

COMMITTEE ON NATURAL RESOURCES, ENERGY & WATER
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2105
(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 49-501, Arizona Revised Statutes, is amended to
3 read:

4 49-501. Unlawful open burning; exceptions; civil penalty;
5 definition

6 A. Notwithstanding the provisions of any other section of this
7 article:

8 1. It is unlawful for any person to ignite, cause to be ignited,
9 permit to be ignited, or suffer, allow, or maintain any open outdoor fire
10 except as provided in this section.

11 2. From May 1 through September 30 each year, it is unlawful for any
12 person to ignite, cause to be ignited, permit to be ignited or suffer,
13 allow or maintain any open outdoor fire in area A as defined in section
14 49-541.

15 B. The following fires are excepted from this section:

16 1. Fires used only for cooking ~~of~~ food, ~~or for~~ providing warmth for
17 human beings or ~~the~~ branding ~~of~~ animals or ~~the use of~~ USING orchard heaters
18 for the purpose of frost protection in farming or nursery operations.

19 2. Any fire set or ~~permitted~~ ALLOWED by any public officer in the
20 performance of official duty, if such fire is set or permission given for
21 the purpose of weed abatement, the prevention of a fire hazard, or
22 instruction in the methods of fighting fires.

23 3. Fires set by or ~~permitted~~ ALLOWED by the director of the
24 department of agriculture or county agricultural agents of the county for
25 the purpose of disease and pest prevention.

1 4. Fires set by or ~~permitted~~ ALLOWED by the federal government or
2 any of its departments, agencies or agents or the state or any of its
3 agencies, departments or political subdivisions for the purpose of
4 watershed rehabilitation or control through vegetative manipulation.

5 5. Fires permitted by any rule or regulation issued pursuant to this
6 article, by any conditional permit issued by a hearing board established
7 under this article or by any rule or conditional permit issued pursuant to
8 article 2 of this chapter when the department of environmental quality
9 pursuant to section 49-402 has assumed jurisdiction of the county in which
10 the fire is located.

11 6. Fires set for the disposal of dangerous materials where there is
12 no safe alternate method of disposal.

13 C. Permission for the setting of any fire given by a public officer
14 in the performance of official duty under subsection B, paragraph 2, 3 or 4
15 of this section shall be given in writing and a copy of the written
16 permission shall be transmitted immediately to the director of
17 environmental quality and the control officer of the county, district or
18 region in which such fire is allowed. The setting of any such fire shall
19 be conducted in a manner and at such time as approved by the control
20 officer or the director of environmental quality, unless doing so would
21 defeat the purpose of the exemption.

22 D. Notwithstanding section 49-107, IF THE DEPARTMENT ASSUMES
23 JURISDICTION OVER BURNING IN A COUNTY PURSUANT TO SECTION 49-402, the
24 director may delegate authority for the issuance of open burning permits to
25 a county, city, town or fire district. A county, city, town or fire
26 district that has been delegated authority for the issuance of open burning
27 permits may assign the issuance of these permits to a private fire
28 protection service provider that performs fire protection services within
29 that county, city, town or fire district. Any private fire protection
30 service provider that is authorized to issue open burning permits pursuant
31 to this subsection shall maintain a copy of all currently effective permits
32 issued, including a means of contacting the person authorized by the permit

1 to set the fire in the event that an order to extinguish the open burning
2 is issued. Permits issued pursuant to this subsection shall contain both
3 of the following:

4 1. Conditions that limit the manner and time of setting the fire and
5 that are consistent with this section and rules adopted pursuant to this
6 section.

7 2. A provision that all burning be extinguished at the discretion of
8 the director or the director's authorized representative during periods of
9 inadequate atmospheric smoke dispersion, periods of excessive visibility
10 impairment that could adversely affect public safety or periods when smoke
11 is blown into populated areas so as to create a public nuisance.

12 E. The director may issue a general permit to allow persons engaged
13 in farming or ranching on forty acres or more in an unincorporated area to
14 burn household waste, as defined in section 49-701, that is generated on
15 site, if no household waste collection and disposal service is
16 available. The general permit shall include the following:

17 1. Conditions governing the method, manner and times for burning.

18 2. Limitation on materials ~~which~~ THAT may be burned, including a
19 prohibition on burning of materials ~~which~~ THAT generate noxious fumes.

20 3. A requirement that any person seeking coverage under the general
21 permit shall register with the director on a form prescribed by the
22 director. ~~Upon~~ ON receipt of a registration form, the director shall
23 notify the county in which the farm or ranch is located of such
24 registration.

25 4. A statement that the director, a local air pollution control
26 officer, or any other public officer may order the extinguishment of
27 burning or may prohibit burning during periods of inadequate smoke
28 dispersion or excessive visibility impairment or at other times when public
29 health or safety could be adversely affected.

30 F. ~~Nothing in~~ This section ~~is intended to~~ DOES NOT permit any
31 practice ~~which~~ THAT is a violation of any statute, ordinance, rule or
32 regulation in a county with a population in excess of one million two

1 hundred thousand persons. Notwithstanding any other law, such a county
2 shall prohibit by ordinance the use of wood burning chimineas, outdoor fire
3 pits and similar outdoor fires on those days for which the county has
4 issued a no burn day restriction.

5 G. A person who violates ~~any provision of~~ this section may be served
6 a notice of violation and be subject to the enforcement provisions of this
7 article to the same extent as a person violating any rule or regulation
8 adopted pursuant to this article, except that:

9 1. A violation that lasts ~~no~~ NOT more than twenty-four hours and
10 that is the first violation committed by that person is subject to a civil
11 penalty of ~~no~~ NOT more than ~~five hundred dollars~~ \$500.

12 2. A VIOLATION PURSUANT TO SUBSECTION D OF THIS SECTION IS SUBJECT
13 TO THE ENFORCEMENT PROVISIONS AS PROVIDED IN ARTICLE 2 OF THIS CHAPTER.

14 H. For the purposes of this section, "open outdoor fire" means any
15 combustion of combustible material of any type outdoors, in the open where
16 the products of combustion are not directed through a flue. For the
17 purposes of this subsection, "flue" means any duct or passage for air,
18 gases or the like, such as a stack or chimney.

19 Sec. 2. Laws 1997, chapter 99, section 7, as amended by Laws 2002,
20 chapter 35, section 1, Laws 2007, chapter 31, section 1 and Laws 2017,
21 chapter 192, section 1, is amended to read:

22 Sec. 7. Delayed repeal

23 The following sections are repealed from and after December 31, ~~2025~~
24 2028:

25 1. Section 44-1302, Arizona Revised Statutes.

26 2. Section 44-1305, Arizona Revised Statutes."

27 Amend title to conform

And, as so amended, it do pass

GAIL GRIFFIN
CHAIRMAN

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