

RESOLUTION OF THE
NAABIK'ÍYÁTI' COMMITTEE OF THE
NAVAJO NATION COUNCIL

23RD Navajo Nation Council - Third Year, 2017

AN ACTION

RELATING TO NAABIK'ÍYÁTI' COMMITTEE; SUPPORTING AND RECOMMENDING
THE PASSAGE OF HOUSE BILL 2335, 53rd LEGISLATURE - STATE OF
ARIZONA

WHEREAS:


- A. Statements of policy are written statements submitted to federal, state or local governments by a Navajo Nation official stating the official position of the Navajo Nation on proposed legislation or other action by that government. See 2 N.N.C. § 100 (W).
- B. The House Bill 2335 (H.B. 2335) - sponsored by Representative Boyer, Carter and Coleman - was introduced to the 53rd Legislature - State of Arizona - First Regular Session, 2017, attached hereto as **Exhibit A**.
- C. The H.B. 2335 was introduced to amend sections 13-3622, 36-3622, 36-798, 36-798.01, 36-798.02 and 36-798.05; and add in section 36-798.07 Arizona Revised Statutes; relating to tobacco.
- D. The major amendment in H.B. 2335 is striking "minor" and inserting "a person who is under twenty-one years of age." By amending minor to "a person who is under twenty-one years of age" changes the meaning of who is an underage person within the amended sections.

NOW THEREFORE, BE IT RESOLVED:

- A. The Navajo Nation supports and recommends the passage of H.B. 2335.
- B. The Navajo Nation hereby authorizes the Navajo Nation President, the Navajo Nation Speaker, the Navajo Nation Chief Justice and their designees, to advocate for the passage of H.B. 2335.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Naabik'íyáti' Committee of the 23rd Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 12 in favor and 0 oppose, this 25th day of May, 2017.

A handwritten signature in dark ink, appearing to read 'Lorenzo C. Bates', written in a cursive style.

Honorable Lorenzo C. Bates, Chairperson
Naabik'íyáti' Committee

Motion: Honorable Jonathan Perry
Second: Honorable Edmund Yazzie

12

23rd Navajo Nation Council

Naabik'iyati' Committee

Date: May 25, 2017

Legislation No. 0184-17

Motion: Jonathan Perry

Second: Edmund Yazzie

ALL DELEGATES:

	Yea	Nay
BATES, LoRenzo		
BEGAY, Kee Allen Jr.	✓	
BEGAY, Norman M.		
BEGAY, Steven	✓	
BEGAYE, Nelson	✓	
BENNETT, Benjamin L.		
BROWN, Nathaniel		
CHEE, Tom T.	✓	
CROTTY, Amber K.		
DAMON, Seth		
DANIELS, Herman	✓	
FILFRED, Davis		
HALE, Jonathan L.	✓	
JACK, Lee Sr.		
PERRY, Jonathan	✓	
PETE, Leonard H.	✓	
PHELPS, Walter		
SHEPHERD, Alton Joe		
SLIM, Tuchoney Jr.	✓	
SMITH, Raymond Jr.		
TSO, Otto	✓	
TSOSIE, Leonard	✓	
WITHERSPOON, Dwight		
YAZZIE, Edmund	✓	


BY COMMITTEE:

	Yea	Nay	TOTAL
BFC:			
CHEE, Tom T.			
DAMON, Seth			
JACK, Lee Sr.			
SLIM, Tuchoney Jr.			
WITHERSPOON, Dwight			
TSOSIE, Leonard			
HEHSC:			
BEGAY, Norman M.			
BEGAY, Steven			
BEGAYE, Nelson			
BROWN, Nathaniel			
CROTTY, Amber K.			
HALE, Jonathan L.			
LOC:			
BEGAY, Kee Allen Jr.			
DANIELS, Herman			
SMITH, Raymond Jr.			
TSO, Otto			
YAZZIE, Edmund			
RDC:			
BENNETT, Benjamin L.			
FILFRED, Davis			
PERRY, Jonathan			
PETE, Leonard H.			
PHELPS, Walter			
SHEPHERD, Alton Joe			
SPEAKER:			
BATES, LoRenzo			
(Votes only in a tie)			

GRAND TOTAL

12 | 0

CERTIFICATION:



Honorable LoRenzo Bates
Speaker



REFERENCE TITLE: tobacco possession; sale; age; signage

State of Arizona
House of Representatives
Fifty-third Legislature
First Regular Session
2017

HB 2335

Introduced by
Representatives Boyer: Carter, Coleman

AN ACT

AMENDING SECTIONS 13-3622, 36-798, 36-798.01, 36-798.02 AND 36-798.05,
ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 6, ARTICLE 14,
ARIZONA REVISED STATUTES, BY ADDING SECTION 36-798.07; RELATING TO
TOBACCO.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 13-3622, Arizona Revised Statutes, is amended to
3 read:

4 13-3622. Furnishing of tobacco product to underage person;
5 underage person accepting or receiving tobacco
6 product; illegally obtaining tobacco product by
7 underage person; classification; definitions

8 A. A person who knowingly sells, gives or furnishes a tobacco
9 product, ~~a vapor product or any instrument or paraphernalia that is solely~~
10 ~~designed for the smoking or ingestion of tobacco or shisha, including a~~
11 ~~hookah or waterpipe,~~ to a ~~minor~~ PERSON WHO IS UNDER TWENTY-ONE YEARS OF
12 AGE is guilty of a petty offense.

13 B. A ~~minor~~ PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE AND who
14 buys, or has in his possession or knowingly accepts or receives from any
15 person, a tobacco product, ~~a vapor product or any instrument or~~
16 ~~paraphernalia that is solely designed for the smoking or ingestion of~~
17 ~~tobacco or shisha, including a hookah or waterpipe,~~ is guilty of a petty
18 offense, and if the offense involves any instrument or paraphernalia that
19 is solely designed for the smoking or ingestion of tobacco or shisha,
20 shall pay a fine of not less than one hundred dollars or perform not less
21 than thirty hours of community restitution.

22 C. A ~~minor~~ PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE AND who
23 misrepresents the ~~minor's~~ PERSON'S age to any ANOTHER person by means of
24 a written instrument of identification with the intent to induce the OTHER
25 person to sell, give or furnish a tobacco product, ~~a vapor product or any~~
26 ~~instrument or paraphernalia that is solely designed for the smoking or~~
27 ~~ingestion of tobacco or shisha, including a hookah or waterpipe,~~ in
28 violation of subsection A or B of this section is guilty of a petty
29 offense and, notwithstanding section 13-802, shall pay a fine of not more
30 than five hundred dollars.

31 D. This section does not apply to any of the following:

32 1. Cigars, cigarettes or cigarette papers, smoking or chewing
33 tobacco or any instrument or paraphernalia that is solely designed for the
34 smoking or ingestion of tobacco or shisha, ~~including a hookah or~~
35 ~~waterpipe,~~ if it is used or intended to be used in connection with a bona
36 fide practice of a religious belief and as an integral part of a religious
37 or ceremonial exercise.

38 2. Any instrument or paraphernalia that is solely designed for the
39 smoking or ingestion of tobacco or shisha, ~~including a hookah or~~
40 ~~waterpipe,~~ that is given to or possessed by a ~~minor~~ PERSON WHO IS UNDER
41 TWENTY-ONE YEARS OF AGE if the instrument or paraphernalia was a gift or
42 souvenir and is not used or intended to be used by the ~~minor~~ PERSON WHO IS
43 UNDER TWENTY-ONE YEARS OF AGE to smoke or ingest tobacco or shisha.

1 E. For the purposes of this section:

2 1. "ELECTRONIC SMOKING DEVICE" MEANS ANY DEVICE THAT CAN BE USED TO
3 DELIVER AEROSOLIZED OR VAPORIZED NICOTINE TO THE PERSON INHALING FROM THE
4 DEVICE, INCLUDING AN E-CIGARETTE, E-CIGAR, VAPE PEN OR E-HOOKAH, AND ANY
5 COMPONENT, PART OR ACCESSORY OF THE DEVICE, WHETHER OR NOT SOLD
6 SEPARATELY, AND INCLUDES ANY SUBSTANCE INTENDED TO BE AEROSOLIZED OR
7 VAPORIZED DURING THE USE OF THE DEVICE.

8 2. "PERSON" INCLUDES A RETAILER.

9 ~~1.~~ 3. "Shisha" includes any mixture of tobacco leaf and honey,
10 molasses or dried fruit or any other sweetener.

11 ~~2.~~ 4. "Tobacco product":

12 (a) Means any ~~of the following:~~

13 ~~(a) Cigars.~~

14 ~~(b) Cigarettes.~~

15 ~~(c) Cigarette papers of any kind.~~

16 ~~(d) Smoking tobacco of any kind.~~

17 ~~(e) Chewing tobacco of any kind~~ PRODUCT THAT IS MADE OR DERIVED
18 FROM TOBACCO AND THAT IS INTENDED FOR HUMAN CONSUMPTION OR IS LIKELY TO BE
19 CONSUMED, WHETHER SMOKED, HEATED, CHEWED, ABSORBED, DISSOLVED, INHALED OR
20 INGESTED BY ANY OTHER MEANS.

21 (b) INCLUDES A CIGARETTE, A CIGAR, PIPE TOBACCO, CHEWING TOBACCO,
22 SHISHA, SNUFF, SNUS, AN ELECTRONIC SMOKING DEVICE, WHETHER OR NOT THE
23 DEVICE CONTAINS NICOTINE, AND ANY COMPONENT, ACCESSORY, INSTRUMENT OR
24 PARAPHERNALIA THAT IS USED IN THE CONSUMPTION OF A TOBACCO PRODUCT OR THAT
25 IS SOLELY DESIGNED FOR THE SMOKING OR INGESTING OF TOBACCO OR SHISHA,
26 INCLUDING A HOOKAH, A WATERPIPE, A FILTER, ROLLING PAPERS, A PIPE OR
27 LIQUIDS USED IN ELECTRONIC SMOKING DEVICES.

28 (c) DOES NOT INCLUDE DRUGS, DEVICES OR COMBINATION PRODUCTS THAT
29 ARE AUTHORIZED FOR SALE BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION
30 AS THOSE TERMS ARE DEFINED IN THE FEDERAL FOOD, DRUG AND COSMETIC ACT.

31 ~~3. "Vapor product" means a noncombustible tobacco-derived product~~
32 ~~containing nicotine that employs a mechanical heating element, battery or~~
33 ~~circuit, regardless of shape or size, that can be used to heat a liquid~~
34 ~~nicotine solution contained in cartridges. Vapor product does not include~~
35 ~~any product that is regulated by the United States food and drug~~
36 ~~administration under chapter V of the federal food, drug and cosmetic act.~~

37 Sec. 2. Section 36-798, Arizona Revised Statutes, is amended to
38 read:

39 36-798. Definitions

40 In this article, unless the context otherwise requires:

41 1. "Bar" means that portion of any premises licensed under section
42 4-209, subsection B, paragraph 6, 7, 11, 12 or 14 that is primarily used
43 for the selling, consumption or serving of alcoholic beverages and that is
44 not primarily used for the consumption of food on the premises.

1 2. "Beedies" or "bidis" means a product containing tobacco that is
2 wrapped in temburni leaf (diospyros melanoxylon) or tendu leaf (diospyros
3 exculpra), or any other product that is offered to, or purchased by,
4 consumers as beedies or bidis.

5 3. "Cigar" means a roll of tobacco or any lawful substitute for
6 tobacco that is wrapped in tobacco.

7 4. "Cigarette" means a roll of tobacco or any lawful substitute for
8 tobacco that is wrapped in paper or in any substance other than tobacco.

9 ~~5. "Minor" means a person who is under eighteen years of age.~~

10 5. "ELECTRONIC SMOKING DEVICE" MEANS ANY DEVICE THAT CAN BE USED TO
11 DELIVER AEROSOLIZED OR VAPORIZED NICOTINE TO THE PERSON INHALING FROM THE
12 DEVICE, INCLUDING AN E-CIGARETTE, E-CIGAR, VAPE PEN OR E-HOOKAH, AND ANY
13 COMPONENT, PART OR ACCESSORY OF THE DEVICE, WHETHER OR NOT SOLD
14 SEPARATELY, AND INCLUDES ANY SUBSTANCE INTENDED TO BE AEROSOLIZED OR
15 VAPORIZED DURING THE USE OF THE DEVICE.

16 6. "Retail tobacco vendor" means a person who possesses tobacco or
17 tobacco products for the purpose of selling them for consumption and not
18 for resale.

19 7. "Smokeless tobacco" includes shredded tobacco, snuff, cavendish
20 and plug, twist and other tobacco products that are intended for oral use
21 but not for smoking.

22 8. "Smoking tobacco" includes any tobacco or tobacco product, other
23 than cigarettes and cigars, that is intended to be smoked.

24 ~~9. "Tobacco products" includes cigarettes, cigarette papers,~~
25 ~~cigars, smokeless tobacco and smoking tobacco. :~~

26 (a) MEANS ANY PRODUCT THAT IS MADE OR DERIVED FROM TOBACCO AND THAT
27 IS INTENDED FOR HUMAN CONSUMPTION OR IS LIKELY TO BE CONSUMED, WHETHER
28 SMOKED, HEATED, CHEWED, ABSORBED, DISSOLVED, INHALED OR INGESTED BY ANY
29 OTHER MEANS.

30 (b) INCLUDES A CIGARETTE, A CIGAR, PIPE TOBACCO, CHEWING TOBACCO,
31 SHISHA, SNUFF, SNUS, AN ELECTRONIC SMOKING DEVICE, WHETHER OR NOT THE
32 DEVICE CONTAINS NICOTINE, AND ANY COMPONENT, ACCESSORY, INSTRUMENT OR
33 PARAPHERNALIA THAT IS USED IN THE CONSUMPTION OF A TOBACCO PRODUCT OR THAT
34 IS SOLELY DESIGNED FOR THE SMOKING OR INGESTING OF TOBACCO OR SHISHA,
35 INCLUDING A HOOKAH, A WATERPIPE, A FILTER, ROLLING PAPERS, A PIPE OR
36 LIQUIDS USED IN ELECTRONIC SMOKING DEVICES.

37 (c) DOES NOT INCLUDE DRUGS, DEVICES OR COMBINATION PRODUCTS THAT
38 ARE AUTHORIZED FOR SALE BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION
39 AS THOSE TERMS ARE DEFINED IN THE FEDERAL FOOD, DRUG AND COSMETIC ACT.

40 10. "Vending machine" means any mechanical, electrical or
41 electronic device that, on insertion of money, tokens or any other form of
42 payment, automatically dispenses tobacco products.

1 Sec. 3. Section 36-798.01, Arizona Revised Statutes, is amended to
2 read:

3 36-798.01. Selling or giving beedies or bidis; violation;
4 classification

5 A. It is unlawful for a retail tobacco vendor to sell, furnish,
6 give or provide beedies or bidis to ~~a minor~~ AN INDIVIDUAL WHO IS UNDER
7 TWENTY-ONE YEARS OF AGE in this state.

8 B. Any person who violates this section is guilty of a class 3
9 misdemeanor.

10 Sec. 4. Section 36-798.02, Arizona Revised Statutes, is amended to
11 read:

12 36-798.02. Vending machine sales of tobacco and tobacco
13 products; signage; violation; classification

14 A. A person shall not sell tobacco products through a vending
15 machine unless the vending machine is located in either:

16 1. A bar.

17 2. An employee lounge area that is not open to the public and the
18 business in which the lounge area is located does not employ ~~minors~~ ANY
19 INDIVIDUAL WHO IS UNDER TWENTY-ONE YEARS OF AGE.

20 B. A sign measuring at least eighty square inches shall be
21 obviously affixed to the front of each vending machine. The sign shall
22 state in block letters, THAT it is illegal for ~~a minor~~ AN INDIVIDUAL WHO
23 IS UNDER TWENTY-ONE YEARS OF AGE to purchase cigarettes or tobacco
24 products and, upon conviction, a fine of up to three hundred dollars may
25 be imposed.

26 C. This article does not invalidate an ordinance of or prohibit the
27 adoption of an ordinance by a county, city or town to further restrict the
28 location of vending machines or specify different wording for the vending
29 ~~machines~~ MACHINE signs as required by subsection B of this section.

30 D. A person who violates this section is guilty of a petty offense.

31 Sec. 5. Section 36-798.05, Arizona Revised Statutes, is amended to
32 read:

33 36-798.05. Unsolicited delivery of tobacco products;
34 violation; classification; civil penalties;
35 definitions

36 A. It is unlawful for a person to deliver or cause to be delivered
37 to any residence in this state any tobacco products unsolicited by at
38 least one ~~adult~~ INDIVIDUAL WHO IS AT LEAST TWENTY-ONE YEARS OF AGE AND who
39 resides at that address.

40 B. A person who knowingly violates subsection A of this section is
41 guilty of a class 2 misdemeanor.

42 C. A person who violates subsection A of this section is subject to
43 a civil penalty in an amount of not to exceed five thousand dollars for
44 each violation. Each delivery of a tobacco product shall constitute a
45 separate violation.

1 D. The attorney general may bring an action to recover civil
2 penalties and as determined by the court, taxable costs, such other fees
3 and expenses reasonably incurred and reasonable attorney fees, in the name
4 of the state for a violation of this section. All civil penalties
5 recovered shall be deposited, pursuant to sections 35-146 and 35-147, in
6 the state general fund and all other monies recovered shall be deposited,
7 pursuant to sections 35-146 and 35-147, in the antitrust enforcement
8 revolving fund established by section 41-191.02.

9 E. ~~in~~ FOR THE PURPOSES OF this section, ~~unless the context~~
10 ~~otherwise requires:~~

11 1. "Knowingly" has the same meaning prescribed in section 13-105.

12 2. "Person" means an individual, partnership, firm, association,
13 corporation, limited liability company, limited liability partnership,
14 joint venture, or other entity, other than an individual or entity
15 engaged in the delivery of items for hire.

16 Sec. 6. Title 36, chapter 6, article 14, Arizona Revised Statutes,
17 is amended by adding section 36-798.07, to read:

18 36-798.07. Retail tobacco vendor; signage; unlawful practice;
19 violation; classification

20 A. A RETAIL TOBACCO VENDOR MAY NOT SELL OR PERMIT THE SALE OF
21 TOBACCO PRODUCTS UNLESS A SIGN IS POSTED AT THE LOCATION WHERE THE TOBACCO
22 PRODUCTS ARE AVAILABLE FOR PURCHASE. THE SIGN MUST MEASURE AT LEAST
23 EIGHTY SQUARE INCHES AND STATE IN BLOCK LETTERS THAT ARE AT LEAST ONE-HALF
24 INCH IN HEIGHT THAT A PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE MAY NOT
25 PURCHASE TOBACCO PRODUCTS.

26 B. THIS SECTION DOES NOT INVALIDATE AN ORDINANCE OF OR PROHIBIT THE
27 ADOPTION OF AN ORDINANCE BY A COUNTY, CITY OR TOWN THAT HAS STRICTER
28 SIGNAGE REQUIREMENTS AT THE LOCATION WHERE TOBACCO PRODUCTS ARE SOLD OR
29 THAT SPECIFIES DIFFERENT WORDING FOR THE SIGN THAN THE WORDING THAT IS
30 REQUIRED BY THIS SECTION.

31 C. A VIOLATION OF THIS SECTION IS AN UNLAWFUL PRACTICE UNDER
32 SECTION 44-1522 AND IS IN ADDITION TO ALL OTHER CAUSES OF ACTION, REMEDIES
33 AND PENALTIES THAT ARE AVAILABLE TO THIS STATE. THE ATTORNEY GENERAL MAY
34 INVESTIGATE AND TAKE APPROPRIATE ACTION PURSUANT TO TITLE 44, CHAPTER 10,
35 ARTICLE 7.

36 D. A VIOLATION OF THIS SECTION IS A PETTY OFFENSE.