



# Arizona Restaurant Association

## 2021 LEGISLATIVE SUMMARY

*Your Guide to New Industry Related Laws*



ARA Government Affairs Committee

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## Your Guide to New Industry Related Laws

The Arizona Restaurant Association (ARA) monitors and engages legislation each year during the Arizona Legislative Session. During the 2021 Legislative Session 1,774 bills were introduced and 446 were signed into law, marking one of the highest number of bills introduced and signed. One of the reasons for such a high bill count was ending the 2020 session early because of the pandemic. This led to many of those bills to be reintroduced early on during the 2021 session and added significantly to the bill count. Of the 1,774 bills introduced, the ARA tracked nearly 1,000 bills with some sort of relation to the restaurant industry and actively engaged on 25. Throughout this process, the ARA Board of Directors' Government Affairs Committee (GAC) was instrumental in helping to identify harmful and helpful legislation for the ARA staff to engage.

When legislation that will impact the restaurant industry is identified, the ARA Government Affairs team meets with the GAC to analyze the bill and to determine what level of involvement is needed by the association. From those determinations, ARA staff will engage with lawmakers, staff, and other stakeholder groups to develop an effective strategy. ARA staff and members will also engage a bill or issue by testifying in front of numerous legislative committees.

In this document, you will find summaries of all ARA supported and opposed legislation along with their outcomes. We have also provided you summaries of bills that have passed and could have an impact on the restaurant industry, but the ARA did not take a formal position on. The title of each of the bills links directly to the final bill language.

All laws outlined in this document have a general effective date (when they become enforceable) of September 29, 2021 unless otherwise stated.



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Information contained in this document is derived from the Arizona Capitol Reports, Arizona House of Representatives Summaries, and Arizona Senate Fact Sheets.



## 2021 KEY LEGISLATION

Legislation proposed or supported by the Arizona Restaurant Association.

### [SB 1167/ HB 2335 unlawful food or drink contamination](#) (*Shope/Pratt*)

Clarifies that it is a criminal act to intentionally introduce, add or mingle any bodily fluid or foreign object not intended for human consumption with any water, food, drink, or other product intended for consumption by a human being. Violation of this law is a class 2 misdemeanor (mid-level). It becomes a class 1 misdemeanor (highest) if any of the following occur:

- A human being consumes the contaminated food or drink, or
- The damaged caused by the contamination is at least \$1,000.

**Outcome:** *Signed by the Governor*

**Why it matters:** Previously, restaurants had seen instances when a person or group of people purposefully contaminate food in a restaurant (spitting in an ice bucket for example) and post their actions online, causing significant reputational damage to the business. The only recourse for restaurants was to trespass these individuals. This law clarifies that it is a crime and law enforcement will be able to take action.

### [HB 2773 spirituous liquor; delivery; off-sale permits](#) (*Weninger*)

Creates a regulatory structure to allow for the sale and delivery of “mixed cocktails” (defined) from restaurants (series 12) with a permit, bars (series 6) and liquor stores (series 9); and for the sale and delivery of beer, wine, and spirits from restaurants (series 12) with a lease. Creates a four-year transition period during which a restaurant (series 12) wishing to sell mixed cocktails for off premises consumption will pay an additional fee. Beginning January 1, 2026, the additional fee will be eliminated. Creates a structure to allow for third-party delivery services to pick up and deliver alcoholic beverages from a restaurant, bar, beer and wine bar, or liquor store.

**Please note:** because of the complicated nature of HB 2773 and the ongoing implementation efforts, the ARA has put together another summary document focusing just on this bill.

Please find the latest version here: <https://azrestaurant.org/alcohol/>

**Outcome:** *Signed by the Governor*

**Why it matters:** After the success of the to-go alcohol during the depths of the pandemic, it became a priority for the industry to secure access to this important tool. HB 2773, opens the door for restaurants and bars to develop, market, and sell to-go cocktails.

### [SB 1377 civil liability; public health pandemic](#) (*Leach*)

During a state of emergency for a public health pandemic, a person that acts in good faith to protect a person or the public from injury from the pandemic is not liable for damages in any civil action for any injury, death or loss to person or property that is based on a claim that the



person or provider failed to protect the person or the public from the effects of the pandemic, unless it is proven by clear and convincing evidence that the person or provider failed to act or acted with willful misconduct or gross negligence. A person is presumed to have acted in good faith if the person adopted and implemented reasonable policies related to the pandemic.

Does not apply to workers' compensation claims. Retroactive to March 11, 2020.

***Outcome: Signed by the Governor***

***Why it matters:*** During the COVID-19 pandemic, restaurants relied upon government and industry guidance to keep their customers and staff safe. With SB 1377, business that were acting in good faith are protected from civil liability.

**HCR 2001 initiatives; single subject; title** (Kavanagh)

Asks the voters to amend the Arizona Constitution to require every voter initiative measure to cover only one subject.

***Outcome: Will appear on the 2022 general election ballot***

***Why it matters:*** Over the past decade, restaurants have been negatively impacted by voter initiatives that cover more than one subject area. By requiring these initiatives to cover just a single subject, voters will no longer be put in the position of voting for a bad policy solely because it is attached to something else they like.



## GENERAL BUSINESS OPERATIONS

This section contains bills that may have an impact on your general business operations.

### **[HB 2770 mask mandates; business exception](#)** (Chaplik)

A business in Arizona is not required to enforce on its premises a mask mandate that is established by the state, a city, town or county or any other jurisdiction of this state.

### **[HB 2773 spirituous liquor; delivery; off-sale permits](#)** (Weninger)

Creates a regulatory structure to allow for the sale and delivery of “mixed cocktails” (defined) from restaurants (series 12) with a permit, bars (series 6) and liquor stores (series 9); and for the sale and delivery of beer, wine, and spirits from restaurants (series 12) with a lease. Creates a four-year transition period during which a restaurant (series 12) wishing to sell mixed cocktails for off premises consumption will pay an additional fee. Beginning January 1, 2026, the additional fee will be eliminated. Creates a structure to allow for third-party delivery services to pick up and deliver alcoholic beverages from a restaurant, bar, beer and wine bar, or liquor store.

**Please note:** because of the complicated nature of HB 2773 and the ongoing implementation efforts, the ARA has put together another summary document focusing just on this bill.

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### **[HB 2813 autonomous vehicles](#)** (Weninger)

Codifies regulations for autonomous vehicles. Clarifies that fully autonomous vehicles with or without a human driver are subject to all applicable state and federal laws. A fully autonomous vehicle is authorized to operate on public roads without a human driver if the owner, or owner’s representatives submits a law enforcement interaction plan to the Arizona Department of Transportation (ADOT) and the Department of Public Safety (DPS) that is consistent with and addresses all of the elements in the [law enforcement protocol that was issued by DPS in 2018](#), and a written statement to ADOT acknowledging that a list of specified requirements for the equipment and functioning of the fully autonomous vehicle are met. When engaged, the automated driving system is considered the driver or operator of the autonomous vehicle for the purpose of assessing compliance with applicable traffic or motor vehicle laws. DPS is required to maintain a law enforcement protocol for fully autonomous vehicles, and provisions that must be included in the protocol are specified.

Establishes requirements for a fully autonomous vehicle operating without a human driver that is involved in an accident resulting in damage to a vehicle, or injury or death. Fully autonomous vehicles that are incapable of operation by a human driver are exempt from various vehicle equipment requirements.

### **[SB 1167/ HB 2335 unlawful food or drink contamination](#)** (Shope/Pratt)

Clarifies that it is a criminal act to intentionally introduce, add or mingle any bodily fluid or foreign object not intended for human consumption with any water, food, drink, or other product intended for consumption by a human being. Violation of this law is a class 2



misdemeanor (mid-level). It becomes a class 1 misdemeanor (highest) if any of the following occur:

- A human being consumes the contaminated food or drink, or
- The damaged caused by the contamination is at least \$1,000.

**SB 1230 limited liability companies** (*Pace*)

Updates and modifies the requirements and processes for member dissociation and operating agreements for LLCs.

**SB 1377 civil liability; public health pandemic** (*Leach*)

During a state of emergency for a public health pandemic, a person that acts in good faith to protect a person or the public from injury from the pandemic is not liable for damages in any civil action for any injury, death or loss to person or property that is based on a claim that the person or provider failed to protect the person or the public from the effects of the pandemic, unless it is proven by clear and convincing evidence that the person or provider failed to act or acted with willful misconduct or gross negligence. A person is presumed to have acted in good faith if the person adopted and implemented reasonable policies related to the pandemic.

Does not apply to workers' compensation claims. Retroactive to March 11, 2020.



## TAXATION

This section contains laws that may impact your tax bill or the way you file your taxes.

### [HB 2153 renewable energy storage equipment; valuation](#) (Dunn)

For property tax purposes, the 20 percent of depreciated cost for reduced valuation of renewable energy equipment now applies to renewable "energy storage" (defined) equipment. Any energy storage equipment, either located with the renewable energy source or any stand-alone energy storage equipment, qualifies for the valuation

### [HB 2838 income tax; partnerships; S corporations](#) (Chaplik)

Creates an entity-level income tax for partnerships and S corporations to allow them to deduct state income taxes at the federal level.

- Allows for partnerships, LLCs, and S corporations to opt into a 4.5 percent entity-level tax based on their taxable income.
- Requires partnerships and S corporations electing to pay the entity-level income tax and whose taxable income exceeds \$150,000, to make estimated tax payments.
- Creates tax credits for individuals for substantially similar individual income taxes paid to other states for income received from a pass-through entity and for taxes paid at the entity-level.

### [SB 1783 small businesses; alternate income tax](#) (Mesnard)

Phases in an "Arizona small business" (defined) income tax of 4.5 percent by TY 2025. For tax years beginning with 2021, a small business taxpayer is allowed to elect to file a return for the tax year with the Department of Revenue to report that small business taxpayer's share of Arizona small business gross income. Modifies the tax rates for the income of estates or any kind of property held in trust for tax years beginning with 2021. Defines "small business taxpayer" as any individual taxpayer who reports income that constitutes small business gross income on the taxpayer's federal income tax return. Makes other various changes to credits and estimated tax payments.

### [SB 1828 omnibus; taxation](#) (Mesnard) &

### [SB 1827 revenue; budget reconciliation; 2021-2022](#) (Fann)<sup>1</sup>

Makes numerous changes to the tax code and unemployment benefits. This section only covers select tax related provisions. Please see the "labor" section for a discussion of changes to the unemployment insurance program.

#### Selected SB 1828 provisions

- Reduces the assessment ratio for class 1 property from 19 percent to 16 percent over four years.

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<sup>1</sup> Both SB 1828 and SB 1827 are the subject of a voter referral. If petitioners gain 118,823 valid signatures by September 28, 2021, the relevant sections of these bills will be placed on hold until after the 2022 general election.





- Makes adjustments to individual income tax brackets<sup>2</sup>:
  - In TY 2022:
    - 2.55% for individuals with taxable income less than or equal to \$27,272.
    - 2.98% for individuals with taxable income greater than \$27,272
  - For TY 2023 and beyond, if State revenues are between \$12.783 billion and \$12.976 billion:
    - 2.53% for individuals with taxable income less than or equal to \$27,272.
    - 2.75% for individual with taxable income greater than \$27,272.
  - For Ty 2023 and beyond, if State revenues are greater than \$12.976 billion, a flat 2.5% rate for all tax brackets.

Selected SB 1827 provisions

- Implements a top income tax rate of 4.5% (including the 3.5% education surcharge) by reducing the State income tax rate to 1%.

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<sup>2</sup> Please note that the tax brackets here do not reflect the 3.5% education surcharge applied to individual with taxable income above \$250,000.



## LABOR

This section contains changes to Arizona labor laws

### [HB 2045 civil rights; amendments](#) (Weninger)

Makes various changes to civil rights statutes governing unlawful discrimination in employment to align with federal statutes.

- Expands the definition of “because of sex” to include “because of, or on the basis of pregnancy or childbirth or related medical conditions.”
- Employers may not treat women who are affected by pregnancy, childbirth, or related medical conditions differently than those other employees that are not affected and are similar in their ability or inability to work.
- Employers may not differentiate wages or compensation for women who are affected by pregnancy, childbirth, or related medical conditions.

### [HB 2160 occupational safety; advisory committee; enforcement](#) (Kaiser)

Allows the Occupational Safety and Health Director to excuse any late notification to contest a citation by the division if the employer shows by clear and convincing evidence that the notice was not received.

### [SB 1042 workers’ compensation; setting; definition](#) (Livingston)

Current laws require the Industrial Commission to set a schedule of fees that may be charged for prescription medication used to treat an injured employee. The commission must follow certain rules when setting these fees. The commission may add additional reimbursement requirements for medication dispensed “in settings that are not accessible to the general public. SB 1042 states that mail order pharmacies do to fall under the “settings that are not accessible to the general public” category provided all the following applies:

- The mail order pharmacy does not limit or restrict access to claimants with an affiliation to a medical provider or other entity; and
- Any medical provider or other entity referring the claimant to the mail order pharmacy does not receive or accept any rebate, refund, commission, preference, or other consideration as compensation for the referral.

### [SB 1268 labor organizations; fiduciary guidelines; disclosure](#) (Petersen)

Requires labor organizations for follow fiduciary guidelines for all benefit monies and union dues.

- Requires labor organizations to make certain annual disclosures to its members and members’ employers.
- Requires any union benefit plan to use generally accepted accounting principles (GAAP).
- Labor organizations must permit a member to obtain certain benefits (such as health coverage and pensions) from a provider other than the labor organization.
- Requires any fringe benefit contributions received by the union in excess of the costs incurred to be either refunded to the employee or deposited into a defined contribution plan.



- Prohibits a union from accepting dues or benefit contributions for employees that have not voluntarily joined the union.
- Prohibits an individual from being considered as a member of the labor organization or have any dues or benefits withheld without affirmative written consent.
- Prevents an employee or employer from paying any penalty or fee related to abstention or resignation from a labor organization.

### SB 1828 omnibus; taxation (*Mesnard*)

Makes numerous changes to the tax code and unemployment benefits. This section only covers unemployment provisions. Please see the “Taxation” section for a discussion of changes to Arizona tax laws.

- Increases taxable wage base, for unemployment insurance tax purposes, from \$7,000 to \$8,000 in CY 2023.
- Increases the maximum weekly unemployment benefit amount from \$240 to \$320, beginning July 1, 2022.
- Increases the income disregard (the amount an individual may earn without reducing their unemployment benefit) from \$30 to \$160 per week.
- Decreases the maximum duration of unemployment eligibility from 26 weeks to 24 weeks if the unemployment rate drops below 5%.
- Requires an annual report be prepared by the Department of Economic Security detailing unemployment insurance fraud.



## LIQUOR REGULATIONS

This section contains laws that impact liquor laws and regulations.

### [HB 2050 liquor omnibus](#) (*Weninger*)

Makes various changes to statutes relating to liquor licenses and liquor regulations. The following are a selection of provisions with the greatest nexus to the restaurant industry:

- Requires the director of the Department of Liquor Licenses and Control reverse a license reversion if a request for reversion relief is filed no later than two years after the reversion. This only applies if the reverted license has not been reissued.
- Increases the production cap a craft distiller may produce in a year for sale and delivery to a retailer from 1,189 gallons to 3,566 gallons.
- Allows a retailer to order, purchase, and receive a spiritous liquor from a craft distiller that produces less than the allowable amount (see above)
- Requires a person under 21 to be accompanied by a spouse, parent, grandparent, or legal guardian in order to remain on a joint premises.
- For on-sale retailers, the amount of beer that may be provided to a customer as a sample is increased from 12 ounces to 16 ounces.
- States that an on-sale retail licensee (includes restaurants and bar) is not in violation of the service and pouring laws for bottle service if the licensee installs a functioning locking device or removes the bottle and lock from bottle service when a customer tampers with the locking device.

### [HB 2305 spirituous liquor; alternating proprietorships](#) (*Weninger*)

The director of the Department of Liquor Licenses and control may approve two or more spirituous liquor producer, craft distiller or microbrewery licenses at one location under an alternating proprietorship, provided:

- The licensed producer, craft distiller, or microbrewery has received alternating proprietorship approval from the U.S. Alcohol and Tobacco Tax and Trade Bureau; and
- The participating producers, craft distillers, and microbreweries operate under the U.S. Alcohol and Tobacco Tax and Trade Bureau regulations and guidelines.

### [HB 2753 liquor licensees; records; food safety](#) (*Hernandez, A.*)

Makes several changes to record requirements and safety standards for federally regulated producers.

- Liquor licensees who file information with the U.S. Alcohol and Tobacco Tax and Trade Bureau are exempted from state level record requirements for those documents filed at the federal level.
- Craft distillers, farm wineries and breweries are subjected to federal food and safety rules for their production and storage spaces. This does not apply to any area used to serve customers.



**[HB 2773 spirituous liquor; delivery; off-sale permits](#)** (Weninger)

Creates a regulatory structure to allow for the sale and delivery of “mixed cocktails” (defined) from restaurants (series 12) with a permit, bars (series 6) and liquor stores (series 9); and for the sale and delivery of beer, wine, and spirits from restaurants (series 12) with a lease. Creates a four-year transition period during which a restaurant (series 12) wishing to sell mixed cocktails for off premises consumption will pay an additional fee. Beginning January 1, 2026, the additional fee will be eliminated. Creates a structure to allow for third-party delivery services to pick up and deliver alcoholic beverages from a restaurant, bar, beer and wine bar, or liquor store.

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**[HB 2844 wineries; microbreweries; distilled spirits](#)** (Weninger)

Makes modifications for beer and other spirituous liquors under health rules and dispensing laws.

- Allows restaurants with growler permits, bars, beer and wine bars, liquor stores, and microbreweries to sell growlers through a drive-through or walk-up window.
- Exempts from State food code, production and processing areas of producers.

**[SB 1257 state liquor board; membership](#)** (Mesnard)

Requires one of the five non-industry board members to be a current or former elected municipal official.



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