

REFERENCE TITLE: retail licensing; electronic smoking devices

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

HB 2747

Introduced by
Representatives Terech: Aguilar, Austin, Bravo, Contreras P, De Los
Santos, Gutierrez, Hernandez C, Hernandez M, Ortiz, Pawlik, Salman,
Sandoval, Schwiebert, Shah, Sun, Travers, Tsosie

AN ACT

AMENDING SECTIONS 13-3622, 36-798, 36-798.01 AND 36-798.02, ARIZONA
REVISED STATUTES; AMENDING TITLE 36, CHAPTER 6, ARTICLE 14, ARIZONA
REVISED STATUTES, BY ADDING SECTIONS 36-798.07, 36-798.08 AND 36-798.09;
RELATING TO TOBACCO PRODUCTS.

(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; persons under the federal minimum
5 age; classification; exceptions; definitions

6 A. A person who ~~knowingly~~ sells, gives or furnishes a tobacco
7 product, ~~a vapor product or any instrument or paraphernalia that is solely~~
8 ~~designed for the smoking or ingestion of tobacco or shisha, including a~~
9 ~~hookah or waterpipe,~~ to a ~~minor is guilty of a petty offense~~ PERSON WHO IS
10 UNDER THE MINIMUM AGE OF SALE FOR TOBACCO PRODUCTS AS SET BY THE FEDERAL
11 FOOD, DRUG, AND COSMETIC ACT IS SUBJECT TO THE PENALTIES PRESCRIBED IN
12 SECTION 36-798.01.

13 ~~B. A minor who buys, or has in his possession or knowingly accepts~~
14 ~~or receives from any person, a tobacco product, a vapor product or any~~
15 ~~instrument or paraphernalia that is solely designed for the smoking or~~
16 ~~ingestion of tobacco or shisha, including a hookah or waterpipe, is guilty~~
17 ~~of a petty offense, and if the offense involves any instrument or~~
18 ~~paraphernalia that is solely designed for the smoking or ingestion of~~
19 ~~tobacco or shisha, shall pay a fine of not less than one hundred dollars~~
20 ~~or perform not less than thirty hours of community restitution.~~

21 ~~C. A minor~~ PERSON WHO IS UNDER THE MINIMUM AGE OF SALE FOR
22 TOBACCO PRODUCTS AS SET BY THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND
23 who misrepresents the ~~minor's~~ PERSON'S age to any OTHER person by means of
24 a written instrument of identification with the intent to induce the OTHER
25 person to sell, give or furnish a tobacco product, ~~a vapor product or any~~
26 ~~instrument or paraphernalia that is solely designed for the smoking or~~
27 ~~ingestion of tobacco or shisha, including a hookah or waterpipe, in~~
28 ~~violation of subsection A or B of this section~~ is guilty of a petty
29 offense and, notwithstanding section 13-802, shall pay a fine of not more
30 than ~~five hundred dollars~~ \$100.

31 ~~D. C. This section does not apply to any of the following:~~

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

38 ~~2. Any instrument or paraphernalia that is solely designed for the~~
39 ~~smoking or ingestion of tobacco or shisha, including a hookah or~~
40 ~~waterpipe, that is given to or possessed by a minor if the instrument or~~
41 ~~paraphernalia was a gift or souvenir and is not used or intended to be~~
42 ~~used by the minor to smoke or ingest tobacco or shisha.~~

1 ~~E.~~ D. For the purposes of this section:
2 1. "ELECTRONIC SMOKING DEVICE":
3 (a) MEANS ANY DEVICE THAT MAY BE USED TO DELIVER ANY AEROSOLIZED OR
4 VAPORIZED SUBSTANCE TO THE PERSON WHO INHALES FROM THE DEVICE, INCLUDING
5 AN E-CIGARETTE, E-CIGAR, E-PIPE, VAPE PEN OR E-HOOKAH.
6 (b) INCLUDES:
7 (i) ANY COMPONENT, PART OR ACCESSORY OF THE DEVICE.
8 (ii) ANY SUBSTANCE THAT IS INTENDED TO BE AEROSOLIZED OR VAPORIZED
9 DURING THE USE OF THE DEVICE, WHETHER OR NOT THE SUBSTANCE CONTAINS
10 NICOTINE.
11 (c) DOES NOT INCLUDE DRUGS, DEVICES OR COMBINATION PRODUCTS
12 AUTHORIZED FOR SALE BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION, AS
13 THOSE TERMS ARE DEFINED IN THE FEDERAL FOOD, DRUG, AND COSMETIC ACT OR THE
14 REGULATIONS ADOPTED PURSUANT TO THAT ACT.
15 ~~1.~~ 2. "Shisha" includes any mixture of tobacco leaf and honey,
16 molasses or dried fruit or any other sweetener.
17 ~~2.~~ 3. "Tobacco product":
18 (a) Means any of the following:
19 ~~(a) Cigars.~~
20 ~~(b) Cigarettes.~~
21 ~~(c) Cigarette papers of any kind.~~
22 ~~(d) Smoking tobacco of any kind.~~
23 ~~(e) Chewing tobacco of any kind.~~
24 ~~3. "Vapor product" means a noncombustible tobacco-derived product~~
25 ~~containing nicotine that employs a mechanical heating element, battery or~~
26 ~~circuit, regardless of shape or size, that can be used to heat a liquid~~
27 ~~nicotine solution contained in cartridges. Vapor product does not include~~
28 ~~any product that is regulated by the United States food and drug~~
29 ~~administration under chapter V of the federal food, drug and cosmetic act.~~
30 (i) A PRODUCT CONTAINING, MADE OF OR DERIVED FROM TOBACCO OR
31 NICOTINE THAT IS INTENDED FOR HUMAN CONSUMPTION OR IS LIKELY TO BE
32 CONSUMED, WHETHER INHALED, ABSORBED OR INGESTED BY ANY OTHER MEANS,
33 INCLUDING A CIGARETTE, A CIGAR, PIPE TOBACCO, SHISHA, BEEDIES, BIDIS,
34 CHEWING TOBACCO, SNUFF OR SNUS.
35 (ii) AN ELECTRONIC SMOKING DEVICE AND ANY SUBSTANCE THAT MAY BE
36 AEROSOLIZED OR VAPORIZED BY THE DEVICE, WHETHER OR NOT THE SUBSTANCE
37 CONTAINS NICOTINE.
38 (iii) A COMPONENT, PART OR ACCESSORY OF ANY PRODUCT, ELECTRONIC
39 SMOKING DEVICE OR SUBSTANCE THAT IS LISTED IN ITEM (i) OR (ii) OF THIS
40 SUBDIVISION, WHETHER OR NOT ANY OF THESE CONTAIN TOBACCO OR NICOTINE,
41 INCLUDING FILTERS, ROLLING PAPERS, BLUNT OR HEMP WRAPS AND PIPES.
42 (b) DOES NOT INCLUDE DRUGS, DEVICES OR COMBINATION PRODUCTS
43 AUTHORIZED FOR SALE BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION, AS
44 THOSE TERMS ARE DEFINED IN THE FEDERAL FOOD, DRUG, AND COSMETIC ACT OR THE
45 REGULATIONS ADOPTED PURSUANT TO THAT ACT.

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

3 36-798. Definitions

4 In this article, unless the context otherwise requires:

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

10 2. "Beedies" or "bidis" means a product containing tobacco that is
11 wrapped in temburni leaf (diospyros melanoxylon) or tendu leaf (diospyros
12 exculpra), ~~or any other product that is offered to,~~ or purchased
13 by, ~~consumers as beedies or bidis.~~

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

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

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

19 5. "DEPARTMENT" MEANS THE DEPARTMENT OF HEALTH SERVICES.

20 6. "ELECTRONIC SMOKING DEVICE":

21 (a) MEANS ANY DEVICE THAT MAY BE USED TO DELIVER ANY AEROSOLIZED OR
22 VAPORIZED SUBSTANCE TO THE PERSON WHO INHALES FROM THE DEVICE, INCLUDING
23 AN E-CIGARETTE, E-CIGAR, E-PIPE, VAPE PEN OR E-HOOKAH.

24 (b) INCLUDES:

25 (i) ANY COMPONENT, PART OR ACCESSORY OF THE DEVICE.

26 (ii) ANY SUBSTANCE THAT IS INTENDED TO BE AEROSOLIZED OR VAPORIZED
27 DURING THE USE OF THE DEVICE, WHETHER OR NOT THE SUBSTANCE CONTAINS
28 NICOTINE.

29 (c) DOES NOT INCLUDE DRUGS, DEVICES OR COMBINATION PRODUCTS
30 AUTHORIZED FOR SALE BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION, AS
31 THOSE TERMS ARE DEFINED IN THE FEDERAL FOOD, DRUG, AND COSMETIC ACT OR THE
32 REGULATIONS ADOPTED PURSUANT TO THAT ACT.

33 ~~6.~~ 7. "Retail tobacco vendor":

34 (a) Means a person, ~~who possesses tobacco or tobacco products for~~
35 ~~the purpose of selling them for consumption and not for resale~~
36 PARTNERSHIP, JOINT VENTURE, SOCIETY, CLUB, TRUSTEE, TRUE ASSOCIATION,
37 ORGANIZATION OR CORPORATION THAT OWNS, OPERATES OR MANAGES ANY TOBACCO
38 RETAIL ESTABLISHMENT.

39 (b) DOES NOT INCLUDE THE NONMANAGEMENT EMPLOYEES OF ANY TOBACCO
40 RETAIL ESTABLISHMENT.

41 8. "SELF-SERVICE DISPLAY":

42 (a) MEANS ANY DISPLAY FROM WHICH CUSTOMERS MAY SELECT A TOBACCO
43 PRODUCT WITHOUT ASSISTANCE FROM THE RETAIL TOBACCO VENDOR OR THE RETAIL
44 TOBACCO VENDOR'S REPRESENTATIVE, AGENT OR EMPLOYEE AND WITHOUT A DIRECT

1 PERSON-TO-PERSON TRANSFER BETWEEN THE PURCHASER AND THE RETAIL TOBACCO
2 VENDOR OR RETAIL TOBACCO VENDOR'S REPRESENTATIVE, AGENT OR EMPLOYEE.

3 (b) INCLUDES A VENDING MACHINE.

4 ~~7.~~ 9. "Smokeless tobacco" includes shredded tobacco, snuff,
5 cavendish and plug, twist and other tobacco products that are intended for
6 oral use but not for smoking.

7 ~~8.~~ 10. "Smoking tobacco" includes any tobacco or tobacco product,
8 other than cigarettes and cigars, that is intended to be smoked.

9 ~~9.~~ 11. "Tobacco ~~products~~ PRODUCT": ~~includes cigarettes, cigarette~~
10 ~~papers, cigars, smokeless tobacco and smoking tobacco.~~

11 (a) MEANS ANY OF THE FOLLOWING:

12 (i) A PRODUCT CONTAINING, MADE OF OR DERIVED FROM TOBACCO OR
13 NICOTINE THAT IS INTENDED FOR HUMAN CONSUMPTION OR IS LIKELY TO BE
14 CONSUMED, WHETHER INHALED, ABSORBED OR INGESTED BY ANY OTHER MEANS,
15 INCLUDING A CIGARETTE, A CIGAR, PIPE TOBACCO, SHISHA, BEEDIES, BIDIS,
16 CHEWING TOBACCO, SNUFF OR SNU.

17 (ii) AN ELECTRONIC SMOKING DEVICE AND ANY SUBSTANCE THAT MAY BE
18 AEROSOLIZED OR VAPORIZED BY THE DEVICE, WHETHER OR NOT THE SUBSTANCE
19 CONTAINS NICOTINE.

20 (iii) A COMPONENT, PART OR ACCESSORY OF ANY PRODUCT, ELECTRONIC
21 SMOKING DEVICE OR SUBSTANCE THAT IS LISTED IN ITEM (i) OR (ii) OF THIS
22 SUBDIVISION, WHETHER OR NOT ANY OF THESE CONTAIN TOBACCO OR NICOTINE,
23 INCLUDING FILTERS, ROLLING PAPERS, BLUNT OR HEMP WRAPS AND PIPES.

24 (b) DOES NOT INCLUDE DRUGS, DEVICES OR COMBINATION PRODUCTS
25 AUTHORIZED FOR SALE BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION, AS
26 THOSE TERMS ARE DEFINED IN THE FEDERAL FOOD, DRUG, AND COSMETIC ACT OR THE
27 REGULATIONS ADOPTED PURSUANT TO THAT ACT.

28 12. "TOBACCO RETAIL ESTABLISHMENT" MEANS ANY ESTABLISHMENT AT WHICH
29 A TOBACCO PRODUCT IS SOLD, OFFERED FOR SALE, EXCHANGED FOR ANY FORM OF
30 CONSIDERATION OR OFFERED FOR EXCHANGE FOR ANY FORM OF CONSIDERATION.

31 ~~10.~~ 13. "Vending machine" means any mechanical, electrical or
32 electronic device that, on insertion of money, tokens or any other form of
33 payment, automatically dispenses tobacco products.

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

36 36-798.01. Retail tobacco vendors; selling, furnishing,
37 giving or providing tobacco products; persons
38 under the federal minimum age; prohibitions;
39 penalties; compliance checks

40 A. It is unlawful for a retail tobacco vendor OR A RETAIL TOBACCO
41 VENDOR'S REPRESENTATIVE, AGENT OR EMPLOYEE to sell, furnish, give or
42 provide ~~beedies or bidis to a minor~~ A TOBACCO PRODUCT TO A PERSON WHO IS
43 UNDER THE MINIMUM AGE OF SALE FOR TOBACCO PRODUCTS AS SET BY THE FEDERAL
44 FOOD, DRUG, AND COSMETIC ACT in this state.

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

3 B. BEFORE DISTRIBUTING ANY TOBACCO PRODUCT, THE RETAIL TOBACCO
4 VENDOR OR THE RETAIL TOBACCO VENDOR'S REPRESENTATIVE, AGENT OR EMPLOYEE
5 SHALL VERIFY THAT THE PURCHASER IS AT LEAST THE MINIMUM AGE OF SALE FOR
6 TOBACCO PRODUCTS AS SET BY THE FEDERAL FOOD, DRUG, AND COSMETIC ACT. EACH
7 RETAIL TOBACCO VENDOR OR RETAIL TOBACCO VENDOR'S REPRESENTATIVE, AGENT OR
8 EMPLOYEE SHALL EXAMINE THE PURCHASER'S GOVERNMENT-ISSUED PHOTOGRAPHIC
9 IDENTIFICATION. THIS VERIFICATION IS NOT REQUIRED FOR A PERSON WHO IS
10 THIRTY YEARS OF AGE OR OLDER. THE FACT THAT A PURCHASER APPEARED TO BE
11 THIRTY YEARS OF AGE OR OLDER DOES NOT CONSTITUTE A DEFENSE TO A VIOLATION
12 OF THIS SUBSECTION.

13 C. IF A RETAIL TOBACCO VENDOR OR THE RETAIL TOBACCO VENDOR'S
14 REPRESENTATIVE, AGENT OR EMPLOYEE VIOLATES THIS SECTION OR SECTION 13-3622
15 OR 36-798.02, THE RETAIL TOBACCO VENDOR IS SUBJECT TO THE FOLLOWING
16 PENALTIES:

17 1. FOR A FIRST VIOLATION, THE RETAIL TOBACCO VENDOR OR THE RETAIL
18 TOBACCO VENDOR'S REPRESENTATIVE, AGENT OR EMPLOYEE WHO IS CITED FOR THE
19 VIOLATION SHALL ATTEND A TOBACCO-RELATED EDUCATION CLASS THAT IS APPROVED
20 BY THE DEPARTMENT, IF AVAILABLE. IF AN EDUCATION CLASS IS NOT AVAILABLE,
21 THE RETAIL TOBACCO VENDOR IS SUBJECT TO A CIVIL PENALTY OF AT LEAST \$500
22 BUT NOT MORE THAN \$750.

23 2. FOR A SECOND VIOLATION WITHIN A THIRTY-SIX-MONTH PERIOD, A CIVIL
24 PENALTY OF AT LEAST \$750 BUT NOT MORE THAN \$1,000, AND THE RETAIL TOBACCO
25 VENDOR IS PROHIBITED FROM DISTRIBUTING TOBACCO PRODUCTS FOR AT LEAST SEVEN
26 DAYS.

27 3. FOR A THIRD VIOLATION WITHIN A THIRTY-SIX-MONTH PERIOD, A CIVIL
28 PENALTY OF AT LEAST \$1,000 BUT NOT MORE THAN \$1,500, AND THE RETAIL
29 TOBACCO VENDOR IS PROHIBITED FROM DISTRIBUTING TOBACCO PRODUCTS FOR AT
30 LEAST THIRTY DAYS.

31 4. FOR A FOURTH OR ANY SUBSEQUENT VIOLATION WITHIN A
32 THIRTY-SIX-MONTH PERIOD, A CIVIL PENALTY OF AT LEAST \$1,000 BUT NOT MORE
33 THAN \$3,000, AND THE RETAIL TOBACCO VENDOR IS PROHIBITED FROM DISTRIBUTING
34 TOBACCO PRODUCTS FOR A PERIOD OF THREE YEARS.

35 D. IN ADDITION TO THE PENALTIES IMPOSED ON THE RETAIL TOBACCO
36 VENDOR FOR A VIOLATION OF THIS SECTION OR SECTION 13-3622 OR 36-798.02,
37 ANY PERSON FOUND TO HAVE VIOLATED THIS SECTION OR SECTION 13-3622 OR
38 36-798.02 WHILE ACTING AS A NONMANAGEMENT AGENT OR EMPLOYEE OF A RETAIL
39 TOBACCO VENDOR IS SUBJECT TO NONCRIMINAL, NONMONETARY PENALTIES, INCLUDING
40 EDUCATION CLASSES OR COMMUNITY SERVICE.

41 E. THE RETAIL TOBACCO VENDOR IS SUBJECT TO AT LEAST TWO UNANNOUNCED
42 COMPLIANCE CHECKS ANNUALLY. THE DEPARTMENT OR ITS AUTHORIZED DESIGNEE
43 SHALL CONDUCT COMPLIANCE CHECKS BY ENGAGING PERSONS WHO ARE AT LEAST
44 EIGHTEEN YEARS OF AGE AND UNDER THE MINIMUM AGE OF SALE FOR TOBACCO
45 PRODUCTS AS SET BY THE FEDERAL FOOD, DRUG, AND COSMETIC ACT TO ENTER THE

1 TOBACCO RETAIL ESTABLISHMENT TO ATTEMPT TO PURCHASE TOBACCO
2 PRODUCTS. UNANNOUNCED FOLLOW-UP COMPLIANCE CHECKS OF ALL NONCOMPLIANT
3 RETAIL TOBACCO VENDORS ARE REQUIRED WITHIN THREE MONTHS AFTER ANY
4 VIOLATION OF THIS ARTICLE. THE DEPARTMENT SHALL PUBLISH AND POST ONLINE
5 THE RESULTS OF ALL COMPLIANCE CHECKS AT LEAST ANNUALLY.

6 F. IN ADDITION TO ANY OTHER PENALTY, A RETAIL TOBACCO VENDOR THAT
7 VIOLATES ANY PROVISION OF THIS ARTICLE, THE RULES ADOPTED PURSUANT TO THIS
8 ARTICLE OR ANY FEDERAL LAW, STATE LAW OR LOCAL ORDINANCE RELATING TO
9 TOBACCO PRODUCT SALES OR MARKETING IS SUBJECT TO THE PENALTIES PRESCRIBED
10 IN THIS SECTION, INCLUDING CIVIL PENALTIES AND THE PROHIBITION FROM
11 DISTRIBUTING TOBACCO PRODUCTS AS PRESCRIBED IN SUBSECTION C OF THIS
12 SECTION.

13 G. THE DEPARTMENT SHALL DEPOSIT ALL CIVIL PENALTIES COLLECTED
14 PURSUANT TO THIS SECTION IN THE STATE GENERAL FUND.

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

17 36-798.02. Self-service display sales of tobacco products;
18 penalties

19 A. A person ~~shall~~ MAY not sell tobacco products through a ~~vending~~
20 ~~machine~~ SELF-SERVICE DISPLAY unless the ~~vending machine~~ SELF-SERVICE
21 DISPLAY is located in either:

22 1. A bar THAT DOES NOT ALLOW PERSONS TO ENTER WHO ARE UNDER THE
23 MINIMUM AGE OF SALE FOR TOBACCO PRODUCTS AS SET BY THE FEDERAL FOOD, DRUG,
24 AND COSMETIC ACT.

25 2. An employee lounge area that is not open to the public and the
26 business in which the lounge area is located does not employ ~~minors~~
27 PERSONS WHO ARE UNDER THE MINIMUM AGE OF SALE FOR TOBACCO PRODUCTS AS SET
28 BY THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

29 ~~B. A sign measuring at least eighty square inches shall be~~
30 ~~obviously affixed to the front of each vending machine. The sign shall~~
31 ~~state in block letters, it is illegal for a minor to purchase cigarettes~~
32 ~~or tobacco products and, upon conviction, a fine of up to three hundred~~
33 ~~dollars may be imposed.~~

34 ~~C. B.~~ B. This article does not invalidate an ordinance of or prohibit
35 the adoption of an ordinance by a county, city or town to further restrict
36 SELF-SERVICE DISPLAYS OR the location of ~~vending machines or specify~~
37 ~~different wording for the vending machines signs as required by subsection~~
38 ~~B of this section~~ SELF-SERVICE DISPLAYS.

39 ~~D. C.~~ C. A person who violates this section is ~~guilty of a petty~~
40 ~~offense~~ SUBJECT TO THE PENALTIES PRESCRIBED IN SECTION 36-798.01.

1 G. ANY BUSINESS FOUND TO BE SELLING TOBACCO PRODUCTS WITHOUT A
2 TOBACCO RETAIL SALES LICENSE IS SUBJECT TO A CIVIL PENALTY OF AT LEAST
3 \$500 BUT NOT MORE THAN \$1,000 FOR A FIRST OR SECOND VIOLATION WITHIN A
4 THIRTY-SIX-MONTH PERIOD. THE DEPARTMENT SHALL ISSUE A CEASE AND DESIST
5 ORDER TO A BUSINESS THAT RECEIVES A SECOND VIOLATION WITHIN A
6 THIRTY-SIX-MONTH PERIOD PROHIBITING THE BUSINESS FROM SELLING TOBACCO
7 PRODUCTS AND NOTIFYING THE BUSINESS OWNER THAT THE BUSINESS IS INELIGIBLE
8 TO RECEIVE A TOBACCO RETAIL SALES LICENSE FOR A PERIOD OF THREE YEARS
9 AFTER THE DATE OF THE SECOND VIOLATION.

10 36-798.08. Rulemaking; delegation of authority;
11 collaboration; reporting requirements

12 A. THE DEPARTMENT SHALL ADOPT RULES TO ESTABLISH A STATEWIDE
13 TOBACCO RETAIL SALES LICENSE AND TO CARRY OUT THIS ARTICLE.

14 B. THE DEPARTMENT MAY DELEGATE THE ENFORCEMENT AND COMPLIANCE
15 INSPECTIONS REQUIRED UNDER THIS ARTICLE TO ANY COUNTY THAT ACCEPTS THIS
16 DELEGATION.

17 C. THE DEPARTMENT MAY COLLABORATE WITH AND USE THE FINDINGS OF
18 OTHER AGENCIES, INCLUDING THE ATTORNEY GENERAL'S OFFICE, LOCAL LICENSING
19 AUTHORITIES AND LAW ENFORCEMENT, TO CARRY OUT THE OBLIGATIONS OF THIS
20 ARTICLE AND TO ENSURE THAT THE COMPLAINTS RECEIVED BY OTHER AGENCIES OR
21 LOCAL LICENSING AUTHORITIES ARE FORWARDED TO THE DEPARTMENT FOR TIMELY
22 INVESTIGATION AND ACTION.

23 D. A LOCAL LICENSING AUTHORITY OR ANY LAW ENFORCEMENT OR OTHER
24 LOCAL ENTITY CONDUCTING COMPLIANCE CHECKS TO ASSESS RETAIL TOBACCO VENDOR
25 COMPLIANCE WITH THE MINIMUM LEGAL AGE OF SALE FOR TOBACCO PRODUCTS SHALL
26 REPORT THE COMPLIANCE CHECK RESULTS TO THE DEPARTMENT. ANY VIOLATION
27 SHALL BE COUNTED AS A VIOLATION OF THE RETAIL TOBACCO VENDOR'S TOBACCO
28 RETAIL SALES LICENSE.

29 36-798.09. Tobacco retail sales licensing fund

30 THE TOBACCO RETAIL SALES LICENSING FUND IS ESTABLISHED CONSISTING OF
31 LICENSING FEES COLLECTED PURSUANT TO THIS ARTICLE. THE DEPARTMENT SHALL
32 ADMINISTER THE FUND. THE DEPARTMENT SHALL DEPOSIT, PURSUANT TO SECTIONS
33 35-146 AND 35-147, NINETY PERCENT OF ALL LICENSING FEES COLLECTED UNDER
34 THIS ARTICLE IN THE TOBACCO RETAIL SALES LICENSING FUND AND THE REMAINING
35 TEN PERCENT IN THE STATE GENERAL FUND. MONIES IN THE FUND ARE SUBJECT TO
36 LEGISLATIVE APPROPRIATION AND SHALL BE USED TO ADMINISTER AND ENFORCE THIS
37 ARTICLE.

38 Sec. 6. Rulemaking exemption

39 Notwithstanding any other law, for the purposes of this act, the
40 department of health services is exempt from the rulemaking requirements
41 of title 41, chapters 6 and 6.1, Arizona Revised Statutes, for twenty-four
42 months after the effective date of this act.