

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2185

(Reference to printed bill)

1 Page 2, line 44, after "MICROBREWERY" insert "FESTIVAL"

2 Page 5, between lines 17 and 18, insert:

3 "Sec. 2. Section 4-203.06, Arizona Revised Statutes, is amended to
4 read:

5 4-203.06. Mixed cocktails; off-sale privileges; leases; fees

6 A. Notwithstanding section 4-203, subsection E and section 4-210,
7 subsection A, paragraph 6, through December 31, 2025, bar and liquor store
8 licensees, through the department, shall lease to restaurant licensees the
9 privilege of selling mixed cocktails for consumption off the licensed
10 premises in accordance with section 4-244, paragraph 32, subdivision (d).
11 The lease shall be for a period of one year and shall be renewable for
12 successive terms of one year. The department shall establish a lease
13 amount that fairly recognizes, and is derived from, the commercial value of
14 the privilege to sell mixed cocktails for consumption off the licensed
15 premises.

16 B. Leases made pursuant to subsection A of this section are subject
17 to the following conditions:

18 1. A restaurant licensee may apply to the department on a form
19 prescribed and provided by the department for a lease pursuant to this
20 section. The department may establish and charge an application fee for
21 administrative and enforcement costs associated with this section.

22 2. On the director approving the application of a restaurant
23 licensee, the director shall randomly select a bar or liquor store license

1 for the lease of the bar or liquor store licensee's mixed cocktail off-sale
2 privileges to the restaurant licensee through the department.

3 3. The department shall establish a process to facilitate and
4 approve the lease conveyance and to govern the leases, including the
5 following:

6 (a) A standard form of lease.

7 (b) The term of the lease, which shall be one year except for the
8 first year of the lease. During the first year of the lease, the director
9 may set a lease term that is less than ~~a~~ ONE year in order to align the
10 lease renewal date with the renewal date of the restaurant license. The
11 lease payment amount for the first year may be prorated.

12 (c) The amount of the lease established by the director pursuant to
13 subsection A of this section.

14 (d) The responsibilities of the lessor and lessee.

15 (e) The lease may be transferred to another restaurant licensee if a
16 new restaurant licensee purchases the business of the original lessee
17 during the term of the lease.

18 (f) The privileges conveyed to the lessee during the term of the
19 lease will continue if the bar or liquor store lessor has its license
20 suspended or revoked.

21 (g) If the bar or liquor store lessor sells its license during the
22 term of the lease, the purchaser of the bar or liquor store license becomes
23 the new lessor.

24 (h) This title and rules adopted pursuant to this title apply to
25 both the lessor and lessee.

26 (i) During the term of the lease, all violations and liability for
27 liquor service under the lease shall be attributed only to the restaurant
28 licensee leasing the mixed cocktail off-sale privilege. The restaurant
29 licensee leasing the off-sale privilege is not responsible for violations
30 committed by the lessor.

31 4. The director may deny approval of a lease based on the proposed
32 location or history of the proposed lessee.

1 5. The restaurant licensee shall pay to the department all lease
2 payments in full in advance.

3 6. The department of liquor licenses and control may adopt a
4 procedure to pay the lease amount to the lessor and may use the department
5 of administration to facilitate the payments.

6 7. During the term of the lease, all violations and liability for
7 the liquor service under the lease shall be attributed only to the
8 restaurant licensee leasing the privilege. Pursuant to section 4-210, the
9 director may immediately suspend a lease for any violation of this title or
10 any rule adopted pursuant to this title by the restaurant licensee. The
11 restaurant licensee leasing the off-sale privilege is not responsible for
12 violations committed by the lessor.

13 8. During the term of the lease, a bar or liquor store lessor may
14 continue to sell spirituous liquor as authorized by the bar or liquor store
15 license and mixed cocktails for off-premises consumption pursuant to
16 section 4-244, paragraph 32, subdivision (d).

17 9. EXCEPT FOR A RESTAURANT LICENSEE THAT MEETS THE QUALIFICATIONS OF
18 SUBSECTION E OF THIS SECTION, the restaurant licensee leasing the off-sale
19 privilege is subject to the limit on off-sale use by the restaurant
20 licensee's total spirituous liquor sales as prescribed in section 4-206.01,
21 subsection G.

22 C. If a restaurant licensee does not renew a lease, the director
23 shall return the bar or liquor store lessor to the random selection process
24 pursuant to subsection B, paragraph 2 of this section.

25 D. If a bar or liquor store lessor has its license suspended or
26 revoked, the director shall transfer the lease to another bar or liquor
27 store licensee at the end of the lease term pursuant to subsection B,
28 paragraph 2 of this section.

29 E. NOTWITHSTANDING SECTION 4-206.01, SUBSECTION G, THROUGH DECEMBER
30 31, 2025, THE DEPARTMENT SHALL PROVIDE FOR A LEASE ADDENDUM TO ANY LEASE
31 MADE PURSUANT TO SUBSECTION A OF THIS SECTION BETWEEN A BAR OR LIQUOR STORE
32 LICENSEE AND A RESTAURANT LICENSEE THAT DERIVES AT LEAST NINETY PERCENT OF

1 ITS GROSS REVENUE FROM THE SALE OF FOOD, INCLUDING SALES OF FOOD FOR
2 CONSUMPTION OFF THE LICENSED PREMISES, AND THAT HAS OFF-SALE SPIRITUOUS
3 LIQUOR SALES THAT EXCEED THIRTY PERCENT OF TOTAL SPIRITUOUS LIQUOR SALES IN
4 EITHER 2023 OR 2024.

5 F. LEASE ADDENDUMS MADE PURSUANT TO SUBSECTION E OF THIS SECTION ARE
6 SUBJECT TO ALL OF THE FOLLOWING CONDITIONS:

7 1. ON THE RESTAURANT LICENSEE'S RENEWAL DATE FOR A LEASE MADE
8 PURSUANT TO SUBSECTION A OF THIS SECTION, THE RESTAURANT LICENSEE MAY APPLY
9 TO THE DEPARTMENT ON A FORM PRESCRIBED AND PROVIDED BY THE DEPARTMENT FOR A
10 LEASE ADDENDUM PURSUANT TO THIS SECTION.

11 2. THE DEPARTMENT SHALL ESTABLISH A PROCESS TO FACILITATE AND
12 APPROVE THE LEASE ADDENDUM AND TO GOVERN THE LEASE ADDENDUM, INCLUDING ALL
13 OF THE FOLLOWING:

14 (a) A STANDARD LEASE ADDENDUM FORM.

15 (b) THE TERM OF THE LEASE ADDENDUM SHALL BE THE SAME AS THE TERM OF
16 THE LEASE BEING RENEWED BY THE RESTAURANT LICENSEE.

17 (c) THE AMOUNT OF THE LEASE ADDENDUM, WHICH MAY BE EQUAL TO ANY
18 DOLLAR AMOUNT DETERMINED BY THE DIRECTOR FOR A LEASE ISSUED PURSUANT TO
19 SUBSECTION A OF THIS SECTION.

20 (d) DURING THE TERM OF THE LEASE ADDENDUM, THE RESTAURANT LICENSEE
21 SHALL NOT BE SUBJECT TO THE LIMIT ON OFF-SALE USE BY THE RESTAURANT
22 LICENSEE'S TOTAL SPIRITUOUS LIQUOR SALES AS PRESCRIBED IN SECTION 4-206.01,
23 SUBSECTION G.

24 (e) IF THE UNDERLYING LEASE MADE PURSUANT TO SUBSECTION A OF THIS
25 SECTION IS TRANSFERRED TO ANOTHER RESTAURANT LICENSEE PURSUANT TO
26 SUBSECTION B, PARAGRAPH 3, SUBDIVISION (e) OF THIS SECTION, THE LEASE
27 ADDENDUM IS ALSO TRANSFERRED.

28 (f) THE PRIVILEGES CONVEYED TO THE LESSEE DURING THE TERM OF THE
29 LEASE ADDENDUM WILL CONTINUE IF THE BAR OR LIQUOR STORE LESSOR HAS ITS
30 LICENSE SUSPENDED OR REVOKED.

31 (g) THIS TITLE AND RULES ADOPTED PURSUANT TO THIS TITLE APPLY TO
32 BOTH THE LESSOR AND LESSEE.

1 (h) DURING THE TERM OF THE LEASE ADDENDUM, ALL VIOLATIONS AND
2 LIABILITY FOR LIQUOR SERVICE UNDER THE LEASE SHALL BE ATTRIBUTED ONLY TO
3 THE RESTAURANT LICENSEE LEASING THE MIXED COCKTAIL OFF-SALE PRIVILEGE. THE
4 RESTAURANT LICENSEE LEASING THE OFF-SALE PRIVILEGE IS NOT RESPONSIBLE FOR
5 VIOLATIONS COMMITTED BY THE LESSOR.

6 3. THE RESTAURANT LICENSEE SHALL PAY TO THE DEPARTMENT ANY LEASE
7 ADDENDUM PAYMENTS IN FULL IN ADVANCE.

8 4. THE PROCEDURE TO PAY THE LEASE ADDENDUM AMOUNT TO THE LESSOR
9 SHALL BE THE SAME AS THE PROCEDURE ADOPTED BY THE DEPARTMENT PURSUANT TO
10 SUBSECTION B, PARAGRAPH 6 OF THIS SECTION."

11 Renumber to conform

12 Page 7, line 20, after "a" insert "BAR OR"

13 Page 12, after line 18, insert:

14 "Sec. 5. Nonenforcement: sale of food; spirituous liquor
15 sales; retroactive

16 Notwithstanding section 4-203.06, Arizona Revised Statutes, as
17 amended by this act, beginning January 1, 2024, a restaurant licensee that
18 derives at least ninety percent of its gross revenue from the sale of food,
19 including sales of food for consumption off the licensed premises, and that
20 has off-sale spirituous liquor sales that exceed thirty percent of total
21 spirituous liquor sales is not in violation of section 4-206.01, subsection
22 G, Arizona Revised Statutes."

23 Amend title to conform

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