

**ARIZONA STATE LABOR DEPARTMENT
YOUTH EMPLOYMENT
SMALL BUSINESS BILL OF RIGHTS**

The Arizona State Labor Department, a division of the Industrial Commission of Arizona (Commission), pursuant to Arizona Revised Statutes (A.R.S.) § 41-1001.01, is required to provide small businesses with a *Bill of Rights* relating to statutorily defined business activities with the state Youth Employment Laws. “Small business” is defined in A.R.S. § 41-1001 as an independently owned and operated business, not dominant in its field, employing less than one hundred full time employees or with less than four million dollars in gross annual receipts in its last fiscal year.

1. A regulated person is eligible for reimbursement of fees and other expenses if the person prevails by adjudication on the merits against an agency in a court proceeding regarding an agency decision as provided in [A.R.S. § 12-348](#).
2. A regulated person is eligible for reimbursement of the person's costs and fees if the person prevails against any agency in an administrative hearing as provided in [A.R.S. § 41-1007](#).
3. A regulated person is entitled to have an agency not charge the person a fee unless the fee for the specific activity is expressly authorized as provided in [A.R.S. § 41-1008](#).
4. A regulated person is entitled to receive the information and notice regarding inspections and audits prescribed in [A.R.S. § 41-1009](#).
5. A regulated person is entitled to receive the following information and notice from an agency inspector, auditor or regulator who enters any premises of a regulated person for the purpose of conducting an inspection as provided in [A.R.S. § 41-1009](#):
 - (a) Present photo identification on entry of the premises.
 - (b) On initiation of the inspection or audit, state the purpose of the inspection or audit and the legal authority for conducting the inspection or audit.
 - (c) Disclose any applicable inspection or audit fees.
 - (d) Afford an opportunity to have an authorized on-site representative of the regulated person accompany the agency inspector, auditor or regulator on the premises, except during confidential interviews.
 - (e) The agency inspector or regulator must provide notice of the right to have on request:
 - (1) Copies of any original documents taken by the agency during the inspection or audit if the agency is permitted by law to take original documents.
 - (2) Copies of any documents to be relied on to determine compliance with licensure or regulatory requirements if the agency is otherwise permitted by law to do so.
 - (f) The agency inspector or regulator shall inform each person whose conversation with the agency inspector, auditor or regulator during the inspection or audit is tape recorded that the conversation is being tape recorded.

(g) The agency inspector or regulator shall inform each person interviewed during the inspection or audit that statements made by the person may be included in the inspection or audit report.

6. On initiation of an audit or an inspection of any premises of a regulated person, an agency inspector, auditor or regulator shall provide the following in writing: 1) the rights described in paragraph 5 of this *Small Business Bill of Rights*, and [A.R.S. § 41-1001.01\(C\)](#); 2) the name and telephone number of a contact person who is available to answer questions regarding the inspection or audit; and 3) the due process rights relating to an appeal of a final decision of an agency based on the results of the inspection or audit, including the name and telephone number of a person to contact within the agency and any appropriate state government ombudsman.

7. An agency representative shall obtain the signature of the regulated person or on-site representative of the regulated person on the writing prescribed in paragraph 9 of this section indicating that the regulated person or on-site representative has read the writing prescribed in paragraph 9 and is notified of their due process rights. The agency shall maintain a copy with the regulated person or on-site representative of the regulated person.

8. At least once every month after the commencement of the inspection, the agency shall provide the regulated person with an update on the status of any agency action resulting from an inspection of the regulated person. The agency is not required to provide an update after the regulated person is notified that no agency action will result from the agency inspection or after the completion of agency action resulting from the agency inspection.

9. When the Commission has reasonable cause to believe that any person is violating any provision of this article or any rule or regulation adopted pursuant to this article it may forthwith serve upon such person by registered or certified mail or in person a cease and desist order. Such order shall state with particularity the act being done that constitutes the violation, shall state in its entirety the certain requirement, provision or rule or regulation being violated, and that the alleged violator is entitled to a hearing if such hearing is requested in writing within twenty days after the date of issuance of the order. The cease and desist order shall include a civil penalty of not more than one thousand dollars against the person named in the order. The civil penalty is payable to the general fund. [A.R.S. § 23-236](#).

10. The person or persons named in the cease and desist order may request a hearing before the Commission to contest the cease and desist order in writing within twenty days after the date of issuance of the order as provided in [A.R.S. § 23-236](#).

11. If the person or persons named in the cease and desist order have made a timely request for a hearing before the Commission, the Commission may refer the request for hearing to an administrative law judge for the conduct of the hearing. The hearing shall be held thirty days from receipt of the request unless such time is extended by the Commission or the administrative law judge to whom it is assigned. Written notice of the time and place of the hearing shall be sent by the Commission or the administrative law judge to the person or persons requesting the

hearing at least fifteen days before the hearing. Such hearing shall be conducted pursuant to [Title 41, Chapter 6, Article 6. A.R.S. § 23-237.](#)

12. If the Commission, after the hearing, determines that the act or acts set forth in the cease and desist order constitute a violation of any provision of this article or of the rules adopted pursuant to this article, the Commission shall affirm or modify the order accordingly. [A.R.S. § 23-237.](#)

13. The order issued by the Commission after the hearing is final unless within thirty days after the date of mailing of a copy of such order to the person named in the order such person applies to the court of appeals for a writ of certiorari pursuant to [A.R.S. § 23-951.](#) The order shall contain a statement of this right of appeal. [A.R.S. § 23-237\(C\).](#)

14. A person who desires a variation from Article 3 (A.R.S. § 23-230 et seq.) or a modification or renewal of a variation granted under [A.R.S. § 23-241](#) shall file a written application with the [Director of the Department of Labor of the Industrial Commission](#) containing the following information:

- (1) The name and address of the firm, the name and title of the person filing the application, the name and date of birth of the person under the age of eighteen years and the name and address of the school the person under the age of eighteen years is attending if the person is attending school.
- (2) The address of the place of employment involved and the type of business.
- (3) A specific description of the variation, modification or renewal sought.
- (4) A statement detailing how the granting of the variation would be in the best interests of the person under the age of eighteen years and the community.
- (5) A statement indicating any training the person under the age of eighteen years has received in the proposed employment, including a copy of certification of successful completion of any training program.
- (6) The maximum hours to be worked in the employment on a daily and weekly basis.
- (7) The scale of wages and the method and timing of payment of wages.
- (8) A statement of how the safety, health and personal well-being of the person under the age of eighteen years would be protected.
- (9) The name of the immediate supervisors and the frequency of supervision.
- (10) The approval of the parent or guardian.

The director, after conducting an investigation and evaluation of the jobsite and application, shall notify the parties concerned by mail of the granting of a variation, modification or renewal including any prescribed terms and conditions. If a variation is granted, the employer shall retain a copy of the variation at the place of employment of the person under the age of eighteen years. The director may decline to consider an application for a variation on a subject, issue or employer if a cease and desist order has been issued or an investigation is proceeding. On denial of a variation, modification or renewal by the director, the applicant may request a hearing by the Commission. The Commission shall conduct the hearing pursuant to [Title 41, Chapter 4, Article 1. A.R.S. § 23-241.](#)

15. A regulated person may review the full text or summary of all rulemaking activity, the summary of substantive policy statements and the full text of executive orders in the register as provided in [Title 41, Chapter 6, Article 2, Arizona Revised Statutes](#).

16. A regulated person may participate in the rulemaking process as provided in [Title 41, Chapter 6, Articles 3,4,4.1 and 5](#) of this chapter, including:

(a) Providing written comments or testimony on proposed rules to an agency as provided in [A.R.S. § 41-1023](#) and having the agency adequately address those comments as provided in [A.R.S. § 41-1052, subsection D](#), including comments or testimony concerning the information contained in the economic, small business and consumer impact statement.

(b) Filing an early review petition with the governor's regulatory review council as provided in article 5 of this chapter.

(c) Providing written comments or testimony on rules to the governor's regulatory review council during the mandatory sixty-day comment period as provided in article 5 of this chapter.

17. A regulated person is entitled to have an agency not make a rule under a specific grant of rulemaking authority that exceeds the subject matter areas listed in the specific statute or not make a rule under a general grant of rulemaking authority to supplement a more specific grant of rulemaking authority as provided in [A.R.S. § 41-1030\(C\)](#).

18. A regulated person may allege that an existing agency practice or substantive policy statement constitutes a rule and have that agency practice or substantive policy statement declared void because the practice or substantive policy statement constitutes a rule as provided in [A.R.S. § 41-1033](#).

19. A regulated person may file a complaint with the administrative rules oversight committee (AROC) concerning:

(a) A rule's, practice's or substantive policy statement's lack of conformity with statute or legislative intent as provided in [A.R.S. § 41-1047](#).

(b) An existing statute, rule, practice alleged to constitute a rule or substantive policy statement that is alleged to be duplicative or onerous as provided in [A.R.S. § 41-1048](#).

20. A regulated person may inspect all rules and substantive policy statements of an agency, including a directory of documents, in the office of the agency director as provided in [A.R.S. § 41-1091](#).

21. Unless specifically authorized by statute, a regulated person may expect state agencies to avoid duplication of other laws that do not enhance regulatory clarity and to avoid dual permitting to the extent practicable as prescribed in [A.R.S. § 41-1002](#).

22. Each state agency that conducts audits, inspections or other regulatory enforcement actions pursuant to [A.R.S. § 41-1009](#) shall create and clearly post on the agency's website a small business bill of rights. The agency shall create the small business bill of rights by selecting the applicable rights prescribed in this section and [A.R.S. § 41-1009](#) and any other agency-specific

statutes and rules. At the request of an authorized on-site representative of the regulated small business, the agency shall provide a written document of the small business bill of rights. In addition to the rights listed in this section and [A.R.S. § 41-1009](#), the agency notice of the small business bill of rights shall include the process by which a small business may file a complaint with the agency employees who are designated to assist members of the public or regulated community pursuant to [A.R.S. § 41-1006](#). The notice must provide the contact information of the agency's designated employees. The agency notice must also state that if the regulated person has already made a reasonable effort with the agency to resolve the problem and still has not been successful, the regulated person may contact the office of ombudsman-citizens aide.

Process for Contacting the Arizona State Labor Department, Youth Employment Section

Questions concerning a youth employment investigation can be directed to: Lisa Padgett, Youth Employment Investigator at: (602) 542-7110 or Lisa.Padgett@azica.gov.

Process for Filing a Complaint with the Commission re: Youth Employment

An interested person may submit a complaint concerning a youth employment matter with the Industrial Commission of Arizona. Interested parties may contact the Office of the Director, Industrial Commission of Arizona at: (602) 542-4411.

Process for Filing a Complaint with the Arizona Ombudsman-Citizen's Aide

If an interested person has made a reasonable effort to resolve a youth employment issue with the Industrial Commission, and the results were unsuccessful, then you may contact the Arizona Ombudsman Citizen's Aide. The Citizen's Aide can be reached at: (602) 277-7292, (800) 872-2879, or ombuds@azoca.org.

Note: Nothing in this document is intended to nor does it create, enlarge, or diminish any right that may exist under any statute, code, or rule.