



**ARIZONA STATE SENATE**  
*Fifty-Fifth Legislature, First Regular Session*

**AMENDED**

FACT SHEET FOR H.B. 2773

~~spirituous liquor; delivery; off-sale permits~~  
(NOW: liquor; delivery; off-sale permits; leases)

Purpose

Effective, October 1, 2021, allows a bar or liquor store to sell mixed cocktails for off-premises consumption (to-go mixed cocktails) and allows restaurants to apply for a to-go mixed cocktails lease from a bar or liquor store through December 31, 2025, and for a to-go mixed cocktails permit beginning January 1, 2026. Allows a bar, beer and wine bar or liquor store to lease the license's associated off-sale privileges to a restaurant and establishes registration of an alcohol delivery contractor. Exempts the manufacture or sale of certain bitters products from Alcoholic Beverages statutes.

Background

The Department of Liquor License and Control (DLLC) issues licenses to regulate the production, distribution and sale of alcoholic beverages through the State Liquor Board (Board) and the Office of the DLLC Director (Director). A bar license is a retailer's license to sell spirituous liquors primarily by individual portions to be consumed on the premises and in the original container for consumption on or off the premises. The off-sale use, by total retail spirituous liquor sales, may not exceed 30 percent of the sales price of on-sale spirituous liquor the licensee sells at that location. A spirituous liquor store licensee may sell all types of spirituous liquors, only in the original unbroken package, for consumption off the premises. (A.R.S. §§ [4-206.01](#) and [4-209](#)).

A restaurant license may be issued to a restaurant that is regularly open for the serving of food to guests for compensation, has suitable kitchen facilities connected with the restaurant for keeping, cooking and preparing foods required for ordinary meals, and derives at least 40 percent of its gross revenue from the sale of food. A restaurant licensee may sell spirituous liquor only for consumption on the licensed premises, unless the licensee holds a permit to sell beer in containers with a one-gallon maximum capacity according to outlined requirements (growler permit). Sales under the growler permit may not exceed 10 percent of total liquor sales (A.R.S. §§ [4-205.02](#) and [4-209](#)).

A retail liquor licensee with off-sale privileges may take orders for the sale and delivery of spirituous liquor off of the licensed premises to a person in Arizona. The licensee may maintain a delivery service and may contract with an independent contractor or a common carrier for delivery of spirituous liquor. A licensee's employee or other authorized person must verify the age of the person accepting the delivery through the display of identification and receive the person's signature. A licensee must label containers of spirituous liquor for delivery with the words, "contains alcohol, signature of person who is twenty-one years of age or older is required for delivery." The licensee is responsible for any violations of the requirements for the sale and delivery of spirituous liquor ([A.R.S. § 4-203](#)).

This is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

*To-Go Cocktails*

1. Exempts bars and liquor stores from the prohibition on allowing spirituous liquor to be removed from the licensed premises except in the original, unbroken package if:
  - a) the bar or liquor store prepares a mixed cocktail and the licensee or licensee's employee fills the container on the licensed premises; and
  - b) the container meets prescribed requirements.
2. Directs bar and liquor store licensees, through December 31, 2025, to make a permit available for lease to a restaurant licensee through DLLC for the privilege of selling mixed cocktails for off-premises consumption as follows:
  - a) the restaurant must prepare the mixed cocktail and the licensee or licensee's employee must fill the container on the licensed premises;
  - b) the container must meet prescribed requirements; and
  - c) the sale must be accompanied by the sale of food for consumption on or off the licensed premises.
3. Requires the Director, beginning January 1, 2026, to make to-go cocktail permits available for a restaurant licensee to purchase from DLLC equal in number to the total number of bar and liquor store licensees.
4. Allows a restaurant licensee to apply for a to-go mixed cocktails lease from a bar or liquor store licensee on a form prescribed and provided by the Director.
5. Requires all violations and liability for liquor service under the leased privilege or permit during the lease term to be attributed only the leasing restaurant licensee.
6. Requires a container used for to-go cocktails to:
  - a) be a clean container composed of a material approved by a national sanitation organization;
  - b) be tamper proof sealed by the licensee or licensee's employee;
  - c) have a maximum capacity of up to 32 ounces; and
  - d) display a government warning label and the restaurant's logo or name.
7. Requires the Director, upon approval of a restaurant licensee's application, to randomly select a bar or liquor store license for the lease to the restaurant of the licensee's to-go mixed cocktail privileges.
8. Allows a bar or liquor store lessor to sell to-go mixed cocktails and spirituous liquor as authorized by the license during the term of a to-go mixed cocktails lease.
9. Subjects the off-sale use of a restaurant licensee with a to-go mixed cocktails lease to the limitation of 30 percent of the on-premises spirituous liquor sales, as prescribed for bars.
10. Exempts a restaurant with a to-go cocktails permit from the prohibition on allowing spirituous liquor to be removed from the licensed premises except in the original, unbroken package.
11. Requires DLLC to establish a to-go mixed cocktails lease amount that fairly recognizes and is derived from the commercial value of the privilege to sell mixed cocktails for off-premises consumption.

12. Repeals to-go mixed cocktails leasing and lease administration requirements on January 1, 2026.
13. Requires all to-go cocktails permit holders and their employees, managers and agents to complete alcohol training approved by the Director.
14. Requires an issued to-go cocktails permit to be noted on the license and in DLLC records.

### *Off-Sale Privileges*

15. Authorizes a bar, beer and wine bar or liquor store licensee to lease the off-sale privileges associated with the license, except to-go mixed cocktails, to a restaurant licensee located in the same county.
16. Specifies that the authorization for a bar, beer and wine bar or liquor store licensee to lease their off-sale privileges applies to licenses held in non-use status.
17. Requires DLLC to establish a minimum of four lease windows in a calendar year during which licensees may agree to an off-sale privileges lease.
18. Allows a restaurant licensee to apply to lease a bar, beer and wine bar or liquor store licensee's off-sale privileges on a form prescribed and provided by the Director at least 30 days before the end of a lease window.
19. Requires a restaurant licensee applying for an off-sale privileges lease to provide DLLC a completed lease agreement signed by the lessor and lessee.
20. Directs the Director, upon approval of an off-sale privileges lease and for the lease term, to transfer the lessor's off-sale privileges, except to-go mixed cocktails, to the restaurant lessee.
21. Prohibits a bar or liquor store lessor from using the leased off-sale privileges associated with their license during the term of an off-sale privileges lease.
22. Subjects the off-sale use of a restaurant licensee with an off-sale privileges lease to the limitation of 30 percent of the on-premises spirituous liquor sales, as prescribed for bars.
23. Directs DLLC to establish and publish an off-sale privileges lease amount that fairly recognizes and is derived from the commercial value of selling spirituous liquor for off-premises consumption.
24. Allows DLLC to establish separate amounts for off-sale privileges leases in urban and rural counties and to designate counties for each amount.
25. Allows an off-sale privileges lessor and lessee to agree to a lease amount that is different than the DLLC-established amount.

### *Lease Administration*

26. Specifies that the lease period for a to-go cocktails permit or the lease of off-sale privileges is for a period of one year and is renewable for successive, one-year terms.

27. Allows the Director to establish and charge the following to be used for associated administrative and enforcement costs:
  - a) a to-go mixed cocktails lease or permit application fee and a permit annual renewal fee; and
  - b) an off-sale privileges lease application fee.
28. Allows DLLC to adopt a procedure for payment of a lease amount to the lessor and utilize the Arizona Department of Administration to facilitate the payments.
29. Requires all violations and liability for liquor service under the leased off-sale or to-go mixed cocktails privileges during the lease term to be attributed only to the leasing restaurant licensee.
30. Allows the Director to:
  - a) deny approval of a lease based on the proposed location of the lease or on the restaurant establishment's history; and
  - b) immediately suspend a lease for any violation by a restaurant licensee of Alcoholic Beverages statutes or related rules.
31. Directs DLLC to establish a process to facilitate and approve lease conveyance for to-go cocktails and off-sale privileges and to govern the lease, including:
  - a) a standard form of lease;
  - b) the responsibilities of the lessor and lessee;
  - c) the term of the lease, which must be one year except for the first lease year, and the established lease amount;
  - d) the lease may be transferred to another restaurant licensee if the new licensee purchases the original lessee's business during a lease term;
  - e) the privileges conveyed to the lessee during the lease term continue if the lessor's license is suspended or revoked;
  - f) if the lessor sells its license during a lease term, the license purchaser becomes the new lessor;
  - g) Alcoholic Beverages statutes and rules apply to both the lessor and lessee;
  - h) all violations and liability for liquor service under the lease must be attributed only to the restaurant leasing the off-sale or to-go cocktails privileges; and
  - i) the restaurant lessee is not responsible for violations committed by the lessor.
32. Allows the Director, during the first year of a lease, to set a lease term that is less than one year to align the lease renewal date with the renewal date of the restaurant license and allows the first-year lease payment amount to be prorated.
33. Requires a restaurant licensee to pay all lease payments in full, in advance.
34. Directs a restaurant that ceases regular kitchen service for food to cease selling spirituous liquor for off-premises consumption, including mixed cocktails.
35. Requires the Director, if a restaurant does not renew a to-go mixed cocktails lease, to return the lessor to the bar or liquor store lessor to the random selection process.
36. Requires the Director, if a to-go mixed cocktails lessor has its license suspended or revoked, to transfer the lease to another bar or liquor store licensee at the end of the lease term.

*Orders for Delivery*

37. Authorizes a bar, beer and wine bar or liquor store to take orders for the sale and delivery of mixed cocktails off the licensed premises.
38. Excludes bar, beer and wine bar and restaurant licensees from the existing statutory authorization for a retail licensee with off-sale privileges to contract with an independent contractor other than a registered alcohol delivery contractor.
39. Allows a restaurant to maintain a delivery service and take orders for sales and delivery for off-premises consumption of:
  - a) beer, if the restaurant holds a beer growler permit;
  - b) mixed cocktails with the sale of food for consumption on or off the licensed premises, if the restaurant holds a to-go mixed cocktails lease or permit;
  - c) beer and wine, if the restaurant holds an off-sale privileges lease with a beer and wine bar; and
  - d) beer, wine and distilled spirits, if the restaurant hold an off-sale privileges lease with a bar or liquor store.
40. Authorizes a bar, beer and wine bar, liquor store, beer and wine store or restaurant with a lease or permit to contract with one or more registered alcohol deliver contractors if the liquor is:
  - a) packaged and tamper proof sealed by the bar or restaurant licensee or the licensee's employee;
  - b) loaded for delivery at the premises; and
  - c) delivered in Arizona on the same business day.
41. Directs the Director to adopt rules setting operational limits for spirituous liquor delivery by bar, beer and wine bar and restaurant licensees and by registered alcohol delivery contractors.
42. Specifies that the licensee is responsible for any violation of Alcoholic Beverages statutes or related rules committed in connection with sale and delivery.
43. Directs the licensee to collect payment from the purchaser for the full price of the liquor before the product leaves the licensed premises.
44. Requires the licensee to inform the purchaser at the time the order is placed that:
  - a) state law requires a spirituous liquor purchaser to be at least 21 years old; and
  - b) the person accepting delivery must comply with statutory age identification requirements.
45. Specifies that spirituous liquor sold by a bar, beer and wine bar or restaurant for off-premises consumption must be tamper proof sealed and applies the spirituous liquor labeling requirement to containers of mixed cocktails for delivery.
46. Requires delivery to be made by a person who is at least 21 years old and is:
  - a) a licensee's employee; or
  - b) a registered alcohol delivery contractor's employee or authorized independent contractor.
47. Specifies that delivery must be made to a customer who:
  - a) is at least 21 years old; and
  - b) displays an identification at the time of delivery that meets statutory requirements.

48. Prescribes the following methods for a bar, beer and wine bar or restaurant licensee to take orders for the sale and delivery of spirituous liquor:
  - a) telephone, mail, fax or catalog;
  - b) through the internet; or
  - c) any other means.
49. Specifies that placing a spirituous liquor order from a bar, beer and wine bar, liquor store, beer and wine store or restaurant and paying for the order is not a sale until delivery has been made.
50. Specifies that a liquor store or beer and wine store may contract with independent contractors that are not registered alcohol delivery contractors, if the spirituous liquor is loaded for delivery at the liquor store or beer and wine store premises and delivered in Arizona on the same business day.

#### *Alcohol Delivery Contractor Registration*

51. Authorizes the Director to register any person in Arizona as an alcohol delivery contractor for the purpose of delivering spirituous liquor from a bar, beer and wine bar, liquor store, beer and wine store or restaurant licensee to a consumer in Arizona.
52. Allows a registered alcohol delivery contractor to:
  - a) deliver spirituous liquor to a consumer in Arizona on behalf of a bar, beer and wine bar, liquor store, beer and wine store or restaurant if the registered alcohol delivery contractor complies with statutory Alcoholic Beverages requirements; and
  - b) contract with independent contractors for liquor delivery to a consumer on behalf of a bar, beer and wine bar, liquor store, beer and wine store or restaurant.
53. Authorizes DLLC, in addition to all other actions authorized for violations, to limit a contractor's right to deliver for up to one year and requires the alcohol delivery contractor to register with DLLC to resume delivery.
54. Deems, as a penalty that is appealable to the Board, a limitation of an alcohol delivery contractor's right to deliver.
55. Directs DLLC to maintain a list of registered alcohol delivery contractors that are not in penalty status.
56. Requires a registered alcohol delivery contractor to apply on a Director-prescribed form and directs the Director to require an applicant to provide:
  - a) the controlling person's identification; and
  - b) any background information deemed necessary to identify the person and demonstrate proof of the person's authority to conduct business in Arizona, including copies of required state or local business licenses or permits.
57. Allows the Director to refuse to register a person as an alcohol delivery contractor for good cause.
58. Prohibits the Director from registering, as an alcohol deliver contractor, a person who has been convicted of a felony in Arizona or any other state within the five years immediately preceding application.

59. Allows the Director to establish and charge an alcohol delivery contractor registration and renewal fee to be used for associated administrative and enforcement costs.
60. Allows DLLC to require new registered alcohol delivery contractors to complete an approved alcohol training course and subjects a registered alcohol delivery contractor to the Director's authority to examine a licensee's books, records and papers.
61. Subjects a registered alcohol delivery contractor to statutory requirements related to:
  - a) grounds for license revocation, suspension and refusal to renew;
  - b) complaints and hearings;
  - c) the Director's authority to impose a civil penalty between \$200 and \$3,000 for violations; and
  - d) the prohibition on selling, disposing of, delivering or giving spirituous liquor to an individual purchaser between 2 a.m. and 6 a.m.
62. Deems, when making a spirituous liquor delivery for a licensee, an alcohol delivery contractor, subcontractor of an alcohol delivery contractor or the employee of the contractor or subcontractor to be acting on behalf of the licensee.

### *Definitions*

63. Defines *mixed cocktail* as a drink combined at the premises of an authorized licensee that contains spirituous liquor, is combined with at least one other ingredient besides water and contains more than one-half percent of alcohol by volume when combined.
64. Excludes, from the definition of *mixed cocktail*, a drink sold in an original manufacturer's package or a drink poured from an original manufacturer's package without the addition of all of the cocktail's other ingredients at the licensed premises.
65. Defines *menu food item* as a food item from a regular menu, special menu or happy hour menu that is prepared by the licensee or the licensee's employee.
66. Defines *registered alcohol delivery contractor* as a person who delivers spirituous liquor to a consumer on behalf of a bar, beer and wine bar, liquor store, beer and wine store or restaurant.
67. Excludes, from the definition of *registered alcohol delivery contractor*:
  - a) a motor carrier, which is defined as a person who operates or causes to be operated a commercial motor vehicle on a public highway; and
  - b) an independent contractor, subcontractor of an independent contractor, or an independent contractor's or subcontractor's employee delivering spirituous liquor according to existing statutory requirements on behalf of a retail licensee with off-sale privileges, besides a bar, beer and wine bar or restaurant.
68. Defines *tamper proof sealed* as designed to prevent consumption without the removal of a tamper-proof cap, seal, cork or closure that has a device, mechanism or adhesive that clearly shows whether a container has been opened.
69. Defines *business day*, for the purposes of spirituous liquor delivery, as between the hours of 6:00 a.m. of one day and 2:00 a.m. of the next day.
70. Modifies the definition of *gross revenue* relating to the limit on restaurant spirituous liquor sales to include spirituous liquor sold for off-sale consumption.

*Miscellaneous*

71. Exempts, retroactive to July 1, 2020, from Alcoholic Beverages statutes, the manufacture or sale of bitters products that have been classified and approved as a nonbeverage product or unfit for beverage purposes by the U.S. Alcohol and Tobacco, Tax and Trade Bureau (U.S. TTB) and specifies that the exemption is consistent with U.S. TTB classification guidelines.
72. Contains a severability clause.
73. Makes technical and conforming changes.
74. Becomes effective on October 1, 2021, with a retroactive provision as noted.

Amendments Adopted by Committee

1. Authorizes a bar to lease the off-sale privileges associated with the bar license to a restaurant licensee.
2. Extends, to liquor stores, the to-go cocktails exemption from the prohibition on allowing spirituous liquor to be removed from the licensed premises except in the original, unbroken package.
3. Directs a bar and liquor store, through December 31, 2025, to make a permit available for lease to a restaurant licensee through the DLLC for the privilege of selling mixed cocktails for off-premises consumption according to prescribed requirements.
4. Directs the Director, beginning January 1, 2022, to make to-go cocktails permits available for purchase through an auction by restaurant licensees equal in number to the total number of bar and liquor store licenses as determined by December 1, 2021.
5. Requires DLLC, beginning June 1, 2022, to make available, for purchase by restaurant licensees, one to-go cocktails permit for each additional bar or liquor store license issued by the Director due to county population increases.
6. Prescribes administration for the lease by a restaurant licensee of a bar's off-sale privileges or a bar's or liquor store's to-go cocktail permit and for the DLLC to conduct auctions for the sale of to-go cocktail permits.
7. Establishes the Fund consisting of monies deposited from sales of to-cocktails permits by auction or by the Director for the purposes of compensating eligible bar or liquor store licensees.
8. Repeals the Fund when prescribed conditions are met and, upon repeal of the Fund, requires the Director to deposit monies collected from to-go cocktail permit sales in the Driving Under the Influence Abatement Fund.
9. Replaces the establishment of a third-party facilitator license with a registered alcohol delivery contractor for liquor delivery on behalf of a bar or restaurant and prescribes requirements governing an alcohol delivery contractor.
10. Removes the authorization for a bar or restaurant licensee to take orders for the sale and delivery of spirituous liquor through a third-party facilitator.



11. Removes the prohibition on the Director treating a violation by a third-party facilitator as a violation by the bar or restaurant.
12. Adds, to the criteria for a licensee to maintain a liquor delivery service or contract with a registered alcohol delivery contractor, a requirement for the liquor to be packaged and sealed by the bar or restaurant licensee or the licensee's employee.
13. Removes the exception for a violation attributable to a licensed third-party facilitator from the requirement that the licensee be held responsible for statute and rule violations.
14. Removes the authority of a third-party facilitator to collect payment for spirituous liquor.
15. Requires restaurant permit holders, rather than permit applicants, and designated related persons to complete alcohol training.
16. Prohibits a bar or restaurant licensee or employee, registered alcohol delivery contractor or independent contractor from selling, disposing of, delivering or giving spirituous liquor to an individual purchaser between 2 a.m. and 6 a.m.
17. Adds a severability clause and a Proposition 108 clause.
18. Makes conforming changes.

Amendments Adopted by Committee of the Whole

1. The committee amendment was withdrawn.
2. Delays the effective date to October 1, 2021, with a retroactive provision as noted.
3. Authorizes a bar, beer and wine bar or liquor store to lease the off-sale privileges associated with the license to a restaurant licensee located within the same county.
4. Extends, to liquor, beer and wine bars and restaurants with a to-go mixed cocktails lease, the to-go cocktails exemption from the prohibition on allowing spirituous liquor to be removed from the licensed premises except in the original, unbroken package.
5. Delays, to January 1, 2026, the authorization for a restaurant to apply for a to-go cocktails permit and directs bars and liquor stores, through December 31, 2025, to lease a to-go mixed cocktails privilege to restaurants.
6. Prescribes DLLC administration, lease payment and fee requirements for to-go mixed cocktails leases or permits and off-sale privileges leases.
7. Repeals to-go mixed cocktails leasing and lease administration requirements on January 1, 2026.
8. Requires to-go mixed cocktails to be *tamper proof sealed* by the licensee's employee, rather than sealed.
9. Requires all violations and liability for liquor service under the leased off-sale or to-go mixed cocktails privileges during the lease term to be attributed only to the leasing restaurant licensee.
10. Replaces the establishment of a third-party facilitator license with a registered alcohol delivery contractor and prescribes requirements governing an alcohol delivery contractor.

11. Authorizes a bar, beer and wine bar, or restaurant with a lease or permit to maintain a delivery service and excludes bars, beer and wine bars and restaurants from the existing statutory authorization for a retail licensee with off-sale privileges to contract with an independent contractor.
12. Authorizes a bar, beer and wine bar, liquor store, beer and wine store or restaurant with a lease or permit to contract with registered alcohol delivery contractors according to outlined requirements.
13. Deems, when making a spirituous liquor delivery for a licensee, an alcohol delivery contractor, subcontractor of an alcohol delivery contractor or the employee of the contractor or subcontractor to be acting on behalf of the licensee.
14. Applies the payment, delivery, age verification and spirituous liquor delivery labeling requirements to spirituous liquor deliveries from a bar, beer and wine bar and restaurant licensee and deliveries by a registered alcohol delivery contractor.
15. Removes the authorization for a bar or restaurant licensee to take orders for the sale and delivery of spirituous liquor through a third-party facilitator and removes the exception for a violation attributable to a licensed third-party facilitator from the requirement that the licensee be held responsible for statute and rule violations.
16. Adds, to the criteria for a licensee to maintain a liquor delivery service or contract with a registered alcohol delivery contractor, a requirement for the liquor to be packaged and sealed by the liquor licensee or the licensee's employee.
17. Requires restaurant to-go mixed cocktail permit holders, rather than applicants, and designated related persons to complete alcohol training.
18. Exempts, retroactive to July 1, 2020, from Alcoholic Beverages statutes, the manufacture or sale of bitters products that have been classified and approved as a nonbeverage product or unfit for beverage purposes by the U.S. TTB.
19. Defines *menu food item*, *registered alcohol delivery contractor*, *tamper proof sealed* and *business day*.
20. Redefines *mixed cocktail* and modifies the statutory definition of gross revenue relating to the limit on spirituous liquor sales by restaurants.
21. Adds a severability clause.
22. Makes technical and conforming changes.

House Action

Senate Action

COM            2/9/21    DPA    7-3-0-0  
3<sup>rd</sup> Read       3/3/21                    34-26-0

COM            3/24/21    DPA    8-0-1