

State of Arizona  
House of Representatives  
Fifty-second Legislature  
Second Regular Session  
2016

**CHAPTER 200**  
**HOUSE BILL 2541**

AN ACT

AMENDING SECTION 36-136, ARIZONA REVISED STATUTES; RELATING TO THE DEPARTMENT  
OF HEALTH SERVICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 36-136, Arizona Revised Statutes, is amended to  
3 read:  
4 36-136. Powers and duties of director; compensation of  
5 personnel  
6 A. The director shall:  
7 1. Be the executive officer of the department of health services and  
8 the state registrar of vital statistics but shall not receive compensation  
9 for services as registrar.  
10 2. Perform all duties necessary to carry out the functions and  
11 responsibilities of the department.  
12 3. Prescribe the organization of the department. The director shall  
13 appoint or remove personnel as necessary for the efficient work of the  
14 department and shall prescribe the duties of all personnel. The director may  
15 abolish any office or position in the department that the director believes  
16 is unnecessary.  
17 4. Administer and enforce the laws relating to health and sanitation  
18 and the rules of the department.  
19 5. Provide for the examination of any premises if the director has  
20 reasonable cause to believe that on the premises there exists a violation of  
21 any health law or rule of the state.  
22 6. Exercise general supervision over all matters relating to  
23 sanitation and health throughout the state. When in the opinion of the  
24 director it is necessary or advisable, a sanitary survey of the whole or of  
25 any part of the state shall be made. The director may enter, examine and  
26 survey any source and means of water supply, sewage disposal plant, sewerage  
27 system, prison, public or private place of detention, asylum, hospital,  
28 school, public building, private institution, factory, workshop, tenement,  
29 public washroom, public restroom, public toilet and toilet facility, public  
30 eating room and restaurant, dairy, milk plant or food manufacturing or  
31 processing plant, and any premises in which the director has reason to  
32 believe there exists a violation of any health law or rule of the state that  
33 the director has the duty to administer.  
34 7. Prepare sanitary and public health rules.  
35 8. Perform other duties prescribed by law.  
36 B. If the director has reasonable cause to believe that there exists a  
37 violation of any health law or rule of the state, the director may inspect  
38 any person or property in transportation through the state, and any car,  
39 boat, train, trailer, airplane or other vehicle in which that person or  
40 property is transported, and may enforce detention or disinfection as  
41 reasonably necessary for the public health if there exists a violation of any  
42 health law or rule.  
43 C. The director may deputize, in writing, any qualified officer or  
44 employee in the department to do or perform on the director's behalf any act  
45 the director is by law empowered to do or charged with the responsibility of  
46 doing.

1 D. The director may delegate to a local health department, county  
2 environmental department or public health services district any functions,  
3 powers or duties that the director believes can be competently, efficiently  
4 and properly performed by the local health department, county environmental  
5 department or public health services district if:

6 1. The director or superintendent of the local health agency,  
7 environmental agency or public health services district is willing to accept  
8 the delegation and agrees to perform or exercise the functions, powers and  
9 duties conferred in accordance with the standards of performance established  
10 by the director.

11 2. Monies appropriated or otherwise made available to the department  
12 for distribution to or division among counties or public health services  
13 districts for local health work may be allocated or reallocated in a manner  
14 designed to ~~assure~~ ENSURE the accomplishment of recognized local public  
15 health activities and delegated functions, powers and duties in accordance  
16 with applicable standards of performance. Whenever in the director's opinion  
17 there is cause, the director may terminate all or a part of any delegation  
18 and may reallocate all or a part of any funds that may have been conditioned  
19 on the further performance of the functions, powers or duties conferred.

20 E. The compensation of all personnel shall be as determined pursuant  
21 to section 38-611.

22 F. The director may make and amend rules necessary for the proper  
23 administration and enforcement of the laws relating to the public health.

24 G. Notwithstanding subsection H, paragraph 1 of this section, the  
25 director may define and prescribe emergency measures for detecting,  
26 reporting, preventing and controlling communicable or infectious diseases or  
27 conditions if the director has reasonable cause to believe that a serious  
28 threat to public health and welfare exists. Emergency measures are effective  
29 for no longer than eighteen months.

30 H. The director, by rule, shall:

31 1. Define and prescribe reasonably necessary measures for detecting,  
32 reporting, preventing and controlling communicable and preventable diseases.  
33 The rules shall declare certain diseases reportable. The rules shall  
34 prescribe measures, including isolation or quarantine, THAT ARE reasonably  
35 required to prevent the occurrence of, or to seek early detection and  
36 alleviation of, disability, insofar as possible, from communicable or  
37 preventable diseases. The rules shall include reasonably necessary measures  
38 to control animal diseases transmittable to humans.

39 2. Define and prescribe reasonably necessary measures, in addition to  
40 those prescribed by law, regarding the preparation, embalming, cremation,  
41 interment, disinterment and transportation of dead human bodies and the  
42 conduct of funerals, relating to and restricted to communicable diseases and  
43 regarding the removal, transportation, cremation, interment or disinterment  
44 of any dead human body.

45 3. Define and prescribe reasonably necessary procedures THAT ARE not  
46 inconsistent with law in regard to the use and accessibility of vital

1 records, delayed birth registration and the completion, change and amendment  
2 of vital records.

3 4. Except as relating to the beneficial use of wildlife meat by public  
4 institutions and charitable organizations pursuant to title 17, prescribe  
5 reasonably necessary measures to ~~assure~~ ENSURE that all food or drink,  
6 including meat and meat products and milk and milk products sold at the  
7 retail level, provided for human consumption is free from unwholesome,  
8 poisonous or other foreign substances and filth, insects or disease-causing  
9 organisms. The rules shall prescribe reasonably necessary measures governing  
10 the production, processing, labeling, storing, handling, serving and  
11 transportation of these products. The rules shall prescribe minimum  
12 standards for the sanitary facilities and conditions that shall be maintained  
13 in any warehouse, restaurant or other premises, except a meat packing plant,  
14 slaughterhouse, wholesale meat processing plant, dairy product manufacturing  
15 plant or trade product manufacturing plant. The rules shall prescribe  
16 minimum standards for any truck or other vehicle in which food or drink is  
17 produced, processed, stored, handled, served or transported. The rules shall  
18 provide for the inspection and licensing of premises and vehicles so used,  
19 and for abatement as public nuisances of any premises or vehicles that do not  
20 comply with the rules and minimum standards. The rules shall provide an  
21 exemption relating to food or drink that is:

22 (a) Served at a noncommercial social event that takes place at a  
23 workplace, such as a potluck.

24 (b) Prepared at a cooking school that is conducted in an  
25 owner-occupied home.

26 (c) Not potentially hazardous and prepared in a kitchen of a private  
27 home for occasional sale or distribution for noncommercial purposes.

28 (d) Prepared or served at an employee-conducted function that lasts  
29 less than four hours and is not regularly scheduled, such as an employee  
30 recognition, an employee fund-raising or an employee social event.

31 (e) Offered at a child care facility and limited to commercially  
32 prepackaged food that is not potentially hazardous and whole fruits and  
33 vegetables that are washed and cut on site for immediate consumption.

34 (f) Offered at locations that sell only commercially prepackaged food  
35 or drink that is not potentially hazardous.

36 (g) Baked and confectionary goods that are not potentially hazardous  
37 and that are prepared in a kitchen of a private home for commercial purposes  
38 if packaged with a label that clearly states the address of the maker,  
39 includes contact information for the maker, lists all the ingredients in the  
40 product and discloses that the product was prepared in a home. The label  
41 must be given to the final consumer of the product. If the product was made  
42 in a facility for individuals with developmental disabilities, the label must  
43 also disclose that fact. The person preparing the food or supervising the  
44 food preparation must obtain a food handler's card or certificate if one is  
45 issued by the local county and must register with an online registry  
46 established by the department pursuant to paragraph 13 of this subsection.

1 For the purposes of this subdivision, "potentially hazardous" means baked and  
2 confectionary goods that meet the requirements of the food code published by  
3 the United States food and drug administration, as modified and incorporated  
4 by reference by the department by rule.

5 5. Prescribe reasonably necessary measures to ~~assure~~ ENSURE that all  
6 meat and meat products for human consumption handled at the retail level are  
7 delivered in a manner and from sources approved by the Arizona department of  
8 agriculture and are free from unwholesome, poisonous or other foreign  
9 substances and filth, insects or disease-causing organisms. The rules shall  
10 prescribe standards for sanitary facilities to be used in identity, storage,  
11 handling and sale of all meat and meat products sold at the retail level.

12 6. Prescribe reasonably necessary measures regarding production,  
13 processing, labeling, handling, serving and transportation of bottled water  
14 to ~~assure~~ ENSURE that all bottled drinking water distributed for human  
15 consumption is free from unwholesome, poisonous, deleterious or other foreign  
16 substances and filth or disease-causing organisms. The rules shall prescribe  
17 minimum standards for the sanitary facilities and conditions that shall be  
18 maintained at any source of water, bottling plant and truck or vehicle in  
19 which bottled water is produced, processed, stored or transported and shall  
20 provide for inspection and certification of bottled drinking water sources,  
21 plants, processes and transportation and for abatement as a public nuisance  
22 of any water supply, label, premises, equipment, process or vehicle that does  
23 not comply with the minimum standards. The rules shall prescribe minimum  
24 standards for bacteriological, physical and chemical quality for bottled  
25 water and for the submission of samples at intervals prescribed in the  
26 standards.

27 7. Define and prescribe reasonably necessary measures governing ice  
28 production, handling, storing and distribution to ~~assure~~ ENSURE that all ice  
29 sold or distributed for human consumption or for the preservation or storage  
30 of food for human consumption is free from unwholesome, poisonous,  
31 deleterious or other foreign substances and filth or disease-causing  
32 organisms. The rules shall prescribe minimum standards for the sanitary  
33 facilities and conditions and the quality of ice that shall be maintained at  
34 any ice plant, storage and truck or vehicle in which ice is produced, stored,  
35 handled or transported and shall provide for inspection and licensing of the  
36 premises and vehicles, and for abatement as public nuisances of ice,  
37 premises, equipment, processes or vehicles that do not comply with the  
38 minimum standards.

39 8. Define and prescribe reasonably necessary measures concerning  
40 sewage and excreta disposal, garbage and trash collection, storage and  
41 disposal, and water supply for recreational and summer camps, campgrounds,  
42 motels, tourist courts, trailer coach parks and hotels. The rules shall  
43 prescribe minimum standards for preparation of food in community kitchens,  
44 adequacy of excreta disposal, garbage and trash collection, storage and  
45 disposal and water supply for recreational and summer camps, campgrounds,  
46 motels, tourist courts, trailer coach parks and hotels and shall provide for

1 inspection of these premises and for abatement as public nuisances of any  
2 premises or facilities that do not comply with the rules. PRIMITIVE CAMP AND  
3 PICNIC GROUNDS OFFERED BY THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE  
4 ARE EXEMPT FROM RULES ADOPTED PURSUANT TO THIS PARAGRAPH BUT ARE SUBJECT TO  
5 APPROVAL BY A COUNTY HEALTH DEPARTMENT UNDER SANITARY REGULATIONS ADOPTED  
6 PURSUANT TO SECTION 36-183.02. FOR THE PURPOSES OF THIS PARAGRAPH,  
7 "PRIMITIVE CAMP AND PICNIC GROUNDS" MEANS CAMP AND PICNIC GROUNDS THAT ARE  
8 REMOTE IN NATURE AND WITHOUT ACCESSIBILITY TO PUBLIC INFRASTRUCTURE SUCH AS  
9 WATER, ELECTRICITY AND SEWER.

10 9. Define and prescribe reasonably necessary measures concerning the  
11 sewage and excreta disposal, garbage and trash collection, storage and  
12 disposal, water supply and food preparation of all public schools. The rules  
13 shall prescribe minimum standards for sanitary conditions that shall be  
14 maintained in any public school and shall provide for inspection of these  
15 premises and facilities and for abatement as public nuisances of any premises  
16 that do not comply with the minimum standards.

17 10. Prescribe reasonably necessary measures to prevent pollution of  
18 water used in public or semipublic swimming pools and bathing places and to  
19 prevent deleterious health conditions at these places. The rules shall  
20 prescribe minimum standards for sanitary conditions that shall be maintained  
21 at any public or semipublic swimming pool or bathing place and shall provide  
22 for inspection of these premises and for abatement as public nuisances of any  
23 premises and facilities that do not comply with the minimum standards. The  
24 rules shall be developed in cooperation with the director of the department  
25 of environmental quality and shall be consistent with the rules adopted by  
26 the director of the department of environmental quality pursuant to  
27 section 49-104, subsection B, paragraph 12.

28 11. Prescribe reasonably necessary measures to keep confidential  
29 information relating to diagnostic findings and treatment of patients, as  
30 well as information relating to contacts, suspects and associates of  
31 communicable disease patients. In no event shall confidential information be  
32 made available for political or commercial purposes.

33 12. Prescribe reasonably necessary measures regarding human  
34 immunodeficiency virus testing as a means to control the transmission of that  
35 virus, including the designation of anonymous test sites as dictated by  
36 current epidemiologic and scientific evidence.

37 13. Establish an online registry of food preparers that are authorized  
38 to prepare food for commercial purposes pursuant to paragraph 4 of this  
39 subsection.

40 I. The rules adopted under the authority conferred by this section  
41 shall be observed throughout the state and shall be enforced by each local  
42 board of health or public health services district, but this section does not  
43 limit the right of any local board of health or county board of supervisors  
44 to adopt ordinances and rules as authorized by law within its jurisdiction,  
45 provided that the ordinances and rules do not conflict with state law and are  
46 equal to or more restrictive than the rules of the director.

1 J. The powers and duties prescribed by this section do not apply in  
2 instances in which regulatory powers and duties relating to public health are  
3 vested by the legislature in any other state board, commission, agency or  
4 instrumentality, except that with regard to the regulation of meat and meat  
5 products, the department of health services and the Arizona department of  
6 agriculture within the area delegated to each shall adopt rules that are not  
7 in conflict.

8 K. The director, in establishing fees authorized by this section,  
9 shall comply with title 41, chapter 6. The department shall not set a fee at  
10 more than the department's cost of providing the service for which the fee is  
11 charged. State agencies are exempt from all fees imposed pursuant to this  
12 section.

13 L. After consultation with the state superintendent of public  
14 instruction, the director shall prescribe the criteria the department shall  
15 use in deciding whether or not to notify a local school district that a pupil  
16 in the district has tested positive for the human immunodeficiency virus  
17 antibody. The director shall prescribe the procedure by which the department  
18 shall notify a school district if, pursuant to these criteria, the department  
19 determines that notification is warranted in a particular situation. This  
20 procedure shall include a requirement that before notification the department  
21 shall determine to its satisfaction that the district has an appropriate  
22 policy relating to nondiscrimination of the infected pupil and  
23 confidentiality of test results and that proper educational counseling has  
24 been or will be provided to staff and pupils.

25 M. Until the department adopts exemptions by rule as required by  
26 subsection H, paragraph 4, subdivision (f) of this section, food and drink ~~is~~  
27 ARE exempt from the rules prescribed in subsection H of this section if  
28 offered at locations that sell only commercially prepackaged food or drink  
29 that is not potentially hazardous, without a limitation on its display area.

APPROVED BY THE GOVERNOR MAY 11, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 11, 2016.