

REFERENCE TITLE: **luxury tax; nicotine; vapor; products**

State of Arizona
House of Representatives
Fifty-seventh Legislature
First Regular Session
2025

HB 2778

Introduced by
Representatives Hernandez C: Contreras L, Hernandez A, Powell, Volk

AN ACT

AMENDING SECTIONS 42-1102, 42-1124, 42-1125, 42-2003, 42-3001, 42-3008, 42-3051, 42-3052 AND 42-3053, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 3, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-3107; AMENDING SECTIONS 42-3401, 42-3403, 42-3404, 42-3405, 42-3406, 42-3501 AND 42-3502, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 3, ARTICLE 12, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-3504; 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 42-1102, Arizona Revised Statutes, is amended to
3 read:

4 **42-1102. Taxpayer bonds; definition**

5 A. If the department deems it necessary to protect the revenues to
6 be collected under this title and title 43, it may require a person liable
7 for the tax to file a bond to secure the payment of the tax, penalty or
8 interest, which may become due from that person. The bond shall be:

9 1. Issued by a surety company authorized to transact business in
10 this state and approved by the director of the department of insurance and
11 financial institutions of this state as to solvency and responsibility or
12 composed of securities or cash that are deposited with, and kept in the
13 custody of, the department.

14 2. Except as otherwise provided in this section, in the amount that
15 the department prescribes by administrative rule to secure the payment of
16 any tax, penalty or interest, which may become due from the person.

17 B. For the purposes of licenses to sell tobacco products, **NICOTINE**
18 **PRODUCTS OR VAPOR PRODUCTS** issued under section 42-3401, the amount of the
19 bond required under this section is the greater of \$500 or four times the
20 average monthly tax liability. For the purposes of determining the bond
21 amount, the average monthly tax liability is equal to the average monthly
22 tax due from the applicant for the preceding six consecutive months. If
23 an applicant does not have a six-month payment history, the bond amount is
24 a minimum of \$500. If an applicant provides a surety bond and the bond
25 lapses, the applicant shall deposit with the department cash or other
26 security in an amount equal to the lapsed surety bond within five business
27 days after the applicant's receipt of written notification by the
28 department. The bond amount may be increased or decreased as necessary
29 based on any reason listed in subsection D of this section or a change in
30 the applicant's previous filing period, filing compliance record or
31 payment history. If the bond amount is increased above the amount
32 computed under this subsection, the applicant may request a hearing
33 pursuant to subsection C of this section to show why the order increasing
34 the bond amount is in error.

35 C. If the department determines that a person is to file a bond it
36 shall notify the person to that effect, specifying the amount of the bond
37 required. The person shall file the bond within five days after the
38 giving of notice unless within that time the person requests in writing a
39 hearing before the department at which time the department shall determine
40 the necessity, propriety and amount of the bond. The determination is
41 final unless within fifteen days after the giving of notice of the
42 determination the person appeals the determination to the state board of
43 tax appeals. The board shall decide on the appeal within fifteen days of
44 its receipt. The bond, at any time without notice, may be applied to any

1 tax, penalties or interest due, and for that purpose the securities may be
2 sold at public or private sale without notice to the depositor.

3 D. For purposes of this section a bond may be required if:

4 1. After investigation of financial status, the department
5 determines that an applicant for a new license would be unable to timely
6 remit amounts due.

7 2. An applicant for a new license held a license for a prior
8 business, and the remittance record for the prior business falls within
9 one of the conditions in paragraph 5 of this subsection.

10 3. The department experienced collection problems while the
11 applicant was engaged in business under a prior license.

12 4. The applicant is substantially similar to a person who would
13 have been required to post a bond under paragraph 5 of this subsection or
14 the person had a previous license that was revoked. An applicant is
15 substantially similar if it is owned or controlled by persons who owned or
16 controlled a previous licensee.

17 5. An existing licensee has had two or more delinquencies in
18 remitting tax during the preceding twenty-four months if filing on a
19 quarterly or less frequent basis or four or more delinquencies during the
20 preceding twenty-four months if filing on a monthly or more frequent
21 basis.

22 E. If a licensee who is required to post a bond or security
23 maintains a good filing and payment record for a period of two years, the
24 licensee may request that the department waive the continued bond or
25 security requirement.

26 F. For the purposes of this section, "person" includes a firm,
27 partnership, joint venture, association, corporation, sole proprietorship
28 or other business or governmental entity subject to a tax administered by
29 this article but does not include an individual subject to individual
30 income tax.

31 Sec. 2. Section 42-1124, Arizona Revised Statutes, is amended to
32 read:

33 42-1124. Failure to affix stamps or pay or account for tax;
34 forfeiture of commodity; sale of forfeited
35 commodity; effect of seizure and sale; request for
36 administrative hearing; definitions

37 A. If the department or its authorized agents or representatives
38 discover any luxury subject to tax under chapter 3 of this title to which
39 official stamps have not been affixed as required or on which the tax has
40 not been paid or accounted for, the department or its agent or
41 representative may seize and take possession of the luxury, and it is
42 deemed forfeited to this state. Except as provided in subsection D or E
43 of this section, the department, within a reasonable time thereafter,
44 pursuant to a notice posted on the premises or by publication in a
45 newspaper of general circulation in the county where the sale is to take

1 place, not fewer than five days before the date of sale, shall offer for
2 sale and sell the forfeited luxuries. The department shall pay the
3 proceeds of the sale into the state general fund. The sale shall take
4 place in the county that is most convenient and economical. The
5 department need not offer any property for sale if, in its opinion, the
6 probable cost of sale exceeds the value of the property.

7 B. The seizure and sale do not relieve any person from the
8 penalties provided for violating this title.

9 C. The department of revenue may enter into an interagency
10 agreement with the department of transportation for the purpose of
11 carrying out tobacco, **NICOTINE PRODUCT OR VAPOR PRODUCT** enforcement under
12 chapter 3 of this title at ports of entry.

13 D. All tobacco products, **NICOTINE PRODUCTS AND VAPOR PRODUCTS** that
14 are seized for violations under this title shall be forfeited to this
15 state. All tobacco products that are forfeited to this state pursuant to
16 section 13-3711, 36-798.06 or 42-3461 or section 44-7111, section 6(b)
17 shall be destroyed. If a distributor defrauds this state by knowingly and
18 intentionally failing to keep or make any record, return, report or
19 inventory pertaining to tobacco products, **NICOTINE PRODUCTS OR VAPOR**
20 **PRODUCTS**, by refusing to pay any luxury tax for tobacco products, **NICOTINE**
21 **PRODUCTS OR VAPOR PRODUCTS** subject to tax under chapter 3 of this title or
22 by attempting to evade or defeat any requirement of this title, the
23 distributor shall forfeit to this state all fixtures, equipment and all
24 other materials and personal property that are located on the premises of
25 the distributor. Alternatively, at the request of the department, the
26 distributor may be enjoined by an action commenced by the attorney general
27 or a county attorney in the name of the state from engaging or continuing
28 in any business for which a tax is imposed by this chapter until the tax
29 has been paid and until the person has complied with this title.

30 E. The department may sell or otherwise dispose of any tobacco
31 products, **NICOTINE PRODUCTS AND VAPOR PRODUCTS** forfeited to this state on
32 such conditions as it deems most advantageous and just under the
33 circumstances, unless the tobacco products, **NICOTINE PRODUCTS OR VAPOR**
34 **PRODUCTS** are forfeited pursuant to section 13-3711, 36-798.06 or 42-3461
35 or section 44-7111, section 6(b), **AS APPLICABLE**. The department shall
36 deposit the proceeds of any sales made pursuant to this subsection in the
37 state general fund.

38 F. The department shall give notice of the seizure and forfeiture
39 of tobacco products, **NICOTINE PRODUCTS OR VAPOR PRODUCTS** described in this
40 section by personal service or by certified mail to all persons known by
41 the department to have any right, title or interest in the
42 property. Notice shall include a description of the tobacco products,
43 **NICOTINE PRODUCTS AND VAPOR PRODUCTS** seized, the reason for the seizure
44 and the time and place of the seizure. For seizures of cigarettes of more
45 than sixty-one cartons of two hundred cigarettes each or the equivalent in

1 cigarette count, the department shall post and maintain an online notice
2 of seizure and forfeiture on its website for a period of at least six
3 months, beginning not later than ten business days after the date of the
4 personal service of the notice to a person or the date of the mailing of
5 the notice. The online notice shall display the date on which the
6 department posts the notice to the website, which shall serve as the date
7 of publication of the notice.

8 G. Any person whose legal rights, duties or privileges are
9 determined by the notice of seizure and forfeiture may file a request for
10 an administrative hearing with the department on a form prescribed by the
11 department. The request for an administrative hearing shall contain a
12 statement of the petitioner's interest in the tobacco products, **NICOTINE**
13 **PRODUCTS OR VAPOR PRODUCTS** and an explanation of why the release or
14 recovery of the tobacco products, **NICOTINE PRODUCTS OR VAPOR PRODUCTS** is
15 warranted on the ground that the tobacco products, **NICOTINE PRODUCTS OR**
16 **VAPOR PRODUCTS** were erroneously or illegally seized.

17 H. The seizure and forfeiture of tobacco products, **NICOTINE**
18 **PRODUCTS AND VAPOR PRODUCTS** by the department is an appealable agency
19 action as defined in section 41-1092 and is governed by title 41, chapter
20 6, article 10 and section 42-1251, except that:

21 1. A request for an administrative hearing that is filed under
22 subsection G of this section is deemed to be timely filed if the request
23 is filed with the department within ten days after the date of personal
24 service on the petitioner or the date of mailing the notice to the
25 petitioner. Any person **WHO IS** not served personally or by mail shall file
26 the request within ten days after the date of publication of the notice.
27 The failure of a person to file a timely request constitutes a bar to that
28 person's right to any interest in the tobacco products, **NICOTINE PRODUCTS**
29 **OR VAPOR PRODUCTS**, except insofar as the rights of that person may be
30 established in an action filed by the department under this chapter.

31 2. If a request for an administrative hearing is not filed with the
32 department at the expiration of ten days after the notice has been
33 personally served, mailed or published, the department's determination is
34 final. If a timely request for an administrative hearing has been filed
35 with the department, the department shall request a hearing by the office
36 of administrative hearings and the department shall suspend action until
37 the final order of the department has been issued. An order that is
38 issued by the office of administrative hearings is the final order of the
39 department thirty days after the petitioner receives the decision unless a
40 decision by the director is issued pursuant to section 42-1251. If the
41 director issues a decision, that decision is the final order of the
42 department.

43 I. For the purposes of this section, "cigarette", "distributor",
44 ~~and~~ **"NICOTINE PRODUCTS"**, "tobacco products" **AND** **"VAPOR PRODUCTS"** have the
45 same meanings prescribed in section 42-3001.

1 Sec. 3. Section 42-1125, Arizona Revised Statutes, is amended to
2 read:

3 **42-1125. Civil penalties; definition**

4 A. If a taxpayer fails to make and file a return for a tax
5 administered pursuant to this article on or before the due date of the
6 return or the due date as extended by the department, unless it is shown
7 that the failure is due to reasonable cause and not due to wilful neglect,
8 four and one-half percent of the tax required to be shown on the return
9 shall be added to the tax for each month or fraction of a month elapsing
10 between the due date of the return and the date on which it is filed. The
11 total penalty shall not exceed twenty-five percent of the tax found to be
12 remaining due. The penalty so added to the tax is due and payable on
13 notice and demand from the department. For the purpose of computing the
14 penalty imposed under this subsection, the amount required to be shown as
15 tax on a return shall be reduced by the amount of any part of the tax that
16 is paid on or before the beginning of the month and by the amount of any
17 credit against the tax that may be claimed on the return. If the amount
18 required to be shown as tax on a return is less than the amount shown as
19 tax on the return, the penalty described in this subsection shall be
20 applied by substituting the lower amount.

21 B. If a taxpayer fails or refuses to file a return on notice and
22 demand by the department, the taxpayer shall pay a penalty of twenty-five
23 percent of the tax, which is due and payable on notice and demand by the
24 department, in addition to any penalty prescribed by subsection A of this
25 section, unless it is shown that the failure is due to reasonable cause
26 and not due to wilful neglect. This penalty is payable on notice and
27 demand from the department.

28 C. If a taxpayer fails or refuses to furnish any information
29 requested in writing by the department, the department may add a penalty
30 of twenty-five percent of the amount of any deficiency tax assessed by the
31 department concerning the assessment of which the information was
32 required, unless it is shown that the failure is due to reasonable cause
33 and not due to wilful neglect.

34 D. If a person fails to pay the amount shown as tax on any return
35 within the time prescribed, a penalty of one-half of one percent, not to
36 exceed a total of ten percent, shall be added to the amount shown as tax
37 for each month or fraction of a month during which the failure continues,
38 unless it is shown that the failure is due to reasonable cause and not due
39 to wilful neglect. If the department determines that the person's failure
40 to pay was due to reasonable cause and not due to wilful neglect and that
41 a payment agreement pursuant to section 42-2057 is appropriate, the
42 department shall not impose the penalty unless the taxpayer fails to
43 comply with the payment agreement. If the taxpayer is also subject to a
44 penalty under subsection A of this section for the same tax period, the
45 total penalties under subsection A of this section and this subsection

1 shall not exceed twenty-five percent. For the purpose of computing the
2 penalty imposed under this subsection:

3 1. The amount shown as tax on a return shall be reduced by the
4 amount of any part of the tax that is paid on or before the beginning of
5 that month and by the amount of any credit against the tax that may be
6 claimed on the return.

7 2. If the amount shown as tax on a return is greater than the
8 amount required to be shown as tax on that return, the penalty shall be
9 applied by substituting the lower amount.

10 E. If a person fails to pay any amount required to be shown on any
11 return that is not so shown within twenty-one calendar days after the date
12 of notice and demand, a penalty of one-half of one percent, not to exceed
13 a total of ten percent, shall be added to the amount of tax for each month
14 or fraction of a month during which the failure continues, unless it is
15 shown that the failure is due to reasonable cause and not due to wilful
16 neglect. If the taxpayer is also subject to penalty under subsection A of
17 this section for the same tax period, the total penalties under subsection
18 A of this section and this subsection shall not exceed twenty-five
19 percent. For the purpose of computing the penalty imposed under this
20 subsection, any amount required to be shown on any return shall be reduced
21 by the amount of any part of the tax that is paid on or before the
22 beginning of that month and by the amount of any credit against the tax
23 that may be claimed on the return.

24 F. In the case of a deficiency, for which a determination is made
25 of an additional amount due, that is due to negligence but without intent
26 to defraud, the person shall pay a penalty of ten percent of the amount of
27 the deficiency.

28 G. If part of a deficiency is due to fraud with intent to evade
29 tax, fifty percent of the total amount of the tax, in addition to the
30 deficiency, interest and other penalties provided in this section, shall
31 be assessed, collected and paid as if it were a deficiency.

32 H. If the amount, whether determined by the department or the
33 taxpayer, required to be withheld by the employer pursuant to title 43,
34 chapter 4 is not paid to the department on or before the date prescribed
35 for its remittance, the department may add a penalty of twenty-five
36 percent of the amount required to be withheld and paid, unless it is shown
37 that the failure is due to reasonable cause and not due to wilful neglect.

38 I. A person who, with or without intent to evade any requirement of
39 this article or any lawful administrative rule of the department of
40 revenue under this article, fails to file a return or to supply
41 information required under this article or who, with or without such
42 intent, makes, prepares, renders, signs or verifies a false or fraudulent
43 return or statement or supplies false or fraudulent information shall pay
44 a penalty of not more than \$1,000. This penalty shall be recovered by the

1 department of law in the name of this state by an action in any court of
2 competent jurisdiction.

3 J. If the taxpayer files what purports to be a return of any tax
4 administered pursuant to this article but that is frivolous or that is
5 made with the intent to delay or impede the administration of the tax
6 laws, that person shall pay a penalty of \$500.

7 K. If any person who is required to file or provide an information
8 return under this title or title 43 or who is required to file or provide
9 a return or report under chapter 3 of this title fails to file the return
10 or report at the prescribed time or in the manner required, or files a
11 return or report that fails to show the information required, that person
12 shall pay a penalty of \$100 for each month or fraction of a month during
13 which the failure continues unless it is shown that the failure is due to
14 reasonable cause and not due to wilful neglect. The total penalties for
15 each return or report under this subsection shall not exceed \$500.

16 L. If it appears to the superior court that proceedings before it
17 have been instituted or maintained by a taxpayer primarily for delay or
18 that the taxpayer's position is frivolous or groundless, the court may
19 award damages in an amount not to exceed \$1,000 to this state. Damages so
20 awarded shall be collected as a part of the tax.

21 M. A person who is required under section 43-413 to furnish a
22 statement to an employee and who wilfully furnishes a false or fraudulent
23 statement, or who wilfully fails to furnish a statement required by
24 section 43-413, is for each such failure subject to a penalty of \$50.

25 N. A person who is required to collect or truthfully account for
26 and pay a tax administered pursuant to this article, including any luxury
27 privilege tax, and who wilfully fails to collect the tax or truthfully
28 account for and pay the tax, or wilfully attempts in any manner to evade
29 or defeat the tax or its payment, is, in addition to other penalties
30 provided by law, liable for a penalty equal to the total amount of the tax
31 evaded, not collected or not accounted for and paid. Except as provided
32 in subsections U, V and W of this section, no other penalty under this
33 section relating to failure to pay tax may be imposed for any offense to
34 which this subsection applies.

35 O. For reporting periods beginning from and after February 28,
36 2011, if a taxpayer who is required under section 42-1129 to pay by
37 electronic funds transfer fails to do so, that taxpayer shall pay a
38 penalty of five percent of the amount of the payment not made by
39 electronic funds transfer unless it is shown that the failure is due to
40 reasonable cause and not due to wilful neglect. For the reporting periods
41 beginning on July 1, 2015, the penalty in this subsection applies to any
42 taxpayer who is required under section 42-3053 to pay by electronic funds
43 transfer and fails to do so unless it is shown that the failure is due to
44 reasonable cause and not due to wilful neglect.

1 P. Unless due to reasonable cause and not to wilful neglect:
2 1. A person who fails to provide that person's taxpayer
3 identification number in any return, statement or other document as
4 required by section 42-1105, subsection A shall pay a penalty of \$5 for
5 each such failure.

6 2. A person, when filing any return, statement or other document
7 for compensation on behalf of a taxpayer, who fails to include that
8 person's own taxpayer identification number and the taxpayer's
9 identification number shall pay a penalty of \$50 for each such failure.

10 3. A person, when filing any return, statement or other document
11 without compensation on behalf of a taxpayer, who fails to include that
12 person's own taxpayer identification number and the taxpayer's
13 identification number is not subject to a penalty.

14 No other penalty under this section may be imposed if the only violation
15 is failure to provide taxpayer identification numbers.

16 Q. If a taxpayer fails to pay the full amount of estimated tax
17 required by title 43, chapter 5, article 6, a penalty is assessed equal to
18 the amount of interest that would otherwise accrue under section 42-1123
19 on the amount not paid for the period of nonpayment, not exceeding ten
20 percent of the amount not paid. The penalty prescribed by this subsection
21 is in lieu of any other penalty otherwise prescribed by this section and
22 in lieu of interest prescribed by section 42-1123.

23 R. Beginning January 1, 2015, if a taxpayer continues in business
24 without timely renewing a municipal privilege tax license as prescribed in
25 section 42-5005, subsection D, a civil penalty of up to \$25 shall be added
26 to the renewal fee for each jurisdiction.

27 S. The department of law, with the consent of the department of
28 revenue, may compromise any penalty for which it may bring an action under
29 this section.

30 T. Penalties shall not be assessed under subsection D of this
31 section on additional amounts of tax paid by a taxpayer at the time the
32 taxpayer voluntarily files an amended return. This subsection does not
33 apply if:

34 1. The taxpayer is under audit by the department.

35 2. The amended return was filed on demand or request by the
36 department.

37 U. In addition to other penalties provided by law, a person who
38 knowingly and intentionally does not comply with any requirement under
39 chapter 3 of this title relating to tobacco products, **NICOTINE PRODUCTS OR**
40 **VAPOR PRODUCTS** shall pay a penalty of \$1,000. A person who knowingly and
41 intentionally does not pay any luxury tax that relates to tobacco
42 products, **NICOTINE PRODUCTS OR VAPOR PRODUCTS** imposed by chapter 3 of this
43 title shall pay a penalty that is equal to ten percent of the amount of
44 the unpaid tax.

1 V. A manufacturer or importer or a distributor, as defined in
2 section 42-3001, who knowingly and intentionally sells or possesses
3 cigarettes with false manufacturing labels or cigarettes with counterfeit
4 tax stamps, or who obtains cigarettes through the use of a counterfeit
5 license, shall pay the following penalties:

6 1. For a first violation involving two thousand or more cigarettes,
7 \$1,000.

8 2. For a subsequent violation involving two thousand or more
9 cigarettes, \$5,000.

10 W. The civil penalties in this section are in addition to any civil
11 penalty under chapter 3, article 10, 11 or 12 of this title.

12 X. Notwithstanding subsection A of this section:

13 1. And except as provided by paragraph 2 of this subsection, the
14 penalty imposed on a taxpayer that fails to make and file a return for tax
15 administered pursuant to chapter 5 or 6 of this title on or before the due
16 date of the return or the due date as extended by the department, unless
17 it is shown that the failure is due to a reasonable cause and not due to
18 wilful neglect, is four and one-half percent of the tax required to be
19 shown on the return, or \$25, whichever is greater. The penalty shall be
20 added to the tax for each month or fraction of a month elapsing between
21 the due date of the return and the date on which it is filed. The total
22 penalty may not exceed twenty-five percent of the tax required to be shown
23 on the return, or \$100, whichever is greater.

24 2. The penalty imposed on a taxpayer that is required under section
25 42-5014 to file electronically and that fails to do so is five percent of
26 the tax required to be shown on the return, or \$25, whichever is greater,
27 unless the failure is due to a reasonable cause and not due to wilful
28 neglect.

29 3. For the purposes of this subsection, "tax required to be shown
30 on the return" means the total tax liability before deducting payments.

31 Y. Notwithstanding subsection B of this section, the penalty
32 imposed on a taxpayer that fails to file a return pursuant to chapter 5 or
33 6 of this title on notice and demand by the department is twenty-five
34 percent of the tax, or \$100, whichever is greater. The penalty is due and
35 payable on notice and demand by the department, in addition to any penalty
36 prescribed by subsection A of this section, unless it is shown that the
37 failure is due to a reasonable cause and not due to wilful neglect.

38 Z. For the purposes of this section, and only as applied to the
39 taxes imposed by chapter 5, articles 1 through 6 and chapter 6, articles
40 1, 2 and 3 of this title, "reasonable cause" means a reasonable basis for
41 the taxpayer to believe that the tax did not apply to the business
42 activity or the storage, use or consumption of the taxpayer's tangible
43 personal property in this state.

1 Sec. 4. Section 42-2003, Arizona Revised Statutes, is amended to
2 read:

3 **42-2003. Authorized disclosure of confidential information**

4 A. Confidential information relating to:

5 1. A taxpayer may be disclosed to the taxpayer, its successor in
6 interest or a designee of the taxpayer who is authorized in writing by the
7 taxpayer. A principal corporate officer of a parent corporation may
8 execute a written authorization for a controlled subsidiary. If a
9 taxpayer elects to file an Arizona small business income tax return under
10 section 43-302, a written authorization by the taxpayer to allow the
11 department to disclose personal income tax information to a designee
12 includes the corresponding Arizona small business income tax return.

13 2. A corporate taxpayer may be disclosed to any principal officer,
14 any person designated by a principal officer or any person designated in a
15 resolution by the corporate board of directors or other similar governing
16 body. If a corporate officer signs a statement under penalty of perjury
17 representing that the officer is a principal officer, the department may
18 rely on the statement until the statement is shown to be false. For the
19 purposes of this paragraph, "principal officer" includes a chief executive
20 officer, president, secretary, treasurer, vice president of tax, chief
21 financial officer, chief operating officer or chief tax officer or any
22 other corporate officer who has the authority to bind the taxpayer on
23 matters related to state taxes.

24 3. A partnership may be disclosed to any partner of the
25 partnership. This exception does not include disclosure of confidential
26 information of a particular partner unless otherwise authorized.

27 4. A limited liability company may be disclosed to any member of
28 the company or, if the company is manager-managed, to any manager.

29 5. An estate may be disclosed to the personal representative of the
30 estate and to any heir, next of kin or beneficiary under the will of the
31 decedent if the department finds that the heir, next of kin or beneficiary
32 has a material interest that will be affected by the confidential
33 information.

34 6. A trust may be disclosed to the trustee or trustees, jointly or
35 separately, and to the grantor or any beneficiary of the trust if the
36 department finds that the grantor or beneficiary has a material interest
37 that will be affected by the confidential information.

38 7. A government entity may be disclosed to the head of the entity
39 or a member of the governing board of the entity, or any employee of the
40 entity who has been delegated the authorization in writing by the head of
41 the entity or the governing board of the entity.

42 8. Any taxpayer may be disclosed if the taxpayer has waived any
43 rights to confidentiality either in writing or on the record in any
44 administrative or judicial proceeding.

1 9. The name and taxpayer identification numbers of persons issued
2 direct payment permits may be publicly disclosed.

3 10. Any taxpayer may be disclosed during a meeting or telephone
4 call if the taxpayer is present during the meeting or telephone call and
5 authorizes the disclosure of confidential information.

6 B. Confidential information may be disclosed to:

7 1. Any employee of the department whose official duties involve tax
8 administration.

9 2. The office of the attorney general solely for its use in
10 preparation for, or in an investigation that may result in, any proceeding
11 involving tax administration before the department or any other agency or
12 board of this state, or before any grand jury or any state or federal
13 court.

14 3. The department of liquor licenses and control for its use in
15 determining whether a spirituous liquor licensee has paid all transaction
16 privilege taxes and affiliated excise taxes incurred as a result of the
17 sale of spirituous liquor, as defined in section 4-101, at the licensed
18 establishment and imposed on the licensed establishments by this state and
19 its political subdivisions.

20 4. Other state tax officials whose official duties require the
21 disclosure for proper tax administration purposes if the information is
22 sought in connection with an investigation or any other proceeding
23 conducted by the official. Any disclosure is limited to information of a
24 taxpayer who is being investigated or who is a party to a proceeding
25 conducted by the official.

26 5. The following agencies, officials and organizations, if they
27 grant substantially similar privileges to the department for the type of
28 information being sought, pursuant to statute and a written agreement
29 between the department and the foreign country, agency, state, Indian
30 tribe or organization:

31 (a) The United States internal revenue service, alcohol and tobacco
32 tax and trade bureau of the United States treasury, United States bureau
33 of alcohol, tobacco, firearms and explosives of the United States
34 department of justice, United States drug enforcement agency and federal
35 bureau of investigation.

36 (b) A state tax official of another state.

37 (c) An organization of states, federation of tax administrators or
38 multistate tax commission that operates an information exchange for tax
39 administration purposes.

40 (d) An agency, official or organization of a foreign country with
41 responsibilities that are comparable to those listed in subdivision (a),
42 (b) or (c) of this paragraph.

43 (e) An agency, official or organization of an Indian tribal
44 government with responsibilities comparable to the responsibilities of the

1 agencies, officials or organizations identified in subdivision (a), (b) or
2 (c) of this paragraph.

3 6. The auditor general, in connection with any audit of the
4 department subject to the restrictions in section 42-2002, subsection D.

5 7. Any person to the extent necessary for effective tax
6 administration in connection with:

7 (a) The processing, storage, transmission, destruction and
8 reproduction of the information.

9 (b) The programming, maintenance, repair, testing and procurement
10 of equipment for purposes of tax administration.

11 (c) The collection of the taxpayer's civil liability.

12 8. The office of administrative hearings relating to taxes
13 administered by the department pursuant to section 42-1101, but the
14 department shall not disclose any confidential information without the
15 taxpayer's written consent:

16 (a) Regarding income tax or withholding tax.

17 (b) On any tax issue relating to information associated with the
18 reporting of income tax or withholding tax.

19 9. The United States treasury inspector general for tax
20 administration for the purpose of reporting a violation of internal
21 revenue code section 7213A (26 United States Code section 7213A),
22 unauthorized inspection of returns or return information.

23 10. The financial management service of the United States treasury
24 department for use in the treasury offset program.

25 11. The United States treasury department or its authorized agent
26 for use in the state income tax levy program and in the electronic federal
27 tax payment system.

28 12. The Arizona commerce authority for its use in:

29 (a) Qualifying renewable energy operations for the tax incentives
30 under section 42-12006.

31 (b) Qualifying businesses with a qualified facility for income tax
32 credits under sections 43-1083.03 and 43-1164.04.

33 (c) Fulfilling its annual reporting responsibility pursuant to
34 section 41-1512, subsections U and V and section 41-1517, subsection L.

35 (d) Certifying computer data centers for tax relief under section
36 41-1519.

37 (e) Certifying applicants for the tax credit for motion picture
38 production costs under sections 43-1082 and 43-1165.

39 13. A prosecutor for purposes of section 32-1164, subsection C.

40 14. The office of the state fire marshal for use in determining
41 compliance with and enforcing title 37, chapter 9, article 5.

42 15. The department of transportation for its use in administering
43 taxes, surcharges and penalties prescribed by title 28.

44 16. The Arizona health care cost containment system administration
45 for its use in administering nursing facility provider assessments.

1 17. The department of administration risk management division and
2 the office of the attorney general if the information relates to a claim
3 against this state pursuant to section 12-821.01 involving the department
4 of revenue.

5 18. Another state agency if the taxpayer authorizes the disclosure
6 of confidential information in writing, including an authorization that is
7 part of an application form or other document submitted to the agency.

8 19. The department of economic security for its use in determining
9 whether an employer has paid all amounts due under the unemployment
10 insurance program pursuant to title 23, chapter 4.

11 20. The department of health services for its use in determining
12 the following:

13 (a) Whether a medical marijuana dispensary is in compliance with
14 the tax requirements of chapter 5 of this title for the purposes of
15 section 36-2806, subsection A.

16 (b) Whether a marijuana establishment, marijuana testing facility
17 or dual licensee licensed under title 36, chapter 28.2 is in compliance
18 with the tax obligations under this title or title 43.

19 21. The Arizona department of agriculture for the purpose of
20 ascertaining compliance with the licensing provisions in title 3.

21 22. The office of economic opportunity for the purpose of
22 performing the duties and obligations to or on behalf of this state
23 prescribed by title 41, chapter 53.

24 C. Confidential information may be disclosed in any state or
25 federal judicial or administrative proceeding pertaining to tax
26 administration pursuant to the following conditions:

27 1. One or more of the following circumstances must apply:

28 (a) The taxpayer is a party to the proceeding.

29 (b) The proceeding arose out of, or in connection with, determining
30 the taxpayer's civil or criminal liability, or the collection of the
31 taxpayer's civil liability, with respect to any tax imposed under this
32 title or title 43.

33 (c) The treatment of an item reflected on the taxpayer's return is
34 directly related to the resolution of an issue in the proceeding.

35 (d) Return information directly relates to a transactional
36 relationship between a person who is a party to the proceeding and the
37 taxpayer and directly affects the resolution of an issue in the
38 proceeding.

39 2. Confidential information may not be disclosed under this
40 subsection if the disclosure is prohibited by section 42-2002, subsection
41 C or D.

42 D. Identity information may be disclosed for purposes of notifying
43 persons entitled to tax refunds if the department is unable to locate the
44 persons after reasonable effort.

1 E. The department, on the request of any person, shall provide the
2 names and addresses of bingo licensees as defined in section 5-401, verify
3 whether or not a person has a privilege license and number, a tobacco
4 product, **NICOTINE PRODUCT OR VAPOR PRODUCT** distributor's license and
5 number or a withholding license and number or disclose the information to
6 be posted on the department's website or otherwise publicly accessible
7 pursuant to section 42-1124, subsection F and section 42-3401.

8 F. A department employee, in connection with the official duties
9 relating to any audit, collection activity or civil or criminal
10 investigation, may disclose return information to the extent that
11 disclosure is necessary to obtain information that is not otherwise
12 reasonably available. These official duties include the correct
13 determination of and liability for tax, the amount to be collected or the
14 enforcement of other state tax revenue laws.

15 G. Confidential information relating to transaction privilege tax,
16 use tax, severance tax, jet fuel excise and use tax and any other tax
17 collected by the department on behalf of any jurisdiction may be disclosed
18 to any county, city or town tax official if the information relates to a
19 taxpayer who is or may be taxable by a county, city or town or who may be
20 subject to audit by the department pursuant to section 42-6002. Any
21 taxpayer information that is released by the department to the county,
22 city or town:

23 1. May be used only for internal purposes, including audits. If
24 there is a legitimate business need relating to enforcing laws,
25 regulations and ordinances pursuant to section 9-500.39 or 11-269.17, a
26 county, city or town tax official may redisclose transaction privilege tax
27 information relating to a vacation rental or short-term rental property
28 owner or online lodging operator from the new license report and license
29 update report, subject to the following:

30 (a) The information redisclosed is limited to the following:

31 (i) The transaction privilege tax license number.

32 (ii) The type of organization or ownership of the business.

33 (iii) The legal business name and doing business as name, if
34 different from the legal name.

35 (iv) The business mailing address, tax record physical location
36 address, telephone number, email address and fax number.

37 (v) The date the business started in this state, the business
38 description and the North American industry classification system code.

39 (vi) The name, address and telephone number for each owner,
40 partner, corporate officer, member, managing member or official of the
41 employing unit.

42 (b) Redisclosure is limited to nonelected officials in other units
43 within the county, city or town. The information may not be redisclosed
44 to an elected official or the elected official's staff.

(c) All redisclosures of confidential information made pursuant to this paragraph are subject to paragraph 2 of this subsection.

2. May not be disclosed to the public in any manner that does not comply with confidentiality standards established by the department. The county, city or town shall agree in writing with the department that any release of confidential information that violates the confidentiality standards adopted by the department will result in the immediate suspension of any rights of the county, city or town to receive taxpayer information under this subsection.

H. The department may disclose statistical information gathered from confidential information if it does not disclose confidential information attributable to any one taxpayer. The department may disclose statistical information gathered from confidential information, even if it discloses confidential information attributable to a taxpayer, to:

1. The state treasurer in order to comply with the requirements of section 42-5029, subsection A, paragraph 3.

2. The joint legislative income tax credit review committee, the joint legislative budget committee staff and the legislative staff in order to comply with the requirements of section 43-221.

I. The department may disclose the aggregate amounts of any tax credit, tax deduction or tax exemption enacted after January 1, 1994. Information subject to disclosure under this subsection shall not be disclosed if a taxpayer demonstrates to the department that such information would give an unfair advantage to competitors.

J. Except as provided in section 42-2002, subsection C, confidential information, described in section 42-2001, paragraph 1, subdivision (a), item (ii), may be disclosed to law enforcement agencies for law enforcement purposes.

K. The department may provide transaction privilege tax license information to property tax officials in a county for the purpose of identification and verification of the tax status of commercial property.

L. The department may provide transaction privilege tax, luxury tax, use tax, property tax and severance tax information to the ombudsman-citizens aide pursuant to title 41, chapter 8, article 5.

M. Except as provided in section 42-2002, subsection D, a court may order the department to disclose confidential information pertaining to a party to an action. An order shall be made only on a showing of good cause and that the party seeking the information has made demand on the taxpayer for the information.

N. This section does not prohibit the disclosure by the department of any information or documents submitted to the department by a bingo licensee. Before disclosing the information, the department shall obtain the name and address of the person requesting the information.

1 0. If the department is required or allowed to disclose
2 confidential information, it may charge the person or agency requesting
3 the information for the reasonable cost of its services.

4 P. Except as provided in section 42-2002, subsection D, the
5 department of revenue shall release confidential information as requested
6 by the department of economic security pursuant to section 42-1122 or
7 46-291. Information disclosed under this subsection is limited to the
8 same type of information that the United States internal revenue service
9 is authorized to disclose under section 6103(l)(6) of the internal revenue
10 code.

11 Q. Except as provided in section 42-2002, subsection D, the
12 department shall release confidential information as requested by the
13 courts and clerks of the court pursuant to section 42-1122.

14 R. To comply with the requirements of section 42-5031, the
15 department may disclose to the state treasurer, to the county stadium
16 district board of directors and to any city or town tax official that is
17 part of the county stadium district confidential information attributable
18 to a taxpayer's business activity conducted in the county stadium
19 district.

20 S. The department shall release to the attorney general
21 confidential information as requested by the attorney general for purposes
22 of determining compliance with or enforcing any of the following:

23 1. Any public health control law relating to tobacco sales as
24 provided under title 36, chapter 6, article 14.

25 2. Any law relating to reduced cigarette ignition propensity
26 standards as provided under title 37, chapter 9, article 5.

27 3. Sections 44-7101 and 44-7111, the master settlement agreement
28 referred to in those sections and all agreements regarding disputes under
29 the master settlement agreement.

30 T. For proceedings before the department, the office of
31 administrative hearings, the state board of tax appeals or any state or
32 federal court involving penalties that were assessed against a return
33 preparer, an electronic return preparer or a payroll service company
34 pursuant to section 42-1103.02, 42-1125.01 or 43-419, confidential
35 information may be disclosed only before the judge or administrative law
36 judge adjudicating the proceeding, the parties to the proceeding and the
37 parties' representatives in the proceeding prior to its introduction into
38 evidence in the proceeding. The confidential information may be
39 introduced as evidence in the proceeding only if the taxpayer's name, the
40 names of any dependents listed on the return, all social security numbers,
41 the taxpayer's address, the taxpayer's signature and any attachments
42 containing any of the foregoing information are redacted and if either:

43 1. The treatment of an item reflected on such a return is or may be
44 related to the resolution of an issue in the proceeding.

1 2. Such a return or the return information relates or may relate to
2 a transactional relationship between a person who is a party to the
3 proceeding and the taxpayer that directly affects the resolution of an
4 issue in the proceeding.

5 3. The method of payment of the taxpayer's withholding tax
6 liability or the method of filing the taxpayer's withholding tax return is
7 an issue for the period.

8 U. The department and attorney general may share the information
9 specified in subsection S of this section with any of the following:

10 1. Federal, state or local agencies located in this state for the
11 purposes of enforcement of the statutes or agreements specified in
12 subsection S of this section or for the purposes of enforcement of
13 corresponding laws of other states.

14 2. Indian tribes located in this state for the purposes of
15 enforcement of the statutes or agreements specified in subsection S of
16 this section.

17 3. A court, arbitrator, data clearinghouse or similar entity for
18 the purpose of assessing compliance with or making calculations required
19 by the master settlement agreement or agreements regarding disputes under
20 the master settlement agreement, and with counsel for the parties or
21 expert witnesses in any such proceeding, if the information otherwise
22 remains confidential.

23 V. The department may provide the name and address of qualifying
24 hospitals and qualifying health care organizations, as defined in section
25 42-5001, to a business that is classified and reporting transaction
26 privilege tax under the utilities classification.

27 W. The department may disclose to an official of any city, town or
28 county in a current agreement or considering a prospective agreement with
29 the department as described in section 42-5032.02, subsection G any
30 information relating to amounts that are subject to distribution and that
31 are required by section 42-5032.02. Information disclosed by the
32 department under this subsection:

33 1. May be used only by the city, town or county for internal
34 purposes.

35 2. May not be disclosed to the public in any manner that does not
36 comply with confidentiality standards established by the department. The
37 city, town or county must agree with the department in writing that any
38 release of confidential information that violates the confidentiality
39 standards will result in the immediate suspension of any rights of the
40 city, town or county to receive information under this subsection.

41 X. Notwithstanding any other provision of this section, the
42 department may not disclose information provided by an online lodging
43 marketplace, as defined in section 42-5076, without the written consent of
44 the online lodging marketplace, and the information may be disclosed only
45 pursuant to subsection A, paragraphs 1 through 6, 8 and 10, subsection B,

1 paragraphs 1, 2, 7 and 8 and subsections C, D and G of this section. Such
2 information:

3 1. Is not subject to disclosure pursuant to title 39, relating to
4 public records.

5 2. May not be disclosed to any agency of this state or of any
6 county, city, town or other political subdivision of this state.

7 Sec. 5. Section 42-3001, Arizona Revised Statutes, is amended to
8 read:

9 **42-3001. Definitions**

10 In this chapter, unless the context otherwise requires:

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

13 2. "Brand family" has the same meaning prescribed in section
14 44-7111.

15 3. "Cavendish" means a tobacco product that is smoked from a pipe
16 and that meets one of the following criteria:

17 (a) Is described as cavendish, as containing cavendish or as a
18 cavendish blend on its packaging, labeling or promotional materials.

19 (b) Appears to have been processed or manufactured with an amount
20 of flavorings and humectants that exceeds twenty percent of the weight of
21 the tobacco contained in the product.

22 (c) Appears to be blended with or contain a tobacco product
23 described in subdivision (b) of this paragraph.

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

30 5. "Cigar" means any roll of tobacco wrapped in leaf tobacco or in
31 any substance containing tobacco other than any roll of tobacco that is a
32 cigarette, as defined in paragraph 6, subdivision (b) of this section.

33 6. "Cigarette" means either of the following:

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

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

43 7. "Consumer" means a person in this state that comes into
44 possession of any luxury subject to the tax imposed by this chapter and

1 that, on coming into possession of the luxury, is not a distributor
2 intending to sell or distribute the luxury, a retailer or a wholesaler.

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

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

9 (a) Cigarettes without Arizona tax stamps affixed as required by
10 this article.

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

13 (c) **NICOTINE PRODUCTS OR VAPOR PRODUCTS ON WHICH THE TAXES HAVE NOT
14 BEEN PAID AS REQUIRED BY THIS CHAPTER.**

15 10. "Farm winery" has the same meaning prescribed in section 4-101.

16 11. "First sale" means the initial sale or distribution in
17 intrastate commerce or the initial use or consumption of cigarettes,
18 roll-your-own tobacco, ~~or~~ other tobacco products, **NICOTINE PRODUCTS OR
19 VAPOR PRODUCTS.**

20 12. "Luxury" means any article, object or device on which a tax is
21 imposed under this chapter.

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

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

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

27 14. "Master settlement agreement" has the same meaning prescribed
28 in section 44-7101.

29 15. "Microbrewery" has the same meaning prescribed in section
30 4-101.

31 16. **"NICOTINE PRODUCT":**

32 (a) MEANS ANY NONCOMBUSTIBLE PRODUCT CONTAINING NICOTINE THAT IS
33 INTENDED FOR HUMAN CONSUMPTION, WHETHER CHEWED, ABSORBED, DISSOLVED OR
34 INGESTED BY ANY OTHER MEANS.

35 (b) DOES NOT INCLUDE:

36 (i) A TOBACCO PRODUCT.

37 (ii) A VAPOR PRODUCT.

38 (iii) A DRUG, DEVICE OR COMBINATION PRODUCT AUTHORIZED FOR SALE BY
39 THE UNITED STATES FOOD AND DRUG ADMINISTRATION, AS THOSE TERMS ARE DEFINED
40 IN THE FEDERAL FOOD, DRUG, AND COSMETIC ACT (52 STAT. 1040; 21 UNITED
41 STATES CODE SECTION 321) OR THE REGULATIONS ADOPTED PURSUANT TO THE
42 FEDERAL FOOD, DRUG, AND COSMETIC ACT.

43 ~~16.~~ 17. "Nonparticipating manufacturer" has the same meaning
44 prescribed in section 44-7111.

1 ~~17.~~ 18. "Other tobacco products" means tobacco products other than
2 cigarettes and roll-your-own tobacco.

3 ~~18.~~ 19. "Participating manufacturer" has the same meaning
4 prescribed in section 44-7111.

5 ~~19.~~ 20. "Person" means any individual, firm, partnership, joint
6 venture, association, corporation, municipal corporation, estate, trust,
7 club, society or other group or combination acting as a unit, and the
8 plural as well as the singular number.

9 ~~20.~~ 21. "Place of business":

10 (a) Means a building, facility site or location where an order is
11 received or where tobacco products, **NICOTINE PRODUCTS OR VAPOR PRODUCTS**
12 are sold, distributed or transferred. ~~Place of business~~

13 (b) Does not include a vehicle.

14 ~~21.~~ 22. "Retailer" means any person that comes into possession of
15 any luxury subject to the taxes imposed by this chapter for the purpose of
16 selling it for consumption and not for resale.

17 ~~22.~~ 23. "Roll-your-own tobacco" means any tobacco that, because of
18 its appearance, type, packaging or labeling, is suitable for use and
19 likely to be offered to or purchased by consumers as tobacco for making
20 cigarettes. This paragraph shall be interpreted consistently with the
21 term as used in section 44-7101. This paragraph shall be interpreted
22 consistently with the classification guidelines established by the federal
23 alcohol and tobacco tax and trade bureau.

24 ~~23.~~ 24. "Smoking tobacco":

25 (a) Means any tobacco that, because of its appearance, type,
26 packaging, labeling or promotion, is suitable for use and likely to be
27 offered to or purchased by consumers as tobacco for making cigarettes or
28 otherwise consumed by burning. ~~Smoking tobacco~~

29 (b) Includes pipe tobacco and roll-your-own tobacco.

30 ~~24.~~ 25. "Spirituous liquor":

31 (a) Means any liquid that contains more than one-half of one
32 percent alcohol by volume, that is produced by distillation of any
33 fermented substance and that is used or prepared for use as a
34 beverage. ~~Spirituous liquor~~

35 (b) Does not include medicines that are unsuitable for beverage
36 purposes.

37 ~~25.~~ 26. "Tobacco product manufacturer" has the same meaning
38 prescribed in section 44-7101.

39 ~~26.~~ 27. "Tobacco products" means all luxuries included in section
40 42-3052, paragraphs 5 through 9.

41 28. "VAPOR PRODUCT":

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

(b) INCLUDES WHETHER OR NOT SOLD SEPARATELY:
(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:
(i) MARIJUANA OR MARIJUANA PRODUCTS.
(ii) 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 (52 STAT. 1040; 21 UNITED STATES CODE SECTION 321) OR THE REGULATIONS ADOPTED PURSUANT TO THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

27. 29. "Vehicle" means a device in, on or by which a person or property is or may be transported or drawn on the roads of this state regardless of the means by which it is propelled or whether it runs on a track.

~~28.~~ 30. "Vinous liquor":

(a) Means any liquid that contains more than one-half of one percent alcohol by volume and that is made by the process of fermentation of grapes, berries, fruits, vegetables or other substances. **but**

(b) Does not include:

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

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

(iii) Medicines that are unsuitable for beverage purposes.

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

Sec. 6. Section 42-3008, Arizona Revised Statutes, is amended to read:

42-3008. Refunds: definitions

A. Except as provided in subsection C of this section, the tax imposed by this chapter on any luxury shall be refunded when the amount of the tax has been paid and when one of the following applies:

1. Proof is made to the department that the luxuries were exported from this state or that the stamps have been affixed to luxuries on which stamps are not required.

2. Proof is made to the department that the luxury becomes unfit for sale due to breakage or spoilage within either six months from the date that the distributor originally receives the luxury for sale or two months from the date that the luxury was returned to the distributor by a retailer, whichever occurs later.

3. Within six months after a distributor returns a luxury to the manufacturer or importer, proof of the return is made to the department.

1 B. The manner of making proof shall be in accordance with rules
2 adopted by the department.

3 C. The department shall not refund the tax for stamps that are
4 affixed to luxuries that are deemed contraband under this chapter.

5 D. Except as otherwise provided in section 42-1123, interest is
6 calculated sixty days after receipt by the department of a claim for
7 refund under this section.

8 E. For the purposes of this section:

9 1. "Breakage" means damage to the outer wrapping or container of a
10 tobacco product, **NICOTINE PRODUCT OR VAPOR PRODUCT**.

11 2. "Importer" and "manufacturer" have the same meanings prescribed
12 in section 42-3451.

13 3. "Spoilage" means mutilation, product expiration or unfit for
14 intended consumption.

15 Sec. 7. Section 42-3051, Arizona Revised Statutes, is amended to
16 read:

17 42-3051. Levy of tax

18 In addition to all other taxes, there is levied and imposed and
19 there shall be collected and deposited, pursuant to sections 35-146 and
20 35-147, in the manner provided by this chapter, taxes on all spirituous,
21 vinous and malt liquors, ~~and~~ on all cigarettes, cigars, smoking tobacco,
22 plug tobacco, snuff and other forms of tobacco **AND ON NICOTINE PRODUCTS**
AND VAPOR PRODUCTS, for use as may be prescribed by law.

23 Sec. 8. Section 42-3052, Arizona Revised Statutes, is amended to
24 read:

25 42-3052. Classifications of luxuries; rates of tax

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

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

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

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

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

41 5. On each cigarette, ~~nine-tenths cent~~ \$.009.

42 6. On smoking tobacco, snuff, fine cut chewing tobacco, cut and
43 granulated tobacco, shorts and refuse of fine cut chewing tobacco, and
44 refuse, scraps, clippings, cuttings and sweepings of tobacco, excluding

1 tobacco powder or tobacco products used exclusively for agricultural or
2 horticultural purposes and unfit for human consumption, ~~two cents~~ \$02 per
3 ounce or major fraction of an ounce.

4 7. On all cavendish, plug or twist tobacco, ~~one-half cent~~ \$.005 per
5 ounce or fractional part of an ounce.

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

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

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

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

14 10. ON EACH NICOTINE PRODUCT AND VAPOR PRODUCT, FIFTY PERCENT OF
15 THE WHOLESALE PRICE.

16 Sec. 9. Section 42-3053, Arizona Revised Statutes, is amended to
17 read:

18 42-3053. Method of payment; receipts; electronic filings of
19 returns, reports and other documents; license
20 applications and requests for refund or rebate;
21 definition

22 A. All orders for the purchase or receipt of tax stamps required
23 under this chapter must be submitted pursuant to an electronic filing
24 program established by the department. Except as provided in subsection B
25 of this section, all remittances of taxes for the purchase of Arizona tax
26 stamps imposed by this chapter shall be made by electronic funds transfer
27 to the department in monies that are immediately available to this state
28 on the date of transfer. A remittance other than cash does not constitute
29 a final discharge of liability for the tax levied by this chapter until it
30 has been paid in cash to the department.

31 B. Any distributor remitting any taxes levied under section 42-3302
32 or under this chapter on any tobacco product other than cigarettes **OR ON**
33 **ANY NICOTINE PRODUCT OR VAPOR PRODUCT** that is subject to tax under this
34 chapter is required to pay the tax liability on or before the payment date
35 in monies that are immediately available to this state on the date of
36 transfer. The payment in immediately available monies must be made by
37 electronic funds transfer and with the state treasurer's approval. The
38 distributor must furnish evidence as prescribed by the department that the
39 payment was remitted on or before the payment due date.

40 C. A person is required to electronically file any report, return
41 or other document required under this chapter pursuant to an electronic
42 filing program established by the department. The report, return or other
43 document is deemed filed and received by the department on the date of the
44 electronic postmark pursuant to section 42-1105.02.

1 D. An application for a license issued pursuant to section 42-3401
2 and any request for a refund or rebate of taxes paid on tobacco products,
3 **NICOTINE PRODUCTS OR VAPOR PRODUCTS** made pursuant to section 42-3406 must
4 be submitted pursuant to an electronic filing program established by the
5 department. The application or request is considered to be filed and
6 received by the department on the date of the electronic postmark pursuant
7 to section 42-1105.02. The department may not consider applications or
8 requests that fail to comply with this subsection. An applicant shall pay
9 the application fee required under section 42-3401 to the department by
10 electronic funds transfer.

11 E. A distributor who is required to make payment by electronic
12 funds transfer under this chapter and who fails to do so is subject to the
13 civil penalties prescribed by section 42-1125, subsection 0. A
14 distributor who fails to make a timely payment in immediately available
15 monies as prescribed by this section is subject to civil penalties
16 prescribed by section 42-1125, subsection D. A person who is required to
17 electronically file any report, return or document under this chapter but
18 fails to do so is subject to the civil penalty prescribed by section
19 42-1125, subsection K.

20 F. For the purposes of this section, "electronic filing program"
21 has the same meaning prescribed in section 42-1105.02.

22 Sec. 10. Title 42, chapter 3, article 3, Arizona Revised Statutes,
23 is amended by adding section 42-3107, to read:

24 42-3107. Monies collected from nicotine products and vapor
25 products

26 NOTWITHSTANDING SECTION 42-3102, MONIES COLLECTED PURSUANT TO
27 SECTION 42-3052, PARAGRAPH 10 SHALL BE DEPOSITED AS FOLLOWS:

28 1. FORTY PERCENT IN THE STATE GENERAL FUND.

29 2. SIXTY PERCENT IN THE EARLY CHILDHOOD DEVELOPMENT AND HEALTH FUND
30 ESTABLISHED BY SECTION 8-1181. MONIES DEPOSITED PURSUANT TO THIS PARAGRAPH
31 SHALL BE ALLOCATED AS FOLLOWS:

32 (a) SEVENTY PERCENT DEPOSITED IN THE SAME MANNER AS MONIES
33 DEPOSITED IN THE EARLY CHILDHOOD DEVELOPMENT AND HEALTH FUND PURSUANT TO
34 SECTION 8-1181, SUBSECTION D.

35 (b) THIRTY PERCENT DEPOSITED IN THE GRANT MONIES ACCOUNT
36 ESTABLISHED BY SECTION 8-1181, SUBSECTION B FOR THE PURPOSES OF IMPROVING
37 THE QUALITY OF AND INCREASING ACCESS TO EARLY CHILDHOOD EDUCATION
38 PROGRAMS.

39 Sec. 11. Heading change

40 The article heading of title 42, chapter 3, article 10, Arizona
41 Revised Statutes, is changed from "DISTRIBUTORS AND RETAILERS OF TOBACCO
42 PRODUCTS" to "DISTRIBUTORS AND RETAILERS OF TOBACCO PRODUCTS, NICOTINE
43 PRODUCTS AND VAPOR PRODUCTS".

1 Sec. 12. Section 42-3401, Arizona Revised Statutes, is amended to
2 read:

3 42-3401. Tobacco product, nicotine product and vapor product
4 distributor licenses; application; conditions;
5 revocations and cancellations

6 A. Every person acquiring or possessing for the purpose of making
7 the initial sale or distribution in this state of any tobacco products,
8 **NICOTINE PRODUCTS OR VAPOR PRODUCTS** on which a tax is imposed by this
9 chapter shall obtain from the department a license to sell tobacco
10 products, **NICOTINE PRODUCTS OR VAPOR PRODUCTS**. The application for the
11 license shall be in the form provided by the department and shall be
12 accompanied by a fee of \$25 for each place of business listed in the
13 application. The form shall state that the identity of the applicant will
14 be posted to the department's website for public inspection. The
15 application for a license shall include the applicant's name and address,
16 the applicant's principal place of business, all other places of business
17 where the applicant's business is conducted for the purpose of making the
18 initial sale or distribution of tobacco products, **NICOTINE PRODUCTS OR**
19 **VAPOR PRODUCTS** in this state, including any location that maintains an
20 inventory of tobacco products, **NICOTINE PRODUCTS OR VAPOR PRODUCTS**, and
21 any other information required by the department. The applicant's
22 principal place of business and other business locations may not include a
23 residential location or post office box address, except as allowed under
24 subsection D, paragraph 2, subdivision (c) of this section. If the
25 applicant is a firm, partnership, limited liability company, limited
26 liability partnership or association, the applicant shall list the name
27 and address of each of the applicant's members. If the applicant is a
28 corporation, the application shall list the name and address of the
29 applicant's officers and any person who directly or indirectly owns an
30 aggregate amount of ten percent or more of the ownership interest in the
31 corporation. If a licensee is a corporation, firm, partnership, limited
32 liability company, limited liability partnership or association, the
33 licensee under this subsection shall notify the department in writing
34 within thirty days after any change in membership, legal entity status or
35 ownership of more than fifty percent of the total ownership interest in a
36 single transaction. If a licensee changes its business location, the
37 licensee under this subsection shall notify the department within thirty
38 days after a change in location. If the licensee is making a change in
39 its business location by adding or replacing one or more additional places
40 of business that are not currently listed on its application, the licensee
41 must remit a fee of \$25 for each additional place of business.

42 B. For the purposes of subsection A of this section, an applicant
43 with a controlling interest in more than one business engaged in
44 activities as a distributor shall apply for a single license encompassing
45 all such businesses and list each place of business in its application.

1 For the purposes of this subsection, "controlling interest" means direct
2 or indirect ownership of at least eighty percent of the voting shares of a
3 corporation or of the interests in a company, business or person other
4 than a corporation.

5 C. The department shall issue a license authorizing the applicant
6 to acquire or possess tobacco products, **NICOTINE PRODUCTS OR VAPOR**
7 **PRODUCTS** in this state on the condition that the applicant complies with
8 this chapter and the rules of the department. **THE DEPARTMENT MAY ISSUE**
9 **SEPARATE LICENSES FOR TOBACCO PRODUCTS, NICOTINE PRODUCTS AND VAPOR**
10 **PRODUCTS AND MAY CHARGE THE FEES PRESCRIBED IN SUBSECTION A OF THIS**
11 **SECTION FOR EACH LICENSE OR ISSUE A SINGLE LICENSE FOR TOBACCO PRODUCTS,**
12 **NICOTINE PRODUCTS OR VAPOR PRODUCTS.** The license:

13 1. Shall be nontransferable. A licensee may not transfer its
14 license to a new owner when selling its business, and any court-appointed
15 trustee, receiver or other person shall obtain a license in its own name
16 in cases of liquidation, insolvency or bankruptcy or pursuant to a court
17 order if the business remains in operation as a distributor of tobacco
18 products, **NICOTINE PRODUCTS OR VAPOR PRODUCTS.** In cases of liquidation,
19 insolvency or bankruptcy or pursuant to a court order, the department will
20 not consider a business as remaining in operation under this paragraph if
21 the court-appointed trustee, receiver or other person winds up the
22 business within sixty days after the order is issued. A licensee shall
23 apply for a new license if it changes its legal entity status or otherwise
24 changes the legal structure of its business.

25 2. Shall be valid for one year unless earlier canceled or revoked
26 by the department.

27 3. Shall be displayed in a conspicuous place at the licensee's
28 place of business. If the licensee operates from more than one place of
29 business, the licensee must display a copy of its license in a conspicuous
30 place at each location.

31 D. As a condition of licensure under this section, an applicant
32 agrees to the following conditions:

33 1. A person may not hold or store any tobacco products, **NICOTINE**
34 **PRODUCTS OR VAPOR PRODUCTS**, whether within or outside of this state, for
35 sale or distribution in this state by or on behalf of a distributor at any
36 place other than a location that has been disclosed to the department
37 pursuant to subsection A of this section. This paragraph does not include
38 a person holding or storing tobacco products, **NICOTINE PRODUCTS OR VAPOR**
39 **PRODUCTS** by or on behalf of the distributor when the tobacco products,
40 **NICOTINE PRODUCTS OR VAPOR PRODUCTS** are in transit to a distributor or
41 retailer as part of a lawful sale.

42 2. All tobacco products, **NICOTINE PRODUCTS OR VAPOR PRODUCTS** held
43 or stored, whether within or outside of this state, for sale or
44 distribution in this state by or on behalf of a distributor:

1 (a) Shall be accessible to the department during normal business
2 hours without a judicial warrant or prior written consent of the
3 distributor.

4 (b) May not be held or stored in a vehicle, except as allowed under
5 section 42-3403, subsection B.

6 (c) May not be held or stored at a residential location, unless the
7 sole luxury for sale or distribution by or on behalf of the distributor is
8 taxed as a cigar under section 42-3052, paragraph 8 or 9 and the product
9 weight of the cigars is not more than five hundred pounds. If the product
10 is held or stored at a residential location, as a condition of licensure,
11 the distributor shall provide written consent and allow access to the
12 department to inspect the stock of luxuries and all books, papers,
13 invoices, records and electronically stored data showing sales, receipts
14 and purchases of luxuries. The distributor shall submit the written
15 consent to the department with the license application or on demand of the
16 department.

17 3. Tobacco products, **NICOTINE PRODUCTS OR VAPOR PRODUCTS** may be
18 sold, transferred or distributed to a retailer located on an Indian
19 reservation in this state only if the retailer is registered with, and has
20 a registration identification number issued by, the department.

21 E. A person who is convicted of an offense described in section
22 42-1127, subsection E is permanently ineligible to hold a license issued
23 under this section.

24 F. The department may not issue or renew a license to an applicant
25 and may revoke a license issued under subsection C of this section if any
26 of the following applies:

27 1. The applicant or licensee owes \$1,000 or more in delinquent
28 taxes imposed on tobacco products, **NICOTINE PRODUCTS OR VAPOR PRODUCTS**
29 under this chapter that are not under protest or subject to a payment
30 agreement.

31 2. The department has revoked any license held by the applicant or
32 licensee within the previous two years.

33 3. The applicant or licensee has been convicted of a crime that
34 relates to stolen or counterfeit cigarettes.

35 4. The applicant or licensee has imported cigarettes into the
36 United States for sale or distribution in violation of 19 United States
37 Code section 1681a.

38 5. The applicant or licensee has imported cigarettes into the
39 United States for sale or distribution without fully complying with the
40 federal cigarette labeling and advertising act (P.L. 89-92; 79 Stat. 282;
41 15 United States Code section 1331).

42 6. The applicant or licensee is in violation of section 13-3711 or
43 section 36-798.06, subsection A.

1 7. Pursuant to section 44-7111, section 6(a), the applicant or
2 licensee is in violation of section 44-7111, section 3(c).

3 8. The civil rights of the applicant or licensee have been
4 suspended under section 13-904. An applicant or licensee whose civil
5 rights have been suspended is ineligible to hold a license for a period of
6 five years following the restoration of the applicant's or licensee's
7 civil rights.

8 G. In addition to any other civil or criminal penalty and except as
9 otherwise provided in this section, the department may deny the issuance
10 or renewal of or revoke a license issued under subsection C of this
11 section if the person violates any requirement under this title more than
12 two times within a three-year period or fails to otherwise maintain the
13 conditions of licensure in this section.

14 H. The department shall publish on its website the names of each
15 person who is issued a license under subsection C of this section,
16 including any trade names or business names used by the licensee. The
17 department shall update the published names at least once each month.

18 I. A person may not apply for or hold a distributor's license if
19 that person does not engage in the activities described in subsection A of
20 this section. In addition to any other applicable penalty, the department
21 may cancel the license of any licensee that fails to incur any tax
22 liability under this chapter for twelve consecutive months.

23 J. Any revocation, cancellation or denial of a license issued under
24 this section by the department must comply with section 41-1092.11,
25 subsection B.

26 K. Notwithstanding any other law, for the purposes of subsection F,
27 paragraphs 1 and 2 of this section, section 42-1127, subsection C and
28 section 42-3461, subsection B, if a distributor has listed in its
29 application more than one place of business, any revocation, cancellation,
30 denial or nonrenewal of the distributor's license shall apply only with
31 effect to remove the place of business or business location at which the
32 activity occurred from the distributor's license. If such a removal
33 occurs, the distributor shall be subject to restrictions that the
34 department prescribes by rule.

35 Sec. 13. Section 42-3403, Arizona Revised Statutes, is amended to
36 read:

37 42-3403. Tobacco product, nicotine product and vapor product
38 retailers; vehicle as place of business
39 prohibited; exceptions

40 A. A retailer may sell any tobacco product, **NICOTINE PRODUCT OR**
41 **VAPOR PRODUCT** that is not otherwise prohibited by federal or state law
42 from sale for resale, but a retailer may not acquire or possess unstamped
43 cigarettes, or other tobacco products, ~~or~~ cigarettes, **NICOTINE PRODUCTS OR**
44 **VAPOR PRODUCTS** on which taxes levied under this chapter have not been

1 paid, unless the retailer holds a valid license issued under section
2 42-3401.

3 B. A person may not use a vehicle as a place of business for
4 selling, transferring or otherwise distributing tobacco products, **NICOTINE**
5 **PRODUCTS OR VAPOR PRODUCTS**. This subsection does not prohibit the lawful
6 delivery of other tobacco products, **NICOTINE PRODUCTS OR VAPOR PRODUCTS** by
7 a person who holds a valid license issued under section 42-3401, or by
8 that person's representative, using a vehicle that is owned, operated or
9 contracted by that person or that person's representative. That person or
10 that person's representative is expressly allowed to use such a vehicle to
11 carry and store tax-paid other tobacco products, **NICOTINE PRODUCTS OR**
12 **VAPOR PRODUCTS** in the normal course of performing the person's or the
13 person's representative's duties, including for the purpose of selling
14 other tobacco products, **NICOTINE PRODUCTS OR VAPOR PRODUCTS** to, and
15 performing similar lawful transactions with, retailers and distributors.
16 If a vehicle is used by a licensed distributor to carry and store tax-paid
17 other tobacco products, **NICOTINE PRODUCTS OR VAPOR PRODUCTS**, as a
18 condition of licensure, the distributor shall provide written consent and
19 allow access to the department to inspect the stock of luxuries and all
20 books, papers, invoices, records and electronically stored data showing
21 sales, receipts and purchases of luxuries. The distributor shall submit
22 the written consent to the department with the license application or on
23 demand of the department.

24 C. This section does not prohibit business activities that are
25 allowed under sections 42-3454 and 42-3502 for both taxed and untaxed
26 tobacco products, **NICOTINE PRODUCTS OR VAPOR PRODUCTS**.

27 Sec. 14. Section 42-3404, Arizona Revised Statutes, is amended to
28 read:

29 42-3404. Exemptions and exclusions of certain tobacco
30 products, nicotine products and vapor products
31 from tobacco taxes and nicotine products and vapor
32 products taxes

33 A. The taxes imposed by this chapter do not apply to:

34 1. Tobacco products that are sold to the United States army, air
35 force, navy, marine corps or coast guard exchanges and commissaries and
36 navy or coast guard ships' stores.

37 2. Tobacco products that are sold to the United States department
38 of veterans affairs.

39 3. Tobacco products that are non-tax-paid under subtitle E, chapter
40 52 of the internal revenue code and that are under internal revenue bond
41 or customs control.

42 4. Tobacco products that are sold or transferred to a law
43 enforcement agency for use in a criminal investigation if the sale or
44 transfer is authorized by the department. A law enforcement agency

1 authorized by the department to receive or purchase tobacco products is
2 not required to:

3 (a) Be licensed as a distributor.

4 (b) Collect or remit the tax imposed by this chapter with respect
5 to authorized distributions.

6 5. Tobacco products that are sold by a distributor licensed under
7 section 42-3401 to a common carrier engaged in foreign passenger service
8 or to a retailer that sells tobacco products on the facilities of the
9 carrier that are dedicated to foreign passenger service.

10 6. Federally tax free tobacco products that are sold or given for
11 delivery directly from the manufacturer under internal revenue bond to a
12 veterans' home of this state or a hospital or domiciliary facility of the
13 United States department of veterans affairs for gratuitous issue to
14 veterans receiving hospitalization or domiciliary care. The taxes are not
15 imposed with respect to the use or consumption of the tobacco products by
16 the institution, veteran patients or domiciliaries.

17 7. Tobacco products that are sold by a manufacturer to a
18 distributor licensed under section 42-3401.

19 8. Tobacco products that are manufactured outside the United States
20 and that are sold by an importer to a distributor licensed under section
21 42-3401.

22 B. THE TAXES IMPOSED BY THIS CHAPTER DO NOT APPLY TO NICOTINE
23 PRODUCTS OR VAPOR PRODUCTS TO THE SAME EXTENT THAT TAXES DO NOT APPLY TO
24 TOBACCO PRODUCTS AS DESCRIBED IN SUBSECTION A OF THIS SECTION.

25 ~~B.~~ C. Subsection A, paragraphs 1 and 2 of this section do not
26 apply after the first day of the first calendar month beginning more than
27 sixty days after existing federal law is amended to permit state taxation
28 of cigarettes sold by or through federal military installations.

29 ~~C.~~ D. Sales of tobacco products, NICOTINE PRODUCTS OR VAPOR
30 PRODUCTS by a licensed distributor to an instrumentality of the United
31 States government must be supported by a separate sales invoice and a
32 properly completed federal exemption certificate. Each sales invoice must
33 be numbered, be dated and show the name of the seller, the name of the
34 purchaser and the destination.

35 ~~D.~~ E. This section does not affect the imposition of transaction
36 privilege and use taxes pursuant to chapter 5 of this title to any
37 transactions described in subsection A ~~OR B~~ of this section if the
38 transaction is otherwise subject to transaction privilege tax or use tax.

39 ~~E.~~ F. The exemptions and exclusions provided in subsection A ~~OR B~~
40 of this section do not affect the taxability under this chapter of tobacco
41 products, NICOTINE PRODUCTS OR VAPOR PRODUCTS that are sold, given or
42 transferred to a person in this state subsequent to the transactions
43 described in subsection A ~~OR B~~ of this section.

1 Sec. 15. Section 42-3405, Arizona Revised Statutes, is amended to
2 read:

3 **42-3405. Tobacco product, nicotine product and vapor product**
4 **manufacturers, importers, distributors and**
5 **retailers; recordkeeping and invoicing**
6 **requirements; retention period**

7 A. Except for retail transactions with consumers, each
8 manufacturer, importer and distributor of tobacco products, **NICOTINE**
9 **PRODUCTS AND VAPOR PRODUCTS** shall maintain copies of invoices or
10 equivalent documentation for each facility and for each transaction that
11 involves the sale, purchase, transfer, consignment or receipt of tobacco
12 products, **NICOTINE PRODUCTS OR VAPOR PRODUCTS** within this state. The
13 invoices or equivalent documentation for each transaction shall be in the
14 form and manner prescribed by the department and shall indicate the name
15 and address of the other party and the quantity by brand style of the
16 tobacco products, **NICOTINE PRODUCTS OR VAPOR PRODUCTS** involved in the
17 transaction.

18 B. A distributor of tobacco products, **NICOTINE PRODUCTS OR VAPOR**
19 **PRODUCTS** shall issue an invoice or equivalent documentation for each
20 transaction that involves the sale, purchase or consignment of tobacco
21 products to a retailer. The invoice or equivalent documentation must
22 include the license number of the distributor, which the retailer may use
23 to ascertain whether the license is current and valid.

24 C. Any retailer of tobacco products, **NICOTINE PRODUCTS OR VAPOR**
25 **PRODUCTS** shall retain all invoices or equivalent documentation received
26 under subsection B of this section.

27 D. Records required under this section shall be preserved on the
28 premises described in the relevant license in a manner as to ensure
29 accessibility for inspection at reasonable hours by authorized personnel
30 of the department. With the department's permission, persons with
31 multiple places of business may retain centralized records, but shall
32 transmit duplicates of the invoices or the equivalent documentation to
33 each place of business within three business days after a request by the
34 department.

35 E. The records required by this section shall be retained for a
36 period of four years after the date of the transaction.

37 F. On request, the department and the United States secretary of
38 the treasury or secretary's designee shall have access to records required
39 under this section and reports required under section 42-3462. The
40 department at its sole discretion may share the records and reports
41 required by this chapter with other law enforcement officials of federal
42 and state governments under conditions that assume the confidentiality of
43 taxpayer information contained in the records and reports.

1 Sec. 16. Section 42-3406, Arizona Revised Statutes, is amended to
2 read:

3 **42-3406. Refunds and rebates of tobacco taxes and nicotine**
4 **products and vapor products taxes; supporting**
5 **documentation; distributor's burden of proof**

6 A. Except as otherwise provided under subsection B of this section
7 or by the department for a refund or redemption under section 42-3008 or
8 42-3460, a distributor requesting any refund or rebate of taxes paid on
9 tobacco products, **NICOTINE PRODUCTS OR VAPOR PRODUCTS** pursuant to article
10 2, 6, 7 or 9 of this chapter shall establish entitlement to the refund or
11 rebate by obtaining a report executed by the retailer that purchased the
12 tobacco products, **NICOTINE PRODUCTS OR VAPOR PRODUCTS** on which the
13 distributor paid taxes, indicating the name and address of the retailer
14 and the quantities of tobacco products, **NICOTINE PRODUCTS OR VAPOR**
15 **PRODUCTS** sold, separately identified by the tax category of tobacco
16 product, **NICOTINE PRODUCT OR VAPOR PRODUCT** and the necessary facts to
17 establish the appropriate amount of refund or rebate. The report is
18 subject to the following conditions:

19 1. The report shall be provided in the form and manner prescribed
20 by the department. Under such rules as it may prescribe, the department
21 may identify transactions for which a distributor may not rely solely on
22 the information in the retailer's report but must instead obtain
23 additional information as required by the rules in order to be entitled to
24 the refund or rebate.

25 2. The burden of proof for the refund or rebate is on the
26 distributor, but if the distributor complies in all other respects with
27 this section, the department may require the retailer that caused the
28 execution of the report to establish the accuracy and completeness of the
29 information required to be contained in the report that would entitle the
30 distributor to the refund or rebate. If the retailer cannot establish the
31 accuracy and completeness of the information, the retailer is liable in an
32 amount equal to any tax, penalty and interest that the distributor would
33 have been liable for under this chapter if the distributor had not
34 otherwise complied with this section. Payment of the amount under this
35 section by the retailer exempts the distributor from liability for the
36 underlying tax, penalty and interest. All amounts paid by a retailer
37 under this paragraph shall be treated as tax revenues collected from the
38 distributor in order to designate the distribution base for the purposes
39 of this chapter.

40 B. In its discretion and in circumstances in which a retailer is
41 uncooperative, nonresponsive or no longer in business, the department may
42 accept proof other than a report described in subsection A of this section
43 if the distributor shows, to the satisfaction of the department, that it
44 exercised ordinary business care and prudence but was unable to furnish a
45 report executed by the retailer. Acceptable forms of proof presented by

1 the distributor pursuant to this subsection must consist of books, records
2 or papers maintained by the distributor or retailer in the regular course
3 of business.

4 Sec. 17. Heading change

5 The article heading of title 42, chapter 3, article 12, Arizona
6 Revised Statutes, is changed from "TOBACCO PRODUCTS OTHER THAN CIGARETTES"
7 to "TOBACCO PRODUCTS OTHER THAN CIGARETTES, NICOTINE PRODUCTS AND VAPOR
8 PRODUCTS".

9 Sec. 18. Section 42-3501, Arizona Revised Statutes, is amended to
10 read:

11 42-3501. Return and payment by distributors of tobacco
12 products, nicotine products or vapor products
13 other than cigarettes

14 A. Except for tobacco products described in section 42-3402, every
15 distributor of tobacco products other than cigarettes, **NICOTINE PRODUCTS**
16 **OR VAPOR PRODUCTS** shall pay the tax imposed by this chapter on all those
17 products received within ~~the~~ **THIS** state and shall add the amount of the
18 tax to the sales price.

19 B. The distributor shall pay the tax to the department monthly on
20 or before the twentieth day of the month next succeeding the month in
21 which the tax accrues.

22 C. On or before that date the distributor shall prepare a sworn
23 return for the month in which the tax accrues in the form prescribed by
24 the department, showing:

25 1. The amount of tobacco products other than cigarettes, **NICOTINE**
26 **PRODUCTS OR VAPOR PRODUCTS** received in this state during the month in
27 which the tax accrues.

28 2. The amount of tax for the period covered by the return.

29 3. Any other information the department deems necessary for the
30 proper administration of this chapter, including information required for
31 roll-your-own tobacco provided under section 42-3462.

32 D. The distributor shall deliver the return, together with a
33 remittance of the amount of the tax due, to the department.

34 E. A taxpayer who fails to pay the tax within ten days ~~of~~ **AFTER** the
35 date on which the payment becomes due is subject to and shall pay a
36 penalty determined under section 42-1125 plus interest at the rate
37 determined pursuant to section 42-1123 from the time the tax was due and
38 payable until paid.

39 Sec. 19. Section 42-3502, Arizona Revised Statutes, is amended to
40 read:

41 42-3502. Transport of untaxed other tobacco products,
42 nicotine products or vapor products prohibited;
43 exceptions; definition

44 A. Except as allowed in section 42-3403, a person may not hold,
45 store or transport untaxed other tobacco products, **NICOTINE PRODUCTS OR**

1 VAPOR PRODUCTS for sale or distribution in this state in any vehicle.

2 B. This section does not apply to either of the following:

3 1. A vehicle that is owned, operated or contracted by a person who
4 holds a valid license issued under section 42-3401 and is transporting
5 untaxed other tobacco products, NICOTINE PRODUCTS OR VAPOR PRODUCTS from
6 one to another of the licensee's places of business listed on its
7 application.

8 2. A vehicle that is transporting untaxed other tobacco products,
9 NICOTINE PRODUCTS OR VAPOR PRODUCTS to a licensed distributor as part of a
10 lawful sale or in interstate commerce to a person lawfully operating as a
11 manufacturer, distributor or retailer of other tobacco products, NICOTINE
12 PRODUCTS OR VAPOR PRODUCTS.

13 C. For the purposes of this section, "untaxed other tobacco
14 products, NICOTINE PRODUCTS OR VAPOR PRODUCTS" means other tobacco
15 products, NICOTINE PRODUCTS OR VAPOR PRODUCTS on which applicable taxes
16 have not been remitted pursuant to this chapter.

17 Sec. 20. Title 42, chapter 3, article 12, Arizona Revised Statutes,
18 is amended by adding section 42-3504, to read:

19 42-3504. Acquisition and possession of untaxed nicotine
20 products and vapor products

21 A. A PERSON, OTHER THAN A MANUFACTURER OR AN IMPORTER SHIPPING INTO
22 THIS STATE, SHALL BE LICENSED AS A DISTRIBUTOR IF THE PERSON ACQUIRES OR
23 POSSESSES UNTAXED NICOTINE PRODUCTS OR VAPOR PRODUCTS FOR SALE, BARTER OR
24 EXCHANGE OR FOR ANY OTHER PURPOSE BESIDES OR IN ADDITION TO PERSONAL USE
25 OR CONSUMPTION IN THIS STATE, INCLUDING INDIAN RESERVATIONS IN THIS STATE.

26 B. A DISTRIBUTOR SHALL OBTAIN NICOTINE PRODUCTS AND VAPOR PRODUCTS
27 ONLY FROM A MANUFACTURER OR AN IMPORTER OR A DISTRIBUTER WITH A CURRENT
28 LICENSE ISSUED UNDER SECTION 42-3401.

29 Sec. 21. Exemption from rulemaking

30 Notwithstanding any other law, for the purposes of this act, the
31 department of revenue is exempt from the rulemaking requirements of title
32 41, chapter 6, Arizona Revised Statutes, for one year after the effective
33 date of this act.

34 Sec. 22. Applicability

35 This act applies to taxable periods beginning on or after December
36 31, 2025.

37 Sec. 23. Requirements for enactment; two-thirds vote

38 Pursuant to article IX, section 22, Constitution of Arizona, this
39 act is effective only on the affirmative vote of at least two-thirds of
40 the members of each house of the legislature and is effective immediately
41 on the signature of the governor or, if the governor vetoes this act, on
42 the subsequent affirmative vote of at least three-fourths of the members
43 of each house of the legislature.