

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1397

(Reference to Senate engrossed bill)

1 Page 5, between lines 29 and 30, insert:

2 "Sec. 2. Section 4-112, Arizona Revised Statutes, is amended to read:

3 4-112. Powers and duties of board and director of department of  
4 liquor licenses and control; investigations; county  
5 and municipal regulation

6 A. The board shall:

7 1. Grant and deny applications in accordance with the provisions of  
8 this title.

9 2. Adopt rules in order to carry out the provisions of this section.

10 3. Hear appeals and hold hearings as provided in this section.

11 B. Except as provided in subsection A of this section, the director  
12 shall administer the provisions of this title, including:

13 1. Adopting rules:

14 (a) For carrying out the provisions of this title.

15 (b) For the proper conduct of the business to be carried on under each  
16 specific type of spirituous liquor license.

17 (c) To enable and assist state officials and political subdivisions to  
18 collect taxes levied or imposed in connection with spirituous liquors.

19 (d) For the issuance and revocation of certificates of registration of  
20 retail agents, including provisions governing the shipping, storage and  
21 delivery of spirituous liquors by registered retail agents, the keeping of  
22 records and the filing of reports by registered retail agents.

23 (e) To establish requirements for licensees under section 4-209,  
24 subsection B, paragraph 12.

25 2. Subject to title 41, chapter 4, article 4, employing necessary  
26 personnel and fixing their compensation pursuant to section 38-611.

27 3. Keeping an index record which shall be a public record open to  
28 public inspection and shall contain the name and address of each licensee and

1 the name and address of any person having an interest, either legal or  
2 equitable, in each license as shown by any written document, which document  
3 shall be placed on file in the office of the board.

4 4. Providing the board with such supplies and personnel as may be  
5 directed by the board.

6 5. Responding in writing to any law enforcement agency that submits an  
7 investigative report to the department relating to a violation of this title,  
8 setting forth what action, if any, the department has taken or intends to  
9 take on the report and, if the report lacks sufficient information or is  
10 otherwise defective for use by the department, what the agency must do to  
11 remedy the report.

12 6. Taking such steps as are necessary to maintain effective liaison  
13 with the department of public safety and all local law enforcement agencies  
14 in the enforcement of this title including the laws of this state against the  
15 consumption of spirituous liquor by persons under the legal drinking age.

16 7. Providing training to law enforcement agencies in the proper  
17 investigation and reporting of violations of this title.

18 C. The director shall establish within the department a separate  
19 investigations unit which has as its sole responsibility the investigation of  
20 compliance with this title including the investigation of licensees alleged  
21 to have sold or distributed spirituous liquor in any form to persons under  
22 the legal drinking age. Investigations conducted by this unit may include  
23 covert undercover investigations.

24 D. All employees of the department of liquor licenses and control,  
25 except members of the state liquor board and the director of the department,  
26 shall be employed by the department in the manner prescribed by the  
27 department of administration.

28 E. The director may enter into a contract or agreement with any public  
29 agency for any joint or cooperative action as provided for by title 11,  
30 chapter 7, article 3.

31 F. The board or the director may take evidence, administer oaths or  
32 affirmations, issue subpoenas requiring attendance and testimony of

1 witnesses, cause depositions to be taken and require by subpoena duces tecum  
2 the production of books, papers and other documents which are necessary for  
3 the enforcement of this title. Proceedings held during the course of a  
4 confidential investigation are exempt from title 38, chapter 3, article 3.1.  
5 If a person refuses to obey a subpoena or fails to answer questions as  
6 provided by this subsection, the board or the director may apply to the  
7 superior court in the manner provided in section 12-2212. The board or  
8 director may serve subpoenas by personal service or certified mail, return  
9 receipt requested.

10 G. The director may:

11 1. Examine books, records and papers of a licensee.

12 2. Require applicants, licensees, employees who serve, sell or furnish  
13 spirituous liquors to retail customers, managers and managing agents to take  
14 training courses approved by the director in spirituous liquor handling and  
15 spirituous liquor laws and rules. The director shall adopt rules that set  
16 standards for approving training courses. The department's licensed  
17 investigators may participate and receive compensation as lecturers at  
18 approved training courses within this state's jurisdiction that are conducted  
19 by other entities but shall not participate in in-house training programs for  
20 licensees.

21 3. Delegate to employees of the department authority to exercise  
22 powers of the director in order to administer the department.

23 4. Regulate signs that advertise a spirituous liquor product at  
24 licensed retail premises.

25 5. Cause to be removed from the marketplace spirituous liquor that may  
26 be contaminated.

27 6. Regulate the age and conduct of erotic entertainers at licensed  
28 premises. The age limitation governing these erotic entertainers may be  
29 different from other employees of the licensee.

30 7. Issue and enforce cease and desist orders against any person or  
31 entity that sells beer, wine or spirituous liquor without an appropriate  
32 license or permit.

1           8. Confiscate wines carrying a label including a reference to Arizona  
2 or any Arizona city, town or place unless at least seventy-five per cent by  
3 volume of the grapes used in making the wine were grown in this state.

4           9. Accept and expend private grants of monies, gifts and devises for  
5 conducting educational programs for parents and students on the repercussions  
6 of underage alcohol consumption. State general fund monies shall not be  
7 expended for the purposes of this paragraph. If the director does not  
8 receive sufficient monies from private sources to carry out the purposes of  
9 this paragraph, the director shall not provide the educational programs  
10 prescribed in this paragraph. Grant monies received pursuant to this  
11 paragraph are nonlapsing and do not revert to the state general fund at the  
12 close of the fiscal year.

13           10. Procure fingerprint scanning equipment and provide fingerprint  
14 services to license applicants and licensees. ~~Until January 1, 2015,~~ The  
15 department may charge a fee for providing these services.

16           11. Accept electronic signatures on all department and licensee forms  
17 and documents and applications. The director may adopt requirements that  
18 would require facsimile signatures to be followed by original signatures  
19 within a specified time period.

20           H. A county or municipality may enact and enforce ordinances  
21 regulating the age and conduct of erotic entertainers at licensed premises in  
22 a manner at least as restrictive as rules adopted by the director."

23 Renumber to conform

24 Page 6, line 15, strike "FOR THE REPLACEMENT OF A TRANSFERRABLE LICENSE OR"

25 Line 16, after "a" insert "TRANSFERABLE OR"

26 Line 19, after the comma strike remainder of line; line 20, strike "RESTAURANT  
27 LICENSE" insert "OR IN THE CASE OF A RESTAURANT LICENSE APPLICATION FILED FOR  
28 A LOCATION WITH A VALID HOTEL-MOTEL LICENSE"

29 Page 10, line 39, after "LOCATION" insert "OR BY A LICENSEE AT A LOCATION THAT IS  
30 NOT FULLY WITHIN THE LICENSEE'S EXISTING LICENSED PREMISES"

31 Line 44, after "ARE" insert "FULLY WITHIN PREMISES"

32 Page 11, strike lines 1 through 4

1 Reletter to conform

2 Page 11, line 7, after "STATE" insert a comma

3 Line 21, strike "SHALL" insert "MUST"

4 Line 29, strike the third comma

5 Page 15, after line 42, insert:

6 "Sec. 9. Section 4-205.02, Arizona Revised Statutes, is amended to  
7 read:

8 4-205.02. Restaurant license: issuance; regulatory provisions;  
9 expiration; definitions

10 A. The director may issue a restaurant license to any restaurant in  
11 this state that is regularly open for the serving of food to guests for  
12 compensation and that has suitable kitchen facilities connected with the  
13 restaurant for keeping, cooking and preparing foods required for ordinary  
14 meals.

15 B. The director shall issue the license in the name of the restaurant  
16 upon application for the license by the owner or lessee of the restaurant,  
17 provided the applicant is otherwise qualified to hold a spirituous liquor  
18 license. The holder of such license is subject to the penalties prescribed  
19 for any violation of the law relating to alcoholic beverages.

20 C. The holder of a restaurant license may sell and serve spirituous  
21 liquors solely for consumption on the licensed premises. For the purpose of  
22 this subsection, "licensed premises" may include rooms, areas or locations in  
23 which the restaurant normally sells or serves spirituous liquors pursuant to  
24 regular operating procedures and practices and that are contiguous to the  
25 restaurant or a noncontiguous patio pursuant to section 4-101, paragraph 26.  
26 For the purposes of this subsection, a restaurant licensee must submit proof  
27 of tenancy or permission from the landowner or lessor for all property to be  
28 included in the licensed premises.

29 D. In addition to other grounds prescribed in this title on which a  
30 license may be revoked, the director may require the holder of a restaurant  
31 license issued pursuant to this section to surrender the license in any case  
32 in which the licensee ceases to operate as a restaurant, as prescribed in

1 subsection A of this section. The surrender of a license pursuant to this  
2 subsection does not prevent the director from revoking the license for other  
3 grounds prescribed in this title or for making deliberate material  
4 misrepresentations to the department regarding the licensee's equipment,  
5 service or entertainment items or seating capacity in applying for the  
6 restaurant license.

7 E. Neither the director nor the board may initially issue a restaurant  
8 license if either finds that there is sufficient evidence that the operation  
9 will not satisfy the criteria adopted by the director for issuing a  
10 restaurant license described in section 4-209, subsection B, paragraph 12.  
11 The director shall issue a restaurant license only if the applicant has  
12 submitted a plan for the operation of the restaurant. The plan shall be  
13 completed on forms provided by the department and shall include listings of  
14 all restaurant equipment and service items, the restaurant seating capacity  
15 and other information requested by the department to substantiate that the  
16 restaurant will operate in compliance with this section.

17 F. The holder of the license described in section 4-209, subsection B,  
18 paragraph 12 who intends to alter the seating capacity or dimensions of a  
19 restaurant facility shall notify the department in advance on forms provided  
20 by the department.

21 G. ~~Until January 1, 2015,~~ The director may charge a fee for site  
22 inspections conducted before the issuance of a restaurant license.

23 H. For the purposes of this section:

24 1. "Gross revenue" means the revenue derived from all sales of food  
25 and spirituous liquor on the licensed premises, regardless of whether the  
26 sales of spirituous liquor are made under a restaurant license issued  
27 pursuant to this section or under any other license that has been issued for  
28 the premises pursuant to this article.

29 2. "Restaurant" means an establishment that derives at least forty per  
30 cent of its gross revenue from the sale of food, including sales of food for  
31 consumption off the licensed premises if the amount of these sales included

1 in the calculation of gross revenue from the sale of food does not exceed  
2 fifteen per cent of all gross revenue of the restaurant."  
3 Renumber to conform  
4 Page 18, lines 39, 42 and 45, after the period insert "THE WINE MAY INCLUDE WINE  
5 PRODUCED PURSUANT TO SUBSECTIONS B AND D OF THIS SECTION."  
6 Page 19, line 6, after the period insert "THE PERCENTAGE LIMITATION SHALL NOT APPLY  
7 TO WINE PRODUCED PURSUANT TO SUBSECTIONS D AND E OF THIS SECTION."  
8 Line 12, strike "SUBSECTION C,"  
9 Line 13, strike "SECTION" insert "SUBSECTION"  
10 Page 20, line 29, strike "OTHER" insert "REMOTE"  
11 Line 31, strike "ANOTHER TASTING AND RETAIL LOCATION" insert "THE PREMISES"  
12 Line 34, after the period insert "THE FARM WINERY MAY SELL WINE TO A CONSUMER  
13 PHYSICALLY PRESENT ON THE PREMISES FOR CONSUMPTION ON OR OFF THE PREMISES."  
14 Line 36, strike "TWENTY-FIVE PERCENT" insert "TWENTY PER CENT"; after the period  
15 insert "THE PERCENTAGE LIMITATION SHALL NOT APPLY TO WINE PRODUCED PURSUANT  
16 TO SUBSECTIONS D AND E OF THIS SECTION."  
17 Line 38, strike "TASTING ROOMS" insert "PREMISES"  
18 Line 39, strike "REMOTE TASKING ROOMS" insert "PREMISES"  
19 Lines 41 and 42, strike "REMOTE TASTING ROOM" insert "PREMISES"  
20 Line 43, strike "REMOTE TASTING ROOM LOCATION" insert "PREMISES"  
21 Line 44, strike "SHALL BE" insert "IS"  
22 Page 21, between lines 2 and 3, insert:  
23 "G. A FARM WINERY LICENSEE MAY HOLD A CRAFT DISTILLERY LICENSE ISSUED  
24 PURSUANT TO SECTION 4-205.11 ON A SEPARATE PREMISES FROM THE FARM WINERY  
25 PREMISES. THE FARM WINE AND CRAFT DISTILLERY LICENSEE MAY ONLY PRODUCE  
26 SPIRITUOUS LIQUOR UP TO A GALLONAGE OF ONE THOUSAND GALLONS IN A CALENDAR  
27 YEAR FROM FRUIT PROCESSED AT THE WINERY FOR THE PRIMARY PURPOSE OF MAKING  
28 WINE. THE FARM WINE AND CRAFT DISTILLERY LICENSEE IS SUBJECT TO ALL OTHER  
29 REQUIREMENTS OF THIS SECTION AND SECTION 4-205.10."  
30 Reletter to conform

1 Page 22, lines 16 and 17, strike "IN ADDITION TO ANY OTHER PROVISION OF THIS  
2 TITLE,"

3 Line 20, strike "ONLY ON THE SURRENDER OF THE MICROBREWERY LICENSE"

4 Page 23, lines 35 and 37, strike "FISCAL" insert "CALENDAR"

5 Line 41, after the period insert "FOR THE PURPOSES OF THIS SECTION, ANNUAL  
6 GALLONAGE SHALL BE THE TOTAL FINISHED DISTILLED PRODUCT AVAILABLE FOR  
7 WHOLESALE OR RETAIL SALE."

8 Lines 44 and 45, strike "TWO THOUSAND THREE HUNDRED SEVENTY EIGHT" insert "FOUR  
9 THOUSAND SEVEN HUNDRED FIFTY-SIX"

10 Page 24, lines 18 and 19, strike ":

11 (a)"

12 Strike lines 21 through 24

13 Page 25, between lines 10 and 11, insert:

14 "D. ON APPLICATION BY A CRAFT DISTILLERY LICENSEE, THE DIRECTOR MAY  
15 AUTHORIZE A CRAFT DISTILLERY LICENSEE TO OPERATE ONE OTHER REMOTE TASTING AND  
16 RETAIL PREMISES IF:

17 1. THE DISTILLED SPIRITS SOLD AT THE PREMISES IS LIMITED TO DISTILLED  
18 SPIRITS PRODUCED OR MANUFACTURED BY THE LICENSED CRAFT DISTILLERY. THE CRAFT  
19 DISTILLERY MAY SELL TO A CONSUMER PHYSICALLY PRESENT ON THE PREMISES  
20 DISTILLED SPIRITS PRODUCED BY THE CRAFT DISTILLERY IN THE ORIGINAL CONTAINER  
21 FOR CONSUMPTION ON OR OFF THE PREMISES.

22 2. THE CRAFT DISTILLERY LICENSEE:

23 (a) REMAINS RESPONSIBLE FOR THE PREMISES.

24 (b) OBTAINS APPROVAL FOR THE PREMISES FROM THE LOCAL GOVERNING BODY  
25 BEFORE SUBMITTING AN APPLICATION TO THE DEPARTMENT. A COPY OF AN ORDER FROM  
26 THE LOCAL GOVERNING BODY RECOMMENDING APPROVAL OF THE PREMISES MUST BE FILED  
27 WITH THE DEPARTMENT AS PART OF THE APPLICATION.

28 (c) DOES NOT SUBLEASE THE PREMISES.

29 (d) HAS AN AGENT WHO SHALL BE A NATURAL PERSON WHO MEETS THE  
30 QUALIFICATIONS OF LICENSURE IN THIS STATE.

31 (e) MEETS THE QUALIFICATIONS FOR A LICENSE PURSUANT TO SECTION 4-203,  
32 SUBSECTION A."



1 Reletter to conform

2 Page 25, between lines 29 and 30, insert:

3 "Sec. 15. Title 4, chapter 2, article 1, Arizona Revised Statutes, is  
4 amended by adding section 4-205.11, to read:

5 4-205.11. Craft distillery festival license: craft distillery  
6 fair license; craft distillery fee

7 A. THE DIRECTOR, SUBJECT TO THE APPROVAL OF THE BOARD OF SUPERVISORS  
8 FOR EVENTS TO BE HELD IN AN UNINCORPORATED AREA OR THE GOVERNING BODY OF A  
9 CITY OR TOWN FOR EVENTS TO BE HELD IN A CITY OR TOWN, MAY ISSUE UP TO  
10 TWENTY-FIVE CRAFT DISTILLERY FESTIVAL LICENSES FOR EACH CALENDAR YEAR FOR  
11 EACH LICENSED CRAFT DISTILLERY, FOR UP TO A TOTAL OF SEVENTY-FIVE CALENDAR  
12 DAYS PER CRAFT DISTILLERY, AUTHORIZING SAMPLING OF CRAFT DISTILLERY PRODUCTS  
13 ON THE CRAFT DISTILLERY FESTIVAL PREMISES, THE SALE OF THE PRODUCTS FOR  
14 CONSUMPTION ON THE CRAFT DISTILLERY FESTIVAL PREMISES AND THE SALE OF THE  
15 PRODUCTS IN ORIGINAL CONTAINERS FOR CONSUMPTION OFF THE CRAFT DISTILLERY  
16 FESTIVAL PREMISES. THE DIRECTOR MAY ESTABLISH A PER DAY FEE FOR EACH EVENT  
17 FOR A CRAFT DISTILLERY FESTIVAL LICENSE.

18 B. ANY CRAFT DISTILLERY MAY APPLY FOR A CRAFT DISTILLERY FESTIVAL  
19 LICENSE PURSUANT TO THIS SECTION.

20 C. WITH THE PERMISSION OF THE STATE OR COUNTY FAIR ORGANIZERS, ANY  
21 CRAFT DISTILLERY IS AUTHORIZED TO ALLOW SAMPLING OF CRAFT DISTILLERY PRODUCTS  
22 ON THE FAIR PREMISES, THE SALE OF THE PRODUCTS FOR CONSUMPTION ON THE FAIR  
23 PREMISES AND THE SALE OF THE PRODUCTS IN ORIGINAL CONTAINERS FOR CONSUMPTION  
24 OFF OF THE FAIR PREMISES AT ANY SANCTIONED COUNTY OR STATE FAIR. THE DIRECTOR  
25 MAY ESTABLISH A PER DAY FEE FOR EACH EVENT FOR A CRAFT DISTILLERY FAIR  
26 LICENSE.

27 D. SECTION 4-201 DOES NOT APPLY TO THE LICENSES PROVIDED FOR UNDER  
28 THIS SECTION."

29 Renumber to conform

30 Page 27, line 31, strike "Until January 1, 2015,"

31 Page 29, lines 10 and 11, strike "OR A REPLACEMENT OF A TRANSFERRABLE LICENSE"

32 Line 16, strike "OR BE REPLACED WITH A SIMILAR TRANSFERABLE LICENSE"

1 Page 29, strike line 22, insert "ON THE DATE THE APPLICATION IS FILED, HAVE A VALID  
2 TRANSFERABLE OR NONTRANSFERABLE LICENSE OF THE SAME SERIES if the"

3 Page 30, between lines 30 and 31, insert:

4 "Sec. 18. Section 4-207.01, Arizona Revised Statutes, is amended to  
5 read:

6 4-207.01. Submission of floor plan required; alteration of  
7 licensed premises; ingress and egress to off-sale  
8 package sales in on-sale licensed premises

9 A. No licensee of premises approved for transfer or an original  
10 location of on-sale spirituous liquor license shall open such licensed  
11 premises to the public for sale of spirituous liquor until the licensee shall  
12 first have filed with the director floor plans and diagrams completely  
13 disclosing and designating the physical arrangement of the licensed premises,  
14 including whether the licensee intends to sell spirituous liquor by means of  
15 a drive-through or other physical feature of the licensed premises that  
16 allows a customer to purchase spirituous liquor without leaving the  
17 customer's vehicle, and shall have secured the written approval of the  
18 director to so open and operate such premises. The director may require the  
19 installation and maintenance of physical barriers around outside serving  
20 areas to control liquor service, delineate licensed premises and control the  
21 ingress and egress to and from the licensed premises for the purpose of  
22 providing for the safety of patrons and preventing underage possession and  
23 consumption, the removal of alcohol from the premises, the unauthorized  
24 bringing of alcohol onto the premises and the unauthorized consumption of  
25 alcohol in a public area or thoroughfare.

26 B. No licensee shall alter or change the physical arrangement of his  
27 licensed premises so as to encompass greater space or the use of different or  
28 additional entrances, openings or accommodations than the space, entrance or  
29 entrances, openings or accommodations offered to the public at the time of  
30 issuance of the licensee's license or a prior written approval of the  
31 licensed premises, without first having filed with the director floor plans  
32 and diagrams completely disclosing and designating the proposed physical

1 alterations of the licensed premises, including the addition of a  
2 drive-through or other physical feature to the licensed premises that allows  
3 a customer to purchase spirituous liquor without leaving the customer's  
4 vehicle, and shall have secured the written approval by the director. This  
5 subsection shall apply to any person to person transfer of the licensed  
6 premises. ~~Until January 1, 2015,~~ The director may charge a fee for review of  
7 floor plans and diagrams submitted by a licensee pursuant to this section.

8 C. The provisions of this section shall not be construed to prohibit  
9 in any way off-sale package sales in on-sale licensed premises, but the  
10 permission to open the premises to the public under subsections A and B shall  
11 not be granted if the licensee under the privilege provided for off-sale  
12 under an on-sale license proposes to maintain an off-sale operation with  
13 ingress and egress directly from the outside of such premises to such  
14 off-sale operation other than the ingress and egress provided for the on-sale  
15 operation of the licensed premises.

16 D. The provisions of this section shall apply to all applications,  
17 transfers and alterations."

18 Renumber to conform

19 Page 36, line 14, after "PARAGRAPH" insert a comma

20 Page 39, between lines 23 and 24, insert:

21 "Sec. 22. Section 4-222, Arizona Revised Statutes, is amended to read:

22 4-222. Registration of retail agents: fees

23 A. Every person who holds a bar, beer and wine bar, liquor store, beer  
24 and wine store, club, hotel-motel or restaurant license and who is authorized  
25 by other similarly licensed retailers to act as their retail agent shall  
26 register with the director. Such registration shall be in accordance with  
27 the ~~regulations~~ RULES adopted by the director pursuant to section 4-112 and  
28 shall also include a listing of the names and business addresses of those  
29 similarly licensed retailers who have authorized him to act as their retail  
30 agent. While possessing a certificate of registration, a retail agent shall  
31 be entitled to purchase and shall accept delivery of spirituous liquors for  
32 which he is licensed for and on behalf of himself and those similarly

1 licensed retailers who have authorized him to act as their retail agent WITH  
2 THE DELIVERY TO BE MADE AT THE RETAIL AGENT'S LICENSED PREMISES OR OTHER  
3 LOCATION AUTHORIZED BY THE DEPARTMENT. On the termination of such  
4 authorization by any retailer, the retail agent shall promptly notify the  
5 director. Nothing in this section shall require a wholesaler to sell malt  
6 beverages to a registered retail agent for distribution to other retailers.

7 B. A fee of five dollars shall be collected for each registered  
8 retailer in this state, and a fee of fifty dollars for each registered agent  
9 for a distillery, winery, brewery, importer or broker having its place of  
10 manufacture or business outside of the state.

11 C. The director shall issue a certificate of registration to each  
12 person so registered as provided in this section, and may, for good cause  
13 shown, cancel any certificate of registration so issued."

14 Renumber to conform

15 Page 40, line 5, strike "~~41~~ 40" insert "41"

16 Line 12, strike "Subject to subsection B of this section,"; strike "shall"  
17 insert "MAY"

18 Line 13, after "cooperative" strike remainder of line; strike lines 14 through  
19 19, insert "AT PRICES ESTABLISHED BY THE QUANTITY OF SPIRITUOUS LIQUOR BEING  
20 PURCHASED."

21 Reletter to conform

22 Line 31, strike "twenty" insert "TWO OR MORE"

23 Line 32, strike "or more established pursuant to section 4-222"

24 Page 43, line 26, strike "OF AMERICA"

25 Page 47, line 36, after "PREMISES" insert a period strike remainder of line; strike  
26 lines 37 and 38

27 Page 55, line 33, strike "COMPRISED" insert "COMPOSED"

1 Page 57, between lines 34 and 35, insert:

2 "Sec. 32. Section 4-244.05, Arizona Revised Statutes, is amended to  
3 read:

4 4-244.05. Unlicensed business establishment or premises;  
5 unlawful consumption of spirituous liquor; civil  
6 penalty; seizure and forfeiture of property

7 A. A person owning, operating, leasing, managing or controlling a  
8 business establishment or business premises which are not properly licensed  
9 pursuant to this title and in which any of the following occur shall not  
10 allow the consumption of spirituous liquor in the establishment or on the  
11 premises:

- 12 1. Food or beverages are sold.  
13 2. Entertainment is provided.  
14 3. A membership fee or a cover charge for admission is charged.  
15 4. A minimum purchase or rental requirement for goods or services is  
16 charged.

17 B. A person shall not consume spirituous liquor in a business  
18 establishment or on business premises which are not properly licensed  
19 pursuant to this title in which food or beverages are sold, entertainment is  
20 provided, a membership fee or a cover charge for admission is charged or a  
21 minimum purchase or rental requirement for goods or services is charged.

22 C. In addition to or in lieu of other fines or civil penalties imposed  
23 for a violation of this section or any other action taken by the board or  
24 director, the board or director may conduct a hearing subject to the  
25 requirements of section 4-210, subsection G to determine whether a person has  
26 violated subsection A of this section. If the board or director determines,  
27 after a hearing, that a person has violated subsection A of this section the  
28 board or director may impose a civil penalty of not less than two hundred nor  
29 more than five thousand dollars for each offense. A civil penalty imposed  
30 pursuant to this section by the director may be appealed to the board.

31 D. In addition to any other remedies provided by law, any monies used  
32 or obtained in violation of this chapter may be seized by any peace officer

1 if the peace officer has probable cause to believe that the money has been  
2 used or is intended to be used in violation of this section.

3 E. In addition to any other remedies provided by law, the records of  
4 an establishment that is in violation of this section may be seized by any  
5 peace officer if the peace officer has probable cause to believe that the  
6 establishment is operating without a valid license issued pursuant to this  
7 title.

8 F. In addition to any other remedies provided by law, any amount of  
9 alcohol may be seized by any peace officer if the peace officer has probable  
10 cause to believe that the alcohol is being used or is intended to be used in  
11 violation of this section.

12 G. In addition to any other remedies provided by law, the following  
13 property shall be forfeited pursuant to section 13-2314 or title 13,  
14 chapter 39:

15 1. All proceeds and other assets that are derived from a violation of  
16 this section.

17 2. Anything of value that is used or intended to be used to facilitate  
18 a violation of this section.

19 H. A person who obtains property through a violation of this section  
20 is deemed to be an involuntary trustee of that property. An involuntary  
21 trustee and any other person who obtains the property, except a bona fide  
22 purchaser who purchases the property for value without notice of or  
23 participation in the unlawful conduct, holds the property, including its  
24 proceeds and other assets, in constructive trust for the benefit of the  
25 persons entitled to remedies pursuant to section 13-2314 or title 13,  
26 chapter 39.

27 I. The board or director may adopt rules authorizing and prescribing  
28 limitations for the possession or consumption of spirituous liquor at  
29 establishments or premises falling within the scope of subsections A and B of  
30 this section. Rules adopted pursuant to this subsection shall authorize the  
31 possession or consumption of spirituous liquor only at establishments or

1 premises which permit the consumption or possession of minimal amounts of  
2 spirituous liquor and which meet both of the following criteria:

3 1. The possession or consumption of spirituous liquor is permitted  
4 only as an incidental convenience to the customers of the establishment or  
5 premises.

6 2. The possession or consumption of spirituous liquor is permitted  
7 only within the hours of lawful sale as prescribed in this title, and is  
8 limited to no more than ten hours per day.

9 J. Any rules adopted pursuant to subsection I of this section shall  
10 prescribe:

11 1. The maximum permitted occupancy of an establishment or premises.

12 2. The hours during which spirituous liquor may be possessed or  
13 consumed.

14 3. The amount of spirituous liquor that a person may possess or  
15 consume.

16 4. That the director, the director's agents and any peace officer  
17 empowered to enforce the provisions of this title, in enforcing the  
18 provisions of this title, may visit and inspect the establishment or premises  
19 during the business hours of the premises or establishment. ~~Until January 1,~~  
20 ~~2015,~~ The director may charge a fee for the inspection of unlicensed premises  
21 to review an application for exemption pursuant to this section.

22 K. Any rules adopted pursuant to subsection I of this section may  
23 prescribe separate classifications of establishments or premises at which  
24 spirituous liquor may be possessed or consumed and may establish any other  
25 provisions relating to the possession or consumption of spirituous liquor at  
26 establishments or premises falling within the scope of subsections A and B of  
27 this section which are necessary to maintain the health and welfare of the  
28 community.

29 L. This section does not apply to establishments or premises that are  
30 not licensed pursuant to this title and on which occurs the consumption of  
31 spirituous liquor if the establishment or premises are owned, operated,

1 leased, managed or controlled by the United States, this state or a city or  
2 county of this state."

3 Renumber to conform

4 Page 62, between lines 5 and 6, insert:

5 "Sec. 38. Severability

6 If a provision of this act or its application to any person or  
7 circumstances held invalid, the invalidity does not affect other provisions  
8 or applications of the act that can be given effect without the invalid  
9 provision or application, and to this end the provisions of this act are  
10 severable."

11 Renumber to conform

12 Amend title to conform

THOMAS R. SHOPE JR.

1397-p1-shope  
3/17/14  
11:01 AM  
H:laa