

## NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. §§ 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

### NOTICE OF EXEMPT RULEMAKING

#### TITLE 9. HEALTH SERVICES

#### CHAPTER 32. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM PRESCRIPTION MEDICATION COVERAGE PILOT PROGRAM

##### PREAMBLE

**1. Sections Affected**

R9-32-101  
R9-32-201  
R9-32-202  
R9-32-203  
R9-32-204  
R9-32-301  
R9-32-401  
R9-32-402  
R9-32-501  
R9-32-502  
R9-32-503  
R9-32-504

**Rulemaking Action**

New Section  
New Section  
New Section  
New Section  
New Section  
New Section  
New Section  
New Section  
New Section  
New Section  
New Section  
New Section

**2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: Laws 2001, Ch. 347, § 1

Implementing statute: Laws 2001, Ch. 347, §§ 1 and 3

**3. The effective date of the rules:**

November 1, 2001

**4. A list of all previous notices appearing in the Register addressing the exempt rule:**

Notice of Rulemaking Docket Opening: 7 A.A.R. 2235, June 1, 2001

Notice of Public Meeting on Open Rulemaking Docket: 7 A.A.R. 3853, August 31, 2001

**5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Cheri Tomlinson, Federal and State Policy Administrator

Address: AHCCCSA, Office of Policy Analysis and Coordination  
801 E. Jefferson, Mail Drop 4200  
Phoenix, AZ 85034

Telephone: (602) 417-4198

Fax: (602) 256-6756

**6. An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from the regular rulemaking procedures:**

Laws 2001, Ch. 347, § 2 exempts the Administration from the rulemaking requirements of A.R.S. Title 41, Chapter 6 for the purposes of implementing the Prescription Medication Coverage Pilot Program. The Administration created a new Chapter, 9 A.A.C. 32, to comply with Laws 2001, Ch. 347 by establishing rule language for the Pre-

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scription Medication Coverage Pilot Program.

**7. A reference to any study that the agency relied on in its evaluation of or justification for the rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**

Not applicable

**8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**9. The summary of the economic, small business, and consumer impact:**

Not applicable

**10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

Not applicable. The Administration is exempt from filing a Notice of Proposed Rulemaking for 9 A.A.C. 32, under Laws 2001, Ch. 347, § 2.

**11. A summary of the principal comments and the agency response to them:**

The Administration notified interested parties that the rule language was posted on the AHCCCS web site. According to Laws 2001, Ch. 347, § 2, the Administration conducted public hearings on October 2, 2001, in Yuma, Sierra Vista, and Phoenix, with a video conference public hearing to Tucson and Flagstaff, Arizona. The Administration received oral and written comment. The Administration received two letters regarding the proposed rule from the National Associate of Chain Drug Stores (NACDS) and AARP. Comments and responses pertaining to the proposed rule are as follows:

**Rule Citation:** R9-32-202(B)

**Comment:** Arizona AARP states that the prescription medication coverage pilot program will start November 1, 2001. AARP suggests that the program should be extended to December 30, 2003 given sufficient funding, or until a better federal prescription program is available.

**Response:** It is the Laws of 2001, Ch. 347 that established the expiration date of June 30, 2003. A statutory change is required before the rule can be changed.

**Rule Citation:** R9-32-301(A)

**Comment:** American Cancer Society requested clarification on FDA approved drugs.

**Response:** Laws 2001, Ch. 347 requires FDA approval of drugs. Only FDA approved drugs can be reimbursed under the pilot program.

**Rule Citation:** R9-32-301(C)(2)

**Comment:** Safeway Inc. asked what provisions are made for getting a prescription when a member goes on a vacation or loses a prescription.

**Response: Vacation:** The above citation states that the member may receive up to 100 days or 100-unit dose if the member will be out of the service area.

**Loss:** The participating pharmacies will have to obtain prior authorization.

**Rule Citation:** General

**Comment:** NACDS wants to ensure that the PBM provides and pays for a complete range of pharmacy benefits including counseling and disease management provided by community pharmacies.

**Response:** Participating pharmacies are expected to adhere to the standards of practice dictated by the pharmacy industry.

**12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None

**13. Incorporations by reference and their location in the rules:**

None

**14. Was this rule previously adopted as an emergency rule? If so, please indicate the Register citation:**  
No

**15. The full text of the rules follows:**

**TITLE 9. HEALTH SERVICES**

**CHAPTER 32. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)**  
**PRESCRIPTION MEDICATION COVERAGE PILOT PROGRAM**

**ARTICLE 1. DEFINITIONS**

Section

R9-32-101. General Definitions

**ARTICLE 2. GENERAL PROVISIONS AND STANDARDS**

Section

R9-32-201. General Requirements  
R9-32-202. Funding and Expenditures  
R9-32-203. Pilot Program Termination  
R9-32-204. Termination Notification

**ARTICLE 3. SCOPE OF SERVICES**

Section

R9-32-301. Pharmaceutical Services

**ARTICLE 4. PILOT PROGRAM DEDUCTIBLES AND BENEFITS**

Section

R9-32-401. Deductibles  
R9-32-402. Benefits

**ARTICLE 5. ELIGIBILITY AND ENROLLMENT**

Section

R9-32-501. Conditions of Eligibility  
R9-32-502. Applications  
R9-32-503. Enrollment  
R9-32-504. Reenrollment

**ARTICLE 1. DEFINITIONS**

**R9-32-101. Location of Definitions**

**A. Location of definitions. Definitions applicable to this Chapter are found in the following:**

<u>Definition</u>	<u>Section or Citation</u>
<u>“Administration”</u>	<u>R9-32-101</u>
<u>“Applicant”</u>	<u>R9-32-101</u>
<u>“Application”</u>	<u>R9-32-101</u>
<u>“Completed application”</u>	<u>R9-32-101</u>
<u>“Day”</u>	<u>R9-32-101</u>
<u>“Director”</u>	<u>R9-32-101</u>
<u>“Enrollment fee”</u>	<u>R9-32-101</u>
<u>“Fiscal Year”</u>	<u>R9-32-101</u>
<u>“FPL”</u>	<u>R9-32-101</u>
<u>“Member”</u>	<u>R9-32-101</u>
<u>“PBM”</u>	<u>R9-32-101</u>
<u>“Participating pharmacy”</u>	<u>R9-32-101</u>
<u>“Pilot program”</u>	<u>R9-32-101</u>
<u>“Prescription quantities”</u>	<u>R9-32-101</u>

**B. General definitions. The words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:**

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“Administration” means the Arizona Health Care Cost Containment System (AHCCCS) Administration under A.R.S. § 36-2901.

“Applicant” means a person who submits or whose representative submits a written, signed, and dated application for AHCCCS benefits under this Chapter that has not been approved or denied.

“Application” means an official request for prescription medication coverage under this Chapter.

“Completed Application” means the applicant or representative:

Submits a legible application with appropriate responses for all information requested.

Signs and dates the application, and

Encloses the enrollment fee.

“Day” means a calendar day.

“Director” means the Director of the AHCCCS Administration.

“Enrollment Fee” means the fee established by the Administration under Laws 2001, Ch. 347.

“Fiscal Year” means the time-range from July 1 through June 30.

“FPL” means the federal poverty guidelines updated annually in the Federal Register by the United States Department of Health and Human Services.

“Member” means a person who enrolls in the Pilot Program.

“PBM” means pharmaceutical benefit management company or pharmacy administrator designated by the Administration to manage the pharmacy administrative services under the Pilot Program.

“Participating Pharmacy” means a pharmacy that contracts with the PBM to dispense medications as part of the Pilot Program.

“Pilot Program” means Prescription Medication Coverage Pilot Program established under Laws 2001, Ch. 347.

“Prescription Quantities” means a prescription, which is written for a therapeutic supply of medications up to a maximum of a 30-day supply or 100-unit dose.

**ARTICLE 2. GENERAL PROVISIONS AND STANDARDS**

**R9-32-201. General Requirements**

Under Laws 2001, Ch. 347, the Administration has full operational authority to adopt rules to establish a Pilot Program. The Administration shall administer the Pilot Program under Laws 2001, Ch. 347. The Administration shall provide pharmacy services subject to expenditure limits under Laws 2001, Ch. 347 and this Chapter.

**R9-32-202. Funding and Expenditures**

**A. Funding.** Enrollment in the Pilot Program is limited to funding and time-frames under Laws 2001, Ch. 347 and this Chapter.

**B. Time-frames.**

1. The Pilot Program begins November 1, 2001.
2. The Administration or PBM shall not accept applications on or after December 1, 2002.
3. The Administration or PBM shall not issue an enrollment or reenrollment card to an applicant or member after December 30, 2002.
4. An enrollment card, issued by the Administration or PBM on or after July 1, 2002, shall expire no later than July 1, 2003.
5. All enrollment cards shall expire July 1, 2003 and the Administration or PBM shall not provide benefits on or after that date.
6. The Pilot Program is repealed October 1, 2003 under Laws 2001, Ch. 347.

**C. Administration’s Expenditure.**

1. The Administration shall disperse funds for fiscal years 2002 and 2003 under Laws 2001, Ch. 347.
2. The Administration shall cover 50 percent of the cost of a member’s prescription medication that exceeds the deductible amounts for the duration of the enrollment period under Article 4.
3. If less than 75 percent of the appropriation for fiscal year 2002 is expended, the Administration may reduce the deductible amounts up to \$300 for the next fiscal year.
4. The Administration or PBM shall terminate paying claims when:
  - a. Funds are exhausted for fiscal year 2002. The Administration or PBM shall resume the Pilot Program in the new fiscal year beginning July 1, 2002 utilizing the fiscal year 2003 allocation.
  - b. Funds are exhausted for fiscal year 2003 prior to July 1, 2003.
  - c. The Pilot Program ends under Laws 2001, Ch. 347.

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**R9-32-203. Pilot Program Termination**

- A.** The Administration or PBM shall not provide coverage for prescriptions purchased on or after July 1, 2003.
- B.** The Pilot Program is terminated on either October 1, 2003, or the date on which a federal law takes effect that provides coverage equal to or greater than the coverage provided by this Chapter whichever date occurs first. If the Pilot Program is terminated because of the federal law the Administration or PBM shall:
1. Immediately stop processing all applications, and
  2. Provide reimbursement to all members until the member's current eligibility expires.

**R9-32-204. Termination Notification**

The Administration or PBM shall provide a 30 day notice to a member regarding the Pilot Program termination or if funds are exhausted for the fiscal year.

**ARTICLE 3. SCOPE OF SERVICES**

**R9-32-301. Pharmaceutical Services**

- A.** The Administration or PBM shall reimburse the participating pharmacies for prescription medication as defined by this Chapter, which is approved by the federal food and drug administration and purchased within the United States.
- B.** The Administration or PBM shall ensure that pharmaceutical services provided by the participating pharmacies are available during customary business hours. The Administration or PBM shall provide the member with the list of participating pharmacies.
- C.** The following limitations shall apply to prescription quantities. A prescription in excess of a 30-day supply or a 100-unit dose is not covered unless:
1. The medication is prescribed for chronic illness and the prescription is limited to no more than a 100-day supply or 100-unit dose, whichever is greater.
  2. The member will be out of the provider's service area for an extended period of time and the prescription is limited to the extended time period, not to exceed 100 days or 100-unit dose, whichever is greater.
  3. The medication is prescribed for birth control and the prescription is limited to no more than a 100 day supply.

**ARTICLE 4. PILOT PROGRAM DEDUCTIBLES AND BENEFITS**

**R9-32-401. Deductibles**

- A.** Deductibles for an enrollment period are calculated prospectively.
1. The member shall use the enrollment card to activate the deductible process. The PBM shall track purchases made with the card to calculate when the member has met the deductible amount specified in subsection (B).
  2. For purchases which occur without the use of the enrollment card, the PBM shall not apply any prescription medication cost towards the deductible.
- B.** A member who meets all conditions of eligibility in Article 5 shall pay 50 percent of the prescription drug costs after meeting the deductible for the enrollment period.
1. A member with income above 100 percent but not more than 150 percent of the FPL shall have a deductible of \$500 per year.
  2. A member with income above 150 percent but not more than 200 percent of the FPL shall have a deductible of \$1000 per year.

**R9-32-402. Benefits**

Benefits are prospective.

1. A member shall present the enrollment card at the time of each purchase.
2. The member shall use the enrollment card to:
  - a. Activate the benefit process, and
  - b. Receive benefits.
3. The 50 percent benefit begins immediately after the deductible is met.
4. For purchases which occur without the use of the enrollment card, a participating pharmacy shall not give the member the 50 percent benefit.

**ARTICLE 5. ELIGIBILITY AND ENROLLMENT**

**R9-32-501. Conditions of Eligibility**

To be eligible for the Pilot Program, an applicant shall:

1. Qualify for Medicare;
2. Be an Arizona resident and reside in a county that either:
  - a. Does not have a Medicare Health Maintenance Organization (HMO), or
  - b. Has a Medicare HMO that does not provide prescription drug benefits;
3. Have an income above 100 percent but not more than 200 percent of the FPL;
4. Submit a completed application; and

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5. Not be currently eligible for prescription drug coverage through another program administered by AHCCCS.

**R9-32-502. Applications**

- A.** Availability. The Administration or PBM shall not accept applications after December 1, 2002. The application form will contain questions specific to the Pilot Program.
- B.** Submission of Application.
1. The applicant shall submit the enrollment fee and the completed application by mail.
  2. The applicant shall pay the enrollment fee in the form of:
    - a. Cashier's check.
    - b. Personal check.
    - c. Money order, or
    - d. Credit or debit card.
- C.** Date of Application. The Administration or PBM shall consider the date of application as the date the completed application is received and date stamped.
- D.** Time-frames for Determining Eligibility.
1. The Administration or PBM shall review the application and contact the applicant by telephone or by mail if the application is incomplete. The applicant must respond within 20 days of contact by the Administration or PBM with the additional information and or enrollment fee.
  2. The Administration or PBM shall determine eligibility and issue a notice within 30 days from the date a completed application is received.
- E.** Notice of Approval. The Administration or PBM shall notify the applicant in writing of the approval of the application under subsection (D)(2) and R9-32-503.
- F.** Notice of Adverse Action.
1. The Administration or PBM shall notify the applicant in writing of the denial of the application within 30 days from the date a completed application is received. The Administration or PBM may deny the application if the applicant fails to:
    - a. Provide the requested information.
    - b. Meet the conditions of eligibility under R9-32-501, or
    - c. Submit the application timely under subsection (D)(1).
  2. The Administration or PBM shall return the enrollment fee in a timely manner.
  3. The applicant may file a grievance and request a hearing under 9 A.A.C. 22, Article 8 concerning the denial of the application or the calculation of the deductible amount.

**R9-32-503. Enrollment**

- A.** The Administration or PBM shall notify the applicant in writing of the approval of the application within 30 days from the date a completed application is received and include, at a minimum:
1. An approval letter which contains:
    - a. The required annual deductible.
    - b. Information regarding the enrollment card and its use as a tracking mechanism for purchases.
    - c. Period of enrollment, and
    - d. A member's responsibility for reporting income or county of residence changes;
  2. An enrollment card; and
  3. A list of participating pharmacies.
- B.** The Administration or PBM shall issue an enrollment card for a 12 month period with the following exceptions:
1. The Administration or PBM shall not issue an enrollment or reenrollment card to an applicant or member after December 30, 2002.
  2. An enrollment card, issued by the Administration or PBM on or after July 1, 2002, shall expire no later than July 1, 2003.
  3. All enrollment cards shall expire July 1, 2003, and the Administration or PBM shall not provide benefits on or after that date.
- C.** Discontinuance of approved benefits.
1. Enrollment shall discontinue prior to the period specified in subsection (B) if:
    - a. The member's income increases above 200 percent of the FPL, or
    - b. The member qualifies for and receives prescription coverage from another AHCCCS program, or
    - c. The member moves to a county that has a HMO offering prescription drug coverage, or
    - d. The member moves out of state.
  2. The Administration or PBM shall issue a Notice of Adverse Action if benefits are discontinued.
  3. The applicant may file a grievance and request a hearing under 9 A.A.C. 22, Article 8.

**R9-32-504. Reenrollment**

- A.** The Administration or PBM shall notify the member 60 days prior to the expiration of the enrollment card of the need to submit a renewal application and reenrollment fee.
- B.** The Administration or PBM shall notify the member regarding reenrollment status under R9-32-503.

**NOTICE OF EXEMPT RULEMAKING**

**TITLE 17. TRANSPORTATION**

**CHAPTER 4. DEPARTMENT OF TRANSPORTATION  
TITLE, REGISTRATION, AND DRIVER LICENSES**

**PREAMBLE**

- 1. Sections Affected:** **Rulemaking Action:**  
R17-4-311 New Section
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statute: A.R.S. § 28-366  
Implementing statute: A.R.S. § 28-2404
- 3. The effective date of the rules:**  
November 2, 2001
- 4. A list of all previous notices appearing in the Register addressing the exempt rule:**  
None
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: George R. Pavia, Department Rules Supervisor  
Address: Administrative Rules Unit  
Department of Transportation, Mail Drop 507M  
3737 N. 7th Street, Suite 160  
Phoenix, AZ 85014-5079  
Telephone: (602) 712-8446  
Fax: (602) 241-1624  
E-mail: gpavia@dot.state.az.us
- 6. An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from the regular rulemaking procedures:**  
The agency makes this rule to comply with the requirement of A.R.S. § 28-2404(D) to provide a listing of special organization plates authorized for issue upon application by qualified applicants.  
Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters:  
[www.dot.state.az.us/about/rules](http://www.dot.state.az.us/about/rules).
- 7. A reference to any study that the agency relied on in its evaluation of or justification for the rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**  
Not applicable
- 8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**  
Not applicable
- 9. The summary of the economic, small business, and consumer impact:**  
Exempt under A.R.S. § 28-2404(D)

**10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

None

**11. A summary of the principal comments and the agency responses to them:**

The agency received no comments in this rulemaking.

**12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None

**13. Incorporations by reference and their location in the rules:**

None

**14. Was this rule previously adopted as an emergency rule?**

No

**15. The full text of the rules follows:**

TITLE 17. TRANSPORTATION

CHAPTER 4. ARIZONA DEPARTMENT OF TRANSPORTATION  
TITLE, REGISTRATION, AND DRIVER LICENSES

ARTICLE 3. ~~TRANSFERRED~~ VEHICLE REGISTRATION

Section

R17-4-311. Special Organization Plate List

ARTICLE 3. ~~TRANSFERRED~~ VEHICLE REGISTRATION

**R17-4 311. Special Organization Plate List**

As required under A.R.S. § 28-2404(D), Motor Vehicle Division provides the following list of special organization license plates authorized by the state license plate commission and available for issue to qualified applicants:

1. Firefighter.
2. Fraternal Order of Police.
3. Legion of Valor, and
4. National Guard.

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TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING

CHAPTER 1. DEPARTMENT OF LIQUOR LICENSES AND CONTROL

PREAMBLE

**1. Sections Affected**

R19-1-204

R19-1-250

**Rulemaking Action**

Amend

Amend

**2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 4-112(B)(1)

Implementing statute: Laws 2001, Ch. 352, § 6

Statute authorizing the exemption: Laws 2001, Ch. 352, § 6

**3. The effective date of the rules:**

November 2, 2001

**4. A list of all previous notices appearing in the Register addressing the exempt rule:**

Not applicable



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- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Lt. Richard J. Gilchrist  
Address: Department of Liquor Licenses and Control  
800 W. Washington, Suite 500  
Phoenix, AZ 85007  
Telephone: (602) 542-5141  
Fax: (602) 542-6799  
E-mail: gilchrir@ll.state.az.us
- 6. An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation of the exemption from the regular rulemaking procedures:**  
Laws 2001, Ch. 352, § 6 gives the Department an exemption from the Administrative Procedure Act to modify rules under A.R.S. 4-112(B)(1); this statute gives the Department the authority to establish rules for carrying out the provisions of Title 4. R19-1-204, Sign Limitations provides the Liquor Industry with guidelines for providing advertising signs and their cost to industry retailers. R19-1-250, Exceptions to General Rule provides the Liquor Industry with guidelines for producer/wholesaler furnishing retail customers with items of value; print advertising; malt beverage product returns and sampling procedures.
- 7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**  
Not applicable
- 8. A reference to any study that the agency relied on in its evaluation of, or justification for the rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**  
Not applicable
- 9. The summary of the economic, small business, and consumer impact:**  
Not applicable
- 10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**  
Not applicable
- 11. A summary of the principle comments and the agency response to them:**  
Stakeholder comments and the agency responses were in concert on all proposed changes.
- 12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**  
Not applicable
- 13. Incorporations by reference and their location in the rules:**  
Not applicable
- 14. Was this rule previously adopted as an emergency rule?**  
No
- 15. The full text of the rules follows:**

**TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING**

**CHAPTER 1. DEPARTMENT OF LIQUOR LICENSES AND CONTROL**

**ARTICLE 2. DIRECTOR**

Section  
R19-1-204. Sign Limitations  
R19-1-250. Exceptions to General Rule

**ARTICLE 2. DIRECTOR**

**R19-1-204. Sign Limitations**

- A.** ~~No~~ A person, firm, or corporation engaged in business as a manufacturer, distiller, brewer, vintner, or wholesaler or any officer, director, agent, or employee of such person ~~shall directly or indirectly may furnish, give, lend, rent, or sell to the retailer any sign for interior or exterior use exceeding 864 square inches in area, and said sign, for exterior use shall not exceed 864 square inches, provided; that no~~
1. The sign must bear conspicuous and substantial advertising matter about a product of the manufacturer, distiller, brewer, vintner, or wholesaler.
  2. The cost of the sign may not exceed \$400.
  3. A sign may not be utilitarian except as to its advertising or information content.
  4. No such signs shall be offered or furnished by any manufacturer, distiller, brewer, vintner or wholesaler or by any officer, director, agent, or employee thereof, or by any other person as an inducement to the retailer to purchase or use the products of such manufacturer, distiller, brewer, vintner or wholesaler to the exclusion in whole or in part of the product of any competitor.
- B.** ~~No outside sign or signs which in whole or in part advertise any alcoholic beverage may be erected or maintained by a licensed retailer at his own expense or erected or maintained on the premises of a licensed retailer by a manufacturer, distiller, brewer, vintner or wholesaler which exceeds in area 864 square inches which may be visible from any given point.~~
- ~~C.B.~~ No signs or other advertising matter used in connection with the licensed premises of any retailer of alcoholic beverages shall be of any obnoxious, gaudy, blatant, offensive or obscene nature as determined by applying contemporary state standards.
- D.** ~~The department will exercise discretion in regards to temporary signs complying with the above cited requirements. A sign is temporary if it is not displayed outside the retail establishment for longer than 7 days or inside for longer than 45 days. The temporary sign may be any size or made of any material. It may not be utilitarian except as to its advertising content.~~
- C.** Licensed special events are not subject to the limitations of subsections (A)(1) through (3).
- E.** Special events fully licensed are not subject to this limitation. Furnishing advertising copy (ad slicks) of nominal value is permissible. A poster may advertise an event in advance of the event as long as it meets these same requirements and is visible from inside establishments only.

**R19-1-250. Exceptions to General Rule**

- A.** The following are exceptions in which producers/wholesalers may furnish to the retailer something of value, as long as the retailer is not induced to purchase spirituous liquor from the producer/wholesaler to the exclusion, in whole or in part, of spirituous liquor sold or offered for sale by other persons.
- B.** Licensed special events
1. A producer/wholesaler may participate in an event at which liquor is sold by furnishing advertising, sponsorship, services, or other things of value as long as:
    - a. The event has been issued a special event license.
    - b. The special event license was issued to a civic, religious, or fraternal group, but not a political group.
    - c. If the event is being held at a location that is a licensed retail location nothing of value is left at the location or given to the retailer or retail employees at or following the event.
  2. A producer/wholesaler may donate, but not sell directly to the group issued the special event license as long as it is not a political group. If the special event licensee is buying spirituous liquor at retail to resell, the wholesaler may invoice the sale through a retailer following completion of the event.
  3. At a location issued a special event license spirituous liquor sales may be handled in the following ways:
    - a. In the case of an otherwise unlicensed location the nonprofit group is responsible for sales of spirituous liquor.
    - b. In case of a licensed retail location one of the following may occur:
      - i. During the special event the regular licensee ceases all sales of spirituous liquor and the nonprofit group is responsible for all sales of spirituous liquor.
      - ii. During the special event the regular licensee conducts all dispensing/serving under the regular retail license and the nonprofit group does none. The regular licensee is responsible for proper service. The liquor dispensed is that purchased by the retailer from the wholesaler.
      - iii. During the special event the regular licensee conducts all dispensing/serving under the special event license and the nonprofit group does none. The regular licensee and the special event licensee are responsible. The spirituous liquor dispensed is that purchased/donated by/to the special event licensee.
      - iv. During the special event the licensed location is split into an area in which the regular licensee exclusively dispenses and is responsible for all spirituous liquor sales and another separate area in which the nonprofit group exclusively dispenses and is responsible for all spirituous liquor sales.
- C.** Resets; rotations; displays

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1. The producer/wholesaler may stock, reset, and rotate at the retail establishment any product that he or she sells to the retailer. Such stocking may include pricing, cleaning shelves, furnishing point of sale written advertising that includes pricing data (as long as it complies with sign limitations), rotating product, cleaning product, or otherwise preparing the product for sale at the point of sale, but may not perform these functions in warm or cold storage areas from which the consumers may not purchase product. Retailers shall not require stock reset or rotation as a condition of shelf space, cold box space, or product display space.
  2. A producer/wholesaler may furnish reset services as long as a representative of each affected wholesaler is invited to attend such reset by the retailer with reasonable notice not less than 2 working days before the reset and the retailer consents to the reset. As part of the reset the producer/wholesaler may move his or her own product or that of a competitor.
  3. A producer/wholesaler may set up a display of his or her product and may with the consent of the retailer move a competitor's product and may move nonalcoholic products or items as necessary to set up the display.
  4. No retail display may consist of an item of potential utilitarian value to the retailer or any person after March 1, 1987, facsimiles are acceptable.
- D. Furnishing ~~retailer~~ retail customers with items of value**
1. A producer/wholesaler may furnish to retail customers advertising novelties which are not directly utilized in the operation of the retail business. Each novelty must be of a value less than \$5.00. In addition, a producer/wholesaler may also furnish to retail customers of any retail establishment items greater than \$5.00 in value but not to exceed a total of \$100.00 in value during any 6:00 a.m. to 1:00 a.m. period per establishment. The items must be given to the customer by the producer/wholesaler employee for each retail establishment and may not pass through the retailer's hands. None of the items may be given to the retailer or the retailer's employees or be left at the retail establishment.
  2. Sports schedules that list events at a licensed establishment are permitted.
- E. Refrigerated vehicles.** A producer/wholesaler may furnish a refrigerated vehicle for an event at a licensed or unlicensed location if a special event license has been obtained (excluding political events) for the event. If there is no special event license no approval is granted. The vehicle may be used for storage and dispensing, but no producer/wholesaler personnel may dispense.
- F. Signs and other print Print advertising**
- ~~1. All advertising material must comply with the existing sign rule, R19-1-204. The department will exercise discretion in regards to temporary signs complying with the cited requirements in R19-1-204. A sign is temporary if it is not displayed outside the retail establishment for longer than 7 days or inside for longer than 45 days.~~
  - ~~2. A poster may advertise an event in advance of the event as long as it meets these same requirements and is visible from inside establishments only.~~
  - ~~3. The temporary sign may be any size or made of any material. It may not be utilitarian except as to its advertising content. Special events fully licensed are not subject to this limitation.~~
- Furnishing advertising copy (ad slicks) of nominal value is permissible.
- ~~4. Permanent signs may be of any value.~~
- G. Sporting events.** A producer/wholesaler may provide to a licensed retailer financial or other forms of event sponsorship, including advertising, if it is in conjunction with a sporting event and no item of utilitarian value remains with the retailer or at the retail location following the conclusion of the sporting event. ~~Signs in connection with sporting events are not subject to size or value limitations.~~ Signs in connection with sporting events are not subject to value limitations.
- H. Tradeshows and convention.** A producer/wholesaler may participate by sampling, sponsorship, advertising, or otherwise in tradeshows and conventions at licensed or unlicensed establishments in which there is no special event license as long as no regular licensee benefits other than by the promotion of the event itself. Sampling limitations apply, see subsection (Q).
- I. Concerts.** A producer/wholesaler may participate by sponsorship, advertising, or otherwise in a concert at a licensed location with the capacity in excess of 500 persons as long as the regular licensee does not benefit other than by the promotion of the event itself.
- J. Wine or drink menus.** A producer/wholesaler may furnish to a retailer wine or drink menus if the menus have no utilitarian value beyond that of a wine or drink menu and are made available to all retail accounts utilizing such menus.
- K. Tapping equipment.** All items authorized by R19-1-241 are permitted for all alcoholic beverages.
- L. Driver sales.** All alcoholic beverages may be sold without prior order from the retailer to the wholesaler, commonly called "driver sales".
- M. Coupons and rebates.** Coupons and rebates may be distributed by any method including via point of sale, except a producer/wholesaler may not list specific retailers or participate in a retailer's advertisement.
- N. Incentive programs between producers and wholesalers.** Arizona law does not regulate incentive programs involving only producers and wholesalers.
- O. Participation at events without alcoholic beverages.** The department does not regulate the participation by producers/wholesalers in events at which spirituous liquor is not sold, offered or served.

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- P.** Delivery to chain stores/co-ops. Quantity purchases of volume discounted products must be entirely delivered to the approved storage facility of the chain store or retail cooperative.
- Q.** Malt Beverage Product returns. At the wholesaler's discretion, ~~perishable product malt beverage products of a retailer who retail establishment~~ THAT will be ~~seasonably closed for thirty days or more or who is going out of business for 6 months or more~~ may be exchanged, credited, or refunded. With permission of the director, a wholesaler may exchange, credit or refund malt beverage product that the retailer is discontinuing.
- R.** Sampling by producers/wholesalers. Approved sampling procedures are:
- ~~1.~~ Sampling may be used only for new products or products unfamiliar to the person receiving the sample.
  - ~~2.~~1. Sampling operations must be conducted under the supervision of an employee of the sponsoring distiller, vintner, brewer, or wholesaler and accurate records of all sampling procedures and products must be retained.
  - ~~3.~~2. Sampling at on-premises events or wholesaler's premises must be limited to 12 ounces of beer or "cooler" products, 6 ounces of wine, and 2 ounces of distilled spirits per person per brand.
  - ~~4.~~3. Sampling at off-sale events must be limited to 72 ounces of beer, "cooler" or wine products, and 750 milliliters of distilled spirits per person per brand.
  - ~~5.~~4. Sampling from a package with a broken seal may be conducted on on-sale and wholesaler's premises only. No package may be broken or contents consumed on off-sale premises.
  - ~~6.~~5. The wholesaler's representative, when requesting a retail on-sale licensee to prepare a drink for the customer, must pay the retail on-sale licensee for the sample drink.
  - ~~7.~~6. When sampling is conducted on off-sale premises, sampling wares must be distributed to the customer in sealed original packages only.
  - ~~8.~~7. The producer/wholesaler may not buy the retail licensee, or his or her employees, a drink during their working hours or while they are engaged in waiting on or serving customers.
  - ~~9.~~8. The producer/wholesaler may not give a keg of beer, or any spirituous liquor, or other gifts or benefits to a retail licensee.
  - ~~10.~~9. All sampling procedures must conform to federal sampling laws and rules.
- S.** Market research programs. Bona fide market research via personal or mail intercept is authorized if:
1. The products being distributed are shipped through or obtained from an authorized licensed wholesaler.
  2. People handling the products are 19 years old or older.
  3. Participants are of legal drinking age.
  4. The total amount of product being tested does not exceed 72 ounces of beer, "cooler", or wine product or 750 milliliters of distilled spirits.
- T.** Registration of salespersons or solicitors A.R.S. § 4-222, which required the registration of producer/wholesaler salespersons and solicitors has been repealed. Registration applies to agents of retail cooperatives only.
- U.** Holiday Decorations. A distiller, vintner, brewer, importer, producer, or wholesaler may give a retailer brand-identified, holiday decorations that have no utilitarian value to the retailer other than as a decoration.