

State of Arizona
House of Representatives
Fifty-fourth Legislature
First Regular Session
2019

CHAPTER 294
HOUSE BILL 2556

AN ACT

AMENDING SECTIONS 3-111, 11-812 AND 42-12151, ARIZONA REVISED STATUTES;
RELATING TO AGRICULTURAL PROPERTY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 3-111, Arizona Revised Statutes, is amended to
3 read:

4 3-111. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Agricultural operations" means all activities by the owner,
7 lessee, agent, independent contractor and supplier conducted on any
8 facility for the production of crops, livestock, poultry, livestock
9 products or poultry products OR FOR THE PURPOSES OF AGRITOURISM.

10 2. "AGRITOURISM" MEANS ANY ACTIVITY THAT ALLOWS MEMBERS OF THE
11 GENERAL PUBLIC, FOR RECREATIONAL OR EDUCATIONAL PURPOSES, TO VIEW, ENJOY
12 OR PARTICIPATE IN RURAL ACTIVITIES, INCLUDING FARMING, RANCHING,
13 HISTORICAL, CULTURAL, U-PICK, HARVEST-YOUR-OWN PRODUCE OR NATURAL
14 ACTIVITIES AND ATTRACTIONS OCCURRING ON PROPERTY DEFINED AS AGRICULTURAL
15 REAL PROPERTY PURSUANT TO SECTION 42-12151 IF THE ACTIVITY IS CONDUCTED IN
16 CONNECTION WITH AND DIRECTLY RELATED TO A BUSINESS WHOSE PRIMARY INCOME IS
17 DERIVED FROM PRODUCING LIVESTOCK OR AGRICULTURAL COMMODITIES FOR
18 COMMERCIAL PURPOSES.

19 ~~2.~~ 3. "Farmland" means land devoted primarily to the production
20 for commercial purposes of livestock or agricultural commodities.

21 Sec. 2. Section 11-812, Arizona Revised Statutes, is amended to
22 read:

23 11-812. Restriction on regulation; exceptions; aggregate
24 mining regulation; definitions

25 A. Nothing contained in any ordinance authorized by this chapter
26 shall:

27 1. Affect existing uses of property or the right to its continued
28 use or the reasonable repair or alteration of the property for the purpose
29 for which used at the time the ordinance affecting the property takes
30 effect.

31 2. Prevent, restrict or otherwise regulate the use or occupation of
32 land or improvements for railroad, mining, metallurgical, grazing or
33 general agricultural purposes, if the tract concerned is five or more
34 contiguous commercial acres. For the purposes of this paragraph: ~~;~~

35 (a) "General agricultural purposes" ~~to~~ INCLUDES AGRITOURISM AS
36 DEFINED IN SECTION 3-111, BUT DOES not include ANY OF THE FOLLOWING:

37 (i) FOOD ESTABLISHMENTS UNDER THE AUTHORITY OF THE DEPARTMENT OF
38 HEALTH SERVICES PURSUANT TO SECTION 36-136, SUBSECTION I THAT ARE
39 ASSOCIATED WITH AN AGRITOURISM BUSINESS.

40 (ii) RODEO EVENTS THAT ARE OPEN TO THE GENERAL PUBLIC AND THAT SELL
41 TICKETS FOR ADMISSION. FOR THE PURPOSES OF THIS ITEM, RODEO EVENTS DO NOT
42 INCLUDE GENERALLY ACCEPTED AGRICULTURAL PRACTICES ASSOCIATED WITH
43 LIVESTOCK AND EQUINE OPERATIONS.

1 (iii) The cultivation of cannabis as defined in section 13-3401 or
2 marijuana as defined in section 13-3401 or 36-2801. ~~For the purposes of~~
3 ~~this paragraph,~~

4 (b) "Mining" has the same meaning prescribed in section 27-301.

5 3. Prevent, restrict or otherwise regulate the use or occupation of
6 land or improvements for agricultural composting, if the tract is five or
7 more contiguous commercial acres. An agricultural composting operation
8 shall notify in writing the board of supervisors and the nearest fire
9 department of the location of the composting operation. If the nearest
10 fire department is located in a city, town or fire district where the
11 agricultural composting is not located, the agricultural composting
12 operation shall also notify in writing the fire district in which the
13 operation is located. Agricultural composting is subject to sections
14 3-112 and 49-141. For the purposes of this paragraph, "agricultural
15 composting" has the same meaning prescribed in section 9-462.01,
16 subsection G.

17 4. Prevent, restrict or otherwise regulate the otherwise lawful
18 discharge of a firearm or air gun or use of archery equipment on a private
19 lot or parcel of land that is not open to the public on a commercial or
20 membership basis.

21 B. A nonconforming business use within a district may expand if the
22 expansion does not exceed one hundred per cent of the area of the original
23 business.

24 C. For the purposes of subsection A, paragraph 2 of this section,
25 mining does not include aggregate mining operations in an aggregate mining
26 operations zoning district established pursuant to this section. The
27 board of supervisors of any county with a population of more than two
28 million persons shall designate and establish the boundaries of an
29 aggregate mining operations zoning district on the petition of at least
30 one hundred persons who reside within one-half mile of an existing
31 aggregate mining operation. In addition, the board of supervisors of any
32 county may establish, in its discretion and on the board's initiative, one
33 or more aggregate mining operations zoning districts. Aggregate mining
34 operations zoning districts may only be located in areas that are
35 inventoried and mapped as areas of known reserves or in areas with
36 existing aggregate mining operations. Subject to subsections E and F of
37 this section, a county and the state mine inspector may jointly adopt, as
38 internal administrative regulations, reasonable aggregate mining
39 operations zoning district standards limited to permitted uses, procedures
40 for approval of property development plans and site development standards
41 for dust control, height regulations, setbacks, days and hours of
42 operation, off-street parking, screening, noise, vibration and air
43 pollution control, signs, roadway access lanes, arterial highway
44 protection and property reclamation for which aggregate mining operations
45 are not otherwise subject to federal, state or local regulation or a

1 governmental contractual obligation. Regulations jointly adopted pursuant
2 to this subsection by the county and the state mine inspector shall not
3 prohibit the activities included in the definition of mine pursuant to
4 section 27-301, paragraph 8 or duplicate, conflict with or be more
5 stringent than applicable federal, state or local laws.

6 D. The board of supervisors of any county that establishes an
7 aggregate mining operations zoning district shall appoint an aggregate
8 mining operations recommendation committee for the district. The
9 committee consists of not more than seven operators, or representatives of
10 operators, of active aggregate mining operations in any district within
11 the county and an equal number of private citizens, who are not operators,
12 who are not employed by operators and who do not represent operators,
13 residing within three miles of the boundaries of aggregate mining
14 operations or a proposed aggregate mining operation in the district for
15 which the committee is established. The initial members appointed to the
16 committee shall be deemed the primary members, and the board of
17 supervisors shall appoint ~~no~~ NOT more than five alternate members who
18 represent operators and shall appoint ~~no~~ NOT more than five alternate
19 members who are private citizens. Alternate members may serve at meetings
20 of the committee when a primary member is unable to attend. An aggregate
21 mining operator may serve on more than one committee in the same county.
22 The board of supervisors shall determine the length of terms of members of
23 the committee and shall stagger the initial appointments so that not all
24 members' terms expire at the same time. Members of the committee who no
25 longer qualify for membership as provided by this subsection are subject
26 to removal and replacement by the board of supervisors. The committee
27 shall elect a member who is an aggregate mining operator to serve as
28 chairperson for the first year in which the committee is created. For
29 each year thereafter, the chairperson shall be elected by the members of
30 the committee with a member who is a private citizen and a member who is
31 an aggregate mining operator serving as chairperson in alternate years.
32 The committee is subject to the open meeting requirements of title 38,
33 chapter 3, article 3.1.

34 E. Within ninety days after an aggregate mining operations
35 recommendation committee is established, the committee shall notify all
36 existing aggregate mining operators in the district of the application of
37 this section and title 27, chapter 3, article 6 to the aggregate mining
38 operation. In addition, the committee shall:

39 1. By a majority vote of all members make recommendations to the
40 board of supervisors for aggregate mining zoning districts and
41 administrative regulations as provided in this section. The board of
42 supervisors may adopt or reject the recommendations but may not make any
43 modifications to the recommendations unless the modification is approved
44 by a majority of the members of the recommendation committee.

1 2. Serve as a forum for mediation of disputes between members of
2 the public and aggregate mining owners or operators. If the committee is
3 unable to resolve a dispute, the committee shall transmit the matter to
4 the state mine inspector, with written findings and recommendations, for
5 further action.

6 3. Hear written complaints filed with the state mine inspector
7 regarding alleged material deviations from approved community notices for
8 aggregate mining operations and make written recommendations to the state
9 mine inspector pursuant to section 27-446.

10 F. Any administrative regulations adopted by a board of supervisors
11 pursuant to this section are not effective until the regulations are
12 approved by the state mine inspector. The inspector may disapprove the
13 administrative regulations adopted by the board of supervisors only if
14 they duplicate, conflict with or are more stringent than applicable
15 federal, state or local laws, rules or regulations. If the inspector
16 disapproves the administrative regulations, the inspector must provide
17 written reasons for the disapproval. The inspector shall not make any
18 modification to the administrative regulations as adopted by the board of
19 supervisors unless the modification is approved by a majority of the
20 members of the board of supervisors.

21 G. A person or entity is subject to this chapter if the use or
22 occupation of land or improvements by the person or entity consists of or
23 includes changing, remanufacturing or treating human sewage or sludge for
24 distribution or resale. These activities are not exempt from this chapter
25 under subsection A, paragraph 2 of this section.

26 H. A county shall not require as a condition for a permit or for
27 any approval, or otherwise cause, an owner or possessor of property to
28 waive the right to continue an existing nonconforming outdoor advertising
29 use or structure without acquiring the use or structure by purchase or
30 condemnation and paying just compensation unless the county, at its
31 option, allows the use or structure to be relocated to a comparable site
32 in the county with the same or a similar zoning classification, or to
33 another site in the county acceptable to both the county and the owner of
34 the use or structure, and the use or structure is relocated to the other
35 site. The county shall pay for relocating the outdoor advertising use or
36 structure including the cost of removing and constructing the new use or
37 structure that is at least the same size and height. This subsection does
38 not apply to county rezoning of property at the request of the property
39 owner to a more intensive zoning district.

40 I. For the purposes of this section:

41 1. "Aggregate" has the same meaning prescribed in section 27-441.

42 2. "Aggregate mining" has the same meaning prescribed in section
43 27-441.

44 3. "Aggregate mining operation" means property that is owned,
45 operated or managed by the same person for aggregate mining.

1 4. "Operators" means persons who are actively engaged in aggregate
2 mining operations within the zoning district or proposed zoning district
3 and who have given notice to the state mine inspector pursuant to section
4 27-303.

5 Sec. 3. Section 42-12151, Arizona Revised Statutes, is amended to
6 read:

7 42-12151. Definition of agricultural real property

8 In this article, unless the context otherwise requires,
9 "agricultural real property" means real property that is one or more of
10 the following:

11 1. Cropland in the aggregate of at least twenty gross acres.

12 2. An aggregate ten or more gross acres of permanent crops.

13 3. Grazing land with a minimum carrying capacity of forty animal
14 units and containing an economically feasible number of animal units.

15 4. Land and improvements devoted to commercial breeding, raising,
16 boarding or training equine, as defined in section 3-1201 or equine rescue
17 facilities registered with the department of agriculture pursuant to
18 section 3-1350.

19 5. Land and improvements devoted to high density use for producing
20 commodities.

21 6. Land and improvements devoted to use in processing cotton
22 necessary for marketing.

23 7. Land and improvements devoted to use in processing wine grapes
24 for marketing.

25 8. Land and improvements devoted to use in processing citrus for
26 marketing.

27 9. Land and improvements devoted to use as fruit or vegetable
28 commodity packing plants that do not cut or otherwise physically alter the
29 produce.

30 10. Land and improvements owned by a dairy cooperative devoted to
31 high density use in producing, transporting, receiving, processing,
32 storing, marketing and selling milk and manufactured milk products without
33 the presence of any animal units on the land.

34 11. Land of at least five acres and improvements devoted to
35 algaculture. For the purposes of this paragraph "algaculture" means the
36 controlled propagation, growth and harvest of algae.

37 12. LAND AND IMPROVEMENTS DEVOTED TO AGRITOURISM AS DEFINED IN
38 SECTION 3-111.

APPROVED BY THE GOVERNOR JUNE 7, 2019.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 7, 2019.