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REFERENCE TITLE: liquor donations; charitable auctions

State of Arizona
Senate
Forty-fifth Legislature
Second Regular Session
2002

SB 1104

Introduced by
Senator Bundgaard

AN ACT

AMENDING SECTIONS 4-101 AND 4-203.02, ARIZONA REVISED STATUTES; RELATING TO THE REGULATION OF SPIRITUOUS LIQUOR.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 4-101, Arizona Revised Statutes, is amended to
3 read:

4 4-101. Definitions

5 In this title, unless the context otherwise requires:

6 1. "Act of violence" means an incident consisting of a riot, a brawl
7 or a disturbance, in which bodily injuries are sustained by any person and
8 such injuries would be obvious to a reasonable person, or tumultuous conduct
9 of sufficient intensity as to require the intervention of a peace officer to
10 restore normal order, or an incident in which a weapon is brandished,
11 displayed or used.

12 2. "Aggrieved party" means a person who resides at, owns or leases
13 property within a one mile radius of a premises proposed to be licensed and
14 who filed a written request with the department to speak in favor of or
15 opposition to the issuance of the license no later than sixty days after the
16 filing of the application or fifteen days after action by the local governing
17 body, whichever is later.

18 3. "Beer" means any beverage obtained by the alcoholic fermentation,
19 infusion or decoction of barley malt, hops, or other ingredients not
20 drinkable, or any combination of them.

21 4. "Board" means the state liquor board.

22 5. "Bona fide guest" means a person who is actually a houseguest or a
23 person whose presence as a guest is in response to a specific and personal
24 invitation.

25 6. "Broken package" means any container of spirituous liquor on which
26 the United States tax seal has been broken or removed, or from which the cap,
27 cork or seal placed thereupon by the manufacturer has been removed.

28 7. "Club" includes any of the following organizations where the sale
29 of spirituous liquor for consumption on the premises is made to members only:

30 (a) A post, chapter, camp or other local unit composed solely of
31 veterans and its duly recognized auxiliary which has been chartered by the
32 Congress of the United States for patriotic, fraternal or benevolent purposes
33 and which has, as the owner, lessee or occupant, operated an establishment
34 for that purpose in this state.

35 (b) A chapter, aerie, parlor, lodge or other local unit of an American
36 national fraternal organization which has as the owner, lessee or occupant
37 operated an establishment for fraternal purposes in this state. An American
38 national fraternal organization as used in this subdivision shall actively
39 operate in not less than thirty-six states or have been in active continuous
40 existence for not less than twenty years.

41 (c) A hall or building association of a local unit mentioned in
42 subdivisions (a) and (b) of this paragraph, all of the capital stock of which
43 is owned by the local unit or the members, and which operates the clubroom
44 facilities of the local unit.

1 (d) A golf club which has more than fifty bona fide members and which
2 owns, maintains or operates a bona fide golf links together with a clubhouse.

3 (e) A social club with more than one hundred bona fide members who are
4 actual residents of the county in which it is located, that owns, maintains
5 or operates club quarters, is authorized and incorporated to operate as a
6 nonprofit club under the laws of this state, and has been continuously
7 incorporated and operating for a period of not less than one year. The club
8 shall have had, during this one year period, a bona fide membership with
9 regular meetings conducted at least once each month, and the membership shall
10 be and shall have been actively engaged in carrying out the objects of the
11 club. The club's membership shall consist of bona fide dues paying members
12 paying at least six dollars per year, payable monthly, quarterly or annually,
13 which have been recorded by the secretary of the club, and the members at the
14 time of application for a club license shall be in good standing having for
15 at least one full year paid dues. At least fifty-one per cent of the members
16 shall have signified their intention to secure a social club license by
17 personally signing a petition, on a form prescribed by the board, which shall
18 also include the correct mailing address of each signer. The petition shall
19 not have been signed by a member at a date earlier than thirty days prior to
20 the filing of the petition. The club shall qualify for exemption from the
21 payment of state income taxes under title 43. It is the intent of this
22 paragraph that a license shall not be granted to a club which is, or has
23 been, primarily formed or activated to obtain a license to sell liquor, but
24 solely to a bona fide club, where the sale of liquor is incidental to the
25 main purposes of the club.

26 (f) An airline club operated by or for airlines which are certificated
27 by the United States government and which maintain or operate club quarters
28 located at airports with international status.

29 8. "Company" or "association", when used in reference to a
30 corporation, includes successors or assigns.

31 9. "Control" means the power to direct or cause the direction of the
32 management and policies of an applicant, licensee or controlling person,
33 whether through the ownership of voting securities or a partnership interest,
34 by agreement or otherwise. Control is presumed to exist if a person has the
35 direct or indirect ownership of or power to vote ten per cent or more of the
36 outstanding voting securities of the applicant, licensee or controlling
37 person or to control in any manner the election of one or more of the
38 directors of the applicant, licensee or controlling person. In the case of a
39 partnership, control is presumed to mean the general partner or a limited
40 partner who holds ten per cent or more of the voting rights of the
41 partnership. For the purposes of determining the percentage of voting
42 securities owned, controlled or held by a person, there shall be aggregated
43 with the voting securities attributed to the person the voting securities of
44 any other person directly or indirectly controlling, controlled by or under
45 common control with the other person, or by an officer, partner, employee or

1 agent of the person or by a spouse, parent or child of the person. Control
2 is also presumed to exist if a creditor of the applicant, licensee or
3 controlling person holds a beneficial interest in ten per cent or more of the
4 liabilities of the licensee or controlling person.

5 10. "Controlling person" means a person directly or indirectly
6 possessing control of an applicant or licensee.

7 11. "Department" means the department of liquor licenses and control.

8 12. "Director" means the director of the department of liquor licenses
9 and control.

10 13. "Distilled spirits" includes alcohol, brandy, whiskey, rum,
11 tequila, mescal, gin, absinthe, a compound or mixture of any of them or of
12 any of them with any vegetable or other substance, alcohol bitters, bitters
13 containing alcohol, fruits preserved in ardent spirits, and any alcoholic
14 mixture or preparation, whether patented or otherwise, which may in
15 sufficient quantities produce intoxication.

16 14. "Employee" means any person who performs any service on licensed
17 premises on a full-time, part-time or contract basis with consent of the
18 licensee, whether or not the person is denominated an employee, independent
19 contractor or otherwise. Employee does not include a person exclusively on
20 the premises for musical or vocal performances, for repair or maintenance of
21 the premises or for the delivery of goods to the licensee.

22 15. "Government license" means a license to serve and sell spirituous
23 liquor on specified premises available only to a county, city, town or state
24 university or the Arizona coliseum and exposition center upon application by
25 the governing body of a county, city, town or state university or the Arizona
26 exposition and state fair board.

27 16. "Legal drinking age" means the age of twenty-one years or older.

28 17. "License" means a license or an interim retail permit issued
29 pursuant to the provisions of this title.

30 18. "License fees" means fees collected for license issuance, license
31 application, license renewal, interim permit issuance and license transfer
32 between persons or locations.

33 19. "Licensee" means a person who has been issued a license or an
34 interim retail permit pursuant to the provisions of this title or a special
35 event licensee.

36 20. "Manager" means a natural person who meets the standards required
37 of licensees and has authority to organize, direct, carry on, control or
38 otherwise operate a licensed business on a temporary or full-time basis.

39 21. "Off-sale retailer" means any person operating a bona fide
40 regularly established retail liquor store selling spirituous liquors, wines
41 and beer, and any established retail store selling commodities other than
42 spirituous liquors and engaged in the sale of spirituous liquors only in the
43 original unbroken package, to be taken away from the premises of the retailer
44 and to be consumed off the premises.

1 22. "On-sale retailer" means any person operating an establishment
2 where spirituous liquors are sold in the original container for consumption
3 on or off the premises or in individual portions for consumption on the
4 premises.

5 23. "Person" includes a partnership, limited liability company,
6 association, company or corporation, as well as a natural person.

7 24. "Premises" or "licensed premises" means the area from which the
8 licensee is authorized to sell, dispense or serve spirituous liquors under
9 the provision of the license.

10 25. "Registered mail" includes certified mail.

11 26. "Registered retail agent" means any person who is authorized
12 pursuant to section 4-222 to purchase spirituous liquors for and on behalf of
13 himself and other retail licensees.

14 27. "Repeated acts of violence" means two or more acts of violence
15 occurring within seven days, three or more acts of violence occurring within
16 thirty days or acts of violence occurring with any other similar frequency
17 which the director determines to be unusual or deserving of review.

18 28. "Sell" includes soliciting or receiving an order for, keeping or
19 exposing for sale, directly or indirectly delivering for value, peddling,
20 keeping with intent to sell and trafficking in.

21 29. "Spirituous liquor" includes alcohol, brandy, whiskey, rum,
22 tequila, mescal, gin, wine, porter, ale, beer, any malt liquor or malt
23 beverage, absinthe, a compound or mixture of any of them or of any of them
24 with any vegetable or other substance, alcohol bitters, bitters containing
25 alcohol, any liquid mixture or preparation, whether patented or otherwise,
26 which produces intoxication, fruits preserved in ardent spirits, and
27 beverages containing more than one-half of one per cent of alcohol by volume.

28 30. "Vehicle" means any means of transportation by land, water or air,
29 and includes everything made use of in any way for such transportation.

30 31. "Vending machine" means a machine that dispenses merchandise
31 through the means of coin, token, credit card or other nonpersonal means of
32 accepting payment for merchandise received.

33 32. "Veteran" means a person who has served in the United States air
34 force, army, navy, marine corps or coast guard, as an active nurse in the
35 services of the American red cross, in the army and navy nurse corps in time
36 of war, or in any expedition of the armed forces of the United States, and
37 who has received a discharge other than dishonorable.

38 ~~33. "Vintage wine" means a wine bottled more than ten calendar years~~
39 ~~before the date of sale, as authorized by section 4-203.02, subsection A,~~
40 ~~paragraph 2.~~

41 ~~34.~~ 33. "Voting security" means any security presently entitling the
42 owner or holder of the security to vote for the election of directors of an
43 applicant, licensee or controlling person.

44 ~~35.~~ 34. "Wine" means the product obtained by the fermentation of
45 grapes or other agricultural products containing natural or added sugar or

1 any such alcoholic beverage fortified with grape brandy and containing not
2 more than twenty-four per cent of alcohol by volume.

3 Sec. 2. Section 4-203.02, Arizona Revised Statutes, is amended to
4 read:

5 4-203.02. Special event license; rules

6 A. The director may, subject to the approval of the board of
7 supervisors of a county for events to be held in an unincorporated area or
8 the governing body of a city or town for events to be held in a city or town,
9 issue on a temporary basis:

10 1. A daily on-sale special event license authorizing the sale of
11 spirituous liquor for consumption on the premises where sold.

12 2. A daily off-sale special event license authorizing a charitable
13 ~~wine~~ auction for the sale of ~~vintage wines~~ ANY ALCOHOL for consumption off
14 premises. ~~The fee for the license is twenty-five dollars per day. The~~
15 ~~director shall transfer the monies collected to the department of health~~
16 ~~services for the purpose prescribed in title 36, chapter 18, article 2.~~

17 B. The director may only issue the special event license to a
18 political party or campaign committee supporting a candidate for public
19 office or a ballot measure, an organization formed for a specific charitable
20 or civic purpose, a fraternal organization in existence for over five years
21 with a regular membership or a religious organization.

22 C. An organization selling spirituous liquor under a special event
23 license PURSUANT TO SUBSECTION A, PARAGRAPH 1 OF THIS SECTION shall purchase
24 such spirituous liquor from the holder of a license authorized to sell
25 off-sale, or, in the case of a nonprofit organization which has obtained a
26 special event license for the purpose of charitable fund raising activities,
27 the nonprofit organization may receive the spirituous liquor from a
28 wholesaler as a donation, except that a licensee licensed pursuant to
29 subsection A, paragraph 2 of this section may receive ~~vintage wine~~ ANY
30 ALCOHOL from a donor when the donor receives no remuneration or payment of
31 any kind, directly or indirectly, other than any tax benefits that might
32 result.

33 D. An organization that is issued a license pursuant to subsection A,
34 paragraph 2 of this section shall receive at least seventy-five per cent of
35 the gross receipts of the ~~wine~~ auction. Up to twenty-five per cent of the
36 gross receipts of a special event ~~wine~~ auction CONDUCTED PURSUANT TO
37 SUBSECTION A, PARAGRAPH 2 OF THIS SECTION may be used to pay reasonable and
38 necessary expenses incurred in connection with the ~~wine~~ auction. All
39 expenses shall be supported by written contracts, invoices or receipts, which
40 shall be made available to the director on request.

41 E. The director may adopt those rules the director determines are
42 necessary to implement and administer this section including a limitation on
43 the number of times during a calendar year a qualified organization may apply
44 for and be issued a license under this section. The qualified organization
45 issued a license pursuant to subsection A, paragraph 1 of this section must

1 receive at least twenty-five per cent of the gross revenues of the special
2 events, which shall be supported by a contract between the parties to be
3 supplied at the time of application.

4 F. An organization that is issued a license pursuant to subsection A,
5 paragraph 2 of this section shall not sell more than twenty cases of ~~vintage~~
6 ~~wine~~ ALCOHOL annually under a special event license.

7 G. Section 4-201 does not apply to the licenses provided for under
8 this section.