



State of Arizona
Department of Liquor Licenses and Control

Protest Instructions and Hearings
Before the State Liquor Board

(Updated December 2013)

Pursuant to A.R.S. § 4-201(E), any natural person **residing, owning or leasing property within a one (1) mile radius** of the proposed location may file a written protest with the State no later than fifteen (15) calendar days following action by the local governing body (city, town, or county) or sixty (60) days after filing the application with the Department of Liquor Licenses and Control.

Individuals meeting these requirements may submit written protest to the State Liquor Board via:

Mail: Arizona Department of Liquor Licenses and Control
Attn: State Liquor Board
800 W. Washington St., 5th Floor
Phoenix, AZ 85007

Email: denise.bale@azliquor.gov

Fax: (602) 542-5707

The written protest **shall** contain the natural person's complete name, street address or post office box address and written or electronic signature. Please also include the business name, address and/or liquor license number for reference.

If the written arguments are filed by a **neighborhood association, block watch or other unincorporated association**, written arguments **must** be accompanied by a letter of authority designating that person as a spokesperson. Please refer to the Guidelines to Designate a Spokesperson.

If the written arguments are filed by a person on behalf of a **corporation or other legal entity or association**, the written arguments **must** be accompanied by a copy of the entity's organizing document, a designation of the office or position that the person holds within the organization and a copy of the written appointment of the person to speak on behalf of the organization.

Hearings are scheduled before the State Liquor Board if (A) a city, town, or county recommends disapproval of an application, (B) a public protest is filed, and/or (C) a Department protest is filed.

Please refer to the followings statutes for complete information regarding protests, hearings, and the application approval process.

A.R.S. §4-101. Definitions

In this title, unless the context otherwise requires:

2. "Aggrieved party" means a person who resides at, owns or leases property within a one mile radius of a premises proposed to be licensed and who filed a written request with the department to speak in favor of or opposition to the issuance of the license no later than sixty days after the filing of the application or fifteen days after action by the local governing body, whichever is later.

A.R.S. §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 nontransferable license, other than for a microbrewery license or a domestic farm winery license, for a location that on the date the application is filed has a valid license of the same series 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.

A.R.S. §4-201. Licensing; application procedure in city, town or county; burden of proof

A. A person desiring a license to manufacture, sell or deal in spirituous liquors shall make application to the director on a form prescribed and furnished by the director.

B. A person desiring a license within an incorporated city or town shall make the application in triplicate and shall file the copies with the director. The director shall remit two copies to the city or town clerk. The city or town clerk shall immediately file one copy in the clerk's office and post the other for a period of twenty days in a conspicuous place on the front of the premises where the business is proposed to be conducted, with a statement requiring any natural person who is a bona fide resident residing or owning or leasing property within a one mile radius from the premises proposed to be licensed, and who is in favor of or opposed to the issuance of the license, to file written arguments in favor of or opposed to issuance of the license with the clerk within twenty days after the date of posting. The posting shall be limited to a copy of the license application and shall not contain any attachments filed with the application. The written argument shall contain the natural person's complete name, street address or post office box address and written or electronic signature. If the written arguments are filed by a person on behalf of a corporation or other legal entity or association, the written arguments must be accompanied by a copy of the entity's organizing document, a designation of the office or position that the person holds within the organization and a copy of the written appointment of the person to speak on behalf of the organization. If the written arguments are filed by a neighborhood association, block watch or other unincorporated association, written arguments must be accompanied by a letter of authority designating that person as a spokesperson. The posting shall contain substantially the following:

Notice

A hearing on a liquor license application shall be held before the local governing body at the following date, time and place:

(Insert date, time and address)

The local governing body will recommend to the state liquor board whether the board should grant or deny the license. The state liquor board may hold a hearing to consider the recommendation of the local governing body. Any person residing or owning or leasing property within a one-mile radius may contact the state liquor board in writing to register as a protestor. To request information regarding procedures before the board and notice of any board hearings regarding this application, contact the state liquor board at:

(Insert address and telephone number).

No arguments shall be filed or accepted by the city or town clerk thereafter. This subsection shall not be construed to prevent a bona fide resident residing or owning or leasing property within a one-mile radius from the premises proposed to be licensed from testifying in favor of or in opposition to the issuance of the license, regardless of whether or not the person is a user or nonuser of spirituous liquor.

C. The governing body of the city, town or county shall then enter an order recommending approval or disapproval within sixty days after filing of the application and shall file a certified copy of the order with the director. If the recommendation is for disapproval, a statement of the specific reasons containing a summary of the testimony or other evidence supporting the recommendation for disapproval shall be attached to the order. All petitions submitted to the governing body within the twenty-day period for filing protests shall be transmitted to the director with the certified copy of the order.

D. If a person applies for a license to conduct a spirituous liquor business outside an incorporated city or town, the director shall remit two copies of the application to the clerk of the board of supervisors of the county where the applicant desires to do business, and the proceedings by the clerk and board of supervisors shall be as provided for cities and towns.

E. On receipt of an application for a spirituous liquor license, the director shall set the application for hearing by the board on a date following the expiration of the time fixed for the submitting of the certified order by the governing body of the city or town or the board of supervisors. If the city or town or the county recommends approval of the license no hearing is required unless the director, the board or any aggrieved party requests a hearing on the grounds that the public convenience and the best interest of the community will not be substantially served if a license is issued. Any natural person residing or owning or leasing property within a one mile radius of the proposed location may file a written protest with the director no later than fifteen calendar days following action by the local governing body or sixty days after filing the application. The written argument shall contain the natural person's complete name, street address or post office box address and written or electronic signature. If the written arguments are filed by a person on behalf of a corporation or other legal entity or association, the written arguments must be accompanied by a copy of the entity's organizing document, a designation of the office or position that the person holds within the organization and a copy of the written appointment of the person to speak on behalf of the organization. If the written arguments are filed by a neighborhood association, block watch or other unincorporated association, written arguments must be accompanied by a letter of authority designating that person as a

spokesperson. If no hearing is requested by the director, the board or any aggrieved party, the application may be approved by the director. If the recommendation is for disapproval of an application, the board shall hold a hearing. If the city, town or county recommends approval of the license pursuant to subsection C of this section or makes no recommendation, the director may cancel the hearing and issue the license unless the board or any aggrieved party requests a hearing. If the reason for the protest is clearly removed or deemed satisfied by the director, the board shall cancel the hearing. If the board cancels the hearing, the department may administratively issue an order without the applicant licensee or other parties present. The certified order, the reasons contained in the order and the summary of the testimony and other evidence supporting the city, town or county disapproval of the recommendation shall be read into the record before the board and shall be considered as evidence by the board. The board shall consider the certified order together with other facts and a report of the director relating to the qualifications of the applicant. If the governing body of the city or town or the board of supervisors fails to return to the director, as provided in subsections C and D of this section, its order of disapproval, no hearing is required. An application shall be approved or disapproved within one hundred five days after filing of the application. If, after a hearing by the board where a license has been approved, a formal written order is not entered within thirty days after the hearing, the decision of the board shall be deemed entered on the thirtieth day after the hearing.

F. A hearing may be conducted by an administrative law judge at the request of the board to make findings and recommendations for use by the board in determining whether to grant or deny a license. The administrative law judge shall submit a report of findings to the board within twenty days of the hearing. The board may affirm, reverse, adopt, modify, supplement, amend or reject the administrative law judge's report in whole or in part.

G. Except for a person to person transfer of a transferable license for use at the same location and as otherwise provided in section 4-203, subsection A, in all proceedings before the governing body of a city or town, the board of supervisors of a county or the board, the applicant bears the burden of showing that the public convenience requires and that the best interest of the community will be substantially served by the issuance of a license.

H. In order to prevent the proliferation of spirituous liquor licenses the department may deny a license to a business on the grounds that such business is inappropriate for the sale of spirituous liquor. An inappropriate business is one that cannot clearly demonstrate that the sale of spirituous liquor is directly connected to its primary purpose and that the sale of spirituous liquor is not merely incidental to its primary purpose.

I. The board shall adopt, by rule, guidelines setting forth criteria for use in determining whether the public convenience requires and the best interest of the community will be substantially served by the issuance or transfer of a liquor license at the location applied for. These guidelines shall govern the recommendations and other approvals of the department and the local governing authority.

J. If the governing body of a city or town recommends disapproval by a two-thirds vote of the members present and voting on an application for the issuance or transfer of a spirituous liquor license that, if approved, would result in a license being issued at a location either having no license or having a license of a different series, the application shall not be approved unless the board decides to approve the application by a two-thirds vote of the members present and voting.