member of a sheriff's
34 volunteer posse while on duty who has received firearms training that is
35 approved by the Arizona peace officer standards and training board, A RETIRED
36 PEACE OFFICER AS DEFINED IN SECTION 38-1113 OR AN HONORABLY RETIRED LAW
37 ENFORCEMENT OFFICER WHO HAS BEEN ISSUED A CERTIFICATE OF FIREARMS PROFICIENCY
38 PURSUANT TO SECTION 13-3112, SUBSECTION T, the licensee or an employee of the
39 licensee acting with the permission of the licensee to remain on the licensed
40 premises or to serve, sell or furnish spirituous liquor to a person in
41 possession of a firearm while on the licensed premises of an on-sale
42 retailer. It shall be a defense to action under this paragraph if the
43 licensee or employee requested assistance of a peace officer to remove such
44 person. This paragraph shall not apply to:

1 (a) Hotel or motel guest room accommodations.

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

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

7 31. For any person in possession of a firearm while on the licensed
8 premises of an on-sale retailer to consume spirituous liquor. This paragraph
9 does not prohibit the consumption of small amounts of spirituous liquor by an
10 undercover peace officer on assignment to investigate the licensed
11 establishment.

12 32. For a licensee or employee to knowingly permit spirituous liquor to
13 be removed from the licensed premises, except in the original unbroken
14 package. This paragraph does not apply to any of the following:

15 (a) A person who removes a bottle of wine which THAT has been
16 partially consumed in conjunction with a purchased meal from licensed
17 premises if a cork is inserted flush with the top of the bottle or the bottle
18 is otherwise securely closed.

19 (b) A person who is in licensed premises that have noncontiguous
20 portions that are separated by a public or private walkway or driveway and
21 who takes spirituous liquor from one portion of the licensed premises across
22 the public or private walkway or driveway directly to the other portion of
23 the licensed premises.

24 (c) A bar, beer and wine bar, liquor store, beer and wine store or
25 microbrewery licensee who dispenses beer only in a clean container composed
26 of a material approved by a national sanitation organization with a maximum
27 capacity that does not exceed one gallon and not for consumption on the
28 premises if:

29 (i) The licensee or the licensee's employee fills the container at the
30 tap at the time of sale.

31 (ii) The container is sealed with a plastic adhesive and displays a
32 government warning label.

33 (iii) The dispensing of that beer is not done through a drive-through
34 or walk-up service window.

35 The department shall review the effects of this subdivision and submit a
36 report by July 1, 2015 on the effects of this subdivision to the governor,
37 the speaker of the house of representatives and the president of the senate.
38 The department shall provide a copy of this report to the secretary of state.

39 33. For a person who is obviously intoxicated to buy or attempt to buy
40 spirituous liquor from a licensee or employee of a licensee or to consume
41 spirituous liquor on licensed premises.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 43. For a person to purchase, offer for sale or use any device, machine
2 or process which THAT mixes spirituous liquor with pure oxygen or another gas
3 to produce a vaporized product for the purpose of consumption by inhalation
4 or to allow patrons to use any item for the consumption of vaporized
5 spirituous liquor.

6 44. For a retail licensee or an employee of a retail licensee to sell
7 spirituous liquor to a person if the retail licensee or employee knows the
8 person intends to resell the spirituous liquor.

9 45. Except as authorized by paragraph 32, subdivision (c) of this
10 section, for a person to reuse a bottle or other container authorized for use
11 by the laws of the United States or any agency of the United States for the
12 packaging of distilled spirits or for a person to increase the original
13 contents or a portion of the original contents remaining in a liquor bottle
14 or other authorized container by adding any substance.

APPROVED BY THE GOVERNOR MAY 17, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 17, 2016.

Passed the House February 18, 2016

Passed the Senate March 28, 2016

by the following vote: 35 Ayes,

by the following vote: 19 Ayes,

23 Nays, 2 Not Voting

8 Nays, 3 Not Voting

[Signature]

Speaker of the House

Pro Tempore

[Signature]
Chief Clerk of the House

[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. 2030

HOUSE FINAL PASSAGE
as per Joint Conference

Passed the House May 6, 20 16

by the following vote: 33 Ayes,

23 Nays, 4 Not Voting

[Signature]
Speaker of the House
 Pro Tempore

[Signature]
Chief Clerk of the House

SENATE FINAL PASSAGE
as per Joint Conference

Passed the Senate May 7, 20 16

by the following vote: 17 Ayes,

10 Nays, 3 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

7 day of May, 2016

at 3:33 o'clock A. M.

[Signature]
Secretary to the Governor

Approved this 17th day of

May

at 1:34 o'clock P. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 17th day of May, 20 16

at 4:35 o'clock P. M.

[Signature]
Secretary of State