

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

NOTICE OF PROPOSED RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION

[R08-443]

PREAMBLE

1. Sections Affected

R9-22-1101
R9-22-1102
R9-22-1103
R9-22-1104
R9-22-1105
R9-22-1106
R9-22-1108
R9-22-1109
R9-22-1110
R9-22-1111

Rulemaking Action

Amend
Amend
Repeal
Amend
Amend
Amend
Amend
Amend
Amend
Amend

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

Authorizing statute: A.R.S. § 36-2903.01

Implementing statute: A.R.S. §§ 36-2903.01, 36-2905.04, 36-2912, 36-2918

3. A list of all previous notices appearing in the *Register* addressing the proposed rule:

Notice of Rulemaking Docket Opening: 15 A.A.R. 82, January 2, 2009 (*in this issue*)

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

Name: Mariaelena Ugarte

Address: AHCCCS
Office of Administrative Legal Services
701 E. Jefferson St., Mail Drop 6200
Phoenix, AZ 85034

Telephone: (602) 417-4693

Fax: (602) 253-9115

E-mail: AHCCCSrules@azahcccs.gov

5. An explanation of the rule, including the agency's reasons for initiating the rule:

The Administration has initiated the following rulemaking regarding Civil Monetary Penalties as result of a Five-year Rule Review approved by the Governor's Regulatory Review Council on December 2, 2008.

6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

No study was relied upon when evaluating and updating the rules.

Notices of Proposed Rulemaking

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

The Administration anticipates minimal economic impact as result of the rule changes.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Mariaelena Ugarte
Address: AHCCCS
Office of Administrative Legal Services
701 E. Jefferson St., Mail Drop 6200
Phoenix, AZ 85034
Telephone: (602) 417-4693
Fax: (602) 253-9115
E-mail: AHCCCSrules@azahcccs.gov

Proposed rule language will be available on the AHCCCS web site www.azahcccs.gov the week of December 15, 2008. Please send written comments to the above address by 5:00 p.m., February 4, 2009. E-mail comments will also be accepted during this time-frame.

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Date: February 4, 2009

Time: 4:00 p.m.

Location: AHCCCS
701 E. Jefferson St.
Phoenix, AZ 85034

Nature: Public Hearing

Date: February 4, 2009

Time: 4:00 p.m.

Location: ALTCS: Arizona Long-term Care System
1010 N. Finance Center Drive, Suite 201
Tucson, AZ 85710

Nature: Public Hearing

Date: February 4, 2009

Time: 4:00 p.m.

Location: ALTCS: Arizona Long-term Care System
3480 E. Route 66
Flagstaff, AZ 86004

Nature: Public Hearing

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

None

12. Incorporations by reference and their location in the rules:

None

13. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
ADMINISTRATION

ARTICLE 11. CIVIL MONETARY PENALTIES AND ASSESSMENTS

Section

- R9-22-1101. Basis for Civil Monetary Penalties and Assessments for Fraudulent Claims; Definitions
- R9-22-1102. Determining the Amount of a Penalty and an Assessment
- R9-22-1103. ~~Determining the Amount of an Assessment~~ Repealed
- R9-22-1104. Mitigating Circumstances
- R9-22-1105. Aggravating Circumstances
- R9-22-1106. Notice of Intent
- R9-22-1108. Request for a Compromise
- R9-22-1109. Failure to Respond to the Notice of Intent
- R9-22-1110. Request for State Fair Hearing
- R9-22-1111. Issues and Burden of Proof

ARTICLE 11. CIVIL MONETARY PENALTIES AND ASSESSMENTS

R9-22-1101. Basis for Civil Monetary Penalties and Assessments for Fraudulent Claims; Definitions

- A. Scope. This Article applies to a ~~provider or non-contracting provider who meets the conditions under this Article and who submits a claim under Medicaid (Title XIX of the Social Security Act), KidsCare (Title XXI of the Social Security Act), or the Health Care Group (A.R.S. § 36-2912)~~ prohibited acts as described under A.R.S. § 36-2918(A), submissions of encounters to the Administration, and to any person who aids and abets a prohibited act affecting any of the AHCCCS programs or Health Care Group.
- B. Purpose. This Article describes the circumstances AHCCCS considers and the process that AHCCCS uses to determine the amount of a penalty, assessment, or penalty and assessment as required under A.R.S. § 36-2918. This Article includes the process and time-frames used by a ~~provider or non-contracting provider~~ person to request a State Fair Hearing.
- C. Definitions. The following definitions apply to this Article:
 - 1. "Assessment" means a monetary amount that does not exceed twice the dollar amount claimed by the ~~provider or non-contracting provider~~ person for each service.
 - 2. "Claim" means a request for payment submitted by a ~~provider or non-contracted provider~~ person for payment for a service or line item of service, including a submission of an encounter.
 - 3. "Day" means calendar day unless otherwise specified.
 - 4. "File" means the date that AHCCCS receives a written acceptance, request for compromise, request for a counter proposal, or a request for a State Fair Hearing as established by a date stamp on the written document or other record of receipt.
 - 5. "Penalty" means a monetary amount, based on the number of items of service claimed or reported, that does not exceed ~~two thousand dollars~~ \$2,000 times the number of line items of service.
 - 6. "Person" means an individual who acts as one, such as a human being, partnership or corporation that is recognized by law as the subject of rights and duties.
 - ~~6-7.~~ "Reason to know" or "had reason to know" means that a ~~provider or non-contracting provider~~ person, acts in deliberate ignorance of the truth or falsity of, or with reckless disregard of the truth or falsity of information. No proof of specific intent to defraud is required.

R9-22-1102. Determining the Amount of a Penalty and an Assessment

- A. AHCCCS shall determine the amount of a penalty and assessment according to A.R.S. §§ 36-2918(B) and (C), R9-22-1104, and R9-22-1105.
- B. AHCCCS shall include in the amount of the penalty ~~the cost~~ and assessment the cost incurred by AHCCCS for conducting the following:
 - 1. An investigation,
 - 2. Audit, or
 - 3. Inquiry.

R9-22-1103. ~~Determining the Amount of an Assessment~~ Repealed

- ~~A.~~ AHCCCS shall determine the amount of an assessment according to A.R.S. § 36-2918(B) and (C), R9-22-1104, and R9-22-1105.
- ~~B.~~ AHCCCS shall include in the amount of the assessment ~~the cost incurred by AHCCCS for conducting the following:~~
 - ~~1. An investigation,~~
 - ~~2. Audit, or~~

3. Inquiry.

R9-22-1104. Mitigating Circumstances

AHCCCS shall consider any of the following to be mitigating circumstances when determining the amount of a penalty, assessment, or penalty and assessment.

1. Nature and circumstances of a claim. The following are mitigating circumstances:
 - a. All the services are of the same type,
 - b. All the dates of services occurred within six months or less,
 - c. The ~~services listed in subsection (1)(b)~~ number of claims submitted total less than 25,
 - d. The nature and circumstances do not indicate a pattern of inappropriate claims for the services, and
 - e. The total amount claimed for the services is less than \$1,000.
2. Degree of culpability. The degree of culpability of a ~~provider or non-contracting provider~~ person who presents or causes to present a claim is a mitigating circumstance if:
 - a. Each service is the result of an unintentional and unrecognized error in the process that the ~~provider or non-contracting provider~~ person followed in presenting or in causing to present the service,
 - b. Corrective steps were taken promptly by the ~~provider or non-contracting provider~~ person after the error was discovered, and
 - c. The ~~provider or non-contracting provider~~ person had a fraud and abuse control plan that was operating effectively at the time each claim was presented or caused to be presented.
3. Financial condition. The financial condition of a ~~provider or non-contracting provider~~ person who presents or causes to present a claim is a mitigating circumstance if the imposition of a penalty, assessment, or penalty and assessment without reduction ~~jeopardizes the ability of the provider or non-contracting provider to continue as a health care provider will render the provider incapable to continue providing services.~~ AHCCCS shall consider the resources available to the ~~provider or non-contracting provider~~ person when determining the amount of the penalty, assessment, or penalty and assessment.
4. Other matters as justice may require. AHCCCS shall take into account other circumstances of a mitigating nature, if in the interest of justice, the circumstances require a reduction of the penalty, assessment, or penalty and assessment.

R9-22-1105. Aggravating Circumstances

AHCCCS shall consider any of the following to be aggravating circumstances when determining the amount of a penalty, assessment, or penalty and assessment.

1. Nature and circumstances of each claim. The nature and circumstances of each claim and the circumstances under which the claim is presented or caused to be presented are aggravating circumstances if:
 - a. A ~~provider or non-contracting provider~~ person has forged, altered, recreated, or destroyed records;
 - b. The ~~provider or non-contracting provider~~ person refuses to provide pertinent documentation to AHCCCS for a claim or refuses to cooperate with investigators ~~for other than constitutional reasons~~;
 - c. The services are of several types;
 - d. All the dates of services did not occur within six months or less;
 - e. The ~~services rendered in subsection (1)(d)~~ number of claims submitted are greater than 25;
 - f. The nature and circumstances indicate a pattern of inappropriate claims for the services; and
 - g. The total amount claimed for the services is \$5,000 or greater.
2. Degree of culpability. The degree of culpability of a ~~provider or non-contracting provider~~ person who presents or causes to present each claim is an aggravating circumstance if:
 - a. The ~~provider or non-contracting provider~~ person knows or had reason to know that each service was not provided as claimed,
 - b. The ~~provider or non-contracting provider~~ person knows or had reason to know that no payment could be made because the ~~provider or non-contracting provider~~ person had been excluded from reimbursement by AHCCCS, or
 - c. The ~~provider or non-contracting provider~~ person knows or had reason to know that the payment would violate the terms of an agreement between the ~~provider or non-contracting provider~~ person and AHCCCS system.
3. Prior offenses. The prior offenses of a ~~provider or non-contracting provider~~ person who presents or causes to present each claim are an aggravating circumstance if:
 - a. At any time before the submittal of the claim the ~~provider or non-contracting provider~~ person was held criminally or civilly liable for any act; or
 - b. The ~~provider or non-contracting provider~~ person had received an administrative sanction in connection with:
 - i. A Medicaid program,
 - ii. A Medicare program, or
 - iii. Any other public or private program of reimbursement for medical services.
4. Effect on patient care. The adverse effect on patient care that resulted, or could have resulted, from the failure of a

~~provider or non-contracting provider~~ person who presents or causes to present a claim to provide medically necessary care.

5. Other matters as justice may require. AHCCCS shall take into account other circumstances of an aggravating nature, if in the interest of justice, the circumstances require an increase of the penalty, assessment, or penalty and assessment.

R9-22-1106. Notice of Intent

If AHCCCS imposes a penalty, assessment, or a penalty and assessment, AHCCCS shall hand deliver or send by certified mail return receipt requested or Federal Express to the ~~provider or non-contracting provider~~ person, a written Notice of Intent to impose a penalty, assessment, or a penalty and assessment. The Notice of Intent shall include:

1. The statutory basis for the penalty, assessment, or the penalty and assessment;
2. Identification of the state or federal regulation and state or federal law that AHCCCS alleges has been violated;
3. The factual basis for AHCCCS' determination that the penalty, assessment, or the penalty and assessment should be imposed;
4. The amount of the penalty, assessment, or penalty and assessment;
5. The process for the ~~provider or non-contracting provider~~ person to accept or request a compromise of the penalty, assessment, or penalty and assessment; and
6. The process for requesting a State Fair Hearing.

R9-22-1108. Request for a Compromise

- A. To request a compromise, the ~~provider or non-contracting provider~~ person shall file a written request with AHCCCS within 30 days from the date of receipt of the Notice of Intent. The written request for compromise shall contain the ~~provider or non-contracting provider's~~ person's reasons for the reduction or modification of the penalty, assessment, or penalty and assessment.
- B. Within 30 days from the date of receipt of the request for compromise from the ~~provider or non-contracting provider~~ person, AHCCCS shall send a Notice of Compromise Decision and accept, deny, or offer a counter proposal to the ~~provider or non-contracting provider's~~ person's request for compromise. If AHCCCS offers a counter proposal the amount of the counter proposal shall represent the penalty, assessment, or penalty and assessment.
 1. If AHCCCS does not withdraw the Notice of Intent under R9-22-1112 or denies the request for compromise the original penalty, assessment, or penalty and assessment is upheld.
 2. To dispute the Compromise Decision, the ~~provider or non-contracting provider~~ person shall file a request for a State Fair Hearing under R9-22-1110 within 30 days from the date of receipt of the Notice of Compromise Decision.

R9-22-1109. Failure to Respond to the Notice of Intent

If a ~~provider or non-contracting provider~~ person fails to respond timely to the Notice of Intent, AHCCCS shall uphold the original penalty, assessment, or penalty and assessment.

R9-22-1110. Request for State Fair Hearing

- A. To request a State Fair Hearing regarding a dispute concerning a penalty, assessment, or penalty and assessment, the ~~provider or non-contracting provider~~ person shall file a written request for a State Fair Hearing with AHCCCS within 60 days from the date of the receipt of the Notice of Intent under R9-22-1106 or within 30 days from the date of receipt of the Notice of Compromise Decision under R9-22-1108, if applicable.
- B. AHCCCS shall mail a Notice of Hearing under A.R.S. § 41-1092.05 if AHCCCS receives a timely request for a State Fair Hearing from the ~~provider or non-contracting provider~~ person.
- C. AHCCCS shall mail a Director's Decision to the ~~provider or non-contracting provider~~ person no later than 30 days after the date the Administrative Law Judge sends the decision of the Office of Administrative Hearings (OAH) to AHCCCS.
- D. AHCCCS shall accept a written request for withdrawal of a hearing request if the written request for withdrawal is received from the ~~provider or non-contracting provider~~ person before AHCCCS mails a Notice of Hearing under A.R.S. § 41-1092 et seq. If AHCCCS mailed a Notice of Hearing under A.R.S. § 41-1092 et seq., a ~~provider or non-contracting provider~~ person may withdraw the hearing request only by sending a written request for withdrawal to OAH.

R9-22-1111. Issues and Burden of Proof

- A. Preponderance of evidence. In any State Fair Hearing conducted under R9-22-1110, AHCCCS shall prove by a preponderance of the evidence that a ~~provider or non-contracting provider~~ person presented or caused to be presented each claim in violation of this Article and any aggravating circumstances under R9-22-1105. A ~~provider or non-contracting provider~~ person shall bear the burden of producing and proving by a preponderance of the evidence any circumstance that would justify reducing the amount of the penalty, assessment, or penalty and assessment.
- B. Statistical sampling.
 1. In meeting the burden of proof described in subsection (A), AHCCCS may introduce the results of a statistical sampling study as evidence of the number and amount of claims that were presented or caused to be presented by the ~~provider or non-contracting provider~~ person. A statistical sampling study constitutes prima facie evidence of the number

Notices of Proposed Rulemaking

- and amount of claims if based upon an appropriate sampling and computed by valid statistical methods.
2. The burden of proof shall shift to the ~~provider or non-contracting provider~~ person to produce evidence reasonably calculated to rebut the findings of the statistical sampling study once AHCCCS has made a prima facie case as described in subsection (B)(1). AHCCCS shall be given the opportunity to rebut this evidence.

NOTICE OF PROPOSED RULEMAKING

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

[R08-445]

PREAMBLE

1. Sections Affected

R12-4-302
R12-4-303
R12-4-304
R12-4-305
R12-4-306
R12-4-307
R12-4-308
R12-4-309
R12-4-310
R12-4-311
R12-4-313
R12-4-314
R12-4-315
R12-4-316
R12-4-317
R12-4-318

Rulemaking Action

Amend
Amend
Amend
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Amend
New Section
Amend
Amend
Amend
New Section
Amend
Amend
Amend
Amend

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

Authorizing statutes: A.R.S. §§ 17-102 and 17-231(A)(1), (2), and (3)

Implementing statutes: A.R.S. §§ 17-102, 17-211(E)(3) and (4), 17-231(A)(1), (2), (3) and (4), 17-231(B)(6) and (8), 17-234, 17-235, 17-238, 17-301, 17-306, 17-309, 17-331, 17-332, 17-361, 17-371 and 17-372

3. A list of all previous notices appearing in the Register addressing the proposed rules:

Notice of Rulemaking Docket Opening: 15 A.A.C. 82, January 2, 2009 (*in this issue*)

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

Name: Ron Day
Address: Game and Fish Department
5000 W. Carefree Hwy.
Phoenix, AZ 85086
Telephone: (623) 236-7352
Fax: (623) 236-7929
E-mail: Rday@azgfd.gov

5. An explanation of the rules, including the agency's reasons for initiating the rulemaking:

The Arizona Game and Fish Commission proposes to amend its Article 3 rules, governing the taking and handling of wildlife, to enact changes developed during a preceding Five-year Rule Review. After evaluating the scope and effectiveness of the revisions specified in the review, the Commission is proposing additional changes to further implement the original proposal.

The Commission proposes to amend R12-4-302 to accurately describe current tags issued by the Department. Subsection (J) pertains to the Carcass/Transportation/Shipping Permit and describes the current tag and its usage. The current tag referenced in (J)(1) does not have a perforated line to tear and separate the tag, making the language incorrect. This portion of subsection (J) was removed because it no longer applies. Subsection (K) was modified to mirror

language in subsection (J) to clearly describe the proper use for the Transportation and Shipping Permit. Subsection (L) was modified to state that if either permit is sealed, mutilated, signed, or filled out, the tag is no longer valid for taking wildlife.

The Commission proposes to amend R12-4-303 to prohibit the use of edible or ingestible substances to attract big game for the purposes of hunting under subsection (B). The Department believes that R12-4-303 exists to prohibit devices and methods compromising the spirit of fair chase or adversely impacting hunter success rates. The recent increase in the use of baiting has resulted in the need for further regulation due to disproportionately high harvest rates among those using this method of hunting. Consequently, the Department is offering fewer hunting opportunities, which negatively impacts hunter recruitment and retention. Additionally, the Commission is inserting subsection (F) to more closely regulate the pursuit of bears and lions with dogs and mirror the current guide rule R12-4-208, to increase consistency among the current set of rules. R12-4-208(I) clearly states that a person acting as a guide “shall not pursue any wildlife or hold at bay any wildlife for a hunter unless the hunter is present during the pursuit to take the wildlife” and that “the hunter shall be continuously present during the entire pursuit of that specific animal.” This amendment extends this requirement to all hunters instead of only guides and requires any hunter who takes a bear or lion, with the aid of dogs, to be present during the entire pursuit. A continuing Department concern is the occurrence of “will call” hunts, where an individual hunting with the aid of dogs holds a lion or bear at bay during an open season and calls another hunter who has a tag for the species to make the kill. Because pursuit falls under the definition of take, it is considered a method of take and appropriately included in this rule.

The Commission proposes to amend R12-4-304 to improve consistency and reduce confusion among hunters regarding the use of crossbows. The amendments allow crossbows and bows drawn and held with an assisting device for the take of specific wildlife. The Department removed the need for a crossbow permit to take certain species of big game during specific seasons. Current rule language unintentionally restricts take to people holding a crossbow permit, which is not required during the general season. The proposed change makes the rule less restrictive, increases clarity, and improves consistency with other subsections of the rule. The change to allow bows drawn and held with an assisting device was made because the Department currently allows this device but does not clearly state this in rule. The Department recommends that an amendment to R12-4-216 be considered simultaneously to authorize the use of bows drawn and held with an assisting device. The use of shotgun shooting shot was added as a method of take for mountain lions. It is an effective and ethical method of take and will not impact mountain lion populations. The additional number of mountain lions taken using this method is likely to be minimal and this request has been asked for by the public during hunt guideline discussions. The Commission proposes to amend subsection (B) to allow the take of upland game birds with pneumatic weapons. The agency received a comment requesting to take upland game birds using air rifles. The Department believes this is an acceptable method of take and proposes to amend the rule accordingly. The Commission proposes to amend subsections (B) and (D) to allow an individual to use dogs to pursue cottontail rabbits, tree squirrels, upland game birds, and birds. This activity is currently allowed for nongame mammals and birds, but is not addressed in rule. This rule amendment clarifies that the pursuit of wildlife with dogs as a lawful activity. The rule is further amended to allow an individual to use dogs as a lawful method to take predatory and furbearing animals, small game, and nongame mammals. The sport of using dogs to take wildlife has existed in North America since Colonial days. This rule amendment clarifies that taking these groups of wildlife with dogs is a lawful activity. The Commission proposes to amend subsections (E) and (F) to prohibit hunting nongame mammals, birds, and reptiles at night using a bow and arrow, crossbow, or pneumatic weapons. These amendments make it easier to enforce unlawful night hunting activities and address law enforcement concerns related to hunter safety. The Commission is proposing further amendments to subsection (E)(1) to eliminate confusion generated by using the terms leghold and foothold traps. In subsection (E)(1), the rule refers to foothold steel traps as being unlawful to take nongame animals. Under R12-4-307, which regulates trapping, these traps are called “leghold” traps. The Department is amending the rule to make these terms consistent and replace “leghold” trap with “foothold” trap.

The Commission proposes to amend R12-4-305 to clarify permit language and accurately describe the purpose and use of the Carcass/Transportation/Shipping Permit and the Transportation and Shipping Permit. The rule references the Transportation/Shipping Permit portion of a tag and recent rule amendments, as well as formatting changes to tags, now refer to this portion as the “Transportation and Shipping Permit.” The Commission replaced the term “bobcat permit tag” with the term “bobcat export tag” in (G) to mirror changes in R12-4-307. The Commission proposed additional amendments to the rule to conserve native aquatic species by creating additional opportunities for the take and removal of nonnative crayfish. Nonnative crayfish have a grave impact to the state’s native aquatic wildlife population through competition, predation, or disease vector. The Department often works with the public to remove these species where they have established a population. Because they are a nonnative nuisance species and can be prepared for human consumption, the Department intends to allow people to collect and transport crayfish. However, an individual who collects crayfish shall not transport them alive. This is addressed in the new subsection (N). In addition, subsection (M) was amended to allow the sale of crayfish carcasses. Subsection (D) was modified to mirror capitalization in R12-4-302 and subsection (E) was modified to provide additional clarity by fully describing the use of this permit.

The Commission proposes to amend R12-4-306 to provide additional direct oversight and control to make supplemental hunts more effective in achieving management objectives by amending subsection (C) and inserting subsection (E). Regional employees who oversee the Department’s buffalo herd at the House Rock Wildlife Area desire

more control over when buffalo are taken from the area, particularly during supplemental hunts. The Department would like the ability to prescribe the order of hunters who take buffalo and would like to designate which animal can be taken during those supplemental hunts that target population reduction efforts. Because of the importance of supplemental hunts, regional personnel need greater flexibility and control when assisting hunters in taking buffalo to maximize harvest. The Department supports this change and proposes to amend the rule accordingly. In addition, "Commission order" was changed to "Commission Order" to correctly mirror how the term is presented in other rule language.

The Commission proposes to amend R12-4-307 to allow the Department to prescribe regulations for powered cable devices because of advances in trapping technology. The advent of foothold snares requires prescribing new regulations for their use or restriction. Because these foot snares are both humane and effective, the Department authorizes their use under subsection (E). A foot snare uses a spring-loaded steel cable loop suspended around the tripping pan to trap an animal by the leg or foot. When the animal compresses the pan in the center and springs the trap, the cable loop will close around the animal's leg or foot to a preset diameter. The preset diameter of the loop keeps the snare from closing to a small diameter so it does not cut off an animal's circulation. The Commission is proposing to amend subsection (E) to add a new item that states a commercially manufactured foot snare with an inside width at frame hinge no wider than 6 inches, cable loop stop size of at least 2 inches in diameter to minimize capturing or injuring non-targeted wildlife and domestic animals, and a device to allow for pan tension adjustment. Because the device described in (E)(4) technically qualifies as a snare, which is an unlawful device under (D)(7), the Department will also amend the subsection to state that snares described in subsection (E) are authorized. The Commission proposes amending subsection (C) to exclude confinement traps because they do not require a restraint device to control non-target wildlife prior to release. With the proposed amendment to allow certain types of snares, the Department is making its rules consistent with the Best Management Practices (BMP) for trapping as recommended by the Association of Fish and Wildlife Agencies (AFWA). In order for traps and snares to meet the BMP set forth by AFWA, they are evaluated against five performance criteria; animal welfare, efficiency, sensitivity, practicality, and safety. Powered cable devices (foot snares) were tested against these criteria and met the standards set forth by the Furbearer Technical Work Group of AFWA. All states and Canadian provinces are members of AFWA. Additionally, confusion exists because this rule inconsistently uses the term "leghold" trap in relation to other rules that refer to "foothold" traps, specifically in R12-4-304. The proper term is "foothold" trap and corresponding amendments have been made throughout the rule. The Department believes that the APA format makes subsection (E) confusing. It is not clear to some whether an individual who uses a foothold trap with a land set shall use a trap that meets one of these criteria or if a trapper should use traps that meet all these criteria. The Commission further recommends amending subsection (M) to change the name of the bobcat permit tag to the bobcat export tag. The current tag is required by CITES (Convention on International Trade in Endangered Species of Wild Fauna and Flora) and must be attached to the pelt prior to sale or export from the state. This tag is not a permit tag, but an export tag, and the proposed amendment reflects this name change. This Section is further amended to allow the sale of the export tag year round. Historically, CITES tags were issued by the federal government on an annual basis and had the year stamped on the tag. CITES tags were changed and do not expire or contain a year of issuance on the tag. There is no longer a need to limit when these tags can be sold. As a result of this change, rule language in subsections (M)(4) and (5) is amended to remove references to the waiving of the April 10 deadline for pelts tagged under this Section and pelts consigned to taxidermist.

The Commission proposes to amend R12-4-308 which describes wildlife inspections, check stations, and roadblocks. The Department believes it is not biologically necessary to further require an individual who takes deer, elk, antelope, or buffalo under a special big game permit to submit the skull or skullcap for inspection and photographing. The rule was further amended to grant the Department the authority to conduct inspections of all lawfully taken wildlife. The intent is to allow the Department broad authority to check wildlife as necessary, not to limit authority to the types of wildlife listed. The Department recommends modifying subsection (B) to allow the establishment of harvest objectives for other species to improve flexibility for increasing hunter opportunities while regulating harvest. Harvest objectives specify a designated number of animals to be taken during a hunt. This allows an unlimited number of individuals to participate in a hunt, and the hunt closes when the designated number of animals is taken. Currently, the Department must estimate the number of hunters and their predicted hunt success rate in order to determine how many individuals may participate in a hunt. If hunter success is higher or lower than anticipated, the designated number of animals to be taken is not achieved. The Commission additionally proposes amending the incorrect reference listed in subsection (D) and amending overall rule language to replace "Commission order" with "Commission Order," maintaining consistency with other rules.

The Commission proposes creating a new rule, R12-4-309, addressing the Authorization for Use of Drugs on Wildlife. This rule provides the Department with proactive regulatory measures to address issues involving the use of drugs on wildlife including fertility drugs, growth hormones, and tranquilizers. Other jurisdictions within the United States have experienced these issues and had to reactively enact regulations to address them. The new rule is consistent with recommended regulatory language as prescribed by the Association of Fish and Wildlife Agencies in 2007. Other jurisdictions within the United States, including Texas and New York, have experienced these issues and have had to reactively enact regulations to address them. The rule provides the Department with the authority to regulate the use of drugs on wildlife and to define and describe the authorization process for allowable drug use on wildlife. The Department believes that certain criteria and standards must be achieved by anyone requesting to use drugs on wildlife in order to ensure the protection and preservation of Arizona's wildlife resources.

The Commission proposes to amend R12-4-310 for grammatical changes only, including replacing “Commission order” with “Commission Order” and “Fishing Permit” with “fishing permit.” To maintain consistency with changes in other rules prescribing the issuance of permits, the name permit is identified using lower case letters and the term “permittee” is replaced with the term “permit holder.”

The Commission proposes to amend R12-4-311 to clarify rule language with what is outlined in statute. Subsection (A) was amended to clarify the meaning of private waters and subsection (B) was amended to outline live crustacean transportation limitations. Subsection (C) was amended to increase free fishing opportunities for the public and flexibility for the Department in response to changes by the Recreational Boating and Fishing Foundation (RBFF), which determines the dates for National Fishing and Boating Week. When National Fishing Week was first implemented, the event spanned a seven-day period. The event was changed to the National Fishing and Boating Week, and now spans a 10-day period, which includes two Saturdays. By amending the rule, the Department is able to allow free fishing on any Saturday that occurs during this event. In addition, language was modified to clearly indicate that free fishing opportunities do not apply to waters of the Colorado River and portions of Lake Powell.

The Commission proposes to amend R12-4-313 to address invasive aquatic species, particularly bullfrogs. As nonnative amphibians, bullfrogs are a competitive species that threaten the state’s native biological diversity, so much so that they are listed as restrictive live wildlife. Both agency personnel and external members of the scientific community encourage the Department to authorize additional methods of take for bullfrog to allow individuals preferring these methods to take advantage of more recreational opportunities. The Department is proposing the methods of take that are most reasonable: bow and arrow, crossbow, and slingshot are already authorized, but pneumatic weapons, such as air rifles, have been added. Another reason for authorizing additional methods of take is to provide more opportunities for hunters and anglers. When the Commission considered a petition from the public asking to authorize archery as a method of take for fish, the Commission also asked the Department to review the feasibility of noodling or gigging as a legal method of take during emergency fishing seasons. Noodling is the practice of hand capture of fish. A gig is a spear with multiple sharp, barbed prongs instead of a single point, that is thrown at fish or amphibians to catch and kill them. Under R12-4-317(C), during a “special” season, which may include emergency seasons, an individual may take fish by any hand-held non-motorized implement that does not discharge a projectile, such as a gig spear, or by hand, which may include noodling. Therefore, by Order, the Commission itself can authorize both noodling and gigging during an emergency season if it feels it will effectively manage the resource and no change would be necessary. In addition, the Department has had problems with enforcement regarding whether a type of shad scoop qualifies as a dip net for collecting baitfish. To clearly describe the type of dip net allowed and address this confusion, the Department proposes inserting a new definition for “dip net” that states a dip net is a net no greater than three feet in the greatest dimension, must be hand held, and the motion of a dip net shall be caused only by the physical effort of the operator. The Department inserted subsection (D)(7) to indicate that catfish may be taken by bow and arrow or crossbow in waters designated by Commission Order. This allows the Commission to specifically open seasons that are limited to specific locations and specific times for the take of catfish with bow and arrow or crossbow. This additionally requires adding language to R12-4-317 to create a season for the take of catfish with bow and arrow or crossbow.

The Commission proposes creating a new rule, R12-4-314, to address pick-up and possession of wildlife parts. There has been some misunderstanding regarding when individuals may collect wildlife parts. Outdoor activities provide a multitude of wildlife experiences, including the discovery of wildlife parts such as skulls, bones, or shed antlers. Current rule does not adequately address the legality of picking up fresh wildlife parts. Under current rule in R12-4-305, an individual must demonstrate evidence of legality, such as identifiable parts and an applicable license or tag, to possess or transport wildlife parts. Recently, the Commission had to address the situation where people were picking up the remains of deceased wildlife. According to the letter of the law, possession of wildlife parts is only allowable if there is some evidence of legality, such as a permit-tag or special license. There is no exception for an individual who, for example, would like to keep the antlers of a deer or elk that died from causes other than unlawful activity. The Department intends to add this new rule to address this specific situation. The Department believes that a separate “picking up and possessing” rule is necessary to maximize understanding of what to do in this situation. The Department additionally recognizes the role that wildlife parts play in fostering interest and future participation in outdoor activities and would like to be more permissive in allowing this with the appropriate oversight that the new rule provides.

The Commission proposes to amend R12-4-315 to include a reference to R12-4-412, which is a new rule, allowing for off-site weigh-in permits. Rules R12-4-106, R12-4-406, R12-4-409, and R12-4-412 will be presented at the same time as the Article 3 rulemaking package because the indicated changes must occur simultaneously to ensure proper enforcement.

The Commission proposes to amend R12-4-316 to remove red shiner from the list of live bait minnows that can be lawfully possessed, transported, or imported by licensed anglers. Scientific research has identified emerging concerns about the interactions between red shiner, which is currently a legal baitfish, and native aquatic wildlife. These concerns suggest it would be beneficial to restrict the use of red shiner to minimize impacts on aquatic wildlife. The proposed amendment provides the opportunity for anglers to collect red shiner in the wild and possess and use them as bait on the body of water where they are captured.

Notices of Proposed Rulemaking

The Commission proposes to amend R12-4-317 to increase consistency with other rule language by changing "Commission order" to "Commission Order." Additionally, the language added in R12-4-313 allows the Commission to specifically open seasons that are limited to specific locations and specific times for the take of catfish with bow and arrow or crossbow. This requires modifying the language in subsection (B)(8) to grant the Commission the ability to establish a season for taking catfish with bow and arrow or crossbow through Commission Order.

The Commission proposes to amend R12-4-318 to allow archers to possess a non-hunting handgun for personal protection during an archery-only season. Currently, individuals are not allowed to have a firearm in their immediate possession while participating in an archery-only season. The Department currently has an enforcement directive allowing individuals to carry a non-hunting handgun for personal protection during an archery-only season. This directive allows an activity which is contrary to rule. This rule is amended in subsection (C) to allow an individual to carry a non-hunting handgun for personal protection during an archery-only season. The amended rule clearly prescribes that a non-hunting handgun is a handgun with a barrel length of six inches or less that does not have a scope or any type of electronic sight. In addition, subsection (C) was amended to allow individuals participating in a "muzzle-loader" season to possess a non-hunting handgun for personal protection. The Department recently received a comment from a muzzleloader asking to be allowed to carry a handgun for personal protection and the Department supports this change. Subsection (C) is also amended to include falconry as a method of take during an archery-only season and to exempt falconers hunting with exotic raptors from possessing a falconry license as prescribed in R12-4-422. This brings the rule into alignment with recent statutory changes to A.R.S. § 17-236. The Department requires falconers to comply with the Migratory Bird Treaty Act, which only covers birds native to North America. Exotic raptors are native to countries outside of North America, and must be exempt from the falconry license requirement. Current rule is more restrictive than statute, and is modified to ensure the rule is in alignment with its statutory authority. The Commission is further amending rule language to read "foothold" instead of "foot-hold" and "Commission order" to read "Commission Order" to correctly mirror other current rule language.

6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

The Department did not rely on any study in its evaluation of or justification for the proposed rules.

7. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

The Commission's intent in proposing these amendments is to address the ethical taking and handling of wildlife. These areas include the use of tags, lawful and unlawful methods of taking and possessing wildlife and wildlife parts, seasons, use of drugs on wildlife, and wildlife check and reporting requirements. The majority of the rulemaking is intended to benefit the hunting public as well as the Department, by clarifying rule language to ease enforcement, creating consistency among existing rules, providing greater opportunities for hunting and methods of take, and allowing the Department additional oversight to handle advances in trapping technology, population management, and protection of the spirit of fair chase. The Commission has determined that the benefits of the rulemaking outweigh any costs.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

See item 4.

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rules; or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rules:

Written comments will be accepted at the above address for 30 days following publication of this Notice in the *Arizona Administrative Register*. An oral proceeding regarding the proposed rules will be held as follows:

Date: April 17, 2009
Time: 8:00 a.m. to 5:00 p.m.
Location: Game and Fish Department
5000 W. Carefree Hwy.
Phoenix, AZ 85086

The rulemaking record will close at 5:00 p.m. on April 17, 2009.

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

Not applicable

12. Any material incorporated by reference and its location in the rules:

None

13. The full text of the rules follows:

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

ARTICLE 3. TAKING AND HANDLING OF WILDLIFE

Section

- R12-4-302. Use of Tags
- R12-4-303. Unlawful Devices, Methods, and Ammunition
- R12-4-304. Lawful Methods for Taking Wild Mammals, Birds, and Reptiles
- R12-4-305. Possessing, Transporting, Importing, Exporting, and Selling Carcasses or Parts of Wildlife
- R12-4-306. Buffalo Hunt Requirements
- R12-4-307. Trapping Regulations: Licensing; Methods; Tagging of Bobcat Pelts
- R12-4-308. Wildlife Inspections, Check Stations, and Roadblocks
- R12-4-309. ~~Repealed~~ Authorization for Use of Drugs on Wildlife
- R12-4-310. Fishing Permits
- R12-4-311. Exemptions from Requirement to Possess an Arizona Fishing License while Taking Aquatic Wildlife
- R12-4-313. Lawful Methods of Taking Aquatic Wildlife
- R12-4-314. ~~Repealed~~ Pick-up and Possession of Wildlife Parts
- R12-4-315. Possession of Live Fish; Unattended Live Boxes and Stringers
- R12-4-316. Possession, Transportation, or Importation of Live Baitfish, Crayfish, or Waterdogs
- R12-4-317. Seasons for Lawfully Taking Fish, Mollusks, Crustaceans, Amphibians, and Aquatic Reptiles
- R12-4-318. Seasons for Lawfully Taking Wild Mammals, Birds, and Reptiles

ARTICLE 3. TAKING AND HANDLING OF WILDLIFE

R12-4-302. Use of Tags

- A. No change
- B. No change
- C. No change
- D. No change
- E. No change
- F. No change
- G. No change
- H. No change
- I. No change
 - 1. No change
 - 2. No change
 - a. No change
 - b. No change
 - c. No change
- J. An individual who lawfully takes wildlife ~~under a~~ with a valid tag and wishes to authorize another individual to possess, transport, or ship any portion of a carcass under R12-4-305 shall, at the time the portions are to be possessed, transported, or shipped independent from the original tag holder:
 - ~~1. Tear and separate the tag portions along the perforated line;~~
 - 2-1. Legibly complete and sign the Carcass/Transportation/Shipping Permit portion in accordance with R12-4-305(D), and
 - ~~3-2.~~ Provide to the individual who will possess and transport the portions of the carcass the completed Carcass/Transportation/Shipping permit.
- K. An individual who ~~possesses~~ lawfully takes wildlife with a valid tag and wishes to authorize another individual to possess, ~~transports~~ transport, or ~~ships a~~ ship the tagged portion of the carcass or any part or parts of a carcass and is not the original tag holder shall ~~possess the completed~~ complete the Carcass/Transportation/Shipping permit Transportation and Shipping Permit portion issued as part of the original ~~permit tag~~ permit tag authorizing the take of that animal.
- L. If a tag or a separated portion of a tag has been sealed, ~~or~~ mutilated, or the Carcass/Transportation/Shipping ~~permit portion~~ Permit or the Transportation and Shipping Permit portion of the tag ~~is~~ are signed or filled out, the tag is ~~no longer valid~~ invalid for taking wildlife.

R12-4-303. Unlawful Devices, Methods, and Ammunition

- A. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - 5. No change
 - 6. No change
 - 7. No change
- ~~B.~~ ~~An individual shall not place substances in a manner intended to attract bears.~~
- B.** Except for the use of nutritional supplements, salt, or salt-based materials produced and manufactured for the livestock industry and placed by individuals raising livestock or the Department for the benefit of wildlife, the following uses of edible or ingestible substances to aid in taking big game are unlawful.
 - 1. An individual shall not place edible or ingestible substances, including salt or salt based products, to attract big game for the purpose of taking big game.
 - 2. An individual shall not take big game with the aid of edible or ingestible substances, including salt or salt based products, placed for the purpose of attracting a big game animal to a specific location.
- ~~B.C.~~ An individual shall not place any substance in a manner intended to attract bears.
- ~~C.D.~~ An individual shall not use manual or powered jacking or prying devices to take reptiles or amphibians.
- ~~D.E.~~ An individual shall not use live decoys, recorded bird calls, electronically amplified bird calls, or baits to take migratory game birds, as prohibited by 50 CFR 20.21, ~~revised June 14, 2001 published October 1, 2001~~. This material is incorporated by reference in this Section, but does not include any later amendments or editions. A copy is available from any Department office, online from the Government Printing Office web site www.gpoaccess.gov, or it may be ordered from the Superintendent of Documents, U.S. Government Printing Office, 732 N. Capitol St. N.W., Washington, D.C. 20402 20401.
- E.** An individual shall not use dogs to pursue or hold at bay any bear or lion for another hunter unless the hunter is present when the dogs are released on a specific target animal and continuously present for the entire pursuit. This subsection does not apply to any activity allowed in A.R.S. § 17-302.

R12-4-304. Lawful Methods for Taking Wild Mammals, Birds, and Reptiles

- A. An individual may use the following methods to take big game, subject to the restrictions in R12-4-303 and R12-4-318.
 - 1. To take antelope:
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. No change
 - h. ~~For individuals holding a crossbow permit issued under R12-4-216, crossbows~~ Crossbows with a minimum draw weight of 125 pounds, using bolts with a minimum length of 16 inches and broadheads no less than 7/8 inch in width with metal cutting edges or bows as described in subsection (A)(1)(g) to be drawn and held with an assisting device.
 - 2. To take bear:
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. No change
 - h. ~~For individuals holding a crossbow permit issued under R12-4-216, crossbows~~ Crossbows with a minimum draw weight of 125 pounds, using bolts with a minimum length of 16 inches and broadheads no less than 7/8 inch in width with metal cutting edges or bows as described in subsection (A)(2)(g) to be drawn and held with an assisting device; and
 - i. No change
 - 3. To take bighorn sheep:
 - a. No change
 - b. No change

- c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. No change
 - h. ~~For individuals holding a crossbow permit issued under R12-4-216, crossbows~~ Crossbows with a minimum draw weight of 125 pounds, using bolts with a minimum length of 16 inches and broadheads no less than 7/8 inch in width with metal cutting edges or bows as described in subsection (A)(3)(g) to be drawn and held with an assisting device.
4. To take buffalo:
- a. At the House Rock Wildlife Area:
 - i. No change
 - ii. No change
 - iii. No change
 - iv. No change
 - v. No change
 - vi. ~~For individuals holding a crossbow permit issued under R12-4-216, crossbows~~ Crossbows with a minimum draw weight of 125 pounds, using bolts with a minimum length of 16 inches and broadheads no less than 7/8 inch in width with metal cutting edges or bows as described in subsection (A)(4)(a)(v) to be drawn and held with an assisting device.
 - b. No change
 - i. No change
 - ii. No change
 - iii. No change
5. To take deer:
- a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. No change
 - h. Crossbows with a minimum draw weight of 125 pounds, using bolts with a minimum length of 16 inches and broadheads no less than 7/8 inch in width with metal cutting edges or bows as described in subsection (A)(5)(g) to be drawn and held with an assisting device.
6. To take elk:
- a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. No change
 - h. ~~For individuals holding a crossbow permit issued under R12-4-216, crossbows~~ Crossbows with a minimum draw weight of 125 pounds, using bolts with a minimum length of 16 inches and broadheads no less than 7/8 inch in width with metal cutting edges or bows as described in subsection (A)(6)(g) to be drawn and held with an assisting device.
7. To take javelina:
- a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. No change
 - h. Crossbows with a minimum draw weight of 125 pounds, using bolts with a minimum length of 16 inches and broadheads no less than 7/8 inch in width with metal cutting edges or bows as described in subsection (A)(7)(g) to be drawn and held with an assisting device;
 - i. No change

Notices of Proposed Rulemaking

- j. No change
- 8. To take mountain lion:
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. No change
 - h. Crossbows with a minimum draw weight of 125 pounds, using bolts with a minimum length of 16 inches and broadheads no less than 7/8 inch in width with metal cutting edges or bows as described in subsection (A)(8)(g) to be drawn and held with an assisting device; ~~and~~
 - i. Pursuit with dogs; and
 - j. Shotguns shooting shot.
- 9. To take turkey:
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. No change
 - h. Crossbows with a minimum draw weight of 125 pounds, using bolts with a minimum length of 16 inches and broadheads no less than 7/8 inch in width with metal cutting edges or bows as described in subsection (A)(9)(g) to be drawn and held with an assisting device;
 - i. No change
 - j. No change
 - k. ~~.22~~ .17 rimfire magnum rifles; and
 - l. Shotguns shooting shot.
- B. An individual may use the following methods to take small game, subject to the restrictions in R12-4-303 and R12-4-318.
 - 1. To take cottontail rabbits and tree squirrels:
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. Slingshots, ~~and~~
 - f. Falconry; and
 - g. Pursuit with dogs.
 - 2. To take all upland game birds:
 - a. No change
 - b. No change
 - c. Pneumatic weapons.
 - ~~e-d.~~ Shotguns shooting shot,
 - ~~d-e.~~ Handguns shooting shot, ~~and~~
 - ~~e-f.~~ Crossbow; and
 - g. Pursuit with dogs.
 - 3. To take migratory game birds:
 - a. No change
 - b. No change
 - c. No change
 - d. Shotguns shooting shot, except that lead shot shall not be used or possessed while taking ducks, geese, swans, mergansers, common moorhens, or coots; ~~and~~
 - e. Shotguns shooting shot and incapable of holding more than two shells in the magazine, unless plugged with a one-piece filler that cannot be removed without disassembling the gun that limits the magazine capacity to two shells; and
 - f. Pursuit with dogs.
- C. No change
 - 1. No change
 - 2. No change

3. No change
- D. An individual may take predatory and furbearing animals by using the following methods, subject to the restrictions in R12-4-303 and R12-4-318:
 1. No change
 2. No change
 3. No change
 4. Traps not prohibited by R12-4-307; ~~and~~
 5. Artificial light while taking raccoon, if the light is not attached to or operated from a motor vehicle, motorized watercraft, watercraft under sail, or floating object towed by a motorized watercraft or a watercraft under sail; ~~and~~
 6. Take with dogs.
- E. An individual may take nongame mammals and birds by any method not prohibited in R12-4-303 or R12-4-318, ~~under~~ subject to the following conditions restrictions. An individual:
 1. Shall not take nongame mammals and birds using foothold ~~steel~~ traps;
 2. No change
 3. Shall not use firearms, bow and arrow, crossbow, or pneumatic weapons to take nongame mammals and birds at night; and
 4. No change
- F. An individual may take reptiles by any method not prohibited in R12-4-303 or R12-4-318 ~~under~~ subject to the following conditions restrictions. An individual:
 1. No change
 2. Shall not use firearms, bow and arrow, crossbow, or pneumatic weapons to take reptiles at night; and
 3. No change

R12-4-305. Possessing, Transporting, Importing, Exporting, and Selling Carcasses or Parts of Wildlife

- A. For the purposes of this Section, “evidence of legality” means:
 1. The wildlife is identifiable as the “legal wildlife” prescribed by Commission ~~order~~ Order, which may include evidence of species, gender, antler or horn growth, maturity and size; and
 2. The wildlife is accompanied by the applicable license, tag, ~~separated portion of a tag under R12-4-302~~, stamp, or permit required by law.
- B. No change
- C. In addition to the requirement in subsection (B), an individual possessing or transporting the following wildlife shall also ensure that:
 1. No change
 2. No change
 3. No change
 4. Each quail has attached a fully feathered head, or a fully feathered wing, or a leg with foot attached, if the current Commission ~~order~~ Order has established separate bag or possession limits for any species of quail.
- D. An individual who has lawfully taken wildlife that requires a valid tag when prescribed by the Commission, such as big game, sandhill crane, or pheasant, may authorize its transportation or shipment by completing and signing the ~~Transportation/Shipping Permit~~ Transportation and Shipping Permit portion of the valid tag for that animal. A separate ~~Transportation/Shipping Permit~~ Transportation and Shipping Permit issued by the Department is necessary to transport or ship to another state or country any big game taken with a resident license. Under A.R.S. § ~~17-372~~ 17-372(B), an individual may ship other lawfully taken wildlife by common carrier after obtaining a valid ~~Transportation/Shipping Permit~~ Transportation and Shipping Permit issued by the Department. The individual shall provide the following information on the permit form:
 1. No change
 2. No change
 3. No change
 4. No change
 5. No change
- E. An individual who lawfully takes wildlife under a tag may authorize another individual to possess ~~the head or carcass of~~ and transport any portion of the wildlife by separating and attaching the tag separate from the original tag by using the ~~and transport any portion of the wildlife by separating and attaching the tag separate from the original tag by using the~~ Carcass/Transportation/Shipping Permit as prescribed in under R12-4-302. ~~An individual who receives a portion of the wildlife shall provide the identity of the individual who took and gave the portion of the wildlife.~~
- F. No change
- G. An individual who sells, offers for sale, or exports the raw pelt of a bobcat taken in this state shall obtain a bobcat ~~permit~~ export tag available for a fee as provided in R12-4-102 at Department offices and other locations at those times and places as determined and published by the Department, and shall ensure that the bobcat ~~permit~~ export tag is locked through the mouth or eye openings so that it cannot be removed.

Notices of Proposed Rulemaking

- H. No change
- I. No change
- J. No change
- K. No change
- L. No change
- M. An individual in possession of a carp (*Cyprinus carpio*) ~~or~~, buffalofish (*Ictiobus* spp.), or crayfish carcass taken under Commission ~~order~~ Order may sell the carcass.
- N. An individual may collect and transport crayfish from any waters of the state. An individual shall not transport crayfish alive from the site where taken.

R12-4-306. Buffalo Hunt Requirements

- A. When authorized by Commission ~~order~~ Order, the Department shall conduct a hunt to harvest buffalo from the state's buffalo herds.
- B. No change
- C. A hunter with a buffalo hunt permit-tag for the Raymond Wildlife Area herd shall hunt in the order scheduled by the Department. During a supplemental hunt, a hunter with a buffalo restricted nonpermit-tag for the House Rock Wildlife Area herd shall hunt in the order scheduled when required by the Department.
- D. No change
- E. During a supplemental hunt, a hunter with a buffalo restricted nonpermit-tag for the House Rock Wildlife Area herd shall be accompanied by an authorized Department employee who shall designate the animal to be harvested when required by the Department.

R12-4-307. Trapping Regulations; Licensing; Methods; Tagging of Bobcat Pelts

- A. For the purposes of this Section, the following definitions apply:
 - 1. No change
 - 2. No change
 - 3. "Foothold trap" means a device designed to capture an animal by the leg or foot. The term foothold trap is synonymous with leghold trap.
 - ~~3-4.~~ "Instant kill trap" means a device designed to render an animal unconscious and insensitive to pain quickly with inevitable subsidence into death without recovery of consciousness.
 - ~~4-5.~~ "Land set" means any trap used on land rather than in water.
 - ~~5.~~ "Leghold trap" means a device designed to capture an animal by the leg or foot.
 - 6. No change
 - 7. No change
 - 8. No change
 - 9. No change
- B. A valid trapping license is required for an individual 14 years of age or older for trapping predatory and fur-bearing animals. An individual born on or after January 1, 1967 shall successfully complete a Department-approved trapping education course to obtain a trapping license. Traps may be used to take predatory and fur-bearing animals only during the trapping season established by Commission ~~order~~ Order.
- C. All trappers shall inspect their traps daily and kill or release all predatory and fur-bearing animals. All trappers shall release without additional injury all animals that cannot lawfully be taken by trap. While in the field, all trappers, except those using confinement traps, shall possess a device that is designed or manufactured to restrain trapped animals so that a trapped animal can be removed from a trap when its release is required by this Section. All trappers, except those using confinement traps, in units designated by Commission ~~order~~ Order as javelina hunt units, shall possess a choke restraint device that enables the trapper to release a javelina from a trap.
- D. An individual shall not:
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. Set a ~~leghold~~ foothold trap within 30 feet of a sight-exposed bait;
 - 5. No change
 - 6. No change
 - 7. Use any snare, unless it is authorized under subsection (E);
 - 8. No change
 - 9. No change
 - 10. Use a ~~leghold~~ foothold trap with an open jaw spread that exceeds 7 1/2 inches for any water set; or
 - 11. No change
- E. An individual who uses a ~~leghold~~ foothold trap to take wildlife with a land set shall use:

Notices of Proposed Rulemaking

1. A commercially-manufactured, padded, or rubber-jawed trap, or an unpadded trap with jaws permanently offset to a minimum of 3/16 inch and a device to allow for pan tension adjustment;
 2. A commercially-manufactured jawed trap that does not exceed 5 1/2 inches, modified with a pan safety device that prevents capture of non-targeted wildlife or domestic animals and a separate device that allows for pan tension adjustment; ~~or~~
 3. A commercially manufactured ~~leghold~~ foothold trap that captures wildlife by means of an enclosed bar or spring designed to prevent capture of non-targeted wildlife or domestic animals; or
 4. A commercially manufactured powered cable device with inside width at frame hinge no wider than 6 inches, cable loop stop size of at least 2 inches in diameter to prevent capture of small non-target species, and a device to allow for a pan tension adjustment.
- F. An individual who uses a ~~leghold~~ foothold trap to take wildlife with a land set shall ensure that the trap has an anchor chain with at least two swivels. Anchor chains that are 12 inches or less in length shall have a swivel attached at each end. Anchor chains that are greater than 12 inches shall have one swivel attached at the trap and one swivel attached within 12 inches of the trap. The anchor chain shall be equipped with a shock-absorbing spring that requires less than 40 pounds of force to extend or open the spring.
- G. No change
- H. No change
- I. No change
- J. No change
1. No change
 2. No change
 3. No change
 4. No change
 5. No change
- K. No change
- L. No change
1. No change
 2. No change
- M. Trappers shall ensure that pelts of bobcats that they have taken in this state that are sold, offered for sale, or exported from the state shall have bobcat permit export tags (~~export tags~~) locked through the mouth and an eye opening, or through both eye openings so that the permit export tag cannot be removed without being damaged. Trappers may obtain bobcat permit export tags as follows:
1. Bobcat permit export tags are available for a fee as provided in R12-4-102 at Department offices and other locations at those times and places as determined and published by the Department.
 2. When available, bobcat permit export tags are issued on a first-come, first-served basis ~~from November 1 through April 10 of each year.~~
 3. Department personnel or authorized agents of the Department shall attach and lock bobcat permit export tags only to those pelts presented with validated transportation tags. Department personnel or authorized agents of the Department shall collect the transportation tags before attaching the bobcat permit export tags.
 4. ~~The April 10 deadline is waived for pelts consigned to licensed taxidermists for tanning or mounting.~~
 - 5-4. Department personnel shall attach bobcat permit export tags to bobcat pelts seized under A.R.S. § ~~17-211(D)(4)~~ 17-211(E)(4) before disposal by the Department. ~~The April 10 deadline is waived for pelts tagged under this subsection.~~

R12-4-308. Wildlife Inspections, Check Stations, and Roadblocks

- A. The Department has the authority to establish mandatory wildlife check stations. The Department shall publish the location, check-in requirements, and check-out requirements for a season with the published Commission ~~order~~ Order establishing the season.
1. No change
 2. No change
 3. No change
 4. No change
- B. The Department has the authority to conduct inspections ~~for bighorn sheep, archery deer, bear, mountain lion and special big game license tags (deer, elk, antelope, and buffalo)~~ of lawfully taken wildlife at the Department's Phoenix and regional offices or designated locations. Regional offices are open 8:00 a.m. to 5:00 p.m., Monday through Friday, except on legal state holidays.
1. All bighorn sheep hunters shall personally check out within three days after the close of the season. Each hunter who takes a bighorn sheep shall submit the intact horns and skull for inspection and photographing. The Department representative shall affix a mark or seal to one horn of each bighorn sheep lawfully taken under Commission ~~order~~ Order. The hunter shall not remove, alter, or obliterate the mark or seal.

Notices of Proposed Rulemaking

2. All special big game license tag hunters who tag a deer, elk, antelope, or buffalo shall submit the intact horns or antlers and skull or skullcap for inspection and photographing within three days after the close of the season.
- 3-2. A successful ~~non permit tag~~ nonpermit-tag archery deer hunter shall report information about the kill to a Department office in person or by telephone within 10 days of taking the deer if the hunt area does not have a check station requirement.
- 4-3. A successful bear or mountain lion hunter shall report information about the kill in person or by telephone within 48 hours of taking the wildlife. The report shall include the name of the hunter, the hunter's hunting license number, the sex of the wildlife taken, the management unit where the wildlife was taken, and a telephone number where the hunter can be reached for additional information. Within 10 days of taking the wildlife, each hunter who takes a bear or mountain lion shall present the skull, hide, and attached proof of sex for inspection. If a hunter freezes the skull or hide before presenting it for inspection, the hunter shall prop the jaw open to allow access to the teeth and ensure that the attached proof of sex is identifiable and accessible.
4. For seasons other than bear and mountain lion, where a harvest objective is established, a successful license holder shall report information about the kill in person or by telephone within 48 hours of taking the wildlife. The report shall include the name of the individual, the individual's license number, the sex of the wildlife taken, the management unit where the wildlife was taken, and a telephone number where the individual can be reached for additional information.

C. No change

D. This Section does not limit the game ranger or wildlife manager's authority to conduct stops, searches, and inspections under A.R.S. §§ ~~17-211(D)~~ 17-211(E) and 17-331, or to establish voluntary wildlife survey stations to gather biological information.

R12-4-309. ~~Repealed~~ Authorization for Use of Drugs on Wildlife

A. For the purposes of this Section:

1. "Drug" means any chemical substance, other than food or mineral supplement, which affects the structure or biological function of any wildlife under the jurisdiction of the state.
2. "Person" means any individual, corporation, partnership, limited liability company, non-governmental organization or club, licensed animal shelter, government entity other than the Department, and any officer, employee, volunteer, member or agent of a person.

B. Except with written authorization from the Department or as otherwise provided in subsection (F) below, a person shall not administer any drug to any wildlife under the jurisdiction of the state, including but not limited to drugs used for fertility control, disease prevention or treatment, immobilization, or growth stimulation.

C. A person making a request for the use of drugs on wildlife shall submit the request at least 120 days before the anticipated start date of the activity and provide:

1. A plan that includes:
 - a. The purpose and need for the proposed activity;
 - b. A clear statement of the objectives, including for fertility control the target wildlife population goals or densities and the anticipated time-frame to meet these objectives;
 - c. A description of the agent, drug, or method including federal approvals or permits obtained, as applicable, and any mandated labeling restrictions or limitations designed to reduce or minimize detrimental effects to wildlife and humans;
 - d. Necessary approvals, including, but not limited to, any federal or state agency approvals for specific use;
 - e. Citations of published scientific literature that document field studies on the efficacy and safety for the target and non-target species, including predators, scavengers, and humans;
 - f. A description of the activity area;
 - g. A description of the target species population and current status;
 - h. A detailed description of the field methodology for delivery including timing, sex and number of animals to be treated, percentage of the population to be treated, and if applicable, calculated population effect; and
 - i. Short and long term monitoring and evaluation procedures.
2. Documentation regarding the experience and credentials of the applicant or the applicant's agents as it applies to the requested activity.
3. For applicant's from a government agency, university, or other institution, written endorsement from the agency or institution.
4. Written permission of landowners or lessees in all locations where drugs will be administered.

D. The Department shall authorize or deny the request within 90 days. An authorization must include:

1. A description and boundary of the activity area;
2. The names of authorized agents;
3. The authorized drug and methodology to be used;
4. The time-frame for the approved activity, including starting and ending dates;

Notices of Proposed Rulemaking

5. Any limits on sex, age, and numbers of wildlife to be treated;
 6. Annual and final reporting requirements; and
 7. Any other conditions deemed necessary by the Department for the protection of wildlife or public health, safety, or welfare.
- E.** A person with authorization shall:
1. Carry written authorization while engaged in the activity and exhibit it upon request to any peace officer;
 2. Allow Department personnel to be present to monitor activities for compliance, public safety, and proper treatment of animals;
 3. Adhere to all drug label restrictions and precautions;
 4. Provide the required reports under subsection (D)(6):
 - a. The annual report must include the number of animals treated, the level of treatment effect obtained to date, and any problems including mortalities or morbidities of target animals.
 - b. The final report must include the end results, including the number of wildlife treated and treatment effects on target and non-target wildlife, including mortalities, morbidities, and reproductive rate changes; and
 5. Follow all conditions and requirements set forth on the authorization.
- F.** This Section does not prohibit the treatment of sick or injured wildlife by a licensed veterinarian or holder of a special license in accordance with R12-4-407(A)(2) and R12-4-428(B)(13), activities as authorized by a Scientific Collecting Permit under R12-4-418, activities as authorized by a Wildlife Service License under R12-4-421, or reasonable lethal removal activities for wildlife control as authorized under A.R.S. § 17-239(A).
- G.** This Section is not intended to limit Department employees in the performance of their official duties related to wildlife management.
- H.** The Department has the authority under A.R.S. § 17-231(A) to take possession of and dispose of any wildlife drugs administered in violation of this Section.

R12-4-310. Fishing Permits

- A.** The Department may issue a ~~Fishing Permit~~ fishing permit to state, county, or municipal agencies or departments and to nonprofit organizations licensed by or contracted with the Department of Economic Security or Department of Health Services, whose primary purpose is to provide physical or mental rehabilitation or training for individuals with physical, developmental, or mental disabilities. The permit will allow individuals with physical, developmental, or mental disabilities to fish without a fishing license. The permit will authorize this activity for up to 20 individuals for the two days specified on the permit upon any public waters except that fishing in the waters of the Colorado River is restricted to fishing from the Arizona shoreline only, unless the persons fishing under the authority of the permit also possess a valid Colorado River stamp from the adjacent state. The individuals fishing under the authority of the permit shall comply with other relevant statutes, Commission ~~orders~~ Orders, and rules not contained in this Section.
- B.** An applicant for a ~~Fishing Permit~~ fishing permit shall provide the following to the Department:
1. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 2. No change
- C.** The Department shall issue or deny the ~~Fishing Permit~~ fishing permit to an applicant within 30 calendar days of receiving an application.
- D.** The ~~Fishing Permit~~ fishing permit holder shall provide one hour of instruction on fish identification, fishing ethics, safety, and techniques to the individuals who will be fishing under authority of the permit. The Department shall provide the lesson plan for this instruction to the ~~permittee~~ permit holder.
- E.** Each individual fishing without a license under the authority of the ~~Fishing Permit~~ fishing permit may take only one-half the regular bag limit established by Commission ~~order~~ Order for any species, unless the regular bag limit is one, in which case the permit authorizes the regular limit.
- F.** The ~~permittee~~ permit holder shall submit a report to the Department not later than 30 days after the end of the authorized fishing dates. The Department may deny issuance of future ~~Fishing Permits to permittees~~ fishing permits to permit holders who fail to submit the report. The ~~permittee~~ permit holder shall report on a form available from the Department:
1. The ~~Fishing Permit~~ fishing permit number and the information contained in the permit;
 2. No change
 3. No change

R12-4-311. Exemptions from Requirement to Possess an Arizona Fishing License while Taking Aquatic Wildlife

- A.** A fishing license is not required to take aquatic wildlife from private waters, artificial ponds, tanks, and lakes contained

Notices of Proposed Rulemaking

entirely on private lands that are not open to the public and not managed by the Department.

- B. An individual may take terrestrial mollusks or crustaceans from private property without a fishing license. Possession and transportation of live crustaceans is subject to the limitations outlined in R12-4-316.
- C. Any individual fishing in Arizona on ~~the designated~~ any Saturday that occurs during National Fishing and Boating Week may fish without an Arizona fishing license if the individual's privilege to take aquatic wildlife has not been revoked by the Commission. The provisions of this subsection apply to all waters except waters of the Colorado River adjacent to California and Nevada forming the mutual boundaries between Arizona and California or Nevada, where fishing without a license is limited to the shoreline, and Utah portions of Lake Powell, unless the state with concurrent jurisdiction removes licensing requirements on the same day. The provisions of this subsection do not apply to reservation lands except as authorized by tribal governments.
- D. No change

R12-4-313. Lawful Methods of Taking Aquatic Wildlife

- A. No change
- B. The Commission may, through Commission ~~order~~ Order, prescribe legal sizes for possession of aquatic wildlife.
- C. An individual may take aquatic wildlife by angling or simultaneous fishing as defined in R12-4-101 with any bait, artificial lure, or fly subject to the following restrictions. An individual:
 - 1. Shall not possess aquatic wildlife other than aquatic wildlife prescribed by Commission ~~order~~ Order;
 - 2. No change
 - 3. May use live baitfish, as defined in R12-4-101, only in areas designated by Commission ~~order~~ Order; and
 - 4. No change
- D. In addition to angling, an individual may also take the following aquatic wildlife using the following methods, subject to the restrictions of R12-4-303, R12-4-316, and R12-4-317, and this Section:
 - 1. No change
 - 2. Striped bass may also be taken by spear or spear gun in waters designated by Commission ~~order~~ Order.
 - 3. Live baitfish may also be taken for personal use as bait by:
 - a. No change
 - b. No change
 - c. No change
 - d. A dip net that is no greater than three feet in the greatest dimension. A dip net must be hand held and the motion of the dip net shall be caused only by the physical effort of the operator.
 - 4. No change
 - 5. In addition to the methods described in subsection (D)(4) of this Section, bullfrogs may also be taken by bow and arrow, crossbow, ~~or slingshot~~, or pneumatic weapons.
 - 6. No change
 - a. No change
 - b. No change
 - 7. Catfish may also be taken by bow and arrow or crossbow in waters designated by Commission Order.
- E. No change

R12-4-314. ~~Repeated~~ Pick-up and Possession of Wildlife Parts

- A. For the purposes of this Section, the following definitions apply:
 - 1. "Fresh" means the majority of a carcass or wildlife part that is not exposed dry bone and is comprised mainly of hair, hide, or flesh.
 - 2. "Not fresh" means the majority of the carcass or wildlife part is exposed dry bone due to natural processes such as scavenging, decomposition, or weathering.
- B. If not in conflict with federal law, and notwithstanding any provision in Section R12-4-305 to the contrary, no license, permit, tag or stamp are required to pick up and possess naturally shed antlers and horns or parts of a wildlife carcass that are not fresh.
- C. If not contrary to federal law or regulation, an individual may only pick up and possess a fresh wildlife carcass or its parts under this Section if the individual notifies the Department and:
 - 1. The wildlife carcass or its parts show no evidence of death or wounding from any device used to take wildlife;
 - 2. The Department's first report or knowledge of the carcass or its parts is voluntarily provided by the individual wanting to possess the carcass or its parts;
 - 3. A Department law enforcement officer is able to observe the entire carcass and its parts at the site where the animal died in the same condition and location as when the animal was originally found by the individual wanting to possess the carcass or its parts; and
 - 4. A Department law enforcement officer, using the officer's education, training, and experience, finds no indication that the animal may have been taken unlawfully. The Department may require the finder to take the officer to the site

where the animal carcass or parts were found if an adequate description or location cannot be provided to the officer.

5. The Department has no duty to confirm legality in the event of non-availability of a Department officer.

D. If a Department law enforcement officer determines that the individual wanting to possess the carcass or its parts is authorized to do so under subsection (C), the officer shall issue a permit authorizing possession of the carcass or its parts. The permit shall contain:

1. A general description of the carcass or its parts;

2. The date of inspection;

3. Species of the wildlife carcass;

4. If applicable, horn or antler length and width, and points per side; and

5. A statement that the permit must remain with the carcass or its parts.

E. The Migratory Bird Treaty Act regulates the pick-up and possession of migratory birds and their parts. The provisions of this Article and regulations promulgated under the Act apply to a person in possession of birds, feathers, other parts, eggs, and nests.

F. Wildlife parts picked up and possessed from areas under control of jurisdictions that prohibit such activity are illegal to possess in this state.

R12-4-315. Possession of Live Fish; Unattended Live Boxes and Stringers

A. An individual may possess fish taken alive under R12-4-313 on the waters where taken, except when the take or possession is expressly prohibited by the provisions of R12-4-313, R17-4-316, or R12-4-317, but the individual shall not transport the fish alive from the waters where taken except as allowed in R12-4-316 or R12-4-412.

B. No change

R12-4-316. Possession, Transportation, or Importation of Live Baitfish, Crayfish, or Waterdogs

A. No change

B. An individual may possess or transport the following live baitfish for personal use as live bait in accordance with R12-4-317. An individual who possesses a valid Arizona fishing license may import these live baitfish from California or Nevada without accompanying documentation certifying the fish are free of disease, or may import these live baitfish from any other state with accompanying documentation certifying that the fish are free of Furunculosis.

1. No change

2. No change

3. ~~Red shiner (*Cyprinella lutrensis*)~~

4.3. Threadfin shad (*Dorosoma petenense*);

5.4. Golden shiners (*Notemigonus crysoleucas*); and

6.5. Goldfish (*Carassius auratus*).

C. No change

D. No change

E. No change

F. No change

G. An individual shall not import, transport, move between waters, or possess live red shiner (*Cyprinella lutrensis*) for personal use as live bait except that an individual may capture, possess, and use red shiner in the body of water where captured as provided in R12-4-313(D) as live bait when permitted by Commission Order, but may not transport live red shiner from that body of water.

R12-4-317. Seasons for Lawfully Taking Fish, Mollusks, Crustaceans, Amphibians, and Aquatic Reptiles

A. Methods of lawfully taking aquatic wildlife during seasons designated by Commission ~~order~~ Order as “general” seasons are designated in R12-4-313.

B. Other seasons designated by Commission ~~order~~ Order have specific requirements and lawful methods of take more restrictive than those for general seasons, as prescribed in this Section. While taking aquatic wildlife under R12-4-313:

1. No change

2. An individual participating in a “live baitfish” season shall not use any species of fish as live bait, or possess any species of fish for use as live bait at, in, or upon any waters unless that species is specified as a live baitfish for those waters by Commission ~~order~~ Order. Live baitfish shall not be transported from the waters where taken except as allowed in R12-4-316.

3. No change

4. No change

5. No change

6. An individual participating in a “snagging” season shall use this method only at times and locations designated by Commission ~~order~~ Order.

7. An individual participating in a “spear or spear gun” season shall use this method only at times and locations designated by Commission ~~order~~ Order.

8. An individual participating in a bow fishing season, other than general season described in R12-4-313, shall use the methods at times and locations designated by Commission Order.
- C. A “special” season may be designated by Commission ~~order~~ Order to allow fish to be taken by hand, or by any hand-held, non-motorized implement that does not discharge a projectile. The “special” season may apply to any waters where a fish die-off is imminent due either to poor or low water conditions or Department fish renovation activities, or as designated by Commission ~~order~~ Order.

R12-4-318. Seasons for Lawfully Taking Wild Mammals, Birds, and Reptiles

- A. Methods of lawfully taking wild mammals and birds during seasons designated by Commission ~~order~~ Order as “general” seasons are designated in R12-4-304. Restrictions designated in subsection (C) do not apply to general seasons.
- B. Methods of lawfully taking big game during seasons designated by Commission ~~order~~ Order as “special” are designated in R12-4-304. “Special” seasons are open only to individuals who possess special big game license tags issued under A.R.S. § 17-346 and R12-4-120.
- C. When designated by Commission ~~order~~ Order, the following seasons have specific requirements and lawful methods of take more restrictive than those for general and special seasons, as prescribed in this Section. While taking the species authorized by the season:
1. An individual participating in a “muzzleloader” season shall not use or possess any firearm other than muzzle-loading rifles or muzzle-loading handguns, as defined in R12-4-101. Individuals participating in a “muzzleloader” season may possess a non-hunting handgun for personal protection. It is unlawful to take any wildlife with this handgun while participating in a “muzzle loader” season. For the purposes of this Section, a non-hunting handgun is defined as a handgun with a barrel length of 6 inches or less that does not have a scope or any type of electronic sight.
 2. An individual participating in an “archery-only” season ~~shall~~ may only use and or possess only a bow and arrow as the following methods or devices for taking wildlife, when prescribed in R12-4-304 as lawful for the species hunted: bow and arrow and falconry, and shall not use or possess any other weapons, including crossbows or ~~any other bows with a device that holds the bow in a drawn position to be drawn and held with an assisting device,~~ except as authorized by R12-4-216. Individuals participating in an “archery-only” season may possess a non-hunting handgun for personal protection. It is unlawful to take any wildlife with this handgun while participating in an “archery-only” season. For the purposes of this Section, a non-hunting handgun is defined as a handgun with a barrel length of 6 inches or less that does not have a scope or any type of electronic sight.
 3. No change
 4. No change
 5. An individual participating in a “pursuit-only” season may use dogs to pursue bears, mountain lions, or raccoons as designated by Commission ~~order~~ Order, but shall not kill or capture the quarry. An individual participating in a “pursuit-only” season shall possess and, at the request of Department personnel, produce a valid hunting license and any required tag for taking the animal pursued, even though there shall be no kill.
 6. An individual participating in a “limited weapon” season may only use or possess the following methods or devices for taking wildlife, when prescribed in R12-4-304 as lawful for the species hunted: bow and arrow; crossbow; pneumatic weapons; falconry; slingshots; any trap except ~~foot-hold~~ foothold steel traps; nets; hand-propelled projectiles; or capture by hand.
 7. An individual participating in a “limited weapon-shotgun” season may only use or possess the following methods or devices for taking wildlife, when prescribed in R12-4-304 as lawful for the species hunted: shotgun shooting shot or slug; bow and arrow; crossbow; pneumatic weapons; falconry; slingshots; any trap except ~~foot-hold~~ foothold steel traps; nets; hand-propelled projectiles; or capture by hand.
 8. An individual participating in a “limited weapon-shotgun shooting shot” season may only use or possess the following methods or devices for taking wildlife, when prescribed in R12-4-304 as lawful for the species hunted: shotgun shooting shot, bow and arrow, crossbow, pneumatic weapons, falconry, slingshots, any trap except ~~foot-hold~~ foothold steel traps, nets, hand-propelled projectiles, or capture by hand.
 9. An individual participating in a “limited weapon-rimfire” season may only use or possess the following methods or devices for taking wildlife, when prescribed in R12-4-304 as lawful for the species hunted: rifled firearms using rim-fire cartridges; shotgun shooting shot or slug; bow and arrow; crossbow; pneumatic weapons; falconry; slingshots; any trap except ~~foot-hold~~ foothold steel traps; nets; hand-propelled projectiles; or capture by hand.
 10. An individual participating in a “falconry-only” season shall be a falconer ~~either licensed under R12-4-422 or unless exempted under A.R.S. § 17-236(C) or R12-4-407, and~~ A falconer participating in a “falconry-only” season shall use no method of take except falconry.
 11. No change
 12. An individual participating in a “CHAMP” season shall be a challenged hunter access/mobility ~~permittee~~ permit holder under R12-4-217.
 13. No change

NOTICE OF PROPOSED RULEMAKING

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

CHAPTER 1. DEPARTMENT OF LIQUOR LICENSES AND CONTROL

[R08-441]

PREAMBLE

1. Sections Affected

Rulemaking Action

Article 1	Repeal
R19-1-101	Repeal
R19-1-102	Repeal
R19-1-103	Repeal
R19-1-105	Repeal
R19-1-106	Repeal
R19-1-107	Repeal
R19-1-109	Repeal
R19-1-111	Repeal
Article 2	Repeal
R19-1-201	Repeal
R19-1-202	Repeal
R19-1-203	Repeal
R19-1-204	Repeal
R19-1-206	Repeal
R19-1-207	Repeal
R19-1-208	Repeal
R19-1-209	Repeal
R19-1-210	Repeal
R19-1-211	Repeal
R19-1-212	Repeal
R19-1-214	Repeal
R19-1-215	Repeal
R19-1-216	Repeal
R19-1-217	Repeal
R19-1-218	Repeal
R19-1-219	Repeal
R19-1-220	Repeal
R19-1-221	Repeal
R19-1-222	Repeal
R19-1-223	Repeal
R19-1-224	Repeal
R19-1-225	Repeal
R19-1-226	Repeal
R19-1-227	Repeal
R19-1-228	Repeal
R19-1-229	Repeal
R19-1-251	Repeal
Article 3	Repeal
R19-1-302	Repeal
R19-1-303	Repeal
R19-1-304	Repeal
R19-1-305	Repeal
R19-1-306	Repeal
R19-1-307	Repeal
R19-1-308	Repeal
R19-1-309	Repeal
R19-1-310	Repeal
R19-1-311	Repeal
R19-1-312	Repeal
R19-1-313	Repeal

Notices of Proposed Rulemaking

R19-1-315	Repeal
R19-1-316	Repeal
R19-1-317	Repeal
Table A	Repeal

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(A)(2) and (B)(1)

Implementing statute: A.R.S. §§ 4-101 through 4-312

3. List of all previous notices appearing in the Register addressing the proposed rules:

Notice of Rulemaking Docket Opening: 14 A.A.R. 4934, December 26, 2008

Notice of Proposed Rulemaking: 15 A.A.R. 45, January 2, 2009 (*in this issue*)

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

Name: Pearlette Ramos

Address: Department of Liquor Licenses and Control
800 W. Washington St., 5th floor
Phoenix, AZ 95007

Telephone: (602) 542-9021

Fax: (602) 542-5707

E-mail: Pearlette.ramos@azliquor.gov

5. An explanation of the rules, including the agency's reasons for initiating the rulemaking:

In this rule package, the Department is repealing its rules. In a separate rule package, the Department is making new rules that are consistent with statute and agency and industry practice and clear, concise, and understandable.

6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

7. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

Under A.R.S. § 41-1055(D)(3), this rulemaking is exempt from the economic, small business, and consumer impact statement requirement.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Pearlette Ramos

Address: Department of Liquor Licenses and Control
800 W. Washington St., 5th floor
Phoenix, AZ 95007

Telephone: (602) 542-9021

Fax: (602) 542-5707

E-mail: Pearlette.ramos@azliquor.gov

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rules or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rules:

An oral proceeding regarding the proposed rules will be held as follows:

Date: Tuesday, February 3, 2009

Time: 1:00 p.m.

Location: 800 W. Washington St.
Phoenix, AZ 85007

The rulemaking record will close at 5:00 p.m. on February 4, 2009.

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

None

12. Incorporations by reference and their location in the rules:

None

13. 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 1. STATE LIQUOR BOARD REPEALED

Section

- R19-1-101. Definitions Repealed
- R19-1-102. Granting a License for a Certain Location Repealed
- R19-1-103. Change in Proprietary Interest Repealed
- R19-1-105. Knowledge of Law and Regulations Repealed
- R19-1-106. Service of Complaints for Judicial Review Repealed
- R19-1-107. Rehearing or Review of Decision Repealed
- R19-1-109. Quota license selection process Repealed
- R19-1-111. Election of Officers Repealed

ARTICLE 2. DIRECTOR REPEALED

Section

- R19-1-201. Definitions Repealed
- R19-12-02. Intrastate shipping requirements Repealed
- R19-1-203. Intrastate shipping requirements Repealed
- R19-1-204. Interstate Shipping, Importation, Labeling, Solicitation, Advertising Repealed
- R19-1-206. Inducements, Prohibited Repealed
- R19-1-207. Bottles, Reuse or Refilling Prohibited Repealed
- R19-1-208. Hotel/Motel/Restaurant Requirements Repealed
- R19-1-209. Tax requirements Repealed
- R19-1-210. Sign Limitations Repealed
- R19-1-211. Draught beer signs Repealed
- R19-1-212. Advertising, Misleading Repealed
- R19-1-214. Prohibited Acts Repealed
- R19-1-215. Obscene Films, Pictures Prohibited Repealed
- R19-1-216. Age Restrictions Repealed
- R19-1-217. Display of License Repealed
- R19-1-218. Records, Keeping of Repealed
- R19-1-219. Storage on Unlicensed Premises Repealed
- R19-1-220. Liquors other than authorized by license Repealed
- R19-1-221. Retail Delivery of Spirituous Liquor Repealed
- R19-1-222. Suspension, Adherence to Rules of Repealed
- R19-1-223. Closure Due to Violence Repealed
- R19-1-224. Seizure, Liquors Repealed
- R19-1-225. Credit Law Exception Repealed
- R19-1-226. Commercial Coercion and Bribery Repealed
- R19-1-227. Microbrewery/Retail Repealed
- R19-1-228. Exceptions to General Rule Repealed
- R19-1-229. Non-alcoholic Malt Beverages, Wines, and Cocktail Mixers Repealed
- R19-1-230. Tapping Equipment, Furnishing, Selling, and Servicing Repealed
- R19-1-231. Foodstuffs Repealed
- R19-1-232. Broken Package Prohibited Offsale Premises Repealed
- R19-1-233. Underage Persons on Licensed Premises Repealed
- R19-1-234. Violence, Report of Repealed

R19-1-235. Fetal Alcohol Sign Display Repealed

ARTICLE 3. ~~UNLICENSED PREMISES DEFINITIONS AND LICENSING TIME FRAMES~~ REPEALED

Section

- R19-1-302. Filing of Legal or Equitable Interest Repealed
- R19-1-303. Retail Agents Repealed
- R19-1-304. Standards for Alcohol Training Programs Repealed
- R19-1-305. Change of Address Repealed
- R19-1-306. Name Change Requirements Repealed
- R19-1-307. Closing, Notice of Repealed
- R19-1-308. Surrender of Licenses/Interim Retail Permits Repealed
- R19-1-309. Special Event License Repealed
- R19-1-310. Criteria for Issuing Restaurant License Repealed
- R19-1-311. Patio Outdoor Use Permission Repealed
- R19-1-312. Conveyance License, Application Posting Repealed
- R19-1-313. Interim Permit/Tax Violations Repealed
- R19-1-315. Exemptions to A.R.S. § 4-244.05 Repealed
- R19-1-316. Public Facilities Exemption Repealed
- R19-1-317. Licensing Time frames Repealed
- Table A. Licensing Time frames Repealed

ARTICLE 1. ~~STATE LIQUOR BOARD~~ REPEALED

R19-1-101. ~~Definitions~~ Repealed

In this Article, unless the context otherwise requires:

- “Bona fide transaction” means any transaction between a licensee and a person that results in the change of ownership of the license.
- “Business establishment or business premises” means the real property and improvements licensed under A.R.S. Title 4.
- “Change in Ownership” means any change in the financial setup of a business establishment which in any way results in a person directly or indirectly becoming a controlling person.
- “Judicial Review” is an appeal to superior court of a final agency decision.
- “Licensed” means having a license or interim permit issued pursuant to this Title, including a license or interim permit on nonuse status.
- “Nonuse” means when the Licensee has ceased engaging in the business activity covered by the licensee.

R19-1-102. ~~Granting a License for a Certain Location~~ Repealed

Local governing authorities and the Department may consider the following criteria in determining whether public convenience requires and that the best interest of the community will be substantially served by the issuance or transfer of a liquor license at a particular unlicensed location:

1. Petitions and testimony from persons in favor of or opposed to the issuance of a license who reside in, own or lease property in close proximity.
2. The number and series of licenses in close proximity.
3. Evidence that all necessary licenses and permits have been obtained from the state and all other governing bodies.
4. The residential and commercial population of the community and its likelihood of increasing, decreasing or remaining static.
5. Residential and commercial population density in close proximity.
6. Evidence concerning the nature of the proposed business, its potential market, and its likely customers.
7. Effect on vehicular traffic in close proximity.
8. The compatibility of the proposed business with other activity in close proximity.
9. The effect or impact of the proposed premises on businesses or the residential neighborhood whose activities might be affected by granting the license.
10. The history for the past five years of liquor violations and reported criminal activity at the proposed premises provided that the applicant has received a detailed report(s) of such activity at least 20 days before the hearing by the Board.
11. Comparison of the hours of operation of the proposed premises to the existing businesses in close proximity.
12. Proximity to licensed childcare facilities as defined by A.R.S. § 36-881.

R19-1-103. Change in Proprietary Interest Repealed

No licensee shall transfer, assign or make any change in ownership in such business, directly or indirectly, nor shall a partner purchase or otherwise acquire the interest held by any other controlling person or partner in the business, without notifying the Director within 30 days and filing such application, questionnaire or other documentation required by this Title.

R19-1-105. Knowledge of Law and Regulations Repealed

All licensees and their employees whose duties require or permit the handling of spirituous liquors shall be familiar with the liquor laws and the rules and regulations of the Director and of the State Liquor Board. It is the responsibility of the licensee to ensure that all employees acquire the aforementioned knowledge.

R19-1-106. Service of Complaints for Judicial Review Repealed

Complaints for judicial review of a Director's or Board decision shall be served on the Director at the Department's office in Phoenix, Arizona.

R19-1-107. Rehearing or Review of Decision Repealed

- A.** A decision of the Director made pursuant to A.R.S. § 4210 is an initial agency decision. If that decision is appealed to the Board, the determination by the Board, or by a panel established pursuant to A.R.S. § 4111(D), shall be the final review of the agency decision and subsections (B) through (H) shall not apply.
- B.** If the Board makes the initial agency decision, except as provided in subsection (H), any party in a contested case before the Board who is aggrieved by that decision may file with the Board, not later than 15 days after service of the decision, a written motion for rehearing or review of the decision specifying the particular grounds therefor. For purposes of this subsection, a decision shall be deemed to have been served when personally delivered or mailed by certified mail to the party at his last known residence or place of business.
- C.** A motion for rehearing under this rule may be amended at any time before it is ruled upon by the Board. A response may be filed within 10 days after service of such a motion or amended motion by any other party. The Board may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.
- D.** A rehearing review of the decision may be granted for any of the following causes materially affecting the moving party's rights:
 - 1. Irregularity in the administrative proceedings of the agency or its hearing officer or the prevailing party, or any order or abuse of discretion, whereby the moving party was deprived of a fair hearing;
 - 2. Misconduct of the Board or its hearing officer or the prevailing party;
 - 3. Accident or surprise which could not have been prevented by ordinary prudence;
 - 4. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original hearing;
 - 5. Excessive or insufficient penalties;
 - 6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing; or
 - 7. That the decision is not justified by the evidence or is contrary to law.
- E.** The Board may affirm or modify the decision or grant a rehearing to all or any of the parties and on all or part of the issues for any of the reasons set forth in subsection (D). An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.
- F.** Not later than 15 days after a decision is rendered, the Board may on its own initiative order a rehearing or review of its decision for any reason for which it might have granted a rehearing on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing for a reason not stated in the motion. In either case the order granting such a rehearing shall specify the grounds therefor.
- G.** When a motion for rehearing is based upon affidavits, they shall be served with the motion. An opposing party may within ten days after such service serve opposing affidavits, which period may be extended for an additional period not exceeding 20 days by the Board for good cause shown or by written stipulation of the parties. Reply affidavits may be permitted.
- H.** If in a particular decision the Board makes specific findings that the immediate effectiveness of such decision is necessary for the immediate preservation of the public peace, health and safety and that a rehearing or review of the decision is impracticable, unnecessary or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing, any application for judicial review of the decision shall be made within the time limits permitted for application for judicial review of the Board's final decision.
- I.** For purposes of this Section the terms "contested case" and "party" shall have the meaning defined in A.R.S. § 41-1001.

R19-1-109. Quota license selection process Repealed

- A.** For the purpose of randomly selecting applicants to be considered for the issuance of Series 06, Series 07 and Series 09 liquor licenses, a random selection method using a mechanical device shall be employed.
- B.** The random selection method shall consist of a drawing to be conducted in the following manner:
 - 1. The name of each applicant shall be placed on forms of equal size and color provided by the Department.

Notices of Proposed Rulemaking

2. The forms then shall be deposited in a transparent container (from which the drawing shall take place).
3. Sequentially numbered balls shall be deposited in a second transparent container. The number of plastic balls shall be equal to the number of licenses available plus an equal number of runners up.
4. Names shall be randomly drawn from the transparent container. As each name is drawn, a number will be matched with the name of the applicant drawn.
5. The drawing and matching of an applicant's name to a number will determine the order in which an applicant will be considered for a license. Runners up shall be eligible for consideration as licensees in the event that a successful applicant chooses not to be considered or is disqualified. Such consideration shall be in numerical order.
6. Applicants whose names are not drawn and matched with a number shall be deemed unsuccessful applicants.

R19-1-111. Election of Officers Repealed

The Board shall elect a chairman and vice chairman annually in February of each year. In the event of a vacancy in either office, an election for that office shall be held at the next regularly scheduled Board meeting.

ARTICLE 2. DIRECTOR REPEALED

R19-1-201. Definitions Repealed

In this Article, unless the context otherwise requires:

1. "Business establishment or premises" means the real property and improvements from which an enterprise or organized undertaking is conducted regularly for profit.
2. "Entertainment", for purposes of A.R.S. § 4-244.05 only, means any form of amusement including, but not limited to, a performance of theater, dance or opera, musical concerts, motion pictures, videotapes, audiotapes, radio, television, carnivals, games of chance or skill, shows, lectures, or sports events.
3. "Food" means any edible substance for the nourishment of the body and consists of hot fare commonly ordered at lunch or dinner prepared at the premises.
4. "Membership fee" or "cover charge" means any consideration, direct or indirect, paid to the business establishment by patrons to gain entry.
5. "Minimum purchase" or "rental requirement" means an amount of money or other consideration required to be paid by patrons of the business establishment as a condition to enter or remain on the premises.
6. "Goods or services" includes all types of commodities, stock, or wares, and any method of providing the use of something needed or desired.
7. "Incidental convenience" means the goodwill the business receives from permitting patrons to possess and consume a minimal amount of spirituous liquor while they are present to obtain the goods or services regularly offered to all patrons.
8. "Small restaurant" means a public eating place which has facilities for keeping, preparing, and cooking foods for lunch or dinner and accommodations to provide food service for up to 40 persons.
9. "Catering establishment" means any premises available for hire for a particular function, occasion, or event and which furnishes food and service for up to 300 persons.
10. "Association" means an organization of persons having common interests and purposes, established as a nonprofit corporation or fraternal and/or benevolent society, which owns, leases or occupies a premises used exclusively for the organization's purposes, which operates for recreational, social, patriotic, political, benevolent, or athletic purposes, and which has accommodations for less than 300 persons.
11. "Private social function" means any occasional communal affair, gathering, or party occurring at a business establishment is limited to selected, invited guests.
12. "Front entrance" means the door commonly used by the general public as entrance to an establishment.

R19-1-202. Intrastate shipping requirements Repealed

No person, corporation, partnership or concern, whether or not licensed under the provision of Title 4, A.R.S., shall ship or offer for shipment or transportation to any point within this state from any other point within the state, any container, package or parcel, containing spirituous liquors unless said container, package or parcel shall in a conspicuous place show the name of the consignor or shipper and the name and address of the consignee or addressee in an equally conspicuous place showing that said container, package or parcel contains spirituous liquor. All of the aforesaid requirements shall be in the English language.

R19-1-203. Intrastate shipping requirements Repealed

With the exception of beer, no spirituous liquor shall be transported in wholesale from the place where sold for delivery to the purchaser unless the person in charge of the vehicle in which such spirituous liquors are to be transported shall, during the transportation, have in his possession a bona fide bill or memorandum from the seller to the purchaser showing the name and address of the seller and the purchaser and the quantity and character of the beverages sold and transported. Upon the demand of any person having the authority of a police officer, constable or sheriff, the person in charge of such transportation shall exhibit the bill or memorandum.

R19-1-204. Interstate Shipping, Importation, Labeling, Solicitation, Advertising Repealed

- ~~A.~~ No person, corporation, partnership or concern shall ship or offer for shipment or transportation to any place within this state from any place without this state any container, package or parcel containing spirituous liquor including beer and wine, unless the same shall be consigned to a licensed Arizona spirituous liquor wholesaler.
- ~~B.~~ Nothing in this rule shall be construed to interfere with through interstate shipments of spirituous liquors, including beer and wine, originating outside the state and destined to points in other states, when passing through this state in the custody and under the control of a duly authorized common carrier or transportation company.
- ~~C.~~ No person shall ship or introduce into this state any spirituous liquors, including beer and wine, unless such spirituous liquors shall be, from the time they are shipped or introduced into this state until they are delivered to the consignee, in the possession of a duly authorized common carrier or transportation company, except that licensed Arizona wholesalers may transport spirituous liquors for themselves in vehicles owned, leased or rented by such wholesalers when authorized to do so by the Director.
- ~~D.~~ No person, common carrier or transportation company or any other concern shall bring, ship, transport or introduce into this state in any manner whatsoever any spirituous liquors, including beer and wine, unless they are duly consigned to a bona fide Arizona spirituous liquor wholesaler having a license to sell or traffic in at wholesale the particular spirituous liquors so transported and introduced.
- ~~E.~~ No person, common carrier or transportation company shall deliver any interstate shipment consisting of any parcel package or container of any description containing spirituous liquors, including beer and wine, to any premises other than those premises described and set forth in the license of a duly licensed Arizona spirituous liquor wholesaler, licensed to sell or traffic in the particular liquor so delivered.
- ~~F.~~ No manufacturer, distiller, brewer, vintner or wholesaler or any officer, director, agent or employee of any such business directly or indirectly or through an affiliate shall sell, ship or deliver for sale or shipment or receive or remove from customs custody for consumption any spirituous liquors, including beer and wine, in bottles, unless such products are bottled, packaged, and labeled in conformity with the labeling regulations prescribed by the Federal Alcohol Administration or any other regulations adopted by the Federal Alcohol Administration or any other regulations adopted by the government of the United States, officer, bureau, or agency thereof. Any amendments or changes in the Federal Alcohol Administration Act or any other regulations adopted by the government of the United States, officer, bureau or agency thereof pertaining to labeling are hereby made a part of this rule without further adoption by the Department.
- ~~G.~~ No person shall send or cause to be sent into this state any letter, postcard, circular, dodger, pamphlet or publication, the purpose of which is the solicitation of an order for any spirituous liquor from and the shipment to any consumer or retail dealer within the state of Arizona.
- ~~H.~~ No person shall issue or publish or cause to be issued or published in this state any letter, postcard, circular, pamphlet or publication containing any advertisement, the purpose or intent of which is the solicitation of an order for any spirituous liquors from any consumer or retailer, where such solicitation is contrary to the laws of this state and the rules of the Director which provide for the shipment of spirituous liquors into this state only when consigned to a duly licensed Arizona spirituous liquor wholesaler who is licensed to sell the particular liquor or liquors so advertised, and only when consigned and delivered to such spirituous liquor wholesaler at the address described and set forth in his license.
- ~~I.~~ Nothing contained in subsections (G) or (H) shall be construed to prevent newspapers or other publications having circulation in Arizona from accepting institutional advertising from any distillery, brewery, winery, rectifier, or distributor.

R19-1-206. Inducements, Prohibited Repealed

No on-sale retail licensee shall directly or indirectly offer or furnish any gifts, prizes, coupons, premiums, rebates or assumption of any excise, transaction privilege tax or similar inducements wherein the purchase or consumption of any spirituous liquors, including beer and wine, is required to become eligible to receive such gifts, prizes, coupons, premiums, rebates or assumption of any excise, transaction privilege tax or similar inducements. It is provided, however, that nothing herein contained shall prohibit on sale retail licensees from furnishing advertising novelties of nominal value or services which are customarily trade practices, so long as such furnishing is not contingent upon the purchase or consumption of spirituous liquors or any other alcoholic beverage.

R19-1-207. Bottles, Reuse or Refilling Prohibited Repealed

No liquor bottle or other container authorized by the laws of the United States or any agency thereof shall be reused for the packaging of distilled spirits, nor shall the original contents, or any portion of such original contents, remaining in a liquor bottle or other such authorized container, be increased by the addition of any substance.

R19-1-208. Hotel/Motel/Restaurant Requirements Repealed

A Hotel/Motel licensee and a Restaurant licensee must maintain complete restaurant services as defined under A.R.S. §§ 4-205.01, and 4-205.02, continually during the hours of selling and serving spirituous liquors. Restaurant services, as defined under these statutes, is compulsory to 10 p.m. daily if any spirituous liquors are to be sold and served to the legal hours. A requested meal which is refused during these hours will constitute sufficient evidence that the licensed business has ceased to operate as a bona fide restaurant.

R19-1-209. Tax requirements Repealed

No licensed wholesaler or retailer shall have in his possession or sell any spirituous liquors on which the state luxury taxes have not been accounted for as provided by law and upon which all federal taxes imposed by law have not been paid.

R19-1-210. Sign Limitations Repealed

- ~~A.~~ 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 may lend, to the retailer any sign for interior or exterior use provided:
- ~~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 signs or other advertising matter used in connection with the licensed premises of any retailer of alcoholic beverages shall be obscene as determined by applying contemporary state standards.
- ~~C.~~ Licensed special events are not subject to the limitations of subsections (A)(1) through (3).

R19-1-211. Draught beer signs Repealed

Every licensee who shall dispense any draught beer shall, upon the faucet, spigot or outlet from which said beer is drawn, attach and keep posted a clear and legible notice, placard or marker which shall in the English language indicate and declare the name or brand adopted by the manufacturer of such draught beer so dispensed by such licensee, and such notice, placard, or marker shall be so situated as to be clearly legible for a distance of at least ten feet from such spigot, faucet or outlet to a person with normal vision, and such notice, sign, or placard shall at all times be so situated as to be clearly legible from the place where such licensee serves any customer or consumer of such beer, and provided further that if such faucet, spigot, or other drawing device is in a location not within the room of the place of service and consumption of such beer, then and in that event there shall also be kept posted a similar notice, placard or marker in the place of service and consumption of such beer which shall truthfully state and indicate only the kinds and brands of draught beer actually on sale in the premises of said licensee.

R19-1-212. Advertising, Misleading Repealed

No licensee shall label for sale any spirituous liquor which is dispensed through equipment that would directly or indirectly lead the public to believe they are purchasing a brand, grade, or class of spirituous liquor, including beer and wine, which is actually not being sold or used.

R19-1-214. Prohibited Acts Repealed

- ~~A.~~ A licensee shall not permit, on the licensed premises, an employee or other person to:
- ~~1.~~ Expose any portion of his or her anus, vulva, or genitals;
 - ~~2.~~ Grope, caress or fondle, or cause to be groped, caressed, or fondled the breasts, anus, vulva, or genitals of any other person with any part of the body; or
 - ~~3.~~ Perform acts of sexual intercourse, masturbation, sodomy, bestiality, or oral copulation.
- ~~B.~~ The provisions of this Section are severable. If any provision of the Section or the application of the Section to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Section that can be given effect without the invalid provision or application.

R19-1-215. Obscene Films, Pictures Prohibited Repealed

No licensee shall permit, on the licensed premises, the showing of film, slide pictures, or any other electronic reproduction depicting:

- ~~1.~~ Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law;
- ~~2.~~ Any person, being touched, caressed, or fondled on the breast, buttocks, anus, or genitals;
- ~~3.~~ Scenes wherein a person displays any portion of the areola of the female breast or any portion of his or her pubic hair, anus, vulva, or genitals; or
- ~~4.~~ Scenes wherein artificial devices or inanimate objects are employed to depict any of the prohibited activities described above.

R19-1-216. Age Restrictions Repealed

No licensee, or employee thereof, shall employ a person under the age of 19 as an exotic entertainer. This rule shall be effective January 1, 1991.

R19-1-217. Display of License Repealed

All licensees shall display their liquor license in a conspicuous place readily available for inspection by any peace officer, distributor, or wholesaler.

R19-1-218. Records, Keeping of Repealed

All licensees shall keep for a period of not less than 2 years all invoices, records, bills and other papers and documents relating to the purchase, sale and delivery of alcoholic beverages. Such records and papers shall be kept in such conditions of storage as to be easily accessible to the Director or any peace officer designated by the Director for examination or audit.

R19-1-219. Storage on Unlicensed Premises Repealed

No licensee shall have consigned to him, receive or accept the delivery of or keep in storage any spirituous liquors upon any premises other than those described in his license without first having obtained written authorization from the Director.

R19-1-220. Liquors other than authorized by license Repealed

No licensee, either through himself or through an agent, shall sell, solicit, or receive an order, keep or expose for sale, deliver for value, peddle, keep with intent to sell or traffic in or have for any purposes upon his licensed premises any spirituous liquors other than those set forth in his license.

R19-1-221. Retail Delivery of Spirituous Liquor Repealed

A. Definitions:

1. "Delivery" means the delivery of spirituous liquor pursuant to A.R.S. § 4-203(M) and this rule.
2. "Identification" means an unexpired driver's license issued by any state, an identification license issued pursuant to A.R.S. § 28-421.01, an armed services identification card or a valid unexpired passport showing a date of birth, with a photograph of the person named, on the identification.
3. "Licensee" means a retail licensee permitted to deliver spirituous liquor pursuant to A.R.S. § 4-203(M) or an employee of such licensee.
4. "Time of delivery" means when the person to whom delivery is made obtains physical possession of the spirituous liquor.
5. "Title 4" means Title 4 of the Arizona Revised Statutes and all rules under said Title.

B. A licensee shall make a record of delivery at the time of delivery on a form approved by the Department. The record of delivery shall be retained by the licensee for at least two years.

C. The form shall include:

1. The licensee's business name, address and liquor license number;
2. The date and time of delivery;
3. The address where delivered;
4. The type and brand of spirituous liquor delivered;
5. The printed name and signature of the person making delivery;
6. The printed name and signature of the person accepting delivery;
7. The type and serial number of the identification, and date of birth, for the person accepting delivery.

D. A licensee making delivery shall be liable for any violation of Title 4 in connection with such delivery with special emphasis on the following:

1. Delivery shall only be made by a person at least 21 years old.
2. Delivery shall only be made during the hours of lawful service of spirituous liquor.
3. Delivery shall not be made to an intoxicated or disorderly person.
4. Delivery shall only be made after identification has been shown by the person accepting delivery, the identification shows the person is of legal drinking age, and the information required to be recorded by this rule has been recorded.
5. Delivery shall not be made to the licensed premises of a retailer.

E. A licensee making delivery shall refuse to complete a delivery at any time prior to the time of delivery, if the licensee believes such delivery would constitute a violation of Title 4.

R19-1-222. Suspension, Adherence to Rules of Repealed

During the suspension of a license, the licensee shall not allow, permit, or suffer the sale, service, delivery, or consumption of any spirituous liquor on or about the licensed premises, nor order or receive delivery of any spirituous liquor. The notice of suspension shall be prominently displayed on the premises at all times during the period of suspension.

R19-1-223. Closure Due to Violence Repealed

A licensed place of business may be required to close its doors and stop sales of alcoholic beverages to the public or allow any person on the premises, with the exception of the owners, employees and officers of the law, during the time that it may appear to the Director that violence might occur.

R19-1-224. Seizure, Liquors Repealed

Any spirituous liquors that shall be imported, transported, stored, sold or offered for sale, kept with the intent to sell or traffic

in or be used in any manner whatsoever contrary to the law or to the rules of the Director or the board shall be subject to seizure by any peace officer.

R19-1-225. ~~Credit Law Exception Repealed~~

~~Wholesalers, distillers, brewers, and vintners licensed by this Department making sales of spirituous liquor to other licensed wholesalers, distillers, brewers and vintners shall be exempt from the credit restriction of A.R.S. § 4242. The intention of this rule is to permit such licensees the same privileges as out of state licensees and to prevent discrimination against Arizona licensees in accordance with the established trade customs in this state.~~

R19-1-226. ~~Commercial Coercion and Bribery Repealed~~

A. ~~It shall be unlawful for a wholesaler, distiller, vintner, brewer, or importer to induce a retailer to purchase spirituous liquor from the producer or wholesaler to the exclusion, in whole or in part, of spirituous liquor sold or offered for sale by other persons through any of the following means:~~

- ~~1. By furnishing, giving, renting, lending, or selling to a retail licensee, articles of primary utilitarian value including, but not limited to, the following: clocks, service lamps, ash trays, coasters, napkins, beer mats, book matches, menu cards, folders, meal checks, container mats, back bar mats, thermometers, jiggers, stirring spoons, pouring spoons, glasses, glassware, or any other item potentially useful to the retailer in the conduct of his or her business except as provided elsewhere in these rules.~~
- ~~2. By furnishing financing or credit for the retail licensee to acquire or provide any part of the cost of equipment used or useful to a retail licensee through the sale of a product or otherwise.~~
- ~~3. By providing any service, including the stocking and pricing of merchandise, to a retail licensee; provided, however, that the practices set forth in subsection (B) of this rule shall not be unlawful.~~
- ~~4. By paying or crediting a retail licensee for any promotion, advertising, displaying, public relations, or distribution services or by participating or sharing with a retail licensee any promotion or advertising costs through any media.~~
- ~~5. By directly or indirectly guaranteeing a loan or repayment of a financial obligation to a retail licensee or by providing any monetary assistance in any form as an aid to a retail licensee.~~
- ~~6. By directly or indirectly entering into any form of credit transaction with a retail licensee.~~
- ~~7. By directly or indirectly engaging in any practice requiring a retail licensee to take and dispose of a quota of spirituous liquors.~~
- ~~8. By directly or indirectly engaging in practices promising or granting a retail licensee a bonus, premium or other compensation by a distillery, vintner, brewery, rectifier, blender, or other producer or the wholesaler.~~

B. ~~The following practices are not unlawful inducements as defined by A.R.S. § 4243(2)(b):~~

- ~~1. Stocking a limited supply of spirituous liquors in what is commonly known as "cold box".~~
- ~~2. Rotating spirituous liquors.~~
- ~~3. Furnishing advertising novelties of nominal value, such as key chains, sports schedules, recreation guides, cocktail specialty books, or other items which are not directly utilized in the operation of a retail licensee's business by the wholesaler to the retailer.~~
- ~~4. Furnishing on sale retail licensees with equipment necessary to operate a draft box and servicing and repairing those items of equipment to retain the quality of the product.~~

R19-1-227. ~~Microbrewery/Retail Repealed~~

~~For purposes of A.R.S. § 4-243, a microbrewery is considered an "other producer".~~

R19-1-228. ~~Exceptions to General Rule Repealed~~

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
- 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 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.** Print advertising. Furnishing advertising copy (ad slicks) of nominal value is permissible.
- 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 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.

Notices of Proposed Rulemaking

- ~~Q.~~ 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.
- ~~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, malt beverage products of a retail establishment that will be closed for thirty days 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 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.
 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.
 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.
 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.
 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.
 6. When sampling is conducted on off-sale premises, sampling wares must be distributed to the customer in sealed original packages only.
 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.
 8. The producer/wholesaler may not give a keg of beer, or any spirituous liquor, or other gifts or benefits to a retail licensee.
 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.

R19-1-229. Non-alcoholic Malt Beverages, Wines, and Cocktail Mixers Repealed

Malt products, wines, and cocktail mixers, that are non-alcoholic, may only be sold to retailers under the same rules that apply to the sale of spirituous liquors. For purpose of this Section "cocktail mixers" shall mean pre-prepared liquid or solid mixtures marketed primarily for mixing with spirituous liquor to prepare a beverage.

R19-1-230. Tapping Equipment, Furnishing, Selling, and Servicing Repealed

- ~~A.~~ Beer manufacturers may sell to beer wholesalers and beer wholesalers may furnish to on-sale retail licensees the following items of equipment in the case of either an initial installation for a new account or a change over of equipment from one tapping system to another. Such equipment shall remain the property of the wholesaler.
 1. Approved equipment systems:

Peerless	Golden Gate
a. Tap Rod	a. CO₂ Hose
b. Valve	b. Beer Hose
c. Beer Hose	c. Couplings
d. CO₂ Hose	d. Vent
e. Washers	e. Taps
f. Couplings	f. Valves (Golden Gate)
g. Clamps	g. Clamps
	h. Washers

Notices of Proposed Rulemaking

<i>Jet Western</i>	<i>Hoff-Stevens</i>
a. Jet Tap Assembly	a. CO ₂ Hose
b. Draw Tube	b. Beer Hose
e. Beer Hose	e. Couplings
d. CO ₂ Hose	d. Vent
e. Tail Pieces	e. Clamps or Wire
f. Shutoff Valve	f. Washers
g. Washers	
h. Clamps	

2. Other equipment systems Manufacturers may qualify other tapping systems by submitting the trade name and collateral apparatus to the Department for approval.

B. Beer wholesalers may sell to on-sale licensees for cash only the following items of equipment at a price not less than the cost for which the wholesaler purchased the equipment:

1. CO₂ Gas;
2. CO₂ Regulators;
3. Faucets;
4. Shanks or Bent Tubes;
5. Air Distributors;
6. Blower assembly, beer switches, complete faucet standard, drip pan, P.V.C. pipe, or any item that is necessary to prepare a draught system for proper operation.

C. A wholesaler may replace, at no charge to the retailer, bonnet washers, friction rings, valve stems, and coupling gaskets.

D. If a wholesaler is splitting an account with another wholesaler, the wholesaler initiating the split will supply, if necessary, the inline regulator which will remain the wholesaler's property and will be removed if the account is discontinued.

E. The wholesaler may maintain periodic cleaning schedules of on-sale retailers' draught equipment and may sell to the retailer any sanitizing materials utilized in the cleaning of draught beer equipment, at not less than cost.

R19-1-231. Foodstuffs Repealed

A producer/wholesaler may sell foodstuffs to a retailer at a price agreed upon, but not less than the cost to the producer/wholesaler.

R19-1-232. Broken Package Prohibited Offsale Premises Repealed

No offsale retailer shall have upon his licensed premises any broken package of spirituous liquor, as defined by A.R.S. § 4-101. This rule applies to the actual container and not to the shipping case.

R19-1-233. Underage Persons on Licensed Premises Repealed

A. In addition to the exceptions in A.R.S. § 4-244 (23) regarding underage persons on licensed premises, underage persons may be on the premises of an on-sale retail licensee pursuant to subsections (B) and (C).

B. Licensed premises with an occupancy of 1,000 or more persons, as determined by the fire marshal, wherein the primary purpose is not to sell spirituous liquors, that show live sporting events or live concerts where the audience is engaged in viewing such entertainment, may allow underage persons on the premises. The licensee may sell spirituous liquor to persons who are 21 years of age or older, pursuant to A.R.S. Title 4, Chapters 1, 2, and 3, and 19 A.A.C. 1. The Director may require a security plan to be approved by the Department to ensure that the underage persons do not purchase, possess or consume spirituous liquor on the premises.

C. Licensed premises with an occupancy of fewer than 1,000 persons, as determined by the fire marshal, wherein the primary purpose is not to sell spirituous liquors, may allow underage persons on the premises for the purpose of viewing live sporting events or live concerts if during the time that underage persons are on the premises, underage persons are separated by a physical barrier that prevents them from entering portions of the premises where spirituous liquor is sold, possessed, or served; and prevents underage persons from receiving, purchasing, possessing, and/or consuming spirituous liquor. With the exception of A.R.S. § 4-244(23)(a), spirituous liquor is prohibited in the section devoted to underage persons.

R19-1-234. Violence, Report of Repealed

A licensee upon whose licensed premises an act of violence occurs shall make a detailed, written report of such act of violence to be hand delivered or deposited in the U.S. Mail within 7 days of the act of violence to the Department, unless the act of violence was previously reported to a law enforcement agency pursuant to A.R.S. § 4-244(37). A licensee shall also report in the same manner, acts of violence involving patrons entering or leaving the licensed premises which occur immediately adjacent

to the licensed premises when the licensee knew or reasonably should have known of such acts of violence.

R19-1-235. Fetal Alcohol Sign Display Repealed

A. Definitions:

1. "Liquor" means spirituous liquor as defined in A.R.S. § 4-101-27.
2. "Room" means the licensed premises as defined in A.R.S. § 4-205-01(D).
3. "Sign" means the warning sign required by A.R.S. § 4-251.

B. Placement of Signs:

1. Each on sale retail liquor licensee shall conspicuously post a sign within 20 feet of each register where sales of liquor are made, or behind the bar.
2. In addition to the requirements of R19-1-214(B)(1):
 - a. A Hotel-Motel licensee shall post at least 1 state-supplied sign on the inside of the door of each room containing a mini bar, or offering alcoholic beverages through room service, or in the alternative, at their own expense, display the required warning in a space measuring at least 1 inch by 2 inches on a room service bar menu, or mini-bar cost list, placard, folder, advertisement tent, or similar item placed in each room so as to be readily observable.
 - b. A retail licensee using a mobile service device for the sale of liquor shall display the sign on such mobile serving device.
3. Each off sale liquor licensee shall conspicuously post a sign where a customer obtains the liquor.

ARTICLE 3. UNLICENSED PREMISES DEFINITIONS AND LICENSING TIME FRAMES REPEALED

R19-1-302. Filing of Legal or Equitable Interest Repealed

- A.** In accordance with A.R.S. § 4112(B)(3), all persons having a legal or equitable interest in a spirituous liquor license shall file with the Director a statement of such interest on a form prescribed and furnished by the Department. Notice of termination of such interest shall be filed in writing by the interest holder upon final determination of the interest. Interest holders shall immediately file amended statements to reflect any change in the current statements presently on file.
- B.** The Director may periodically, by notice to the holders of interests filed under this rule and under A.R.S. § 4112(B)(3), require such interest holders to verify in writing to the Director that the statement presently on file is currently correct and accurate and, if not, such interest holder shall immediately file an amended statement or termination notice. If no response is received by the Director within 30 days of the mailing of such notice, the interest shall be deemed terminated.
- C.** All persons having filed statements of interest in accordance with this rule and the statute shall be given notice of all matters, actions, or both, affecting or regarding the spirituous liquor license in which they have an interest.
- D.** Notice as required in subsection (C) shall be fully effective by mailing a copy thereof by registered or certified mail in a sealed envelope with postage prepaid and addressed to such person at his address as shown by the statement on file with the Director. Service of such notice shall be complete when deposited in the U.S. Mail.
- E.** All interest holders who are entitled to receive notice as provided for in this Article shall have the right to appear and participate in person and through counsel in any hearing held before the Board or Director affecting the subject spirituous liquor license as his interests may appear.
- F.** The statement of legal or equitable interest shall allow the person filing said statement to participate in the proceedings and shall not in any manner bind the Director or the state Liquor Board concerning the matter under consideration.

R19-1-303. Retail Agents Repealed

The following shall apply in all cases where 2 or more licensees pool their purchases for alcoholic beverages from a wholesaler:

1. Definition: For purposes of this rule, the term "Agent" means Registered Retail Agent as defined in A.R.S. § 4101(28).
2. For purposes of this rule, the term "cooperative purchases" shall indicate that 2 or more retailers have entered into an agreement whereby 1 of them is designated the agent for each of them for the purpose of purchasing spirituous liquors.
3. Any agreement between a retailer and agent to make "cooperative purchases" shall be in writing on a form prescribed by the Director. The Agreement must be filed with and approved by the Department. The Agreement should provide that, upon consummation of the sale by the wholesaler, title to the merchandise so purchased shall vest in each of the parties to the Agreement, in accordance with his proportionate share of the order. The Agreement shall be signed and dated by each party to the Agreement. Each party to the Agreement shall have a copy of the Agreement available for inspection by any employee of the Department or any peace officer. The agent will be provided with a Certificate of Registration which shall be displayed upon the request of any employee of the Department, any peace officer, or any spirituous liquor licensee. The agent shall file a listing of the names, business addresses and license series of those licensed retailers who have authorized the agent to purchase on their behalf.
4. All orders for "cooperative purchases" from a wholesaler shall be placed by the agent, and payment for that order

shall be made by such agent. The agent shall be responsible for the fiscal operation of all "cooperative purchases". There shall be no exchanges of merchandise after delivery has been made by the wholesaler. Bona fide delivery errors are excepted if immediately recognized and documented.

5. ~~A wholesaler shall comply with all invoice and recordkeeping procedures in accordance with R191222, prevailing federal regulations and requirements of the Department of Revenue. The wholesaler shall prepare a master invoice for the agent of each "cooperative purchase" which shall detail the individual purchases made by each member of the "cooperative purchase", a copy of which must be furnished each member. The master invoice shall dictate the specific discount for each "cooperative purchase".~~
6. ~~Agents shall follow recordkeeping procedures so as to account for all orders and purchases and deliveries to retailers and describe any storage of spirituous liquors. Such records must relate directly to the orders, purchases, and deliveries made by each retailer represented by the agent. Agents shall maintain in accordance with R191222, all activity reports and invoices, and any other records requested by the Director, and shall make such available for inspection upon request.~~
7. ~~Agents shall not store spirituous liquors on any premise other than a licensed retail establishment without 1st obtaining written permission from the Director. Wholesalers may deliver to an agent's licensed premises or any off premise warehouse storage facility of the agent which has been approved by the Director. The agent may deliver the merchandise to the individual retailer.~~
8. ~~The Director may cancel, after a hearing pursuant to A.R.S. § 4210, any Certificate of Registration issued to an agent for failure to comply with this rule.~~
9. ~~The agent may charge members of the cooperate a fee for services rendered to retailers belonging to the cooperative association. Under no circumstances may the agent change the price quoted on the wholesaler's invoice.~~
10. ~~Agent shall file with the Department a list of the names, business addresses and license series for those retailers who have authorized him to act on their behalf. Any changes in the retailers involved in this agreement must be reported to the Department within 10 days of the change.~~

R19-1-304. Standards for Alcohol Training Programs Repealed

- ~~**A.** The standards established by this rule shall be minimum standards with respect to the subject matter to be taught and the time allotted for teaching the subject matter.~~
- ~~**B.** Nothing in this rule prohibits the teaching of additional subject matter or allotting additional time for the teaching of any subject matter.~~
- ~~**C.** A proposed training program shall be submitted to the Department for initial approval. The Department may, at any time, review any approved training program to determine that the program continues to meet minimum standards.~~
- ~~**D.** Training shall be conducted by an independent trainer except that licensees with 20 or more licenses may submit an in-house training program.~~
- ~~**E.** Training for On-sale Retail Licenses shall consist of:
 1. ~~The Regulation of Alcoholic Beverages (40 minutes):~~
 - a. ~~Role and Function of Arizona Department of Liquor Licenses;~~
 - b. ~~Types of On-sale Licenses;~~
 - c. ~~Potential Risks to the Business/Licensee;~~
 - d. ~~Potential Risks to the Employee.~~
 2. ~~Laws Regarding Establishments Serving Alcoholic Beverages (20 minutes):~~
 - a. ~~Licensed Premises;~~
 - b. ~~Entertainment Within Licensed Premises;~~
 - c. ~~Violence on Licensed Premises.~~
 3. ~~Laws Regarding Age (50 minutes):~~
 - a. ~~Legal Age in Arizona;~~
 - b. ~~Identification of Legal Age;~~
 - c. ~~Recognizing Invalid Identification;~~
 - d. ~~Recording Identification;~~
 - e. ~~Underage Persons in Bars and Restaurants;~~
 - f. ~~Refusing an Underage Customer.~~
 4. ~~Laws Regarding Intoxication (60 minutes):~~
 - a. ~~Sale to Intoxicated Persons;~~
 - b. ~~Service Limitations for Alcoholic Beverages;~~
 - c. ~~Knowledge of Alcohol and its Effects;~~
 - d. ~~Monitoring Customer Consumption and Intervention Techniques;~~
 - e. ~~Refusing an Intoxicated Customer.~~
 5. ~~Laws Regarding Legal Hours of Sale and Laws Regarding the Payment of Alcoholic Beverages (20 minutes).~~
 6. ~~Management Requirement Policies Regarding Alcoholic Beverages (40 minutes):~~~~

Notices of Proposed Rulemaking

- a. Purchase and Storage Requirements;
 - b. Management Requirements;
 - e. Employee Requirements;
 - d. Records Requirements;
 - e. House Policies;
 - f. Marketing Strategies.
7. Course Summary and Evaluation (10 minutes):
- a. Summary Discussion;
 - b. Post-Test and Review;
 - e. Trainee Certification.
- ~~F.~~ Training for Off-sale Retail Licenses shall consist of:
- 1. The Regulation of Alcoholic Beverages (15 minutes):
 - a. Role and Function of Arizona Department of Liquor Licenses;
 - b. Potential Risks to the Business/Licensee;
 - e. Potential Risks to the Employee.
 - 2. The Sale to Underage Customers (20 minutes):
 - a. Legal Age in Arizona;
 - b. When to Require Identification;
 - e. Acceptable Forms of Identification;
 - d. Recognizing Invalid Identification;
 - e. Use of Registration Book;
 - f. Refusing an Underage Customer.
 - 3. The Sale to Intoxicated Customers (20 minutes):
 - a. Sales to Intoxicated Customers;
 - b. Recognizing an Intoxicated Customer;
 - e. Refusing an Intoxicated Customer.
 - 4. The Sale of Broken Packages and On-premise Consumption (10 minutes):
 - a. Off-sale Premise Restrictions;
 - b. Advising Customers of Off-sale Consumption.
 - 5. The Sale of Alcoholic Beverages During Restricted Hours (10 minutes):
 - a. Legal Hours of Sale in Arizona;
 - b. Refusing an After-hour Sale.
 - 6. Second Party Sales of Alcoholic Beverages (15 minutes):
 - a. Second-party Purchases;
 - b. Recognizing Second-party Purchasers;
 - e. Refusing Second-party Sales.
 - 7. Handling Special or Problem Situations (20 minutes):
 - a. Recognizing Problem Situations;
 - b. Employee Responsibilities in Problem Situations.
 - 8. Course Summary and Evaluation (10 minutes):
 - a. Summary Discussion;
 - b. Post-Test and Review;
 - e. Trainee Certification.
- ~~G.~~ Persons conducting approved training programs shall, for a minimum of two years, retain records of persons who have satisfactorily completed the program. The record shall include:
- 1. Name of the person completing the training;
 - 2. Date the training was completed;
 - 3. Type of training (on sale, off sale);
 - 4. If the person is employed by a licensee, the name of the licensee by whom the person is employed.
- ~~H.~~ Upon satisfactory completion of training, the trainer shall present a certificate of completion to the trainee. The certificate shall list the information required by subsection (G)(1)–(4) of this rule and include the name of the program and the signature of the trainer.

R19-1-305. Change of Address Repealed

When a street number or other official designation of address of the licensed premises is changed, the licensee shall notify the Department on a form prescribed by the Director within 15 days of such change. The license shall be surrendered upon the issuance of a replacement license which reflects the current address of the licensed premises.

R19-1-306. Name Change Requirements Repealed

No licensee shall change the name of his licensed business without first notifying the Department on a form prescribed by the Director. The license shall be surrendered upon the issuance of a replacement license which reflects the current name of the licensed premises.

R19-1-307. Closing Notice of Repealed

- A.** The licensee shall notify the Department on a form prescribed by the Director if a license is not used for a period of time over 30 consecutive days. The licensee shall notify the Department within 30 days from the date the license was last used.
- B.** The licensee shall notify the Department on a form prescribed by the Director prior to placing the license back into use.
- C.** No licensee shall leave his licensed place of business, while under normal operating conditions, in the control of another, over 30 days without first notifying the Department and complying with the required filing of a manager's agreement or letter of notification.

R19-1-308. Surrender of Licenses/Interim Retail Permits Repealed

- A.** Surrender of retail licenses for purposes of compliance with the interim permit requirements of A.R.S. § 4203.01 shall be accomplished by any of the following:
 - 1. The license is delivered to the Department by mail or in person with a notarized signature of surrender by the license holder or holders; or
 - 2. In the event the license is lost or cannot be located, the license holder or holders indicates in a signed, notarized statement the surrender of the license; or
 - 3. The license holder or holders has abandoned the licensed premise and the license with no intention of returning as demonstrated by the following:
 - a. The premises have been vacant during normal operating hours for a period of 30 days; and
 - b. The licensee has failed to notify the Director of his or her intention to suspend the operation under the license as required by R19-1-225; and
 - c. The licensee cannot be located by the Department at his or her last known address as reflected in the Department's records; and
 - d. The person who delivered the license to the Department has submitted a notarized statement asserting that, to the best of his or her knowledge, the licensed premises have been vacant during normal operating hours for a period of 30 days and the license holder or holders has abandoned the license and licensed premises.
- B.** The Director may deny the surrender of any license, regardless of the method of surrender, if:
 - 1. The licensee is delinquent in payment of taxes to any municipality or the state or any political subdivision thereof; or
 - 2. A complaint has been filed and is pending against the licensee alleging a violation of any provision of A.R.S. Title 4, or any rule thereof; or
 - 3. The ownership of the license is contested; or
 - 4. Civil proceedings involving the liquor license are pending before any Arizona or federal court.

R19-1-309. Special Event License Repealed

- A.** An applicant for a Special Event License shall make application on a form prescribed by the Department. The application form shall be filed with the local authority for approval or denial. Applications approved by the local authority will be reviewed by the Director. If the applicable requirements of A.R.S. Title 4 are met, the Director shall issue a Special Event License. The application form may be approved and validated by the Department and a copy returned to the local governing authority and the applicant.
- B.** Qualifying organizations as defined in A.R.S. § 4-203.02(B) may be granted a Special Event license for no more than 10 days in a calendar year. Events shall be held on consecutive days and at the same location or additional licenses will be required. A Special Event License authorizes the sale of spirituous liquor for the period authorized on the and is automatically terminated upon closing of the last day of the event or the expiration of the license, whichever occurs 1st.

R19-1-310. Criteria for Issuing Restaurant License Repealed

The following factors are to be considered by the Department in determining when a protest will be made against a restaurant license application. Any combination of four or more factors may result in a Department protest.

- 1. The number of cooks, food preparation personnel, waiters, or waitresses do not appear to be a sufficient number to prepare and provide the proposed restaurant services.
- 2. Restaurant equipment is not of sufficient grade or appropriate to the offered menu.
- 3. The proposed menu is not of the type and price likely to achieve 40% food sales.
- 4. There is the presence of a jukebox, live entertainment, or dance floor on the premises.
- 5. There is the presence of a number of bar games and equipment, such as pool tables, dart games, big-screen televisions, or arcade type games.
- 6. Use of a term in the establishment's business name, sign age, or promotional material which places emphasis on alcohol consumption. Terms such as bar, tavern, pub, spirits, club, lounge, cabaret, saloon, and other names which denote

liquor sales will be considered as indication of non-restaurant format.

7. More than 60% of the public seating area consists of barstools, cocktail tables, and similar types of seating, indicating that such area is used primarily for alcohol consumption.
8. Dinnerware and smallware including dining utensils are not compatible with the offered menu.

R19-1-311. ~~Patio Outdoor Use Permission~~ Repealed

No licensee shall serve or allow to be served any spirituous liquors, including beer and wine, to patrons seated at outdoor or patio tables within the boundaries of the licensee's property without obtaining written approval on an extension of premise application from the Department. This application will apply to a temporary extension of premise as well as a permanent extension of premise.

R19-1-312. ~~Conveyance License, Application Posting~~ Repealed

For the purpose of processing an application filed by a conveyance applicant, the posting of the application as provided by A.R.S. § 4-201, shall be accomplished by posting a copy of the application and notice to the public in a conspicuous place at the location where the conveyance applicant conducts its principal business in the state of Arizona.

R19-1-313. ~~Interim Permit/Tax Violations~~ Repealed

The Director may refuse to issue an interim permit or issue a license until arrangements have been made with the taxing authority to satisfy the payment of all delinquent taxes. Any arrangements must be verified in writing from the applicable taxing authority and submitted to the Director.

R19-1-315. ~~Exemptions to A.R.S. § 4-244.05~~ Repealed

Small restaurants, catering establishments, associations, and business establishments hosting private social functions are exempt from A.R.S. § 4-244.05 if the business establishment meets all of the following conditions:

1. The possession or consumption of spirituous liquor on the premises is limited to wine and beer and is permitted as an incidental convenience to patrons of the business establishment.
2. The business establishment limits possession or consumption of wine or beer on the premises to the hours between noon and 10 p.m.
3. The business establishment or premises allows a patron to possess no more than 24 ounces of beer per person, or 6 ounces of wine per person to be consumed on the premises.
4. The business establishment notifies the Department on a form prescribed by the Department that it permits patrons to consume or possess beer or wine on the premises.
5. The business establishment and/or its proprietor, manager, comptroller, controlling person, or employee shall comply with A.R.S. Title 4, Chapters 1, 2, and 3, and 19 A.A.C. 1.
6. The business establishment and/or its proprietor, manager, comptroller, controlling person, or employee shall not permit the number of patrons within the business establishment to exceed the maximum occupancy limitations. The maximum occupancy limitations are:
 - a. Small restaurant: shall not exceed 40 patrons.
 - b. Catering establishment: shall not exceed 300 patrons.
 - c. Associations: shall not exceed 300 patrons.
 - d. Business establishments hosting private social functions: shall not exceed 300 patrons.
7. If any clause, sentence, subsection, Section, or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subsection, Section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

R19-1-316. ~~Public Facilities Exemption~~ Repealed

Publicly owned and/or facilities operated by governmental entities ("Public Facility") are exempt from A.R.S. § 4-244.05 if such facilities meet all of the following conditions:

1. The possession or consumption of spirituous liquor is permitted only within the hours of noon to 10 p.m. as permitted by Arizona law, and is limited to no more than 10 hours per day;
2. The possession or consumption of spirituous liquor is permitted only as an incidental convenience to the person attending such public facility;
3. The maximum permitted occupancy of such public facility shall be 250,000.
4. A person attending such public facility shall possess no more than 24 ounces of beer, 6 ounces of distilled spirits or 6 ounces of wine per person to be consumed on the premises.
5. The Director's agent and/or any peace officer shall be empowered to enforce A.R.S. Title 4 to visit and inspect the public facility during business hours.
6. The public facility and/or its proprietor, manager, comptroller, controlling person or employee shall comply with the provisions of A.R.S. Title 4, Chapters 1, 2, and 3, and 19 A.A.C. 1.
7. If any clause, sentence, subsection, Section, or part of this act shall be adjudged by any court of competent jurisdiction

Notices of Proposed Rulemaking

tion to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subsection, Section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

R19-1-317. ~~Licensing Time-frames Repealed~~

The following time-frames apply to licenses issued by the Department. The licensing time-frames consist of an administrative completeness review time frame, a substantive review time frame, and an overall time frame as defined in A.R.S. § 41-1072.

1. Within the applicable administrative completeness review time frame set forth in subsection (5), the Department shall notify the applicant in writing when an application is incomplete. The notice shall specify what information or component is required to make an application complete.
2. An applicant with an incomplete application shall supply the missing information within 30 days from the date of the notice or within such further time as the Director may specify, unless another time is specified by statute or rule. If the applicant fails to submit the missing information or component within the specified time period, the Department may deem the application withdrawn and close the file. Closing the file under this provision does not preclude the applicant from filing a new application.
3. Within the applicable overall time frame set forth in subsection (5), unless extended by written notification pursuant to A.R.S. § 4-201.01(B), or by mutual agreement pursuant to A.R.S. § 41-1075, the Department shall notify the applicant in writing that the application is granted or denied. If the application is denied, the Department shall serve the applicant with a written order containing justification for the denial and an explanation of the applicant's right to appeal.
4. For all types of liquor licenses, except Special Event and Wine Festival Licenses, the Director may extend the overall time frame as prescribed by A.R.S. § 4-201(B).
5. The licensing time-frames are set forth in Table A.

Table A. ~~Licensing Time-frames Repealed~~

No.	License Type	Legal Authority	Administrative Completeness Review Time frame	Substantive Review Time frame	Overall Time frame
1	In-State Producers	A.R.S. § 4-209	75 Days	30 Days	105 Days
2	Out of State Producers	A.R.S. § 4-209	75 Days	30 Days	105 Days
3	Domestic Microbrewery	A.R.S. § 4-205.04	75 Days	30 Days	105 Days
4	Wholesalers	A.R.S. § 4-209	75 Days	30 Days	105 Days
5	Government	A.R.S. § 4-205.03	75 Days	30 Days	105 Days
6	Bar	A.R.S. § 4-209	75 Days	30 Days	105 Days
7	Beer and Wine Bar	A.R.S. § 4-209	75 Days	30 Days	105 Days
8	Conveyance	A.R.S. § 4-209	75 Days	30 Days	105 Days
9	Liquor Store	A.R.S. § 4-209	75 Days	30 Days	105 Days
10	Beer and Wine Store	A.R.S. § 4-209	75 Days	30 Days	105 Days
11	Hotel-Motel	A.R.S. § 4-205.01	75 Days	30 Days	105 Days
12	Restaurant	A.R.S. § 4-205.02	75 Days	30 Days	105 Days
13	Domestic Farm Winery	A.R.S. § 4-205.04	75 Days	30 Days	105 Days
14	Club (Private)	A.R.S. § 4-205	75 Days	30 Days	105 Days
15	Out of State Winery	A.R.S. § 4-209	75 Days	30 Days	105 Days
	Wine Festival/Wine Fair	A.R.S. § 4-203.03	10 Days	20 Days	30 Days
	Special Event	A.R.S. § 4-203.02(B)	10 Days	20 Days	30 Days

NOTICE OF PROPOSED RULEMAKING

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

CHAPTER 1. DEPARTMENT OF LIQUOR LICENSES AND CONTROL

[R08-440]

PREAMBLE

1. Sections Affected

Rulemaking Action

Article 1	New Article
R19-1-101	New Section
R19-1-102	New Section
R19-1-103	New Section
R19-1-104	New Section
R19-1-105	New Section
R19-1-106	New Section
R19-1-107	New Section
R19-1-108	New Section
R19-1-109	New Section
Article 2	New Article
R19-1-202	New Section
R19-1-203	New Section
R19-1-204	New Section
R19-1-205	New Section
R19-1-206	New Section
R19-1-207	New Section
R19-1-208	New Section
R19-1-209	New Section
R19-1-210	New Section
R19-1-211	New Section
R19-1-212	New Section
R19-1-213	New Section
R19-1-214	New Section
R19-1-215	New Section
R19-1-216	New Section
R19-1-217	New Section
Article 3	New Article
R19-1-301	New Section
R19-1-302	New Section
R19-1-303	New Section
R19-1-304	New Section
R19-1-305	New Section
R19-1-306	New Section
R19-1-307	New Section
R19-1-308	New Section
R19-1-309	New Section
R19-1-310	New Section
R19-1-311	New Section
R19-1-312	New Section
R19-1-313	New Section
R19-1-314	New Section
R19-1-315	New Section
R19-1-316	New Section
R19-1-317	New Section
R19-1-318	New Section
R19-1-319	New Section
R19-1-320	New Section
R19-1-321	New Section
R19-1-322	New Section
R19-1-323	New Section
R19-1-324	New Section

Notices of Proposed Rulemaking

R19-1-325	New Section
R19-1-326	New Section
R19-1-327	New Section
Article 4	New Article
R19-1-401	New Section
R19-1-402	New Section
R19-1-403	New Section
R19-1-404	New Section
R19-1-405	New Section
R19-1-406	New Section
R19-1-407	New Section
R19-1-408	New Section
Article 5	New Article
R19-1-501	New Section
R19-1-502	New Section
R19-1-503	New Section
R19-1-504	New Section
R19-1-505	New Section
Article 6	New Article
R19-1-601	New Section
R19-1-602	New Section
R19-1-603	New Section
R19-1-604	New Section
Article 7	New Article
R19-1-701	New Section
R19-1-702	New Section
R19-1-703	New Section
R19-1-704	New Section
R19-1-705	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. § 4-112(A)(2) and (B)(1)

Implementing statute: A.R.S. §§ 4-101 et seq.

3. List of all previous notices appearing in the Register addressing the proposed rules:

Notice of Rulemaking Docket Opening: 14 A.A.R. 4934, December 26, 2008

Notice of Proposed Rulemaking: 15 A.A.R. 26, January 2, 2009 (*in this issue*)

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

Name: Pearllette Ramos
Address: Department of Liquor Licenses and Control
800 W. Washington St., 5th floor
Phoenix, AZ 95007
Telephone: (602) 542-9021
Fax: (602) 542-5707
E-mail: Pearllette.ramos@azliquor.gov

5. An explanation of the rules, including the agency's reasons for initiating the rulemaking:

In response to a Five-year Review Report approved by the Governor's Regulatory Review Council on March 7, 2006, the Department and Board are amending their rules to make them consistent with statute and agency practice. They are also making the rules clear, concise, and understandable and consistent with current rule writing standards.

6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

7. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

Notices of Proposed Rulemaking

8. The preliminary summary of the economic, small business, and consumer impact:

These new rules are replacing existing rules, which are being repealed in a related rulemaking. The content of the new rules is substantially similar to that of the rules being repealed. Most of the economic impact from regulation of the liquor industry, including all fees and surcharges, results from legislative action.

The rulemaking contains some changes that will have economic impact. These include:

- Requiring an applicant to submit an application that does not contain a non-technical error;
- Requiring that a licensee, manager, managing agent, controlling person, any employee that sells, serves, or furnishes spirituous liquor to a retail customer, and any individual who will be physically present and operating a licensed premise complete training;
- Requiring that individuals who take a Department-approved training course take and pass a Department-approved examination;
- Requiring that the provider of a Department-approved training course allow course participants to evaluate the course and course instructor;
- Requiring that the provider of a Department-approved training course maintain certain records and submit reports to the Department twice a year;
- Establishing standards for a non-contiguous area of a licensed premises;
- Establishing standards for a restaurant to maintain records in auditable form; and
- Clarifying that the standard for an unlicensed small restaurant is an occupancy limitation of 50.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Pearllette Ramos
Address: Department of Liquor Licenses and Control
800 W. Washington St., 5th floor
Phoenix, AZ 95007
Telephone: (602) 542-9021
Fax: (602) 542-5707
E-mail: Pearllette.ramos@azliquor.gov

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rules or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rules:

An oral proceeding regarding the proposed rules will be held as follows:

Date: Tuesday, February 3, 2009
Time: 1:00 p.m.
Location: 800 W. Washington St.
First floor auditorium
Phoenix, AZ 85007

The rulemaking record will close at 5:00 p.m. on February 4, 2009.

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

None

12. Incorporations by reference and their location in the rules:

None

13. 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 1. ~~REPEALED~~ GENERAL PROVISIONS

Notices of Proposed Rulemaking

Section

- R19-1-101. ~~Repealed~~ Definitions
- R19-1-102. ~~Repealed~~ Transfer of License
- R19-1-103. ~~Repealed~~ Fees and Surcharges
- R19-1-104. ~~Repealed~~ Obtaining a Quota License
- R19-1-105. ~~Repealed~~ Licensing Time-frames
- R19-1-106. ~~Repealed~~ Liquor Law Training Course: Minimum Standards
- R19-1-107. ~~Reserved~~ Labeling: Shipping Requirements
- R19-1-108. ~~Repealed~~ Standards for a Non-contiguous Area of a Licensed Premises
- R19-1-109. ~~Repealed~~ Severability

ARTICLE 2. ~~REPEALED~~ LICENSING

Section

- R19-1-202. ~~Repealed~~ Who May Apply for a License
- R19-1-203. ~~Repealed~~ Application Requirements for a Liquor License
- R19-1-204. ~~Repealed~~ Application Requirements for an Out-of-state Producer or Limited Out-of-state Producer License
- R19-1-205. ~~Expired~~ Application Requirements for an Out-of-state Domestic Microbrewery or Domestic Farm Winery License
- R19-1-206. ~~Repealed~~ Application Requirements for a Special Event License
- R19-1-207. ~~Repealed~~ Application Requirements for a Wine Festival or Fair License
- R19-1-208. ~~Repealed~~ Application Requirements for a Direct Shipment License
- R19-1-209. ~~Repealed~~ Registration of a Retail Agent
- R19-1-210. ~~Repealed~~ Application for Agent Change, Acquisition of Control, or Business Restructure
- R19-1-211. ~~Repealed~~ Application for Exemption for an Unlicensed Business
- R19-1-212. ~~Repealed~~ Application to Renew a Liquor License
- R19-1-213. ~~Repealed~~ Application for Restaurant Continuation Authorization
- R19-1-214. ~~Repealed~~ Application for Extension or Change of Licensed Premises
- R19-1-215. ~~Repealed~~ Application to Include a Non-contiguous Area in a Licensed Premises
- R19-1-216. ~~Repealed~~ Application for Approval of a Liquor Law Training Course
- R19-1-217. ~~Repealed~~ Application by a Club to Lock Front Entrance

ARTICLE 3. ~~REPEALED~~ LICENSEE RESPONSIBILITIES

Section

- R19-1-301. ~~Recodified~~ Display of License
- R19-1-302. ~~Repealed~~ Knowledge of Liquor Law: Supervision
- R19-1-303. ~~Repealed~~ Authorized Spirituous Liquor
- R19-1-304. ~~Repealed~~ Storing Spirituous Liquor on Unlicensed Premises
- R19-1-305. ~~Repealed~~ Paying Taxes Required
- R19-1-306. ~~Repealed~~ Bottle Labeling Requirements
- R19-1-307. ~~Repealed~~ Bottle Reuse or Refilling Prohibited
- R19-1-308. ~~Repealed~~ Age Requirement for Erotic Entertainers
- R19-1-309. ~~Repealed~~ Prohibited Acts
- R19-1-310. ~~Repealed~~ Prohibited Films and Pictures
- R19-1-311. ~~Repealed~~ Credit Law Exception
- R19-1-312. ~~Repealed~~ Accurate Labeling of Dispensing Equipment Required
- R19-1-313. ~~Repealed~~ Sign Limitations
- R19-1-314. ~~Expired~~ Prohibited Inducement to Purchase or Consume Spirituous Liquor
- R19-1-315. ~~Repealed~~ Responsibilities of a Licensee that Operates a Delivery Service
- R19-1-316. ~~Repealed~~ Responsibilities of a Liquor Store or Beer and Wine Store Licensee
- R19-1-317. ~~Repealed~~ Responsibilities of a Hotel-Motel or Restaurant Licensee
- R19-1-318. Responsibilities of a Special Event Licensee
- R19-1-319. Commercial Coercion or Bribery Prohibited
- R19-1-320. Practices Permitted by a Producer or Wholesaler
- R19-1-321. Practices Permitted by a Wholesaler
- R19-1-322. Responsibilities of a Registered Retail Agent
- R19-1-323. Underage Individuals on Licensed Premises
- R19-1-324. Standards for Exemption of an Unlicensed Business
- R19-1-325. Display of Warning Sign Regarding Consumption of Alcohol
- R19-1-326. Tapping Equipment

Notices of Proposed Rulemaking

R19-1-327. Domestic Farm Winery Sampling

ARTICLE 4. REQUIRED NOTICES TO DEPARTMENT

Section

R19-1-401. Notice of Change in Status: Active or Nonuse
R19-1-402. Notice of Change in Manager
R19-1-403. Notice of Legal or Equitable Interest
R19-1-404. Notice of Change in Business Name, Address, or Telephone Number
R19-1-405. Notice of License Surrender or Application Withdrawal
R19-1-406. Registered Retail Agent: Notice of Change in Cooperative-purchase Agreement; List of Cooperative Members
R19-1-407. Hotel-Motel or Restaurant Licensee: Notice of Change to Restaurant Facility
R19-1-408. Notice of Sampling on a Licensed Off-sale Retail Premises

ARTICLE 5. REQUIRED RECORDS AND REPORTS

Section

R19-1-501. General Recordkeeping
R19-1-502. On-sale Retail Personnel Records
R19-1-503. Records Regarding Cooperative Purchases
R19-1-504. Record of Delivery of Spirituous Liquor
R19-1-505. Report of Act of Violence

ARTICLE 6. VIOLATIONS; HEARINGS; DISCIPLINE

Section

R19-1-601. Appeals and Hearings
R19-1-602. Actions During License Suspension
R19-1-603. Seizure of Spirituous Liquor
R19-1-604. Closure Due to Violence

ARTICLE 7. STATE LIQUOR BOARD

Section

R19-1-701. Election of Officers
R19-1-702. Determining Whether to Grant a License for a Certain Location
R19-1-703. Rehearing or Review of Decision
R19-1-704. Submitting Materials to the Board
R19-1-705. Judicial Review

ARTICLE 1. REPEALED GENERAL PROVISIONS

R19-1-101. Repealed Definitions

The definitions in A.R.S. §§ 4-101, 4-205.02, 4-205.03, 4-205.06, 4-207, 4-210, 4-227, 4-243, 4-243.01, 4-244, 4-248, and 4-251 apply to this Chapter. Additionally, in this Chapter, unless the context otherwise requires:

“Acquisition of control” means that a person becomes a controlling person.

“Association” means a group of individuals who have a common interest that is organized as a non-profit corporation or fraternal or benevolent society and owns or leases a business premises for the group’s exclusive use.

“Bar license” (Series 6) means authorization issued to an on-sale retailer to sell spirituous liquor in individual portions for consumption on the licensed premises and in an original, unopened, container for consumption off the licensed premises.

“Beer and wine bar license” (Series 7) means authorization issued to an on-sale retailer to sell wine and beer in individual portions for consumption on the licensed premises and in an original, unopened, container for consumption off the licensed premises.

“Beer and wine store license” (Series 10) means authorization issued to an off-sale retailer to sell wine and beer in an original, unopened, container for consumption off the licensed premises.

“Business” means an enterprise or organized undertaking conducted regularly for profit, which may be licensed or unlicensed.

“Business premises” means real property and improvements from which a business operates.

“Catering establishment” means a business premises that is available for hire for a particular occasion and at which food and service is provided for people who attend the occasion.

“Change in ownership” means any change in the financial arrangement regarding a business that results in a person, directly or indirectly, becoming or ceasing to be a controlling person.

“Club license” (Series 14) means authorization issued to a club to sell spirituous liquor only to members and members’ bona fide guests for consumption only on the premises of the club.

“Cocktail mixer” means a non-alcoholic liquid or solid mixture used for mixing with spirituous liquor to prepare a beverage.

“Conveyance license” (Series 8) means authorization issued to the owner or lessee of an airplane, train, or boat to sell spirituous liquor for consumption only on the airplane, train, or boat.

“Cooler product” means an alcoholic beverage made from wine or beer and fruit juice, often in combination with a carbonated beverage and sugar.

“Deal” means to sell, trade, furnish, distribute, or do business in spirituous liquor.

“Department” means the Director of the Department of Liquor Licenses and Control and the State Liquor Board.

“Direct shipment license” (Series 17) means authorization issued to an in-state or out-of-state producer, exporter, importer, or rectifier to take an order for spirituous liquor and ship the order to a wholesaler or as allowed by A.R.S. § 4-203.04(J).

“Domestic farm winery license” (Series 13) means authorization issued to an in-state or out-of-state domestic farm winery that produces at least 200 gallons but not more than 40,000 gallons of wine annually.

“Domestic microbrewery license” (Series 3) means authorization issued to an in-state or out-of-state domestic microbrewery that produces at least 5,000 gallons of beer following its first year of operation and not more than 620,000 gallons of beer annually.

“Entertainment,” as used in A.R.S. § 4-244.05, means any form of amusement including a theatrical, opera, dance, or musical performance, motion picture, videotape, audiotape, radio, television, carnival, game of chance or skill, exhibit, display, lecture, sporting event, or similar activity.

“Erotic entertainer,” as used in A.R.S. § 4-112(G), means an employee who performs in a manner or style designed to stimulate or arouse sexual thoughts or actions.

“Front entrance” means the door commonly used by members of the general public to enter a business premises.

“Good cause,” as used in A.R.S. Title 4 and this Chapter, means a reason that the Director or Board determines is substantial enough to afford a legal excuse.

“Governmental entity” means a county, city, town, or state university or the Arizona Exposition and State Fair Board.

“Government license” (Series 5) means authorization issued to a governmental entity to sell spirituous liquor at a specified premises.

“Hotel-motel license” (Series 11) means authorization issued to a hotel or motel that has a restaurant where food is served to sell spirituous liquor for consumption on the premises of the hotel or motel or by means of a mini-bar.

“Incidental convenience,” as used in A.R.S. § 4-244.05(I), means allowing a patron to possess and consume the amount of spirituous liquor stated in R19-1-324 while at a business to obtain goods or services regularly offered to all patrons.

“In-state producer license” (Series 1) means authorization issued to a producer or manufacturer to produce or manufacture spirituous liquor in Arizona.

“Interim permit” means temporary authorization issued under A.R.S. § 4-203.01 that allows continued sale of spirituous liquor.

“Judicial review” means an appeal under A.R.S. Title 12, Chapter 7, Article 6 to superior court of a final decision by the Board or Director.

“Licensed” means a license or interim permit is issued under A.R.S. Title 4 and this Chapter, including a license or interim permit on nonuse status.

“Licensed retailer” means an on-sale or off-sale retailer.

“Limited out-of-state producer license” (Series 2L) means authorization issued to an out-of-state producer to sell no more than 50 cases of spirituous liquor through a wholesaler annually.

“Liquor store license” (Series 9) means authorization issued to an off-sale retailer to sell spirituous liquor in an original, unopened, container for consumption off the licensed premises.

“Membership fee” or “cover charge,” as used in A.R.S. § 4-244.05, means any consideration, direct or indirect, paid to a business to gain entry to the business.

Notices of Proposed Rulemaking

“Minimum purchase” or “rental requirement,” as used in A.R.S. § 4-244.05, means any consideration, direct or indirect, paid to a business for permission to remain on the business premises.

“Non-technical error” means a mistake on an application that has the potential to mislead regarding the truthfulness of information provided.

“Nonuse” means a license is not used to engage in business activity authorized by the license for at least 30 consecutive days.

“Out-of-state producer license” (Series 2) means authorization issued to an entity to produce, export, import, or rectify spirituous liquor outside of Arizona and ship the spirituous liquor to a wholesaler.

“Party” has the same meaning as prescribed in A.R.S. § 41-1001.

“Physical barrier” means a wall, fence, rope, railing, or other temporary or permanent structure erected to restrict access to a designated area of a licensed premises.

“Producer” means the holder of an in-state, out-of-state, or limited out-of-state producer license.

“Quota license” means a bar, beer and wine bar, or liquor store license.

“Rectify” means to color, flavor, or otherwise process spirituous liquor by distilling, blending, percolating, or other processes.

“Reset” means a wholesaler removes expired spirituous liquor from the premises of a licensed retailer and replaces the expired product with unexpired spirituous liquor.

“Restaurant continuation authorization” means authorization issued to the holder of a restaurant license that enables the holder to operate under the restaurant license after it is determined that food sales comprise at least 30 percent but less than 40 percent of the business’s gross revenue.

“Restaurant license” (Series 12) means authorization issued to a restaurant, as defined in A.R.S. § 4-205.02, to sell spirituous liquor for consumption only on the restaurant premises.

“Second-party purchaser” means an individual who is of legal age to purchase spirituous liquor in Arizona and buys spirituous liquor for an individual who is not able to purchase spirituous liquor lawfully in Arizona.

“Special event license” (Series 15) means authorization issued to a charitable, civic, fraternal, political, or religious organization to sell spirituous liquor for consumption on or off the premises where the spirituous liquor is sold only for a specified period.

“Technical error” means a mistake on an application that does not mislead regarding the truthfulness of the information provided.

“Transfer” means to:

Move a license from one location to another location within the same county; or

Change ownership, directly or indirectly, in whole or in part, of a business.

“Wholesaler license” (Series 4) means authorization issued to a wholesaler, as prescribed at A.R.S. § 4-243.01, to warehouse and distribute spirituous liquor to a licensed retailer.

“Wine festival or fair license” (Series 16) means authorization issued for a specified period to a domestic farm winery to serve samples of its products and sell the products in individual portions for consumption on the premises where sold or in original, unopened, containers for consumption off the premises where sold.

R19-1-102. Repealed Transfer of License

- A.** A licensee shall not lease or sublease a license issued under A.R.S. Title 4 and this Chapter.
- B.** Except as provided in subsection (C), a licensee shall not transfer the license to another person or location.
- C.** A bar, beer and wine bar, or liquor store licensee may transfer the license:
 - 1. To another person who is qualified under A.R.S. § 4-203 to be a licensee, or
 - 2. To another location in the same county if the Department determines that the public convenience requires and the best interest of the community will be substantially served by transferring the license to the new location.
- D.** A bar, beer and wine bar, or liquor store licensee that wishes to transfer the license to another location in the same county shall apply to the Director for authorization to use the license at the new location.
- E.** If a bar, beer and wine bar, or liquor store licensee transfers the business to another person qualified to be a licensee, the transferee shall apply to the Director for authorization:
 - 1. To use the license; and
 - 2. To have the bar, beer and wine bar, or liquor store license reissued in the transferee’s name.
- F.** If a bar, beer and wine bar, or liquor store license is transferred to another person, the transferee may apply to the Director for an interim permit at the same time that the transferee applies for authorization to use the license and to have the bar, beer and wine bar, or liquor store license reissued in the transferee’s name.

R19-1-103. ~~Repealed Fees and Surcharges~~

- A. The fees and surcharges collected by the Department are established by statute.
- B. Except as provided in subsections (I) through (K), when a person applies for a license or for the transfer of a license, the person shall pay a non-refundable application fee of \$100.
- C. After a license other than a special event, wine festival or fair, or direct shipment license is approved but before the license is issued, the person that applied for the license shall pay the issuance fee and all applicable surcharges. If the license will be issued less than six months before it is scheduled to be renewed, the person that applied for the license shall also pay one-half of the annual renewal fee.
- D. After a new bar, beer and wine bar, or liquor store license is approved but before the license is issued, the person that applied for the license shall, as required by A.R.S. § 4-206.01, pay the fair market value of the license as determined by the Department.
- E. After a restaurant continuation authorization is approved but before the authorization is issued, the person that applied for the authorization shall pay a one-time fee of \$30,000.
- F. A licensee shall pay the annual renewal fee established under A.R.S. § 4-209(D). A licensee that fails to submit a renewal application by the deadline established by the Department shall pay a penalty of \$150 in addition to the annual renewal fee.
- G. Before a bar, beer and wine bar, or liquor store license is issued to a transferee, the transferee shall pay a \$300 issuance fee.
- H. Before a bar, beer and wine bar, or liquor store license is transferred to another location within the county, the licensee shall pay a \$100 issuance fee.
- I. As established by A.R.S. § 4-203.02, the fee for a special event license is \$25 per day.
- J. As established by A.R.S. § 4-203.03, the fee for a wine festival or fair license is \$15 per event.
- K. Under the authority provided by A.R.S. § 4-203.04, the Director establishes and shall collect from an applicant an application fee of \$25 for a direct shipment license.
- L. The following fees also apply:
 - 1. For an interim permit, \$100;
 - 2. For a change of agent, \$100 for the first license and \$50 for all other licenses held by the same licensee to a maximum of \$1,000; and
 - 3. For registration of a retail agent, \$5.
- M. At the time of application for a license, an individual required under A.R.S. Title 4 or this Chapter to submit fingerprints for a criminal history background check, shall pay the charge established by the Department of Public Safety for processing the fingerprints.
- N. If a check provided to the Department by an applicant or licensee is dishonored by the bank upon presentment, the Department shall:
 - 1. As allowed by A.R.S. § 44-6852, require the applicant or licensee to pay the actual charges assessed by the bank plus a service fee of \$25;
 - 2. Not issue a license, permit, or other approval to the applicant or licensee until all fees, including those referenced in subsection (N)(1), are paid by money order; and
 - 3. Require the applicant or licensee to pay all future fees to the Department by money order.

R19-1-104. ~~Repealed Obtaining a Quota License~~

- A. The number of quota licenses that the Department may issue in a county is limited.
- B. Before issuing a new quota license in a particular county, the Department shall provide notice through available media of its intent to issue a new quota license, the particular kind of quota license to be issued, and invite interested persons in the county to inform the Department of their interest in the manner prescribed by the Department.
- C. If the number of interested persons in a particular county exceeds the number of specified quota licenses available, the Department shall use a random selection method to determine the priority of those who may apply for a new quota license.
- D. To apply for a new quota license, an applicant shall comply with the application procedures in R19-1-203 and submit the non-refundable application fee required under R19-1-103(B).
- E. Before a new quota license is issued to a successful applicant, the applicant shall pay:
 - 1. The issuance fee and applicable surcharges prescribed under A.R.S. § 4-209;
 - 2. One-half of the annual renewal fee if the license will be issued less than six months before it is scheduled to be renewed; and
 - 3. The fair market value of the quota license, as determined by the Department.

R19-1-105. ~~Repealed Licensing Time-frames~~

- A. For the purpose of compliance with A.R.S. § 41-1073, the Department establishes time-frames that apply to licenses issued by the Department. The licensing time-frames consist of an administrative completeness review time-frame, a sub-

Arizona Administrative Register / Secretary of State
Notices of Proposed Rulemaking

stantive review time-frame, and an overall time-frame as defined in A.R.S. § 41-1072.

- B.** The Department shall not forward a liquor license application for review and consideration by local governing authorities until the application is administratively complete. A liquor license application is administratively complete when:
1. Every piece of information on the form specified in R19-1-203 through R19-1-208, as applicable, is provided;
 2. All required materials specified in R19-1-203 through R19-1-208, as applicable, are attached to the form;
 3. The non-refundable license application fee specified in R19-1-103 is attached to the form; and
 4. If application is made under R19-1-203, the questionnaire described in R19-1-203(B) and a complete set of fingerprints from every individual who is a controlling person or owns at least 10 percent of the business to be licensed and the agent and manager of the business are attached to the form.
- C.** Except as provided in subsection (D), the time-frame for the Department to act on a license application is as follows:
1. Administrative completeness review time-frame: 75 days.
 2. Substantive review time-frame: 30 days, and
 3. Over-all time-frame: 105 days.
- D.** The time-frame for the Department to act on an application for a special event license, wine festival or fair license, extension or change of licensed premises, or approval of a liquor law training course is as follows:
1. Administrative completeness review time-frame: 10 days.
 2. Substantive review time-frame: 20 days, and
 3. Over-all time-frame: 30 days.
- E.** Administrative completeness review time-frame.
1. The administrative completeness review time-frame begins when the Department receives an application. During the administrative completeness review-time-frame, the Department shall determine whether the application is:
 - a. Complete.
 - b. Contains a technical error, or
 - c. Contains a non-technical error.
 2. If the Department determines that an application is incomplete or contains a non-technical error, the Department shall return the application to the applicant. If the applicant wishes to be considered further for a license, the applicant shall submit to the Department a new, completed application and non-refundable application fee.
 3. If the Department determines that an application contains a technical error, the Department shall notify the applicant in writing of the technical error.
 4. An applicant that receives a notice regarding a technical error in an application shall correct the technical error within 30 days from the date of the notice or within the time specified by the Department. The administrative completeness review and over-all time-frames are suspended from the date of the notice referenced under subsection (E)(3) until the date the technical error is corrected.
 5. If an applicant fails to correct a technical error within the specified time, the Department shall close the file. An applicant whose file is closed may apply again for a license by submitting a new, completed application and non-refundable application fee.
- E.** Substantive review time-frame.
1. The substantive review time-frame begins when an application is administratively complete or at the end of the administrative completeness review time-frame listed in subsection (C)(1) or (D)(1). If a hearing is required under A.R.S. § 4-201 regarding the license application, the Department shall ensure that the hearing occurs during the substantive review time-frame.
 2. If the Department determines during the substantive review that additional information is needed, the Department shall send the applicant a comprehensive written request for additional information. An applicant from whom additional information is requested shall supply the additional information within 30 days from the date of the request or within the time specified by the Department. Both the substantive review and over-all time-frames are suspended from the date of the Department's request until the date that the Department receives the additional information.
 3. If an applicant fails to submit the requested information within the specified time, the Department shall close the file. An applicant whose file is closed may apply again for a license by submitting a new, completed application and non-refundable application fee.
- G.** Within the overall time-frame, the Department shall:
1. Deny a license to an applicant if the Department determines that the applicant does not meet all the substantive criteria required by A.R.S. Title 4 and this Chapter, or
 2. Grant a license to an applicant if the Department determines that the applicant meets all the substantive criteria required by A.R.S. Title 4 and this Chapter.
- H.** If the Department denies a license under subsection (G)(1), the Department shall provide a written notice of denial to the applicant that explains:
1. The reason for the denial, with citations to supporting statutes or rules;
 2. The applicant's right to appeal the denial; and
 3. The time for appealing the denial.

R19-1-106. ~~Repealed Liquor Law Training Course: Minimum Standards~~

- A.** As required by A.R.S. § 4-112(G)(2), the Department establishes the following minimum standards for a liquor law training course.
1. A provider of a liquor law training course shall ensure that the training course fulfills the following minimum time requirement:
 - a. Basic liquor law applicable to an on-sale retail licensee: 3 hours.
 - b. Management training applicable to an on-sale retail licensee: 2.5 hours.
 - c. Basic liquor law applicable to an off-sale retail licensee: 2 hours, and
 - d. Management training applicable to an off-sale retail licensee: 1.5 hours;
 2. A provider of a training course regarding basic liquor law applicable to an on-sale retail licensee shall include the following information in the basic training course:
 - a. General law regarding spirituous liquor.
 - i. Role and function of the Arizona Department of Liquor Licenses and Control.
 - ii. Potential legal risks to an on-sale retail licensee.
 - iii. Potential legal risks to an employee of an on-sale retail licensee, and
 - iv. Types and privileges of on-sale retail licenses;
 - b. Law regarding a licensed premises.
 - i. The licensed premises.
 - ii. Entertainment within or on the licensed premises including private parties or gambling on the licensed premises, and
 - iii. Violence on the licensed premises;
 - c. Law regarding age.
 - i. Legal age in Arizona for purchase of spirituous liquor.
 - ii. When to require identification of legal age.
 - iii. Acceptable identification of legal age.
 - iv. Recognizing invalid identification of legal age.
 - v. Recording evidence of identification of legal age.
 - vi. Underage individuals in a bar or restaurant at which spirituous liquor is served, and
 - vii. Refusing to sell spirituous liquor to an underage individual;
 - d. Law regarding intoxication.
 - i. Selling spirituous liquor to an intoxicated individual.
 - ii. Service limitations regarding sales of spirituous liquor.
 - iii. The effect of consumption of spirituous liquor.
 - iv. Monitoring customer consumption and intervention techniques, and
 - v. Refusing service to an intoxicated individual;
 - e. Employee service and consumption of spirituous liquor;
 - f. Law regarding legal hours of sale and payment for spirituous liquor;
 - g. Disorderly conduct and acts of violence.
 - i. Defining disorderly conduct, acts of violence, and licensed premises;
 - ii. Maintaining order on the licensed premises;
 - iii. Reporting an act of violence;
 - iv. Repeated acts of violence; and
 - v. Firearms within or on the licensed premises; and
 - h. Course summary.
 - i. Review and summary of course content.
 - ii. Inform participants how to complete the Department-approved examination required under subsection (A)(8).
 - iii. Complete course and course trainer evaluation required under subsection (A)(9), and
 - iv. Distribute letters of training verification required under subsection (A)(10).
 3. A provider of a management training course regarding liquor law applicable to an on-sale retail licensee shall include the following information in the management training course:
 - a. Law enforcement regarding spirituous liquor.
 - i. Inspection of premises.
 - ii. Covert underage buyer program.
 - iii. Administrative liability.
 - iv. Criminal liability, and
 - v. Civil liability;
 - b. Licensed premises.
 - i. Diagramming licensed premises.

Notices of Proposed Rulemaking

- ii. Altering licensed premises.
 - iii. Changing name of business, and
 - iv. Patio requirements;
 - c. Liquor license.
 - i. Posting license.
 - ii. Renewing license.
 - iii. Required recordkeeping.
 - iv. Employee roster.
 - v. Change in active or nonuse status, and
 - vi. Audit of business;
 - d. Management requirements.
 - i. Defining who is a manager.
 - ii. Changing managers.
 - iii. Changing agents, and
 - iv. Filing required forms;
 - e. Required policies regarding spirituous liquor.
 - i. Purchase and storage requirements.
 - ii. Management requirements.
 - iii. Employee requirements.
 - iv. Licensee policies, and
 - v. Marketing strategies;
 - f. General business practices.
 - i. Sources of spirituous liquor.
 - ii. Credit purchase of spirituous liquor.
 - iii. Delivering spirituous liquor.
 - iv. Off-premise storage of spirituous liquor.
 - v. Wholesaler and retailer relationship.
 - vi. Cooperative purchase of spirituous liquor.
 - vii. Retail coupons.
 - viii. Advertising.
 - ix. Inducements.
 - x. Warning signs regarding consumption of spirituous liquor.
 - xi. Locking entrance to the licensed premises.
 - xii. Employee service and consumption of spirituous liquor, and
 - xiii. Owner service and consumption of spirituous liquor;
 - g. Disorderly conduct and acts of violence. The information specified under subsection (A)(2)(g); and
 - h. Course summary. The activities specified under subsection (A)(2)(h).
4. A provider of a training course regarding basic liquor law applicable to an off-sale retail licensee shall include the following information in the basic training course:
- a. General law regarding spirituous liquor. The information specified under subsections (A)(2)(a)(i) through (iii);
 - b. Law regarding age.
 - i. The information specified under subsections (A)(2)(c)(i) through (iv) and (vii), and
 - ii. Use of a registration book;
 - c. Law regarding intoxication.
 - i. The information specified under subsections (A)(2)(d)(i) and (v), and
 - ii. Recognizing intoxication in an individual;
 - d. Law regarding sale of broken packages and on-premises consumption.
 - i. Definition of broken package and on-premises consumption.
 - ii. Off-sale business premises restrictions.
 - iii. Advising a customer of off-sale consumption restrictions.
 - iv. Opening or consuming spirituous liquor on the licensed premises, and
 - v. Consuming spirituous liquor in parking area or property adjacent to licensed premises;
 - e. Law regarding sale of spirituous liquor during restricted hours.
 - i. Legal hours of sale in Arizona, and
 - ii. Refusing an after-hour sale;
 - f. Law regarding second-party sales of spirituous liquor.
 - i. Definition of second-party sale.
 - ii. Licensee responsibilities regarding second-party purchases.
 - iii. Recognizing a second-party purchaser.

- iv. Preventing a second-party sale, and
 - v. Refusing to sell to a second-party purchaser;
 - g. Management of problem situations.
 - i. Kinds of problem situations that may arise,
 - ii. Recognizing a problem situation, and
 - iii. Employee responsibilities in a problem situation;
 - h. Disorderly conduct and acts of violence. The information specified under subsection (A)(2)(g); and
 - i. Course summary. The activities specified under subsection (A)(2)(h).
 - 5. A provider of a management training course regarding liquor law applicable to an off-sale retail licensee shall include the following information in the management training course:
 - a. Law enforcement regarding spirituous liquor. The information specified under subsection (A)(3)(a).
 - b. Licensed premises. The information specified under subsections (A)(3)(b)(i) through (iii).
 - c. Liquor license.
 - i. The information specified under subsections (A)(3)(c)(i) through (iv), and
 - ii. Types and privileges of off-sale retail licenses;
 - d. Management requirements. The information specified under subsection (A)(3)(d).
 - e. General business practices.
 - i. The information specified under subsections (A)(3)(f)(i) through (ix), and
 - ii. Drive-through purchase of spirituous liquor;
 - f. Disorderly conduct and acts of violence. The information specified under subsection (A)(2)(g), and
 - g. Course summary. The activities specified under subsection (A)(2)(h).
 - 6. A provider of a training course regarding basic liquor law applicable to an on-sale retail licensee that has off-sale privileges shall ensure that the course addresses all unduplicated requirements specified under subsections (A)(2) and (4).
 - 7. A provider of a management training course regarding liquor law applicable to an on-sale retail licensee that has off-sale privileges shall ensure that the course addresses all unduplicated requirements specified under subsections (A)(3) and (5).
 - 8. A provider of a liquor law training course shall inform each participant of the procedure for taking the examination approved by the Department.
 - 9. A provider of a liquor law training course shall use an objective procedure that enables a participant in the course to evaluate the knowledge and competence of the course trainer and the quality of the course.
 - 10. A provider of a liquor law training course shall issue a letter of training verification to each participant who attends the course. The training provider shall ensure that the letter of training verification contains the following information:
 - a. Name of the participant attending the training course,
 - b. Date on which the training course is attended,
 - c. Whether the training course focused on on-sale or off-sale retail requirements or a combination of both,
 - d. Whether the training course addressed basic or management information or a combination of both, and
 - e. Name of individual or entity providing the training course, and
 - 11. A provider of a liquor law training course shall:
 - a. Maintain a record of all letters of training verification issued under subsection (A)(10) for five years;
 - b. Maintain a copy of the course and course trainer evaluations completed by participants under subsection (A)(2)(h)(iii) for two years, and
 - c. Submit to the Department by January 15 and July 15 of each year a roster that provides the following information:
 - i. Each date on which an approved training course was taught during the previous six months,
 - ii. Whether the training course focused on on-sale or off-sale retail requirements or a combination of both,
 - iii. Whether the training course focused on basic or management information or a combination of both, and
 - iv. The name and telephone number of each participant in each training course.
 - B.** To apply for approval of a liquor law training course, the provider of the training course shall comply with the requirements at R19-1-216.
 - C.** The provider of an approved liquor law training course shall, upon request, make the following available to the Department:
 - 1. Record of the letters of training verification maintained under subsection (A)(11).
 - 2. A current training course outline.
 - 3. A copy of any materials provided to course participants.
 - 4. A copy of any teaching aids used in the training course, and
 - 5. A copy of the course and course trainer evaluations completed under subsection (A)(2)(h)(iii).
 - D.** To enable the Department to monitor the quality and accuracy of liquor law training, the provider of an approved liquor

Arizona Administrative Register / Secretary of State
Notices of Proposed Rulemaking

law training course shall, upon request, inform the Department of when and where the training course will be taught.

R19-1-107. ~~Reserved Labeling: Shipping Requirements~~

- A.** An individual or entity, whether licensed or unlicensed under A.R.S. Title 4 and this Chapter, shall ensure that spirituous liquor shipped or offered for shipping within this state for a commercial purpose is in a container that is clearly and conspicuously labeled with the following information:
1. Name of the individual or entity consigning or shipping the spirituous liquor;
 2. Name and address of the individual or entity to whom the spirituous liquor will be delivered, and
 3. Identification of the spirituous liquor;
- B.** An individual who transports spirituous liquor from a wholesaler to a licensed retailer shall ensure that:
1. The individual possesses a bill or memorandum from the wholesaler to the licensed retailer showing the:
 - a. Name and address of the wholesaler;
 - b. Name and address of the licensed retailer, and
 - c. Quantity and character of the spirituous liquor sold and transported; and
 2. The bill or memorandum referenced under subsection (B)(1) is exhibited on demand by any peace officer.
- C.** An individual or entity that ships or offers for shipping spirituous liquor from a point outside Arizona to a final destination in Arizona shall ensure that:
1. With the exception of spirituous liquor that is being shipped under A.R.S. § 4-203.04(J) by a direct shipment licensee or under A.R.S. § 4-205.04(C)(7) or (9) by a domestic farm winery licensee, the spirituous liquor is consigned to a wholesaler authorized to sell or deal in the particular spirituous liquor being shipped; and
 2. The spirituous liquor is placed for shipping with:
 - a. A common carrier or transportation company that is in compliance with all Arizona and federal law regarding operation of an interstate transportation business; or
 - b. The wholesaler to whom the spirituous liquor is consigned if the wholesaler is authorized by the Department to transport interstate the spirituous liquor.
- D.** A common carrier or transportation company hired to transport spirituous liquor from a point outside Arizona to a final destination in Arizona shall ensure that:
1. The common carrier or transportation company maintains possession of the spirituous liquor from the time the spirituous liquor is placed for shipping until it is delivered; and
 2. With the exception of spirituous liquor that is being shipped under A.R.S. § 4-203.04(J) by a direct shipment licensee or under A.R.S. § 4-205.04(C)(7) or (9) by a domestic farm winery licensee, the spirituous liquor is delivered to the licensed premises of the wholesaler to whom the spirituous liquor is consigned.

R19-1-108. ~~Repealed Standards for a Non-contiguous Area of a Licensed Premises~~

When an application is made for inclusion of a non-contiguous area in a licensed premises, the Department shall approve inclusion of the non-contiguous area only if the following standards are met:

1. Unless application is made by a club licensee, the public convenience requires and the best interest of the community will be substantially served by approving inclusion of the non-contiguous area in the licensed premises;
2. The non-contiguous area does not violate A.R.S. § 4-207;
3. The non-contiguous area will be a permanent part of the licensed premises;
4. The walkway or driveway that separates the non-contiguous area from the remainder of the licensed premises is no more than 30 feet wide;
5. The non-contiguous area is completely enclosed by a permanently installed fence that is at least four feet in height;
6. Construction of the business premises in the non-contiguous area will comply with all applicable building and safety standards before spirituous liquor is sold or served in the non-contiguous area; and
7. The licensee demonstrates control of the taking of spirituous liquor between the non-contiguous area and the remainder of the licensed premises.

R19-1-109. ~~Repealed Severability~~

In this Chapter, the subsections of each Section are severable and each Section is severable from the Chapter. If a Section or subsection or the application of a Section or subsection to a particular individual, entity, or circumstance is held to be invalid, the invalidity does not affect the validity of other Sections or subsections and does not affect the validity of the Section or subsection to a different individual, entity, or circumstance.

ARTICLE 2. ~~REPEALED LICENSING~~

R19-1-202. ~~Repealed Who May Apply for a License~~

- A.** Pre-requisites for a license under A.R.S. Title 4 and this Chapter:
1. If an individual applies for a license, the individual shall be:
 - a. A citizen of the United States or a legal resident alien, and
 - b. A bona fide resident of Arizona;

2. If a partnership applies for a license, each partner shall meet the criteria in subsection (A)(1);
 3. If a corporation or limited liability company applies for a license, the corporation or limited liability company shall be:
 - a. Qualified to do business in Arizona, and
 - b. Hold the license through an agent who is an individual that meets the criteria in subsection (A)(1);
 4. If a limited partnership applies for a license:
 - a. An individual general partner shall meet the criteria in subsection (A)(1),
 - b. A corporate general partner shall meet the criteria in subsection (A)(3), and
 - c. A limited partner shall meet the criterion in subsection (A)(1)(a);
 5. If a club or governmental entity applies for a license, the club or governmental entity shall hold the license through an agent who is an individual that meets the criteria in subsection (A)(1);
 6. Except as provided in subsection (A)(7), if an out-of-state entity applies for a license, the out-of-state entity shall meet the criteria in subsection (A)(3); and
 7. If an out-of-state entity applies for an out-of-state producer or limited out-of-state producer license, the out-of-state entity shall hold the license through an agent who is an individual that meets the criterion in subsection (A)(1)(a) and the out-of-state entity shall meet the criterion in subsection (A)(3)(a).
- B.** The Department shall accept the following as evidence that an individual is a citizen of the United States or a legal resident alien:
1. Birth certificate,
 2. U. S. passport,
 3. Certificate of naturalization, or
 4. Permanent resident alien card.
- C.** The Department shall accept a driver license or voter registration card as evidence that an individual is a bona fide resident of Arizona.
- D.** The Department shall accept the following, provided by or filed with the Arizona Corporation Commission, as evidence that an entity is qualified to do business in Arizona:
1. Corporation file number, or
 2. L.L.C. file number.

R19-1-203. ~~Repealed~~ Application Requirements for a Liquor License

- A.** Except as provided in R19-1-204 through R19-1-208, to apply for a liquor license, an individual or entity that meets the pre-requisites in R19-1-202 shall submit to the Department an application form, which is available from the Department, and provide the following information:
1. Identification of the kind of application being submitted;
 2. Identification of the manner in which a license will be owned;
 3. Type of license for which application is made;
 4. The following information regarding the applicant:
 - a. Name of individual applicant or agent;
 - b. Name of entity for which application is made;
 - c. Name of business as it appears on the exterior of the business premises;
 - d. Street address of the business premises;
 - e. Business and daytime contact telephone numbers;
 - f. A statement whether the business premises will be located within the incorporated limits of a city or town;
 - g. Mailing address; and
 - h. If application is made to transfer a bar, beer and wine bar, or liquor store license from one person to another, the amount that the transferee paid for the license;
 5. If application is made for an interim permit:
 - a. Number of the license currently assigned to the business location;
 - b. A statement whether the current license is being used and if not, a statement regarding how long it has been in nonuse status; and
 - c. Notarized signature of the current owner of the license or the owner's agent;
 6. If application is made by an individual or partnership:
 - a. Name and mailing address of the individual or each partner;
 - b. The percentage of the business owned by the individual or each partner;
 - c. A statement whether each partner is a general or limited partner; and
 - d. A statement whether any other person will share in the profits or losses of the business and if so, the name, mailing address, and telephone number of the person;
 7. If application is made by a corporation or limited liability company:
 - a. Name of the corporation or limited liability company;

Notices of Proposed Rulemaking

- b. Date on which incorporated or organized;
 - c. State where incorporated or organized;
 - d. For a corporation, the Arizona Corporation Commission file number and date authorized to do business in Arizona;
 - e. For a limited liability company, the Arizona Limited Liability Company file number and date authorized to do business in Arizona;
 - f. A statement whether the corporation or limited liability company is non-profit;
 - g. Name, title, and mailing address of each director, officer, or member;
 - h. Name, mailing address, and percent ownership of each individual who is a controlling person or owns at least 10 percent of the corporation or limited liability company; and
 - i. If the corporation or limited liability company is owned by another entity, the information specified in subsections (A)(7)(g) and (h) for the parent entity;
8. If application is made for a club license:
- a. Name of the club;
 - b. Date on which the club was chartered;
 - c. A statement whether the club is non-profit; and
 - d. Name, title, and mailing address of each director or officer;
9. If application is made under probate, will assignment, or divorce decree:
- a. Name of the current licensee;
 - b. Name of assignee; and
 - c. License type, number, and date of last renewal;
10. If application is made by a governmental entity:
- a. Name of the governmental entity making application, and
 - b. Name and telephone number of the individual designated to administer the license;
11. If application is made to transfer a quota license from the current licensee to another person:
- a. Name of the current licensee;
 - b. Name of the entity, if any, currently licensed;
 - c. Current business name;
 - d. Street and mailing addresses of the business;
 - e. License type and number;
 - f. A statement whether all creditors and lien and interest holders have been notified of the transfer;
 - g. A statement whether the transferee intends to operate the business while the transferee's application for licensure is pending; and
 - h. Notarized signature of the current owner, licensee, or agent affirming that all information provided is true, correct, and complete and authorizing the Department to process the application for transfer;
12. If application is made to transfer a quota license from one location to another location in the same county:
- a. Current name and address of the business;
 - b. Name of the business and street address to which the license will be moved;
 - c. License type and number;
 - d. Date on which the business will be moved, and
 - e. Date on which the business will open at its new location;
13. If application is made by a restaurant, hotel, or motel:
- a. A statement whether there is a valid restaurant or hotel-motel license at the proposed location and if so, the name of the current licensee, agent, or business and license number;
 - b. The applicant's signature certifying that the applicant understands that at least 40 percent of the business's gross revenue must be from food sales; and
 - c. The applicant's initials indicating that the applicant will contact the Department to schedule a site inspection when all tables and chairs are onsite and kitchen equipment is in place on the business premises;
14. If application is made by an applicant other than an applicant for a government, hotel-motel, or restaurant license:
- a. Distance from the business premises to the nearest school and the name and address of the nearest school; and
 - b. Distance from the business premises to the nearest church and the name and address of the nearest church;
 - c. A statement whether the applicant is the lessee, sub-lessee, owner, or purchaser of the business premises;
 - d. If the business premises are leased:
 - i. Name and address of the lessor;
 - ii. Amount of monthly rental or lease rate;
 - iii. Remaining term of lease, and
 - iv. Penalty for breach of the lease;
 - e. Applicant's total business indebtedness for the license and business premises excluding the monthly rental or lease rate;

- f. Name, mailing address, and amount owed to each creditor of the amount referenced in subsection (A)(14)(e);
 - g. Type of business for which the license will be used;
 - h. A statement whether a license, including a license transfer, has been denied for the business premises within the past year and if so, an explanation;
 - i. A statement whether a manufacturer or wholesaler of spirituous liquor or an employee of a manufacturer or wholesaler of spirituous liquor has an interest in the business for which the license will be used;
 - j. A statement whether there is a current liquor license applicable to the business premises and if so, the name of the licensee and license number;
15. The following information about the business premises:
- a. To-scale diagram that gives the square footage or outside dimensions of the business premises, shows where spirituous liquor will be sold, served, consumed, dispensed, possessed, or stored, and clearly marks:
 - i. Entrances and exits;
 - ii. Drive-in windows;
 - iii. Service windows;
 - iv. Spirituous liquor storage areas; and
 - v. Patio, including a non-contiguous area of the business premises;
 - b. A statement of whether the business premises are currently closed due to construction, renovation, or redesign and if so, the estimated opening date; and
 - c. Applicant's initials indicating that the applicant understands the applicant is responsible for notifying the Department when there are changes to the information provided under subsection (A)(15)(a); and
16. Notarized signature of applicant or agent affirming that the information provided is true, correct, and complete.
- B.** In addition to submitting the application form required under subsection (A), an applicant shall ensure that every individual who is a controlling person, agent, or manager of the business submits the following to enable the Department to conduct a criminal history background check:
- 1. A background questionnaire, which is available from the Department, providing the following information:
 - a. Name;
 - b. Date and place of birth;
 - c. Social Security number;
 - d. Driver license number and state of issuance;
 - e. Height, weight, and eye and hair colors;
 - f. Marital status;
 - g. Name and birth date of spouse, if applicable;
 - h. State of residency and if a resident of Arizona, date of residency and if a resident of Arizona for fewer than three months, attach a copy of the individual's driver license or voter registration card;
 - i. Daytime contact telephone number;
 - j. Name, street address, and telephone number of the business premises for which the license will be used;
 - k. A statement whether the business premises are currently licensed and if so, the license number;
 - l. Employment history for the last five years;
 - m. Residential addresses for the last five years;
 - n. A statement whether:
 - i. The individual has been convicted, fined, ordered to deposit bail, imprisoned, placed on probation or parole or required to post bond or had a sentence suspended for a violation of law or ordinance within the last 10 years;
 - ii. An administrative law citation, compliance action or consent, or criminal arrest, indictment, or summons is pending against the individual or an entity with which the individual is involved;
 - iii. The individual or an entity in which the individual has been an owner, officer, director, member, or manager ever had a business, professional, or liquor application or license rejected, denied, revoked, suspended, or fined in any state;
 - iv. Suit has ever been filed or a civil judgment obtained against the individual that involved an assertion of fraud or misrepresentation; and
 - v. The individual is or ever has been an owner, controlling person, officer, director, member, or manager of a liquor license in any state;
 - o. A statement of whether the individual will be physically present and operating the business premises and if so:
 - i. The number of hours each day that the individual expects to be physically present and operating the business premises; and
 - ii. Whether the individual has completed a Department-approved training course regarding liquor laws within the last five years;
 - p. Notarized signature of the applicant affirming that the applicant has read the questionnaire and all statements are true, correct, and complete; and

Notices of Proposed Rulemaking

- q. If the applicant is the manager of the business premises, the notarized signature of the licensee or managing agent affirming that the licensee or managing agent has determined that the applicant is at least 21 years old and authorizing the applicant to act as manager;
 2. A completed fingerprint card and the fee required for processing the fingerprints unless a completed fingerprint card was submitted to the Department within the last two years;
 3. If the answer to any item in subsection (B)(1)(n) is yes, a signed statement giving complete details including dates, agencies involved, and dispositions;
 4. Evidence of completing the Department-approved training course regarding liquor laws within the last five years, if required;
 5. Evidence referenced in R19-1-202(B) of being a U.S. citizen or legal resident alien if required under R19-1-202(A);
 6. Evidence referenced in R19-1-202(C) of being an Arizona resident if required under R19-1-202(A); and
 7. A completed Arizona Statement of Citizenship and Alien Status for State Public Benefits, which is a form available from the Department, and required documentary evidence.
- C.** In addition to submitting the information required under subsections (A) and (B):
1. An applicant for an interim permit shall submit the license currently issued for the business premises;
 2. An applicant for a club license shall submit a copy of the club charter or bylaws; and
 3. An applicant who is an assignee applying under probate, will assignment, or divorce decree shall submit a certified copy of the will, probate distribution instrument, or divorce decree.
- D.** In addition to submitting the information required under subsections (A) through (C), an applicant shall submit the non-refundable application fee listed at R19-1-103(B).
- E.** Additional requirement for a hotel-motel or restaurant license. In addition to submitting the information required under subsections (A) through (D), an applicant for a hotel-motel or restaurant license shall submit the following to enable the Department to determine whether the applicant is equipped to keep, cook, prepare, and regularly serve food to guests for compensation:
1. A Restaurant Operation Plan, using a form available from the Department, which includes the following information:
 - a. License number, if one currently exists for the business premises;
 - b. Name of the restaurant;
 - c. Make, model, and capacity of various pieces of restaurant equipment;
 - d. Seating capacity of the restaurant and bar areas of the business premises and the total area of the business premises;
 - e. A statement whether the dinnerware and utensils used within the restaurant are reusable or disposable;
 - f. A statement whether the bar area is separate from the restaurant area and if so, the percentage of public floor space of the business premises occupied by the bar area;
 - g. Percentage of public floor space of the business premises occupied by the restaurant area;
 - h. A statement whether the restaurant contains games or a television;
 - i. A statement whether the restaurant provides entertainment or dancing;
 - j. List of the employee positions and the duties of each position required to staff the business fully; and
 - k. Notarized signature of the applicant affirming that the information provided is true, correct, and complete;
 2. Copy of the restaurant menu showing all food served and prices; and
 3. Signed and notarized copy of Records Required for Audit of Hotel-Motel or Restaurant Licenses, a form available from the Department.

R19-1-204. ~~Repealed~~ Application Requirements for an Out-of-state Producer or Limited Out-of-state Producer License

- A.** To apply for an out-of-state or limited out-of-state producer license, an individual or entity that meets the pre-requisites in R19-1-202 shall submit to the Department an application form, which is available from the Department, and provide the following information:
1. Identification of the kind of application being submitted;
 2. Identification of the manner in which a license will be owned;
 3. Name of applicant or agent;
 4. Name of business as it appears on the exterior of the business premises;
 5. Business and mailing addresses;
 6. Business telephone numbers;
 7. Number of applicant's federal Alcohol and Tobacco Tax and Trade Bureau permit;
 8. Number of applicant's liquor license issued by the state of residence, if any;
 9. A statement whether the applicant:
 - a. Has ever had an application for a business, professional, or liquor license rejected, denied, suspended, or revoked;
 - b. Has ever had suit filed or a civil judgment obtained against the applicant for fraud or misrepresentation involving

a liquor license;

- c. Has been convicted, fined, ordered to deposit bail, imprisoned, placed on probation or parole, required to post bond, or had a sentence suspended for a violation of law or ordinance within the last 10 years;
 - d. Is familiar with Arizona liquor laws including this Chapter;
 - e. Agrees to provide notice to the Department of any proposed change to the business before making the change;
 - f. Agrees to keep all records, invoices, and other documents relating to the purchase, sale, or delivery of spirituous liquor for two years and to make them easily available for inspection by the Department; and
 - g. Consents to an investigation of the applicant's background and waives any cause of action relating to disclosure of the applicant's background information; and
10. Notarized signature of the applicant affirming that the information provided is true, correct, and complete.

- B.** If the answer to any item in subsections (A)(9)(a) through (c) is yes, the applicant shall attach a signed explanation giving dates, agencies involved, and disposition.
- C.** If the answer to any item in subsection (A)(9)(d) through (g) is no, the applicant shall attach a signed explanation giving complete details.
- D.** In addition to complying with subsections (A) through (C), an applicant for an out-of-state or limited out-of-state producer license shall submit:
 - 1. A copy of the liquor license issued by the state of residence; or
 - 2. If the applicant does not have a liquor license issued by the state of residence, submit the information required under R19-1-203(B)(1) through (3);
 - 3. Evidence referenced under R19-1-202(D) that the applicant is qualified to do business in Arizona;
 - 4. Evidence referenced under R19-1-202(B) that the applicant's agent is a citizen of the United States or legal resident alien;
 - 5. A completed Arizona Statement of Citizenship and Alien Status for State Public Benefits, which is a form available from the Department, and required documentary evidence; and
 - 6. The non-refundable application fee listed at R19-1-103(B).

R19-1-205. Expired Application Requirements for an Out-of-state Domestic Microbrewery or Domestic Farm Winery License

- A.** To apply for an out-of-state domestic microbrewery or domestic farm winery license, an individual or entity that meets the pre-requisites in R19-1-202 shall submit to the Department an application form, which is available from the Department, that provides the information described at R19-1-204(A) through (C).
- B.** In addition to the application required under subsection (A), an applicant for an out-of-state domestic microbrewery or domestic farm winery license shall provide the applicant's Arizona Transaction Privilege Tax number.
- C.** If an applicant is not licensed to deal in spirituous liquor in the applicant's state of residence, the applicant shall submit the information described at R19-1-203(B)(1) through (3).
- D.** An applicant shall attach to the information required under this Section:
 - 1. Evidence referenced under R19-1-202(D) that the applicant is qualified to do business in Arizona;
 - 2. Evidence referenced under R19-1-202(B) that the applicant's agent is a citizen of the United States or legal resident alien;
 - 3. A completed Arizona Statement of Citizenship and Alien Status for State Public Benefits, which is a form available from the Department, and required documentary evidence; and
 - 4. The non-refundable application fee required under R19-1-103(B).

R19-1-206. Repealed Application Requirements for a Special Event License

- A.** To apply for a special event license, an individual or entity shall submit to the Department an application form, which is available from the Department, and provide the following information:
 - 1. Name of the organization for which application is made;
 - 2. Organization's non-profit or tax-exempt number;
 - 3. Kind of organization;
 - 4. Purpose of the special event;
 - 5. Physical address of the special event;
 - 6. Applicant's name, mailing address, date of birth, and business telephone numbers;
 - 7. Name, mailing address, and telephone number of the owner of the site where the special event will occur;
 - 8. Dates and hours of the special event;
 - 9. A statement whether the applicant has been convicted of a felony within the last five years or had a liquor license revoked and if yes, a complete explanation;
 - 10. The number of days for which the organization has been issued a special event license during the year;
 - 11. A statement whether the organization uses the services of a promoter or other person to manage the special event;
 - 12. Name and address of all individuals and organizations that will share proceeds from the special event and the percent-

Notices of Proposed Rulemaking

age of proceeds that each will receive;

13. Description of the security and control measures that will be taken to prevent violation of liquor laws at the special event;
 14. A statement whether there is an existing liquor license at the location of the special event and if so, whether the business agrees to suspend its liquor license during the time and at the location of the special event;
 15. Notarized signature of an officer, director, or chairperson of the organization for which application is made;
 16. Notarized signature of the applicant affirming that the information provided is true, correct, and complete; and
 17. Signature of an official of the local governing body recommending that the special event application be approved.
- B.** In addition to the application form required under subsection (A), an applicant for a special event license shall submit:
1. A diagram of the premises where the special event will be held showing dimensions, serving areas, physical barriers, control measures, and security positions;
 2. If the answer to subsection (A)(11) is yes, a copy of the agreement with the promoter or other person to manage the special event;
 3. If the answer to subsection (A)(14) is yes, a copy of the agreement with the business that will suspend its liquor license during the time and at the location of the special event; and
 4. The fee specified at R19-1-103(I).

R19-1-207. ~~Repealed~~ Application Requirements for a Wine Festival or Fair License

- A.** To apply for a wine festival or fair license, an individual or entity that meets the pre-requisites in R19-1-202 shall submit to the Department an application form, which is available from the Department, and provide the following information:
1. Name of applicant;
 2. Name of business holding a domestic farm winery license;
 3. Domestic farm winery license number;
 4. Physical address of the wine festival or fair;
 5. Mailing address of the business;
 6. Dates and hours of the wine festival or fair;
 7. Name and address of the owner of the property at which the wine festival or fair will be held;
 8. Telephone numbers of applicant and person identified under subsection (A)(7);
 9. A statement whether the person identified under subsection (A)(7) has given permission for use of the site and sale of spirituous liquor;
 10. A statement whether the spirituous liquor to be sold or served is only Arizona Domestic Farm Winery products;
 11. The number of days for which the applicant has been issued a wine festival or fair license during the year;
 12. Description of the security and control measures that will be taken to prevent violation of liquor laws at the wine festival or fair;
 13. Notarized signature of the applicant affirming that the information provided is true, correct, and complete; and
 14. Signature of an official of the local governing body recommending that the wine festival or fair application be approved.
- B.** In addition to the application form required under subsection (A), an applicant for a wine festival or fair license shall submit:
1. A diagram of the premises where the wine festival or fair will be held showing dimensions, serving areas, physical barriers, control measures, and security positions; and
 2. The fee specified at R19-1-103(J).

R19-1-208. ~~Repealed~~ Application Requirements for a Direct Shipment License

- A.** To apply for a direct shipment license, an individual or entity that meets the pre-requisites in R19-1-202 shall submit to the Department an application form, which is available from the Department, and provide the following information:
1. Identification of the kind of application being submitted;
 2. Identification of the manner in which a license will be owned;
 3. The following information regarding the applicant:
 - a. Name of individual applicant or agent;
 - b. Name of business as it appears on the exterior of the business premises;
 - c. Business and mailing addresses;
 - d. Business telephone numbers;
 - e. Number of applicant's federal Alcohol and Tobacco Tax and Trade Bureau permit, and
 - f. Number of applicant's liquor license issued by the state of residence;
 4. A statement whether the applicant:
 - a. Has ever had an application for a business, professional, or liquor license rejected, denied, suspended, or revoked;
 - b. Has ever had suit filed or a civil judgment obtained against the applicant for fraud or misrepresentation involving

- a liquor license;
- c. Has been convicted of a felony in any state or has been convicted of an offense in another state that would be a felony if convicted in this state within five years before the date of application;
- d. Is familiar with Arizona liquor laws including this Chapter;
- e. Agrees to keep all records, invoices, and other documents relating to the purchase, sale, or delivery of spirituous liquor for two years and to make them easily available for inspection by the Department; and
- f. Consents to an investigation of the applicant's background and waives any cause of action relating to disclosure of the applicant's background information;
- 5. Names and addresses of all wholesalers licensed in Arizona through which the applicant intends to ship spirituous liquor into Arizona;
- 6. Names and addresses of each wholesaler in Arizona that received a shipment from the applicant within the previous three years and the number of shipments received by each wholesaler; and
- 7. Notarized signature of the applicant affirming that the information provided is true, correct, and complete.
- B.** If the answer to any item in subsections (A)(4)(a) through (c) is yes, the applicant shall attach a signed explanation giving dates, agencies involved, and disposition.
- C.** If the answer to any item in subsection (A)(4)(d) through (g) is no, the applicant shall attach a signed explanation giving complete details.
- D.** In addition to complying with subsections (A) through (C), an applicant for a direct shipment license shall submit:
 - 1. A copy of the liquor license issued by the state of residence;
 - 2. Evidence referenced under R19-1-202(D) that the applicant is qualified to do business in Arizona;
 - 3. Evidence referenced under R19-1-202(B) that the applicant's agent is a citizen of the United States or legal resident alien;
 - 4. A completed Arizona Statement of Citizenship and Alien Status for State Public Benefits, which is a form available from the Department, and required documentary evidence; and
 - 5. The fee listed at R19-1-103(K).
- E.** A direct shipment license is valid for three years and is not renewable. The holder of a direct shipment license may apply for a new direct shipment license not more than 90 days before the current direct shipment license expires.

R19-1-209. ~~Registration of a Retail Agent~~

- A.** Pre-requisites for registration as a retail agent. A person may act as a retail agent only if the person:
 - 1. Holds one of the licenses listed in A.R.S. § 4-222(A);
 - 2. Has a written Cooperative-purchase Agreement, using a form available from the Department, with one or more persons licensed in a manner described in subsection (A)(1); and
 - 3. Submits the materials required under subsections (B) and (C) to the Department.
- B.** To register as a retail agent, a person shall submit to the Department an application, on a form available from the Department, that provides the following information:
 - 1. About the applicant's business:
 - a. License number of business;
 - b. Name and address of business;
 - c. Name of licensed corporation or limited liability company, if applicable; and
 - d. Telephone number of business;
 - 2. About each licensee with which the applicant has a cooperative-purchase agreement:
 - a. Licensee's name,
 - b. Mailing address of licensee, and
 - c. Business telephone numbers of licensee;
 - 3. About the individual who will manage the retail cooperative. The information required under R19-1-203(B); and
 - 4. Notarized signature of agent affirming that the licensee will comply with all laws and this Chapter regarding cooperative purchases and that all information provided is true, correct, and complete.
- C.** In addition to submitting the application form required under subsection (B), an applicant for registration as a retail agent shall submit:
 - 1. A copy of every Cooperative-purchase Agreement reached with another licensee, and
 - 2. The fee prescribed at R19-1-103(L)(3).

R19-1-210. ~~Application for Agent Change, Acquisition of Control, or Business Restructure~~

- A.** Within 15 business days, notice shall be provided to the Department as follows:
 - 1. By a new agent if a licensee appoints a new agent;
 - 2. By a person acquiring control of a business; and
 - 3. By the current agent, corporate officer, or controlling member if a business is restructured as defined at A.R.S. § 4-203(H).

Notices of Proposed Rulemaking

- B.** A person providing notice under this Section shall use a form available from the Department and include the following information:
1. Name of the person providing notice;
 2. Number of the liquor license about which notice is provided;
 3. Name of the corporation or limited liability company, if applicable, and the file number with the Arizona Corporation Commission;
 4. Name of business;
 5. Physical and mailing addresses of the business;
 6. Business telephone numbers of the person providing notice;
 7. A statement whether the transaction about which notice is provided involves:
 - a. The sale of any portion of corporate stock or membership interest, or
 - b. A change of a corporate officer or L.L.C. member or manager;
 8. Name and residential address of every individual who owns at least 10 percent of the business and the percentage of the business owned by each;
 9. If the notice is about a change of agent:
 - a. A statement whether the new agent will be physically present and operating the licensed premises and if so, whether the new agent has completed a Department-approved training course regarding liquor laws within the last five years; and
 - b. Notarized signature of the current agent, corporate officer, or controlling member consenting to the appointment of the new agent;
 10. If the notice is about a restructuring of the business form, an indication of the current and new business forms; and
 11. Notarized signature of the individual providing notice affirming that the information provided is true, correct, and complete.
- C.** In addition to submitting the notice required under subsection (B), the individual providing notice shall submit:
1. If the answer to either item in subsection (B)(7) is yes, a copy of any required notice provided to the Arizona Corporation Commission regarding the change;
 2. For every individual identified in subsection (B)(8) or for a new agent, the information required under R19-1-203(B);
 3. If the notice is about a new agent who will be physically present and managing the licensed premises, evidence that the new agent completed a Department-approved training course regarding liquor laws within the last five years; and
 4. The fee prescribed under R19-1-103(L)(2).

R19-1-211. ~~Repealed Application for Exemption for an Unlicensed Business~~

- A.** Under A.R.S. § 4-244.05(I), the owner of an unlicensed business that meets the standards at R19-1-324 may apply to the Director for an exemption that allows patrons of the business to consume certain spirituous liquor on the business premises. To obtain an exemption, the owner of the unlicensed business shall submit an application, on a form available from the Department, and provide the following information:
1. Name of owner of the business;
 2. Owner's address;
 3. Owner's telephone numbers;
 4. Name of the business;
 5. Address of the business;
 6. Telephone number of the business;
 7. The qualification of the business for an exemption; and
 8. The owner's notarized signature affirming that the information provided is true, correct, and complete and affirming the owner's agreement to abide by all laws relating to consumption of spirituous liquor at an unlicensed business.
- B.** An exemption provided under A.R.S. § 4-244.05(I) and this Section is valid for one year and may not be renewed. To maintain uninterrupted exempt status, the holder of an exemption shall comply with subsection (A) before expiration of the exemption.

R19-1-212. ~~Repealed Application to Renew a Liquor License~~

- A.** A special event, wine festival or fair, or direct shipment license is not renewable. All other liquor licenses expire annually on the date indicated on the license. Timely renewal is the responsibility of the licensee.
- B.** On or before the date indicated on the license, a licensee shall submit a renewal application, using a form that is available from the Department, and provide the following information:
1. Arizona Corporation Commission file number, if any, of the business referenced on the license;
 2. Name, mailing address, and title or percent ownership of every controlling person of the business referenced on the license;
 3. An indication whether an individual referenced under subsection (B)(2) is new since the time of last renewal;
 4. Name, mailing address, and percent ownership of any individual who;

- a. Manages the business referenced on the license, or
- b. Holds an equitable interest in the business referenced on the license;
5. Statement whether any owner, partner, agent, manager, officer, director, member, or other person holding at least a 10 percent interest in the business referenced on the license has:
 - a. Been convicted of a felony in the past five years and if so, a complete explanation; or
 - b. Had a liquor license revoked within the past five years and if so, a complete explanation; and
6. Signature of the licensee indicating that the licensee has verified the accuracy of the information in the renewal application.
- C. In addition to submitting the renewal application form required under subsection (B), a licensee shall submit the renewal fee referenced at R19-1-103(F).
- D. In addition to complying with subsections (B) and (C), a hotel-motel or restaurant licensee shall submit a business data report, using a form that is available from the Department, and provide the following information:
 1. Name of licensee;
 2. Name of business;
 3. License number;
 4. Twelve-month period covered by the business data report;
 5. For each month, the value of:
 - a. Food, beer, distilled spirituous liquor, wine, and miscellaneous items sold; and
 - b. Food, beer, distilled spirituous liquor, and wine purchased;
 6. Current inventory of food, beer, distilled spirituous liquor, and wine;
 7. Portion size and average selling price of shots and mixed drinks, beer, wine, and meals; and
 8. Dated signature and title of individual completing the form certifying that the information provided is true and accurate.
- E. In addition to complying with subsections (B) and (C), a domestic farm winery or domestic microbrewery licensee shall, in accordance with A.R.S. § 4-205.04(B) or A.R.S. § 4-205.08(B), submit an annual product report, using a form that is available from the Department, and provide the following information:
 1. Name of the business;
 2. License number;
 3. Name of licensee or agent;
 4. Address of the licensed premises;
 5. Total gallons of wine manufactured in the last fiscal year, if applicable;
 6. Total gallons of beer manufactured in the last calendar year, if applicable;
 7. Total gallons of beer delivered in the last calendar year to licensed retailers that are not under common ownership with the licensee, if applicable; and
 8. Notarized signature of the licensee, agent, or manager affirming that the information provided is true, correct, and complete.

R19-1-213. Repealed Application for Restaurant Continuation Authorization

- A. If food sales comprise at least 30 percent but less than 40 percent of the gross revenue of a restaurant, the restaurant licensee may apply to the Department under A.R.S. § 4-213(E) for restaurant continuation authorization. To apply for restaurant continuation authorization, the restaurant licensee shall submit an application to the Department, on a form that is available from the Department, and provide the following information:
 1. Restaurant license number;
 2. Licensee's or agent's name;
 3. The manner in which the license is owned;
 4. Name of corporation, partnership, or limited liability company, if applicable;
 5. File number with the Arizona Corporation Commission, if applicable;
 6. Name of the business as it appears on the restaurant license;
 7. Business address;
 8. Business telephone number;
 9. Mailing address;
 10. A diagram of the floor plan of the business premises showing:
 - a. Kitchen equipment;
 - b. Dining facilities;
 - c. Area in which spirituous liquor is dispensed, sold, served, consumed, or stored;
 - d. Entrances and exits;
 - e. Drive-through windows;
 - f. Service windows; and
 - g. Patio, including a non-contiguous area of the business premises;

Notices of Proposed Rulemaking

11. Total square footage of the business premises;
12. Percentage of total floor space occupied by the kitchen;
13. Percentage of interior public floor space consisting of pool tables, dart or arcade games, cocktail tables, barstools and similar types of seating, and dance floors;
14. Percentage of interior public floor space that is dance floor; and
15. The licensee's dated and notarized signature affirming that all information provided is true, correct, and complete.

B. In addition to the application required under subsection (A), the licensee shall submit:

1. The non-refundable application fee specified in R19-1-103(B); and
2. Items that will enable the Department to determine the percentage of the licensee's gross revenue resulting from the sale of food if the Department has not audited the licensee within the last 12 months.

R19-1-214. ~~Repeated~~ Application for Extension or Change of Licensed Premises

A. A licensee shall obtain written approval from the Department before altering or changing the physical arrangement of the licensed premises to encompass greater space or use of an entrance, opening, or accommodation that is different from or in addition to those offered to the public when the licensee's license was issued.

B. To obtain the approval required under subsection (A), a licensee shall submit to the Department an application, on a form available from the Department, and provide the following information:

1. A statement whether the proposed extension or change of the licensed premises will be permanent or temporary and if the proposed extension or change of the premises will be:
 - a. Permanent, the specific purpose of the proposed extension or change of the premises; or
 - b. Temporary, the dates that the proposed extension or change of the premises will be in place;
2. Name of licensee;
3. Mailing address of licensee;
4. License number;
5. Name of business;
6. Address of business;
7. Business and contact telephone and fax numbers of licensee;
8. A description of the security precautions the licensee will take to prevent a violation of Arizona liquor laws in the extended or changed area of the licensed premises;
9. A statement whether the extended or changed area of the licensed premises will bring the premises within 300 feet of a church or school; and
10. Dated signature of the licensee affirming that the information provided is true, correct, and complete.

C. In addition to submitting the application required under subsection (B), a licensee shall submit a revised floor plan that clearly depicts the licensed premises and the proposed extension or change of the licensed premises.

R19-1-215. ~~Repeated~~ Application to Include a Non-contiguous Area in a Licensed Premises

A. The Department shall approve including a non-contiguous area in a licensed premises only if the Department determines that the non-contiguous area meets the standards at R19-1-108.

B. To obtain approval from the Department to include a non-contiguous area in a licensed premises, the licensee shall submit an application, on a form available from the Department, and provide the following information:

1. Name of licensee;
2. Mailing address of licensee;
3. License number;
4. Name of business;
5. Address of licensed premises;
6. Business and residential telephone and fax numbers of licensee;
7. A description of the security precautions the licensee will take to prevent a violation of Arizona liquor laws on the licensed premises including the walkway or driveway that separates the non-contiguous area from the remainder of the licensed premises;
8. A description of the manner in which the licensee will control the taking of spirituous liquor between the non-contiguous area and the remainder of the licensed premises;
9. A statement whether the non-contiguous area of the licensed premises will bring the premises within 300 feet of a church or school; and
10. Dated signature of the licensee affirming that the information provided is true, correct, and complete.

C. In addition to submitting the application required under subsection (B), a licensee shall submit a revised floor plan that clearly depicts the licensed premises and the non-contiguous area. The licensee shall ensure that the revised floor plan accurately depicts:

1. The location and width of the walkway or driveway that separates the non-contiguous area from the remainder of the licensed premises; and

2. The fence required under R19-1-108(5).

R19-1-216. ~~Repealed~~ Application for Approval of a Liquor Law Training Course

A. To apply for approval of a liquor law training course that meets the minimum standards established under R19-1-106, the provider of the liquor law training course shall submit to the Department an application form, which is available from the Department, and include the following information:

1. A statement of whether the application is for approval to provide training to the general public or only to employees and owners of a specific licensee;
2. Name of the training provider;
3. Address of the training provider;
4. Telephone and fax numbers of the training provider;
5. Name and telephone number of an individual the Department can contact regarding the application or training;
6. A statement of the business form of the training provider and if incorporated, the number assigned by the Arizona Corporation Commission;
7. Name and title of all individuals who own more than 10 percent of the training provider;
8. Name and title of all individuals employed by the training provider as a training manager or trainer; and
9. Notarized signature of the individual completing the application form affirming that the information provided is true, correct, and complete.

B. A training provider shall attach to the application form required under subsection (A) a personal information form that is individually completed by every individual identified under subsections (A)(7) and (8). The training provider shall ensure that each individual completing a personal information form provides the following information:

1. Name;
2. Title;
3. Date of birth;
4. Social Security number;
5. Address;
6. Telephone numbers;
7. E-mail address;
8. List of residences at which the individual has lived in the last five years;
9. List of employers for whom the individual has worked during the last five years;
10. A statement whether the individual:
 - a. Is currently employed by a licensee and if so, the name of the licensee and the individual's duties for the licensee;
 - b. Has ever been arrested, convicted, cited, or charged with any crime and if so, the nature of the crime, jurisdiction, date, and current status;
 - c. Has ever been issued an administrative compliance action or consent order or had an administrative action taken against the individual for violating liquor laws in any state and if so, the nature of the incident resulting in administrative action, violations alleged, jurisdiction, date, and current status; and
 - d. Will voluntarily submit to a criminal background investigation; and
11. The individual's dated signature affirming that the information provided is true, correct, and complete.

C. A training provider shall also attach to the application form required under subsection (A), a copy of:

1. An outline of the liquor law training course;
2. All materials distributed to course participants;
3. All teaching aids used in the training course;
4. The objective procedure required under R19-1-106(A)(9) to enable a course participant to evaluate the course and trainer; and
5. A letter of training verification that meets the standards at R19-1-106(A)(10).

D. The provider of a liquor law training course approved under this Section shall inform the Department when any of the information supplied under subsection (A)(7) or (8) changes and submit the form required under subsection (B).

R19-1-217. ~~Repealed~~ Application by a Club to Lock Front Entrance

A. Under A.R.S. § 4-228(B), a club licensee that has a bona fide concern about the safety of club members and their bona fide guests may apply for permission to lock the front entrance to the licensed premises.

B. To apply for permission to lock the front entrance to the licensed premises, a club licensee shall submit to the Department an application form, which is available from the Department, and include the following information:

1. Name of club exactly as it appears on the license issued under A.R.S. § 4-205;
2. Address of the licensed premises;
3. Agent's name;
4. Agent's mailing address;
5. Agent's business and residential telephone numbers;

Notices of Proposed Rulemaking

6. Telephone number of the club;
 7. Complete explanation of the security or safety concern that warrants locking the front entrance;
 8. Dated signature and title of an authorized law enforcement officer who has reviewed the application;
 9. Acknowledgment by the individual completing the application form that the club is required to provide immediate access to the licensed premises by a law enforcement officer, fire fighter, emergency medical personnel, or the Director at any time the licensed premises is occupied; and
 10. Notarized signature of the individual completing the application form.
- C. The Director shall base a decision to grant or deny permission to lock the front entrance to a club on the security and safety concerns expressed in the application and the club's method of operation and regulatory history.

ARTICLE 3. ~~REPEALED~~ LICENSEE RESPONSIBILITIES

R19-1-301. ~~Recodified~~ Display of License

A licensee shall conspicuously display the license issued to the licensee under A.R.S. Title 4 and this Chapter and make the license readily available for inspection by the Department, a peace officer, or a wholesaler. The Department shall consider a retail license displayed within 20 feet of any one point-of-sale cash register to be conspicuously displayed.

R19-1-302. ~~Repealed~~ Knowledge of Liquor Law; Supervision

- A. A licensee shall ensure that the licensee, manager, managing agent, any controlling person, any employee who serves, sells, or furnishes spirituous liquor to a retail customer, and any individual who will be physically present and operating the licensed premises knows and complies with all Arizona liquor laws.
- B. Beginning July 1, 2009, a licensee shall ensure that an employee who serves, sells, or furnishes spirituous liquor to a retail customer has completed training regarding the requirements of and compliance with A.R.S. Title 4 and this Chapter. The licensee shall ensure that an employee hired on or after July 1, 2009, completes the training before serving, selling, or furnishing spirituous liquor to a retail customer. The licensee shall determine the content of the training and maintain on the licensed premises for five years a record of the training provided.
- C. Beginning July 1, 2009, a licensee shall ensure that the licensee, manager, managing agent, any controlling person, and any individual who will be physically present and operating the licensed premises has completed both a basic and management liquor law training courses approved by the Department under R19-1-216 and passed the Department-approved examination within the last five years.
- D. Beginning July 1, 2009, a licensee shall ensure that during all hours of operation an individual who completed a basic liquor law training course approved by the Department under R19-1-216 and passed the Department-approved examination within the last five years:
 1. Is physically present on the licensed premises; and
 2. Supervises all employees who serve, sell, or furnish spirituous liquor.

R19-1-303. ~~Repealed~~ Authorized Spirituous Liquor

- A. A licensee shall not directly or indirectly manufacture, sell, or deal in a spirituous liquor other than the spirituous liquors authorized by the license issued to the licensee under A.R.S. Title 4 and this Chapter.
- B. A licensee shall ensure that no spirituous liquor other than the spirituous liquors authorized by the license issued to the licensee under A.R.S. Title 4 and this Chapter is on the licensed premises for any purpose.

R19-1-304. ~~Repealed~~ Storing Spirituous Liquor on Unlicensed Premises

- A. Except as provided in subsection (B), a licensee shall not accept delivery of or store spirituous liquor at any premises other than the business premises described on the license issued to the licensee under A.R.S. Title 4 and this Chapter.
- B. The Department shall authorize a licensee to accept delivery of or store spirituous liquor at a premises other than the business premises described on the license issued to the licensee under A.R.S. Title 4 and this Chapter if:
 1. The licensee submits a written request to the Department that:
 - a. Identifies the unlicensed premises,
 - b. Shows the geographical location of the unlicensed premises in relation to the business premises, and
 - c. Explains how the licensee will safeguard the spirituous liquor at the unlicensed premises; and
 2. The Department determines that the licensee will safeguard the spirituous liquor at the unlicensed premises in a manner that protects the public health, safety, and welfare and that authorizing the licensee to store spirituous liquor at the unlicensed premises is consistent with the best interest of the state.

R19-1-305. ~~Repealed~~ Paying Taxes Required

- A. A licensee shall not possess or sell spirituous liquor unless all state taxes applicable to possession or sale of the spirituous liquor have been paid and accounted for as required by law.
- B. The Director shall not allow a license to be transferred or issue an interim permit if the Director has notice that the licensee is delinquent in paying any tax to the state or a political subdivision unless:
 1. The licensee or transferee enters into an agreement with the taxing authority to pay the delinquent tax, and

2. The taxing authority submits written verification of the agreement to the Director.
- C. The Director shall not issue or renew a license or other approval if the Director has notice that the applicant or licensee is delinquent in paying any tax to the state or a political subdivision unless:
 1. The applicant or licensee enters into an agreement with the taxing authority to pay the delinquent tax, and
 2. The taxing authority submits written verification of the agreement to the Director.

R19-1-306. ~~Repealed~~ Bottle Labeling Requirements

A licensee shall ensure that only spirituous liquor bottled, packaged, and labeled in conformity with all federal requirements is on the licensed premises.

R19-1-307. ~~Repealed~~ Bottle Reuse or Refilling Prohibited

- A. A retail licensee shall ensure that a bottle or other container authorized by law for packaging spirituous liquor:
 1. Is not reused to package spirituous liquor after the spirituous liquor originally packaged in the bottle or other container is removed from the bottle or other container, and
 2. Bears a label that accurately indicates the kind and brand of spirituous liquor in the bottle or other container.
- B. A retail licensee shall ensure that no substance is added to a bottle or other container authorized by law for packaging spirituous liquor that has the effect of increasing the amount of liquid originally packaged or remaining in the bottle or other container.

R19-1-308. ~~Repealed~~ Age Requirement for Erotic Entertainers

A licensee shall ensure that an individual employed by or performing as an erotic entertainer at the licensed premises is at least 19 years old.

R19-1-309. ~~Repealed~~ Prohibited Acts

A licensee or an employee of a business shall take reasonable steps to ensure that an individual on the licensed premises, including an employee of the licensed premises, does not:

1. Expose any portion of the individual's anus, vulva, or genitals;
2. Grope, caress, or fondle or cause to be groped, caressed, or fondled the breasts, anus, vulva, or genitals of another individual with any part of the body; or
3. Perform an act of sexual intercourse, masturbation, sodomy, bestiality, or oral copulation.

R19-1-310. ~~Repealed~~ Prohibited Films and Pictures

A licensee shall ensure that a film, slide picture, or other electronic reproduction is not shown on the licensed premises if the film, slide picture, or other electronic reproduction depicts:

1. An act of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, or a sexual act prohibited by law;
2. An individual being touched, caressed, or fondled on the breast, anus, vulva, or genitals;
3. An individual displaying a portion of the individual's pubic hair, anus, vulva, or genitals; or
4. Use of an artificial device or inanimate object to depict an activity described under subsections (1) through (3).

R19-1-311. ~~Repealed~~ Credit Law Exception

In addition to the exceptions at A.R.S. § 4-242, a producer or wholesaler may sell spirituous liquor on credit to another producer or wholesaler.

R19-1-312. ~~Repealed~~ Accurate Labeling of Dispensing Equipment Required

- A. A licensee shall ensure that equipment through which spirituous liquor is dispensed is accurately labeled with the brand, grade, or class of spirituous liquor dispensed.
- B. Except as provided in subsection (C), a licensee shall ensure that a faucet, spigot, or other outlet from which spirituous liquor is dispensed is clearly and conspicuously labeled:
 1. With the name or brand adopted by the manufacturer of the spirituous liquor being dispensed, and
 2. In a manner that is readable from a distance of at least 10 feet by an individual with normal vision who is seated in the area in which the spirituous liquor is served.
- C. If a faucet, spigot, or other outlet from which spirituous liquor is dispensed is not located in the area in which the spirituous liquor is served, a licensee shall post a sign in the area in which the spirituous liquor is served that lists the names or brands adopted by the manufacturers of only the spirituous liquors served.

R19-1-313. ~~Repealed~~ Sign Limitations

- A. A producer, domestic microbrewery, wholesaler, or domestic farm winery licensee may directly or indirectly lend to a licensee a sign for interior or exterior use if the sign:
 1. Conspicuously bears substantial advertising for spirituous liquor available from the licensee;
 2. Costs no more than \$400;
 3. Has no utilitarian use other than advertising; and
 4. Is not offered by the producer, domestic microbrewery, wholesaler, or domestic farm winery licensee as an induce-

Notices of Proposed Rulemaking

ment to the licensee to purchase or use a product available from the producer, domestic microbrewery, wholesaler, or domestic farm winery licensee to the exclusion, in whole or in part, of a product available from a competitor of the producer, domestic microbrewery, wholesaler, or domestic farm winery licensee.

- B.** A licensee shall ensure that a sign or other advertising matter displayed at the licensed premises is not obscene when evaluated by contemporary community standards.

R19-1-314. ~~Expired~~ Prohibited Inducement to Purchase or Consume Spirituous Liquor

- A.** Except as specified in subsection (C), an on-sale retailer shall not offer or furnish to a customer an inducement such as a gift, prize, coupon, premium, or rebate, including assumption of an excise or transaction privilege tax, if receipt of the inducement is contingent on the purchase or consumption of spirituous liquor.

- B.** An on-sale retailer may furnish to a customer an advertising novelty of nominal value or service that is a customary trade practice if receipt of the novelty or service is not contingent on the purchase or consumption of spirituous liquor.

- C.** A bar licensee or a beer and wine bar licensee may offer or furnish a coupon to a customer if the coupon can be used only for an off-sale purchase.

R19-1-315. ~~Repealed~~ Responsibilities of a Licensee that Operates a Delivery Service

- A.** A licensed retailer that operates a delivery service under A.R.S. § 4-203(J) or a domestic farm winery that delivers wine under A.R.S. § 4-205.04(C)(10) shall ensure that delivery of spirituous liquor:

1. Is made only to an individual who is at least 21 years old.
2. Is made only after an inspection of identification shows that the individual accepting delivery of the spirituous liquor is of legal drinking age.
3. Is made only after the information required under R19-1-504(B) is recorded.
4. Is made only during the hours of lawful service of spirituous liquor.
5. Is not made to an intoxicated or disorderly individual, and
6. Is not made to the licensed premises of a licensed retailer.

- B.** A licensed retailer that operates a delivery service under A.R.S. § 4-203(J) or a domestic farm winery that delivers wine under A.R.S. § 4-205.04(C)(10) shall refuse to complete a delivery if the licensee believes the delivery may constitute a violation of A.R.S. Title 4 or this Chapter.

R19-1-316. ~~Repealed~~ Responsibilities of a Liquor Store or Beer and Wine Store Licensee

Except for a broken package, as defined at A.R.S. § 4-101, used in a sampling event conducted under A.R.S. § 4-243(B)(3) or 4-244.04, a liquor store or beer and wine store licensee shall not have a broken package of spirituous liquor on the licensed premises.

R19-1-317. ~~Repealed~~ Responsibilities of a Hotel-Motel or Restaurant Licensee

- A.** If a hotel-motel or restaurant licensee ceases to provide complete restaurant services before 10:00 p.m., the licensee shall cease to sell spirituous liquor at the same time that the licensee ceases to provide complete restaurant services.

- B.** If a hotel-motel or restaurant licensee provides complete restaurant services until at least 10:00 p.m., the licensee may continue to sell spirituous liquor during the hours allowed by law.

- C.** If a hotel-motel or restaurant licensee refuses to serve a meal requested before 10:00 p.m. and continues to serve spirituous liquor, the Department shall assume that the hotel-motel or restaurant licensee has ceased to operate as a restaurant and has the primary purpose of selling or dispensing spirituous liquor for consumption.

- D.** In the event of an audit to determine whether a hotel-motel or restaurant licensee meets the standard at A.R.S. § 4-205.02(G), the licensee shall submit records that enable the Department to determine the amount of gross revenue that the licensee derives from the sale of food and from the sale of spirituous liquor. If the Department is unable to determine the amount of gross revenue attributed to the sale of food, the Department shall assume that the licensee does not meet the standard at A.R.S. § 4-205.02(G).

- E.** To ensure that the Department is able to determine the amount of gross revenue derived from the sale of food and from the sale of spirituous liquor, a hotel-motel or restaurant licensee shall maintain documents in the following order for the time specified in R19-1-501:

1. Vendor invoices. Sorted by vendor by year;
2. Inventory records, financial statements, general ledger, sales journals or schedules, cash receipts or disbursement journals, and bank statements. Sorted by month by year;
3. Daily sales report, guest checks, and cash register journal. Segregated by the sale of food and the sale of spirituous liquor and sorted by day by month by year;
4. Bank deposit slips. Sorted by day by month by year and maintained with the daily sales report, guest checks, and cash register journal;
5. Transaction privilege tax returns. Sorted by month by year;
6. Income tax returns. Sorted by year; and
7. Payroll records. Sorted by pay period by year.

- E. If a licensee holds multiple licenses for a business premises, one of which is for a hotel-motel or restaurant, the licensee shall ensure that records for purchases and sales for the hotel-motel or restaurant are maintained and accounted for separate from records for purchases and sales for the other license on the same premises.

R19-1-318. Responsibilities of a Special Event Licensee

- A. If a special event at which spirituous liquor is sold occurs at an otherwise unlicensed location, the special event licensee shall conduct all dispensing, serving, and selling of spirituous liquor;
- B. If a special event at which spirituous liquor is sold occurs at the licensed premises of a licensed retailer, the special event licensee shall ensure that one of the following occurs during the special event:
1. The licensed retailer ceases to sell spirituous liquor and the special event licensee dispenses and serves spirituous liquor and ensures that all sales of spirituous liquor comply with A.R.S. Title 4 and this Chapter;
 2. The licensed retailer dispenses and serves all spirituous liquor under the licensed retailer's license and the special event licensee does not dispense or serve spirituous liquor. The licensed retailer shall dispense and serve only spirituous liquor purchased from a wholesaler and ensure that all sales of spirituous liquor comply with A.R.S. Title 4 and this Chapter;
 3. The licensed retailer dispenses and serves all spirituous liquor under the special event license and the special event licensee does not dispense or serve spirituous liquor. The licensed retailer shall dispense and serve only spirituous liquor purchased by or donated to the special event licensee. Both the licensed retailer and special event licensee shall ensure that all sales of spirituous liquor comply with A.R.S. Title 4 and this Chapter; or
 4. The licensed premises of the licensed retailer are divided into two areas as follows:
 - a. In the first area, the licensed retailer shall dispense and serve spirituous liquor that is purchased from a wholesaler and ensure that all sales of spirituous liquor comply with A.R.S. Title 4 and this Chapter; and
 - b. In the second area, the special event licensee shall dispense and serve spirituous liquor purchased by or donated to the special event licensee and ensure that all sales of spirituous liquor comply with A.R.S. Title 4 and this Chapter.
- C. If a special event involving sampling of spirituous liquor occurs at the licensed premises of a licensed retailer, the special event licensee shall comply with the procedures in A.R.S. § 4-243(B).

R19-1-319. Commercial Coercion or Bribery Prohibited

- A. A distiller, vintner, brewer, rectifier, blender, or other producer or wholesaler shall not directly or indirectly or through an affiliate engage in any of the following activities unless specifically authorized under A.R.S. Title 4, R19-1-320, or R19-1-321:
1. Furnishing, giving, renting, lending, or selling to a licensed retailer an article of primary utilitarian value in the conduct of the business;
 2. Selling food or food products to a licensed retailer at less than the cost that the producer or wholesaler paid for the food or food products;
 3. Selling non-alcoholic malt beverage, non-alcoholic wine, or cocktail mixer to a licensed retailer at less than the cost that the producer or wholesaler paid for the non-alcoholic malt beverage, non-alcoholic wine, or cocktail mixer.
 4. Extending credit or furnishing financing to a licensed retailer through the licensed retailer's purchase of spirituous liquor or other products;
 5. Providing a service to a licensed retailer, including stocking, resetting, or pricing merchandise;
 6. Paying or crediting a licensed retailer for a promotion, advertising, display, public relations effort, or distribution service;
 7. Sharing with a licensed retailer the cost of a promotion or advertising through any medium;
 8. Guaranteeing a loan to or repayment of a financial obligation of a licensed retailer;
 9. Providing financial assistance to a licensed retailer;
 10. Engaging in a practice that requires a licensed retailer to take and dispose of a quota of spirituous liquor;
 11. Offering or giving a bonus, premium, or compensation to a licensed retailer or an employee of the licensed retailer; or
 12. Giving spirituous liquor or another gift or benefit to a licensed retailer or an employee of the licensed retailer.
- B. A licensed retailer shall not require that a producer or wholesaler provide stocking or resetting services as a condition for being allocated shelf, cold box, or product display space.

R19-1-320. Practices Permitted by a Producer or Wholesaler

- A. In addition to practices specifically authorized under A.R.S. Title 4, the following practices allow a distiller, vintner, brewer, rectifier, blender, or other producer or wholesaler to furnish something of value to a licensed retailer or other specified licensee as long as the producer or wholesaler does not furnish something of value to induce the licensed retailer or other specified licensee to purchase spirituous liquor from the producer or wholesaler to the exclusion, in whole or in part, of another producer or wholesaler.
- B. Participating in a special event.
1. A producer or wholesaler may furnish advertising, sponsorship, services, or other things of value at a special event at

Arizona Administrative Register / Secretary of State
Notices of Proposed Rulemaking

which spirituous liquor is sold if:

- a. A special event license is issued for the special event;
 - b. The special event license is issued to a charitable, civic, religious, or fraternal organization;
 - c. The special event license is not issued to a political organization; and
 - d. The producer or wholesaler ensures that nothing of value is left on the licensed premises of a licensed retailer or given to a licensed retailer or employees of a licensed retailer during or after the special event.
2. A producer or wholesaler may donate spirituous liquor to a special event licensee identified under subsection (B)(1)(b) but shall not sell spirituous liquor directly to the special event licensee. If the special event licensee buys spirituous liquor for resale from a licensed retailer, the producer or wholesaler may submit an invoice for the sale through the licensed retailer after the special event.
3. A producer or wholesaler may provide a sign that is not subject to the limitations in R19-1-313(A)(1) through (3) to a special event licensee identified under subsection (B)(1)(b).
4. A producer or wholesaler may furnish a vehicle for use by a special event licensee identified under subsection (B)(1)(b). The producer or wholesaler shall ensure that the vehicle is used only to store and dispense spirituous liquor and that no employee of the producer or wholesaler dispenses the spirituous liquor.
- C.** Providing an item of value to a customer of a licensed retailer. A producer or wholesaler may provide an item of value to a customer of a licensed retailer if:
1. The item provided is not used directly in the business;
 2. The item is provided directly to the customer of the licensed retailer by the producer or wholesaler or an employee of the producer or wholesaler except that a schedule of sporting events that will occur on the licensed premises may be provided to the customer through the licensed retailer;
 3. Except as provided in subsection (C)(4), the item provided has a value less than \$5;
 4. The producer or wholesaler ensures that if an item is provided with a value between \$5 and \$100, it is provided only between 6:00 a.m. and 2:00 a.m.;
 5. The producer or wholesaler ensures that no item of value is provided to the licensed retailer or an employee of the licensed retailer; and
 6. The producer or wholesaler ensures that no item of value, except a schedule of sporting events that will occur on the licensed premises, is left on the licensed premises.
- D.** Providing display services. A producer or wholesaler may establish a display of the spirituous liquor or other products that the producer or wholesaler sells to a licensed retailer if the licensed retailer consents to the display. If necessary to establish the display, the producer or wholesaler may move spirituous liquor or other products, including those of a competitor. The producer or wholesaler shall ensure that the total value of a display established for a licensed retailer does not exceed \$300 for each brand of spirituous liquor and other product sold by the producer or wholesaler to the licensed retailer. The producer or wholesaler shall not provide without cost spirituous liquor or other product for the display established for the licensed retailer.
- E.** Furnishing print advertising. A producer or wholesaler may furnish a camera-ready ad of nominal value to a licensed retailer.
- F.** Sponsoring a sporting event. A producer or wholesaler may provide financial, advertising, and other forms of sponsorship to a licensed retailer in conjunction with a sporting event that occurs on the licensed premises of the licensed retailer. The producer or wholesaler shall ensure no item of value remains with the licensed retailer or at the licensed premises after the sporting event. If the producer or wholesaler provides a sign as part of the sponsorship of a sporting event, the sign is not subject to the value limitation in R19-1-313.
- G.** Sponsoring a tradeshow or convention. A producer or wholesaler may provide sampling, advertising, and other forms of sponsorship to a licensed retailer in conjunction with a tradeshow or convention at a licensed or unlicensed business premises. The producer or wholesaler shall ensure that no item of value remains with the licensed retailer after the tradeshow or convention. If the producer or wholesaler provides a sign as part of the sponsorship of a tradeshow or convention, the sign is not subject to the value limitation in R19-1-313.
- H.** Sponsoring a concert. A producer or wholesaler may provide advertising and other forms of sponsorship to a licensed retailer in conjunction with a concert at a licensed premises with a capacity greater than 500 persons. The producer or wholesaler shall ensure that no item of value remains with the licensed retailer after the concert. If the producer or wholesaler provides a sign as part of the sponsorship of a concert, the sign is not subject to the value limitation in R19-1-313.
- I.** Furnishing a spirituous liquor or drink menu. A producer or wholesaler may furnish a spirituous liquor or drink menu, which may list food items, to a licensed retailer for use in the business if:
1. The food items listed are:
 - a. Prepared at or for the business;
 - b. Served at the business; and
 - c. Sold incidental to the sale of spirituous liquor and drink items;
 2. The spirituous liquor or drink menu has no value to the licensed retailer except as a spirituous liquor or drink menu; and

3. The producer or wholesaler offers to furnish a spirituous liquor or drink menu to all licensed retailers to which the producer or wholesaler supplies spirituous liquor.
- J.** Distributing coupons or rebate certificates. A producer or wholesaler may distribute coupons or rebate certificates to consumers by any means including providing the coupons or rebate certificates to a licensed retailer if the coupons or rebate certificates can be used only for an off-sale purchase and can be used by the consumer at the business premises of any licensed retailer.
- K.** Providing holiday decorations. A producer or wholesaler may provide brand-identified holiday decorations to a licensed retailer for use on the licensed premises if the decorations have no utilitarian value to the licensed retailer other than as decorations.
- L.** Providing a sample to a customer of a licensed retailer. A producer or wholesaler may provide a sample of spirituous liquor to a customer of a licensed retailer if the producer or wholesaler complies with the procedures at A.R.S. § 4-243(B).
- M.** Conducting market research. A producer or wholesaler may conduct market research regarding spirituous liquor if the producer or wholesaler complies with the following procedures:
 1. The spirituous liquor is provided to research participants by personal delivery or through a delivery service provider;
 2. The spirituous liquor provided to research participants is obtained from or shipped through a wholesaler;
 3. All research participants are of legal drinking age;
 4. Any employee of the producer or wholesaler and any employee of a marketing research business assisting to conduct the market research that handles the spirituous liquor is at least 19 years old; and
 5. The amount of spirituous liquor provided to each research participant does not exceed 72 ounces of beer, cooler product, or wine or 750 milliliters of distilled spirits.

R19-1-321. Practices Permitted by a Wholesaler

- A.** In addition to practices specifically authorized under A.R.S. Title 4, the following practices allow a wholesaler to furnish something of value to a licensed retailer or other specified licensee as long as the wholesaler does not furnish something of value to induce the licensed retailer or other specified licensee to purchase spirituous liquor from the wholesaler to the exclusion, in whole or in part, of another wholesaler.
- B.** Providing stocking services. A wholesaler may stock any spirituous liquor or other product that the wholesaler sells to a licensed retailer. The stocking service provided by a wholesaler:
 1. May include providing a recommended shelf plan or schematic for use by the licensed retailer in displaying spirituous liquor or other product in a point-of-sale area;
 2. May include pricing, cleaning shelves, furnishing point-of-sale advertising that is consistent with R19-1-313, and rotating, cleaning, or otherwise preparing the spirituous liquor or other product for sale at the point of sale; and
 3. Shall be performed only in a point-of-sale area from which a consumer may purchase the spirituous liquor or other product.
- C.** Providing resetting services. A wholesaler may reset spirituous liquor or other products sold to a licensed retailer by the wholesaler or by another licensee if:
 1. The licensed retailer consents to the resetting, and
 2. Notice and an opportunity to attend the resetting is provided to any licensee whose spirituous liquor or other product will be reset at least two business days before the resetting occurs.
- D.** Furnishing tapping equipment. A wholesaler may furnish tapping equipment authorized under R19-1-326 to an on-sale retail licensee.
- E.** Making a driver sale. When delivering previously ordered spirituous liquor to a licensed retailer, a wholesaler may sell to the licensed retailer spirituous liquor not previously ordered.
- F.** Delivering a volume discounted purchase. A wholesaler may provide a licensed retailer with a discounted price for a volume purchase if the wholesaler completes delivery to the licensed retailer of the entire amount purchased within 24 hours.
- G.** Accepting returned malt beverage products.
 1. A wholesaler may allow a licensed retailer that intends to be closed for at least 30 days to exchange malt beverage products purchased from the wholesaler or to receive a credit for or refund of the amount paid for the malt beverage products; and
 2. With permission from the Director, a wholesaler may allow a licensed retailer that is discontinuing sale of a particular malt beverage product to exchange the product purchased from the wholesaler or to receive a credit for or refund of the amount paid for the malt beverage product.
- H.** Selling tobacco products or foodstuffs. A wholesaler may sell tobacco products or foodstuffs to a licensed retailer if the price paid by the retailer equals or exceeds the cost to the wholesaler.
- I.** Furnishing promotional items. A wholesaler may provide promotional items without cost to an on-sale retailer if the total value of the promotional items provided to the on-sale retailer in a calendar year does not exceed \$500. Promotional items, as defined at A.R.S. § 4-243(D), does not include spirituous liquor.

R19-1-322. Responsibilities of a Registered Retail Agent

Notices of Proposed Rulemaking

- A. A retail agent registered under R19-1-209 shall provide a licensee that enters into a cooperative-purchase agreement with the registered retail agent a copy of the cooperative-purchase agreement. The licensee shall make the copy of the cooperative-purchase agreement available for inspection on request by the Department or a peace officer.
- B. A retail agent registered under R19-1-209 shall:
 - 1. Display the Certificate of Registration obtained from the Department on request by the Department, a peace officer, or a licensee;
 - 2. Place all cooperative-purchase orders with a wholesaler;
 - 3. Pay the wholesaler for all cooperative-purchase orders;
 - 4. Not attempt to exchange merchandise after it is delivered by the wholesaler but may request that a delivery error be corrected if the error is recognized at the time of delivery and documented;
 - 5. Provide each licensee under subsection (A) with a copy of the master invoice prepared by the wholesaler from which a cooperative purchase is made; and
 - 6. Charge each licensee under subsection (A) the price listed on the master invoice prepared by the wholesaler for spirituous liquor delivered to the licensee.
- C. A retail agent registered under R19-1-209 may charge a licensee with which the registered retail agent has a cooperative-purchase agreement a fee for services provided to the licensee.

R19-1-323. Underage Individuals on Licensed Premises

- A. An individual under the legal drinking age may be on the licensed premises of an on-sale retailer under the conditions established in A.R.S. § 4-244(22).
- B. Additionally, an individual under the legal drinking age may be on the licensed premises of an on-sale retailer if:
 - 1. The licensed premises have an occupancy limit of at least 1,000 as determined by the fire marshal;
 - 2. The primary purpose of the licensed premises is not to sell spirituous liquor but rather, to show live sporting events or concerts;
 - 3. The on-sale retailer ensures that spirituous liquor is sold only to individuals who are of the legal drinking age; and
 - 4. The on-sale retailer implements security measures necessary to ensure that an individual under the legal drinking age does not purchase, possess, or consume spirituous liquor on the licensed premises.
- C. Additionally, an individual under the legal drinking age may be on the licensed premises of an on-sale retailer if:
 - 1. The licensed premises have an occupancy limit less than 1,000 as determined by the fire marshal;
 - 2. The primary purpose of the licensed premises is not to sell spirituous liquor but rather, to show live sporting events or concerts; and
 - 3. The on-sale retailer establishes a physical barrier that prevents an underage individual from:
 - a. Entering a portion of the licensed premises where spirituous liquor is sold, possessed, or served; and
 - b. Receiving, purchasing, possessing, or consuming spirituous liquor.

R19-1-324. Standards for Exemption of an Unlicensed Business

The owner of a small restaurant, catering establishment, association, or business hosting a private social function may apply for an exemption under A.R.S. § 4-244.05 by submitting an application under R19-1-211 if the owner of the small restaurant, catering establishment, association, or business hosting a private social function ensures that:

- 1. Possession or consumption of spirituous liquor on the business premises is permitted only as an incidental convenience to customers;
- 2. Only beer and wine is permitted to be possessed or consumed on the business premises;
- 3. Possession or consumption of beer or wine on the business premises is limited to the hours between noon and 10:00 p.m.;
- 4. A customer is allowed to possess or consume no more than 24 ounces of beer or 750 milliliters of wine;
- 5. The occupancy limitation of the small restaurant, catering establishment, association, or business hosting a private social function does not exceed the following maximum:
 - a. Small restaurant: 50; and
 - b. Catering establishment, association, or business hosting a private social function: 300; and
- 6. The owner, manager, comptroller, controlling person, and any employee of the small restaurant, catering establishment, association, or business hosting a private social function complies with all applicable provisions of A.R.S. Title 4 and this Chapter.

R19-1-325. Display of Warning Sign Regarding Consumption of Alcohol

As prescribed under A.R.S. § 4-261, a licensed retailer shall post one or more warning signs regarding consumption of alcohol during pregnancy.

R19-1-326. Tapping Equipment

- A. A wholesaler may lend to an on-sale retailer tapping equipment approved by the Department. The wholesaler shall:
 - 1. Maintain ownership of the tapping equipment.

Notices of Proposed Rulemaking

2. Lend the tapping equipment at the time a new account is established or when the on-sale retailer changes from one tapping system to another, and
3. Remove the tapping equipment when the account is discontinued.
- B.** If multiple wholesalers share an account and decide to lend tapping equipment to the on-sale retailer, the wholesaler that initiates the account shall supply the tapping equipment and remove the tapping equipment when the wholesaler discontinues the account.
- C.** The manufacturer of a tapping-equipment system may apply to the Department for approval of the system by submitting specifications regarding the design and operation of the system.
- D.** A wholesaler may sell the following items to an on-sale retailer only for cash at a price that equals or exceeds the price that the wholesaler paid for the items:
 1. CO₂,
 2. CO₂ regulator,
 3. Faucet or complete faucet standard,
 4. Shank or bent tube,
 5. Air distributor,
 6. Blower assembly,
 7. Switch,
 8. Drip pan,
 9. P.V.C. pipe,
 10. Sanitizing materials, or
 11. Another item necessary to prepare and maintain a tapping-equipment system in proper operating condition.
- E.** A wholesaler may replace at no charge to an on-sale retailer the following items:
 1. Bonnet washer,
 2. Friction ring,
 3. Valve stem,
 4. CO₂ filter; and
 5. Coupling gasket.
- F.** A wholesaler may clean a tapping-equipment system lent to an on-sale retailer at no charge to the on-sale retailer.

R19-1-327. Domestic Farm Winery Sampling

A domestic farm winery that conducts sampling of the product of the domestic farm winery on the premises of an off-sale retailer or a retailer with off-sale privileges, as allowed by A.R.S. § 4-244.04, shall ensure that:

1. No more than six ounces of the product of the domestic farm winery is served to each consumer each day.
2. An employee of the domestic farm winery serves or supervises the serving of the product of the domestic farm winery, and
3. There is no violation of A.R.S. Title 4 or this Chapter.

ARTICLE 4. REQUIRED NOTICES TO DEPARTMENT

R19-1-401. Notice of Change in Status: Active or Nonuse

A. A licensee that ceases to manufacture, sell, or deal in spirituous liquor for 30 consecutive days shall submit notice to the Department, on a form that is available from the Department, and provide the following information:

1. License number;
2. Name of licensee or agent;
3. Name of business;
4. Address of business;
5. Last date on which the license was used;
6. Whether the licensee intends to place the license in use in the future; and
7. Notarized signature of the licensee or agent affirming that the information provided is true, correct, and complete.

B. Except as provided in subsection (D), a licensee that puts a license on nonuse status by complying with subsection (A) may put the license on active status by submitting notice to the Department, on a form that is available from the Department, and providing the following information:

1. License number;
2. Name of licensee or agent;
3. Name of business;
4. Address of business;
5. Date on which the license went into nonuse status;
6. Date on which the license will be put into active status; and
7. Notarized signature of the licensee or agent affirming that the information provided is true, correct, and complete.

C. If a license is on nonuse status for more than five months, the licensee shall pay the surcharge prescribed at A.R.S. § 4-

Notices of Proposed Rulemaking

203(G) when the license is returned to active status by complying with subsection (B).

- D.** Under A.R.S. § 4-203(G), if a license is on nonuse status for 36 months, the license automatically reverts to the state unless extended by the Director for good cause.

R19-1-402. Notice of Change in Manager

As required by A.R.S. § 4-202(C), a licensee shall not allow an individual to manage the licensed premises for more than 30 days unless the licensee ensures that the new manager submits to the Department the information required under R19-1-203(B).

R19-1-403. Notice of Legal or Equitable Interest

A. To enable the Department to fulfill its responsibility under A.R.S. § 4-112(B)(3), a person that has a legal or equitable interest in a license issued under A.R.S. Title 4 and this Chapter shall file with the Department a statement of the interest. A person filing a statement of legal or equitable interest shall use a form that is available from the Department and provide the following information:

1. Name of the interest holder;
2. Mailing address of the interest holder;
3. Business and residential telephone numbers of the interest holder;
4. Description, date, and location of the document by which the interest was granted;
5. Name of licensee or applicant;
6. Mailing address of licensee or applicant;
7. Telephone number of licensee or applicant;
8. Location of business;
9. License number; and
10. Notarized signatures of both the interest holder and the licensee or applicant.

B. A person that has a legal or equitable interest in a license issued under A.R.S. Title 4 and this Chapter shall file with the Department an amended statement of the interest by complying with subsection (A) when:

1. Any of the information provided in a previous statement of interest changes;
2. The person's legal or equitable interest terminates; or
3. The Department requests that an amended statement be filed.

C. The Department shall provide notice to a person that files a statement of interest under subsection (A) when there is a disciplinary or compliance action or transfer affecting the license in which the person has an interest and shall allow the person to participate in any proceeding regarding the license.

R19-1-404. Notice of Change in Business Name, Address, or Telephone Number

A. The Department shall communicate with a licensee using the business name and U.S. Postal Service address on file with the Department. To ensure timely communication from the Department, a licensee shall provide the Department with current contact information for the licensee. When contact information for a licensee changes, the licensee shall submit a notice, using a form that is available from the Department, and include the following information:

1. License number;
2. Name of licensee or agent;
3. Name of business as it appears on the license;
4. New business name, if applicable;
5. New U.S. Postal Service address of business, if applicable;
6. New mailing address, if applicable;
7. New business or residential telephone number, if applicable;
8. Other changed information, if applicable; and
9. Notarized signature of the individual submitting the notice affirming that the information provided is true, correct, and complete.

B. If the name or U.S. Postal Service address of a business changes and notice is provided under subsection (A), the Department shall issue a replacement license that reflects the current name and U.S. Postal Service address of the business.

R19-1-405. Notice of License Surrender or Application Withdrawal

A. A licensee that intends to surrender a license that is not a quota license or an applicant that intends to withdraw an application shall submit a file deactivation form to the Department and include the following information:

1. Type of action being taken;
2. Name of licensee or applicant;
3. License number, if applicable;
4. Name of business, if applicable;
5. Mailing address of licensee or applicant;
6. Explanation of why the license is being surrendered or the application is being withdrawn; and

Notices of Proposed Rulemaking

7. Notarized signature of the licensee or applicant affirming that the information provided is true, correct, and complete.
- B.** The Department shall deem a license surrendered if all of the following apply:
 1. The licensed premises are vacant during normal operating hours for at least 30 consecutive days;
 2. The licensee fails to notify the Department of the licensee's intention to suspend the business authorized by the license, as required under R19-1-401;
 3. The Department is unable to contact the licensee using information available in the Department's records; and
 4. The individual who informs the Department that the licensee has abandoned the license submits to the Department:
 - a. The license, if available; and
 - b. A signed and notarized statement indicating that to the best of the individual's knowledge, the licensed premises have been vacant during normal operating hours for at least 30 consecutive days and the licensee has abandoned the license and licensed premises.
- C.** The Department shall deny surrender of a license if the Department determines that:
 1. It has notice that the licensee is delinquent in paying taxes to the state or a political subdivision,
 2. A complaint is pending against the licensee alleging violation of A.R.S. Title 4 or this Chapter,
 3. Ownership of the license is contested,
 4. Civil proceedings involving the license are pending before any court, or
 5. A hearing is pending before the Board.

R19-1-406. Registered Retail Agent: Notice of Change in Cooperative-purchase Agreement; List of Cooperative Members

- A.** As required under A.R.S. § 4-422(A), a retail agent registered under A.R.S. § 4-222 and R19-1-209 shall provide written notice to the Department within three days after a licensee with whom the registered retail agent has a cooperative-purchase agreement terminates the registered retail agent's authority. The registered retail agent shall ensure that the notice identifies the licensee terminating the cooperative-purchase agreement and shall send a copy of the notice to all affected wholesalers.
- B.** A retail agent registered under A.R.S. § 4-222 and R19-1-209 shall submit to the Department a copy of a new cooperative purchase agreement between the registered retail agent and another licensee within 10 days after entering into the cooperative-purchase agreement.
- C.** In addition to submitting a copy of each cooperative-purchase agreement to the Department, as required under R19-1-209, a retail agent registered under A.R.S. § 4-222 and R19-1-209 shall submit to the Department a list that includes the following information regarding each licensee with which the registered retail agent has a cooperative-purchase agreement:
 1. Name of licensee,
 2. Address of licensed premises, and
 3. Each kind of license owned by the licensee.
- D.** A registered retail agent shall report to the Department a change in any of the information submitted under subsection (C) within 10 days of the change.

R19-1-407. Hotel-Motel or Restaurant Licensee: Notice of Change to Restaurant Facility

- A.** Under A.R.S. § 4-205.01(E) or 4-205.02(F), a hotel-motel or restaurant licensee that intends to alter the seating capacity or dimensions of a restaurant facility shall provide advance notice to the Department.
- B.** To provide the notice required under subsection (A), a hotel-motel or restaurant licensee shall complete and submit to the Department the form described at R19-1-214 or R19-1-215.

R19-1-408. Notice of Sampling on a Licensed Off-sale Retail Premises

- A.** A distiller, vintner, brewer, rectifier, blender, or other producer or wholesaler that intends to conduct a sampling under A.R.S. § 4-243(B)(3) or 4-244.04 on the licensed premises of a licensed off-sale retailer shall provide written notice of the sampling to the Department at least 10 days before the sampling.
- B.** The notice required under subsection (A) may be submitted to the Department by the U.S. Postal Service, fax, or e-mail. A producer or wholesaler that provides notice under subsection (A) shall ensure that the notice includes the date, time, and location of the sampling.

ARTICLE 5. REQUIRED RECORDS AND REPORTS

R19-1-501. General Recordkeeping

- A.** A licensee shall maintain all invoices, records, bills, and other papers and documents relating to the purchase, sale, or delivery of spirituous alcohol for two years.
- B.** A hotel-motel or restaurant licensee shall maintain all invoices, records, bills, and other papers and documents relating to the purchase, sale, or delivery of food in the manner specified in R19-1-317 for two years.
- C.** A licensee shall make the invoices, records, bills, and other papers and documents maintained under subsections (A) and (B) available, upon request, to the Department for examination or audit.

R19-1-502. On-sale Retail Personnel Records

- A.** As required by A.R.S. § 4-119, an on-sale retail licensee shall maintain a record of every employee of the business that includes the following information about the employee:
1. Full legal name.
 2. Residential address.
 3. Date and place of birth, and
 4. Description of the employee's responsibilities.
- B.** A licensee shall maintain the records required under subsection (A) for two years after an individual ceases to be an employee of the business.
- C.** A licensee shall make the records maintained under subsection (A) available, upon request, to the Department for examination.

R19-1-503. Records Regarding Cooperative Purchases

- A.** A retail agent registered under A.R.S. § 4-222 and R19-1-209 shall maintain a copy of every cooperative-purchase agreement between the registered retail agent and another licensee for two years after termination of the cooperative-purchase agreement.
- B.** A retail agent registered under A.R.S. § 4-222 and R19-1-209 shall maintain in accordance with R19-1-501:
1. A copy of a cooperative purchase order placed with a wholesaler;
 2. A copy of a cooperative-purchase invoice provided by a wholesaler; and
 3. A record of the following regarding each cooperative member:
 - a. The kind and quantity of spirituous liquor ordered and delivered.
 - b. Monies received from the cooperative member, and
 - c. The date on and location at which spirituous liquor is delivered to the cooperative member.
- C.** A wholesaler that fills a cooperative-purchase order submitted by a retail agent registered under A.R.S. § 4-222 and R19-1-209 shall prepare and provide to the registered retail agent a master invoice of the cooperative purchase that shows the spirituous liquor purchased by each cooperative member and the amount of the discount provided for the cooperative purchase.

R19-1-504. Record of Delivery of Spirituous Liquor

- A.** A retail licensee or domestic farm winery that delivers spirituous liquor, as authorized by A.R.S. § 4-203(J) or 4-205.04(C)(10) and R19-1-315, shall complete a record of each delivery at the time of delivery. The licensee shall make the record on a form available from the Department and provide the following information:
1. Name of licensee making the delivery.
 2. Address of licensee making the delivery.
 3. License number.
 4. Date and time of delivery.
 5. Address at which delivery is made.
 6. Type and brand of spirituous liquor delivered, and
 7. Printed name and signature of the individual making the delivery.
- B.** In addition to the information required under subsection (A), the licensee shall obtain the following information about the individual accepting delivery of the spirituous liquor:
1. Name.
 2. Date of birth.
 3. Type of and number on the identification used to verify the individual's date of birth, and
 4. The signature of the individual accepting delivery.

R19-1-505. Report of Act of Violence

- A.** As required under A.R.S. § 4-244(36), a licensee shall report an act of violence that occurs on the licensed premises.
- B.** A licensee shall report an act of violence that occurs on property immediately adjacent to the licensed premises if the act of violence involves a patron who is entering or leaving the licensed premises and if the licensee knew or reasonably should have known of the act of violence.
- C.** A licensee shall submit the report required under subsection (A) to the Department or a law enforcement agency. A licensee shall submit the report required under subsection (B) to the Department.
- D.** A licensee shall submit the report required under subsection (A) or (B) within seven days after the act of violence occurs.
- E.** A licensee that submits a report under subsection (A) or (B) to the Department shall use a form that is available from the Department and provide the following information to the best of the licensee's knowledge:
1. Name of licensee or licensee's agent;
 2. License number;
 3. Name of business;
 4. Address of licensed premises;

5. Date of the report;
 6. Date and time of the incident being reported;
 7. A statement whether the police were summoned and if so:
 - a. Name of the police jurisdiction summoned;
 - b. Name of the individual who placed the call to the police;
 - c. Police report number, and
 - d. A statement whether an arrest was made;
 8. A statement whether emergency services were summoned and if so, the name of the individual who placed the call for emergency services;
 9. Names or description of participants in the incident;
 10. Names of individuals injured in the incident and a description of the injury;
 11. Detailed description of the incident; and
 12. Name, title, and signature of the individual preparing the report affirming that the information provided is true and accurate to the best of the individual's knowledge.
- F.** A licensee that submits a report under this Section shall maintain a copy of the report until any legal action relating to the act of violence is completed or until the time for taking legal action relating to the act of violence expires.

ARTICLE 6. VIOLATIONS; HEARINGS; DISCIPLINE

R19-1-601. Appeals and Hearings

- A.** Under A.R.S. § 4-210.02(A), a decision of the Director, except as provided under A.R.S. § 4-203.01(E), is not final until it is appealed to and ruled on by the Board or until the time for appeal expires.
- B.** As required by A.R.S. § 4-210(H), the Department, Board, or a panel of the Board established under A.R.S. § 4-111(D) shall ensure that all hearings are conducted according to the procedures at A.R.S. Title 41, Chapter 6, Article 10.

R19-1-602. Actions During License Suspension

If the Director suspends a license issued under A.R.S. Title 4 and this Chapter, the licensee:

1. Shall not take any action on or about the business premises for which a license is required under A.R.S. Title 4 or this Chapter; and
2. Shall prominently display the notice of suspension on the business premises during the suspension.

R19-1-603. Seizure of Spirituous Liquor

If a peace officer reasonably believes that a spirituous liquor is being or has been handled in a manner that is inconsistent with a provision of A.R.S. Title 4 or this Chapter, the peace officer shall seize the spirituous liquor.

R19-1-604. Closure Due to Violence

If the Director determines that an act of violence is apt to occur at a licensed premises and that action is needed to protect the public health, safety, or welfare, the Director shall order that:

1. The licensee closes the doors of the licensed premises to the public;
2. No spirituous liquor be sold or served to any individual on the licensed premises; and
3. Only the licensee, employees of the licensee, and peace officers are allowed on the licensed premises.

ARTICLE 7. STATE LIQUOR BOARD

R19-1-701. Election of Officers

- A.** The Board shall elect a chairperson and vice chairperson in February of each year.
- B.** If a vacancy occurs in the chairperson or vice chairperson office, the Board shall hold an election for the vacant office at its next scheduled meeting.

R19-1-702. Determining Whether to Grant a License for a Certain Location

To determine whether public convenience requires and the best interest of the community will be substantially served by issuing or transferring a license at a particular unlicensed location, local governing authorities and the Department shall consider the following criteria:

1. Petitions and testimony from individuals who favor or oppose issuance of a license and who reside in, own, or lease property in close proximity to the proposed premises;
2. Number and types of licenses in close proximity to the proposed premises;
3. Evidence that all necessary licenses and permits for which the applicant is eligible at the time of application have been obtained from the state and all other governing bodies;
4. Residential and commercial population of the community and its likelihood of increasing, decreasing, or remaining static;
5. Residential and commercial population density in close proximity to the proposed premises;
6. Evidence concerning the nature of the proposed business, its potential market, and its likely customers;

Notices of Proposed Rulemaking

7. Effect on vehicular traffic in close proximity to the proposed premises;
8. Compatibility of the proposed business with other activity in close proximity to the proposed premises;
9. Effect or impact on the activities of businesses or the residential neighborhood that might be affected by granting a license at the proposed premises;
10. History for the past five years of liquor violations and reported criminal activity at the proposed premises provided that the applicant received a detailed report of the violations and criminal activity at least 20 days before the hearing by the Board;
11. Comparison of the hours of operation at the proposed premises to the hours of operation of existing businesses in close proximity to the proposed premises; and
12. Proximity of the proposed premises to licensed childcare facilities as defined by A.R.S. § 36-881.

R19-1-703. Rehearing or Review of a Decision

- A.** As permitted under A.R.S. § 41-1092.09, a party may file with the Board a motion for rehearing or review of a decision issued by the Board.
- B.** A party may amend a motion for rehearing or review at any time before the Board rules on the motion.
- C.** The Board may grant a rehearing or review for any of the following reasons materially affecting a party's rights:
 1. Irregularity in the proceedings or any order or abuse of discretion that deprived the moving party of a fair hearing;
 2. Misconduct of the Director or Board, Department staff, or an administrative law judge;
 3. Accident or surprise that could not have been prevented by ordinary prudence;
 4. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the hearing;
 5. Excessive or insufficient penalty;
 6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing or during the progress of the proceedings; and
 7. The findings of fact or decision is not justified by the evidence or is contrary to law.
- D.** The Board may affirm or modify a decision or grant a rehearing or review to all or some of the parties on all or some of the issues for any of the reasons listed in subsection (C). The Board shall specify with particularity the grounds for an order modifying a decision or granting a rehearing or review. If a rehearing or review is granted, the rehearing or review shall cover only the matters specified in the order.
- E.** Not later than 30 days after the date of a decision and after giving the parties notice and an opportunity to be heard, the Board may, on its own initiative, order a rehearing or review of the decision for any reason it might have granted a rehearing or review on motion of a party. The Board may grant a motion for rehearing or review, timely served, for a reason not stated in a motion. The Board shall specify with particularity the grounds on which a rehearing or review is granted under this subsection.
- F.** When a motion for rehearing or review is based upon affidavits, they shall be served with the motion. An opposing party may, within 15 days after service, serve opposing affidavits. This period may be extended by the Board for a maximum of 20 days for good cause or by written stipulation of the parties. Reply affidavits may be permitted.
- G.** If, in a particular decision, the Board makes a specific finding that the immediate effectiveness of the decision is necessary for preservation of the public health, safety, or welfare and that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review.

R19-1-704. Submitting Materials to the Board

- A.** To facilitate the Board's review of materials submitted to it, an individual shall submit materials to the Board in printed form and:
 1. In an electronic format directed by the Board, or
 2. By means of a removable data-storage device such as a compact disc or flash drive.
- B.** To provide the Board with time to consider adequately materials requiring its action, the following deadlines apply:
 1. An applicant or local governing authority that wishes to submit information regarding an application shall submit the information at least 15 calendar days before the meeting at which the Board will consider the application; and
 2. An appellant shall submit an appeal at least 21 calendar days before the meeting at which the Board will consider the appeal.
- C.** An individual who is unable to submit materials in an electronic format or by means of a removable data storage device may ask the Board for an exemption from the requirement in subsection (A).

R19-1-705. Judicial Review

- A.** A party may file a complaint for judicial review of a final decision of the Board under A.R.S. § 12-901 et seq.
- B.** A party that files a complaint for judicial review of a final decision of the Board shall serve a copy of the complaint for judicial review on the Director at the Department's office in Phoenix, Arizona.