

NOTICE OF SUPPLEMENTAL PROPOSED RULEMAKING
TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING
CHAPTER 1. DEPARTMENT OF LIQUOR LICENSES AND CONTROL

PREAMBLE

February 22, 2013

1. Citations to the agency’s Notice of Rulemaking Docket Opening, Notice of Proposed Rulemaking, and any other Notices of Supplemental Proposed Rulemaking (if applicable) as published in the Register as specified in R1-1-409(A). A list of any other related notices published in the Register to include the as specified in R1-1-409(A):

Notice of Rulemaking Docket Opening: 18 A.A.R. 3011, November 16, 2012

Notice of Proposed Rulemaking: 18 A.A.R. 2958, November 16, 2012

Notice of Proposed Rulemaking: 18 A.A.R. 2977, November 16, 2012

2. Articles, Parts, or Sections Affected (as applicable) Rulemaking Action

| | |
|-----------|-------------|
| R19-1-108 | Repeal |
| R19-1-110 | Repeal |
| R19-1-112 | Repeal |
| R19-1-113 | Repeal |
| R19-1-302 | New Section |
| R19-1-313 | New Section |
| R19-1-320 | New Section |
| R19-1-321 | New Section |
| R19-1-324 | New Section |

3. Citations to the agency’s statutory authority to include the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: A.R.S. § 4-112(A)(2) and (B)(1)

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

4. The agency’s contact person who can answer questions about the rulemaking:

Name: Pearlette Ramos

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5. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:

In response to a five-year-review report approved by the Governor's Regulatory Review Council on May 3, 2011, the Department is repealing existing rules in a related rulemaking and making new rules that are consistent with statute and agency practice. They are also making the rules clear, concise, and understandable and consistent with current rule writing standards.

An exemption from the rulemaking moratorium contained in Executive Order 2012-03 was granted in an e-mail from Steven Killian, policy advisor to Governor Brewer, dated September 25, 2012.

6. A reference to any study relevant to the rule that the agency reviewed and proposes either 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. An explanation of the substantial change that resulted in this supplemental notice:

The Department is repealing four Sections and replacing them with five Sections that are substantially similar in content. The Department is making changes to the five new Sections based on comments from stakeholders. The new Sections in this Notice differ from those published in the Notice of Proposed Rulemaking as follows:

R19-1-302: Knowledge of Liquor Law; Responsibility: A subsection dealing with vicarious liability was deleted.

R19-1-313: Sign Limitations: A distinction was made between interior and exterior signs; a procedure for objectively establishing the cost of a sign was established.

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

- (B)(1)(a): Amended to require verification be obtained that application has been made by the entity seeking a special event license;
- (B)(1)(e): Added;
- (E): Sponsoring a sporting event: Amended to clarify that sponsoring a sporting event, even if a telecast, is allowed only for a licensee with a premise having a permanent occupancy of more than 1,000;

- (F): Sponsoring concerts: Subsection was moved from previously published R19-1-321 and amended to be consistent with subsection (E);
- (G): Sponsoring a tradeshow or convention: Amended to clarify what constitutes a trade association;
- (O): Providing a shelf plan or schematic: Moved from previously published R19-1-321(B)(1); and
- (P): Providing a food-pairing menu: Added as a new subsection.

R19-1-321: Practices Permitted by a Wholesaler:

- (B): Providing stocking services: Moved subsection (B)(1) to R19-1-320(O); moved subsection (B)(3) to subsection (C);
- (C): Providing resetting services: Amended to require notice to any wholesaler whose product may be affected by a resetting; added subsections (1) and (2) ;
- (K): Providing shelves and racks: This Section previously dealt with providing product display; subsection (K)(4) was deleted; and
- (L): Sponsoring a concert: Was moved to R19-1-320(F).

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

- (A)(2): Different hours of operation were established for different kinds of unlicensed businesses;
- (A)(3): Permitted spirituous liquors were expanded to included distilled spirits; and
- (B): New subsection was added addressing the Department's ability to visit and inspect an unlicensed premise operating under the exemption.

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

Not applicable

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

In this Notice of Supplemental Proposed Rulemaking, the Department continues the process of repealing all existing rules and replacing them with rules that are substantially similar in content to the rules being repealed. Most of the economic impact from regulation of the liquor industry, including fees and surcharges, results from legislative action.

10. The agency's contact person who can answer questions about the economic, small business, and consumer impact statement:

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11. The time, place, and nature of the proceedings to make, amend, renumber, or repeal the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the supplemental proposed rule:

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

Date:

Time:

Location:

The rulemaking record will close at

12. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

None

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

The rules do not require a permit. Statute requires the Department to issue licenses.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

Federal law is applicable to the subject of the rules (See 27 CFR, Chapter 1, Subchapter A).

The rules are no more stringent than federal law.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

No analysis was submitted.

13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

No materials are incorporated by reference.

14. 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. GENERAL PROVISIONS

Section

R19-1-108. ~~Knowledge of Law and Regulations~~ Repealed

R19-1-110. ~~Sign Limitations~~ Repealed

R19-1-112. ~~Exceptions to General Rule~~ Repealed

R19-1-113. ~~Exemptions to A.R.S. § 4-244.05~~ Repealed

ARTICLE 3. LICENSEE RESPONSIBILITIES

Section

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

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

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

R19-1-321. ~~Reserved~~ Practices Permitted by a Wholesaler

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

ARTICLE 1. GENERAL PROVISIONS

R19-1-108. 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.

R19-1-110. 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).~~

R19-1-112. 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.~~
- ~~O. Participation at events without alcoholic beverages. The Department does not regulate the participation by producers/wholesalers in events at which spirituous liquor is not sold, offered or served.~~
- ~~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.~~

R19-1-113. 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.~~

ARTICLE 3. LICENSEE RESPONSIBILITIES

R19-1-302. Repealed Knowledge of Liquor Law; Responsibility

- A.** A licensee shall take reasonable steps to 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 acquires knowledge of A.R.S. Title 4 and this Chapter.
- B.** This Section is authorized by A.R.S. § 4-112(G)(2).

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

A. A producer, domestic microbrewery, wholesaler, or domestic farm winery licensee may directly or indirectly lend to a retail licensee a sign or signs for exterior or interior use if the signs:

1. Conspicuously bear substantial advertising for spirituous liquor available from the producer, domestic microbrewery, wholesaler, or domestic farm winery licensee;
2. Have a total cost of no more than \$400 as calculated using the value per square foot determined by the Director;
3. Have no utilitarian use other than advertising;
4. Can be used only as signs;
5. Are not permanent but for temporary use only; and
6. Remain the property of the producer, domestic microbrewery, wholesaler, or domestic farm winery licensee.

B. A producer, domestic microbrewery, wholesaler, or domestic farm winery licensee shall ensure that an exterior sign:

1. Faces away from a building on a licensed premise or is located in a patio area of the licensed premise;
2. Includes only:
 - a. The name of the spirituous liquor available, and if applicable, a trademark or slogan associated with the spirituous liquor;
 - b. The price at which the spirituous liquor is being sold;
 - c. If applicable, the name of a regulatory or sanctioned sporting association that has a sponsorship relationship with the spirituous liquor advertised; and
 - d. If applicable, identification of a community event or convention lasting no more than 30 days that has a sponsorship relationship with the spirituous liquor advertised.
3. Does not include advertising regarding the retail licensee or events occurring on the licensed premise.

C. A producer, domestic microbrewery, wholesaler, or domestic farm winery licensee shall ensure that an interior sign:

1. Faces the interior of a building on a licensed premise;

2. Includes informational content such as food pairings or drink specials that is connected to a spirituous liquor available from the producer, domestic microbrewery, wholesaler, or domestic farm winery licensee; and
3. Includes the licensed retailer's name or a symbol associated with the licensed retailer only if connected to spirituous liquor available from the producer, domestic microbrewery, wholesaler, or domestic farm winery licensee.

D. A producer, domestic microbrewery, wholesaler, or domestic farm winery licensee that lends a sign or signs to a retail licensee shall make a reasonable effort to ensure that the sign is used in a manner consistent with A.R.S. Title 4 and this Section. If the producer, domestic microbrewery, wholesaler, or domestic farm winery licensee determines that a sign lent to a retailer licensee is being used in a manner that violates A.R.S. Title 4 or this Section, the producer, domestic microbrewery, wholesaler, or domestic farm winery licensee shall remove the sign.

E. A producer, domestic microbrewery, wholesaler, or domestic farm winery licensee shall not lend a sign or signs to a retail licensee as an inducement to the retail 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.

F. A licensee shall ensure that a sign or other advertising matter displayed at the licensed premise is not obscene when evaluated by contemporary community standards and does not violate A.R.S. Title 4.

G. This Section is authorized by A.R.S. §§ 4-112(G)(4) and 4-243(A)(4).

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

A. In addition to practices specifically authorized under A.R.S. Title 4 and 27 CFR, Chapter 1, Subchapter A, the practices outlined in subsections (B) through (Q) 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 which spirituous liquor is sold if:

- a. A special event license is issued for the special event. A producer or wholesaler shall not pay for advertising, sponsorship, services, or other things of value until the wholesaler or producer confirms that a special event application has been submitted for approval under A.R.S. § 4-203.02;
 - 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;
 - 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; and
 - e. The producer or wholesaler pays any form of financial sponsorship to the organization to which the special event license is issued.
- 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 to a special event licensee identified under subsection (B)(1)(b). If the producer or wholesaler provides a sign to a special event licensee, the sign is not subject to the value limitations in R19-1-313.
 - 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. The item provided has a value less than \$5;

4. The total value of all items provided does not exceed \$100 per day at the licensed premises;
 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.** Furnishing print advertising. A producer or wholesaler may furnish a camera- or internet-ready ad of nominal value to a licensed retailer.
- E.** Sponsoring a sporting event. A producer or wholesaler may provide sponsorship and advertising to a licensed retailer in conjunction with a live sporting event or telecast of a sporting event if the licensed premise of the licensed retailer to whom sponsorship or advertising is provided has a permanent occupancy of more than 1,000 people and is used primarily for live sporting events. For the purpose of this subsection, live sporting events do not include a golf tournament unless the golf tournament is sanctioned by a golf association. 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. The producer or wholesaler shall ensure no item of value remains with the licensed retailer or at the licensed premises after the sporting event.
- F.** Sponsoring a concert. A producer or wholesaler may provide sponsorship and advertising to a licensed retailer in conjunction with a concert if the licensed premise of the licensed retailer to whom sponsorship or advertising is provided has a permanent occupancy of more than 1,000 people and is used primarily as a concert or live sporting event venue. For the purpose of this subsection, “concert” is an event with pre-sold tickets for a musical or vocal performance.
- G.** Sponsoring a tradeshow or convention. A producer or wholesaler may provide sampling, advertising, and event sponsorship to a trade association in conjunction with a tradeshow or convention at a licensed premise if the trade association consists of five or more retail licensees that have no common ownership. 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. The producer or wholesaler shall remove the sign after the tradeshow or convention and ensure that no item of value remains with the licensed retailer after the tradeshow or convention.
- H.** Furnishing a spirituous liquor or drink menu. A producer or wholesaler may furnish spirituous liquor or drink menu, which may include 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 or drink items;
 - 2. The spirituous liquor or drink menu has no utilitarian value to the licensed retailer except as a spirituous liquor or drink menu; and
 - 3. The producer or wholesaler offers to furnish spirituous liquor or drink menu to all licensed retailers to which the producer or wholesaler supplies spirituous liquor.
- I.** 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:
- 1. Can be used only for an off-sale purchase by the consumer from a licensed retailer; and
 - 2. Do not specify a licensed retailer at which the coupons or rebate certificates are required to be used.
- J.** 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.
- K.** 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).
- L.** Conducting market research. A producer or wholesaler may participate in market research regarding spirituous liquor under the following conditions:
- 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 conducting 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.

~~M. Providing pallets and other items for shipment, storage, or retail display. A producer or wholesaler may lend pallets and other items of nominal value if the primary purpose of the pallets and other items is to facilitate shipment, bulk storage, or retail display of spirituous liquor.~~

N. Providing a sample to a licensed retailer. A producer or wholesaler may provide a licensed retailer with a sample of spirituous liquor that is not currently offered for sale by the licensed retailer if the sample does not exceed the following:

1. Wine. One quart or one liter as bottled;
2. Beer. One bottle or can opened on the premises of the licensed retailer; and
3. Distilled spirits. Five hundred milliliters or the smallest marketed size.

O. Providing a shelf plan or schematic. A producer or wholesaler may provide a recommended shelf plan or schematic for use by a licensed retailer in displaying spirituous liquor or other product in a point-of-sale area.

P. Providing a food-pairing menu. A producer or wholesaler may provide a licensed retailer with a temporary menu that suggests paired combinations of spirituous liquor and food if:

- a. The menu has no utilitarian value beyond that of a menu, and
- b. A similar menu is made available to all retail accounts that use food-pairing menus.

Q. Providing meals and tickets. A producer or wholesaler may provide a licensed retailer with a meal or single-event ticket if the meal or single-event ticket is purchased by the producer or wholesaler at a nominal value.

R. This Section is authorized by A.R.S. §§ 4-243 and 4-244(3).

R19-1-321. Reserved Practices Permitted by a Wholesaler

A. In addition to practices specifically authorized under A.R.S. Title 4 and 27 CFR, Chapter 1, Subchapter A, 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 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
 2. Shall not be required by the licensed retailer as a condition for the wholesaler having shelf space, cold box storage, or product display space.
- C.** Providing resetting services. A wholesaler may reset spirituous liquor sold to a licensed retailer by the wholesaler if the licensed retailer consents to the resetting. If the resetting may affect the product of another licensed wholesaler, the wholesaler providing the resetting service shall provide notice to the other licensed wholesaler at least two working days before providing the resetting services. The resetting services provided by a wholesaler:
1. Shall be performed only in a point-of-sale area, including a cold box, from which a consumer may purchase the spirituous liquor sold by the wholesaler; and
 2. Shall not be required by the licensed retailer as a condition for the wholesaler having shelf space, cold box storage, or product display space.
- D.** Furnishing tapping equipment. A wholesaler may furnish tapping equipment 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 at market price.
- F.** Delivering a specially discounted quantity purchase. A wholesaler may provide a licensed retailer with a specially discounted price for a quantity purchase if the wholesaler delivers the entire quantity purchased to an approved storage facility of the licensed retailer.
- 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 to an on-sale retailer. Promotional items, as defined at A.R.S. § 4-243(D) does not include spirituous liquor.
- J.** Facilitating a special event. A wholesaler may facilitate a special event by:
1. Donating spirituous liquor directly to the special event licensee and issuing a net zero cost billing invoice in the name of the special event licensee,
 2. Leaving a delivery vehicle and other equipment necessary for the sale or service of spirituous liquor on the premises of the special event for the duration of the special event and up to one business day before and after the special event, and
 3. Leaving spirituous liquor at the special event if:
 - a. The spirituous liquor is properly described on a preliminary billing invoice issued in the names of both the off-sale retailer from which the special event licensee is purchasing the spirituous liquor and the special event licensee;
 - b. The wholesaler issues a final billing invoice in the names of both the off-sale retailer from which the special event licensee is purchasing the spirituous liquor and the special event licensee within five business days after the special event ends; and
 - c. The spirituous liquor is stored securely to ensure only intended persons gain access to the spirituous liquor.
- K.** Providing shelves or racks. A wholesaler may lend a shelf or rack to a licensed off-sale retailer if the following conditions are met:
1. The shelf or rack provided to the licensed off-sale retailer does not have a fair market value of more than \$300 per product brand placed on the shelf or rack at any one time in the licensed premises. The cost of the shelf or rack excludes the cost of transporting and installing the shelf or rack. The wholesaler shall not pool or combine dollar limitations to provide the licensed off-sale retailer with a shelf or rack that exceeds the dollar limitation in this subsection;
 2. The shelf or rack bears conspicuous, substantial, and permanently inscribed or securely affixed advertising regarding the product being stored for the wholesaler. The name and address of the licensed off-sale retailer may appear on the shelf or rack; and
 3. The shelf or rack holds only:

- a. Product being stored for or advertised on the shelf or rack by the wholesaler, and
- b. A non-functional copy or reproduction of a tangible item that has the sole purpose of enhancing the product stored or advertised on the shelf or rack.

L. This Section is authorized by A.R.S. §§ 4-203.02(H) through (J) and 4-243.

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

A. The owner of a catering establishment, association, or business hosting a private social function or a small restaurant may act under A.R.S. § 4-244.05 if the owner of the catering establishment, association, or business hosting a private social function or small restaurant ensures that:

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

- B.** As provided under A.R.S. § 4-244.05 (J)(4), the Director, agent of the Director, or peace officer empowered to enforce A.R.S. Title 4 and this Chapter may visit and inspect a premises operating under A.R.S. § 4-244.05 and this Section during business hours of the premises.
- C.** This Section is authorized by A.R.S. § 4-244.05(I) and (J).