

**FILED**

State of Arizona  
Senate  
Forty-second Legislature  
Second Regular Session  
1996

**Jane Dee Hull  
Secretary of State**

CHAPTER 137

**SENATE BILL 1385**

AN ACT

AMENDING SECTION 49-501, ARIZONA REVISED STATUTES; RELATING TO AIR QUALITY.

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

Section 1. Section 49-501, Arizona Revised Statutes, is amended to read:

49-501. Unlawful open burning; exceptions; violation; classification

A. Notwithstanding the provisions of any other section of this article, it is unlawful for any person to ignite, cause to be ignited, permit to be ignited, or suffer, allow, or maintain any open outdoor fire except as provided in this section.

B. "Open outdoor fire", as used in this section, means any combustion of combustible material of any type outdoors, in the open where the products of combustion are not directed through a flue. "Flue", as used in this ~~section~~ SUBSECTION, means any duct or passage for air, gases or the like, such as a stack or chimney.

C. The following fires are excepted from the provisions of this section:

1. Fires used only for cooking of food or for providing warmth for human beings or for recreational purposes or the branding of animals or the use of orchard heaters for the purpose of frost protection in farming or nursery operations.

2. Any fire set or permitted by any public officer in the performance of official duty, if such fire is set or permission given for the purpose of

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1 weed abatement, the prevention of a fire hazard, or instruction in the  
2 methods of fighting fires.

3 3. Fires set by or permitted by the director of the department of  
4 agriculture or county agricultural agents of the county for the purpose of  
5 disease and pest prevention.

6 4. Fires set by or permitted by the federal government or any of its  
7 departments, agencies or agents, OR the state or any of its agencies,  
8 departments or political subdivisions, for the purpose of watershed  
9 rehabilitation or control through vegetative manipulation.

10 5. Fires permitted by any rule or regulation issued pursuant to this  
11 article, by any conditional permit issued by a hearing board established  
12 under this article or by any rule or conditional permit issued pursuant to  
13 article 2 of this chapter when the department of environmental quality  
14 pursuant to section 49-402 has assumed jurisdiction of the county in which  
15 the fire is located.

16 6. Fires set for the disposal of dangerous materials where there is  
17 no safe alternate method of disposal.

18 D. Permission for the setting of any fire given by a public officer  
19 in the performance of official duty under subsection C, paragraph 2, 3 or 4  
20 shall be given in writing and a copy of ~~such~~ THE written permission shall be  
21 transmitted immediately to the director of ~~environmental quality~~ and the  
22 control officer of the county, district or region in which such fire is  
23 allowed. The setting of any such fire shall be conducted in a manner and at  
24 such time as approved by the control officer or the director of ~~environmental~~  
25 ~~quality~~, unless doing so would defeat the purpose of the exemption.

26 E. NOTWITHSTANDING SECTION 49-107, THE DIRECTOR MAY DELEGATE AUTHORITY  
27 FOR THE ISSUANCE OF OPEN BURNING PERMITS TO A COUNTY, CITY, TOWN OR FIRE  
28 DISTRICT. A COUNTY, CITY, TOWN OR FIRE DISTRICT THAT HAS BEEN DELEGATED  
29 AUTHORITY FOR THE ISSUANCE OF OPEN BURNING PERMITS MAY ASSIGN THE ISSUANCE  
30 OF THESE PERMITS TO A PRIVATE FIRE PROTECTION SERVICE PROVIDER THAT HAS  
31 CONTRACTED WITH THAT COUNTY, CITY, TOWN OR FIRE DISTRICT TO PERFORM FIRE  
32 PROTECTION SERVICES. ANY PRIVATE FIRE PROTECTION SERVICE PROVIDER THAT IS  
33 AUTHORIZED TO ISSUE OPEN BURNING PERMITS PURSUANT TO THIS SUBSECTION SHALL  
34 MAINTAIN A COPY OF ALL CURRENTLY EFFECTIVE PERMITS ISSUED INCLUDING A MEANS  
35 OF CONTACTING THE PERSON AUTHORIZED BY THE PERMIT TO SET THE FIRE IN THE  
36 EVENT THAT AN ORDER TO EXTINGUISH THE OPEN BURNING IS ISSUED. PERMITS ISSUED  
37 PURSUANT TO THIS SUBSECTION SHALL CONTAIN BOTH OF THE FOLLOWING:

38 1. CONDITIONS THAT LIMIT THE MANNER AND TIME OF SETTING THE FIRE AND  
39 THAT ARE CONSISTENT WITH THIS SECTION AND RULES ADOPTED PURSUANT TO THIS  
40 SECTION.

41 2. A PROVISION THAT ALL BURNING BE EXTINGUISHED AT THE DISCRETION OF  
42 THE DIRECTOR OR THE DIRECTOR'S AUTHORIZED REPRESENTATIVE DURING PERIODS OF  
43 INADEQUATE ATMOSPHERIC SMOKE DISPERSION, PERIODS OF EXCESSIVE VISIBILITY

1 IMPAIRMENT THAT COULD ADVERSELY AFFECT PUBLIC SAFETY OR PERIODS WHEN SMOKE  
2 IS BLOWN INTO POPULATED AREAS SO AS TO CREATE A PUBLIC NUISANCE.

3 ~~F.~~ F. The director may issue a general permit to allow persons  
4 engaged in farming or ranching on forty acres or more in an unincorporated  
5 area to burn household waste, as defined in section 49-701, that is generated  
6 on site, if no household waste collection and disposal service is available.  
7 The general permit shall include the following:

8 1. Conditions governing the method, manner and times for burning.

9 2. Limitation on materials which may be burned, including a  
10 prohibition on burning of materials which generate noxious fumes.

11 3. A requirement that any person seeking coverage under the general  
12 permit shall register with the director on a form prescribed by the director.  
13 Upon receipt of a registration form, the director shall notify the county in  
14 which the farm or ranch is located of such registration.

15 4. A statement that the director, a local air pollution control  
16 officer, or ANY other public officer may order the extinguishment of burning  
17 or may prohibit burning during periods of inadequate smoke dispersion, OR  
18 excessive visibility impairment or at other times when public health or  
19 safety could be adversely affected.

20 ~~F.~~ G. Nothing in this section is intended to permit any practice  
21 which is a violation of any statute, ordinance, rule or regulation IN A  
22 COUNTY WITH A POPULATION IN EXCESS OF ONE MILLION TWO HUNDRED THOUSAND  
23 PERSONS ACCORDING TO THE MOST RECENT UNITED STATES DECENNIAL CENSUS.

24 ~~G.~~ H. A person who violates any provision of this section may be  
25 served a notice of violation and be subject to the enforcement provisions of  
26 this article to the same extent as a person violating any rule or regulation  
27 adopted pursuant to this article.

28 ~~H.~~ I. Any violation of this section shall be a ~~petty offense~~  
29 PUNISHABLE BY A FINE NOT TO EXCEED TWENTY-FIVE DOLLARS.

APPROVED BY THE GOVERNOR APRIL 9, 1996

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 10, 1996