

REFERENCE TITLE: liquor near cash registers; prohibition

State of Arizona
Senate
Forty-eighth Legislature
Second Regular Session
2008

SB 1094

Introduced by
Senator Garcia

AN ACT

AMENDING SECTION 4-244, ARIZONA REVISED STATUTES; RELATING TO LIQUOR
LICENSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 4-244, Arizona Revised Statutes, is amended to
3 read:

4 4-244. Unlawful acts

5 It is unlawful:

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

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

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

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

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

29 6. For a person to take or solicit orders for spirituous liquors
30 unless the person is a salesman or solicitor of a licensed wholesaler, a
31 salesman or solicitor of a distiller, brewer, vintner, importer or broker or
32 a registered retail agent.

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

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

39 9. Except as provided in paragraphs 10 and 11 of this section, for a
40 licensee or other person to sell, furnish, dispose of or give, or cause to be
41 sold, furnished, disposed of or given, to a person under the legal drinking
42 age or for a person under the legal drinking age to buy, receive, have in the
43 person's possession or consume spirituous liquor. This paragraph shall not
44 prohibit the employment by an off-sale retailer of persons who are at least
45 sixteen years of age to check out, if supervised by a person on the premises

1 who is at least nineteen years of age, package or carry merchandise,
2 including spirituous liquor, in unbroken packages, for the convenience of the
3 customer of the employer, if the employer sells primarily merchandise other
4 than spirituous liquor.

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

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

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

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

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

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

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

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

1 purchase for himself and consume spirituous liquor while participating in the
2 food competition.

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

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

23 15. For an on-sale or off-sale retailer or an employee of such retailer
24 to sell, dispose of, deliver or give spirituous liquor to a person between
25 the hours of 2:00 a.m. and 6:00 a.m. on weekdays, and 2:00 a.m. and 10:00
26 a.m. on Sundays.

27 16. For a licensee or employee to knowingly permit any person on or
28 about the licensed premises to give or furnish any spirituous liquor to any
29 person under the age of twenty-one or knowingly permit any person under the
30 age of twenty-one to have in the person's possession spirituous liquor on the
31 licensed premises.

32 17. For an on-sale retailer or an employee of such retailer to allow a
33 person to consume or possess spirituous liquors on the premises between the
34 hours of 2:30 a.m. and 6:00 a.m. on weekdays, and 2:30 a.m. and 10:00 a.m. on
35 Sundays.

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

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

1 20. For a person to consume spirituous liquor in a public place,
2 thoroughfare or gathering. The license of a licensee permitting a violation
3 of this paragraph on the premises shall be subject to revocation. This
4 paragraph does not apply to the sale of spirituous liquors on the premises of
5 and by an on-sale retailer. This paragraph also does not apply to a person
6 consuming beer from a broken package in a public recreation area or on
7 private property with permission of the owner or lessor or on the walkways
8 surrounding such private property.

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

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

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

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

40 (i) An active duty military service member.

41 (ii) A veteran.

42 (iii) A member of the United States army national guard or the United
43 States air national guard.

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

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

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

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

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

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

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

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

22 29. For any person other than a peace officer, the licensee or an
23 employee of the licensee acting with the permission of the licensee to be in
24 possession of a firearm while on the licensed premises of an on-sale retailer
25 knowing such possession is prohibited. This paragraph shall not be construed
26 to include a situation in which a person is on licensed premises for a
27 limited time in order to seek emergency aid and such person does not buy,
28 receive, consume or possess spirituous liquor. This paragraph shall not
29 apply to hotel or motel guest room accommodations nor to the exhibition or
30 display of a firearm in conjunction with a meeting, show, class or similar
31 event.

32 30. For a licensee or employee to knowingly permit a person in
33 possession of a firearm other than a peace officer, the licensee or an
34 employee of the licensee acting with the permission of the licensee to remain
35 on the licensed premises or to serve, sell or furnish spirituous liquor to a
36 person in possession of a firearm while on the licensed premises of an
37 on-sale retailer. This paragraph shall not apply to hotel or motel guest
38 room accommodations nor to the exhibition or display of a firearm in
39 conjunction with a meeting, show, class or similar event. It shall be a
40 defense to action under this paragraph if the licensee or employee requested
41 assistance of a peace officer to remove such person.

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

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

5 (b) A person who is in licensed premises that have noncontiguous
6 portions that are separated by a public or private walkway or driveway and
7 who takes spirituous liquor from one portion of the licensed premises across
8 the public or private walkway OR DRIVEWAY directly to the other portion of
9 the licensed premises.

10 32. For a person who is obviously intoxicated to buy or attempt to buy
11 spirituous liquor from a licensee or employee of a licensee or to consume
12 spirituous liquor on licensed premises.

13 33. For a person under the age of twenty-one years to drive or be in
14 physical control of a motor vehicle while there is any spirituous liquor in
15 the person's body.

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

20 35. For a licensee, manager, employee or controlling person to
21 purposely induce a voter, by means of alcohol, to vote or abstain from voting
22 for or against a particular candidate or issue on an election day.

23 36. For a licensee to fail to report an occurrence of an act of
24 violence to either the department or a law enforcement agency.

25 37. For a licensee to use a vending machine for the purpose of
26 dispensing spirituous liquor.

27 38. For a licensee to offer for sale a wine carrying a label including
28 a reference to Arizona or any Arizona city, town or geographic location
29 unless at least seventy-five per cent by volume of the grapes used in making
30 the wine were grown in Arizona.

31 39. For a retailer to knowingly allow a customer to bring spirituous
32 liquor onto the licensed premises, except that an on-sale retailer may allow
33 a wine and food club to bring wine onto the premises for consumption by the
34 club's members and guests of the club's members in conjunction with meals
35 purchased at a meeting of the club that is conducted on the premises and that
36 at least seven members attend. An on-sale retailer who allows wine and food
37 clubs to bring wine onto its premises under this paragraph shall comply with
38 all applicable provisions of this title and any rules adopted pursuant to
39 this title to the same extent as if the on-sale retailer had sold the wine to
40 the members of the club and their guests. For the purposes of this
41 paragraph, "wine and food club" means an association that has more than
42 twenty bona fide members paying at least six dollars per year in dues and
43 that has been in existence for at least one year.

1 40. For a person under the age of twenty-one years to have in the
2 person's body any spirituous liquor. In a prosecution for a violation of
3 this paragraph:

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

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

11 41. For an employee of a licensee to accept any gratuity, compensation,
12 remuneration or consideration of any kind to either:

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

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

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

21 43. For a retail licensee or an employee of a retail licensee to sell
22 spirituous liquor to a person if the retail licensee or employee knows the
23 person intends to resell the spirituous liquor.

24 44. FOR A RETAIL LICENSEE OR AN EMPLOYEE OF A RETAIL LICENSEE TO
25 DISPLAY CONTAINERS OF SPIRITUOUS LIQUOR WITHIN THIRTY FEET OF A CASH REGISTER
26 WHERE SALES ARE MADE. THIS PARAGRAPH DOES NOT PROHIBIT THE STORAGE OF
27 CONTAINERS OF SPIRITUOUS LIQUOR WITHIN THIRTY FEET OF A CASH REGISTER IF THE
28 CONTAINERS OF SPIRITUOUS LIQUOR ARE COMPLETELY SCREENED FROM THE VIEW OF
29 CUSTOMERS.