

REFERENCE TITLE: nonprofits; facilitation; trafficking offenses; penalties

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

HB 2759

Introduced by
Representatives Gillette: Biasiucci, Smith

AN ACT

AMENDING TITLE 10, CHAPTER 25, ARTICLE 1, ARIZONA REVISED STATUTES, BY
ADDING SECTION 10-3202.01; AMENDING SECTION 12-722, ARIZONA REVISED
STATUTES; RELATING TO NONPROFIT CORPORATIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 10, chapter 25, article 1, Arizona Revised
3 Statutes, is amended by adding section 10-3203.01, to read:

4 10-3203.01. Incorporation prohibited

5 NOTWITHSTANDING ANY OTHER LAW, THE COMMISSION MAY NOT INCORPORATE A
6 CORPORATION UNDER THIS CHAPTER IF AN OFFICER, DIRECTOR OR TRUSTEE OF THE
7 CORPORATION HAS BEEN CONVICTED OF ANY OF THE FOLLOWING OFFENSES:

- 8 1. SMUGGLING.
- 9 2. PARTICIPATING IN OR ASSISTING A HUMAN SMUGGLING ORGANIZATION.
- 10 3. UNLAWFULLY OBTAINING LABOR OR SERVICES.
- 11 4. SEX TRAFFICKING.
- 12 5. TRAFFICKING OF PERSONS FOR FORCED LABOR OR SERVICES.
- 13 6. CHILD SEX TRAFFICKING.
- 14 7. ANY FEDERAL IMMIGRATION OFFENSE.

15 Sec. 2. Section 12-722, Arizona Revised Statutes, is amended to
16 read:

17 12-722. Trafficking of persons; civil liability;
18 applicability; remedies; joint and several
19 liability; definitions

20 A. A person who engages in OR FACILITATES the trafficking of a
21 person or who intentionally or knowingly benefits from participating in OR
22 FACILITATING a venture that traffics another person is liable to the
23 person trafficked for damages that arise from the trafficking of that
24 person by the person or venture.

25 B. It is not a defense to liability under this section that the
26 person was acquitted or has not been prosecuted for or convicted of an
27 offense included in title 13 or has been convicted of a different offense,
28 or of a different type or class of offense, for the conduct that is
29 alleged to give rise to liability under this section.

30 C. This section applies to any legal entity that is governed by
31 title 10 or 29.

32 D. Notwithstanding titles 10 and 29, if a legal entity is found
33 responsible pursuant to this section, a shareholder, member or partner of
34 that entity is jointly and severally liable with the entity to the person
35 trafficked for damages that arise from the trafficking of that person if
36 the person demonstrates that the shareholder, member or partner caused the
37 entity to be used to traffic that person for the direct personal benefit
38 of the shareholder, member or partner.

39 E. A claimant who prevails under this section:

40 1. Shall be awarded actual damages, including damages for mental
41 anguish even if an injury other than mental anguish is not shown, court
42 costs and reasonable attorney fees.

43 2. In addition to an award under paragraph 1 of this subsection,
44 may recover exemplary damages.

1 F. The rights and remedies provided in this section supplement any
2 other rights and remedies provided by law, including common law rights.

3 G. A person who engages in OR FACILITATES the trafficking of a
4 person or who intentionally or knowingly benefits from participating in OR
5 FACILITATING a venture that traffics another person and is found
6 responsible under this section or other law for any amount of damages
7 arising from the trafficking is jointly liable with any other person found
8 to be liable for the entire amount of damages arising from the
9 trafficking.

10 H. For the purposes of this section:

11 1. "Person" has the same meaning prescribed in section 13-105.

12 2. "Traffics another person" or "trafficking of a person" means
13 conduct that constitutes an offense under section 13-1306, 13-1307,
14 13-1308, 13-3206 or 13-3212.