

REFERENCE TITLE: ADEQ; tribal consultations

State of Arizona  
Senate  
Fifty-sixth Legislature  
First Regular Session  
2023

## **SB 1690**

Introduced by  
Senator Epstein

### **AN ACT**

AMENDING TITLE 49, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY  
ADDING SECTION 49-105; RELATING TO THE DEPARTMENT OF ENVIRONMENTAL  
QUALITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 49, chapter 1, article 1, Arizona Revised  
3 Statutes, is amended by adding section 49-105, to read:

4 49-105. Additional duties of the department; tribal  
5 consultations; notice

6 A. THE DEPARTMENT SHALL CONSULT AND COOPERATE IN GOOD FAITH WITH  
7 ALL FEDERALLY RECOGNIZED INDIAN TRIBES WITHIN THIS STATE BEFORE ADOPTING  
8 POLICIES, ISSUING PERMITS OR APPROVALS OR MAKING OTHER DECISIONS THAT MAY  
9 AFFECT THE TRIBES AND THEIR INTERESTS. THE DEPARTMENT SHALL ESTABLISH A  
10 CONSULTATION POLICY FOR EACH OF THE TWENTY-TWO FEDERALLY RECOGNIZED TRIBES  
11 IN THIS STATE.

12 B. EACH TRIBAL CONSULTATION POLICY MUST INCLUDE AT LEAST THE  
13 FOLLOWING:

14 1. PROVISIONS DEVELOPED IN DIRECT CONSULTATION WITH TRIBAL LEADERS  
15 THAT DESCRIBE THE TRIBE'S REQUIREMENTS FOR THE PROCESS THAT THE DEPARTMENT  
16 WILL USE TO ENGAGE IN CONSULTATION.

17 2. THE NAMES OR POSITIONS OF THE APPROPRIATE POINTS OF CONTACT FOR  
18 THE TRIBE.

19 3. A MAP OR OTHER GEOGRAPHIC DESCRIPTION OF THE AREAS WITHIN THIS  
20 STATE WHERE THE DEPARTMENT'S ACTIONS SHALL AUTOMATICALLY REQUIRE  
21 CONSULTATION WITH THE TRIBE.

22 4. THE FOLLOWING STATEMENTS:

23 (a) THE DEPARTMENT SHALL CARRY OUT ALL CONSULTATIONS IN A MANNER  
24 CONSISTENT WITH SECTION 41-2051 AND ANY EXECUTIVE ORDER IN EFFECT  
25 REGARDING CONSULTATION AND COOPERATION WITH THIS STATE'S TRIBES.

26 (b) THE DEPARTMENT SHALL RESPECT THE TRIBAL SOVEREIGNTY AND  
27 SELF-DETERMINATION OF THE TRIBE.

28 (c) THE DEPARTMENT SHALL ENGAGE IN A GOVERNMENT-TO-GOVERNMENT  
29 RELATIONSHIP WITH THE TRIBE.

30 (d) THE DEPARTMENT SHALL RECOGNIZE THE MORAL OBLIGATIONS OF THE  
31 TRUST RESPONSIBILITY OWED BY THE UNITED STATES TO THE TRIBE.

32 (e) TRIBAL CONSULTATION SHALL BE MEANINGFUL AND TIMELY TO  
33 FACILITATE BETTER UNDERSTANDING AND INFORMED DECISION-MAKING.

34 (f) THE TRIBE SHALL BE CONSULTED THROUGHOUT THE DEPARTMENT'S  
35 DECISION-MAKING PROCESS AND BEFORE MAJOR ACTIONS ARE TAKEN.

36 (g) THE DEPARTMENT SHALL CONSIDER TRIBAL VIEWS AND TRADITIONAL  
37 KNOWLEDGE IN DEVELOPING ITS POLICIES AND ACTIONS THAT MAY IMPACT THE  
38 TRIBE.

39 (h) WHEREVER POSSIBLE, THE DEPARTMENT SHALL TAKE APPROPRIATE  
40 MEASURES TO MITIGATE ADVERSE ENVIRONMENTAL, ECONOMIC, SOCIAL, CULTURAL OR  
41 SPIRITUAL IMPACTS TO THE TRIBE.

1           C. THE DEPARTMENT SHALL PUBLISH ALL TRIBAL CONSULTATION POLICIES ON  
2 ITS WEBSITE WITHIN NINETY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION  
3 AND SHALL NOTIFY THE GOVERNOR'S OFFICE ON TRIBAL RELATIONS, EACH OF THE  
4 TWENTY-TWO TRIBES OF THIS STATE AND ANY COUNCIL OR ASSOCIATION THAT  
5 REPRESENTS THE INTERESTS OF THE TRIBES THAT THE PUBLICATION HAS OCCURRED.  
6 THE NOTICE SHALL INCLUDE INSTRUCTIONS ON HOW TO OBTAIN OR OTHERWISE HAVE  
7 ACCESS TO THE POLICIES. IF A CONSULTATION POLICY IS UPDATED PURSUANT TO  
8 SUBSECTION D OF THIS SECTION OR FOR ANY OTHER REASON, THE DEPARTMENT SHALL  
9 POST THE REVISED POLICY ON ITS WEBSITE AND PROVIDE NOTICE AS PRESCRIBED IN  
10 THIS SUBSECTION.

11           D. THE DEPARTMENT SHALL UPDATE EACH CONSULTATION POLICY PRESCRIBED  
12 BY THIS SECTION NOT LATER THAN DECEMBER 31 OF EACH EVEN-NUMBERED YEAR IN  
13 DIRECT CONSULTATION WITH THE TRIBAL GOVERNMENTS OF EACH OF THE FEDERALLY  
14 RECOGNIZED TRIBES IN THIS STATE.