

REFERENCE TITLE: health emergencies; treatment; vaccinations; repeal

State of Arizona  
House of Representatives  
Fifty-fifth Legislature  
Second Regular Session  
2022

## HB 2022

Introduced by  
Representatives Finchem: Burges, Carter, Diaz, Fillmore, Martinez, Payne,  
Senator Borrelli

### AN ACT

REPEALING SECTION 36-787, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 405, SECTION 11; AMENDING SECTION 36-787, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 367, SECTION 2; RELATING TO PUBLIC HEALTH EMERGENCIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Repeal

3 Section 36-787, Arizona Revised Statutes, as amended by Laws 2021,  
4 chapter 405, section 11, is repealed.

5 Sec. 2. Section 36-787, Arizona Revised Statutes, as amended by  
6 Laws 2021, chapter 367, section 2, is amended to read:

7 36-787. Public health authority during state of emergency or  
8 state of war emergency; notices; appeals

9 A. During a state of emergency or state of war emergency proclaimed  
10 by the governor in which there is an occurrence or imminent threat of an  
11 illness or health condition that is caused by bioterrorism, an epidemic or  
12 pandemic disease or a highly fatal infectious agent or biological toxin  
13 and that poses a substantial risk of a significant number of human  
14 fatalities or incidents of permanent or long-term disability, the  
15 department shall coordinate all matters pertaining to the public health  
16 emergency response of the state. The department has primary jurisdiction,  
17 responsibility and authority for:

18 1. Planning and executing public health emergency assessment,  
19 mitigation, preparedness response and recovery for this state.

20 2. Coordinating public health emergency response among state, local  
21 and tribal authorities.

22 3. Collaborating with relevant federal government authorities,  
23 elected officials of other states, private organizations and private  
24 sector companies.

25 4. Coordinating recovery operations and mitigation initiatives  
26 subsequent to public health emergencies.

27 5. Organizing public information activities regarding state public  
28 health emergency response operations.

29 6. Establishing, in conjunction with applicable professional  
30 licensing boards, a process to grant a temporary waiver of the  
31 professional licensure requirements necessary to implement any measures  
32 required to adequately address the state of emergency or state of war  
33 emergency.

34 7. Granting temporary waivers of health care institution licensure  
35 requirements necessary to implement any measures required to adequately  
36 address the state of emergency or state of war emergency.

37 B. In addition to the authority provided in subsection A of this  
38 section, during a state of emergency or state of war emergency, the  
39 governor, in consultation with the director of the department of health  
40 services, may issue orders that:

41 1. Mandate medical examinations for exposed persons.

42 2. Ration medicine and vaccines.

43 3. Provide for transportation of medical support personnel and ill  
44 and exposed persons.

45 4. Provide for procurement of medicines and vaccines.

1 C. In addition to the authority provided in subsections A and B  
2 of this section, during a state of emergency or state of war emergency in  
3 which there is an occurrence or the imminent threat of smallpox, plague,  
4 viral hemorrhagic fevers or a highly contagious and highly fatal disease  
5 with transmission characteristics similar to smallpox, the governor, in  
6 consultation with the director of the department of health services, may  
7 issue orders that:—

8 ~~1. Mandate treatment or vaccination of persons who are diagnosed~~  
9 ~~with an illness resulting from exposure or who are reasonably believed to~~  
10 ~~have been exposed or who may reasonably be expected to be exposed.~~

11 ~~2.~~ isolate and quarantine persons.

12 D. Law enforcement officials of this state and the national guard  
13 shall enforce orders issued by the governor under this section.

14 E. Diseases subject to this section do not include acquired immune  
15 deficiency syndrome or any other infection caused by the human  
16 immunodeficiency virus.

17 F. If during a state of emergency or state of war emergency the  
18 public health is not endangered, this title does not authorize the  
19 department or any of its officers or representatives to impose on any  
20 person against the person's will any mode of treatment, provided that  
21 sanitary or preventive measures and quarantine laws are complied with by  
22 the person. This title does not authorize the department or any of its  
23 officers or representatives to impose on any person contrary to the  
24 person's religious concepts any mode of treatment, provided that sanitary  
25 or preventive measures and quarantine laws are complied with by the  
26 person.

27 G. At the governor's direction, the department may use reasonable  
28 efforts to assist the persons and institutions affected by the state of  
29 emergency or state of war emergency proclaimed pursuant to this section in  
30 seeking reimbursement of costs incurred as a result of providing services  
31 related to implementing isolation and quarantine under this article to the  
32 extent these services are not otherwise subject to reimbursement.

33 H. This section does not allow the department, any other state  
34 agency or a city, town or county to permanently revoke any license held by  
35 a business or used to operate a business for not complying with an order  
36 issued by the governor pursuant to this section unless the department,  
37 other state agency, city, town or county can demonstrate by clear and  
38 convincing evidence that the business caused the transmission of the  
39 disease that is the subject of the order due to the business's wilful  
40 misconduct or gross negligence.

41 I. Before a state agency, city, town or county suspends or  
42 permanently revokes, pursuant to subsection H of this section, a license  
43 held by a business or used to operate a business, the state agency, city,  
44 town or county shall provide the business with both of the following:

1           1. A written notice of noncompliance delivered by personal service  
2 or certified mail.

3           2. A written notice of intent to suspend or permanently revoke the  
4 license at least thirty days after the date of the notice of noncompliance  
5 provided pursuant to paragraph 1 of this subsection. The state agency,  
6 city, town or county shall present any new evidence of grounds for **THE**  
7 **SUSPENSION OR PERMANENT** revocation in the written notice required by this  
8 paragraph. A business that receives a notice pursuant to this paragraph  
9 and disputes the claim shall respond to the state agency, city, town or  
10 county within twenty days after receiving the notice.

11           J. Any dispute relating to the suspension or permanent revocation  
12 of a license held by a business or used to operate a business shall be  
13 resolved by a court of competent jurisdiction in this state. A state  
14 agency, city, town or county may not suspend or permanently revoke a  
15 license held by a business or used to operate a business until the  
16 business has received both notices prescribed in subsection I of this  
17 section and all appeals have been exhausted. The court may award  
18 reasonable attorney fees and damages to a business in an action relating  
19 to the suspension or permanent revocation of a license held by a business  
20 or used to operate a business.