

PROPOSED  
SENATE AMENDMENTS TO S.B. 1190  
(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 9-467, Arizona Revised Statutes, is amended to  
3 read:

4 9-467. Building permits; issuance; distribution of copies;  
5 state preemption; utilities; subsequent owner;  
6 limitation; definitions

7 A. Any municipality requiring the issuance of a building permit  
8 shall transmit ~~one~~ A copy of the permit to the county assessor ~~and one~~  
9 ~~copy to the director of the department of revenue~~. THE permit ~~copies~~ COPY  
10 shall provide the permit number, issue date and parcel number. On the  
11 issuance of the certificate of occupancy or the certificate of completion  
12 or on the expiration or cancellation of the permit, the assessor ~~and the~~  
13 ~~department of revenue~~ shall be notified in writing or in electronic format  
14 of the permit number, parcel number, issue date and completion date.

15 B. The regulation of a utility provider's authority to operate and  
16 serve customers is a matter of statewide concern. The regulation of  
17 building permits as it relates to a building permit applicant's ability to  
18 use a utility provider that is capable and authorized to provide utility  
19 service is allowed solely in accordance with subsections C and D of this  
20 section. A building permit applicant's ability to use a utility provider  
21 that is capable and authorized to provide utility service is not subject to  
22 further regulation by a municipality.

23 C. A municipality requiring the issuance of a building permit may  
24 not deny a permit application based on the utility provider proposed to  
25 provide utility service to the project.

1           D. A municipality issuing a building permit shall ensure that all  
2 applicable permits and associated fees assessed on a building permit  
3 applicant contain requirements and amounts that do not exceed the  
4 requirements and amounts for use of other utility providers and do not have  
5 the effect of restricting ~~a~~ THE permit applicant's ability to use the  
6 services of a utility provider that is capable and authorized to provide  
7 utility service.

8           E. A municipality may not require an applicant for a building  
9 permit to hold a transaction privilege tax license or business license as a  
10 condition for issuing the building permit. A ~~city or town~~ MUNICIPALITY  
11 may require a person that has been issued a building permit and that does  
12 not otherwise hold a business license from the municipality to apply for a  
13 business license within thirty days after issuing the building permit.

14           F. If a person has constructed a building or an addition to a  
15 building without obtaining a building permit, a municipality shall not  
16 require a subsequent owner to obtain a permit for the construction or  
17 addition done by the prior owner before issuing a permit for a building  
18 addition except that this section does not prohibit A MUNICIPALITY FROM  
19 enforcing an applicable ordinance or code provision that affects the public  
20 health or safety.

21           G. This section does not prohibit a municipality from recovering  
22 reasonable costs associated with reviewing and issuing a building permit.

23           H. This section does not affect any authority of a municipality to  
24 manage or operate a municipally owned utility.

25           I. For the purposes of this section:

26           1. "Municipality" means a city or town organized in accordance with  
27 law, including a home rule or charter city.

28           2. "Utility service" means water, wastewater, natural gas, including  
29 propane gas, or electric service provided to an end user.

1           Sec. 2.    Section 11-321, Arizona Revised Statutes, is amended to  
2 read:

3           11-321. Building permits; issuance; state preemption;  
4                     utilities; distribution of copies; subsequent owner;  
5                     limitation; definition

6           A.    Except in those cities and towns that have an ordinance relating  
7 to ~~the issuance of~~ ISSUING building permits, the board of supervisors  
8 shall require a building permit for any construction of a building or an  
9 addition to a building exceeding a cost of \$1,000 within its jurisdiction.  
10 The building permit shall be filed with the board of supervisors or its  
11 designated agent.

12           B.    The regulation of a utility provider's authority to operate and  
13 serve customers is a matter of statewide concern. The regulation of  
14 building permits as it relates to a building permit applicant's ability to  
15 use a utility provider that is capable and authorized to provide utility  
16 service is allowed solely in accordance with subsections C and D of this  
17 section. A building permit applicant's ability to use a utility provider  
18 that is capable and authorized to provide utility service is not subject to  
19 further regulation by a county.

20           C.    A county may not deny a permit application based on the utility  
21 provider proposed to provide utility service to the project.

22           D.    A county issuing a building permit shall ensure that all  
23 applicable permits and associated fees assessed on a building permit  
24 applicant contain requirements and amounts that do not exceed the  
25 requirements and amounts for use of other utility providers and do not have  
26 the effect of restricting ~~a~~ THE permit applicant's ability to use the  
27 services of a utility provider that is capable and authorized to provide  
28 utility service.

29           E.    The board of supervisors may not require an applicant for a  
30 building permit to hold a transaction privilege tax license or business  
31 license as a condition for issuing the building permit.

1 F. Where deemed of public convenience, the board of supervisors  
2 shall allow the application for and the issuance of building permits by  
3 mail.

4 G. ~~One~~ A copy of the building permit required by the terms of  
5 subsection A of this section shall be transmitted to the county assessor  
6 ~~and one copy shall be transmitted to the director of the department of~~  
7 ~~revenue~~. The permit copy provided to the assessor ~~and the department of~~  
8 ~~revenue~~ shall have the permit number, the issue date and the parcel number  
9 for which the permit is issued. On the issuance of the certificate of  
10 occupancy or the certificate of completion or on the expiration or  
11 cancellation of the permit, the assessor ~~and the department of~~  
12 ~~revenue~~ shall be notified in writing or in electronic format of the permit  
13 number, parcel number, issue date and completion date.

14 H. If a person has constructed a building or an addition to a  
15 building without obtaining a building permit, a county shall not require a  
16 subsequent owner to obtain a permit for the construction or addition done  
17 by the prior owner before issuing a permit for a building addition except  
18 that this section does not prohibit A COUNTY FROM enforcing an applicable  
19 ordinance or code provision that affects the public health or safety.

20 I. This section does not prohibit a county from recovering  
21 reasonable costs associated with reviewing and issuing a building permit.

22 J. This section does not affect any authority of a county to manage  
23 or operate a county-owned utility.

24 K. For the purposes of this section, "utility service" means water,  
25 wastewater, natural gas, including propane gas, or electric service  
26 provided to an end user.

27 Sec. 3. Section 42-1108, Arizona Revised Statutes, is amended to  
28 read:

29 42-1108. Audit; deficiency assessments; nonaudit adjustments;  
30 electronic filing

31 A. If a taxpayer fails to file a return required by this title or  
32 title 43, or if the department is not satisfied with the return or payment

1 of the amount of tax required to be paid under either title, the department  
2 may ~~examine~~ AUDIT any return, including any books, papers, records or  
3 memoranda relating to the return, to determine the correct amount of  
4 tax. This ~~examination~~ AUDIT must occur within the time periods prescribed  
5 by section 42-1104 and may be accomplished through a detailed review of  
6 transactions or records or by a statistically valid sampling method.

7 B. The department shall give the taxpayer notice of its  
8 determination of a deficiency by mail or as prescribed by subsection C of  
9 this section, and the deficiency, plus penalties and interest, is final  
10 forty-five days after the date of receipt of the notice to the taxpayer  
11 unless an appeal is taken to the department. For individual income tax, the  
12 period is ninety days after the date of mailing. In the case of a joint  
13 income tax return, the notice may be a single joint notice mailed to the  
14 last known address, but if either spouse notifies the department that  
15 separate residences have been established, the department shall mail  
16 duplicate originals of the joint notice to each spouse.

17 C. The department may issue notice of its determination of a  
18 deficiency under subsection B of this section by using an electronic portal  
19 in lieu of mail, if all of the requirements of this subsection are met,  
20 after December 31, 2018 or when the department establishes the electronic  
21 portal, whichever is later. The use of the electronic portal in lieu of  
22 mail is subject to the following requirements and conditions:

23 1. The taxpayer agrees in writing to allow the department to use  
24 the electronic portal to issue notice of the department's determination of  
25 deficiency for specified tax periods. The agreement shall include an email  
26 address that the department may use to notify the taxpayer as required by  
27 paragraph 2 of this subsection. A taxpayer that provides an email address  
28 is certifying that the taxpayer regularly monitors that email address. If  
29 the taxpayer's email address changes, the taxpayer shall notify the  
30 department of a new email address.

1           2. The department shall notify the taxpayer, using the taxpayer's  
2 ~~e-mail~~ EMAIL address, on the same day the notice of its determination of a  
3 deficiency is posted to the electronic portal.

4           3. The date of receipt for a notice provided by electronic portal  
5 is the later of the date the notice is posted to the electronic portal or  
6 the date the notification is received by the taxpayer. A notification sent  
7 by ~~e-mail~~ EMAIL is considered to be received by the taxpayer on the day it  
8 is sent by the department.

9           D. If a deficiency is determined and the assessment becomes final,  
10 the department shall mail notice and demand to the taxpayer for the payment  
11 of the deficiency. Notwithstanding section 42-1125, subsection E, the  
12 deficiency assessed is due and payable at the expiration of ten days after  
13 the date of the notice and demand.

14           E. A certificate by the department of the mailing or ~~e-~~  
15 ~~mailing~~ EMAILING of the notices specified in this section is prima facie  
16 evidence of the assessment of the deficiency and the giving of the notices.

17           F. Any amount of tax in excess of that disclosed by the return due  
18 to a nonaudit adjustment, as listed in subsection G or H of this section,  
19 notice of which has been mailed to the taxpayer, is not a deficiency  
20 assessment within the meaning of this section. The taxpayer may not protest  
21 or appeal as in the case of a deficiency assessment, based on such a  
22 notice, and the assessment or collection of the amount of tax erroneously  
23 omitted in the return is not prohibited by this article.

24           G. An adjustment due to any of the following is considered a  
25 nonaudit adjustment:

26           1. An addition, subtraction, multiplication, division or other  
27 mathematical error shown on any return.

28           2. The failure of the taxpayer to properly compute the tax  
29 liability based on the taxable income reported on the return.

30           3. An incorrect usage or selection of information for a filed  
31 return from tax tables, schedules or similar documents provided by the

1 department if the incorrect usage is apparent from the existence of other  
2 information on the return.

3 4. An entry on a return that is inconsistent with an entry on a  
4 schedule, form, statement, list or other document filed with the return.

5 5. An omission of information required on the return to  
6 substantiate an entry.

7 6. An entry on a return of a deduction or credit in an amount that  
8 exceeds a statutory limit if the limit is a monetary figure, a percentage,  
9 a ratio or a fraction and the items entered into the application of this  
10 limit appear on the return, including claiming a deduction or credit that  
11 is not authorized by statute for the taxable period.

12 7. Missing or incorrect taxpayer identification numbers for the  
13 purposes of claiming exemptions or credits.

14 8. An entry of a credit or deduction that requires a preapproval if  
15 the credit or deduction has not been preapproved or if the entry is for  
16 more than the preapproved amount.

17 9. An entry of a credit or deduction amount carried forward from a  
18 prior year that is outside of the statutory period allowed for the  
19 carryforward or is for an amount that is inconsistent with the taxpayer's  
20 prior year returns.

21 H. If a taxpayer that files its return electronically is allowed to  
22 input the information from a document into the electronic filing program  
23 instead of providing the actual document with the return, the department  
24 may request a copy of the document from the taxpayer at any time. If the  
25 taxpayer provides the document, the department may adjust the return to  
26 reflect the amounts on the document. If the taxpayer does not provide the  
27 requested document within the period provided by the department, the  
28 department may deny any deduction, credit or withholding that the document  
29 is intended to substantiate. An adjustment made pursuant to this subsection  
30 is considered a nonaudit adjustment under subsection G, paragraph 4 of this  
31 section, even though the actual document is not included with the  
32 electronically filed return if the department requests the document within

1 sixty days after the due date of the return or the date on which the return  
2 was filed, whichever is later.

3 I. FOR THE PURPOSES OF THIS SECTION, "AUDIT" MEANS A REVIEW OR  
4 EXAMINATION OF A TAXPAYER'S ACCOUNTS, FINANCIAL INFORMATION, BOOKS AND  
5 RECORDS AND ANY OTHE DOCUMENT TO ENSURE INFORMATION IS REPORTED CORRECTLY  
6 ON A RETURN IN ACCORDANCE WITH THIS CHAPTER AND TO VERIFY THE REPORTED  
7 AMOUNT OF TAX IS CORRECT.

8 Sec. 4. Section 42-3401, Arizona Revised Statutes, is amended to  
9 read:

10 42-3401. Tobacco distributor licenses; application; conditions;  
11 revocations and cancellations

12 A. Every person acquiring or possessing for the purpose of making  
13 the initial sale or distribution in this state of any tobacco products on  
14 which a tax is imposed by this chapter shall obtain from the department a  
15 license to sell tobacco products. The application for the license shall be  
16 in the form provided by the department and shall be accompanied by a fee of  
17 \$25 for each place of business listed in the application. The form shall  
18 state that the identity of the applicant will be posted to the department's  
19 website for public inspection. The application for a license shall include  
20 the applicant's name and address, the applicant's principal place of  
21 business, all other places of business where the applicant's business is  
22 conducted for the purpose of making the initial sale or distribution of  
23 tobacco products in this state, including any location that maintains an  
24 inventory of tobacco products, and any other information required by the  
25 department. The applicant's principal place of business and other business  
26 locations may not include a residential location or post office box  
27 address, except as allowed under subsection D, paragraph 2, subdivision (c)  
28 of this section. If the applicant is a firm, partnership, limited liability  
29 company, limited liability partnership or association, the applicant shall  
30 list the name and address of each of the applicant's members. If the  
31 applicant is a corporation, the application shall list the name and address  
32 of the applicant's officers and any person who directly or indirectly owns

1 an aggregate amount of ten percent or more of the ownership interest in the  
2 corporation. If a licensee is a corporation, firm, partnership, limited  
3 liability company, limited liability partnership or association, the  
4 licensee under this subsection shall notify the department in writing  
5 within thirty days after any change in membership, legal entity status or  
6 ownership of more than fifty percent of the total ownership interest in a  
7 single transaction. If a licensee changes its business location, the  
8 licensee under this subsection shall notify the department within thirty  
9 days after a change in location. If the licensee is making a change in its  
10 business location by adding or replacing one or more additional places of  
11 business that are not currently listed on its application, the licensee  
12 must remit a fee of \$25 for each additional place of business.

13 B. For the purposes of subsection A of this section, an applicant  
14 with a controlling interest in more than one business engaged in activities  
15 as a distributor shall apply for a single license encompassing all such  
16 businesses and list each place of business in its application. For the  
17 purposes of this subsection, "controlling interest" means direct or  
18 indirect ownership of at least eighty percent of the voting shares of a  
19 corporation or of the interests in a company, business or person other than  
20 a corporation.

21 C. The department shall issue a license authorizing the applicant  
22 to acquire or possess tobacco products in this state on the condition that  
23 the applicant complies with this chapter and the rules of the  
24 department. The license:

25 1. Shall be nontransferable. A licensee may not transfer its  
26 license to a new owner when selling its business, and any court-appointed  
27 trustee, receiver or other person shall obtain a license in its own name in  
28 cases of liquidation, insolvency or bankruptcy or pursuant to a court order  
29 if the business remains in operation as a distributor of tobacco products.  
30 In cases of liquidation, insolvency or bankruptcy or pursuant to a court  
31 order, the department will not consider a business as remaining in  
32 operation under this paragraph if the court-appointed trustee, receiver or

1 other person winds up the business within sixty days after the order is  
2 issued. A licensee shall apply for a new license if it changes its legal  
3 entity status or otherwise changes the legal structure of its business.

4 2 . Shall be valid for one year unless earlier canceled or revoked  
5 by the department.

6 3. Shall be displayed in a conspicuous place at the licensee's  
7 place of business. If the licensee operates from more than one place of  
8 business, the licensee must display a copy of its license in a conspicuous  
9 place at each location.

10 D. As a condition of licensure under this section, an applicant  
11 agrees to the following conditions:

12 1. A person may not hold or store any tobacco products, whether  
13 within or outside of this state, for sale or distribution in this state by  
14 or on behalf of a distributor at any place other than a location that has  
15 been disclosed to the department pursuant to subsection A of this  
16 section. This paragraph does not include a person holding or storing  
17 tobacco products by or on behalf of the distributor when the tobacco  
18 products are in transit to a distributor or retailer as part of a lawful  
19 sale.

20 2. All tobacco products held or stored, whether within or outside  
21 of this state, for sale or distribution in this state by or on behalf of a  
22 distributor:

23 (a) Shall be accessible to the department during normal business  
24 hours without a judicial warrant or prior written consent of the  
25 distributor.

26 (b) May not be held or stored in a vehicle, except as allowed under  
27 section 42-3403, subsection B.

28 (c) May not be held or stored at a residential location, unless the  
29 sole luxury for sale or distribution by or on behalf of the distributor is  
30 taxed as a cigar under section 42-3052, paragraph 8 or 9 and the product  
31 weight of the cigars is not more than five hundred pounds. If the product  
32 is held or stored at a residential location, as a condition of licensure,

1 the distributor shall provide written consent and allow access to the  
2 department to inspect the stock of luxuries and all books, papers,  
3 invoices, records and electronically stored data showing sales, receipts  
4 and purchases of luxuries. The distributor shall submit the written consent  
5 to the department with the license application or on demand of the  
6 department.

7 3. Tobacco products may be sold, transferred or distributed to a  
8 retailer located on an Indian reservation in this state only if the  
9 retailer is registered with, and has a registration identification number  
10 issued by, the department.

11 E. A person who is convicted of an offense described in section 42-  
12 1127, subsection E is permanently ineligible to hold a license issued under  
13 this section.

14 F. The department may not issue or renew a license to an applicant  
15 and may revoke a license issued under subsection C of this section if any  
16 of the following applies:

17 1. The applicant or licensee owes \$1,000 or more in delinquent  
18 taxes imposed on tobacco products under this chapter that are not under  
19 protest or subject to a payment agreement.

20 2. The department has revoked any license held by the applicant or  
21 licensee within the previous two years.

22 3. The applicant or licensee has been convicted of a crime that  
23 relates to stolen or counterfeit cigarettes.

24 4. The applicant or licensee has imported cigarettes into the  
25 United States for sale or distribution in violation of 19 United States  
26 Code section 1681a.

27 5. The applicant or licensee has imported cigarettes into the  
28 United States for sale or distribution without fully complying with the  
29 federal cigarette labeling and advertising act (P.L. 89-92; 79 Stat. 282;  
30 15 United States Code section 1331).

31 6. The applicant or licensee is in violation of section 13-3711 or  
32 section 36-798.06, subsection A.

1           7. Pursuant to section 44-7111, section 6(a), the applicant or  
2 licensee is in violation of section 44-7111, section 3(c).

3           8. The civil rights of the applicant or licensee have been  
4 suspended under section 13-904. An applicant or licensee whose civil rights  
5 have been suspended is ineligible to hold a license for a period of five  
6 years following the restoration of the applicant's or licensee's civil  
7 rights.

8           G. In addition to any other civil or criminal penalty and except as  
9 otherwise provided in this section, the department may deny the issuance or  
10 renewal of or revoke a license issued under subsection C of this section if  
11 the person ~~violates any requirement under this title~~ **COMMITS A VIOLATION**  
12 more than two times within a three-year period or fails to otherwise  
13 maintain the conditions of licensure in this section. **FOR THE PURPOSES OF**  
14 **THIS SUBSECTION, "VIOLATION" MEANS ANY OF THE FOLLOWING:**

15           1. **FAILURE TO SUBMIT A TIMELY REQUIRED RETURN UNDER SECTION 42-**  
16 **3501.**

17           2. **FAILURE TO SUBMIT A TIMELY PAYMENT WITH A RETURN REQUIRED UNDER**  
18 **SECTION 42-3501.**

19           3. **FAILURE TO AMEND ANY ERROR ON A REQUIRED RETURN WITHIN THIRTY**  
20 **DAYS AFTER RECEIVING WRITTEN NOTICE FROM THE DEPARTMENT.**

21           H. The department shall publish on its website the names of each  
22 person who is issued a license under subsection C of this section,  
23 including any trade names or business names used by the licensee. The  
24 department shall update the published names at least once each month.

25           I. A person may not apply for or hold a distributor's license if  
26 that person does not engage in the activities described in subsection A of  
27 this section. In addition to any other applicable penalty, the department  
28 may cancel the license of any licensee that fails to incur any tax  
29 liability under this chapter for twelve consecutive months.

30           J. Any revocation, cancellation or denial of a license issued under  
31 this section by the department must comply with section 41-1092.11,  
32 subsection B.

1           K. Notwithstanding any other law, for the purposes of subsection F,  
2 paragraphs 1 and 2 of this section, section 42-1127, subsection C and  
3 section 42-3461, subsection B, if a distributor has listed in its  
4 application more than one place of business, any revocation, cancellation,  
5 denial or nonrenewal of the distributor's license shall apply only with  
6 effect to remove the place of business or business location at which the  
7 activity occurred from the distributor's license. If such a removal  
8 occurs, the distributor shall be subject to restrictions that the  
9 department prescribes by rule.

10           Sec. 5. Section 42-15101, Arizona Revised Statutes, is amended to  
11 read:

12           42-15101. Annual notice of full cash value; amended notice of  
13 valuation

14           A. Except as provided by section 42-13254, on any date before March  
15 1 of each year the county assessor shall notify each owner of record, or  
16 purchaser under a deed of trust or an agreement of sale, of property that  
17 is valued by the assessor as to the property's full cash value and the  
18 limited property value, if applicable, to be used for assessment purposes.

19           B. The notice under this section shall be in writing and shall be  
20 mailed, delivered by common carrier, or on request of the taxpayer  
21 transmitted electronically to the person's last known mailing, delivery or  
22 electronic address. With respect to any property transferred by a  
23 beneficiary deed pursuant to section 33-405, until the county assessor is  
24 notified by the beneficiary in writing, accompanied by a certified copy of  
25 the last surviving owner's death certificate and the change of address,  
26 mailing of the notice to the last known address of the deceased owner is  
27 deemed a mailing to the beneficiary's last known mailing, delivery or  
28 electronic address as required by this section.

29           C. On the same date each year the assessor shall certify to the  
30 board of supervisors and the department the date on which all notices under  
31 this section were mailed.

1           D. The director may extend the final date for mailing notices  
2 beyond March 1 for a period of not more than thirty days for delays caused  
3 by an act of God, flood or fire OR A STATE OF EMERGENCY DECLARED PURSUANT  
4 TO SECTION 26-303. If the director extends the mailing date, the extension  
5 applies to all property valued by the assessor.

6           E. Within sixty days after the mailing of the notice of valuation  
7 pursuant to this section, if the assessor discovers that property  
8 characteristic data applicable to a grouping of properties delineated by  
9 neighborhood or classification resulted in an incorrect opinion of value,  
10 the assessor may amend the notice of valuation and, if amended, shall  
11 notify the property owner of the amended value pursuant to subsection B of  
12 this section. The assessor shall transmit any proposed amendments made  
13 under this subsection to the department as provided by section 42-11056,  
14 subsections B and C, in a format prescribed by the department. The  
15 assessor shall not mail the amended notices of valuation until the proposed  
16 amendments are transmitted to the department and the department approves  
17 the amended values. The assessor shall certify the amended notices of  
18 valuation pursuant to subsection C of this section.

19           F. After the mailing date of the notice, any person who owns,  
20 claims, possesses or controls property that is valued by the assessor may  
21 inquire of and be advised by the assessor as to the valuation of the  
22 property determined by the assessor, but the assessor shall not change the  
23 roll except as provided by chapter 16, article 2 of this title or as  
24 otherwise provided by law."

25 Amend title to conform

J.D. MESNARD

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