

REFERENCE TITLE: smoking devices; tax; medical research

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

## **SB 1527**

Introduced by  
Senators Carter: Brophy McGee

AN ACT

AMENDING SECTIONS 36-773, 42-3001, 42-3051 AND 42-3052, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 3, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-3105; RELATING TO LUXURY TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 36-773, Arizona Revised Statutes, is amended to  
3 read:

4 36-773. Health research account

5 A. Five cents of each dollar in the tobacco tax and health care  
6 fund **AND MONIES APPROPRIATED PURSUANT TO SECTION 42-3105** shall be  
7 deposited in the health research account for research on preventing and  
8 treating tobacco-related disease and addiction **AND ALZHEIMER'S DISEASE**.

9 B. The department of health services shall administer the account.  
10 **THE DEPARTMENT SHALL DISTRIBUTE THE FIRST \$5,000,000 DEPOSITED IN THE**  
11 **ACCOUNT EACH YEAR TO A STATEWIDE ALZHEIMER'S DISEASE RESEARCH CONSORTIUM**  
12 **THAT INCLUDES PUBLIC AND PRIVATE PARTICIPATING INSTITUTIONS FOR**  
13 **ALZHEIMER'S DISEASE RESEARCH.**

14 C. Monies that are deposited in the health research account shall  
15 only be used to supplement monies that are appropriated by the legislature  
16 for health research purposes and shall not be used to supplant those  
17 appropriated monies.

18 Sec. 2. Section 42-3001, Arizona Revised Statutes, is amended to  
19 read:

20 42-3001. Definitions

21 In this chapter, unless the context otherwise requires:

22 1. "Affix" and "affixed" include imprinting tax meter stamps on  
23 packages and individual containers as authorized by the department.

24 2. "Brand family" has the same meaning prescribed in section  
25 44-7111.

26 3. "Cider" means vinous liquor that is made from the normal  
27 alcoholic fermentation of the juice of sound, ripe apples, pears or other  
28 pome fruit, including flavored, sparkling and carbonated cider and cider  
29 made from condensed apple, pear or other pome fruit must, and that  
30 contains more than one-half of one percent of alcohol by volume but not  
31 more than seven percent of alcohol by volume.

32 4. "Cigar" means any roll of tobacco wrapped in leaf tobacco or in  
33 any substance containing tobacco other than any roll of tobacco that is a  
34 cigarette, as defined in paragraph 5, subdivision (b) of this section.

35 5. "Cigarette" means either of the following:

36 (a) Any roll of tobacco wrapped in paper or any substance not  
37 containing tobacco.

38 (b) Any roll of tobacco wrapped in any substance containing tobacco  
39 that, because of its appearance, the type of tobacco used in the filler or  
40 its packaging and labeling, is likely to be offered to or purchased by a  
41 consumer as a cigarette described in subdivision (a) of this paragraph.  
42 This subdivision shall be interpreted consistently with the classification  
43 guidelines established by the federal alcohol and tobacco tax and trade  
44 bureau.

1           6. "Consumer" means a person in this state that comes into  
2 possession of any luxury subject to the tax imposed by this chapter and  
3 that, on coming into possession of the luxury, is not a distributor  
4 intending to sell or distribute the luxury, retailer or wholesaler.

5           7. "Craft distiller" means a distiller in the United States or in a  
6 territory or possession of the United States that holds a license pursuant  
7 to section 4-205.10.

8           8. "Distributor" means any person that manufactures, produces,  
9 ships, transports or imports into this state or in any manner acquires or  
10 possesses for the purpose of making the first sale of the following:

11           (a) Cigarettes without Arizona tax stamps affixed as required by  
12 this article.

13           (b) Roll-your-own tobacco or other tobacco products on which the  
14 taxes have not been paid as required by this chapter.

15           9. "ELECTRONIC SMOKING DEVICE":

16           (a) MEANS ANY DEVICE THAT CAN BE USED TO DELIVER AEROSOLIZED OR  
17 VAPORIZED NICOTINE TO AN INDIVIDUAL INHALING FROM THE DEVICE, INCLUDING AN  
18 E-CIGARETTE, E-CIGAR, E-PIPE, VAPE PEN OR E-HOOKAH.

19           (b) INCLUDES:

20           (i) ANY COMPONENT, PART OR ACCESSORY OF THE DEVICE, WHETHER OR NOT  
21 SOLD SEPARATELY.

22           (ii) ANY SUBSTANCE INTENDED TO BE AEROSOLIZED OR VAPORIZED DURING  
23 THE USE OF THE DEVICE.

24           (c) DOES NOT INCLUDE:

25           (i) ANY BATTERY OR BATTERY CHARGER THAT IS SOLD SEPARATELY.

26           (ii) ANY DRUGS, DEVICES OR COMBINATION PRODUCTS THAT ARE AUTHORIZED  
27 FOR SALE BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION. FOR THE  
28 PURPOSES OF THIS ITEM, "DEVICE" AND "DRUG" HAVE THE SAME MEANINGS  
29 PRESCRIBED IN THE FEDERAL FOOD, DRUG, AND COSMETIC ACT (21 UNITED STATES  
30 CODE SECTION 321) AND "COMBINATION PRODUCT" MEANS A COMBINATION PRODUCT  
31 DESCRIBED IN THE FEDERAL FOOD, DRUG, AND COSMETIC ACT (21 UNITED STATES  
32 CODE SECTION 353(g)).

33           ~~9.~~ 10. "Farm winery" has the same meaning prescribed in section  
34 4-101.

35           ~~10.~~ 11. "First sale" means the initial sale or distribution in  
36 intrastate commerce or the initial use or consumption of cigarettes,  
37 roll-your-own tobacco or other tobacco products.

38           ~~11.~~ 12. "Luxury" means any article, object or device on which a  
39 tax is imposed under this chapter.

40           ~~12.~~ 13. "Malt liquor" means any liquid that contains more than  
41 one-half of one percent alcohol by volume and that is made by the process  
42 of fermentation and not distillation of hops or grains, but not including:

43           (a) Liquids made by the process of distillation of such substances.

44           (b) Medicines that are unsuitable for beverage purposes.

1           ~~13.~~ 14. "Master settlement agreement" has the same meaning  
2 prescribed in section 44-7101.  
3           ~~14.~~ 15. "Microbrewery" has the same meaning prescribed in section  
4 4-101.  
5           ~~15.~~ 16. "Nonparticipating manufacturer" has the same meaning  
6 prescribed in section 44-7111.  
7           ~~16.~~ 17. "Other tobacco products" means tobacco products other than  
8 cigarettes and roll-your-own tobacco.  
9           ~~17.~~ 18. "Participating manufacturer" has the same meaning  
10 prescribed in section 44-7111.  
11           ~~18.~~ 19. "Person" means any individual, firm, partnership, joint  
12 venture, association, corporation, municipal corporation, estate, trust,  
13 club, society or other group or combination acting as a unit, and the  
14 plural as well as the singular number.  
15           ~~19.~~ 20. "Place of business" means a building, facility site or  
16 location where an order is received or where tobacco products are sold,  
17 distributed or transferred. Place of business does not include a vehicle.  
18           ~~20.~~ 21. "Retailer" means any person that comes into possession of  
19 any luxury subject to the taxes imposed by this chapter for the purpose of  
20 selling it for consumption and not for resale.  
21           ~~21.~~ 22. "Roll-your-own tobacco" means any tobacco that, because of  
22 its appearance, type, packaging or labeling, is suitable for use and  
23 likely to be offered to or purchased by consumers as tobacco for making  
24 cigarettes. This paragraph shall be interpreted consistently with the  
25 term as used in section 44-7101. This paragraph shall be interpreted  
26 consistently with the classification guidelines established by the federal  
27 alcohol and tobacco tax and trade bureau.  
28           ~~22.~~ 23. "Smoking tobacco" means any tobacco that, because of its  
29 appearance, type, packaging, labeling or promotion, is suitable for use  
30 and likely to be offered to or purchased by consumers as tobacco for  
31 making cigarettes or otherwise consumed by burning. Smoking tobacco  
32 includes pipe tobacco and roll-your-own tobacco.  
33           ~~23.~~ 24. "Spirituous liquor" means any liquid that contains more  
34 than one-half of one percent alcohol by volume, that is produced by  
35 distillation of any fermented substance and that is used or prepared for  
36 use as a beverage. Spirituous liquor does not include medicines that are  
37 unsuitable for beverage purposes.  
38           ~~24.~~ 25. "Tobacco product manufacturer" has the same meaning  
39 prescribed in section 44-7101.  
40           ~~25.~~ 26. "Tobacco products" means all luxuries included in section  
41 42-3052, paragraphs 5 through 9.  
42           ~~26.~~ 27. "Vehicle" means a device in, on or by which a person or  
43 property is or may be transported or drawn on the roads of this state  
44 regardless of the means by which it is propelled or whether it runs on a  
45 track.

1           ~~27.~~ 28. "Vinous liquor" means any liquid that contains more than  
2 one-half of one percent alcohol by volume and that is made by the process  
3 of fermentation of grapes, berries, fruits, vegetables or other substances  
4 but does not include:

5           (a) Liquids in which hops or grains are used in the process of  
6 fermentation.

7           (b) Liquids made by the process of distillation of hops or grains.

8           (c) Medicines that are unsuitable for beverage purposes.

9           ~~28.~~ 29. "Wholesaler" means a person that sells any spirituous,  
10 vinous or malt liquor taxed under this chapter to retail dealers or for  
11 the purposes of resale only.

12           Sec. 3. Section 42-3051, Arizona Revised Statutes, is amended to  
13 read:

14           42-3051. Levy of tax

15           In addition to all other taxes there is levied and imposed and there  
16 shall be collected and deposited, pursuant to sections 35-146 and 35-147,  
17 in the manner provided by this chapter, taxes on all spirituous, vinous  
18 and malt liquors and on all ELECTRONIC SMOKING DEVICES, cigarettes,  
19 cigars, smoking tobacco, plug tobacco, snuff and other forms of tobacco,  
20 for use as may be prescribed by law.

21           Sec. 4. Section 42-3052, Arizona Revised Statutes, is amended to  
22 read:

23           42-3052. Classifications of luxuries; rates of tax;  
24 definition

25           The taxes under this chapter are imposed at the following rates:

26           1. On each sealed container of spirituous liquor at the rate of  
27 ~~three dollars~~ \$3 per gallon and at a proportionate rate for any lesser or  
28 greater quantity than one gallon.

29           2. On each container of vinous liquor, except cider, of which the  
30 alcoholic content is not greater than twenty-four ~~per cent~~ PERCENT by  
31 volume at the rate of ~~eighty-four cents~~ \$.84 per gallon and at a  
32 proportionate rate for any lesser or greater quantity than one gallon.

33           3. On each container of vinous liquor of which the alcoholic  
34 content is greater than twenty-four ~~per cent~~ PERCENT by volume, containing  
35 eight ounces or less, ~~twenty-five cents~~ \$.25, and for each eight ounces  
36 for containers containing more than eight ounces, ~~twenty-five cents~~ \$.25.

37           4. On each gallon of malt liquor or cider, ~~sixteen cents~~ \$.16, and  
38 at a proportionate rate for any lesser or greater quantity than one  
39 gallon.

40           5. On each cigarette, nine-tenths cent.

41           6. On smoking tobacco, snuff, fine cut chewing tobacco, cut and  
42 granulated tobacco, shorts and refuse of fine cut chewing tobacco, and  
43 refuse, scraps, clippings, cuttings and sweepings of tobacco, excluding  
44 tobacco powder or tobacco products used exclusively for agricultural or

1 horticultural purposes and unfit for human consumption, ~~two cents~~ \$.02 per  
2 ounce or major fraction of an ounce.

3 7. On all cavendish, plug or twist tobacco, one-half cent per ounce  
4 or fractional part of an ounce.

5 8. On each twenty small cigars or fractional part weighing not more  
6 than three pounds per thousand, ~~four cents~~ \$.04.

7 9. On cigars of all descriptions except those included in paragraph  
8 of this section, made of tobacco or any tobacco substitute:

9 (a) If manufactured to retail at not more than ~~five cents~~ \$.05  
10 each, ~~two cents~~ \$.02 on each three cigars.

11 (b) If manufactured to retail at more than ~~five cents~~ \$.05 each,  
12 ~~two cents~~ \$.02 on each cigar.

13 10. ON ELECTRONIC SMOKING DEVICES, FORTY-THREE PERCENT OF THE  
14 WHOLESALE COST OF THE PRODUCT.

15 Sec. 5. Title 42, chapter 3, article 3, Arizona Revised Statutes,  
16 is amended by adding section 42-3105, to read:

17 42-3105. Monies allocated to the health research account;  
18 exemption

19 A. THE MONIES COLLECTED PURSUANT TO SECTION 42-3052, PARAGRAPH 10  
20 ARE ALLOCATED AND APPROPRIATED ANNUALLY TO THE HEALTH RESEARCH ACCOUNT  
21 ESTABLISHED BY SECTION 36-773.

22 B. MONIES APPROPRIATED PURSUANT TO SUBSECTION A OF THIS SECTION ARE  
23 EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF  
24 APPROPRIATIONS.

25 Sec. 6. Requirements for enactment; two-thirds vote

26 Pursuant to article IX, section 22, Constitution of Arizona, this  
27 act is effective only on the affirmative vote of at least two-thirds of  
28 the members of each house of the legislature and is effective immediately  
29 on the signature of the governor or, if the governor vetoes this act, on  
30 the subsequent affirmative vote of at least three-fourths of the members  
31 of each house of the legislature.