

Senate Engrossed House Bill

FILED

**MICHELE REAGAN
SECRETARY OF STATE**

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

CHAPTER 240

HOUSE BILL 2297

AN ACT

AMENDING TITLE 41, CHAPTER 6, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1038; RELATING TO STATE AGENCY RULEMAKING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 41, chapter 6, article 3, Arizona Revised Statutes,
3 is amended by adding section 41-1038, to read:

4 41-1038. Rules; restrictions; affirmative defense; fees and
5 costs; exceptions; definition

6 A. NOTWITHSTANDING ANY OTHER LAW, AN AGENCY MAY NOT ADOPT ANY NEW RULE
7 THAT WOULD INCREASE EXISTING REGULATORY RESTRAINTS OR BURDENS ON THE FREE
8 EXERCISE OF PROPERTY RIGHTS OR THE FREEDOM TO ENGAGE IN AN OTHERWISE LAWFUL
9 BUSINESS OR OCCUPATION UNLESS THE RULE IS EITHER OF THE FOLLOWING:

10 1. A COMPONENT OF A COMPREHENSIVE EFFORT TO REDUCE REGULATORY
11 RESTRAINTS OR BURDENS.

12 2. NECESSARY TO IMPLEMENT STATUTES OR REQUIRED BY A FINAL COURT ORDER
13 OR DECISION.

14 B. ANY PERSON WHO IS SUBJECT TO A CIVIL OR CRIMINAL PROCEEDING ARISING
15 FROM THE ENFORCEMENT OF A RULE IN VIOLATION OF SUBSECTION A OF THIS SECTION
16 HAS AN AFFIRMATIVE DEFENSE TO THE ENFORCEMENT ACTION. ANY COURT OR
17 ADMINISTRATIVE BODY CONSIDERING OR REVIEWING THE DEFENSE SHALL RULE ON ITS
18 MERITS WITHOUT DEFERENCE TO ANY LEGISLATIVE, ADMINISTRATIVE OR EXECUTIVE
19 FINDING CONCERNING THE RULE. THE COURT OR ADMINISTRATIVE BODY MAY AWARD THE
20 PREVAILING PARTY, OTHER THAN THE AGENCY, ATTORNEY FEES AND COSTS.

21 C. THIS SECTION DOES NOT APPLY TO RULES THAT EITHER:

22 1. GOVERN PUBLIC EMPLOYEES.

23 2. ARE NECESSARY TO PROTECT PUBLIC HEALTH AND SAFETY.

24 3. ARE NECESSARY TO AVOID SANCTIONS THAT WOULD RESULT FROM A FAILURE
25 TO TAKE RULEMAKING ACTION PURSUANT TO A COURT ORDER OR FEDERAL LAW.

26 D. FOR THE PURPOSES OF THIS SECTION, AGENCY DOES NOT INCLUDE ANY
27 BOARD, COMMISSION, DEPARTMENT, OFFICER OR OTHER ADMINISTRATIVE UNIT OF THIS
28 STATE ESTABLISHED UNDER THE AUTHORITY OF THE CONSTITUTION OF ARIZONA.

29 E. FOR THE PURPOSES OF THIS SECTION, "TO PROTECT PUBLIC HEALTH AND
30 SAFETY" MEANS THE IMMEDIATE NEED TO ADDRESS OR PREVENT AN OUTBREAK OF AN
31 INFECTIOUS DISEASE, A DISASTER OR ANY OTHER CATASTROPHIC EVENT.

APPROVED BY THE GOVERNOR APRIL 9, 2015.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 10, 2015.

Passed the House February 25 20 15

by the following vote: 35 Ayes,

24 Nays, 1 Not Voting



Speaker of the House

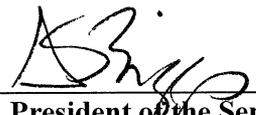


Chief Clerk of the House

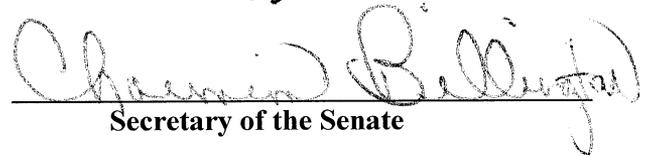
Passed the Senate March 30, 20 15

by the following vote: 17 Ayes,

12 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. 2297

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

March 31, 2015,

by the following vote: 35 Ayes,

25 Nays, 0 Not Voting

[Signature]
Speaker of the House

[Signature]
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this
31st day of March, 2015,

at 3:16 o'clock P. M.

[Signature]
Secretary to the Governor

Approved this 9th day of

April, 2015,

at 11:25 o'clock A M.

[Signature]
Governor of Arizona

H.B. 2297

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this 10th day of April, 2015,

at 3:15 o'clock A. M.

[Signature]
Secretary of State