

REFERENCE TITLE: liquor; purchase; identification

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HB 2293

Introduced by
Representative Cook

AN ACT

AMENDING SECTION 4-241, ARIZONA REVISED STATUTES; RELATING TO LIQUOR.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 4-241, Arizona Revised Statutes, is amended to
3 read:

4 4-241. Selling or giving liquor to underage person; illegally
5 obtaining liquor by underage person; violation;
6 classification

7 A. If a licensee, an employee of the licensee or any other person
8 questions or has reason to question that the person ordering, purchasing,
9 attempting to purchase or otherwise procuring or attempting to procure the
10 serving or delivery of spirituous liquor or entering a portion of a
11 licensed premises when the primary use is the sale or service of
12 spirituous liquor is under the legal drinking age, the licensee, employee
13 of the licensee or other person shall do all of the following:

14 1. Demand identification from the person.

15 2. Examine the identification to determine that the identification
16 reasonably appears to be a valid, unaltered identification that has not
17 been defaced.

18 3. Examine the photograph in the identification and determine that
19 the person reasonably appears to be the same person in the identification.

20 4. Determine that the date of birth in the identification indicates
21 the person is not under the legal drinking age.

22 B. A licensee or an employee of the licensee who follows the
23 procedures prescribed in subsection A of this section and who records and
24 retains a record of the person's identification on this particular visit,
25 or a licensee or an employee of the licensee who uses a biometric identity
26 verification device to verify a person is not under the legal drinking age
27 as provided in subsection W of this section, is not in violation of
28 subsection J of this section or section 4-244, paragraph 9 or 22. This
29 defense applies to actions of the licensee and all employees of the
30 licensee after the procedure prescribed in subsection A or W of this
31 section has been employed during the particular visit to the licensed
32 premises by the person. A licensee or an employee of the licensee is not
33 required to demand and examine identification of a person pursuant to
34 subsection A or W of this section if, during this visit to the licensed
35 premises by the person, the licensee or any employee of the licensee has
36 previously followed the procedure prescribed in subsection A or W of this
37 section.

38 C. Proof that the licensee or employee followed the entire
39 procedure prescribed in subsection A of this section but did not record
40 and retain a record as prescribed in subsection B of this section is an
41 affirmative defense to a criminal charge under subsection J of this
42 section or under section 4-244, paragraph 9 or 22 or a disciplinary action
43 under section 4-210 for a violation of subsection J of this section or
44 section 4-244, paragraph 9 or 22. This defense applies to actions of the
45 licensee and all employees of the licensee after the procedure has been

1 employed during the particular visit to the licensed premises by the
2 person.

3 D. A licensee or an employee who has not recorded and retained a
4 record of the identification prescribed by subsection B of this section is
5 presumed not to have followed any of the elements prescribed in subsection
6 A of this section.

7 E. For the purposes of section 4-244, paragraph 22, a licensee or
8 an employee who has not recorded and retained a record of the
9 identification prescribed by subsection B of this section is presumed to
10 know that the person entering or attempting to enter a portion of a
11 licensed premises when the primary use is the sale or service of
12 spirituous liquor is under the legal drinking age.

13 F. It is a defense to a violation of subsection A of this section
14 if the person ordering, purchasing, attempting to purchase or otherwise
15 procuring or attempting to procure the serving or delivery of spirituous
16 liquor or to enter a portion of a licensed premises when the primary use
17 is the sale or service of spirituous liquor is not under the legal
18 drinking age.

19 G. A person penalized for a violation of subsection J of this
20 section or section 4-244, paragraph 22 shall not be additionally penalized
21 for a violation of subsection A or W of this section relating to the same
22 event.

23 H. The defenses provided in this section do not apply to a licensee
24 or an employee who has actual knowledge that the person exhibiting the
25 identification is under the legal drinking age.

26 I. Any of the following types of records are acceptable forms for
27 recording the person's identification:

28 1. A writing containing the type of identification, the date of
29 issuance of the identification, the name on the identification, the date
30 of birth on the identification and the signature of the person.

31 2. An electronic file or printed document produced by a device that
32 reads the person's age from the identification.

33 3. A dated and signed photocopy of the identification.

34 4. A photograph of the identification.

35 5. A digital copy of the identification.

36 J. An off-sale retail licensee or employee of an off-sale retail
37 licensee shall require an instrument of identification from any customer
38 who appears to be under twenty-seven years of age and who is using a
39 drive-through or other physical feature of the licensed premises that
40 allows a customer to purchase spirituous liquor without leaving the
41 customer's vehicle.

42 K. The following written instruments are the only types of
43 identification that are acceptable under subsection A of this section:

44 1. An unexpired driver license issued by this state. A driver
45 license issued to a person who is under twenty-one years of age is no

1 longer an acceptable type of identification under this paragraph thirty
2 days after the person turns twenty-one years of age.

3 2. An unexpired driver license issued by any other state, the
4 District of Columbia, any territory of the United States or Canada if the
5 license includes a picture of the person and the person's date of birth.

6 3. An unexpired nonoperating identification license issued pursuant
7 to section 28-3165. An unexpired nonoperating license issued to a person
8 who is under twenty-one years of age is no longer an acceptable type of
9 identification under this paragraph thirty days after the person turns
10 twenty-one years of age.

11 4. A form of identification license issued by any other state, the
12 District of Columbia, any territory of the United States or Canada if the
13 license is substantially equivalent to a nonoperating identification
14 license issued pursuant to section 28-3165 and includes a picture of the
15 person and the person's date of birth.

16 5. An unexpired armed forces identification card that includes the
17 person's picture and date of birth.

18 6. A valid unexpired passport or a valid unexpired resident alien
19 card that contains a photograph of the person and the person's date of
20 birth.

21 7. A VALID UNEXPIRED BORDER CROSSING CARD ISSUED BY THE UNITED
22 STATES GOVERNMENT THAT CONTAINS A PHOTOGRAPH OF THE PERSON AND THE
23 PERSON'S DATE OF BIRTH.

24 L. A person who is under the legal drinking age and who
25 misrepresents the person's age to any person by means of a written
26 instrument of identification with the intent to induce a person to sell,
27 serve, give or furnish spirituous liquor contrary to law is guilty of a
28 class 1 misdemeanor.

29 M. A person who is under the legal drinking age and who solicits
30 another person to purchase, sell, give, serve or furnish spirituous liquor
31 contrary to law is guilty of a class 3 misdemeanor.

32 N. A person who is under the legal drinking age and who uses a
33 fraudulent or false written instrument of identification or identification
34 of another person or uses a valid license or identification of another
35 person to gain access to a licensed establishment is guilty of a class 1
36 misdemeanor.

37 O. A person who uses a driver or nonoperating identification
38 license in violation of subsection L or N of this section is subject to
39 suspension of the driver or nonoperating identification license as
40 provided in section 28-3309. A person who does not have a valid driver or
41 nonoperating identification license and who uses a driver or nonoperating
42 identification license of another in violation of subsection N of this
43 section has the person's right to apply for a driver or nonoperating
44 identification license suspended as provided by section 28-3309.

1 P. A person who knowingly influences the sale, giving or serving of
2 spirituous liquor to a person under the legal drinking age by
3 misrepresenting the age of such person or who orders, requests, receives
4 or procures spirituous liquor from any licensee, employee or other person
5 with the intent of selling, giving or serving it to a person under the
6 legal drinking age is guilty of a class 1 misdemeanor. A licensee or
7 employee of a licensee who has actual knowledge that a person is under the
8 legal drinking age and who admits the person into any portion of the
9 licensed premises in violation of section 4-244, paragraph 22 is in
10 violation of this subsection. In addition to other penalties provided by
11 law, a judge may suspend a driver license issued to or the driving
12 privilege of a person for not more than thirty days for a first conviction
13 and not more than six months for a second or subsequent conviction under
14 this subsection.

15 Q. A person who is at least eighteen years of age and who is an
16 occupant of an unlicensed premises is guilty of a class 1 misdemeanor if
17 the person knowingly hosts on the unlicensed premises a gathering of two
18 or more persons who are under the legal drinking age and if the person
19 knows that one or more of the persons under the legal drinking age are in
20 possession of or consuming spirituous liquor on the unlicensed premises.

21 R. For the purposes of subsection Q of this section:

22 1. "Hosts" means allowing or promoting a party, gathering or event
23 at a person's place of residence or other premises under the person's
24 ownership or control where spirituous liquor is served to, in the
25 possession of or consumed by an underage person.

26 2. "Occupant" means a person who has legal possession or the legal
27 right to exclude others from the unlicensed premises.

28 S. A peace officer shall forward or electronically transfer to the
29 director of the department of transportation the affidavit required by
30 section 28-3310 if the peace officer has arrested a person for ~~the~~
31 ~~commission of~~ COMMITTING an offense for which, on conviction, suspension
32 of the license or privilege to operate a motor vehicle is required by
33 section 28-3309, subsection A, B, C or D, or if the peace officer has
34 confiscated a false identification document used by the person to gain
35 access to licensed premises.

36 T. A person who acts under a program of testing compliance with
37 this title that is approved by the director is not in violation of section
38 4-244.

39 U. Law enforcement agencies may use persons who are under the legal
40 drinking age to test compliance with this section and section 4-244,
41 paragraph 9 by a licensee if the law enforcement agency has reasonable
42 suspicion that the licensee is violating this section or section 4-244,
43 paragraph 9. A person who is under the legal drinking age and who
44 purchases or attempts to purchase spirituous liquor under the direction of
45 a law enforcement agency pursuant to this subsection is immune from

1 prosecution for that purchase or attempted purchase. Law enforcement
2 agencies may use a person under the legal drinking age pursuant to this
3 subsection only if:

4 1. The person is at least fifteen but not more than nineteen years
5 of age.

6 2. The person is not employed on an incentive or quota basis.

7 3. The person's appearance is that of a person who is under the
8 legal drinking age.

9 4. A photograph of the person is taken ~~no~~ NOT more than twelve
10 hours before the purchase or attempted purchase. The photograph shall
11 accurately depict the person's appearance and attire. A licensee or an
12 employee of a licensee who is cited for selling spirituous liquor to a
13 person under the legal drinking age pursuant to this subsection is allowed
14 to inspect the photograph immediately after the citation is issued. The
15 person's appearance at any trial or administrative hearing that results
16 from a citation shall not be substantially different from the person's
17 appearance at the time the citation was issued.

18 5. The person places, receives and pays for the person's order of
19 spirituous liquor. An adult shall not accompany the person onto the
20 premises of the licensee.

21 6. The person does not consume any spirituous liquor.

22 V. The department may adopt rules to carry out the purposes of this
23 section.

24 W. In lieu of or in addition to the procedures prescribed in
25 subsection A of this section, a licensee, an employee of the licensee or
26 any other person who questions or has reason to question ~~that~~ WHETHER the
27 person ordering, purchasing, attempting to purchase or otherwise procuring
28 or attempting to procure the serving or delivery of spirituous liquor or
29 entering a portion of a licensed premises when the primary use is the sale
30 or service of spirituous liquor is under the legal drinking age, the
31 licensee, employee of the licensee or other person may use a biometric
32 identity verification device to determine the person's age. In any
33 instance where the device indicates the person is under the legal drinking
34 age, the attempted purchase, procurement or entry shall be denied.