

House Engrossed

department of health services; rulemaking

State of Arizona  
House of Representatives  
Fifty-sixth Legislature  
Second Regular Session  
2024

# HOUSE BILL 2033

AN ACT

AMENDING SECTIONS 30-654 AND 41-1005, ARIZONA REVISED STATUTES; RELATING  
TO RULEMAKING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 30-654, Arizona Revised Statutes, is amended to  
3 read:

4 30-654. Powers and duties of the department

5 A. The department may:

6 1. Accept grants or other contributions from the federal government  
7 or other sources, public or private, to be used by the department to carry  
8 out any of the purposes of this chapter.

9 2. Do all things necessary, within the limitations of this chapter,  
10 to carry out the powers and duties of the department.

11 3. Conduct an information program, including:

12 (a) Providing information on the control and regulation of sources  
13 of radiation and related health and safety matters, on request, to members  
14 of the legislature, the executive offices, state departments and agencies  
15 and county and municipal governments.

16 (b) Providing such published information, audiovisual  
17 presentations, exhibits and speakers on the control and regulation of  
18 sources of radiation and related health and safety matters to the state's  
19 educational system at all educational levels as may be arranged.

20 (c) Furnishing to citizen groups, on request, speakers and such  
21 audiovisual presentations or published materials on the control and  
22 regulation of sources of radiation and related health and safety matters  
23 as may be available.

24 (d) Conducting, sponsoring or cosponsoring and actively  
25 participating in ~~the~~ professional meetings, symposia, workshops, forums  
26 and other group informational activities concerned with the control and  
27 regulation of sources of radiation and related health and safety matters  
28 when representation from this state at such meetings is determined to be  
29 important by the department.

30 B. The department shall:

31 1. Regulate the use, storage and disposal of sources of radiation.

32 2. Establish procedures for THE purposes of selecting any proposed  
33 permanent disposal site located within this state for low-level  
34 radioactive waste.

35 3. Coordinate with the department of transportation and the  
36 corporation commission in regulating the transportation of sources of  
37 radiation.

38 4. Assume primary responsibility for and provide necessary  
39 technical assistance to handle any incidents, accidents and emergencies  
40 involving radiation or sources of radiation occurring within this state.

41 5. Adopt rules deemed necessary to administer this chapter in  
42 accordance with title 41, chapter 6.

43 6. Adopt uniform radiation protection and radiation dose standards  
44 to be as nearly as possible in conformity with, and in no case  
45 inconsistent with, the standards contained in the regulations of the

1 United States nuclear regulatory commission and the standards of the  
2 United States public health service. In the adoption of the standards,  
3 the department shall consider the total occupational radiation exposure of  
4 individuals, including that from sources that are not regulated by the  
5 department.

6 7. Adopt rules for personnel monitoring under the close supervision  
7 of technically competent people in order to determine compliance with  
8 safety rules adopted under this chapter.

9 8. Adopt a uniform system of labels, signs and symbols and the  
10 posting of the labels, signs and symbols to be affixed to radioactive  
11 products, especially those transferred from person to person.

12 9. By rule, require adequate training and experience of persons  
13 using sources of radiation with respect to the hazards of excessive  
14 exposure to radiation in order to protect health and safety. THE RULES  
15 MAY NOT EXCEED THE REQUIREMENTS OF THE CENTERS FOR MEDICARE AND MEDICAID  
16 SERVICES FOR RADIATION ONCOLOGY SERVICES AS THE REQUIREMENTS APPLY TO THE  
17 FOLLOWING:

18 (a) GENERAL OR DIRECT PHYSICIAN SUPERVISION.

19 (b) TECHNICIAN STAFFING REQUIREMENTS.

20 (c) TRAINING OR EXPERIENCE REQUIREMENTS.

21 10. Adopt standards for the storage of radioactive material and for  
22 security against unauthorized removal.

23 11. Adopt standards for the disposal of radioactive materials into  
24 the air, water and sewers and burial in the soil in accordance with 10  
25 Code of Federal Regulations part 20.

26 12. Adopt rules that are applicable to the shipment of radioactive  
27 materials in conformity with and compatible with those established by the  
28 United States nuclear regulatory commission, the department of  
29 transportation, the United States department of the treasury and the  
30 United States postal service.

31 13. In individual cases, impose additional requirements to protect  
32 health and safety or grant necessary exemptions that will not jeopardize  
33 health or safety, or both.

34 14. Make recommendations to the governor and furnish such technical  
35 advice as required on matters relating to ~~the utilization~~ USING and  
36 ~~regulation of~~ REGULATING sources of radiation.

37 15. Conduct or cause to be conducted off-site radiological  
38 environmental monitoring of the air, water and soil surrounding any fixed  
39 nuclear facility, any uranium milling and tailing site and any uranium  
40 leaching operation, and maintain and report the data or results obtained  
41 by the monitoring as deemed appropriate by the department.

42 16. Develop and ~~utilize~~ USE information resources concerning  
43 radiation and radioactive sources.

44 17. Prescribe by rule a schedule of fees to be charged to  
45 categories of licensees and registrants of radiation sources, including

1 academic, medical, industrial, waste, distribution and imaging categories.  
2 The fees shall cover a significant portion of the reasonable costs  
3 associated with processing the application for license or registration,  
4 renewal or amendment of the license or registration and the costs of  
5 inspecting the licensee or registrant activities and facilities, including  
6 the cost to the department of employing clerical help, consultants and  
7 persons possessing technical expertise and using analytical  
8 instrumentation and information processing systems.

9 18. Adopt rules establishing radiological standards, personnel  
10 standards and quality assurance programs to ensure the accuracy and safety  
11 of screening and diagnostic mammography.

12 C. The department shall deposit, pursuant to sections 35-146 and  
13 35-147, ninety percent of the monies received from fees collected pursuant  
14 to subsection B, paragraph 17 of this section and section 32-2805 in the  
15 health services licensing fund established by section 36-414 and ten  
16 percent of the monies received from fees collected pursuant to subsection  
17 B, paragraph 17 of this section and section 32-2805 in the state general  
18 fund.

19 Sec. 2. Section 41-1005, Arizona Revised Statutes, is amended to  
20 read:

21 41-1005. Exemptions

22 A. This chapter does not apply to any:

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

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

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

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

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

33 (d) Limits the number or use of licenses or permits that are issued  
34 to nonresidents pursuant to section 17-332.

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

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

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

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

1           7. Rule or substantive policy statement concerning inmates or  
2 committed youths of a correctional or detention facility in secure custody  
3 or patients admitted to a hospital if made by the state department of  
4 corrections, the department of juvenile corrections, the board of  
5 executive clemency or the department of health services or a facility or  
6 hospital under the jurisdiction of the state department of corrections,  
7 the department of juvenile corrections or the department of health  
8 services.

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

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

14           10. Fees prescribed by section 6-125.

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

17           12. Fees established under section 3-1086.

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

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

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

21           16. Rules made pursuant to section 5-111, subsection A.

22           17. Rules made by the Arizona state parks board concerning the  
23 operation of the Tonto natural bridge state park, the facilities located  
24 in the Tonto natural bridge state park and the entrance fees to the Tonto  
25 natural bridge state park.

26           18. Fees or charges established under section 41-511.05.

27           19. Emergency medical services protocols except as provided in  
28 section 36-2205, subsection B.

29           20. Fee schedules established pursuant to section 36-3409.

30           21. Procedures of the state transportation board as prescribed in  
31 section 28-7048.

32           22. Rules made by the state department of corrections.

33           23. Fees prescribed pursuant to section 32-1527.

34           24. Rules made by the department of economic security pursuant to  
35 section 46-805.

36           25. Schedule of fees prescribed by section 23-908.

37           26. Procedure that is established pursuant to title 23, chapter 6,  
38 article 6.

39           27. Rules, administrative policies, procedures and guidelines  
40 adopted for any purpose by the Arizona commerce authority pursuant to  
41 chapter 10 of this title if the authority provides, as appropriate under  
42 the circumstances, for notice of an opportunity for comment on the  
43 proposed rules, administrative policies, procedures and guidelines.

44           28. Rules made by a marketing commission or marketing committee  
45 pursuant to section 3-414.

1           29. Administration of public assistance program monies authorized  
2 for liabilities that are incurred for disasters declared pursuant to  
3 sections 26-303 and 35-192.

4           30. User charges, tolls, fares, rents, advertising and sponsorship  
5 charges, services charges or similar charges established pursuant to  
6 section 28-7705.

7           31. Administration and implementation of the hospital assessment  
8 pursuant to section 36-2901.08, except that the Arizona health care cost  
9 containment system administration must provide notice and an opportunity  
10 for public comment at least thirty days before establishing or  
11 implementing the administration of the assessment.

12           32. Rules made by the Arizona department of agriculture to adopt  
13 and implement the provisions of the federal milk ordinance as prescribed  
14 by section 3-605.

15           33. Rules made by the Arizona department of agriculture to adopt,  
16 implement and administer the United States food and drug administration  
17 produce safety rule (21 Code of Federal Regulations part 112) and any  
18 other federal produce safety regulation, order or guideline or other  
19 requirement adopted pursuant to the FDA food safety modernization act  
20 (P.L. 111-353; 21 United States Code sections 2201 through 2252) as  
21 provided by title 3, chapter 3, article 4.1.

22           34. Calculations that are performed by the department of economic  
23 security and that are associated with the adjustment of the sliding fee  
24 scale and formula for determining child care assistance pursuant to  
25 section 46-805.

26           35. Rules made by the Arizona department of agriculture to  
27 implement and administer the livestock operator fire and flood assistance  
28 grant program established by section 3-109.03.

29           36. RULES MADE BY THE DEPARTMENT OF HEALTH SERVICES TO REGULATE AN  
30 ACCREDITED HOSPITAL AS DEFINED IN SECTION 36-401 IF ALL OF THE FOLLOWING  
31 APPLY:

32           (a) THE RULES REDUCE A REGULATORY BURDEN WITHOUT JEOPARDIZING  
33 HEALTH AND SAFETY.

34           (b) THE RULES DO NOT INCREASE COSTS TO PERSONS WHO ARE REGULATED BY  
35 THE RULE.

36           (c) BEFORE THE RULES ARE ADOPTED, THE PUBLIC IS GIVEN AT LEAST  
37 FIFTEEN DAYS TO COMMENT ON THE RULES.

38           B. Notwithstanding subsection A, paragraph 21 of this section, if  
39 the federal highway administration authorizes the privatization of rest  
40 areas, the state transportation board shall make rules governing the lease  
41 or license by the department of transportation to a private entity for the  
42 purposes of privatization of a rest area.

43           C. Coincident with ~~the~~ making ~~of~~ a final rule pursuant to an  
44 exemption from the applicability of this chapter under this section,  
45 another statute or session law, the agency shall:

1           1. Prepare a notice and follow formatting guidelines prescribed by  
2 the secretary of state.

3           2. Prepare the rulemaking exemption notices pursuant to chapter 6.2  
4 of this title.

5           3. File a copy of the rule with the secretary of state for  
6 publication pursuant to section 41-1012 and provide a copy to the council.

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

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

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

30           G. Unless otherwise required by law, articles 2, 3, 4 and 5 of this  
31 chapter do not apply to the state board for charter schools, except that  
32 the board shall adopt policies or rules for the board and the charter  
33 schools sponsored by the board that provide, as appropriate under the  
34 circumstances, for notice of and opportunity for comment on the policies  
35 or rules proposed for adoption. In order to implement or change any  
36 policy or rule, the board shall provide at least two opportunities for  
37 public comment. The state board for charter schools shall consider the  
38 fiscal impact of any proposed rule pursuant to this subsection.

39           Sec. 3. Emergency

40           This act is an emergency measure that is necessary to preserve the  
41 public peace, health or safety and is operative immediately as provided by  
42 law.