

To-Go Law FAQs
A.R.S. § 4-203.07
Original Packaging

These Frequently Asked Questions are intended as helpful descriptions of HB2773 and are not intended as legal advice or to cover every possible scenario. Licensees and applicants should consult with legal counsel if they have questions specific to their business operations.

Can any license other than Restaurant (Series 12) lease the privilege to sell for off-premises consumption?

No, only Restaurant (Series 12) licenses may apply to lease the privilege to sell for off-premises consumption from Bars, Beer and Wine Bars, and Liquor Stores. No other license types were granted this privilege.

When can I apply for the privilege?

The Department is working diligently to ensure that it is prepared to accept applications to lease the privilege of selling for off-premises consumption on October 1, 2021.

I have a Restaurant license, what is the process to apply for approval to lease the privilege of selling for off-premises consumption?

To apply, Restaurant licensees must enter a lease with a Bar, Beer and Wine Bar, or Liquor Store licensee using the Department-prepared standard-form lease. *See* A.R.S. § 4-203.07(B)(4)(a). The Restaurant must include a copy of the signed lease with the application. *See* A.R.S. § 4-203.07(B)(2). After the Department approves the application, the Restaurant licensee must pay an annual lease payment (which may be prorated in the first year based on the Restaurant's annual renewal date) in full. *See* A.R.S. § 4-203.07(B)(5). Upon Department approval of the application and confirmation of the payment, the Restaurant licensee may begin selling for off-premises consumption and the Bar, Beer and Wine Bar, or Liquor Store that leased its privilege must cease selling for off-premises consumption.

I am a Restaurant, am I limited to entering a lease with a Bar, Beer and Wine Bar, or Liquor Store in my same county?

Yes. Under A.R.S. § 4-203.07(B)(10), both parties to the lease must be located in the same county.

I am a Bar, Beer and Wine Bar, or Liquor Store, can I opt out of leasing my privilege of selling for off-premises consumption?

Yes. Participation in leasing of privileges for off-premises consumption under A.R.S. § 4-203.07 is voluntary.

I am a Bar, Beer and Wine Bar, or Liquor Store, can I apply to lease my privilege to sell for off-premises consumption to a Restaurant?

No, Restaurants must submit the application to lease the privilege to sell for off-premises consumption. A.R.S. § 4-2-3.07(B)(2).

Where can I find the application form and standard-form lease agreement?

All of the Department's forms are located on the [Application Kits and Forms](#) section of its website.. The Department is in the process of finalizing the application forms and standard-form lease agreements.

Can I add additional provisions to the standard lease agreement prepared by the state?

The Department will only accept the standard lease form; no changes may be made to the forms.

Do I have to apply in person or can I apply online?

You may apply in person, via mail, or online through the Department's e-licensing system, which you can login to at <https://dllc.azliquor.gov/azdlprod/pub/Login.aspx>. If you do not already have a login please go to <https://azliquor.gov/ELicensing/ELicensingInfo.cfm>, to request your personal access code.

What will it cost to apply?

The initial application fee for Restaurants to apply for approval to lease a Bar, Beer and Wine Bar, or Liquor Store's privilege to sell for off-premises consumption is \$200. You can pay application fees with cash, checks, cashier checks, money orders, direct deposits, wire transfers, or credit cards in person, through the mail, or online through the department's e-licensing system at <https://dllc.azliquor.gov/azdlprod/pub/Login.aspx>. There is no Department fee for Bars, Beer and Wine Bars, and Liquor Stores that have entered the lease with the Restaurant.

What are the qualifications for approval of a lease of the privilege to sell for off-premises consumption?

Under A.R.S. § 4-203.07(B)(2), a Restaurant must submit a signed standard-form lease agreement with a Bar, Beer and Wine Bar, or Liquor Store located in the same county. The Department will review the lease to ensure compliance with A.R.S. § 4-203.07. Bars, Beer and Wine Bars, and Liquor stores must not be in a suspended, revoked, expired, or terminated at the commencement of any lease term, but may be inactive under A.R.S. § 4-203(G).

Does the Bar, Beer and Wine Bar, or Liquor Store have to keep its license active while I lease its privilege to sell for off-premises consumption?

No. Under A.R.S. § 4-203.07(A), Bar, Beer and Wine Bar, and Liquor Store licenses that are in non-use status may lease their privilege to sell for off-premises consumption and Restaurants may use the leased privilege even if the Bar, Beer and Wine Bar, or Liquor store license is not active. Please note, if a Liquor Store licensee activates its license during a pending lease term, it cannot resume sales for consumption off the licensed premises (other than mixed cocktails to-go) until the conclusion of the annual lease term.

How can I pay application fees and lease payments?

Application fees and lease payments are due at different times, and should be paid separately. You can pay application fees and lease payments with cash, checks, cashier checks, money orders, direct deposits, wire transfers, or credit cards in person, through the mail, or online through the department's e-licensing system at <https://dlla.azliquor.gov/azdlprod/pub/Login.aspx> The restaurant licensee pays the Department only the application fee when applying for a lease. The Department will transfer the lease payments to the appropriate Bar, Beer and Wine Bar, or Liquor Store.

Do I need to draft my own lease form?

No, the Department will provide a standard-form lease that will be available on the [Application Kits and Forms](#) section of the Department's website.

How much will it cost to lease a privilege to sell for off-premises consumption?

Under A.R.S. § 4-207.06(C), the Department will publish lease amounts that fairly recognizes, and is derived from, the commercial value of selling spirituous liquor for consumption off the premises for both urban counties (Maricopa and Pima) and rural counties (all others), but the parties may establish their own lease amount.

I am a Restaurant, when can I begin to sell for off-premises consumption?

Restaurants may not sell for off-premises consumption until the Department approves the application and has confirmed the payment of the annual lease amount. See A.R.S. § 4-

203.07(B)(2) and (B)(5). There is no interim permit for a Restaurant applying to lease the privilege to sell for off-premises consumption.

I am a Bar, Beer and Wine Bar, or Liquor Store, can I continue to sell for off-premises consumption after the Department approves a lease for a Restaurant to use my privilege to sell for off-premises consumption?

No. After the Department approves the lease and confirms payment in full of the annual lease amount, Bars, Beer and Wine Bars, and Liquor Stores must immediately cease the sale of alcohol for off-premises consumption, but Bars and Liquor Stores may continue to sell mixed-cocktails for off-premises consumption under A.R.S. § 4-203.06. *See* A.R.S. § 4-203.07(B)(8).

I am a Bar, Beer and Wine Bar, or Liquor Store, am I responsible if a Restaurant leasing my privilege to sell for off-premises consumption violates Title IV?

No. H.B. 2773 states “All violations and liability for liquor service under the lease shall be attributed only to the restaurant licensee” *See* A.R.S. § 4-203.07(B)(4)(h).

Do I need to renew my lease of the privilege to sell for off-premises consumption?

Yes, Restaurants must renew their lease each year by submitting the applicable renewal form to lease the privilege for off-premises consumption with the Restaurant annual renewal forms.

Restaurant licensees need to annually renew their lease with a Bar, Beer and Wine Bar, or Liquor Store licensee and submit the renewed lease agreement with their annual renewal application.

I am a Restaurant, do I have to sell food in conjunction with selling alcohol for off-premises consumption under a lease?

No, unlike with a mixed cocktails to-go lease, there is no requirement that Restaurant’s sell food in conjunction with selling alcohol for off-premises consumption under a lease.

Are there any limits on the amount of alcohol a Restaurant may sell for off-premises consumption under a lease?

Yes, the total sales price of alcohol sold for off-premises consumption (including mixed cocktails to-go where applicable) cannot exceed thirty percent (30%) of the total sales price of on-sale spirituous liquors by the licensee at the premises. *See* A.R.S. § 4-203.07(B)(9).

I have a restaurant license, do sales of alcohol for off-premises consumption change the requirement to derive at least 40% of my gross revenue from the sale of food.

No, “Gross Revenue” means the revenue derived from all sales of food and spirituous liquor on the licensed premises, regardless of whether the food or beverages are sold for consumption off the licensed premises. *See* A.R.S. § 4-205.02(J).

Does the privilege to sell alcohol for off-premises consumption under A.R.S. § 4-203.07 include the privilege to sell mixed cocktails to-go?

No, the privilege to sell mixed cocktails to-go under A.R.S. § 4-203.06 and the privilege to sell for off-premises consumption under A.R.S. § 4-203.07 are separate privileges. The privilege to sell for off-premises consumption includes only alcohol sold in its original, unbroken packaging.

I am a Restaurant and my business is within 300 feet of a church or public or private school under A.R.S. § 4-207, can I lease the privilege to sell for off-premises consumption?

Yes, the “300 foot rule” does not apply to Restaurant licensees. *See* A.R.S. § 4-207.

May I sell alcohol for off-premises consumption for carry-out, delivery, and drive-thru?

Yes, under Title IV, licensees with the privilege to sell for off-premises consumption may sell for carry-out, delivery, and drive-thru.

For delivery of alcohol sold for off-premises consumption under A.R.S. § 4-203.07, Bar, Beer and Wine Bar, and Restaurant licensees must comply with A.R.S. § 4-203(S) and (T) for the delivery of alcohol by a registered alcohol delivery driver. Liquor Store and Beer and Wine Store licensees may deliver alcohol under the A.R.S. § 4-203(J), as well as A.R.S. § 4-203(S), and (T).

Licensees may sell alcohol for off-premises consumption using a drive-thru window, subject to A.R.S. § 4-210(D) (which allows suspension of drive-thru privileges) and any applicable local regulations. Please note, HB2844 also eliminated A.R.S. § 4-244(32)(c)(iii), which had prohibited retailers from selling growlers using a drive-thru window.

I am a Restaurant, what happens if the Bar, Beer and Wine Bar, or Liquor Store that leased me the privilege to sell alcohol for off-premises consumption sells its license, does not renew or is revoked or suspended?

If a Bar, Beer and Wine Bar, or Liquor Store licensee sells its license, the new owner of the license becomes the new lessor under the lease of the privilege to sell for off-premises consumption. A.R.S. § 4-203.07(B)(4)(f). If a Bar, Beer and Wine Bar, or Liquor Store licensee does not renew, or is suspended or revoked, the Restaurant licensee may continue to sell for off-premises consumption until the conclusion of the pending annual term. *See* A.R.S. § 4-203.07(B)(4)(e). The Restaurant will then need to enter a new lease with a different Bar, Beer and Wine Bar, or Liquor Store and apply for new Department approval.

I am a Restaurant, may I transfer a lease of the privilege to sell for off-premises consumption to a person that acquires control of my business?

Yes, a Restaurant may transfer a lease of the privilege to sell for off-premises consumption to a person that acquires control of its business. A.R.S. § 4-203.07(B)(4)(d).

I am a Bar, Beer and Wine Bar, or Liquor Store that acquired a license or a business of a licensee that had leased its privilege to sell for off-premises consumption, can I cancel the lease or sell for off-premises consumption while the lease is pending?

No. A person that acquires control of a Bar, Beer and Wine Bar, or Liquor Store license may not cancel the lease with the Restaurant and may not resume selling for off-premises consumption until the conclusion of a pending annual lease term.