

House Engrossed Senate Bill

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
Senate
Fifty-first Legislature
Second Regular Session
2014

CHAPTER 110

SENATE BILL 1180

AN ACT

AMENDING SECTIONS 42-3001, 42-3353 AND 42-3354, ARIZONA REVISED STATUTES;
RELATING TO LUXURY TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 42-3001. Definitions

5 In this chapter, unless the context otherwise requires:

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

8 2. "Cider" means vinous liquor that is made from the normal alcoholic
9 fermentation of the juice of sound, ripe apples, PEARS OR OTHER POME FRUIT,
10 including flavored, sparkling and carbonated cider and cider made from
11 condensed apple, PEAR OR OTHER POME FRUIT must, and that contains more than
12 one-half of one per cent of alcohol by volume but not more than seven per
13 cent of alcohol by volume.

14 3. "Cigar" means any roll of tobacco wrapped in leaf tobacco or in any
15 substance containing tobacco other than any roll of tobacco that is a
16 cigarette, as defined in paragraph 4, subdivision (b) of this section.

17 4. "Cigarette" means either of the following:

18 (a) Any roll of tobacco or any substitute for tobacco wrapped in paper
19 or any substance not containing tobacco.

20 (b) Any roll of tobacco wrapped in any substance containing tobacco
21 that, because of its appearance, the type of tobacco used in the filler or
22 its packaging and labeling, is likely to be offered to or purchased by a
23 consumer as a cigarette described in subdivision (a) of this paragraph. This
24 subdivision shall be interpreted consistently with the classification
25 guidelines established by the federal alcohol and tobacco tax and trade
26 bureau.

27 5. "Cigarette distributor" means a distributor of cigarettes without
28 stamps affixed as required by this article who is required to be licensed
29 under section 42-3201. Cigarette distributor does not include a retailer or
30 any person who holds a permit as a cigarette manufacturer, export warehouse
31 proprietor or importer under 26 United States Code section 5712 if the person
32 sells or distributes cigarettes in this state only to licensed cigarette
33 distributors or to another person who holds a permit under 26 United States
34 Code section 5712 as an export warehouse proprietor or manufacturer.

35 6. "Cigarette importer" means a distributor who directly or indirectly
36 imports into the United States a finished cigarette for sale or distribution
37 and who is required to be licensed under section 42-3201.

38 7. "Cigarette manufacturer" means a distributor who manufactures,
39 fabricates, assembles, processes or labels a finished cigarette and who is
40 required to be licensed under section 42-3201.

41 8. "Consumer" means a person in this state who comes into possession
42 of any luxury subject to the tax imposed by this chapter and who, on coming
43 into possession of the luxury, is not a distributor intending to sell or
44 distribute the luxury, retailer or wholesaler.

1 9. "Distributor" means any person who manufactures, produces, ships,
2 transports or imports into this state or in any manner acquires or possesses
3 for the purpose of making the first sale of the following:

4 (a) Cigarettes without stamps affixed as required by this article.

5 (b) Other tobacco products ~~upon~~ ON which the taxes have not been paid
6 as required by this chapter.

7 10. "Domestic farm winery" has the same meaning prescribed in section
8 4-101.

9 11. "Domestic microbrewery" has the same meaning prescribed in section
10 4-101.

11 12. "First sale" means the initial sale or distribution in intrastate
12 commerce or the initial use or consumption of cigarettes or other tobacco
13 products.

14 13. "Luxury" means any article, object or device ~~upon~~ ON which a tax is
15 imposed under this chapter.

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

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

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

21 15. "Person" means any individual, firm, partnership, joint venture,
22 association, corporation, municipal corporation, estate, trust, club, society
23 or other group or combination acting as a unit, and the plural as well as the
24 singular number.

25 16. "Retailer" means any person who comes into possession of any luxury
26 subject to the taxes imposed by this chapter for the purpose of selling it
27 for consumption and not for resale.

28 17. "Spirituous liquor" means any liquid that contains more than
29 one-half of one per cent alcohol by volume, that is produced by distillation
30 of any fermented substance and that is used or prepared for use as a
31 beverage. Spirituous liquor does not include medicines that are unsuitable
32 for beverage purposes.

33 18. "Tobacco products" means all luxuries included in section 42-3052,
34 paragraphs 5 through 9, ~~except that for the purposes of article 5.1 of this~~
35 ~~chapter tobacco products has the same meaning prescribed in section 42-3221.~~

36 19. "Vinous liquor" means any liquid that contains more than one-half
37 of one per cent alcohol by volume and that is made by the process of
38 fermentation of grapes, berries, fruits, vegetables or other substances but
39 does not include:

40 (a) Liquids in which hops or grains are used in the process of
41 fermentation.

42 (b) Liquids made by the process of distillation of hops or grains.

43 (c) Medicines that are unsuitable for beverage purposes.

1 20. "Wholesaler" means a person who sells any spirituous, vinous or
2 malt liquor taxed under this chapter to retail dealers or for the purposes of
3 resale only.

4 Sec. 2. Section 42-3353, Arizona Revised Statutes, is amended to read:
5 42-3353. Return and payment by cider or malt liquor wholesalers

6 A. Every wholesaler of CIDER OR malt liquors purchasing CIDER OR malt
7 liquors for resale within the state shall pay the tax under this chapter on
8 all such liquors so purchased and add the amount of the tax to the sales
9 price.

10 ~~B. Before January 1, 2007, every wholesaler of vinous liquors~~
11 ~~purchasing vinous liquors for resale within this state shall pay the tax~~
12 ~~under this chapter on all such liquors so purchased and add the amount of tax~~
13 ~~to the sales price.~~

14 ~~C.~~ B. The wholesaler shall pay the tax to the department monthly on
15 or before the twentieth day of the month next succeeding the month in which
16 the tax accrues.

17 ~~D.~~ C. On or before the date prescribed by subsection ~~C.~~ B. of this
18 section the wholesaler shall prepare a sworn return for the month in which
19 the tax accrues in the form prescribed by the department, showing:

20 1. The amount of CIDER OR malt liquors purchased during the month in
21 which the tax accrues.

22 ~~2. Before January 1, 2007, the amount of vinous liquors purchased~~
23 ~~during the month in which the tax accrues.~~

24 ~~3.~~ 2. The amount of tax for the period covered by the return.

25 ~~4.~~ 3. Any other information that the department deems necessary for
26 the proper administration of this chapter.

27 ~~E.~~ D. The taxpayer shall deliver the return, together with a
28 remittance of the amount of the tax due, to the department.

29 ~~F.~~ E. Any taxpayer who fails to pay the tax within ten days from the
30 date upon which the payment becomes due shall be subject to and shall pay a
31 penalty determined under section 42-1125, plus interest at the rate
32 determined pursuant to section 42-1123 from the time the tax was due and
33 payable until paid.

34 Sec. 3. Section 42-3354, Arizona Revised Statutes, is amended to read:
35 42-3354. Return and payment by spirituous or vinous liquor
36 wholesalers

37 A. Every wholesaler of spirituous liquors selling spirituous liquors
38 within the state shall pay the tax under this chapter on all such liquor sold
39 within the state and add the amount of the tax to the sales price.

40 B. ~~Beginning January 1, 2007,~~ Every wholesaler of vinous liquors
41 selling vinous liquors OTHER THAN CIDER AS DEFINED IN SECTION 42-3001,
42 PARAGRAPH 2 within this state shall pay the tax under this chapter on all
43 such liquors sold within this state and add the amount of tax to the sales
44 price.

1 C. The wholesaler shall pay the tax to the department monthly on or
2 before the twentieth day of the month next succeeding the month in which the
3 tax accrues.

4 D. On or before the date prescribed by subsection C of this section
5 the wholesaler shall prepare a sworn return for the month in which the tax
6 accrues in the form prescribed by the department, showing:

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

9 2. ~~Beginning January 1, 2007,~~ The amount of ~~spirituous~~ VINOUS liquors
10 OTHER THAN CIDERS AS DEFINED IN SECTION 42-3001, PARAGRAPH 2 sold in the
11 state during the month in which the tax accrues.

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

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

15 E. The wholesaler shall deliver the return, together with a remittance
16 of the amount of the tax due, to the department.

17 F. Any taxpayer who fails to pay the tax within ten days from the date
18 upon which the payment becomes due shall be subject to and shall pay a
19 penalty determined under section 42-1125, plus interest at the rate
20 determined pursuant to section 42-1123 from the time the tax was due and
21 payable until paid.

22 Sec. 4. Exemption from rulemaking

23 For the purposes of implementing this bill, as amended by this act, the
24 department of revenue is exempt from the rulemaking requirements of title 41,
25 chapter 6, Arizona Revised Statutes, for one year after the effective date of
26 this act.

APPROVED BY THE GOVERNOR APRIL 22, 2014.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 23, 2014.

Passed the House April 15, 2014,

by the following vote: 60 Ayes,

0 Nays, 0 Not Voting

Le M. Tol
Speaker of the House

Cheryl Laube
Chief Clerk of the House

Passed the Senate February 24, 2014,

by the following vote: 29 Ayes,

1 Nays, 0 Not Voting

[Signature]
President of the Senate

Charmian Bellington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

S.B. 1180

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

SENATE CONCURS IN HOUSE
AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 16, 20 14

by the following vote: 28 Ayes,

1 Nays, 1 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

17 day of April, 20 14

at 8:20 o'clock A M.

[Signature]
Secretary to the Governor

Approved this 22nd day of

April

at 4:07 o'clock P. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 23rd day of April, 20 14

S.B. 1180

at 9:40 o'clock 9 M.

[Signature]
Secretary of State