

REFERENCE TITLE: **electronic smoking devices; retail licensing**

State of Arizona
Senate
Fifty-sixth Legislature
First Regular Session
2023

SB 1678

Introduced by
Senators Epstein: Farnsworth, Wadsack

AN ACT

AMENDING SECTIONS 13-3622, 36-798, 36-798.01 AND 36-798.02, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 6, ARTICLE 14, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 36-798.07, 36-798.08, 36-798.09 AND 36-798.10; RELATING TO TOBACCO 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. Tobacco products; persons under the federal minimum
5 age; classification; exceptions; definitions

6 A. A person who ~~knowingly~~ sells, gives or furnishes a tobacco
7 product, ~~a vapor product or any instrument or paraphernalia that is solely~~
8 ~~designed for the smoking or ingestion of tobacco or shisha, including a~~
9 ~~hookah or waterpipe,~~ to a ~~minor is guilty of a petty offense~~ PERSON WHO IS
10 UNDER THE MINIMUM AGE OF SALE FOR TOBACCO PRODUCTS AS SET BY THE FEDERAL
11 FOOD, DRUG, AND COSMETIC ACT IS SUBJECT TO THE PENALTIES PRESCRIBED IN
12 SECTION 36-798.01.

13 ~~B. A minor who buys, or has in his possession or knowingly accepts~~
14 ~~or receives from any person, a tobacco product, a vapor product or any~~
15 ~~instrument or paraphernalia that is solely designed for the smoking or~~
16 ~~ingestion of tobacco or shisha, including a hookah or waterpipe, is guilty~~
17 ~~of a petty offense, and if the offense involves any instrument or~~
18 ~~paraphernalia that is solely designed for the smoking or ingestion of~~
19 ~~tobacco or shisha, shall pay a fine of not less than one hundred dollars~~
20 ~~or perform not less than thirty hours of community restitution.~~

21 ~~C. B. A minor~~ PERSON WHO IS UNDER THE MINIMUM AGE OF SALE FOR
22 TOBACCO PRODUCTS AS SET BY THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND
23 who misrepresents the ~~minor's~~ PERSON'S age to any OTHER person by means of
24 a written instrument of identification with the intent to induce the OTHER
25 person to sell, give or furnish a tobacco product, ~~a vapor product or any~~
26 ~~instrument or paraphernalia that is solely designed for the smoking or~~
27 ~~ingestion of tobacco or shisha, including a hookah or waterpipe, in~~
28 ~~violation of subsection A or B of this section~~ is guilty of a petty
29 offense and, notwithstanding section 13-802, shall pay a fine of not more
30 than ~~five hundred dollars~~ \$100.

31 ~~D. C. This section does not apply to any of the following:~~

32 ~~1. Cigars, cigarettes or cigarette papers, smoking or chewing~~ A
33 tobacco PRODUCT or any instrument or paraphernalia that is solely designed
34 for ~~the~~ smoking or ~~ingestion of~~ INGESTING tobacco or shisha, including a
35 hookah or waterpipe, if it is used or intended to be used in connection
36 with a bona fide practice of a religious belief and as an integral part of
37 a religious or ceremonial exercise.

38 ~~2. Any instrument or paraphernalia that is solely designed for the~~
39 ~~smoking or ingestion of tobacco or shisha, including a hookah or~~
40 ~~waterpipe, that is given to or possessed by a minor if the instrument or~~
41 ~~paraphernalia was a gift or souvenir and is not used or intended to be~~
42 ~~used by the minor to smoke or ingest tobacco or shisha.~~

1 ~~E.~~ D. For the purposes of this section:

2 1. "ELECTRONIC SMOKING DEVICE":

3 (a) MEANS ANY DEVICE THAT MAY BE USED TO DELIVER ANY AEROSOLIZED OR
4 VAPORIZED SUBSTANCE TO THE PERSON WHO INHALES FROM THE DEVICE, INCLUDING
5 AN E-CIGARETTE, E-CIGAR, E-PIPE, VAPE PEN OR E-HOOKAH.

6 (b) INCLUDES:

7 (i) ANY COMPONENT, PART OR ACCESSORY OF THE DEVICE.

8 (ii) ANY SUBSTANCE THAT IS INTENDED TO BE AEROSOLIZED OR VAPORIZED
9 DURING THE USE OF THE DEVICE, WHETHER OR NOT THE SUBSTANCE CONTAINS
10 NICOTINE.

11 (c) DOES NOT INCLUDE DRUGS, DEVICES OR COMBINATION PRODUCTS
12 AUTHORIZED FOR SALE BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION, AS
13 THOSE TERMS ARE DEFINED IN THE FEDERAL FOOD, DRUG, AND COSMETIC ACT OR THE
14 REGULATIONS ADOPTED PURSUANT TO THAT ACT.

15 ~~1.~~ 2. "Shisha" includes any mixture of tobacco leaf and honey,
16 molasses or dried fruit or any other sweetener.

17 ~~2.~~ 3. "Tobacco product":

18 (a) Means any of the following:

19 ~~(a) Cigars.~~

20 ~~(b) Cigarettes.~~

21 ~~(c) Cigarette papers of any kind.~~

22 ~~(d) Smoking tobacco of any kind.~~

23 ~~(e) Chewing tobacco of any kind.~~

24 ~~3. "Vapor product" means a noncombustible tobacco-derived product~~
25 ~~containing nicotine that employs a mechanical heating element, battery or~~
26 ~~circuit, regardless of shape or size, that can be used to heat a liquid~~
27 ~~nicotine solution contained in cartridges. Vapor product does not include~~
28 ~~any product that is regulated by the United States food and drug~~
29 ~~administration under chapter V of the federal food, drug and cosmetic act.~~

30 (i) A PRODUCT CONTAINING, MADE OF OR DERIVED FROM TOBACCO OR
31 NICOTINE THAT IS INTENDED FOR HUMAN CONSUMPTION OR IS LIKELY TO BE
32 CONSUMED, WHETHER INHALED, ABSORBED OR INGESTED BY ANY OTHER MEANS,
33 INCLUDING A CIGARETTE, A CIGAR, PIPE TOBACCO, SHISHA, BEEDIES, BIDIS,
34 CHEWING TOBACCO, SNUFF OR SNUS.

35 (ii) AN ELECTRONIC SMOKING DEVICE AND ANY SUBSTANCE THAT MAY BE
36 AEROSOLIZED OR VAPORIZED BY THE DEVICE, WHETHER OR NOT THE SUBSTANCE
37 CONTAINS NICOTINE.

38 (iii) A COMPONENT, PART OR ACCESSORY OF ANY PRODUCT, ELECTRONIC
39 SMOKING DEVICE OR SUBSTANCE THAT IS LISTED IN ITEM (i) OR (ii) OF THIS
40 SUBDIVISION, WHETHER OR NOT ANY OF THESE CONTAIN TOBACCO OR NICOTINE,
41 INCLUDING FILTERS, ROLLING PAPERS, BLUNT OR HEMP WRAPS AND PIPES.

42 (b) DOES NOT INCLUDE DRUGS, DEVICES OR COMBINATION PRODUCTS
43 AUTHORIZED FOR SALE BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION, AS
44 THOSE TERMS ARE DEFINED IN THE FEDERAL FOOD, DRUG, AND COSMETIC ACT OR THE
45 REGULATIONS ADOPTED PURSUANT TO THAT ACT.

Sec. 2. Section 36-798, Arizona Revised Statutes, is amended to read:

36-798. Definitions

In this article, unless the context otherwise requires:

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

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

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

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

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

5. "DEPARTMENT" MEANS THE DEPARTMENT OF HEALTH SERVICES.

6. "ELECTRONIC SMOKING DEVICE":

(a) MEANS ANY DEVICE THAT MAY BE USED TO DELIVER ANY AEROSOLIZED OR VAPORIZED SUBSTANCE TO THE PERSON WHO INHALES FROM THE DEVICE, INCLUDING AN E-CIGARETTE, E-CIGAR, E-PIPE, VAPE PEN OR E-HOOKAH.

(b) INCLUDES:

(i) ANY COMPONENT, PART OR ACCESSORY OF THE DEVICE.

(ii) ANY SUBSTANCE THAT IS INTENDED TO BE AEROSOLIZED OR VAPORIZED DURING THE USE OF THE DEVICE, WHETHER OR NOT THE SUBSTANCE CONTAINS NICOTINE.

(c) DOES NOT INCLUDE DRUGS, DEVICES OR COMBINATION PRODUCTS AUTHORIZED FOR SALE BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION, AS THOSE TERMS ARE DEFINED IN THE FEDERAL FOOD, DRUG, AND COSMETIC ACT OR THE REGULATIONS ADOPTED PURSUANT TO THAT ACT.

~~6.~~ 7. "Retail tobacco vendor":

(a) Means a person, ~~who possesses tobacco or tobacco products for the purpose of selling them for consumption and not for resale~~ PARTNERSHIP, JOINT VENTURE, SOCIETY, CLUB, TRUSTEE, TRUE ASSOCIATION, ORGANIZATION OR CORPORATION THAT OWNS, OPERATES OR MANAGES ANY TOBACCO RETAIL ESTABLISHMENT.

(b) DOES NOT INCLUDE THE NONMANAGEMENT EMPLOYEES OF ANY TOBACCO RETAIL ESTABLISHMENT.

8. "SELF-SERVICE DISPLAY":

(a) MEANS ANY DISPLAY FROM WHICH CUSTOMERS MAY SELECT A TOBACCO PRODUCT WITHOUT ASSISTANCE FROM THE RETAIL TOBACCO VENDOR OR THE RETAIL TOBACCO VENDOR'S REPRESENTATIVE, AGENT OR EMPLOYEE AND WITHOUT A DIRECT

PERSON-TO-PERSON TRANSFER BETWEEN THE PURCHASER AND THE RETAIL TOBACCO VENDOR OR RETAIL TOBACCO VENDOR'S REPRESENTATIVE, AGENT OR EMPLOYEE.

(b) INCLUDES A VENDING MACHINE.

~~7-~~ 9. "Smokeless tobacco" includes shredded tobacco, snuff, cavendish and plug, twist and other tobacco products that are intended for oral use but not for smoking.

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

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

(a) MEANS ANY OF THE FOLLOWING:

(i) A PRODUCT CONTAINING, MADE OF OR DERIVED FROM TOBACCO OR NICOTINE THAT IS INTENDED FOR HUMAN CONSUMPTION OR IS LIKELY TO BE CONSUMED, WHETHER INHALED, ABSORBED OR INGESTED BY ANY OTHER MEANS, INCLUDING A CIGARETTE, A CIGAR, PIPE TOBACCO, SHISHA, BEEDIES, BIDIS, CHEWING TOBACCO, SNUFF OR SNUS.

(ii) AN ELECTRONIC SMOKING DEVICE AND ANY SUBSTANCE THAT MAY BE AEROSOLIZED OR VAPORIZED BY THE DEVICE, WHETHER OR NOT THE SUBSTANCE CONTAINS NICOTINE.

(iii) A COMPONENT, PART OR ACCESSORY OF ANY PRODUCT, ELECTRONIC SMOKING DEVICE OR SUBSTANCE THAT IS LISTED IN ITEM (i) OR (ii) OF THIS SUBDIVISION, WHETHER OR NOT ANY OF THESE CONTAIN TOBACCO OR NICOTINE, INCLUDING FILTERS, ROLLING PAPERS, BLUNT OR HEMP WRAPS AND PIPES.

(b) DOES NOT INCLUDE DRUGS, DEVICES OR COMBINATION PRODUCTS AUTHORIZED FOR SALE BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION, AS THOSE TERMS ARE DEFINED IN THE FEDERAL FOOD, DRUG, AND COSMETIC ACT OR THE REGULATIONS ADOPTED PURSUANT TO THAT ACT.

~~10-~~ 12. "Vending machine" means any mechanical, electrical or electronic device that, on insertion of money, tokens or any other form of payment, automatically dispenses tobacco products.

Sec. 3. Section 36-798.01, Arizona Revised Statutes, is amended to read:

36-798.01. Retail tobacco vendors; selling, furnishing, giving or providing tobacco products; persons under the federal minimum age; prohibitions; penalties; compliance checks

A. It is unlawful for a retail tobacco vendor OR A RETAIL TOBACCO VENDOR'S REPRESENTATIVE, AGENT OR EMPLOYEE to sell, furnish, give or provide ~~beedies or bidis to a minor~~ A TOBACCO PRODUCT TO A PERSON WHO IS UNDER THE MINIMUM AGE OF SALE FOR TOBACCO PRODUCTS AS SET BY THE FEDERAL FOOD, DRUG, AND COSMETIC ACT in this state.

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

B. BEFORE DISTRIBUTING ANY TOBACCO PRODUCT, THE RETAIL TOBACCO VENDOR OR THE RETAIL TOBACCO VENDOR'S REPRESENTATIVE, AGENT OR EMPLOYEE SHALL VERIFY THAT THE PURCHASER IS AT LEAST THE MINIMUM AGE OF SALE FOR TOBACCO PRODUCTS AS SET BY THE FEDERAL FOOD, DRUG, AND COSMETIC ACT. EACH RETAIL TOBACCO VENDOR OR RETAIL TOBACCO VENDOR'S REPRESENTATIVE, AGENT OR EMPLOYEE SHALL EXAMINE THE PURCHASER'S GOVERNMENT-ISSUED PHOTOGRAPHIC IDENTIFICATION. THIS VERIFICATION IS NOT REQUIRED FOR A PERSON WHO IS THIRTY YEARS OF AGE OR OLDER. THE FACT THAT A PURCHASER APPEARED TO BE THIRTY YEARS OF AGE OR OLDER DOES NOT CONSTITUTE A DEFENSE TO A VIOLATION OF THIS SUBSECTION.

C. IF A RETAIL TOBACCO VENDOR OR THE RETAIL TOBACCO VENDOR'S REPRESENTATIVE, AGENT OR EMPLOYEE VIOLATES THIS SECTION OR SECTION 13-3622 OR 36-798.02, THE RETAIL TOBACCO VENDOR IS SUBJECT TO THE FOLLOWING PENALTIES:

1. FOR A FIRST VIOLATION, THE RETAIL TOBACCO VENDOR OR THE RETAIL TOBACCO VENDOR'S REPRESENTATIVE, AGENT OR EMPLOYEE WHO IS CITED FOR THE VIOLATION SHALL ATTEND AN EDUCATION CLASS, IF AVAILABLE. IF AN EDUCATION CLASS IS NOT AVAILABLE, THE RETAIL TOBACCO VENDOR IS SUBJECT TO A CIVIL PENALTY OF AT LEAST \$500 BUT NOT MORE THAN \$750.

2. FOR A SECOND VIOLATION WITHIN A THIRTY-SIX-MONTH PERIOD, A CIVIL PENALTY OF AT LEAST \$750 BUT NOT MORE THAN \$1,000, AND THE RETAIL TOBACCO VENDOR IS PROHIBITED FROM DISTRIBUTING TOBACCO PRODUCTS FOR AT LEAST SEVEN DAYS.

3. FOR A THIRD VIOLATION WITHIN A THIRTY-SIX-MONTH PERIOD, A CIVIL PENALTY OF AT LEAST \$1,000 BUT NOT MORE THAN \$1,500, AND THE RETAIL TOBACCO VENDOR IS PROHIBITED FROM DISTRIBUTING TOBACCO PRODUCTS FOR AT LEAST THIRTY DAYS.

4. FOR A FOURTH OR ANY SUBSEQUENT VIOLATION WITHIN A THIRTY-SIX-MONTH PERIOD, A CIVIL PENALTY OF AT LEAST \$1,000 BUT NOT MORE THAN \$3,000, AND THE RETAIL TOBACCO VENDOR IS PROHIBITED FROM DISTRIBUTING TOBACCO PRODUCTS FOR A PERIOD OF THREE YEARS.

D. IN ADDITION TO THE PENALTIES IMPOSED ON THE RETAIL TOBACCO VENDOR FOR A VIOLATION OF THIS SECTION OR SECTION 13-3622 OR 36-798.02, ANY PERSON FOUND TO HAVE VIOLATED THIS SECTION OR SECTION 13-3622 OR 36-798.02 WHILE ACTING AS A NONMANAGEMENT AGENT OR EMPLOYEE OF A RETAIL TOBACCO VENDOR IS SUBJECT TO NONCRIMINAL, NONMONETARY PENALTIES, INCLUDING EDUCATION CLASSES OR COMMUNITY SERVICE.

E. THE RETAIL TOBACCO VENDOR IS SUBJECT TO AT LEAST TWO UNANNOUNCED COMPLIANCE CHECKS ANNUALLY. THE DEPARTMENT OR ITS AUTHORIZED DESIGNEE SHALL CONDUCT COMPLIANCE CHECKS BY ENGAGING PERSONS WHO ARE AT LEAST EIGHTEEN YEARS OF AGE AND UNDER THE MINIMUM AGE OF SALE FOR TOBACCO PRODUCTS AS SET BY THE FEDERAL FOOD, DRUG, AND COSMETIC ACT TO ENTER THE TOBACCO RETAIL ESTABLISHMENT TO ATTEMPT TO PURCHASE TOBACCO

PRODUCTS. UNANNOUNCED FOLLOW-UP COMPLIANCE CHECKS OF ALL NONCOMPLIANT RETAIL TOBACCO VENDORS ARE REQUIRED WITHIN THREE MONTHS AFTER ANY VIOLATION OF THIS ARTICLE. THE DEPARTMENT SHALL PUBLISH THE RESULTS OF ALL COMPLIANCE CHECKS AT LEAST ANNUALLY.

F. IN ADDITION TO ANY OTHER PENALTY, A RETAIL TOBACCO VENDOR THAT VIOLATES ANY PROVISION OF THIS ARTICLE, THE RULES ADOPTED PURSUANT TO THIS ARTICLE OR ANY FEDERAL LAW, STATE LAW OR LOCAL ORDINANCE RELATING TO TOBACCO PRODUCT SALES OR MARKETING IS SUBJECT TO THE PENALTIES PRESCRIBED IN THIS SECTION, INCLUDING CIVIL PENALTIES AND THE PROHIBITION FROM DISTRIBUTING TOBACCO PRODUCTS AS PRESCRIBED IN SUBSECTION C OF THIS SECTION.

G. THE DEPARTMENT SHALL DEPOSIT ALL CIVIL PENALTIES COLLECTED PURSUANT TO THIS SECTION IN THE STATE GENERAL FUND.

Sec. 4. Section 36-798.02, Arizona Revised Statutes, is amended to read:

36-798.02. Self-service display sales of tobacco products: penalties

A. A person ~~shall~~ MAY not sell tobacco products through a ~~vending machine~~ SELF-SERVICE DISPLAY unless the ~~vending machine~~ SELF-SERVICE DISPLAY is located in either:

1. A bar THAT DOES NOT ALLOW PERSONS TO ENTER WHO ARE UNDER THE MINIMUM AGE OF SALE FOR TOBACCO PRODUCTS AS SET BY THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

2. An employee lounge area that is not open to the public and the business in which the lounge area is located does not employ ~~minors~~ PERSONS WHO ARE UNDER THE MINIMUM AGE OF SALE FOR TOBACCO PRODUCTS AS SET BY THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

~~B. A sign measuring at least eighty square inches shall be obviously affixed to the front of each vending machine. The sign shall state in block letters, it is illegal for a minor to purchase cigarettes or tobacco products and, upon conviction, a fine of up to three hundred dollars may be imposed.~~

B. SUBSECTION A OF THIS SECTION DOES NOT APPLY TO CIGARS OR PIPE TOBACCO THAT IS SOLD OR DISPLAYED BY A PERSON WHO PRIMARILY ENGAGES IN THE BUSINESS OF EITHER SELLING CIGARS, PIPE TOBACCO, CIGAR-RELATED ACCESSORIES OR PIPE TOBACCO-RELATED ACCESSORIES OR RENTING ON-PREMISES HUMIDORS OR OTHER STORAGE UNITS.

C. This article does not invalidate an ordinance of or prohibit the adoption of an ordinance by a county, city or town to further restrict SELF-SERVICE DISPLAYS OR the location of ~~vending machines or specify different wording for the vending machines signs as required by subsection B of this section~~ SELF-SERVICE DISPLAYS.

1 D. A person who violates this section is ~~guilty of a petty offense~~
2 SUBJECT TO THE PENALTIES PRESCRIBED IN SECTION 36-798.01.

3 Sec. 5. Title 36, chapter 6, article 14, Arizona Revised Statutes,
4 is amended by adding sections 36-798.07, 36-798.08, 36-798.09 and
5 36-798.10, to read:

6 36-798.07. Tobacco retail sales licenses; requirements; fees;
7 penalties

8 A. BEGINNING JANUARY 1, 2025, A RETAIL TOBACCO VENDOR MAY NOT
9 DISTRIBUTE TOBACCO PRODUCTS IN THIS STATE WITHOUT A VALID TOBACCO RETAIL
10 SALES LICENSE. A RETAIL TOBACCO VENDOR THAT DISTRIBUTES TOBACCO PRODUCTS
11 IN THIS STATE SHALL SECURE FOR EACH LOCATION, AND DISPLAY AT ALL TIMES, A
12 TOBACCO RETAIL SALES LICENSE ISSUED BY THE DEPARTMENT BEFORE ENGAGING OR
13 CONTINUING TO ENGAGE IN SUCH BUSINESS.

14 B. THE DEPARTMENT SHALL ESTABLISH FEES FOR AN INITIAL TOBACCO
15 RETAIL SALES LICENSE AND THE RENEWAL OF THAT LICENSE. THE DEPARTMENT
16 SHALL DEPOSIT THE FEES COLLECTED PURSUANT TO THIS SECTION IN THE TOBACCO
17 RETAIL SALES LICENSING FUND ESTABLISHED BY SECTION 36-798.09.

18 C. A TOBACCO RETAIL SALES LICENSE IS VALID FOR TWO YEARS, UNLESS
19 THE LICENSE IS SUSPENDED OR REVOKED BY THE DEPARTMENT OR THE DEPARTMENT'S
20 DESIGNEE. A TOBACCO RETAIL SALES LICENSE MAY NOT BE RENEWED IF THE RETAIL
21 TOBACCO VENDOR HAS ANY OUTSTANDING PENALTIES PURSUANT TO THIS ARTICLE.
22 THE DEPARTMENT MAY RECEIVE AND REVIEW TOBACCO RETAIL SALES LICENSE
23 APPLICATIONS ELECTRONICALLY.

24 D. IF A RETAIL TOBACCO VENDOR APPLIES FOR A TOBACCO RETAIL SALES
25 LICENSE FROM THE DEPARTMENT FOR A LOCATION THAT IS WITHIN THE JURISDICTION
26 OF A LOCAL LICENSING AUTHORITY, THE DEPARTMENT MAY NOT ISSUE A TOBACCO
27 RETAIL SALES LICENSE TO THE RETAIL TOBACCO VENDOR UNTIL THE RETAIL TOBACCO
28 VENDOR OBTAINS THE REQUIRED LOCAL LICENSE AND PROVIDES A COPY OF THE LOCAL
29 LICENSE TO THE DEPARTMENT.

30 E. A TOBACCO RETAIL SALES LICENSE MAY NOT BE ISSUED OR RENEWED TO A
31 RETAIL TOBACCO VENDOR UNTIL THE RETAIL TOBACCO VENDOR SIGNS A FORM STATING
32 THAT THE RETAIL TOBACCO VENDOR HAS READ THIS ARTICLE AND HAS PROVIDED
33 TRAINING TO ALL EMPLOYEES ON THE SALE OF TOBACCO PRODUCTS. THE TRAINING
34 SHALL INCLUDE THE FOLLOWING INFORMATION:

35 1. THAT IT IS ILLEGAL TO SELL TOBACCO PRODUCTS TO PERSONS WHO ARE
36 UNDER THE MINIMUM AGE OF SALE FOR TOBACCO PRODUCTS AS SET BY THE FEDERAL
37 FOOD, DRUG, AND COSMETIC ACT.

38 2. THE TYPES OF IDENTIFICATION THAT ARE LEGALLY ACCEPTABLE FOR THE
39 PROOF OF AGE.

40 3. THAT SALES TO PERSONS WHO ARE UNDER THE MINIMUM AGE OF SALE FOR
41 TOBACCO PRODUCTS AS SET BY THE FEDERAL FOOD, DRUG, AND COSMETIC ACT
42 SUBJECT THE RETAIL TOBACCO VENDOR TO PENALTIES.

F. THE TOBACCO RETAIL SALES LICENSE IS NONTRANSFERABLE. IF A RETAIL TOBACCO VENDOR CEASES TO BE A RETAILER AT THE LICENSED RETAIL LOCATION BY REASON OF DISCONTINUATION, SALE OR TRANSFER OF THE RETAIL TOBACCO VENDOR'S BUSINESS, THE RETAIL TOBACCO VENDOR SHALL NOTIFY THE DEPARTMENT IN WRITING AT THE TIME THE DISCONTINUANCE, SALE OR TRANSFER TAKES EFFECT.

G. ANY BUSINESS FOUND TO BE SELLING TOBACCO PRODUCTS WITHOUT A TOBACCO RETAIL SALES LICENSE IS SUBJECT TO A CIVIL PENALTY OF AT LEAST \$500 BUT NOT MORE THAN \$1,000 FOR A FIRST OR SECOND VIOLATION WITHIN A THIRTY-SIX-MONTH PERIOD. THE DEPARTMENT SHALL ISSUE A CEASE AND DESIST ORDER TO A BUSINESS THAT RECEIVES A SECOND VIOLATION WITHIN A THIRTY-SIX-MONTH PERIOD PROHIBITING THE BUSINESS FROM SELLING TOBACCO PRODUCTS AND NOTIFYING THE BUSINESS OWNER THAT THE BUSINESS IS INELIGIBLE TO RECEIVE A TOBACCO RETAIL SALES LICENSE FOR A PERIOD OF THREE YEARS AFTER THE DATE OF THE SECOND VIOLATION.

36-798.08. Rulemaking; delegation of authority; collaboration; reporting requirements

A. THE DEPARTMENT SHALL ADOPT RULES TO ESTABLISH A STATEWIDE TOBACCO RETAIL SALES LICENSE AND TO CARRY OUT THIS ARTICLE.

B. THE DEPARTMENT MAY DELEGATE THE ENFORCEMENT AND COMPLIANCE INSPECTIONS REQUIRED UNDER THIS ARTICLE TO ANY COUNTY THAT ACCEPTS THIS DELEGATION.

C. THE DEPARTMENT MAY COLLABORATE WITH AND USE THE FINDINGS OF OTHER AGENCIES, INCLUDING THE ATTORNEY GENERAL'S OFFICE, LOCAL LICENSING AUTHORITIES AND LAW ENFORCEMENT, TO CARRY OUT THE OBLIGATIONS OF THIS ARTICLE AND TO ENSURE THAT THE COMPLAINTS RECEIVED BY OTHER AGENCIES OR LOCAL LICENSING AUTHORITIES ARE FORWARDED TO THE DEPARTMENT FOR TIMELY INVESTIGATION AND ACTION.

D. A LOCAL LICENSING AUTHORITY OR ANY LAW ENFORCEMENT OR OTHER LOCAL ENTITY CONDUCTING COMPLIANCE CHECKS TO ASSESS RETAIL TOBACCO VENDOR COMPLIANCE WITH THE MINIMUM LEGAL AGE OF SALE FOR TOBACCO PRODUCTS SHALL REPORT THE COMPLIANCE CHECK RESULTS TO THE DEPARTMENT. ANY VIOLATION SHALL BE COUNTED AS A VIOLATION OF THE RETAIL TOBACCO VENDOR'S TOBACCO RETAIL SALES LICENSE.

36-798.09. Tobacco retail sales licensing fund

THE TOBACCO RETAIL SALES LICENSING FUND IS ESTABLISHED CONSISTING OF LICENSING FEES COLLECTED PURSUANT TO THIS ARTICLE. THE DEPARTMENT SHALL ADMINISTER THE FUND. THE DEPARTMENT SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, NINETY PERCENT OF ALL LICENSING FEES COLLECTED UNDER THIS ARTICLE IN THE TOBACCO RETAIL SALES LICENSING FUND AND THE REMAINING TEN PERCENT IN THE STATE GENERAL FUND. MONIES IN THE FUND ARE SUBJECT TO LEGISLATIVE APPROPRIATION AND SHALL BE USED TO ADMINISTER AND ENFORCE THIS ARTICLE.

1 36-798.10. Local jurisdictions: regulation of tobacco
2 products

3 THIS ARTICLE DOES NOT LIMIT A LOCAL GOVERNMENT FROM REGULATING
4 TOBACCO PRODUCTS.

5 Sec. 6. Rulemaking exemption

6 Notwithstanding any other law, for the purposes of this act, the
7 department of health services is exempt from the rulemaking requirements
8 of title 41, chapters 6 and 6.1, Arizona Revised Statutes, for twenty-four
9 months after the effective date of this act.