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REFERENCE TITLE: **bar licensees; firearms; insignias**

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

HB 2648

Introduced by
Representatives Graf, Boone, Hanson, Pearce: Allen J, Barnes, Biggs,
Farnsworth, Gray C, Gray L, Hart, Jayne, Johnson, Laughter, Mason,
Nichols, Pierce, Quelland, Reagan, Robson, Rosati, Stump, Yarbrough

AN ACT

AMENDING TITLE 4, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 4-229; AMENDING SECTION 4-244, ARIZONA REVISED STATUTES; RELATING TO ALCOHOLIC BEVERAGES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 4, chapter 2, article 2, Arizona Revised Statutes, is
3 amended by adding section 4-229, to read:

4 4-229. Bar or beer and wine bar licensee; insignia; penalty

5 A. A BAR OR BEER AND WINE BAR ON-SALE RETAIL LICENSEE SHALL POST AN
6 INSIGNIA AT EACH ENTRANCE TO THE PREMISES THAT CLEARLY DESIGNATES THE TYPE OF
7 LICENSE UNDER WHICH THE PREMISES IS OPERATED.

8 B. THE DEPARTMENT SHALL ADOPT RULES PERTAINING TO THE DESIGN AND
9 POSTING OF THE INSIGNIAS REQUIRED BY THIS SECTION. THE DEPARTMENT SHALL
10 PREPARE THE INSIGNIAS REQUIRED BY THIS SECTION AND MAKE THEM AVAILABLE AT NO
11 COST TO BAR AND BEER AND WINE BAR ON-SALE RETAIL LICENSEES.

12 C. ON A DETERMINATION THAT A BAR OR BEER AND WINE BAR ON-SALE RETAIL
13 LICENSEE IS IN VIOLATION OF THIS SECTION, THE DIRECTOR SHALL NOTIFY THE
14 LICENSEE OF THE VIOLATION. IF, AFTER THIRTY DAYS, THE LICENSEE HAS NOT
15 CORRECTED THE VIOLATION, THE LICENSEE IS SUBJECT TO A PENALTY NOT TO EXCEED
16 FIVE HUNDRED DOLLARS.

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

18 4-244. Unlawful acts

19 It is unlawful:

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

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

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

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

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

43 6. For a person to take or solicit orders for spirituous liquors
44 unless the person is a salesman or solicitor of a licensed wholesaler, a

1 salesman or solicitor of a distiller, brewer, vintner, importer or broker or
2 a registered retail agent.

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

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

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

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

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

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

37 13. For an employee of a retail licensee, during that employee's
38 working hours or in connection with such employment, to give to or purchase
39 for any other person, accept a gift of, purchase for himself or consume
40 spirituous liquor, except that an employee of a licensee, during that
41 employee's working hours or in connection with the employment, while the
42 employee is not engaged in waiting on or serving customers, may give
43 spirituous liquor to or purchase spirituous liquor for any other person. An
44 unpaid volunteer who is a bona fide member of a club and who is not engaged
45 in waiting on or serving spirituous liquor to customers may purchase for

1 himself and consume spirituous liquor while participating in a scheduled
2 event at the club. An unpaid participant in a food competition may purchase
3 for himself and consume spirituous liquor while participating in the food
4 competition.

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

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

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

27 17. For an on-sale retailer or an employee of such retailer to allow a
28 person to consume spirituous liquors on the premises between the hours of
29 1:15 a.m. and 6:00 a.m. on weekdays, and 1:15 a.m. and 10:00 a.m. on Sundays,
30 or allow a person who is not the licensee or employee to possess spirituous
31 liquors in open containers on the premises between the hours of 1:30 a.m. and
32 6:00 a.m. on weekdays, and 1:30 a.m. and 10:00 a.m. on Sundays.

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

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

43 20. For a person to consume spirituous liquor in a public place,
44 thoroughfare or gathering. The license of a licensee permitting a violation
45 of this paragraph on the premises shall be subject to revocation. This

1 paragraph does not apply to the sale of spirituous liquors on the premises of
2 and by an on-sale retailer. This paragraph also does not apply to a person
3 consuming beer from a broken package in a public recreation area or on
4 private property with permission of the owner or lessor or on the walkways
5 surrounding such private property.

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

11 22. For an on-sale retailer or employee to allow a person under the
12 legal drinking age to remain in an area on the licensed premises during those
13 hours in which its primary use is the sale, dispensing or consumption of
14 alcoholic beverages after the licensee, or the licensee's employees, know or
15 should have known that the person is under the legal drinking age. An
16 on-sale retailer may designate an area of the licensed premises as an area in
17 which spirituous liquor will not be sold or consumed for the purpose of
18 allowing underage persons on the premises if the designated area is separated
19 by a physical barrier and at no time will underage persons have access to the
20 area in which spirituous liquor is sold or consumed. The director, or a
21 municipality, may adopt rules to regulate the presence of underage persons on
22 licensed premises provided the rules adopted by a municipality are more
23 stringent than those adopted by the director. The rules adopted by the
24 municipality shall be adopted by local ordinance. This paragraph does not
25 apply:

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

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

32 (i) An active duty military service member.

33 (ii) A veteran.

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

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

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

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

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

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

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

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

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

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

23 30. For a BAR OR BEER AND WINE BAR ON-SALE RETAIL licensee or employee
24 to knowingly permit a person in possession of a firearm other than a peace
25 officer, the licensee or an employee of the licensee acting with the
26 permission of the licensee to remain on the licensed premises or to serve,
27 sell or furnish spirituous liquor to a person in possession of a firearm
28 while on the licensed premises of ~~an~~ A BAR OR BEER AND WINE BAR on-sale
29 retailer. This paragraph shall not apply to hotel or motel guest room
30 accommodations nor to the exhibition or display of a firearm in conjunction
31 with a meeting, show, class or similar event. It shall be a defense to
32 action under this paragraph if the licensee or employee requested assistance
33 of a peace officer to remove such person.

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

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

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

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

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

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

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

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

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

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

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

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