

State of Arizona
House of Representatives
Fifty-second Legislature
First Regular Session
2015

HOUSE BILL 2150

AN ACT

AMENDING SECTIONS 3-107 AND 3-368, ARIZONA REVISED STATUTES; RELATING TO THE DEPARTMENT OF AGRICULTURE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

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

4 3-107. Organizational and administrative powers and duties of
5 the director

6 A. The director shall:

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

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

11 3. Subject to section 35-149, accept, expend and account for gifts,
12 grants, devises and other contributions of money or property from any public
13 or private source, including the federal government. All contributions shall
14 be included in the annual report under paragraph 6 of this subsection.
15 Monies received under this paragraph shall be deposited, pursuant to sections
16 35-146 and 35-147, in special funds for the purpose specified, which are
17 exempt from the provisions of section 35-190 relating to lapsing of
18 appropriations.

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

22 5. Administer oaths to witnesses and issue and direct the service of
23 subpoenas requiring witnesses to attend and testify at or requiring the
24 production of evidence in hearings, investigations and other proceedings.

25 6. Not later than September 30 each year, issue a report to the
26 governor and the legislature of the department's activities during the
27 preceding fiscal year. The report may recommend statutory changes to improve
28 the department's ability to achieve the purposes and policies established by
29 law. The director shall provide a copy of the report to the ~~Arizona state~~
30 ~~library, archives and public records~~ SECRETARY OF STATE.

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

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

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

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

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

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

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

13 B. The director may:

14 1. Authorize in writing any qualified officer or employee in the
15 department to perform any act that the director is authorized or required to
16 do by law.

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

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

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

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

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

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

42 8. Sell, exchange or otherwise dispose of personal property labeled
43 with the "Arizona grown" trademark. Revenues received pursuant to this

1 paragraph shall be credited to the commodity promotion fund established by
2 section 3-109.02.

3 Sec. 2. Section 3-368, Arizona Revised Statutes, is amended to read:
4 3-368. Enforcement; consultation with attorney general;
5 citations and notices of violation

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

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

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

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

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

33 1. A particular description of the nature of the violation, including
34 a reference to the provision of this article.

35 2. A reasonable time to abate the violation or take appropriate
36 action.

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

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

1 department may investigate the additional alleged violator. No citation or
2 notice of de minimis violation may be issued after the expiration of six
3 months from the date any additional alleged violator is identified by the
4 department. ANY ALLEGED VIOLATOR AND THE DIRECTOR MAY AGREE IN WRITING TO
5 EXTEND THE SIX-MONTH LIMITATION PRESCRIBED BY THIS SUBSECTION FOR NOT MORE
6 THAN AN ADDITIONAL SIX MONTHS OF INVESTIGATION BY THE DEPARTMENT.

7 G. IF A CITATION OR NOTICE OF DE MINIMIS VIOLATION IS NOT ISSUED
8 PURSUANT TO SUBSECTION F OF THIS SECTION, THE COMPLAINT IS DEEMED DISMISSED.