

REFERENCE TITLE: industrial hemp; licensing

State of Arizona
Senate
Fifty-third Legislature
First Regular Session
2017

SB 1337

Introduced by

Senators Borrelli: Bowie, Bradley, Brophy McGee, Contreras, Dalessandro,
Fann, Farley, Hobbs, Meza, Miranda, Montenegro, Otondo, Peshlakai,
Quezada; Representatives Barton, Campbell, Cardenas, Cobb, Cook,
Fernandez, Finchem, Friese, Lawrence, Mitchell, Rios, Shooter, Thorpe,
Weninger

AN ACT

AMENDING TITLE 3, CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 4.1; AMENDING SECTIONS 13-3405, 41-619.51, 41-1758 AND 41-1758.01, ARIZONA REVISED STATUTES; RELATING TO AGRICULTURAL LICENSING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 3, chapter 2, Arizona Revised Statutes, is amended
3 by adding article 4.1, to read:

4 ARTICLE 4.1. INDUSTRIAL HEMP

5 3-311. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "CROP" MEANS ANY INDUSTRIAL HEMP GROWN UNDER A SINGLE INDUSTRIAL
8 HEMP GROWER OR PROCESSOR LICENSE.

9 2. "GROWER" MEANS AN INDIVIDUAL, A PARTNERSHIP, A COMPANY OR A
10 CORPORATION THAT PRODUCES INDUSTRIAL HEMP FOR COMMERCIAL PURPOSES.

11 3. "HEMP PRODUCTS" MEANS ALL PRODUCTS MADE FROM HEMP, INCLUDING
12 CLOTH, CORDAGE, FIBER, FOOD, FUEL, PAINT, PAPER, CONSTRUCTION MATERIALS
13 AND PLASTICS.

14 4. "HEMP SEED" MEANS ANY CANNABIS SATIVA L. SEED THAT PRODUCES
15 INDUSTRIAL HEMP PLANTS, THAT MEETS ANY LABELING, QUALITY AND OTHER
16 STANDARDS SET FORTH IN ARTICLE 2 OF THIS CHAPTER AND THAT IS INTENDED FOR
17 SALE OR IS SOLD TO, OR PURCHASED BY, A LICENSED GROWER FOR PLANTING.

18 5. "INDUSTRIAL HEMP" MEANS:

19 (a) ALL NONSEED PARTS AND VARIETIES OF THE CANNABIS SATIVA L.
20 PLANT, WHETHER GROWING OR NOT, THAT CONTAIN A TETRAHYDROCANNABINOL
21 CONCENTRATION OF NOT MORE THAN THREE-TENTHS PERCENT ON A DRY WEIGHT BASIS.

22 (b) ANY HEMP SEED THAT IS ANY OF THE FOLLOWING:

23 (i) PART OF A GROWING CROP.

24 (ii) RETAINED BY A GROWER FOR FUTURE PLANTING PENDING SEED
25 AGREEMENT.

26 (iii) PROCESSED INTO A MARKETABLE AGRICULTURAL COMMODITY.

27 6. "PROCESSOR" MEANS AN INDIVIDUAL, A PARTNERSHIP, A COMPANY OR A
28 CORPORATION THAT RECEIVES INDUSTRIAL HEMP FOR PROCESSING INTO COMMODITIES,
29 HEMP PRODUCTS OR HEMP SEED.

30 3-312. Legislative findings; purpose; authorization

31 A. THE LEGISLATURE FINDS AND DETERMINES THAT THE DEVELOPMENT AND
32 USE OF INDUSTRIAL HEMP CAN IMPROVE THE ECONOMY AND AGRICULTURAL VITALITY
33 OF THIS STATE AND THAT THE PRODUCTION OF INDUSTRIAL HEMP CAN BE REGULATED
34 SO AS NOT TO INTERFERE WITH STRICT REGULATION OF CONTROLLED SUBSTANCES IN
35 THIS STATE.

36 B. THE PURPOSE OF THIS ARTICLE IS TO PROMOTE THE ECONOMY AND
37 AGRICULTURE IN THIS STATE BY ALLOWING THE DEVELOPMENT AND REGULATION OF
38 INDUSTRIAL HEMP, WHICH IS AUTHORIZED BY THE AGRICULTURAL ACT OF 2014 (P.L.
39 113-79; 128 STAT. 649; 7 UNITED STATES CODE SECTION 5940), WHILE
40 MAINTAINING STRICT CONTROL OF MARIJUANA.

41 C. INDUSTRIAL HEMP PRODUCTION, PROCESSING, MANUFACTURING,
42 DISTRIBUTION AND COMMERCE ARE AUTHORIZED IN THIS STATE. INDUSTRIAL HEMP
43 IS AN AGRICULTURAL PRODUCT THAT IS SUBJECT TO REGULATION BY THE
44 DEPARTMENT.

1 3-313. Rulemaking; fees

2 A. THE DIRECTOR SHALL ADOPT RULES PURSUANT TO TITLE 41, CHAPTER 6
3 TO OVERSEE THE LICENSING, PRODUCTION AND MANAGEMENT OF INDUSTRIAL HEMP AND
4 HEMP SEED IN THIS STATE PURSUANT TO THIS ARTICLE.

5 B. THE DIRECTOR SHALL ADOPT FEES BY RULE TO RECOVER THE COSTS OF
6 THE DEPARTMENT'S ACTIVITIES IN LICENSING, TESTING AND SUPERVISING
7 INDUSTRIAL HEMP PRODUCTION.

8 C. THE DIRECTOR MAY NOT PROHIBIT OR ADOPT A RULE THAT PROHIBITS A
9 PERSON FROM GROWING INDUSTRIAL HEMP BASED ON THE LEGAL STATUS OF
10 INDUSTRIAL HEMP UNDER FEDERAL LAW.

11 3-314. Industrial hemp grower or processor license;
12 application; fees; fingerprinting requirements;
13 renewal; revocation

14 A. A GROWER OR PROCESSOR SHALL OBTAIN AN INDUSTRIAL HEMP GROWER OR
15 PROCESSOR LICENSE FROM THE DEPARTMENT.

16 B. A GROWER OR PROCESSOR SHALL APPLY FOR A GROWER OR PROCESSOR
17 LICENSE PURSUANT TO THE RULES ADOPTED BY THE DIRECTOR NOT LATER THAN ONE
18 HUNDRED TWENTY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION.

19 C. AN APPLICATION FOR AN ORIGINAL AND RENEWAL INDUSTRIAL HEMP
20 GROWER OR PROCESSOR LICENSE SHALL:

21 1. BE IN A FORM AND INCLUDE INFORMATION PRESCRIBED BY THE DIRECTOR.

22 2. BE ACCOMPANIED BY THE LICENSE FEE PRESCRIBED BY THE DIRECTOR.

23 THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, FEES
24 COLLECTED UNDER THIS PARAGRAPH IN THE INDUSTRIAL HEMP TRUST FUND
25 ESTABLISHED BY SECTION 3-315.

26 D. AN APPLICANT FOR AN ORIGINAL GROWER OR PROCESSOR LICENSE SHALL
27 SUBMIT A FULL SET OF FINGERPRINTS TO THE ARIZONA DEPARTMENT OF AGRICULTURE
28 FOR THE PURPOSE OF OBTAINING A STATE AND FEDERAL CRIMINAL RECORDS CHECK
29 PURSUANT TO SECTION 41-1750 AND PUBLIC LAW 92-544. THE DEPARTMENT OF
30 PUBLIC SAFETY MAY EXCHANGE THIS FINGERPRINT DATA WITH THE FEDERAL BUREAU
31 OF INVESTIGATION. CRIMINAL RECORDS INFORMATION PROVIDED TO THE ARIZONA
32 DEPARTMENT OF AGRICULTURE UNDER THIS SECTION IS CONFIDENTIAL. THE
33 DIRECTOR MAY USE THE RECORDS ONLY TO DETERMINE WHETHER AN APPLICANT IS
34 ELIGIBLE TO RECEIVE A GROWER OR PROCESSOR LICENSE.

35 E. A GROWER OR PROCESSOR LICENSE ISSUED PURSUANT TO THIS SECTION IS
36 VALID FOR TWO YEARS, UNLESS REVOKED, AND MAY BE RENEWED AS PROVIDED BY THE
37 DEPARTMENT.

38 F. THE DEPARTMENT MAY REVOKE OR REFUSE TO ISSUE OR RENEW A LICENSE
39 OR PROCESSOR LICENSE FOR A VIOLATION OF ANY RULE ADOPTED BY THE DIRECTOR
40 THAT RELATES TO AGRICULTURAL OPERATIONS OR ACTIVITIES OTHER THAN
41 INDUSTRIAL HEMP GROWING OR PROCESSING.

42 3-315. Industrial hemp trust fund

43 A. THE INDUSTRIAL HEMP TRUST FUND IS ESTABLISHED FOR THE EXCLUSIVE
44 PURPOSE OF IMPLEMENTING, CONTINUING AND SUPPORTING INDUSTRIAL HEMP
45 LICENSING. THE TRUST FUND CONSISTS OF MONIES RECEIVED FROM LEGISLATIVE

1 APPROPRIATIONS, LICENSING FEES AND ALL OTHER SOURCES UNDER THIS ARTICLE.
2 THE MONIES COLLECTED CONSTITUTE A SEPARATE AND PERMANENT FUND FOR USE BY
3 THE DIRECTOR IN ADMINISTERING AND ENFORCING THIS ARTICLE.

4 B. THE DIRECTOR SHALL ADMINISTER THE TRUST FUND AS TRUSTEE. THE
5 STATE TREASURER SHALL ACCEPT, SEPARATELY ACCOUNT FOR AND HOLD IN TRUST ANY
6 MONIES DEPOSITED IN THE STATE TREASURY, WHICH ARE CONSIDERED TO BE TRUST
7 MONIES AS DEFINED IN SECTION 35-310 AND MAY NOT BE COMMINGLED WITH ANY
8 OTHER MONIES IN THE STATE TREASURY EXCEPT FOR INVESTMENT PURPOSES. ON
9 NOTICE FROM THE DIRECTOR, THE STATE TREASURER SHALL INVEST AND DIVEST ANY
10 TRUST FUND MONIES DEPOSITED IN THE STATE TREASURY AS PROVIDED BY SECTIONS
11 35-313 AND 35-314.03, AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED
12 TO THE TRUST FUND.

13 C. THE DIRECTOR MAY ACCEPT AND SPEND FEDERAL MONIES AND PRIVATE
14 GRANTS, GIFTS, CONTRIBUTIONS AND DEVICES TO ASSIST IN CARRYING OUT THE
15 PURPOSES OF THIS ARTICLE.

16 D. THE BENEFICIARY OF THE TRUST IS THE INDUSTRIAL HEMP PROGRAM
17 ESTABLISHED BY THIS ARTICLE.

18 E. ANY MONIES REMAINING UNEXPENDED IN THE FUND ON JUNE 30 OF EACH
19 YEAR SHALL BE CARRIED FORWARD TO THE FOLLOWING YEAR AND DO NOT REVERT TO
20 THE GENERAL FUND.

21 3-316. Recordkeeping, inspection, transportation and
22 distribution requirements

23 A. EVERY GROWER OR PROCESSOR THAT IS LICENSED PURSUANT TO THIS
24 ARTICLE SHALL KEEP AND MAINTAIN RECORDS AS REQUIRED BY RULE. THE DIRECTOR
25 OR THE DIRECTOR'S DESIGNEE MAY INSPECT OR AUDIT THE RECORDS DURING NORMAL
26 BUSINESS HOURS TO ENSURE COMPLIANCE WITH THIS ARTICLE OR ANY DEPARTMENT
27 RULE. THE DIRECTOR OR THE DIRECTOR'S DESIGNEE SHALL PROVIDE AT LEAST
28 THREE DAYS' NOTICE TO THE GROWER OR PROCESSOR BEFORE INSPECTING OR
29 AUDITING THE RECORDS.

30 B. THE DIRECTOR OR THE DIRECTOR'S DESIGNEE MAY PHYSICALLY INSPECT
31 AN INDUSTRIAL HEMP SITE TO ENSURE COMPLIANCE WITH THIS ARTICLE OR ANY
32 DEPARTMENT RULE. DURING ANY PHYSICAL INSPECTION OF AN INDUSTRIAL HEMP
33 SITE, THE DIRECTOR OR THE DIRECTOR'S DESIGNEE MAY TAKE A REPRESENTATIVE
34 SAMPLE FOR ANALYSIS BY THE STATE AGRICULTURAL LABORATORY. IF A CROP
35 CONTAINS AN AVERAGE TETRAHYDROCANNABINOL CONCENTRATION THAT EXCEEDS
36 THREE-TENTHS PERCENT ON A DRY WEIGHT BASIS, THE DEPARTMENT MAY ORDER THE
37 CROP TO BE DESTROYED AND ISSUE A CEASE AND DESIST ORDER PURSUANT TO
38 SECTION 3-317.

39 C. ONLY A LICENSED GROWER OR PROCESSOR, OR A LICENSED GROWER'S OR
40 PROCESSOR'S DESIGNEE OR AGENT, MAY TRANSPORT INDUSTRIAL HEMP OFF THE
41 INDUSTRIAL HEMP PRODUCTION SITE. WHEN TRANSPORTING INDUSTRIAL HEMP OFF
42 THE PRODUCTION SITE, THE LICENSED GROWER OR PROCESSOR, OR THE LICENSED
43 GROWER'S OR PROCESSOR'S DESIGNEE OR AGENT, SHALL CARRY THE LICENSING
44 DOCUMENTS AS EVIDENCE THAT THE INDUSTRIAL HEMP WAS GROWN AND PROCESSED BY
45 A LICENSED GROWER OR PROCESSOR.

1 D. A LICENSED GROWER OR PROCESSOR SHALL NOTIFY THE DIRECTOR OF THE
2 SALE OR DISTRIBUTION OF ANY INDUSTRIAL HEMP GROWN UNDER THE LICENSE
3 INCLUDING THE NAME AND ADDRESS OF THE PERSON OR ENTITY RECEIVING THE
4 INDUSTRIAL HEMP AND THE AMOUNT OF THE INDUSTRIAL HEMP SOLD.

5 3-317. Cease and desist order; hearing

6 A. THE DIRECTOR MAY ISSUE AND ENFORCE A WRITTEN CEASE AND DESIST
7 ORDER AGAINST A GROWER OR PROCESSOR OF ANY INDUSTRIAL HEMP THAT THE
8 DIRECTOR FINDS IS IN VIOLATION OF THIS ARTICLE. THE ORDER SHALL PROHIBIT
9 THE FURTHER SALE, PROCESSING OR TRANSPORTATION OF THE INDUSTRIAL HEMP
10 EXCEPT ON APPROVAL OF THE DIRECTOR.

11 B. THE GROWER OR PROCESSOR OF THE INDUSTRIAL HEMP THAT HAS BEEN
12 DENIED FURTHER SALE, PROCESSING OR TRANSPORTATION MAY REQUEST A HEARING
13 PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10.

14 C. THIS SECTION DOES NOT LIMIT THE RIGHT OF THE DIRECTOR TO PROCEED
15 AS AUTHORIZED BY THIS ARTICLE.

16 3-318. Seizure and disposition of noncomplying industrial
17 hemp

18 A. ANY INDUSTRIAL HEMP THAT DOES NOT COMPLY WITH THIS ARTICLE IS
19 SUBJECT TO SEIZURE ON COMPLAINT OF THE DIRECTOR TO A COURT OF COMPETENT
20 JURISDICTION IN THE LOCALITY IN WHICH THE INDUSTRIAL HEMP IS LOCATED.

21 B. IF THE COURT FINDS THE INDUSTRIAL HEMP VIOLATES THIS ARTICLE AND
22 ORDERS THE CONDEMNATION OF THE INDUSTRIAL HEMP, THE INDUSTRIAL HEMP SHALL
23 BE DESTROYED.

24 C. BEFORE THE COURT ORDERS DISPOSITION PURSUANT TO SUBSECTION B OF
25 THIS SECTION, THE COURT SHALL FIRST GIVE THE GROWER OR PROCESSOR AN
26 OPPORTUNITY TO APPLY TO THE COURT FOR RELEASE OF THE INDUSTRIAL HEMP OR
27 FOR PERMISSION TO PROCESS AND RELABEL THE INDUSTRIAL HEMP TO BRING THE
28 INDUSTRIAL HEMP INTO COMPLIANCE WITH THIS ARTICLE.

29 3-319. Violations; civil penalties

30 IN ADDITION TO ANY LIABILITY ESTABLISHED BY THIS ARTICLE OR ANY
31 PENALTY PROVIDED BY LAW, THE DIRECTOR MAY IMPOSE A CIVIL PENALTY OF NOT
32 MORE THAN FIVE THOUSAND DOLLARS FOR A VIOLATION OF ANY OF THE FOLLOWING:

- 33 1. A LICENSING REQUIREMENT.
- 34 2. A GROWER OR PROCESSOR LICENSE TERM OR CONDITION.
- 35 3. A RULE ADOPTED BY THE DIRECTOR THAT RELATES TO THE GROWING OR
36 PROCESSING OF INDUSTRIAL HEMP.

37 3-320. Affirmative defense

38 A. IT IS AN AFFIRMATIVE DEFENSE TO ANY PROSECUTION FOR THE
39 POSSESSION OR CULTIVATION OF MARIJUANA PURSUANT TO TITLE 13, CHAPTER 34
40 THAT THE DEFENDANT IS A GROWER OR PROCESSOR, OR A DESIGNEE OR AGENT OF A
41 GROWER OR PROCESSOR, WHO IS LICENSED AND IN COMPLIANCE WITH THIS ARTICLE.

42 B. THIS SECTION IS NOT A DEFENSE TO A CHARGE OF POSSESSION, SALE,
43 TRANSPORTATION OR DISTRIBUTION OF MARIJUANA PURSUANT TO TITLE 13, CHAPTER
44 34 THAT DOES NOT MEET THE DEFINITION OF INDUSTRIAL HEMP.

1 Sec. 2. Section 13-3405, Arizona Revised Statutes, is amended to
2 read:

3 13-3405. Possession, use, production, sale or transportation
4 of marijuana; classification; exception

5 A. A person shall not knowingly:

- 6 1. Possess or use marijuana.
- 7 2. Possess marijuana for sale.
- 8 3. Produce marijuana.
- 9 4. Transport for sale, import into this state or offer to transport
10 for sale or import into this state, sell, transfer or offer to sell or
11 transfer marijuana.

12 B. A person who violates:

13 1. Subsection A, paragraph 1 of this section involving an amount of
14 marijuana not possessed for sale having a weight of less than two pounds
15 is guilty of a class 6 felony.

16 2. Subsection A, paragraph 1 of this section involving an amount of
17 marijuana not possessed for sale having a weight of at least two pounds
18 but less than four pounds is guilty of a class 5 felony.

19 3. Subsection A, paragraph 1 of this section involving an amount of
20 marijuana not possessed for sale having a weight of four pounds or more is
21 guilty of a class 4 felony.

22 4. Subsection A, paragraph 2 of this section involving an amount of
23 marijuana having a weight of less than two pounds is guilty of a class 4
24 felony.

25 5. Subsection A, paragraph 2 of this section involving an amount of
26 marijuana having a weight of at least two pounds but not more than four
27 pounds is guilty of a class 3 felony.

28 6. Subsection A, paragraph 2 of this section involving an amount of
29 marijuana having a weight of more than four pounds is guilty of a class 2
30 felony.

31 7. Subsection A, paragraph 3 of this section involving an amount of
32 marijuana having a weight of less than two pounds is guilty of a class 5
33 felony.

34 8. Subsection A, paragraph 3 of this section involving an amount of
35 marijuana having a weight of at least two pounds but not more than four
36 pounds is guilty of a class 4 felony.

37 9. Subsection A, paragraph 3 of this section involving an amount of
38 marijuana having a weight of more than four pounds is guilty of a class 3
39 felony.

40 10. Subsection A, paragraph 4 of this section involving an amount
41 of marijuana having a weight of less than two pounds is guilty of a class
42 3 felony.

43 11. Subsection A, paragraph 4 of this section involving an amount
44 of marijuana having a weight of two pounds or more is guilty of a class 2
45 felony.

1 C. If the aggregate amount of marijuana involved in one offense or
2 all of the offenses that are consolidated for trial equals or exceeds the
3 statutory threshold amount, a person who is sentenced pursuant to
4 subsection B, paragraph 5, 6, 8, 9 or 11 of this section is not eligible
5 for suspension of sentence, probation, pardon or release from confinement
6 on any basis until the person has served the sentence imposed by the
7 court, the person is eligible for release pursuant to section 41-1604.07
8 or the sentence is commuted.

9 D. In addition to any other penalty prescribed by this title, the
10 court shall order a person who is convicted of a violation of any
11 provision of this section to pay a fine of not less than seven hundred
12 fifty dollars or three times the value as determined by the court of the
13 marijuana involved in or giving rise to the charge, whichever is greater,
14 and not more than the maximum authorized by chapter 8 of this title. A
15 judge shall not suspend any part or all of the imposition of any fine
16 required by this subsection.

17 E. A person who is convicted of a felony violation of any provision
18 of this section for which probation or release before the expiration of
19 the sentence imposed by the court is authorized is prohibited from using
20 any marijuana, dangerous drug or narcotic drug except as lawfully
21 administered by a practitioner and as a condition of any probation or
22 release shall be required to submit to drug testing administered under the
23 supervision of the probation department of the county or the state
24 department of corrections as appropriate during the duration of the term
25 of probation or before the expiration of the sentence imposed.

26 F. If the aggregate amount of marijuana involved in one offense or
27 all of the offenses that are consolidated for trial is less than the
28 statutory threshold amount, a person who is sentenced pursuant to
29 subsection B, paragraph 4, 7 or 10 and who is granted probation by the
30 court shall be ordered by the court that as a condition of probation the
31 person perform not less than two hundred forty hours of community
32 restitution with an agency or organization providing counseling,
33 rehabilitation or treatment for alcohol or drug abuse, an agency or
34 organization that provides medical treatment to persons who abuse
35 controlled substances, an agency or organization that serves persons who
36 are victims of crime or any other appropriate agency or organization.

37 G. If a person who is sentenced pursuant to subsection B, paragraph
38 1, 2 or 3 of this section is granted probation for a felony violation of
39 this section, the court shall order that as a condition of probation the
40 person perform not less than twenty-four hours of community restitution
41 with an agency or organization providing counseling, rehabilitation or
42 treatment for alcohol or drug abuse, an agency or organization that
43 provides medical treatment to persons who abuse controlled substances, an
44 agency or organization that serves persons who are victims of crime or any
45 other appropriate agency or organization.

1 H. If a person is granted probation for a misdemeanor violation of
2 this section, the court shall order as a condition of probation that the
3 person attend eight hours of instruction on the nature and harmful effects
4 of narcotic drugs, marijuana and other dangerous drugs on the human
5 system, and on the laws related to the control of these substances, or
6 perform twenty-four hours of community restitution.

7 1. THIS SECTION DOES NOT APPLY TO A PERSON WHO IS LICENSED PURSUANT
8 TO TITLE 3, CHAPTER 2, ARTICLE 4.1.

9 Sec. 3. Section 41-619.51, Arizona Revised Statutes, is amended to
10 read:

11 41-619.51. Definitions

12 In this article, unless the context otherwise requires:

13 1. "Agency" means the supreme court, the department of economic
14 security, the department of child safety, the department of education, the
15 department of health services, the department of juvenile corrections, the
16 department of emergency and military affairs, the department of
17 transportation, the state real estate department, the department of
18 financial institutions, the Arizona game and fish department, the board of
19 examiners of nursing care institution administrators and assisted living
20 facility managers, the state board of dental examiners, ~~or~~ the Arizona
21 state board of pharmacy **OR THE ARIZONA DEPARTMENT OF AGRICULTURE**.

22 2. "Board" means the board of fingerprinting.

23 3. "Central registry exception" means notification to the
24 department of economic security, the department of child safety or the
25 department of health services, as appropriate, pursuant to section
26 41-619.57 that the person is not disqualified because of a central
27 registry check conducted pursuant to section 8-804.

28 4. "Expedited review" means an examination, in accordance with
29 board rule, of the documents an applicant submits by the board or its
30 hearing officer without the applicant being present.

31 5. "Good cause exception" means the issuance of a fingerprint
32 clearance card to an employee pursuant to section 41-619.55.

33 6. "Person" means a person who is required to be fingerprinted
34 pursuant to this article or who is subject to a central registry check and
35 any of the following:

- 36 (a) **SECTION 3-314.**
- 37 (b) Section 8-105.
- 38 ~~(b)~~ (c) Section 8-322.
- 39 ~~(c)~~ (d) Section 8-463.
- 40 ~~(d)~~ (e) Section 8-509.
- 41 ~~(e)~~ (f) Section 8-802.
- 42 ~~(f)~~ (g) Section 8-804.
- 43 ~~(g)~~ (h) Section 15-183.
- 44 ~~(h)~~ (i) Section 15-503.
- 45 ~~(i)~~ (j) Section 15-512.

- 1 ~~(j)~~ (k) Section 15-534.
- 2 ~~(k)~~ (l) Section 15-763.01.
- 3 ~~(l)~~ (m) Section 15-782.02.
- 4 ~~(m)~~ (n) Section 15-1330.
- 5 ~~(n)~~ (o) Section 15-1881.
- 6 ~~(o)~~ (p) Section 17-215.
- 7 ~~(p)~~ (q) Section 28-3413.
- 8 ~~(q)~~ (r) Section 32-1232.
- 9 ~~(r)~~ (s) Section 32-1284.
- 10 ~~(s)~~ (t) Section 32-1297.01.
- 11 ~~(t)~~ (u) Section 32-1904.
- 12 ~~(u)~~ (v) Section 32-2108.01.
- 13 ~~(v)~~ (w) Section 32-2123.
- 14 ~~(w)~~ (x) Section 32-2371.
- 15 ~~(x)~~ (y) Section 32-3620.
- 16 ~~(y)~~ (z) Section 32-3668.
- 17 ~~(z)~~ (aa) Section 32-3669.
- 18 ~~(aa)~~ (bb) Section 36-207.
- 19 ~~(bb)~~ (cc) Section 36-411.
- 20 ~~(cc)~~ (dd) Section 36-425.03.
- 21 ~~(dd)~~ (ee) Section 36-446.04.
- 22 ~~(ee)~~ (ff) Section 36-594.01.
- 23 ~~(ff)~~ (gg) Section 36-594.02.
- 24 ~~(gg)~~ (hh) Section 36-882.
- 25 ~~(hh)~~ (ii) Section 36-883.02.
- 26 ~~(ii)~~ (jj) Section 36-897.01.
- 27 ~~(jj)~~ (kk) Section 36-897.03.
- 28 ~~(kk)~~ (ll) Section 36-3008.
- 29 ~~(ll)~~ (mm) Section 41-619.53.
- 30 ~~(mm)~~ (nn) Section 41-1964.
- 31 ~~(nn)~~ (oo) Section 41-1967.01.
- 32 ~~(oo)~~ (pp) Section 41-1968.
- 33 ~~(pp)~~ (qq) Section 41-1969.
- 34 ~~(qq)~~ (rr) Section 41-2814.
- 35 ~~(rr)~~ (ss) Section 46-141, subsection A.
- 36 ~~(ss)~~ (tt) Section 46-321.

37 Sec. 4. Section 41-1758, Arizona Revised Statutes, is amended to
38 read:

39 41-1758. Definitions

40 In this article, unless the context otherwise requires:

41 1. "Agency" means the supreme court, the department of economic
42 security, the department of child safety, the department of education, the
43 department of health services, the department of juvenile corrections, the
44 department of emergency and military affairs, the department of
45 transportation, the state real estate department, the department of

1 financial institutions, the board of fingerprinting, the Arizona game and
2 fish department, the board of examiners of nursing care institution
3 administrators and assisted living facility managers, the state board of
4 dental examiners, ~~or~~ the Arizona state board of pharmacy **OR THE ARIZONA**
5 **DEPARTMENT OF AGRICULTURE.**

6 2. "Division" means the fingerprinting division in the department
7 of public safety.

8 3. "Electronic or internet-based fingerprinting services" means a
9 secure system for digitizing applicant fingerprints and transmitting the
10 applicant data and fingerprints of a person or entity submitting
11 fingerprints to the department of public safety for any authorized purpose
12 under this title. For the purposes of this paragraph, "secure system"
13 means a system that complies with the information technology security
14 policy approved by the department of public safety.

15 4. "Good cause exception" means the issuance of a fingerprint
16 clearance card to an applicant pursuant to section 41-619.55.

17 5. "Person" means a person who is required to be fingerprinted
18 pursuant to any of the following:

- 19 (a) **SECTION 3-314.**
- 20 (b) Section 8-105.
- 21 ~~(b)~~ (c) Section 8-322.
- 22 ~~(c)~~ (d) Section 8-463.
- 23 ~~(d)~~ (e) Section 8-509.
- 24 ~~(e)~~ (f) Section 8-802.
- 25 ~~(f)~~ (g) Section 15-183.
- 26 ~~(g)~~ (h) Section 15-503.
- 27 ~~(h)~~ (i) Section 15-512.
- 28 ~~(i)~~ (j) Section 15-534.
- 29 ~~(j)~~ (k) Section 15-763.01.
- 30 ~~(k)~~ (l) Section 15-782.02.
- 31 ~~(l)~~ (m) Section 15-1330.
- 32 ~~(m)~~ (n) Section 15-1881.
- 33 ~~(n)~~ (o) Section 17-215.
- 34 ~~(o)~~ (p) Section 28-3413.
- 35 ~~(p)~~ (q) Section 32-1232.
- 36 ~~(q)~~ (r) Section 32-1284.
- 37 ~~(r)~~ (s) Section 32-1297.01.
- 38 ~~(s)~~ (t) Section 32-1904.
- 39 ~~(t)~~ (u) Section 32-2108.01.
- 40 ~~(u)~~ (v) Section 32-2123.
- 41 ~~(v)~~ (w) Section 32-2371.
- 42 ~~(w)~~ (x) Section 32-3620.
- 43 ~~(x)~~ (y) Section 32-3668.
- 44 ~~(y)~~ (z) Section 32-3669.
- 45 ~~(z)~~ (aa) Section 36-207.

- 1 ~~(aa)~~ (bb) Section 36-411.
- 2 ~~(bb)~~ (cc) Section 36-425.03.
- 3 ~~(cc)~~ (dd) Section 36-446.04.
- 4 ~~(dd)~~ (ee) Section 36-594.01.
- 5 ~~(ee)~~ (ff) Section 36-594.02.
- 6 ~~(ff)~~ (gg) Section 36-882.
- 7 ~~(gg)~~ (hh) Section 36-883.02.
- 8 ~~(hh)~~ (ii) Section 36-897.01.
- 9 ~~(ii)~~ (jj) Section 36-897.03.
- 10 ~~(jj)~~ (kk) Section 36-3008.
- 11 ~~(kk)~~ (ll) Section 41-619.52.
- 12 ~~(ll)~~ (mm) Section 41-619.53.
- 13 ~~(mm)~~ (nn) Section 41-1964.
- 14 ~~(nn)~~ (oo) Section 41-1967.01.
- 15 ~~(oo)~~ (pp) Section 41-1968.
- 16 ~~(pp)~~ (qq) Section 41-1969.
- 17 ~~(qq)~~ (rr) Section 41-2814.
- 18 ~~(rr)~~ (ss) Section 46-141, subsection A.
- 19 ~~(ss)~~ (tt) Section 46-321.

20 6. "Vulnerable adult" has the same meaning prescribed in section
21 13-3623.

22 Sec. 5. Section 41-1758.01, Arizona Revised Statutes, is amended to
23 read:

24 41-1758.01. Fingerprinting division: powers and duties

25 A. The fingerprinting division is established in the department of
26 public safety and shall:

27 1. Conduct fingerprint background checks for persons and applicants
28 who are seeking licenses from state agencies, employment with licensees,
29 contract providers and state agencies or employment or educational
30 opportunities with agencies that require fingerprint background checks
31 pursuant to sections 3-314, 8-105, 8-322, 8-463, 8-509, 8-802, 15-183,
32 15-503, 15-512, 15-534, 15-763.01, 15-782.02, 15-1330, 15-1881, 17-215,
33 28-3413, 32-1232, 32-1284, 32-1297.01, 32-1904, 32-2108.01, 32-2123,
34 32-2371, 32-3620, 32-3668, 32-3669, 36-207, 36-411, 36-425.03, 36-446.04,
35 36-594.01, 36-594.02, 36-882, 36-883.02, 36-897.01, 36-897.03, 36-3008,
36 41-619.52, 41-619.53, 41-1964, 41-1967.01, 41-1968, 41-1969 and 41-2814,
37 section 46-141, subsection A and section 46-321.

38 2. Issue fingerprint clearance cards. On issuance, a fingerprint
39 clearance card becomes the personal property of the cardholder and the
40 cardholder shall retain possession of the fingerprint clearance card.

41 3. On submission of an application for a fingerprint clearance
42 card, collect the fees established by the board of fingerprinting pursuant
43 to section 41-619.53 and deposit, pursuant to sections 35-146 and 35-147,
44 the monies collected in the board of fingerprinting fund.

1 4. Inform in writing each person who submits fingerprints for a
2 fingerprint background check of the right to petition the board of
3 fingerprinting for a good cause exception pursuant to section 41-1758.03,
4 41-1758.04 or 41-1758.07.

5 5. If after conducting a state and federal criminal history records
6 check the division determines that it is not authorized to issue a
7 fingerprint clearance card to a person, inform the person in writing that
8 the division is not authorized to issue a fingerprint clearance card. The
9 notice shall include the criminal history information on which the denial
10 was based. This criminal history information is subject to dissemination
11 restrictions pursuant to section 41-1750 and Public Law 92-544.

12 6. Notify the person in writing if the division suspends, revokes
13 or places a driving restriction notation on a fingerprint clearance card
14 pursuant to section 41-1758.04. The notice shall include the criminal
15 history information on which the suspension, revocation or placement of
16 the driving restriction notation was based. This criminal history
17 information is subject to dissemination restrictions pursuant to section
18 41-1750 and Public Law 92-544.

19 7. Administer and enforce this article.

20 B. The fingerprinting division may contract for electronic or
21 internet-based fingerprinting services through an entity or entities for
22 the acquisition and transmission of applicant fingerprint and data
23 submissions to the department, including identity verified fingerprints
24 pursuant to section 15-106. The entity or entities contracted by the
25 department of public safety may charge the applicant a fee for services
26 provided pursuant to this article. The entity or entities contracted by
27 the department of public safety shall comply with:

28 1. All information privacy and security measures and submission
29 standards established by the department of public safety.

30 2. The information technology security policy approved by the
31 department of public safety.

32 Sec. 6. Exemption from rulemaking

33 For the purposes of this act, the Arizona department of agriculture
34 is exempt from the rulemaking requirements of title 41, chapter 6, Arizona
35 Revised Statutes, for one year after the effective date of this act.