

Two Types of Sampling

(updated 1/31/2013)

There are two types of sampling privileges available in Arizona and, each type of sampling has is conducted differently as described below.

1) a temporary permission for a producer/wholesaler to hold a sampling event at a licensed retail location (maximum of 12-events per year) as referenced in A.R.S. §4-243 below. Link to permit: http://www.azliquor.gov/forms/lic_samplingapp_access.pdf to be filled out by producer/wholesaler.

2) a permanent, unlimited number of sampling available to licensees of liquor store (series 9) and beer and wine store (series 10) licensed establishments as referenced in A.R.S. §4-206.01 below. Link to application: http://www.azliquor.gov/forms/lic_S_form_access.pdf to be filled out by licensee.

Temporary Sampling Permit – Maximum 12 Per Year

These first two statutes are to help licensees determine who may serve liquor during a sampling event. For a temporary sampling permit, a 3rd party hired by the producer/wholesaler is permitted.

A.R.S. 4-101. Definitions

In this title, unless the context otherwise requires:

30. "Sell" includes soliciting or receiving an order for, keeping or exposing for sale, directly or indirectly delivering for value, peddling, keeping with intent to sell and trafficking in.

A.R.S. § 4-244. Unlawful acts

It is unlawful:

6. For a person to take or solicit orders for spirituous liquors unless the person is a salesman or solicitor of a licensed wholesaler, a salesman or solicitor of a distiller, brewer, vintner, importer or broker or a registered retail agent.

A.R.S. §4-243. Commercial coercion or bribery unlawful; exceptions

B. This section does not prohibit any distiller, vintner, brewer, rectifier, blender or other producer or wholesaler of any spirituous liquor from:

2. Providing samples to retail consumers at **on-sale premises establishments** according to the following procedures:
 - (a) Sampling operations shall be conducted under the supervision of an employee of the sponsoring producer or wholesaler.
 - (b) Sampling shall be limited to twelve ounces of beer or cooler products, six ounces of wine or two ounces of distilled spirits per person per brand.
 - (c) If requesting the on-sale retailer to prepare a drink for the consumer, the producer's or wholesaler's representative shall pay the retailer for the sample drink.

(d) The producer or wholesaler may not buy the on-sale retailer or the retailer's employees a drink during their working hours or while they are engaged in waiting on or serving customers.

(e) The producer or wholesaler may not give a keg of beer or any spirituous liquor or any other gifts or benefits to the on-sale retailer.

(f) All sampling procedures shall comply with federal sampling laws and regulations.

3. Providing samples to retail consumers on an **off-sale retailer's premises** according to the following procedures:

(a) Sampling shall be conducted by an employee of the sponsoring producer or wholesaler.

(b) The producer or wholesaler shall notify the department in writing or by electronic means not less than ten days before the sampling of the date, time and location of the sampling.

(c) Sampling shall be limited to three ounces of beer, one and one-half ounces of wine or one ounce of distilled spirits per person per day.

(d) An off-sale retailer shall not permit sampling to be conducted on a licensed premises on more than twelve days in any calendar year.

(e) Sampling shall be limited to one wholesaler or producer at any one off-sale retailer's premises on any day and shall not exceed three hours on any day.

(f) A producer conducting sampling shall buy the sampled product from a wholesaler.

(g) The producer or wholesaler shall not provide samples to any person who is under the legal drinking age.

(h) The producer or wholesaler shall designate an area in which sampling is conducted that is in the portion of the licensed premises where spirituous liquor is primarily displayed and separated from the remainder of the off-sale retailer's premises by a wall, rope, door, cable, cord, chain, fence or other barrier. The producer or wholesaler shall not permit persons under the legal drinking age from entering the area in which sampling is conducted.

(i) The producer or wholesaler may not provide samples to the retailer or the retailer's employees.

(j) Sampling shall not be conducted in retail premises with a total of under five thousand square feet of retail space unless at least seventy-five per cent of the retailer's shelf space is dedicated to the sale of spirituous liquor.

(k) The producer or wholesaler may not give spirituous liquor or any other gifts or benefits to the off-sale retailer.

(l) All sampling procedures shall comply with federal sampling laws and regulations.

R19-1-228. Exceptions to General Rule

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.

9S and 10S Sampling Laws – Permanent Sampling Privileges

A.R.S. §4-206.01. Bar, beer and wine bar or liquor store licenses; number permitted; fee; sampling privileges

J. An applicant for a liquor store license or a beer and wine store license and the licensee of a liquor store license or a beer and wine store license may apply for sampling privileges associated with the license. A beer and wine store premises shall contain at least five thousand square feet in order to be eligible for sampling privileges. A person desiring a sampling privilege associated with a liquor store license shall apply to the director on a form prescribed and furnished by the director. The application for sampling privileges may be filed for an existing license or may be submitted with an initial license application. The request for sampling approval, the review of the application and the issuance of approval shall be conducted under the same procedures for the issuance of a spirituous liquor license prescribed in section 4-201. After a sampling privilege has been issued for a liquor store license or a beer and wine store license, the sampling privilege shall be noted on the license itself and in the records of the department. The sampling rights associated with a license are not transferable. Until January 1, 2015, the director may charge a fee for processing the application for sampling privileges and a renewal fee as provided in this section. A city or town shall not charge any fee relating to the issuance or renewal of a sampling privilege. Notwithstanding section 4-244, paragraph 19, a liquor store licensee or a beer and wine store licensee that holds a license with sampling privileges may provide spirituous liquor sampling subject to the following requirements:

1. Any open product shall be kept locked by the licensee when the sampling area is not staffed.
2. The licensee is otherwise subject to all other provisions of this title. The licensee is liable for any violation of this title committed in connection with the sampling.
3. The licensed retailer shall make sales of sampled products from the licensed retail premises.
4. The licensee shall not charge any customer for the sampling of any products.
5. The sampling shall be conducted under the supervision of an employee of a sponsoring distiller, vintner, brewer, wholesaler or retail licensee.
6. Accurate records of sampling products dispensed shall be retained by the licensee.
7. Sampling shall be limited to three ounces of beer or cooler-type products, one and one-half ounces of wine and one ounce of distilled spirits per person, per brand, per day.
8. The sampling shall be conducted only on the licensed premises.

K. If a beer and wine bar license and a beer and wine store license are issued at the same premises, for purposes of reporting liquor purchases under each license, all spirituous beverages purchased for sampling are conclusively presumed to be purchased under the beer and wine bar license and all spirituous liquor sold off-sale are conclusively presumed to be purchased under the beer and wine store license.

L. The director may issue a beer and wine store license to the holder of a bar license simultaneously at the same premises. An applicant for a beer and wine store license and a bar license may consolidate the application and may apply for both licenses at the same time. The holder of each license shall fully comply with all applicable provisions of this title. A beer and wine store license and a bar license on the same premises shall be owned by and issued to the same licensee. If a beer and wine store license and a bar license are issued at the same premises, for purposes of reporting liquor purchases under each license, all off-sale beer and wine sales are conclusively presumed to be purchased under the beer and wine store license.