

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

CHAPTER 356
SENATE BILL 1500

AN ACT

AMENDING SECTIONS 23-101, 23-108, 23-108.01, 23-108.03, 23-401 AND 23-407, ARIZONA REVISED STATUTES; AMENDING SECTION 23-407, ARIZONA REVISED STATUTES, AS AMENDED BY THIS ACT; AMENDING SECTION 23-408, ARIZONA REVISED STATUTES; REPEALING SECTION 23-432, ARIZONA REVISED STATUTES; AMENDING SECTIONS 23-474 AND 23-475, ARIZONA REVISED STATUTES; AMENDING TITLE 23, CHAPTER 2, ARTICLE 11, ARIZONA REVISED STATUTES, BY ADDING SECTION 23-486; PROVIDING FOR TRANSFERRING AND RENUMBERING; AMENDING SECTION 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 41-3024.16, 41-3024.17, 41-3024.18 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.

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

1 23-108.01. Powers and duties of director

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

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

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

13 23-108.03. Performance of certain powers and duties

14 A. The industrial commission shall be responsible for determining the
15 policy of the commission.

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

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

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

27 Sec. 5. Section 23-401, Arizona Revised Statutes, is amended to read:

28 23-401. Definitions

29 In this article, unless the context otherwise requires:

- 30 1. "Board" means a review board established pursuant to section
31 23-422.
- 32 2. "Commission" means the industrial commission of Arizona.
- 33 3. "De minimis violation" means a condition or practice which,
34 although undesirable, has no direct or immediate relationship to safety or
35 health.
- 36 4. "Director" means the director of the division.
- 37 5. "Division" means the division of occupational safety and health
38 within the commission.
- 39 6. "Employee" means any person performing services for an employer,
40 including any person defined as an employee pursuant to section 23-901,
41 except employees engaged in household domestic labor.
- 42 7. "Employer" means any individual or type of organization, including
43 the state and all its political subdivisions, which has in its employ one or
44 more individuals performing services for it in employment and includes
45 self-employed persons, but does not include employers of household domestic
46 labor.

1 8. "Interested party" means the commission and its agents, the
2 employer and the affected employees of such employer.

3 9. "Non-serious violation" means a condition or practice in a place of
4 employment which does not constitute a serious violation but which violates a
5 standard or regulation and has a direct or immediate relationship to safety
6 or health, unless the employer did not, and could not with the exercise of
7 reasonable diligence, know of the presence of such condition or practice.

8 10. "Recognized hazard" means an unsafe or unhealthful condition or
9 practice recognized as such with respect to the standard of knowledge in the
10 industry.

11 11. "Regulation" means any written regulation of occupational safety
12 and health governing places of employment formulated pursuant to section
13 23-410, exclusive of standards, and shall have the same meaning as and
14 include the term "rule".

15 12. "Serious violation" means a condition or practice in a place of
16 employment which violates a standard, regulation or section 23-403,
17 subsection A and produces a substantial probability that death or serious
18 physical harm could result, unless the employer did not, and could not with
19 the exercise of reasonable diligence, know of the presence of such condition
20 or practice.

21 13. "Standard" means any occupational safety and health standard which
22 has been adopted and promulgated by a nationally recognized
23 standards-producing organization or the federal government and shall have the
24 same meaning as, and include the term "code".

25 14. "Trade secret" means a plan or process, tool, mechanism, or
26 compound not patented, known only to its owner and those of his employees to
27 whom it is necessary to confide it, **OR OTHER INFORMATION THAT THE EMPLOYER**
28 **TREATS AS CONFIDENTIAL AND HAS A REASONABLE BASIS FOR DOING SO.**

29 15. "Workplace" means a location or site wherein work, either
30 temporary or permanent, is being conducted in connection with an industry,
31 trade or business.

32 Sec. 6. Section 23-407, Arizona Revised Statutes, is amended to read:

33 23-407. Duties and powers of the division

34 The division on behalf of the commission shall:

35 1. Recommend all standards, rules or changes thereto, pursuant to
36 section 23-410, to the commission for ~~its~~ **THE COMMISSION'S** approval or
37 disapproval.

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

41 3. Implement an occupational safety and health program, ~~which shall~~
42 ~~include, but not be limited to,~~ **THAT INCLUDES** the following duties and
43 responsibilities:

44 (a) Development of a statewide occupational safety and health
45 education and training program to acquaint employers, supervisors, employees

1 and employee representatives with the most modern and effective techniques of
2 accident prevention and occupational health control.

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

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

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

11 (e) Arrangement and procurement of necessary contractual services and
12 training aids.

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

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

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

26 6. CONTRACT WITH THE OFFICE OF ADMINISTRATIVE HEARINGS TO CONDUCT
27 HEARINGS AND ADJUDICATE CONTESTED CASES ON AN EMPLOYER FILING A NOTICE OF
28 CONTEST OF A CITATION PURSUANT TO THIS ARTICLE. THE DECISIONS OF THE OFFICE
29 OF ADMINISTRATIVE HEARINGS SHALL BE SUBJECT TO APPEAL TO THE REVIEW BOARD
30 ESTABLISHED PURSUANT TO THIS ARTICLE.

31 Sec. 7. Section 23-407, Arizona Revised Statutes, as amended by
32 section 6 of this act, is amended to read:

33 23-407. Duties and powers of the division

34 The division on behalf of the commission shall:

35 1. Recommend all standards, rules or changes thereto, pursuant to
36 section 23-410, to the commission for the commission's approval or
37 disapproval.

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

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

43 (a) Development of a statewide occupational safety and health
44 education and training program to acquaint employers, supervisors, employees
45 and employee representatives with the most modern and effective techniques of
46 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. The decisions of the office~~
26 ~~of administrative hearings shall be subject to appeal to the review board~~
27 ~~established pursuant to this article.~~

28 Sec. 8. Section 23-408, Arizona Revised Statutes, is amended to read:

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

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

41 2. CONDUCT AN AUDIO RECORDING OF AN ORAL STATEMENT PROVIDED DURING AN
42 INTERVIEW WITHOUT THE KNOWLEDGE AND CONSENT OF THE PERSON BEING INTERVIEWED.
43 THE EMPLOYEE OF THE DIVISION OR THE COMMISSION SHALL INFORM THE PERSON BEING
44 INTERVIEWED OF THE PERSON'S RIGHT TO RECEIVE A COPY OF THE RECORDED ORAL
45 STATEMENT WITHIN A REASONABLE TIME.

1 3. OBTAIN A WRITTEN STATEMENT DURING AN INTERVIEW WITHOUT INFORMING
2 THE PERSON OF THE PERSON'S RIGHT TO RECEIVE A COPY OF THE WRITTEN STATEMENT
3 WITHIN A REASONABLE TIME.

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

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

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

31 Sec. 9. Repeal

32 Section 23-432, Arizona Revised Statutes, is repealed.

33 Sec. 10. Section 23-474, Arizona Revised Statutes, is amended to read:

34 23-474. Duties of commission

35 The commission shall:

36 1. Administer ~~the provisions of~~ this article through the division of
37 occupational safety and health.

38 ~~2. Establish a boiler advisory board to assist the commission in~~
39 ~~drafting standards and regulations.~~

40 ~~3.~~ 2. Promulgate ADOPT standards and regulations pursuant to section
41 23-475 and ~~promulgate such~~ ADOPT other rules ~~and regulations~~ as are
42 necessary.

43 ~~4.~~ 3. Exercise ~~such~~ other powers as are necessary to carry out the
44 duties and requirements of this article.

45 Sec. 11. Section 23-475, Arizona Revised Statutes, is amended to read:

46 23-475. Duties of division

1 The division shall:

2 1. ~~Except~~ CERTIFY SPECIAL INSPECTORS as provided in section 23-485. ~~;~~

3 2. Inspect boilers and lined hot water storage heaters under this
4 article, EXCEPT THAT BEGINNING ON JULY 1, 2017 THE DIVISION MAY NOT INSPECT
5 BOILERS AND LINED HOT WATER STORAGE HEATERS.

6 3. ESTABLISH A SCHEDULE TO REQUIRE REGULAR BOILER AND LINED HOT WATER
7 STORAGE HEATER INSPECTIONS.

8 ~~2-~~ 4. Recommend standards, regulations and amendments to ~~such~~ THE
9 standards and regulations to the commission for approval or disapproval.

10 ~~3-~~ 5. Enforce, under section 23-478, all standards and regulations
11 adopted by the commission.

12 Sec. 12. Title 23, chapter 2, article 11, Arizona Revised Statutes, is
13 amended by adding section 23-486, to read:

14 23-486. Boiler advisory board; members; terms; meetings

15 A. THE BOILER ADVISORY BOARD IS ESTABLISHED TO ASSIST THE COMMISSION
16 IN DRAFTING STANDARDS AND REGULATIONS FOR BOILERS AND LINED HOT WATER STORAGE
17 HEATERS. THE BOILER ADVISORY BOARD CONSISTS OF THE FOLLOWING MEMBERS WHO ARE
18 APPOINTED BY THE COMMISSION:

19 1. ONE MEMBER WHO REPRESENTS THE BOILER OR LINED HOT WATER STORAGE
20 HEATER MANUFACTURER INDUSTRY.

21 2. ONE MEMBER WHO REPRESENTS A PUBLIC UTILITY.

22 3. ONE MEMBER WHO REPRESENTS THE INSURANCE INDUSTRY.

23 4. ONE MEMBER WHO IS AN OWNER OR OPERATOR OF A BOILER OR LINED HOT
24 WATER STORAGE HEATER.

25 5. ONE MEMBER WHO IS A LICENSED CONTRACTOR.

26 B. THE INITIAL MEMBERS OF THE BOILER ADVISORY BOARD SHALL ASSIGN
27 THEMSELVES BY LOT TO TERMS OF ONE OR TWO YEARS IN OFFICE. ALL SUBSEQUENT
28 MEMBERS SERVE THREE-YEAR TERMS OF OFFICE. THE CHAIRPERSON SHALL NOTIFY THE
29 COMMISSION OF THESE APPOINTMENTS.

30 C. THE BOILER ADVISORY BOARD SHALL ANNUALLY ELECT A CHAIRPERSON FROM
31 ITS MEMBERS.

32 D. THE BOILER ADVISORY BOARD SHALL MEET AT LEAST ANNUALLY AND ON THE
33 CALL OF THE COMMISSION. THE COMMISSION SHALL DETERMINE THE TIME AND PLACE OF
34 BOILER ADVISORY BOARD MEETINGS.

35 Sec. 13. Section 23-521, Arizona Revised Statutes, is transferred and
36 renumbered for placement in title 41, chapter 1, article 5, Arizona Revised
37 Statutes, as section 41-191.10 and, as so renumbered, is amended to read:

38 41-191.10. Misrepresentations by employment agents; definition

39 A. EVERY EMPLOYMENT AGENT SHALL REASONABLY ENSURE THAT ANY
40 REPRESENTATIONS, WHETHER SPOKEN, WRITTEN OR ADVERTISED IN PRINTED FORM, THAT
41 THE EMPLOYMENT AGENT MAKES WITH REGARD TO ANY EMPLOYMENT, WORK OR SITUATION
42 AND THAT LEAD OR MAY LEAD PERSONS TO SEEK THAT EMPLOYMENT, WORK OR SITUATION,
43 ARE TRUE AND COVER ALL THE MATERIAL FACTS AFFECTING THE EMPLOYMENT IN
44 QUESTION. FAILURE TO COMPLY WITH THIS SECTION IS AN UNLAWFUL PRACTICE
45 PURSUANT TO SECTION 44-1522.

1 ~~C.~~ B. ~~Nothing in~~ This section ~~shall be construed to~~ DOES NOT include
2 a recognized labor union.

3 ~~A.~~ C. FOR THE PURPOSES OF THIS SECTION, "employment agent":

4 1. Means all persons, firms, corporations or associations ~~which~~ THAT
5 for a fee, commission or charge ~~that is~~ collected from persons seeking
6 employment either ~~—~~

7 ~~1.~~ furnish to persons seeking employment information enabling or
8 tending to enable the persons to secure employment, including vocational
9 guidance or employment counseling services, ~~—~~

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

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

16 ~~B.~~ 2. ~~"Employment agent"~~ Does not mean:

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

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

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

23 ~~4.~~ (d) A person, firm, corporation or association that satisfies all
24 of the following:

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

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

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

31 Sec. 14. Repeal

32 Sections 41-3016.01, 41-3016.02, 41-3016.03 and 41-3016.05, Arizona
33 Revised Statutes, are repealed.

34 Sec. 15. Title 41, chapter 27, article 2, Arizona Revised Statutes, is
35 amended by adding sections 41-3024.16, 41-3024.17, 41-3024.18 and 41-3024.19,
36 to read:

37 41-3024.16. Industrial commission of Arizona; termination July
38 1, 2024

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

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

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

43 A. THE OCCUPATIONAL SAFETY AND HEALTH ADVISORY COMMITTEE TERMINATES ON
44 JULY 1, 2024.

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

46 41-3024.18. Boiler advisory board; termination July 1, 2024

1 A. THE BOILER ADVISORY BOARD TERMINATES ON JULY 1, 2024.

2 B. SECTION 23-486 IS REPEALED ON JANUARY 1, 2025.

3 41-3024.19. Occupational safety and health review board:
4 termination July 1, 2024

5 A. THE OCCUPATIONAL SAFETY AND HEALTH REVIEW BOARD TERMINATES ON JULY
6 1, 2024.

7 B. SECTIONS 23-422 AND 23-423 ARE REPEALED ON JANUARY 1, 2025.

8 Sec. 16. Purpose of the boiler advisory board

9 Pursuant to section 41-2955, subsection B, Arizona Revised Statutes,
10 the legislature continues the boiler advisory board to assist the division of
11 occupational safety and health in drafting standards and rules for boilers
12 and water heaters.

13 Sec. 17. Purpose of the industrial commission of Arizona

14 Pursuant to section 41-2955, subsection B, Arizona Revised Statutes,
15 the legislature continues the industrial commission of Arizona to promote the
16 health, safety and welfare of employees.

17 Sec. 18. Purpose of the occupational safety and health advisory
18 committee

19 Pursuant to section 41-2955, subsection B, Arizona Revised Statutes,
20 the legislature continues the occupational safety and health advisory
21 committee to assist the industrial commission in drafting standards and
22 rules.

23 Sec. 19. Purpose of the occupational safety and health review
24 board

25 Pursuant to section 41-2955, subsection B, Arizona Revised Statutes,
26 the legislature continues the occupational safety and health review board to
27 hear administrative appeals regarding industrial commission matters.

28 Sec. 20. Retroactivity

29 Sections 14 and 15 of this act are effective retroactively to July 1,
30 2016.

31 Sec. 21. Conditional enactment; notice

32 A. Section 23-407, Arizona Revised Statutes, as amended by section 7
33 of this act, becomes effective only if on or before December 31, 2018 the
34 federal occupational safety and health administration publishes in the
35 federal register pursuant to 29 Code of Federal Regulations section 1902.23 a
36 final decision rendered under 29 Code of Federal Regulations section 1902.22
37 and pursuant to 29 Code of Federal Regulations section 1953 to reject the
38 changes to this state's occupational safety and health plan prescribed in
39 section 23-407, Arizona Revised Statutes, as amended by section 6 of this
40 act, that results in the exclusion of the changes from this state's federally
41 approved occupational safety and health plan.

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

45 1. Of the date on which the condition in subsection A of this section
46 was met.

1 2. That the condition was not met.

APPROVED BY THE GOVERNOR MAY 19, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 19, 2016.