

4-203. Licenses; issuance; transfer; reversion to state

A. A spirituous liquor license shall be issued only after satisfactory showing of the capability, qualifications and reliability of the applicant and, with the exception of wholesaler, producer, government or club licensees, that the public convenience requires and that the best interest of the community will be substantially served by the issuance. If an application is filed for the issuance of a transferable or nontransferable license, other than for a craft distiller license, a microbrewery license or a farm winery license, for a location that on the date the application is filed has a valid license of the same series, or in the case of a restaurant license application filed for a location with a valid hotel-motel license, issued at that location, there shall be a rebuttable presumption that the public convenience and best interest of the community at that location was established at the time the location was previously licensed. The presumption may be rebutted by competent contrary evidence. The presumption shall not apply once the licensed location has not been in use for more than one hundred eighty days and the presumption shall not extend to the personal qualifications of the applicant.

B. The license shall be to manufacture, sell or deal in spirituous liquors only at the place and in the manner provided in the license. A separate license shall be issued for each specific business, and each shall specify:

1. The particular spirituous liquors that the licensee is authorized to manufacture, sell or deal in.
2. The place of business for which issued.
3. The purpose for which the liquors may be manufactured or sold.

C. A spirituous liquor license issued to a bar, a liquor store or a beer and wine bar shall be transferable as to any permitted location within the same county, if the transfer meets the requirements of an original application. A spirituous liquor license may be transferred to a person qualified to be a licensee, if the transfer is pursuant to either judicial decree, nonjudicial foreclosure of a legal or equitable lien, including security interests held by financial institutions pursuant to section 4-205.05, a sale of the license, a bona fide sale of the entire business and stock in trade, or other bona fide transactions that are provided for by rule. Any change in ownership of the business of a licensee, directly or indirectly, as defined by rule is deemed a transfer, except that there is no transfer if a new fictitious person is added to the ownership of a licensee's business but the controlling persons remain identical to the controlling persons that have been previously disclosed to the director as part of the licensee's existing ownership.

D. All applications for a new license pursuant to section 4-201 or for a transfer to a new location pursuant to subsection C of this section shall be filed with and determined by the director, except when the governing body of the city or town or the board of supervisors receiving an application pursuant to section 4-201 orders disapproval of the application or when the director, the state liquor board or any aggrieved party requests a hearing. The application shall then be presented to the state liquor board, and the new license or transfer shall not become effective unless approved by the state liquor board.

E. A person who assigns, surrenders, transfers or sells control of a liquor license or business that has a spirituous liquor license shall notify the director within thirty business days after the assignment, surrender, transfer or sale. A spirituous liquor license shall not be leased or subleased. A concession

agreement entered into under section 4-205.03 is not considered a lease or sublease in violation of this section.

F. If a person other than those persons originally licensed acquires control over a license or licensee, the person shall file notice of the acquisition with the director within thirty business days after the acquisition of control and a list of officers, directors or other controlling persons on a form prescribed by the director. There is no acquisition of control if a new person is added to the ownership of a licensee's business but the controlling persons remain identical to the controlling persons that have been previously disclosed to the director as part of the licensee's existing ownership. All officers, directors or other controlling persons shall meet the qualifications for licensure as prescribed by this title. On request, the director shall conduct a preinvestigation before the assignment, sale or transfer of control of a license or licensee, the reasonable costs of which, not more than one thousand dollars, shall be borne by the applicant. The preinvestigation shall determine whether the qualifications for licensure as prescribed by this title are met. On receipt of notice of an acquisition of control or request of a preinvestigation, the director, within fifteen days after receipt, shall forward the notice of the acquisition of control to the local governing body of the city or town, if the licensed premises is in an incorporated area, or the county, if the licensed premises is in an unincorporated area. The director shall include in the notice to the local governing body written instructions on how the local governing body may examine, free of charge, the results of the department's investigation regarding the capabilities, qualifications and reliability of all officers, directors or other controlling persons listed in the application for acquisition of control. The local governing body, or the governing body's designee, may provide the director with a recommendation, either in favor of or against the acquisition of control, within sixty days after the director mails the notice, but section 4-201 does not apply to the acquisition of control provided for in this section. A local governing body may charge not more than one fee, regardless of the number of licenses held by the applicant, for review of one or more applications for acquisition of control submitted to the department at the same time and for the same entity. Within one hundred five days after filing the notice of the acquisition of control, the director shall determine whether the applicant is qualified, capable and reliable for licensure. A recommendation by the local governing body, or the governing body's designee, against the acquisition of control or denial by the director shall be set for a hearing before the board. The person who has acquired control of a license or licensee has the burden of an original application at the hearing, and the board shall make its determination pursuant to section 4-202 and this section with respect to capability, reliability and qualification.

G. A licensee who holds a license in nonuse status for more than five months shall be required to pay a one hundred dollar surcharge for each month thereafter. The surcharge shall be paid at the time the license is returned to active status. A license automatically reverts to the state after being held in continuous nonuse for more than thirty-six months. The director may waive the surcharge and may extend the time period provided in this subsection for good cause if the licensee files a written request for an extension of time to place the license in active status before the date of the automatic reversion. A license shall not be deemed to have gone into active status if the license is transferred to a location that at the time of or immediately before the transfer had an active license of the same type, unless the licenses are under common ownership or control.

H. A restructuring of a licensee's business is not an acquisition of control, a transfer of a spirituous liquor license or the issuance of a new spirituous liquor license if both of the following apply:

1. All of the controlling persons of the licensee and the new business entity are identical.
2. There is no change in control or beneficial ownership.

I. If subsection H of this section applies, the licensee's history of violations of this title is the history of the new business entity. The director may prescribe a form and shall require the applicant to provide the necessary information to ensure compliance with this subsection and subsections F and G of this section.

J. Notwithstanding subsection B of this section, the holder of a retail license having off-sale privileges may deliver spirituous liquor off of the licensed premises in connection with the sale of spirituous liquor. The licensee may maintain a delivery service and shall be liable for any violation committed in connection with any sale or delivery of spirituous liquor, provided that the delivery is made by an employee who is at least twenty-one years of age. The retail licensee shall collect payment for the price of the spirituous liquor no later than at the time of delivery. The director shall adopt rules that set operational limits for the delivery of spirituous liquors by the holder of a retail license having off-sale privileges. For the purposes of this subsection, an independent contractor or the employee of an independent contractor is deemed to be an employee of the licensee when making a sale or delivery of spirituous liquor for the licensee.

K. Except as provided in subsection J of this section, Arizona licensees may transport spirituous liquors for themselves in vehicles owned, leased or rented by the licensee.

L. Notwithstanding subsection B of this section, an off-sale retail licensee may provide consumer tasting of wines off of the licensed premises.

M. The director may adopt reasonable rules to protect the public interest and prevent abuse by licensees of the activities permitted such licensees by subsections J and L of this section.

N. Failure to pay any surcharge prescribed by subsection G of this section or failure to report the period of nonuse of a license shall be grounds for revocation of the license or grounds for any other sanction provided by this title. The director may consider extenuating circumstances if control of the license is acquired by another party in determining whether or not to impose any sanctions under this subsection.

O. If a licensed location has not been in use for three years, the location must requalify for a license pursuant to subsection A of this section and shall meet the same qualifications required for issuance of a new license except when the director deems that the nonuse of the location was due to circumstances beyond the licensee's control and an extension of time has been granted pursuant to subsection G of this section.

P. If the licensee's interest is forfeited pursuant to section 4-210, subsection L, the location shall requalify for a license pursuant to subsection A of this section and shall meet the same qualifications required for issuance of a new license except when a bona fide lienholder demonstrates mitigation pursuant to section 4-210, subsection K.

Q. The director may implement a procedure for the issuance of a license with a licensing period of two years.