

**(Section 36-601.01 — failed to obtain the three-fourths vote pursuant to article IV, part 1, section 1, Constitution of Arizona.)**

Senate Engrossed House Bill

~~board of pharmacy; rulemaking authority~~

(now: tobacco; vapor; alternative nicotine; regulation)

State of Arizona  
House of Representatives  
Fifty-fifth Legislature  
First Regular Session  
2021

## HOUSE BILL 2682

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, ~~36-601.01~~, 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 SECTION 36-798.07; RELATING TO PUBLIC HEALTH.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 4-101, Arizona Revised Statutes, is amended to  
3 read:

4 4-101. Definitions

5 In this title, unless the context otherwise requires:

6 1. "Act of violence":

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

10 (i) ~~in which~~ Bodily injuries are sustained by any person and the  
11 injuries would be obvious to a reasonable person.

12 (ii) **IS** of sufficient intensity as to require the intervention of a  
13 peace officer to restore normal order.

14 (iii) ~~in which~~ A weapon is brandished, displayed or used.

15 (iv) ~~where~~ A licensee or an employee or contractor of the licensee  
16 fails to follow a clear and direct lawful order from a law enforcement  
17 officer or a fire marshal.

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

20 2. "Aggrieved party" means a person who resides at, owns or leases  
21 property within a one-mile radius of ~~a~~ premises proposed to be licensed  
22 and who filed a written request with the department to speak in favor of  
23 or opposition to the issuance of the license ~~no~~ **NOT** later than sixty days  
24 after ~~the~~ filing ~~of~~ the application or fifteen days after action by the  
25 local governing body, whichever is sooner.

26 3. **"ALTERNATIVE NICOTINE PRODUCT" HAS THE SAME MEANING PRESCRIBED**  
27 **IN SECTION 13-3622.**

28 ~~3.~~ 4. "Beer" means any beverage obtained by the alcoholic  
29 fermentation, infusion or decoction of barley malt, hops, or other  
30 ingredients not drinkable, or any combination of them.

31 ~~4.~~ 5. "Biometric identity verification device" means a device  
32 authorized by the department that instantly verifies the identity and age  
33 of a person by an electronic scan of a biometric of the person, through a  
34 fingerprint, iris image, facial image or other biometric characteristic,  
35 or any combination of these characteristics, **THAT** references the person's  
36 identity and age against any record described in section 4-241, subsection  
37 K, and **THAT** meets all of the following conditions:

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

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

42 (i) A secondary, electronic authentication process or set of  
43 processes ~~utilizing~~ **USING** commercially available data, such as a public  
44 records query or a knowledge-based authentication quiz.

1 (ii) ~~utilizing~~ USING a state or federal government system of record  
2 for digital authentication.

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

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

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

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

11 (b) In the case of a club that meets the criteria prescribed in  
12 paragraph ~~8~~ 9, subdivision (a) of this section, a current member of the  
13 armed services of the United States who presents proper military  
14 identification and any member of a recognized veterans' organization of  
15 the United States and of any country allied with the United States during  
16 current or past wars or through treaty arrangements.

17 ~~7.~~ 8. "Broken package" means any container of spirituous liquor on  
18 which the United States tax seal has been broken or removed, or from which  
19 the cap, cork or seal placed ~~thereupon~~ ON THE CONTAINER by the  
20 manufacturer has been removed.

21 ~~8.~~ 9. "Club" includes any of the following organizations where the  
22 sale of spirituous liquor for consumption on the premises is made only to  
23 members, spouses of members, families of members, bona fide guests of  
24 members and guests at other events authorized in this title:

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

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

36 (c) A hall or building association of a local unit mentioned in  
37 subdivisions (a) and (b) of this paragraph, ~~OF WHICH~~ all of the capital  
38 stock ~~of which~~ is owned by the local unit or the members, ~~and that~~  
39 operates the clubroom facilities of the local unit.

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

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

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

28 ~~9-~~ 10. "Company" or "association", when used in reference to a  
29 corporation, includes successors or assigns.

30 ~~10-~~ 11. "Control" means the power to direct or cause the direction  
31 of the management and policies of an applicant or licensee, whether  
32 through the ownership of voting securities or a partnership interest, by  
33 agreement or otherwise. Control is presumed to exist if a person has the  
34 direct or indirect ownership of or power to vote ten percent or more of  
35 the outstanding voting securities of the applicant or licensee or to  
36 control in any manner the election of one or more of the directors of the  
37 applicant or licensee. In the case of a partnership, control is presumed  
38 to mean the general partner or a limited partner who holds ten percent or  
39 more of the voting rights of the partnership. For the purposes of  
40 determining the percentage of voting securities owned, controlled or held  
41 by a person, there shall be aggregated with the voting securities  
42 attributed to the person the voting securities of an officer, partner,  
43 employee or agent of the person or a spouse, parent or child of the  
44 person. Control is also presumed to exist if a creditor of the applicant

1 or licensee holds a beneficial interest in ten percent or more of the  
2 liabilities of the licensee. The presumptions in this paragraph regarding  
3 control are rebuttable.

4 ~~11.~~ 12. "Controlling person" means a person directly or indirectly  
5 possessing control of an applicant or licensee.

6 ~~12.~~ 13. "Craft distiller" means a distiller in the United States  
7 or in a territory or possession of the United States that holds a license  
8 pursuant to section 4-205.10.

9 ~~13.~~ 14. "Department" means the department of liquor licenses and  
10 control.

11 ~~14.~~ 15. "Director" means the director of the department of liquor  
12 licenses and control.

13 ~~15.~~ 16. "Distilled spirits" includes alcohol, brandy, whiskey,  
14 rum, tequila, mescal, gin, absinthe, a compound or mixture of any of them  
15 or of any of them with any vegetable or other substance, alcohol bitters,  
16 bitters containing alcohol, fruits preserved in ardent spirits, and any  
17 alcoholic mixture or preparation, whether patented or otherwise, that may  
18 in sufficient quantities produce intoxication.

19 ~~16.~~ 17. "Employee" means any person who performs any service on  
20 licensed premises on a full-time, part-time or contract basis with consent  
21 of the licensee, whether or not the person is denominated an employee, ~~OR~~  
22 independent contractor or otherwise. Employee does not include a person  
23 WHO IS exclusively on the premises for musical or vocal performances, for  
24 repair or maintenance of the premises or for the delivery of goods to the  
25 licensee.

26 ~~17.~~ 18. "Farm winery" means a winery in the United States or in a  
27 territory or possession of the United States that holds a license pursuant  
28 to section 4-205.04.

29 ~~18.~~ 19. "Government license" means a license to serve and sell  
30 spirituous liquor on specified premises available only to a state agency,  
31 state board, state commission, county, city, town, community college or  
32 state university or the national guard or Arizona coliseum and exposition  
33 center on application by the governing body of ~~a~~ THE state agency, state  
34 board, state commission, county, city, town, community college or state  
35 university or the national guard or Arizona exposition and state fair  
36 board.

37 ~~19.~~ 20. "Legal drinking age" means twenty-one years of age or  
38 older.

39 ~~20.~~ 21. "License" means a license or an interim retail permit  
40 issued pursuant to this title.

41 ~~21.~~ 22. "Licensee" means a person who has been issued a license or  
42 an interim retail permit pursuant to this title or a special event  
43 licensee.

1           ~~22.~~ 23. "License fees" means fees collected for license issuance,  
2 license application, license renewal, interim permit issuance and license  
3 transfer between persons or locations.

4           ~~23.~~ 24. "Manager" means a natural person who meets the standards  
5 required of licensees and who has authority to organize, direct, carry on,  
6 control or otherwise operate a licensed business on a temporary or  
7 full-time basis.

8           ~~24.~~ 25. "Microbrewery" means a brewery in the United States or in  
9 a territory or possession of the United States that meets the requirements  
10 of section 4-205.08.

11           ~~25.~~ 26. "Off-sale retailer" means any person ~~operating~~ **THAT**  
12 **OPERATES** a bona fide regularly established retail liquor store ~~selling~~  
13 **THAT SELLS** spirituous liquors, wines and beer, and any established retail  
14 store selling commodities other than spirituous liquors and **THAT IS**  
15 engaged in the sale of spirituous liquors only in the original unbroken  
16 package, to be taken away from the premises of the retailer and to be  
17 consumed off the premises.

18           ~~26.~~ 27. "On-sale retailer" means any person operating an  
19 establishment where spirituous liquors are sold in the original container  
20 for consumption on or off the premises or in individual portions for  
21 consumption on the premises.

22           ~~27.~~ 28. "Permanent occupancy" means the maximum occupancy of the  
23 building or facility as set by the office of the state fire marshal for  
24 the jurisdiction in which the building or facility is located.

25           ~~28.~~ 29. "Person" includes a partnership, limited liability  
26 company, association, company or corporation, as well as a natural person.

27           ~~29.~~ 30. "Premises" or "licensed premises" means the area from  
28 which the licensee is authorized to sell, dispense or serve spirituous  
29 liquors under the provision of the license. Premises or licensed premises  
30 includes a patio that is not contiguous to the remainder of the premises  
31 or licensed premises if the patio is separated from the remainder of the  
32 premises or licensed premises by a public or private walkway or driveway  
33 not to exceed thirty feet, subject to rules the director may adopt to  
34 establish criteria for noncontiguous premises.

35           ~~30.~~ 31. "Registered mail" includes certified mail.

36           ~~31.~~ 32. "Registered retail agent" means any person who is  
37 authorized pursuant to section 4-222 to purchase spirituous liquors for  
38 and on behalf of the person and other retail licensees.

39           ~~32.~~ 33. "Repeated acts of violence" means:

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

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

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

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

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

13 34. "RETAIL TOBACCO VENDOR":

14 (a) MEANS A PERSON, PARTNERSHIP, JOINT VENTURE, SOCIETY, CLUB,  
15 TRUSTEE, TRUE ASSOCIATION, ORGANIZATION OR CORPORATION THAT OWNS, OPERATES  
16 OR MANAGES ANY RETAIL ESTABLISHMENT PHYSICALLY LOCATED IN THIS STATE THAT  
17 SELLS ALTERNATIVE NICOTINE PRODUCTS, SHISHA, TOBACCO PRODUCTS OR VAPOR  
18 PRODUCTS, THAT IS IN THE BUSINESS OF SELLING, DISTRIBUTING OR CONVEYING  
19 THESE PRODUCTS TO THE PUBLIC OR A USER OF ANY SUCH PRODUCT AND IS NOT AN  
20 OTHERWISE LAWFUL BUSINESS LOCATED OUTSIDE OF THIS STATE.

21 (b) DOES NOT INCLUDE EITHER OF THE FOLLOWING:

22 (i) THE NONMANAGEMENT EMPLOYEES OF ANY TOBACCO RETAIL  
23 ESTABLISHMENT.

24 (ii) A WHOLESALER OF ANY ALTERNATIVE NICOTINE PRODUCT, SHISHA,  
25 TOBACCO PRODUCT OR VAPOR PRODUCT WITH RESPECT TO SELLING, DISTRIBUTING OR  
26 CONVEYING THESE PRODUCTS IN BUSINESS-TO-BUSINESS TRANSACTIONS.

27 ~~33.~~ 35. "Sell" includes soliciting or receiving an order for,  
28 keeping or exposing for sale, directly or indirectly delivering for value,  
29 peddling, keeping with intent to sell and trafficking in.

30 36. "SHISHA" HAS THE SAME MEANING PRESCRIBED IN SECTION 13-3622.

31 ~~34.~~ 37. "Spirituous liquor" includes alcohol, brandy, whiskey,  
32 rum, tequila, mescal, gin, wine, porter, ale, beer, any malt liquor or  
33 malt beverage, absinthe, a compound or mixture of any of them or of any of  
34 them with any vegetable or other substance, alcohol bitters, bitters  
35 containing alcohol, any liquid mixture or preparation, whether patented or  
36 otherwise, ~~which~~ THAT produces intoxication, fruits preserved in ardent  
37 spirits, and beverages containing more than one-half of one percent of  
38 alcohol by volume.

39 38. "TOBACCO PRODUCT" HAS THE SAME MEANING PRESCRIBED IN SECTION  
40 13-3622.

41 39. "VAPOR PRODUCT" HAS THE SAME MEANING PRESCRIBED IN SECTION  
42 13-3622.

1           ~~35.~~ 40. "Vehicle" means any means of transportation by land, water  
2 or air, and includes everything made use of in any way for such  
3 transportation.

4           ~~36.~~ 41. "Vending machine" means a machine that dispenses  
5 merchandise through the means of coin, token, credit card or other  
6 nonpersonal means of accepting payment for merchandise received.

7           ~~37.~~ 42. "Veteran" means a person who has served in the United  
8 States air force, army, navy, marine corps or coast guard, as an active  
9 nurse in the services of the American red cross, in the army and navy  
10 nurse corps in time of war, or in any expedition of the armed forces of  
11 the United States, and who has received a discharge other than  
12 dishonorable.

13           ~~38.~~ 43. "Voting security" means any security presently entitling  
14 the owner or holder of the security to vote for the election of directors  
15 of an applicant or a licensee.

16           ~~39.~~ 44. "Wine" means the product obtained by the fermentation of  
17 grapes, other agricultural products containing natural or added sugar or  
18 cider or any such alcoholic beverage fortified with grape brandy and  
19 containing not more than twenty-four percent of alcohol by volume.

20           Sec. 2. Section 4-112, Arizona Revised Statutes, is amended to  
21 read:

22           4-112. Powers and duties of board and director of department  
23 of liquor licenses and control; investigations;  
24 county and municipal regulation; definition

25           A. The board shall:

26           1. Grant and deny applications in accordance with ~~the provisions of~~  
27 this title.

28           2. Adopt rules in order to carry out ~~the provisions of~~ this  
29 section.

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

31           B. Except as provided in subsection A of this section, the director  
32 shall administer ~~the provisions of~~ this title, ~~including~~ AND SHALL DO THE  
33 FOLLOWING:

34           1. ~~Adopting~~ ADOPT rules:

35           (a) ~~For carrying~~ TO CARRY out ~~the provisions of~~ this title.

36           (b) ~~For the proper~~ TO PROPERLY conduct ~~of~~ the business to be  
37 carried on under each specific type of spirituous liquor license.

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

40           (d) ~~For the issuance~~ TO ISSUE and ~~revocation of~~ REVOKE certificates  
41 of registration of retail agents, including provisions governing the  
42 shipping, storage and delivery of spirituous liquors by registered retail  
43 agents, the keeping of records and the filing of reports by registered  
44 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~~ EMPLOY  
4 necessary personnel and ~~fixing~~ FIX their compensation pursuant to section  
5 38-611.

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

11 4. ~~Providing~~ PROVIDE the board with supplies and personnel as  
12 directed by the board.

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

19 6. ~~Taking~~ TAKE steps that are necessary to maintain effective  
20 liaison with the department of public safety and all local law enforcement  
21 agencies in ~~the enforcement of~~ ENFORCING this title, including the laws of  
22 this state against the consumption of spirituous liquor by persons under  
23 the legal drinking age OR THE USE OF ALTERNATIVE NICOTINE PRODUCTS,  
24 TOBACCO PRODUCTS OR VAPOR PRODUCTS BY PERSONS UNDER TWENTY-ONE YEARS OF  
25 AGE.

26 7. ~~Providing~~ PROVIDE training to law enforcement agencies in ~~the~~  
27 ~~proper investigation~~ PROPERLY INVESTIGATING and reporting ~~of~~ violations of  
28 this title.

29 8. ENFORCE TITLE 36, CHAPTER 6, ARTICLE 14.

30 C. The director shall establish within the department a separate  
31 investigations unit that has as its sole responsibility ~~the investigation~~  
32 ~~of~~ INVESTIGATING compliance with this title, including ~~the investigation~~  
33 ~~of~~ INVESTIGATING licensees alleged to have sold or distributed spirituous  
34 liquor in any form to persons under the legal drinking age OR TO HAVE SOLD  
35 ALTERNATIVE NICOTINE PRODUCTS, TOBACCO PRODUCTS OR VAPOR PRODUCTS TO A  
36 PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE. Investigations conducted by  
37 this unit may include covert undercover investigations.

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

42 E. The director may enter into a contract or agreement with any  
43 public agency for any joint or cooperative action as provided for by title  
44 11, chapter 7, article 3.

1 F. The board or the director may take evidence, administer oaths or  
2 affirmations, issue subpoenas requiring attendance and testimony of  
3 witnesses, cause depositions to be taken and require by subpoena duces  
4 tecum the production of books, papers and other documents that are  
5 necessary ~~for the enforcement of~~ TO ENFORCE this title. Proceedings held  
6 during the course of a confidential investigation are exempt from title  
7 38, chapter 3, article 3.1. If a person refuses to obey a subpoena or  
8 fails to answer questions as provided by this subsection, the board or the  
9 director may apply to the superior court in the manner provided in section  
10 12-2212. The board or director may serve subpoenas by personal service or  
11 certified mail, return receipt requested.

12 G. The director may:

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

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

36 3. Delegate to employees of the department authority to exercise  
37 powers of the director in order to administer the department.

38 4. Regulate signs that advertise a spirituous liquor product at  
39 licensed retail premises.

40 5. Cause to be removed from the marketplace spirituous liquor,  
41 ALTERNATIVE NICOTINE PRODUCTS, TOBACCO PRODUCTS OR VAPOR PRODUCTS that may  
42 be contaminated.

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

4           7. Issue and enforce cease and desist orders against any person or  
5 entity that sells beer, wine, ~~or~~ spirituous liquor, ALTERNATIVE NICOTINE  
6 PRODUCTS, TOBACCO PRODUCTS OR VAPOR PRODUCTS without an appropriate  
7 license or permit.

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

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

22           10. Procure fingerprint scanning equipment and provide fingerprint  
23 services to license applicants and licensees. The department may charge a  
24 fee for providing these services.

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

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

1 be required for a peace officer who is certified by the Arizona peace  
2 officer standards and training board or other security personnel who hold  
3 a current security guard registration certificate or armed security guard  
4 registration certificate issued pursuant to title 32, chapter 26.

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

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

14 Sec. 3. Section 4-205.02, Arizona Revised Statutes, is amended to  
15 read:

16 4-205.02. Restaurant license; issuance; regulatory  
17 provisions; expiration; definitions

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

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

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

39 D. In addition to other grounds prescribed in this title on which a  
40 license may be revoked, the director may require the holder of a  
41 restaurant license issued pursuant to this section to surrender the  
42 license in any case in which the licensee ceases to operate as a  
43 restaurant, as prescribed in subsection A of this section. The surrender  
44 of a license pursuant to this subsection does not prevent the director

1 from revoking the license for other grounds prescribed in this title or  
2 for making deliberate material misrepresentations to the department  
3 regarding the licensee's equipment, service or entertainment items or  
4 seating capacity in applying for the restaurant license.

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

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

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

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

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

1 J. For the purposes of this section:

2 1. "Gross revenue" means the revenue derived from all sales of food  
3 and spirituous liquor on the licensed premises, regardless of whether the  
4 sales of spirituous liquor are made under a restaurant license issued  
5 pursuant to this section or under any other license that has been issued  
6 for the premises pursuant to this article.

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

12 Sec. 4. Section 4-244, Arizona Revised Statutes, is amended to  
13 read:

14 4-244. Unlawful acts

15 It is unlawful:

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

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

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

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

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

41 6. For a person to take or solicit orders for spirituous liquors  
42 unless the person is a salesman or solicitor of a licensed wholesaler, a  
43 salesman or solicitor of a distiller, brewer, vintner, importer or broker  
44 or a registered retail agent.

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

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

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

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

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

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

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

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

1 (b) An employee of an on-sale retail licensee, during that  
2 employee's working hours or in connection with the employment, while the  
3 employee is not engaged in waiting on or serving customers, may taste  
4 samples of beer or wine of not more than four ounces per day or distilled  
5 spirits of not more than two ounces per day provided by an employee of a  
6 wholesaler or distributor who is present at the time of the sampling.

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

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

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

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

40 15. For an on-sale or off-sale retailer or an employee of such A  
41 retailer to sell, dispose of, deliver or give spirituous liquor to a  
42 person between the hours of 2:00 a.m. and 6:00 a.m., except that a  
43 retailer with off-sale privileges may receive and process orders, accept  
44 payment or package, load or otherwise prepare spirituous liquor for



1 delivery at any time, if the actual deliveries to customers are made  
2 between the hours of 6:00 a.m. and 2:00 a.m., at which time section 4-241,  
3 subsections A and K apply.

4 16. For a licensee or employee to knowingly ~~permit~~ ALLOW any person  
5 on or about the licensed premises to give or furnish any spirituous liquor  
6 to any person under twenty-one years of age or knowingly ~~permit~~ ALLOW any  
7 person under twenty-one years of age to have in the person's possession  
8 spirituous liquor on the licensed premises.

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

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

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

24 20. For a person to consume spirituous liquor in a public place,  
25 thoroughfare or gathering. The license of a licensee ~~permitting~~ ALLOWING  
26 a violation of this paragraph on the premises ~~shall be~~ IS subject to  
27 revocation. This paragraph does not apply to the sale of spirituous  
28 liquors on the premises of and by an on-sale retailer. This paragraph  
29 also does not apply to a person consuming beer or wine from a broken  
30 package in a public recreation area or on private property with permission  
31 of the owner or lessor or on the walkways surrounding such private  
32 property or to a person consuming beer or wine from a broken package in a  
33 public recreation area as part of a special event or festival that is  
34 conducted under a license secured pursuant to section 4-203.02 or  
35 4-203.03.

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

42 22. For an on-sale retailer or employee to allow a person under the  
43 legal drinking age to remain in an area on the licensed premises during  
44 those hours in which its primary use is the sale, dispensing or

1 consumption of alcoholic beverages after the licensee, or the licensee's  
2 employees, know or should have known that the person is under the legal  
3 drinking age. An on-sale retailer may designate an area of the licensed  
4 premises as an area in which spirituous liquor will not be sold or  
5 consumed for the purpose of allowing underage persons on the premises if  
6 the designated area is separated by a physical barrier and at no time will  
7 underage persons have access to the area in which spirituous liquor is  
8 sold or consumed. A licensee or an employee of a licensee may require a  
9 person who intends to enter a licensed premises or a portion of a licensed  
10 premises where persons under the legal drinking age are prohibited under  
11 this section to exhibit an instrument of identification that is acceptable  
12 under section 4-241 as a condition of entry or may use a biometric  
13 identity verification device to determine the person's age as a condition  
14 of entry. The director, or a municipality, may adopt rules to regulate  
15 the presence of underage persons on licensed premises provided the rules  
16 adopted by a municipality are more stringent than those adopted by the  
17 director. The rules adopted by the municipality shall be adopted by local  
18 ordinance and shall not interfere with the licensee's ability to comply  
19 with this paragraph. This paragraph does not apply:

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

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

26 (i) An active duty military service member.

27 (ii) A veteran.

28 (iii) A member of the United States army national guard or the  
29 United States air national guard.

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

31 (c) To the area of the premises used primarily for ~~the~~ serving ~~of~~  
32 food during the hours when food is served.

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

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

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

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

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

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

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

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

17 29. For any person other than a peace officer while on duty or off  
18 duty or a member of a sheriff's volunteer posse while on duty who has  
19 received firearms training that is approved by the Arizona peace officer  
20 standards and training board, a retired peace officer as defined in  
21 section 38-1113 or an honorably retired law enforcement officer who has  
22 been issued a certificate of firearms proficiency pursuant to section  
23 13-3112, subsection T, the licensee or an employee of the licensee acting  
24 with the permission of the licensee to be in possession of a firearm while  
25 on the licensed premises of an on-sale retailer. This paragraph does not  
26 include a situation in which a person is on licensed premises for a  
27 limited time in order to seek emergency aid and ~~such~~ THE person does not  
28 buy, receive, consume or possess spirituous liquor. This paragraph does  
29 not apply to:

30 (a) Hotel or motel guest room accommodations.

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

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

36 30. For a licensee or employee to knowingly ~~permit~~ ALLOW a person  
37 in possession of a firearm other than a peace officer while on duty or off  
38 duty or a member of a sheriff's volunteer posse while on duty who has  
39 received firearms training that is approved by the Arizona peace officer  
40 standards and training board, a retired peace officer as defined in  
41 section 38-1113 or an honorably retired law enforcement officer who has  
42 been issued a certificate of firearms proficiency pursuant to section  
43 13-3112, subsection T, the licensee or an employee of the licensee acting  
44 with the permission of the licensee to remain on the licensed premises or

1 to serve, sell or furnish spirituous liquor to a person in possession of a  
2 firearm while on the licensed premises of an on-sale retailer. It is a  
3 defense to action under this paragraph if the licensee or employee  
4 requested assistance of a peace officer to remove such A person. This  
5 paragraph does not apply to:

6 (a) Hotel or motel guest room accommodations.

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

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

12 31. For any person in possession of a firearm while on the licensed  
13 premises of an on-sale retailer to consume spirituous liquor. This  
14 paragraph does not prohibit the consumption of small amounts of spirituous  
15 liquor by an undercover peace officer on assignment to investigate the  
16 licensed establishment.

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

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

24 (b) A person who is in licensed premises that have noncontiguous  
25 portions that are separated by a public or private walkway or driveway and  
26 who takes spirituous liquor from one portion of the licensed premises  
27 across the public or private walkway or driveway directly to the other  
28 portion of the licensed premises.

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

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

37 (ii) The container is sealed and displays a government warning  
38 label.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 44. For a retail licensee or an employee of a retail licensee to  
14 sell spirituous liquor to a person if the retail licensee or employee  
15 knows the person intends to resell the spirituous liquor.

16 45. Except as authorized by paragraph 32, subdivision (c) of this  
17 section, for a person to reuse a bottle or other container authorized for  
18 use by the laws of the United States or any agency of the United States  
19 for ~~the~~ packaging ~~of~~ distilled spirits or for a person to increase the  
20 original contents or a portion of the original contents remaining in a  
21 liquor bottle or other authorized container by adding any substance.

22 46. For a direct shipment licensee, a farm winery licensee or an  
23 employee of those licensees to sell, dispose of, deliver or give  
24 spirituous liquor to an individual purchaser between the hours of 2:00  
25 a.m. and 6:00 a.m., except that a direct shipment licensee or a farm  
26 winery licensee may receive and process orders, accept payment, ~~OR~~  
27 package, load or otherwise prepare wine for delivery at any time without  
28 complying with section 4-241, subsections A and K, if the actual  
29 deliveries to individual purchasers are made between the hours of  
30 6:00 a.m. and 2:00 a.m. and in accordance with section 4-203.04 for direct  
31 shipment licensees and section 4-205.04 for farm winery licensees.

32 Sec. 5. Title 4, Arizona Revised Statutes, is amended by adding  
33 chapter 4, to read:

34 CHAPTER 4

35 ALTERNATIVE NICOTINE, TOBACCO AND VAPOR PRODUCTS

36 ARTICLE 1. LICENSING AND SALE OF ALTERNATIVE

37 NICOTINE, TOBACCO AND VAPOR PRODUCTS

38 4-401. Tobacco retail sales; licenses; requirements; fees;  
39 training; civil penalties

40 A. BEGINNING JANUARY 1, 2023, A RETAIL TOBACCO VENDOR MAY NOT  
41 DISTRIBUTE ALTERNATIVE NICOTINE PRODUCTS, TOBACCO PRODUCTS OR VAPOR  
42 PRODUCTS IN THIS STATE WITHOUT A VALID TOBACCO RETAIL SALES LICENSE. A  
43 RETAIL TOBACCO VENDOR THAT DISTRIBUTES ALTERNATIVE NICOTINE PRODUCTS,  
44 TOBACCO PRODUCTS OR VAPOR PRODUCTS IN THIS STATE SHALL SECURE FOR EACH

1 LOCATION, AND DISPLAY AT ALL TIMES, A TOBACCO RETAIL SALES LICENSE ISSUED  
2 BY THE DEPARTMENT BEFORE ENGAGING OR CONTINUING TO ENGAGE IN SUCH A  
3 BUSINESS.

4 B. THE DEPARTMENT SHALL ESTABLISH AND COLLECT FEES FOR THE PURPOSE  
5 OF AN INITIAL TOBACCO RETAIL SALES LICENSE AND THE RENEWAL OF THAT  
6 LICENSE. THE DEPARTMENT SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND  
7 35-147, THE FEES COLLECTED PURSUANT TO THIS SECTION IN THE TOBACCO RETAIL  
8 SALES LICENSING FUND ESTABLISHED BY SECTION 4-404.

9 C. A TOBACCO RETAIL SALES LICENSE IS VALID FOR ONE YEAR, UNLESS THE  
10 LICENSE IS SUSPENDED OR REVOKED BY THE DEPARTMENT OR THE DEPARTMENT'S  
11 DESIGNEE. A TOBACCO RETAIL SALES LICENSE MAY NOT BE RENEWED IF THE RETAIL  
12 TOBACCO VENDOR HAS ANY OUTSTANDING PENALTIES PURSUANT TO THIS ARTICLE.  
13 THE DEPARTMENT MAY RECEIVE AND REVIEW TOBACCO RETAIL SALES LICENSE  
14 APPLICATIONS ELECTRONICALLY.

15 D. A TOBACCO RETAIL SALES LICENSE MAY NOT BE ISSUED TO OR RENEWED  
16 FOR A RETAIL TOBACCO VENDOR LICENSEE UNTIL THE RETAIL TOBACCO VENDOR SIGNS  
17 A FORM STATING THAT THE RETAIL TOBACCO VENDOR HAS READ THIS ARTICLE AND  
18 HAS PROVIDED TRAINING TO ALL EMPLOYEES ON THE SALE OF ALTERNATIVE NICOTINE  
19 PRODUCTS, TOBACCO PRODUCTS AND VAPOR PRODUCTS. THE TRAINING SHALL INCLUDE  
20 THE FOLLOWING INFORMATION:

21 1. THAT IT IS ILLEGAL TO SELL AN ALTERNATIVE NICOTINE PRODUCT,  
22 TOBACCO PRODUCT OR VAPOR PRODUCT TO A PERSON WHO IS UNDER TWENTY-ONE YEARS  
23 OF AGE.

24 2. THE TYPES OF IDENTIFICATION THAT ARE LEGALLY ACCEPTABLE FOR THE  
25 PROOF OF AGE.

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

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

1           4-402. Selling, furnishing, giving or providing alternative  
2                                   nicotine, tobacco or vapor products; prohibitions;  
3                                   fraudulent identification; penalties; violations;  
4                                   classification

5           A. IT IS UNLAWFUL FOR A RETAIL TOBACCO VENDOR OR A RETAIL TOBACCO  
6 VENDOR'S REPRESENTATIVE, AGENT OR EMPLOYEE TO SELL, FURNISH, GIVE OR  
7 PROVIDE AN ALTERNATIVE NICOTINE PRODUCT, TOBACCO PRODUCT OR VAPOR PRODUCT  
8 TO A PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE.

9           B. BEFORE DISTRIBUTING ANY ALTERNATIVE NICOTINE PRODUCT, TOBACCO  
10 PRODUCT OR VAPOR PRODUCT, THE RETAIL TOBACCO VENDOR OR THE RETAIL TOBACCO  
11 VENDOR'S REPRESENTATIVE, AGENT OR EMPLOYEE SHALL VERIFY THAT THE PURCHASER  
12 IS AT LEAST TWENTY-ONE YEARS OF AGE. EACH RETAIL TOBACCO VENDOR OR RETAIL  
13 TOBACCO VENDOR'S REPRESENTATIVE, AGENT OR EMPLOYEE SHALL EXAMINE THE  
14 PURCHASER'S GOVERNMENT-ISSUED PHOTO IDENTIFICATION. THIS VERIFICATION IS  
15 NOT REQUIRED FOR A PERSON WHO IS THIRTY YEARS OF AGE OR OLDER. THE FACT  
16 THAT A PURCHASER APPEARS TO BE THIRTY YEARS OF AGE OR OLDER DOES NOT  
17 CONSTITUTE A DEFENSE TO A VIOLATION OF THIS SECTION.

18           C. IF A RETAIL TOBACCO VENDOR OR THE RETAIL TOBACCO VENDOR'S  
19 REPRESENTATIVE, AGENT OR EMPLOYEE FAILS A COMPLIANCE CHECK OR A FOLLOW-UP  
20 COMPLIANCE CHECK PURSUANT TO SUBSECTION E OF THIS SECTION OR IS CONVICTED  
21 OF VIOLATING SECTION 13-3622 BASED ON A CITATION ISSUED BY THE ATTORNEY  
22 GENERAL, THE RETAIL TOBACCO VENDOR IS SUBJECT TO THE FOLLOWING PENALTIES:

23           1. FOR A FIRST VIOLATION, THE RETAIL TOBACCO VENDOR AND THE RETAIL  
24 TOBACCO VENDOR'S REPRESENTATIVE, AGENT OR EMPLOYEE CITED IN THE VIOLATION  
25 MUST ATTEND AN EDUCATION CLASS IF AVAILABLE. IF AN EDUCATION CLASS IS NOT  
26 AVAILABLE, THE RETAIL TOBACCO VENDOR IS SUBJECT TO A CIVIL PENALTY OF NOT  
27 MORE THAN \$500.

28           2. FOR A SECOND VIOLATION WITHIN A THIRTY-SIX-MONTH PERIOD, A CIVIL  
29 PENALTY OF AT LEAST \$750 BUT NOT MORE THAN \$1,000. THE DIRECTOR MAY  
30 PROHIBIT THE RETAIL TOBACCO VENDOR FROM DISTRIBUTING ALTERNATIVE NICOTINE  
31 PRODUCTS, TOBACCO PRODUCTS OR VAPOR PRODUCTS FOR UP TO FOURTEEN DAYS.

32           3. FOR A THIRD VIOLATION WITHIN A THIRTY-SIX-MONTH PERIOD, A CIVIL  
33 PENALTY OF AT LEAST \$1,000 BUT NOT MORE THAN \$1,500. THE DIRECTOR SHALL  
34 PROHIBIT THE RETAIL TOBACCO VENDOR FROM DISTRIBUTING ALTERNATIVE NICOTINE  
35 PRODUCTS, TOBACCO PRODUCTS OR VAPOR PRODUCTS FOR A MINIMUM OF FIFTEEN BUT  
36 NOT MORE THAN THIRTY DAYS, AT THE DISCRETION OF THE DIRECTOR.

37           4. FOR A FOURTH OR ANY SUBSEQUENT VIOLATION WITHIN A  
38 THIRTY-SIX-MONTH PERIOD, A CIVIL PENALTY OF AT LEAST \$1,500 BUT NOT MORE  
39 THAN \$3,000. THE DIRECTOR SHALL PROHIBIT THE RETAIL TOBACCO VENDOR FROM  
40 DISTRIBUTING ALTERNATIVE NICOTINE PRODUCTS, TOBACCO PRODUCTS OR VAPOR  
41 PRODUCTS FOR A PERIOD OF AT LEAST ONE YEAR.



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

7 E. A RETAIL TOBACCO VENDOR IS SUBJECT TO AT LEAST ONE UNANNOUNCED  
8 COMPLIANCE CHECK ANNUALLY. THE DEPARTMENT OR ITS AUTHORIZED DESIGNEE  
9 SHALL CONDUCT COMPLIANCE CHECKS BY ENGAGING PERSONS WHO ARE AT LEAST  
10 EIGHTEEN BUT UNDER TWENTY-ONE YEARS OF AGE. UNANNOUNCED FOLLOW-UP  
11 COMPLIANCE CHECKS OF ALL NONCOMPLIANT RETAIL TOBACCO VENDORS ARE REQUIRED  
12 WITHIN THREE MONTHS AFTER ANY VIOLATION OF THIS ARTICLE. THE DEPARTMENT  
13 SHALL PUBLISH THE RESULTS OF ALL COMPLIANCE CHECKS AT LEAST ANNUALLY AND  
14 SHALL MAKE THE RESULTS AVAILABLE TO THE PUBLIC ON REQUEST.

15 F. A PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE AND WHO  
16 MISREPRESENTS THE PERSON'S AGE TO ANY OTHER PERSON BY MEANS OF A WRITTEN  
17 INSTRUMENT OF IDENTIFICATION WITH THE INTENT TO INDUCE THE OTHER PERSON TO  
18 SELL, GIVE OR FURNISH AN ALTERNATIVE NICOTINE PRODUCT, TOBACCO PRODUCT OR  
19 VAPOR PRODUCT TO THE UNDERAGE PERSON IS GUILTY OF A PETTY OFFENSE.

20 G. A PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE AND WHO SOLICITS  
21 ANOTHER PERSON TO PURCHASE, SELL, GIVE OR FURNISH AN ALTERNATIVE NICOTINE  
22 PRODUCT, TOBACCO PRODUCT OR VAPOR PRODUCT TO THE UNDERAGE PERSON IS GUILTY  
23 OF A PETTY OFFENSE.

24 H. A PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE AND WHO USES A  
25 FRAUDULENT OR FALSE WRITTEN INSTRUMENT OF IDENTIFICATION OR VALID LICENSE  
26 OR IDENTIFICATION OF ANOTHER PERSON TO PURCHASE OR ATTEMPT TO PURCHASE AN  
27 ALTERNATIVE NICOTINE PRODUCT, TOBACCO PRODUCT OR VAPOR PRODUCT IS GUILTY  
28 OF A PETTY OFFENSE.

29 I. A PERSON WHO KNOWINGLY INFLUENCES THE PURCHASE OF AN ALTERNATIVE  
30 NICOTINE PRODUCT, TOBACCO PRODUCT OR VAPOR PRODUCT TO A PERSON UNDER  
31 TWENTY-ONE YEARS OF AGE BY MISREPRESENTING THE PERSON'S AGE OR WHO ORDERS,  
32 REQUESTS, RECEIVES OR PROCURES AN ALTERNATIVE NICOTINE PRODUCT, TOBACCO  
33 PRODUCT OR VAPOR PRODUCT FROM ANY LICENSEE, LICENSEE'S EMPLOYEE OR OTHER  
34 PERSON WITH THE INTENT TO SELL OR GIVE IT TO A PERSON UNDER TWENTY-ONE  
35 YEARS OF AGE IS GUILTY OF A PETTY OFFENSE.

36 4-403. Rulemaking; delegation of authority to counties;  
37 collaboration; reporting requirements

38 A. THE DEPARTMENT SHALL ADOPT RULES PURSUANT TO TITLE 41, CHAPTER 6  
39 TO CARRY OUT THIS ARTICLE.

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

1 C. THE DEPARTMENT MAY COLLABORATE WITH AND USE THE FINDINGS OF  
2 OTHER ENTITIES, INCLUDING THE ATTORNEY GENERAL'S OFFICE AND LAW  
3 ENFORCEMENT AGENCIES, TO CARRY OUT THE OBLIGATIONS OF THIS ARTICLE AND TO  
4 ENSURE THAT THE COMPLAINTS RECEIVED BY OTHER ENTITIES ARE FORWARDED TO THE  
5 DEPARTMENT FOR TIMELY INVESTIGATION AND ACTION.

6 D. ANY LAW ENFORCEMENT AGENCY OR OTHER LOCAL ENTITY THAT CONDUCTS  
7 COMPLIANCE CHECKS TO ASSESS A RETAIL TOBACCO VENDOR'S COMPLIANCE WITH THE  
8 MINIMUM LEGAL SALES AGE FOR ALTERNATIVE NICOTINE PRODUCTS, TOBACCO  
9 PRODUCTS AND VAPOR PRODUCTS SHALL REPORT THE COMPLIANCE CHECK RESULTS TO  
10 THE DEPARTMENT. ANY VIOLATION FOUND IN THE COURSE OF A COMPLIANCE CHECK  
11 IS A VIOLATION OF THE RETAIL TOBACCO VENDOR'S TOBACCO RETAIL SALES  
12 LICENSE.

13 4-404. Tobacco retail sales licensing fund

14 THE TOBACCO RETAIL SALES LICENSING FUND IS ESTABLISHED CONSISTING OF  
15 LICENSING FEES COLLECTED PURSUANT TO THIS ARTICLE. THE DEPARTMENT SHALL  
16 ADMINISTER THE FUND. THE DEPARTMENT SHALL DEPOSIT, PURSUANT TO SECTIONS  
17 35-146 AND 35-147, NINETY PERCENT OF ALL LICENSING FEES COLLECTED UNDER  
18 THIS ARTICLE IN THE TOBACCO RETAIL SALES LICENSING FUND AND THE REMAINING  
19 TEN PERCENT IN THE STATE GENERAL FUND. MONIES IN THE FUND ARE SUBJECT TO  
20 LEGISLATIVE APPROPRIATION AND SHALL BE USED TO ADMINISTER AND ENFORCE THIS  
21 ARTICLE. MONIES IN THE FUND MAY BE USED ONLY FOR THE PURPOSES PRESCRIBED  
22 BY THIS SECTION.

23 Sec. 6. Section 13-3622, Arizona Revised Statutes, is amended to  
24 read:

25 13-3622. Alternative nicotine, tobacco and vapor products;  
26 persons under twenty-one years of age;  
27 classification; exceptions; definitions

28 A. A person who ~~knowingly~~ sells, gives or furnishes AN ALTERNATIVE  
29 NICOTINE PRODUCT, a tobacco product, a vapor product or any instrument or  
30 paraphernalia that is solely designed for ~~the~~ smoking or ~~ingestion of~~  
31 ~~INGESTING~~ tobacco or shisha, including a hookah or waterpipe, to a ~~minor~~  
32 ~~PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE~~ is guilty of a petty offense.

33 B. A ~~minor~~ ~~PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE~~ who buys, or  
34 has in ~~his~~ THE PERSON'S possession or knowingly accepts or receives from  
35 any person, AN ALTERNATIVE NICOTINE PRODUCT, a tobacco product, a vapor  
36 product or any instrument or paraphernalia that is solely designed for ~~the~~  
37 smoking or ~~ingestion of~~ ~~INGESTING~~ tobacco or shisha, including a hookah or  
38 waterpipe, is guilty of a petty offense, and if the offense involves any  
39 instrument or paraphernalia that is solely designed for ~~the~~ smoking or  
40 ~~ingestion of~~ ~~INGESTING~~ tobacco or shisha, shall pay a fine of ~~not less~~  
41 ~~than one hundred dollars~~ AT LEAST \$100 or perform ~~not less than~~ AT LEAST  
42 thirty hours of community restitution.

1 C. A ~~minor~~ PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE who  
2 misrepresents the ~~minor's~~ PERSON'S age to any OTHER person by means of a  
3 written instrument of identification with the intent to induce the OTHER  
4 person to sell, give or furnish AN ALTERNATIVE NICOTINE PRODUCT, a tobacco  
5 product, a vapor product or any instrument or paraphernalia that is solely  
6 designed for ~~the~~ smoking or ~~ingestion of~~ INGESTING tobacco or shisha,  
7 including a hookah or waterpipe, in violation of subsection A or B of this  
8 section is guilty of a petty offense and, notwithstanding section 13-802,  
9 shall pay a fine of not more than ~~five hundred dollars~~ \$500.

10 D. This section does not apply to any of the following:

11 1. Cigars, cigarettes or cigarette papers, smoking or chewing  
12 tobacco PRODUCTS or any instrument or paraphernalia that is solely  
13 designed for ~~the~~ smoking or ~~ingestion of~~ INGESTING tobacco or shisha,  
14 including a hookah or waterpipe, if it is used or intended to be used in  
15 connection with a bona fide practice of a religious belief and as an  
16 integral part of a religious or ceremonial exercise.

17 2. Any instrument or paraphernalia that is solely designed for ~~the~~  
18 smoking or ~~ingestion of~~ INGESTING tobacco or shisha, including a hookah or  
19 waterpipe, that is given to or possessed by a ~~minor~~ PERSON WHO IS UNDER  
20 TWENTY-ONE YEARS OF AGE if the instrument or paraphernalia was a gift or  
21 souvenir and is not used or intended to be used by the ~~minor~~ PERSON to  
22 smoke or ingest tobacco or shisha.

23 E. For the purposes of this section:

24 1. "ALTERNATIVE NICOTINE PRODUCT":

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

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

32 ~~1.~~ 2. "Shisha" includes any mixture of tobacco leaf and honey,  
33 molasses or dried fruit or any other sweetener.

34 ~~2.~~ 3. "Tobacco product" means any of the following:

- 35 (a) Cigars.
- 36 (b) Cigarettes.
- 37 (c) Cigarette papers of any kind.
- 38 (d) Smoking tobacco of any kind.
- 39 (e) Chewing tobacco of any kind.

40 ~~3.~~ 4. "Vapor product":

41 (a) Means a noncombustible ~~tobacco-derived~~ product containing  
42 nicotine that employs a mechanical heating element, battery or circuit,  
43 regardless of shape or size, that can be used to heat a liquid nicotine  
44 solution ~~contained in cartridges~~. ~~Vapor product~~

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

4 ~~Sec. 7. Subject to the requirements of article IV, part 1,~~  
5 ~~section 1, Constitution of Arizona, section 36 601.01, Arizona Revised~~  
6 ~~Statutes, is amended to read:~~

7 ~~36 601.01. Smoke free Arizona act~~

8 ~~A. Definitions. The following words and phrases, whenever used in~~  
9 ~~this section, shall be construed as defined in this section.~~

10 ~~1. "Employee" means any person who performs any service on a~~  
11 ~~full time, part time or contracted basis whether or not the person is~~  
12 ~~denominated an employee, OR independent contractor or otherwise and~~  
13 ~~whether or not the person is compensated or is a volunteer.~~

14 ~~2. "Employer" means a person, A business, A partnership, AN~~  
15 ~~association, the THIS state of Arizona and its political subdivisions,~~  
16 ~~corporations, including a municipal corporations CORPORATION, trust, or~~  
17 ~~non profit NONPROFIT entity that employs the services of one or more~~  
18 ~~individual persons.~~

19 ~~3. "Enclosed area":~~

20 ~~(a) Means all space between a floor and ceiling that is enclosed on~~  
21 ~~all sides by permanent or temporary walls or windows, (exclusive of~~  
22 ~~doorways), which THAT extend from the floor to the ceiling. Enclosed~~  
23 ~~area~~

24 ~~(b) Includes a reasonable distance from any entrances, windows and~~  
25 ~~ventilation systems so that persons entering or leaving the building or~~  
26 ~~facility shall ARE not be subjected to breathing tobacco smoke and so that~~  
27 ~~tobacco smoke does not enter the building or facility through entrances,~~  
28 ~~windows, ventilation systems or any other means.~~

29 ~~4. "Health care facility" means any enclosed area utilized USED by~~  
30 ~~any health care institution licensed according PURSUANT to title 36~~  
31 ~~chapter 4, chapter 6 article 7, Of THIS CHAPTER or chapter 4 OR 17 OF~~  
32 ~~THIS TITLE, or any health care professional licensed according PURSUANT to~~  
33 ~~title 32, chapters CHAPTER 7, 8, 11, 13, 14, 15, 15.1, 16, 17, 18, 19,~~  
34 ~~19.1, 21, 25, 28, 29, 33, 34, 35, 39, 41, or 42.~~

35 ~~5. "Person" means an individual, partnership, corporation, limited~~  
36 ~~liability company, entity, association, governmental subdivision or unit~~  
37 ~~of a governmental subdivision, or a public or private organization of any~~  
38 ~~character.~~

39 ~~6. "Physically separated" means all space between a floor and~~  
40 ~~ceiling which THAT is enclosed on all sides by solid walls or~~  
41 ~~windows, (exclusive of door or passageway), and independently ventilated~~  
42 ~~from smoke free areas, so that air within permitted smoking areas does not~~  
43 ~~drift or get vented into smoke free areas.~~

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~~7. "Places of employment":~~

~~(a) Means an enclosed area under the control of a public or private employer that employees normally frequent during the course of employment, including office buildings, work areas, auditoriums, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, cafeterias, hallways, stairs, elevators, health care facilities, private offices and vehicles owned and operated by the employer during working hours when the vehicle is occupied by more than one person.~~

~~(b) DOES NOT INCLUDE a private residence is not a "place of employment" unless it is used as a child care, adult day care, or health care facility.~~

~~9. 8. "Public place":~~

~~(a) Means any enclosed area to which the public is invited or in which the public is permitted ALLOWED, including airports, banks, bars, common areas of apartment buildings, condominiums or other multifamily housing facilities, educational facilities, entertainment facilities or venues, health care facilities, hotel and motel common areas, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports facilities, theaters, and waiting rooms.~~

~~(b) DOES NOT INCLUDE a private residence is not a "public place" unless it is used as a child care, adult day care, or health care facility.~~

~~10. 9. "Retail tobacco store" means a retail store that derives the majority of its sales from tobacco products and accessories.~~

~~11. 10. "Smoking" means inhaling, exhaling, burning, or carrying or possessing any lighted tobacco product, including cigars, cigarettes, pipe tobacco and any other lighted tobacco product.~~

~~12. 11. "Sports facilities" means enclosed areas of sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, billiard halls, bowling alleys, and other similar places where members of the general public assemble to engage in physical exercise, participate in athletic competition, or witness sporting events.~~

~~12. "TOBACCO PRODUCT" HAS THE SAME MEANING PRESCRIBED IN SECTION 13 3622.~~

~~13. "VAPOR PRODUCT" HAS THE SAME MEANING PRESCRIBED IN SECTION 13 3622.~~

~~8. 14. "Veteran and fraternal clubs CLUB" means a club as defined in A.R.S. 4 101(7)(a)(b) or (c) SECTION 4 101, PARAGRAPH 9, SUBDIVISION (a), (b) OR (c).~~

1 ~~B. Smoking is AND USING VAPOR PRODUCTS ARE prohibited in all public~~  
2 ~~places and places of employment within the THIS state of Arizona, except~~  
3 ~~the following:~~

4 ~~1. Private residences, except when used as a licensed child care,~~  
5 ~~adult day care, or health care facility.~~

6 ~~2. Hotel and motel rooms that are rented to guests and are~~  
7 ~~designated as smoking rooms; provided, however, that if not more than~~  
8 ~~fifty percent of rooms rented to guests in a hotel or motel are so~~  
9 ~~designated.~~

10 ~~3. Retail tobacco stores that are physically separated so that~~  
11 ~~smoke from retail tobacco stores does not infiltrate into areas where~~  
12 ~~smoking is AND USING VAPOR PRODUCTS ARE prohibited under the provisions of~~  
13 ~~this section.~~

14 ~~4. Veterans and fraternal clubs when they are not open to the~~  
15 ~~general public.~~

16 ~~5. Smoking when associated with a religious ceremony practiced~~  
17 ~~pursuant to the American Indian religious freedom act of 1978.~~

18 ~~6. Outdoor patios so long as tobacco smoke does not enter areas~~  
19 ~~where smoking is AND USING VAPOR PRODUCTS ARE prohibited through~~  
20 ~~entrances, windows, ventilation systems, or other means.~~

21 ~~7. A theatrical performance upon ON a stage or in the course of a~~  
22 ~~film or television production if the smoking OR USE OF VAPOR PRODUCTS is~~  
23 ~~part of the performance or production.~~

24 ~~C. The prohibition on smoking AND USING VAPOR PRODUCTS in places of~~  
25 ~~employment shall be communicated to all existing employees by the~~  
26 ~~effective date of this section and to all prospective employees upon ON~~  
27 ~~their application for employment.~~

28 ~~D. Notwithstanding any other provision of this section, an owner,~~  
29 ~~operator, manager, or other person or entity in control of an~~  
30 ~~establishment, facility, or outdoor area may declare that entire~~  
31 ~~establishment, facility, or outdoor area as a nonsmoking place.~~

32 ~~E. Posting of signs and ashtray removal.~~

33 ~~1. "No smoking" signs or the international "no~~  
34 ~~smoking" symbol, (consisting of a pictorial representation of a burning~~  
35 ~~cigarette enclosed in a red circle with a red bar across it), shall be~~  
36 ~~clearly and conspicuously posted by the owner, operator, manager, or~~  
37 ~~other person in control of that place identifying where smoking is AND~~  
38 ~~USING VAPOR PRODUCTS ARE prohibited by this section and where complaints~~  
39 ~~regarding violations may be registered.~~

40 ~~2. Every public place and place of employment where smoking is AND~~  
41 ~~USING VAPOR PRODUCTS ARE prohibited by this section shall have posted at~~  
42 ~~every entrance a conspicuous sign clearly stating that smoking is AND~~  
43 ~~USING VAPOR PRODUCTS ARE prohibited.~~

1 ~~3. All ashtrays shall be removed from any area where smoking is AND~~  
2 ~~USING VAPOR PRODUCTS ARE prohibited by this section by the owner,~~  
3 ~~operator, manager, or other person having control of the area.~~

4 ~~f. No AN employer may NOT discharge or retaliate against an~~  
5 ~~employee because that employee exercises any rights afforded by this~~  
6 ~~section or reports or attempts to prosecute a violation of this section.~~

7 ~~g. The law THIS SECTION shall be implemented and enforced by the~~  
8 ~~department of health services as follows:~~

9 ~~1. The department shall design and implement a program, including~~  
10 ~~the establishment of ESTABLISHING an internet website, to educate the~~  
11 ~~public regarding the provisions of this law SECTION.~~

12 ~~2. The department shall inform persons who own, manage, operate or~~  
13 ~~otherwise control a public place or place of employment of the~~  
14 ~~requirements of this law SECTION and how to comply with its provisions,~~  
15 ~~including making information available and providing a toll free telephone~~  
16 ~~number and e mail EMAIL address to be used exclusively for this purpose.~~

17 ~~3. Any member of the public may report a violation of this law~~  
18 ~~SECTION to the department. The department shall accept oral and written~~  
19 ~~reports of violation and establish an e mail address(es) EMAIL ADDRESS OR~~  
20 ~~ADDRESSES and toll free telephone number(s) NUMBER OR NUMBERS to be used~~  
21 ~~exclusively for the purpose of reporting violations. A person shall IS~~  
22 ~~not be required to disclose the person's identity when reporting a~~  
23 ~~violation.~~

24 ~~4. If the department has reason to believe a violation of this law~~  
25 ~~SECTION exists, the department may enter upon ON and into any public place~~  
26 ~~or place of employment for purposes of determining compliance with this~~  
27 ~~law SECTION. However, the department may inspect public places where food~~  
28 ~~or alcohol is served at any time to determine compliance with this law~~  
29 ~~SECTION.~~

30 ~~5. If the department determines that a violation of this law~~  
31 ~~SECTION exists at a public place or place of employment, the department~~  
32 ~~shall issue a notice of violation to the person who owns, manages,~~  
33 ~~operates or otherwise controls the public place or place of employment.~~  
34 ~~The notice shall include the nature of each violation, THE date and time~~  
35 ~~each violation occurred, and THE NAME OF THE department contact person.~~

36 ~~6. The department shall impose a civil penalty on the person in an~~  
37 ~~amount of not less than AT LEAST \$100, but not more than \$500 for each~~  
38 ~~violation. In considering whether to impose a fine and the amount of the~~  
39 ~~fine, the department may consider whether the person has been cited~~  
40 ~~previously and what efforts the person has taken to prevent or cure the~~  
41 ~~violation including reporting the violation or taking action under~~  
42 ~~subsection j Of THIS SECTION. Each day that a violation occurs~~  
43 ~~constitutes a separate violation. The director may issue a notice that~~  
44 ~~includes the proposed amount of the civil penalty assessment. A person~~

1 ~~may appeal the assessment of a civil penalty by requesting a hearing. If~~  
2 ~~a person requests a hearing to appeal an assessment, the director shall~~  
3 ~~not take further action to enforce and collect the assessment until the~~  
4 ~~hearing process is complete. The director shall impose a civil penalty~~  
5 ~~only for those days on which the violation has been documented by the~~  
6 ~~department.~~

7 ~~7. If a civil penalty imposed by this section is not paid, the~~  
8 ~~attorney general or a county attorney shall file an action to collect the~~  
9 ~~civil penalty in a justice court or the superior court in the county in~~  
10 ~~which the violation occurred.~~

11 ~~8. The department may apply for injunctive relief to enforce these~~  
12 ~~provisions in the superior court in the county in which the violation~~  
13 ~~occurred. The court may impose appropriate injunctive relief and impose a~~  
14 ~~penalty of not less than AT LEAST \$100 but not more than \$500 for each~~  
15 ~~violation. Each day that a violation occurs constitutes a separate~~  
16 ~~violation. If the superior court finds the violations are willful WILFUL~~  
17 ~~or evidence a pattern of noncompliance, the court may impose a fine of up~~  
18 ~~to \$5000 \$5,000 per violation.~~

19 ~~9. The department may contract with a third party to determine~~  
20 ~~compliance with this law SECTION.~~

21 ~~10. The department may delegate to a state agency or political~~  
22 ~~subdivision of this state any functions, powers or duties under this law.~~

23 ~~11. The director of the department may promulgate ADOPT rules for~~  
24 ~~the implementation TO IMPLEMENT and enforcement of ENFORCE this law~~  
25 ~~SECTION. The department is exempt from the rulemaking procedures in~~  
26 ~~A.R.S. § title 41, chapter 6 except the department shall publish draft~~  
27 ~~rules and thereafter take public input including hold at least two public~~  
28 ~~hearings prior to implementing the rules. This exemption expires May 1,~~  
29 ~~2007.~~

30 ~~H. Beginning On June 1, 2008 and every other June 1 thereafter EACH~~  
31 ~~YEAR, the director of the Arizona department of health services shall~~  
32 ~~issue a report analyzing its activities to enforce this law SECTION,~~  
33 ~~including the activities of all of the state agencies or political~~  
34 ~~subdivisions to whom the department has delegated responsibility under~~  
35 ~~this law SECTION.~~

36 ~~I. An owner, manager, operator or employee of A place regulated by~~  
37 ~~this law SECTION shall inform any person who is smoking OR USING VAPOR~~  
38 ~~PRODUCTS in violation of this law SECTION that smoking is AND USING VAPOR~~  
39 ~~PRODUCTS ARE illegal and request that the illegal smoking OR USE OF VAPOR~~  
40 ~~PRODUCTS stop immediately.~~

41 ~~J. This law SECTION does not create any new private right of action~~  
42 ~~nor AND does it NOT extinguish any existing common law causes of action.~~

43 ~~K. A person who smokes OR USES VAPOR PRODUCTS where smoking is AND~~  
44 ~~USING VAPOR PRODUCTS ARE prohibited is guilty of a petty offense with a~~



1 ~~fine of not less than fifty dollars AT LEAST \$50 and not more than three~~  
2 ~~hundred dollars \$300.~~

3 ~~L. Smoke free Arizona fund~~

4 ~~1. The smoke free Arizona fund is established consisting of all~~  
5 ~~revenues deposited in the fund pursuant to §42 3251.02 SECTION 42 3251.02~~  
6 ~~and interest earned on those monies. The Arizona department of health~~  
7 ~~services shall administer the fund. On notice from the department, the~~  
8 ~~state treasurer shall invest and divest monies in the fund as provided by~~  
9 ~~§35 313 SECTION 35 313, and monies earned from investment shall be~~  
10 ~~credited to the fund.~~

11 ~~2. All money MONIES in the smoke free Arizona fund shall be used to~~  
12 ~~enforce the provisions of this section, provided however EXCEPT that if~~  
13 ~~there is money ANY MONIES remaining after the department has met its~~  
14 ~~enforcement obligations, that remaining money shall be deposited in the~~  
15 ~~tobacco products tax fund and used for education programs to reduce and~~  
16 ~~eliminate tobacco use and for no other purpose.~~

17 ~~3. Monies in this fund are continuously appropriated, are not~~  
18 ~~subject to further approval, do not revert to the STATE general fund and~~  
19 ~~are exempt from the provisions of §36 190 SECTION 35 190 relating to the~~  
20 ~~tapping of appropriations.~~

21 ~~M. This section does not prevent a political subdivision of the~~  
22 ~~THIS state from adopting ordinances or regulations that are more~~  
23 ~~restrictive than this section nor AND does this section NOT repeal any~~  
24 ~~existing ordinance or regulation that is more restrictive than this~~  
25 ~~section.~~

26 ~~N. Tribal sovereignty. this THIS section has no application on~~  
27 ~~Indian reservations as defined in ARS 42 3301(2) SECTION 42 3301.~~

28 Sec. 8. Heading change

29 The article heading of title 36, chapter 6, article 14, Arizona  
30 Revised Statutes, is changed from "TOBACCO SALES" to "SALES OF ALTERNATIVE  
31 NICOTINE PRODUCTS, TOBACCO PRODUCTS AND VAPOR PRODUCTS".

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

34 36-798. Definitions

35 In this article, unless the context otherwise requires:

36 1. "ALTERNATIVE NICOTINE PRODUCT" HAS THE SAME MEANING PRESCRIBED  
37 IN SECTION 13-3622.

38 ~~1.~~ 2. "Bar" means that portion of any premises licensed under  
39 section 4-209, subsection B, paragraph 6, 7, 11, 12 or 14 that is  
40 primarily used for the selling, ~~consumption~~ CONSUMING or serving of  
41 alcoholic beverages and that is not primarily used for ~~the consumption of~~  
42 CONSUMING food on the premises.

43 ~~2.~~ 3. "Beedies" or "bidis" means a product containing tobacco that  
44 is wrapped in temburni leaf (diospyros melanoxylon) or tendu leaf

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

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

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

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

9 6. "Retail tobacco vendor":

10 (a) Means a person, ~~who possesses tobacco or tobacco products for~~  
11 ~~the purpose of selling them for consumption and not for resale~~  
12 PARTNERSHIP, JOINT VENTURE, SOCIETY, CLUB, TRUSTEE, TRUE ASSOCIATION,  
13 ORGANIZATION OR CORPORATION THAT OWNS, OPERATES OR MANAGES ANY RETAIL  
14 ESTABLISHMENT PHYSICALLY LOCATED IN THIS STATE THAT SELLS ALTERNATIVE  
15 NICOTINE PRODUCTS, SHISHA, TOBACCO PRODUCTS OR VAPOR PRODUCTS, THAT IS IN  
16 THE BUSINESS OF SELLING, DISTRIBUTING OR CONVEYING THESE PRODUCTS TO THE  
17 PUBLIC OR A USER OF ANY SUCH PRODUCT AND IS NOT AN OTHERWISE LAWFUL  
18 BUSINESS LOCATED OUTSIDE OF THIS STATE.

19 (b) DOES NOT INCLUDE EITHER OF THE FOLLOWING:

20 (i) THE NONMANAGEMENT EMPLOYEES OF ANY TOBACCO RETAIL  
21 ESTABLISHMENT.

22 (ii) A WHOLESALER OF ANY ALTERNATIVE NICOTINE PRODUCT, SHISHA,  
23 TOBACCO PRODUCT OR VAPOR PRODUCT WITH RESPECT TO SELLING, DISTRIBUTING OR  
24 CONVEYING THESE PRODUCTS IN BUSINESS-TO-BUSINESS TRANSACTIONS.

25 7. "SHISHA" HAS THE SAME MEANING PRESCRIBED IN SECTION 13-3622.

26 ~~7.~~ 8. "Smokeless tobacco" includes shredded tobacco, snuff,  
27 cavendish and plug, twist and other tobacco products that are intended for  
28 oral use but not for smoking.

29 ~~8.~~ 9. "Smoking tobacco" includes any tobacco or tobacco product,  
30 other than cigarettes and cigars, that is intended to be smoked.

31 ~~9.~~ 10. "Tobacco products" includes cigarettes, cigarette papers,  
32 cigars, smokeless tobacco and smoking tobacco.

33 11. "VAPOR PRODUCT" HAS THE SAME MEANING PRESCRIBED IN SECTION  
34 13-3622.

35 ~~10.~~ 12. "Vending machine" means any mechanical, electrical or  
36 electronic device that, on insertion of money, tokens or any other form of  
37 payment, automatically dispenses tobacco products.

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

40 36-798.01. Selling or giving beedies or bidis; violation;  
41 classification

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

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

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

5 36-798.02. Vending machine sales of tobacco, alternative  
6 nicotine and vapor products; exceptions;  
7 signage; violation; classification

8 A. EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, a person  
9 shall not sell OR DISTRIBUTE tobacco products, ~~through a vending machine~~  
10 ~~unless the vending machine is located in~~ ALTERNATIVE NICOTINE PRODUCTS OR  
11 VAPOR PRODUCTS either:

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

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

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

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

20 ~~1.~~ 2. ~~A bar~~ BARS.

21 ~~2.~~ 3. ~~An~~ Employee lounge ~~area~~ AREAS that ~~is~~ ARE not open to the  
22 public ~~and~~ IF the business in which the lounge area is located does not  
23 employ ~~minors~~ PERSONS WHO ARE UNDER TWENTY-ONE YEARS OF AGE.

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

30 ~~C.~~ D. This article does not invalidate an ordinance of or prohibit  
31 the adoption of an ordinance by a county, city or town to further restrict  
32 the location of vending machines or specify different wording for the  
33 vending ~~machines~~ MACHINE signs as required by subsection ~~B~~ C of this  
34 section.

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

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

39 36-798.03. Tobacco, alternative nicotine and vapor products;  
40 prohibition at schools and school-related areas;  
41 exception; violation; classification

42 A. USING AND POSSESSING tobacco products, ALTERNATIVE NICOTINE  
43 PRODUCTS AND VAPOR PRODUCTS are prohibited on school grounds, inside  
44 school buildings, in school parking lots or playing fields, in school

1 buses or vehicles or at off-campus school sponsored events. For THE  
2 purposes of this subsection, "school" means any public, charter or private  
3 school where children attend classes in kindergarten programs or ANY OF  
4 grades one through twelve.

5 B. Subsection A of this section does not apply to ~~an adult~~ A PERSON  
6 WHO IS TWENTY-ONE YEARS OF AGE OR OLDER AND who employs tobacco products,  
7 ALTERNATIVE NICOTINE PRODUCTS OR VAPOR PRODUCTS, OR ANY COMBINATION OF  
8 THESE, as a necessary component of a ~~school-sanctioned~~ SCHOOL-SANCTIONED  
9 tobacco PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS OR VAPOR PRODUCTS  
10 prevention or cessation program established pursuant to section 15-712.

11 C. A SCHOOL DISTRICT GOVERNING BOARD, A CHARTER SCHOOL GOVERNING  
12 BODY OR A PRIVATE SCHOOL MAY ADOPT POLICIES PROHIBITING, RESTRICTING AND  
13 REGULATING TOBACCO PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS AND VAPOR  
14 PRODUCTS AT SCHOOL-SANCTIONED ACTIVITIES AS DETERMINED BY THE GOVERNING  
15 BOARD, GOVERNING BODY OR PRIVATE SCHOOL.

16 ~~C.~~ D. A person who violates this section is guilty of a petty  
17 offense.

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

20 36-798.05. Unsolicited delivery of tobacco products,  
21 alternative nicotine products and vapor  
22 products; violation; classification; civil  
23 penalties; definitions

24 A. It is unlawful for a person to deliver or cause to be delivered  
25 to any residence in this state any tobacco products, ALTERNATIVE NICOTINE  
26 PRODUCTS OR VAPOR PRODUCTS unsolicited by at least one ~~adult~~ PERSON WHO IS  
27 TWENTY-ONE YEARS OF AGE OR OLDER AND who resides at that address.

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

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

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

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

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

4 2. "Person" means an individual, partnership, firm, association,  
5 corporation, limited liability company, limited liability partnership,  
6 joint venture, or other entity, other than an individual or entity  
7 engaged in the delivery of items for hire.

8 Sec. 14. Title 36, chapter 6, article 14, Arizona Revised Statutes,  
9 is amended by adding section 36-798.07, to read:

10 36-798.07. Single state standard; preemption; exceptions

11 A. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE REGULATION OF  
12 THE SALE AND MARKETING OF ALTERNATIVE NICOTINE PRODUCTS, TOBACCO PRODUCTS  
13 AND VAPOR PRODUCTS IS A MATTER OF STATEWIDE CONCERN AND IS NOT SUBJECT TO  
14 FURTHER REGULATION BY A CITY, TOWN OR COUNTY IN THIS STATE. SUBJECT TO  
15 THE AUTHORITY PROVIDED TO CITIES, TOWNS AND COUNTIES PURSUANT TO  
16 SUBSECTIONS B, C, D, E AND F OF THIS SECTION, THIS ARTICLE PREEMPTS ANY  
17 RULE, REGULATION, CODE OR ORDINANCE THAT IS ADOPTED OR MODIFIED BY ANY  
18 CITY, TOWN OR COUNTY IN THIS STATE AFTER JANUARY 1, 2021 REGARDING THE  
19 SALE OR MARKETING OF ALTERNATIVE NICOTINE PRODUCTS, TOBACCO PRODUCTS OR  
20 VAPOR PRODUCTS AND THAT IS IN CONFLICT WITH OR MORE RESTRICTIVE THAN A  
21 STATE LAW OR RULE. A CITY, TOWN OR COUNTY MAY NOT LIMIT ANY RIGHT GRANTED  
22 BY THIS ARTICLE OR RULES ADOPTED PURSUANT TO THIS ARTICLE OR PURSUANT TO  
23 TITLE 4, CHAPTER 4, EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION.

24 B. A CITY, TOWN OR COUNTY MAY ADOPT AND ENFORCE LAWFUL ZONING  
25 REQUIREMENTS THAT LIMIT THE LOCATION OF RETAIL TOBACCO VENDORS. ZONING  
26 REQUIREMENTS ADOPTED PURSUANT TO THIS SUBSECTION MAY NOT PROHIBIT THE  
27 CONTINUATION OF A RETAIL TOBACCO VENDOR IF, ON THE EFFECTIVE DATE OF THIS  
28 SECTION OR ON THE DATE A DISTANCE PROVISION IS ADOPTED BY THE CITY, TOWN  
29 OR COUNTY, THE BUSINESS WAS ALREADY OPERATING AS A RETAIL TOBACCO VENDOR  
30 AND HAS CONTINUED TO OPERATE SINCE THAT DATE.

31 C. A CITY, TOWN OR COUNTY MAY ADOPT ANY RULE, REGULATION, CODE OR  
32 ORDINANCE THAT REGULATES THE SALE OF ALTERNATIVE NICOTINE PRODUCTS,  
33 TOBACCO PRODUCTS OR VAPOR PRODUCTS WITHIN THREE HUNDRED FEET OF A PUBLIC,  
34 PRIVATE OR CHARTER SCHOOL PROVIDING PRIMARY OR SECONDARY EDUCATION OR FROM  
35 A FENCED PLAYGROUND ADJACENT TO A SCHOOL.

36 D. IN ADDITION TO THE PROVISIONS OF SUBSECTION C OF THIS SECTION, A  
37 CITY, TOWN OR COUNTY MAY ADOPT ANY RULE, REGULATION, CODE OR ORDINANCE  
38 THAT REGULATES THE SALE OF ALTERNATIVE NICOTINE PRODUCTS, TOBACCO PRODUCTS  
39 AND VAPOR PRODUCTS AT A RETAIL TOBACCO VENDOR WITHIN ONE THOUSAND FEET OF  
40 A PUBLIC, PRIVATE OR CHARTER SCHOOL PROVIDING PRIMARY OR SECONDARY  
41 EDUCATION OR FROM A FENCED PLAYGROUND ADJACENT TO A SCHOOL. RETAIL  
42 TOBACCO VENDORS THAT ARE LOCATED BETWEEN THREE HUNDRED ONE FEET AND ONE  
43 THOUSAND FEET FROM A PUBLIC, PRIVATE OR CHARTER SCHOOL PROVIDING PRIMARY  
44 OR SECONDARY EDUCATION OR FROM A FENCED PLAYGROUND ADJACENT TO A SCHOOL

1 ARE EXEMPT FROM THE CITY, TOWN OR COUNTY RULES, REGULATIONS, CODES OR  
2 ORDINANCES REGULATING THE SALE OF ALTERNATIVE NICOTINE PRODUCTS, TOBACCO  
3 PRODUCTS OR VAPOR PRODUCTS IF, ON THE DATE THE RULE, REGULATION, CODE OR  
4 ORDINANCE IS ADOPTED BY THE CITY, TOWN OR COUNTY, OR THE DATE WHEN THE  
5 PUBLIC, PRIVATE OR CHARTER SCHOOL PROVIDING PRIMARY OR SECONDARY EDUCATION  
6 OR A FENCED PLAYGROUND ADJACENT TO A SCHOOL IS ESTABLISHED, THE BUSINESS  
7 WAS ALREADY OPERATING AS A RETAIL TOBACCO VENDOR. IF A RETAIL TOBACCO  
8 VENDOR CONTINUES OPERATING AFTER THE DATE THE RULE, REGULATION, CODE OR  
9 ORDINANCE WAS ADOPTED AND IS CONVICTED OF A FOURTH VIOLATION WITHIN  
10 THIRTY-SIX MONTHS PURSUANT TO SECTION 4-402, SUBSECTION C, PARAGRAPH 4,  
11 THE CITY, TOWN OR COUNTY MAY PROSPECTIVELY ENFORCE ANY RULE, REGULATION,  
12 CODE OR ORDINANCE REGULATING THE SALE OF ALTERNATIVE NICOTINE PRODUCTS,  
13 TOBACCO PRODUCTS OR VAPOR PRODUCTS AS TO THAT RETAIL TOBACCO VENDOR. IF  
14 THE RETAIL TOBACCO VENDOR SELLS THE BUSINESS TO ANOTHER RETAIL TOBACCO  
15 VENDOR, THE VIOLATIONS THAT OCCURRED AT THE LOCATION BY THE PREVIOUS OWNER  
16 WITHIN THE THIRTY-SIX MONTHS IMMEDIATELY BEFORE THE SALE ARE ATTRIBUTABLE  
17 TO THE NEW OWNERSHIP.

18 E. A CITY, TOWN OR COUNTY MAY ADOPT ANY RULE, REGULATION, CODE OR  
19 ORDINANCE THAT REGULATES THE OUTDOOR ADVERTISING OF ALTERNATIVE NICOTINE  
20 PRODUCTS, TOBACCO PRODUCTS AND VAPOR PRODUCTS, EXCEPT FOR ADVERTISING ON  
21 THE PREMISES OF A RETAIL TOBACCO VENDOR.

22 F. THIS SECTION DOES NOT PROHIBIT A CITY, TOWN, COUNTY, SCHOOL  
23 DISTRICT, CHARTER SCHOOL, COMMUNITY COLLEGE DISTRICT OR STADIUM DISTRICT  
24 OR THE ARIZONA BOARD OF REGENTS FROM REGULATING THE SALE, MARKETING OR USE  
25 OF ALTERNATIVE NICOTINE PRODUCTS, TOBACCO PRODUCTS AND VAPOR PRODUCTS ON  
26 PROPERTY THAT IS OWNED, LEASED OR OPERATED IN THIS STATE BY THE CITY,  
27 TOWN, COUNTY, SCHOOL DISTRICT, CHARTER SCHOOL, COMMUNITY COLLEGE DISTRICT,  
28 STADIUM DISTRICT OR ARIZONA BOARD OF REGENTS.

29 Sec. 15. Effective date

30 This act is effective from and after December 31, 2021.

31 Sec. 16. Severability

32 If a provision of this act or its application to any person or  
33 circumstance is held invalid, this invalidity does not affect other  
34 provisions of applications of the act that can be given effect without the  
35 invalid provision or application, and to this end the provisions of this  
36 act are severable.

37 ~~Sec. 17. Requirements for enactment, three fourths vote~~

38 ~~Pursuant to article IV, part 1, section 1, Constitution of Arizona,~~  
39 ~~section 36 601.01, Arizona Revised Statutes, as amended by this act, is~~  
40 ~~effective only on the affirmative vote of at least three fourths of the~~  
41 ~~members of each house of the legislature.~~