

State of Arizona
House of Representatives
Fifty-first Legislature
Second Regular Session
2014

CHAPTER 132
HOUSE BILL 2128

AN ACT

AMENDING SECTIONS 41-2065, 41-2085, 41-2092, 41-2115 AND 41-2131, ARIZONA REVISED STATUTES; AMENDING SECTION 41-2131, ARIZONA REVISED STATUTES, AS AMENDED BY THIS ACT; AMENDING SECTIONS 41-2132, 41-2133 AND 41-2134, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 15, ARTICLE 7, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-2135; PROVIDING FOR THE DELAYED REPEAL OF SECTION 41-2135, ARIZONA REVISED STATUTES, AS ADDED BY THIS ACT; RELATING TO GASOLINE VAPOR CONTROL.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 41-2065, Arizona Revised Statutes, is amended to
3 read:
4 41-2065. Powers and duties; definition
5 A. The department shall:
6 1. Maintain custody of the state reference standards of weights and
7 measures that are traceable to the United States prototype standards and that
8 are supplied to the states by the federal government or that are otherwise
9 approved as being satisfactory by the national institute of standards and
10 technology.
11 2. Keep the state reference standards in a safe and suitable place in
12 the metrology laboratory of the department and ensure that they shall not be
13 removed from the laboratory except for repairs or for calibration as may be
14 prescribed by the national institute of standards and technology.
15 3. Keep accurate records of all standards and equipment.
16 4. Adopt any rules necessary to carry out this chapter and adopt
17 reasonable rules for the enforcement of this chapter. These rules have the
18 force and effect of law and shall be adopted pursuant to chapter 6 of this
19 title. In adopting these rules, the director shall consider, as far as is
20 practicable, the requirements established by other states and by authority of
21 the United States, except that rules shall not be made in conflict with this
22 chapter.
23 5. Publish rules adopted pursuant to this chapter and issue
24 appropriate copies at no cost to all new applicants for licensure and
25 certification. Updated copies of the rules shall be distributed, on request,
26 at no cost to the public.
27 6. Investigate complaints made to the department concerning violations
28 of this chapter and, on its own initiative, conduct investigations it deems
29 appropriate to develop information relating to prevailing procedures in
30 commercial quantity determination and relating to possible violations of this
31 chapter, and in order to promote the general objective of accuracy in the
32 determination and representation of quantity in commercial transactions.
33 7. Establish labeling standards, establish standards of weight,
34 measure or count and establish reasonable standards of fill for any packaged
35 commodity, and may establish standards for open dating information.
36 8. Grant, pursuant to this chapter, exemptions from the licensing
37 provisions of this chapter for weighing and measuring instruments, standards
38 or devices when the ownership or use of the instrument or device is limited
39 to federal, state or local government agencies in the performance of official
40 functions. On request, the department may conduct inspections of the
41 instruments, standards or devices and shall charge a fee pursuant to section
42 41-2092, subsection B.
43 9. Delegate to appropriate personnel any of the responsibilities of
44 the director for the proper administration of this chapter.
45 10. Inspect and test weights and measures kept, offered or exposed for
46 sale.

1 11. Inspect and test, to ascertain if they are correct, weights and
2 measures commercially used either:

3 (a) In determining the weight, measure or count of commodities or
4 things sold, or offered or exposed for sale, on the basis of weight, measure
5 or count.

6 (b) In computing the basic charge or payment for services rendered on
7 the basis of weight, measure or count.

8 12. Test, at random, commodities, weights and measures used in public
9 institutions for which monies are appropriated by the legislature. The
10 testing of commodities, weights and measures in public institutions shall
11 include, but not be limited to, items:

12 (a) That have historically been of short weight, measure or count.

13 (b) Found to be of short weight, measure or count by other
14 jurisdictions.

15 (c) To be tested as part of a regional or national survey.

16 13. Test, approve for use and affix a seal of approval for use of all
17 weights, measures and commercial devices manufactured in or brought into this
18 state as it finds to be correct and shall reject and mark as rejected
19 weights, measures and devices it finds to be incorrect. Weights, measures
20 and devices that have been rejected may be seized by the department if not
21 corrected within the time specified or if used or disposed of in a manner not
22 specifically authorized. The department shall condemn and may seize weights,
23 measures and devices that are found to be incorrect and that are not capable
24 of being made correct.

25 14. Sample and test motor fuel that is stored, sold or exposed or
26 offered for sale or that is stored for use by a fleet owner to determine
27 whether the motor fuel meets the standards for motor fuel set forth in
28 section 41-2083 and article 6 of this chapter and in any rule adopted by the
29 director pursuant to this chapter. For the purposes of this paragraph,
30 "fleet owner" has the same meaning prescribed in section 41-2121.

31 15. Randomly witness tests on all mandated ~~stage I and stage II~~ vapor
32 recovery systems that are installed or operated in this state ~~not less than~~
33 ~~annually~~ and if the systems are determined to be in compliance with the law
34 approve those systems for use and reject, mark as rejected and stop the use
35 of those systems determined not to be in compliance with the law.

36 16. Inspect facilities at which motor fuel is stored, sold or exposed
37 or offered for sale to determine whether dispensing devices are properly
38 labeled.

39 17. Publish and distribute to consumers weighing and measuring
40 information.

41 18. Weigh, measure or inspect commodities kept, offered or exposed for
42 sale, sold or in the process of delivery to determine whether they contain
43 the amounts represented and whether they are kept, offered or exposed for
44 sale in accordance with this chapter or rules adopted pursuant to this
45 chapter. In carrying out ~~the provisions of~~ this section, the director shall
46 employ recognized sampling procedures, such as are designated in appropriate

1 national institute of standards and technology handbooks and supplements to
2 those handbooks, except as modified or rejected by rule.

3 19. Allow reasonable variations from the stated quantity of contents
4 only after a commodity has entered intrastate commerce. These variations
5 shall include those caused by loss or gain of moisture during the course of
6 good distribution practice or by unavoidable deviations in good manufacturing
7 practice.

8 20. Prescribe the standards of weight and measure and additional
9 equipment methods of test and inspection to be employed in the enforcement of
10 this chapter. The director may prescribe or provide the official test and
11 inspection forms to be used in the enforcement of this chapter.

12 21. Apply to any court of competent jurisdiction for a temporary or
13 permanent injunction restraining any person from violating this chapter.

14 22. Report to the governor on August 1 each year and at such other
15 times as may be required on the work accomplished under this chapter.

16 23. Subject to chapter 4, article 4 of this title, employ such
17 personnel as needed to assist in administering this chapter.

18 24. Ensure that any information that is required to be filed with the
19 department, that relates to the contents of motor fuels that are sold in this
20 state and that is a trade secret as defined in section 49-201 is not
21 disclosed.

22 25. Establish by rule labeling standards for tanks and containers of
23 motor fuels.

24 B. The director may provide for the periodic examination and
25 inspection of metering devices, including but not limited to devices utilized
26 to measure usage of electricity, natural gas or water by a consumer.
27 Examination and inspection authority shall not apply to metering devices
28 owned by federal, state or local government agencies unless requested by the
29 government agency that owns the metering devices.

30 C. The director may establish standards for the presentation of
31 cost-per-unit information. Nothing in this subsection shall be construed to
32 mandate the use of cost-per-unit information in connection with the sale of
33 any standard packed commodity.

34 D. The director, when necessary to carry out this chapter, may adopt
35 and enforce rules relating to quality standards for motor fuel, kerosene,
36 oil, except used oil fuel, and hazardous waste fuel, lubricating oils,
37 lubricants, antifreeze and other liquid or gaseous fuels. The director shall
38 adopt rules to assure that oxygenated fuels, as described in article 6 of
39 this chapter, stored, used, sold or exposed or offered for use or sale are
40 blended and stored, sold, exposed or offered in such a manner as to assure
41 that the oxygenated fuels are properly blended, that they meet the standards
42 set forth in section 41-2083 and article 6 of this chapter, and in rules
43 adopted pursuant to this chapter, and that dispensers at which the oxygenated
44 fuels are dispensed are labeled as defined by rule of the department in such
45 a manner as to notify persons of the type of oxygenated fuel being dispensed
46 and the maximum percentage of oxygenate by volume contained in the oxygenated

1 fuel. The director of the department of weights and measures shall consult
2 with the director of the department of environmental quality in adopting
3 rules pursuant to this subsection.

4 E. Testing and inspection conducted pursuant to this chapter shall be
5 done, to the extent practicable, without prior notice, by a random systematic
6 method determined by the director or in response to a complaint by the
7 public. The testing and inspection may be done by private persons and firms
8 pursuant to contracts entered into by the director in accordance with chapter
9 23 of this title or by a registered service agency or registered service
10 representative licensed pursuant to section 41-2094. The director shall
11 establish qualifications of persons and firms for selection for purposes of
12 this subsection. The persons or firms conducting the testing and inspection
13 shall immediately report to the department any violations of this chapter and
14 incorrect weights, measures, devices, vapor recovery systems or vapor
15 recovery components for investigation and enforcement by the department. A
16 person or firm that tests or inspects a weight, measure, device, vapor
17 recovery system or vapor recovery component that is rejected shall not
18 correct the defect causing the rejection without the permission of the
19 department.

20 F. During the course of an investigation or an enforcement action by
21 the department, information regarding the complainant is confidential and is
22 exempt from title 39, chapter 1, unless the complainant authorizes the
23 information to be public.

24 G. For the purposes of the labeling requirements prescribed in this
25 section, "oxygenated fuel" means a motor fuel blend containing 1.5 per cent
26 or more by weight of oxygen.

27 Sec. 2. Section 41-2085, Arizona Revised Statutes, is amended to read:
28 41-2085. Dispensing motor fuel; hold-open latches; definition

29 A. A retail seller may equip all nozzles from which motor fuel is
30 dispensed with an operating hold-open latch.

31 B. For the purposes of this section, "hold-open latch" means a device
32 that is an integral part of the **AUTOMATIC** nozzle ~~portion of the vapor~~
33 ~~recovery system~~ and that is specifically manufactured to dispense motor fuel
34 without requiring the consumer's physical contact with the **AUTOMATIC** nozzle.

35 Sec. 3. Section 41-2092, Arizona Revised Statutes, is amended to read:
36 41-2092. Licensing fees

37 A. The following fees shall be paid to the department as license fees
38 for devices used for commercial purposes:

39 Schedules of Fees

40 1. Weighing devices:	
41 0 - 500 pounds capacity (or metric equivalent)	\$ 12.00
42 501 - 2,000 pounds capacity	18.00
43 2,001 - 7,500 pounds capacity	36.00
44 7,501 - 20,000 pounds capacity	80.00
45 20,001 - 60,000 pounds capacity	120.00
46 60,001 pounds capacity and over	180.00

1	2.	Liquid metering devices (meters) other than		
2		for liquid petroleum gas and utility meters:		
3		maximum 12 gallons per minute and under	12.00	
4		maximum 13 - 150 gallons per minute	36.00	
5		maximum 151 - 500 gallons per minute	90.00	
6		maximum 501 - 1,000 gallons per minute	138.00	
7		maximum 1,001 gallons per minute and over	168.00	
8	3.	Motor fuel devices (dispensers) other than		
9		for liquid petroleum gas (not including		
10		satellite hoses or nozzles):		
11		Standard Stage-II VAPOR RECOVERY TEST		
12		each meter	15.00	30.00
13		each blending valve	15.00	30.00
14		high volume (over 19 gallons per minute)		
15		diesel per hose and nozzle		15.00
16		keylock, limited access, with accumulators,		
17		per hose and nozzle		22.50
18		remote indicator and control unit (no hoses		
19		or nozzles) (accessory only)		22.50
20	4.	Liquid measuring devices for liquid petroleum		
21		gas (meters):		
22		small bottle fill measuring devices		24.00
23		motor fuel measuring devices, uncompensated		24.00
24		motor fuel measuring devices, temperature		
25		compensating, including compressed natural		
26		gas filling devices		48.00
27		motor fuel measuring devices, keylocks		48.00
28		3/4" and 1" meters, uncompensated		48.00
29		1 1/4", 1 1/2" and 1 3/4" meters, uncompensated		72.00
30		2" meters and larger, uncompensated		72.00
31		3/4" and 1" meters, temperature compensating		54.00
32		1 1/4", 1 1/2" and 1 3/4" meters, temperature		
33		compensating		90.00
34		2" meters and larger, temperature compensating		96.00
35	5.	Linear measuring devices:		
36		all linear measuring mechanical devices		24.00
37	6.	Time measuring devices:		
38		all time measuring mechanical, electrical and		
39		electronic devices		24.00
40	7.	Counting devices:		
41		all mechanical and electronic counting devices		12.00
42	B.	Testing, inspection, certification and calibration fees shall be		
43		paid pursuant to the fee schedule set forth in subsection A OF THIS SECTION		
44		or the rules of the department. The department shall waive license fees for		
45		customer parking time measuring meters owned by municipalities.		
46	C.	Issuance or renewal of license as:		

1 incorrect, incomplete or produced in any manner tending to mislead or deceive
2 a person.

3 C. The attorney general shall bring actions to recover civil penalties
4 pursuant to this section in the superior court in the county in which the
5 violation occurred or in a county where the agency has its office. All
6 monies derived from civil penalties shall be deposited, pursuant to sections
7 35-146 and 35-147, in the state general fund.

8 Sec. 5. Section 41-2131, Arizona Revised Statutes, is amended to read:

9 41-2131. Definitions

10 In this article, unless the context otherwise requires:

11 1. "Annual throughput" means the amount of gasoline transferred into
12 or dispensed from a gasoline dispensing site during twelve consecutive
13 months.

14 2. "Clean air act" means the clean air act of 1963 (P.L. 88-206; 42
15 United States Code section 7401-7671) as amended by the clean air act
16 amendments of 1990 (P.L. 101-549).

17 3. "Gasoline dispensing site" means any site where gasoline is
18 dispensed into a motor vehicle fuel tank from any stationary storage vessel.

19 4. "Stage I vapor ~~collection~~ RECOVERY system" means a ~~system where~~
20 ~~gasoline vapors are forced from a tank into a vapor-tight holding system or~~
21 ~~vapor control system through direct displacement by the gasoline being loaded~~
22 COMBINATION OF PIPES AND HOSES THAT CREATES A CLOSED SYSTEM BETWEEN THE VAPOR
23 SPACES OF AN UNLOADING GASOLINE CARGO TANK AND A RECEIVING STORAGE TANK SO
24 THAT VAPORS DISPLACED FROM THE STORAGE TANK ARE TRANSFERRED TO THE GASOLINE
25 CARGO TANK BEING UNLOADED.

26 5. "Stage II vapor ~~collection~~ RECOVERY system" means a system where at
27 least ninety per cent by weight of the gasoline vapors that are displaced or
28 drawn from a vehicle fuel tank during refueling are transferred to a
29 vapor-tight holding system or vapor control system.

30 ~~6. "Vapor control system" means a system that prevents emissions to~~
31 ~~the outdoor atmosphere from exceeding 4.7 grains per gallon or eight grams~~
32 ~~per one thousand liters of petroleum liquid loaded.~~

33 Sec. 6. Section 41-2131, Arizona Revised Statutes, as amended by
34 section 5 of this act, is amended effective from and after September 30,
35 2018, to read:

36 41-2131. Definitions

37 In this article, unless the context otherwise requires:

38 1. "Annual throughput" means the amount of gasoline transferred into
39 or dispensed from a gasoline dispensing site during twelve consecutive
40 months.

41 2. "Clean air act" means the clean air act of 1963 (P.L. 88-206; 42
42 United States Code section 7401-7671) as amended by the clean air act
43 amendments of 1990 (P.L. 101-549).

44 3. "Gasoline dispensing site" means any site where gasoline is
45 dispensed into a motor vehicle fuel tank from any stationary storage vessel.

1 4. "Stage I vapor recovery system" means a combination of pipes and
2 hoses that creates a closed system between the vapor spaces of an unloading
3 gasoline cargo tank and a receiving storage tank so that vapors displaced
4 from the storage tank are transferred to the gasoline cargo tank being
5 unloaded.

6 ~~5. "Stage II vapor recovery system" means a system where at least
7 ninety per cent by weight of the gasoline vapors that are displaced or drawn
8 from a vehicle fuel tank during refueling are transferred to a vapor-tight
9 holding system or vapor control system.~~

10 Sec. 7. Section 41-2132, Arizona Revised Statutes, is amended to read:

11 41-2132. Stage I vapor recovery systems

12 A. A person shall not offer for sale, sell, install or use a new
13 gasoline STAGE I vapor recovery system, or any new or rebuilt component parts
14 of the system, unless the system or component part has been certified by the
15 California air resources board as of March 31, 2001 or after that date, or
16 has been approved by a third party accredited to test equipment and
17 recognized by industry and the department, and has not been rejected by the
18 department. The department shall maintain and keep current a list of stage I
19 ~~and stage II~~ vapor recovery systems and component parts that are approved by
20 the department. Only those systems that are approved shall be used in this
21 state. All certified vapor recovery components must be clearly identified by
22 a permanent identification affixed by the certified manufacturer or
23 rebuilder.

24 B. For gasoline dispensing sites with a throughput of over ten
25 thousand gallons per month in area A or area B as defined in section 49-541,
26 ~~and beginning on January 1, 2001 for gasoline dispensing sites with a
27 throughput of over ten thousand gallons per month in area A but outside of
28 the Phoenix area Maricopa county ozone nonattainment area as prescribed in 40
29 Code of Federal Regulations section 81.303;~~ a person shall not transfer or
30 allow the transfer of gasoline into storage tanks at gasoline dispensing
31 sites unless the storage tank is equipped with ~~either of the following:~~

32 ~~1. a stage I vapor collection RECOVERY system consisting of a
33 vapor-tight return line from the storage tank or its vent to the gasoline
34 transport vehicle.~~

35 ~~2. A properly installed on-site vapor control system connected to a
36 vapor collection system.~~

37 ~~C. In an ozone nonattainment area designated as moderate, serious,
38 severe or extreme by the United States environmental protection agency under
39 section 107(d) of the clean air act, area A or other geographical area as
40 provided in subsection I of this section, an owner or operator of a gasoline
41 dispensing site shall not transfer or allow the transfer of gasoline into a
42 motor vehicle fuel tank at a gasoline dispensing site unless the gasoline
43 dispensing site is equipped with a stage II vapor collection system. This
44 subsection does not apply to gasoline dispensing sites with a throughput of
45 less than ten thousand gallons per month, or to a gasoline dispensing site
46 with a throughput of less than fifty thousand gallons per month in the case~~

1 ~~of an independent small business marketer of gasoline as defined in section~~
2 ~~324 of the clean air act or to a gasoline dispensing site that is located on~~
3 ~~a manufacturer's proving ground. Beginning on January 1, 2001, this~~
4 ~~subsection applies to gasoline dispensing sites that are located within area~~
5 ~~A but outside the Phoenix area Maricopa county ozone nonattainment area as~~
6 ~~defined in 40 Code of Federal Regulations section 81.303.~~

7 ~~D.~~ C. An owner or operator of a gasoline storage tank, gasoline
8 transport vehicle or gasoline dispensing site subject to stage I ~~or stage II~~
9 vapor ~~collection~~ RECOVERY requirements shall comply with the following:

10 1. Install all necessary stage I ~~and stage II~~ vapor ~~collection and~~
11 ~~control~~ RECOVERY systems and make any modifications necessary to comply with
12 the requirements.

13 2. Provide adequate training and written instructions to the operator
14 of the affected gasoline dispensing site and the gasoline transport vehicle.

15 3. Replace, repair or modify any worn or ineffective component or
16 design element to ensure the vapor-tight integrity and efficiency of the
17 stage I ~~and stage II~~ vapor ~~collection~~ RECOVERY systems.

18 4. Connect and ensure proper operation of the stage I ~~and stage II~~
19 vapor ~~collection~~ RECOVERY systems whenever gasoline is being loaded, unloaded
20 or dispensed.

21 5. IN AREA A AND OTHER GEOGRAPHICAL AREAS AS PROVIDED BY SUBSECTION G
22 OF THIS SECTION, have the stage ~~II~~ I vapor recovery system tested annually by
23 a registered service representative licensed by the department.

24 ~~E.~~ D. Before the initial installation or modification of any stage I
25 ~~or stage II~~ VAPOR recovery system, the owner or operator of a gasoline
26 storage tank, gasoline transport vehicle or gasoline dispensing site shall
27 obtain a plan review and approval from the department. Application for the
28 plan review and approval shall be on forms prescribed and provided by the
29 department.

30 ~~F.~~ The operator of each gasoline dispensing site using a stage II
31 vapor recovery system shall conspicuously post operating instructions for the
32 system in the gasoline or oxygenated fuel dispensing area. The instructions
33 shall clearly describe how to fuel vehicles correctly with the vapor recovery
34 nozzles used at the station and shall include a warning that topping off may
35 result in spillage or recirculation of gasoline or oxygenated fuel and is
36 prohibited.

37 ~~G.~~ E. The department of weights and measures in consultation with the
38 department of environmental quality and the state fire marshal shall
39 establish by rule standards for the installation and operation of stage I ~~and~~
40 ~~stage II~~ vapor recovery systems. The department of weights and measures
41 shall establish by rule plan review and approval fees. In establishing those
42 rules and standards, the director shall consider requirements in other states
43 to ~~assure~~ ENSURE that only state of the art technology is used.

44 ~~H.~~ F. Approval of a stage I ~~or stage II~~ vapor ~~collection~~ RECOVERY
45 system by the department does not relieve the owner or operator of the

1 responsibility to comply with other applicable statutes, codes and rules
2 pertaining to fire prevention, environmental quality and safety matters.

3 ~~I.~~ G. Any county, city or town ~~outside an ozone nonattainment area~~
4 ~~designated as moderate, serious or severe by the environmental protection~~
5 ~~agency under section 107(d) of the clean air act or~~ outside of area A OR AREA
6 B as defined in section 49-541 may require gasoline dispensing sites with a
7 throughput greater than ten thousand gallons per month ~~or fifty thousand~~
8 ~~gallons per month in the case of an independent small business marketer of~~
9 ~~gasoline as defined in section 324 of the clean air act~~ to install, operate
10 and maintain stage ~~II~~ I vapor ~~collection~~ RECOVERY systems in accordance with
11 this section. ANY COUNTY, CITY OR TOWN, INCLUDING CITIES AND TOWNS WITHIN
12 AREA B, ALSO MAY REQUIRE ANNUAL TESTING OF REQUIRED STAGE I VAPOR RECOVERY
13 SYSTEMS PURSUANT TO SUBSECTION C OF THIS SECTION. For a county, city or town
14 considering the adoption of a resolution to require stage ~~II~~ I vapor
15 ~~collection~~ RECOVERY systems OR ANNUAL TESTING within its jurisdiction and on
16 request, the department of environmental quality shall provide technical
17 assistance in evaluating the air quality in that county, city or town and
18 shall provide final review and approval of an adopted resolution.

19 ~~J.~~ H. A county board of supervisors or governing body of a city or
20 town shall submit a resolution approved by the department of environmental
21 quality to the director of the department of weights and measures requesting
22 the imposition of the requirements for stage ~~II~~ I vapor ~~collection~~ RECOVERY
23 systems within its jurisdiction.

24 ~~K.~~ I. The director shall adopt, by rule, compliance schedules for
25 gasoline dispensing sites located within the jurisdiction requesting stage ~~II~~
26 I vapor ~~collection~~ RECOVERY system requirements no later than twelve months
27 after receipt of the resolution from the county board of supervisors or
28 governing board of a city or town. All gasoline dispensing sites ~~other than~~
29 ~~those that are exempt pursuant to subsection C of this section~~ shall be
30 required to comply with stage ~~II~~ I vapor ~~collection~~ RECOVERY system rules
31 within twenty-four months after the rules have been filed with the secretary
32 of state. SITES WITH STAGE I VAPOR RECOVERY SYSTEMS ALREADY INSTALLED MUST
33 COMPLY WITH THE TESTING REQUIREMENTS AT THE TIME THE RULES BECOME EFFECTIVE.

34 ~~L.~~ J. A county board of supervisors or governing body of a city or
35 town that adopts the requirements for stage ~~II~~ I vapor ~~collection~~ RECOVERY
36 systems may repeal those requirements by adopting a resolution to remove the
37 imposition of those requirements within its jurisdiction unless the county,
38 city or town is in an ozone nonattainment area that has since been designated
39 as moderate, serious or severe by the United States environmental protection
40 agency under section 107(d) of the clean air act. On receipt of the
41 resolution, the director of the department of weights and measures shall
42 consult with the director of the department of environmental quality to
43 verify that a county, city or town is outside of an ozone nonattainment area
44 designated as moderate, serious or severe by the United States environmental
45 protection agency under section 107(d) of the clean air act. After
46 consultation with the department of environmental quality, the director of

1 the department of weights and measures shall revise the rules to repeal the
2 requirements for stage ~~II~~ I vapor ~~collection~~ RECOVERY systems within that
3 jurisdiction as soon as practicable.

4 Sec. 8. Section 41-2133, Arizona Revised Statutes, is amended to read:

5 41-2133. Compliance schedules

6 Notwithstanding section 41-2132, subsection ~~II~~ I relating to schedules
7 of compliance:

8 1. Gasoline dispensing facilities located in ~~an ozone nonattainment~~
9 ~~area designated as moderate, serious or severe by the United States~~
10 ~~environmental protection agency under section 107(d) of the clean air act, in~~
11 area A or in any other geographical area as provided in section 41-2132,
12 subsection ~~I~~ G for which construction began after the certification of rules
13 adopted pursuant to section 41-2132 shall be constructed to include stage I
14 ~~and stage II~~ VAPOR RECOVERY systems that meet the minimum standards set forth
15 in this chapter and department rules.

16 2. All gasoline dispensing sites located in ~~an ozone nonattainment~~
17 ~~area designated as moderate, serious or severe by the United States~~
18 ~~environmental protection agency under section 107(d) of the clean air act, in~~
19 area A or in any other geographical area as provided in section 41-2132,
20 subsection ~~I~~ G that begin underground storage tank replacement and that
21 apply for a permit pursuant to title 49, chapter 3, article 3 or 5 on or
22 after September 30, 1992 shall be in compliance within six months after the
23 effective date of the rules adopted pursuant to section 41-2132. Compliance
24 with this article is a condition of the permit.

25 Sec. 9. Section 41-2134, Arizona Revised Statutes, is amended to read:

26 41-2134. Stage I rule effectiveness; enhanced enforcement

27 The director shall adopt rules to:

28 1. Enhance enforcement of the department's stage ~~II~~ I vapor recovery
29 program. The enforcement shall be enhanced through programs that may include
30 increased frequency of or targeting of inspections, increased sampling
31 frequency, use of portable analyzers or any other technique.

32 2. Establish standards and fees for required inspections of vapor
33 recovery systems.

34 Sec. 10. Title 41, chapter 15, article 7, Arizona Revised Statutes, is
35 amended by adding section 41-2135, to read:

36 41-2135. Stage II vapor recovery systems

37 A. A PERSON SHALL NOT OFFER FOR SALE, SELL, INSTALL OR USE A NEW
38 GASOLINE VAPOR RECOVERY SYSTEM, OR ANY NEW OR REBUILT COMPONENT PARTS OF THE
39 SYSTEM, UNLESS THE SYSTEM OR COMPONENT PART HAS BEEN CERTIFIED BY THE
40 CALIFORNIA AIR RESOURCES BOARD AS OF MARCH 31, 2001 OR AFTER THAT DATE, OR
41 HAS BEEN APPROVED BY A THIRD PARTY ACCREDITED TO TEST EQUIPMENT AND
42 RECOGNIZED BY INDUSTRY AND THE DEPARTMENT, AND HAS NOT BEEN REJECTED BY THE
43 DEPARTMENT. THE DEPARTMENT SHALL MAINTAIN AND KEEP CURRENT A LIST OF STAGE
44 II VAPOR RECOVERY SYSTEMS AND COMPONENT PARTS THAT ARE APPROVED BY THE
45 DEPARTMENT. ONLY THOSE SYSTEMS THAT ARE APPROVED SHALL BE USED IN THIS
46 STATE. ALL CERTIFIED VAPOR RECOVERY COMPONENTS MUST BE CLEARLY IDENTIFIED BY

1 A PERMANENT IDENTIFICATION AFFIXED BY THE CERTIFIED MANUFACTURER OR
2 REBUILDER.

3 B. IN AN OZONE NONATTAINMENT AREA DESIGNATED AS MODERATE, SERIOUS,
4 SEVERE OR EXTREME BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER
5 SECTION 107(d) OF THE CLEAN AIR ACT OR AREA A, AN OWNER OR OPERATOR OF A
6 GASOLINE DISPENSING SITE SHALL NOT TRANSFER OR ALLOW THE TRANSFER OF GASOLINE
7 INTO A MOTOR VEHICLE FUEL TANK AT A GASOLINE DISPENSING SITE UNLESS THE
8 GASOLINE DISPENSING SITE IS EQUIPPED WITH A STAGE II VAPOR RECOVERY SYSTEM,
9 UNLESS THE STAGE II EQUIPMENT HAS BEEN DECOMMISSIONED IN ACCORDANCE WITH THE
10 PROCEDURES ESTABLISHED PURSUANT TO SUBSECTION H OF THIS SECTION. THIS
11 SUBSECTION DOES NOT APPLY TO GASOLINE DISPENSING SITES WITH A THROUGHPUT OF
12 LESS THAN TEN THOUSAND GALLONS PER MONTH, OR TO A GASOLINE DISPENSING SITE
13 WITH A THROUGHPUT OF LESS THAN FIFTY THOUSAND GALLONS PER MONTH IN THE CASE
14 OF AN INDEPENDENT SMALL BUSINESS MARKETER OF GASOLINE AS DEFINED IN SECTION
15 324 OF THE CLEAN AIR ACT OR TO A GASOLINE DISPENSING SITE THAT IS LOCATED ON
16 A MANUFACTURER'S PROVING GROUND. THIS SUBSECTION APPLIES TO GASOLINE
17 DISPENSING SITES THAT ARE LOCATED WITHIN AREA A BUT OUTSIDE THE PHOENIX AREA
18 MARICOPA COUNTY OZONE NONATTAINMENT AREA AS DEFINED IN 40 CODE OF FEDERAL
19 REGULATIONS SECTION 81.303.

20 C. AN OWNER OR OPERATOR OF A GASOLINE STORAGE TANK, GASOLINE TRANSPORT
21 VEHICLE OR GASOLINE DISPENSING SITE SUBJECT TO STAGE II VAPOR RECOVERY
22 REQUIREMENTS SHALL COMPLY WITH THE FOLLOWING:

23 1. INSTALL ALL NECESSARY STAGE II VAPOR RECOVERY SYSTEMS AND MAKE ANY
24 MODIFICATIONS NECESSARY TO COMPLY WITH THE REQUIREMENTS.

25 2. PROVIDE ADEQUATE TRAINING AND WRITTEN INSTRUCTIONS TO THE OPERATOR
26 OF THE AFFECTED GASOLINE DISPENSING SITE AND THE GASOLINE TRANSPORT VEHICLE.

27 3. REPLACE, REPAIR OR MODIFY ANY WORN OR INEFFECTIVE COMPONENT OR
28 DESIGN ELEMENT TO ENSURE THE VAPOR-TIGHT INTEGRITY AND EFFICIENCY OF THE
29 STAGE II VAPOR RECOVERY SYSTEMS.

30 4. CONNECT AND ENSURE PROPER OPERATION OF THE STAGE II VAPOR RECOVERY
31 SYSTEMS WHENEVER GASOLINE IS BEING LOADED, UNLOADED OR DISPENSED.

32 5. HAVE THE STAGE II VAPOR RECOVERY SYSTEM TESTED ANNUALLY BY A
33 REGISTERED SERVICE REPRESENTATIVE LICENSED BY THE DEPARTMENT.

34 D. BEFORE THE MODIFICATION OF ANY STAGE II VAPOR RECOVERY SYSTEM, THE
35 OWNER OR OPERATOR OF A GASOLINE STORAGE TANK, GASOLINE TRANSPORT VEHICLE OR
36 GASOLINE DISPENSING SITE SHALL OBTAIN A PLAN REVIEW AND APPROVAL FROM THE
37 DEPARTMENT. THE DEPARTMENT SHALL PRESCRIBE FORMS FOR THE APPLICATION FOR THE
38 PLAN REVIEW AND APPROVAL.

39 E. THE OPERATOR OF EACH GASOLINE DISPENSING SITE USING A STAGE II
40 VAPOR RECOVERY SYSTEM SHALL CONSPICUOUSLY POST OPERATING INSTRUCTIONS FOR THE
41 SYSTEM IN THE GASOLINE OR OXYGENATED FUEL DISPENSING AREA. THE INSTRUCTIONS
42 SHALL CLEARLY DESCRIBE HOW TO FUEL VEHICLES CORRECTLY WITH THE VAPOR RECOVERY
43 NOZZLES USED AT THE STATION AND SHALL INCLUDE A WARNING THAT TOPPING OFF MAY
44 RESULT IN SPILLAGE OR RECIRCULATION OF GASOLINE OR OXYGENATED FUEL AND IS
45 PROHIBITED.

1 F. THE DEPARTMENT OF WEIGHTS AND MEASURES IN CONSULTATION WITH THE
2 DEPARTMENT OF ENVIRONMENTAL QUALITY AND THE STATE FIRE MARSHAL SHALL
3 ESTABLISH BY RULE STANDARDS FOR THE INSTALLATION AND OPERATION OF STAGE II
4 VAPOR RECOVERY SYSTEMS. THE DEPARTMENT OF WEIGHTS AND MEASURES SHALL
5 ESTABLISH BY RULE PLAN REVIEW AND APPROVAL FEES. IN ESTABLISHING THOSE RULES
6 AND STANDARDS, THE DIRECTOR SHALL CONSIDER REQUIREMENTS IN OTHER STATES TO
7 ENSURE THAT ONLY STATE OF THE ART TECHNOLOGY IS USED.

8 G. APPROVAL OF A STAGE II VAPOR RECOVERY SYSTEM BY THE DEPARTMENT DOES
9 NOT RELIEVE THE OWNER OR OPERATOR OF THE RESPONSIBILITY TO COMPLY WITH OTHER
10 APPLICABLE STATUTES, CODES AND RULES PERTAINING TO FIRE PREVENTION,
11 ENVIRONMENTAL QUALITY AND SAFETY MATTERS.

12 H. THE DEPARTMENT OF WEIGHTS AND MEASURES IN CONSULTATION WITH THE
13 DEPARTMENT OF ENVIRONMENTAL QUALITY AND THE STATE FIRE MARSHAL SHALL
14 ESTABLISH BY RULE STANDARDS FOR DECOMMISSIONING STAGE II VAPOR RECOVERY
15 SYSTEMS ON OR AFTER OCTOBER 1, 2016 BUT NOT LATER THAN SEPTEMBER 30, 2018, OR
16 SUCH DATES AS APPROVED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
17 IN THE STATE IMPLEMENTATION PLAN REVISION FOR THE REMOVAL OF STAGE II VAPOR
18 RECOVERY SYSTEMS SUBMITTED UNDER SECTION 110(1) OF THE CLEAN AIR ACT,
19 WHICHEVER IS LATER. THE RULES MUST REQUIRE REMOVAL OF STAGE II VAPOR
20 RECOVERY SYSTEMS NO LATER THAN SEPTEMBER 30, 2018, OR THE FINAL REMOVAL DATE
21 APPROVED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY IN THE STATE
22 IMPLEMENTATION PLAN REVISION FOR THE REMOVAL OF STAGE II VAPOR RECOVERY
23 SYSTEMS SUBMITTED UNDER SECTION 110(1) OF THE CLEAN AIR ACT, WHICHEVER IS
24 LATER. THE DEPARTMENT SHALL PRESCRIBE FORMS FOR THE APPLICATION FOR THE PLAN
25 REVIEW AND APPROVAL. THE DEPARTMENT SHALL ESTABLISH BY RULE PLAN REVIEW AND
26 APPROVAL FEES.

27 I. ALL STAGE II VAPOR RECOVERY SYSTEMS AND TESTING MUST REMAIN IN
28 PLACE UNTIL SUCH SYSTEMS ARE DECOMMISSIONED PURSUANT TO SUBSECTION H OF THIS
29 SECTION.

30 J. THE REQUIREMENTS PRESCRIBED FOR STAGE II VAPOR RECOVERY SYSTEMS
31 PURSUANT TO SUBSECTIONS A THROUGH E OF THIS SECTION DO NOT APPLY TO A RETAIL
32 STATION IF THE CONSTRUCTION BEGINS AFTER THE EFFECTIVE DATE OF THIS SECTION.

33 K. THE REQUIREMENTS FOR STAGE II VAPOR RECOVERY SYSTEMS PRESCRIBED IN
34 SUBSECTIONS A THROUGH E OF THIS SECTION DO NOT APPLY TO AN OWNER OR OPERATOR
35 WHO HAS DECOMMISSIONED STAGE II VAPOR RECOVERY EQUIPMENT IN ACCORDANCE WITH
36 THE STANDARDS ESTABLISHED BY THE DEPARTMENT PURSUANT TO SUBSECTION H OF THIS
37 SECTION.

38 Sec. 11. Delayed repeal

39 Section 41-2135, Arizona Revised Statutes, as added by this act, is
40 repealed from and after September 30, 2018.

41 Sec. 12. Emergency

42 This act is an emergency measure that is necessary to preserve the
43 public peace, health or safety and is operative immediately as provided by
44 law.

H.B. 2128

APPROVED BY THE GOVERNOR APRIL 22, 2014.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 23, 2014.