

REFERENCE TITLE: board of technical registration; alarms

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

HB 2504

Introduced by
Representative Petersen

AN ACT

AMENDING TITLE 9, CHAPTER 4, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-500.34; AMENDING SECTION 11-251, ARIZONA REVISED STATUTES; AMENDING TITLE 11, CHAPTER 2, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-269.13; AMENDING SECTIONS 32-101 AND 32-106, ARIZONA REVISED STATUTES; REPEALING SECTION 32-113, ARIZONA REVISED STATUTES; AMENDING SECTION 32-121, ARIZONA REVISED STATUTES; REPEALING SECTIONS 32-122.05, 32-122.06 AND 32-122.07, ARIZONA REVISED STATUTES; AMENDING SECTIONS 32-1121 AND 42-6004, ARIZONA REVISED STATUTES; RELATING TO ALARM BUSINESSES AND AGENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 9, chapter 4, article 8, Arizona Revised Statutes, is
3 amended by adding section 9-500.34, to read:

4 9-500.34. Alarm businesses; alarm agents; state preemption;
5 definitions

6 A. THE LICENSURE, CERTIFICATION OR REGISTRATION OF ALARM BUSINESSES
7 AND ALARM AGENTS IS A MATTER OF STATEWIDE CONCERN. THE POWER TO LICENSE,
8 REGISTER OR CERTIFY AN ALARM BUSINESS OR ALARM AGENT IS NOT SUBJECT TO
9 FURTHER REGULATION BY A CITY OR TOWN.

10 B. A CITY OR TOWN MAY NOT REQUIRE AN ALARM BUSINESS TO PROVIDE ANY
11 INFORMATION REGARDING THE ALARM SUBSCRIBERS OF THE ALARM BUSINESS WITHOUT A
12 COURT ORDER.

13 C. A CITY OR TOWN THAT VIOLATES THIS SECTION SHALL REIMBURSE A
14 PREVAILING PARTY FOR FEES AND EXPENSES. A COURT MAY ASSESS CIVIL PENALTIES
15 AGAINST THE CITY OR TOWN.

16 D. FOR THE PURPOSES OF THIS SECTION:

17 1. "ALARM" OR "ALARM SYSTEM":

18 (a) MEANS ANY MECHANICAL OR ELECTRICAL DEVICE THAT IS DESIGNED TO EMIT
19 AN AUDIBLE ALARM OR TRANSMIT A SIGNAL OR MESSAGE IF ACTIVATED AND THAT IS
20 USED TO DETECT AN UNAUTHORIZED ENTRY INTO A BUILDING OR OTHER FACILITY OR
21 ALERT OTHER PERSONS OF THE OCCURRENCE OF A MEDICAL EMERGENCY OR THE
22 COMMISSION OF AN UNLAWFUL ACT AGAINST A PERSON OR IN A BUILDING OR OTHER
23 FACILITY.

24 (b) INCLUDES A SILENT, PANIC, HOLDUP, ROBBERY, DURESS, BURGLARY,
25 MEDICAL ALERT OR PROPRIETOR ALARM THAT REQUIRES EMERGENCY PERSONNEL TO
26 RESPOND.

27 (c) DOES NOT INCLUDE A TELEPHONE CALL DIVERTER OR A SYSTEM THAT IS
28 DESIGNED TO REPORT ENVIRONMENTAL AND OTHER OCCURRENCES AND THAT IS NOT
29 DESIGNED OR USED TO ALERT OR CAUSE OTHER PERSONS TO ALERT PUBLIC SAFETY
30 PERSONNEL.

31 2. "ALARM AGENT":

32 (a) MEANS A PERSON, WHETHER AN EMPLOYEE, AN INDEPENDENT CONTRACTOR OR
33 OTHERWISE, WHO ACTS ON BEHALF OF AN ALARM BUSINESS AND WHO TESTS, MAINTAINS,
34 SERVICES, REPAIRS, SELLS, RENTS, LEASES OR INSTALLS ALARM SYSTEMS.

35 (b) DOES NOT INCLUDE ANY ACTION BY A PERSON THAT:

36 (i) IS PERFORMED IN CONNECTION WITH AN ALARM SYSTEM LOCATED ON THE
37 PERSON'S OWN PROPERTY OR THE PROPERTY OF THE PERSON'S EMPLOYER.

38 (ii) IS ACTING ON BEHALF OF AN ALARM BUSINESS WHOSE WORK DUTIES DO NOT
39 INCLUDE VISITING THE LOCATION WHERE AN ALARM SYSTEM INSTALLATION OCCURS.

40 3. "ALARM BUSINESS":

41 (a) MEANS ANY PERSON THAT, EITHER ALONE OR THROUGH A THIRD PARTY,
42 ENGAGES IN THE BUSINESS OF EITHER OF THE FOLLOWING:

43 (i) PROVIDING ALARM MONITORING SERVICES.

1 (ii) SELLING, LEASING, RENTING, MAINTAINING, REPAIRING OR INSTALLING A
2 NONPROPRIETOR ALARM SYSTEM OR SERVICE.

3 (b) DOES NOT INCLUDE ANY OF THE FOLLOWING:

4 (i) A PERSON OR COMPANY THAT PURCHASES, RENTS OR USES AN ALARM THAT IS
5 AFFIXED TO A MOTOR VEHICLE.

6 (ii) A PERSON THAT OWNS OR CONDUCTS A BUSINESS OF SELLING, LEASING,
7 RENTING, INSTALLING, MAINTAINING OR MONITORING AN ALARM THAT IS AFFIXED TO A
8 MOTOR VEHICLE.

9 (iii) A PERSON THAT INSTALLS A NONMONITORED PROPRIETOR ALARM FOR A
10 BUSINESS THAT THE PERSON OWNS, IS EMPLOYED BY OR MANAGES.

11 (iv) THE INSTALLATION OR MONITORING OF FIRE ALARM SYSTEMS.

12 (v) AN ALARM SYSTEM THAT IS OPERATED BY A CITY OR TOWN.

13 4. "ALARM SUBSCRIBER" MEANS ANY PERSON THAT:

14 (a) LEASES, RENTS OR PURCHASES ANY MONITORED ALARM SYSTEM OR SERVICE
15 FROM AN ALARM BUSINESS.

16 (b) LEASES OR RENTS AN ALARM SYSTEM.

17 (c) CONTRACTS WITH AN ALARM BUSINESS FOR ALARM MONITORING,
18 INSTALLATION, REPAIR OR MAINTENANCE SERVICES.

19 5. "MONITORED ALARM" MEANS A DEVICE THAT IS DESIGNED FOR THE DETECTION
20 OF AN ENTRY ON ANY PREMISES AND THAT IF ACTIVATED GENERATES A NOTIFICATION
21 SIGNAL.

22 Sec. 2. Section 11-251, Arizona Revised Statutes, is amended to read:
23 11-251. Powers of board

24 The board of supervisors, under such limitations and restrictions as
25 are prescribed by law, may:

26 1. Supervise the official conduct of all county officers and officers
27 of all districts and other subdivisions of the county charged with assessing,
28 collecting, safekeeping, managing or disbursing the public revenues, see that
29 such officers faithfully perform their duties and direct prosecutions for
30 delinquencies, and, when necessary, require the officers to renew their
31 official bonds, make reports and present their books and accounts for
32 inspection.

33 2. Divide the counties into such districts or precincts as required by
34 law, change them and create others as convenience requires.

35 3. Establish, abolish and change election precincts, appoint
36 inspectors and judges of elections, canvass election returns, declare the
37 result and issue certificates thereof.

38 4. Lay out, maintain, control and manage public roads, ferries and
39 bridges within the county and levy such tax for that purpose as may be
40 authorized by law.

41 5. Provide for the care and maintenance of the sick of the county,
42 erect and maintain hospitals for that purpose and, in its discretion, provide
43 a farm in connection with the county hospital and adopt ordinances for
44 working the farm.

1 6. Provide suitable rooms for county purposes.

2 7. Purchase, receive by donation or lease real or personal property
3 necessary for the use of the county prison and take care of, manage and
4 control the property, but no purchase of real property shall be made unless
5 the value has been previously estimated by three disinterested citizens of
6 the county, appointed by the board for that purpose, and no more than the
7 appraised value shall be paid for the property.

8 8. Cause to be erected and furnished a courthouse, jail and hospital
9 and such other buildings as necessary, and construct and establish a branch
10 jail, when necessary, at a point distant from the county seat.

11 9. Sell at public auction, after thirty days' previous notice given by
12 publication in a newspaper of the county, stating the time and place of the
13 auction, and convey to the highest bidder, for cash or contract of purchase
14 extending not more than ten years from the date of sale and on such terms and
15 for such consideration as the board shall prescribe, any property belonging
16 to the county that the board deems advantageous for the county to sell, or
17 that the board deems unnecessary for use by the county, and shall pay the
18 proceeds thereof into the county treasury for use of the county, except that
19 personal property need not be sold but may be used as a trade-in on the
20 purchase of personal property when the board deems this disposition of the
21 personal property to be in the best interests of the county. When the
22 property for sale is real property, the board shall have such property
23 appraised by a qualified independent fee appraiser who has an office located
24 in this state. The appraiser shall establish a minimum price, which shall
25 not be less than ninety ~~per-cent~~ PERCENT of the appraised value. The notice
26 regarding the sale of real property shall be published in the county where
27 the property is situated and may be published in one or more other counties,
28 and shall contain, among other things, the appraised value, the minimum
29 acceptable sale price, and the common and legal description of the real
30 property. Notwithstanding the requirement for a sale at public auction
31 prescribed in this paragraph, a county, with unanimous consent of the board
32 and without a public auction, may sell or lease any county property to any
33 other duly constituted governmental entity, including the state, cities,
34 towns and other counties. A county, with unanimous consent of the board and
35 without public auction, may grant an easement on county property for public
36 purposes to a utility as defined in section 40-491. A county, with unanimous
37 consent of the board and without public auction, may sell or lease any county
38 property for a specific use to any solely charitable, social or benevolent
39 nonprofit organization incorporated or operating in this state. A county may
40 dispose of surplus equipment and materials that have little or no value or
41 that are unauctionable in any manner authorized by the board.

42 10. Examine and exhibit the accounts and performance of all officers
43 having the care, management, collection or disbursement of monies belonging
44 to the county or appropriated by law or otherwise for the use and benefit of
45 the county. The working papers and other audit files in an examination and

1 audit of the accounts and performance of a county officer are not public
2 records and are exempt from title 39, chapter 1. The information contained
3 in the working papers and audit files prepared pursuant to a specific
4 examination or audit is not subject to disclosure, except to the county
5 attorney and the attorney general in connection with an investigation or
6 action taken in the course of their official duties.

7 11. Examine, settle and allow all accounts legally chargeable against
8 the county, order warrants to be drawn on the county treasurer for that
9 purpose and provide for issuing the warrants.

10 12. Levy such tax annually on the taxable property of the county as may
11 be necessary to defray the general current expenses thereof, including
12 salaries otherwise unprovided for, and levy such other taxes as are required
13 to be levied by law.

14 13. Equalize assessments.

15 14. Direct and control the prosecution and defense of all actions to
16 which the county is a party, and compromise them.

17 15. Insure the county buildings in the name of and for the benefit of
18 the county.

19 16. Fill by appointment all vacancies occurring in county or precinct
20 offices.

21 17. Adopt provisions necessary to preserve the health of the county,
22 and provide for the expenses thereof.

23 18. With the approval of the department of health services, contract
24 with any qualified person to provide all or part of the health services,
25 funded through the department of health services with federal or state
26 monies, that the board in its discretion extends to residents of the county.

27 19. Contract for county printing and advertising, and provide books and
28 stationery for county officers.

29 20. Provide for rebinding county records, or, if necessary, the
30 transcribing of county records.

31 21. Make and enforce necessary rules and regulations for the government
32 of its body, the preservation of order and the transaction of business.

33 22. Adopt a seal for the board, a description and impression of which
34 shall be filed by the clerk in the office of the county recorder and the
35 secretary of state.

36 23. Establish, maintain and conduct or aid in establishing, maintaining
37 and conducting public aviation fields, purchase, receive by donation or lease
38 any property necessary for that purpose, lease, at a nominal rental if
39 desired, sell such aviation fields or property to the United States or any
40 department, or sell or lease such aviation fields to a city, exchange lands
41 acquired pursuant to this section for other lands, or act in conjunction with
42 the United States in maintaining, managing and conducting all such property.
43 If any such property or part of that property is not needed for these
44 purposes, it shall be sold by the board and the proceeds shall be paid into
45 the general fund of the county.

1 24. Acquire and hold property for the use of county fairs, and conduct,
2 take care of and manage them.

3 25. Authorize the sheriff to offer a reward, not exceeding ten thousand
4 dollars in one case, for information leading to the arrest and conviction of
5 persons charged with crime.

6 26. Contract for the transportation of insane persons to the state
7 hospital or direct the sheriff to transport such persons. The county is
8 responsible for such expense to the extent the expense is not covered by any
9 third party payor.

10 27. Provide for the reasonable expenses of burial for deceased
11 indigents as provided in section 36-831 and maintain a permanent register of
12 deceased indigents, including name, age and date of death, and when burial
13 occurs, the board shall mark the grave with a permanent marker giving the
14 name, age, and date of birth, if known.

15 28. Sell or grant to the United States the title or interest of the
16 county in any toll road or toll train in or partly within a national park, on
17 such terms as may be agreed on by the board and the secretary of the interior
18 of the United States.

19 29. Enter into agreements for acquiring rights-of-way, construction,
20 reconstruction or maintenance of highways in their respective counties,
21 including highways that pass through Indian reservations, with the government
22 of the United States, acting through its duly authorized officers or agents
23 pursuant to any act of Congress, except that the governing body of any Indian
24 tribe whose lands are affected must consent to the use of its land, and any
25 such agreements entered into before June 26, 1952 are validated and
26 confirmed.

27 30. Do and perform all other acts and things necessary to the full
28 discharge of its duties as the legislative authority of the county
29 government, including receiving and accepting payment of monies by credit
30 card or debit card, or both. Any fees or costs incurred by the use of the
31 credit or debit card shall be paid by the person tendering payment unless the
32 charging entity determines that the financial benefits of accepting credit
33 cards or debit cards exceeds the additional processing fees.

34 31. Make and enforce all local, police, sanitary and other regulations
35 not in conflict with general law.

36 32. Budget for funds for foster home care during the school week for
37 children with intellectual disabilities and children with other disabilities
38 who reside within the county and attend a school for students with
39 disabilities in a city or town within such county.

40 33. Do and perform all acts necessary to enable the county to
41 participate in the economic opportunity act of 1964 (P.L. 88-452; 78 Stat.
42 508), as amended.

1 34. Provide a plan or plans for its employees that provide tax deferred
2 annuity and deferred compensation plans as authorized pursuant to title 26,
3 United States Code. Such plans shall allow voluntary participation by all
4 employees of the county. Participating employees shall authorize the board
5 to make reductions in their remuneration as provided in an executed deferred
6 compensation agreement.

7 35. Adopt and enforce standards for shielding and filtration of
8 commercial or public outdoor portable or permanent light fixtures in
9 proximity to astronomical or meteorological laboratories.

10 36. Subject to the prohibitions, restrictions and limitations as set
11 forth in section 11-812, adopt and enforce standards for excavation, landfill
12 and grading to prevent unnecessary loss from erosion, flooding and
13 landslides.

14 37. Make and enforce necessary ordinances for the operation and
15 licensing of any establishment not in the limits of an incorporated city or
16 town in which is carried on the business of providing baths, showers or other
17 forms of hydrotherapy or any service of manual massage of the human body.

18 38. Provide pecuniary compensation as salary or wages for overtime work
19 performed by county employees, including those employees covered by title 23,
20 chapter 2, article 9. In so providing, the board may establish salary and
21 wage plans incorporating classifications and conditions prescribed by the
22 federal fair labor standards act.

23 39. Establish, maintain and operate facilities that provide for
24 physical evaluation, diagnosis and treatment of patients and that do not keep
25 patients overnight as bed patients or treat patients under general
26 anesthesia.

27 40. Enact ordinances under its police authority prescribing reasonable
28 curfews in the entire unincorporated area or any area less than the entire
29 unincorporated area of the county for minors and fines not to exceed the fine
30 for a petty offense for violation of such ordinances. Nothing in this
31 paragraph shall be construed to require a request from an association or a
32 majority of the residents of an area before the board may enact an ordinance
33 applicable to the entire or any portion of the unincorporated area. An
34 ordinance enacted pursuant to this paragraph shall provide that a minor is
35 not violating a curfew if the minor is accompanied by a parent, a guardian or
36 an adult having supervisory custody, is on an emergency errand or has been
37 specifically directed to the location on reasonable, legitimate business or
38 some other activity by the parent, guardian or adult having supervisory
39 custody. If no curfew ordinance is applicable to a particular unincorporated
40 area of the county, the board may adopt a curfew ordinance on the request or
41 petition of either:

42 (a) A homeowners' association that represents a majority of the
43 homeowners in the area covered by the association and to which the curfew
44 would apply.

- 1 (b) A majority of the residents of the area to which the curfew would
2 apply.
- 3 41. Lease or sublease personal property owned by the county to other
4 political subdivisions of this state to be used for a public purpose.
- 5 42. In addition to the agreements authorized by section 11-651, enter
6 into long-term agreements for the purchase of personal property, provided
7 that the board may cancel any such agreement at the end of a fiscal year, at
8 which time the seller may repossess the property and the agreement shall be
9 deemed terminated.
- 10 43. Make and enforce necessary ordinances not in conflict with the laws
11 of this state to regulate off-road recreational motor vehicles that are
12 operated within the county on public lands without lawful authority or on
13 private lands without the consent of the lawful owner or that generate air
14 pollution. For the purposes of this paragraph, "off-road recreational motor
15 vehicle" means three and four wheel vehicles manufactured for recreational
16 nonhighway all terrain travel.
- 17 44. Acquire land for roads, drainage ways and other public purposes by
18 exchange without public auction, except that notice shall be published thirty
19 days before the exchange, listing the property ownership and descriptions.
- 20 45. Purchase real property for public purposes, provided that final
21 payment shall be made not later than five years after the date of purchase.
- 22 46. Lease-purchase real property and improvements for real property for
23 public purposes, provided that final payment shall be made not later than
24 twenty-five years after the date of purchase. Any increase in the final
25 payment date from fifteen years up to the maximum of twenty-five years shall
26 be made only on unanimous approval by the board of supervisors.
- 27 47. Make and enforce ordinances for the protection and disposition of
28 domestic animals subject to inhumane, unhealthful or dangerous conditions or
29 circumstances provided that nothing in this paragraph limits or restricts the
30 authority granted to incorporated cities and towns or counties pursuant to
31 section 13-2910. An ordinance enacted pursuant to this paragraph shall not
32 restrict or limit the authority of the game and fish commission to regulate
33 the taking of wildlife. For the purposes of this paragraph, "domestic
34 animal" means an animal kept as a pet and not primarily for economic
35 purposes.
- 36 48. If a part of a parcel of land is to be taken for roads, drainage,
37 flood control or other public purposes and the board and the affected
38 property owner determine that the remainder will be left in such a condition
39 as to give rise to a claim or litigation concerning severance or other
40 damage, acquire the whole parcel by purchase, donation, dedication, exchange,
41 condemnation or other lawful means, and the remainder may be sold or
42 exchanged for other properties needed for any public purpose.

1 49. Make and enforce necessary rules providing for the reimbursement of
2 travel and subsistence expenses of members of county boards, commissions and
3 advisory committees when acting in the performance of their duties, if the
4 board, commission or advisory committee is authorized or required by federal
5 or state law or county ordinance, and the members serve without compensation.

6 50. Provide a plan or plans for county employee benefits that allow for
7 participation in a cafeteria plan that meets the requirements of the United
8 States internal revenue code of 1986.

9 51. Provide for fringe benefits for county employees, including sick
10 leave, personal leave, vacation and holiday pay and jury duty pay.

11 52. Make and enforce ordinances that are more restrictive than state
12 requirements to reduce or encourage the reduction of carbon monoxide and
13 ozone levels, provided an ordinance does not establish a standard for
14 vehicular emissions, including ordinances to reduce or encourage the
15 reduction of the commuter use of motor vehicles by employees of the county
16 and employees whose place of employment is in unincorporated areas of the
17 county.

18 53. Make and enforce ordinances to provide for the reimbursement of up
19 to one hundred ~~per-cent~~ PERCENT of the cost to county employees of public bus
20 or van pool transportation to and from their place of employment.

21 54. Lease for public purposes any real property, improvements for real
22 property and personal property under the same terms and conditions, to the
23 extent applicable, as are specified in sections 11-651 and 11-653 for
24 lease-purchases.

25 55. ~~EXCEPT AS PROHIBITED BY SECTION 11-269.13,~~ enact ordinances
26 prescribing regulation of alarm systems and providing for civil penalties to
27 reduce the incidence of false alarms at business and residential structures
28 relating to burglary, robbery, fire and other emergencies not within the
29 limits of an incorporated city or town.

30 56. In addition to paragraph 9 of this section, and notwithstanding
31 section 23-504, sell or dispose of, at no less than fair market value, county
32 personal property that the board deems no longer useful or necessary through
33 a retail outlet or to another government entity if the personal property has
34 a fair market value of no more than one thousand dollars, or by retail sale
35 or private bid, if the personal property has a fair market value of no more
36 than fifteen thousand dollars. Notice of sales in excess of one thousand
37 dollars shall include a description and sale price of each item and shall be
38 published in a newspaper of general circulation in the county, and for thirty
39 days after notice other bids may be submitted that exceed the sale price by
40 at least five ~~per-cent~~ PERCENT. The county shall select the highest bid
41 received at the end of the thirty day period.

1 57. Sell services, souvenirs, sundry items or informational
2 publications that are uniquely prepared for use by the public and by
3 employees and license and sell information systems and intellectual property
4 developed from county resources that the county is not obligated to provide
5 as a public record.

6 58. On unanimous consent of the board of supervisors, license, lease or
7 sell any county property pursuant to paragraphs 56 and 57 of this section at
8 less than fair market value to any other governmental entity, including this
9 state, cities, towns, public improvement districts or other counties within
10 or outside of this state, or for a specific purpose to any charitable, social
11 or benevolent nonprofit organization incorporated or operating in this state.

12 59. On unanimous consent of the board of supervisors, provide technical
13 assistance and related services to a fire district pursuant to an
14 intergovernmental agreement.

15 60. Adopt contracting procedures for the operation of a county health
16 system pursuant to section 11-291. Before the adoption of contracting
17 procedures the board shall hold a public hearing. The board shall publish
18 one notification in a newspaper of general circulation in the county seat at
19 least fifteen days before the hearing.

20 61. Enter into an intergovernmental agreement pursuant to chapter 7,
21 article 3 of this title for a city or town to provide emergency fire or
22 emergency medical services pursuant to section 9-500.23 to a county island as
23 defined in section 11-251.12. The board may charge the owners of record in
24 the county island a fee to cover the cost of an intergovernmental agreement
25 that provides fire and emergency medical services.

26 62. In counties that employ or have designated an animal control county
27 enforcement agent pursuant to section 11-1005, enter into agreements with
28 foundations or charitable organizations to solicit donations, property or
29 services, excluding enforcement or inspection services, for use by the county
30 enforcement agent solely to perform nonmandated services and to fund capital
31 improvements for county animal control, subject to annual financial and
32 performance audits by an independent party as designated by the county board
33 of supervisors. For the purposes of this paragraph, nonmandated services are
34 limited to low cost spay and neuter services, public education and outreach
35 efforts, pet adoption efforts, care for pets that are victims of cruelty or
36 neglect and support for volunteer programs.

37 63. Adopt and provide for the enforcement of ordinances prohibiting
38 open fires and campfires on designated lands in the unincorporated areas of
39 the county when a determination of emergency is issued by the county
40 emergency management officer and the board deems it necessary to protect
41 public health and safety on those lands.

42 64. Fix the amount of license fees to be paid by any person, firm,
43 corporation or association for carrying on any game or amusement business in
44 unincorporated areas of the county and prescribe the method of collection or
45 payment of those fees, for a stated period in advance, and fix penalties for

1 failure to comply by fine. Nothing in this article shall be construed as
2 authorizing any county to require an occupational license or fee for any
3 activity if state law precludes requiring such a license or fee.

4 65. Adopt and enforce ordinances for the prevention, abatement and
5 removal of graffiti, providing that any restrictions on the retail display of
6 potential graffiti tools be limited to any of the following, as determined by
7 the retail business:

8 (a) In a place that is in the line of sight of a cashier or in the
9 line of sight from a work station normally continuously occupied during
10 business hours.

11 (b) In a manner that makes the product accessible to a patron of the
12 business establishment only with the assistance of an employee of the
13 establishment.

14 (c) In an area electronically protected, or viewed by surveillance
15 equipment that is monitored, during business hours.

16 66. Adopt ordinances and fees related to the implementation of a local
17 stormwater quality program pursuant to title 49, chapter 2, article 11.

18 Sec. 3. Title 11, chapter 2, article 4, Arizona Revised Statutes, is
19 amended by adding section 11-269.13, to read:

20 11-269.13. Alarm businesses and alarm agents; state preemption;
21 definitions

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26 B. A COUNTY MAY NOT REQUIRE AN ALARM BUSINESS TO PROVIDE ANY
27 INFORMATION REGARDING THE ALARM SUBSCRIBERS OF THE ALARM BUSINESS WITHOUT A
28 COURT ORDER.

29 C. A COUNTY THAT VIOLATES THIS SECTION SHALL REIMBURSE A PREVAILING
30 PARTY FOR FEES AND EXPENSES. A COURT MAY ASSESS CIVIL PENALTIES AGAINST THE
31 COUNTY.

32 D. FOR THE PURPOSES OF THIS SECTION:

33 1. "ALARM" OR "ALARM SYSTEM":

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36 USED TO DETECT AN UNAUTHORIZED ENTRY INTO A BUILDING OR OTHER FACILITY OR
37 ALERT OTHER PERSONS OF THE OCCURRENCE OF A MEDICAL EMERGENCY OR THE
38 COMMISSION OF AN UNLAWFUL ACT AGAINST A PERSON OR IN A BUILDING OR OTHER
39 FACILITY.

40 (b) INCLUDES A SILENT, PANIC, HOLDUP, ROBBERY, DURESS, BURGLARY,
41 MEDICAL ALERT OR PROPRIETOR ALARM THAT REQUIRES EMERGENCY PERSONNEL TO
42 RESPOND.

1 (c) DOES NOT INCLUDE A TELEPHONE CALL DIVERTER OR A SYSTEM THAT IS
2 DESIGNED TO REPORT ENVIRONMENTAL AND OTHER OCCURRENCES AND THAT IS NOT
3 DESIGNED OR USED TO ALERT OR CAUSE OTHER PERSONS TO ALERT PUBLIC SAFETY
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5 2. "ALARM AGENT":

6 (a) MEANS A PERSON, WHETHER AN EMPLOYEE, AN INDEPENDENT CONTRACTOR OR
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12 (ii) IS ACTING ON BEHALF OF AN ALARM BUSINESS WHOSE WORK DUTIES DO NOT
13 INCLUDE VISITING THE LOCATION WHERE AN ALARM SYSTEM INSTALLATION OCCURS.

14 3. "ALARM BUSINESS":

15 (a) MEANS ANY PERSON THAT, EITHER ALONE OR THROUGH A THIRD PARTY,
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18 (ii) SELLING, LEASING, RENTING, MAINTAINING, REPAIRING OR INSTALLING A
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25 MOTOR VEHICLE.

26 (iii) A PERSON THAT INSTALLS A NONMONITORED PROPRIETOR ALARM FOR A
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28 (iv) THE INSTALLATION OR MONITORING OF FIRE ALARM SYSTEMS.

29 (v) AN ALARM SYSTEM THAT IS OPERATED BY A CITY OR TOWN.

30 4. "ALARM SUBSCRIBER" MEANS ANY PERSON THAT:

31 (a) LEASES, RENTS OR PURCHASES ANY MONITORED ALARM SYSTEM OR SERVICE
32 FROM AN ALARM BUSINESS.

33 (b) LEASES OR RENTS AN ALARM SYSTEM.

34 (c) CONTRACTS WITH AN ALARM BUSINESS FOR ALARM MONITORING,
35 INSTALLATION, REPAIR OR MAINTENANCE SERVICES.

36 5. "MONITORED ALARM" MEANS A DEVICE THAT IS DESIGNED FOR THE DETECTION
37 OF AN ENTRY ON ANY PREMISES AND THAT IF ACTIVATED GENERATES A NOTIFICATION
38 SIGNAL.

39 Sec. 4. Section 32-101, Arizona Revised Statutes, is amended to read:
40 32-101. Purpose; definitions

41 A. The purpose of this chapter is to provide for the safety, health
42 and welfare of the public through the promulgation and enforcement of
43 standards of qualification for those individuals WHO ARE registered or
44 certified and seeking registration or certification pursuant to this chapter.

- 1 B. In this chapter, unless the context otherwise requires:
2 1. "Advertising" includes business cards, signs or letterhead provided
3 by a person to the public.
4 ~~2. "Alarm" or "alarm system":~~
5 ~~(a) Means any mechanical or electrical device that is designed to emit~~
6 ~~an audible alarm or transmit a signal or message if activated and that is~~
7 ~~used to detect an unauthorized entry into a building or other facility or~~
8 ~~alert other persons of the occurrence of a medical emergency or the~~
9 ~~commission of an unlawful act against a person or in a building or other~~
10 ~~facility.~~
11 ~~(b) Includes a silent, panic, holdup, robbery, duress, burglary,~~
12 ~~medical alert or proprietor alarm that requires emergency personnel to~~
13 ~~respond.~~
14 ~~(c) Does not include a telephone call diverter or a system that is~~
15 ~~designed to report environmental and other occurrences and that is not~~
16 ~~designed or used to alert or cause other persons to alert public safety~~
17 ~~personnel.~~
18 ~~3. "Alarm agent":~~
19 ~~(a) Means a person, whether an employee, an independent contractor or~~
20 ~~otherwise, who acts on behalf of an alarm business and who tests, maintains,~~
21 ~~services, repairs, sells, rents, leases or installs alarm systems.~~
22 ~~(b) Does not include any action by a person that:~~
23 ~~(i) Is performed in connection with an alarm system located on the~~
24 ~~person's own property or the property of the person's employer.~~
25 ~~(ii) Is acting on behalf of an alarm business whose work duties do not~~
26 ~~include visiting the location where an alarm system installation occurs.~~
27 ~~4. "Alarm business":~~
28 ~~(a) Means any person who, either alone or through a third party,~~
29 ~~engages in the business of either of the following:~~
30 ~~(i) Providing alarm monitoring services.~~
31 ~~(ii) Selling, leasing, renting, maintaining, repairing or installing a~~
32 ~~nonproprietor alarm system or service.~~
33 ~~(b) Does not include any of the following:~~
34 ~~(i) A person or company that purchases, rents or uses an alarm that is~~
35 ~~affixed to a motor vehicle.~~
36 ~~(ii) A person who owns or conducts a business of selling, leasing,~~
37 ~~renting, installing, maintaining or monitoring an alarm that is affixed to a~~
38 ~~motor vehicle.~~
39 ~~(iii) A person who installs a nonmonitored proprietor alarm for a~~
40 ~~business that the person owns, is employed by or manages.~~
41 ~~(iv) The installation or monitoring of fire alarm systems.~~
42 ~~(v) An alarm system that is operated by a city or town.~~

1 ~~5. "Alarm subscriber" means any person who:~~
2 ~~(a) Leases, rents or purchases any monitored alarm system or service~~
3 ~~from an alarm business.~~
4 ~~(b) Leases or rents an alarm system.~~
5 ~~(c) Contracts with an alarm business for alarm monitoring,~~
6 ~~installation, repair or maintenance services.~~
7 ~~6.~~ 2. "Architect" means a person who, by reason of knowledge of the
8 mathematical and physical sciences and the principles of architecture and
9 architectural engineering acquired by professional education and practical
10 experience, is qualified to engage in the practice of architecture as
11 attested by registration as an architect.
12 ~~7.~~ 3. "Architect-in-training" means a candidate for registration as a
13 professional architect who is a graduate of a school approved by the board or
14 who has five years or more of education or experience, or both, in
15 architectural work ~~which~~ THAT meets standards specified by the board in its
16 rules. In addition, the candidate shall have passed the
17 architect-in-training examination.
18 ~~8.~~ 4. "Architectural practice" means any professional service or
19 creative work requiring architectural education, training and experience, and
20 the application of the mathematical and physical sciences and the principles
21 of architecture and architectural engineering to such professional services
22 or creative work as consultation, evaluation, design and review of
23 construction for conformance with contract documents and design, in
24 connection with any building, planning or site development. A person shall
25 be deemed to practice or offer to practice architecture who in any manner
26 represents that the person is an architect,~~—~~ or is able to perform any
27 architectural service or other services recognized by educational authorities
28 as architecture.
29 ~~9.~~ 5. "Assayer" means a person who analyzes metals, ores, minerals,~~—~~
30 or alloys in order to ascertain the quantity of gold or silver or any other
31 substance present in them. A person employed on a full-time basis as an
32 assayer by an employer engaged in the business of developing, mining or
33 treating ores or other minerals shall not be deemed to be engaged in assaying
34 practice for the purposes of this chapter if the person engages in assaying
35 practice exclusively for and as an employee of such employer and does not
36 represent that the person is available and is not represented as being
37 available to perform any assaying services for anyone other than the person's
38 employer.
39 ~~10.~~ 6. "Assayer-in-training" means a candidate for registration as a
40 professional assayer who is a graduate of a school and curriculum approved by
41 the board or who has four years or more of education or experience, or both,
42 in assaying work ~~which~~ THAT meets standards specified by the board in its
43 rules. In addition, the candidate shall have passed the assayer-in-training
44 examination.

1 ~~11.~~ 7. "Assaying practice" means any professional service or work
2 requiring assaying education, training and experience and the application of
3 special knowledge of the mineral sciences to such service or work as
4 consultation and the evaluation of minerals. A person is deemed to practice
5 or offer to practice assaying who in any manner represents that the person is
6 an assayer or is able to perform any assaying service or other services
7 recognized by educational authorities as assaying.

8 ~~12.~~ 8. "Board" means the state board of technical registration.

9 ~~13.~~ 9. "Certified remediation specialist" means a person who has been
10 certified by the board to perform, supervise and review environmental
11 remediations if the use of a certified remediation specialist is specifically
12 authorized by title 49 and rules adopted pursuant to title 49.

13 ~~14. "Controlling person":~~

14 ~~(a) Means a person who is designated by an alarm business.~~

15 ~~(b) Does not include an alarm agent.~~

16 ~~15.~~ 10. "Drug laboratory site remediation firm" means a firm that is
17 licensed by the registrar of contractors pursuant to chapter 10 of this title
18 and that performs remediation of residual contamination from the manufacture
19 of methamphetamine, ecstasy or LSD or the storage of chemicals or equipment
20 used in manufacturing methamphetamine, ecstasy or LSD. For the purposes of
21 this paragraph:

22 (a) "Ecstasy" has the same meaning prescribed in section 13-3401,
23 paragraph 6 and includes any of the precursor chemicals, regulated chemicals,
24 other substances or equipment used in the unlawful manufacture of the
25 dangerous drug.

26 (b) "LSD" has the same meaning prescribed in section 13-3401,
27 paragraph 6 and includes any of the precursor chemicals, regulated chemicals,
28 other substances or equipment used in the unlawful manufacture of the
29 dangerous drug.

30 (c) "Methamphetamine" has the same meaning prescribed in section
31 13-3401, paragraph 6 and includes any of the precursor chemicals, regulated
32 chemicals, other substances or equipment used in the unlawful manufacture of
33 the dangerous drug.

34 ~~16.~~ 11. "Engineer" means a person who, by reason of special knowledge
35 of the mathematical and physical sciences and the principles and methods of
36 engineering analysis and design acquired by professional education and
37 practical experience, is qualified to practice engineering as attested by
38 registration as a professional engineer.

39 ~~17.~~ 12. "Engineering practice" means any professional service or
40 creative work requiring engineering education, training and experience and
41 the application of special knowledge of the mathematical, physical and
42 engineering sciences to such professional services or creative work as
43 consultation, research investigation, evaluation, planning, surveying as
44 defined in paragraph ~~27~~ 22, subdivisions (d) and (e) of this subsection,
45 design, location, development, and review of construction for conformance

1 with contract documents and design, in connection with any public or private
2 utility, structure, building, machine, equipment, process, work or project.
3 Such services and work include plans and designs relating to the location,
4 development, mining and treatment of ore and other minerals. A person shall
5 be deemed to be practicing or offering to practice engineering if the person
6 practices any branch of the profession of engineering, or by verbal claim,
7 sign, advertisement, letterhead, card or any other manner represents that the
8 person is a professional engineer, ~~or~~ or is able to perform or does perform any
9 engineering service or other service recognized by educational authorities as
10 engineering. A person employed on a full-time basis as an engineer by an
11 employer engaged in the business of developing, mining and treating ores and
12 other minerals shall not be deemed to be practicing engineering for the
13 purposes of this chapter if the person engages in the practice of engineering
14 exclusively for and as an employee of such employer and does not represent
15 that the person is available and is not represented as being available to
16 perform any engineering services for persons other than the person's
17 employer.

18 ~~18.~~ 13. "Engineer-in-training" means a candidate for registration as a
19 professional engineer who is a graduate in an approved engineering curriculum
20 of four years or more of a school approved by the board or who has ~~had~~ four
21 years or more of education or experience, or both, in engineering work ~~which~~
22 ~~THAT~~ meets standards specified by the board in its rules. In addition, the
23 candidate shall have passed the engineer-in-training examination.

24 ~~19.~~ 14. "Firm" means any individual or partnership, corporation or
25 other type of association, including the association of a nonregistrant and a
26 registrant who offers to the public professional services regulated by the
27 board.

28 ~~20.~~ 15. "Geological practice" means any professional service or work
29 requiring geological education, training and experience, ~~and~~ and the application
30 of special knowledge of the earth sciences to such professional services as
31 consultation, evaluation of mining properties, petroleum properties and
32 groundwater resources, professional supervision of exploration for mineral
33 natural resources including metallic and nonmetallic ores, petroleum and
34 groundwater, and the geological phases of engineering investigations.

35 ~~21.~~ 16. "Geologist" means a person, not of necessity an engineer, who
36 by reason of special knowledge of the earth sciences and the principles and
37 methods of search for and appraisal of mineral or other natural resources
38 acquired by professional education and practical experience is qualified to
39 practice geology as attested by registration as a professional geologist. A
40 person employed on a full-time basis as a geologist by an employer engaged in
41 the business of developing, mining or treating ores and other minerals shall
42 not be deemed to be engaged in geological practice for the purposes of this
43 chapter if the person engages in geological practice exclusively for and as
44 an employee of such employer and does not represent that the person is

1 available and is not represented as being available to perform any geological
2 services for persons other than the person's employer.

3 ~~22-~~ 17. "Geologist-in-training" means a candidate for registration as
4 a professional geologist who is a graduate of a school approved by the board
5 or who has had four years or more of education or experience, or both, in
6 geological work which THAT meets standards specified by the board in its
7 rules. In addition, the candidate shall have passed the
8 geologist-in-training examination.

9 ~~23-~~ 18. "Home inspection" means a visual analysis for the purposes of
10 providing a professional opinion of the building, any reasonably accessible
11 installed components and the operation of the building's systems, including
12 the controls normally operated by the owner, for the following components of
13 a residential building of four units or less:

- 14 (a) Heating system.
- 15 (b) Cooling system.
- 16 (c) Plumbing system.
- 17 (d) Electrical system.
- 18 (e) Structural components.
- 19 (f) Foundation.
- 20 (g) Roof covering.
- 21 (h) Exterior and interior components.
- 22 (i) Site aspects as they affect the building.
- 23 (j) Pursuant to rules adopted by the board, swimming pool and spa.

24 ~~24-~~ 19. "Home inspection report" means a written report that is
25 prepared for compensation, that is issued after a home inspection and that
26 clearly describes and identifies the inspected systems, structures and
27 components of a completed dwelling and any visible major defects found to be
28 in need of immediate major repair and any recommendations for additional
29 evaluation by appropriate persons.

30 ~~25-~~ 20. "Home inspector" means an individual who is certified pursuant
31 to this chapter as a home inspector and who engages in the business of
32 performing home inspections and writing home inspection reports.

33 ~~26-~~ 21. "Home inspector-in-training" means a candidate for
34 certification as a home inspector who has completed a course of study
35 approved by the board and who is participating in a training program that
36 complies with standards recommended by the home inspector rules and standards
37 committee and approved by the board.

38 ~~27-~~ 22. "Land surveying practice" means the performance of one or more
39 of the following professional services:

- 40 (a) Measurement of land to determine the position of any monument or
41 reference point which THAT marks a property line, boundary or corner for the
42 purpose of determining the area or description of the land.
- 43 (b) Location, relocation, establishment, reestablishment, setting,
44 resetting or replacing of corner monuments or reference points which identify
45 land boundaries, rights-of-way or easements.

1 (c) Platting or plotting of lands for the purpose of subdividing.

2 (d) Measurement by angles, distances and elevations of natural or
3 artificial features in the air, on the surface and immediate subsurface of
4 the earth, within underground workings and on the surface or within bodies of
5 water for the purpose of determining or establishing their location, size,
6 shape, topography, grades, contours or water surface and depths, and the
7 preparation and perpetuation of field note records and maps depicting these
8 features.

9 (e) Setting, resetting or replacing of points to guide the location of
10 new construction.

11 ~~28.~~ 23. "Land surveyor" means a person who by reason of knowledge of
12 the mathematical and physical sciences, principles of land surveying and
13 evidence gathering acquired by professional education or practical
14 experience, or both, is qualified to practice land surveying as attested by
15 registration as a land surveyor. A person employed on a full-time basis as a
16 land surveyor by an employer engaged in the business of developing, mining or
17 treating ores or other minerals shall not be deemed to be engaged in land
18 surveying practice for purposes of this chapter if the person engages in land
19 surveying practice exclusively for and as an employee of such employer and
20 does not represent that the person is available and is not represented as
21 being available to perform any land surveying services for persons other than
22 the person's employer.

23 ~~29.~~ 24. "Land surveyor-in-training" means a candidate for registration
24 as a professional land surveyor who is a graduate of a school and curriculum
25 approved by the board, ~~or~~ or who has four years or more of education or
26 experience, or both, in land surveying work ~~which~~ THAT meets standards
27 specified by the board in its rules. In addition, the candidate shall have
28 passed the land surveyor-in-training examination.

29 ~~30.~~ 25. "Landscape architect" means a person who, by reason of
30 professional education or practical experience, or both, is qualified to
31 engage in the practice of landscape architecture as attested by registration
32 as a landscape architect.

33 ~~31.~~ 26. "Landscape architect-in-training" means a candidate for
34 registration as a professional landscape architect who is a graduate of a
35 school approved by the board or who has ~~had~~ four years or more of education
36 or experience, or both, in landscape architectural work ~~which~~ THAT meets
37 standards specified by the board in its rules. In addition, the candidate
38 shall have passed the landscape architect-in-training examination.

39 ~~32.~~ 27. "Landscape architectural practice" means the performance of
40 professional services such as consultations, investigation, reconnaissance,
41 research, planning, design or responsible supervision in connection with the
42 development of land and incidental water areas where, and to the extent that,
43 the dominant purpose of such services is the preservation, enhancement or
44 determination of proper land uses, natural land features, ground cover and
45 planting, naturalistic and aesthetic values, the settings of and approaches

1 to buildings, structures, facilities or other improvements, natural drainage
2 and the consideration and the determination of inherent problems of the land
3 relating to erosion, wear and tear, light or other hazards. This practice
4 shall include the location and arrangement of such tangible objects and
5 features as are incidental and necessary to the purposes outlined in this
6 paragraph but shall not include the making of cadastral surveys or final land
7 plats for official recording or approval, nor mandatorily include planning
8 for governmental subdivisions.

9 ~~33. "Monitored alarm" means a device that is designed for the detection~~
10 ~~of an entry on any premises and that if activated generates a notification~~
11 ~~signal.~~

12 34. 28. "On-site supervisor" means the employee of a drug laboratory
13 site remediation firm who is authorized to oversee on-site workers in the
14 performance of their duties.

15 35. 29. "On-site worker" means an employee of a drug laboratory site
16 remediation firm who has on-site duties or who handles contaminated
17 materials, chemicals or contaminated equipment.

18 36. 30. "Person" means any individual, firm, partnership, corporation,
19 association or other organization.

20 37. 31. "Principal" means an individual who is an officer of the
21 corporation or is designated by a firm as having full authority and
22 responsible charge of the services offered by the firm.

23 38. ~~"Proprietor alarm" means any alarm or alarm system that is owned by~~
24 ~~an alarm subscriber who has not contracted with an alarm business.~~

25 39. 32. "Registrant" means a person registered or certified by the
26 board.

27 40. 33. "Registration" means a registration or certification issued by
28 the board.

29 Sec. 5. Section 32-106, Arizona Revised Statutes, is amended to read:

30 32-106. Powers and duties

31 A. The board shall:

32 1. Adopt rules for the conduct of its meetings and performance of
33 duties imposed ~~upon~~ ON it by law.

34 2. Adopt an official seal for attestation of certificates of
35 registration and other official papers and documents.

36 3. Consider and pass upon applications for registration or
37 certification.

38 4. Conduct examinations for in-training and professional registration
39 ~~except for an alarm business or an alarm agent.~~

40 5. Hear and pass upon complaints or charges or direct an
41 administrative law judge to hear and pass on complaints and charges.

42 6. Compel attendance of witnesses, administer oaths and take testimony
43 concerning all matters coming within its jurisdiction. In exercising these
44 powers, the board may issue subpoenas for the attendance of witnesses and the

1 production of books, records, documents and other evidence it deems relevant
2 to an investigation or hearing.

3 7. Keep a record of its proceedings.

4 8. Keep a register ~~which shall show~~ THAT SHOWS the date of each
5 application for registration or certification, the name of the applicant, the
6 practice or branch of practice in which the applicant has applied for
7 registration, if applicable, and the disposition of the application.

8 9. Do other things necessary to carry out the purposes of this
9 chapter.

10 B. The board shall specify the proficiency designation in the branch
11 of engineering in which the applicant has designated proficiency on the
12 certificate of registration and renewal card issued to each registered
13 engineer and shall authorize the engineer to use the title of registered
14 professional engineer. The board shall decide what branches of engineering
15 it shall recognize.

16 C. The board may hold membership in and be represented at national
17 councils or organizations of proficiencies registered under this chapter and
18 may pay the appropriate membership fees. The board may conduct standard
19 examinations on behalf of national councils and may establish fees for those
20 examinations.

21 D. The board may employ and pay on a fee basis persons, including
22 full-time employees of a state institution, bureau or department, to prepare
23 and grade examinations given to applicants for registration and may fix the
24 fee to be paid for these services. These employees are authorized to
25 prepare, grade and monitor examinations and perform other services the board
26 authorizes, and to receive payment for these services from the technical
27 registration fund. The board may contract with an organization to administer
28 the registration examination, including selecting the test site, scheduling
29 the examination, billing and collecting the fee directly from the applicant
30 and grading the examination if a national council of which the board is a
31 member or a professional association approved by the board does not provide
32 these services. If a national council of which the board is a member or a
33 professional association approved by the board does provide these services,
34 the board shall enter into an agreement with the national council or
35 professional association to administer the registration examination.

36 E. The board may rent necessary office space and pay the cost of this
37 office space from the technical registration fund.

38 F. The board may adopt rules establishing rules of professional
39 conduct for registrants.

40 G. The board may require evidence it deems necessary to establish the
41 continuing competency of registrants as a condition of renewal of licenses.

42 H. Subject to title 41, chapter 4, article 4, the board may employ
43 persons as it deems necessary.

1 I. The board shall issue a certificate and renewal card to each drug
2 laboratory site remediation firm, remediation supervisor and on-site worker.

3 ~~J. The board shall issue or may authorize the executive director to~~
4 ~~issue a certificate or renewal certificate to each alarm business and a~~
5 ~~certification or renewal certification card to each alarm agent if the~~
6 ~~qualifications prescribed by this chapter are met.~~

7 Sec. 6. Repeal

8 Section 32-113, Arizona Revised Statutes, is repealed.

9 Sec. 7. Section 32-121, Arizona Revised Statutes, is amended to read:

10 32-121. Certificate or registration required for practice

11 ~~Except as otherwise provided in this section,~~ A person or firm desiring
12 to practice any board-regulated profession or occupation shall first secure a
13 certificate or registration and shall comply with all the conditions
14 prescribed in this chapter. ~~An alarm business or an alarm agent may install~~
15 ~~alarms as follows:~~

16 ~~1. The alarm business has submitted an application for certification~~
17 ~~pursuant to section 32-122.05 or is a licensed contractor pursuant to chapter~~
18 ~~10 of this title.~~

19 ~~2. The alarm agent has submitted an application and fingerprints to~~
20 ~~the board pursuant to section 32-122.06.~~

21 Sec. 8. Repeal

22 Sections 32-122.05, 32-122.06 and 32-122.07, Arizona Revised Statutes,
23 are repealed.

24 Sec. 9. Section 32-1121, Arizona Revised Statutes, is amended to read:

25 32-1121. Persons not required to be licensed: penalties:
26 applicability

27 A. This chapter shall not be construed to apply to:

28 1. An authorized representative of the United States government, this
29 state or any county, incorporated city or town, reclamation district,
30 irrigation district or other municipality or political subdivision of this
31 state.

32 2. Trustees of an express trust that is not formed for the purpose of
33 conducting business as a contractor or officers of a court, if they are
34 acting within the terms of their trust or office.

35 3. Public utilities operating under regulation of the corporation
36 commission or construction, repair or operation incidental to discovering or
37 producing petroleum or gas, or the drilling, testing, abandoning or other
38 operation of a petroleum or gas well, if performed by an owner or lessee.

39 4. Any materialman, manufacturer or retailer who furnishes finished
40 products, materials or articles of merchandise and who does not install or
41 attach such items or installs or attaches such items if the total value of
42 the sales contract or transaction involving such items and the cost of the
43 installation or attachment of such items to a structure does not exceed one
44 thousand dollars, including labor, materials and all other items, but
45 excluding any electrical fixture or appliance that was designed by the

1 manufacturer, that is unaltered, unchanged or unmodified by any person, that
2 can be plugged into a common household electrical outlet utilizing a
3 two-pronged or three-pronged electrical connector and that does not use any
4 other form of energy, including natural gas, propane or other petroleum or
5 gaseous fuel, to operate or is attached by a nail, screw or other fastening
6 device to the frame or foundation of any residential structure. The
7 materialman, manufacturer or retailer shall inform the purchaser that the
8 installation may also be performed by a licensed contractor whose name and
9 address the purchaser may request.

10 5. Owners of property who improve such property or who build or
11 improve structures or appurtenances on such property and who do the work
12 themselves, with their own employees or with duly licensed contractors, if
13 the structure, group of structures or appurtenances, including the
14 improvements thereto, are intended for occupancy solely by the owner and are
15 not intended for occupancy by members of the public as the owner's employees
16 or business visitors and the structures or appurtenances are not intended for
17 sale or for rent. In all actions brought under this chapter, except an
18 action against an owner-occupant as defined in section 33-1002, proof of the
19 sale or rent or the offering for sale or rent of any such structure by the
20 owner-builder within one year after completion or issuance of a certificate
21 of occupancy is prima facie evidence that such project was undertaken for the
22 purpose of sale or rent. For the purposes of this paragraph, "sale" or
23 "rent" includes any arrangement by which the owner receives compensation in
24 money, provisions, chattels or labor from the occupancy or the transfer of
25 the property or the structures on the property.

26 6. Owners of property who are acting as developers and who build
27 structures or appurtenances to structures on their property for the purpose
28 of sale or rent and who contract for such a project with a general contractor
29 licensed pursuant to this chapter and owners of property who are acting as
30 developers, who improve structures or appurtenances to structures on their
31 property for the purpose of sale or rent and who contract for such a project
32 with a general contractor or specialty contractors licensed pursuant to this
33 chapter. To qualify for the exemption under this paragraph, the licensed
34 contractors' names and license numbers shall be included in all sales
35 documents.

36 7. Architects or engineers who are engaging in their professional
37 practice as defined in chapter 1 of this title and who hire or offer to hire
38 the services of a contractor for preconstruction activities relating to
39 investigation and discovery, including:

- 40 (a) Subsurface utility location and designation services.
- 41 (b) Potholing.
- 42 (c) Drilling for any of the following:
 - 43 (i) Soil samples.
 - 44 (ii) Rock samples.
 - 45 (iii) Pavement samples.

1 (d) Locating existing features of a building or structure, including
2 existing electrical, mechanical, plumbing and structural members.

3 8. A person licensed, certified or registered pursuant to chapter 22
4 of this title or a person working under the direct supervision of a person
5 certified or qualified pursuant to chapter 22 of this title to the extent the
6 person is engaged in pest management.

7 9. The sale or installation of finished products, materials or
8 articles of merchandise that are not fabricated into and do not become a
9 permanent fixed part of the structure. This exemption does not apply if a
10 local building permit is required, if the total price of the finished
11 product, material or article of merchandise, including labor but excluding
12 any electrical fixture or appliance that was designed by the manufacturer,
13 that is unaltered, unchanged or unmodified by any person, that can be plugged
14 into a common household electrical outlet utilizing a two-pronged or
15 three-pronged electrical connector and that does not use any other form of
16 energy, including natural gas, propane or other petroleum or gaseous fuel, to
17 operate or is attached by a nail, screw or other fastening device to the
18 frame or foundation of any residential structure, is more than one thousand
19 dollars or if the removal of the finished product, material or article of
20 merchandise causes damage to the structure or renders the structure unfit for
21 its intended use.

22 10. Employees of the owners of condominiums, townhouses, cooperative
23 units or apartment complexes of four units or less or the owners' management
24 agent or employees of the management agent repairing or maintaining
25 structures owned by them.

26 11. Any person who engages in the activities regulated by this chapter,
27 as an employee of an exempt property owner or as an employee with wages as
28 the person's sole compensation.

29 12. A surety company or companies that are authorized to transact
30 business in this state and that undertake to complete a contract on which
31 they issued a performance or completion bond, provided all construction work
32 is performed by duly licensed contractors.

33 13. Insurance companies that are authorized to transact business in
34 this state and that undertake to perform repairs resulting from casualty
35 losses pursuant to the provisions of a policy, provided all construction work
36 is performed by duly licensed contractors.

37 14. Any person other than a licensed contractor engaging in any work or
38 operation on one undertaking or project by one or more contracts, for which
39 the aggregate contract price, including labor, materials and all other items,
40 but excluding any electrical fixture or appliance that was designed by the
41 manufacturer, that is unaltered, unchanged or unmodified by any person, that
42 can be plugged into a common household electrical outlet utilizing a
43 two-pronged or three-pronged electrical connector and that does not use any
44 other form of energy, including natural gas, propane or other petroleum or
45 gaseous fuel, to operate or is attached by a nail, screw or other fastening

1 device to the frame or foundation of any residential structure, is less than
2 one thousand dollars. The work or operations that are exempt under this
3 paragraph shall be of a casual or minor nature. This exemption does not
4 apply:

5 (a) In any case in which the performance of the work requires a local
6 building permit.

7 (b) In any case in which the work or construction is only a part of a
8 larger or major operation, whether undertaken by the same or a different
9 contractor, or in which a division of the operation is made in contracts of
10 amounts less than one thousand dollars, excluding any electrical fixture or
11 appliance that was designed by the manufacturer, that is unaltered, unchanged
12 or unmodified by any person, that can be plugged into a common household
13 electrical outlet utilizing a two-pronged or three-pronged electrical
14 connector and that does not use any other form of energy, including natural
15 gas, propane or other petroleum or gaseous fuel, to operate or is attached by
16 a nail, screw or other fastening device to the frame or foundation of any
17 residential structure, for the purpose of evasion of this chapter or
18 otherwise.

19 (c) To a person who utilizes any form of advertising to the public in
20 which the person's unlicensed status is not disclosed by including the words
21 "not a licensed contractor" in the advertisement.

22 15. A person who is licensed, certified or registered pursuant to
23 title 41, chapter 16 and who is not otherwise required to be licensed under
24 this chapter or an employee of such person.

25 16. A person who functions as a gardener by performing lawn, garden,
26 shrub and tree maintenance.

27 ~~17. Alarm agents as defined in section 32-101.~~

28 B. A person who is licensed to perform work in a particular trade
29 pursuant to this chapter shall not be required to obtain and maintain a
30 separate license for mechanical or structural service work performed within
31 the scope of such trade by such person.

32 C. Any person who does not have an exemption from licensure pursuant
33 to subsection A, paragraph 14, subdivision (c) of this section is subject to
34 prosecution for a violation of section 44-1522. The attorney general may
35 investigate the act or practice and take appropriate action pursuant to title
36 44, chapter 10, article 7.

37 D. The exemptions from licensure pursuant to subsection A, paragraphs
38 4, 9 and 14 of this section do not apply to either of the following:

39 1. All fire safety and mechanical, electrical and plumbing work that
40 is done in connection with fire safety installation and fire safety
41 maintenance and repair. For the purposes of this paragraph, "fire safety
42 installation" means hardwired or interconnected smoke alarms and fire
43 sprinklers and does not include an individual device that is attached by a
44 nail, screw or other fastening device to the frame or foundation of any
45 residential unit. For the purposes of this paragraph, fire safety

1 maintenance and repair does not include routine work that is conducted by an
2 employee of an apartment or condominium complex AND that is incidental to the
3 fire safety equipment.

4 2. All work that is done, including the installation, maintenance and
5 repair of devices, appliances or equipment, that involves the connecting to
6 any supply of natural gas, propane or other petroleum or gaseous fuel.
7 Nothing in this paragraph impacts the effect of section 36-1624.01.

8 Sec. 10. Section 42-6004, Arizona Revised Statutes, is amended to
9 read:

10 42-6004. Exemption from municipal tax

11 A. A city, town or special taxing district shall not levy a
12 transaction privilege, sales, use or other similar tax on:

13 1. Exhibition events in this state sponsored, conducted or operated by
14 a nonprofit organization that is exempt from taxation under section
15 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the
16 organization is associated with a major league baseball team or a national
17 touring professional golfing association and no part of the organization's
18 net earnings inures to the benefit of any private shareholder or individual.

19 2. Interstate telecommunications services, which include that portion
20 of telecommunications services, such as subscriber line service, allocable by
21 federal law to interstate telecommunications service.

22 3. Sales of warranty or service contracts.

23 4. Sales of motor vehicles to nonresidents of this state for use
24 outside this state if the motor vehicle dealer ships or delivers the motor
25 vehicle to a destination outside this state.

26 5. Interest on finance contracts.

27 6. Dealer documentation fees on the sales of motor vehicles.

28 7. Sales of food or other items purchased with United States
29 department of agriculture food stamp coupons issued under the food stamp act
30 of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section
31 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661,
32 section 4302; 42 United States Code section 1786) but may impose such a tax
33 on other sales of food. If a city, town or special taxing district exempts
34 sales of food from its tax or imposes a different transaction privilege rate
35 on the gross proceeds of sales or gross income from sales of food and nonfood
36 items, it shall use the definition of food prescribed by rule adopted by the
37 department pursuant to section 42-5106.

38 8. Orthodontic devices dispensed by a dental professional who is
39 licensed under title 32, chapter 11 to a patient as part of the practice of
40 dentistry.

41 9. Sales of internet access services to the person's subscribers and
42 customers. For the purposes of this paragraph:

1 (a) "Internet" means the computer and telecommunications facilities
2 that comprise the interconnected worldwide network of networks that employ
3 the transmission control protocol or internet protocol, or any predecessor or
4 successor protocol, to communicate information of all kinds by wire or radio.

5 (b) "Internet access" means a service that enables users to access
6 content, information, electronic mail or other services over the internet.
7 Internet access does not include telecommunication services provided by a
8 common carrier.

9 10. The gross proceeds of sales or gross income retained by the Arizona
10 exposition and state fair board from ride ticket sales at the annual Arizona
11 state fair.

12 11. Through August 31, 2014, sales of Arizona centennial medallions by
13 the historical advisory commission.

14 12. Leasing real property between affiliated companies, businesses,
15 persons or reciprocal insurers. For the purposes of this paragraph:

16 (a) "Affiliated companies, businesses, persons or reciprocal insurers"
17 means the lessor holds a controlling interest in the lessee, the lessee holds
18 a controlling interest in the lessor, affiliated persons hold a controlling
19 interest in both the lessor and the lessee, or an unrelated person holds a
20 controlling interest in both the lessor and lessee.

21 (b) "Affiliated persons" means members of the individual's family or
22 persons who have ownership or control of a business entity.

23 (c) "Controlling interest" means direct or indirect ownership of at
24 least eighty ~~per-cent~~ PERCENT of the voting shares of a corporation or of the
25 interests in a company, business or person other than a corporation.

26 (d) "Members of the individual's family" means the individual's spouse
27 and brothers and sisters, whether by whole or half blood, including adopted
28 persons, ancestors and lineal descendants.

29 (e) "Reciprocal insurer" has the same meaning prescribed in section
30 20-762.

31 13. The gross proceeds of sales or gross income derived from a contract
32 for the installation, assembly, repair or maintenance of machinery, equipment
33 or other tangible personal property THAT IS described in section 42-5061,
34 subsection B and that has independent functional utility, pursuant to the
35 following provisions:

36 (a) The deduction provided in this paragraph includes the gross
37 proceeds of sales or gross income derived from all of the following:

38 (i) Any activity performed on machinery, equipment or other tangible
39 personal property with independent functional utility.

40 (ii) Any activity performed on any tangible personal property relating
41 to machinery, equipment or other tangible personal property with independent
42 functional utility in furtherance of any of the purposes provided for under
43 subdivision (d) of this paragraph.

1 (iii) Any activity that is related to the activities described in
2 items (i) and (ii) of this subdivision, including inspecting the installation
3 of or testing the machinery, equipment or other tangible personal property.

4 (b) The deduction provided in this paragraph does not include gross
5 proceeds of sales or gross income from the portion of any contracting
6 activity that consists of the development of, or modification to, real
7 property in order to facilitate the installation, assembly, repair,
8 maintenance or removal of machinery, equipment or other tangible personal
9 property described in section 42-5061, subsection B.

10 (c) The deduction provided in this paragraph shall be determined
11 without regard to the size or useful life of the machinery, equipment or
12 other tangible personal property.

13 (d) For the purposes of this paragraph, "independent functional
14 utility" means that the machinery, equipment or other tangible personal
15 property can independently perform its function without attachment to real
16 property, other than attachment for any of the following purposes:

17 (i) Assembling the machinery, equipment or other tangible personal
18 property.

19 (ii) Connecting items of machinery, equipment or other tangible
20 personal property to each other.

21 (iii) Connecting the machinery, equipment or other tangible personal
22 property, whether as an individual item or as a system of items, to water,
23 power, gas, communication or other services.

24 (iv) Stabilizing or protecting the machinery, equipment or other
25 tangible personal property during operation by bolting, burying or performing
26 other dissimilar nonpermanent connections to either real property or real
27 property improvements.

28 14. The leasing or renting of certified ignition interlock devices
29 installed pursuant to the requirements prescribed by section 28-1461. For
30 the purposes of this paragraph, "certified ignition interlock device" has the
31 same meaning prescribed in section 28-1301.

32 15. Computer data center equipment purchased by the owner, operator or
33 qualified colocation tenant of the computer data center or an authorized
34 agent of the owner, operator or qualified colocation tenant during the
35 qualification period for use in a computer data center that is certified by
36 the Arizona commerce authority under section 41-1519. To qualify for this
37 deduction, at the time of purchase, the owner, operator or qualified
38 colocation tenant must present to the retailer its certificate that is issued
39 pursuant to section 41-1519 and that establishes its qualification for the
40 deduction. For the purposes of this paragraph, "computer data center",
41 "computer data center equipment", "qualification period" and "qualified
42 colocation tenant" have the same meanings prescribed in section 41-1519.

43 16. The gross proceeds of sales or gross income derived from a contract
44 with the owner of real property or the person owning the improvements to the
45 real property for the maintenance, repair, ~~or~~ replacement or alteration of

1 existing property ~~is not subject to tax under this section~~ if the contract
2 does not include modification activities, except as specified in this
3 paragraph. The gross proceeds of sales or gross income derived from a
4 de minimis amount of modification activity that is essential to the
5 completion of the maintenance, repair, replacement or alteration contract
6 does not subject the entire contract to tax under this section. For the
7 purposes of this paragraph:

8 (a) Each contract or project is independent of another contract.

9 (b) "Modification" means construction, alteration, addition,
10 subtraction, improvement, movement, wreckage or demolition.

11 17. Monitoring services relating to an alarm system ~~as defined in~~
12 ~~section 32-101~~. FOR THE PURPOSES OF THIS PARAGRAPH, "ALARM SYSTEM":

13 (a) MEANS ANY MECHANICAL OR ELECTRICAL DEVICE THAT IS DESIGNED TO EMIT
14 AN AUDIBLE ALARM OR TRANSMIT A SIGNAL OR MESSAGE IF ACTIVATED AND THAT IS
15 USED TO DETECT AN UNAUTHORIZED ENTRY INTO A BUILDING OR OTHER FACILITY OR
16 ALERT OTHER PERSONS OF THE OCCURRENCE OF A MEDICAL EMERGENCY OR THE
17 COMMISSION OF AN UNLAWFUL ACT AGAINST A PERSON OR IN A BUILDING OR OTHER
18 FACILITY.

19 (b) INCLUDES A SILENT, PANIC, HOLDUP, ROBBERY, DURESS, BURGLARY,
20 MEDICAL ALERT OR PROPRIETOR ALARM THAT REQUIRES EMERGENCY PERSONNEL TO
21 RESPOND.

22 (c) DOES NOT INCLUDE A TELEPHONE CALL DIVERTER OR A SYSTEM THAT IS
23 DESIGNED TO REPORT ENVIRONMENTAL AND OTHER OCCURRENCES AND THAT IS NOT
24 DESIGNED OR USED TO ALERT OR CAUSE OTHER PERSONS TO ALERT PUBLIC SAFETY
25 PERSONNEL.

26 18. Tangible personal property, job printing or publications sold to or
27 purchased by, or tangible personal property leased, rented or licensed for
28 use to or by, a qualifying health sciences educational institution as defined
29 in section 42-5001.

30 19. The transfer of title or possession of coal back and forth between
31 an owner or operator of a power plant and a person who is responsible for
32 refining coal if both of the following apply:

33 (a) The transfer of title or possession of the coal is for the purpose
34 of refining the coal.

35 (b) The title or possession of the coal is transferred back to the
36 owner or operator of the power plant after completion of the coal refining
37 process. For the purposes of this subdivision, "coal refining process" means
38 the application of a coal additive system that aids the reduction of power
39 plant emissions during the combustion of coal and the treatment of flue gas.

40 20. The gross proceeds of sales or gross income from sales of low or
41 reduced cost articles of food or drink to eligible elderly, ~~disabled~~ or
42 homeless persons OR PERSONS WITH A DISABILITY by a business subject to tax
43 under section 42-5074 that contracts with the department of economic security
44 and that is approved by the food and nutrition service of the United States
45 department of agriculture pursuant to the supplemental nutrition assistance

1 program established by the food and nutrition act of 2008 (P.L. 110-246; 122
2 Stat. 1651; 7 United States Code sections 2011 through 2036a), if the
3 purchases are made with the benefits issued pursuant to the supplemental
4 nutrition assistance program.

5 B. A city, town or other taxing jurisdiction shall not levy a
6 transaction privilege, sales, use, franchise or other similar tax or fee,
7 however denominated, on natural gas or liquefied petroleum gas used to propel
8 a motor vehicle.

9 C. A city, town or other taxing jurisdiction shall not levy a
10 transaction privilege, sales, gross receipts, use, franchise or other similar
11 tax or fee, however denominated, on gross proceeds of sales or gross income
12 derived from any of the following:

13 1. A motor carrier's use on the public highways in this state if the
14 motor carrier is subject to a fee prescribed in title 28, chapter 16,
15 article 4.

16 2. Leasing, renting or licensing a motor vehicle subject to and on
17 which the fee has been paid under title 28, chapter 16, article 4.

18 3. The sale of a motor vehicle and any repair and replacement parts
19 and tangible personal property becoming a part of such motor vehicle to a
20 motor carrier who is subject to a fee prescribed in title 28, chapter 16,
21 article 4 and who is engaged in the business of leasing, renting or licensing
22 such property.

23 4. Incarcerating or detaining in a privately operated prison, jail or
24 detention facility prisoners who are under the jurisdiction of the United
25 States, this state or any other state or a political subdivision of this
26 state or of any other state.

27 5. Transporting for hire persons, freight or property by light motor
28 vehicles subject to a fee under title 28, chapter 15, article 4.

29 6. Any amount attributable to development fees that are incurred in
30 relation to the construction, development or improvement of real property and
31 paid by the taxpayer as defined in the model city tax code or by a contractor
32 providing services to the taxpayer. For the purposes of this paragraph:

33 (a) The attributable amount shall not exceed the value of the
34 development fees actually imposed.

35 (b) The attributable amount is equal to the total amount of
36 development fees paid by the taxpayer or by a contractor providing services
37 to the taxpayer and the total development fees credited in exchange for the
38 construction of, contribution to or dedication of real property for providing
39 public infrastructure, public safety or other public services necessary to
40 the development. The real property must be the subject of the development
41 fees.

42 (c) "Development fees" means fees imposed to offset capital costs of
43 providing public infrastructure, public safety or other public services to a
44 development and authorized pursuant to section 9-463.05, section 11-1102 or
45 title 48 regardless of the jurisdiction to which the fees are paid.

1 D. A city, town or other taxing jurisdiction shall not levy a
2 transaction privilege, sales, use, franchise or other similar tax or fee,
3 however denominated, in excess of one-tenth of one ~~per-cent~~ PERCENT of the
4 value of the entire product mined, smelted, extracted, refined, produced or
5 prepared for sale, profit or commercial use, on persons engaged in the
6 business of mineral processing, except to the extent that the tax is computed
7 on the gross proceeds or gross income from sales at retail.

8 E. In computing the tax base, any city, town or other taxing
9 jurisdiction shall not include in the gross proceeds of sales or gross
10 income:

11 1. A manufacturer's cash rebate on the sales price of a motor vehicle
12 if the buyer assigns the buyer's right in the rebate to the retailer.

13 2. The waste tire disposal fee imposed pursuant to section 44-1302.

14 F. A city or town shall not levy a use tax on the storage, use or
15 consumption of tangible personal property in the city or town by a school
16 district or charter school.