

PROPOSED
SENATE AMENDMENTS TO H.B. 2654
(Reference to House engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 42-3001, Arizona Revised Statutes, is amended to
3 read:

4 42-3001. Definitions

5 In this chapter, unless the context otherwise requires:

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

8 2. "Brand family" has the same meaning prescribed in section
9 44-7111.

10 3. "Cavendish" means a tobacco product that is smoked from a pipe
11 and that meets one of the following criteria:

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

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

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

19 4. "Cider" means vinous liquor that is made from the normal
20 alcoholic fermentation of the juice of sound, ripe apples, pears or other
21 pome fruit, including flavored, sparkling and carbonated cider and cider
22 made from condensed apple, pear or other pome fruit must, and that contains
23 more than one-half of one percent of alcohol by volume but not more than
24 seven percent of alcohol by volume.

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

28 6. "Cigarette" means either of the following:

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

31 (b) Any roll of tobacco wrapped in any substance containing tobacco
32 that, because of its appearance, the type of tobacco used in the filler or
33 its packaging and labeling, is likely to be offered to or purchased by a
34 consumer as a cigarette described in subdivision (a) of this paragraph.
35 This subdivision shall be interpreted consistently with the classification
36 guidelines established by the federal alcohol and tobacco tax and trade
37 bureau.

38 7. "Consumer" means a person in this state that comes into
39 possession of any luxury subject to the tax imposed by this chapter and
40 that, on coming into possession of the luxury, is not a distributor
41 intending to sell or distribute the luxury, a retailer or a wholesaler.

1 8. "Craft distiller" means a distiller in the United States or in a
2 territory or possession of the United States that holds a license pursuant
3 to section 4-205.10.

4 9. "Distributor" means any person that manufactures, produces,
5 ships, transports or imports into this state or in any manner acquires or
6 possesses for the purpose of making the first sale of the following:

7 (a) Cigarettes without Arizona tax stamps affixed as required by
8 this article.

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

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

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

15 12. "Luxury" means any article, object or device on which a tax is
16 imposed under this chapter.

17 13. "Malt liquor" means any liquid that contains more than one-half
18 of one percent alcohol by volume and that is made by the process of
19 fermentation and not distillation of hops or grains, but not including:

20 (a) Liquids made by the process of distillation of such substances.

21 (b) Medicines that are unsuitable for beverage purposes.

22 14. "Master settlement agreement" has the same meaning prescribed in
23 section 44-7101.

24 15. "Microbrewery" has the same meaning prescribed in section 4-101.

25 16. "Nonparticipating manufacturer" has the same meaning prescribed
26 in section 44-7111.

27 17. "Other tobacco products" means tobacco products other than
28 cigarettes and roll-your-own tobacco.

29 18. "Participating manufacturer" has the same meaning prescribed in
30 section 44-7111.

31 19. "Person" means any individual, firm, partnership, joint venture,
32 association, corporation, municipal corporation, estate, trust, club,
33 society or other group or combination acting as a unit, and the plural as
34 well as the singular number.

35 20. "Place of business":

36 (a) Means a building, facility site or location where an order is
37 received or where tobacco products are sold, distributed or transferred.

38 ~~Place of business~~

39 (b) Does not include a vehicle.

40 21. "READY-TO-DRINK SPIRITS PRODUCT" MEANS DISTILLED SPIRITS AS
41 DEFINED IN SECTION 4-101 THAT ARE MIXED WITH ANOTHER BEVERAGE THAT MAY
42 CONTAIN FLAVORING OR COLORING MATERIALS AND OTHER INGREDIENTS, THAT DO NOT
43 EXCEED TEN PERCENT ALCOHOL BY VOLUME, THAT ARE SEALED IN AN ORIGINAL
44 CONTAINER OF NOT MORE THAN SIXTEEN OUNCES AND THAT ARE SOLD IN THE
45 MANUFACTURER'S ORIGINAL PACKAGING.

46 ~~21.~~ 22. "Retailer" means any person that comes into possession of
47 any luxury subject to the taxes imposed by this chapter for the purpose of
48 selling it for consumption and not for resale.

1 ~~22.~~ 23. "Roll-your-own tobacco" means any tobacco that, because of
2 its appearance, type, packaging or labeling, is suitable for use and likely
3 to be offered to or purchased by consumers as tobacco for making
4 cigarettes. This paragraph shall be interpreted consistently with the term
5 as used in section 44-7101. This paragraph shall be interpreted
6 consistently with the classification guidelines established by the federal
7 alcohol and tobacco tax and trade bureau.

8 ~~23.~~ 24. "Smoking tobacco":

9 (a) Means any tobacco that, because of its appearance, type,
10 packaging, labeling or promotion, is suitable for use and likely to be
11 offered to or purchased by consumers as tobacco for making cigarettes or
12 otherwise consumed by burning. ~~Smoking tobacco~~

13 (b) Includes pipe tobacco and roll-your-own tobacco.

14 ~~24.~~ 25. "Spirituous liquor":

15 (a) Means any liquid that contains more than one-half of one percent
16 alcohol by volume, that is produced by distillation of any fermented
17 substance and that is used or prepared for use as a beverage. ~~Spirituous~~
18 ~~liquor~~

19 (b) Does not include medicines that are unsuitable for beverage
20 purposes.

21 ~~25.~~ 26. "Tobacco product manufacturer" has the same meaning
22 prescribed in section 44-7101.

23 ~~26.~~ 27. "Tobacco products" means all luxuries included in section
24 42-3052, paragraphs 5 through 9.

25 ~~27.~~ 28. "Vehicle" means a device in, on or by which a person or
26 property is or may be transported or drawn on the roads of this state
27 regardless of the means by which it is propelled or whether it runs on a
28 track.

29 ~~28.~~ 29. "Vinous liquor":

30 (a) Means any liquid that contains more than one-half of one percent
31 alcohol by volume and that is made by the process of fermentation of
32 grapes, berries, fruits, vegetables or other substances. ~~But~~

33 (b) Does not include:

34 ~~(a)~~ (i) Liquids in which hops or grains are used in the process of
35 fermentation.

36 ~~(b)~~ (ii) Liquids made by the process of distillation of hops or
37 grains.

38 ~~(c)~~ (iii) Medicines that are unsuitable for beverage purposes.

39 ~~29.~~ 30. "Wholesaler" means a person that sells any spirituous,
40 vinous or malt liquor taxed under this chapter to retail dealers or for the
41 purposes of resale only.

42 Sec. 2. Section 42-3052, Arizona Revised Statutes, is amended to
43 read:

44 42-3052. Classifications of luxuries; rates of tax

45 The taxes under this chapter are imposed at the following rates:

46 1. On each sealed container of spirituous liquor, ~~at the rate of~~
47 ~~three dollars~~ \$3 PER gallon and at a proportionate rate for any lesser or
48 greater quantity than one gallon.

1 2. On each container of vinous liquor, except cider, of which the
2 alcoholic content is not greater than twenty-four ~~per cent~~ PERCENT by
3 volume, ~~at the rate of eighty-four cents~~ \$.84 per gallon and at a
4 proportionate rate for any lesser or greater quantity than one gallon.

5 3. On each container of vinous liquor of which the alcoholic content
6 is greater than twenty-four ~~per cent~~ PERCENT by volume, containing eight
7 ounces or less, ~~twenty-five cents~~ \$.25, and for each eight ounces for
8 containers containing more than eight ounces, ~~twenty-five cents~~ \$.25.

9 4. On each gallon of malt liquor or cider, ~~sixteen cents~~ \$.16, and
10 at a proportionate rate for any lesser or greater quantity than one gallon.

11 5. On each cigarette, ~~nine-tenths cent~~ \$.009.

12 6. On smoking tobacco, snuff, fine cut chewing tobacco, cut and
13 granulated tobacco, shorts and refuse of fine cut chewing tobacco, and
14 refuse, scraps, clippings, cuttings and sweepings of tobacco, excluding
15 tobacco powder or tobacco products used exclusively for agricultural or
16 horticultural purposes and unfit for human consumption, ~~two cents~~ \$.02 per
17 ounce or major fraction of an ounce.

18 7. On all cavendish, plug or twist tobacco, ~~one-half cent~~ \$.005 per
19 ounce or fractional part of an ounce.

20 8. On each twenty small cigars or fractional part weighing not more
21 than three pounds per thousand, ~~four cents~~ \$.04.

22 9. On cigars of all descriptions except those included in paragraph
23 8 of this section, made of tobacco or any tobacco substitute:

24 (a) If manufactured to retail at not more than ~~five cents~~ \$.05 each,
25 ~~two cents~~ \$.02 on each three cigars.

26 (b) If manufactured to retail at more than ~~five cents~~ \$.05 each, ~~two~~
27 ~~cents~~ \$.02 on each cigar.

28 10. ON EACH SEALED CONTAINER OF A READY-TO-DRINK SPIRITS PRODUCT,
29 \$1.50 PER GALLON AND A PROPORTIONATE RATE FOR ANY LESSER OR GREATER
30 QUANTITY THAN ONE GALLON.

31 Sec. 3. Section 42-3351, Arizona Revised Statutes, is amended to
32 read:

33 42-3351. Bonds required of liquor wholesalers; exemption

34 A. Every wholesaler of spirituous LIQUORS, vinous ~~and~~ LIQUORS, malt
35 liquors, READY-TO-DRINK SPIRITS PRODUCTS shall file with the department, in
36 such form as the department prescribes, a bond or bonds, ~~and~~ duly executed by
37 the wholesaler as principal, ~~and~~ with a corporation duly authorized to
38 execute and write bonds within the state as surety, payable to the
39 state, ~~and~~ conditioned ~~upon~~ ON the payment of all taxes, penalties and
40 other obligations of the wholesaler arising under this chapter.

41 B. The department shall fix the total amount of the bond or bonds
42 required of the wholesaler and may increase or reduce the amount at any
43 time. In fixing the total amount, the department shall require a bond or
44 bonds equivalent in total amount to twice the wholesaler's estimated
45 monthly tax, ascertained in such manner as the department deems proper.
46 The total amount of the bond or bonds required of any wholesaler shall not
47 be less than ~~two thousand dollars~~ \$2,000.

48 C. A wholesaler is exempt from the requirements of this section if
49 the wholesaler has made timely payment of the taxes imposed by this chapter

1 for the twenty-four consecutive months immediately preceding the current
2 month.

3 Sec. 4. Section 42-3354, Arizona Revised Statutes, is amended to
4 read:

5 42-3354. Return and payment by spirituous or vinous liquor
6 wholesalers

7 A. Every wholesaler of spirituous liquors selling spirituous liquors
8 within ~~the~~ THIS state shall pay the tax under this chapter on all such
9 liquor sold within ~~the~~ THIS state and add the amount of the tax to the
10 sales price.

11 B. Every wholesaler of vinous liquors selling vinous liquors other
12 than ciders ~~as defined in section 42-3001~~ within this state shall pay the
13 tax under this chapter on all such liquors sold within this state and add
14 the amount of tax to the sales price.

15 C. EVERY WHOLESALER OF READY-TO-DRINK SPIRITS PRODUCTS SELLING
16 READY-TO-DRINK SPIRITS PRODUCTS WITHIN THIS STATE SHALL PAY THE TAX UNDER
17 THIS CHAPTER ON ALL SUCH PRODUCTS SOLD WITHIN THIS STATE AND ADD THE AMOUNT
18 OF THE TAX TO THE SALES PRICE.

19 ~~E.~~ D. The wholesaler shall pay the tax to the department monthly on
20 or before the twentieth day of the month next succeeding the month in which
21 the tax accrues.

22 ~~D.~~ E. On or before the date prescribed by subsection ~~E.~~ D of this
23 section, the wholesaler shall prepare a sworn return for the month in which
24 the tax accrues in the form prescribed by the department, showing:

25 1. The amount of spirituous liquors sold in this state during the
26 month in which the tax accrues.

27 2. The amount of vinous liquors other than ciders ~~as defined in~~
28 ~~section 42-3001~~ sold in ~~the~~ THIS state during the month in which the tax
29 accrues.

30 3. The amount of tax for the period covered by the return.

31 4. Any other information that the department deems necessary for the
32 proper administration of this chapter.

33 ~~E.~~ F. The wholesaler shall deliver the return, together with a
34 remittance of the amount of the tax due, to the department.

35 ~~F.~~ G. Any taxpayer that fails to pay the tax within ten days ~~from~~
36 AFTER the date on which the payment becomes due is subject to and shall pay
37 a penalty determined under section 42-1125, plus interest at the rate
38 determined pursuant to section 42-1123 from the time the tax was due and
39 payable until paid.

40 ~~G.~~ H. For reporting periods beginning from and after December 31,
41 2019, or when the department has established an electronic filing program,
42 whichever is later, each taxpayer shall file electronically any report or
43 return required under this chapter. The report or return is considered to
44 be filed and received by the department on the date of the electronic
45 postmark pursuant to section 42-1105.02.

46 Sec. 5. Section 42-3355, Arizona Revised Statutes, is amended to
47 read:

1 42-3355. Return and payment by farm wineries, manufacturers,
2 direct shipment licensees, microbreweries and craft
3 distillers

4 A. A farm winery selling vinous liquor at retail or to a retail
5 licensee pursuant to title 4, chapter 2 that is manufactured or produced on
6 the premises, a producer of vinous liquor that sells at retail pursuant to
7 section 4-243.02 or a direct shipment licensee that sells pursuant to
8 section 4-203.04 shall pay the tax under this chapter on all such liquor
9 sold at retail or to a retail licensee within this state and add the amount
10 of the tax to the sales price.

11 B. A microbrewery selling malt liquor at retail or to a retail
12 licensee pursuant to title 4, chapter 2 that is manufactured or produced on
13 the premises or a manufacturer of beer that sells at retail pursuant to
14 section 4-243.02 shall pay the tax under this chapter on all malt liquor
15 sold at retail or to a retail licensee within this state and add the amount
16 of the tax to the sales price.

17 C. A craft distiller selling spirituous liquor **OR READY-TO-DRINK**
18 **SPIRITS PRODUCTS** at retail or to a retail licensee pursuant to title 4,
19 chapter 2 that is manufactured or produced on the premises or a distiller
20 of spirituous liquor **OR READY-TO-DRINK SPIRITS PRODUCTS** that sells at
21 retail pursuant to section 4-243.02 shall pay the tax under this chapter on
22 all spirituous liquor **OR READY-TO-DRINK SPIRITS PRODUCTS** sold at retail or
23 to a retail licensee within this state and add the amount of the tax to the
24 sales price.

25 D. The farm winery, manufacturer, microbrewery, craft distiller or
26 direct shipment licensee shall pay the tax to the department annually on or
27 before the twentieth day of the first month of the year succeeding the year
28 in which the tax accrues.

29 E. On or before that date, the farm winery, manufacturer,
30 microbrewery, craft distiller or direct shipment licensee shall prepare a
31 sworn return for the year in which the tax accrues in the form prescribed
32 by the department, showing:

33 1. The amount of liquors, ~~or~~ beer **OR READY-TO-DRINK SPIRITS PRODUCTS**
34 sold in this state during the year in which the tax accrues.

35 2. The amount of tax for the period covered by the return.

36 3. Any other information that the department deems necessary for the
37 proper administration of this chapter.

38 F. The farm winery, manufacturer, microbrewery, craft distiller or
39 direct shipment licensee shall deliver the return, together with a
40 remittance of the amount of the tax due, to the department.

41 G. Any taxpayer that fails to pay the tax within ten days after the
42 date on which the payment becomes due is subject to and shall pay a penalty
43 determined under section 42-1125, plus interest at the rate determined
44 pursuant to section 42-1123 from the time the tax was due and payable until
45 paid.

46 H. For reporting periods beginning from and after December 31, 2019,
47 or when the department has established an electronic filing program,
48 whichever is later, each taxpayer shall file electronically any report or
49 return required under this chapter. The report or return is considered to

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1 be filed and received by the department on the date of the electronic
2 postmark pursuant to section 42-1105.02."
3 Amend title to conform

J.D. MESNARD

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