

PROPOSED
SENATE AMENDMENTS TO H.B. 2505
(Reference to House engrossed bill)

1 Strike everything after the enacting clause and insert:

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 instrument
10 or paraphernalia that is solely designed for ~~the~~ smoking or ~~ingestion of~~
11 **INGESTING** tobacco or shisha, including a hookah or waterpipe, to a ~~minor~~
12 **PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE** is guilty of a petty offense.

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

1 C. A ~~minor~~ PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE AND who
2 misrepresents the ~~minor's~~ PERSON'S age to ~~any~~ ANOTHER person by means of a
3 written instrument of identification with the intent to induce the OTHER
4 person to sell, give or furnish a tobacco product, AN ALTERNATIVE NICOTINE
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 designed
13 for ~~the~~ smoking or ~~ingestion of~~ INGESTING tobacco or shisha, including a
14 hookah or waterpipe, if it is used or intended to be used in connection
15 with a bona fide practice of a religious belief and as an integral part of
16 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 WHO IS
22 UNDER TWENTY-ONE YEARS OF AGE to 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 THAT
26 IS INTENDED FOR HUMAN CONSUMPTION, WHETHER CHEWED, ABSORBED, DISSOLVED,
27 INGESTED OR CONSUMED BY ANY OTHER MEANS.

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

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

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

- 4 (a) Cigars.
5 (b) Cigarettes.
6 (c) Cigarette papers of any kind.
7 (d) Smoking tobacco of any kind.
8 (e) Chewing tobacco of any kind.

9 ~~3.~~ 4. "Vapor product":

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

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

17 Sec. 2. Section 36-798, Arizona Revised Statutes, is amended to
18 read:

19 36-798. Definitions

20 In this article, unless the context otherwise requires:

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

23 ~~1.~~ 2. "Bar" means that portion of any premises licensed under
24 section 4-209, subsection B, paragraph 6, 7, 11, 12 or 14 that is primarily
25 used for the selling, consumption or serving of alcoholic beverages and
26 that is not primarily used for the consumption of food on the premises.

27 ~~2.~~ 3. "Beedies" or "bidis" means a product containing tobacco that
28 is wrapped in temburni leaf (diospyros melanoxylon) or tendu leaf
29 (diospyros exculpra), ~~or any other product that is offered to,~~ or
30 purchased by, ~~consumers as beedies or bidis.~~

1 ~~3.~~ 4. "Cigar" means a roll of tobacco or any lawful substitute for
2 tobacco that is wrapped in tobacco.

3 ~~4.~~ 5. "Cigarette" means a roll of tobacco or any lawful substitute
4 for tobacco that is wrapped in paper or in any substance other than
5 tobacco.

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

7 6. "Retail tobacco vendor":

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

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

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

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

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

23 ~~7.~~ 8. "Smokeless tobacco" includes shredded tobacco, snuff,
24 cavendish and plug, twist and other tobacco products that are intended for
25 oral use but not for smoking.

26 ~~8.~~ 9. "Smoking tobacco" includes any tobacco or tobacco product,
27 other than cigarettes and cigars, that is intended to be smoked.

28 ~~9.~~ 10. "Tobacco products" includes cigarettes, cigarette papers,
29 cigars, smokeless tobacco and smoking tobacco.

1 11. "VAPOR PRODUCT" HAS THE SAME MEANING PRESCRIBED IN SECTION
2 13-3622.

3 ~~10.~~ 12. "Vending machine" means any mechanical, electrical or
4 electronic device that, on insertion of money, tokens or any other form of
5 payment, automatically dispenses tobacco products.

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

8 36-798.01. Selling or giving beedies or bidis; persons under
9 twenty-one years of age; violation;
10 classification

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

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

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

18 36-798.02. Vending machine sales tobacco products, alternative
19 nicotine products and vapor products; signage;
20 violation; classification

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

23 ~~1.~~

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

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

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

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

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

4 2. SALES BY DELIVERY THAT ARE NOT PROHIBITED UNDER SECTION
5 36-798.05.

6 3. A bar.

7 ~~2.~~ 4. An employee lounge area that is not open to the public and
8 the business in which the lounge area is located does not employ ~~minors~~
9 PERSONS WHO ARE UNDER TWENTY-ONE YEARS OF AGE.

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

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

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

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

25 36-798.03. Tobacco products, alternative nicotine products and
26 vapor products; prohibition at schools and
27 school-related areas; exception; violation;
28 classification

29 A. THE USE AND POSSESSION OF tobacco products, ALTERNATIVE NICOTINE
30 PRODUCTS AND VAPOR PRODUCTS are prohibited on school grounds, inside school
31 buildings, in school parking lots or playing fields, in school buses or
32 vehicles or at off-campus school sponsored events. For THE purposes of

1 this subsection, "school" means any public, charter or private school where
2 children attend classes in kindergarten programs or grades one through
3 twelve.

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

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

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

13 36-798.05. Unsolicited delivery of tobacco products,
14 alternative nicotine products or vapor products;
15 violation; classification; civil penalties;
16 definitions

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

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

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

28 D. The attorney general may bring an action to recover civil
29 penalties and, as determined by the court, taxable costs, such other fees
30 and expenses reasonably incurred and reasonable attorney fees, in the name
31 of the state for a violation of this section. All civil penalties
32 recovered shall be deposited, pursuant to sections 35-146 and 35-147, in

1 the state general fund and all other monies recovered shall be deposited,
2 pursuant to sections 35-146 and 35-147, in the antitrust enforcement
3 revolving fund established by section 41-191.02.

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

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

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

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

13 36-798.07. Retail sale requirements; underage access;
14 prevention

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

19 IT IS ILLEGAL FOR A PERSON WHO IS UNDER TWENTY-ONE YEARS
20 OF AGE TO PURCHASE CIGARETTES OR TOBACCO PRODUCTS, ALTERNATIVE
21 NICOTINE PRODUCTS OR VAPOR PRODUCTS AND, ON CONVICTION, A FINE
22 OF UP TO \$300 MAY BE IMPOSED.

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

28 Sec. 8. Effective date

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

1 Sec. 9. Severability

2 If a provision of this act or its application to any person or
3 circumstance is held invalid, this invalidity does not affect other
4 provisions or applications of the act that can be given effect without the
5 invalid provision or application, and to this end the provisions of this
6 act are severable."

7 Amend title to conform

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