CORRECTED COPY

Conference Engrossed

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 296

HOUSE BILL 2460

AN ACT

AMENDING SECTION 28-2154, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 7, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-2154.01; AMENDING SECTION 42-5061, ARIZONA REVISED STATUTES; MAKING AN APPROPRIATION; RELATING TO MOTOR VEHICLE REGISTRATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

STATE OF ARIZONA

JANET NAPOLITANO
GOVERNOR

OFFICE OF THE GOVERNOR
1700 WEST WASHINGTON STREET, PHOENIX, AZ 85007

MAIN PHONE: 602-542-4331
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July 1, 2004

The Honorable Jan Brewer
Secretary of State
State Capitol
1700 W. Washington Street
Phoenix, Arizona 85007

Re: House Bill 2460, registration; motor vehicles; nonresidents

Dear Secretary Brewer:

I have received a letter from House of Representatives Chief Clerk Norman L. Moore notifying me that the version of HB2460 registration; motor vehicles; nonresidents, transmitted to me on May 25, 2004, was incorrect. The correct version of the bill has been transmitted to me. I have reviewed the bill and am transmitting it to you with my approval, requesting that you take the necessary steps to ensure that the correct version is chaptered into law.

Please do not hesitate to contact my Deputy Chief of Staff for Legislative Affairs Michael Haener at (602) 542-1378 if you should need further assistance. A copy of the letter from Chief Clerk Norman L. Moore has been enclosed for your review.

Yours very truly,

Janet Napolitano
Governor

JN: jy

cc: Senate Secretary
Chief Clerk of the House of Representatives
Ned Creighton, Arizona News Service

NORMAN MOORE
CHIEF CLERK

1700 WEST WASHINGTON, SUITE H
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Arizona House of Representatives
Phoenix, Arizona 85007

June 15, 2004

The Honorable Janet Napolitano
Governor
State Capitol
1700 W. Washington
Phoenix, Arizona 85007

Dear Governor Napolitano:

On May 25, 2004, House Bill 2460 was transmitted to you for your signature. On June 1, 2004, you signed the bill after which it was transmitted to the Secretary of State who assigned it chapter number 296. During a subsequent reading of the chapter it was discovered that the conference engrossed version of House Bill 2460 contained a manifest clerical error and the "wrong" version of the bill had been transmitted to you and further transmitted to the Secretary of State.

House Bill 2460 was amended in conference committee to add an appropriation. The conference committee recommended and both the House and the Senate adopted the recommendation that the Arizona Department of Transportation be given $37,000. However, the the version transmitted to you reflects an appropriation of $36,000.

Because both houses adopted the recommendation of the conference committee ($37,000), it is our determination that the measure was legitimately passed and the manifest clerical error was the cause of the wrong version being delivered to you.

I would like to rectify this situation by delivering the "correct" version of House Bill 2460 to you. If you approve this "correct" version I would request that the version be forwarded to the Secretary of State so that the correct version of Chapter 296 can be printed and distributed.

Thank you for your consideration of this matter.

Sincerely,

Norman L. Moore

Norman L. Moore

Enclosures – HB 2460
CC: Speaker Flake
Secretary of State
Senate Secretary
Legislative Council

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

Section 1. Section 28-2154, Arizona Revised Statutes, is amended to read:

28-2154. Special registrations

A. A nonresident who purchases an unregistered vehicle in this state for removal to the state of residence of the purchaser ~~may~~ SHALL obtain a special thirty day nonresident registration ~~of~~ PERMIT FOR the vehicle. The nonresident ~~may~~ SHALL obtain ~~this~~ THE special THIRTY DAY NONRESIDENT registration PERMIT by applying to the department, TO AN AUTHORIZED THIRD PARTY or to a motor vehicle dealer as defined in section 28-4301 and by paying the fees prescribed by section 28-2003. AN AFFIDAVIT IN A FORM PRESCRIBED BY THE DIRECTOR SHALL ACCOMPANY the application AND shall ~~include an affidavit of the purchaser containing~~ CONTAIN the following statements:

1. The purchaser is not a resident of this state as defined in section 28-2001. FOR THE PURPOSES OF THIS SECTION AND SECTION 28-2154.01, THE PURCHASER SHALL PRESENT TO THE DEPARTMENT, AN AUTHORIZED THIRD PARTY OR A MOTOR VEHICLE DEALER, A DRIVER LICENSE OR OTHER EVIDENCE PRESCRIBED BY THE DIRECTOR SHOWING THAT THE PURCHASER IS NOT A RESIDENT OF THIS STATE.

2. The vehicle is purchased to be registered out of state WITHIN THIRTY DAYS AFTER THE ISSUANCE OF THE SPECIAL THIRTY DAY NONRESIDENT REGISTRATION PERMIT.

3. The vehicle is not purchased for transfer to a resident of this state.

4. THE PURCHASER IS LIABLE FOR ANY TAX, PENALTY AND INTEREST THAT IS DUE UNDER TITLE 42, CHAPTER 5 IF THE PURCHASER REGISTERS THE VEHICLE IN THIS STATE WITHIN THREE HUNDRED SIXTY-FIVE DAYS AFTER THE ISSUANCE OF THE SPECIAL THIRTY DAY NONRESIDENT REGISTRATION PERMIT.

~~4.~~ 5. Other information that the director deems necessary.

B. At the time of application for a special thirty day nonresident registration PERMIT, the purchaser shall submit for inspection proper evidence of ownership of the vehicle to be registered. The special THIRTY DAY NONRESIDENT registration PERMIT is valid for not more than thirty days from the date of issuance and ~~may~~ SHALL be ~~evidenced~~ in the form PRESCRIBED BY the director ~~deems necessary or advisable~~. A person who obtains a SPECIAL THIRTY DAY nonresident registration PERMIT on a semitrailer that has been manufactured in this state may use the semitrailer for commercial purposes if the semitrailer is being used to transport goods from this state, subject to the payment of any taxes prescribed by this title.

C. An enrolled member of an Indian tribe who resides on the Indian reservation established for that tribe and who purchases an unregistered vehicle in this state for removal to the Indian reservation ~~may~~ SHALL obtain a special thirty day NONRESIDENT registration permit for the vehicle. The member may obtain ~~this~~ THE special THIRTY DAY NONRESIDENT registration PERMIT by applying to the department, TO AN AUTHORIZED THIRD PARTY or to any motor

vehicle dealer as defined by section 28-4301 and by payment ~~by the motor vehicle dealer~~ of the fees prescribed by section 28-2003.

D. A resident who does not have complete documentation for issuance of an Arizona title and registration on a noncommercial vehicle but who has established ownership of the vehicle to the satisfaction of the department may receive a special ninety day resident registration by applying and paying the fee prescribed by section 28-2003 to the department. The basis of assessment for the full annual registration fee and vehicle license tax relates back to the date of issuance of the first special ninety day resident registration.

E. A resident may receive a second consecutive special ninety day resident registration on application and payment of the fee prescribed by section 28-2003 if:

1. The person has applied for a bonded title and the title has not been issued during the first ninety day registration.

2. The person is awaiting settlement of an estate.

3. The person is awaiting lien clearance.

4. The person is awaiting a hearing decision as a result of a title complaint.

5. The person is awaiting the issuance of honorary consular official special license plates.

6. The director determines other circumstances justify the issuance.

F. At the discretion of the director, a resident may receive more than two consecutive special ninety day resident registrations for a vehicle in a twelve month period.

G. If there is a judgment against a resident of this state in another state that requires suspension of the resident's vehicle registration, in lieu of suspension of the resident's vehicle registration the department may issue a special temporary registration for the resident's vehicle that is valid for a period of not more than one hundred eighty days.

Sec. 2. Title 28, chapter 7, article 5, Arizona Revised Statutes, is amended by adding section 28-2154.01, to read:

28-2154.01. <u>Special thirty day nonresident registration permits; procedures</u>

A. A DEALER OR AN AUTHORIZED THIRD PARTY THAT ISSUES A SPECIAL THIRTY DAY NONRESIDENT REGISTRATION PERMIT PURSUANT TO SECTION 28-2154 SHALL SEND AN ELECTRONIC RECORD OF THE PERMIT TO THE DEPARTMENT THROUGH AN AUTHORIZED THIRD PARTY OR THROUGH THE DEPARTMENT'S AUTHORIZED THIRD PARTY ELECTRONIC SERVICE PROVIDER.

B. THE DEPARTMENT, AN AUTHORIZED THIRD PARTY OR A DEALER SHALL NOT:

1. ISSUE, ASSIGN OR DELIVER A SPECIAL THIRTY DAY NONRESIDENT REGISTRATION PERMIT TO ANY PERSON OTHER THAN A BONA FIDE PURCHASER OR AUTHORIZED REPRESENTATIVE OF A BONA FIDE PURCHASER OF A VEHICLE WHO IS NOT A RESIDENT AS DEFINED IN SECTION 28-2001.

2. ISSUE A SPECIAL THIRTY DAY NONRESIDENT REGISTRATION PERMIT UNLESS THE PURCHASER FILES AN AFFIDAVIT AS PRESCRIBED IN SECTION 28-2154 AND PROVIDES ANY OTHER INFORMATION REQUIRED BY THE DEPARTMENT OF TRANSPORTATION OR THE DEPARTMENT OF REVENUE.

3. ISSUE AND AFFIX, AS PRESCRIBED IN SUBSECTION C OF THIS SECTION, A SPECIAL THIRTY DAY NONRESIDENT REGISTRATION PERMIT UNLESS THE PERMIT IS RECORDED IN THE ELECTRONIC RECORDS OF THE DEPARTMENT.

C. A PERSON WHO ISSUES A SPECIAL THIRTY DAY NONRESIDENT REGISTRATION PERMIT SHALL AFFIX OR INSERT, CLEARLY AND INDELIBLY, ON THE FACE OF EACH PERMIT THE DATE OF ISSUANCE AND EXPIRATION AND THE MAKE AND VEHICLE IDENTIFICATION NUMBER OF THE VEHICLE. THE SPECIAL THIRTY DAY NONRESIDENT REGISTRATION PERMIT SHALL NOT BEAR THE NAME OR ADDRESS OF THE PERSON WHO PURCHASED THE VEHICLE IN A POSITION THAT IS LEGIBLE FROM OUTSIDE OF THE VEHICLE.

D. A DEALER OR AUTHORIZED THIRD PARTY WHO ISSUES A SPECIAL THIRTY DAY NONRESIDENT REGISTRATION PERMIT SHALL MAINTAIN A RECORD, IN A FORM PRESCRIBED BY THE DIRECTOR, OF ALL SPECIAL THIRTY DAY NONRESIDENT REGISTRATION PERMITS ISSUED BY THE DEALER OR AUTHORIZED THIRD PARTY AND A RECORD OF OTHER INFORMATION PERTAINING TO THE ISSUANCE OF SPECIAL THIRTY DAY NONRESIDENT REGISTRATION PERMITS THAT THE DEPARTMENT OF TRANSPORTATION OR THE DEPARTMENT OF REVENUE REQUIRES.

E. THE DEALER OR AUTHORIZED THIRD PARTY SHALL KEEP EACH RECORD FOR AT LEAST THREE YEARS AFTER THE DATE OF ENTRY OF THE RECORD.

F. A DEALER OR AUTHORIZED THIRD PARTY SHALL ALLOW THE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION OR THE DIRECTOR OF THE DEPARTMENT OF REVENUE FULL AND FREE ACCESS TO THE RECORDS DURING REGULAR BUSINESS HOURS.

G. THE ELECTRONIC RECORD IS WRITTEN NOTICE OF THE REMOVAL OF THE VEHICLE FROM THIS STATE FOR USE IN THE PURCHASER'S STATE OF RESIDENCE AND RELIEVES THE DEALER OR AUTHORIZED THIRD PARTY OF LIABILITY IN ACCORDANCE WITH SECTION 42-5009.

H. IF A PURCHASER REGISTERS THE VEHICLE IN THIS STATE WITHIN THREE HUNDRED SIXTY-FIVE DAYS AFTER THE ISSUANCE OF THE SPECIAL THIRTY DAY NONRESIDENT REGISTRATION PERMIT, THE PURCHASER IS LIABLE IN AN AMOUNT EQUAL TO ANY TAX, PENALTY AND INTEREST THAT THE MOTOR VEHICLE DEALER OR AUTHORIZED THIRD PARTY WOULD HAVE BEEN REQUIRED TO PAY UNDER TITLE 42, CHAPTER 5. AT THE TIME OF ISSUING THE SPECIAL THIRTY DAY NONRESIDENT REGISTRATION PERMIT, A MOTOR VEHICLE DEALER OR AUTHORIZED THIRD PARTY SHALL INFORM THE PURCHASER OF THE LIABILITY DESCRIBED IN THIS SECTION.

I. THE DEPARTMENT OF TRANSPORTATION AND THE DEPARTMENT OF REVENUE SHALL JOINTLY DEVELOP AND PRESCRIBE FORMS FOR THE MOTOR VEHICLE DEALER, THE AUTHORIZED THIRD PARTY AND THE PURCHASER TO COMPLETE FOR THE PROPER ADMINISTRATION AND ENFORCEMENT OF THIS SECTION.

J. COMPLIANCE WITH THIS SECTION AND SECTION 28-2154 ALLOWS DELIVERY OF THE VEHICLE TO A NONRESIDENT PURCHASER IN THIS STATE AND RETAINS THE APPLICABLE EXEMPTIONS PURSUANT TO SECTION 42-5061, SUBSECTION A, PARAGRAPH 28.

Sec. 3. Section 42-5061, Arizona Revised Statutes, is amended to read:

42-5061. Retail classification; definitions

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

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

2. Services rendered in addition to selling tangible personal property at retail.

3. Sales of warranty or service contracts. The storage, use or consumption of tangible personal property provided under the conditions of such contracts is subject to tax under section 42-5156.

4. Sales of tangible personal property by any nonprofit organization organized and operated exclusively for charitable purposes and recognized by the United States internal revenue service under section 501(c)(3) of the internal revenue code.

5. Sales to persons engaged in business classified under the restaurant classification of articles used by human beings for food, drink or condiment, whether simple, mixed or compounded.

6. Business activity which is properly included in any other business classification which is taxable under article 1 of this chapter.

7. The sale of stocks and bonds.

8. Drugs and medical oxygen, including delivery hose, mask or tent, regulator and tank, on the prescription of a member of the medical, dental or veterinarian profession who is licensed by law to administer such substances.

9. Prosthetic appliances as defined in section 23-501 prescribed or recommended by a health professional licensed pursuant to title 32, chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.

10. Insulin, insulin syringes and glucose test strips.

11. Prescription eyeglasses or contact lenses.

12. Hearing aids as defined in section 36-1901.

13. Durable medical equipment which has a centers for medicare and medicaid services common procedure code, is designated reimbursable by medicare, is prescribed by a person who is licensed under title 32, chapter 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and customarily used to serve a medical purpose, is generally not useful to a

person in the absence of illness or injury and is appropriate for use in the home.

14. Sales to nonresidents of this state for use outside this state if the vendor ships or delivers the tangible personal property out of this state.

15. Food, as provided in and subject to the conditions of article 3 of this chapter and section 42-5074.

16. Items purchased with United States department of agriculture food stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code section 1786).

17. Textbooks by any bookstore that are required by any state university or community college.

18. Food and drink to a person who is engaged in business which is classified under the restaurant classification and which provides such food and drink without monetary charge to its employees for their own consumption on the premises during the employees' hours of employment.

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

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

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

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

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

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

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

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

25. Tangible personal property sold to:

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

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

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

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

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

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

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

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

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

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

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

28. The sale of a motor vehicle to:

(a) A nonresident of this state if the purchaser's state of residence does not allow a corresponding use tax exemption to the tax imposed by

article 1 of this chapter and if the nonresident has secured a special ~~thirty-day~~ THIRTY DAY nonresident registration ~~of~~ PERMIT FOR the vehicle AS PRESCRIBED by ~~applying according to section~~ SECTIONS 28-2154 AND 28-2154.01.

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

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

30. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

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

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

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

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

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

36. Sales of natural gas or liquefied petroleum gas used to propel a motor vehicle.

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

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

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

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

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

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

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

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

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

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

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

46. Tangible personal property sold to a person engaged in business and subject to tax under the transient lodging classification if the tangible personal property is a personal hygiene item or articles used by human beings for food, drink or condiment, except alcoholic beverages, which are furnished without additional charge to and intended to be consumed by the transient during the transient's occupancy.

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

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

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

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

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

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

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

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

53. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(6) of the internal revenue code if the organization produces, organizes or promotes cultural or civic related festivals or events and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

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

1. Machinery, or equipment, used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations. The terms "manufacturing", "processing", "fabricating", "job printing", "refining" and "metallurgical" as used in this paragraph refer to and include those operations commonly understood within their ordinary meaning. "Metallurgical operations" includes leaching, milling, precipitating, smelting and refining.

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

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

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

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

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

1 7. Aircraft, navigational and communication instruments and other
2 accessories and related equipment sold to:
3 (a) A person holding a federal certificate of public convenience and
4 necessity, a supplemental air carrier certificate under federal aviation
5 regulations (14 Code of Federal Regulations part 121) or a foreign air
6 carrier permit for air transportation for use as or in conjunction with or
7 becoming a part of aircraft to be used to transport persons, property or
8 United States mail in intrastate, interstate or foreign commerce.
9 (b) Any foreign government for use by such government outside of this
10 state.
11 (c) Persons who are not residents of this state and who will not use
12 such property in this state other than in removing such property from this
13 state. This subdivision also applies to corporations that are not
14 incorporated in this state, regardless of maintaining a place of business in
15 this state, if the principal corporate office is located outside this state
16 and the property will not be used in this state other than in removing the
17 property from this state.
18 8. Machinery, tools, equipment and related supplies used or consumed
19 directly in repairing, remodeling or maintaining aircraft, aircraft engines
20 or aircraft component parts by or on behalf of a certificated or licensed
21 carrier of persons or property.
22 9. Railroad rolling stock, rails, ties and signal control equipment
23 used directly to transport persons or property.
24 10. Machinery or equipment used directly to drill for oil or gas or
25 used directly in the process of extracting oil or gas from the earth for
26 commercial purposes.
27 11. Buses or other urban mass transit vehicles which are used directly
28 to transport persons or property for hire or pursuant to a governmentally
29 adopted and controlled urban mass transportation program and which are sold
30 to bus companies holding a federal certificate of convenience and necessity
31 or operated by any city, town or other governmental entity or by any person
32 contracting with such governmental entity as part of a governmentally adopted
33 and controlled program to provide urban mass transportation.
34 12. Groundwater measuring devices required under section 45-604.
35 13. New machinery and equipment consisting of tractors, tractor-drawn
36 implements, self-powered implements, machinery and equipment necessary for
37 extracting milk, and machinery and equipment necessary for cooling milk and
38 livestock, and drip irrigation lines not already exempt under paragraph 6 of
39 this subsection and that are used for commercial production of agricultural,
40 horticultural, viticultural and floricultural crops and products in this
41 state. In this paragraph:
42 (a) "New machinery and equipment" means machinery and equipment which
43 have never been sold at retail except pursuant to leases or rentals which do
44 not total two years or more.

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

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

15. Machinery and equipment that are purchased by or on behalf of the owners of a soundstage complex and primarily used for motion picture, multimedia or interactive video production in the complex. This paragraph applies only if the initial construction of the soundstage complex begins after June 30, 1996 and before January 1, 2002 and the machinery and equipment are purchased before the expiration of five years after the start of initial construction. For purposes of this paragraph:

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

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

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

(a) Any direct broadcast satellite television or data transmission service that operates pursuant to 47 Code of Federal Regulations parts 25 and 100.

(b) Any satellite television or data transmission facility, if both of the following conditions are met:

(i) Over two-thirds of the transmissions, measured in megabytes, transmitted by the facility during the test period were transmitted to or on behalf of one or more direct broadcast satellite television or data transmission services that operate pursuant to 47 Code of Federal Regulations parts 25 and 100.

1 (ii) Over two-thirds of the transmissions, measured in megabytes,
2 transmitted by or on behalf of those direct broadcast television or data
3 transmission services during the test period were transmitted by the facility
4 to or on behalf of those services.
5 For purposes of subdivision (b) of this paragraph, "test period" means the
6 three hundred sixty-five day period beginning on the later of the date on
7 which the tangible personal property is purchased or the date on which the
8 direct broadcast satellite television or data transmission service first
9 transmits information to its customers.
10 17. Clean rooms that are used for manufacturing, processing,
11 fabrication or research and development, as defined in paragraph 14 of this
12 subsection, of semiconductor products. For purposes of this paragraph,
13 "clean room" means all property that comprises or creates an environment
14 where humidity, temperature, particulate matter and contamination are
15 precisely controlled within specified parameters, without regard to whether
16 the property is actually contained within that environment or whether any of
17 the property is affixed to or incorporated into real property. Clean room:
18 (a) Includes the integrated systems, fixtures, piping, movable
19 partitions, lighting and all property that is necessary or adapted to reduce
20 contamination or to control airflow, temperature, humidity, chemical purity
21 or other environmental conditions or manufacturing tolerances, as well as the
22 production machinery and equipment operating in conjunction with the clean
23 room environment.
24 (b) Does not include the building or other permanent, nonremovable
25 component of the building that houses the clean room environment.
26 18. Machinery and equipment used directly in the feeding of poultry,
27 the environmental control of housing for poultry, the movement of eggs within
28 a production and packaging facility or the sorting or cooling of eggs. This
29 exemption does not apply to vehicles used for transporting eggs.
30 19. Machinery or equipment, including related structural components,
31 that is employed in connection with manufacturing, processing, fabricating,
32 job printing, refining, mining, natural gas pipelines, metallurgical
33 operations, telecommunications, producing or transmitting electricity or
34 research and development and that is used directly to meet or exceed rules
35 or regulations adopted by the federal energy regulatory commission, the
36 United States environmental protection agency, the United States nuclear
37 regulatory commission, the Arizona department of environmental quality or a
38 political subdivision of this state to prevent, monitor, control or reduce
39 land, water or air pollution.
40 20. Machinery and equipment that are sold to a person engaged in the
41 commercial production of livestock, livestock products or agricultural,
42 horticultural, viticultural or floricultural crops or products in this state
43 and that are used directly and primarily to prevent, monitor, control or
44 reduce air, water or land pollution.

21. Machinery or equipment that enables a television station to originate and broadcast or to receive and broadcast digital television signals and that was purchased to facilitate compliance with the telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States Code section 336) and the federal communications commission order issued April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does not exempt any of the following:

(a) Repair or replacement parts purchased for the machinery or equipment described in this paragraph.

(b) Machinery or equipment purchased to replace machinery or equipment for which an exemption was previously claimed and taken under this paragraph.

(c) Any machinery or equipment purchased after the television station has ceased analog broadcasting, or purchased after November 1, 2009, whichever occurs first.

C. The deductions provided by subsection B of this section do not include sales of:

1. Expendable materials. For purposes of this paragraph, expendable materials do not include any of the categories of tangible personal property specified in subsection B of this section regardless of the cost or useful life of that property.

2. Janitorial equipment and hand tools.

3. Office equipment, furniture and supplies.

4. Tangible personal property used in selling or distributing activities, other than the telecommunications transmissions described in subsection B, paragraph 16 of this section.

5. Motor vehicles required to be licensed by this state, except buses or other urban mass transit vehicles specifically exempted pursuant to subsection B, paragraph 11 of this section, without regard to the use of such motor vehicles.

6. Shops, buildings, docks, depots and all other materials of whatever kind or character not specifically included as exempt.

7. Motors and pumps used in drip irrigation systems.

D. In addition to the deductions from the tax base prescribed by subsection A of this section, there shall be deducted from the tax base the gross proceeds of sales or gross income derived from sales of machinery, equipment, materials and other tangible personal property used directly and predominantly to construct a qualified environmental technology manufacturing, producing or processing facility as described in section 41-1514.02. This subsection applies for ten full consecutive calendar or fiscal years after the start of initial construction.

E. In computing the tax base, gross proceeds of sales or gross income from retail sales of heavy trucks and trailers does not include any amount attributable to federal excise taxes imposed by 26 United States Code section 4051.

F. In computing the tax base, gross proceeds of sales or gross income from the sale of use fuel, as defined in section 28-5601, does not include any amount attributable to federal excise taxes imposed by 26 United States Code section 4091.

G. If a person is engaged in an occupation or business to which subsection A of this section applies, the person's books shall be kept so as to show separately the gross proceeds of sales of tangible personal property and the gross income from sales of services, and if not so kept the tax shall be imposed on the total of the person's gross proceeds of sales of tangible personal property and gross income from services.

H. If a person is engaged in the business of selling tangible personal property at both wholesale and retail, the tax under this section applies only to the gross proceeds of the sales made other than at wholesale if the person's books are kept so as to show separately the gross proceeds of sales of each class, and if the books are not so kept, the tax under this section applies to the gross proceeds of every sale so made.

I. A person who engages in manufacturing, baling, crating, boxing, barreling, canning, bottling, sacking, preserving, processing or otherwise preparing for sale or commercial use any livestock, agricultural or horticultural product or any other product, article, substance or commodity and who sells the product of such business at retail in this state is deemed, as to such sales, to be engaged in business classified under the retail classification. This subsection does not apply to businesses classified under the:

1. Transporting classification.
2. Utilities classification.
3. Telecommunications classification.
4. Pipeline classification.
5. Private car line classification.
6. Publication classification.
7. Job printing classification.
8. Prime contracting classification.
9. Owner builder sales classification.
10. Restaurant classification.

J. The gross proceeds of sales or gross income derived from the following shall be deducted from the tax base for the retail classification:

1. Sales made directly to the United States government or its departments or agencies by a manufacturer, modifier, assembler or repairer.

2. Sales made directly to a manufacturer, modifier, assembler or repairer if such sales are of any ingredient or component part of products sold directly to the United States government or its departments or agencies by the manufacturer, modifier, assembler or repairer.

3. Overhead materials or other tangible personal property that is used in performing a contract between the United States government and a manufacturer, modifier, assembler or repairer, including property used in

1 performing a subcontract with a government contractor who is a manufacturer,
2 modifier, assembler or repairer, to which title passes to the government
3 under the terms of the contract or subcontract.
4 4. Sales of overhead materials or other tangible personal property to
5 a manufacturer, modifier, assembler or repairer if the gross proceeds of
6 sales or gross income derived from the property by the manufacturer,
7 modifier, assembler or repairer will be exempt under paragraph 3 of this
8 subsection.
9 K. There shall be deducted from the tax base fifty per cent of the
10 gross proceeds or gross income from any sale of tangible personal property
11 made directly to the United States government or its departments or agencies,
12 which is not deducted under subsection J of this section.
13 L. The department shall require every person claiming a deduction
14 provided by subsection J or K of this section to file on forms prescribed by
15 the department at such times as the department directs a sworn statement
16 disclosing the name of the purchaser and the exact amount of sales on which
17 the exclusion or deduction is claimed.
18 M. In computing the tax base, gross proceeds of sales or gross income
19 does not include:
20 1. A manufacturer's cash rebate on the sales price of a motor vehicle
21 if the buyer assigns the buyer's right in the rebate to the retailer.
22 2. The waste tire disposal fee imposed pursuant to section 44-1302.
23 N. There shall be deducted from the tax base the amount received from
24 sales of solar energy devices, but the deduction shall not exceed five
25 thousand dollars for each solar energy device. Before deducting any amount
26 under this subsection, the retailer shall register with the department as a
27 solar energy retailer. By registering, the retailer acknowledges that it
28 will make its books and records relating to sales of solar energy devices
29 available to the department for examination.
30 O. In computing the tax base in the case of the sale or transfer of
31 wireless telecommunications equipment as an inducement to a customer to enter
32 into or continue a contract for telecommunications services that are taxable
33 under section 42-5064, gross proceeds of sales or gross income does not
34 include any sales commissions or other compensation received by the retailer
35 as a result of the customer entering into or continuing a contract for the
36 telecommunications services.
37 P. For the purposes of this section, a sale of wireless
38 telecommunications equipment to a person who holds the equipment for sale or
39 transfer to a customer as an inducement to enter into or continue a contract
40 for telecommunications services that are taxable under section 42-5064 is
41 considered to be a sale for resale in the regular course of business.
42 Q. Retail sales of prepaid calling cards or prepaid authorization
43 numbers for telecommunications services, including sales of reauthorization
44 of a prepaid card or authorization number, are subject to tax under this
45 section.

1 R. For the purposes of this section, the diversion of gas from a
2 pipeline by a person engaged in the business of operating a natural or
3 artificial gas pipeline, for the sole purpose of fueling compressor equipment
4 to pressurize the pipeline, is not a sale of the gas to the operator of the
5 pipeline.
6 S. If a seller is entitled to a deduction pursuant to subsection B,
7 paragraph 16, subdivision (b) of this section, the department may require the
8 purchaser to establish that the requirements of subsection B, paragraph 16,
9 subdivision (b) of this section have been satisfied. If the purchaser cannot
10 establish that the requirements of subsection B, paragraph 16, subdivision
11 (b) of this section have been satisfied, the purchaser is liable in an amount
12 equal to any tax, penalty and interest which the seller would have been
13 required to pay under article 1 of this chapter if the seller had not made
14 a deduction pursuant to subsection B, paragraph 16, subdivision (b) of this
15 section. Payment of the amount under this subsection exempts the purchaser
16 from liability for any tax imposed under article 4 of this chapter and
17 related to the tangible personal property purchased. The amount shall be
18 treated as transaction privilege tax to the purchaser and as tax revenues
19 collected from the seller to designate the distribution base pursuant to
20 section 42-5029.
21 T. For purposes of section 42-5032.01, the department shall separately
22 account for revenues collected under the retail classification from
23 businesses selling tangible personal property at retail:
24 1. On the premises of a multipurpose facility that is owned, leased
25 or operated by the tourism and sports authority pursuant to title 5,
26 chapter 8.
27 2. At professional football contests that are held in a stadium
28 located on the campus of an institution under the jurisdiction of the Arizona
29 board of regents.
30 U. IN COMPUTING THE TAX BASE FOR THE SALE OF A MOTOR VEHICLE TO A
31 NONRESIDENT OF THIS STATE, IF THE PURCHASER'S STATE OF RESIDENCE ALLOWS A
32 CORRESPONDING USE TAX EXEMPTION TO THE TAX IMPOSED BY ARTICLE 1 OF THIS
33 CHAPTER AND THE RATE OF THE TAX IN THE PURCHASER'S STATE OF RESIDENCE IS
34 LOWER THAN THE RATE PRESCRIBED IN ARTICLE 1 OF THIS CHAPTER, AND THE
35 NONRESIDENT HAS SECURED A SPECIAL THIRTY DAY NONRESIDENT REGISTRATION PERMIT
36 FOR THE VEHICLE AS PRESCRIBED BY SECTIONS 28-2154 AND 28-2154.01, THERE SHALL
37 BE DEDUCTED FROM THE TAX BASE A PORTION OF THE GROSS PROCEEDS OR GROSS INCOME
38 FROM THE SALE SO THAT THE AMOUNT OF TRANSACTION PRIVILEGE TAX THAT IS PAID
39 IN THIS STATE IS EQUAL TO THE EXCISE TAX THAT IS IMPOSED BY THE PURCHASER'S
40 STATE OF RESIDENCE ON THE NONEXEMPT SALE OR USE OF THE MOTOR VEHICLE.
41 ~~U.~~ V. For the purposes of this section:
42 1. "Aircraft" includes:
43 (a) An airplane flight simulator that is approved by the federal
44 aviation administration for use as a phase II or higher flight simulator
45 under appendix H, 14 Code of Federal Regulations part 121.

(b) Tangible personal property that is permanently affixed or attached as a component part of an aircraft that is owned or operated by a certificated or licensed carrier of persons or property.

2. "Other accessories and related equipment" includes aircraft accessories and equipment such as ground service equipment that physically contact aircraft at some point during the overall carrier operation.

3. "Selling at retail" means a sale for any purpose other than for resale in the regular course of business in the form of tangible personal property, but transfer of possession, lease and rental as used in the definition of sale mean only such transactions as are found on investigation to be in lieu of sales as defined without the words lease or rental.

~~V.~~ W. For purposes of subsection J of this section:

1. "Assembler" means a person who unites or combines products, wares or articles of manufacture so as to produce a change in form or substance without changing or altering the component parts.

2. "Manufacturer" means a person who is principally engaged in the fabrication, production or manufacture of products, wares or articles for use from raw or prepared materials, imparting to those materials new forms, qualities, properties and combinations.

3. "Modifier" means a person who reworks, changes or adds to products, wares or articles of manufacture.

4. "Overhead materials" means tangible personal property, the gross proceeds of sales or gross income derived from which would otherwise be included in the retail classification, and which are used or consumed in the performance of a contract, the cost of which is charged to an overhead expense account and allocated to various contracts based upon generally accepted accounting principles and consistent with government contract accounting standards.

5. "Repairer" means a person who restores or renews products, wares or articles of manufacture.

6. "Subcontract" means an agreement between a contractor and any person who is not an employee of the contractor for furnishing of supplies or services that, in whole or in part, are necessary to the performance of one or more government contracts, or under which any portion of the contractor's obligation under one or more government contracts is performed, undertaken or assumed and that includes provisions causing title to overhead materials or other tangible personal property used in the performance of the subcontract to pass to the government or that includes provisions incorporating such title passing clauses in a government contract into the subcontract.

Sec. 4. Appropriation; purpose

The sum of $37,000 is appropriated from the state highway user revenue fund in fiscal year 2004-2005 to the department of transportation for the purpose of implementing this act.

APPROVED BY THE GOVERNOR JUNE 1, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 1, 2004.

Conference Engrossed

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 296

HOUSE BILL 2460

AN ACT

AMENDING SECTION 28-2154, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 7, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-2154.01; AMENDING SECTION 42-5061, ARIZONA REVISED STATUTES; MAKING AN APPROPRIATION; RELATING TO MOTOR VEHICLE REGISTRATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 28-2154, Arizona Revised Statutes, is amended to read:

28-2154. Special registrations

A. A nonresident who purchases an unregistered vehicle in this state for removal to the state of residence of the purchaser ~~may~~ SHALL obtain a special thirty day nonresident registration ~~of~~ PERMIT FOR the vehicle. The nonresident ~~may~~ SHALL obtain ~~this~~ THE special THIRTY DAY NONRESIDENT registration PERMIT by applying to the department, TO AN AUTHORIZED THIRD PARTY or to a motor vehicle dealer as defined in section 28-4301 and by paying the fees prescribed by section 28-2003. AN AFFIDAVIT IN A FORM PRESCRIBED BY THE DIRECTOR SHALL ACCOMPANY the application AND shall ~~include an affidavit of the purchaser containing~~ CONTAIN the following statements:

1. The purchaser is not a resident of this state as defined in section 28-2001. FOR THE PURPOSES OF THIS SECTION AND SECTION 28-2154.01, THE PURCHASER SHALL PRESENT TO THE DEPARTMENT, AN AUTHORIZED THIRD PARTY OR A MOTOR VEHICLE DEALER, A DRIVER LICENSE OR OTHER EVIDENCE PRESCRIBED BY THE DIRECTOR SHOWING THAT THE PURCHASER IS NOT A RESIDENT OF THIS STATE.

2. The vehicle is purchased to be registered out of state WITHIN THIRTY DAYS AFTER THE ISSUANCE OF THE SPECIAL THIRTY DAY NONRESIDENT REGISTRATION PERMIT.

3. The vehicle is not purchased for transfer to a resident of this state.

4. THE PURCHASER IS LIABLE FOR ANY TAX, PENALTY AND INTEREST THAT IS DUE UNDER TITLE 42, CHAPTER 5 IF THE PURCHASER REGISTERS THE VEHICLE IN THIS STATE WITHIN THREE HUNDRED SIXTY-FIVE DAYS AFTER THE ISSUANCE OF THE SPECIAL THIRTY DAY NONRESIDENT REGISTRATION PERMIT.

~~4.~~ 5. Other information that the director deems necessary.

B. At the time of application for a special thirty day nonresident registration PERMIT, the purchaser shall submit for inspection proper evidence of ownership of the vehicle to be registered. The special THIRTY DAY NONRESIDENT registration PERMIT is valid for not more than thirty days from the date of issuance and ~~may~~ SHALL be ~~evidenced~~ in the form PRESCRIBED BY the director ~~deems necessary or advisable~~. A person who obtains a SPECIAL THIRTY DAY nonresident registration PERMIT on a semitrailer that has been manufactured in this state may use the semitrailer for commercial purposes if the semitrailer is being used to transport goods from this state, subject to the payment of any taxes prescribed by this title.

C. An enrolled member of an Indian tribe who resides on the Indian reservation established for that tribe and who purchases an unregistered vehicle in this state for removal to the Indian reservation ~~may~~ SHALL obtain a special thirty day NONRESIDENT registration permit for the vehicle. The member may obtain ~~this~~ THE special THIRTY DAY NONRESIDENT registration PERMIT by applying to the department, TO AN AUTHORIZED THIRD PARTY or to any motor

vehicle dealer as defined by section 28-4301 and by payment ~~by the motor vehicle dealer~~ of the fees prescribed by section 28-2003.

D. A resident who does not have complete documentation for issuance of an Arizona title and registration on a noncommercial vehicle but who has established ownership of the vehicle to the satisfaction of the department may receive a special ninety day resident registration by applying and paying the fee prescribed by section 28-2003 to the department. The basis of assessment for the full annual registration fee and vehicle license tax relates back to the date of issuance of the first special ninety day resident registration.

E. A resident may receive a second consecutive special ninety day resident registration on application and payment of the fee prescribed by section 28-2003 if:

1. The person has applied for a bonded title and the title has not been issued during the first ninety day registration.

2. The person is awaiting settlement of an estate.

3. The person is awaiting lien clearance.

4. The person is awaiting a hearing decision as a result of a title complaint.

5. The person is awaiting the issuance of honorary consular official special license plates.

6. The director determines other circumstances justify the issuance.

F. At the discretion of the director, a resident may receive more than two consecutive special ninety day resident registrations for a vehicle in a twelve month period.

G. If there is a judgment against a resident of this state in another state that requires suspension of the resident's vehicle registration, in lieu of suspension of the resident's vehicle registration the department may issue a special temporary registration for the resident's vehicle that is valid for a period of not more than one hundred eighty days.

Sec. 2. Title 28, chapter 7, article 5, Arizona Revised Statutes, is amended by adding section 28-2154.01, to read:

28-2154.01. <u>Special thirty day nonresident registration permits; procedures</u>

A. A DEALER OR AN AUTHORIZED THIRD PARTY THAT ISSUES A SPECIAL THIRTY DAY NONRESIDENT REGISTRATION PERMIT PURSUANT TO SECTION 28-2154 SHALL SEND AN ELECTRONIC RECORD OF THE PERMIT TO THE DEPARTMENT THROUGH AN AUTHORIZED THIRD PARTY OR THROUGH THE DEPARTMENT'S AUTHORIZED THIRD PARTY ELECTRONIC SERVICE PROVIDER.

B. THE DEPARTMENT, AN AUTHORIZED THIRD PARTY OR A DEALER SHALL NOT:

1. ISSUE, ASSIGN OR DELIVER A SPECIAL THIRTY DAY NONRESIDENT REGISTRATION PERMIT TO ANY PERSON OTHER THAN A BONA FIDE PURCHASER OR AUTHORIZED REPRESENTATIVE OF A BONA FIDE PURCHASER OF A VEHICLE WHO IS NOT A RESIDENT AS DEFINED IN SECTION 28-2001.

2. ISSUE A SPECIAL THIRTY DAY NONRESIDENT REGISTRATION PERMIT UNLESS THE PURCHASER FILES AN AFFIDAVIT AS PRESCRIBED IN SECTION 28-2154 AND PROVIDES ANY OTHER INFORMATION REQUIRED BY THE DEPARTMENT OF TRANSPORTATION OR THE DEPARTMENT OF REVENUE.

3. ISSUE AND AFFIX, AS PRESCRIBED IN SUBSECTION C OF THIS SECTION, A SPECIAL THIRTY DAY NONRESIDENT REGISTRATION PERMIT UNLESS THE PERMIT IS RECORDED IN THE ELECTRONIC RECORDS OF THE DEPARTMENT.

C. A PERSON WHO ISSUES A SPECIAL THIRTY DAY NONRESIDENT REGISTRATION PERMIT SHALL AFFIX OR INSERT, CLEARLY AND INDELIBLY, ON THE FACE OF EACH PERMIT THE DATE OF ISSUANCE AND EXPIRATION AND THE MAKE AND VEHICLE IDENTIFICATION NUMBER OF THE VEHICLE. THE SPECIAL THIRTY DAY NONRESIDENT REGISTRATION PERMIT SHALL NOT BEAR THE NAME OR ADDRESS OF THE PERSON WHO PURCHASED THE VEHICLE IN A POSITION THAT IS LEGIBLE FROM OUTSIDE OF THE VEHICLE.

D. A DEALER OR AUTHORIZED THIRD PARTY WHO ISSUES A SPECIAL THIRTY DAY NONRESIDENT REGISTRATION PERMIT SHALL MAINTAIN A RECORD, IN A FORM PRESCRIBED BY THE DIRECTOR, OF ALL SPECIAL THIRTY DAY NONRESIDENT REGISTRATION PERMITS ISSUED BY THE DEALER OR AUTHORIZED THIRD PARTY AND A RECORD OF OTHER INFORMATION PERTAINING TO THE ISSUANCE OF SPECIAL THIRTY DAY NONRESIDENT REGISTRATION PERMITS THAT THE DEPARTMENT OF TRANSPORTATION OR THE DEPARTMENT OF REVENUE REQUIRES.

E. THE DEALER OR AUTHORIZED THIRD PARTY SHALL KEEP EACH RECORD FOR AT LEAST THREE YEARS AFTER THE DATE OF ENTRY OF THE RECORD.

F. A DEALER OR AUTHORIZED THIRD PARTY SHALL ALLOW THE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION OR THE DIRECTOR OF THE DEPARTMENT OF REVENUE FULL AND FREE ACCESS TO THE RECORDS DURING REGULAR BUSINESS HOURS.

G. THE ELECTRONIC RECORD IS WRITTEN NOTICE OF THE REMOVAL OF THE VEHICLE FROM THIS STATE FOR USE IN THE PURCHASER'S STATE OF RESIDENCE AND RELIEVES THE DEALER OR AUTHORIZED THIRD PARTY OF LIABILITY IN ACCORDANCE WITH SECTION 42-5009.

H. IF A PURCHASER REGISTERS THE VEHICLE IN THIS STATE WITHIN THREE HUNDRED SIXTY-FIVE DAYS AFTER THE ISSUANCE OF THE SPECIAL THIRTY DAY NONRESIDENT REGISTRATION PERMIT, THE PURCHASER IS LIABLE IN AN AMOUNT EQUAL TO ANY TAX, PENALTY AND INTEREST THAT THE MOTOR VEHICLE DEALER OR AUTHORIZED THIRD PARTY WOULD HAVE BEEN REQUIRED TO PAY UNDER TITLE 42, CHAPTER 5. AT THE TIME OF ISSUING THE SPECIAL THIRTY DAY NONRESIDENT REGISTRATION PERMIT, A MOTOR VEHICLE DEALER OR AUTHORIZED THIRD PARTY SHALL INFORM THE PURCHASER OF THE LIABILITY DESCRIBED IN THIS SECTION.

I. THE DEPARTMENT OF TRANSPORTATION AND THE DEPARTMENT OF REVENUE SHALL JOINTLY DEVELOP AND PRESCRIBE FORMS FOR THE MOTOR VEHICLE DEALER, THE AUTHORIZED THIRD PARTY AND THE PURCHASER TO COMPLETE FOR THE PROPER ADMINISTRATION AND ENFORCEMENT OF THIS SECTION.

J. COMPLIANCE WITH THIS SECTION AND SECTION 28-2154 ALLOWS DELIVERY OF THE VEHICLE TO A NONRESIDENT PURCHASER IN THIS STATE AND RETAINS THE APPLICABLE EXEMPTIONS PURSUANT TO SECTION 42-5061, SUBSECTION A, PARAGRAPH 28.

Sec. 3. Section 42-5061, Arizona Revised Statutes, is amended to read:

42-5061. Retail classification; definitions

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

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

2. Services rendered in addition to selling tangible personal property at retail.

3. Sales of warranty or service contracts. The storage, use or consumption of tangible personal property provided under the conditions of such contracts is subject to tax under section 42-5156.

4. Sales of tangible personal property by any nonprofit organization organized and operated exclusively for charitable purposes and recognized by the United States internal revenue service under section 501(c)(3) of the internal revenue code.

5. Sales to persons engaged in business classified under the restaurant classification of articles used by human beings for food, drink or condiment, whether simple, mixed or compounded.

6. Business activity which is properly included in any other business classification which is taxable under article 1 of this chapter.

7. The sale of stocks and bonds.

8. Drugs and medical oxygen, including delivery hose, mask or tent, regulator and tank, on the prescription of a member of the medical, dental or veterinarian profession who is licensed by law to administer such substances.

9. Prosthetic appliances as defined in section 23-501 prescribed or recommended by a health professional licensed pursuant to title 32, chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.

10. Insulin, insulin syringes and glucose test strips.

11. Prescription eyeglasses or contact lenses.

12. Hearing aids as defined in section 36-1901.

13. Durable medical equipment which has a centers for medicare and medicaid services common procedure code, is designated reimbursable by medicare, is prescribed by a person who is licensed under title 32, chapter 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and customarily used to serve a medical purpose, is generally not useful to a

person in the absence of illness or injury and is appropriate for use in the home.

14. Sales to nonresidents of this state for use outside this state if the vendor ships or delivers the tangible personal property out of this state.

15. Food, as provided in and subject to the conditions of article 3 of this chapter and section 42-5074.

16. Items purchased with United States department of agriculture food stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code section 1786).

17. Textbooks by any bookstore that are required by any state university or community college.

18. Food and drink to a person who is engaged in business which is classified under the restaurant classification and which provides such food and drink without monetary charge to its employees for their own consumption on the premises during the employees' hours of employment.

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

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

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

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

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

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

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

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

25. Tangible personal property sold to:

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

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

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

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

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

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

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

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

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

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

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

28. The sale of a motor vehicle to:

(a) A nonresident of this state if the purchaser's state of residence does not allow a corresponding use tax exemption to the tax imposed by

article 1 of this chapter and if the nonresident has secured a special ~~thirty-day~~ THIRTY DAY nonresident registration ~~of~~ PERMIT FOR the vehicle AS PRESCRIBED by ~~applying according to section~~ SECTIONS 28-2154 AND 28-2154.01.

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

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

30. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

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

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

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

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

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

36. Sales of natural gas or liquefied petroleum gas used to propel a motor vehicle.

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

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

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

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

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

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

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

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

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

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

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

46. Tangible personal property sold to a person engaged in business and subject to tax under the transient lodging classification if the tangible personal property is a personal hygiene item or articles used by human beings for food, drink or condiment, except alcoholic beverages, which are furnished without additional charge to and intended to be consumed by the transient during the transient's occupancy.

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

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

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

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

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

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

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

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

53. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(6) of the internal revenue code if the organization produces, organizes or promotes cultural or civic related festivals or events and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

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

1. Machinery, or equipment, used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations. The terms "manufacturing", "processing", "fabricating", "job printing", "refining" and "metallurgical" as used in this paragraph refer to and include those operations commonly understood within their ordinary meaning. "Metallurgical operations" includes leaching, milling, precipitating, smelting and refining.

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

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

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

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

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

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

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

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

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

8. Machinery, tools, equipment and related supplies used or consumed directly in repairing, remodeling or maintaining aircraft, aircraft engines or aircraft component parts by or on behalf of a certificated or licensed carrier of persons or property.

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

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

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

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

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

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

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

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

15. Machinery and equipment that are purchased by or on behalf of the owners of a soundstage complex and primarily used for motion picture, multimedia or interactive video production in the complex. This paragraph applies only if the initial construction of the soundstage complex begins after June 30, 1996 and before January 1, 2002 and the machinery and equipment are purchased before the expiration of five years after the start of initial construction. For purposes of this paragraph:

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

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

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

(a) Any direct broadcast satellite television or data transmission service that operates pursuant to 47 Code of Federal Regulations parts 25 and 100.

(b) Any satellite television or data transmission facility, if both of the following conditions are met:

(i) Over two-thirds of the transmissions, measured in megabytes, transmitted by the facility during the test period were transmitted to or on behalf of one or more direct broadcast satellite television or data transmission services that operate pursuant to 47 Code of Federal Regulations parts 25 and 100.

1 (ii) Over two-thirds of the transmissions, measured in megabytes,
2 transmitted by or on behalf of those direct broadcast television or data
3 transmission services during the test period were transmitted by the facility
4 to or on behalf of those services.
5 For purposes of subdivision (b) of this paragraph, "test period" means the
6 three hundred sixty-five day period beginning on the later of the date on
7 which the tangible personal property is purchased or the date on which the
8 direct broadcast satellite television or data transmission service first
9 transmits information to its customers.
10 17. Clean rooms that are used for manufacturing, processing,
11 fabrication or research and development, as defined in paragraph 14 of this
12 subsection, of semiconductor products. For purposes of this paragraph,
13 "clean room" means all property that comprises or creates an environment
14 where humidity, temperature, particulate matter and contamination are
15 precisely controlled within specified parameters, without regard to whether
16 the property is actually contained within that environment or whether any of
17 the property is affixed to or incorporated into real property. Clean room:
18 (a) Includes the integrated systems, fixtures, piping, movable
19 partitions, lighting and all property that is necessary or adapted to reduce
20 contamination or to control airflow, temperature, humidity, chemical purity
21 or other environmental conditions or manufacturing tolerances, as well as the
22 production machinery and equipment operating in conjunction with the clean
23 room environment.
24 (b) Does not include the building or other permanent, nonremovable
25 component of the building that houses the clean room environment.
26 18. Machinery and equipment used directly in the feeding of poultry,
27 the environmental control of housing for poultry, the movement of eggs within
28 a production and packaging facility or the sorting or cooling of eggs. This
29 exemption does not apply to vehicles used for transporting eggs.
30 19. Machinery or equipment, including related structural components,
31 that is employed in connection with manufacturing, processing, fabricating,
32 job printing, refining, mining, natural gas pipelines, metallurgical
33 operations, telecommunications, producing or transmitting electricity or
34 research and development and that is used directly to meet or exceed rules
35 or regulations adopted by the federal energy regulatory commission, the
36 United States environmental protection agency, the United States nuclear
37 regulatory commission, the Arizona department of environmental quality or a
38 political subdivision of this state to prevent, monitor, control or reduce
39 land, water or air pollution.
40 20. Machinery and equipment that are sold to a person engaged in the
41 commercial production of livestock, livestock products or agricultural,
42 horticultural, viticultural or floricultural crops or products in this state
43 and that are used directly and primarily to prevent, monitor, control or
44 reduce air, water or land pollution.

1 21. Machinery or equipment that enables a television station to
2 originate and broadcast or to receive and broadcast digital television
3 signals and that was purchased to facilitate compliance with the
4 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States
5 Code section 336) and the federal communications commission order issued
6 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does
7 not exempt any of the following:
8 (a) Repair or replacement parts purchased for the machinery or
9 equipment described in this paragraph.
10 (b) Machinery or equipment purchased to replace machinery or equipment
11 for which an exemption was previously claimed and taken under this paragraph.
12 (c) Any machinery or equipment purchased after the television station
13 has ceased analog broadcasting, or purchased after November 1, 2009,
14 whichever occurs first.
15 C. The deductions provided by subsection B of this section do not
16 include sales of:
17 1. Expendable materials. For purposes of this paragraph, expendable
18 materials do not include any of the categories of tangible personal property
19 specified in subsection B of this section regardless of the cost or useful
20 life of that property.
21 2. Janitorial equipment and hand tools.
22 3. Office equipment, furniture and supplies.
23 4. Tangible personal property used in selling or distributing
24 activities, other than the telecommunications transmissions described in
25 subsection B, paragraph 16 of this section.
26 5. Motor vehicles required to be licensed by this state, except buses
27 or other urban mass transit vehicles specifically exempted pursuant to
28 subsection B, paragraph 11 of this section, without regard to the use of such
29 motor vehicles.
30 6. Shops, buildings, docks, depots and all other materials of whatever
31 kind or character not specifically included as exempt.
32 7. Motors and pumps used in drip irrigation systems.
33 D. In addition to the deductions from the tax base prescribed by
34 subsection A of this section, there shall be deducted from the tax base the
35 gross proceeds of sales or gross income derived from sales of machinery,
36 equipment, materials and other tangible personal property used directly and
37 predominantly to construct a qualified environmental technology
38 manufacturing, producing or processing facility as described in section
39 41-1514.02. This subsection applies for ten full consecutive calendar or
40 fiscal years after the start of initial construction.
41 E. In computing the tax base, gross proceeds of sales or gross income
42 from retail sales of heavy trucks and trailers does not include any amount
43 attributable to federal excise taxes imposed by 26 United States Code section
44 4051.

1 F. In computing the tax base, gross proceeds of sales or gross income
2 from the sale of use fuel, as defined in section 28-5601, does not include
3 any amount attributable to federal excise taxes imposed by 26 United States
4 Code section 4091.
5 G. If a person is engaged in an occupation or business to which
6 subsection A of this section applies, the person's books shall be kept so as
7 to show separately the gross proceeds of sales of tangible personal property
8 and the gross income from sales of services, and if not so kept the tax shall
9 be imposed on the total of the person's gross proceeds of sales of tangible
10 personal property and gross income from services.
11 H. If a person is engaged in the business of selling tangible personal
12 property at both wholesale and retail, the tax under this section applies
13 only to the gross proceeds of the sales made other than at wholesale if the
14 person's books are kept so as to show separately the gross proceeds of sales
15 of each class, and if the books are not so kept, the tax under this section
16 applies to the gross proceeds of every sale so made.
17 I. A person who engages in manufacturing, baling, crating, boxing,
18 barreling, canning, bottling, sacking, preserving, processing or otherwise
19 preparing for sale or commercial use any livestock, agricultural or
20 horticultural product or any other product, article, substance or commodity
21 and who sells the product of such business at retail in this state is deemed,
22 as to such sales, to be engaged in business classified under the retail
23 classification. This subsection does not apply to businesses classified
24 under the:
25 1. Transporting classification.
26 2. Utilities classification.
27 3. Telecommunications classification.
28 4. Pipeline classification.
29 5. Private car line classification.
30 6. Publication classification.
31 7. Job printing classification.
32 8. Prime contracting classification.
33 9. Owner builder sales classification.
34 10. Restaurant classification.
35 J. The gross proceeds of sales or gross income derived from the
36 following shall be deducted from the tax base for the retail classification:
37 1. Sales made directly to the United States government or its
38 departments or agencies by a manufacturer, modifier, assembler or repairer.
39 2. Sales made directly to a manufacturer, modifier, assembler or
40 repairer if such sales are of any ingredient or component part of products
41 sold directly to the United States government or its departments or agencies
42 by the manufacturer, modifier, assembler or repairer.
43 3. Overhead materials or other tangible personal property that is used
44 in performing a contract between the United States government and a
45 manufacturer, modifier, assembler or repairer, including property used in

1 performing a subcontract with a government contractor who is a manufacturer,
2 modifier, assembler or repairer, to which title passes to the government
3 under the terms of the contract or subcontract.
4 4. Sales of overhead materials or other tangible personal property to
5 a manufacturer, modifier, assembler or repairer if the gross proceeds of
6 sales or gross income derived from the property by the manufacturer,
7 modifier, assembler or repairer will be exempt under paragraph 3 of this
8 subsection.
9 K. There shall be deducted from the tax base fifty per cent of the
10 gross proceeds or gross income from any sale of tangible personal property
11 made directly to the United States government or its departments or agencies,
12 which is not deducted under subsection J of this section.
13 L. The department shall require every person claiming a deduction
14 provided by subsection J or K of this section to file on forms prescribed by
15 the department at such times as the department directs a sworn statement
16 disclosing the name of the purchaser and the exact amount of sales on which
17 the exclusion or deduction is claimed.
18 M. In computing the tax base, gross proceeds of sales or gross income
19 does not include:
20 1. A manufacturer's cash rebate on the sales price of a motor vehicle
21 if the buyer assigns the buyer's right in the rebate to the retailer.
22 2. The waste tire disposal fee imposed pursuant to section 44-1302.
23 N. There shall be deducted from the tax base the amount received from
24 sales of solar energy devices, but the deduction shall not exceed five
25 thousand dollars for each solar energy device. Before deducting any amount
26 under this subsection, the retailer shall register with the department as a
27 solar energy retailer. By registering, the retailer acknowledges that it
28 will make its books and records relating to sales of solar energy devices
29 available to the department for examination.
30 O. In computing the tax base in the case of the sale or transfer of
31 wireless telecommunications equipment as an inducement to a customer to enter
32 into or continue a contract for telecommunications services that are taxable
33 under section 42-5064, gross proceeds of sales or gross income does not
34 include any sales commissions or other compensation received by the retailer
35 as a result of the customer entering into or continuing a contract for the
36 telecommunications services.
37 P. For the purposes of this section, a sale of wireless
38 telecommunications equipment to a person who holds the equipment for sale or
39 transfer to a customer as an inducement to enter into or continue a contract
40 for telecommunications services that are taxable under section 42-5064 is
41 considered to be a sale for resale in the regular course of business.
42 Q. Retail sales of prepaid calling cards or prepaid authorization
43 numbers for telecommunications services, including sales of reauthorization
44 of a prepaid card or authorization number, are subject to tax under this
45 section.

R. For the purposes of this section, the diversion of gas from a pipeline by a person engaged in the business of operating a natural or artificial gas pipeline, for the sole purpose of fueling compressor equipment to pressurize the pipeline, is not a sale of the gas to the operator of the pipeline.

S. If a seller is entitled to a deduction pursuant to subsection B, paragraph 16, subdivision (b) of this section, the department may require the purchaser to establish that the requirements of subsection B, paragraph 16, subdivision (b) of this section have been satisfied. If the purchaser cannot establish that the requirements of subsection B, paragraph 16, subdivision (b) of this section have been satisfied, the purchaser is liable in an amount equal to any tax, penalty and interest which the seller would have been required to pay under article 1 of this chapter if the seller had not made a deduction pursuant to subsection B, paragraph 16, subdivision (b) of this section. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter and related to the tangible personal property purchased. The amount shall be treated as transaction privilege tax to the purchaser and as tax revenues collected from the seller to designate the distribution base pursuant to section 42-5029.

T. For purposes of section 42-5032.01, the department shall separately account for revenues collected under the retail classification from businesses selling tangible personal property at retail:

1. On the premises of a multipurpose facility that is owned, leased or operated by the tourism and sports authority pursuant to title 5, chapter 8.

2. At professional football contests that are held in a stadium located on the campus of an institution under the jurisdiction of the Arizona board of regents.

U. IN COMPUTING THE TAX BASE FOR THE SALE OF A MOTOR VEHICLE TO A NONRESIDENT OF THIS STATE, IF THE PURCHASER'S STATE OF RESIDENCE ALLOWS A CORRESPONDING USE TAX EXEMPTION TO THE TAX IMPOSED BY ARTICLE 1 OF THIS CHAPTER AND THE RATE OF THE TAX IN THE PURCHASER'S STATE OF RESIDENCE IS LOWER THAN THE RATE PRESCRIBED IN ARTICLE 1 OF THIS CHAPTER, AND THE NONRESIDENT HAS SECURED A SPECIAL THIRTY DAY NONRESIDENT REGISTRATION PERMIT FOR THE VEHICLE AS PRESCRIBED BY SECTIONS 28-2154 AND 28-2154.01, THERE SHALL BE DEDUCTED FROM THE TAX BASE A PORTION OF THE GROSS PROCEEDS OR GROSS INCOME FROM THE SALE SO THAT THE AMOUNT OF TRANSACTION PRIVILEGE TAX THAT IS PAID IN THIS STATE IS EQUAL TO THE EXCISE TAX THAT IS IMPOSED BY THE PURCHASER'S STATE OF RESIDENCE ON THE NONEXEMPT SALE OR USE OF THE MOTOR VEHICLE.

~~U.~~ V. For the purposes of this section:

1. "Aircraft" includes:

(a) An airplane flight simulator that is approved by the federal aviation administration for use as a phase II or higher flight simulator under appendix H, 14 Code of Federal Regulations part 121.

(b) Tangible personal property that is permanently affixed or attached as a component part of an aircraft that is owned or operated by a certificated or licensed carrier of persons or property.

2. "Other accessories and related equipment" includes aircraft accessories and equipment such as ground service equipment that physically contact aircraft at some point during the overall carrier operation.

3. "Selling at retail" means a sale for any purpose other than for resale in the regular course of business in the form of tangible personal property, but transfer of possession, lease and rental as used in the definition of sale mean only such transactions as are found on investigation to be in lieu of sales as defined without the words lease or rental.

~~V.~~ W. For purposes of subsection J of this section:

1. "Assembler" means a person who unites or combines products, wares or articles of manufacture so as to produce a change in form or substance without changing or altering the component parts.

2. "Manufacturer" means a person who is principally engaged in the fabrication, production or manufacture of products, wares or articles for use from raw or prepared materials, imparting to those materials new forms, qualities, properties and combinations.

3. "Modifier" means a person who reworks, changes or adds to products, wares or articles of manufacture.

4. "Overhead materials" means tangible personal property, the gross proceeds of sales or gross income derived from which would otherwise be included in the retail classification, and which are used or consumed in the performance of a contract, the cost of which is charged to an overhead expense account and allocated to various contracts based upon generally accepted accounting principles and consistent with government contract accounting standards.

5. "Repairer" means a person who restores or renews products, wares or articles of manufacture.

6. "Subcontract" means an agreement between a contractor and any person who is not an employee of the contractor for furnishing of supplies or services that, in whole or in part, are necessary to the performance of one or more government contracts, or under which any portion of the contractor's obligation under one or more government contracts is performed, undertaken or assumed and that includes provisions causing title to overhead materials or other tangible personal property used in the performance of the subcontract to pass to the government or that includes provisions incorporating such title passing clauses in a government contract into the subcontract.

Sec. 4. Appropriation; purpose

The sum of $36,000 is appropriated from the state highway user revenue fund in fiscal year 2004-2005 to the department of transportation for the purpose of implementing this act.

APPROVED BY THE GOVERNOR JUNE 1, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 1, 2004.

Passed the House March 9, 2004,

by the following vote: 58 Ayes,

0 Nays, 2 Not Voting

Jake Flake
Speaker of the House

Norman L. Moore
Chief Clerk of the House

Passed the Senate April 22, 2004,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

Ken Bennett
President of the Senate

Charmine Billings
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

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

H.B. 2460

HOUSE FINAL PASSAGE
as per Joint Conference

Passed the House May 24, 2004,

by the following vote: 51 Ayes,

0 Nays, 9 Not Voting

Jake Flake
Speaker of the House

Norman L. Moore
Chief Clerk of the House

SENATE FINAL PASSAGE
as per Joint Conference

Passed the Senate May 25, 2004,

by the following vote: 27 Ayes,

2 Nays, 1 Not Voting

Ken Bennett
President of the Senate

Charmion Billington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR
This Bill was received by the Governor

this 25th day of May, 2004,

at 4:20 o'clock P. M.

Jennifer Ybarra
Secretary to the Governor

Approved this 1 day of

June, 2004,

at 3:45 o'clock P. 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 June, 2004,

at 4:38 o'clock P M.

Janice K. Brewer
Secretary of State

H.B. 2460