

REFERENCE TITLE: beer shipments; coercion; prohibition

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

SB 1248

Introduced by
Senator Gowan

AN ACT

AMENDING SECTION 4-244, ARIZONA REVISED STATUTES; RELATING TO LIQUOR REGULATIONS AND PROHIBITIONS.

(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; definition

5 It is unlawful:

6 1. For a person to buy for resale, sell or deal in spirituous
7 liquors in this state without first having procured a license duly issued
8 by the board, except that the director may issue a temporary permit of any
9 series pursuant to section 4-205.05 to a trustee in bankruptcy to acquire
10 and dispose of the spirituous liquor of a debtor.

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

13 3. For a distiller, vintner, brewer or wholesaler knowingly to
14 sell, dispose of or give spirituous liquor to any person other than a
15 licensee except in sampling wares as may be necessary in the ordinary
16 course of business, except in donating spirituous liquor to a nonprofit
17 organization that has obtained a special event license for the purpose of
18 charitable fundraising activities or except in donating spirituous liquor
19 with a cost to the distiller, brewer or wholesaler of up to \$500 in a
20 calendar year to an organization that is exempt from federal income taxes
21 under section 501(c) (3), (4), (6) or (7) of the internal revenue code and
22 not licensed under this title.

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

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

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

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

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

41 9. Except as provided in paragraphs 10 and 11 of this section, for
42 a licensee or other person to sell, furnish, dispose of or give, or cause
43 to be sold, furnished, disposed of or given, to a person under the legal
44 drinking age or for a person under the legal drinking age to buy, receive,
45 have in the person's possession or consume spirituous liquor. This

1 paragraph does not prohibit the employment by an off-sale retailer of
2 persons who are at least sixteen years of age to check out, if supervised
3 by a person on the premises who is at least eighteen years of age, package
4 or carry merchandise, including spirituous liquor, in unbroken packages,
5 for the convenience of the customer of the employer, if the employer sells
6 primarily merchandise other than spirituous liquor.

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

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

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

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

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

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

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

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

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

13 (f) A representative of a producer or wholesaler participating at a
14 special event under section 4-203.02 may consume small amounts of the
15 products of the producer or wholesaler on the premises of the special
16 event for the purpose of quality control.

17 14. For a licensee or other person to serve, sell or furnish
18 spirituous liquor to a disorderly or obviously intoxicated person, or for
19 a licensee or employee of the licensee to allow a disorderly or obviously
20 intoxicated person to come into or remain on or about the premises, except
21 that a licensee or an employee of the licensee may allow an obviously
22 intoxicated person to remain on the premises for not more than thirty
23 minutes after the state of obvious intoxication is known or should be
24 known to the licensee for a nonintoxicated person to transport the
25 obviously intoxicated person from the premises. For the purposes of this
26 section, "obviously intoxicated" means inebriated to the extent that a
27 person's physical faculties are substantially impaired and the impairment
28 is shown by significantly uncoordinated physical action or significant
29 physical dysfunction that would have been obvious to a reasonable person.

30 15. For an on-sale or off-sale retailer or an employee of such
31 retailer or an alcohol delivery contractor to sell, dispose of, deliver or
32 give spirituous liquor to a person between the hours of 2:00 a.m. and
33 6:00 a.m., except that a retailer with off-sale privileges may receive and
34 process orders, accept payment or package, load or otherwise prepare
35 spirituous liquor for delivery at any time, if the actual deliveries to
36 customers are made between the hours of 6:00 a.m. and 2:00 a.m., at which
37 time section 4-241, subsections A and K apply.

38 16. For a licensee or employee to knowingly allow any person on or
39 about the licensed premises to give or furnish any spirituous liquor to
40 any person under twenty-one years of age or knowingly allow any person
41 under twenty-one years of age to have in the person's possession
42 spirituous liquor on the licensed premises.

43 17. For an on-sale retailer or an employee of such retailer to
44 allow a person to consume or possess spirituous liquors on the premises
45 between the hours of 2:30 a.m. and 6:00 a.m.

1 18. For an on-sale retailer to allow an employee or for an employee
2 to solicit or encourage others, directly or indirectly, to buy the
3 employee drinks or anything of value in the licensed premises during the
4 employee's working hours. An on-sale retailer shall not serve employees
5 or allow a patron of the establishment to give spirituous liquor to,
6 purchase liquor for or drink liquor with any employee during the
7 employee's working hours.

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

12 20. For a person to consume spirituous liquor in a public place,
13 thoroughfare or gathering. The license of a licensee allowing a violation
14 of this paragraph on the premises shall be subject to revocation. This
15 paragraph does not apply to the sale of spirituous liquors on the premises
16 of and by an on-sale retailer. This paragraph also does not apply to a
17 person consuming beer or wine from a broken package in a public recreation
18 area or on private property with permission of the owner or lessor or on
19 the walkways surrounding such private property or to a person consuming
20 beer or wine from a broken package in a public recreation area as part of
21 a special event or festival that is conducted under a license secured
22 pursuant to section 4-203.02 or 4-203.03.

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

29 22. For an on-sale retailer or employee to allow a person under the
30 legal drinking age to remain in an area on the licensed premises during
31 those hours in which its primary use is the sale, dispensing or
32 consumption of alcoholic beverages after the licensee, or the licensee's
33 employees, know or should have known that the person is under the legal
34 drinking age. An on-sale retailer may designate an area of the licensed
35 premises as an area in which spirituous liquor will not be sold or
36 consumed for the purpose of allowing underage persons on the premises if
37 the designated area is separated by a physical barrier and at no time will
38 underage persons have access to the area in which spirituous liquor is
39 sold or consumed. A licensee or an employee of a licensee may require a
40 person who intends to enter a licensed premises or a portion of a licensed
41 premises where persons under the legal drinking age are prohibited under
42 this section to exhibit an instrument of identification that is acceptable
43 under section 4-241 as a condition of entry or may use a biometric
44 identity verification device to determine the person's age as a condition
45 of entry. The director, or a municipality, may adopt rules to regulate

1 the presence of underage persons on licensed premises provided the rules
2 adopted by a municipality are more stringent than those adopted by the
3 director. The rules adopted by the municipality shall be adopted by local
4 ordinance and shall not interfere with the licensee's ability to comply
5 with this paragraph. This paragraph does not apply:

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

9 (b) If the owner, lessee or occupant of the premises is a club as
10 defined in section 4-101, paragraph 8, subdivision (a) and the person
11 under the legal drinking age is any of the following:

12 (i) An active duty military service member.

13 (ii) A veteran.

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

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

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

19 23. For an on-sale retailer or employee to conduct drinking
20 contests, to sell or deliver to a person an unlimited number of spirituous
21 liquor beverages during any set period of time for a fixed price, to
22 deliver more than fifty ounces of beer, one liter of wine or four ounces
23 of distilled spirits in any spirituous liquor drink to one person at one
24 time for that person's consumption or to advertise any practice prohibited
25 by this paragraph. ~~The provisions of~~ This paragraph ~~do~~ DOES not prohibit
26 an on-sale retailer or employee from selling and delivering an opened,
27 original container of distilled spirits if:

28 (a) Service or pouring of the spirituous liquor is provided by an
29 employee of the on-sale retailer. A licensee shall not be charged for a
30 violation of this ~~subdivision~~ PARAGRAPH if a customer, without the
31 knowledge of the retailer, removes or tampers with ~~the~~ A locking device on
32 a bottle delivered to the customer for bottle service and the customer
33 pours the customer's own drink from the bottle, if when the licensee
34 becomes aware of the removal or tampering of the locking device the
35 licensee immediately installs a functioning locking device on the bottle
36 or removes the bottle and lock from bottle service.

37 (b) The employee of the on-sale retailer monitors consumption to
38 ensure compliance with this paragraph. Locking devices may be used, but
39 are not required.

40 24. For a licensee or employee to knowingly allow the unlawful
41 possession, use, sale or offer for sale of narcotics, dangerous drugs or
42 marijuana on the premises. For the purposes of this paragraph, "dangerous
43 drug" has the same meaning prescribed in section 13-3401.

44 25. For a licensee or employee to knowingly allow prostitution or
45 the solicitation of prostitution on the premises.

1 26. For a licensee or employee to knowingly allow unlawful gambling
2 on the premises.

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

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

8 29. For any person other than a peace officer while on duty or off
9 duty or a member of a sheriff's volunteer posse while on duty who has
10 received firearms training that is approved by the Arizona peace officer
11 standards and training board, a retired peace officer as defined in
12 section 38-1113 or an honorably retired law enforcement officer who has
13 been issued a certificate of firearms proficiency pursuant to section
14 13-3112, subsection T, the licensee or an employee of the licensee acting
15 with the permission of the licensee to be in possession of a firearm while
16 on the licensed premises of an on-sale retailer. This paragraph does not
17 include a situation in which a person is on licensed premises for a
18 limited time in order to seek emergency aid and such person does not buy,
19 receive, consume or possess spirituous liquor. This paragraph does not
20 apply to:

21 (a) Hotel or motel guest room accommodations.

22 (b) ~~The exhibition~~ EXHIBITING or ~~display of~~ DISPLAYING a firearm in
23 conjunction with a meeting, show, class or similar event.

24 (c) A person with a permit issued pursuant to section 13-3112 who
25 carries a concealed handgun on the licensed premises of any on-sale
26 retailer that has not posted a notice pursuant to section 4-229.

27 30. For a licensee or employee to knowingly allow a person in
28 possession of a firearm other than a peace officer while on duty or off
29 duty or a member of a sheriff's volunteer posse while on duty who has
30 received firearms training that is approved by the Arizona peace officer
31 standards and training board, a retired peace officer as defined in
32 section 38-1113 or an honorably retired law enforcement officer who has
33 been issued a certificate of firearms proficiency pursuant to section
34 13-3112, subsection T, the licensee or an employee of the licensee acting
35 with the permission of the licensee to remain on the licensed premises or
36 to serve, sell or furnish spirituous liquor to a person in possession of a
37 firearm while on the licensed premises of an on-sale retailer. It is a
38 defense to action under this paragraph if the licensee or employee
39 requested assistance of a peace officer to remove such person. This
40 paragraph does not apply to:

41 (a) Hotel or motel guest room accommodations.

42 (b) ~~The exhibition~~ EXHIBITING or ~~display of~~ DISPLAYING a firearm in
43 conjunction with a meeting, show, class or similar event.

1 (c) A person with a permit issued pursuant to section 13-3112 who
2 carries a concealed handgun on the licensed premises of any on-sale
3 retailer that has not posted a notice pursuant to section 4-229.

4 31. For any person in possession of a firearm while on the licensed
5 premises of an on-sale retailer to consume spirituous liquor. This
6 paragraph does not prohibit the consumption of small amounts of spirituous
7 liquor by an undercover peace officer on assignment to investigate the
8 licensed establishment.

9 32. For a licensee or employee to knowingly allow spirituous liquor
10 to be removed from the licensed premises, except in the original unbroken
11 package. This paragraph does not apply to any of the following:

12 (a) A person who removes a bottle of wine that has been partially
13 consumed in conjunction with a purchased meal from licensed premises if a
14 cork is inserted flush with the top of the bottle or the bottle is
15 otherwise securely closed.

16 (b) A person who is in licensed premises that have noncontiguous
17 portions that are separated by a public or private walkway or driveway and
18 who takes spirituous liquor from one portion of the licensed premises
19 across the public or private walkway or driveway directly to the other
20 portion of the licensed premises.

21 (c) A licensee of a bar, beer and wine bar, liquor store, beer and
22 wine store, microbrewery or restaurant that has a permit pursuant to
23 section 4-205.02, subsection H that dispenses beer only in a clean
24 container composed of a material approved by a national sanitation
25 organization with a maximum capacity that does not exceed one gallon and
26 not for consumption on the premises if:

27 (i) The licensee or the licensee's employee fills the container at
28 the tap at the time of sale.

29 (ii) The container is sealed and displays a government warning
30 label.

31 (d) A bar or liquor store licensee that prepares a mixed cocktail
32 or a restaurant licensee that leases the privilege to sell mixed cocktails
33 for consumption off the licensed premises pursuant to section 4-203.06 or
34 holds a permit pursuant to section 4-203.07 and section 4-205.02,
35 subsection K and that prepares a mixed cocktail and transfers it to a
36 clean container composed of a material approved by a national sanitation
37 organization with a maximum capacity that does not exceed thirty-two
38 ounces and not for consumption on the premises if all of the following
39 apply:

40 (i) The licensee or licensee's employee fills the container with
41 the mixed cocktail on the licensed premises of the bar, liquor store or
42 restaurant.

43 (ii) The container is tamperproof sealed by the licensee or the
44 licensee's employee and displays a government warning label.

1 (iii) The container clearly displays the bar's, liquor store's or
2 restaurant's logo or name.

3 (iv) For a restaurant licensee licensed pursuant to section
4 4-205.02, the sale of mixed cocktails for consumption off the licensed
5 premises is accompanied by the sale of menu food items for consumption on
6 or off the licensed premises.

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

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

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

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

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

23 38. For a licensee to use a vending machine for the purpose of
24 dispensing spirituous liquor.

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

29 40. For a retailer to knowingly allow a customer to bring
30 spirituous liquor onto the licensed premises, except that an on-sale
31 retailer may allow a wine and food club to bring wine onto the premises
32 for consumption by the club's members and guests of the club's members in
33 conjunction with meals purchased at a meeting of the club that is
34 conducted on the premises and that at least seven members attend. An
35 on-sale retailer that allows wine and food clubs to bring wine onto its
36 premises under this paragraph shall comply with all applicable provisions
37 of this title and any rules adopted pursuant to this title to the same
38 extent as if the on-sale retailer had sold the wine to the members of the
39 club and their guests. For the purposes of this paragraph, "wine and food
40 club" means an association that has more than twenty bona fide members
41 paying at least \$6 per year in dues and that has been in existence for at
42 least one year.

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

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

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

8 42. For an employee of a licensee to accept any gratuity,
9 compensation, remuneration or consideration of any kind to either:

10 (a) Allow a person who is under twenty-one years of age to enter
11 any portion of the premises where that person is prohibited from entering
12 pursuant to paragraph 22 of this section.

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

15 43. For a person to purchase, offer for sale or use any device,
16 machine or process that mixes spirituous liquor with pure oxygen or
17 another gas to produce a vaporized product for the purpose of consumption
18 by inhalation or to allow patrons to use any item for the consumption of
19 vaporized spirituous liquor.

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

23 45. Except as authorized by paragraph 32, subdivision (c) of this
24 section, for a person to reuse a bottle or other container authorized for
25 use by the laws of the United States or any agency of the United States
26 for the packaging of distilled spirits or for a person to increase the
27 original contents or a portion of the original contents remaining in a
28 liquor bottle or other authorized container by adding any substance.

29 46. For a direct shipment licensee, a farm winery licensee or an
30 employee of those licensees to sell, dispose of, deliver or give
31 spirituous liquor to an individual purchaser between the hours of
32 2:00 a.m. and 6:00 a.m., except that a direct shipment licensee or a farm
33 winery licensee may receive and process orders, accept payment, package,
34 load or otherwise prepare wine for delivery at any time without complying
35 with section 4-241, subsections A and K, if the actual deliveries to
36 individual purchasers are made between the hours of 6:00 a.m. and
37 2:00 a.m. and in accordance with section 4-203.04 for direct shipment
38 licensees and section 4-205.04 for farm winery licensees.

39 47. FOR A SUPPLIER TO COERCE OR ATTEMPT TO COERCE A WHOLESALER TO
40 ACCEPT DELIVERY OF BEER OR ANY OTHER COMMODITY THAT HAS NOT BEEN ORDERED
41 BY THE WHOLESALER OR FOR WHICH THE ORDER WAS CANCELED. A SUPPLIER MAY
42 IMPOSE REASONABLE INVENTORY REQUIREMENTS ON A WHOLESALER IF THE
43 REQUIREMENTS ARE MADE IN GOOD FAITH AND ARE GENERALLY APPLIED TO OTHER
44 SIMILARLY SITUATED WHOLESALERS THAT HAVE AN AGREEMENT WITH THE SUPPLIER.