

Senate Engrossed

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
Senate
Forty-eighth Legislature
Second Regular Session
2008

CHAPTER 71

SENATE BILL 1326

AN ACT

AMENDING SECTION 45-454, ARIZONA REVISED STATUTES; RELATING TO EXEMPT WELLS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 45-454, Arizona Revised Statutes, is amended to
3 read:

4 45-454. Exemption of small non-irrigation wells: definitions

5 A. Withdrawals of groundwater for non-irrigation uses from wells
6 having a pump with a maximum capacity of not more than thirty-five gallons
7 per minute which were drilled before April 28, 1983 or which were drilled
8 after April 28, 1983 pursuant to a notice of intention to drill which was on
9 file with the department on such date are exempt from this chapter, except
10 that:

11 1. Wells drilled before June 12, 1980 which are not abandoned or
12 capped or wells which were not completed on June 12, 1980 but for which a
13 notice of intention to drill was on file with the Arizona water commission on
14 such date are subject to subsections ~~I, J and K~~ J, K AND L of this section
15 and must be registered pursuant to section 45-593. If two or more wells in
16 an active management area are exempt under this paragraph and are used to
17 serve the same non-irrigation use at the same location, the aggregate
18 quantity of groundwater withdrawn from the wells shall not exceed fifty-six
19 acre-feet per year.

20 2. Wells drilled between June 12, 1980 and April 28, 1983, except as
21 provided in paragraph 1 of this subsection, and wells drilled after April 28,
22 1983 pursuant to a notice of intention to drill which was on file with the
23 department on April 28, 1983, are subject to subsections ~~F, H, I and J~~ G, I,
24 J AND K of this section.

25 B. Withdrawals of groundwater for non-irrigation uses from wells
26 having a pump with a maximum capacity of not more than thirty-five gallons
27 per minute drilled on or after April 28, 1983, except wells drilled after
28 April 28, 1983 pursuant to a notice of intention to drill which was on file
29 with the department on such date, are exempt from this chapter, except that:

30 1. Such wells are subject to subsections ~~F~~ G through ~~J~~ K of this
31 section.

32 2. In an active management area, other than a subsequent active
33 management area designated for a portion of a groundwater basin in the
34 regional aquifer systems of northern Arizona, withdrawals of groundwater from
35 such wells for non-irrigation uses other than domestic purposes and stock
36 watering shall not exceed ten acre-feet per year.

37 3. In a subsequent active management area that is designated for a
38 portion of a groundwater basin in the regional aquifer systems of northern
39 Arizona, groundwater withdrawn from such wells may be used only for domestic
40 purposes and stock watering.

41 C. On or after January 1, 2006, an exempt well otherwise allowed by
42 this section may not be drilled on land if any part of the land is within one
43 hundred feet of the operating water distribution system of a municipal
44 provider with an assured water supply designation within the boundaries of an
45 active management area established on or before July 1, 1994, as shown on a

1 digitized service area map provided to the director by the municipal provider
2 and updated by the municipal provider as specified by the director.

3 D. On request from the owner of the land on which an exempt well is
4 prohibited pursuant to subsection C of this section on a form prescribed by
5 the director, the director shall issue an exemption from subsection C of this
6 section if the landowner demonstrates to the satisfaction of the director
7 that any of the following applies:

8 1. The landowner submitted a written request for service to the
9 municipal provider that operates the distribution system and the municipal
10 provider did not provide written verification to the landowner within thirty
11 calendar days after receipt of the request that water service is available to
12 the landowner after payment of any applicable fee to the municipal provider.

13 2. The total capital cost and fees for connecting to the operating
14 water distribution system exceed the total capital cost and fees for drilling
15 and fully equipping an exempt well.

16 3. If the applicant must obtain an easement across other land to
17 connect to the water distribution system of the municipal provider, the
18 applicant sent the owner of the land a request for the easement by certified
19 mail, return receipt requested, and either the applicant did not receive a
20 response to the request within thirty calendar days of mailing the request or
21 the request was denied.

22 4. The landowner does not qualify for an exemption pursuant to
23 ~~paragraphs~~ PARAGRAPH 1, 2 or 3 of this subsection and the landowner provides
24 written verification from the municipal provider that the landowner shall not
25 receive or request water service from the municipal provider while the exempt
26 well is operational. The exemption for that well is revoked if the landowner
27 or any subsequent landowner receives water service from the municipal
28 provider. In determining whether to approve or reject a permit application
29 filed under section 45-599, the director shall not consider any impacts the
30 proposed well may have on an exempt well drilled pursuant to this paragraph.

31 E. This section does not prohibit a property owner, after January 1,
32 2006, from drilling a replacement exempt well for a lawful exempt well if the
33 replacement well does not increase the total number of operable exempt wells
34 on the applicant's land.

35 F. A remediation well drilled for the purpose of remediating
36 groundwater is exempt from this section if it meets one of the following:

37 1. The remediation well is for an approved department of environmental
38 quality or united states environmental protection agency remediation program.

39 2. A registered geologist certifies that the remediation well is for
40 the purpose of remediation.

41 G. A person shall file a notice of intention to drill with the
42 director pursuant to section 45-596 before drilling an exempt well or causing
43 an exempt well to be drilled.

44 H. The registered well owner shall file a completion report pursuant
45 to section 45-600, subsection B.

1 I. In an active management area only one exempt well may be drilled or
2 used to serve the same non-irrigation use at the same location, except that a
3 person may drill or use a second exempt well to serve the same non-irrigation
4 use at the same location if the director determines that all of the following
5 apply:

6 1. Because of its location, the first exempt well is not capable of
7 consistently producing more than three gallons per minute of groundwater when
8 equipped with a pump with a maximum capacity of thirty-five gallons per
9 minute.

10 2. The second exempt well is located on the same parcel of land as the
11 first exempt well, the parcel of land is at least one acre in size, all
12 groundwater withdrawn from both exempt wells is used on that parcel of land
13 and there are no other exempt wells on that parcel of land.

14 3. Combined withdrawals from both wells do not exceed five acre-feet
15 per year.

16 4. If the second exempt well is drilled after January 1, 2000, the
17 county health authority for the county in which the well is located or any
18 other local health authority that controls the installation of septic tanks
19 or sewer systems in the county has approved the location of the well in
20 writing after physically inspecting the well site.

21 5. Use of two wells for the same non-irrigation use at the same
22 location is not contrary to the health and welfare of the public.

23 J. An exempt well is subject to sections 45-594 and 45-595.

24 K. Groundwater withdrawn from an exempt well may be transported only
25 pursuant to articles 8 and 8.1 of this chapter.

26 L. A person who owns land from which exempt withdrawals were being
27 made as of the date of the designation of the active management area is not
28 eligible for a certificate of grandfathered right for a type 2 non-irrigation
29 use for such withdrawals.

30 M. For the purposes of this section:

31 1. "Domestic purposes" means uses related to the supply, service and
32 activities of households and private residences and includes the application
33 of water to less than two acres of land to produce plants or parts of plants
34 for sale or human consumption, or for use as feed for livestock, range
35 livestock or poultry, as such terms are defined in section 3-1201.

36 2. "Municipal provider" means a city, town, private water company or
37 irrigation district that supplies water for non-irrigation use.

38 3. "Stock watering" means the watering of livestock, range livestock
39 or poultry, as such terms are defined in section 3-1201.

APPROVED BY THE GOVERNOR APRIL 22, 2008.

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