

REFERENCE TITLE: **repeal; right to work; liability**

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

HB 2291

Introduced by
Representatives De Los Santos: Contreras P

AN ACT

REPEALING SECTION 23-1302, ARIZONA REVISED STATUTES; AMENDING SECTIONS 23-1306 AND 23-1501, ARIZONA REVISED STATUTES; RELATING TO THE RIGHT TO WORK.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Heading change

3 The article heading of title 23, chapter 8, article 1, Arizona
4 Revised Statutes, is changed from "RIGHT TO WORK" to "GENERAL PROVISIONS".

5 Sec. 2. Repeal

6 Section 23-1302, Arizona Revised Statutes, is repealed.

7 Sec. 3. Section 23-1306, Arizona Revised Statutes, is amended to
8 read:

9 23-1306. Civil liability of person violating article

10 A person who violates any provision of this article, ~~or who enters~~
11 into an agreement containing a provision declared illegal by this
12 article, ~~or who brings about the discharge of or denial of employment to~~
13 ~~any person because of nonmembership in a labor organization~~ shall be
14 liable to the person injured as the result of such act or provision and
15 may be sued ~~therefor~~ FOR SUCH ACT OR PROVISION, and in such action any
16 labor organization, subdivision or local thereof shall be bound by the
17 acts of its duly authorized agents acting within the scope of their
18 authority, and may sue or be sued in its common name.

19 Sec. 4. Section 23-1501, Arizona Revised Statutes, is amended to
20 read:

21 23-1501. Severability of employment relationships; protection
22 from retaliatory discharges; exclusivity of
23 statutory remedies in employment

24 A. The public policy of this state is that:

25 1. The employment relationship is contractual in nature.

26 2. The employment relationship is severable at the pleasure of
27 either the employee or the employer unless both the employee and the
28 employer have signed a written contract to the contrary setting forth that
29 the employment relationship shall remain in effect for a specified
30 duration of time or otherwise expressly restricting the right of either
31 party to terminate the employment relationship. Both the employee and the
32 employer must sign this written contract, or this written contract must be
33 set forth in the employment handbook or manual or any similar document
34 distributed to the employee, if that document expresses the intent that it
35 is a contract of employment, or this written contract must be set forth in
36 a writing signed by the party to be charged. Partial performance of
37 employment shall not be deemed sufficient to eliminate the requirements
38 set forth in this paragraph. ~~Nothing in~~ This paragraph ~~shall be construed~~
39 ~~to~~ DOES NOT affect the rights of public employees under the Constitution
40 of Arizona and state and local laws of this state or the rights of
41 employees and employers as defined by a collective bargaining agreement.

1 3. An employee has a claim against an employer for termination of
2 employment only if one or more of the following circumstances have
3 occurred:

4 (a) The employer has terminated the employment relationship of an
5 employee in breach of an employment contract, as set forth in paragraph 2
6 of this subsection, in which case the remedies for the breach are limited
7 to the remedies for a breach of contract.

8 (b) The employer has terminated the employment relationship of an
9 employee in violation of a statute of this state. If the statute provides
10 a remedy to an employee for a violation of the statute, the remedies
11 provided to an employee for a violation of the statute are the exclusive
12 remedies for the violation of the statute or the public policy set forth
13 in or arising out of the statute, including the following:

14 (i) The civil rights act prescribed in title 41, chapter 9.

15 (ii) The occupational safety and health act prescribed in
16 chapter 2, article 10 of this title.

17 (iii) The statutes governing the hours of employment prescribed in
18 chapter 2 of this title.

19 (iv) The agricultural employment relations act prescribed in
20 chapter 8, article 5 of this title.

21 (v) The statutes governing disclosure of information by public
22 employees prescribed in title 38, chapter 3, article 9.

23 All definitions and restrictions contained in the statute also apply to
24 any civil action based on a violation of the public policy arising out of
25 the statute. If the statute does not provide a remedy to an employee for
26 the violation of the statute, the employee shall have the right to bring a
27 tort claim for wrongful termination in violation of the public policy set
28 forth in the statute.

29 (c) The employer has terminated the employment relationship of an
30 employee in retaliation for any of the following:

31 (i) The refusal by the employee to commit an act or omission that
32 would violate the Constitution of Arizona or the statutes of this state.

33 (ii) The disclosure by the employee in a reasonable manner that the
34 employee has information or a reasonable belief that the employer, or an
35 employee of the employer, has violated, is violating or will violate the
36 Constitution of Arizona or the statutes of this state to either the
37 employer or a representative of the employer who the employee reasonably
38 believes is in a managerial or supervisory position and has the authority
39 to investigate the information provided by the employee and to take action
40 to prevent further violations of the Constitution of Arizona or statutes
41 of this state or an employee of a public body or political subdivision of
42 this state or any agency of a public body or political subdivision.

43 (iii) The exercise of rights under the workers' compensation
44 statutes prescribed in chapter 6 of this title.

45 (iv) Service on a jury as protected by section 21-236.

1 (v) The exercise of voting rights as protected by section 16-1012.

2 ~~(vi) The exercise of free choice with respect to nonmembership in a~~
3 ~~labor organization as protected by section 23-1302.~~

4 ~~(vii)~~ (vi) Service in the national guard or armed forces as
5 protected by sections 26-167 and 26-168.

6 ~~(viii)~~ (vii) The exercise of the right to be free from the
7 extortion of fees or gratuities as a condition of employment as protected
8 by section 23-202.

9 ~~(ix)~~ (viii) The exercise of the right to be free from coercion to
10 purchase goods or supplies from any particular person as a condition of
11 employment as protected by section 23-203.

12 ~~(x)~~ (ix) The exercise of a victim's right to leave work as
13 provided in sections 8-420 and 13-4439.

14 B. If the statute provides a remedy to an employee for a violation
15 of the statute, the remedies provided to an employee for a violation of
16 the statute are the exclusive remedies for the violation of the statute or
17 the public policy prescribed in or arising out of the statute.

18 Sec. 5. Conditional enactment

19 This act does not become effective unless the Constitution of
20 Arizona is amended by a vote of the people at the next general election by
21 passage of House Concurrent Resolution ____, fifty-sixth legislature,
22 second regular session, relating to the right to work.