

REFERENCE TITLE: tobacco products; devices; tax; distributions

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

SCR 1026

Introduced by
Senator Carter

A CONCURRENT RESOLUTION

ENACTING AND ORDERING THE SUBMISSION TO THE PEOPLE OF A MEASURE RELATING
TO THE TAXATION OF TOBACCO PRODUCTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it resolved by the Senate of the State of Arizona, the House of
2 Representatives concurring:

3 1. Under the power of referendum, as vested in the Legislature, the
4 following measure, relating to the taxation of tobacco products, is
5 enacted to become valid as a law if approved by the voters and on
6 proclamation of the Governor:

7 AN ACT

8 AMENDING TITLE 15, CHAPTER 13, ARTICLE 2, ARIZONA REVISED
9 STATUTES, BY ADDING SECTIONS 15-1650.05 AND 15-1650.06;
10 AMENDING SECTIONS 15-1646 AND 15-1661, ARIZONA REVISED
11 STATUTES; AMENDING TITLE 42, CHAPTER 3, ARIZONA REVISED
12 STATUTES, BY ADDING ARTICLE 5; RELATING TO THE TAXATION OF
13 TOBACCO PRODUCTS.

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

15 Section 1. Title 15, chapter 13, article 2, Arizona
16 Revised Statutes, is amended by adding sections 15-1650.05 and
17 15-1650.06, to read:

18 15-1650.05. Electronic smoking device and tobacco
19 products tax fund; exemption

20 A. THE ELECTRONIC SMOKING DEVICE AND TOBACCO PRODUCTS
21 TAX FUND IS ESTABLISHED CONSISTING OF MONIES DEPOSITED IN THE
22 FUND PURSUANT TO SECTION 42-3202 AND INTEREST EARNED ON THOSE
23 MONIES. THE ARIZONA BOARD OF REGENTS SHALL ADMINISTER THE
24 FUND. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED.

25 B. \$.73 OF EACH DOLLAR IN THE FUND SHALL BE DEPOSITED
26 IN THE TOBACCO TAX ADJUSTMENT ACCOUNT ESTABLISHED BY SECTION
27 15-1650.06.

28 C. \$.27 OF EACH DOLLAR IN THE FUND IS APPROPRIATED TO
29 THE ARIZONA BOARD OF REGENTS FOR THE PURPOSES OF:

30 1. PROVIDING SCHOLARSHIPS PURSUANT TO SECTION 15-1646,
31 SUBSECTION B.

32 2. FULFILLING THE INCREASED FUNDING REQUIREMENT
33 PROVIDED IN SECTION 15-1661, SUBSECTION J.

34 D. MONIES IN THE FUND ARE EXEMPT FROM THE PROVISIONS OF
35 SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS.

36 15-1650.06. Tobacco tax adjustment account

37 A. THE TOBACCO TAX ADJUSTMENT ACCOUNT IS ESTABLISHED
38 CONSISTING OF MONIES DEPOSITED PURSUANT TO SECTION 15-1650.05.
39 THE DEPARTMENT OF REVENUE SHALL ADMINISTER THE FUND.

40 B. THE DEPARTMENT OF REVENUE SHALL TRANSFER THE
41 FOLLOWING AMOUNTS OF ACCOUNT MONIES TO THE FUNDS AND ACCOUNTS
42 PROVIDED IN PARAGRAPHS 1 THROUGH 13 OF THIS SUBSECTION TO
43 COMPENSATE FOR DECREASES IN THESE FUNDS AND ACCOUNTS DUE TO
44 LOWER TOBACCO TAX REVENUES AVAILABLE UNDER SECTIONS 8-1181,
45 36-601.01, 36-770, 36-771, 42-3102, 42-3103 AND 42-3104 AS A

1 RESULT OF THE LEVY OF LUXURY TAXES THAT ARE DEDICATED TO THE
2 ELECTRONIC SMOKING DEVICE AND TOBACCO PRODUCTS TAX FUND
3 PURSUANT TO SECTION 42-3202:

4 1. \$.2628 TO THE PROGRAM ACCOUNT ESTABLISHED BY SECTION
5 8-1181.

6 2. \$.0292 TO THE ADMINISTRATIVE COSTS ACCOUNT
7 ESTABLISHED BY SECTION 8-1181.

8 3. \$.01095 TO THE HEALTH RESEARCH FUND ESTABLISHED BY
9 SECTION 36-275.

10 4. \$.0073 TO THE SMOKE-FREE ARIZONA FUND ESTABLISHED BY
11 SECTION 36-601.01.

12 5. \$.03723 TO THE HEALTH EDUCATION ACCOUNT ESTABLISHED
13 BY SECTION 36-772.

14 6. \$.0073 TO THE HEALTH RESEARCH ACCOUNT ESTABLISHED BY
15 SECTION 36-773.

16 7. \$.16133 TO THE MEDICALLY NEEDED ACCOUNT ESTABLISHED
17 BY SECTION 36-774.

18 8. \$.00365 TO THE ADJUSTMENT ACCOUNT ESTABLISHED BY
19 SECTION 36-775.

20 9. \$.0438 TO THE EMERGENCY HEALTH SERVICES ACCOUNT
21 ESTABLISHED BY SECTION 36-776.

22 10. \$.00876 TO THE HEALTH CARE ADJUSTMENT ACCOUNT
23 ESTABLISHED BY SECTION 36-777.

24 11. \$.09198 TO THE PROPOSITION 204 PROTECTION ACCOUNT
25 ESTABLISHED BY SECTION 36-778.

26 12. \$.0073 TO THE CORRECTIONS FUND ESTABLISHED BY
27 SECTION 41-1641.

28 13. \$.0584 TO THE STATE GENERAL FUND.

29 C. ANY MONIES IN THE ACCOUNT IN EXCESS OF THE AMOUNT
30 NEEDED FOR ADJUSTMENTS REVERT TO THE ELECTRONIC SMOKING DEVICE
31 AND TOBACCO PRODUCTS TAX FUND ESTABLISHED BY SECTION
32 15-1650.05.

33 Sec. 2. Section 15-1646, Arizona Revised Statutes, is
34 amended to read:

35 15-1646. Board of regents and university
36 scholarships; notification
37 requirements; regents scholarships

38 A. The universities under the jurisdiction of the
39 Arizona board of regents shall establish policies that ensure
40 fair and equitable access by Arizona students from public,
41 private and charter schools and homeschools to scholarships,
42 including tuition waivers, that are issued solely on the basis
43 of academic merit and for which the universities establish and
44 administer fair and equitable selection criteria. The

1 universities under the jurisdiction of the Arizona board of
2 regents shall:

3 1. Annually report to the board and publish and
4 disclose to the extent permitted by state and federal law the
5 following information related to each merit based scholarship
6 awarded to students from public, private and charter schools
7 and homeschools by each university, for the prior academic
8 year:

9 (a) The total number and dollar amount of awards and
10 total number of applicants.

11 (b) The total number and dollar amount of awards and
12 total number of applicants by type of student.

13 (c) The specific criteria used to award each
14 scholarship, including average and range of SAT and ACT
15 scores.

16 (d) The number of newly awarded scholarships and the
17 number of renewed scholarships.

18 2. Notify students in this state of scholarship awards
19 in a timely manner without regard to whether the students are
20 from public, private or charter schools or homeschools.

21 B. THE ARIZONA BOARD OF REGENTS SHALL ANNUALLY AWARD
22 REGENTS SCHOLARSHIPS TO ANY PERSON WHO MEETS ALL OF THE
23 FOLLOWING CRITERIA:

24 1. IS A RESIDENT OF THIS STATE.

25 2. OBTAINED A LETTER GRADE OF A OR B, OR THE
26 EQUIVALENT, IN EACH CORE ACADEMIC COURSE THAT IS REQUIRED FOR
27 GRADUATION FROM HIGH SCHOOL IN THIS STATE.

28 3. IS ADMITTED TO A UNIVERSITY UNDER THE JURISDICTION
29 OF THE ARIZONA BOARD OF REGENTS.

30 Sec. 3. Section 15-1661, Arizona Revised Statutes, is
31 amended to read:

32 15-1661. Annual appropriation; enrollment audit;
33 expenditure; balance; salaries

34 A. There shall be appropriated in the general
35 ~~appropriation~~ APPROPRIATIONS bill for each fiscal year a sum
36 of monies not less than eighty-five one-hundredths of one mill
37 on the dollar of the assessed valuation of all taxable
38 property in ~~the~~ THIS state ~~for the improvement~~ TO IMPROVE,
39 support and ~~maintenance of~~ MAINTAIN the institutions under the
40 Arizona board of regents' jurisdiction, including ~~payment of~~
41 PAYING salaries, ~~AND~~ current expenses, ~~purchase of~~ PURCHASING
42 equipment, making necessary repairs, ~~construction of~~
43 CONSTRUCTING new buildings, ~~purchase of~~ PURCHASING lands and
44 in general PAYING for ~~payment of~~ all such expenses connected
45 with ~~the management of~~ MANAGING the institutions under the

1 Arizona board of regents' jurisdiction. The department of
2 revenue, ~~upon~~ ON compiling the aggregate assessed valuation of
3 all taxable property within this state, shall compute the
4 amount of monies so determined and certify ~~such~~ THAT amount
5 over its seal to the department of administration and the
6 state treasurer.

7 B. The full-time equivalent student enrollment reported
8 for the previous fiscal year by each university shall be
9 audited annually by the auditor general. The auditor general
10 shall report the results of the audit to the staffs of the
11 joint legislative budget committee and the governor's office
12 of strategic planning and budgeting on or before October 15 of
13 each year. On or before July 21 of each academic year, each
14 university shall provide for the previous fall semester a
15 certified report to the auditor general of the number of
16 full-time equivalent students calculated by the university and
17 a separate report only for those students who meet the
18 residency requirements prescribed in section 15-1802. The
19 university's records used to calculate full-time equivalent
20 student enrollment shall be provided to the auditor general in
21 an electronic format prescribed by the auditor general.
22 ~~Beginning in 2006~~, Each university shall submit to the auditor
23 general a summary of its full-time equivalent student
24 enrollment accounting policies and procedures, compilation
25 procedures and source records used for calculating full-time
26 equivalent student enrollment. These accounting policies and
27 procedures, compilation procedures and source records shall
28 comply with policies developed ~~on or before June 30, 2006~~ by
29 the Arizona board of regents, in consultation with the auditor
30 general and reviewed by the joint legislative budget
31 committee. These policies shall include a review and
32 recommendations of the necessity of minimum requirements for
33 students enrolled in classes to qualify for appropriations
34 pursuant to this section, including requirements that the
35 class be a for-credit course that is necessary for ~~the~~
36 ~~completion of~~ COMPLETING a degree and that the student
37 enrolled in the course be physically present in this state at
38 the time the course is conducted. The basic actual full-time
39 equivalent student enrollment shall be counted on the
40 forty-fifth day after the basic actual full-time equivalent
41 student enrollment classes begin for the fall and spring
42 semesters, as published in the university catalogs, and
43 divided by two. The Arizona board of regents shall also ~~make~~
44 ~~recommendations of~~ RECOMMEND whether each professor or
45 instructor should be required to review class rosters and make

1 additions or deletions as necessary. If so, class rosters
2 that reflect enrollment as of the forty-fifth day shall be
3 provided by the registrar's office to each professor or
4 instructor for every class section. The class roster shall
5 indicate the course number, course title, time, instructor
6 name and students enrolled. On the forty-fifth day class
7 rosters, each professor or instructor shall indicate as
8 withdrawn each student who has formally withdrawn from the
9 course, and that student shall not be counted for state aid
10 purposes. The official forty-fifth day rosters shall include
11 a manual signature and date or an electronic authorization and
12 date by the professor or instructor and shall include the
13 following certification:

14 I hereby certify that the information
15 contained in this class roster accurately reflects
16 those students who are enrolled.

17 C. The Arizona board of regents shall also report the
18 basic actual full-time equivalent student enrollment for only
19 those students who meet the residency requirements prescribed
20 in section 15-1802. The basic actual full-time equivalent
21 student enrollment for only those students who meet the
22 residency requirements prescribed in section 15-1802 that is
23 reported by each university for the previous fiscal year shall
24 be annually audited by the auditor general.

25 D. Students who have withdrawn or who have been
26 withdrawn from classes as of the forty-fifth day shall not be
27 counted for state aid purposes. A record shall be maintained
28 that identifies student withdrawals by date of withdrawal, as
29 of the forty-fifth day and after the forty-fifth day for the
30 entire semester.

31 E. Amounts appropriated as provided by subsection A **OF**
32 **THIS SECTION** shall be paid as other claims against this state
33 are paid.

34 F. The balance of appropriations as provided by
35 subsection A **OF THIS SECTION** at the end of the fiscal year, if
36 any, ~~shall~~ **DOES** not revert to the **STATE** general fund but shall
37 be carried forward for the continued use for which
38 appropriated.

39 G. Monies appropriated to a university under the
40 jurisdiction of the Arizona board of regents for ~~cost of~~
41 ~~living~~ **COST-OF-LIVING** salary increases for university
42 employees shall be used to provide ~~cost of living~~
43 **COST-OF-LIVING** salary increases to all university employees,
44 including graduate student assistants. If monies are
45 appropriated to a university for salary increases based on

1 merit, the monies shall be used to provide merit increases
 2 according to the merit pay plan adopted by the Arizona board
 3 of regents.

4 H. The Arizona board of regents shall determine current
 5 actual full-time equivalent student enrollment at each of the
 6 institutions under the jurisdiction of the Arizona board of
 7 regents. Full-time equivalent student enrollment shall be
 8 calculated by adding the following:

9 1. The total number of enrolled fall and spring
 10 semester credit hours in 100-level credit courses and
 11 200-level credit courses divided by fifteen.

12 2. The total number of enrolled fall and spring
 13 semester credit hours in 300-level credit courses and
 14 400-level credit courses divided by twelve.

15 3. The total number of enrolled fall and spring
 16 semester credit hours in ~~graduate level~~ GRADUATE-LEVEL credit
 17 courses divided by ten.

18 I. The Arizona board of regents, in its annual budget
 19 request, shall not include funding for any student who is
 20 enrolled at an institution under the jurisdiction of the
 21 Arizona board of regents and who has earned credit hours in
 22 excess of the undergraduate credit hour threshold, except that
 23 the undergraduate credit hour threshold ~~shall~~ DOES not apply
 24 to students who are enrolled in a degree program that requires
 25 credit hours above the credit threshold. For the purposes of
 26 this subsection, the undergraduate credit hour threshold is
 27 ~~one hundred fifty-five hours for students who attend a~~
 28 ~~university under the jurisdiction of the board in fiscal year~~
 29 ~~2006-2007, one hundred fifty hours for students who attend a~~
 30 ~~university under the jurisdiction of the board in fiscal year~~
 31 ~~2007-2008 and~~ one hundred forty-five hours for students who
 32 attend a university under the jurisdiction of the board ~~after~~
 33 ~~fiscal year 2007-2008~~. The undergraduate credit hour
 34 threshold ~~shall be~~ IS based on the actual full-time equivalent
 35 student enrollment counted on the forty-fifth day after
 36 classes begin for the fall and spring semesters and any budget
 37 adjustment based on student enrollment shall occur in the
 38 fiscal year following the actual full-time equivalent student
 39 enrollment count. The undergraduate credit hour threshold
 40 ~~shall~~ DOES not apply to credits earned in ~~the pursuit of~~
 41 PURSUING up to two baccalaureate degrees, credits earned in
 42 ~~the pursuit of~~ PURSUING up to two ~~state regulated~~
 43 STATE-REGULATED licensures and certificates, credits earned in
 44 ~~the pursuit of~~ PURSUING teaching certification, credits
 45 transferred from a private institution of higher education,

1 credits transferred from an institution of higher education in
 2 another state, credits earned at another institution of higher
 3 education but that are not accepted as transfer credits at the
 4 university where the student is currently enrolled and credits
 5 earned by students who enroll at a university under the
 6 jurisdiction of the board more than twenty-four months after
 7 the end of that student's previous enrollment at a public
 8 institution of higher education in this state.

9 J. BEGINNING IN FISCAL YEAR 2021-2022, IN ADDITION TO
 10 THE OTHER REQUIREMENTS PRESCRIBED IN THIS SECTION, THE AMOUNT
 11 APPROPRIATED EACH FISCAL YEAR FOR IMPROVING, SUPPORTING AND
 12 MAINTAINING THE INSTITUTIONS UNDER THE JURISDICTION OF THE
 13 ARIZONA BOARD OF REGENTS, INCLUDING PAYING SALARIES AND
 14 CURRENT EXPENSES, PURCHASING EQUIPMENT, MAKING NECESSARY
 15 REPAIRS, CONSTRUCTING NEW BUILDINGS, PURCHASING LANDS AND IN
 16 GENERAL PAYING FOR ALL SUCH EXPENSES CONNECTED WITH MANAGING
 17 THE INSTITUTIONS UNDER THE JURISDICTION OF THE ARIZONA BOARD
 18 OF REGENTS, SHALL BE INCREASED BY A MINIMUM GROWTH RATE OF
 19 EITHER TWO PERCENT OR THE CHANGE IN THE GDP PRICE DEFLATOR, AS
 20 DEFINED IN SECTION 41-563, FROM THE SECOND PRECEDING CALENDAR
 21 YEAR TO THE CALENDAR YEAR IMMEDIATELY PRECEDING THE BUDGET
 22 YEAR, WHICHEVER IS LESS, EXCEPT THAT THE AMOUNT APPROPRIATED
 23 MAY NOT BE REDUCED BELOW THE AMOUNT APPROPRIATED FOR FISCAL
 24 YEAR 2021-2022.

25 Sec. 4. Title 42, chapter 3, Arizona Revised Statutes,
 26 is amended by adding article 5, to read:

27 ARTICLE 5. ELECTRONIC SMOKING DEVICE AND
 28 TOBACCO PRODUCT TAX FOR HIGHER EDUCATION

29 42-3201. Levy and collection of tax on electronic
 30 smoking devices and tobacco products;
 31 definition

32 A. IN ADDITION TO ALL OTHER TAXES, THERE IS LEVIED AND
 33 SHALL BE COLLECTED BY THE DEPARTMENT AND PAID TO THE STATE
 34 TREASURER IN THE MANNER PROVIDED BY THIS CHAPTER ON ALL
 35 ELECTRONIC SMOKING DEVICES, CIGARETTES, CIGARS, SMOKING
 36 TOBACCO, PLUG TOBACCO, SNUFF AND OTHER FORMS OF TOBACCO THE
 37 FOLLOWING ADDITIONAL TAX:

- 38 1. ON EACH CIGARETTE, \$.075.
- 39 2. ON SMOKING TOBACCO, SNUFF, FINE CUT CHEWING TOBACCO,
 40 CUT AND GRANULATED TOBACCO, SHORTS AND REFUSE OF FINE CUT
 41 CHEWING TOBACCO, SHISHA AND REFUSE, SCRAPS, CLIPPINGS,
 42 CUTTINGS AND SWEEPINGS OF TOBACCO, EXCLUDING TOBACCO POWDER OR
 43 TOBACCO PRODUCTS USED EXCLUSIVELY FOR AGRICULTURAL OR
 44 HORTICULTURAL PURPOSES AND UNFIT FOR HUMAN CONSUMPTION,
 45 FORTY-THREE PERCENT OF THE WHOLESALE PRICE.

1 3. ON ALL CAVENDISH, PLUG OR TWIST TOBACCO, FORTY-THREE
2 PERCENT OF THE WHOLESALE PRICE.

3 4. ON EACH TWENTY SMALL CIGARS OR FRACTIONAL PART
4 WEIGHING NOT MORE THAN THREE POUNDS PER THOUSAND, FORTY-THREE
5 PERCENT OF THE WHOLESALE PRICE.

6 5. ON CIGARS OF ALL DESCRIPTIONS, EXCEPT THOSE INCLUDED
7 IN PARAGRAPH 4 OF THIS SUBSECTION, MADE OF TOBACCO OR ANY
8 TOBACCO SUBSTITUTE:

9 (a) IF MANUFACTURED TO RETAIL AT NOT MORE THAN \$.05
10 EACH, FORTY-THREE PERCENT OF THE WHOLESALE PRICE ON EACH THREE
11 CIGARS.

12 (b) IF MANUFACTURED TO RETAIL AT MORE THAN \$.05 EACH,
13 FORTY-THREE PERCENT OF THE WHOLESALE PRICE ON EACH CIGAR.

14 6. ON ELECTRONIC SMOKING DEVICES, SEVENTY-THREE PERCENT
15 OF THE WHOLESALE COST OF THE PRODUCT.

16 B. FOR THE PURPOSES OF THIS SECTION, "ELECTRONIC
17 SMOKING DEVICE":

18 1. MEANS ANY DEVICE THAT CAN BE USED TO DELIVER
19 AEROSOLIZED OR VAPORIZED NICOTINE TO THE INDIVIDUAL INHALING
20 FROM THE DEVICE, INCLUDING AN E-CIGARETTE, E-CIGAR, E-PIPE,
21 VAPE PEN OR E-HOOKAH.

22 2. INCLUDES:

23 (a) ANY COMPONENT, PART OR ACCESSORY OF THE DEVICE,
24 WHETHER OR NOT SOLD SEPARATELY.

25 (b) ANY SUBSTANCE INTENDED TO BE AEROSOLIZED OR
26 VAPORIZED DURING THE USE OF THE DEVICE.

27 3. DOES NOT INCLUDE:

28 (a) ANY BATTERY OR BATTERY CHARGER THAT IS SOLD
29 SEPARATELY.

30 (b) ANY DRUG, DEVICE OR COMBINATION PRODUCT THAT IS
31 AUTHORIZED FOR SALE BY THE UNITED STATES FOOD AND DRUG
32 ADMINISTRATION. FOR THE PURPOSES OF THIS ITEM, "DEVICE" AND
33 "DRUG" HAVE THE SAME MEANINGS PRESCRIBED IN THE FEDERAL FOOD,
34 DRUG, AND COSMETIC ACT (21 UNITED STATES CODE SECTION 321) AND
35 "COMBINATION PRODUCT" MEANS A COMBINATION PRODUCT DESCRIBED IN
36 THE FEDERAL FOOD, DRUG, AND COSMETIC ACT (21 UNITED STATES
37 CODE SECTION 353(g)).

38 42-3202. Disposition of monies; administration

39 A. THE MONIES COLLECTED PURSUANT TO SECTION 42-3201
40 SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN
41 THE ELECTRONIC SMOKING DEVICE AND TOBACCO PRODUCTS TAX FUND
42 ESTABLISHED BY SECTION 15-1650.05.

1 B. UNLESS OTHERWISE PROVIDED, THE ADMINISTRATION OF
2 THIS ARTICLE IS VESTED IN AND SHALL BE EXERCISED BY THE
3 DEPARTMENT ACCORDING TO CHAPTERS 1 AND 2 OF THIS TITLE AND
4 ARTICLES 1, 2, 3 AND 4 OF THIS CHAPTER, THIS ARTICLE AND
5 ARTICLES 6, 9, 10, 11 AND 12 OF THIS CHAPTER.

6 2. The Secretary of State shall submit this proposition to the
7 voters at the next general election as provided by article IV, part 1,
8 section 1, Constitution of Arizona.