

COMMITTEE ON GOVERNMENT

SENATE AMENDMENTS TO S.B. 1096

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 36-136, Arizona Revised Statutes, is amended to  
3 read:

4 36-136. Powers and duties of director; compensation of  
5 personnel

6 A. The director shall:

7 1. Be the executive officer of the department of health services and  
8 the state registrar of vital statistics but shall not receive compensation  
9 for services as registrar.

10 2. Perform all duties necessary to carry out the functions and  
11 responsibilities of the department.

12 3. Prescribe the organization of the department. The director shall  
13 appoint or remove personnel as necessary for the efficient work of the  
14 department and shall prescribe the duties of all personnel. The director may  
15 abolish any office or position in the department that the director believes  
16 is unnecessary.

17 4. Administer and enforce the laws relating to health and sanitation  
18 and the rules of the department.

19 5. Provide for the examination of any premises if the director has  
20 reasonable cause to believe that on the premises there exists a violation of  
21 any health law or rule of the state.

22 6. Exercise general supervision over all matters relating to  
23 sanitation and health throughout the state. When in the opinion of the  
24 director it is necessary or advisable, a sanitary survey of the whole or of  
25 any part of the state shall be made. The director may enter, examine and  
26 survey any source and means of water supply, sewage disposal plant, sewerage  
27 system, prison, public or private place of detention, asylum, hospital,  
28 school, public building, private institution, factory, workshop, tenement,  
29 public washroom, public ~~rest room~~ RESTROOM, public toilet and toilet

1 facility, public eating room and restaurant, dairy, milk plant or food  
2 manufacturing or processing plant, and any premises in which the director has  
3 reason to believe there exists a violation of any health law or rule of the  
4 state that the director has the duty to administer.

5 7. Prepare sanitary and public health rules.

6 8. Perform other duties prescribed by law.

7 B. If the director has reasonable cause to believe that there exists a  
8 violation of any health law or rule of the state, the director may inspect  
9 any person or property in transportation through the state, and any car,  
10 boat, train, trailer, airplane or other vehicle in which that person or  
11 property is transported, and may enforce detention or disinfection as  
12 reasonably necessary for the public health if there exists a violation of any  
13 health law or rule.

14 C. The director may deputize, in writing, any qualified officer or  
15 employee in the department to do or perform on the director's behalf any act  
16 the director is by law empowered to do or charged with the responsibility of  
17 doing.

18 D. The director may delegate to a local health department, county  
19 environmental department or public health services district any functions,  
20 powers or duties that the director believes can be competently, efficiently  
21 and properly performed by the local health department, county environmental  
22 department or public health services district if:

23 1. The director or superintendent of the local health agency,  
24 environmental agency or public health services district is willing to accept  
25 the delegation and agrees to perform or exercise the functions, powers and  
26 duties conferred in accordance with the standards of performance established  
27 by the director.

28 2. Monies appropriated or otherwise made available to the department  
29 for distribution to or division among counties or public health services  
30 districts for local health work may be allocated or reallocated in a manner  
31 designed to assure the accomplishment of recognized local public health  
32 activities and delegated functions, powers and duties in accordance with

1 applicable standards of performance. Whenever in the director's opinion  
2 there is cause, the director may terminate all or a part of any such  
3 delegation and may reallocate all or a part of any funds that may have been  
4 conditioned on the further performance of the functions, powers or duties  
5 conferred.

6 E. The compensation of all personnel shall be as determined pursuant  
7 to section 38-611.

8 F. The director may make and amend rules necessary for the proper  
9 administration and enforcement of the laws relating to the public health.

10 G. Notwithstanding subsection H, paragraph 1 of this section, the  
11 director may define and prescribe emergency measures for detecting,  
12 reporting, preventing and controlling communicable or infectious diseases or  
13 conditions if the director has reasonable cause to believe that a serious  
14 threat to public health and welfare exists. Emergency measures are effective  
15 for no longer than eighteen months.

16 H. The director ~~shall~~, by rule, **SHALL**:

17 1. Define and prescribe reasonably necessary measures for detecting,  
18 reporting, preventing and controlling communicable and preventable  
19 diseases. The rules shall declare certain diseases reportable. The rules  
20 shall prescribe measures, including isolation or quarantine, reasonably  
21 required to prevent the occurrence of, or to seek early detection and  
22 alleviation of, disability, insofar as possible, from communicable or  
23 preventable diseases. The rules shall include reasonably necessary measures  
24 to control animal diseases transmittable to humans.

25 2. Define and prescribe reasonably necessary measures, in addition to  
26 those prescribed by law, regarding the preparation, embalming, cremation,  
27 interment, disinterment and transportation of dead human bodies and the  
28 conduct of funerals, relating to and restricted to communicable diseases and  
29 regarding the removal, transportation, cremation, interment or disinterment  
30 of any dead human body.

31 3. Define and prescribe reasonably necessary procedures not  
32 inconsistent with law in regard to the use and accessibility of vital

1 records, delayed birth registration and the completion, change and amendment  
2 of vital records.

3 4. Except as relating to the beneficial use of wildlife meat by public  
4 institutions and charitable organizations pursuant to title 17, prescribe  
5 reasonably necessary measures to assure that all food or drink, including  
6 meat and meat products and milk and milk products sold at the retail level,  
7 provided for human consumption is free from unwholesome, poisonous or other  
8 foreign substances and filth, insects or disease-causing organisms. The  
9 rules shall prescribe reasonably necessary measures governing the production,  
10 processing, labeling, storing, handling, serving and transportation of ~~such~~  
11 ~~food and drink~~ THESE PRODUCTS. The rules shall prescribe minimum standards  
12 for the sanitary facilities and conditions that shall be maintained in any  
13 warehouse, restaurant or other premises, except a meat packing plant,  
14 slaughterhouse, wholesale meat processing plant, dairy product manufacturing  
15 plant or trade product manufacturing plant. The rules shall prescribe  
16 minimum standards for any truck or other vehicle in which food or drink is  
17 produced, processed, stored, handled, served or transported. The rules shall  
18 provide for the inspection and licensing of premises and vehicles so used,  
19 and for abatement as public nuisances of any premises or vehicles that do not  
20 comply with the rules and minimum standards. The rules shall provide an  
21 exemption relating to food and drink that is:

22 (a) Served at a noncommercial social event ~~and~~ that takes place at a  
23 workplace, such as a potluck.

24 (b) Prepared at a cooking school that is conducted in an  
25 owner-occupied home.

26 (c) Not potentially hazardous AND PREPARED IN A KITCHEN OF A PRIVATE  
27 HOME FOR OCCASIONAL SALE OR DISTRIBUTION FOR NONCOMMERCIAL PURPOSES.

28 (d) Prepared or served at an employee-conducted function that lasts  
29 less than four hours and is not regularly scheduled, such as an employee  
30 recognition, an employee fund-raising or an employee social event.

1 (e) OFFERED AT A CHILD CARE FACILITY AND LIMITED TO COMMERCIALY  
2 PREPACKAGED FOOD THAT IS NOT POTENTIALLY HAZARDOUS AND WHOLE FRUITS AND  
3 VEGETABLES THAT ARE WASHED AND CUT ON SITE FOR IMMEDIATE CONSUMPTION.

4 (f) OFFERED AT LOCATIONS THAT SELL ONLY COMMERCIALY PREPACKAGED FOOD  
5 AND DRINK THAT IS NOT POTENTIALLY HAZARDOUS AND THAT IS DISPLAYED IN AN AREA  
6 OF LESS THAN TEN LINEAL FEET.

7 5. Prescribe reasonably necessary measures to assure that all meat and  
8 meat products for human consumption handled at the retail level are delivered  
9 in a manner and from sources approved by the Arizona department of  
10 agriculture and are free from unwholesome, poisonous or other foreign  
11 substances and filth, insects or disease-causing organisms. The rules shall  
12 prescribe standards for sanitary facilities to be used in identity, storage,  
13 handling and sale of all meat and meat products sold at the retail level.

14 6. Prescribe reasonably necessary measures regarding production,  
15 processing, labeling, handling, serving and transportation of bottled water  
16 to assure that all bottled drinking water distributed for human consumption  
17 is free from unwholesome, poisonous, deleterious or other foreign substances  
18 and filth or disease-causing organisms. The rules shall prescribe minimum  
19 standards for the sanitary facilities and conditions that shall be maintained  
20 at any source of water, bottling plant and truck or vehicle in which bottled  
21 water is produced, processed, stored or transported and shall provide for  
22 inspection and certification of bottled drinking water sources, plants,  
23 processes and transportation and for abatement as a public nuisance of any  
24 water supply, label, premises, equipment, process or vehicle that does not  
25 comply with the minimum standards. The rules shall prescribe minimum  
26 standards for bacteriological, physical and chemical quality for bottled  
27 water and for the submission of samples at intervals prescribed in the  
28 standards.

29 7. Define and prescribe reasonably necessary measures governing ice  
30 production, handling, storing and distribution to assure that all ice sold or  
31 distributed for human consumption or for the preservation or storage of food  
32 for human consumption is free from unwholesome, poisonous, deleterious or

1 other foreign substances and filth or disease-causing organisms. The rules  
2 shall prescribe minimum standards for the sanitary facilities and conditions  
3 and the quality of ice that shall be maintained at any ice plant, storage and  
4 truck or vehicle in which ice is produced, stored, handled or transported and  
5 shall provide for inspection and licensing of the premises and vehicles, and  
6 for abatement as public nuisances of ice, premises, equipment, processes or  
7 vehicles that do not comply with the minimum standards.

8 8. Define and prescribe reasonably necessary measures concerning  
9 sewage and excreta disposal, garbage and trash collection, storage and  
10 disposal, and water supply for recreational and summer camps, campgrounds,  
11 motels, tourist courts, trailer coach parks and hotels. The rules shall  
12 prescribe minimum standards for preparation of food in community kitchens,  
13 adequacy of excreta disposal, garbage and trash collection, storage and  
14 disposal and water supply for recreational and summer camps, campgrounds,  
15 motels, tourist courts, trailer coach parks and hotels and shall provide for  
16 inspection of ~~such~~ THESE premises and for abatement as public nuisances of  
17 any premises or facilities that do not comply with the rules.

18 9. Define and prescribe reasonably necessary measures concerning the  
19 sewage and excreta disposal, garbage and trash collection, storage and  
20 disposal, water supply and food preparation of all public schools. The rules  
21 shall prescribe minimum standards for sanitary conditions that shall be  
22 maintained in any public school and shall provide for inspection of ~~such~~  
23 THESE premises and facilities and for abatement as public nuisances of any  
24 premises that do not comply with the minimum standards.

25 10. Prescribe reasonably necessary measures to prevent pollution of  
26 water used in public or semipublic swimming pools and bathing places and to  
27 prevent deleterious health conditions at ~~such~~ THESE places. The rules shall  
28 prescribe minimum standards for sanitary conditions that shall be maintained  
29 at any public or semipublic swimming pool or bathing place and shall provide  
30 for inspection of ~~such~~ THESE premises and for abatement as public nuisances  
31 of any premises and facilities that do not comply with the minimum  
32 standards. The rules shall be developed in cooperation with the director of

1 the department of environmental quality and shall be consistent with the  
2 rules adopted by the director of the department of environmental quality  
3 pursuant to section 49-104, subsection B, paragraph 12.

4 11. Prescribe reasonably necessary measures to keep confidential  
5 information relating to diagnostic findings and treatment of patients, as  
6 well as information relating to contacts, suspects and associates of  
7 communicable disease patients. In no event shall confidential information be  
8 made available for political or commercial purposes.

9 12. Prescribe reasonably necessary measures regarding human  
10 immunodeficiency virus testing as a means to control the transmission of that  
11 virus, including the designation of anonymous test sites as dictated by  
12 current epidemiologic and scientific evidence.

13 I. The rules adopted under the authority conferred by this section  
14 shall be observed throughout the state and shall be enforced by each local  
15 board of health or public health services district, but this section does not  
16 limit the right of any local board of health or county board of supervisors  
17 to adopt ordinances and rules as authorized by law within its jurisdiction,  
18 provided that the ordinances and rules do not conflict with state law and are  
19 equal to or more restrictive than the rules of the director.

20 J. The powers and duties prescribed by this section do not apply in  
21 instances in which regulatory powers and duties relating to public health are  
22 vested by the legislature in any other state board, commission, agency or  
23 instrumentality, except that with regard to the regulation of meat and meat  
24 products, the department of health services and the Arizona department of  
25 agriculture within the area delegated to each shall adopt rules that are not  
26 in conflict.

27 K. The director, in establishing fees authorized by this section,  
28 shall comply with title 41, chapter 6. The department shall not set a fee at  
29 more than the department's cost of providing the service for which the fee is  
30 charged. State agencies are exempt from all fees imposed pursuant to this  
31 section.

1           L. After consultation with the state superintendent of public  
2 instruction, the director shall prescribe the criteria the department shall  
3 use in deciding whether or not to notify a local school district that a pupil  
4 in the district has tested positive for the human immunodeficiency virus  
5 antibody. The director shall prescribe the procedure by which the department  
6 shall notify a school district if, pursuant to these criteria, the department  
7 determines that notification is warranted in a particular situation. This  
8 procedure shall include a requirement that before notification the department  
9 shall determine to its satisfaction that the district has an appropriate  
10 policy relating to nondiscrimination of the infected pupil and  
11 confidentiality of test results and that proper educational counseling has  
12 been or will be provided to staff and pupils.

13           M. Until the department adopts exemptions by rule as required by  
14 subsection H, paragraph 4, subdivision (b) of this section, a kitchen in a  
15 private home that is used as a cooking school and that prepares and offers  
16 food to students is exempt from the rules prescribed in subsection H of this  
17 section if all of the following are true:

- 18           1. Only one cooking school meal per day is prepared and served.
- 19           2. The meal is served to not more than fifteen cooking school  
20 students.
- 21           3. The students are informed by a statement contained in a published  
22 advertisement, mailed brochure and placard posted at the cooking school's  
23 registration that the food is prepared in a kitchen that is not regulated and  
24 inspected by the department or by a local health authority.”

25 Amend title to conform

1/24/08  
1:09 PM  
S: JL/jas