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REFERENCE TITLE: fuel dispenser stickers; tax information

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

HB 2034

Introduced by
Representative Nichols

AN ACT

AMENDING SECTION 41-2065, ARIZONA REVISED STATUTES; RELATING TO THE DEPARTMENT OF WEIGHTS AND MEASURES.

(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.

1 10. Inspect and test weights and measures kept, offered or exposed for
2 sale.

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

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

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

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

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

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

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

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

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

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

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

41 17. Publish and distribute to consumers weighing and measuring
42 information.

43 18. Weigh, measure or inspect commodities kept, offered or exposed for
44 sale, sold or in the process of delivery to determine whether they contain
45 the amounts represented and whether they are kept, offered or exposed for

1 sale in accordance with this chapter or rules adopted pursuant to this
2 chapter. In carrying out the provisions of this section, the director shall
3 employ recognized sampling procedures, such as are designated in appropriate
4 national institute of standards and technology handbooks and supplements to
5 those handbooks, except as modified or rejected by rule.

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

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

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

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

19 23. Employ such personnel as needed to assist in administering this
20 chapter.

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

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

27 26. **ESTABLISH BY RULE THE SIZE AND CONTENTS OF A STICKER THAT SHALL BE**
28 **DISPLAYED BY MOTOR FUEL RETAILERS ON ONE SIDE OF EACH MOTOR FUEL DISPENSER AT**
29 **EACH DISPENSING SITE. THE STICKER SHALL CONTAIN ALL FEDERAL AND STATE TAXES**
30 **IMPOSED ON ONE GALLON OF MOTOR FUEL.**

31 B. The director may provide for the periodic examination and
32 inspection of metering devices, including but not limited to devices utilized
33 to measure usage of electricity, natural gas or water by a
34 consumer. Examination and inspection authority shall not apply to metering
35 devices owned by federal, state or local government agencies unless requested
36 by the government agency that owns the metering devices.

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

41 D. The director, when necessary to carry out this chapter, may adopt
42 and enforce rules relating to quality standards for motor fuel, kerosene,
43 oil, except used oil fuel, and hazardous waste fuel, lubricating oils,
44 lubricants, antifreeze and other liquid or gaseous fuels. The director shall
45 adopt rules to assure that oxygenated fuels, as described in article 6 of

1 this chapter, THAT ARE stored, used, sold or exposed or offered for use or
2 sale are blended and stored, sold, exposed or offered in such a manner as to
3 assure that the oxygenated fuels are properly blended, that they meet the
4 standards set forth in section 41-2083, ~~and~~ article 6 of this chapter, and
5 ~~in~~ rules adopted pursuant to this chapter, and that dispensers at which the
6 oxygenated fuels are dispensed are labeled as defined by rule of the
7 department in such a manner as to notify persons of the type of oxygenated
8 fuel being dispensed and the maximum percentage of oxygenate by volume
9 contained in the oxygenated fuel. The director of the department of weights
10 and measures shall consult with the director of the department of
11 environmental quality in adopting rules pursuant to this subsection.

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

28 F. During the course of an investigation or an enforcement action by
29 the department, information regarding the complainant is confidential and is
30 exempt from title 39, chapter 1, unless the complainant authorizes the
31 information to be public.

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