

Senate Bill 1460
50th Legislature, 1st Regular Session 2011

Senate Bill 1460, was signed by the Governor on Tuesday, April 19, 2011, with an effect date of July 20, 2011.

A.R.S. § 4-112 Is amended by adding Subsections G.10 and 11 as follows:

Subsection G.10 Allows the director to:

- 1) Purchase **fingerprint scanning** equipment;
- 2) Provide **fingerprint services** to licensed applicants and licensees; and
- 3) Charge a fee until January 1, 2015.

Subsection G.11 Allows the director to:

- 1) Accept **electronic signatures**; and
- 2) Adopt (rule) requirements that the facsimile signature be **followed by an original signature** within a specified time.

A.R.S. § 4-119 Is amended to require a licensee to **retain** all required **records for two years**.

A.R.S. § 4-201 (Deals with liquor application procedures and burden of proof) amends Subsections B, E and G.

Subsection B now requires any **natural** person (1 mile resident) who is in favor or opposed to the application with the right to file written arguments within 20 days of the date of posting, and **now** requires written arguments to contain:

- 1) The natural person's complete **name**;
- 2) Street or post office box **address**; and
- 3) Written or electronic **signature**.

If filed by a **natural** person on behalf of a **corporation or other legal entity or association** then the argument must be accompanied by:

- 1) A copy of the **entity's organizing documents**;
- 2) The designation of the **office or position** the person holds with the organization; and
- 3) A copy of **written appointment** of the person to speak on behalf of the organization.

If written arguments are filed on behalf of a **neighborhood association, block watch or other unincorporated association** then the written arguments must be accompanied by **letter of authority** designating that person as **spokesperson**.

Subsection E [Is amended similar to Subsection B as it relates to filing a written protest^[1] within 15 days of local government action or 60 days after filing the application with the director by a **natural** person (1 mile resident)] and **now** requires that the written argument contain:

- 1) Natural person's complete **name**;

^[1] Silent regarding persons in favor of the application.

- 2) Street **address** or post office box address; and
- 3) Written or electronic **signature**.

If argument filed by a **natural** person on behalf of **corporation or other legal entity** the legal argument must be accompanied by:

- 1) A copy of the **entity's organizing documents**;
- 2) A designation of the **office or position** that the person holds; and
- 3) A copy of the **written appointment** of the person to speak on behalf of the organization.

If filed by a **neighborhood association, block watch or other unincorporated association** written arguments must be accompanied by a **letter of authority** designating that person as **spokesperson**.

Allows the **director to request the board to cancel a hearing** if the reason for the protest is clearly removed or satisfied.

If, after hearing by the board, the license application has been **approved** and a formal order is not entered within 30 days, the decision is **deemed entered on the 30th day after the hearing**.

Subsection G^[2] - Exempts a person-to-person transfer of **transferable** license (6, 7 and 9) at the same location and as provided in A.R.S. § 4-203, Subsection A (**certain non-transferable licenses**) from **having to establish** that the **public convenience** and **best interests of the community** will be substantially served by the issuance of the license.

A.R.S. § 4-203 Amends Subsections A, C, E, F. and L.

Subsection A - Is amended to **exclude wholesaler, producer, government licensees** in addition to club licensees from establishing **public convenience** and **best interests of the community**, and provides that applications for issuance of a **non-transferable license, other than micro-brewery and domestic fine-winery licenses**, for a **location** that on the **date** of the **application** has a **valid** license of the **same series**, then there is a **“rebuttable presumption”** that the public convenience and best interests of the community **was established** at the time the location was **previously licensed**, provided the presumption **may be rebutted by competent contrary evidence** and shall **not apply** once the location has not been in use for **more than 180 days**. The **presumption does not apply** to the **personal qualifications** of the applicant.

Subsection C - Is amended to **delete “bulk sale”** and **add “sale of the license”** as a permissible person-to-person transfer of a series 6, 7 or 9 license.

Subsection E - Changes **from 15 to 30** days the time **transferor** must give **notice of assignments, surrender, transfer or sale** of a liquor license to Department is required.

Subsection F - Changes **from 15 to 30** days the time acquiring party must give **notice of acquisition** of control to the Department.

Subsection K - Is amended to **allow all Arizona licensees to transport spirituous** liquor for themselves in vehicles owned, leased or rented by such licensee. Prior to amendment, only non-retail licensees

^[2] Has been standard practice pursuant to case law.

could transport spirituous liquor for themselves. This Section does not impact Subsection J which allows a retail licensee to maintain a delivery service.

A.R.S. § 4-203.02 Adds Subsections H, I and J.

Subsection H - Is added to allow **wholesaler** to **donate** directly to a **special event licensee** and must issue a net **zero cost billing invoice** in the name of the special event licensee. All limitations and requirements of Title 4 and its rules apply to the wholesaler and special event licensee.

Subsection I - Is added to allow **wholesalers** to **temporarily leave delivery vehicle and** other items of **equipment** necessary for the sale and service of spirituous liquor on the special event premise **one day before, during and one day after the event.**

Subsection J - Is added to allow a **wholesaler** to leave spirituous **liquor product at the special event** if properly described on the preliminary **billing** invoice issued in the **name** of the off-sale **retailer**, which also names the **special event licensee**. The wholesaler has **five days after the special event to make billing adjustments** and issue a final billing invoice to the off-sale retailer and special event licensee.

A.R.S. § 4-205.02 Adds Subsection G which allows the director to charge a **fee** for site **inspection** before issuance of a **restaurant** license.

A.R.S. § 4-205.05 Amends Subsection A and adds Subsection B.

Subsection A - Is amended to **change** authority **from board to director** to issue temporary authorization to **dispose** at public auction **seized liquor** by the state, federal and political subdivision; allows director to dispose of **seized liquor** by providing it to law enforcement for training purposes only.

Subsection B - Is added to provide that **liquor** with an **expiration date** shall **not be offered for sale at public auction** and must either be destroyed or disposed of as provided in A.R.S. § 4-205.05. The **wholesaler** that distributes the liquor brand in that territory **may, but is not required to, accept a return of liquor** at no cost for disposal or to be returned to the supplier.

A.R.S. § 4-205.06 Is amended to delete Subparagraph A.1 which previously prohibited hotels from giving minibar keys to guests between the hours of 1:00a.m.-6:00a.m.

Old Subsection A.4 is now Subsection A.3 - Is amended to change the hours of restocking minibars from between 1:00a.m. and 6:00a.m., to between 2:00a.m. and 6:00a.m.

A.R.S. § 4-206.01^[3] Amends Subsections B, F, I, J and L.

Subsection B - Is amended to change reference from DES to the Office of Employment and Population Statistics within the Arizona Department of Administration.

Subsection F - Is amended to change the amount of liquor a **series 6 or series 7** licensee may sell for **off-premise use from 10% to 30%**. Dual licenses issued or a second license at a single site, **other than**

^[3] Retroactive to and from December 31, 2010, per Section 20 Laws 2010, Chapter 85, Section 23.

settlement licenses issued pursuant to Section 4 of House Bill 2002^[4], have the burden of establishing public convenience and best interest in the community.

Subsection I - Is amended to correct statutory references to correspond to amendments to those statutes.

Subsection J - Is amended to allow series **10 licensees** to apply for **sampling privileges** if the premises contain at least **5,000 sq. ft.** and provides that until January 1, 2015, the **director may charge a fee** for processing sampling privileges or renewal fee, **but city or town shall not charge any fee** relating to the issuance or renewal of the sampling privilege.

Subsection L - Is amended to allow director to **issue a series 10 license to a series 6 licensee** at the **same premises** and if series 10 and series 6 are issued to the same premises they must be owned by the **same licensee**, and for the purpose of reporting liquor purchases all off-sale beer and wine sales are presumed to be purchased under the series 10 license.

A.R.S. § 4-207 Adds **Subsection C.5** which allows location to **be downgraded from series 9 to series 10 license** if **within 300 ft.** of school or church, similar to upgrading from series 10 to series 9 provided for in Subsection C.3.

A.R.S. § 4-207.01 **Subsection B** is amended to allow the director to charge a **fee** until January 1, 2015, for the **review of floor plans** and diagrams submitted by an applicant for a change in a licensed premise.

A.R.S. § 4-210.01 Adds **Subsection B** authorizing the director to establish **civil penalty** in form of single payment or installments.

A.R.S. § 4-224 Is amended to **prohibit city, town or county from adopting ordinances or regulations in conflict with rules adopted pursuant to Title 4** and prohibiting them from limiting any right granted by license, Title 4 or rules adopted pursuant to Title 4. **A city, town or county may enforce lawful zoning requirement, however, zoning shall not be a basis for protesting or denying a license.**

A.R.S. § 4-229 **Subsection E** is amended to allow licensee to post **signs prohibiting fire arms** on the premises in **more than one location** on the premises.

A.R.S. § 4-241 **Subsection H.2** is amended by **deleting** the requirement of a **signature when** an electronic file or printed document is produced by a **device that reads the persons age** from the identification (Viage-type scanner or cash register scanner).

A.R.S. § 4-244 **Subsection 3** is amended to allow distillers, brewers and wholesalers **to donate up to \$500 rather than \$100 to federally tax exempt entities**, per Section 501(C)(3), (4), (6) or (7) of the IRS code.

A.R.S. § 4-244.05 **Subsection J.4** is amended to allow a director to charge a **fee for inspecting unlicensed premises**, pursuant to an application for **exemption**.

A.R.S. § 4-262 Is amended to change requirement to **display liquor license** in a conspicuous place **from on-sale licensees only to all retail licensees**.

^[4] Prior to January 1, 2012.

A.R.S. § 9-500.06 Old Subsection E is **deleted** which **excluded cities** or towns with populations of **100,000 persons or less**. (They are now included.)

Added new Subsection E that provides the collection by a city or town of a **fee or tax prohibited** by A.R.S. § 9-500.06 is **void** and unlawful, and for **five years** following the unlawful collection the city or town **shall reimburse the hospitality business** for reasonable **expenses** incurred in collecting from the city or town any fees or tax unlawfully collected.

Section 20, Laws 2010, Chapter 85, Section 4 Is amended to allow the **surrender of a series 6** used primarily for off-premise sales and **receive a free series 9** changed from **January 1, 2011 to January 1, 2012** (extra year), and providing that after January 1, 2012, usual renewal fees for replacement licenses shall apply.

Subsection C - Series 7 licensee may apply for a **series 10 license** and if applied for **prior to January 1, 2012, no cost** or fee shall be charged, however, **after January 1, 2012, the usual renewal fees apply** (old law had no expiration date for the free fee). Series 10 licensees having sampling privileges shall comply with the limitations set forth in A.R.S. § 4-206.01, Subsection J and the department shall indicate on the license the sampling privilege which is nontransferable.

Subsection D - Added, prohibiting a city, town or county from collecting any fee associated with issuance of supplemental licensing or sampling privileges issued pursuant to Section 4 (Paragraph A replaces 9s for 6 before January 1, 2012; issue 10 to 7 before January 1, 2012) **and may not collect any fee associated with the original placement license.**

Section 21 New fees collected by department are appropriated to department and must be collected in a nondiscriminatory manner.

Section 22 Department is exempted from rule making requirements of Title 41, Chapter 6, for the purpose of establishing new fees permitted by the act until July 1, 2015, but must provide public notice and opportunity for public comment at least 30 days before rules are adopted or amended.

Section 23 Provides that Section **4-206.01** as amended by Senate Bill 1460, **is retroactive to and from December 31, 2010.**

These will be effective on July 20th

House Bill 2357
50th Legislature, 1st Regular Session 2011

Amends A.R.S. § 4-244.02 by adding **Subsection B** by, to the extent permitted by federal law, allowing military members to import more than one liter of liquor for personal use, if corresponding to return from tour of duty in foreign country, and if the amount exceeds the federal duty-free amount, the military member is responsible for payment of federal taxes for quantities in excess of the duty-free amount, and allows the department to issue letters of exemption.