

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

# SENATE BILL 1147

AN ACT

AMENDING SECTIONS 13-3622, 15-712, 36-798, 36-798.01, 36-798.02, 36-798.03 AND 36-798.05, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 6, ARTICLE 14, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 36-798.07, 36-798.08 AND 36-798.09; RELATING TO TOBACCO AND NICOTINE 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. Furnishing, illegally accepting or receiving or  
5 obtaining tobacco products, e-liquids, alternative  
6 nicotine products, vapor products or tobacco or  
7 shisha instruments or paraphernalia; underage  
8 persons; military personnel; classification;  
9 penalties; exceptions; definitions

10 A. A person who knowingly sells, gives or furnishes a tobacco  
11 product, AN E-LIQUID, a vapor product, AN ALTERNATIVE NICOTINE PRODUCT or  
12 any instrument or paraphernalia that is solely designed for the smoking or  
13 ingestion of tobacco, E-LIQUIDS, ALTERNATIVE NICOTINE PRODUCTS or shisha,  
14 including a hookah or waterpipe, to a ~~minor~~ PERSON WHO IS UNDER TWENTY-ONE  
15 YEARS OF AGE is guilty of a petty offense.

16 B. A ~~minor~~ PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE AND who  
17 buys, or has in ~~his~~ THE PERSON'S possession or knowingly accepts or  
18 receives from any OTHER person, a tobacco product, AN E-LIQUID, AN  
19 ALTERNATIVE NICOTINE PRODUCT, a vapor product or any instrument or  
20 paraphernalia that is solely designed for the smoking or ingestion of  
21 tobacco, E-LIQUIDS, ALTERNATIVE NICOTINE PRODUCTS or shisha, including a  
22 hookah or waterpipe, is ~~guilty of a petty offense~~ SUBJECT TO A CIVIL  
23 PENALTY OF NOT LESS THAN \$100 OR SHALL PERFORM NOT LESS THAN THIRTY HOURS  
24 OF COMMUNITY RESTITUTION, and if the offense involves any instrument or  
25 paraphernalia that is solely designed for the smoking or ingestion of  
26 tobacco, E-LIQUIDS, ALTERNATIVE NICOTINE PRODUCTS or shisha, ~~shall pay a~~  
27 ~~fine~~ THE PERSON IS SUBJECT TO A CIVIL PENALTY of not less than ~~one hundred~~  
28 ~~dollars~~ \$100 or SHALL perform not less than thirty hours of community  
29 restitution.

30 C. A ~~minor~~ PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE AND who  
31 misrepresents the ~~minor's~~ PERSON'S age OR MILITARY STATUS to any OTHER  
32 person by means of a written instrument of identification with the intent  
33 to induce the OTHER person to sell, give or furnish a tobacco product, AN  
34 E-LIQUID, AN ALTERNATIVE NICOTINE PRODUCT, a vapor product or any  
35 instrument or paraphernalia that is solely designed for the smoking or  
36 ingestion of tobacco, E-LIQUIDS, ALTERNATIVE NICOTINE PRODUCTS or shisha,  
37 including a hookah or waterpipe, in violation of subsection A or B of this  
38 section is guilty of a petty offense and, notwithstanding section 13-802,  
39 shall pay a fine of not more than ~~five hundred dollars~~ \$500.

40 D. This section does not apply to any of the following:

41 1. Cigars, cigarettes or cigarette papers, smoking or chewing  
42 tobacco or any instrument or paraphernalia that is solely designed for the  
43 smoking or ingestion of tobacco or shisha, including a hookah or  
44 waterpipe, if it is used or intended to be used in connection with a bona

1 fide practice of a religious belief and as an integral part of a religious  
2 or ceremonial exercise.

3 2. Any instrument or paraphernalia that is solely designed for the  
4 smoking or ingestion of tobacco, E-LIQUIDS, ALTERNATIVE NICOTINE PRODUCTS  
5 or shisha, including a hookah or waterpipe, that is given to or possessed  
6 by a ~~minor~~ PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE if the instrument  
7 or paraphernalia was a gift or souvenir and is not used or intended to be  
8 used by the ~~minor~~ PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE to smoke or  
9 ingest tobacco, E-LIQUIDS, ALTERNATIVE NICOTINE PRODUCTS or shisha.

10 E. SUBSECTIONS A AND B OF THIS SECTION DO NOT APPLY TO A PERSON WHO  
11 POSSESSES, BUYS OR RECEIVES OR WHO SELLS, GIVES OR FURNISHES A TOBACCO  
12 PRODUCT, E-LIQUID, ALTERNATIVE NICOTINE PRODUCT OR VAPOR PRODUCT TO  
13 EITHER:

14 1. A MEMBER OR FORMER MEMBER OF THE ARMED FORCES OF THE UNITED  
15 STATES WHO IS AT LEAST EIGHTEEN YEARS OF AGE AND WHO PRESENTS AN  
16 IDENTIFICATION CARD ISSUED BY THE ARMED FORCES OF THE UNITED STATES AS  
17 PROOF OF AGE.

18 2. A PERSON WHO IS AT LEAST EIGHTEEN YEARS OF AGE ON OCTOBER 1,  
19 2019.

20 ~~F.~~ F. For the purposes of this section:

21 1. "ALTERNATIVE NICOTINE PRODUCT":

22 (a) MEANS ANY NONCOMBUSTIBLE PRODUCT THAT CONTAINS NICOTINE AND  
23 THAT IS INTENDED FOR HUMAN CONSUMPTION, WHETHER CHEWED, ABSORBED,  
24 DISSOLVED, INGESTED OR CONSUMED BY ANY OTHER MEANS.

25 (b) DOES NOT INCLUDE ANY E-LIQUID, VAPOR PRODUCT, TOBACCO PRODUCT  
26 OR SHISHA OR ANY PRODUCT REGULATED AS A DRUG OR DEVICE BY THE UNITED  
27 STATES FOOD AND DRUG ADMINISTRATION UNDER SUBCHAPTER V OF THE FEDERAL  
28 FOOD, DRUG, AND COSMETIC ACT.

29 2. "E-LIQUID" MEANS A SUBSTANCE THAT MEETS ALL OF THE FOLLOWING:

30 (a) MAY OR MAY NOT CONTAIN NICOTINE.

31 (b) DOES NOT CONTAIN CANNABIDIOL OR CANNABIS.

32 (c) IS INTENDED TO BE VAPORIZED AND INHALED USING A VAPOR PRODUCT.

33 ~~F.~~ 3. "Shisha" includes any mixture of tobacco leaf and honey,  
34 molasses or dried fruit or any other sweetener.

35 ~~F.~~ 4. "Tobacco product" means any of the following:

36 (a) Cigars.

37 (b) Cigarettes.

38 (c) Cigarette papers of any kind.

39 (d) Smoking tobacco of any kind.

40 (e) Chewing tobacco of any kind.

41 ~~F.~~ 5. "Vapor product":

42 (a) Means ~~a noncombustible tobacco-derived product containing~~  
43 ~~nicotine that employs a mechanical heating element, battery or circuit,~~  
44 ~~regardless of shape or size, that can be used to heat a liquid nicotine~~  
45 ~~solution contained in cartridges.~~ Vapor product EITHER:

1 (i) A POWERED VAPORIZER THAT EMPLOYS A MECHANICAL HEATING ELEMENT,  
2 BATTERY OR CIRCUIT, REGARDLESS OF SHAPE OR SIZE, AND THAT CONVERTS AN  
3 E-LIQUID TO A VAPOR INTENDED FOR INHALATION.

4 (ii) A NONCOMBUSTIBLE PRODUCT THAT EMPLOYS A HEATING ELEMENT, POWER  
5 SOURCE, ELECTRONIC CIRCUIT OR OTHER ELECTRONIC, CHEMICAL OR MECHANICAL  
6 MEANS, REGARDLESS OF SHAPE OR SIZE, AND THAT CAN BE USED TO PRODUCE VAPOR  
7 FROM AN E-LIQUID.

8 (b) Does not include any product that is regulated by the United  
9 States food and drug administration under ~~chapter~~ SUBCHAPTER V of the  
10 federal food, drug, and cosmetic act.

11 Sec. 2. Section 15-712, Arizona Revised Statutes, is amended to  
12 read:

13 15-712. Instruction on alcohol, tobacco, e-liquids,  
14 alternative nicotine products, vapor products,  
15 narcotic drugs, marijuana, date rape drugs and  
16 other dangerous drugs; chemical abuse prevention  
17 programs; definitions

18 A. Instruction on the nature and harmful effects of alcohol,  
19 tobacco, E-LIQUIDS, ALTERNATIVE NICOTINE PRODUCTS, VAPOR PRODUCTS,  
20 narcotic drugs, marijuana, date rape drugs and other dangerous drugs on  
21 the human system and instruction on the laws related to the control of  
22 these substances and the nonuse and prevention of use and abuse of  
23 alcohol, tobacco, E-LIQUIDS, ALTERNATIVE NICOTINE PRODUCTS, VAPOR  
24 PRODUCTS, narcotic drugs, marijuana, date rape drugs and other dangerous  
25 drugs may be included in the courses of study in common and high schools,  
26 with emphasis on grades four through nine. Instruction on the nature and  
27 harmful effects of alcohol, tobacco, E-LIQUIDS, ALTERNATIVE NICOTINE  
28 PRODUCTS, VAPOR PRODUCTS, narcotic drugs, marijuana, date rape drugs and  
29 other dangerous drugs on a human fetus may be included in the courses of  
30 study in grades six through twelve. The instruction may be integrated  
31 into existing health, science, citizenship or similar studies and shall  
32 meet the criteria for chemical abuse prevention education programs  
33 developed pursuant to ~~subsection C of~~ this section.

34 B. At the request of a school district, the department of education  
35 shall provide technical assistance to school districts that choose to  
36 implement programs to prevent chemical abuse.

37 C. The department of education and the department of health  
38 services, ~~in consultation with the committee established pursuant to~~  
39 ~~section 41-617,~~ shall establish an interagency committee to coordinate  
40 their assistance to school districts.

41 D. The state board of education may accept gifts and grants and  
42 shall distribute them and monies appropriated for chemical abuse  
43 prevention programs to school districts to assist with the costs of  
44 programs designed to prevent chemical abuse by pupils in kindergarten  
45 programs and grades one through twelve. School districts ~~which~~ THAT have

1 approved chemical abuse prevention policies and procedures as prescribed  
2 in section 15-345 are eligible for a maximum of ~~one dollar~~ \$1 for each  
3 pupil or ~~one thousand dollars~~ \$1,000, whichever is more. If sufficient  
4 monies are not available to meet all requests, the state board shall  
5 determine which school districts to fund based on need, availability of  
6 other programs or sources of revenue and the likelihood of the school  
7 district's proposed program successfully meeting needs identified by the  
8 school district. A school district shall include the monies it receives  
9 for chemical abuse prevention programs under this section in the special  
10 projects section of the budget as provided in section 15-903,  
11 subsection F.

12 E. For the purpose of this section:

13 1. "ALTERNATIVE NICOTINE PRODUCT" HAS THE SAME MEANING PRESCRIBED  
14 IN SECTION 36-798.

15 2. "DANGEROUS DRUG" HAS THE SAME MEANING PRESCRIBED IN SECTION  
16 13-3401.

17 ~~1.~~ 3. "Date rape drug" means a drug ~~prescribed~~ LISTED in section  
18 13-3401, paragraph 30, subdivisions (f) through (m).

19 4. "E-LIQUID" HAS THE SAME MEANING PRESCRIBED IN SECTION 36-798.

20 5. "MARIJUANA" HAS THE SAME MEANING PRESCRIBED IN SECTION 13-3401.

21 ~~2.~~ 6. "Narcotic drug", ~~"marijuana" and "dangerous drug"~~ have HAS  
22 the same meaning prescribed in section 13-3401.

23 7. "VAPOR PRODUCT":

24 (a) MEANS EITHER:

25 (i) A POWERED VAPORIZER THAT EMPLOYS A MECHANICAL HEATING ELEMENT,  
26 BATTERY OR CIRCUIT, REGARDLESS OF SHAPE OR SIZE, AND THAT CONVERTS AN  
27 E-LIQUID TO A VAPOR INTENDED FOR INHALATION.

28 (ii) A NONCOMBUSTIBLE PRODUCT THAT EMPLOYS A HEATING ELEMENT, POWER  
29 SOURCE, ELECTRONIC CIRCUIT OR OTHER ELECTRONIC, CHEMICAL OR MECHANICAL  
30 MEANS, REGARDLESS OF SHAPE OR SIZE, AND THAT CAN BE USED TO PRODUCE VAPOR  
31 FROM AN E-LIQUID.

32 (b) DOES NOT INCLUDE ANY PRODUCT THAT IS REGULATED BY THE UNITED  
33 STATES FOOD AND DRUG ADMINISTRATION UNDER SUBCHAPTER V OF THE FEDERAL  
34 FOOD, DRUG, AND COSMETIC ACT.

35 Sec. 3. Section 36-798, Arizona Revised Statutes, is amended to  
36 read:

37 36-798. Definitions

38 In this article, unless the context otherwise requires:

39 1. "ALTERNATIVE NICOTINE PRODUCT":

40 (a) MEANS ANY NONCOMBUSTIBLE PRODUCT THAT CONTAINS NICOTINE AND  
41 THAT IS INTENDED FOR HUMAN CONSUMPTION, WHETHER CHEWED, ABSORBED,  
42 DISSOLVED, INGESTED OR CONSUMED BY ANY OTHER MEANS.

43 (b) DOES NOT INCLUDE ANY E-LIQUID, VAPOR PRODUCT, TOBACCO PRODUCT  
44 OR SHISHA OR ANY PRODUCT REGULATED AS A DRUG OR DEVICE BY THE UNITED

1 STATES FOOD AND DRUG ADMINISTRATION UNDER SUBCHAPTER V OF THE FOOD, DRUG,  
2 AND COSMETIC ACT.

3 ~~1.~~ 2. "Bar" means that portion of any premises licensed under  
4 section 4-209, subsection B, paragraph 6, 7, 11, 12 or 14 that is  
5 primarily used for ~~the~~ selling, ~~consumption~~ CONSUMING or serving ~~of~~  
6 alcoholic beverages and that is not primarily used for ~~the consumption of~~  
7 CONSUMING food on the premises.

8 ~~2.~~ 3. "Beedies" or "bidis" means a product containing tobacco that  
9 is wrapped in temburni leaf (diospyros melanoxylon) or tendu leaf  
10 (diospyros exculpra), or any other product that is offered to, or  
11 purchased by, consumers as beedies or bidis.

12 ~~3.~~ 4. "Cigar" means a roll of tobacco or any lawful substitute for  
13 tobacco that is wrapped in tobacco.

14 ~~4.~~ 5. "Cigarette" means a roll of tobacco or any lawful substitute  
15 for tobacco that is wrapped in paper or in any substance other than  
16 tobacco.

17 ~~5. "Minor" means a person who is under eighteen years of age.~~

18 6. "DELIVERY SALE"

19 (a) MEANS A SALE, WHETHER FROM A PERSON IN THIS STATE OR OUTSIDE OF  
20 THIS STATE, OF AN E-LIQUID, VAPOR PRODUCT OR ALTERNATIVE NICOTINE PRODUCT  
21 TO A PURCHASER IN THIS STATE IN WHICH THE PURCHASER SUBMITS THE ORDER FOR  
22 THE SALE THROUGH ONE OF THE FOLLOWING METHODS AND AFTER WHICH THE  
23 E-LIQUID, VAPOR PRODUCT OR ALTERNATIVE NICOTINE PRODUCT IS SHIPPED THROUGH  
24 A DELIVERY SERVICE:

25 (i) BY TELEPHONE.

26 (ii) OVER THE INTERNET.

27 (iii) THROUGH THE MAIL OR ANOTHER DELIVERY SYSTEM.

28 (b) DOES NOT INCLUDE A SALE TO A MANUFACTURER, DISTRIBUTOR OR  
29 RETAILER OF AN E-LIQUID, VAPOR PRODUCT OR ALTERNATIVE NICOTINE PRODUCT  
30 THAT IS NOT FOR PERSONAL CONSUMPTION.

31 7. "DELIVERY SERVICE" MEANS A PERSON, INCLUDING THE UNITED STATES  
32 POSTAL SERVICE, THAT IS ENGAGED IN DELIVERING LETTERS, PACKAGES OR  
33 CONTAINERS.

34 8. "E-LIQUID" MEANS A SUBSTANCE THAT MEETS ALL OF THE FOLLOWING:

35 (a) MAY OR MAY NOT CONTAIN NICOTINE.

36 (b) DOES NOT CONTAIN CANNABIDIOL OR CANNABIS.

37 (c) IS INTENDED TO BE VAPORIZED AND INHALED USING A VAPOR PRODUCT.

38 9. "HUMIDOR" MEANS A HUMIDITY-CONTROLLED ROOM OR CABINET USED FOR  
39 STORING CIGARS OR PIPE TOBACCO.

40 10. "RETAILER" MEANS A PERSON, OTHER THAN A MANUFACTURER OR  
41 DISTRIBUTOR, THAT IN THE ORDINARY COURSE OF THE PERSON'S REGULAR TRADE OR  
42 BUSINESS:

43 (a) ACQUIRES ANY FORM OF AN E-LIQUID, VAPOR PRODUCT OR ALTERNATIVE  
44 NICOTINE PRODUCT FOR THE PURPOSE OF RESALE TO A CONSUMER.

1 (b) TRANSFERS AN E-LIQUID, VAPOR PRODUCT OR ALTERNATIVE NICOTINE  
2 PRODUCT TO A CONSUMER FOR MONIES OR OTHER CONSIDERATION.

3 ~~6-~~ 11. "Retail tobacco vendor" means a person ~~who~~ THAT possesses  
4 tobacco or tobacco products for the purpose of selling them for  
5 consumption and not for resale.

6 ~~7-~~ 12. "Smokeless tobacco" includes shredded tobacco, snuff,  
7 cavendish and plug, twist and other tobacco products that are intended for  
8 oral use but not for smoking.

9 ~~8-~~ 13. "Smoking tobacco" includes any tobacco or tobacco product,  
10 other than cigarettes and cigars, that is intended to be smoked.

11 ~~9-~~ 14. "Tobacco products" includes cigarettes, cigarette papers,  
12 cigars, smokeless tobacco and smoking tobacco.

13 15. "VAPOR PRODUCT":

14 (a) MEANS EITHER:

15 (i) A POWERED VAPORIZER THAT EMPLOYS A MECHANICAL HEATING ELEMENT,  
16 BATTERY OR CIRCUIT, REGARDLESS OF SHAPE OR SIZE, AND THAT CONVERTS AN  
17 E-LIQUID TO A VAPOR INTENDED FOR INHALATION.

18 (ii) A NONCOMBUSTIBLE PRODUCT THAT EMPLOYS A HEATING ELEMENT, POWER  
19 SOURCE, ELECTRONIC CIRCUIT OR OTHER ELECTRONIC, CHEMICAL OR MECHANICAL  
20 MEANS, REGARDLESS OF SHAPE OR SIZE, AND THAT CAN BE USED TO PRODUCE VAPOR  
21 FROM AN E-LIQUID.

22 (b) DOES NOT INCLUDE ANY PRODUCT THAT IS REGULATED BY THE UNITED  
23 STATES FOOD AND DRUG ADMINISTRATION UNDER SUBCHAPTER V OF THE FEDERAL  
24 FOOD, DRUG, AND COSMETIC ACT.

25 ~~10-~~ 16. "Vending machine" means any mechanical, electrical or  
26 electronic device that, on insertion of money, tokens or any other form of  
27 payment, automatically dispenses tobacco products.

28 Sec. 4. Section 36-798.01, Arizona Revised Statutes, is amended to  
29 read:

30 36-798.01. Selling or giving beedies or bidis; violation;  
31 classification

32 A. It is unlawful for a retail tobacco vendor to sell, furnish,  
33 give or provide beedies or bidis to a ~~minor~~ PERSON WHO IS UNDER TWENTY-ONE  
34 YEARS OF AGE in this state.

35 B. Any person who violates this section is guilty of a class 3  
36 misdemeanor.

37 Sec. 5. Section 36-798.02, Arizona Revised Statutes, is amended to  
38 read:

39 36-798.02. Vending machine sales of tobacco and tobacco  
40 products; signage; violation; classification

41 A. EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, a person  
42 shall not sell OR DISTRIBUTE tobacco products, ~~through a vending machine~~  
43 ~~unless the vending machine is located in~~ E-LIQUIDS, VAPOR PRODUCTS OR  
44 ALTERNATIVE NICOTINE PRODUCTS either:

1 1. AT A RETAIL ESTABLISHMENT IN THIS STATE BY ANY MEANS OTHER THAN  
2 VENDOR-ASSISTED SALES IN WHICH THE CUSTOMER HAS NO DIRECT ACCESS TO THE  
3 PRODUCT EXCEPT THROUGH THE ASSISTANCE OF THE SELLER.

4 2. FROM SELF-SERVICE DISPLAYS OR VENDING MACHINES.

5 B. SUBSECTION A OF THIS SECTION DOES NOT APPLY TO:

6 1. RETAIL ESTABLISHMENTS IF PERSONS WHO ARE UNDER TWENTY-ONE YEARS  
7 OF AGE ARE NOT ALLOWED IN THE ESTABLISHMENT AND THE PROHIBITION IS POSTED  
8 CLEARLY ON ALL ENTRANCES.

9 2. SALES AUTHORIZED UNDER SECTIONS 36-798.06 AND 36-798.07.

10 3. A RETAIL TOBACCO STORE AS DEFINED IN SECTION 36-601.01.

11 4. A SELF-SERVICE HUMIDOR.

12 ~~1.~~ 5. ~~A bar~~ BARS.

13 ~~2.~~ 6. ~~An~~ Employee lounge ~~area~~ AREAS that ~~is~~ ARE not open to the  
14 public ~~and~~ IF the business in which the lounge area is located does not  
15 employ ~~minors~~ PERSONS WHO ARE UNDER TWENTY-ONE YEARS OF AGE.

16 ~~B.~~ C. A sign measuring at least eighty square inches shall be  
17 obviously affixed to the front of each vending machine. The sign shall  
18 state in block letters, ~~THAT~~ it is illegal for a ~~minor~~ PERSON WHO IS  
19 UNDER TWENTY-ONE YEARS OF AGE to purchase cigarettes, ~~or~~ tobacco products,  
20 E-LIQUIDS, VAPOR PRODUCTS OR ALTERNATIVE NICOTINE PRODUCTS and, ~~upon~~ ON  
21 conviction, a fine of up to ~~three hundred dollars~~ \$300 may be imposed.

22 ~~C.~~ D. This article does not invalidate an ordinance of or prohibit  
23 the adoption of an ordinance by a county, city or town to further restrict  
24 the location of vending machines or specify different wording for the  
25 vending ~~machines~~ MACHINE signs as required by subsection ~~B~~ C of this  
26 section.

27 ~~D.~~ E. A person who violates this section is guilty of a petty  
28 offense.

29 Sec. 6. Section 36-798.03, Arizona Revised Statutes, is amended to  
30 read:

31 36-798.03. Tobacco products, e-liquids, vapor products and  
32 alternative nicotine products; prohibition at  
33 schools and school-related areas; exception;  
34 violation; classification

35 A. THE USE AND POSSESSION OF tobacco products, E-LIQUIDS, VAPOR  
36 PRODUCTS AND ALTERNATIVE NICOTINE PRODUCTS are prohibited on school  
37 grounds, inside school buildings, in school parking lots or playing  
38 fields, in school buses or vehicles or at off-campus school sponsored  
39 events. For THE purposes of this subsection, "school" means any public,  
40 charter or private school where children attend classes in kindergarten  
41 programs or grades one through twelve.

42 B. Subsection A of this section does not apply to ~~an adult~~ A PERSON  
43 WHO IS TWENTY-ONE YEARS OF AGE OR OLDER AND who employs tobacco products,  
44 E-LIQUIDS, VAPOR PRODUCTS OR ALTERNATIVE NICOTINE PRODUCTS as a necessary  
45 component of a ~~school-sanctioned~~ SCHOOL-SANCTIONED tobacco, E-LIQUID,



1 VAPOR PRODUCT OR ALTERNATIVE NICOTINE PRODUCT prevention or cessation  
2 program established pursuant to section 15-712.

3 C. A person who violates this section is guilty of a petty offense.

4 Sec. 7. Section 36-798.05, Arizona Revised Statutes, is amended to  
5 read:

6 36-798.05. Unsolicited delivery of tobacco products;  
7 violation; classification; civil penalties;  
8 definitions

9 A. It is unlawful for a person to deliver or cause to be delivered  
10 to any residence in this state any tobacco products unsolicited by at  
11 least one ~~adult~~ PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER AND who  
12 resides at that address.

13 B. A person who knowingly violates subsection A of this section is  
14 guilty of a class 2 misdemeanor.

15 C. A person who violates subsection A of this section is subject to  
16 a civil penalty in an amount of not to exceed ~~five thousand dollars~~ \$5,000  
17 for each violation. Each delivery of a tobacco product ~~shall constitute~~  
18 CONSTITUTES a separate violation.

19 D. The attorney general may bring an action to recover civil  
20 penalties and as determined by the court, taxable costs, such other fees  
21 and expenses reasonably incurred and reasonable attorney fees, in the name  
22 of the state for a violation of this section. All civil penalties  
23 recovered shall be deposited, pursuant to sections 35-146 and 35-147, in  
24 the state general fund and all other monies recovered shall be deposited,  
25 pursuant to sections 35-146 and 35-147, in the antitrust enforcement  
26 revolving fund established by section 41-191.02.

27 E. ~~in~~ FOR THE PURPOSES OF this section, ~~unless the context~~  
28 ~~otherwise requires:~~

29 1. "Knowingly" has the same meaning prescribed in section 13-105.

30 2. "Person" means an individual, partnership, firm, association,  
31 corporation, limited liability company, limited liability partnership,  
32 joint venture, or other entity, other than an individual or entity engaged  
33 in the delivery of items for hire.

34 Sec. 8. Title 36, chapter 6, article 14, Arizona Revised Statutes,  
35 is amended by adding sections 36-798.07, 36-798.08 and 36-798.09, to read:

36 36-798.07. Delivery sales of e-liquids, vapor products and  
37 alternative nicotine products; requirements;  
38 violation; classification; civil penalty

39 A. A PERSON MAY NOT MAKE A DELIVERY SALE OF AN E-LIQUID, VAPOR  
40 PRODUCT OR ALTERNATIVE NICOTINE PRODUCT TO A PERSON WHO IS UNDER  
41 TWENTY-ONE YEARS OF AGE.

42 B. A PERSON MAY NOT MAIL, SHIP OR OTHERWISE CAUSE TO BE DELIVERED  
43 ANY E-LIQUID, VAPOR PRODUCT OR ALTERNATIVE NICOTINE PRODUCT IN CONNECTION  
44 WITH A DELIVERY SALE UNLESS, BEFORE THE SALE TO THE PURCHASER, BOTH OF THE  
45 FOLLOWING OCCUR:



1           36-798.09. State preemption  
2           A. THE REGULATION OF THE SALE AND MARKETING OF TOBACCO PRODUCTS,  
3 E-LIQUIDS, VAPOR PRODUCTS AND ALTERNATIVE NICOTINE PRODUCTS IS A MATTER OF  
4 STATEWIDE CONCERN AND IS NOT SUBJECT TO FURTHER REGULATION BY A CITY, TOWN  
5 OR COUNTY IN THIS STATE, EXCEPT AS PROVIDED IN SUBSECTION B OF THIS  
6 SECTION. THIS ARTICLE PREEMPTS ANY RULE, REGULATION, CODE OR ORDINANCE  
7 ADOPTED OR MODIFIED TO BE MORE RESTRICTIVE AFTER MAY 1, 2019 BY ANY CITY,  
8 TOWN OR COUNTY IN THIS STATE REGARDING THE SALE OR MARKETING OF TOBACCO  
9 PRODUCTS, E-LIQUIDS, VAPOR PRODUCTS OR ALTERNATIVE NICOTINE PRODUCTS.  
10          B. THIS SECTION DOES NOT PROHIBIT:  
11          1. A CITY, TOWN, COUNTY, SCHOOL DISTRICT, CHARTER SCHOOL OR STADIUM  
12 DISTRICT FROM REGULATING THE SALE, MARKETING OR USE OF TOBACCO PRODUCTS,  
13 E-LIQUIDS, VAPOR PRODUCTS AND ALTERNATIVE NICOTINE PRODUCTS ON PROPERTY  
14 THAT IS OWNED, LEASED OR OPERATED BY THE CITY, TOWN, COUNTY, SCHOOL  
15 DISTRICT, CHARTER SCHOOL OR STADIUM DISTRICT IN THIS STATE.  
16          2. A CITY, TOWN OR COUNTY FROM IMPOSING ZONING REQUIREMENTS  
17 RELATING TO THE LOCATION OF RETAIL STORES SELLING TOBACCO PRODUCTS,  
18 E-LIQUIDS, VAPOR PRODUCTS AND ALTERNATIVE NICOTINE PRODUCTS.  
19          Sec. 9. Retroactivity  
20          Section 36-798.09, Arizona Revised Statutes, as added by this act,  
21 applies retroactively to from and after April 30, 2019.