

State of Arizona
Senate
Fifty-third Legislature
Second Regular Session
2018

CHAPTER 189
SENATE BILL 1382

AN ACT

AMENDING SECTIONS 42-5005 AND 42-5076, ARIZONA REVISED STATUTES; AMENDING SECTION 48-4204, ARIZONA REVISED STATUTES, AS AMENDED BY HOUSE BILL 2456, SECTION 4, FIFTY-THIRD LEGISLATURE, SECOND REGULAR SESSION; RELATING TO TRANSACTION PRIVILEGE TAX LICENSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 42-5005, Arizona Revised Statutes, is amended to
3 read:

4 **42-5005. Transaction privilege tax and municipal privilege**
5 **tax licenses; fees; renewal; revocation;**
6 **violation; classification**

7 A. Every person who receives gross proceeds of sales or gross
8 income on which a transaction privilege tax is imposed by this article and
9 who desires to engage or continue in business shall apply to the
10 department for an annual transaction privilege tax license accompanied by
11 a fee of twelve dollars. A person shall not engage or continue in
12 business until the person has obtained a transaction privilege tax
13 license.

14 B. A person desiring to engage or continue in business within a
15 city or town that imposes a municipal privilege tax shall apply to the
16 department of revenue for an annual municipal privilege tax license
17 accompanied by a fee of up to fifty dollars, as established by ordinance
18 of the city or town. The person shall submit the fee with each new
19 license application. The person may not engage or continue in business
20 until the person has obtained a municipal privilege tax license. The
21 department must collect, hold, pay and manage the fees in trust for the
22 city or town and may not use the monies for any other purposes.

23 C. A transaction privilege tax license is valid only for the
24 calendar year in which it is issued, but it may be renewed for the
25 following calendar year. There is no fee for the renewal of the
26 transaction privilege tax license. The transaction privilege tax license
27 must be renewed at the same time and in the manner as the municipal
28 privilege tax license renewal.

29 D. A municipal privilege tax license is valid only for the calendar
30 year in which it is issued, but it may be renewed for the following
31 calendar year by the payment of a license renewal fee of up to fifty
32 dollars. The renewal fee is due and payable on January 1 and is
33 considered delinquent if not received on or before the last business day
34 of January. The department must collect, hold, pay and manage the fees in
35 trust for the city or town and may not use the monies for any other
36 purposes.

37 E. A licensee that remains in business after the municipal
38 privilege tax license has expired is subject to the payment of the license
39 renewal fee and the civil penalty prescribed in section 42-1125,
40 subsection R.

41 F. If the applicant is not in arrears in payment of any tax imposed
42 by this article, the department shall issue a license authorizing the
43 applicant to engage and continue in business on the condition that the

1 applicant complies with this article. The license number shall be
2 continuous.

3 G. The transaction privilege tax license and the municipal
4 privilege tax license are not transferable on a complete change of
5 ownership or change of location of the business. For the purposes of this
6 subsection:

7 1. "Location" means the business address appearing in the
8 application for the license and on the transaction privilege tax or
9 municipal privilege tax license.

10 2. "Ownership" means any right, title or interest in the business.

11 3. "Transferable" means the ability to convey or change the right
12 or privilege to engage or continue in business by virtue of the issuance
13 of the transaction privilege tax or municipal privilege tax license.

14 H. When the ownership or location of a business on which a
15 transaction privilege tax or municipal privilege tax is imposed has been
16 changed within the meaning of subsection G of this section, the licensee
17 shall surrender the license to the department. The license shall be
18 reissued to the new owners or for the new location on application by the
19 taxpayer and payment of the twelve-dollar fee for a transaction privilege
20 tax license and a fee of up to fifty dollars per jurisdiction for a
21 municipal privilege tax license. The department must collect, hold, pay
22 and manage the fees in trust for the city or town and may not use the
23 monies for any other purposes.

24 I. A person who is engaged in or conducting a business in two or
25 more locations or under two or more business names shall procure a
26 transaction privilege tax license for each location or business name
27 regardless of whether all locations or business names are reported on a
28 consolidated return under a single transaction privilege tax license
29 number. This requirement shall not be construed as conflicting with
30 section 42-5020.

31 J. A person who is engaged in or conducting a business in two or
32 more locations or under two or more business names shall procure a
33 municipal privilege tax license for each location or business name
34 regardless of whether all locations or business names are reported on a
35 consolidated return.

36 K. A person who is engaged in or conducting business at two or more
37 locations or under two or more business names and who files a consolidated
38 return under a single transaction privilege tax license number as provided
39 by section 42-5020 is required to pay only a single municipal privilege
40 tax license renewal fee for each local jurisdiction pursuant to subsection
41 D of this section. A person who is engaged in or conducting business at
42 two or more locations or under two or more business names and who does not
43 file a consolidated return under a single license number is required to

1 pay a license renewal fee for each location or license in a local
2 jurisdiction.

3 L. For the purposes of this chapter and chapter 6 of this title: ~~,~~
4 1. **THROUGH DECEMBER 31, 2018**, an online lodging marketplace, as
5 defined in section 42-5076, may register with the department for a license
6 for the payment of taxes levied by this state and one or more counties,
7 cities, towns or special taxing districts, at the election of the online
8 lodging marketplace, for taxes due from an online lodging operator on any
9 online lodging transaction facilitated by the online lodging marketplace,
10 subject to sections 42-5076 and 42-6009.

11 2. **BEGINNING FROM AND AFTER DECEMBER 31, 2018, AN ONLINE LODGING**
12 **MARKETPLACE, AS DEFINED IN SECTION 42-5076, SHALL REGISTER WITH THE**
13 **DEPARTMENT FOR A LICENSE FOR THE PAYMENT OF TAXES LEVIED BY THIS STATE AND**
14 **ONE OR MORE COUNTIES, CITIES, TOWNS OR SPECIAL TAXING DISTRICTS FOR TAXES**
15 **DU~~E~~ FROM AN ONLINE LODGING OPERATOR ON ANY ONLINE LODGING TRANSACTION**
16 **FACILITATED BY THE ONLINE LODGING MARKETPLACE, SUBJECT TO SECTIONS 42-5076**
17 **AND 42-6009.**

18 M. For the purposes of this chapter and chapter 6 of this title, a
19 person who is licensed pursuant to title 32, chapter 20 and who files an
20 electronic consolidated tax return for individual real properties under
21 management on behalf of the property owners may be licensed with the
22 department for the payment of taxes levied by this state and by any
23 county, city or town with respect to those properties.

24 N. If a person violates this article or any rule adopted under this
25 article, the department upon hearing may revoke any transaction privilege
26 tax or municipal privilege tax license issued to the person. The
27 department shall provide ten days' written notice of the hearing, stating
28 the time and place and requiring the person to appear and show cause why
29 the license or licenses should not be revoked. The department shall
30 provide written notice to the person of the revocation of the license.
31 The notices may be served personally or by mail pursuant to section
32 42-5037. After revocation, the department shall not issue a new license
33 to the person unless the person presents evidence satisfactory to the
34 department that the person will comply with this article and with the
35 rules adopted under this article. The department may prescribe the terms
36 under which a revoked license may be reissued.

37 O. The department may revoke any transaction privilege tax or
38 municipal privilege tax license issued to any person who fails for
39 thirteen consecutive months to make and file a return required by this
40 article on or before the due date or the due date as extended by the
41 department unless the failure is due to a reasonable cause and not due to
42 wilful neglect.

43 P. A person who violates any provision of this section is guilty of
44 a class 3 misdemeanor.

1 Sec. 2. Section 42-5076, Arizona Revised Statutes, is amended to
2 read:

3 42-5076. Online lodging marketplace classification;
4 definitions

5 A. The online lodging marketplace classification is comprised of
6 the business of operating an online lodging marketplace.

7 B. The tax base for the online lodging marketplace classification
8 is the gross proceeds of sales or gross income derived from the business
9 measured by the total amount charged for an online transient lodging
10 transaction by the online lodging operator.

11 C. **THROUGH DECEMBER 31, 2018**, the online lodging marketplace
12 classification does not include any online lodging marketplace that has
13 not entered into an agreement with the department to register for, or has
14 not otherwise obtained from the department, a license to collect tax
15 pursuant to section 42-5005, subsection L.

16 D. **THE TAX BASE FOR THE ONLINE LODGING MARKETPLACE CLASSIFICATION
17 DOES NOT INCLUDE THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM
18 CHARGES TO AN OCCUPANT WHO IS A TRANSIENT AS DEFINED IN SECTION 42-5070
19 FOR THE OCCUPANCY OF ANY LODGING ACCOMMODATION IN THIS STATE THAT IS
20 CLASSIFIED FOR PROPERTY TAX PURPOSES UNDER SECTION 42-12001.**

21 **~~D.~~ E.** For the purposes of this section:

22 1. "Online lodging marketplace" means a person that provides a
23 digital platform for compensation through which an unaffiliated third
24 party offers to rent lodging accommodations in this state to an occupant,
25 including a transient, as defined in section 42-5070, and the
26 accommodations are not classified for property tax purposes under section
27 42-12001. For the purposes of this paragraph:

28 (a) "Lodging accommodations" means any space offered to the public
29 for lodging, including any hotel, motel, inn, tourist home or house, dude
30 ranch, resort, campground, studio or bachelor hotel, lodging house,
31 rooming house, residential home, apartment house, dormitory, public or
32 private club, mobile home or house trailer at a fixed location in this
33 state or other similar structure or space.

34 (b) "Unaffiliated third party" means a person that is not owned or
35 controlled, directly or indirectly, by the same interests.

36 2. "Online lodging operator" means a person that is engaged in the
37 business of renting to an occupant, including a transient as defined in
38 section 42-5070, any lodging accommodation in this state offered through
39 an online lodging marketplace.

40 3. "Online lodging transaction" means a charge to an occupant,
41 including a transient as defined in section 42-5070, by an online lodging
42 operator for the occupancy of any lodging accommodation in this state and
43 includes an online transient lodging transaction.

1 4. "Online transient lodging transaction" means a charge to an
2 occupant who is a transient as defined in section 42-5070 by an online
3 lodging operator for the occupancy of any lodging accommodation in this
4 state.

5 Sec. 3. Section 48-4204, Arizona Revised Statutes, as amended by
6 House Bill 2456, section 4, fifty-third legislature, second regular
7 session, as transmitted to the governor, is amended to read:

8 48-4204. Constructing and operating a stadium and other
9 structures; regulating alcoholic beverages

10 A. From the taxes and surcharges levied pursuant to article 2 of
11 this chapter for use with respect to major league baseball spring
12 training, the district may acquire land and construct, finance, furnish,
13 maintain, improve, operate, market and promote the use of existing or
14 proposed major league baseball spring training facilities or stadiums and
15 other structures, utilities, roads, parking areas or buildings necessary
16 for full use of the training facilities or stadiums for sports and other
17 purposes and do all things necessary or convenient to accomplish those
18 purposes. The board shall require that any project undertaken by the
19 district include financial participation from the county or municipality
20 in which the project is located, from a private party or from any
21 combination of these entities that equals or exceeds one-half of the
22 amount to be expended or distributed by the district. Capital improvement
23 funds expended by a county, municipality or private party for a purpose
24 authorized by this section may be deemed financial participation with
25 respect to any project the district may undertake.

26 B. From the taxes and charges levied or identified pursuant to
27 section 48-4237 for use with respect to multipurpose facilities and from
28 other monies lawfully available to the district, the district may acquire
29 land and construct, finance, furnish, maintain, improve, operate, market
30 and promote the use of multipurpose facilities and other structures,
31 utilities, roads, parking areas or buildings necessary for full use of the
32 multipurpose facilities and do all things necessary or convenient to
33 accomplish those purposes. Public monies identified in section 48-4237,
34 including monies distributed pursuant to section 42-5031, may only be used
35 for the components for a multipurpose facility that are owned by the
36 district or that are publicly owned or for the following purposes:

37 1. Debt service for bonds issued by the district before January 1,
38 ~~2025~~ 2009.

39 2. Contractual obligations incurred by the district before June 1,
40 ~~2025~~ 2009.

41 3. Fiduciary, reasonable legal and administrative expenses of the
42 district.

43 4. The design and construction of the hotel and convention center
44 located on the multipurpose facility site.

1 C. For the public monies identified in section 48-4237, including
2 monies distributed pursuant to section 42-5031, and from which the
3 district board has planned an expenditure of five hundred thousand dollars
4 or more, the following apply:

5 1. Each district board member shall provide advance notice of the
6 consideration of the expenditure by the board to the person who holds the
7 office that is responsible for that board member's appointment.

8 2. The notice prescribed in paragraph 1 of this subsection must be
9 provided by regular mail delivered to the office that is responsible for
10 that board member's appointment and may be preceded by any other form of
11 notice. The notice must be provided at least two weeks before the date of
12 the meeting and must be posted to the district's website on the day the
13 notice is mailed.

14 3. The notice prescribed in paragraph 1 of this subsection must be
15 accompanied by the board member's written statement as to whether the
16 board member has any financial interest in the subject of the proposed
17 expenditure by the board. The board members' written statements may be
18 provided in a single document that is prepared by the board's
19 administrative personnel but must be signed by the board members and must
20 be posted to the district's website with the notice prescribed in
21 paragraph 1 of this subsection.

22 4. The district board may not artificially divide or fragment
23 planned expenditures so as to circumvent the requirements of this
24 subsection.

25 D. A district established pursuant to section 48-4202, subsection B
26 may not use monies distributed pursuant to section 42-5031 for the
27 salaries or compensation of any employee of the municipality in which the
28 district is located.

29 E. Pursuant to an intergovernmental agreement with the Arizona
30 board of regents, from the revenues collected from assessments pursuant to
31 section 48-4235 for use with respect to Arizona board of regents owned
32 intercollegiate athletic facilities, the district may construct,
33 reconstruct, finance, furnish, maintain and improve existing
34 intercollegiate athletic facilities located on Arizona board of regents'
35 property, including utilities, roads, parking areas or buildings necessary
36 for full use of the athletic facilities.

37 F. Title 34 applies to the district, except that regardless of the
38 funding source for design and construction of facilities and structures
39 the district may establish alternative systems and procedures, including
40 the use of the design-build method of construction or the use of
41 qualifications-based selection of contractors with experience in stadium
42 design or construction, to expedite the design and construction or
43 reconstruction of any of its facilities or structures or any facilities or

1 structures leased to it or used by it pursuant to an intergovernmental
2 agreement. For the purposes of this subsection:

3 1. "Design-build" means a process of entering into and managing a
4 contract between the district and another party in which the other party
5 agrees to both design and build a structure, a facility or other items
6 specified in the contract.

7 2. "Qualifications-based selection" means a process of entering
8 into and managing a contract between the district and another party in
9 which the other party is selected by the district on the basis of the
10 party's qualifications and experience in designing or constructing
11 facilities, structures or other items similar to those the district is
12 authorized to construct or lease. The other party may be selected by
13 direct selection or by public competition.

14 G. For the purposes of financing, designing, constructing,
15 reconstructing or operating facilities or structures, the district is not
16 the agent of any municipality, this state or any agency or instrumentality
17 of this state participating in the funding of such facilities or
18 structures.

19 H. Subject to the requirements of title 4, the board of directors
20 may permit and regulate the sale, use and consumption of alcoholic
21 beverages at events held on property acquired, leased or subleased under
22 this article.

23 Sec. 4. Conditional enactment

24 Section 48-4204, Arizona Revised Statutes, as amended by this act,
25 does not become effective unless House Bill 2456, fifty-third legislature,
26 second regular session, relating to county stadium districts, becomes law.

APPROVED BY THE GOVERNOR APRIL 11, 2018.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 11, 2018.