

REFERENCE TITLE: industrial commission of Arizona; omnibus

State of Arizona  
Senate  
Fifty-second Legislature  
Second Regular Session  
2016

## **SB 1500**

Introduced by  
Senator Yee; Representative Petersen; Senators Allen S, Cajero Bedford,  
Farnsworth D, Meza, Miranda, Worsley

### AN ACT

AMENDING SECTIONS 23-101, 23-108, 23-108.01, 23-108.03 AND 23-407, ARIZONA REVISED STATUTES; AMENDING SECTION 23-407, ARIZONA REVISED STATUTES, AS AMENDED BY SECTION 5 OF THIS ACT; AMENDING SECTION 23-408, ARIZONA REVISED STATUTES; REPEALING SECTION 23-432, ARIZONA REVISED STATUTES; PROVIDING FOR TRANSFERRING AND RENUMBERING; AMENDING SECTIONS 23-1081 AND 36-414, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 7.1, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 3.1; AMENDING SECTIONS 36-896.01, 36-896.02, 36-896.03, 36-896.04, 36-896.05, 36-896.06, 36-896.07, 36-896.08, 36-896.09, 36-896.10, 36-896.11, 36-896.12, 36-896.13 AND 41-191.10, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED; REPEALING SECTIONS 41-3016.01, 41-3016.02, 41-3016.03 AND 41-3016.05, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 41-3018.22, 41-3024.16, 41-3024.17 AND 41-3024.19; RELATING TO THE INDUSTRIAL COMMISSION OF ARIZONA.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 23-101, Arizona Revised Statutes, is amended to  
3 read:

4 23-101. Industrial commission; members; qualifications;  
5 appointment; terms; compensation; removal

6 A. There shall be an industrial commission of Arizona.

7 B. The commission shall be composed of five members appointed by the  
8 governor pursuant to section 38-211. Each member shall be appointed for a  
9 term of five years. ~~The terms of the members serving on the commission on~~  
10 ~~the effective date of this section shall terminate January 8, 1969. Of the~~  
11 ~~members of the commission first appointed, one shall serve for a term ending~~  
12 ~~January 8, 1970, and one each for terms ending one, two, three, and four~~  
13 ~~years thereafter. Thereafter one term shall~~ MEMBERS' TERMS expire on the  
14 third Monday in January of ~~each~~ THE APPROPRIATE year. Not more than three  
15 members of the commission shall belong to the same political party. The  
16 chairman of the commission shall be appointed by and serve at the pleasure of  
17 the governor. The members of the commission shall have been residents of the  
18 state for AT LEAST five years immediately preceding their original  
19 appointment.

20 C. Each commissioner shall receive a salary of fifty dollars per day  
21 for each day in which ~~he performs his duties as a commissioner~~ THE  
22 COMMISSIONER PREPARES FOR OR ATTENDS A COMMISSION MEETING. TO RECEIVE THE  
23 SALARY PROVIDED IN THIS SUBSECTION, EACH COMMISSIONER SHALL PROVIDE  
24 DOCUMENTATION TO THE DIRECTOR OF THE COMMISSION THAT EXPLAINS WHAT COMMISSION  
25 DUTIES WERE COMPLETED FOR THE DAY IN WHICH THE COMMISSIONER IS SEEKING A  
26 SALARY.

27 D. The governor may remove a member of the commission for  
28 inefficiency, neglect of duty, malfeasance, misfeasance or nonfeasance in  
29 office.

30 Sec. 2. Section 23-108, Arizona Revised Statutes, is amended to read:

31 23-108. Director; employees; compensation and expenses

32 A. The commission shall employ a director who is ~~subject to~~  
33 ~~confirmation by the senate~~ APPOINTED BY THE GOVERNOR PURSUANT TO SECTION  
34 38-211 AND WHO SERVES AT THE PLEASURE OF THE GOVERNOR. Subject to title 41,  
35 chapter 4, article 4, the director may employ ~~such~~ personnel as deemed  
36 necessary by the provisions of THIS CHAPTER AND chapters ~~1,~~ 2 and 6 ~~and~~  
37 ~~article 2 of chapter 3~~ of this title.

38 B. The compensation of the director shall be as determined pursuant to  
39 section 38-611. The director shall have such administrative ability,  
40 education and training as the commission determines. ~~The director shall~~  
41 ~~serve at the pleasure of the governor.~~

42 C. The compensation of the director and commission employees and  
43 payment of subsistence and travel expenses allowed by law shall be paid from  
44 the administrative fund.

1           Sec. 3. Section 23-108.01, Arizona Revised Statutes, is amended to  
2 read:

3           23-108.01. Powers and duties of director

4           A. The director OF THE COMMISSION, under the supervision of the  
5 commission, shall administer the policies, powers and duties of the  
6 commission as prescribed by THIS CHAPTER AND chapters ~~1, 2 and 6~~ and ~~article~~  
7 ~~2 of chapter 3~~ of this title.

8           B. THE DIRECTOR OF THE COMMISSION MAY DENY THE SALARY OF A  
9 COMMISSIONER IF THE COMMISSIONER DOES NOT PROVIDE DOCUMENTATION THAT EXPLAINS  
10 WHAT COMMISSION DUTIES WERE COMPLETED FOR THE DAY IN WHICH THE COMMISSIONER  
11 IS SEEKING A SALARY OR IF THE COMMISSION DUTIES WERE NOT RELATED TO PREPARING  
12 FOR OR ATTENDING A COMMISSION MEETING.

13          Sec. 4. Section 23-108.03, Arizona Revised Statutes, is amended to  
14 read:

15          23-108.03. Performance of certain powers and duties

16          A. The industrial commission shall be responsible for determining the  
17 policy of the commission.

18          B. Any powers and duties prescribed by law to the commission in THIS  
19 CHAPTER AND chapters ~~1, 2 and 6~~ and ~~article 2 of chapter 3~~ of this title,  
20 whether ministerial or discretionary, may by resolution be delegated by the  
21 commission to the director or any of its department heads or assistants,  
22 provided, that the commission shall not delegate its power or duty to:

- 23           1. Make rules and regulations.
- 24           2. Commute awards to a lump sum.
- 25           3. License self-insurers.

26          C. The commission shall be responsible for the official acts of its  
27 employees acting in the name of the commission and by its delegated  
28 authority.

29          Sec. 5. Section 23-407, Arizona Revised Statutes, is amended to read:

30          23-407. Duties and powers of the division

31          The division on behalf of the commission shall:

32           1. Recommend all standards, rules or changes thereto, pursuant to  
33 section 23-410, to the commission for ~~its~~ THE COMMISSION'S approval or  
34 disapproval.

35           2. Have the authority to enforce all such standards or rules, after  
36 ~~their~~ adoption by the commission, pursuant to the procedures and requirements  
37 of this article.

38           3. Implement an occupational safety and health program, ~~which shall~~  
39 ~~include, but not be limited to,~~ THAT INCLUDES the following duties and  
40 responsibilities:

41           (a) Development of a statewide occupational safety and health  
42 education and training program to acquaint employers, supervisors, employees  
43 and employee representatives with the most modern and effective techniques of  
44 accident prevention and occupational health control.

1 (b) Development of training programs for employees of the division,  
2 and where necessary develop certification programs for recognition of  
3 competent, trained personnel.

4 (c) Planning, organizing, conducting or attending occupational safety  
5 and health seminars, conferences and meetings designed for management,  
6 supervisory personnel, employees and employer representatives and  
7 establishing liaison with other safety and health groups as may be necessary.

8 (d) Definition and establishment of necessary research projects.

9 (e) Arrangement and procurement of necessary contractual services and  
10 training aids.

11 (f) Development of specific occupational safety and health programs  
12 for employer and employee representative groups.

13 4. Develop and maintain an effective program of collection,  
14 compilation and analysis of occupational safety and health statistics. The  
15 division shall compile statistics on work injuries and illnesses ~~which~~ THAT  
16 shall include all disabling, serious or significant injuries and illnesses  
17 whether or not involving loss of time from work, other than minor injuries  
18 requiring only first aid treatment and ~~which~~ THAT do not involve medical  
19 treatment, loss of consciousness, restriction of work or motion or transfer  
20 to another job.

21 5. Coordinate the responsibilities and functions of other state  
22 agencies and political subdivisions of the state with regard to occupational  
23 safety and health in order to develop a comprehensive statewide program.

24 6. CONTRACT WITH THE OFFICE OF ADMINISTRATIVE HEARINGS TO CONDUCT  
25 HEARINGS AND ADJUDICATE CONTESTED CASES ON AN EMPLOYER FILING A NOTICE OF  
26 CONTEST OF A CITATION PURSUANT TO THIS ARTICLE.

27 Sec. 6. Section 23-407, Arizona Revised Statutes, as amended by  
28 section 5 of this act, is amended to read:

29 23-407. Duties and powers of the division

30 The division on behalf of the commission shall:

31 1. Recommend all standards, rules or changes thereto, pursuant to  
32 section 23-410, to the commission for the commission's approval or  
33 disapproval.

34 2. Have the authority to enforce all such standards or rules, after  
35 adoption by the commission, pursuant to the procedures and requirements of  
36 this article.

37 3. Implement an occupational safety and health program that includes  
38 the following duties and responsibilities:

39 (a) Development of a statewide occupational safety and health  
40 education and training program to acquaint employers, supervisors, employees  
41 and employee representatives with the most modern and effective techniques of  
42 accident prevention and occupational health control.

1 (b) Development of training programs for employees of the division,  
2 and where necessary develop certification programs for recognition of  
3 competent, trained personnel.

4 (c) Planning, organizing, conducting or attending occupational safety  
5 and health seminars, conferences and meetings designed for management,  
6 supervisory personnel, employees and employer representatives and  
7 establishing liaison with other safety and health groups as may be necessary.

8 (d) Definition and establishment of necessary research projects.

9 (e) Arrangement and procurement of necessary contractual services and  
10 training aids.

11 (f) Development of specific occupational safety and health programs  
12 for employer and employee representative groups.

13 4. Develop and maintain an effective program of collection,  
14 compilation and analysis of occupational safety and health statistics. The  
15 division shall compile statistics on work injuries and illnesses that shall  
16 include all disabling, serious or significant injuries and illnesses whether  
17 or not involving loss of time from work, other than minor injuries requiring  
18 only first aid treatment and that do not involve medical treatment, loss of  
19 consciousness, restriction of work or motion or transfer to another job.

20 5. Coordinate the responsibilities and functions of other state  
21 agencies and political subdivisions of the state with regard to occupational  
22 safety and health in order to develop a comprehensive statewide program.

23 ~~6. Contract with the office of administrative hearings to conduct~~  
24 ~~hearings and adjudicate contested cases on an employer filing a notice of~~  
25 ~~contest of a citation pursuant to this article.~~

26 Sec. 7. Section 23-408, Arizona Revised Statutes, is amended to read:

27 23-408. Inspection of places and practices of employment;  
28 closing conference; prohibitions; employee initiation  
29 of investigation; violation; classification;  
30 injunction

31 A. The director of the division of occupational safety and health, or  
32 ~~his~~ THE DIRECTOR'S authorized representative, ~~upon~~ ON presentation of  
33 credentials, shall be permitted to inspect places of employment, question  
34 employees and investigate conditions, practices or matters in connection with  
35 employment subject to this article at reasonable times, as ~~he~~ THE DIRECTOR OR  
36 THE DIRECTOR'S AUTHORIZED REPRESENTATIVE may deem appropriate to determine  
37 whether any person has violated any provision of this article or any rule or  
38 regulation issued ~~thereunder~~ PURSUANT TO THIS ARTICLE or that may aid in the  
39 enforcement of the provisions of this article. ~~No~~ AN employer or other  
40 person shall NOT refuse to admit the director or ~~his~~ THE DIRECTOR'S  
41 authorized representatives to any ~~such~~ place or refuse to permit ~~any such~~ THE  
42 inspection if the proper credentials are presented and the inspection is made  
43 at a reasonable time.

1 B. The director or ~~his~~ THE DIRECTOR'S authorized representative shall  
2 inspect at least every six months any operation that mixes rock, sand, gravel  
3 or similar materials with water and cement or with asphalt and that is not  
4 included in the definition of mine in section 27-301. The director or ~~his~~  
5 THE DIRECTOR'S AUTHORIZED representative shall monitor and work with the mine  
6 inspector only to the extent necessary to ensure ~~the~~ THIS state's compliance  
7 with federal occupational safety and health act standards, (P.L. 91-596).

8 C. Notice of an intended inspection shall not be given to an employer  
9 ~~prior to~~ BEFORE the time of actual entry ~~upon~~ ON the workplace, except by  
10 specific authorization by the director.

11 D. A representative of the employer and a representative authorized by  
12 ~~his~~ THE EMPLOYER'S employees shall be given an opportunity to accompany the  
13 director or ~~his~~ THE DIRECTOR'S authorized representative during the physical  
14 inspection of any workplace for the purpose of aiding ~~such~~ THE inspection.  
15 Where there is no authorized employee representative, the director or ~~his~~ THE  
16 DIRECTOR'S authorized representative shall consult a reasonable number of  
17 employees concerning matters of safety and health in the workplace.

18 E. Except as provided in section 23-426, information and facts  
19 developed by the commission, the director or any employee of the commission  
20 or division in the course of any inspection or investigation are public  
21 records subject to inspection pursuant to title 39, chapter 1, article 2, if,  
22 pursuant to section 23-415, subsection D, the inspection or investigation has  
23 been closed or a citation has been issued. Such information and facts shall  
24 not be admissible in any court or before any administrative body except  
25 pursuant to this article. Notwithstanding this subsection, the director or  
26 any commission employee is not required to appear at any deposition, trial or  
27 hearing concerning a division inspection or investigation unless the  
28 appearance is related to a hearing held pursuant to this article. Hearings  
29 held pursuant to this article are open to the public.

30 F. DURING THE INSPECTION OR INVESTIGATION AND IN DECIDING WHETHER TO  
31 RECOMMEND AND ISSUE A CITATION, THE DIRECTOR OR THE DIRECTOR'S AUTHORIZED  
32 REPRESENTATIVE AND THE COMMISSION MAY CONSIDER WHETHER AN EMPLOYEE HAS  
33 COMMITTED MISCONDUCT BY VIOLATING THE EMPLOYER'S POLICIES, IF ANY, REGARDING  
34 SUBSTANCE ABUSE WHILE WORKING, AS EVIDENCED BY THE RESULTS OF TESTING FOR  
35 SUBSTANCE ABUSE OR OTHER EVIDENCE OF IMPAIRMENT WHILE WORKING.

36 G. AN EMPLOYEE OF THE DIVISION OR THE COMMISSION MAY NOT:

37 1. BEFORE, DURING OR AFTER AN INSPECTION OR INVESTIGATION, COMMUNICATE  
38 TO AN EMPLOYER THAT THE EMPLOYER SHOULD NOT OR DOES NOT NEED TO BE  
39 REPRESENTED BY AN ATTORNEY OR THAT THE EMPLOYER MAY BE TREATED MORE FAVORABLY  
40 BY THE DIVISION OR THE COMMISSION IF THE EMPLOYER IS NOT REPRESENTED BY AN  
41 ATTORNEY.

42 2. RECORD A PERSON WITHOUT THAT PERSON'S KNOWLEDGE AND CONSENT AND  
43 WITHOUT INFORMING THE PERSON OF THE PERSON'S RIGHT TO RECEIVE A COPY OF THE  
44 RECORDING.

1           ~~F.~~ H. An employee or a representative of employees who believes that  
2 a violation of a safety or health standard or regulation exists that  
3 threatens physical harm or that an imminent danger exists may request an  
4 investigation by giving notice to the director or ~~his~~ THE DIRECTOR'S  
5 authorized representative of ~~such~~ THE violation or danger. Any ~~such~~ notice  
6 shall be ~~reduced to~~ IN writing, ~~shall~~ set forth with reasonable particularity  
7 the grounds for the notice and ~~shall~~ be signed by the employees or  
8 representative of the employees. ~~Upon~~ ON the request of the employee giving  
9 ~~such~~ THE notice, ~~his~~ THE EMPLOYEE'S name and the names of other employees  
10 referred to ~~therein~~ IN THE NOTICE shall not appear on any copy of ~~such~~ THE  
11 notice or any record published, released or made available. If ~~upon~~ ON  
12 receipt of ~~such notification~~ THE NOTICE the director determines that there  
13 are reasonable grounds to believe that ~~such~~ THE violation or danger exists,  
14 ~~he~~ THE DIRECTOR shall make an investigation in accordance with the provisions  
15 of this article as soon as practicable to determine if ~~such~~ THE violation or  
16 danger exists. If the director determines there are no reasonable grounds to  
17 believe that a violation or danger exists, ~~he~~ THE DIRECTOR shall notify the  
18 employees or representative of the employees in writing of ~~such a~~ THE  
19 determination.

20           ~~G.~~ I. Any person who violates any provision of this section is guilty  
21 of a class 2 misdemeanor.

22           ~~H.~~ J. The commission, or ~~its~~ THE COMMISSION'S authorized  
23 representative, in addition to initiating an action under subsection ~~F~~ H of  
24 this section, may file in the superior court in the county where the  
25 inspection was refused a verified complaint against an employer who violates  
26 subsection A of this section and request an injunction against continued  
27 refusal to permit an inspection.

28           Sec. 8. Repeal  
29 Section ~~23-432~~, Arizona Revised Statutes, is repealed.

30           Sec. 9. Transfer and renumber  
31 The following sections are transferred and renumbered for placement in  
32 title 36, chapter 7.1, article 3.1, as added by this act:

<u>Former Sections</u>	<u>New Sections</u>
23-523 .....	36-896.01
23-524 .....	36-896.02
23-526 .....	36-896.03
23-527 .....	36-896.04
23-528 .....	36-896.05
23-529 .....	36-896.06
23-530 .....	36-896.07
23-531 .....	36-896.08
23-532 .....	36-896.09
23-533 .....	36-896.10
23-534 .....	36-896.11

1 23-535 ..... 36-896.12

2 23-536 ..... 36-896.13

3 Sec. 10. Section 23-1081, Arizona Revised Statutes, is amended to  
4 read:

5 23-1081. Administrative fund; purposes and administration

6 A. The administrative fund is established to provide for all expenses  
7 of the industrial commission in carrying out its powers and duties under this  
8 title. ~~Except for monies from cash deposits or surety bonds in the separate~~  
9 ~~account established by section 23-527,~~ The administrative fund and  
10 expenditures therefrom shall be subject to budgetary review and legislative  
11 appropriation as expenditures from other state funds. Vouchers or claims  
12 prepared for any purpose other than for payment of benefits shall be  
13 processed as prescribed by section 35-181.01 and the rules of the director of  
14 the department of administration. The industrial commission shall annually  
15 fix the rate of the tax, not to exceed three ~~per-cent~~ PERCENT, to be paid to  
16 the state treasurer for credit to the administrative fund pursuant to section  
17 23-961, subsection G in an amount that is ~~no~~ NOT more than necessary to cover  
18 the actual expenses of the industrial commission in carrying out its powers  
19 and duties under this title. Monies for expenditure from the administrative  
20 fund shall be appropriated by the legislature. All money and securities in  
21 the fund shall be held in trust and invested by the treasurer.

22 B. The administrative fund shall be ~~no less than~~ AT LEAST  
23 self-supporting with respect to the expenses of the industrial commission and  
24 other expenditures from the administrative fund as provided under this  
25 chapter. Unless the special fund established by section 23-1065 is not on an  
26 actuarially sound basis as determined pursuant to section 23-1065, subsection  
27 I, any surplus or deficit in the revenue provided under section 23-961 above  
28 or below the expenses of the industrial commission and other expenditures  
29 from the administrative fund as provided under this chapter shall be included  
30 in the calculation of the rate to be fixed for the following year pursuant to  
31 section 23-961, subsection G. If the special fund is not on an actuarially  
32 sound basis as determined pursuant to section 23-1065, subsection I,  
33 notwithstanding any other provision of this section, at least once each  
34 fiscal year, the industrial commission shall determine if there is a surplus  
35 in the revenue provided under section 23-961 that is greater than the  
36 expenses of the industrial commission and other expenditures from the  
37 administrative fund as provided under this chapter. On notice from the  
38 industrial commission to the state treasurer, the surplus shall be  
39 transferred to the special fund.

40 Sec. 11. Section 36-414, Arizona Revised Statutes, is amended to read:

41 36-414. Health services licensing fund; exemption

42 A. The health services licensing fund is established consisting of  
43 monies deposited pursuant to sections 36-405, 36-882, 36-896.04, 36-897.01  
44 and 36-1903. The department of health services shall administer the fund.

1 B. Monies in the fund are subject to legislative appropriation.  
2 C. Monies in the fund are exempt from the provisions of section 35-190  
3 relating to lapsing of appropriations.

4 Sec. 12. Title 36, chapter 7.1, Arizona Revised Statutes, is amended  
5 by adding article 3.1, to read:

6 ARTICLE 3.1. NANNY AND SITTER SERVICE LICENSING

7 36-896. Definitions

8 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

- 9 1. "DEPARTMENT" MEANS THE DEPARTMENT OF HEALTH SERVICES.  
10 2. "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OF HEALTH SERVICES.  
11 3. "NANNY OR SITTER SERVICE" MEANS A PERSON THAT FOR A FEE, COMMISSION  
12 OR CHARGE COLLECTED FROM A PERSON SEEKING EMPLOYMENT AS A NANNY OR SITTER  
13 FURNISHES TO A PERSON SEEKING EMPLOYMENT INFORMATION TO ENABLE THE PERSON  
14 SEEKING EMPLOYMENT TO SECURE EMPLOYMENT, FURNISHES TO AN EMPLOYER SEEKING A  
15 NANNY OR SITTER ANY INFORMATION TO ENABLE THE EMPLOYER TO SECURE A NANNY OR  
16 SITTER OR KEEPS A REGISTER OF PERSONS SEEKING EMPLOYMENT OR A NANNY OR  
17 SITTER. NANNY OR SITTER SERVICE DOES NOT INCLUDE:

- 18 (a) AN EMPLOYER WHO PROCURES THE EMPLOYER'S OWN HELP.  
19 (b) AN EMPLOYEE OF AN EMPLOYER WHO PROCURES THE EMPLOYER'S OWN HELP  
20 AND DOES NOT ACT IN A SIMILAR CAPACITY FOR ANOTHER EMPLOYER.  
21 (c) A PERSON THAT DOES NOT CHARGE OR COLLECT A FEE OR COMMISSION FROM  
22 A PERSON SEEKING EMPLOYMENT OR FOR ASSISTING THAT PERSON TO OBTAIN  
23 EMPLOYMENT.  
24 (d) A PERSON THAT SATISFIES ALL OF THE FOLLOWING:  
25 (i) IS ENGAGED IN THE BUSINESS OF PROVIDING ELECTRONIC MEDIA SERVICES.  
26 (ii) PROVIDES CLASSIFIED LISTINGS OR PERFORMS EMPLOYMENT RESEARCH, OR  
27 BOTH, FOR EMPLOYERS OR PERSONS SEEKING EMPLOYMENT.  
28 (iii) DOES NOT CHARGE OR COLLECT A FEE OR COMMISSION FOR THE  
29 SUCCESSFUL PLACEMENT OF A PERSON SEEKING EMPLOYMENT.  
30 (e) A RECOGNIZED LABOR UNION.

31 Sec. 13. Section 36-896.01, Arizona Revised Statutes, as transferred  
32 and renumbered, is amended to read:

33 36-896.01. Powers and duties of the department

34 The ~~commission~~ DEPARTMENT shall:

- 35 1. ~~Fix and order reasonable~~ ADOPT rules ~~promulgated by the advisory~~  
36 ~~council and approved by the commission~~ for the conduct of the business of  
37 ~~employment agents~~ NANNY OR SITTER SERVICES AS necessary to carry out the  
38 provisions of this article.  
39 ~~2. With the advice of the advisory council, prescribe the form of~~  
40 ~~books, registers or records to be kept by the employment agent, the reports~~  
41 ~~to be made to the commission and the refunds to be made to applicants who~~  
42 ~~fail to secure employment.~~  
43 ~~3.~~ 2. Order other measures reasonably necessary to protect the  
44 public, ~~AND~~ persons seeking employment ~~or employees seeking help,~~ against

1 fraud, misrepresentation or other unauthorized acts of ~~an employment agent~~ A  
2 NANNY OR SITTER SERVICE.

3 3. SUPERVISE NANNY OR SITTER SERVICES TO THE EXTENT NECESSARY TO  
4 ENFORCE AND ADMINISTER ALL LAWS OR ANY LAWFUL ORDER DESIGNED TO PREVENT  
5 FRAUD, MISREPRESENTATION, FALSE STATEMENTS OR OTHER UNAUTHORIZED ACTS OF A  
6 NANNY OR SITTER SERVICE.

7 Sec. 14. Section 36-896.02, Arizona Revised Statutes, as transferred  
8 and renumbered, is amended to read:

9 36-896.02. Investigative powers of the department

10 A. ~~A commissioner or deputy of the commission~~ THE DIRECTOR OR THE  
11 DIRECTOR'S AGENT may at any reasonable time enter the place of business of ~~an~~  
12 ~~employment agent~~ A NANNY OR SITTER SERVICE for the purpose of examining the  
13 records or registers kept by the ~~employment agent~~ NANNY OR SITTER SERVICE and  
14 bring to the attention of the ~~agent~~ SERVICE any law, ~~OR~~ rule ~~or regulation~~  
15 ~~as promulgated by the advisory council~~ ADOPTED BY THE DEPARTMENT, or failure  
16 on the part of the ~~employment agent~~ NANNY OR SITTER SERVICE to comply  
17 ~~therewith~~ WITH ANY LAW OR RULE. ~~An employment agent~~ A NANNY OR SITTER  
18 SERVICE shall not refuse admittance to ~~a commissioner~~ THE DIRECTOR or ~~deputy~~  
19 ~~of the commission~~ THE DIRECTOR'S AGENT to the ~~agent's~~ NANNY OR SITTER  
20 SERVICE'S place of business.

21 B. ~~An employment agent~~ A NANNY OR SITTER SERVICE receiving ~~from the~~  
22 ~~commission~~ forms calling for information required by the ~~commission~~  
23 DEPARTMENT in carrying out ~~the provisions of~~ this article, with directions to  
24 complete them, shall answer fully and correctly each question ~~therein~~  
25 ~~propounded~~ IN THE FORM, and if unable to answer any question, shall give a  
26 good and sufficient reason for ~~such~~ failure TO ANSWER THE QUESTION. All ~~such~~  
27 answers shall be verified by two witnesses, and returned to the ~~commission~~  
28 DEPARTMENT within the period fixed by the ~~commission~~ DEPARTMENT.

29 Sec. 15. Section 36-896.03, Arizona Revised Statutes, as transferred  
30 and renumbered, is amended to read:

31 36-896.03. License: examination

32 A. ~~No~~ A person, firm, association or corporation shall NOT act as ~~an~~  
33 ~~employment agent~~ A NANNY OR SITTER SERVICE for profit, or receive any fee,  
34 charge, commission or other compensation, directly or indirectly, for  
35 services as ~~an employment agent~~ A NANNY OR SITTER SERVICE without first  
36 obtaining ~~from the industrial commission~~ a license ~~therefor~~ FROM THE  
37 DEPARTMENT, as provided in this article.

38 B. ~~Prior to~~ BEFORE the initial issuance of ~~an employment agent~~ A NANNY  
39 OR SITTER SERVICE license, those persons determined by the ~~commission~~  
40 DEPARTMENT to be involved in the actual operation of the ~~employment agent~~  
41 NANNY OR SITTER SERVICE shall take a written examination prepared by the  
42 director ~~with the assistance of the advisory council~~. The examination shall  
43 be given at least once each month and shall be designed to demonstrate to the

1 ~~commission~~ DEPARTMENT that the person has sufficient knowledge of the  
2 applicable laws and ~~regulations~~ RULES, including, ~~but not limited to:~~

- 3 1. Laws pertaining to ~~employment agents~~ NANNIES AND SITTERS.
- 4 2. Rules ~~and regulations~~ pertaining to ~~employment agents~~ NANNIES AND  
5 SITTERS.
- 6 3. Laws pertaining to employment discrimination.
- 7 4. Other pertinent labor laws.

8 Sec. 16. Section 36-896.04, Arizona Revised Statutes, as transferred  
9 and renumbered, is amended to read:

10 36-896.04. Application for license; cash deposit or surety  
11 bond; deposit

12 A. A person, firm, corporation or association desiring a NANNY OR  
13 SITTER SERVICE license ~~as employment agent~~ shall ~~make application~~ APPLY for a  
14 license to the ~~industrial commission~~ DEPARTMENT, and shall accompany the  
15 application with a minimum cash deposit of one thousand dollars or surety  
16 bond in the amount determined by the ~~commission~~ DEPARTMENT, not to exceed  
17 five thousand dollars, conditioned that the ~~agent~~ NANNY OR SITTER SERVICE  
18 will conform in all particulars to the requirements of law relating to the  
19 business of ~~employment agent~~ A NANNY OR SITTER SERVICE. The cash deposit or  
20 surety bond shall at all times be maintained at the minimum of one thousand  
21 dollars or the amount determined by the ~~commission~~ DEPARTMENT not to exceed  
22 five thousand dollars.

23 B. Cash deposits received by the ~~industrial commission~~ DEPARTMENT  
24 pursuant to subsection A of this section shall be deposited as a separate  
25 account in the ~~administrative fund established by section 23-1081. Monies in~~  
26 ~~the separate account are continuously appropriated for the purposes provided~~  
27 HEALTH SERVICES LICENSING FUND ESTABLISHED BY SECTION 36-414.

28 Sec. 17. Section 36-896.05, Arizona Revised Statutes, as transferred  
29 and renumbered, is amended to read:

30 36-896.05. Annual renewal of license; annual fees

31 A. Each license shall be valid for one year ~~from~~ AFTER the date of  
32 issue and may be renewed annually for a like period of time. The ~~commission~~  
33 DEPARTMENT shall give the licensee forty-five days' ~~prior~~ written notice of  
34 BEFORE the expiration of the license.

35 B. Every ~~employment agency~~ NANNY OR SITTER SERVICE licensed under ~~the~~  
36 ~~provisions of~~ this article shall pay a fee for an initial license or renewal  
37 license as follows:

- 38 1. For ~~an agency~~ A NANNY OR SITTER SERVICE with fewer than three  
39 placement counselors, one hundred dollars.
- 40 2. For ~~an agency~~ A NANNY OR SITTER SERVICE operating with three to  
41 eight placement counselors, two hundred dollars.
- 42 3. For ~~an agency~~ A NANNY OR SITTER SERVICE operating with more than  
43 eight placement counselors, three hundred dollars.

1 C. For the purpose of determining the annual license fee ~~which an~~  
2 ~~employment agency~~ THAT A NANNY OR SITTER SERVICE shall pay, the applicant  
3 shall state in ~~its~~ THE application, the average number of placement  
4 counselors employed by the applicant's ~~employment agency~~ NANNY OR SITTER  
5 SERVICE during the preceding licensed year. ~~In the event that~~ IF the  
6 applicant has not previously conducted ~~an employment agency~~ A NANNY OR SITTER  
7 SERVICE under ~~the provisions of~~ this article, ~~he~~ THE APPLICANT shall state  
8 the average number of placement counselors ~~which he~~ THAT THE APPLICANT  
9 reasonably expects will be employed by the ~~employment agency~~ NANNY OR SITTER  
10 SERVICE during the year for which the license is to be issued. All fees  
11 shall be paid to the ~~industrial commission,~~ DEPARTMENT and deposited,  
12 pursuant to sections 35-146 and 35-147, in the state general fund.

13 Sec. 18. Section 36-896.06, Arizona Revised Statutes, as transferred  
14 and renumbered, is amended to read:

15 36-896.06. Revocation of license; hearing; notice of findings;  
16 appeal

17 A. The ~~industrial commission~~ DEPARTMENT may take disciplinary action  
18 against a licensee charged with the commission of any of the following acts:

19 1. Fraud or misrepresentation in the application or qualification  
20 examination for a license.

21 2. Gross negligence, incompetence, bribery or other misconduct in ~~his~~  
22 THE profession.

23 3. Aiding or abetting an unlicensed person to evade the provisions of  
24 this article or knowingly combining or conspiring with an unlicensed person,  
25 or allowing one's registration to be used by an unlicensed person or acting  
26 as agent, partner, associate or otherwise, of an unlicensed person with  
27 intent to evade provisions of this article.

28 B. The ~~industrial commission~~ DEPARTMENT shall have authority to make  
29 investigations, employ investigators and conduct hearings to determine  
30 whether a license issued under this article should be revoked or suspended  
31 ~~upon~~ ON a complaint made in writing and under oath. ~~when~~ IF the ~~industrial~~  
32 ~~commission~~ DEPARTMENT receives an oral or written complaint not made under  
33 oath, investigates ~~such~~ THE complaint and determines that there is sufficient  
34 evidence to warrant a hearing, the ~~commission~~ DEPARTMENT may ~~direct the~~  
35 ~~secretary to file a verified~~ VERIFY THE complaint charging the licensee with  
36 commission of an offense under this article subject to disciplinary action.  
37 The ~~secretary~~ DEPARTMENT shall then serve ~~upon~~ ON the accused, by registered  
38 mail, a copy of the complaint setting forth the charge or charges to be heard  
39 and notice of the time and place of the hearing. The hearing shall be held  
40 ~~no sooner than~~ AT LEAST thirty days after the mailing of the notice.

41 C. The accused may appear personally or by ~~his~~ THE ACCUSED'S attorney  
42 at the hearing, present witnesses and evidence in ~~his~~ THE ACCUSED'S defense  
43 and cross-examine witnesses.

1 D. If ~~a majority of the members of the commission determine~~ DEPARTMENT  
2 DETERMINES that the licensee has committed a violation, the ~~commission~~  
3 DEPARTMENT shall revoke or suspend the license or, in lieu of revocation or  
4 suspension, levy a fine OF not ~~to exceed~~ MORE THAN one thousand dollars. ~~The~~  
5 ~~revoked or suspended license may be reissued upon the affirmative vote of a~~  
6 ~~majority of the members of the commission.~~ If the ~~license of an agent who~~  
7 LICENSEE is a principal of a firm or executive officer of a corporation AND  
8 THE LICENSEE'S LICENSE is suspended or revoked for cause attributable to the  
9 firm or corporation, ~~such~~ THE revocation or suspension may be deemed just  
10 cause for revocation or suspension of the licenses of all or any other  
11 principal or officers of the firm or corporation.

12 E. Decisions of the ~~industrial commission~~ DEPARTMENT under this  
13 section shall be subject to judicial review pursuant to title 12, chapter 7,  
14 article 6.

15 Sec. 19. Section 36-896.07, Arizona Revised Statutes, as transferred  
16 and renumbered, is amended to read:

17 36-896.07. Filing of schedule of fees or charges; regulation

18 A. Every applicant for a license shall file with the ~~commission~~  
19 DEPARTMENT, within a time fixed by the ~~commission~~ DEPARTMENT, a schedule of  
20 the fees or charges made by the ~~employment agent~~ NANNY OR SITTER SERVICE to  
21 applicants for employment and for help for any services rendered to the  
22 applicants, together with all rules or regulations that may in any manner  
23 affect the fees charged or to be charged for any service.

24 B. ~~No~~ A license shall NOT be issued or renewed to an applicant unless  
25 ~~such~~ THE fees and rules or regulations are reasonable.

26 C. It is unlawful for ~~an employment agent~~ A NANNY OR SITTER SERVICE to  
27 charge, demand, collect or receive a greater compensation for any service  
28 performed by ~~him~~ THE NANNY OR SITTER SERVICE OTHER than THE FEES specified in  
29 the schedule filed with the ~~commission~~ DEPARTMENT, and ~~no employment agent~~ A  
30 NANNY OR SITTER SERVICE shall NOT charge a registration fee without  
31 permission from the ~~commission~~ DEPARTMENT.

32 D. ~~Nothing in~~ This article shall be construed to DOES NOT regulate  
33 ~~employer-paid~~ EMPLOYER-PAID fees.

34 Sec. 20. Section 36-896.08, Arizona Revised Statutes, as transferred  
35 and renumbered, is amended to read:

36 36-896.08. Applicant's receipt for services of agent

37 A. Every NANNY OR SITTER SERVICE licensee ~~conducting an employment~~  
38 ~~agency~~ shall give every applicant for employment from whom a fee is received,  
39 a receipt ~~which shall state~~ THAT STATES the name and address of the  
40 ~~employment agent~~ NANNY OR SITTER SERVICE, the name of the applicant, the  
41 date, and the amount of the fee. There shall be printed on the face of the  
42 receipt in prominent type the following: "This ~~agency~~ NANNY OR SITTER  
43 SERVICE is licensed by the ~~industrial commission~~ DEPARTMENT OF HEALTH  
44 SERVICES of the state of Arizona."

1 B. All receipts shall be made and numbered in original and  
2 duplicate. The original shall be given to the applicant paying the fee and  
3 the duplicate shall be kept on file at the ~~employment agency~~ NANNY OR SITTER  
4 SERVICE. The receipts used by the ~~licensed agents~~ NANNY OR SITTER SERVICE  
5 LICENSEE shall be approved by the ~~commission~~ DEPARTMENT.

6 Sec. 21. Section 36-896.09, Arizona Revised Statutes, as transferred  
7 and renumbered, is amended to read:

8 36-896.09. Return of fee to applicant

9 A. ~~No employment agent, or agent thereof,~~ A NANNY OR SITTER SERVICE  
10 shall NOT send an applicant out for employment without having a bona fide  
11 order from the prospective employer to do so.

12 B. If an applicant is sent out and fails to obtain employment as  
13 represented the ~~employment agent~~ NANNY OR SITTER SERVICE shall, ~~upon~~ ON  
14 demand, refund any fee the applicant has paid.

15 C. If the ~~employment agent~~ NANNY OR SITTER SERVICE refuses or fails to  
16 make a prompt refund, ~~upon~~ ON demand, as provided in this section, the  
17 applicant may apply to the ~~commission~~ DEPARTMENT for a hearing. If the  
18 ~~commission upon~~ DEPARTMENT ON investigation finds that the applicant is  
19 entitled to a refund, ~~it~~ THE DEPARTMENT shall issue an order to that effect,  
20 and shall pay the refund to the applicant from the cash deposit or bond of  
21 the ~~employment agent~~ NANNY OR SITTER SERVICE. Either party to ~~any such~~ THE  
22 controversy may appeal within five days ~~from~~ AFTER the issuance of an order  
23 to the superior court of the county in which the business of the ~~employment~~  
24 ~~agent~~ NANNY OR SITTER SERVICE is located.

25 Sec. 22. Section 36-896.10, Arizona Revised Statutes, as transferred  
26 and renumbered, is amended to read:

27 36-896.10. Duty of nanny or sitter service to determine  
28 truthfulness of representation made to applicants

29 Every ~~employment agent~~ NANNY OR SITTER SERVICE shall reasonably ~~assure~~  
30 ~~himself~~ ENSURE that any representations ~~whatever~~, whether spoken, written or  
31 advertised in printed form, ~~which he~~ THAT THE NANNY OR SITTER SERVICE makes  
32 with regard to any employment, work or situation, and ~~which leads~~ THAT LEAD  
33 or may lead persons to seek such employment, work or situation, are true and  
34 cover all the material facts affecting the employment in question.

35 Sec. 23. Section 36-896.11, Arizona Revised Statutes, as transferred  
36 and renumbered, is amended to read:

37 36-896.11. False statements or representations

38 A. ~~No~~ A person, firm, association, corporation or any employee or  
39 agent thereof, shall NOT knowingly make a false statement to any person  
40 furnishing or seeking employment regarding any employment, work or situation,  
41 its nature, location, duration, wages or salary ~~attached thereto~~, or the  
42 circumstances surrounding the employment, work or situation.

43 B. ~~No employment agent~~ A NANNY OR SITTER SERVICE shall NOT offer or  
44 hold ~~himself~~ ITSELF out as in a position to secure or furnish employment

1 without having an order ~~therefor~~ from an employer or misrepresent any other  
2 material matter in connection with any employment, work or situation ~~he~~ THE  
3 NANNY OR SITTER SERVICE offers or holds ~~himself~~ ITSELF out in a position to  
4 secure.

5 Sec. 24. Section 36-896.12, Arizona Revised Statutes, as transferred  
6 and renumbered, is amended to read:

7 36-896.12. Splitting of fees prohibited

8 ~~No employment agent~~ A NANNY OR SITTER SERVICE or employee or agent  
9 thereof shall NOT divide or offer to divide, or share directly or indirectly,  
10 a fee, charge or compensation received from an applicant for employment with  
11 an employer, ~~superintendent, manager, foreman~~ or any other person who hires  
12 help or to whom help is furnished by ~~an employment agent~~ THE NANNY OR SITTER  
13 SERVICE. It is unlawful for any employer, ~~superintendent, manager, foreman~~  
14 or any other person who hires help to receive any compensation or valuable  
15 consideration from an applicant for employment or from ~~an employment agent~~ A  
16 NANNY OR SITTER SERVICE for giving employment to the applicant or to an  
17 employee furnished by ~~an employment agent~~ A NANNY OR SITTER SERVICE.

18 Sec. 25. Section 36-896.13, Arizona Revised Statutes, as transferred  
19 and renumbered, is amended to read:

20 36-896.13. Violations; classification

21 A person, firm, association or corporation who acts as ~~an employment~~  
22 ~~agent~~ A NANNY OR SITTER SERVICE without a license as provided in this article  
23 is guilty of a class 6 felony.

24 Sec. 26. Section 23-521, Arizona Revised Statutes, is transferred and  
25 renumbered for placement in title 41, chapter 1, article 5, Arizona Revised  
26 Statutes, as section 41-191.10 and, as so renumbered, is amended to read:

27 41-191.10. Complaints and disputes regarding employment agents:  
28 definition

29 A. A PERSON AGGRIEVED BY THE ACTIONS OF AN EMPLOYMENT AGENT MAY FILE A  
30 COMPLAINT WITH THE ATTORNEY GENERAL. ON RECEIPT OF THE COMPLAINT THE  
31 ATTORNEY GENERAL MAY INVESTIGATE AND BRING ACTION AS THE ATTORNEY GENERAL  
32 DEEMS APPROPRIATE.

33 B. AN EMPLOYMENT AGENT SHALL INCLUDE IN THE CONTRACT THAT THE  
34 EMPLOYMENT AGENT ENTERS INTO WITH A PERSON SEEKING EMPLOYMENT OR HELP A  
35 STATEMENT THAT THE PERSON MAY FILE A COMPLAINT WITH THE ATTORNEY GENERAL IF  
36 AGGRIEVED BY THE ACTIONS OF THE EMPLOYMENT AGENT.

37 C. ~~Nothing in~~ This section ~~shall be construed to~~ DOES NOT include a  
38 recognized labor union.

39 ~~A.~~ D. FOR THE PURPOSES OF THIS SECTION, "employment agent":

40 1. Means all persons, firms, corporations or associations ~~which~~ THAT  
41 for a fee, commission or charge ~~that is~~ collected from persons seeking  
42 employment either ~~+~~

1 ~~1-~~ furnish to persons seeking employment information enabling or  
2 tending to enable the persons to secure employment, including vocational  
3 guidance or employment counseling services, ~~—~~

4 ~~2-~~ furnish to employers seeking laborers or other help of any kind  
5 information enabling or tending to enable the employers to secure help. ~~—~~ OR

6 ~~3-~~ keep a register of persons seeking employment or help, whether the  
7 agents conduct their operations at a fixed place of business, on the streets  
8 or as transients and also whether the operations constitute the principal  
9 business of the agents or only a sideline or an incident to another business.

10 ~~B-~~ 2. ~~"Employment agent"~~ Does not mean:

11 ~~1-~~ (a) An employer who procures help for himself only.

12 ~~2-~~ (b) An employee of such an employer who procures help for him and  
13 does not act in a similar capacity for any other employer.

14 ~~3-~~ (c) A person, firm, corporation or association that does not  
15 charge or collect a fee or commission from a person seeking employment or for  
16 assisting that person to obtain employment.

17 ~~4-~~ (d) A person, firm, corporation or association that satisfies all  
18 of the following:

19 ~~(a)~~ (i) Is engaged in the business of providing electronic media  
20 services.

21 ~~(b)~~ (ii) Provides classified listings or performs employment  
22 research, or both, for employers and persons seeking employment.

23 ~~(c)~~ (iii) Does not charge or collect a fee or commission for the  
24 successful placement of a person seeking employment.

25 Sec. 27. Repeal

26 Sections 41-3016.01, 41-3016.02, 41-3016.03 and 41-3016.05, Arizona  
27 Revised Statutes, are repealed.

28 Sec. 28. Title 41, chapter 27, article 2, Arizona Revised Statutes, is  
29 amended by adding sections 41-3018.22, 41-3024.16, 41-3024.17 and 41-3024.19,  
30 to read:

31 41-3018.22. Boiler advisory board; termination July 1, 2018

32 A. THE BOILER ADVISORY BOARD TERMINATES ON JULY 1, 2018.

33 B. TITLE 23, CHAPTER 2, ARTICLE 11 IS REPEALED ON JANUARY 1, 2019.

34 41-3024.16. Industrial commission of Arizona; termination July  
35 1, 2024

36 A. THE INDUSTRIAL COMMISSION OF ARIZONA TERMINATES ON JULY 1, 2024.

37 B. TITLE 23, CHAPTER 1 IS REPEALED ON JANUARY 1, 2025.

38 41-3024.17. Occupational safety and health advisory committee;  
39 termination July 1, 2024

40 A. THE OCCUPATIONAL SAFETY AND HEALTH ADVISORY COMMITTEE TERMINATES ON  
41 JULY 1, 2024.

42 B. SECTION 23-409 IS REPEALED ON JANUARY 1, 2025.



1           Sec. 34. Retroactivity  
2           Sections 28 and 29 of this act are effective retroactively to July 1,  
3 2016.

4           Sec. 35. Conditional enactment; notice

5           A. Section 23-407, Arizona Revised Statutes, as amended by section 6  
6 of this act, becomes effective only if on or before December 31, 2018 the  
7 federal occupational safety and health administration publishes in the  
8 federal register pursuant to 29 Code of Federal Regulations section 1902.23 a  
9 final decision rendered under 29 Code of Federal Regulations section 1902.22  
10 and pursuant to 29 Code of Federal Regulations section 1953 to reject the  
11 changes to this state's occupational safety and health plan prescribed in  
12 section 23-407, Arizona Revised Statutes, as amended by section 5 of this  
13 act, that results in the exclusion of the changes from this state's federally  
14 approved occupational safety and health plan.

15           B. The director of the industrial commission of Arizona shall notify  
16 in writing the director of the Arizona legislative council on or before  
17 January 15, 2019 either:

- 18           1. Of the date on which the condition in subsection A was met.  
19           2. That the condition was not met.