

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

# 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.

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. Randomly witness tests on all mandated ~~stage I and stage II~~ vapor  
34 recovery systems that are installed or operated in this state ~~not less than~~  
35 ~~annually~~ and if the systems are determined to be in compliance with the law  
36 approve those systems for use and reject, mark as rejected and stop the use  
37 of those systems 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 each year and at such other  
18 times as may be required on the work accomplished under this chapter.

19      23. Subject to chapter 4, article 4 of this title, employ such  
20 personnel as needed to assist in administering this 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       B. The director may provide for the periodic examination and  
28 inspection of metering devices, including but not limited to devices utilized  
29 to measure usage of electricity, natural gas or water by a consumer.  
30 Examination and inspection authority shall not apply to metering devices  
31 owned by federal, state or local government agencies unless requested by the  
32 government agency that owns the metering devices.

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

37       D. The director, when necessary to carry out this chapter, may adopt  
38 and enforce rules relating to quality standards for motor fuel, kerosene,  
39 oil, except used oil fuel, and hazardous waste fuel, lubricating oils,  
40 lubricants, antifreeze and other liquid or gaseous fuels. The director shall  
41 adopt rules to assure that oxygenated fuels, as described in article 6 of  
42 this chapter, stored, used, sold or exposed or offered for use or sale are  
43 blended and stored, sold, exposed or offered in such a manner as to assure  
44 that the oxygenated fuels are properly blended, that they meet the standards  
45 set forth in section 41-2083 and article 6 of this chapter, and in rules

1 adopted pursuant to this chapter, and that dispensers at which the oxygenated  
2 fuels are dispensed are labeled as defined by rule of the department in such  
3 a manner as to notify persons of the type of oxygenated fuel being dispensed  
4 and the maximum percentage of oxygenate by volume contained in the oxygenated  
5 fuel. The director of the department of weights and measures shall consult  
6 with the director of the department of environmental quality in adopting  
7 rules pursuant to this subsection.

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

24 F. During the course of an investigation or an enforcement action by  
25 the department, information regarding the complainant is confidential and is  
26 exempt from title 39, chapter 1, unless the complainant authorizes the  
27 information to be public.

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

31 Sec. 2. Section 41-2085, Arizona Revised Statutes, is amended to read:  
32       41-2085. Dispensing motor fuel: hold-open latches; definition

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

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

39       Sec. 3. Section 41-2092, Arizona Revised Statutes, is amended to read:  
40       41-2092. Licensing fees

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

## Schedules of Fees



1       2. A package is found to exceed the maximum allowable variation for  
2 the labeled quantity allowed in national institute of standards and  
3 technology handbook 133 or the average error of the lot is twice the sample  
4 error limit in favor of the retailer.

5       3. A ~~stage II~~ vapor recovery system reinspection fails the required  
6 tests.

7       4. A maximum civil penalty has been imposed on a retailer for a price  
8 posting or price verification violation and in a reinspection, if conducted  
9 within ninety days, the failure rate is ten per cent or more and at least one  
10 error is in favor of the retailer.

11      5. A maximum civil penalty has been imposed on a refiner, refinery,  
12 registered supplier or transmix processing facility for a violation of motor  
13 fuel quality standards or producing a product transfer document that is  
14 incorrect, incomplete or produced in any manner tending to mislead or deceive  
15 a person.

16      C. The attorney general shall bring actions to recover civil penalties  
17 pursuant to this section in the superior court in the county in which the  
18 violation occurred or in a county where the agency has its office. All  
19 monies derived from civil penalties shall be deposited, pursuant to sections  
20 35-146 and 35-147, in the state general fund.

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

22      41-2131. Definitions

23      In this article, unless the context otherwise requires:

24      1. "Annual throughput" means the amount of gasoline transferred into  
25 or dispensed from a gasoline dispensing site during twelve consecutive  
26 months.

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

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

32      4. "Stage I vapor ~~collection~~ RECOVERY system" means a ~~system where~~  
33 ~~gasoline vapors are forced from a tank into a vapor tight holding system or~~  
34 ~~vapor control system though direct displacement by the gasoline being loaded~~  
35 ~~COMBINATION OF PIPES AND HOSES THAT CREATES A CLOSED SYSTEM BETWEEN THE VAPOR~~  
36 ~~SPACES OF AN UNLOADING GASOLINE CARGO TANK AND A RECEIVING STORAGE TANK SO~~  
37 ~~THAT VAPORS DISPLACED FROM THE STORAGE TANK ARE TRANSFERRED TO THE GASOLINE~~  
38 ~~CARGO TANK BEING UNLOADED.~~

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

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

1        Sec. 6. Section 41-2131, Arizona Revised Statutes, as amended by  
2 section 5 of this act, is amended effective from and after September 30,  
3 2018, to read:

4            **41-2131. Definitions**

5        In this article, unless the context otherwise requires:

6        1. "Annual throughput" means the amount of gasoline transferred into  
7 or dispensed from a gasoline dispensing site during twelve consecutive  
8 months.

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

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

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

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

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

24            **41-2132. Stage I vapor recovery systems**

25        A. A person shall not offer for sale, sell, install or use a new  
26 gasoline **STAGE I** vapor recovery system, or any new or rebuilt component parts  
27 of the system, unless the system or component part has been certified by the  
28 California air resources board as of March 31, 2001 or after that date, or  
29 has been approved by a third party accredited to test equipment and  
30 recognized by industry and the department, and has not been rejected by the  
31 department. The department shall maintain and keep current a list of stage I  
32 ~~and stage II~~ vapor recovery systems and component parts that are approved by  
33 the department. Only those systems that are approved shall be used in this  
34 state. All certified vapor recovery components must be clearly identified by  
35 a permanent identification affixed by the certified manufacturer or  
36 rebuilder.

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

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

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

6       C. ~~In an ozone nonattainment area designated as moderate, serious,  
7 severe or extreme by the United States environmental protection agency under  
8 section 107(d) of the clean air act, area A or other geographical area as  
9 provided in subsection I of this section, an owner or operator of a gasoline  
10 dispensing site shall not transfer or allow the transfer of gasoline into a  
11 motor vehicle fuel tank at a gasoline dispensing site unless the gasoline  
12 dispensing site is equipped with a stage II vapor collection system. This  
13 subsection does not apply to gasoline dispensing sites with a throughput of  
14 less than ten thousand gallons per month, or to a gasoline dispensing site  
15 with a throughput of less than fifty thousand gallons per month in the case  
16 of an independent small business marketer of gasoline as defined in section  
17 324 of the clean air act or to a gasoline dispensing site that is located on  
18 a manufacturer's proving ground. Beginning on January 1, 2001, this  
19 subsection applies to gasoline dispensing sites that are located within area  
20 A but outside the Phoenix area Maricopa county ozone nonattainment area as  
21 defined in 40 Code of Federal Regulations section 81.303.~~

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

25       1. Install all necessary stage I ~~and stage II~~ vapor ~~collection and~~  
26 ~~control~~ RECOVERY systems and make any modifications necessary to comply with  
27 the requirements.

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

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

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

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

39       E. D. Before the initial installation or modification of any stage I  
40 ~~or stage II~~ VAPOR recovery system, the owner or operator of a gasoline  
41 storage tank, gasoline transport vehicle or gasoline dispensing site shall  
42 obtain a plan review and approval from the department. Application for the  
43 plan review and approval shall be on forms prescribed and provided by the  
44 department.

1       F. The operator of each gasoline dispensing site using a stage II  
2 vapor recovery system shall conspicuously post operating instructions for the  
3 system in the gasoline or oxygenated fuel dispensing area. The instructions  
4 shall clearly describe how to fuel vehicles correctly with the vapor recovery  
5 nozzles used at the station and shall include a warning that topping off may  
6 result in spillage or recirculation of gasoline or oxygenated fuel and is  
7 prohibited.

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

15      H. F. Approval of a stage I ~~or stage II~~ vapor collection RECOVERY  
16 system by the department does not relieve the owner or operator of the  
17 responsibility to comply with other applicable statutes, codes and rules  
18 pertaining to fire prevention, environmental quality and safety matters.

19      I. G. Any county, city or town ~~outside an ozone nonattainment area~~  
20 ~~designated as moderate, serious or severe by the environmental protection~~  
21 ~~agency under section 107(d) of the clean air act or~~ outside of area A OR AREA  
22 B as defined in section 49-541 may require gasoline dispensing sites with a  
23 throughput greater than ten thousand gallons per month ~~or fifty thousand~~  
24 ~~gallons per month in the case of an independent small business marketer of~~  
25 ~~gasoline as defined in section 324 of the clean air act~~ to install, operate  
26 and maintain stage ~~II~~ I vapor collection RECOVERY systems in accordance with  
27 this section. ANY COUNTY, CITY OR TOWN, INCLUDING CITIES AND TOWNS WITHIN  
28 AREA B, ALSO MAY REQUIRE ANNUAL TESTING OF REQUIRED STAGE I VAPOR RECOVERY  
29 SYSTEMS PURSUANT TO SUBSECTION C OF THIS SECTION. For a county, city or town  
30 considering the adoption of a resolution to require stage ~~II~~ I vapor  
31 collection RECOVERY systems OR ANNUAL TESTING within its jurisdiction and on  
32 request, the department of environmental quality shall provide technical  
33 assistance in evaluating the air quality in that county, city or town and  
34 shall provide final review and approval of an adopted resolution.

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

40      K. I. The director shall adopt, by rule, compliance schedules for  
41 gasoline dispensing sites located within the jurisdiction requesting stage ~~II~~  
42 I vapor collection RECOVERY system requirements no later than twelve months  
43 after receipt of the resolution from the county board of supervisors or  
44 governing board of a city or town. All gasoline dispensing sites ~~other than~~  
45 ~~those that are exempt pursuant to subsection C of this section~~ shall be

1 required to comply with stage ~~II~~ I vapor ~~collection~~ RECOVERY system rules  
2 within twenty-four months after the rules have been filed with the secretary  
3 of state. SITES WITH STAGE I VAPOR RECOVERY SYSTEMS ALREADY INSTALLED MUST  
4 COMPLY WITH THE TESTING REQUIREMENTS AT THE TIME THE RULES BECOME EFFECTIVE.

5 ~~L~~. J. A county board of supervisors or governing body of a city or  
6 town that adopts the requirements for stage ~~II~~ I vapor ~~collection~~ RECOVERY  
7 systems may repeal those requirements by adopting a resolution to remove the  
8 imposition of those requirements within its jurisdiction unless the county,  
9 city or town is in an ozone nonattainment area that has since been designated  
10 as moderate, serious or severe by the United States environmental protection  
11 agency under section 107(d) of the clean air act. On receipt of the  
12 resolution, the director of the department of weights and measures shall  
13 consult with the director of the department of environmental quality to  
14 verify that a county, city or town is outside of an ozone nonattainment area  
15 designated as moderate, serious or severe by the United States environmental  
16 protection agency under section 107(d) of the clean air act. After  
17 consultation with the department of environmental quality, the director of  
18 the department of weights and measures shall revise the rules to repeal the  
19 requirements for stage ~~II~~ I vapor ~~collection~~ RECOVERY systems within that  
20 jurisdiction as soon as practicable.

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

22 41-2133. Compliance schedules

23 Notwithstanding section 41-2132, subsection ~~K~~ I relating to schedules  
24 of compliance:

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

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

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

2 41-2134. Stage I rule effectiveness; enhanced enforcement

3 The director shall adopt rules to:

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

8 2. Establish standards and fees for required inspections of vapor  
9 recovery systems.

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

12 41-2135. Stage II vapor recovery systems

13 A. A PERSON SHALL NOT OFFER FOR SALE, SELL, INSTALL OR USE A NEW  
14 GASOLINE VAPOR RECOVERY SYSTEM, OR ANY NEW OR REBUILT COMPONENT PARTS OF THE  
15 SYSTEM, UNLESS THE SYSTEM OR COMPONENT PART HAS BEEN CERTIFIED BY THE  
16 CALIFORNIA AIR RESOURCES BOARD AS OF MARCH 31, 2001 OR AFTER THAT DATE, OR  
17 HAS BEEN APPROVED BY A THIRD PARTY ACCREDITED TO TEST EQUIPMENT AND  
18 RECOGNIZED BY INDUSTRY AND THE DEPARTMENT, AND HAS NOT BEEN REJECTED BY THE  
19 DEPARTMENT. THE DEPARTMENT SHALL MAINTAIN AND KEEP CURRENT A LIST OF STAGE  
20 II VAPOR RECOVERY SYSTEMS AND COMPONENT PARTS THAT ARE APPROVED BY THE  
21 DEPARTMENT. ONLY THOSE SYSTEMS THAT ARE APPROVED SHALL BE USED IN THIS  
22 STATE. ALL CERTIFIED VAPOR RECOVERY COMPONENTS MUST BE CLEARLY IDENTIFIED BY  
23 A PERMANENT IDENTIFICATION AFFIXED BY THE CERTIFIED MANUFACTURER OR  
24 REBUILDER.

25 B. IN AN OZONE NONATTAINMENT AREA DESIGNATED AS MODERATE, SERIOUS,  
26 SEVERE OR EXTREME BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER  
27 SECTION 107(d) OF THE CLEAN AIR ACT OR AREA A, AN OWNER OR OPERATOR OF A  
28 GASOLINE DISPENSING SITE SHALL NOT TRANSFER OR ALLOW THE TRANSFER OF GASOLINE  
29 INTO A MOTOR VEHICLE FUEL TANK AT A GASOLINE DISPENSING SITE UNLESS THE  
30 GASOLINE DISPENSING SITE IS EQUIPPED WITH A STAGE II VAPOR RECOVERY SYSTEM,  
31 UNLESS THE STAGE II EQUIPMENT HAS BEEN DECOMMISSIONED IN ACCORDANCE WITH THE  
32 PROCEDURES ESTABLISHED PURSUANT TO SUBSECTION H OF THIS SECTION. THIS  
33 SUBSECTION DOES NOT APPLY TO GASOLINE DISPENSING SITES WITH A THROUGHPUT OF  
34 LESS THAN TEN THOUSAND GALLONS PER MONTH, OR TO A GASOLINE DISPENSING SITE  
35 WITH A THROUGHPUT OF LESS THAN FIFTY THOUSAND GALLONS PER MONTH IN THE CASE  
36 OF AN INDEPENDENT SMALL BUSINESS MARKETER OF GASOLINE AS DEFINED IN SECTION  
37 324 OF THE CLEAN AIR ACT OR TO A GASOLINE DISPENSING SITE THAT IS LOCATED ON  
38 A MANUFACTURER'S PROVING GROUND. THIS SUBSECTION APPLIES TO GASOLINE  
39 DISPENSING SITES THAT ARE LOCATED WITHIN AREA A BUT OUTSIDE THE PHOENIX AREA  
40 MARICOPA COUNTY OZONE NONATTAINMENT AREA AS DEFINED IN 40 CODE OF FEDERAL  
41 REGULATIONS SECTION 81.303.

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

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

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

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

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

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

12      D. BEFORE THE MODIFICATION OF ANY STAGE II VAPOR RECOVERY SYSTEM, THE  
13 OWNER OR OPERATOR OF A GASOLINE STORAGE TANK, GASOLINE TRANSPORT VEHICLE OR  
14 GASOLINE DISPENSING SITE SHALL OBTAIN A PLAN REVIEW AND APPROVAL FROM THE  
15 DEPARTMENT. THE DEPARTMENT SHALL PRESCRIBE FORMS FOR THE APPLICATION FOR THE  
16 PLAN REVIEW AND APPROVAL.

17      E. THE OPERATOR OF EACH GASOLINE DISPENSING SITE USING A STAGE II  
18 VAPOR RECOVERY SYSTEM SHALL CONSPICUOUSLY POST OPERATING INSTRUCTIONS FOR THE  
19 SYSTEM IN THE GASOLINE OR OXYGENATED FUEL DISPENSING AREA. THE INSTRUCTIONS  
20 SHALL CLEARLY DESCRIBE HOW TO FUEL VEHICLES CORRECTLY WITH THE VAPOR RECOVERY  
21 NOZZLES USED AT THE STATION AND SHALL INCLUDE A WARNING THAT TOPPING OFF MAY  
22 RESULT IN SPILLAGE OR RECIRCULATION OF GASOLINE OR OXYGENATED FUEL AND IS  
23 PROHIBITED.

24      F. THE DEPARTMENT OF WEIGHTS AND MEASURES IN CONSULTATION WITH THE  
25 DEPARTMENT OF ENVIRONMENTAL QUALITY AND THE STATE FIRE MARSHAL SHALL  
26 ESTABLISH BY RULE STANDARDS FOR THE INSTALLATION AND OPERATION OF STAGE II  
27 VAPOR RECOVERY SYSTEMS. THE DEPARTMENT OF WEIGHTS AND MEASURES SHALL  
28 ESTABLISH BY RULE PLAN REVIEW AND APPROVAL FEES. IN ESTABLISHING THOSE RULES  
29 AND STANDARDS, THE DIRECTOR SHALL CONSIDER REQUIREMENTS IN OTHER STATES TO  
30 ENSURE THAT ONLY STATE OF THE ART TECHNOLOGY IS USED.

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

35      H. THE DEPARTMENT OF WEIGHTS AND MEASURES IN CONSULTATION WITH THE  
36 DEPARTMENT OF ENVIRONMENTAL QUALITY AND THE STATE FIRE MARSHAL SHALL  
37 ESTABLISH BY RULE STANDARDS FOR DECOMMISSIONING STAGE II VAPOR RECOVERY  
38 SYSTEMS ON OR AFTER OCTOBER 1, 2016 BUT NOT LATER THAN SEPTEMBER 30, 2018, OR  
39 SUCH DATES AS APPROVED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
40 IN THE STATE IMPLEMENTATION PLAN REVISION FOR THE REMOVAL OF STAGE II VAPOR  
41 RECOVERY SYSTEMS SUBMITTED UNDER SECTION 110(1) OF THE CLEAN AIR ACT,  
42 WHICHEVER IS LATER. THE RULES MUST REQUIRE REMOVAL OF STAGE II VAPOR  
43 RECOVERY SYSTEMS NO LATER THAN SEPTEMBER 30, 2018, OR THE FINAL REMOVAL DATE  
44 APPROVED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY IN THE STATE  
45 IMPLEMENTATION PLAN REVISION FOR THE REMOVAL OF STAGE II VAPOR RECOVERY

1 SYSTEMS SUBMITTED UNDER SECTION 110(1) OF THE CLEAN AIR ACT, WHICHEVER IS  
2 LATER. THE DEPARTMENT SHALL PRESCRIBE FORMS FOR THE APPLICATION FOR THE PLAN  
3 REVIEW AND APPROVAL. THE DEPARTMENT SHALL ESTABLISH BY RULE PLAN REVIEW AND  
4 APPROVAL FEES.

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

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

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

16 Sec. 11. Delayed repeal

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

19 Sec. 12. Emergency

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