

State of Arizona
Senate
Fifty-third Legislature
Second Regular Session
2018

CHAPTER 145
SENATE BILL 1165

AN ACT

AMENDING SECTION 41-1005, ARIZONA REVISED STATUTES; AMENDING TITLE 46,
CHAPTER 1, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 46-139;
AMENDING SECTION 46-805, ARIZONA REVISED STATUTES; RELATING TO CHILD CARE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 41-1005, Arizona Revised Statutes, is amended to
3 read:

4 41-1005. Exemptions

5 A. This chapter does not apply to any:

6 1. Rule that relates to the use of public works, including streets
7 and highways, under the jurisdiction of an agency if the effect of the
8 order is indicated to the public by means of signs or signals.

9 2. Order or rule of the Arizona game and fish commission that does
10 the following:

11 (a) Opens, closes or alters seasons or establishes bag or
12 possession limits for wildlife.

13 (b) Establishes a fee pursuant to section 5-321, 5-322 or 5-327.

14 (c) Establishes a license classification, fee or application fee
15 pursuant to title 17, chapter 3, article 2.

16 3. Rule relating to section 28-641 or to any rule regulating motor
17 vehicle operation that relates to speed, parking, standing, stopping or
18 passing enacted pursuant to title 28, chapter 3.

19 4. Rule concerning only the internal management of an agency that
20 does not directly and substantially affect the procedural or substantive
21 rights or duties of any segment of the public.

22 5. Rule that only establishes specific prices to be charged for
23 particular goods or services sold by an agency.

24 6. Rule concerning only the physical servicing, maintenance or care
25 of agency owned or operated facilities or property.

26 7. Rule or substantive policy statement concerning inmates or
27 committed youths of a correctional or detention facility in secure custody
28 or patients admitted to a hospital, if made by the state department of
29 corrections, the department of juvenile corrections, the board of
30 executive clemency or the department of health services or a facility or
31 hospital under the jurisdiction of the state department of corrections,
32 the department of juvenile corrections or the department of health
33 services.

34 8. Form whose contents or substantive requirements are prescribed
35 by rule or statute, and instructions for the execution or use of the form.

36 9. Capped fee-for-service schedule adopted by the Arizona health
37 care cost containment system administration pursuant to title 36, chapter
38 29.

39 10. Fees prescribed by section 6-125.

40 11. Order of the director of water resources adopting or modifying
41 a management plan pursuant to title 45, chapter 2, article 9.

42 12. Fees established under section 3-1086.

43 13. Fees established under sections 41-4010 and 41-4042.

44 14. Rule or other matter relating to agency contracts.

45 15. Fees established under section 32-2067 or 32-2132.

- 1 16. Rules made pursuant to section 5-111, subsection A.
- 2 17. Rules made by the Arizona state parks board concerning the
- 3 operation of the Tonto natural bridge state park, the facilities located
- 4 in the Tonto natural bridge state park and the entrance fees to the Tonto
- 5 natural bridge state park.
- 6 18. Fees or charges established under section 41-511.05.
- 7 19. Emergency medical services protocols except as provided in
- 8 section 36-2205, subsection B.
- 9 20. Fee schedules established pursuant to section 36-3409.
- 10 21. Procedures of the state transportation board as prescribed in
- 11 section 28-7048.
- 12 22. Rules made by the state department of corrections.
- 13 23. Fees prescribed pursuant to section 32-1527.
- 14 24. Rules made by the department of economic security pursuant to
- 15 section 46-805.
- 16 25. Schedule of fees prescribed by section 23-908.
- 17 26. Procedure that is established pursuant to title 23, chapter 6,
- 18 article 6.
- 19 27. Rules, administrative policies, procedures and guidelines
- 20 adopted for any purpose by the Arizona commerce authority pursuant to
- 21 chapter 10 of this title if the authority provides, as appropriate under
- 22 the circumstances, for notice of an opportunity for comment on the
- 23 proposed rules, administrative policies, procedures and guidelines.
- 24 28. Rules made by a marketing commission or marketing committee
- 25 pursuant to section 3-414.
- 26 29. Administration of public assistance program monies authorized
- 27 for liabilities that are incurred for disasters declared pursuant to
- 28 sections 26-303 and 35-192.
- 29 30. User charges, tolls, fares, rents, advertising and sponsorship
- 30 charges, services charges or similar charges established pursuant to
- 31 section 28-7705.
- 32 31. Administration and implementation of the hospital assessment
- 33 pursuant to section 36-2901.08, except that the Arizona health care cost
- 34 containment system administration must provide notice and an opportunity
- 35 for public comment at least thirty days before establishing or
- 36 implementing the administration of the assessment.
- 37 32. Rules made by the Arizona department of agriculture to adopt
- 38 and implement the provisions of the federal milk ordinance as prescribed
- 39 by section 3-605.
- 40 33. CALCULATIONS PERFORMED BY THE DEPARTMENT OF ECONOMIC SECURITY
- 41 ASSOCIATED WITH THE ADJUSTMENT OF THE SLIDING FEE SCALE AND FORMULA FOR
- 42 DETERMINING CHILD CARE ASSISTANCE PURSUANT TO SECTION 46-805.
- 43 B. Notwithstanding subsection A, paragraph 21 of this section, at
- 44 such time as the federal highway administration authorizes the
- 45 privatization of rest areas, the state transportation board shall make

1 rules governing the lease or license by the department of transportation
2 to a private entity for the purposes of privatization of a rest area.

3 C. Coincident with the making of a final rule pursuant to an
4 exemption from the applicability of this chapter under this section,
5 another statute or session law, the agency shall file a copy of the rule
6 with the secretary of state for publication pursuant to section 41-1012
7 and provide a copy to the council.

8 D. Unless otherwise required by law, articles 2, 3, 4 and 5 of this
9 chapter do not apply to the Arizona board of regents and the institutions
10 under its jurisdiction, except that the Arizona board of regents shall
11 make policies or rules for the board and the institutions under its
12 jurisdiction that provide, as appropriate under the circumstances, for
13 notice of and opportunity for comment on the policies or rules proposed.

14 E. Unless otherwise required by law, articles 2, 3, 4 and 5 of this
15 chapter do not apply to the Arizona state schools for the deaf and the
16 blind, except that the board of directors of all the state schools for the
17 deaf and the blind shall adopt policies for the board and the schools
18 under its jurisdiction that provide, as appropriate under the
19 circumstances, for notice of and opportunity for comment on the policies
20 proposed for adoption.

21 F. Unless otherwise required by law, articles 2, 3, 4 and 5 of this
22 chapter do not apply to the state board of education, except that the
23 state board of education shall adopt policies or rules for the board and
24 the institutions under its jurisdiction that provide, as appropriate under
25 the circumstances, for notice of and opportunity for comment on the
26 policies or rules proposed for adoption. In order to implement or change
27 any rule, the state board of education shall provide at least two
28 opportunities for public comment.

29 Sec. 2. Title 46, chapter 1, article 3, Arizona Revised Statutes,
30 is amended by adding section 46-139, to read:

31 46-139. Notification; federal poverty guidelines

32 THE DEPARTMENT SHALL NOTIFY THE HEALTH AND HUMAN SERVICES COMMITTEE
33 OF THE SENATE AND THE HEALTH COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR
34 THEIR SUCCESSOR COMMITTEES, WITHIN THIRTY DAYS AFTER THE FEDERAL
35 GOVERNMENT DECIDES TO NO LONGER CALCULATE AND PUBLISH THE FEDERAL POVERTY
36 GUIDELINES.

37 Sec. 3. Section 46-805, Arizona Revised Statutes, is amended to
38 read:

39 46-805. Child care assistance; rates

40 A. The department shall establish payment rates for child care
41 assistance. Payment rates shall provide for equal access for eligible
42 families to comparable child care services provided to families who are
43 not eligible to receive child care assistance.

44 B. Payment rates shall be identical in form for all child care
45 assistance.

1 C. The department may pay different levels of child care assistance
2 according to the category of child care provider, age of children,
3 geographic area, level of national accreditation or another state-approved
4 quality indicator, varying child care costs for children with special
5 needs or other circumstances to meet the child care needs of eligible
6 families.

7 D. The department shall establish a sliding fee scale and formula
8 for determining child care assistance based on:

- 9 1. Income and earnings of the family.
- 10 2. Family size.
- 11 3. Number of children receiving child care assistance.
- 12 4. Child support to other minor dependent children of the parent
13 living outside the family unit.
- 14 5. Income and earnings of a family member who is at least eighteen
15 years of age and who is residing in the home with a parent who is
16 receiving child care assistance, if the family member claims any member of
17 a family unit applying for assistance as a dependent on a federal or state
18 income tax return.
- 19 6. Income and earnings of a nonfamily member who is at least
20 eighteen years of age and who is residing in the home of and cohabiting
21 with a parent who is receiving child care assistance if the cohabiting
22 nonfamily member claims any member of a family unit applying for
23 assistance as a dependent on a federal or state income tax return.
- 24 7. Other factors of a similar nature.

25 E. THE DEPARTMENT SHALL ANNUALLY REVIEW AND ADJUST THE SLIDING FEE
26 SCALE AND FORMULA FOR DETERMINING CHILD CARE ASSISTANCE PURSUANT TO
27 SUBSECTION D OF THIS SECTION AND SECTION 46-803.

28 F. THE DEPARTMENT SHALL POST ON THE DEPARTMENT'S WEBSITE THE
29 PAYMENT RATES AND THE MOST CURRENT SLIDING FEE SCALE AND FORMULA FOR
30 DETERMINING CHILD CARE ASSISTANCE ESTABLISHED PURSUANT TO THIS SECTION.

31 ~~E.~~ G. All child care providers shall remain in good standing with
32 licensing and certification laws and adopted rules.

APPROVED BY THE GOVERNOR APRIL 5, 2018.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 5, 2018.