

REFERENCE TITLE: air quality; causation; state boundaries

State of Arizona
Senate
Fifty-seventh Legislature
First Regular Session
2025

SB 1128

Introduced by
Senators Carroll: Dunn, Kavanagh, Shope; Representatives Diaz, Griffin,
Willoughby

AN ACT

AMENDING SECTION 49-404, ARIZONA REVISED STATUTES; AMENDING TITLE 49,
CHAPTER 3, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION
49-407.01; RELATING TO AIR QUALITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 49-404, Arizona Revised Statutes, is amended to
3 read:

4 49-404. State implementation plan

5 A. The director shall maintain a state implementation plan that
6 provides for implementation, maintenance and enforcement of national
7 ambient air quality standards and protection of visibility as required by
8 the clean air act.

9 B. The director may adopt rules that describe procedures for
10 adoption of revisions to the state implementation plan.

11 C. WHEN CONSIDERING ANY REVISIONS TO THE STATE IMPLEMENTATION PLAN
12 OR RULES FOR THE ADOPTION OF THE STATE IMPLEMENTATION PLAN, THE DIRECTOR
13 SHALL CONSIDER ALL OF THE FOLLOWING:

14 1. THE BEST INTERESTS OF THE TAXPAYER.

15 2. ALL CAUSAL FACTORS THAT AFFECT AIR QUALITY, INCLUDING BOTH OF
16 THE FOLLOWING:

17 (a) TRANSPORTATION EMISSIONS THAT ORIGINATE OUTSIDE OF THIS STATE.

18 (b) THE EFFECTS OF SOLAR RADIATION AND ANY ASSOCIATED HEAT
19 INCREASES.

20 ~~C.~~ D. The state implementation plan and all revisions adopted
21 before September 30, 1992 remain in effect according to their terms,
22 except to the extent otherwise provided by the clean air act, inconsistent
23 with any provision of the clean air act, or revised by the
24 administrator. No control requirement in effect, or required to be
25 adopted by an order, settlement agreement or plan in effect, before the
26 enactment of the clean air act in any area ~~which~~ THAT is a nonattainment
27 or maintenance area for any air pollutant may be modified after enactment
28 in any manner unless the modification ~~insures~~ ENSURES equivalent or
29 greater emission reductions of the air pollutant. The director shall
30 evaluate and adopt revisions to the plan in conformity with federal
31 regulations and guidelines promulgated by the administrator for those
32 purposes until the rules required by subsection B OF THIS SECTION are
33 effective.

34 Sec. 2. Title 49, chapter 3, article 1, Arizona Revised Statutes,
35 is amended by adding section 49-407.01, to read:

36 49-407.01. Attorney general; suits on behalf of this state;
37 damages; attorney fees

38 A. THE ATTORNEY GENERAL MAY FILE SUIT ON BEHALF OF THIS STATE
39 AGAINST ANY PERSON OUTSIDE OF THIS STATE WHOSE EMISSIONS RESULT IN DAMAGES
40 TO THE AIR QUALITY OF THIS STATE.

41 B. A COURT MAY AWARD REASONABLE ATTORNEY FEES AND OTHER LITIGATION
42 EXPENSES TO THE PREVAILING PARTY IN ANY ACTION FILED PURSUANT TO THIS
43 SECTION.

1 C. IF A COURT FINDS THAT A PERSON LOCATED OUTSIDE OF THIS STATE HAS
2 CAUSED HARM TO THE AIR QUALITY OF THIS STATE, THE PERSON SHALL BE HELD
3 LIABLE FOR DAMAGES FOR THE PERSON'S HARM TO THIS STATE IN PROPORTION TO
4 THE HARM CAUSED BY ALL PERSONS LOCATED OUTSIDE OF THIS STATE. POTENTIAL
5 DAMAGES A COURT MAY AWARD PURSUANT TO THIS SECTION SHALL INCLUDE THE
6 PERSON'S REASONABLE SHARE OF ALL OF THE FOLLOWING:

7 1. THE ADMINISTRATIVE AND REGULATORY COSTS OF BRINGING AN AREA INTO
8 ATTAINMENT THAT WOULD NOT BE NEEDED BUT FOR EMISSIONS ORIGINATING OUTSIDE
9 OF THIS STATE.

10 2. THE COSTS TO THE REGULATED COMMUNITY OF BRINGING AN AREA INTO
11 ATTAINMENT THAT WOULD NOT BE NEEDED BUT FOR EMISSIONS ORIGINATING OUTSIDE
12 OF THIS STATE.

13 3. THE DEVELOPMENT AND ENFORCEMENT OF A NONATTAINMENT AREA PLAN OR
14 MAINTENANCE PLAN THAT THIS STATE WOULD NOT NEED BUT FOR EMISSIONS
15 ORIGINATING OUTSIDE OF THIS STATE.

16 4. THE COSTS TO THE REGULATED COMMUNITY TO COMPLY WITH A
17 NONATTAINMENT AREA PLAN OR MAINTENANCE PLAN THAT THIS STATE WOULD NOT NEED
18 BUT FOR EMISSIONS ORIGINATING OUTSIDE OF THIS STATE.

19 5. COMPLIANCE WITH OTHER AIR QUALITY STANDARDS IMPOSED ON THIS
20 STATE PURSUANT TO FEDERAL LAW THAT THIS STATE WOULD NOT NEED BUT FOR
21 EMISSIONS ORIGINATING OUTSIDE OF THIS STATE.

22 D. THIS SECTION DOES NOT LIMIT THE ATTORNEY GENERAL FROM SEEKING
23 DAMAGES FROM A PERSON THAT DAMAGES THE AIR QUALITY OF THIS STATE AND THAT
24 IS LOCATED IN THIS STATE IF OTHERWISE ALLOWED BY LAW.

25 E. THIS SECTION DOES NOT LIMIT ANY OTHER PERSON FROM SEEKING
26 DAMAGES FROM ANY OUT-OF-STATE PERSON IF OTHERWISE ALLOWED BY LAW.