PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2150

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

   "Section 1. Section 3-107, Arizona Revised Statutes, is amended to read:

   3-107. Organizational and administrative powers and duties of the director

   A. The director shall:

   1. Formulate the program and policies of the department and adopt administrative rules to effect its program and policies.

   2. Ensure coordination and cooperation in the department in order to achieve a unified policy of administering and executing its responsibilities.

   3. Subject to section 35-149, accept, expend and account for gifts, grants, devises and other contributions of money or property from any public or private source, including the federal government. All contributions shall be included in the annual report under paragraph 6 of this subsection. Monies received under this paragraph shall be deposited, pursuant to sections 35-146 and 35-147, in special funds for the purpose specified, which are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

   4. Contract and enter into interagency and intergovernmental agreements pursuant to title 11, chapter 7, article 3 with any private party or public agency.

   5. Administer oaths to witnesses and issue and direct the service of subpoenas requiring witnesses to attend and testify at or requiring the production of evidence in hearings, investigations and other proceedings."
6. Not later than September 30 each year, issue a report to the governor and the legislature of the department's activities during the preceding fiscal year. The report may recommend statutory changes to improve the department's ability to achieve the purposes and policies established by law. The director shall provide a copy of the report to the Arizona State Library, Archives and Public Records Secretary of State.

7. Establish, equip and maintain a central office in Phoenix and field offices as the director deems necessary.

8. Sign all vouchers to expend money under this title, which shall be paid as other claims against this state out of the appropriations to the department.

9. Coordinate agricultural education efforts to foster an understanding of Arizona agriculture and to promote a more efficient cooperation and understanding among agricultural educators, producers, dealers, buyers, mass media and the consuming public to stimulate the production, consumption and marketing of Arizona agricultural products.

10. Employ staff subject to title 41, chapter 4, article 4 and terminate employment for cause as provided by title 41, chapter 4, article 5.

11. Conduct hearings on appeals by producers regarding the assessed actual costs of the plow up and the penalty of one hundred fifty percent for unpaid costs pursuant to section 3-204.01. The director may adopt rules to implement this paragraph.

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

13. COMPLY WITH TITLE 41, CHAPTER 6, ARTICLE 1.

B. The director may:
1. Authorize in writing any qualified officer or employee in the department to perform any act that the director is authorized or required to do by law.

2. Construct and operate border inspection stations or other necessary facilities in this state and cooperate by joint agreement with an adjoining state in constructing and operating border inspection stations or other facilities within the boundaries of this state or of the adjoining state.

3. Cooperate with agencies of the United States and other states and other agencies of this state and enter into agreements in developing and administering state and federal agricultural programs regarding the use of department officers, inspectors or other resources in this state, in other states or in other countries.

4. Cooperate with the office of tourism in distributing Arizona tourist information.

5. Enter into compliance agreements with any person, state or regulatory agency. For the purposes of this paragraph, "compliance agreement" means any written agreement or permit between a person and the department for the purpose of enforcing the department's requirements.

6. Abate, suppress, control, regulate, seize, quarantine or destroy any agricultural product or foodstuff that is adulterated or contaminated as the result of an accident at a commercial nuclear generating station as defined in section 26-301, paragraph 1. A person owning an agricultural product or foodstuff that has been subject to this paragraph may request a hearing pursuant to title 41, chapter 6, article 10.

7. Engage in joint venture activities with businesses and commodity groups that are specifically designed to further the mission of the department, that comply with the constitution and laws of the United States and that do not compete with private enterprise.

8. Sell, exchange or otherwise dispose of personal property labeled with the "Arizona grown" trademark. Revenues received pursuant to this paragraph shall be credited to the commodity promotion fund established by section 3-109.02.
Sec. 2. Section 3-368, Arizona Revised Statutes, is amended to read:

3-368. Enforcement; consultation with attorney general; citations and notices of violation

A. The director is responsible for enforcing this article and shall receive and shall promptly and efficiently process all complaints regarding pesticide use. The director shall furnish to the attorney general a copy of each complaint filed under this article and copies of all investigative reports, citations, hearing notices and other action or pending action documents. Before a final disposition of a pesticide complaint, the director and the attorney general shall jointly review the case to ensure that proper action is taken and to determine whether additional action or prosecution is required.

B. The director shall notify all persons who submit complaints alleging violations of this article or rules adopted pursuant to this article of the progress, status and disposition of their complaints.

C. If the director investigates an alleged violation under this article and rules adopted pursuant to this article and determines that the violation did not result in any adverse health effects or property damage, the director may issue a letter of warning. A letter of warning issued pursuant to this subsection is not subject to section 3-363, paragraph 12.

D. If the director following an inspection or investigation determines that a de minimis violation occurred, the director shall issue a notice of de minimis violation and maintain a record of the violation for three years. A person receiving a notice of de minimis violation may request a hearing pursuant to title 41, chapter 6, article 10.

E. If the director following an inspection or investigation determines that a nonserious or serious violation occurred, the director shall issue a written citation. The citation shall be issued within twenty days for a nonserious violation or within ten days for a serious violation. Each citation shall contain the following:

1. A particular description of the nature of the violation, including a reference to the provision of this article.
2. A reasonable time to abate the violation or take appropriate action.

3. A notice of the right to a hearing pursuant to title 41, chapter 6, article 10.

F. No citation or notice of de minimis violation may be issued after the expiration of six months from the date of the inspection which produced evidence of the violation UNLESS EXPRESSLY WAIVED IN WRITING BY THE REGULATED PERSON FOR A FIXED PERIOD OF TIME AGREED TO BY THE REGULATED PERSON, NOT TO EXCEED AN ADDITIONAL SIX MONTHS. If in the course of an investigation the department identifies any additional alleged violator, the department may investigate the additional alleged violator. No citation or notice of de minimis violation may be issued after the expiration of six months from the date any additional alleged violator is identified by the department UNLESS EXPRESSLY WAIVED IN WRITING BY THE REGULATED PERSON FOR A FIXED PERIOD OF TIME AGREED TO BY THE REGULATED PERSON, NOT TO EXCEED AN ADDITIONAL SIX MONTHS.

G. IF A CITATION OR NOTICE OF DE MINIMIS VIOLATION IS NOT ISSUED AFTER SIX MONTHS PURSUANT TO SUBSECTION F OF THIS SECTION, THE COMPLAINT IS DEEMED DISMISSED UNLESS EXPRESSLY WAIVED IN WRITING BY THE REGULATED PERSON FOR A FIXED PERIOD OF TIME AGREED TO BY THE REGULATED PERSON, NOT TO EXCEED AN ADDITIONAL SIX MONTHS."

Amend title to conform

BRENDA BARTON

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