

REFERENCE TITLE: tobacco products; schools; business premises

State of Arizona
House of Representatives
Fifty-first Legislature
Second Regular Session
2014

HB 2641

Introduced by
Representative Townsend

AN ACT

AMENDING SECTIONS 13-3622 AND 36-798.03, ARIZONA REVISED STATUTES; AMENDING TITLE 44, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 36; RELATING TO ELECTRONIC CIGARETTES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-3622, Arizona Revised Statutes, is amended to
3 read:

4 13-3622. Furnishing of tobacco product, tobacco or shisha
5 instruments or paraphernalia to minor; minor
6 accepting or receiving tobacco product, tobacco or
7 shisha instruments or paraphernalia; illegally
8 obtaining tobacco product, tobacco or shisha
9 instruments or paraphernalia by underage person;
10 classification; definitions

11 A. A person who knowingly sells, gives or furnishes a tobacco
12 product, ~~a vapor product~~ or any instrument or paraphernalia that is solely
13 designed for the smoking or ingestion of tobacco or shisha, including a
14 hookah or waterpipe, to a minor is guilty of a ~~petty offense~~ CLASS 2
15 MISDEMEANOR.

16 B. A minor who buys, or has in his possession or knowingly accepts or
17 receives from any person, a tobacco product, ~~a vapor product~~ or any
18 instrument or paraphernalia that is solely designed for the smoking or
19 ingestion of tobacco or shisha, including a hookah or waterpipe, is guilty of
20 a petty offense, and if the offense involves any instrument or paraphernalia
21 that is solely designed for the smoking or ingestion of tobacco or shisha,
22 shall pay a fine of not less than one hundred dollars or perform not less
23 than thirty hours of community restitution.

24 C. A minor who misrepresents the minor's age to any person by means
25 of a written instrument of identification with the intent to induce the
26 person to sell, give or furnish a tobacco product, ~~a vapor product~~ or any
27 instrument or paraphernalia that is solely designed for the smoking or
28 ingestion of tobacco or shisha, including a hookah or waterpipe, in violation
29 of subsection A or B of this section is guilty of a petty offense and,
30 notwithstanding section 13-802, shall pay a fine of not more than five
31 hundred dollars.

32 D. This section does not apply to any of the following:

33 1. Cigars, cigarettes or cigarette papers, smoking or chewing tobacco
34 or any instrument or paraphernalia that is solely designed for the smoking or
35 ingestion of tobacco or shisha, including a hookah or waterpipe, if it is
36 used or intended to be used in connection with a bona fide practice of a
37 religious belief and as an integral part of a religious or ceremonial
38 exercise.

39 2. Any instrument or paraphernalia that is solely designed for the
40 smoking or ingestion of tobacco or shisha, including a hookah or waterpipe,
41 that is given to or possessed by a minor if the instrument or paraphernalia
42 was a gift or souvenir and is not used or intended to be used by the minor to
43 smoke or ingest tobacco or shisha.

1 E. For the purposes of this section:
2 1. "ELECTRONIC SMOKING DEVICE" MEANS ANY PRODUCT THAT CONTAINS OR
3 DELIVERS NICOTINE OR ANY OTHER SIMILAR SUBSTANCE INTENDED FOR HUMAN
4 CONSUMPTION AND THAT CAN BE USED BY A PERSON TO SIMULATE SMOKING THROUGH
5 INHALATION OF VAPOR OR AEROSOL FROM THE PRODUCT AND INCLUDES ANY COMPONENT
6 PART OF THE PRODUCT WHETHER OR NOT SOLD SEPARATELY.
7 1. "Shisha" includes any mixture of tobacco leaf and honey, molasses
8 or dried fruit or any other sweetener.
9 2. "Tobacco product" means any ~~of the following:~~
10 ~~(a) Cigars.~~
11 ~~(b) Cigarettes.~~
12 ~~(c) Cigarette papers of any kind.~~
13 ~~(d) Smoking tobacco of any kind.~~
14 ~~(e) Chewing tobacco of any kind.~~ PRODUCT THAT IS MADE FROM OR DERIVED
15 FROM TOBACCO OR CONTAINS NICOTINE OR A SIMILAR SUBSTANCE AND THAT IS INTENDED
16 FOR HUMAN CONSUMPTION OR IS LIKELY TO BE CONSUMED, WHETHER SMOKED, HEATED,
17 CHEWED, ABSORBED, DISSOLVED, INHALED OR INGESTED BY ANY OTHER MEANS AND
18 INCLUDES A CIGARETTE, A CIGAR, ANY PIPE TOBACCO, A CHEWING TOBACCO, SNUFF OR
19 SNUF OR AN ELECTRONIC SMOKING DEVICE. TOBACCO PRODUCT DOES NOT INCLUDE A
20 PRODUCT THAT IS SPECIFICALLY APPROVED BY THE UNITED STATES FOOD AND DRUG
21 ADMINISTRATION FOR SALE AS A TOBACCO CESSATION PRODUCT AND THAT IS MARKETED
22 AND SOLD SOLELY FOR THE APPROVED PURPOSE.
23 ~~3. "Vapor product" means a noncombustible tobacco-derived product~~
24 ~~containing nicotine that employs a mechanical heating element, battery or~~
25 ~~circuit, regardless of shape or size, that can be used to heat a liquid~~
26 ~~nicotine solution contained in cartridges. Vapor product does not include~~
27 ~~any product that is regulated by the United States food and drug~~
28 ~~administration under chapter V of the federal food, drug and cosmetic act.~~
29 Sec. 2. Section 36-798.03, Arizona Revised Statutes, is amended to
30 read:
31 36-798.03. Tobacco products and electronic smoking devices
32 prohibition at schools and school-related areas;
33 exception; violation; classification; definitions
34 A. Tobacco products AND ELECTRONIC SMOKING DEVICES are prohibited on
35 school grounds, inside school buildings, in school parking lots or playing
36 fields, in school buses or vehicles or at off-campus school sponsored events.
37 ~~For purposes of this subsection, "school" means any public, charter or~~
38 ~~private school where children attend classes in kindergarten programs or~~
39 ~~grades one through twelve.~~
40 B. Subsection A of this section does not apply to an adult who employs
41 tobacco products OR ELECTRONIC SMOKING DEVICES as a necessary component of a
42 school sanctioned tobacco prevention or cessation program established
43 pursuant to section 15-712.
44 C. A person who violates this section is guilty of a petty offense.
45 D. FOR THE PURPOSES OF THIS SECTION:

1 1. "ELECTRONIC SMOKING DEVICE" MEANS ANY PRODUCT THAT CONTAINS OR
 2 DELIVERS NICOTINE OR ANY OTHER SIMILAR SUBSTANCE INTENDED FOR HUMAN
 3 CONSUMPTION AND THAT CAN BE USED BY A PERSON TO SIMULATE SMOKING THROUGH
 4 INHALATION OF VAPOR OR AEROSOL FROM THE PRODUCT AND INCLUDES ANY COMPONENT
 5 PART OF THE PRODUCT WHETHER OR NOT SOLD SEPARATELY. ELECTRONIC SMOKING
 6 DEVICE DOES NOT INCLUDE A PRODUCT THAT IS SPECIFICALLY APPROVED BY THE UNITED
 7 STATES FOOD AND DRUG ADMINISTRATION FOR SALE AS A TOBACCO CESSATION PRODUCT
 8 AND THAT IS MARKETED AND SOLD SOLELY FOR THE APPROVED PURPOSE.

9 2. "SCHOOL" MEANS ANY PUBLIC, CHARTER OR PRIVATE SCHOOL WHERE CHILDREN
 10 ATTEND CLASSES IN KINDERGARTEN PROGRAMS OR GRADES ONE THROUGH TWELVE.

11 Sec. 3. Title 44, Arizona Revised Statutes, is amended by adding
 12 chapter 36, to read:

13 CHAPTER 36
 14 ELECTRONIC SMOKING DEVICES
 15 ARTICLE 1. GENERAL PROVISIONS

16 44-7901. Business premises; prohibiting the use of electronic
 17 smoking devices; definition

18 A. THE OWNER OF A BUSINESS MAY PROHIBIT THE USE OF AN ELECTRONIC
 19 SMOKING DEVICE BY ANY PERSON WHO IS ON THE PREMISES OF THE BUSINESS.

20 B. FOR THE PURPOSES OF THIS SECTION, "ELECTRONIC SMOKING DEVICE" MEANS
 21 ANY PRODUCT THAT CONTAINS OR DELIVERS NICOTINE OR ANY OTHER SIMILAR SUBSTANCE
 22 INTENDED FOR HUMAN CONSUMPTION AND THAT CAN BE USED BY A PERSON TO SIMULATE
 23 SMOKING THROUGH INHALATION OF VAPOR OR AEROSOL FROM THE PRODUCT AND INCLUDES
 24 ANY COMPONENT PART OF THE PRODUCT WHETHER OR NOT SOLD SEPARATELY. ELECTRONIC
 25 SMOKING DEVICE DOES NOT INCLUDE A PRODUCT THAT IS SPECIFICALLY APPROVED BY
 26 THE UNITED STATES FOOD AND DRUG ADMINISTRATION FOR SALE AS A TOBACCO
 27 CESSATION PRODUCT AND THAT IS MARKETED AND SOLD SOLELY FOR THE APPROVED
 28 PURPOSE.