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Pearlette Ramos  
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Arizona Department of Liquor Licenses and Control  
800 West Washington  
Phoenix, AZ 85007

Re: Notice of Proposed Rules  
A.A.C. 4-19-101 et seq.

Dear Pearlette:

Please accept the following as written comments submitted on behalf of the Arizona Craft Brewers Guild (the "Guild") to the Notice of Proposed Rules filed on October 26, 2012.

The current Rules, in Arizona Administrative Code ("A.A.C.") R19-1-227, define domestic microbrewers as an "other producer" for the purposes of Arizona Revised Statutes ("A.R.S.") § 4-243. Because a domestic microbrewery license under A.R.S. § 4-205.08 is hybrid license that offers producer, wholesaler and retailer privileges and does not neatly fit into any of the three tiers, A.A.C. R19-1-227 clarifies its privileges and unauthorized acts regarding its producer and wholesaler privileges under A.R.S. § 4-243. The Proposed Rules, on the other hand, do not define a domestic microbrewery as an "other producer" in Proposed Rule (P.R.) A.A.C. R19-1-101(16), nor anywhere else in the Proposed Rules. The term "other producer" is used other parts of Title 4, including A.R.S. §§ 4-243.04, 4-205.08, 4-205.04, and 4-203.04. It is often, but not always, used in conjunction with the term "producer." More importantly, there are also some instances in Title 4 in which the term "producer" is used without "other producer." See, e.g., A.R.S. §§ 4-243.02, 4-250.01; A.A.C. R19-1-226, R19-1-228. It is currently unclear what "other producer" means outside of A.R.S. § 4-243. Therefore, without further clarification and through the omission of A.A.C. R19-1-227, it is uncertain whether domestic microbrewers are no longer considered "other producers" under A.R.S. § 4-243, or whether the Arizona Department of Liquor Licenses and Control ("DLLC") will consider them "brewers" or "producers." The Guild would prefer to keep the current definition as an "other producer," in order to avoid unnecessary restrictions on its licensees or any further confusion.

Proposed Rule A.A.C. R19-1-312(B) would require all faucets, spigots, or other outlets to be "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." Given the current aesthetic trends of draft handles, and particularly those of craft beer, the Guild finds this requirement overly burdensome. It believes that the draft handles can be clear and conspicuous without a requirement that it be read by 10 feet by an individual with normal vision. In this instance, the 10 foot requirement seems rather arbitrary, and not based on any statutory requirement or public concern. In fact, the statute cited authorizing this rule, A.R.S. § 4-112(G)(4), authorizes the Director to issue rules for signs. Draft handles, however, are not signs under Title 4. See, e.g., A.R.S. § 4-243. As such, the Guild respectfully requests that the DLLC reconsider the addition of P.R. A.A.C. R19-1-312(B)(2).

Third, P.R. A.A.C. R19-1-303 prohibits a licensee from directly or indirectly manufacturing spirituous liquors unless authorized by the license. Most of the Guild's members own a Series 3 license, which allows them to manufacture, distribute and sell beer. A.R.S. § 4-205.08. Some of the equipment used to produce beer may also be used to produce distilled spirits. The Guild would prefer to continue to allow the development of new products within its facilities. It would also prefer that the DLLC recognize the distinction between product development, and the production, distribution or sale of distilled spirits that require a Series 1 license. Therefore, the Guild proposes to omit the term "manufacture" from R19-1-303(A), and to omit the language "for any purpose" under R19-1-303(B).

Finally, the Guild echoes the concern expressed by others regarding the addition of P.R. A.A.C. R19-1-302(B). Requiring a licensee to be legally responsible for an act or omission of an employee or contractor, when various sections of Title 4 do not impose that level of liability on its licensees, is overly restrictive.

Thank you very much for your consideration of these comments. If you have any questions, or wish to seek any clarification of the comments, please do not hesitate to contact me.

Very truly yours,

WITHEY MORRIS P.L.C.

By   
Camila Alarcon  
Of Counsel