

REFERENCE TITLE: **repeal; right to work; liability**

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

HB 2631

Introduced by
Representatives Andrade: Bolding, Hernandez M, Powers Hannley, Solorio,
Senators Gabaldon, Gonzales, Terán

AN ACT

REPEALING SECTION 23-1302, ARIZONA REVISED STATUTES; AMENDING SECTIONS 23-1306 AND 23-1501, ARIZONA REVISED STATUTES; RELATING TO THE RIGHT TO WORK.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Heading change

3 The article heading of title 23, chapter 8, article 1, Arizona
4 Revised Statutes, is changed from "RIGHT TO WORK" to "GENERAL PROVISIONS".

5 Sec. 2. Repeal

6 Section 23-1302, Arizona Revised Statutes, is repealed.

7 Sec. 3. Section 23-1306, Arizona Revised Statutes, is amended to
8 read:

9 23-1306. Civil liability of person violating article

10 A person who violates any provision of this article, ~~or who enters~~
11 ~~into an agreement containing a provision declared illegal by this article,~~
12 ~~or who brings about the discharge of or denial of employment to any person~~
13 ~~because of nonmembership in a labor organization~~ shall be liable to the
14 person injured as the result of such act or provision and may be sued
15 ~~therefor~~ FOR SUCH ACT OR PROVISION, and in such action any labor
16 organization, subdivision or local thereof shall be bound by the acts of
17 its duly authorized agents acting within the scope of their authority, and
18 may sue or be sued in its common name.

19 Sec. 4. Section 23-1501, Arizona Revised Statutes, is amended to
20 read:

21 23-1501. Severability of employment relationships; protection
22 from retaliatory discharges; exclusivity of
23 statutory remedies in employment

24 A. The public policy of this state is that:

25 1. The employment relationship is contractual in nature.

26 2. The employment relationship is severable at the pleasure of
27 either the employee or the employer unless both the employee and the
28 employer have signed a written contract to the contrary setting forth that
29 the employment relationship shall remain in effect for a specified
30 duration of time or otherwise expressly restricting the right of either
31 party to terminate the employment relationship. Both the employee and the
32 employer must sign this written contract, or this written contract must be
33 set forth in the employment handbook or manual or any similar document
34 distributed to the employee, if that document expresses the intent that it
35 is a contract of employment, or this written contract must be set forth in
36 a writing signed by the party to be charged. Partial performance of
37 employment shall not be deemed sufficient to eliminate the requirements
38 set forth in this paragraph. ~~Nothing in~~ This paragraph ~~shall be construed~~
39 ~~to~~ DOES NOT affect the rights of public employees under the Constitution
40 of Arizona and state and local laws of this state or the rights of
41 employees and employers as defined by a collective bargaining agreement.

42 3. An employee has a claim against an employer for termination of
43 employment only if one or more of the following circumstances have
44 occurred:

1 (a) The employer has terminated the employment relationship of an
2 employee in breach of an employment contract, as set forth in paragraph 2
3 of this subsection, in which case the remedies for the breach are limited
4 to the remedies for a breach of contract.

5 (b) The employer has terminated the employment relationship of an
6 employee in violation of a statute of this state. If the statute provides
7 a remedy to an employee for a violation of the statute, the remedies
8 provided to an employee for a violation of the statute are the exclusive
9 remedies for the violation of the statute or the public policy set forth
10 in or arising out of the statute, including the following:

11 (i) The civil rights act prescribed in title 41, chapter 9.

12 (ii) The occupational safety and health act prescribed in
13 chapter 2, article 10 of this title.

14 (iii) The statutes governing the hours of employment prescribed in
15 chapter 2 of this title.

16 (iv) The agricultural employment relations act prescribed in
17 chapter 8, article 5 of this title.

18 (v) The statutes governing disclosure of information by public
19 employees prescribed in title 38, chapter 3, article 9.

20 All definitions and restrictions contained in the statute also apply to
21 any civil action based on a violation of the public policy arising out of
22 the statute. If the statute does not provide a remedy to an employee for
23 the violation of the statute, the employee shall have the right to bring a
24 tort claim for wrongful termination in violation of the public policy set
25 forth in the statute.

26 (c) The employer has terminated the employment relationship of an
27 employee in retaliation for any of the following:

28 (i) The refusal by the employee to commit an act or omission that
29 would violate the Constitution of Arizona or the statutes of this state.

30 (ii) The disclosure by the employee in a reasonable manner that the
31 employee has information or a reasonable belief that the employer, or an
32 employee of the employer, has violated, is violating or will violate the
33 Constitution of Arizona or the statutes of this state to either the
34 employer or a representative of the employer who the employee reasonably
35 believes is in a managerial or supervisory position and has the authority
36 to investigate the information provided by the employee and to take action
37 to prevent further violations of the Constitution of Arizona or statutes
38 of this state or an employee of a public body or political subdivision of
39 this state or any agency of a public body or political subdivision.

40 (iii) The exercise of rights under the workers' compensation
41 statutes prescribed in chapter 6 of this title.

42 (iv) Service on a jury as protected by section 21-236.

43 (v) The exercise of voting rights as protected by section 16-1012.

44 ~~(vi) The exercise of free choice with respect to nonmembership in a~~
45 ~~labor organization as protected by section 23-1302.~~

1 ~~(vii)~~ (vi) Service in the national guard or armed forces as
2 protected by sections 26-167 and 26-168.

3 ~~(viii)~~ (vii) The exercise of the right to be free from the
4 extortion of fees or gratuities as a condition of employment as protected
5 by section 23-202.

6 ~~(ix)~~ (viii) The exercise of the right to be free from coercion to
7 purchase goods or supplies from any particular person as a condition of
8 employment as protected by section 23-203.

9 ~~(x)~~ (ix) The exercise of a victim's right to leave work as
10 provided in sections 8-420 and 13-4439.

11 B. If the statute provides a remedy to an employee for a violation
12 of the statute, the remedies provided to an employee for a violation of
13 the statute are the exclusive remedies for the violation of the statute or
14 the public policy prescribed in or arising out of the statute.

15 Sec. 5. Conditional enactment

16 This act does not become effective unless the Constitution of
17 Arizona is amended by a vote of the people at the next general election to
18 repeal article XXV, Constitution of Arizona, relating to the right to
19 work.