

House Engrossed

tobacco use; minimum age; sale

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

HOUSE BILL 2746

AN ACT

AMENDING SECTIONS 13-3622, 36-798, 36-798.01 AND 36-798.02, ARIZONA
REVISED STATUTES; RELATING TO TOBACCO.

(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, vapor products and tobacco or
5 shisha instruments or paraphernalia; furnishing to
6 underage person; underage persons buying or
7 possessing; misrepresentation of age by underage
8 persons; classification; definitions

9 A. A person who knowingly sells, gives or furnishes a tobacco
10 product, a vapor product or any instrument or paraphernalia that is solely
11 designed for ~~the~~ smoking or ~~ingestion of~~ **INGESTING** tobacco or shisha,
12 including a hookah or waterpipe, to a ~~minor~~ **PERSON WHO IS UNDER TWENTY-ONE**
13 **YEARS OF AGE** is guilty of a 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, a vapor product or any
17 instrument or paraphernalia that is solely designed for ~~the~~ smoking or
18 ~~ingestion of~~ **INGESTING** tobacco or shisha, including a hookah or waterpipe,
19 is guilty of a petty offense, and if the offense involves any instrument
20 or paraphernalia that is solely designed for ~~the~~ smoking or ~~ingestion of~~
21 **INGESTING** tobacco or shisha, shall pay a fine of ~~not less than one hundred~~
22 ~~dollars~~ **AT LEAST \$100** or perform ~~not less than~~ **AT LEAST** thirty hours of
23 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 **OTHER** 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, a vapor product or any
28 instrument or paraphernalia that is solely designed for ~~the~~ smoking or
29 ~~ingestion of~~ **INGESTING** tobacco or shisha, including a hookah or waterpipe,
30 in violation of subsection A or B of this section is guilty of a petty
31 offense and, notwithstanding section 13-802, shall pay a fine of not more
32 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 or any instrument or paraphernalia that is solely designed for ~~the~~
36 smoking or ~~ingestion of~~ **INGESTING** tobacco or shisha, including a hookah or
37 waterpipe, if it is used or intended to be used in connection with a bona
38 fide practice of a religious belief and as an integral part of a religious
39 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.

- 1 E. For the purposes of this section:
2 1. "Shisha" includes any mixture of tobacco leaf and honey,
3 molasses or dried fruit or any other sweetener.
4 2. "Tobacco product" means any of the following:
5 (a) Cigars.
6 (b) Cigarettes.
7 (c) Cigarette papers of any kind.
8 (d) Smoking tobacco of any kind.
9 (e) Chewing tobacco of any kind.
10 3. "Vapor product":
11 (a) Means a noncombustible tobacco-derived product containing
12 nicotine that employs a mechanical heating element, battery or circuit,
13 regardless of shape or size, that can be used to heat a liquid nicotine
14 solution contained in cartridges. ~~Vapor product~~
15 (b) Does not include any product that is regulated by the United
16 States food and drug administration under chapter V of the federal food,
17 drug, and cosmetic act.
18 Sec. 2. Section 36-798, Arizona Revised Statutes, is amended to
19 read:
20 36-798. Definitions
21 In this article, unless the context otherwise requires:
22 1. "Bar" means that portion of any premises licensed under section
23 4-209, subsection B, paragraph 6, 7, 11, 12 or 14 that is primarily used
24 for the selling, consumption or serving of alcoholic beverages and that is
25 not primarily used for the consumption of food on the premises.
26 2. "Beedies" or "bidis" means a product containing tobacco that is
27 wrapped in temburni leaf (diospyros melanoxylon) or tendu leaf (diospyros
28 exculpra), ~~or any other product that is offered to,~~ or purchased
29 by, ~~consumers as beedies or bidis.~~
30 3. "Cigar" means a roll of tobacco or any lawful substitute for
31 tobacco that is wrapped in tobacco.
32 4. "Cigarette" means a roll of tobacco or any lawful substitute for
33 tobacco that is wrapped in paper or in any substance other than tobacco.
34 ~~5. "Minor" means a person who is under eighteen years of age.~~
35 ~~6.~~ 5. "Retail tobacco vendor" means a person who possesses tobacco
36 or tobacco products for the purpose of selling them for consumption and
37 not for resale.
38 ~~7.~~ 6. "Smokeless tobacco" includes shredded tobacco, snuff,
39 cavendish and plug, twist and other tobacco products that are intended for
40 oral use but not for smoking.
41 ~~8.~~ 7. "Smoking tobacco" includes any tobacco or tobacco product,
42 other than cigarettes and cigars, that is intended to be smoked.
43 ~~9.~~ 8. "Tobacco products" includes cigarettes, cigarette papers,
44 cigars, smokeless tobacco and smoking tobacco.

1 ~~10.~~ 9. "Vending machine" means any mechanical, electrical or
2 electronic device that, on insertion of money, tokens or any other form of
3 payment, automatically dispenses tobacco products.

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

6 36-798.01. Selling or giving beedies or bidis; underage
7 persons; violation; classification

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

11 B. Any person who violates this section is guilty of a class 3
12 misdemeanor.

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

15 36-798.02. Vending machine sales of tobacco and tobacco
16 products; signage; violation; classification

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

19 1. A bar.

20 2. An employee lounge area that is not open to the public and the
21 business in which the lounge area is located does not employ minors.

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

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

32 D. A person who violates this section is guilty of a petty offense.