

State of Arizona  
Senate  
Forty-fifth Legislature  
First Regular Session  
2001

CHAPTER 287

**SENATE BILL 1271**

AN ACT

AMENDING SECTIONS 28-101, 28-374, 28-401, 28-1176, 28-2416 AND 28-5432, ARIZONA REVISED STATUTES; CHANGING THE DESIGNATION OF TITLE 28, CHAPTER 16, ARTICLE 1, ARIZONA REVISED STATUTES, TO "MOTOR FUEL TAXES"; CHANGING THE DESIGNATION OF TITLE 28, CHAPTER 16, ARTICLE 2, ARIZONA REVISED STATUTES, TO "INTERSTATE USER FUEL TAX RESPONSIBILITIES"; AMENDING SECTIONS 28-5601, 28-5602, 28-5603 AND 28-5604, ARIZONA REVISED STATUTES; TRANSFERRING AND RENUMBERING SECTION 28-5605, ARIZONA REVISED STATUTES, FOR PLACEMENT IN TITLE 28, CHAPTER 16, ARTICLE 5, ARIZONA REVISED STATUTES, AS SECTION 28-5921; AMENDING TITLE 28, CHAPTER 16, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 28-5605; AMENDING SECTIONS 28-5606, 28-5607, 28-5608, 28-5609, 28-5610, 28-5611 AND 28-5612, ARIZONA REVISED STATUTES; TRANSFERRING AND RENUMBERING SECTIONS 28-5613, 28-5615, 28-5616 AND 28-5617, ARIZONA REVISED STATUTES, FOR PLACEMENT IN TITLE 28, CHAPTER 16, ARTICLE 5, ARIZONA REVISED STATUTES, AS SECTIONS 28-5923, 28-5925, 28-5926 AND 28-5927, RESPECTIVELY; AMENDING TITLE 28, CHAPTER 16, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 28-5613; REPEALING SECTION 28-5614, ARIZONA REVISED STATUTES; TRANSFERRING AND RENUMBERING SECTIONS 28-5709, 28-5712 AND 28-5718, ARIZONA REVISED STATUTES, FOR PLACEMENT IN TITLE 28, CHAPTER 16, ARTICLE 1, ARIZONA REVISED STATUTES, AS SECTIONS 28-5614, 28-5615 AND 28-5617, RESPECTIVELY; AMENDING SECTIONS 28-5614, 28-5615 AND 28-5617, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED BY THIS ACT; AMENDING SECTIONS 28-5618, 28-5619, 28-5620, 28-5622, 28-5624, 28-5626, 28-5630 AND 28-5631, ARIZONA REVISED STATUTES; REPEALING SECTIONS 28-5625 AND 28-5632, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 16, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 28-5625; AMENDING SECTIONS 28-5637, 28-5639, 28-5640, 28-5643 AND 28-5644, ARIZONA REVISED STATUTES; TRANSFERRING AND RENUMBERING SECTIONS

28-5756 THROUGH 28-5760, ARIZONA REVISED STATUTES, FOR PLACEMENT IN TITLE 28, CHAPTER 16, ARTICLE 1, ARIZONA REVISED STATUTES, AS SECTIONS 28-5645 THROUGH 28-5649, RESPECTIVELY; AMENDING SECTIONS 28-5645 AND 28-5647, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED BY THIS ACT; REPEALING SECTIONS 28-5701 AND 28-5702, ARIZONA REVISED STATUTES; RENUMBERING SECTION 28-5717, ARIZONA REVISED STATUTES, AS SECTION 28-5702; AMENDING SECTION 28-5702, ARIZONA REVISED STATUTES, AS RENUMBERED BY THIS ACT; AMENDING SECTION 28-5703, ARIZONA REVISED STATUTES; TRANSFERRING AND RENUMBERING SECTION 28-5704, ARIZONA REVISED STATUTES, FOR PLACEMENT IN TITLE 28, CHAPTER 16, ARTICLE 5, ARIZONA REVISED STATUTES, AS SECTION 28-5929; AMENDING SECTION 28-5705, ARIZONA REVISED STATUTES; REPEALING SECTIONS 28-5708, 28-5711, 28-5716 AND 28-5719, ARIZONA REVISED STATUTES; TRANSFERRING AND RENUMBERING SECTION 28-5714, ARIZONA REVISED STATUTES, FOR PLACEMENT IN TITLE 28, CHAPTER 16, ARTICLE 1, ARIZONA REVISED STATUTES, AS SECTION 28-5616; AMENDING SECTIONS 28-5720 AND 28-5721, ARIZONA REVISED STATUTES; REPEALING SECTIONS 28-5723, 28-5725 AND 28-5726, ARIZONA REVISED STATUTES; AMENDING SECTIONS 28-5724 AND 28-5728, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 16, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 28-5725; REPEALING SECTION 28-5729, ARIZONA REVISED STATUTES; AMENDING SECTIONS 28-5731 AND 28-5732, ARIZONA REVISED STATUTES; REPEALING SECTION 28-5733, ARIZONA REVISED STATUTES; AMENDING SECTIONS 28-5734 AND 28-5735, ARIZONA REVISED STATUTES; REPEALING SECTION 28-5736, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 16, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 28-5736; AMENDING SECTIONS 28-5737 AND 28-5738, ARIZONA REVISED STATUTES; REPEALING SECTIONS 28-5741, 28-5746 THROUGH 28-5751, 28-5754 AND 28-5755, ARIZONA REVISED STATUTES; TRANSFERRING AND RENUMBERING SECTIONS 28-5865 AND 28-5866, ARIZONA REVISED STATUTES, FOR PLACEMENT IN TITLE 28, CHAPTER 16, ARTICLE 5, ARIZONA REVISED STATUTES, AS SECTIONS 28-5924 AND 28-5928, RESPECTIVELY; AMENDING TITLE 28, CHAPTER 16, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 28-5865; CHANGING THE DESIGNATION OF TITLE 28, CHAPTER 16, ARTICLE 5, ARIZONA REVISED STATUTES, TO "TAX ADMINISTRATION"; AMENDING SECTION 28-5921, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED BY THIS ACT; AMENDING TITLE 28, CHAPTER 16, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-5922; AMENDING SECTIONS 28-5923, 28-5924, 28-5925, 28-5926, 28-5927, 28-5928 AND 28-5929, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED BY THIS ACT; AMENDING TITLE 28, CHAPTER 16, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-5930; AMENDING SECTIONS 28-5936, 28-6001, 28-6006, 28-6501, 42-5061, 42-5071, 42-5151 AND 42-5159, ARIZONA REVISED STATUTES; MAKING APPROPRIATIONS; RELATING TO FUEL TAXES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 28-101, Arizona Revised Statutes, is amended to  
3 read:

4 28-101. Definitions

5 In this title, unless the context otherwise requires:

6 1. "Alcohol" means any substance containing any form of alcohol,  
7 including ethanol, methanol, propynol and isopropynol.

8 2. "Alcohol concentration" if expressed as a percentage means either:

9 (a) The number of grams of alcohol per one hundred milliliters of  
10 blood.

11 (b) The number of grams of alcohol per two hundred ten liters of  
12 breath.

13 3. "All-terrain vehicle" means a motor vehicle that satisfies all of  
14 the following:

15 (a) Is designed primarily for recreational nonhighway all-terrain  
16 travel.

17 (b) Is fifty or fewer inches in width.

18 (c) Has an unladen weight of eight hundred pounds or less.

19 (d) Travels on three or more low pressure tires.

20 (e) Has a seat to be straddled by the operator and handlebars for  
21 steering control.

22 (f) Is operated on a public highway.

23 4. "Authorized emergency vehicle" means any of the following:

24 (a) A fire department vehicle.

25 (b) A police vehicle.

26 (c) An ambulance or emergency vehicle of a municipal department or  
27 public service corporation that is designated or authorized by the department  
28 or a local authority.

29 (d) Any other ambulance, fire truck or rescue vehicle that is  
30 authorized by the department in its sole discretion and that meets liability  
31 insurance requirements prescribed by the department.

32 5. "Aviation fuel" means all flammable liquids composed of a mixture  
33 of selected hydrocarbons expressly manufactured and blended for the purpose  
34 of effectively and efficiently operating an internal combustion engine for  
35 use in an aircraft but does not include fuel for jet or turbine powered  
36 aircraft.

37 6. "Bicycle" means a device, including a racing wheelchair, that is  
38 propelled by human power and on which a person may ride and that has either:

39 (a) Two tandem wheels, either of which is more than sixteen inches in  
40 diameter.

41 (b) Three wheels in contact with the ground, any of which is more than  
42 sixteen inches in diameter.

43 7. "Board" means the transportation board.

44 8. "Bus" means a motor vehicle designed for carrying sixteen or more  
45 passengers, including the driver.

1           9. "Business district" means the territory contiguous to and including  
2 a highway if there are buildings in use for business or industrial purposes  
3 within any six hundred feet along the highway, including hotels, banks or  
4 office buildings, railroad stations and public buildings that occupy at least  
5 three hundred feet of frontage on one side or three hundred feet collectively  
6 on both sides of the highway.

7           10. "Combination of vehicles" means a truck or truck tractor and  
8 semitrailer and any trailer that it tows but does not include a forklift  
9 designed for the purpose of loading or unloading the truck, trailer or  
10 semitrailer.

11           11. "Controlled substance" means a substance so classified under  
12 section 102(6) of the controlled substances act (21 United States Code  
13 section 802(6)) and includes all substances listed in schedules I through V  
14 of 21 Code of Federal Regulations part 1308.

15           12. "Conviction" means:

16           (a) An unvacated adjudication of guilt or a determination that a  
17 person violated or failed to comply with the law in a court of original  
18 jurisdiction or by an authorized administrative tribunal.

19           (b) An unvacated forfeiture of bail or collateral deposited to secure  
20 the person's appearance in court.

21           (c) A plea of guilty or no contest accepted by the court.

22           (d) The payment of a fine or court costs.

23           13. "County highway" means a public road constructed and maintained by  
24 a county.

25           14. "Dealer" means a person who is engaged in the business of buying,  
26 selling or exchanging motor vehicles, trailers or semitrailers and who has  
27 an established place of business.

28           15. "Department" means the department of transportation acting directly  
29 or through its duly authorized officers and agents.

30           16. "Director" means the director of the department of transportation.

31           17. "Drive" means to operate or be in actual physical control of a  
32 motor vehicle.

33           18. "Driver" means a person who drives or is in actual physical control  
34 of a vehicle.

35           19. "Driver license" means a license that is issued by a state to an  
36 individual and that authorizes the individual to drive a motor vehicle.

37           20. "Farm tractor" means a motor vehicle designed and used primarily  
38 as a farm implement for drawing implements of husbandry.

39           21. "Foreign vehicle" means a motor vehicle, trailer or semitrailer  
40 that is brought into this state other than in the ordinary course of business  
41 by or through a manufacturer or dealer and that has not been registered in  
42 this state.

43           22. "Golf cart" means a motor vehicle that has not less than three  
44 wheels in contact with the ground, that has an unladen weight of less than  
45 one thousand eight hundred pounds, that is designed to be and is operated at

1 not more than twenty-five miles per hour and that is designed to carry not  
2 more than four persons including the driver.

3 23. "Hazardous material" means a material, and its mixtures or  
4 solutions, that the United States department of transportation determines  
5 under 49 Code of Federal Regulations is capable of posing an unreasonable  
6 risk to health, safety and property if transported in commerce and that is  
7 required to be placarded or marked as required by the department's safety  
8 rules prescribed pursuant to chapter 14 of this title.

9 24. "Implement of husbandry" means a vehicle designed primarily for  
10 agricultural purposes and used exclusively in the conduct of agricultural  
11 operations, including an implement or vehicle whether self-propelled or  
12 otherwise that meets all of the following conditions:

13 (a) Is used exclusively for carrying products of farming from one part  
14 of a farm to another part of the same farm or from one farm to another farm.

15 (b) Is used solely for agricultural purposes including the preparation  
16 or harvesting of cotton, alfalfa, grains and other farm crops.

17 (c) Is only incidentally operated or moved on a highway whether as a  
18 trailer or self-propelled unit.

19 25. "Local authority" means any county, municipal or other local board  
20 or body exercising jurisdiction over highways under the constitution and laws  
21 of this state.

22 26. "Manufacturer" means a person engaged in the business of  
23 manufacturing motor vehicles, trailers or semitrailers.

24 27. "Moped" means a bicycle that is equipped with a helper motor if the  
25 vehicle has a maximum piston displacement of fifty cubic centimeters or less,  
26 a brake horsepower of one and one-half or less and a maximum speed of  
27 twenty-five miles per hour or less on a flat surface with less than a one per  
28 cent grade.

29 28. "Motor driven cycle" means a motorcycle, including every motor  
30 scooter, with a motor that produces not more than five horsepower.

31 29. "Motor vehicle":

32 (a) Means either:

33 (i) A self-propelled vehicle.

34 (ii) For the purposes of the laws relating to the imposition of a tax  
35 on motor vehicle fuel, a vehicle that is operated on the highways of this  
36 state and that is propelled by the use of motor vehicle fuel.

37 (b) Does not include a motorized wheelchair or a motorized skateboard.  
38 For the purposes of this subdivision:

39 (i) "Motorized wheelchair" means a self-propelled wheelchair that is  
40 used by a person for mobility.

41 (ii) "Motorized skateboard" means a self-propelled device that has a  
42 motor, a deck on which a person may ride and at least two tandem wheels in  
43 contact with the ground.

44 30. "Motor vehicle fuel" includes all products that are commonly or  
45 commercially known or sold as gasoline, including casinghead gasoline,

1 natural gasoline and all flammable liquids, and that are composed of a  
2 mixture of selected hydrocarbons expressly manufactured and blended for the  
3 purpose of effectively and efficiently operating internal combustion engines.  
4 Motor vehicle fuel does not include inflammable liquids that are specifically  
5 manufactured for racing motor vehicles and that are distributed for and used  
6 by racing motor vehicles at a racetrack, use fuel as defined in section  
7 ~~28-5701~~ 28-5601, aviation fuel, fuel for jet or turbine powered aircraft or  
8 the mixture created at the interface of two different substances being  
9 transported through a pipeline, commonly known as transmix.

10 31. "Motorcycle" means a motor vehicle that has a seat or saddle for  
11 the use of the rider and that is designed to travel on not more than three  
12 wheels in contact with the ground but excluding a tractor and a moped.

13 32. "Neighborhood electric vehicle" means a self-propelled electrically  
14 powered motor vehicle to which all of the following apply:

15 (a) The vehicle is emission free.

16 (b) The vehicle is designed to carry four or fewer persons.

17 (c) The vehicle is designed to be and is operated at speeds of  
18 twenty-five miles per hour or less.

19 (d) The vehicle has at least four wheels in contact with the ground.

20 (e) The vehicle has an unladen weight of less than one thousand eight  
21 hundred pounds.

22 33. "Nonresident" means a person who is not a resident of this state  
23 as defined in section 28-2001.

24 34. "Off-road recreational motor vehicle" means a motor vehicle that  
25 is designed primarily for recreational nonhighway all-terrain travel and that  
26 is not operated on a public highway. Off-road recreational motor vehicle  
27 does not mean a motor vehicle used for construction, building trade, mining  
28 or agricultural purposes.

29 35. "Operator" means a person who drives a motor vehicle on a highway,  
30 who is in actual physical control of a motor vehicle on a highway or who is  
31 exercising control over or steering a vehicle being towed by a motor vehicle.

32 36. "Owner" means:

33 (a) A person who holds the legal title of a vehicle.

34 (b) If a vehicle is the subject of an agreement for the conditional  
35 sale or lease with the right of purchase on performance of the conditions  
36 stated in the agreement and with an immediate right of possession vested in  
37 the conditional vendee or lessee, the conditional vendee or lessee.

38 (c) If a mortgagor of a vehicle is entitled to possession of the  
39 vehicle, the mortgagor.

40 37. "Pedestrian" means any person afoot. A person who uses a manual  
41 or motorized wheelchair is considered a pedestrian unless the manual  
42 wheelchair qualifies as a bicycle. For the purposes of this paragraph,  
43 "motorized wheelchair" means a self-propelled wheelchair that is used by a  
44 person for mobility.

1           38. "Power sweeper" means an implement, with or without motive power,  
2 that is only incidentally operated or moved on a street or highway and that  
3 is designed for the removal of debris, dirt, gravel, litter or sand whether  
4 by broom, vacuum or regenerative air system from asphaltic concrete or cement  
5 concrete surfaces, including parking lots, highways, streets and warehouses,  
6 and a vehicle on which the implement is permanently mounted.

7           39. "Public transit" means the transportation of passengers on  
8 scheduled routes by means of a conveyance on an individual passenger  
9 fare-paying basis excluding transportation by a sight-seeing bus, school bus  
10 or taxi or a vehicle not operated on a scheduled route basis.

11           40. "Reconstructed vehicle" means a vehicle that has been assembled or  
12 constructed largely by means of essential parts, new or used, derived from  
13 vehicles or makes of vehicles of various names, models and types or that, if  
14 originally otherwise constructed, has been materially altered by the removal  
15 of essential parts or by the addition or substitution of essential parts, new  
16 or used, derived from other vehicles or makes of vehicles. For the purposes  
17 of this paragraph, "essential parts" means integral and body parts, the  
18 removal, alteration or substitution of which will tend to conceal the  
19 identity or substantially alter the appearance of the vehicle.

20           41. "Residence district" means the territory contiguous to and  
21 including a highway not comprising a business district if the property on the  
22 highway for a distance of three hundred feet or more is in the main improved  
23 with residences or residences and buildings in use for business.

24           42. "Right-of-way" when used within the context of the regulation of  
25 the movement of traffic on a highway means the privilege of the immediate use  
26 of the highway. Right-of-way when used within the context of the real  
27 property on which transportation facilities and appurtenances to the  
28 facilities are constructed or maintained means the lands or interest in lands  
29 within the right-of-way boundaries.

30           43. "School bus" means a motor vehicle that is designed for carrying  
31 more than ten passengers and that is either:

32           (a) Owned by any public or governmental agency or other institution  
33 and operated for the transportation of children to or from home or school on  
34 a regularly scheduled basis.

35           (b) Privately owned and operated for compensation for the  
36 transportation of children to or from home or school on a regularly scheduled  
37 basis.

38           44. "Semitrailer" means a vehicle that is with or without motive power,  
39 other than a pole trailer, that is designed for carrying persons or property  
40 and for being drawn by a motor vehicle and that is constructed so that some  
41 part of its weight and that of its load rests on or is carried by another  
42 vehicle. For the purposes of this paragraph, "pole trailer" has the same  
43 meaning prescribed in section 28-601.

44           45. "State" means a state of the United States and the District of  
45 Columbia.

1           46. "State highway" means a state route or portion of a state route  
2 that is accepted and designated by the board as a state highway and that is  
3 maintained by the state.

4           47. "State route" means a right-of-way whether actually used as a  
5 highway or not that is designated by the board as a location for the  
6 construction of a state highway.

7           48. "Street" or "highway" means the entire width between the boundary  
8 lines of every way if a part of the way is open to the use of the public for  
9 purposes of vehicular travel.

10          49. "Trailer" means a vehicle that is with or without motive power,  
11 other than a pole trailer, that is designed for carrying persons or property  
12 and for being drawn by a motor vehicle and that is constructed so that no  
13 part of its weight rests on the towing vehicle. A semitrailer equipped with  
14 an auxiliary front axle commonly known as a dolly is deemed to be a trailer.  
15 For the purposes of this paragraph, "pole trailer" has the same meaning  
16 prescribed in section 28-601.

17          50. "Truck" means a motor vehicle designed or used primarily for the  
18 carrying of property other than the effects of the driver or passengers and  
19 includes a motor vehicle to which has been added a box, a platform or other  
20 equipment for such carrying.

21          51. "Truck tractor" means a motor vehicle that is designed and used  
22 primarily for drawing other vehicles and that is not constructed to carry a  
23 load other than a part of the weight of the vehicle and load drawn.

24          52. "Vehicle" means a device in, on or by which a person or property  
25 is or may be transported or drawn on a public highway, excluding devices  
26 moved by human power or used exclusively on stationary rails or tracks.

27          53. "Vehicle transporter" means either:

28           (a) A truck tractor capable of carrying a load and drawing a  
29 semitrailer.

30           (b) A truck tractor with a stinger-steered fifth wheel capable of  
31 carrying a load and drawing a semitrailer or a truck tractor with a dolly  
32 mounted fifth wheel that is securely fastened to the truck tractor at two or  
33 more points and that is capable of carrying a load and drawing a semitrailer.

34          Sec. 2. Section 28-374, Arizona Revised Statutes, is amended to read:

35          28-374. Fees and taxes; alternative payment methods; penalties

36           A. Subject to the limitations of sections 35-142 and 41-2544, the  
37 director may enter into agreements for the purpose of accepting payment for  
38 fees and taxes imposed under this title by alternative payment methods,  
39 including credit cards, debit cards and electronic funds transfers.

40           B. Before the revenues are transferred to the director as provided in  
41 sections 28-2005 and 28-6533, the collecting officer shall deduct any fee  
42 charged or withheld by a company providing the alternative payment method  
43 under an agreement with the director OR THE DIRECTOR MAY REIMBURSE THE  
44 COLLECTING OFFICER PURSUANT TO AN AGREEMENT.

1 C. For a tax year or reporting period that begins on or after January  
2 1, 1998, the department may require by rule that a person who owed twenty  
3 thousand dollars or more for the preceding tax year in taxes imposed by  
4 chapter 16, article 1 ~~or 2~~ of this title pay taxes on or before the  
5 prescribed payment date in monies that are immediately available to this  
6 state on the date of transfer as provided in subsection D of this section.  
7 The rule shall be consistent with the cash management policies of the state  
8 treasurer.

9 D. A payment in monies that are immediately available shall be made  
10 by electronic funds transfer or any other means that is required by the  
11 department, that is approved by the state treasurer and that ensures the  
12 availability of the monies to this state on the date of payment.

13 E. A person who pays taxes as prescribed in subsection C of this  
14 section shall furnish to the department evidence as prescribed by the  
15 department that shows that payment was remitted on or before the prescribed  
16 payment date.

17 F. A person who ~~is required to and~~ fails to make a timely payment in  
18 monies that are immediately available is subject to penalties as prescribed  
19 in chapter 16, ~~article 1 or 2~~ of this title.

20 Sec. 3. Section 28-401, Arizona Revised Statutes, is amended to read:

21 28-401. Intergovernmental agreements

22 A. The department may contract under title 11, chapter 7, article 3  
23 with a state public agency in this state or any other state if the general  
24 welfare of this state will be promoted and protected and if not in conflict  
25 with any other ~~provision of~~ law.

26 B. The director shall enter into agreements on behalf of this state  
27 with political subdivisions or Indian tribes for the improvement or  
28 maintenance of state routes or for the joint improvement or maintenance of  
29 state routes.

30 C. The department may enter into an intergovernmental agreement  
31 pursuant to title 11, chapter 7, article 3 with a county with a population  
32 of more than two million persons according to the most recent United States  
33 decennial census for the construction, design, acquisition and attendant  
34 acquisition costs of a county highway bridge to provide direct access to  
35 commercial, residential and recreational facilities. The agreement shall:

36 1. Contain the commitment of the county to pay other monies for the  
37 purpose of financing the bridge.

38 2. State the responsibilities of each party with regard to planning,  
39 designing, constructing, owning and maintaining the bridge.

40 3. Provide that payment for the costs of the bridge shall be made from  
41 contributions from the parties to the agreement and other contributors before  
42 the use of state transaction privilege tax distributions.

43 D. The department may enter into agreements with Indian tribes to  
44 provide a method or formula to refund taxes paid on exempt motor fuel  
45 purchases or use pursuant to this title. For the purposes of this

1 subsection, "motor fuel" includes ~~motor vehicle fuel, aviation fuel and use~~  
2 ~~fuel as defined in section 28-5701~~ HAS THE SAME MEANING PRESCRIBED IN SECTION  
3 28-5601.

4 E. The department may enter into an intergovernmental agreement  
5 pursuant to title 11, chapter 7, article 3 that obligates the department to  
6 indemnify and defend a city, town, county, flood control district, irrigation  
7 district or agricultural improvement district or any other political  
8 subdivision or governmental agency against claims of liability for injuries,  
9 losses or damages incurred in any way as a result of the acts or omissions  
10 of the department, including acts, errors, omissions or mistakes of any  
11 person for which the department may be liable, and arising out of the  
12 construction, operation or maintenance of department projects or facilities  
13 or use of department projects or facilities. A city, town, county, flood  
14 control district, irrigation district or agricultural improvement district  
15 or any other political subdivision or governmental agency may enter into an  
16 intergovernmental agreement pursuant to title 11, chapter 7, article 3 that  
17 obligates such an entity to indemnify and defend the department against  
18 claims of liability for injuries, losses or damages incurred in any way as  
19 a result of the acts or omissions of such entity, including acts, errors,  
20 omissions or mistakes of any person for which the entity may be liable, and  
21 arising out of the construction, operation or maintenance of projects or  
22 facilities or use of projects or facilities. Any indemnification pursuant  
23 to an intergovernmental agreement must be approved by state risk management  
24 in the department of administration.

25 Sec. 4. Section 28-1176, Arizona Revised Statutes, is amended to read:  
26 28-1176. Off-highway vehicle recreation fund

27 A. An off-highway vehicle recreation fund is established. The fund  
28 consists of:

- 29 1. Monies appropriated by the legislature.
- 30 2. Monies deposited pursuant to section ~~28-5617~~ 28-5927.
- 31 3. Federal grants and private gifts.
- 32 4. Matching monies from federal, state, local or private entities.

33 B. Monies in the off-highway vehicle recreation fund are appropriated  
34 to the Arizona state parks board solely for the purposes provided in this  
35 article. Interest earned on monies in the fund shall be credited to the  
36 fund. Monies in the off-highway vehicle recreation fund are exempt from the  
37 provisions of section 35-190 relating to lapsing of appropriations.

38 C. The Arizona game and fish department shall spend thirty per cent  
39 of the monies in the off-highway vehicle recreation fund for an informational  
40 and educational program on off-highway vehicle recreation and law enforcement  
41 activities relating to this article and for off-highway vehicle law  
42 enforcement pursuant to title 17, chapter 4, article 3.

43 D. On or before December 31 of each year, the Arizona game and fish  
44 department shall submit an annual report to the president of the senate, the  
45 speaker of the house of representatives and the chairmen of the senate and

1 house of representatives committees on transportation or their successor  
2 committees. The annual report shall include information on:

3 1. The amount of monies spent or encumbered in the fund during the  
4 preceding fiscal year for the purposes of law enforcement activities.

5 2. The amount of monies spent from the fund during the preceding  
6 fiscal year for employee services.

7 3. The number of full-time employees employed in the preceding fiscal  
8 year in connection with law enforcement activities.

9 E. The Arizona state parks board shall spend seventy per cent of the  
10 monies in the off-highway vehicle recreation fund for the following purposes:

11 1. No more than eighteen per cent to fund staff support to plan and  
12 administer the off-highway vehicle recreation fund.

13 2. To establish a facility development program based on the priorities  
14 established in the off-highway vehicle plan.

15 3. To establish a matching fund program for funding off-highway  
16 related law enforcement, informational and environmental education programs,  
17 mitigation of environmental damage, facility development, land acquisition  
18 and construction of off-highway vehicle related facilities.

19 F. The allocation of the monies in the matching fund program  
20 prescribed in subsection E, paragraph 3 of this section and the percentages  
21 allocated to each of the purposes prescribed in the program shall be  
22 determined by an off-highway vehicle plan prepared by the Arizona outdoor  
23 recreation coordinating commission and approved by the state parks board.

24 G. Monies in the matching fund program established under subsection  
25 E, paragraph 3 of this section shall be distributed in an amount determined  
26 by the Arizona outdoor recreation coordinating commission to a qualified  
27 state or federal agency, city, town, county or tribal government. The Arizona  
28 state parks board may require additional matching monies that may be direct  
29 monies or in-kind services from these entities before the distribution  
30 pursuant to this subsection.

31 H. Agencies receiving monies under this section shall use the monies:

32 1. To designate, construct, maintain and manage off-highway vehicle  
33 recreation facilities, off-highway vehicle use areas and off-highway vehicle  
34 trails within land under the jurisdiction of the particular agency.

35 2. For enforcement of off-highway vehicle laws.

36 3. For mitigation of damages to land.

37 4. For off-highway vehicle related environmental education.

38 I. The Arizona outdoor recreation coordinating commission shall  
39 examine applications for eligible projects and determine the amount of  
40 funding, if any, for each project.

41 J. The Arizona state parks board shall annually report to the  
42 legislature the expenditures made for the projects in conjunction with the  
43 report required by section 41-511.12. The annual report shall include the  
44 amount of monies spent or encumbered during the preceding fiscal year for the  
45 purposes described in subsection E of this section.

1           Sec. 5. Section 28-2416, Arizona Revised Statutes, is amended to read:  
2           28-2416. Alternative fuel vehicle special plates; stickers; use  
3                                   of high occupancy vehicle lanes; definition

4           A. Beginning on April 1, 1997, a person who owns a motor vehicle that  
5 has either been converted or manufactured to use an alternative fuel and the  
6 alternative fuel was subject to the use fuel tax imposed pursuant to chapter  
7 16, ~~article 2~~ of this title before April 1, 1997 shall apply for alternative  
8 fuel vehicle special plates pursuant to this section.

9           B. The department shall issue alternative fuel vehicle special plates,  
10 or an alternative fuel vehicle sticker as provided in subsection D of this  
11 section, to a person who satisfies all of the following:

12           1. Owns a motor vehicle that is powered by an alternative fuel.

13           2. Provides proof as follows:

14           (a) For an original equipment manufactured alternative fuel vehicle,  
15 the dealer who sells the motor vehicle shall provide to the department of  
16 transportation and the owner of the motor vehicle a certificate indicating:

17           (i) That the motor vehicle is powered by an alternative fuel.

18           (ii) The emission classification of the motor vehicle as low,  
19 inherently low, ultralow or zero.

20           (b) For a converted motor vehicle or a motor vehicle that is assembled  
21 by the owner, the department of environmental quality or an agent of the  
22 department of environmental quality shall provide a certificate to the  
23 department of transportation and the owner of the motor vehicle indicating  
24 that the motor vehicle is powered by an alternative fuel.

25           3. Pays an eight dollar special plate administrative fee, except that  
26 vehicles that are registered pursuant to section 28-2511 are exempt from that  
27 fee. The department shall deposit, pursuant to sections 35-146 and 35-147,  
28 all special plate administrative fees in the state highway fund established  
29 by section 28-6991.

30           C. The color and design of the alternative fuel vehicle special plates  
31 are subject to the approval of the department of commerce energy office. The  
32 director may allow a request for alternative fuel vehicle special plates to  
33 be combined with a request for personalized special plates. If the director  
34 allows such a combination, the request shall be in a form prescribed by the  
35 director and is subject to the fees for the personalized special plates in  
36 addition to the fees required for alternative fuel vehicle special plates.  
37 Alternative fuel vehicle special plates are not transferable, except that if  
38 the director allows alternative fuel vehicle special plates to be  
39 personalized a person who is issued personalized alternative fuel vehicle  
40 special plates may transfer those plates to another alternative fuel vehicle  
41 for which the person is the registered owner or lessee.

42           D. If a motor vehicle qualifies pursuant to this section and any other  
43 special plates are issued pursuant to article 7, 8 or 13 of this chapter or  
44 section 28-2514 for the motor vehicle, the department may issue an  
45 alternative fuel vehicle sticker to the person who owns the motor vehicle.

1 The sticker shall be diamond-shaped, shall indicate the type of alternative  
2 fuel used by the vehicle and shall be placed on the motor vehicle as  
3 prescribed by the department.

4 E. A person may drive a motor vehicle with alternative fuel vehicle  
5 special plates or an alternative fuel vehicle sticker in high occupancy  
6 vehicle lanes at any time, regardless of occupancy level, without penalty.

7 F. A person shall not drive a motor vehicle in a high occupancy  
8 vehicle lane with an alternative fuel vehicle sticker if the motor vehicle  
9 is not an alternative fuel vehicle. A person who violates this subsection  
10 is subject to a civil penalty of three hundred fifty dollars. Notwithstanding  
11 section 28-1554, the civil penalty collected pursuant to this subsection  
12 shall be deposited in the Arizona clean air fund established by section  
13 41-1516 to provide grants to a regional planning agency in a county with a  
14 population of more than one million two hundred thousand persons for  
15 conversion of diesel fleets in the county to use alternative fuels or for  
16 acquisition of alternative fuel vehicles to replace diesel fleets in the  
17 county.

18 G. The department shall mark high occupancy vehicle lane signs to  
19 indicate that those lanes may be used by alternative fuel vehicles regardless  
20 of the number of occupants. The design of the sign shall be the same as the  
21 design of the alternative fuel vehicle special plate, and the sign shall be  
22 at least as large as the high occupancy vehicle lane sign. These high  
23 occupancy vehicle lane signs are official traffic control devices. On  
24 highway exit signs the department shall also indicate access to alternative  
25 fuel vehicle fueling stations that are open to the public.

26 H. The costs of the high occupancy vehicle lane sign markings required  
27 by this section shall be paid from the monies in the Arizona clean air fund  
28 established by section 41-1516.

29 I. If the department publishes maps of the state highway system that  
30 are distributed to the general public, the department shall indicate on those  
31 maps the approximate location of alternative fuel delivery facilities that  
32 are open to the public.

33 J. For the purposes of this section, "alternative fuel" has the same  
34 meaning prescribed in section 1-215.

35 Sec. 6. Section 28-5432, Arizona Revised Statutes, is amended to read:  
36 28-5432. Gross weight fees; application; exceptions

37 A. This article applies to all of the following:

38 1. A trailer or semitrailer with a gross weight of ten thousand pounds  
39 or less.

40 2. A motor vehicle or vehicle combination if the motor vehicle or  
41 vehicle combination is designed, used or maintained primarily for the  
42 transportation of passengers for compensation or for the transportation of  
43 property.

44 3. A hearse, an ambulance or any other vehicle that is used by a  
45 mortician in the conduct of the mortician's business.

1           B. This article does not apply to:

2           1. A vehicle commonly referred to as a station wagon or to a vehicle  
3 commonly known as and referred to by the manufacturer's rating as a  
4 three-quarter ton or less pickup truck or three-quarter ton or less van  
5 unless such a vehicle is maintained and operated more than one thousand hours  
6 in a vehicle registration year for the transportation of passengers or  
7 property in the furtherance of a commercial enterprise. An applicant  
8 requesting title or registration of a motor vehicle in the name of a  
9 commercial enterprise shall pay the fees imposed by this article unless the  
10 applicant certifies on the application that the vehicle will not be  
11 maintained and operated in the furtherance of a commercial enterprise.

12           2. A trailer or semitrailer with a declared gross weight of less than  
13 six thousand pounds, if the trailer or semitrailer is not used in the  
14 furtherance of a commercial enterprise.

15           C. The following motor vehicles, trailers and semitrailers are exempt  
16 from the gross weight fee prescribed in section 28-5433:

17           1. A motor vehicle, trailer or semitrailer that is owned and operated  
18 by a religious institution and that is used exclusively for the  
19 transportation of property produced and distributed for charitable purposes  
20 without compensation. For the purposes of this paragraph, "religious  
21 institution" means a recognized organization that has an established place  
22 of meeting for religious worship and that holds regular meetings for that  
23 purpose at least once each week in at least five cities or towns in this  
24 state.

25           2. A motor vehicle, trailer or semitrailer that is owned and operated  
26 by a nonprofit school that is recognized as being tax exempt by the federal  
27 or state government if the motor vehicle, trailer or semitrailer is used  
28 exclusively for any of the following:

29           (a) The transportation of pupils in connection with the school  
30 curriculum.

31           (b) The training of pupils.

32           (c) The transportation of property for charitable purposes without  
33 compensation.

34           3. A motor vehicle, trailer or semitrailer that is owned by a  
35 nonprofit organization in this state that presents to the department a form  
36 approved by the director of the division of emergency management pursuant to  
37 section 26-318.

38           4. A vehicle that is owned and operated ONLY FOR GOVERNMENT PURPOSES  
39 by a foreign government, a consul or any other official representative of a  
40 foreign government, by the United States, by a state or political subdivision  
41 of a state or by an Indian tribal government.

42           5. A motor vehicle that is privately owned and operated exclusively  
43 as a school bus pursuant to a contract with a school district. If a  
44 privately owned and operated school bus is temporarily operated for purposes  
45 other than those prescribed in the definition of school bus in section

1 28-101, the registering officer shall assess and collect a monthly gross  
2 weight fee equal to one-tenth of the annual gross weight fee prescribed by  
3 section 28-5433 for each calendar month that the motor vehicle is so operated  
4 in this state. The registering officer shall not apportion the gross weight  
5 fee for a fraction of a calendar month.

6 Sec. 7. Heading changes

7 A. The article heading of title 28, chapter 16, article 1, Arizona  
8 Revised Statutes, is changed from "MOTOR VEHICLE FUEL TAX" to "MOTOR FUEL  
9 TAXES".

10 B. The article heading of title 28, chapter 16, article 2, Arizona  
11 Revised Statutes, is changed from "USE FUEL TAX" to "INTERSTATE USER FUEL TAX  
12 RESPONSIBILITIES".

13 Sec. 8. Section 28-5601, Arizona Revised Statutes, is amended to read:  
14 28-5601. Definitions

15 In this article AND ARTICLES 2 AND 5 OF THIS CHAPTER, unless the  
16 context otherwise requires:

17 1. "Blending":

18 (a) Means the mixing of one or more products, regardless of the  
19 original character of the product blended, if the product obtained by the  
20 blending is capable of use or otherwise sold for use in the generation of  
21 power for the propulsion of a motor vehicle, aircraft or watercraft.

22 (b) Does not include blending that occurs in the process of refining  
23 by the original refiner of crude petroleum or the blending of products known  
24 as lubricating oil and greases.

25 2. "Bulk end user" means a person who receives into the person's own  
26 storage facilities in transport truck lots motor vehicle ~~or aviation~~ fuel for  
27 the person's own consumption.

28 3. "Bulk plant" means a motor vehicle ~~or aviation~~ fuel storage and  
29 distribution facility that is not a terminal and from which motor vehicle ~~or~~  
30 aviation fuel may be removed at a rack.

31 4. "Bulk transfer" means any transfer of motor vehicle ~~or aviation~~  
32 fuel from one location to another by pipeline tender or marine delivery  
33 within the bulk transfer terminal system.

34 5. "Bulk transfer terminal system" means the motor vehicle ~~or aviation~~  
35 fuel distribution system consisting of refineries, pipelines, marine vessels  
36 and terminals. Motor vehicle ~~or aviation~~ fuel in a refinery, pipeline,  
37 vessel or terminal is in the bulk transfer terminal system. Motor vehicle  
38 ~~or aviation~~ fuel in the fuel supply tank of any engine, or in any tank car,  
39 rail car, trailer, truck or other equipment suitable for ground  
40 transportation, is not in the bulk transfer terminal system.

41 6. "Consumer" means the user END PURCHASER of motor vehicle fuel FOR  
42 USE on the highways in this state, THE END PURCHASER OF MOTOR VEHICLE FUEL  
43 FOR USE IN WATERCRAFT ON WATERWAYS OF THIS STATE or the user END PURCHASER  
44 of aviation fuel FOR USE in aircraft.

1           7. "Destination state" means the state, territory or foreign country  
2 to which motor vehicle ~~or aviation~~ fuel is directed for delivery into a  
3 storage facility, a receptacle, a container or a type of transportation  
4 equipment for the purpose of resale or use.

5           8. "Distributor" means a person who acquires motor vehicle ~~or aviation~~  
6 fuel from a supplier or another distributor for subsequent sale or use and  
7 who may blend or import into or export from this state motor vehicle ~~or~~  
8 ~~aviation~~ fuel in the original package or container or otherwise but excluding  
9 a person who imports motor vehicle ~~or aviation~~ fuel in the fuel tank of a  
10 motor vehicle or aircraft.

11           9. "DYED DIESEL FUEL" MEANS DIESEL FUEL THAT IS DYED PURSUANT TO  
12 UNITED STATES INTERNAL REVENUE SERVICE REGULATIONS OR REQUIREMENTS, INCLUDING  
13 ANY INVISIBLE MARKER REQUIREMENTS.

14           ~~9.~~ 10. "Fuel tank" means a receptacle on a motor vehicle, WATERCRAFT  
15 or aircraft from which fuel is supplied for the propulsion of the motor  
16 vehicle, WATERCRAFT or aircraft, excluding a cargo tank but including a  
17 separate compartment of a cargo tank used as a fuel tank and an auxiliary  
18 tank or receptacle of any kind from which fuel is supplied for the propulsion  
19 of the motor vehicle, WATERCRAFT or aircraft, whether or not the tank or  
20 receptacle is directly connected to the fuel supply line of the motor  
21 vehicle, WATERCRAFT or aircraft.

22           ~~10.~~ 11. "Highway" means any way or place in this state of whatever  
23 nature that is maintained by public monies and that is open to the use of the  
24 public for purposes of vehicular travel, including a highway under  
25 construction.

26           ~~11.~~ 12. "In this state" means any way or place within the exterior  
27 limits of the state of Arizona that is maintained by public monies, including  
28 any such way or place that is owned by or ceded to the United States of  
29 America.

30           ~~12.~~ 13. "Indian reservation" means all lands that are within the  
31 limits of areas set aside by the United States for the exclusive use and  
32 occupancy of Indian tribes by treaty, law or executive order and that are  
33 currently recognized as Indian reservations by the United States department  
34 of the interior.

35           ~~13.~~ 14. "Indian tribe" means any organized nation, tribe, band or  
36 community recognized as an Indian tribe by the United States department of  
37 the interior.

38           15. "INTERSTATE USER" MEANS A PERSON REGISTERING A USE CLASS MOTOR  
39 VEHICLE UNDER CHAPTER 7, ARTICLE 7 OR 8 OF THIS TITLE OR SECTION 28-2321 OR  
40 28-2324.

41           ~~14.~~ 16. "Invoiced gallons" means the gallons actually billed on an  
42 invoice in payment to a supplier.

43           17. "LIGHT CLASS MOTOR VEHICLE" MEANS A MOTOR VEHICLE THAT USES USE  
44 FUEL ON THE HIGHWAYS IN THIS STATE BUT EXCLUDES A ROAD TRACTOR, TRUCK

1 TRACTOR, TRUCK OR PASSENGER CARRYING VEHICLE HAVING A DECLARED GROSS VEHICLE  
2 WEIGHT OF MORE THAN TWENTY-SIX THOUSAND POUNDS OR HAVING MORE THAN TWO AXLES.

3 18. "MOTOR FUEL" MEANS MOTOR VEHICLE FUEL, USE FUEL AND AVIATION FUEL.

4 19. "MOTOR VEHICLE" MEANS A SELF-PROPELLED VEHICLE REQUIRED TO BE  
5 LICENSED OR SUBJECT TO LICENSING FOR OPERATION ON A HIGHWAY.

6 ~~15.~~ 20. "Permissive supplier" means an out-of-state supplier that  
7 elects, but is not required, to have a supplier's license pursuant to this  
8 article.

9 21. "PERSON" MEANS AN INDIVIDUAL, FIRM, PARTNERSHIP, JOINT VENTURE,  
10 ASSOCIATION, CORPORATION, ESTATE, TRUST, BUSINESS TRUST, RECEIVER OR  
11 SYNDICATE, THIS STATE, ANY COUNTY, CITY, TOWN, DISTRICT OR OTHER SUBDIVISION  
12 OF THIS STATE, AN INDIAN TRIBE, OR ANY OTHER GROUP OR COMBINATION ACTING AS  
13 A UNIT.

14 ~~16.~~ 22. "Position holder":

15 (a) Means the person who holds the inventory position in motor vehicle  
16 or aviation fuel in a terminal, as reflected on the records of the terminal  
17 operator. For the purposes of this subdivision, "a person who holds the  
18 inventory position in motor vehicle or aviation fuel" means a person who has  
19 a contract with the terminal operator for the use of storage facilities and  
20 terminaling services for fuel at the terminal.

21 (b) Includes a terminal operator who owns fuel in the terminal.

22 ~~17.~~ 23. "Public monies" means those monies that are received by this  
23 state and that are derived all or in part from tax revenues or other funding  
24 sources.

25 ~~18.~~ 24. "Qualified terminal" means a terminal that is designated as  
26 a qualified terminal pursuant to the United States internal revenue code,  
27 regulation and practices and that has been assigned a terminal control number  
28 by the United States internal revenue service.

29 ~~19.~~ 25. "Rack" means a mechanism for delivering motor vehicle or  
30 aviation fuel from a refinery, a terminal or a bulk plant into a railroad  
31 tank car, a transport truck or other means of transfer that is outside the  
32 bulk transfer terminal system.

33 ~~20.~~ 26. "Refiner" means any person who owns, operates or otherwise  
34 controls a refinery within the United States.

35 ~~21.~~ 27. "Refinery" means a facility that is used to produce motor  
36 vehicle or aviation fuel from crude oil, unfinished oils, natural gas  
37 liquids, transmix or other hydrocarbons or by blending and from which motor  
38 vehicle or aviation fuel may be removed by pipeline, by vessel or at a rack.

39 28. "ROAD TRACTOR" MEANS A MOTOR VEHICLE THAT IS DESIGNED AND USED FOR  
40 DRAWING OTHER VEHICLES AND THAT IS NOT CONSTRUCTED TO CARRY EITHER A LOAD  
41 INDEPENDENTLY OR ANY PART OF THE WEIGHT OF A VEHICLE OR LOAD SO DRAWN.

42 ~~22.~~ 29. "Sell" includes a transfer of title or possession, exchange  
43 or barter in any manner or by any means.

44 ~~23.~~ 30. "Supplier":

45 (a) Means a person who is either:

1 (a) registered pursuant to section 4101 of the United States internal  
2 revenue code for transactions in motor vehicle or aviation fuels in the bulk  
3 transfer terminal distribution system and WHO IS one of the following:

4 (i) The position holder in a terminal or refinery in this state.

5 (ii) A person who imports motor vehicle or aviation fuel into this  
6 state from a foreign country.

7 (iii) A person who acquires motor vehicle or aviation fuel from a  
8 terminal or refinery in this state from a position holder pursuant to a two  
9 party exchange.

10 (iv) The position holder in a terminal or refinery outside this state  
11 with respect to motor vehicle or aviation fuel that that person imports into  
12 this state on the account of that person.

13 ~~(b) A distributor who purchases motor vehicle or aviation fuel on~~  
14 ~~which fuel taxes have not been accrued or collected by a supplier.~~

15 (b) Supplier Includes a permissive supplier unless specifically  
16 provided otherwise. Supplier does not include a terminal operator merely  
17 because the terminal operator handles motor vehicle or aviation fuel  
18 consigned to the terminal operator within a terminal.

19 ~~24.~~ 31. "Terminal" means a storage and distribution facility for motor  
20 vehicle or aviation fuel, which is supplied by pipeline or marine vessel,  
21 that is registered as a qualified terminal by the United States internal  
22 revenue service and from which motor vehicle or aviation fuel may be removed  
23 at a rack.

24 ~~25.~~ 32. "Terminal bulk transfer" includes the following:

25 (a) A marine barge movement of motor vehicle or aviation fuel from a  
26 refinery or terminal to a terminal.

27 (b) Pipeline movements of motor vehicle or aviation fuel from a  
28 refinery or terminal to a terminal.

29 ~~(c) Book transfers of motor vehicle or aviation fuel within a terminal~~  
30 ~~between suppliers before completion of removal across the rack.~~

31 ~~(d) Two party exchanges between licensed suppliers.~~

32 ~~26.~~ 33. "Terminal operator" means any person who owns, operates or  
33 otherwise controls a terminal and who does not use a substantial portion of  
34 the motor vehicle or aviation fuel that is transferred through or stored in  
35 the terminal for the person's own use or consumption or in the manufacture  
36 of products other than motor vehicle or aviation fuel. A terminal operator  
37 may own the motor vehicle or aviation fuel that is transferred through or  
38 stored in the terminal.

39 ~~27.~~ 34. "Transmix" means the buffer or interface between two different  
40 products in a pipeline shipment, or a mix of two different products within  
41 a refinery or terminal that results in an off-grade mixture THAT IS NOT  
42 USABLE OR SALABLE AS MOTOR FUEL.

43 ~~28.~~ 35. "Two party exchange" means a transaction:

1 (a) In which motor ~~vehicle or aviation~~ fuel is transferred from one  
2 licensed supplier or licensed permissive supplier to another licensed  
3 supplier or licensed permissive supplier.

4 (b) That includes a transfer from the person that holds the original  
5 inventory position for motor ~~vehicle or aviation~~ fuel in the terminal as  
6 reflected on the records of the terminal operator.

7 (c) That is simultaneous with removal from the terminal by the  
8 receiving exchange party.

9 (d) In which the terminal operator in the terminal operator's books  
10 and records treats the receiving exchange party as the supplier that removes  
11 the product across a terminal rack for purposes of reporting the events to  
12 the department.

13 36. "USE" INCLUDES THE PLACING OF FUEL INTO ANY RECEPTACLE ON A MOTOR  
14 VEHICLE FROM WHICH FUEL IS SUPPLIED FOR THE PROPULSION OF THE VEHICLE UNLESS  
15 THE OPERATOR OF THE VEHICLE ESTABLISHES TO THE SATISFACTION OF THE DIRECTOR  
16 THAT THE FUEL WAS CONSUMED FOR A PURPOSE OTHER THAN TO PROPEL A MOTOR VEHICLE  
17 ON A HIGHWAY IN THIS STATE AND, WITH RESPECT TO FUEL BROUGHT INTO THIS STATE  
18 IN ANY SUCH RECEPTACLE ON A USE CLASS MOTOR VEHICLE, THE CONSUMPTION OF THE  
19 FUEL IN THIS STATE. A PERSON WHO PLACES FUEL IN A RECEPTACLE ON A USE CLASS  
20 MOTOR VEHICLE OF ANOTHER IS NOT DEEMED TO HAVE USED THE FUEL.

21 37. "USE CLASS MOTOR VEHICLE" MEANS A MOTOR VEHICLE THAT USES USE FUEL  
22 ON A HIGHWAY IN THIS STATE AND THAT IS A ROAD TRACTOR, TRUCK TRACTOR, TRUCK  
23 OR PASSENGER CARRYING VEHICLE HAVING A DECLARED GROSS VEHICLE WEIGHT OF MORE  
24 THAN TWENTY-SIX THOUSAND POUNDS OR HAVING MORE THAN TWO AXLES.

25 38. "USE FUEL" INCLUDES ALL GASES AND LIQUIDS USED OR SUITABLE FOR USE  
26 TO PROPEL MOTOR VEHICLES, EXCEPT FUELS THAT ARE SUBJECT TO THE MOTOR VEHICLE  
27 FUEL TAX IMPOSED BY THIS ARTICLE.

28 39. "USER" INCLUDES A PERSON WHO, WITHIN THE MEANING OF THE TERM USE  
29 AS DEFINED IN THIS SECTION, USES FUEL IN A USE CLASS MOTOR VEHICLE.

30 40. "VENDOR" INCLUDES A PERSON WHO SELLS USE FUEL IN THIS STATE AND WHO  
31 PLACES THE FUEL OR CAUSES THE FUEL TO BE PLACED INTO ANY RECEPTACLE ON A  
32 MOTOR VEHICLE FROM WHICH RECEPTACLE FUEL IS SUPPLIED FOR THE PROPULSION,  
33 INCLUDING A SERVICE STATION DEALER, A BROKER AND A USER WHO SELLS USE FUEL  
34 TO OTHERS.

35 Sec. 9. Section 28-5602, Arizona Revised Statutes, is amended to read:  
36 28-5602. Enforcement

37 THE FOLLOWING PERSONS HAVE AUTHORITY TO ENFORCE THIS ARTICLE:

38 1. THE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION AND THE DIRECTOR'S  
39 DULY APPOINTED AGENTS.

40 2. THE DIRECTOR OF THE DEPARTMENT OF WEIGHTS AND MEASURES AND THE  
41 DIRECTOR'S DULY APPOINTED AGENTS.

42 3. ~~The highway patrol~~ DEPARTMENT OF PUBLIC SAFETY and its officers  
43 ~~have authority to enforce this article.~~

44 Sec. 10. Section 28-5603, Arizona Revised Statutes, is amended to  
45 read:

1           28-5603. Motor fuel testing

2           A. The director may take samples of any liquid believed to be motor  
3 ~~vehicle fuel or aviation fuel~~ and may make or cause to be made an analysis  
4 of the liquid.

5           B. The chemistry department or other qualified department of the  
6 university of Arizona shall:

7           1. Analyze samples on request of the director.

8           2. Promptly furnish to the director a full report of the analysis  
9 without cost.

10          Sec. 11. Section 28-5604, Arizona Revised Statutes, is amended to  
11 read:

12          28-5604. Reward for detecting violations

13          The department may set up in its budget for the fiscal year an item  
14 from which a person, other than a state officer or employee, who directs the  
15 attention of the director to a distributor PERSON who has failed to file the  
16 required reports and has failed to pay the tax TAXES imposed by this article  
17 or section 28-8344 may be paid an amount that in the discretion of the  
18 department is deemed proper but that does not exceed ten per cent of the  
19 amount of the tax, penalty and interest ultimately collected from the  
20 distributor PERSON as a result of the information.

21          Sec. 12. Transfer and renumber

22          Section 28-5605, Arizona Revised Statutes, is transferred and  
23 renumbered for placement in title 28, chapter 16, article 5, Arizona Revised  
24 Statutes, as section 28-5921.

25          Sec. 13. Title 28, chapter 16, article 1, Arizona Revised Statutes,  
26 is amended by adding a new section 28-5605, to read:

27          28-5605. Use fuel tax collection; fuel dispenser labels; civil  
28 penalty

29          A. A VENDOR SHALL NOT COLLECT MORE THAN THE USE FUEL TAX IMPOSED  
30 PURSUANT TO SECTION 28-5606, SUBSECTION B, PARAGRAPH 1 FROM A PERSON WHO  
31 PURCHASES USE FUEL FOR USE IN THE PROPULSION OF A LIGHT CLASS MOTOR VEHICLE  
32 ON A HIGHWAY IN THIS STATE OR FOR USE IN THE PROPULSION OF A USE CLASS MOTOR  
33 VEHICLE THAT IS EXEMPT PURSUANT TO SECTION 28-5432 FROM THE WEIGHT FEE  
34 PRESCRIBED IN SECTION 28-5433 ON A HIGHWAY IN THIS STATE.

35          B. SUBJECT TO THE FOLLOWING, VENDORS SHALL LABEL USE FUEL DISPENSERS  
36 PURSUANT TO STANDARDS ESTABLISHED BY THE DEPARTMENT OF WEIGHTS AND MEASURES:

37           1. LABELS ON USE FUEL DISPENSERS SHALL NOTIFY THE PURCHASER OF THE  
38 STATE USE FUEL TAX RATE. THE DEPARTMENT OF TRANSPORTATION SHALL PROVIDE THE  
39 USE FUEL DISPENSER LABELS TO VENDORS.

40           2. IF THE VENDOR ONLY SELLS USE FUEL TO LIGHT CLASS MOTOR VEHICLES OR  
41 USE CLASS MOTOR VEHICLES THAT ARE EXEMPT PURSUANT TO SECTION 28-5432 FROM THE  
42 WEIGHT FEE PRESCRIBED IN SECTION 28-5433, OR BOTH, THE VENDOR SHALL POST THAT  
43 LIMITATION AND INCLUDE THE TAX RATE PRESCRIBED IN SECTION 28-5606, SUBSECTION  
44 B, PARAGRAPH 1.

1 3. IF LIGHT CLASS MOTOR VEHICLES AND USE CLASS MOTOR VEHICLES ARE  
2 ALLOWED TO FUEL AT THE SAME USE FUEL DISPENSER, THE VENDOR SHALL INCLUDE THE  
3 TAX RATE PRESCRIBED IN SECTION 28-5606, SUBSECTION B, PARAGRAPH 2 AND POST  
4 A NOTICE THAT THE TAX RATE FOR LIGHT CLASS MOTOR VEHICLES AND USE CLASS MOTOR  
5 VEHICLES THAT ARE EXEMPT PURSUANT TO SECTION 28-5432 FROM THE WEIGHT FEE  
6 PRESCRIBED IN SECTION 28-5433 IS THE TAX RATE PRESCRIBED IN SECTION 28-5606,  
7 SUBSECTION B, PARAGRAPH 1.

8 4. IF THE VENDOR PROHIBITS LIGHT CLASS MOTOR VEHICLES OR USE CLASS  
9 MOTOR VEHICLES FROM DISPENSING FUEL FROM A SPECIFIC FUEL DISPENSER, THE  
10 VENDOR SHALL POST THAT PROHIBITION.

11 5. IN ADDITION TO POSTING A SIGN ON A USE FUEL DISPENSER THAT  
12 INDICATES THAT THE PRICE OF THE USE FUEL DISPENSED FROM THAT DISPENSER  
13 INCLUDES THE APPLICABLE FEDERAL AND STATE TAXES, A VENDOR THAT DISPENSES USE  
14 FUEL FROM A CARDLOCK FACILITY SHALL REQUIRE THE PURCHASER OF USE FUEL FOR  
15 LIGHT CLASS MOTOR VEHICLES OR USE CLASS MOTOR VEHICLES THAT ARE EXEMPT  
16 PURSUANT TO SECTION 28-5432 FROM THE WEIGHT FEE PRESCRIBED IN SECTION  
17 28-5433, OR BOTH, TO COMPLETE A DECLARATION OF STATUS IN A FORM AND A MANNER  
18 APPROVED BY THE DIRECTOR. FOR THE PURPOSES OF THIS PARAGRAPH, "CARDLOCK  
19 FACILITY" MEANS A USE FUEL VENDOR THAT SATISFIES ALL OF THE FOLLOWING:

20 (a) IS LICENSED IN THIS STATE.

21 (b) SELLS ONLY TO PREAPPROVED PURCHASERS OF USE FUEL WHO HAVE BEEN  
22 ISSUED CARDS, KEYS OR OTHER CONTROLLED ACCESS TO IDENTIFY THE EXCLUSIVE  
23 WITHDRAWAL OF THAT PARTICULAR PURCHASER.

24 (c) DOES NOT HAVE A REPRESENTATIVE ON THE PREMISES TO OBSERVE THE  
25 WITHDRAWAL OF USE FUEL FROM THE VENDOR'S STORAGE.

26 (d) MEASURES VOLUMES OF FUEL DISPENSED BY PUMP METERS OR OTHER  
27 ACCURATE RECORDING DEVICES.

28 C. A VENDOR WHO VIOLATES SUBSECTION B OF THIS SECTION IS SUBJECT TO  
29 A CIVIL PENALTY OF ONE HUNDRED DOLLARS FOR EACH DAY THE VIOLATION CONTINUES.

30 Sec. 14. Section 28-5606, Arizona Revised Statutes, is amended to  
31 read:

32 28-5606. Imposition of motor fuel taxes

33 A. In addition to all other taxes provided by law, a tax of eighteen  
34 cents per gallon is imposed on motor vehicle fuel possessed, used or consumed  
35 in this state.

36 B. TO PARTIALLY COMPENSATE THIS STATE FOR THE USE OF ITS HIGHWAYS:

37 1. A USE FUEL TAX IS IMPOSED ON USE FUEL USED IN THE PROPULSION OF A  
38 LIGHT CLASS MOTOR VEHICLE ON A HIGHWAY IN THIS STATE AT THE SAME RATE PER  
39 GALLON AS THE MOTOR VEHICLE FUEL TAX PRESCRIBED IN SUBSECTION A OF THIS  
40 SECTION, EXCEPT THAT THERE IS NO USE FUEL TAX ON ALTERNATIVE FUELS.

41 2. A USE FUEL TAX IS IMPOSED ON USE FUEL USED IN THE PROPULSION OF A  
42 USE CLASS MOTOR VEHICLE ON A HIGHWAY IN THIS STATE AT THE RATE OF TWENTY-SIX  
43 CENTS FOR EACH GALLON, EXCEPT THAT THERE IS NO USE FUEL TAX ON ALTERNATIVE  
44 FUELS AND USE CLASS VEHICLES THAT ARE EXEMPT PURSUANT TO SECTION 28-5432 FROM

1 THE WEIGHT FEE PRESCRIBED IN SECTION 28-5433 ARE SUBJECT TO THE USE FUEL TAX  
2 IMPOSED BY PARAGRAPH 1 OF THIS SUBSECTION.

3 ~~B.~~ C. The motor vehicle fuel AND USE FUEL taxes imposed pursuant to  
4 this section and the aviation fuel taxes imposed pursuant to section 28-8344  
5 are conclusively presumed to be direct taxes on the consumer OR USER but  
6 shall be collected and remitted to the department by suppliers for the  
7 purpose of convenience and facility only. Motor vehicle FUEL, USE FUEL and  
8 aviation fuel taxes that are collected and paid to the department by a  
9 supplier are considered to be advance payments, shall be added to the price  
10 of motor vehicle FUEL, USE FUEL or aviation fuel and shall be recovered from  
11 the consumer OR USER.

12 ~~C.~~ D. Motor vehicle fuel AND USE FUEL taxes imposed pursuant to this  
13 section on the use of motor vehicle fuel AND USE FUEL and the aviation fuel  
14 taxes imposed pursuant to section 28-8344 on the use of aviation fuel, other  
15 than by bulk transfer, arise at the time the motor vehicle, USE or aviation  
16 fuel either:

17 1. Is imported into this state and is measured by invoiced gallons  
18 received outside this state at a refinery, terminal or bulk plant for  
19 delivery to a destination in this state.

20 2. Is removed, as measured by invoiced gallons, from the bulk transfer  
21 terminal system or from a qualified terminal in this state.

22 3. Is removed, as measured by invoiced gallons, from the bulk transfer  
23 terminal system or from a qualified terminal or refinery outside this state  
24 for delivery to a destination in this state as represented on the shipping  
25 papers if a supplier imports the motor vehicle, USE or aviation fuel for the  
26 account of the supplier or the supplier has made a tax precollection election  
27 pursuant to section 28-5636.

28 E. IF MOTOR FUEL IS REMOVED FROM THE BULK TRANSFER TERMINAL SYSTEM OR  
29 FROM A QUALIFIED TERMINAL OR IS IMPORTED INTO THIS STATE, THE ORIGINAL  
30 REMOVAL, TRANSFER OR IMPORTATION OF THE MOTOR FUEL IS SUBJECT TO THE  
31 COLLECTION OF THE TAX. IF THIS MOTOR FUEL IS TRANSPORTED TO ANOTHER  
32 QUALIFIED TERMINAL OR REENTERS THE BULK TRANSFER TERMINAL SYSTEM, THE  
33 SUBSEQUENT SALE OF THE MOTOR FUEL ON WHICH TAX HAS BEEN COLLECTED IS NOT  
34 SUBJECT TO COLLECTION OF AN ADDITIONAL TAX IF PROPER DOCUMENTATION IS  
35 RETAINED TO SUPPORT THE TRANSACTION.

36 Sec. 15. Section 28-5607, Arizona Revised Statutes, is amended to  
37 read:

38 28-5607. Fuel imported by other than licensed supplier; payment  
39 of tax; fee; import limitation

40 A. A person who is not licensed as a supplier and who imports motor  
41 vehicle fuel from a point outside this state to a point in this state shall  
42 pay both:

43 1. The ~~license~~ tax at a department facility approved by the director  
44 before importing the fuel.

45 2. A twenty-five dollar administrative processing fee.

1 B. A person who is not licensed as a supplier and who causes motor  
2 ~~vehicle fuel or aviation fuel~~ on which taxes have not been collected to be  
3 transported from a point outside this state to a point in this state shall  
4 pay to the director the following:

- 5 1. The tax required by section 28-5606 or 28-8344.
- 6 2. A penalty equal to the tax required by section 28-5606 or 28-8344.
- 7 3. Interest of one per cent per month or portion of a month on the  
8 tax.

9 C. A person who is not licensed as a supplier may not import more than  
10 sixteen thousand gallons of motor ~~vehicle fuel~~ per calendar year.

11 Sec. 16. Section 28-5608, Arizona Revised Statutes, is amended to  
12 read:

13 28-5608. Fuel imported in fuel tanks; violation; classification

14 A. An owner or operator of a motor vehicle, WATERCRAFT or aircraft who  
15 imports motor ~~vehicle fuel or aviation fuel~~ into this state in the fuel tank  
16 or tanks of a motor vehicle, WATERCRAFT or aircraft in a quantity exceeding  
17 the capacity of the fuel tank or tanks of that vehicle, WATERCRAFT or  
18 aircraft according to the manufacturer's stock specifications shall pay to  
19 the director, ~~on demand of the director,~~ the license tax required of  
20 distributors SUPPLIERS on the excess motor ~~vehicle or aviation fuel~~.

21 B. A person who violates this section is guilty of a class 2  
22 misdemeanor.

23 Sec. 17. Section 28-5609, Arizona Revised Statutes, is amended to  
24 read:

25 28-5609. Railroad common carrier exemption; exception; report

26 A. Except for section 28-5607, subsection B, and sections 28-5602,  
27 28-5603, 28-5608, 28-5610, ~~through 28-5613~~ and 28-5611, 28-5612, 28-5622,  
28 ~~through 28-5625~~ 28-5624 AND 28-5923 and this section, this article does not  
29 apply to railroad common carriers that are not engaged in the business of a  
30 distributor SUPPLIER for pecuniary gain.

31 B. A railroad common carrier:

32 1. If it imports motor ~~vehicle fuel or aviation fuel~~, shall make a  
33 verified report to the director on forms prescribed and furnished by the  
34 director, on or before the ~~twenty-fifth~~ TWENTY-SEVENTH day of the next  
35 succeeding month, showing the amount of fuel it has imported.

36 2. If it sells, otherwise disposes of or uses any fuel it has imported  
37 in a motor vehicle operated on the highways in this state or in A WATERCRAFT  
38 OR an aircraft, shall make a verified report to the director on forms  
39 prescribed and furnished by the director, on or before the ~~twenty-fifth~~  
40 TWENTY-SEVENTH day of the next succeeding month, showing either:

41 (a) The name of the person or persons to whom the fuel was sold or  
42 otherwise disposed of.

43 (b) If used by it in a motor vehicle operated on the highways in this  
44 state or in A WATERCRAFT OR an aircraft, a description of the vehicle,  
45 WATERCRAFT or aircraft in which the fuel was used.

1           3. Shall pay to the director at the time the report is made the tax  
2 required of suppliers by this article.

3           4. Shall furnish to the director other information concerning motor  
4 ~~vehicle fuel or aviation~~ fuel imported by it as the director requires.

5           5. May be required to file a bond with the director in an amount fixed  
6 by the director to ensure compliance with this section.

7           Sec. 18. Section 28-5610, Arizona Revised Statutes, is amended to  
8 read:

9           28-5610. Exemptions

10          A. The following are exempt from motor vehicle fuel AND USE FUEL taxes  
11 imposed by section 28-5606 and aviation fuel taxes imposed by section  
12 28-8344:

13          1. Motor ~~vehicle or aviation~~ fuel for which proof of export is  
14 available in the form of a terminal-issued destination state shipping paper  
15 or bill of lading and that is either:

16           (a) Exported by a supplier who is licensed in the destination state.

17           (b) Sold by a supplier to a distributor for immediate export.

18          2. Motor ~~vehicle or aviation~~ fuel that was acquired by a distributor,  
19 as to which the tax imposed by this article OR SECTION 28-8344 has previously  
20 been paid or accrued and that was subsequently exported by transport truck  
21 by or on behalf of the distributor in a diversion across state boundaries  
22 properly reported to the department. If diverted by a distributor, the  
23 distributor shall perfect the exemption by filing a refund application with  
24 the department within six months after the diversion.

25          3. Motor vehicle fuel OR USE FUEL that is sold within an Indian  
26 reservation to an enrolled member of the Indian tribe that WHO is living on  
27 the Indian reservation established for the benefit of that Indian tribe and  
28 that is used by the enrolled member for the enrolled member's own  
29 benefit. This exemption does not apply to sales within an Indian reservation  
30 by an Indian or Indian tribe to non-Indian consumers or to Indian consumers  
31 who are not members of the Indian tribe for which the Indian reservation was  
32 established OR TO USE FUEL USED TO OPERATE MOTOR VEHICLES FOR A COMMERCIAL  
33 PURPOSE OUTSIDE OF THE RESERVATION ON HIGHWAYS IN THIS STATE. For the  
34 purposes of this paragraph, "Indian" means an individual who is registered  
35 on the tribal rolls of the Indian tribe for whose benefit the Indian  
36 reservation was created.

37          4. Motor vehicle fuel OR USE FUEL used solely and exclusively as fuel  
38 to operate a motor vehicle on highways in this state if the motor vehicle is  
39 leased TO or owned by and IS being operated for the sole benefit of an Indian  
40 tribe FOR GOVERNMENTAL PURPOSES ONLY.

41          5. Motor ~~vehicle~~ fuel that is moving in interstate or foreign commerce  
42 and that is not destined or diverted to a point in this state.

43          6. Motor vehicle or aviation fuel that is sold to the United States  
44 or an instrumentality or agency of the United States.

1 7. TAXABLE USE FUEL THAT HAS BEEN ACCIDENTALLY CONTAMINATED SO AS TO  
2 BE UNSALABLE AS HIGHWAY FUEL AS PROVED BY PROPER DOCUMENTATION.

3 8. DYED DIESEL FUEL, INCLUDING FUEL USED BY EITHER OF THE FOLLOWING:  
4 (a) A FARM TRACTOR OR IMPLEMENT OF HUSBANDRY DESIGNED PRIMARILY FOR  
5 OR USED IN AGRICULTURAL OPERATIONS AND ONLY INCIDENTALLY OPERATED OR MOVED  
6 ON A HIGHWAY.

7 (b) A ROAD ROLLER OR VEHICLE THAT IS ALL OF THE FOLLOWING:  
8 (i) DESIGNED AND USED PRIMARILY FOR GRADING, PAVING, EARTHMOVING OR  
9 OTHER CONSTRUCTION WORK ON A HIGHWAY.

10 (ii) NOT DESIGNED OR USED PRIMARILY FOR TRANSPORTATION OF PERSONS OR  
11 PROPERTY.

12 (iii) INCIDENTALLY OPERATED OR MOVED OVER THE HIGHWAY.

13 B. NOTWITHSTANDING SUBSECTION A, PARAGRAPH 8 OF THIS SECTION, THE  
14 FOLLOWING ARE NOT EXEMPT FROM USE FUEL TAXES IMPOSED BY SECTION 28-5606:

15 1. A VEHICLE THAT WAS ORIGINALLY DESIGNED FOR THE TRANSPORTATION OF  
16 PERSONS OR PROPERTY AND TO WHICH MACHINERY IS ATTACHED OR ON WHICH MACHINERY  
17 OR OTHER PROPERTY MAY BE TRANSPORTED.

18 2. A DUMP TRUCK.

19 3. A TRUCK MOUNTED TRANSIT MIXER.

20 4. A TRUCK OR TRAILER MOUNTED CRANE.

21 5. A TRUCK OR TRAILER MOUNTED SHOVEL.

22 ~~B.~~ C. EXCEPT AS PROVIDED IN SUBSECTION D OF THIS SECTION, a person  
23 who claims an exemption pursuant to this section shall perfect the exemption  
24 by claiming a refund pursuant to section 28-5612.

25 D. SUBJECT TO SECTIONS 28-5645 THROUGH 28-5649, DYED DIESEL FUEL IS  
26 EXEMPT FROM USE FUEL TAXES AT THE TIME OF SALE.

27 Sec. 19. Section 28-5611, Arizona Revised Statutes, is amended to  
28 read:

29 28-5611. Refunds; motor vehicle fuel

30 A. Except as ~~otherwise~~ provided in subsection ~~C~~ B OF THIS SECTION,  
31 on application to the director pursuant to this article and if subsection ~~B~~  
32 SECTION 28-5612 is complied with, a person who buys and uses motor vehicle  
33 fuel shall receive a refund in the amount of the tax if the person pays the  
34 tax on the fuel and either:

35 1. Uses the fuel other than in ANY OF THE FOLLOWING:

36 (a) A motor vehicle on a highway in this state.

37 (b) Watercraft on the waterways of this state.

38 (c) A motor vehicle operating on a transportation facility or toll  
39 road pursuant to chapter 22 of this title.

40 2. Buys aviation fuel for use in aircraft applying seeds, fertilizer  
41 or pesticides.

42 ~~3. Buys motor vehicle fuel or aviation fuel and exports it.~~

43 ~~4. 3. Loses the fuel by fire, theft or other accident.~~

44 ~~B. The director shall accept only one application for refund of motor  
45 vehicle fuel or aviation fuel taxes for any one person within a twelve month~~

1 ~~period if the total allowable gallonage included in the application is less~~  
2 ~~than two hundred gallons.~~

3 ~~C. B. If a claim for refund is based on the use of motor vehicle fuel~~  
4 ~~in aircraft, five cents of the license tax collected on each gallon of motor~~  
5 ~~vehicle fuel claimed shall remain in the state aviation fund, and the~~  
6 ~~department shall refund the remainder of the tax pursuant to this section~~  
7 ~~28-5612.~~

8 Sec. 20. Section 28-5612, Arizona Revised Statutes, is amended to  
9 read:

10 28-5612. Refund procedure; violation

11 ~~A. If motor vehicle fuel is sold to a person who claims the person is~~  
12 ~~entitled to a refund of the tax because the motor vehicle fuel is not~~  
13 ~~purchased for use in a motor vehicle or watercraft, the seller shall:~~

14 ~~1. Prepare in triplicate in a form prescribed by the director an~~  
15 ~~invoice setting forth:~~

16 ~~(a) The name and address of the purchaser.~~

17 ~~(b) The number of gallons of motor vehicle fuel sold.~~

18 ~~(c) If the claim that the tax is refundable is based on the fact that~~  
19 ~~the fuel was used in aircraft, the fact that the fuel was used in aircraft.~~

20 ~~(d) Other information the director requires.~~

21 ~~2. Give the original invoice to the purchaser at the time of sale.~~

22 ~~3. Mail the duplicate to the director not later than the~~  
23 ~~twenty-seventh day of the next succeeding month.~~

24 ~~B. A person entitled to a refund of the motor vehicle fuel tax or~~  
25 ~~aviation fuel tax shall receive a refund if the person does all of the~~  
26 ~~following:~~

27 ~~A. A PERSON WHO IS SEEKING A REFUND AND WHO IS NOT LICENSED AS A~~  
28 ~~SUPPLIER, INTERSTATE USER, RESTRICTED DISTRIBUTOR OR USE FUEL VENDOR SHALL:~~

29 ~~1. Files FILE an application with the director within twelve SIX~~  
30 ~~months after the date of purchase or invoice of the motor vehicle fuel or~~  
31 ~~aviation fuel for which a refund is claimed SALE.~~

32 ~~2. SUBMIT PROOF SATISFACTORY TO THE DIRECTOR OF THE FOLLOWING:~~

33 ~~(a) THE PURPOSE FOR WHICH THE FUEL WAS USED.~~

34 ~~(b) THE TAX PAID PURCHASE.~~

35 ~~2. 3. Makes MAKE an application in a form prescribed by the~~  
36 ~~department that requests only the following information:~~

37 ~~(a) Name and address of the claimant.~~

38 ~~(b) Period covered by the claim showing dates.~~

39 ~~(c) Location of equipment, IF APPLICABLE.~~

40 ~~(d) Gallons on which a refund is claimed.~~

41 ~~(e) Amount of the refund claimed.~~

42 ~~(f) OTHER INFORMATION REQUIRED BY THE DIRECTOR.~~

43 ~~B. The claim shall not be under oath but shall contain or be~~  
44 ~~accompanied by a written declaration that it is made under penalties of~~

1 perjury and, IF IT IS FOR MOTOR VEHICLE FUEL, that it complies in all  
2 respects with ~~the provisions of~~ section 28-5611 relating to refunds.

3 C. The original invoice or an ~~acceptable~~ A duplicate showing ~~the~~  
4 purchase THAT IS SATISFACTORY TO THE DIRECTOR AND THAT INCLUDES THE FOLLOWING  
5 INFORMATION shall accompany the application.:

- 6 1. THE DATE OF PURCHASE.
- 7 2. THE SELLER'S NAME AND ADDRESS.
- 8 3. THE NUMBER OF GALLONS PURCHASED.
- 9 4. THE TYPE OF FUEL PURCHASED.
- 10 5. THE PRICE PER GALLON OF THE FUEL.
- 11 6. OTHER INFORMATION REQUIRED BY THE DIRECTOR.

12 ~~3. D. If a PERSON FILES A claim for A refund PURSUANT TO THIS SECTION~~  
13 ~~for motor vehicle fuel or aviation fuel exported is filed, makes~~ THE PERSON  
14 SHALL MAKE satisfactory proof of export to the director and ~~files~~ FILE the  
15 claim within three months after the date of export in the form and containing  
16 the information required by the director. The original invoice or an  
17 acceptable duplicate shall accompany the claim.

18 E. THE DIRECTOR SHALL ACCEPT ONLY ONE APPLICATION FOR REFUND OF MOTOR  
19 FUEL TAXES FOR ANY ONE PERSON WITHIN A SIX MONTH PERIOD IF THE AGGREGATE  
20 TOTAL OF ALL MOTOR FUEL TAXES PAID AND FOR WHICH A REFUND IS CLAIMED DOES NOT  
21 EQUAL AT LEAST TEN DOLLARS.

22 ~~G. F. If the director does not issue a refund within sixty days after~~  
23 a COMPLETE APPLICATION FOR refund is ~~claimed~~ FILED as prescribed in this  
24 article, the director shall pay interest at the rate of eleven per cent per  
25 year from the date the ~~claim for~~ COMPLETE APPLICATION FOR refund is filed  
26 until the date on which the refund is made.

27 ~~D. G. If the director denies a refund, the director shall notify the~~  
28 claimant that the refund is denied. ~~If the director fails to notify the~~  
29 ~~claimant of the director's action on an application for refund within six~~  
30 ~~months after the application for refund is filed, the claimant may consider~~  
31 ~~the application to be denied.~~ The director's denial is final unless the  
32 applicant makes a written request for a hearing as prescribed in section  
33 ~~28-5614~~ 28-5924.

34 ~~E. H. It is unlawful for a person to knowingly operate a motor~~  
35 vehicle on the highways or a watercraft on the waterways using motor vehicle  
36 fuel OR USE FUEL that has been sold to a person making the A claim and  
37 ~~receiving the invoice provided in subsection A of this section on the motor~~  
38 ~~vehicle fuel used~~ PURSUANT TO THIS SECTION.

39 ~~F. I. In addition to other penalties prescribed by law, the director~~  
40 shall not give a person who violates this section a refund on motor ~~vehicle~~  
41 ~~fuel or aviation fuel~~ purchased during the six months succeeding the date the  
42 director advises the person by mail of the director's discovery of the  
43 violation.

44 ~~G. J. A person whose right to a refund is suspended may bring an~~  
45 action in superior court in Maricopa county to set aside the suspension.

1 H. K. The director may recover excess refunds from the person to whom  
2 the refund was made. The director shall assess the claimant the amount of  
3 the excess refund and interest. The director shall compute interest at one  
4 per cent per month of the amount of excess refund due beginning on the date  
5 of refund and until the date the assessment is paid.

6 Sec. 21. Transfer and renumber

7 Sections 28-5613, 28-5615, 28-5616 and 28-5617, Arizona Revised  
8 Statutes, are transferred and renumbered for placement in title 28, chapter  
9 16, article 5, Arizona Revised Statutes, as sections 28-5923, 28-5925,  
10 28-5926 and 28-5927, respectively.

11 Sec. 22. Title 28, chapter 16, article 1, Arizona Revised Statutes,  
12 is amended by adding a new section 28-5613, to read:

13 28-5613. Licensee refunds; definition

14 A. A LICENSEE WHO IS SEEKING A REFUND SHALL APPLY PURSUANT TO SECTION  
15 28-5612, EXCEPT THAT A LICENSEE SHALL FILE AN APPLICATION FOR REFUND WITHIN  
16 THREE YEARS AFTER THE DATE OF PURCHASE OR INVOICE OF THE MOTOR FUEL FOR WHICH  
17 A REFUND IS CLAIMED.

18 B. FOR THE PURPOSES OF THIS SECTION, "LICENSEE" INCLUDES A SUPPLIER,  
19 AN INTERSTATE USER, A RESTRICTED DISTRIBUTOR OR A LICENSED USE FUEL VENDOR.

20 Sec. 23. Repeal

21 Section 28-5614, Arizona Revised Statutes, is repealed.

22 Sec. 24. Transfer and renumber

23 Sections 28-5709, 28-5712 and 28-5718, Arizona Revised Statutes, are  
24 transferred and renumbered for placement in title 28, chapter 16, article 1,  
25 Arizona Revised Statutes, as sections 28-5614, 28-5615 and 28-5617,  
26 respectively.

27 Sec. 25. Section 28-5614, Arizona Revised Statutes, as transferred and  
28 renumbered by this act, is amended to read:

29 28-5614. Light class and exempt motor vehicles; refunds

30 A. If a vendor pays the ~~excise~~ USE FUEL tax rate for use class motor  
31 vehicles on use fuel that is actually used in the propulsion of a light class  
32 motor vehicle on a highway in this state or that is actually used in the  
33 propulsion of a use class motor vehicle that is exempt pursuant to section  
34 28-5432 from the weight fee prescribed in section 28-5433 on a highway in  
35 this state and for the purpose of convenience and facility only, the vendor  
36 may apply to the department for a refund of the difference between the amount  
37 of the use class motor vehicle ~~excise~~ USE FUEL tax paid and the amount of the  
38 light class motor vehicle ~~excise~~ USE FUEL tax on the same number of gallons  
39 purchased.

40 B. The director may prescribe any forms the director deems necessary  
41 to implement this section.

42 C. A vendor may file an application for a refund pursuant to this  
43 section either:

44 1. On a monthly basis subject to the limitations prescribed in section  
45 ~~28-5726~~ 28-5612.

1           2. If the amount of the requested refund is at least seven hundred  
2 fifty dollars, except that a vendor shall not file an application for a  
3 refund pursuant to this paragraph more frequently than once each week.

4           D. The director shall:

5           1. Pay the refund from current excise USE FUEL tax receipts.

6           2. Deduct the refund from the monthly excise USE FUEL tax receipts  
7 before the deposit pursuant to section 28-5730 is made.

8           Sec. 26. Section 28-5615, Arizona Revised Statutes, as transferred and  
9 renumbered by this act, is amended to read:

10           28-5615. Presumption of use

11           A. For the proper administration of this article and to prevent  
12 evasion of the excise USE FUEL tax, it is presumed, until the contrary is  
13 established by competent proof under rules and procedures the director  
14 adopts, that all use fuel received into any receptacle on a motor vehicle  
15 from which fuel is supplied to propel the vehicle is consumed in propelling  
16 the vehicle on the highways in this state.

17           B. If a vendor's dealings in use fuel primarily involve delivery of  
18 use fuel into the fuel tanks of motor vehicles it is presumed, until the  
19 contrary is established by competent proof under rules and procedures the  
20 director adopts, that the vendor's total use fuel acquisitions have been  
21 delivered into the fuel tanks of motor vehicles for the propulsion of the  
22 vehicles on the public highways.

23           Sec. 27. Section 28-5617, Arizona Revised Statutes, as transferred and  
24 renumbered by this act, is amended to read:

25           28-5617. Vendors; receipt

26           A. A vendor of USE fuel, the use of which is taxable under this  
27 article, who sells and delivers the USE fuel into a fuel tank shall give the  
28 user a receipt for the USE fuel ~~in the manner and form prescribed in section~~  
29 ~~28-5731~~. THE RECEIPT SHALL INCLUDE THE FOLLOWING:

- 30           1. THE DATE OF PURCHASE.
- 31           2. THE SELLER'S NAME AND ADDRESS.
- 32           3. THE NUMBER OF GALLONS PURCHASED.
- 33           4. THE TYPE OF FUEL PURCHASED.
- 34           5. THE PRICE PER GALLON OF THE FUEL.
- 35           6. THE RATE OF TAX PAID.
- 36           7. OTHER INFORMATION REQUIRED BY THE DIRECTOR.

37           B. A person who is the owner of use fuel that is contained in bulk  
38 storage and who permits the fuel to be delivered into the fuel tank of a  
39 motor vehicle for which the person is not the owner or lessee:

- 40           1. Is presumed to be a vendor of use fuel.
- 41           2. Shall comply with the requirements in this article for vendors of  
42 use fuel.

1           Sec. 28. Section 28-5618, Arizona Revised Statutes, is amended to  
2 read:

3           28-5618. Report requirements

4           A. On or before the twenty-seventh day of each month, a supplier shall  
5 file with the director a true and verified statement in a form prescribed by  
6 the director showing:

7           1. The total number of gallons of motor vehicle fuel or aviation fuel,  
8 blended, imported, exported or acquired during the preceding calendar month.

9           2. The number of gallons of motor vehicle fuel or aviation fuel sold  
10 or otherwise disposed of by the supplier for use in each of the several  
11 counties of this state.

12           3. The total number of gallons of motor vehicle fuel that is included  
13 in this subsection and that is intended for use in aircraft.

14           4. Other information the director requires.

15           B. In addition to making the statement required in subsection A and  
16 if the supplier received an interstate shipment of motor vehicle fuel during  
17 the preceding month or if a RESTRICTED distributor transported for sale motor  
18 vehicle fuel to another county from the county that was originally reported  
19 by the supplier during the preceding month, the supplier or RESTRICTED  
20 distributor shall report on or before the twenty-seventh day of each month  
21 to the director in a form prescribed by the director:

22           1. The quantity and particular description of the fuel received by  
23 interstate shipment and delivered intercounty.

24           2. The name of the consignor and consignee.

25           3. The date shipped.

26           4. The date received.

27           5. How it was shipped.

28           6. Other information the director requires.

29           C. A SUPPLIER OR RESTRICTED DISTRIBUTOR MAY AMEND A REPORT FILED  
30 PURSUANT TO THIS SECTION WITHIN THREE YEARS AFTER THE DATE THE ORIGINAL TAX  
31 REPORT WAS FILED UNLESS THE REPORT FOR THE PERIOD IS FINAL DUE TO AN AUDIT.

32           D. IF AN AMENDED REPORT RESULTS IN A REDUCTION IN TAXES PAID, THE  
33 DEPARTMENT SHALL CREDIT THE LICENSEE'S ACCOUNT UNLESS THE LICENSEE FILES A  
34 WRITTEN REQUEST FOR A REFUND.

35           Sec. 29. Section 28-5619, Arizona Revised Statutes, is amended to  
36 read:

37           28-5619. Records required; violation; classification

38           A. ~~A supplier~~ SUPPLIERS AND RESTRICTED DISTRIBUTORS shall maintain and  
39 keep for ~~three years~~ records of motor vehicle fuel or aviation fuel received,  
40 acquired, used, sold and delivered in this state by the supplier OR  
41 RESTRICTED DISTRIBUTOR, THE AMOUNT OF TAX PAID AS PART OF THE PURCHASE PRICE,  
42 invoices, bills of lading and other pertinent records and papers required by  
43 the director for the reasonable administration of this article AT LEAST UNTIL  
44 THE LATER OF THE FOLLOWING:



1 ~~used by this state or an officer of this state in an action for collection~~  
2 ~~of the tax or a prosecution for a violation of this article.~~

3 ~~D. Notwithstanding subsection C of this section, the department of~~  
4 ~~transportation shall provide information to the department of weights and~~  
5 ~~measures to determine compliance with title 41, chapter 15, article 7. A~~  
6 ~~gasoline dispensing site shall provide the department of transportation with~~  
7 ~~information the director of the department of transportation requests and in~~  
8 ~~the form that the director of the department of transportation determines is~~  
9 ~~necessary for the purposes of this subsection.~~

10 E. C. The director may prescribe forms for required reports or claims  
11 for refund or forms of record to be used by suppliers, DISTRIBUTORS,  
12 RESTRICTED DISTRIBUTORS, VENDORS OR REFUND CLAIMANTS.

13 F. D. A supplier may maintain Records required by this article MAY  
14 BE MAINTAINED in this state. If the records are maintained outside this  
15 state and on request of the director, the supplier shall make the records  
16 SHALL BE MADE available at a location in this state designated by the  
17 director. If the records are maintained outside this state and will not be  
18 made available at the location designated by the director, the director may  
19 require the supplier PERSON to whom a records request has been made to pay  
20 in advance costs reimbursable for subsistence and travel expenses for the  
21 director or an agent of the director to conduct the examination of the  
22 records.

23 Sec. 31. Section 28-5622, Arizona Revised Statutes, is amended to  
24 read:

25 28-5622. Tax estimate

26 If a supplier PERSON neglects or refuses to make and file a report for  
27 any calendar month as required by this article, or files an incorrect or  
28 fraudulent report, the director shall determine from information obtainable  
29 in the director's office or elsewhere the number of gallons of motor vehicle  
30 fuel or aviation fuel with respect to which the supplier PERSON has incurred  
31 liability under this article or section 28-8344.

32 Sec. 32. Section 28-5624, Arizona Revised Statutes, is amended to  
33 read:

34 28-5624. Transportation of fuel by motor vehicle;  
35 documentation; violation; penalties

36 A. A person AN OPERATOR OF A MOTOR VEHICLE transporting motor vehicle  
37 fuel or aviation fuel from a point outside this state to a point in this  
38 state by means of a motor vehicle operated on a highway in this state shall  
39 report to the director in a form prescribed by the director. Two copies of  
40 the report shall CARRY DOCUMENTATION TO accompany the shipment at all times  
41 while the shipment is being transported on the highways in this state. THE  
42 DIRECTOR MAY INSPECT THE DOCUMENTATION AT ANY TIME.

43 B. The report DOCUMENTATION shall include:

- 44 1. The date of shipment of the fuel.  
45 2. The quantity and particular description of the fuel.

1           3. The names of the consignor and consignee.  
2           4. ~~The particular description of the motor vehicle in which the fuel~~  
3 ~~is transported, including the license plate or plates assigned to the motor~~  
4 ~~vehicle.~~

5           4. THE DESTINATION STATE OF THE FUEL SHIPMENT.

6           5. Other information as the director requires.

7           C. ~~A supplier who transports AN OPERATOR OF A MOTOR VEHICLE~~  
8 ~~TRANSPORTING motor vehicle fuel or aviation fuel from a point outside this~~  
9 ~~state to a point in this state and who fails to make the report CARRY~~  
10 ~~DOCUMENTATION at the time and in the manner required PURSUANT TO SUBSECTION~~  
11 ~~A OF THIS SECTION shall pay to the director a penalty of twenty-five ONE~~  
12 ~~HUNDRED dollars for each shipment not reported ACCOMPANIED BY THE REQUIRED~~  
13 ~~DOCUMENTATION in addition to payment of the license tax required by section~~  
14 ~~28-5606 or the tax prescribed in section 28-8344. AN OPERATOR OF A MOTOR~~  
15 ~~VEHICLE TRANSPORTING MOTOR FUEL MAY APPLY FOR ABATEMENT OF THE PENALTY~~  
16 ~~PURSUANT TO SECTION 28-5934.~~

17           Sec. 33. Repeal

18           Section 28-5625, Arizona Revised Statutes, is repealed.

19           Sec. 34. Title 28, chapter 16, article 1, Arizona Revised Statutes,  
20 is amended by adding a new section 28-5625, to read:

21           28-5625. Restricted distributor licenses; violation;  
22 classification

23           A. A PERSON SHALL OBTAIN A LICENSE AND REPORT PURSUANT TO SECTION  
24 28-5618, SUBSECTION B AS A RESTRICTED DISTRIBUTOR OF MOTOR VEHICLE FUEL FROM  
25 THE DIRECTOR IF ALL OF THE FOLLOWING APPLY:

26           1. THE PERSON TRANSPORTS FOR SALE MOTOR VEHICLE FUEL TO ANOTHER COUNTY  
27 FROM THE COUNTY THAT WAS ORIGINALLY REPORTED BY THE SUPPLIER.

28           2. THE PERSON PURCHASES OR OTHERWISE ACQUIRES MOTOR VEHICLE FUEL IN  
29 TANK CAR OR CARGO LOTS.

30           3. THE PERSON SELLS THE MOTOR VEHICLE FUEL FOR DELIVERY IN THIS STATE  
31 OR EXPORT FROM THIS STATE.

32           4. THE PERSON IS NOT REQUIRED BY THIS ARTICLE TO BE LICENSED AS A  
33 SUPPLIER.

34           B. TO OBTAIN A RESTRICTED DISTRIBUTOR LICENSE, A PERSON SHALL FILE  
35 WITH THE DIRECTOR AN APPLICATION THAT CONTAINS THE FOLLOWING:

36           1. THE NAME UNDER WHICH THE PERSON IS TRANACTING BUSINESS IN THIS  
37 STATE.

38           2. THE ADDRESS OF THE PERSON'S PRINCIPAL OFFICE OR PLACE OF BUSINESS  
39 IN THIS STATE.

40           3. THE NAME AND ADDRESS OF THE OWNER, THE NAMES AND ADDRESSES OF THE  
41 PARTNERS IF THE RESTRICTED DISTRIBUTOR IS A PARTNERSHIP OR THE NAMES AND  
42 ADDRESSES OF THE PRINCIPAL OFFICER IF THE RESTRICTED DISTRIBUTOR IS A  
43 CORPORATION OR ASSOCIATION.

44           C. IF THE APPLICATION IS IN PROPER FORM AND IS ACCEPTED FOR FILING,  
45 THE DIRECTOR SHALL ISSUE TO THE APPLICANT A LICENSE TO TRANSACT BUSINESS AS

1 A RESTRICTED DISTRIBUTOR IN THIS STATE SUBJECT TO CANCELLATION AS PROVIDED  
2 BY LAW.

3 D. IF A RESTRICTED DISTRIBUTOR FILES A FALSE REPORT OR FAILS, REFUSES  
4 OR NEGLECTS TO FILE A REPORT PURSUANT TO SECTION 28-5618, THE DIRECTOR MAY  
5 CANCEL THE RESTRICTED DISTRIBUTOR'S LICENSE AND NOTIFY THE RESTRICTED  
6 DISTRIBUTOR OF THE CANCELLATION BY REGULAR MAIL AT THE LAST KNOWN ADDRESS OF  
7 THE RESTRICTED DISTRIBUTOR APPEARING IN THE DEPARTMENT'S RECORDS.

8 E. IF A RESTRICTED DISTRIBUTOR CEASES TO ENGAGE IN BUSINESS AS A  
9 RESTRICTED DISTRIBUTOR IN THIS STATE BY REASON OF DISCONTINUANCE, SALE OR  
10 TRANSFER OF THE BUSINESS, THE RESTRICTED DISTRIBUTOR SHALL NOTIFY THE  
11 DIRECTOR IN WRITING AT LEAST TEN DAYS BEFORE THE DISCONTINUANCE, SALE OR  
12 TRANSFER TAKES EFFECT. IF THE RESTRICTED DISTRIBUTOR SELLS OR TRANSFERS THE  
13 BUSINESS, THE RESTRICTED DISTRIBUTOR SHALL INCLUDE THE NAME AND ADDRESS OF  
14 THE PURCHASER OR TRANSFEREE IN THE NOTICE TO THE DIRECTOR.

15 F. A PERSON WHO IS REQUIRED TO BE LICENSED AS A RESTRICTED DISTRIBUTOR  
16 OF MOTOR VEHICLE FUEL PURSUANT TO THIS SECTION AND WHO FAILS TO OBTAIN A  
17 LICENSE IS GUILTY OF A CLASS 1 MISDEMEANOR.

18 Sec. 35. Section 28-5626, Arizona Revised Statutes, is amended to  
19 read:

20 28-5626. Suppliers; vendors; licenses required

21 A. EXCEPT AS PROVIDED IN SECTION 28-5607, A PERSON WHO ACTS AS A  
22 DISTRIBUTOR AND WHO POSSESSES MOTOR FUEL ON WHICH FUEL TAXES HAVE NOT BEEN  
23 ACCRUED OR COLLECTED BY A SUPPLIER SHALL BE LICENSED AS A SUPPLIER.

24 B. It is unlawful for a ~~supplier to import, receive, use, sell or~~  
25 ~~distribute motor vehicle fuel or aviation fuel or~~ PERSON to engage in  
26 business in this state as a supplier, unless the ~~supplier~~ PERSON has a  
27 license issued by the director to engage in that business.

28 C. A PERSON WHO SELLS USE FUEL FOR DELIVERY DIRECTLY INTO A VEHICLE  
29 FUEL TANK SHALL ALSO BE LICENSED AS A VENDOR AND SHALL MAINTAIN SEPARATE  
30 BUSINESS RECORDS.

31 Sec. 36. Section 28-5630, Arizona Revised Statutes, is amended to  
32 read:

33 28-5630. License; assignability; display; duplicates

34 A. A license issued to a supplier under section 28-5629:

35 1. Is not assignable.

36 2. Is valid only for the supplier in whose name it is issued.

37 3. Shall be displayed conspicuously in the principal place of business  
38 of the supplier in this state.

39 B. A LICENSEE SHALL OBTAIN A DUPLICATE LICENSE FOR EACH ESTABLISHED  
40 BRANCH OFFICE OR LOCATION FOR A FEE OF FIVE DOLLARS AND SHALL DISPLAY THE  
41 DUPLICATE LICENSE IN THE SAME MANNER AS THE ORIGINAL LICENSE DISPLAYED IN THE  
42 LICENSEE'S PRINCIPAL PLACE OF BUSINESS.

1           Sec. 37. Section 28-5631, Arizona Revised Statutes, is amended to  
2 read:

3           28-5631. Bonds; amount; failure of security

4           A. A supplier shall file a bond with the director on a form approved  
5 by the director with a surety company authorized by the corporation  
6 commission to transact business in this state as surety on the bond. The  
7 supplier shall be the principal obligor, and this state shall be the obligee  
8 on the bond. The bond shall be conditioned on the prompt filing of true  
9 reports and the payment by the supplier to the director of all motor vehicle  
10 ~~fuel taxes or aviation fuel taxes~~ that are levied or imposed by this state,  
11 together with all penalties and interest on the taxes, and generally on  
12 faithful compliance with this article.

13           B. The director shall fix the total amount of the bond required of a  
14 supplier and may increase or reduce the amount at any time, subject to the  
15 limitations provided in this article. In fixing the total amount of the bond  
16 required of a supplier, the director shall require a bond in an amount equal  
17 to ~~one and one-half TWO~~ times the director's estimate of the supplier's  
18 monthly tax, determined in a manner the director deems proper. ~~Subject to~~  
19 ~~terms and conditions the director prescribes, a supplier may undertake to pay~~  
20 ~~on each Tuesday the tax collected on all of the motor vehicle fuel or the tax~~  
21 ~~collected on all of the aviation fuel during the week ending the preceding~~  
22 ~~Saturday, and if a supplier elects to pay on each Tuesday the director shall~~  
23 ~~fix the supplier's bond in an amount equal to one and one-half times the~~  
24 ~~estimated weekly tax collected on the motor vehicle fuel or aviation fuel by~~  
25 ~~the supplier, determined in a manner the director deems proper. The total~~  
26 amount of the bond required of a supplier shall be at least one FIVE thousand  
27 but not more than one hundred thousand MILLION dollars.

28           C. A SUPPLIER MAY REQUEST IN WRITING THAT THE DIRECTOR RETURN, REFUND  
29 OR RELEASE A BOND REQUIRED PURSUANT TO THIS SECTION. THE DIRECTOR MAY  
30 RETURN, REFUND OR RELEASE A BOND IF THE DIRECTOR DETERMINES THAT THE SUPPLIER  
31 HAS CONTINUOUSLY COMPLIED WITH THIS ARTICLE FOR AT LEAST THE PREVIOUS THREE  
32 CONSECUTIVE YEARS. IF THE DIRECTOR DETERMINES THAT THE RETURN, REFUND OR  
33 RELEASE OF THE BOND WOULD JEOPARDIZE STATE REVENUES, THE DIRECTOR MAY ELECT  
34 TO RETAIN THE BOND OR MAY REIMPOSE A REQUIREMENT FOR A BOND. A PERSON WHO  
35 IS AGGRIEVED BY A DECISION OF THE DIRECTOR PURSUANT TO THIS SUBSECTION MAY  
36 REQUEST A HEARING PURSUANT TO SECTION 28-5924.

37           D. If liability on the bond filed by the supplier with the  
38 director is discharged or reduced or if in the opinion of the director a  
39 surety on the bond given has become unsatisfactory or unacceptable, the  
40 director may require the supplier to file a new bond with satisfactory  
41 sureties in the same amount. If the supplier fails to file a new bond as  
42 required, the director shall cancel the license of the supplier immediately.  
43 If the new bond is furnished by the supplier, the director shall cancel and  
44 surrender the bond for which the new bond is substituted.



1 C. The election shall be evidenced by a written statement from the  
2 department as to the purchaser eligibility status as determined pursuant to  
3 section 28-5638 and is subject to a condition that the remittances by the  
4 eligible purchaser of all amounts of tax due the ~~setter~~ SUPPLIER shall be  
5 paid by electronic funds transfer on or before five days preceding the date  
6 of the remittance by the supplier to the department.

7 D. The election by the eligible purchaser under this section may be  
8 terminated by the ~~setter~~ SUPPLIER if the eligible purchaser does not make  
9 timely payments to the ~~setter~~ SUPPLIER as required by this section.

10 Sec. 40. Section 28-5639, Arizona Revised Statutes, is amended to  
11 read:

12 28-5639. Uncollectible tax credit

13 A. In computing the amount of motor ~~vehicle or~~ aviation fuel tax due,  
14 the supplier is entitled to a credit against the tax payable in the amount  
15 of tax paid by the supplier that has become uncollectible from an eligible  
16 purchaser.

17 B. The supplier shall provide notice to the department of a failure  
18 to collect the tax within thirty days after the earliest date on which the  
19 supplier was entitled to collect the tax from the eligible purchaser under  
20 section 28-5637.

21 C. The department shall adopt rules establishing the evidence a  
22 supplier must provide to receive the credit.

23 D. The credit shall be claimed on the first return after the  
24 expiration of the thirty day period if the payment remains unpaid as of the  
25 filing date of that return or the credit is disallowed.

26 E. The claim for credit shall identify the defaulting eligible  
27 purchaser and any tax liability that remains unpaid.

28 F. If an eligible purchaser fails to make a timely payment of the  
29 amount of tax due, the credit of the supplier is limited to the amount due  
30 from the purchaser, plus any tax that accrues from that purchaser for a  
31 period of thirty days after the date of failure to pay.

32 G. An additional credit shall not be allowed to a supplier under this  
33 section until the department authorizes the purchaser under section 28-5638  
34 to make a new election.

35 Sec. 41. Section 28-5640, Arizona Revised Statutes, is amended to  
36 read:

37 28-5640. Collection allowance

38 Each supplier and permissive supplier that properly remits tax under  
39 this article may retain four-tenths of one per cent of the tax TAXES imposed  
40 by this article and collected and remitted by that supplier in accordance  
41 with this article to cover the costs of administration imposed by this  
42 article, including reporting, audit compliance and shipping paper  
43 preparation, except that the amount retained under this article ~~and article~~  
44 ~~2 of this chapter~~ shall not exceed two hundred thousand dollars in any one  
45 calendar year.

1           Sec. 42. Section 28-5643, Arizona Revised Statutes, is amended to  
2 read:

3           28-5643. Reliance on representations

4           A. A supplier and a terminal operator are entitled to rely for all  
5 purposes of this article on the representation by the transporter, the  
6 shipper or the agent of the shipper as to the intended state of destination.

7           B. The shipper, importer, transporter, agent of the shipper and any  
8 purchaser, not the supplier or terminal operator, are jointly liable for any  
9 tax otherwise due to this state as a result of a diversion of the motor  
10 vehicle ~~or aviation~~ fuel from the represented destination state.

11           C. A terminal operator is entitled to rely on the representation of  
12 a licensed supplier with respect to the obligation of the supplier to  
13 precollect tax and the related shipping paper representation to be as shown  
14 on the shipping paper.

15           Sec. 43. Section 28-5644, Arizona Revised Statutes, is amended to  
16 read:

17           28-5644. Terminal operator; joint and several liability

18           A. A terminal operator is jointly and severally liable for the motor  
19 vehicle fuel OR USE FUEL tax imposed pursuant to this article or the aviation  
20 fuel tax imposed pursuant to section 28-8344 if both of the following apply:

21           1. The position holder with respect to the motor vehicle, USE or  
22 aviation fuel is a person other than the terminal operator.

23           2. The terminal operator does not meet the conditions prescribed in  
24 subsection B of this section.

25           B. The terminal operator is not liable for the motor vehicle fuel OR  
26 USE FUEL tax imposed pursuant to this article or the aviation fuel tax  
27 imposed pursuant to section 28-8344 if at the time of removal both of the  
28 following apply:

29           1. The terminal operator has an unexpired notification certificate  
30 from the position holder as required by the United States internal revenue  
31 service.

32           2. The terminal operator has no reason to believe that any information  
33 in the certificate is false.

34           Sec. 44. Transfer and renumber

35           Sections 28-5756 through 28-5760, Arizona Revised Statutes, are  
36 transferred and renumbered for placement in title 28, chapter 16, article 1,  
37 Arizona Revised Statutes, as sections 28-5645 through 28-5649, respectively.

38           Sec. 45. Section 28-5645, Arizona Revised Statutes, as transferred and  
39 renumbered by this act, is amended to read:

40           28-5645. Dyed diesel use; violation; classification

41           A. A person shall not operate or maintain a motor vehicle on any  
42 highway in this state with use fuel contained in the fuel supply tank for the  
43 motor vehicle that contains dye as provided under section ~~28-5716~~ 28-5610,  
44 subsection A, paragraph ~~7~~ 8.

1 B. This section does not apply to:

2 1. Persons operating motor vehicles that have received use fuel into  
3 their fuel tanks outside of this state in a jurisdiction that permits  
4 introduction of dyed diesel fuel of that color and type into the fuel tank  
5 of highway vehicles.

6 2. Uses of dyed diesel fuel on the highway that are lawful under the  
7 United States internal revenue code and regulations issued under the United  
8 States internal revenue code and as set forth in section 28-5716 unless  
9 otherwise prohibited by this article.

10 3. A person operating a motor vehicle pursuant to section ~~28-5760~~  
11 28-5649.

12 C. Any person who knowingly violates or knowingly aids and abets  
13 another person in violating this section with the intent to evade the tax  
14 TAXES imposed pursuant to this article is guilty of a class 1 misdemeanor.

15 Sec. 46. Section 28-5647, Arizona Revised Statutes, as transferred and  
16 renumbered by this act, is amended to read:

17 28-5647. Dyed diesel; prohibited acts; joint and several  
18 liability

19 A. Except as provided in section ~~28-5760~~ 28-5649, a person shall not  
20 sell or hold for sale dyed diesel fuel for any use that the person knows or  
21 has reason to know is not a nontaxable use of the fuel.

22 B. A person shall not use or hold for use any dyed diesel fuel for a  
23 use other than a nontaxable use if the person knew or had reason to know that  
24 the fuel was so dyed.

25 C. A person shall not wilfully, with intent to evade tax, alter or  
26 attempt to alter the strength or composition of any dye or marker in any dyed  
27 diesel fuel.

28 D. A business entity and each officer, employee or agent of the entity  
29 who wilfully participates in any act in violation of this section are jointly  
30 and severally liable with the entity ~~for the penalty that is the same as~~  
31 ~~imposed under federal law.~~ AS FOLLOWS:

32 1. FOR A PENALTY OF ONE THOUSAND DOLLARS FOR EACH OCCURRENCE OR TEN  
33 DOLLARS PER GALLON OF DYED DIESEL INVOLVED, WHICHEVER IS MORE.

34 2. FOR MULTIPLE OFFENSES, THE AMOUNT PRESCRIBED IN PARAGRAPH 1 SHALL  
35 BE MULTIPLIED BY THE NUMBER OF OCCURRENCES.

36 Sec. 47. Repeal

37 Sections 28-5701 and 28-5702, Arizona Revised Statutes, are repealed.

38 Sec. 48. Renumber

39 Section 28-5717, Arizona Revised Statutes, is renumbered as section  
40 28-5702.

41 Sec. 49. Section 28-5702, Arizona Revised Statutes, as renumbered by  
42 this act, is amended to read:

43 28-5702. Use fuel tax payment if not precollected

44 If the USE FUEL tax imposed pursuant to this article 1 OF THIS CHAPTER  
45 is not precollected, the tax is due and payable by the fuel user.

1           Sec. 50. Section 28-5703, Arizona Revised Statutes, is amended to  
2 read:

3           28-5703. Cooperative agreements; definitions

4           A. ~~Subject to sections 28-5935 through 28-5938, in lieu of the~~  
5 ~~requirements of this article with respect to licensing, bonding, reporting~~  
6 ~~and auditing TO COMPLY WITH THE INTERMODAL SURFACE TRANSPORTATION EFFICIENCY~~  
7 ~~ACT OF 1991, the director may enter into a cooperative agreement with another~~  
8 ~~state or states OTHER JURISDICTIONS for the administration of the tax MOTOR~~  
9 ~~FUEL TAXES imposed by this article or article 1 of this chapter OR SECTION~~  
10 ~~28-8344. An agreement, arrangement, declaration or amendment is not~~  
11 ~~effective until stated in writing SIGNED BY THE DIRECTOR and filed with the~~  
12 ~~department.~~

13           B. THE AGREEMENT SHALL INCLUDE:

14           1. THE BASE JURISDICTION CONCEPT. THIS CONCEPT ALLOWS A LICENSEE TO  
15 REPORT AND PAY MOTOR FUEL USE TAXES TO A BASE JURISDICTION FOR DISTRIBUTION  
16 TO OTHER MEMBER JURISDICTIONS IN WHICH THE LICENSEE TRAVELED AND INCURRED  
17 MOTOR FUEL USE TAX LIABILITY.

18           2. RETENTION OF EACH JURISDICTION'S SOVEREIGN AUTHORITY TO DETERMINE  
19 TAX RATES AND EXEMPTIONS AND EXERCISE OTHER SUBSTANTIVE TAX AUTHORITY.

20           3. A UNIFORM DEFINITION OF THE VEHICLES TO WHICH THE AGREEMENT  
21 APPLIES.

22           ~~B.~~ C. The agreement may provide for:

23           1. Determining the base state JURISDICTION for users.

24           2. Users records requirements.

25           3. Audit procedures.

26           4. Exchange of information.

27           5. Persons eligible for tax licensing.

28           6. Defining qualified motor vehicles.

29           7. Determining if bonding is required.

30           8. Specifying reporting requirements and periods, including defining  
31 uniform penalty and interest rates for late reporting.

32           9. Determining methods for collecting and forwarding motor fuel taxes  
33 and penalties to another jurisdiction.

34           10. Other provisions to facilitate the administration of the agreement.

35           11. Each state JURISDICTION to audit the records of persons based in  
36 the state JURISDICTION to determine if the motor fuel taxes due each state  
37 JURISDICTION are properly reported and paid.

38           ~~C.~~ D. EACH JURISDICTION SHALL FORWARD THE FINDINGS OF THE AUDITS  
39 PERFORMED ON PERSONS BASED IN THE JURISDICTION TO EACH JURISDICTION IN WHICH  
40 THE PERSON HAS TAXABLE USE OF MOTOR FUELS. As required by the agreement, the  
41 director may forward to officers of another state MEMBER JURISDICTION any  
42 information in the director's possession relative to the manufacture,  
43 receipt, sale, use, transportation or shipment of motor fuels by any person.  
44 The director may disclose to officers of another state MEMBER JURISDICTION

1 the location of offices, motor vehicles and other real and personal property  
2 of users of motor fuels.

3 ~~D. E. Each state shall forward the findings of the audits performed~~  
4 ~~on persons based in the state to each state in which the person has taxable~~  
5 ~~use of motor fuels. For MEMBER JURISDICTIONS MAY ENFORCE THIS CHAPTER~~  
6 ~~AGAINST persons who are not based in this state and who have taxable use of~~  
7 ~~motor fuel in this state. , the director shall serve the audit findings~~  
8 ~~received from another state in the form of an assessment on the person as~~  
9 ~~though an audit was conducted by the director.~~

10 E. F. An agreement entered into under this section does not preclude  
11 the director or the director's appointed representatives from auditing the  
12 records of a person covered by this article and article 1 of this chapter.

13 F. G. The legal remedies for a person served with an order or  
14 assessment under this section are as prescribed in sections 28-5723, 28-5729  
15 and 28-5746 ARTICLE 5 OF THIS CHAPTER.

16 G. H. If the director enters into an agreement under this section,  
17 THE DIRECTOR MAY ADOPT RULES THE DIRECTOR DEEMS NECESSARY TO IMPLEMENT THE  
18 AGREEMENT. and the provisions set forth in the agreement are in conflict  
19 with any rules adopted by the director relating to this article or article  
20 1 of this chapter, the agreement provisions prevail. If the agreement is in  
21 conflict with the requirements for disclosure of information prescribed by  
22 sections 28-5935 through 28-5938, sections 28-5935 through 28-5938 prevail.

23 H. I. For the purposes of this section,:

24 1. "JURISDICTION" MEANS A STATE OF THE UNITED STATES, THE DISTRICT OF  
25 COLUMBIA OR A PROVINCE OR TERRITORY OF THE DOMINION OF CANADA.

26 2. "Motor fuels" includes motor vehicle fuel, aviation fuel and use  
27 fuel.

28 3. "QUALIFIED MOTOR VEHICLE" MEANS A USE CLASS MOTOR VEHICLE.

29 Sec. 51. Transfer and renumber

30 Section 28-5704, Arizona Revised Statutes, is transferred and  
31 renumbered for placement in title 28, chapter 16, article 5, Arizona Revised  
32 Statutes, as section 28-5929.

33 Sec. 52. Section 28-5705, Arizona Revised Statutes, is amended to  
34 read:

35 28-5705. Vehicle registration

36 Before registering a road tractor, truck tractor, truck having more  
37 than two axles or passenger carrying vehicle and before issuing a license  
38 pursuant to chapter 7 of this title, the registering or licensing official  
39 shall determine from the applicant whether or not a motor vehicle sought to  
40 be registered or in connection with which the license is sought is propelled  
41 by a fuel the use of which is subject to the excise USE FUEL tax imposed by  
42 this article 1 OF THIS CHAPTER.

43 Sec. 53. Repeal

44 Sections 28-5708, 28-5711, 28-5716 and 28-5719, Arizona Revised  
45 Statutes, are repealed.

1           Sec. 54. Transfer and renumber

2           Section 28-5714, Arizona Revised Statutes, is transferred and  
3 renumbered for placement in title 28, chapter 16, article 1, Arizona Revised  
4 Statutes, as section 28-5616.

5           Sec. 55. Section 28-5720, Arizona Revised Statutes, is amended to  
6 read:

7           28-5720. Tax payment

8           ~~A. The supplier, as shown in the records of the terminal operator, who  
9 removes the taxable gallons shall precollect and remit on behalf of consumers  
10 to the department the tax that is imposed by this article and that is  
11 measured by invoiced gallons of use fuel removed by a licensed supplier from  
12 a terminal or refinery in this state other than a bulk transfer.~~

13           ~~B. The supplier and each reseller shall list the amount of tax as a  
14 separate line item on all invoices or billings or as a separate billing.~~

15           ~~C. A supplier shall remit any late taxes remitted to the supplier by  
16 an eligible purchaser and shall notify the department in a timely manner of  
17 any late remittances if that supplier has previously given notice to the  
18 department of an uncollectible tax amount pursuant to section 28-5750,  
19 subsection B.~~

20           ~~D. A. A AN INTRASTATE user of use fuel on which the tax imposed by  
21 this article 1 OF THIS CHAPTER has not been paid shall submit with each  
22 report required under section 28-5732 a remittance payable for the amount of  
23 the tax and surcharge that is imposed by this article 1 OF THIS CHAPTER, that  
24 is due and that is computed by multiplying the number of gallons of use fuel  
25 used in use class motor vehicles that are operated by the user by the rate  
26 per gallon as set forth in sections 28-5708 and 28-5710 SECTION 28-5606.~~

27           ~~B. AN INTERSTATE USER OF USE FUEL ON WHICH THE TAX IMPOSED BY ARTICLE  
28 1 OF THIS CHAPTER HAS NOT BEEN PAID SHALL SUBMIT WITH EACH REPORT REQUIRED  
29 UNDER SECTION 28-5732 A REMITTANCE PAYABLE FOR THE AMOUNT OF THE TAX THAT IS  
30 IMPOSED BY ARTICLE 1 OF THIS CHAPTER, THAT IS DUE AND THAT IS COMPUTED BY  
31 MULTIPLYING THE NUMBER OF GALLONS OF USE FUEL USED IN USE CLASS MOTOR  
32 VEHICLES THAT ARE OPERATED BY THE USER BY THE RATE PER GALLON AS SET FORTH  
33 IN SECTION 28-5606. The taxable gallonage shall be computed on the basis of  
34 miles traveled in this state as compared to total miles traveled in and  
35 outside this state, and the director shall prescribe the actual method of  
36 computation. If operations in more than one state are involved, the user may  
37 compute the taxable gallonage in the prescribed manner based on one or more  
38 operating divisions involved in travel in this state, in lieu of reporting  
39 and computing the taxable gallonage on overall operations. The vehicles to  
40 be accounted for on every report shall be determined by the vehicles for  
41 which evidence of a valid license is required pursuant to section 28-5742.  
42 From the amount of tax due, the tax on use fuel purchased in this state on  
43 which the tax has been previously paid shall be deducted, if the tax paid  
44 purchases are supported by copies of the sales invoices. If the computation~~

1 shows additional tax is due, it shall be remitted with the report required  
2 under section 28-5732.

3 ~~E.~~ C. If a remittance to cover payment of taxes due as shown by any  
4 report required by this article to be made is sent through the United States  
5 mail properly addressed, it is deemed received by the director, for purposes  
6 of avoiding penalty and interest only, on the date shown by the postmark  
7 stamped on the envelope containing the report. If a mailing date is affixed  
8 to the envelope by a machine owned or under the control of the person  
9 submitting the report and the United States post office has corrected or  
10 changed the date stamped on the envelope by causing the official United  
11 States post office postmark to also be imprinted on the envelope, the date  
12 shown by the official United States post office postmark shall be the  
13 accepted date, if different from the original postmark.

14 Sec. 56. Section 28-5721, Arizona Revised Statutes, is amended to  
15 read:

16 28-5721. Additional assessment; penalty

17 A. If the director is not satisfied with a report filed or the amount  
18 of ~~excise~~ USE FUEL tax paid by a licensee, the director may make an  
19 additional assessment of ~~excise~~ USE FUEL taxes due from the licensee based  
20 on any information available to the director.

21 B. A penalty of twenty-five per cent of the additional ~~excise~~ USE FUEL  
22 tax assessed shall be added to the tax with interest at the rate of one per  
23 cent per month or portion of a month on the unpaid tax from the  
24 twenty-seventh day after the end of the month for which the additional  
25 assessment is made until paid.

26 C. The director shall give written notice to the licensee of the  
27 additional assessment served personally or by mail addressed to the licensee  
28 at the licensee's address of record in the office of the director.

29 Sec. 57. Repeal

30 Sections 28-5723, 28-5725 and 28-5726, Arizona Revised Statutes, are  
31 repealed.

32 Sec. 58. Section 28-5724, Arizona Revised Statutes, is amended to  
33 read:

34 28-5724. Failure to file report; assessment; interest; license  
35 revocation or suspension

36 A. If a ~~licensee~~ PERSON FAILS, neglects or refuses to make a report  
37 required by this article, the director shall:

38 1. Make an estimate for the month for which the licensee failed to  
39 make the report based on any information available to the director.

40 2. On the basis of the estimate, assess the ~~excise~~ USE FUEL tax due  
41 from the ~~licensee~~ PERSON and add to the amount determined a penalty equal to  
42 twenty-five per cent of the ~~excise~~ USE FUEL tax due.

43 B. The assessment bears interest at the rate of one per cent per month  
44 or portion of a month from the twenty-seventh day after the end of the month  
45 for which the assessment is made until paid.

1 C. The director shall give the licensee PERSON written notice of the  
2 assessment served personally or by mail addressed to the licensee PERSON at  
3 the licensee's PERSON'S address of record in the office of the director.

4 D. IF A PERSON FAILS, NEGLECTS OR REFUSES TO MAKE A REPORT REQUIRED  
5 BY THIS ARTICLE WITH FULL PAYMENT OF THE TAX DUE, THE DIRECTOR MAY REVOKE OR  
6 SUSPEND THE PERSON'S LICENSE.

7 Sec. 59. Title 28, chapter 16, article 2, Arizona Revised Statutes,  
8 is amended by adding a new section 28-5725, to read:

9 28-5725. Interstate user credits or refunds

10 A. AN INTERSTATE USER SHALL FILE A WRITTEN APPLICATION FOR A CREDIT  
11 OR REFUND WITHIN THREE YEARS AFTER THE DATE THE ORIGINAL TAX REPORT WAS  
12 REQUIRED TO BE FILED. AN INTERSTATE USER SHALL NOT FILE AN APPLICATION FOR  
13 A CREDIT OR REFUND MORE THAN ONCE IN A CALENDAR QUARTER, AND AN APPLICATION  
14 FOR A REFUND SHALL NOT BE FOR LESS THAN FIFTY DOLLARS FOR A CALENDAR QUARTER  
15 OR SHALL BE FOR AT LEAST TEN DOLLARS IN A THREE YEAR PERIOD. THE APPLICATION  
16 FOR CREDIT OR REFUND SHALL STATE THE SPECIFIC GROUNDS ON WHICH THE REQUEST  
17 FOR REFUND OR CREDIT IS BASED AND SHALL CONTAIN ANY ADDITIONAL INFORMATION  
18 THAT THE DIRECTOR REQUIRES.

19 B. THE DIRECTOR SHALL:

20 1. PAY A REFUND FROM CURRENT USE FUEL TAX RECEIPTS.

21 2. DEDUCT A REFUND FROM THE MONTHLY USE FUEL TAX RECEIPTS BEFORE THE  
22 DEPOSIT PURSUANT TO SECTION 28-5730.

23 C. IF THE DIRECTOR DOES NOT ISSUE A REFUND WITHIN SIXTY DAYS AFTER A  
24 COMPLETE APPLICATION FOR REFUND IS FILED AS PRESCRIBED IN THIS ARTICLE, THE  
25 DIRECTOR SHALL PAY INTEREST AT THE RATE OF ELEVEN PER CENT PER YEAR FROM THE  
26 DATE THE COMPLETE APPLICATION FOR REFUND IS FILED UNTIL THE DATE ON WHICH THE  
27 REFUND IS MADE.

28 D. IF THE DIRECTOR DENIES A REFUND, THE DIRECTOR SHALL NOTIFY THE  
29 CLAIMANT THAT THE REFUND IS DENIED. THE DIRECTOR'S DENIAL IS FINAL UNLESS  
30 THE APPLICANT MAKES A WRITTEN REQUEST FOR A HEARING AS PRESCRIBED IN SECTION  
31 28-5924.

32 Sec. 60. Section 28-5728, Arizona Revised Statutes, is amended to  
33 read:

34 28-5728. Use fuel tax credit

35 A. A person who files a report under this article is entitled to a  
36 credit against the ~~excise~~ USE FUEL tax imposed under this article 1 OF THIS  
37 CHAPTER, in addition to any other credit provided by this article, if the  
38 person has done all of the following:

39 1. Paid the ~~excise~~ USE FUEL tax imposed by this article 1 OF THIS  
40 CHAPTER on use fuel purchased in this state.

41 2. Consumed the use fuel outside this state.

42 3. Paid a tax with respect to the use fuel in one or more other states  
43 or jurisdictions.

1 B. The amount of the use fuel tax credit provided by subsection A of  
2 this section for each gallon of use fuel that is purchased in this state and  
3 that is consumed outside this state is as follows:

4 ~~1. Until January 1, 1998, one cent.~~

5 ~~2. From and after December 31, 1997, two cents.~~

6 C. To qualify for the credit under this section, the person shall  
7 submit any evidence required by the department. The director may authorize  
8 the person to submit the evidence required under this section with the report  
9 required by section 28-5732.

10 Sec. 61. Repeal

11 Section 28-5729, Arizona Revised Statutes, is repealed.

12 Sec. 62. Section 28-5731, Arizona Revised Statutes, is amended to  
13 read:

14 28-5731. Record requirements

15 A. A licensee under this article shall make ~~and retain for at least~~  
16 ~~three years~~ records as prescribed and in the manner required by the director  
17 as reasonably necessary to substantiate reports required by this  
18 article, ~~including inventories, receipts and disbursements.~~ A LICENSEE SHALL  
19 RETAIN THOSE RECORDS AT LEAST UNTIL THE LATER OF THE FOLLOWING:

20 1. THREE YEARS AFTER A REPORT IS REQUIRED TO BE FILED PURSUANT TO  
21 SECTION 28-5732.

22 2. THREE YEARS AFTER A REPORT IS FILED.

23 B. THE RECORDS SHALL INCLUDE RECEIPTS PURSUANT TO SECTION 28-5617 FOR  
24 EACH SALE OR TRANSFER OF USE FUEL FOR USE IN A USE CLASS MOTOR VEHICLE. IN  
25 ADDITION TO THE INFORMATION REQUIRED BY SECTION 28-5617, A LICENSEE SHALL  
26 IDENTIFY THE MOTOR VEHICLE BY LICENSE PLATE NUMBER OR UNIT NUMBER ON THE  
27 RECEIPT OR TRANSACTION LISTING.

28 ~~B.~~ C. The director may examine the books, papers, records and  
29 equipment of any ~~licensee or other person~~ USING, dealing in, transporting or  
30 storing fuel to determine whether the ~~excise~~ USE FUEL taxes due under this  
31 article 1 OF THIS CHAPTER are properly reported and paid.

32 ~~C.~~ Each sale or transfer of use fuel for use in a use class motor  
33 vehicle shall be recorded on a preapproved invoice. ~~On issuance, a sales~~  
34 ~~invoice is a receipt for the amount of use fuel tax collected by the vendor.~~  
35 ~~The purchaser and the seller shall retain a copy of the sales invoice for at~~  
36 ~~least three years. A sales invoice shall contain the following information:~~

37 ~~1. The name and address of the seller.~~

38 ~~2. The name of the purchaser.~~

39 ~~3. The date of sale.~~

40 ~~4. The number of gallons of use fuel sold.~~

41 ~~5. Other information as prescribed by the director.~~

42 D. A licensee PERSON from whom the director has requested records may:

43 1. Make the records available at the office designated by the  
44 director.

1           2. If the place of business where records may be audited is located  
2 in this state, request the director to audit the records at the licensee's  
3 PERSON'S place of business.

4           E. If the licensee PERSON does not make records available at the  
5 office designated by the director and the place of business where records may  
6 be audited is located outside this state, the director may require the  
7 licensee PERSON to pay the department in advance for the cost of reimbursing  
8 employee subsistence and travel expenses.

9           ~~F. Each distributor and vendor shall maintain and keep for three years  
10 the following:~~

11           ~~1. Records of use fuel received, sold or delivered in this state by  
12 the distributor or vendor.~~

13           ~~2. Invoices, bills of lading and other pertinent records and papers  
14 required by the director for the reasonable administration of this article.~~

15           ~~6. The director may require distributors to file information as to  
16 sales or deliveries to vendors or users of use fuel at the times and in the  
17 form as the director requires.~~

18           Sec. 63. Section 28-5732, Arizona Revised Statutes, is amended to  
19 read:

20           28-5732. Report requirements

21           ~~A. Except a vendor that sells only liquid use fuel and interstate  
22 users, on or before the twenty-seventh day of the month following the close  
23 of a licensee's reporting period, a person licensed under this article shall  
24 file with the director in a form prescribed by the director a report stating:~~

25           ~~1. The amount of use fuel sold or delivered by the supplier or vendor  
26 during the period for which a report is required.~~

27           ~~2. Other information the director requires.~~

28           ~~B. The report shall:~~

29           ~~1. Not be under oath.~~

30           ~~2. Contain or be accompanied by a written declaration that it is made  
31 under penalties of perjury.~~

32           ~~C. The director may require other information from a supplier or  
33 vendor in order to enforce this article.~~

34           ~~D. The reporting period for a supplier or vendor is for calendar  
35 monthly periods. If the director deems it necessary in order to ensure  
36 payment of the tax imposed by this article or to facilitate the  
37 administration of this article, the director may require reports and payment  
38 of the tax to be made for other than and in addition to monthly periods.~~

39           ~~E. A supplier or vendor may apply to the director for approval to file  
40 reports and pay taxes on a weekly basis, and notwithstanding section 28-5736,  
41 the director may establish the amount of surety bond required in the sum of  
42 approximately six times the highest weekly tax estimated by the director to  
43 become due from the supplier or vendor.~~

1 F. A. The reporting period for a licensee PERSON who is an interstate  
2 user is a calendar quarter. On or before the last day of the month after the  
3 close of the reporting period an interstate user shall file with the director  
4 a report stating the amount of use fuel used during the reporting period and  
5 other information the director requires. The report shall be in a form  
6 prescribed by the director and shall not be under oath but shall contain or  
7 be accompanied by a written declaration that it is made under penalties of  
8 perjury. An interstate user shall file a report with the director for each  
9 reporting period even though no use fuel is used during, or tax is due for,  
10 the reporting period.

11 G. B. In lieu of a surety bond, the director may allow the prepayment  
12 of taxes based on the preceding reporting period's liability accrued by the  
13 interstate user.

14 H. C. Failure to receive the authorized report forms does not relieve  
15 a licensee PERSON from the obligation of submitting a report to the director,  
16 but the licensee PERSON may make a written report to the director setting  
17 forth all information required on the prescribed form. On or before the due  
18 date, the licensee PERSON shall file such a report, and the remittance  
19 payable to the department for the amount of tax, penalty, interest or other  
20 fees due, and the director shall accept the report in lieu of a report in the  
21 prescribed form.

22 Sec. 64. Repeal

23 Section 28-5733, Arizona Revised Statutes, is repealed.

24 Sec. 65. Section 28-5734, Arizona Revised Statutes, is amended to  
25 read:

26 28-5734. Interstate user license requirement

27 A. EXCEPT AS PROVIDED IN SECTION 28-5739, IT IS UNLAWFUL FOR A PERSON  
28 TO ACT AS AN INTERSTATE USER WITHOUT BEING LICENSED AS AN INTERSTATE USER.  
29 UNLESS OTHERWISE SPECIFIED, A PERSON WHO VIOLATES THIS SUBSECTION IS SUBJECT  
30 TO THE PENALTIES PRESCRIBED IN SECTION 28-5921.

31 A. B. A person who is an interstate user shall obtain a use fuel  
32 license in the name of the motor vehicle registrant, except that:

33 1. At the rental company's option, a rental company receiving approval  
34 for consolidated tax filing from the director may be the licensee in lieu of  
35 the vehicle registrant.

36 2. If the registrant leases the motor vehicle to a lessee who ~~has a~~  
37 ~~use fuel license issued under this article~~ IS LICENSED AS AN INTERSTATE USER  
38 and there is a written agreement so providing, the registrant may permit the  
39 lessee to include the vehicle under the lessee's license for purposes of this  
40 article. A written lease agreement shall specify which party to the lease  
41 agreement is responsible for obtaining the ~~use fuel tax~~ INTERSTATE USER  
42 license.

43 ~~B. If subsection A does not apply, the interstate user shall obtain~~  
44 ~~a use fuel license.~~

1           Sec. 66. Section 28-5735, Arizona Revised Statutes, is amended to  
2 read:

3           28-5735. License application; fee

4           A. An applicant for a license required by this article shall file with  
5 the director or authorized third party both:

6           1. An application that:

7           (a) Is in the form and submitted in the manner that the director  
8 prescribes.

9           (b) States the name and address of the applicant and other information  
10 as required by this article or by the director.

11           (c) Is not under oath but contains or is accompanied by a written  
12 declaration that it is made under penalties of perjury.

13           2. A ten dollar filing fee.

14           B. If a licensee acts in a capacity other than that for which a  
15 license has been issued, the licensee shall both:

16           1. Apply for an additional license in accordance with this section.

17           2. Submit with each application a filing fee in accordance with this  
18 section ~~and section 28-5741.~~

19           Sec. 67. Repeal

20           Section 28-5736, Arizona Revised Statutes, is repealed.

21           Sec. 68. Title 28, chapter 16, article 2, Arizona Revised Statutes,  
22 is amended by adding a new section 28-5736, to read:

23           28-5736. Bond requirement

24           A. THE DIRECTOR MAY REQUIRE A SURETY BOND IF AN INTERSTATE USER DOES  
25 NOT FILE TAX REPORTS OR REMIT TAXES OR IF THE DIRECTOR DETERMINES THAT THE  
26 INTERESTS OF THIS STATE OR OF MEMBER JURISDICTIONS OF THE INTERNATIONAL FUEL  
27 TAX AGREEMENT ARE IN JEOPARDY.

28           B. IF REQUIRED, THE SURETY BOND:

29           1. SHALL INDICATE THAT THE INTERSTATE USER IS THE PRINCIPAL OBLIGOR  
30 AND THE STATE IS THE OBLIGEE.

31           2. SHALL BE CONDITIONED ON THE INTERSTATE USER FAITHFULLY COMPLYING  
32 WITH THIS ARTICLE AND THE PROMPT FILING OF TRUE REPORTS AND PAYMENT BY THE  
33 INTERSTATE USER OF ALL USE FUEL TAXES AND FEES DUE OR ACCRUED UNDER THIS  
34 ARTICLE, TOGETHER WITH ALL PENALTIES AND INTEREST ON THE TAXES AND FEES.

35           3. SHALL NOT BE MORE THAN TWO TIMES THE QUARTERLY TAX LIABILITY OF THE  
36 INTERSTATE USER AS DETERMINED BY THE DIRECTOR.

37           Sec. 69. Section 28-5737, Arizona Revised Statutes, is amended to  
38 read:

39           28-5737. Discharge of surety

40           A. On written request to the director, a surety on a bond furnished  
41 by a licensee pursuant to this article shall be discharged from any liability  
42 to the state accruing on the bond after the ~~expiration of sixty days from~~  
43 LAST DAY OF THE MONTH THAT INCLUDES THE SIXTIETH DAY AFTER the date of filing  
44 the request but not from liability already accrued or accruing before the  
45 expiration LAST DAY of the MONTH THAT INCLUDES THE END OF THE sixty day

1 period. On receipt of such a request, the director shall promptly notify the  
2 licensee who furnished the bond in question.

3 B. Unless the licensee files a new bond satisfactory to the director  
4 ON OR before the expiration LAST DAY of the MONTH THAT INCLUDES THE END OF  
5 THE sixty day period, the director shall immediately revoke the licensee's  
6 license.

7 Sec. 70. Section 28-5738, Arizona Revised Statutes, is amended to  
8 read:

9 28-5738. License denial

10 The director or authorized third party may deny a license if the  
11 application:

12 1. Is filed by a person whose license at any time before application  
13 has been revoked for cause by the director.

14 2. Contains a misrepresentation, misstatement or omission of material  
15 information required by the application.

16 3. Is filed by some person as a subterfuge for the real person in  
17 interest whose license or registration at any time before application has  
18 been revoked for cause by the director.

19 4. Is filed by a person who is delinquent in the payment of any fee,  
20 tax, penalty or other amount due the department or for its account as  
21 determined by the director after granting the applicant a hearing of which  
22 the applicant is given ten days' notice in writing and in which the applicant  
23 has the right to appear in person or by counsel and present testimony.

24 5. IS FILED BY A PERSON WHO HAS BEEN LICENSED PREVIOUSLY BY ANY MEMBER  
25 JURISDICTION OF THE INTERNATIONAL FUEL TAX AGREEMENT AND THAT LICENSE IS  
26 UNDER REVOCATION.

27 Sec. 71. Repeal

28 Sections 28-5741, 28-5746 through 28-5751, 28-5754 and 28-5755, Arizona  
29 Revised Statutes, are repealed.

30 Sec. 72. Transfer and renumber

31 Sections 28-5865 and 28-5866, Arizona Revised Statutes, are transferred  
32 and renumbered for placement in title 28, chapter 16, article 5, Arizona  
33 Revised Statutes, as sections 28-5924 and 28-5928, respectively.

34 Sec. 73. Title 28, chapter 16, article 4, Arizona Revised Statutes,  
35 is amended by adding a new section 28-5865, to read:

36 28-5865. Appeals

37 A MOTOR CARRIER WHO IS AGGRIEVED BY AN ASSESSMENT, DECISION OR ORDER  
38 OF THE DIRECTOR PURSUANT TO THIS ARTICLE MAY REQUEST A HEARING PURSUANT TO  
39 SECTION 28-5924.

40 Sec. 74. Heading change

41 The article heading of title 28, chapter 16, article 5, Arizona Revised  
42 Statutes, is changed from "TAX COLLECTION" to "TAX ADMINISTRATION".

1           Sec. 75. Section 28-5921, Arizona Revised Statutes, as transferred and  
2 renumbered by this act, is amended to read:

3           28-5921. Violations; classification

4           A. A PERSON IS GUILTY OF A CLASS 4 FELONY IF THE PERSON DOES ANY OF  
5 THE FOLLOWING:

6           1. CORRUPTLY OR BY FORCE OR THREATS OF FORCE OR INJURY EITHER:

7           (a) ATTEMPTS TO INTIMIDATE, IMPEDE OR INJURE AN EMPLOYEE OF THE  
8 DEPARTMENT ACTING IN AN OFFICIAL CAPACITY.

9           (b) OBSTRUCTS, IMPEDES OR ATTEMPTS TO OBSTRUCT OR IMPEDE THE  
10 ADMINISTRATION OF THIS CHAPTER.

11           2. ATTEMPTS BY MEANS OF BRIBERY, MISREPRESENTATION, INTIMIDATION OR  
12 FORCE OR THREATS OF FORCE TO OBSTRUCT, DELAY OR PREVENT THE COMMUNICATION OF  
13 INFORMATION OR TESTIMONY RELATING TO A VIOLATION OF THIS CHAPTER TO AN  
14 EMPLOYEE OR OFFICER OF THE DEPARTMENT.

15           3. KNOWINGLY INJURES ANOTHER PERSON OR ANOTHER PERSON'S PROPERTY ON  
16 ACCOUNT OF THE PERSON GIVING, PERSONALLY OR BY ANOTHER PERSON, ANY  
17 INFORMATION OR TESTIMONY RELATING TO A VIOLATION OF THIS CHAPTER TO AN  
18 EMPLOYEE OR OFFICER OF THE DEPARTMENT.

19           4. WITH THE INTENT TO EVADE MOTOR FUEL TAXES, COLLECTS OR ATTEMPTS TO  
20 COLLECT MOTOR FUEL TAXES UNDER THIS CHAPTER AND FAILS TO REMIT THE TAXES TO  
21 THE DEPARTMENT.

22           B. A PERSON IS GUILTY OF A CLASS 5 FELONY IF THE PERSON DOES ANY OF  
23 THE FOLLOWING:

24           1. KNOWINGLY FAILS TO PAY ANY TAX ADMINISTERED PURSUANT TO THIS  
25 ARTICLE DUE OR BELIEVED TO BE DUE BY THE TAXPAYER WITH INTENT TO EVADE THE  
26 TAX.

27           2. KNOWINGLY PREPARES, PRESENTS OR AIDS, PROCURES OR ADVISES IN  
28 PREPARING OR PRESENTING ANY RETURN, AFFIDAVIT, CLAIM OR OTHER DOCUMENT THAT  
29 IS FRAUDULENT OR IS FALSE AS TO ANY MATERIAL MATTER, WHETHER OR NOT THE  
30 FALSITY OR FRAUD IS WITH THE KNOWLEDGE OR CONSENT OF THE TAXPAYER AUTHORIZED  
31 OR REQUIRED TO PRESENT THE RETURN, AFFIDAVIT, CLAIM OR OTHER DOCUMENT.

32           3. SIMULATES OR FALSELY OR FRAUDULENTLY EXECUTES OR SIGNS ANY LICENSE  
33 OR OTHER REQUIRED DOCUMENT, OR CAUSES THE LICENSE OR OTHER DOCUMENT TO BE  
34 FALSELY OR FRAUDULENTLY EXECUTED OR ADVISES OR AIDS IN SUCH EXECUTION, WITH  
35 THE INTENT TO CONCEAL OR COVER UP A MATERIAL FACT RELATING TO A TAX  
36 ADMINISTERED PURSUANT TO THIS ARTICLE.

37           4. KNOWINGLY FAILS TO FILE A RETURN OR SUPPLY INFORMATION, OR  
38 FALSIFIES OR CONCEALS A MATERIAL FACT, DOCUMENT OR RECORD, MAKES A FALSE,  
39 FICTITIOUS OR FRAUDULENT STATEMENT OR REPRESENTATION OR MAKES OR USES A FALSE  
40 WRITING OR DOCUMENT KNOWING IT TO CONTAIN A FALSE, FICTITIOUS OR FRAUDULENT  
41 STATEMENT OR ENTRY, WITH INTENT THAT THE DEPARTMENT RELY ON THE FALSE,  
42 FICTITIOUS OR FRAUDULENT STATEMENT OR ENTRY IN DETERMINING TAX LIABILITY  
43 UNDER THIS CHAPTER.

44           5. KNOWINGLY TRANSPORTS OR POSSESSES MOTOR FUEL WITH THE INTENT TO  
45 EVADE PAYMENT OF MOTOR FUEL TAXES.

1           A. C. Unless another classification is specifically prescribed in  
2 this article CHAPTER, a person is guilty of a class 1 misdemeanor who either:

3           1. Knowingly refuses or fails to make a statement, report or return  
4 required by this article CHAPTER.

5           2. Knowingly makes a false statement in a report to the director or  
6 in connection with an application for refund of a tax.

7           3. Knowingly collects or causes to be repaid to the person or to  
8 another person, either directly or indirectly, a refund of the tax without  
9 being entitled to the refund.

10          4. Engages in business in this state as a distributor SUPPLIER without  
11 being the holder of a license to engage in the business.

12          5. Sells motor ~~vehicle fuel or aviation fuel~~ the person purchased from  
13 another person other than a duly licensed distributor SUPPLIER on which the  
14 MOTOR FUEL tax ~~imposed by this article~~ has not been paid.

15          ~~B.~~ D. Each day or part of a day during which a person engages in  
16 business as a distributor SUPPLIER without being the holder of a license is  
17 a separate offense within the meaning of this section.

18          E. IN ADDITION TO ANY OTHER PENALTIES PRESCRIBED BY LAW, IF PART OF  
19 A DEFICIENCY IS DUE TO FRAUD WITH THE INTENT TO EVADE A TAX, FIFTY PER CENT  
20 OF THE TOTAL AMOUNT OF THE TAX SHALL BE ASSESSED, COLLECTED AND PAID AS IF  
21 IT WERE A DEFICIENCY.

22          F. IF A TAXPAYER FILES WHAT PURPORTS TO BE A RETURN OF ANY TAX  
23 ADMINISTERED PURSUANT TO THIS ARTICLE THAT IS FRIVOLOUS OR THAT IS FILED WITH  
24 THE INTENT TO IMPEDE THE ADMINISTRATION OF THIS CHAPTER, THE TAXPAYER SHALL  
25 PAY A CIVIL PENALTY OF FIVE HUNDRED DOLLARS.

26          Sec. 76. Title 28, chapter 16, article 5, Arizona Revised Statutes,  
27 is amended by adding section 28-5922, to read:

28          28-5922. Enforcement powers

29          A. IN THE ENFORCEMENT OF THIS CHAPTER, THE DIRECTOR MAY:

30           1. HOLD HEARINGS.

31           2. TAKE TESTIMONY.

32           3. ISSUE SUBPOENAS AND COMPEL ATTENDANCE OF WITNESSES FOR THE PURPOSE  
33 OF TAKING TESTIMONY.

34           4. CONDUCT INVESTIGATIONS THE DIRECTOR DEEMS NECESSARY.

35           5. PRESCRIBE THE FORMS ON WHICH REPORTS ARE MADE TO THE DIRECTOR AND  
36 OTHER FORMS AND INFORMATION THE DIRECTOR DEEMS NECESSARY.

37          B. IF A WITNESS FAILS TO APPEAR AT THE TIME AND PLACE DESIGNATED IN  
38 THE SUBPOENA BY THE DIRECTOR, FAILS TO ANSWER QUESTIONS RELATING TO THE  
39 SUBJECT MATTER OF THE INQUIRY BEFORE THE DIRECTOR OR FAILS TO PRODUCE A  
40 DOCUMENT DIRECTED BY THE DIRECTOR TO BE PRODUCED, BY AN AFFIDAVIT SETTING  
41 FORTH THE FACTS, THE DIRECTOR MAY APPLY TO THE SUPERIOR COURT IN THE COUNTY  
42 WHERE THE HEARING IS HELD, AND THE COURT SHALL PROCEED AS THOUGH THE FAILURE  
43 OR REFUSAL HAD OCCURRED IN AN ACTION PENDING BEFORE IT.

1           Sec. 77. Section 28-5923, Arizona Revised Statutes, as transferred and  
2 renumbered by this act, is amended to read:

3           28-5923. Collection

4           A. In an action for the collection of the motor vehicle ~~fuel tax or~~  
5 ~~aviation fuel tax~~ TAXES or interest or penalties imposed in connection with  
6 the taxes, an assessment by the director of the amount of the tax due or  
7 interest or penalties due this state is prima facie evidence of the claim of  
8 the state, and the burden of proof is on the person ~~or supplier~~ to show that  
9 the assessment was incorrect and contrary to law.

10          B. The attorney general shall prosecute an action to collect any  
11 delinquent tax or penalty.

12          Sec. 78. Section 28-5924, Arizona Revised Statutes, as transferred and  
13 renumbered by this act, is amended to read:

14          28-5924. Hearing; rehearing

15          A. A ~~motor carrier~~ PERSON aggrieved by an assessment, decision or  
16 order of the director under this ~~article~~ CHAPTER may make a written request  
17 for a hearing in the office of the director within ~~fifteen~~ THIRTY days after  
18 service of the notice to show cause why the assessment, decision or order is  
19 in error or to present any other facts or testimony that is relevant. A  
20 WRITTEN REQUEST FOR A HEARING SHALL INCLUDE THE REASONS WHY THE ASSESSMENT,  
21 DECISION OR ORDER OF THE DIRECTOR IS IN ERROR. ONLY THE REASONS SET FORTH  
22 IN THE REQUEST FOR HEARING MAY BE RAISED AT THE HEARING. The hearing may be  
23 continued from time to time.

24          B. If the ~~motor carrier or its agent~~ PERSON does not request a hearing  
25 within ~~fifteen~~ THIRTY days, the ASSESSMENT, decision or order is final. ~~or~~  
26 ~~the assessment is due. The assessment is delinquent if it is not paid within~~  
27 ~~fifteen days after it is due.~~

28          C. After consideration of the evidence presented at the hearing, the  
29 director shall serve notice in writing to the ~~motor carrier~~ PERSON of the  
30 director's finding and order. Within ten days after service of the notice  
31 of the finding and order of the hearing, the ~~motor carrier~~ PERSON may request  
32 in writing a rehearing on the matter. The director may grant a request for  
33 a rehearing based on rules ADOPTED BY THE DIRECTOR relating to conditions for  
34 rehearings.

35          D. If the ~~motor carrier or its agent~~ PERSON does not request a  
36 rehearing or if the director denies the request for a rehearing, the  
37 ASSESSMENT, DECISION OR order is final ~~or the assessment is due~~ ten days  
38 after the notice IS SERVED. ~~The assessment is delinquent unless it is paid~~  
39 ~~within fifteen days after it is due.~~

40          Sec. 79. Section 28-5925, Arizona Revised Statutes, as transferred and  
41 renumbered by this act, is amended to read:

42          28-5925. Payment; distribution

43          A. The supplier, as shown in the records of the terminal operator, who  
44 removes the taxable gallons shall precollect and remit on behalf of consumers  
45 AND USERS to the department the tax TAXES that is ARE imposed by this ~~article~~

1 ~~and section~~ SECTIONS 28-5605 AND 28-8344 and that ~~is~~ ARE measured by the  
2 invoiced gallons of motor vehicle ~~or aviation~~ fuel removed by a licensed  
3 supplier from a terminal or refinery in this state other than a bulk  
4 transfer.

5 B. The supplier and each reseller shall list the amount of tax as a  
6 separate line item on all invoices or billings or as a separate billing.

7 C. The motor vehicle fuel tax that is accrued in any calendar month  
8 ~~or the aviation fuel tax that is imposed pursuant to section 28-8344 and that~~  
9 ~~is accrued in any calendar month~~ shall be paid on or before the  
10 twenty-seventh day of the next succeeding calendar month to the director.

11 D. A supplier shall remit any late taxes remitted to the supplier by  
12 an eligible purchaser and shall notify the department in a timely manner of  
13 any late remittances if that supplier has previously given notice to the  
14 department of an uncollectible tax amount pursuant to section 28-5639,  
15 subsection B.

16 E. On payment, the director shall promptly:

17 1. Distribute the amount of money collected as a tax on sales of motor  
18 vehicle fuel used in propelling watercraft pursuant to section ~~28-5616~~  
19 28-5926 beginning with the month following the conclusion of the survey  
20 conducted pursuant to section ~~28-5616~~ 28-5926.

21 2. Deposit, pursuant to sections 35-146 and 35-147, all remaining  
22 monies in the Arizona highway user revenue fund or the state aviation fund  
23 as determined from the reports filed pursuant to section 28-5618.

24 F. The director shall deduct all exemptions and refunds before  
25 depositing the monies.

26 Sec. 80. Section 28-5926, Arizona Revised Statutes, as transferred and  
27 renumbered by this act, is amended to read:

28 28-5926. Fuel used in watercraft; survey; costs

29 A. Every three years, the directors of the department of  
30 transportation, the Arizona game and fish department and the Arizona state  
31 parks board shall have a survey conducted by a public or private agency to  
32 determine at least the following information:

33 1. The percentage of the total ~~license~~ taxes paid on motor vehicle  
34 fuel that is used for propelling watercraft.

35 2. The number of days of recreational watercraft use in each county.

36 B. The survey shall be completed by the fiscal year ending in 1982 and  
37 every three years thereafter.

38 C. The director shall:

39 1. Use the percentage determined pursuant to subsection A of this  
40 section to determine the amount of ~~license~~ taxes collected on the sale of  
41 fuel used in watercraft.

42 2. Except as provided in subsection D of this section, deposit,  
43 pursuant to sections 35-146 and 35-147, the amount determined pursuant to  
44 paragraph 1 of this subsection on a monthly basis in the state lake  
45 improvement fund to be distributed pursuant to section 5-382.

1 D. Of the percentage of motor vehicle tax paid on fuel used to propel  
2 watercraft, the department of transportation shall retain:

- 3 1. One per cent to defray administrative expense.  
4 2. An amount equal to the expenses of the survey provided for in  
5 subsection A of this section.

6 Sec. 81. Section 28-5927, Arizona Revised Statutes, as transferred and  
7 renumbered by this act, is amended to read:

8 28-5927. Transfer; off-highway vehicle recreation fund

9 Fifty-five one hundredths of one per cent of the total license taxes  
10 on motor vehicle fuel shall be transferred from the monies collected pursuant  
11 to section 28-5606 to the off-highway vehicle recreation fund established by  
12 section 28-1176 on a monthly basis.

13 Sec. 82. Section 28-5928, Arizona Revised Statutes, as transferred and  
14 renumbered by this act, is amended to read:

15 28-5928. Legal remedies

16 A. An injunction, a writ of mandamus or any other legal or equitable  
17 process shall not issue in an action or proceeding in any court against this  
18 state or against any officer of this state to prevent or enjoin the  
19 collection of the ~~motor carrier~~ ANY TAX, fee, penalty or interest required  
20 by this ~~article~~ CHAPTER to be collected.

21 B. ~~A motor carrier making a payment~~ A PERSON AGAINST WHOM AN  
22 ASSESSMENT UNDER THIS CHAPTER HAS BECOME FINAL PURSUANT TO SECTION 28-5924  
23 may bring an action against the director in the ~~superior court in Maricopa~~  
24 county ARIZONA TAX COURT for recovery of the amount paid if the ~~motor carrier~~  
25 PERSON:

- 26 1. Pays the amount stating it is paid under protest.  
27 2. Verifies and states the grounds for objection to the legality of  
28 the payment.  
29 3. Pays the amount within ~~three months~~ NINETY DAYS after it ~~becomes~~  
30 due THE ASSESSMENT BECOMES FINAL.

31 C. The ~~motor carrier~~ PERSON shall institute the action provided in  
32 subsection B OF THIS SECTION within ~~one year~~ THIRTY DAYS after payment under  
33 protest. Failure to bring an action within ~~one year~~ THIRTY DAYS constitutes  
34 a waiver of all demands against this state on account of the protested  
35 payment. A court shall not consider a ground for illegality other than that  
36 stated in the protest filed at the time of payment.

37 D. If judgment is rendered for the plaintiff, the director shall both:  
38 1. Credit the amount of the judgment on any ~~motor carrier~~ TAX, fee,  
39 PENALTY, INTEREST or other amount due from the plaintiff under this ~~article~~  
40 CHAPTER.

- 41 2. Refund the balance to the plaintiff.

42 E. A court shall not render judgment in favor of the plaintiff in an  
43 action brought against the director to recover any amount paid under this  
44 ~~article~~ CHAPTER if an action is brought by or in the name of an assignee of  
45 the ~~motor carrier~~ PERSON who paid the amount.

1 ~~F. Within thirty days after the date of a decision or order of the~~  
2 ~~director pursuant to this article, the motor carrier may appeal to the~~  
3 ~~superior court in Maricopa county from the decision or order. The court~~  
4 ~~shall only consider evidence that was presented at the original hearing. The~~  
5 ~~order of refusal, cancellation or revocation shall not be suspended during~~  
6 ~~the pendency of an appeal.~~

7 F. A PERSON AGGRIEVED BY A DECISION OR ORDER OF THE DIRECTOR ISSUED  
8 PURSUANT TO SECTION 28-5924, EXCEPT FOR AN ASSESSMENT FOR TAXES, FEES,  
9 PENALTIES OR INTEREST, MAY SEEK JUDICIAL REVIEW OF THE DECISION OR ORDER IN  
10 THE ARIZONA TAX COURT PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6.

11 Sec. 83. Section 28-5929, Arizona Revised Statutes, as transferred and  
12 renumbered by this act, is amended to read:

13 28-5929. Cumulative remedies

14 The remedies of this ~~article~~ CHAPTER are cumulative. An action taken  
15 by the director shall not be construed to be an election on the part of the  
16 state or its officers to pursue any remedy to the exclusion of any other  
17 remedy provided in this ~~article~~ CHAPTER.

18 Sec. 84. Title 28, chapter 16, article 5, Arizona Revised Statutes,  
19 is amended by adding section 28-5930, to read:

20 28-5930. Electronic report filing; rules; payment availability

21 A. THE DIRECTOR MAY REQUIRE BY RULE THAT PERSONS WHO ARE REQUIRED TO  
22 FILE REPORTS PURSUANT TO THIS CHAPTER FILE THOSE REPORTS BY ELECTRONIC MEANS.

23 B. THE RULES SHALL INCLUDE AT LEAST THE FOLLOWING:

- 24 1. DATA ELEMENTS.
- 25 2. THE FORMAT FOR THE DATA ELEMENTS.
- 26 3. THE METHOD AND MEDIUM OF TRANSMISSION.
- 27 4. PROVISIONS FOR WAIVER.

28 C. ALL MONIES THAT ACCOMPANY ELECTRONIC REPORTS SHALL BE IMMEDIATELY  
29 AVAILABLE TO THIS STATE ON THE DATE OF TRANSFER AS PROVIDED IN SECTION  
30 28-374.

31 Sec. 85. Section 28-5936, Arizona Revised Statutes, is amended to  
32 read:

33 28-5936. Confidential information; disclosure allowed

34 A. A person may disclose confidential information as follows:

35 1. Confidential information relating to:

36 (a) A taxpayer may be disclosed to the taxpayer, the taxpayer's  
37 successor in interest or a designee of the taxpayer who is authorized in  
38 writing by the taxpayer.

39 (b) A corporate taxpayer may be disclosed to a principal officer of  
40 the corporation.

41 (c) A partnership may be disclosed to a partner of the partnership,  
42 excluding disclosure of confidential information of a particular partner  
43 unless otherwise authorized.

44 (d) An estate may be disclosed to the personal representative of the  
45 estate and to an heir, next of kin or beneficiary under the will of the

1 decedent if the director finds that the heir, next of kin or beneficiary has  
2 a material interest that will be affected by the confidential information.

3 (e) A trust may be disclosed to the trustee or trustees, jointly or  
4 separately, and to the grantor or any beneficiary of the trust if the  
5 director finds that the grantor or beneficiary has a material interest that  
6 will be affected by the confidential information.

7 (f) A taxpayer may be disclosed if the taxpayer has waived any rights  
8 to confidentiality either in writing or on the record in any administrative  
9 or judicial proceeding.

10 2. Confidential information may be disclosed to:

11 (a) An employee of the department whose official duties involve tax  
12 administration.

13 (b) The office of the attorney general or the office of a county  
14 attorney authorized in writing by the attorney general solely for its use in  
15 preparation for, or an investigation that may result in, a proceeding  
16 involving tax administration before the director, department or other agency  
17 or board of this state or before a grand jury or a state or federal court.

18 (c) Other state tax officials of this state whose official duties  
19 require the disclosure for proper tax administration purposes if the  
20 information is sought in connection with any investigation or other  
21 proceeding conducted by the tax official, except that a disclosure is limited  
22 to information of a taxpayer who is being investigated or who is a party to  
23 a proceeding conducted by the tax official.

24 (d) The United States internal revenue service or state tax officials  
25 of other states pursuant to statute and a written agreement between the  
26 director and the internal revenue service or other state, if the internal  
27 revenue service or the other state grants substantially similar privileges  
28 to the director for the type of information being sought.

29 (e) The auditor general if in connection with an audit of the  
30 department subject to the restrictions in section 28-5935, subsection B.

31 (f) Any person to the extent necessary for effective tax  
32 administration in connection with the processing, storage, transmission and  
33 reproduction of the information and the programming, maintenance, repair,  
34 testing and procurement of equipment for purposes of tax administration.

35 3. Confidential information may be disclosed in a state or federal  
36 judicial or administrative proceeding pertaining to tax administration if:

37 (a) The taxpayer is a party to the proceeding.

38 (b) The treatment of an item reflected in the information is directly  
39 related to the resolution of an issue in the proceeding.

40 (c) The information directly relates to a transactional relationship  
41 between a person who is a party to the proceeding and the taxpayer that  
42 directly affects the resolution of an issue in the proceeding.

43 4. Identity information may be disclosed for purposes of notifying  
44 persons entitled to tax refunds if the director is unable to locate the  
45 persons after reasonable effort.

1           5. If necessary to effect collection of a delinquent tax, penalties  
2 or interest, the outstanding obligation and information obtained in the  
3 collection investigation may be disclosed.

4           6. The director may disclose statistical information gathered from  
5 confidential information if the disclosure does not include confidential  
6 information attributable to any one taxpayer.

7           7. Confidential information may be disclosed to law enforcement  
8 agencies for law enforcement purposes.

9           B. Except as provided in section 28-5935, subsection B, a court may  
10 order the director to disclose confidential information pertaining to a party  
11 to an action. The court shall make an order only on a showing of good cause  
12 and that the party seeking the information has made demand on the taxpayer  
13 for the information.

14           C. EXCEPT AS PRESCRIBED IN SUBSECTION D OF THIS SECTION OR EXCEPT IF  
15 REQUIRED TO DO SO BY A COURT, IT IS UNLAWFUL FOR A PERSON TO DISCLOSE  
16 INFORMATION ACQUIRED BY THE DIRECTOR OR AN AGENT UNDER SECTION 28-5620. THIS  
17 SUBSECTION DOES NOT MEAN THAT THE INFORMATION OR EVIDENCE IS PRIVILEGED IF  
18 IT IS USED BY THIS STATE OR AN OFFICER OF THIS STATE IN AN ACTION FOR  
19 COLLECTION OF THE TAX OR A PROSECUTION FOR A VIOLATION OF ARTICLE 1 OF THIS  
20 CHAPTER.

21           D. THE DEPARTMENT OF TRANSPORTATION SHALL PROVIDE INFORMATION TO THE  
22 DEPARTMENT OF WEIGHTS AND MEASURES TO DETERMINE COMPLIANCE WITH TITLE 41,  
23 CHAPTER 15, ARTICLE 7. A GASOLINE DISPENSING SITE SHALL PROVIDE THE  
24 DEPARTMENT OF TRANSPORTATION WITH INFORMATION THE DIRECTOR OF THE DEPARTMENT  
25 OF TRANSPORTATION REQUESTS AND IN THE FORM THAT THE DIRECTOR OF THE  
26 DEPARTMENT OF TRANSPORTATION DETERMINES IS NECESSARY FOR THE PURPOSES OF THIS  
27 SUBSECTION.

28           E. This article does not prevent the director from disclosing to  
29 a person any aggregate statistical information gathered from confidential  
30 information regarding the distribution of gasoline sales by a distributor in  
31 each of the several counties of this state. The director shall provide this  
32 gasoline sales distribution information to a person pursuant to section  
33 39-121.

34           Sec. 86. Section 28-6001, Arizona Revised Statutes, is amended to  
35 read:

36           28-6001. Underground storage tank tax; payments

37           A. A person who is responsible for collecting the motor vehicle fuel  
38 tax imposed by section 28-5606 or the aviation fuel tax imposed by section  
39 28-8344 shall make periodic payments of the underground storage tank tax  
40 imposed by title 49, chapter 6, article 2 to the director of the department  
41 of transportation.

42           B. A person who is responsible for collecting the use fuel tax imposed  
43 by section ~~28-5708~~ 28-5606 on diesel, INCLUDING DYED DIESEL AS DEFINED IN  
44 SECTION 28-5601, shall register with the department of transportation on a  
45 form prescribed by the department of transportation and shall make periodic

1 payments of the underground storage tank tax imposed by title 49, chapter 6,  
2 article 2 to the director. For purposes of this subsection, "diesel" means  
3 ~~a liquid petroleum product that meets the specifications in ASTM D-975-88~~ ANY  
4 LIQUID THAT IS COMMONLY OR COMMERCIALY KNOWN, OFFERED FOR SALE OR USED AS  
5 A FUEL IN DIESEL ENGINES.

6 Sec. 87. Section 28-6006, Arizona Revised Statutes, is amended to  
7 read:

8 28-6006. Administration same as for motor vehicle fuel tax

9 A. Section 28-5607, subsection B, ~~section 28-5624, subsection D,~~  
10 sections 28-5602, 28-5603, ~~28-5605, 28-5613, 28-5614,~~ 28-5619, 28-5620,  
11 28-5621, ~~AND 28-5622, 28-5625~~ and article 5 of this chapter apply to the  
12 persons from whom the underground storage tank tax is collected pursuant to  
13 section 28-6001 so that the underground storage tank tax is administered in  
14 the same manner as the motor vehicle fuel tax TAXES.

15 B. Penalties, late filing fees and interest collected by the  
16 department of transportation shall be remitted to the director of the  
17 department of environmental quality in the same manner as the tax collected  
18 pursuant to this article.

19 Sec. 88. Section 28-6501, Arizona Revised Statutes, is amended to  
20 read:

21 28-6501. Definition of highway user revenues

22 In this article, unless the context otherwise requires or except as  
23 otherwise provided by statute, "highway user revenues" means all monies  
24 received in this state from licenses, taxes, penalties, interest and fees  
25 authorized by the following:

26 1. Chapters 2, 7, 8 and 15 of this title, except for:

27 (a) The special plate administration fees prescribed in sections  
28 28-2404, 28-2412 through 28-2417 and 28-2514.

29 (b) The donations prescribed in sections 28-2404, 28-2412 through  
30 28-2415, 28-2417, 28-2453, 28-2454 and 28-2455.

31 2. Chapters 10 and 11 of this title.

32 3. Chapter 16, articles 1, 2 and 4 of this title, except for AS  
33 PROVIDED IN sections ~~28-5616~~ 28-5926 and ~~28-5617~~ 28-5927.

34 Sec. 89. Section 42-5061, Arizona Revised Statutes, is amended to  
35 read:

36 42-5061. Retail classification; definitions

37 A. The retail classification is comprised of the business of selling  
38 tangible personal property at retail. The tax base for the retail  
39 classification is the gross proceeds of sales or gross income derived from  
40 the business. The tax imposed on the retail classification does not apply  
41 to the gross proceeds of sales or gross income from:

42 1. Professional or personal service occupations or businesses which  
43 involve sales or transfers of tangible personal property only as  
44 inconsequential elements.

- 1           2. Services rendered in addition to selling tangible personal property  
2 at retail.
- 3           3. Sales of warranty or service contracts. The storage, use or  
4 consumption of tangible personal property provided under the conditions of  
5 such contracts is subject to tax under section 42-5156.
- 6           4. Sales of tangible personal property by any nonprofit organization  
7 organized and operated exclusively for charitable purposes and recognized by  
8 the United States internal revenue service under section 501(c)(3) of the  
9 internal revenue code.
- 10          5. Sales to persons engaged in business classified under the  
11 restaurant classification of articles used by human beings for food, drink  
12 or condiment, whether simple, mixed or compounded.
- 13          6. Business activity which is properly included in any other business  
14 classification which is taxable under article 1 of this chapter.
- 15          7. The sale of stocks and bonds.
- 16          8. Drugs and medical oxygen, including delivery hose, mask or tent,  
17 regulator and tank, on the prescription of a member of the medical, dental  
18 or veterinarian profession who is licensed by law to administer such  
19 substances.
- 20          9. Prosthetic appliances as defined in section 23-501 prescribed or  
21 recommended by a health professional licensed pursuant to title 32, chapter  
22 7, 8, 11, 13, 14, 15, 16, 17 or 29.
- 23          10. Insulin, insulin syringes and glucose test strips.
- 24          11. Prescription eyeglasses or contact lenses.
- 25          12. Hearing aids as defined in section 36-1901.
- 26          13. Durable medical equipment which has a federal health care financing  
27 administration common procedure code, is designated reimbursable by medicare,  
28 is prescribed by a person who is licensed under title 32, chapter 7, 8, 13,  
29 14, 15, 17 or 29, can withstand repeated use, is primarily and customarily  
30 used to serve a medical purpose, is generally not useful to a person in the  
31 absence of illness or injury and is appropriate for use in the home.
- 32          14. Sales to nonresidents of this state for use outside this state if  
33 the vendor ships or delivers the tangible personal property out of this  
34 state.
- 35          15. Food, as provided in and subject to the conditions of article 3 of  
36 this chapter and section 42-5074.
- 37          16. Items purchased with United States department of agriculture food  
38 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.  
39 958) or food instruments issued under section 17 of the child nutrition act  
40 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code  
41 section 1786).
- 42          17. Textbooks by any bookstore that are required by any state  
43 university or community college.
- 44          18. Food and drink to a person who is engaged in business which is  
45 classified under the restaurant classification and which provides such food

1 and drink without monetary charge to its employees for their own consumption  
2 on the premises during the employees' hours of employment.

3 19. Articles of food, drink or condiment and accessory tangible  
4 personal property to a school district if such articles and accessory  
5 tangible personal property are to be prepared and served to persons for  
6 consumption on the premises of a public school within the district during  
7 school hours.

8 20. Lottery tickets or shares pursuant to title 5, chapter 5,  
9 article 1.

10 21. The sale of precious metal bullion and monetized bullion to the  
11 ultimate consumer, but the sale of coins or other forms of money for  
12 manufacture into jewelry or works of art is subject to the tax. In this  
13 paragraph:

14 (a) "Monetized bullion" means coins and other forms of money which are  
15 manufactured from gold, silver or other metals and which have been or are  
16 used as a medium of exchange in this or another state, the United States or  
17 a foreign nation.

18 (b) "Precious metal bullion" means precious metal, including gold,  
19 silver, platinum, rhodium and palladium, which has been smelted or refined  
20 so that its value depends on its contents and not on its form.

21 22. Motor vehicle fuel and use fuel which are subject to a tax imposed  
22 under title 28, chapter 16, article 1 or 2, sales of use fuel to a holder of  
23 a valid single trip use fuel tax permit issued under section 28-5739, sales  
24 of aviation fuel which are subject to the tax imposed under section 28-8344  
25 and sales of jet fuel which are subject to the tax imposed under article 8  
26 of this chapter.

27 23. Tangible personal property sold to a person engaged in the business  
28 of leasing or renting such property under the personal property rental  
29 classification if such property is to be leased or rented by such person.

30 24. Tangible personal property sold in interstate or foreign commerce  
31 if prohibited from being so taxed by the Constitution of the United States  
32 or the constitution of this state.

33 25. Tangible personal property sold to:

34 (a) A qualifying hospital as defined in section 42-5001.

35 (b) A qualifying health care organization as defined in section  
36 42-5001 if the tangible personal property is used by the organization solely  
37 to provide health and medical related educational and charitable services.

38 (c) A qualifying health care organization as defined in section  
39 42-5001 if the organization is dedicated to providing educational,  
40 therapeutic, rehabilitative and family medical education training for blind,  
41 visually impaired and multihandicapped children from the time of birth to age  
42 twenty-one.

43 (d) A qualifying community health center as defined in section  
44 42-5001.

1 (e) A nonprofit charitable organization that has qualified under  
2 section 501(c)(3) of the internal revenue code and that regularly serves  
3 meals to the needy and indigent on a continuing basis at no cost.

4 (f) For taxable periods beginning from and after June 30, 2001, a  
5 nonprofit charitable organization that has qualified under section 501(c)(3)  
6 of the internal revenue code and that provides residential apartment housing  
7 for low income persons over sixty-two years of age in a facility that  
8 qualifies for a federal housing subsidy, if the tangible personal property  
9 is used by the organization solely to provide residential apartment housing  
10 for low income persons over sixty-two years of age in a facility that  
11 qualifies for a federal housing subsidy.

12 26. Magazines or other periodicals or other publications by this state  
13 to encourage tourist travel.

14 27. Tangible personal property sold to a person that is subject to tax  
15 under this article by reason of being engaged in business classified under  
16 the prime contracting classification under section 42-5075, or to a  
17 subcontractor working under the control of a prime contractor that is subject  
18 to tax under article 1 of this chapter, if the property so sold is any of the  
19 following:

20 (a) Incorporated or fabricated by the person into any real property,  
21 structure, project, development or improvement as part of the business.

22 (b) Used in environmental response or remediation activities under  
23 section 42-5075, subsection B, paragraph 6.

24 (c) Incorporated or fabricated by the person into any lake facility  
25 development in a commercial enhancement reuse district under conditions  
26 prescribed for the deduction allowed by section 42-5075, subsection B,  
27 paragraph 8.

28 28. The sale of a motor vehicle to:

29 (a) A nonresident of this state if the purchaser's state of residence  
30 does not allow a corresponding use tax exemption to the tax imposed by  
31 article 1 of this chapter and if the nonresident has secured a special  
32 thirty-day nonresident registration of the vehicle by applying according to  
33 section 28-2154.

34 (b) An enrolled member of an Indian tribe who resides on the Indian  
35 reservation established for that tribe.

36 29. Tangible personal property purchased or leased in this state by a  
37 nonprofit charitable organization that has qualified under section 501(c)(3)  
38 of the United States internal revenue code and that engages in and uses such  
39 property exclusively for training, job placement or rehabilitation programs  
40 or testing for mentally or physically handicapped persons.

41 30. Sales of tangible personal property by a nonprofit organization  
42 that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6)  
43 of the internal revenue code if the organization is associated with a major  
44 league baseball team or a national touring professional golfing association

1 and no part of the organization's net earnings inures to the benefit of any  
2 private shareholder or individual.

3 31. Sales of commodities, as defined by title 7 United States Code  
4 section 2, that are consigned for resale in a warehouse in this state in or  
5 from which the commodity is deliverable on a contract for future delivery  
6 subject to the rules of a commodity market regulated by the United States  
7 commodity futures trading commission.

8 32. Sales of tangible personal property by a nonprofit organization  
9 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),  
10 501(c)(7) or 501(c)(8) of the internal revenue code if the organization  
11 sponsors or operates a rodeo featuring primarily farm and ranch animals and  
12 no part of the organization's net earnings inures to the benefit of any  
13 private shareholder or individual.

14 33. Sales of new semitrailers, as defined in section 28-101,  
15 manufactured in Arizona, or new parts manufactured in Arizona for  
16 semitrailers sold by the manufacturer to a person who holds an interstate  
17 commerce commission license for use in interstate commerce.

18 34. Sales of seeds, seedlings, roots, bulbs, cuttings and other  
19 propagative material to persons who use those items to commercially produce  
20 agricultural, horticultural, viticultural or floricultural crops in this  
21 state.

22 35. Machinery, equipment, technology or related supplies that are only  
23 useful to assist a person who is physically disabled as defined in section  
24 46-191, has a developmental disability as defined in section 36-551 or has  
25 a head injury as defined in section 41-3201 to be more independent and  
26 functional.

27 36. Sales of tangible personal property that is shipped or delivered  
28 directly to a destination outside the United States for use in that foreign  
29 country.

30 37. Sales of natural gas or liquefied petroleum gas used to propel a  
31 motor vehicle.

32 38. Paper machine clothing, such as forming fabrics and dryer felts,  
33 sold to a paper manufacturer and directly used or consumed in paper  
34 manufacturing.

35 39. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity  
36 sold to a qualified environmental technology manufacturer, producer or  
37 processor as defined in section 41-1514.02 and directly used or consumed in  
38 the generation or provision of on-site power or energy solely for  
39 environmental technology manufacturing, producing or processing or  
40 environmental protection. This paragraph shall apply for fifteen full  
41 consecutive calendar or fiscal years from the date the first paper  
42 manufacturing machine is placed in service. In the case of an environmental  
43 technology manufacturer, producer or processor who does not manufacture  
44 paper, the time period shall begin with the date the first manufacturing,  
45 processing or production equipment is placed in service.

1           40. Sales of liquid, solid or gaseous chemicals used in manufacturing,  
2 processing, fabricating, mining, refining, metallurgical operations, research  
3 and development and, beginning on January 1, 1999, printing, if using or  
4 consuming the chemicals, alone or as part of an integrated system of  
5 chemicals, involves direct contact with the materials from which the product  
6 is produced for the purpose of causing or permitting a chemical or physical  
7 change to occur in the materials as part of the production process. This  
8 paragraph does not include chemicals that are used or consumed in activities  
9 such as packaging, storage or transportation but does not affect any  
10 deduction for such chemicals that is otherwise provided by this section. For  
11 purposes of this paragraph, "printing" means a commercial printing operation  
12 and includes job printing, engraving, embossing, copying and bookbinding.

13           41. Through December 31, 1994, personal property liquidation  
14 transactions, conducted by a personal property liquidator. From and after  
15 December 31, 1994, personal property liquidation transactions shall be  
16 taxable under this section provided that nothing in this subsection shall be  
17 construed to authorize the taxation of casual activities or transactions  
18 under this chapter. In this paragraph:

19           (a) "Personal property liquidation transaction" means a sale of  
20 personal property made by a personal property liquidator acting solely on  
21 behalf of the owner of the personal property sold at the dwelling of the  
22 owner or upon the death of any owner, on behalf of the surviving spouse, if  
23 any, any devisee or heir or the personal representative of the estate of the  
24 deceased, if one has been appointed.

25           (b) "Personal property liquidator" means a person who is retained to  
26 conduct a sale in a personal property liquidation transaction.

27           42. Sales of food, drink and condiment for consumption within the  
28 premises of any prison, jail or other institution under the jurisdiction of  
29 the state department of corrections, the department of public safety, the  
30 department of juvenile corrections or a county sheriff.

31           43. A motor vehicle and any repair and replacement parts and tangible  
32 personal property becoming a part of such motor vehicle sold to a motor  
33 carrier who is subject to a fee prescribed in title 28, chapter 16, article  
34 4 and who is engaged in the business of leasing or renting such property.

35           44. Livestock and poultry feed, salts, vitamins and other additives for  
36 livestock or poultry consumption that are sold to persons who are engaged in  
37 producing livestock, poultry, or livestock or poultry products or who are  
38 engaged in feeding livestock or poultry commercially. For purposes of this  
39 paragraph, "poultry" includes ratites.

40           45. Sales of implants used as growth promotants and injectable  
41 medicines, not already exempt under paragraph 8 of this subsection, for  
42 livestock or poultry owned by or in possession of persons who are engaged in  
43 producing livestock, poultry, or livestock or poultry products or who are  
44 engaged in feeding livestock or poultry commercially. For purposes of this  
45 paragraph, "poultry" includes ratites.

1           46. Sales of motor vehicles at auction to nonresidents of this state  
2 for use outside this state if the vehicles are shipped or delivered out of  
3 this state, regardless of where title to the motor vehicles passes or its  
4 free on board point.

5           47. Tangible personal property sold to a person engaged in business and  
6 subject to tax under the transient lodging classification if the tangible  
7 personal property is a personal hygiene item which is furnished to and  
8 intended to be consumed by the transient during the transient's occupancy.

9           48. Sales of alternative fuel, as defined in section 1-215, to a used  
10 oil fuel burner who has received a permit to burn used oil or used oil fuel  
11 under section 49-426 or 49-480.

12           49. Sales of materials that are purchased by or for publicly funded  
13 libraries including school district libraries, charter school libraries,  
14 community college libraries, state university libraries or federal, state,  
15 county or municipal libraries for use by the public as follows:

16           (a) Printed or photographic materials, beginning August 7, 1985.

17           (b) Electronic or digital media materials, beginning July 17, 1994.

18           50. Tangible personal property sold to a commercial airline and  
19 consisting of food, beverages and condiments and accessories used for serving  
20 the food and beverages, if those items are to be provided without additional  
21 charge to passengers for consumption in flight. For purposes of this  
22 paragraph, "commercial airline" means a person holding a federal certificate  
23 of public convenience and necessity or foreign air carrier permit for air  
24 transportation to transport persons, property or United States mail in  
25 intrastate, interstate or foreign commerce.

26           51. Sales of alternative fuel vehicles, as defined in section 43-1086,  
27 if the vehicle was manufactured as a diesel fuel vehicle and converted to  
28 operate on alternative fuel and equipment that is installed in a conventional  
29 diesel fuel motor vehicle to convert the vehicle to operate on an alternative  
30 fuel, as defined in section 1-215.

31           52. Sales of any spirituous, vinous or malt liquor by a person that is  
32 licensed in this state as a wholesaler by the department of liquor licenses  
33 and control pursuant to title 4, chapter 2, article 1.

34           53. Sales of tangible personal property to be incorporated or installed  
35 as part of environmental response or remediation activities under section  
36 42-5075, subsection B, paragraph 6.

37           B. In addition to the deductions from the tax base prescribed by  
38 subsection A of this section, the gross proceeds of sales or gross income  
39 derived from sales of the following categories of tangible personal property  
40 shall be deducted from the tax base:

41           1. Machinery, or equipment, used directly in manufacturing,  
42 processing, fabricating, job printing, refining or metallurgical operations.  
43 The terms "manufacturing", "processing", "fabricating", "job printing",  
44 "refining" and "metallurgical" as used in this paragraph refer to and include  
45 those operations commonly understood within their ordinary meaning.

1 "Metallurgical operations" includes leaching, milling, precipitating,  
2 smelting and refining.

3 2. Mining machinery, or equipment, used directly in the process of  
4 extracting ores or minerals from the earth for commercial purposes, including  
5 equipment required to prepare the materials for extraction and handling,  
6 loading or transporting such extracted material to the surface. "Mining"  
7 includes underground, surface and open pit operations for extracting ores and  
8 minerals.

9 3. Tangible personal property sold to persons engaged in business  
10 classified under the telecommunications classification and consisting of  
11 central office switching equipment, switchboards, private branch exchange  
12 equipment, microwave radio equipment and carrier equipment including optical  
13 fiber, coaxial cable and other transmission media which are components of  
14 carrier systems.

15 4. Machinery, equipment or transmission lines used directly in  
16 producing or transmitting electrical power, but not including distribution.  
17 Transformers and control equipment used at transmission substation sites  
18 constitute equipment used in producing or transmitting electrical power.

19 5. Neat animals, horses, asses, sheep, ratites, swine or goats used  
20 or to be used as breeding or production stock, including sales of breedings  
21 or ownership shares in such animals used for breeding or production.

22 6. Pipes or valves four inches in diameter or larger used to transport  
23 oil, natural gas, artificial gas, water or coal slurry, including compressor  
24 units, regulators, machinery and equipment, fittings, seals and any other  
25 part that is used in operating the pipes or valves.

26 7. Aircraft, navigational and communication instruments and other  
27 accessories and related equipment sold to:

28 (a) A person holding a federal certificate of public convenience and  
29 necessity, a supplemental air carrier certificate under federal aviation  
30 regulations (14 Code of Federal Regulations part 121) or a foreign air  
31 carrier permit for air transportation for use as or in conjunction with or  
32 becoming a part of aircraft to be used to transport persons, property or  
33 United States mail in intrastate, interstate or foreign commerce.

34 (b) Any foreign government for use by such government outside of this  
35 state.

36 (c) Persons who are not residents of this state and who will not use  
37 such property in this state other than in removing such property from this  
38 state. This subdivision also applies to corporations that are not  
39 incorporated in this state, regardless of maintaining a place of business in  
40 this state, if the principal corporate office is located outside this state  
41 and the property will not be used in this state other than in removing the  
42 property from this state.

43 8. Machinery, tools, equipment and related supplies used or consumed  
44 directly in repairing, remodeling or maintaining aircraft, aircraft engines

1 or aircraft component parts by or on behalf of a certificated or licensed  
2 carrier of persons or property.

3 9. Railroad rolling stock, rails, ties and signal control equipment  
4 used directly to transport persons or property.

5 10. Machinery or equipment used directly to drill for oil or gas or  
6 used directly in the process of extracting oil or gas from the earth for  
7 commercial purposes.

8 11. Buses or other urban mass transit vehicles which are used directly  
9 to transport persons or property for hire or pursuant to a governmentally  
10 adopted and controlled urban mass transportation program and which are sold  
11 to bus companies holding a federal certificate of convenience and necessity  
12 or operated by any city, town or other governmental entity or by any person  
13 contracting with such governmental entity as part of a governmentally adopted  
14 and controlled program to provide urban mass transportation.

15 12. Groundwater measuring devices required under section 45-604.

16 13. New machinery and equipment consisting of tractors, tractor-drawn  
17 implements, self-powered implements, machinery and equipment necessary for  
18 extracting milk and for producing livestock, and machinery and equipment  
19 necessary for cooling milk and producing livestock, and drip irrigation lines  
20 not already exempt under paragraph 6 of this subsection and that are used for  
21 commercial production of agricultural, horticultural, viticultural and  
22 floricultural crops and products in this state. In this paragraph:

23 (a) "New machinery and equipment" means machinery and equipment which  
24 have never been sold at retail except pursuant to leases or rentals which do  
25 not total two years or more.

26 (b) "Self-powered implements" includes machinery and equipment that  
27 are electric-powered.

28 14. Machinery or equipment used in research and development. In this  
29 paragraph, "research and development" means basic and applied research in the  
30 sciences and engineering, and designing, developing or testing prototypes,  
31 processes or new products, including research and development of computer  
32 software that is embedded in or an integral part of the prototype or new  
33 product or that is required for machinery or equipment otherwise exempt under  
34 this section to function effectively. Research and development do not  
35 include manufacturing quality control, routine consumer product testing,  
36 market research, sales promotion, sales service, research in social sciences  
37 or psychology, computer software research that is not included in the  
38 definition of research and development, or other nontechnological activities  
39 or technical services.

40 15. Machinery and equipment that are purchased by or on behalf of the  
41 owners of a soundstage complex and primarily used for motion picture,  
42 multimedia or interactive video production in the complex. This paragraph  
43 applies only if the initial construction of the soundstage complex begins  
44 after June 30, 1996 and before January 1, 2002 and the machinery and

1 equipment are purchased before the expiration of five years after the start  
2 of initial construction. For purposes of this paragraph:

3 (a) "Motion picture, multimedia or interactive video production"  
4 includes products for theatrical and television release, educational  
5 presentations, electronic retailing, documentaries, music videos, industrial  
6 films, CD-ROM, video game production, commercial advertising and television  
7 episode production and other genres that are introduced through developing  
8 technology.

9 (b) "Soundstage complex" means a facility of multiple stages including  
10 production offices, construction shops and related areas, prop and costume  
11 shops, storage areas, parking for production vehicles and areas that are  
12 leased to businesses that complement the production needs and orientation of  
13 the overall facility.

14 16. Tangible personal property that is used by either of the following  
15 to receive, store, convert, produce, generate, decode, encode, control or  
16 transmit telecommunications information:

17 (a) Any direct broadcast satellite television or data transmission  
18 service that operates pursuant to 47 Code of Federal Regulations parts 25 and  
19 100.

20 (b) Any satellite television or data transmission facility, if both  
21 of the following conditions are met:

22 (i) Over two-thirds of the transmissions, measured in megabytes,  
23 transmitted by the facility during the test period were transmitted to or on  
24 behalf of one or more direct broadcast satellite television or data  
25 transmission services that operate pursuant to 47 Code of Federal Regulations  
26 parts 25 and 100.

27 (ii) Over two-thirds of the transmissions, measured in megabytes,  
28 transmitted by or on behalf of those direct broadcast television or data  
29 transmission services during the test period were transmitted by the facility  
30 to or on behalf of those services.

31 For purposes of subdivision (b) of this paragraph, "test period" means the  
32 three hundred sixty-five day period beginning on the later of the date on  
33 which the tangible personal property is purchased or the date on which the  
34 direct broadcast satellite television or data transmission service first  
35 transmits information to its customers.

36 17. Clean rooms that are used for manufacturing, processing,  
37 fabrication or research and development, as defined in paragraph 14 of this  
38 subsection, of semiconductor products. For purposes of this paragraph,  
39 "clean room" means all property that comprises or creates an environment  
40 where humidity, temperature, particulate matter and contamination are  
41 precisely controlled within specified parameters, without regard to whether  
42 the property is actually contained within that environment or whether any of  
43 the property is affixed to or incorporated into real property. Clean room:

44 (a) Includes the integrated systems, fixtures, piping, movable  
45 partitions, lighting and all property that is necessary or adapted to reduce

1 contamination or to control airflow, temperature, humidity, chemical purity  
2 or other environmental conditions or manufacturing tolerances, as well as the  
3 production machinery and equipment operating in conjunction with the clean  
4 room environment.

5 (b) Does not include the building or other permanent, nonremovable  
6 component of the building that houses the clean room environment.

7 18. Machinery and equipment used directly in the feeding of poultry,  
8 the environmental control of housing for poultry, the movement of eggs within  
9 a production and packaging facility or the sorting or cooling of eggs. This  
10 exemption does not apply to vehicles used for transporting eggs.

11 19. Machinery or equipment, including related structural components,  
12 that is employed in connection with manufacturing, processing, fabricating,  
13 job printing, refining, mining, natural gas pipelines, metallurgical  
14 operations, telecommunications, producing or transmitting electricity or  
15 research and development and that is used directly to meet or exceed rules  
16 or regulations adopted by the federal energy regulatory commission, the  
17 United States environmental protection agency, the United States nuclear  
18 regulatory commission, the Arizona department of environmental quality or a  
19 political subdivision of this state to prevent, monitor, control or reduce  
20 land, water or air pollution.

21 20. Machinery and equipment that are sold to a person engaged in the  
22 commercial production of livestock, livestock products or agricultural,  
23 horticultural, viticultural or floricultural crops or products in this state  
24 and that are used directly and primarily to prevent, monitor, control or  
25 reduce air, water or land pollution.

26 21. Machinery or equipment that enables a television station to  
27 originate and broadcast or to receive and broadcast digital television  
28 signals and that was purchased to facilitate compliance with the  
29 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States  
30 Code section 336) and the federal communications commission order issued  
31 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does  
32 not exempt any of the following:

33 (a) Repair or replacement parts purchased for the machinery or  
34 equipment described in this paragraph.

35 (b) Machinery or equipment purchased to replace machinery or equipment  
36 for which an exemption was previously claimed and taken under this paragraph.

37 (c) Any machinery or equipment purchased after the television station  
38 has ceased analog broadcasting, or purchased after November 1, 2009,  
39 whichever occurs first.

40 C. The deductions provided by subsection B of this section do not  
41 include sales of:

42 1. Expendable materials. For purposes of this paragraph, expendable  
43 materials do not include any of the categories of tangible personal property  
44 specified in subsection B of this section regardless of the cost or useful  
45 life of that property.

1           2. Janitorial equipment and hand tools.

2           3. Office equipment, furniture and supplies.

3           4. Tangible personal property used in selling or distributing  
4 activities, other than the telecommunications transmissions described in  
5 subsection B, paragraph 16 of this section.

6           5. Motor vehicles required to be licensed by this state, except buses  
7 or other urban mass transit vehicles specifically exempted pursuant to  
8 subsection B, paragraph 11 of this section, without regard to the use of such  
9 motor vehicles.

10          6. Shops, buildings, docks, depots and all other materials of whatever  
11 kind or character not specifically included as exempt.

12          7. Motors and pumps used in drip irrigation systems.

13          D. In computing the tax base, gross proceeds of sales or gross income  
14 from retail sales of automobiles does not include any amount attributable to  
15 federal excise taxes imposed by 26 United States Code section 4001.

16          E. In addition to the deductions from the tax base prescribed by  
17 subsection A of this section, there shall be deducted from the tax base the  
18 gross proceeds of sales or gross income derived from sales of machinery,  
19 equipment, materials and other tangible personal property used directly and  
20 predominantly to construct a qualified environmental technology  
21 manufacturing, producing or processing facility as described in section  
22 41-1514.02. This subsection applies for ten full consecutive calendar or  
23 fiscal years after the start of initial construction.

24          F. In computing the tax base, gross proceeds of sales or gross income  
25 from retail sales of heavy trucks and trailers does not include any amount  
26 attributable to federal excise taxes imposed by 26 United States Code section  
27 4051.

28          G. In computing the tax base, gross proceeds of sales or gross income  
29 from the sale of use fuel, as defined in section ~~28-5701~~ 28-5601, does not  
30 include any amount attributable to federal excise taxes imposed by 26 United  
31 States Code section 4091.

32          H. If a person is engaged in an occupation or business to which  
33 subsection A of this section applies, the person's books shall be kept so as  
34 to show separately the gross proceeds of sales of tangible personal property  
35 and the gross income from sales of services, and if not so kept the tax shall  
36 be imposed on the total of the person's gross proceeds of sales of tangible  
37 personal property and gross income from services.

38          I. If a person is engaged in the business of selling tangible personal  
39 property at both wholesale and retail, the tax under this section applies  
40 only to the gross proceeds of the sales made other than at wholesale if the  
41 person's books are kept so as to show separately the gross proceeds of sales  
42 of each class, and if the books are not so kept, the tax under this section  
43 applies to the gross proceeds of every sale so made.

44          J. A person who engages in manufacturing, baling, crating, boxing,  
45 barreling, canning, bottling, sacking, preserving, processing or otherwise

1 preparing for sale or commercial use any livestock, agricultural or  
2 horticultural product or any other product, article, substance or commodity  
3 and who sells the product of such business at retail in this state is deemed,  
4 as to such sales, to be engaged in business classified under the retail  
5 classification. This subsection does not apply to businesses classified  
6 under the:

- 7 1. Transporting classification.
- 8 2. Utility classification.
- 9 3. Telecommunications classification.
- 10 4. Pipeline classification.
- 11 5. Private car line classification.
- 12 6. Publication classification.
- 13 7. Job printing classification.
- 14 8. Prime contracting classification.
- 15 9. Owner builder sales classification.
- 16 10. Restaurant classification.

17 K. The gross proceeds of sales or gross income derived from the  
18 following shall be deducted from the tax base for the retail classification:

19 1. Sales made directly to the United States government or its  
20 departments or agencies by a manufacturer, modifier, assembler or repairer.

21 2. Sales made directly to a manufacturer, modifier, assembler or  
22 repairer if such sales are of any ingredient or component part of products  
23 sold directly to the United States government or its departments or agencies  
24 by the manufacturer, modifier, assembler or repairer.

25 3. Overhead materials or other tangible personal property that is used  
26 in performing a contract between the United States government and a  
27 manufacturer, modifier, assembler or repairer, including property used in  
28 performing a subcontract with a government contractor who is a manufacturer,  
29 modifier, assembler or repairer, to which title passes to the government  
30 under the terms of the contract or subcontract.

31 4. Sales of overhead materials or other tangible personal property to  
32 a manufacturer, modifier, assembler or repairer if the gross proceeds of  
33 sales or gross income derived from the property by the manufacturer,  
34 modifier, assembler or repairer will be exempt under paragraph 3 of this  
35 subsection.

36 L. There shall be deducted from the tax base fifty per cent of the  
37 gross proceeds or gross income from any sale of tangible personal property  
38 made directly to the United States government or its departments or agencies,  
39 which is not deducted under subsection K of this section.

40 M. The department shall require every person claiming a deduction  
41 provided by subsection K or L of this section to file on forms prescribed by  
42 the department at such times as the department directs a sworn statement  
43 disclosing the name of the purchaser and the exact amount of sales on which  
44 the exclusion or deduction is claimed.

1           N. In computing the tax base, gross proceeds of sales or gross income  
2 does not include:

3           1. A manufacturer's cash rebate on the sales price of a motor vehicle  
4 if the buyer assigns the buyer's right in the rebate to the retailer.

5           2. The waste tire disposal fee imposed pursuant to section 44-1302.

6           O. There shall be deducted from the tax base the amount received from  
7 sales of solar energy devices, but the deduction shall not exceed five  
8 thousand dollars for each solar energy device. Before deducting any amount  
9 under this subsection, the retailer shall register with the department as a  
10 solar energy retailer. By registering, the retailer acknowledges that it  
11 will make its books and records relating to sales of solar energy devices  
12 available to the department for examination.

13           P. In computing the tax base in the case of the sale or transfer of  
14 wireless telecommunications equipment as an inducement to a customer to enter  
15 into or continue a contract for telecommunications services that are taxable  
16 under section 42-5064, gross proceeds of sales or gross income does not  
17 include any sales commissions or other compensation received by the retailer  
18 as a result of the customer entering into or continuing a contract for the  
19 telecommunications services.

20           Q. For the purposes of this section, a sale of wireless  
21 telecommunications equipment to a person who holds the equipment for sale or  
22 transfer to a customer as an inducement to enter into or continue a contract  
23 for telecommunications services that are taxable under section 42-5064 is  
24 considered to be a sale for resale in the regular course of business.

25           R. Retail sales of prepaid calling cards or prepaid authorization  
26 numbers for telecommunications services, including sales of reauthorization  
27 of a prepaid card or authorization number, are subject to tax under this  
28 section.

29           S. For the purposes of this section, the diversion of gas from a  
30 pipeline by a person engaged in the business of operating a natural or  
31 artificial gas pipeline, for the sole purpose of fueling compressor equipment  
32 to pressurize the pipeline, is not a sale of the gas to the operator of the  
33 pipeline.

34           T. If a seller is entitled to a deduction pursuant to subsection B,  
35 paragraph 16, subdivision (b) of this section, the department may require the  
36 purchaser to establish that the requirements of subsection B, paragraph 16,  
37 subdivision (b) of this section have been satisfied. If the purchaser cannot  
38 establish that the requirements of subsection B, paragraph 16, subdivision  
39 (b) of this section have been satisfied, the purchaser is liable in an amount  
40 equal to any tax, penalty and interest which the seller would have been  
41 required to pay under article 1 of this chapter if the seller had not made  
42 a deduction pursuant to subsection B, paragraph 16, subdivision (b) of this  
43 section. Payment of the amount under this subsection exempts the purchaser  
44 from liability for any tax imposed under article 4 of this chapter and  
45 related to the tangible personal property purchased. The amount shall be

1 treated as transaction privilege tax to the purchaser and as tax revenues  
2 collected from the seller to designate the distribution base pursuant to  
3 section 42-5029.

4 U. For purposes of section 42-5032.01, the department shall separately  
5 account for revenues collected under the retail classification from  
6 businesses selling tangible personal property at retail:

7 1. On the premises of a multipurpose facility that is owned, leased  
8 or operated by the tourism and sports authority pursuant to title 5,  
9 chapter 8.

10 2. At professional football contests that are held in a stadium  
11 located on the campus of an institution under the jurisdiction of the Arizona  
12 board of regents.

13 V. For the purposes of this section:

14 1. "Aircraft" includes:

15 (a) An airplane flight simulator that is approved by the federal  
16 aviation administration for use as a phase II or higher flight simulator  
17 under appendix H, 14 Code of Federal Regulations part 121.

18 (b) Tangible personal property that is permanently affixed or attached  
19 as a component part of an aircraft that is owned or operated by a  
20 certificated or licensed carrier of persons or property.

21 2. "Other accessories and related equipment" includes aircraft  
22 accessories and equipment such as ground service equipment that physically  
23 contact aircraft at some point during the overall carrier operation.

24 3. "Selling at retail" means a sale for any purpose other than for  
25 resale in the regular course of business in the form of tangible personal  
26 property, but transfer of possession, lease and rental as used in the  
27 definition of sale mean only such transactions as are found on investigation  
28 to be in lieu of sales as defined without the words lease or rental.

29 W. For purposes of subsection K of this section:

30 1. "Assembler" means a person who unites or combines products, wares  
31 or articles of manufacture so as to produce a change in form or substance  
32 without changing or altering the component parts.

33 2. "Manufacturer" means a person who is principally engaged in the  
34 fabrication, production or manufacture of products, wares or articles for use  
35 from raw or prepared materials, imparting to those materials new forms,  
36 qualities, properties and combinations.

37 3. "Modifier" means a person who reworks, changes or adds to products,  
38 wares or articles of manufacture.

39 4. "Overhead materials" means tangible personal property, the gross  
40 proceeds of sales or gross income derived from which would otherwise be  
41 included in the retail classification, and which are used or consumed in the  
42 performance of a contract, the cost of which is charged to an overhead  
43 expense account and allocated to various contracts based upon generally  
44 accepted accounting principles and consistent with government contract  
45 accounting standards.

1           5. "Repairer" means a person who restores or renews products, wares  
2 or articles of manufacture.

3           6. "Subcontract" means an agreement between a contractor and any  
4 person who is not an employee of the contractor for furnishing of supplies  
5 or services that, in whole or in part, are necessary to the performance of  
6 one or more government contracts, or under which any portion of the  
7 contractor's obligation under one or more government contracts is performed,  
8 undertaken or assumed and that includes provisions causing title to overhead  
9 materials or other tangible personal property used in the performance of the  
10 subcontract to pass to the government or that includes provisions  
11 incorporating such title passing clauses in a government contract into the  
12 subcontract.

13           Sec. 90. Section 42-5071, Arizona Revised Statutes, is amended to  
14 read:

15           42-5071. Personal property rental classification

16           A. The personal property rental classification is comprised of the  
17 business of leasing or renting tangible personal property for a  
18 consideration. The tax does not apply to:

19           1. Leasing or renting films, tapes or slides used by theaters or  
20 movies, which are engaged in business under the amusement classification, or  
21 used by television stations or radio stations.

22           2. Activities engaged in by the Arizona exposition and state fair  
23 board or county fair commissions in connection with events sponsored by such  
24 entities.

25           3. Leasing or renting tangible personal property by a parent  
26 corporation to a subsidiary corporation or by a subsidiary corporation to  
27 another subsidiary of the same parent corporation if taxes were paid under  
28 this chapter on the gross proceeds or gross income accruing from the initial  
29 sale of the tangible personal property. For purposes of this paragraph,  
30 "subsidiary" means a corporation of which at least eighty per cent of the  
31 voting shares are owned by the parent corporation.

32           4. Operating coin operated washing, drying and dry cleaning machines  
33 or coin operated car washing machines at establishments for the use of such  
34 machines.

35           5. Leasing or renting semitrailers manufactured in Arizona, as defined  
36 in section 28-101, to a person who holds a United States department of  
37 transportation number for use in interstate commerce.

38           6. Leasing or renting tangible personal property for incorporation  
39 into or comprising any part of a qualified environmental technology facility  
40 as described in section 41-1514.02. This paragraph shall apply for ten full  
41 consecutive calendar or fiscal years following the initial lease or rental  
42 by each qualified environmental technology manufacturer, producer or  
43 processor.

44           7. Leasing or renting aircraft, flight simulators or similar training  
45 equipment to students or staff by nonprofit, accredited educational

1 institutions that offer associate or bachelor's BACCALAUREATE degrees in  
2 aviation or aerospace related fields.

3 B. The tax base for the personal property rental classification is the  
4 gross proceeds of sales or gross income derived from the business, but the  
5 gross proceeds of sales or gross income derived from the following shall be  
6 deducted from the tax base:

7 1. Reimbursements by the lessee to the lessor of a motor vehicle for  
8 payments by the lessor of the applicable fees and taxes imposed by sections  
9 28-2003, 28-2352, 28-2402, 28-2481 and 28-5801, title 28, chapter 15, article  
10 2 and article IX, section 11, Constitution of Arizona, to the extent such  
11 amounts are separately identified as such fees and taxes and are billed to  
12 the lessee.

13 2. Leases or rentals of tangible personal property which, if it had  
14 been purchased instead of leased or rented by the lessee, would have been  
15 exempt under:

16 (a) Section 42-5061, subsection A, paragraph 8, 9, 12, 13 or 25.

17 (b) Section 42-5061, subsection B, except that a lease or rental of  
18 new machinery or equipment is not exempt pursuant to section 42-5061,  
19 subsection B, paragraph 13 if the lease is for less than two years.

20 (c) Section 42-5061, subsection K, paragraph 1.

21 (d) Section 42-5061, subsection O.

22 (e) Section 42-5061, subsection A, paragraph 51.

23 3. Motor vehicle fuel and use fuel that are subject to a tax imposed  
24 under title 28, chapter 16, article 1 or 2, sales of use fuel to a holder of  
25 a valid single trip use fuel tax permit issued under section 28-5739 and  
26 sales of aviation fuel that are subject to the tax imposed under section  
27 28-8344.

28 4. Leasing or renting a motor vehicle subject to and upon which the  
29 fee has been paid under title 28, chapter 16, article 4.

30 C. Sales of tangible personal property to be leased or rented to a  
31 person engaged in a business classified under the personal property rental  
32 classification are deemed to be resale sales.

33 D. In computing the tax base, the gross proceeds of sales or gross  
34 income from the lease or rental of a motor vehicle does not include any  
35 amount attributable to the car rental surcharge under section 28-5810 or  
36 48-4234.

37 E. Until December 31, 1988, leasing or renting animals for  
38 recreational purposes is exempt from the tax imposed by this section.  
39 Beginning January 1, 1989, the gross proceeds or gross income from leasing  
40 or renting animals for recreational purposes is subject to taxation under  
41 this section. Tax liabilities, penalties and interest paid for taxable  
42 periods before January 1, 1989 shall not be refunded unless the taxpayer  
43 requesting the refund provides proof satisfactory to the department that the  
44 monies paid as taxes will be returned to the customer.

1           Sec. 91. Section 42-5151, Arizona Revised Statutes, is amended to  
2 read:

3           42-5151. Definitions

4           In this article, unless the context otherwise requires:

5           1. "Ancillary services" means those services so designated in federal  
6 energy regulatory commission order 888 adopted in 1996 that include the  
7 services necessary to support the transmission of electricity from resources  
8 to loads while maintaining reliable operation of the transmission system  
9 according to good utility practice.

10          2. "Electric distribution service" means distributing electricity to  
11 retail electric customers through the use of electric distribution  
12 facilities.

13          3. "Electric generation service" means providing electricity for sale  
14 to retail electric customers but excluding electric distribution or  
15 transmission services.

16          4. "Electric transmission service" means transmitting electricity to  
17 retail electric customers or to electric distribution facilities so  
18 classified by the federal energy regulatory commission or, to the extent  
19 permitted by law, so classified by the Arizona corporation commission.

20          5. "Electric utility services" means the business of providing  
21 electric ancillary services, electric distribution services, electric  
22 generation services, electric transmission services and other services  
23 related to providing electricity.

24          6. "Electricity" means electric energy, electric capacity or electric  
25 capacity and energy.

26          7. "Electricity supplier" means a person, whether acting in a  
27 principal, agent or other capacity, that offers to sell electricity to a  
28 retail electric customer in this state.

29          8. "Natural gas" means natural or artificial gas, and includes methane  
30 and propane gas, the natural gas commodity, natural gas pipeline capacity or  
31 natural gas commodity and pipeline capacity.

32          9. "Natural gas utility services" means the business of selling  
33 natural gas or providing natural gas transportation services or other  
34 services related to providing natural gas.

35          10. "Notice" means written notice served personally or by certified  
36 mail and addressed to the last known address of the person to whom such  
37 notice is given.

38          11. "Other services" includes metering, meter reading services, billing  
39 and collecting services.

40          12. "Person" means an individual, firm, partnership, joint venture,  
41 association, corporation, estate, trust, receiver or syndicate, this state  
42 or a county, city, municipality, district or other political subdivision or  
43 agency thereof.

44          13. "Purchase" means any transfer, exchange or barter, conditional or  
45 otherwise, in any manner or by any means, of tangible personal property for

1 a consideration, including transactions by which the possession of property  
2 is transferred but the seller retains the title as security for payment.

3 14. "Purchase price" or "sales price" means the total amount for which  
4 tangible personal property is sold, including any services that are a part  
5 of the sale, valued in money, whether paid in money or otherwise, and any  
6 amount for which credit is given to the purchaser by the seller without any  
7 deduction on account of the cost of the property sold, materials used, labor  
8 or services performed, interest charged, losses or other expenses, but does  
9 not include:

10 (a) Discounts allowed and taken.

11 (b) Charges for labor or services in installing, remodeling or  
12 repairing.

13 (c) Freight costs billed to and collected from a purchaser by a  
14 retailer for tangible personal property which, on the order of the retailer,  
15 is shipped directly from a manufacturer or wholesaler to the purchaser.

16 (d) Amounts attributable to federal excise taxes imposed by 26 United  
17 States Code section 4001, 4051 or 4091 on sales of heavy trucks and trailers  
18 and automobiles or on sales of use fuel, as defined in section ~~28-5701~~  
19 28-5601.

20 15. "Retail electric customer" means a person who purchases electricity  
21 for that person's own use, including use in that person's trade or business,  
22 and not for resale, redistribution or retransmission.

23 16. "Retail natural gas customer" means a person who purchases natural  
24 gas for that person's own use, including use in that person's trade or  
25 business, and not for resale, redistribution or retransmission.

26 17. "Retailer" includes:

27 (a) Every person engaged in the business of making sales of tangible  
28 personal property for storage, use or other consumption or in the business  
29 of making sales at auction of tangible personal property owned by that person  
30 or others for storage, use or other consumption. If in the opinion of the  
31 department it is necessary for the efficient administration of this article  
32 to regard any salesmen, representatives, peddlers or canvassers as the agents  
33 of the dealers, distributors, supervisors or employers under whom they  
34 operate or from whom they obtain the tangible personal property sold by them,  
35 regardless of whether they are making sales on their own behalf or on behalf  
36 of such dealers, distributors, supervisors or employers, the department may  
37 so regard them and may regard the dealers, distributors, supervisors or  
38 employers as retailers for purposes of this article.

39 (b) A person who solicits orders for tangible personal property by  
40 mail if the solicitations are substantial and recurring or if the retailer  
41 benefits from any banking, financing, debt collection, telecommunication,  
42 television shopping system, cable, optic, microwave or other communication  
43 system or marketing activities occurring in this state or benefits from the  
44 location in this state of authorized installation, servicing or repair  
45 facilities.

1       18. "Storage" means keeping or retaining tangible personal property  
2 purchased from a retailer for any purpose except sale in the regular course  
3 of business or subsequent use solely outside this state.

4       19. "Taxpayer" means any retailer or person storing, using or consuming  
5 tangible personal property the storage, use or consumption of which is  
6 subject to the tax imposed by this article when such tax was not paid to a  
7 retailer.

8       20. "Use or consumption" means the exercise of any right or power over  
9 tangible personal property incidental to owning the property except holding  
10 for sale or selling the property in the regular course of business.

11       21. "Utility business" means a person that is engaged in the business  
12 of providing electric utility services to retail electric customers or  
13 natural gas utility services to retail natural gas customers.

14       Sec. 92. Section 42-5159, Arizona Revised Statutes, is amended to  
15 read:

16       42-5159. Exemptions

17       A. The tax levied by this article does not apply to the storage, use  
18 or consumption in this state of the following described tangible personal  
19 property:

20       1. Tangible personal property sold in this state, the gross receipts  
21 from the sale of which are included in the measure of the tax imposed by  
22 articles 1 and 2 of this chapter.

23       2. Tangible personal property the sale or use of which has already  
24 been subjected to an excise tax at a rate equal to or exceeding the tax  
25 imposed by this article under the laws of another state of the United States.  
26 If the excise tax imposed by the other state is at a rate less than the tax  
27 imposed by this article, the tax imposed by this article is reduced by the  
28 amount of the tax already imposed by the other state.

29       3. Tangible personal property, the storage, use or consumption of  
30 which the constitution or laws of the United States prohibit this state from  
31 taxing.

32       4. Tangible personal property which directly enters into and becomes  
33 an ingredient or component part of any manufactured, fabricated or processed  
34 article, substance or commodity for sale in the regular course of business.

35       5. Motor vehicle fuel and use fuel, the sales, distribution or use of  
36 which in this state is subject to the tax imposed under the provisions of  
37 title 28, chapter 16, article 1 or 2, use fuel which is sold to or used by  
38 a person holding a valid single trip use fuel tax permit issued under section  
39 28-5739, aviation fuel, the sales, distribution or use of which in this state  
40 is subject to the tax imposed under section 28-8344, and jet fuel, the sales,  
41 distribution or use of which in this state is subject to the tax imposed  
42 under article 8 of this chapter.

43       6. Tangible personal property brought into this state by an individual  
44 who was a nonresident at the time the property was purchased for storage, use  
45 or consumption by the individual if the first actual use or consumption of

1 the property was outside this state, unless the property is used in  
2 conducting a business in this state.

3 7. Purchases of implants used as growth promotants and injectable  
4 medicines, not already exempt under paragraph 16 of this subsection, for  
5 livestock and poultry owned by, or in possession of, persons who are engaged  
6 in producing livestock, poultry, or livestock or poultry products, or who are  
7 engaged in feeding livestock or poultry commercially. For purposes of this  
8 paragraph, "poultry" includes ratites.

9 8. Livestock, poultry, supplies, feed, salts, vitamins and other  
10 additives for use or consumption in the businesses of farming, ranching and  
11 feeding livestock or poultry, not including fertilizers, herbicides and  
12 insecticides. For purposes of this paragraph, "poultry" includes ratites.

13 9. Seeds, seedlings, roots, bulbs, cuttings and other propagative  
14 material for use in commercially producing agricultural, horticultural,  
15 viticultural or floricultural crops in this state.

16 10. Tangible personal property not exceeding two hundred dollars in any  
17 one month purchased by an individual at retail outside the continental limits  
18 of the United States for the individual's own personal use and enjoyment.

19 11. Advertising supplements which are intended for sale with newspapers  
20 published in this state and which have already been subjected to an excise  
21 tax under the laws of another state in the United States which equals or  
22 exceeds the tax imposed by this article.

23 12. Materials that are purchased by or for publicly funded libraries  
24 including school district libraries, charter school libraries, community  
25 college libraries, state university libraries or federal, state, county or  
26 municipal libraries for use by the public as follows:

27 (a) Printed or photographic materials, beginning August 7, 1985.

28 (b) Electronic or digital media materials, beginning July 17, 1994.

29 13. Tangible personal property purchased by:

30 (a) A hospital organized and operated exclusively for charitable  
31 purposes, no part of the net earnings of which inures to the benefit of any  
32 private shareholder or individual.

33 (b) A hospital operated by this state or a political subdivision of  
34 this state.

35 (c) A licensed nursing care institution or a licensed residential care  
36 institution or a residential care facility operated in conjunction with a  
37 licensed nursing care institution or a licensed kidney dialysis center, which  
38 provides medical services, nursing services or health related services and  
39 is not used or held for profit.

40 (d) A qualifying health care organization, as defined in section  
41 42-5001, if the tangible personal property is used by the organization solely  
42 to provide health and medical related educational and charitable services.

43 (e) A qualifying health care organization as defined in section  
44 42-5001 if the organization is dedicated to providing educational,  
45 therapeutic, rehabilitative and family medical education training for blind,

1 visually impaired and multihandicapped children from the time of birth to age  
2 twenty-one.

3 (f) A nonprofit charitable organization that has qualified under  
4 section 501(c)(3) of the United States internal revenue code and that engages  
5 in and uses such property exclusively for training, job placement or  
6 rehabilitation programs or testing for mentally or physically handicapped  
7 persons.

8 (g) A person that is subject to tax under article 1 of this chapter  
9 by reason of being engaged in business classified under the prime contracting  
10 classification under section 42-5075, or a subcontractor working under the  
11 control of a prime contractor, if the tangible personal property is any of  
12 the following:

13 (i) Incorporated or fabricated by the contractor into a structure,  
14 project, development or improvement in fulfillment of a contract.

15 (ii) Used in environmental response or remediation activities under  
16 section 42-5075, subsection B, paragraph 6.

17 (iii) Incorporated or fabricated by the person into any lake facility  
18 development in a commercial enhancement reuse district under conditions  
19 prescribed for the deduction allowed by section 42-5075, subsection B,  
20 paragraph 8.

21 (h) A nonprofit charitable organization that has qualified under  
22 section 501(c)(3) of the internal revenue code if the property is purchased  
23 from the parent or an affiliate organization that is located outside this  
24 state.

25 (i) A qualifying community health center as defined in section  
26 42-5001.

27 (j) A nonprofit charitable organization that has qualified under  
28 section 501(c)(3) of the internal revenue code and that regularly serves  
29 meals to the needy and indigent on a continuing basis at no cost.

30 (k) A person engaged in business under the transient lodging  
31 classification if the property is a personal hygiene product which is  
32 furnished without additional charge to and intended to be consumed by the  
33 transient during the transient's occupancy.

34 (l) For taxable periods beginning from and after June 30, 2001, a  
35 nonprofit charitable organization that has qualified under section 501(c)(3)  
36 of the internal revenue code and that provides residential apartment housing  
37 for low income persons over sixty-two years of age in a facility that  
38 qualifies for a federal housing subsidy, if the tangible personal property  
39 is used by the organization solely to provide residential apartment housing  
40 for low income persons over sixty-two years of age in a facility that  
41 qualifies for a federal housing subsidy.

42 14. Commodities, as defined by title 7 United States Code section 2,  
43 that are consigned for resale in a warehouse in this state in or from which  
44 the commodity is deliverable on a contract for future delivery subject to the

1 rules of a commodity market regulated by the United States commodity futures  
2 trading commission.

3 15. Tangible personal property sold by:

4 (a) Any nonprofit organization organized and operated exclusively for  
5 charitable purposes and recognized by the United States internal revenue  
6 service under section 501(c)(3) of the internal revenue code.

7 (b) A nonprofit organization that is exempt from taxation under  
8 section 501(c)(3) or 501(c)(6) of the internal revenue code if the  
9 organization is associated with a major league baseball team or a national  
10 touring professional golfing association and no part of the organization's  
11 net earnings inures to the benefit of any private shareholder or individual.

12 (c) A nonprofit organization that is exempt from taxation under  
13 section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the  
14 internal revenue code if the organization sponsors or operates a rodeo  
15 featuring primarily farm and ranch animals and no part of the organization's  
16 net earnings inures to the benefit of any private shareholder or individual.

17 16. Drugs and medical oxygen, including delivery hose, mask or tent,  
18 regulator and tank, on the prescription of a member of the medical, dental  
19 or veterinarian profession who is licensed by law to administer such  
20 substances.

21 17. Prosthetic appliances, as defined in section 23-501, prescribed or  
22 recommended by a person who is licensed, registered or otherwise  
23 professionally credentialed as a physician, dentist, podiatrist,  
24 chiropractor, naturopath, homeopath, nurse or optometrist.

25 18. Prescription eyeglasses and contact lenses.

26 19. Insulin, insulin syringes and glucose test strips.

27 20. Hearing aids as defined in section 36-1901.

28 21. Durable medical equipment which has a federal health care financing  
29 administration common procedure code, is designated reimbursable by medicare,  
30 is prescribed by a person who is licensed under title 32, chapter 7, 13, 17  
31 or 29, can withstand repeated use, is primarily and customarily used to serve  
32 a medical purpose, is generally not useful to a person in the absence of  
33 illness or injury and is appropriate for use in the home.

34 22. Food, as provided in and subject to the conditions of article 3 of  
35 this chapter and section 42-5074.

36 23. Items purchased with United States department of agriculture food  
37 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.  
38 958) or food instruments issued under section 17 of the child nutrition act  
39 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code  
40 section 1786).

41 24. Food and drink provided without monetary charge by a taxpayer which  
42 is subject to section 42-5074 to its employees for their own consumption on  
43 the premises during the employees' hours of employment.

1           25. Tangible personal property that is used or consumed in a business  
2 subject to section 42-5074 for human food, drink or condiment, whether  
3 simple, mixed or compounded.

4           26. Food, drink or condiment and accessory tangible personal property  
5 if they are to be prepared and served to persons for consumption on the  
6 premises of a public school in a school district during school hours.

7           27. Lottery tickets or shares purchased pursuant to title 5, chapter  
8 5, article 1.

9           28. Textbooks, sold by a bookstore, that are required by any state  
10 university or community college.

11           29. Magazines, other periodicals or other publications produced by this  
12 state to encourage tourist travel.

13           30. Paper machine clothing, such as forming fabrics and dryer felts,  
14 purchased by a paper manufacturer and directly used or consumed in paper  
15 manufacturing.

16           31. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity  
17 purchased by a qualified environmental technology manufacturer, producer or  
18 processor as defined in section 41-1514.02 and directly used or consumed in  
19 the generation or provision of on-site power or energy solely for  
20 environmental technology manufacturing, producing or processing or  
21 environmental protection. This paragraph shall apply for fifteen full  
22 consecutive calendar or fiscal years from the date the first paper  
23 manufacturing machine is placed in service. In the case of an environmental  
24 technology manufacturer, producer or processor who does not manufacture  
25 paper, the time period shall begin with the date the first manufacturing,  
26 processing or production equipment is placed in service.

27           32. Motor vehicles that are removed from inventory by a motor vehicle  
28 dealer as defined in section 28-4301 and that are provided to:

29           (a) Charitable or educational institutions that are exempt from  
30 taxation under section 501(c)(3) of the internal revenue code.

31           (b) Public educational institutions.

32           (c) State universities or affiliated organizations of a state  
33 university if no part of the organization's net earnings inures to the  
34 benefit of any private shareholder or individual.

35           33. Natural gas or liquefied petroleum gas used to propel a motor  
36 vehicle.

37           34. Machinery, equipment, technology or related supplies that are only  
38 useful to assist a person who is physically disabled as defined in section  
39 46-191, has a developmental disability as defined in section 36-551 or has  
40 a head injury as defined in section 41-3201 to be more independent and  
41 functional.

42           35. Liquid, solid or gaseous chemicals used in manufacturing,  
43 processing, fabricating, mining, refining, metallurgical operations, research  
44 and development and, beginning on January 1, 1999, printing, if using or  
45 consuming the chemicals, alone or as part of an integrated system of

1 chemicals, involves direct contact with the materials from which the product  
2 is produced for the purpose of causing or permitting a chemical or physical  
3 change to occur in the materials as part of the production process. This  
4 paragraph does not include chemicals that are used or consumed in activities  
5 such as packaging, storage or transportation but does not affect any  
6 exemption for such chemicals that is otherwise provided by this section. For  
7 purposes of this paragraph "printing" means a commercial printing operation  
8 and includes job printing, engraving, embossing, copying and bookbinding.

9 36. Food, drink and condiment purchased for consumption within the  
10 premises of any prison, jail or other institution under the jurisdiction of  
11 the state department of corrections, the department of public safety, the  
12 department of juvenile corrections or a county sheriff.

13 37. A motor vehicle and any repair and replacement parts and tangible  
14 personal property becoming a part of such motor vehicle sold to a motor  
15 carrier who is subject to a fee prescribed in title 28, chapter 16, article  
16 4 and who is engaged in the business of leasing or renting such property.

17 38. Tangible personal property which is or directly enters into and  
18 becomes an ingredient or component part of cards used as prescription plan  
19 identification cards.

20 39. Overhead materials or other tangible personal property that is used  
21 in performing a contract between the United States government and a  
22 manufacturer, modifier, assembler or repairer, including property used in  
23 performing a subcontract with a government contractor who is a manufacturer,  
24 modifier, assembler or repairer, to which title passes to the government  
25 under the terms of the contract or subcontract. For purposes of this  
26 paragraph:

27 (a) "Overhead materials" means tangible personal property, the gross  
28 proceeds of sales or gross income derived from which would otherwise be  
29 included in the retail classification, and which are used or consumed in the  
30 performance of a contract, the cost of which is charged to an overhead  
31 expense account and allocated to various contracts based upon generally  
32 accepted accounting principles and consistent with government contract  
33 accounting standards.

34 (b) "Subcontract" means an agreement between a contractor and any  
35 person who is not an employee of the contractor for furnishing of supplies  
36 or services that, in whole or in part, are necessary to the performance of  
37 one or more government contracts, or under which any portion of the  
38 contractor's obligation under one or more government contracts is performed,  
39 undertaken or assumed, and that includes provisions causing title to overhead  
40 materials or other tangible personal property used in the performance of the  
41 subcontract to pass to the government or that includes provisions  
42 incorporating such title passing clauses in a government contract into the  
43 subcontract.

44 40. Through December 31, 1994, tangible personal property sold pursuant  
45 to a personal property liquidation transaction, as defined in section

1 42-5061. From and after December 31, 1994, tangible personal property sold  
2 pursuant to a personal property liquidation transaction, as defined in  
3 section 42-5061, if the gross proceeds of the sales were included in the  
4 measure of the tax imposed by article 1 of this chapter or if the personal  
5 property liquidation was a casual activity or transaction.

6 41. Wireless telecommunications equipment that is held for sale or  
7 transfer to a customer as an inducement to enter into or continue a contract  
8 for telecommunications services that are taxable under section 42-5064.

9 42. Alternative fuel, as defined in section 1-215, purchased by a used  
10 oil fuel burner who has received a permit to burn used oil or used oil fuel  
11 under section 49-426 or 49-480.

12 43. Tangible personal property purchased by a commercial airline and  
13 consisting of food, beverages and condiments and accessories used for serving  
14 the food and beverages, if those items are to be provided without additional  
15 charge to passengers for consumption in flight. For purposes of this  
16 paragraph, "commercial airline" means a person holding a federal certificate  
17 of public convenience and necessity or foreign air carrier permit for air  
18 transportation to transport persons, property or United States mail in  
19 intrastate, interstate or foreign commerce.

20 44. Alternative fuel vehicles, as defined in section 43-1086, if the  
21 vehicle was manufactured as a diesel fuel vehicle and converted to operate  
22 on alternative fuel and equipment that is installed in a conventional diesel  
23 fuel motor vehicle to convert the vehicle to operate on an alternative fuel,  
24 as defined in section 1-215.

25 45. Gas diverted from a pipeline, by a person engaged in the business  
26 of operating a natural or artificial gas pipeline, and used or consumed for  
27 the sole purpose of fueling compressor equipment that pressurizes the  
28 pipeline.

29 46. Tangible personal property that is excluded, exempt or deductible  
30 from transaction privilege tax pursuant to section 42-5063.

31 47. Tangible personal property purchased to be incorporated or  
32 installed as part of environmental response or remediation activities under  
33 section 42-5075, subsection B, paragraph 6.

34 B. In addition to the exemptions allowed by subsection A of this  
35 section, the following categories of tangible personal property are also  
36 exempt:

37 1. Machinery, or equipment, used directly in manufacturing,  
38 processing, fabricating, job printing, refining or metallurgical operations.  
39 The terms "manufacturing", "processing", "fabricating", "job printing",  
40 "refining" and "metallurgical" as used in this paragraph refer to and include  
41 those operations commonly understood within their ordinary meaning.  
42 "Metallurgical operations" includes leaching, milling, precipitating,  
43 smelting and refining.

44 2. Machinery, or equipment, used directly in the process of extracting  
45 ores or minerals from the earth for commercial purposes, including equipment

1 required to prepare the materials for extraction and handling, loading or  
2 transporting such extracted material to the surface. "Mining" includes  
3 underground, surface and open pit operations for extracting ores and  
4 minerals.

5 3. Tangible personal property sold to persons engaged in business  
6 classified under the telecommunications classification under section 42-5064  
7 and consisting of central office switching equipment, switchboards, private  
8 branch exchange equipment, microwave radio equipment and carrier equipment  
9 including optical fiber, coaxial cable and other transmission media which are  
10 components of carrier systems.

11 4. Machinery, equipment or transmission lines used directly in  
12 producing or transmitting electrical power, but not including distribution.  
13 Transformers and control equipment used at transmission substation sites  
14 constitute equipment used in producing or transmitting electrical power.

15 5. Neat animals, horses, asses, sheep, ratites, swine or goats used  
16 or to be used as breeding or production stock, including sales of breedings  
17 or ownership shares in such animals used for breeding or production.

18 6. Pipes or valves four inches in diameter or larger used to transport  
19 oil, natural gas, artificial gas, water or coal slurry, including compressor  
20 units, regulators, machinery and equipment, fittings, seals and any other  
21 part that is used in operating the pipes or valves.

22 7. Aircraft, navigational and communication instruments and other  
23 accessories and related equipment sold to:

24 (a) A person holding a federal certificate of public convenience and  
25 necessity, a supplemental air carrier certificate under federal aviation  
26 regulations (14 Code of Federal Regulations part 121) or a foreign air  
27 carrier permit for air transportation for use as or in conjunction with or  
28 becoming a part of aircraft to be used to transport persons, property or  
29 United States mail in intrastate, interstate or foreign commerce.

30 (b) Any foreign government for use by such government outside of this  
31 state, or sold to persons who are not residents of this state and who will  
32 not use such property in this state other than in removing such property from  
33 this state.

34 8. Machinery, tools, equipment and related supplies used or consumed  
35 directly in repairing, remodeling or maintaining aircraft, aircraft engines  
36 or aircraft component parts by or on behalf of a certificated or licensed  
37 carrier of persons or property.

38 9. Rolling stock, rails, ties and signal control equipment used  
39 directly to transport persons or property.

40 10. Machinery or equipment used directly to drill for oil or gas or  
41 used directly in the process of extracting oil or gas from the earth for  
42 commercial purposes.

43 11. Buses or other urban mass transit vehicles which are used directly  
44 to transport persons or property for hire or pursuant to a governmentally  
45 adopted and controlled urban mass transportation program and which are sold

1 to bus companies holding a federal certificate of convenience and necessity  
2 or operated by any city, town or other governmental entity or by any person  
3 contracting with such governmental entity as part of a governmentally adopted  
4 and controlled program to provide urban mass transportation.

5 12. Groundwater measuring devices required under section 45-604.

6 13. New machinery and equipment consisting of tractors, tractor-drawn  
7 implements, self-powered implements, machinery and equipment that are  
8 necessary for extracting milk, and for cooling milk and livestock, and drip  
9 irrigation lines not already exempt under paragraph 6 of this subsection and  
10 used for commercial production of agricultural, horticultural, viticultural  
11 and floricultural crops and products in this state. In this paragraph:

12 (a) "New machinery and equipment" means machinery or equipment which  
13 has never been sold at retail except pursuant to leases or rentals which do  
14 not total two years or more.

15 (b) "Self-powered implements" includes machinery and equipment that  
16 are electric-powered.

17 14. Machinery or equipment used in research and development. In this  
18 paragraph, "research and development" means basic and applied research in the  
19 sciences and engineering, and designing, developing or testing prototypes,  
20 processes or new products, including research and development of computer  
21 software that is embedded in or an integral part of the prototype or new  
22 product or that is required for machinery or equipment otherwise exempt under  
23 this section to function effectively. Research and development do not  
24 include manufacturing quality control, routine consumer product testing,  
25 market research, sales promotion, sales service, research in social sciences  
26 or psychology, computer software research that is not included in the  
27 definition of research and development, or other nontechnological activities  
28 or technical services.

29 15. Machinery and equipment that are purchased by or on behalf of the  
30 owners of a soundstage complex and primarily used for motion picture,  
31 multimedia or interactive video production in the complex. This paragraph  
32 applies only if the initial construction of the soundstage complex begins  
33 after June 30, 1996 and before January 1, 2002 and the machinery and  
34 equipment are purchased before the expiration of five years after the start  
35 of initial construction. For purposes of this paragraph:

36 (a) "Motion picture, multimedia or interactive video production"  
37 includes products for theatrical and television release, educational  
38 presentations, electronic retailing, documentaries, music videos, industrial  
39 films, CD-ROM, video game production, commercial advertising and television  
40 episode production and other genres that are introduced through developing  
41 technology.

42 (b) "Soundstage complex" means a facility of multiple stages including  
43 production offices, construction shops and related areas, prop and costume  
44 shops, storage areas, parking for production vehicles and areas that are

1 leased to businesses that complement the production needs and orientation of  
2 the overall facility.

3 16. Tangible personal property that is used by either of the following  
4 to receive, store, convert, produce, generate, decode, encode, control or  
5 transmit telecommunications information:

6 (a) Any direct broadcast satellite television or data transmission  
7 service that operates pursuant to 47 Code of Federal Regulations parts 25 and  
8 100.

9 (b) Any satellite television or data transmission facility, if both  
10 of the following conditions are met:

11 (i) Over two-thirds of the transmissions, measured in megabytes,  
12 transmitted by the facility during the test period were transmitted to or on  
13 behalf of one or more direct broadcast satellite television or data  
14 transmission services that operate pursuant to 47 Code of Federal Regulations  
15 parts 25 and 100.

16 (ii) Over two-thirds of the transmissions, measured in megabytes,  
17 transmitted by or on behalf of those direct broadcast television or data  
18 transmission services during the test period were transmitted by the facility  
19 to or on behalf of those services.

20 For purposes of subdivision (b) of this paragraph, "test period" means the  
21 three hundred sixty-five day period beginning on the later of the date on  
22 which the tangible personal property is purchased or the date on which the  
23 direct broadcast satellite television or data transmission service first  
24 transmits information to its customers.

25 17. Clean rooms that are used for manufacturing, processing,  
26 fabrication or research and development, as defined in paragraph 14 of this  
27 subsection, of semiconductor products. For purposes of this paragraph,  
28 "clean room" means all property that comprises or creates an environment  
29 where humidity, temperature, particulate matter and contamination are  
30 precisely controlled within specified parameters, without regard to whether  
31 the property is actually contained within that environment or whether any of  
32 the property is affixed to or incorporated into real property. Clean room:

33 (a) Includes the integrated systems, fixtures, piping, movable  
34 partitions, lighting and all property that is necessary or adapted to reduce  
35 contamination or to control airflow, temperature, humidity, chemical purity  
36 or other environmental conditions or manufacturing tolerances, as well as the  
37 production machinery and equipment operating in conjunction with the clean  
38 room environment.

39 (b) Does not include the building or other permanent, nonremovable  
40 component of the building that houses the clean room environment.

41 18. Machinery and equipment that are used directly in the feeding of  
42 poultry, the environmental control of housing for poultry, the movement of  
43 eggs within a production and packaging facility or the sorting or cooling of  
44 eggs. This exemption does not apply to vehicles used for transporting eggs.

1       19. Machinery or equipment, including related structural components,  
2 that is employed in connection with manufacturing, processing, fabricating,  
3 job printing, refining, mining, natural gas pipelines, metallurgical  
4 operations, telecommunications, producing or transmitting electricity or  
5 research and development and that is used directly to meet or exceed rules  
6 or regulations adopted by the federal energy regulatory commission, the  
7 United States environmental protection agency, the United States nuclear  
8 regulatory commission, the Arizona department of environmental quality or a  
9 political subdivision of this state to prevent, monitor, control or reduce  
10 land, water or air pollution.

11       20. Machinery and equipment that are used in the commercial production  
12 of livestock, livestock products or agricultural, horticultural, viticultural  
13 or floricultural crops or products in this state and that are used directly  
14 and primarily to prevent, monitor, control or reduce air, water or land  
15 pollution.

16       21. Machinery or equipment that enables a television station to  
17 originate and broadcast or to receive and broadcast digital television  
18 signals and that was purchased to facilitate compliance with the  
19 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States  
20 Code section 336) and the federal communications commission order issued  
21 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does  
22 not exempt any of the following:

23       (a) Repair or replacement parts purchased for the machinery or  
24 equipment described in this paragraph.

25       (b) Machinery or equipment purchased to replace machinery or equipment  
26 for which an exemption was previously claimed and taken under this paragraph.

27       (c) Any machinery or equipment purchased after the television station  
28 has ceased analog broadcasting, or purchased after November 1, 2009,  
29 whichever occurs first.

30       C. The exemptions provided by subsection B of this section do not  
31 include:

32       1. Expendable materials. For purposes of this paragraph, expendable  
33 materials do not include any of the categories of tangible personal property  
34 specified in subsection B of this section regardless of the cost or useful  
35 life of that property.

36       2. Janitorial equipment and hand tools.

37       3. Office equipment, furniture and supplies.

38       4. Tangible personal property used in selling or distributing  
39 activities, other than the telecommunications transmissions described in  
40 subsection B, paragraph 16 of this section.

41       5. Motor vehicles required to be licensed by this state, except buses  
42 or other urban mass transit vehicles specifically exempted pursuant to  
43 subsection B, paragraph 11 of this section, without regard to the use of such  
44 motor vehicles.

1           6. Shops, buildings, docks, depots and all other materials of whatever  
2 kind or character not specifically included as exempt.

3           7. Motors and pumps used in drip irrigation systems.

4           D. The following shall be deducted in computing the purchase price of  
5 electricity by a retail electric customer from a utility business:

6           1. Revenues received from sales of ancillary services, electric  
7 distribution services, electric generation services, electric transmission  
8 services and other services related to providing electricity to a retail  
9 electric customer who is located outside this state for use outside this  
10 state if the electricity is delivered to a point of sale outside this state.

11           2. Revenues received from providing electricity, including ancillary  
12 services, electric distribution services, electric generation services,  
13 electric transmission services and other services related to providing  
14 electricity with respect to which the transaction privilege tax imposed under  
15 section 42-5063 has been paid.

16           E. The tax levied by this article does not apply to:

17           1. The storage, use or consumption in Arizona of machinery, equipment,  
18 materials or other tangible personal property if used directly and  
19 predominantly to construct a qualified environmental technology  
20 manufacturing, producing or processing facility, as described in section  
21 41-1514.02. This paragraph applies for ten full consecutive calendar or  
22 fiscal years after the start of initial construction.

23           2. The purchase of electricity by a qualified environmental technology  
24 manufacturer, producer or processor as defined in section 41-1514.02 that is  
25 used directly in environmental technology manufacturing, producing or  
26 processing. This paragraph shall apply for fifteen full consecutive calendar  
27 or fiscal years from the date the first paper manufacturing machine is placed  
28 in service. In the case of an environmental technology manufacturer,  
29 producer or processor who does not manufacture paper, the time period shall  
30 begin with the date the first manufacturing, processing or production  
31 equipment is placed in service.

32           F. The following shall be deducted in computing the purchase price of  
33 electricity by a retail electric customer from a utility business:

34           1. Fees charged by a municipally owned utility to persons constructing  
35 residential, commercial or industrial developments or connecting residential,  
36 commercial or industrial developments to a municipal utility system or  
37 systems if the fees are segregated and used only for capital expansion,  
38 system enlargement or debt service of the utility system or systems.

39           2. Reimbursement or contribution compensation to any person or persons  
40 owning a utility system for property and equipment installed to provide  
41 utility access to, on or across the land of an actual utility consumer if the  
42 property and equipment become the property of the utility. This deduction  
43 shall not exceed the value of such property and equipment.

1 G. For the purposes of subsection B of this section:

2 1. "Aircraft" includes:

3 (a) An airplane flight simulator that is approved by the federal  
4 aviation administration for use as a phase II or higher flight simulator  
5 under appendix H, 14 Code of Federal Regulations part 121.

6 (b) Tangible personal property that is permanently affixed or attached  
7 as a component part of an aircraft that is owned or operated by a  
8 certificated or licensed carrier of persons or property.

9 2. "Other accessories and related equipment" includes aircraft  
10 accessories and equipment such as ground service equipment that physically  
11 contact aircraft at some point during the overall carrier operation.

12 H. For purposes of subsection D of this section, "ancillary services",  
13 "electric distribution service", "electric generation service", "electric  
14 transmission service" and "other services" have the same meanings prescribed  
15 by section 42-5063.

16 Sec. 93. Report, record and audit requirements

17 Notwithstanding the provisions of this act, a person who is licensed  
18 pursuant to title 28, chapter 16, article 2 or 4, Arizona Revised Statutes,  
19 before the effective date of this act shall file reports and preserve records  
20 as required by, and is subject to audit and other actions by the department  
21 of transportation as provided in, title 28, chapter 16, article 2 or 4,  
22 Arizona Revised Statutes, in effect before the effective date of this act for  
23 taxes due before the effective date of this act.

24 Sec. 94. Appropriations; purpose

25 The sum of \$5,000 is appropriated from the state highway fund  
26 established pursuant to section 28-6991, Arizona Revised Statutes, in each  
27 of the fiscal years 2001-2002 and 2002-2003 to the department of  
28 transportation for the purpose of providing use fuel dispenser labels  
29 pursuant to section 28-5605, Arizona Revised Statutes, as added by this act.

APPROVED BY THE GOVERNOR MAY 1, 2001.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 1, 2001.

**ON RECONSIDERATION**

Passed the House April 24, 2001,

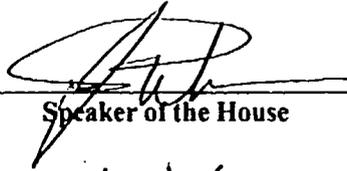
Passed the Senate \_\_\_\_\_, 20\_\_\_\_,

by the following vote: 43 Ayes,

by the following vote: \_\_\_\_\_ Ayes,

15 Nays, 2 Not Voting

\_\_\_\_\_ Nays \_\_\_\_\_ Not Voting

  
Speaker of the House

\_\_\_\_\_  
President of the Senate

  
Chief Clerk of the House

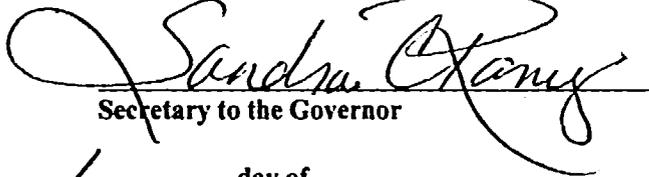
\_\_\_\_\_  
Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR**

This Bill was received by the Governor this

25 day of April, 2001,

at 9:16 o'clock A M.

  
Secretary to the Governor

Approved this 1 day of

May, 2001,

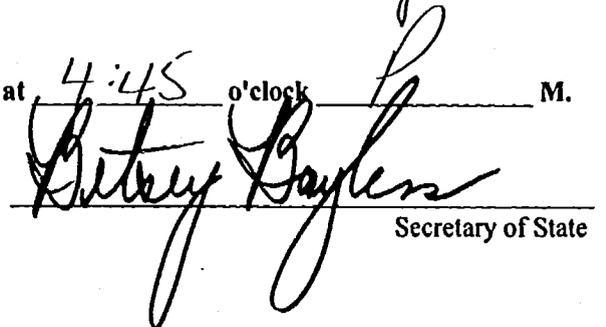
at 9:49 o'clock A M.

  
Governor of Arizona

**EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE**

This Bill was received by the Secretary of State  
this 1 day of May, 2001,

at 4:45 o'clock P M.

  
Secretary of State

S.B. 1271

Failed ~~Passed~~ the House April 23, 20 01

by the following vote: 30 Ayes,

21 Nays, 9 Not Voting

Speaker of the House  
Pro Tempore

Norman L. Moore  
Chief Clerk of the House

Passed the Senate March 12, 20 01

by the following vote: 27 Ayes,

0 Nays, 2 Not Voting

Richard Smith  
President of the Senate

Cherwin Billington  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

~~\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,~~

~~at \_\_\_\_\_ o'clock \_\_\_\_\_ M.~~

~~\_\_\_\_\_  
Secretary to the Governor~~

Approved this \_\_\_\_\_ day of

~~\_\_\_\_\_, 20\_\_\_\_,~~

~~at \_\_\_\_\_ o'clock \_\_\_\_\_ M.~~

~~\_\_\_\_\_  
Governor of Arizona~~

S.B. 1271

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

~~this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,~~

~~at \_\_\_\_\_ o'clock \_\_\_\_\_ M.~~

~~\_\_\_\_\_  
Secretary of State~~