

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2223

(Reference to printed bill)

1 Page 7, strike lines 24 through 45

2 Page 8, strike lines 1 through 6, insert:

3 "Sec. 2. Section 4-203, Arizona Revised Statutes, is amended to  
4 read:

5 4-203. Licenses; issuance; transfer; reversion to state

6 A. A spirituous liquor license shall be issued only after  
7 satisfactory showing of the capability, qualifications and reliability of  
8 the applicant and, with the exception of wholesaler, producer, government  
9 or club licenses, that the public convenience requires and that the best  
10 interest of the community will be substantially served by the issuance. If  
11 an application is filed for the issuance of a transferable or  
12 nontransferable license, other than for a craft distiller license, a  
13 microbrewery license or a farm winery license, for a location that on the  
14 date the application is filed has a valid license of the same series, or in  
15 the case of a restaurant license application filed for a location with a  
16 valid hotel-motel license, issued at that location, there shall be a  
17 rebuttable presumption that the public convenience and best interest of the  
18 community at that location was established at the time the location was  
19 previously licensed. The presumption may be rebutted by competent contrary  
20 evidence. The presumption shall not apply once the licensed location has  
21 not been in use for more than one hundred eighty days and the presumption  
22 shall not extend to the personal qualifications of the applicant.

23 B. The license shall be to manufacture, sell or deal in spirituous  
24 liquors only at the place and in the manner provided in the license. A

1 separate license shall be issued for each specific business, and each shall  
2 specify:

3 1. The particular spirituous liquors that the licensee is authorized  
4 to manufacture, sell or deal in.

5 2. The place of business for which issued.

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

7 C. A spirituous liquor license issued to a bar, a liquor store or a  
8 beer and wine bar shall be transferable as to any permitted location within  
9 the same county, if the transfer meets the requirements of an original  
10 application. A spirituous liquor license may be transferred to a person  
11 qualified to be a licensee, if the transfer is pursuant to either judicial  
12 decree, nonjudicial foreclosure of a legal or equitable lien, including  
13 security interests held by financial institutions pursuant to section  
14 4-205.05, a sale of the license, a bona fide sale of the entire business  
15 and stock in trade, or other bona fide transactions that are provided for  
16 by rule. Any change in ownership of the business of a licensee, directly  
17 or indirectly, as defined by rule is deemed a transfer, except that there  
18 is no transfer if a new artificial person is added to the ownership of a  
19 licensee's business but the controlling persons remain identical to the  
20 controlling persons that have been previously disclosed to the director as  
21 part of the licensee's existing ownership.

22 D. All applications for a new license pursuant to section 4-201 or  
23 for a transfer to a new location pursuant to subsection C of this section  
24 shall be filed with and determined by the director, except when the  
25 governing body of the city or town or the board of supervisors receiving an  
26 application pursuant to section 4-201 orders disapproval of the application  
27 or when the director, the state liquor board or any aggrieved party  
28 requests a hearing. The application shall then be presented to the state  
29 liquor board, and the new license or transfer shall not become effective  
30 unless approved by the state liquor board.

31 E. A person who assigns, surrenders, transfers or sells control of a  
32 liquor license or business that has a spirituous liquor license shall  
33 notify the director within thirty business days after the assignment,

1 surrender, transfer or sale. A spirituous liquor license shall not be  
2 leased or subleased. A concession agreement entered into under section  
3 4-205.03 is not considered a lease or sublease in violation of this  
4 section.

5 F. If a person other than those persons originally licensed acquires  
6 control over a license or licensee, the person shall file notice of the  
7 acquisition with the director within thirty business days after the  
8 acquisition of control and a list of officers, directors or other  
9 controlling persons on a form prescribed by the director. There is no  
10 acquisition of control if a new person is added to the ownership of a  
11 licensee's business but the controlling persons remain identical to the  
12 controlling persons that have been previously disclosed to the director as  
13 part of the licensee's existing ownership. All officers, directors or  
14 other controlling persons shall meet the qualifications for licensure as  
15 prescribed by this title. On request, the director shall conduct a  
16 preinvestigation before the assignment, sale or transfer of control of a  
17 license or licensee, the reasonable costs of which, not more than \$1,000,  
18 shall be borne by the applicant. The preinvestigation shall determine  
19 whether the qualifications for licensure as prescribed by this title are  
20 met. On receipt of notice of an acquisition of control or request of a  
21 preinvestigation, the director, within fifteen days after receipt, shall  
22 forward the notice of the acquisition of control to the local governing  
23 body of the city or town, if the licensed premises is in an incorporated  
24 area, or the county, if the licensed premises is in an unincorporated  
25 area. The director shall include in the notice to the local governing body  
26 written instructions on how the local governing body may examine, free of  
27 charge, the results of the department's investigation regarding the  
28 capabilities, qualifications and reliability of all officers, directors or  
29 other controlling persons listed in the application for acquisition of  
30 control. The local governing body, or the governing body's designee, may  
31 provide the director with a recommendation, either in favor of or against  
32 the acquisition of control, within sixty days after the director mails the  
33 notice, but section 4-201 does not apply to the acquisition of control

1 provided for in this section. A local governing body may charge not more  
2 than one fee, regardless of the number of licenses held by the applicant,  
3 for review of one or more applications for acquisition of control submitted  
4 to the department at the same time and for the same entity. Within one  
5 hundred five days after filing the notice of the acquisition of control,  
6 the director shall determine whether the applicant is qualified, capable  
7 and reliable for licensure. A recommendation by the local governing body,  
8 or the governing body's designee, against the acquisition of control or  
9 denial by the director shall be set for a hearing before the board. The  
10 person who has acquired control of a license or licensee has the burden of  
11 an original application at the hearing, and the board shall make its  
12 determination pursuant to section 4-202 and this section with respect to  
13 capability, reliability and qualification.

14 G. A licensee who holds a license in nonuse status for more than  
15 five months shall be required to pay a \$100 surcharge for each month  
16 thereafter. The surcharge shall be paid at the time the license is  
17 returned to active status. A license automatically reverts to the state  
18 after being held in continuous nonuse for more than thirty-six months. The  
19 director may waive the surcharge and may extend the time period provided in  
20 this subsection for good cause if the licensee files a written request for  
21 an extension of time to place the license in active status before the date  
22 of the automatic reversion. Unless the reverted license of the licensee  
23 has been subsequently reissued, the director shall relieve a licensee or  
24 its legal representative from a prior license reversion under this section  
25 if the request for such relief is filed in writing not later than two years  
26 after the date of reversion. A license shall not be deemed to have gone  
27 into active status if the license is transferred to a location that at the  
28 time of or immediately before the transfer had an active license of the  
29 same type, unless the licenses are under common ownership or control.

30 H. A restructuring of a licensee's business is not an acquisition of  
31 control, a transfer of a spirituous liquor license or the issuance of a new  
32 spirituous liquor license if both of the following apply:

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

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

4           I. If subsection H of this section applies, the licensee's history  
5 of violations of this title is the history of the new business entity. The  
6 director may prescribe a form and shall require the applicant to provide  
7 the necessary information to ensure compliance with this subsection and  
8 subsections F and G of this section.

9           J. Notwithstanding subsection B of this section, the holder of a  
10 retail license in this state having off-sale privileges, except a bar, beer  
11 and wine bar or restaurant licensee, may take orders by telephone, mail,  
12 fax or catalog, through the internet or by other means for the sale and  
13 delivery of spirituous liquor off of the licensed premises to a person in  
14 this state in connection with the sale of spirituous liquor.  
15 Notwithstanding the definition of "sell" prescribed in section 4-101, the  
16 placement of an order and payment pursuant to this section is not a sale  
17 until delivery has been made. At the time that the order is placed, the  
18 licensee shall inform the purchaser that state law requires a purchaser of  
19 spirituous liquor to be at least twenty-one years of age and that the  
20 person accepting delivery of the spirituous liquor is required to comply  
21 with this state's age identification requirements as prescribed in section  
22 4-241, subsections A and K. The licensee may maintain a delivery service  
23 and may contract with one or more independent contractors, that may also  
24 contract with one or more independent contractors, or may contract with a  
25 common carrier for delivery of spirituous liquor if the spirituous liquor  
26 is loaded for delivery at the premises of the retail licensee in this state  
27 and delivered in this state. Except if the person delivering the order has  
28 personally retrieved and bagged or otherwise packaged the container of  
29 spirituous liquor for delivery and the licensee records, or requires to be  
30 recorded electronically, the identification information for each delivery,  
31 all containers of spirituous liquor delivered pursuant to this subsection  
32 shall be conspicuously labeled with the words "contains alcohol, signature  
33 of person who is twenty-one years of age or older is required for

1 delivery". The licensee is responsible for any violation of this title or  
2 any rule adopted pursuant to this title that is committed in connection  
3 with any sale or delivery of spirituous liquor. Delivery must be made by  
4 an employee of the licensee or other authorized person as provided by this  
5 section who is at least twenty-one years of age to a customer who is at  
6 least twenty-one years of age and who displays an identification at the  
7 time of delivery that complies with section 4-241, subsection K. The  
8 retail licensee shall collect payment for the full price of the spirituous  
9 liquor from the purchaser before the product leaves the licensed  
10 premises. The director shall adopt rules that set operational limits for  
11 the delivery of spirituous liquors by the holder of a retail license having  
12 off-sale privileges. With respect to the delivery of spirituous liquor,  
13 for any violation of this title or any rule adopted pursuant to this title  
14 that is based on the act or omission of a licensee's employee or other  
15 authorized person, the mitigation provision of section 4-210, subsection G  
16 applies, with the exception of the training requirement. For the purposes  
17 of this subsection and notwithstanding the definition of "sell" prescribed  
18 in section 4-101, section 4-241, subsections A and K apply only at the time  
19 of delivery. For the purposes of compliance with this subsection, an  
20 independent contractor, a subcontractor of an independent contractor, the  
21 employee of an independent contractor or the employee of a subcontractor is  
22 deemed to be acting on behalf of the licensee when making a delivery of  
23 spirituous liquor for the licensee.

24 K. Except as provided in subsection J of this section, Arizona  
25 licensees may transport spirituous liquors for themselves in vehicles  
26 owned, leased or rented by the licensee.

27 L. Notwithstanding subsection B of this section, an off-sale retail  
28 licensee may provide consumer tasting of wines off of the licensed premises  
29 subject to all applicable provisions of section 4-206.01.

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

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

7           O. If a licensed location has not been in use for three years, the  
8 location must requalify for a license pursuant to subsection A of this  
9 section and shall meet the same qualifications required for issuance of a  
10 new license except when the director deems that the nonuse of the location  
11 was due to circumstances beyond the licensee's control and an extension of  
12 time has been granted pursuant to subsection G of this section.

13           P. If the licensee's interest is forfeited pursuant to section  
14 4-210, subsection L, the location shall requalify for a license pursuant to  
15 subsection A of this section and shall meet the same qualifications  
16 required for issuance of a new license except when a bona fide lienholder  
17 demonstrates mitigation pursuant to section 4-210, subsection K.

18           Q. The director may implement a procedure for the issuance of a  
19 license with a licensing period of two years.

20           R. For any sale of a farm winery or craft distiller or change in  
21 ownership of a farm winery or craft distiller directly or indirectly, the  
22 business, stock-in-trade and spirituous liquor may be transferred with the  
23 ownership, in compliance with the applicable requirements of this title.

24           S. Notwithstanding subsection B of this section, bar, beer and wine  
25 bar, liquor store, beer and wine store or restaurant licensees in this  
26 state may take orders by telephone, mail, fax or catalog, through the  
27 internet or by other means for the sale and delivery of spirituous liquor  
28 off the licensed premises as follows:

29           1. Bar licensees for beer, wine, distilled spirits and mixed  
30 cocktails.

31           2. Beer and wine bar licensees for beer and wine.

32           3. Liquor store licensees for beer, wine, distilled spirits and  
33 mixed cocktails.

1           4. Beer and wine store licensees for beer and wine.

2           5. Restaurant licensees for any of the following:

3           (a) Mixed cocktails, with the sale of menu food items for  
4 consumption on or off the licensed premises, if the restaurant holds a  
5 permit issued pursuant to section 4-203.07 and section 4-205.02, subsection  
6 K or a lease pursuant to section 4-203.06.

7           (b) Beer if the restaurant holds a permit issued pursuant to section  
8 4-205.02, subsection H.

9           (c) Beer, wine and distilled spirits if the restaurant holds an  
10 off-sale privileges lease with a bar or liquor store pursuant to section  
11 4-203.07.

12           (d) Beer and wine if the restaurant holds an off-sale privileges  
13 lease with a beer and wine bar pursuant to section 4-203.07.

14           T. Notwithstanding the definition of "sell" prescribed in section  
15 4-101, placing an order and paying for that order pursuant to subsection S  
16 of this section is not a sale until delivery has been made. At the time  
17 that the order is placed, the licensee shall inform the purchaser that  
18 state law requires a purchaser of spirituous liquor to be at least  
19 twenty-one years of age and that the person accepting delivery of the  
20 spirituous liquor is required to comply with this state's age  
21 identification requirements as prescribed in section 4-241, subsections A  
22 and K. The licensee may maintain a delivery service and may contract with  
23 one or more alcohol delivery contractors registered pursuant to section  
24 4-205.13 for delivery of spirituous liquor if the spirituous liquor is  
25 packaged and tamperproof sealed by the bar, beer and wine bar, liquor  
26 store, beer and wine store or restaurant licensee or the licensee's  
27 employee and is loaded for delivery at the premises of the restaurant, beer  
28 and wine bar, liquor store, beer and wine store or bar licensee in this  
29 state and delivered in this state on the same business day. A liquor store  
30 or beer and wine store licensee may contract with one or more independent  
31 contractors as provided in subsection J of this section for delivery of  
32 spirituous liquor if the spirituous liquor is loaded for delivery at the  
33 premises of the liquor store or beer and wine store licensee in this state



1 and delivered in this state on the same business day. All containers of  
2 spirituous liquor delivered pursuant to subsection S of this section shall  
3 be tamperproof sealed and conspicuously labeled with the words "contains  
4 alcohol, signature of person who is twenty-one years of age or older is  
5 required for delivery". The licensee is responsible for any violation of  
6 this title or any rule adopted pursuant to this title that is committed in  
7 connection with any sale or delivery of spirituous liquor. Delivery must  
8 be made by an employee of the licensee or an employee or authorized  
9 independent contractor of a registered alcohol delivery contractor as  
10 provided by this section who is at least twenty-one years of age and  
11 delivery must be made to a customer who is at least twenty-one years of age  
12 and who displays an identification at the time of delivery that complies  
13 with section 4-241, subsection K. The restaurant, beer and wine bar,  
14 liquor store, beer and wine store or bar licensee shall collect payment for  
15 the full price of the spirituous liquor from the purchaser before the  
16 product leaves the licensed premises. The director shall adopt rules that  
17 set operational limits for the delivery of spirituous liquor pursuant to  
18 this subsection and subsection S of this section with respect to the  
19 delivery of spirituous liquor. For any violation of this title or any rule  
20 adopted pursuant to this title that is based on the act or omission of a  
21 licensee's employee or a registered alcohol delivery contractor, the  
22 mitigation provision of section 4-210, subsection G applies, with the  
23 exception of the training requirement. For the purposes of this subsection  
24 and notwithstanding the definition of "sell" prescribed in section 4-101,  
25 section 4-241, subsections A and K apply only at the time of delivery. An  
26 alcohol delivery contractor, a subcontractor of an alcohol delivery  
27 contractor, an employee of an alcohol delivery contractor or an employee of  
28 a subcontractor is deemed to be acting on behalf of the licensee when  
29 making a delivery of spirituous liquor for the licensee. For the purposes  
30 of this subsection, "business day" means between the hours of 6:00 a.m. of  
31 one day and 2:00 a.m. of the next day.

32 U. A LICENSEE THAT HAS OFF-SALE PRIVILEGES AND THAT DELIVERS  
33 SPIRITUOUS LIQUOR AS PRESCRIBED IN THIS SECTION SHALL COMPLETE A WRITTEN

1 RECORD OF EACH DELIVERY AT THE TIME OF DELIVERY. THE WRITTEN RECORD SHALL  
2 INCLUDE ALL OF THE FOLLOWING:

- 3 1. THE NAME OF THE LICENSEE MAKING THE DELIVERY.
- 4 2. THE COMPLETE ADDRESS OF THE LICENSEE MAKING THE DELIVERY.
- 5 3. THE LICENSEE'S LICENSE NUMBER.
- 6 4. THE DATE AND TIME OF THE DELIVERY.
- 7 5. THE ADDRESS WHERE THE DELIVERY WAS MADE.
- 8 6. THE TYPE AND BRAND OF ALL SPIRITUOUS LIQUOR DELIVERED.

9 V. A LICENSEE THAT HAS OFF-SALE PRIVILEGES AND THAT DELIVERS  
10 SPIRITUOUS LIQUOR AS PRESCRIBED IN THIS SECTION SHALL OBTAIN THE FOLLOWING  
11 INFORMATION FROM THE INDIVIDUAL WHO ACCEPTS DELIVERY:

- 12 1. THE INDIVIDUAL'S NAME.
- 13 2. THE INDIVIDUAL'S DATE OF BIRTH.
- 14 3. THE INDIVIDUAL'S SIGNATURE. THE LICENSEE MAKING THE DELIVERY MAY  
15 USE AN ELECTRONIC SIGNATURE SYSTEM TO COMPLY WITH THE REQUIREMENTS OF THIS  
16 PARAGRAPH."

17 Page 14, line 2, strike "at"

18 Line 3, strike "~~least sixty days before submitting the application to the~~  
19 ~~director~~" insert "at least sixty days before submitting the application to  
20 the director"

21 Amend title to conform

MATT GRESS

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