

House Engrossed
department of health services; rulemaking

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HOUSE BILL 2001

AN ACT

AMENDING SECTIONS 30-654 AND 41-1005, ARIZONA REVISED STATUTES; RELATING
TO RULEMAKING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 30-654, Arizona Revised Statutes, is amended to
3 read:
4 30-654. Powers and duties of the department
5 A. The department may:
6 1. Accept grants or other contributions from the federal government
7 or other sources, public or private, to be used by the department to carry
8 out any of the purposes of this chapter.
9 2. Do all things necessary, within the limitations of this chapter,
10 to carry out the powers and duties of the department.
11 3. Conduct an information program, including:
12 (a) Providing information on the control and regulation of sources
13 of radiation and related health and safety matters, on request, to members
14 of the legislature, the executive offices, state departments and agencies
15 and county and municipal governments.
16 (b) Providing such published information, audiovisual
17 presentations, exhibits and speakers on the control and regulation of
18 sources of radiation and related health and safety matters to the state's
19 educational system at all educational levels as may be arranged.
20 (c) Furnishing to citizen groups, on request, speakers and such
21 audiovisual presentations or published materials on the control and
22 regulation of sources of radiation and related health and safety matters
23 as may be available.
24 (d) Conducting, sponsoring or cosponsoring and actively
25 participating in ~~the~~ professional meetings, symposia, workshops, forums
26 and other group informational activities concerned with the control and
27 regulation of sources of radiation and related health and safety matters
28 when representation from this state at such meetings is determined to be
29 important by the department.
30 B. The department shall:
31 1. Regulate the use, storage and disposal of sources of radiation.
32 2. Establish procedures for ~~THE~~ purposes of selecting any proposed
33 permanent disposal site located within this state for low-level
34 radioactive waste.
35 3. Coordinate with the department of transportation and the
36 corporation commission in regulating the transportation of sources of
37 radiation.
38 4. Assume primary responsibility for and provide necessary
39 technical assistance to handle any incidents, accidents and emergencies
40 involving radiation or sources of radiation occurring within this state.
41 5. Adopt rules deemed necessary to administer this chapter in
42 accordance with title 41, chapter 6.
43 6. Adopt uniform radiation protection and radiation dose standards
44 to be as nearly as possible in conformity with, and in no case
45 inconsistent with, the standards contained in the regulations of the

1 United States nuclear regulatory commission and the standards of the
2 United States public health service. In the adoption of the standards,
3 the department shall consider the total occupational radiation exposure of
4 individuals, including that from sources that are not regulated by the
5 department.

6 7. Adopt rules for personnel monitoring under the close supervision
7 of technically competent people in order to determine compliance with
8 safety rules adopted under this chapter.

9 8. Adopt a uniform system of labels, signs and symbols and the
10 posting of the labels, signs and symbols to be affixed to radioactive
11 products, especially those transferred from person to person.

12 9. By rule, require adequate training and experience of persons
13 using sources of radiation with respect to the hazards of excessive
14 exposure to radiation in order to protect health and safety. ~~THE RULES MAY~~
15 ~~NOT REQUIRE MORE TRAINING AND EXPERIENCE THAN IS REQUIRED BY THE CENTERS~~
16 ~~FOR MEDICARE AND MEDICAID SERVICES.~~

17 10. Adopt standards for the storage of radioactive material and for
18 security against unauthorized removal.

19 11. Adopt standards for the disposal of radioactive materials into
20 the air, water and sewers and burial in the soil in accordance with 10
21 Code of Federal Regulations part 20.

22 12. Adopt rules that are applicable to the shipment of radioactive
23 materials in conformity with and compatible with those established by the
24 United States nuclear regulatory commission, the department of
25 transportation, the United States department of the treasury and the
26 United States postal service.

27 13. In individual cases, impose additional requirements to protect
28 health and safety or grant necessary exemptions that will not jeopardize
29 health or safety, or both.

30 14. Make recommendations to the governor and furnish such technical
31 advice as required on matters relating to ~~the utilization~~ USING and
32 ~~regulation of~~ REGULATING sources of radiation.

33 15. Conduct or cause to be conducted off-site radiological
34 environmental monitoring of the air, water and soil surrounding any fixed
35 nuclear facility, any uranium milling and tailing site and any uranium
36 leaching operation, and maintain and report the data or results obtained
37 by the monitoring as deemed appropriate by the department.

38 16. Develop and ~~utilize~~ USE information resources concerning
39 radiation and radioactive sources.

40 17. Prescribe by rule a schedule of fees to be charged to
41 categories of licensees and registrants of radiation sources, including
42 academic, medical, industrial, waste, distribution and imaging categories.
43 The fees shall cover a significant portion of the reasonable costs
44 associated with processing the application for license or registration,
45 renewal or amendment of the license or registration and the costs of

1 inspecting the licensee or registrant activities and facilities, including
2 the cost to the department of employing clerical help, consultants and
3 persons possessing technical expertise and using analytical
4 instrumentation and information processing systems.

5 18. Adopt rules establishing radiological standards, personnel
6 standards and quality assurance programs to ensure the accuracy and safety
7 of screening and diagnostic mammography.

8 C. The department shall deposit, pursuant to sections 35-146 and
9 35-147, ninety percent of the monies received from fees collected pursuant
10 to subsection B, paragraph 17 of this section and section 32-2805 in the
11 health services licensing fund established by section 36-414 and ten
12 percent of the monies received from fees collected pursuant to subsection
13 B, paragraph 17 of this section and section 32-2805 in the state general
14 fund.

15 Sec. 2. Section 41-1005, Arizona Revised Statutes, is amended to
16 read:

17 41-1005. Exemptions

18 A. This chapter does not apply to any:

19 1. Rule that relates to the use of public works, including streets
20 and highways, under the jurisdiction of an agency if the effect of the
21 order is indicated to the public by means of signs or signals.

22 2. Order or rule of the Arizona game and fish commission that does
23 the following:

24 (a) Opens, closes or alters seasons or establishes bag or
25 possession limits for wildlife.

26 (b) Establishes a fee pursuant to section 5-321, 5-322 or 5-327.

27 (c) Establishes a license classification, fee or application fee
28 pursuant to title 17, chapter 3, article 2.

29 (d) Limits the number or use of licenses or permits that are issued
30 to nonresidents pursuant to section 17-332.

31 3. Rule relating to section 28-641 or to any rule regulating motor
32 vehicle operation that relates to speed, parking, standing, stopping or
33 passing enacted pursuant to title 28, chapter 3.

34 4. Rule concerning only the internal management of an agency that
35 does not directly and substantially affect the procedural or substantive
36 rights or duties of any segment of the public.

37 5. Rule that only establishes specific prices to be charged for
38 particular goods or services sold by an agency.

39 6. Rule concerning only the physical servicing, maintenance or care
40 of agency owned or operated facilities or property.

41 7. Rule or substantive policy statement concerning inmates or
42 committed youths of a correctional or detention facility in secure custody
43 or patients admitted to a hospital if made by the state department of
44 corrections, the department of juvenile corrections, the board of
45 executive clemency or the department of health services or a facility or

1 hospital under the jurisdiction of the state department of corrections,
2 the department of juvenile corrections or the department of health
3 services.

4 8. Form whose contents or substantive requirements are prescribed
5 by rule or statute and instructions for the execution or use of the form.

6 9. Capped fee-for-service schedule adopted by the Arizona health
7 care cost containment system administration pursuant to title 36,
8 chapter 29.

9 10. Fees prescribed by section 6-125.

10 11. Order of the director of water resources adopting or modifying
11 a management plan pursuant to title 45, chapter 2, article 9.

12 12. Fees established under section 3-1086.

13 13. Fees established under sections 41-4010 and 41-4042.

14 14. Rule or other matter relating to agency contracts.

15 15. Fees established under section 32-2067 or 32-2132.

16 16. Rules made pursuant to section 5-111, subsection A.

17 17. Rules made by the Arizona state parks board concerning the
18 operation of the Tonto natural bridge state park, the facilities located
19 in the Tonto natural bridge state park and the entrance fees to the Tonto
20 natural bridge state park.

21 18. Fees or charges established under section 41-511.05.

22 19. Emergency medical services protocols except as provided in
23 section 36-2205, subsection B.

24 20. Fee schedules established pursuant to section 36-3409.

25 21. Procedures of the state transportation board as prescribed in
26 section 28-7048.

27 22. Rules made by the state department of corrections.

28 23. Fees prescribed pursuant to section 32-1527.

29 24. Rules made by the department of economic security pursuant to
30 section 46-805.

31 25. Schedule of fees prescribed by section 23-908.

32 26. Procedure that is established pursuant to title 23, chapter 6,
33 article 6.

34 27. Rules, administrative policies, procedures and guidelines
35 adopted for any purpose by the Arizona commerce authority pursuant to
36 chapter 10 of this title if the authority provides, as appropriate under
37 the circumstances, for notice of an opportunity for comment on the
38 proposed rules, administrative policies, procedures and guidelines.

39 28. Rules made by a marketing commission or marketing committee
40 pursuant to section 3-414.

41 29. Administration of public assistance program monies authorized
42 for liabilities that are incurred for disasters declared pursuant to
43 sections 26-303 and 35-192.

1 30. User charges, tolls, fares, rents, advertising and sponsorship
2 charges, services charges or similar charges established pursuant to
3 section 28-7705.

4 31. Administration and implementation of the hospital assessment
5 pursuant to section 36-2901.08, except that the Arizona health care cost
6 containment system administration must provide notice and an opportunity
7 for public comment at least thirty days before establishing or
8 implementing the administration of the assessment.

9 32. Rules made by the Arizona department of agriculture to adopt
10 and implement the provisions of the federal milk ordinance as prescribed
11 by section 3-605.

12 33. Rules made by the Arizona department of agriculture to adopt,
13 implement and administer the United States food and drug administration
14 produce safety rule (21 Code of Federal Regulations part 112) and any
15 other federal produce safety regulation, order or guideline or other
16 requirement adopted pursuant to the FDA food safety modernization act
17 (P.L. 111-353; 21 United States Code sections 2201 through 2252) as
18 provided by title 3, chapter 3, article 4.1.

19 34. Calculations that are performed by the department of economic
20 security and that are associated with the adjustment of the sliding fee
21 scale and formula for determining child care assistance pursuant to
22 section 46-805.

23 35. Rules made by the Arizona department of agriculture to
24 implement and administer the livestock operator fire and flood assistance
25 grant program established by section 3-109.03.

26 36. RULES MADE BY THE DEPARTMENT OF HEALTH SERVICES TO REGULATE AN
27 ACCREDITED HOSPITAL AS DEFINED IN SECTION 36-401 IF ALL OF THE FOLLOWING
28 APPLY:

29 (a) THE RULES REDUCE A REGULATORY BURDEN WITHOUT JEOPARDIZING
30 HEALTH AND SAFETY.

31 (b) THE RULES DO NOT INCREASE COSTS TO PERSONS WHO ARE REGULATED BY
32 THE RULE.

33 (c) BEFORE THE RULES ARE ADOPTED, THE PUBLIC IS GIVEN AT LEAST
34 FIFTEEN DAYS TO COMMENT ON THE RULES.

35 B. Notwithstanding subsection A, paragraph 21 of this section, if
36 the federal highway administration authorizes the privatization of rest
37 areas, the state transportation board shall make rules governing the lease
38 or license by the department of transportation to a private entity for the
39 purposes of privatization of a rest area.

40 C. Coincident with the making of a final rule pursuant to an
41 exemption from the applicability of this chapter under this section,
42 another statute or session law, the agency shall:

43 1. Prepare a notice and follow formatting guidelines prescribed by
44 the secretary of state.

1 2. Prepare the rulemaking exemption notices pursuant to chapter 6.2
2 of this title.

3 3. File a copy of the rule with the secretary of state for
4 publication pursuant to section 41-1012 and provide a copy to the council.

5 D. Unless otherwise required by law, articles 2, 3, 4 and 5 of this
6 chapter do not apply to the Arizona board of regents and the institutions
7 under its jurisdiction, except that the Arizona board of regents shall
8 make policies or rules for the board and the institutions under its
9 jurisdiction that provide, as appropriate under the circumstances, for
10 notice of and opportunity for comment on the policies or rules proposed.

11 E. Unless otherwise required by law, articles 2, 3, 4 and 5 of this
12 chapter do not apply to the Arizona state schools for the deaf and the
13 blind, except that the board of directors of all the state schools for the
14 deaf and the blind shall adopt policies for the board and the schools
15 under its jurisdiction that provide, as appropriate under the
16 circumstances, for notice of and opportunity for comment on the policies
17 proposed for adoption.

18 F. Unless otherwise required by law, articles 2, 3, 4 and 5 of this
19 chapter do not apply to the state board of education, except that the
20 state board of education shall adopt policies or rules for the board and
21 the institutions under its jurisdiction that provide, as appropriate under
22 the circumstances, for notice of and opportunity for comment on the
23 policies or rules proposed for adoption. In order to implement or change
24 any rule, the state board of education shall provide at least two
25 opportunities for public comment. The state board of education shall
26 consider the fiscal impact of any proposed rule pursuant to this
27 subsection.

28 G. Unless otherwise required by law, articles 2, 3, 4 and 5 of this
29 chapter do not apply to the state board for charter schools, except that
30 the board shall adopt policies or rules for the board and the charter
31 schools sponsored by the board that provide, as appropriate under the
32 circumstances, for notice of and opportunity for comment on the policies
33 or rules proposed for adoption. In order to implement or change any
34 policy or rule, the board shall provide at least two opportunities for
35 public comment. The state board for charter schools shall consider the
36 fiscal impact of any proposed rule pursuant to this subsection.

37 Sec. 3. Emergency

38 This act is an emergency measure that is necessary to preserve the
39 public peace, health or safety and is operative immediately as provided by
40 law.