



ARIZONA STATE SENATE
Fifty-Fifth Legislature, First Regular Session

AMENDED

FACT SHEET FOR H.B. 2570

licenses; pandemics; revocation prohibition

Purpose

Specifies that statutory state of emergency and public health emergency powers do not allow a state agency, city, town or county to revoke a license held by a business or used to operate a business for a failure to comply with a Governor's order, unless certain conditions are met. Caps any civil penalty assessed by the Department of Liquor Licenses and Control (DLLC) at \$500 for any violation of an executive order issued pursuant to the March 11, 2020, state of emergency related to COVID-19 and requires DLLC to refund the payer of any civil penalty above \$500.

Background

The Governor may declare a state of emergency if the Governor finds that there exist conditions of disaster or extreme peril to the safety of persons or property within the state caused by air pollution, fire, flood, epidemic, riot, earthquake or other causes that are likely to be beyond the control of any single county or municipality ([A.R.S. § 26-301](#)).

During a state of emergency or state of war emergency in which there is an occurrence or imminent threat of an illness or health condition caused by bioterrorism, epidemic or pandemic disease or a highly fatal infectious agent or biological toxin that poses a substantial risk of a significant number of human fatalities (public health emergency) the Department of Health Services (DHS) must coordinate all matters pertaining to the state response. ([A.R.S. § 36-787](#)).

DLLC regulates the production, distribution and sale of alcoholic beverages. The Director of DLLC may suspend, revoke or refuse to renew a liquor license for certain violations and impose a civil penalty between \$200 and \$3,000 ([A.R.S. §§ 4-210](#) and [4-210.01](#)). All license, registration and other fees and all penalties collected by DLLC are deposited in the Liquor Licenses Fund. Monies in the Liquor Licenses Fund in excess of the annual legislative appropriation to DLLC must be deposited in the state General Fund ([A.R.S. § 4-115](#)).

H.B. 2570 requires DLLC to refund the payor of any civil penalty assessed above \$500 for a violation of an executive order related to COVID-19, which may have a fiscal impact to the state General Fund.

Provisions

1. Specifies that statutory state of emergency and public health emergency powers do not allow a state agency, city, town or county to permanently revoke any license held by a business or used to operate a business for a failure to comply with an order issued by the Governor related to the emergency, unless the state agency, city, town or county can demonstrate by clear and convincing evidence that the business caused the transmission of the disease that is the subject of the order due to the business's willful misconduct or gross negligence.

2. Caps, at \$500, any civil penalty assessed or collected by DLLC for a violation of an executive order issued pursuant to the March 11, 2020, state of emergency related to COVID-19.
3. Requires DLLC to refund the payor of any amount collected above \$500 for a violation of an executive order issued pursuant to the March 11, 2020, state of emergency within 10 business days of the general effective date.
4. Requires a state agency, city, town or county, before suspending or permanently revoking a license held by a business or used to operate a business, to provide the business with:
 - a) a written notice of noncompliance delivered by personal service or certified mail; and
 - b) a written notice of intent to suspend or permanently revoke the license at least 30 days after the date the notice of noncompliance is delivered.
5. Requires a state agency, city, town or county to present any new evidence of grounds for suspension or revocation in the written notice of intent to suspend or permanently revoke a license.
6. Requires a business that disputes a claim in a written notice of intent to suspend or permanently revoke a license to respond to the state agency, city, town or county within 20 days of receipt.
7. Requires any dispute relating to the suspension or permanent revocation of a license held by a business or used to operate a business during a public health emergency to be resolved by a court of competent jurisdiction.
8. Prohibits a license held by a business or used to operate a business from being suspended or permanently revoked by a state agency, city, town or county until the business has received required written notice and all appeals have been exhausted.
9. Allows a court to award reasonable attorney fees and damages to a business in an action relating to the suspension or permanent revocation of a license held by a business or used to operate a business.
10. Makes technical changes.
11. Becomes effective on the general effective date.

Amendments Adopted by Committee

1. Caps, at \$500, any civil penalty assessed or collected by DLLC for a violation of an executive order issued pursuant to the March 11, 2020, state of emergency related to COVID-19.
2. Requires DLLC to refund the payor of any amount collected above \$500 for a violation of an executive order issued pursuant to the March 11, 2020, state of emergency within 10 business days of the general effective date.
3. Requires a state agency, city, town or county to demonstrate by clear and convincing evidence that a business knowingly and through gross negligence caused the transmission of a disease, rather than was the actual cause of transmission, in order to permanently revoke a license required to operate a business for a failure to comply with an order issued by the Governor related to public health emergency.
4. Requires a state agency, city, town or county, before suspending or permanently revoking a license that is required to operate a business, to provide the business with a written notice of noncompliance and a written notice of intent to suspend or permanently revoke the license.

5. Requires a state agency, city, town or county to present any new evidence of grounds for suspension or revocation in the written notice of intent to suspend or permanently revoke a license.
6. Requires a business that disputes a claim in a written notice of intent to suspend or permanently revoke a license to respond to the state agency, city, town or county within 20 days of receipt.
7. Requires any dispute relating to the suspension or permanent revocation of a license that is required to operate a business during a public health emergency to be resolved by a court of competent jurisdiction.
8. Prohibits a license required to operate a business from being suspended or permanently revoked by a state agency, city, town or county until the business has received required written notice and all appeals have been exhausted.
9. Allows a court to award reasonable attorney fees and damages to a business in an action relating to the suspension or permanent revocation of a license required to operate a business.
10. Makes technical and conforming changes.

Amendments Adopted by Committee of the Whole

1. Requires a state agency, city, town or county to demonstrate by clear and convincing evidence that a business caused the transmission of a disease due to the business’s willful misconduct or gross negligence, rather than knowingly and through gross negligence, in order for the governmental entity to permanently revoke a license held by a business or used to operate a business for a failure to comply with an order issued by the Governor.
2. Prohibits a state agency, city, town or county from suspending or revoking a license held by a business or used to operate a business, rather than a license required to operate a business, unless certain requirements are met.
3. Makes technical and conforming changes.

House Action

Senate Action

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|-----------------------|---------|----|---------|-----|---------|-----|-------|
| GE | 2/18/21 | DP | 7-6-0-0 | GOV | 3/22/21 | DPA | 4-3-1 |
| 3 rd Read | 3/04/21 | | 28-32-0 | | | | |
| 3 rd Read* | 3/15/21 | | 31-29-0 | | | | |

**on reconsideration*

Prepared by Senate Research
 April 14, 2021
 MH/gs