

House Engrossed

FILED
MICHELE REAGAN
SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

CHAPTER 192

HOUSE BILL 2325

AN ACT

AMENDING SECTIONS 49-210, 49-352, 49-353 AND 49-361, ARIZONA REVISED
STATUTES; RELATING TO WATER QUALITY CONTROL.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 49-210, Arizona Revised Statutes, is amended to
3 read:

4 49-210. Water quality fee fund; appropriation; exemption;
5 monies held in trust

6 A. The water quality fee fund is established consisting of monies
7 appropriated by the legislature and fees received pursuant to sections
8 49-104, 49-203, 49-241, 49-241.02, 49-242, 49-255.01, 49-332, and 49-352,
9 49-353 AND 49-361. The director shall administer the fund.

10 B. Monies in the fund are subject to annual legislative appropriation
11 to the department for water quality programs. Monies in the fund are exempt
12 from the provisions of section 35-190 relating to lapsing of appropriations.

13 C. On notice from the director, the state treasurer shall invest and
14 divest monies in the fund as provided by section 35-313, and monies earned
15 from investment shall be credited to the fund.

16 D. Monies in the water quality fee fund shall be used for the
17 following purposes:

18 1. The issuance of aquifer protection permits pursuant to section
19 49-241.

20 2. The aquifer protection permit registration fee procedures pursuant
21 to section 49-242.

22 3. Dry well registration fee procedures pursuant to section 49-332.

23 4. Technical review fee procedures pursuant to section 49-353.

24 5. Inspection fee procedures pursuant to section 49-104, subsection C.

25 6. The issuance of permits under the Arizona pollutant discharge
26 elimination system program pursuant to section 49-255.01.

27 7. OPERATOR CERTIFICATION PURSUANT TO SECTIONS 49-352 AND 49-361.

28 E. Any fee, assessment or other levy that is authorized by law or
29 administrative rule and that is collected and deposited in the water quality
30 fee fund shall be held in trust. The monies in the fund may be used only for
31 the purposes prescribed by statute and shall not be appropriated or
32 transferred by the legislature to fund the general operations of this state
33 or to otherwise meet the obligations of the general fund of this state. This
34 subsection does not apply to any taxes or other levies that are imposed
35 pursuant to title 42 or 43.

36 Sec. 2. Section 49-352, Arizona Revised Statutes, is amended to read:

37 49-352. Classifying systems and certifying personnel;
38 limitation

39 A. The department shall establish and enforce rules for the
40 classification of systems for potable water and certifying operating
41 personnel according to the skill, knowledge and experience necessary within
42 the classification. The rules shall also provide that operating personnel
43 may be certified on the basis of training and supervision at the place of
44 employment. The department may assess and collect reasonable certification
45 fees to reimburse the cost of certification services, which shall be

1 deposited in the ~~state general~~ WATER QUALITY FEE fund ESTABLISHED BY SECTION
2 49-210. Such rules apply to all public water systems involved in the
3 collection, storage, treatment or distribution of potable water. The rules
4 do not apply to systems that are not public water systems, including
5 irrigation, industrial or similar systems where the water is used for
6 nonpotable purposes.

7 B. For the purposes of this article:

8 1. A public water system is a water system that:

9 (a) Provides water for human consumption through pipes or other
10 constructed conveyances.

11 (b) Has at least fifteen service connections or regularly serves an
12 average of at least twenty-five persons daily for at least sixty days a year.

13 2. A public water system as described in paragraph 1, subdivisions (a)
14 and (b) OF THIS SUBSECTION includes any collection, treatment, storage and
15 distribution facilities that are under the control of the operator of a
16 public water system and that are used primarily in connection with the system
17 and any collection or pretreatment storage facilities that are not under the
18 control of the operator of a public water system and that are used primarily
19 in connection with a public water system.

20 3. A service connection does not include a connection to a system that
21 delivers water by a constructed conveyance other than a pipe, if any of the
22 following applies:

23 (a) The water is used exclusively for purposes other than residential
24 uses consisting of drinking, cooking or bathing or other similar uses.

25 (b) The department determines that alternative water is provided for
26 residential or similar uses for drinking and cooking and that the water
27 achieves a level of public health protection that is equivalent to the
28 applicable national primary drinking water regulations.

29 (c) The department determines that the water that is provided for
30 residential or similar uses for drinking, cooking and bathing is centrally
31 treated or is treated at the point of entry by the water provider, a
32 pass-through entity or the user to achieve the level of public health
33 protection that is equivalent to the applicable national primary drinking
34 water regulations.

35 4. An irrigation district in existence before May 18, 1994 and that
36 provides primarily agricultural service through a piped water system with
37 only incidental residential or similar use is not a public water system if
38 the system or the residential or other similar users of the system comply
39 with paragraph 3, subdivision (b) or (c) OF THIS SUBSECTION.

40 5. Persons who receive water through connections that are not service
41 connections pursuant to paragraph 3 OF THIS SUBSECTION are not included in
42 the computation of the number of persons prescribed by paragraph 1,
43 subdivision (b) OF THIS SUBSECTION.

1 Sec. 3. Section 49-353, Arizona Revised Statutes, is amended to read:
2 49-353. Duties of director; rules; prohibited lead use

3 A. The director shall:

4 1. Exercise general supervision over all matters related to water
5 quality control of public water systems throughout this state.

6 2. Prescribe rules regarding the production, treatment, distribution
7 and testing of potable water by public water systems, except that such rules
8 shall not apply to irrigation, industrial or similar systems where the water
9 is used for nonpotable purposes. The rules shall comply with at least the
10 following:

11 (a) The requirements established by the United States environmental
12 protection agency for state primary enforcement responsibility of the safe
13 drinking water act, including the requirements of 40 Code of Federal
14 Regulations parts 141 and 142.

15 (b) Require that the plans and specifications for all public water
16 systems, including water treatment plants, distribution systems, distribution
17 system extensions, water treatment methods and devices and all appurtenances
18 and devices for sale to be used in water supplies and public water systems be
19 submitted with a fee for review to the department. The department, in
20 establishing fees authorized by this section, shall comply with title 41,
21 chapter 6. The department shall not set a fee at more than the department's
22 cost of providing the service for which the fee is charged. State agencies
23 are exempt from all fees imposed pursuant to this section. Monies collected
24 from the fees shall be deposited in the water quality fee fund established by
25 section 49-210. The director may require that plans and specifications for
26 public water systems include programs to meet future needs for drinking water
27 and to supply specified minimum quantities of drinking water. The director
28 shall:

29 (i) Require that a new public water system demonstrate that the system
30 possesses adequate managerial and financial capacity to operate in compliance
31 with this article and the rules adopted pursuant to this article.

32 (ii) Accept adequate findings of other public authorities regarding
33 the adequate managerial and financial capacity of a public water system to
34 operate in compliance with this article and the rules adopted pursuant to
35 this article.

36 (c) Provide that no public water system, including a water treatment
37 plant, distribution system, distribution system extension, water treatment
38 method or device, appurtenance and device used in water supplies or public
39 water systems be constructed, reconstructed, installed or initiated before
40 compliance with the standards and rules has been demonstrated by approval of
41 the plans and specifications by the department. The rules shall prescribe
42 minimum standards for the bacteriological, physical and chemical quality of
43 water distributed through public water systems. The director of
44 environmental quality may consult with the director of the department of
45 health services in developing these standards.

1 (d) Provide for a simplified administrative procedure for approving
2 structural revisions, additions, extensions or modifications to existing
3 small public water systems for potable water serving a population of three
4 thousand three hundred or fewer persons.

5 (e) Exempt from the plan review requirements of this paragraph,
6 including any requirements for approval to construct or approval of
7 construction, any structural revisions, additions, extensions or
8 modifications to public water systems which are in compliance with the
9 department's rules applicable to those systems or which are making
10 satisfactory progress towards compliance under a schedule approved by the
11 department if either of the following conditions is satisfied:

12 (i) The revision, addition, extension or modification has a project
13 cost of twelve thousand five hundred dollars or less.

14 (ii) The revision, addition, extension or modification is made to a
15 water line which is not for a subdivision requiring plat approval by a city,
16 town or county, and has a project cost of more than twelve thousand five
17 hundred dollars but less than fifty thousand dollars, the design of which is
18 sealed by a professional engineer registered in this state and the
19 construction of which is reviewed for conformance with the design by a
20 professional engineer.

21 (f) Require a notice of compliance with the conditions for exemption
22 upon the completion of any revisions, additions, extensions or modifications
23 completed in accordance with subdivision (e) of this paragraph.

24 (g) Provide for the submission of samples at stated intervals.

25 (h) Provide for inspection and certification of such water supplies.

26 (i) Provide for the abatement as public nuisances of any premises,
27 equipment, process or device, or public water system that does not comply
28 with the minimum standards and rules.

29 (j) Provide for records regarding water quality to be kept by owners
30 and operators of the public water systems and that reports regarding water
31 quality be filed with the department.

32 (k) Provide for appropriate actions to be taken if a water supply does
33 not meet the standards established by the department.

34 (l) Require a public water system to implement a specified program to
35 control contamination from backflow, backsiphonage or cross connection. All
36 such programs shall be consistent with title 41, chapter 16.

37 (m) Require that public water systems identify and provide notice to
38 persons that may be affected by lead contamination of their drinking water
39 where such contamination results from either or both of the following:

40 (i) The lead content in the construction materials of the public water
41 distribution system.

42 (ii) Corrosivity of the water supply sufficient to cause leaching of
43 lead.

44 (n) Provide for relief from water testing and monitoring requirements
45 for public water systems qualifying under the federal safe drinking water act

1 (P.L. 93-523; 88 Stat. 1660 1661; P.L. 95-190; 91 Stat. 1393; P.L. 104-182;
2 110 Stat. 1613), as amended in 1996.

3 3. Develop and implement strategies to assist public water systems in
4 acquiring and maintaining the technical, managerial and financial capacity to
5 operate in compliance with this article and the rules adopted pursuant to
6 this article. Assistance may be provided based on the needs of the water
7 system.

8 B. Pipes, ~~and~~ pipe fittings AND PLUMBING FITTINGS AND FIXTURES having
9 a lead content in excess of ~~eight per cent~~ A WEIGHTED AVERAGE OF ONE-QUARTER
10 OF ONE PERCENT LEAD WHEN USED WITH RESPECT TO THE WETTED SURFACES and solders
11 and flux having a lead content in excess of two-tenths of one ~~per cent~~
12 PERCENT shall not be used in the installation or repair of public water
13 systems or of any plumbing in residential or nonresidential facilities
14 providing water for human consumption ~~which are connected to public water~~
15 ~~systems~~. THE WEIGHTED AVERAGE LEAD CONTENT OF A PIPE, PIPE FITTING OR
16 PLUMBING FITTING OR FIXTURE SHALL BE CALCULATED AS FOLLOWS:

17 1. FOR EACH WETTED COMPONENT, THE PERCENTAGE OF LEAD IN THE COMPONENT
18 SHALL BE MULTIPLIED BY THE RATIO OF THE WETTED SURFACE AREA OF THAT COMPONENT
19 TO THE TOTAL WETTED SURFACE AREA OF THE ENTIRE PRODUCT TO ARRIVE AT THE
20 WEIGHTED PERCENTAGE OF LEAD OF THE COMPONENT.

21 2. THE WEIGHTED PERCENTAGE OF LEAD OF EACH WETTED COMPONENT SHALL BE
22 ADDED TOGETHER, AND THE SUM OF THESE WEIGHTED PERCENTAGES SHALL CONSTITUTE
23 THE WEIGHTED AVERAGE LEAD CONTENT OF THE PRODUCT.

24 3. THE LEAD CONTENT OF THE MATERIAL USED TO PRODUCE A WETTED COMPONENT
25 SHALL BE USED TO DETERMINE COMPLIANCE WITH THIS SUBSECTION.

26 4. FOR LEAD CONTENT OF MATERIALS THAT ARE PROVIDED AS A RANGE, THE
27 MAXIMUM CONTENT OF THAT RANGE SHALL BE USED.

28 C. ~~This~~ Subsection B OF THIS SECTION ~~shall~~ DOES not apply to:

29 1. Leaded joints necessary for the repair of cast iron pipes.

30 2. PIPES, PIPE FITTINGS AND PLUMBING FITTINGS AND FIXTURES, INCLUDING
31 BACKFLOW PREVENTERS, THAT ARE USED EXCLUSIVELY FOR NONPOTABLE WATER SERVICES
32 SUCH AS MANUFACTURING, INDUSTRIAL PROCESSING, IRRIGATION, OUTDOOR WATERING OR
33 ANY OTHER USES WHERE THE WATER IS NOT ANTICIPATED TO BE USED FOR HUMAN
34 CONSUMPTION.

35 3. TOILETS, BIDETS, URINALS, FILL VALVES, FLUSHOMETER VALVES, TUB
36 FILLERS, SHOWER VALVES OR SERVICE SADDLES OR WATER DISTRIBUTION MAIN GATE
37 VALVES THAT ARE TWO INCHES IN DIAMETER OR LARGER.

38 ~~C.~~ D. Notwithstanding subsection A, paragraph 2, subdivision (c) of
39 this section, a public water system may construct, reconstruct, install,
40 extend or initiate a water supply system, water treatment plant, distribution
41 system, water treatment method or device, or appurtenance that is used in
42 water supply or in a public water system when the system is out of compliance
43 with standards and rules adopted pursuant to this article only if the
44 construction is necessary to correct the system's noncompliance.

1 D. E. ~~The provisions of~~ This section and the rules adopted pursuant
2 to this section apply to public water systems as described by section 49-352,
3 subsection B.
4 Sec. 4. Section 49-361, Arizona Revised Statutes, is amended to read:
5 49-361. Sewage treatment plants; operator certification
6 The department shall adopt and enforce rules to classify sewage
7 collection systems and treatment plants and to certify operating personnel
8 according to the skill, knowledge and experience necessary within the
9 classification. The rules shall provide that operating personnel may be
10 certified on the basis of training and supervision at the place of
11 employment. The department may assess and collect reasonable certification
12 fees to reimburse the cost of certification services, and the fees shall be
13 deposited, pursuant to sections 35-146 and 35-147, in the ~~state general~~ WATER
14 QUALITY FEE fund ESTABLISHED BY SECTION 49-210. The rules apply to all
15 sewage treatment plants that receive and treat wastes from common collection
16 sewers and industrial plants but do not apply to septic tanks, to devices
17 that serve a single home or to industrial treatment devices that are used to
18 perform or allow recycling or impounding wastes within the boundaries of the
19 industry's property.

APPROVED BY THE GOVERNOR MAY 11, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 11, 2016.

Passed the House March 1, 20 16

Passed the Senate May 7, 20 16

by the following vote: 59 Ayes,

by the following vote: 28 Ayes,

0 Nays, 1 Not Voting

0 Nays, 2 Not Voting

[Signature]

Speaker of the House

Pro Tempore

[Signature]
Chief Clerk of the House

[Signature]

President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

9th day of May, 20 16

at 9:54 o'clock A. M.

[Signature]
Secretary to the Governor

Approved this 11th day of

May

at 8:41 o'clock A. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 12 day of May, 20 16

at 3:04 o'clock P. M.

[Signature]

Secretary of State

H.B. 2325