

State of Arizona  
House of Representatives  
Forty-seventh Legislature  
Second Regular Session  
2006

# HOUSE BILL 2317

AN ACT

AMENDING SECTIONS 11-830 AND 27-301, ARIZONA REVISED STATUTES; RELATING TO MINES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 11-830, Arizona Revised Statutes, is amended to  
3 read:  
4 11-830. Restriction on regulation; exceptions; aggregate mining  
5 regulation; definitions  
6 A. Nothing contained in any ordinance authorized by this chapter  
7 shall:  
8 1. Affect existing uses of property or the right to its continued use  
9 or the reasonable repair or alteration thereof for the purpose for which used  
10 at the time the ordinance affecting the property takes effect.  
11 2. Prevent, restrict or otherwise regulate the use or occupation of  
12 land or improvements for railroad, mining, metallurgical, grazing or general  
13 agricultural purposes OR FOR MINED LAND RECLAMATION ACTIVITIES, if the tract  
14 concerned is five or more contiguous commercial acres. For the purposes of  
15 this paragraph, "MINED LAND RECLAMATION ACTIVITIES" INCLUDES ACTIVITIES THAT  
16 ARE REGULATED PURSUANT TO TITLE 27, CHAPTERS 5 AND 6. "mining" has the same  
17 meaning prescribed in section 27-301.  
18 3. Prevent, restrict or otherwise regulate the use or occupation of  
19 land or improvements for agricultural composting, if the tract is five or  
20 more contiguous commercial acres. An agricultural composting operation shall  
21 notify in writing the board of supervisors and the nearest fire department of  
22 the location of the composting operation. If the nearest fire department is  
23 located in a city, town or fire district where the agricultural composting is  
24 not located, the agricultural composting operation shall also notify in  
25 writing the fire district in which the operation is located. Agricultural  
26 composting is subject to ~~the provisions of~~ sections 3-112 and 49-141. For  
27 the purposes of this paragraph "agricultural composting" has the same meaning  
28 prescribed in section 9-462.01, subsection G.  
29 B. A nonconforming business use within a district may expand if such  
30 expansion does not exceed one hundred per cent of the area of the original  
31 business.  
32 C. For the purposes of subsection A, paragraph 2 of this section,  
33 mining does not include aggregate mining operations in an aggregate mining  
34 operations zoning district established pursuant to this section. The board  
35 of supervisors of any county with a population of more than two million  
36 persons shall designate and establish the boundaries of an aggregate mining  
37 operations zoning district on the petition of at least one hundred persons  
38 who reside within one-half mile of an existing aggregate mining operation.  
39 In addition, the board of supervisors of any county may establish, in its  
40 discretion and on the board's initiative, one or more aggregate mining  
41 operations zoning districts. Aggregate mining operations zoning districts  
42 may only be located in areas that are inventoried and mapped as areas of  
43 known reserves or in areas with existing aggregate mining operations.  
44 Subject to subsections E and F of this section, a county and the state mine  
45 inspector may jointly adopt, as internal administrative regulations,

1 reasonable aggregate mining operations zoning district standards limited to  
2 permitted uses, procedures for approval of property development plans and  
3 site development standards for dust control, height regulations, setbacks,  
4 days and hours of operation, off-street parking, screening, noise, vibration  
5 and air pollution control, signs, roadway access lanes, arterial highway  
6 protection and property reclamation for which aggregate mining operations are  
7 not otherwise subject to federal, state or local regulation or a governmental  
8 contractual obligation. Regulations jointly adopted pursuant to this  
9 subsection by the county and the state mine inspector shall not prohibit the  
10 activities included in the definition of mine pursuant to section 27-301,  
11 paragraph 8 or duplicate, conflict with or be more stringent than applicable  
12 federal, state or local laws.

13 D. The board of supervisors of any county that establishes an  
14 aggregate mining operations zoning district shall appoint an aggregate mining  
15 operations recommendation committee for the district. The committee shall  
16 consist of not more than seven operators, or representatives of operators, of  
17 active aggregate mining operations in any district within the county and an  
18 equal number of property owners, who are not operators, who are not employed  
19 by operators and who do not represent operators, residing within one mile of  
20 the boundaries of aggregate mining operations or a proposed aggregate mining  
21 operation in the district for which the committee is established. An  
22 aggregate mining operator may serve on more than one committee in the same  
23 county. The board of supervisors shall determine the length of terms of  
24 members of the committee and shall stagger the initial appointments so that  
25 not all members' terms expire at the same time. Members of the committee who  
26 no longer qualify for membership as provided by this subsection are subject  
27 to removal and replacement by the board of supervisors. The committee shall  
28 elect a member who is an aggregate mining operator to serve as chairman for  
29 the first year in which the committee is created. For each year thereafter,  
30 the chairman shall be elected by the members of the committee with a member  
31 who is a property owner and a member who is an aggregate mining operator  
32 serving as chairman in alternate years. The committee is subject to the open  
33 meeting requirements of title 38, chapter 3, article 3.1.

34 E. Within ninety days after an aggregate mining operations  
35 recommendation committee is established, it shall notify all existing  
36 aggregate mining operators in the district of the application of this section  
37 and title 27, chapter 3, article 6 to the aggregate mining operation. In  
38 addition, the committee shall:

39 1. By a majority vote of all members make recommendations to the board  
40 of supervisors for aggregate mining zoning districts and administrative  
41 regulations as provided in this section. The board of supervisors may adopt  
42 or reject such recommendations but may not make any modifications to the  
43 recommendations unless such modification is approved by a majority of the  
44 members of the recommendation committee.

1           2. Serve as a forum for mediation of disputes between members of the  
2 public and aggregate mining owners or operators. If the committee is unable  
3 to resolve a dispute, the committee shall transmit the matter to the state  
4 mine inspector, with written findings and recommendations, for further  
5 action.

6           3. Hear written complaints filed with the state mine inspector  
7 regarding alleged material deviations from approved community notices for  
8 aggregate mining operations and make written recommendations to the state  
9 mine inspector pursuant to section 27-446.

10          F. Any administrative regulations adopted by a board of supervisors  
11 pursuant to this section shall not be effective until they are approved by  
12 the state mine inspector. The inspector may disapprove the administrative  
13 regulations adopted by the board of supervisors only if they duplicate,  
14 conflict with or are more stringent than applicable federal, state or local  
15 laws, rules or regulations. If the inspector disapproves the administrative  
16 regulations, the inspector must provide written reasons for the disapproval.  
17 The inspector shall not make any modification to the administrative  
18 regulations as adopted by the board of supervisors unless the modification is  
19 approved by a majority of the members of the board of supervisors.

20          G. A person or entity is subject to ~~the provisions of~~ this chapter if  
21 the use or occupation of land or improvements by the person or entity  
22 consists of or includes changing, remanufacturing or treating human sewage or  
23 sludge for distribution or resale. These activities are not exempt from this  
24 chapter under subsection A, paragraph 2 of this section.

25          H. A county shall not require as a condition for a permit or for any  
26 approval, or otherwise cause, an owner or possessor of property to waive the  
27 right to continue an existing nonconforming outdoor advertising use or  
28 structure without acquiring the use or structure by purchase or condemnation  
29 and paying just compensation unless the county, at its option, allows the use  
30 or structure to be relocated to a comparable site in the county with the same  
31 or a similar zoning classification, or to another site in the county  
32 acceptable to both the county and the owner of the use or structure, and the  
33 use or structure is relocated to the other site. The county shall pay for  
34 relocating the outdoor advertising use or structure including the cost of  
35 removing and constructing the new use or structure that is at least the same  
36 size and height. This subsection does not apply to county rezoning of  
37 property at the request of the property owner to a more intensive zoning  
38 district.

39           I. For **THE** purposes of this section:

40           1. "Aggregate" has the same meaning prescribed in section 27-441.

41           2. "Aggregate mining" has the same meaning prescribed in section  
42 27-441.

43           3. "Aggregate mining operation" means property that is owned, operated  
44 or managed by the same person for aggregate mining.

1           4. "Operators" means persons who are actively engaged in aggregate  
2 mining operations within the zoning district or proposed zoning district and  
3 who have given notice to the state mine inspector pursuant to section 27-303.

4           Sec. 2. Section 27-301, Arizona Revised Statutes, is amended to read:  
5           27-301. Definitions

6           In this chapter, unless the context otherwise requires:

7           1. "Abandoned mine" means a mine where mining operations have been  
8 permanently terminated or the operator has complied with section 27-303,  
9 subsection C or for which no owner, operator or other claimant of record can  
10 be located for a deserted mine site.

11           2. "Active mine" means a mining operation conducting mining activities  
12 on any lands.

13           3. "Claim" means the portion of mining ground held under federal and  
14 local law by one claimant or association, by virtue of one location and  
15 record. It includes mining claims and sites deemed abandoned under the  
16 federal land policy and management act of 1976 (P.L. 94-579; 90 Stat. 2743).

17           4. "Excavations" or "workings" means any or all parts of a mine  
18 excavated or being excavated, including shafts, tunnels, drifts, crosscuts,  
19 adits, entries, winzes, raises, stopes, open cuts, and all working places,  
20 whether abandoned or in use.

21           5. "Inactive mine" means a mining operation not conducting mining for  
22 more than six months or where mining operations have been temporarily  
23 suspended or the operator has complied with section 27-303, subsection C.

24           6. "Inspector" means the state mine inspector and except in article 7  
25 of this chapter his deputies.

26           7. "Mill" means any ore mill, concentrator, sampling works, crushing,  
27 grinding or screening plant, appurtenant buildings, shops or storage or  
28 loading facility used at and in connection with any mine.

29           8. "Mine" means all lands containing excavations, underground  
30 passageways, shafts, tunnels and workings, structures, facilities, equipment,  
31 machines or other property including impoundments, retention dams, tailings  
32 and waste dumps, on the surface or underground, used in, to be used in or  
33 resulting from the work of extracting minerals or other materials, excluding  
34 hydrocarbons. Mine includes that portion of an operation which mixes rock,  
35 sand, gravel or similar materials with water and cement or with asphalt,  
36 provided that the operation is either physically connected to the mine or is  
37 so interdependent with the mine as to form one integral enterprise. **MINE**  
38 **INCLUDES THAT PORTION OF AN OPERATION THAT IS BEING RECLAIMED PURSUANT TO**  
39 **CHAPTER 5 OR 6 OF THIS TITLE.**

40           9. "Miner" means a person who works in a mine.

41           10. "Mining" means those activities conducted to develop or extract  
42 materials from a mine including on-site transportation, concentrating,  
43 milling, leaching, smelting or other processing of ores or other materials.  
44 **MINING INCLUDES MINED LAND RECLAMATION ACTIVITIES REGULATED PURSUANT TO**  
45 **CHAPTER 5 OR 6 OF THIS TITLE.**

1           11. "Open pit" means any mine operated on the surface of the earth,  
2 including quarries, but excluding sand and gravel operations.

3           12. "Operation" means a mine, mill, smelter, sand and gravel plant or  
4 pyrometallurgical or hydrometallurgical operation.

5           13. "Operator" means a natural person, corporation, partnership  
6 association, agent, governmental entity or other public or private  
7 organization or representative owning, controlling or managing a mine.

8           14. "Sand and gravel operation" means any operation the principal  
9 product of which is sand, gravel, pumice or any other common variety of  
10 material.

11           15. "Smelter" means any establishment used for the purpose of  
12 pyrometallurgical operations and appurtenant buildings, shops, facilities for  
13 the production of steam or electrical power, or equipment used in conjunction  
14 with any of the above.

15           16. "Surface mining" means mining conducted on the surface of the land  
16 including open pit, strip, dredging, quarrying, leaching, surface evaporation  
17 operations, reworking abandoned tailings and dumps and related activities.

18           17. "Underground mine" means a mine in which minerals or other material  
19 is extracted from beneath the surface by means of shafts, tunnels or other  
20 openings.