

2024 BLENDS



Arizona Legislative Council



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Pursuant to authority of section 41-1304.03, Arizona Revised Statutes, the attached sections are presented as blends of multiple amendment activity that occurred in the Fifty-sixth Legislature, Second Regular Session.

For each blend, the publisher will be instructed to indicate in the source note each of the Laws 2024 chapter versions and to include a reviser's note to explain the blend.

Unless otherwise noted, the effective date of each of the following blends is September 14, 2024.

The following blend sections are included:

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|-----|----------|--|
| 1. | 8-201 | Chs. 47 and 143 |
| 2. | 8-455 | Chs. 47 and 143 |
| 3. | 9-462.04 | Chs. 41 and 172 |
| 4. | 13-909 | Chs. 195 and 255 |
| 5. | 13-1204 | Chs. 113 and 257 |
| 6. | 20-241 | Chs. 48 and 72 |
| 7. | 28-472 | Chs. 208 and 218 |
| 8. | 28-1321 | Chs. 101 and 109 |
| 9. | 28-1385 | Chs. 101 and 109 |
| 10. | 28-2351 | Chs. 19, 111 and 126 |
| 11. | 28-2403 | Chs. 19, 111 and 126 |
| 12. | 28-6501 | Chs. 19, 111 and 126 |
| 13. | 28-6991 | Chs. 19, 111 and 126 |
| 14. | 28-6993 | Chs. 19, 111 and 126 |
| 15. | 32-1301 | Chs. 22 and 133 |
| 16. | 32-1907 | Ch. 222, sec. 27 and Ch. 232 |
| 17. | 32-1907 | Ch. 222, sec. 28 and Ch. 232 (<i>Effective 7/1/28</i>) |
| 18. | 32-2101 | Chs. 52 and 63 |

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|-----|---|-----------------------|
| 19. | 33-422 (L19, Ch. 103, sec. 1 & Ch. 131, sec. 1) | Chs. 41 and 105 |
| 20. | 36-136 | Chs. 18 and 254 |
| 21. | 36-520 | Chs. 152, 163 and 182 |
| 22. | 36-522 | Chs. 169 and 182 |
| 23. | 36-523 | Chs. 152, 163 and 182 |
| 24. | 36-3503 | Chs. 104 and 130 |
| 25. | 40-360.03 | Chs. 17 and 248 |
| 26. | 41-1093.04 | Chs. 83 and 91 |
| 27. | 41-3032.17 | Chs. 205 and 206 |
| 28. | 42-5075 | Chs. 43 and 150 |
| 29. | 49-104 | Chs. 93 and 121 |
| 30. | 49-1333 | Chs. 214 and 225 |

EXPLANATION OF BLEND
SECTION 8-201

Laws 2024, Chapters 47 and 143

Laws 2024, Ch. 47, section 1

Effective September 14, 2024

Laws 2024, Ch. 143, section 1

Effective September 14, 2024

Explanation

Since these two enactments are compatible, the Laws 2024, Ch. 47 and Ch. 143 text changes to section 8-201 are blended in the form shown on the following pages.

BLEND OF SECTION 8-201
Laws 2024, Chapters 47 and 143

8-201. Definitions

In this title, unless the context otherwise requires:

1. "Abandoned" means the failure of the parent to provide reasonable support and to maintain regular contact with the child, including providing normal supervision. Abandoned includes a judicial finding that a parent has made only minimal efforts to support and communicate with the child. Failure to maintain a normal parental relationship with the child without just cause for a period of six months constitutes prima facie evidence of abandonment.

2. "Abuse":

(a) Means the infliction or allowing of physical injury, impairment of bodily function or disfigurement or the infliction of or allowing another person to cause serious emotional damage as evidenced by severe anxiety, depression, withdrawal or untoward aggressive behavior and which emotional damage is diagnosed by a medical doctor or psychologist and is caused by the acts or omissions of an individual who has the care, custody and control of a child, INCLUDING AN EMPLOYEE OF A CHILD WELFARE AGENCY WHERE A CHILD IS PLACED THAT IS LICENSED BY AND CONTRACTED WITH THE DEPARTMENT. Abuse

(b) Includes:

~~(a)~~ (i) Inflicting or allowing sexual abuse pursuant to section 13-1404, sexual conduct with a minor pursuant to section 13-1405, sexual assault pursuant to section 13-1406, molestation of a child pursuant to section 13-1410, commercial sexual exploitation of a minor pursuant to section 13-3552, sexual exploitation of a minor pursuant to section 13-3553, incest pursuant to section 13-3608 or child sex trafficking pursuant to section 13-3212.

~~(b)~~ (ii) Physical injury that results from allowing a child to enter or remain in any structure or vehicle in which volatile, toxic or flammable chemicals are found or equipment is possessed by any person for the purpose of manufacturing a dangerous drug as defined in section 13-3401.

~~(c)~~ (iii) Unreasonable confinement of a child.

3. "Adult" means a person who is eighteen years of age or older.

4. "Adult court" means the appropriate justice court, municipal court or criminal division of the superior court that has jurisdiction to hear proceedings concerning offenses committed by juveniles as provided in sections 8-327 and 13-501.

5. "Award" or "commit" means to assign legal custody.

6. "Child", "youth" or "juvenile" means an individual who is under eighteen years of age.

7. "Complaint" means a written statement of the essential facts constituting a public offense that is any of the following:

(a) Made on an oath before a judge or commissioner of the superior court or an authorized juvenile hearing officer.

(b) Made pursuant to section 13-3903.

(c) Accompanied by an affidavit of a law enforcement officer or employee that swears on information and belief to the accuracy of the complaint pursuant to section 13-4261.

Ch. 47

8. "Criminal conduct allegation" means an allegation of conduct by a parent, guardian or custodian of a child or an adult member of the victim's household that, if true, would constitute any of the following:

(a) A violation of section 13-3623 involving child abuse.

(b) A felony offense that constitutes domestic violence as defined in section 13-3601.

(c) A violation of section 13-1404 or 13-1406 involving a minor.

(d) A violation of section 13-1405, 13-1410 or 13-1417.

(e) Any other act of abuse that is classified as a felony.

(f) An offense that constitutes domestic violence as defined in section 13-3601 and that involves a minor who is a victim of or was in imminent danger during the domestic violence.

9. "Custodian" means a person, other than a parent or legal guardian, who stands in loco parentis to the child or a person to whom legal custody of the child has been given by order of the juvenile court.

10. "DCS report" means a communication received by the centralized intake hotline that alleges child abuse or neglect and that meets the criteria for a report as prescribed in section 8-455.

11. "Delinquency hearing" means a proceeding in the juvenile court to determine whether a juvenile has committed a specific delinquent act as set forth in a petition.

12. "Delinquent act" means an act by a juvenile that if committed by an adult would be a criminal offense or a petty offense, a violation of any law of this state, or of another state if the act occurred in that state, or a law of the United States, or a violation of any law that can only be violated by a minor and that has been designated as a delinquent offense, or any ordinance of a city, county or political subdivision of this state defining crime. Delinquent act does not include an offense under section 13-501, subsection A or B if the offense is filed in adult court. Any juvenile who is prosecuted as an adult or who is remanded for prosecution as an adult shall not be adjudicated as a delinquent juvenile for the same offense.

13. "Delinquent juvenile" means a child who is adjudicated to have committed a delinquent act.

14. "Department" means the department of child safety.

15. "Dependent child":

(a) Means a child who is adjudicated to be:

(i) In need of proper and effective parental care and control and who has no parent or guardian, or one who has no parent or guardian willing to exercise or capable of exercising such care and control.

(ii) Destitute or who is not provided with the necessities of life, including adequate food, clothing, shelter or medical care.

(iii) A child whose home is unfit by reason of abuse, neglect, cruelty or depravity by a parent, a guardian or any other person having custody or care of the child.

(iv) Under eight years of age and who is found to have committed an act that would result in adjudication as a delinquent juvenile or incorrigible child if committed by an older juvenile or child.

(v) Incompetent or not restorable to competency and who is alleged to have committed a serious offense as defined in section 13-706.

(b) Does not include a child who in good faith is being furnished Christian Science treatment by a duly accredited practitioner if none of the circumstances described in subdivision (a) of this paragraph exists.

16. "Detention" means the temporary confinement of a juvenile who requires secure care in a physically restricting facility that is completely surrounded by a locked and physically secure barrier with restricted ingress and egress for the protection of the juvenile or the community pending court disposition or as a condition of probation.

17. "Director" means the director of the department.

18. "Health professional" has the same meaning prescribed in section 32-3201.

19. "Incorrigible child" means a child who:

(a) Is adjudicated as a child who refuses to obey the reasonable and proper orders or directions of a parent, guardian or custodian and who is beyond the control of that person.

(b) Is habitually truant from school as defined in section 15-803, subsection C.

(c) Is a runaway from the child's home or parent, guardian or custodian.

(d) Habitually behaves in such a manner as to injure or endanger the morals or health of self or others.

(e) Commits any act constituting an offense that can only be committed by a minor and that is not designated as a delinquent act.

(f) Fails to obey any lawful order of a court of competent jurisdiction given in a noncriminal action.

20. "Independent living program" includes a residential program with supervision of less than twenty-four hours a day.

21. "Juvenile court" means the juvenile division of the superior court when exercising its jurisdiction over children in any proceeding relating to delinquency, dependency or incorrigibility.

22. "Law enforcement officer" means a peace officer, sheriff, deputy sheriff, municipal police officer or constable.

23. "Medical director of a mental health agency":

(a) Means a psychiatrist, or licensed physician experienced in psychiatric matters, who is designated in writing by the governing body of the agency as the person in charge of the medical services of the agency, or a psychiatrist designated by the governing body to act for the director.

(b) Includes the superintendent of the state hospital.

24. "Mental health agency" means any private or public facility that is licensed by this state as a mental health treatment agency, a psychiatric hospital, a psychiatric unit of a general hospital or a residential treatment center for emotionally disturbed children and that uses secure settings or mechanical restraints.

25. "Neglect" or "neglected" means:

(a) The inability or unwillingness of a parent, guardian or custodian of a child to provide that child with supervision, food, clothing, shelter or medical care if that inability or unwillingness causes substantial risk of harm to the child's health or welfare, except if the inability of a parent, guardian or custodian to provide services to meet the needs of a

child with a disability or chronic illness is solely the result of the unavailability of reasonable services.

(b) Allowing a child to enter or remain in any structure or vehicle in which volatile, toxic or flammable chemicals are found or equipment is possessed by any person with the intent and for the purpose of manufacturing a dangerous drug as defined in section 13-3401.

(c) A determination by a health professional that a newborn infant was exposed prenatally to a drug or substance listed in section 13-3401 and that this exposure was not the result of a medical treatment administered to the mother or the newborn infant by a health professional. This subdivision does not expand a health professional's duty to report neglect based on prenatal exposure to a drug or substance listed in section 13-3401 beyond the requirements prescribed pursuant to section 13-3620, subsection E. The determination by the health professional shall be based on one or more of the following:

(i) Clinical indicators in the prenatal period including maternal and newborn presentation.

(ii) History of substance use or abuse.

(iii) Medical history.

(iv) Results of a toxicology or other laboratory test on the mother or the newborn infant.

(d) Diagnosis by a health professional of an infant under one year of age with clinical findings consistent with fetal alcohol syndrome or fetal alcohol effects.

(e) Deliberate exposure of a child by a parent, guardian or custodian to sexual conduct as defined in section 13-3551 or to sexual contact, oral sexual contact or sexual intercourse as defined in section 13-1401, bestiality as prescribed in section 13-1411 or explicit sexual materials as defined in section 13-3507.

(f) Any of the following acts committed by the child's parent, guardian or custodian with reckless disregard as to whether the child is physically present:

(i) Sexual contact as defined in section 13-1401.

(ii) Oral sexual contact as defined in section 13-1401.

(iii) Sexual intercourse as defined in section 13-1401.

(iv) Bestiality as prescribed in section 13-1411.

26. "Newborn infant" means a child who is under thirty days of age.

27. "Petition" means a written statement of the essential facts that allege delinquency, incorrigibility or dependency.

28. "Prevention" means the creation of conditions, opportunities and experiences that encourage and develop healthy, self-sufficient children and that occur before the onset of problems.

29. "Protective supervision" means supervision that is ordered by the juvenile court of children who are found to be dependent or incorrigible.

30. "Qualified young adult" means a former dependent child who is at least eighteen years of age and not over twenty-one years of age, who meets the criteria for an extended foster care program pursuant to section 8-521.02 and who signs a voluntary agreement to participate in the program.

31. "Referral" means a report that is submitted to the juvenile court and that alleges that a child is dependent or incorrigible or that a juvenile has committed a delinquent or criminal act.

32. "Secure care" means confinement in a facility that is completely surrounded by a locked and physically secure barrier with restricted ingress and egress.

33. "Serious emotional injury" means an injury that is diagnosed by a medical doctor or a psychologist and that does any one or a combination of the following:

(a) Seriously impairs mental faculties.

(b) Causes serious anxiety, depression, withdrawal or social dysfunction behavior to the extent that the child suffers dysfunction that requires treatment.

(c) Is the result of sexual abuse pursuant to section 13-1404, sexual conduct with a minor pursuant to section 13-1405, sexual assault pursuant to section 13-1406, molestation of a child pursuant to section 13-1410, child sex trafficking pursuant to section 13-3212, commercial sexual exploitation of a minor pursuant to section 13-3552, sexual exploitation of a minor pursuant to section 13-3553 or incest pursuant to section 13-3608.

34. "Serious physical injury" means an injury that is diagnosed by a medical doctor and that does any one or a combination of the following:

(a) Creates a reasonable risk of death.

(b) Causes serious or permanent disfigurement.

(c) Causes significant physical pain.

(d) Causes serious impairment of health.

(e) Causes the loss or protracted impairment of an organ or limb.

(f) Is the result of sexual abuse pursuant to section 13-1404, sexual conduct with a minor pursuant to section 13-1405, sexual assault pursuant to section 13-1406, molestation of a child pursuant to section 13-1410, child sex trafficking pursuant to section 13-3212, commercial sexual exploitation of a minor pursuant to section 13-3552, sexual exploitation of a minor pursuant to section 13-3553 or incest pursuant to section 13-3608.

35. "Shelter care" means the temporary care of a child in any public or private facility or home that is licensed by this state and that offers a physically nonsecure environment that is characterized by the absence of physically restricting construction or hardware and that provides the child access to the surrounding community.

36. "STANDARDIZED HOTLINE ASSESSMENT TOOL" MEANS ANY WRITTEN TOOL USED TO MAKE A DETERMINATION THAT THE ALLEGATION OF ABUSE OR NEGLECT THAT IS THE SUBJECT OF A REPORT RECEIVED PURSUANT TO SECTION 8-455 INVOLVES CONDUCT THAT WARRANTS INVESTIGATION BY THE DEPARTMENT PURSUANT TO SECTION 8-456 OR 8-471.

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~~36:~~ 37. "Young adult administrative review" means an administrative review of a voluntary extended foster care case plan with the qualified young adult, the department's case specialist or designee, an independent party who is not responsible for the case management of or the delivery of services to the qualified young adult and any other individual the young adult invites.

EXPLANATION OF BLEND
SECTION 8-455

Laws 2024, Chapters 47 and 143

Laws 2024, Ch. 47, section 2

Effective September 14, 2024

Laws 2024, Ch. 143, section 2

Effective September 14, 2024

Explanation

Since these two enactments are compatible, the Laws 2024, Ch. 47 and Ch. 143 text changes to section 8-455 are blended in the form shown on the following pages.

BLEND OF SECTION 8-455
Laws 2024, Chapters 47 and 143

8-455. Centralized intake hotline; purposes; report of possible crime; DCS report; standardized hotline assessment tools; access to information; public awareness; definitions

A. The department shall operate and maintain a centralized intake hotline to protect children by receiving at all times communications concerning suspected abuse or neglect. If a person communicates suspected abuse or neglect to a department employee other than through the hotline, the employee shall refer the person or communication to the hotline.

B. The hotline is the first step in the safety assessment and investigation process and must be operated to:

1. Record communications made concerning suspected abuse or neglect.
2. Immediately take steps necessary to identify and locate prior communications and DCS reports related to the current communication using the department's data system and the central registry system of this state.
3. Quickly and efficiently provide information to a law enforcement agency or prepare a DCS report as required by this section.
4. Determine the proper initial priority level of investigation based on the report screening assessment and direct the DCS report to the appropriate part of the department based on this determination.

C. If a communication provides a reason to believe that a criminal offense has been committed and the communication does not meet the criteria for a DCS report, the hotline worker shall immediately provide the information to the appropriate law enforcement agency.

D. A hotline worker shall prepare a DCS report if the identity or current location of the child victim, the child's family or the person suspected of abuse or neglect is known or can be reasonably ascertained and all of the following are alleged:

1. The suspected conduct would constitute abuse or neglect. IF THE SUSPECTED CONDUCT INVOLVES NEGLECT AS DEFINED IN SECTION 8-201, PARAGRAPH 25, SUBDIVISION (c) AND A HEALTH PROFESSIONAL DETERMINES THAT THE NEWBORN INFANT WAS EXPOSED PRENATALLY TO CANNABIS AS DEFINED IN SECTION 13-3401, THE DEPARTMENT SHALL VERIFY WHETHER THE MOTHER IS A QUALIFYING PATIENT AS DEFINED IN SECTION 36-2801 AND POSSESSES A VALID REGISTRY IDENTIFICATION CARD ISSUED PURSUANT TO SECTION 36-2804.03.

2. The suspected victim of the conduct is under eighteen years of age.

3. The suspected victim of the conduct is a resident of or present in this state.

4. The person suspected of committing the abuse or neglect is the parent, guardian or custodian of the victim or an adult member of the victim's household.

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E. A HOTLINE WORKER SHALL PREPARE A DCS REPORT IF THE IDENTITY OF THE PERSON WHO IS SUSPECTED OF ABUSE IS AN EMPLOYEE OF A CHILD WELFARE AGENCY AND BOTH OF THE FOLLOWING APPLY:

- 1. THE CHILD VICTIM IS PLACED WITH THE AGENCY.
- 2. THE AGENCY IS LICENSED BY AND CONTRACTED WITH THE DEPARTMENT.

~~F.~~ F. Except for criminal conduct allegations, the department is not required to prepare a DCS report if all of the following apply:

- 1. The suspected conduct occurred more than three years before the communication to the hotline.
- 2. There is no information or indication that a child is currently being abused or neglected.

~~F.~~ G. Investigations of DCS reports shall be conducted as provided in section 8-456 except for investigations containing allegations of criminal conduct, which shall be conducted as provided in section 8-471.

~~G.~~ H. The department is not required to prepare a DCS report concerning alleged abuse or neglect if the alleged act or acts occurred in a foreign country and the child is in the custody of the federal government.

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~~H.~~ I. The department shall develop and train hotline workers to use ~~uniform risk~~ STANDARDIZED HOTLINE assessment tools to determine:

- 1. Whether the suspected conduct constitutes abuse or neglect and the severity of the suspected abuse or neglect.
- 2. Whether the suspected abuse or neglect involves criminal conduct, even if the communication does not result in the preparation of a DCS report.
- 3. The appropriate investigative track for referral based on the risk to the child's safety.

~~I.~~ J. A DCS report must include, if available, all of the following:

- 1. The name, address or contact information for the person making the communication.
- 2. The name, address and other location or contact information for the parent, guardian or custodian of the child or other adult member of the child's household who is suspected of committing the abuse or neglect.

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3. THE NAME, ADDRESS AND OTHER LOCATION OR CONTACT INFORMATION OF AN EMPLOYEE OF A CHILD WELFARE AGENCY WHO IS SUSPECTED OF COMMITTING ABUSE IF BOTH OF THE FOLLOWING APPLY:

- (a) THE CHILD VICTIM IS PLACED WITH THE AGENCY.
- (b) THE AGENCY IS LICENSED BY AND CONTRACTED WITH THE DEPARTMENT.

~~3.~~ 4. The name, address and other location or contact information for the child.

~~4.~~ 5. The nature and extent of the indications of the child's abuse or neglect, including any indication of physical injury.

~~5.~~ 6. Any information regarding possible prior abuse or neglect, including reference to any communication or DCS report involving the child, the child's siblings or the person suspected of committing the abuse or neglect.

~~6.~~ K. Information gathered through the hotline must be made available to an employee of the department in order to perform the employee's duties. The office of child welfare investigations and the inspections bureau must have immediate access to all records of the hotline.

~~K~~. L. A representative of the:

1. Office of child welfare investigations must be embedded in the hotline to carry out the purposes of section 8-471.

2. Inspections bureau must be embedded in the hotline to carry out the purposes of section 8-458.

~~L~~. M. The department shall publicize the availability and the purposes of the centralized intake hotline.

~~M~~. N. For the purposes of this section:

1. "Centralized intake hotline" means the system developed pursuant to this section regardless of the communication methods or technologies used to implement the system.

2. "Criminal offense" means an allegation of conduct against a child by a person other than a parent, guardian or custodian of the child victim or another adult member of the child's household that, if true, would constitute a felony offense.

EXPLANATION OF BLEND
SECTION 9-462.04

Laws 2024, Chapters 41 and 172

Laws 2024, Ch. 41, section 3

Effective September 14, 2024

Laws 2024, Ch. 172, section 1

Effective September 14, 2024

Explanation

Since these two enactments are compatible, the Laws 2024, Ch. 41 and Ch. 172 text changes to section 9-462.04 are blended in the form shown on the following pages.

BLEND OF SECTION 9-462.04
Laws 2024, Chapters 41 and 172

9-462.04. Public hearing required; definition

Ch. 41 { A. If the municipality has a planning commission or a hearing officer, the planning commission or hearing officer shall hold a public hearing on any zoning ordinance. Notice of the time and place of the hearing, including a general explanation of the matter to be considered and including a general description of the area affected, shall be given at least fifteen days before the hearing in the following manner:

1. The notice shall be published at least once in a newspaper of general circulation published or circulated in the municipality, or if there is none, it shall be posted on the affected property in such a manner as to be legible from the public right-of-way and in at least ten public places in the municipality. A posted notice shall be printed so that the following are visible from a distance of one hundred feet: the word "zoning", the present zoning district classification, the proposed zoning district classification and the date and time of the hearing.

Ch. 41 { 2. In proceedings involving rezoning of land that abuts other municipalities or unincorporated areas of the county or a combination of a municipality and an unincorporated area, copies of the notice of public hearing shall be transmitted to the planning agency of the governmental unit abutting such land. In proceedings involving rezoning of land that is located within the territory in the vicinity of a military airport or ancillary military facility as defined in section 28-8461 OR WITHIN THE INFLUENCE AREA OF A MILITARY INSTALLATION OR RANGE OR ARIZONA NATIONAL GUARD SITE, the municipality shall send copies of the notice of public hearing by first class mail to the military airport OR MILITARY INSTALLATION OR RANGE OR ARIZONA NATIONAL GUARD SITE. In addition to notice by publication, a municipality may give notice of the hearing in any other manner that the municipality deems necessary or desirable. FOR THE PURPOSES OF THIS PARAGRAPH, "INFLUENCE AREA" AND "MILITARY INSTALLATION OR RANGE OR ARIZONA NATIONAL GUARD SITE" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 9-500.50.

3. In proceedings that are not initiated by the property owner involving rezoning of land that may change the zoning classification, notice by first class mail shall be sent to each real property owner, as shown on the last assessment of the property, of the area to be rezoned and all property owners, as shown on the last assessment of the property, within three hundred feet of the property to be rezoned.

4. In proceedings involving one or more of the following proposed changes or related series of changes in the standards governing land uses, notice shall be provided in the manner prescribed by paragraph 5 of this subsection:

(a) A ten percent or more increase or decrease in the number of square feet or units that may be developed.

(b) A ten percent or more increase or reduction in the allowable height of buildings.

(c) An increase or reduction in the allowable number of stories of buildings.

(d) A ten percent or more increase or decrease in setback or open space requirements.

(e) An increase or reduction in permitted uses.

5. In proceedings governed by paragraph 4 of this subsection, the municipality shall provide notice to real property owners pursuant to at least one of the following notification procedures:

(a) Notice shall be sent by first class mail to each real property owner, as shown on the last assessment, whose real property is directly governed by the changes.

(b) If the municipality issues utility bills or other mass mailings that periodically include notices or other informational or advertising materials, the municipality shall include notice of the changes with such utility bills or other mailings.

(c) The municipality shall publish the changes before the first hearing on such changes in a newspaper of general circulation in the municipality. The changes shall be published in a "display ad" covering not less than one-eighth of a full page.

6. If notice is provided pursuant to paragraph 5, subdivision (b) or (c) of this subsection, the municipality shall also send notice by first class mail to persons who register their names and addresses with the municipality as being interested in receiving such notice. The municipality may charge a fee not to exceed \$5 per year for providing this service and may adopt procedures to implement this paragraph.

7. Notwithstanding the notice requirements in paragraph 4 of this subsection, the failure of any person or entity to receive notice does not constitute grounds for any court to invalidate the actions of a municipality for which the notice was given.

B. If the matter to be considered applies to territory in a high noise or accident potential zone as defined in section 28-8461, the notice prescribed in subsection A of this section shall include a general statement that the matter applies to property located in the high noise or accident potential zone.

C. After the hearing, the planning commission or hearing officer shall render a decision in the form of a written recommendation to the governing body. The recommendation shall include the reasons for the recommendation and be transmitted to the governing body in the form and manner prescribed by the governing body.

D. If the planning commission or hearing officer has held a public hearing, the governing body may adopt the recommendations of the planning commission or hearing officer without holding a second public hearing if there is no objection, request for public hearing or other protest. The governing body shall hold a public hearing if requested by the party aggrieved or any member of the public or of the governing body, or, in any case, if a public hearing has not been held by the planning commission or hearing officer. The governing body may consider the testimony of any party aggrieved when making its decision. In municipalities with territory in

the vicinity of a military airport or ancillary military facility as defined in section 28-8461, the governing body shall hold a public hearing if, after notice is transmitted to the military airport pursuant to subsection A of this section and before the public hearing, the military airport provides comments or analysis concerning the compatibility of the proposed rezoning with the high noise or accident potential generated by military airport or ancillary military facility operations that may have an adverse impact on public health and safety, and the governing body shall consider and analyze the comments or analysis before making a final determination. Notice of the time and place of the hearing shall be given in the time and manner provided for the giving of notice of the hearing by the planning commission as specified in subsection A of this section. A municipality may give additional notice of the hearing in any other manner as the municipality deems necessary or desirable. For the purposes of this subsection, "party aggrieved" means any property owner within the notification area prescribed by subsection A, paragraph 3 of this section.

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E. A municipality may enact an ordinance authorizing county zoning to continue in effect until municipal zoning is applied to land previously zoned by the county and annexed by the municipality, but not longer than six months after the annexation.

F. A municipality is not required to adopt a general plan before the adoption of a zoning ordinance.

G. If there is no planning commission or hearing officer, the governing body of the municipality shall perform the functions assigned to the planning commission or hearing officer.

H. If the owners of twenty percent or more of the property by area and number of lots, tracts and condominium units within the zoning area of the affected property, EXCLUDING GOVERNMENT-OWNED PROPERTY, file a protest in writing against a proposed amendment, the change shall not become effective except by the favorable vote of three-fourths of all members of the governing body of the municipality. If any members of the governing body are unable to vote on such a question because of a conflict of interest, then the required number of votes for passage of the question shall be

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three-fourths of the remaining membership of the governing body, provided that IF such required number of votes shall IS not be less than a majority of the full membership of the legally established governing body. For the purposes of this subsection, the vote shall be rounded to the nearest whole number. A protest filed pursuant to this subsection shall be signed by the property owners, EXCLUDING GOVERNMENT-OWNED PROPERTY, opposing the proposed amendment and filed in the office of the clerk of the municipality not later than 12:00 noon one business day before the date on which the governing body will vote on the proposed amendment or on an earlier time and date established by the governing body.

Ch. 41 {

Ch. 172 —

I. In applying an open space element or a growth element of a general plan, a parcel of land shall not be rezoned for open space, recreation, conservation or agriculture unless the owner of the land consents to the rezoning in writing.

J. Notwithstanding section 19-142, subsection B, a decision by the governing body involving rezoning of land that is not owned by the municipality and that changes the zoning classification of such land may

not be enacted as an emergency measure and the change shall not be effective for at least thirty days after final approval of the change in classification by the governing body.

K. For the purposes of this section, "zoning area" means both of the following:

1. The area within one hundred fifty feet, including all rights-of-way, of the affected property subject to the proposed amendment or change.

2. The area of the proposed amendment or change.

EXPLANATION OF BLEND
SECTION 13-909

Laws 2024, Chapters 195 and 255

Laws 2024, Ch. 195, section 1

Effective September 14, 2024

Laws 2024, Ch. 255, section 2

Effective September 14, 2024

Explanation

Since the Ch. 195 version includes all the changes made by the Ch. 255 version, the Laws 2024, Ch. 195 amendment of section 13-909 is the blend of both the Laws 2024, Ch. 195 and Ch. 255 versions.

BLEND OF SECTION 13-909
Laws 2024, Chapters 195 and 255

13-909. Vacating the conviction of a sex trafficking victim;
requirements

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and 255

A. A person who was convicted of a violation of section 13-3214 or a city or town ordinance that has the same or substantially similar elements as section 13-3214 ~~committed before July 24, 2014~~ may apply to the court that pronounced sentence to vacate the person's conviction. The court shall grant the application and vacate the conviction if the court finds by clear and convincing evidence that the person's participation in the offense was a direct result of being a victim of sex trafficking pursuant to section 13-1307 OR 13-3212.

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B. If the prosecutor does not oppose the application, the court may grant the application and vacate the conviction without a hearing.

C. If the prosecutor opposes the application, the court shall hold a hearing on the application.

D. On vacating the conviction, the court shall:

1. Release the applicant from all penalties and disabilities resulting from the conviction.

2. Enter an order that a notation be made in the court file and in law enforcement and prosecution records that the conviction has been vacated and the person was the victim of a crime.

3. Transmit the order vacating the conviction to the arresting agency, the prosecutor and the department of public safety.

E. A conviction vacated pursuant to this section does not qualify as a historical prior felony conviction and cannot be alleged for any purpose pursuant to section 13-703 or 13-707.

F. Except on an application for employment that requires a fingerprint clearance card pursuant to title 41, chapter 12, article 3.1, a person whose conviction is vacated under this section may in all instances state that the person has never been arrested for, charged with or convicted of the crime that is the subject of the conviction, including in response to questions on employment, housing, financial aid or loan applications.

EXPLANATION OF BLEND
SECTION 13-1204

Laws 2024, Chapters 113 and 257

Laws 2024, Ch. 113, section 1

Effective September 14, 2024

Laws 2024, Ch. 257, section 2

Effective September 14, 2024

Explanation

Since these two enactments are compatible, the Laws 2024, Ch. 113 and Ch. 257 text changes to section 13-1204 are blended in the form shown on the following pages.

BLEND OF SECTION 13-1204
Laws 2024, Chapters 113 and 257

13-1204. Aggravated assault; classification; definitions

A. A person commits aggravated assault if the person commits assault as prescribed by section 13-1203 under any of the following circumstances:

1. If the person causes serious physical injury to another.
2. If the person uses a deadly weapon or dangerous instrument.
3. If the person commits the assault by any means of force that causes temporary but substantial disfigurement, temporary but substantial loss or impairment of any body organ or part or a fracture of any body part.
4. If the person commits the assault while the victim is bound or otherwise physically restrained or while the victim's capacity to resist is substantially impaired.
5. If the person commits the assault after entering the private home of another with the intent to commit the assault.
6. If the person is eighteen years of age or older and commits the assault on a minor under fifteen years of age.
7. If the person commits assault as prescribed by section 13-1203, subsection A, paragraph 1 or 3 and the person is in violation of an order of protection issued against the person pursuant to section 13-3602 or 13-3624.
8. If the person commits the assault knowing or having reason to know that the victim is any of the following:
 - (a) A peace officer or a person summoned and directed by the officer.
 - (b) A constable or a person summoned and directed by the constable while engaged in the execution of any official duties or if the assault results from the execution of the constable's official duties.
 - (c) A firefighter, fire investigator, fire inspector, emergency medical technician or paramedic engaged in the execution of any official duties or a person summoned and directed by such individual while engaged in the execution of any official duties or if the assault results from the execution of the official duties of the firefighter, fire investigator, fire inspector, emergency medical technician or paramedic.
 - (d) A teacher or other person employed by any school and the teacher or other employee is on the grounds of a school or grounds adjacent to the school or is in any part of a building or vehicle used for school purposes, any teacher or school nurse visiting a private home in the course of the teacher's or nurse's professional duties or any teacher engaged in any authorized and organized classroom activity held on other than school grounds.
 - (e) A health care worker while engaged in the health care worker's work duties or a health care practitioner who is certified or licensed pursuant to title 32, chapter 13, 14, 15, 17 or 25, or a person summoned and directed by the licensed health care practitioner while engaged in the

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person's professional duties. This subdivision does not apply if the person who commits the assault does not have the ability to form the culpable mental state because of a mental disability, DEVELOPMENTAL DISABILITY OR COGNITIVE DISABILITY or because the person is seriously mentally ill, as defined in section 36-550.

(f) A prosecutor while engaged in the execution of any official duties or if the assault results from the execution of the prosecutor's official duties.

(g) A code enforcement officer as defined in section 39-123 while engaged in the execution of any official duties or if the assault results from the execution of the code enforcement officer's official duties.

(h) A state or municipal park ranger while engaged in the execution of any official duties or if the assault results from the execution of the park ranger's official duties.

(i) A public defender while engaged in the execution of any official duties or if the assault results from the execution of the public defender's official duties.

(j) A judicial officer while engaged in the execution of any official duties or if the assault results from the execution of the judicial officer's official duties.

(k) An employee of a law enforcement agency, other than a peace officer, while engaged in the execution of any official duties.

(l) A PUBLIC TRANSIT EMPLOYEE WHO PERFORMS DUTIES ON AND OFF A VEHICLE WHILE ENGAGED IN TRANSFERRING MEMBERS OF THE COMMUNITY TO AND FROM DESTINATIONS IN A BUS, VAN OR SHUTTLE.

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(m) AN AIRPORT EMPLOYEE WHO INTERACTS WITH THE PUBLIC WHILE ENGAGED IN THE AIRPORT EMPLOYEE'S WORK DUTIES.

(n) A RAILWAY WORKER WHILE ENGAGED IN OPERATING A TRAIN, LIGHT RAIL OR PASSENGER RAIL OR PERFORMING TRACK MAINTENANCE.

9. If the person knowingly takes or attempts to exercise control over any of the following:

(a) A peace officer's or other officer's firearm and the person knows or has reason to know that the victim is a peace officer or other officer employed by one of the agencies listed in paragraph 10, subdivision (a), item (i), (ii), (iii), (iv) or (v) of this subsection.

(b) Any weapon other than a firearm that is being used by a peace officer or other officer or that the officer is attempting to use, and the person knows or has reason to know that the victim is a peace officer or other officer employed by one of the agencies listed in paragraph 10, subdivision (a), item (i), (ii), (iii), (iv) or (v) of this subsection.

(c) Any implement that is being used by a peace officer or other officer or that the officer is attempting to use, and the person knows or has reason to know that the victim is a peace officer or other officer employed by one of the agencies listed in paragraph 10, subdivision (a), item (i), (ii), (iii), (iv) or (v) of this subsection. For the purposes of this subdivision, "implement" means an object that is designed for or that is capable of restraining or injuring an individual. Implement does not include handcuffs.

10. If the person meets both of the following conditions:

(a) Is imprisoned or otherwise subject to the custody of any of the following:

(i) The state department of corrections.

(ii) The department of juvenile corrections.

(iii) A law enforcement agency.

(iv) A county or city jail or an adult or juvenile detention facility of a city or county.

(v) Any other entity that is contracting with the state department of corrections, the department of juvenile corrections, a law enforcement agency, another state, any private correctional facility, a county, a city or the federal bureau of prisons or other federal agency that has responsibility for sentenced or unsentenced prisoners.

(b) Commits an assault knowing or having reason to know that the victim is acting in an official capacity as an employee of any of the entities listed in subdivision (a) of this paragraph.

11. If the person uses a simulated deadly weapon.

B. A person commits aggravated assault if the person commits assault by either intentionally, knowingly or recklessly causing any physical injury to another person, intentionally placing another person in reasonable apprehension of imminent physical injury or knowingly touching another person with the intent to injure the person, and both of the following occur:

1. The person intentionally or knowingly impedes the normal breathing or circulation of blood of another person by applying pressure to the throat or neck or by obstructing the nose and mouth either manually or through the use of an instrument.

2. Any of the circumstances exists that are set forth in section 13-3601, subsection A, paragraph 1, 2, 3, 4, 5 or 6.

C. A person who is convicted of intentionally or knowingly committing aggravated assault on a peace officer pursuant to subsection A, paragraph 1 or 2 of this section shall be sentenced to imprisonment for not less than the presumptive sentence authorized under chapter 7 of this title and is not eligible for suspension of sentence, commutation or release on any basis until the sentence imposed is served.

D. If a person is convicted of committing aggravated assault on a peace officer pursuant to this section and the trier of fact determines that section 13-701, subsection D, paragraph 17 applies, the person shall be sentenced to two years more than would otherwise be imposed for the offense. The additional sentence imposed under this subsection is in addition to any enhanced punishment that may be applicable under this section or chapter 7 of this title. ~~And~~ THE PERSON is not eligible for suspension of sentence, commutation or release from confinement on any basis, except as specifically authorized by section 31-233, subsection A or B, until the sentence imposed is served the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted.

E. It is not a defense to a prosecution for assaulting a peace officer or a mitigating circumstance that the peace officer was not on duty or engaged in the execution of any official duties.

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and 257

F. Except pursuant to subsections G and H of this section, aggravated assault pursuant to subsection A, paragraph 1 or 2, paragraph 9, subdivision (a) or paragraph 11 of this section is a class 3 felony except if the aggravated assault is a violation of subsection A, paragraph 1 or 2 of this section and the victim is under fifteen years of age it is a class 2 felony punishable pursuant to section 13-705. Aggravated assault pursuant to subsection A, paragraph 3 or subsection B of this section is a class 4 felony. Aggravated assault pursuant to subsection A, paragraph 9, subdivision (b) or paragraph 10 of this section is a class 5 felony. Aggravated assault pursuant to subsection A, paragraph 4, 5, 6, 7 or 8 or paragraph 9, subdivision (c) of this section is a class 6 felony.

G. Aggravated assault pursuant to subsection A, paragraph 1 or 2 of this section committed on a peace officer or an employee of a law enforcement agency is a class 2 felony. Aggravated assault pursuant to subsection A, paragraph 3 of this section committed on a peace officer or an employee of a law enforcement agency is a class 3 felony. Aggravated assault pursuant to subsection A, paragraph 8, subdivision (a) or (k) of this section committed on a peace officer or an employee of a law enforcement agency is a class 5 felony unless the assault results in any physical injury to the peace officer or employee, in which case it is a class 4 felony.

H. Aggravated assault pursuant to:

1. Subsection A, paragraph 1 or 2 of this section is a class 2 felony if committed on a prosecutor.

2. Subsection A, paragraph 3 of this section is a class 3 felony if committed on a prosecutor.

3. Subsection A, paragraph 8, subdivision (f) of this section is a class 5 felony if the assault results in physical injury to a prosecutor.

I. For the purposes of this section:

1. "Health care worker" means:

(a) A person who is employed by or contracted to work at a health care institution that is licensed pursuant to title 36.

(b) A person who is employed or contracted to provide health care or related services in a fieldwork setting, including:

(i) Home health care, home-based hospice and home-based social work, unless the worker is employed or contracted by an individual who privately employs, in the individual's residence, the worker to perform covered services for the individual or a family member of the individual.

(ii) Any emergency services and transport, including the services provided by firefighters and emergency responders.

2. "Judicial officer" means a justice of the supreme court, judge, justice of the peace or magistrate or a commissioner or hearing officer of a state, county or municipal court.

3. "Mental disability" means a disabling neurological condition, or brain injury, or involuntary impairment as a result of a medication that is administered by a health care provider or a medical procedure that is performed at a health care treatment site.

4. "Prosecutor" means a county attorney, a municipal prosecutor or the attorney general and includes an assistant or deputy county attorney, municipal prosecutor or attorney general.

EXPLANATION OF BLEND
SECTION 20-241

Laws 2024, Chapters 48 and 72

Laws 2024, Ch. 48, section 1

Effective September 14, 2024

Laws 2024, Ch. 72, section 1

Effective September 14, 2024

Explanation

Since these two enactments are identical, the Laws 2024, Ch. 48 and Ch. 72 text changes to section 20-241 are blended in the form shown on the following pages.

BLEND OF SECTION 20-241
Laws 2024, Chapters 48 and 72

20-241. Contracts to provide health care services; form of payment; notice; explanation of benefits; definitions

A. A contract between a health insurer and a health care provider that is issued, amended or renewed on or after January 1, 2020 to provide health care services to the health insurer's enrollees may not restrict the method of payment from the health insurer to the health care provider in which the only acceptable payment method is a credit card payment. A HEALTH INSURER SHALL ACCEPT TANGIBLE CHECKS AS A FORM OF ACCEPTABLE PAYMENT.

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and 72

B. If a health insurer initiates or changes payments to a health care provider using electronic funds transfer payments, including virtual credit card payments, the health insurer shall do the following:

1. Notify the health care provider if any fee is associated with a particular payment method.

2. Advise the health care provider of the available methods of payment and provide clear instructions to the health care provider as to how to select an alternative payment method.

3. Remit or associate with each payment the explanation of benefits.

C. IF A HEALTH CARE PROVIDER OPTS OUT OF A METHOD OF PAYMENT, THAT DECISION REMAINS IN EFFECT UNTIL THE HEALTH CARE PROVIDER OPTS BACK IN TO THE PRIOR METHOD OF PAYMENT OR A NEW CONTRACT IS EXECUTED.

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~~C.~~ D. A health insurer that initiates or changes payment to a health care provider using the health care electronic funds transfers and ~~a~~ remittance advice transaction pursuant to 45 Code of Federal Regulations sections 162.1601 and 162.1602 may not charge a fee solely to transmit the payment to a health care provider unless the health care provider has consented to the fee. A health care provider agent may charge reasonable fees when transmitting an electronic funds transfer or automatic clearing house related to transaction management, data management, portal services and other value-added services above and beyond the bank transmittal.

~~D.~~ E. For the purposes of this section:

1. "Electronic funds transfer payment" means a payment by any method of electronic funds transfer other than a standard health care electronic funds transfers and remittance advice transaction pursuant to 45 Code of Federal Regulations sections 162.1601 and 162.1602.

2. "Health care provider" means a person who is licensed, registered or certified as a health care professional under title 32 or a laboratory or durable medical equipment provider that furnishes services to an enrollee and that separately bills the enrollee for the services.

3. "Health care provider agent" means a person or entity that contracts with a health care provider establishing an agency relationship to process bills for services provided by the health care provider under the terms and conditions of a contract between the agent and health care

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provider, which may allow the agent to submit bills, request
—reconsideration, and receive reimbursement.

4. "Health insurer" means a disability insurer, group disability insurer, blanket disability insurer, health care services organization, hospital service corporation, medical service corporation or hospital, medical, dental and optometric service corporation and includes the health insurer's designee.

EXPLANATION OF BLEND
SECTION 28-472

Laws 2024, Chapters 208 and 218

Laws 2024, Ch. 208, section 3

Effective September 14, 2024

Laws 2024, Ch. 218, section 15

Effective September 14, 2024

Explanation

Since these two enactments are identical, the Laws 2024, Ch. 208 and Ch. 218 text changes to section 28-472 are blended in the form shown on the following pages.

BLEND OF SECTION 28-472
Laws 2024, Chapters 208 and 218

28-472. Fleet operation services; records; rules; vehicle replacement rate; participating agencies; coordinator; public service announcements; annual report

A. The director shall operate the state motor vehicle fleet for the purpose of providing fleet operation services to agencies. The director shall make fleet operation services available to an agency on the request of the chosen representative for that agency.

B. The director is responsible for administering the state motor vehicle fleet, including:

1. Procuring motor vehicles for the state motor vehicle fleet.

2. Notwithstanding title 41, chapter 23, article 8, administering the surplus and sale of motor vehicles in the state motor vehicle fleet.

C. The director shall provide for detailed cost, operation, maintenance, mileage and custody records for each state-owned motor vehicle.

D. The director may adopt rules necessary to administer this article.

E. The department shall recover all costs for fleet operation services that are provided to an agency. Each agency shall pay from available monies the cost of fleet operation services received from the department at a rate determined by the director, including a separate vehicle replacement rate for motor vehicle replacements. The director shall deposit, pursuant to sections 35-146 and 35-147, monies received for fleet operation services in the state fleet operations fund established by section 28-475. The director shall deposit, pursuant to sections 35-146 and 35-147, monies received to pay the vehicle replacement rate in the state vehicle replacement fund established by section 28-476.

F. The following agencies are excluded from participation in the state motor vehicle fleet:

1. The department of public safety.

2. The department of economic security.

3. The state department of corrections.

4. Universities and community colleges.

~~5. The Arizona state schools for the deaf and the blind.~~

~~6.~~ 5. The cotton research and protection council.

~~7.~~ 6. The Arizona commerce authority.

~~8.~~ 7. The department of child safety.

~~9.~~ 8. The department of transportation.

G. The director shall appoint a state motor vehicle fleet coordinator.

H. An agency may not purchase, lease or rent a motor vehicle unless the agency is excluded from participation in the state motor vehicle fleet

by subsection F of this section. The director may withhold registration for any motor vehicle that is purchased, leased or rented in violation of this subsection.

I. Notwithstanding subsection H of this section, an agency that administers a separate account pursuant to section 28-476, subsection C shall control the purchase, lease or rental of motor vehicles. Vehicles purchased, leased or rented under this subsection shall be used by the agency only for the agency's purposes.

J. An agency listed in subsection F of this section may elect to participate in the state motor vehicle fleet by executing an interagency service agreement between the agency and the department.

K. A governmental budget unit of this state that is not an agency may elect to participate in the state motor vehicle fleet by entering into an interagency service agreement with the department.

L. An agency, including an agency listed in subsection F of this section, may accept compensation for placing public service announcements on state-owned motor vehicles, and monies received shall be deposited, pursuant to sections 35-146 and 35-147, in the state general fund. The agency director shall determine the appropriateness of the announcements, may exempt any motor vehicles that are not suitable for advertising and may contract with private parties to design and place the announcements.

M. On or before October 1 of each year, the department shall submit to the joint legislative budget committee and the governor's office of strategic planning and budgeting a report that accounts for all monies deposited in the state fleet operations fund established by section 28-475 and the state vehicle replacement fund established by section 28-476, including any monies allocated to separate agency accounts. The report shall also include the number of motor vehicles that were replaced in the prior fiscal year, the number of motor vehicles at each agency, the replacement life cycle for each motor vehicle and the number of motor vehicles the department identifies as not requiring replacement.

EXPLANATION OF BLEND
SECTION 28-1321

Laws 2024, Chapters 101 and 109

Laws 2024, Ch. 101, section 1

Effective September 14, 2024

Laws 2024, Ch. 109, section 1

Effective September 14, 2024

Explanation

Since these two enactments are compatible, the Laws 2024, Ch. 101 and Ch. 109 text changes to section 28-1321 are blended in the form shown on the following pages.

BLEND OF SECTION 28-1321
Laws 2024, Chapters 101 and 109

28-1321. Implied consent; tests; refusal to submit to test; order of suspension; hearing; review; temporary permit; notification of suspension; special ignition interlock restricted driver license

A. A person who operates a motor vehicle in this state gives consent, subject to section 4-244, paragraph 34 or section 28-1381, 28-1382 or 28-1383, to a test or tests of the person's blood, breath, urine or other bodily substance for the purpose of determining alcohol concentration or drug content if the person is arrested for any offense arising out of acts alleged to have been committed in violation of this chapter or section 4-244, paragraph 34 while the person was driving or in actual physical control of a motor vehicle while under the influence of intoxicating liquor as prescribed in section 28-1381 or drugs. The test or tests chosen by the law enforcement agency shall be administered at the direction of a law enforcement officer having reasonable grounds to believe that the person was driving or in actual physical control of a motor vehicle in this state either:

1. While under the influence of intoxicating liquor as prescribed in section 28-1381 or drugs.
2. If the person is under twenty-one years of age, with spirituous liquor in the person's body.

B. After an arrest a violator shall be requested to submit to and successfully complete any test or tests prescribed by subsection A of this section, and if the violator refuses the violator shall be informed that the violator's license or permit to drive will be suspended or denied for twelve months, or for two years for a second or subsequent refusal within a period of eighty-four months, unless the violator expressly agrees to submit to and successfully completes the test or tests. A failure to expressly agree to the test or successfully complete the test is deemed a refusal. The violator shall also be informed that:

1. If the test results show a blood or breath alcohol concentration of 0.08 or more, if the results show a blood or breath alcohol concentration of 0.04 or more and the violator was driving or in actual physical control of a commercial motor vehicle, A VEHICLE FOR HIRE AS DEFINED IN SECTION 28-9501 OR WHILE PROVIDING TRANSPORTATION NETWORK SERVICES AS DEFINED IN SECTION 28-9551 AS A TRANSPORTATION NETWORK COMPANY DRIVER AS DEFINED IN SECTION 28-9551 or if the results show there is any drug defined in section 13-3401 or its metabolite in the person's body and the person does not possess a valid prescription for the drug, the violator's license or permit to drive will be suspended or denied for not less than ninety consecutive days.

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2. The violator's driving privilege, license, permit, right to apply for a license or permit or nonresident operating privilege may be issued or reinstated following the period of suspension only if the violator completes alcohol or other drug screening.

C. A person who is dead, unconscious or otherwise in a condition rendering the person incapable of refusal is deemed not to have withdrawn the consent provided by subsection A of this section and the test or tests may be administered, subject to section 4-244, paragraph 34 or section 28-1381, 28-1382 or 28-1383.

D. If a person under arrest refuses to submit to the test designated by the law enforcement agency as provided in subsection A of this section:

1. The test shall not be given, except as provided in section 28-1388, subsection E or pursuant to a search warrant.

2. The law enforcement officer directing the administration of the test shall:

(a) File a certified report of the refusal with the department WITHIN THIRTY DAYS AFTER THE DATE OF THE ARREST. IF A CERTIFIED REPORT IS NOT FORWARDED TO THE DEPARTMENT AS PRESCRIBED BY THIS SUBDIVISION, THE DEPARTMENT SHALL NOT ENTER AN ORDER OF SUSPENSION ON ITS RECORDS UNLESS THE VIOLATION LISTED IN SUBSECTION A OF THIS SECTION RESULTED IN DEATH OR SERIOUS PHYSICAL INJURY AS DEFINED IN SECTION 13-105.

(b) On behalf of the department, DO ONE OF THE FOLLOWING:

(i) Serve an order of suspension on the person that is effective thirty days after the date the order is served.

(ii) ADVISE THE PERSON THAT THE CERTIFIED REPORT WILL BE SUBMITTED TO THE DEPARTMENT AND THAT THE DEPARTMENT WILL NOTIFY THE PERSON IN WRITING IF AN ORDER OF SUSPENSION IS ENTERED. THE LAW ENFORCEMENT OFFICER SHALL DIRECT THE PERSON TO ENSURE THE PERSON'S ADDRESS IS UPDATED WITH THE DEPARTMENT PURSUANT TO SECTION 28-448.

(c) Require the immediate surrender of any license or permit to drive that is issued by this state and that is in the possession or control of the person. The law enforcement agency may do either of the following to a driver license or permit taken into possession under this subdivision:

(i) In compliance with sections 41-151.15 and 41-151.19, destroy the driver license or permit.

(ii) Forward the driver license or permit to the department within ~~five~~ THIRTY days after the issuance of the notice of suspension.

(d) If the license or permit is not surrendered, state the reason why it is not surrendered.

(e) If a valid license or permit is surrendered, issue a temporary driving permit that is valid for thirty days.

(f) Forward the certified report of refusal, a copy of the completed notice of suspension and a copy of any completed temporary permit to the department within ~~five~~ THIRTY days after the issuance of the notice of suspension.

E. The certified report is subject to the penalty for perjury as prescribed by section 28-1561 and shall state all of the following:

1. The officer's reasonable grounds to believe that the arrested person was driving or in actual physical control of a motor vehicle in this state either:

(a) While under the influence of intoxicating liquor as prescribed in section 28-1381 or drugs.

(b) If the person is under twenty-one years of age, with spirituous liquor in the person's body.

2. The manner in which the person refused to submit to the test or tests.

3. That the person was advised of the consequences of refusal.

F. On receipt of the certified report of refusal and a copy of the order of suspension and on the effective date stated on the order, the department shall enter the order of suspension on its records. THE ORDER OF SUSPENSION IS EFFECTIVE THIRTY DAYS AFTER THE DATE THAT THE ORDER WAS SERVED unless a ~~written or online~~ TIMELY request for a hearing as provided in this section ~~has been~~ IS filed by the accused person. If the department receives only the certified report of refusal, the department shall notify the person named in the report in writing sent by mail that:

1. Thirty days after the date of issuance of the notice the department will suspend the person's license or permit, driving privilege or nonresident driving privilege.

2. The department will provide an opportunity for a hearing if the person requests a hearing in writing or online and the request is received by the department within thirty days after the notice is sent.

G. The order of suspension issued by a law enforcement officer or the department under this section shall notify the person that:

1. The person may submit a written or online request for a hearing.

2. The request for a hearing must be received by the department within thirty days after the date of the notice or the order of suspension will become final.

3. The affected person's license or permit to drive or right to apply for a license or permit or any nonresident operating privilege will be suspended for twelve months from that date or for two years from that date for a second or subsequent refusal within a period of eighty-four months.

4. The person's driving privilege, license, permit, right to apply for a license or permit or nonresident operating privilege may be issued or reinstated following the period of suspension only if the person completes alcohol or other drug screening.

H. The order for suspension shall:

1. Be accompanied by printed forms that are ready to mail to the department, that may be filled out and signed by the person to indicate the person's desire for a hearing and that advise the person that the person may alternatively submit an online request for a hearing.

2. Advise the person that unless the person has surrendered any driver license or permit issued by this state the person's hearing request will not be accepted, except that the person may certify pursuant to section 28-3170 that the license or permit is lost or destroyed.

I. On the receipt of a request for a hearing, the department shall set the hearing within sixty days. The department may hold the hearing in person, by telephone or by videoconference. If the department holds the hearing in person, the hearing shall be held in the county in which the person named in the report resides unless the law enforcement agency filing the certified report of refusal pursuant to subsection D of this section

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requests at the time of its filing that the hearing be held in the county where the refusal occurred.

J. A timely request for a hearing stays the suspension until a hearing is held, except that the department shall not return any surrendered license or permit to the person but may issue temporary permits to drive that expire not later than when the department has made its final decision. If the person is a resident without a license or permit or has an expired license or permit, the department may allow the person to apply for a restricted license or permit. If the department determines the person is otherwise entitled to the license or permit, the department shall issue and retain a restricted license or permit subject to this section.

K. Hearings requested under this section shall be conducted in the same manner and under the same conditions as provided in section 28-3306. For the purposes of this section, the scope of the hearing shall include only the issues of whether:

1. A law enforcement officer had reasonable grounds to believe that the person was driving or was in actual physical control of a motor vehicle in this state either:

(a) While under the influence of intoxicating liquor as prescribed in section 28-1381 or drugs.

(b) If the person is under twenty-one years of age, with spirituous liquor in the person's body.

2. The person was placed under arrest.

3. The person refused to submit to the test.

4. The person was informed of the consequences of refusal.

L. If the department determines at the hearing to suspend the affected person's privilege to operate a motor vehicle, the suspension provided in this section is effective thirty days after giving written notice of the suspension, except that the department may issue or extend a temporary license that expires on the effective date of the suspension. If the person is a resident without a license or permit or has an expired license or permit to operate a motor vehicle in this state, the department shall deny to the person the issuance of a license or permit for a period of twelve months after the order of suspension becomes effective or for a period of two years after the order of suspension becomes effective for a second or subsequent refusal within a period of eighty-four months, and may reinstate the person's driving privilege, license, permit, right to apply for a license or permit or nonresident operating privilege following the period of suspension only if the person completes alcohol or other drug screening.

M. If the suspension order is sustained after the hearing, a motion for rehearing is not required. Within thirty days after a suspension order is sustained, the affected person may file a petition in the superior court to review the final order of suspension or denial by the department in the same manner provided in section 28-3317. The court shall hear the review of the final order of suspension or denial on an expedited basis.

N. If the suspension or determination that there should be a denial of issuance is not sustained, the ruling is not admissible in and has no effect on any administrative, civil or criminal court proceeding.

O. If it has been determined under the procedures of this section that a nonresident's privilege to operate a motor vehicle in this state has been suspended, the department shall give information either in writing or by electronic means of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which the person has a license.

P. After completing any alcohol or other drug screening that is ordered by the department pursuant to this chapter, a person whose driving privilege is suspended pursuant to this section may apply to the department for a special ignition interlock restricted driver license pursuant to section 28-1401. Unless the certified ignition interlock period is extended by the department pursuant to section 28-1461, a person who is issued a special ignition interlock restricted driver license as provided in this subsection shall maintain a functioning certified ignition interlock device in compliance with this chapter during the remaining period of the suspension prescribed by this section. This subsection does not apply to a person whose driving privilege is suspended for a second or subsequent refusal within a period of eighty-four months.

Q. Notwithstanding section 28-1401, the department may issue a special ignition interlock restricted driver license to a person for an offense described in subsection A of this section. A person who applies for and who is issued a special ignition interlock restricted driver license pursuant to this subsection agrees to the administrative action taken by the department against the person's license. Once the department issues a special ignition interlock restricted driver license pursuant to this subsection, the person waives any right to an administrative hearing contesting the administrative action against the person's license pursuant to this section or section 28-1385.

EXPLANATION OF BLEND
SECTION 28-1385

Laws 2024, Chapters 101 and 109

Laws 2024, Ch. 101, section 3

Effective September 14, 2024

Laws 2024, Ch. 109, section 2

Effective September 14, 2024

Explanation

Since these two enactments are compatible, the Laws 2024, Ch. 101 and Ch. 109 text changes to section 28-1385 are blended in the form shown on the following pages.

BLEND OF SECTION 28-1385
Laws 2024, Chapters 101 and 109

28-1385. Administrative license suspension for driving under the influence or for homicide or assault involving a motor vehicle; report; hearing; summary review; ignition interlock device requirement

Ch. 109 — A. WITHIN THIRTY DAYS AFTER AN ARREST OCCURS, a law enforcement officer shall forward to the department a certified report as prescribed in subsection B of this section, subject to the penalty for perjury prescribed by section 28-1561, if both of the following occur:

1. The officer arrests a person for a violation of section 4-244, paragraph 34, section 28-1381, section 28-1382 or section 28-1383 or for a violation of title 13, chapter 11 or section 13-1201 or 13-1204 involving a motor vehicle.

2. The person submits to a test of the person's blood, breath, urine or other bodily substance that is allowed by section 28-1321 or any other law or a sample of blood is obtained pursuant to section 28-1388 and the results are either not available or the results indicate any of the following:

(a) 0.08 or more alcohol concentration in the person's blood or breath.

(b) 0.04 or more alcohol concentration in the person's blood or breath if the person was driving or in actual physical control of a commercial motor vehicle.

Ch. 101 — (c) 0.04 OR MORE ALCOHOL CONCENTRATION IN THE PERSON'S BLOOD OR BREATH IF THE PERSON WAS DRIVING OR IN ACTUAL PHYSICAL CONTROL OF A VEHICLE FOR HIRE AS DEFINED IN SECTION 28-9501 OR WHILE PROVIDING TRANSPORTATION NETWORK SERVICES AS DEFINED IN SECTION 28-9551 AS A TRANSPORTATION NETWORK COMPANY DRIVER AS DEFINED IN SECTION 28-9551.

(d) Any drug defined in section 13-3401 or its metabolite is in the person's body except if the person possesses a valid prescription for the drug.

B. The officer shall make the certified report required by subsection A of this section on forms supplied or approved by the department. The report shall state information that is relevant to the enforcement action, including:

1. Information that adequately identifies the arrested person.

2. A statement of the officer's grounds for belief that the person was driving or in actual physical control of a motor vehicle in violation of section 4-244, paragraph 34, section 28-1381, section 28-1382 or section 28-1383 or committed a violation of title 13, chapter 11 or section 13-1201 or 13-1204 involving a motor vehicle.

3. A statement that the person was arrested for a violation of section 4-244, paragraph 34, section 28-1381, section 28-1382 or section 28-1383 or

for a violation of title 13, chapter 11 or section 13-1201 or 13-1204 involving a motor vehicle.

4. A report of the results of the blood or breath alcohol test that was administered, if the results are available.

~~C. If a breath test is administered, a law enforcement agency shall forward the certified report that is required by subsection A of this section to the department within thirty days after the arrest occurs. If a sample of blood, urine or other bodily substance is obtained, the law enforcement agency shall forward the certified report that is required by subsection A of this section to the department within thirty days after the date the report of the analysis is provided to the law enforcement agency. If a report is not forwarded to the department within the time limit prescribed by this subsection, the report is inadmissible in a hearing held pursuant to this section unless the violation listed in subsection A of this section resulted in death or serious physical injury. For the purposes of this subsection, "serious physical injury" has the same meaning prescribed in section 13-105.~~

C. THE LAW ENFORCEMENT OFFICER DIRECTING THE ADMINISTRATION OF THE TEST SHALL:

1. FILE A CERTIFIED REPORT THAT IS REQUIRED BY SUBSECTION A OF THIS SECTION WITH THE DEPARTMENT WITHIN THIRTY DAYS AFTER THE DATE OF THE ARREST. IF A CERTIFIED REPORT IS NOT FORWARDED TO THE DEPARTMENT AS PRESCRIBED BY THIS PARAGRAPH, THE DEPARTMENT MAY NOT ENTER AN ORDER OF SUSPENSION ON ITS RECORDS UNLESS THE VIOLATION LISTED IN SUBSECTION A OF THIS SECTION RESULTED IN DEATH OR SERIOUS PHYSICAL INJURY AS DEFINED IN SECTION 13-105.

2. ON BEHALF OF THE DEPARTMENT, DO ONE OF THE FOLLOWING:

(a) SERVE AN ORDER OF SUSPENSION ON THE PERSON THAT IS EFFECTIVE THIRTY DAYS AFTER THE DATE THAT THE ORDER IS SERVED.

(b) ADVISE THE PERSON THAT THE CERTIFIED REPORT WILL BE SUBMITTED TO THE DEPARTMENT AND THAT THE DEPARTMENT WILL NOTIFY THE PERSON IN WRITING IF AN ORDER OF SUSPENSION IS ENTERED. THE LAW ENFORCEMENT OFFICER SHALL DIRECT THE PERSON TO ENSURE THE PERSON'S ADDRESS IS UPDATED WITH THE DEPARTMENT PURSUANT TO SECTION 28-448.

~~D. IF THE OFFICER SHALL ALSO SERVE~~ SERVES an order of suspension on the person ~~on behalf of the department.~~ the order of suspension:

1. Is effective thirty days after the date it is served.

2. Shall require the immediate surrender of any license or permit to drive that is issued by this state and that is in the possession or control of the person.

3. Shall contain information concerning the right to a summary review and hearing, including information concerning the hearing as required by section 28-1321, subsections G and H.

4. Shall be accompanied by printed forms that are ready to mail to the department, that the person may fill out and sign to indicate the person's desire for a hearing or summary review and that advise the person that the person may alternatively submit an online request for a hearing or summary review.

5. Shall be entered on the department's records on receipt of the report by the officer and a copy of the order of suspension.

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6. Shall inform the person that the person's driving privilege, license, permit, right to apply for a license or permit or nonresident operating privilege may be issued or reinstated following the period of suspension or issuance of a special ignition interlock restricted driver license only if the person completes alcohol or other drug screening.

7. Shall contain information on alcohol or other drug education and treatment programs that are provided by a facility approved by the department of health services.

E. If the blood test result is unavailable at the time the test is administered, the result shall be forwarded to the department before the hearing held pursuant to this section in a form prescribed by the director.

F. If the license or permit is not surrendered pursuant to subsection D of this section, the officer shall state the reason for the nonsurrender. If a valid license or permit is surrendered, the officer shall issue a temporary driving permit that is valid for thirty days. The officer shall forward a copy of the completed order of suspension and a copy of any completed temporary permit to the department within ~~five~~ THIRTY days after the issuance of the order of suspension along with the report. The law enforcement agency may do either of the following with a valid license or permit that is surrendered pursuant to this section:

1. In compliance with sections 41-151.15 and 41-151.19, destroy the license or permit.

2. Forward the license or permit to the department within ~~five~~ THIRTY days after the issuance of the notice of suspension.

G. ON RECEIPT OF THE CERTIFIED REPORT, THE DEPARTMENT SHALL ENTER AN ORDER OF SUSPENSION ON ITS RECORDS. THE DEPARTMENT SHALL MAIL A WRITTEN NOTIFICATION TO THE PERSON WHO IS NAMED IN THE CERTIFIED REPORT. THE NOTIFICATION SHALL:

1. INCLUDE INFORMATION ON ALCOHOL OR OTHER DRUG EDUCATION AND TREATMENT PROGRAMS THAT ARE PROVIDED BY A FACILITY APPROVED BY THE DEPARTMENT OF HEALTH SERVICES.

2. DISCLOSE ALL OF THE FOLLOWING:

(a) THIRTY DAYS AFTER THE DATE OF ISSUANCE OF THE NOTICE, THE DEPARTMENT WILL SUSPEND THE PERSON'S DRIVING PRIVILEGE OR NONRESIDENT OPERATING PRIVILEGE.

(b) THE PERSON MAY SUBMIT A WRITTEN OR ONLINE REQUEST FOR A HEARING OR SUMMARY REVIEW.

(c) THE REQUEST FOR A HEARING OR SUMMARY REVIEW MUST BE RECEIVED BY THE DEPARTMENT WITHIN THIRTY DAYS AFTER THE DATE OF THE NOTICE OR THE ORDER OF SUSPENSION BECOMES FINAL.

(d) THE PERSON'S DRIVING PRIVILEGE OR RIGHT TO APPLY FOR A DRIVING PRIVILEGE OR THE PERSON'S NONRESIDENT OPERATING PRIVILEGE WILL BE SUSPENDED AS PRESCRIBED IN SUBSECTIONS H AND I OF THIS SECTION.

(e) THE PERSON'S DRIVING PRIVILEGE OR RIGHT TO APPLY FOR A DRIVING PRIVILEGE OR THE PERSON'S NONRESIDENT OPERATING PRIVILEGE MAY BE ISSUED OR REINSTATED FOLLOWING THE PERIOD OF SUSPENSION ONLY IF THE PERSON COMPLETES ALCOHOL OR OTHER DRUG SCREENING.

(f) THE PERSON MAY APPLY FOR A SPECIAL IGNITION INTERLOCK RESTRICTED DRIVER LICENSE PURSUANT TO SUBSECTIONS J AND K OF THIS SECTION.

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~~G.~~ H. The department shall suspend the affected person's license or permit to drive or right to apply for a license or permit or any nonresident operating privilege for not less than ninety consecutive days from that date. If the person is otherwise qualified, the department may reinstate the person's driving privilege, license, permit, right to apply for a license or permit or nonresident operating privilege following the period of suspension only if the violator completes alcohol or other drug screening.

Ch. 109 { ~~H.~~ I. Notwithstanding subsections A, B, C, D, E, F, G and ~~G~~ H of this section and except as provided in subsection ~~F~~ J of this section, the department shall suspend the driving privileges of the person described in subsection A of this section for at least thirty consecutive days and shall restrict the person's driving privileges as prescribed in section 28-144 for at least sixty consecutive additional days if the person:

1. Did not cause death or serious physical injury as defined in section 13-105 to another person during the course of conduct out of which the current action arose.

Ch. 109 — 2. Has not been convicted of a violation of section 4-244, paragraph 34, section 28-1381, section 28-1382 or section 28-1383 within eighty-four months ~~of~~ AFTER the date of commission of the acts out of which the current action arose. The dates of commission of the acts are the determining factor in applying the eighty-four month provision.

3. Provides satisfactory evidence to the department of the person's completion of alcohol or other drug screening that is ordered by the department. If the person does not complete alcohol or other drug screening, the department may impose a ninety day suspension pursuant to this section.

Ch. 109 { ~~I.~~ J. In lieu of a driving privilege suspension pursuant to subsection ~~H~~ I of this section, on a person's request, the department shall issue a special ignition interlock restricted driver license to the person if the requirements set forth in subsection ~~H~~ I, paragraphs 1, 2 and 3 OF THIS SECTION are met.

~~J.~~ K. Notwithstanding section 28-1401, the department may issue a special ignition interlock restricted driver license to a person for an offense described in subsection A of this section. A person who applies for and who is issued a special ignition interlock restricted driver license pursuant to this subsection agrees to the administrative action taken by the department against the person's license. Once the department issues a special ignition interlock restricted driver license pursuant to this subsection, the person waives any right to an administrative hearing contesting the administrative action against the person's license pursuant to this section or section 28-1321.

Ch. 109 { ~~K.~~ If the officer does not serve an order of suspension pursuant to subsection D of this section and if the department does not receive the report of the results of the blood or breath alcohol test pursuant to subsection B, paragraph 4 of this section, but subsequently receives the results and the results indicate 0.08 or more alcohol concentration in the person's blood or breath, a blood or breath alcohol concentration of 0.04 or more and the person was driving or in actual physical control of a commercial motor vehicle or any drug defined in section 13-3401 or its metabolite in the person's body and the person does not possess a valid

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~~prescription for the drug, the department shall notify the person named in the report in writing sent by mail that thirty days after the date of issuance of the notice the department will suspend the person's license or permit, driving privilege or nonresident driving privilege. The notice shall also state that the department will provide an opportunity for a hearing and summary review if the person requests a hearing or review in writing and the request is received by the department within thirty days after the notice is sent.~~

L. A timely request for a hearing stays the suspension until a hearing is held, except that the department shall not return any surrendered license or permit to the person but may issue temporary permits to drive that expire not later than when the department has made its final decision. If the person is a resident without a license or permit or has an expired license or permit, the department may allow the person to apply for a restricted license or permit. If the department determines the person is otherwise entitled to the restricted license or permit, the department shall issue, but retain, the license or permit, subject to this section. All hearings requested under this section shall be conducted in the same manner and under the same conditions as provided in section 28-3306.

M. For the purposes of this section, the scope of the hearing shall include only the following issues:

1. Whether the officer had reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor as prescribed in section 28-1381 or drugs.

2. Whether the person was placed under arrest for a violation of section 4-244, paragraph 34, section 28-1381, section 28-1382 or section 28-1383 or for a violation of title 13, chapter 11 or section 13-1201 or 13-1204 involving a motor vehicle.

3. Whether a test was taken, the results of which indicated any of the following:

(a) An alcohol concentration in the person's blood or breath at the time the test was administered of either:

(i) 0.08 or more.

(ii) 0.04 or more if the person was driving or in actual physical control of a commercial motor vehicle.

(iii) 0.04 OR MORE IF THE PERSON WAS DRIVING OR IN ACTUAL PHYSICAL CONTROL OF A VEHICLE FOR HIRE AS DEFINED IN SECTION 28-9501 OR WHILE PROVIDING TRANSPORTATION NETWORK SERVICES AS DEFINED IN SECTION 28-9551 AS A TRANSPORTATION NETWORK COMPANY DRIVER AS DEFINED IN SECTION 28-9551.

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(b) Any drug defined in section 13-3401 or its metabolite in the person's body except if the person possesses a valid prescription for the drug.

4. Whether the testing method used was valid and reliable.

5. Whether the test results were accurately evaluated.

N. The results of the blood or breath alcohol test shall be admitted on establishing the requirements in section 28-1323 or 28-1326.

O. If the department determines at the hearing to suspend the affected person's privilege to operate a motor vehicle, the suspension provided in this section is effective thirty days after giving written

notice of the suspension, except that the department may issue or extend a temporary license that expires on the effective date of the suspension. If the person is a resident without a license or permit or has an expired license or permit to operate a motor vehicle in this state, the department shall deny the issuance of a license or permit to the person for not less than ninety consecutive days. The department may reinstate the person's driving privilege, license, permit, right to apply for a license or permit or nonresident operating privilege following the period of suspension only if the violator completes alcohol or other drug screening.

P. A person may request a summary review of an order issued pursuant to this section instead of a hearing at any time before the effective date of the order. A timely request for summary review stays the suspension until a decision is issued. The person shall submit the request in writing to the department together with any written explanation as to why the department should not suspend the driving privilege. The department shall review all reports submitted by the officer and any written explanation submitted by the person and shall determine if the order of suspension should be sustained or voided. The department shall not hold a hearing, and the review is not subject to title 41, chapter 6. The department shall notify the person of its decision.

Q. If the suspension or determination that there should be a denial of issuance is not sustained after a hearing or review, the ruling is not admissible in and does not have any effect on any civil or criminal court proceeding.

R. If it has been determined under the procedures of this section that a nonresident's privilege to operate a motor vehicle in this state has been suspended, the department shall give information either in writing or by electronic means of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which the person has a license.

EXPLANATION OF BLEND
SECTION 28-2351

Laws 2024, Chapters 19, 111 and 126

Laws 2024, Ch. 19, section 1	Effective September 14, 2024
Laws 2024, Ch. 111, section 1	Effective September 14, 2024
Laws 2024, Ch. 126, section 1	Effective September 14, 2024

Explanation

Since these three enactments are identical, the Laws 2024, Ch. 19, Ch. 111 and Ch. 126 text changes to section 28-2351 are blended in the form shown on the following pages.

BLEND OF SECTION 28-2351
Laws 2024, Chapters 19, 111 and 126

28-2351. License plate provided; design

A. Notwithstanding any other law, the department shall provide to every owner one license plate for each vehicle registered. At the request of the owner and on payment of a fee in an amount prescribed by the director by rule, the department shall provide one additional license plate for a vehicle for which a special plate is requested pursuant to this chapter.

B. The license plate shall display the number assigned to the vehicle and to the owner of the vehicle and the name of this state, which may be abbreviated. The director shall coat the license plate with a reflective material that is consistent with the determination of the department regarding the color and design of license plates and special plates. The director shall design the license plate and the letters and numerals on the license plate to be of sufficient size to be plainly readable during daylight from a distance of one hundred feet. In addition to the standard license plate issued for a trailer before August 12, 2005, the director shall issue a license plate for trailers that has a design that is similar to the standard size license plate for trailers but that is the same size as the license plate for motorcycles. The trailer owner shall notify the department which size license plate the owner wants for the trailer.

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126

C. In addition to the requirements PRESCRIBED in subsection B of this section, for all license plates, including all special plates, that are designed or redesigned on or after September 24, 2022:

1. The background color of the license plate shall contrast significantly with the color of the letters and numerals on the license plate and with the name of this state on the license plate.

2. The name of this state shall appear on the license plate in capital letters in sans serif font and be three-fourths of an inch in height.

D. Notwithstanding any other law, the department shall not contract with a nongovernmental entity to purchase or secure reflective material for the plates issued by the department unless the department has made a reasonable effort to secure qualified bids or proposals from as many individual responsible respondents as possible.

E. The department shall determine the color and design of the license plate subject to the requirements prescribed by subsections B and C of this section. All plates issued by the department, except the plates that are issued pursuant to sections 28-2404, 28-2412, 28-2413, 28-2414, 28-2416, 28-2416.01, 28-2417 through ~~28-2470.22~~ 28-2470.26, 28-2472, 28-2473, 28-2474, 28-2475, 28-2476 and 28-4533 and article 14 of this chapter, shall be the same color as and similar in design to the license plate as determined by the department.

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F. A passenger motor vehicle that is rented without a driver shall receive the same type of license plate as is issued for a private passenger motor vehicle.

EXPLANATION OF BLEND
SECTION 28-2403

Laws 2024, Chapters 19, 111 and 126

Laws 2024, Ch. 19, section 2	Effective September 14, 2024
Laws 2024, Ch. 111, section 2	Effective September 14, 2024
Laws 2024, Ch. 126, section 2	Effective September 14, 2024

Explanation

Since these three enactments are identical, the Laws 2024, Ch. 19, Ch. 111 and Ch. 126 text changes to section 28-2403 are blended in the form shown on the following pages.

BLEND OF SECTION 28-2403
Laws 2024, Chapters 19, 111 and 126

28-2403. Special plates; transfers; violation; classification

A. Except as otherwise provided in this article, the department shall issue or renew special plates in lieu of the regular license plates pursuant to the following conditions and procedures and only if the requirements prescribed by this article for the requested special plates are met:

1. Except as provided in sections 28-2416 and 28-2416.01, a person who is the registered owner of a vehicle registered with the department or who applies for an original or renewal registration of a vehicle may submit to the department a completed application form as prescribed by the department with the fee prescribed by section 28-2402 for special plates in addition to the registration fee prescribed by section 28-2003.

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2. Except for plates issued pursuant to sections 28-2404, 28-2412, 28-2413, 28-2414, 28-2416, 28-2416.01, 28-2417 through ~~28-2470.22~~ 28-2470.26, 28-2472, 28-2473, 28-2474, 28-2475 and 28-2476 and article 14 of this chapter, the special plates shall be the same color as and similar to the design of the regular license plates that is determined by the department.

3. Except as provided in section 28-2416, the department shall issue special plates only to the owner or lessee of a vehicle that is currently registered, including any vehicle that has a declared gross weight, as defined in section 28-5431, of twenty-six thousand pounds or less.

4. Except as provided in sections 28-2416 and 28-2416.01, the department shall charge the fee prescribed by section 28-2402 for each annual renewal of special plates in addition to the registration fee prescribed by section 28-2003.

B. Except as provided in sections 28-2416 and 28-2416.01, on notification to the department and on payment of the transfer fee prescribed by section 28-2402, a person who is issued special plates may transfer the special plates to another vehicle the person owns or leases. Persons who are issued special plates for hearing impaired persons pursuant to section 28-2408 and international symbol of access special plates pursuant to section 28-2409 are exempt from the transfer fee. If a person who is issued special plates sells, trades or otherwise releases ownership of the vehicle on which the plates have been displayed, the person shall immediately report the transfer of the plates to the department or the person shall surrender the plates to the department as prescribed by the director. It is unlawful for a person to whom the plates have been issued to knowingly allow them to be displayed on a vehicle except the vehicle authorized by the department.

C. The special plates shall be affixed to the vehicle for which registration is sought in lieu of the regular license plates.

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

1. Violates subsection B of this section.

2. Fraudulently gives false or fictitious information in the application for or renewal of special plates or placards issued pursuant to this article.

3. Conceals a material fact or otherwise commits fraud in the application for or renewal of special plates or placards issued pursuant to this article.

EXPLANATION OF BLEND
SECTION 28-6501

Laws 2024, Chapters 19, 111 and 126

Laws 2024, Ch. 19, section 4	Effective September 14, 2024
Laws 2024, Ch. 111, section 6	Effective September 14, 2024
Laws 2024, Ch. 126, section 6	Effective September 14, 2024

Explanation

Since these three enactments are identical, the Laws 2024, Ch. 19, Ch. 111 and Ch. 126 text changes to section 28-6501 are blended in the form shown on the following page.

BLEND OF SECTION 28-6501
Laws 2024, Chapters 19, 111 and 126

28-6501. Definition of highway user revenues

In this article, unless the context otherwise requires or except as otherwise provided by statute, "highway user revenues" means all monies received in this state from licenses, taxes, penalties, interest and fees authorized by the following:

1. Chapters 2, 7, 8 and 15 of this title, except for:

(a) The special plate administration fees prescribed in sections 28-2404, 28-2407, 28-2412 through ~~28-2470.22~~ 28-2470.26 and 28-2514.

(b) The donations prescribed in sections 28-2404, 28-2407, 28-2412 through 28-2415, 28-2417 through ~~28-2470.22~~ 28-2470.26, 28-2473, 28-2474, 28-2475 and 28-2476.

2. Section 28-1177.

3. Chapters 10 and 11 of this title.

4. Chapter 16, articles 1, 2 and 4 of this title, except as provided in sections 28-5926 and 28-5927.

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EXPLANATION OF BLEND
SECTION 28-6991

Laws 2024, Chapters 19, 111 and 126

Laws 2024, Ch. 19, section 5 Effective September 14, 2024

Laws 2024, Ch. 111, section 7 Effective September 14, 2024

Laws 2024, Ch. 126, section 7 Effective September 14, 2024

Explanation

Since these three enactments are identical, the Laws 2024, Ch. 19, Ch. 111 and Ch. 126 text changes to section 28-6991 are blended in the form shown on the following pages.

BLEND OF SECTION 28-6991
Laws 2024, Chapters 19, 111 and 126

28-6991. State highway fund; sources

The state highway fund is established that consists of:

1. Monies distributed from the Arizona highway user revenue fund pursuant to chapter 18 of this title.
2. Monies appropriated by the legislature.
3. Monies received from donations for the construction, improvement or maintenance of state highways or bridges. These monies shall be credited to a special account and shall be spent only for the purpose indicated by the donor.
4. Monies received from counties or cities under cooperative agreements, including proceeds from bond issues. The state treasurer shall deposit these monies to the credit of the fund in a special account on delivery to the treasurer of a concise written agreement between the department and the county or city stating the purposes for which the monies are surrendered by the county or city, and these monies shall be spent only as stated in the agreement.
5. Monies received from the United States under an act of Congress to provide aid for the construction of rural post roads, but monies received on projects for which the monies necessary to be provided by this state are wholly derived from sources mentioned in paragraphs 2 and 3 of this section shall be allotted by the department and deposited by the state treasurer in the special account within the fund established for each project. On completion of the project, on the satisfaction and discharge in full of all obligations of any kind created and on request of the department, the treasurer shall transfer the unexpended balance in the special account for the project into the state highway fund, and the unexpended balance and any further federal aid thereafter received on account of the project may be spent under the general provisions of this title.
6. Monies in the custody of an officer or agent of this state from any source that is to be used for the construction, improvement or maintenance of state highways or bridges.
7. Monies deposited in the state general fund and arising from the disposal of state personal property belonging to the department.
8. Receipts from the sale or disposal of any or all other property held by the department and purchased with state highway monies.
9. Monies generated pursuant to section 28-410.
10. Monies distributed pursuant to section 28-5808, subsection B, paragraph 2, subdivision (d).
11. Monies deposited pursuant to sections 28-1143, 28-2353 and 28-3003.
12. Except as provided in section 28-5101, the following monies:

(a) Monies deposited pursuant to section 28-2206 and section 28-5808, subsection B, paragraph 2, subdivision (e).

(b) \$1 of each registration fee and \$1 of each title fee collected pursuant to section 28-2003.

(c) \$2 of each late registration penalty collected by the director pursuant to section 28-2162.

(d) The air quality compliance fee collected pursuant to section 49-542.

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126

(e) The special plate administration fees collected pursuant to sections 28-2404, 28-2407, 28-2412 through 28-2416, 28-2416.01, 28-2417 through ~~28-2470.22~~ 28-2470.26 and 28-2514.

(f) Monies collected pursuant to sections 28-372, 28-2155 and 28-2156 if the director is the registering officer.

13. Monies deposited pursuant to chapter 5, article 5 of this title.

14. Donations received pursuant to section 28-2269.

15. Dealer and registration monies collected pursuant to section 28-4304.

16. Abandoned vehicle administration monies deposited pursuant to section 28-4804.

17. Monies deposited pursuant to section 28-710, subsection D, paragraph 2.

18. Monies deposited pursuant to section 28-2065.

19. Monies deposited pursuant to section 28-7311.

20. Monies deposited pursuant to section 28-7059.

21. Monies deposited pursuant to section 28-1105.

22. Monies deposited pursuant to section 28-2448, subsection D.

23. Monies deposited pursuant to section 28-3415.

24. Monies deposited pursuant to section 28-3002, subsection A, paragraph 14.

25. Monies deposited pursuant to section 28-7316.

26. Monies deposited pursuant to section 28-4302.

27. Monies deposited pursuant to section 28-3416.

28. Monies deposited pursuant to section 28-4504.

29. Monies deposited pursuant to section 28-2098.

30. Monies deposited pursuant to sections 28-2321, 28-2324, 28-2325, 28-5474, 28-5739, 28-5863 and 28-5864.

EXPLANATION OF BLEND
SECTION 28-6993

Laws 2024, Chapters 19, 111 and 126

Laws 2024, Ch. 19, section 6	Effective September 14, 2024
Laws 2024, Ch. 111, section 8	Effective September 14, 2024
Laws 2024, Ch. 126, section 8	Effective September 14, 2024

Explanation

Since these three enactments are identical, the Laws 2024, Ch. 19, Ch. 111 and Ch. 126 text changes to section 28-6993 are blended in the form shown on the following pages.

BLEND OF SECTION 28-6993
Laws 2024, Chapters 19, 111 and 126

28-6993. State highway fund; authorized uses

A. Except as provided in subsection B of this section and section 28-6538, the state highway fund shall be used for any of the following purposes in strict conformity with and subject to the budget as provided by this section and by sections 28-6997 through 28-7003:

1. To pay salaries, wages, necessary travel expenses and other expenses of officers and employees of the department and the incidental office expenses, including telegraph, telephone, postal and express charges and printing, stationery and advertising expenses.

2. To pay for both:

(a) Equipment, supplies, machines, tools, department offices and laboratories established by the department.

(b) The construction and repair of buildings or yards of the department.

3. To pay the cost of both:

(a) Engineering, construction, improvement and maintenance of state highways and parts of highways forming state routes.

(b) Highways under cooperative agreements with the United States that are entered into pursuant to this chapter and an act of Congress providing for the construction of rural post roads.

4. To pay land damages incurred by reason of establishing, opening, altering, relocating, widening or abandoning portions of a state route or state highway.

5. To reimburse the department revolving account.

6. To pay premiums on authorized indemnity bonds and on compensation insurance under the workers' compensation act.

7. To defray lawful expenses and costs required to administer and carry out the intent, purposes and provisions of this title, including repayment of obligations entered into pursuant to this title, payment of interest on obligations entered into pursuant to this title, repayment of loans and other financial assistance, including repayment of advances and interest on advances made to the department pursuant to section 28-7677, and payment of all other obligations and expenses of the board and department pursuant to chapter 21 of this title.

8. To pay lawful bills and charges incurred by the state engineer.

9. To acquire, construct or improve entry roads to state parks or roads within state parks.

10. To acquire, construct or improve entry roads to state prisons.

11. To pay the cost of relocating a utility facility pursuant to section 28-7156.

12. For the purposes provided in subsections C, D and E of this section and sections 28-1143, 28-2353 and 28-3003.

13. To pay the cost of issuing an Arizona centennial special plate pursuant to section 28-2448.

14. To pay for all of the following:

(a) The enforcement by the department of public safety and the department of transportation of vehicle safety requirements within twenty-five miles of the border between this state and Mexico.

(b) Costs related to procuring electronic equipment, automated systems or improvements to existing electronic equipment or automated systems for relieving vehicle congestion at ports of entry on the border between this state and Mexico.

(c) Constructing, maintaining and upgrading transportation facilities, including roads, streets and highways, approved by the board within twenty-five miles of the border between this state and Mexico.

(d) As approved by the board, constructing and maintaining transportation facilities in the CANAMEX high priority corridor as defined in section 332 of the national highway system designation act of 1995 (P.L. 104-59; 109 Stat. 568).

(e) Activities of the department that include collecting transportation and trade data in the United States and Mexico for the purposes of constructing transportation facilities, improving public safety, improving truck processing time and relieving congestion at ports of entry on the border between this state and Mexico. The department may enter into an agreement with the Arizona-Mexico commission and provide funding to the commission for the purposes of this subdivision.

(f) A commitment or investment necessary for the department or another agency of this state to obtain federal monies that are designated for expenditure pursuant to this section.

B. For each fiscal year, the department of transportation shall allocate and transfer monies in the state highway fund to the department of public safety for funding a portion of highway patrol costs in eight installments in each of the first eight months of a fiscal year that do not exceed \$10,000,000.

C. Subject to legislative appropriation, the department may use the monies in the state highway fund as prescribed in section 28-6991, paragraph 12 to carry out the duties imposed by this title for registration or titling of vehicles, to operate joint title, registration and driver licensing offices, to cover the administrative costs of issuing the air quality compliance sticker, modifying the year validating tab and issuing the windshield sticker and to cover expenses and costs in issuing special plates pursuant to sections 28-2404, 28-2407, 28-2412 through ~~28-2470.22~~ 28-2470.26 and 28-2514.

Chs. 19,
111 and
126

D. The department shall use monies deposited in the state highway fund pursuant to chapter 5, article 5 of this title only as prescribed by that article.

E. Monies deposited in the state highway fund pursuant to section 28-2269 shall be used only as prescribed by that section.

F. Monies deposited in the state highway fund pursuant to section 28-710, subsection D, paragraph 2 shall only be used for state highway work zone traffic control devices.

G. The department may exchange monies distributed to the state highway fund pursuant to section 28-6538, subsection A, paragraph 1 for local government surface transportation program federal monies suballocated to councils of government and metropolitan planning organizations if the local government scheduled to receive the federal monies concurs. An exchange of state highway fund monies pursuant to this subsection shall be in an amount that is at least equal to ninety percent of the federal obligation authority that exists in the project for which the exchange is proposed.

H. The department shall use monies deposited in the state highway fund pursuant to section 28-1105, subsection A, paragraph 2, subdivision (a) only for a transportation facility that is located within twenty drivable miles of the international port of entry and shall spend the monies proportionally based on the amount of total monies collected pursuant to section 28-1105, subsection A, paragraph 2, subdivision (a). For the purposes of this subsection, "transportation facility" means a highway or a state route or a county, city or town road that is used by a commercial vehicle or a commercial vehicle combination for which an axle fee is paid pursuant to section 28-5474.

EXPLANATION OF BLEND
SECTION 32-1301

Laws 2024, Chapters 22 and 133

Laws 2024, Ch. 22, section 1

Effective September 14, 2024

Laws 2024, Ch. 133, section 1

Effective September 14, 2024

Explanation

Since these two enactments are compatible, the Laws 2024, Ch. 22 and Ch. 133 text changes to section 32-1301 are blended in the form shown on the following pages.

BLEND OF SECTION 32-1301
Laws 2024, Chapters 22 and 133

32-1301. Definitions

In this chapter, unless the context otherwise requires:

1. "Accredited" means being recognized or authorized by the American board of funeral service education.

Ch. 133 { ~~2. "Administrative costs and expenses" means the cost of copies, transcripts, court reporter and witness fees, reimbursement for mileage and office of administrative hearings costs.~~

~~3.~~ 2. "Alkaline hydrolysis" means a form of final disposition that includes all of the following:

(a) Reducing a dead human body to essential elements through a water-based dissolution process using alkaline chemicals, heat, agitation and pressure to accelerate natural decomposition.

(b) Processing the hydrolyzed remains after they are removed from the alkaline hydrolysis vessel.

(c) Placing the processed remains in a hydrolyzed remains container.

(d) Releasing the hydrolyzed remains to an appropriate party.

~~4.~~ 3. "Alkaline hydrolysis container":

(a) Means a hydrolyzable or biodegradable closed container or pouch that is resistant to leakage of bodily fluids, that encases a dead human body and into which the body is placed before the container's insertion into an alkaline hydrolysis vessel.

(b) Includes a hydrolyzable or biodegradable alternative container or casket.

~~5.~~ 4. "Alkaline hydrolysis facility" means a building or structure containing one or more alkaline hydrolysis vessels for alkaline hydrolysis.

~~6.~~ 5. "Alkaline hydrolysis operator" means a person who is trained to carry out the process of alkaline hydrolysis.

~~7.~~ 6. "Alkaline hydrolysis vessel" means the container in which alkaline hydrolysis is performed.

~~8.~~ 7. "Alternative container" means any unfinished wood box or other nonmetal receptacle or enclosure, without ornamentation or a fixed interior lining, that is designed for encasing human remains.

Ch. 133 — ~~9.~~ 8. "Authorizing agent" means a person who is legally entitled to order the cremation, disinterment, ALKALINE HYDROLYSIS or embalming of human remains pursuant to section 32-1365.02.

~~10.~~ 9. "Beneficiary" means a person whose future funeral arrangements will be handled by a funeral establishment pursuant to a prearranged funeral agreement.

~~11.~~ 10. "Business entity" includes any corporation, association, limited liability company, professional corporation, partnership, limited partnership, sole proprietorship, business trust, trust, joint venture and other business entity.

~~12.~~ 11. "Casket" means a rigid container that is designed to permanently encase human remains and that is usually constructed of wood, metal or synthetic substances and ornamented and lined with fabric.

~~13.~~ 12. "Change of ownership" means a transfer of a controlling legal or equitable interest in a licensed funeral establishment or crematory resulting from a sale or merger. If the establishment or crematory is operated by a business entity, any transfer of the ownership of ten percent or more of the entity constitutes a change of ownership.

~~14.~~ 13. "Conviction" means a criminal adjudication or conviction by any state or federal court of competent jurisdiction, including a judgment based on a no contest plea, without regard to whether civil rights have been restored.

~~15.~~ 14. "Cremated remains" means the remaining bone fragments OR SOIL after cremation.

Ch. 22 { ~~16.~~ 15. "Cremation" means the ~~heating~~ process that reduces human remains to bone fragments OR SOIL by combustion, and evaporation OR NATURAL ORGANIC REDUCTION.

~~17.~~ 16. "Cremation container" means a leak and spill resistant, rigid, combustible, closed receptacle into which human remains are placed before cremation.

~~18.~~ 17. "Cremationist" means a person who operates a crematory retort, who performs the actual cremation of human remains and who may be licensed pursuant to article 6 of this chapter.

~~19.~~ 18. "Crematory" means a building or portion of a building that is licensed pursuant to article 6 of this chapter and that houses a retort in which only human remains are cremated.

~~20.~~ 19. "Department" means the department of health services.

~~21.~~ 20. "Director" means the director of the department.

~~22.~~ 21. "Disciplinary action" means an action taken to revoke or suspend a license, to impose probationary requirements or civil penalties or to issue a letter of censure or reprimand to any person who is subject to this chapter and who violates any provision of this chapter or rules.

~~23.~~ 22. "Embalmer" means a person who is licensed pursuant to this chapter and who is engaged in embalming.

~~24.~~ 23. "Embalming" means the implementation of reconstructive procedures and the process of disinfecting and preserving a dead human body to retard organic decomposition by treating the body to reduce the presence and growth of organisms.

~~25.~~ 24. "Financial institution" means a bank, savings and loan association, trust company or credit union that is lawfully doing business in this state and that is not affiliated with a funeral establishment.

~~26.~~ 25. "Fixed price prearranged funeral agreement funded by trust" means any agreement or combination of agreements that establishes a fixed price for funeral goods and services, that requires a funeral establishment to provide those funeral goods and services at the price levels in effect at the time of the execution of the agreement and that requires the purchaser to convey all or a portion of the accrued interest to the funeral establishment at the time that the funeral goods and services are actually provided.

~~27.~~ 26. "Funded by insurance" means that monies for a prearranged funeral agreement are paid directly to an insurance company licensed pursuant to title 20 on behalf of the beneficiary of the agreement.

~~28.~~ 27. "Funeral directing" means arranging, directing or providing a service in the disposition of dead human bodies for compensation.

~~29.~~ 28. "Funeral director" means a person who is licensed pursuant to this chapter and who is engaged in funeral directing.

~~30.~~ 29. "Funeral establishment" means a business at a specific location that is licensed pursuant to this chapter and that is devoted to the care, storage or preparation for final disposition or transportation of dead human bodies.

~~31.~~ 30. "Funeral goods and services":

(a) Means any personal property or services that are typically sold or provided in connection with the final disposition of human remains, including caskets, alternative containers, outer burial containers, cremation containers, transportation containers, funeral clothing or accessories, monuments, grave markers, urns, embalming services, funeral directing services and similar funeral or burial items.

(b) Does not include:

(i) Goods and services sold by cemeteries.

(ii) Services provided pursuant to a transportation protection agreement.

~~32.~~ 31. "Holding facility" means a designated area for retaining human remains.

~~33.~~ 32. "Human remains" means a lifeless human body or parts of a human body that allow a reasonable inference that death occurred.

Ch. 133 { ~~34.~~ 33. "License" means a written authorization that is issued by the department and that entitles a person to act as a funeral director[,] CREMATIONIST, ALKALINE HYDROLYSIS OPERATOR or embalmer or to operate a funeral establishment, crematory or alkaline hydrolysis facility in this state.

~~35.~~ 34. "Licensee" means a person to whom the department has issued a license under this chapter.

~~36.~~ 35. "Manage" means:

(a) That a responsible funeral director exercises control and oversight over all employees of a funeral establishment and over funeral transactions, including caring for dead human bodies, funeral services and activities and documenting and retaining records.

(b) That a responsible cremationist exercises control and oversight over all employees of a crematory and crematory operations.

~~37.~~ 36. "National board examination" means the test or tests given by the international conference of funeral service examining boards to determine the entry level knowledge and skills of a person regarding funeral directing and embalming.

Ch. 22 { 37. "NATURAL ORGANIC REDUCTION" MEANS THE CONTAINED, ACCELERATED CONVERSION OF HUMAN REMAINS TO SOIL.

~~37.~~ 38. "Net interest" means interest earned on a prearranged funeral trust account minus applicable taxes, reasonable and necessary charges made by the financial institution and the annual service fee allowed

to be deducted by the funeral establishment according to section 32-1391.06, subsection B.

~~38~~: 39. "Outer burial container" means a container that is designed for placement in a grave around a casket, including burial vaults, grave boxes and grave liners.

~~39~~: 40. "Owner":

(a) Means a person who owns ten percent or more of a business entity.

(b) Does not include shareholders of companies who have a class of common equity stock listed or authorized to be listed on the New York stock exchange or the American stock exchange or listed on the NASDAQ stock market.

~~40~~: 41. "Person legally responsible" means the person responsible for burying a dead body as determined in section 36-831.

~~41~~: 42. "Prearranged funeral agreement" means any agreement or combination of agreements under which a payment is made before the death of the intended beneficiary for funeral goods and services to be delivered or performed after the death of the beneficiary.

~~42~~: 43. "Prearranged funeral trust account" means a trust account that is established at a financial institution and into which all monies paid on behalf of a beneficiary pursuant to a prearranged funeral agreement are deposited.

~~43~~: 44. "Preparation" means washing, shaving, dressing or arranging hair on, applying cosmetics to or positioning bodily features on a dead human body and placing the dead human body in a casket.

~~44~~: 45. "Processed cremated remains" means cremated remains[,] INCLUDING after they are pulverized and cleaned, leaving primarily small bone fragments OR SOIL.

Ch. 22

~~45~~: 46. "Provisionally accredited" means being granted candidacy status by the American board of funeral service education.

~~46~~: 47. "Responsible cremationist" means a licensed cremationist who manages a crematory.

~~47~~: 48. "Responsible funeral director" means a person who is licensed pursuant to this chapter, who is engaged in funeral directing and who manages and is accountable for a funeral establishment.

~~48~~: 49. "Retort" means an enclosed space within which cremation takes place.

~~49~~: 50. "Supervise" or "supervision" means that a licensed embalmer has responsibility for and is within sight and sound of a person who is embalming a dead human body or assisting in embalming a dead human body.

~~50~~: 51. "Temporary container" means a receptacle that is usually made of cardboard, rigid plastic or another similar material and that is designed to hold processed cremated remains until they are placed in an urn or another permanent container.

~~51~~: 52. "Transportation protection agreement" means an agreement that primarily provides or arranges for services that are related to preparing human remains or cremated remains for the purpose of transportation and such subsequent transportation.

~~52~~: 53. "Trust funds" means all monies that are deposited on behalf of a beneficiary of a prearranged funeral agreement funded by trust and all accrued net interest. Trust funds shall be considered an account kept in

suspense until distributed to the beneficiary, the funeral establishment or the estate of the beneficiary in accordance with this article.

~~53.~~ 54. "Universal precautions" means the universal blood and fluid precautions recommended by the centers for disease control of the United States public health service to prevent the transmission of bloodborne and bodily fluid-borne infectious diseases.

~~54.~~ 55. "Unprofessional conduct" includes the following acts, whether occurring in this state or elsewhere:

(a) Committing a class 1 or 2 felony.

(b) Committing a felony or misdemeanor if the offense has a reasonable relationship to funeral directing or embalming. Conviction by any court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission.

(c) Providing false, misleading or deceptive information on an application for licensure pursuant to this chapter or on an examination required for licensure.

(d) Bribing or offering to bribe, directly or indirectly, an employee of the department to influence the employee's actions in performing the employee's duties.

(e) Wilfully interfering with an embalmer, funeral director, ALKALINE HYDROLYSIS OPERATOR or cremationist who has lawful custody of a dead human body in performing the embalmer's, funeral director's, ALKALINE HYDROLYSIS OPERATOR'S or cremationist's duty to embalm or prepare the body for burial, transportation, ALKALINE HYDROLYSIS or cremation.

(f) Paying or causing monies or other valuable consideration to be paid to a person, other than an employee of a funeral establishment, to secure business regulated pursuant to this chapter from or through the person.

(g) Violating any law of this state or any rule adopted by the department that relates to embalming or preparing dead human bodies.

(h) Certifying falsely to having embalmed or prepared a dead human body that was embalmed by another person.

(i) Falsely advertising or labeling any service or merchandise with the intention of deceiving the public.

(j) Shipping or delivering any merchandise or supplies that are not the substantial equivalent of or superior in quality to merchandise or supplies previously presented to the purchaser as samples.

(k) Committing any act involving dishonesty, fraud, misrepresentation, breach of fiduciary duty, gross negligence or incompetence if the act has a reasonable relationship to funeral directing or embalming.

(l) Engaging in any conduct or practice that is reasonably related to funeral directing or embalming and that is or may be harmful or dangerous to the health, safety or welfare of the public.

(m) Within a period of five years, having a license, REGISTRATION or endorsement suspended or revoked by the department or by the funeral services regulating authority of this state or any other jurisdiction or surrendering a license, REGISTRATION or endorsement in lieu of disciplinary action.

~~55.~~ 56. "Urn" means a receptacle into which processed cremated remains are placed for disposition.

EXPLANATION OF BLEND
SECTION 32-1907

Laws 2024, Chapters 222 and 232

Laws 2024, Ch. 222, section 27

Effective September 14, 2024

Laws 2024, Ch. 232, section 1

Effective June 21, 2024

Explanation

Since these two enactments are compatible, the Laws 2024, Ch. 222 and Ch. 232 text changes to section 32-1907 are blended in the form shown on the following page.

Section 32-1907 was amended an additional time by Laws 2024, Ch. 222, sec. 28 with a delayed effective date, which will require separate publication in addition to this blend.

BLEND OF SECTION 32-1907
Laws 2024, Chapters 222 and 232

32-1907. Arizona state board of pharmacy fund

Ch. 222 — A. Except as provided in section 32-1939, the executive director shall receive and receipt for all fees and other monies provided for in this chapter and shall deposit, pursuant to sections 35-146 and 35-147, ~~ten~~ FIFTEEN percent of such monies in the state general fund and ~~ninety~~ EIGHTY-FIVE percent in the Arizona state board of pharmacy fund. All monies derived from civil penalties collected pursuant to this chapter shall be deposited, pursuant to sections 35-146 and 35-147, in the state general fund.

Chs. 222 and 232 — B. Except as provided in subsection C of this section, monies deposited in the Arizona state board of pharmacy fund ~~shall be~~ ARE subject to section 35-143.01.

C. From monies deposited in the Arizona state board of pharmacy fund pursuant to subsection A of this section, the executive director may transfer up to ~~five hundred thousand dollars~~ \$500,000 annually to the controlled substances prescription monitoring program fund established by section 36-2605 for expenses related to the controlled substances prescription monitoring program as required by title 36, chapter 28.

Chs. 222 and 232 — D. From monies deposited in the Arizona state board of pharmacy fund pursuant to subsection A of this section, the executive director may transfer up to ~~one million dollars~~ \$1,000,000 annually to [EACH] the Arizona poison and drug information center AND A POISON AND DRUG INFORMATION CENTER THAT Ch. 232 — SERVES MARICOPA COUNTY for the purposes specified in section 36-1161 to supplement, and not supplant, any state general fund appropriation for those purposes.

EXPLANATION OF BLEND
SECTION 32-1907

Laws 2024, Chapters 222 and 232

Laws 2024, Ch. 222, section 28

Effective July 1, 2028

Laws 2024, Ch. 232, section 1

Effective June 21, 2024

Explanation

Since these two enactments are compatible, the Laws 2024, Ch. 222 and Ch. 232 text changes to section 32-1907 are blended effective from and after June 30, 2028 in the form shown on the following page.

BLEND OF SECTION 32-1907
Laws 2024, Chapters 222 and 232

32-1907. Arizona state board of pharmacy fund

Ch. 222 — A. Except as provided in section 32-1939, the executive director shall receive and receipt for all fees and other monies provided for in this chapter and shall deposit, pursuant to sections 35-146 and 35-147, ~~fifteen~~ TEN percent of such monies in the state general fund and ~~eighty-five~~ NINETY percent in the Arizona state board of pharmacy fund. All monies derived from civil penalties collected pursuant to this chapter shall be deposited, pursuant to sections 35-146 and 35-147, in the state general fund.

Ch. 232 — B. Except as provided in subsection C of this section, monies deposited in the Arizona state board of pharmacy fund [are] subject to section 35-143.01.

Ch. 232 — C. From monies deposited in the Arizona state board of pharmacy fund pursuant to subsection A of this section, the executive director may transfer up to [\$500,000] annually to the controlled substances prescription monitoring program fund established by section 36-2605 for expenses related to the controlled substances prescription monitoring program as required by title 36, chapter 28.

Ch. 232 — D. From monies deposited in the Arizona state board of pharmacy fund pursuant to subsection A of this section, the executive director may transfer up to [\$1,000,000] annually to EACH the Arizona poison and drug information center AND A POISON AND DRUG INFORMATION CENTER THAT SERVES MARICOPA COUNTY for the purposes specified in section 36-1161 to supplement, and not supplant, any state general fund appropriation for those purposes.

EXPLANATION OF BLEND
SECTION 32-2101

Laws 2024, Chapters 52 and 63

Laws 2024, Ch. 52, section 1

Effective September 14, 2024

Laws 2024, Ch. 63, section 1

Effective September 14, 2024

Explanation

Since these two enactments are compatible, the Laws 2024, Ch. 52 and Ch. 63 text changes to section 32-2101 are blended in the form shown on the following pages.

BLEND OF SECTION 32-2101
Laws 2024, Chapters 52 and 63

32-2101. Definitions

In this chapter, unless the context otherwise requires:

1. "Acting in concert" means evidence of collaborating to pursue a concerted plan.

2. "ADDRESS OF RECORD" MEANS ANY OF THE FOLLOWING:

(a) THE ADDRESS WHERE A LICENSEE PRACTICES OR IS OTHERWISE EMPLOYED.

(b) A LICENSEE'S RESIDENTIAL ADDRESS.

(c) THE ADDRESS OF A LICENSEE'S STATUTORY AGENCY WHO IS REGISTERED AS THE LICENSEE'S STATUTORY AGENT WITH THE CORPORATION COMMISSION. THIS SUBDIVISION APPLIES ONLY IF NOTICE OF THE STATUTORY AGENT IS GIVEN TO THE DEPARTMENT PURSUANT TO SECTION 32-2126.

3. "Advertising" means attempting by publication, dissemination, exhibition, solicitation or circulation, oral or written, or for broadcast on radio or television to induce directly or indirectly any person to enter into any obligation or acquire any title or interest in lands subject to this chapter, including the land sales contract to be used and any photographs, drawings or artist's presentations of physical conditions or facilities existing or to exist on the property. Advertising does not include:

(a) Press releases or other communications delivered to newspapers, periodicals or other news media for general information or public relations purposes if no charge is made by the newspapers, periodicals or other news media to publish or use any part of these communications.

(b) Communications to stockholders as follows:

(i) Annual reports and interim financial reports.

(ii) Proxy materials.

(iii) Registration statements.

(iv) Securities prospectuses.

(v) Applications for listing of securities on stock exchanges.

(vi) Prospectuses.

(vii) Property reports.

(viii) Offering statements.

4. "Affiliate" means a person who, directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with the person specified.

5. "Associate broker" means a licensed broker who is employed by another broker. Unless otherwise specifically provided, an associate broker has the same license privileges as a salesperson.

6. "Barrier" means a natural or man-made geographic feature that prevents parcels of land from being practicably, reasonably and economically united or reunited and that was not caused or created by the owner of the parcels.

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~~6-~~ 7. "Blanket encumbrance":

(a) Means either:

(i) Any mortgage, any deed of trust or any other encumbrance or lien that secures or evidences the payment of monies and that affects more than one lot or parcel of subdivided land.

(ii) An agreement that affects more than one lot or parcel by which the subdivider holds the subdivision under an option, contract to sell or trust agreement.

(b) Does not include taxes and assessments that are levied by public authority.

~~7-~~ 8. "Board" means the real estate advisory board.

~~8-~~ 9. "Broker", when used without modification, means a person who is licensed as a broker under this chapter or who is required to be licensed as a broker under this chapter.

~~9-~~ 10. "Business broker" means a real estate broker who acts as an intermediary or agent between sellers or buyers, or both, in the sale or purchase, or both, of businesses or business opportunities where a lease or sale of real property is either a direct or incidental part of the transaction.

~~10-~~ 11. "Camping site" means a space that is designed and promoted for the purpose of locating any trailer, tent, tent trailer, pickup camper or other similar device used for camping.

~~11-~~ 12. "Cemetery" or "cemetery property" means any one, or a combination of more than one, of the following in a place that is used, or intended to be used, and dedicated for cemetery purposes:

(a) A burial park, for earth interments.

(b) A mausoleum, for crypt or vault entombments.

(c) A crematory, or a crematory and columbarium, for cinerary interments.

(d) A cemetery plot, including interment rights, mausoleum crypts, niches and burial spaces.

~~12-~~ 13. "Cemetery broker" means a person other than a real estate broker or real estate salesperson who, for another, for compensation:

(a) Sells, leases or exchanges cemetery property or interment services of or for another, or on the person's own account.

(b) Offers for another or for the person's own account to buy, sell, lease or exchange cemetery property or interment services.

(c) Negotiates the purchase and sale, lease or exchange of cemetery property or interment services.

(d) Negotiates the purchase or sale, lease or exchange, or lists or solicits, or negotiates a loan on or leasing of cemetery property or interment services.

~~13-~~ 14. "Cemetery salesperson" means a natural person who acts on the person's own behalf or through and on behalf of a professional limited liability company or a professional corporation engaged by or on behalf of a licensed cemetery or real estate broker, or through and on behalf of a corporation, partnership or limited liability company that is licensed as a cemetery or real estate broker, to perform any act or transaction included in the definition of cemetery broker.

~~14-~~ 15. "Commissioner" means the state real estate commissioner.

~~15-~~ 16. "Common promotional plan" means a plan, undertaken by a person or a group of persons acting in concert, to offer lots for sale or lease. If the land is offered for sale by a person or group of persons acting in concert, and the land is contiguous or is known, designated or advertised as a common unit or by a common name, the land is presumed, without regard to the number of lots covered by each individual offering, as being offered for sale or lease as part of a common promotional plan. Separate subdividers selling lots or parcels in separately platted subdivisions within a master planned community shall not be deemed to be offering their combined lots for sale or lease as part of a common promotional plan.

~~16-~~ 17. "Compensation" means any fee, commission, salary, monies or other valuable consideration for services rendered or to be rendered as well as the promise of consideration whether contingent or not.

~~17-~~ 18. "Contiguous":

(a) Means lots, parcels or fractional interests that share a common boundary or point.

(b) Does not include lots, parcels or fractional interests that are separated by either of the following:

(i) A barrier.

(ii) A road, street or highway that has been established by this state or by any agency or political subdivision of this state, that has been designated by the federal government as an interstate highway or that has been regularly maintained by this state or by any agency or political subdivision of this state and has been used continuously by the public for at least the last five years.

~~18-~~ 19. "Control" or "controlled" means a person who, through ownership, voting rights, power of attorney, proxy, management rights, operational rights or other rights, has the right to make decisions binding on an entity, whether a corporation, a partnership or any other entity.

Ch. 52 — ~~19-~~ 20. "Corporation licensee" means a lawfully organized corporation that is registered with the ~~Arizona~~ corporation commission and that has an officer licensed as the designated broker pursuant to section 32-2125.

~~20-~~ 21. "Department" means the state real estate department.

~~21-~~ 22. "Designated broker" means a natural person who is licensed as a broker under this chapter and who is either:

(a) Designated to act on behalf of an employing real estate, cemetery or membership camping entity.

(b) Doing business as a sole proprietor.

~~22-~~ 23. "Developer":

(a) Means a person who offers real property in a development for sale, lease or use, either immediately or in the future, on the person's own behalf or on behalf of another person, under this chapter.

(b) Does not include a person whose involvement with a development is limited to listing property within the development for sale, lease or use.

~~23-~~ 24. "Development" means any division, proposed division or use of real property that the department has authority to regulate, including

subdivided and unsubdivided lands, cemeteries, condominiums, timeshares, membership campgrounds and stock cooperatives.

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25. "DISTANCE LEARNING" MEANS CONTINUING EDUCATION OR PRELICENSURE EDUCATION THAT IS AN ONLINE, PLANNED LEARNING EXPERIENCE WITH A GEOGRAPHIC SEPARATION THAT MAY BE SYNCHRONOUS OR ASYNCHRONOUS, THAT DOES NOT REQUIRE REAL-TIME INTERACTION BETWEEN A STUDENT AND AN INSTRUCTOR AND THAT USES A PLATFORM WITH SELF-PACED OR PRERECORDED LESSONS AND MATERIALS THAT A STUDENT CAN ACCESS VIA THE INTERNET TO PROCEED AT THE STUDENT'S OWN PACE.

~~24.~~ 26. "Employing broker" means a person who is licensed or is required to be licensed as a:

(a) Broker entity pursuant to section 32-2125, subsection A.

(b) Sole proprietorship if the sole proprietor is a broker licensed pursuant to this chapter.

~~25.~~ 27. "Fractional interest" means an undivided interest in improved or unimproved land, lots or parcels of any size created for the purpose of sale or lease and evidenced by any receipt, certificate, deed or other document conveying the interest. Undivided interests in land, lots or parcels created in the names of a husband and wife as community property, joint tenants or tenants in common, or in the names of other persons who, acting together as part of a single transaction, acquire the interests without a purpose to divide the interests for present or future sale or lease shall be deemed to constitute only one fractional interest.

~~26.~~ 28. "Improved lot or parcel" means a lot or parcel of a subdivision on which there is a residential, commercial or industrial building or concerning which a contract has been entered into between a subdivider and a purchaser that obligates the subdivider directly, or indirectly through a building contractor, to completely construct a residential, commercial or industrial building on the lot or parcel within two years after the date on which the contract of sale for the lot is entered into, OR FOR A CONDOMINIUM AS DEFINED IN SECTION 33-1202, WITHIN FOUR YEARS AFTER THE DATE ON WHICH THE CONTRACT FOR SALE IS ENTERED INTO.

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~~27.~~ 29. "Inactive license" means a license that is issued pursuant to article 2 of this chapter to a licensee who is on inactive status during the current license period and who is not engaged by or on behalf of a broker.

~~28.~~ 30. "Lease" or "leasing" includes any lease, whether it is the sole, the principal or any incidental part of a transaction.

~~29.~~ 31. "License" means the whole or part of any agency permit, certificate, approval, registration, public report, charter or similar form of permission required by this chapter.

~~30.~~ 32. "Licensee" means a person to whom a license for the current license period has been granted under any provision of this chapter, and, for the purposes of section 32-2153, subsection A, includes original license applicants.

~~31.~~ 33. "License period" means the two-year period beginning with the date of original issue or renewal of a particular license and ending on the expiration date, if any.

~~32.~~ 34. "Limited liability company licensee" means a lawfully organized limited liability company that has a member or manager who is a

natural person and who is licensed as the designated broker pursuant to section 32-2125.

~~33.~~ 35. "Live classroom course" means a course or instructional segment delivered in either an in-person classroom instructional format or a synchronous remote instructional format that allows students to observe and participate remotely in an instructional segment via livestreaming.

~~34.~~ 36. "Lot reservation" means an expression of interest by a prospective purchaser in buying at some time in the future a subdivided or unsubdivided lot, unit or parcel in this state. In all cases, a subsequent affirmative action by the prospective purchaser must be taken to create a contractual obligation to purchase.

~~35.~~ 37. "Master planned community" means a development that consists of two or more separately platted subdivisions and that is either subject to a master declaration of covenants, conditions or restrictions, is subject to restrictive covenants sufficiently uniform in character to clearly indicate a general scheme for improving or developing real property or is governed or administered by a master owner's association.

~~36.~~ 38. "Member" means a member of the real estate advisory board.

~~37.~~ 39. "Membership camping broker" means a person, other than a salesperson, who, for compensation:

(a) Sells, purchases, lists, exchanges or leases membership camping contracts.

(b) Offers to sell, purchase, exchange or lease membership camping contracts.

(c) Negotiates or offers, attempts or agrees to negotiate the sale, purchase, exchange or lease of membership camping contracts.

(d) Advertises or holds himself out as being engaged in the business of selling, buying, exchanging or leasing membership camping contracts or counseling or advising regarding membership camping contracts.

(e) Assists or directs in procuring prospects calculated or intended to result in the sale, purchase, listing, exchange or lease of membership camping contracts.

(f) Performs any of the foregoing acts as an employee or on behalf of a membership camping operator or membership contract owner.

~~38.~~ 40. "Membership camping contract" means an agreement that is offered or sold in this state evidencing a purchaser's right or license to use the camping or outdoor recreation facilities of a membership camping operator and includes a membership that provides for this use.

~~39.~~ 41. "Membership camping operator":

(a) Means an enterprise, other than one that is tax exempt under section 501(c)(3) of the internal revenue code of 1986, as amended, that solicits membership paid for by a fee or periodic payments and has as one of its purposes camping or outdoor recreation, including the use of camping sites primarily by members.

(b) Does not include camping or recreational trailer parks that are open to the general public and that contain camping sites rented for a per use fee or a mobile home park.

~~40.~~ 42. "Membership camping salesperson" means a natural person who acts on the person's own behalf or through and on behalf of a professional limited liability company or a professional corporation engaged by or on

behalf of a licensed membership camping or real estate broker, or by or on behalf of a corporation, partnership or limited liability company that is licensed as a membership camping or real estate broker, to perform any act or participate in any transaction in a manner included in the definition of membership camping broker.

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~~41. "Online course" means prelicensure education that is a planned learning experience with a geographic separation that may be synchronous or asynchronous, that does not require real-time interaction between a student and an instructor and that uses a platform with self-paced or prerecorded lessons and materials that a student can access via the internet to proceed at the student's own pace.~~

~~42.~~ 43. "Partnership licensee" means a partnership with a managing general partner who is licensed as the designated broker pursuant to section 32-2125.

~~43.~~ 44. "Permanent access", as required under article 4 of this chapter, means permanent access from the subdivision to any federal, state or county highway.

~~44.~~ 45. "Perpetual care" or "endowed care":

(a) Means maintaining and caring, in all places where interments have been made, for the trees, shrubs, roads, streets and other improvements and embellishments contained within or forming a part of the cemetery.

(b) Does not include maintaining or repairing monuments, tombs, copings or other man-made ornaments as associated with individual burial spaces.

~~45.~~ 46. "Perpetual or endowed-care cemetery" means a cemetery in which lots or other burial spaces are sold or transferred under the representation that the cemetery will receive perpetual care or endowed care free of further cost to the purchaser after payment of the original purchase price for the lot, burial space or interment right.

~~46.~~ 47. "Person" means any individual, corporation, partnership or company and any other form of multiple organization for carrying on business, foreign or domestic.

~~47.~~ 48. "Private cemetery" means a cemetery or place that is not licensed under article 6 of this chapter, where burials or interments of human remains are made, in which sales or transfers of interment rights or burial plots are not made to the public and in which not more than ten interments or burials occur annually.

~~48.~~ 49. "Promotion" or "promotional practice" means advertising and any other act, practice, device or scheme to induce directly or indirectly any person to enter into any obligation or acquire any title or interest in or use of real property subject to this chapter, including meetings with prospective purchasers, arrangements for prospective purchasers to visit real property, travel allowances and discount, exchange, refund and cancellation privileges.

~~49.~~ 50. "Real estate" includes leasehold-interests and any estates in land as defined in title 33, chapter 2, articles 1 and 2, regardless of whether located in this state.

~~50.~~ 51. "Real estate broker" means a person, other than a salesperson, who, for another and for compensation:

(a) Sells, exchanges, purchases, rents or leases real estate, businesses and business opportunities or timeshare interests.

(b) Offers to sell, exchange, purchase, rent or lease real estate, businesses and business opportunities or timeshare interests.

(c) Negotiates or offers, attempts or agrees to negotiate the sale, exchange, purchase, rental or leasing of real estate, businesses and business opportunities or timeshare interests.

(d) Lists or offers, attempts or agrees to list real estate, businesses and business opportunities or timeshare interests for sale, lease or exchange.

(e) Auctions or offers, attempts or agrees to auction real estate, businesses and business opportunities or timeshare interests.

(f) Buys, sells, offers to buy or sell or otherwise deals in options on real estate, businesses and business opportunities or timeshare interests or improvements to real estate, businesses and business opportunities or timeshare interests.

(g) Collects or offers, attempts or agrees to collect rent for the use of real estate, businesses and business opportunities or timeshare interests. This subdivision does not apply to a person who is not a licensee, who works for a real estate broker or a real estate salesperson, who collects in-person rent and related fees on behalf of the real estate broker or real estate salesperson for the use of real estate as part of the person's clerical duties and who provides a receipt when rent is paid.

(h) Advertises or holds himself out as being engaged in the business of buying, selling, exchanging, renting or leasing real estate, businesses and business opportunities or timeshare interests or counseling or advising regarding real estate, businesses and business opportunities or timeshare interests.

(i) Assists or directs in procuring prospects that are calculated to result in the sale, exchange, leasing or rental of real estate, businesses and business opportunities or timeshare interests.

(j) Assists or directs in negotiating any transaction calculated or intended to result in the sale, exchange, leasing or rental of real estate, businesses and business opportunities or timeshare interests.

(k) Incident to the sale of real estate, businesses and business opportunities negotiates or offers, attempts or agrees to negotiate a loan secured or to be secured by any mortgage or other encumbrance on or transfer of real estate, businesses and business opportunities or timeshare interests subject to section 32-2155, subsection D. This subdivision does not apply to mortgage brokers as defined in and subject to title 6, chapter 9, article 1.

(l) Engages in the business of assisting or offering to assist another in filing an application for the purchase or lease of, or in locating or entering on, lands owned by the state or federal government.

(m) Claims, demands, charges, receives, collects or contracts to collect an advance fee in connection with any employment enumerated in this section, including employment undertaken to promote the sale or lease of real property by advance fee listing, by furnishing rental information to a prospective tenant for a fee paid by the prospective tenant, by advertising or by any other offering to sell, lease, exchange or rent real property or

selling kits connected therewith. This does not include the activities of any communications media of general circulation or coverage not primarily engaged in advertising real estate or any communications media activities that are specifically exempt from applicability of this article under section 32-2121.

(n) Engages in any of the acts listed in subdivisions (a) through (m) of this paragraph for the sale or lease of other than real property if a real property sale or lease is a part of, contingent on or ancillary to the transaction.

(o) Performs any of the acts listed in subdivisions (a) through (m) of this paragraph as an employee of, or in behalf of, the owner of real estate, or interest in the real estate, or improvements affixed on the real estate, for compensation.

(p) Acts as a business broker.

~~51.~~ 52. "Real estate sales contract" means an agreement in which one party agrees to convey title to real estate to another party on the satisfaction of specified conditions set forth in the contract.

~~52.~~ 53. "Real estate salesperson" means a natural person who acts on the person's own behalf or through and on behalf of a professional limited liability company or a professional corporation engaged by or on behalf of a licensed real estate broker, or by or on behalf of a limited liability company, partnership or corporation that is licensed as a real estate broker, to perform any act or participate in any transaction in a manner included in the definition of real estate broker subject to section 32-2155.

~~53.~~ 54. "Sale" or "lease" includes every disposition, transfer, option or offer or attempt to dispose of or transfer real property, or an interest, use or estate in the real property, including offering the property as a prize or gift if a monetary charge or consideration for whatever purpose is required.

~~54.~~ 55. "Salesperson", when used without modification, means a natural person who acts on the person's own behalf or through and on behalf of a professional limited liability company or a professional corporation licensed under this chapter or any person required to be licensed as a salesperson under this chapter.

~~55.~~ 56. "School" means a person or entity that offers a course of study toward completion of the education requirements leading to licensure or renewal of licensure under this chapter.

~~56.~~ 57. "Stock cooperative" means a corporation to which all of the following apply:

(a) The corporation is formed or used to hold title to improved real property in fee simple or for a term of years.

(b) All or substantially all of the shareholders of the corporation each receive a right of exclusive occupancy in a portion of the real property to which the corporation holds title.

(c) The right of occupancy may only be transferred with the concurrent transfer of the shares of stock in the corporation held by the person having the right of occupancy.

~~57.~~ 58. "Subdivider":

(a) Means any person who offers for sale or lease six or more lots, parcels or fractional interests in a subdivision or who causes land to be

subdivided into a subdivision for the subdivider or for others, or who undertakes to develop a subdivision.

(b) Does not include a public agency or officer authorized by law to create subdivisions.

~~58.~~ 59. "Subdivision" or "subdivided lands":

(a) Means improved or unimproved land or lands divided or proposed to be divided for the purpose of sale or lease, whether immediate or future, into six or more lots, parcels or fractional interests.

(b) Includes a stock cooperative, lands divided or proposed to be divided as part of a common promotional plan and residential condominiums as defined in title 33, chapter 9.

(c) Does not include:

(i) Leasehold offerings of one year or less.

(ii) The division or proposed division of land located in this state into lots or parcels each of which is or will be thirty-six acres or more in area including to the centerline of dedicated roads or easements, if any, contiguous to the lot or parcel.

(iii) The leasing of agricultural lands or apartments, offices, stores, hotels, motels, pads or similar space within an apartment building, industrial building, rental recreational vehicle community, rental manufactured home community, rental mobile home park or commercial building.

(iv) The subdivision into or development of parcels, plots or fractional portions within the boundaries of a cemetery that has been formed and approved pursuant to this chapter.

(v) A sale or lease of a lot, parcel or fractional interest that occurs ten or more years after the sale or lease of another lot, parcel or fractional interest if the other lot, parcel or fractional interest is not subject to this article and is treated as an independent parcel unless, on investigation by the commissioner, there is evidence of intent to subdivide.

~~59.~~ 60. "Timeshare" or "timeshare property" means real property ownership or right of occupancy in real property pursuant to article 9 of this chapter. For the purposes of this chapter, a timeshare is not a security unless it meets the definition of a security under section 44-1801.

~~60.~~ 61. "Trustee":

(a) Means a person who either:

(i) Is designated under section 32-2194.27 to act as a trustee for an endowment-care cemetery fund.

(ii) Holds bare legal title to real property under a subdivision trust.

(b) Does not include a developer, subdivider, broker or salesperson within this chapter.

~~61.~~ 62. "Unimproved lot or parcel" means a lot or parcel of a subdivision that is not an improved lot or parcel.

~~62.~~ 63. "Unsubdivided lands":

(a) Means land or lands divided or proposed to be divided for the purpose of sale or lease, whether immediate or future, into six or more lots, parcels or fractional interests and the lots or parcels are thirty-six acres or more each but less than one hundred sixty acres each, or that are offered, known or advertised under a common promotional plan for sale or

lease, except that agricultural leases shall not be included in this definition.

(b) Includes any land that is sold and that would otherwise constitute the sixth lot, parcel or fractional interest if the sale occurs ten or more years after the earliest of the previous five sales and if all of the sales consist of property that was originally contained within the same parcel that is thirty-six acres or more and less than one hundred sixty acres.

EXPLANATION OF BLEND

SECTION 33-422 (as amended by Laws 2019, chapter 103, section 1 and chapter 131, section 1)

Laws 2024, Chapters 41 and 105

Laws 2024, Ch. 41, section 13

Effective September 14, 2024

Laws 2024, Ch. 105, section 2

Effective September 14, 2024
(Retroactive to October 30, 2023)

Explanation

Since the Ch. 41 version includes all the changes made by the Ch. 105 version, the Laws 2024, Ch. 41 amendment of section 33-422, as amended by Laws 2019, chapter 103, section 1 and chapter 131, section 1, is the blend of both the Laws 2024, Ch. 41 and Ch. 105 versions.

BLEND OF SECTION 33-422 (as amended by Laws 2019, chapter 103, section 1 and chapter 131, section 1)
Laws 2024, Chapters 41 and 105

33-422. Land divisions; recording; disclosure affidavit

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and 105

A. A seller of five or fewer parcels of land, other than subdivided land, in an unincorporated area of a county and any subsequent seller of such a parcel shall COMPLETE AND furnish a written affidavit of disclosure to the buyer at least seven days before the transfer of the property and the buyer shall acknowledge receipt of the affidavit.

B. The affidavit must be written in twelve-point type.

C. A release or waiver of a seller's liability arising out of any omission or misrepresentation contained in an affidavit of disclosure is not valid or binding on the buyer.

D. The buyer has the right to rescind the sales transaction for a period of five days after the affidavit of disclosure is furnished to the buyer.

E. The seller shall record the executed affidavit of disclosure at the same time that the deed is recorded. The county recorder is not required to verify the accuracy of any statement in the affidavit of disclosure. A subsequently recorded affidavit supersedes any previous affidavit.

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and 105

F. The affidavit of disclosure shall CONTAIN ALL OF THE FOLLOWING DISCLOSURES, BE COMPLETED BY THE SELLER, meet the requirements of section 11-480 and follow substantially the following form:

When recorded mail to:

Affidavit of Disclosure
Pursuant to A.R.S. § 33-422

I, _____ (seller(s))
being duly sworn, hereby make this affidavit of disclosure
relating to the real property situated in the unincorporated
area of:

_____, County, State of Arizona, located at:

_____ and legally described as:

(Legal description attached hereto as exhibit "A")
(property).

1. There is is not legal access to the property,
as defined in A.R.S. § 11-831 unknown

Explain: _____

2. There is is not physical access to the property.
 unknown
Explain: _____

3. There is is not a statement from a licensed surveyor or engineer available stating whether the property has physical access that is traversable by a two-wheel drive passenger motor vehicle.

4. The legal and physical access to the property is is not . . . the same.... unknown not applicable.
Explain: _____

If access to the parcel is not traversable by emergency vehicles, the county and emergency service providers may not be held liable for any damages resulting from the inability to traverse the access to provide needed services.

5. The road(s) is/are publicly maintained privately maintained not maintained not applicable. If applicable, there is is not a recorded road maintenance agreement.

If the roads are not publicly maintained, it is the responsibility of the property owner(s) to maintain the roads and roads that are not improved to county standards and accepted for maintenance are not the county's responsibility.

6. A portion or all of the property is is not located in a FEMA designated regulatory floodplain. If the property is in a floodplain, it may be subject to floodplain regulation.

7. The property is is not subject to fissures or expansive soils. unknown
Explain: _____

8. The following services are currently provided to the property:
 water sewer electric natural gas single party telephone cable television services.

9. The property is is not served by a water supply that requires the transportation of water to the property. IF THE PROPERTY IS SERVED BY A WATER SUPPLY THAT REQUIRES THE TRANSPORTATION OF WATER TO THE PROPERTY, THE SELLER SHALL DISCLOSE THE NAME AND CONTACT INFORMATION OF THE WATER HAULER OR WATER HAULING COMPANY THAT IS CURRENTLY PROVIDING THE TRANSPORTATION SERVICES TO THE PROPERTY AND THE NAME AND LOCATION OF THE WATER SUPPLY FROM WHICH THE WATER IS CURRENTLY BEING TRANSPORTED.

WATER HAULER NAME: _____ PHONE: _____
WATER SUPPLY: _____ LOCATION: _____

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and 105

10. The property is served by a private water company a municipal water provider a private well a shared well no well. If served by a shared well, the shared well is is not a public water system, as defined by the safe drinking water act (42 United States Code § 300f).

Notice to buyer: If the property is served by a well, a private water company or a municipal water provider the Arizona department of water resources may not have made a water supply determination. For more information about water supply, contact the water provider.

11. The property or the water used on the property is is not the subject of a statement of claimant for the use of water in a general adjudication of water rights. unknown.

This is a lawsuit to determine the use of and relative priority of water rights. A map of adjudicated areas is available at the website of the department of water resources.

12. The property does have does not have an on-site wastewater treatment facility (i.e., standard septic or alternative system to treat and dispose of wastewater). unknown. If applicable: a) The property will will not require installation of an on-site wastewater treatment facility; b) The on-site wastewater treatment facility has has not been inspected.

13. The property has been has not been subject to a percolation test. unknown.

14. The property does have does not have one or more solar energy devices that are leased owned.

~~Notice to buyer: If the property contains solar energy devices, it is the responsibility of the buyer to verify the proper replacement and disposal method for the devices, as applicable. If the solar energy devices are leased, the seller or property owner shall disclose the name and contact information of the leasing company.~~

~~Leasing company name: _____ Phone: _____~~

15. THE PROPERTY DOES HAVE DOES NOT HAVE ONE OR MORE BATTERY ENERGY STORAGE DEVICES THAT ARE LEASED OWNED.

IF THE BATTERY ENERGY STORAGE DEVICES ARE LEASED, THE SELLER SHALL DISCLOSE THE NAME AND CONTACT INFORMATION OF THE LEASING COMPANY.

LEASING COMPANY NAME: _____ PHONE: _____

15. 16. The property does does not meet the minimum applicable county zoning requirements of the applicable zoning designation.

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and 105

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and 105

~~16.~~ 17. The sale of the property does does not . . . meet the requirements of A.R.S. § 11-831 AND § 32-2181 regarding land divisions. If those requirements are not met, the property owner may not be able to obtain a building permit. IT IS UNLAWFUL PURSUANT TO § 11-831, SUBSECTION F AND § 32-2181, SUBSECTION D FOR A PERSON OR GROUP OF PERSONS TO ATTEMPT TO AVOID THE SUBDIVISION LAWS OF THIS STATE BY ACTING IN CONCERT TO DIVIDE A PARCEL OF LAND INTO SIX OR MORE LOTS OR PARCELS. THE COUNTY WHERE THE LAND DIVISION OCCURRED OR THE STATE REAL ESTATE DEPARTMENT MAY INVESTIGATE AND ENFORCE THE PROHIBITION AGAINST ACTING IN CONCERT TO UNLAWFULLY DIVIDE A PARCEL OF LAND INTO SIX OR MORE LOTS OR PARCELS. The seller or property owner shall disclose each of the deficiencies to the buyer.

Explain: _____

~~17.~~ 18. The property is is not located in the clear zone of a military airport or ancillary military facility, as defined in A.R.S. § 28-8461. (Maps are available at the state real estate department's website.)

~~18.~~ 19. The property is is not located in the high noise or accident potential zone of a military airport or ancillary military facility, as defined in A.R.S. § 28-8461. (Maps are available at the state real estate department's website.)

~~19.~~ 20. Notice: If the property is located within the territory in the vicinity of a military airport or ancillary military facility, the property is required to comply with sound attenuation standards as prescribed by A.R.S. § 28-8482. (Maps are available at the state real estate department's website.)

~~20.~~ 21. The property is is not located under military restricted airspace. unknown. (Maps are available at the state real estate department's website.)

~~21.~~ 22. The property is is not located in a military electronics range as defined in A.R.S. § 9-500.28 and § 11-818. unknown. (Maps are available at the state real estate department's website.)

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~~23.~~ 23. THE PROPERTY IS IS NOT LOCATED WITHIN THE INFLUENCE AREA OF A MILITARY INSTALLATION OR RANGE OR ARIZONA NATIONAL GUARD SITE AS DEFINED IN SECTIONS 9-500.50 AND 11-818.01 (MAPS ARE AVAILABLE AT THE STATE REAL ESTATE DEPARTMENT WEBSITE.)

~~22.~~ 24. Use of the property is is not limited in any way relating to an encumbrance of title due to a lis pendens, a court order or a state real estate department order or a pending legal action. If the use of the property is limited due to an encumbrance of title, the seller or property owner shall disclose the limitations to the buyer.

Explain: _____

This affidavit of disclosure supersedes any previously recorded affidavit of disclosure.

I certify under penalty of perjury that the information contained in this affidavit is true, complete and correct according to my best belief and knowledge.

Dated this ____ (date) ____ day of ____ (year) ____ by:

Seller's name (print): _____ Signature: _____

Seller's name (print): _____ Signature: _____

State of Arizona)

) ss.

County of _____)

Subscribed and sworn before me this ____ (date) ____ day of ____ (year) ____, by _____.

Notary public

My commission expires:

(date)

Buyer(s) hereby acknowledges receipt of a copy of this affidavit of disclosure this ____ (date) ____ day of ____ (year) ____

Buyer's name (print): _____ Signature: _____

Buyer's name (print): _____ Signature: _____

G. For the purposes of this section, seller and subsequent seller do not include a trustee of a deed of trust who is selling property by a trustee's sale pursuant to chapter 6.1 of this title or any officer who is selling property by execution sale pursuant to title 12, chapter 9 and chapter 6 of this title. If the seller is a trustee of a subdivision trust as defined in section 6-801, the disclosure affidavit required by this section shall be provided by the beneficiary of the subdivision trust.

EXPLANATION OF BLEND
SECTION 36-136

Laws 2024, Chapters 18 and 254

Laws 2024, Ch. 18, section 1

Effective September 14, 2024

Laws 2024, Ch. 254, section 1

Effective September 14, 2024

Explanation

Since these two enactments are compatible, the Laws 2024, Ch. 18 and Ch. 254 text changes to section 36-136 are blended in the form shown on the following pages.

BLEND OF SECTION 36-136
Laws 2024, Chapters 18 and 254

36-136. Powers and duties of director; compensation of personnel; rules; definitions

A. The director shall:

1. Be the executive officer of the department of health services and the state registrar of vital statistics but shall not receive compensation for services as registrar.

2. Perform all duties necessary to carry out the functions and responsibilities of the department.

3. Prescribe the organization of the department. The director shall appoint or remove personnel as necessary for the efficient work of the department and shall prescribe the duties of all personnel. The director may abolish any office or position in the department that the director believes is unnecessary.

4. Administer and enforce the laws relating to health and sanitation and the rules of the department.

5. Provide for the examination of any premises if the director has reasonable cause to believe that on the premises there exists a violation of any health law or rule of this state.

6. Exercise general supervision over all matters relating to sanitation and health throughout this state. When in the opinion of the director it is necessary or advisable, a sanitary survey of the whole or of any part of this state shall be made. The director may enter, examine and survey any source and means of water supply, sewage disposal plant, sewerage system, prison, public or private place of detention, asylum, hospital, school, public building, private institution, factory, workshop, tenement, public washroom, public restroom, public toilet and toilet facility, public eating room and restaurant, dairy, milk plant or food manufacturing or processing plant, and any premises in which the director has reason to believe there exists a violation of any health law or rule of this state that the director has the duty to administer.

7. Prepare sanitary and public health rules.

8. Perform other duties prescribed by law.

B. If the director has reasonable cause to believe that there exists a violation of any health law or rule of this state, the director may inspect any person or property in transportation through this state, and any car, boat, train, trailer, airplane or other vehicle in which that person or property is transported, and may enforce detention or disinfection as reasonably necessary for the public health if there exists a violation of any health law or rule.

C. The director, after consultation with the department of administration, may take all necessary steps to enhance the highest and best use of the state hospital property, including contracting with third parties

to provide services, entering into short-term lease agreements with third parties to occupy or renovate existing buildings and entering into long-term lease agreements to develop the land and buildings. The director shall deposit any monies collected from contracts and lease agreements entered into pursuant to this subsection in the Arizona state hospital charitable trust fund established by section 36-218. At least thirty days before issuing a request for proposals pursuant to this subsection, the department of health services shall hold a public hearing to receive community and provider input regarding the highest and best use of the state hospital property related to the request for proposals. The department shall report to the joint committee on capital review on the terms, conditions and purpose of any lease or sublease agreement entered into pursuant to this subsection relating to state hospital lands or buildings or the disposition of real property pursuant to this subsection, including state hospital lands or buildings, and the fiscal impact on the department and any revenues generated by the agreement. Any lease or sublease agreement entered into pursuant to this subsection relating to state hospital lands or buildings or the disposition of real property pursuant to this subsection, including state hospital lands or buildings, must be reviewed by the joint committee on capital review.

D. The director may deputize, in writing, any qualified officer or employee in the department to do or perform on the director's behalf any act the director is by law empowered to do or charged with the responsibility of doing.

E. The director may delegate to a local health department, county environmental department or public health services district any functions, powers or duties that the director believes can be competently, efficiently and properly performed by the local health department, county environmental department or public health services district if:

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and 254

1. The director or superintendent of the local health ~~agency~~ DEPARTMENT, environmental ~~agency~~ DEPARTMENT or public health services district is willing to accept the delegation and agrees to perform or exercise the functions, powers and duties conferred in accordance with the standards of performance established by the director of the department of health services.

2. Monies appropriated or otherwise made available to the department for distribution to or division among counties or public health services districts for local health work may be allocated or reallocated in a manner designed to ensure the accomplishment of recognized local public health activities and delegated functions, powers and duties in accordance with applicable standards of performance. If in the director's opinion there is cause, the director may terminate all or a part of any delegation and may reallocate all or a part of any ~~funds~~ MONIES that may have been conditioned on the further performance of the functions, powers or duties conferred.

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and 254

F. The compensation of all personnel shall be as determined pursuant to section 38-611.

G. The director may make and amend rules necessary for the proper administration and enforcement of the laws relating to the public health.

H. Notwithstanding subsection I, paragraph 1 of this section, the director may define and prescribe emergency measures for detecting,

reporting, preventing and controlling communicable or infectious diseases or conditions if the director has reasonable cause to believe that a serious threat to public health and welfare exists. Emergency measures are effective for not longer than eighteen months.

I. The director, by rule, shall:

1. Define and prescribe reasonably necessary measures for detecting, reporting, preventing and controlling communicable and preventable diseases.

Ch. 254 — The rules shall declare certain diseases THAT ARE reportable. The rules shall prescribe measures, including isolation or quarantine, that are reasonably required to prevent the occurrence of, or to seek early detection and alleviation of, disability, insofar as possible, from communicable or preventable diseases. The rules shall include reasonably necessary measures

Ch. 18 — to control animal diseases THAT ARE transmittable to humans.

2. Define and prescribe reasonably necessary measures, in addition to those prescribed by law, regarding the preparation, embalming, cremation, interment, disinterment and transportation of dead human bodies and the conduct of funerals, relating to and restricted to communicable diseases and regarding the removal, transportation, cremation, interment or disinterment of any dead human body.

3. Define and prescribe reasonably necessary procedures that are not inconsistent with law in regard to the use and accessibility of vital records, delayed birth registration and the completion, change and amendment of vital records.

4. Except as relating to the beneficial use of wildlife meat by public institutions and charitable organizations pursuant to title 17, prescribe reasonably necessary measures to ensure that all food or drink, including meat and meat products and milk and milk products sold at the retail level, provided for human consumption is free from unwholesome, poisonous or other foreign substances and filth, insects or disease-causing organisms. The rules shall prescribe reasonably necessary measures governing the production, processing, labeling, storing, handling, serving and transportation of these products. The rules shall prescribe minimum standards for the sanitary facilities and conditions that shall be

Chs. 18 and 254 — maintained in any warehouse, restaurant or other premises, except a ~~meat~~ ~~packing~~ MEATPACKING plant, slaughterhouse, wholesale meat processing plant, dairy product manufacturing plant or trade product manufacturing plant. The rules shall prescribe minimum standards for any truck or other vehicle in which food or drink is produced, processed, stored, handled, served or transported. The rules shall provide for the inspection and licensing of premises and vehicles so used, and for abatement as public nuisances of any premises or vehicles that do not comply with the rules and minimum standards. The rules shall provide an exemption relating to food or drink that is:

(a) Served at a noncommercial social event such as a potluck.

(b) Prepared at a cooking school that is conducted in an owner-occupied home.

(c) Not potentially hazardous and prepared in a kitchen of a private

Ch. 18 — home for ~~occasional~~ sale or distribution for noncommercial purposes.

(d) Prepared or served at an employee-conducted function that lasts less than four hours and is not regularly scheduled, such as an employee recognition, an employee fundraising or an employee social event.

(e) Offered at a child care facility and limited to commercially prepackaged food that is not potentially hazardous and whole fruits and vegetables that are washed and cut on-site for immediate consumption.

(f) Offered at locations that sell only commercially prepackaged food or drink that is not potentially hazardous.

~~(g) A cottage food product that is not potentially hazardous or a time or temperature control for safety food and that is prepared in a kitchen of a private home for commercial purposes, including fruit jams and jellies, dry mixes made with ingredients from approved sources, honey, dry pasta and roasted nuts CONSISTENT WITH CHAPTER 8, ARTICLE 2 OF THIS TITLE. Cottage food products must be packaged at home with an attached label that clearly states the name and registration number of the food preparer, lists all the ingredients in the product and the product's production date and includes the following statement: "This product was produced in a home kitchen that may process common food allergens and is not subject to public health inspection." If the product was made in a facility for individuals with developmental disabilities, the label must also disclose that fact. The person preparing the food or supervising the food preparation must complete a food handler training course from an accredited program and maintain active certification. The food preparer must register with an online registry established by the department pursuant to paragraph 13 of this subsection. The food preparer must display the preparer's certificate of registration when operating as a temporary food establishment. For the purposes of this subdivision, "not potentially hazardous" means cottage food products that meet the requirements of the food code published by the United States food and drug administration, as modified and incorporated by reference by the department by rule.~~

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(h) A whole fruit or vegetable grown in a public school garden that is washed and cut on-site for immediate consumption.

(i) Produce in a packing or holding facility that is subject to the United States food and drug administration produce safety rule (21 Code of Federal Regulations part 112) as administered by the Arizona department of agriculture pursuant to title 3, chapter 3, article 4.1. For the purposes of this subdivision, "holding", "packing" and "produce" have the same meanings prescribed in section 3-525.

(j) Spirituous liquor produced on the premises licensed by the department of liquor licenses and control. This exemption includes both of the following:

(i) The area in which production and manufacturing of spirituous liquor occurs, as defined in an active basic permit on file with the United States alcohol and tobacco tax and trade bureau.

(ii) The area licensed by the department of liquor licenses and control as a microbrewery, farm winery or craft distiller that is open to the public and serves spirituous liquor and commercially prepackaged food, crackers or pretzels for consumption on the premises. A producer of spirituous liquor may not provide, allow or expose for common use any cup, glass or other receptacle used for drinking purposes. For the purposes of

this item, "common use" means the use of a drinking receptacle for drinking purposes by or for more than one person without the receptacle being thoroughly cleansed and sanitized between consecutive uses by methods prescribed by or acceptable to the department.

Ch. 254 { (k) SPIRITUOUS LIQUOR PRODUCED BY A PRODUCER THAT IS LICENSED BY THE DEPARTMENT OF LIQUOR LICENSES AND CONTROL OR SPIRITUOUS LIQUOR IMPORTED AND SOLD BY WHOLESALERS THAT IS LICENSED BY THE DEPARTMENT OF LIQUOR LICENSES AND CONTROL. THIS EXEMPTION INCLUDES ALL COMMERCIALY PREPACKAGED SPIRITUOUS LIQUOR AND ALL SPIRITUOUS LIQUOR Poured AT A LICENSED SPECIAL EVENT, FESTIVAL OR FAIR IN THIS STATE.

Chs. 18 and 254 { 5. Prescribe reasonably necessary measures to ensure that all meat and meat products for human consumption handled at the retail level are delivered in a manner and from sources approved by the Arizona department of agriculture and are free from unwholesome, poisonous or other foreign substances and filth, insects or disease-causing organisms. The rules shall prescribe standards for sanitary facilities to be used in ~~identity~~ IDENTIFYING, ~~storage~~ STORING, handling and ~~sale of~~ SELLING all meat and meat products sold at the retail level.

Chs. 18 and 254 { 6. Prescribe reasonably necessary measures regarding production, processing, labeling, handling, serving and transportation of bottled water to ensure that all bottled drinking water distributed for human consumption is free from unwholesome, poisonous, deleterious or other foreign substances and filth or disease-causing organisms. The rules shall prescribe minimum standards for the sanitary facilities and conditions that shall be maintained at any source of water, bottling plant and truck or vehicle in which bottled water is produced, processed, stored or transported and shall provide for inspection and certification of bottled drinking water sources, plants, processes and transportation and for abatement as a public nuisance of any water supply, label, premises, equipment, process or vehicle that does not comply with the minimum standards. The rules shall prescribe minimum standards for bacteriological, physical and chemical quality for bottled water and for ~~the submission of~~ SUBMITTING samples at intervals prescribed in the standards.

7. Define and prescribe reasonably necessary measures governing ice production, handling, storing and distribution to ensure that all ice sold or distributed for human consumption or for preserving or storing food for human consumption is free from unwholesome, poisonous, deleterious or other foreign substances and filth or disease-causing organisms. The rules shall prescribe minimum standards for the sanitary facilities and conditions and the quality of ice that shall be maintained at any ice plant, storage and truck or vehicle in which ice is produced, stored, handled or transported and shall provide for inspection and licensing of the premises and vehicles, and for abatement as public nuisances of ice, premises, equipment, processes or vehicles that do not comply with the minimum standards.

8. Define and prescribe reasonably necessary measures concerning sewage and excreta disposal, garbage and trash collection, storage and disposal, and water supply for recreational and summer camps, campgrounds, motels, tourist courts, trailer coach parks and hotels. The rules shall prescribe minimum standards for preparing food in community kitchens, adequacy of excreta disposal, garbage and trash collection, storage and

disposal and water supply for recreational and summer camps, campgrounds, motels, tourist courts, trailer coach parks and hotels and shall provide for inspection of these premises and for abatement as public nuisances of any premises or facilities that do not comply with the rules. Primitive camp and picnic grounds offered by this state or a political subdivision of this state are exempt from rules adopted pursuant to this paragraph but are subject to approval by a county health department under sanitary regulations adopted pursuant to section 36-183.02. Rules adopted pursuant to this paragraph do not apply to two or fewer recreational vehicles as defined in section 33-2102 that are not park models or park trailers, that are parked on owner-occupied residential property for less than sixty days and for which no rent or other compensation is paid. For the purposes of this paragraph, "primitive camp and picnic grounds" means camp and picnic grounds that are remote in nature and without accessibility to public infrastructure such as water, electricity and sewer.

9. Define and prescribe reasonably necessary measures concerning the sewage and excreta disposal, garbage and trash collection, storage and disposal, water supply and food preparation of all public schools. The rules shall prescribe minimum standards for sanitary conditions that shall be maintained in any public school and shall provide for inspection of these premises and facilities and for abatement as public nuisances of any premises that do not comply with the minimum standards.

10. Prescribe reasonably necessary measures to prevent pollution of water used in public or semipublic swimming pools and bathing places and to prevent deleterious health conditions at these places. The rules shall prescribe minimum standards for sanitary conditions that shall be maintained at any public or semipublic swimming pool or bathing place and shall provide for inspection of these premises and for abatement as public nuisances of any premises and facilities that do not comply with the minimum standards. The rules shall be developed in cooperation with the director of the department of environmental quality and shall be consistent with the rules adopted by the director of the department of environmental quality pursuant to section 49-104, subsection B, paragraph 12.

11. Prescribe reasonably necessary measures to keep confidential information relating to diagnostic findings and treatment of patients, as well as information relating to contacts, suspects and associates of communicable disease patients. ~~In no event shall~~ Confidential information MAY NOT be made available for political or commercial purposes.

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and 254

12. Prescribe reasonably necessary measures regarding human immunodeficiency virus testing as a means to control the transmission of that virus, including the designation of anonymous test sites as dictated by current epidemiologic and scientific evidence.

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13. Establish an online registry of food preparers that are authorized to prepare cottage food products for commercial purposes pursuant to paragraph 4 of this subsection AND CHAPTER 8, ARTICLE 2 OF THIS TITLE. A registered food preparer shall renew the registration every three years and shall provide to the department updated registration information within thirty days after any change.

14. Prescribe an exclusion for fetal demise cases from the standardized survey known as "the hospital consumer assessment of healthcare providers and systems".

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and 254

J. The rules adopted under the authority conferred by this section shall be observed throughout the THIS state and shall be enforced by each local board of health or public health services district, but this section does not limit the right of any local board of health or county board of supervisors to adopt ordinances and rules as authorized by law within its jurisdiction, ~~provided that~~ IF the ordinances and rules do not conflict with state law and are equal to or more restrictive than the rules of the director.

K. The powers and duties prescribed by this section do not apply in instances in which regulatory powers and duties relating to public health are vested by the legislature in any other state board, commission, agency or instrumentality, except that with regard to the regulation of meat and meat products, the department of health services and the Arizona department of agriculture within the area delegated to each shall adopt rules that are not in conflict.

L. The director, in establishing fees authorized by this section, shall comply with title 41, chapter 6. The department shall not set a fee at more than the department's cost of providing the service for which the fee is charged. State agencies are exempt from all fees imposed pursuant to this section.

M. After consultation with the state superintendent of public instruction, the director shall prescribe the criteria the department shall use in deciding whether or not to notify a local school district that a pupil in the district has tested positive for the human immunodeficiency virus antibody. The director shall prescribe the procedure by which the department shall notify a school district if, pursuant to these criteria, the department determines that notification is warranted in a particular situation. This procedure shall include a requirement that before notification the department shall determine to its satisfaction that the district has an appropriate policy relating to nondiscrimination of the infected pupil and confidentiality of test results and that proper educational counseling has been or will be provided to staff and pupils.

N. Until the department adopts exemptions by rule as required by subsection I, paragraph 4, subdivision (f) of this section, food and drink are exempt from the rules prescribed in subsection I of this section if offered at locations that sell only commercially prepackaged food or drink that is not potentially hazardous, without a limitation on its display area.

O. Until the department adopts exemptions by rule as required by subsection I, paragraph 4, subdivision (h) of this section, a whole fruit or vegetable grown in a public school garden that is washed and cut on-site for immediate consumption is exempt from the rules prescribed in subsection I of this section.

P. Until the department adopts an exclusion by rule as required by subsection I, paragraph 14 of this section, the standardized survey known as "the hospital consumer assessment of healthcare providers and systems" may not include patients who experience a fetal demise.

Q. Until the department adopts exemptions by rule as required by subsection I, paragraph 4, subdivision (j) of this section, spirituous liquor and commercially prepackaged food, crackers or pretzels that meet the requirements of subsection I, paragraph 4, subdivision (j) of this section are exempt from the rules prescribed in subsection I of this section.

R. For the purposes of this section:

1. "Cottage food product":—

~~(a) Means a food that is not potentially hazardous or a time or temperature control for safety food as defined by the department in rule and that is prepared in a home kitchen by an individual who is registered with the department.~~

~~(b) Does not include foods that require refrigeration, perishable baked goods, salsas, sauces, fermented and pickled foods, meat, fish and shellfish products, beverages, acidified food products, nut butters or other reduced oxygen packaged products~~ HAS THE SAME MEANING PRESCRIBED IN SECTION 36-931.

2. "Fetal demise" means a fetal death that occurs or is confirmed in a licensed hospital. Fetal demise does not include an abortion as defined in section 36-2151.

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EXPLANATION OF BLEND
SECTION 36-520

Laws 2024, Chapters 152, 163 and 182

Laws 2024, Ch. 152, section 2

Effective September 14, 2024

Laws 2024, Ch. 163, section 2

Effective September 14, 2024

Laws 2024, Ch. 182, section 2

Effective September 14, 2024

Explanation

Since these three enactments are compatible, the Laws 2024, Ch. 152, 163 and Ch. 182 text changes to section 36-520 are blended in the form shown on the following pages.

BLEND OF SECTION 36-520
Laws 2024, Chapters 152, 163 and 182

36-520. Application for evaluation; definition

A. Any responsible individual may apply for a court-ordered evaluation of a person who is alleged to be, as a result of a mental disorder, a danger to self or to others or a person with a persistent or acute disability or a grave disability and who is unwilling or unable to undergo a voluntary evaluation. The application shall be made in the prescribed form and manner as adopted by the director.

B. The application for evaluation shall include the following data[,] IF KNOWN:

1. The name, ~~and address if known,~~ of the proposed patient for whom evaluation is applied.

2. The age, date of birth, sex, race, marital status, occupation, social security number, present location, dates and places of previous hospitalizations, names and addresses of the guardian, AGENT UNDER A HEALTH CARE POWER OF ATTORNEY OR MENTAL HEALTH CARE POWER OF ATTORNEY, spouse, next of kin and significant other persons and other data that the director may require on the form to whatever extent that this data is known and is applicable to the proposed patient.

3. The name, address and relationship of the person who is applying for the evaluation.

4. A statement that the proposed patient IS EXHIBITING BEHAVIORS THAT MAY BE CONSISTENT WITH A MENTAL DISORDER AND is believed to be, as a result of a mental disorder, a danger to self or to others or a patient with a persistent or acute disability or a grave disability and the facts on which this statement is based.

5. A STATEMENT FROM THE APPLICANT OF WHETHER THE APPLICANT BELIEVES THAT THE PROPOSED PATIENT IS OR IS NOT WILLING OR ABLE TO UNDERGO VOLUNTARY EVALUATION AND THE FACTS ON WHICH THIS STATEMENT IS BASED.

6. A STATEMENT OF THE PROPOSED PATIENT'S RELEVANT HISTORY OF MENTAL HEALTH DIAGNOSIS, TREATMENT RECOMMENDED OR PROVIDED AND COMPLIANCE WITH THE TREATMENT RECOMMENDED OR PROVIDED.

~~5-~~ 7. A statement that the applicant believes the proposed patient is in need of SCREENING, EVALUATION, supervision, care and treatment and the facts on which this statement is based.

8. COPIES OF ALL DOCUMENTS RELATING TO GUARDIANSHIP OR POWERS OF ATTORNEY THAT ALLOW THE GUARDIAN OR AGENT TO CONSENT TO INPATIENT PSYCHIATRIC TREATMENT, WHICH SHALL BE ATTACHED TO THE APPLICATION IF AVAILABLE AT THE TIME OF THE APPLICATION.

9. A STATEMENT BY THE APPLICANT OF WHETHER THE APPLICANT BELIEVES THAT, WITHOUT A PERIOD OF INPATIENT OBSERVATION, STABILIZATION AND ASSESSMENT, OR EMERGENCY INPATIENT PSYCHIATRIC HOSPITALIZATION, THE PROPOSED PATIENT IS LIKELY TO CAUSE OR ENDURE SERIOUS PHYSICAL HARM OR INJURY AND THE FACTS SUPPORTING THAT STATEMENT.

10. TO THE EXTENT KNOWN, THE NAMES AND CONTACT INFORMATION OF PERSONS OTHER THAN THE APPLICANT WHO HAVE WITNESSED THE BEHAVIOR EXHIBITED BY THE PROPOSED PATIENT ON WHICH THE APPLICATION IS BASED. THE SCREENING AGENCY MAY NOT DENY OR REFUSE TO PROCESS AN APPLICATION BECAUSE NO OTHER WITNESSES HAVE BEEN IDENTIFIED.

Ch. 182 — C. The application shall be signed and notarized. FOR AN APPLICATION MADE BY A PEACE OFFICER OR A HEALTH CARE PROFESSIONAL WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER 13, 15, 17 OR 19.1, A COPY OF THE APPLICATION THAT CONTAINS THE APPLICANT'S ORIGINAL SIGNATURE IS ACCEPTABLE, DOES NOT HAVE TO BE NOTARIZED AND MAY BE SUBMITTED AS THE WRITTEN APPLICATION.

Chs. 152, 163 and 182 — D. The screening agency shall offer assistance to the applicant in preparation of the application. On receipt of the application, the screening agency shall IMMEDIATELY NOTE ON THE FRONT OF THE APPLICATION THE TIME AND DATE OF RECEIPT, SHALL LOG THIS INFORMATION IN A RECORD OF APPLICATIONS RECEIVED BY THE SCREENING AGENCY AND SHALL act as prescribed in section 36-521 within forty-eight hours of AFTER the filing of the application, excluding weekends and holidays. If the application is not acted upon ON within forty-eight hours, the reasons for not acting promptly shall be reviewed by the director of the screening agency or the director's designee AND THE REASONS SHALL BE STATED IN THE REPORT REQUIRED BY SECTION 36-521, SUBSECTION B.

Ch. 182 — E. If the applicant for the court-ordered evaluation presents the person to be evaluated at the screening agency, the agency shall conduct a prepetition screening examination. Except in the case of an emergency evaluation, the person to be evaluated shall not be detained or forced to undergo prepetition screening against the person's will.

F. IN THE COURSE OF CONDUCTING A PREPETITION SCREENING, THE SCREENING AGENCY SHALL ACCEPT AND CONSIDER INFORMATION RELEVANT TO THE PRESENT BEHAVIOR AND PAST BEHAVIORAL HEALTH HISTORY OF THE PROPOSED PATIENT FROM PERSONS WHO HAVE A SIGNIFICANT RELATIONSHIP WITH THE PROPOSED PATIENT, INCLUDING FAMILY MEMBERS AND GUARDIANS.

~~F.~~ G. If the applicant for the court-ordered evaluation does not present the person to be evaluated at the screening agency, the agency shall conduct the prepetition screening at the home of the person to be evaluated or any other place the person to be evaluated is found. If prepetition screening is not possible, the screening agency shall proceed as PRESCRIBED in section 36-521, subsection B.

Chs. 152, 163 and 182 — ~~G.~~ H. If a person is being treated by prayer or spiritual means alone in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner of that church or denomination, ~~such~~ THE person may not be ordered evaluated, detained or involuntarily treated unless the court has determined that the person is, as a result of mental disorder, a danger to others or to self.

Ch. 182 — ~~H. Court-ordered evaluation or treatment pursuant to this chapter does not operate to change the legal residence of a patient.~~

Ch. 163

I. If the application is not acted on because it has been determined that the proposed patient does not need an evaluation, ~~the agency after a period of six months shall destroy the application and any other evidence of the application~~ THE MEDICAL DIRECTOR OF THE SCREENING AGENCY OR THE MEDICAL DIRECTOR'S DESIGNEE SHALL MAKE A WRITTEN STATEMENT OF THE REASONS WHY THE PROPOSED PATIENT DOES NOT NEED AN EVALUATION AND SHALL RETAIN THE APPLICATION TOGETHER WITH THE MEDICAL DIRECTOR'S STATEMENT AND ANY RECORDS OR REPORTS CONCERNING PREPETITION SCREENING REQUIRED PURSUANT SECTION 36-521.

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J. IF THE SCREENING AGENCY DETERMINES THAT THE APPLICATION SHOULD BE DENIED OR IF THE APPLICATION IS ACCEPTED BUT THE SCREENING AGENCY DECLINES TO FILE A PETITION FOR COURT-ORDERED EVALUATION, THE SCREENING AGENCY SHALL COMPLY WITH THE REQUIREMENTS OF SECTION 36-521, SUBSECTION C. IF THE SCREENING OF THE PROPOSED PATIENT TOOK PLACE IN A FACILITY OPERATED BY THE SCREENING AGENCY, THE SCREENING AGENCY SHALL ATTEMPT TO NOTIFY THE APPLICANT THAT THE SCREENING AGENCY INTENDS TO RELEASE THE PROPOSED PATIENT. THE SCREENING AGENCY SHALL DOCUMENT THE TIME AND METHOD OF THE NOTIFICATION OR AN UNSUCCESSFUL ATTEMPT TO NOTIFY THE APPLICANT. IF REQUESTED BY THE APPLICANT, THE MEDICAL DIRECTOR OF THE SCREENING AGENCY OR THE MEDICAL DIRECTOR'S DESIGNEE SHALL PROVIDE THE REASON FOR THE DENIAL OF THE APPLICATION OR THE DECISION NOT TO FILE A PETITION FOR COURT-ORDERED EVALUATION IF EITHER:

1. THE DISCLOSURE IS NOT OPPOSED BY THE PERSON WHO WAS SCREENED.
2. THE PERSON WHO WAS SCREENED IS DEEMED TO LACK CAPACITY TO MAKE THE DECISION TO ALLOW THE DISCLOSURE AND THE DISCLOSURE IS DEEMED TO BE IN THE PERSON'S BEST INTEREST.

K. For the purposes of this section, "person" includes a person who:

1. Is under eighteen years of age.
2. Has been transferred to the criminal division of the superior court pursuant to section 8-327 or who has been charged with an offense pursuant to section 13-501.
3. Is under the supervision of an adult probation department.

EXPLANATION OF BLEND
SECTION 36-522

Laws 2024, Chapters 169 and 182

Laws 2024, Ch. 169, section 13

Effective September 14, 2024

Laws 2024, Ch. 182, section 3

Effective September 14, 2024

Explanation

Since these two enactments are compatible, the Laws 2024, Ch. 169 and Ch. 182 text changes to section 36-522 are blended in the form shown on the following pages.

BLEND OF SECTION 36-522
Laws 2024, Chapters 169 and 182

36-522. Voluntary evaluations; consent; failure to complete; definitions

A. On receipt of an application for court-ordered evaluation, if the petition for court-ordered evaluation is not filed because it has been determined that the proposed patient will voluntarily receive an evaluation and is unlikely to present a danger to self or others until the voluntary evaluation, the evaluation agency provided for by the county, or a licensed behavioral health provider selected by the proposed patient, shall be immediately notified by the evaluation agency and shall provide a voluntary evaluation of the proposed patient at a scheduled time and place within ten days after the notice. The voluntary evaluation may be on an inpatient or outpatient basis and on completion shall be immediately delivered to the evaluation agency provided for by the county. The evaluation agency provided for by the county shall confirm receipt of the voluntary evaluation. If the voluntary evaluation recommends that the patient receive a court-ordered evaluation, the recommendation must be accompanied with an application for court-ordered evaluation.

Ch. 182 — B. Voluntary inpatient evaluation is subject to article 3 of this chapter. INFORMED CONSENT FOR VOLUNTARY INPATIENT EVALUATION MAY BE GRANTED BY THE PERSON, THE PERSON'S COURT-APPOINTED GUARDIAN WITH INPATIENT AUTHORITY OR THE PERSON'S DESIGNATED AGENT PURSUANT TO A POWER OF ATTORNEY THAT INCLUDES AUTHORITY TO CONSENT TO INPATIENT EVALUATION OR TREATMENT.

Chs. 169 and 182 — C. Voluntary outpatient evaluation shall conform to the requirements of section 36-530, subsection D and section 36-531, subsections B, C and D and shall proceed only after the person to be evaluated has given consent to be evaluated by signing a form prescribed by the director that includes information to the proposed patient that the patient-physician privilege does not apply and that the VOLUNTARY OUTPATIENT evaluation may result in a petition for the person to undergo court-ordered treatment or for guardianship.

Ch. 182 — INFORMED CONSENT FOR VOLUNTARY OUTPATIENT EVALUATION MAY BE GRANTED BY THE PERSON, THE PERSON'S COURT-APPOINTED GUARDIAN OR THE PERSON'S DESIGNATED AGENT PURSUANT TO A POWER OF ATTORNEY THAT INCLUDES AUTHORITY TO CONSENT TO EVALUATION OR TREATMENT.

Chs. 169 and 182 — D. If the person who requested a voluntary evaluation does not appear or does not complete the appointments scheduled, the evaluation agency provided for by the county shall be immediately notified by the provider who was to conduct the VOLUNTARY evaluation. The evaluation agency shall then provide prepetition screening of the application for court-ordered evaluation in accordance with sections 36-521 and 36-521.01.

E. For the purposes of this section:
1. "Licensed behavioral health provider" means any of the following:

(a) A person who is licensed pursuant to title 32, chapter 33 and whose scope of practice allows the person to either:

(i) Independently engage in the practice of behavioral health.

Ch. 169 — (ii) Except for a licensed ~~substance abuse~~ ADDICTION technician, engage in the practice of behavioral health under direct supervision.

(b) A psychiatrist.

(c) A psychologist who is licensed pursuant to title 32, chapter 19.1.

(d) A registered nurse practitioner who is licensed pursuant to title 32, chapter 15 and who is certified as an adult psychiatric and mental health nurse.

2. "Practice of behavioral health" has the same meaning prescribed in section 32-3251.

EXPLANATION OF BLEND
SECTION 36-523

Laws 2024, Chapters 152, 163 and 182

Laws 2024, Ch. 152, section 3

Effective September 14, 2024

Laws 2024, Ch. 163, section 4

Effective September 14, 2024

Laws 2024, Ch. 182, section 4

Effective September 14, 2024

Explanation

Since these three enactments are compatible, the Laws 2024, Ch. 152, Ch. 163 and Ch. 182 text changes to section 36-523 are blended in the form shown on the following pages.

BLEND OF SECTION 36-523
Laws 2024, Chapters 152, 163 and 182

36-523. Petition for evaluation

A. The petition for evaluation shall contain the following:

1. The name, address and interest in the case of the individual who applied for the petition.

2. The name, and address if known, of the proposed patient for whom evaluation is petitioned.

3. The present whereabouts of the proposed patient, if known.

4. A statement alleging that there is reasonable cause to believe that the proposed patient has a mental disorder and is as a result a danger to self or others, has a persistent or acute disability or a grave disability and is unwilling or unable to undergo voluntary evaluation.

5. A summary of the facts that support the allegations that the proposed patient is dangerous, has a persistent or acute disability or a grave disability and is unwilling or unable to be voluntarily evaluated, including the facts that brought the proposed patient to the screening agency's attention.

6. If the petition is filed by a prosecutor pursuant to section 13-4517, any known criminal history of the proposed patient, including whether the proposed patient has ever been found incompetent to stand trial pursuant to section 13-4510.

7. A statement of any facts and circumstances that lead the petitioner to believe that the proposed patient may be safely transported to the evaluation agency by an authorized transporter, if available in the jurisdiction, without the assistance of a peace officer.

8. THE PETITION SHALL STATE THE NAMES AND CONTACT INFORMATION OF ANY PERSONS KNOWN WHO WITNESSED THE BEHAVIOR EXHIBITED BY THE PROPOSED PATIENT ON WHICH THE PETITION IS BASED. THE AGENCY MAY NOT DECLINE TO PROCESS A PETITION FOR COURT-ORDERED EVALUATION BECAUSE NO WITNESSES ACQUAINTED WITH THE PROPOSED PATIENT HAVE BEEN IDENTIFIED.

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~~8.~~ 9. Other information that the director by rule or the court by rule or order may require.

B. The petition shall request that the court issue an order requiring that the proposed patient be given an evaluation and shall advise the court of both of the following:

1. That the opinion of the petitioner is either that the proposed patient is or is not in such a condition that without immediate or continuing hospitalization the patient is likely to suffer serious physical harm or further deterioration or inflict serious physical harm on another person.

2. If the opinion of the petitioner is that the proposed patient is not in the condition described in paragraph 1 of this subsection, that the opinion of the petitioner is either that the evaluation should or should not take place on an outpatient basis.

Ch. 152 { C. FOR A PETITION FILED PURSUANT TO SECTIONS 36-520 AND 36-521:
[1.] The petition for evaluation shall be accompanied by the application for evaluation, by the recommendation of the county attorney pursuant to section 36-521 and by a prepetition screening report, unless the documents have not been prepared under a provision of law or in accordance with an order of the court. The petition for evaluation shall also be accompanied by a copy of the application for emergency admission if one exists.

Ch. 152 { ~~D.~~ 2. ~~A~~ THE petition and other forms required in a court may be filed only by the screening agency that has prepared the petition.
~~E.~~ 3.

Ch. 163 { If the petition is PREPARED BUT not filed because it has been determined that the person ~~does not need~~ NO LONGER NEEDS an evaluation, the MEDICAL DIRECTOR OF THE agency ~~after a period of six months shall destroy~~ SHALL MAKE A WRITTEN STATEMENT OF THE REASONS WHY THE EVALUATION WAS DETERMINED TO BE NO LONGER NECESSARY AND SHALL RETAIN the petition TOGETHER WITH THE MEDICAL DIRECTOR'S STATEMENT and the various reports annexed to the petition as required by this section.

Ch. 152 — ~~F.~~ 4. If the petition is not filed because it has been determined that the person does not need an evaluation and a prosecutor filed a petition pursuant to section 13-4517, the person shall be remanded for a disposition pursuant to section 13-4517. If the person is out of custody, the court may order that the person be taken into custody for a disposition pursuant to this section.

EXPLANATION OF BLEND
SECTION 36-3503

Laws 2024, Chapters 104 and 130

Laws 2024, Ch. 104, section 3

Effective September 14, 2024

Laws 2024, Ch. 130, section 1

Effective September 14, 2024

Explanation

Since these two enactments are compatible, the Laws 2024, Ch. 104 and Ch. 130 text changes to section 36-3503 are blended in the form shown on the following pages.

The Laws 2024, Ch. 104 version of section 36-3503, subsection F added the word "engaging" after "individual". The Ch. 130 version added the words "who engages" after "individual". Since this would not produce a substantive change, the blend version reflects the Ch. 130 version.

BLEND OF SECTION 36-3503
Laws 2024, Chapters 104 and 130

36-3503. Access to information; confidentiality; violation; classification

- Chs. 104 and 130 { A. On request of the chairperson of ~~a~~ THE state or A local CHILD FATALITY REVIEW team and as necessary to carry out the team's duties, the chairperson shall be provided within five days excluding weekends and holidays with access to ALL information and records regarding a child whose ~~death~~ FATALITY OR NEAR FATALITY is being reviewed by the team, or information and records regarding the child's family and records of a maternal fatality associated with pregnancy pursuant to section 36-3501, subsection C:
- Ch. 104 { 1. From a ~~provider~~ of PERSON OR INSTITUTION PROVIDING medical, dental, NURSING or mental health care.
2. From this state or a political subdivision of this state that might assist a team to review a child fatality OR NEAR FATALITY.
- Chs. 104 and 130 { B. A law enforcement agency with the approval of the prosecuting attorney may withhold FROM RELEASE PURSUANT TO SUBSECTION A OF THIS SECTION ANY investigative records that might interfere with a pending criminal investigation or prosecution.
- Ch. 104 { C. The director of the department of health services or the director's designee may apply to the superior court for a subpoena as necessary to compel the production of books, records, documents and other evidence related to a ~~child fatality or a maternal fatality associated with pregnancy~~ TEAM investigation. Subpoenas issued shall be served and, on application to the court by the director or the director's designee, enforced in the manner provided by law for the service and enforcement of subpoenas. A law enforcement agency is not required to produce the information requested under the subpoena if the subpoenaed evidence relates to a pending criminal investigation or prosecution. All records shall be returned to the agency or organization on completion of the review. Written reports or records containing identifying information shall not be kept by the team.
- Ch. 130 { D. All information and records acquired by the state team, ~~or~~ any local team OR A PROGRAM are confidential and are not subject to subpoena, discovery or introduction into evidence in any civil or criminal proceedings, except that information, documents and records otherwise available from other sources are not immune from subpoena, discovery or introduction into evidence through those sources solely because they were presented to or reviewed by a team OR PROGRAM.
- E. Members of a team, persons attending a team meeting and persons who present information to a team may not be questioned in any civil or criminal proceedings regarding information presented in or opinions formed as a result of a meeting. This subsection does not prevent a person from

testifying to information that is obtained independently of the team or that is public information.

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F. PURSUANT TO POLICIES ADOPTED BY THE STATE CHILD FATALITY REVIEW TEAM

Ch. 130 — OR A MATERNAL MORTALITY REVIEW PROGRAM

Chs. 104 and 130 — , a member of the state or a local child fatality review team shall not

Ch. 130 — OR A MATERNAL MORTALITY REVIEW PROGRAM,

OR THE MEMBER'S DESIGNEE [.] MAY contact, interview or obtain information

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[by request] or subpoena from a [CLOSE CONTACT OR] FAMILY member of a deceased child's family, except that a member of the state or a local child fatality review team who is otherwise a public officer or employee may contact, interview or obtain information from a family member, if necessary, as part of the public officer's or employee's other official duties CHILD OR WOMAN WHO DIES WITHIN THE TEAM'S

Ch. 130 — OR PROGRAM'S

Chs. 104 and 130 — JURISDICTION. THE [STATE] CHILD FATALITY REVIEW TEAM

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Ch. 130 — AND MATERNAL MORTALITY REVIEW PROGRAM

SHALL ESTABLISH A PROCESS FOR APPROVING ANY CONTACT, INTERVIEW OR REQUEST BEFORE ANY TEAM [OR PROGRAM] MEMBER OR DESIGNEE CONTACTS, INTERVIEWS OR OBTAINS INFORMATION FROM THE [CLOSE CONTACT OR] FAMILY MEMBER OF A CHILD OR WOMAN WHO DIES WITHIN THE TEAM'S [OR PROGRAM'S] JURISDICTION. POLICIES ADOPTED PURSUANT TO THIS SUBSECTION MUST REQUIRE THAT ANY INDIVIDUAL WHO ENGAGES WITH A FAMILY MEMBER BE TRAINED IN TRAUMA INFORMED INTERVIEW TECHNIQUES AND EDUCATED ON SUPPORT SERVICES AVAILABLE TO THE [CLOSE CONTACT OR] FAMILY MEMBER.

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Ch. 130 — G. State and local team AND PROGRAM meetings are closed to the public and are not subject to title 38, chapter 3, article 3.1 if the team OR PROGRAM is reviewing individual child fatality cases or cases of maternal fatalities associated with pregnancy. All other team AND PROGRAM meetings are open to the public.

H. A person who violates the confidentiality requirements of this section is guilty of a class 2 misdemeanor.

EXPLANATION OF BLEND
SECTION 40-360.03

Laws 2024, Chapters 17 and 248

Laws 2024, Ch. 17, section 1

Effective September 14, 2024

Laws 2024, Ch. 248, section 1

Effective September 14, 2024

Explanation

Since these two enactments are compatible, the Laws 2024, Ch. 17 and Ch. 248 text changes to section 40-360.03 are blended in the form shown on the following page.

BLEND OF SECTION 40-360.03
Laws 2024, Chapters 17 and 248

40-360.03. Application for certificate of environmental compatibility before construction of facilities; electronic format; rules; exception

Ch. 248 ——— A. EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, every utility
Chs. 17 and 248 ——— ~~planning~~ THAT PLANS to construct a plant, OR transmission line, or both,
in this state shall first file with the commission an application for a
certificate of environmental compatibility. The application shall be in a
form prescribed by the commission and shall be accompanied by information
with respect to the proposed type of facilities and description of the site,
including the areas of jurisdiction affected and the estimated cost of the
proposed facilities and site. ~~Also~~ The application shall ALSO be
accompanied by a receipt ~~evidencing~~ THAT EVIDENCES payment of the appropriate
fee required by section 40-360.09. The COMMISSION SHALL PROMPTLY REFER THE
application and accompanying information ~~shall be promptly referred by the~~
~~commission~~ to the chairman of the committee for the committee's review and
decision. THE APPLICATION AND ACCOMPANYING INFORMATION MAY BE SUBMITTED TO
Ch. 17 ——— THE COMMISSION IN AN ELECTRONIC FORMAT. THE COMMISSION MAY ADOPT RULES TO
ACCEPT ELECTRONIC FILINGS UNDER THIS SECTION AND TO ENSURE THAT PROPER
NOTICE IS PROVIDED ELECTRONICALLY TO INTERESTED PARTIES.

Ch. 248 ——— B. A UTILITY MAY REPLACE A CONDUCTOR OR WIRE ON A TRANSMISSION LINE
OR MAY REPLACE AN EXISTING TRANSMISSION LINE STRUCTURE OR STRUCTURES WITH A
NEW TRANSMISSION LINE STRUCTURE OR STRUCTURES WITHOUT SEEKING A NEW
CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND WITHOUT HOLDING A HEARING
UNDER THIS ARTICLE IF THE REPLACEMENT IS ON A TRANSMISSION LINE THAT
PREVIOUSLY RECEIVED A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY OR THAT
WAS IN USE OR AUTHORIZED BEFORE AUGUST 13, 1971. ALL REPLACEMENT CONDUCTORS
OR STRUCTURES SHALL COMPLY WITH THE TERMS AND CONDITIONS OF THE APPLICABLE
EXISTING CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY.

EXPLANATION OF BLEND
SECTION 41-1093.04

Laws 2024, Chapters 83 and 91

Laws 2024, Ch. 83, section 1

Effective September 14, 2024

Laws 2024, Ch. 91, section 1

Effective September 14, 2024

Explanation

Since these two enactments are compatible, the Laws 2024, Ch. 83 and Ch. 91 text changes to section 41-1093.04 are blended in the form shown on the following pages.

BLEND OF SECTION 41-1093.04
Laws 2024, Chapters 83 and 91

41-1093.04. Occupational license, permit or certificate or other state recognition rights; petition for review of criminal record; annual report

A. A person with a criminal record may petition an agency, at any time, including before obtaining any required education or experience, taking any examination or paying any fee, for a determination of whether the person's criminal record disqualifies the person from obtaining a license, permit, certificate or other state recognition.

B. In the petition, the person shall include:

1. The person's complete criminal history record or authorization for the agency to obtain the person's criminal history record.

2. Any additional information about the person's current circumstances, including the time since the offense was committed and the sentence was completed, the payment of any court-ordered restitution, evidence of rehabilitation, testimonials, employment history and employment aspirations.

C. The agency shall determine whether the person's criminal record disqualifies the person from obtaining a license, permit, certificate or other state recognition.

D. Notwithstanding any other law or rule, WHEN MAKING A DETERMINATION REGARDING THE PERSON'S PETITION, the agency may determine that the person's criminal record disqualifies the person from obtaining a license, permit, certificate or other state recognition only if the agency concludes that the THIS state has an important interest in protecting public safety that is superior to the person's right and either of the following applies:

1. The person was convicted of any of the following, the conviction occurred within ~~seven~~ THREE years before the date of the petition, excluding any period of time that the person was imprisoned in the custody of the state department of corrections, and the conviction has not been set aside OR SEALED:

(a) A felony offense.

(b) A violent crime as defined in section 13-901.03.

(c) An offense included in title 13, chapter 20, 21 or 22 or section 13-2310 or 13-2311 if the license, permit, certificate or other state recognition is for an occupation in which the applicant would owe a fiduciary duty to a client.

2. The person was, at any time, convicted of either of the following:

(a) An offense that a law specifically requires the agency to consider when issuing a license, permit, certificate or other state recognition and the conviction has not been set aside OR SEALED.

(b) A dangerous offense as defined in section 13-105, a serious offense as defined in section 13-706, a dangerous crime against children as

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Ch. 83 — defined in section 13-705 or an offense included in title 13, chapter 14 or 35.1, and the conviction has not been set aside OR SEALED.

E. To conclude that the state has an important interest in protecting public safety that is superior to the person's right, as required by subsection D of this section, the agency must determine by clear and convincing evidence at the time of the petition that both of the following apply:

Ch. 91 { 1. The specific offense that the person was convicted of:
(a) FOR AN OCCUPATIONAL OR PROFESSIONAL LICENSING BOARD OR A HEALTH PROFESSION REGULATORY BOARD, SUBSTANTIALLY RELATES TO THE OCCUPATION OR APPROVAL WOULD POSE A REASONABLE THREAT TO PUBLIC HEALTH AND SAFETY AS PRESCRIBED BY SECTION 41-1093.08.

(b) FOR ALL OTHER AGENCIES, substantially relates to ~~the~~ THIS — Ch. 83 state's interest and specifically and directly relates to the duties and responsibilities of the occupation, except offenses involving moral turpitude.

Chs. 83 and 91 — 2. The person, based on the nature of the specific offense that the person was convicted of and the person's current circumstances, including the passage of time since the person committed the ~~crime~~ OFFENSE and any evidence of rehabilitation or treatment, is more likely to reoffend by virtue of having the license, permit, certificate or other state recognition than if the person did not have the license, permit, certificate or other state recognition.

Ch. 83 — F. In determining if a person's criminal record disqualifies the person from obtaining a license, permit, certificate or other state recognition PURSUANT TO SUBSECTION D OF THIS SECTION, the agency may not consider negatively any of the following:

1. Nonconviction information, including information related to a deferred adjudication, participation in a diversion program or an arrest that was not followed by a conviction.

2. A conviction that has been sealed, dismissed, expunged or pardoned.

3. A juvenile adjudication.

4. A nonviolent misdemeanor.

Ch. 83 { 5. WHETHER THE PERSON WOULD QUALIFY FOR A FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO CHAPTER 12, ARTICLE 3.1 OF THIS TITLE WITHOUT A GOOD CAUSE EXCEPTION.

G. The agency shall issue a determination on the petition within ninety days after the agency receives the petition. The determination on the petition must be in writing and include all of the following:

1. Findings of fact and conclusions of law.

2. The grounds and reasons for the determination if the person's criminal history disqualifies the person.

Ch. 83 — H. If the agency determines that the state's interest to protect public safety is superior to the person's right, the agency ~~may~~ SHALL advise the person of the actions that the person may take to remedy the disqualification, including:

1. An appeal of the determination as provided in title 12, chapter 7, article 6.

2. The earliest date the person may submit a new petition to the agency, which must be not later than two years after the final determination of the initial petition.

Ch. 91 — I. SUBJECT TO SECTION 41-1093.08, IF APPLICABLE, the agency shall rescind the determination any time after the determination is made but before issuing a license, permit, certificate or other state recognition if the person is convicted of an additional offense that is included in subsection D of this section.

J. Subsection D and subsection F, paragraphs 1, 2 and 4 of this section do not apply to any of the following:

1. Any law enforcement agency or the Arizona peace officer standards and training board.

2. Any license or registration certificate that is issued pursuant to title 32, chapter 24 or 26.

3. Any certification, license or permit that is issued pursuant to title 15.

4. Statutory requirements for a fingerprint clearance card issued pursuant to chapter 12, article 3.1 of this title.

5. Any criteria for license, permit or certificate eligibility that is established by an interstate compact.

Ch. 83 { K. Each agency shall submit a report on or before July 1 of each year to the governor and the legislature, and provide a copy of this report to the secretary of state AND POST THE REPORT ON THE AGENCY'S WEBSITE. The report shall include the following information for the previous calendar year:

1. The number of applicants who petitioned the agency for a determination.

2. The number of petitions that were granted and the types of offenses at issue.

3. The number of petitions that were denied and the types of offenses at issue.

4. The number of determinations that were rescinded.

L. An agency shall adopt forms for petitions as prescribed in subsections A and B of this section.

EXPLANATION OF BLEND
SECTION 41-3032.17

Laws 2024, Chapters 205 and 206

Laws 2024, Ch. 205, section 4

Effective September 14, 2024
(Retroactive to July 1, 2024)

Laws 2024, Ch. 206, section 7

Effective September 14, 2024
(Retroactive to July 1, 2024)

Explanation

Since these two enactments are identical, the Laws 2024, Ch. 205 and Ch. 206 language of section 41-3032.17 is blended in the form shown on the following page.

BLEND OF SECTION 41-3032.17
Laws 2024, Chapters 205 and 206

41-3032.17. Occupational safety and health advisory committee:
termination July 1, 2032

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and 206



- A. THE OCCUPATIONAL SAFETY AND HEALTH ADVISORY COMMITTEE TERMINATES
ON JULY 1, 2032.
- B. SECTION 23-409 AND THIS SECTION ARE REPEALED ON JANUARY 1, 2033.

EXPLANATION OF BLEND
SECTION 42-5075

Laws 2024, Chapters 43 and 150

Laws 2024, Ch. 43, section 5

Effective September 14, 2024

Laws 2024, Ch. 150, section 1

Effective September 14, 2024

Explanation

Since these two enactments are compatible, the Laws 2024, Ch. 43 and Ch. 150 text changes to section 42-5075 are blended in the form shown on the following pages.

BLEND OF SECTION 42-5075
Laws 2024, Chapters 43 and 150

42-5075. Prime contracting classification; exemptions; definitions

A. The prime contracting classification is comprised of the business of prime contracting and the business of manufactured building dealer. Sales for resale to another manufactured building dealer are not subject to tax. Sales for resale do not include sales to a lessor of manufactured buildings. The sale of a used manufactured building is not taxable under this chapter. The prime contracting classification does not include any work or operation performed by a person that is not required to be licensed by the registrar of contractors pursuant to section 32-1121.

B. The tax base for the prime contracting classification is sixty-five percent of the gross proceeds of sales or gross income derived from the business. The following amounts shall be deducted from the gross proceeds of sales or gross income before computing the tax base:

1. The sales price of land, which shall not exceed the fair market value.

2. Sales and installation of groundwater measuring devices required under section 45-604 and groundwater monitoring wells required by law, including monitoring wells installed for acquiring information for a permit required by law.

3. The sales price of furniture, furnishings, fixtures, appliances and attachments that are not incorporated as component parts of or attached to a manufactured building or the setup site. The sale of such items may be subject to the taxes imposed by article 1 of this chapter separately and distinctly from the sale of the manufactured building.

Ch. 43 — ~~41-1531~~ 42-1301. 4. The gross proceeds of sales or gross income received from a contract entered into for the modification of any building, highway, road, railroad, excavation, manufactured building or other structure, project, development or improvement located in a military reuse zone for providing aviation or aerospace services or for a manufacturer, assembler or fabricator of aviation or aerospace products within an active military reuse zone after the zone is initially established or renewed under section ~~41-1531~~ 42-1301. To be eligible to qualify for this deduction, before beginning work under the contract, the prime contractor must have applied for a letter of qualification from the department of revenue.

5. The gross proceeds of sales or gross income derived from a contract to construct a qualified environmental technology manufacturing, producing or processing facility, as described in section 41-1514.02, and from subsequent construction and installation contracts that begin within ten years after the start of initial construction. To qualify for this deduction, before beginning work under the contract, the prime contractor must obtain a letter of qualification from the department of revenue. This

paragraph shall apply for ten full consecutive calendar or fiscal years after the start of initial construction.

6. The gross proceeds of sales or gross income from a contract to provide for one or more of the following actions, or a contract for site preparation, constructing, furnishing or installing machinery, equipment or other tangible personal property, including structures necessary to protect exempt incorporated materials or installed machinery or equipment, and tangible personal property incorporated into the project, to perform one or more of the following actions in response to a release or suspected release of a hazardous substance, pollutant or contaminant from a facility to the environment, unless the release was authorized by a permit issued by a governmental authority:

(a) Actions to monitor, assess and evaluate such a release or a suspected release.

(b) Excavation, removal and transportation of contaminated soil and its treatment or disposal.

(c) Treatment of contaminated soil by vapor extraction, chemical or physical stabilization, soil washing or biological treatment to reduce the concentration, toxicity or mobility of a contaminant.

(d) Pumping and treatment or in situ treatment of contaminated groundwater or surface water to reduce the concentration or toxicity of a contaminant.

(e) The installation of structures, such as cutoff walls or caps, to contain contaminants present in groundwater or soil and prevent them from reaching a location where they could threaten human health or welfare or the environment.

This paragraph does not include asbestos removal or the construction or use of ancillary structures such as maintenance sheds, offices or storage facilities for unattached equipment, pollution control equipment, facilities or other control items required or to be used by a person to prevent or control contamination before it reaches the environment.

7. The gross proceeds of sales or gross income that is derived from a contract for the installation, assembly, repair or maintenance of machinery, equipment or other tangible personal property that is either deducted from the tax base of the retail classification under section 42-5061, subsection B or that is exempt from use tax under section 42-5159, subsection B and that has independent functional utility, pursuant to the following provisions:

(a) The deduction provided in this paragraph includes the gross proceeds of sales or gross income derived from all of the following:

(i) Any activity performed on machinery, equipment or other tangible personal property with independent functional utility.

(ii) Any activity performed on any tangible personal property relating to machinery, equipment or other tangible personal property with independent functional utility in furtherance of any of the purposes provided for under subdivision (d) of this paragraph.

(iii) Any activity that is related to the activities described in items (i) and (ii) of this subdivision, including inspecting the installation of or testing the machinery, equipment or other tangible personal property.

(b) The deduction provided in this paragraph does not include gross proceeds of sales or gross income from the portion of any contracting activity that consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of machinery, equipment or other tangible personal property that is either deducted from the tax base of the retail classification under section 42-5061, subsection B or exempt from use tax under section 42-5159, subsection B.

(c) The deduction provided in this paragraph shall be determined without regard to the size or useful life of the machinery, equipment or other tangible personal property.

(d) For the purposes of this paragraph, "independent functional utility" means that the machinery, equipment or other tangible personal property can independently perform its function without attachment to real property, other than attachment for any of the following purposes:

(i) Assembling the machinery, equipment or other tangible personal property.

(ii) Connecting items of machinery, equipment or other tangible personal property to each other.

(iii) Connecting the machinery, equipment or other tangible personal property, whether as an individual item or as a system of items, to water, power, gas, communication or other services.

(iv) Stabilizing or protecting the machinery, equipment or other tangible personal property during operation by bolting, burying or performing other similar nonpermanent connections to either real property or real property improvements.

8. The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from transaction privilege and use tax under:

(a) Section 42-5061, subsection A, paragraph 25, 29 or 58.

(b) Section 42-5061, subsection B.

(c) Section 42-5159, subsection A, paragraph 13, subdivision (a), (b), (c), (d), (e), (f), (j), (k), (m) or (n) or paragraph 55.

(d) Section 42-5159, subsection B.

9. The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, cooling and packaging of eggs.

10. The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state for the modification of any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

11. The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of clean rooms that are deducted from the tax base of the retail classification pursuant to section 42-5061, subsection B, paragraph 17.

12. For taxable periods beginning from and after June 30, 2001, the gross proceeds of sales or gross income derived from a contract entered into for the construction of a residential apartment housing facility that qualifies for a federal housing subsidy for low-income persons over sixty-two years of age and that is owned by a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code.

13. For taxable periods beginning from and after December 31, 1996 and ending before January 1, 2017, the gross proceeds of sales or gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the department as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the department for examination.

14. The gross proceeds of sales or gross income derived from a contract entered into for the construction of a launch site, as defined in 14 Code of Federal Regulations section 401.5.

15. The gross proceeds of sales or gross income derived from a contract entered into for the construction of a domestic violence shelter that is owned and operated by a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code.

16. The gross proceeds of sales or gross income derived from contracts to perform postconstruction treatment of real property for termite and general pest control, including wood-destroying organisms.

17. The gross proceeds of sales or gross income received from contracts entered into before July 1, 2006 for constructing a state university research infrastructure project if the project has been reviewed by the joint committee on capital review before the university enters into the construction contract for the project. For the purposes of this paragraph, "research infrastructure" has the same meaning prescribed in section 15-1670.

18. The gross proceeds of sales or gross income received from a contract for the construction of any building, or other structure, project, development or improvement owned by a qualified business under section 41-1516 for harvesting or processing qualifying forest products removed from qualifying projects as defined in section 41-1516 if actual construction begins before January 1, 2024. To qualify for this deduction, the prime contractor must obtain a letter of qualification from the Arizona commerce authority before beginning work under the contract.

19. Any amount of the gross proceeds of sales or gross income attributable to development fees that are incurred in relation to a contract for construction, development or improvement of real property and that are paid by a prime contractor or subcontractor. For the purposes of this paragraph:

(a) The attributable amount shall not exceed the value of the development fees actually imposed.

(b) The attributable amount is equal to the total amount of development fees paid by the prime contractor or subcontractor, and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public

infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.

(c) "Development fees" means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to section 9-463.05, section 11-1102 or title 48 regardless of the jurisdiction to which the fees are paid.

20. The gross proceeds of sales or gross income derived from a contract entered into for the construction of a mixed waste processing facility that is located on a municipal solid waste landfill and that is constructed for the purpose of recycling solid waste or producing renewable energy from landfill waste. For the purposes of this paragraph:

(a) "Mixed waste processing facility" means a solid waste facility that is owned, operated or used for the treatment, processing or disposal of solid waste, recyclable solid waste, ~~conditionally exempt~~ VERY small quantity generator waste or household hazardous waste. For the purposes of this subdivision, "~~conditionally exempt~~ VERY small quantity generator waste", "household hazardous waste" and "solid waste facility" have the same meanings prescribed in section 49-701, except that solid waste facility does include a site that stores, treats or processes paper, glass, wood, cardboard, household textiles, scrap metal, plastic, vegetative waste, aluminum, steel or other recyclable material.

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(b) "Municipal solid waste landfill" has the same meaning prescribed in section 49-701.

(c) "Recycling" means collecting, separating, cleansing, treating and reconstituting recyclable solid waste that would otherwise become solid waste, but does not include incineration or other similar processes.

(d) "Renewable energy" means usable energy, including electricity, fuels, gas and heat, produced through the conversion of energy provided by sunlight, water, wind, geothermal, heat, biomass, biogas, landfill gas or ~~other~~ ANOTHER nonfossil renewable resource.

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21. The gross proceeds of sales or gross income derived from a contract to install containment structures. For the purposes of this paragraph, "containment structure" means a structure that prevents, monitors, controls or reduces noxious or harmful discharge into the environment.

C. Entitlement to the deduction pursuant to subsection B, paragraph 7 of this section is subject to the following provisions:

1. A prime contractor may establish entitlement to the deduction by both:

(a) Marking the invoice for the transaction to indicate that the gross proceeds of sales or gross income derived from the transaction was deducted from the base.

(b) Obtaining a certificate executed by the purchaser indicating the name and address of the purchaser, the precise nature of the business of the purchaser, the purpose for which the purchase was made, the necessary facts to establish the deductibility of the property under section 42-5061, subsection B, and a certification that the person executing the certificate is authorized to do so on behalf of the purchaser. The certificate may be disregarded if the prime contractor has reason to believe that the information contained in the certificate is not accurate or complete.

2. A person who does not comply with paragraph 1 of this subsection may establish entitlement to the deduction by presenting facts necessary to support the entitlement, but the burden of proof is on that person.

3. The department may prescribe a form for the certificate described in paragraph 1, subdivision (b) of this subsection. The department may also adopt rules that describe the transactions with respect to which a person is not entitled to rely solely on the information contained in the certificate provided in paragraph 1, subdivision (b) of this subsection but must instead obtain such additional information as required in order to be entitled to the deduction.

4. If a prime contractor is entitled to a deduction by complying with paragraph 1 of this subsection, the department may require the purchaser who caused the execution of the certificate to establish the accuracy and completeness of the information required to be contained in the certificate that would entitle the prime contractor to the deduction. If the purchaser cannot establish the accuracy and completeness of the information, the purchaser is liable in an amount equal to any tax, penalty and interest that the prime contractor would have been required to pay under article 1 of this chapter if the prime contractor had not complied with paragraph 1 of this subsection. Payment of the amount under this paragraph exempts the purchaser from liability for any tax imposed under article 4 of this chapter. The amount shall be treated as a transaction privilege tax to the purchaser and as tax revenues collected from the prime contractor in order to designate the distribution base for purposes of section 42-5029.

D. Subcontractors or others who perform modification activities are not subject to tax if they can demonstrate that the job was within the control of a prime contractor or contractors or a dealership of manufactured buildings and that the prime contractor or dealership is liable for the tax on the gross income, gross proceeds of sales or gross receipts attributable to the job and from which the subcontractors or others were paid.

E. Amounts received by a contractor for a project are excluded from the contractor's gross proceeds of sales or gross income derived from the business if the person who hired the contractor executes and provides a certificate to the contractor stating that the person providing the certificate is a prime contractor and is liable for the tax under article 1 of this chapter. The department shall prescribe the form of the certificate. If the contractor has reason to believe that the information contained on the certificate is erroneous or incomplete, the department may disregard the certificate. If the person who provides the certificate is not liable for the tax as a prime contractor, that person is nevertheless deemed to be the prime contractor in lieu of the contractor and is subject to the tax under this section on the gross receipts or gross proceeds received by the contractor.

F. Every person engaging or continuing in this state in the business of prime contracting or dealership of manufactured buildings shall present to the purchaser of such prime contracting or manufactured building a written receipt of the gross income or gross proceeds of sales from such activity and shall separately state the taxes to be paid pursuant to this section.

G. For the purposes of section 42-5032.01, the department shall separately account for revenues collected under the prime contracting

classification from any prime contractor engaged in the preparation or construction of a multipurpose facility, and related infrastructure, that is owned, operated or leased by the tourism and sports authority pursuant to title 5, chapter 8.

H. For the purposes of section 42-5032.02, from and after September 30, 2013, the department shall separately account for revenues reported and collected under the prime contracting classification from any prime contractor engaged in the construction of any buildings and associated improvements that are for the benefit of a manufacturing facility. For the purposes of this subsection, "associated improvements" and "manufacturing facility" have the same meanings prescribed in section 42-5032.02.

I. The gross proceeds of sales or gross income derived from a contract for lawn maintenance services is not subject to tax under this section if the contract does not include landscaping activities. Lawn maintenance service is a service pursuant to section 42-5061, subsection A, paragraph 1, and includes lawn mowing and edging, weeding, repairing sprinkler heads or drip irrigation heads, seasonal replacement of flowers, refreshing gravel, lawn dethatching, seeding winter lawns, leaf and debris collection and removal, tree or shrub pruning or clipping, garden and gravel raking and applying pesticides, as defined in section 3-361, and fertilizer materials, as defined in section 3-262.

J. Except as provided in subsection 0 of this section, the gross proceeds of sales or gross income derived from landscaping activities is subject to tax under this section. Landscaping includes installing lawns, grading or leveling ground, installing gravel or boulders, planting trees and other plants, felling trees, removing or mulching tree stumps, removing other imbedded plants, building irrigation berms, installing railroad ties and installing underground sprinkler or watering systems.

K. The portion of gross proceeds of sales or gross income attributable to the actual direct costs of providing architectural or engineering services that are incorporated in a contract is not subject to tax under this section. For the purposes of this subsection, "direct costs" means the portion of the actual costs that are directly expended in providing architectural or engineering services.

L. Operating a landfill or a solid waste disposal facility is not subject to taxation under this section, including filling, compacting and creating vehicle access to and from cell sites within the landfill. Constructing roads to a landfill or solid waste disposal facility and constructing cells within a landfill or solid waste disposal facility may be deemed prime contracting under this section.

M. The following apply in determining the taxable situs of sales of manufactured buildings:

1. For sales in this state where the manufactured building dealer contracts to deliver the building to a setup site or to perform the setup in this state, the taxable situs is the setup site.

2. For sales in this state where the manufactured building dealer does not contract to deliver the building to a setup site or does not perform the setup, the taxable situs is the location of the dealership where the building is delivered to the buyer.

3. For sales in this state where the manufactured building dealer contracts to deliver the building to a setup site that is outside this state, the situs is outside this state and the transaction is excluded from tax.

N. The gross proceeds of sales or gross income attributable to a written contract for design phase services or professional services, executed before modification begins and with terms, conditions and pricing of all of these services separately stated in the contract from those for construction phase services, is not subject to tax under this section, regardless of whether the services are provided sequential to or concurrent with prime contracting activities that are subject to tax under this section. This subsection does not include the gross proceeds of sales or gross income attributable to construction phase services. For the purposes of this subsection:

1. "Construction phase services" means services for the execution and completion of any modification, including the following:

(a) Administration or supervision of any modification performed on the project, including team management and coordination, scheduling, cost controls, submittal process management, field management, safety program, close-out process and warranty period services.

(b) Administration or supervision of any modification performed pursuant to a punch list. For the purposes of this subdivision, "punch list" means minor items of modification work performed after substantial completion and before final completion of the project.

(c) Administration or supervision of any modification performed pursuant to change orders. For the purposes of this subdivision, "change order" means a written instrument issued after execution of a contract for modification work, providing for all of the following:

(i) The scope of a change in the modification work, contract for modification work or other contract documents.

(ii) The amount of an adjustment, if any, to the guaranteed maximum price as set in the contract for modification work. For the purposes of this item, "guaranteed maximum price" means the amount guaranteed to be the maximum amount due to a prime contractor for the performance of all modification work for the project.

(iii) The extent of an adjustment, if any, to the contract time of performance set forth in the contract.

(d) Administration or supervision of any modification performed pursuant to change directives. For the purposes of this subdivision, "change directive" means a written order directing a change in modification work before agreement on an adjustment of the guaranteed maximum price or contract time.

(e) Inspection to determine the dates of substantial completion or final completion.

(f) Preparation of any manuals, warranties, as-built drawings, spares or other items the prime contractor must furnish pursuant to the contract for modification work. For the purposes of this subdivision, "as-built drawing" means a drawing that indicates field changes made to adapt to field conditions, field changes resulting from change orders or buried and concealed installation of piping, conduit and utility services.

(g) Preparation of status reports after modification work has begun detailing the progress of work performed, including preparation of any of the following:

(i) Master schedule updates.

(ii) Modification work cash flow projection updates.

(iii) Site reports made on a periodic basis.

(iv) Identification of discrepancies, conflicts or ambiguities in modification work documents that require resolution.

(v) Identification of any health and safety issues that have arisen in connection with the modification work.

(h) Preparation of daily logs of modification work, including documentation of personnel, weather conditions and on-site occurrences.

(i) Preparation of any submittals or shop drawings used by the prime contractor to illustrate details of the modification work performed.

(j) Administration or supervision of any other activities for which a prime contractor receives a certificate for payment or certificate for final payment based on the progress of modification work performed on the project.

2. "Design phase services" means services for developing and completing a design for a project that are not construction phase services, including the following:

(a) Evaluating surveys, reports, test results or any other information on-site conditions for the project, including physical characteristics, legal limitations and utility locations for the site.

(b) Evaluating any criteria or programming objectives for the project to ascertain requirements for the project, such as physical requirements affecting cost or projected utilization of the project.

(c) Preparing drawings and specifications for architectural program documents, schematic design documents, design development documents, modification work documents or documents that identify the scope of or materials for the project.

(d) Preparing an initial schedule for the project, excluding the preparation of updates to the master schedule after modification work has begun.

(e) Preparing preliminary estimates of costs of modification work before completion of the final design of the project, including an estimate or schedule of values for any of the following:

(i) Labor, materials, machinery and equipment, tools, water, heat, utilities, transportation and other facilities and services used in the execution and completion of modification work, regardless of whether they are temporary or permanent or whether they are incorporated in the modifications.

(ii) The cost of labor and materials to be furnished by the owner of the real property.

(iii) The cost of any equipment of the owner of the real property to be assigned by the owner to the prime contractor.

(iv) The cost of any labor for installation of equipment separately provided by the owner of the real property that has been designed, specified, selected or specifically provided for in any design document for the project.

(v) Any fee paid by the owner of the real property to the prime contractor pursuant to the contract for modification work.

(vi) Any bond and insurance premiums.

(vii) Any applicable taxes.

(viii) Any contingency fees for the prime contractor that may be used before final completion of the project.

(f) Reviewing and evaluating cost estimates and project documents to prepare recommendations on site use, site improvements, selection of materials, building systems and equipment, modification feasibility, availability of materials and labor, local modification activity as related to schedules and time requirements for modification work.

(g) Preparing the plan and procedures for selection of subcontractors, including any prequalification of subcontractor candidates.

3. "Professional services" means architect services, engineer services, geologist services, land surveying services or landscape architect services that are within the scope of those services as provided in title 32, chapter 1 and for which gross proceeds of sales or gross income has not otherwise been deducted under subsection K of this section.

O. The gross proceeds of sales or gross income derived from a contract with the owner of real property or improvements to real property for the maintenance, repair, replacement or alteration of existing property is not subject to tax under this section if the contract does not include modification activities, except as specified in this subsection. The gross proceeds of sales or gross income derived from a de minimis amount of modification activity does not subject the contract or any part of the contract to tax under this section. For the purposes of this subsection:

1. Tangible personal property that is incorporated or fabricated into a project described in this subsection may be subject to the amount prescribed in section 42-5008.01.

2. Each contract is independent of any other contract, except that any change order that directly relates to the scope of work of the original contract shall be treated the same as the original contract under this chapter, regardless of the amount of modification activities included in the change order. If a change order does not directly relate to the scope of work of the original contract, the change order shall be treated as a new contract, with the tax treatment of any subsequent change order to follow the tax treatment of the contract to which the scope of work of the subsequent change order directly relates.

P. Notwithstanding subsection O of this section, a contract that primarily involves surface or subsurface improvements to land and that is subject to title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 is taxable under this section, even if the contract also includes vertical improvements. Agencies that are subject to procurement processes under those provisions shall include in the request for proposals a notice to bidders when those projects are subject to this section. This subsection does not apply to contracts with:

1. Community facilities districts, fire districts, county television improvement districts, community park maintenance districts, cotton pest control districts, hospital districts, pest abatement districts, health service districts, agricultural improvement districts, county free library

districts, county jail districts, county stadium districts, special health care districts, public health services districts, theme park districts or revitalization districts.

2. Any special taxing district not specified in paragraph 1 of this subsection if the district does not substantially engage in the modification, maintenance, repair, replacement or alteration of surface or subsurface improvements to land.

Q. Notwithstanding subsection R, paragraph 10 of this section, a person owning real property who enters into a contract for sale of the real property, who is responsible to the new owner of the property for modifications made to the property in the period subsequent to the transfer of title and who receives a consideration for the modifications is considered a prime contractor solely for purposes of taxing the gross proceeds of sale or gross income received for the modifications made subsequent to the transfer of title. The original owner's gross proceeds of sale or gross income received for the modifications shall be determined according to the following methodology:

1. If any part of the contract for sale of the property specifies amounts to be paid to the original owner for the modifications to be made in the period subsequent to the transfer of title, the amounts are included in the original owner's gross proceeds of sale or gross income under this section. Proceeds from the sale of the property that are received after transfer of title and that are unrelated to the modifications made subsequent to the transfer of title are not considered gross proceeds of sale or gross income from the modifications.

2. If the original owner enters into an agreement separate from the contract for sale of the real property providing for amounts to be paid to the original owner for the modifications to be made in the period subsequent to the transfer of title to the property, the amounts are included in the original owner's gross proceeds of sale or gross income received for the modifications made subsequent to the transfer of title.

3. If the original owner is responsible to the new owner for modifications made to the property in the period subsequent to the transfer of title and derives any gross proceeds of sale or gross income from the project subsequent to the transfer of title other than a delayed disbursement from escrow unrelated to the modifications, it is presumed that the amounts are received for the modifications made subsequent to the transfer of title unless the contrary is established by the owner through its books, records and papers kept in the regular course of business.

4. The tax base of the original owner is computed in the same manner as a prime contractor under this section.

R. For the purposes of this section:

1. "Alteration" means an activity or action that causes a direct physical change to existing property. For the purposes of this paragraph:

(a) For existing property that is properly classified as class two property under section 42-12002, paragraph 1, subdivision (c) or paragraph 2, subdivision (c) and that is used for residential purposes, class three property under section 42-12003 or class four property under section 42-12004, this paragraph does not apply if the contract amount is more than twenty-five percent of the most recent full cash value established under

chapter 13, article 2 of this title as of the date of any bid for the work or the date of the contract, whichever value is higher.

(b) For all existing property other than existing property described in subdivision (a) of this paragraph, this paragraph does not apply if the contract amount is more than \$750,000.

(c) Project elements may not be artificially separated from a contract to cause a project to qualify as an alteration. The department has the burden of proof that project elements have been artificially separated from a contract.

(d) If a project for which the owner and the person performing the work reasonably believed, at the inception of the contract, would be treated as an alteration under this paragraph and, on completion of the project, the project exceeded the applicable threshold described in either subdivision (a) or (b) of this paragraph by ~~no~~ NOT more than twenty-five percent of the applicable threshold for any reason, the work performed under the contract qualifies as an alteration.

(e) A change order that directly relates to the scope of work of the original contract shall be treated as part of the original contract, and the contract amount shall include any amount attributable to a change order that directly relates to the scope of work of the original contract.

(f) Alteration does not include maintenance, repair or replacement.

2. "Contracting" means engaging in business as a contractor.

3. "Contractor" is synonymous with the term "builder" and means any person or organization that undertakes to or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does personally or by or through others, modify any building, highway, road, railroad, excavation, manufactured building or other structure, project, development or improvement, or to do any part of such a project, including the erection of scaffolding or other structure or works in connection with such a project, and includes subcontractors and specialty contractors. For all purposes of taxation or deduction, this definition shall govern without regard to whether or not such a contractor is acting in fulfillment of a contract.

4. "Manufactured building" means a manufactured home, mobile home or factory-built building, as defined in section 41-4001.

5. "Manufactured building dealer" means a dealer who either:

(a) Is licensed pursuant to title 41, chapter 37, article 4 and who sells manufactured buildings to the final consumer.

(b) Supervises, performs or coordinates the excavation and completion of site improvements or the setup of a manufactured building, including the contracting, if any, with any subcontractor or specialty contractor for the completion of the contract.

6. "Modification" means construction, grading and leveling ground, wreckage or demolition. Modification does not include:

(a) Any project described in subsection 0 of this section.

(b) Any wreckage or demolition of existing property, or any other activity that is a necessary component of a project described in subsection 0 of this section.

(c) Any mobilization or demobilization related to a project described in subsection 0 of this section, such as the erection or removal of temporary facilities to be used by those persons working on the project.

7. "Modify" means to make a modification or cause a modification to be made.

8. "Owner" means the person that holds title to the real property or improvements to real property that is the subject of the work, as well as an agent of the title holder and any person with the authority to perform or authorize work on the real property or improvements, including a tenant and a property manager. For the purposes of subsection 0 of this section, a person who is hired by a general contractor that is hired by an owner, or a subcontractor of a general contractor that is hired by an owner, is considered to be hired by the owner.

9. "Prime contracting" means engaging in business as a prime contractor.

10. "Prime contractor" means a contractor who supervises, performs or coordinates the modification of any building, highway, road, railroad, excavation, manufactured building or other structure, project, development or improvement, including the contracting, if any, with any subcontractors or specialty contractors and who is responsible for the completion of the contract. Except as provided in subsections E and Q of this section, a person who owns real property, who engages one or more contractors to modify that real property and who does not itself modify that real property is not a prime contractor within the meaning of this paragraph regardless of the existence of a contract for sale or the subsequent sale of that real property.

11. "Replacement" means the removal from service of one component or system of existing property or tangible personal property installed in existing property, including machinery or equipment, and the installation of a new component or system or new tangible personal property, including machinery or equipment, that provides the same, a similar or an upgraded design or functionality, regardless of the contract amount and regardless of whether the existing component or system or existing tangible personal property is physically removed from the existing property.

12. "Sale of a used manufactured building" does not include a lease of a used manufactured building.

EXPLANATION OF BLEND
SECTION 49-104

Laws 2024, Chapters 93 and 121

Laws 2024, Ch. 93, section 3

Effective September 14, 2024

Laws 2024, Ch. 121, section 5

Effective April 9, 2024

Explanation

Since these two enactments are compatible, the Laws 2024, Ch. 93 and Ch. 121 text changes to section 49-104 are blended in the form shown on the following pages.

BLEND OF SECTION 49-104
Laws 2024, Chapters 93 and 121

49-104. Powers and duties of the department and director

A. The department shall:

1. Formulate policies, plans and programs to implement this title to protect the environment.

2. Stimulate and encourage all local, state, regional and federal governmental agencies and all private persons and enterprises that have similar and related objectives and purposes, cooperate with those agencies, persons and enterprises and correlate department plans, programs and operations with those of the agencies, persons and enterprises.

3. Conduct research on its own initiative or at the request of the governor, the legislature or state or local agencies pertaining to any department objectives.

4. Provide information and advice on request of any local, state or federal agencies and private persons and business enterprises on matters within the scope of the department.

5. Consult with and make recommendations to the governor and the legislature on all matters concerning department objectives.

6. Promote and coordinate the management of air resources to ensure their protection, enhancement and balanced utilization consistent with the environmental policy of this state.

7. Promote and coordinate the protection and enhancement of the quality of water resources consistent with the environmental policy of this state.

8. Encourage industrial, commercial, residential and community development that maximizes environmental benefits and minimizes the effects of less desirable environmental conditions.

9. Ensure the preservation and enhancement of natural beauty and man-made scenic qualities.

10. Provide for the prevention and abatement of all water and air pollution including that related to particulates, gases, dust, vapors, noise, radiation, odor, nutrients and heated liquids in accordance with article 3 of this chapter and chapters 2 and 3 of this title.

11. Promote and recommend methods for the recovery, recycling and reuse or, if recycling is not possible, the disposal of solid wastes consistent with sound health, scenic and environmental quality policies. The department shall report annually on its revenues and expenditures relating to the solid and hazardous waste programs overseen or administered by the department.

Ch. 93 — 12. Prevent pollution through ~~the regulation of~~ REGULATING the storage, handling and transportation of solids, liquids and gases that may cause or contribute to pollution.

13. Promote the restoration and reclamation of degraded or despoiled areas and natural resources.

14. Participate in the state civil defense program and develop the necessary organization and facilities to meet wartime or other disasters.

15. Cooperate with the Arizona-Mexico commission in the governor's office and with researchers at universities in this state to collect data and conduct projects in the United States and Mexico on issues that are within the scope of the department's duties and that relate to quality of life, trade and economic development in this state in a manner that will help the Arizona-Mexico commission to assess and enhance the economic competitiveness of this state and of the Arizona-Mexico region.

Chs. 93 and 121 — 16. Unless specifically authorized by the legislature, ensure that state laws, rules, standards, permits, variances and orders are adopted and construed to be consistent with and ~~no~~ NOT more stringent than the corresponding federal law that addresses the same subject matter. This paragraph does not adversely affect standards adopted by an Indian tribe under federal law.

17. Provide administrative and staff support for the oil and gas conservation commission.

B. The department, through the director, shall:

1. Contract for the services of outside advisers, consultants and aides reasonably necessary or desirable to enable the department to adequately perform its duties.

2. Contract and incur obligations reasonably necessary or desirable within the general scope of department activities and operations to enable the department to adequately perform its duties.

Chs. 93 and 121 — 3. ~~Utilize~~ USE any medium of communication, publication and exhibition when disseminating information, advertising and publicity in any field of its purposes, objectives or duties.

Ch. 93 — 4. Adopt procedural rules that are necessary to implement the authority granted under this title; ~~but that are not inconsistent with other provisions of this title.~~

5. Contract with other agencies, including laboratories, in furthering any department program.

6. Use monies, facilities or services to provide matching contributions under federal or other programs that further the objectives and programs of the department.

7. Accept gifts, grants, matching monies or direct payments from public or private agencies or private persons and enterprises for department services and publications and to conduct programs that are consistent with the general purposes and objectives of this chapter. Monies received pursuant to this paragraph shall be deposited in the department fund corresponding to the service, publication or program provided.

8. Provide for the examination of any premises if the director has reasonable cause to believe that a violation of any environmental law or rule exists or is being committed on the premises. The director shall give the owner or operator the opportunity for its representative to accompany the director on an examination of those premises. Within forty-five days after the date of the examination, the department shall provide to the owner

or operator a copy of any report produced as a result of any examination of the premises.

9. Supervise sanitary engineering facilities and projects in this state, authority for which is vested in the department, and own or lease land on which sanitary engineering facilities are located, and operate the facilities, if the director determines that owning, leasing or operating is necessary for the public health, safety or welfare.

10. Adopt and enforce rules relating to approving design documents for constructing, improving and operating sanitary engineering and other facilities for disposing of solid, liquid or gaseous deleterious matter.

11. Define and prescribe reasonably necessary rules regarding the water supply, sewage disposal and garbage collection and disposal for subdivisions. The rules shall:

(a) Provide for minimum sanitary facilities to be installed in the subdivision and may require that water systems plan for future needs and be of adequate size and capacity to deliver specified minimum quantities of drinking water and to treat all sewage.

(b) Provide that the design documents showing or describing the water supply, sewage disposal and garbage collection facilities be submitted with a fee to the department for review and that no lots in any subdivision be offered for sale before compliance with the standards and rules has been demonstrated by approval of the design documents by the department.

12. Prescribe reasonably necessary measures to prevent pollution of water used in public or semipublic swimming pools and bathing places and to prevent deleterious conditions at those places. The rules shall prescribe minimum standards for the design of and for sanitary conditions at any public or semipublic swimming pool or bathing place and provide for abatement as public nuisances of premises and facilities that do not comply with the minimum standards. The rules shall be developed in cooperation with the director of the department of health services and shall be consistent with the rules adopted by the director of the department of health services pursuant to section 36-136, subsection I, paragraph 10.

13. Prescribe reasonable rules regarding sewage collection, treatment, disposal and reclamation systems to prevent the transmission of sewage borne or insect borne diseases. The rules shall:

(a) Prescribe minimum standards for the design of sewage collection systems and treatment, disposal and reclamation systems and for operating the systems.

(b) Provide for inspecting the premises, systems and installations and for abating as a public nuisance any collection system, process, treatment plant, disposal system or reclamation system that does not comply with the minimum standards.

(c) Require that design documents for all sewage collection systems, sewage collection system extensions, treatment plants, processes, devices, equipment, disposal systems, on-site wastewater treatment facilities and reclamation systems be submitted with a fee for review to the department and may require that the design documents anticipate and provide for future sewage treatment needs.

(d) Require that construction, reconstruction, installation or initiation of any sewage collection system, sewage collection system extension, treatment plant, process, device, equipment, disposal system, on-site wastewater treatment facility or reclamation system conform with applicable requirements.

14. Prescribe reasonably necessary rules regarding excreta storage, handling, treatment, transportation and disposal. The rules may:

(a) Prescribe minimum standards for human excreta storage, handling, treatment, transportation and disposal and shall provide for inspection of premises, processes and vehicles and for abating as public nuisances any premises, processes or vehicles that do not comply with the minimum standards.

Ch. 93 — (b) Provide that vehicles transporting human excreta from privies, septic tanks, cesspools and other treatment processes ~~shall~~ be licensed by the department subject to compliance with the rules. The department may require payment of a fee as a condition of licensure. The department may ~~SHALL~~ establish by rule a fee as a condition of licensure, including a maximum fee. ~~As part of the rulemaking process, there must be public notice and comment and a review of the rule by the joint legislative budget committee. The department shall not increase that fee by rule without specific statutory authority for the increase.~~ The fees shall be deposited, pursuant to sections 35-146 and 35-147, in the solid waste fee fund established by section 49-881.

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15. Perform the responsibilities of implementing and maintaining a data automation management system to support the reporting requirements of title III of the superfund amendments and reauthorization act of 1986 (P.L. 99-499) and article 2 of this chapter.

16. Approve remediation levels pursuant to article 4 of this chapter.

17. Establish or revise fees by rule pursuant to the authority granted under title 44, chapter 9, ~~article~~ ARTICLES 8 AND 9 and chapters 4 and 5 of this title for the department to adequately perform its duties. All fees shall be fairly assessed and impose the least burden and cost to the parties subject to the fees. In establishing or revising fees, the department shall base the fees on:

Ch. 121

(a) the direct and indirect costs of the department's relevant duties, including employee salaries and benefits, professional and outside services, equipment, in-state travel and other necessary operational expenses directly related to issuing licenses as defined in title 41, chapter 6 and enforcing the requirements of the applicable regulatory program.

(b) ~~The availability of other funds for the duties performed.~~

(c) ~~The impact of the fees on the parties subject to the fees.~~

(d) ~~The fees charged for similar duties performed by the department, other agencies and the private sector.~~

18. Appoint a person with a background in oil and gas conservation to act on behalf of the oil and gas conservation commission and administer and enforce the applicable provisions of title 27, chapter 4 relating to the oil and gas conservation commission.

C. The department may:

Ch. 93

1. Charge fees to cover the costs of all permits and inspections it performs to ensure compliance with rules adopted under section 49-203, ~~except that state agencies are exempt from paying those~~ THE fees that are not associated with the dredge and fill permit program established pursuant to chapter 2, article 3.2 of this title. ~~For services provided under the dredge and fill permit program, a state agency shall pay either:~~

~~(a) The fees established by the department under the dredge and fill permit program.~~

~~(b) The reasonable cost of services provided by the department pursuant to an interagency service agreement.~~

2. Monies collected pursuant to this subsection shall be deposited, pursuant to sections 35-146 and 35-147, in the water quality fee fund established by section 49-210.

3. Contract with private consultants for the purposes of assisting the department in reviewing applications for licenses, permits or other authorizations to determine whether an applicant meets the criteria for issuance of the license, permit or other authorization. If the department contracts with a consultant under this paragraph, an applicant may request that the department expedite the application review by requesting that the department use the services of the consultant and by agreeing to pay the department the costs of the consultant's services. Notwithstanding any other law, monies paid by applicants for expedited reviews pursuant to this paragraph are appropriated to the department for use in paying consultants for services.

D. The director may:

1. If the director has reasonable cause to believe that a violation of any environmental law or rule exists or is being committed, inspect any person or property in transit through this state and any vehicle in which the person or property is being transported and detain or disinfect the person, property or vehicle as reasonably necessary to protect the environment if a violation exists.

2. Authorize in writing any qualified officer or employee in the department to perform any act that the director is authorized or required to do by law.

EXPLANATION OF BLEND
SECTION 49-1333

Laws 2024, Chapters 214 and 225

Laws 2024, Ch. 214, section 4

Effective September 14, 2024

Laws 2024, Ch. 225, section 2

Effective September 14, 2024

Explanation

Since these two enactments are identical, the Laws 2024, Ch. 214 and Ch. 225 text changes to section 49-1333 are blended in the form shown on the following page.

BLEND OF SECTION 49-1333
Laws 2024, Chapters 214 and 225

49-1333. Water conservation grant fund; procedures

A. In compliance with any applicable requirements, an eligible entity as defined in section 49-1301 may apply to the authority for and accept grants from the water conservation grant fund for a water conservation program or project that complies with the requirements of sections 49-1332 and 49-1334. A nongovernment organization that focuses on water conservation or environmental protection may apply to the authority for and accept grants from the water conservation grant fund for a water conservation program or project if it partners with an eligible entity as defined in section 49-1301. AN ELIGIBLE ENTITY MAY APPLY TO THE AUTHORITY FOR AND ACCEPT GRANTS FROM THE WATER CONSERVATION GRANT FUND TO DISTRIBUTE REBATES FOR THE INSTALLATION OF GRAY WATER SYSTEMS.

Chs. 214
and 225

B. The authority shall:

1. Prescribe a simplified form and procedure to apply for and approve assistance.

2. Establish by rule criteria that are consistent with this article by which assistance will be awarded.

3. Determine the order and priority of water conservation programs or projects assisted under this section based on the merits of the application with respect to the requirements of sections 49-1332 and 49-1334.

4. Provide that a single water conservation program grant may not exceed \$3,000,000, a single water conservation project grant may not exceed \$250,000 and at least a twenty-five percent match is required for each water conservation program or project. Monies from any other source may satisfy the match requirement.