

REFERENCE TITLE: environmental quality; border inspectors

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

HB 2602

Introduced by
Representatives Barnes, Reagan; Ableser, Crump, Garcia M, Ulmer

AN ACT

AMENDING SECTION 49-104, ARIZONA REVISED STATUTES; RELATING TO THE DEPARTMENT
OF ENVIRONMENTAL QUALITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 49-104, Arizona Revised Statutes, is amended to
3 read:
4 49-104. Powers and duties of the department and director
5 A. The department shall:
6 1. Formulate policies, plans and programs to implement this title to
7 protect the environment.
8 2. Stimulate and encourage all local, state, regional and federal
9 governmental agencies and all private persons and enterprises that have
10 similar and related objectives and purposes, cooperate with those agencies,
11 persons and enterprises and correlate department plans, programs and
12 operations with those of the agencies, persons and enterprises.
13 3. Conduct research on its own initiative or at the request of the
14 governor, the legislature or state or local agencies pertaining to any
15 department objectives.
16 4. Provide information and advice on request of any local, state or
17 federal agencies and private persons and business enterprises on matters
18 within the scope of the department.
19 5. Consult with and make recommendations to the governor and the
20 legislature on all matters concerning department objectives.
21 6. Promote and coordinate the management of air resources to assure
22 their protection, enhancement and balanced utilization consistent with the
23 environmental policy of this state.
24 7. Promote and coordinate the protection and enhancement of the
25 quality of water resources consistent with the environmental policy of this
26 state.
27 8. Encourage industrial, commercial, residential and community
28 development that maximizes environmental benefits and minimizes the effects
29 of less desirable environmental conditions.
30 9. Assure the preservation and enhancement of natural beauty and
31 man-made scenic qualities.
32 10. Provide for the prevention and abatement of all water and air
33 pollution including that related to particulates, gases, dust, vapors, noise,
34 radiation, odor, nutrients and heated liquids in accordance with article 3 of
35 this chapter and chapters 2 and 3 of this title.
36 11. Promote and recommend methods for the recovery, recycling and reuse
37 or, if recycling is not possible, the disposal of solid wastes consistent
38 with sound health, scenic and environmental quality policies.
39 12. Prevent pollution through the regulation of the storage, handling
40 and transportation of solids, liquids and gases that may cause or contribute
41 to pollution.
42 13. Promote the restoration and reclamation of degraded or despoiled
43 areas and natural resources.
44 14. Assist the department of health services in recruiting and training
45 state, local and district health department personnel.

1 15. Participate in the state civil defense program and develop the
2 necessary organization and facilities to meet wartime or other disasters.

3 16. Cooperate with the Arizona-Mexico commission in the governor's
4 office and with researchers at universities in this state to collect data and
5 conduct projects in the United States and Mexico on issues that are within
6 the scope of the department's duties and that relate to quality of life,
7 trade and economic development in this state in a manner that will help the
8 Arizona-Mexico commission to assess and enhance the economic competitiveness
9 of this state and of the Arizona-Mexico region.

10 B. The department, through the director, shall:

11 1. Contract for the services of outside advisers, consultants and
12 aides reasonably necessary or desirable to enable the department to
13 adequately perform its duties.

14 2. Contract and incur obligations reasonably necessary or desirable
15 within the general scope of department activities and operations to enable
16 the department to adequately perform its duties.

17 3. Utilize any medium of communication, publication and exhibition
18 when disseminating information, advertising and publicity in any field of its
19 purposes, objectives or duties.

20 4. Adopt procedural rules that are necessary to implement the
21 authority granted under this title, but that are not inconsistent with other
22 provisions of this title.

23 5. Contract with other agencies including laboratories in furthering
24 any department program.

25 6. Use monies, facilities or services to provide matching
26 contributions under federal or other programs that further the objectives and
27 programs of the department.

28 7. Accept gifts, grants, matching monies or direct payments from
29 public or private agencies or private persons and enterprises for department
30 services and publications and to conduct programs that are consistent with
31 the general purposes and objectives of this chapter. Monies received
32 pursuant to this paragraph shall be deposited in the department fund
33 corresponding to the service, publication or program provided.

34 8. Provide for the examination of any premises if the director has
35 reasonable cause to believe that a violation of any environmental law or rule
36 exists or is being committed on the premises. The director shall give the
37 owner or operator the opportunity for its representative to accompany the
38 director on an examination of those premises. Within forty-five days after
39 the date of the examination, the department shall provide to the owner or
40 operator a copy of any report produced as a result of any examination of the
41 premises.

42 9. Supervise sanitary engineering facilities and projects in this
43 state, authority for which is vested in the department, and own or lease land
44 on which sanitary engineering facilities are located, and operate the

1 facilities, if the director determines that owning, leasing or operating is
2 necessary for the public health, safety or welfare.

3 10. Adopt and enforce rules relating to approving design documents for
4 constructing, improving and operating sanitary engineering and other
5 facilities for disposing of solid, liquid or gaseous deleterious matter.

6 11. Define and prescribe reasonably necessary rules regarding the water
7 supply, sewage disposal and garbage collection and disposal for subdivisions.
8 The rules shall:

9 (a) Provide for minimum sanitary facilities to be installed in the
10 subdivision and may require that water systems plan for future needs and be
11 of adequate size and capacity to deliver specified minimum quantities of
12 drinking water and to treat all sewage.

13 (b) Provide that the design documents showing or describing the water
14 supply, sewage disposal and garbage collection facilities be submitted with a
15 fee to the department for review and that no lots in any subdivision be
16 offered for sale before compliance with the standards and rules has been
17 demonstrated by approval of the design documents by the department.

18 12. Prescribe reasonably necessary measures to prevent pollution of
19 water used in public or semipublic swimming pools and bathing places and to
20 prevent deleterious conditions at such places. The rules shall prescribe
21 minimum standards for the design of and for sanitary conditions at any public
22 or semipublic swimming pool or bathing place and provide for abatement as
23 public nuisances of premises and facilities that do not comply with the
24 minimum standards. The rules shall be developed in cooperation with the
25 director of the department of health services and shall be consistent with
26 the rules adopted by the director of the department of health services
27 pursuant to section 36-136, subsection H, paragraph 10.

28 13. Prescribe reasonable rules regarding sewage collection, treatment,
29 disposal and reclamation systems to prevent the transmission of sewage borne
30 or insect borne diseases. The rules shall:

31 (a) Prescribe minimum standards for the design of sewage collection
32 systems and treatment, disposal and reclamation systems and for operating the
33 systems.

34 (b) Provide for inspecting the premises, systems and installations and
35 for abating as a public nuisance any collection system, process, treatment
36 plant, disposal system or reclamation system that does not comply with the
37 minimum standards.

38 (c) Require that design documents for all sewage collection systems,
39 sewage collection system extensions, treatment plants, processes, devices,
40 equipment, disposal systems, on-site wastewater treatment facilities and
41 reclamation systems be submitted with a fee for review to the department and
42 may require that the design documents anticipate and provide for future
43 sewage treatment needs.

44 (d) Require that construction, reconstruction, installation or
45 initiation of any sewage collection system, sewage collection system

1 extension, treatment plant, process, device, equipment, disposal system,
2 on-site wastewater treatment facility or reclamation system conform with
3 applicable requirements.

4 14. Prescribe reasonably necessary rules regarding excreta storage,
5 handling, treatment, transportation and disposal. The rules shall:

6 (a) Prescribe minimum standards for human excreta storage, handling,
7 treatment, transportation and disposal and shall provide for inspection of
8 premises, processes and vehicles and for abating as public nuisances any
9 premises, processes or vehicles that do not comply with the minimum
10 standards.

11 (b) Provide that vehicles transporting human excreta from privies,
12 septic tanks, cesspools and other treatment processes shall be licensed by
13 the department subject to compliance with the rules.

14 15. Perform the responsibilities of implementing and maintaining a data
15 automation management system to support the reporting requirements of title
16 III of the superfund amendments and reauthorization act of 1986 (P.L. 99-499)
17 and title 26, chapter 2, article 3.

18 16. Approve remediation levels pursuant to article 4 of this chapter.

19 17. PROVIDE FOR AT LEAST THREE PERSONS WHO ARE QUALIFIED TO PERFORM
20 INSPECTIONS FOR HAZARDOUS MATERIALS TO BE POSTED AT THIS STATE'S PORTS OF
21 ENTRY.

22 C. The department may charge fees to cover the costs of all permits
23 and inspections it performs to insure compliance with rules adopted under
24 section 49-203, subsection A, paragraph 6, except that state agencies are
25 exempt from paying the fees. Monies collected pursuant to this subsection
26 shall be deposited in the water quality fee fund established by section
27 49-210.

28 D. The director may:

29 1. If he has reasonable cause to believe that a violation of any
30 environmental law or rule exists or is being committed, inspect any person or
31 property in transit through this state and any vehicle in which the person or
32 property is being transported and detain or disinfect the person, property or
33 vehicle as reasonably necessary to protect the environment if a violation
34 exists.

35 2. Authorize in writing any qualified officer or employee in the
36 department to perform any act that the director is authorized or required to
37 do by law.