



ARIZONA HOUSE OF REPRESENTATIVES

SB1147: municipal economic development; sale; lease

NOW Title: tobacco products; vapor products

PRIME SPONSOR: Senator Leach, LD 11

BILL STATUS: [Health & Human Services](#)

Ways & Means **W/D**

Summary of the Proposed Strike-Everything Amendment

Overview

Increases the age to sell or purchase tobacco and tobacco related products from 18 to 21 with exceptions. Includes a state preemption clause.

History

Beedies, or bidis, are products containing tobacco that is wrapped in temburni or tendu leaf, or any other product offered to, or purchased by, consumers as beedies or bidis. *Tobacco products* include cigarettes, cigarette papers, cigars, smokeless tobacco and smoking tobacco (A.R.S. § [36-798](#)). Statute states that it is a class 3 misdemeanor for a retail tobacco vendor to sell, furnish, give or provide beedies or bidis to a minor (A.R.S. § [36-798.01](#)).

A.R.S. § [36-798.02](#) requires vending machines that sell tobacco to be located in either a bar or a business' private, employee lounge area of a business that does not employ minors. Violations of these laws are classified as a petty offense. Tobacco products are prohibited anywhere on school grounds, in school buses or vehicles or at off-campus school sponsored events. Violations of this prohibition are classified as a petty offense (A.R.S. § [36-798.03](#)).

A.R.S. § [36-798.04](#) classifies the manufacture, sale, or distribution of packages of cigarettes or roll-your-own of less than a certain quantity as a class three misdemeanor when being sold in Arizona, unless it is in a licensed bar. The act further outlines the unlawful practices of delivery sale to any residence unsolicited or the purchase of the product by a non-licensed person and outlines the penalties of the unlawful practices (A.R.S. §§ [36-798.05](#) and [36-798.06](#)).

Provision

Title 13 – Criminal Code

1. Makes it a petty offense for a person to knowingly sell, give or furnish an e-liquid or alternative nicotine product, in addition to a tobacco product, vapor product or any instrument or paraphernalia that is designed for the smoking or ingestion of tobacco or shisha including a hookah or waterpipe, to a person who is under 21 years of age. (Sec. 1)
2. Makes it a petty offense for a person under 21 years of age to buy or have in their possession or knowingly accept or receive from another person an e-liquid or alternative tobacco product in addition to a tobacco product, a vapor product or any instrument or paraphernalia that is designed for the smoking or ingestion of tobacco, shisha, including hookah or a waterpipe. (Sec. 1)

Prop 105 (45 votes) Prop 108 (40 votes) Emergency (40 votes) Fiscal Note

3. Provides that if the offense involves any instrument of paraphernalia that is designed for the smoking or ingestion of e-liquids, or alternative nicotine products, in addition to tobacco or shisha, must pay a fine of not less than \$100 or perform not less than 30 hours of community restitution. (Sec. 1)
4. States that a person who is under 21 years of age and who misrepresents their age or military status to induce another person to sell, give or furnish the outlined products is guilty of a petty offense and must pay a fine of not more than \$500. (Sec. 1)
5. Exempts e-liquids and alternative nicotine products from the offenses mentioned previously, if the instrument or paraphernalia was a gift or souvenir and is not used or intended to be used by the person who is under 21 years of age. (Sec. 1)
6. Provides an exemption to the age 21 requirement to a person who possesses, buys or receives or who sells, gives or furnishes a tobacco product, e-liquid, alternative nicotine product or vapor product to either:
 - a. An active duty military personnel who is at least 18 years of age and presents an identification card issued by the Armed Forces of the United States as proof of age; and
 - b. A person who is at least 18 years of age on October 1, 2019. (Sec. 1)
7. Defines *alternative nicotine product*, *e-liquid* and redefines *vapor product*. (Sec. 1)

Title 15 - Education

8. Permits instruction regarding the nature and harmful effects of e-liquids, alternative nicotine products and vapor products in courses of study in Arizona schools. (Sec. 2)
9. Defines *alternative nicotine product*, *e-liquid* and *vapor product*. (Sec. 2)

Title 36 - Public Health and Safety

10. Defines *alternative nicotine product*, *delivery sale*, *e-liquid*, *retailer* and *vapor product*. (Sec. 3)
11. Makes it a class 3 misdemeanor for a retail tobacco vendor to sell, furnish, give or provide beedies or bidis to a person who is under 21 years of age. (Sec. 4)
12. Prohibits the selling or distribution of tobacco products, e-liquid, vapor products or alternative nicotine products:
 - a. At a retail establishment in this state by any means other than vendor-assisted sales where the customer has no direct access to the product except through the assistance of the seller; and,
 - b. From self-service displays or vending machines. (Sec. 5)
13. States the provisions directly noted above do not apply to:
 - a. Retail establishments if persons who are under 21 years of age are not allowed in the establishment and the prohibition is posted clearly on all entrances;
 - b. Sales authorized under A.R.S. §§ 36-798.06 (delivery sales tobacco products) and 36-798.07 (delivery sales of e-liquids, vapor products and alternative nicotine products);
 - c. Bars; and
 - d. Employee lounge areas that are not open to the public if the business in which the area is located does not employ persons under 21 years of age. (Sec. 5)
14. Requires signage on vending machines stating that it is illegal for a person under 21 years of age to purchase cigarettes, tobacco products, e-liquids, vapor products or alternative nicotine products. (Sec. 5)

15. Prohibits the use and possession of e-liquids, vapor products and alternative nicotine products, in addition to tobacco products on school grounds. (Sec. 6)
16. States that the prohibition of e-liquids, vapor products or alternative nicotine products, in addition to tobacco products does not apply if they are for prevention or cessation programs on school grounds. (Sec. 6)
17. Provides that it is unlawful for a person to deliver or cause to be delivered to any residence in this state unsolicited tobacco products by at least one person who is 21 years of age or older, rather than an adult, who resides at that address. (Sec. 7)
18. Bans the delivery sale of an e-liquid, vapor product or alternative nicotine product to a person under 21 years of age and makes it a class 2 misdemeanor for knowingly violating this provision. (Sec. 8)
19. States a person may not mail, ship, or otherwise cause to be delivered any e-liquid, vapor product or alternative nicotine product in connection with a delivery sale unless, before the sale to the purchaser, both of the following occur:
 - a. The seller verifies by an independent third party that the purchaser is at least 21 years of age through a commercially available database, or aggregate of databases, that is regularly used by governments and businesses for the purposes of age and identity verification;
 - b. The seller is fully paid for the purchase and accepts payment from the purchaser by any of the following methods:
 - i. A check drawn on an account in the purchaser's name;
 - ii. A credit card issues in the purchaser's name; and
 - iii. A debit card issued in the purchaser's name. (Sec. 8)
20. Allows a seller to ship e-liquids, vapor products or alternative nicotine products only to a consumer for personal consumption. (Sec. 8)
21. Requires a seller taking a delivery sale to request the purchaser's e-mail address. (Sec. 8)
22. Assigns a civil penalty of not more than \$5,000 for each violation for the delivery of an e-liquid, vapor product or alternative nicotine product. Each delivery of an e-liquid, vapor product or alternative nicotine product constitutes a separate violation. (Sec. 8)
23. States that a retailer may not sell, offer to sell, furnish or give tobacco products, e-liquids, vapor products or alternative nicotine products unless the retailer prominently displays a sign that reads as follows:
 - a. It is illegal for a person who is under 21 years of age to purchase cigarettes, tobacco products, e-liquids, vapor products and alternative nicotine products. On conviction of such a violation, a fine of not more than \$300 may be imposed on the person. (Sec. 8)
24. Specifies that a retailer may not sell, offer to sell, furnish or give tobacco products, e-liquids, vapor products or alternative nicotine products to a person who reasonably appears to be under 27 years of age without first examining the person's government issued photographic identification to establish that the person either:
 - a. Is at least 21 years of age;
 - b. Is at least 18 years of age and is active duty military personnel; and
 - c. Was at least 18 years of age on October 1, 2019. (Sec. 8)
25. Provides that a who person violates the provisions noted in numbers 23 and 24 is guilty of a petty offense. (Sec. 8)
26. Contains a state preemption clause with the following language: the regulation of tobacco products, e-liquids, vapor products and alternative nicotine products is a matter of state-wide

concern and is not subject to further regulation by a political subdivision of this state, including a city town or county. This article supersedes and preempts any rule, regulation, code or ordinance adopted by any political subdivision of this state, including a city, town or county or any agency of a political subdivision of this state, regarding the sale or marketing of tobacco products, e-liquids, vapor products or alternative nicotine products. (Sec. 8)