

State of Arizona  
Senate  
Fifty-second Legislature  
First Regular Session  
2015

**CHAPTER 85**  
**SENATE BILL 1240**

AN ACT

AMENDING SECTIONS 13-3711, 36-798.06, 41-2170.05, 42-1102, 42-1124, 42-1125, 42-1127, 42-2003, 42-3001 AND 42-3006, ARIZONA REVISED STATUTES; REPEALING SECTION 42-3007, ARIZONA REVISED STATUTES; AMENDING SECTIONS 42-3008 AND 42-3010, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 3, ARIZONA REVISED STATUTES, BY ADDING ARTICLES 10, 11 AND 12; PROVIDING FOR TRANSFERRING AND RENUMBERING; AMENDING SECTIONS 42-3253, 42-3303, 42-3303.01 AND 42-3306, ARIZONA REVISED STATUTES; AMENDING SECTION 42-3401, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED; AMENDING TITLE 42, CHAPTER 3, ARTICLE 10, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-3402; AMENDING SECTIONS 42-3403, 42-3404 AND 42-3405, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED; AMENDING TITLE 42, CHAPTER 3, ARTICLE 10, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-3406; AMENDING SECTIONS 42-3451, 42-3452 AND 42-3453, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED; AMENDING TITLE 42, CHAPTER 3, ARTICLE 11, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-3454; AMENDING SECTIONS 42-3455, 42-3456, 42-3457, 42-3458, 42-3459, 42-3460, 42-3461, 42-3462 AND 42-3501, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED; AMENDING TITLE 42, CHAPTER 3, ARTICLE 12, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 42-3502 AND 42-3503; RELATING TO TOBACCO TAXATION.

(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 K~~ 42-3402.

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~~ 42-3401.

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 36-798.06, Arizona Revised Statutes, is amended to  
36 read:

37 36-798.06. Delivery sales prohibited; common carriers; civil  
38 penalty; forfeiture; unlawful practice;  
39 exceptions; violation; classification; definitions

40 A. A person shall not do either of the following:

41 1. Cause a tobacco product to be ordered or purchased by anyone other  
42 than a licensed person or a retailer who orders or purchases from a licensed  
43 person, including by ordering or purchasing a tobacco product.

44 2. Knowingly provide substantial assistance to a person who violates  
45 this section.

- 1           B. A common carrier shall not knowingly transport a tobacco product  
2 for a person who is in violation of this section.
- 3           C. Each order or purchase of a tobacco product in violation of  
4 subsection A, paragraph 1 of this section constitutes a separate violation  
5 under this section.
- 6           D. In addition to any other penalty, a person who violates this  
7 section is subject to all of the following:
- 8           1. A civil penalty in an amount not to exceed five thousand dollars  
9 for each violation.
- 10          2. An injunction to restrain a threatened or actual violation of this  
11 section.
- 12          3. Recovery by this state for:
- 13           (a) The costs of any investigation related to a violation of this  
14 section.
- 15           (b) The cost of expert witness fees in any action related to a  
16 violation of this section.
- 17           (c) The cost of the action related to a violation of this section.
- 18           (d) Reasonable attorney fees.
- 19          4. All state tobacco taxes due under title 42, chapter 3 and all  
20 transaction privilege or use taxes due under title 42, chapter 5, including  
21 any penalties and interest.
- 22          E. All tobacco products that are seized for a violation of this  
23 section shall be forfeited to the state and destroyed pursuant to section  
24 42-1124.
- 25          F. A violation of this section is an unlawful practice under section  
26 44-1522 and is in addition to all other causes of action, remedies and  
27 penalties that are available to this state. The attorney general may  
28 investigate and take appropriate action pursuant to title 44, chapter 10,  
29 article 7.
- 30          G. This section does not apply to either of the following:
- 31           1. The shipment of a tobacco product to a foreign trade zone that is  
32 established under 19 United States Code section 81 and title 44, chapter 18  
33 and that is located in this state if the tobacco product is from outside of  
34 this country, was ordered by a distributor in another state and is not  
35 distributed in this state.
- 36           2. A government employee who is acting in the course of the employee's  
37 official duties.
- 38          H. A person who violates this section is guilty of a class 6 felony.
- 39          I. For the purposes of this section:
- 40           1. "Licensed person" means a person who is required to be licensed  
41 under section ~~42-3201~~ 42-3401.
- 42           2. "Order or purchase" means any of the following:
- 43           (a) By mail or delivery service.
- 44           (b) Through the internet or a computer network.

1 (c) By telephone.

2 (d) Through any other electronic method.

3 3. "Person" means an individual, partnership, firm, association,  
4 corporation, limited liability company or partnership, joint venture or other  
5 entity.

6 4. "Retailer" has the same meaning prescribed in section 42-5001.

7 5. "Tobacco product" means all luxuries included in section 42-3052,  
8 paragraphs 5, 6 and 7. Tobacco product does not include pipe tobacco or  
9 cigars.

10 Sec. 3. Section 41-2170.05, Arizona Revised Statutes, is amended to  
11 read:

12 41-2170.05. Implementation; rule making; inspection of  
13 cigarettes; definitions

14 A. The state fire marshal shall implement this article pursuant to the  
15 implementation and substance of the New York fire safety standards for  
16 cigarettes in section 156-c of the New York executive law and part 429 of  
17 title 19 of the New York Code of Rules and Regulations.

18 B. The state fire marshal may adopt rules to enforce this article.

19 C. As authorized pursuant to section 42-3151, the department of  
20 revenue in the regular course of conducting inspections of ~~cigarette~~  
21 distributors and retailers may inspect cigarettes to determine if the  
22 cigarettes are marked as required by section 41-2170.03. If the cigarettes  
23 are not marked as required, the department of revenue shall notify the state  
24 fire marshal.

25 D. An agent of the department of revenue who is also a law enforcement  
26 agent or investigator may conduct inspections pursuant to section 41-2170.04,  
27 subsection G.

28 E. This section applies beginning August 1, 2009.

29 F. For the purpose of this section, "cigarette", "~~cigarette~~  
30 distributor" and "retailer" have the same meanings prescribed in section  
31 42-3001.

32 Sec. 4. Section 42-1102, Arizona Revised Statutes, is amended to read:

33 42-1102. Taxpayer bonds; definition

34 A. If the department deems it necessary to protect the revenues to be  
35 collected under this title and title 43, it may require a person liable for  
36 the tax to file a bond to secure the payment of the tax, penalty or interest  
37 which may become due from that person. The bond shall be:

38 1. Issued by a surety company authorized to transact business in this  
39 state and approved by the director of insurance of this state as to solvency  
40 and responsibility or composed of securities or cash that are deposited with,  
41 and kept in the custody of, the department.

42 2. Except as otherwise provided in this section, in the amount which  
43 the department prescribes by administrative rule to secure the payment of any  
44 tax, penalty or interest which may become due from the person.

45 B. For the purposes of licenses to sell tobacco products issued under  
46 section ~~42-3201~~ 42-3401, the amount of the bond required under this section

1 is the greater of five hundred dollars or four times the average monthly tax  
2 liability. For the purposes of determining the bond amount, the average  
3 monthly tax liability is equal to the average monthly tax due from the  
4 applicant for the preceding six consecutive months. If an applicant does not  
5 have a six-month payment history, the bond amount is a minimum of five  
6 hundred dollars. If an applicant provides a surety bond and the bond lapses,  
7 the applicant shall deposit with the department cash or other security in an  
8 amount equal to the lapsed surety bond within five business days after the  
9 applicant's receipt of written notification by the department. The bond  
10 amount may be increased or decreased as necessary based on any reason listed  
11 in subsection D of this section or a change in the applicant's previous  
12 filing period, filing compliance record or payment history. If the bond  
13 amount is increased above the amount computed under this subsection, the  
14 applicant may request a hearing pursuant to subsection C of this section to  
15 show why the order increasing the bond amount is in error.

16 C. If the department determines that a person is to file such a bond  
17 it shall notify him to that effect, specifying the amount of the bond  
18 required. The person shall file the bond within five days after the giving  
19 of notice unless within that time he requests in writing a hearing before the  
20 department at which time the department shall determine the necessity,  
21 propriety and amount of the bond. The determination is final unless within  
22 fifteen days after the giving of notice of the determination the person  
23 appeals the determination to the state board of tax appeals. The board shall  
24 decide on the appeal within fifteen days of its receipt. The bond, at any  
25 time without notice, may be applied to any tax, penalties or interest due,  
26 and for that purpose the securities may be sold at public or private sale  
27 without notice to the depositor.

28 D. For purposes of this section a bond may be required if:

29 1. After investigation of financial status, the department determines  
30 that an applicant for a new license would be unable to timely remit amounts  
31 due.

32 2. An applicant for a new license held a license for a prior business,  
33 and the remittance record for the prior business falls within one of the  
34 conditions in paragraph 5.

35 3. The department experienced collection problems while the applicant  
36 was engaged in business under a prior license.

37 4. The applicant is substantially similar to a person who would have  
38 been required to post a bond under paragraph 5 of this subsection or the  
39 person had a previous license that was revoked. An applicant is  
40 substantially similar if it is owned or controlled by persons who owned or  
41 controlled a previous licensee.

42 5. An existing licensee has had two or more delinquencies in remitting  
43 tax during the preceding twenty-four months if filing on a quarterly or less  
44 frequent basis or four or more delinquencies during the preceding twenty-four  
45 months if filing on a monthly or more frequent basis.

1 E. If a licensee who is required to post a bond or security maintains  
2 a good filing and payment record for a period of two years, the licensee may  
3 request that the department waive the continued bond or security requirement.

4 F. In this section "person" includes a firm, partnership, joint  
5 venture, association, corporation, sole proprietorship or any other business  
6 or governmental entity subject to a tax administered by this article but does  
7 not include an individual subject to individual income tax.

8 Sec. 5. Section 42-1124, Arizona Revised Statutes, is amended to read:

9 42-1124. Failure to affix stamps or pay or account for tax;  
10 forfeiture of commodity; sale of forfeited  
11 commodity; effect of seizure and sale; request for  
12 administrative hearing; definitions

13 A. If the department or its authorized agents or representatives  
14 discover any luxury subject to tax under chapter 3 of this title to which  
15 official stamps have not been affixed as required or on which the tax has not  
16 been paid or accounted for, the department or its agent or representative may  
17 seize and take possession of the luxury, and it is deemed forfeited to this  
18 state. Except as provided in subsection D or E of this section, the  
19 department, ~~shall~~ within a reasonable time thereafter, pursuant to a notice  
20 posted on the premises or by publication in a newspaper of general  
21 circulation in the county where the sale is to take place, not fewer than  
22 five days before the date of sale, **SHALL** offer for sale and sell the  
23 forfeited luxuries. The department shall pay the proceeds of the sale into  
24 the state general fund. The sale shall take place in the county which is  
25 most convenient and economical. The department need not offer any property  
26 for sale if, in its opinion, the probable cost of sale exceeds the value of  
27 the property.

28 B. The seizure and sale do not relieve any person from the penalties  
29 provided for violating this title.

30 C. The department of revenue may enter into an interagency agreement  
31 with the department of transportation for the purpose of carrying out tobacco  
32 enforcement under chapter 3 of this title at ports of entry.

33 D. All cigarettes that are seized for violations under this title  
34 shall be forfeited to this state. All cigarettes that are forfeited to this  
35 state pursuant to section 13-3711, 36-798.06 or ~~42-3210~~ 42-3461 or section  
36 44-7111, section 6(b) shall be destroyed. If a ~~eigarette~~ distributor  
37 defrauds this state by knowingly and intentionally failing to keep or make  
38 any record, return, report or inventory pertaining to cigarettes, by refusing  
39 to pay any luxury tax for cigarettes subject to tax under chapter 3 of this  
40 title or by attempting to evade or defeat any requirement of this title, the  
41 ~~eigarette~~ distributor shall forfeit to this state all fixtures, equipment and  
42 all other materials and personal property that are located on the premises of  
43 the ~~eigarette~~ distributor. Alternatively, at the request of the department,  
44 the ~~eigarette~~ distributor may be enjoined by an action commenced by the  
45 attorney general or a county attorney in the name of the state from engaging  
46 or continuing in any business for which a tax is imposed by this chapter

1 until the tax has been paid and until such person has complied with this  
2 title.

3 E. The department may sell or otherwise dispose of any cigarettes  
4 forfeited to this state on such conditions as it deems most advantageous and  
5 just under the circumstances, unless such cigarettes are forfeited pursuant  
6 to section 13-3711, 36-798.06 or ~~42-3210~~ 42-3461 or section 44-7111, section  
7 6(b). The department shall deposit the proceeds of any sales made pursuant  
8 to this subsection in the state general fund.

9 F. The department shall give notice of the seizure and forfeiture of  
10 cigarettes described in this section by personal service or by certified mail  
11 to all persons known by the department to have any right, title or interest  
12 in the property. Notice shall include a description of the cigarettes  
13 seized, the reason for the seizure and the time and place of the seizure.  
14 The following apply to the notice under this subsection:

15 1. Except as provided in paragraph 2 of this subsection, the  
16 department shall post and maintain an ~~on-line~~ ONLINE notice of seizure and  
17 forfeiture on its ~~web-site~~ WEBSITE for a period of at least six months,  
18 beginning no later than ten business days after the date of the personal  
19 service of the notice to a person or the date of the mailing of the notice.  
20 The ~~on-line~~ ONLINE notice shall display the date on which the department  
21 posts the notice to the ~~web-site~~ WEBSITE, which shall serve as the date of  
22 publication of the notice.

23 2. An ~~on-line~~ ONLINE notice is not required if the amount of  
24 cigarettes seized is less than sixty-one cartons of two hundred cigarettes  
25 each.

26 G. Any person whose legal rights, duties or privileges are determined  
27 by the notice of seizure and forfeiture may file a request for an  
28 administrative hearing with the department on a form prescribed by the  
29 department. The request for an administrative hearing shall contain a  
30 statement of the petitioner's interest in the cigarettes and an explanation  
31 of why the release or recovery of the cigarettes is warranted on the ground  
32 that the cigarettes were erroneously or illegally seized.

33 H. The seizure and forfeiture of cigarettes or other tobacco products  
34 by the department is an appealable agency action as defined in section  
35 41-1092 and is governed by title 41, chapter 6, article 10 and section  
36 42-1251, except that:

37 1. A request for an administrative hearing that is filed under  
38 subsection G of this section is deemed to be timely filed if the request is  
39 filed with the department within ten days after the date of personal service  
40 on the petitioner or the date of mailing the notice to the petitioner. Any  
41 person not served personally or by mail shall file the request within ten  
42 days after the date of publication of the notice. The failure of a person to  
43 file a timely request constitutes a bar to that person's right to any  
44 interest in the cigarettes or other tobacco products, except insofar as the  
45 rights of that person may be established in an action filed by the department  
46 under this chapter.

1           2. If a request for an administrative hearing is not filed with the  
2 department at the expiration of ten days after the notice has been personally  
3 served, mailed or published, the department's determination is final. If a  
4 timely request for an administrative hearing has been filed with the  
5 department, the department shall request a hearing by the office of  
6 administrative hearings and the department shall suspend action until the  
7 final order of the department has been issued. An order that is issued by  
8 the office of administrative hearings shall be the final order of the  
9 department thirty days after the petitioner receives the decision unless a  
10 decision by the director is issued pursuant to section 42-1251. If the  
11 director issues a decision, that decision is the final order of the  
12 department.

13           I. For the purposes of this section, "cigarette" and "~~eigarette~~  
14 distributor" have the same meanings prescribed in section 42-3001.

15           Sec. 6. Section 42-1125, Arizona Revised Statutes, is amended to read:  
16 42-1125. Civil penalties; definition

17           A. If a taxpayer fails to make and file a return for a tax  
18 administered pursuant to this article on or before the due date of the return  
19 or the due date as extended by the department, unless it is shown that the  
20 failure is due to reasonable cause and not due to wilful neglect, four and  
21 one-half ~~per-cent~~ PERCENT of the tax required to be shown on such return  
22 shall be added to the tax for each month or fraction of a month elapsing  
23 between the due date of the return and the date on which it is filed. The  
24 total penalty shall not exceed twenty-five ~~per-cent~~ PERCENT of the tax found  
25 to be remaining due. The penalty so added to the tax is due and payable on  
26 notice and demand from the department. For the purpose of computing the  
27 penalty imposed under this subsection, the amount required to be shown as tax  
28 on a return shall be reduced by the amount of any part of the tax which is  
29 paid on or before the beginning of such month and by the amount of any credit  
30 against the tax which may be claimed on the return. If the amount required  
31 to be shown as tax on a return is less than the amount shown as tax on such  
32 return, the penalty described in this subsection shall be applied by  
33 substituting such lower amount.

34           B. If a taxpayer fails or refuses to file a return on notice and  
35 demand by the department, the taxpayer shall pay a penalty of twenty-five ~~per~~  
36 ~~cent~~ PERCENT of the tax, which is due and payable on notice and demand by the  
37 department, in addition to any penalty prescribed by subsection A of this  
38 section, unless it is shown that the failure is due to reasonable cause and  
39 not due to wilful neglect. This penalty is payable on notice and demand from  
40 the department.

41           C. If a taxpayer fails or refuses to furnish any information requested  
42 in writing by the department, the department may add a penalty of twenty-five  
43 ~~per-cent~~ PERCENT of the amount of any deficiency tax assessed by the  
44 department concerning the assessment of which the information was required,  
45 unless it is shown that the failure is due to reasonable cause and not due to  
46 wilful neglect.



1 D. If a person fails to pay the amount shown as tax on any return  
2 within the time prescribed, a penalty of one-half of one ~~per-cent~~ PERCENT,  
3 not to exceed a total of ten ~~per-cent~~ PERCENT, shall be added to the amount  
4 shown as tax for each month or fraction of a month during which the failure  
5 continues, unless it is shown that the failure is due to reasonable cause and  
6 not due to wilful neglect. If the department determines that the person's  
7 failure to pay was due to reasonable cause and not due to wilful neglect and  
8 that a payment agreement pursuant to section 42-2057 is appropriate, the  
9 department shall not impose the penalty unless the taxpayer fails to comply  
10 with the payment agreement. If the taxpayer is also subject to a penalty  
11 under subsection A of this section for the same tax period, the total  
12 penalties under subsection A of this section and this subsection shall not  
13 exceed twenty-five ~~per-cent~~ PERCENT. For the purpose of computing the  
14 penalty imposed under this subsection:

15 1. The amount shown as tax on a return shall be reduced by the amount  
16 of any part of the tax that is paid on or before the beginning of that month  
17 and by the amount of any credit against the tax that may be claimed on the  
18 return.

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

22 E. If a person fails to pay any amount required to be shown on any  
23 return that is not so shown within twenty-one calendar days after the date of  
24 notice and demand, a penalty of one-half of one ~~per-cent~~ PERCENT, not to  
25 exceed a total of ten ~~per-cent~~ PERCENT, shall be added to the amount of tax  
26 for each month or fraction of a month during which the failure continues,  
27 unless it is shown that the failure is due to reasonable cause and not due to  
28 wilful neglect. If the taxpayer is also subject to penalty under subsection  
29 A of this section for the same tax period, the total penalties under  
30 subsection A of this section and this subsection shall not exceed twenty-five  
31 ~~per-cent~~ PERCENT. For the purpose of computing the penalty imposed under  
32 this subsection, any amount required to be shown on any return shall be  
33 reduced by the amount of any part of the tax that is paid on or before the  
34 beginning of that month and by the amount of any credit against the tax that  
35 may be claimed on the return.

36 F. In the case of a deficiency, for which a determination is made of  
37 an additional amount due, which is due to negligence but without intent to  
38 defraud, the person shall pay a penalty of ten ~~per-cent~~ PERCENT of the amount  
39 of the deficiency.

40 G. If part of a deficiency is due to fraud with intent to evade tax,  
41 fifty ~~per-cent~~ PERCENT of the total amount of the tax, in addition to the  
42 deficiency, interest and other penalties provided in this section, shall be  
43 assessed, collected and paid as if it were a deficiency.

44 H. If the amount, whether determined by the department or the  
45 taxpayer, required to be withheld by the employer pursuant to title 43,  
46 chapter 4 is not paid to the department on or before the date prescribed for

1 its remittance, the department may add a penalty of twenty-five ~~per cent~~  
2 PERCENT of the amount required to be withheld and paid, unless it is shown  
3 that the failure is due to reasonable cause and not due to wilful neglect.

4 I. A person who, with or without intent to evade any requirement of  
5 this article or any lawful administrative rule of the department of revenue  
6 under this article, fails to file a return or to supply information required  
7 under this article or who, with or without such intent, makes, prepares,  
8 renders, signs or verifies a false or fraudulent return or statement or  
9 supplies false or fraudulent information shall pay a penalty of not more than  
10 one thousand dollars. This penalty shall be recovered by the department of  
11 law in the name of this state by an action in any court of competent  
12 jurisdiction.

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

17 K. If any person who is required to file or provide an information  
18 return under this title or title 43 or who is required to file or provide a  
19 return or report under chapter 3 of this title fails to file the return or  
20 report at the prescribed time or in the manner required, or files a return or  
21 report that fails to show the information required, that person shall pay a  
22 penalty of one hundred dollars for each month or fraction of a month during  
23 which the failure continues unless it is shown that the failure is due to  
24 reasonable cause and not due to wilful neglect. The total penalties for each  
25 return or report under this subsection shall not exceed five hundred dollars.

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

31 M. A person who is required under section 43-413 to furnish a  
32 statement to an employee and who wilfully furnishes a false or fraudulent  
33 statement, or who wilfully fails to furnish a statement required by section  
34 43-413, is for each such failure subject to a penalty of fifty dollars.

35 N. A person who is required to collect or truthfully account for and  
36 pay a tax administered pursuant to this article, including any luxury  
37 privilege tax, and who wilfully fails to collect the tax or truthfully  
38 account for and pay the tax, or wilfully attempts in any manner to evade or  
39 defeat the tax or its payment, is, in addition to other penalties provided by  
40 law, liable for a penalty equal to the total amount of the tax evaded, not  
41 collected or not accounted for and paid. Except as provided in subsections  
42 U, V and W of this section, no other penalty under this section relating to  
43 failure to pay tax may be imposed for any offense to which this subsection  
44 applies.

45 O. For reporting periods beginning from and after February 28, 2011,  
46 if a taxpayer who is required under section 42-1129 to make payment by

1 electronic funds transfer fails to do so, that taxpayer shall pay a penalty  
2 of five ~~per-cent~~ PERCENT of the amount of the payment not made by electronic  
3 funds transfer unless it is shown that the failure is due to reasonable cause  
4 and not due to wilful neglect. For the reporting periods beginning on July  
5 1, 2015, the penalty in this subsection applies to any taxpayer who is  
6 required under section 42-3053 to make payment by electronic funds transfer  
7 and fails to do so unless it is shown that the failure is due to reasonable  
8 cause and not due to wilful neglect.

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

10 1. A person who fails to provide that person's taxpayer identification  
11 number in any return, statement or other document as required by section  
12 42-1105, subsection A shall pay a penalty of five dollars for each such  
13 failure.

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

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

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

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

31 R. Beginning January 1, 2015, if a taxpayer continues in business  
32 without timely renewing a municipal privilege tax license as prescribed in  
33 section 42-5005, subsection D, a civil penalty of up to twenty-five dollars  
34 shall be added to the renewal fee for each jurisdiction.

35 S. The department of law, with the consent of the department of  
36 revenue, may compromise any penalty for which it may bring an action under  
37 this section.

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

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

42 2. The amended return was filed on demand or request by the  
43 department.

44 3. The total additional tax paid and due for the tax period represents  
45 a substantial understatement of tax liability. For the purposes of this  
46 paragraph, there is a substantial understatement of tax for any tax period if

1 the amount of the understatement for the tax period exceeds the greater of  
2 ten ~~per-cent~~ PERCENT of the actual tax liability for the tax period or two  
3 thousand dollars.

4 U. In addition to other penalties provided by law, a person who  
5 knowingly and intentionally does not comply with any requirement under  
6 chapter 3, ~~article 5~~ of this title relating to cigarettes shall pay a penalty  
7 of one thousand dollars. A person who knowingly and intentionally does not  
8 pay any luxury tax that relates to cigarettes imposed by chapter 3 of this  
9 title shall pay a penalty that is equal to ten ~~per-cent~~ PERCENT of the amount  
10 of the unpaid tax.

11 V. A ~~cigarette~~ manufacturer, ~~cigarette~~ importer or ~~cigarette~~  
12 distributor, as defined in section 42-3001, who knowingly and intentionally  
13 sells or possesses cigarettes with false manufacturing labels or cigarettes  
14 with counterfeit tax stamps, or who obtains cigarettes through the use of a  
15 counterfeit license, shall pay the following penalties:

16 1. For a first violation involving two thousand or more cigarettes,  
17 one thousand dollars.

18 2. For a subsequent violation involving two thousand or more  
19 cigarettes, five thousand dollars.

20 W. The civil penalties in this section are in addition to any civil  
21 penalty under chapter 3, article ~~5- 10, 11 OR 12~~ of this title.

22 X. For the purposes of this section, and only as applied to the taxes  
23 imposed by chapter 5, articles 1 through 6 and chapter 6, articles 1, 2 and 3  
24 of this title, "reasonable cause" means a reasonable basis for the taxpayer  
25 to believe that the tax did not apply to the business activity or the  
26 storage, use or consumption of the taxpayer's tangible personal property in  
27 this state.

28 Sec. 7. Section 42-1127, Arizona Revised Statutes, is amended to read:

29 ~~42-1127. Criminal violations; classifications; place of trial;~~  
30 ~~definition~~

31 A. It is a class 4 felony to:

32 1. Corruptly or by force or threats of force or injury:

33 (a) Attempt to intimidate, impede or injure an employee of the  
34 department acting in an official capacity.

35 (b) Obstruct, impede or attempt to obstruct or impede the  
36 administration of this title or title 43.

37 2. Attempt by means of bribery, misrepresentation, intimidation or  
38 force or threats of force to obstruct, delay or prevent the communication of  
39 information or testimony relating to a violation of this title or title 43 to  
40 an employee or officer of the department, or knowingly injure another  
41 personally or injure the person's property on account of the person giving,  
42 personally or by any other person, any such information or testimony to an  
43 employee of the department.

44 3. Make, forge, alter or counterfeit with the intent to defraud a  
45 stamp or meter impression prepared or prescribed by the department under  
46 chapter 3 of this title, or to knowingly utter, publish, pass or tender as

1 true a false, altered, forged or counterfeited stamp or meter impression, or  
2 to use a stamp provided for and required by chapter 3 of this title which has  
3 already once been used, with the intent to evade the tax imposed by chapter 3  
4 of this title.

5 4. Tamper with, or cause to be tampered with, any metering machine  
6 authorized to be used under chapter 3 of this title.

7 B. It is a class 5 felony to:

8 1. Knowingly fail to pay any tax administered pursuant to this article  
9 due or believed due by the taxpayer with intent to evade the tax.

10 2. Knowingly prepare, present or aid, procure or advise in preparing  
11 or presenting any return, affidavit, claim or other document which is  
12 fraudulent or is false as to any material matter, whether or not the falsity  
13 or fraud is with the knowledge or consent of the taxpayer authorized or  
14 required to present the return, affidavit, claim or document.

15 3. Simulate or falsely or fraudulently execute or sign any license or  
16 other required document, or cause the license or document to be falsely or  
17 fraudulently executed or advise or aid in such execution, with the intent to  
18 conceal or cover up a material fact relating to a tax administered pursuant  
19 to this article.

20 4. Knowingly fail to file a return or supply required information, or  
21 falsify or conceal a material fact, document or record, make a false,  
22 fictitious or fraudulent statement or representation or make or use a false  
23 writing or document knowing it to contain a false, fictitious or fraudulent  
24 statement or entry, with intent that the department rely on the false,  
25 fictitious or fraudulent statement or entry in determining tax liability  
26 under this article.

27 C. A ~~cigarette~~ distributor as defined in section 42-3001 who violates  
28 section ~~42-3202~~ 42-3452, subsection A, paragraph 2 is guilty of a class 1  
29 misdemeanor. If the ~~cigarette~~ distributor is convicted of a second violation  
30 of section ~~42-3202~~ 42-3452, subsection A, paragraph 2, the department may  
31 revoke the ~~cigarette~~ distributor's license issued pursuant to section ~~42-3201~~  
32 42-3401.

33 D. A distributor as defined in section 42-3001 who violates any  
34 provision of section ~~42-3201~~ 42-3401, section ~~42-3202~~ 42-3452, subsection A,  
35 paragraph 1 or section ~~42-3203~~ 42-3456 is guilty of a class 1 misdemeanor.  
36 If the distributor is a licensee under section ~~42-3201~~ 42-3401 and is  
37 convicted of a second violation of section ~~42-3203~~ 42-3456, the department  
38 may revoke the distributor's license.

39 E. It is a class 3 felony for any person to:

40 1. Except as provided in section ~~42-3205~~ 42-3457, transport, in an  
41 unstamped or unlawfully stamped condition, for the purpose of sale ten  
42 thousand or more cigarettes that were subject to the tax imposed by chapter  
43 3, article 2, 6, ~~or~~ 7 OR 9 of this title.

44 2. Wilfully sell or offer for sale, in an unstamped or unlawfully  
45 stamped condition, ten thousand or more cigarettes that were subject to the  
46 tax imposed by chapter 3, article 2, 6 or 7 of this title.

1           3. Wilfully sell or offer for sale off an Indian reservation ten  
2 thousand or more cigarettes that are stamped for on-reservation sales.

3           F. For the purposes of subsection E of this section, the possession or  
4 transportation in this state at any time by any person, other than a licensed  
5 distributor, as defined in section 42-3001, of ten thousand or more  
6 cigarettes in an unstamped or unlawfully stamped condition, other than in  
7 interstate shipment consistent with ~~the~~ federal contraband cigarette  
8 trafficking ~~act of 1978 LAWS (P.L. 95-575; 92 stat. 2463;~~ 18 United States  
9 Code chapter 114), is presumptive evidence that the cigarettes:

10           1. Are possessed or transported for the purpose of sale.

11           2. Are subject to the taxes imposed by chapter 3, article 2, 6, ~~or~~ 7  
12 OR 9 of this title.

13           G. A person who knowingly sells a luxury on which the tax has not been  
14 paid or accounted for as required by chapter 3 of this title is guilty of a  
15 class 1 misdemeanor.

16           H. A retailer who possesses any package, bottle or other container  
17 containing a luxury which does not bear the stamps required to be affixed by  
18 chapter 3 of this title is guilty of a class 1 misdemeanor.

19           I. A person is guilty of a class 3 misdemeanor who:

20           1. Is engaged in the business of selling a luxury, either at wholesale  
21 or retail, and who knowingly refuses or fails to produce on demand by the  
22 department invoices of all luxuries the person purchased or received within  
23 two years immediately before the demand, unless the person shows by  
24 satisfactory proof that the person is unable to do so for reasons beyond the  
25 person's control.

26           2. Makes a false entry on an invoice, package or container of  
27 luxuries, or who with intent to avoid the taxes imposed by chapter 3 of this  
28 title presents a false entry for inspection of the department.

29           3. Knowingly prevents or hinders the department from making a full  
30 inspection of any place where a luxury is sold or stored, or knowingly  
31 prevents or hinders the inspection of invoices, books, records or papers  
32 required to be kept.

33           4. Violates any provision of this article or an administrative rule  
34 adopted by the department for which no other penalty is prescribed.

35           J. The place of trial for the offenses enumerated in this section is  
36 in the county of residence or principal place of business of the defendant or  
37 defendants. If the defendant has no residence or principal place of business  
38 in this state, the trial shall be held in Maricopa county.

39           K. A person who defrauds this state by violating any requirement under  
40 chapter 3 of this title, with criminal intent to evade any such requirement,  
41 is guilty of a class 4 felony and shall pay a penalty of three times the  
42 retail value of the cigarettes involved.

43           L. A person who knowingly violates any requirement under chapter 3 of  
44 this title, with the criminal intent to evade any such requirement, is guilty  
45 of a class 6 felony.

1 M. A person who knowingly sells or offers to sell off an Indian  
2 reservation more than two thousand but less than ten thousand cigarettes that  
3 are stamped for on-reservation sales, with the criminal intent to evade the  
4 tax imposed by chapter 3 of this title, is guilty of a class 5 felony.

5 N. Any distributor, as defined in section 42-3001, who sells or  
6 possesses more than two thousand cigarettes with false manufacturing labels  
7 or cigarettes with counterfeit tax stamps, with the criminal intent to evade  
8 any requirement under chapter 3 of this title, is guilty of a class 5 felony  
9 and shall pay a penalty of:

10 1. For a first violation involving two thousand or more cigarettes,  
11 two thousand dollars or three times the retail value of the cigarettes,  
12 whichever is greater.

13 2. For a subsequent violation involving two thousand or more  
14 cigarettes, fifty thousand dollars or three times the retail value of the  
15 cigarettes, whichever is greater.

16 0. For the purposes of this section, "luxury" means any article,  
17 object or device on which a tax is imposed under chapter 3 of this title.

18 Sec. 8. Section 42-2003, Arizona Revised Statutes, is amended to read:  
19 42-2003. Authorized disclosure of confidential information

20 A. Confidential information relating to:

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

25 2. A corporate taxpayer may be disclosed to any principal officer, any  
26 person designated by a principal officer or any person designated in a  
27 resolution by the corporate board of directors or other similar governing  
28 body.

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

32 4. An estate may be disclosed to the personal representative of the  
33 estate and to any heir, next of kin or beneficiary under the will of the  
34 decedent if the department finds that the heir, next of kin or beneficiary  
35 has a material interest which will be affected by the confidential  
36 information.

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

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

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

46 B. Confidential information may be disclosed to:

- 1           1. Any employee of the department whose official duties involve tax  
2 administration.
- 3           2. The office of the attorney general solely for its use in  
4 preparation for, or in an investigation that may result in, any proceeding  
5 involving tax administration before the department or any other agency or  
6 board of this state, or before any grand jury or any state or federal court.
- 7           3. The department of liquor licenses and control for its use in  
8 determining whether a spirituous liquor licensee has paid all transaction  
9 privilege taxes and affiliated excise taxes incurred as a result of the sale  
10 of spirituous liquor, as defined in section 4-101, at the licensed  
11 establishment and imposed on the licensed establishments by this state and  
12 its political subdivisions.
- 13           4. Other state tax officials whose official duties require the  
14 disclosure for proper tax administration purposes if the information is  
15 sought in connection with an investigation or any other proceeding conducted  
16 by the official. Any disclosure is limited to information of a taxpayer who  
17 is being investigated or who is a party to a proceeding conducted by the  
18 official.
- 19           5. The following agencies, officials and organizations, if they grant  
20 substantially similar privileges to the department for the type of  
21 information being sought, pursuant to statute and a written agreement between  
22 the department and the foreign country, agency, state, Indian tribe or  
23 organization:
- 24           (a) The United States internal revenue service, alcohol and tobacco  
25 tax and trade bureau of the United States treasury, United States bureau of  
26 alcohol, tobacco, firearms and explosives of the United States department of  
27 justice, United States drug enforcement agency and federal bureau of  
28 investigation.
- 29           (b) A state tax official of another state.
- 30           (c) An organization of states, federation of tax administrators or  
31 multistate tax commission that operates an information exchange for tax  
32 administration purposes.
- 33           (d) An agency, official or organization of a foreign country with  
34 responsibilities that are comparable to those listed in subdivision (a), (b)  
35 or (c) of this paragraph.
- 36           (e) An agency, official or organization of an Indian tribal government  
37 with responsibilities comparable to the responsibilities of the agencies,  
38 officials or organizations identified in subdivision (a), (b) or (c) of this  
39 paragraph.
- 40           6. The auditor general, in connection with any audit of the department  
41 subject to the restrictions in section 42-2002, subsection D.
- 42           7. Any person to the extent necessary for effective tax administration  
43 in connection with:
- 44           (a) The processing, storage, transmission, destruction and  
45 reproduction of the information.



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

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

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

7 (a) Regarding income tax or withholding tax.

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

10 9. The United States treasury inspector general for tax administration  
11 for the purpose of reporting a violation of internal revenue code section  
12 7213A (26 United States Code section 7213A), unauthorized inspection of  
13 returns or return information.

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

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

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

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

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

24 (c) Fulfilling its annual reporting responsibility pursuant to section  
25 41-1511, subsections U and V and section 41-1512, subsections U and V.

26 (d) Certifying computer data centers for tax relief under section  
27 41-1519.

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

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

31 15. The department of transportation for its use in administering  
32 taxes, surcharges and penalties prescribed by title 28.

33 16. The Arizona health care cost containment system administration for  
34 its use in administering nursing facility provider assessments.

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

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

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

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

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

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

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

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

9 E. The department, on the request of any person, shall provide the  
10 names and addresses of bingo licensees as defined in section 5-401, verify  
11 whether or not a person has a privilege license and number, a tobacco product  
12 distributor's license and number or a withholding license and number or  
13 disclose the information to be posted on the department's website or  
14 otherwise publicly accessible pursuant to section 42-1124, subsection F and  
15 section ~~42-3201, subsection A~~ 42-3401.

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

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

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

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

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

44 I. The department may disclose statistical information gathered from  
45 confidential information if it does not disclose confidential information  
46 attributable to any one taxpayer. The department may disclose statistical

1 information gathered from confidential information, even if it discloses  
2 confidential information attributable to a taxpayer, to:

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

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

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

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

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

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

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

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

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

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

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

44 S. To comply with the requirements of section 42-5031, the department  
45 may disclose to the state treasurer, to the county stadium district board of  
46 directors and to any city or town tax official that is part of the county

1 stadium district confidential information attributable to a taxpayer's  
2 business activity conducted in the county stadium district.

3 T. The department shall release to the attorney general confidential  
4 information as requested by the attorney general for purposes of determining  
5 compliance with or enforcing any of the following:

6 1. Any public health control law relating to tobacco sales as provided  
7 under title 36, chapter 6, article 14.

8 2. Any law relating to reduced cigarette ignition propensity standards  
9 as provided under title 41, chapter 16, article 3.1.

10 3. Sections 44-7101 and 44-7111, the master settlement agreement  
11 referred to in those sections and all agreements regarding disputes under the  
12 master settlement agreement.

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

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

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

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

35 V. The department and attorney general may share the information  
36 specified in subsection T of this section with any of the following:

37 1. Federal, state or local agencies for the purposes of enforcement of  
38 corresponding laws of other states.

39 2. A court, arbitrator, data clearinghouse or similar entity for the  
40 purpose of assessing compliance with or making calculations required by the  
41 master settlement agreement or agreements regarding disputes under the master  
42 settlement agreement, and with counsel for the parties or expert witnesses in  
43 any such proceeding, if the information otherwise remains confidential.

44 W. The department may provide the name and address of qualifying  
45 hospitals and qualifying health care organizations, as defined in section

1 42-5001, to a business classified and reporting transaction privilege tax  
2 under the utilities classification.

3 X. The department may disclose to an official of any city, town or  
4 county in a current agreement or considering a prospective agreement with the  
5 department as described in section 42-5032.02, subsection F any information  
6 relating to amounts subject to distribution required by section 42-5032.02.  
7 Information disclosed by the department under this subsection:

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

9 2. May not be disclosed to the public in any manner that does not  
10 comply with confidentiality standards established by the department. The  
11 city, town or county must agree with the department in writing that any  
12 release of confidential information that violates the confidentiality  
13 standards will result in the immediate suspension of any rights of the city,  
14 town or county to receive information under this subsection.

15 Sec. 9. Section 42-3001, Arizona Revised Statutes, is amended to read:

16 42-3001. Definitions

17 In this chapter, unless the context otherwise requires:

18 1. "Affix" and "affixed" include imprinting tax meter stamps on  
19 packages and individual containers as authorized by the department.

20 2. "Brand family" has the same meaning prescribed in section 44-7111.

21 3. "Cider" means vinous liquor that is made from the normal alcoholic  
22 fermentation of the juice of sound, ripe apples, pears or other pome fruit,  
23 including flavored, sparkling and carbonated cider and cider made from  
24 condensed apple, pear or other pome fruit must, and that contains more than  
25 one-half of one ~~per cent~~ PERCENT of alcohol by volume but not more than seven  
26 ~~per cent~~ PERCENT of alcohol by volume.

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

30 5. "Cigarette" means either of the following:

31 (a) Any roll of tobacco wrapped in paper or any substance not  
32 containing tobacco.

33 (b) Any roll of tobacco wrapped in any substance containing tobacco  
34 that, because of its appearance, the type of tobacco used in the filler or  
35 its packaging and labeling, is likely to be offered to or purchased by a  
36 consumer as a cigarette described in subdivision (a) of this paragraph. This  
37 subdivision shall be interpreted consistently with the classification  
38 guidelines established by the federal alcohol and tobacco tax and trade  
39 bureau.

40 ~~6. "Cigarette distributor" means a distributor of cigarettes without~~  
41 ~~stamps affixed as required by this article who is required to be licensed~~  
42 ~~under section 42-3201. Cigarette distributor does not include a retailer or~~  
43 ~~any person who holds a permit as a cigarette manufacturer, export warehouse~~  
44 ~~proprietor or importer under 26 United States Code section 5712 if the person~~  
45 ~~sells or distributes cigarettes in this state only to licensed cigarette~~

~~distributors or to another person who holds a permit under 26 United States Code section 5712 as an export warehouse proprietor or manufacturer.~~

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

~~8. "Cigarette manufacturer" means a distributor who manufactures, fabricates, assembles, processes or labels a finished cigarette, including a distributor who uses or makes available for use a tobacco product rolling vending machine in the manufacture, fabrication, assembly or processing of tobacco products.~~

~~9.~~ 6. "Consumer" means a person in this state ~~who~~ THAT comes into possession of any luxury subject to the tax imposed by this chapter and ~~who~~ THAT, on coming into possession of the luxury, is not a distributor intending to sell or distribute the luxury, retailer or wholesaler.

~~10.~~ 7. "Craft distiller" means a distiller in the United States or in a territory or possession of the United States that holds a license pursuant to section 4-205.10.

~~11.~~ 8. "Distributor" means any person ~~who~~ THAT manufactures, produces, ships, transports or imports into this state or in any manner acquires or possesses for the purpose of making the first sale of the following:

(a) Cigarettes without Arizona tax stamps affixed as required by this article.

(b) ROLL-YOUR-OWN TOBACCO OR other tobacco products on which the taxes have not been paid as required by this chapter.

~~12.~~ 9. "Farm winery" has the same meaning prescribed in section 4-101.

~~13.~~ 10. "First sale" means the initial sale or distribution in intrastate commerce or the initial use or consumption of cigarettes, ROLL-YOUR-OWN TOBACCO or other tobacco products.

~~14.~~ 11. "Luxury" means any article, object or device on which a tax is imposed under this chapter.

~~15.~~ 12. "Malt liquor" means any liquid that contains more than one-half of one ~~per cent~~ PERCENT alcohol by volume and that is made by the process of fermentation and not distillation of hops or grains, but not including:

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

(b) Medicines that are unsuitable for beverage purposes.

~~16.~~ 13. "Master settlement agreement" has the same meaning prescribed in section 44-7101.

~~17.~~ 14. "Microbrewery" has the same meaning prescribed in section 4-101.

~~18.~~ 15. "Nonparticipating manufacturer" has the same meaning prescribed in section 44-7111.

16. "OTHER TOBACCO PRODUCTS" MEANS TOBACCO PRODUCTS OTHER THAN CIGARETTES AND ROLL-YOUR-OWN TOBACCO.

~~19.~~ 17. "Participating manufacturer" has the same meaning prescribed in section 44-7111.

1       ~~20-~~ 18. "Person" means any individual, firm, partnership, joint  
2 venture, association, corporation, municipal corporation, estate, trust,  
3 club, society or other group or combination acting as a unit, and the plural  
4 as well as the singular number.

5       ~~21-~~ 19. "Place of business" means a place where an order is received  
6 or where tobacco products are sold, distributed or transferred.

7       ~~22-~~ 20. "Retailer" means any person that comes into possession of any  
8 luxury subject to the taxes imposed by this chapter for the purpose of  
9 selling it for consumption and not for resale.

10       21. "ROLL-YOUR-OWN TOBACCO" MEANS ANY TOBACCO THAT, BECAUSE OF ITS  
11 APPEARANCE, TYPE, PACKAGING OR LABELING, IS SUITABLE FOR USE AND LIKELY TO BE  
12 OFFERED TO OR PURCHASED BY CONSUMERS AS TOBACCO FOR MAKING CIGARETTES. THIS  
13 PARAGRAPH SHALL BE INTERPRETED CONSISTENTLY WITH THE TERM AS USED IN SECTION  
14 44-7101. THIS PARAGRAPH SHALL BE INTERPRETED CONSISTENTLY WITH THE  
15 CLASSIFICATION GUIDELINES ESTABLISHED BY THE FEDERAL ALCOHOL AND TOBACCO TAX  
16 AND TRADE BUREAU.

17       ~~23-~~ 22. "Spirituous liquor" means any liquid that contains more than  
18 one-half of one ~~per-cent~~ PERCENT alcohol by volume, that is produced by  
19 distillation of any fermented substance and that is used or prepared for use  
20 as a beverage. Spirituous liquor does not include medicines that are  
21 unsuitable for beverage purposes.

22       ~~24-~~ 23. "Tobacco product manufacturer" has the same meaning prescribed  
23 in section 44-7101.

24       ~~25-~~ 24. "Tobacco products" means all luxuries included in section  
25 42-3052, paragraphs 5 through 9.

26       ~~26-~~ 25. "Vehicle" means a device in, on or by which a person or  
27 property is or may be transported or drawn on the roads of this state  
28 regardless of the means by which it is propelled or whether it runs on a  
29 track.

30       ~~27-~~ 26. "Vinous liquor" means any liquid that contains more than  
31 one-half of one ~~per-cent~~ PERCENT alcohol by volume and that is made by the  
32 process of fermentation of grapes, berries, fruits, vegetables or other  
33 substances but does not include:

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

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

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

38       ~~28-~~ 27. "Wholesaler" means a person that sells any spirituous, vinous  
39 or malt liquor taxed under this chapter to retail dealers or for the purposes  
40 of resale only.

41       Sec. 10. Section 42-3006, Arizona Revised Statutes, is amended to  
42 read:

43       42-3006. Tax stamps; general requirements

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

1 FOR WHICH THE DEPARTMENT EITHER COLLECTS PAYMENT OR PREPAYMENT OF THE TAX  
2 THROUGH THE PURCHASE OF SUCH STAMPS OR REQUIRES THE AFFIXATION OF STAMPS TO  
3 INDICATE THE TAX-EXEMPT NATURE OF THE LUXURIES.

4 B. The stamps shall HAVE BOTH OF THE FOLLOWING CHARACTERISTICS:

5 1. Be of a character so that they cannot be removed when once attached  
6 to an article without destroying them.

7 ~~C. The stamps shall~~ 2. Be printed in the form and manner prescribed by  
8 the director.

9 C. ANY TAX STAMP REQUIRED UNDER THIS CHAPTER MUST BE SECURELY AFFIXED  
10 TO SOME VISIBLE PART OF THE PACKAGE OR CONTAINER AND MUST REMAIN FIRMLY  
11 ADHERED TO THE PACKAGE OR CONTAINER DURING POSSESSION BY THE CONSUMER, EXCEPT  
12 AS OTHERWISE PROVIDED.

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

16 ~~E.~~ D. Cigarette stamps shall also meet the requirements of article  
17 ~~5- 11~~ of this chapter.

18 Sec. 11. Repeal

19 Section 42-3007, Arizona Revised Statutes, is repealed.

20 Sec. 12. Section 42-3008, Arizona Revised Statutes, is amended to  
21 read:

22 42-3008. Refunds; definitions

23 A. Except as provided in subsection C of this section, the tax imposed  
24 by this chapter ~~upon~~ ON any luxury shall be refunded when the amount of the  
25 tax has been paid and when ~~either~~ ONE OF THE FOLLOWING APPLIES:

26 1. Proof is made to the department that the luxuries were exported  
27 from this state or that the stamps have been affixed to luxuries ~~upon~~ ON  
28 which stamps are not required.

29 2. Proof is made to the department that the luxury becomes unfit for  
30 sale due to breakage or spoilage within either six months from the date that  
31 the distributor originally receives the luxury for sale or two months from  
32 the date that the luxury was returned to the distributor by a retailer,  
33 whichever occurs later.

34 3. WITHIN SIX MONTHS AFTER A DISTRIBUTOR RETURNS A LUXURY TO THE  
35 MANUFACTURER OR IMPORTER, PROOF OF THE RETURN IS MADE TO THE DEPARTMENT.

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

38 C. The department shall not refund the tax for stamps that are affixed  
39 to luxuries that are deemed contraband under this chapter.

40 D. Except as otherwise provided in section 42-1123, interest is  
41 calculated sixty days after receipt by the department of a claim for refund  
42 under this section.

43 E. For the purposes of this section:

44 1. "Breakage" means damage to the outer wrapping or container of a  
45 tobacco product.





1 The article heading of title 42, chapter 3, article 5, Arizona Revised  
2 Statutes, is repealed.

3 Sec. 17. Section 42-3253, Arizona Revised Statutes, is amended to  
4 read:

5 42-3253. Administration

6 Unless otherwise provided, the administration of this article is vested  
7 in and shall be exercised by the department according to chapters 1 and 2 of  
8 this title and articles 1 ~~through 5~~, 2, 3 AND 4 of this chapter, ~~and~~ this  
9 article AND ARTICLES 10, 11 AND 12 OF THIS CHAPTER.

10 Sec. 18. Section 42-3303, Arizona Revised Statutes, is amended to  
11 read:

12 42-3303. Tax on the consumer; precollection and remission by  
13 distributor

14 A. The taxes levied pursuant to this article are conclusively presumed  
15 to be direct taxes on the consumer but shall be precollected and remitted to  
16 the department by the distributor for purposes of convenience and facility  
17 only. The taxes that the distributor precollects and pays to the department:

18 1. Are considered to be an advance payment.

19 2. Shall be added to the price of the cigarettes, cigars, smoking  
20 tobacco, plug tobacco, snuff and other forms of tobacco.

21 3. Shall be recovered from the consumer.

22 B. For the purpose of the precollection and remittance of the tax  
23 imposed by this article, the ~~cigarette~~ distributor shall purchase and affix  
24 revenue stamps pursuant to article ~~5- 11~~ of this chapter.

25 Sec. 19. Section 42-3303.01, Arizona Revised Statutes, is amended to  
26 read:

27 42-3303.01. Stamps required for cigarettes sold on Indian  
28 reservations to enrolled tribal members:  
29 definition

30 A. From and after December 31, 2014, for cigarettes purchased on an  
31 Indian reservation by an enrolled member of the governing tribe:

32 1. Where that tribe does not levy an excise tax on tobacco products or  
33 exempts its enrolled members from the tax, a ~~cigarette~~ distributor shall  
34 affix tax-exempt stamps that are distinguishable from any other tax stamp  
35 required by this chapter.

36 2. Where that tribe levies an excise tax on tobacco products and does  
37 not exempt its members from the tax, a ~~cigarette~~ distributor shall purchase  
38 and affix tax stamps pursuant to article ~~5- 11~~ of this chapter that are  
39 distinguishable from any other tax or tax-exempt stamp required by this  
40 chapter.

41 B. For the purposes of this section, "excise tax on tobacco products"  
42 has the same meaning prescribed for "luxury, sales, transaction privilege or  
43 similar tax" under section 42-3301.

44 Sec. 20. Section 42-3306, Arizona Revised Statutes, is amended to  
45 read:

46 42-3306. Administration

1 Unless otherwise provided, the administration of this article is vested  
2 in and shall be exercised by the department according to chapters 1 and 2 of  
3 this title and articles 1 ~~through 5~~, 2, 3 AND 4 of this chapter, and this  
4 article AND ARTICLES 10, 11 AND 12 OF THIS CHAPTER.

5 Sec. 21. Section 42-3401, Arizona Revised Statutes, as transferred and  
6 renumbered, is amended to read:

7 42-3401. Tobacco distributor licenses; application; conditions;  
8 revocations, suspensions and cancellations

9 A. Every distributor acquiring or possessing for the purpose of making  
10 the initial sale or distribution in this state of any tobacco products on  
11 which a tax is imposed by this chapter shall obtain from the department a  
12 license to sell tobacco products. The application for the license shall be  
13 in the form provided by the department and shall be accompanied by a fee of  
14 twenty-five dollars for each place of business listed in the application.  
15 The form shall state that the identity of the applicant may be posted to the  
16 department's website for public inspection. The application for a license  
17 shall include the applicant's name and address, the applicant's principal  
18 place of business, all other places of business where the applicant's  
19 business is conducted for the purpose of making the initial sale or  
20 distribution of tobacco products in this state, including any location that  
21 maintains an inventory of tobacco products and any other information required  
22 by the department. If the applicant is a firm, partnership, limited  
23 liability company, limited liability partnership or association, the  
24 applicant shall list the name and address of each of the applicant's members.  
25 If the applicant is a corporation, the application shall list the name and  
26 address of the applicant's officers and any person who directly or indirectly  
27 owns an aggregate amount of ten ~~per-cent~~ PERCENT or more of the ownership  
28 interest in the corporation. If a licensee changes its business location,  
29 the licensee under this subsection shall notify the department within thirty  
30 days after a change in location. If the licensee is making a change in its  
31 business location by adding or replacing one or more additional places of  
32 business that are not currently listed on its application, the licensee must  
33 remit a fee of twenty-five dollars for each additional place of business.

34 B. For the purposes of subsection A of this section, an applicant with  
35 a controlling interest in more than one business engaged in activities as a  
36 distributor shall apply for a single license encompassing all such businesses  
37 and list each place of business in its application. For the purposes of this  
38 subsection, "controlling interest" means direct or indirect ownership of at  
39 least eighty ~~per-cent~~ PERCENT of the voting shares of a corporation or of the  
40 interests in a company, business or person other than a corporation.

41 C. The department shall issue a license authorizing the applicant to  
42 acquire or possess tobacco products in this state upon the condition that the  
43 applicant complies with this chapter and the rules of the department. The  
44 license:

45 1. Shall be nontransferable. A licensee may not transfer its license  
46 to a new owner when selling its business, and any court-appointed trustee,

1 receiver or other person shall obtain a license in its own name in cases of  
2 liquidation, insolvency or bankruptcy if the business remains in operation as  
3 a distributor of tobacco products. A licensee shall apply for a new license  
4 if it changes its legal entity status or otherwise changes the legal  
5 structure of its business.

6 2. Shall be valid for one year unless earlier revoked by the  
7 department.

8 3. Shall be displayed in a conspicuous place at the ~~applicant's~~  
9 ~~LICENSEE'S~~ place of business. If the ~~applicant~~ LICENSEE operates from more  
10 than one place of business, the ~~applicant~~ LICENSEE must display a copy of its  
11 license in a conspicuous place at each location.

12 ~~D. A person may not hold, store or transport unstamped cigarettes or~~  
13 ~~other untaxed tobacco products for sale or distribution in this state in any~~  
14 ~~vehicle pursuant to section 36-798.06. This subsection does not apply to~~  
15 ~~either of the following:~~

16 ~~1. A vehicle that is owned, operated or contracted by a person who~~  
17 ~~holds a valid license issued under this section and is transporting unstamped~~  
18 ~~cigarettes or other untaxed tobacco products from one to another of the~~  
19 ~~licensee's places of business listed on its application.~~

20 ~~2. A vehicle that is transporting unstamped cigarettes or other~~  
21 ~~untaxed tobacco products to a licensed distributor as part of a lawful sale~~  
22 ~~or in interstate commerce to a person lawfully operating as a manufacturer,~~  
23 ~~distributor or retailer of cigarettes or other tobacco products.~~

24 ~~E.~~ D. As a condition of licensure under this section, an applicant  
25 agrees to the following conditions:

26 1. A person may not hold or store any tobacco products, whether within  
27 or outside of this state, for sale or distribution in this state by or on  
28 behalf of a distributor at any place other than a location that has been  
29 disclosed to the department pursuant to subsection A of this section. This  
30 paragraph does not include a person holding or storing tobacco products by or  
31 on behalf of the distributor when the tobacco products are in transit to a  
32 distributor or retailer as part of a lawful sale.

33 2. All tobacco products held or stored, whether within or outside of  
34 this state, for sale or distribution in this state by or on behalf of a  
35 distributor shall be accessible to the department during normal business  
36 hours without a judicial warrant or prior written consent of the distributor,  
37 excluding residential locations.

38 ~~F. An individual must be licensed as a cigarette distributor if the~~  
39 ~~individual acquires or possesses unstamped cigarettes in this state for sale,~~  
40 ~~barter or exchange or for any other purpose besides or in addition to that~~  
41 ~~individual's own use or consumption.~~

42 ~~G.~~ E. A person who is convicted of an offense described in section  
43 42-1127, subsection E is permanently ineligible to hold a license issued  
44 under this section.

1           ~~H.~~ F. The department may not issue or renew a license to an applicant  
2 and may revoke a license issued under subsection ~~B- C~~ of this section if any  
3 of the following applies:

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

6           2. The department has revoked any license held by the applicant within  
7 the previous two years.

8           3. The applicant has been convicted of a crime that relates to stolen  
9 or counterfeit cigarettes.

10          4. The applicant has imported cigarettes into the United States for  
11 sale or distribution in violation of 19 United States Code section 1681a.

12          5. The applicant has imported cigarettes into the United States for  
13 sale or distribution without fully complying with the federal cigarette  
14 labeling and advertising act (P.L. 89-92; 79 Stat. 282; 15 United States Code  
15 section 1331).

16          6. The applicant is in violation of section 13-3711 or 36-798.06,  
17 subsection A.

18          7. Pursuant to section 44-7111, section 6(a), the applicant is in  
19 violation of section 44-7111, section 3(c).

20          8. The applicant's civil rights have been suspended under section  
21 13-904. An applicant whose civil rights have been suspended will be  
22 ineligible to hold a license for a period of five years following the  
23 restoration of the applicant's civil rights.

24           ~~I.~~ G. In addition to any other civil or criminal penalty and except  
25 as otherwise provided in this section, the department may suspend or revoke a  
26 license issued under subsection ~~B- C~~ of this section if the person violates  
27 any requirement under this title more than two times within a three-year  
28 period.

29           ~~J.~~ H. The department shall publish on its website the names of each  
30 person who is issued a license under subsection ~~B- C~~ of this section. The  
31 department shall update the published names at least once each month.

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

37           ~~L.~~ I. A person may not apply for or hold a distributor's license if  
38 that person does not engage in the activities described in subsection A of  
39 this section. In addition to any other applicable penalty, the department  
40 may:

41           1. Revoke the license of any licensee that fails to file a return or  
42 report required under this chapter for twelve consecutive months.

43           2. Cancel the license of any licensee that fails to incur any tax  
44 liability under this chapter for twelve consecutive months.

45           ~~M.~~ J. Any suspension, revocation or denial of a license issued under  
46 this section must comply with section 41-1092.11, subsection B.

1           ~~N.~~ K. Notwithstanding any other law, for THE purposes of subsection  
2 ~~G- F~~, paragraphs 1 and 2 of this section, section 42-1127, subsection C and  
3 section ~~42-3210~~ 42-3461, subsection B, if a distributor has listed in its  
4 application more than one place of business, any suspension, revocation or  
5 nonrenewal of a distributor's license shall apply only with effect to remove  
6 the place of business at which the activity occurred that resulted in the  
7 violation from the distributor's license. If such a removal occurs, the  
8 distributor shall be subject to restrictions that the department prescribes  
9 by rule.

10           Sec. 22. Title 42, chapter 3, article 10, Arizona Revised Statutes, is  
11 amended by adding section 42-3402, to read:

12           42-3402. Contraband tobacco products

13           NOTWITHSTANDING ANY OTHER LAW TO THE CONTRARY, TOBACCO PRODUCTS THAT  
14 ARE ORDERED, PURCHASED OR TRANSPORTED IN VIOLATION OF SECTION 13-3711,  
15 36-798.06 OR 42-3461 OR SECTION 44-7111, SECTION 3, SUBPARAGRAPH (c) OR ANY  
16 OTHER STATUTE UNDER WHICH THE TOBACCO PRODUCTS ARE SUBJECT TO SEIZURE AND  
17 DESTRUCTION ARE CONSIDERED TO BE CONTRABAND FOR WHICH TAXES THAT ARE IMPOSED  
18 UNDER THIS CHAPTER MAY NOT BE REPORTED AND REMITTED.

19           Sec. 23. Section 42-3403, Arizona Revised Statutes, as transferred and  
20 renumbered by this act, is amended to read:

21           42-3403. Tobacco product retailers; license required; vehicle  
22 sales prohibited; exceptions

23           A. A retailer may sell any tobacco product that is not otherwise  
24 prohibited by federal or state law from sale for resale, but a retailer may  
25 not acquire or possess unstamped cigarettes, or other tobacco products on  
26 which taxes levied under this chapter have not been paid, unless the retailer  
27 holds a valid license issued under section ~~42-3201~~ 42-3401.

28           B. A retailer may not use a vehicle as a place of business for selling  
29 tobacco products. This subsection does not prohibit the lawful delivery of  
30 tobacco products by a person who holds a valid license issued under section  
31 ~~42-3201~~ 42-3401 using a vehicle that is owned, operated or contracted by that  
32 person.

33           C. THIS SECTION DOES NOT PROHIBIT BUSINESS ACTIVITIES THAT ARE  
34 PERMITTED UNDER SECTIONS 42-3454 AND 42-3502.

35           Sec. 24. Section 42-3404, Arizona Revised Statutes, as transferred and  
36 renumbered, is amended to read:

37           42-3404. Exemptions and exclusions of certain tobacco products  
38 from tobacco taxes

39           A. The taxes imposed by this chapter do not apply to:

40           1. Tobacco products that are sold to the United States army, air  
41 force, navy, marine corps or coast guard exchanges and commissaries and navy  
42 or coast guard ships' stores.

43           2. Tobacco products that are sold to the United States ~~veterans'~~  
44 ~~administration~~ DEPARTMENT OF VETERANS AFFAIRS.

1           3. Tobacco products that are non-tax-paid under subtitle E, chapter 52  
2 of the internal revenue code and that are under internal revenue bond or  
3 customs control.

4           4. Tobacco products that are sold or transferred to a law enforcement  
5 agency for use in a criminal investigation if the sale or transfer is  
6 authorized by the department. A law enforcement agency authorized by the  
7 department to receive or purchase tobacco products is not required to:

8           (a) Be licensed as a distributor.

9           (b) Collect or remit the tax imposed by this chapter with respect to  
10 authorized distributions.

11          5. Tobacco products that are sold by a distributor licensed under  
12 section ~~42-3201~~ 42-3401 to a common carrier engaged in foreign passenger  
13 service or to a retailer that sells tobacco products on the facilities of the  
14 carrier that are dedicated to foreign passenger service.

15          6. Federally tax free tobacco products that are sold or given for  
16 delivery directly from the manufacturer under internal revenue bond to a  
17 veterans' home of this state or a hospital or domiciliary facility of the  
18 United States ~~veterans'-administration~~ DEPARTMENT OF VETERANS AFFAIRS for  
19 gratuitous issue to veterans receiving hospitalization or domiciliary care.  
20 The taxes are not imposed with respect to the use or consumption of the  
21 tobacco products by the institution, veteran patients or domiciliaries.

22          7. Tobacco products that are sold by a manufacturer to a distributor  
23 licensed under section ~~42-3201~~ 42-3401.

24          8. Tobacco products that are manufactured outside the United States  
25 and that are sold by an importer to a distributor licensed under section  
26 ~~42-3201~~ 42-3401.

27          B. Subsection A, paragraphs 1 and 2 of this section do not apply after  
28 the first day of the first calendar month beginning more than sixty days  
29 after existing federal law is amended to permit state taxation of cigarettes  
30 sold by or through federal military installations.

31          C. Sales of tobacco products by a licensed distributor to an  
32 instrumentality of the United States government must be supported by a  
33 separate sales invoice and a properly completed federal exemption  
34 certificate. Each sales invoice must be numbered, be dated and show the name  
35 of the seller, the name of the purchaser and the destination.

36          D. This section does not affect the imposition of transaction  
37 privilege and use taxes pursuant to chapter 5 of this title to any  
38 transactions described in subsection A of this section if the transaction is  
39 otherwise subject to transaction privilege tax or use tax.

40          E. The exemptions and exclusions provided in subsection A of this  
41 section do not affect the taxability under this chapter of tobacco products  
42 that are sold, given or transferred to a person in this state subsequent to  
43 the transactions described in subsection A of this section.

44          Sec. 25. Section 42-3405, Arizona Revised Statutes, as transferred and  
45 renumbered, is amended to read:



1           42-3405. Tobacco manufacturers, importers, distributors and  
2                                   retailers; recordkeeping and invoicing requirements;  
3                                   retention period

4           A. Except for retail transactions with consumers, each manufacturer,  
5 importer and distributor of tobacco products shall maintain copies of  
6 invoices or equivalent documentation for each facility and for each  
7 transaction that involves the sale, purchase, transfer, consignment or  
8 receipt of tobacco products within this state. The invoices or **EQUIVALENT**  
9 documentation **FOR EACH TRANSACTION SHALL BE IN THE FORM AND MANNER PRESCRIBED**  
10 **BY THE DEPARTMENT AND** shall indicate the name and address of the other party  
11 and the quantity by brand style of the tobacco products involved in the  
12 transaction.

13           B. A distributor of tobacco products shall issue an invoice or  
14 equivalent documentation for each transaction that involves the sale,  
15 purchase or consignment of tobacco products to a retailer. The invoice or  
16 equivalent documentation must include the license number of the distributor,  
17 which the retailer may use to ascertain whether the license is current and  
18 valid.

19           C. Any retailer of tobacco products shall retain all invoices or  
20 equivalent documentation received under subsection B of this section.

21           D. Records required under this section shall be preserved on the  
22 premises described in the relevant license in a manner as to ensure  
23 accessibility for inspection at reasonable hours by authorized personnel of  
24 the department. With the department's permission, persons with multiple  
25 places of business may retain centralized records, but shall transmit  
26 duplicates of the invoices or the equivalent documentation to each place of  
27 business within three business days after a request by the department.

28           E. The records required by this section shall be retained for a period  
29 of four years after the date of the transaction.

30           F. On request, the department and the United States secretary of the  
31 treasury or secretary's designee shall have access to records required under  
32 this section and reports required under section ~~42-3211~~ 42-3462. The  
33 department at its sole discretion may share the records and reports required  
34 by this chapter with other law enforcement officials of federal and state  
35 governments under conditions that assume the confidentiality of taxpayer  
36 information contained in the records and reports.

37           Sec. 26. Title 42, chapter 3, article 10, Arizona Revised Statutes, is  
38 amended by adding section 42-3406, to read:

39           42-3406. Refunds and rebates of tobacco taxes; supporting  
40                                   documentation; distributor's burden of proof

41           **A. EXCEPT AS OTHERWISE PROVIDED UNDER SUBSECTION B OF THIS SECTION OR**  
42 **BY THE DEPARTMENT FOR A REFUND OR REDEMPTION ISSUED UNDER SECTION 42-3008 OR**  
43 **42-3460, A DISTRIBUTOR REQUESTING ANY REFUND OR REBATE OF TAXES PAID ON**  
44 **TOBACCO PRODUCTS PURSUANT TO ARTICLE 2, 6, 7 OR 9 OF THIS CHAPTER SHALL**  
45 **ESTABLISH ENTITLEMENT TO THE REFUND OR REBATE BY OBTAINING A REPORT EXECUTED**  
46 **BY THE RETAILER THAT PURCHASED THE TOBACCO PRODUCTS ON WHICH THE DISTRIBUTOR**



1 PAID TAXES, INDICATING THE NAME AND ADDRESS OF THE RETAILER AND THE  
2 QUANTITIES OF TOBACCO PRODUCTS SOLD, SEPARATELY IDENTIFIED BY THE TAX  
3 CATEGORY OF TOBACCO PRODUCT AND THE NECESSARY FACTS TO ESTABLISH THE  
4 APPROPRIATE AMOUNT OF REFUND OR REBATE. THE REPORT IS SUBJECT TO THE  
5 FOLLOWING CONDITIONS:

6 1. THE REPORT SHALL BE PROVIDED IN THE FORM AND MANNER PRESCRIBED BY  
7 THE DEPARTMENT. UNDER SUCH RULES AS IT MAY PRESCRIBE, THE DEPARTMENT MAY  
8 IDENTIFY TRANSACTIONS FOR WHICH A DISTRIBUTOR MAY NOT RELY SOLELY ON THE  
9 INFORMATION IN THE RETAILER'S REPORT BUT MUST INSTEAD OBTAIN ADDITIONAL  
10 INFORMATION AS REQUIRED BY THE RULES IN ORDER TO BE ENTITLED TO THE REFUND OR  
11 REBATE.

12 2. THE BURDEN OF PROOF FOR THE REFUND OR REBATE IS ON THE DISTRIBUTOR,  
13 BUT IF THE DISTRIBUTOR COMPLIES IN ALL OTHER RESPECTS WITH THIS SECTION, THE  
14 DEPARTMENT MAY REQUIRE THE RETAILER THAT CAUSED THE EXECUTION OF THE REPORT  
15 TO ESTABLISH THE ACCURACY AND COMPLETENESS OF THE INFORMATION REQUIRED TO BE  
16 CONTAINED IN THE REPORT THAT WOULD ENTITLE THE DISTRIBUTOR TO THE REFUND OR  
17 REBATE. IF THE RETAILER CANNOT ESTABLISH THE ACCURACY AND COMPLETENESS OF  
18 THE INFORMATION, THE RETAILER IS LIABLE IN AN AMOUNT EQUAL TO ANY TAX,  
19 PENALTY AND INTEREST THAT THE DISTRIBUTOR WOULD HAVE BEEN LIABLE FOR UNDER  
20 THIS CHAPTER IF THE DISTRIBUTOR HAD NOT OTHERWISE COMPLIED WITH THIS SECTION.  
21 PAYMENT OF THE AMOUNT UNDER THIS SECTION BY THE RETAILER EXEMPTS THE  
22 DISTRIBUTOR FROM LIABILITY FOR THE UNDERLYING TAX, PENALTY AND INTEREST. ALL  
23 AMOUNTS PAID BY A RETAILER UNDER THIS PARAGRAPH SHALL BE TREATED AS TAX  
24 REVENUES COLLECTED FROM THE DISTRIBUTOR IN ORDER TO DESIGNATE THE  
25 DISTRIBUTION BASE FOR THE PURPOSES OF THIS CHAPTER.

26 B. IN ITS DISCRETION AND IN CIRCUMSTANCES WHERE A RETAILER IS  
27 UNCOOPERATIVE OR NO LONGER IN BUSINESS, THE DEPARTMENT MAY ACCEPT PROOF OTHER  
28 THAN A REPORT DESCRIBED IN SUBSECTION A OF THIS SECTION IF THE DISTRIBUTOR  
29 SHOWS, TO THE SATISFACTION OF THE DEPARTMENT, THAT IT EXERCISED ORDINARY  
30 BUSINESS CARE AND PRUDENCE BUT WAS UNABLE TO FURNISH A REPORT EXECUTED BY THE  
31 RETAILER. ACCEPTABLE FORMS OF PROOF PRESENTED BY THE DISTRIBUTOR PURSUANT TO  
32 THIS SUBSECTION MUST CONSIST OF BOOKS, RECORDS OR PAPERS MAINTAINED BY THE  
33 DISTRIBUTOR OR RETAILER IN THE REGULAR COURSE OF BUSINESS.

34 Sec. 27. Section 42-3451, Arizona Revised Statutes, as transferred and  
35 renumbered, is amended to read:

36 42-3451. Acquisition and possession of cigarettes and  
37 roll-your-own tobacco; definitions

38 A. A ~~cigarette~~ manufacturer or ~~cigarette~~ importer may sell or  
39 distribute cigarettes OR ROLL-YOUR-OWN TOBACCO to a person who is located or  
40 doing business in this state, including Indian reservations located in this  
41 state, only if the person is ~~a licensed cigarette~~ AN importer or ~~cigarette~~  
42 LICENSED distributor or the ~~cigarette~~ manufacturer sells or distributes  
43 cigarettes OR ROLL-YOUR-OWN TOBACCO on which a tax has been paid pursuant to  
44 section ~~42-3202~~ 42-3452.

45 B. ~~A cigarette~~ AN importer may obtain cigarettes only from a ~~licensed~~  
46 ~~cigarette~~ manufacturer or ~~licensed cigarette~~ importer.

1 C. A ~~cigarette~~ distributor may sell or distribute cigarettes to a  
2 person located or doing business in this state, including an Indian  
3 reservation in this state, only if the ~~cigarette~~ distributor is a licensed  
4 ~~cigarette~~ distributor.

5 D. A ~~cigarette~~ distributor shall obtain cigarettes only from a  
6 ~~licensed cigarette~~ manufacturer, ~~cigarette~~ importer or ~~cigarette~~ LICENSED  
7 distributor.

8 E. FOR THE PURPOSES OF THIS SECTION:

9 1. "IMPORTER" MEANS A PERSON WHO HAS RECEIVED APPROVAL FROM THE  
10 FEDERAL ALCOHOL AND TOBACCO TAX AND TRADE BUREAU TO DIRECTLY OR INDIRECTLY  
11 IMPORT FINISHED TOBACCO PRODUCTS INTO THE UNITED STATES FOR SALE OR  
12 DISTRIBUTION, PURSUANT TO 26 UNITED STATES CODE SECTION 5712 AND 27 CODE OF  
13 FEDERAL REGULATIONS PART 41.

14 2. "MANUFACTURER" MEANS A PERSON WHO HAS RECEIVED APPROVAL FROM THE  
15 FEDERAL ALCOHOL AND TOBACCO TAX AND TRADE BUREAU TO MANUFACTURE, FABRICATE,  
16 ASSEMBLE, PROCESS OR LABEL FINISHED TOBACCO PRODUCTS, PURSUANT TO 26 UNITED  
17 STATES CODE SECTION 5712 AND 27 CODE OF FEDERAL REGULATIONS PART 40.

18 Sec. 28. Section 42-3452, Arizona Revised Statutes, as transferred and  
19 renumbered, is amended to read:

20 ~~42-3452.~~ Payment of tax required to sell, distribute or  
21 transfer cigarettes

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

24 1. Sell or offer for sale any cigarettes upon which a tax is imposed  
25 by this ~~article~~ CHAPTER to any person within this state unless at the time of  
26 the sale, distribution or transfer the tax has been paid on the cigarettes as  
27 evidenced by an Arizona tax stamp or any other official indicia. The  
28 department shall consider tobacco taxes paid at the time of the sale,  
29 distribution or transfer of tobacco products other than cigarettes if a  
30 licensed distributor reports and remits the taxes on the products in  
31 accordance with the manner, method and time prescribed by section ~~42-3208~~  
32 ~~42-3501~~. Sworn returns that are prepared and remitted by a licensed  
33 distributor under section ~~42-3208~~ ~~42-3501~~ constitute official indicia that  
34 tobacco taxes have been paid on the tobacco products.

35 2. Sell cigarettes that have Arizona tax stamps affixed unless the tax  
36 evidenced by the stamps is actually paid. The department shall not refund  
37 any amount of that tax on the grounds that the stamps are not required to be  
38 affixed to the cigarettes.

39 B. A distributor licensed pursuant to section ~~42-3201~~ ~~42-3401~~ may not  
40 sell, distribute or transfer tobacco products for which the distributor is  
41 licensed to another such licensed distributor without paying the tax at the  
42 time of the sale, distribution or transfer.

43 Sec. 29. Section 42-3453, Arizona Revised Statutes, as transferred and  
44 renumbered, is amended to read:

45 ~~42-3453.~~ Presumption of tax on unstamped cigarettes

1 Except as otherwise provided in section 42-1127, subsection F and  
2 section ~~42-3202~~ 42-3452, subsection B, for the purpose of proper  
3 administration and to prevent evasion of the taxes imposed by this chapter,  
4 until the contrary is established, it is presumed that cigarettes that are  
5 sold, distributed, used or consumed by a person in this state, but not placed  
6 in packages or containers on which official tax stamps are affixed, are  
7 intended for first sale by the person and are subject to the taxes imposed by  
8 this chapter.

9 Sec. 30. Title 42, chapter 3, article 11, Arizona Revised Statutes, as  
10 added by this act, is amended by adding section 42-3454, to read:

11 42-3454. Transport of unstamped cigarettes and untaxed  
12 roll-your-own tobacco prohibited; exceptions

13 A. A PERSON MAY NOT HOLD, STORE OR TRANSPORT UNSTAMPED CIGARETTES OR  
14 UNTAXED ROLL-YOUR-OWN TOBACCO FOR SALE OR DISTRIBUTION IN THIS STATE IN ANY  
15 VEHICLE PURSUANT TO SECTION 36-798.06.

16 B. THIS SECTION DOES NOT APPLY TO EITHER OF THE FOLLOWING:

17 1. A VEHICLE THAT IS OWNED, OPERATED OR CONTRACTED BY A PERSON WHO  
18 HOLDS A VALID LICENSE ISSUED UNDER SECTION 42-3401 AND IS TRANSPORTING  
19 UNSTAMPED CIGARETTES OR UNTAXED ROLL-YOUR-OWN TOBACCO FROM ONE TO ANOTHER OF  
20 THE LICENSEE'S PLACES OF BUSINESS LISTED ON ITS APPLICATION.

21 2. A VEHICLE THAT IS TRANSPORTING UNSTAMPED CIGARETTES OR UNTAXED  
22 ROLL-YOUR-OWN TOBACCO TO A LICENSED DISTRIBUTOR AS PART OF A LAWFUL SALE OR  
23 IN INTERSTATE COMMERCE TO A PERSON LAWFULLY OPERATING AS A MANUFACTURER,  
24 DISTRIBUTOR OR RETAILER OF CIGARETTES OR ROLL-YOUR-OWN TOBACCO.

25 Sec. 31. Section 42-3455, Arizona Revised Statutes, as transferred and  
26 renumbered, is amended to read:

27 42-3455. Cigarette tax stamps: description and characteristics:  
28 use by licensed distributors: affixation standards:  
29 metering

30 A. THE DEPARTMENT SHALL PRESCRIBE BY RULE OR PROCEDURE THE METHOD AND  
31 MANNER IN WHICH TAX STAMPS ARE TO BE AFFIXED TO CIGARETTES AND MAY PROVIDE  
32 FOR THE CANCELLATION OF STAMPS. IN ADDITION TO ANY SPECIFICATIONS PROVIDED  
33 UNDER THIS ARTICLE, THE STAMPS SHALL ALSO MEET THE REQUIREMENTS PROVIDED IN  
34 SECTION 42-3006.

35 ~~A-~~ B. Each roll or sheet of stamps for cigarettes that are required  
36 under this chapter shall have a separate serial number that is legible at the  
37 point of sale to the ~~eigarette~~ distributor. The department shall use the  
38 serial number to keep records of each ~~eigarette~~ distributor who purchases  
39 each roll or sheet of stamps. The department shall not sell stamps that have  
40 the same serial number to more than one ~~eigarette~~ distributor. The  
41 department may sell a partial roll or sheet of stamps to a ~~eigarette~~  
42 distributor and shall retain the remainder of the roll or sheet to  
43 subsequently sell to the same ~~eigarette~~ distributor or shall destroy the  
44 remainder of the roll or sheet.

45 ~~B-~~ C. Only licensed ~~eigarette~~ distributors may purchase, obtain or  
46 affix cigarette stamps. ~~Cigarette~~ Distributors shall not sell or provide

1 stamps to any other ~~cigarette~~ distributor or person. When affixing cigarette  
2 stamps to cigarettes, ~~cigarette~~ distributors shall ensure that the affixation  
3 method that is used maintains the legibility of the serial numbers on the  
4 stamps.

5 ~~C.~~ D. If, during compliance inspections of a distributor or retailer,  
6 the department discovers cigarette packages that appear not to be stamped in  
7 accordance with subsection ~~B- C~~ of this section and if the distributor or  
8 retailer has substantially complied with the other provisions of this  
9 chapter, the following shall be considered a properly stamped cigarette  
10 package:

11 1. A questioned individual cigarette package that does not have an  
12 affixed cigarette stamp containing a fully legible serial number but the  
13 legible digits of the serial number of the cigarette stamp on the questioned  
14 individual cigarette package match the corresponding digits of the serial  
15 numbers from other properly stamped cigarette packages that are packaged or  
16 shelved together with the questioned individual cigarette package.

17 2. A questioned individual cigarette package that is part of an  
18 originally unopened pallet, master carton or carton that contains other  
19 properly stamped cigarettes when the pallet, master carton or carton is  
20 subsequently opened during a compliance inspection by the department.

21 3. A questioned individual cigarette package if the distributor or  
22 retailer can demonstrate through books, records or other indicia to the  
23 satisfaction of the department that the questioned individual cigarette  
24 package was purchased as part of the same pallet, master carton or carton  
25 that contained properly stamped cigarette packages.

26 ~~D.~~ E. The department may authorize the use of a metering machine. If  
27 the department authorizes the use of a metering machine, the department shall  
28 assign a unique meter impression number to each ~~cigarette~~ distributor and  
29 ensure that the impression is legible at the point of sale. The department  
30 shall keep records that indicate the assigned meter impression number for  
31 each ~~cigarette~~ distributor.

32 Sec. 32. Section 42-3456, Arizona Revised Statutes, as transferred and  
33 renumbered, is amended to read:

34 42-3456. Tax stamps as indicia of taxes paid; exception;  
35 definitions

36 A. Except as otherwise provided in this chapter, all cigarettes on  
37 which a tax is imposed by this chapter shall be placed in packages or  
38 containers, and on each package or container shall be affixed an official  
39 stamp described in section ~~42-3006 or 42-3202.03~~ 42-3455. An affixed stamp  
40 shall be evidence that the taxes levied by sections 42-3052, 42-3251 and  
41 42-3251.01 are paid.

42 B. ~~Cigarette~~ Distributors are liable for affixing official stamps or  
43 otherwise applying tax indicia to cigarettes that are subject to a tax  
44 imposed by this chapter. A licensed ~~cigarette~~ distributor shall apply a  
45 stamp to each package of cigarettes that is sold or distributed in this state  
46 and that is subject to tax under this chapter, including cigarettes that are

1 subject to tax under section 42-3302. A licensed ~~eigarette~~ distributor shall  
2 apply a tax exempt stamp to cigarette packages that are not subject to tax  
3 under section 42-3304, subsection A, paragraph 2.

4 C. Cigarettes that are sold, distributed or transferred by a  
5 distributor licensed pursuant to section ~~42-3201~~ 42-3401 to sell cigarettes  
6 are required to have affixed the luxury stamps described in section ~~42-3006~~  
7 42-3455 at the time the cigarettes are sold, distributed or transferred to  
8 another licensed distributor.

9 D. Notwithstanding subsection C of this section, a licensed  
10 distributor can submit a written request in the form and manner prescribed by  
11 the department in rule or procedure to sell, distribute or transfer unstamped  
12 cigarettes to another licensed distributor. Once an accurate and complete  
13 request is submitted to the department, the department will approve or deny  
14 the request as prescribed in rule or procedure within ten days of receipt of  
15 the request.

16 E. Cigarettes that are exempt from tax under 26 United States Code  
17 section 5701 and that are distributed according to federal regulations are  
18 not subject to tax and do not require a stamp under this chapter.

19 F. A retailer shall not offer for sale cigarettes in quantities that  
20 are not packaged as such for sale by the ~~eigarette~~ manufacturer.

21 G. ~~Cigarette~~ Distributors may apply stamps only to cigarette packages  
22 that the ~~eigarette~~ distributors have directly received from a licensed  
23 ~~eigarette~~ distributor, ~~licensed eigarette~~ manufacturer or ~~licensed eigarette~~  
24 importer.

25 H. FOR THE PURPOSES OF THIS SECTION:

26 1. "IMPORTER" MEANS A PERSON WHO HAS RECEIVED APPROVAL FROM THE  
27 FEDERAL ALCOHOL AND TOBACCO TAX AND TRADE BUREAU TO DIRECTLY OR INDIRECTLY  
28 IMPORT FINISHED TOBACCO PRODUCTS INTO THE UNITED STATES FOR SALE OR  
29 DISTRIBUTION, PURSUANT TO 26 UNITED STATES CODE SECTION 5712 AND 27 CODE OF  
30 FEDERAL REGULATIONS PART 41.

31 2. "MANUFACTURER" MEANS A PERSON WHO HAS RECEIVED APPROVAL FROM THE  
32 FEDERAL ALCOHOL AND TOBACCO TAX AND TRADE BUREAU TO MANUFACTURE, FABRICATE,  
33 ASSEMBLE, PROCESS OR LABEL FINISHED TOBACCO PRODUCTS, PURSUANT TO 26 UNITED  
34 STATES CODE SECTION 5712 AND 27 CODE OF FEDERAL REGULATIONS PART 40.

35 Sec. 33. Section 42-3457, Arizona Revised Statutes, as transferred and  
36 renumbered, is amended to read:

37 42-3457. Unstamped cigarettes

38 A. A person shall not possess an unstamped cigarette package unless  
39 the person is shipping or transporting unstamped cigarettes pursuant to  
40 subsection B of this section, is a licensed ~~eigarette~~ manufacturer or  
41 ~~licensed eigarette~~ importer or is a licensed ~~eigarette~~ distributor who  
42 receives unstamped cigarette packages directly from a licensed ~~eigarette~~  
43 manufacturer or ~~eigarette~~ importer.

44 B. Except for a licensed ~~eigarette~~ manufacturer, ~~eigarette~~ importer or  
45 ~~eigarette~~ distributor and if lawful under section 36-798.06, a person who  
46 ships unstamped cigarette packages in or into this state shall first file

1 with the department a notice of shipment. This subsection does not apply to  
2 any common or contract carrier that is transporting cigarettes through this  
3 state to another location under a proper bill of lading or freight bill that  
4 states the quantity, source and destination of the cigarettes.

5 C. If lawful under section 36-798.06, a person who transports  
6 unstamped cigarette packages in or into this state shall carry in the vehicle  
7 used to convey the shipment invoices or equivalent documentation of the  
8 shipment for all cigarettes in the shipment. The invoices or documentation  
9 shall indicate the name and address of the consignor or seller, the name and  
10 address of the consignee or purchaser and the quantity of each brand of  
11 cigarettes that is transported.

12 Sec. 34. Section 42-3458, Arizona Revised Statutes, as transferred and  
13 renumbered, is amended to read:

14 42-3458. Discount purchases of tax stamps; refund and rebate  
15 amounts

16 A. The official stamps to be affixed to packages of cigarettes shall  
17 be obtainable from the department by each licensed ~~cigarette~~ distributor by  
18 purchase:

19 1. On or before September 30, 2014, at the following discount rates:

20 (a) Ninety-six ~~per-cent~~ PERCENT of the face value for the first  
21 thirty-six thousand dollars worth of stamps purchased by the distributor in  
22 any month.

23 (b) Ninety-seven ~~per-cent~~ PERCENT of the face value for the second  
24 thirty-six thousand dollars worth of stamps purchased by the distributor in  
25 any month.

26 (c) Ninety-eight ~~per-cent~~ PERCENT of the face value on all stamps in  
27 excess of seventy-two thousand dollars purchased by the distributor in any  
28 month, except that if a distributor purchases more than one hundred  
29 sixty-five thousand dollars worth of stamps in one month, the department  
30 shall offset against the discount under this subdivision, or the distributor  
31 shall refund to the department, the difference between the face value and the  
32 discounted value of the first seventy-two thousand dollars worth of stamps  
33 under subdivisions (a) and (b) of this paragraph.

34 2. After September 30, 2014, at the rate of ninety-six ~~per-cent~~  
35 PERCENT of the face value of the stamps.

36 B. Any refund of or rebates on tax stamps requested by a licensed  
37 distributor must be issued in an amount of the total face value of the stamps  
38 minus four ~~per-cent~~ PERCENT of the total face value of the stamps.

39 Sec. 35. Section 42-3459, Arizona Revised Statutes, as transferred and  
40 renumbered, is amended to read:

41 42-3459. Secured cigarette stamp purchases on credit;  
42 cancellation of credit privileges; collection  
43 action; bonding requirement; waiver

44 A. Subject to subsections B and C OF THIS SECTION, and except as  
45 provided in subsection D of this section, a licensed ~~cigarette~~ distributor  
46 who furnishes a bond of a surety company qualified to do business in this

1 state, in an amount equal to two times the amount of the distributor's  
2 current monthly stamp purchases and conditioned upon the payment within the  
3 time prescribed, may make payment for the official stamp on or before the  
4 twentieth day of the month next following the purchase of an official stamp.  
5 All other ~~cigarette~~ distributors shall pay for each stamp at the time of  
6 purchase.

7 B. Upon a finding that the amount of stamp purchases, or meter machine  
8 usage, exceeds seventy-five ~~per-cent~~ PERCENT of the amount of the bond, the  
9 department may cancel the credit privileges provided to qualified ~~cigarette~~  
10 distributors pursuant to subsection A OF THIS SECTION.

11 C. If the indebtedness of a ~~cigarette~~ distributor whose credit  
12 privileges have been canceled pursuant to this section remains unpaid for  
13 thirty days after cancellation, the director shall request the attorney  
14 general to take suitable action on behalf of the department to collect either  
15 on the indebtedness or the surety bond.

16 D. The ~~cigarette~~ distributor may request that the department waive the  
17 bonding requirement in subsection A of this section if the distributor  
18 maintains a timely, accurate and complete filing and payment record for a  
19 period of two years and otherwise complies with all requirements of a  
20 licensed distributor pursuant to ~~title 42, chapter 3~~ THIS CHAPTER and title  
21 44, chapter 27. The waiver of the bonding requirement applies only to the  
22 distributor's purchases of tax stamps with which the distributor prepays the  
23 Indian reservation tobacco tax, pursuant to section 42-3303.

24 Sec. 36. Section 42-3460, Arizona Revised Statutes, as transferred and  
25 renumbered, is amended to read:

26 42-3460. Redemption of unused or spoiled tax stamps and meter  
27 registration; definitions

28 A. The department shall redeem unused or spoiled Arizona tax stamps  
29 that a ~~cigarette~~ distributor presents for redemption if those stamps are  
30 unaffixed and purchased within two years of the date of the request for  
31 redemption and shall pay for them from monies collected under this chapter.

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

35 C. Nothing in this section shall be construed to provide for  
36 redemption in the case of loss or theft of tax stamps.

37 D. For the purposes of this section:

- 38 1. "Redeem" means repurchase or replace Arizona tax stamps.
- 39 2. "Spoiled" means mutilated or illegible.

40 Sec. 37. Section 42-3461, Arizona Revised Statutes, as transferred and  
41 renumbered, is amended to read:

42 42-3461. Unlawful use of stamps; classification; definition

43 A. A person may not affix a tax stamp to a package of cigarettes if  
44 the package:

- 45 1. Differs from the requirements of the federal cigarette labeling and  
46 advertising act (P.L. 89-92; 79 Stat. 282; 15 United States Code section



1 1331) relating to label warnings or other information on packages of  
2 cigarettes for sale in the United States.

3 2. Is labeled "for export only", "U.S. tax exempt", "for use outside  
4 U.S." or with similar words that indicate the manufacturer did not intend for  
5 the product to be sold in the United States.

6 3. Has been altered by adding or deleting the wording, labels or  
7 warnings described in paragraph 1 or 2 of this subsection.

8 4. Is placed in a carton, or any other package containing several  
9 individually stamped packages, that has been altered by adding or deleting  
10 the wording, labels or warnings described in paragraph 1 or 2 of this  
11 subsection.

12 5. Has been imported into the United States on or after January 1,  
13 2000 in violation of 26 United States Code section 5754 or is the subject of  
14 a violation of 19 United States Code sections 1681 through 1681b or 15 United  
15 States Code section 1335a.

16 6. Violates federal trademark or copyright laws.

17 B. The director:

18 1. May revoke any license issued to a **cigarette** distributor who sells  
19 or offers for sale cigarette packages that are stamped in violation of  
20 subsection A **OF THIS SECTION**.

21 2. Shall seize and destroy packages of cigarettes that are stamped in  
22 violation of subsection A **OF THIS SECTION**.

23 C. A person who sells or offers for sale cigarette packages that are  
24 stamped in violation of subsection A **OF THIS SECTION** is guilty of a class 2  
25 misdemeanor.

26 D. Any person who sells, distributes or manufactures cigarettes and  
27 sustains direct economic or commercial injury as a result of a violation of  
28 this section may bring an action in good faith for appropriate injunctive  
29 relief.

30 E. This section does not apply to cigarettes allowed to be imported or  
31 brought into the United States for personal use, or to cigarettes sold or  
32 intended to be sold as duty free merchandise by a duty free sales enterprise  
33 pursuant to 19 United States Code section 1555(b). This subsection does not  
34 apply to cigarettes that are brought back into the customs territory for  
35 resale within the customs territory.

36 F. A violation of this section is also a violation of title 44,  
37 chapter 10, article 7.

38 G. For the purposes of this section, "package" means any kind of pack,  
39 carton or container in which cigarettes are sold, offered for sale or  
40 otherwise distributed or intended for distribution to consumers.

41 Sec. 38. Section 42-3462, Arizona Revised Statutes, as transferred and  
42 renumbered, is amended to read:

43 42-3462. Cigarette and roll-your-own tobacco distributors;  
44 filing requirements; definitions

45 A. Each **cigarette** distributor shall file a return in a form prescribed  
46 by the department for each place of business on or before the twentieth day



1 of the month next succeeding the month for which the return is filed. The  
2 return shall contain all of the following:

3 1. The brand names and quantities of each brand of cigarettes AND  
4 ROLL-YOUR-OWN TOBACCO in possession at the beginning and end of the reporting  
5 period.

6 2. The brand names and quantities of each brand of cigarettes AND  
7 ROLL-YOUR-OWN TOBACCO received during the reporting period and the name and  
8 address of each person from whom each product was received.

9 3. The brand names and quantities of each brand of cigarettes AND  
10 ROLL-YOUR-OWN TOBACCO distributed or shipped into this state or between  
11 locations in this state during the reporting period, except for sales  
12 directly to consumers, and the name and address of each person to whom each  
13 product was distributed or shipped, WITH REFERENCE TO THE DATES OF  
14 DISTRIBUTION OR SHIPMENT AND CORRESPONDING INVOICE NUMBERS FROM THE INVOICES  
15 DOCUMENTING THE DISTRIBUTION OR SHIPMENTS.

16 4. The brand names and quantities of each brand of cigarettes AND  
17 ROLL-YOUR-OWN TOBACCO distributed or shipped to any destination wherever  
18 located, including the quantities reported under paragraph 3 of this  
19 subsection during the reporting period, except for sales directly to  
20 consumers, and the name and address of each person to whom each product was  
21 distributed or shipped, WITH REFERENCE TO THE DATES OF DISTRIBUTION OR  
22 SHIPMENT AND CORRESPONDING INVOICE NUMBERS FROM THE INVOICES DOCUMENTING THE  
23 DISTRIBUTION OR SHIPMENTS.

24 5. The brand names and quantities of each brand of cigarettes AND  
25 ROLL-YOUR-OWN TOBACCO sold to consumers that are itemized to show sales to  
26 consumers in this state and sale to consumers outside of this state.

27 6. Copies of the customs certificates with respect to such cigarettes  
28 AND ROLL-YOUR-OWN TOBACCO required to be submitted by 19 United States Code  
29 section 1681a(c).

30 7. The name and address of each nonparticipating manufacturer of each  
31 brand of cigarettes AND ROLL-YOUR-OWN TOBACCO identified by the distributor  
32 in the return.

33 8. The number of individual cigarettes AND OUNCES OF ROLL-YOUR-OWN  
34 TOBACCO of each brand of each nonparticipating manufacturer sold in this  
35 state by the distributor during the preceding month, separately stating each  
36 of the following:

37 (a) The number of cigarette packages sold and the number of individual  
38 cigarettes in each package.

39 (b) The number of roll-your-own tobacco containers sold and the number  
40 of ~~individual cigarettes~~ OUNCES OF ROLL-YOUR-OWN TOBACCO in each container.

41 9. The amount of luxury taxes paid or to be paid on the cigarettes and  
42 roll-your-own tobacco prescribed in paragraph 8 of this subsection,  
43 separately stating each of the following:

44 (a) The amount of luxury taxes paid by purchasing and affixing tax  
45 stamps to cigarette packages.

1 (b) The amount of luxury taxes to be paid for roll-your-own tobacco  
2 containers.

3 (c) Any other amount of excise taxes to be paid on the cigarettes.

4 10. The number of individual cigarettes ~~AND OUNCES OF ROLL-YOUR-OWN~~  
5 ~~TOBACCO~~ of each brand of each nonparticipating manufacturer received by the  
6 distributor, separately stating each of the following:

7 (a) The number of cigarette packages received and the number of  
8 individual cigarettes in each package.

9 (b) The number of roll-your-own tobacco containers received and the  
10 number of ~~individual cigarettes~~ ~~AND OUNCES OF ROLL-YOUR-OWN TOBACCO~~ in each  
11 container.

12 11. The number of individual cigarettes ~~AND OUNCES OF ROLL-YOUR-OWN~~  
13 ~~TOBACCO~~ of each brand of each nonparticipating manufacturer that the  
14 distributor exported from this state without payment of Arizona luxury taxes,  
15 separately stating each of the following:

16 (a) The number of cigarette packages exported and the number of  
17 individual cigarettes in each package.

18 (b) The number of roll-your-own tobacco containers exported and the  
19 number of ~~individual cigarettes~~ ~~OUNCES OF ROLL-YOUR-OWN TOBACCO~~ in each  
20 container.

21 12. The number of individual cigarettes ~~AND OUNCES OF ROLL-YOUR-OWN~~  
22 ~~TOBACCO~~ of each brand of each nonparticipating manufacturer for which the  
23 distributor obtained a refund under section 42-3008, separately stating each  
24 of the following:

25 (a) The number of cigarette packages for which the distributor  
26 obtained a refund and the number of individual cigarettes in each package.

27 (b) The number of roll-your-own tobacco containers for which the  
28 distributor obtained a refund and the number of ~~individual cigarettes~~ ~~OUNCES~~  
29 ~~OF ROLL-YOUR-OWN TOBACCO~~ in each container.

30 13. The invoice, ~~number and a copy of each invoice relating to each of~~  
31 ~~IN THE FORM AND MANNER PRESCRIBED BY THE DEPARTMENT, FOR~~ the following  
32 transactions:

33 (a) The distributor's purchase or acquisition of any nonparticipating  
34 manufacturer's cigarettes received or sold by the tobacco distributor in this  
35 state.

36 (b) The distributor's export, if any, of any nonparticipating  
37 manufacturer's cigarettes from this state.

38 B. ~~Cigarette~~ Manufacturers and ~~cigarette~~ importers who ship cigarettes  
39 ~~AND ROLL-YOUR-OWN TOBACCO~~ into or in this state shall file a monthly report  
40 with, ~~AND IN THE FORM AND MANNER PRESCRIBED BY,~~ the department. The report  
41 shall contain the information regarding cigarettes described under subsection  
42 A, paragraph 3 of this section.

43 C. ~~Cigarette~~ Distributor reports that are submitted under subsection A  
44 of this section shall be itemized to disclose the quantity of reported  
45 cigarettes bearing tax stamps of this state, tax exempt stamps of this state,

1 stamps of another state and unstamped cigarettes. The distributor reports  
2 shall also include, if applicable, the following:

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

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

7 3. The quantity of each type of Arizona stamp received during the  
8 reporting period.

9 4. The quantity of each type of Arizona stamp applied during the  
10 reporting period.

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

13 E. For the purposes of this section, ~~"cigarette" has the same meaning~~  
14 ~~prescribed in section 44-7101, section 2(d) except if differing reporting~~  
15 ~~requirements are specified for roll-your-own tobacco. "IMPORTER" AND~~  
16 ~~"MANUFACTURER" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 42-3451.~~

17 Sec. 39. Section 42-3501, Arizona Revised Statutes, as transferred and  
18 renumbered, is amended to read:

19 42-3501. Return and payment by distributors of tobacco products  
20 other than cigarettes

21 A. Except for tobacco products described in ~~subsection F of this~~  
22 section 42-3402, every distributor of ~~cigars or~~ tobacco products other than  
23 cigarettes shall pay the tax imposed by this chapter on all those products  
24 received within the state and shall add the amount of the tax to the sales  
25 price.

26 B. The distributor shall pay the tax to the department monthly on or  
27 before the twentieth day of the month next succeeding the month in which the  
28 tax accrues.

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

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

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

35 3. Any other information the department deems necessary for the proper  
36 administration of this chapter, including information required for  
37 roll-your-own tobacco provided under section ~~42-3211~~ 42-3462.

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

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

45 ~~F. Tobacco products that are ordered, purchased or transported in~~  
46 ~~violation of section 13-3711, 36-798.06 or 42-3210 or section 44-7111,~~

1 ~~section 3(c) or any other statute for which the tobacco products are subject~~  
2 ~~to seizure and destruction are deemed contraband for which taxes that are~~  
3 ~~imposed under this chapter cannot be reported and remitted.~~

4 ~~G. Except as otherwise provided by the department for a refund or~~  
5 ~~redemption issued under section 42-3008 or 42-3209, a distributor requesting~~  
6 ~~any refund or rebate of taxes paid on tobacco products pursuant to this~~  
7 ~~section or under article 7 of this chapter must establish entitlement to the~~  
8 ~~refund or rebate by obtaining a report executed by the retailer that~~  
9 ~~purchased the tobacco products on which the distributor paid taxes indicating~~  
10 ~~the name and address of the retailer and the quantities of tobacco products~~  
11 ~~sold, separately identified by the tax category of tobacco product and the~~  
12 ~~necessary facts to establish the appropriate amount of refund or rebate. The~~  
13 ~~report is subject to the following conditions:~~

14 ~~1. The report must be provided in the form and manner prescribed by~~  
15 ~~the department. Under such rules as it may prescribe, the department may~~  
16 ~~identify transactions for which a distributor may not rely solely on the~~  
17 ~~information in the retailer's report but must instead obtain additional~~  
18 ~~information as required by the rules in order to be entitled to the refund or~~  
19 ~~rebate.~~

20 ~~2. The burden of proof for the refund or rebate is on the distributor,~~  
21 ~~but if the distributor complies in all other respects with this subsection,~~  
22 ~~the department may require the retailer that caused the execution of the~~  
23 ~~report to establish the accuracy and completeness of the information required~~  
24 ~~to be contained in the report that would entitle the distributor to the~~  
25 ~~refund or rebate. If the retailer cannot establish the accuracy and~~  
26 ~~completeness of the information, the retailer is liable in an amount equal to~~  
27 ~~any tax, penalty and interest that the distributor would have been liable for~~  
28 ~~under this chapter if the distributor had not otherwise complied with this~~  
29 ~~subsection. Payment of the amount under this subsection by the retailer~~  
30 ~~exempts the distributor from liability for the underlying tax, penalty and~~  
31 ~~interest. All amounts paid by a retailer under this paragraph shall be~~  
32 ~~treated as tax revenues collected from the distributor in order to designate~~  
33 ~~the distribution base for purposes of this chapter.~~

34 Sec. 40. Title 42, chapter 3, article 12, Arizona Revised Statutes, is  
35 amended by adding sections 42-3502 and 42-3503, to read:

36 42-3502. Transport of untaxed other tobacco products  
37 prohibited; exceptions; definition

38 A. A PERSON MAY NOT HOLD, STORE OR TRANSPORT UNTAXED OTHER TOBACCO  
39 PRODUCTS FOR SALE OR DISTRIBUTION IN THIS STATE IN ANY VEHICLE PURSUANT TO  
40 SECTION 36-798.06.

41 B. THIS SECTION DOES NOT APPLY TO EITHER OF THE FOLLOWING:

42 1. A VEHICLE THAT IS OWNED, OPERATED OR CONTRACTED BY A PERSON WHO  
43 HOLDS A VALID LICENSE ISSUED UNDER SECTION 42-3401 AND IS TRANSPORTING  
44 UNTAXED OTHER TOBACCO PRODUCTS FROM ONE TO ANOTHER OF THE LICENSEE'S PLACES  
45 OF BUSINESS LISTED ON ITS APPLICATION.

