

Senate Engrossed

State of Arizona
Senate
Fifty-second Legislature
Second Regular Session
2016

FILED
MICHELE REAGAN
SECRETARY OF STATE

CHAPTER 59

SENATE BILL 1504

AN ACT

AMENDING TITLE 33, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 23; RELATING TO PRIVATE PROPERTY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 33, Arizona Revised Statutes, is amended by adding
3 chapter 23, to read:

4 CHAPTER 23

5 PRIVATE PROPERTY RIGHTS

6 ARTICLE 1. GENERAL PROVISIONS

7 33-2501. Drop box; private property; required consent;
8 exemptions; definitions

9 A. ANY PERSON THAT PLACES A DROP BOX ON PRIVATE PROPERTY SHALL OBTAIN
10 NOTARIZED APPROVAL THAT IS SIGNED BY THE PRIVATE PROPERTY OWNER OR THE
11 PRIVATE PROPERTY OWNER'S AUTHORIZED AGENT BEFORE PLACING THE DROP BOX ON THE
12 PRIVATE PROPERTY, PROVIDED THE PRIVATE PROPERTY OWNER OR THE PRIVATE PROPERTY
13 OWNER'S AUTHORIZED AGENT COMPLIES WITH THE REQUIREMENTS OF ANY APPLICABLE
14 COVENANT, CONDITION OR RESTRICTION ON THE PROPERTY WHERE THE DROP BOX IS TO
15 BE LOCATED.

16 B. ALL DROP BOXES SHALL DISPLAY, IN A CLEAR AND CONSPICUOUS MANNER,
17 THE NAME OF THE PERSON THAT OWNS THE DROP BOX AND THE CONTACT INFORMATION FOR
18 THE DROP BOX OWNER, INCLUDING THE PERSON'S NAME, ADDRESS, TELEPHONE NUMBER
19 AND E-MAIL ADDRESS.

20 C. THE PRIVATE PROPERTY OWNER OR THE PRIVATE PROPERTY OWNER'S
21 AUTHORIZED AGENT MAY RESCIND PERMISSION FOR THE PLACEMENT OF A DROP BOX ON
22 THE PRIVATE PROPERTY AT ANY TIME. THE PRIVATE PROPERTY OWNER OR THE PRIVATE
23 PROPERTY OWNER'S AUTHORIZED AGENT SHALL NOTIFY THE OWNER OF THE DROP BOX BY
24 CERTIFIED MAIL OF THE DECISION TO RESCIND PERMISSION FOR THE PLACEMENT OF THE
25 DROP BOX. THE NOTICE SHALL BE MAILED TO THE ADDRESS LISTED ON THE DROP BOX.
26 THE DROP BOX OWNER SHALL REMOVE THE DROP BOX WITHIN TEN BUSINESS DAYS AFTER
27 RECEIPT OF THE NOTIFICATION. IF THE DROP BOX IS NOT REMOVED AFTER TEN
28 BUSINESS DAYS, THE PRIVATE PROPERTY OWNER OR THE PRIVATE PROPERTY OWNER'S
29 AUTHORIZED AGENT MAY DISPOSE OF THE DROP BOX AND ITS CONTENTS.

30 D. ANY DROP BOX THAT IS PLACED ON PRIVATE PROPERTY WITHOUT NOTARIZED
31 CONSENT OF THE PRIVATE PROPERTY OWNER OR THE PRIVATE PROPERTY OWNER'S
32 AUTHORIZED AGENT MAY BE REMOVED AND DISPOSED OF BY THE PRIVATE PROPERTY OWNER
33 OR THE PRIVATE PROPERTY OWNER'S AUTHORIZED AGENT AT ANY TIME WITHOUT
34 NOTIFICATION.

35 E. A PRIVATE PROPERTY OWNER OR THE PRIVATE PROPERTY OWNER'S AUTHORIZED
36 AGENT WHO REMOVES A DROP BOX PURSUANT TO SUBSECTION C OR D OF THIS SECTION IS
37 NOT LIABLE FOR THE LOSSES ASSOCIATED WITH THE REMOVAL OF A DROP BOX AND ITS
38 CONTENTS.

39 F. THIS SECTION DOES NOT:

40 1. APPLY TO A DROP BOX THAT IS LOCATED ON PRIVATE PROPERTY THAT IS
41 OWNED BY THE PERSON THAT OWNS THE DROP BOX, PROVIDED THE PRIVATE PROPERTY
42 OWNER OR THE PRIVATE PROPERTY OWNER'S AUTHORIZED AGENT COMPLIES WITH THE
43 REQUIREMENTS OF ANY APPLICABLE COVENANT, CONDITION OR RESTRICTION ON THE
44 PROPERTY WHERE THE DROP BOX IS TO BE LOCATED.

1 2. PREEMPT A CITY OR TOWN FROM ADOPTING AN ORDINANCE TO REGULATE DROP
2 BOXES IF THE ORDINANCE DOES NOT CONFLICT WITH THIS SECTION.

3 3. PREEMPT A COUNTY BOARD OF SUPERVISORS FROM ADOPTING AN ORDINANCE OR
4 RESOLUTION TO REGULATE DROP BOXES IF THE ORDINANCE OR RESOLUTION DOES NOT
5 CONFLICT WITH THIS SECTION.

6 4. APPLY TO A WRITTEN LICENSE OR LEASE AGREEMENT OR WRITTEN CONTRACT
7 BETWEEN THE PRIVATE PROPERTY OWNER AND THE OWNER OF THE DROP BOX, PROVIDED
8 THE PRIVATE PROPERTY OWNER OR THE PRIVATE PROPERTY OWNER'S AUTHORIZED AGENT
9 COMPLIES WITH THE REQUIREMENTS OF ANY APPLICABLE COVENANT, CONDITION OR
10 RESTRICTION ON THE PROPERTY WHERE THE DROP BOX IS TO BE LOCATED.

11 5. APPLY TO AN EXISTING TENANT ON PRIVATE PROPERTY PROVIDED THE TENANT
12 OBTAINS PRIOR APPROVAL FROM THE PRIVATE PROPERTY OWNER OR THE PRIVATE
13 PROPERTY OWNER'S AUTHORIZED AGENT OF THE PRIVATE PROPERTY WHERE THE DROP BOX
14 IS TO BE LOCATED, PROVIDED THE PRIVATE PROPERTY OWNER OR THE PRIVATE PROPERTY
15 OWNER'S AUTHORIZED AGENT COMPLIES WITH THE REQUIREMENTS OF ANY APPLICABLE
16 COVENANT, CONDITION OR RESTRICTION ON THE PROPERTY WHERE THE DROP BOX IS TO
17 BE LOCATED.

18 6. CREATE ANY ADDITIONAL LIABILITY, RESPONSIBILITY OR DUTY ON ANOTHER
19 TENANT OR LESSEE OF THE PRIVATE PROPERTY.

20 G. FOR THE PURPOSES OF THIS SECTION:

21 1. "DROP BOX" MEANS ANY CONTAINER, STORAGE UNIT OR STRUCTURE, OTHER
22 THAN A PRIMARY BUILDING OR ACCESSORY BUILDING, USED FOR THE COLLECTION OF
23 DONATED ITEMS BY THE GENERAL PUBLIC, INCLUDING CLOTHING, MATERIALS, HOUSEHOLD
24 GOODS, TOYS, BOOKS AND PAPERS.

25 2. "PRIVATE PROPERTY OWNER'S AUTHORIZED AGENT" MEANS AN INDIVIDUAL WHO
26 IS EITHER:

27 (a) IF THE PRIVATE PROPERTY OWNER IS A CORPORATION, A PRINCIPAL
28 EXECUTIVE OFFICER OR OTHER CORPORATE OFFICER WITH SIGNATORY POWERS PURSUANT
29 TO THE CORPORATION'S BY-LAWS OR A VOTE OF THE DIRECTORS.

30 (b) IF THE PRIVATE PROPERTY OWNER IS A PARTNERSHIP OR SOLE
31 PROPRIETORSHIP, A GENERAL PARTNER OR PROPRIETOR.

32 (c) A DULY AUTHORIZED REPRESENTATIVE WHO IS RESPONSIBLE FOR THE
33 OVERALL OPERATION OF THE PRIVATE PROPERTY OR WHO HAS AUTHORITY TO SIGN
34 CONTRACTS, PERMITS, PERMIT APPLICATIONS, MONITORING RESULTS AND OTHER
35 DOCUMENTS IN THE PRIVATE PROPERTY OWNER'S NAME.

36 Sec. 2. Legislative findings

37 The legislature finds and declares that:

38 1. This state has a long history of protecting the property rights of
39 private property owners, including protecting property owners from trespass.

40 2. Most, if not all, permanent and temporary land uses require written
41 and notarized authorization from the private property owner or the private
42 property owner's authorized agent.

43 3. Today, it is estimated that there are more than five thousand drop
44 boxes in this state placed on numerous commercial and retail shopping
45 centers, a substantial majority of which drop box operators have placed

1 deliberately in defiance of trespass laws, with inappropriate approval from
2 an onsite tenant or with the mistaken belief that they had proper authority
3 from the private property owner or the private property owner's authorized
4 agent.

5 4. Often, drop box operators will place drop boxes on required parking
6 spaces, landscape setbacks, parking landscape islands, or in the path of
7 vehicle circulation - frequently in violation of local zoning, public
8 nuisance or other ordinances. In addition, the placement of the drop boxes
9 may result in violations of a private property owner's contractual
10 obligations to the tenants, licensees or other property owners, unless the
11 private property owner or the private property owner's authorized agent takes
12 appropriate remedial action.

13 5. In order for a private property owner or the private property
14 owner's authorized agent to address the trespass, often the private property
15 owner or the private property owner's authorized agent will first seek to
16 contact the drop box operator to demand removal of the drop box. However, it
17 is not unusual for the private property owner's or the private property
18 owner's authorized agent's efforts to be frustrated by the drop box
19 operator's:

20 (a) Failure to provide accurate, if any, contact information on the
21 drop box.

22 (b) Lack of timely response, if at all, when contacted.

23 (c) Attempts to delay taking action.

24 6. When a private property owner or the private property owner's
25 authorized agent does take action to remove an unauthorized drop box, it is
26 not uncommon for the drop box operator to threaten to sue, and in some cases
27 actually sue, the private property owner and the private property owner's
28 authorized agent.

29 7. With notarized authorization and disclosure of contact information,
30 private property owners will be afforded greater protection against potential
31 civil and tort liabilities, local zoning, public nuisance or other ordinance
32 violations and breach of contract claims from authorized tenants and
33 licensees.

34 8. By obtaining notarized authorization and disclosing contact
35 information on drop boxes, drop box operators will be afforded greater
36 protection against potential civil and criminal liabilities and the potential
37 loss of the drop boxes and its content.

APPROVED BY THE GOVERNOR MARCH 24, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 24, 2016.

Passed the House March 17, 2016,

Passed the Senate February 25, 2016,

by the following vote: 56 Ayes,

by the following vote: 28 Ayes,

0 Nays, 4 Not Voting

0 Nays, 2 Not Voting

Speaker of the House
Pro Tempore

President of the Senate

Chief Clerk of the House

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

21st day of March, 2016,

at 1:48 o'clock P. M.

Secretary to the Governor

Approved this 24th day of

March, 2016,

at 10:49 o'clock A M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 24 day of March, 2016,

at 2:04 o'clock P M.

Secretary of State

S.B. 1504