

REFERENCE TITLE: technical correction; liquor licenses

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

HB 2526

Introduced by
Representative Nelson

AN ACT

AMENDING SECTION 4-203, 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 4-203, Arizona Revised Statutes, is amended to
3 read:

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

5 A. A spirituous liquor license shall be issued only after satisfactory
6 showing of the capability, qualifications and reliability of the applicant
7 and, with the exception of club licensees, that the public convenience
8 requires and that the best interest of the community will be substantially
9 served by the issuance.

10 B. The license shall be to manufacture, sell or deal in spirituous
11 liquors only at the place and in the manner provided in the license. A
12 separate license shall be issued for each specific business, and each shall
13 specify:

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

16 2. The place of business for which issued.

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

18 C. A spirituous liquor license issued to a bar, a liquor store or a
19 beer and wine bar shall be transferable as to any permitted location within
20 the same county, provided such transfer meets the requirements of an original
21 application. Such spirituous liquor license may be transferred to a person
22 qualified to be a licensee, provided such transfer is pursuant to either
23 judicial decree, nonjudicial foreclosure of a legal or equitable lien, a bona
24 fide bulk sale of the entire business and stock in trade, or such other bona
25 fide transactions as may be provided for by rule. Any change in ownership of
26 the business of a licensee, directly or indirectly, as defined by rule is
27 deemed a transfer.

28 D. All applications for a new license pursuant to section 4-201 or for
29 a transfer to a new location pursuant to subsection C of this section shall
30 be filed with and determined by the director, except when the governing body
31 of the city or town or the board of supervisors receiving such application
32 pursuant to section 4-201 orders disapproval of such application or makes no
33 recommendation or when the director, the state liquor board or any aggrieved
34 party requests a hearing. Such application shall then be presented to the
35 state liquor board, and the new license or transfer shall not become
36 effective unless approved by the state liquor board.

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

43 F. If a person other than those persons originally licensed acquires
44 control over a license or licensee, the person shall file notice of the
45 acquisition with the director within fifteen business days after such

1 acquisition of control and a list of officers, directors or other controlling
2 persons on a form prescribed by the director. All officers, directors or
3 other controlling persons shall meet the qualifications for licensure as
4 prescribed by this title. On request, the director shall conduct a
5 preinvestigation prior to the assignment, sale or transfer of control of a
6 license or licensee, the reasonable costs of which, not to exceed one
7 thousand dollars, shall be borne by the applicant. The preinvestigation
8 shall determine whether the qualifications for licensure as prescribed by
9 this title are met. On receipt of notice of an acquisition of control or
10 request of a preinvestigation, the director shall forward the notice within
11 fifteen days to the local governing body of the city or town, if the licensed
12 premises is in an incorporated area, or the county, if the licensed premises
13 is in an unincorporated area. The local governing body of the city, town or
14 county may protest the acquisition of control within sixty days based on the
15 capability, reliability and qualification of the person acquiring
16 control. If the director does not receive any protests, the director may
17 protest the acquisition of control or approve the acquisition of control
18 based on the capability, reliability and qualification of the person
19 acquiring control. Any protest shall be set for a hearing before the
20 board. Any transfer shall be approved or disapproved within one hundred five
21 days of the filing of the notice of acquisition and control. The person who
22 has acquired control of a license or licensee has the burden of an original
23 application at the hearing, and the board shall make its determination
24 pursuant to section 4-202 and this section with respect to capability,
25 reliability and qualification.

26 G. A licensee who holds a license in nonuse status for more than five
27 months shall be required to pay a one hundred dollar surcharge for each month
28 thereafter. The surcharge shall be paid at the time the license is returned
29 to active status. A license automatically reverts to the state after being
30 held in continuous nonuse in excess of thirty-six months. The director may
31 waive the surcharge and may extend the time period provided in this
32 subsection for good cause. A license shall not be deemed to have gone into
33 active status if the license is transferred to a location that at the time of
34 or immediately before the transfer had an active license of the same type,
35 unless the licenses are under common ownership or control.

36 H. A restructuring of a licensee's business is an acquisition of
37 control pursuant to subsection F of this section and is a transfer of a
38 spirituous liquor license and not the issuance of a new spirituous liquor
39 license if ~~both~~ EACH of the following apply:

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

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

43 I. If subsection H of this section applies, the licensee's history of
44 violations of this title is the history of the new business entity. The
45 director may prescribe a form and shall require the applicant to provide the

1 necessary information to ensure compliance with this subsection and
2 subsections F and G of this section.

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

17 K. Nonretail Arizona licensees may transport spirituous liquors for
18 themselves in vehicles owned, leased or rented by such licensee.

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

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

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

30 O. If a licensed location has not been in use for two years, the
31 location must requalify for a license pursuant to subsection A of this
32 section and shall meet the same qualifications required for issuance of a new
33 license except when the director deems that the nonuse of the location was
34 due to circumstances beyond the licensee's control.

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