

REFERENCE TITLE: e-liquids; tobacco products; vapor products

State of Arizona
Senate
Fifty-fourth Legislature
Second Regular Session
2020

SB 1527

Introduced by
Senator Leach: Representatives Allen J, Barto, Shope

AN ACT

AMENDING SECTIONS 4-101, 4-112, 4-205.02 AND 4-244, ARIZONA REVISED STATUTES; AMENDING TITLE 4, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 4; AMENDING SECTIONS 13-3622, 15-712, 36-798, 36-798.01, 36-798.02, 36-798.03 AND 36-798.05, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 6, ARTICLE 14, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 36-798.07, 36-798.08 AND 36-798.09; RELATING TO TOBACCO AND NICOTINE PRODUCTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Heading change

3 The title heading of title 4, Arizona Revised Statutes, is changed
4 from "ALCOHOLIC BEVERAGES" to "ALCOHOLIC BEVERAGES, ALTERNATIVE NICOTINE
5 PRODUCTS, E-LIQUIDS, TOBACCO PRODUCTS AND VAPOR PRODUCTS".

6 Sec. 2. Section 4-101, Arizona Revised Statutes, is amended to
7 read:

8 4-101. Definitions

9 In this title, unless the context otherwise requires:

10 1. "Act of violence":

11 (a) Means an incident ~~consisting~~ THAT CONSISTS of a riot, a fight,
12 an altercation or tumultuous conduct and that meets at least one of the
13 following criteria:

14 (i) In which bodily injuries are sustained by any person and the
15 injuries would be obvious to a reasonable person.

16 (ii) Of sufficient intensity as to require the intervention of a
17 peace officer to restore normal order.

18 (iii) In which a weapon is brandished, displayed or used.

19 (iv) Where a licensee or an employee or contractor of the licensee
20 fails to follow a clear and direct lawful order from a law enforcement
21 officer or a fire marshal.

22 (b) Does not include the use of nonlethal devices by a peace
23 officer.

24 2. "Aggrieved party" means a person who resides at, owns or leases
25 property within a one-mile radius of a premises proposed to be licensed
26 and who filed a written request with the department to speak in favor of
27 or opposition to the issuance of the license no later than sixty days
28 after the filing of the application or fifteen days after action by the
29 local governing body, whichever is sooner.

30 3. "ALTERNATIVE NICOTINE PRODUCT":

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

34 (b) DOES NOT INCLUDE ANY E-LIQUID, VAPOR PRODUCT, TOBACCO PRODUCT
35 OR SHISHA OR ANY PRODUCT REGULATED AS A DRUG OR DEVICE BY THE UNITED
36 STATES FOOD AND DRUG ADMINISTRATION UNDER SUBCHAPTER V OF THE FEDERAL
37 FOOD, DRUG, AND COSMETIC ACT.

38 ~~3.~~ 4. "Beer" means any beverage obtained by the alcoholic
39 fermentation, infusion or decoction of barley malt, hops, or other
40 ingredients not drinkable, or any combination of them.

41 ~~4.~~ 5. "Biometric identity verification device" means a device
42 authorized by the department that instantly verifies the identity and age
43 of a person by an electronic scan of a biometric of the person, through a
44 fingerprint, iris image, facial image or other biometric characteristic,
45 or any combination of these characteristics, references the person's

1 identity and age against any record described in section 4-241, subsection
2 K, and meets all of the following conditions:

3 (a) The authenticity of the record was previously verified by an
4 electronic authentication process.

5 (b) The identity of and information about the record holder was
6 previously verified through either:

7 (i) A secondary, electronic authentication process or set of
8 processes utilizing commercially available data, such as a public records
9 query or a knowledge-based authentication quiz.

10 (ii) Utilizing a state or federal government system of record for
11 digital authentication.

12 (c) The authenticated record was securely linked to biometrics
13 contemporaneously collected from the verified record holder and is stored
14 in a centralized, highly secured, encrypted biometric database.

15 ~~5-~~ 6. "Board" means the state liquor board.

16 ~~6-~~ 7. "Bona fide guest" means:

17 (a) An individual who is personally familiar to the member, who is
18 personally sponsored by the member and whose presence as a guest is in
19 response to a specific and personal invitation.

20 (b) In the case of a club that meets the criteria prescribed in
21 paragraph ~~8-~~ 9, subdivision (a) of this section, a current member of the
22 armed services of the United States who presents proper military
23 identification and any member of a recognized veterans' organization of
24 the United States and of any country allied with the United States during
25 current or past wars or through treaty arrangements.

26 ~~7-~~ 8. "Broken package" means any container of spirituous liquor on
27 which the United States tax seal has been broken or removed, or from which
28 the cap, cork or seal placed ~~thereupon~~ ON THE CONTAINER by the
29 manufacturer has been removed.

30 ~~8-~~ 9. "Club" includes any of the following organizations where the
31 sale of spirituous liquor for consumption on the premises is made only to
32 members, spouses of members, families of members, bona fide guests of
33 members and guests at other events authorized in this title:

34 (a) A post, chapter, camp or other local unit composed solely of
35 veterans and its duly recognized auxiliary that has been chartered by the
36 Congress of the United States for patriotic, fraternal or benevolent
37 purposes and that has, as the owner, lessee or occupant, operated an
38 establishment for that purpose in this state.

39 (b) A chapter, aerie, parlor, lodge or other local unit of an
40 American national fraternal organization that has, as the owner, lessee or
41 occupant, operated an establishment for fraternal purposes in this state.
42 An American national fraternal organization as used in this subdivision
43 shall actively operate in at least thirty-six states or have been in
44 active continuous existence for at least twenty years.

1 (c) A hall or building association of a local unit mentioned in
2 subdivisions (a) and (b) of this paragraph, all of the capital stock of
3 which is owned by the local unit or the members, and that operates the
4 clubroom facilities of the local unit.

5 (d) A golf club that has more than fifty bona fide members and that
6 owns, maintains or operates a bona fide golf links together with a
7 clubhouse.

8 (e) A social club with more than one hundred bona fide members who
9 are actual residents of the county in which it is located, that owns,
10 maintains or operates club quarters, that is authorized and incorporated
11 to operate as a nonprofit club under the laws of this state, and that has
12 been continuously incorporated and operating for a period of at least one
13 year. The club shall have had, during this one-year period, a bona fide
14 membership with regular meetings conducted at least once each month, and
15 the membership shall be and shall have been actively engaged in carrying
16 out the objects of the club. The club's membership shall consist of bona
17 fide dues-paying members paying at least \$6 per year, payable monthly,
18 quarterly or annually, which have been recorded by the secretary of the
19 club, and the members at the time of application for a club license shall
20 be in good standing having for at least one full year paid dues. At least
21 fifty-one percent of the members shall have signified their intention to
22 secure a social club license by personally signing a petition, on a form
23 prescribed by the board, which shall also include the correct mailing
24 address of each signer. The petition shall not have been signed by a
25 member at a date earlier than one hundred eighty days before the filing of
26 the application. The club shall qualify for exemption from the payment of
27 state income taxes under title 43. It is the intent of this subdivision
28 that a license shall not be granted to a club that is, or has been,
29 primarily formed or activated to obtain a license to sell liquor, but
30 solely to a bona fide club, where the sale of liquor is incidental to the
31 main purposes of the club.

32 (f) An airline club operated by or for airlines that are
33 certificated by the United States government and that maintain or operate
34 club quarters located at airports with international status.

35 ~~9.~~ 10. "Company" or "association", when used in reference to a
36 corporation, includes successors or assigns.

37 ~~10.~~ 11. "Control" means the power to direct or cause the direction
38 of the management and policies of an applicant or licensee, whether
39 through the ownership of voting securities or a partnership interest, by
40 agreement or otherwise. Control is presumed to exist if a person has the
41 direct or indirect ownership of or power to vote ten percent or more of
42 the outstanding voting securities of the applicant or licensee or to
43 control in any manner the election of one or more of the directors of the
44 applicant or licensee. In the case of a partnership, control is presumed
45 to mean the general partner or a limited partner who holds ten percent or

1 more of the voting rights of the partnership. For the purposes of
2 determining the percentage of voting securities owned, controlled or held
3 by a person, there shall be aggregated with the voting securities
4 attributed to the person the voting securities of an officer, partner,
5 employee or agent of the person or a spouse, parent or child of the
6 person. Control is also presumed to exist if a creditor of the applicant
7 or licensee holds a beneficial interest in ten percent or more of the
8 liabilities of the licensee. The presumptions in this paragraph regarding
9 control are rebuttable.

10 ~~11.~~ 12. "Controlling person" means a person directly or indirectly
11 possessing control of an applicant or licensee.

12 ~~12.~~ 13. "Craft distiller" means a distiller in the United States
13 or in a territory or possession of the United States that holds a license
14 pursuant to section 4-205.10.

15 ~~13.~~ 14. "Department" means the department of liquor licenses and
16 control.

17 ~~14.~~ 15. "Director" means the director of the department of liquor
18 licenses and control.

19 ~~15.~~ 16. "Distilled spirits" includes alcohol, brandy, whiskey,
20 rum, tequila, mescal, gin, absinthe, a compound or mixture of any of them
21 or of any of them with any vegetable or other substance, alcohol bitters,
22 bitters containing alcohol, fruits preserved in ardent spirits, and any
23 alcoholic mixture or preparation, whether patented or otherwise, that may
24 in sufficient quantities produce intoxication.

25 17. "E-LIQUID" MEANS A LIQUID SUBSTANCE THAT MEETS ALL OF THE
26 FOLLOWING:

27 (a) MAY OR MAY NOT CONTAIN NICOTINE.

28 (b) DOES NOT CONTAIN CANNABIDIOL OR CANNABIS.

29 (c) IS INTENDED TO BE VAPORIZED AND INHALED USING A VAPOR PRODUCT.

30 ~~16.~~ 18. "Employee" means any person who performs any service on
31 licensed premises on a full-time, part-time or contract basis with consent
32 of the licensee, whether or not the person is denominated an employee,
33 independent contractor or otherwise. Employee does not include a person
34 exclusively on the premises for musical or vocal performances, for repair
35 or maintenance of the premises or for the delivery of goods to the
36 licensee.

37 ~~17.~~ 19. "Farm winery" means a winery in the United States or in a
38 territory or possession of the United States that holds a license pursuant
39 to section 4-205.04.

40 ~~18.~~ 20. "Government license" means a license to serve and sell
41 spirituous liquor on specified premises available only to a state agency,
42 state board, state commission, county, city, town, community college or
43 state university or the national guard or Arizona coliseum and exposition
44 center on application by the governing body of a state agency, state
45 board, state commission, county, city, town, community college or state

1 university or the national guard or Arizona exposition and state fair
2 board.
3 ~~19.~~ 21. "Legal drinking age" means twenty-one years of age or
4 older.
5 22. "LEGAL TOBACCO AND VAPOR USE AGE" MEANS TWENTY-ONE YEARS OF AGE
6 OR OLDER.
7 ~~20.~~ 23. "License" means a license or an interim retail permit
8 issued pursuant to this title.
9 ~~21.~~ 24. "Licensee" means a person who has been issued a license or
10 an interim retail permit pursuant to this title or a special event
11 licensee.
12 ~~22.~~ 25. "License fees" means fees collected for license issuance,
13 license application, license renewal, interim permit issuance and license
14 transfer between persons or locations.
15 ~~23.~~ 26. "Manager" means a natural person who meets the standards
16 required of licensees and who has authority to organize, direct, carry on,
17 control or otherwise operate a licensed business on a temporary or
18 full-time basis.
19 ~~24.~~ 27. "Microbrewery" means a brewery in the United States or in
20 a territory or possession of the United States that meets the requirements
21 of section 4-205.08.
22 ~~25.~~ 28. "Off-sale retailer" means any person operating a bona fide
23 regularly established retail liquor store selling spirituous liquors,
24 wines and beer, and any established retail store selling commodities other
25 than spirituous liquors and engaged in the sale of spirituous liquors only
26 in the original unbroken package, to be taken away from the premises of
27 the retailer and to be consumed off the premises.
28 ~~26.~~ 29. "On-sale retailer" means any person operating an
29 establishment where spirituous liquors are sold in the original container
30 for consumption on or off the premises or in individual portions for
31 consumption on the premises.
32 ~~27.~~ 30. "Permanent occupancy" means the maximum occupancy of the
33 building or facility as set by the office of the state fire marshal for
34 the jurisdiction in which the building or facility is located.
35 ~~28.~~ 31. "Person" includes a partnership, limited liability
36 company, association, company or corporation, as well as a natural person.
37 ~~29.~~ 32. "Premises" or "licensed premises" means the area from
38 which the licensee is authorized to sell, dispense or serve spirituous
39 liquors under the provision of the license. Premises or licensed premises
40 includes a patio that is not contiguous to the remainder of the premises
41 or licensed premises if the patio is separated from the remainder of the
42 premises or licensed premises by a public or private walkway or driveway
43 not to exceed thirty feet, subject to rules the director may adopt to
44 establish criteria for noncontiguous premises.
45 ~~30.~~ 33. "Registered mail" includes certified mail.

1 ~~31.~~ 34. "Registered retail agent" means any person who is
2 authorized pursuant to section 4-222 to purchase spirituous liquors for
3 and on behalf of the person and other retail licensees.

4 ~~32.~~ 35. "Repeated acts of violence" means:

5 (a) For licensed premises with a permanent occupancy of two hundred
6 or fewer persons, two or more acts of violence occurring within seven days
7 or three or more acts of violence occurring within thirty days.

8 (b) For licensed premises with a permanent occupancy of more than
9 two hundred but not more than four hundred persons, four or more acts of
10 violence within thirty days.

11 (c) For licensed premises with a permanent occupancy of more than
12 four hundred but not more than six hundred fifty persons, five or more
13 acts of violence within thirty days.

14 (d) For licensed premises with a permanent occupancy of more than
15 six hundred fifty but not more than one thousand fifty persons, six or
16 more acts of violence within thirty days.

17 (e) For licensed premises with a permanent occupancy of more than
18 one thousand fifty persons, seven or more acts of violence within thirty
19 days.

20 ~~33.~~ 36. "Sell" includes soliciting or receiving an order for,
21 keeping or exposing for sale, directly or indirectly delivering for value,
22 peddling, keeping with intent to sell and trafficking in.

23 ~~34.~~ 37. "Spirituous liquor" includes alcohol, brandy, whiskey,
24 rum, tequila, mescal, gin, wine, porter, ale, beer, any malt liquor or
25 malt beverage, absinthe, a compound or mixture of any of them or of any of
26 them with any vegetable or other substance, alcohol bitters, bitters
27 containing alcohol, any liquid mixture or preparation, whether patented or
28 otherwise, which produces intoxication, fruits preserved in ardent
29 spirits, and beverages containing more than one-half of one percent of
30 alcohol by volume.

31 38. "TOBACCO PRODUCT" MEANS ANY OF THE FOLLOWING:

32 (a) CIGARS.

33 (b) CIGARETTES.

34 (c) CIGARETTE PAPERS OF ANY KIND.

35 (d) SMOKING TOBACCO OF ANY KIND.

36 (e) CHEWING TOBACCO OF ANY KIND.

37 39. "VAPOR PRODUCT":

38 (a) MEANS EITHER:

39 (i) A POWERED VAPORIZER THAT EMPLOYS A MECHANICAL HEATING ELEMENT,
40 BATTERY OR CIRCUIT, REGARDLESS OF SHAPE OR SIZE, AND THAT CONVERTS AN
41 E-LIQUID TO A VAPOR INTENDED FOR INHALATION.

42 (ii) A NONCOMBUSTIBLE PRODUCT THAT EMPLOYS A HEATING ELEMENT, POWER
43 SOURCE, ELECTRONIC CIRCUIT OR OTHER ELECTRONIC, CHEMICAL OR MECHANICAL
44 MEANS, REGARDLESS OF SHAPE OR SIZE, AND THAT CAN BE USED TO PRODUCE VAPOR
45 FROM AN E-LIQUID.

1 (b) DOES NOT INCLUDE ANY PRODUCT THAT IS REGULATED BY THE UNITED
2 STATES FOOD AND DRUG ADMINISTRATION UNDER SUBCHAPTER V OF THE FEDERAL
3 FOOD, DRUG, AND COSMETIC ACT.

4 ~~35.~~ 40. "Vehicle" means any means of transportation by land, water
5 or air, and includes everything made use of in any way for such
6 transportation.

7 ~~36.~~ 41. "Vending machine" means a machine that dispenses
8 merchandise through the means of coin, token, credit card or other
9 nonpersonal means of accepting payment for merchandise received.

10 ~~37.~~ 42. "Veteran" means a person who has served in the United
11 States air force, army, navy, marine corps or coast guard, as an active
12 nurse in the services of the American red cross, in the army and navy
13 nurse corps in time of war, or in any expedition of the armed forces of
14 the United States, and who has received a discharge other than
15 dishonorable.

16 ~~38.~~ 43. "Voting security" means any security presently entitling
17 the owner or holder of the security to vote for the election of directors
18 of an applicant or a licensee.

19 ~~39.~~ 44. "Wine" means the product obtained by the fermentation of
20 grapes, other agricultural products containing natural or added sugar or
21 cider or any such alcoholic beverage fortified with grape brandy and
22 containing not more than twenty-four percent of alcohol by volume.

23 Sec. 3. Section 4-112, Arizona Revised Statutes, is amended to
24 read:

25 4-112. Powers and duties of board and director of department
26 of liquor licenses and control; investigations;
27 county and municipal regulation; definition

28 A. The board shall:

29 1. Grant and deny applications in accordance with the provisions of
30 this title.

31 2. Adopt rules in order to carry out the provisions of this
32 section.

33 3. Hear appeals and hold hearings as provided in this section.

34 B. Except as provided in subsection A of this section, the director
35 shall administer ~~the provisions of~~ this title, including:

36 1. Adopting rules:

37 (a) For carrying out the provisions of this title.

38 (b) For the proper conduct of the business to be carried on under
39 each specific type of spirituous liquor license.

40 (c) To enable and assist state officials and political subdivisions
41 to collect taxes levied or imposed in connection with spirituous liquors.

42 (d) For the issuance and revocation of certificates of registration
43 of retail agents, including provisions governing the shipping, storage and
44 delivery of spirituous liquors by registered retail agents, the keeping of
45 records and the filing of reports by registered retail agents.

1 (e) To establish requirements for licensees under section 4-209,
2 subsection B, paragraph 12.

3 2. Subject to title 41, chapter 4, article 4, employing necessary
4 personnel and fixing their compensation pursuant to section 38-611.

5 3. Keeping an index record that is a public record open to public
6 inspection and that contains the name and address of each licensee and the
7 name and address of any person having an interest, either legal or
8 equitable, in each license as shown by any written document that is placed
9 on file in the office of the board.

10 4. Providing the board with supplies and personnel as directed by
11 the board.

12 5. Responding in writing to any law enforcement agency that submits
13 an investigative report to the department relating to a violation of this
14 title, setting forth what action, if any, the department has taken or
15 intends to take on the report and, if the report lacks sufficient
16 information or is otherwise defective for use by the department, what the
17 agency must do to remedy the report.

18 6. Taking steps that are necessary to maintain effective liaison
19 with the department of public safety and all local law enforcement
20 agencies in the enforcement of this title, including the laws of this
21 state against the consumption of spirituous liquor OR THE USE OF
22 ALTERNATIVE NICOTINE PRODUCTS, E-LIQUIDS, TOBACCO PRODUCTS OR VAPOR
23 PRODUCTS by persons under the legal drinking age OR LEGAL TOBACCO AND
24 VAPOR USE AGE.

25 7. Providing training to law enforcement agencies in the proper
26 investigation and reporting of violations of this title.

27 8. ENFORCING TITLE 36, CHAPTER 6, ARTICLE 14.

28 C. The director shall establish within the department a separate
29 investigations unit that has as its sole responsibility the investigation
30 of compliance with this title, including ~~the investigation of~~
31 INVESTIGATING licensees alleged to have sold or distributed spirituous
32 liquor in any form, ALTERNATIVE NICOTINE PRODUCTS, E-LIQUIDS, TOBACCO
33 PRODUCTS OR VAPOR PRODUCTS to persons under the legal drinking age OR
34 LEGAL TOBACCO AND VAPOR USE AGE. Investigations conducted by this unit
35 may include covert undercover investigations.

36 D. All employees of the department of liquor licenses and control,
37 except members of the state liquor board and the director of the
38 department, shall be employed by the department in the manner prescribed
39 by the department of administration.

40 E. The director may enter into a contract or agreement with any
41 public agency for any joint or cooperative action as provided for by title
42 11, chapter 7, article 3.

43 F. The board or the director may take evidence, administer oaths or
44 affirmations, issue subpoenas requiring attendance and testimony of
45 witnesses, cause depositions to be taken and require by subpoena duces

1 tecum the production of books, papers and other documents that are
2 necessary for the enforcement of this title. Proceedings held during the
3 course of a confidential investigation are exempt from title 38, chapter
4 3, article 3.1. If a person refuses to obey a subpoena or fails to answer
5 questions as provided by this subsection, the board or the director may
6 apply to the superior court in the manner provided in section 12-2212.
7 The board or director may serve subpoenas by personal service or certified
8 mail, return receipt requested.

9 G. The director may:

10 1. Examine books, records and papers of a licensee.

11 2. Require applicants, licensees, employees who serve, sell or
12 furnish spirituous liquors to retail customers, managers and managing
13 agents to take training courses approved by the director in spirituous
14 liquor handling and spirituous liquor laws and rules. The director shall
15 adopt rules that set standards for approving training courses. The
16 director may suspend or revoke the previous approval of trainers who do
17 not adhere to course administration requirements prescribed by the
18 department or who do not meet course standards. If the director suspends
19 or revokes the previous approval of a trainer pursuant to this paragraph,
20 the trainer may appeal to the board pursuant to section 4-210.02 as if the
21 suspension or revocation was a sanction against a licensee. After
22 January 1, 2019, the rules for on-sale retailer basic training and on-sale
23 retailer management training shall include security procedures for
24 security personnel assigned to monitor admission of patrons, interaction
25 with patrons, calls to law enforcement and strategies for use of force and
26 for the use of de-escalation techniques. If the retailer uses a
27 registered security guard, the retailer shall attempt to verify the
28 validity and status of the security guard's registration certificate. The
29 department's licensed investigators may participate and receive
30 compensation as lecturers at approved training courses within this state's
31 jurisdiction that are conducted by other entities but shall not
32 participate in in-house training programs for licensees.

33 3. Delegate to employees of the department authority to exercise
34 powers of the director in order to administer the department.

35 4. Regulate signs that advertise a spirituous liquor product at
36 licensed retail premises.

37 5. Cause to be removed from the marketplace spirituous liquor,
38 ALTERNATIVE NICOTINE PRODUCTS, E-LIQUIDS, TOBACCO PRODUCTS AND VAPOR
39 PRODUCTS that may be contaminated, ILLEGAL OR ADULTERATED.

40 6. Regulate the age and conduct of erotic entertainers at licensed
41 premises. The age limitation governing these erotic entertainers may be
42 different from other employees of the licensee.

43 7. Issue and enforce cease and desist orders against any person or
44 entity that sells beer, wine, ~~or~~ spirituous liquor, ALTERNATIVE NICOTINE

1 PRODUCTS, E-LIQUIDS, TOBACCO PRODUCTS OR VAPOR PRODUCTS without an
2 appropriate license or permit.

3 8. Confiscate wines carrying a label including a reference to
4 Arizona or any Arizona city, town or place unless at least seventy-five
5 percent by volume of the grapes used in making the wine were grown in this
6 state.

7 9. Accept and expend private grants of monies, gifts and devises
8 for conducting educational programs for parents and students on the
9 repercussions of underage alcohol consumption OR THE USE BY UNDERAGE
10 INDIVIDUALS OF ALTERNATIVE NICOTINE PRODUCTS, E-LIQUIDS, TOBACCO PRODUCTS
11 AND VAPOR PRODUCTS. State general fund monies shall not be expended for
12 the purposes of this paragraph. If the director does not receive
13 sufficient monies from private sources to carry out the purposes of this
14 paragraph, the director shall not provide the educational programs
15 prescribed in this paragraph. Grant monies received pursuant to this
16 paragraph are nonlapsing and do not revert to the state general fund at
17 the close of the fiscal year.

18 10. Procure fingerprint scanning equipment and provide fingerprint
19 services to license applicants and licensees. The department may charge a
20 fee for providing these services.

21 11. Accept electronic signatures on all department and licensee
22 forms and documents and applications. The director may adopt requirements
23 that would require facsimile signatures to be followed by original
24 signatures within a specified time period.

25 12. For use after January 1, 2019, adopt a form that is required to
26 be used by all on-sale retailers that hire or designate employees to serve
27 as security personnel. All security personnel job applicants and
28 employees for on-sale retailers shall complete the form, which shall be
29 notarized, before assignment to a security role. The form shall require
30 the applicant or other person to disclose whether in the previous five
31 years the person has been a registered sex offender or pled guilty, pled
32 no contest or been convicted of any offense that constitutes assault,
33 homicide, domestic violence, sexual misconduct, misconduct involving a
34 deadly weapon or a drug violation that constitutes the illegal sale,
35 manufacturing, cultivation or transportation for sale of marijuana, a
36 dangerous drug or a narcotic drug. A licensee may not hire or assign to a
37 role as security personnel any person who fails to complete the form or if
38 the form discloses one of the listed offenses within the previous five
39 years. The licensee shall maintain on file affidavits of all security
40 personnel hired or designated by the licensee. The form may not be
41 required for a peace officer who is certified by the Arizona peace officer
42 standards and training board or other security personnel who hold a
43 current security guard registration certificate or armed security guard
44 registration certificate issued pursuant to title 32, chapter 26.

1 H. A county or municipality may enact and enforce ordinances
2 regulating the age and conduct of erotic entertainers at licensed premises
3 in a manner at least as restrictive as rules adopted by the director.

4 I. For the purposes of this section, "security personnel" includes
5 individuals whose primary assigned responsibilities include the security
6 and safety of employees and patrons of an on-sale retailer premises.
7 Security personnel does not include a person whose primary
8 responsibilities include checking the identification cards of patrons to
9 determine compliance with age requirements.

10 Sec. 4. Section 4-205.02, Arizona Revised Statutes, is amended to
11 read:

12 4-205.02. Restaurant license; issuance; regulatory
13 provisions; expiration; definitions

14 A. The director may issue a restaurant license to any restaurant in
15 this state that is regularly open for the serving of food to guests for
16 compensation and that has suitable kitchen facilities connected with the
17 restaurant for keeping, cooking and preparing foods required for ordinary
18 meals.

19 B. The director shall issue the license in the name of the
20 restaurant on application for the license by the owner or lessee of the
21 restaurant, provided the applicant is otherwise qualified to hold a
22 spirituous liquor license. The holder of ~~such~~ THE license is subject to
23 the penalties prescribed for any violation of the law relating to
24 alcoholic beverages.

25 C. The holder of a restaurant license may sell and serve spirituous
26 liquors solely for consumption on the licensed premises. For the purpose
27 of this subsection, "licensed premises" may include rooms, areas or
28 locations in which the restaurant normally sells or serves spirituous
29 liquors pursuant to regular operating procedures and practices and that
30 are contiguous to the restaurant or a noncontiguous patio pursuant to
31 section 4-101, paragraph ~~29~~ 32. For the purposes of this subsection, a
32 restaurant licensee must submit proof of tenancy or permission from the
33 landowner or lessor for all property to be included in the licensed
34 premises.

35 D. In addition to other grounds prescribed in this title on which a
36 license may be revoked, the director may require the holder of a
37 restaurant license issued pursuant to this section to surrender the
38 license in any case in which the licensee ceases to operate as a
39 restaurant, as prescribed in subsection A of this section. The surrender
40 of a license pursuant to this subsection does not prevent the director
41 from revoking the license for other grounds prescribed in this title or
42 for making deliberate material misrepresentations to the department
43 regarding the licensee's equipment, service or entertainment items or
44 seating capacity in applying for the restaurant license.

1 E. Neither the director nor the board may initially issue a
2 restaurant license if either finds that there is sufficient evidence that
3 the operation will not satisfy the criteria adopted by the director for
4 issuing a restaurant license described in section 4-209, subsection B,
5 paragraph 12. The director shall issue a restaurant license only if the
6 applicant has submitted a plan for the operation of the restaurant. The
7 plan shall be completed on forms provided by the department and shall
8 include listings of all restaurant equipment and service items, the
9 restaurant seating capacity and other information requested by the
10 department to substantiate that the restaurant will operate in compliance
11 with this section.

12 F. The holder of the license described in section 4-209, subsection
13 B, paragraph 12 who intends to alter the seating capacity or dimensions of
14 a restaurant facility shall notify the department in advance on forms
15 provided by the department.

16 G. The director may charge a fee for site inspections conducted
17 before the issuance of a restaurant license.

18 H. A restaurant applicant or licensee may apply for a permit
19 allowing for the sale of beer for consumption off the licensed premises
20 pursuant to section 4-244, paragraph 32, subdivision (c) on a form
21 prescribed and furnished by the director. The department shall not issue
22 a permit to a restaurant applicant or licensee that does not meet the
23 requirements in section 4-207, subsection A. Section 4-207, subsection B
24 does not apply to this subsection. The permit shall be issued only after
25 the director has determined that the public convenience requires and that
26 the best interest of the community will be substantially served by the
27 issuance of the permit, considering the same criteria adopted by the
28 director for issuing a restaurant license described in section 4-209,
29 subsection B, paragraph 12. The amount of beer sold under the permit
30 shall not exceed ten percent of gross revenue of spirituous liquor sold by
31 the establishment. After the permit has been issued, the permit shall be
32 noted on the license itself and in the records of the department. The
33 director may charge a fee for processing the application for the permit
34 and a renewal fee.

35 I. Notwithstanding any rule adopted by the department, business
36 establishments that relied on a form issued by the department that
37 provides for a small restaurant exemption for fifty or fewer seats before
38 January 31, 2019, are allowed to continue to maintain the capacity of
39 fifty or fewer seats for the duration of the business. The rights of a
40 business establishment subject to this section are not transferable.

41 J. For the purposes of this section:

42 1. "Gross revenue" means the revenue derived from all sales of food
43 and spirituous liquor on the licensed premises, regardless of whether the
44 sales of spirituous liquor are made under a restaurant license issued

1 pursuant to this section or under any other license that has been issued
2 for the premises pursuant to this article.

3 2. "Restaurant" means an establishment that derives at least forty
4 percent of its gross revenue from the sale of food, including sales of
5 food for consumption off the licensed premises if the amount of these
6 sales included in the calculation of gross revenue from the sale of food
7 does not exceed fifteen percent of all gross revenue of the restaurant.

8 Sec. 5. Section 4-244, Arizona Revised Statutes, is amended to
9 read:

10 4-244. Unlawful acts

11 It is unlawful:

12 1. For a person to buy for resale, sell or deal in spirituous
13 liquors in this state without first having procured a license duly issued
14 by the board, except that the director may issue a temporary permit of any
15 series pursuant to section 4-205.05 to a trustee in bankruptcy to acquire
16 and dispose of the spirituous liquor of a debtor.

17 2. For a person to sell or deal in alcohol for beverage purposes
18 without first complying with this title.

19 3. For a distiller, vintner, brewer or wholesaler knowingly to
20 sell, dispose of or give spirituous liquor to any person other than a
21 licensee except in sampling wares as may be necessary in the ordinary
22 course of business, except in donating spirituous liquor to a nonprofit
23 organization that has obtained a special event license for the purpose of
24 charitable fund-raising activities or except in donating spirituous liquor
25 with a cost to the distiller, brewer or wholesaler of up to \$500 in a
26 calendar year to an organization that is exempt from federal income taxes
27 under section 501(c) (3), (4), (6) or (7) of the internal revenue code and
28 not licensed under this title.

29 4. For a distiller, vintner or brewer to require a wholesaler to
30 offer or grant a discount to a retailer, unless the discount has also been
31 offered and granted to the wholesaler by the distiller, vintner or brewer.

32 5. For a distiller, vintner or brewer to use a vehicle for trucking
33 or transportation of spirituous liquors unless there is affixed to both
34 sides of the vehicle a sign showing the name and address of the licensee
35 and the type and number of the person's license in letters not less than
36 three and one-half inches in height.

37 6. For a person to take or solicit orders for spirituous liquors
38 unless the person is a salesman or solicitor of a licensed wholesaler, a
39 salesman or solicitor of a distiller, brewer, vintner, importer or broker
40 or a registered retail agent.

41 7. For any retail licensee to purchase spirituous liquors from any
42 person other than a solicitor or salesman of a wholesaler licensed in this
43 state.

1 8. For a retailer to acquire an interest in property owned,
2 occupied or used by a wholesaler in the wholesaler's business, or in a
3 license with respect to the premises of the wholesaler.

4 9. Except as provided in paragraphs 10 and 11 of this section, for
5 a licensee or other person to sell, furnish, dispose of or give, or cause
6 to be sold, furnished, disposed of or given, to a person under the legal
7 drinking age or for a person under the legal drinking age to buy, receive,
8 have in the person's possession or consume spirituous liquor. This
9 paragraph does not prohibit the employment by an off-sale retailer of
10 persons who are at least sixteen years of age to check out, if supervised
11 by a person on the premises who is at least eighteen years of age, package
12 or carry merchandise, including spirituous liquor, in unbroken packages,
13 for the convenience of the customer of the employer, if the employer sells
14 primarily merchandise other than spirituous liquor.

15 10. For a licensee to employ a person under eighteen years of age
16 to manufacture, sell or dispose of spirituous liquors. This paragraph
17 does not prohibit the employment by an off-sale retailer of persons who
18 are at least sixteen years of age to check out, if supervised by a person
19 on the premises who is at least eighteen years of age, package or carry
20 merchandise, including spirituous liquor, in unbroken packages, for the
21 convenience of the customer of the employer, if the employer sells
22 primarily merchandise other than spirituous liquor.

23 11. For an on-sale retailer to employ a person under eighteen years
24 of age in any capacity connected with the handling of spirituous liquors.
25 This paragraph does not prohibit the employment by an on-sale retailer of
26 a person under eighteen years of age who cleans up the tables on the
27 premises for reuse, removes dirty dishes, keeps a ready supply of needed
28 items and helps clean up the premises.

29 12. For a licensee, when engaged in waiting on or serving
30 customers, to consume spirituous liquor or for a licensee or on-duty
31 employee to be on or about the licensed premises while in an intoxicated
32 or disorderly condition.

33 13. For an employee of a retail licensee, during that employee's
34 working hours or in connection with such employment, to give to or
35 purchase for any other person, accept a gift of, purchase for the employee
36 or consume spirituous liquor, except that:

37 (a) An employee of a licensee, during that employee's working hours
38 or in connection with the employment, while the employee is not engaged in
39 waiting on or serving customers, may give spirituous liquor to or purchase
40 spirituous liquor for any other person.

41 (b) An employee of an on-sale retail licensee, during that
42 employee's working hours or in connection with the employment, while the
43 employee is not engaged in waiting on or serving customers, may taste
44 samples of beer or wine of not more than four ounces per day or distilled

1 spirits of not more than two ounces per day provided by an employee of a
2 wholesaler or distributor who is present at the time of the sampling.

3 (c) An employee of an on-sale retail licensee, under the
4 supervision of a manager as part of the employee's training and education,
5 while not engaged in waiting on or serving customers may taste samples of
6 distilled spirits of not more than two ounces per educational session or
7 beer or wine of not more than four ounces per educational session, and
8 provided that a licensee does not have more than two educational sessions
9 in any thirty-day period.

10 (d) An unpaid volunteer who is a bona fide member of a club and who
11 is not engaged in waiting on or serving spirituous liquor to customers may
12 purchase for himself and consume spirituous liquor while participating in
13 a scheduled event at the club. An unpaid participant in a food
14 competition may purchase for himself and consume spirituous liquor while
15 participating in the food competition.

16 (e) An unpaid volunteer of a special event licensee under section
17 4-203.02 may purchase and consume spirituous liquor while not engaged in
18 waiting on or serving spirituous liquor to customers at the special event.
19 This subdivision does not apply to an unpaid volunteer whose
20 responsibilities include verification of a person's legal drinking age,
21 security or the operation of any vehicle or heavy machinery.

22 14. For a licensee or other person to serve, sell or furnish
23 spirituous liquor to a disorderly or obviously intoxicated person, or for
24 a licensee or employee of the licensee to allow or ~~permit~~ ALLOW a
25 disorderly or obviously intoxicated person to come into or remain on or
26 about the premises, except that a licensee or an employee of the licensee
27 may allow an obviously intoxicated person to remain on the premises for
28 not more than thirty minutes after the state of obvious intoxication is
29 known or should be known to the licensee for a nonintoxicated person to
30 transport the obviously intoxicated person from the premises. For the
31 purposes of this section, "obviously intoxicated" means inebriated to the
32 extent that a person's physical faculties are substantially impaired and
33 the impairment is shown by significantly uncoordinated physical action or
34 significant physical dysfunction that would have been obvious to a
35 reasonable person.

36 15. For an on-sale or off-sale retailer or an employee of such
37 retailer to sell, dispose of, deliver or give spirituous liquor to a
38 person between the hours of 2:00 a.m. and 6:00 a.m., except that a
39 retailer with off-sale privileges may receive and process orders, accept
40 payment or package, load or otherwise prepare spirituous liquor for
41 delivery at any time, if the actual deliveries to customers are made
42 between the hours of 6:00 a.m. and 2:00 a.m., at which time section 4-241,
43 subsections A and K apply.

44 16. For a licensee or employee to knowingly ~~permit~~ ALLOW any person
45 on or about the licensed premises to give or furnish any spirituous liquor

1 to any person under twenty-one years of age or knowingly ~~permit~~ ALLOW any
2 person under twenty-one years of age to have in the person's possession
3 spirituous liquor on the licensed premises.

4 17. For an on-sale retailer or an employee of such retailer to
5 allow a person to consume or possess spirituous liquors on the premises
6 between the hours of 2:30 a.m. and 6:00 a.m.

7 18. For an on-sale retailer to ~~permit~~ ALLOW an employee or for an
8 employee to solicit or encourage others, directly or indirectly, to buy
9 the employee drinks or anything of value in the licensed premises during
10 the employee's working hours. An on-sale retailer shall not serve
11 employees or allow a patron of the establishment to give spirituous liquor
12 to, purchase liquor for or drink liquor with any employee during the
13 employee's working hours.

14 19. For an off-sale retailer or employee to sell spirituous liquor
15 except in the original unbroken container, to ~~permit~~ ALLOW spirituous
16 liquor to be consumed on the premises or to knowingly ~~permit~~ ALLOW
17 spirituous liquor to be consumed on adjacent property under the licensee's
18 exclusive control.

19 20. For a person to consume spirituous liquor in a public place,
20 thoroughfare or gathering. The license of a licensee ~~permitting~~ ALLOWING
21 a violation of this paragraph on the premises shall be subject to
22 revocation. This paragraph does not apply to the sale of spirituous
23 liquors on the premises of and by an on-sale retailer. This paragraph
24 also does not apply to a person consuming beer or wine from a broken
25 package in a public recreation area or on private property with permission
26 of the owner or lessor or on the walkways surrounding such private
27 property or to a person consuming beer or wine from a broken package in a
28 public recreation area as part of a special event or festival that is
29 conducted under a license secured pursuant to section 4-203.02 or
30 4-203.03.

31 21. For a person to have possession of or to transport spirituous
32 liquor that is manufactured in a distillery, winery, brewery or rectifying
33 plant contrary to the laws of the United States and this state. Any
34 property used in transporting such spirituous liquor shall be forfeited to
35 the state and shall be seized and disposed of as provided in section
36 4-221.

37 22. For an on-sale retailer or employee to allow a person under the
38 legal drinking age to remain in an area on the licensed premises during
39 those hours in which its primary use is the sale, dispensing or
40 consumption of alcoholic beverages after the licensee, or the licensee's
41 employees, know or should have known that the person is under the legal
42 drinking age. An on-sale retailer may designate an area of the licensed
43 premises as an area in which spirituous liquor will not be sold or
44 consumed for the purpose of allowing underage persons on the premises if
45 the designated area is separated by a physical barrier and at no time will

1 underage persons have access to the area in which spirituous liquor is
2 sold or consumed. A licensee or an employee of a licensee may require a
3 person who intends to enter a licensed premises or a portion of a licensed
4 premises where persons under the legal drinking age are prohibited under
5 this section to exhibit an instrument of identification that is acceptable
6 under section 4-241 as a condition of entry or may use a biometric
7 identity verification device to determine the person's age as a condition
8 of entry. The director, or a municipality, may adopt rules to regulate
9 the presence of underage persons on licensed premises provided the rules
10 adopted by a municipality are more stringent than those adopted by the
11 director. The rules adopted by the municipality shall be adopted by local
12 ordinance and shall not interfere with the licensee's ability to comply
13 with this paragraph. This paragraph does not apply:

14 (a) If the person under the legal drinking age is accompanied by a
15 spouse, parent or legal guardian of legal drinking age or is an on-duty
16 employee of the licensee.

17 (b) If the owner, lessee or occupant of the premises is a club as
18 defined in section 4-101, paragraph ~~8~~ 9, subdivision (a) and the person
19 under the legal drinking age is any of the following:

20 (i) An active duty military service member.

21 (ii) A veteran.

22 (iii) A member of the United States army national guard or the
23 United States air national guard.

24 (iv) A member of the United States military reserve forces.

25 (c) To the area of the premises used primarily for the serving of
26 food during the hours when food is served.

27 23. For an on-sale retailer or employee to conduct drinking
28 contests, to sell or deliver to a person an unlimited number of spirituous
29 liquor beverages during any set period of time for a fixed price, to
30 deliver more than fifty ounces of beer, one liter of wine or four ounces
31 of distilled spirits in any spirituous liquor drink to one person at one
32 time for that person's consumption or to advertise any practice prohibited
33 by this paragraph. The provisions of this paragraph do not prohibit an
34 on-sale retailer or employee from selling and delivering an opened,
35 original container of distilled spirits if:

36 (a) Service or pouring of the spirituous liquor is provided by an
37 employee of the on-sale retailer.

38 (b) The employee of the on-sale retailer monitors consumption to
39 ensure compliance with this paragraph. Locking devices may be used, but
40 are not required.

41 24. For a licensee or employee to knowingly ~~permit~~ ALLOW the
42 unlawful possession, use, sale or offer for sale of narcotics, dangerous
43 drugs or marijuana on the premises. For the purposes of this paragraph,
44 "dangerous drug" has the same meaning prescribed in section 13-3401.

1 25. For a licensee or employee to knowingly ~~permit~~ ALLOW
2 prostitution or the solicitation of prostitution on the premises.

3 26. For a licensee or employee to knowingly ~~permit~~ ALLOW unlawful
4 gambling on the premises.

5 27. For a licensee or employee to knowingly ~~permit~~ ALLOW
6 trafficking or attempted trafficking in stolen property on the premises.

7 28. For a licensee or employee to fail or refuse to make the
8 premises or records available for inspection and examination as provided
9 in this title or to comply with a lawful subpoena issued under this title.

10 29. For any person other than a peace officer while on duty or off
11 duty or a member of a sheriff's volunteer posse while on duty who has
12 received firearms training that is approved by the Arizona peace officer
13 standards and training board, a retired peace officer as defined in
14 section 38-1113 or an honorably retired law enforcement officer who has
15 been issued a certificate of firearms proficiency pursuant to section
16 13-3112, subsection T, the licensee or an employee of the licensee acting
17 with the permission of the licensee to be in possession of a firearm while
18 on the licensed premises of an on-sale retailer. This paragraph does not
19 include a situation in which a person is on licensed premises for a
20 limited time in order to seek emergency aid and such person does not buy,
21 receive, consume or possess spirituous liquor. This paragraph does not
22 apply to:

23 (a) Hotel or motel guest room accommodations.

24 (b) The exhibition or display of a firearm in conjunction with a
25 meeting, show, class or similar event.

26 (c) A person with a permit issued pursuant to section 13-3112 who
27 carries a concealed handgun on the licensed premises of any on-sale
28 retailer that has not posted a notice pursuant to section 4-229.

29 30. For a licensee or employee to knowingly ~~permit~~ ALLOW a person
30 in possession of a firearm other than a peace officer while on duty or off
31 duty or a member of a sheriff's volunteer posse while on duty who has
32 received firearms training that is approved by the Arizona peace officer
33 standards and training board, a retired peace officer as defined in
34 section 38-1113 or an honorably retired law enforcement officer who has
35 been issued a certificate of firearms proficiency pursuant to section
36 13-3112, subsection T, the licensee or an employee of the licensee acting
37 with the permission of the licensee to remain on the licensed premises or
38 to serve, sell or furnish spirituous liquor to a person in possession of a
39 firearm while on the licensed premises of an on-sale retailer. It is a
40 defense to action under this paragraph if the licensee or employee
41 requested assistance of a peace officer to remove such person. This
42 paragraph does not apply to:

43 (a) Hotel or motel guest room accommodations.

44 (b) The exhibition or display of a firearm in conjunction with a
45 meeting, show, class or similar event.

1 (c) A person with a permit issued pursuant to section 13-3112 who
2 carries a concealed handgun on the licensed premises of any on-sale
3 retailer that has not posted a notice pursuant to section 4-229.

4 31. For any person in possession of a firearm while on the licensed
5 premises of an on-sale retailer to consume spirituous liquor. This
6 paragraph does not prohibit the consumption of small amounts of spirituous
7 liquor by an undercover peace officer on assignment to investigate the
8 licensed establishment.

9 32. For a licensee or employee to knowingly ~~permit~~ ALLOW spirituous
10 liquor to be removed from the licensed premises, except in the original
11 unbroken package. This paragraph does not apply to any of the following:

12 (a) A person who removes a bottle of wine that has been partially
13 consumed in conjunction with a purchased meal from licensed premises if a
14 cork is inserted flush with the top of the bottle or the bottle is
15 otherwise securely closed.

16 (b) A person who is in licensed premises that have noncontiguous
17 portions that are separated by a public or private walkway or driveway and
18 who takes spirituous liquor from one portion of the licensed premises
19 across the public or private walkway or driveway directly to the other
20 portion of the licensed premises.

21 (c) A licensee of a bar, beer and wine bar, liquor store, beer and
22 wine store, microbrewery or restaurant that has a permit pursuant to
23 section 4-205.02, subsection H that dispenses beer only in a clean
24 container composed of a material approved by a national sanitation
25 organization with a maximum capacity that does not exceed one gallon and
26 not for consumption on the premises if:

27 (i) The licensee or the licensee's employee fills the container at
28 the tap at the time of sale.

29 (ii) The container is sealed and displays a government warning
30 label.

31 (iii) The dispensing of that beer is not done through a
32 drive-through or walk-up service window.

33 33. For a person who is obviously intoxicated to buy or attempt to
34 buy spirituous liquor from a licensee or employee of a licensee or to
35 consume spirituous liquor on licensed premises.

36 34. For a person under twenty-one years of age to drive or be in
37 physical control of a motor vehicle while there is any spirituous liquor
38 in the person's body.

39 35. For a person under twenty-one years of age to operate or be in
40 physical control of a motorized watercraft that is underway while there is
41 any spirituous liquor in the person's body. For the purposes of this
42 paragraph, "underway" has the same meaning prescribed in section 5-301.

43 36. For a licensee, manager, employee or controlling person to
44 purposely induce a voter, by means of alcohol, to vote or abstain from
45 voting for or against a particular candidate or issue on an election day.

1 37. For a licensee to fail to report an occurrence of an act of
2 violence to either the department or a law enforcement agency.

3 38. For a licensee to use a vending machine for the purpose of
4 dispensing spirituous liquor.

5 39. For a licensee to offer for sale a wine carrying a label
6 including a reference to Arizona or any Arizona city, town or geographic
7 location unless at least seventy-five percent by volume of the grapes used
8 in making the wine were grown in Arizona.

9 40. For a retailer to knowingly allow a customer to bring
10 spirituous liquor onto the licensed premises, except that an on-sale
11 retailer may allow a wine and food club to bring wine onto the premises
12 for consumption by the club's members and guests of the club's members in
13 conjunction with meals purchased at a meeting of the club that is
14 conducted on the premises and that at least seven members attend. An
15 on-sale retailer that allows wine and food clubs to bring wine onto its
16 premises under this paragraph shall comply with all applicable provisions
17 of this title and any rules adopted pursuant to this title to the same
18 extent as if the on-sale retailer had sold the wine to the members of the
19 club and their guests. For the purposes of this paragraph, "wine and food
20 club" means an association that has more than twenty bona fide members
21 paying at least \$6 per year in dues and that has been in existence for at
22 least one year.

23 41. For a person under twenty-one years of age to have in the
24 person's body any spirituous liquor. In a prosecution for a violation of
25 this paragraph:

26 (a) Pursuant to section 4-249, it is a defense that the spirituous
27 liquor was consumed in connection with the bona fide practice of a
28 religious belief or as an integral part of a religious exercise and in a
29 manner not dangerous to public health or safety.

30 (b) Pursuant to section 4-226, it is a defense that the spirituous
31 liquor was consumed for a bona fide medicinal purpose and in a manner not
32 dangerous to public health or safety.

33 42. For an employee of a licensee to accept any gratuity,
34 compensation, remuneration or consideration of any kind to either:

35 (a) ~~Permit~~ **ALLOW** a person who is under twenty-one years of age to
36 enter any portion of the premises where that person is prohibited from
37 entering pursuant to paragraph 22 of this section.

38 (b) Sell, furnish, dispose of or give spirituous liquor to a person
39 who is under twenty-one years of age.

40 43. For a person to purchase, offer for sale or use any device,
41 machine or process that mixes spirituous liquor with pure oxygen or
42 another gas to produce a vaporized product for the purpose of consumption
43 by inhalation or to allow patrons to use any item for the consumption of
44 vaporized spirituous liquor.

1 44. For a retail licensee or an employee of a retail licensee to
2 sell spirituous liquor to a person if the retail licensee or employee
3 knows the person intends to resell the spirituous liquor.

4 45. Except as authorized by paragraph 32, subdivision (c) of this
5 section, for a person to reuse a bottle or other container authorized for
6 use by the laws of the United States or any agency of the United States
7 for the packaging of distilled spirits or for a person to increase the
8 original contents or a portion of the original contents remaining in a
9 liquor bottle or other authorized container by adding any substance.

10 46. For a direct shipment licensee, a farm winery licensee or an
11 employee of those licensees to sell, dispose of, deliver or give
12 spirituous liquor to an individual purchaser between the hours of 2:00
13 a.m. and 6:00 a.m., except that a direct shipment licensee or a farm
14 winery licensee may receive and process orders, accept payment, package,
15 load or otherwise prepare wine for delivery at any time without complying
16 with section 4-241, subsections A and K, if the actual deliveries to
17 individual purchasers are made between the hours of 6:00 a.m. and 2:00
18 a.m. and in accordance with section 4-203.04 for direct shipment licensees
19 and section 4-205.04 for farm winery licensees.

20 Sec. 6. Title 4, Arizona Revised Statutes, is amended by adding
21 chapter 4, to read:

22 CHAPTER 4
23 ALTERNATIVE NICOTINE PRODUCTS, E-LIQUIDS,
24 TOBACCO PRODUCTS AND VAPOR PRODUCTS
25 ARTICLE 1. LICENSING AND SELLING OF ALTERNATIVE NICOTINE
26 PRODUCTS, E-LIQUIDS, TOBACCO PRODUCTS AND VAPOR PRODUCTS

27 4-401. Licensing of alternative nicotine product, e-liquid,
28 tobacco and vapor retailers; fee

29 A. A PERSON DESIRING A LICENSE TO SELL ALTERNATIVE NICOTINE
30 PRODUCTS, E-LIQUIDS, TOBACCO PRODUCTS OR VAPOR PRODUCTS SHALL APPLY TO THE
31 DIRECTOR ON A FORM FURNISHED BY THE DIRECTOR.

32 B. A PERSON WHO FILES AN APPLICATION FOR A LICENSE WITHIN A CITY OR
33 TOWN SHALL FILE A COPY OF THE APPLICATION WITH THE DIRECTOR AND A COPY
34 WITH THE CLERK OF THE CITY OR TOWN. IF THE LICENSE IS FOR A LOCATION IN
35 AN UNINCORPORATED AREA OF A COUNTY, A COPY OF THE APPLICATION SHALL ALSO
36 BE FILED WITH THE CLERK OF THE COUNTY.

37 C. THE DIRECTOR MAY DETERMINE THE AMOUNT OF AND CHARGE A FEE FOR AN
38 APPLICATION FOR AN INITIAL LICENSE OR RENEWAL LICENSE, WHICH SHALL BE PAID
39 AT THE TIME OF APPLICATION. A LICENSE IS VALID FOR TWO YEARS. A LICENSEE
40 WHO FAILS TO RENEW THE LICENSE ON OR BEFORE THE EXPIRATION DATE MAY BE
41 SUBJECT TO A PENALTY FEE IN ADDITION TO THE RENEWAL FEE.

42 D. A LICENSE RENEWAL THAT IS DEPOSITED, PROPERLY ADDRESSED, WITH
43 POSTAGE PREPAID AND PLACED IN AN OFFICIAL DEPOSITORY OF THE UNITED STATES
44 MAIL ON OR BEFORE THE LICENSE EXPIRATION DATE IS DEEMED TO BE FILED AND
45 RECEIVED BY THE DEPARTMENT ON THE DATE SHOWN BY THE POSTMARK OR OTHER

1 OFFICIAL MARK OF THE UNITED STATES POSTAL SERVICE. IF THE LICENSE
2 EXPIRATION DATE FALLS ON A SATURDAY, SUNDAY OR OTHER LEGAL HOLIDAY, THE
3 RENEWAL IS CONSIDERED TIMELY IF IT IS RECEIVED BY THE DEPARTMENT ON THE
4 NEXT BUSINESS DAY. THE DIRECTOR MAY WAIVE A LATE PENALTY IF GOOD CAUSE IS
5 SHOWN BY THE LICENSEE. A LICENSEE WHO FAILS TO RENEW THE LICENSE ON OR
6 BEFORE THE LICENSE EXPIRATION DATE MAY NOT SELL ALTERNATIVE NICOTINE
7 PRODUCTS, E-LIQUIDS, TOBACCO PRODUCTS OR VAPOR PRODUCTS UNTIL THE LICENSE
8 IS RENEWED. A LICENSE THAT IS NOT RENEWED WITHIN SIXTY DAYS AFTER THE
9 LICENSE EXPIRATION DATE IS DEEMED TERMINATED. THE DIRECTOR MAY RENEW A
10 TERMINATED LICENSE IF GOOD CAUSE IS SHOWN BY THE LICENSEE.

11 E. THE DEPARTMENT MAY ISSUE LICENSES WITH STAGGERED RENEWAL DATES
12 TO DISTRIBUTE THE RENEWAL WORKLOAD AS UNIFORMLY AS PRACTICABLE THROUGHOUT
13 THE TWELVE MONTHS OF THE CALENDAR YEAR. IF A LICENSE IS ISSUED LESS THAN
14 SIX MONTHS BEFORE THE SCHEDULED RENEWAL DATE OF THE LICENSE AS A RESULT OF
15 THE DEPARTMENT'S STAGGERED LICENSE RENEWAL SYSTEM, ONE-HALF OF THE ANNUAL
16 LICENSE FEE SHALL BE CHARGED.

17 F. THE DEPARTMENT SHALL ISSUE A LICENSE TO SELL ALTERNATIVE
18 NICOTINE PRODUCTS, E-LIQUIDS, TOBACCO PRODUCTS AND VAPOR PRODUCTS ONLY
19 AFTER THE APPLICANT SATISFACTORILY SHOWS ITS QUALIFICATIONS. ALL
20 LICENSING FUNCTIONS MAY BE CONDUCTED ELECTRONICALLY.

21 G. THE LICENSE AUTHORIZES THE LICENSEE TO SELL ALTERNATIVE NICOTINE
22 PRODUCTS, E-LIQUIDS, TOBACCO PRODUCTS OR VAPOR PRODUCTS ONLY AT THE
23 LOCATION PROVIDED ON THE LICENSE.

24 H. A LICENSE FOR THE SALE OF ALTERNATIVE NICOTINE PRODUCTS,
25 E-LIQUIDS, TOBACCO PRODUCTS AND VAPOR PRODUCTS IS NOT TRANSFERABLE. THE
26 LICENSEE SHALL REPORT ANY CHANGE IN OWNERSHIP OF THE BUSINESS OF THE
27 LICENSEE, DIRECTLY OR INDIRECTLY, AS DEFINED BY RULE, TO THE DIRECTOR
28 WITHIN THIRTY DAYS FOLLOWING THE CHANGE IN OWNERSHIP.

29 I. ALL APPLICATIONS FOR A NEW LICENSE SHALL BE FILED WITH AND
30 DETERMINED BY THE DIRECTOR.

31 J. AN ALTERNATIVE NICOTINE PRODUCT, E-LIQUID, TOBACCO PRODUCT AND
32 VAPOR PRODUCT LICENSE MAY NOT BE LEASED OR SUBLEASED.

33 K. IF A PERSON OTHER THAN THOSE PERSONS INITIALLY LICENSED ACQUIRES
34 CONTROL OF A CORPORATION THAT HOLDS A LICENSE, THE PERSON SHALL FILE
35 NOTICE OF THE ACQUISITION WITH THE DIRECTOR WITHIN THIRTY DAYS AFTER THE
36 ACQUISITION OF CONTROL AND A LIST OF OFFICERS, DIRECTORS OR OTHER
37 CONTROLLING PERSONS. THERE IS NO ACQUISITION OF CONTROL IF A NEW PERSON
38 IS ADDED TO THE OWNERSHIP OF A LICENSEE'S BUSINESS AND THE CONTROLLING
39 PERSONS REMAIN IDENTICAL TO THE CONTROLLING PERSONS THAT HAVE BEEN
40 PREVIOUSLY DISCLOSED TO THE DIRECTOR AS PART OF THE LICENSEE'S EXISTING
41 OWNERSHIP. ALL OFFICERS, DIRECTORS OR OTHER CONTROLLING PERSONS SHALL
42 MEET THE QUALIFICATIONS FOR LICENSURE AS PRESCRIBED BY RULE. THE
43 RESTRUCTURING OF A LICENSEE'S BUSINESS IS NOT ACQUISITION OF CONTROL, A
44 TRANSFER OF A LICENSE FOR THE SALE OF ALTERNATIVE NICOTINE PRODUCTS,
45 E-LIQUIDS, TOBACCO PRODUCTS AND VAPOR PRODUCTS OR THE ISSUANCE OF A NEW

1 LICENSE TO SELL ALTERNATIVE NICOTINE PRODUCTS, E-LIQUIDS, TOBACCO PRODUCTS
2 AND VAPOR PRODUCTS IF BOTH OF THE FOLLOWING APPLY:

3 1. ALL OF THE CONTROLLING PERSONS OF THE LICENSEE AND THE NEW
4 BUSINESS ENTITY ARE IDENTICAL.

5 2. THERE IS NO CHANGE IN CONTROL OR BENEFICIAL OWNERSHIP.

6 L. THE DEPARTMENT MAY NOT ISSUE A LICENSE TO ANY PERSON WHO WITHIN
7 ONE YEAR BEFORE APPLICATION HAS HAD THE PERSON'S LICENSE REVOKED.

8 M. A HEARING CONDUCTED BY THE BOARD SHALL CONFORM TO THE
9 REQUIREMENTS OF TITLE 41, CHAPTER 6, ARTICLE 10. AT THE HEARING, AN
10 ATTORNEY, CORPORATE OFFICER OR EMPLOYEE OF A CORPORATION MAY REPRESENT THE
11 CORPORATION.

12 N. THE EXPIRATION, CANCELLATION, REVOCATION, REVERSION, SURRENDER,
13 ACCEPTANCE OF SURRENDER OR TERMINATION IN ANY OTHER MANNER OF A LICENSE
14 DOES NOT PREVENT THE INITIATION OR COMPLETION OF A DISCIPLINARY PROCEEDING
15 PURSUANT TO THIS SECTION AGAINST THE LICENSEE OR LICENSE.

16 O. THE DIRECTOR MAY DETERMINE THE AMOUNT OF AND CHARGE A FEE FOR
17 THE ISSUANCE AND RENEWAL OF AN ALTERNATIVE NICOTINE PRODUCT, E-LIQUID,
18 TOBACCO AND VAPOR LICENSE.

19 4-402. Selling or giving of alternative nicotine products,
20 e-liquids, tobacco products or vapor products to
21 underage persons; illegally obtaining alternative
22 nicotine products, e-liquids, tobacco products or
23 vapor products by underage persons; violation;
24 classification

25 A. IF A LICENSEE, A LICENSEE'S EMPLOYEE OR ANY OTHER PERSON
26 QUESTIONS OR HAS REASON TO QUESTION THAT THE PERSON ORDERING, PURCHASING,
27 ATTEMPTING TO PURCHASE OR OTHERWISE PROCURING OR ATTEMPTING TO PROCURE THE
28 SERVING OR DELIVERY OF ALTERNATIVE NICOTINE PRODUCTS, E-LIQUIDS, TOBACCO
29 PRODUCTS OR VAPOR PRODUCTS IS UNDER THE LEGAL DRINKING AGE OR LEGAL
30 TOBACCO AND VAPOR USE AGE, THE LICENSEE, LICENSEE'S EMPLOYEE OR OTHER
31 PERSON SHALL DO ALL OF THE FOLLOWING:

32 1. DEMAND IDENTIFICATION FROM THE PERSON.

33 2. EXAMINE THE IDENTIFICATION TO DETERMINE THAT THE IDENTIFICATION
34 REASONABLY APPEARS TO BE A VALID, UNALTERED IDENTIFICATION THAT HAS NOT
35 BEEN DEFACED.

36 3. EXAMINE THE PHOTOGRAPH IN THE IDENTIFICATION AND DETERMINE THAT
37 THE PERSON REASONABLY APPEARS TO BE THE SAME PERSON IN THE IDENTIFICATION.

38 4. DETERMINE THAT THE DATE OF BIRTH IN THE IDENTIFICATION INDICATES
39 THE PERSON IS NOT UNDER THE LEGAL DRINKING AGE OR LEGAL TOBACCO AND VAPOR
40 USE AGE.

41 B. A LICENSEE OR LICENSEE'S EMPLOYEE WHO FOLLOWS THE PROCEDURES
42 PRESCRIBED IN SUBSECTION A OF THIS SECTION AND WHO RECORDS AND RETAINS A
43 RECORD OF THE PERSON'S IDENTIFICATION ON THIS PARTICULAR VISIT, OR A
44 LICENSEE OR LICENSEE'S EMPLOYEE WHO USES A BIOMETRIC IDENTITY VERIFICATION
45 DEVICE TO VERIFY A PERSON IS NOT UNDER THE LEGAL DRINKING AGE OR LEGAL

1 TOBACCO AND VAPOR USE AGE IS NOT IN VIOLATION OF THIS SECTION OR SECTION
2 4-403. THIS DEFENSE APPLIES TO ACTIONS OF THE LICENSEE AND ALL EMPLOYEES
3 OF THE LICENSEE AFTER THE PROCEDURE PRESCRIBED IN SUBSECTION A OF THIS
4 SECTION HAS BEEN EMPLOYED DURING THE PARTICULAR VISIT TO THE LICENSED
5 PREMISES BY THE PERSON. A LICENSEE OR LICENSEE'S EMPLOYEE IS NOT REQUIRED
6 TO DEMAND AND EXAMINE IDENTIFICATION OF A PERSON PURSUANT TO SUBSECTION A
7 OF THIS SECTION IF, DURING THIS VISIT TO THE LICENSED PREMISES BY THE
8 PERSON, THE LICENSEE OR LICENSEE'S EMPLOYEE HAS PREVIOUSLY FOLLOWED THE
9 PROCEDURE PRESCRIBED IN SUBSECTION A OF THIS SECTION.

10 C. PROOF THAT THE LICENSEE OR LICENSEE'S EMPLOYEE FOLLOWED THE
11 ENTIRE PROCEDURE PRESCRIBED IN SUBSECTION A OF THIS SECTION BUT DID NOT
12 RECORD AND RETAIN A RECORD AS PRESCRIBED IN SUBSECTION B OF THIS SECTION
13 IS AN AFFIRMATIVE DEFENSE TO A CRIMINAL CHARGE UNDER THIS SECTION OR
14 SECTION 13-3622, OR BOTH. THIS DEFENSE APPLIES TO ACTIONS OF THE LICENSEE
15 AND THE LICENSEE'S EMPLOYEES AFTER THE PROCEDURE HAS BEEN EMPLOYED DURING
16 THE PARTICULAR VISIT TO THE LICENSED PREMISES BY THE PERSON.

17 D. A LICENSEE OR LICENSEE'S EMPLOYEE WHO HAS NOT RECORDED AND
18 RETAINED A RECORD OF THE IDENTIFICATION PRESCRIBED BY SUBSECTION B OF THIS
19 SECTION IS PRESUMED NOT TO HAVE FOLLOWED ANY OF THE PROCEDURES PRESCRIBED
20 IN SUBSECTION A OF THIS SECTION.

21 E. FOR THE PURPOSES OF SECTION 4-403, A LICENSEE OR LICENSEE'S
22 EMPLOYEE WHO HAS NOT RECORDED AND RETAINED A RECORD OF THE IDENTIFICATION
23 PRESCRIBED BY SUBSECTION B OF THIS SECTION IS PRESUMED TO KNOW THAT THE
24 PERSON ATTEMPTING TO PURCHASE ALTERNATIVE NICOTINE PRODUCTS, E-LIQUIDS,
25 TOBACCO PRODUCTS OR VAPOR PRODUCTS IS UNDER THE LEGAL TOBACCO AND VAPOR
26 USE AGE.

27 F. IT IS A DEFENSE TO A VIOLATION OF SUBSECTION A OF THIS SECTION
28 IF THE PERSON ORDERING, PURCHASING, ATTEMPTING TO PURCHASE OR OTHERWISE
29 PROCURING OR ATTEMPTING TO PROCURE ALTERNATIVE NICOTINE PRODUCTS,
30 E-LIQUIDS, TOBACCO PRODUCTS OR VAPOR PRODUCTS IS NOT UNDER THE LEGAL
31 DRINKING AGE OR LEGAL TOBACCO AND VAPOR USE AGE.

32 G. THE DEFENSES PROVIDED IN THIS SECTION DO NOT APPLY TO A LICENSEE
33 OR LICENSEE'S EMPLOYEE WHO HAS ACTUAL KNOWLEDGE THAT THE PERSON EXHIBITING
34 THE IDENTIFICATION IS UNDER THE LEGAL DRINKING AGE OR LEGAL TOBACCO AND
35 VAPOR USE AGE.

36 H. THE FOLLOWING RECORDS CONSTITUTE ACCEPTABLE FORMS FOR RECORDING
37 THE PERSON'S IDENTIFICATION:

38 1. A WRITING CONTAINING THE TYPE OF IDENTIFICATION, THE DATE OF
39 ISSUANCE OF THE IDENTIFICATION, THE NAME ON THE IDENTIFICATION, THE DATE
40 OF BIRTH ON THE IDENTIFICATION AND THE SIGNATURE OF THE PERSON.

41 2. AN ELECTRONIC FILE OR PRINTED DOCUMENT PRODUCED BY A DEVICE THAT
42 READS THE PERSON'S AGE FROM THE IDENTIFICATION.

43 3. A DATED AND SIGNED PHOTOCOPY OF THE IDENTIFICATION.

44 4. A PHOTOGRAPH OF THE IDENTIFICATION.

45 5. A DIGITAL COPY OF THE IDENTIFICATION.

1 I. SALES OF ALTERNATIVE NICOTINE PRODUCTS, E-LIQUIDS, TOBACCO
2 PRODUCTS OR VAPOR PRODUCTS MAY NOT BE MADE USING A DRIVE-THROUGH OR OTHER
3 PHYSICAL FEATURE OF THE LICENSED PREMISES THAT ALLOWS A CUSTOMER TO
4 PURCHASE ALTERNATIVE NICOTINE PRODUCTS, E-LIQUIDS, TOBACCO PRODUCTS OR
5 VAPOR PRODUCTS WITHOUT LEAVING THE PERSON'S VEHICLE.

6 J. THE FOLLOWING WRITTEN INSTRUMENTS CONSTITUTE THE ONLY
7 IDENTIFICATION THAT IS ACCEPTABLE UNDER SUBSECTION A OF THIS SECTION:

8 1. AN UNEXPIRED DRIVER LICENSE ISSUED BY THIS STATE. A DRIVER
9 LICENSE THAT IS ISSUED TO A PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE
10 DOES NOT CONSTITUTE ACCEPTABLE IDENTIFICATION THIRTY DAYS AFTER THE PERSON
11 REACHES TWENTY-ONE YEARS OF AGE.

12 2. AN UNEXPIRED DRIVER LICENSE ISSUED BY ANY OTHER STATE, THE
13 DISTRICT OF COLUMBIA, ANY TERRITORY OF THE UNITED STATES OR CANADA IF THE
14 LICENSE INCLUDES A PICTURE OF THE PERSON AND THE PERSON'S DATE OF BIRTH.

15 3. AN UNEXPIRED NONOPERATING IDENTIFICATION LICENSE ISSUED PURSUANT
16 TO SECTION 28-3165. AN UNEXPIRED NONOPERATING LICENSE THAT IS ISSUED TO A
17 PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE DOES NOT CONSTITUTE ACCEPTABLE
18 IDENTIFICATION THIRTY DAYS AFTER THE PERSON REACHES TWENTY-ONE YEARS OF
19 AGE.

20 4. A FORM OF IDENTIFICATION LICENSE ISSUED BY ANY OTHER STATE, THE
21 DISTRICT OF COLUMBIA, ANY TERRITORY OF THE UNITED STATES OR CANADA IF THE
22 LICENSE IS SUBSTANTIALLY EQUIVALENT TO A NONOPERATING IDENTIFICATION
23 LICENSE ISSUED PURSUANT TO SECTION 28-3165 AND INCLUDES A PICTURE OF THE
24 PERSON AND THE PERSON'S DATE OF BIRTH.

25 5. AN UNEXPIRED ARMED FORCES IDENTIFICATION CARD THAT INCLUDES THE
26 PERSON'S PICTURE AND DATE OF BIRTH.

27 6. A VALID UNEXPIRED PASSPORT OR A VALID UNEXPIRED RESIDENT ALIEN
28 CARD THAT CONTAINS A PHOTOGRAPH OF THE PERSON AND THE PERSON'S DATE OF
29 BIRTH.

30 K. A PERSON WHO IS UNDER THE LEGAL DRINKING AGE OR LEGAL TOBACCO
31 AND VAPOR USE AGE AND WHO MISREPRESENTS THE PERSON'S AGE TO ANY PERSON BY
32 MEANS OF A WRITTEN INSTRUMENT OF IDENTIFICATION WITH THE INTENT TO INDUCE
33 A PERSON TO SELL, GIVE OR FURNISH ALTERNATIVE NICOTINE PRODUCTS,
34 E-LIQUIDS, TOBACCO PRODUCTS OR VAPOR PRODUCTS IS GUILTY OF A PETTY
35 OFFENSE.

36 L. A PERSON WHO IS UNDER THE LEGAL DRINKING AGE OR LEGAL TOBACCO
37 AND VAPOR USE AGE AND WHO SOLICITS ANOTHER PERSON TO PURCHASE, SELL, GIVE
38 OR FURNISH ALTERNATIVE NICOTINE PRODUCTS, E-LIQUIDS, TOBACCO PRODUCTS OR
39 VAPOR PRODUCTS IS GUILTY OF A PETTY OFFENSE.

40 M. A PERSON WHO IS UNDER THE LEGAL DRINKING AGE OR LEGAL TOBACCO
41 AND VAPOR USE AGE AND WHO USES A FRAUDULENT OR FALSE WRITTEN INSTRUMENT OF
42 IDENTIFICATION OR IDENTIFICATION OF ANOTHER PERSON OR WHO USES A VALID
43 LICENSE OR IDENTIFICATION OF ANOTHER PERSON TO PURCHASE ALTERNATIVE
44 NICOTINE PRODUCTS, E-LIQUIDS, TOBACCO PRODUCTS OR VAPOR PRODUCTS IS GUILTY
45 OF A PETTY OFFENSE.

1 N. A PERSON WHO USES A DRIVER LICENSE OR NONOPERATING
2 IDENTIFICATION LICENSE IN VIOLATION OF SUBSECTION M OF THIS SECTION IS
3 SUBJECT TO SUSPENSION OF THE DRIVER LICENSE OR NONOPERATING IDENTIFICATION
4 LICENSE AS PROVIDED IN SECTION 13-3622. IF A PERSON DOES NOT HAVE A VALID
5 DRIVER LICENSE OR NONOPERATING IDENTIFICATION LICENSE AND USES A DRIVER
6 LICENSE OR NONOPERATING IDENTIFICATION LICENSE OF ANOTHER PERSON IN
7 VIOLATION OF SUBSECTION M OF THIS SECTION THE OTHER PERSON'S RIGHT TO
8 APPLY FOR A DRIVER LICENSE OR NONOPERATING IDENTIFICATION LICENSE MAY BE
9 SUSPENDED AS PROVIDED BY SECTION 4-403.

10 O. A PERSON WHO KNOWINGLY INFLUENCES THE SALE OR GIVING OF
11 ALTERNATIVE NICOTINE PRODUCTS, E-LIQUIDS, TOBACCO PRODUCTS OR VAPOR
12 PRODUCTS TO A PERSON UNDER THE LEGAL DRINKING AGE OR LEGAL TOBACCO AND
13 VAPOR USE AGE BY MISREPRESENTING THE AGE OF SUCH PERSON OR WHO ORDERS,
14 REQUESTS, RECEIVES OR PROCURES ALTERNATIVE NICOTINE PRODUCTS, E-LIQUIDS,
15 TOBACCO PRODUCTS OR VAPOR PRODUCTS FROM ANY LICENSEE, LICENSEE'S EMPLOYEE
16 OR OTHER PERSON WITH THE INTENT OF SELLING OR GIVING IT TO A PERSON UNDER
17 THE LEGAL DRINKING OR TOBACCO AND VAPOR USE AGE IS GUILTY OF A PETTY
18 OFFENSE. IN ADDITION TO OTHER PENALTIES PROVIDED BY LAW, A JUDGE MAY
19 SUSPEND A DRIVER LICENSE ISSUED TO OR THE DRIVING PRIVILEGE OF A PERSON
20 FOR NOT MORE THAN THIRTY DAYS FOR A FIRST CONVICTION AND NOT MORE THAN SIX
21 MONTHS FOR A SECOND OR SUBSEQUENT CONVICTION UNDER THIS SUBSECTION.

22 P. A PEACE OFFICER SHALL FORWARD OR ELECTRONICALLY TRANSFER TO THE
23 DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION THE AFFIDAVIT REQUIRED IF THE
24 PEACE OFFICER HAS ARRESTED A PERSON FOR THE COMMISSION OF AN OFFENSE FOR
25 WHICH, ON CONVICTION, SUSPENSION OF THE LICENSE OR PRIVILEGE TO OPERATE A
26 MOTOR VEHICLE MAY BE REQUIRED BY SECTION 13-3622, OR IF THE PEACE OFFICER
27 HAS CONFISCATED A FALSE IDENTIFICATION DOCUMENT USED BY THE PERSON TO
28 PURCHASE ALTERNATIVE NICOTINE PRODUCTS, E-LIQUIDS, TOBACCO PRODUCTS OR
29 VAPOR PRODUCTS.

30 Q. A PERSON WHO ACTS UNDER A PROGRAM OF TESTING COMPLIANCE WITH
31 THIS TITLE THAT IS APPROVED BY THE DIRECTOR IS NOT IN VIOLATION OF SECTION
32 13-3622.

33 R. LAW ENFORCEMENT AGENCIES MAY USE PERSONS WHO ARE UNDER THE LEGAL
34 DRINKING AGE OR LEGAL TOBACCO AND VAPOR USE AGE FOR THE PURCHASE OF
35 ALTERNATIVE NICOTINE PRODUCTS, E-LIQUIDS, TOBACCO PRODUCTS OR VAPOR
36 PRODUCTS TO TEST COMPLIANCE WITH THIS SECTION AND SECTION 4-403,
37 SUBSECTION A, PARAGRAPH 3 BY A LICENSEE IF THE LAW ENFORCEMENT AGENCY HAS
38 REASONABLE SUSPICION THAT THE LICENSEE IS VIOLATING THIS SECTION OR
39 SECTION 4-403, SUBSECTION A, PARAGRAPH 3. A PERSON WHO IS UNDER THE LEGAL
40 DRINKING AGE OR LEGAL TOBACCO AND VAPOR USE AGE AND WHO PURCHASES OR
41 ATTEMPTS TO PURCHASE ALTERNATIVE NICOTINE PRODUCTS, E-LIQUIDS, TOBACCO OR
42 VAPOR PRODUCTS UNDER THE DIRECTION OF A LAW ENFORCEMENT AGENCY PURSUANT TO
43 THIS SUBSECTION IS IMMUNE FROM PROSECUTION FOR THAT PURCHASE OR ATTEMPTED
44 PURCHASE. LAW ENFORCEMENT AGENCIES MAY USE A PERSON UNDER THE LEGAL

1 DRINKING AGE OR LEGAL TOBACCO AND VAPOR USE AGE PURSUANT TO THIS
2 SUBSECTION ONLY IF:

3 1. THE PERSON IS AT LEAST FIFTEEN BUT NOT MORE THAN NINETEEN YEARS
4 OF AGE.

5 2. THE PERSON IS NOT EMPLOYED ON AN INCENTIVE OR QUOTA BASIS.

6 3. THE PERSON'S APPEARANCE IS THAT OF A PERSON WHO IS UNDER THE
7 LEGAL DRINKING AGE OR LEGAL TOBACCO AND VAPOR USE AGE.

8 4. A PHOTOGRAPH OF THE PERSON IS TAKEN NOT MORE THAN TWELVE HOURS
9 BEFORE THE PURCHASE OR ATTEMPTED PURCHASE. THE PHOTOGRAPH SHALL ACCURATELY
10 DEPICT THE PERSON'S APPEARANCE AND ATTIRE. A LICENSEE OR LICENSEE'S
11 EMPLOYEE WHO IS CITED FOR SELLING ALTERNATIVE NICOTINE PRODUCTS,
12 E-LIQUIDS, TOBACCO PRODUCTS OR VAPOR PRODUCTS TO A PERSON UNDER THE LEGAL
13 DRINKING AGE OR LEGAL TOBACCO AND VAPOR USE AGE PURSUANT TO THIS
14 SUBSECTION IS ALLOWED TO INSPECT THE PHOTOGRAPH IMMEDIATELY AFTER THE
15 CITATION IS ISSUED. THE PERSON'S APPEARANCE AT ANY TRIAL OR
16 ADMINISTRATIVE HEARING THAT RESULTS FROM A CITATION MAY NOT BE
17 SUBSTANTIALLY DIFFERENT FROM THE PERSON'S APPEARANCE AT THE TIME THE
18 CITATION WAS ISSUED.

19 5. THE PERSON PLACES, RECEIVES AND PAYS FOR THE PERSON'S ORDER OF
20 ALTERNATIVE NICOTINE PRODUCTS, E-LIQUIDS, TOBACCO PRODUCTS OR VAPOR
21 PRODUCTS. AN ADULT MAY NOT ACCOMPANY THE PERSON ONTO THE PREMISES OF THE
22 LICENSEE.

23 6. THE PERSON DOES NOT USE ANY ALTERNATIVE NICOTINE PRODUCT,
24 E-LIQUID, TOBACCO PRODUCT OR VAPOR PRODUCT.

25 S. THE DEPARTMENT MAY ADOPT RULES TO CARRY OUT THE PURPOSES OF THIS
26 SECTION.

27 T. THIS SECTION DOES NOT LIMIT THE ROLE OF THE ATTORNEY GENERAL IN
28 ENFORCING THE LAWS OF THIS STATE REGARDING THE SALE OR TRANSFER OF
29 ALTERNATIVE NICOTINE PRODUCTS, E-LIQUIDS, TOBACCO PRODUCTS AND VAPOR
30 PRODUCTS TO PERSONS UNDER THE LEGAL DRINKING AGE OR LEGAL TOBACCO AND
31 VAPOR USE AGE.

32 4-403. Revocation; suspension; refusal to renew; notice;
33 complaints; hearing; defense

34 A. AFTER NOTICE AND HEARING, THE DIRECTOR MAY SUSPEND, REVOKE OR
35 REFUSE TO RENEW ANY LICENSE ISSUED PURSUANT TO THIS CHAPTER FOR ANY OF THE
36 FOLLOWING REASONS:

37 1. A PERSON BUYS FOR RESALE, SELLS OR DEALS IN ALTERNATIVE NICOTINE
38 PRODUCTS, E-LIQUIDS, TOBACCO PRODUCTS OR VAPOR PRODUCTS IN THIS STATE
39 WITHOUT FIRST HAVING PROCURED A LICENSE DULY ISSUED BY THE DEPARTMENT,
40 EXCEPT THAT THE DIRECTOR MAY ISSUE A TEMPORARY PERMIT TO A TRUSTEE IN
41 BANKRUPTCY TO ACQUIRE AND DISPOSE OF THE ALTERNATIVE NICOTINE PRODUCTS,
42 E-LIQUIDS, TOBACCO PRODUCTS OR VAPOR PRODUCTS OF A DEBTOR.

43 2. A PERSON SELLS OR DEALS IN ALTERNATIVE NICOTINE PRODUCTS,
44 E-LIQUIDS, TOBACCO PRODUCTS OR VAPOR PRODUCTS WITHOUT FIRST COMPLYING WITH
45 THIS TITLE.

1 3. A LICENSEE OR OTHER PERSON SELLS, FURNISHES, DISPOSES OF OR
2 GIVES, OR CAUSES TO BE SOLD, FURNISHED, DISPOSED OF OR GIVEN, TO A PERSON
3 UNDER THE LEGAL DRINKING AGE OR LEGAL TOBACCO AND VAPOR USE AGE OR A
4 PERSON UNDER THE LEGAL DRINKING AGE OR LEGAL TOBACCO AND VAPOR USE AGE
5 BUYS, RECEIVES, HAS IN THE PERSON'S POSSESSION OR USES ALTERNATIVE
6 NICOTINE PRODUCTS, E-LIQUIDS, TOBACCO PRODUCTS OR VAPOR PRODUCTS. THIS
7 PARAGRAPH DOES NOT PROHIBIT THE EMPLOYMENT BY A RETAILER OF PERSONS WHO
8 ARE AT LEAST SIXTEEN YEARS OF AGE TO CHECK OUT, IF SUPERVISED BY A PERSON
9 ON THE PREMISE WHO IS AT LEAST EIGHTEEN YEARS OF AGE, PACKAGE OR CARRY
10 MERCHANDISE, INCLUDING ALTERNATIVE NICOTINE PRODUCTS, E-LIQUIDS, TOBACCO
11 PRODUCTS AND VAPOR PRODUCTS FOR THE CONVENIENCE OF THE CUSTOMER OF THE
12 EMPLOYER, IF THE EMPLOYER SELLS PRIMARILY MERCHANDISE OTHER THAN
13 ALTERNATIVE NICOTINE PRODUCTS, E-LIQUIDS, TOBACCO PRODUCTS AND VAPOR
14 PRODUCTS.

15 4. A PERSON EMPLOYS A PERSON UNDER EIGHTEEN YEARS OF AGE TO SELL OR
16 DISPOSE OF ALTERNATIVE NICOTINE PRODUCTS, E-LIQUIDS, TOBACCO PRODUCTS OR
17 VAPOR PRODUCTS. THIS PARAGRAPH DOES NOT PROHIBIT THE EMPLOYMENT BY A
18 RETAILER OF PERSONS WHO ARE AT LEAST SIXTEEN YEARS OF AGE TO CHECK OUT, IF
19 SUPERVISED BY A PERSON ON THE PREMISE WHO IS AT LEAST EIGHTEEN YEARS OF
20 AGE, PACKAGE OR CARRY MERCHANDISE, INCLUDING ALTERNATIVE NICOTINE
21 PRODUCTS, E-LIQUIDS, TOBACCO PRODUCTS AND VAPOR PRODUCTS FOR THE
22 CONVENIENCE OF THE CUSTOMER OF THE EMPLOYER, IF THE EMPLOYER SELLS
23 PRIMARILY MERCHANDISE OTHER THAN ALTERNATIVE NICOTINE PRODUCTS, E-LIQUIDS,
24 TOBACCO PRODUCTS AND VAPOR PRODUCTS.

25 5. A RETAILER EMPLOYS A PERSON UNDER EIGHTEEN YEARS OF AGE IN ANY
26 CAPACITY CONNECTED WITH THE HANDLING OF ALTERNATIVE NICOTINE PRODUCTS,
27 E-LIQUIDS, TOBACCO PRODUCTS AND VAPOR PRODUCTS.

28 6. A LICENSEE OR EMPLOYEE KNOWINGLY ALLOWS ANY PERSON ON OR ABOUT
29 THE PREMISES TO GIVE OR FURNISH ANY ALTERNATIVE NICOTINE PRODUCTS,
30 E-LIQUIDS, TOBACCO PRODUCTS OR VAPOR PRODUCTS TO ANY PERSON UNDER THE
31 LEGAL DRINKING AGE OR LEGAL TOBACCO AND VAPOR USE AGE OR KNOWINGLY ALLOWS
32 ANY PERSON UNDER THE LEGAL DRINKING AGE OR LEGAL TOBACCO AND VAPOR USE AGE
33 TO HAVE IN THE PERSON'S POSSESSION ALTERNATIVE NICOTINE PRODUCTS,
34 E-LIQUIDS, TOBACCO PRODUCTS OR VAPOR PRODUCTS ON THE PREMISES.

35 7. A LICENSEE USES A VENDING MACHINE FOR THE PURPOSE OF DISPENSING
36 ALTERNATIVE NICOTINE PRODUCTS, E-LIQUIDS, TOBACCO PRODUCTS OR VAPOR
37 PRODUCTS.

38 8. AN EMPLOYEE OF A LICENSEE ACCEPTS ANY GRATUITY, COMPENSATION,
39 REMUNERATION OR CONSIDERATION OF ANY KIND TO SELL, FURNISH, DISPOSE OF OR
40 GIVE ALTERNATIVE NICOTINE PRODUCTS, E-LIQUIDS, TOBACCO PRODUCTS OR VAPOR
41 PRODUCTS TO A PERSON UNDER THE LEGAL DRINKING AGE OR LEGAL TOBACCO AND
42 VAPOR USE AGE. FOR THE PURPOSES OF THIS PARAGRAPH, ACTS OR OMISSIONS OF
43 AN EMPLOYEE OF A LICENSEE THAT VIOLATE THIS TITLE OR RULES ADOPTED
44 PURSUANT TO THIS TITLE ARE DEEMED ACTS OR OMISSIONS OF THE LICENSEE.

1 9. A LICENSEE OR LICENSEE'S EMPLOYEE SELLS ALTERNATIVE NICOTINE
2 PRODUCTS, E-LIQUIDS, TOBACCO PRODUCTS OR VAPOR PRODUCTS TO A PERSON IF THE
3 LICENSEE OR EMPLOYEE KNOWS THE PERSON INTENDS TO RESELL THE ALTERNATIVE
4 NICOTINE PRODUCTS, E-LIQUIDS, TOBACCO PRODUCTS OR VAPOR PRODUCTS.

5 10. THE LICENSEE OR CONTROLLING PERSON KNOWINGLY FILES WITH THE
6 DEPARTMENT AN APPLICATION OR OTHER DOCUMENT THAT CONTAINS MATERIAL
7 INFORMATION THAT IS FALSE OR MISLEADING OR WHILE UNDER OATH KNOWINGLY
8 GIVES TESTIMONY IN AN INVESTIGATION OR OTHER PROCEEDING UNDER THIS TITLE
9 THAT IS FALSE OR MISLEADING.

10 11. THE LICENSED BUSINESS IS DELINQUENT FOR MORE THAN ONE HUNDRED
11 TWENTY DAYS IN THE PAYMENT OF TAXES, PENALTIES OR INTEREST IN AN AMOUNT
12 THAT EXCEEDS \$250 TO THIS STATE OR ANY POLITICAL SUBDIVISION OF THIS
13 STATE.

14 12. THE LICENSEE OR CONTROLLING PERSON OBTAINS, ASSIGNS, TRANSFERS
15 OR SELLS AN ALTERNATIVE NICOTINE PRODUCT, E-LIQUID, TOBACCO AND VAPOR
16 LICENSE WITHOUT COMPLIANCE WITH THIS TITLE OR LEASES OR SUBLEASES AN
17 ALTERNATIVE NICOTINE PRODUCT, E-LIQUID, TOBACCO AND VAPOR LICENSE.

18 13. THE LICENSEE FAILS TO KEEP FOR TWO YEARS AND MAKE AVAILABLE TO
19 THE DEPARTMENT ON REASONABLE REQUEST ALL INVOICES, RECORDS, BILLS OR OTHER
20 PAPERS AND DOCUMENTS RELATING TO THE PURCHASE, SALE AND DELIVERY OF
21 ALTERNATIVE NICOTINE PRODUCTS, E-LIQUIDS, TOBACCO PRODUCTS AND VAPOR
22 PRODUCTS.

23 14. THE LICENSEE OR CONTROLLING PERSON IS CONVICTED OF A FELONY,
24 EXCEPT THAT FOR A CONVICTION OF A CORPORATION TO SERVE AS A REASON FOR ANY
25 ACTION BY THE DIRECTOR, THE CONDUCT THAT CONSTITUTES THE CORPORATE OFFENSE
26 AND THAT WAS THE BASIS FOR THE FELONY CONVICTION MUST HAVE BEEN ENGAGED
27 IN, AUTHORIZED, SOLICITED, COMMANDED OR RECKLESSLY TOLERATED BY THE
28 DIRECTORS OF THE CORPORATION OR BY A HIGH MANAGERIAL AGENT ACTING WITHIN
29 THE SCOPE OF EMPLOYMENT. FOR THE PURPOSES OF THIS PARAGRAPH, "HIGH
30 MANAGERIAL AGENT" MEANS AN OFFICER OF A CORPORATION OR ANY OTHER AGENT OF
31 THE CORPORATION IN A POSITION OF COMPARABLE AUTHORITY WITH RESPECT TO THE
32 FORMULATION OF CORPORATE POLICY.

33 15. THE LICENSEE OR CONTROLLING PERSON VIOLATES OR FAILS TO COMPLY
34 WITH THIS TITLE, ANY RULE ADOPTED PURSUANT TO THIS TITLE OR ANY TOBACCO OR
35 VAPOR LAW OF THIS STATE OR ANY OTHER STATE.

36 16. THE LICENSEE VIOLATES AN ORDER OF THE BOARD.

37 B. THE DIRECTOR SHALL RECEIVE ALL COMPLAINTS OF ALLEGED VIOLATIONS
38 OF THIS CHAPTER AND IS RESPONSIBLE FOR THE INVESTIGATION OF ALL
39 ALLEGATIONS OF A VIOLATION OF, OR NONCOMPLIANCE WITH, THIS TITLE, ANY RULE
40 ADOPTED PURSUANT TO THIS TITLE OR ANY CONDITION IMPOSED ON THE LICENSEE BY
41 THE LICENSE. A LAW ENFORCEMENT AGENCY OF A CITY OR COUNTY MAY INITIATE A
42 COMPLAINT WITH THE DEPARTMENT REGARDING A VIOLATION OF THIS CHAPTER. WHEN
43 THE DIRECTOR RECEIVES THREE COMPLAINTS FROM ANY LAW ENFORCEMENT AGENCY
44 RESULTING FROM THREE SEPARATE INCIDENTS AT A LICENSED ESTABLISHMENT WITHIN
45 A TWELVE-MONTH PERIOD, THE DIRECTOR SHALL TRANSMIT A WRITTEN REPORT TO THE

1 BOARD SETTING FORTH THE COMPLAINTS, THE RESULTS OF ANY INVESTIGATION
2 CONDUCTED BY THE LAW ENFORCEMENT AGENCY OR THE DEPARTMENT RELATING TO THE
3 COMPLAINTS AND A HISTORY OF ALL PRIOR COMPLAINTS AGAINST THE LICENSEE AND
4 THEIR DISPOSITION. THE BOARD SHALL REVIEW THE REPORT AND MAY DIRECT THE
5 DIRECTOR TO CONDUCT FURTHER INVESTIGATION OF A COMPLAINT OR TO SERVE A
6 LICENSEE WITH A COMPLAINT AND NOTICE OF A HEARING PURSUANT TO SUBSECTION C
7 OF THIS SECTION.

8 C. ON THE DIRECTOR'S INITIATION OF AN INVESTIGATION OR ON THE
9 RECEIPT OF A COMPLAINT AND AN INVESTIGATION OF THE COMPLAINT AS DEEMED
10 NECESSARY, THE DIRECTOR MAY CAUSE A COMPLAINT AND NOTICE OF A HEARING TO
11 BE DIRECTED TO THE LICENSEE THAT STATES THE VIOLATIONS ALLEGED AGAINST THE
12 LICENSEE AND THAT DIRECTS THE LICENSEE, WITHIN FIFTEEN DAYS AFTER SERVICE
13 OF THE COMPLAINT AND NOTICE OF A HEARING, TO APPEAR BY FILING WITH THE
14 DIRECTOR AN ANSWER TO THE COMPLAINT. FAILURE OF THE LICENSEE TO ANSWER
15 MAY BE DEEMED AN ADMISSION BY THE LICENSEE OF COMMISSION OF THE ACT
16 CHARGED IN THE COMPLAINT. THE DIRECTOR MAY THEN VACATE THE HEARING AND
17 IMPOSE ANY SANCTION PROVIDED BY THIS CHAPTER. THE DIRECTOR MAY WAIVE ANY
18 SANCTION FOR GOOD CAUSE SHOWN, INCLUDING EXCUSABLE NEGLECT. WITH RESPECT
19 TO ANY VIOLATION OF THIS TITLE OR ANY RULE ADOPTED PURSUANT TO THIS TITLE
20 THAT IS BASED ON THE ACT OR OMISSION OF A LICENSEE'S EMPLOYEE, THE
21 DIRECTOR SHALL CONSIDER MITIGATING EVIDENCE PRESENTED BY THE LICENSEE AND
22 ESTABLISHED BY A PREPONDERANCE OF THE EVIDENCE THAT THE EMPLOYEE ACTED
23 INTENTIONALLY AND IN VIOLATION OF THE EXPRESS DIRECTION OR POLICY ADOPTED
24 BY THE LICENSEE AND COMMUNICATED TO THE EMPLOYEE. THE DIRECTOR MAY SET
25 THE HEARING BEFORE THE DIRECTOR OR AN ADMINISTRATIVE LAW JUDGE ON ANY OF
26 THE GROUNDS STATED IN SUBSECTION A OF THIS SECTION. INSTEAD OF ISSUING A
27 COMPLAINT, THE DIRECTOR MAY PROVIDE FOR INFORMAL DISPOSITION OF THE MATTER
28 BY CONSENT AGREEMENT OR MAY ISSUE A WRITTEN WARNING TO THE LICENSEE. IF A
29 WARNING IS ISSUED, THE LICENSEE MAY REPLY IN WRITING AND THE DIRECTOR
30 SHALL KEEP A RECORD OF THE WARNING AND THE REPLY.

31 D. A HEARING SHALL CONFORM TO THE REQUIREMENTS OF TITLE 41, CHAPTER
32 6, ARTICLE 10. AT THE HEARING, AN ATTORNEY, CORPORATE OFFICER OR EMPLOYEE
33 OF A CORPORATION MAY REPRESENT THE CORPORATION. THE REVOKING, SUSPENDING
34 OR REFUSING TO RENEW A LICENSE FOR UNPAID TAXES, PENALTIES OR INTEREST
35 PURSUANT TO SUBSECTION A, PARAGRAPH 11 OF THIS SECTION IS A CONTESTED CASE
36 WITH THE DEPARTMENT OF REVENUE PURSUANT TO SECTION 42-1251.01.

37 E. THE EXPIRATION, CANCELLATION, REVOCATION, REVERSION, SURRENDER,
38 ACCEPTANCE OF SURRENDER OR TERMINATION IN ANY OTHER MANNER OF A LICENSE
39 DOES NOT PREVENT THE INITIATION OR COMPLETION OF A DISCIPLINARY PROCEEDING
40 PURSUANT TO THIS SECTION AGAINST THE LICENSEE OR LICENSE.

1 4-404. Appeals

2 A. A DECISION ISSUED BY THE DIRECTOR IS NOT FINAL FOR PURPOSES OF
3 APPEAL TO THE SUPERIOR COURT UNTIL IT HAS FIRST BEEN APPEALED TO AND RULED
4 ON BY THE BOARD. ANY AGGRIEVED PARTY MAY APPEAL ANY FINAL DECISION OF THE
5 DIRECTOR REGARDING APPLICANTS OR LICENSEES TO THE BOARD BASED ON A
6 CONTENTION THAT THE DECISION WAS ANY OF THE FOLLOWING:

7 1. FOUNDED ON OR CONTAINED ERRORS OF LAW THAT SHALL SPECIFICALLY
8 INCLUDE ERRORS OF CONSTRUCTION OR APPLICATION OF ANY RELEVANT RULES.

9 2. UNSUPPORTED BY ANY COMPETENT EVIDENCE AS DISCLOSED BY THE ENTIRE
10 RECORD.

11 3. MATERIALLY AFFECTED BY UNLAWFUL PROCEDURES.

12 4. BASED ON A VIOLATION OF ANY CONSTITUTIONAL PROVISION.

13 5. ARBITRARY OR CAPRICIOUS.

14 B. THE AGGRIEVED PARTY SHALL FILE THE APPEAL IN WRITING WITH THE
15 DEPARTMENT WITHIN FIFTEEN DAYS AFTER SERVICE OF THE NOTICE OF THE DECISION
16 OF THE DIRECTOR. THE DECISION OF THE DIRECTOR IS SUSPENDED UNTIL THE
17 DETERMINATION OF ANY APPEAL BY THE BOARD.

18 C. THE BOARD OR AN ADMINISTRATIVE LAW JUDGE SHALL CONDUCT A HEARING
19 ON THE APPEAL PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10 AND MAY ACCEPT
20 ANY RELEVANT AND MATERIAL EVIDENCE AND TESTIMONY AND EXERCISE THE RIGHTS
21 PRESCRIBED BY SECTION 4-112, SUBSECTION F OR SECTION 12-2212. AT THE
22 HEARING, AN ATTORNEY, CORPORATE OFFICER OR EMPLOYEE OF A CORPORATION MAY
23 REPRESENT THE CORPORATION. THE DEPARTMENT SHALL PREPARE AN OFFICIAL
24 RECORD OF THE HEARING, INCLUDING ALL TESTIMONY RECORDED MECHANICALLY OR
25 STENOGRAPHICALLY AND ALL EXHIBITS INTRODUCED. THE DEPARTMENT IS NOT
26 REQUIRED TO TRANSCRIBE THE RECORD EXCEPT PURSUANT TO AN APPEAL TO THE
27 SUPERIOR COURT, EXCEPT THAT, ON WRITTEN REQUEST AND RECEIPT OF A FEE FOR
28 TRANSCRIBING THE RECORD, THE DEPARTMENT MAY TRANSCRIBE THE RECORD OR ALLOW
29 FOR ITS TRANSCRIPTION BY THE PERSON REQUESTING.

30 D. THE BOARD MAY AFFIRM, REVERSE OR MODIFY ANY DECISION ISSUED BY
31 THE DIRECTOR.

32 4-405. Civil penalty; authority; training

33 A. IN LIEU OF OR IN ADDITION TO THE SUSPENSION OR REVOCATION OF OR
34 REFUSAL TO RENEW A LICENSE AUTHORIZED BY SECTION 4-403. THE DIRECTOR MAY
35 IMPOSE A CIVIL PENALTY OF AT LEAST \$200 AND NOT MORE THAN \$3,000 FOR EACH
36 VIOLATION. THE LICENSEE IS ENTITLED TO APPEAL THE DECISION OF THE
37 DIRECTOR TO THE BOARD. THE BOARD MAY AFFIRM, MODIFY OR REVERSE THE FINDING
38 AND DECISION OF THE DIRECTOR AND MAY DECREASE THE CIVIL PENALTY IMPOSED BY
39 THE DIRECTOR.

40 B. THE DIRECTOR MAY REQUIRE A LICENSEE TO PAY A CIVIL PENALTY
41 ASSESSED PURSUANT TO SUBSECTION A OF THIS SECTION IN A SINGLE PAYMENT OR
42 INSTALLMENT PAYMENTS.

43 C. IN ADDITION TO THE IMPOSITION OF ANY OTHER PENALTY AUTHORIZED BY
44 THIS TITLE, THE DIRECTOR MAY IMPOSE A REQUIREMENT THAT THE LICENSEE OR
45 OTHER PERSON ATTEND A TRAINING PROGRAM APPROVED BY THE DEPARTMENT.

1 4-406. Injunctions

2 IF THE BOARD OR THE DIRECTOR HAS REASONABLE GROUNDS TO BELIEVE THAT
3 A PERSON IS VIOLATING SECTION 4-403 OR IS SELLING OR DEALING IN
4 ALTERNATIVE NICOTINE PRODUCTS, E-LIQUIDS, TOBACCO PRODUCTS OR VAPOR
5 PRODUCTS WITHOUT A VALID LICENSE, PERMIT OR REGISTRATION IN VIOLATION OF
6 THIS TITLE, THE BOARD OR THE DIRECTOR MAY APPLY TO THE SUPERIOR COURT FOR
7 A TEMPORARY RESTRAINING ORDER AND OTHER INJUNCTIVE RELIEF PROHIBITING THE
8 SPECIFIC ACTS COMPLAINED OF BY THE BOARD OR THE DIRECTOR.

9 4-407. Judicial review; bond

10 A. EXCEPT AS PROVIDED IN SECTION 41-1092.08, SUBSECTION H, FINAL
11 DECISIONS OF THE BOARD ARE SUBJECT TO JUDICIAL REVIEW PURSUANT TO TITLE
12 12, CHAPTER 7, ARTICLE 6.

13 B. IN THE CASE OF ANY JUDICIAL REVIEW OF A DECISION OF THE
14 DEPARTMENT, THE DIRECTOR MAY REQUIRE THE POSTING OF A BOND WITH THE COURT
15 TO REIMBURSE THE DEPARTMENT FOR REASONABLE COSTS IN TRANSCRIBING AND
16 PREPARING THE RECORD OF THE DEPARTMENT. THE BOND IS PAYABLE TO THE
17 DEPARTMENT IF THE COURT AWARDS COSTS TO THE DEPARTMENT PURSUANT TO SECTION
18 12-912.

19 4-408. Local ordinances; regulation; licensing; prohibitions

20 A CITY, TOWN OR COUNTY MAY NOT ADOPT ORDINANCES OR REGULATIONS IN
21 CONFLICT WITH THIS CHAPTER OR ANY RULES ADOPTED PURSUANT TO THIS CHAPTER,
22 INCLUDING ORDINANCES OR REGULATIONS PERTAINING TO HOURS AND DAYS OF
23 ALTERNATIVE NICOTINE PRODUCT, E-LIQUID, TOBACCO PRODUCT AND VAPOR PRODUCT
24 SALES. A CITY, TOWN OR COUNTY MAY NOT LIMIT ANY RIGHT GRANTED BY THE
25 LICENSE, BY THIS CHAPTER OR BY ANY RULES ADOPTED PURSUANT TO THIS CHAPTER.
26 A CITY, TOWN OR COUNTY MAY ENFORCE LAWFUL ZONING REQUIREMENTS AND ADOPT
27 LAWFUL AND REASONABLE ADVERTISING RESTRICTIONS ON BILLBOARDS WITHIN THREE
28 HUNDRED FEET OF SCHOOL ZONES. ZONING MAY NOT BE A BASIS FOR PROTESTING OR
29 DENYING A LICENSE UNDER THIS CHAPTER.

30 Sec. 7. Section 13-3622, Arizona Revised Statutes, is amended to
31 read:

32 13-3622. Furnishing, illegally accepting or receiving or
33 obtaining tobacco products, e-liquids, alternative
34 nicotine products, vapor products or tobacco or
35 shisha instruments or paraphernalia; underage
36 persons; military personnel; classification;
37 penalties; exceptions; definitions

38 A. A person who knowingly sells, gives or furnishes a tobacco
39 product, AN E-LIQUID, a vapor product, AN ALTERNATIVE NICOTINE PRODUCT or
40 any instrument or paraphernalia that is solely designed for the smoking or
41 ingestion of tobacco, E-LIQUIDS, ALTERNATIVE NICOTINE PRODUCTS or shisha,
42 including a hookah or waterpipe, to a ~~minor~~ PERSON WHO IS UNDER TWENTY-ONE
43 YEARS OF AGE is guilty of a petty offense.

44 B. A ~~minor~~ PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE AND who
45 buys, or has in ~~his~~ THE PERSON'S possession or WHO knowingly accepts or

1 receives from any OTHER person, a tobacco product, AN E-LIQUID, AN
2 ALTERNATIVE NICOTINE PRODUCT, a vapor product or any instrument or
3 paraphernalia that is solely designed for the smoking or ingestion of
4 tobacco, E-LIQUIDS, ALTERNATIVE NICOTINE PRODUCTS or shisha, including a
5 hookah or waterpipe, is guilty of a petty offense, and if the offense
6 involves any instrument or paraphernalia that is solely designed for the
7 smoking or ingestion of tobacco, E-LIQUIDS, ALTERNATIVE NICOTINE PRODUCTS
8 or shisha, shall pay a fine of not less than ~~one hundred dollars~~ \$100 or
9 SHALL perform not less than thirty hours of community restitution.

10 C. A ~~minor~~ PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE AND who
11 misrepresents the ~~minor's~~ PERSON'S age to any OTHER person by means of a
12 written instrument of identification with the intent to induce the OTHER
13 person to sell, give or furnish a tobacco product, AN E-LIQUID, AN
14 ALTERNATIVE NICOTINE PRODUCT, a vapor product or any instrument or
15 paraphernalia that is solely designed for the smoking or ingestion of
16 tobacco, E-LIQUIDS, ALTERNATIVE NICOTINE PRODUCTS or shisha, including a
17 hookah or waterpipe, in violation of subsection A or B of this section is
18 guilty of a petty offense and, notwithstanding section 13-802, shall pay a
19 fine of not more than ~~five hundred dollars~~ \$500.

20 D. IN ADDITION TO ANY OTHER PENALTY PRESCRIBED BY LAW, THE COURT
21 MAY SUSPEND THE PRIVILEGE TO DRIVE OR A NONOPERATING IDENTIFICATION
22 LICENSE OF A PERSON WHO IS UNDER EIGHTEEN YEARS OF AGE FOR A PERIOD UP TO
23 ONE HUNDRED EIGHTY DAYS ON RECEIVING THE RECORD OF THE PERSON'S FIRST
24 CONVICTION FOR A VIOLATION OF SUBSECTION C OF THIS SECTION.

25 E. IN ADDITION TO ANY OTHER PENALTY PRESCRIBED BY LAW AND FINE
26 PRESCRIBED BY THIS SECTION, A PERSON WHO IS CONVICTED OF A VIOLATION OF
27 THIS SECTION SHALL PAY A FINE OF AT LEAST \$500.

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

29 1. Cigars, cigarettes or cigarette papers, smoking or chewing
30 tobacco or any instrument or paraphernalia that is solely designed for the
31 smoking or ingestion of tobacco or shisha, including a hookah or
32 waterpipe, if it is used or intended to be used in connection with a bona
33 fide practice of a religious belief OR CULTURAL GATHERING and as an
34 integral part of a religious or ceremonial exercise.

35 2. Any instrument or paraphernalia that is solely designed for the
36 smoking or ingestion of tobacco, E-LIQUIDS, ALTERNATIVE NICOTINE PRODUCTS
37 or shisha, including a hookah or waterpipe, that is given to or possessed
38 by a ~~minor~~ PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE if the instrument
39 or paraphernalia was a gift or souvenir and is not used or intended to be
40 used by the ~~minor~~ PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE to smoke or
41 ingest tobacco, E-LIQUIDS, ALTERNATIVE NICOTINE PRODUCTS or shisha.

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

43 1. "ALTERNATIVE NICOTINE PRODUCT":

1 (a) MEANS ANY NONCOMBUSTIBLE PRODUCT THAT CONTAINS NICOTINE AND
2 THAT IS INTENDED FOR HUMAN CONSUMPTION, WHETHER CHEWED, ABSORBED,
3 DISSOLVED, INGESTED OR CONSUMED BY ANY OTHER MEANS.

4 (b) DOES NOT INCLUDE ANY E-LIQUID, VAPOR PRODUCT, TOBACCO PRODUCT
5 OR SHISHA OR ANY PRODUCT REGULATED AS A DRUG OR DEVICE BY THE UNITED
6 STATES FOOD AND DRUG ADMINISTRATION UNDER SUBCHAPTER V OF THE FEDERAL
7 FOOD, DRUG, AND COSMETIC ACT.

8 2. "E-LIQUID" MEANS A LIQUID SUBSTANCE THAT MEETS ALL OF THE
9 FOLLOWING:

10 (a) MAY OR MAY NOT CONTAIN NICOTINE.

11 (b) DOES NOT CONTAIN CANNABIDIOL OR CANNABIS.

12 (c) IS INTENDED TO BE VAPORIZED AND INHALED USING A VAPOR PRODUCT.

13 ~~1.~~ 3. "Shisha" includes any mixture of tobacco leaf and honey,
14 molasses or dried fruit or any other sweetener.

15 ~~2.~~ 4. "Tobacco product" means any of the following:

16 (a) Cigars.

17 (b) Cigarettes.

18 (c) Cigarette papers of any kind.

19 (d) Smoking tobacco of any kind.

20 (e) Chewing tobacco of any kind.

21 ~~3.~~ 5. "Vapor product":

22 (a) Means ~~a noncombustible tobacco-derived product containing~~
23 ~~nicotine that employs a mechanical heating element, battery or circuit,~~
24 ~~regardless of shape or size, that can be used to heat a liquid nicotine~~
25 ~~solution contained in cartridges. Vapor product EITHER:~~

26 (i) A POWERED VAPORIZER THAT EMPLOYS A MECHANICAL HEATING ELEMENT,
27 BATTERY OR CIRCUIT, REGARDLESS OF SHAPE OR SIZE, AND THAT CONVERTS AN
28 E-LIQUID TO A VAPOR INTENDED FOR INHALATION.

29 (ii) A NONCOMBUSTIBLE PRODUCT THAT EMPLOYS A HEATING ELEMENT, POWER
30 SOURCE, ELECTRONIC CIRCUIT OR OTHER ELECTRONIC, CHEMICAL OR MECHANICAL
31 MEANS, REGARDLESS OF SHAPE OR SIZE, AND THAT CAN BE USED TO PRODUCE VAPOR
32 FROM AN E-LIQUID.

33 (b) Does not include any product that is regulated by the United
34 States food and drug administration under ~~chapter~~ SUBCHAPTER V of the
35 federal food, drug, and cosmetic act.

36 Sec. 8. Section 15-712, Arizona Revised Statutes, is amended to
37 read:

38 15-712. Instruction on alcohol, tobacco, e-liquids,
39 alternative nicotine products, vapor products,
40 narcotic drugs, marijuana, date rape drugs and
41 other dangerous drugs; chemical abuse prevention
42 programs; definitions

43 A. Instruction on the nature and harmful effects of alcohol,
44 tobacco, E-LIQUIDS, ALTERNATIVE NICOTINE PRODUCTS, VAPOR PRODUCTS,
45 narcotic drugs, marijuana, date rape drugs and other dangerous drugs on

1 the human system and instruction on the laws related to the control of
2 these substances and the nonuse and prevention of use and abuse of
3 alcohol, tobacco, E-LIQUIDS, ALTERNATIVE NICOTINE PRODUCTS, VAPOR
4 PRODUCTS, narcotic drugs, marijuana, date rape drugs and other dangerous
5 drugs may be included in the courses of study in common and high schools,
6 with emphasis on grades four through nine. Instruction on the nature and
7 harmful effects of alcohol, tobacco, E-LIQUIDS, ALTERNATIVE NICOTINE
8 PRODUCTS, VAPOR PRODUCTS, narcotic drugs, marijuana, date rape drugs and
9 other dangerous drugs on a human fetus may be included in the courses of
10 study in grades six through twelve. The instruction may be integrated
11 into existing health, science, citizenship or similar studies and shall
12 meet the criteria for chemical abuse prevention education programs
13 developed pursuant to ~~subsection C of~~ this section.

14 B. At the request of a school district, the department of education
15 shall provide technical assistance to school districts that choose to
16 implement programs to prevent chemical abuse.

17 C. The department of education and the department of health
18 services, ~~in consultation with the committee established pursuant to~~
19 ~~section 41-617,~~ shall establish an interagency committee to coordinate
20 their assistance to school districts.

21 D. The state board of education may accept gifts and grants and
22 shall distribute them and monies appropriated for chemical abuse
23 prevention programs to school districts to assist with the costs of
24 programs designed to prevent chemical abuse by pupils in kindergarten
25 programs and grades one through twelve. School districts ~~which~~ THAT have
26 approved chemical abuse prevention policies and procedures as prescribed
27 in section 15-345 are eligible for a maximum of ~~one dollar~~ \$1 for each
28 pupil or ~~one thousand dollars~~ \$1,000, whichever is more. If sufficient
29 monies are not available to meet all requests, the state board shall
30 determine which school districts to fund based on need, availability of
31 other programs or sources of revenue and the likelihood of the school
32 district's proposed program successfully meeting needs identified by the
33 school district. A school district shall include the monies it receives
34 for chemical abuse prevention programs under this section in the special
35 projects section of the budget as provided in section 15-903,
36 subsection F.

37 E. For the purpose of this section:

38 1. "ALTERNATIVE NICOTINE PRODUCT" HAS THE SAME MEANING PRESCRIBED
39 IN SECTION 36-798.

40 2. "DANGEROUS DRUG" HAS THE SAME MEANING PRESCRIBED IN SECTION
41 13-3401.

42 ~~1.~~ 3. "Date rape drug" means a drug ~~prescribed~~ LISTED in section
43 13-3401, paragraph 30, subdivisions (f) through (m).

44 4. "E-LIQUID" HAS THE SAME MEANING PRESCRIBED IN SECTION 36-798.

1 5. "MARIJUANA" HAS THE SAME MEANING PRESCRIBED IN SECTION 13-3401.

2 ~~2.~~ 6. "Narcotic drug", ~~"marijuana" and "dangerous drug"~~ have HAS
3 the same meaning prescribed in section 13-3401.

4 7. "VAPOR PRODUCT":

5 (a) MEANS EITHER:

6 (i) A POWERED VAPORIZER THAT EMPLOYS A MECHANICAL HEATING ELEMENT,
7 BATTERY OR CIRCUIT, REGARDLESS OF SHAPE OR SIZE, AND THAT CONVERTS AN
8 E-LIQUID TO A VAPOR INTENDED FOR INHALATION.

9 (ii) A NONCOMBUSTIBLE PRODUCT THAT EMPLOYS A HEATING ELEMENT, POWER
10 SOURCE, ELECTRONIC CIRCUIT OR OTHER ELECTRONIC, CHEMICAL OR MECHANICAL
11 MEANS, REGARDLESS OF SHAPE OR SIZE, AND THAT CAN BE USED TO PRODUCE VAPOR
12 FROM AN E-LIQUID.

13 (b) DOES NOT INCLUDE ANY PRODUCT THAT IS REGULATED BY THE UNITED
14 STATES FOOD AND DRUG ADMINISTRATION UNDER SUBCHAPTER V OF THE FEDERAL
15 FOOD, DRUG, AND COSMETIC ACT.

16 Sec. 9. Section 36-798, Arizona Revised Statutes, is amended to
17 read:

18 36-798. Definitions

19 In this article, unless the context otherwise requires:

20 1. "ALTERNATIVE NICOTINE PRODUCT":

21 (a) MEANS ANY NONCOMBUSTIBLE PRODUCT THAT CONTAINS NICOTINE AND
22 THAT IS INTENDED FOR HUMAN CONSUMPTION, WHETHER CHEWED, ABSORBED,
23 DISSOLVED, INGESTED OR CONSUMED BY ANY OTHER MEANS.

24 (b) DOES NOT INCLUDE ANY E-LIQUID, VAPOR PRODUCT, TOBACCO PRODUCT
25 OR SHISHA OR ANY PRODUCT REGULATED AS A DRUG OR DEVICE BY THE UNITED
26 STATES FOOD AND DRUG ADMINISTRATION UNDER SUBCHAPTER V OF THE FOOD, DRUG,
27 AND COSMETIC ACT.

28 ~~1.~~ 2. "Bar" means that portion of any premises licensed under
29 section 4-209, subsection B, paragraph 6, 7, 11, 12 or 14 that is
30 primarily used for ~~the~~ selling, ~~consumption~~ CONSUMING or serving ~~of~~
31 alcoholic beverages and that is not primarily used for ~~the consumption of~~
32 CONSUMING food on the premises.

33 ~~2.~~ 3. "Beedies" or "bidis" means a product containing tobacco that
34 is wrapped in temburni leaf (diospyros melanoxylon) or tendu leaf
35 (diospyros exculpra), or any other product that is offered to, or
36 purchased by, consumers as beedies or bidis.

37 ~~3.~~ 4. "Cigar" means a roll of tobacco or any lawful substitute for
38 tobacco that is wrapped in tobacco.

39 ~~4.~~ 5. "Cigarette" means a roll of tobacco or any lawful substitute
40 for tobacco that is wrapped in paper or in any substance other than
41 tobacco.

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

43 6. "DELIVERY SALE"

44 (a) MEANS A SALE, WHETHER FROM A PERSON IN THIS STATE OR OUTSIDE OF
45 THIS STATE, OF AN E-LIQUID, VAPOR PRODUCT OR ALTERNATIVE NICOTINE PRODUCT

1 TO A PURCHASER IN THIS STATE IN WHICH THE PURCHASER SUBMITS THE ORDER FOR
2 THE SALE THROUGH ONE OF THE FOLLOWING METHODS AND AFTER WHICH THE
3 E-LIQUID, VAPOR PRODUCT OR ALTERNATIVE NICOTINE PRODUCT IS SHIPPED THROUGH
4 A DELIVERY SERVICE:

5 (i) BY TELEPHONE.

6 (ii) OVER THE INTERNET.

7 (iii) THROUGH THE MAIL OR ANOTHER DELIVERY SYSTEM.

8 (b) DOES NOT INCLUDE A SALE TO A MANUFACTURER, DISTRIBUTOR OR
9 RETAILER OF AN E-LIQUID, VAPOR PRODUCT OR ALTERNATIVE NICOTINE PRODUCT
10 THAT IS NOT FOR PERSONAL CONSUMPTION.

11 7. "DELIVERY SERVICE" MEANS A PERSON, INCLUDING THE UNITED STATES
12 POSTAL SERVICE, THAT IS ENGAGED IN DELIVERING LETTERS, PACKAGES OR
13 CONTAINERS.

14 8. "E-LIQUID" MEANS A LIQUID SUBSTANCE THAT MEETS ALL OF THE
15 FOLLOWING:

16 (a) MAY OR MAY NOT CONTAIN NICOTINE.

17 (b) DOES NOT CONTAIN CANNABIDIOL OR CANNABIS.

18 (c) IS INTENDED TO BE VAPORIZED AND INHALED USING A VAPOR PRODUCT.

19 9. "RETAILER" MEANS A PERSON, OTHER THAN A MANUFACTURER OR
20 DISTRIBUTOR, THAT IN THE ORDINARY COURSE OF THE PERSON'S REGULAR TRADE OR
21 BUSINESS:

22 (a) ACQUIRES ANY FORM OF AN E-LIQUID, VAPOR PRODUCT OR ALTERNATIVE
23 NICOTINE PRODUCT FOR THE PURPOSE OF RESALE TO A CONSUMER.

24 (b) TRANSFERS AN E-LIQUID, VAPOR PRODUCT OR ALTERNATIVE NICOTINE
25 PRODUCT TO A CONSUMER FOR MONIES OR OTHER CONSIDERATION.

26 ~~6.~~ 10. "Retail tobacco vendor" means a person ~~who~~ THAT possesses
27 tobacco or tobacco products for the purpose of selling them for
28 consumption and not for resale.

29 ~~7.~~ 11. "Smokeless tobacco" includes shredded tobacco, snuff,
30 cavendish and plug, twist and other tobacco products that are intended for
31 oral use but not for smoking.

32 ~~8.~~ 12. "Smoking tobacco" includes any tobacco or tobacco product,
33 other than cigarettes and cigars, that is intended to be smoked.

34 ~~9.~~ 13. "Tobacco ~~products~~ PRODUCT" includes cigarettes, cigarette
35 papers, cigars, smokeless tobacco and smoking tobacco.

36 14. "VAPOR PRODUCT":

37 (a) MEANS EITHER:

38 (i) A POWERED VAPORIZER THAT EMPLOYS A MECHANICAL HEATING ELEMENT,
39 BATTERY OR CIRCUIT, REGARDLESS OF SHAPE OR SIZE, AND THAT CONVERTS AN
40 E-LIQUID TO A VAPOR INTENDED FOR INHALATION.

41 (ii) A NONCOMBUSTIBLE PRODUCT THAT EMPLOYS A HEATING ELEMENT, POWER
42 SOURCE, ELECTRONIC CIRCUIT OR OTHER ELECTRONIC, CHEMICAL OR MECHANICAL
43 MEANS, REGARDLESS OF SHAPE OR SIZE, AND THAT CAN BE USED TO PRODUCE VAPOR
44 FROM AN E-LIQUID.

1 (b) DOES NOT INCLUDE ANY PRODUCT THAT IS REGULATED BY THE UNITED
2 STATES FOOD AND DRUG ADMINISTRATION UNDER SUBCHAPTER V OF THE FEDERAL
3 FOOD, DRUG, AND COSMETIC ACT.

4 ~~10.~~ 15. "Vending machine" means any mechanical, electrical or
5 electronic device that, on insertion of money, tokens or any other form of
6 payment, automatically dispenses tobacco products.

7 Sec. 10. Section 36-798.01, Arizona Revised Statutes, is amended to
8 read:

9 36-798.01. Selling or giving beedies or bidis; violation;
10 classification

11 A. It is unlawful for a retail tobacco vendor to sell, furnish,
12 give or provide beedies or bidis to a ~~minor~~ PERSON WHO IS UNDER TWENTY-ONE
13 YEARS OF AGE in this state.

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

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

18 36-798.02. Vending machine sales of tobacco and tobacco
19 products; signage; violation; classification

20 A. EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, a person
21 shall not sell OR DISTRIBUTE tobacco products, ~~through a vending machine~~
22 ~~unless the vending machine is located in~~ E-LIQUIDS, VAPOR PRODUCTS OR
23 ALTERNATIVE NICOTINE PRODUCTS either:

24 1. AT A RETAIL ESTABLISHMENT IN THIS STATE BY ANY MEANS OTHER THAN
25 VENDOR-ASSISTED SALES IN WHICH THE CUSTOMER HAS NO DIRECT ACCESS TO THE
26 PRODUCT EXCEPT THROUGH THE ASSISTANCE OF THE SELLER.

27 2. FROM SELF-SERVICE DISPLAYS OR VENDING MACHINES.

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

29 1. RETAIL ESTABLISHMENTS IF PERSONS WHO ARE UNDER TWENTY-ONE YEARS
30 OF AGE ARE NOT ALLOWED IN THE ESTABLISHMENT AND THE PROHIBITION IS POSTED
31 CLEARLY ON ALL ENTRANCES.

32 2. SALES AUTHORIZED UNDER SECTIONS 36-798.06 AND 36-798.07.

33 3. A RETAIL TOBACCO STORE AS DEFINED IN SECTION 36-601.01.

34 ~~1.~~ 4. ~~A bar~~ BARS.

35 ~~2.~~ 5. An Employee lounge ~~area~~ AREAS that ~~is~~ ARE not open to the
36 public ~~and~~ IF the business in which the lounge area is located does not
37 employ ~~minors~~ PERSONS WHO ARE UNDER TWENTY-ONE YEARS OF AGE.

38 ~~B.~~ C. A sign measuring at least eighty square inches shall be
39 obviously affixed to the front of each vending machine. The sign shall
40 state in block letters, ~~THAT~~ it is illegal for a ~~minor~~ PERSON WHO IS
41 UNDER TWENTY-ONE YEARS OF AGE to purchase cigarettes, ~~or~~ tobacco products,
42 E-LIQUIDS, VAPOR PRODUCTS OR ALTERNATIVE NICOTINE PRODUCTS and, ~~upon~~ ON
43 conviction, a fine of up to ~~three hundred dollars~~ \$300 may be imposed.

44 ~~C.~~ D. This article does not invalidate an ordinance of or prohibit
45 the adoption of an ordinance by a county, city or town to further restrict

1 the location of vending machines or specify different wording for the
2 vending ~~machines~~ MACHINE signs as required by subsection ~~B~~ C of this
3 section.

4 ~~E~~. E. A person who violates this section is guilty of a petty
5 offense.

6 Sec. 12. Section 36-798.03, Arizona Revised Statutes, is amended to
7 read:

8 36-798.03. Tobacco products, e-liquids, vapor products and
9 alternative nicotine products; prohibition at
10 schools and school-related areas; exception;
11 violation; classification

12 A. THE USE AND POSSESSION OF tobacco products, E-LIQUIDS, VAPOR
13 PRODUCTS AND ALTERNATIVE NICOTINE PRODUCTS are prohibited on school
14 grounds, inside school buildings, in school parking lots or playing
15 fields, in school buses or vehicles or at off-campus school sponsored
16 events. For THE purposes of this subsection, "school" means any public,
17 charter or private school where children attend classes in kindergarten
18 programs or grades one through twelve.

19 B. Subsection A of this section does not apply to ~~an adult~~ A PERSON
20 WHO IS TWENTY-ONE YEARS OF AGE OR OLDER AND who employs tobacco products,
21 E-LIQUIDS, VAPOR PRODUCTS OR ALTERNATIVE NICOTINE PRODUCTS as a necessary
22 component of a ~~school-sanctioned~~ SCHOOL-SANCTIONED tobacco, E-LIQUID,
23 VAPOR PRODUCT OR ALTERNATIVE NICOTINE PRODUCT prevention or cessation
24 program established pursuant to section 15-712.

25 C. A SCHOOL DISTRICT GOVERNING BOARD, A CHARTER SCHOOL GOVERNING
26 BODY OR A PRIVATE SCHOOL MAY ADOPT POLICIES PROHIBITING, RESTRICTING AND
27 REGULATING TOBACCO PRODUCTS, E-LIQUIDS, VAPOR PRODUCTS OR ALTERNATIVE
28 NICOTINE PRODUCTS ON SCHOOL GROUNDS OR AT SCHOOL SANCTIONED ACTIVITIES AS
29 DETERMINED BY THE GOVERNING BOARD, GOVERNING BODY OR PRIVATE SCHOOL.

30 ~~E~~. D. A person who violates this section is guilty of a petty
31 offense.

32 Sec. 13. Section 36-798.05, Arizona Revised Statutes, is amended to
33 read:

34 36-798.05. Unsolicited delivery of tobacco products;
35 violation; classification; civil penalties;
36 definitions

37 A. It is unlawful for a person to deliver or cause to be delivered
38 to any residence in this state any tobacco products unsolicited by at
39 least one ~~adult~~ PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER AND who
40 resides at that address.

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

43 C. A person who violates subsection A of this section is subject to
44 a civil penalty in an amount of not to exceed ~~five thousand dollars~~ \$5,000

1 for each violation. Each delivery of a tobacco product ~~shall constitute~~
2 CONSTITUTES a separate violation.

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

11 E. ~~in~~ FOR THE PURPOSES OF this section, ~~unless the context~~
12 ~~otherwise requires:~~

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

14 2. "Person" means an individual, partnership, firm, association,
15 corporation, limited liability company, limited liability partnership,
16 joint venture, or other entity, other than an individual or entity
17 engaged in the delivery of items for hire.

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

20 36-798.07. Delivery sales of e-liquids, vapor products and
21 alternative nicotine products; requirements;
22 civil penalty; violation; classification

23 A. A PERSON MAY NOT MAKE A DELIVERY SALE OF AN E-LIQUID, VAPOR
24 PRODUCT OR ALTERNATIVE NICOTINE PRODUCT TO A PERSON WHO IS UNDER
25 TWENTY-ONE YEARS OF AGE.

26 B. A PERSON MAY NOT MAIL, SHIP OR OTHERWISE CAUSE TO BE DELIVERED
27 ANY E-LIQUID, VAPOR PRODUCT OR ALTERNATIVE NICOTINE PRODUCT IN CONNECTION
28 WITH A DELIVERY SALE UNLESS, BEFORE THE SALE TO THE PURCHASER, BOTH OF THE
29 FOLLOWING OCCUR:

30 1. THE SELLER VERIFIES BY AN INDEPENDENT THIRD PARTY THAT THE
31 PURCHASER IS AT LEAST TWENTY-ONE YEARS OF AGE THROUGH A COMMERCIALY
32 AVAILABLE DATABASE, OR AGGREGATE OF DATABASES, THAT IS REGULARLY USED BY
33 GOVERNMENTS AND BUSINESSES FOR THE PURPOSES OF AGE AND IDENTITY
34 VERIFICATION.

35 2. THE SELLER IS FULLY PAID FOR THE PURCHASE AND ACCEPTS PAYMENT
36 FROM THE PURCHASER BY ANY OF THE FOLLOWING METHODS:

37 (a) A CHECK DRAWN ON AN ACCOUNT IN THE PURCHASER'S NAME.

38 (b) A CREDIT CARD ISSUED IN THE PURCHASER'S NAME.

39 (c) A DEBIT CARD ISSUED IN THE PURCHASER'S NAME.

40 C. A SELLER MAY SHIP E-LIQUIDS, VAPOR PRODUCTS OR ALTERNATIVE
41 NICOTINE PRODUCTS ONLY TO A CONSUMER FOR PERSONAL CONSUMPTION.

42 D. A SELLER TAKING A DELIVERY SALE ORDER MAY REQUEST THE
43 PURCHASER'S EMAIL ADDRESS.

44 E. A PERSON WHO VIOLATES SUBSECTION A OR B OF THIS SECTION SHALL
45 PAY A CIVIL PENALTY OF NOT MORE THAN \$5,000 FOR EACH VIOLATION. EACH

1 DELIVERY OF AN E-LIQUID, VAPOR PRODUCT OR ALTERNATIVE NICOTINE PRODUCT
2 CONSTITUTES A SEPARATE VIOLATION.

3 F. A PERSON WHO KNOWINGLY VIOLATES SUBSECTION A OR B OF THIS
4 SECTION IS GUILTY OF A CLASS 2 MISDEMEANOR.

5 36-798.08. Retail sales; requirements; notice; violation;
6 classification

7 A. A RETAILER SHALL NOT SELL, OFFER TO SELL, FURNISH OR GIVE
8 TOBACCO PRODUCTS, E-LIQUIDS, VAPOR PRODUCTS OR ALTERNATIVE NICOTINE
9 PRODUCTS UNLESS THE RETAILER PROMINENTLY DISPLAYS A SIGN THAT READS AS
10 FOLLOWS:

11 IT IS ILLEGAL FOR A PERSON WHO IS UNDER TWENTY-ONE YEARS
12 OF AGE TO PURCHASE CIGARETTES, TOBACCO PRODUCTS, E-LIQUIDS,
13 VAPOR PRODUCTS AND ALTERNATIVE NICOTINE PRODUCTS.

14 WARNING: E-LIQUIDS, VAPOR PRODUCTS AND ALTERNATIVE
15 NICOTINE PRODUCTS MAY CONTAIN NICOTINE AND ARE NOT INTENDED
16 FOR USE BY ANYONE UNDER THE LEGAL PURCHASING AGE OR BY WOMEN
17 WHO ARE PREGNANT, MAY BECOME PREGNANT OR ARE BREASTFEEDING.

18 B. A RETAILER MAY NOT SELL, OFFER TO SELL, FURNISH OR GIVE TOBACCO
19 PRODUCTS, E-LIQUIDS, VAPOR PRODUCTS OR ALTERNATIVE NICOTINE PRODUCTS TO A
20 PERSON WHO REASONABLY APPEARS TO BE UNDER TWENTY-SEVEN YEARS OF AGE
21 WITHOUT FIRST EXAMINING THE PERSON'S GOVERNMENT-ISSUED PHOTOGRAPHIC
22 IDENTIFICATION, AS PRESCRIBED IN SECTION 4-241, SUBSECTION K, TO ESTABLISH
23 THAT THE PERSON IS AT LEAST TWENTY-ONE YEARS OF AGE.

24 C. A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A PETTY OFFENSE.
25 36-798.09. State preemption

26 A. THE REGULATION OF THE SALE AND MARKETING OF TOBACCO PRODUCTS,
27 E-LIQUIDS, VAPOR PRODUCTS AND ALTERNATIVE NICOTINE PRODUCTS IS A MATTER OF
28 STATEWIDE CONCERN AND IS NOT SUBJECT TO FURTHER REGULATION BY A CITY, TOWN
29 OR COUNTY IN THIS STATE, EXCEPT AS PROVIDED IN SUBSECTION B OF THIS
30 SECTION. THIS ARTICLE PREEMPTS ANY RULE, REGULATION, CODE OR ORDINANCE
31 THAT IS ADOPTED OR MODIFIED BY ANY CITY, TOWN OR COUNTY IN THIS STATE
32 REGARDING THE SALE OR MARKETING OF TOBACCO PRODUCTS, E-LIQUIDS, VAPOR
33 PRODUCTS OR ALTERNATIVE NICOTINE PRODUCTS AND THAT IS IN CONFLICT WITH OR
34 MORE RESTRICTIVE THAN A STATE STATUTE OR RULE. A CITY, TOWN OR COUNTY MAY
35 NOT LIMIT ANY RIGHT GRANTED BY THIS ARTICLE OR RULES ADOPTED PURSUANT TO
36 THIS ARTICLE.

37 B. THIS SECTION DOES NOT PROHIBIT A CITY, TOWN, COUNTY, SCHOOL
38 DISTRICT, CHARTER SCHOOL, COMMUNITY COLLEGE DISTRICT OR STADIUM DISTRICT
39 OR THE ARIZONA BOARD OF REGENTS FROM REGULATING THE SALE, MARKETING OR USE
40 OF TOBACCO PRODUCTS, E-LIQUIDS, VAPOR PRODUCTS AND ALTERNATIVE NICOTINE
41 PRODUCTS ON PROPERTY THAT IS OWNED, LEASED OR OPERATED BY THE CITY, TOWN,
42 COUNTY, SCHOOL DISTRICT, CHARTER SCHOOL, COMMUNITY COLLEGE DISTRICT OR
43 STADIUM DISTRICT OR THE ARIZONA BOARD OF REGENTS IN THIS STATE.

1 Sec. 15. Applicability

2 Notwithstanding any other law, the provisions of title 4, chapter 4,
3 Arizona Revised Statutes, as added by this act, do not apply to a retailer
4 that is legally licensed and established on the effective date of this
5 act.

6 Sec. 16. Effective date

7 This act is effective from and after December 31, 2020.