

State of Arizona  
House of Representatives  
Fifty-first Legislature  
Second Regular Session  
2014

# HOUSE BILL 2483

AN ACT

AMENDING SECTION 11-812, ARIZONA REVISED STATUTES; AMENDING TITLE 12, CHAPTER 5, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 12-558; AMENDING SECTIONS 13-3107, 13-3108 AND 17-601, ARIZONA REVISED STATUTES; RELATING TO FIREARMS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 11-812, Arizona Revised Statutes, is amended to  
3 read:  
4 11-812. 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 of the property for the purpose for  
10 which used 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, if the tract concerned is five or more contiguous  
14 commercial acres. For the purposes of this paragraph, general agricultural  
15 purposes do not include the cultivation of cannabis as defined in section  
16 13-3401 or marijuana as defined in section 13-3401 or 36-2801. For the  
17 purposes of this paragraph, "mining" has the same meaning prescribed in  
18 section 27-301.  
19 3. Prevent, restrict or otherwise regulate the use or occupation of  
20 land or improvements for agricultural composting, if the tract is five or  
21 more contiguous commercial acres. An agricultural composting operation shall  
22 notify in writing the board of supervisors and the nearest fire department of  
23 the location of the composting operation. If the nearest fire department is  
24 located in a city, town or fire district where the agricultural composting is  
25 not located, the agricultural composting operation shall also notify in  
26 writing the fire district in which the operation is located. Agricultural  
27 composting is subject to sections 3-112 and 49-141. For the purposes of this  
28 paragraph, "agricultural composting" has the same meaning prescribed in  
29 section 9-462.01, subsection G.  
30 4. PREVENT, RESTRICT OR OTHERWISE REGULATE THE OTHERWISE LAWFUL  
31 DISCHARGE OF A FIREARM OR AIR GUN OR USE OF ARCHERY EQUIPMENT ON A PRIVATE  
32 LOT OR PARCEL OF LAND THAT IS NOT OPEN TO THE PUBLIC ON A COMMERCIAL OR  
33 MEMBERSHIP BASIS.  
34 B. A nonconforming business use within a district may expand if the  
35 expansion does not exceed one hundred per cent of the area of the original  
36 business.  
37 C. For the purposes of subsection A, paragraph 2 of this section,  
38 mining does not include aggregate mining operations in an aggregate mining  
39 operations zoning district established pursuant to this section. The board  
40 of supervisors of any county with a population of more than two million  
41 persons shall designate and establish the boundaries of an aggregate mining  
42 operations zoning district on the petition of at least one hundred persons  
43 who reside within one-half mile of an existing aggregate mining operation.  
44 In addition, the board of supervisors of any county may establish, in its  
45 discretion and on the board's initiative, one or more aggregate mining  
46 operations zoning districts. Aggregate mining operations zoning districts

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

17 D. The board of supervisors of any county that establishes an  
18 aggregate mining operations zoning district shall appoint an aggregate mining  
19 operations recommendation committee for the district. The committee consists  
20 of not more than seven operators, or representatives of operators, of active  
21 aggregate mining operations in any district within the county and an equal  
22 number of private citizens, who are not operators, who are not employed by  
23 operators and who do not represent operators, residing within three miles of  
24 the boundaries of aggregate mining operations or a proposed aggregate mining  
25 operation in the district for which the committee is established. The  
26 initial members appointed to the committee shall be deemed the primary  
27 members, and the board of supervisors shall appoint no more than five  
28 alternate members who represent operators and shall appoint no more than five  
29 alternate members who are private citizens. Alternate members may serve at  
30 meetings of the committee when a primary member is unable to attend. An  
31 aggregate mining operator may serve on more than one committee in the same  
32 county. The board of supervisors shall determine the length of terms of  
33 members of the committee and shall stagger the initial appointments so that  
34 not all members' terms expire at the same time. Members of the committee who  
35 no longer qualify for membership as provided by this subsection are subject  
36 to removal and replacement by the board of supervisors. The committee shall  
37 elect a member who is an aggregate mining operator to serve as chairperson  
38 for the first year in which the committee is created. For each year  
39 thereafter, the chairperson shall be elected by the members of the committee  
40 with a member who is a private citizen and a member who is an aggregate  
41 mining operator serving as chairperson in alternate years. The committee is  
42 subject to the open meeting requirements of title 38, chapter 3, article 3.1.

43 E. Within ninety days after an aggregate mining operations  
44 recommendation committee is established, the committee shall notify all  
45 existing aggregate mining operators in the district of the application of

1 this section and title 27, chapter 3, article 6 to the aggregate mining  
2 operation. In addition, the committee shall:

3 1. By a majority vote of all members make recommendations to the board  
4 of supervisors for aggregate mining zoning districts and administrative  
5 regulations as provided in this section. The board of supervisors may adopt  
6 or reject the recommendations but may not make any modifications to the  
7 recommendations unless the modification is approved by a majority of the  
8 members of the recommendation committee.

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

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

18 F. Any administrative regulations adopted by a board of supervisors  
19 pursuant to this section are not effective until the regulations are approved  
20 by the state mine inspector. The inspector may disapprove the administrative  
21 regulations adopted by the board of supervisors only if they duplicate,  
22 conflict with or are more stringent than applicable federal, state or local  
23 laws, rules or regulations. If the inspector disapproves the administrative  
24 regulations, the inspector must provide written reasons for the disapproval.  
25 The inspector shall not make any modification to the administrative  
26 regulations as adopted by the board of supervisors unless the modification is  
27 approved by a majority of the members of the board of supervisors.

28 G. A person or entity is subject to this chapter if the use or  
29 occupation of land or improvements by the person or entity consists of or  
30 includes changing, remanufacturing or treating human sewage or sludge for  
31 distribution or resale. These activities are not exempt from this chapter  
32 under subsection A, paragraph 2 of this section.

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

- 1 I. For the purposes of this section:  
2 1. "Aggregate" has the same meaning prescribed in section 27-441.  
3 2. "Aggregate mining" has the same meaning prescribed in section  
4 27-441.  
5 3. "Aggregate mining operation" means property that is owned, operated  
6 or managed by the same person for aggregate mining.  
7 4. "Operators" means persons who are actively engaged in aggregate  
8 mining operations within the zoning district or proposed zoning district and  
9 who have given notice to the state mine inspector pursuant to section 27-303.

10 Sec. 2. Title 12, chapter 5, article 3, Arizona Revised Statutes, is  
11 amended by adding section 12-558, to read:

12 12-558. Actions related to the lawful discharge of a firearm;  
13 burden of proof; attorney fees and costs

14 A. NOTWITHSTANDING ANY OTHER LAW, THE OTHERWISE LAWFUL DISCHARGE OF A  
15 FIREARM OR AIR GUN OR THE USE OF ARCHERY EQUIPMENT MAY NOT BE ENJOINED EXCEPT  
16 BY:

17 1. AN ACTION MAINTAINED BY THE ATTORNEY GENERAL TO ABATE A PUBLIC  
18 NUISANCE PURSUANT TO SECTION 13-2917.

19 2. A PRIVATE NUISANCE CAUSE OF ACTION OR AN ACTION BASED ON NEGLIGENCE  
20 THAT IS FILED BY A PERSON WHO IS OCCUPYING A PERMANENT RESIDENCE THAT IS  
21 LOCATED WITHIN ONE-FOURTH MILE OF THE LOCATION OF THE DISCHARGE OR USE.

22 B. THE BURDEN OF PROOF IS CLEAR AND CONVINCING EVIDENCE IN AN ACTION  
23 THAT IS FILED PURSUANT TO SUBSECTION A OF THIS SECTION OR IN AN ACTION FOR  
24 DAMAGES THAT IS BASED ON NEGLIGENCE IN THE OTHERWISE LAWFUL DISCHARGE OF A  
25 FIREARM OR AIR GUN OR THE USE OF ARCHERY EQUIPMENT ON A PRIVATE LOT OR PARCEL  
26 OF LAND THAT IS NOT OPEN TO THE PUBLIC ON A COMMERCIAL OR MEMBERSHIP BASIS  
27 AND THAT IS FILED BY A PERSON WHO WAS NOT LAWFULLY PRESENT AT THE SAME  
28 PRIVATE LOT OR PARCEL OF LAND AT THE TIME THAT THE ALLEGED DISCHARGE  
29 OCCURRED.

30 C. THE PREVAILING PARTY IN AN ACTION FILED PURSUANT TO THIS SECTION,  
31 EXCEPT AN OFFICER OR ENTITY OF THIS STATE, SHALL RECOVER REASONABLE ATTORNEY  
32 FEES AND COSTS.

33 D. IN AN ACTION ALLEGING DAMAGES FROM THE LOSS OF PROPERTY VALUE DUE  
34 TO THE OTHERWISE LAWFUL DISCHARGE OF A FIREARM OR AIR GUN OR THE USE OF  
35 ARCHERY EQUIPMENT ON A PRIVATE LOT OR PARCEL OF LAND THAT BELONGS TO ANOTHER  
36 PERSON, THE LOST VALUE SHALL BE PROVEN BY CLEAR AND CONVINCING EVIDENCE.

37 Sec. 3. Section 13-3107, Arizona Revised Statutes, is amended to read:

38 13-3107. Unlawful discharge of firearms; exceptions;  
39 classification; definitions

40 A. A person who with criminal negligence discharges a firearm within  
41 or into the limits of any municipality is guilty of a class 6 felony.

42 B. Notwithstanding the fact that the offense involves the discharge of  
43 a deadly weapon, unless a dangerous offense is alleged and proven pursuant to  
44 section 13-704, subsection L, section 13-604 applies to this offense.

45 C. This section does not apply if the firearm is discharged:

- 46 1. As allowed pursuant to chapter 4 of this title.

1           2. On a properly supervised range.  
2           3. To lawfully take wildlife during an open season established by the  
3 Arizona game and fish commission and subject to the limitations prescribed by  
4 title 17 and Arizona game and fish commission rules and orders. This  
5 paragraph does not prevent a city, town or county from adopting an ordinance  
6 or rule restricting the discharge of a firearm within one-fourth mile of an  
7 occupied structure **WITHOUT THE CONSENT OF THE OWNER OR OCCUPANT OF THE**  
8 **STRUCTURE**. For **THE** purposes of this paragraph: ~~,-~~  
9           (a) **"OCCUPIED STRUCTURE" MEANS ANY BUILDING IN WHICH, AT THE TIME OF**  
10 **THE FIREARM'S DISCHARGE, A REASONABLE PERSON FROM THE LOCATION WHERE A**  
11 **FIREARM IS DISCHARGED WOULD EXPECT A PERSON TO BE PRESENT.**  
12           (b) "Take" has the same meaning prescribed in section 17-101.  
13           4. For the control of nuisance wildlife by permit from the Arizona  
14 game and fish department or the United States fish and wildlife service.  
15           5. By special permit of the chief of police of the municipality.  
16           6. As required by an animal control officer in the performance of  
17 duties as specified in section 9-499.04.  
18           7. Using blanks.  
19           8. More than one mile from any occupied structure as defined in  
20 section 13-3101.  
21           9. In self-defense or defense of another person against an animal  
22 attack if a reasonable person would believe that deadly physical force  
23 against the animal is immediately necessary and reasonable under the  
24 circumstances to protect oneself or the other person.  
25           D. For the purposes of this section:  
26           1. "Municipality" means any city or town and includes any property  
27 that is fully enclosed within the city or town.  
28           2. "Properly supervised range" means a range that is any of the  
29 following:  
30           (a) Operated by a club affiliated with the national rifle association  
31 of America, the amateur trapshooting association, the national skeet  
32 association or any other nationally recognized shooting organization, or by  
33 any public or private school.  
34           (b) Approved by any agency of the federal government, this state or a  
35 county or city within which the range is located.  
36           (c) Operated with adult supervision for shooting air or carbon dioxide  
37 gas operated guns, or for shooting in underground ranges on private or public  
38 property.  
39           Sec. 4. Section 13-3108, Arizona Revised Statutes, is amended to read:  
40 **13-3108. Firearms regulated by state; state preemption;**  
41 **violation; classification; definition**  
42           A. Except as provided in subsection G of this section, a political  
43 subdivision of this state shall not enact any ordinance, rule or tax relating  
44 to the transportation, possession, carrying, sale, transfer, purchase,  
45 acquisition, gift, devise, storage, licensing, registration, discharge or use

1 of firearms or ammunition or any firearm or ammunition components or related  
2 accessories in this state.

3 B. A political subdivision of this state shall not require the  
4 licensing or registration of firearms or ammunition or any firearm or  
5 ammunition components or related accessories or prohibit the ownership,  
6 purchase, sale or transfer of firearms or ammunition or any firearm or  
7 ammunition components, or related accessories.

8 C. A political subdivision of this state shall not require or maintain  
9 a record in any form, whether permanent or temporary, including a list, log  
10 or database, of any of the following:

11 1. Any identifying information of a person who leaves a weapon in  
12 temporary storage at any public establishment or public event, except that  
13 the operator of the establishment or the sponsor of the event may require  
14 that a person provide a government issued identification or a reasonable copy  
15 of a government issued identification for the purpose of establishing  
16 ownership of the weapon. The operator or sponsor shall store any provided  
17 identification with the weapon and shall return the identification to the  
18 person when the weapon is retrieved. The operator or sponsor shall not  
19 retain records or copies of any identification provided pursuant to this  
20 paragraph after the weapon is retrieved.

21 2. Except in the course of a law enforcement investigation, any  
22 identifying information of a person who owns, possesses, purchases, sells or  
23 transfers a firearm.

24 3. The description, including the serial number, of a weapon that is  
25 left in temporary storage at any public establishment or public event.

26 D. A political subdivision of this state shall not enact any rule or  
27 ordinance that relates to firearms and is more prohibitive than or that has a  
28 penalty that is greater than any state law penalty. A political  
29 subdivision's rule or ordinance that relates to firearms and that is  
30 inconsistent with or more restrictive than state law, whether enacted before  
31 or after July 29, 2010, is null and void.

32 E. A political subdivision of this state shall not enact any  
33 ordinance, rule or regulation limiting the lawful taking of wildlife during  
34 an open season established by the Arizona game and fish commission unless the  
35 ordinance, rule or regulation is consistent with title 17 and rules and  
36 orders adopted by the Arizona game and fish commission. This subsection does  
37 not prevent a political subdivision from adopting an ordinance or rule  
38 restricting the discharge of a firearm within one-fourth mile of an occupied  
39 structure **WITHOUT THE CONSENT OF THE OWNER OR OCCUPANT OF THE STRUCTURE**. For  
40 the purposes of this subsection: ~~;~~

41 1. "OCCUPIED STRUCTURE" MEANS ANY BUILDING IN WHICH, AT THE TIME OF  
42 THE FIREARM'S DISCHARGE, A REASONABLE PERSON FROM THE LOCATION WHERE A  
43 FIREARM IS DISCHARGED WOULD EXPECT A PERSON TO BE PRESENT.

44 2. "Take" has the same meaning prescribed in section 17-101.

45 F. This state, any agency or political subdivision of this state and  
46 any law enforcement agency in this state shall not facilitate the destruction

1 of a firearm or purchase or otherwise acquire a firearm for the purpose of  
2 destroying the firearm except as authorized by section 13-3105 or 17-240.

3 G. This section does not prohibit a political subdivision of this  
4 state from enacting and enforcing any ordinance or rule pursuant to state law  
5 or relating to any of the following:

6 1. Imposing any privilege or use tax on the retail sale, lease or  
7 rental of, or the gross proceeds or gross income from the sale, lease or  
8 rental of, firearms or ammunition or any firearm or ammunition components at  
9 a rate that applies generally to other items of tangible personal property.

10 2. Prohibiting a minor who is unaccompanied by a parent, grandparent  
11 or guardian or a certified hunter safety instructor or certified firearms  
12 safety instructor acting with the consent of the minor's parent, grandparent  
13 or guardian from knowingly possessing or carrying on the minor's person,  
14 within the minor's immediate control or in or on a means of transportation a  
15 firearm in any place that is open to the public or on any street or highway  
16 or on any private property except private property that is owned or leased by  
17 the minor or the minor's parent, grandparent or guardian. Any ordinance or  
18 rule that is adopted pursuant to this paragraph shall not apply to a minor  
19 who is fourteen, fifteen, sixteen or seventeen years of age and who is  
20 engaged in any of the following:

21 (a) Lawful hunting or shooting events or marksmanship practice at  
22 established ranges or other areas where the discharge of a firearm is not  
23 prohibited.

24 (b) Lawful transportation of an unloaded firearm for the purpose of  
25 lawful hunting.

26 (c) Lawful transportation of an unloaded firearm for the purpose of  
27 attending shooting events or marksmanship practice at established ranges or  
28 other areas where the discharge of a firearm is not prohibited.

29 (d) Any activity that is related to the production of crops,  
30 livestock, poultry, livestock products, poultry products or ratites or  
31 storage of agricultural commodities.

32 3. The regulation of **COMMERCIAL** land and structures, including a  
33 business relating to firearms or ammunition or their components or a  
34 **COMMERCIAL** shooting range in the same manner as other commercial businesses.  
35 Notwithstanding any other law, this paragraph does not:

36 (a) Authorize a political subdivision to regulate the sale or transfer  
37 of firearms on property it owns, leases, operates or controls in a manner  
38 that is different than or inconsistent with state law. For the purposes of  
39 this ~~paragraph~~ **SUBDIVISION**, a use permit or other contract that provides for  
40 the use of property owned, leased, operated or controlled by a political  
41 subdivision shall not be considered a sale, conveyance or disposition of  
42 property.

43 (b) **AUTHORIZE A POLITICAL SUBDIVISION THROUGH A ZONING ORDINANCE TO**  
44 **PROHIBIT OR OTHERWISE REGULATE THE OTHERWISE LAWFUL DISCHARGE OF A FIREARM OR**  
45 **MAINTENANCE OR IMPROVEMENTS DIRECTLY RELATED TO THE DISCHARGE, ON A PRIVATE**

1 LOT OR PARCEL OF LAND THAT IS NOT OPEN TO THE PUBLIC ON A COMMERCIAL OR  
2 MEMBERSHIP BASIS.

3 (c) AUTHORIZE A POLITICAL SUBDIVISION TO REGULATE THE OTHERWISE LAWFUL  
4 DISCHARGE OF A FIREARM OR MAINTENANCE OR IMPROVEMENTS DIRECTLY RELATED TO THE  
5 DISCHARGE, ON LAND THAT IS USED FOR AGRICULTURE OR OTHER NON-COMMERCIAL  
6 PURPOSES.

7 4. Regulating employees or independent contractors of the political  
8 subdivision who are acting within the course and scope of their employment or  
9 contract.

10 5. Limiting or prohibiting the discharge of firearms in parks and  
11 preserves except:

12 (a) As allowed pursuant to chapter 4 of this title.

13 (b) On a properly supervised range as defined in section 13-3107.

14 (c) In an area approved as a hunting area by the Arizona game and fish  
15 department. Any such area may be closed when deemed unsafe by the director  
16 of the Arizona game and fish department.

17 (d) To control nuisance wildlife by permit from the Arizona game and  
18 fish department or the United States fish and wildlife service.

19 (e) By special permit of the chief law enforcement officer of the  
20 political subdivision.

21 (f) As required by an animal control officer in performing duties  
22 specified in section 9-499.04 and title 11, chapter 7, article 6.

23 (g) In self-defense or defense of another person against an animal  
24 attack if a reasonable person would believe that deadly physical force  
25 against the animal is immediately necessary and reasonable under the  
26 circumstances to protect oneself or the other person.

27 H. A violation of any ordinance established pursuant to subsection G,  
28 paragraph 5 of this section is a class 2 misdemeanor unless the political  
29 subdivision designates a lesser classification by ordinance.

30 I. For the purposes of this section, "political subdivision" includes  
31 a political subdivision acting in any capacity, including under police power,  
32 in a proprietary capacity or otherwise.

33 Sec. 5. Section 17-601, Arizona Revised Statutes, is amended to read:

34 17-601. Definition of outdoor shooting range

35 In this article, unless the context otherwise requires, "outdoor  
36 shooting range" or "range" means a permanently located and improved area that  
37 is designed and operated for the use of rifles, shotguns, pistols,  
38 silhouettes, skeet, trap, black powder or any other similar sport shooting in  
39 an outdoor environment. Outdoor shooting range does not include:

40 1. Any area for the exclusive use of archery or air guns. ~~or~~

41 2. A totally enclosed facility that is designed to offer a totally  
42 controlled shooting environment that includes impenetrable walls, floor and  
43 ceiling, adequate ventilation, lighting systems and acoustical treatment for  
44 sound attenuation suitable for the range's approved use.

45 3. ANY AREA THAT IS USED FOR SHOOTING ON A PRIVATE LOT OR PARCEL OF  
46 LAND THAT IS NOT OPEN TO THE PUBLIC ON A COMMERCIAL OR MEMBERSHIP BASIS.