



STATE OF ARIZONA
OFFICE OF THE GOVERNOR

DOUGLAS A. DUCEY
GOVERNOR

EXECUTIVE OFFICE

April 11, 2018

The Honorable Michele Reagan
Secretary of State
1700 W. Washington, 7th Floor
Phoenix, AZ 85007

Dear Secretary Reagan:

I am transmitting to you the following bills from the Fifty-third Legislature, 2nd Regular Session, which I signed on April 11, 2018:

HB 2006 minimum age; marriage (Ugenti-Rita)
HB 2042 insurance coverage; telemedicine; urology (Carter)
HB 2047 workers' compensation; employee definition; LLCs (Livingston)
HB 2152 fingerprinting; joint powers authority (John)
HB 2154 personal information; data security breaches (Shope)
HB 2184 secretary of state; counties; rulemaking (Coleman)
HB 2216 schools; dropout recovery programs; report (Leach)
HB 2238 administrative decisions; review; scope (Farnsworth, E.)
HB 2244 dangerous crimes; children; fictitious age (Farnsworth, E.)
HB 2305 vehicle dealers; franchise regulations (Campbell)
HB 2323 schools; inhalers; contracted nurses (Carter)
HB 2342 off-highway vehicles; definition; user indicia (John)
HB 2464 sale of eggs; expiration date (Norgaard)
SB 1041 residency restrictions; sex offenders; victims (Kavanagh)
SB 1281 street lighting improvement districts; consolidation (Kavanagh)
SB 1355 border security trust fund; repeal (Griffin)
SB 1382 TPT; online lodging marketplace; registration (Kavanagh)
SB 1386 high-tech tax fraud (Farnsworth, D.)
SB 1395 temporary custody without court order (Barto)
SB 1421 environmental quality; amendments (Griffin)
SB 1436 prohibition; criminal history; occupational regulation (Borges)
SB 1465 sober living homes; certification (Brophy McGee)

Sincerely,

A handwritten signature in black ink that reads "Douglas A. Ducey". The signature is written in a cursive style with a large initial 'D' and a distinct 'A'.

Douglas A. Ducey
Governor
State of Arizona

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

House Engrossed Senate Bill

FILED

MICHELE REAGAN

SECRETARY OF STATE

State of Arizona
Senate
Fifty-third Legislature
Second Regular Session
2018

CHAPTER 190

SENATE BILL 1386

AN ACT

AMENDING TITLE 42, CHAPTER 1, ARTICLE 3, ARIZONA REVISED STATUTES, BY
ADDING SECTION 42-1116.02; AMENDING SECTION 42-1127, ARIZONA REVISED
STATUTES; RELATING TO TAX FRAUD.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 42, chapter 1, article 3, Arizona Revised
3 Statutes, is amended by adding section 42-1116.02, to read:

4 42-1116.02. Department of revenue tax fraud interdiction
5 fund; uses

6 A. THE DEPARTMENT OF REVENUE TAX FRAUD INTERDICTION FUND IS
7 ESTABLISHED CONSISTING OF FINES COLLECTED PURSUANT TO SECTION 42-1127,
8 SUBSECTION B, PARAGRAPHS 5 AND 6.

9 B. THE DIRECTOR SHALL ADMINISTER THE FUND. SUBJECT TO LEGISLATIVE
10 APPROPRIATION, THE DIRECTOR SHALL:

11 1. USE FIFTY PERCENT OF THE MONIES IN THE FUND TO DETECT VIOLATIONS
12 AND ENHANCE TAX FRAUD ANALYTICS USED TO DETECT VIOLATIONS PURSUANT TO
13 SECTION 42-1127, SUBSECTION B.

14 2. TRANSFER FIFTY PERCENT OF THE MONIES IN THE FUND TO THE ATTORNEY
15 GENERAL FOR PROSECUTING VIOLATIONS PURSUANT TO SECTION 42-1127, SUBSECTION
16 B.

17 Sec. 2. Section 42-1127, Arizona Revised Statutes, is amended to
18 read:

19 42-1127. Criminal violation; classification; place of trial;
20 definitions

21 A. It is a class 4 felony to:

22 1. Corruptly or by force or threats of force or injury:

23 (a) Attempt to intimidate, impede or injure an employee of the
24 department acting in an official capacity.

25 (b) Obstruct, impede or attempt to obstruct or impede the
26 administration of this title or title 43.

27 2. Attempt by means of bribery, misrepresentation, intimidation or
28 force or threats of force to obstruct, delay or prevent the communication
29 of information or testimony relating to a violation of this title or title
30 43 to an employee or officer of the department, or knowingly injure
31 another personally or injure the person's property on account of the
32 person giving, personally or by any other person, any such information or
33 testimony to an employee of the department.

34 3. Make, forge, alter or counterfeit with the intent to defraud a
35 stamp or meter impression prepared or prescribed by the department under
36 chapter 3 of this title, or to knowingly utter, publish, pass or tender as
37 true a false, altered, forged or counterfeited stamp or meter impression,
38 or to use a stamp provided for and required by chapter 3 of this title
39 which has already once been used, with the intent to evade the tax imposed
40 by chapter 3 of this title.

41 4. Tamper with, or cause to be tampered with, any metering machine
42 authorized to be used under chapter 3 of this title.

43 B. A first-time violation of this subsection may be designated as
44 a class 1 misdemeanor, but otherwise it is a class 5 felony to:

1 1. Knowingly fail to pay any tax administered pursuant to this
2 article due or believed due by the taxpayer with intent to evade the tax.

3 2. Knowingly prepare, present or aid, procure or advise in
4 preparing or presenting any return, affidavit, claim or other document
5 which is fraudulent or is false as to any material matter, whether or not
6 the falsity or fraud is with the knowledge or consent of the taxpayer
7 authorized or required to present the return, affidavit, claim or
8 document.

9 3. Simulate or falsely or fraudulently execute or sign any license
10 or other required document, or cause the license or document to be falsely
11 or fraudulently executed or advise or aid in such execution, with the
12 intent to conceal or cover up a material fact relating to a tax
13 administered pursuant to this article.

14 4. Knowingly fail to file a return or supply required information,
15 or falsify or conceal a material fact, document or record, make a false,
16 fictitious or fraudulent statement or representation or make or use a
17 false writing or document knowing it to contain a false, fictitious or
18 fraudulent statement or entry, with intent that the department rely on the
19 false, fictitious or fraudulent statement or entry in determining tax
20 liability under this article.

21 5. PURCHASE, INSTALL OR USE ANY AUTOMATED SALES SUPPRESSION DEVICE
22 OR SERVICE OR ZAPPER OR PHANTOM-WARE WITH THE INTENT TO DEFEAT OR EVADE
23 ANY TAX ADMINISTERED PURSUANT TO THIS ARTICLE THAT IS DUE OR BELIEVED TO
24 BE DUE BY THE TAXPAYER. IN ADDITION, A PERSON THAT IS CONVICTED OF A
25 VIOLATION OF THIS PARAGRAPH:

26 (a) IS SUBJECT TO A FINE OF NOT MORE THAN ONE HUNDRED THOUSAND
27 DOLLARS OR, IF A CORPORATION, NOT MORE THAN FIVE HUNDRED THOUSAND DOLLARS.
28 MONIES PAID AS FINES SHALL BE DEPOSITED IN THE DEPARTMENT OF REVENUE TAX
29 FRAUD INTERDICTION FUND ESTABLISHED BY SECTION 42-1116.02.

30 (b) IS LIABLE FOR ALL TAXES, FEES, PENALTIES AND INTEREST DUE AS A
31 RESULT OF THE PERSON'S USE OF THE AUTOMATED SALES SUPPRESSION DEVICE OR
32 SERVICE OR ZAPPER OR PHANTOM-WARE.

33 (c) SHALL FORFEIT ALL PROFITS ASSOCIATED WITH THE PERSON'S PURCHASE
34 OR USE OF THE AUTOMATED SALES SUPPRESSION DEVICE OR SERVICE OR ZAPPER OR
35 PHANTOM-WARE.

36 6. SELL, LICENSE, PURCHASE, INSTALL, TRANSFER, SELL AS A SERVICE,
37 MANUFACTURE, DEVELOP OR POSSESS ANY AUTOMATED SALES SUPPRESSION DEVICE OR
38 SERVICE OR ZAPPER OR PHANTOM-WARE KNOWING THAT THE PURPOSE OF THE DEVICE
39 IS TO DEFEAT OR EVADE ANY TAX ADMINISTERED PURSUANT TO THIS ARTICLE. IN
40 ADDITION, A PERSON THAT IS CONVICTED OF A VIOLATION OF THIS PARAGRAPH:

41 (a) IS SUBJECT TO A FINE OF NOT MORE THAN ONE HUNDRED THOUSAND
42 DOLLARS OR, IF A CORPORATION, NOT MORE THAN FIVE HUNDRED THOUSAND DOLLARS.
43 MONIES PAID AS FINES SHALL BE DEPOSITED IN THE DEPARTMENT OF REVENUE TAX
44 FRAUD INTERDICTION FUND ESTABLISHED BY SECTION 42-1116.02.

1 (b) IS LIABLE FOR ALL TAXES, FEES, PENALTIES AND INTEREST DUE AS A
2 RESULT OF THE PERSON'S USE OF THE AUTOMATED SALES SUPPRESSION DEVICE OR
3 SERVICE OR ZAPPER OR PHANTOM-WARE.

4 (c) SHALL FORFEIT ALL PROFITS ASSOCIATED WITH THE PERSON'S SALE OR
5 USE OF THE AUTOMATED SALES SUPPRESSION DEVICE OR SERVICE OR ZAPPER OR
6 PHANTOM-WARE.

7 C. A distributor as defined in section 42-3001 who violates section
8 42-3452, subsection A, paragraph 2 is guilty of a class 1 misdemeanor. If
9 the distributor is convicted of a second violation of section 42-3452,
10 subsection A, paragraph 2, the department may revoke the distributor's
11 license issued pursuant to section 42-3401.

12 D. A distributor as defined in section 42-3001 who violates any
13 provision of section 42-3401, section 42-3452, subsection A, paragraph 1
14 or section 42-3456 is guilty of a class 1 misdemeanor. If the distributor
15 is a licensee under section 42-3401 and is convicted of a second violation
16 of section 42-3456, the department may revoke the distributor's license.

17 E. It is a class 3 felony for any person to:

18 1. Except as provided in section 42-3457, transport, in an
19 unstamped or unlawfully stamped condition, for the purpose of sale ten
20 thousand or more cigarettes that were subject to the tax imposed by
21 chapter 3, article 2, 6, 7 or 9 of this title.

22 2. Wilfully sell or offer for sale, in an unstamped or unlawfully
23 stamped condition, ten thousand or more cigarettes that were subject to
24 the tax imposed by chapter 3, article 2, 6 or 7 of this title.

25 3. Wilfully sell or offer for sale off an Indian reservation ten
26 thousand or more cigarettes that are stamped for on-reservation sales.

27 F. For the purposes of subsection E of this section, the possession
28 or transportation in this state at any time by any person, other than a
29 licensed distributor, as defined in section 42-3001, of ten thousand or
30 more cigarettes in an unstamped or unlawfully stamped condition, other
31 than in interstate shipment consistent with federal contraband cigarette
32 trafficking laws (18 United States Code chapter 114), is presumptive
33 evidence that the cigarettes:

34 1. Are possessed or transported for the purpose of sale.

35 2. Are subject to the taxes imposed by chapter 3, article 2, 6, 7
36 or 9 of this title.

37 G. A person who knowingly sells a luxury on which the tax has not
38 been paid or accounted for as required by chapter 3 of this title is
39 guilty of a class 1 misdemeanor.

40 H. A retailer who possesses any package, bottle or other container
41 containing a luxury ~~which~~ THAT does not bear the stamps required to be
42 affixed by chapter 3 of this title is guilty of a class 1 misdemeanor.

43 I. A person is guilty of a class 3 misdemeanor who:

44 1. Is engaged in the business of selling a luxury, either at
45 wholesale or retail, and who knowingly refuses or fails to produce on

1 demand by the department invoices of all luxuries the person purchased or
2 received within two years immediately before the demand, unless the person
3 shows by satisfactory proof that the person is unable to do so for reasons
4 beyond the person's control.

5 2. Makes a false entry on an invoice, package or container of
6 luxuries, or who with intent to avoid the taxes imposed by chapter 3 of
7 this title presents a false entry for inspection of the department.

8 3. Knowingly prevents or hinders the department from making a full
9 inspection of any place where a luxury is sold or stored, or knowingly
10 prevents or hinders the inspection of invoices, books, records or papers
11 required to be kept.

12 4. Violates any provision of this article or an administrative rule
13 adopted by the department for which no other penalty is prescribed.

14 J. The place of trial for the offenses enumerated in this section
15 is in the county of residence or principal place of business of the
16 defendant or defendants. If the defendant has no residence or principal
17 place of business in this state, the trial shall be held in Maricopa
18 county.

19 K. A person who defrauds this state by violating any requirement
20 under chapter 3 of this title, with criminal intent to evade any such
21 requirement, is guilty of a class 4 felony and shall pay a penalty of
22 three times the retail value of the cigarettes involved.

23 L. A person who knowingly violates any requirement under chapter 3
24 of this title, with the criminal intent to evade any such requirement, is
25 guilty of a class 6 felony.

26 M. A person who knowingly sells or offers to sell off an Indian
27 reservation more than two thousand but less than ten thousand cigarettes
28 that are stamped for on-reservation sales, with the criminal intent to
29 evade the tax imposed by chapter 3 of this title, is guilty of a class 5
30 felony.

31 N. Any distributor, as defined in section 42-3001, who sells or
32 possesses more than two thousand cigarettes with false manufacturing
33 labels or cigarettes with counterfeit tax stamps, with the criminal intent
34 to evade any requirement under chapter 3 of this title, is guilty of a
35 class 5 felony and shall pay a penalty of:

36 1. For a first violation involving two thousand or more cigarettes,
37 two thousand dollars or three times the retail value of the cigarettes,
38 whichever is greater.

39 2. For a subsequent violation involving two thousand or more
40 cigarettes, fifty thousand dollars or three times the retail value of the
41 cigarettes, whichever is greater.

42 0. For the purposes of this section: —

43 1. "AUTOMATED SALES SUPPRESSION DEVICE" MEANS A COMPUTER SOFTWARE
44 PROGRAM THAT FALSIFIES THE ELECTRONIC RECORDS OF ELECTRONIC CASH REGISTERS

1 AND OTHER POINT-OF-SALE SYSTEMS, INCLUDING TRANSACTION DATA AND
2 TRANSACTION REPORTS.

3 2. "ELECTRONIC CASH REGISTER" MEANS AN ELECTRONIC OR COMPUTER
4 SYSTEM THAT RECORDS A REGISTER OR SUPPORTING DATA FOR THE PURPOSE OF
5 COMPUTING, STORING OR PROCESSING RETAIL SALES AND OTHER TRANSACTION DATA.

6 3. "Luxury" means any article, object or device on which a tax is
7 imposed under chapter 3 of this title.

8 4. "PHANTOM-WARE" MEANS HIDDEN OR CONCEALED COMPUTER SOFTWARE OR
9 HARDWARE OF AN ELECTRONIC CASH REGISTER OR OTHER POINT-OF-SALE SYSTEM THAT
10 CAN CREATE A SECOND SET OF RECORDS OR ELIMINATE OR MANIPULATE TRANSACTION
11 RECORDS THAT MAY OR MAY NOT BE PRESERVED IN DIGITAL FORMATS IN ORDER TO
12 MISREPRESENT THE EXISTENCE OR THE TRUE RECORD OF A TRANSACTION IN THE
13 ELECTRONIC CASH REGISTER.

14 5. "POINT-OF-SALE SYSTEM" MEANS AN ELECTRONIC DEVICE THAT IS USED
15 TO PROCESS CARD PAYMENTS AT RETAIL LOCATIONS.

16 6. "TRANSACTION DATA" MEANS DATA RELATING TO A COMMERCIAL
17 TRANSACTION THAT INCLUDES DATA IDENTIFYING EACH PURCHASED ITEM, THE PRICE
18 FOR EACH ITEM, A TAXABILITY DETERMINATION FOR EACH ITEM, A SEGREGATED TAX
19 AMOUNT FOR EACH TAXED ITEM, THE AMOUNT OF CASH OR CREDIT TENDERED, THE NET
20 AMOUNT OF CHANGE RETURNED TO THE CUSTOMER, THE DATE AND TIME OF THE
21 PURCHASE, THE NAME, ADDRESS AND IDENTIFICATION NUMBER OF THE VENDOR AND
22 THE RECEIPT OR INVOICE NUMBER OF THE TRANSACTION.

23 7. "TRANSACTION REPORT" MEANS ANY MEANS OR METHOD OF REPORTING,
24 DISPLAYING OR GENERATING TRANSACTION DATA.

25 8. "ZAPPER":

26 (a) MEANS A COMPUTER SOFTWARE PROGRAM THAT FALSIFIES THE ELECTRONIC
27 RECORDS OF ELECTRONIC CASH REGISTERS OR OTHER POINT-OF-SALE SYSTEMS,
28 INCLUDING, BUT NOT LIMITED TO, TRANSACTION DATA AND TRANSACTION REPORTS.

29 (b) INCLUDES THE SOFTWARE PROGRAM, ANY DEVICE THAT CARRIES THE
30 SOFTWARE PROGRAM OR AN INTERNET LINK TO THE SOFTWARE PROGRAM.

APPROVED BY THE GOVERNOR APRIL 11, 2018

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 11, 2018

Passed the House April 4, 20 18

Passed the Senate February 18, 20 18

by the following vote: 59 Ayes,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

0 Nays, 1 Not Voting

[Signature]
Speaker of the House

[Signature]
President of the Senate

[Signature]
Chief Clerk of the House

[Signature]
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~~

S.B. 1386

SENATE CONCURS IN HOUSE
AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 9, 20 18

by the following vote: 28 Ayes,

0 Nays, 2 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
9th day of April, 20 18

at 5:00 o'clock P. M.

[Signature]
Secretary to the Governor

Approved this 11th day of

April 2018

at 1:14 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 11 day of April, 20 18

at 4:50 o'clock P. M.

[Signature]
Secretary of State