House Engrossed

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JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
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CHAPTER 77

HOUSE BILL 2570

AN ACT

AMENDING SECTION 4-244, ARIZONA REVISED STATUTES; 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 4-244, Arizona Revised Statutes, is amended to read:

4-244. Unlawful acts

It is unlawful:

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

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

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

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

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

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

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

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

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

by a person on the premises who is at least nineteen years of age, package or carry merchandise, including spirituous liquor, in unbroken packages, for the convenience of the customer of the employer, if the employer sells primarily merchandise other than spirituous liquor.

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

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

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

13. For an employee of a retail licensee, during that employee's working hours or in connection with such employment, to give to or purchase for any other person, accept a gift of, purchase for himself or consume spirituous liquor, except that an employee of a licensee, during that employee's working hours or in connection with the employment, while the employee is not engaged in waiting on or serving customers, may give spirituous liquor to or purchase spirituous liquor for any other person. An unpaid volunteer who is a bona fide member of a club and who is not engaged in waiting on or serving spirituous liquor to customers may purchase for himself and consume spirituous liquor while participating in a scheduled event at the club. An unpaid participant in a food competition may purchase for himself and consume spirituous liquor while participating in the food competition.

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

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

15. For an on-sale or off-sale retailer or an employee of such retailer to sell, dispose of, deliver or give spirituous liquor to a person between the hours of ~~1:00~~ 2:00 a.m. and 6:00 a.m. on weekdays, and ~~1:00~~ 2:00 a.m. and 10:00 a.m. on Sundays.

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

17. For an on-sale retailer or an employee of such retailer to allow a person to consume OR POSSESS spirituous liquors on the premises between the hours of ~~1:15~~ 2:30 a.m. and 6:00 a.m. on weekdays, and ~~1:15~~ 2:30 a.m. and 10:00 a.m. on Sundays. ~~, or allow a person who is not the licensee or employee to possess spirituous liquors in open containers on the premises between the hours of 1:30 a.m. and 6:00 a.m. on weekdays, and 1:30 a.m. and 10:00 a.m. on Sundays.~~

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

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

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

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

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

alcoholic beverages after the licensee, or the licensee's employees, know or should have known that the person is under the legal drinking age. An on-sale retailer may designate an area of the licensed premises as an area in which spirituous liquor will not be sold or consumed for the purpose of allowing underage persons on the premises if the designated area is separated by a physical barrier and at no time will underage persons have access to the area in which spirituous liquor is sold or consumed. The director, or a municipality, may adopt rules to regulate the presence of underage persons on licensed premises provided the rules adopted by a municipality are more stringent than those adopted by the director. The rules adopted by the municipality shall be adopted by local ordinance. This paragraph does not apply:

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

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

(i) An active duty military service member.

(ii) A veteran.

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

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

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

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

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

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

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

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

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

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

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

31. For a licensee or employee to knowingly permit spirituous liquor to be removed from the licensed premises, except in the original unbroken package. This paragraph shall not apply to a person who removes a bottle of wine which has been partially consumed in conjunction with a purchased meal from the licensed premises if the cork is reinserted flush with the top of the bottle.

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

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

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

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

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

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

38. For a licensee to offer for sale a wine carrying a label including a reference to Arizona or any Arizona city, town or geographic location

unless at least seventy-five per cent by volume of the grapes used in making the wine were grown in Arizona.

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

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

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

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

APPROVED BY THE GOVERNOR APRIL 13, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 13, 2004.