STATE OF ARIZONA
OFFICE OF THE GOVERNOR

DOUGLAS A. DUCEY
GOVERNOR

EXECUTIVE OFFICE

April 17, 2018

The Honorable Michele Reagan
Secretary of State
1700 W. Washington, 7th Floor
Phoenix, AZ 85007

Dear Secretary Reagan:

I am transmitting to you the following bills from the Fifty-third Legislature, 2nd Regular Session, which I signed on April 17, 2018:

HB 2040 pharmacy board; definitions; reporting (Carter)
HB 2041 pharmacy board; licenses; permits (Carter)
HB 2065 public meetings; definition; penalties (Leach)
HB 2125 task force; towing safety (Shope)
HB 2126 government property; abatement; slum; blight (Leach)
HB 2249 protective orders; filing requirements (Farnsworth, E.)
HB 2250 physician assistants; prescribing authority; delegation (Carter)
HB 2257 radiation regulatory boards; repeal; DHS (Carter)
HB 2262 condominiums; termination; appraisals (Toma)
HB 2306 towing companies; insurance companies; owners (Campbell)
HB 2313 sentencing; monetary obligations; fine mitigation (Farnsworth, E.)
HB 2322 health insurers; provider credentialing (Carter)
HB 2327 federal officers; personal information; confidentiality (Farnsworth, E.)
HB 2334 liquor omnibus (Weninger)
HB 2411 health professionals; licensure; report (Mosley)
HB 2521 vehicle size, weight and load (John)
HB 2549 controlled substances; dosage limit (Carter)
HB 2550 contractor qualifications; work experience (Toma)
HB 2558 drug disposal; education (Cobb)
HB 2588 misrepresentation; service animals (Cook)

1700 WEST WASHINGTON STREET, PHOENIX, ARIZONA 85007
602-542-4331 • www.azgovernor.gov

HB 2604 limited liability company act; revisions
SB 1065 commercial vehicles; ports of entry (Brophy McGee)
SB 1120 tax exemption; special events; nonprofits (Kavanagh)
SB 1152 education; appropriation; noncustodial federal monies (Allen, S.)
SB 1218 developmental homes; licensure; investigations (Brophy McGee)
SB 1264 gift cards; dormancy fee; prohibition (Yarbrough)
SB 1274 public monies; recovery; illegal payments (Petersen)
SB 1291 schools; pupil assessment data (Brophy McGee)
SB 1295 producer fees; insurance (Kavanagh)
SB 1400 aggravated DUI; sentence; county jail (Smith)
SB 1450 independent oversight committees; appointment; duties (Barto)

Sincerely,

Douglas A. Ducey
Governor
State of Arizona

cc: Senate Secretary
Chief Clerk of the House of Representatives
Arizona News Service

Senate Engrossed House Bill

FILED

MICHELE REAGAN

SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-third Legislature
Second Regular Session
2018

CHAPTER 240

HOUSE BILL 2334

AN ACT

AMENDING SECTIONS 4-101 AND 4-112, ARIZONA REVISED STATUTES; AMENDING TITLE 4, CHAPTER 1, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 4-116.01; AMENDING SECTIONS 4-120, 4-201, 4-203, 4-203.02, 4-203.03, 4-205, 4-205.04, 4-205.08, 4-205.10, 4-205.11, 4-206.01, 4-207, 4-210, 4-241 AND 4-243, ARIZONA REVISED STATUTES; AMENDING LAWS 2014, CHAPTER 253, SECTION 37; RELATING TO LIQUOR LICENSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4-101. Definitions

In this title, unless the context otherwise requires:

1. "Act of violence":

(a) Means an incident consisting of a riot, a ~~brawl or a disturbance~~ FIGHT, AN ALTERCATION OR TUMULTUOUS CONDUCT:

(i) In which bodily injuries are sustained by any person and ~~such~~ THE injuries would be obvious to a reasonable person~~, or tumultuous conduct~~.

(ii) Of sufficient intensity as to require the intervention of a peace officer to restore normal order. ~~, or an incident~~

(iii) In which a weapon is brandished, displayed or used. ~~Act of violence~~

(iv) WHERE A LICENSEE OR AN EMPLOYEE OR CONTRACTOR OF THE LICENSEE FAILS TO FOLLOW A CLEAR AND DIRECT ORDER FROM A LAW ENFORCEMENT OFFICER OR A FIRE MARSHAL.

(b) Does not include the use of nonlethal devices by a peace officer.

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

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

4. "Board" means the state liquor board.

5. "Bona fide guest" means:

(a) An individual who is personally familiar to the member, who is personally sponsored by the member and whose presence as a guest is in response to a specific and personal invitation.

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

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

7. "Club" includes any of the following organizations where the sale of spirituous liquor for consumption on the premises is made ONLY to members, ~~only~~ SPOUSES OF MEMBERS, FAMILIES OF MEMBERS, BONA FIDE GUESTS OF MEMBERS AND GUESTS AT OTHER EVENTS AUTHORIZED IN THIS TITLE:

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

(b) A chapter, aerie, parlor, lodge or other local unit of an American national fraternal organization that has, as the owner, lessee or occupant, operated an establishment for fraternal purposes in this state. An American national fraternal organization as used in this subdivision shall actively operate in ~~not less than~~ AT LEAST thirty-six states or have been in active continuous existence for ~~not less than~~ AT LEAST twenty years.

(c) A hall or building association of a local unit mentioned in subdivisions (a) and (b) of this paragraph, all of the capital stock of which is owned by the local unit or the members, and that operates the clubroom facilities of the local unit.

(d) A golf club that has more than fifty bona fide members and that owns, maintains or operates a bona fide golf links together with a clubhouse.

(e) A social club with more than one hundred bona fide members who are actual residents of the county in which it is located, that owns, maintains or operates club quarters, that is authorized and incorporated to operate as a nonprofit club under the laws of this state, and that has been continuously incorporated and operating for a period of ~~not less than~~ AT LEAST one year. The club shall have had, during this one-year period, a bona fide membership with regular meetings conducted at least once each month, and the membership shall be and shall have been actively engaged in carrying out the objects of the club. The club's membership shall consist of bona fide ~~dues paying~~ DUES-PAYING members paying at least six dollars per year, payable monthly, quarterly or annually, which have been recorded by the secretary of the club, and the members at the time of application for a club license shall be in good standing having for at least one full year paid dues. At least fifty-one percent of the members shall have signified their intention to secure a social club license by personally signing a petition, on a form prescribed by the board, which shall also include the correct mailing address of each signer. The petition shall not have been signed by a member at a date earlier than one hundred eighty days before the filing of the application. The club shall qualify for exemption from the payment of state income taxes under title 43. It is the intent of this subdivision that a license shall not be granted to a club that is, or has been, primarily formed or activated to obtain a

license to sell liquor, but solely to a bona fide club, where the sale of liquor is incidental to the main purposes of the club.

(f) An airline club operated by or for airlines that are certificated by the United States government and that maintain or operate club quarters located at airports with international status.

8. "Company" or "association", when used in reference to a corporation, includes successors or assigns.

9. "Control" means the power to direct or cause the direction of the management and policies of an applicant or licensee, whether through the ownership of voting securities or a partnership interest, by agreement or otherwise. Control is presumed to exist if a person has the direct or indirect ownership of or power to vote ten percent or more of the outstanding voting securities of the applicant or licensee or to control in any manner the election of one or more of the directors of the applicant or licensee. In the case of a partnership, control is presumed to mean the general partner or a limited partner who holds ten percent or more of the voting rights of the partnership. For the purposes of determining the percentage of voting securities owned, controlled or held by a person, there shall be aggregated with the voting securities attributed to the person the voting securities of an officer, partner, employee or agent of the person or a spouse, parent or child of the person. Control is also presumed to exist if a creditor of the applicant or licensee holds a beneficial interest in ten percent or more of the liabilities of the licensee. The presumptions in this paragraph regarding control are rebuttable.

10. "Controlling person" means a person directly or indirectly possessing control of an applicant or licensee.

11. "Craft distiller" means a distiller in the United States or in a territory or possession of the United States that holds a license pursuant to section 4-205.10.

12. "Department" means the department of liquor licenses and control.

13. "Director" means the director of the department of liquor licenses and control.

14. "Distilled spirits" includes alcohol, brandy, whiskey, rum, tequila, mescal, gin, absinthe, a compound or mixture of any of them or of any of them with any vegetable or other substance, alcohol bitters, bitters containing alcohol, fruits preserved in ardent spirits, and any alcoholic mixture or preparation, whether patented or otherwise, that may in sufficient quantities produce intoxication.

15. "Employee" means any person who performs any service on licensed premises on a full-time, part-time or contract basis with consent of the licensee, whether or not the person is denominated an employee, independent contractor or otherwise. Employee does not include a person exclusively on the premises for musical or vocal performances, for repair

or maintenance of the premises or for the delivery of goods to the licensee.

16. "Farm winery" means a winery in the United States or in a territory or possession of the United States that holds a license pursuant to section 4-205.04.

17. "Government license" means a license to serve and sell spirituous liquor on specified premises available only to a state agency, state board, state commission, county, city, town, community college or state university or the national guard or Arizona coliseum and exposition center on application by the governing body of a state agency, state board, state commission, county, city, town, community college or state university or the national guard or Arizona exposition and state fair board.

18. "Legal drinking age" means twenty-one years of age or older.

19. "License" means a license or an interim retail permit issued pursuant to this title.

20. "Licensee" means a person who has been issued a license or an interim retail permit pursuant to this title or a special event licensee.

21. "License fees" means fees collected for license issuance, license application, license renewal, interim permit issuance and license transfer between persons or locations.

22. "Manager" means a natural person who meets the standards required of licensees and who has authority to organize, direct, carry on, control or otherwise operate a licensed business on a temporary or full-time basis.

23. "Microbrewery" means a brewery in the United States or in a territory or possession of the United States that meets the requirements of section 4-205.08.

24. "Off-sale retailer" means any person operating a bona fide regularly established retail liquor store selling spirituous liquors, wines and beer, and any established retail store selling commodities other than spirituous liquors and engaged in the sale of spirituous liquors only in the original unbroken package, to be taken away from the premises of the retailer and to be consumed off the premises.

25. "On-sale retailer" means any person operating an establishment where spirituous liquors are sold in the original container for consumption on or off the premises or in individual portions for consumption on the premises.

26. "Permanent occupancy" means the maximum occupancy of the building or facility as set by the office of the state fire marshal for the jurisdiction in which the building or facility is located.

27. "Person" includes a partnership, limited liability company, association, company or corporation, as well as a natural person.

28. "Premises" or "licensed premises" means the area from which the licensee is authorized to sell, dispense or serve spirituous liquors under

the provision of the license. Premises or licensed premises includes a patio that is not contiguous to the remainder of the premises or licensed premises if the patio is separated from the remainder of the premises or licensed premises by a public or private walkway or driveway not to exceed thirty feet, subject to rules the director may adopt to establish criteria for noncontiguous premises.

29. "Registered mail" includes certified mail.

30. "Registered retail agent" means any person who is authorized pursuant to section 4-222 to purchase spirituous liquors for and on behalf of himself and other retail licensees.

31. "Repeated acts of violence" means:

(a) For licensed premises with a permanent occupancy of two hundred or fewer persons, two or more acts of violence occurring within seven days or three or more acts of violence occurring within thirty days.

(b) For licensed premises with a permanent occupancy of more than two hundred but not more than four hundred persons, four or more acts of violence within thirty days.

(c) For licensed premises with a permanent occupancy of more than four hundred but not more than six hundred fifty persons, five or more acts of violence within thirty days.

(d) For licensed premises with a permanent occupancy of more than six hundred fifty but not more than one thousand fifty persons, six or more acts of violence within thirty days.

(e) For licensed premises with a permanent occupancy of more than one thousand fifty persons, seven or more acts of violence within thirty days.

32. "Sell" includes soliciting or receiving an order for, keeping or exposing for sale, directly or indirectly delivering for value, peddling, keeping with intent to sell and trafficking in.

33. "Spirituous liquor" includes alcohol, brandy, whiskey, rum, tequila, mescal, gin, wine, porter, ale, beer, any malt liquor or malt beverage, absinthe, a compound or mixture of any of them or of any of them with any vegetable or other substance, alcohol bitters, bitters containing alcohol, any liquid mixture or preparation, whether patented or otherwise, which produces intoxication, fruits preserved in ardent spirits, and beverages containing more than one-half of one percent of alcohol by volume.

34. "Vehicle" means any means of transportation by land, water or air, and includes everything made use of in any way for such transportation.

35. "Vending machine" means a machine that dispenses merchandise through the means of coin, token, credit card or other nonpersonal means of accepting payment for merchandise received.

36. "Veteran" means a person who has served in the United States air force, army, navy, marine corps or coast guard, as an active nurse in

the services of the American red cross, in the army and navy nurse corps in time of war, or in any expedition of the armed forces of the United States, and who has received a discharge other than dishonorable.

37. "Voting security" means any security presently entitling the owner or holder of the security to vote for the election of directors of an applicant~~,~~ OR A licensee ~~or controlling person~~.

38. "Wine" means the product obtained by the fermentation of grapes, other agricultural products containing natural or added sugar or cider or any such alcoholic beverage fortified with grape brandy and containing not more than twenty-four percent of alcohol by volume.

Sec. 2. Section 4-112, Arizona Revised Statutes, is amended to read:

4-112. Powers and duties of board and director of department of liquor licenses and control; investigations; county and municipal regulation; definition

A. The board shall:

1. Grant and deny applications in accordance with the provisions of this title.

2. Adopt rules in order to carry out the provisions of this section.

3. Hear appeals and hold hearings as provided in this section.

B. Except as provided in subsection A of this section, the director shall administer the provisions of this title, including:

1. Adopting rules:

(a) For carrying out the provisions of this title.

(b) For the proper conduct of the business to be carried on under each specific type of spirituous liquor license.

(c) To enable and assist state officials and political subdivisions to collect taxes levied or imposed in connection with spirituous liquors.

(d) For the issuance and revocation of certificates of registration of retail agents, including provisions governing the shipping, storage and delivery of spirituous liquors by registered retail agents, the keeping of records and the filing of reports by registered retail agents.

(e) To establish requirements for licensees under section 4-209, subsection B, paragraph 12.

2. Subject to title 41, chapter 4, article 4, employing necessary personnel and fixing their compensation pursuant to section 38-611.

3. Keeping an index record ~~which shall be~~ THAT IS a public record open to public inspection and ~~shall contain~~ THAT CONTAINS the name and address of each licensee and the name and address of any person having an interest, either legal or equitable, in each license as shown by any written document~~, which document shall be~~ THAT IS placed on file in the office of the board.

4. Providing the board with ~~such~~ supplies and personnel as ~~may be~~ directed by the board.

5. Responding in writing to any law enforcement agency that submits an investigative report to the department relating to a violation of this title, setting forth what action, if any, the department has taken or intends to take on the report and, if the report lacks sufficient information or is otherwise defective for use by the department, what the agency must do to remedy the report.

6. Taking ~~such~~ steps ~~as~~ THAT are necessary to maintain effective liaison with the department of public safety and all local law enforcement agencies in the enforcement of this title including the laws of this state against the consumption of spirituous liquor by persons under the legal drinking age.

7. Providing training to law enforcement agencies in the proper investigation and reporting of violations of this title.

C. The director shall establish within the department a separate investigations unit ~~which~~ THAT has as its sole responsibility the investigation of compliance with this title including the investigation of licensees alleged to have sold or distributed spirituous liquor in any form to persons under the legal drinking age. Investigations conducted by this unit may include covert undercover investigations.

D. All employees of the department of liquor licenses and control, except members of the state liquor board and the director of the department, shall be employed by the department in the manner prescribed by the department of administration.

E. The director may enter into a contract or agreement with any public agency for any joint or cooperative action as provided for by title 11, chapter 7, article 3.

F. The board or the director may take evidence, administer oaths or affirmations, issue subpoenas requiring attendance and testimony of witnesses, cause depositions to be taken and require by subpoena duces tecum the production of books, papers and other documents ~~which~~ THAT are necessary for the enforcement of this title. Proceedings held during the course of a confidential investigation are exempt from title 38, chapter 3, article 3.1. If a person refuses to obey a subpoena or fails to answer questions as provided by this subsection, the board or the director may apply to the superior court in the manner provided in section 12-2212. The board or director may serve subpoenas by personal service or certified mail, return receipt requested.

G. The director may:

1. Examine books, records and papers of a licensee.

2. Require applicants, licensees, employees who serve, sell or furnish spirituous liquors to retail customers, managers and managing agents to take training courses approved by the director in spirituous liquor handling and spirituous liquor laws and rules. The director shall adopt rules that set standards for approving training courses. AFTER JANUARY 1, 2019, THE RULES FOR ON-SALE RETAILER BASIC TRAINING AND ON-SALE

RETAILER MANAGEMENT TRAINING SHALL INCLUDE SECURITY PROCEDURES FOR SECURITY PERSONNEL ASSIGNED TO MONITOR ADMISSION OF PATRONS, INTERACTION WITH PATRONS, CALLS TO LAW ENFORCEMENT AND STRATEGIES FOR USE OF FORCE AND FOR THE USE OF DE-ESCALATION TECHNIQUES. IF THE RETAILER USES A REGISTERED SECURITY GUARD, THE RETAILER SHALL ATTEMPT TO VERIFY THE VALIDITY AND STATUS OF THE SECURITY GUARD'S REGISTRATION CERTIFICATE. The department's licensed investigators may participate and receive compensation as lecturers at approved training courses within this state's jurisdiction that are conducted by other entities but shall not participate in in-house training programs for licensees.

3. Delegate to employees of the department authority to exercise powers of the director in order to administer the department.

4. Regulate signs that advertise a spirituous liquor product at licensed retail premises.

5. Cause to be removed from the marketplace spirituous liquor that may be contaminated.

6. Regulate the age and conduct of erotic entertainers at licensed premises. The age limitation governing these erotic entertainers may be different from other employees of the licensee.

7. Issue and enforce cease and desist orders against any person or entity that sells beer, wine or spirituous liquor without an appropriate license or permit.

8. Confiscate wines carrying a label including a reference to Arizona or any Arizona city, town or place unless at least seventy-five ~~per cent~~ PERCENT by volume of the grapes used in making the wine were grown in this state.

9. Accept and expend private grants of monies, gifts and devises for conducting educational programs for parents and students on the repercussions of underage alcohol consumption. State general fund monies shall not be expended for the purposes of this paragraph. If the director does not receive sufficient monies from private sources to carry out the purposes of this paragraph, the director shall not provide the educational programs prescribed in this paragraph. Grant monies received pursuant to this paragraph are nonlapsing and do not revert to the state general fund at the close of the fiscal year.

10. Procure fingerprint scanning equipment and provide fingerprint services to license applicants and licensees. The department may charge a fee for providing these services.

11. Accept electronic signatures on all department and licensee forms and documents and applications. The director may adopt requirements that would require facsimile signatures to be followed by original signatures within a specified time period.

12. FOR USE AFTER JANUARY 1, 2019, ADOPT A FORM THAT IS REQUIRED TO BE USED BY ALL ON-SALE RETAILERS THAT HIRE OR DESIGNATE EMPLOYEES TO SERVE AS SECURITY PERSONNEL. ALL SECURITY PERSONNEL JOB APPLICANTS AND

EMPLOYEES FOR ON-SALE RETAILERS SHALL COMPLETE THE FORM, WHICH SHALL BE NOTARIZED, BEFORE ASSIGNMENT TO A SECURITY ROLE. THE FORM SHALL REQUIRE THE APPLICANT OR OTHER PERSON TO DISCLOSE WHETHER IN THE PREVIOUS FIVE YEARS THE PERSON HAS BEEN A REGISTERED SEX OFFENDER OR PLED GUILTY, PLED NO CONTEST OR BEEN CONVICTED OF ANY OFFENSE THAT CONSTITUTES ASSAULT, HOMICIDE, DOMESTIC VIOLENCE, SEXUAL MISCONDUCT, MISCONDUCT INVOLVING A DEADLY WEAPON OR A DRUG VIOLATION THAT CONSTITUTES THE ILLEGAL SALE, MANUFACTURING, CULTIVATION OR TRANSPORTATION FOR SALE OF MARIJUANA, A DANGEROUS DRUG OR A NARCOTIC DRUG. A LICENSEE MAY NOT HIRE OR ASSIGN TO A ROLE AS SECURITY PERSONNEL ANY PERSON WHO FAILS TO COMPLETE THE FORM OR IF THE FORM DISCLOSES ONE OF THE LISTED OFFENSES WITHIN THE PREVIOUS FIVE YEARS. THE LICENSEE SHALL MAINTAIN ON FILE AFFIDAVITS OF ALL SECURITY PERSONNEL HIRED OR DESIGNATED BY THE LICENSEE. THE FORM MAY NOT BE REQUIRED FOR A PEACE OFFICER WHO IS CERTIFIED BY THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD OR OTHER SECURITY PERSONNEL WHO HOLD A CURRENT SECURITY GUARD REGISTRATION CERTIFICATE OR ARMED SECURITY GUARD REGISTRATION CERTIFICATE ISSUED PURSUANT TO TITLE 32, CHAPTER 26.

H. A county or municipality may enact and enforce ordinances regulating the age and conduct of erotic entertainers at licensed premises in a manner at least as restrictive as rules adopted by the director.

I. FOR THE PURPOSES OF THIS SECTION, "SECURITY PERSONNEL" INCLUDES INDIVIDUALS WHOSE PRIMARY ASSIGNED RESPONSIBILITIES INCLUDE THE SECURITY AND SAFETY OF EMPLOYEES AND PATRONS OF AN ON-SALE RETAILER PREMISES. SECURITY PERSONNEL DOES NOT INCLUDE A PERSON WHOSE PRIMARY RESPONSIBILITIES INCLUDE CHECKING THE IDENTIFICATION CARDS OF PATRONS TO DETERMINE COMPLIANCE WITH AGE REQUIREMENTS.

Sec. 3. Title 4, chapter 1, article 2, Arizona Revised Statutes, is amended by adding section 4-116.01, to read:

4-116.01. <u>Receipts from sampling privilege and growler permits</u>

NOTWITHSTANDING ANY OTHER LAW, ALL RECEIPTS DERIVED FROM SAMPLING PRIVILEGE AND GROWLER PERMIT APPLICATIONS ARE APPROPRIATED TO THE DEPARTMENT. THE DEPARTMENT SHALL DEPOSIT MONIES RECEIVED PURSUANT TO THIS SECTION IN THE LIQUOR LICENSES FUND ESTABLISHED BY SECTION 4-120. THE AMOUNT DEPOSITED INTO THE LIQUOR LICENSES FUND PURSUANT TO THIS SECTION SHALL BE WITHOUT REGARD TO THE AMOUNT APPROPRIATED TO THE DEPARTMENT BY THE LEGISLATURE.

Sec. 4. Section 4-120, Arizona Revised Statutes, is amended to read:

4-120. <u>Liquor licenses fund; exemption</u>

A. The liquor licenses fund is established consisting of monies deposited pursuant to ~~section~~ SECTIONS 4-115 AND 4-116.01. The department of liquor licenses and control shall administer the fund. The amount deposited in the fund each year shall not exceed the amount appropriated by the legislature.

B. Monies in the fund are subject to legislative appropriation.

C. Monies in the fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations, except that any monies remaining in the fund in excess of seven hundred thousand dollars at the end of each fiscal year ~~reverts~~ REVERT to the state general fund.

Sec. 5. Section 4-201, Arizona Revised Statutes, is amended to read:

4-201. Licensing; application procedure in city, town or county; burden of proof

A. A person desiring a license to manufacture, sell or deal in spirituous liquors shall make application to the director on a form prescribed and furnished by the director.

B. A person desiring a license within an incorporated city or town shall make the application in triplicate and shall file the copies with the director. The director shall remit two copies to the city or town clerk. The city or town clerk shall immediately file one copy in the clerk's office and post the other for a period of twenty days in a conspicuous place on the front of the premises where the business is proposed to be conducted, with a statement requiring any natural person who is a bona fide resident residing or owning or leasing property within a one mile radius from the premises proposed to be licensed, and who is in favor of or opposed to the issuance of the license, to file written arguments in favor of or opposed to the issuance of the license with the clerk within twenty days after the date of posting. The posting shall be limited to a copy of the license application and shall not contain any attachments filed with the application. The written argument shall contain the natural person's complete name, street address or post office box address and written or electronic signature. If the written arguments are filed by a person on behalf of a corporation or other legal entity or association, the written arguments must be accompanied by a copy of the entity's organizing document, a designation of the office or position that the person holds within the organization and a copy of the written appointment of the person to speak on behalf of the organization. If the written arguments are filed by a neighborhood association, block watch or other unincorporated association, written arguments must be accompanied by a letter of authority designating that person as a spokesperson. The posting shall contain substantially the following:

Notice

A hearing on a liquor license application shall be held before the local governing body at the following date, time and place:

(Insert date, time and address)

The local governing body will recommend to the state liquor board whether the board should grant or deny the license. The state liquor board may hold a hearing to consider the

recommendation of the local governing body. Any person residing or owning or leasing property within a one-mile radius may contact the state liquor board in writing to register as a protestor. To request information regarding procedures before the board and notice of any board hearings regarding this application, contact the state liquor board at: (Insert address and telephone number).

No arguments shall be filed or accepted by the city or town clerk thereafter. This subsection ~~shall not be construed to~~ DOES NOT prevent a bona fide resident residing or owning or leasing property within a one-mile radius from the premises proposed to be licensed from testifying in favor of or in opposition to the issuance of the license, regardless of whether or not the person is a user or nonuser of spirituous liquor.

C. The governing body of the city, town or county shall then enter an order recommending approval or disapproval within sixty days after THE filing of the application and shall file a certified copy of the order with the director. If the recommendation is for disapproval, a statement of the specific reasons containing a summary of the testimony or other evidence supporting the recommendation for disapproval shall be attached to the order. All petitions submitted to the governing body within the twenty-day period for filing protests shall be transmitted to the director with the certified copy of the order.

D. If a person applies for a license to conduct a spirituous liquor business outside an incorporated city or town, the director shall remit two copies of the application to the clerk of the board of supervisors of the county where the applicant desires to do business, and the proceedings by the clerk and board of supervisors shall be as provided for cities and towns.

E. On receipt of an application for a spirituous liquor license, the director shall set the application for A hearing by the board on a date following the expiration of the time fixed for the submitting of the certified order by the governing body of the city or town or the board of supervisors. If the city or town or the county recommends approval of the license ~~no~~ A hearing is NOT required unless the director, the board or any aggrieved party requests a hearing on the grounds that the public convenience and the best interest of the community will not be substantially served if a license is issued. Any natural person residing or owning or leasing property within a ~~one mile~~ ONE-MILE radius of the proposed location may file a written protest with the director ON A FORM PRESCRIBED BY THE DIRECTOR not later than fifteen calendar days after action by the local governing body or sixty days after THE filing OF the application, whichever is sooner. THE DIRECTOR SHALL ALLOW PROTESTS TO BE SUBMITTED BY WAY OF EMAIL. The written argument shall contain the natural person's complete name, street address or post office box address and written or electronic signature. If the written arguments are filed by a

person on behalf of a corporation or other legal entity or association, the written arguments must be accompanied by a copy of the entity's organizing document, a designation of the office or position that the person holds within the organization and a copy of the written appointment of the person to speak on behalf of the organization. If the written arguments are filed by a neighborhood association, block watch or other unincorporated association, written arguments must be accompanied by a letter of authority designating that person as a spokesperson. If no hearing is requested by the director, the board or any aggrieved party, the application may be approved by the director. If the recommendation is for disapproval of an application, the board shall hold a hearing. If the city, town or county recommends approval of the license pursuant to subsection C of this section or makes no recommendation, the director may cancel the hearing and issue the license unless the board or any aggrieved party requests a hearing. If the reason for the protest is clearly removed or deemed satisfied by the director, the board shall cancel the hearing. If the board cancels the hearing, the department may administratively issue an order without the applicant licensee or other parties present. The certified order, the reasons contained in the order and the summary of the testimony and other evidence supporting the city, town or county disapproval of the recommendation shall be read into the record before the board and shall be considered as evidence by the board. The board shall consider the certified order together with other facts and a report of the director relating to the qualifications of the applicant. If the governing body of the city or town or the board of supervisors fails to return to the director, as provided in subsections C and D of this section, its order of disapproval, no hearing is required. An application shall be approved or disapproved within one hundred five days after THE filing of the application. If, after a hearing by the board where a license has been approved, a formal written order is not entered within thirty days after the hearing, the decision of the board ~~shall be~~ IS deemed entered on the thirtieth day after the hearing.

F. A hearing may be conducted by an administrative law judge at the request of the board to make findings and recommendations for use by the board in determining whether to grant or deny a license. The administrative law judge shall submit a report of findings to the board within twenty days after the hearing. The board may affirm, reverse, adopt, modify, supplement, amend or reject the administrative law judge's report in whole or in part.

G. Except for a ~~person to person~~ PERSON-TO-PERSON transfer of a transferable license for use at the same location and as otherwise provided in section 4-203, subsection A, in all proceedings before the governing body of a city or town, the board of supervisors of a county or the board, the applicant bears the burden of showing that the public

convenience requires and that the best interest of the community will be substantially served by the issuance of a license.

H. In order to prevent the proliferation of spirituous liquor licenses the department may deny a license to a business on the grounds that ~~such~~ THE business is inappropriate for the sale of spirituous liquor. An inappropriate business is one that cannot clearly demonstrate that the sale of spirituous liquor is directly connected to its primary purpose and that the sale of spirituous liquor is not merely incidental to its primary purpose.

I. The board shall adopt, by rule, guidelines ~~setting forth~~ THAT STATE criteria for use in determining whether the public convenience requires and the best interest of the community will be substantially served by the issuance or transfer of a liquor license at the location applied for. These guidelines shall govern the recommendations and other approvals of the department and the local governing authority.

J. If the governing body of a city or town recommends disapproval by a two-thirds vote of the members present and voting on an application for the issuance or transfer of a spirituous liquor license that, if approved, would result in a license being issued at a location either having no license or having a license of a different series, the application shall not be approved unless the board decides to approve the application by a two-thirds vote of the members present and voting.

Sec. 6. Section 4-203, Arizona Revised Statutes, is amended to read:

4-203. Licenses; issuance; transfer; reversion to state

A. A spirituous liquor license shall be issued only after satisfactory showing of the capability, qualifications and reliability of the applicant and, with the exception of wholesaler, producer, government or club licensees, that the public convenience requires and that the best interest of the community will be substantially served by the issuance. If an application is filed for the issuance of a transferable or nontransferable license, other than for a craft distiller license, a microbrewery license or a farm winery license, for a location that on the date the application is filed has a valid license of the same series, or in the case of a restaurant license application filed for a location with a valid hotel-motel license, issued at that location, there shall be a rebuttable presumption that the public convenience and best interest of the community at that location was established at the time the location was previously licensed. The presumption may be rebutted by competent contrary evidence. The presumption shall not apply once the licensed location has not been in use for more than one hundred eighty days and the presumption shall not extend to the personal qualifications of the applicant.

B. The license shall be to manufacture, sell or deal in spirituous liquors only at the place and in the manner provided in the license. A

separate license shall be issued for each specific business, and each shall specify:

1. The particular spirituous liquors that the licensee is authorized to manufacture, sell or deal in.

2. The place of business for which issued.

3. The purpose for which the liquors may be manufactured or sold.

C. A spirituous liquor license issued to a bar, a liquor store or a beer and wine bar shall be transferable as to any permitted location within the same county, ~~provided such~~ IF THE transfer meets the requirements of an original application. A spirituous liquor license may be transferred to a person qualified to be a licensee, ~~provided such~~ IF THE transfer is pursuant to either judicial decree, nonjudicial foreclosure of a legal or equitable lien, including security interests held by financial institutions pursuant to section 4-205.05, a sale of the license, a bona fide sale of the entire business and stock in trade, or ~~such~~ other bona fide transactions ~~as may be~~ THAT ARE provided for by rule. Any change in ownership of the business of a licensee, directly or indirectly, as defined by rule is deemed a transfer, EXCEPT THAT THERE IS NO TRANSFER IF A NEW FICTITIOUS PERSON IS ADDED TO THE OWNERSHIP OF A LICENSEE'S BUSINESS BUT THE CONTROLLING PERSONS REMAIN IDENTICAL TO THE CONTROLLING PERSONS THAT HAVE BEEN PREVIOUSLY DISCLOSED TO THE DIRECTOR AS PART OF THE LICENSEE'S EXISTING OWNERSHIP.

D. All applications for a new license pursuant to section 4-201 or for a transfer to a new location pursuant to subsection C of this section shall be filed with and determined by the director, except when the governing body of the city or town or the board of supervisors receiving an application pursuant to section 4-201 orders disapproval of the application or when the director, the state liquor board or any aggrieved party requests a hearing. The application shall then be presented to the state liquor board, and the new license or transfer shall not become effective unless approved by the state liquor board.

E. A person who assigns, surrenders, transfers or sells control of a liquor license or business that has a spirituous liquor license shall notify the director within thirty business days after the assignment, surrender, transfer or sale. ~~No~~ A spirituous liquor license shall NOT be leased or subleased. A concession agreement entered into under section 4-205.03 is not considered a lease or sublease in violation of this section.

F. If a person other than those persons originally licensed acquires control over a license or licensee, the person shall file notice of the acquisition with the director within thirty business days after the acquisition of control and a list of officers, directors or other controlling persons on a form prescribed by the director. There is no acquisition of control if a new person is added to the ownership of a licensee's business but the controlling persons remain identical to the

controlling persons that have been previously disclosed to the director as part of the licensee's existing ownership. All officers, directors or other controlling persons shall meet the qualifications for licensure as prescribed by this title. On request, the director shall conduct a preinvestigation before the assignment, sale or transfer of control of a license or licensee, the reasonable costs of which, not ~~to exceed~~ MORE THAN one thousand dollars, shall be borne by the applicant. The preinvestigation shall determine whether the qualifications for licensure as prescribed by this title are met. On receipt of notice of an acquisition of control or request of a preinvestigation, the director, within fifteen days after receipt, shall forward the notice of the acquisition of control to the local governing body of the city or town, if the licensed premises is in an incorporated area, or the county, if the licensed premises is in an unincorporated area. The director shall include in the notice to the local governing body written instructions on how the local governing body may examine, free of charge, the results of the department's investigation regarding the capabilities, qualifications and reliability of all officers, directors or other controlling persons listed in the application for acquisition of control. The local governing body, OR THE GOVERNING BODY'S DESIGNEE, may provide the director with a recommendation, either in favor of or against the acquisition of control, within sixty days after the director mails the notice, but section 4-201 does not apply to the acquisition of control provided for in this section. A local governing body may charge not more than one fee, regardless of the number of licenses held by the applicant, for review of one or more applications for acquisition of control submitted to the department at the same time and for the same entity. Within one hundred five days after filing THE notice of the acquisition of control, the director shall determine whether the applicant is qualified, capable and reliable for licensure. A recommendation by the local governing body, OR THE GOVERNING BODY'S DESIGNEE, against the acquisition of control or denial by the director shall be set for a hearing before the board. The person who has acquired control of a license or licensee has the burden of an original application at the hearing, and the board shall make its determination pursuant to section 4-202 and this section with respect to capability, reliability and qualification.

G. A licensee who holds a license in nonuse status for more than five months shall be required to pay a one hundred dollar surcharge for each month thereafter. The surcharge shall be paid at the time the license is returned to active status. A license automatically reverts to the state after being held in continuous nonuse ~~in excess of~~ FOR MORE THAN thirty-six months. The director may waive the surcharge and may extend the time period provided in this subsection for good cause if the licensee files a written request for an extension of time to place the license in active status before the date of the automatic reversion. A license shall

not be deemed to have gone into active status if the license is transferred to a location that at the time of or immediately before the transfer had an active license of the same type, unless the licenses are under common ownership or control.

H. A restructuring of a licensee's business is ~~neither~~ NOT an acquisition of control, ~~nor~~ a transfer of a spirituous liquor license ~~nor~~ OR the issuance of a new spirituous liquor license if both of the following apply:

1. All of the controlling persons of the licensee and the new business entity are identical.

2. There is no change in control or beneficial ownership.

I. If subsection H of this section applies, the licensee's history of violations of this title is the history of the new business entity. The director may prescribe a form and shall require the applicant to provide the necessary information to ensure compliance with this subsection and subsections F and G of this section.

J. Notwithstanding subsection B of this section, the holder of a retail license having off-sale privileges may deliver spirituous liquor off of the licensed premises in connection with the sale of spirituous liquor. The licensee may maintain a delivery service and shall be liable for any violation committed in connection with any sale or delivery of spirituous liquor, provided that ~~such~~ THE delivery is made by an employee who is at least twenty-one years of age. The retail licensee shall collect payment for the price of the spirituous liquor no later than at the time of delivery. The director shall adopt rules that set operational limits for the delivery of spirituous liquors by the holder of a retail license having off-sale privileges. For the purposes of this subsection, an independent contractor or the employee of an independent contractor is deemed to be an employee of the licensee when making a sale or delivery of spirituous liquor for the licensee.

K. Except as provided in subsection J of this section, Arizona licensees may transport spirituous liquors for themselves in vehicles owned, leased or rented by ~~such~~ THE licensee.

L. Notwithstanding subsection B of this section, an off-sale retail licensee may provide consumer tasting of wines off of the licensed premises.

M. The director may adopt reasonable rules to protect the public interest and prevent abuse by licensees of the activities permitted such licensees by subsections J and L of this section.

N. Failure to pay any surcharge prescribed by subsection G of this section or failure to report the period of nonuse of a license shall be grounds for revocation of the license or grounds for any other sanction provided by this title. The director may consider extenuating circumstances if control of the license is acquired by another party in determining whether or not to impose any sanctions under this subsection.

O. If a licensed location has not been in use for three years, the location must requalify for a license pursuant to subsection A of this section and shall meet the same qualifications required for issuance of a new license except when the director deems that the nonuse of the location was due to circumstances beyond the licensee's control and an extension of time has been granted pursuant to subsection G of this section.

P. If the licensee's interest is forfeited pursuant to section 4-210, subsection L, the location shall requalify for a license pursuant to subsection A of this section and shall meet the same qualifications required for issuance of a new license except when a bona fide lienholder demonstrates mitigation pursuant to section 4-210, subsection K.

Q. The director may implement a procedure for the issuance of a license with a licensing period of two years.

Sec. 7. Section 4-203.02, Arizona Revised Statutes, is amended to read:

4-203.02. Special event license; rules

A. The director may issue on a temporary basis:

1. A daily on-sale special event license authorizing the sale of spirituous liquor for consumption on the premises where sold. The fee for the license is twenty-five dollars per day. The director shall transfer the monies collected to the department of health services for the ~~purpose~~ PURPOSES prescribed in title 36, chapter 18, article 2.

2. A daily off-sale special event license authorizing a charitable auction for the sale of spirituous liquor for consumption off premises.

B. Before the director may issue a temporary special event license, a special event that is to occur at an otherwise unlicensed location or by a licensee at a location that is not fully within the licensee's existing licensed premises must be approved by the board of supervisors of a county, OR THE BOARD'S DESIGNEE, if the event is to be held in an unincorporated area or by the governing body of the city or town, OR THE GOVERNING BODY'S DESIGNEE, if the event is to be held in a city or town. A DENIAL BY THE COUNTY, CITY OR TOWN MUST BE FORWARDED TO THE DIRECTOR WITHIN SIXTY DAYS AFTER THE SUBMISSION OF AN APPLICATION TO THE COUNTY, CITY OR TOWN, UNLESS THE APPLICANT HAS REQUESTED MORE TIME FOR CONSIDERATION OF THE APPLICATION.

C. The approval process prescribed in this section does not apply to physical locations that are fully within premises THAT ARE licensed pursuant to this title.

D. A physical location, other than a physical location that is owned, operated, leased, managed or controlled by the United States, this state or a city, town or county of this state, that is not licensed pursuant to this title may not be issued more than a total of thirty days of special event licenses during the same calendar year. All applications for a special event license issued pursuant to this section must be

submitted to the department at least ten days before the scheduled event. The director may waive the ten-day requirement for good cause shown.

E. The director may only issue the special event license to a GOVERNMENT ENTITY OR A political party or campaign committee supporting a candidate for public office or a ballot measure, or a nonprofit entity that is organized as a nonprofit ~~corporation, limited liability company, trust or other~~ entity in this state or pursuant to the laws of another state AND that is ~~eligible for designation as~~ a nonprofit entity under section 501(c) of the internal revenue code of the United States. The nonprofit entity shall demonstrate that it is in good standing in this state. An applicant for a special event license may ~~agree~~ CONTRACT with a special event contractor ~~to assist the applicant~~ FOR ASSISTANCE in selling and serving spirituous liquor at the special event. The special event contractor shall be listed on the application form. The director shall require a special event contractor to provide THE controlling persons' identification and background information deemed necessary to identify the special event contractor and to demonstrate proof of the contractor's authority to conduct business in this state, including providing copies of any required state or local business licenses or permits. The department shall maintain a list of special event contractors that have been employed by special event licensees during the past year and that are not otherwise in penalty status pursuant to subsection H OF THIS SECTION. A licensee holding a currently active series 6, 7, 11 or 12 license may serve as the special event contractor for a special event license without any additional requirements. A new applicant for an initial special event license may be required by the department to demonstrate it is qualified, capable and reliable to conduct a special event. The department may require new special event contractors and new special event licensees to require persons who serve or sell spirituous liquor to patrons at the special event to complete an approved training course in accordance with section 4-112, subsection G, paragraph 2. A special event contractor ~~shall be~~ IS subject to ~~the provisions of~~ EXAMINATIONS CONDUCTED PURSUANT TO section 4-112, subsection G, paragraph 1.

F. The director may issue a special event license concurrently with a wine festival license and a craft distillery festival license and may approve the location of the wine festival license within an excluded area of a special event license specifically described in each license. Notwithstanding section 4-244, paragraphs 13 and 19, both licenses shall permit the presence of purchased spirituous liquor in the possession of the purchaser.

G. For the purposes of this section, a special event licensee or an employee of a special event licensee and a special event contractor or an employee of a special event contractor that has been retained for an approved special event~~,~~ may order or purchase spirituous liquor from the holder of a license authorized to sell off-sale or a licensed wholesaler.

~~In the case of~~ IF a nonprofit entity ~~that~~ has obtained a special event license for the purpose of charitable fund-raising activities, the nonprofit entity or special event contractor may receive the spirituous liquor from a wholesaler, farm winery, microbrewery or producer as a donation, except that a licensee licensed pursuant to subsection A, paragraph 2 of this section may receive spirituous liquor from a donor when the donor receives no remuneration or payment of any kind, directly or indirectly, other than any tax benefits that might result. Spirituous liquor may be dispensed and served at the special event only by the following persons:

1. The special event licensee or an employee of the special event licensee, unless the special event is at the premises of a licensed retailer and the licensed retailer has agreed to dispense and serve the spirituous liquor.

2. The special event contractor or an employee of the special event contractor, unless the special event is at the premises of a licensed retailer and the licensed retailer has agreed to dispense and serve the spirituous liquor.

3. The producer or producers who furnished the spirituous liquor.

4. The wholesaler or wholesalers who furnished the spirituous liquor.

H. In addition to all other actions that may be taken by the director for A violation of this title or the ~~regulations issued~~ RULES ADOPTED pursuant to this title by the special event licensee or special event contractor, the department may limit the right of the licensee to obtain a special event license for a period of up to one year or may limit the right of the special event contractor to support any licensed special event for a period OF up to one year. Any penalty issued pursuant to this subsection may be appealed to the ~~department~~ BOARD pursuant to section 4-210.02 as if the order was a sanction against a licensee. An organization that is issued a license pursuant to subsection A, paragraph 2 of this section shall receive at least seventy-five percent of the gross receipts of the auction. Up to twenty-five percent of the gross receipts of a special event auction conducted pursuant to subsection A, paragraph 2 of this section may be used to pay reasonable and necessary expenses incurred in connection with the auction. All expenses shall be supported by written contracts, invoices or receipts, which shall be made available to the director on request. AN ORGANIZATION THAT IS ISSUED A LICENSE PURSUANT TO SUBSECTION A, PARAGRAPH 2 OF THIS SECTION SHALL NOT SELL AT AUCTION MORE THAN TWENTY TWELVE-BOTTLE CASES OF SPIRITUOUS LIQUOR ANNUALLY UNDER A SPECIAL EVENT LICENSE.

I. The director may adopt those rules the director determines are necessary to implement and administer this section including a limitation on the number of times during a calendar year a qualified organization may apply for and be issued a license under this section. The qualified

organization issued a license pursuant to subsection A, paragraph 1 of this section must receive at least twenty-five percent of the gross revenues of all spirituous liquor sold at the special events, which shall be supported by a contract between the parties to be supplied at the time of application.

J. At an event conducted UNDER A LICENSE ISSUED pursuant to subsection A~~, paragraph 1 or 2~~ of this section, the licensee may conduct a wine pull or distilled spirits pull of up to ~~fifty bottles~~ TWENTY TWELVE-BOTTLE CASES of wine ~~or~~ AND UP TO TEN TWELVE-BOTTLE CASES OF distilled spirits PER DAY OF A LICENSED SPECIAL EVENT NOT TO EXCEED FIVE DAYS PER YEAR. THE SPECIAL EVENT LICENSEE SHALL BE RESPONSIBLE FOR COMPLIANCE WITH THE CASE LIMITS IN THIS SECTION. An organization that is issued a license pursuant to subsection A, paragraph 2 of this section shall not sell more than twenty cases of spirituous liquor annually under a special event license. For the purposes of this subsection, ~~a~~ "wine pull" or "distilled spirits pull" means an activity where, for a set price, one or more attendees at a special event pay for the opportunity to select at the event one or more bottles of wine or distilled spirits where the variety and vintage are undisclosed.

K. Section 4-201 does not apply to the licenses provided for under this section.

L. A licensed producer or wholesaler may donate spirituous liquor directly to ~~an organization~~ A NONPROFIT ENTITY that is issued a license pursuant to subsection A of this section. The licensed producer or wholesaler shall in such instances issue a net zero cost billing invoice in the name of the special event licensee. All licensees making or receiving spirituous liquor donations remain subject to the applicable limitations and requirements ~~set forth~~ STATED in this title and in the rules adopted by the department.

M. A licensed wholesaler may temporarily leave a delivery vehicle and other items of equipment necessary for the sale or service of spirituous liquor on the premises of a licensed special event for the duration of the event and up to one business day before and after the event.

N. The holder of a license authorized to sell off-sale or a licensed wholesaler may leave purchased spirituous liquor products at a special event if the products are properly described on a preliminary billing invoice that is issued in the name of the special event licensee. The holder of a license authorized to sell off-sale or the licensed wholesaler has up to five business days after the special event ends to make any necessary billing adjustments and issue a final billing invoice to the special event licensee. Within one business day after the conclusion of the special event, the special event licensee or a special event contractor shall return unbroken packages of spirituous liquor to the appropriate off-sale licensee or wholesaler subject to the applicable

rules of the United States alcohol and tobacco tax and trade bureau and the policy of the applicable off-sale licensee or wholesaler.

O. The director may adopt rules deemed necessary to implement and administer this section for special event contractors.

Sec. 8. Section 4-203.03, Arizona Revised Statutes, is amended to read:

4-203.03. Farm winery festival license; farm winery fair license; fee

A. The director~~, subject to the approval of the board of supervisors for events to be held in an unincorporated area or the governing body of a city or town for events to be held in a city or town,~~ may issue ~~up to fifty wine festival licenses for each calendar year for each licensed farm winery, for up to a total of one hundred fifty calendar days per winery, authorizing sampling of farm winery products on the wine festival premises, the sale of the products for consumption on the wine festival premises and the sale of the products in original containers for consumption off the wine festival premises. The fee for a farm winery wine festival license is fifteen dollars per day for each event.~~

~~B. Any farm winery may apply for a wine festival license pursuant to this section.~~

~~C. With the permission of the fair organizers, any farm winery is authorized to allow sampling of farm winery products on the fair premises, the sale of the products for consumption on the fair premises and the sale of the products in original containers for consumption off of the fair premises at any sanctioned county or state fair. The fee for a farm winery fair license is fifteen dollars per day for each event.~~ ON A TEMPORARY BASIS A FARM WINERY FESTIVAL LICENSE THAT AUTHORIZES:

1. THE SAMPLING OF THE FARM WINERY PRODUCTS ON THE FARM WINERY FESTIVAL PREMISES.

2. THE SALE OF PRODUCTS FOR CONSUMPTION ON THE FARM WINERY FESTIVAL PREMISES.

3. THE SALE OF PRODUCTS IN THE ORIGINAL CONTAINER FOR CONSUMPTION OFF THE FARM WINERY FESTIVAL PREMISES.

B. BEFORE THE DIRECTOR MAY ISSUE A FARM WINERY FESTIVAL LICENSE, A FARM WINERY FESTIVAL THAT IS TO OCCUR AT AN OTHERWISE UNLICENSED LOCATION OR AT A LOCATION THAT IS NOT FULLY WITHIN THE LICENSEE'S EXISTING LICENSED PREMISES MUST BE APPROVED BY THE COUNTY BOARD OF SUPERVISORS, OR THE BOARD'S DESIGNEE, IF THE EVENT IS TO BE HELD IN AN UNINCORPORATED AREA OR BY THE GOVERNING BODY OF THE CITY OR TOWN, OR THE GOVERNING BODY'S DESIGNEE, IF THE EVENT IS TO BE HELD IN A CITY OR TOWN. A DENIAL BY THE COUNTY, CITY OR TOWN MUST BE FORWARDED TO THE DIRECTOR WITHIN SIXTY DAYS AFTER THE SUBMISSION OF AN APPLICATION TO THE COUNTY, CITY OR TOWN, UNLESS THE APPLICANT HAS REQUESTED MORE TIME FOR CONSIDERATION OF THE APPLICATION.

C. THE APPROVAL PROCESS PRESCRIBED IN THIS SECTION DOES NOT APPLY TO PHYSICAL LOCATIONS THAT ARE FULLY LOCATED WITHIN A PREMISES THAT IS LICENSED PURSUANT TO THIS TITLE.

D. THE DIRECTOR MAY ISSUE ONE OR MORE FARM WINERY FESTIVAL LICENSES FOR EACH FARM WINERY LICENSED PURSUANT TO THIS TITLE, FOR A TOTAL OF UP TO ONE HUNDRED FIFTY CALENDAR DAYS FOR EACH FARM WINERY. THE DIRECTOR MAY ESTABLISH A FEE FOR EACH DAY OF EACH EVENT FOR A FARM WINERY FESTIVAL LICENSE.

E. ANY FARM WINERY MAY APPLY FOR A FARM WINERY FESTIVAL LICENSE PURSUANT TO THIS SECTION.

F. A REPRESENTATIVE OF THE LICENSED FARM WINERY MAY CONSUME SMALL AMOUNTS OF THE PRODUCTS OF THE LICENSED FARM WINERY ON THE FESTIVAL PREMISES FOR THE PURPOSE OF QUALITY CONTROL. THE WINE MAY INCLUDE WINE PRODUCED PURSUANT TO SECTION 4-205.04, SUBSECTIONS D AND E.

G. THE DIRECTOR MAY ISSUE A FARM WINERY FAIR LICENSE WITH THE PERMISSION OF STATE FAIR ORGANIZERS OR COUNTY FAIR ORGANIZERS, ANY FARM WINERY MAY ALLOW THE SAMPLING OF FARM WINERY PRODUCTS ON THE FAIR PREMISES, THE SALE OF THE PRODUCTS FOR CONSUMPTION ON THE FAIR PREMISES AND THE SALE OF THE PRODUCTS IN ORIGINAL CONTAINERS FOR CONSUMPTION OFF OF THE FAIR PREMISES AT ANY SANCTIONED STATE FAIR OR COUNTY FAIR. THE DIRECTOR MAY ESTABLISH A PER-DAY FEE FOR EACH EVENT FOR A FARM WINERY FAIR LICENSE.

~~D.~~ H. Section 4-201 does not apply to the licenses provided for under this section.

Sec. 9. Section 4-205, Arizona Revised Statutes, is amended to read:

4-205. <u>Issuance of club license; regulatory provisions; revocation</u>

A. The director may issue one club license to any club as defined in section 4-101.

B. The holder of a club license is authorized to sell and serve alcoholic beverages for consumption only within the licensed establishment owned, leased or occupied by the club, and only to bona fide members of the club, and to serve and sell to members' bona fide guests. Attendance at private clubs is limited to enrolled members of the club and their spouses, families and bona fide guests. Admitted nonmember guests shall not exceed more than fifty percent of attendance during any month. This provision shall not limit the ability of a member or the club to host wedding receptions, group meetings, civic ASSOCIATION meetings, scheduled social functions, including bingo games, and other member or club hosted functions where individuals are not admitted on the basis of being a guest of a member of the club and attendance at the event shall not be considered in computing the fifty percent requirement. MEMBER RECRUITMENT events that are hosted by the club or other members where individuals are not admitted on the basis of being a guest of a member of the club OR NOT

IN ATTENDANCE AT OTHER SPECIFIED EVENTS AUTHORIZED IN THIS SECTION shall be limited to not more than twelve events in a calendar year for each club.

C. No member and no officer, agent or employee of a club licensee shall be paid or shall directly or indirectly receive, in the form of salary or other compensation, any of the profits from the revenue producing activities of the club or from the distribution or sale of alcoholic beverages to the members of the club or to its guests, beyond the amount of the salary as fixed and voted on at a regular meeting by the members of the club licensee or by its governing body out of the general revenue of the licensee, nor shall such salaries or compensation be in excess of reasonable compensation for the services actually performed.

D. The director may revoke a club license issued pursuant to this section ~~in any case in which~~ IF the licensee ceases to operate as a bona fide club as defined in section 4-101.

E. ~~No~~ A club may NOT hold a spirituous liquor license other than one issued pursuant to this section, except that any club that on January 1, 1975 holds a spirituous liquor license other than one issued pursuant to this section may use ~~such~~ THE license until such time as the license is revoked or reverted.

Sec. 10. Section 4-205.04, Arizona Revised Statutes, is amended to read:

4-205.04. Farm winery license; issuance; regulatory provisions; retail site; fee

A. The director may issue a farm winery license to any person who meets the requirements of subsection C of this section. Each location that engages in producing or manufacturing these products must obtain a separate farm winery license. The licensee may not transfer the farm winery license from person to person or from location to location.

B. An applicant for a farm winery license, at the time of filing the application for the license, shall accompany the application with the license fee. Persons holding a farm winery license shall report annually at the end of each calendar year, at ~~such~~ THE time and in ~~such~~ THE manner as the director ~~may prescribe~~ PRESCRIBES, the amount of wine produced or manufactured by them during the calendar year. In addition to any provision of this title, if the total amount of wine produced or manufactured during the year exceeds the amount permitted annually by the license, the licensee shall apply for and receive a producer's license only on surrender of the farm winery license or licenses.

C. A person may be licensed as a farm winery to sell wine produced or manufactured if in a calendar year it produces at least two hundred gallons and not more than forty thousand gallons of wine and if the winery either holds a winery permit issued by the United States alcohol and tobacco tax and trade bureau or has a contract pursuant to subsection E of this section for the production or manufacturing of wine from grapes or

other fruit grown on at least five producing acres of land owned or controlled by the applicant and the land has been devoted to fruit growing for at least three consecutive calendar years. A licensed farm winery may make sales and deliveries of wine only as specifically provided in this section and as follows:

1. A licensed farm winery may make sales and deliveries of wine to wholesalers licensed to sell wine under this title.

2. A licensed farm winery may serve wine produced or manufactured on the premises for the purpose of sampling the wine. The wine may include wine produced pursuant to subsections D and E of this section.

3. A representative of the licensed farm winery may consume small amounts of the products of the licensed farm winery on the premises for the purpose of sampling the wine. The wine may include wine produced pursuant to subsections D and E of this section.

4. A licensed farm winery may sell to a consumer physically present on the premises wine produced or manufactured on the premises in the original container for consumption on or off the premises. The wine may include wine produced pursuant to subsections D and E of this section.

5. A licensed farm winery may purchase and sell wine produced, PACKAGED AND LABELED by another licensed farm winery for SAMPLING AND consumption on or off the premises only if the retail sale is to a consumer physically present on the premises of the farm winery, except that the sales of wine produced, PACKAGED AND LABELED by another winery may not exceed twenty percent of the farm winery's sales by volume. The percentage limitation shall not apply to wine produced pursuant to subsections D and E of this section.

6. If the licensed farm winery is not otherwise engaged in the business of a distiller, vintner, brewer, rectifier, blender or other producer of spirituous liquor in any jurisdiction, the licensed farm winery may hold licenses prescribed in section 4-209, subsection B, paragraph 12 on the licensed farm winery premises or other retail premises. Except as provided in paragraph 5 of this subsection, the licensed farm winery shall purchase all other spirituous liquor for sale at the on-sale retail premises from wholesalers that are licensed in this state, except that a licensed farm winery may:

(a) Purchase wine from other farm wineries pursuant to paragraph 7 of this subsection.

(b) Make deliveries of the wine that the farm winery produces to the farm winery's own commonly controlled retail licensed premises.

7. A licensed farm winery that produces not more than twenty thousand gallons of wine in a calendar year may make sales and deliveries of the wine that the licensed farm winery produces to on-sale and off-sale retailers.

8. Notwithstanding section 4-244, paragraphs 3 and 7, an on-sale or off-sale retailer may purchase and accept delivery of wine from a licensed farm winery pursuant to paragraph 7 of this subsection.

9. A licensed farm winery that produces not more than twenty thousand gallons of wine in a calendar year may make sales and deliveries of wine that the licensed farm winery produces to consumers off of the licensed premises and that is ordered by telephone, mail, fax or catalogue, through the internet or by other means if all of the following apply:

(a) The purchaser of the wine provided the licensed farm winery with verification of the purchaser's legal age to purchase alcohol.

(b) The shipping container in which the wine is shipped is marked to require the signature on delivery of an adult who is of legal age to purchase alcohol and delivery confirmation.

(c) The wine is for personal use only and not for resale.

(d) The wine is delivered by the licensed farm winery or shipped by the licensed farm winery by a common carrier to a residential or business address other than a premises licensed pursuant to this title.

(e) The purchaser could have carried the wine lawfully into or within this state.

(f) The delivery is made by a person who is at least twenty-one years of age.

(g) The farm winery ~~shall collect~~ COLLECTS payment for the price of the spirituous liquor no later than at the time of delivery.

10. A licensed farm winery may make sales and deliveries as expressly permitted by sections 4-203.03, 4-203.04 and 4-244.04.

D. On application by one or more persons, the director may approve applications for grouping two or more farm winery licenses at one location under a plan of alternating proprietorships if a licensed winery has received approval of the alternating proprietorship by the United States alcohol and tobacco tax and trade bureau and the participating wineries operate under the regulations and guidelines that are issued by the United States alcohol and tobacco tax and trade bureau. Each participating winery ~~shall be~~ IS responsible for filing all reports that relate to its wine production or manufacturing with the United States alcohol and tobacco tax and trade bureau and the department.

E. A person otherwise qualified to receive a farm winery license may enter into a custom crush arrangement where a licensed winery produces or manufactures wine from grapes or other fruit supplied by the person. The winery receiving the fruit shall be licensed by the United States alcohol and tobacco tax and trade bureau and the department and ~~shall be~~ IS responsible for filing all reports that relate to its wine production or manufacturing with the United States alcohol and tobacco tax and trade bureau and the department. Each person supplying the grapes or other fruit shall first apply for and receive a farm winery license and shall

report to the department all volumes of wine from its custom crush arrangements, which shall not be allocated to the gallonage of the receiving farm winery if the supplying farm winery has an active basic permit issued by the United States alcohol and tobacco tax and trade bureau.

F. On application by a farm winery licensee, the director may authorize a farm winery licensee to operate up to two remote tasting and retail premises if:

1. The wine sold at the premises is limited to wine produced or manufactured by the licensed farm winery and wines produced or manufactured by other licensed farm wineries, including wines produced or manufactured pursuant to subsections D and E of this section. The farm winery may sell wine to a consumer physically present on the premises for consumption on or off the premises. Sales of wines not produced or manufactured by the farm winery ~~shall be~~ ARE limited to no more than twenty percent of the total sales by volume at that location. The percentage limitation shall not apply to wine produced pursuant to subsections D and E of this section.

2. The farm winery licensee:

(a) Remains responsible for the premises.

(b) Obtains approval for the premises from the local governing body before submitting an application to the department. A copy of an order from the local governing body recommending approval of the premises must be filed with the department as part of the application.

(c) Does not sublease the premises.

(d) Has an agent who is a natural person who meets the qualifications of licensure in this state.

(e) Meets the qualifications for a license pursuant to section 4-203, subsection A.

3. THE FARM WINERY LICENSEE THAT OPERATES PRIMARILY AS A REMOTE TASTING ROOM PREMISES MAY EXCHANGE THE FARM WINERY LICENSE FOR A REMOTE TASTING ROOM LICENSE WITHOUT AN ADDITIONAL FEE, NOT LATER THAN DECEMBER 31, 2018. THE NEW REMOTE TASTING ROOM LICENSE MUST BE CONNECTED TO A FARM WINERY LICENSE, WITH COMMON OWNERSHIP, THAT COMPLIES WITH ALL REQUIREMENTS FOR A FARM WINERY LICENSE PURSUANT TO SUBSECTIONS C AND F OF THIS SECTION.

G. A farm winery licensee may hold a craft distiller license issued pursuant to section 4-205.10. The farm winery and craft distiller licensee may only produce distilled spirits up to a gallonage of one thousand gallons in a calendar year from fruit processed at the winery for the primary purpose of making wine. The farm winery and craft distiller licensee is subject to all other requirements of this section and section 4-205.10. The farm winery may provide sampling and sales of the distilled spirits pursuant to section 4-205.10, subsection C, paragraphs 2 and 3 on the same premises as the wine sampling and retail sales.

H. The farm winery is liable for any violation committed in connection with any sale or delivery of the wine. The rules adopted by the director pursuant to section 4-203, subsection J shall apply to the delivery of wine under subsection C, paragraph 9 of this section. An act or omission of any person who makes a sale or delivery of wine for a licensee under subsection C, paragraph 9 of this section is deemed to be an act or omission of the licensee for the purposes of section 4-210, subsection A, paragraph 9.

I. A farm winery that sells or delivers wine pursuant to this section shall:

1. Pay to the department of revenue all luxury taxes imposed pursuant to title 42, chapter 3 and all transaction privilege or use taxes imposed pursuant to title 42, chapter 5.

2. File all returns or reports required by law.

J. A delivery of wine by a farm winery to a purchaser in this state is a transaction deemed to have occurred in this state.

K. The director shall adopt rules in order to administer this section.

L. The director may charge an additional farm winery license fee adopted pursuant to section 4-209 for the issuance of licenses, authorizations or approvals pursuant to subsections D, E and F of this section.

Sec. 11. Section 4-205.08, Arizona Revised Statutes, is amended to read:

4-205.08. <u>Microbrewery license; issuance; regulatory provisions; retail site</u>

A. The director may issue a microbrewery license to any microbrewery. Each location that engages in producing, manufacturing and bottling these products must obtain a separate microbrewery license. The licensee may not transfer the microbrewery license from person to person or from location to location.

B. An applicant for a microbrewery license, at the time of filing the application for the license, shall accompany the application with the license fee. Persons holding a microbrewery license shall report annually at the end of each calendar year, at ~~such~~ THE time and in ~~such~~ THE manner as the director ~~may prescribe~~ PRESCRIBES, the amount of beer produced or manufactured by them during the calendar year and the amount delivered pursuant to subsection D, paragraph 4, subdivision (b) of this section. If the total amount of beer that is produced or manufactured during the calendar year exceeds the amount permitted annually by the license, the licensee shall apply for and receive a producer's license only on surrender of the microbrewery license or licenses and shall have no continuing rights as a microbrewery under this section. On the surrender of the microbrewery license or licenses, the licensee shall transfer,

surrender or otherwise relinquish control of all of its retail licenses located remotely from a microbrewery.

C. Notwithstanding any other law, a licensed microbrewery may:

1. Sell beer produced or manufactured on the premises for consumption on or off the premises.

2. Make sales and deliveries of beer that the microbrewery produces or manufactures to persons licensed to sell beer under this title through wholesalers licensed under this title or as provided in subsection D, paragraph ~~5~~ 4, subdivision (a) or (b) of this section.

3. Make sales and deliveries of beer that the microbrewery produces or manufactures to persons licensed to sell beer in another state if lawful under the laws of that state.

4. Serve beer produced or manufactured on the premises for the purpose of sampling the beer.

5. Sell beer produced or manufactured by other microbreweries for consumption only on the premises of the licensee, except that the sales percentage of beer from other microbreweries may not exceed twenty percent of the licensee's annual sales of beer by volume at the premises. If the other microbrewery has established a distribution relationship with one or more wholesalers who are licensed under this title, the beer shall be purchased through those wholesalers.

6. MAINTAIN AT NO CHARGE A TAPPING EQUIPMENT SYSTEM OF A LICENSED RETAILER WHEN THE MICROBREWERY SELLS BEER AS PROVIDED IN SUBSECTION D, PARAGRAPHS 3 AND 4 OF THIS SECTION, INCLUDING CLEANING THE TAPPING EQUIPMENT SYSTEM AND REPLACING BONNET WASHERS, FRICTION RINGS, VALVE STEMS, HARDWARE, UNIONS, CLAMPS, AIR TEES, SCREWS, TAPPING DEVICES, TOWER HEADS AND SINGLE AIR AND BEER LINES.

D. A licensed microbrewery is subject to all of the following requirements:

1. The microbrewery shall produce or manufacture not less than five thousand gallons of beer in each calendar year following the first year of operation.

2. The microbrewery shall not produce or manufacture more than six million two hundred thousand gallons of beer in a calendar year.

3. If retail operations are conducted in conjunction with the microbrewery, the microbrewery may sell other spirituous liquor products if the microbrewery holds an on-sale retail license for a bar, beer and wine bar, or restaurant. The microbrewery may be issued up to a combined total of seven retail licenses in this state whether THE PREMISES ARE located on or adjacent to a microbrewery or remotely from a microbrewery. The limit on the number of retail licenses applies on an aggregated basis to all microbreweries that are under common control of any person with control of the microbrewery.

4. The microbrewery may make sales and deliveries of beer that it has produced or manufactured to both:

(a) Retail licensees that meet the requirements prescribed in paragraph 3 of this subsection in any amount.

(b) Any other retail licensee in a cumulative amount not to exceed ninety-three thousand gallons in total for all licensed retailers in any calendar year.

E. A microbrewery that produces or manufactures more than one million two hundred forty thousand gallons of beer in a calendar year maintains all of the rights associated with a microbrewery license, ~~with the exception~~ EXCEPT that ~~it~~ THE MICROBREWERY shall not:

1. Apply for or receive a retail license pursuant to subsection D, paragraph 3 of this section FOR PREMISES that ~~is~~ ARE located remotely from the microbrewery.

2. Make sales or deliveries of beer that ~~it~~ THE MICROBREWERY has produced or manufactured to any retail ~~license~~ LICENSEE as provided in subsection D, paragraph 4 of this section, except for ~~its~~ THE MICROBREWERY'S retail ~~licenses~~ LICENSEES on or adjacent to the microbrewery.

F. The gallonage amounts prescribed in subsection D, paragraph 2 and subsection E of this section apply to the aggregate manufacture or production of all microbreweries that are under common control of any person with control of the microbrewery.

G. A microbrewery that is otherwise engaged as a distiller, vintner, brewer, rectifier, blender or other producer of spirituous liquor in any jurisdiction is prohibited from holding any retail license that is located remotely from a microbrewery.

H. A microbrewery that sells or delivers beer pursuant to this section shall:

1. Pay to the department of revenue all luxury taxes imposed pursuant to title 42, chapter 3 and all transaction privilege or use taxes imposed pursuant to title 42, chapter 5.

2. File all returns or reports required by law.

I. A delivery of beer by a microbrewery to a purchaser in this state is a transaction deemed to have occurred in this state.

J. The director shall adopt rules in order to administer this section.

Sec. 12. Section 4-205.10, Arizona Revised Statutes, is amended to read:

4-205.10. <u>Craft distiller license; issuance; regulatory provisions; fee</u>

A. The director may issue a craft distiller license to any person that meets the requirements of subsection C of this section. Each location that engages in producing and bottling these products must obtain a separate craft distiller license. The licensee may not transfer the craft distiller license from person to person or from location to location and may not also hold a producer's license. The licensee and all commonly

controlled craft distiller licensees may not manufacture or produce more than twenty thousand gallons of distilled spirits in a calendar year. For the purposes of this section, annual gallonage shall be the total proof gallons of finished distilled product available for wholesale or retail sale as defined by 26 United States Code section 5002 and rules adopted pursuant to this section or its successor.

B. Persons holding a craft distiller license shall report annually at the end of each calendar year, at ~~such~~ THE time and in ~~such~~ THE manner as the director ~~may prescribe~~ PRESCRIBES, the amount of distilled spirits that is produced or manufactured by that licensee during the calendar year. In addition to any other provision of this title, if the total amount of distilled spirits that is produced or manufactured during the year exceeds the amount that is permitted annually by the license, the licensee shall apply for and, on qualification, receive a producer's license only on the surrender of the craft distiller license and shall have no continuing rights as a craft distiller licensee under this section.

C. A person may be licensed as a craft distiller to sell distilled spirits that are produced or manufactured by the person if in a calendar year the person produces or manufactures not more than twenty thousand gallons of distilled spirits and may make sales and deliveries of distilled spirits only as specified in this section and subject to the following criteria:

1. A licensed craft distiller may make sales and deliveries of distilled spirits to wholesalers that are licensed to sell distilled spirits under this title.

2. A licensed craft distiller may serve distilled spirits that are produced or manufactured on the premises for the purpose of consumption on the premises and may charge for samples on the premises of the craft distiller.

3. A licensed craft distiller may sell distilled spirits that are produced or manufactured on the premises in the original container for consumption off the premises to a consumer who is physically present on the premises.

4. The licensed craft distiller may hold one license prescribed in section 4-209, subsection B, paragraph 6 or 12 on or adjacent to the licensed craft distiller premises. The licensed craft distiller shall purchase all other spirituous liquor for sale at the on-sale retail premises from wholesalers that are licensed in this state, except that a licensed craft distiller may:

(a) Purchase distilled spirits from other craft distillers that are licensed in this state. Sales of craft distillery products not produced or manufactured by the craft distiller shall be limited to no more than twenty percent of the total sales by volume.

(b) Make deliveries of the distilled spirits that the craft distiller manufactures or produces to any commonly controlled retail licensed premises ~~that are located on or adjacent to the craft distiller premises~~ or to the craft distiller's remote tasting rooms and that are authorized pursuant to this paragraph.

5. A licensed craft distiller that produces not more than one thousand one hundred eighty-nine gallons of distilled spirits in a calendar year may make sales and deliveries of distilled spirits that the licensed craft distiller produces to on-sale and off-sale retailers.

6. Notwithstanding section 4-244, paragraphs 3 and 7, an on-sale or off-sale retailer may purchase and accept delivery of distilled spirits from a licensed craft distiller pursuant to paragraph 5 of this subsection.

7. A licensed craft distiller may make sales and deliveries of distilled spirits that the licensed craft distiller manufactures or produces to consumers off of the licensed premises if the sale or delivery is ordered by telephone, mail, fax, catalogue, the internet or by other means if all of the following conditions exist:

(a) The purchaser of the distilled spirits provided the licensed craft distiller with verification of the purchaser's legal age to purchase alcohol and a copy of same is maintained in the records of the craft distiller.

(b) The shipping container in which the distilled spirits are shipped is marked to require the signature on delivery of an adult who is of legal age to purchase alcohol and delivery confirmation.

(c) The distilled spirits are for personal use only and not for resale.

(d) The distilled spirits are shipped to a residential or business address other than a premises licensed pursuant to this title.

(e) The purchaser could have carried the distilled spirits lawfully into or within this state.

(f) A person who is at least twenty-one years of age makes the delivery.

(g) The craft distiller collects payment for the price of the spirituous liquor no later than at the time of delivery.

D. On application by a craft distiller licensee, the director may authorize a craft distiller licensee to operate two other remote tasting and retail premises if:

1. The distilled spirits sold at the premises are limited to distilled spirits produced or manufactured by the licensed craft distillery and distilled spirits produced or manufactured by another licensed craft distillery. The craft distillery may sell to a consumer physically present on the premises distilled spirits produced by the craft distillery or by other licensed craft distilleries in the original container for consumption on or off the premises. The sales of the

distilled spirits produced or manufactured by other craft distilleries shall not exceed twenty percent of the craft distillery's total sales by volume.

2. The craft distiller licensee:

(a) Remains responsible for the premises.

(b) Obtains approval for the premises from the local governing body before submitting an application to the department. A copy of an order from the local governing body recommending approval of the premises must be filed with the department as part of the application.

(c) Does not sublease the premises.

(d) Has an agent who ~~shall be~~ IS a natural person who meets the qualifications of licensure in this state.

(e) Meets the qualifications for a license pursuant to section 4-203, subsection A.

(f) For a tasting room with a shared patio, meets the requirements prescribed in section 4-205.12.

E. The craft distiller is liable for any violation that is committed in connection with any sale or delivery of the distilled spirits. The rules adopted by the director pursuant to section 4-203, subsection J apply to the delivery of distilled spirits under subsection C of this section. An act or omission of any person who makes a sale or delivery of distilled spirits for a licensee under subsection C of this section is deemed to be an act or omission of the licensee for the purposes of section 4-210, subsection A, paragraph 9.

F. A craft distiller that sells or delivers distilled spirits pursuant to this section shall:

1. Pay to the department of revenue all luxury taxes that are imposed pursuant to title 42, chapter 3 and all transaction privilege or use taxes that are imposed pursuant to title 42, chapter 5.

2. File all returns or reports that are required by law.

G. A delivery of distilled spirits by a craft distiller to a purchaser in this state is a transaction deemed to have occurred in this state.

H. The director may adopt rules in order to administer this section.

I. The director may charge a fee adopted pursuant to section 4-209 for the issuance of a license pursuant to this section.

J. The director may issue a craft distiller license to be located on the same parcel of land as a farm winery licensed pursuant to section 4-205.04.

Sec. 13. Section 4-205.11, Arizona Revised Statutes, is amended to read:

4-205.11. Craft distillery festival license; craft distillery fair license; craft distillery fee

A. The director may issue on a temporary basis a craft distillery festival license that authorizes:

1. The sampling of the craft distillery products on the craft distillery festival premises.

2. The sale of products for consumption on the craft distillery festival premises.

3. The sale of products in the original container for consumption off the craft distillery festival premises.

B. Before the director may issue a craft distillery festival license, a craft distillery festival that is to occur at an otherwise unlicensed location or at a location that is not fully within the licensee's existing licensed premises must be approved by the board of supervisors of the county, OR THE BOARD'S DESIGNEE, if the event is to be held in an unincorporated area or by the governing body of the city or town, OR THE GOVERNING BODY'S DESIGNEE, if the event is to be held in a city or town. A DENIAL BY THE COUNTY, CITY OR TOWN MUST BE FORWARDED TO THE DIRECTOR WITHIN SIXTY DAYS AFTER THE SUBMISSION OF AN APPLICATION TO THE COUNTY, CITY OR TOWN, UNLESS THE APPLICANT HAS REQUESTED MORE TIME FOR CONSIDERATION OF THE APPLICATION.

C. The approval process prescribed in this section does not apply to physical locations that are fully located within a premises that is licensed pursuant to this title.

D. The director may issue one or more craft distillery festival licenses for each craft distillery licensed pursuant to this title, for a total of up to one hundred fifty calendar days per craft distillery. The director may establish a fee for each day of each event for a craft distillery festival license.

E. Any craft distillery may apply for a craft distillery festival license pursuant to this section.

F. With the permission of the state or county fair organizers, any craft distillery is authorized to allow sampling of craft distillery products on the fair premises, the sale of the products for consumption on the fair premises and the sale of the products in original containers for consumption off of the fair premises at any sanctioned county or state fair. The director may establish a ~~per day~~ PER-DAY fee for each event for a craft distillery fair license.

G. Section 4-201 does not apply to the licenses provided for under this section.

Sec. 14. Section 4-206.01, Arizona Revised Statutes, is amended to read:

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

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

B. In each county, the director, each year, shall issue additional bar or liquor store licenses at the rate of one of each type for each additional ten thousand person increase over the population in that county as of July 1, 2010. ~~Any licenses that have~~ FOR EVERY LICENSE THAT HAS been revoked or reverted in any county, THE DIRECTOR may ~~be reissued by the director~~ ISSUE A NEW LICENSE OF THE SAME SERIES in the SAME county, ~~of their issuance~~ EXCEPT THAT IF THERE ARE MORE THAN FIVE LICENSES OF A PARTICULAR CLASS FOR WHICH NO OTHER LICENSES HAVE BEEN REISSUED, THE DIRECTOR MAY NOT ISSUE MORE NEW LICENSES THAN TWENTY PERCENT OF THE TOTAL OF THE REVOKED OR REVERTED LICENSES PER YEAR. The director may waive the issuance of ~~any series of new, revoked or reverted~~ licenses in a county for one year where there has been no request made to the department for the issuance of a new license of that series. For the purposes of this subsection, the population of a county is deemed to be the population estimated by the office of economic opportunity as of July 1 of each year.

C. In each county, the director, each year, shall issue additional beer and wine bar licenses at the rate of one for each additional five thousand person increase over the population in that county ~~until January 1, 2022~~ AS OF JULY 1, 2010. Beginning January 1, 2022, in each county, the director, each year, shall issue additional beer and wine bar licenses at the rate of one for each additional ten thousand person increase over the population in that county AS OF JULY 1, 2010. ~~Any licenses that have~~ FOR EVERY LICENSE THAT HAS been revoked or reverted in any county, THE DIRECTOR may ~~be reissued by the director~~ ISSUE A NEW LICENSE OF THE SAME SERIES in the SAME county, ~~where the licenses were originally issued~~ EXCEPT THAT IF THERE ARE MORE THAN FIVE LICENSES OF A PARTICULAR CLASS FOR WHICH NO OTHER LICENSES HAVE BEEN REISSUED, THE DIRECTOR MAY NOT ISSUE MORE NEW LICENSES THAN TWENTY PERCENT OF THE TOTAL OF THE REVOKED OR REVERTED LICENSES PER YEAR. The director may waive the issuance of ~~any series of new, revoked or reverted~~ licenses in a county for one year if there has been no request made to the department for the issuance of a new license of that series. For the purposes of this subsection, the population of a county is deemed to be the population estimated as of July 1 of each year by the office of economic opportunity.

D. A person issued a license authorized by subsection B OR C of this section shall pay an additional issuance fee equal to the license's fair market value that shall be paid to the state general fund. AN APPRAISAL SHALL BE CONDUCTED TO DETERMINE THE FAIR MARKET VALUE OF THAT

LICENSE TYPE IN A SPECIFIC COUNTY. The fair market value shall be defined to mean the ~~mean~~ PRICE ARRIVED AT IN GOOD FAITH THAT A KNOWLEDGEABLE AND WILLING BUYER WILL PAY AND SHALL BE COMPUTED BY DETERMINING THE AVERAGE value, OR WEIGHTED AVERAGE VALUE IF THERE ARE TRENDS IN LICENSE PRICING IN THAT COUNTY, of licenses of the same type, FREE OF ANY ENCUMBRANCES, sold on the open market in the same county during the prior twelve months, but if there are not three or more sales then the fair market value shall be determined by two appraisals furnished to the department by independent professional appraisers employed by the director. THE VALUATION METHOD UNDER BOTH APPROACHES SHALL TAKE INTO ACCOUNT TRENDS IN THE VALUE OF LICENSES OF THE SPECIFIC TYPE DURING THE PREVIOUS TWELVE MONTHS. A NEW LICENSE AUTHORIZED PURSUANT TO SUBSECTION B OR C OF THIS SECTION MAY NOT BE ISSUED TO A PERSON OR ENTITY THAT HAS HAD A SIMILAR LICENSE REVOKED OR REVERTED UNLESS THE PERSON OR ENTITY PROVIDES THE DIRECTOR WITH SATISFACTORY PROOF THAT ALL PREVIOUS LIENS ON THE REVOKED OR REVERTED LICENSE HAVE BEEN SATISFIED IN FULL.

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

F. If more than one person applies for an available license, a priority of applicants shall be determined by a random selection method prescribed by the director, except that the number of times that a person may enter the random selection process shall not exceed the number of licenses of that series that are available for issuance. For the purposes of this ~~section~~ SUBSECTION, a partnership, limited liability company, association, company or corporation ~~shall be~~ IS considered the same person if IT IS owned, managed, operated or controlled by the same controlling person, as defined in section 4-101.

G. ~~After January 1, 2011,~~ Bar licenses and beer and wine bar licenses shall be issued and used only if the clear primary purpose and actual primary use is for on-sale retailer privileges. The off-sale privileges associated with a bar license and a beer and wine bar license shall be limited to use, which is clearly auxiliary to the active primary on-sale privilege. A bar license or a beer and wine bar license shall not be issued or used if the associated off-sale use, by total retail spirituous liquor sales, exceeds thirty percent of the sales price of on-sale spirituous liquors by the licensee at that location. For dual licenses issued pursuant to a single site or where a second license is issued to a site that already has a spirituous liquor license, other than settlement licenses issued as provided by law, the applicant ~~shall have~~ HAS the burden of establishing that public convenience and the best interest of the community will be served by the issuance of the license.

H. The director may issue a beer and wine store license to the holder of a beer and wine bar license simultaneously at the same premises. An applicant for a beer and wine bar license and a beer and wine store

license may consolidate the application and may apply for both licenses at the same time. The holder of each license shall fully comply with ~~all applicable provisions of~~ this title. A beer and wine bar license and beer and wine store license on the same premises shall be owned by and issued to the same licensee.

I. The director may issue a beer and wine bar license to the holder of a liquor store license issued simultaneously at the same premises. An applicant for a liquor store license and a beer and wine bar license may consolidate the application and may apply for both licenses at the same time. The holder of each license shall fully comply with ~~all applicable provisions of~~ this title. A liquor store license and a beer and wine bar license on the same premises shall be owned by and issued to the same licensee.

J. The director may issue a restaurant license to the holder of a beer and wine bar license issued simultaneously at the same premises. An applicant for a restaurant license and a beer and wine bar license may consolidate the application and may apply for both licenses at the same time. The holder of each license shall fully comply with ~~all applicable provisions of~~ this title. A restaurant license and a beer and wine bar license on the same premises shall be owned by and issued to the same licensee. The limitation ~~set forth~~ STATED in subsection G of this section with respect to the off-sale privileges of the beer and wine bar licenses shall be measured against the on-sales of beer and wine sales of the establishment. For the purposes of compliance with section 4-205.02, subsection I, paragraph 2, it shall be conclusively presumed that all ~~on premises~~ ON-PREMISES sales of spirituous liquors are made under the authority of the restaurant license.

K. An applicant for a liquor store license or a beer and wine store license and the licensee of a liquor store license or a beer and wine store license may apply for sampling privileges associated with the license. Beer and wine store premises containing less than five thousand square feet must dedicate at least seventy-five percent of retail shelf space to the sale of spirituous liquor in order to be eligible for sampling privileges. A person desiring a sampling privilege associated with a liquor store license shall apply to the director on a form prescribed and furnished by the director. The application for sampling privileges may be filed for an existing license or may be submitted with an initial license application. The request for sampling approval, the review of the application and the issuance of approval shall be conducted under the same procedures for the issuance of a spirituous liquor license prescribed in section 4-201. After a sampling privilege has been issued for a liquor store license or a beer and wine store license, the sampling privilege shall be noted on the license itself and in the records of the department. The sampling rights associated with a license are not transferable. The director may charge a fee for processing each

application for sampling privileges and a renewal fee as provided in this section. A city or town shall not charge any fee relating to the issuance or renewal of a sampling privilege. Notwithstanding section 4-244, paragraph 19, a liquor store licensee or a beer and wine store licensee that holds a license with sampling privileges may provide spirituous liquor sampling subject to the following requirements:

1. Any open product shall be kept locked by the licensee when the sampling area is not staffed.

2. The licensee is otherwise subject to all other provisions of this title. The licensee is liable for any violation of this title committed in connection with the sampling.

3. The licensed retailer shall make sales of sampled products from the licensed retail premises.

4. The licensee shall not charge any customer for the sampling of any products.

5. The sampling shall be conducted under the supervision of an employee of a sponsoring distiller, vintner, brewer, wholesaler or retail licensee.

6. Accurate records of sampling products dispensed shall be retained by the licensee.

7. Sampling shall be limited to three ounces of beer or cooler-type products, one and one-half ounces of wine and one ounce of distilled spirits per person, per brand, per day.

8. The sampling shall be conducted only on the licensed premises.

L. If a beer and wine bar license and a beer and wine store license are issued at the same premises, for the purposes of reporting liquor purchases under each license, all spirituous beverages purchased for sampling are conclusively presumed to be purchased under the beer and wine bar license and all spirituous liquor sold off-sale are conclusively presumed to be purchased under the beer and wine store license.

M. The director may issue a beer and wine store license to the holder of a bar license simultaneously at the same premises. An applicant for a beer and wine store license and a bar license may consolidate the application and may apply for both licenses at the same time. The holder of each license shall fully comply with ~~all applicable provisions of~~ this title. A beer and wine store license and a bar license on the same premises shall be owned by and issued to the same licensee. If a beer and wine store license and a bar license are issued at the same premises, for purposes of reporting liquor purchases under each license, all off-sale beer and wine sales are conclusively presumed to be purchased under the beer and wine store license.

Sec. 15. Section 4-207, Arizona Revised Statutes, is amended to read:

4-207. Restrictions on licensing premises near school or church buildings; definitions

A. A retailer's license shall not be issued for any premises that are, at the time the license application is received by the director, within three hundred horizontal feet of a church, within three hundred horizontal feet of a public or private school building with kindergarten programs or any of grades one through twelve or within three hundred horizontal feet of a fenced recreational area adjacent to such school building. This section does not prohibit the renewal of a valid license issued pursuant to this title if, on the date that the original application for the license is filed, the premises were not within three hundred horizontal feet of a church, within three hundred horizontal feet of a public or private school building with kindergarten programs or any of grades one through twelve or within three hundred horizontal feet of a fenced recreational area adjacent to such school building.

B. Subsection A of this section does not apply to a:

1. Restaurant issued a license pursuant to section 4-205.02, subject to the limitations in section 4-205.02, subsection H, for a permit allowing for the sale of beer for consumption off of the licensed premises pursuant to section 4-244, paragraph 32, subdivision (c).

2. Special event license issued pursuant to section 4-203.02.

3. Hotel-motel issued a license pursuant to section 4-205.01.

4. Government license issued pursuant to section 4-205.03.

5. Playing area of a golf course issued a license pursuant to this article.

6. Beer and wine license at a not-for-profit performing arts theatre with a permanent seating capacity of at least two hundred fifty persons.

7. CRAFT DISTILLERY FESTIVAL LICENSE ISSUED PURSUANT TO SECTION 4-205.11.

8. FARM WINERY FESTIVAL LICENSE ISSUED PURSUANT TO SECTION 4-203.03.

C. Notwithstanding subsection A of this section:

1. A transferable spirituous liquor license that is validly issued and that is, on the date an application for a transfer is filed, within three hundred horizontal feet of a church, within three hundred horizontal feet of a public or private school building with kindergarten programs or any of grades one through twelve or within three hundred horizontal feet of a fenced recreational area adjacent to such school building may be transferred person to person pursuant to sections 4-201, 4-202 and 4-203 and remains in full force until the license is terminated in any manner, unless renewed pursuant to section 4-209, subsection A.

2. A person may be issued a spirituous liquor license pursuant to sections 4-201, 4-202 and 4-203 of the same class for premises that, on the date the application is filed, have a valid transferable or nontransferable license of the same series if the premises are, on the date an application for ~~such~~ THE license is filed, within three hundred horizontal feet of a church, within three hundred horizontal feet of a public or private school building with kindergarten programs or any of grades one through twelve or within three hundred horizontal feet of a fenced recreational area adjacent to such school building and the license remains in full force until the license is terminated in any manner, unless renewed pursuant to section 4-209, subsection A.

3. A person may be issued a liquor store license pursuant to sections 4-201, 4-202, 4-203 and 4-206.01 for premises that have a beer and wine store license validly issued if the premises, on the date an application for such license is filed, are within three hundred horizontal feet of a church, within three hundred horizontal feet of a public or private school building with kindergarten programs or any of grades one through twelve or within three hundred horizontal feet of a fenced recreational area adjacent to such school building and the license remains in full force until the license is terminated in any manner, unless renewed pursuant to section 4-209, subsection A.

4. The governing body of a city or town, on a case-by-case basis, may approve an exemption from the distance restrictions prescribed in this section for a church or a public or private school that is located in an area that is designated an entertainment district by the governing body of that city or town. A city or town with a population of at least five hundred thousand persons may designate no more than three entertainment districts within the boundaries of the city or town pursuant to this paragraph. A city or town with a population of at least two hundred thousand persons but less than five hundred thousand persons may designate no more than two entertainment districts within the boundaries of the city or town pursuant to this paragraph. A city or town with a population of less than two hundred thousand persons may designate no more than one entertainment district within the boundaries of the city or town pursuant to this paragraph.

5. A person may be issued a beer and wine store license pursuant to sections 4-201, 4-202, 4-203 and 4-206.01 for premises that have a liquor store license validly issued if the premises, on the date of an application for which the license is filed, are within three hundred horizontal feet of a church, within three hundred horizontal feet of a public or private school building with kindergarten programs or any of grades one through twelve or within three hundred horizontal feet of a fenced recreation area adjacent to such school building and the license remains in full force until the license is terminated in any manner, unless renewed pursuant to section 4-209, subsection A.

D. For the purposes of this section:

1. "Church" means a building ~~which~~ THAT is erected or converted for use as a church, where services are regularly convened, that is used primarily for religious worship and schooling and that a reasonable person would conclude is a church by reason of design, signs or architectural or other features.

2. "Entertainment district" means a specific contiguous area that is designated an entertainment district by a resolution adopted by the governing body of a city or town, that consists of no more than one square mile, that is no less than one-eighth of a mile in width and that contains a significant number of entertainment, artistic and cultural venues, including music halls, concert facilities, theaters, arenas, stadiums, museums, studios, galleries, restaurants, bars and other related facilities.

Sec. 16. Section 4-210, Arizona Revised Statutes, is amended to read:

4-210. Grounds for revocation, suspension and refusal to renew; notice; complaints; hearings; defense

A. After notice and hearing, the director may suspend, revoke or refuse to renew any license issued pursuant to this chapter for any of the following reasons:

1. There occurs on the licensed premises repeated acts of violence ~~or disorderly conduct~~.

2. The licensee fails to satisfactorily maintain the capability, qualifications and reliability requirements of an applicant for a license prescribed in section 4-202 or 4-203.

3. The licensee or controlling person knowingly files with the department an application or other document that contains material information that is false or misleading or while under oath knowingly gives testimony in an investigation or other proceeding under this title that is false or misleading.

4. The licensee or controlling person is on the premises habitually intoxicated.

5. The licensed business is delinquent for more than one hundred twenty days in the payment of taxes, penalties or interest in an amount that exceeds two hundred fifty dollars to the state or to any political subdivision of the state.

6. The licensee or controlling person obtains, assigns, transfers or sells a spirituous liquor license without compliance with this title or leases or subleases a license.

7. The licensee fails to keep for two years and make available to the department on reasonable request all invoices, records, bills or other papers and documents relating to the purchase, sale and delivery of spirituous liquors and, in the case of a restaurant or hotel-motel

licensee, all invoices, records, bills or other papers and documents relating to the purchase, sale and delivery of food.

8. The licensee or controlling person is convicted of a felony provided that for a conviction of a corporation to serve as a reason for any action by the director, conduct that constitutes the corporate offense and was the basis for the felony conviction must have been engaged in, authorized, solicited, commanded or recklessly tolerated by the directors of the corporation or by a high managerial agent acting within the scope of employment.

9. The licensee or controlling person violates or fails to comply with this title, any rule adopted pursuant to this title or any liquor law of this state or any other state.

10. The licensee fails to take reasonable steps to protect the safety of a customer of the licensee or any other person entering, leaving or remaining on the licensed premises when the licensee knew or reasonably should have known of the danger to the person, or the licensee fails to take reasonable steps to intervene by notifying law enforcement officials or otherwise to prevent or break up an act of violence ~~or an altercation~~ occurring on the licensed premises or immediately adjacent to the premises when the licensee knew or reasonably should have known of the acts of violence ~~or altercations~~.

11. The licensee or controlling person lacks good moral character.

12. The licensee or controlling person knowingly associates with a person who has engaged in racketeering, as defined in section 13-2301, or who has been convicted of a felony, and the association is of a nature as to create a reasonable risk that the licensee will fail to conform to the requirements of this title or of any criminal statute of this state.

13. A licensee that is a liquor store as defined in section 46-297 violates the restrictions on use of automatic teller machines or point-of-sale terminals regarding electronic benefit transfer cards prescribed in section 4-242.01.

14. There occurs on the licensed premises a serious act of violence. For the purposes of this paragraph, "serious act of violence" means an ~~incident consisting of a riot, a brawl or a disturbance~~ ACT OF VIOLENCE in which a serious injury causes the death or critical injury of a person and ~~such~~ THE injuries would be obvious to a reasonable person.

15. The licensee fails to report a serious act of violence that occurs on the licensed premises. For the purposes of this paragraph, "serious act of violence" means an ~~incident consisting of a riot, a brawl or a disturbance~~ ACT OF VIOLENCE in which a serious injury causes death or critical injury of a person and ~~such~~ THE injuries would be obvious to a reasonable person.

16. THE LICENSEE VIOLATES AN ORDER OF THE BOARD.

B. For the purposes of:

1. Subsection A, paragraph 8 of this section, "high managerial agent" means an officer of a corporation or any other agent of the corporation in a position of comparable authority with respect to the formulation of corporate policy.

2. Subsection A, paragraphs 9 and 10 of this section, acts or omissions of an employee of a licensee that violate ~~any provision of~~ this title or rules adopted pursuant to this title ~~shall be~~ ARE deemed to be acts or omissions of the licensee. Acts or omissions by an employee or licensee committed during the time the licensed premises were operated pursuant to an interim permit or without a license may be charged as if they had been committed during the period the premises were duly licensed.

C. The director may suspend, revoke or refuse to issue, transfer or renew a license under this section based solely on the unrelated conduct or fitness of any officer, director, managing agent or other controlling person if the controlling person retains any interest in or control of the licensee after sixty days following written notice to the licensee. If the controlling person holds stock in a corporate licensee or is a partner in a partnership licensee, the controlling person may only divest himself of his interest by transferring the interest to the existing stockholders or partners who must demonstrate to the department that they meet all the requirements for licensure. For the purposes of this subsection, the conduct or fitness of a controlling person is unrelated if it would not be attributable to the licensee.

D. If the director finds, based on clear and convincing evidence in the record, that a violation involves the use by the licensee of a drive-through or walk-up service window or other physical feature of the licensed premises that allows a customer to purchase spirituous liquor without leaving the customer's vehicle or, with respect to a walk-up service window that prevents the licensee from fully observing the customer, and that the use of that drive-through or walk-up service window or other physical feature caused the violation, the director may suspend or terminate the licensee's use of the drive-through or walk-up service window or other physical feature for the sale of spirituous liquor, in addition to any other sanction.

E. The director may refuse to transfer any license or issue a new license at the same location if the director has filed a complaint against the license or location that has not been resolved alleging a violation of any of the grounds ~~set forth~~ STATED in subsection A of this section until the time the complaint has been finally adjudicated.

F. The director shall receive all complaints of alleged violations of this chapter and is responsible for the investigation of all allegations of a violation of, or noncompliance with, this title, any rule adopted pursuant to this title or any condition imposed on the licensee by the license. When the director receives three complaints from any law

enforcement agency resulting from three separate incidents at a licensed establishment within a twelve-month period, the director shall transmit a written report to the board setting forth the complaints, the results of any investigation conducted by the law enforcement agency or the department relating to the complaints and a history of all prior complaints against the license and their disposition. The board shall review the report and may direct the director to conduct further investigation of a complaint or to serve a licensee with a complaint and notice of a hearing pursuant to subsection G of this section.

G. On the director's initiation of an investigation or on the receipt of a complaint and an investigation of the complaint as deemed necessary, the director may cause a complaint and notice of a hearing to be directed to the licensee ~~setting forth~~ THAT STATES the violations alleged against the licensee and directing the licensee, within fifteen days after service of the complaint and notice of a hearing, to appear by filing with the director an answer to the complaint. Failure of the licensee to answer may be deemed an admission by the licensee of commission of the act charged in the complaint. The director may then vacate the hearing and impose any sanction provided by this article. The director may waive any sanction for good cause shown including excusable neglect. With respect to any violation of this title or any rule adopted pursuant to this title that is based on the act or omission of a licensee's employee, the director shall consider evidence of mitigation presented by the licensee and established by a preponderance of the evidence that the employee acted intentionally and in violation of the express direction or policy adopted by the licensee and communicated to the employee and that the employee successfully completed training in a course approved by the director pursuant to section 4-112, subsection G, paragraph 2. The director may set the hearing before himself or an administrative law judge on any of the grounds ~~set forth~~ STATED in subsection A of this section. Instead of issuing a complaint, the director may provide for informal disposition of the matter by consent agreement or may issue a written warning to the licensee. If a warning is issued, the licensee may reply in writing and the director shall keep a record of the warning and the reply.

H. A hearing shall conform to the requirements of title 41, chapter 6, article 10. At the hearing an attorney or corporate officer or employee of a corporation may represent the corporation.

I. The expiration, cancellation, revocation, reversion, surrender, acceptance of surrender or termination in any other manner of a license does not prevent the initiation or completion of a disciplinary proceeding pursuant to this section against the licensee or license. An order issued pursuant to a disciplinary proceeding against a license is enforceable against other licenses or subsequent licenses in which the licensee or controlling person of the license has a controlling interest.

J. The department shall provide the same notice as is provided to the licensee to a lienholder, which has provided a document under section 4-112, subsection B, paragraph 3, of all disciplinary or compliance action with respect to a license issued pursuant to this title. The state shall not be liable for damages for any failure to provide any notice pursuant to this subsection.

K. In any disciplinary action pursuant to this title, a lienholder may participate in the determination of the action. The director shall consider mitigation on behalf of the lienholder if the lienholder proves all of the following by a preponderance of the evidence:

1. That the lienholder's interest is a bona fide security interest. For the purposes of this paragraph, "bona fide security interest" means the lienholder provides actual consideration to the licensee or the licensee's predecessor in interest in exchange for the lienholder's interest. Bona fide security interest includes a lien taken by the seller of a license as security for the seller's receipt of all or part of the purchase price of the license.

2. That a statement of legal or equitable interest was filed with the department before the alleged conduct occurred that is the basis for the action against the license.

3. That the lienholder took reasonable steps to correct the licensee's prior actions, if any, or initiated an action pursuant to available contract rights against the licensee for the forfeiture of the license after being provided with notice by the department of disciplinary action as provided in subsection J of this section.

4. That the lienholder was free of responsibility for the conduct that is the basis for the proposed revocation.

5. That the lienholder reasonably attempted to remain informed by the licensee about the ~~business'~~ BUSINESS'S conduct.

L. If the director decides not to revoke the license based on the circumstances provided in subsection K of this section, the director may issue an order requiring either, or both, of the following:

1. The forfeiture of all interest of the licensee in the license.

2. The lienholder to pay any civil monetary penalty imposed on the licensee.

M. If any on-sale licensee proposes to provide large capacity entertainment events or sporting events with an attendance capacity exceeding a limit established by the director, the director may request a security plan from the licensee that may include trained security officers, lighting and other requirements. This subsection exclusively prescribes the security requirements for a licensee and does not create any civil liability for the state, its agencies, agents or employees or a person licensed under this title or agents or employees of a licensee.

N. THE DIRECTOR MAY CONSIDER AS A MITIGATING FACTOR OR DEFENSE TO A COMPLAINT AGAINST A LICENSEE FOR A VIOLATION OF SUBSECTION A, PARAGRAPH 10

OR 14 OF THIS SECTION THAT THE LICENSEE ACTED REASONABLY, RESPONSIBLY AND AS EXPEDITIOUSLY AS POSSIBLE BY ASKING FOR INTERVENTION BY A PEACE OFFICER TO PREVENT OR TO BREAK UP A RIOT, A FIGHT, AN ALTERCATION OR TUMULTUOUS CONDUCT.

Sec. 17. Section 4-241, Arizona Revised Statutes, is amended to read:

4-241. Selling or giving liquor to underage person; illegally obtaining liquor by underage person; violation; classification; definitions

A. If a licensee, an employee of the licensee or any other person questions or has reason to question that the person ordering, purchasing, attempting to purchase or otherwise procuring or attempting to procure the serving or delivery of spirituous liquor or entering a portion of a licensed premises when the primary use is the sale or service of spirituous liquor is under the legal drinking age, the licensee, employee of the licensee or other person shall do all of the following:

1. Demand identification from the person.

2. Examine the identification to determine that the identification reasonably appears to be a valid, unaltered identification that has not been defaced.

3. Examine the photograph in the identification and determine that the person reasonably appears to be the same person in the identification.

4. Determine that the date of birth in the identification indicates the person is not under the legal drinking age.

B. A licensee or an employee of the licensee who follows the procedures prescribed in subsection A of this section and who records and retains a record of the person's identification on this particular visit is not in violation of subsection J of this section or section 4-244, paragraph 9 or 22. This defense applies to actions of the licensee and all employees of the licensee after the procedure has been employed during the particular visit to the licensed premises by the person. A licensee or an employee of the licensee is not required to demand and examine identification of a person pursuant to subsection A of this section if, during this visit to the licensed premises by the person, the licensee or any employee of the licensee has previously followed the procedure prescribed in subsection A of this section.

C. Proof that the licensee or employee followed the entire procedure prescribed in subsection A of this section but did not record and retain a record as prescribed in subsection B of this section is an affirmative defense to a criminal charge under subsection J of this section or under section 4-244, paragraph 9 or 22 or a disciplinary action under section 4-210 for a violation of subsection J of this section or section 4-244, paragraph 9 or 22. This defense applies to actions of the licensee and all employees of the licensee after the procedure has been

employed during the particular visit to the licensed premises by the person.

D. A licensee or an employee who has not recorded and retained a record of the identification prescribed by subsection B of this section is presumed not to have followed any of the elements prescribed in subsection A of this section.

E. For the purposes of section 4-244, paragraph 22, a licensee or an employee who has not recorded and retained a record of the identification prescribed by subsection B of this section is presumed to know that the person entering or attempting to enter a portion of a licensed premises when the primary use is the sale or service of spirituous liquor is under the legal drinking age.

F. It is a defense to a violation of subsection A of this section if the person ordering, purchasing, attempting to purchase or otherwise procuring or attempting to procure the serving or delivery of spirituous liquor or to enter a portion of a licensed premises when the primary use is the sale or service of spirituous liquor is not under the legal drinking age.

G. A person penalized for a violation of subsection J of this section or section 4-244, paragraph 22 shall not be additionally penalized for a violation of subsection A of this section relating to the same event.

H. The defenses provided in this section do not apply to a licensee or an employee who has actual knowledge that the person exhibiting the identification is under the legal drinking age.

I. Any of the following types of records are acceptable forms for recording the person's identification:

1. A writing containing the type of identification, the date of issuance of the identification, the name on the identification, the date of birth on the identification and the signature of the person.

2. An electronic file or printed document produced by a device that reads the person's age from the identification.

3. A dated and signed photocopy of the identification.

4. A photograph of the identification.

5. A digital copy of the identification.

J. An off-sale retail licensee or employee of an off-sale retail licensee shall require an instrument of identification from any customer who appears to be under twenty-seven years of age and who is using a drive-through or other physical feature of the licensed premises that allows a customer to purchase spirituous liquor without leaving the customer's vehicle.

K. The following written instruments are the only acceptable types of identification:

1. An unexpired driver license issued by this state. A driver license issued to a person who is under twenty-one years of age is no

SENATE ARIZONA

longer an acceptable type of identification under this paragraph thirty days after the person turns twenty-one years of age.

2. An unexpired driver license issued by any other state, the District of Columbia, any territory of the United States or Canada if the license includes a picture of the person and the person's date of birth.

3. An unexpired nonoperating identification license issued pursuant to section 28-3165. An unexpired nonoperating license issued to a person who is under twenty-one years of age is no longer an acceptable type of identification under this paragraph thirty days after the person turns twenty-one years of age.

4. A form of identification license issued by any other state, the District of Columbia, any territory of the United States or Canada if the license is substantially equivalent to a nonoperating identification license issued pursuant to section 28-3165 and includes a picture of the person and the person's date of birth.

5. An unexpired armed forces identification card that includes the person's picture and date of birth.

6. A valid unexpired passport or a valid unexpired resident alien card that contains a photograph of the person and the person's date of birth.

L. A person who is under the legal drinking age and who misrepresents the person's age to any person by means of a written instrument of identification with the intent to induce a person to sell, serve, give or furnish spirituous liquor contrary to law is guilty of a class 1 misdemeanor.

M. A person who is under the legal drinking age and who solicits another person to purchase, sell, give, serve or furnish spirituous liquor contrary to law is guilty of a class 3 misdemeanor.

N. A person who is under the legal drinking age and who uses a fraudulent or false written instrument of identification or identification of another person or uses a valid license or identification of another person to gain access to a licensed establishment is guilty of a class 1 misdemeanor.

O. A person who uses a driver or nonoperating identification license in violation of subsection L or N of this section is subject to suspension of the driver or nonoperating identification license as provided in section 28-3309. A person who does not have a valid driver or nonoperating identification license and who uses a driver or nonoperating identification license of another in violation of subsection ~~C or E~~ N of this section has the person's right to apply for a driver or nonoperating identification license suspended as provided by section 28-3309.

P. A person who knowingly influences the sale, giving or serving of spirituous liquor to a person under the legal drinking age by misrepresenting the age of such person or who orders, requests, receives or procures spirituous liquor from any licensee, employee or other person

with the intent of selling, giving or serving it to a person under the legal drinking age is guilty of a class 1 misdemeanor. A licensee or employee of a licensee who has actual knowledge that a person is under the legal drinking age and who admits the person into any portion of the licensed premises in violation of section 4-244, paragraph 22 is in violation of this subsection. In addition to other penalties provided by law, a judge may suspend a driver license issued to or the driving privilege of a person for not more than thirty days for a first conviction and not more than six months for a second or subsequent conviction under this subsection.

Q. A person who is ~~of legal drinking age~~ AT LEAST EIGHTEEN YEARS OF AGE and who is an occupant of AN unlicensed premises is guilty of a class 1 misdemeanor if both of the following apply:

1. The person knowingly allows a gathering on such unlicensed premises of two or more persons who are under the legal drinking age and who are neither:

(a) Members of the immediate family of such person.

(b) Permanently residing with the person.

2. The person knows or should know that one or more of the persons under the legal drinking age is in possession of or consuming spirituous liquor on the unlicensed premises.

R. For the purposes of subsection Q of this section, "occupant" means a person who has legal possession or the legal right to exclude others from the unlicensed premises.

S. A peace officer shall forward or electronically transfer to the director of the department of transportation the affidavit required by section 28-3310 if the peace officer has arrested a person for the commission of an offense for which, on conviction, suspension of the license or privilege to operate a motor vehicle is required by section 28-3309, subsection A, B, C or D, or if the peace officer has confiscated a false identification document used by the person to gain access to licensed premises.

T. A person who acts under a program of testing compliance with this title that is approved by the director is not in violation of section 4-244.

U. Law enforcement agencies may use persons who are under the legal drinking age to test compliance with this section and section 4-244, paragraph 9 by a licensee if the law enforcement agency has reasonable suspicion that the licensee is violating this section or section 4-244, paragraph 9. A person who is under the legal drinking age and who purchases or attempts to purchase spirituous liquor under the direction of a law enforcement agency pursuant to this subsection is immune from prosecution for that purchase or attempted purchase. Law enforcement agencies may use a person under the legal drinking age pursuant to this subsection only if:

1. The person is at least fifteen but not more than nineteen years of age.

2. The person is not employed on an incentive or quota basis.

3. The person's appearance is that of a person who is under the legal drinking age.

4. A photograph of the person is taken no more than twelve hours before the purchase or attempted purchase. The photograph shall accurately depict the person's appearance and attire. A licensee or an employee of a licensee who is cited for selling spirituous liquor to a person under the legal drinking age pursuant to this subsection ~~shall be permitted~~ IS ALLOWED to inspect the photograph immediately after the citation is issued. The person's appearance at any trial or administrative hearing that results from a citation shall not be substantially different from the person's appearance at the time the citation was issued.

5. The person places, receives and pays for the person's order of spirituous liquor. An adult shall not accompany the person onto the premises of the licensee.

6. The person does not consume any spirituous liquor.

V. The department may adopt rules to carry out the purposes of this section.

Sec. 18. Section 4-243, Arizona Revised Statutes, is amended to read:

4-243. Commercial coercion or bribery unlawful; exceptions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The producer or wholesaler shall notify the department in writing or by electronic means ~~not less than~~ AT LEAST five days before the sampling of the date, time and location of the sampling and of the name of the wholesaler or producer distributing the product.

(c) Sampling ~~shall be~~ IS limited to three ounces of beer, one and one-half ounces of wine or one ounce of distilled spirits per person per

day for consumption on the premises and up to seventy-two ounces of beer and two ounces of distilled spirits per person per day for consumption off the premises.

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

(e) Sampling shall be limited to two wholesalers or producers at any one off-sale retailer's premises on any day and shall not exceed three hours on any day per approved sampling.

(f) A producer conducting sampling shall buy the sampled product from a wholesaler OR FROM THE RETAILER WHERE THE SAMPLING IS BEING CONDUCTED. IF THE PRODUCT FOR THE SAMPLING IS PURCHASED FROM THE RETAILER, THE AMOUNT PAID FOR THE PRODUCT MUST BE THE SAME AMOUNT THAT THE RETAILER CHARGES FOR SALE TO THE GENERAL PUBLIC.

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

(h) The producer or wholesaler shall designate an area in which sampling is conducted that is in the portion of the licensed premises where spirituous liquor is primarily displayed and separated from the remainder of the off-sale retailer's premises by a wall, rope, door, cable, cord, chain, fence or other barrier. The producer or wholesaler shall not permit persons under the legal drinking age from entering the area in which sampling is conducted. IF THE RETAIL LOCATION HAS BEEN ISSUED A PERMANENT SAMPLING PRIVILEGE FROM THE DEPARTMENT, THE REQUIREMENT FOR SEPARATION FROM THE REMAINDER OF THE PREMISES BY WALL, ROPE, DOOR, CABLE, CORD, CHAIN, FENCE OR OTHER BARRIER IS NOT REQUIRED.

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

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

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

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

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

D. Notwithstanding subsection A, paragraph 4, and subsection B, paragraph 2, subdivision (e) of this section, any wholesaler may furnish without cost promotional items to an on-sale retailer, except that the total market value of the promotional items furnished by that wholesaler to that retailer in any calendar year shall not exceed five hundred

dollars. For the purposes of this subsection, "promotional items" means items of equipment, supplies, novelties or other advertising specialties that conspicuously display the brand name of a spirituous liquor product. Promotional items do not include signs.

E. Notwithstanding subsection A, paragraphs 4 and 7 of this section, a wholesaler may in the wholesaler's sole discretion accept the return of malt beverage products from ~~an on-sale~~ A retailer under any of the following conditions:

1. The retailer's licensed premises will be closed for business for thirty or more consecutive days, and the products are likely to spoil or expire during the business closing period.

2. The retailer's licensed premises is used primarily as a music or live sporting venue with a permanent occupancy of more than one thousand people, and the products are likely to spoil or expire during the time period between venue events.

3. The retailer holds a governmental entity license and conducts less than six events per year at which products are sold, and the products are likely to spoil or expire during the time period between events.

F. It is unlawful for a retailer to request or knowingly receive anything of value that a distiller, vintner, brewer, rectifier or blender or any other producer or wholesaler is prohibited by subsection A, D or E of this section from furnishing to a retailer, except that this subsection ~~shall~~ DOES not prohibit special discounts provided to retailers and based on quantity purchases.

Sec. 19. Laws 2014, chapter 253, section 37 is amended to read:

Sec. 37. Existing domestic farm winery licenses; temporary exemption; other existing licenses

A. Notwithstanding section 4-205.04, Arizona Revised Statutes, as amended by ~~this act~~ LAWS 2014, CHAPTER 253, SECTION 11, holders of domestic farm winery licenses in this state on ~~the effective date of this act~~ JULY 24, 2014 that do not qualify under the new statutory requirements established in ~~this act~~ LAWS 2014, CHAPTER 253 may continue to operate under the licenses previously issued, without any expansion of operations, until January 1, ~~2019~~ 2020.

B. Notwithstanding section 4-205.04, Arizona Revised Statutes, as amended by ~~this act~~ LAWS 2014, CHAPTER 253, SECTION 11, holders of domestic farm winery licenses that also hold beer and wine bar licenses and beer and wine store licenses that were issued before January 1, 2014 may also hold beer and wine bar licenses and beer and wine store licenses issued at the site of the winery before January 1, 2014.

APPROVED BY THE GOVERNOR APRIL 17, 2018

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 17, 2018

Passed the House February 21, 2018

by the following vote: 54 Ayes,

3 Nays, 3 Not Voting

Speaker of the House

☐ Pro Tempore

Jim Drake

Chief Clerk of the House

Passed the Senate April 3, 2018

by the following vote: 29 Ayes,

1 Nays, 0 Not Voting

President of the Senate

Susan Creves

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. 2334

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

April 11, 20 18,

by the following vote: 37 Ayes,

1 Nays, 2 Not Voting

Speaker of the House

Jim Drake
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

11th day of April, 20 18,

at 1:37 o'clock P. M.

Secretary to the Governor

Approved this 17th day of

April, 20 18,

at 10:49 o'clock A. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 17 day of April, 20 18,

at 5:21 o'clock P. M.

Michele Reagan
Secretary of State

H.B. 2334