ARIZONA

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New Legislation

AZ S 1256  AUTHOR: Kavanagh (R)
COAUTHOR(S): Kavanagh (R)
TITLE: Drug Lab Remediation
DISPOSITION: Pending
LOCATION: Senate Government Committee

SUMMARY: Relates to drug lab remediation; relates to assayers; relates to repeal.

STATUS:
01/21/2016 INTRODUCED.
01/26/2016 To SENATE Committee on GOVERNMENT.
01/26/2016 Additionally referred to SENATE Committee on RULES.

Added: Green underlined text
Deleted: Dark red text with a strikethrough
Vetoed: Red text
Links to affected code section

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<tr>
<th>2016 AZ S 1256</th>
<th>Author: Kavanagh</th>
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<tr>
<td>Version:</td>
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<td>Version Date:</td>
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REFERENCE TITLE: DRUG LAB REMEDIATION; ASSAYERS; REPEAL

State of Arizona

Senate
AN ACT

REPEALING SECTIONS 12-116.08, 12-990 AND 12-1000, ARIZONA REVISED STATUTES; AMENDING SECTIONS 32-101, 32-102, 32-103, 32-106 AND 32-109, ARIZONA REVISED STATUTES; AMENDING SECTIONS 32-112, ARIZONA REVISED STATUTES; AMENDING SECTIONS 32-122 AND 32-122.01, ARIZONA REVISED STATUTES; REPEALING SECTIONS 32-122.03, 32-122.04 AND 32-131, ARIZONA REVISED STATUTES; AMENDING SECTIONS 32-141, 49-218 AND 49-1005, ARIZONA REVISED STATUTES; RELATING TO THE BOARD OF TECHNICAL REGISTRATION.

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

Section 1. Repeal

Sections 12-116.08, 12-990 and 12-1000, Arizona Revised Statutes, are repealed.

Sec. 2. Heading change

The chapter heading of title 32, chapter 1, Arizona Revised Statutes, is changed from "ARCHITECTS, ASSAYERS, ENGINEERS, GEOLOGISTS, HOME INSPECTORS, LANDSCAPE ARCHITECTS AND SURVEYORS" to "ARCHITECTS, ENGINEERS, GEOLOGISTS, HOME INSPECTORS, LANDSCAPE ARCHITECTS AND SURVEYORS".

Sec. 3. Section 32-101, Arizona Revised Statutes, is amended to read:

32-101. Purpose; definitions

A. The purpose of this chapter is to provide for the safety, health and welfare of the public through the promulgation and enforcement of standards of qualification for those individuals WHO ARE registered or certified and seeking registration or certification pursuant to this chapter.

B. In this chapter, unless the context otherwise requires:

1. "Advertising" includes business cards, signs or letterhead provided by a person to the public.

2. "Alarm" or "alarm system":

(a) Means any mechanical or electrical device that is designed to emit an audible alarm or transmit a signal or message if activated and that is used to detect an unauthorized entry into a building or other facility or alert other persons of the occurrence of a medical emergency or the commission of an unlawful act against a person or in a building or other facility.

(b) Includes a silent, panic, holdup, robbery, duress, burglary, medical alert or proprietor alarm that requires emergency personnel to respond.

(c) Does not include a telephone call diverter or a system that is designed to report environmental and other occurrences and that is not designed or used to alert or cause other persons to alert public safety personnel.

3. "Alarm agent":

(a) Means a person, whether an employee, an independent contractor or otherwise, who acts on behalf of an alarm business and who tests, maintains, services, repairs, sells, rents, leases or installs alarm systems.

(b) Does not include any action by a person that:

(i) Is performed in connection with an alarm system located on the person's own property or the property of the person's employer.

(ii) Is acting on behalf of an alarm business whose work duties do not include visiting the location where an alarm system installation occurs.

4. "Alarm business":

(a) Means any person who, either alone or through a third party, engages in the business of either of the following:

(i) Providing alarm monitoring services.

(ii) Selling, leasing, renting, maintaining, repairing or installing a nonproprietal alarm system or service.

(b) Does not include any of the following:

(i) A person or company that purchases, rents or uses an alarm that is affixed to a motor vehicle.

(ii) A person who owns or conducts a business of selling, leasing, renting, installing, maintaining or monitoring an alarm that is affixed to a motor vehicle.

(iii) A person who installs a nonmonitored proprietor alarm for a business that the person owns, is employed by or manages.

(iv) The installation or monitoring of fire alarm systems.

(v) An alarm system that is operated by a city or town.
5. "Alarm subscriber" means any person who:

(a) Leases, rents or purchases any monitored alarm system or service from an alarm business.

(b) Leases or rents an alarm system.

(c) Contracts with an alarm business for alarm monitoring, installation, repair or maintenance services.

6. "Architect" means a person who, by reason of knowledge of the mathematical and physical sciences and the principles of architecture and architectural engineering acquired by professional education and practical experience, is qualified to engage in the practice of architecture as attested by registration as an architect.

7. "Architect-in-training" means a candidate for registration as a professional architect who is a graduate of a school approved by the board or who has five years or more of education or experience, or both, in architectural work which meets standards specified by the board in its rules. In addition, the candidate shall have passed the architect-in-training examination.

8. "Architectural practice" means any professional service or creative work requiring architectural education, training and experience, and the application of the mathematical and physical sciences and the principles of architecture and architectural engineering to such professional services or creative work as consultation, evaluation, design and review of construction for conformance with contract documents and design, in connection with any building, planning or site development. A person shall be deemed to practice or offer to practice architecture who in any manner represents that the person is an architect or is able to perform any architectural service or other services recognized by educational authorities as architecture.

9. "Assayer" means a person who analyzes metals, ores, minerals, or alloys in order to ascertain the quantity of gold or silver or any other substance present in them. A person employed on a full-time basis as an assayer by an employer engaged in the business of developing, mining or treating ores or other minerals shall not be deemed to be engaged in assaying practice for the purposes of this chapter if the person engages in assaying practice exclusively for and as an employee of such employer and does not represent that the person is available and is not represented as being available to perform any assaying services for anyone other than the person's employer.

10. "Assayer-in-training" means a candidate for registration as a professional assayer who is a graduate of a school and curriculum approved by the board or who has four years or more of education or experience, or both, in assaying work which meets standards specified by the board in its rules. In addition, the candidate shall have passed the assayer-in-training examination.

11. "Assaying practice" means any professional service or work requiring assaying education, training and experience and the application of special knowledge of the mineral sciences to such service or work as consultation and the evaluation of minerals. A person is deemed to practice or offer to practice assaying who in any manner represents that the person is an assayer or is able to perform any assaying service or other services recognized by educational authorities as assaying.

12. "Board" means the state board of technical registration.

13. "Certified remediation specialist" means a person who has been certified by the board to perform, supervise and review environmental remediations if the use of a certified remediation specialist is specifically authorized by title 49 and rules adopted pursuant to title 49.
14. (a) "Controlling person":

(i) Means a person who is designated by an alarm business.

(b) Does not include an alarm agent.

15. "Drug laboratory site remediation firm" means a firm that is licensed by the registrar of contractors pursuant to chapter 10 of this title and that performs remediation of residual contamination from the manufacture of methamphetamine, ecstasy or LSD or the storage of chemicals or equipment used in manufacturing methamphetamine, ecstasy or LSD. For the purposes of this paragraph:

(a) "Ecstasy" has the same meaning prescribed in section 13-3401, paragraph 6 and includes any of the precursor chemicals, regulated chemicals, other substances or equipment used in the unlawful manufacture of the dangerous drug.

(b) "LSD" has the same meaning prescribed in section 13-3401, paragraph 6 and includes any of the precursor chemicals, regulated chemicals, other substances or equipment used in the unlawful manufacture of the dangerous drug.

(c) "Methamphetamine" has the same meaning prescribed in section 13-3401, paragraph 6 and includes any of the precursor chemicals, regulated chemicals, other substances or equipment used in the unlawful manufacture of the dangerous drug.

16. "Engineer" means a person who, by reason of special knowledge of the mathematical and physical sciences and the principles and methods of engineering analysis and design acquired by professional education and practical experience, is qualified to practice engineering as attested by registration as a professional engineer.

17. "Engineering practice" means any professional service or creative work requiring engineering education, training and experience and the application of special knowledge of the mathematical, physical and engineering sciences to such professional services or creative work as consultation, research investigation, evaluation, planning, surveying as defined in subsection 27, subdivisions (d) and (e) of this subsection, design, location, development, and review of construction for conformance with contract documents and design, in connection with any public or private utility, structure, building, machine, equipment, process, work or project. Such services and work include plans and designs relating to the location, development, mining and treatment of ore and other minerals. A person shall be deemed to be practicing or offering to practice engineering if the person practices any branch of the profession of engineering, or by verbal claim, sign, advertisement, letterhead, card or any other manner represents that the person is a professional engineer or is able to perform or does perform any engineering service or other service recognized by educational authorities as engineering. A person employed on a full-time basis as an engineer by an employer engaged in the business of developing, mining and treating ores and other minerals shall not be deemed to be practicing engineering for the purposes of this chapter if the person engages in the practice of engineering exclusively for and as an employee of such employer and does not represent that the person is available and is not represented as being available to perform any engineering services for persons other than the person's employer.

18. "Engineer-in-training" means a candidate for registration as a professional engineer who is a graduate in an approved engineering curriculum of four years or more of a school approved by the board or who has had four years or more of education or experience, or both, in engineering work which meets standards specified by the board in its rules. In addition, the candidate shall have passed the engineer-in-training examination.

19. "Firm" means any individual or partnership, corporation or other type of association, including the association of a nonregistrant and a registrant who offers to the public professional services regulated by the board.
"Geological practice" means any professional service or work requiring geological education, training and experience, and the application of special knowledge of the earth sciences to such professional services as consultation, evaluation of mining properties, petroleum properties and groundwater resources, professional supervision of exploration for mineral natural resources including metallic and nonmetallic ores, petroleum and groundwater, and the geological phases of engineering investigations.

"Geologist" means a person, not of necessity an engineer, who by reason of special knowledge of the earth sciences and the principles and methods of search for and appraisal of mineral or other natural resources acquired by professional education and practical experience is qualified to practice geology as attested by registration as a professional geologist. A person employed on a full-time basis as a geologist by an employer engaged in the business of developing, mining or treating ores and other minerals shall not be deemed to be engaged in geological practice for the purposes of this chapter if the person engages in geological practice exclusively for and as an employee of such employer and does not represent that the person is available and is not represented as being available to perform any geological services for persons other than the person's employer.

"Geologist-in-training" means a candidate for registration as a professional geologist who is a graduate of a school approved by the board or who has four years or more of education or experience, or both, in geological work which meets standards specified by the board in its rules. In addition, the candidate shall have passed the geologist-in-training examination.

"Home inspection" means a visual analysis for the purposes of providing a professional opinion of the building, any reasonably accessible installed components and the operation of the building's systems, including the controls normally operated by the owner, for the following components of a residential building of four units or less:

(a) Heating system.

(b) Cooling system.

(c) Plumbing system.

(d) Electrical system.

(e) Structural components.

(f) Foundation.

(g) Roof covering.

(h) Exterior and interior components.

(i) Site aspects as they affect the building.

(j) Pursuant to rules adopted by the board, swimming pool and spa.

"Home inspection report" means a written report that is prepared for compensation, that is issued after a home inspection and that clearly describes and identifies the inspected systems, structures and components of a completed dwelling and any visible major defects found to be in need of immediate major repair and any recommendations for additional evaluation by appropriate persons.
25. "Home inspector" means an individual who is certified pursuant to this chapter as a home inspector and who engages in the business of performing home inspections and writing home inspection reports.

26. "Home inspector-in-training" means a candidate for certification as a home inspector who has completed a course of study approved by the board and who is participating in a training program that complies with standards recommended by the home inspector rules and standards committee and approved by the board.

27. "Land surveying practice" means the performance of one or more of the following professional services:

(a) Measurement of land to determine the position of any monument or reference point which marks a property line, boundary or corner for the purpose of determining the area or description of the land.

(b) Location, relocation, establishment, reestablishment, setting, resetting or replacing of corner monuments or reference points which identify land boundaries, rights-of-way or easements.

(c) Platting or plotting of lands for the purpose of subdividing.

(d) Measurement by angles, distances and elevations of natural or artificial features in the air, on the surface and immediate subsurface of the earth, within underground workings and on the surface or within bodies of water for the purpose of determining or establishing their location, size, shape, topography, grades, contours or water surface and depths, and the preparation and perpetuation of field note records and maps depicting these features.

(e) Setting, resetting or replacing of points to guide the location of new construction.

28. "Land surveyor" means a person who by reason of knowledge of the mathematical and physical sciences, principles of land surveying and evidence gathering acquired by professional education or practical experience, or both, is qualified to practice land surveying as attested by registration as a land surveyor. A person employed on a full-time basis as a land surveyor by an employer engaged in the business of developing, mining or treating ores or other minerals shall not be deemed to be engaged in land surveying practice for purposes of this chapter if the person engages in land surveying practice exclusively for and as an employee of such employer and does not represent that the person is available and is not represented as being available to perform any land surveying services for persons other than the person's employer.

29. "Land surveyor-in-training" means a candidate for registration as a professional land surveyor who is a graduate of a school and curriculum approved by the board—or who has four years or more of education or experience, or both, in land surveying work which meets standards specified by the board in its rules. In addition, the candidate shall have passed the land surveyor-in-training examination.

30. "Landscape architect" means a person who, by reason of professional education or practical experience, or both, is qualified to engage in the practice of landscape architecture as attested by registration as a landscape architect.

31. "Landscape architect-in-training" means a candidate for registration as a professional landscape architect who is a graduate of a school approved by the board—or who has had four years or more of education or experience, or both, in landscape architectural work which meets standards specified by the board in its rules. In addition, the candidate shall have passed the landscape architect-in-training examination.
"Landscape architectural practice" means the performance of professional services such as consultations, investigation, reconnaissance, research, planning, design or responsible supervision in connection with the development of land and incidental water areas where, and to the extent that, the dominant purpose of such services is the preservation, enhancement or determination of proper land uses, natural land features, ground cover and planting, naturalistic and aesthetic values, the settings of and approaches to buildings, structures, facilities or other improvements, natural drainage and the consideration and the determination of inherent problems of the land relating to erosion, wear and tear, light or other hazards. This practice shall include the location and arrangement of such tangible objects and features as are incidental and necessary to the purposes outlined in this paragraph but shall not include the making of cadastral surveys or final land plats for official recording or approval, nor mandatorily include planning for governmental subdivisions.

"Monitored alarm" means a device that is designed for the detection of an entry on any premises and that if activated generates a notification signal.

"On-site supervisor" means the employee of a drug laboratory site remediation firm who is authorized to oversee on-site workers in the performance of their duties.

"On-site worker" means an employee of a drug laboratory site remediation firm who has on-site duties or who handles contaminated materials, chemicals or contaminated equipment.

"Person" means any individual, firm, partnership, corporation, association or other organization.

"Principal" means an individual who is an officer of the corporation or is designated by a firm as having full authority and responsible charge of the services offered by the firm.

"Proprietor alarm" means any alarm or alarm system that is owned by an alarm subscriber who has not contracted with an alarm business.

"Registrant" means a person registered or certified by the board.

"Registration" means a registration or certification issued by the board.

Sec. 4. Section 32-102, Arizona Revised Statutes, is amended to read:

32-102. Board of technical registration

A. A state board of technical registration is established consisting of members appointed by the governor as follows:

1. Two architects.

2. Three professional engineers, two of whom are representatives of branches of engineering other than civil engineering and are registered in those branches pursuant to this chapter.

3. One public member.

4. One landscape architect.

5. One geologist or assayer.
6. One land surveyor.

B. Upon the expiration of any of the terms a successor, qualified pursuant to subsection A, shall be appointed for a full term of three years. The governor may remove a member of the board for misconduct, incapacity or neglect of duty. Appointment to fill a vacancy caused other than by expiration of term shall be for the unexpired portion of the term.

C. No member may serve more than two consecutive terms.

Sec. 5. Section 32-103, Arizona Revised Statutes, is amended to read:

32-103. Qualifications of members

A. Each professional member of the board shall:

1. Be at least twenty-five years of age.

2. Have been a resident of the state for at least three years immediately preceding appointment as a member.

B. Each member who is an architect, A geologist, an assayer, a landscape architect, a professional engineer or a land surveyor shall have had at least five years' active professional experience as attested by registration under this chapter.

Sec. 6. Section 32-106, Arizona Revised Statutes, is amended to read:

32-106. Powers and duties

A. The board shall:

1. Adopt rules for the conduct of its meetings and performance of duties imposed on it by law.

2. Adopt an official seal for attestation of certificates of registration and other official papers and documents.

3. Consider and act on or delegate the authority to act on applications for registration or certification.

4. Conduct examinations for in-training and professional registration except for an alarm business or an alarm agent.

5. Hear and act on complaints or charges or direct an administrative law judge to hear and act on complaints and charges.

6. Compel attendance of witnesses, administer oaths and take testimony concerning all matters coming within its jurisdiction. In exercising these powers, the board may issue subpoenas for the attendance of witnesses and the production of books, records, documents and other evidence it deems relevant to an investigation or hearing.

7. Keep a record of its proceedings.
8. Keep a register that shows the date of each application for registration or certification, the name of the applicant, the practice or branch of practice in which the applicant has applied for registration, if applicable, and the disposition of the application.

9. Do other things necessary to carry out the purposes of this chapter.

B. The board shall specify the proficiency designation in the branch of engineering in which the applicant has designated proficiency on the certificate of registration and renewal card issued to each registered engineer and shall authorize the engineer to use the title of registered professional engineer. The board shall decide what branches of engineering it shall recognize.

C. The board may hold membership in and be represented at national councils or organizations of proficiencies registered under this chapter and may pay the appropriate membership fees. The board may conduct standard examinations on behalf of national councils and may establish fees for those examinations.

D. The board may employ and pay on a fee basis persons, including full-time employees of a state institution, bureau or department, to prepare and grade examinations given to applicants for registration and may fix the fee to be paid for these services. These employees are authorized to prepare, grade and monitor examinations and perform other services the board authorizes, and to receive payment for these services from the technical registration fund. The board may contract with an organization to administer the registration examination, including selecting the test site, scheduling the examination, billing and collecting the fee directly from the applicant and grading the examination if a national council of which the board is a member or a professional association approved by the board does not provide these services. If a national council of which the board is a member or a professional association approved by the board does provide these services, the board shall enter into an agreement with the national council or professional association to administer the registration examination.

E. The board may rent necessary office space and pay the cost of this office space from the technical registration fund.

F. The board may adopt rules establishing rules of professional conduct for registrants.

G. The board may require evidence it deems necessary to establish the continuing competency of registrants as a condition of renewal of licenses.

H. Subject to title 41, chapter 4, article 4, the board may employ persons as it deems necessary.

I. The board shall issue a certificate and renewal card to each drug laboratory site remediation firm, remediation supervisor and on-site worker.

J. The board shall issue or may authorize the executive director to issue a certificate or renewal certificate to each alarm business and a certification or renewal certification card to each alarm agent if the qualifications prescribed by this chapter are met.

Sec. 7. Section 32-109 of Arizona Revised Statutes, is amended to read:

32-109. Technical registration fund

A. Pursuant to sections 35-146 and 35-147, the executive director shall deposit ten percent of all fees or other revenues received by the board in the state general fund to assist in defraying the cost of maintaining the state government and shall deposit the remaining ninety percent.
PERCENT in a separate fund, known as the technical registration fund, to be used only in defraying expenses of the board and in prosecuting violations of this chapter.

B. Monies deposited in the technical registration fund pursuant to subsection A of this section are subject to section 35-143.01.

C. In addition to the monies deposited in the technical registration fund pursuant to subsection A of this section, the technical registration fund consists of monies received pursuant to section 12-116.08. The monies that are received in the fund pursuant to this subsection shall be used:

1. To pay the board's expenses associated with investigations and enforcement actions pursuant to section 12-1000.

2. For a county, city or town for remediation pursuant to section 12-1000, subsection D. Notwithstanding section 35-143.01, the monies received pursuant to section 12-116.08 are not subject to legislative appropriation.

Sec. 8. Repeal

Section 32-112, Arizona Revised Statutes, is repealed.

Sec. 9. Section 32-122, Arizona Revised Statutes, is amended to read:

32-122. Qualifications for in-training registration

A. An applicant for in-training registration as an architect, engineer, geologist or landscape architect shall:

1. Be of good moral character and repute.

2. Be a graduate of a school approved by the board or have four years or more, or if an applicant for in-training registration as an architect, five years or more, of education or experience, or both, in work in the profession in which registration is sought that meets standards specified by the board in its rules.

3. Unless exempt under section 32-126, subsection D, pass the in-training examination in the profession in which registration is sought.

B. An applicant for in-training registration as an assayer or a land surveyor shall:

1. Be of good moral character and repute.

2. Be a graduate of a school and curriculum approved by the board, or have four years or more of education or experience, or both, in work in the profession in which registration is sought that meets standards specified by the board in its rules.

3. Unless exempt under section 32-126, subsection D, pass the in-training examination in the profession in which registration is sought.

C. An applicant for in-training registration as a home inspector-in-training shall:
1. Be of good moral character and repute.

2. meet the requirements of section 32-122.02, subsection A, paragraphs 1 through 7.

Sec. 10. Section 32-122.01, Arizona Revised Statutes, is amended to read:

32-122.01. Qualifications for professional registration

A. An applicant for professional registration as an architect, engineer, geologist or landscape architect shall:

1. Be of good moral character and repute.

2. Be actively engaged in education or experience, or both, in the profession for which registration is sought for at least eight years.

3. Unless exempt under section 32-126, pass the in-training and professional examinations in the profession in which registration is sought.

B. An applicant for professional registration as a land surveyor shall:

1. Be of good moral character and repute.

2. Be actively engaged in education or experience, or both, in the profession for which registration is sought for at least six years.

3. Unless exempt under section 32-126, pass the in-training and professional examinations in the profession in which registration is sought.

C. In computing the period of active engagement required under this section:

1. Each year of study satisfactorily completed in an architectural, engineering, geological or landscape architectural school approved by the board is equivalent to one year of active engagement up to a maximum of five years. One year or more of teaching architectural, engineering, geological or landscape architectural subjects in a school approved by the board is equivalent to one year of active engagement.

2. Each year of study satisfactorily completed in an assaying or land surveying curriculum and school approved by the board is considered equivalent to one year of active engagement up to a maximum of four years. One year or more of teaching in an assaying or land surveying or other courses approved by the board as pertinent to the profession in which registration is sought in a school approved by the board is equivalent to one year of active engagement.

D. Except as provided in subsection E of this section, experience credited by the board under this section and sections 32-101, 32-122 and 32-126 must be attained under the direct supervision of a professional who is satisfactory to the board and registered in this state, another state or a foreign country in the profession in which the applicant is seeking registration, except that up to one year's experience may be attained under the direct supervision of a professional who is satisfactory to the board and registered in another profession regulated under this chapter in this state, another state or a foreign country.
E. By two-thirds majority vote the board may allow an applicant except for an architect applicant to meet the requirements of subsection D of this section by crediting comparable experience satisfactory to the board that the applicant attained without direct supervision of a registered professional.

Sec. 11. Repeal

Sections 32-122.03, 32-122.04 and 32-131, Arizona Revised Statutes, are repealed.

Sec. 12. Section 32-141, Arizona Revised Statutes, is amended to read:

32-141. Firm registration

A. A firm shall not engage in the practice of any board-regulated profession or occupation unless the firm is registered with the board and the professional services are conducted under the full authority and responsible charge of a principal of the firm, who is also a registrant.

B. A person shall file a registration application for each branch office that is located in this state and that is part of a firm registered with the board. The branch office application shall list a designated registrant having full authority and responsible charge of the professional services of that branch office. The designated registrant in a branch office need not be a principal of the firm.

C. A firm wishing to offer professional services in this state shall file with the board an application for registration on a form THAT IS provided by the board and accompanied by the appropriate application fee as prescribed by the board. Firms shall also identify responsible registrants by the registrant's registration certificate number. Each firm shall list a description of the services the firm is offering to the public. The board shall be notified in writing within thirty days of any change occurring in the registered principals, any change in the firm's name or address or any change in a branch office address or designated registrant. Except as provided in section 32-4301, a new application shall be filed each year by the firm within thirty days of the anniversary date of the original firm registration.

D. No firm may advertise its availability to perform home inspections by home inspectors certified pursuant to this chapter unless each home inspection is performed by a home inspector certified pursuant to this chapter and each home inspection report is prepared as a result of the inspector's on-site observation.

E. A drug laboratory site remediation firm shall provide both of the following:

1. The name of the on-site supervisor who is authorized and responsible for the services being offered.

2. Proof that the firm is licensed by the registrar of contractors pursuant to chapter 10 of this title.

Sec. 13. Section 49-218, Arizona Revised Statutes, is amended to read:

49-218. Definitions

In this article, unless the context otherwise requires:

1. "CERCLA brownfields cleanup revolving loan fund program" means the program established by the UNITED STATES environmental protection agency to provide financial assistance in the
form of loans or grants to eligible persons to remediate contamination at eligible sites as provided in section 104(k) of CERCLA and applicable guidance documents prepared by the UNITED STATES environmental protection agency to implement this program.

2. "Eligible activities" means removal as defined by section 101(23) of CERCLA and includes required engineering evaluations, cost analysis of cleanup alternatives, public participation requirements and reasonable and necessary site monitoring activities during the remediation.

3. "Eligible person" means a person who is eligible to receive a loan or grant under the CERCLA brownfields cleanup revolving loan fund program.

4. "Eligible site" means a site that is a brownfields site as defined by section 101(39) of CERCLA, that is within an area designated in a cooperative agreement between the department and the UNITED STATES environmental protection agency and that is one of the following:

   (a) Accepted into the department's voluntary remediation program.

   (b) Subject to a remediation agreement with the department's water quality assurance revolving fund program.

   (c) Being addressed by a remediation specialist who is certified by the board of technical registration pursuant to section 32-131.

   (d) (c) Being addressed through another program or oversight mechanism that is approved by the department.

Sec. 14. Section 49-1005, Arizona Revised Statutes, is amended to read:

49-1005. Corrective action

A. When a release is discovered the owner and operator of an underground storage tank shall take immediate action to stop the release and to identify and mitigate any fire, explosion or vapor hazard.

B. The owner or operator of an underground storage tank shall take corrective action in response to the release of regulated substances from the tank, except to the extent that this responsibility is limited by section 49-1016, subsection F or section 49-1019, subsection D. A person may take corrective action pursuant to section 49-1016, subsection C.

C. Nothing in this section shall prevent PREVENTS the director from taking or requiring corrective action pursuant to any other provision of law.

D. Corrective actions shall:

1. Assure the protection of public health and welfare and the environment.

2. To the extent practicable, provide for the control, management or cleanup of regulated substances so as to allow the maximum beneficial use of the water and soil of this state.

3. Be reasonable, necessary, cost-effective and technically feasible.
E. Notwithstanding chapter 2, article 2 of this title, the director may approve a corrective action that may result in water quality exceeding water quality standards after completion of the corrective action, if the director finds that the corrective action meets the requirements of this section. The director's approval pursuant to this section does not affect the classification of an aquifer pursuant to section 49-224. The director shall adopt rules to implement this section. These rules shall include public notice provisions, criteria for the selection of corrective actions, including the level and extent of cleanup and the comparison of corrective action alternatives that may include plume remediation alternatives, monitoring, source control, controlled migration, physical containment and natural attenuation.

F. The director shall prescribe by rule the corrective actions to be taken in the event of a release of a regulated substance from an underground storage tank. Any rules adopted pursuant to this subsection shall be consistent with and no more stringent than federal regulations in effect on the date on which the rules are adopted. The director shall adopt rules to permit a risk-based corrective action alternative that incorporates the use of certified remediation specialists. Corrective actions shall include requirements regarding:

1. Initial response measures.
2. Initial abatement measures.
3. A site check.
4. Initial site characterization.
5. Removal of free product.
7. Responses to contaminated soil, surface water and groundwater.

G. Corrective actions may include the use of biostimulation with indigenous microbes and bioaugmentation using microbes that are nonpathogenic, that are nonopportunistic and that are naturally occurring.

H. Until rules adopted pursuant to subsection F of this section are in effect, corrective actions shall be accomplished in a manner consistent with and no more stringent than 40 Code of Federal Regulations sections 280.60 through 280.67.

Sec. 15. Conforming legislation

The legislative council staff shall prepare proposed legislation conforming the Arizona Revised Statutes to the provisions of this act in the Fifty-third Legislature, First Regular Session.

Legislation Reported Earlier

None to Report

Regulatory Activity

None to Report