

REFERENCE TITLE: hazardous substances; disclosure

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
First Regular Session  
2007

## **HB 2258**

Introduced by  
Representatives Lujan, Kirkpatrick, Sinema: Gallardo, Garcia M

AN ACT

AMENDING TITLE 49, CHAPTER 2, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 49-205.01; RELATING TO WATER QUALITY CONTROL.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 49, chapter 2, article 1, Arizona Revised Statutes,  
3 is amended by adding section 49-205.01, to read:

4 49-205.01. Disclosure regarding releases or potential releases:  
5 privilege: exception: notice: civil penalty

6 A. NOTWITHSTANDING SECTION 49-205, SUBSECTION A, ON REQUEST TO ANY  
7 PERSON BY THE DIRECTOR, THE FOLLOWING INFORMATION AND MATERIALS THAT ARE  
8 WITHIN THE PERSON'S CONTROL REGARDING A RELEASE OR A POTENTIAL RELEASE OF A  
9 HAZARDOUS SUBSTANCE, POLLUTANT OR CONTAMINANT SHALL BE MADE AVAILABLE TO THE  
10 DIRECTOR AND TO THE PUBLIC:

11 1. THE TRADE NAME, COMMON NAME OR GENERIC CLASS OR CATEGORY OF THE  
12 SUBSTANCE.

13 2. THE PHYSICAL PROPERTIES OF THE SUBSTANCE, INCLUDING ITS BOILING  
14 POINT, MELTING POINT, FLASH POINT, SPECIFIC GRAVITY, VAPOR DENSITY,  
15 SOLUBILITY IN WATER AND VAPOR PRESSURE AT TWENTY DEGREES CELSIUS.

16 3. THE HAZARDS TO HEALTH AND THE ENVIRONMENT POSED BY THE SUBSTANCE,  
17 INCLUDING PHYSICAL HAZARDS SUCH AS EXPLOSION AND POTENTIAL ACUTE AND CHRONIC  
18 HEALTH HAZARDS.

19 4. THE POTENTIAL ROUTES OF HUMAN EXPOSURE TO THE SUBSTANCE AT THE  
20 FACILITY, ESTABLISHMENT, LOCATION OR PROPERTY THAT IS BEING INVESTIGATED,  
21 ENTERED OR INSPECTED PURSUANT TO THIS SUBSECTION.

22 5. THE LOCATION OR POTENTIAL LOCATION OF ANY DISPOSAL OF ANY WASTE  
23 STREAM FOR THE SUBSTANCE.

24 6. ANY MONITORING DATA OR ANALYSIS OF MONITORING DATA PERTAINING TO  
25 DISPOSAL ACTIVITIES.

26 7. ANY HYDROGEOLOGIC OR GEOLOGIC DATA.

27 8. ANY GROUNDWATER MONITORING DATA.

28 B. THE INFORMATION PRESCRIBED IN SUBSECTION A OF THIS SECTION SHALL  
29 INCLUDE THE FOLLOWING RELATED TO RELEASES OR POTENTIAL RELEASES OF A  
30 HAZARDOUS SUBSTANCE, POLLUTANT OR CONTAMINANT AT OR FROM A FACILITY OR  
31 RELATED TO ANY OPERATION OR ACTIVITIES CONDUCTED BY THAT PERSON:

32 1. SAMPLING DATA AND ANALYSES.

33 2. CHAIN OF CUSTODY RECORDS, INCLUDING MANIFESTS AND TRUCKING LOGS.

34 3. RECEIPTS, REPORTS, SAMPLE TRAFFIC ROUTING, CORRESPONDENCE OR OTHER  
35 INFORMATION.

36 4. ANY INFORMATION OR RECORDS CREATED, GATHERED OR GENERATED DURING  
37 THE COURSE OF ANY WORK REQUIRED BY THE DEPARTMENT PURSUANT TO A NOTICE OF  
38 VIOLATION, AN ADMINISTRATIVE ORDER WHETHER ISSUED UNILATERALLY OR BY CONSENT  
39 OR ANY COURT JUDGMENT OR DECREE.

40 C. ON REQUEST OF THE DIRECTOR, THE PERSON SHALL ALSO MAKE AVAILABLE TO  
41 THE DEPARTMENT, FOR PURPOSES OF INVESTIGATION, INFORMATION GATHERING OR  
42 TESTIMONY, ANY EMPLOYEES, AGENTS OR REPRESENTATIVES WITH KNOWLEDGE OF  
43 RELEVANT FACTS CONCERNING A HISTORIC RELEASE, A CURRENT RELEASE, A CONTINUING  
44 RELEASE OR A POTENTIAL RELEASE OF A HAZARDOUS SUBSTANCE, POLLUTANT OR  
45 CONTAMINANT.

1           D. NOTWITHSTANDING ANY CLAIM OF ATTORNEY-CLIENT PRIVILEGE, ATTORNEY  
2 WORK PRODUCT PRIVILEGE, SELF-CRITICAL ANALYSIS PRIVILEGE OR OTHER LEGAL  
3 PRIVILEGE THAT A PERSON MAY BE ENTITLED TO ASSERT PURSUANT TO LAW, FACTUAL  
4 DATA OR INFORMATION REGARDING A HISTORIC RELEASE, A CURRENT RELEASE, A  
5 CONTINUING RELEASE OR A POTENTIAL RELEASE OF A HAZARDOUS SUBSTANCE, POLLUTANT  
6 OR CONTAMINANT IS NOT PRIVILEGED. ANY PERSON ASSERTING A LEGAL PRIVILEGE FOR  
7 DOCUMENTS, TESTIMONY OR OTHER MATERIALS OTHER THAN THOSE PRESCRIBED BY  
8 SUBSECTIONS A, B AND C OF THIS SECTION SHALL NOTIFY THE DEPARTMENT WITHIN  
9 THIRTY DAYS OF RECEIPT OF THE REQUEST FOR THE MATERIAL. THE NOTICE SHALL  
10 ASSERT THE CLAIM OF PRIVILEGE, DESCRIBE THE BASIS FOR THE PRIVILEGE AND  
11 IDENTIFY EACH DOCUMENT OR OTHER MATERIAL FOR WHICH A PRIVILEGE IS CLAIMED.  
12 IF THE PRIVILEGE IS ASSERTED INSTEAD OF PROVIDING THE DOCUMENTS, INFORMATION  
13 OR OTHER MATERIALS, THE PERSON ASSERTING PRIVILEGE SHALL ALSO PROVIDE IN THE  
14 NOTICE ALL OF THE FOLLOWING REGARDING THE DOCUMENT, RECORDS OR OTHER  
15 INFORMATION:  
16           1. THE TITLE OF THE DOCUMENT, RECORD OR INFORMATION.  
17           2. THE DATE OF THE DOCUMENT, RECORD OR INFORMATION.  
18           3. THE NAME AND TITLE OF THE AUTHOR OF THE DOCUMENT, RECORD OR  
19 INFORMATION.  
20           4. THE NAME AND TITLE OF EACH ADDRESSEE AND RECIPIENT OF THE DOCUMENT,  
21 RECORD OR INFORMATION.  
22           5. A DESCRIPTION OF THE CONTENTS.  
23           6. THE SPECIFIC PRIVILEGE BEING ASSERTED.  
24           E. A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO A CIVIL PENALTY OF  
25 FIVE THOUSAND DOLLARS PER DAY FOR EACH DAY OF VIOLATION.