

House Engrossed

**FILED**

**JANICE K. BREWER  
SECRETARY OF STATE**

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
Second Regular Session  
2008

CHAPTER 67

# **HOUSE BILL 2409**

AN ACT

AMENDING SECTION 36-2234, ARIZONA REVISED STATUTES; RELATING TO THE  
REGULATION OF AMBULANCES AND AMBULANCE SERVICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 36-2234, Arizona Revised Statutes, is amended to  
3 read:

4 36-2234. Hearings; waiver of hearing; emergency action;  
5 judicial review

6 A. The director shall require a public hearing on any proposed action  
7 related to rates, fares or charges, operating or response times, bases of  
8 operation or certificates of necessity unless subsection C, E, or M of this  
9 section applies.

10 B. A public hearing held pursuant to subsection A of this section  
11 shall meet the following requirements:

12 1. The hearing shall be held pursuant to title 41, chapter 6, article  
13 10.

14 2. The director shall mail notice of the hearing to every ambulance  
15 service in the affected region no later than fifteen days before the hearing.

16 3. The director may mail notice to other persons who the director  
17 determines are interested in the hearing.

18 4. In a hearing or rehearing conducted pursuant to this article, an  
19 ambulance service may be represented by a corporate officer, an employee or a  
20 designee who has been specifically authorized by the ambulance service to  
21 represent it.

22 C. The director may waive the hearing required under subsection A of  
23 this section if notification, including a general description of the proposed  
24 action of the department and the time and manner for any interested person to  
25 request a hearing, is given and all of the following apply:

26 1. Notification of the proposed action has been sent to every  
27 ambulance service in the affected region no later than fifteen days before  
28 the action.

29 2. The director has notified other persons who the director determines  
30 are interested in the proposed action no later than fifteen days before the  
31 action.

32 3. The director has published notice of the proposed action in a  
33 newspaper of general circulation in the affected region at least once each  
34 week for two consecutive weeks before the action is taken.

35 4. The director has received no requests within the fifteen day  
36 notification period for a hearing to be held on the proposed action.

37 D. If the director receives a request pursuant to subsection C,  
38 paragraph 4 of this section, the director shall hold a hearing in compliance  
39 with subsection B of this section.

40 E. The director shall not hold a hearing if a person requests a  
41 hearing regarding a rate increase that does not exceed the amount computed as  
42 follows:

1 ~~1. Determine the percentage growth in the GDP price deflator, as~~  
2 ~~defined in section 41-563, subsection E, from the end of the second preceding~~  
3 ~~calendar year to the calendar year immediately preceding the calendar year~~  
4 ~~for which the rate increase is requested.~~

5 1. DETERMINE THE PERCENTAGE GROWTH IN THE TRANSPORTATION CONSUMER  
6 PRICE INDEX OF THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR  
7 STATISTICS, FROM THE END OF THE SECOND PRECEDING CALENDAR YEAR TO THE  
8 CALENDAR YEAR IMMEDIATELY PRECEDING THE CALENDAR YEAR FOR WHICH THE RATE  
9 INCREASE IS REQUESTED.

10 2. Determine the percentage growth in the medical care consumer price  
11 index of the United States department of labor, bureau of labor statistics,  
12 from the end of the second preceding calendar year to the calendar year  
13 immediately preceding the calendar year for which the rate increase is  
14 requested.

15 3. Add the amount determined in paragraph 1 of this subsection to the  
16 amount determined in paragraph 2 of this subsection and divide the sum by  
17 two.

18 F. A rate increase authorized pursuant to subsection E of this section  
19 is deemed to be fixed by the department at the requested level.  
20 Notwithstanding subsection C of this section, the department shall hold a  
21 hearing pursuant to section 36-2232, subsection E for any proposed uniform  
22 rate or charge that exceeds the annual rate increase prescribed in subsection  
23 E of this section. The department shall require the applicants to submit the  
24 following information signed by the designated financial officer and the  
25 chief executive of the ambulance service who has fiduciary responsibility for  
26 providing accurate financial information:

27 1. A financial statement for the previous twenty-four months relating  
28 to the certificated areas.

29 2. Any additional information the department requires necessary to  
30 analyze the request.

31 G. If an ambulance service with an established general public rate  
32 applies for a contract rate or range of rates that is up to thirty per cent  
33 less than its established rate, the director shall grant the rate without a  
34 public hearing or waiver, and without any right of intervention, unless  
35 within ninety days of the filing of a completed application the director  
36 determines that the contract rate or range of rates applied for does not  
37 accurately reflect the cost and economics of providing the contract services,  
38 would adversely affect the service available to the general public in the  
39 area of service as designated by its certificate of necessity or would cause  
40 any fixed rate, fare or charge to the general public to be adversely  
41 affected.

42 H. If the department disallows a proposed contract rate pursuant to  
43 subsection G of this section, the ambulance service has a right to a hearing  
44 for review of the proposed contract rate or range of rates.

1 I. The director may adopt rules for the establishment of a contract  
2 rate or range of rates that may be implemented and that exceeds the thirty  
3 per cent rate variance identified pursuant to subsection G of this section.

4 J. Subsections G, H and I of this section are limited to contract  
5 rates or a range of rates applied for prescheduled, interfacility or  
6 convalescent transports.

7 K. A service contract between an ambulance service and a political  
8 subdivision of this state, including local fire districts, shall be filed  
9 with and approved by the department in accordance with the following  
10 requirements:

11 1. On receipt of the proposed contract, the department has fifteen  
12 days to review the contract and notify the ambulance service of any  
13 additional information the department requires, recommended corrections or  
14 any provision that does or may violate this article.

15 2. The ambulance service has fifteen days to provide the department  
16 with the information requested or to submit a revised or amended contract if  
17 required under paragraph 1 of this subsection.

18 3. The contract becomes effective fifteen days after the ambulance  
19 service complies with the department's request unless the department  
20 determines that any rate or charge or other provisions specified in the  
21 contract will cause any fixed rate or charge to the general public rate to be  
22 adversely affected or the contract would be in violation of the ambulance  
23 service's certificate of necessity.

24 4. If the department disallows a proposed contract pursuant to this  
25 subsection, the ambulance service has a right to a hearing for review of the  
26 proposed contract.

27 5. The rates and charges contained in the contract are the rates and  
28 charges fixed by the director in a decision or order for the ambulance  
29 service and conform to the ambulance service's current or subsequent general  
30 public rates and charges.

31 6. The area of response is within the ambulance service's certificated  
32 area.

33 L. In case of emergency, the director may take action providing for  
34 immediate suspension of a certificate of registration or a certificate of  
35 necessity, or both, under this section without notice or a hearing if the  
36 director determines that a potential threat to the public health and safety  
37 exists. If such action is taken by the director, the director shall conduct  
38 a hearing within ten days after the date of the director's action unless the  
39 person against whom the action is directed waives the right to have a hearing  
40 held within ten days. If the ten day hearing requirement is waived, the  
41 director shall set a date mutually agreeable to the interested parties. The  
42 purpose of the hearing is to review the decision of the director to take such  
43 action. The director shall make findings of fact and may continue, suspend  
44 or modify the director's action.

1 M. The director shall waive the hearing required under subsection A of  
2 this section if geographical changes in suboperation stations do not alter  
3 the service area or adversely affect approved response times.

4 N. Except as provided in section 41-1092.08, subsection H, a final  
5 decision of the director is subject to judicial review pursuant to title 12,  
6 chapter 7, article 6.

APPROVED BY THE GOVERNOR APRIL 22, 2008.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 22, 2008.