

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2541

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 36-136, Arizona Revised Statutes, is amended to
3 read:

4 36-136. Powers and duties of director; compensation of personnel

5 A. The director shall:

6 1. Be the executive officer of the department of health services and
7 the state registrar of vital statistics but shall not receive compensation
8 for services as registrar.

9 2. Perform all duties necessary to carry out the functions and
10 responsibilities of the department.

11 3. Prescribe the organization of the department. The director shall
12 appoint or remove personnel as necessary for the efficient work of the
13 department and shall prescribe the duties of all personnel. The director may
14 abolish any office or position in the department that the director believes
15 is unnecessary.

16 4. Administer and enforce the laws relating to health and sanitation
17 and the rules of the department.

18 5. Provide for the examination of any premises if the director has
19 reasonable cause to believe that on the premises there exists a violation of
20 any health law or rule of the state.

21 6. Exercise general supervision over all matters relating to
22 sanitation and health throughout the state. When in the opinion of the
23 director it is necessary or advisable, a sanitary survey of the whole or of
24 any part of the state shall be made. The director may enter, examine and
25 survey any source and means of water supply, sewage disposal plant, sewerage

1 system, prison, public or private place of detention, asylum, hospital,
2 school, public building, private institution, factory, workshop, tenement,
3 public washroom, public restroom, public toilet and toilet facility, public
4 eating room and restaurant, dairy, milk plant or food manufacturing or
5 processing plant, and any premises in which the director has reason to
6 believe there exists a violation of any health law or rule of the state that
7 the director has the duty to administer.

8 7. Prepare sanitary and public health rules.

9 8. Perform other duties prescribed by law.

10 B. If the director has reasonable cause to believe that there exists a
11 violation of any health law or rule of the state, the director may inspect
12 any person or property in transportation through the state, and any car,
13 boat, train, trailer, airplane or other vehicle in which that person or
14 property is transported, and may enforce detention or disinfection as
15 reasonably necessary for the public health if there exists a violation of any
16 health law or rule.

17 C. The director may deputize, in writing, any qualified officer or
18 employee in the department to do or perform on the director's behalf any act
19 the director is by law empowered to do or charged with the responsibility of
20 doing.

21 D. The director may delegate to a local health department, county
22 environmental department or public health services district any functions,
23 powers or duties that the director believes can be competently, efficiently
24 and properly performed by the local health department, county environmental
25 department or public health services district if:

26 1. The director or superintendent of the local health agency,
27 environmental agency or public health services district is willing to accept
28 the delegation and agrees to perform or exercise the functions, powers and
29 duties conferred in accordance with the standards of performance established
30 by the director.

31 2. Monies appropriated or otherwise made available to the department
32 for distribution to or division among counties or public health services

1 districts for local health work may be allocated or reallocated in a manner
2 designed to ~~assure~~ ENSURE the accomplishment of recognized local public
3 health activities and delegated functions, powers and duties in accordance
4 with applicable standards of performance. Whenever in the director's opinion
5 there is cause, the director may terminate all or a part of any delegation
6 and may reallocate all or a part of any funds that may have been conditioned
7 on the further performance of the functions, powers or duties conferred.

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

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

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

18 H. The director, by rule, shall:

19 1. Define and prescribe reasonably necessary measures for detecting,
20 reporting, preventing and controlling communicable and preventable diseases.
21 The rules shall declare certain diseases reportable. The rules shall
22 prescribe measures, including isolation or quarantine, THAT ARE reasonably
23 required to prevent the occurrence of, or to seek early detection and
24 alleviation of, disability, insofar as possible, from communicable or
25 preventable diseases. The rules shall include reasonably necessary measures
26 to control animal diseases transmittable to humans.

27 2. Define and prescribe reasonably necessary measures, in addition to
28 those prescribed by law, regarding the preparation, embalming, cremation,
29 interment, disinterment and transportation of dead human bodies and the
30 conduct of funerals, relating to and restricted to communicable diseases and
31 regarding the removal, transportation, cremation, interment or disinterment
32 of any dead human body.

1 3. Define and prescribe reasonably necessary procedures ~~THAT ARE~~ not
2 inconsistent with law in regard to the use and accessibility of vital
3 records, delayed birth registration and the completion, change and amendment
4 of vital records.

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

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

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

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

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

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

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

6 (g) Baked and confectionary goods that are not potentially hazardous
7 and that are prepared in a kitchen of a private home for commercial purposes
8 if packaged with a label that clearly states the address of the maker,
9 includes contact information for the maker, lists all the ingredients in the
10 product and discloses that the product was prepared in a home. The label
11 must be given to the final consumer of the product. If the product was made
12 in a facility for individuals with developmental disabilities, the label must
13 also disclose that fact. The person preparing the food or supervising the
14 food preparation must obtain a food handler's card or certificate if one is
15 issued by the local county and must register with an online registry
16 established by the department pursuant to paragraph 13 of this subsection.
17 For the purposes of this subdivision, "potentially hazardous" means baked and
18 confectionary goods that meet the requirements of the food code published by
19 the United States food and drug administration, as modified and incorporated
20 by reference by the department by rule.

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

28 6. Prescribe reasonably necessary measures regarding production,
29 processing, labeling, handling, serving and transportation of bottled water
30 to ~~assure~~ ENSURE that all bottled drinking water distributed for human
31 consumption is free from unwholesome, poisonous, deleterious or other foreign
32 substances and filth or disease-causing organisms. The rules shall prescribe

1 minimum standards for the sanitary facilities and conditions that shall be
2 maintained at any source of water, bottling plant and truck or vehicle in
3 which bottled water is produced, processed, stored or transported and shall
4 provide for inspection and certification of bottled drinking water sources,
5 plants, processes and transportation and for abatement as a public nuisance
6 of any water supply, label, premises, equipment, process or vehicle that does
7 not comply with the minimum standards. The rules shall prescribe minimum
8 standards for bacteriological, physical and chemical quality for bottled
9 water and for the submission of samples at intervals prescribed in the
10 standards.

11 7. Define and prescribe reasonably necessary measures governing ice
12 production, handling, storing and distribution to ~~assure~~ ENSURE that all ice
13 sold or distributed for human consumption or for the preservation or storage
14 of food for human consumption is free from unwholesome, poisonous,
15 deleterious or other foreign substances and filth or disease-causing
16 organisms. The rules shall prescribe minimum standards for the sanitary
17 facilities and conditions and the quality of ice that shall be maintained at
18 any ice plant, storage and truck or vehicle in which ice is produced, stored,
19 handled or transported and shall provide for inspection and licensing of the
20 premises and vehicles, and for abatement as public nuisances of ice,
21 premises, equipment, processes or vehicles that do not comply with the
22 minimum standards.

23 8. Define and prescribe reasonably necessary measures concerning
24 sewage and excreta disposal, garbage and trash collection, storage and
25 disposal, and water supply for recreational and summer camps, campgrounds,
26 motels, tourist courts, trailer coach parks and hotels. The rules shall
27 prescribe minimum standards for preparation of food in community kitchens,
28 adequacy of excreta disposal, garbage and trash collection, storage and
29 disposal and water supply for recreational and summer camps, campgrounds,
30 motels, tourist courts, trailer coach parks and hotels and shall provide for
31 inspection of these premises and for abatement as public nuisances of any
32 premises or facilities that do not comply with the rules. PRIMITIVE CAMP AND

1 PICNIC GROUNDS OFFERED BY THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE
2 ARE EXEMPT FROM RULES ADOPTED PURSUANT TO THIS PARAGRAPH BUT ARE SUBJECT TO
3 APPROVAL BY A COUNTY HEALTH DEPARTMENT UNDER SANITARY REGULATIONS ADOPTED
4 PURSUANT TO SECTION 36-183.02. FOR THE PURPOSES OF THIS PARAGRAPH,
5 "PRIMITIVE CAMP AND PICNIC GROUNDS" MEANS CAMP AND PICNIC GROUNDS THAT ARE
6 REMOTE IN NATURE AND WITHOUT ACCESSIBILITY TO PUBLIC INFRASTRUCTURE SUCH AS
7 WATER, ELECTRICITY AND SEWER.

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

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

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

31 12. Prescribe reasonably necessary measures regarding human
32 immunodeficiency virus testing as a means to control the transmission of that

1 virus, including the designation of anonymous test sites as dictated by
2 current epidemiologic and scientific evidence.

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

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

13 J. The powers and duties prescribed by this section do not apply in
14 instances in which regulatory powers and duties relating to public health are
15 vested by the legislature in any other state board, commission, agency or
16 instrumentality, except that with regard to the regulation of meat and meat
17 products, the department of health services and the Arizona department of
18 agriculture within the area delegated to each shall adopt rules that are not
19 in conflict.

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

25 L. After consultation with the state superintendent of public
26 instruction, the director shall prescribe the criteria the department shall
27 use in deciding whether or not to notify a local school district that a pupil
28 in the district has tested positive for the human immunodeficiency virus
29 antibody. The director shall prescribe the procedure by which the department
30 shall notify a school district if, pursuant to these criteria, the department
31 determines that notification is warranted in a particular situation. This
32 procedure shall include a requirement that before notification the department

1 shall determine to its satisfaction that the district has an appropriate
2 policy relating to nondiscrimination of the infected pupil and
3 confidentiality of test results and that proper educational counseling has
4 been or will be provided to staff and pupils.

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

10 Amend title to conform

MARK FINCHEM

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02/10/2016
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C: MJH