



## ARIZONA STATE SENATE

### Fifty-Fifth Legislature, Second Regular Session

#### AMENDED FACT SHEET FOR H.B. 2505

procurement; information disclosure; bidders  
(NOW: tobacco; alternative nicotine; age; definitions)

#### Purpose

Effective January 1, 2023, raises, from 18 years old to 21 years old, the minimum legal age for tobacco, alternative nicotine and vapor products. Modifies statutes governing the furnishing and sale of tobacco products to include alternative nicotine and vapor products.

#### Background

For the purposes of the Arizona Criminal Code, *tobacco product* means cigars, cigarettes, cigarette papers, smoking tobacco and chewing tobacco. *Vapor product* means a noncombustible, tobacco-derived product containing nicotine that employs a mechanical heating element, battery or circuit, regardless of shape or size, that can be used to heat a liquid nicotine solution contained in cartridges.

A person is guilty of a petty offense if the person: 1) knowingly sells, gives or furnishes a tobacco product, vapor product or any instrument or paraphernalia designed for smoking or ingesting tobacco to a person who is under 18 years old (minor); or 2) is a minor who buys, possesses, knowingly receives or misrepresents their age by written identification to induce a person to sell, give or furnish a tobacco product, vapor product or any instrument or paraphernalia designed for smoking or ingesting tobacco. A minor who misrepresents their age by written identification must pay a fine of up to \$500 ([A.R.S. § 13-3622](#)). In 2019, the Federal Food, Drug and Cosmetic Act was amended to raise the federal minimum age for the sale of tobacco products from 18 years old to 21 years old ([Further Consolidated Appropriations Act, 2020](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

#### Provisions

##### *Regulation of Sales*

1. Raises, from 18 years old to 21 years old, the minimum legal age for tobacco, alternative nicotine and vapor products and beedies or bidis.
2. Removes the criteria that the violation be made knowingly for the petty offense classification of selling, giving or furnishing a tobacco or vapor product to an underaged person.

3. Applies Arizona Criminal Code penalties for the possession or furnishing of tobacco or vapor products to an underage person to the possession or furnishing of alternative nicotine products to an underage person.
4. Prohibits a person from selling or distributing tobacco, alternative nicotine or vapor products:
  - a) at a retail establishment by any means other than vendor-assisted sales in which the customer has no direct access to the product except through the assistance of the seller; or
  - b) from self-service displays or vending machines.
5. Exempts the following from the prohibition on sales other than vendor-assisted sales:
  - a) retail establishments in which underage persons are not allowed and the prohibition is posted clearly on all entrances; and
  - b) sales by delivery that are not prohibited by statute.
6. Requires the sign that must be affixed to the front of a vending machine to include in the required statement that it is illegal for a person under 21 years old to purchase alternative nicotine or vapor products.
7. Expands, to apply to alternative nicotine and vapor products, the prohibition on the unsolicited delivery of tobacco products.
8. Prohibits a retail tobacco vendor from selling, offering to sell, furnishing or giving tobacco, alternative nicotine or vapor products unless the retail tobacco vendor proximately displays a sign measuring at least 80 square inches that state in block letters that:
  - a) it is illegal for a person who is under 21 years old to purchase cigarettes or tobacco, alternative nicotine or vapor products; and
  - b) on conviction, a fine of at least \$300 may be imposed.
9. Prohibits a retail tobacco vendor from selling, offering to sell, furnishing or giving tobacco, alternative nicotine or vapor products to a person without first examining the person's government-issued photographic identification to establish that the person is at least 21 years old, if the person reasonably appears to be under 30 years old.

***Definitions***

10. Applies the Arizona Criminal Code definitions of *vapor product* and *shisha* to tobacco sale regulations.
11. Eliminates, from the definition of *vapor product*, the criteria that:
  - a) the product is tobacco-derived; and
  - b) the liquid nicotine solution that the vapor product is used to heat be contained in cartridges.
12. Defines *alternative nicotine product*:
  - a) as a noncombustible product that contains nicotine and is intended for human consumption, whether chewed, absorbed, dissolved, ingested or consumed by any other means; and
  - b) to exclude an e-liquid, vapor product, tobacco product, shisha or a product regulated by the Food and Drug Administration under subchapter V of the Federal Food, Drug and Cosmetic Act.

13. Defines *retail tobacco vendor* as a person, partnership, joint venture, society, club, trustee, true association, organization or corporation that owns, operates or manages any retail establishment physically located in Arizona that:
  - a) sells shisha, tobacco, alternative nicotine or vapor products; and
  - b) is in the business of selling, distributing or conveying the products to the public or a user of the product.
14. Excludes, from the definition of *retail tobacco vendor*:
  - a) a tobacco retail establishment's nonmanagement employees; and
  - b) a wholesaler of any tobacco, alternative nicotine or vapor product or shisha with respect to selling, distributing or conveying these products in business-to-business transactions.

***Miscellaneous***

15. Includes alternative nicotine and vapor products in the prohibition on tobacco products at school or school-related areas.
16. Allows school-sanctioned tobacco prevention and cessation programs to include instruction on alternative nicotine and vapor products.
17. Contains a severability clause.
18. Makes technical and conforming changes.
19. Becomes effective on January 1, 2023.

**Amendments Adopted by Committee**

- Adopted the strike-everything amendment.

**House Action**

GE	2/2/22	DP	13-0-0
3 <sup>rd</sup> Read	2/10/22		56-0-4

**Senate Action**

APPROP	3/29/22	DPA/SE	5-4-1
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Prepared by Senate Research

April 25, 2022

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