

REFERENCE TITLE: tobacco products; prohibited sales; signage

State of Arizona
Senate
Fifty-fourth Legislature
First Regular Session
2019

SB 1363

Introduced by
Senators Carter: Bowie, Boyer, Bradley, Farnsworth D, Pratt;
Representative Bolding

AN ACT

AMENDING SECTION 13-3622, ARIZONA REVISED STATUTES; AMENDING TITLE 36,
CHAPTER 6. ARTICLE 14, ARIZONA REVISED STATUTES, BY ADDING SECTION
36-798.07; RELATING TO TOBACCO PRODUCTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 13-3622. Selling, giving or furnishing of tobacco product to
5 underage person; illegally obtaining tobacco
6 product by a minor; classification; attorney
7 general compliance checks; definitions

8 A. A person who ~~knowingly~~ sells, gives or furnishes a tobacco
9 product, ~~a vapor product or any instrument or paraphernalia that is solely~~
10 ~~designed for the smoking or ingestion of tobacco or shisha, including a~~
11 ~~hookah or waterpipe,~~ to ~~a minor~~ AN INDIVIDUAL WHO IS UNDER TWENTY-ONE
12 YEARS OF AGE is guilty of a petty offense.

13 B. A minor who KNOWINGLY buys, ~~or has in his possession~~ or
14 knowingly accepts or receives from any person, a tobacco product, ~~a vapor~~
15 ~~product or any instrument or paraphernalia that is solely designed for the~~
16 ~~smoking or ingestion of tobacco or shisha, including a hookah or~~
17 ~~waterpipe,~~ is guilty of a petty offense, ~~and if the offense involves any~~
18 ~~instrument or paraphernalia that is solely designed for the smoking or~~
19 ~~ingestion of tobacco or shisha,~~ shall pay a fine of not ~~less~~ MORE than ~~one~~
20 ~~hundred dollars~~ \$100 or perform not ~~less~~ MORE than thirty hours of
21 community restitution.

22 C. A minor who misrepresents the minor's age to ~~any~~ ANOTHER person
23 by means of a written instrument of identification with the intent to
24 induce the OTHER person to sell, give or furnish a tobacco product, ~~a~~
25 ~~vapor product or any instrument or paraphernalia that is solely designed~~
26 ~~for the smoking or ingestion of tobacco or shisha, including a hookah or~~
27 ~~waterpipe,~~ in violation of subsection A or B of this section is guilty of
28 a petty offense and, notwithstanding section 13-802, shall pay a fine of
29 not more than ~~five hundred dollars~~ \$500.

30 D. A PERSON WHO SELLS, GIVES OR FURNISHES A TOBACCO PRODUCT SHALL
31 VERIFY THE AGE OF THE INDIVIDUAL WHO IS RECEIVING THE TOBACCO PRODUCT BY
32 MEANS OF A GOVERNMENT-ISSUED PHOTOGRAPHIC IDENTIFICATION THAT CONTAINS THE
33 INDIVIDUAL'S DATE OF BIRTH. THE PERSON SHALL NOT SELL, GIVE OR FURNISH
34 THE TOBACCO PRODUCT TO AN INDIVIDUAL WHO FAILS TO PROVIDE ADEQUATE PROOF
35 OF THE INDIVIDUAL'S AGE.

36 E. IT IS NOT A DEFENSE TO A PROSECUTION FOR A VIOLATION OF
37 SUBSECTION A OF THIS SECTION THAT THE INDIVIDUAL APPEARED TO BE OVER
38 TWENTY-ONE YEARS OF AGE.

39 F. THIS SECTION DOES NOT PROHIBIT A POLITICAL SUBDIVISION OF THIS
40 STATE FROM ENACTING A RULE OR ORDINANCE THAT IS MORE RESTRICTIVE THAN THIS
41 SECTION.

42 G. THE ATTORNEY GENERAL OR THE ATTORNEY GENERAL'S AUTHORIZED AGENT
43 MAY ENFORCE THIS SECTION BY CONDUCTING A COMPLIANCE CHECK ON RETAIL
44 TOBACCO VENDORS USING PROGRAMS AND PROTOCOLS THAT ARE DEVELOPED BY THE
45 ATTORNEY GENERAL. THE RESULTS OF A COMPLIANCE CHECK ARE A PUBLIC RECORD.

1 ~~D.~~ H. This section does not apply to ~~any of the following:~~

2 ~~1.~~ cigars, cigarettes or cigarette papers, smoking or chewing
3 tobacco or any instrument or paraphernalia that is solely designed for the
4 smoking or ingestion of tobacco or shisha, ~~including a hookah or~~
5 ~~waterpipe,~~ if it is used or intended to be used in connection with a bona
6 fide practice of a religious belief and as an integral part of a religious
7 or ceremonial exercise.

8 ~~2.~~ ~~Any instrument or paraphernalia that is solely designed for the~~
9 ~~smoking or ingestion of tobacco or shisha, including a hookah or~~
10 ~~waterpipe, that is given to or possessed by a minor if the instrument or~~
11 ~~paraphernalia was a gift or souvenir and is not used or intended to be~~
12 ~~used by the minor to smoke or ingest tobacco or shisha.~~

13 ~~E.~~ I. For the purposes of this section:

14 1. "ELECTRONIC SMOKING DEVICE":

15 (a) MEANS A DEVICE THAT CAN BE USED TO DELIVER AEROSOLIZED OR
16 VAPORIZED NICOTINE TO A PERSON WHO INHALES FROM THE DEVICE, INCLUDING AN
17 E-CIGARETTE, E-CIGAR, E-PIPE, VAPE PEN OR E-HOOKAH, AND ANY COMPONENT,
18 PART OR ACCESSORY OF THE DEVICE, WHETHER OR NOT SOLD SEPARATELY.

19 (b) INCLUDES ANY SUBSTANCE THAT IS INTENDED TO BE AEROSOLIZED OR
20 VAPORIZED DURING THE USE OF THE DEVICE.

21 2. "PERSON" INCLUDES A RETAILER.

22 ~~1.~~ 3. "Shisha" includes any mixture of tobacco leaf and honey,
23 molasses or dried fruit or any other sweetener.

24 ~~2.~~ 4. "Tobacco product":

25 (a) Means any ~~of the following:~~

26 ~~(a) Cigars.~~

27 ~~(b) Cigarettes.~~

28 ~~(c) Cigarette papers of any kind.~~

29 ~~(d) Smoking tobacco of any kind.~~

30 ~~(e) Chewing tobacco of any kind~~ PRODUCT THAT IS MADE OR DERIVED
31 FROM TOBACCO OR THAT CONTAINS NICOTINE AND THAT IS INTENDED FOR HUMAN
32 CONSUMPTION OR IS LIKELY TO BE CONSUMED, WHETHER SMOKED, HEATED, CHEWED,
33 ABSORBED, DISSOLVED, INHALED OR INGESTED BY ANY OTHER MEANS.

34 (b) INCLUDES A CIGARETTE, A CIGAR, PIPE TOBACCO, CHEWING TOBACCO,
35 SHISHA, SNUFF, SNUS, AN ELECTRONIC SMOKING DEVICE AND ANY COMPONENT,
36 ACCESSORY, INSTRUMENT OR PARAPHERNALIA THAT IS USED IN THE CONSUMPTION OF
37 A TOBACCO PRODUCT, WHETHER OR NOT IT CONTAINS NICOTINE, OR THAT IS SOLELY
38 DESIGNED FOR THE SMOKING OR INGESTING OF TOBACCO OR SHISHA, INCLUDING A
39 HOOKAH, A WATERPIPE, A FILTER, ROLLING PAPERS, A PIPE OR LIQUIDS USED IN
40 ELECTRONIC SMOKING DEVICES.

41 (c) DOES NOT INCLUDE DRUGS, DEVICES OR COMBINATION PRODUCTS THAT
42 ARE AUTHORIZED FOR SALE BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION
43 AS THOSE TERMS ARE DEFINED IN THE FEDERAL FOOD, DRUG AND COSMETIC ACT.

44 ~~3.~~ ~~"Vapor product" means a noncombustible tobacco-derived product~~
45 ~~containing nicotine that employs a mechanical heating element, battery or~~

1 ~~circuit, regardless of shape or size, that can be used to heat a liquid~~
2 ~~nicotine solution contained in cartridges. Vapor product does not include~~
3 ~~any product that is regulated by the United States food and drug~~
4 ~~administration under chapter V of the federal food, drug and cosmetic act.~~

5 Sec. 2. Title 36, chapter 6, article 14, Arizona Revised Statutes,
6 is amended by adding section 36-798.07, to read:

7 36-798.07. Retail tobacco vendor; signage; unlawful practice;
8 violation; classification; definition

9 A. A RETAIL TOBACCO VENDOR MAY NOT SELL OR ALLOW THE SALE OF
10 TOBACCO PRODUCTS, INCLUDING ELECTRONIC SMOKING DEVICES, UNLESS A SIGN IS
11 POSTED AT THE LOCATION WHERE THE TOBACCO PRODUCTS ARE AVAILABLE FOR
12 PURCHASE. THE SIGN MUST MEASURE AT LEAST EIGHTY SQUARE INCHES AND STATE
13 IN BLOCK LETTERS THAT ARE AT LEAST ONE-HALF INCH IN HEIGHT THAT A PERSON
14 WHO IS UNDER TWENTY-ONE YEARS OF AGE MAY NOT BE SOLD TOBACCO PRODUCTS.

15 B. THIS SECTION DOES NOT INVALIDATE AN ORDINANCE OF OR PROHIBIT THE
16 ADOPTION OF AN ORDINANCE BY A COUNTY, CITY OR TOWN THAT HAS STRICTER
17 SIGNAGE REQUIREMENTS AT THE LOCATION WHERE TOBACCO PRODUCTS ARE SOLD OR
18 THAT SPECIFIES DIFFERENT WORDING FOR THE SIGN THAN THE WORDING THAT IS
19 REQUIRED BY THIS SECTION.

20 C. A VIOLATION OF THIS SECTION IS AN UNLAWFUL PRACTICE UNDER
21 SECTION 44-1522 AND IS IN ADDITION TO ALL OTHER CAUSES OF ACTION, REMEDIES
22 AND PENALTIES THAT ARE AVAILABLE TO THIS STATE. THE ATTORNEY GENERAL MAY
23 INVESTIGATE AND TAKE APPROPRIATE ACTION PURSUANT TO TITLE 44, CHAPTER 10,
24 ARTICLE 7.

25 D. A VIOLATION OF THIS SECTION IS A PETTY OFFENSE.

26 E. FOR THE PURPOSES OF THIS SECTION, "ELECTRONIC SMOKING DEVICES"
27 AND "TOBACCO PRODUCTS" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION
28 13-3622.