Senate Engrossed House Bill

FILED
MICHELE REAGAN
SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-second Legislature
First Regular Session
2015

CHAPTER 104

HOUSE BILL 2212

AN ACT

AMENDING SECTIONS 9-834, 11-1604, 41-1030 AND 48-3644, ARIZONA REVISED STATUTES; RELATING TO LICENSING DECISIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 9-834, Arizona Revised Statutes, is amended to read:

9-834. Prohibited acts by municipalities and employees; enforcement; notice

A. A municipality shall not base a licensing decision in whole or in part on a licensing requirement or condition that is not specifically authorized by statute, rule, ordinance or code. A general grant of authority does not constitute a basis for imposing a licensing requirement or condition unless the authority specifically authorizes the requirement or condition.

B. Unless specifically authorized, a municipality shall avoid duplication of other laws that do not enhance regulatory clarity and shall avoid dual permitting to the maximum extent practicable.

C. This section does not prohibit municipal flexibility to issue licenses or adopt ordinances or codes.

D. A municipality shall not request or initiate discussions with a person about waiving that person's rights.

E. THIS SECTION MAY BE ENFORCED IN A PRIVATE CIVIL ACTION AND RELIEF MAY BE AWARDED AGAINST A MUNICIPALITY. THE COURT MAY AWARD REASONABLE ATTORNEY FEES, DAMAGES AND ALL FEES ASSOCIATED WITH THE LICENSE APPLICATION TO A PARTY THAT PREVAILS IN AN ACTION AGAINST A MUNICIPALITY FOR A VIOLATION OF THIS SECTION.

F. A MUNICIPAL EMPLOYEE MAY NOT INTENTIONALLY OR KNOWINGLY VIOLATE THIS SECTION. A VIOLATION OF THIS SECTION IS CAUSE FOR DISCIPLINARY ACTION OR DISMISSAL PURSUANT TO THE MUNICIPALITY'S ADOPTED PERSONNEL POLICY.

G. THIS SECTION DOES NOT ABROGATE THE IMMUNITY PROVIDED BY SECTION 12-820.01 OR 12-820.02.

H. A MUNICIPALITY SHALL PROMINENTLY PRINT THE PROVISIONS OF SUBSECTIONS A, B, C, D, E, F AND G OF THIS SECTION ON ALL LICENSE APPLICATIONS.

I. THE LICENSING APPLICATION MAY BE IN EITHER PRINT OR ELECTRONIC FORMAT.

Sec. 2. Section 11-1604, Arizona Revised Statutes, is amended to read:

11-1604. Prohibited acts by county and employees; enforcement; notice

A. A county shall not base a licensing decision in whole or in part on a licensing requirement or condition that is not specifically authorized by statute, rule, ordinance or delegation agreement. A general grant of authority does not constitute a basis for imposing a licensing requirement or condition unless the authority specifically authorizes the requirement or condition.

B. Unless specifically authorized, a county shall avoid duplication of other laws that do not enhance regulatory clarity and shall avoid dual permitting to the maximum extent practicable.

C. This section does not prohibit county flexibility to issue licenses or adopt ordinances or codes.

D. A county shall not request or initiate discussions with a person about waiving that person's rights.

E. THIS SECTION MAY BE ENFORCED IN A PRIVATE CIVIL ACTION AND RELIEF MAY BE AWARDED AGAINST A COUNTY. THE COURT MAY AWARD REASONABLE ATTORNEY FEES, DAMAGES AND ALL FEES ASSOCIATED WITH THE LICENSE APPLICATION TO A PARTY THAT PREVAILS IN AN ACTION AGAINST A COUNTY FOR A VIOLATION OF THIS SECTION.

F. A COUNTY EMPLOYEE MAY NOT INTENTIONALLY OR KNOWINGLY VIOLATE THIS SECTION. A VIOLATION OF THIS SECTION IS CAUSE FOR DISCIPLINARY ACTION OR DISMISSAL PURSUANT TO THE COUNTY'S ADOPTED PERSONNEL POLICY.

G. THIS SECTION DOES NOT ABROGATE THE IMMUNITY PROVIDED BY SECTION 12-820.01 OR 12-820.02.

H. A COUNTY SHALL PROMINENTLY PRINT THE PROVISIONS OF SUBSECTIONS A, B, C, D, E, F AND G OF THIS SECTION ON ALL LICENSE APPLICATIONS.

I. THE LICENSING APPLICATION MAY BE IN EITHER PRINT OR ELECTRONIC FORMAT.

Sec. 3. Section 41-1030, Arizona Revised Statutes, is amended to read:

41-1030. <u>Invalidity of rules not made according to this chapter; prohibited agency action; prohibited acts by state employees; enforcement; notice</u>

A. A rule is invalid unless it is made and approved in substantial compliance with sections 41-1021 through 41-1029 and articles 4, 4.1 and 5 of this chapter, unless otherwise provided by law.

B. An agency shall not base a licensing decision in whole or in part on a licensing requirement or condition that is not specifically authorized by statute, rule or state tribal gaming compact. A general grant of authority in statute does not constitute a basis for imposing a licensing requirement or condition unless a rule is made pursuant to that general grant of authority that specifically authorizes the requirement or condition.

C. An agency shall not:

1. Make a rule under a specific grant of ~~rule making~~ RULEMAKING authority that exceeds the subject matter areas listed in the specific statute authorizing the rule.

2. Make a rule under a general grant of ~~rule making~~ RULEMAKING authority to supplement a more specific grant of ~~rule making~~ RULEMAKING authority.

D. THIS SECTION MAY BE ENFORCED IN A PRIVATE CIVIL ACTION AND RELIEF MAY BE AWARDED AGAINST THE STATE. THE COURT MAY AWARD REASONABLE ATTORNEY FEES, DAMAGES AND ALL FEES ASSOCIATED WITH THE LICENSE APPLICATION TO A PARTY THAT PREVAILS IN AN ACTION AGAINST THE STATE FOR A VIOLATION OF THIS SECTION.

E. A STATE EMPLOYEE MAY NOT INTENTIONALLY OR KNOWINGLY VIOLATE THIS SECTION. A VIOLATION OF THIS SECTION IS CAUSE FOR DISCIPLINARY ACTION OR DISMISSAL PURSUANT TO THE AGENCY'S ADOPTED PERSONNEL POLICY.

F. THIS SECTION DOES NOT ABROGATE THE IMMUNITY PROVIDED BY SECTION 12-820.01 OR 12-820.02.

G. AN AGENCY SHALL PROMINENTLY PRINT THE PROVISIONS OF SUBSECTIONS B, D, E AND F OF THIS SECTION ON ALL LICENSE APPLICATIONS, EXCEPT LICENSE APPLICATIONS PROCESSED BY THE CORPORATION COMMISSION.

H. THE LICENSING APPLICATION MAY BE IN EITHER PRINT OR ELECTRONIC FORMAT.

Sec. 4. Section 48-3644, Arizona Revised Statutes, is amended to read:

48-3644. Prohibited acts by district and employees; enforcement; notice

A. A district shall not base a licensing decision in whole or in part on a licensing requirement or condition that is not specifically authorized by statute, rule, regulation, ordinance, executive order or delegation agreement. A general grant of authority does not constitute a basis for imposing a licensing requirement or condition unless the authority specifically authorizes the requirement or condition.

B. Unless specifically authorized, a district shall avoid duplication of other laws or executive orders that do not enhance regulatory clarity and shall avoid dual permitting to the maximum extent practicable.

C. This section does not prohibit district flexibility to issue licenses or adopt ordinances or regulations.

D. A district shall not request or initiate discussions with a person about waiving that person's rights.

E. THIS SECTION MAY BE ENFORCED IN A PRIVATE CIVIL ACTION AND RELIEF MAY BE AWARDED AGAINST THE DISTRICT. THE COURT MAY AWARD REASONABLE ATTORNEY FEES, DAMAGES AND ALL FEES ASSOCIATED WITH THE LICENSE APPLICATION TO A PARTY THAT PREVAILS IN AN ACTION AGAINST THE DISTRICT FOR A VIOLATION OF THIS SECTION.

F. A DISTRICT EMPLOYEE MAY NOT INTENTIONALLY OR KNOWINGLY VIOLATE THIS SECTION. A VIOLATION OF THIS SECTION IS CAUSE FOR DISCIPLINARY ACTION OR DISMISSAL PURSUANT TO THE DISTRICT'S ADOPTED PERSONNEL POLICY.

G. THIS SECTION DOES NOT ABROGATE THE IMMUNITY PROVIDED BY SECTION 12-820.01 OR 12-820.02.

H. A DISTRICT SHALL PROMINENTLY PRINT THE PROVISIONS OF SUBSECTIONS A, B, C, D, E, F AND G OF THIS SECTION ON ALL LICENSE APPLICATIONS.

I. THE LICENSING APPLICATION MAY BE IN EITHER PRINT OR ELECTRONIC FORMAT.

APPROVED BY THE GOVERNOR MARCH 30, 2015.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 31, 2015.

Passed the House February 17, 2015

by the following vote: 42 Ayes,

16 Nays, 2 Not Voting

Speaker of the House

Chief Clerk of the House

Passed the Senate March 18, 2015

by the following vote: 21 Ayes,

8 Nays, 1 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

_____ day of _____, 20_____

at _____ o'clock _____M.

_____
Secretary to the Governor

Approved this _____day of

_____

at _____o'clock _____M.

_____
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this _____ day of _____, 20_____

at _____ o'clock _____M.

_____
Secretary of State

H.B. 2212

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

March 24, 2015,

by the following vote: 35 Ayes,

20 Nays, 5 Not Voting

Speaker of the House

Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

25th day of March, 2015,

at 3:31 o'clock P. M.

Secretary to the Governor

Approved this 30th day of

March, 2015,

at 1:18 o'clock P. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 31st day of March, 2015,

at 10:00 o'clock A M.

Secretary of State

H.B. 2212