

Senate Engrossed House Bill

~~procurement; information disclosure; bidders~~  
(now: tobacco; alternative nicotine; age; definitions)

State of Arizona  
House of Representatives  
Fifty-fifth Legislature  
Second Regular Session  
2022

# HOUSE BILL 2505

AN ACT

AMENDING SECTIONS 13-3622, 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 13-3622, Arizona Revised Statutes, is amended to  
3 read:

4 13-3622. Tobacco products, alternative nicotine products,  
5 vapor products or tobacco or shisha instruments or  
6 paraphernalia; persons under twenty-one years of  
7 age; classification; exceptions; definitions

8 A. A person who ~~knowingly~~ sells, gives or furnishes a tobacco  
9 product, **AN ALTERNATIVE NICOTINE PRODUCT**, a vapor product or any  
10 instrument or paraphernalia that is solely designed for ~~the~~ smoking or  
11 ~~ingestion of~~ **INGESTING** tobacco or shisha, including a hookah or waterpipe,  
12 to a **MINOR PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE** is guilty of a  
13 petty offense.

14 B. A **MINOR PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE AND** who  
15 buys, or has in ~~his~~ **THE PERSON'S** possession or knowingly accepts or  
16 receives from any person, a tobacco product, **AN ALTERNATIVE NICOTINE**  
17 **PRODUCT**, a vapor product or any instrument or paraphernalia that is solely  
18 designed for ~~the~~ smoking or ~~ingestion of~~ **INGESTING** tobacco or shisha,  
19 including a hookah or waterpipe, is guilty of a petty offense, and if the  
20 offense involves any instrument or paraphernalia that is solely designed  
21 for ~~the~~ smoking or ~~ingestion of~~ **INGESTING** tobacco or shisha, shall pay a  
22 fine of ~~not less than one hundred dollars~~ **AT LEAST \$100** or perform ~~not~~  
23 ~~less than~~ **AT LEAST** thirty hours of community restitution.

24 C. A **MINOR PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE AND** who  
25 misrepresents the ~~minor's~~ **PERSON'S** age to ~~any~~ **ANOTHER** person by means of a  
26 written instrument of identification with the intent to induce the **OTHER**  
27 person to sell, give or furnish a tobacco product, **AN ALTERNATIVE NICOTINE**  
28 **PRODUCT**, a vapor product or any instrument or paraphernalia that is solely  
29 designed for ~~the~~ smoking or ~~ingestion of~~ **INGESTING** tobacco or shisha,  
30 including a hookah or waterpipe, in violation of subsection A or B of this  
31 section is guilty of a petty offense and, notwithstanding section 13-802,  
32 shall pay a fine of not more than ~~five hundred dollars~~ **\$500**.

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

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

40 2. Any instrument or paraphernalia that is solely designed for ~~the~~  
41 smoking or ~~ingestion of~~ **INGESTING** tobacco or shisha, including a hookah or  
42 waterpipe, that is given to or possessed by a **MINOR PERSON WHO IS UNDER**  
43 **TWENTY-ONE YEARS OF AGE** if the instrument or paraphernalia was a gift or  
44 souvenir and is not used or intended to be used by the **MINOR PERSON WHO IS**  
45 **UNDER TWENTY-ONE YEARS OF AGE** to smoke or ingest tobacco or shisha.

46 E. For the purposes of this section:

1           1. "ALTERNATIVE NICOTINE PRODUCT":  
2           (a) MEANS ANY NONCOMBUSTIBLE PRODUCT THAT CONTAINS NICOTINE AND  
3 THAT IS INTENDED FOR HUMAN CONSUMPTION, WHETHER CHEWED, ABSORBED,  
4 DISSOLVED, INGESTED OR CONSUMED BY ANY OTHER MEANS.  
5           (b) DOES NOT INCLUDE ANY E-LIQUID, VAPOR PRODUCT, TOBACCO PRODUCT  
6 OR SHISHA OR ANY PRODUCT REGULATED AS A DRUG OR DEVICE BY THE UNITED  
7 STATES FOOD AND DRUG ADMINISTRATION UNDER SUBCHAPTER V OF THE FEDERAL  
8 FOOD, DRUG, AND COSMETIC ACT.  
9           ~~1.~~ 2. "Shisha" includes any mixture of tobacco leaf and honey,  
10 molasses or dried fruit or any other sweetener.  
11           ~~2.~~ 3. "Tobacco product" means any of the following:  
12           (a) Cigars.  
13           (b) Cigarettes.  
14           (c) Cigarette papers of any kind.  
15           (d) Smoking tobacco of any kind.  
16           (e) Chewing tobacco of any kind.  
17           ~~3.~~ 4. "Vapor product":  
18           (a) Means a noncombustible ~~tobacco-derived~~ product containing  
19 nicotine that employs a mechanical heating element, battery or circuit,  
20 regardless of shape or size, that can be used to heat a liquid nicotine  
21 solution ~~contained in cartridges.~~ ~~Vapor product~~  
22           (b) Does not include any product that is regulated by the United  
23 States food and drug administration under chapter V of the federal food,  
24 drug, and cosmetic act.  
25           Sec. 2. Section 36-798, Arizona Revised Statutes, is amended to  
26 read:  
27           36-798. Definitions  
28           In this article, unless the context otherwise requires:  
29           1. "ALTERNATIVE NICOTINE PRODUCT" HAS THE SAME MEANING PRESCRIBED  
30 IN SECTION 13-3622.  
31           ~~1.~~ 2. "Bar" means that portion of any premises licensed under  
32 section 4-209, subsection B, paragraph 6, 7, 11, 12 or 14 that is  
33 primarily used for the selling, consumption or serving of alcoholic  
34 beverages and that is not primarily used for the consumption of food on  
35 the premises.  
36           ~~2.~~ 3. "Beedies" or "bidis" means a product containing tobacco that  
37 is wrapped in temburni leaf (diospyros melanoxylon) or tendu leaf  
38 (diospyros exculpra), ~~or any other product that is offered to,~~ or  
39 purchased by, ~~consumers as beedies or bidis.~~  
40           ~~3.~~ 4. "Cigar" means a roll of tobacco or any lawful substitute for  
41 tobacco that is wrapped in tobacco.  
42           ~~4.~~ 5. "Cigarette" means a roll of tobacco or any lawful substitute  
43 for tobacco that is wrapped in paper or in any substance other than  
44 tobacco.  
45           ~~5. "Minor" means a person who is under eighteen years of age.~~  
46           6. "Retail tobacco vendor":

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

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

11 (i) THE NONMANAGEMENT EMPLOYEES OF ANY TOBACCO RETAIL  
12 ESTABLISHMENT.

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

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

17 ~~7.~~ 8. "Smokeless tobacco" includes shredded tobacco, snuff,  
18 cavendish and plug, twist and other tobacco products that are intended for  
19 oral use but not for smoking.

20 ~~8.~~ 9. "Smoking tobacco" includes any tobacco or tobacco product,  
21 other than cigarettes and cigars, that is intended to be smoked.

22 ~~9.~~ 10. "Tobacco products" includes cigarettes, cigarette papers,  
23 cigars, smokeless tobacco and smoking tobacco.

24 11. "VAPOR PRODUCT" HAS THE SAME MEANING PRESCRIBED IN SECTION  
25 13-3622.

26 ~~10.~~ 12. "Vending machine" means any mechanical, electrical or  
27 electronic device that, on insertion of money, tokens or any other form of  
28 payment, automatically dispenses tobacco products.

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

31 36-798.01. Selling or giving beedies or bidis; persons under  
32 twenty-one years of age; violation;  
33 classification

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

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

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

41 36-798.02. Vending machine sales tobacco products,  
42 alternative nicotine products and vapor  
43 products; signage; violation; classification

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

46 ~~1.~~

1 A. EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, A PERSON MAY  
2 NOT SELL OR DISTRIBUTE TOBACCO PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS OR  
3 VAPOR PRODUCTS:

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

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

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

9 1. RETAIL ESTABLISHMENTS IF PERSONS WHO ARE UNDER TWENTY-ONE YEARS  
10 OF AGE ARE NOT ALLOWED IN THE STORE AND SUCH PROHIBITION IS POSTED CLEARLY  
11 ON ALL ENTRANCES.

12 2. SALES BY DELIVERY THAT ARE NOT PROHIBITED UNDER SECTION  
13 36-798.05.

14 3. A bar.

15 ~~2.~~ 4. An employee lounge area that is not open to the public and  
16 the business in which the lounge area is located does not employ ~~minors~~  
17 ~~PERSONS WHO ARE UNDER TWENTY-ONE YEARS OF AGE.~~

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

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

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

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

33 36-798.03. Tobacco products, alternative nicotine products  
34 and vapor products; prohibition at schools and  
35 school-related areas; exception; violation;  
36 classification

37 A. THE USE AND POSSESSION OF tobacco products, ALTERNATIVE NICOTINE  
38 PRODUCTS AND VAPOR PRODUCTS are prohibited on school grounds, inside  
39 school buildings, in school parking lots or playing fields, in school  
40 buses or vehicles or at off-campus school sponsored events. For THE  
41 purposes of this subsection, "school" means any public, charter or private  
42 school where children attend classes in kindergarten programs or grades  
43 one through twelve.

44 B. Subsection A of this section does not apply to ~~an adult~~ A PERSON  
45 WHO IS AT LEAST TWENTY-ONE YEARS OF AGE AND who employs tobacco products,  
46 ALTERNATIVE NICOTINE PRODUCTS OR VAPOR PRODUCTS as a necessary component

1 of a school sanctioned tobacco PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS OR  
2 VAPOR PRODUCTS prevention or cessation program established pursuant to  
3 section 15-712.

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

5 Sec. 6. Section 36-798.05, Arizona Revised Statutes, is amended to  
6 read:

7 36-798.05. Unsolicited delivery of tobacco products,  
8 alternative nicotine products or vapor products;  
9 violation; classification; civil penalties;  
10 definitions

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

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

17 C. A person who violates subsection A of this section is subject to  
18 a civil penalty in an amount of not ~~to exceed five thousand dollars~~ MORE  
19 THAN \$5,000 for each violation. Each delivery of a tobacco product,  
20 ALTERNATIVE NICOTINE PRODUCT OR VAPOR PRODUCT shall constitute a separate  
21 violation.

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

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

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

33 2. "Person" means an individual, partnership, firm, association,  
34 corporation, limited liability company, limited liability partnership,  
35 joint venture, or other entity, other than an individual or entity  
36 engaged in the delivery of items for hire.

37 Sec. 7. Title 36, chapter 6, article 14, Arizona Revised Statutes,  
38 is amended by adding section 36-798.07, to read:

39 36-798.07. Retail sale requirements; underage access;  
40 prevention

41 A. A RETAIL TOBACCO VENDOR MAY NOT SELL, OFFER TO SELL, FURNISH OR  
42 GIVE TOBACCO PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS OR VAPOR PRODUCTS,  
43 UNLESS THE RETAIL TOBACCO VENDOR PROMINENTLY DISPLAYS A SIGN MEASURING AT  
44 LEAST EIGHTY SQUARE INCHES THAT STATES IN BLOCK LETTERS:

45 IT IS ILLEGAL FOR A PERSON WHO IS UNDER TWENTY-ONE YEARS  
46 OF AGE TO PURCHASE CIGARETTES OR TOBACCO PRODUCTS, ALTERNATIVE

1           NICOTINE PRODUCTS OR VAPOR PRODUCTS AND, ON CONVICTION, A FINE  
2           OF UP TO \$300 MAY BE IMPOSED.

3           B. A RETAIL TOBACCO VENDOR MAY NOT SELL, OFFER TO SELL, FURNISH OR  
4 GIVE TOBACCO PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS OR VAPOR PRODUCTS TO  
5 A PERSON WITHOUT FIRST EXAMINING THE PERSON'S GOVERNMENT-ISSUED  
6 PHOTOGRAPHIC IDENTIFICATION TO ESTABLISH THAT THE PERSON IS AT LEAST  
7 TWENTY-ONE YEARS OF AGE, IF THE PERSON REASONABLY APPEARS TO BE UNDER  
8 THIRTY YEARS OF AGE.

9           Sec. 8. Effective date

10          This act is effective from and after December 31, 2022.

11          Sec. 9. Severability

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