

REFERENCE TITLE: tobacco; alternative nicotine; vapor products

State of Arizona  
House of Representatives  
Fifty-sixth Legislature  
First Regular Session  
2023

## **HB 2630**

Introduced by  
Representative Payne

### 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 SECTIONS 36-798.07 AND 36-798.08; AMENDING SECTION 42-3001, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 3, ARTICLE 10, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-3407; RELATING TO PUBLIC HEALTH CONTROL.

(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. Underage persons; tobacco products, alternative  
5 nicotine products, vapor products, tobacco  
6 products and paraphernalia; prohibitions;  
7 classification; 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 PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS,  
12 VAPOR PRODUCTS or shisha, including a hookah or waterpipe, to a ~~minor~~  
13 PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE is guilty of a petty offense  
14 AND, NOTWITHSTANDING SECTION 13-802, SHALL PAY A FINE OF \$1,000 FOR A  
15 FIRST OFFENSE AND A FINE OF AT LEAST \$1,000 AND NOT MORE THAN \$2,500 FOR  
16 ANY SUBSEQUENT OFFENSE.

17 B. A ~~minor~~ PERSON UNDER TWENTY-ONE YEARS OF AGE who buys, or has in  
18 ~~his~~ THE PERSON'S possession or knowingly accepts or receives from any  
19 person, a tobacco product, AN ALTERNATIVE NICOTINE PRODUCT, a vapor  
20 product or any instrument or paraphernalia that is solely designed for ~~the~~  
21 smoking or ~~ingestion of~~ INGESTING tobacco PRODUCTS, ALTERNATIVE NICOTINE  
22 PRODUCTS, VAPOR PRODUCTS or shisha, including a hookah or waterpipe, is  
23 guilty of a petty offense, and if the offense involves any instrument or  
24 paraphernalia that is solely designed for ~~the~~ smoking or ~~ingestion of~~  
25 INGESTING tobacco PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS, VAPOR PRODUCTS  
26 or shisha, shall pay a fine of ~~not less than one hundred dollars~~ AT LEAST  
27 \$100 or perform ~~not less than~~ AT LEAST thirty hours of community  
28 restitution.

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

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

40 1. Cigars, cigarettes or cigarette papers, smoking or chewing  
41 tobacco or any instrument or paraphernalia that is solely designed for ~~the~~  
42 smoking or ~~ingestion of~~ INGESTING tobacco or shisha, including a hookah or  
43 waterpipe, if it is used or intended to be used in connection with a bona  
44 fide practice of a religious belief and as an integral part of a religious  
45 or ceremonial exercise.

1           2. Any instrument or paraphernalia that is solely designed for ~~the~~  
2 smoking or ~~ingestion of~~ **INGESTING** tobacco **PRODUCTS, ALTERNATIVE NICOTINE**  
3 **PRODUCTS, VAPOR PRODUCTS** or shisha, including a hookah or waterpipe, that  
4 is given to or possessed by a ~~minor~~ **PERSON UNDER TWENTY-ONE YEARS OF AGE**  
5 if the instrument or paraphernalia was a gift or souvenir and is not used  
6 or intended to be used by the ~~minor~~ **PERSON UNDER TWENTY-ONE YEARS OF AGE**  
7 to smoke or ingest tobacco or shisha.

8           E. For the purposes of this section:

9           1. **"ALTERNATIVE NICOTINE PRODUCT":**

10           (a) **MEANS ANY NONCOMBUSTIBLE PRODUCT THAT CONTAINS NICOTINE FROM**  
11 **ANY SOURCE AND THAT IS INTENDED FOR HUMAN CONSUMPTION, WHETHER CHEWED,**  
12 **ABSORBED, DISSOLVED, INGESTED OR CONSUMED BY ANY OTHER MEANS.**

13           (b) **DOES NOT INCLUDE ANY TOBACCO PRODUCT, VAPOR PRODUCT OR SHISHA**  
14 **OR ANY PRODUCT REGULATED AS A DRUG OR DEVICE BY THE UNITED STATES FOOD AND**  
15 **DRUG ADMINISTRATION UNDER CHAPTER V OF THE FEDERAL FOOD, DRUG, AND**  
16 **COSMETIC ACT.**

17           ~~1.~~ 2. "Shisha" includes any mixture of tobacco leaf and honey,  
18 molasses or dried fruit or any other sweetener.

19           ~~2.~~ 3. "Tobacco product" means any of the following:

- 20           (a) Cigars.
- 21           (b) Cigarettes.
- 22           (c) Cigarette papers of any kind.
- 23           (d) Smoking tobacco of any kind.
- 24           (e) Chewing tobacco of any kind.

25           ~~3.~~ 4. "Vapor product":

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

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

33           Sec. 2. Heading change

34           The article heading of title 36, chapter 6, article 14, Arizona  
35 Revised Statutes, is changed from **"TOBACCO SALES"** to **"SALES OF TOBACCO**  
36 **PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS AND VAPER PRODUCTS"**.

37           Sec. 3. Section 36-798, Arizona Revised Statutes, is amended to  
38 read:

39           36-798. Definitions

40           In this article, unless the context otherwise requires:

41           1. **"ALTERNATIVE NICOTINE PRODUCT" HAS THE SAME MEANING PRESCRIBED**  
42 **IN SECTION 13-3622.**





1 ~~tobacco prevention or cessation program established pursuant to section~~  
2 ~~15-712.~~

3 ~~C.~~ B. A person who violates this section is guilty of a petty  
4 offense AND, NOTWITHSTANDING SECTION 13-802, SHALL PAY A FINE OF \$500.

5 Sec. 7. 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 and vapor  
9 products; violation; classification; civil  
10 penalties; 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 THAT ARE unsolicited by at least one ~~adult~~  
14 PERSON WHO IS AT LEAST TWENTY-ONE YEARS OF AGE AND who resides at that  
15 address.

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

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

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

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

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

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

38 Sec. 8. Title 36, chapter 6, article 14, Arizona Revised Statutes,  
39 is amended by adding sections 36-798.07 and 36-798.08, to read:

40 36-798.07. Retail sales; requirements

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 THAT READS AS  
44 FOLLOWS: "IT IS ILLEGAL FOR A PERSON UNDER 21 YEARS OF AGE TO PURCHASE

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

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

9 C. A RETAIL TOBACCO VENDOR MAY NOT SELL, OFFER TO SELL, FURNISH OR  
10 GIVE TOBACCO PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS OR VAPOR PRODUCTS  
11 EXCEPT IN THE MANUFACTURER'S ORIGINAL PACKAGING AND MAY NOT OPEN PACKAGING  
12 AND SELL A PORTION OF THE TOBACCO PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS  
13 OR VAPOR PRODUCTS CONTAINED IN SUCH PACKAGING.

14 D. A PERSON WHO VIOLATES SUBSECTION B OR C OF THIS SECTION IS  
15 GUILTY OF A PETTY OFFENSE AND, NOTWITHSTANDING SECTION 13-802, SHALL PAY A  
16 FINE OF \$500 FOR A FIRST OFFENSE AND A FINE OF AT LEAST \$1,000 AND NOT  
17 MORE THAN \$2,500 FOR A SUBSEQUENT OFFENSE.

18 36-798.08. Tobacco products, alternative nicotine products  
19 and vapor products; state preemption

20 A. THE SALE AND MARKETING OF TOBACCO PRODUCTS, ALTERNATIVE NICOTINE  
21 PRODUCTS AND VAPOR PRODUCTS ARE OF STATEWIDE CONCERN. THE REGULATION OF  
22 THE SALE AND MARKETING OF TOBACCO PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS  
23 AND VAPOR PRODUCTS PURSUANT TO THIS ARTICLE IS NOT SUBJECT TO FURTHER  
24 REGULATION BY A COUNTY, CITY, TOWN OR OTHER POLITICAL SUBDIVISION OF THIS  
25 STATE AND PREEMPTS ALL INCONSISTENT LAWS, RULES, REGULATIONS, CODES,  
26 ORDINANCES, POLICIES AND OTHER LAWS ADOPTED BY A COUNTY, CITY, TOWN OR  
27 OTHER POLITICAL SUBDIVISION OF THIS STATE.

28 B. THIS SECTION DOES NOT LIMIT A POLITICAL SUBDIVISION'S AUTHORITY  
29 UNDER SECTION 36-601.01.

30 Sec. 9. Section 42-3001, Arizona Revised Statutes, is amended to  
31 read:

32 42-3001. Definitions

33 In this chapter, unless the context otherwise requires:

34 1. "Affix" and "affixed" include imprinting tax meter stamps on  
35 packages and individual containers as authorized by the department.

36 2. "ALTERNATIVE NICOTINE PRODUCT" HAS THE SAME MEANING PRESCRIBED  
37 IN SECTION 36-798.

38 ~~3.~~ 3. "Brand family" has the same meaning prescribed in section  
39 44-7111.

40 ~~4.~~ 4. "Cavendish" means a tobacco product that is smoked from a  
41 pipe and that meets one of the following criteria:

42 (a) Is described as cavendish, as containing cavendish or as a  
43 cavendish blend on its packaging, labeling or promotional materials.

1 (b) Appears to have been processed or manufactured with an amount  
2 of flavorings and humectants that exceeds twenty percent of the weight of  
3 the tobacco contained in the product.

4 (c) Appears to be blended with or contain a tobacco product  
5 described in subdivision (b) of this paragraph.

6 ~~4.~~ 5. "Cider" means vinous liquor that is made from the normal  
7 alcoholic fermentation of the juice of sound, ripe apples, pears or other  
8 pome fruit, including flavored, sparkling and carbonated cider and cider  
9 made from condensed apple, pear or other pome fruit must, and that  
10 contains more than one-half of one percent of alcohol by volume but not  
11 more than seven percent of alcohol by volume.

12 ~~5.~~ 6. "Cigar" means any roll of tobacco wrapped in leaf tobacco or  
13 in any substance containing tobacco other than any roll of tobacco that is  
14 a cigarette, as defined in paragraph 6, subdivision (b) of this section.

15 ~~6.~~ 7. "Cigarette" means either of the following:

16 (a) Any roll of tobacco wrapped in paper or any substance not  
17 containing tobacco.

18 (b) Any roll of tobacco wrapped in any substance containing tobacco  
19 that, because of its appearance, the type of tobacco used in the filler or  
20 its packaging and labeling, is likely to be offered to or purchased by a  
21 consumer as a cigarette described in subdivision (a) of this paragraph.  
22 This subdivision shall be interpreted consistently with the classification  
23 guidelines established by the federal alcohol and tobacco tax and trade  
24 bureau.

25 ~~7.~~ 8. "Consumer" means a person in this state that comes into  
26 possession of any luxury subject to the tax imposed by this chapter and  
27 that, on coming into possession of the luxury, is not a distributor  
28 intending to sell or distribute the luxury, a retailer or a wholesaler.

29 ~~8.~~ 9. "Craft distiller" means a distiller in the United States or  
30 in a territory or possession of the United States that holds a license  
31 pursuant to section 4-205.10.

32 ~~9.~~ 10. "Distributor" means any person that manufactures, produces,  
33 ships, transports or imports into this state or in any manner acquires or  
34 possesses for the purpose of making the first sale of the following:

35 (a) Cigarettes without Arizona tax stamps affixed as required by  
36 this article.

37 (b) Roll-your-own tobacco or other tobacco products on which the  
38 taxes have not been paid as required by this chapter.

39 ~~10.~~ 11. "Farm winery" has the same meaning prescribed in section  
40 4-101.

41 ~~11.~~ 12. "First sale" means the initial sale or distribution in  
42 intrastate commerce or the initial use or consumption of cigarettes,  
43 roll-your-own tobacco or other tobacco products.

44 ~~12.~~ 13. "Luxury" means any article, object or device on which a  
45 tax is imposed under this chapter.



1           ~~13.~~ 14. "Malt liquor" means any liquid that contains more than  
2 one-half of one percent alcohol by volume and that is made by the process  
3 of fermentation and not distillation of hops or grains, but not including:  
4           (a) Liquids made by the process of distillation of such substances.  
5           (b) Medicines that are unsuitable for beverage purposes.  
6           ~~14.~~ 15. "Master settlement agreement" has the same meaning  
7 prescribed in section 44-7101.  
8           ~~15.~~ 16. "Microbrewery" has the same meaning prescribed in section  
9 4-101.  
10           ~~16.~~ 17. "Nonparticipating manufacturer" has the same meaning  
11 prescribed in section 44-7111.  
12           ~~17.~~ 18. "Other tobacco products" means tobacco products other than  
13 cigarettes and roll-your-own tobacco.  
14           ~~18.~~ 19. "Participating manufacturer" has the same meaning  
15 prescribed in section 44-7111.  
16           ~~19.~~ 20. "Person" means any individual, firm, partnership, joint  
17 venture, association, corporation, municipal corporation, estate, trust,  
18 club, society or other group or combination acting as a unit, and the  
19 plural as well as the singular number.  
20           ~~20.~~ 21. "Place of business" means a building, facility site or  
21 location where an order is received or where tobacco products are sold,  
22 distributed or transferred. Place of business does not include a vehicle.  
23           ~~21.~~ 22. "Retailer" means any person that comes into possession of  
24 any luxury subject to the taxes imposed by this chapter for the purpose of  
25 selling it for consumption and not for resale.  
26           ~~22.~~ 23. "Roll-your-own tobacco" means any tobacco that, because of  
27 its appearance, type, packaging or labeling, is suitable for use and  
28 likely to be offered to or purchased by consumers as tobacco for making  
29 cigarettes. This paragraph shall be interpreted consistently with the  
30 term as used in section 44-7101. This paragraph shall be interpreted  
31 consistently with the classification guidelines established by the federal  
32 alcohol and tobacco tax and trade bureau.  
33           ~~23.~~ 24. "Smoking tobacco" means any tobacco that, because of its  
34 appearance, type, packaging, labeling or promotion, is suitable for use  
35 and likely to be offered to or purchased by consumers as tobacco for  
36 making cigarettes or otherwise consumed by burning. Smoking tobacco  
37 includes pipe tobacco and roll-your-own tobacco.  
38           ~~24.~~ 25. "Spirituous liquor" means any liquid that contains more  
39 than one-half of one percent alcohol by volume, that is produced by  
40 distillation of any fermented substance and that is used or prepared for  
41 use as a beverage. Spirituous liquor does not include medicines that are  
42 unsuitable for beverage purposes.  
43           ~~25.~~ 26. "Tobacco product manufacturer" has the same meaning  
44 prescribed in section 44-7101.

1           ~~26-~~ 27. "Tobacco products" means all luxuries included in section  
2 42-3052, paragraphs 5 through 9.

3           28. "VAPOR PRODUCT" HAS THE SAME MEANING PRESCRIBED IN SECTION  
4 36-798.

5           ~~27-~~ 29. "Vehicle" means a device in, on or by which a person or  
6 property is or may be transported or drawn on the roads of this state  
7 regardless of the means by which it is propelled or whether it runs on a  
8 track.

9           ~~28-~~ 30. "Vinous liquor" means any liquid that contains more than  
10 one-half of one percent alcohol by volume and that is made by the process  
11 of fermentation of grapes, berries, fruits, vegetables or other substances  
12 but does not include:

13           (a) Liquids in which hops or grains are used in the process of  
14 fermentation.

15           (b) Liquids made by the process of distillation of hops or grains.

16           (c) Medicines that are unsuitable for beverage purposes.

17           ~~29-~~ 31. "Wholesaler" means a person that sells any spirituous,  
18 vinous or malt liquor taxed under this chapter to retail dealers or for  
19 the purposes of resale only.

20           Sec. 10. Title 42, chapter 3, article 10, Arizona Revised Statutes,  
21 is amended by adding section 42-3407, to read:

22           42-3407. Retailers of tobacco products, alternative nicotine  
23 products and vapor products; registration; fee;  
24 violation; classification; rules

25           A. EVERY RETAILER THAT SELLS OR OFFERS TO SELL TOBACCO PRODUCTS,  
26 ALTERNATIVE NICOTINE PRODUCTS OR VAPOR PRODUCTS TO CONSUMERS IN THIS STATE  
27 MUST REGISTER EACH RETAIL LOCATION OF THE RETAILER WITH THE DEPARTMENT ON  
28 A FORM AND IN A MANNER PRESCRIBED BY THE DEPARTMENT.

29           B. THE REGISTRATION SHALL BE ACCOMPANIED BY A FEE, WHICH SHALL BE  
30 CHARGED ANNUALLY FOR EACH RETAIL LOCATION, IN AN AMOUNT TO BE DETERMINED  
31 BY THE DIRECTOR.

32           C. BEGINNING JANUARY 1, 2024, A RETAILER MAY NOT SELL TOBACCO  
33 PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS OR VAPOR PRODUCTS IN THIS STATE  
34 UNLESS THE RETAILER HAS REGISTERED WITH THE DEPARTMENT, HAS PAID ALL  
35 APPLICABLE FEES AND IS IN COMPLIANCE WITH ALL RULES ADOPTED BY THE  
36 DEPARTMENT PURSUANT TO THIS CHAPTER.

37           D. THE DEPARTMENT SHALL PUBLISH ON ITS WEBSITE THE NAMES OF EACH  
38 RETAILER THAT IS REGISTERED UNDER SUBSECTION A OF THIS SECTION. THE  
39 DEPARTMENT SHALL UPDATE THE PUBLISHED NAMES AS NEEDED AND AT LEAST ONCE  
40 EACH MONTH.

41           E. ANY PERSON THAT VIOLATES THIS SECTION IS GUILTY OF A PETTY  
42 OFFENSE AND, NOTWITHSTANDING SECTION 13-802, SHALL PAY A FINE OF \$1,000  
43 FOR A FIRST OFFENSE AND A FINE OF AT LEAST \$1,000 AND NOT MORE THAN \$2,500  
44 FOR A SUBSEQUENT OFFENSE.

1 F. FEES AND PENALTIES COLLECTED PURSUANT THIS SECTION SHALL BE USED  
2 BY THE DEPARTMENT FOR THE PURPOSES OF ADMINISTERING AND ENFORCING THIS  
3 SECTION, AND ANY REMAINING MONIES SHALL BE SHARED WITH LOCAL LAW  
4 ENFORCEMENT AGENCIES FOR THE PURPOSES OF CONDUCTING RETAILER COMPLIANCE  
5 INSPECTIONS, UNDERCOVER INVESTIGATIONS OF RETAILERS AND ACTIVITIES TO  
6 IDENTIFY AND INTERCEPT CONTRABAND OR ILLICIT TOBACCO PRODUCTS, ALTERNATIVE  
7 NICOTINE PRODUCTS AND VAPOR PRODUCTS.

8 G. THE DEPARTMENT SHALL ADOPT RULES PURSUANT TO TITLE 41, CHAPTER 6  
9 TO CARRY OUT THIS SECTION.

10 Sec. 11. Severability

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

16 Sec. 12. Effective date

17 This act is effective from and after December 31, 2023.