



ARIZONA HOUSE OF REPRESENTATIVES

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SB 1466: pupils with chronic health conditions
S/E: retail licensing; electronic smoking devices
Sponsor: Senator Boyer, LD 20
Committee on Education

Summary of the Strike-Everything Amendment to SB 1466

Overview

Prescribes age requirements, penalties, restrictions and licensure requirements relating to the purchase and sale of tobacco products.

History

Tobacco product, as defined in the Arizona Criminal Code, means cigars, cigarettes and cigarette papers, smoking tobacco and chewing tobacco of any kind. Currently, statute declares it is a petty offense for:

- 1) A person to knowingly sell, give or furnish a tobacco product, vapor product or any instrument or paraphernalia that is solely designed for the smoking or ingestion of tobacco or shisha, including a hookah or waterpipe, to a minor;
- 2) A minor to buy, possess or knowingly accept a tobacco product, vapor product or any instrument or paraphernalia that is solely designed for the smoking or ingestion of tobacco or shisha, including a hookah or waterpipe; and
- 3) A minor to misrepresent their age to any person by means of a written instrument of identification with the intent to induce the person to sell, give or furnish a tobacco product, vapor product or any instrument or paraphernalia that is solely designed for the smoking or ingestion of tobacco or shisha, including a hookah or waterpipe ([A.R.S. § 13-3622](#)).

In 2019, Congress passed legislation amending the Federal Food, Drug and Cosmetic Act (FDCA) that raised the federal minimum age for sale of tobacco products from 18 to 21 years. With this change, it is illegal for a retailer to sell any tobacco product to anyone who is not at least 21 years old ([21 U.S.C. § 387f](#)).

The Arizona Department of Health Services (DHS) is tasked with promoting and protecting the health of Arizonans. DHS operates numerous health programs, including programs in disease prevention and control, community public health and maternal and child health ([A.R.S. Title 36, Chapter 1, Article 1, Article 2](#)).

Provisions

Arizona Criminal Code

1. Declares a person who sells, gives or furnishes a tobacco product to a person who is under the minimum age of sale for tobacco products as set by the FDCA is subject to the penalties outlined in statute. (Sec. 1)
2. Deletes language that:

<input type="checkbox"/> Prop 105 (45 votes)	<input type="checkbox"/> Prop 108 (40 votes)	<input type="checkbox"/> Emergency (40 votes)	<input type="checkbox"/> Fiscal Note
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- a) States a minor who buys, possesses or knowingly accepts a tobacco product, vapor product or any instrument or paraphernalia solely designed for the smoking or ingestion of tobacco or shisha is guilty of a petty offense; and
 - b) Requires the minor, if the offense involves any instrument or paraphernalia that is solely designed for the smoking or ingestion of tobacco or shisha, to pay a fine of at least \$100 or perform at least 30 hours of community restitution. (Sec. 1)
3. Specifies a person who is under the minimum age of sale for tobacco products as set by the FDCA and who misrepresents their age to any other person by means of a written instrument of identification with the intent to induce the other person to sell, give or furnish a tobacco product must pay a fine of at most \$100, rather than \$500. (Sec. 1)
 4. Provides the penalties outlined in statute do not apply to a tobacco product or any instrument or paraphernalia solely designed for the smoking or ingesting of tobacco or shisha if used or intended to be used for religious purposes. (Sec. 1)
 5. Removes language that states the penalties outlined in statute do not apply to any instrument or paraphernalia that is solely designed for smoking or ingestion of tobacco or shisha and is given to or possessed by a minor if the instrument or paraphernalia was a gift or souvenir and not used or intended to be used by the minor. (Sec. 1)

Retail Tobacco Vendors (Vendors)

6. Details it is unlawful for a vendor or a vendor's representative, agent or employee to sell, furnish, give or provide a tobacco product to a person who is under the minimum age of sale for tobacco products as set by the FDCA. (Sec. 3)
7. Instructs a vendor or the vendor's representative, agent or employee to verify, before distributing any tobacco product, that the purchaser is at least the minimum age of sale for tobacco products as set by the FDCA. (Sec. 3)
8. Requires each vendor or vendor's representative, agent or employee to examine the purchaser's government-issued photographic identification. (Sec. 3)
9. Excludes a person who is at least 30 years old from verification requirements. (Sec. 3)
10. States the fact that a purchaser appeared to be at least 30 years old does not constitute a defense to a violation of identification requirements. (Sec. 3)
11. Subjects a vendor to the following penalties if the vendor or the vendor's representative, agent or employee violates statute regulating tobacco products:
 - a) For a first violation:
 - i. An education class; or
 - ii. If an education class is not available, a civil penalty of at least \$500 and at most \$750;
 - b) For a second violation within a 36-month period:
 - i. A civil penalty of at least \$750 and at most \$1,000; and
 - ii. The vendor is prohibited from distributing tobacco products for at least a week;
 - c) For a third violation within a 36-month period:
 - i. A civil penalty of at least \$1,000 and at most \$1,500; and
 - ii. The vendor is prohibited from distributing tobacco products for at least 30 days;
 - d) For a fourth or subsequent violation within a 36-month period:
 - i. A civil penalty of at least \$1,000 and at most \$3,000; and
 - ii. The vendor is prohibiting from distributing tobacco products for three years. (Sec. 3)
12. Instructs DHS to deposit all civil penalties collected in the state General Fund (GF). (Sec. 3)
13. Subjects a person who violates statute regulating tobacco products while acting as a vendor's nonmanagement agent or employee to noncriminal, nonmonetary penalties. (Sec. 3)

14. Subjects a vendor to at least two unannounced compliance checks annually. (Sec. 3)
15. Directs DHS or its authorized designee to conduct compliance checks by engaging persons who are at least 18 years old and under the minimum age of sale for tobacco products as set by the FDCA to enter the tobacco retail establishment to attempt to purchase tobacco products. (Sec. 3)
16. Requires unannounced follow-up compliance checks of all noncompliant vendors within three months after any violation. (Sec. 3)
17. Instructs DHS to publish the results of all compliance checks at least annually. (Sec. 3)
18. Subjects a vendor that violates any statute, rules, state law, federal law or local ordinance relating to tobacco product sales or marketing to the penalties outlined in statute. (Sec. 3)

Self-Service Displays

19. Prohibits a person from selling tobacco products through a self-service display, rather than a vending machine, unless the self-service display is located in:
 - a) A bar that does not allow persons who are under the minimum age of sale for tobacco products as set by the FDCA to enter; or
 - b) A nonpublic employee lounge area and the business does not employ persons who are under the minimum age of sale for tobacco products as set by the FDCA. (Sec. 4)
20. Deletes language requiring the affixing of a sign to a vending machine that sells tobacco products. (Sec. 4)
21. Exempts cigars or pipe tobacco sold or displayed by a person meeting outlined criteria from statute prohibiting the sale of tobacco through a self-service display that does not meet specified requirements. (Sec. 4)
22. Establishes that statute does not invalidate an ordinance or prohibit the adoption of an ordinance by a county, city or town to further restrict self-service displays or the location of self-service displays. (Sec. 4)
23. Declares a person who violates statute relating to self-service displays is subject to the penalties outlined in statute, rather than being guilty of a petty offense. (Sec. 4)

Tobacco Retail Sales License (License)

24. Prohibits, beginning January 1, 2024, a vendor from distributing tobacco products in Arizona without a license. (Sec. 5)
25. Requires a vendor that distributes tobacco products in Arizona to secure and display at all times for each location a license issued by DHS. (Sec. 5)
26. Directs DHS to establish fees for an initial license and any renewals. (Sec. 5)
27. Sets the validity of a license to two years unless the license is suspended or revoked by DHS or DHS's designee. (Sec. 5)
28. Prevents a license from being renewed if the vendor has outstanding penalties. (Sec. 5)
29. Allows DHS to receive and review license applications electronically. (Sec. 5)
30. Prohibits DHS from issuing a license to a vendor that applies for a license for a location that is within the jurisdiction of a local licensing authority until the vendor obtains the required local license and provides a copy to DHS. (Sec. 5)
31. Prevents a license from being issued or renewed until a vendor signs a form stating that the vendor has read statute relating to the license and provided training to all employees on the sale of tobacco products. (Sec. 5)

32. Specifies the information the training on the sale of tobacco products must include. (Sec. 5)
33. Declares the license is nontransferable. (Sec. 5)
34. Directs a vendor to notify DHS in writing if the vendor ceases to be a retailer at the licensed retail location. (Sec. 5)
35. Subjects any business found to be selling tobacco products without a license to a civil penalty of at least \$500 and at most \$1,000 for a first or second violation within a 36-month period. (Sec. 5)
36. Instructs DHS to issue a cease and desist order to a business that receives a second violation within a 36-month period that:
 - a) Prohibits the business from selling tobacco products; and
 - b) Notifies the business owner that the business is ineligible to receive a license for three years after the second violation. (Sec. 5)
37. Requires DHS to adopt rules to establish a statewide license. (Sec. 5)
38. Authorizes DHS to delegate the enforcement and compliance inspection requirements to any county that accepts this delegation. (Sec. 5)
39. Allows DHS to collaborate with and use the findings of other agencies to carry out statutory obligations and ensure the complaints received by other agencies or local licensing authorities are forwarded to DHS for timely investigation and action. (Sec. 5)
40. Mandates a local licensing authority, any law enforcement or other local entity conducting compliance checks to assess vendor compliance of the minimum legal sales age for tobacco products to report the compliance check results to DHS. (Sec. 5)
41. Specifies any violation is counted as a violation of the vendor's license. (Sec. 5)
42. Declares a local government is not limited from regulating tobacco products. (Sec. 5)
43. Exempts DHS from rulemaking requirements for two years after the general effective date. (Sec. 6)

Tobacco Retail Sales Licensing Fund (Fund)

44. Establishes the Fund that is administered by DHS and that consists of licensing fees collected by DHS. (Sec. 5, 6)
45. Requires DHS to deposit 90% of all tobacco licensing fees in the Fund and the remaining 10% in the state GF. (Sec. 6)
46. Subjects Fund monies to legislative appropriation and requires monies to be used to administer and enforce statutory requirements relating to tobacco products. (Sec. 6)

Miscellaneous

47. Modifies the definitions of *tobacco product* and *retail tobacco vendor*. (Sec. 1, 2)
48. Defines *electronic smoking device*. (Sec. 1, 2)
49. Defines *department* and *self-service display*. (Sec. 2)
50. Deletes the definition of *minor*. (Sec. 2)
51. Makes technical and conforming changes. (Sec. 1, 2)