

REFERENCE TITLE: sports authority district; tourism; board

State of Arizona  
House of Representatives  
Fifty-second Legislature  
First Regular Session  
2015

## HB 2619

Introduced by  
Representatives Leach, Andrade, Cardenas, Steele, Wheeler: Kern, Mitchell,  
Velasquez

AN ACT

AMENDING SECTIONS 5-1101, 5-1102, 5-1103 AND 5-1104, ARIZONA REVISED STATUTES; REPEALING SECTIONS 5-1106 AND 5-1107, ARIZONA REVISED STATUTES; AMENDING SECTIONS 5-1133, 5-1134, 5-1135, 5-1136 AND 5-1137, ARIZONA REVISED STATUTES; REPEALING SECTION 5-1139, ARIZONA REVISED STATUTES; REPEALING TITLE 5, CHAPTER 9, ARTICLE 3, ARIZONA REVISED STATUTES; REPEALING LAWS 2009, CHAPTER 122, SECTION 4; AMENDING LAWS 2010, CHAPTER 117, SECTION 18; RELATING TO THE SPORTS AUTHORITY DISTRICT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Heading change

3 The chapter heading of title 5, chapter 9, Arizona Revised Statutes, is  
4 changed from "SPORTS AUTHORITY DISTRICT" to "SPORTS AND TOURISM AUTHORITY  
5 DISTRICT".

6 Sec. 2. Section 5-1101, Arizona Revised Statutes, is amended to read:

7 5-1101. Definitions

8 In this chapter, unless the context otherwise requires:

9 1. "Advisory board" means the advisory board of the sports **AND TOURISM**  
10 authority.

11 2. "Authority" means a sports **AND TOURISM** authority established  
12 pursuant to this chapter.

13 3. "Authority board" means the governing board of the sports **AND**  
14 **TOURISM** authority.

15 4. "Board of directors" means the county board of supervisors serving  
16 as the board of directors of the district.

17 5. "District" means a sports **AND TOURISM** authority district  
18 established pursuant to this chapter.

19 6. "Multipurpose facility" means a stadium or a facility for youth **AND**  
20 sports that is adapted for additional entertainment, cultural, civic,  
21 meeting, trade show or convention events, on-site infrastructure and related  
22 parking facilities and commercial activity within the facility.

23 ~~7. "Stadium" means a facility intended primarily for use by one or  
24 more major league baseball spring training operations, including baseball  
25 stadiums, clubhouses, practice facilities, other related facilities, on-site  
26 infrastructure and related parking facilities and commercial activity within  
27 the facility.~~

28 ~~8.~~ 7. "Youth **AND** sports" means recreational and amateur sporting  
29 related activities and competitions organized in the district.

30 Sec. 3. Section 5-1102, Arizona Revised Statutes, is amended to read:

31 5-1102. Formation of district; board of directors; duties

32 A. A sports **AND TOURISM** authority district is established in each  
33 county having a population of more than five hundred thousand but less than  
34 two million persons. The boundaries of the district are the boundaries of  
35 the county.

36 B. The county board of supervisors shall serve as the board of  
37 directors of the district. The directors shall not receive compensation or  
38 reimbursement of expenses for their services as the board of directors.

39 C. The board of directors may call an election for the establishment  
40 of a sports **AND TOURISM** authority district in the county as provided by  
41 section 5-1103, subsection A.

42 D. The board of directors shall:

43 1. Appoint certain members of the governing board of the sports **AND**  
44 **TOURISM** authority as provided by section 5-1103, subsection D.

1           2. Approve a budget of the authority pursuant to section 5-1131.

2           ~~3. Approve the issuance of revenue bonds of the authority pursuant to~~  
3 ~~article 3 of this chapter.~~

4           E. The district is a corporate and political body, separate and  
5 independent of this state or the county, and except as otherwise limited,  
6 modified or provided by this chapter, has all of the rights, powers and  
7 immunities of municipal corporations except to acquire real property by  
8 eminent domain. The board of directors and the district do not have the  
9 authority to levy or otherwise impose any tax or assessment, other than  
10 charges for the use of facilities owned or managed by the district. The  
11 qualified electors residing in the district may levy a tax for the fiscal  
12 needs of the authority as provided by this chapter, but the board of  
13 directors has no independent authority to impose a tax. Subject to that  
14 limitation, the district is considered to be a tax levying public improvement  
15 district for the purposes of article XIII, section 7, Constitution of  
16 Arizona.

17           Sec. 4. Section 5-1103, Arizona Revised Statutes, is amended to read:  
18           5-1103. Sports and tourism authority; establishment; authority  
19           board

20           A. The board of directors may call an election of the qualified  
21 electors of the district to authorize the establishment of a sports **AND**  
22 **TOURISM** authority within and coterminous with the boundaries of the district.  
23 The election, if held, shall occur on one of the next eight ~~general~~ election  
24 dates held on the first Tuesday after the first Monday in November following  
25 the establishment of the district.

26           B. The election ballot shall include the following questions:

27           1. "Shall a sports **AND TOURISM** authority be established in \_\_\_\_  
28 county?".

29           2. "Shall the sports **AND TOURISM** authority district be authorized to  
30 levy and collect taxes as provided by sections 5-1133 through 5-1137, Arizona  
31 Revised Statutes, **TO BE ALLOCATED AS FOLLOWS:**

32           (a) **FIFTY PERCENT OF WHICH SHALL BE DISTRIBUTED TO A DULY RECOGNIZED**  
33 **REGIONAL DESTINATION MARKETING ORGANIZATION FOR SPONSORING MARKET-WIDE EVENTS**  
34 **AND FOR MARKETING THE DESTINATION.**

35           (b) **TWENTY-FIVE PERCENT OF WHICH SHALL BE USED FOR AIRPORT SERVICE**  
36 **RETENTION AND EXPANSION TO THE DESTINATION.**

37           (c) **TWENTY-FIVE PERCENT OF WHICH SHALL BE USED TO ASSIST WITH**  
38 **OPERATIONAL EXPENSES OF COUNTY YOUTH AND AMATEUR SPORTS FACILITIES?".**

39           ~~3. "Shall the sports authority district issue revenue bonds to finance~~  
40 ~~the construction, renovation, expansion or repair of cactus league baseball~~  
41 ~~stadiums, youth sports facilities and multipurpose facilities, to be paid~~  
42 ~~exclusively from revenues of the authority?".~~

43           C. The board of directors shall order the establishment of the  
44 authority on the approval of all questions by a majority of the qualified  
45 electors voting on each issue in the election. If any question is

1 disapproved, the authority shall not be established and further proceedings  
2 under this chapter shall be terminated.

3 ~~D. Members of the authority board, who must reside in the district,~~  
4 ~~shall be appointed within thirty days after the formation of the district as~~  
5 ~~follows:~~

6 ~~1. One member who is appointed by the board of directors and who is~~  
7 ~~selected from a list of nominees submitted by the largest industry~~  
8 ~~organization or trade association, as measured by its members' gross~~  
9 ~~revenues, representing hotel, motel and lodging businesses in the district.~~

10 ~~2. One member who is appointed by the board of directors and who is~~  
11 ~~selected from a list of nominees submitted by the largest industry~~  
12 ~~organization or trade association, as measured by its members' gross~~  
13 ~~revenues, representing restaurant businesses in the district.~~

14 ~~3. One member who is appointed by the board of directors and who is~~  
15 ~~selected from a list of nominees submitted by the largest industry~~  
16 ~~organization or trade association in this state specializing in on-sale and~~  
17 ~~off-sale retail liquor distribution.~~

18 ~~4. One member who is appointed by the board of directors, who~~  
19 ~~represents youth and amateur sports in the district and who is selected from~~  
20 ~~a list of nominees submitted by the largest youth or amateur sports~~  
21 ~~organization in the district as measured by the size of its membership.~~

22 ~~5. One member who is appointed by the governing body of the largest~~  
23 ~~city in the district, as measured by population, and who is selected from a~~  
24 ~~list of nominees submitted by the largest industry organization or trade~~  
25 ~~association representing automobile rental businesses in the district.~~

26 ~~6. One member who is appointed by the governing body of the largest~~  
27 ~~city in the district, as measured by population, and who is selected from a~~  
28 ~~list of nominees submitted by the largest industry organization or trade~~  
29 ~~association, as measured by its members' gross revenues, representing tourism~~  
30 ~~businesses generally in the district.~~

31 ~~7. One member who is appointed pursuant to subsection G of this~~  
32 ~~section and who is selected from a list of nominees submitted by the largest~~  
33 ~~industry organization or trade association, as measured by its members' gross~~  
34 ~~revenues, representing tourism businesses generally in the district.~~

35 ~~8. One member who is appointed pursuant to subsection G of this~~  
36 ~~section and who is selected from a list of nominees submitted by the largest~~  
37 ~~chamber of commerce in the city making the appointment representing retail~~  
38 ~~businesses generally in the district.~~

39 ~~9. One member who is appointed pursuant to subsection G of this~~  
40 ~~section and who has substantial knowledge and experience regarding major~~  
41 ~~league baseball.~~

42 ~~10. Two additional members who are appointed by the county board of~~  
43 ~~supervisors, or by any city or town, that contributes at least twenty per~~  
44 ~~cent of the cost of a project pursuant to section 5-1106, subsection C if the~~  
45 ~~contribution has a value of at least fifteen million dollars. Members shall~~

1 ~~be appointed pursuant to this paragraph within thirty days after the~~  
2 ~~execution of a binding agreement to make a qualifying contribution.~~

3 D. MEMBERS OF THE AUTHORITY BOARD, WHO MUST RESIDE IN THE DISTRICT,  
4 SHALL BE APPOINTED WITHIN THIRTY DAYS AFTER THE FORMATION OF THE DISTRICT AS  
5 FOLLOWS:

6 1. EACH MEMBER OF THE BOARD OF DIRECTORS SHALL EACH APPOINT ONE MEMBER  
7 AS FOLLOWS:

8 (a) ONE MEMBER WHO IS SELECTED FROM A LIST OF NOMINEES SUBMITTED BY  
9 THE LARGEST INDUSTRY ORGANIZATION OR TRADE ASSOCIATION, AS MEASURED BY ITS  
10 MEMBERS' GROSS REVENUES, REPRESENTING HOTEL, MOTEL AND LODGING BUSINESSES IN  
11 THE DISTRICT.

12 (b) ONE MEMBER WHO IS SELECTED FROM A LIST OF NOMINEES SUBMITTED BY  
13 THE LARGEST INDUSTRY ORGANIZATION OR TRADE ASSOCIATION, AS MEASURED BY ITS  
14 MEMBERS' GROSS REVENUES, REPRESENTING RESTAURANT BUSINESSES IN THE DISTRICT.

15 (c) ONE MEMBER WHO IS SELECTED FROM A LIST OF NOMINEES SUBMITTED BY  
16 THE LARGEST INDUSTRY ORGANIZATION OR TRADE ASSOCIATION REPRESENTING  
17 AUTOMOBILE RENTAL BUSINESSES IN THE DISTRICT.

18 (d) ONE MEMBER WHO IS SELECTED FROM A LIST OF NOMINEES SUBMITTED BY  
19 THE LARGEST CHAMBER OF COMMERCE IN THE DISTRICT REPRESENTING RETAIL  
20 BUSINESSES GENERALLY IN THE DISTRICT.

21 (e) ONE MEMBER WHO IS A REPRESENTATIVE OF A DULY RECOGNIZED REGIONAL  
22 DESTINATION MARKETING ORGANIZATION IN THE DISTRICT.

23 2. THE COUNTY ADMINISTRATOR SHALL APPOINT TWO MEMBERS.

24 E. The appointing entities prescribed in subsection D of this section  
25 shall receive nominations for appointment to the authority board from  
26 specified commercial interests, and shall appoint the members from the  
27 nominees. The appointing entities shall make appointments to the authority  
28 board to provide broad geographic representation among the members. The  
29 initial members shall be appointed to terms of two, three and four years,  
30 chosen by lot. All subsequent members shall be appointed to terms of four  
31 years, except for interim appointments to fill unexpired terms. A member of  
32 the board may be removed on a two-thirds vote of all members. The removal is  
33 effective immediately.

34 F. A member of the authority board shall not hold any elected office  
35 while serving on the board. An authority board member who takes elective  
36 office, who files nominating petitions for elective office or who is  
37 appointed to an elective office is considered to have resigned from the  
38 authority board effective immediately.

39 ~~G. The appointment of the authority board members pursuant to~~  
40 ~~subsection D, paragraphs 7, 8 and 9 of this section shall be determined as~~  
41 ~~follows:~~

42 ~~1. The first appointment shall be made by the governing body of the~~  
43 ~~second largest city in the district.~~

44 ~~2. The second appointment shall be made by the governing body of the~~  
45 ~~third largest city in the district.~~

1           ~~3. Each subsequent appointment shall be made by the governing bodies~~  
2 ~~of the next largest cities in the district in order of population, until~~  
3 ~~governing bodies of all cities in the district have made an appointment.~~

4           ~~4. Subsequent appointments shall repeat the sequence of appointments~~  
5 ~~provided in paragraphs 1, 2 and 3 of this subsection.~~

6           ~~5. For the purposes of this subsection, the population of cities and~~  
7 ~~towns in the district shall be based on the population at the time of each~~  
8 ~~appointment made by the second largest city in the district.~~

9           ~~6. If there is a vacancy of a member of the authority board appointed~~  
10 ~~pursuant to subsection D, paragraph 7, 8 or 9 of this section, the governing~~  
11 ~~body that appointed the vacating member shall appoint a replacement for the~~  
12 ~~remainder of the unexpired term.~~

13           Sec. 5. Section 5-1104, Arizona Revised Statutes, is amended to read:

14           5-1104. Sports and tourism authority plan; authority board  
15 powers and duties; advisory board

16           A. The authority board shall submit a plan for the operation of the  
17 sports AND TOURISM authority, ~~including proposals for the construction,~~  
18 ~~renovation, expansion or repair of stadiums, multipurpose facilities and~~  
19 ~~youth sports facilities as provided in this chapter.~~ THE AUTHORITY BOARD  
20 SHALL COLLABORATE WITH THE DULY RECOGNIZED REGIONAL DESTINATION MARKETING  
21 ORGANIZATION IN THE DISTRICT AND THE COUNTY ON THE USE OF THE MONIES  
22 DISTRIBUTED PURSUANT TO THIS CHAPTER. THE DULY RECOGNIZED REGIONAL  
23 DESTINATION MARKETING ORGANIZATION AND THE COUNTY SHALL EACH SUBMIT A  
24 PROPOSED ANNUAL PLAN AND BUDGET TO THE AUTHORITY BOARD FOR REVIEW AND  
25 COMMENT. The plan shall:

26           1. Be developed and submitted to the board of directors within ninety  
27 days after the appointment of the initial authority board.

28           2. Be finalized following public hearings and meetings held in the  
29 authority.

30           3. Specify the general purposes for which the monies of the authority,  
31 including tax revenues pursuant to sections 5-1133 through 5-1137, will be  
32 spent during the first twenty years of the authority's operations.

33           B. In addition, the authority board, on behalf of the sports AND  
34 TOURISM authority, shall:

35           ~~1. Promote major league baseball spring training in the authority.~~

36           ~~2. Acquire, construct, lease, finance, lease purchase or otherwise~~  
37 ~~obtain use of facilities for major league baseball spring training and~~  
38 ~~related activities.~~

39           ~~3.~~ 1. Provide grants and assistance to political subdivisions of this  
40 state and to nonprofit corporations for the development and operations of  
41 sporting activities.

42           ~~4.~~ 2. Approve capital projects that are provided by the budget.

43           ~~5. Issue revenue bonds pursuant to article 3 of this chapter.~~

44           ~~6.~~ 3. Appoint from among its members a chairperson, a secretary and  
45 such other officers as may be necessary to conduct its business.

1           ~~7.~~ 4. Employ an executive director and prescribe the terms and  
2 conditions of employment.

3           ~~8.~~ 5. Keep and maintain a complete and accurate record of all of its  
4 proceedings. The board is a public body for purposes of title 38, chapter 3,  
5 article 3.1 and title 39, chapter 1.

6           ~~9.~~ 6. Provide for the use, maintenance and operation of the  
7 properties and interests owned or managed by the authority.

8           7. BE RESPONSIBLE FOR THE COMPLETION OF ALL FINANCIAL REPORTS,  
9 INCLUDING TAX RETURNS.

10          8. REPORT TO THE BOARD OF DIRECTORS AT LEAST ANNUALLY ON ALL PROJECTS  
11 FINANCED BY THE AUTHORITY AND THE RESULTS OF THOSE PROJECTS.

12          C. The authority board may:

13           1. Enter into contracts, including intergovernmental agreements under  
14 title 11, chapter 7, article 3, as necessary to carry out the purposes and  
15 requirements of this chapter.

16           2. Adopt administrative rules as necessary to administer and operate  
17 the authority and any property under its jurisdiction.

18           3. Acquire by any lawful means, other than eminent domain, and  
19 operate, maintain, encumber and dispose of real and personal property and  
20 interests in property.

21           4. Retain legal counsel and other consultants as necessary to carry  
22 out the purposes of the authority.

23           5. Enter into contracts for the lease or rental of any facility or  
24 facilities of the authority with a nonprofit community based organization  
25 that sponsors a professional or youth sporting event that provide for the  
26 payment to the organization of a ticket surcharge or facility user fee  
27 associated with parking ~~if the authority has fully paid the current year's~~  
28 ~~required principal and interest payments on any outstanding authority bonds~~  
29 ~~for which these revenues were pledged pursuant to article 3 of this chapter.~~

30          D. The authority shall comply with zoning, lighting and all other laws  
31 and ordinances of the county, city or town with zoning jurisdiction over any  
32 property owned by the authority.

33          E. The authority board shall appoint an advisory board consisting of  
34 members representing a broad spectrum of interested parties for the purpose  
35 of advising the authority in its activities to fully perform and accomplish  
36 its purposes.

37          Sec. 6. Repeal

38          Sections 5-1106 and 5-1107, Arizona Revised Statutes, are repealed.

39          Sec. 7. Section 5-1133, Arizona Revised Statutes, is amended to read:  
40          5-1133. Excise tax on car rentals

41          A. The qualified electors, by majority vote at an election held  
42 pursuant to section 5-1103, may levy and, if levied, the department of  
43 revenue shall collect an excise tax on the gross proceeds of sales or gross  
44 income from the business of leasing or renting motor vehicles in the  
45 authority by a person engaging or continuing in a business taxed under title

1 42, chapter 5 and classified under section 42-5071, beginning on the first  
2 day of the first month beginning ninety days after the election. The tax  
3 shall be in effect for three hundred sixty months ~~except as provided by~~  
4 ~~section 5-1139~~. The tax imposed pursuant to this section is in addition to  
5 any other taxes levied by this state or any other political subdivision of  
6 this state.

7 B. ~~Except as provided by section 5-1139~~, The rate of the tax is .35  
8 ~~per cent~~ PERCENT of the tax base prescribed by section 42-5071.

9 C. The tax applies to the business of leasing or renting in the  
10 authority, for less than one year, motor vehicles for hire without a driver  
11 that are designed to operate on the streets and highways of this state and  
12 that are primarily intended to carry not more than fourteen passengers,  
13 regardless of whether the vehicle is registered or licensed in this state.

14 D. The tax does not apply to the lease or rental of:

15 1. A motor vehicle as a temporary replacement vehicle that is loaned  
16 at no charge by a repair facility or dealer for use while the vehicle that it  
17 is replacing is not in service because of breakdown, repair, service, damage  
18 or loss.

19 2. A motor vehicle to an automobile dealership, a repair facility, an  
20 insurance company or any other person that provides that vehicle at no charge  
21 to a person whose own motor vehicle is being repaired, adjusted or serviced.

22 E. The tax is not taxable under section 42-5071.

23 Sec. 8. Section 5-1134, Arizona Revised Statutes, is amended to read:  
24 5-1134. Excise tax on hotels and motels

25 A. The qualified electors, by majority vote at an election held  
26 pursuant to section 5-1103, may levy and, if levied, the department of  
27 revenue shall collect a tax on the gross proceeds of sales or gross income  
28 from the business of every person engaging or continuing in a business taxed  
29 under title 42, chapter 5 and classified under section 42-5070 within the  
30 authority. A tax under this section is in addition to the tax imposed by  
31 title 42, chapter 5 and any tax imposed by any other political subdivision in  
32 the authority.

33 B. If levied, the tax shall be levied under this section beginning on  
34 the first day of the first month beginning ninety days after the election,  
35 and shall continue in this manner for three hundred sixty months ~~except as~~  
36 ~~provided by section 5-1139~~.

37 C. ~~Except as provided by section 5-1139~~, The rate of the tax is .45  
38 ~~per cent~~ PERCENT of the tax base prescribed by section 42-5070.

39 Sec. 9. Section 5-1135, Arizona Revised Statutes, is amended to read:  
40 5-1135. Tax on restaurants and bars

41 A. The qualified electors, by majority vote at an election held  
42 pursuant to section 5-1103, may levy and, if levied, the department of  
43 revenue shall collect a tax on the gross proceeds of sales or gross income  
44 from the business of every person engaging or continuing in a business taxed  
45 under title 42, chapter 5 and classified under section 42-5074 in the



1 authority. A tax under this section is in addition to the tax imposed by  
 2 title 42, chapter 5 and any tax imposed by any other political subdivision in  
 3 the authority.

4 B. If levied, the tax shall be levied under this section beginning on  
 5 the first day of the first month beginning ninety days after the election,  
 6 and shall continue in this manner for three hundred sixty months ~~except as~~  
 7 ~~provided by section 5-1139.~~

8 C. ~~Except as provided by section 5-1139,~~ The rate of the tax is .25  
 9 ~~per cent~~ PERCENT of the tax base prescribed by section 42-5074.

10 Sec. 10. Section 5-1136, Arizona Revised Statutes, is amended to read:  
 11 5-1136. Tax on amusements and sporting events

12 A. The qualified electors, by majority vote at an election held  
 13 pursuant to section 5-1103, may levy and, if levied, the department of  
 14 revenue shall collect a tax on the gross proceeds of sales or gross income  
 15 from persons taxed under title 42, chapter 5 and classified under section  
 16 42-5073 in the authority.

17 B. If levied, the tax shall be levied under this section beginning on  
 18 the first day of the first month beginning ninety days after the election,  
 19 and shall continue in this manner for three hundred sixty months ~~except as~~  
 20 ~~provided by section 5-1139.~~

21 C. ~~Except as provided by section 5-1139,~~ The rate of the tax is .35  
 22 ~~per cent~~ PERCENT of the tax base prescribed by section 42-5073.

23 Sec. 11. Section 5-1137, Arizona Revised Statutes, is amended to read:  
 24 5-1137. Tax on retail

25 A. The qualified electors, by majority vote at an election held  
 26 pursuant to section 5-1103, may levy and, if levied, the department of  
 27 revenue shall collect a tax on the gross proceeds of sales or gross income  
 28 from the business of every person engaging or continuing in a business taxed  
 29 under title 42, chapter 5 and classified under section 42-5061 in the  
 30 authority. A tax under this section is in addition to the tax imposed by  
 31 title 42, chapter 5 and any tax imposed by any other political subdivision in  
 32 the authority.

33 B. If levied, the tax shall be levied under this section beginning on  
 34 the first day of the first month beginning ninety days after the election,  
 35 and shall continue in this manner for three hundred sixty months ~~except as~~  
 36 ~~provided by section 5-1139.~~

37 C. ~~Except as provided by section 5-1139,~~ The rate of the tax is .15  
 38 ~~per cent~~ PERCENT of the tax base prescribed by section 42-5061.

39 Sec. 12. Repeal

40 Section 5-1139, Arizona Revised Statutes, is repealed.

41 Sec. 13. Repeal

42 Title 5, chapter 9, article 3, Arizona Revised Statutes, is repealed.

43 Sec. 14. Repeal

44 Laws 2009, chapter 122, section 4 is repealed.

1           Sec. 15. Laws 2010, chapter 117, section 18 is amended to read:

2           Sec. 18. Conditional repeal

3           A. If ~~a majority of the qualified electors voting on the issue in the~~  
4 ~~first~~ AN election HAS NOT BEEN held BEFORE NOVEMBER 30, 2018 pursuant to  
5 section 5-1103, Arizona Revised Statutes, ~~reject the levy of taxes and~~  
6 ~~issuance of bonds~~ for the purposes of establishing a sports AND TOURISM  
7 authority district, title 5, chapter 9, Arizona Revised Statutes, is  
8 repealed.

9           B. The ~~clerk of the board of supervisors that conducts the election~~  
10 SECRETARY OF STATE shall notify in writing the director of legislative  
11 council ~~of the results of the election and~~ whether the condition described in  
12 subsection A of this section occurred.