

REFERENCE TITLE: citizen suits; environment

State of Arizona
House of Representatives
Fifty-seventh Legislature
Second Regular Session
2026

HB 2541

Introduced by
Representative Mathis

AN ACT

AMENDING SECTIONS 49-264, 49-282, 49-407, AND 49-551, ARIZONA REVISED
STATUTES; RELATING TO ENVIRONMENTAL LAWSUITS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 49-264, Arizona Revised Statutes, is amended to
3 read:

4 49-264. Private right of action; citizen suits; right to
5 intervene

6 A. Except as provided in subsection B of this section, a person
7 that has an interest that is or may be adversely affected ~~by a violation~~
8 ~~of this chapter or a rule adopted or an order issued by the department~~
9 ~~pursuant to this chapter~~ may commence a civil action in superior court on
10 the person's own behalf against:

11 1. A PERSON, THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE
12 ALLEGING A VIOLATION OF THIS CHAPTER OR AN ORDER, PERMIT, STANDARD, RULE
13 OR DISCHARGE LIMITATION ADOPTED OR ISSUED PURSUANT TO THIS CHAPTER. THE
14 COURT HAS JURISDICTION TO ENFORCE THIS CHAPTER OR AN ORDER, PERMIT,
15 STANDARD, RULE OR DISCHARGE LIMITATION ADOPTED OR ISSUED PURSUANT TO THIS
16 CHAPTER AND TO APPLY ANY APPROPRIATE CIVIL PENALTY PURSUANT TO SECTION
17 49-262.

18 2. The director alleging a failure of the director to perform an
19 act or duty under this chapter that is not discretionary with the
20 director. The court shall have jurisdiction to order the director to
21 perform the act or duty.

22 B. ~~No~~ AN action may NOT be commenced in ~~any~~ EITHER of the following
23 cases:

24 1. Before ~~one hundred twenty~~ SIXTY days after the plaintiff has
25 given notice of the alleged violation to the director and to an alleged
26 violator.

27 ~~2. If after conducting an investigation the director determines~~
28 ~~within one hundred twenty days after receiving notice of the alleged~~
29 ~~violation from the plaintiff that no violation has occurred, or the~~
30 ~~director had determined before receiving the notice of the alleged~~
31 ~~violation that the violation had not occurred.~~

32 ~~3. If the department has issued and is diligently processing a~~
33 ~~notice of violation or an order or has commenced and is diligently~~
34 ~~prosecuting a civil action in the superior court to require compliance~~
35 ~~with the provision, order, permit, standard, rule or discharge limitation.~~

36 ~~4.~~ 2. If the attorney general or county attorney has commenced and
37 is diligently prosecuting a civil action in the superior court to require
38 compliance with ~~the provision,~~ THIS CHAPTER OR THE order, permit,
39 standard, rule or discharge limitation.

40 ~~5. If the director is diligently pursuing the violation under~~
41 ~~another state or federal environmental law.~~

42 C. In an action commenced under this section:

43 1. THE DIRECTOR, IF NOT A PARTY, MAY INTERVENE AS A MATTER OF
44 RIGHT.

45 2. The plaintiff has the burden of proof.

D. The court, in issuing a final order in an action brought under this section, may:

1. Award costs of litigation, including reasonable attorney and expert witness fees, to any party ~~that substantially prevails~~ IF THE COURT DETERMINES IT IS APPROPRIATE AND, IN ADDITION, TO THE DEFENDANT IN THE CASE OF A FRIVOLOUS ACTION.

2. PROVIDE FOR INJUNCTIVE OR OTHER EQUITABLE RELIEF OR ASSESS CIVIL PENALTIES THAT COULD HAVE BEEN ASSESSED UNDER SECTION 49-262. ANY CIVIL PENALTIES COLLECTED PURSUANT TO THIS SECTION SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE WATER QUALITY ASSURANCE REVOLVING FUND ESTABLISHED BY SECTION 49-282.

E. THIS SECTION SHALL BE CONSTRUED IN A MANNER CONSISTENT WITH 33 UNITED STATES CODE SECTION 1365 AND WITH JUDICIAL INTERPRETATIONS OF THAT SECTION.

~~E.~~ F. A person that is or may be adversely affected by a violation of any requirement of the underground injection control permit program established pursuant to article 3.3 of this chapter may intervene as a matter of right in any pending state civil or administrative enforcement action. A person's right to intervene is limited as follows:

1. A person may intervene only if the person is adversely affected by the violation that is named in the state's action.

2. A person may intervene only for purposes of obtaining the following remedies for the state:

(a) A temporary restraining order.

(b) Injunctive relief.

(c) Civil penalties.

(d) Any combination of the penalties prescribed in this paragraph.

Sec. 2. Section 49-282, Arizona Revised Statutes, is amended to read:

49-282. Water quality assurance revolving fund

A. The water quality assurance revolving fund is established to be administered by the director. The fund consists of monies from the following sources:

1. Monies appropriated by the legislature.

2. Fertilizer license fees allocated under section 3-272, subsection B, paragraph 2.

3. Pesticide registration fees allocated under section 3-351, subsection D, paragraph 2.

4. The tax on water use pursuant to section 42-5302.

5. Water quality assurance fees collected under section 45-616.

6. Industrial discharge registration fees collected under section 49-209.

7. Hazardous waste facility registration fees collected under section 49-929.

1 8. Hazardous waste resource recovery facility registration fees
2 collected under section 49-930.

3 9. Monies recovered from responsible parties as remedial action
4 costs.

5 10. Monies received as costs for a review of remedial actions at
6 the request of a person other than this state.

7 11. Monies received from the collection of corporate income taxes
8 under title 43, chapter 11, article 2 as prescribed by subsection B of
9 this section.

10 12. Prospective purchaser or prospective remediator agreement fees
11 collected under section 49-285.01.

12 13. CIVIL PENALTIES COLLECTED PURSUANT TO SECTION 49-264.

13 B. The water quality assurance revolving fund shall be assured of
14 an annual funding amount of \$18,000,000. At the beginning of each fiscal
15 year, the state treasurer shall transfer the sum of \$15,000,000 to the
16 water quality assurance revolving fund from the corporate income tax as
17 collected pursuant to title 43, chapter 11, article 2. As custodian of
18 the fund, the director shall certify to the governor, the state treasurer,
19 the president of the senate and the speaker of the house of
20 representatives at the end of that fiscal year the amount of monies
21 deposited in the water quality assurance revolving fund pursuant to
22 subsection A, paragraphs 1 through 8 of this section. At the end of the
23 fiscal year the state treasurer shall adjust the \$15,000,000 transfer of
24 corporate income tax so that, when combined with monies deposited in the
25 fund during that fiscal year pursuant to subsection A, paragraphs 1
26 through 8 of this section, the fund receives \$18,000,000 each fiscal year.
27 This adjustment shall occur as part of the year-end book closing process
28 for that fiscal year. If sufficient monies from the corporate income tax
29 are not available to make any necessary upward adjustments as part of the
30 year-end book closing, the state treasurer shall transfer the monies
31 necessary to achieve the \$18,000,000 funding level from the transaction
32 privilege and severance tax clearing account pursuant to section 42-5029,
33 subsection D, paragraph 4, to the water quality assurance revolving fund.
34 Any transfers prescribed by this subsection shall not be deducted from the
35 net proceeds distributed pursuant to section 43-206.

36 C. At the beginning of each fiscal year, the director of
37 environmental quality shall contract with the department of water
38 resources for the transfer of up to \$800,000 from the water quality
39 assurance revolving fund to the Arizona water quality fund established by
40 section 45-618 for support services for the water quality assurance
41 revolving fund program. The support services provided for the water
42 quality assurance revolving fund program shall be determined by the
43 director of water resources in consultation with the director of
44 environmental quality.

1 D. Monies in the fund are exempt from lapsing under section 35-190.
2 Interest earned on monies in the fund shall be credited to the fund.

3 E. Monies from the water quality assurance revolving fund shall be
4 used for the following purposes:

5 1. To provide state matching monies or to meet such other
6 obligations as are prescribed by section 104 of CERCLA.

7 2. For all reasonable and necessary costs to implement this
8 article, including:

9 (a) Taking remedial actions.

10 (b) Conducting investigations of an area to determine if a release
11 or a threatened release of a hazardous substance exists.

12 (c) Conducting remedial investigations, feasibility studies, health
13 effect studies and risk assessments.

14 (d) Identifying and investigating potentially responsible parties
15 and allocating liability among the responsible parties.

16 (e) Funding orphan shares.

17 (f) Participating in the allocation process, administrative appeals
18 and court actions.

19 (g) Funding the community advisory boards and other community
20 involvement activities.

21 (h) Remediating pollutants if necessary to remediate a hazardous
22 substance.

23 3. For the reasonable and necessary costs of monitoring, assessing,
24 identifying, locating and evaluating the degradation, destruction, loss of
25 or threat to the waters of the state resulting from a release of a
26 hazardous substance to the environment.

27 4. For the reasonable and necessary costs of administering the
28 fund.

29 5. For the reasonable and necessary costs of administering the
30 industrial discharge registration program under section 49-209.

31 6. For the costs of the water quality monitoring program described
32 in section 49-225.

33 7. For compliance monitoring, investigation and enforcement
34 activities pertaining to generating, transporting, treating, storing and
35 disposing of hazardous waste. The amount to be used pursuant to chapter 5
36 of this title is limited to the amount received in the prior fiscal year
37 from the hazardous waste facility registration fee.

38 8. For emergency response use as prescribed in section 49-282.02.

39 9. For all reasonable and necessary costs of the preparation and
40 execution of prospective purchaser agreements.

41 10. For all reasonable and necessary costs of the voluntary
42 remediation program.

43 11. To reimburse a political subdivision of this state for its
44 reasonable, necessary and cost-effective remedial action costs incurred in
45 response to a release or threat of a release of a hazardous substance or

pollutants that presents an immediate and substantial endangerment to the public health or the environment. The political subdivision is not eligible for reimbursement until it has taken all reasonable efforts to obtain reimbursement from the responsible party and the federal government. Not more than \$250,000 may be spent from the fund for this purpose in any fiscal year.

12. For all reasonable and necessary costs incurred by the department pursuant to section 49-282.04 and the department of water resources pursuant to section 45-605 for well inspections, remedial actions and review and approval of well construction necessary to prevent vertical cross-contamination. The director of environmental quality and the director of water resources shall enter into an agreement for the transfer of these costs.

13. For actions that are taken pursuant to section 49-282.03 before the selection of a remedy.

14. For the reasonable and necessary costs of the conveyance, use or discharge of water remediated as part of a remedy under this article.

15. For the reasonable and necessary costs incurred by the department of health services at the request of the director of environmental quality to assess and evaluate the effect of a release or threatened release of hazardous substances to the public health or welfare and the environment. The director of environmental quality and the director of the department of health services shall enter into an agreement for the transfer of these costs. The assessment and evaluation by the department of health services may include:

(a) Performing health effect studies and risk assessments.

(b) Evaluating and calculating cleanup standards.

(c) Assisting in communicating health and risk issues to the public.

16. For the reasonable and necessary costs incurred by the department of law to provide legal services at the request of the director of environmental quality.

17. For the reasonable and necessary costs of contracting for the goods and services to enable the director to implement this article.

18. For remediation demonstration projects that use bioremediation or other alternative technologies. The department may not use more than \$500,000 in a fiscal year pursuant to this paragraph.

F. Any political subdivision of this state that uses, used or may use waters of the state for drinking water purposes or any state agency, regardless of whether the political subdivision or state agency is a responsible party, may apply to the director for monies from the fund to be used for remedial action. An application to the fund for remedial action costs shall not be treated as an admission that a political subdivision or an agency of this state is a responsible party, but a political subdivision or a state agency that is a responsible party is

1 liable for remedial action costs in the same manner, including
 2 reimbursement of the fund, as any other responsible party. The political
 3 subdivision shall commit a local matching amount at least equal to the
 4 amount sought from the fund.

5 G. The director of environmental quality shall prepare and submit a
 6 budget for the water quality assurance revolving fund program and the
 7 director of water resources shall prepare and submit a budget for the
 8 Arizona water quality fund with the departments' budgets that are required
 9 pursuant to section 35-111. The committees on appropriations of the house
 10 of representatives and the senate shall review the water quality assurance
 11 revolving fund budget and the Arizona water quality fund budget to ensure
 12 that the departments' expenditures are made in accordance with the
 13 legislature's intent and that the departments are making adequate progress
 14 toward accomplishing that intent.

15 Sec. 3. Section 49-407, Arizona Revised Statutes, is amended to
 16 read:

17 49-407. Private right of action; citizen suits

18 A. Except as provided in subsection B OF THIS SECTION, a person
 19 ~~having~~ THAT HAS an interest ~~which~~ THAT is or may be adversely affected may
 20 commence a civil action in superior court on ~~his~~ THE PERSON'S own behalf
 21 against:

22 1. A PERSON, THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE
 23 ALLEGING A VIOLATION OF THIS ARTICLE OR ARTICLE 2 OF THIS CHAPTER OR AN
 24 ORDER, PERMIT, STANDARD, RULE OR EMISSION LIMITATION ADOPTED OR ISSUED
 25 PURSUANT TO THIS ARTICLE OR ARTICLE 2 OF THIS CHAPTER. THE COURT HAS
 26 JURISDICTION TO ENFORCE THIS ARTICLE OR ARTICLE 2 OF THIS CHAPTER OR AN
 27 ORDER, PERMIT, STANDARD, RULE OR EMISSION LIMITATION ADOPTED OR ISSUED
 28 PURSUANT TO THIS ARTICLE OR ARTICLE 2 OF THIS CHAPTER AND TO ASSESS ANY
 29 CIVIL PENALTY PURSUANT TO SECTION 49-463.

30 2. The director alleging a failure of the director to perform an
 31 act or duty under this article or article 2 of this chapter that is not
 32 discretionary with the director. The court has jurisdiction to order the
 33 director to perform the act or duty.

34 B. ~~No~~ AN action may NOT be commenced in ~~any~~ EITHER of the following
 35 cases:

36 1. Before sixty days after the plaintiff has given notice of the
 37 alleged violation to the director and to an alleged violator.

38 ~~2. If the director determines no violation has occurred, or if the~~
 39 ~~director has initiated an administrative enforcement action by issuing a~~
 40 ~~warning letter, notice of violation or issuing an order.~~

41 ~~3.~~ 2. If the attorney general or county attorney has commenced and
 42 is diligently prosecuting a civil action in the superior court to require
 43 compliance with ~~the provision,~~ THIS ARTICLE OR ARTICLE 2 OF THIS CHAPTER
 44 OR THE order, permit, standard, rule or emission limitation.

1 C. In an action commenced under this section:
2 1. THE DIRECTOR, IF NOT A PARTY, MAY INTERVENE AS A MATTER OF
3 RIGHT.
4 2. The plaintiff has the burden of proof.
5 D. The court, in issuing a final order in an action brought under
6 this section, may:
7 1. Award costs of litigation, including reasonable attorney and
8 expert witness fees, to any party ~~that substantially prevails~~ IF THE COURT
9 DETERMINES IT IS APPROPRIATE AND, IN ADDITION, TO THE DEFENDANT IN THE
10 CASE OF A FRIVOLOUS ACTION.
11 2. PROVIDE FOR INJUNCTIVE OR OTHER EQUITABLE RELIEF UNDER SECTION
12 49-462 OR ASSESS CIVIL PENALTIES THAT COULD HAVE BEEN ASSESSED UNDER
13 SECTION 49-463. ANY CIVIL PENALTIES COLLECTED PURSUANT TO THIS SECTION
14 SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE AIR
15 QUALITY FUND ESTABLISHED BY SECTION 49-551.
16 E. THIS SECTION SHALL BE CONSTRUED IN A MANNER CONSISTENT WITH 42
17 UNITED STATES CODE SECTION 7604 AND WITH JUDICIAL INTERPRETATIONS OF THAT
18 SECTION.
19 Sec. 4. Section 49-551, Arizona Revised Statutes, is amended to
20 read:
21 49-551. Air quality fee; air quality fund; purpose
22 A. Every person who is required to register a motor vehicle in this
23 state pursuant to section 28-2153 shall pay, in addition to the
24 registration fee, an annual air quality fee at the time of vehicle
25 registration of \$1.50. Unless and until the United States environmental
26 protection agency grants a waiver for diesel fuel pursuant to section
27 211(c)(4) of the clean air act, every person who is required to register a
28 diesel powered motor vehicle in this state with a declared gross weight as
29 defined in section 28-5431 of more than eight thousand five hundred pounds
30 and every person who is subject to an apportioned fee for diesel powered
31 motor vehicles collected pursuant to title 28, chapter 7, articles 7 and 8
32 shall pay an additional apportioned diesel fee of \$10.
33 B. The registering officer shall collect the fees and immediately
34 deposit, pursuant to sections 35-146 and 35-147, the air quality fees in
35 the air quality fund established by subsection C of this section and shall
36 deposit the diesel fees in the voluntary vehicle repair program fund
37 established pursuant to section 49-558.02.
38 C. The air quality fund is established consisting of monies
39 received pursuant to this section, CIVIL PENALTIES COLLECTED PURSUANT TO
40 SECTION 49-407, gifts, grants and donations, and monies appropriated by
41 the legislature. The department ~~of environmental quality~~ shall administer
42 the fund. Monies in the fund are exempt from the provisions of section
43 35-190 relating to the lapsing of appropriations. Interest earned on
44 monies in the fund shall be credited to the fund. Monies in the air
45 quality fund shall be used, subject to legislative appropriation, for:

1 1. Air quality research, experiments and programs conducted by or
2 for the department for the purpose of bringing area A or area B into or
3 maintaining area A or area B in attainment status, improving air quality
4 in areas of this state outside area A or area B and reducing emissions of
5 particulate matter, carbon monoxide, oxides of nitrogen, volatile organic
6 compounds and hazardous air pollutants throughout ~~the~~ THIS state.

7 2. Monitoring visible air pollution and developing and implementing
8 programs to reduce emissions of pollutants that contribute to visible air
9 pollution in counties with a population of four hundred thousand persons
10 or more.

11 3. Developing and adopting rules in compliance with sections
12 49-426.03, 49-426.04, 49-426.05 and 49-426.06.

13 D. The department of environmental quality shall transfer \$400,000
14 from the air quality fund to the department of administration for the
15 purposes prescribed by section 49-588 in eight installments in each of the
16 first eight months of a fiscal year.

17 E. This section does not apply to an electrically powered golf cart
18 or an electrically powered vehicle.