

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

HOUSE BILL 2674

AN ACT

AMENDING SECTIONS 13-3711 AND 42-1125, ARIZONA REVISED STATUTES; AMENDING SECTION 42-2003, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, FIRST SPECIAL SESSION, CHAPTER 9, SECTION 3 AND LAWS 2013, FIRST REGULAR SESSION, CHAPTER 40, SECTION 2, CHAPTER 114, SECTION 6 AND CHAPTER 222, SECTION 3; AMENDING SECTION 42-2003, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, CHAPTER 255, SECTION 2; AMENDING SECTIONS 42-3001, 42-3006, 42-3008, 42-3010, 42-3053, 42-3151 AND 42-3201, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 3, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-3201.02; AMENDING SECTIONS 42-3202, 42-3202.01, 42-3203, 42-3205, 42-3206, 42-3208, 42-3209, 42-3211, 42-3212 AND 42-3301, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 3, ARTICLE 7, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 42-3303.01 AND 42-3308; AMENDING SECTIONS 44-7101 AND 44-7111, ARIZONA REVISED STATUTES; RELATING TO TOBACCO TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 13-3711, Arizona Revised Statutes, is amended to
3 read:

4 13-3711. Unlawful commercial use of cigarette machines; civil
5 penalties; forfeiture; classification

6 A. It is unlawful to possess, use or make available for use for
7 commercial purposes a tobacco product rolling vending machine. A tobacco
8 product rolling vending machine located in a nonresidential premises is
9 presumed to be possessed, used or available for use for commercial purposes
10 unless the machine is for sale. This subsection does not apply to:

11 1. A tobacco product rolling vending machine that is to be used
12 exclusively for the owner's personal consumption or use if the machine is not
13 located on a retail or other business premises.

14 2. Tobacco product manufacturers who have obtained a current federal
15 manufacturer of tobacco products permit issued by the federal alcohol and
16 tobacco tax and trade bureau to operate as a tobacco product manufacturer.

17 B. The department of revenue is authorized to seize the machine and
18 all related tubes, papers, tobacco products and materials, which shall be
19 forfeited to this state following the process prescribed in section 42-1124.
20 All forfeited tobacco products shall also be destroyed pursuant to section
21 42-1124 and deemed contraband under section 42-3201, subsection ~~I~~ J.

22 C. A person who knowingly violates this section is guilty of a class 3
23 misdemeanor and is also subject to the following:

24 1. The revocation or termination of a license issued pursuant to
25 section 42-3201.

26 2. A civil penalty not to exceed fifty thousand dollars for each
27 violation.

28 3. An injunction to restrain a threatened or actual violation of this
29 section.

30 4. Recovery by this state for the costs of enforcing this section or
31 of any action or proceeding pertaining to a violation of this section,
32 including the costs of investigation and reasonable attorney fees in the
33 trial and appellate courts. Payments shall be deposited into the state
34 general fund.

35 Sec. 2. Section 42-1125, Arizona Revised Statutes, is amended to read:

36 42-1125. Civil penalties; definition

37 A. If a taxpayer fails to make and file a return for a tax
38 administered pursuant to this article on or before the due date of the return
39 or the due date as extended by the department, unless it is shown that the
40 failure is due to reasonable cause and not due to wilful neglect, four and
41 one-half per cent of the tax required to be shown on such return shall be
42 added to the tax for each month or fraction of a month elapsing between the
43 due date of the return and the date on which it is filed. The total penalty
44 shall not exceed twenty-five per cent of the tax found to be remaining due.
45 The penalty so added to the tax is due and payable on notice and demand from

1 the department. For the purpose of computing the penalty imposed under this
2 subsection, the amount required to be shown as tax on a return shall be
3 reduced by the amount of any part of the tax which is paid on or before the
4 beginning of such month and by the amount of any credit against the tax which
5 may be claimed on the return. If the amount required to be shown as tax on a
6 return is less than the amount shown as tax on such return the penalty
7 described in this subsection shall be applied by substituting such lower
8 amount.

9 B. If a taxpayer fails or refuses to file a return on notice and
10 demand by the department, the taxpayer shall pay a penalty of twenty-five per
11 cent of the tax, which is due and payable on notice and demand by the
12 department, in addition to any penalty prescribed by subsection A of this
13 section, unless it is shown that the failure is due to reasonable cause and
14 not due to wilful neglect. This penalty is payable on notice and demand from
15 the department.

16 C. If a taxpayer fails or refuses to furnish any information requested
17 in writing by the department, the department may add a penalty of twenty-five
18 per cent of the amount of any deficiency tax assessed by the department
19 concerning the assessment of which the information was required, unless it is
20 shown that the failure is due to reasonable cause and not due to wilful
21 neglect.

22 D. If a person fails to pay the amount shown as tax on any return
23 within the time prescribed, a penalty of one-half of one per cent, not to
24 exceed a total of ten per cent, shall be added to the amount shown as tax for
25 each month or fraction of a month during which the failure continues, unless
26 it is shown that the failure is due to reasonable cause and not due to wilful
27 neglect. If the department determines that the person's failure to pay was
28 due to reasonable cause and not due to wilful neglect and that a payment
29 agreement pursuant to section 42-2057 is appropriate, the department shall
30 not impose the penalty unless the taxpayer fails to comply with the payment
31 agreement. If the taxpayer is also subject to a penalty under subsection A
32 of this section for the same tax period, the total penalties under subsection
33 A of this section and this subsection shall not exceed twenty-five per cent.
34 For the purpose of computing the penalty imposed under this subsection:

35 1. The amount shown as tax on a return shall be reduced by the amount
36 of any part of the tax that is paid on or before the beginning of that month
37 and by the amount of any credit against the tax that may be claimed on the
38 return.

39 2. If the amount shown as tax on a return is greater than the amount
40 required to be shown as tax on that return, the penalty shall be applied by
41 substituting the lower amount.

42 E. If a person fails to pay any amount required to be shown on any
43 return that is not so shown within twenty-one calendar days after the date of
44 notice and demand, a penalty of one-half of one per cent, not to exceed a
45 total of ten per cent, shall be added to the amount of tax for each month or

1 fraction of a month during which the failure continues, unless it is shown
2 that the failure is due to reasonable cause and not due to wilful neglect.
3 If the taxpayer is also subject to penalty under subsection A of this section
4 for the same tax period, the total penalties under subsection A of this
5 section and this subsection shall not exceed twenty-five per cent. For the
6 purpose of computing the penalty imposed under this subsection, any amount
7 required to be shown on any return shall be reduced by the amount of any part
8 of the tax that is paid on or before the beginning of that month and by the
9 amount of any credit against the tax that may be claimed on the return.

10 F. In the case of a deficiency, for which a determination is made of
11 an additional amount due, which is due to negligence but without intent to
12 defraud, the person shall pay a penalty of ten per cent of the amount of the
13 deficiency.

14 G. If part of a deficiency is due to fraud with intent to evade tax,
15 fifty per cent of the total amount of the tax, in addition to the deficiency,
16 interest and other penalties provided in this section, shall be assessed,
17 collected and paid as if it were a deficiency.

18 H. If the amount, whether determined by the department or the
19 taxpayer, required to be withheld by the employer pursuant to title 43,
20 chapter 4 is not paid to the department on or before the date prescribed for
21 its remittance, the department may add a penalty of twenty-five per cent of
22 the amount required to be withheld and paid, unless it is shown that the
23 failure is due to reasonable cause and not due to wilful neglect.

24 I. A person who, with or without intent to evade any requirement of
25 this article or any lawful administrative rule of the department of revenue
26 under this article, fails to file a return or to supply information required
27 under this article or who, with or without such intent, makes, prepares,
28 renders, signs or verifies a false or fraudulent return or statement or
29 supplies false or fraudulent information shall pay a penalty of not more than
30 one thousand dollars. This penalty shall be recovered by the department of
31 law in the name of this state by an action in any court of competent
32 jurisdiction.

33 J. If the taxpayer files what purports to be a return of any tax
34 administered pursuant to this article but that is frivolous or that is made
35 with the intent to delay or impede the administration of the tax laws, that
36 person shall pay a penalty of five hundred dollars.

37 K. If ~~a-taxpayer~~ ANY PERSON who is required to file or provide an
38 information return under this title or title 43 OR WHO IS REQUIRED TO FILE OR
39 PROVIDE A RETURN OR REPORT UNDER CHAPTER 3 OF THIS TITLE fails to file the
40 return OR REPORT at the prescribed time OR IN THE MANNER REQUIRED, or files a
41 return OR REPORT that fails to show the information required, that ~~taxpayer~~
42 PERSON shall pay a penalty of one hundred dollars for each month or fraction
43 of a month during which the failure continues unless it is shown that the
44 failure is due to reasonable cause and not due to wilful neglect. The total

1 penalties **FOR EACH RETURN OR REPORT** under this subsection shall not exceed
2 five hundred dollars.

3 L. If it appears to the superior court that proceedings before it have
4 been instituted or maintained by a taxpayer primarily for delay or that the
5 taxpayer's position is frivolous or groundless, the court may award damages
6 in an amount not to exceed one thousand dollars to this state. Damages so
7 awarded shall be collected as a part of the tax.

8 M. A person who is required under section 43-413 to furnish a
9 statement to an employee and who wilfully furnishes a false or fraudulent
10 statement, or who wilfully fails to furnish a statement required by section
11 43-413, is for each such failure subject to a penalty of fifty dollars.

12 N. A person who is required to collect or truthfully account for and
13 pay a tax administered pursuant to this article, including any luxury
14 privilege tax, and who wilfully fails to collect the tax or truthfully
15 account for and pay the tax, or wilfully attempts in any manner to evade or
16 defeat the tax or its payment, is, in addition to other penalties provided by
17 law, liable for a penalty equal to the total amount of the tax evaded, not
18 collected or not accounted for and paid. Except as provided in subsections
19 T, U and V of this section, no other penalty under this section relating to
20 failure to pay tax may be imposed for any offense to which this subsection
21 applies.

22 O. For reporting periods beginning from and after February 28, 2011,
23 if a taxpayer who is required under section 42-1129 to make payment by
24 electronic funds transfer fails to do so, that taxpayer shall pay a penalty
25 of five per cent of the amount of the payment not made by electronic funds
26 transfer unless it is shown that the failure is due to reasonable cause and
27 not due to wilful neglect. **FOR THE REPORTING PERIODS BEGINNING ON JULY 1,**
28 **2015, THE PENALTY IN THIS SUBSECTION APPLIES TO ANY TAXPAYER WHO IS REQUIRED**
29 **UNDER SECTION 42-3053 TO MAKE PAYMENT BY ELECTRONIC FUNDS TRANSFER AND FAILS**
30 **TO DO SO UNLESS IT IS SHOWN THAT THE FAILURE IS DUE TO REASONABLE CAUSE AND**
31 **NOT DUE TO WILFUL NEGLIGENCE.**

32 P. Unless due to reasonable cause and not to wilful neglect:

33 1. A person who fails to provide that person's taxpayer identification
34 number in any return, statement or other document as required by section
35 42-1105, subsection A shall pay a penalty of five dollars for each such
36 failure.

37 2. A person, when filing any return, statement or other document for
38 compensation on behalf of a taxpayer, who fails to include that person's own
39 taxpayer identification number and the taxpayer's identification number shall
40 pay a penalty of fifty dollars for each such failure.

41 3. A person, when filing any return, statement or other document
42 without compensation on behalf of a taxpayer, who fails to include that
43 person's own taxpayer identification number and the taxpayer's identification
44 number is not subject to a penalty.

1 No other penalty under this section may be imposed if the only violation is
2 failure to provide taxpayer identification numbers.

3 Q. If a taxpayer fails to pay the full amount of estimated tax
4 required by title 43, chapter 5, article 6, a penalty is assessed equal to
5 the amount of interest that would otherwise accrue under section 42-1123 on
6 the amount not paid for the period of nonpayment, not exceeding ten per cent
7 of the amount not paid. The penalty prescribed by this subsection is in lieu
8 of any other penalty otherwise prescribed by this section and in lieu of
9 interest prescribed by section 42-1123.

10 R. The department of law, with the consent of the department of
11 revenue, may compromise any penalty for which it may bring an action under
12 this section.

13 S. Penalties shall not be assessed under subsection D of this section
14 on additional amounts of tax paid by a taxpayer at the time the taxpayer
15 voluntarily files an amended return. This subsection does not apply if:

16 1. The taxpayer is under audit by the department.

17 2. The amended return was filed on demand or request by the
18 department.

19 3. The total additional tax paid and due for the tax period represents
20 a substantial understatement of tax liability. For the purposes of this
21 paragraph, there is a substantial understatement of tax for any tax period if
22 the amount of the understatement for the tax period exceeds the greater of
23 ten per cent of the actual tax liability for the tax period or two thousand
24 dollars.

25 T. In addition to other penalties provided by law, a person who
26 knowingly and intentionally does not comply with any requirement under
27 chapter 3, article 5 of this title relating to cigarettes shall pay a penalty
28 of one thousand dollars. A person who knowingly and intentionally does not
29 pay any luxury tax that relates to cigarettes imposed by chapter 3 of this
30 title shall pay a penalty that is equal to ten per cent of the amount of the
31 unpaid tax.

32 U. A cigarette manufacturer, cigarette importer or cigarette
33 distributor, as defined in section 42-3001, who knowingly and intentionally
34 sells or possesses cigarettes with false manufacturing labels or cigarettes
35 with counterfeit tax stamps, or who obtains cigarettes through the use of a
36 counterfeit license, shall pay the following penalties:

37 1. For a first violation involving two thousand or more cigarettes,
38 one thousand dollars.

39 2. For a subsequent violation involving two thousand or more
40 cigarettes, five thousand dollars.

41 V. The civil penalties in this section are in addition to any civil
42 penalty under chapter 3, article 5 of this title.

43 W. For the purposes of this section, and only as applied to the taxes
44 imposed by chapter 5, articles 1 through 6 and chapter 6, articles 1, 2 and 3
45 of this title, "reasonable cause" means a reasonable basis for the taxpayer

1 to believe that the tax did not apply to the business activity or the
2 storage, use or consumption of the taxpayer's tangible personal property in
3 this state.

4 Sec. 3. Section 42-2003, Arizona Revised Statutes, as amended by Laws
5 2013, first special session, chapter 9, section 3 and Laws 2013, first
6 regular session, chapter 40, section 2, chapter 114, section 6 and chapter
7 222, section 3, is amended to read:

8 42-2003. Authorized disclosure of confidential information

9 A. Confidential information relating to:

10 1. A taxpayer may be disclosed to the taxpayer, its successor in
11 interest or a designee of the taxpayer who is authorized in writing by the
12 taxpayer. A principal corporate officer of a parent corporation may execute
13 a written authorization for a controlled subsidiary.

14 2. A corporate taxpayer may be disclosed to any principal officer, any
15 person designated by a principal officer or any person designated in a
16 resolution by the corporate board of directors or other similar governing
17 body.

18 3. A partnership may be disclosed to any partner of the partnership.
19 This exception does not include disclosure of confidential information of a
20 particular partner unless otherwise authorized.

21 4. An estate may be disclosed to the personal representative of the
22 estate and to any heir, next of kin or beneficiary under the will of the
23 decedent if the department finds that the heir, next of kin or beneficiary
24 has a material interest which will be affected by the confidential
25 information.

26 5. A trust may be disclosed to the trustee or trustees, jointly or
27 separately, and to the grantor or any beneficiary of the trust if the
28 department finds that the grantor or beneficiary has a material interest that
29 will be affected by the confidential information.

30 6. Any taxpayer may be disclosed if the taxpayer has waived any rights
31 to confidentiality either in writing or on the record in any administrative
32 or judicial proceeding.

33 7. The name and taxpayer identification numbers of persons issued
34 direct payment permits may be publicly disclosed.

35 B. Confidential information may be disclosed to:

36 1. Any employee of the department whose official duties involve tax
37 administration.

38 2. The office of the attorney general solely for its use in
39 preparation for, or in an investigation that may result in, any proceeding
40 involving tax administration before the department or any other agency or
41 board of this state, or before any grand jury or any state or federal court.

42 3. The department of liquor licenses and control for its use in
43 determining whether a spirituous liquor licensee has paid all transaction
44 privilege taxes and affiliated excise taxes incurred as a result of the sale
45 of spirituous liquor, as defined in section 4-101, at the licensed

1 establishment and imposed on the licensed establishments by this state and
2 its political subdivisions.

3 4. Other state tax officials whose official duties require the
4 disclosure for proper tax administration purposes if the information is
5 sought in connection with an investigation or any other proceeding conducted
6 by the official. Any disclosure is limited to information of a taxpayer who
7 is being investigated or who is a party to a proceeding conducted by the
8 official.

9 5. The following agencies, officials and organizations, if they grant
10 substantially similar privileges to the department for the type of
11 information being sought, pursuant to statute and a written agreement between
12 the department and the foreign country, agency, state, Indian tribe or
13 organization:

14 (a) The United States internal revenue service, alcohol and tobacco
15 tax and trade bureau of the United States treasury, United States bureau of
16 alcohol, tobacco, firearms and explosives of the United States department of
17 justice, United States drug enforcement agency and federal bureau of
18 investigation.

19 (b) A state tax official of another state.

20 (c) An organization of states, federation of tax administrators or
21 multistate tax commission that operates an information exchange for tax
22 administration purposes.

23 (d) An agency, official or organization of a foreign country with
24 responsibilities that are comparable to those listed in subdivision (a), (b)
25 or (c) of this paragraph.

26 (e) An agency, official or organization of an Indian tribal government
27 with responsibilities comparable to the responsibilities of the agencies,
28 officials or organizations identified in subdivision (a), (b) or (c) of this
29 paragraph.

30 6. The auditor general, in connection with any audit of the department
31 subject to the restrictions in section 42-2002, subsection D.

32 7. Any person to the extent necessary for effective tax administration
33 in connection with:

34 (a) The processing, storage, transmission, destruction and
35 reproduction of the information.

36 (b) The programming, maintenance, repair, testing and procurement of
37 equipment for purposes of tax administration.

38 (c) The collection of the taxpayer's civil liability.

39 8. The office of administrative hearings relating to taxes
40 administered by the department pursuant to section 42-1101, but the
41 department shall not disclose any confidential information:

42 (a) Regarding income tax or withholding tax.

43 (b) On any tax issue relating to information associated with the
44 reporting of income tax or withholding tax.

- 1 9. The United States treasury inspector general for tax administration
2 for the purpose of reporting a violation of internal revenue code section
3 7213A (26 United States Code section 7213A), unauthorized inspection of
4 returns or return information.
- 5 10. The financial management service of the United States treasury
6 department for use in the treasury offset program.
- 7 11. The United States treasury department or its authorized agent for
8 use in the state income tax levy program and in the electronic federal tax
9 payment system.
- 10 12. The Arizona commerce authority for its use in:
11 (a) Qualifying renewable energy operations for the tax incentives
12 under sections 42-12006, 43-1083.01 and 43-1164.01.
13 (b) Qualifying businesses with a qualified facility for income tax
14 credits under sections 43-1083.03 and 43-1164.04.
15 (c) Fulfilling its annual reporting responsibility pursuant to section
16 41-1511, subsections U and V and section 41-1512, subsections U and V.
17 (d) Certifying computer data centers for tax relief under section
18 41-1519.
- 19 13. A prosecutor for purposes of section 32-1164, subsection C.
- 20 14. The state fire marshal for use in determining compliance with and
21 enforcing title 41, chapter 16, article 3.1.
- 22 15. The department of transportation for its use in administering
23 taxes, surcharges and penalties prescribed by title 28.
- 24 16. The Arizona health care cost containment system administration for
25 its use in administering nursing facility provider assessments.
- 26 C. Confidential information may be disclosed in any state or federal
27 judicial or administrative proceeding pertaining to tax administration
28 pursuant to the following conditions:
29 1. One or more of the following circumstances must apply:
30 (a) The taxpayer is a party to the proceeding.
31 (b) The proceeding arose out of, or in connection with, determining
32 the taxpayer's civil or criminal liability, or the collection of the
33 taxpayer's civil liability, with respect to any tax imposed under this title
34 or title 43.
35 (c) The treatment of an item reflected on the taxpayer's return is
36 directly related to the resolution of an issue in the proceeding.
37 (d) Return information directly relates to a transactional
38 relationship between a person who is a party to the proceeding and the
39 taxpayer and directly affects the resolution of an issue in the proceeding.
- 40 2. Confidential information may not be disclosed under this subsection
41 if the disclosure is prohibited by section 42-2002, subsection C or D.
- 42 D. Identity information may be disclosed for purposes of notifying
43 persons entitled to tax refunds if the department is unable to locate the
44 persons after reasonable effort.

1 E. The department, on the request of any person, shall provide the
2 names and addresses of bingo licensees as defined in section 5-401, verify
3 whether or not a person has a privilege license and number, a TOBACCO PRODUCT
4 distributor's license and number or a withholding license and number or
5 disclose the information to be posted on the department's website or
6 otherwise publicly accessible pursuant to section 42-1124, subsection F and
7 section 42-3201, subsection A.

8 F. A department employee, in connection with the official duties
9 relating to any audit, collection activity or civil or criminal
10 investigation, may disclose return information to the extent that disclosure
11 is necessary to obtain information that is not otherwise reasonably
12 available. These official duties include the correct determination of and
13 liability for tax, the amount to be collected or the enforcement of other
14 state tax revenue laws.

15 G. If an organization is exempt from this state's income tax as
16 provided in section 43-1201 for any taxable year, the name and address of the
17 organization and the application filed by the organization on which the
18 department made its determination for exemption together with any papers
19 submitted in support of the application and any letter or document issued by
20 the department concerning the application are open to public inspection.

21 H. Confidential information relating to transaction privilege tax, use
22 tax, severance tax, jet fuel excise and use tax and any other tax collected
23 by the department on behalf of the county may be disclosed to any county,
24 city or town tax official if the information relates to a taxpayer who is or
25 may be taxable by the county, city or town. Any taxpayer information
26 released by the department to the county, city or town:

27 1. May only be used for internal purposes.

28 2. May not be disclosed to the public in any manner that does not
29 comply with confidentiality standards established by the department. The
30 county, city or town shall agree in writing with the department that any
31 release of confidential information that violates the confidentiality
32 standards adopted by the department will result in the immediate suspension
33 of any rights of the county, city or town to receive taxpayer information
34 under this subsection.

35 I. The department may disclose statistical information gathered from
36 confidential information if it does not disclose confidential information
37 attributable to any one taxpayer. The department may disclose statistical
38 information gathered from confidential information, even if it discloses
39 confidential information attributable to a taxpayer, to:

40 1. The state treasurer in order to comply with the requirements of
41 section 42-5029, subsection A, paragraph 3.

42 2. The joint legislative income tax credit review committee and the
43 joint legislative budget committee staff in order to comply with the
44 requirements of section 43-221.

1 J. The department may disclose the aggregate amounts of any tax
2 credit, tax deduction or tax exemption enacted after January 1, 1994.
3 Information subject to disclosure under this subsection shall not be
4 disclosed if a taxpayer demonstrates to the department that such information
5 would give an unfair advantage to competitors.

6 K. Except as provided in section 42-2002, subsection C, confidential
7 information, described in section 42-2001, paragraph 1, subdivision (a), item
8 (ii), may be disclosed to law enforcement agencies for law enforcement
9 purposes.

10 L. The department may provide transaction privilege tax license
11 information to property tax officials in a county for the purpose of
12 identification and verification of the tax status of commercial property.

13 M. The department may provide transaction privilege tax, luxury tax,
14 use tax, property tax and severance tax information to the ombudsman-citizens
15 aide pursuant to title 41, chapter 8, article 5.

16 N. Except as provided in section 42-2002, subsection D, a court may
17 order the department to disclose confidential information pertaining to a
18 party to an action. An order shall be made only upon a showing of good cause
19 and that the party seeking the information has made demand upon the taxpayer
20 for the information.

21 O. This section does not prohibit the disclosure by the department of
22 any information or documents submitted to the department by a bingo licensee.
23 Before disclosing the information the department shall obtain the name and
24 address of the person requesting the information.

25 P. If the department is required or permitted to disclose confidential
26 information, it may charge the person or agency requesting the information
27 for the reasonable cost of its services.

28 Q. Except as provided in section 42-2002, subsection D, the department
29 of revenue shall release confidential information as requested by the
30 department of economic security pursuant to section 42-1122 or 46-291.
31 Information disclosed under this subsection is limited to the same type of
32 information that the United States internal revenue service is authorized to
33 disclose under section 6103(1)(6) of the internal revenue code.

34 R. Except as provided in section 42-2002, subsection D, the department
35 of revenue shall release confidential information as requested by the courts
36 and clerks of the court pursuant to section 42-1122.

37 S. To comply with the requirements of section 42-5031, the department
38 may disclose to the state treasurer, to the county stadium district board of
39 directors and to any city or town tax official that is part of the county
40 stadium district confidential information attributable to a taxpayer's
41 business activity conducted in the county stadium district.

42 T. The department shall release ~~TO THE ATTORNEY GENERAL~~ confidential
43 information as requested by the attorney general for purposes of determining
44 compliance with ~~and~~ OR enforcing ~~section~~ ANY OF THE FOLLOWING:

1 1. ANY PUBLIC HEALTH CONTROL LAW RELATING TO TOBACCO SALES AS PROVIDED
2 UNDER TITLE 36, CHAPTER 6, ARTICLE 14.

3 2. ANY LAW RELATING TO REDUCED CIGARETTE IGNITION PROPENSITY STANDARDS
4 AS PROVIDED UNDER TITLE 41, CHAPTER 16, ARTICLE 3.1.

5 3. SECTIONS 44-7101 AND 44-7111, the master settlement agreement
6 referred to ~~therein~~ IN THOSE SECTIONS and ~~subsequent~~ ALL agreements ~~to which~~
7 ~~the state is a party that amend or implement~~ REGARDING DISPUTES UNDER the
8 master settlement agreement. ~~Information disclosed under this subsection is~~
9 ~~limited to luxury tax information relating to tobacco manufacturers,~~
10 ~~distributors, wholesalers and retailers and information collected by the~~
11 ~~department pursuant to section 44-7101(2)(j).~~

12 U. For proceedings before the department, the office of administrative
13 hearings, the board of tax appeals or any state or federal court involving
14 penalties that were assessed against a return preparer, an electronic return
15 preparer or a payroll service company pursuant to section 42-1103.02,
16 42-1125.01 or 43-419, confidential information may be disclosed only before
17 the judge or administrative law judge adjudicating the proceeding, the
18 parties to the proceeding and the parties' representatives in the proceeding
19 prior to its introduction into evidence in the proceeding. The confidential
20 information may be introduced as evidence in the proceeding only if the
21 taxpayer's name, the names of any dependents listed on the return, all social
22 security numbers, the taxpayer's address, the taxpayer's signature and any
23 attachments containing any of the foregoing information are redacted and if
24 either:

25 1. The treatment of an item reflected on such return is or may be
26 related to the resolution of an issue in the proceeding.

27 2. Such return or return information relates or may relate to a
28 transactional relationship between a person who is a party to the proceeding
29 and the taxpayer which directly affects the resolution of an issue in the
30 proceeding.

31 3. The method of payment of the taxpayer's withholding tax liability
32 or the method of filing the taxpayer's withholding tax return is an issue for
33 the period.

34 V. ~~The department may disclose to the attorney general confidential~~
35 ~~information received under section 44-7111 and requested by the attorney~~
36 ~~general for purposes of determining compliance with and enforcing section~~
37 ~~44-7111.~~ The department and attorney general ~~shall share with each other the~~
38 ~~information received under section 44-7111, and~~ may share the information
39 SPECIFIED IN SUBSECTION T OF THIS SECTION with ~~other~~ ANY OF THE FOLLOWING:

40 1. Federal, state or local agencies ~~only~~ for the purposes of
41 enforcement of ~~section 13-3711, 36-798.06, 44-7101 or 44-7111 or~~
42 corresponding laws of other states.

43 2. A COURT, ARBITRATOR, DATA CLEARINGHOUSE OR SIMILAR ENTITY FOR THE
44 PURPOSE OF ASSESSING COMPLIANCE WITH OR MAKING CALCULATIONS REQUIRED BY THE
45 MASTER SETTLEMENT AGREEMENT OR AGREEMENTS REGARDING DISPUTES UNDER THE MASTER

1 SETTLEMENT AGREEMENT, AND WITH COUNSEL FOR THE PARTIES OR EXPERT WITNESSES IN
2 ANY SUCH PROCEEDING, IF THE INFORMATION OTHERWISE REMAINS CONFIDENTIAL.

3 W. The department may provide the name and address of qualifying
4 hospitals and qualifying health care organizations, as defined in section
5 42-5001, to a business classified and reporting transaction privilege tax
6 under the utilities classification.

7 ~~X. The department may disclose to the attorney general confidential~~
8 ~~information requested by the attorney general for the purposes of determining~~
9 ~~compliance with and enforcing section 13-3711 or 36-798.06.~~

10 ~~Y.~~ X. The department may disclose to an official of any city, town or
11 county in a current agreement or considering a prospective agreement with the
12 department as described in section 42-5032.02, subsection F any information
13 relating to amounts subject to distribution required by section 42-5032.02.
14 Information disclosed by the department under this subsection:

15 1. May only be used by the city, town or county for internal purposes.

16 2. May not be disclosed to the public in any manner that does not
17 comply with confidentiality standards established by the department. The
18 city, town or county must agree with the department in writing that any
19 release of confidential information that violates the confidentiality
20 standards will result in the immediate suspension of any rights of the city,
21 town or county to receive information under this subsection.

22 Sec. 4. Section 42-2003, Arizona Revised Statutes, as amended by Laws
23 2013, chapter 255, section 2, is amended to read:

24 42-2003. Authorized disclosure of confidential information

25 A. Confidential information relating to:

26 1. A taxpayer may be disclosed to the taxpayer, its successor in
27 interest or a designee of the taxpayer who is authorized in writing by the
28 taxpayer. A principal corporate officer of a parent corporation may execute
29 a written authorization for a controlled subsidiary.

30 2. A corporate taxpayer may be disclosed to any principal officer, any
31 person designated by a principal officer or any person designated in a
32 resolution by the corporate board of directors or other similar governing
33 body.

34 3. A partnership may be disclosed to any partner of the partnership.
35 This exception does not include disclosure of confidential information of a
36 particular partner unless otherwise authorized.

37 4. An estate may be disclosed to the personal representative of the
38 estate and to any heir, next of kin or beneficiary under the will of the
39 decedent if the department finds that the heir, next of kin or beneficiary
40 has a material interest which will be affected by the confidential
41 information.

42 5. A trust may be disclosed to the trustee or trustees, jointly or
43 separately, and to the grantor or any beneficiary of the trust if the
44 department finds that the grantor or beneficiary has a material interest that
45 will be affected by the confidential information.

1 6. Any taxpayer may be disclosed if the taxpayer has waived any rights
2 to confidentiality either in writing or on the record in any administrative
3 or judicial proceeding.

4 7. The name and taxpayer identification numbers of persons issued
5 direct payment permits may be publicly disclosed.

6 B. Confidential information may be disclosed to:

7 1. Any employee of the department whose official duties involve tax
8 administration.

9 2. The office of the attorney general solely for its use in
10 preparation for, or in an investigation that may result in, any proceeding
11 involving tax administration before the department or any other agency or
12 board of this state, or before any grand jury or any state or federal court.

13 3. The department of liquor licenses and control for its use in
14 determining whether a spirituous liquor licensee has paid all transaction
15 privilege taxes and affiliated excise taxes incurred as a result of the sale
16 of spirituous liquor, as defined in section 4-101, at the licensed
17 establishment and imposed on the licensed establishments by this state and
18 its political subdivisions.

19 4. Other state tax officials whose official duties require the
20 disclosure for proper tax administration purposes if the information is
21 sought in connection with an investigation or any other proceeding conducted
22 by the official. Any disclosure is limited to information of a taxpayer who
23 is being investigated or who is a party to a proceeding conducted by the
24 official.

25 5. The following agencies, officials and organizations, if they grant
26 substantially similar privileges to the department for the type of
27 information being sought, pursuant to statute and a written agreement between
28 the department and the foreign country, agency, state, Indian tribe or
29 organization:

30 (a) The United States internal revenue service, alcohol and tobacco
31 tax and trade bureau of the United States treasury, United States bureau of
32 alcohol, tobacco, firearms and explosives of the United States department of
33 justice, United States drug enforcement agency and federal bureau of
34 investigation.

35 (b) A state tax official of another state.

36 (c) An organization of states, federation of tax administrators or
37 multistate tax commission that operates an information exchange for tax
38 administration purposes.

39 (d) An agency, official or organization of a foreign country with
40 responsibilities that are comparable to those listed in subdivision (a), (b)
41 or (c) of this paragraph.

42 (e) An agency, official or organization of an Indian tribal government
43 with responsibilities comparable to the responsibilities of the agencies,
44 officials or organizations identified in subdivision (a), (b) or (c) of this
45 paragraph.

1 6. The auditor general, in connection with any audit of the department
2 subject to the restrictions in section 42-2002, subsection D.

3 7. Any person to the extent necessary for effective tax administration
4 in connection with:

5 (a) The processing, storage, transmission, destruction and
6 reproduction of the information.

7 (b) The programming, maintenance, repair, testing and procurement of
8 equipment for purposes of tax administration.

9 (c) The collection of the taxpayer's civil liability.

10 8. The office of administrative hearings relating to taxes
11 administered by the department pursuant to section 42-1101, but the
12 department shall not disclose any confidential information:

13 (a) Regarding income tax or withholding tax.

14 (b) On any tax issue relating to information associated with the
15 reporting of income tax or withholding tax.

16 9. The United States treasury inspector general for tax administration
17 for the purpose of reporting a violation of internal revenue code section
18 7213A (26 United States Code section 7213A), unauthorized inspection of
19 returns or return information.

20 10. The financial management service of the United States treasury
21 department for use in the treasury offset program.

22 11. The United States treasury department or its authorized agent for
23 use in the state income tax levy program and in the electronic federal tax
24 payment system.

25 12. The Arizona commerce authority for its use in:

26 (a) Qualifying renewable energy operations for the tax incentives
27 under sections 42-12006, 43-1083.01 and 43-1164.01.

28 (b) Qualifying businesses with a qualified facility for income tax
29 credits under sections 43-1083.03 and 43-1164.04.

30 (c) Fulfilling its annual reporting responsibility pursuant to section
31 41-1511, subsections U and V and section 41-1512, subsections U and V.

32 13. A prosecutor for purposes of section 32-1164, subsection C.

33 14. The state fire marshal for use in determining compliance with and
34 enforcing title 41, chapter 16, article 3.1.

35 15. The department of transportation for its use in administering taxes
36 and surcharges prescribed by title 28.

37 C. Confidential information may be disclosed in any state or federal
38 judicial or administrative proceeding pertaining to tax administration
39 pursuant to the following conditions:

40 1. One or more of the following circumstances must apply:

41 (a) The taxpayer is a party to the proceeding.

42 (b) The proceeding arose out of, or in connection with, determining
43 the taxpayer's civil or criminal liability, or the collection of the
44 taxpayer's civil liability, with respect to any tax imposed under this title
45 or title 43.

1 (c) The treatment of an item reflected on the taxpayer's return is
2 directly related to the resolution of an issue in the proceeding.

3 (d) Return information directly relates to a transactional
4 relationship between a person who is a party to the proceeding and the
5 taxpayer and directly affects the resolution of an issue in the proceeding.

6 2. Confidential information may not be disclosed under this subsection
7 if the disclosure is prohibited by section 42-2002, subsection C or D.

8 D. Identity information may be disclosed for purposes of notifying
9 persons entitled to tax refunds if the department is unable to locate the
10 persons after reasonable effort.

11 E. The department, on the request of any person, shall provide the
12 names and addresses of bingo licensees as defined in section 5-401, verify
13 whether or not a person has a privilege license and number, a TOBACCO PRODUCT
14 distributor's license and number or a withholding license and number or
15 disclose the information to be posted on the department's website or
16 otherwise publicly accessible pursuant to section 42-1124, subsection F and
17 section 42-3201, subsection A.

18 F. A department employee, in connection with the official duties
19 relating to any audit, collection activity or civil or criminal
20 investigation, may disclose return information to the extent that disclosure
21 is necessary to obtain information that is not otherwise reasonably
22 available. These official duties include the correct determination of and
23 liability for tax, the amount to be collected or the enforcement of other
24 state tax revenue laws.

25 G. If an organization is exempt from this state's income tax as
26 provided in section 43-1201 for any taxable year, the name and address of the
27 organization and the application filed by the organization on which the
28 department made its determination for exemption together with any papers
29 submitted in support of the application and any letter or document issued by
30 the department concerning the application are open to public inspection.

31 H. Confidential information relating to transaction privilege tax, use
32 tax, severance tax, jet fuel excise and use tax and any other tax collected
33 by the department on behalf of any jurisdiction may be disclosed to any
34 county, city or town tax official if the information relates to a taxpayer
35 who is or may be taxable by the county, city or town or who may be subject to
36 audit by the department pursuant to section 42-6002. Any taxpayer
37 information released by the department to the county, city or town:

38 1. May only be used for internal purposes, including audits.

39 2. May not be disclosed to the public in any manner that does not
40 comply with confidentiality standards established by the department. The
41 county, city or town shall agree in writing with the department that any
42 release of confidential information that violates the confidentiality
43 standards adopted by the department will result in the immediate suspension
44 of any rights of the county, city or town to receive taxpayer information
45 under this subsection.

1 I. The department may disclose statistical information gathered from
2 confidential information if it does not disclose confidential information
3 attributable to any one taxpayer. The department may disclose statistical
4 information gathered from confidential information, even if it discloses
5 confidential information attributable to a taxpayer, to:

6 1. The state treasurer in order to comply with the requirements of
7 section 42-5029, subsection A, paragraph 3.

8 2. The joint legislative income tax credit review committee and the
9 joint legislative budget committee staff in order to comply with the
10 requirements of section 43-221.

11 J. The department may disclose the aggregate amounts of any tax
12 credit, tax deduction or tax exemption enacted after January 1, 1994.
13 Information subject to disclosure under this subsection shall not be
14 disclosed if a taxpayer demonstrates to the department that such information
15 would give an unfair advantage to competitors.

16 K. Except as provided in section 42-2002, subsection C, confidential
17 information, described in section 42-2001, paragraph 1, subdivision (a), item
18 (ii), may be disclosed to law enforcement agencies for law enforcement
19 purposes.

20 L. The department may provide transaction privilege tax license
21 information to property tax officials in a county for the purpose of
22 identification and verification of the tax status of commercial property.

23 M. The department may provide transaction privilege tax, luxury tax,
24 use tax, property tax and severance tax information to the ombudsman-citizens
25 aide pursuant to title 41, chapter 8, article 5.

26 N. Except as provided in section 42-2002, subsection D, a court may
27 order the department to disclose confidential information pertaining to a
28 party to an action. An order shall be made only upon a showing of good cause
29 and that the party seeking the information has made demand upon the taxpayer
30 for the information.

31 O. This section does not prohibit the disclosure by the department of
32 any information or documents submitted to the department by a bingo licensee.
33 Before disclosing the information the department shall obtain the name and
34 address of the person requesting the information.

35 P. If the department is required or permitted to disclose confidential
36 information, it may charge the person or agency requesting the information
37 for the reasonable cost of its services.

38 Q. Except as provided in section 42-2002, subsection D, the department
39 of revenue shall release confidential information as requested by the
40 department of economic security pursuant to section 42-1122 or 46-291.
41 Information disclosed under this subsection is limited to the same type of
42 information that the United States internal revenue service is authorized to
43 disclose under section 6103(1)(6) of the internal revenue code.

1 R. Except as provided in section 42-2002, subsection D, the department
2 of revenue shall release confidential information as requested by the courts
3 and clerks of the court pursuant to section 42-1122.

4 S. To comply with the requirements of section 42-5031, the department
5 may disclose to the state treasurer, to the county stadium district board of
6 directors and to any city or town tax official that is part of the county
7 stadium district confidential information attributable to a taxpayer's
8 business activity conducted in the county stadium district.

9 T. The department shall release TO THE ATTORNEY GENERAL confidential
10 information as requested by the attorney general for purposes of determining
11 compliance with ~~and~~ OR enforcing ~~section~~ ANY OF THE FOLLOWING:

12 1. ANY PUBLIC HEALTH CONTROL LAW RELATING TO TOBACCO SALES AS PROVIDED
13 UNDER TITLE 36, CHAPTER 6, ARTICLE 14.

14 2. ANY LAW RELATING TO REDUCED CIGARETTE IGNITION PROPENSITY STANDARDS
15 AS PROVIDED UNDER TITLE 41, CHAPTER 16, ARTICLE 3.1.

16 3. SECTIONS 44-7101 AND 44-7111, the master settlement agreement
17 referred to ~~therein~~ IN THOSE SECTIONS and ~~subsequent~~ ALL agreements ~~to which~~
18 ~~the state is a party that amend or implement~~ REGARDING DISPUTES UNDER the
19 master settlement agreement. ~~Information disclosed under this subsection is~~
20 ~~limited to luxury tax information relating to tobacco manufacturers,~~
21 ~~distributors, wholesalers and retailers and information collected by the~~
22 ~~department pursuant to section 44-7101(2)(j).~~

23 U. For proceedings before the department, the office of administrative
24 hearings, the board of tax appeals or any state or federal court involving
25 penalties that were assessed against a return preparer, an electronic return
26 preparer or a payroll service company pursuant to section 42-1103.02,
27 42-1125.01 or 43-419, confidential information may be disclosed only before
28 the judge or administrative law judge adjudicating the proceeding, the
29 parties to the proceeding and the parties' representatives in the proceeding
30 prior to its introduction into evidence in the proceeding. The confidential
31 information may be introduced as evidence in the proceeding only if the
32 taxpayer's name, the names of any dependents listed on the return, all social
33 security numbers, the taxpayer's address, the taxpayer's signature and any
34 attachments containing any of the foregoing information are redacted and if
35 either:

36 1. The treatment of an item reflected on such return is or may be
37 related to the resolution of an issue in the proceeding.

38 2. Such return or return information relates or may relate to a
39 transactional relationship between a person who is a party to the proceeding
40 and the taxpayer which directly affects the resolution of an issue in the
41 proceeding.

42 3. The method of payment of the taxpayer's withholding tax liability
43 or the method of filing the taxpayer's withholding tax return is an issue for
44 the period.

1 V. ~~The department may disclose to the attorney general confidential~~
2 ~~information received under section 44-7111 and requested by the attorney~~
3 ~~general for purposes of determining compliance with and enforcing section~~
4 ~~44-7111.~~ The department and attorney general shall share with each other the
5 ~~information received under section 44-7111, and~~ may share the information
6 SPECIFIED IN SUBSECTION T OF THIS SECTION with ~~other~~ ANY OF THE FOLLOWING:

7 1. Federal, state or local agencies ~~only~~ for the purposes of
8 enforcement of ~~section 36-798.06, 44-7101 or 44-7111 or~~ corresponding laws of
9 other states.

10 2. A COURT, ARBITRATOR, DATA CLEARINGHOUSE OR SIMILAR ENTITY FOR THE
11 PURPOSE OF ASSESSING COMPLIANCE WITH OR MAKING CALCULATIONS REQUIRED BY THE
12 MASTER SETTLEMENT AGREEMENT OR AGREEMENTS REGARDING DISPUTES UNDER THE MASTER
13 SETTLEMENT AGREEMENT, AND WITH COUNSEL FOR THE PARTIES OR EXPERT WITNESSES IN
14 ANY SUCH PROCEEDING, IF THE INFORMATION OTHERWISE REMAINS CONFIDENTIAL.

15 W. The department may provide the name and address of qualifying
16 hospitals and qualifying health care organizations, as defined in section
17 42-5001, to a business classified and reporting transaction privilege tax
18 under the utilities classification.

19 ~~X. The department may disclose to the attorney general confidential~~
20 ~~information requested by the attorney general for the purposes of determining~~
21 ~~compliance with and enforcing section 36-798.06.~~

22 ~~Y.~~ X. The department may disclose to an official of any city, town or
23 county in a current agreement or considering a prospective agreement with the
24 department as described in section 42-5032.02, subsection F any information
25 relating to amounts subject to distribution required by section 42-5032.02.
26 Information disclosed by the department under this subsection:

- 27 1. May only be used by the city, town or county for internal purposes.
28 2. May not be disclosed to the public in any manner that does not
29 comply with confidentiality standards established by the department. The
30 city, town or county must agree with the department in writing that any
31 release of confidential information that violates the confidentiality
32 standards will result in the immediate suspension of any rights of the city,
33 town or county to receive information under this subsection.

34 Sec. 5. Section 42-3001, Arizona Revised Statutes, is amended to read:

35 42-3001. Definitions

36 In this chapter, unless the context otherwise requires:

37 1. "Affix" and "affixed" includes imprinting tax meter stamps on
38 packages and individual containers as authorized by the department.

39 2. "BRAND FAMILY" HAS THE SAME MEANING PRESCRIBED IN SECTION 44-7111.

40 ~~2.~~ 3. "Cider" means vinous liquor that is made from the normal
41 alcoholic fermentation of the juice of sound, ripe apples, including
42 flavored, sparkling and carbonated cider and cider made from condensed apple
43 must, and that contains more than one-half of one per cent of alcohol by
44 volume but not more than seven per cent of alcohol by volume.

1 ~~3-~~ 4. "Cigar" means any roll of tobacco wrapped in leaf tobacco or in
2 any substance containing tobacco other than any roll of tobacco that is a
3 cigarette, as defined in paragraph ~~4- 5~~, subdivision (b) of this section.

4 ~~4-~~ 5. "Cigarette" means either of the following:

5 (a) Any roll of tobacco ~~or any substitute for tobacco~~ wrapped in paper
6 or any substance not containing tobacco.

7 (b) Any roll of tobacco wrapped in any substance containing tobacco
8 that, because of its appearance, the type of tobacco used in the filler or
9 its packaging and labeling, is likely to be offered to or purchased by a
10 consumer as a cigarette described in subdivision (a) of this paragraph. This
11 subdivision shall be interpreted consistently with the classification
12 guidelines established by the federal alcohol and tobacco tax and trade
13 bureau.

14 ~~5-~~ 6. "Cigarette distributor" means a distributor of cigarettes
15 without stamps affixed as required by this article who is required to be
16 licensed under section 42-3201. Cigarette distributor does not include a
17 retailer or any person who holds a permit as a cigarette manufacturer, export
18 warehouse proprietor or importer under 26 United States Code section 5712 if
19 the person sells or distributes cigarettes in this state only to licensed
20 cigarette distributors or to another person who holds a permit under 26
21 United States Code section 5712 as an export warehouse proprietor or
22 manufacturer.

23 ~~6-~~ 7. "Cigarette importer" means a distributor who directly or
24 indirectly imports into the United States a finished cigarette for sale or
25 distribution and who is required to be licensed under section 42-3201.

26 ~~7-~~ 8. "Cigarette manufacturer" means a distributor who manufactures,
27 fabricates, assembles, processes or labels a finished cigarette, ~~and who is~~
28 ~~required to be licensed under section 42-3201~~ INCLUDING A DISTRIBUTOR WHO
29 USES OR MAKES AVAILABLE FOR USE A TOBACCO PRODUCT ROLLING VENDING MACHINE IN
30 THE MANUFACTURE, FABRICATION, ASSEMBLY OR PROCESSING OF TOBACCO PRODUCTS.

31 ~~8-~~ 9. "Consumer" means a person in this state who comes into
32 possession of any luxury subject to the tax imposed by this chapter and who,
33 on coming into possession of the luxury, is not a distributor intending to
34 sell or distribute the luxury, retailer or wholesaler.

35 ~~9-~~ 10. "Distributor" means any person who manufactures, produces,
36 ships, transports or imports into this state or in any manner acquires or
37 possesses for the purpose of making the first sale of the following:

38 (a) Cigarettes without ARIZONA TAX stamps affixed as required by this
39 article.

40 (b) Other tobacco products upon which the taxes have not been paid as
41 required by this chapter.

42 ~~10-~~ 11. "Domestic farm winery" has the same meaning prescribed in
43 section 4-101.

44 ~~11-~~ 12. "Domestic microbrewery" has the same meaning prescribed in
45 section 4-101.

1 ~~12.~~ 13. "First sale" means the initial sale or distribution in
2 intrastate commerce or the initial use or consumption of cigarettes or other
3 tobacco products.

4 ~~13.~~ 14. "Luxury" means any article, object or device upon which a tax
5 is imposed under this chapter.

6 ~~14.~~ 15. "Malt liquor" means any liquid that contains more than
7 one-half of one per cent alcohol by volume and that is made by the process of
8 fermentation and not distillation of hops or grains, but not including:

9 (a) Liquids made by the process of distillation of such substances.

10 (b) Medicines that are unsuitable for beverage purposes.

11 16. "MASTER SETTLEMENT AGREEMENT" HAS THE SAME MEANING PRESCRIBED IN
12 SECTION 44-7101.

13 17. "NONPARTICIPATING MANUFACTURER" HAS THE SAME MEANING PRESCRIBED IN
14 SECTION 44-7111.

15 18. "PARTICIPATING MANUFACTURER" HAS THE SAME MEANING PRESCRIBED IN
16 SECTION 44-7111.

17 ~~15.~~ 19. "Person" means any individual, firm, partnership, joint
18 venture, association, corporation, municipal corporation, estate, trust,
19 club, society or other group or combination acting as a unit, and the plural
20 as well as the singular number.

21 20. "PLACE OF BUSINESS" MEANS A PLACE WHERE AN ORDER IS RECEIVED OR
22 WHERE TOBACCO PRODUCTS ARE SOLD, DISTRIBUTED OR TRANSFERRED.

23 ~~16.~~ 21. "Retailer" means any person who comes into possession of any
24 luxury subject to the taxes imposed by this chapter for the purpose of
25 selling it for consumption and not for resale.

26 ~~17.~~ 22. "Spirituous liquor" means any liquid that contains more than
27 one-half of one per cent alcohol by volume, that is produced by distillation
28 of any fermented substance and that is used or prepared for use as a
29 beverage. Spirituous liquor does not include medicines that are unsuitable
30 for beverage purposes.

31 23. "TOBACCO PRODUCT MANUFACTURER" HAS THE SAME MEANING PRESCRIBED IN
32 SECTION 44-7101.

33 ~~18.~~ 24. "Tobacco products" means all luxuries included in section
34 42-3052, paragraphs 5 through 9, ~~except that for the purposes of article 5.1~~
35 ~~of this chapter tobacco products has the same meaning prescribed in section~~
36 ~~42-3221.~~

37 25. "VEHICLE" MEANS A DEVICE IN, ON OR BY WHICH A PERSON OR PROPERTY IS
38 OR MAY BE TRANSPORTED OR DRAWN ON THE ROADS OF THIS STATE REGARDLESS OF THE
39 MEANS BY WHICH IT IS PROPELLED OR WHETHER IT RUNS ON A TRACK.

40 ~~19.~~ 26. "Vinous liquor" means any liquid that contains more than
41 one-half of one per cent alcohol by volume and that is made by the process of
42 fermentation of grapes, berries, fruits, vegetables or other substances but
43 does not include:

44 (a) Liquids in which hops or grains are used in the process of
45 fermentation.

1 (b) Liquids made by the process of distillation of hops or grains.

2 (c) Medicines that are unsuitable for beverage purposes.

3 ~~20-~~ 27. "Wholesaler" means a person who sells any spirituous, vinous
4 or malt liquor taxed under this chapter to retail dealers or for the purposes
5 of resale only.

6 Sec. 6. Section 42-3006, Arizona Revised Statutes, is amended to read:

7 ~~42-3006.~~ Revenue stamps

8 A. The department shall prepare and have on hand official adhesive
9 stamps of the various types according to the classifications set forth in
10 section 42-3052 of luxuries upon which a tax is imposed by this chapter.

11 B. The stamps shall be of a character so that they cannot be removed
12 when once attached to an article without destroying them.

13 C. The stamps shall be printed in the form and manner prescribed by
14 the director.

15 ~~D. In lieu of purchasing official tax stamps for cigarettes, a
16 registered individual described in section 42-3201, subsection C must pay all
17 applicable taxes imposed by this chapter and chapter 5, article 4 of this
18 title and file a return in a form and manner prescribed by the department.~~

19 ~~E.~~ D. The department shall prescribe by rule or procedure the method
20 and manner in which stamps are to be affixed to cigarettes and may provide
21 for the cancellation of stamps.

22 ~~F.~~ E. Cigarette stamps shall also meet the requirements of article 5
23 of this chapter.

24 Sec. 7. Section 42-3008, Arizona Revised Statutes, is amended to read:

25 ~~42-3008.~~ Refunds; definitions

26 A. Except as provided in subsection C of this section, the tax imposed
27 by this chapter upon any ~~articles or substances~~ LUXURY shall be refunded when
28 the amount of the tax has been paid and when either:

29 1. Proof is made to the department that the ~~articles or substances~~
30 LUXURIES were exported from this state or that the stamps have been affixed
31 to ~~articles or substances~~ LUXURIES upon which stamps are not required.

32 2. ~~The PROOF IS MADE TO THE DEPARTMENT THAT THE~~ luxury becomes unfit
33 for sale due to breakage or spoilage ~~WITHIN EITHER SIX MONTHS FROM THE DATE~~
34 ~~THAT THE DISTRIBUTOR ORIGINALLY RECEIVES THE LUXURY FOR SALE OR ONE MONTH~~
35 ~~FROM THE DATE THAT THE LUXURY WAS RETURNED TO THE DISTRIBUTOR BY A RETAILER,~~
36 ~~WHICHEVER OCCURS LATER.~~

37 B. The manner of making proof shall be in accordance with rules
38 adopted by the department.

39 C. The department shall not refund the tax for stamps that are affixed
40 to ~~articles or substances~~ LUXURIES that are deemed contraband under this
41 chapter.

42 D. ~~EXCEPT AS OTHERWISE PROVIDED IN SECTION 42-1123, INTEREST IS~~
43 ~~CALCULATED SIXTY DAYS AFTER RECEIPT BY THE DEPARTMENT OF A CLAIM FOR REFUND~~
44 ~~UNDER THIS SECTION.~~

45 E. ~~FOR THE PURPOSES OF THIS SECTION:~~

1 BY SECTION 42-1125, SUBSECTION O. A DISTRIBUTOR WHO FAILS TO MAKE A TIMELY
2 PAYMENT IN IMMEDIATELY AVAILABLE MONIES AS PRESCRIBED BY THIS SUBSECTION IS
3 SUBJECT TO CIVIL PENALTIES PRESCRIBED BY SECTION 42-1125, SUBSECTION D.

4 C. BEGINNING ON JULY 1, 2015, A DISTRIBUTOR OF TOBACCO PRODUCTS IS
5 REQUIRED TO ELECTRONICALLY FILE ANY REPORT OR RETURN REQUIRED UNDER THIS
6 CHAPTER PURSUANT TO AN ELECTRONIC FILING PROGRAM ESTABLISHED BY THE
7 DEPARTMENT. THE REPORT OR RETURN IS DEEMED FILED AND RECEIVED BY THE
8 DEPARTMENT ON THE DATE OF THE ELECTRONIC POSTMARK PURSUANT TO SECTION
9 42-1105.02. A DISTRIBUTOR WHO IS REQUIRED TO ELECTRONICALLY FILE ANY REPORT
10 OR RETURN UNDER THIS CHAPTER AND FAILS TO DO SO IS SUBJECT TO THE CIVIL
11 PENALTY PRESCRIBED BY SECTION 42-1125, SUBSECTION K. FOR THE PURPOSES OF
12 THIS SUBSECTION, "ELECTRONIC FILING PROGRAM" HAS THE SAME MEANING PRESCRIBED
13 IN SECTION 42-1105.02.

14 Sec. 10. Section 42-3151, Arizona Revised Statutes, is amended to
15 read:

16 42-3151. Inspection of records and stocks of luxuries

17 A. All books, papers, invoices and records of any wholesaler,
18 distributor or retailer whether or not required under this chapter to be
19 kept, showing sales, receipts and purchases of luxuries, shall be open for
20 inspection by the department ~~at all times as provided in subsection C.~~ AS
21 FOLLOWS:

22 1. EXCEPT AS PROVIDED IN PARAGRAPH 2 OF THIS SUBSECTION, ANY
23 INSPECTION MUST BEGIN DURING THE NORMAL BUSINESS HOURS OF THE BUILDING,
24 FACILITY, SITE OR PLACE BEING INSPECTED.

25 2. ANY INSPECTION THAT DOES NOT BEGIN DURING NORMAL BUSINESS HOURS
26 REQUIRES A JUDICIAL WARRANT OR THE PRIOR WRITTEN CONSENT OF THE WHOLESALER,
27 DISTRIBUTOR OR RETAILER.

28 B. Any stock of luxuries in and upon any building, facility, site or
29 place where placed, produced, stored or sold may be inspected by the
30 department to determine compliance with this chapter. EXCEPT AS PROVIDED IN
31 SUBSECTIONS A AND C OF THIS SECTION, A BUSINESS MAY NOT MAINTAIN ANY BOOKS,
32 PAPERS, INVOICES, RECORDS AND LUXURIES SUBJECT TO THE DEPARTMENT'S INSPECTION
33 IN A PLACE AND MANNER THAT REQUIRES A JUDICIAL WARRANT OR PRIOR WRITTEN
34 CONSENT OF THE WHOLESALER, DISTRIBUTOR OR RETAILER.

35 C. ~~Except as provided in subsection D, any inspection must begin~~
36 ~~during the normal business hours of the building, facility, site or place~~
37 ~~being inspected.~~ A BUSINESS THAT MAINTAINS ANY BOOKS, PAPERS, INVOICES OR
38 RECORDS ELECTRONICALLY SHALL PROVIDE ACCESS TO THE DATA FOR THE DEPARTMENT'S
39 INSPECTION AT ITS BUSINESS LOCATION, REGARDLESS OF THE STORAGE LOCATION OF
40 THE DATA. THE BUSINESS SHALL PROVIDE THE ACCESS AT THE BUSINESS LOCATION IN
41 A PLACE AND MANNER THAT IS ACCESSIBLE TO THE DEPARTMENT DURING NORMAL
42 BUSINESS HOURS WITHOUT A JUDICIAL WARRANT OR PRIOR WRITTEN CONSENT OF THE
43 WHOLESALER, DISTRIBUTOR OR RETAILER.

1 ~~D. Any inspection that does not begin during normal business hours~~
2 ~~requires a judicial warrant or the prior written consent of the wholesaler,~~
3 ~~distributor or retailer.~~

4 Sec. 11. Section 42-3201, Arizona Revised Statutes, is amended to
5 read:

6 42-3201. Licensing of tobacco products distributors

7 A. Every distributor acquiring or possessing for the purpose of making
8 the initial sale or distribution in this state of any tobacco products on
9 which a tax is imposed by this chapter shall obtain from the department a
10 license to sell tobacco products. The application for the license shall be
11 in the form provided by the department and shall be accompanied by a fee of
12 twenty-five dollars **FOR EACH PLACE OF BUSINESS LISTED IN THE APPLICATION.**
13 The form shall state that the identity of the applicant may be posted to the
14 department's ~~web site~~ **WEBSITE** for public inspection. The application for a
15 license shall include the applicant's name and address, the applicant's
16 principal place of business, ~~locations~~ **ALL OTHER PLACES OF BUSINESS** where the
17 applicant's business is conducted ~~in this state~~ **FOR THE PURPOSE OF MAKING THE**
18 **INITIAL SALE OR DISTRIBUTION OF TOBACCO PRODUCTS IN THIS STATE, INCLUDING ANY**
19 **LOCATION THAT MAINTAINS AN INVENTORY OF TOBACCO PRODUCTS** and any other
20 information required by the department. If the applicant is a firm,
21 partnership, limited liability company, limited liability partnership or
22 association, the applicant shall list the name and address of each of the
23 applicant's members. If the applicant is a corporation, the application
24 shall list the name and address of the applicant's officers and any person
25 who directly or indirectly owns an aggregate amount of ten per cent or more
26 of the ownership interest in the corporation. If a licensee changes its
27 business location, the licensee under this subsection shall notify the
28 department within thirty days after a change in location. **IF THE LICENSEE IS**
29 **MAKING A CHANGE IN ITS BUSINESS LOCATION BY ADDING OR REPLACING ONE OR MORE**
30 **ADDITIONAL PLACES OF BUSINESS THAT ARE NOT CURRENTLY LISTED ON ITS**
31 **APPLICATION, THE LICENSEE MUST REMIT A FEE OF TWENTY-FIVE DOLLARS FOR EACH**
32 **ADDITIONAL PLACE OF BUSINESS.**

33 B. The department shall issue a license authorizing the applicant to
34 acquire or possess tobacco products in this state upon the condition that the
35 applicant complies with this chapter and the rules of the department. The
36 license:

37 1. Shall be nontransferable. **A LICENSEE MAY NOT TRANSFER ITS LICENSE**
38 **TO A NEW OWNER WHEN SELLING ITS BUSINESS, AND ANY COURT-APPOINTED TRUSTEE,**
39 **RECEIVER OR OTHER PERSON SHALL OBTAIN A LICENSE IN ITS OWN NAME IN CASES OF**
40 **LIQUIDATION, INSOLVENCY OR BANKRUPTCY IF THE BUSINESS REMAINS IN OPERATION AS**
41 **A DISTRIBUTOR OF TOBACCO PRODUCTS. A LICENSEE SHALL APPLY FOR A NEW LICENSE**
42 **IF IT CHANGES ITS LEGAL ENTITY STATUS OR OTHERWISE CHANGES THE LEGAL**
43 **STRUCTURE OF ITS BUSINESS.**

44 2. Shall be valid for one year unless earlier revoked by the
45 department.

1 3. Shall, ~~for an applicant selling or offering for sale tobacco,~~
2 ~~cigarettes and cigars,~~ be displayed in A CONSPICUOUS PLACE AT the applicant's
3 place of business. IF THE APPLICANT OPERATES FROM MORE THAN ONE PLACE OF
4 BUSINESS, THE APPLICANT MUST DISPLAY A COPY OF ITS LICENSE IN A CONSPICUOUS
5 PLACE AT EACH LOCATION.

6 ~~C. Except for cigarettes that are described in subsection I of this~~
7 ~~section, an individual who acquires or possesses unstamped cigarettes solely~~
8 ~~for that individual's own use or consumption in this state must register with~~
9 ~~the department on a form and in a manner prescribed by the department to~~
10 ~~remit taxes imposed by this chapter and chapter 5, article 4 of this title.~~
11 ~~The registration is free of charge. On registration, the individual must pay~~
12 ~~all applicable taxes imposed by this chapter and chapter 5, article 4 of this~~
13 ~~title and file on a form and in a manner prescribed by the department within~~
14 ~~ten calendar days after receipt of unstamped cigarettes.~~

15 C. A PERSON MAY NOT HOLD, STORE OR TRANSPORT UNSTAMPED CIGARETTES OR
16 OTHER UNTAXED TOBACCO PRODUCTS FOR SALE OR DISTRIBUTION IN THIS STATE IN ANY
17 VEHICLE PURSUANT TO SECTION 36-798.06. THIS SUBSECTION DOES NOT APPLY TO ANY
18 VEHICLE THAT IS OWNED, OPERATED OR CONTRACTED BY A PERSON WHO HOLDS A VALID
19 LICENSE ISSUED UNDER THIS SECTION AND IS TRANSPORTING UNSTAMPED CIGARETTES OR
20 OTHER UNTAXED TOBACCO PRODUCTS FROM ONE OF THE LICENSEE'S PLACES OF BUSINESS
21 LISTED ON ITS APPLICATION TO ANOTHER.

22 D. AS A CONDITION OF LICENSURE UNDER THIS SECTION, AN APPLICANT AGREES
23 TO THE FOLLOWING CONDITIONS:

24 1. A PERSON MAY NOT HOLD OR STORE ANY TOBACCO PRODUCTS, WHETHER WITHIN
25 OR OUTSIDE OF THIS STATE, FOR SALE OR DISTRIBUTION IN THIS STATE BY OR ON
26 BEHALF OF A DISTRIBUTOR AT ANY PLACE OTHER THAN A LOCATION THAT HAS BEEN
27 DISCLOSED TO THE DEPARTMENT PURSUANT TO SUBSECTION A OF THIS SECTION.

28 2. ALL TOBACCO PRODUCTS HELD OR STORED, WHETHER WITHIN OR OUTSIDE OF
29 THIS STATE, FOR SALE OR DISTRIBUTION IN THIS STATE BY OR ON BEHALF OF A
30 DISTRIBUTOR SHALL BE ACCESSIBLE TO THE DEPARTMENT DURING NORMAL BUSINESS
31 HOURS WITHOUT A JUDICIAL WARRANT OR PRIOR WRITTEN CONSENT OF THE DISTRIBUTOR,
32 EXCLUDING RESIDENTIAL LOCATIONS.

33 ~~D.~~ E. An individual must be licensed as a cigarette distributor if
34 the individual acquires or possesses unstamped cigarettes in this state for
35 sale, barter or exchange or for any other purpose besides or in addition to
36 that individual's own use or consumption.

37 ~~E.~~ F. A person who is convicted of an offense described in section
38 42-1127, subsection E is permanently ineligible to hold a license issued
39 under this section.

40 ~~F.~~ G. The department may not issue or renew a license to an applicant
41 and may revoke a license issued under subsection B of this section if any of
42 the following applies:

43 1. The applicant owes one thousand dollars or more in delinquent
44 cigarette taxes that are not under protest or subject to a payment agreement.

1 NOT ACQUIRE OR POSSESS UNSTAMPED CIGARETTES OR OTHER TOBACCO PRODUCTS ON
2 WHICH TAXES LEVIED UNDER THIS CHAPTER HAVE NOT BEEN PAID UNLESS THE RETAILER
3 HOLDS A VALID LICENSE ISSUED UNDER SECTION 42-3201.

4 B. A RETAILER MAY NOT USE A VEHICLE AS A PLACE OF BUSINESS FOR SELLING
5 TOBACCO PRODUCTS.

6 Sec. 13. Section 42-3202, Arizona Revised Statutes, is amended to
7 read:

8 42-3202. Payment of tax required to sell cigarettes

9 A. Except as provided in subsection B of this section, a person may
10 not:

11 1. Sell or offer for sale any ~~tobacco products~~ CIGARETTES upon which a
12 tax is imposed by this article to any person within this state unless at the
13 time of the sale, distribution or transfer the tax has been paid on the
14 ~~tobacco products~~ CIGARETTES as evidenced by ~~a~~ AN ARIZONA TAX stamp or any
15 other official indicia. THE DEPARTMENT SHALL CONSIDER TOBACCO TAXES PAID AT
16 THE TIME OF THE SALE, DISTRIBUTION OR TRANSFER OF TOBACCO PRODUCTS OTHER THAN
17 CIGARETTES IF A LICENSED DISTRIBUTOR REPORTS AND REMITS THE TAXES ON THE
18 PRODUCTS IN ACCORDANCE WITH THE MANNER, METHOD AND TIME PRESCRIBED BY SECTION
19 42-3208. SWORN RETURNS THAT ARE PREPARED AND REMITTED BY A LICENSED
20 DISTRIBUTOR UNDER SECTION 42-3208 CONSTITUTE OFFICIAL INDICIA THAT TOBACCO
21 TAXES HAVE BEEN PAID ON THE NONCIGARETTE TOBACCO PRODUCTS AT ISSUE.

22 2. Sell cigarettes that have ARIZONA tax stamps affixed unless the tax
23 evidenced by the stamps is actually paid. The department shall not refund
24 any amount of that tax on the grounds that the stamps are not required to be
25 affixed to the cigarettes.

26 B. A distributor licensed pursuant to section 42-3201 may NOT sell,
27 distribute or transfer tobacco products for which the distributor is licensed
28 to another such licensed distributor without paying the tax at the time of
29 the sale, distribution or transfer.

30 Sec. 14. Section 42-3202.01, Arizona Revised Statutes, is amended to
31 read:

32 42-3202.01. Presumption of tax on unstamped cigarettes

33 Except as otherwise provided in section 42-1127, subsection F, ~~AND~~
34 section 42-3202, subsection B ~~and section 42-3203, subsection C~~, for the
35 purpose of proper administration and to prevent evasion of the taxes imposed
36 by this chapter, until the contrary is established, it is presumed that
37 cigarettes that are sold, distributed, used or consumed by a person in this
38 state, but not placed in packages or containers on which official tax stamps
39 are affixed, are intended for first sale by the person and are subject to the
40 taxes imposed by this chapter.

41 Sec. 15. Section 42-3203, Arizona Revised Statutes, is amended to
42 read:

43 42-3203. Stamped packages required for cigarettes; exceptions

44 A. Except as otherwise provided in this chapter, all cigarettes on
45 which a tax is imposed by this chapter shall be placed in packages or

1 containers, and on each package or container shall be affixed an official
2 stamp described in section 42-3006 or 42-3202.03. An affixed stamp shall be
3 evidence that the taxes levied by sections 42-3052, 42-3251 and 42-3251.01
4 are paid.

5 B. ~~Except as provided in subsection C of this section,~~ Cigarette
6 distributors are liable for affixing official stamps or otherwise applying
7 tax indicia to cigarettes that are subject to a tax imposed by this chapter.
8 A licensed cigarette distributor shall apply a stamp to each package of
9 cigarettes that is sold or distributed in this state and that is subject to
10 tax under this chapter, including cigarettes that are subject to tax under
11 section 42-3302. A licensed cigarette distributor shall apply a tax exempt
12 stamp to cigarette packages that are not subject to tax under section
13 42-3304, subsection A, paragraph 2.

14 C. Cigarettes that are sold, distributed or transferred by a
15 distributor licensed pursuant to section 42-3201 to sell cigarettes are ~~not~~
16 required to have affixed the luxury stamps described in section 42-3006 at
17 the time the cigarettes are sold, distributed or transferred to another
18 licensed distributor.

19 D. Cigarettes that are exempt from tax under 26 United States Code
20 section 5701 and that are distributed according to federal regulations are
21 not subject to tax and do not require a stamp under this chapter.

22 E. A retailer shall not offer for sale cigarettes in quantities that
23 are not packaged as such for sale by the cigarette manufacturer.

24 F. Cigarette distributors may apply stamps only to cigarette packages
25 that the cigarette distributors have directly received from a licensed
26 cigarette distributor, licensed cigarette manufacturer or licensed cigarette
27 importer.

28 Sec. 16. Section 42-3205, Arizona Revised Statutes, is amended to
29 read:

30 42-3205. Unstamped cigarettes

31 A. A person shall not possess an unstamped cigarette package unless
32 the person is shipping or transporting unstamped cigarettes pursuant to
33 subsection B of this section, is a licensed cigarette manufacturer or
34 licensed cigarette importer, ~~is a registered individual possessing the~~
35 ~~cigarettes solely for the individual's own use and consumption in this state~~
36 ~~pursuant to section 42-3201, subsection C~~ or is a licensed cigarette
37 distributor who receives unstamped cigarette packages directly from a
38 licensed cigarette manufacturer or cigarette importer.

39 B. Except for a licensed cigarette manufacturer, cigarette importer or
40 cigarette distributor **AND IF LAWFUL UNDER SECTION 36-798.06**, a person who
41 ships unstamped cigarette packages in or into this state shall first file
42 with the department a notice of shipment. This subsection does not apply to
43 any common or contract carrier that is transporting cigarettes through this
44 state to another location under a proper bill of lading or freight bill that
45 states the quantity, source and destination of the cigarettes.

1 C. IF LAWFUL UNDER SECTION 36-798.06, a person who transports
2 unstamped cigarette packages in or into this state shall carry in the vehicle
3 used to convey the shipment invoices or equivalent documentation of the
4 shipment for all cigarettes in the shipment. The invoices or documentation
5 shall indicate the name and address of the consignor or seller, the name and
6 address of the consignee or purchaser and the quantity of each brand of
7 cigarettes that is transported.

8 Sec. 17. Section 42-3206, Arizona Revised Statutes, is amended to
9 read:

10 42-3206. Cigarette stamp discount purchases; refund; rebate

11 A. The official stamps to be affixed to packages of cigarettes shall
12 be obtainable from the department by each licensed cigarette distributor by
13 purchase:

14 1. ON OR BEFORE SEPTEMBER 30, 2014, AT THE FOLLOWING DISCOUNT RATES:

15 ~~1-~~ (a) Ninety-six per cent of the face value for the first thirty-six
16 thousand dollars worth of stamps purchased by the distributor in any month.

17 ~~2-~~ (b) Ninety-seven per cent of the face value for the second
18 thirty-six thousand dollars worth of stamps purchased by the distributor in
19 any month.

20 ~~3-~~ (c) Ninety-eight per cent of the face value on all stamps in
21 excess of seventy-two thousand dollars purchased by the distributor in any
22 month, except that if a distributor purchases more than one hundred
23 sixty-five thousand dollars worth of stamps in one month, the department
24 shall offset against the discount under this ~~paragraph~~ SUBDIVISION, or the
25 distributor shall refund to the department, the difference between the face
26 value and the discounted value of the first seventy-two thousand dollars
27 worth of stamps under ~~paragraphs 1 and 2~~ SUBDIVISIONS (a) AND (b) OF THIS
28 PARAGRAPH.

29 2. AFTER SEPTEMBER 30, 2014, AT THE RATE OF NINETY-SIX PER CENT OF THE
30 FACE VALUE OF THE STAMPS.

31 B. ANY REFUND OF OR REBATES ON TAX STAMPS REQUESTED BY A LICENSED
32 DISTRIBUTOR MUST BE ISSUED IN AN AMOUNT OF THE TOTAL FACE VALUE OF THE STAMPS
33 MINUS FOUR PER CENT OF THE TOTAL FACE VALUE OF THE STAMPS.

34 Sec. 18. Section 42-3208, Arizona Revised Statutes, is amended to
35 read:

36 42-3208. Return and payment by distributors of tobacco products
37 other than cigarettes; report for refund or rebate

38 A. Except for tobacco products described in subsection F of this
39 section, every distributor of cigars or tobacco products other than
40 cigarettes shall pay the tax imposed by this chapter on all those products
41 received within the state and shall add the amount of the tax to the sales
42 price.

43 B. The distributor shall pay the tax to the department monthly on or
44 before the twentieth day of the month next succeeding the month in which the
45 tax accrues.

1 C. On or before that date the distributor shall prepare a sworn return
2 for the month in which the tax accrues in the form prescribed by the
3 department, showing:

4 1. The amount of cigars or tobacco products other than cigarettes
5 received in this state during the month in which the tax accrues.

6 2. The amount of tax for the period covered by the return.

7 3. Any other information the department deems necessary for the proper
8 administration of this chapter, **INCLUDING INFORMATION REQUIRED FOR**
9 **ROLL-YOUR-OWN TOBACCO PROVIDED UNDER SECTION 42-3211.**

10 D. The distributor shall deliver the return, together with a
11 remittance of the amount of the tax due, to the department.

12 E. A taxpayer who fails to pay the tax within ten days of the date on
13 which the payment becomes due is subject to and shall pay a penalty
14 determined under section 42-1125 plus interest at the rate determined
15 pursuant to section 42-1123 from the time the tax was due and payable until
16 paid.

17 F. Tobacco products that are ordered, purchased or transported in ~~a~~
18 violation of section 13-3711, 36-798.06 or 42-3210 or section 44-7111,
19 section 3(c) or any other statute for which the tobacco products are subject
20 to seizure and destruction are deemed contraband for which taxes that are
21 imposed under this chapter cannot be reported and remitted.

22 G. **A DISTRIBUTOR REQUESTING ANY REFUND OR REBATE OF TAXES PAID ON**
23 **TOBACCO PRODUCTS PURSUANT TO THIS SECTION MUST ESTABLISH ENTITLEMENT TO THE**
24 **REFUND OR REBATE BY OBTAINING A REPORT EXECUTED BY THE RETAILER THAT**
25 **PURCHASED THE TOBACCO PRODUCTS ON WHICH THE DISTRIBUTOR PAID TAXES INDICATING**
26 **THE NAME AND ADDRESS OF THE RETAILER AND THE QUANTITIES OF TOBACCO PRODUCTS**
27 **SOLD, SEPARATELY IDENTIFIED BY THE TAX CATEGORY OF TOBACCO PRODUCT AND THE**
28 **NECESSARY FACTS TO ESTABLISH THE APPROPRIATE AMOUNT OF REFUND OR REBATE. THE**
29 **REPORT IS SUBJECT TO THE FOLLOWING CONDITIONS:**

30 1. **THE REPORT MUST BE PROVIDED IN THE FORM AND MANNER PRESCRIBED BY**
31 **THE DEPARTMENT. UNDER SUCH RULES AS IT MAY PRESCRIBE, THE DEPARTMENT MAY**
32 **IDENTIFY TRANSACTIONS FOR WHICH A DISTRIBUTOR MAY NOT RELY SOLELY ON THE**
33 **INFORMATION IN THE RETAILER'S REPORT BUT MUST INSTEAD OBTAIN ADDITIONAL**
34 **INFORMATION AS REQUIRED BY THE RULES IN ORDER TO BE ENTITLED TO THE REFUND OR**
35 **REBATE.**

36 2. **THE BURDEN OF PROOF FOR THE REFUND OR REBATE IS ON THE DISTRIBUTOR,**
37 **BUT IF THE DISTRIBUTOR COMPLIES IN ALL OTHER RESPECTS WITH THIS SUBSECTION,**
38 **THE DEPARTMENT MAY REQUIRE THE RETAILER THAT CAUSED THE EXECUTION OF THE**
39 **REPORT TO ESTABLISH THE ACCURACY AND COMPLETENESS OF THE INFORMATION REQUIRED**
40 **TO BE CONTAINED IN THE REPORT THAT WOULD ENTITLE THE DISTRIBUTOR TO THE**
41 **REFUND OR REBATE. IF THE RETAILER CANNOT ESTABLISH THE ACCURACY AND**
42 **COMPLETENESS OF THE INFORMATION, THE RETAILER IS LIABLE IN AN AMOUNT EQUAL TO**
43 **ANY TAX, PENALTY AND INTEREST THAT THE DISTRIBUTOR WOULD HAVE BEEN LIABLE FOR**
44 **UNDER THIS CHAPTER IF THE DISTRIBUTOR HAD NOT OTHERWISE COMPLIED WITH THIS**
45 **SUBSECTION. PAYMENT OF THE AMOUNT UNDER THIS SUBSECTION BY THE RETAILER**

1 EXEMPTS THE DISTRIBUTOR FROM LIABILITY FOR THE UNDERLYING TAX, PENALTY AND
2 INTEREST. ALL AMOUNTS PAID BY A RETAILER UNDER THIS PARAGRAPH SHALL BE
3 TREATED AS TAX REVENUES COLLECTED FROM THE DISTRIBUTOR IN ORDER TO DESIGNATE
4 THE DISTRIBUTION BASE FOR PURPOSES OF THIS CHAPTER.

5 Sec. 19. Section 42-3209, Arizona Revised Statutes, is amended to
6 read:

7 42-3209. Redemption of unused or spoiled tobacco product stamps
8 and meter registration; definitions

9 A. The department shall redeem unused or spoiled ARIZONA TAX stamps
10 that a cigarette distributor presents for redemption IF THOSE STAMPS ARE
11 UNAFFIXED AND PURCHASED WITHIN TWO YEARS OF THE DATE OF THE REQUEST FOR
12 REDEMPTION and shall pay for them from monies collected under this chapter.

13 B. Under rules adopted by the department, the department shall redeem
14 the unused amount of tax for which any meter is registered and shall pay for
15 it from monies collected under this chapter.

16 C. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROVIDE FOR
17 REDEMPTION IN THE CASE OF LOSS OR THEFT OF TAX STAMPS.

18 D. FOR THE PURPOSES OF THIS SECTION:

- 19 1. "REDEEM" MEANS REPURCHASE OR REPLACE ARIZONA TAX STAMPS.
- 20 2. "SPOILED" MEANS MUTILATED OR ILLEGIBLE.

21 Sec. 20. Section 42-3211, Arizona Revised Statutes, is amended to
22 read:

23 42-3211. Cigarette and roll-your-own tobacco distributors;
24 filing requirements; definition

25 A. ~~On or before the twentieth day of each month,~~ Each cigarette
26 distributor shall file a return in a form prescribed by the department for
27 each place of business ON OR BEFORE THE TWENTIETH DAY OF THE MONTH NEXT
28 SUCCEEDING THE MONTH FOR WHICH THE RETURN IS FILED. The return shall contain
29 all of the following:

30 1. The BRAND NAMES AND quantities of each brand of cigarettes in
31 possession at the beginning and end of the reporting period.

32 2. The BRAND NAMES AND quantities of each brand of cigarettes received
33 during the reporting period and the name and address of each person from whom
34 each product was received.

35 3. The BRAND NAMES AND quantities of each brand of cigarettes
36 distributed or shipped into this state or between locations in this state
37 during the reporting period, except for sales directly to consumers, and the
38 name and address of each person to whom each product was distributed or
39 shipped.

40 4. The BRAND NAMES AND quantities of each brand of cigarettes
41 distributed or shipped to any destination wherever located, including the
42 quantities reported under paragraph 3 of this subsection during the reporting
43 period, except for sales directly to consumers, and the name and address of
44 each person to whom each product was distributed or shipped.

1 5. The BRAND NAMES AND quantities of each brand of cigarettes sold to
2 consumers that are itemized to show sales to consumers in this state and sale
3 to consumers outside of this state.

4 6. Copies of the customs certificates with respect to such cigarettes
5 required to be submitted by 19 United States Code section 1681a(c).

6 7. THE NAME AND ADDRESS OF EACH NONPARTICIPATING MANUFACTURER OF EACH
7 BRAND OF CIGARETTES IDENTIFIED BY THE DISTRIBUTOR IN THE RETURN.

8 8. THE NUMBER OF INDIVIDUAL CIGARETTES OF EACH BRAND OF EACH
9 NONPARTICIPATING MANUFACTURER SOLD IN THIS STATE BY THE DISTRIBUTOR DURING
10 THE PRECEDING MONTH, SEPARATELY STATING EACH OF THE FOLLOWING:

11 (a) THE NUMBER OF CIGARETTE PACKAGES SOLD AND THE NUMBER OF INDIVIDUAL
12 CIGARETTES IN EACH PACKAGE.

13 (b) THE NUMBER OF ROLL-YOUR-OWN TOBACCO CONTAINERS SOLD AND THE NUMBER
14 OF INDIVIDUAL CIGARETTES IN EACH CONTAINER.

15 9. THE AMOUNT OF LUXURY TAXES PAID OR TO BE PAID ON THE CIGARETTES AND
16 ROLL-YOUR-OWN TOBACCO PRESCRIBED IN PARAGRAPH 8 OF THIS SUBSECTION,
17 SEPARATELY STATING EACH OF THE FOLLOWING:

18 (a) THE AMOUNT OF LUXURY TAXES PAID BY PURCHASING AND AFFIXING TAX
19 STAMPS TO CIGARETTE PACKAGES.

20 (b) THE AMOUNT OF LUXURY TAXES TO BE PAID FOR ROLL-YOUR-OWN TOBACCO
21 CONTAINERS.

22 (c) ANY OTHER AMOUNT OF EXCISE TAXES TO BE PAID ON THE CIGARETTES.

23 10. THE NUMBER OF INDIVIDUAL CIGARETTES OF EACH BRAND OF EACH
24 NONPARTICIPATING MANUFACTURER RECEIVED BY THE DISTRIBUTOR, SEPARATELY STATING
25 EACH OF THE FOLLOWING:

26 (a) THE NUMBER OF CIGARETTE PACKAGES RECEIVED AND THE NUMBER OF
27 INDIVIDUAL CIGARETTES IN EACH PACKAGE.

28 (b) THE NUMBER OF ROLL-YOUR-OWN TOBACCO CONTAINERS RECEIVED AND THE
29 NUMBER OF INDIVIDUAL CIGARETTES IN EACH CONTAINER.

30 11. THE NUMBER OF INDIVIDUAL CIGARETTES OF EACH BRAND OF EACH
31 NONPARTICIPATING MANUFACTURER THAT THE DISTRIBUTOR EXPORTED FROM THIS STATE
32 WITHOUT PAYMENT OF ARIZONA LUXURY TAXES, SEPARATELY STATING EACH OF THE
33 FOLLOWING:

34 (a) THE NUMBER OF CIGARETTE PACKAGES EXPORTED AND THE NUMBER OF
35 INDIVIDUAL CIGARETTES IN EACH PACKAGE.

36 (b) THE NUMBER OF ROLL-YOUR-OWN TOBACCO CONTAINERS EXPORTED AND THE
37 NUMBER OF INDIVIDUAL CIGARETTES IN EACH CONTAINER.

38 12. THE NUMBER OF INDIVIDUAL CIGARETTES OF EACH BRAND OF EACH
39 NONPARTICIPATING MANUFACTURER FOR WHICH THE DISTRIBUTOR OBTAINED A REFUND
40 UNDER SECTION 42-3008, SEPARATELY STATING EACH OF THE FOLLOWING:

41 (a) THE NUMBER OF CIGARETTE PACKAGES FOR WHICH THE DISTRIBUTOR
42 OBTAINED A REFUND AND THE NUMBER OF INDIVIDUAL CIGARETTES IN EACH PACKAGE.

43 (b) THE NUMBER OF ROLL-YOUR-OWN TOBACCO CONTAINERS FOR WHICH THE
44 DISTRIBUTOR OBTAINED A REFUND AND THE NUMBER OF INDIVIDUAL CIGARETTES IN EACH
45 CONTAINER.

1 13. THE INVOICE NUMBER AND A COPY OF EACH INVOICE RELATING TO EACH OF
2 THE FOLLOWING TRANSACTIONS:

3 (a) THE DISTRIBUTOR'S PURCHASE OR ACQUISITION OF ANY NONPARTICIPATING
4 MANUFACTURER'S CIGARETTES RECEIVED OR SOLD BY THE TOBACCO DISTRIBUTOR IN THIS
5 STATE.

6 (b) THE DISTRIBUTOR'S EXPORT, IF ANY, OF ANY NONPARTICIPATING
7 MANUFACTURER'S CIGARETTES FROM THIS STATE.

8 B. Cigarette manufacturers and cigarette importers who ship cigarettes
9 into or in this state shall file a monthly report with the department. The
10 report shall contain the information regarding cigarettes described under
11 subsection A, paragraph 3 OF THIS SECTION.

12 C. Cigarette distributor reports that are submitted under subsection A
13 OF THIS SECTION shall be itemized to disclose the quantity of reported
14 cigarettes bearing tax stamps of this state, tax exempt stamps of this state,
15 stamps of another state and unstamped cigarettes. The distributor reports
16 shall also include, if applicable, the following:

17 1. The quantity of Arizona tax and tax exempt stamps that were not
18 affixed to cigarettes.

19 2. The quantity of Arizona tax and tax exempt stamps that the
20 distributor possessed at the beginning and end of the reporting period.

21 3. The quantity of each type of Arizona stamp received during the
22 reporting period.

23 4. The quantity of each type of Arizona stamp applied during the
24 reporting period.

25 D. The department may adopt rules requiring additional information in
26 the monthly reports as necessary for the purposes of enforcing this article.

27 E. FOR THE PURPOSES OF THIS SECTION, "CIGARETTE" HAS THE SAME MEANING
28 PRESCRIBED IN SECTION 44-7101, SECTION 2(d) EXCEPT IF DIFFERING REPORTING
29 REQUIREMENTS ARE SPECIFIED FOR ROLL-YOUR-OWN TOBACCO.

30 Sec. 21. Section 42-3212, Arizona Revised Statutes, is amended to
31 read:

32 42-3212. Records

33 A. Except for retail transactions with consumers, each ~~eigarette~~
34 manufacturer, ~~eigarette~~ importer and ~~eigarette~~ distributor OF TOBACCO
35 PRODUCTS shall maintain copies of invoices or equivalent documentation for
36 each facility and for each transaction that involves the sale, purchase,
37 transfer, consignment or receipt of ~~eigarettes~~ TOBACCO PRODUCTS within this
38 state. The invoices or documentation shall indicate the name and address of
39 the other party and the quantity by brand style of the ~~eigarettes~~ TOBACCO
40 PRODUCTS involved in the transaction.

41 B. A ~~eigarette~~ distributor OF TOBACCO PRODUCTS shall issue an invoice
42 or equivalent documentation for each transaction that involves the sale,
43 purchase or consignment of ~~eigarettes~~ TOBACCO PRODUCTS to a retailer. The
44 invoice or equivalent documentation must include the license number of the

1 ~~cigarette~~ distributor, which the retailer may use to ascertain whether the
2 license is current and valid.

3 C. ANY RETAILER OF TOBACCO PRODUCTS SHALL RETAIN ALL INVOICES OR
4 EQUIVALENT DOCUMENTATION RECEIVED UNDER SUBSECTION B OF THIS SECTION.

5 ~~C.~~ D. Records required under this section shall be preserved on the
6 premises described in the relevant license in a manner as to ensure
7 accessibility for inspection at reasonable hours by authorized personnel of
8 the department. With the department's permission, persons with multiple
9 places of business may retain centralized records, but shall transmit
10 duplicates of the invoices or the equivalent documentation to each place of
11 business within three business days after a request by the department.

12 ~~D.~~ E. The records required by this section shall be retained for a
13 period of four years after the date of the transaction.

14 ~~E.~~ F. On request, the department and the United States secretary of
15 the treasury or secretary's designee shall have access to records required
16 under this section and reports required under section 42-3211. The
17 department at its sole discretion may share the records and reports required
18 by this chapter with other law enforcement officials of federal and state
19 governments under conditions that assume the confidentiality of taxpayer
20 information contained in the records and reports.

21 Sec. 22. Section 42-3301, Arizona Revised Statutes, is amended to
22 read:

23 42-3301. Definitions

24 In this article, unless the context otherwise requires:

25 1. "Indian" means any person who is duly registered on the tribal
26 rolls of an Indian tribe that occupies an Indian reservation.

27 2. "Indian reservation" means all lands that are held in trust by the
28 United States within the limits of an area that is set aside by the United
29 States for the exclusive use and occupancy of Indian tribes by treaty,
30 statute or executive order and that is recognized as an Indian reservation by
31 the United States department of the interior.

32 3. "Indian tribe" means any organized Indian nation, tribe, band or
33 community that is recognized as an Indian tribe by the United States
34 department of the interior.

35 4. "LUXURY, SALES, TRANSACTION PRIVILEGE OR SIMILAR TAX" MEANS AN
36 EXCISE TAX LEVIED EXCLUSIVELY ON TOBACCO PRODUCTS.

37 Sec. 23. Title 42, chapter 3, article 7, Arizona Revised Statutes, is
38 amended by adding sections 42-3303.01 and 42-3308, to read:

39 42-3303.01. Stamps required for cigarettes sold on Indian
40 reservations to enrolled tribal members;
41 definition

42 A. FOR CIGARETTES PURCHASED ON AN INDIAN RESERVATION BY AN ENROLLED
43 MEMBER OF THE GOVERNING TRIBE:

44 1. WHERE THAT TRIBE DOES NOT LEVY AN EXCISE TAX ON TOBACCO PRODUCTS OR
45 EXEMPTS ITS ENROLLED MEMBERS FROM THE TAX, A CIGARETTE DISTRIBUTOR SHALL

1 AFFIX TAX-EXEMPT STAMPS THAT ARE DISTINGUISHABLE FROM ANY OTHER TAX STAMP
2 REQUIRED BY THIS CHAPTER.

3 2. WHERE THAT TRIBE LEVIES AN EXCISE TAX ON TOBACCO PRODUCTS AND DOES
4 NOT EXEMPT ITS MEMBERS FROM THE TAX, A CIGARETTE DISTRIBUTOR SHALL PURCHASE
5 AND AFFIX TAX STAMPS PURSUANT TO ARTICLE 5 OF THIS CHAPTER THAT ARE
6 DISTINGUISHABLE FROM ANY OTHER TAX OR TAX-EXEMPT STAMP REQUIRED BY THIS
7 CHAPTER.

8 C. FOR THE PURPOSES OF THIS SECTION, "EXCISE TAX ON TOBACCO PRODUCTS"
9 HAS THE SAME MEANING PRESCRIBED FOR "LUXURY, SALES, TRANSACTION PRIVILEGE OR
10 SIMILAR TAX" UNDER SECTION 42-3301.

11 42-3308. Agreements between the department and tribal tax
12 authorities; definition

13 A. THE DEPARTMENT MAY COLLECT AND ADMINISTER ANY TRIBAL EXCISE TAX ON
14 TOBACCO PRODUCTS IMPOSED BY AN INDIAN TRIBE, AS DESCRIBED IN SECTION 42-3302,
15 SUBSECTION C ON ENTERING INTO AN INTERGOVERNMENTAL AGREEMENT OR CONTRACT WITH
16 THE TRIBE TO PROVIDE A UNIFORM OR COORDINATED METHOD OF ADMINISTRATION OF
17 INDIAN RESERVATION TOBACCO TAX IMPOSED BY THIS STATE UNDER THIS ARTICLE AND
18 TRIBAL EXCISE TAX IMPOSED BY THE TRIBE.

19 B. ANY INTERGOVERNMENTAL AGREEMENT OR CONTRACT PURSUANT TO SUBSECTION
20 A OF THIS SECTION MUST CONTAIN PROVISIONS FOR A UNIFORM OR COORDINATED AUDIT
21 PROCEDURE FOR THE INDIAN RESERVATION TOBACCO TAX IMPOSED BY THIS STATE UNDER
22 THIS ARTICLE AND TRIBAL EXCISE TAX ON TOBACCO PRODUCTS IMPOSED BY THE TRIBE.

23 C. FOR THE PURPOSES OF THIS SECTION, "EXCISE TAX ON TOBACCO PRODUCTS"
24 HAS THE SAME MEANING PRESCRIBED FOR "LUXURY, SALES, TRANSACTION PRIVILEGE OR
25 SIMILAR TAX" UNDER SECTION 42-3301.

26 Sec. 24. Section 44-7101, Arizona Revised Statutes, is amended to
27 read:

28 44-7101. Tobacco product manufacturers escrow accounts; model
29 statute

30 This state enacts the model statute described in the master settlement
31 agreement entered into on November 23, 1998 between this state and certain
32 United States tobacco product manufacturers as exhibit T as follows:

33 Section 1. Findings and Purpose.

34 (a) Cigarette smoking presents serious public health concerns to the
35 state and to the citizens of the state. The surgeon general has determined
36 that smoking causes lung cancer, heart disease and other serious diseases,
37 and that there are hundreds of thousands of tobacco-related deaths in the
38 United States each year. These diseases most often do not appear until many
39 years after the person in question begins smoking.

40 (b) Cigarette smoking also presents serious financial concerns for the
41 state. Under certain health-care programs, the state may have a legal
42 obligation to provide medical assistance to eligible persons for health
43 conditions associated with cigarette smoking, and those persons may have a
44 legal entitlement to receive such medical assistance.

1 (c) Under these programs, the state pays millions of dollars each year
2 to provide medical assistance for these persons for health conditions
3 associated with cigarette smoking.

4 (d) It is the policy of the state that financial burdens imposed on
5 the state by cigarette smoking be borne by tobacco product manufacturers
6 rather than by the state to the extent that such manufacturers either
7 determine to enter into a settlement with the state or are found culpable by
8 the courts.

9 (e) On November 23, 1998, leading United States tobacco product
10 manufacturers entered into a settlement agreement, entitled the "master
11 settlement agreement," with the state. The master settlement agreement
12 obligates these manufacturers, in return for a release of past, present and
13 certain future claims against them as described therein, to pay substantial
14 sums to the state (tied in part to their volume of sales); to fund a national
15 foundation devoted to the interests of public health; and to make substantial
16 changes in their advertising and marketing practices and corporate culture,
17 with the intention of reducing underage smoking.

18 (f) It would be contrary to the policy of the state if tobacco product
19 manufacturers who determine not to enter into such a settlement could use a
20 resulting cost advantage to derive large, short-term profits in the years
21 before liability may arise without ensuring that the state will have an
22 eventual source of recovery from them if they are proven to have acted
23 culpably. It is thus in the interest of the state to require that such
24 manufacturers establish a reserve fund to guarantee a source of compensation
25 and to prevent such manufacturers from deriving large, short-term profits and
26 then becoming judgment-proof before liability may arise.

27 Section 2. Definitions.

28 (a) "Adjusted for inflation" means increased in accordance with the
29 formula for inflation adjustment set forth in exhibit C to the master
30 settlement agreement.

31 (b) "Affiliate" means a person who directly or indirectly owns or
32 controls, is owned or controlled by, or is under common ownership or control
33 with, another person. Solely for purposes of this definition, the terms
34 "owns," "is owned" and "ownership" mean ownership of an equity interest, or
35 the equivalent thereof, of ten percent or more, and the term "person" means
36 an individual, partnership, committee, association, corporation or any other
37 organization or group of persons.

38 (c) "Allocable share" means allocable share as that term is defined in
39 the master settlement agreement.

40 (d) "Cigarette" means any product that contains nicotine, is intended
41 to be burned or heated under ordinary conditions of use, and consists of or
42 contains (1) any roll of tobacco wrapped in paper or in any substance not
43 containing tobacco; or (2) tobacco, in any form, that is functional in the
44 product, which, because of its appearance, the type of tobacco used in the
45 filler, or its packaging and labeling, is likely to be offered to, or

1 purchased by, consumers as a cigarette; or (3) any roll of tobacco wrapped in
2 any substance containing tobacco which, because of its appearance, the type
3 of tobacco used in the filler, or its packaging and labeling, is likely to be
4 offered to, or purchased by, consumers as a cigarette described in clause (1)
5 of this definition. The term "cigarette" includes "roll-your-own" (i.e., any
6 tobacco which, because of its appearance, type, packaging, or labeling is
7 suitable for use and likely to be offered to, or purchased by, consumers as
8 tobacco for making cigarettes). For purposes of this definition of
9 "cigarette," 0.09 ounces of "roll-your-own" tobacco shall constitute one
10 individual "cigarette."

11 (e) "Master settlement agreement" means the settlement agreement (and
12 related documents) entered into on November 23, 1998 by the state and leading
13 United States tobacco product manufacturers.

14 (f) "Qualified escrow fund" means an escrow arrangement with a
15 federally or state chartered financial institution having no affiliation with
16 any tobacco product manufacturer and having assets of at least \$1,000,000,000
17 where such arrangement requires that such financial institution hold the
18 escrowed funds' principal for the benefit of releasing parties and prohibits
19 the tobacco product manufacturer placing the funds into escrow from using,
20 accessing or directing the use of the funds' principal except as consistent
21 with section 3(B)(2) of this act.

22 (g) "Released claims" means released claims as that term is defined in
23 the master settlement agreement.

24 (h) "Releasing parties" means releasing parties as that term is
25 defined in the master settlement agreement.

26 (i) "Tobacco product manufacturer" means an entity that after the date
27 of enactment of this act directly (and not exclusively through any
28 affiliate):

29 (1) Manufactures cigarettes anywhere that such manufacturer intends to
30 be sold in the United States, including cigarettes intended to be sold in the
31 United States through an importer (except where such importer is an original
32 participating manufacturer (as that term is defined in the master settlement
33 agreement) that will be responsible for the payments under the master
34 settlement agreement with respect to such cigarettes as a result of the
35 provisions of subsection II(MM) of the master settlement agreement and that
36 pays the taxes specified in subsection II(Z) of the master settlement
37 agreement, and provided that the manufacturer of such cigarettes does not
38 market or advertise such cigarettes in the United States);

39 (2) Is the first purchaser anywhere for resale in the United States of
40 cigarettes manufactured anywhere that the manufacturer does not intend to be
41 sold in the United States; or

42 (3) Becomes a successor of an entity described in paragraph (1) or
43 (2).

1 The term "tobacco product manufacturer" shall not include an affiliate
2 of a tobacco product manufacturer unless such affiliate itself falls within
3 any of (1)-(3) above.

4 (j) "Tribal luxury taxes" means those taxes referenced in section
5 42-3302, subsection C.

6 (k) "Units sold" means the number of individual cigarettes sold TO A
7 CONSUMER in the state by the applicable tobacco product manufacturer (whether
8 directly or through a distributor, retailer or similar intermediary or
9 intermediaries) during the year in question, ~~as measured by~~ REGARDLESS OF
10 WHETHER state ~~tobacco~~ excise taxes WERE DUE OR collected ~~or precollected by~~
11 ~~the state and tribal luxury taxes collected or precollected by an Indian~~
12 ~~tribe~~. FOR CIGARETTES FOR WHICH A STATE OR TRIBAL EXCISE, LUXURY OR SIMILAR
13 TAX IS COLLECTED OR PRECOLLECTED OR THAT HAVE A DEPARTMENT OF REVENUE
14 CIGARETTE TAX STAMP AFFIXED TO THE PACKAGE, THE SALE OCCURS AT THE EARLIER OF
15 THE TIME THAT ANY TAX IS COLLECTED OR PRECOLLECTED OR THAT THE TAX STAMP IS
16 AFFIXED. The department of revenue shall ~~promulgate~~ ADOPT such ~~regulations~~
17 RULES as are necessary to ascertain the ~~amount of any such tax collected or~~
18 ~~precollected on the cigarettes~~ UNITS SOLD of such tobacco product
19 manufacturer for each year. ~~The term units sold does not include cigarettes~~
20 ~~described in section 42-3304, subsection A, paragraphs 2 and 3.~~

21 Section 3. Requirements.

22 Any tobacco product manufacturer selling cigarettes to consumers within
23 the state (whether directly or through a distributor, retailer or similar
24 intermediary or intermediaries) after the date of enactment of this act shall
25 do one of the following:

26 (a) Become a participating manufacturer (as that term is defined in
27 section II(jj) of the master settlement agreement) and generally perform its
28 financial obligations under the master settlement agreement; or

29 (b) (1) place into a qualified escrow fund by April 15 of the year
30 following the year in question the following amounts (as such amounts are
31 adjusted for inflation):

32 2000: \$.0104712 per unit sold after the date of enactment of this act;

33 For each of 2001 and 2002: \$.0136125 per unit sold;

34 For each of 2003 through 2006: \$.0167539 per unit sold;

35 For each of 2007 and each year thereafter: \$.0188482 per unit sold.

36 (2) A tobacco product manufacturer that places funds into escrow
37 pursuant to paragraph (1) shall receive the interest or other appreciation on
38 such funds as earned. Such funds themselves shall be released from escrow
39 only under the following circumstances:

40 (a) To pay a judgment or settlement on any released claim brought
41 against such tobacco product manufacturer by the state or any releasing party
42 located or residing in the state. Funds shall be released from escrow under
43 this subparagraph (i) in the order in which they were placed into escrow and
44 (ii) only to the extent and at the time necessary to make payments required
45 under such judgment or settlement;

1 (b) To the extent that a tobacco product manufacturer establishes that
2 the amount it was required to place into escrow on account of units sold in
3 the state in a particular year was greater than the master settlement
4 agreement payments, as determined pursuant to section IX(i) of that agreement
5 including after final determination of all adjustments, that such
6 manufacturer would have been required to make on account of such units sold
7 had it been a participating manufacturer, the excess shall be released from
8 escrow and revert back to such tobacco product manufacturer; or

9 (c) To the extent not released from escrow under subparagraphs (a) or
10 (b), funds shall be released from escrow and revert back to such tobacco
11 product manufacturer twenty-five years after the date on which they were
12 placed into escrow.

13 (3) Each tobacco product manufacturer that elects to place funds into
14 escrow pursuant to this subsection shall annually certify to the attorney
15 general that it is in compliance with this subsection. The attorney general
16 may bring a civil action on behalf of the state against any tobacco product
17 manufacturer that fails to place into escrow the funds required under this
18 section. Any tobacco product manufacturer that fails in any year to place
19 into escrow the funds required under this section shall:

20 (a) Be required within 15 days to place such funds into escrow as
21 shall bring it into compliance with this section. The court, upon a finding
22 of a violation of this subsection, may impose a civil penalty to be paid to
23 the general fund of the state in an amount not to exceed 5 percent of the
24 amount improperly withheld from escrow per day of the violation and in a
25 total amount not to exceed 100 percent of the original amount improperly
26 withheld from escrow;

27 (b) In the case of a knowing violation, be required within 15 days to
28 place such funds into escrow as shall bring it into compliance with this
29 section. The court, upon a finding of a knowing violation of this
30 subsection, may impose a civil penalty to be paid to the general fund in an
31 amount not to exceed 15 percent of the amount improperly withheld from escrow
32 per day of the violation and in a total amount not to exceed 300 percent of
33 the original amount improperly withheld from escrow; and

34 (c) In the case of a second knowing violation, be prohibited from
35 selling cigarettes to consumers within the state (whether directly or through
36 a distributor, retailer or similar intermediary) for a period not to exceed 2
37 years.

38 Each failure to make an annual deposit required under this section
39 shall constitute a separate violation and the violator shall pay to the
40 attorney general the costs and attorney fees incurred during a successful
41 prosecution under paragraph (3).

42 (c) Notwithstanding subparagraph (b), paragraph 2 of this section, a
43 tobacco product manufacturer that elects to place funds into escrow pursuant
44 to subparagraph (b), paragraph 1 of this section may make an irrevocable
45 assignment of its interest in the funds to the benefit of this state. The

1 assignment shall be permanent and apply to all funds in the escrow account or
2 that may subsequently come into the account, including those funds deposited
3 into the escrow account before the assignment is executed, those funds
4 deposited into the escrow account after the assignment is executed and
5 interest or other appreciation on the funds. The tobacco product
6 manufacturer, the attorney general and the financial institution where the
7 escrow account is maintained may make amendments to the qualified escrow
8 account agreement as may be necessary to effectuate an assignment of rights
9 executed pursuant to this subparagraph or a withdrawal of monies from the
10 escrow account pursuant to subparagraph (b), paragraph 2 of this section. An
11 assignment of rights executed pursuant to this subparagraph shall be in
12 writing, shall be signed by a duly authorized representative of the tobacco
13 product manufacturer making the assignment and shall become effective on
14 delivery of the assignment to the attorney general and the financial
15 institution where the escrow account is maintained. An assignment of escrow
16 funds shall not be made by a tobacco product manufacturer unless and until
17 the attorney general provides written approval to the tobacco product
18 manufacturer.

19 (d) Notwithstanding subparagraph (b), paragraph 2 of this section, any
20 escrow funds assigned to the state pursuant to subparagraph (c) of this
21 section shall be withdrawn by the state on the approval of the attorney
22 general. Any funds withdrawn pursuant to this subparagraph shall be
23 deposited in the consumer protection-consumer fraud revolving fund
24 established by section 44-1531.01 and shall be calculated on a
25 dollar-for-dollar basis as a credit against any judgment or settlement
26 described in subparagraph (b), paragraph 2 of this section that may be
27 obtained against the tobacco product manufacturer that has assigned the funds
28 in the escrow account. This section does not relieve a tobacco product
29 manufacturer from any past, current or future obligations that the
30 manufacturer may have pursuant to this section or section 44-7111.

31 Section 4. Effect of judicial action.

32 If section 3, subparagraph (b), paragraph 2, subdivision (b) is held by
33 a court of competent jurisdiction to be unconstitutional, the following
34 provisions apply in its place:

35 To the extent that a tobacco product manufacturer establishes
36 that the amount it was required to place into escrow in a
37 particular year was greater than the state's allocable share of
38 the total payments that such manufacturer would have been
39 required to make in that year under the master settlement
40 agreement (as determined pursuant to section IX(i)(2) of the
41 master settlement agreement, and before any of the adjustments
42 or offsets described in section IX(i)(3) of that agreement other
43 than the inflation adjustment) had it been a participating
44 manufacturer, the excess shall be released from escrow and
45 revert back to such tobacco product manufacturer; or

1 Any holding of unconstitutionality or the repeal of section 3,
2 subparagraph (b), paragraph 2, subdivision (b) of this statute does not
3 impair or invalidate any other portion of this statute or the application of
4 this statute to any other person or circumstance and the remaining portions
5 of this statute continue in full force and effect.

6 ANY HOLDING THAT FEDERAL LAW PREEMPTS OR PROHIBITS THE APPLICATION OF
7 ANY OTHER PROVISION OF SECTION 44-7101 IN ONE OR MORE CIRCUMSTANCES DOES NOT
8 IMPAIR OR INVALIDATE THE STATUTE'S APPLICATION IN ANY OTHER CIRCUMSTANCE.

9 Sec. 25. Section 44-7111, Arizona Revised Statutes, is amended to
10 read:

11 44-7111. Tobacco; nonparticipating manufacturers; civil
12 penalty; violation; classification

13 This state enacts the model nonparticipating manufacturers legislation
14 as follows:

15 Section 1. Findings and Purpose.

16 The legislature finds that violations of section 44-7101 threaten the
17 integrity of the tobacco master settlement agreement, the fiscal soundness of
18 the state and the public health. The legislature finds that enacting
19 procedural enhancements will aid the enforcement of section 44-7101 and
20 thereby safeguard the master settlement agreement, the fiscal soundness of
21 the state and the public health.

22 Section 2. Definitions.

23 (a) "Brand family" means all styles of cigarettes sold under the same
24 trade mark and differentiated from one another by means of additional
25 modifiers or descriptors, including, but not limited to, "menthol", "lights",
26 "kings" and "100s", and includes any brand name (alone or in conjunction with
27 any other word), trademark, logo, symbol, motto, selling message,
28 recognizable pattern of colors or any other indicia of product identification
29 identical or similar to, or identifiable with, a previously known brand of
30 cigarettes.

31 (b) "Cigarette" has the same meaning prescribed in section 44-7101.

32 (c) "Department" means the department of revenue.

33 (d) "Director" means the director of the department.

34 (e) "Distributor" has the same meaning prescribed in section 42-3001.

35 (f) "Master settlement agreement" has the same meaning prescribed in
36 section 44-7101.

37 (g) "Nonparticipating manufacturer" means any tobacco product
38 manufacturer that is not a participating manufacturer.

39 (h) "Participating manufacturer" has the meaning given that term in
40 section II(jj) of the master settlement agreement and all amendments thereto.

41 (i) "Qualified escrow fund" has the same meaning prescribed in section
42 44-7101.

43 (j) "Tobacco product manufacturer" has the same meaning prescribed in
44 section 44-7101.

45 (k) "Units sold" has the same meaning prescribed in section 44-7101.

1 Section 3. Certifications; Directory; Tax Stamps.

2 (a) Certification. Every tobacco product manufacturer whose
3 cigarettes are sold in this state, whether directly or through a distributor,
4 retailer or similar intermediary or intermediaries, shall execute and deliver
5 on a form prescribed by the attorney general a certification to the ~~director~~
6 ~~and~~ attorney general not later than the thirtieth day of April each year,
7 certifying that, as of the date of the certification, the tobacco product
8 manufacturer either is a participating manufacturer or is in full compliance
9 with section 44-7101, section 3(b), including all quarterly installment
10 payments required by regulations as may be promulgated by the attorney
11 general pursuant to section 5(f) of this article. ~~AS TO ALL CERTIFICATIONS~~
12 ~~REQUIRED BY THIS ARTICLE, IF THE CERTIFICATION IS REJECTED DUE TO~~
13 ~~INCOMPLETENESS OR INCORRECTNESS, THE TOBACCO PRODUCT MANUFACTURER MAY NOT~~
14 ~~SUBMIT SUPPLEMENTAL DOCUMENTATION TO TRY TO CURE THE REJECTION AND MUST~~
15 ~~EXECUTE AND DELIVER AN ENTIRELY NEW CERTIFICATION TO THE ATTORNEY GENERAL.~~

16 (1) A participating manufacturer shall include in its certification a
17 list of its brand families. The participating manufacturer shall update the
18 list thirty days prior to any addition to or modification of its brand
19 families by executing and delivering a supplemental certification to the
20 attorney general ~~and director~~.

21 (2) A nonparticipating manufacturer shall include in its certification
22 (i) a list of all of its brand families and the number of units sold for each
23 brand family that were sold in the state during the preceding calendar year,
24 (ii) a list of all of its brand families that have been sold in the state at
25 any time during the current calendar year, (iii) indicating by an asterisk,
26 any brand family sold in the state during the preceding calendar year that is
27 no longer being sold in the state as of the date of the certification and
28 (iv) identifying by name and address any other manufacturer of the brand
29 families in the preceding or current calendar year ~~AND (v) FOR EACH OF THE~~
30 ~~CURRENT CALENDAR YEAR AND THE PRECEDING CALENDAR YEAR, A LIST OF ALL OF THIS~~
31 ~~STATE'S RESIDENTIAL AND NONRESIDENTIAL DISTRIBUTORS THAT THE MANUFACTURER~~
32 ~~SOLD CIGARETTES TO OR THAT THE MANUFACTURER BELIEVES OR HAS REASON TO BELIEVE~~
33 ~~PURCHASED OR RECEIVED ANY OF THE MANUFACTURER'S CIGARETTES FROM ANOTHER~~
34 ~~SOURCE. The nonparticipating manufacturer shall update the list thirty~~
35 ~~calendar days prior MUST EXECUTE AND DELIVER A SUPPLEMENTAL CERTIFICATION TO~~
36 ~~THE ATTORNEY GENERAL to REQUEST any addition to or modification of its brand~~
37 ~~families by executing and delivering a supplemental certification to the~~
38 ~~attorney general and director. THE SUPPLEMENTAL CERTIFICATION REQUESTING THE~~
39 ~~ADDITION OR MODIFICATION DOES NOT RELIEVE THE BRAND FAMILIES FROM THE~~
40 ~~PROHIBITIONS SET FORTH IN SECTIONS 3(c) AND 6(d) UNTIL THE REQUEST IS~~
41 ~~APPROVED BY THE ATTORNEY GENERAL AND THE ADDITION OR MODIFICATION TO THE~~
42 ~~BRAND FAMILIES IS LISTED OR MADE IN THE DIRECTORY.~~

43 (3) In the case of a nonparticipating manufacturer, the certification
44 shall further certify:

1 (a) That the nonparticipating manufacturer is registered to do
2 business in the state or has appointed a resident agent for service of
3 process and provided notice thereof as required by section 4.

4 (b) That the nonparticipating manufacturer (i) has established and
5 continues to maintain a qualified escrow fund and (ii) has executed a
6 qualified escrow agreement that has been reviewed and approved by the
7 attorney general and that governs the qualified escrow fund.

8 (c) That the nonparticipating manufacturer is in full compliance with
9 section 44-7101, section (3)(b) and this article, and any regulations
10 promulgated pursuant thereto;

11 (d) (i) The name, address and telephone number of the financial
12 institution where the nonparticipating manufacturer has established the
13 qualified escrow fund required pursuant to section 44-7101, section 3(b) and
14 all regulations promulgated pursuant thereto, (ii) the account number of the
15 qualified escrow fund and any subaccount number for the state, (iii) the
16 amount the nonparticipating manufacturer placed in the fund for cigarettes
17 sold in the state during the preceding calendar year, the date and amount of
18 each deposit and such evidence or verification as may be deemed necessary by
19 the attorney general to confirm the foregoing and (iv) the amount of and date
20 of any withdrawal or transfer of funds the nonparticipating manufacturer made
21 at any time from the fund or from any other qualified escrow fund into which
22 it ever made escrow payments pursuant to section 44-7101, section 3(b) and
23 all regulations promulgated pursuant thereto.

24 (e) UNLESS THE NONPARTICIPATING MANUFACTURER OR ITS AFFILIATE IS
25 LICENSED AS A TOBACCO DISTRIBUTOR IN THIS STATE, THAT ALL SALES OR SHIPMENTS
26 MADE BY THE NONPARTICIPATING MANUFACTURER OR ITS AFFILIATE WITHIN OR INTO
27 THIS STATE ARE MADE TO A TOBACCO DISTRIBUTOR THAT IS LICENSED IN THIS STATE.

28 (f) ALL OTHER INFORMATION AND MATERIALS SPECIFICALLY REQUESTED BY THIS
29 SECTION OR THE ATTORNEY GENERAL IN THE COURSE OF ENFORCING THIS SECTION.

30 (4) A tobacco product manufacturer may not include a brand family in
31 its certification unless (i) in the case of a participating manufacturer, the
32 participating manufacturer affirms that the brand family is to be deemed to
33 be its cigarettes for purposes of calculating its payments under the master
34 settlement agreement for the relevant year, in the volume and shares
35 determined pursuant to the master settlement agreement, and (ii) in the case
36 of a nonparticipating manufacturer, the nonparticipating manufacturer affirms
37 that the brand family is to be deemed to be its cigarettes for purposes of
38 section 44-7101, section 3(b). Nothing in this section shall be construed as
39 limiting or otherwise affecting the state's right to maintain that a brand
40 family constitutes cigarettes of a different tobacco product manufacturer for
41 purposes of calculating payments under the master settlement agreement or for
42 purposes of section 44-7101.

43 (5) Tobacco product manufacturers shall maintain all invoices and
44 documentation of sales and other information relied upon for the

1 certification for a period of five years, unless otherwise required by law to
2 maintain them for a greater period of time.

3 (6) A TOBACCO PRODUCT MANUFACTURER THAT IS NOT CURRENTLY LISTED IN THE
4 DIRECTORY MUST SUBMIT AN INITIAL CERTIFICATION SUBJECT TO THE SAME
5 REQUIREMENTS AND REVIEW PROCESS SET FORTH IN THIS ARTICLE FOR ANNUAL
6 CERTIFICATIONS. THE TOBACCO PRODUCT MANUFACTURERS BRAND FAMILIES REMAIN
7 SUBJECT TO THE PROHIBITIONS SET FORTH IN SECTIONS 3(c) AND 6(d) UNTIL LISTED
8 IN THE DIRECTORY.

9 (b) Directory of cigarettes approved for stamping and sale. Not later
10 than ninety days after the effective date of this article, the attorney
11 general shall develop and publish on the attorney general's web site a
12 directory listing all tobacco product manufacturers that have provided
13 current and accurate certifications conforming to the requirements of
14 section 3(a) and all brand families that are listed in those certifications
15 (the "directory"), except as noted below.

16 (1) The attorney general shall not include or retain in the directory
17 the name or brand families of any nonparticipating manufacturer that fails to
18 provide the required certification or whose certification the attorney
19 general determines is not in compliance with ~~sections 3(a)(2) and (3)~~ ANY
20 TERM OF THIS ARTICLE, unless the attorney general has determined that the
21 violation has been cured to the satisfaction of the attorney general.

22 (2) Neither a tobacco product manufacturer nor brand family shall be
23 included or retained in the directory if the attorney general concludes, in
24 the case of a nonparticipating manufacturer, that (i) any escrow payment
25 required pursuant to section 44-7101, section 3(b) for any period for any
26 brand family, whether or not listed by the nonparticipating manufacturer, has
27 not been fully paid into a qualified escrow fund governed by a qualified
28 escrow agreement that has been approved by the attorney general, or (ii) any
29 outstanding final judgment, including interest thereon, for a violation of
30 section 44-7101 has not been fully satisfied for the brand family or the
31 manufacturer.

32 (3) The attorney general shall update the directory as necessary in
33 order to correct mistakes and to add or remove a tobacco product manufacturer
34 or brand family to keep the directory in conformity with the requirements of
35 this article.

36 (4) A distributor that has lawfully affixed stamps to cigarettes and
37 subsequently is unable to sell those cigarettes lawfully because the
38 cigarettes have been removed from the directory pursuant to section 3(b)(2)
39 of this article, may apply to the department for a refund of the cost of such
40 stamps.

41 (5) Every distributor shall provide and update as necessary an
42 electronic mail address to the director and attorney general for the purpose
43 of receiving any notifications as may be required by this article.

44 (6) A tobacco product manufacturer included in the directory may
45 request that a new brand family be added to the directory by executing and

1 delivering a supplemental certification with the necessary information to the
2 attorney general and the director. Not later than forty-five business days
3 after receiving such a request, and at such earlier time as is reasonable to
4 do so, the attorney general shall either (i) certify the new brand family or
5 (ii) deny the request. However, in cases where the attorney general
6 reasonably determines that it needs additional information to ascertain
7 whether the requestor is the tobacco product manufacturer of the new brand
8 family, the attorney general may take whatever additional time is reasonably
9 needed to process the request, to locate and assemble information or
10 documents needed to process the request, and to notify persons or agencies
11 affected by the request.

12 (c) Prohibition against stamping or sale of cigarettes not in the
13 directory. It shall be unlawful for any person (1) to affix a stamp to a
14 package or other container of cigarettes of a tobacco product manufacturer or
15 brand family not included in the directory or (2) to sell, offer or possess
16 for sale, in this state, **INCLUDING FOR SALE WITHIN OR OUTSIDE OF THIS STATE**,
17 cigarettes of a tobacco product manufacturer or brand family not included in
18 the directory.

19 (d) ~~A- EVERY~~ nonparticipating manufacturer shall post a bond for the
20 exclusive benefit of this state. ~~if (i) its cigarettes were not sold in the~~
21 ~~state during any one of the four preceding calendar quarters, (ii) it or any~~
22 ~~person affiliated with it failed to make a full and timely escrow deposit due~~
23 ~~under section 44-7101 during any of the five preceding calendar years, unless~~
24 ~~the failure was not knowing or reckless and was promptly cured on notice or~~
25 ~~(iii) it or any person affiliated with it, or any of its brands or brands of~~
26 ~~a person affiliated with it, were removed from the state directory of any~~
27 ~~state during any of the five preceding calendar years, unless the removal was~~
28 ~~determined to have been erroneous or illegal. Entities are affiliated with~~
29 ~~each other if one directly or indirectly through one or more intermediaries~~
30 ~~controls or is controlled by or is under common control with the other.~~

31 (e) The bond shall be posted at least ten days in advance of each
32 calendar quarter as a condition to the nonparticipating manufacturer and its
33 brand families being included in the state directory for that quarter. The
34 amount of the bond shall be the greater of (i) the greatest required escrow
35 amount due from the nonparticipating manufacturer or its predecessor for any
36 of the twelve preceding calendar quarters or (ii) fifty thousand dollars.
37 **THE BOND CERTIFICATIONS AND MATERIALS MUST BE SUBMITTED AS PART OF THE**
38 **INITIAL, ANNUAL AND SUPPLEMENTAL CERTIFICATIONS REQUIRED BY THIS ARTICLE.**

39 (f) If a nonparticipating manufacturer that posted a bond has failed
40 to make or have made on its behalf deposits equal to the full amount owed for
41 a quarter within fifteen days following the due date of the quarter under
42 section 5, subparagraph (g), the state may execute on the bond in the amount
43 equal to any remaining amount of the escrow due. Amounts that the state
44 collects on a bond shall be deposited into the state treasury and shall
45 reduce the amount of escrow due from that nonparticipating manufacturer in

1 the dollar amount collected. Escrow obligations above the amount collected
2 on the bond remain due from that nonparticipating manufacturer and, as
3 provided in any joint and several provision in this section, from the
4 importers that sold its cigarettes during that calendar quarter.

5 (g) The office of the attorney general shall adopt rules necessary to
6 implement subparagraphs (d), (e) and (f) of this section.

7 (h) Nonparticipating manufacturers located outside the United States
8 must provide a declaration in a form prescribed by the attorney general from
9 each of its importers into the United States of any of its brand families,
10 that the importer accepts joint and several liability with the
11 nonparticipating manufacturer for all escrow deposits due pursuant to section
12 44-7101 as well as all penalties and other relief available to the state
13 pursuant to section 44-7101 and this section. The declaration shall appoint
14 a resident agent for service of process in this state pursuant to section 4.
15 The declarations shall be submitted as part of the certifications required
16 pursuant to this section and updated at least thirty days before any other
17 importer begins the importation of the manufacturer's cigarettes. Failure to
18 comply with this subparagraph is grounds for removal from the directory. For
19 the purposes of this subparagraph, "importer" has the same meaning as in 27
20 Code of Federal Regulations section 41.11 (2012). **THE IMPORTER DECLARATION
21 MUST BE SUBMITTED AS PART OF THE INITIAL, ANNUAL AND SUPPLEMENTAL
22 CERTIFICATIONS REQUIRED BY THIS ARTICLE.**

23 (i) The attorney general shall have the authority to not retain or
24 refuse to include in the directory any nonparticipating manufacturer or the
25 manufacturer's brand families, that (i) does not certify that it is subject
26 to the enforcement of section 44-7101, this section and section 36-798.06
27 without any immunity, (ii) provides incorrect, false or misleading statements
28 in any certification submitted to this state pursuant to section 44-7101 or
29 this section with regard to any year or (iii) was previously or is currently
30 not in compliance with any other federal or state laws, including another
31 state's qualifying statute as defined in the master settlement agreement or
32 if the attorney general has reason to believe that the tobacco product
33 manufacturer will not comply with the laws.

34 (j) The attorney general has the authority to require any
35 nonparticipating manufacturer to submit all information, certifications,
36 affidavits and other materials that the attorney general deems appropriate to
37 determine compliance with this section and other related laws, including the
38 grounds for not retaining or not including in the directory any
39 nonparticipating manufacturer or the manufacturer's brand families.

40 Section 4. Agent for Service of Process.

41 (a) Requirement for agent for service of process. Any nonresident or
42 foreign nonparticipating manufacturer that has not registered to do business
43 in the state as a foreign corporation or business entity shall, as a
44 condition precedent to having its brand families included or retained in the
45 directory, appoint and continually engage without interruption the services

1 of an agent in this state to act as agent for the service of process on whom
2 all process, and any action or proceeding against it concerning or arising
3 out of the enforcement of this article and section 44-7101, may be served in
4 any manner authorized by law. Such service on the agent constitutes legal
5 and valid service of process on the nonparticipating manufacturer. The
6 nonparticipating manufacturer shall provide the name, address, phone number
7 and proof of the appointment and availability of the agent to and to the
8 satisfaction of the attorney general.

9 (b) The nonparticipating manufacturer shall provide notice to the
10 attorney general thirty calendar days prior to termination of the authority
11 of an agent and shall further provide proof to the satisfaction of the
12 attorney general of the appointment of a new agent not less than five
13 calendar days prior to the termination of an existing agent appointment. In
14 the event an agent terminates an agency appointment, the nonparticipating
15 manufacturer shall notify the attorney general of the termination within five
16 calendar days and shall include proof to the satisfaction of the attorney
17 general of the appointment of a new agent.

18 (c) Any nonparticipating manufacturer whose cigarettes are sold in
19 this state and who has not appointed and engaged an agent as herein required
20 shall be deemed to have appointed the secretary of state as the agent and may
21 be proceeded against in courts of this state by service of process upon the
22 secretary of state; provided, however, that the appointment of the secretary
23 of state as the agent shall not satisfy the condition precedent to having the
24 brand families of the nonparticipating manufacturer included or retained in
25 the directory.

26 Section 5. Reporting of Information; Escrow Installments.

27 (a) Reporting by distributors. Not later than twenty calendar days
28 after the end of each calendar ~~quarter~~ MONTH, and more frequently if so
29 directed by the director, each distributor shall submit **TO THE DEPARTMENT ON**
30 **A FORM PRESCRIBED BY THE DEPARTMENT** such information as the director requires
31 to facilitate compliance with this article, including, but not limited to, a
32 list by brand family of the total number of cigarettes or, in the case of
33 roll your own, the equivalent stick count, for which the distributor affixed
34 stamps during the previous calendar quarter or otherwise paid the tax due for
35 the cigarettes. **THE DEPARTMENT SHALL REVIEW ALL INFORMATION REPORTED BY THE**
36 **DISTRIBUTOR FOR ACCURACY AND COMPLETENESS.** The distributor shall maintain,
37 and make available to the director and the attorney general, all invoices and
38 documentation of sales of all nonparticipating manufacturer cigarettes and
39 any other information relied upon in reporting to the director for a period
40 of five years.

41 (b) Disclosure of information. The department is authorized to
42 disclose to the attorney general any information received under this article
43 and requested by the attorney general for purposes of determining compliance
44 with and enforcing the provisions of this article. The department and
45 attorney general shall share with each other the information received under

1 this article, and may share the information with other federal, state or
2 local agencies only for purposes of enforcement of this article, section
3 44-7101 or corresponding laws of other states.

4 (c) If a tobacco product manufacturer required to establish a
5 qualified escrow fund under section 44-7101, section 3(b) disputes the
6 attorney general's determination of the amount that the manufacturer is
7 required to deposit into escrow and the attorney general determines that the
8 dispute can likely be resolved by information contained in reports submitted
9 by distributors to the department indicating sales or purchases of the
10 manufacturer's cigarettes, then the attorney general shall produce the
11 relevant portions of the reports to the manufacturer. However, before
12 disclosing the foregoing information, the attorney general may require the
13 manufacturer to provide all records related to its sales of the cigarettes in
14 dispute. The disclosure provided by the attorney general to a tobacco
15 product manufacturer pursuant to this subsection shall be limited to
16 information concerning the cigarettes alleged by the state to be subject to
17 the requirements of section 44-7101, section 3(b), may be used by the
18 manufacturer only for the limited purpose of determining the appropriate
19 escrow deposit, and may not be disclosed by the manufacturer to any third
20 parties.

21 (d) Verification of qualified escrow fund. The attorney general may
22 require at any time from the nonparticipating manufacturer, proof from the
23 financial institution in which the manufacturer has established a qualified
24 escrow fund for the purpose of compliance with section 44-7101, section 3(b)
25 of the amount of money in the fund, exclusive of interest, the amount and the
26 date of each deposit to the fund, and the amount and date of each withdrawal
27 from the fund.

28 (e) Requests for additional information. In addition to the
29 information required to be submitted pursuant to this article, the director
30 and attorney general may require a distributor or tobacco product
31 manufacturer to submit any additional information including, but not limited
32 to, samples of the packaging or labeling of each brand family, as is
33 necessary to enable the attorney general to determine whether a tobacco
34 product manufacturer is in compliance with this article.

35 (f) Quarterly escrow installments. To promote compliance with the
36 provisions of this article, the attorney general may promulgate regulations
37 requiring tobacco product manufacturers subject to the requirements of
38 section 3(a)(2) to make the escrow deposits required in quarterly
39 installments during the year in which the sales covered by the deposits are
40 made:

41 (1) In circumstances where the attorney general reasonably concludes
42 that a manufacturer may not fully and timely comply with section 44-7101,
43 section 3(b).

44 (2) Where manufacturers have not made escrow deposits pursuant to
45 section 44-7101, section 3(b) during the preceding calendar year.

1 The attorney general may require production of information sufficient to
2 enable the attorney general to determine the adequacy of the amount of the
3 installment deposit.

4 (g) A tobacco product manufacturer that is subject to the requirements
5 of section 3(a)(2) shall make the required escrow deposits in quarterly
6 installments ~~during the year in which the sales covered by the deposits are~~
7 ~~made~~ FOLLOWING EACH SALES QUARTER. The attorney general may require the
8 production of information that is sufficient to enable the attorney general
9 to determine the adequacy of the amount of the installment deposit.
10 QUARTERLY ESCROW INSTALLMENT DEPOSITS MUST BE MADE PURSUANT TO THE FOLLOWING
11 SCHEDULE:

12 (1) FOR THE FIRST QUARTER, JANUARY THROUGH MARCH, ON OR BEFORE MAY 31
13 OF THE CALENDAR YEAR.

14 (2) FOR THE SECOND QUARTER, APRIL THROUGH JUNE, ON OR BEFORE AUGUST 31
15 OF THE CALENDAR YEAR.

16 (3) FOR THE THIRD QUARTER, JULY THROUGH SEPTEMBER, ON OR BEFORE
17 NOVEMBER 30 OF THE CALENDAR YEAR.

18 (4) FOR THE FOURTH QUARTER, OCTOBER THROUGH DECEMBER, ON OR BEFORE
19 FEBRUARY 28 OF THE FOLLOWING CALENDAR YEAR.

20 Section 6. Penalties and Other Remedies.

21 (a) License revocation and civil penalty. In addition to or in lieu
22 of any other civil or criminal remedy provided by law, upon a determination
23 that a distributor has violated section 3(c) or any regulation adopted
24 pursuant to this article, the director may revoke or suspend the license of
25 the distributor in the manner provided by title 41, chapter 6, article 10 for
26 contested cases. Each stamp affixed and each sale or offer to sell
27 cigarettes in violation of section 3(c) shall constitute a separate
28 violation. The director may also impose a civil penalty in an amount not to
29 exceed the greater of five hundred per cent of the retail value of the
30 cigarettes or five thousand dollars upon a determination of violation of
31 section 3(c) or any regulations promulgated pursuant thereto. The penalty
32 shall be imposed in the manner provided by title 41, chapter 6, article 10
33 for contested cases.

34 (b) Contraband and seizure. Any cigarettes that have been sold,
35 offered for sale or possessed for sale in this state in violation of
36 section 3(c) shall be deemed contraband and the cigarettes shall be subject
37 to seizure by the department and forfeiture, and all the cigarettes so seized
38 and forfeited shall be destroyed and not resold.

39 (c) Injunction. The attorney general, on behalf of the director, may
40 seek an injunction to restrain a threatened or actual violation of
41 section 3(c), 5(a) or 5(d) by a distributor and to compel the distributor to
42 comply with those sections. In any action brought pursuant to this section,
43 the state shall be entitled to recover the costs of investigation, costs of
44 the action and reasonable attorney fees.

1 (d) Unlawful sale and distribution. It shall be unlawful for a person
2 to (i) sell or distribute cigarettes, or (ii) acquire, hold, own, possess,
3 transport, import or cause to be imported cigarettes, that the person knows
4 or should know are intended for distribution or sale in the state in
5 violation of section 3(c). A violation of this section is a class 1
6 misdemeanor.

7 (e) Deceptive trade practice. A person who violates section 3(c)
8 engages in an unlawful practice in violation of section 44-1522. Standing to
9 bring an action to enforce title 44, chapter 10, article 7 for violation of
10 section 3(c) shall lie solely with the attorney general.

11 Section 7. Miscellaneous Provisions.

12 (a) Notice and review of determination. A determination of the
13 attorney general to not include or to remove from the directory a brand
14 family or tobacco product manufacturer shall be subject to review as an
15 appealable agency action in the manner prescribed by title 41, chapter 6,
16 article 10.

17 (b) Dates. For the year 2003, the first report of distributors
18 required by section 5(a) shall be due thirty calendar days after the
19 effective date of this article. The certifications by a tobacco product
20 manufacturer described in section 3(a) shall be due forty-five calendar days
21 after the effective date and the directory described in section 3(b) shall be
22 published or made available within ninety calendar days after the effective
23 date.

24 (c) Promulgation of regulations. The department and the attorney
25 general may promulgate regulations necessary to effect the purposes of this
26 article.

27 (d) Recovery of costs and fees by attorney general. In any action
28 brought by the state to enforce this article, the state shall be entitled to
29 recover the costs of investigation, expert witness fees, costs of the action
30 and reasonable attorney fees.

31 (e) Disgorgement of profits for violations of article. If a court
32 determines that a person has violated this article, the court shall order any
33 profits, gain, gross receipts or other benefit from the violation to be
34 disgorged and paid to the state general fund. Unless otherwise expressly
35 provided, the remedies or penalties provided by this article are cumulative
36 to each other and to the remedies or penalties available under all other laws
37 of this state.

38 (f) Construction and severability. If a court of competent
39 jurisdiction finds that the provisions of this article and section 44-7101
40 conflict and cannot be harmonized, then the provisions of section 44-7101
41 shall control. If any section, subsection, subdivision, paragraph, sentence,
42 clause or phrase of this article causes section 44-7101 to no longer
43 constitute a qualifying or model statute, as those terms are defined in the
44 master settlement agreement, then that portion of this article shall not be
45 valid. If any section, subsection, subdivision, paragraph, sentence, clause

1 or phrase of this article is for any reason held to be invalid, unlawful or
2 unconstitutional, the decision shall not affect the validity of the remaining
3 portions of this article or any part thereof.

4 Sec. 26. Rulemaking

5 The attorney general and the department of revenue are exempt from the
6 rulemaking requirements of title 41, chapter 6, Arizona Revised Statutes, for
7 one year after the effective date of this act.

8 Sec. 27. Effective date

9 Section 42-2003, Arizona Revised Statutes, as amended by Laws 2013,
10 chapter 255, section 2 and this act, is effective from and after December 31,
11 2014.