



STATE OF ARIZONA
DEPARTMENT OF LIQUOR LICENSES AND CONTROL

Douglas A. Ducey
GOVERNOR

John Cocca
DIRECTOR

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On June 29, 2020, Governor Ducey issued Executive Order 2020-43, which required bar (series 6) and beer and wine bar (series 7) licenses to pause operations effective June 29, 2020 at 8:00 p.m. A copy of the Order is available at https://azgovernor.gov/sites/default/files/eo_2020-43.pdf. The Order states that series 6 or series 7 liquor licensed businesses “whose primary business is the sale or dispensing of alcoholic beverages” must halt normal operations. Series 6 and 7 license types are provided an opportunity to maintain to-go services to the public based on provisions for restaurants (series 12s) under Executive Order 2020-09.

This document provides guidance to the industry regarding these requirements.

Executive Order 2020-43 Only Closes Series 6 and 7 License Types

The temporary pause of operations applies only to bar (series 6) and beer and wine bar (series 7) license types. If you do not hold one of these two license types, the Order does not pertain to you. You remain obligated, however, to comply with [Executive Order 2020-40](#), which requires adherence to ADHS guidelines:

- [Requirements for Businesses](#)
- [Requirements for Restaurants and Bars](#)

Combined (or “stacked”) Series 6 or 7 Licenses May Operate Under Cover of the Other License Types Provided Their Primary Purpose Is Not the Sale of Alcohol

Holders of stacked licenses related to their series 6 and series 7 licenses may continue to operate under one’s other license types in compliance with Executive Order 2020-40 and associated ADHS requirements, *if* their primary purpose is not the sale of alcohol. For example, a series 7 beer and wine bar license that obtained a series 12 restaurant license at the same location, and continues to meet the definition of or otherwise operate as a restaurant, may determine that its primary purpose is not the sale of alcohol and continue to operate. The same would be true of a series 6 license stacked with a series 3 in-state microbrewery license. Note, a series 6 license and a series 12 license never stack. A list of allowable stacked license by law can be found [here](#).

- [Executive Order 2020-40](#)
- [ADHS Requirements for Businesses](#)

800 WEST WASHINGTON, 5th FLOOR PHOENIX, ARIZONA 85007-2934 PHONE (602) 542-5141 FAX (602) 542-5707

WWW.AZLIQUOR.GOV

Individuals requiring special accommodations please call (602)542-9027

- [ADHS Requirements for Restaurants and Bars](#)

Closed Series 6 and Series 7 Licenses May Sell To-Go, Carry-Out, and Delivery

Series 6 and series 7 licenses whose primary purpose is the sale of alcohol must pause operations. This means that, just as was the case under Executive Order 2020-09, licensees must not allow access to the public but may offer food and beverages via to-go and carry-out services.

Licensees may continue to use existing delivery privileges or any enhanced delivery privileges under [Executive Order 2020-09](#) and past [Department guidance](#).

It is Your Responsibility to Determine if Your Business's Primary Purpose is the Sale of Alcohol

The Department cannot provide guidance to its thousands of licensees regarding the nature of their businesses. Each licensee unsure of requirements are encouraged to consult with their own legal counsel regarding compliance with [Executive Order 2020-43](#). To assist with that independent determination, the Department offers the following guidance:

- **Certain businesses primary purpose is clearly *not* the sale of alcohol.** For example, golf courses, resorts, salons, and barbershops may have little trouble determining that they meet the “primary purpose” test. A bar and grill, on the other hand, will have a difficult time meeting the test.
- **The Department will consider the nature of the establishment's operations *before* Executive Order 2020-40 or June 29, 2020.** For example, a nightclub cannot rely on *plans* to operate differently than it has historically operated, nor can it begin to focus on to-go food sales and create a different primary purpose during the Executive Order's term.
- **Licensees may wish to consider how their historical operation compares to existing State and County regulations.** [A.R.S. § 4-205.02\(J\)](#) and [A.R.S. § 4-213\(E\)\(1\) through \(E\)\(5\)](#) provide the definition of a “restaurant” and factors to consider in determining if a business is a bona fide restaurant. [A.A.C R19-1-206](#) is the Department's rule that provides criteria for determining whether to issue a restaurant license. Maricopa County Environmental Services also publishes guidance for *Minimum Requirements for Establishments* serving food, which is available at <https://www.maricopa.gov/DocumentCenter/View/5797/Minimum-Requirements-PDF>.
- **Merely providing dine-in services in connection with the sale of alcohol is not, by itself sufficient.** Providing services other than the sale of alcohol must be a substantial and consistent focus of the licensee's business.

The Department Will Exercise its Power to Summarily Suspend Licenses that Violate Executive Order 2020-43

Licensees must exercise extreme caution in determining that they are authorized to open to the public because their primary purpose is not the sale of alcohol. The Department will immediately summarily suspend noncompliant licenses to protect the public health and safety. The Department may additionally pursue remedies such as civil penalties, long-term suspensions, revocations, and training under A.R.S. §§ 4-210 and -210.01. The appropriate resolution of any alleged violation will be a case-by-case determination depending on aggravating or mitigating factors.

Summary suspension is a temporary remedy. Given the volume of licensees that the Order impacts, the Department cannot for each alleged violation engage in lengthy dialogue before taking action. The Department will inform licensees of the basis of its decision and provide all applicable opportunities for prompt hearings before an independent hearing officer, with the opportunity for judicial review under existing law. It will also attempt, whenever possible, to resolve disputes amicably. If the Department determines that a licensee has become compliant voluntarily, it may lift the summary suspension.

Executive Order 2020-40 Remains In Effect

All licensees of any type must comply with Executive Order 2020-40, which required that licensees comply with ADHS and CDC guidelines for mitigating the threat of COVID-19 transmission for businesses. This includes ADHS business and restaurant guidance as it is applicable to portions of Executive Order 2020-09. Licensees who fail to adhere to the guidelines are subject to criminal penalties under A.R.S. § 26-317 and civil penalties to include fines, suspension, revocation, and where necessary, summary suspension pending a hearing.

- [Executive Order 2020-40](#)
- [ADHS Requirements for Businesses](#)
- [ADHS Requirements for Restaurants and Bars](#)

Delivery Authorizations of Executive Order 2020-09 Remain In Effect

As noted in Executive Order 2020-43, licensees may continue to use enhanced delivery privileges provided under [Executive Order 2020-09](#) and the [Department's related published guidance](#).

Licensees operating here must also comply with Executive Order 2020-40, and applicable ADHS requirements as would be applicable to their business operations.

- [Executive Order 2020-40](#)
- [ADHS Requirements for Businesses](#)
- [ADHS Requirements for Restaurants and Bars](#)

All Published Department Guidance Documents are Available on its Website [Here](#) and the [DLLC COVID-19 Info Section](#)



John Cocca
Director