

State of Arizona
Senate
Fifty-seventh Legislature
Second Regular Session
2026

SB 1367

Introduced by
Senators Bolick: Leach, Ortiz, Payne

AN ACT

AMENDING SECTIONS 13-3622, 36-798, 36-798.01, 36-798.02, 36-798.03, 36-798.05 AND 36-798.06, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 6, ARTICLE 14, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 36-798.08 AND 36-798.09; AMENDING SECTIONS 42-3001, 42-3401, 42-3403, 42-3404 AND 42-3405, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 3, ARTICLE 10, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 42-3407, 42-3408 AND 42-3409; RELATING TO VAPOR PRODUCTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 13-3622, Arizona Revised Statutes, is amended to
3 read:

4 13-3622. Tobacco product, vapor product and tobacco and
5 shisha instruments or paraphernalia; furnishing to
6 underage persons; acceptance, receipt or illegally
7 obtaining by underage person; classification;
8 definitions

9 A. A person who ~~knowingly~~ sells, gives or furnishes a tobacco
10 product, a vapor product or any instrument or paraphernalia that is solely
11 designed for smoking or ingesting tobacco, NICOTINE or shisha, including a
12 hookah or waterpipe, to a person who is under twenty-one years of age is
13 guilty of a petty offense ~~AND, NOTWITHSTANDING SECTION 13-802, SHALL PAY A~~
14 ~~FINE OF AT LEAST \$2,500.~~

15 B. A PERSON WHO KNOWINGLY SELLS, GIVES OR FURNISHES A TOBACCO
16 PRODUCT, A VAPOR PRODUCT OR ANY INSTRUMENT OR PARAPHERNALIA THAT IS SOLELY
17 DESIGNED FOR SMOKING OR INGESTING TOBACCO, NICOTINE OR SHISHA, INCLUDING A
18 HOOKAH OR WATERPIPE, TO A PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE IS
19 GUILTY OF A CLASS 1 MISDEMEANOR.

20 ~~B.~~ C. Except as provided in section 36-798.07, a person who is
21 under twenty-one years of age and who buys, or has in the person's
22 possession or knowingly accepts or receives from any person, a tobacco
23 product, a vapor product or any instrument or paraphernalia that is solely
24 designed for smoking or ingesting tobacco, NICOTINE or shisha, including a
25 hookah or waterpipe, is guilty of a petty offense, and if the offense
26 involves any instrument or paraphernalia that is solely designed for
27 smoking or ingesting tobacco, NICOTINE or shisha, shall pay a fine of at
28 least \$100 or perform at least thirty hours of community restitution.

29 ~~C.~~ D. A person who is under twenty-one years of age ~~AND~~ who
30 misrepresents the person's age to another person by means of a written
31 instrument of identification with the intent to induce the other person to
32 sell, give or furnish a tobacco product, a vapor product or any instrument
33 or paraphernalia that is solely designed for smoking or ingesting tobacco,
34 NICOTINE or shisha, including a hookah or waterpipe, in violation of
35 subsection A, ~~OR~~ B OR C of this section is guilty of a petty offense and,
36 notwithstanding section 13-802, shall pay a fine of not more than \$500.

37 E. A PERSON OR BUSINESS THAT IS ELIGIBLE TO PARTICIPATE IN A STATE
38 OR LOCAL DIVERSION OR EDUCATION PROGRAM IN LIEU OF THE PENALTIES
39 PRESCRIBED IN THIS SECTION MAY PARTICIPATE IN THE DIVERSION OR EDUCATION
40 PROGRAM NOT MORE THAN ONCE PER PERSON OR PER BUSINESS LOCATION.

41 ~~D.~~ F. This section does not apply to any of the following:

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

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

3 2. Any instrument or paraphernalia that is solely designed for
4 smoking or ingesting tobacco, NICOTINE or shisha, including a hookah or
5 waterpipe, that is given to or possessed by a person who is under
6 twenty-one years of age if the instrument or paraphernalia was a gift or
7 souvenir and is not used or intended to be used by the person who is under
8 twenty-one years of age to smoke or ingest tobacco, NICOTINE or shisha.

9 ~~F.~~ G. For the purposes of this section:

10 1. "Shisha" includes any mixture of tobacco leaf and honey,
11 molasses or dried fruit or any other sweetener.

12 2. "Tobacco product" means any of the following:

13 (a) Cigars.

14 (b) Cigarettes.

15 (c) Cigarette papers of any kind.

16 (d) Smoking tobacco of any kind.

17 (e) Chewing tobacco of any kind.

18 (f) A PRODUCT CONTAINING NICOTINE OR A NICOTINE ANALOG, UNLESS THE
19 PRODUCT IS A VAPOR PRODUCT OR IS REGULATED BY THE UNITED STATES FOOD AND
20 DRUG ADMINISTRATION PURSUANT TO CHAPTER V OF THE FEDERAL FOOD, DRUG, AND
21 COSMETIC ACT.

22 3. "Vapor product":

23 (a) Means a noncombustible ~~tobacco-derived~~ product ~~containing~~ THAT
24 CONTAINS nicotine OR A NICOTINE ANALOG AND that employs a mechanical
25 heating element, battery or circuit, regardless of shape or size, that can
26 be used to heat a liquid nicotine solution ~~contained in cartridges~~.

27 (b) Does not include any product that is regulated by the United
28 States food and drug administration under chapter V of the federal food,
29 drug, and cosmetic act.

30 Sec. 2. Heading change

31 The article heading of title 35, chapter 6, article 14, Arizona
32 Revised Statutes, is changed from "TOBACCO SALES" to "TOBACCO PRODUCT AND
33 VAPOR PRODUCT SALES".

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

36 36-798. Definitions

37 A. In this article, unless the context otherwise requires:

38 1. "Bar" means that portion of any premises licensed under section
39 4-209, subsection B, paragraph 6, 7, 11, 12 or 14 that is primarily used
40 for ~~the~~ selling, ~~consumption~~ CONSUMING or serving ~~of~~ alcoholic beverages
41 and that is not primarily used for ~~the consumption of~~ CONSUMING food on
42 the premises.

43 2. "Beedies" or "bidis" means a product containing tobacco that is
44 wrapped in temburni leaf (diospyros melanoxydon) or tendu leaf (diospyros

1 exculpra), ~~or any other product that is offered to,~~ or purchased
2 by, ~~consumers as beedies or bidis.~~

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

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

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

8 5. "NICOTINE ANALOG" MEANS A SUBSTANCE THAT HAS A CHEMICAL
9 STRUCTURE THAT IS SUBSTANTIALLY SIMILAR TO THE CHEMICAL STRUCTURE OF
10 NICOTINE OR THAT HAS, PURPORTS TO HAVE OR IS REPRESENTED TO HAVE AN EFFECT
11 ON THE CENTRAL NERVOUS SYSTEM THAT IS SIMILAR TO OR GREATER THAN THE
12 EFFECT OF NICOTINE ON THE CENTRAL NERVOUS SYSTEM.

13 6. "Retail tobacco vendor" means a person ~~who~~ OR ENTITY THAT
14 possesses ~~tobacco or~~ tobacco products, VAPOR PRODUCTS OR SHISHA for the
15 purpose of selling them TO THE CONSUMER for consumption and not for
16 resale.

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

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

22 9. "Tobacco products" includes cigarettes, cigarette papers,
23 cigars, smokeless tobacco, ~~and~~ smoking tobacco AND ANY PRODUCT THAT
24 CONTAINS NICOTINE OR A NICOTINE ANALOG, UNLESS THE PRODUCT IS A VAPOR
25 PRODUCT OR IS REGULATED BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION
26 PURSUANT TO CHAPTER V OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

27 10. "VAPOR PRODUCT":

28 (a) MEANS A NONCOMBUSTIBLE PRODUCT THAT CONTAINS NICOTINE AND THAT
29 EMPLOYS A MECHANICAL HEATING ELEMENT, BATTERY OR CIRCUIT, REGARDLESS OF
30 SHAPE OR SIZE, THAT CAN BE USED TO HEAT A SOLUTION CONTAINING NICOTINE OR
31 A NICOTINE ANALOG.

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

35 ~~10.~~ 11. "Vending machine" means any mechanical, electrical or
36 electronic device that, on insertion of money, tokens or any other form of
37 payment, automatically dispenses tobacco products.

38 B. FACTORS RELEVANT TO DETERMINING WHETHER A SUBSTANCE IS A
39 NICOTINE ANALOG PURSUANT TO SUBSECTION A, PARAGRAPH 5 OF THIS SECTION
40 INCLUDE THE MARKETING, ADVERTISING AND LABELING OF THE SUBSTANCE AND
41 WHETHER THE SUBSTANCE HAS BEEN MANUFACTURED, FORMULATED, SOLD, DISTRIBUTED
42 OR MARKETED WITH THE INTENT TO AVOID THE PROVISIONS OF THIS ARTICLE OR ANY
43 OTHER SECTION OF LAW GOVERNING NICOTINE ANALOGS.

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

3 36-798.01. Selling or giving beedies or bidis; underage
4 persons; violation; classification; fine

5 A. It is unlawful for a retail tobacco vendor to sell, furnish,
6 give or provide beedies or bidis to a person who is under twenty-one years
7 of age in this state.

8 B. Any person who violates this section is guilty of a class 3
9 misdemeanor **AND, NOTWITHSTANDING SECTION 13-802, SHALL PAY A FINE OF AT**
10 **LEAST \$2,500.**

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

13 36-798.02. Sales of tobacco, tobacco products and vapor
14 products; vending machine signage; violation;
15 classification

16 ~~A. A person shall not sell tobacco products through a vending~~
17 ~~machine unless the vending machine is located in either:~~

18 **A. EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, IT IS**
19 **UNLAWFUL TO SELL OR DISTRIBUTE TOBACCO, TOBACCO PRODUCTS OR VAPOR PRODUCTS**
20 **EITHER:**

21 1. **AT A RETAIL ESTABLISHMENT IN THIS STATE BY ANY MEANS OTHER THAN**
22 **VENDOR-ASSISTED SALES WHERE THE CUSTOMER HAS NO DIRECT ACCESS TO THE**
23 **PRODUCT EXCEPT THROUGH THE ASSISTANCE OF THE SELLER.**

24 2. **FROM SELF-SERVICE DISPLAYS OR VENDING MACHINES.**

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

26 1. **RETAIL ESTABLISHMENTS IF PERSONS WHO ARE UNDER TWENTY-ONE YEARS**
27 **OF AGE ARE NOT ALLOWED IN THE ESTABLISHMENT AND SUCH PROHIBITION IS POSTED**
28 **CLEARLY ON ALL ENTRANCES.**

29 2. **SALES ALLOWED UNDER SECTIONS 36-798.06 AND 36-798.07.**

30 ~~1.~~ 3. **A bar.**

31 ~~2.~~ 4. **An employee lounge area that is not open to the public and**
32 **the business in which the lounge area is located does not employ** ~~minors~~
33 **PERSONS WHO ARE UNDER TWENTY-ONE YEARS OF AGE.**

34 ~~B.~~ C. **A sign measuring at least eighty square inches shall be**
35 **obviously affixed to the front of each vending machine. The sign shall**
36 **state in block letters that it is illegal for a person who is under**
37 **twenty-one years of age to purchase cigarettes, ~~or~~ tobacco products OR**
38 **VAPOR PRODUCTS and, on conviction, a fine of up to ~~\$300~~ \$500 may be**
39 **imposed.**

40 ~~C.~~ D. **This article does not invalidate an ordinance of or prohibit**
41 **the adoption of an ordinance by a county, city or town to further restrict**
42 **the location of vending machines or specify different wording for the**
43 **vending machine signs as required by subsection ~~B~~ C of this section.**

1 ~~D.~~ E. A person who violates this section is guilty of a petty
2 offense **AND, NOTWITHSTANDING SECTION 13-802, SHALL PAY A FINE OF AT LEAST**
3 **\$2,500.**

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

6 **36-798.03. Tobacco products and vapor products prohibition at**
7 **schools and school-related areas; exception;**
8 **violation; classification**

9 A. Tobacco products **AND VAPOR PRODUCTS** are prohibited on school
10 grounds, inside school buildings, in school parking lots or playing
11 fields, in school buses or vehicles or at off-campus school sponsored
12 events. For purposes of this subsection, "school" means any public,
13 charter or private school where children attend classes in kindergarten
14 programs or grades one through twelve.

15 B. Subsection A of this section does not apply to an adult who
16 employs tobacco products **OR VAPOR PRODUCTS** as a necessary component of a
17 school sanctioned tobacco prevention or cessation program established
18 pursuant to section 15-712.

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

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

22 **36-798.05. Unsolicited delivery of tobacco products;**
23 **violation; classification; civil penalties;**
24 **definitions**

25 A. It is unlawful for a person to deliver or cause to be delivered
26 to any residence in this state any tobacco products unsolicited by at
27 least one ~~adult~~ **PERSON WHO IS AT LEAST TWENTY-ONE YEARS OF AGE AND** who
28 resides at that address.

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

31 C. A person who violates subsection A of this section is subject to
32 a civil penalty in an amount of not ~~to exceed five thousand dollars~~ **MORE**
33 **THAN \$5,000** for each violation. Each delivery of a tobacco product ~~shall~~
34 ~~constitute~~ **CONSTITUTES** a separate violation.

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

43 E. ~~It~~ **FOR THE PURPOSES OF** this section, ~~unless the context~~
44 ~~otherwise requires:~~

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

1 F. A violation of this section is an unlawful practice under
2 section 44-1522 and is in addition to all other causes of action, remedies
3 and penalties that are available to this state. The attorney general may
4 investigate and take appropriate action pursuant to title 44, chapter 10,
5 article 7.

6 G. This section does not apply to any of the following:

7 1. The shipment of a tobacco product **OR VAPOR PRODUCT** to a foreign
8 trade zone that is established under 19 United States Code sections 81a
9 through 81u and title 44, chapter 18 and that is located in this state if
10 the tobacco product **OR VAPOR PRODUCT** is from outside of this country, was
11 ordered by a distributor in another state and is not distributed in this
12 state.

13 2. A government employee who is acting in the course of the
14 employee's official duties.

15 3. The shipment of a tobacco product **OR VAPOR PRODUCT** to a
16 university that is acquiring the tobacco product **OR VAPOR PRODUCT** to use
17 to conduct basic and applied research, if the tobacco product **OR VAPOR**
18 **PRODUCT** is exempt from federal excise tax under 26 United States Code
19 section 5704(a).

20 H. A person who violates this section is guilty of a class 6
21 felony.

22 I. For the purposes of this section:

23 1. "Licensed person" means a person who is required to be licensed
24 under section 42-3401.

25 2. "Order or purchase" means any of the following:

26 (a) By mail or delivery service.

27 (b) Through the internet or a computer network.

28 (c) By telephone.

29 (d) Through any other electronic method.

30 3. "Person" means an individual, partnership, firm, association,
31 corporation, limited liability company or partnership, joint venture or
32 other entity.

33 4. "Retailer" has the same meaning prescribed in section 42-5001.

34 5. "Tobacco product":

35 (a) Means:

36 (i) All luxuries included in section 42-3052, paragraphs 5, 6
37 and 7. ~~Tobacco product~~

38 (ii) **A PRODUCT CONTAINING NICOTINE OR A NICOTINE ANALOG, UNLESS THE**
39 **PRODUCT IS A VAPOR PRODUCT OR IS REGULATED BY THE UNITED STATES FOOD AND**
40 **DRUG ADMINISTRATION PURSUANT TO CHAPTER V OF THE FEDERAL FOOD, DRUG, AND**
41 **COSMETIC ACT.**

42 (b) Does not include pipe tobacco or cigars.

1 6. HAS ENTERTAINMENT FEATURES, SUCH AS THE ABILITY TO PLAY GAMES OR
2 PLAY MUSIC OR OTHER AUDIO OR TO DISPLAY PHOTOS OR VIDEOS OR ANY OTHER
3 SIMILAR ELECTRONIC ENTERTAINMENT FEATURES.

4 B. A PERSON WHO VIOLATES SUBSECTION A OF THIS SECTION IS GUILTY OF
5 A PETTY OFFENSE AND, NOTWITHSTANDING SECTION 13-802, SHALL PAY A FINE OF
6 AT LEAST \$500.

7 Sec. 10. 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) VAPOR PRODUCTS.

14 (d) OTHER PRODUCTS THAT CONTAIN NICOTINE OR A NICOTINE ANALOG,
15 UNLESS THE PRODUCT IS REGULATED BY THE UNITED STATES FOOD AND DRUG
16 ADMINISTRATION UNDER CHAPTER V OF THE FEDERAL FOOD, DRUG, AND COSMETIC
17 ACT.

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

19 11. "First sale" means the initial sale or distribution in
20 intrastate commerce or the initial use or consumption of cigarettes,
21 roll-your-own tobacco or other tobacco products.

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

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

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

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

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

31 15. "Microbrewery" has the same meaning prescribed in section
32 4-101.

33 16. "Nonparticipating manufacturer" has the same meaning prescribed
34 in section 44-7111.

35 17. "Other tobacco products" means tobacco products other than
36 cigarettes and roll-your-own tobacco.

37 18. "Participating manufacturer" has the same meaning prescribed in
38 section 44-7111.

39 19. "Person" means any individual, firm, partnership, joint
40 venture, association, corporation, municipal corporation, estate, trust,
41 club, society or other group or combination acting as a unit, and the
42 plural as well as the singular number.

1 20. "Place of business":

2 (a) Means a building, facility site or location where an order is
3 received or where tobacco products are sold, distributed or transferred.

4 ~~Place of business~~

5 (b) Does not include a vehicle.

6 21. "Retailer" means any person that comes into possession of any
7 luxury subject to the taxes imposed by this chapter for the purpose of
8 selling it for consumption and not for resale.

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

16 23. "Smoking tobacco":

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

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

22 24. "Spirituous liquor":

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

27 (b) Does not include medicines that are unsuitable for beverage
28 purposes.

29 25. "Tobacco product manufacturer" has the same meaning prescribed
30 in section 44-7101.

31 26. "Tobacco products" means BOTH OF THE FOLLOWING:

32 (a) All luxuries included in section 42-3052, paragraphs 5
33 through 9.

34 (b) ANY OTHER PRODUCT THAT CONTAINS NICOTINE OR A NICOTINE ANALOG,
35 UNLESS THE PRODUCT IS A VAPOR PRODUCT OR IS REGULATED BY THE UNITED STATES
36 FOOD AND DRUG ADMINISTRATION UNDER CHAPTER V OF THE FEDERAL FOOD, DRUG,
37 AND COSMETIC ACT.

38 27. "VAPOR PRODUCT" HAS THE SAME MEANING PRESCRIBED IN SECTION
39 36-798.

40 28. "VAPOR PRODUCT MANUFACTURER" MEANS A PERSON OR ENTITY THAT
41 MANUFACTURES, FABRICATES, ASSEMBLES, PROCESSES OR LABELS A FINISHED VAPOR
42 PRODUCT FOR SALE IN THIS STATE.

1 limited liability company, limited liability partnership or association,
2 the applicant shall list the name and address of each of the applicant's
3 members. If the applicant is a corporation, the application shall list
4 the name and address of the applicant's officers and any person who
5 directly or indirectly owns an aggregate amount of ten percent or more of
6 the ownership interest in the corporation. If a licensee is a
7 corporation, firm, partnership, limited liability company, limited
8 liability partnership or association, the licensee under this subsection
9 shall notify the department in writing within thirty days after any change
10 in membership, legal entity status or ownership of more than fifty percent
11 of the total ownership interest in a single transaction. If a licensee
12 changes its business location, the licensee under this subsection shall
13 notify the department within thirty days after a change in location. If
14 the licensee is making a change in its business location by adding or
15 replacing one or more additional places of business that are not currently
16 listed on its application, the licensee must remit a fee of \$25 for each
17 additional place of business.

18 B. For the purposes of subsection A of this section, an applicant
19 with a controlling interest in more than one business engaged in
20 activities as a distributor shall apply for a single license encompassing
21 all such businesses and list each place of business in its application.
22 For the purposes of this subsection, "controlling interest" means direct
23 or indirect ownership of at least eighty percent of the voting shares of a
24 corporation or of the interests in a company, business or person other
25 than a corporation.

26 C. The department shall issue a license authorizing the applicant
27 to acquire or possess tobacco products AND VAPOR PRODUCTS in this state on
28 the condition that the applicant complies with this chapter and the rules
29 of the department. The license:

30 1. Shall be nontransferable. A licensee may not transfer its
31 license to a new owner when selling its business, and any court-appointed
32 trustee, receiver or other person shall obtain a license in its own name
33 in cases of liquidation, insolvency or bankruptcy or pursuant to a court
34 order if the business remains in operation as a distributor of tobacco
35 products OR VAPOR PRODUCTS. In cases of liquidation, insolvency or
36 bankruptcy or pursuant to a court order, the department will not consider
37 a business as remaining in operation under this paragraph if the
38 court-appointed trustee, receiver or other person winds up the business
39 within sixty days after the order is issued. A licensee shall apply for a
40 new license if it changes its legal entity status or otherwise changes the
41 legal structure of its business.

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

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

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

7 1. A person may not hold or store any tobacco products **OR VAPOR**
8 **PRODUCTS**, whether within or outside of this state, for sale or
9 distribution in this state by or on behalf of a distributor at any place
10 other than a location that has been disclosed to the department pursuant
11 to subsection A of this section. This paragraph does not include a person
12 holding or storing tobacco products **OR VAPOR PRODUCTS** by or on behalf of
13 the distributor when the tobacco products **OR VAPOR PRODUCTS** are in transit
14 to a distributor or retailer as part of a lawful sale.

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

18 (a) Shall be accessible to the department during normal business
19 hours without a judicial warrant or prior written consent of the
20 distributor.

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

23 (c) May not be held or stored at a residential location, unless the
24 sole luxury for sale or distribution by or on behalf of the distributor is
25 taxed as a cigar under section 42-3052, paragraph 8 or 9 and the product
26 weight of the cigars is not more than five hundred pounds. If the product
27 is held or stored at a residential location, as a condition of licensure,
28 the distributor shall provide written consent and allow access to the
29 department to inspect the stock of luxuries and all books, papers,
30 invoices, records and electronically stored data showing sales, receipts
31 and purchases of luxuries. The distributor shall submit the written
32 consent to the department with the license application or on demand of the
33 department.

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

38 E. A person who is convicted of an offense described in section
39 42-1127, subsection E is permanently ineligible to hold a license issued
40 under this section.

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

1 1. The applicant or licensee owes \$1,000 or more in delinquent
2 taxes imposed on tobacco products under this chapter that are not under
3 protest or subject to a payment agreement.

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

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

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

11 5. The applicant or licensee has imported cigarettes into the
12 United States for sale or distribution without fully complying with the
13 federal cigarette labeling and advertising act (P.L. 89-92; 79 Stat. 282;
14 15 United States Code section 1331).

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

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

19 8. The civil rights of the applicant or licensee have been
20 suspended under section 13-904. An applicant or licensee whose civil
21 rights have been suspended is ineligible to hold a license for a period of
22 five years following the restoration of the applicant's or licensee's
23 civil rights.

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

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

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

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

42 K. Notwithstanding any other law, for the purposes of subsection F,
43 paragraphs 1 and 2 of this section, section 42-1127, subsection C and
44 section 42-3461, subsection B, if a distributor has listed in its
45 application more than one place of business, any revocation, cancellation,

1 denial or nonrenewal of the distributor's license shall apply only with
2 effect to remove the place of business or business location at which the
3 activity occurred from the distributor's license. If such a removal
4 occurs, the distributor ~~shall be~~ IS subject to restrictions that the
5 department prescribes by rule.

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

8 42-3403. Tobacco product and vapor product retailers; vehicle
9 as place of business prohibited; exceptions

10 A. A retailer may sell any tobacco product OR VAPOR PRODUCT that is
11 not otherwise prohibited by federal or state law from sale for resale, but
12 a retailer may not acquire or possess unstamped cigarettes, or other
13 tobacco products or cigarettes on which taxes levied under this chapter
14 have not been paid, unless the retailer holds a valid license issued under
15 section 42-3401.

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

35 C. This section does not prohibit business activities that are
36 allowed under sections 42-3454 and 42-3502 for both taxed and untaxed
37 tobacco products.

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

40 42-3404. Exemptions and exclusions of certain tobacco
41 products from tobacco taxes

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

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

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

3 3. Tobacco products that are non-tax-paid under subtitle E, chapter
4 52 of the internal revenue code and that are under internal revenue bond
5 or customs control.

6 4. Tobacco products that are sold or transferred to a law
7 enforcement agency for use in a criminal investigation if the sale or
8 transfer is authorized by the department. A law enforcement agency
9 authorized by the department to receive or purchase tobacco products is
10 not required to:

11 (a) Be licensed as a distributor.

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

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

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

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

27 8. Tobacco products that are manufactured outside the United States
28 and that are sold by an importer to a distributor licensed under section
29 42-3401.

30 9. A PRODUCT CONTAINING NICOTINE OR A NICOTINE ANALOG OR A VAPOR
31 PRODUCT.

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

36 C. Sales of tobacco products by a licensed distributor to an
37 instrumentality of the United States government must be supported by a
38 separate sales invoice and a properly completed federal exemption
39 certificate. Each sales invoice must be numbered, be dated and show the
40 name of the seller, the name of the purchaser and the destination.

1 D. This section does not affect the imposition of transaction
2 privilege and use taxes pursuant to chapter 5 of this title to any
3 transactions described in subsection A of this section if the transaction
4 is otherwise subject to transaction privilege tax or use tax.

5 E. The exemptions and exclusions provided in subsection A of this
6 section do not affect the taxability under this chapter of tobacco
7 products that are sold, given or transferred to a person in this state
8 subsequent to the transactions described in subsection A of this section.

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

11 42-3405. Tobacco and vapor product manufacturers, importers,
12 distributors and retailers; recordkeeping and
13 invoicing requirements; retention period

14 A. Except for retail transactions with consumers, each
15 manufacturer, importer and distributor of tobacco products **AND EACH VAPOR**
16 **PRODUCT MANUFACTURER, IMPORTER AND DISTRIBUTOR** shall maintain copies of
17 invoices or equivalent documentation for each facility and for each
18 transaction that involves the sale, purchase, transfer, consignment or
19 receipt of tobacco products **AND VAPOR PRODUCTS** within this state. The
20 invoices or equivalent documentation for each transaction shall be in the
21 form and manner prescribed by the department and shall indicate the name
22 and address of the other party and the quantity by brand style of the
23 tobacco products **OR VAPOR PRODUCTS** involved in the transaction.

24 B. A distributor of tobacco products **OR VAPOR PRODUCTS** shall issue
25 an invoice or equivalent documentation for each transaction that involves
26 the sale, purchase or consignment of tobacco products **OR VAPOR PRODUCTS** to
27 a retailer. The invoice or equivalent documentation must include the
28 license number of the distributor, which the retailer may use to ascertain
29 whether the license is current and valid.

30 C. Any retailer of tobacco products **OR VAPOR PRODUCTS** shall retain
31 all invoices or equivalent documentation received under subsection B of
32 this section.

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

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

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

8 Sec. 16. Title 42, chapter 3, article 10, Arizona Revised Statutes,
9 is amended by adding sections 42-3407, 42-3408 and 42-3409, to read:

10 42-3407. Vapor product manufacturer license; rules; fees;
11 certification; application; bond; product list;
12 civil penalties; violation; classification

13 A. FROM AND AFTER JANUARY 31, 2027, A VAPOR PRODUCT MANUFACTURER
14 MAY NOT OFFER FOR SALE OR SELL VAPOR PRODUCTS, WHETHER DIRECTLY OR THROUGH
15 AN IMPORTER, DISTRIBUTOR OR RETAILER OR A SIMILAR INTERMEDIARY OR
16 INTERMEDIARIES, WITHOUT A VALID VAPOR PRODUCT MANUFACTURER LICENSE.

17 B. THE DEPARTMENT SHALL ADOPT RULES TO ADMINISTER THIS SECTION AND
18 ESTABLISH FEES FOR AN INITIAL VAPOR PRODUCT MANUFACTURER LICENSE AND THE
19 RENEWAL OF THE LICENSE. THE DEPARTMENT SHALL DEPOSIT, PURSUANT TO
20 SECTIONS 35-146 AND 35-147, THE FEES COLLECTED PURSUANT TO THIS SECTION IN
21 THE TOBACCO RETAIL LICENSING FUND ESTABLISHED BY SECTION 42-3409.

22 C. A VAPOR PRODUCT MANUFACTURER LICENSE IS VALID FOR ONE YEAR,
23 UNLESS THE DEPARTMENT THE DEPARTMENT'S DESIGNEE SUSPENDS OR REVOKES THE
24 LICENSE, AND MUST BE RENEWED ANNUALLY. A VAPOR PRODUCT MANUFACTURER
25 LICENSE MAY NOT BE RENEWED IF THE VAPOR PRODUCT MANUFACTURER IS LIABLE FOR
26 ANY OUTSTANDING PENALTIES PURSUANT TO THIS SECTION. THE DEPARTMENT MAY
27 RECEIVE AND REVIEW VAPOR PRODUCT MANUFACTURER LICENSE APPLICATIONS
28 ELECTRONICALLY.

29 D. EACH APPLICANT FOR A VAPOR PRODUCT MANUFACTURER LICENSE SHALL
30 FILE A CERTIFICATION AS PROVIDED IN THIS SECTION AS A CONDITION PRECEDENT
31 TO OBTAIN A LICENSE. WITHOUT FILING SUCH CERTIFICATION, THE VAPOR PRODUCT
32 MANUFACTURER MAY NOT BE ISSUED A VAPOR PRODUCT MANUFACTURER LICENSE AND
33 MAY NOT SELL ITS VAPOR PRODUCTS IN THIS STATE OR TO A CONSUMER IN THIS
34 STATE, WHETHER DIRECTLY OR THROUGH A DISTRIBUTOR OR RETAILER OR A SIMILAR
35 INTERMEDIARY OR INTERMEDIARIES.

36 E. A CERTIFICATION FILED UNDER THIS SECTION SHALL BE MADE UNDER
37 PENALTY OF PERJURY ON A FORM AND IN A MANNER PRESCRIBED BY THE DEPARTMENT.
38 THE CERTIFICATION MUST INCLUDE THE FOLLOWING:

39 1. THE NAME AND ADDRESS OF THE APPLICANT OR, IF THE APPLICANT IS A
40 FIRM, PARTNERSHIP, LIMITED LIABILITY COMPANY OR ASSOCIATION, THE NAME AND
41 ADDRESS OF EACH OF ITS MEMBERS OR, IF THE APPLICANT IS A CORPORATION, THE
42 NAME AND ADDRESS OF EACH OF ITS OFFICERS AND THE ADDRESS OF ITS PRINCIPAL
43 PLACE OF BUSINESS.

44 2. THE ADDRESS OF THE PRINCIPAL PLACE OF BUSINESS OF THE APPLICANT
45 THAT IS SEEKING A LICENSE.

1 3. EITHER OF THE FOLLOWING:

2 (a) A COPY OF THE PREVENT ALL CIGARETTE TRAFFICKING ACT OF 2009
3 REGISTRATION FORM, OR AN EQUIVALENT SUCCESSOR FORM, DESIGNATED BY THE
4 BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES OF THE UNITED STATES
5 DEPARTMENT OF JUSTICE AS SUBMITTED BY THE APPLICANT TO THE BUREAU OF
6 ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES AND AN ATTESTATION THAT THE
7 APPLICANT IS IN COMPLIANCE WITH, AND WILL CONTINUE TO COMPLY WITH, ALL
8 APPLICABLE REQUIREMENTS OF 15 UNITED STATES CODE SECTIONS 375 AND 376.

9 (b) A STATEMENT EXPLAINING WHY THE PREVENT ALL CIGARETTE
10 TRAFFICKING ACT OF 2009 IS NOT APPLICABLE TO THE APPLICANT AND THE
11 APPLICANT'S PRODUCTS.

12 4. AN ATTESTATION THAT THE APPLICANT WILL COMPLY WITH ALL
13 APPLICABLE LAWS OF THIS STATE AND ALL APPLICABLE LAWS OF THE JURISDICTION
14 THAT ENCOMPASSES THE APPLICANT'S PRINCIPAL PLACE OF BUSINESS.

15 5. A LIST OF EACH TYPE OR MODEL OF THE APPLICANT'S VAPOR PRODUCT
16 THAT IS SOLD OR OFFERED FOR SALE IN THIS STATE, INCLUDING FOR EACH VAPOR
17 PRODUCT THE VAPOR PRODUCT NAME, VAPOR PRODUCT CATEGORY, VOLUME OF NICOTINE
18 BY WEIGHT AND TOTAL VOLUME.

19 6. AN ATTESTATION THAT THE APPLICANT'S VAPOR PRODUCTS FULLY COMPLY
20 WITH THE REQUIREMENTS OF THE UNITED STATES CUSTOMS AND BORDER PROTECTION,
21 INCLUDING ACCURATE ENTRY SUMMARY FORMS, OR EQUIVALENT SUCCESSOR FORMS, AND
22 THAT THE APPLICANT IS NOT IN VIOLATION OF 18 UNITED STATES CODE SECTION
23 541, 542 OR 545. THE DEPARTMENT MAY REQUEST THAT THE APPLICANT PROVIDE
24 ADDITIONAL RELEVANT DOCUMENTS, INCLUDING COPIES OF OTHER UNITED STATES
25 CUSTOMS AND BORDER PROTECTION FORMS, COMMERCIAL INVOICES, CARGO RELEASE
26 RESULTS REPORTS AND AIRWAY BILLS OR BILLS OF LADING.

27 7. FOR AN APPLICANT WITH A PRINCIPAL PLACE OF BUSINESS LOCATED
28 OUTSIDE OF THE UNITED STATES, A DECLARATION, IN A FORM PRESCRIBED BY THE
29 DEPARTMENT, FROM EACH OF THE APPLICANT'S IMPORTERS INTO THE UNITED STATES
30 OF ANY OF THE APPLICANT'S BRANDS TO BE SOLD OR OFFERED FOR SALE IN THIS
31 STATE, THAT THE IMPORTER ACCEPTS JOINT AND SEVERAL LIABILITY WITH THE
32 APPLICANT FOR ALL LIABILITY IMPOSED IN ACCORDANCE WITH THIS SECTION,
33 INCLUDING ANY FEES, COSTS, ATTORNEY FEES AND PENALTIES IMPOSED UNDER THIS
34 CHAPTER.

35 8. RECORDS REFLECTING THE YOUTH-ACCESS PREVENTION POLICIES THE
36 APPLICANT HAS IMPLEMENTED WITH RESPECT TO DISTRIBUTORS AND RETAILERS THAT
37 SELL THE APPLICANT'S VAPOR PRODUCTS IN THIS STATE.

38 9. ANY OTHER INFORMATION AS THE DEPARTMENT MAY REQUIRE FOR THE
39 PURPOSE OF ADMINISTERING THIS CHAPTER.

40 F. A VAPOR PRODUCT MANUFACTURER MAY NOT CAUSE TO BE SOLD OR OFFER
41 FOR SALE AT RETAIL IN THIS STATE OR TO A CONSUMER IN THIS STATE ANY TYPE
42 OR MODEL OF VAPOR PRODUCT THAT IS NOT INCLUDED IN THE VAPOR PRODUCT LIST
43 PROVIDED WITH THE VAPOR PRODUCT MANUFACTURER'S CERTIFICATION WITHOUT FIRST
44 FILING AN AMENDED CERTIFICATION ON A FORM AND IN A MANNER PRESCRIBED BY
45 THE DEPARTMENT.

1 G. EACH VAPOR PRODUCT MANUFACTURER THAT OBTAINS A LICENSE UNDER
2 THIS SECTION SHALL SUBMIT TO THE DEPARTMENT:

3 1. WITHIN THIRTY DAYS OF ANY CHANGES TO THE VAPOR PRODUCT
4 MANUFACTURER'S VAPOR PRODUCT LIST SUBMITTED WITH THE CERTIFICATION
5 REQUIRED BY THIS SECTION, A NOTICE OF THE CHANGES.

6 2. EVERY SIX MONTHS, AN ATTESTATION THAT CONFIRMS THE INFORMATION
7 SUBMITTED IN THE VAPOR PRODUCT MANUFACTURER'S LICENSE APPLICATION REMAINS
8 ACCURATE. THE DEPARTMENT MAY REQUEST THAT THE VAPOR PRODUCT MANUFACTURER
9 PROVIDE ADDITIONAL RELEVANT DOCUMENTS RELATED TO THE ATTESTATION.

10 H. SUBMISSION OF AN APPLICATION OR CERTIFICATION THAT CONTAINS
11 FALSE INFORMATION IS A VIOLATION OF TITLE 44, CHAPTER 10, ARTICLE 7 AND IS
12 SUBJECT TO REMEDIES AVAILABLE UNDER TITLE 44, CHAPTER 10, ARTICLE 7. THE
13 DEPARTMENT MAY NOTIFY APPROPRIATE FEDERAL AND STATE AGENCIES REGARDING
14 FALSE INFORMATION SUBMITTED ON AN APPLICATION OR CERTIFICATION FORM.

15 I. ANY NONRESIDENT OR FOREIGN VAPOR PRODUCT MANUFACTURER THAT HAS
16 NOT REGISTERED TO DO BUSINESS IN THIS STATE AS A FOREIGN CORPORATION OR
17 BUSINESS ENTITY, AS A CONDITION PRECEDENT TO RECEIVING A VAPOR PRODUCT
18 MANUFACTURER LICENSE, SHALL APPOINT AND CONTINUALLY ENGAGE WITHOUT
19 INTERRUPTION THE SERVICES OF AN AGENT IN THIS STATE TO ACT AS AGENT FOR
20 THE SERVICE OF PROCESS ON WHOM ALL PROCESS, AND ANY ACTION OR PROCEEDING
21 AGAINST THE VAPOR PRODUCT MANUFACTURER CONCERNING OR ARISING OUT OF THE
22 ENFORCEMENT OF THIS SECTION OR PROVISIONS RELATING TO THE SALE OF THE
23 VAPOR PRODUCT MANUFACTURER'S PRODUCTS IN THIS STATE, MAY BE SERVED IN ANY
24 MANNER AUTHORIZED BY LAW. SERVICE ON THE AGENT CONSTITUTES LEGAL AND
25 VALID SERVICE OF PROCESS ON THE VAPOR PRODUCT MANUFACTURER. THE VAPOR
26 PRODUCT MANUFACTURER SHALL PROVIDE THE NAME, ADDRESS, TELEPHONE NUMBER AND
27 PROOF OF THE APPOINTMENT AND AVAILABILITY OF THE AGENT TO THE DEPARTMENT.
28 THE VAPOR PRODUCT MANUFACTURER SHALL NOTIFY THE DEPARTMENT AT LEAST THIRTY
29 CALENDAR DAYS BEFORE TERMINATING THE AUTHORITY OF AN AGENT AND PROVIDE
30 PROOF TO THE SATISFACTION OF THE DEPARTMENT OF A NEW AGENT'S APPOINTMENT
31 AT LEAST FIVE CALENDAR DAYS BEFORE TERMINATING THE EXISTING AGENT
32 APPOINTMENT. IF AN AGENT TERMINATES AN APPOINTMENT, THE VAPOR PRODUCT
33 MANUFACTURER SHALL NOTIFY THE DEPARTMENT OF THE TERMINATION WITHIN FIVE
34 CALENDAR DAYS AND INCLUDE PROOF TO THE SATISFACTION OF THE DEPARTMENT OF A
35 NEW AGENT'S APPOINTMENT.

36 J. ANY NONRESIDENT OR FOREIGN VAPOR PRODUCT MANUFACTURER THAT HAS
37 NOT REGISTERED TO DO BUSINESS IN THIS STATE AS A FOREIGN CORPORATION OR
38 BUSINESS ENTITY, AS A CONDITION PRECEDENT TO RECEIVING A VAPOR PRODUCT
39 MANUFACTURER LICENSE, SHALL SUBMIT TO THE DEPARTMENT A SURETY BOND OR
40 OTHER CASH SECURITY PAYABLE TO THIS STATE IN THE AMOUNT OF \$25,000. THE
41 BOND SHALL BE POSTED BY A CORPORATE SURETY LOCATED WITHIN THE UNITED
42 STATES. THE BOND SHALL BE CONDITIONED ON THE PERFORMANCE BY THE VAPOR
43 PRODUCT MANUFACTURER OF THE REQUIREMENTS PRESCRIBED BY THIS SECTION. A
44 SURETY ON A VAPOR PRODUCT MANUFACTURER'S BOND IS LIABLE FOR UP TO THE
45 AMOUNT OF THE BOND, AND THIS STATE MAY EXECUTE ON THE SURETY BOND FOR THE

1 PAYMENT OF FEES AND PENALTIES IMPOSED ON THE VAPOR PRODUCT MANUFACTURER
2 UNDER THIS SECTION AND FOR THE COSTS OF SEIZURE AND DESTRUCTION OF VAPOR
3 PRODUCT SOLD OR OFFERED FOR SALE IN VIOLATION OF THIS SECTION. IF THIS
4 STATE EXECUTES ON THE SURETY BOND, THE DEPARTMENT MAY REQUIRE THE VAPOR
5 PRODUCT MANUFACTURER TO PROVIDE AN ADDITIONAL BOND BEFORE RETAINING THE
6 VAPOR PRODUCT MANUFACTURER OR THE VAPOR PRODUCT MANUFACTURER'S VAPOR
7 PRODUCTS ON THE LISTS ON DEPARTMENT'S WEBSITE. A SURETY ON A BOND
8 FURNISHED BY A VAPOR PRODUCT MANUFACTURER AS PROVIDED IN THIS SECTION
9 SHALL BE RELEASED AND DISCHARGED FROM LIABILITY TO THIS STATE, ACCRUING ON
10 THE BOND AFTER SIXTY DAYS FROM THE DATE ON WHICH THE SURETY PROVIDES A
11 WRITTEN REQUEST TO BE RELEASED AND DISCHARGED TO THE DEPARTMENT. THIS
12 SUBSECTION DOES NOT RELIEVE, RELEASE OR DISCHARGE THE SURETY FROM
13 LIABILITY ALREADY ACCRUED OR THAT WILL ACCRUE BEFORE THE SIXTY-DAY PERIOD
14 EXPIRES. THE DEPARTMENT, ON RECEIVING ANY SUCH REQUEST, SHALL NOTIFY THE
15 VAPOR PRODUCT MANUFACTURER THAT FURNISHED THE BOND. UNLESS THE VAPOR
16 PRODUCT MANUFACTURER, ON OR BEFORE THE SIXTY-DAY PERIOD EXPIRES, FILES
17 WITH THE DEPARTMENT A NEW BOND, WITH THE SURETY APPROVED BY AND ACCEPTABLE
18 TO THE DEPARTMENT, THE DEPARTMENT SHALL CANCEL THE VAPOR PRODUCT
19 MANUFACTURER'S VAPOR PRODUCT MANUFACTURER LICENSE.

20 K. A VAPOR PRODUCT MANUFACTURER LICENSE IS NONTRANSFERABLE. IF A
21 VAPOR PRODUCT MANUFACTURER CEASES TO DO BUSINESS BY REASON OF
22 DISCONTINUATION, SALE OR TRANSFER OF THE VAPOR PRODUCT MANUFACTURER'S
23 BUSINESS, THE VAPOR PRODUCT MANUFACTURER SHALL NOTIFY THE DEPARTMENT IN
24 WRITING AT THE TIME THE DISCONTINUANCE, SALE OR TRANSFER TAKES EFFECT.

25 L. VAPOR PRODUCTS OFFERED FOR SALE IN VIOLATION OF THIS SECTION,
26 INCLUDING OFFERING FOR SALE VAPOR PRODUCTS MANUFACTURED BY A BUSINESS THAT
27 DOES NOT HOLD A VALID VAPOR PRODUCT MANUFACTURER LICENSE, ARE SUBJECT TO
28 SEIZURE. ALL VAPOR PRODUCTS THAT ARE SEIZED AS A VIOLATION OF THIS
29 SECTION ARE FORFEITED TO THIS STATE AND SHALL BE DESTROYED CONSISTENT WITH
30 SECTION 42-1124.

31 M. A VAPOR PRODUCT MANUFACTURER SHALL HAVE ESTABLISHED SUFFICIENT
32 CONTACT WITH THIS STATE FOR THE EXERCISE OF PERSONAL JURISDICTION OVER THE
33 VAPOR PRODUCT MANUFACTURER IN ANY MATTER OR ISSUE ARISING UNDER THIS
34 SECTION OR RELATED TO THE SALE OF VAPOR PRODUCTS.

35 N. THE DEPARTMENT SHALL MAINTAIN AND MAKE PUBLICLY AVAILABLE ON THE
36 DEPARTMENT'S OFFICIAL WEBSITE LISTS OF BOTH OF THE FOLLOWING:

37 1. ALL VAPOR PRODUCT MANUFACTURERS THAT ARE LICENSED PURSUANT TO
38 THIS SECTION.

39 2. ALL VAPOR PRODUCTS INCLUDED IN THE VAPOR PRODUCT LISTS SUBMITTED
40 BY VAPOR PRODUCT MANUFACTURERS THAT ARE LICENSED PURSUANT TO THIS SECTION.

41 O. FROM AND AFTER JANUARY 31, 2027, VAPOR PRODUCTS THAT ARE NOT
42 INCLUDED ON THE A LICENSED VAPOR PRODUCT MANUFACTURER'S VAPOR PRODUCT LIST
43 MAY NOT BE SOLD OR OFFERED FOR RETAIL SALE TO A CONSUMER IN THIS STATE,
44 EITHER DIRECTLY OR THROUGH AN IMPORTER, DISTRIBUTOR OR RETAILER OR A
45 SIMILAR INTERMEDIARY OR INTERMEDIARIES.

1 P. A RETAILER SHALL PURCHASE VAPOR PRODUCTS ONLY FROM A DISTRIBUTOR
2 OR LICENSED VAPOR PRODUCT MANUFACTURER THAT IS LICENSED PURSUANT TO THIS
3 SECTION.

4 Q. A DISTRIBUTOR SHALL PURCHASE VAPOR PRODUCTS ONLY FROM A VAPOR
5 PRODUCT MANUFACTURER THAT IS LICENSED PURSUANT TO THIS SECTION.

6 R. ANY BUSINESS OPERATING AS A VAPOR PRODUCT MANUFACTURER WITHOUT A
7 VAPOR PRODUCT MANUFACTURER LICENSE:

8 1. FOR A FIRST VIOLATION, SHALL PAY A CIVIL PENALTY OF \$2,500.

9 2. FOR A SECOND VIOLATION WITHIN A THIRTY-SIX MONTH PERIOD, SHALL
10 PAY A CIVIL PENALTY OF \$5,000 AND IS GUILTY OF A CLASS 2 MISDEMEANOR.

11 3. FOR A THIRD OR SUBSEQUENT VIOLATION WITHIN A THIRTY-SIX MONTH
12 PERIOD, SHALL PAY A CIVIL PENALTY OF \$10,000, IS GUILTY OF A CLASS 1
13 MISDEMEANOR AND IS INELIGIBLE TO BE LICENSED AS A VAPOR PRODUCT
14 MANUFACTURER FOR A PERIOD OF THIRTY-SIX MONTHS AFTER THE DATE OF A THIRD
15 VIOLATION.

16 4. IN ADDITION, A BUSINESS IS INELIGIBLE TO RECEIVE OR RENEW A
17 VAPOR PRODUCT MANUFACTURER LICENSE FOR A PERIOD OF THIRTY-SIX MONTHS AFTER
18 THE DATE OF A THIRD VIOLATION.

19 S. A VAPOR PRODUCT MANUFACTURER THAT IS LICENSED UNDER THIS SECTION
20 AND THAT VIOLATES THIS SECTION:

21 1. FOR A FIRST VIOLATION, SHALL PAY A CIVIL PENALTY OF \$2,500.

22 2. FOR A SECOND VIOLATION WITHIN A THIRTY-SIX MONTH PERIOD, SHALL
23 PAY A CIVIL PENALTY OF \$5,000, IS GUILTY OF A CLASS 2 MISDEMEANOR AND THE
24 VAPOR PRODUCT MANUFACTURER LICENSE SHALL BE SUSPENDED FOR THIRTY DAYS.

25 3. FOR A THIRD OR SUBSEQUENT VIOLATION WITHIN A THIRTY-SIX MONTH
26 PERIOD, SHALL PAY A CIVIL PENALTY OF \$10,000 AND IS GUILTY OF A CLASS 1
27 MISDEMEANOR, AND THE VAPOR PRODUCT MANUFACTURER LICENSE SHALL BE REVOKED.
28 A VAPOR PRODUCT MANUFACTURER LICENSE REVOKED PURSUANT TO THIS PARAGRAPH IS
29 INELIGIBLE TO RECEIVE OR RENEW A VAPOR PRODUCT MANUFACTURER LICENSE FOR A
30 PERIOD OF THIRTY-SIX MONTHS AFTER THE DATE OF THE THIRD VIOLATION.

31 T. CIVIL PENALTIES COLLECTED PURSUANT TO SUBSECTIONS R AND S OF
32 THIS SECTION SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147,
33 IN THE TOBACCO RETAIL LICENSING FUND ESTABLISHED BY SECTION 42-3409.

34 42-3408. Delegation of authority; compliance reporting

35 A. THE DEPARTMENT MAY:

36 1. DELEGATE THE ENFORCEMENT AND COMPLIANCE INSPECTIONS REQUIRED
37 UNDER THIS ARTICLE TO ANY COUNTY OR LAW ENFORCEMENT AGENCY THAT ACCEPTS
38 THIS DELEGATION.

39 2. COLLABORATE WITH AND USE THE FINDINGS OF OTHER STATE AGENCIES TO
40 CARRY OUT THE OBLIGATIONS OF THIS ARTICLE AND TO ENSURE THAT THE
41 COMPLAINTS RECEIVED BY OTHER AGENCIES OR A DELEGATED LICENSING AUTHORITY
42 ARE FORWARDED TO THE DEPARTMENT FOR TIMELY INVESTIGATION AND ACTION.

1 B. A DELEGATED LICENSING AUTHORITY OR ANY LAW ENFORCEMENT AGENCY OR
2 OTHER LOCAL ENTITY CONDUCTING COMPLIANCE CHECKS TO ASSESS RETAIL TOBACCO
3 VENDOR COMPLIANCE WITH THE LEGAL AGE FOR SALES OF TOBACCO PRODUCTS AND
4 VAPOR PRODUCTS SHALL REPORT THE COMPLIANCE CHECK RESULTS TO THE
5 DEPARTMENT.

6 42-3409. Tobacco retail licensing fund

7 THE TOBACCO RETAIL LICENSING FUND IS ESTABLISHED CONSISTING OF
8 LICENSING FEES AND CIVIL PENALTIES COLLECTED PURSUANT TO SECTION 42-3407.
9 THE DEPARTMENT SHALL ADMINISTER THE FUND. MONIES IN THE FUND ARE SUBJECT
10 TO LEGISLATIVE APPROPRIATION. MONIES IN THE FUND SHALL BE USED FOR THE
11 ENFORCEMENT OF TITLE 36, CHAPTER 6, ARTICLE 14 AND SECTION 42-3407.

12 Sec. 17. Effective date

13 This act is effective from and after November 30, 2026.

14 Sec. 18. Severability

15 If a provision of this act or its application to any person or
16 circumstance is held invalid, the invalidity does not affect other
17 provisions or applications of the act that can be given effect without the
18 invalid provision or application, and to this end the provisions of this
19 act are severable.