Fifty-second Legislature First Regular Session

#### COMMITTEE ON GOVERNMENT

#### SENATE AMENDMENTS TO H.B. 2480

(Reference to House engrossed bill)

1 Strike everything after the enacting clause and insert:

"Section 1. Section 9-499.18, Arizona Revised Statutes, is amended to read:

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9-499.18. <u>Transportation safety zones; passenger convenience</u> <u>areas: definitions</u>

6 A. A city or town may adopt a resolution or ordinance establishing 7 passenger convenience areas and vehicle-for-hire lanes within a 8 transportation safety zone. The governing body of a city or town may adopt 9 resolutions or ordinances establishing hours of operation and procedures for 10 the use of passenger convenience areas and vehicle-for-hire lanes.

11 B. The governing body of a city or town may establish, by resolution 12 or ordinance, a transportation safety zone, if the governing body finds that 13 a transportation safety zone is necessary to preserve the public health, safety and general welfare. A resolution or ordinance adopted pursuant to 14 15 this subsection must include a map establishing the boundaries of the zone 16 and traffic safety data used to justify the establishment of the zone. Each 17 transportation safety zone must be no greater than three square miles, and a city or town may not create more than two transportation safety zones within 18 19 its corporate boundaries. A transportation safety zone may not include any 20 portion of a state highway or state route.

C. On establishment of a transportation safety zone, the city or town may place and maintain permanently affixed signs located in a visible manner at the public vehicular access points leading into the zone for the purpose of delineating the boundaries of the zone.

D. A city or town with a transportation safety zone may require a vehicle that is self-propelled entirely or partially by pedals operated by the passengers to operate pursuant to public safety and traffic ordinances.

E. Except in the event of a public safety emergency, a city or town may not prescribe the order in which a vehicle may load or unload passengers in a transportation safety zone. Nothing in This subsection shall be 1 construed to DOES NOT interfere WITH or restrict the ability of a city or 2 town to regulate the flow of traffic or enforce any state law.

F. This section does not impose or authorize additional regulation,
permitting or licensing requirements beyond those required by this section
and title 41, chapter 15 28, CHAPTER 30.

6 G. Drivers shall not leave vehicles unattended in a passenger 7 convenience area.

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H. For the purposes of this section:

9 1. "Passenger cart" means any motorized vehicle, except a bus, that is 10 used to transport passengers on a public roadway in exchange for any form of 11 payment or gratuity and that is not licensed as a livery vehicle, taxi or 12 limousine pursuant to title <u>41, chapter 15</u> 28, CHAPTER 30.

13 2. "Passenger convenience area" means an area designated by a city or
 14 town where taxis, passenger carts, livery vehicles or limousines may enter
 15 for the purpose of the loading and unloading of passengers.

3. "Vehicle-for-hire lane" means a designated traffic lane for use
 exclusively by vehicles picking up or dropping off passengers in exchange for
 any form of payment, including a fee, fare, donation or gratuity.

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Sec. 2. Section 28-364, Arizona Revised Statutes, is amended to read: 28-364. <u>Powers of the director</u>

A. The director may provide technical transportation planning expertise to local governments when requested, coordinate local government transportation planning with regional and state transportation planning and guide local transportation planning to assure compliance with federal requirements. The planning authority granted by this subsection does not preempt planning responsibilities and decisions of local governments.

B. If the governor declares a state of emergency, the director may
contract and do all things necessary to provide emergency transportation
services for the residents in the affected areas whether the emergency
transportation is by street, rail or air.

31 C. On a determination that it is in this state's best interest. the 32 director may authorize payment for necessary relocation costs in advance of work being performed if an existing facility owned by the United States must 33 be relocated or adjusted due to construction, modification or improvement of 34 35 a state highway. The director shall base each advance payment on an estimate 36 of cost of the proposed relocation or adjustment prepared by the federal government and acceptable to the director and shall base the final 37 38 compensation on the actual agreed cost.

D. The director of the department of transportation in consultation with the director of the department of public safety shall develop procedures to exchange information for any purpose related to sections 28-1324, 28-1325, 28-1326, 28-1462 and 28-3318.

5 E. The director of the department of transportation in conjunction 6 with the director of the department of weights and measures shall develop 7 procedures to electronically exchange and record information between the 8 departments for enforcement purposes or any other purpose that the directors 9 deem necessary related to the registration and licensing of taxis, livery 10 vehicles or limousines.

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Sec. 3. Section 28-5602, Arizona Revised Statutes, is amended to read: 28-5602. <u>Enforcement</u>

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The following persons have authority to enforce this article:

The director of the department of transportation and the director's
 duly appointed agents.

The director of the department of weights and measures
 ENVIRONMENTAL QUALITY and the director's duly appointed agents.

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3. The department of public safety and its officers.

Sec. 4. Section 28-5605, Arizona Revised Statutes, is amended to read: 28-5605. <u>Use fuel tax collection: fuel dispenser labels: civil</u> penalty

A. A vendor shall not collect more than the use fuel tax imposed pursuant to section 28-5606, subsection B, paragraph 1 from a person who purchases use fuel for use in the propulsion of a light class motor vehicle on a highway in this state or for use in the propulsion of a use class motor vehicle that is exempt pursuant to section 28-5432 from the weight fee prescribed in section 28-5433 on a highway in this state.

B. Subject to the following, vendors shall label use fuel dispensers
 pursuant to standards established by the department of weights and measures
 ENVIRONMENTAL QUALITY:

Labels on use fuel dispensers shall notify the purchaser of the
 state use fuel tax rate. The department of transportation shall provide the
 use fuel dispenser labels to vendors.

2. If the vendor only sells use fuel to light class motor vehicles or use class motor vehicles that are exempt pursuant to section 28-5432 from the weight fee prescribed in section 28-5433, or both, the vendor shall post that limitation and include the tax rate prescribed in section 28-5606, subsection B, paragraph 1.

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1 3. If light class motor vehicles and use class motor vehicles are 2 allowed to fuel at the same use fuel dispenser, the vendor shall include the 3 tax rate prescribed in section 28-5606, subsection B, paragraph 2 and post a 4 notice that the tax rate for light class motor vehicles and use class motor 5 vehicles that are exempt pursuant to section 28-5432 from the weight fee 6 prescribed in section 28-5433 is the tax rate prescribed in section 28-5606, 7 subsection B, paragraph 1.

8 4. If the vendor prohibits light class motor vehicles or use class 9 motor vehicles from dispensing fuel from a specific fuel dispenser, the 10 vendor shall post that prohibition.

5. In addition to posting a sign on a use fuel dispenser that 11 12 indicates that the price of the use fuel dispensed from that dispenser includes the applicable federal and state taxes, a vendor that dispenses use 13 fuel from a cardlock facility shall require the purchaser of use fuel for 14 15 light class motor vehicles or use class motor vehicles that are exempt 16 pursuant to section 28-5432 from the weight fee prescribed in section 28-5433, or both, to complete a declaration of status in a form and a manner 17 approved by the director. For the purposes of this paragraph, "cardlock 18 19 facility" means a use fuel vendor that satisfies all of the following:

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(a) Is licensed in this state.

(b) Sells only to preapproved purchasers of use fuel who have been
 issued cards, keys or other controlled access to identify the exclusive
 withdrawal of that particular purchaser.

(c) Does not have a representative on the premises to observe the
 withdrawal of use fuel from the vendor's storage.

26 (d) Measures volumes of fuel dispensed by pump meters or other
 27 accurate recording devices.

C. A vendor who violates subsection B of this section is subject to a civil penalty of one hundred dollars for each day the violation continues.

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- 28-5936. Confidential information: disclosure allowed
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A. A person may disclose confidential information as follows:

Sec. 5. Section 28-5936. Arizona Revised Statutes, is amended to read:

1. Confidential information relating to:

(a) A taxpayer may be disclosed to the taxpayer, the taxpayer's
 successor in interest or a designee of the taxpayer who is authorized in
 writing by the taxpayer.

37 (b) A corporate taxpayer may be disclosed to a principal officer of38 the corporation.

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(c) A partnership may be disclosed to a partner of the partnership,
 excluding disclosure of confidential information of a particular partner
 unless otherwise authorized.

4 (d) An estate may be disclosed to the personal representative of the 5 estate and to an heir, next of kin or beneficiary under the will of the 6 decedent if the director finds that the heir, next of kin or beneficiary has 7 a material interest that will be affected by the confidential information.

8 (e) A trust may be disclosed to the trustee or trustees, jointly or 9 separately, and to the grantor or any beneficiary of the trust if the 10 director finds that the grantor or beneficiary has a material interest that 11 will be affected by the confidential information.

(f) A taxpayer may be disclosed if the taxpayer has waived any rights
 to confidentiality either in writing or on the record in any administrative
 or judicial proceeding.

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2. Confidential information may be disclosed to:

16 (a) An employee of the department whose official duties involve tax
 17 administration.

(b) The office of the attorney general or the office of a county
 attorney authorized in writing by the attorney general solely for its use in
 preparation for, or an investigation that may result in, a proceeding
 involving tax administration before the director, department or other agency
 or board of this state or before a grand jury or a state or federal court.

(c) Other state tax officials of this state whose official duties
require the disclosure for proper tax administration purposes if the
information is sought in connection with any investigation or other
proceeding conducted by the tax official, except that a disclosure is limited
to information of a taxpayer who is being investigated or who is a party to a
proceeding conducted by the tax official.

(d) The United States internal revenue service or state tax officials
of other states pursuant to statute and a written agreement between the
director and the internal revenue service or other state, if the internal
revenue service or the other state grants substantially similar privileges to
the director for the type of information being sought.

(e) The auditor general if in connection with an audit of the
 department subject to the restrictions in section 28-5935, subsection B.

36 (f) Any person to the extent necessary for effective tax
 37 administration in connection with the processing, storage, transmission and

reproduction of the information and the programming, maintenance, repair,
 testing and procurement of equipment for purposes of tax administration.

3 3. Confidential information may be disclosed in a state or federal
 4 judicial or administrative proceeding pertaining to tax administration if:

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(a) The taxpayer is a party to the proceeding.

6 (b) The treatment of an item reflected in the information is directly 7 related to the resolution of an issue in the proceeding.

8 (c) The information directly relates to a transactional relationship 9 between a person who is a party to the proceeding and the taxpayer that 10 directly affects the resolution of an issue in the proceeding.

Identity information may be disclosed for purposes of notifying
 persons entitled to tax refunds if the director is unable to locate the
 persons after reasonable effort.

If necessary to effect collection of a delinquent tax, penalties or
 interest, the outstanding obligation and information obtained in the
 collection investigation may be disclosed.

17 6. The director may disclose statistical information gathered from
 18 confidential information if the disclosure does not include confidential
 19 information attributable to any one taxpayer.

20 7. Confidential information may be disclosed to law enforcement
 21 agencies for law enforcement purposes.

B. Except as provided in section 28-5935, subsection B, a court may order the director to disclose confidential information pertaining to a party to an action. The court shall make an order only on a showing of good cause and that the party seeking the information has made demand on the taxpayer for the information.

C. Except as prescribed in subsection D of this section or except if required to do so by a court, it is unlawful for a person to disclose information acquired by the director or an agent under section 28-5620. This subsection does not mean that the information or evidence is privileged if it is used by this state or an officer of this state in an action for collection of the tax or a prosecution for a violation of article 1 of this chapter.

D. The department of transportation shall provide information to the department of weights and measures ENVIRONMENTAL QUALITY to determine compliance with title 41, chapter 15, article 7 49, CHAPTER 11, ARTICLE 6. A gasoline dispensing site shall provide the department of transportation with information the director of the department of transportation requests and in the form that the director of the department of transportation determines is
 necessary for the purposes of this subsection.

E. This article does not prevent the director from disclosing to a person any aggregate statistical information gathered from confidential information regarding the distribution of gasoline sales by a distributor in each of the several counties of this state. The director shall provide this gasoline sales distribution information to a person pursuant to section 39-121.

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28-6991. State highway fund: sources

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A THE state highway fund is established that consists of:

Sec. 6. Section 28-6991. Arizona Revised Statutes, is amended to read:

Monies distributed from the Arizona highway user revenue fund
 pursuant to chapter 18 of this title.

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2. Monies appropriated by the legislature.

15 3. Monies received from donations for the construction, improvement or 16 maintenance of state highways or bridges. These monies shall be credited to 17 a special account and shall be spent only for the purpose indicated by the 18 donor.

4. Monies received from counties under cooperative agreements, including proceeds from bond issues. The state treasurer shall deposit these monies to the credit of the fund in a special account on delivery to the treasurer of a concise written agreement between the department and the county stating the purposes for which the monies are surrendered by the county, and these monies shall be spent only as stated in the agreement.

25 5. Monies received from the United States under an act of Congress to 26 provide aid for the construction of rural post roads, but monies received on 27 projects for which the monies necessary to be provided by this state are 28 wholly derived from sources mentioned in paragraphs 2 and 3 of this section 29 shall be allotted by the department and deposited by the state treasurer in the special account within the fund established for each project. On 30 31 completion of the project, on the satisfaction and discharge in full of all 32 obligations of any kind created and on request of the department, the 33 treasurer shall transfer the unexpended balance in the special account for the project into the state highway fund, and the unexpended balance and any 34 35 further federal aid thereafter received on account of the project may be 36 spent under the general provisions of this title.

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6. Monies in the custody of an officer or agent of this state from any 2 source that is to be used for the construction, improvement or maintenance of state highways or bridges. 3 7. Monies deposited in the state general fund and arising from the 4 5 disposal of state personal property belonging to the department. 6 8. Receipts from the sale or disposal of any or all other property 7 held by the department and purchased with state highway monies. 8 9. Monies generated pursuant to section 28-410. 9 10. Monies distributed pursuant to section 28-5808, subsection B, 10 paragraph 2, subdivision (d). 11. Monies deposited pursuant to sections 28-1143, 28-2353 and 11 12 28-3003. 12. Except as provided in section 28-5101, the following monies: 13 14 (a) Monies deposited pursuant to section 28-2206 and section 28-5808, 15 subsection B, paragraph 2, subdivision (e). (b) One dollar of each registration fee and one dollar of each title 16 fee collected pursuant to section 28-2003. 17 (c) Two dollars of each late registration penalty collected by the 18 19 director pursuant to section 28-2162. 20 (d) The air guality compliance fee collected pursuant to section 49-542. 21 (e) The special plate administration fees collected pursuant to 22 sections 28-2404, 28-2412 through 28-2416, 28-2416.01, 28-2417 through 23 28-2451 and 28-2514. 24 25 (f) Monies collected pursuant to sections 28-372, 28-2155 and 28-2156 26 if the director is the registering officer. 27 13. Monies deposited pursuant to chapter 5, article 5 of this title. 28 14. Donations received pursuant to section 28-2269. 29 15. Dealer and registration monies collected pursuant to section 30 28-4304. 31 16. Abandoned vehicle administration monies deposited pursuant to 32 section 28-4804. 33 17. Monies deposited pursuant to section 28-710, subsection D, 34 paragraph 2. 35 18. Monies deposited pursuant to section 28-2065. 19. Monies deposited pursuant to section 28-7311. 36 37 20. Monies deposited pursuant to section 28-7059. 38 21. Monies deposited pursuant to section 28-1105.

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1	22. Monies deposited pursuant to section 28-2448, subsection D.
2	23. Monies deposited pursuant to section 28-3415.
3	24. MONIES DEPOSITED PURSUANT TO SECTION 28-9552.
4	Sec. 7. Title 28, Arizona Revised Statutes, is amended by adding
5	chapter 30, to read:
6	CHAPTER 30
7	WEIGHTS AND MEASURES
8	ARTICLE 1. GENERAL PROVISIONS
9	28-9501. <u>Definitions</u>
10	IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:
11	1. "CERTIFICATION" MEANS THE PROCESS OF DETERMINING THE ACCURACY OF A
12	COMMERCIAL DEVICE TO THE STANDARDS OF THIS STATE BY A REGISTERED SERVICE
13	REPRESENTATIVE OR THE DEPARTMENT.
14	2. "COMMERCIAL DEVICE" MEANS ANY WEIGHING, MEASURING, METERING OR
15	COUNTING DEVICE THAT IS USED TO DETERMINE THE DIRECT COST OF THINGS SOLD OR
16	OFFERED OR EXPOSED FOR SALE, OR USED TO ESTABLISH A FEE FOR SERVICE IF THE
17	COST IS BASED ON WEIGHT, MEASURE OR COUNT. COMMERCIAL DEVICE DOES NOT
18	INCLUDE A DEVICE USED FOR IN-HOUSE PACKAGING, INVENTORY CONTROL OR LAW
19	ENFORCEMENT PURPOSES.
20	3. "COMMODITY" MEANS ANY MERCHANDISE, PRODUCT OR SUBSTANCE PRODUCED OR
21	DISTRIBUTED FOR SALE TO OR USE BY OTHERS.
22	4. "CORRECT" AS USED IN CONNECTION WITH WEIGHTS AND MEASURES MEANS
23	CONFORMANCE TO ALL APPLICABLE REQUIREMENTS OF THIS CHAPTER.
24	5. "INSPECTOR" MEANS STATE OFFICIALS OF THE DEPARTMENT.
25	6. "MOTOR FUEL" MEANS A PETROLEUM OR A PETROLEUM-BASED SUBSTANCE THAT
26	IS MOTOR GASOLINE, AVIATION GASOLINE, NUMBER ONE OR NUMBER TWO DIESEL FUEL OR
27	ANY GRADE OF OXYGENATED GASOLINE TYPICALLY USED IN THE OPERATION OF A MOTOR
28	ENGINE, INCLUDING BIODIESEL BLENDS, BIOFUEL BLENDS AND THE ETHANOL BLEND E85
29	AS DEFINED IN ASTM D5798.
30	7. "PERSON" MEANS BOTH THE PLURAL AND THE SINGULAR, AS THE CASE
31	DEMANDS, AND INCLUDES INDIVIDUALS, PARTNERSHIPS, CORPORATIONS, COMPANIES,
32	SOCIETIES AND ASSOCIATIONS.
33	8. "PUBLIC WEIGHMASTER" MEANS ANY PERSON WHO IS ENGAGED IN ANY OF THE
34	FOLLOWING:
35	(a) THE BUSINESS OF WEIGHING ANY OBJECT OR THING FOR THE PUBLIC
36	GENERALLY FOR HIRE OR FOR INTERNAL USE AND ISSUING FOR THAT WEIGHING A WEIGHT
37	CERTIFICATE INTENDED TO BE ACCEPTED AS AN ACCURATE WEIGHT ON WHICH A PURCHASE
38	OR SALE IS TO BE BASED OR ON WHICH A SERVICE FEE IS TO BE CHARGED.

(b) THE BUSINESS OF WEIGHING FOR HIRE MOTOR VEHICLES, TRAILERS OR
 SEMITRAILERS AND ISSUING WEIGHT CERTIFICATES INTENDED TO BE ACCEPTED AS AN
 ACCURATE WEIGHT FOR THE PURPOSE OF DETERMINING THE AMOUNT OF ANY TAX, FEE OR
 OTHER ASSESSMENT ON THE VEHICLES.

9. "REGISTERED SERVICE AGENCY" MEANS ANY AGENCY, FIRM, COMPANY OR
CORPORATION THAT FOR HIRE, AWARD, COMMISSION OR ANY OTHER PAYMENT OF ANY KIND
INSTALLS, SERVICES, REPAIRS OR RECONDITIONS A COMMERCIAL DEVICE OR TESTS OR
REPAIRS VAPOR RECOVERY SYSTEMS OR VAPOR RECOVERY COMPONENTS AND THAT HAS BEEN
ISSUED A LICENSE BY THE DEPARTMENT.

10. "REGISTERED SERVICE REPRESENTATIVE" MEANS ANY INDIVIDUAL WHO FOR
 HIRE, AWARD, COMMISSION OR ANY OTHER PAYMENT OF ANY KIND INSTALLS, SERVICES,
 REPAIRS OR RECONDITIONS A COMMERCIAL DEVICE OR TESTS OR REPAIRS VAPOR
 RECOVERY SYSTEMS OR VAPOR RECOVERY COMPONENTS AND WHO HAS BEEN ISSUED A
 LICENSE BY THE DEPARTMENT.

15 11. "RETAIL SELLER" MEANS A PERSON WHOSE BUSINESS PURPOSE IS TO SELL
16 OR TO EXPOSE OR OFFER FOR SALE OR USE ANY PACKAGE OR COMMODITY BY WEIGHT,
17 MEASURE OR COUNT.

18 12. "TAXI METER" MEANS A COMMERCIAL DEVICE THAT MEETS THE REQUIREMENTS
 19 OF THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY HANDBOOK 44 AS
 20 PRESCRIBED BY SECTION 49-1513.

2113. "WEIGHT" AS USED IN CONNECTION WITH ANY COMMODITY MEANS NET22WEIGHT.

14. "WEIGHTS" OR "MEASURES", OR BOTH, MEANS ALL WEIGHTS, MEASURES,
METERS OR COUNTERS OF EVERY KIND, INSTRUMENTS AND DEVICES FOR WEIGHING,
MEASURING, METERING OR COUNTING AND ANY APPLIANCE AND ACCESSORIES ASSOCIATED
WITH ANY OR ALL SUCH INSTRUMENTS AND DEVICES.

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28-9502. Powers and duties

28 29 A. THE DEPARTMENT SHALL:

1. KEEP ACCURATE RECORDS OF ALL STANDARDS AND EQUIPMENT.

ADOPT ANY RULES NECESSARY TO CARRY OUT THIS CHAPTER AND ADOPT
 REASONABLE RULES FOR THE ENFORCEMENT OF THIS CHAPTER. THESE RULES HAVE THE
 FORCE AND EFFECT OF LAW AND SHALL BE ADOPTED PURSUANT TO TITLE 41, CHAPTER 6.
 IN ADOPTING THESE RULES, THE DIRECTOR SHALL CONSIDER, AS FAR AS IS
 PRACTICABLE, THE REQUIREMENTS ESTABLISHED BY OTHER STATES AND BY AUTHORITY OF
 THE UNITED STATES, EXCEPT THAT RULES MAY NOT BE MADE IN CONFLICT WITH THIS
 CHAPTER.

373. PUBLISH RULES ADOPTED PURSUANT TO THIS CHAPTER AND ISSUE38APPROPRIATE COPIES AT NO COST TO ALL NEW APPLICANTS FOR LICENSURE AND

CERTIFICATION. UPDATED COPIES OF THE RULES SHALL BE DISTRIBUTED, ON REQUEST,
 AT NO COST TO THE PUBLIC.

4. INVESTIGATE COMPLAINTS MADE TO THE DEPARTMENT CONCERNING VIOLATIONS
OF THIS CHAPTER AND, ON ITS OWN INITIATIVE, CONDUCT INVESTIGATIONS IT DEEMS
APPROPRIATE IN ORDER TO DEVELOP INFORMATION RELATING TO PREVAILING PROCEDURES
IN COMMERCIAL QUANTITY DETERMINATION AND POSSIBLE VIOLATIONS OF THIS CHAPTER
AND TO PROMOTE ACCURACY IN THE DETERMINATION AND REPRESENTATION OF QUANTITY
IN COMMERCIAL TRANSACTIONS.

9 5. INSPECT AND TEST WEIGHTS AND MEASURES THAT ARE KEPT OR THAT ARE10 OFFERED OR EXPOSED FOR SALE.

6. INSPECT AND TEST WEIGHTS AND MEASURES THAT ARE COMMERCIALLY USED TO
 DETERMINE IF THEY ARE CORRECT:

(a) IN DETERMINING THE WEIGHT, MEASURE OR COUNT OF COMMODITIES OR
 THINGS SOLD, OR OFFERED OR EXPOSED FOR SALE, ON THE BASIS OF WEIGHT, MEASURE
 OR COUNT.

16 (b) IN COMPUTING THE BASIC CHARGE OR PAYMENT FOR SERVICES RENDERED ON
 17 THE BASIS OF WEIGHT, MEASURE OR COUNT.

TEST, AT RANDOM, COMMODITIES, WEIGHTS AND MEASURES USED IN PUBLIC
 INSTITUTIONS FOR WHICH MONIES ARE APPROPRIATED BY THE LEGISLATURE. THE
 TESTING OF COMMODITIES, WEIGHTS AND MEASURES IN PUBLIC INSTITUTIONS SHALL
 INCLUDE ITEMS THAT:

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(a) HISTORICALLY HAVE BEEN OF SHORT WEIGHT, MEASURE OR COUNT.

(b) HAVE BEEN FOUND TO BE OF SHORT WEIGHT, MEASURE OR COUNT BY OTHERJURISDICTIONS.

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(c) ARE TO BE TESTED AS PART OF A REGIONAL OR NATIONAL SURVEY.

26 8. TEST, APPROVE FOR USE AND AFFIX A SEAL OF APPROVAL FOR USE ON ALL 27 WEIGHTS, MEASURES AND COMMERCIAL DEVICES MANUFACTURED IN OR BROUGHT INTO THIS 28 STATE AS IT FINDS TO BE CORRECT AND REJECT AND MARK AS REJECTED WEIGHTS, 29 MEASURES AND DEVICES IT FINDS TO BE INCORRECT. WEIGHTS, MEASURES AND DEVICES 30 THAT HAVE BEEN REJECTED MAY BE SEIZED BY THE DEPARTMENT IF NOT CORRECTED 31 WITHIN THE TIME SPECIFIED OR IF USED OR DISPOSED OF IN A MANNER NOT SPECIFICALLY AUTHORIZED. THE DEPARTMENT SHALL CONDEMN AND MAY SEIZE WEIGHTS. 32 MEASURES AND DEVICES THAT ARE FOUND TO BE INCORRECT AND THAT ARE NOT CAPABLE 33 34 OF BEING MADE CORRECT.

35 9. PUBLISH AND DISTRIBUTE WEIGHING AND MEASURING INFORMATION TO36 CONSUMERS.

37 10. WEIGH, MEASURE OR INSPECT COMMODITIES THAT ARE KEPT, OFFERED OR
 38 EXPOSED FOR SALE, SOLD OR IN THE PROCESS OF DELIVERY TO DETERMINE WHETHER

1 THEY CONTAIN THE AMOUNTS REPRESENTED AND WHETHER THEY ARE KEPT, OFFERED OR 2 EXPOSED FOR SALE, SOLD OR DELIVERED IN ACCORDANCE WITH THIS CHAPTER OR RULES 3 ADOPTED PURSUANT TO THIS CHAPTER. IN CARRYING OUT THIS PARAGRAPH, THE 4 DIRECTOR SHALL EMPLOY RECOGNIZED SAMPLING PROCEDURES, SUCH AS ARE DESIGNATED 5 IN APPROPRIATE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY HANDBOOKS AND 6 SUPPLEMENTS TO THOSE HANDBOOKS, EXCEPT AS MODIFIED OR REJECTED BY RULE.

7 11. ALLOW REASONABLE VARIATIONS FROM THE STATED QUANTITY OF CONTENTS
8 ONLY AFTER A COMMODITY HAS ENTERED INTRASTATE COMMERCE. THESE VARIATIONS
9 SHALL INCLUDE THOSE CAUSED BY LOSS OR GAIN OF MOISTURE DURING THE COURSE OF
10 GOOD DISTRIBUTION PRACTICE OR BY UNAVOIDABLE DEVIATIONS IN GOOD MANUFACTURING
11 PRACTICE.

PRESCRIBE THE STANDARDS OF WEIGHT AND MEASURE AND ADDITIONAL
 EQUIPMENT METHODS OF TEST AND INSPECTION TO BE EMPLOYED IN THE ENFORCEMENT OF
 THIS CHAPTER. THE DIRECTOR MAY PRESCRIBE OR PROVIDE THE OFFICIAL TEST AND
 INSPECTION FORMS TO BE USED IN THE ENFORCEMENT OF THIS CHAPTER.

1613. APPLY TO ANY COURT OF COMPETENT JURISDICTION FOR A TEMPORARY OR17PERMANENT INJUNCTION RESTRAINING ANY PERSON FROM VIOLATING THIS CHAPTER.

18 14. REPORT TO THE GOVERNOR ON OR BEFORE AUGUST 1 OF EACH YEAR AND AT
19 SUCH OTHER TIMES AS MAY BE REQUIRED ON THE WORK ACCOMPLISHED UNDER THIS
20 CHAPTER.

2115. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, EMPLOY SUCH PERSONNEL22AS NEEDED TO ASSIST IN ADMINISTERING THIS CHAPTER.

B. THE DIRECTOR MAY PROVIDE FOR THE PERIODIC EXAMINATION AND
INSPECTION OF METERING DEVICES, INCLUDING DEVICES USED TO MEASURE USAGE OF
ELECTRICITY, NATURAL GAS OR WATER BY A CONSUMER. EXAMINATION AND INSPECTION
AUTHORITY DOES NOT APPLY TO METERING DEVICES OWNED BY FEDERAL, STATE OR LOCAL
GOVERNMENT AGENCIES UNLESS REQUESTED BY THE GOVERNMENT AGENCY THAT OWNS THE
METERING DEVICES.

C. THE DIRECTOR MAY ESTABLISH STANDARDS FOR THE PRESENTATION OF
 COST-PER-UNIT INFORMATION. THIS SUBSECTION DOES NOT MANDATE THE USE OF
 COST-PER-UNIT INFORMATION IN CONNECTION WITH THE SALE OF ANY STANDARD PACKED
 COMMODITY.

D. TESTING AND INSPECTION CONDUCTED PURSUANT TO THIS CHAPTER SHALL BE DONE, TO THE EXTENT PRACTICABLE, WITHOUT PRIOR NOTICE, BY A RANDOM SYSTEMATIC METHOD DETERMINED BY THE DIRECTOR OR IN RESPONSE TO A COMPLAINT BY THE PUBLIC. THE TESTING AND INSPECTION MAY BE DONE BY PRIVATE PERSONS AND FIRMS PURSUANT TO CONTRACTS ENTERED INTO BY THE DIRECTOR IN ACCORDANCE WITH TITLE 41, CHAPTER 23 OR BY A REGISTERED SERVICE AGENCY OR REGISTERED SERVICE

REPRESENTATIVE LICENSED PURSUANT TO SECTION 28-9554. THE DIRECTOR SHALL 1 2 ESTABLISH QUALIFICATIONS OF PERSONS AND FIRMS FOR SELECTION FOR PURPOSES OF 3 THIS SUBSECTION. THE PERSONS OR FIRMS CONDUCTING THE TESTING AND INSPECTION 4 SHALL IMMEDIATELY REPORT TO THE DEPARTMENT ANY VIOLATIONS OF THIS CHAPTER AND INCORRECT WEIGHTS, MEASURES OR DEVICES FOR INVESTIGATION AND ENFORCEMENT BY 5 THE DEPARTMENT. A PERSON OR FIRM THAT TESTS OR INSPECTS A WEIGHT, MEASURE OR 6 7 DEVICE THAT IS REJECTED MAY NOT CORRECT THE DEFECT CAUSING THE REJECTION 8 WITHOUT THE PERMISSION OF THE DEPARTMENT.

9 E. DURING THE COURSE OF AN INVESTIGATION OR AN ENFORCEMENT ACTION BY 10 THE DEPARTMENT, INFORMATION REGARDING THE COMPLAINANT IS CONFIDENTIAL AND IS 11 EXEMPT FROM TITLE 39, CHAPTER 1 UNLESS THE COMPLAINANT AUTHORIZES THE 12 INFORMATION TO BE PUBLIC.

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28-9503. Enforcement powers of the director and inspectors

A. WHEN NECESSARY FOR THE ENFORCEMENT OF THIS CHAPTER AND RULES
 ADOPTED PURSUANT TO THIS CHAPTER, THE DIRECTOR OR THE DIRECTOR'S AGENTS AND
 INSPECTORS SHALL:

ENTER ANY COMMERCIAL, NONPROFIT BUSINESS OR GOVERNMENTAL PREMISES
 DURING NORMAL OPERATING HOURS, EXCEPT THAT IF THE PREMISES ARE NOT OPEN TO
 THE PUBLIC, THE DIRECTOR OR THE DIRECTOR'S AGENTS AND INSPECTORS SHALL FIRST
 PRESENT THEIR CREDENTIALS.

2. ISSUE STOP-USE, HOLD AND REMOVAL ORDERS WITH RESPECT TO ANY WEIGHTS
 AND MEASURES COMMERCIALLY USED OR STOP-SALE, HOLD AND REMOVAL ORDERS WITH
 RESPECT TO ANY COMMODITIES OR BULK COMMODITIES FUEL KEPT OR OFFERED OR
 EXPOSED FOR SALE FOUND TO BE IN VIOLATION OF THIS CHAPTER OR RULES ADOPTED
 PURSUANT TO THIS CHAPTER.

3. SEIZE FOR USE AS EVIDENCE, WITHOUT FORMAL WARRANT, ANY INCORRECT OR
UNAPPROVED WEIGHT, MEASURE, PACKAGE OR COMMODITY FOUND TO BE USED, RETAINED,
OFFERED OR EXPOSED FOR SALE OR SOLD IN VIOLATION OF THIS CHAPTER OR RULES
ADOPTED PURSUANT TO THIS CHAPTER.

4. STOP ANY COMMERCIAL VEHICLE ON REASONABLE CAUSE TO BELIEVE THAT THE
VEHICLE CONTAINS EVIDENCE OF A VIOLATION OF THIS CHAPTER AND, AFTER
PRESENTMENT OF THE DIRECTOR'S OR THE DIRECTOR'S AGENT'S OR INSPECTOR'S
CREDENTIALS, INSPECT THE CONTENTS, REQUIRE THAT THE PERSON IN CHARGE OF THE
VEHICLE PRODUCE ANY DOCUMENTS IN THE PERSON'S POSSESSION CONCERNING THE
CONTENTS AND REQUIRE THE PERSON TO PROCEED WITH THE VEHICLE TO SOME SPECIFIED
PLACE FOR INSPECTION.

B. WITH RESPECT TO THE ENFORCEMENT OF THIS CHAPTER, THE DIRECTOR OR
 THE DIRECTOR'S AGENTS OR INSPECTORS MAY ISSUE A CITATION TO ANY VIOLATORS OF
 THIS CHAPTER PURSUANT TO SECTION 13-3903.

C. THE DIRECTOR OR THE DIRECTOR'S AGENTS OR INSPECTORS MAY APPLY FOR A
SPECIAL INSPECTION WARRANT FOR INSPECTION OF REAL OR PERSONAL PROPERTY FOR
THE PURPOSE OF ENFORCEMENT OF THIS CHAPTER. THE SPECIAL INSPECTION WARRANT
SHALL BE ISSUED AS PROVIDED IN SECTION 49-433.

8

#### 28-9504. Disposition of seized property

9 ONE HUNDRED EIGHTY DAYS AFTER THE FINAL DISPOSITION OF AN INVESTIGATION 10 AND ANY ENSUING ENFORCEMENT ACTION, THE DEPARTMENT OF TRANSPORTATION MAY 11 DESTROY THOSE WEIGHTS, MEASURES OR DEVICES THAT ARE SEIZED PURSUANT TO 12 SECTION 28-9502 OR 28-9503 OR TRANSFER THE ITEMS TO THE DEPARTMENT OF 13 ADMINISTRATION FOR DISPOSITION AS STATE SURPLUS PROPERTY PURSUANT TO THE 14 DIRECTION OF THE DEPARTMENT OF ADMINISTRATION SURPLUS PROPERTY DIVISION.

15

28-9505. <u>Sale of commodities</u>

16A. A PERSON MAY NOT SELL OR OFFER OR EXPOSE FOR SALE LESS THAN THE17QUANTITY THE PERSON REPRESENTS.

B. AS A BUYER, A PERSON MAY NOT TAKE ANY MORE THAN THE QUANTITY THE
PERSON REPRESENTS WHEN THE PERSON FURNISHES THE WEIGHT OR MEASURE BY MEANS OF
WHICH THE QUANTITY IS DETERMINED.

C. A PERSON MAY NOT MISREPRESENT THE PRICE OF ANY COMMODITY OR SERVICE
 SOLD OR OFFERED, EXPOSED OR ADVERTISED FOR SALE BY WEIGHT, MEASURE OR COUNT
 OR REPRESENT THE PRICE IN ANY MANNER CALCULATED OR TENDING TO MISLEAD OR IN
 ANY WAY DECEIVE A PERSON.

D. EXCEPT AS OTHERWISE PROVIDED BY THE DIRECTOR, COMMODITIES IN LIQUID
FORM SHALL BE SOLD BY LIQUID MEASURE OR BY WEIGHT, AND COMMODITIES NOT IN
LIQUID FORM SHALL BE SOLD ONLY BY WEIGHT, BY MEASURE OR BY COUNT, AS LONG AS
THE METHOD OF SALE PROVIDES ACCURATE QUANTITY INFORMATION.

E. IF THE QUANTITY IS DETERMINED BY THE SELLER, BULK SALES SHALL BE
 ACCOMPANIED BY A DELIVERY TICKET CONTAINING THE FOLLOWING INFORMATION UNLESS
 EXEMPTED BY RULE:

32 33 1. THE NAME AND ADDRESS OF THE VENDOR AND PURCHASER.

2. THE DATE DELIVERED.

343. THE QUANTITY DELIVERED AND THE QUANTITY ON WHICH THE PRICE IS35BASED, IF THIS DIFFERS FROM THE DELIVERED QUANTITY.

36 4. THE IDENTITY IN THE MOST DESCRIPTIVE TERMS COMMERCIALLY
 37 PRACTICABLE, INCLUDING ANY QUALITY REPRESENTATION MADE IN CONNECTION WITH THE
 38 SALE.

1	5. THE COUNT OF INDIVIDUALLY WRAPPED PACKAGES, IF MORE THAN ONE.
2	F. ON THE REQUEST OF A CONSUMER, A RETAIL SELLER SHALL PROVIDE:
3	1. A MEANS OF RECORDING PRICES SUCH AS GREASE PENCILS, FELT MARKERS,
4	SCANNERS OR OTHER SIMILAR INSTRUMENTS FOR RECORDING THE PRICE.
5	2. A WRITTEN STATEMENT OF THE RETAIL SELLER'S POLICIES REGARDING
6	ERRORS IN PRICING.
7	Sec. 8. <u>Transfer and renumber</u>
8	Title 41, chapter 15, article 4, Arizona Revised Statutes, is
9	transferred and renumbered for placement in title 28, chapter 30, Arizona
10	Revised Statutes, as added by this act, as article 2. The following sections
11	are transferred and renumbered for placement in title 28, chapter 30,
12	article 2:
13	Former Sections <u>New Sections</u>
14	41-2091
15	41-2092
16	41-2093
17	41-2094
18	41-2095
19	41-2096
20	41-2097
21	Sec. 9. Section 28–9551, Arizona Revised Statutes, as transferred and
22	renumbered, is amended to read:
23	28–9551. Licensing devices used for commercial purposes:
24	authorization to test devices used for all other
25	purposes; fees; certification; issuance and
26	revocation of license; violation; classification;
27	<u>exemptions</u>
28	A. A person shall not use a commercial device unless the device is
29	licensed or certified as provided in this chapter.
30	B. A license shall be obtained annually from the department on forms
31	prescribed and furnished by the department. The fee prescribed in this
32	chapter shall be submitted with the prescribed form. A license shall be
33	obtained not later than thirty days following the first day of commercial use
34	for original installations. If the ownership of a device that is licensed is
35	transferred, the ownership of the license may be transferred. On transfer of

36 a license, new licensees shall notify the department of the licensee's name and address and the location of the device. A license for a device shall be 37

- 15 -

posted at the licensed business location in a manner that provides the
 department access to the license during normal business hours.

C. If a fare is based on time or mileage or both time and mileage, a taxi shall have a commercial device and shall obtain a license as prescribed by the department, except that if the service offered by the taxi is a prearranged ground transportation service as defined in section 28-141 for a predetermined fare, a taxi shall not be required to use a commercial device.

8 D. Any license issued under this chapter applies only to the 9 instrument or device specified in the license, except that the director may 10 permit the license to be applicable to a replacement for the original 11 instrument or device.

E. Noncommercial devices may be tested by the department pursuant to this chapter. A weighing device owned by a person who uses it only for the purpose of weighing the person's own livestock or agricultural products and for no commercial purposes is declared to be a noncommercial device, and the owner of the device is exempt from paying any licensing fees collected pursuant to this chapter.

18 F. If a commercial livestock scale is used for thirty or more days in a calendar year, the scale is required to be licensed. If a commercial 19 20 livestock scale is used for fewer than thirty days in a calendar year, the 21 scale is required to be certified. If an owner or operator of a commercial 22 livestock scale requests that the department certify the scale, the 23 certification fee shall be comparable to the license fee prescribed in 24 section 41-2092 28-9552. If an owner or operator of a noncommercial scale 25 requests that the department certify the scale, the certification fee shall 26 be comparable to the license fee prescribed in section 41-2092 28-9552.

G. At the request of the owner or user of a portable batch plant, the department may certify the portable batch plant. If the department certifies a portable batch plant, the certification fee shall be comparable to the license fee prescribed in section <u>41-2092</u> 28-9552.

H. Any portable measuring device that is five gallons or less and that
 is properly marked by the manufacturer according to standards established by
 the national institute of standards and technology shall be exempt from the
 licensing and certification provisions of this chapter.

35 I. For the purpose of ascertaining compliance with the licensing
 36 provisions of this article, the department of revenue shall provide the
 37 department of weights and measures with a monthly report of all transaction

privilege tax licenses issued in the prior month. The report shall include
 the business name, type of business and business address of the licensee.

J. The department of revenue shall annually notify each transaction
 privilege tax licensee that the licensee is required to register new or
 existing weighing or measuring devices with the department of weights and
 measures.

7 K. H. The department shall not issue a license for a taxi, livery 8 vehicle or limousine, unless the taxi, livery vehicle or limousine meets the 9 requirements for both of the following:

Motor vehicle licensing as prescribed by the department of
 transportation.

12

2. Motor vehicle insurance as prescribed by section 28-4033.

13 L. The department shall revoke a license if the taxi, livery 14 vehicle or limousine fails to maintain the requirements for either of the 15 following:

Motor vehicle licensing as prescribed by the department of
 transportation.

18

2. Motor vehicle insurance as prescribed by section 28-4033.

19 M. J. A taxi or livery vehicle shall have a license issued under this 20 chapter posted on the outside of the rear window as required by the 21 department. A limousine shall carry a license issued under this chapter 22 inside the vehicle at all times.

N. K. A taxi that is licensed by the department and that offers local transportation for a fare determined on the basis of the distance traveled or prearranged ground transportation service as defined in section 28-141 for a predetermined fare is not required to be additionally licensed as a livery vehicle.

28 0. L. A person or the person's agent who knowingly files with the
 29 department any notice, statement or other document required under this
 30 section that is false or that contains any material misstatement of fact is
 31 guilty of a class 2 misdemeanor.

M. THE DEPARTMENT SHALL GRANT, PURSUANT TO THIS CHAPTER, EXEMPTIONS
 FROM THE LICENSING PROVISIONS OF THIS CHAPTER FOR WEIGHING AND MEASURING
 INSTRUMENTS, STANDARDS OR DEVICES IF THE OWNERSHIP OR USE OF THE INSTRUMENT
 OR DEVICE IS LIMITED TO A FEDERAL, STATE OR LOCAL GOVERNMENT AGENCY IN THE
 PERFORMANCE OF ITS OFFICIAL FUNCTIONS.

1	Sec. 10. Section 28-9552, Arizona Revised Statutes, as transferred and
2	renumbered, is amended to read:
3	28-9552. <u>Licensing fees</u>
4	A. The following fees shall be paid to the department as license fees
5	for devices used for commercial purposes:
6	Schedules of Fees
7	1. Weighing devices:
8	<del>0 - 500 pounds capacity (or metric equivalent)                                    </del>
9	<del>501 - 2,000 pounds capacity 18.00</del>
10	<del>2,001 - 7,500 pounds capacity 36.00</del>
11	7,501 - 20,000 pounds capacity 80.00
12	20,001 - 60,000 pounds capacity 120.00
13	60,001 pounds capacity and over 180.00
14	2. Liquid metering devices (meters) other than
15	for liquid petroleum gas and utility meters:
16	maximum 12 gallons per minute and under 12.00
17	<del>maximum 13 - 150 gallons per minute 36.00</del>
18	<del>maximum 151 - 500 gallons per minute 90.00</del>
19	<del>maximum 501 - 1,000 gallons per minute 138.00</del>
20	maximum 1,001 gallons per minute and over 168.00
21	3. Motor fuel devices (dispensers) other than
22	for liquid petroleum gas (not including
23	satellite hoses or nozzles):
24	Standard Vapor Recovery Test
25	each meter 15.00 30.00
26	each blending valve 15.00 30.00
27	high volume (over 19 gallons per minute)
28	diesel per hose and nozzle 15.00
29	keylock, limited access, with accumulators,
30	per hose and nozzle 22.50
31	remote indicator and control unit (no hoses
32	or nozzles) (accessory only) 22.50
33	4. Liquid measuring devices for liquid petroleum
34	<del>gas (meters):</del>
35	small bottle fill measuring devices 24.00
36	motor fuel measuring devices, uncompensated 24.00

1	motor fuel measuring devices, temperature
2	compensating, including compressed natural
3	<del>gas filling devices 48.00</del>
4	motor fuel measuring devices, keylocks 48.00
5	3/4" and 1" meters, uncompensated 48.00
6	1 1/4", 1 1/2" and 1 3/4" meters, uncompensated 72.00
7	2" meters and larger, uncompensated 72.00
8	3/4" and 1" meters, temperature compensating 54.00
9	1 1/4", 1 1/2" and 1 3/4" meters, temperature
10	compensating 90.00
11	<del>2" meters and larger, temperature compensating 96.00</del>
12	<del>5.</del> 2. Linear measuring devices:
13	all linear measuring mechanical devices 24.00
14	6. Time measuring devices:
15	all time measuring mechanical, electrical and
16	electronic devices 24.00
17	7. 3. Counting devices:
18	all mechanical and electronic counting devices 12.00
19	B. Testing, inspection, certification and calibration fees shall be
20	paid pursuant to the fee schedule set forth in subsection A of this section
21	or the rules of the department. The department shall waive license fees for
22	customer parking time measuring meters owned by municipalities.
23	C. Issuance or renewal of license as:
24	<del>1.</del> Public weighmaster 48.00
25	2. Registered service agency 24.00
26	3. Registered service representative 4.80
27	D. The fees set forth in this section are the maximum amounts that may
28	be charged, but the director, at the director's discretion, may reduce the
29	fees to any amount the director deems necessary.
30	E. The director may prorate the fees set forth in this section for
31	partial year application.
32	F. If a person fails to pay a license, permit or certification fee on
33	or before the date the fee is due, the department shall impose a penalty
34	equal to twenty <del>per cent</del> PERCENT of the fee. For each thirty-day period
35	after the date the fee is due, the department shall impose an additional
36	penalty equal to twenty <mark>per cent</mark> PERCENT of the fee. If a person fails to
37	pay a license, permit or certification fee and all related penalties for

ninety days after the fee is due, the department shall cancel the license,
 permit or certification.

G. THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147,
 FEES COLLECTED UNDER THIS SECTION IN THE STATE HIGHWAY FUND ESTABLISHED BY
 SECTION 28-6991.

6 Sec. 11. Section 28-9553, Arizona Revised Statutes, as transferred and 7 renumbered, is amended to read:

8 9 28-9553. <u>License as public weighmaster or deputy weighmaster</u> required: application: fee: renewal: exemptions

10 A. A person shall not serve as a public weighmaster or deputy 11 weighmaster unless the person is issued a public weighmaster or deputy 12 weighmaster license by the department in accordance with practices and 13 procedures to be established by the director. An applicant for a public 14 weighmaster or deputy weighmaster license shall:

Demonstrate a thorough knowledge of all appropriate weights and
 measures laws, rules and policies.

Have possession of, or have available for use, a scale that is of
 sufficient capacity and size and that is licensed and certified pursuant to
 section 41-2091 28-9551.

Demonstrate the necessary experience and training to operate the
 scale.

22

4. Pass the required examination administered by the department.

B. An application for a public weighmaster or deputy weighmaster 23 24 license shall be submitted to the department on a form prescribed and furnished by the department and shall be accompanied by the license fee 25 26 prescribed in section 41-2092 28-9552. The department shall issue a public 27 weighmaster or deputy weighmaster license for a period of twelve calendar 28 months. The license expires on the first day of the month and year indicated 29 on the license. A public weighmaster or deputy weighmaster license shall be posted at the licensed scale site in a manner that provides the department 30 31 access to the license during normal business hours.

C. If a licensee submits a license renewal application to the department before the date of expiration of the current license together with the renewal fee prescribed by the department, the existing license shall be valid for thirty days following its expiration date, or until issuance of the renewal license, whichever occurs first.

D. Except as otherwise provided in subsection F of this section,
 certified weighing of any property, livestock or commodity shall be performed

only by a public weighmaster or deputy weighmaster. The following persons
 are not required to obtain licenses as public weighmasters or deputy
 weighmasters:

A person weighing property, livestock or a commodity that the
 person or the person's employer is either buying or selling for the person's
 or the person's employer's own account.

A person weighing property, livestock or a commodity in conjunction
with or on behalf of a publicly sponsored or nonprofit organization sponsored
exposition, fair or show event.

E. The official weighing of vehicles or conveyances by any employee of a city, county or state agency for weight-control regulatory purposes on public highways, roads or streets does not constitute public weighing.

13 F. On request and without charge, the department may issue a limited weighmaster license to any qualified officer or employee of a city, a county 14 15 or the state authorizing the officer or employee to act as a public weighmaster only within the scope of the officer's or employee's official 16 employment and duties in enforcing local ordinances substantially complying 17 with the requirements of this chapter. While performing the duties of a 18 19 limited weighmaster, a limited weighmaster shall have the limited 20 weighmaster's license in the limited weighmaster's possession.

21 G. The department shall approve all forms, certificates, seals and 22 other documents together with practices, procedures and equipment used by 23 public weighmasters or deputy weighmasters in the performance of their duties. A public weighmaster or deputy weighmaster shall keep for such 24 25 period as the department by rule may require a legible copy of each weight 26 certificate the public weighmaster or deputy weighmaster issues. Copies of 27 weight certificates shall be available at all reasonable times for inspection 28 by the department.

29 Sec. 12. Section 28-9554, Arizona Revised Statutes, as transferred and 30 renumbered, is amended to read:

31

## 32

33

# 28-9554. <u>License required as registered service agency or</u> registered service representative; qualifications; application; fees; renewal

A. A person shall not operate as a registered service agency or as a registered service representative until a license is issued as provided in this section.

- 37 38
- B. An applicant for a registered service agency license shall:
- 1. Submit application information satisfactory to the department.

Comply with section 41-2067 36-4008, subsection E or provide
 evidence that the applicant's vapor recovery test equipment has been
 certified by the manufacturer of the equipment within one year of the date of
 the application or as deemed appropriate by the department.

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- 6 7

8

3. Pay all required fees.

C. An applicant for a registered service representative license shall:

1. Demonstrate a thorough working knowledge of all appropriate weights and measures laws, orders and rules.

9 2. Demonstrate to the department that the applicant has possession of, 10 or has available for use, weights and testing equipment appropriate in design 11 and adequate in amount.

Demonstrate the necessary knowledge, training and experience
 regarding appropriate standards and testing equipment to service commercial
 devices, vapor recovery systems or vapor recovery components.

15 16 4. Pass the required examination administered by the department.

5. Pay all required fees.

D. An application for a registered service agency or registered 17 service representative license shall be submitted by the applicant to the 18 department on a form prescribed and furnished by the department. The 19 department shall issue a registered service agency or registered service 20 21 representative license for a period of twelve calendar months. The license 22 expires on the first day of the month and year indicated on the license. 23 Each license shall contain, among other information, a license number. A 24 registered service agency license shall be posted at the licensed business 25 location in a manner that provides the department access to the license 26 during normal business hours. While performing the duties of a registered 27 service representative, a registered service representative shall have a 28 registered service representative's license in the registered service 29 representative's possession.

E. If a licensee submits a license renewal application to the department before the date of expiration of the current license, together with the prescribed renewal fee, the existing license shall be valid for thirty days following its expiration date, or until issuance of the renewal license, whichever occurs first.

F. The director shall publish, from time to time as the director deems appropriate, and may supply on request, lists of registered service representatives and registered service agencies. 1 G. Each registered service representative license issued by the 2 department shall indicate the type of service approved by the department for 3 the licensee.

H. A registered service agency shall use forms and related procedures
prescribed by the department in the performance of its duties. A registered
service agency shall keep a legible copy of each form used for at least the
time period prescribed by the department in its rules. Copies of the forms
shall be available during normal business hours for inspection by the
department.

10Sec. 13. Title 28, chapter 30, Arizona Revised Statutes, is amended by11adding article 3, to read:

12

13 14

#### ARTICLE 3. REGULATION

## 28-9571. <u>Unlawful use of device: authorization to prevent such</u> <u>use; seizure; violation; classification</u>

15 Α. WHEN ANY COMMERCIAL DEVICE SPECIFIED IN THIS CHAPTER IS IN 16 COMMERCIAL USE AND A VALID LICENSE FOR THE DEVICE HAS NOT BEEN PROCURED BY THE OWNER, THE OWNER'S AGENT OR THE OPERATOR OF THE DEVICE, THE DEPARTMENT, 17 18 AFTER GIVING NOTICE OF THE LICENSING REQUIREMENTS TO THE OWNER, THE OWNER'S AGENT OR THE OPERATOR, SHALL PROHIBIT THE FURTHER COMMERCIAL USE OF THE 19 UNLICENSED DEVICE UNTIL THE PROPER LICENSE HAS BEEN ISSUED. THE DEPARTMENT 20 21 MAY EMPLOY AND ATTACH TO THE DEVICE SUCH FORMS. NOTICES OR SECURITY SEALS AS 22 IT CONSIDERS NECESSARY TO PREVENT THE CONTINUED UNAUTHORIZED USE OF THE 23 DEVICE.

24

25

26

B. A REGISTERED SERVICE REPRESENTATIVE MAY ALSO:

1. WITH APPROVAL OF THE DEPARTMENT, REMOVE AN OFFICIAL REJECTION TAG PLACED ON A COMMERCIAL DEVICE.

2. PLACE IN SERVICE, UNTIL AN OFFICIAL EXAMINATION CAN BE MADE, A
 28 COMMERCIAL DEVICE THAT HAS BEEN OFFICIALLY REJECTED OR PLACED OUT OF SERVICE.

3. PLACE IN SERVICE, UNTIL AN OFFICIAL EXAMINATION CAN BE MADE, A
COMMERCIAL DEVICE FOR WHICH A COMMERCIAL DEVICE APPLICATION HAS BEEN
COMPLETED AND SUBMITTED TO THE DEPARTMENT.

C. THE OWNER OF ANY BUSINESS WHO HAS NOT APPLIED FOR AND HAS NOT BEEN ISSUED A LICENSE FOR THE RIGHT TO DO BUSINESS INVOLVING THE USE OF A COMMERCIAL DEVICE BY THE DEPARTMENT AND WHO IS FOUND SELLING OR OFFERING FOR SALE OR DELIVERING OR DISTRIBUTING TO A CONSUMER IS GUILTY OF A CLASS 2 MISDEMEANOR, AND THE DEPARTMENT SHALL CONFISCATE AND SEIZE THE COMMERCIAL DEVICE OR ANY OTHER SUCH MEASURING DEVICE USED BY THE BUSINESS FOR THE SALE, BELIVERY OR DISTRIBUTION AS EVIDENCE. D. THE DIRECTOR AND ANY OTHER AUTHORIZED PERSONNEL ARE NOT LIABLE TO THE OWNER OR ANY OTHER PERSONS, FIRMS, PARTNERSHIPS, CORPORATIONS, TRUSTS OR AGENCIES FOR DAMAGES, DIRECTLY OR INDIRECTLY, CAUSED BY OR RESULTING FROM THE SEIZURE.

E. IF A COMMERCIAL DEVICE LICENSED PURSUANT TO THIS CHAPTER IS USED
CONTRARY TO ANY PROVISION OF THIS CHAPTER OR ANY RULE ADOPTED PURSUANT TO
THIS CHAPTER, THE DEPARTMENT, IN ADDITION TO ANY OTHER PENALTY IMPOSED BY
THIS CHAPTER, SHALL SUSPEND, REVOKE OR REFUSE TO RENEW THE LICENSE.

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11 12

13

28-9572. <u>Revocation or suspension of licenses; procedure;</u>

<u>judicial review</u>

A. EXCEPT AS OTHERWISE PROVIDED BY THIS SECTION, ANY PROCEEDING TO REVOKE OR SUSPEND A LICENSE ISSUED PURSUANT TO THIS CHAPTER SHALL BE CONDUCTED IN ACCORDANCE WITH TITLE 41, CHAPTER 6, ARTICLE 10.

B. THE DIRECTOR MAY INITIATE PROCEEDINGS FOR REVOCATION OR SUSPENSION
OF A LICENSE ISSUED PURSUANT TO THIS CHAPTER ON THE DIRECTOR'S OWN MOTION OR
ON A VERIFIED COMPLAINT FOR NONCOMPLIANCE WITH OR A VIOLATION OF THIS CHAPTER
OR OF ANY RULE ADOPTED PURSUANT TO THIS CHAPTER.

C. IF, AFTER HAVING BEEN SERVED WITH THE NOTICE OF HEARING AS PROVIDED
FOR IN TITLE 41, CHAPTER 6, ARTICLE 10, THE LICENSEE FAILS TO APPEAR AT THE
HEARING AND DEFEND, THE DEPARTMENT SHALL PROCEED TO HEAR EVIDENCE AGAINST THE
LICENSEE AND SHALL ENTER AN ORDER AS JUSTIFIED BY THE EVIDENCE. THE ORDER IS
FINAL UNLESS THE LICENSEE PETITIONS FOR A REVIEW AS PROVIDED IN TITLE 41,
CHAPTER 6, ARTICLE 10.

D. AT ALL HEARINGS, THE ATTORNEY GENERAL OF THIS STATE, AN ASSISTANT
 ATTORNEY GENERAL OR A SPECIAL ASSISTANT DESIGNATED BY THE ATTORNEY GENERAL
 SHALL APPEAR AND REPRESENT THE DEPARTMENT.

E. EXCEPT AS PROVIDED IN SECTION 41-1092.08, SUBSECTION H, ANY FINAL
 ADMINISTRATIVE DECISION MADE PURSUANT TO THIS CHAPTER IS SUBJECT TO JUDICIAL
 REVIEW PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6.

30

28-9573. <u>Violations; classification; jurisdiction</u>

31

A. A PERSON IS GUILTY OF A CLASS 1 MISDEMEANOR WHO:

1. KNOWINGLY HINDERS, INTERFERES WITH OR OBSTRUCTS IN ANY WAY THE
 DIRECTOR OR ANY OF THE DIRECTOR'S AGENTS OR INSPECTORS IN ENTERING THE
 PREMISES WHERE A COMMERCIAL DEVICE MAY BE KEPT FOR INSPECTING OR TESTING OR
 IN THE PERFORMANCE OF THE DIRECTOR'S OR THE DIRECTOR'S AGENT'S OR INSPECTOR'S
 OFFICIAL DUTIES.

2. IMPERSONATES IN ANY WAY THE DIRECTOR OR ANY OF THE DIRECTOR'S 1 2 AGENTS OR INSPECTORS BY THE USE OF THE DIRECTOR'S SEAL OR A COUNTERFEIT OF THE DIRECTOR'S SEAL OR IN ANY OTHER MANNER.

3

4 3. USES, OR HAS IN POSSESSION FOR THE PURPOSE OF USING FOR ANY COMMERCIAL PURPOSE, SELLS, OFFERS OR EXPOSES FOR SALE OR HIRE, OR HAS IN 5 6 POSSESSION FOR THE PURPOSE OF SELLING OR HIRING AN INCORRECT WEIGHT OR 7 MEASURE OR ANY DEVICE OR INSTRUMENT USED OR CALCULATED TO FALSIFY ANY WEIGHT 8 OR MEASURE.

9 4. SELLS, OR OFFERS OR EXPOSES FOR SALE, LESS THAN THE QUANTITY THE 10 PERSON REPRESENTS OF ANY COMMODITY, THING OR SERVICE.

11 5. TAKES MORE THAN THE QUANTITY THE PERSON REPRESENTS OF ANY 12 COMMODITY, THING OR SERVICE, WHEN, AS BUYER, THE PERSON FURNISHES THE WEIGHT OR MEASURE BY MEANS OF WHICH THE AMOUNT OF THE COMMODITY, THING OR SERVICE IS 13 14 DETERMINED.

15

B. A PERSON IS GUILTY OF A CLASS 2 MISDEMEANOR WHO:

16 1. USES, OR HAS IN POSSESSION FOR THE PURPOSE OF CURRENT USE FOR ANY COMMERCIAL PURPOSE, A WEIGHT OR MEASURE THAT DOES NOT BEAR A SEAL OR MARK OF 17 APPROVAL BASED ON AN INSPECTION AND TEST AS PROVIDED IN SECTION 28-9502. 18 19 SUBSECTION A, PARAGRAPH 11, UNLESS THE WEIGHT OR MEASURE HAS BEEN EXEMPTED 20 FROM TESTING BY ORDER OF THE DEPARTMENT. OR UNLESS THE DEVICE HAS BEEN PLACED IN SERVICE AS PROVIDED IN THIS CHAPTER. ANY PERSON OR PERSONS MAKING USE OF 21 22 A COMMERCIAL DEVICE THAT IS SUBJECT TO THIS CHAPTER SHALL REPORT TO THE DIRECTOR OR THE DIRECTOR'S REPRESENTATIVES, IN WRITING, THE NUMBER AND 23 24 LOCATION OF THE COMMERCIAL DEVICE AND SHALL PROMPTLY REPORT THE INSTALLATION 25 OF ANY NEW COMMERCIAL DEVICE.

26 2. DISPOSES OF ANY REJECTED OR CONDEMNED WEIGHT OR MEASURE IN A MANNER 27 CONTRARY TO LAW OR RULE.

28 3. REMOVES FROM ANY WEIGHT OR MEASURE, CONTRARY TO LAW OR RULE, ANY 29 TAG, SEAL OR MARK PLACED ON THE WEIGHT OR MEASURE BY THE APPROPRIATE AUTHORITY PURSUANT TO THIS CHAPTER. 30

31 4. KEEPS FOR THE PURPOSE OF SELLING. ADVERTISING OR OFFERING OR EXPOSING FOR SALE OR SELLS ANY COMMODITY, THING OR SERVICE IN A CONDITION OR 32 33 MANNER CONTRARY TO LAW OR RULE.

34 5. USES IN RETAIL TRADE. EXCEPT IN THE PREPARATION OF PACKAGES PUT UP 35 IN ADVANCE OF SALE AND OF MEDICAL PRESCRIPTIONS, A WEIGHT OR MEASURE THAT IS SO POSITIONED THAT ITS INDICATIONS CANNOT BE ACCURATELY READ AND THE 36 37 WEIGHING, METERING, MEASURING OR COUNTING OPERATION CANNOT BE OBSERVED FROM 38 SOME POSITION THAT MAY REASONABLY BE ASSUMED BY A CUSTOMER.

6. VIOLATES THIS CHAPTER OR RULES ADOPTED UNDER THIS CHAPTER. A
 CONTINUING VIOLATION MAY BE DEEMED TO BE A SEPARATE VIOLATION EACH DAY DURING
 WHICH THE VIOLATION IS COMMITTED FOR THE PURPOSE OF IMPOSING A FINE.

4 C. THE PROVISIONS OF THIS SECTION ARE IN ADDITION TO AND NOT IN 5 LIMITATION OF ANY OTHER PROVISION OF LAW.

- D. THE ATTORNEY GENERAL AND THE COUNTY ATTORNEY SHALL HAVE CONCURRENT
   JURISDICTION TO PROSECUTE VIOLATIONS OF THIS CHAPTER.
- 8

### 28-9574. <u>Presumptive evidence of use</u>

9 WHEN A WEIGHT, MEASURE, METER, COUNTER OR COMMERCIAL DEVICE IS IN OR
 10 ABOUT ANY PLACE IN WHICH OR FROM WHICH BUYING OR SELLING IS COMMONLY CARRIED
 11 ON, THERE SHALL BE A REBUTTABLE PRESUMPTION THAT THE WEIGHT, MEASURE, METER,
 12 COUNTER OR COMMERCIAL DEVICE IS REGULARLY USED FOR THE BUSINESS PURPOSE OF
 13 THE PLACE.

14

## 28-9575. <u>Civil penalties</u>

A. A PERSON WHO VIOLATES THIS CHAPTER, ANY RULE OF THE DEPARTMENT OR 15 16 ANY LICENSE REQUIREMENT IS SUBJECT TO A CIVIL PENALTY IMPOSED BY THE 17 DIRECTOR. A PERSON WHO VIOLATES THIS CHAPTER, ANY RULE OF THE DEPARTMENT OR 18 ANY LICENSE REQUIREMENT MAY REQUEST A HEARING TO REVIEW A CIVIL PENALTY IMPOSED UNDER THIS SECTION. THE DEPARTMENT SHALL CONDUCT THE HEARING IN 19 ACCORDANCE WITH TITLE 41. CHAPTER 6. ARTICLE 10. EXCEPT AS PRESCRIBED IN 20 21 SUBSECTION B OF THIS SECTION. THE CIVIL PENALTY MAY NOT EXCEED ONE THOUSAND 22 DOLLARS FOR EACH INFRACTION OR MORE THAN TEN THOUSAND DOLLARS FOR ANY 23 THIRTY-DAY PERIOD AT EACH BUSINESS LOCATION OR FOR EACH PUBLIC WEIGHMASTER. 24 PROVIDED THAT NO PERSON SHALL BE ASSESSED MORE THAN FIFTY THOUSAND DOLLARS 25 PER THIRTY-DAY PERIOD.

26 B. THE DIRECTOR MAY DOUBLE THE MAXIMUM CIVIL PENALTY IF ANY OF THE 27 FOLLOWING APPLIES:

A COMMERCIAL DEVICE IS FOUND TO BE IN VIOLATION WITH RESULTS THAT
 FAVOR THE RETAILER AT MORE THAN TWICE THE ALLOWABLE TOLERANCE AS STATED IN
 NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY HANDBOOK 44.

2. A PACKAGE IS FOUND TO EXCEED THE MAXIMUM ALLOWABLE VARIATION FOR
 THE LABELED QUANTITY ALLOWED IN NATIONAL INSTITUTE OF STANDARDS AND
 TECHNOLOGY HANDBOOK 133 OR THE AVERAGE ERROR OF THE LOT IS TWICE THE SAMPLE
 ERROR LIMIT IN FAVOR OF THE RETAILER.

35 3. A MAXIMUM CIVIL PENALTY HAS BEEN IMPOSED ON A RETAILER FOR A PRICE
36 POSTING OR PRICE VERIFICATION VIOLATION AND IN A REINSPECTION, IF CONDUCTED
37 WITHIN NINETY DAYS, THE FAILURE RATE IS TEN PERCENT OR MORE AND AT LEAST ONE
38 ERROR IS IN FAVOR OF THE RETAILER.

C. THE ATTORNEY GENERAL SHALL BRING ACTIONS TO RECOVER CIVIL PENALTIES 1 2 PURSUANT TO THIS SECTION IN THE SUPERIOR COURT IN THE COUNTY IN WHICH THE 3 VIOLATION OCCURRED OR IN A COUNTY WHERE THE AGENCY HAS ITS OFFICE. ALL 4 MONIES DERIVED FROM CIVIL PENALTIES SHALL BE DEPOSITED, PURSUANT TO SECTIONS 5 35-146 AND 35-147, IN THE STATE GENERAL FUND. 28-9576. <u>Delinguent civil penalties and fees</u> 6 7 IN ADDITION TO ANY OTHER PENALTY, IF A CIVIL PENALTY OR ANY FEE DUE 8 PURSUANT TO THIS CHAPTER HAS NOT BEEN PAID WITHIN THIRTY DAYS AFTER THE DUE DATE. THE CIVIL PENALTY OR FEE IS DELINQUENT AND THE DEPARTMENT MAY REFUSE TO 9 10 ISSUE A LICENSE OR MAY REVOKE A LICENSE PURSUANT TO THIS CHAPTER UNTIL THE 11 CIVIL PENALTY OR FEE IS PAID IN FULL. 12 Sec. 14. Title 36, Arizona Revised Statutes, is amended by adding 13 chapter 40, to read: 14 CHAPTER 40 15 WEIGHTS AND MEASURES 16 ARTICLE 1. ADMINISTRATION OF WEIGHTS AND MEASURES 17 36-4001. Definitions IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES: 18 19 1. "CERTIFICATION" MEANS THE PROCESS OF DETERMINING THE ACCURACY OF A COMMERCIAL DEVICE TO THE STANDARDS OF THIS STATE BY THE DEPARTMENT. 20 21 2. "COMMERCIAL DEVICE" MEANS ANY WEIGHING. MEASURING. METERING OR COUNTING DEVICE THAT IS USED TO DETERMINE THE DIRECT COST OF THINGS SOLD OR 22 23 OFFERED OR EXPOSED FOR SALE, OR USED TO ESTABLISH A FEE FOR SERVICE IF THE 24 COST IS BASED ON WEIGHT, MEASURE OR COUNT. COMMERCIAL DEVICE DOES NOT 25 INCLUDE A DEVICE USED FOR IN-HOUSE PACKAGING, INVENTORY CONTROL OR LAW 26 ENFORCEMENT PURPOSES. 27 3. "COMMODITY" MEANS ANY MERCHANDISE, PRODUCT OR SUBSTANCE PRODUCED OR 28 DISTRIBUTED FOR SALE TO OR USE BY OTHERS. 29 4. "CORRECT" AS USED IN CONNECTION WITH WEIGHTS AND MEASURES MEANS CONFORMANCE TO ALL APPLICABLE REQUIREMENTS OF THIS CHAPTER. 30 31 5. "DEPARTMENT" MEANS THE DEPARTMENT OF HEALTH SERVICES. 32 "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OF HEALTH SERVICES. 6. 33 7. "INSPECTOR" MEANS STATE OFFICIALS OF THE DEPARTMENT. 34 "PACKAGE" MEANS ANY COMMODITY ENCLOSED IN A CONTAINER OR WRAPPED IN 8. 35 ANY MANNER IN ADVANCE OF SALE IN UNITS SUITABLE FOR EITHER WHOLESALE OR 36 RETAIL TRADE.

9. "PERSON" MEANS BOTH THE PLURAL AND THE SINGULAR, AS THE CASE
 DEMANDS, AND INCLUDES INDIVIDUALS, PARTNERSHIPS, CORPORATIONS, COMPANIES,
 SOCIETIES AND ASSOCIATIONS.

4 10. "REFERENCE STANDARDS" MEANS THE PHYSICAL STANDARDS OF THE STATE
5 THAT SERVE AS THE LEGAL REFERENCE FROM WHICH ALL OTHER STANDARDS AND WEIGHTS
6 AND MEASURES ARE DERIVED.

7 11. "RETAIL SELLER" MEANS A PERSON WHOSE BUSINESS PURPOSE IS TO SELL
8 OR TO EXPOSE OR OFFER FOR SALE OR USE ANY PACKAGE OR COMMODITY BY WEIGHT,
9 MEASURE OR COUNT.

10 12. "SECONDARY STANDARDS" MEANS THE PHYSICAL STANDARDS THAT ARE 11 TRACEABLE TO THE REFERENCE STANDARDS THROUGH COMPARISONS USING ACCEPTABLE 12 LABORATORY PROCEDURES AND THAT ARE USED IN THE ENFORCEMENT OF WEIGHTS AND 13 MEASURES LAWS AND RULES.

14 13. "WEIGHT" AS USED IN CONNECTION WITH ANY COMMODITY MEANS NET15 WEIGHT.

16 14. "WEIGHTS" OR "MEASURES", OR BOTH, MEANS ALL WEIGHTS, MEASURES,
17 METERS OR COUNTERS OF EVERY KIND, INSTRUMENTS AND DEVICES FOR WEIGHING,
18 MEASURING, METERING OR COUNTING AND ANY APPLIANCE AND ACCESSORIES ASSOCIATED
19 WITH ANY OR ALL SUCH INSTRUMENTS AND DEVICES.

20

36-4002. Administration of chapter: advisory committee

21

A. THE DIRECTOR SHALL ADMINISTER THIS CHAPTER.

B. THE DIRECTOR MAY APPOINT AN ADVISORY COMMITTEE CONSISTING OF FIVE
MEMBERS TO REVIEW, ADVISE AND MAKE RECOMMENDATIONS TO THE DIRECTOR IN THE
ADMINISTRATION OF THIS CHAPTER AND REGARDING PROPOSED RULES PROVIDED FOR IN
THIS CHAPTER.

26

36-4003. <u>Standard weights and measures</u>

27 THE SYSTEM OF WEIGHTS AND MEASURES IN CUSTOMARY USE IN THE UNITED 28 STATES AND THE METRIC SYSTEM OF WEIGHTS AND MEASURES ARE JOINTLY RECOGNIZED. 29 AND EITHER ONE OR BOTH OF SUCH SYSTEMS SHALL BE USED FOR ALL COMMERCIAL PURPOSES IN THIS STATE. THE DEFINITIONS OF BASIC UNITS OF WEIGHT AND 30 31 MEASURE. THE TABLES OF WEIGHT AND MEASURE. AND WEIGHTS AND MEASURES 32 EQUIVALENTS. AS PUBLISHED BY THE NATIONAL INSTITUTE OF STANDARDS AND 33 TECHNOLOGY, ARE RECOGNIZED AND SHALL GOVERN WEIGHING AND MEASURING EQUIPMENT 34 AND TRANSACTIONS IN THIS STATE.

35

36-4004. <u>Physical standards</u>

WEIGHTS AND MEASURES THAT ARE TRACEABLE TO THE UNITED STATES PROTOTYPE
 STANDARDS SUPPLIED BY THE FEDERAL GOVERNMENT, OR APPROVED AS BEING
 SATISFACTORY BY THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY, SHALL BE

THE STATE REFERENCE STANDARDS OF WEIGHTS AND MEASURES, AND SHALL BE
 MAINTAINED IN SUCH CALIBRATION AS PRESCRIBED BY THE NATIONAL INSTITUTE OF
 STANDARDS AND TECHNOLOGY. ALL SECONDARY STANDARDS MAY BE PRESCRIBED BY THE
 DIRECTOR AND SHALL BE VERIFIED ON THEIR INITIAL RECEIPT AND AS OFTEN AFTER
 THE INITIAL RECEIPT AS DEEMED NECESSARY BY THE DIRECTOR.

6

36-4005. <u>Technical requirements for commercial devices</u>

7 THE SPECIFICATIONS, TOLERANCES AND OTHER TECHNICAL REQUIREMENTS FOR COMMERCIAL DEVICES AS ADOPTED BY THE NATIONAL CONFERENCE ON WEIGHTS AND 8 MEASURES AND PUBLISHED IN NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY 9 10 HANDBOOK 44, "SPECIFICATIONS, TOLERANCES, AND OTHER TECHNICAL REQUIREMENTS 11 FOR COMMERCIAL WEIGHING AND MEASURING DEVICES". SHALL APPLY TO COMMERCIAL WEIGHING AND MEASURING DEVICES IN THE STATE. THE EDITION OF THE NATIONAL 12 13 INSTITUTE OF STANDARDS AND TECHNOLOGY HANDBOOK 44 SHALL BE DETERMINED BY 14 RULE, PURSUANT TO SECTION 36-4006, SUBSECTION A, PARAGRAPH 4.

15 16 36-4006. <u>Powers and duties</u>

A. THE DEPARTMENT SHALL:

MAINTAIN CUSTODY OF THE STATE REFERENCE STANDARDS OF WEIGHTS AND
 MEASURES THAT ARE TRACEABLE TO THE UNITED STATES PROTOTYPE STANDARDS AND THAT
 ARE SUPPLIED TO THE STATES BY THE FEDERAL GOVERNMENT OR THAT ARE OTHERWISE
 APPROVED AS BEING SATISFACTORY BY THE NATIONAL INSTITUTE OF STANDARDS AND
 TECHNOLOGY.

22 2. KEEP THE STATE REFERENCE STANDARDS IN A SAFE AND SUITABLE PLACE IN
 23 THE METROLOGY LABORATORY OF THE DEPARTMENT AND ENSURE THAT THEY CANNOT BE
 24 REMOVED FROM THE LABORATORY EXCEPT FOR REPAIRS OR FOR CALIBRATION AS MAY BE
 25 PRESCRIBED BY THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

26

3. KEEP ACCURATE RECORDS OF ALL STANDARDS AND EQUIPMENT.

4. ADOPT ANY RULES NECESSARY TO CARRY OUT THIS CHAPTER AND ADOPT
REASONABLE RULES FOR THE ENFORCEMENT OF THIS CHAPTER. THESE RULES HAVE THE
FORCE AND EFFECT OF LAW AND SHALL BE ADOPTED PURSUANT TO TITLE 41, CHAPTER
6. IN ADOPTING THESE RULES, THE DIRECTOR SHALL CONSIDER, AS FAR AS IS
PRACTICABLE, THE REQUIREMENTS ESTABLISHED BY OTHER STATES AND BY AUTHORITY OF
THE UNITED STATES, EXCEPT THAT RULES MAY NOT BE MADE IN CONFLICT WITH THIS
CHAPTER.

5. PUBLISH RULES ADOPTED PURSUANT TO THIS CHAPTER AND ISSUE
 APPROPRIATE COPIES AT NO COST TO ALL NEW APPLICANTS FOR LICENSURE AND
 CERTIFICATION. UPDATED COPIES OF THE RULES SHALL BE DISTRIBUTED, ON REQUEST,
 AT NO COST TO THE PUBLIC.

6. INVESTIGATE COMPLAINTS MADE TO THE DEPARTMENT CONCERNING VIOLATIONS
 OF THIS CHAPTER AND, ON ITS OWN INITIATIVE, CONDUCT INVESTIGATIONS IT DEEMS
 APPROPRIATE IN ORDER TO DEVELOP INFORMATION RELATING TO PREVAILING PROCEDURES
 IN COMMERCIAL QUANTITY DETERMINATION AND POSSIBLE VIOLATIONS OF THIS CHAPTER
 AND TO PROMOTE ACCURACY IN THE DETERMINATION AND REPRESENTATION OF QUANTITY
 IN COMMERCIAL TRANSACTIONS.

7 7. ESTABLISH LABELING STANDARDS, ESTABLISH STANDARDS OF WEIGHT,
 8 MEASURE OR COUNT AND ESTABLISH REASONABLE STANDARDS OF FILL FOR ANY PACKAGED
 9 COMMODITY, AND MAY ESTABLISH STANDARDS FOR OPEN DATING INFORMATION.

8. GRANT, PURSUANT TO THIS CHAPTER, EXEMPTIONS FROM THE LICENSING
 PROVISIONS OF THIS CHAPTER FOR WEIGHING AND MEASURING INSTRUMENTS, STANDARDS
 OR DEVICES WHEN THE OWNERSHIP OR USE OF THE INSTRUMENT OR DEVICE IS LIMITED
 TO FEDERAL, STATE OR LOCAL GOVERNMENT AGENCIES IN THE PERFORMANCE OF OFFICIAL
 FUNCTIONS. ON REQUEST, THE DEPARTMENT MAY CONDUCT INSPECTIONS OF THE
 INSTRUMENTS, STANDARDS OR DEVICES AND SHALL CHARGE A FEE PURSUANT TO SECTION
 36-4012.

DELEGATE TO APPROPRIATE PERSONNEL ANY OF THE RESPONSIBILITIES OF
 THE DIRECTOR FOR THE PROPER ADMINISTRATION OF THIS CHAPTER.

19 10. INSPECT AND TEST WEIGHTS AND MEASURES THAT ARE KEPT OR THAT ARE20 OFFERED OR EXPOSED FOR SALE.

21 11. INSPECT AND TEST WEIGHTS AND MEASURES THAT ARE COMMERCIALLY USED
 22 TO DETERMINE IF THEY ARE CORRECT EITHER:

(a) IN DETERMINING THE WEIGHT, MEASURE OR COUNT OF COMMODITIES OR
 THINGS SOLD, OR OFFERED OR EXPOSED FOR SALE, ON THE BASIS OF WEIGHT, MEASURE
 OR COUNT.

(b) IN COMPUTING THE BASIC CHARGE OR PAYMENT FOR SERVICES RENDERED ON
 THE BASIS OF WEIGHT, MEASURE OR COUNT.

12. TEST, AT RANDOM, COMMODITIES, WEIGHTS AND MEASURES USED IN PUBLIC
 INSTITUTIONS FOR WHICH MONIES ARE APPROPRIATED BY THE LEGISLATURE. THE
 TESTING OF COMMODITIES, WEIGHTS AND MEASURES IN PUBLIC INSTITUTIONS SHALL
 INCLUDE ITEMS THAT:

32

(a) HISTORICALLY HAVE BEEN OF SHORT WEIGHT, MEASURE OR COUNT.

33 (b) HAVE BEEN FOUND TO BE OF SHORT WEIGHT, MEASURE OR COUNT BY OTHER
 34 JURISDICTIONS.

35

(c) ARE TO BE TESTED AS PART OF A REGIONAL OR NATIONAL SURVEY.

36 13. TEST, APPROVE FOR USE AND AFFIX A SEAL OF APPROVAL FOR USE ON ALL
 37 WEIGHTS, MEASURES AND COMMERCIAL DEVICES MANUFACTURED IN OR BROUGHT INTO THIS
 38 STATE AS IT FINDS TO BE CORRECT AND REJECT AND MARK AS REJECTED WEIGHTS,

MEASURES AND DEVICES IT FINDS TO BE INCORRECT. WEIGHTS, MEASURES AND DEVICES
 THAT HAVE BEEN REJECTED MAY BE SEIZED BY THE DEPARTMENT IF NOT CORRECTED
 WITHIN THE TIME SPECIFIED OR IF USED OR DISPOSED OF IN A MANNER NOT
 SPECIFICALLY AUTHORIZED. THE DEPARTMENT SHALL CONDEMN AND MAY SEIZE WEIGHTS,
 MEASURES AND DEVICES THAT ARE FOUND TO BE INCORRECT AND THAT ARE NOT CAPABLE
 OF BEING MADE CORRECT.

7 14. PUBLISH AND DISTRIBUTE WEIGHING AND MEASURING INFORMATION TO 8 CONSUMERS.

9 15. WEIGH, MEASURE OR INSPECT COMMODITIES THAT ARE KEPT, OFFERED OR 10 EXPOSED FOR SALE. SOLD OR IN THE PROCESS OF DELIVERY TO DETERMINE WHETHER 11 THEY CONTAIN THE AMOUNTS REPRESENTED AND WHETHER THEY ARE KEPT. OFFERED OR 12 EXPOSED FOR SALE, SOLD OR DELIVERED IN ACCORDANCE WITH THIS CHAPTER OR RULES ADOPTED PURSUANT TO THIS CHAPTER. IN CARRYING OUT THIS PARAGRAPH, THE 13 DIRECTOR SHALL EMPLOY RECOGNIZED SAMPLING PROCEDURES, SUCH AS ARE DESIGNATED 14 15 IN APPROPRIATE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY HANDBOOKS AND 16 SUPPLEMENTS TO THOSE HANDBOOKS, EXCEPT AS MODIFIED OR REJECTED BY RULE.

ALLOW REASONABLE VARIATIONS FROM THE STATED QUANTITY OF CONTENTS
 ONLY AFTER A COMMODITY HAS ENTERED INTRASTATE COMMERCE. THESE VARIATIONS
 SHALL INCLUDE THOSE CAUSED BY LOSS OR GAIN OF MOISTURE DURING THE COURSE OF
 GOOD DISTRIBUTION PRACTICE OR BY UNAVOIDABLE DEVIATIONS IN GOOD MANUFACTURING
 PRACTICE.

PRESCRIBE THE STANDARDS OF WEIGHT AND MEASURE AND ADDITIONAL
 EQUIPMENT METHODS OF TEST AND INSPECTION TO BE EMPLOYED IN THE ENFORCEMENT OF
 THIS CHAPTER. THE DIRECTOR MAY PRESCRIBE OR PROVIDE THE OFFICIAL TEST AND
 INSPECTION FORMS TO BE USED IN THE ENFORCEMENT OF THIS CHAPTER.

26 18. APPLY TO ANY COURT OF COMPETENT JURISDICTION FOR A TEMPORARY OR
 27 PERMANENT INJUNCTION RESTRAINING ANY PERSON FROM VIOLATING THIS CHAPTER.

19. REPORT TO THE GOVERNOR ON OR BEFORE AUGUST 1 OF EACH YEAR AND AT
SUCH OTHER TIMES AS MAY BE REQUIRED ON THE WORK ACCOMPLISHED UNDER THIS
CHAPTER.

31 20. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, EMPLOY SUCH PERSONNEL
 32 AS NEEDED TO ASSIST IN ADMINISTERING THIS CHAPTER.

B. THE DIRECTOR MAY PROVIDE FOR THE PERIODIC EXAMINATION AND
INSPECTION OF METERING DEVICES, INCLUDING DEVICES USED TO MEASURE USAGE OF
ELECTRICITY, NATURAL GAS OR WATER BY A CONSUMER. EXAMINATION AND INSPECTION
AUTHORITY DOES NOT APPLY TO METERING DEVICES OWNED BY FEDERAL, STATE OR LOCAL
GOVERNMENT AGENCIES UNLESS REQUESTED BY THE GOVERNMENT AGENCY THAT OWNS THE
METERING DEVICES.

1 C. THE DIRECTOR MAY ESTABLISH STANDARDS FOR THE PRESENTATION OF 2 COST-PER-UNIT INFORMATION. THIS SUBSECTION DOES NOT MANDATE THE USE OF 3 COST-PER-UNIT INFORMATION IN CONNECTION WITH THE SALE OF ANY STANDARD PACKED 4 COMMODITY.

5 D. TESTING AND INSPECTION CONDUCTED PURSUANT TO THIS CHAPTER SHALL BE 6 DONE, TO THE EXTENT PRACTICABLE, WITHOUT PRIOR NOTICE, BY A RANDOM SYSTEMATIC 7 METHOD DETERMINED BY THE DIRECTOR OR IN RESPONSE TO A COMPLAINT BY THE 8 PUBLIC. THE TESTING AND INSPECTION MAY BE DONE BY PRIVATE PERSONS AND FIRMS 9 PURSUANT TO CONTRACTS ENTERED INTO BY THE DIRECTOR IN ACCORDANCE WITH TITLE 10 41. CHAPTER 23. THE DIRECTOR SHALL ESTABLISH QUALIFICATIONS OF PERSONS AND 11 FIRMS FOR SELECTION FOR PURPOSES OF THIS SUBSECTION. THE PERSONS OR FIRMS 12 CONDUCTING THE TESTING AND INSPECTION SHALL IMMEDIATELY REPORT TO THE 13 DEPARTMENT ANY VIOLATIONS OF THIS CHAPTER AND INCORRECT WEIGHTS, MEASURES, 14 DEVICES FOR INVESTIGATION AND ENFORCEMENT BY THE DEPARTMENT. A PERSON OR 15 FIRM THAT TESTS OR INSPECTS A WEIGHT, MEASURE, DEVICE, VAPOR RECOVERY SYSTEM 16 OR VAPOR RECOVERY COMPONENT THAT IS REJECTED MAY NOT CORRECT THE DEFECT CAUSING THE REJECTION WITHOUT THE PERMISSION OF THE DEPARTMENT. 17

E. DURING THE COURSE OF AN INVESTIGATION OR AN ENFORCEMENT ACTION BY
 THE DEPARTMENT, INFORMATION REGARDING THE COMPLAINANT IS CONFIDENTIAL AND IS
 EXEMPT FROM TITLE 39, CHAPTER 1 UNLESS THE COMPLAINANT AUTHORIZES THE
 INFORMATION TO BE PUBLIC.

22

36-4007. Enforcement powers of the director and inspectors

A. WHEN NECESSARY FOR THE ENFORCEMENT OF THIS CHAPTER AND RULES
 ADOPTED PURSUANT TO THIS CHAPTER, THE DIRECTOR OR THE DIRECTOR'S AGENTS AND
 INSPECTORS SHALL:

ENTER ANY COMMERCIAL, NONPROFIT BUSINESS OR GOVERNMENTAL PREMISES
 DURING NORMAL OPERATING HOURS, EXCEPT THAT IF THE PREMISES ARE NOT OPEN TO
 THE PUBLIC, THE DIRECTOR OR THE DIRECTOR'S AGENTS AND INSPECTORS SHALL FIRST
 PRESENT THEIR CREDENTIALS.

ISSUE STOP-USE, HOLD AND REMOVAL ORDERS WITH RESPECT TO ANY WEIGHTS
 AND MEASURES COMMERCIALLY USED AND STOP-SALE, HOLD AND REMOVAL ORDERS WITH
 RESPECT TO ANY COMMODITIES, BULK COMMODITIES KEPT OR OFFERED OR EXPOSED FOR
 SALE.

34 3. SEIZE FOR USE AS EVIDENCE, WITHOUT FORMAL WARRANT, ANY INCORRECT OR
35 UNAPPROVED WEIGHT, MEASURE, PACKAGE OR COMMODITY FOUND TO BE USED, RETAINED,
36 OFFERED OR EXPOSED FOR SALE OR SOLD IN VIOLATION OF THIS CHAPTER OR RULES
37 ADOPTED PURSUANT TO THIS CHAPTER.

4. STOP ANY COMMERCIAL VEHICLE ON REASONABLE CAUSE TO BELIEVE THAT THE
 VEHICLE CONTAINS EVIDENCE OF A VIOLATION OF THIS CHAPTER AND, AFTER
 PRESENTMENT OF THE DIRECTOR'S OR THE DIRECTOR'S AGENT'S OR INSPECTOR'S
 CREDENTIALS, INSPECT THE CONTENTS, REQUIRE THAT THE PERSON IN CHARGE OF THE
 VEHICLE PRODUCE ANY DOCUMENTS IN THE PERSON'S POSSESSION CONCERNING THE
 CONTENTS AND REQUIRE THE PERSON TO PROCEED WITH THE VEHICLE TO SOME SPECIFIED
 PLACE FOR INSPECTION.

B. WITH RESPECT TO THE ENFORCEMENT OF THIS CHAPTER, THE DIRECTOR OR
THE DIRECTOR'S AGENTS OR INSPECTORS MAY ISSUE A CITATION TO ANY VIOLATORS OF
THIS CHAPTER PURSUANT TO SECTION 13-3903.

11 C. THE DIRECTOR OR THE DIRECTOR'S AGENTS OR INSPECTORS MAY APPLY FOR A 12 SPECIAL INSPECTION WARRANT FOR INSPECTION OF REAL OR PERSONAL PROPERTY FOR 13 THE PURPOSE OF ENFORCEMENT OF THIS CHAPTER. THE SPECIAL INSPECTION WARRANT 14 SHALL BE ISSUED AS PROVIDED IN SECTION 49-433.

15 16 36-4008. <u>State metrology laboratory; requirements; certificate</u>

<u>of approval</u>

17 A. THE DIRECTOR SHALL ESTABLISH AND OPERATE WITHIN THE DEPARTMENT THE18 STATE METROLOGY LABORATORY.

19B. A COMMERCIAL DEVICE MAY NOT BE APPROVED FOR USE IN THIS STATE20UNLESS THE DESIGN AND CONSTRUCTION COMPLY WITH NATIONAL INSTITUTE OF21STANDARDS AND TECHNOLOGY REQUIREMENTS.

C. ALL COMMERCIAL DEVICES APPROVED AND CERTIFIED SHALL MEET THE
 TOLERANCE, DESIGN AND CONSTRUCTION REQUIREMENTS PRESCRIBED BY THE NATIONAL
 INSTITUTE OF STANDARDS AND TECHNOLOGY.

D. ALL COMMERCIAL DEVICES DETERMINED UNFIT FOR APPROVAL SHALL BE
 REJECTED WITHOUT TESTING.

E. ALL WEIGHTS, WEIGHT SETS, MEASURES, METERS, COUNTERS OR OTHER
DEVICES USED BY THE DEPARTMENT SHALL SHOW AN INDICATION OF THE APPROVAL DATE
AND JURISDICTION ISSUING THE APPROVAL.

F. ALL PERSONS WHO INSTALL, SERVICE OR REPAIR COMMERCIAL DEVICES IN THIS STATE SHALL SUBMIT THE TEST EQUIPMENT USED TO THE DEPARTMENT'S METROLOGY LABORATORY FOR APPROVAL AT LEAST ANNUALLY. A CERTIFICATE OF APPROVAL THAT SPECIFICALLY IDENTIFIES THE TEST EQUIPMENT AND THAT IS ISSUED BY ANOTHER ATTE LABORATORY MAY BE ACCEPTED IN LIEU OF SUBMITTING EQUIPMENT IF THE OTHER STATE LABORATORY IS CERTIFIED BY THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY. G. ALL WEIGHTS, MEASURES, METERS, COUNTERS OR OTHER DEVICES SHALL BE
 TESTED IN THE ORDER THEY ARE SCHEDULED IN THE LABORATORY UNLESS ARRANGEMENTS
 FOR TESTING HAVE BEEN MADE IN ADVANCE.

H. WORK COMPLETED IN THE METROLOGY LABORATORY SHALL BE PAID FOR PURSUANT TO THE FEES PRESCRIBED IN THE RULES OF THE DEPARTMENT.

5 6

4

### 36-4009. <u>Disposition of seized property</u>

ONE HUNDRED EIGHTY DAYS AFTER THE FINAL DISPOSITION OF AN INVESTIGATION
AND ANY ENSUING ENFORCEMENT ACTION, THE DEPARTMENT OF HEALTH SERVICES MAY
DESTROY THOSE WEIGHTS, MEASURES OR DEVICES THAT ARE SEIZED PURSUANT TO
SECTION 36-4006 OR 36-4007 OR TRANSFER THE ITEMS TO THE DEPARTMENT OF
ADMINISTRATION FOR DISPOSITION AS STATE SURPLUS PROPERTY PURSUANT TO THE
DIRECTION OF THE DEPARTMENT OF ADMINISTRATION SURPLUS PROPERTY DIVISION.

13

36-4010. <u>Sale of commodities</u>

14A. A PERSON MAY NOT SELL OR OFFER OR EXPOSE FOR SALE LESS THAN THE15QUANTITY THE PERSON REPRESENTS.

B. AS A BUYER, A PERSON MAY NOT TAKE ANY MORE THAN THE QUANTITY THE
PERSON REPRESENTS WHEN THE PERSON FURNISHES THE WEIGHT OR MEASURE BY MEANS OF
WHICH THE QUANTITY IS DETERMINED.

C. A PERSON MAY NOT MISREPRESENT THE PRICE OF ANY COMMODITY OR SERVICE
 SOLD OR OFFERED, EXPOSED OR ADVERTISED FOR SALE BY WEIGHT, MEASURE OR COUNT
 OR REPRESENT THE PRICE IN ANY MANNER CALCULATED OR TENDING TO MISLEAD OR IN
 ANY WAY DECEIVE A PERSON.

D. EXCEPT AS OTHERWISE PROVIDED BY THE DIRECTOR, COMMODITIES IN LIQUID
 FORM SHALL BE SOLD BY LIQUID MEASURE OR BY WEIGHT, AND COMMODITIES NOT IN
 LIQUID FORM SHALL BE SOLD ONLY BY WEIGHT, BY MEASURE OR BY COUNT, AS LONG AS
 THE METHOD OF SALE PROVIDES ACCURATE QUANTITY INFORMATION.

E. IF THE QUANTITY IS DETERMINED BY THE SELLER, BULK SALES SHALL BE
 ACCOMPANIED BY A DELIVERY TICKET CONTAINING THE FOLLOWING INFORMATION UNLESS
 EXEMPTED BY RULE:

30 31 1. THE NAME AND ADDRESS OF THE VENDOR AND PURCHASER.

2. THE DATE DELIVERED.

32 3. THE QUANTITY DELIVERED AND THE QUANTITY ON WHICH THE PRICE IS33 BASED, IF THIS DIFFERS FROM THE DELIVERED QUANTITY.

34 4. THE IDENTITY IN THE MOST DESCRIPTIVE TERMS COMMERCIALLY
 35 PRACTICABLE, INCLUDING ANY QUALITY REPRESENTATION MADE IN CONNECTION WITH THE
 36 SALE.

37

5. THE COUNT OF INDIVIDUALLY WRAPPED PACKAGES, IF MORE THAN ONE.

F. EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER OR BY RULES ADOPTED
 PURSUANT TO THIS CHAPTER, ANY PACKAGE KEPT FOR THE PURPOSE OF SALE OR OFFERED
 OR EXPOSED FOR SALE SHALL BEAR ON THE OUTSIDE OF THE PACKAGE A DEFINITE,
 PLAIN AND CONSPICUOUS DECLARATION OF:

5 1. THE IDENTITY OF THE COMMODITY IN THE PACKAGE, UNLESS THE COMMODITY6 CAN EASILY BE IDENTIFIED THROUGH THE WRAPPER OR CONTAINER.

7

2. THE QUANTITY OF CONTENTS IN TERMS OF WEIGHT, MEASURE OR COUNT.

8 3. THE NAME AND PLACE OF BUSINESS OF THE MANUFACTURER, PACKER OR
9 DISTRIBUTOR, IN THE CASE OF ANY PACKAGE KEPT, OFFERED OR EXPOSED FOR SALE OR
10 SOLD IN ANY PLACE OTHER THAN ON THE PREMISES WHERE PACKED.

114. THE PRICE, EXCEPT AS PROVIDED IN SUBSECTIONS J AND K OF THIS12SECTION.

G. IN ADDITION TO THE DECLARATIONS REQUIRED BY SUBSECTION F OF THIS
SECTION, ANY PACKAGE BEING ONE OF A LOT CONTAINING RANDOM WEIGHTS OF THE SAME
COMMODITY AND BEARING THE TOTAL SELLING PRICE OF THE PACKAGE SHALL BEAR ON
THE OUTSIDE OF THE PACKAGE A PLAIN AND CONSPICUOUS DECLARATION OF THE PRICE
PER SINGLE UNIT OF WEIGHT.

H. IF A PACKAGED COMMODITY IS ADVERTISED IN ANY MANNER WITH THE RETAIL
PRICE STATED, THERE SHALL BE CLOSELY AND CONSPICUOUSLY ASSOCIATED WITH THE
RETAIL PRICE A DECLARATION OF QUANTITY AS IS REQUIRED BY LAW OR RULE TO
APPEAR ON THE PACKAGE. IF A DUAL DECLARATION IS REQUIRED, ONLY THE
DECLARATION THAT SETS FORTH THE QUANTITY IN TERMS OF THE SMALLER UNIT OF
WEIGHT OR MEASURE NEED APPEAR IN THE ADVERTISEMENT.

I. THE PACKAGER OF A SHORT WEIGHTED ITEM OFFERED FOR SALE IS LIABLE
 UNDER THIS CHAPTER.

J. INSTEAD OF EACH PACKAGE BEARING THE PRICE AS REQUIRED UNDER
SUBSECTION F, PARAGRAPH 4 OF THIS SECTION, THE SELLER MAY POST THE PRICE OF
THE PACKAGE ON THE SHELF OR DISPLAY AT THE POINT OF DISPLAY OF THE PRODUCT.

K. IF THE PACKAGE IS OFFERED FOR SALE AT A PRICE REDUCED BY A
PERCENTAGE OR A FIXED AMOUNT FROM A PREVIOUSLY OFFERED PRICE, THE REDUCTION
SHALL BE DISPLAYED AT THE POINT OF DISPLAY OF THE PACKAGE IN THE MANNER
REQUIRED BY THIS SECTION.

33

L. ON THE REQUEST OF A CONSUMER, A RETAIL SELLER SHALL PROVIDE:

A MEANS OF RECORDING PRICES SUCH AS GREASE PENCILS, FELT MARKERS,
 SCANNERS OR OTHER SIMILAR INSTRUMENTS FOR RECORDING THE PRICE.

36 2. A WRITTEN STATEMENT OF THE RETAIL SELLER'S POLICIES REGARDING
 37 ERRORS IN PRICING.

136-4011.Licensing devices used for commercial purposes;2authorization to test devices used for all other3purposes; fees: certification: transaction privilege4tax license records; notification; issuance and5revocation of license; violation; classification

A. A PERSON MAY NOT USE A COMMERCIAL DEVICE UNLESS THE DEVICE IS
LICENSED OR CERTIFIED AS PROVIDED IN THIS CHAPTER.

8 B. A LICENSE SHALL BE OBTAINED ANNUALLY FROM THE DEPARTMENT ON FORMS PRESCRIBED AND FURNISHED BY THE DEPARTMENT. THE FEE PRESCRIBED IN THIS 9 10 CHAPTER SHALL BE SUBMITTED WITH THE PRESCRIBED FORM. A LICENSE SHALL BE OBTAINED NOT LATER THAN THIRTY DAYS FOLLOWING THE FIRST DAY OF COMMERCIAL USE 11 12 FOR ORIGINAL INSTALLATIONS. IF THE OWNERSHIP OF A DEVICE THAT IS LICENSED IS TRANSFERRED. THE OWNERSHIP OF THE LICENSE MAY BE TRANSFERRED. ON TRANSFER OF 13 A LICENSE. NEW LICENSEES SHALL NOTIFY THE DEPARTMENT OF THE LICENSEE'S NAME 14 15 AND ADDRESS AND THE LOCATION OF THE DEVICE. A LICENSE FOR A DEVICE SHALL BE POSTED AT THE LICENSED BUSINESS LOCATION IN A MANNER THAT PROVIDES THE 16 17 DEPARTMENT ACCESS TO THE LICENSE DURING NORMAL BUSINESS HOURS.

C. ANY LICENSE ISSUED UNDER THIS CHAPTER APPLIES ONLY TO THE
 INSTRUMENT OR DEVICE SPECIFIED IN THE LICENSE, EXCEPT THAT THE DIRECTOR MAY
 PERMIT THE LICENSE TO BE APPLICABLE TO A REPLACEMENT FOR THE ORIGINAL
 INSTRUMENT OR DEVICE.

22 D. NONCOMMERCIAL DEVICES MAY BE TESTED BY THE DEPARTMENT PURSUANT TO 23 THIS CHAPTER.

E. ANY PORTABLE MEASURING DEVICE THAT IS FIVE GALLONS OR LESS AND THAT
 IS PROPERLY MARKED BY THE MANUFACTURER ACCORDING TO STANDARDS ESTABLISHED BY
 THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY IS EXEMPT FROM THE
 LICENSING AND CERTIFICATION PROVISIONS OF THIS CHAPTER.

F. FOR THE PURPOSE OF ASCERTAINING COMPLIANCE WITH THE LICENSING
 PROVISIONS OF THIS ARTICLE, THE DEPARTMENT OF REVENUE SHALL PROVIDE THE
 DEPARTMENT OF HEALTH SERVICES WITH A MONTHLY REPORT OF ALL TRANSACTION
 PRIVILEGE TAX LICENSES ISSUED IN THE PRIOR MONTH. THE REPORT SHALL INCLUDE
 THE BUSINESS NAME, TYPE OF BUSINESS AND BUSINESS ADDRESS OF THE LICENSEE.

G. THE DEPARTMENT OF REVENUE SHALL ANNUALLY NOTIFY EACH TRANSACTION
 PRIVILEGE TAX LICENSEE THAT THE LICENSEE IS REQUIRED TO REGISTER NEW OR
 EXISTING WEIGHING OR MEASURING DEVICES WITH THE DEPARTMENT OF HEALTH
 SERVICES.

H. A PERSON OR THE PERSON'S AGENT WHO KNOWINGLY FILES WITH THE
 DEPARTMENT ANY NOTICE, STATEMENT OR OTHER DOCUMENT REQUIRED UNDER THIS

SECTION THAT IS FALSE OR THAT CONTAINS ANY MATERIAL MISSTATEMENT OF FACT IS 1 2 GUILTY OF A CLASS 2 MISDEMEANOR. 36-4012. Licensing fees 3 4 A. THE FOLLOWING FEES SHALL BE PAID TO THE DEPARTMENT AS LICENSE FEES 5 FOR DEVICES USED FOR COMMERCIAL PURPOSES: 6 SCHEDULES OF FEES 7 1. WEIGHING DEVICES: 8 0 - 500 POUNDS CAPACITY (OR METRIC EQUIVALENT) \$ 12.00 9 501 - 2.000 POUNDS CAPACITY 18.00 10 2.001 - 7.500 POUNDS CAPACITY 36.00 11 2. LINEAR MEASURING DEVICES: 12 ALL LINEAR MEASURING MECHANICAL DEVICES 24.00 3. TIME MEASURING DEVICES: 13 14 ALL TIME MEASURING MECHANICAL, ELECTRICAL AND 15 ELECTRONIC DEVICES 24.00 16 4. COUNTING DEVICES: ALL MECHANICAL AND ELECTRONIC COUNTING DEVICES 12.00 17 18 B. TESTING, INSPECTION, CERTIFICATION AND CALIBRATION FEES SHALL BE 19 PAID PURSUANT TO THE FEE SCHEDULE SET FORTH IN SUBSECTION A OF THIS SECTION OR THE RULES OF THE DEPARTMENT. THE DEPARTMENT SHALL WAIVE LICENSE FEES FOR 20 21 CUSTOMER PARKING TIME MEASURING METERS OWNED BY MUNICIPALITIES. 22 C. THE FEES SET FORTH IN THIS SECTION ARE THE MAXIMUM AMOUNTS THAT MAY 23 BE CHARGED, BUT THE DIRECTOR, AT THE DIRECTOR'S DISCRETION, MAY REDUCE THE 24 FEES TO ANY AMOUNT THE DIRECTOR DEEMS NECESSARY. 25 D. THE DIRECTOR MAY PRORATE THE FEES SET FORTH IN THIS SECTION FOR 26 PARTIAL YEAR APPLICATION. 27 E. IF A PERSON FAILS TO PAY A LICENSE, PERMIT OR CERTIFICATION FEE ON OR BEFORE THE DATE THE FEE IS DUE, THE DEPARTMENT SHALL IMPOSE A PENALTY 28 29 EQUAL TO TWENTY PERCENT OF THE FEE. FOR EACH THIRTY-DAY PERIOD AFTER THE 30 DATE THE FEE IS DUE. THE DEPARTMENT SHALL IMPOSE AN ADDITIONAL PENALTY EQUAL 31 TO TWENTY PERCENT OF THE FEE. IF A PERSON FAILS TO PAY A LICENSE, PERMIT OR 32 CERTIFICATION FEE AND ALL RELATED PENALTIES FOR NINETY DAYS AFTER THE FEE IS 33 DUE. THE DEPARTMENT SHALL CANCEL THE LICENSE. PERMIT OR CERTIFICATION. 34 36-4013. Fees to general fund 35 THE DIRECTOR SHALL DEPOSIT. PURSUANT TO SECTIONS 35-146 AND 35-147. ALL 36 FEES COLLECTED PURSUANT TO THIS CHAPTER IN THE STATE GENERAL FUND.

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## ARTICLE 2. REGULATION

# 36-4021. Unlawful use of device: authorization to prevent such use: seizure: violation: classification

4

A. WHEN ANY COMMERCIAL DEVICE SPECIFIED IN THIS CHAPTER IS IN 5 COMMERCIAL USE AND A VALID LICENSE FOR THE DEVICE HAS NOT BEEN PROCURED BY THE OWNER, THE OWNER'S AGENT OR THE OPERATOR OF THE DEVICE, THE DEPARTMENT, 6 7 AFTER GIVING NOTICE OF THE LICENSING REQUIREMENTS TO THE OWNER, THE OWNER'S AGENT OR THE OPERATOR. SHALL PROHIBIT THE FURTHER COMMERCIAL USE OF THE 8 9 UNLICENSED DEVICE UNTIL THE PROPER LICENSE HAS BEEN ISSUED. THE DEPARTMENT 10 MAY EMPLOY AND ATTACH TO THE DEVICE SUCH FORMS, NOTICES OR SECURITY SEALS AS 11 IT CONSIDERS NECESSARY TO PREVENT THE CONTINUED UNAUTHORIZED USE OF THE 12 DEVICE.

13

B. THE DEPARTMENT MAY ALSO:

14 1. WITH APPROVAL OF THE DEPARTMENT, REMOVE AN OFFICIAL REJECTION TAG 15 PLACED ON A COMMERCIAL DEVICE.

16 2. PLACE IN SERVICE, UNTIL AN OFFICIAL EXAMINATION CAN BE MADE, A COMMERCIAL DEVICE THAT HAS BEEN OFFICIALLY REJECTED OR PLACED OUT OF SERVICE. 17

18 3. PLACE IN SERVICE, UNTIL AN OFFICIAL EXAMINATION CAN BE MADE, A 19 COMMERCIAL DEVICE FOR WHICH A COMMERCIAL DEVICE APPLICATION HAS BEEN COMPLETED AND SUBMITTED TO THE DEPARTMENT. 20

21 C. THE OWNER OF ANY BUSINESS WHO HAS NOT APPLIED FOR AND HAS NOT BEEN ISSUED A LICENSE FOR THE RIGHT TO DO BUSINESS INVOLVING THE USE OF A 22 23 COMMERCIAL DEVICE BY THE DEPARTMENT AND WHO IS FOUND SELLING OR OFFERING FOR 24 SALE OR DELIVERING OR DISTRIBUTING TO A CONSUMER IS GUILTY OF A CLASS 2 25 MISDEMEANOR. AND THE DEPARTMENT SHALL CONFISCATE AND SEIZE THE COMMERCIAL 26 DEVICE OR ANY OTHER SUCH MEASURING DEVICE USED BY THE BUSINESS FOR THE SALE, 27 DELIVERY OR DISTRIBUTION AS EVIDENCE.

28 D. THE DIRECTOR AND ANY OTHER AUTHORIZED PERSONNEL ARE NOT LIABLE TO 29 THE OWNER OR ANY OTHER PERSONS, FIRMS, PARTNERSHIPS, CORPORATIONS, TRUSTS OR 30 AGENCIES FOR DAMAGES, DIRECTLY OR INDIRECTLY, CAUSED BY OR RESULTING FROM THE 31 SEIZURE.

32 E. IF A COMMERCIAL DEVICE LICENSED PURSUANT TO THIS CHAPTER IS USED 33 CONTRARY TO ANY PROVISION OF THIS CHAPTER OR ANY RULE ADOPTED PURSUANT TO 34 THIS CHAPTER. THE DEPARTMENT. IN ADDITION TO ANY OTHER PENALTY IMPOSED BY 35 THIS CHAPTER, SHALL SUSPEND, REVOKE OR REFUSE TO RENEW THE LICENSE.

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## 36-4022. Revocation or suspension of licenses; procedure; judicial review

A. EXCEPT AS OTHERWISE PROVIDED BY THIS SECTION, ANY PROCEEDING TO REVOKE OR SUSPEND A LICENSE ISSUED PURSUANT TO THIS CHAPTER SHALL BE CONDUCTED IN ACCORDANCE WITH TITLE 41, CHAPTER 6, ARTICLE 10.

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B. THE DIRECTOR MAY INITIATE PROCEEDINGS FOR REVOCATION OR SUSPENSION 7 OF A LICENSE ISSUED PURSUANT TO THIS CHAPTER ON THE DIRECTOR'S OWN MOTION OR ON A VERIFIED COMPLAINT FOR NONCOMPLIANCE WITH OR A VIOLATION OF THIS CHAPTER OR OF ANY RULE ADOPTED PURSUANT TO THIS CHAPTER.

10 C. IF. AFTER HAVING BEEN SERVED WITH THE NOTICE OF HEARING AS PROVIDED FOR IN TITLE 41, CHAPTER 6, ARTICLE 10, THE LICENSEE FAILS TO APPEAR AT THE 11 12 HEARING AND DEFEND, THE DEPARTMENT SHALL PROCEED TO HEAR EVIDENCE AGAINST THE 13 LICENSEE AND SHALL ENTER AN ORDER AS JUSTIFIED BY THE EVIDENCE. THE ORDER IS 14 FINAL UNLESS THE LICENSEE PETITIONS FOR A REVIEW AS PROVIDED IN TITLE 41. 15 CHAPTER 6, ARTICLE 10.

D. AT ALL HEARINGS THE ATTORNEY GENERAL OF THIS STATE, AN ASSISTANT 16 17 ATTORNEY GENERAL OR A SPECIAL ASSISTANT DESIGNATED BY THE ATTORNEY GENERAL 18 SHALL APPEAR AND REPRESENT THE DEPARTMENT.

19 E. EXCEPT AS PROVIDED IN SECTION 41-1092.08, SUBSECTION H, ANY FINAL 20 ADMINISTRATIVE DECISION MADE PURSUANT TO THIS CHAPTER IS SUBJECT TO JUDICIAL 21 REVIEW PURSUANT TO TITLE 12. CHAPTER 7. ARTICLE 6.

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36-4023. Violations: classification: jurisdiction

23

A. A PERSON IS GUILTY OF A CLASS 1 MISDEMEANOR WHO:

24 1. KNOWINGLY HINDERS, INTERFERES WITH OR OBSTRUCTS IN ANY WAY THE 25 DIRECTOR OR ANY OF THE DIRECTOR'S AGENTS OR INSPECTORS IN ENTERING THE 26 PREMISES WHERE A COMMERCIAL DEVICE MAY BE KEPT FOR INSPECTING OR TESTING OR 27 IN THE PERFORMANCE OF THE DIRECTOR'S OR THE DIRECTOR'S AGENT'S OR INSPECTOR'S 28 OFFICIAL DUTIES.

29 2. IMPERSONATES IN ANY WAY THE DIRECTOR OR ANY OF THE DIRECTOR'S AGENTS OR INSPECTORS BY THE USE OF THE DIRECTOR'S SEAL OR A COUNTERFEIT OF 30 31 THE DIRECTOR'S SEAL OR IN ANY OTHER MANNER.

3. USES. OR HAS IN POSSESSION FOR THE PURPOSE OF USING FOR ANY 32 33 COMMERCIAL PURPOSE, SELLS, OFFERS OR EXPOSES FOR SALE OR HIRE, OR HAS IN 34 POSSESSION FOR THE PURPOSE OF SELLING OR HIRING AN INCORRECT WEIGHT OR 35 MEASURE OR ANY DEVICE OR INSTRUMENT USED OR CALCULATED TO FALSIFY ANY WEIGHT 36 OR MEASURE.

4. SELLS, OR OFFERS OR EXPOSES FOR SALE, LESS THAN THE QUANTITY THE 37 38 PERSON REPRESENTS OF ANY COMMODITY, THING OR SERVICE.

5. TAKES MORE THAN THE QUANTITY THE PERSON REPRESENTS OF ANY
 COMMODITY, THING OR SERVICE, WHEN, AS BUYER, THE PERSON FURNISHES THE WEIGHT
 OR MEASURE BY MEANS OF WHICH THE AMOUNT OF THE COMMODITY, THING OR SERVICE IS
 DETERMINED.

5

B. A PERSON IS GUILTY OF A CLASS 2 MISDEMEANOR WHO:

6 1. USES, OR HAS IN POSSESSION FOR THE PURPOSE OF CURRENT USE FOR ANY 7 COMMERCIAL PURPOSE, A WEIGHT OR MEASURE THAT DOES NOT BEAR A SEAL OR MARK OF 8 APPROVAL BASED ON AN INSPECTION AND TEST AS PROVIDED IN SECTION 36-4006, SUBSECTION A. PARAGRAPH 11. UNLESS THE WEIGHT OR MEASURE HAS BEEN EXEMPTED 9 10 FROM TESTING BY ORDER OF THE DEPARTMENT, OR UNLESS THE DEVICE HAS BEEN PLACED IN SERVICE AS PROVIDED IN THIS CHAPTER. ANY PERSON OR PERSONS MAKING USE OF 11 12 A COMMERCIAL DEVICE THAT IS SUBJECT TO THIS CHAPTER SHALL REPORT TO THE DIRECTOR OR THE DIRECTOR'S REPRESENTATIVES, IN WRITING, THE NUMBER AND 13 14 LOCATION OF THE COMMERCIAL DEVICE AND SHALL PROMPTLY REPORT THE INSTALLATION 15 OF ANY NEW COMMERCIAL DEVICE.

DISPOSES OF ANY REJECTED OR CONDEMNED WEIGHT OR MEASURE IN A MANNER
 CONTRARY TO LAW OR RULE.

18 3. REMOVES FROM ANY WEIGHT OR MEASURE, CONTRARY TO LAW OR RULE, ANY
 19 TAG, SEAL OR MARK PLACED ON THE WEIGHT OR MEASURE BY THE APPROPRIATE
 20 AUTHORITY PURSUANT TO THIS CHAPTER.

4. KEEPS FOR THE PURPOSE OF SELLING, ADVERTISING OR OFFERING OR
 EXPOSING FOR SALE OR SELLS ANY COMMODITY, THING OR SERVICE IN A CONDITION OR
 MANNER CONTRARY TO LAW OR RULE.

5. USES IN RETAIL TRADE, EXCEPT IN THE PREPARATION OF PACKAGES PUT UP IN ADVANCE OF SALE AND OF MEDICAL PRESCRIPTIONS, A WEIGHT OR MEASURE THAT IS SO POSITIONED THAT ITS INDICATIONS CANNOT BE ACCURATELY READ AND THE WEIGHING, METERING, MEASURING OR COUNTING OPERATION CANNOT BE OBSERVED FROM SOME POSITION THAT MAY REASONABLY BE ASSUMED BY A CUSTOMER.

6. VIOLATES THIS CHAPTER OR RULES ADOPTED UNDER THIS CHAPTER. A
CONTINUING VIOLATION MAY BE DEEMED TO BE A SEPARATE VIOLATION EACH DAY DURING
WHICH THE VIOLATION IS COMMITTED FOR THE PURPOSE OF IMPOSING A FINE.

32 C. THE PROVISIONS OF THIS SECTION ARE IN ADDITION TO AND NOT IN
 33 LIMITATION OF ANY OTHER PROVISION OF LAW.

34D. THE ATTORNEY GENERAL AND THE COUNTY ATTORNEY SHALL HAVE CONCURRENT35JURISDICTION TO PROSECUTE VIOLATIONS OF THIS CHAPTER.

36

36-4024. Presumptive evidence of use

WHEN A WEIGHT, MEASURE, METER, COUNTER OR COMMERCIAL DEVICE IS IN OR
 ABOUT ANY PLACE IN WHICH OR FROM WHICH BUYING OR SELLING IS COMMONLY CARRIED

ON, THERE SHALL BE A REBUTTABLE PRESUMPTION THAT THE WEIGHT, MEASURE, METER,
 COUNTER OR COMMERCIAL DEVICE IS REGULARLY USED FOR THE BUSINESS PURPOSE OF
 THE PLACE.

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#### 36-4025. <u>Civil penalties</u>

A. A PERSON WHO VIOLATES THIS CHAPTER, ANY RULE OF THE DEPARTMENT OR 5 ANY LICENSE REQUIREMENT IS SUBJECT TO A CIVIL PENALTY IMPOSED BY THE 6 7 DIRECTOR. A PERSON WHO VIOLATES THIS CHAPTER, ANY RULE OF THE DEPARTMENT OR 8 ANY LICENSE REQUIREMENT MAY REQUEST A HEARING TO REVIEW A CIVIL PENALTY IMPOSED UNDER THIS SECTION. THE DEPARTMENT SHALL CONDUCT THE HEARING IN 9 ACCORDANCE WITH TITLE 41, CHAPTER 6, ARTICLE 10. EXCEPT AS PRESCRIBED IN 10 SUBSECTION B OF THIS SECTION. THE CIVIL PENALTY MAY NOT EXCEED ONE THOUSAND 11 12 DOLLARS FOR EACH INFRACTION OR MORE THAN TEN THOUSAND DOLLARS FOR ANY THIRTY-DAY PERIOD AT EACH BUSINESS LOCATION, PROVIDED THAT NO PERSON SHALL BE 13 ASSESSED MORE THAN FIFTY THOUSAND DOLLARS PER THIRTY-DAY PERIOD. 14

B. THE DIRECTOR MAY DOUBLE THE MAXIMUM CIVIL PENALTY IF ANY OF THE
FOLLOWING APPLIES:

A COMMERCIAL DEVICE IS FOUND TO BE IN VIOLATION WITH RESULTS THAT
 FAVOR THE RETAILER AT MORE THAN TWICE THE ALLOWABLE TOLERANCE AS STATED IN
 NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY HANDBOOK 44.

A PACKAGE IS FOUND TO EXCEED THE MAXIMUM ALLOWABLE VARIATION FOR
 THE LABELED QUANTITY ALLOWED IN NATIONAL INSTITUTE OF STANDARDS AND
 TECHNOLOGY HANDBOOK 133 OR THE AVERAGE ERROR OF THE LOT IS TWICE THE SAMPLE
 ERROR LIMIT IN FAVOR OF THE RETAILER.

3. A MAXIMUM CIVIL PENALTY HAS BEEN IMPOSED ON A RETAILER FOR A PRICE
POSTING OR PRICE VERIFICATION VIOLATION AND IN A REINSPECTION, IF CONDUCTED
WITHIN NINETY DAYS, THE FAILURE RATE IS TEN PERCENT OR MORE AND AT LEAST ONE
ERROR IS IN FAVOR OF THE RETAILER.

C. THE ATTORNEY GENERAL SHALL BRING ACTIONS TO RECOVER CIVIL PENALTIES
 PURSUANT TO THIS SECTION IN THE SUPERIOR COURT IN THE COUNTY IN WHICH THE
 VIOLATION OCCURRED OR IN A COUNTY WHERE THE AGENCY HAS ITS OFFICE. ALL
 MONIES DERIVED FROM CIVIL PENALTIES SHALL BE DEPOSITED, PURSUANT TO SECTIONS
 35-146 AND 35-147, IN THE STATE GENERAL FUND.

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#### 36-4026. Delinquent civil penalties and fees

IN ADDITION TO ANY OTHER PENALTY, IF A CIVIL PENALTY OR ANY FEE DUE PURSUANT TO THIS CHAPTER HAS NOT BEEN PAID WITHIN THIRTY DAYS AFTER THE DUE DATE, THE CIVIL PENALTY OR FEE IS DELINQUENT AND THE DEPARTMENT MAY REFUSE TO ISSUE A LICENSE OR MAY REVOKE A LICENSE PURSUANT TO THIS CHAPTER UNTIL THE CIVIL PENALTY OR FEE IS PAID IN FULL.

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#### Sec. 15. Section 41-112, Arizona Revised Statutes, is amended to read:

# 41-112. <u>Arizona biofuels conversion program; fund; program</u> <u>termination; definitions</u>

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A. The Arizona biofuels conversion program is established in the governor's energy office OF ENERGY POLICY to encourage the use of biofuels.

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B. The Arizona biofuels conversion program fund is established consisting of monies received through gifts, grants, donations, other state and United States government funds or private sources.

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C. The energy office OF ENERGY POLICY shall develop a procedure for awarding grants from the fund to provide for conversion of existing and installation of new storage and dispensing equipment for biofuels as follows:

12 1. For commercial motor fuel dispensing sites, the procedure for 13 awarding grants shall include consideration of traffic patterns, the 14 proximity to other biofuel dispensing sites, fleet involvement, the 15 population of vehicles that uses biofuels and the costs of the project.

2. For county, city, town and school district motor fuel dispensing sites, the procedure for awarding grants shall include consideration of the project plan, the expected usage of biofuels per year for each site, the number of vehicles in the fleet capable of using biofuels and the costs of the project.

3. For wholesale manufacturing and distribution facility sites, the procedure for awarding grants shall include consideration of the project plan, the type of biofuel to be manufactured or distributed, an assessment of potential customers for the biofuel to be manufactured or distributed, how the project furthers the use of biofuels and the costs of the project.

26 D. The energy office OF ENERGY POLICY shall administer the program and 27 the fund.

E. Subject to the availability of monies in the fund, the energy office OF ENERGY POLICY shall award grants equal to the lesser of seventy-five thousand dollars or the conversion cost per site to applicants who provide an acceptable project plan that includes a detailed cost schedule and timeline for the completion of the project.

33

F. Monies in the fund:

Shall be spent only for the purposes prescribed in this section,
 except that the energy office OF ENERGY POLICY may use up to five per cent
 PERCENT of the monies in the fund each year to administer the program.

37

2. Are continuously appropriated.

3. Are exempt from the provisions of section 35-190 relating to 1 2 lapsing of appropriations. G. The program established by this section ends on July 1, 2015 3 4 pursuant to section 41-3102. 5 H. For the purposes of this section, "biofuel" and "biomass" have the same meanings prescribed in section 41-2051 49-1501. 6 7 Sec. 16. Title 49, Arizona Revised Statutes, is amended by adding 8 chapter 11. to read: 9 CHAPTER 11 10 WEIGHTS AND MEASURES ARTICLE 1. GENERAL PROVISIONS 11 12 ARTICLE 2. STATE ADMINISTRATION OF WEIGHTS AND MEASURES ARTICLE 3. METHOD OF SALE OF COMMODITIES AND SERVICES 13 ARTICLE 4. REGULATION 14 ARTICLE 5. MOTOR FUEL 15 ARTICLE 6. GASOLINE VAPOR CONTROL 16 Sec. 17. Transfer and renumber 17 Title 41, chapter 15, Arizona Revised Statutes, is transferred and 18 renumbered for placement in title 49, Arizona Revised Statutes, as added by 19 20 this act, as chapter 11. Title 41, chapter 15, articles 1, 2, 3, 5, 6 and 7, 21 Arizona Revised Statutes, are transferred and renumbered for placement in 22 title 49, chapter 11, Arizona Revised Statutes, as added by this act, as 23 articles 1, 2, 3, 4, 5 and 6, respectively. The following section is transferred and renumbered for placement in title 49, chapter 11, article 1: 24 25 Former Section New Section 26 27 The following sections are transferred and renumbered for placement in title 49, chapter 11, article 2: 28 29 Former Sections New Sections 30 31 32 33 34 The following sections are transferred and renumbered for placement in 35 title 49, chapter 11, article 3: Former Sections 36 New Sections 37 38 

1		41-2083
2		41-2083.01
3		41-2084
4		41-2085
5		41-2086
6		The following sections are transferred and renumbered for placement in
7	title	49, chapter 11, article 4:
8		Former Sections <u>New Sections</u>
9		41-2111
10		41-2112
11		41-2113
12		41-2114
13		41-2115
14		41-2116
15		The following sections are transferred and renumbered for placement in
16	title	49, chapter 11, article 5:
17		Former Sections <u>New Sections</u>
18		41-2121
19		41-2122
20		41-2123
21		41-2124
22		41-2124.01
23		41-2125
24		41-2126
25		41-2127
26		41-2128
27		The following sections are transferred and renumbered for placement in
28	title	49, chapter 11, article 6:
29		Former Sections <u>New Sections</u>
30		41-2132
31		41-2133
32		41-2134
33		41-2135
34		Section 41-2131, Arizona Revised Statutes, as amended by Laws 2014,
35	chapte	er 132, section 5, is transferred and renumbered for placement in title
36	49, c	hapter 11, article 6, Arizona Revised Statutes, as section 49–1591.
37	Sectio	on 41–2131, Arizona Revised Statutes, as amended by Laws 2014, chapter

132, section 6, is transferred and renumbered for placement in title 49, 1 2 chapter 11, article 6, Arizona Revised Statutes, as section 49-1591. 3 Sec. 18. Repeal Sections 41-2052, 41-2061, 41-2062, 41-2063, 41-2064 and 41-2067, 4 5 Arizona Revised Statutes, are repealed. 6 Sec. 19. Repeal 7 Section 41-3021.02, Arizona Revised Statutes, is repealed. Sec. 20. Section 49-1501, Arizona Revised Statutes, as transferred and 8 9 renumbered, is amended to read: 10 49-1501. Definitions In this chapter, unless the context otherwise requires: 11 12 1. "Biodiesel" means a diesel fuel substitute that is produced from

13 nonpetroleum renewable resources as defined by the United States 14 environmental protection agency and that meets the registration requirements 15 for fuels and fuel additives established by the United States environmental 16 protection agency pursuant to section 211 of the clean air act, as defined in 17 section 49-401.01.

18 2. "Biodiesel blend" means a motor fuel that is comprised COMPOSED of
19 biodiesel and diesel fuel and that is designated by the letter "B", followed
20 by the numeric value of the volume percentage of biodiesel in the blend.

3. "Biofuel" means a solid, liquid or gaseous fuel that is derived
 from biomass and that can be used directly for heating or power or as a motor
 fuel.

4. "Biofuel blend" means a motor fuel that is comprised COMPOSED of a
biofuel, that is combined with a petroleum based fuel and that is designated
by the volume percentage of biofuel in the blend.

5. "Biomass" means biological material, such as plant or animal matter, excluding organic material that has been transformed by geological processes into substances such as coal or petroleum or derivatives thereof, that may be transformed into biofuel.

31 6. "Certification" means the process of determining the accuracy of a
 32 commercial device to the standards of this state by a registered service
 33 representative or the department.

34 7. "Commercial device" means any weighing, measuring, metering or 35 counting device that is used to determine the direct cost of things sold or 36 offered or exposed for sale, or used to establish a fee for service if the 37 cost is based on weight, measure or count, except that it does not include

those devices used for in-house packaging, inventory control or law 1 2 enforcement purposes. 3 8. "Commodity" means any merchandise, product or substance produced or 4 distributed for sale to or use by others. 5 9. "Correct" as used in connection with weights and measures means 6 conformance to all applicable requirements of this chapter. 7 10. "Department" means the department of weights and measures.  $\frac{11}{10}$  "Diesel fuel" means a refined middle distillate that is used 8 9 as a fuel in a compression-ignition internal combustion engine and that meets 10 the specifications of ASTM D975. 12. "Director" means the director of the department of weights and 11 12 measures. 13. "E85" means a fuel ethanol gasoline blend that meets the 13 14 specifications of ASTM D5798. 15 14. 12. "Inspector" means A state officials OFFICIAL of the 16 department of weights and measures. 15. "Limousine" means a motor vehicle providing prearranged ground 17 18 transportation service for an individual passenger, or a group of passengers, that is arranged in advance or is operated on a regular route or between 19 specified points and includes ground transportation under a contract or 20 21 agreement for services that includes a fixed rate or time and is provided in 22 a motor vehicle with a seating capacity not exceeding fifteen passengers, 23 including the driver. 24 16. "Liquid fuel measuring device" means any meter, pump, tank, gauge 25 or apparatus used for volumetrically determining the quantity of any internal 26 combustion engine fuel, liquefied petroleum gas or low viscosity heating oil. 27 17. "Livery vehicle" means a motor vehicle that: 28 (a) Has a seating capacity not exceeding fifteen passengers, including 29 the driver. 30 (b) Provides passenger services for a fare determined by a flat rate 31 or flat hourly rate between geographic zones or within a geographic area. (c) Is available for hire on an exclusive or shared ride basis. 32 33 (d) May do any of the following: (i) Operate on a regular route or between specified places. 34 35 (ii) Offer prearranged ground transportation service as defined in 36 section 28-141. 37 (iii) Offer on demand ground transportation service pursuant to a 38 contract with a public airport, licensed business entity or organization.

18. "Misfuel" means the act of dispensing into the fuel tank of a
 motor vehicle a motor fuel that was not intended to be used in the engine of
 that motor vehicle.

4 19. 14. "Motor fuel" means a petroleum or a petroleum-based substance 5 that is motor gasoline, aviation gasoline, number one or number two diesel 6 fuel or any grade of oxygenated gasoline typically used in the operation of a 7 motor engine, including biodiesel blends, biofuel blends and the ethanol 8 blend E85 as defined in ASTM D5798.

9 20. 15. "Package" means any commodity enclosed in a container or
 10 wrapped in any manner in advance of sale in units suitable for either
 11 wholesale or retail trade.

12 21. 16. "Person" means both the plural and the singular, as the case
 13 demands, and includes individuals, partnerships, corporations, companies,
 14 societies and associations.

15 <u>22. "Public weighmaster" means any person who is engaged in any of the</u> 16 following:

17 (a) The business of weighing any object or thing for the public
 18 generally for hire or for internal use and issuing for that weighing a weight
 19 certificate intended to be accepted as an accurate weight upon which a
 20 purchase or sale is to be based or on which a service fee is to be charged.

(b) The business of weighing for hire motor vehicles, trailers or
 semitrailers and issuing weight certificates intended to be accepted as an
 accurate weight for the purpose of determining the amount of any tax, fee or
 other assessment on the vehicles.

25 23. 17. "Reference standards" means the physical standards of the
26 state that serve as the legal reference from which all other standards and
27 weights and measures are derived.

28 24. 18. "Registered service agency" means any agency, firm, company 29 or corporation that for hire, award, commission or any other payment of any 30 kind installs, services, repairs or reconditions a commercial device or tests 31 or repairs vapor recovery systems or vapor recovery components and that has 32 been issued a license by the department OF TRANSPORTATION.

33 25. 19. "Registered service representative" means any individual who
 34 for hire, award, commission or any other payment of any kind installs,
 35 services, repairs or reconditions a commercial device or tests or repairs
 36 vapor recovery systems or vapor recovery components and who has been issued a
 37 license by the department OF TRANSPORTATION.

1  $\frac{26}{20}$ , 20. "Retail seller" means a person whose business purpose is to 2 sell, expose or offer for sale or use any package or commodity by weight, 3 measure or count.

27. "Sale from bulk" means the sale of commodities when the quantity 4 5 is determined at the time of sale.

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28. 21. "Secondary standards" means the physical standards that are 7 traceable to the reference standards through comparisons, using acceptable 8 laboratory procedures, and that are used in the enforcement of weights and 9 measures laws and rules.

10 29. "Taxi" means a motor vehicle that has a seating capacity not exceeding fifteen passengers, including the driver, that is registered as a 11 12 taxi in this state or any other state, that provides passenger services and 13 that:

14 (a) Does not primarily operate on a regular route or between specified 15 places.

(b) Offers local transportation for a fare determined on the basis of 16 17 the distance traveled or prearranged ground transportation service as defined in section 28-141 for a predetermined fare. 18

30. "Taxi meter" means a commercial device that meets the requirements 19 20 of the national institute of standards and technology handbook 44 as prescribed by section 41-2064. 21

22  $\frac{31}{22}$ . "Weight" as used in connection with any commodity means net 23 weight.

32. 23. "Weights" or "measures", or both, means all weights, 24 25 measures, meters or counters of every kind, instruments and devices for 26 weighing, measuring, metering or counting and any appliance and accessories 27 associated with any or all such instruments and devices.

28 Sec. 21. Section 49-1511, Arizona Revised Statutes, as transferred and 29 renumbered, is amended to read:

30 31 49-1511. Powers and duties; definition

A. The department shall:

32 1. Maintain custody of the state reference standards of weights and 33 measures that are traceable to the United States prototype standards and that 34 are supplied to the states by the federal government or that are otherwise 35 approved as being satisfactory by the national institute of standards and technology. 36

2. Keep the state reference standards in a safe and suitable place in 37 38 the metrology laboratory of the department and ensure that they shall not be 1

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3. 1. Keep accurate records of all standards and equipment.

removed from the laboratory except for repairs or for calibration as may be

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4. 2. Adopt any rules necessary to carry out this chapter and adopt 5 reasonable rules for the enforcement of this chapter. These rules have the force and effect of law and shall be adopted pursuant to TITLE 41, chapter 6 6 7 of this title. In adopting these rules, the director shall consider, as far as is practicable, the requirements established by other states and by 8 authority of the United States, except that rules shall not be made in 9 10 conflict with this chapter.

prescribed by the national institute of standards and technology.

11 5. 3. Publish rules adopted pursuant to this chapter and issue 12 appropriate copies at no cost to all new applicants for licensure and 13 certification. Updated copies of the rules shall be distributed, on request, at no cost to the public. 14

6. 4. Investigate complaints made to the department concerning 15 16 violations of this chapter and, on its own initiative, conduct investigations it deems appropriate to develop information relating to prevailing procedures 17 in commercial quantity determination and relating to possible violations of 18 19 this chapter, and in order to promote the general objective of accuracy in 20 the determination and representation of quantity in commercial transactions.

21 7. Establish labeling standards, establish standards of weight, 22 measure or count and establish reasonable standards of fill for any packaged 23 commodity, and may establish standards for open dating information.

8. 5. Grant, pursuant to this chapter, exemptions from the licensing 24 25 provisions of this chapter for weighing and measuring instruments, standards 26 or devices when the ownership or use of the instrument or device is limited 27 to federal, state or local government agencies in the performance of official 28 functions. On request, the department may conduct inspections of the 29 instruments, standards or devices and shall charge a fee pursuant to section 30 41-2092, subsection B 49-1515.

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9. 6. Delegate to appropriate personnel any of the responsibilities of the director for the proper administration of this chapter.

33 10. 7. Inspect and test weights and measures kept, offered or exposed 34 for sale.

35 11. 8. Inspect and test, to ascertain if they are correct, weights 36 and measures commercially used either:

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1 (a) In determining the weight, measure or count of commodities or 2 things sold, or offered or exposed for sale, on the basis of weight, measure 3 or count.

4 5 (b) In computing the basic charge or payment for services rendered on the basis of weight, measure or count.

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

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

11 (b) Found to be of short weight, measure or count by other 12 jurisdictions.

13

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

13. Test, approve for use and affix a seal of approval for use of 14 15 all weights, measures and commercial devices manufactured in or brought into 16 this state as it finds to be correct and shall reject and mark as rejected weights, measures and devices it finds to be incorrect. Weights, measures 17 and devices that have been rejected may be seized by the department if not 18 19 corrected within the time specified or if used or disposed of in a manner not 20 specifically authorized. The department shall condemn and may seize weights. 21 measures and devices that are found to be incorrect and that are not capable 22 of being made correct.

14. 11. Sample and test motor fuel that is stored, sold or exposed or offered for sale or that is stored for use by a fleet owner to determine whether the motor fuel meets the standards for motor fuel set forth in section 41-2083 49-1533 and article 6-5 of this chapter and in any rule adopted by the director pursuant to this chapter. For the purposes of this paragraph, "fleet owner" has the same meaning prescribed in section 41-2121 49-1571.

30 15. 12. Randomly witness tests on all mandated vapor recovery systems 31 that are installed or operated in this state and if the systems are 32 determined to be in compliance with the law approve those systems for use and 33 reject, mark as rejected and stop the use of those systems determined not to 34 be in compliance with the law.

35 16. 13. Inspect facilities at which motor fuel is stored, sold or
 36 exposed or offered for sale to determine whether dispensing devices are
 37 properly labeled.

1 17. 14. Publish and distribute to consumers weighing and measuring
 2 information.

3 18. Weigh, measure or inspect commodities kept, offered or 4 exposed for sale, sold or in the process of delivery to determine whether 5 they contain the amounts represented and whether they are kept, offered or exposed for sale in accordance with this chapter or rules adopted pursuant to 6 7 In carrying out this section, the director shall employ this chapter. 8 recognized sampling procedures, such as are designated in appropriate 9 national institute of standards and technology handbooks and supplements to 10 those handbooks, except as modified or rejected by rule.

11 19. 16. Allow reasonable variations from the stated quantity of 12 contents only after a commodity has entered intrastate commerce. These 13 variations shall include those caused by loss or gain of moisture during the 14 course of good distribution practice or by unavoidable deviations in good 15 manufacturing practice.

16 20. 17. Prescribe the standards of weight and measure and additional 17 equipment methods of test and inspection to be employed in the enforcement of 18 this chapter. The director may prescribe or provide the official test and 19 inspection forms to be used in the enforcement of this chapter.

20 21. 18. Apply to any court of competent jurisdiction for a temporary
 21 or permanent injunction restraining any person from violating this chapter.

22 22. 19. Report to the governor on OR BEFORE August 1 OF each year and
23 at such other times as may be required on the work accomplished under this
24 chapter.

25 23. 20. Subject to TITLE 41, chapter 4, article 4 of this title,
 26 employ such personnel as needed to assist in administering this chapter.

27 24. 21. Ensure that any information that is required to be filed with
28 the department, that relates to the contents of motor fuels that are sold in
29 this state and that is a trade secret as defined in section 49-201 is not
30 disclosed.

31 25. 22. Establish by rule labeling standards for tanks and containers
 32 of motor fuels.

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

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C. The director may establish standards for the presentation of cost-per-unit information. Nothing in This subsection shall be construed to DOES NOT mandate the use of cost-per-unit information in connection with the sale of any standard packed commodity.

5 D. The director, when necessary to carry out this chapter, may adopt and enforce rules relating to quality standards for motor fuel, kerosene, 6 7 oil, except used oil fuel, and hazardous waste fuel, lubricating oils, 8 lubricants, antifreeze and other liquid or gaseous fuels. The director shall adopt rules to assure ENSURE that oxygenated fuels, as described in article 9 10  $\frac{6}{6}$  5 of this chapter, THAT ARE stored, used, sold or exposed or offered for use or sale are blended and stored, sold, exposed or offered in such a manner 11 12 as to assure ENSURE that the oxygenated fuels are properly blended, that they meet the standards set forth in section  $\frac{41-2083}{2083}$  49-1533 and article  $\frac{6}{20}$  5 of 13 this chapter, and in rules adopted pursuant to this chapter, and that 14 15 dispensers at which the oxygenated fuels are dispensed are labeled as defined by rule of the department in such a manner as to notify persons of the type 16 of oxygenated fuel being dispensed and the maximum percentage of oxygenate by 17 volume contained in the oxygenated fuel. The director of the department of 18 weights and measures shall consult with the director of the department of 19 20 environmental quality in adopting rules pursuant to this subsection.

21 E. Testing and inspection conducted pursuant to this chapter shall be 22 done, to the extent practicable, without prior notice, by a random systematic 23 method determined by the director or in response to a complaint by the 24 public. The testing and inspection may be done by private persons and firms 25 pursuant to contracts entered into by the director in accordance with TITLE 26 41, chapter 23 of this title or by a registered service agency or registered 27 service representative licensed pursuant to section 41-2094 28-9455. The 28 director shall establish qualifications of persons and firms for selection 29 for purposes of this subsection. The persons or firms conducting the testing and inspection shall immediately report to the department any violations of 30 31 this chapter and incorrect weights, measures, devices, vapor recovery systems 32 or vapor recovery components for investigation and enforcement by the department. A person or firm that tests or inspects a weight, measure, 33 34 device, vapor recovery system or vapor recovery component that is rejected 35 shall not correct the defect causing the rejection without the permission of 36 the department.

F. During the course of an investigation or an enforcement action by
 the department, information regarding the complainant is confidential and is

1 exempt from title 39, chapter 1, unless the complainant authorizes the 2 information to be public.

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

6 Sec. 22. Section 49-1514, Arizona Revised Statutes, as transferred and 7 renumbered, is amended to read:

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49-1514. Disposition of seized property

9 One hundred eighty days after the final disposition of an investigation 10 and any ensuing enforcement action, the department OF ENVIRONMENTAL QUALITY 11 may destroy those weights, measures or devices that are seized pursuant to 12 section 41-2065 49-1511 or 41-2066 49-1512 or transfer the items to the 13 department of administration for disposition as state surplus property 14 pursuant to the direction of the department of administration, surplus 15 property division.

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Sec. 23. Title 49, chapter 11, article 2, Arizona Revised Statutes, is amended by adding sections 49-1515 and 49-1516, to read:

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49-1515. Licensing fees

19A. THE FOLLOWING FEES SHALL BE PAID TO THE DEPARTMENT AS LICENSE FEES20FOR DEVICES USED FOR COMMERCIAL PURPOSES:

21 SCHEDULES OF FEES 22 1. LIQUID METERING DEVICES (METERS) OTHER THAN 23 FOR LIQUID PETROLEUM GAS AND UTILITY METERS: 24 MAXIMUM 12 GALLONS PER MINUTE AND UNDER 12.00 25 MAXIMUM 13 - 150 GALLONS PER MINUTE 36.00 26 MAXIMUM 151 - 500 GALLONS PER MINUTE 90.00 27 MAXIMUM 501 - 1,000 GALLONS PER MINUTE 138.00 MAXIMUM 1,001 GALLONS PER MINUTE AND OVER 28 168.00 29 2. MOTOR FUEL DEVICES (DISPENSERS) OTHER THAN FOR LIQUID PETROLEUM GAS (NOT INCLUDING 30 31 SATELLITE HOSES OR NOZZLES): 32 STANDARD VAPOR RECOVERY TEST 33 EACH METER 15.00 30.00 EACH BLENDING VALVE 34 15.00 30.00 HIGH VOLUME (OVER 19 GALLONS PER MINUTE) 35 36 DIESEL PER HOSE AND NOZZLE 15.00

1	KEYLOCK, LIMITED ACCESS, WITH ACCUMULATORS,
2	PER HOSE AND NOZZLE 22.50
3	REMOTE INDICATOR AND CONTROL UNIT (NO HOSES
4	OR NOZZLES) (ACCESSORY ONLY) 22.50
5	3. LIQUID MEASURING DEVICES FOR LIQUID PETROLEUM
6	GAS (METERS):
7	SMALL BOTTLE FILL MEASURING DEVICES 24.00
8	MOTOR FUEL MEASURING DEVICES, UNCOMPENSATED 24.00
9	MOTOR FUEL MEASURING DEVICES, TEMPERATURE
10	COMPENSATING, INCLUDING COMPRESSED NATURAL
11	GAS FILLING DEVICES 48.00
12	MOTOR FUEL MEASURING DEVICES, KEYLOCKS 48.00
13	3/4" AND 1" METERS, UNCOMPENSATED 48.00
14	1 1/4", 1 1/2" AND 1 3/4" METERS, UNCOMPENSATED 72.00
15	2" METERS AND LARGER, UNCOMPENSATED 72.00
16	3/4" AND 1" METERS, TEMPERATURE COMPENSATING 54.00
17	1 1/4", 1 1/2" AND 1 3/4" METERS, TEMPERATURE
18	COMPENSATING 90.00
19	2" METERS AND LARGER, TEMPERATURE COMPENSATING 96.00
20	4. LINEAR MEASURING DEVICES:
21	ALL LINEAR MEASURING MECHANICAL DEVICES 24.00
22	5. COUNTING DEVICES:
23	ALL MECHANICAL AND ELECTRONIC COUNTING DEVICES 12.00
24	B. TESTING, INSPECTION, CERTIFICATION AND CALIBRATION FEES SHALL BE
25	PAID PURSUANT TO THE FEE SCHEDULE SET FORTH IN SUBSECTION A OF THIS SECTION
26	OR THE RULES OF THE DEPARTMENT. THE DEPARTMENT SHALL WAIVE LICENSE FEES FOR
27	CUSTOMER PARKING TIME MEASURING METERS OWNED BY MUNICIPALITIES.
28	C. ISSUANCE OR RENEWAL OF LICENSE AS:
29	1. REGISTERED SERVICE AGENCY 24.00
30	2. REGISTERED SERVICE REPRESENTATIVE 4.80
31	D. THE FEES SET FORTH IN THIS SECTION ARE THE MAXIMUM AMOUNTS THAT MAY
32	BE CHARGED, BUT THE DIRECTOR, AT THE DIRECTOR'S DISCRETION, MAY REDUCE THE
33	FEES TO ANY AMOUNT THE DIRECTOR DEEMS NECESSARY.
34	E. THE DIRECTOR MAY PRORATE THE FEES SET FORTH IN THIS SECTION FOR
35	PARTIAL YEAR APPLICATION.
36	F. IF A PERSON FAILS TO PAY A LICENSE, PERMIT OR CERTIFICATION FEE ON
37	OR BEFORE THE DATE THE FEE IS DUE, THE DEPARTMENT SHALL IMPOSE A PENALTY
38	EQUAL TO TWENTY PERCENT OF THE FEE. FOR EACH THIRTY-DAY PERIOD AFTER THE

DATE THE FEE IS DUE, THE DEPARTMENT SHALL IMPOSE AN ADDITIONAL PENALTY EQUAL 1 2 TO TWENTY PERCENT OF THE FEE. IF A PERSON FAILS TO PAY A LICENSE. PERMIT OR 3 CERTIFICATION FEE AND ALL RELATED PENALTIES FOR NINETY DAYS AFTER THE FEE IS 4 DUE, THE DEPARTMENT SHALL CANCEL THE LICENSE, PERMIT OR CERTIFICATION.

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49-1516. Licensing devices used for commercial purposes; authorization to test devices used for all other purposes; fees; issuance and revocation of license; violation; classification

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A. A PERSON MAY NOT USE A COMMERCIAL DEVICE UNLESS THE DEVICE IS LICENSED OR CERTIFIED AS PROVIDED IN THIS CHAPTER.

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B. A LICENSE SHALL BE OBTAINED ANNUALLY FROM THE DEPARTMENT ON FORMS 11 12 PRESCRIBED AND FURNISHED BY THE DEPARTMENT. THE FEE PRESCRIBED IN THIS CHAPTER SHALL BE SUBMITTED WITH THE PRESCRIBED FORM. A LICENSE SHALL BE 13 OBTAINED NOT LATER THAN THIRTY DAYS FOLLOWING THE FIRST DAY OF COMMERCIAL USE 14 FOR ORIGINAL INSTALLATIONS. IF THE OWNERSHIP OF A DEVICE THAT IS LICENSED IS 15 16 TRANSFERRED, THE OWNERSHIP OF THE LICENSE MAY BE TRANSFERRED. ON TRANSFER OF A LICENSE. NEW LICENSEES SHALL NOTIFY THE DEPARTMENT OF THE LICENSEE'S NAME 17 AND ADDRESS AND THE LOCATION OF THE DEVICE. A LICENSE FOR A DEVICE SHALL BE 18 19 POSTED AT THE LICENSED BUSINESS LOCATION IN A MANNER THAT PROVIDES THE DEPARTMENT ACCESS TO THE LICENSE DURING NORMAL BUSINESS HOURS. 20

C. ANY LICENSE ISSUED UNDER THIS CHAPTER APPLIES ONLY TO THE 21 INSTRUMENT OR DEVICE SPECIFIED IN THE LICENSE. EXCEPT THAT THE DIRECTOR MAY 22 23 PERMIT THE LICENSE TO BE APPLICABLE TO A REPLACEMENT FOR THE ORIGINAL 24 INSTRUMENT OR DEVICE.

25 D. A PERSON OR THE PERSON'S AGENT WHO KNOWINGLY FILES WITH THE 26 DEPARTMENT ANY NOTICE. STATEMENT OR OTHER DOCUMENT REQUIRED UNDER THIS 27 SECTION THAT IS FALSE OR THAT CONTAINS ANY MATERIAL MISSTATEMENT OF FACT IS 28 GUILTY OF A CLASS 2 MISDEMEANOR.

29 Sec. 24. Section 49-1531, Arizona Revised Statutes, as transferred and renumbered, is amended to read: 30

49-1531. Sale of commodities

32 A. A person shall not sell or offer or expose for sale less than the 33 quantity the person represents.

B. As a buyer, a person shall not take any more than the quantity the 34 35 person represents when the person furnishes the weight or measure by means of 36 which the quantity is determined.

C. A person shall not misrepresent the price of any commodity or 37 38 service sold or offered, exposed or advertised for sale by weight, measure or count or represent the price in any manner calculated or tending to mislead
 or in any way deceive a person.

D. Except as otherwise provided by the director, commodities in liquid form shall be sold by liquid measure or by weight, and commodities not in liquid form shall be sold only by weight, by measure or by count, as long as the method of sale provides accurate quantity information.

E. If the quantity is determined by the seller, bulk sales shall be
accompanied by a delivery ticket containing the following information unless
exempted by rule:

10 11 1. The name and address of the vendor and purchaser.

2. The date delivered.

The quantity delivered and the quantity upon ON which the price is
 based, if this differs from the delivered quantity.

4. The identity in the most descriptive terms commercially
 practicable, including any quality representation made in connection with the
 sale.

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5. The count of individually wrapped packages, if more than one.

18 F. Except as otherwise provided in this chapter or by rules adopted 19 pursuant to this chapter, any package kept for the purpose of sale or offered 20 or exposed for sale shall bear on the outside of the package a definite, 21 plain and conspicuous declaration of:

22 1. The identity of the commodity in the package, unless the commodity
 23 can easily be identified through the wrapper or container.

24

2. The quantity of contents in terms of weight, measure or count.

25 3. The name and place of business of the manufacturer, packer or
 26 distributor, in the case of any package kept, offered or exposed for sale or
 27 sold in any place other than on the premises where packed.

28

4. The price, except as provided in subsections L and M.

G. In addition to the declarations required by subsection F, any
package being one of a lot containing random weights of the same commodity
and bearing the total selling price of the package shall bear on the outside
of the package a plain and conspicuous declaration of the price per single
unit of weight.

H. If a packaged commodity is advertised in any manner with the retail
 price stated, there shall be closely and conspicuously associated with the
 retail price a declaration of quantity as is required by law or rule to
 appear on the package. If a dual declaration is required, only the

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declaration that sets forth the quantity in terms of the smaller unit of weight or measure need appear in the advertisement.

I. The packager of a short weighted item offered for sale is liable under this chapter.

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5 J. F. If a retail seller engaging in the sale of motor fuel posts the 6 selling price of the fuel on the premises, the seller shall post the selling 7 price only by the price per gallon, except that if the fuel is dispensed by a 8 measure other than whole gallons the seller shall represent the selling price 9 for each unit of such other measure on the individual pump or other 10 dispensing device. If a retail seller engaging in the sale of motor fuel 11 advertises the price of the fuel off the premises, the retail seller shall 12 advertise the price only by the price per gallon.

 $K_{\cdot}$  G. The owner or operator of a motor fuel dispensing site shall 13 14 ensure that a sticker provided by the department of transportation that is 15 three inches by five inches and that depicts the amount of federal and state 16 taxes imposed on one gallon of gasoline is displayed on one side of each motor fuel dispenser. The sticker required by this subsection shall contain 17 18 white lettering on a black background or black lettering on a white background to ensure a contrasting color to the motor fuel dispenser and 19 shall be placed on the upper sixty per cent PERCENT of the dispenser. The 20 21 department of weights and measures ENVIRONMENTAL QUALITY shall use stickers 22 provided by the department of transportation. A template of the sticker 23 shall be placed on the department of weights and measures' ENVIRONMENTAL 24 QUALITY'S website for use by retailers. During the course of its normal 25 random inspections, the department of weights and measures ENVIRONMENTAL 26 QUALITY shall apply the stickers with a compliance schedule of four years 27 after July 29, 2010.

28 L. Instead of each package bearing the price as required under
 29 subsection F, paragraph 4, the seller may post the price of the package on
 30 the shelf or display at the point of display of the product.

M. If the package is offered for sale at a price reduced by a
 percentage or a fixed amount from a previously offered price, the reduction
 shall be displayed at the point of display of the package in the manner
 required by this section.

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N. H. On the request of a consumer, a retail seller shall provide:

A means of recording prices such as grease pencils, felt markers,
 scanners or other similar instruments for recording the price.

2. A written statement of the retail seller's policies regarding
 errors in pricing.

Sec. 25. Section 49-1533, Arizona Revised Statutes, as transferred and
 renumbered, is amended to read:

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49-1533. Standards for motor fuel; exceptions

6 A. Except as provided in section 41-2083.01 49-1534 and subsections C, 7 D, E, F, G, K and L of this section, a retail seller or fleet owner shall not 8 store, sell or expose or offer for sale any motor fuel, kerosene, oil or 9 other liquid or gaseous fuel or lubricating oil, lubricant, mixtures of 10 lubricants or other similar products if the product fails to meet the 11 standards specified in this section and in the rules adopted by the director.

B. A person shall not misrepresent the nature, origination, quality, grade or identity of any product specified in subsection A of this section or represent the nature, origination, quality, grade or identity of such product in any manner calculated or tending to mislead or in any way deceive. This subsection does not prohibit product origination disclaimer labeling on the retail dispenser.

18 C. After consultation with The director of the department of 19 environmental quality, SHALL ESTABLISH the standards and test methods for 20 motor fuels shall be established by the director of the department of weights 21 and measures by rule.

22 D. Maximum vapor pressure for gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor 23 vehicles in a county with a population of one million two hundred thousand or 24 25 more persons and any portion of a county contained in area A as defined in 26 section 49-541 shall be 9.0 pounds per square inch from and after September 27 30 through March 31 of each year. Fuel used in motor vehicles at a 28 manufacturer's proving ground or a motor vehicle racing event as defined by 29 section  $\frac{41-2121}{49-1571}$  is exempt from this subsection.

E. From and after September 30 through March 31 of each year, a person
 shall not supply or sell gasoline that exceeds the ASTM D4814 class A vapor
 pressure/distillation class ten volume per cent PERCENT evaporated
 distillation temperature.

F. Maximum vapor pressure for gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles in a county with a population of one million two hundred thousand persons or more and any portion of a county contained in area A as defined in section 49-541 shall be 7.0 pounds per square inch from and after May 31 1 through September 30 of each year. Fuel used in motor vehicles at a 2 manufacturer's proving ground or a motor vehicle racing event as defined by 3 section 41-2121 49-1571 is exempt from this subsection.

4 G. Exclusively for the purposes of transportation conformity and only 5 if the administrator of the United States environmental protection agency 6 fails to approve the applicable plan required pursuant to section 49-406, 7 maximum vapor pressure for gasoline that is supplied or sold by any person 8 and that is intended as a final product for the fueling of motor vehicles in 9 area B as defined in section 49-541 shall be ten pounds per square inch from 10 and after September 30 through March 31 of each year. Fuel used in motor vehicles at a manufacturer's proving ground or a motor vehicle racing event 11 12 as defined by section 41-2121 49-1571 is exempt from this subsection.

H. Notwithstanding subsections D, F and G of this section, the
 director of the department of weights and measures in consultation with the
 director of the department of environmental quality shall approve alternate
 fuel control measures that are submitted by manufacturers or suppliers of
 gasoline and that the directors determine DIRECTOR DETERMINES will result in
 either of the following:

19 1. Motor vehicle carbon monoxide emissions that are equal to or less 20 than emissions that result under compliance with subsection D of this section 21 and section 41-2123 49-1573. In making this determination, the director of 22 the department of weights and measures and the director of the department of 23 environmental quality shall compare the emissions of the alternate fuel control measure with the emissions of a fuel with a maximum vapor pressure 24 25 standard as prescribed by this section and with the minimum oxygen content or 26 percentage by volume of ethanol as prescribed by section 41-2123 49-1573.

27 2. Motor vehicle non-methane hydrocarbon emissions that are equal to 28 or less than the emissions that result under compliance with subsection F of 29 this section. In making this determination, the director of the department of weights and measures and the director of the department of environmental 30 31 quality shall compare the motor vehicle non-methane hydrocarbon emissions of the alternate fuel control measure with the motor vehicle non-methane 32 33 hydrocarbon emissions of a fuel that complies with the maximum vapor pressure standard as prescribed by subsection F of this section. 34

I. Any alternate fuel control measures that are approved shall not increase emissions of non-methane hydrocarbons, particulates, carbon monoxide or oxides of nitrogen. Alternate fuel control measures approved pursuant to subsection H of this section and this subsection may be used by any

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1 manufacturer or supplier of gasoline unless the approval is rescinded more 2 than one hundred eighty days before the first day of a gasoline control 3 period. Manufacturers and suppliers who use an approved alternate fuel 4 control measure shall annually submit a compliance plan to the director of 5 the department of weights and measures no later than sixty days before the 6 first day of a gasoline control period.

J. A person shall not sell or offer or expose for sale diesel fuel
grade 1, 2 or 4 as defined in ASTM D975 that contains sulfur in excess of:

9 1. For low sulfur diesel fuel, five hundred parts per million by 10 weight for use in area A as defined in section 49-541.

For ultra low sulfur diesel fuel, the amount that conforms with 40
 Code of Federal Regulations section 80.520(a)(1).

K. A person shall not sell or offer or expose for sale diesel fuel,
 biodiesel or biodiesel blends that contain sulfur in excess of five hundred
 parts per million for use in area A as defined in section 49-541.

L. A person shall label dispensers at which biodiesel or biodiesel blends are dispensed in conformance with 16 Code of Federal Regulations part 306 and 40 Code of Federal Regulations sections 80.570, 80.571, 80.572, 80.573 and 80.574. This section does not preclude a person from labeling a dispenser that dispenses diesel fuel that contains up to five per cent PERCENT biodiesel with a label that states "may contain up to five per cent PERCENT biodiesel".

23 For biodiesel blends that contain more than five per cent PERCENT Μ. 24 by volume of biodiesel, a person shall prepare product transfer documents in 25 a manner that notifies the transferee of the per cent PERCENT by volume of 26 biodiesel in the product. For diesel fuel that contains five per cent 27 PERCENT or less by volume of biodiesel, a person shall prepare product 28 transfer documents in a manner that notifies that transferee of any volume 29 per cent PERCENT of biodiesel intentionally added to or known by the transferor to be in the product. 30

N. The director shall adopt rules regarding the establishment and
 enforcement of all of the following:

National or federal standards for individual biofuels and biofuel
 blends.

35 2. United States environmental protection agency and ASTM test methods
 36 for individual biofuels and biofuel blends.

37 3. Registration and reporting requirements for producers, blenders and
 38 suppliers of biofuels and biofuel blends.

4. Labeling requirements for biofuels and biofuel blends other than biodiesel or biodiesel blends.

5. Quality assurance and quality control programs for producers,
blenders and suppliers of biofuels and biofuel blends addressing rack, batch
or other blending.

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6. Requirements that the dispensing equipment meet appropriate 7 UL ratings where available and applicable, that the equipment comply with 8 rules adopted by the department relating to approval, installation and sale 9 of devices and that the equipment be compatible with the products being 10 dispensed.

11 0. A biofuels or biofuel blends producer, blender, distributor, 12 supplier or retail seller that is in compliance with this section and the 13 rules adopted pursuant to this section is not liable to a consumer for any 14 injuries or property damage related to a consumer who misfuels.

P. A person shall label each dispenser at which ultra low sulfur diesel fuel is dispensed in a manner that conforms with 40 Code of Federal Regulations sections 80.570, 80.571, 80.572, 80.573 and 80.574 to inform the customer of the sulfur content of the diesel fuel being dispensed.

Q. A person shall label each dispenser at which low sulfur diesel fuel
is dispensed in a manner that conforms with 40 Code of Federal Regulations
sections 80.570, 80.571, 80.572, 80.573 and 80.574 to inform the customer of
the sulfur content of the diesel fuel being dispensed.

R. If any person transfers custody or title of a diesel fuel or
 distillate, except if the diesel fuel is dispensed into a motor vehicle or
 nonroad, locomotive or marine equipment, the transferor shall provide to the
 transferee product transfer documents that conform with 40 Code of Federal
 Regulations section 80.590.

28 S. If the transfer of a motor fuel is from a terminal, storage 29 facility, or transmix facility, the product transfer documents shall contain 30 the information prescribed in subsection R of this section as well as the 31 name and address of the final destination for the shipment, as prescribed by 32 department rule, and must accompany the shipment to its final destination.

33 Sec. 26. Section 49-1534, Arizona Revised Statutes, as transferred and 34 renumbered, is amended to read:

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49-1534. Area C: standards for motor fuel: exceptions

A. Except as provided in subsections C and D of this section, after May 31, 2008, a retail seller or fleet owner shall not store, sell or expose or offer for sale in area C as defined in section 41 2121 49-1571 any motor fuel, kerosene, oil or other liquid or gaseous fuel or lubricating oil, lubricant, mixtures of lubricants or other similar products if the product fails to meet the standards specified in this section and in the rules adopted by the director.

5 B. A person shall not misrepresent the nature, origination, quality, 6 grade or identity of any product specified in subsection A of this section or 7 represent the nature, origination, quality, grade or identity of such product 8 in any manner calculated or tending to mislead or in any way deceive.

9 C. After consultation with the director of the department of 10 environmental quality, THE DIRECTOR SHALL ESTABLISH the standards and test 11 methods for motor fuels shall be established by the director of the 12 department of weights and measures by rule.

D. Maximum vapor pressure for gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles in area C as defined in section 41-2121 49-1571 shall be 7.0 pounds per square inch from and after May 31 through September 30 of each year. Fuel used in motor vehicles at a manufacturer's proving ground or a motor vehicle racing event as defined by section 41-2121 49-1571 is exempt from this subsection.

20 E. The director of the department of weights and measures in 21 consultation with the director of the department of environmental quality 22 shall approve alternate fuel control measures that are submitted by manufacturers or suppliers of gasoline and that the <del>directors determine</del> 23 DIRECTOR DETERMINES will result in motor vehicle non-methane hydrocarbon 24 25 emissions that are equal to or less than the emissions that result under 26 compliance with subsection D of this section. In making this determination, 27 the director of the department of weights and measures and the director of the department of environmental quality shall compare the motor vehicle 28 29 non-methane hydrocarbon emissions of the alternate fuel control measure with the motor vehicle non-methane hydrocarbon emissions of a fuel that complies 30 31 with the maximum vapor pressure standard as prescribed by subsection D of 32 this section.

F. Any alternate fuel control measures that are approved shall not increase emissions of non-methane hydrocarbons, particulates, carbon monoxide or oxides of nitrogen. Alternate fuel control measures approved pursuant to subsection E of this section and this subsection may be used by any manufacturer or supplier of gasoline unless the approval is rescinded more than one hundred eighty days before the first day of a gasoline control period. Manufacturers and suppliers who use an approved alternate fuel control measure shall annually submit a compliance plan to the director of the department of weights and measures no later than sixty days before the first day of a gasoline control period.

5 Sec. 27. Section 49-1551, Arizona Revised Statutes, as transferred and 6 renumbered, is amended to read:

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49-1551. <u>Registered service representative; powers</u>

A. When any commercial device specified in this chapter is in 8 commercial use and a valid license for the device has not been procured by 9 10 the owner, the owner's agent or the operator of the device, the department, 11 after giving notice of the licensing requirements to the owner, the owner's 12 agent or the operator, shall prohibit the further commercial use of the 13 unlicensed device until the proper license has been issued. The department may employ and attach to the device such forms, notices or security seals as 14 it considers necessary to prevent the continued unauthorized use of the 15 16 device.

17

B. A registered service representative may also:

With approval of the department, remove an official rejection tag
 placed on a commercial device, vapor recovery system or vapor recovery
 component.

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2. Place in service, until such time as an official examination can be made, a commercial device, vapor recovery system or vapor recovery component that has been officially rejected or placed out of service.

3. Place in service, until such time as an official examination can be made, a commercial device for which a commercial device application has been completed and submitted to the department.

27 C. The owner of any business who has not applied for and has not been 28 issued a license for the right to do business, involving the use of a 29 commercial device, by the department and who is found selling or offering for sale or delivering or distributing to a consumer is guilty of a class 2 30 31 misdemeanor, and the department shall confiscate and seize the commercial 32 device or any vehicle tank. or vehicle tank and meter. or any other such 33 measuring device used by the business for the sale, delivery or distribution 34 as evidence.

D. The director and any other authorized personnel shall not be liable
 to the owner or any other persons, firms, partnerships, corporations, trusts
 or agencies for damages, directly or indirectly, caused by or resulting from
 the seizure.

1 E. If a commercial device licensed pursuant to this chapter is used 2 contrary to any provision of this chapter or any rule adopted pursuant to 3 this chapter, the department, in addition to any other penalty imposed by 4 this chapter, shall suspend, revoke or refuse to renew the license. 5 Sec. 28. Section 49-1552, Arizona Revised Statutes, as transferred and 6 renumbered, is amended to read: 7 49-1552. <u>Revocation or suspension of licenses; procedure;</u> 8 judicial review 9 A. Except as otherwise provided by this section, any proceeding to 10 revoke or suspend a license issued pursuant to this chapter shall be 11 conducted in accordance with TITLE 41, chapter 6, article 10 of this title. 12 B. The director may initiate proceedings for revocation or suspension of a license issued pursuant to this chapter on the director's own motion or 13 14 on a verified complaint for noncompliance with or a violation of this chapter 15 or of any rule adopted pursuant to this chapter. 16 C. If, after having been served with the notice of hearing as provided 17 for in TITLE 41, chapter 6, article 10 of this title, the licensee fails to 18 appear at the hearing and defend, the department shall proceed to hear evidence against the licensee and shall enter such order as is justified by 19 the evidence, which order shall be final unless the licensee petitions for a 20 21 review as provided in TITLE 41, chapter 6, article 10 of this title. 22 D. At all hearings the attorney general of this state, one of the 23 attorney general's assistants, or a special assistant designated by the 24 attorney general shall appear and represent the department. 25 E. Except as provided in section 41-1092.08, subsection H, any final 26 administrative decision made pursuant to this chapter is subject to judicial review pursuant to title 12, chapter 7, article 6. 27 28 Sec. 29. Section 49-1553, Arizona Revised Statutes, as transferred and 29 renumbered, is amended to read: 49-1553. Violation; classification; jurisdiction 30 31 A. A person is guilty of a class 1 misdemeanor who: 32 Knowingly hinders, interferes with or obstructs in any way the 1. 33 director or any of the director's agents or inspectors in entering the 34 premises where a commercial device may be kept for inspecting or testing or in the performance of the director's or the director's agent's or inspector's 35 36 official duties.

2. Impersonates in any way the director or any one of the director's 1 2 agents or inspectors by the use of the director's seal, or a counterfeit of the director's seal, or in any other manner.

3

4 3. Uses, or has in possession for the purpose of using for any 5 commercial purpose, sells, offers or exposes for sale or hire, or has in 6 possession for the purpose of selling or hiring an incorrect weight or 7 measure or any device or instrument used or calculated to falsify any weight 8 or measure.

9 4. Sells, or offers or exposes for sale, less than the quantity the 10 person represents of any commodity, thing or service.

5. Takes more than the quantity the person represents of any 11 12 commodity, thing or service, when, as buyer, the person furnishes the weight 13 or measure by means of which the amount of the commodity, thing or service is determined. 14

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B. A person is guilty of a class 2 misdemeanor who:

1. Uses, or has in possession for the purpose of current use for any 16 commercial purpose, a weight or measure that does not bear a seal or mark of 17 approval based on inspection and test as provided in section 41-2065 49-1514, 18 19 subsection A, paragraph 11, unless the weight or measure has been exempted 20 from testing by order of the department, or unless the device has been placed in service as provided in this chapter. Any person or persons making use of 21 22 a commercial device THAT IS subject to this chapter shall report to the director or the director's representatives, in writing, the number and 23 24 location of the commercial device and shall promptly report the installation 25 of any new commercial device.

26 2. Disposes of any rejected or condemned weight or measure in a manner 27 contrary to law or rule.

28 3. Removes from any weight or measure, contrary to law or rule, any 29 tag, seal or mark placed on the weight or measure by the appropriate authority pursuant to this chapter. 30

31 4. Keeps for the purpose of selling, advertising or offering or exposing for sale or sells any commodity, thing or service in a condition or 32 33 manner contrary to law or rule.

5. Uses in retail trade, except in the preparation of packages put up 34 35 in advance of sale and of medical prescriptions, a weight or measure that is so positioned that its indications may not be accurately read and the 36 weighing, metering, measuring or counting operation observed from some 37 38 position that may reasonably be assumed by a customer.

1 2

6. Violates this chapter or rules adopted under this chapter. A continuing violation may be deemed to be a separate violation each day during which the violation is committed for the purpose of imposing a fine.

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C. The provisions of this section are in addition to and not in limitation of any other provision of law.

6 D. The attorney general and the county attorney shall have concurrent 7 jurisdiction to prosecute violations of this chapter.

8 Sec. 30. Section 49-1555, Arizona Revised Statutes, as transferred and 9 renumbered, is amended to read:

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### 49-1555. <u>Civil penalties</u>

A. A person who violates this chapter, any rule of the department or 11 12 any license requirement is subject to a civil penalty imposed by the director. A person who violates this chapter, any rule of the department or 13 any license requirement may request a hearing to review a civil penalty 14 15 imposed under this section. The department shall conduct the hearing in 16 accordance with TITLE 41, chapter 6, article 10 of this title. Except as prescribed in subsection B of this section, the civil penalty shall not 17 exceed one thousand dollars for each infraction nor more than ten thousand 18 19 dollars for any thirty-day period at each business location, OR for each 20 registered service representative or for each public weighmaster, provided 21 that no person shall be assessed more than fifty thousand dollars per 22 thirty-day period.

23 24 B. The director may double the maximum civil penalty if any of the following applies:

A commercial device is found to be in violation with results that
 favor the retailer at more than twice the allowable tolerance as stated in
 national institute of standards and technology handbook 44.

28 2. A package is found to exceed the maximum allowable variation for 29 the labeled quantity allowed in national institute of standards and 30 technology handbook 133 or the average error of the lot is twice the sample 31 error limit in favor of the retailer.

32

3. A vapor recovery system reinspection fails the required tests.

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

A maximum civil penalty has been imposed on a refiner, refinery,
 registered supplier or transmix processing facility for a violation of motor

fuel quality standards or producing a product transfer document that is incorrect, incomplete or produced in any manner tending to mislead or deceive a person.

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

9 Sec. 31. Section 49-1572, Arizona Revised Statutes, as transferred and 10 renumbered, is amended to read:

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49-1572. Standards for oxygenated fuel; volatility; exceptions

12 A. From and after September 30 through March 31 of each year, in a 13 county with a population of one million two hundred thousand or more persons and in any portion of a county contained in area A, blends of gasoline with 14 15 ethanol shall not exceed the volatility requirements prescribed by section 41-2083 49-1533 and rules adopted by the director under that section. From 16 and after September 30, 1999 through March 31, 2000 and From and after 17 September 30 through March 31 of each year thereafter, in area B, blends of 18 19 gasoline with ethanol may exceed the volatility requirements prescribed by 20 section 41-2083 49-1533 and rules adopted by the director under that section 21 by up to one pound per square inch if the base fuel meets the requirements of 22 ASTM D4814 and the final gasoline-ethanol blend contains at least six per cent PERCENT ethanol by volume but does not exceed United States 23 environmental protection agency waivers. For any other locations and period 24 25 of time, blends of gasoline with ethanol shall meet the volatility 26 requirements as determined by department rule.

27 B. Notwithstanding subsection D of this section, the director of the 28 department of weights and measures in consultation with the director of the 29 department of environmental quality shall approve alternate fuel control measures that are submitted by manufacturers or suppliers of gasoline and 30 31 that the directors determine will result in motor vehicle carbon monoxide 32 emission reductions that will equal or exceed the reductions that result 33 under subsection D of this section. In making those determinations, the directors DIRECTOR shall compare the alternative measure against the emission 34 35 reduction that would be obtained from a fuel with the maximum vapor pressure standard prescribed by subsection D of this section and the minimum oxygen 36 standard prescribed by section <u>41-2123</u> 49-1573 or <u>41-2125</u> 49-1576. 37 38 Alternative fuel control measures approved by the director <del>of the department</del>

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of weights and measures in consultation with the director of the department 1 2 of environmental quality may be used by any manufacturer or supplier of 3 gasoline unless the approval is rescinded by the director of the department 4 of weights and measures at least one hundred eighty days before the beginning of any oxygenate period in the future. Manufacturers and suppliers who 5 choose to use an approved alternate fuel control measure shall annually 6 7 submit a compliance plan to the director of the department of weights and 8 measures not later than sixty days prior to the start of the oxygenate 9 period.

10 C. From and after September 30 through March 31 of each year, all 11 blends of gasoline with alcohol other than ethanol shall satisfy all of the 12 requirements prescribed by section 41-2083 49-1533 and rules adopted by the 13 director under that section and the provisions of a waiver issued by the 14 United States environmental protection agency pursuant to 42 United States 15 Code section 7545(f).

16 D. Notwithstanding subsection A of this section, if the director  $\frac{\partial f}{\partial f}$ the department of environmental quality has previously raised the minimum 17 oxygen content to the maximum percentage of oxygen allowed for each oxygenate 18 as provided by section  $\frac{41-2125}{49-1576}$ , the designated air quality planning 19 agency for area B has considered, analyzed and reviewed the costs and 20 21 benefits of all other reasonable and available control measures in lieu of 22 reducing volatility requirements to nine pounds per square inch and the 23 director of the department of environmental quality finds that area B has 24 failed to maintain the carbon monoxide national ambient air quality standards 25 by violating the standard, beginning with the oxygenate period beginning on 26 the following September 30 and for each oxygenate period thereafter in 27 area B, the volatility requirements described by section  $\frac{41-2083}{2000}$  49-1533, 28 subsection G may be reduced to nine pounds per square inch. If a violation 29 of the carbon monoxide national ambient air quality standards is recorded 30 after the volatility requirements have been reduced to nine pounds per square 31 inch, the director of the department of environmental quality shall remove 32 the one pound per square inch waiver for gasoline-ethanol blends.

E. Beginning on January 1, 2005, Gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles within this state shall not contain the following:

Methyl tertiary butyl ether that exceeds 0.3 per cent PERCENT by
 volume.

1	2. <del>Beginning on January 1, 2006,</del> A total of more than 0.10 <del>per cent</del>
2	PERCENT oxygen by weight collectively from all of the following oxygenates:
3	(a) Diisopropylether (DIPE).
4	(b) Ethyl tert-butylether (ETBE).
5	(c) Iso-butanol.
6	(d) Isopropanol.
7	(e) Methanol.
8	(f) N-butanol.
9	(g) N-propanol.
10	(h) Sec-butanol.
11	(i) Tert-amylmethylether (TAME).
12	(j) Tert-butanol.
13	(k) Tert-pentanol (tert-amylalcohol).
14	F. Subsection E of this section does not prohibit the transshipment
15	through this state, including storage incident to that transshipment, of
16	gasoline that contains the oxygenates prescribed by subsection E of this
17	section if both of the following apply:
18	1. The gasoline is used or disposed outside this state.
19	2. The gasoline is segregated from gasoline that is intended for use
20	inside this state.
21	Sec. 32. Section 49-1573, Arizona Revised Statutes, as transferred and
22	renumbered, is amended to read:
23	49–1573. Area A; sale of gasoline; oxygen content
24	A. From and after November 1 through March 31 of each year:
25	1. All gasoline that is supplied or sold by any person and that is
26	intended as a final product for the fueling of motor vehicles within a county
27	with a population of one million two hundred thousand or more persons and any
28	portion of a county contained in area A or that is consumed in a motor
29	vehicle in a county with a population of one million two hundred thousand or
30	more persons and any portion of a county contained in area A by a fleet owner
31	shall, for a gasoline-ethanol blend, contain not less than ten <del>per cent</del>
32	PERCENT by volume of ethanol nor more than the maximum percentage of oxygen
33	allowed by provisions of a waiver issued or other limits established by the
34	United States environmental protection agency.
35	2. All gasoline that is supplied or sold by any person and that is
36	intended as a final product for the fueling of motor vehicles within a county
37	with a population of one million two hundred thousand or more persons and any

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38

portion of a county contained in area A or that is consumed in a motor

vehicle within a county with a population of one million two hundred thousand or more persons and any portion of a county contained in area A by a fleet owner shall, for a blend other than a gasoline-ethanol blend, contain not less than 2.7 per cent PERCENT by weight of oxygen nor more than the maximum percentage of oxygen allowed by provisions of a waiver issued or other limits established by the United States environmental protection agency.

7 Notwithstanding subsection A of this section, the director of the Β. department of weights and measures in consultation with the director of the 8 department of environmental quality shall approve alternate fuel control 9 10 measures that are submitted by manufacturers or suppliers of gasoline and that the directors determine DIRECTOR DETERMINES will result in motor vehicle 11 12 carbon monoxide emissions that are equal to or less than emissions that result under compliance with subsection A of this section and section  $\frac{41-2083}{2000}$ 13 49-1533. In making this determination, the director of the department of 14 15 weights and measures and the director of the department of environmental quality shall compare the emissions of the alternate fuel control measure 16 17 with the emissions of a fuel with a maximum vapor pressure standard as prescribed by section 41-2083 49-1533 and with the minimum oxygen content or 18 19 percentage by volume of ethanol as prescribed by this section.

20 C. Any alternate fuel control measures that are approved shall not 21 increase emissions of non-methane hydrocarbons, particulates, carbon monoxide 22 or oxides of nitrogen. Alternate fuel control measures approved pursuant to subsection B of this section and this subsection may be used by any 23 24 manufacturer or supplier of gasoline unless the approval is rescinded more 25 than one hundred eighty days before the first day of a gasoline control 26 period. Manufacturers and suppliers who use an approved alternate fuel 27 control measure shall annually submit a compliance plan to the director of 28 the department of weights and measures no later than sixty days before the 29 first day of a gasoline control period.

30 Sec. 33. Section 49-1574, Arizona Revised Statutes, is amended to 31 read:

32

## 49-1574. Area A; fuel reformulation; rules

A. From and after May 1, 1999, all gasoline produced and shipped to or within this state and sold or offered for sale for use in motor vehicles in a county with a population of one million two hundred thousand or more persons and any portion of a county contained in area A, subject to an appropriate waiver granted by the administrator of the United States environmental protection agency pursuant to section 211(c)(4) of the clean air act as defined in section 49-401.01, shall comply with either of the following fuel
 reformulation options:

1. A gasoline that meets standards for federal phase II reformulated
gasoline, as provided in 40 Code of Federal Regulations section 80.41,
paragraphs (e) through (h), in effect on January 1, 1999, except that the
minimum oxygen content standard does not apply. The gasoline shall also meet
the maximum vapor pressure requirements in section 41-2083 49-1533,
subsections D and F.

9 2. California phase 2 reformulated gasoline, including alternative 10 formulations allowed by the predictive model, as adopted by the California 11 air resources board pursuant to California Code of Regulations title 13, 12 sections 2261 through 2262.7 and 2265, in effect on January 1, 1997, except 13 that the minimum oxygen content standard does not apply. The gasoline shall 14 also meet the maximum vapor pressure requirements in section 41-2083 49-1533, 15 subsections D and F.

B. From and after November 1, 2000 through March 31, 2001 and from FOR 16 the period beginning November 1 through March 31 of each subsequent year, all 17 18 gasoline produced and shipped to or within this state and sold or offered for 19 sale for use in motor vehicles in a county with a population of one million 20 two hundred thousand or more persons and any portion of a county contained in 21 area A, subject to an appropriate waiver granted by the administrator of the 22 United States environmental protection agency pursuant to section 211(c)(4) of the clean air act as defined in section 49-401.01, shall comply with 23 standards for California phase 2 reformulated gasoline, including alternative 24 25 formulations allowed by the predictive model, as adopted by the California 26 air resources board pursuant to California Code of Regulations title 13, 27 sections 2261 through 2262.7 and 2265, in effect on January 1, 1997 and shall 28 meet the maximum vapor pressure requirements in section 41-2083 49-1533, 29 subsections D and F. The fuel described in this subsection shall meet the requirements of section 41-2123 49-1573, subsection A, paragraph 1. 30

31 C. From November 1, 2000 through March 31, 2001 and For each winter season of November through March thereafter, the director of the department 32 33 <del>of weights and measures</del> shall determine the average levels of the constituents in the gasoline sold or offered for sale in area A and shall 34 35 provide the results of this determination to the director of environmental quality. The director of environmental quality shall analyze the data 36 provided by the director of the department of weights and measures and, no 37 38 later than July 1, 2001 and each July thereafter EACH YEAR, shall determine

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the average daily carbon monoxide reductions resulting from the use of the 1 2 gasoline specified in subsection B of this section during the preceding 3 winter season. If the average daily carbon monoxide reductions resulting 4 from the use of the gasoline specified in subsection B of this section during 5 the preceding winter season are less than ninety per cent of the goal of thirty-two tons per day in 2001, thirty-one tons per day in 2003, thirty tons 6 7 per day in 2005, twenty-nine tons per day in 2007 or twenty-eight tons per day in 2009, the director of the department of environmental quality shall 8 immediately notify the governor, the president of the senate and the speaker 9 10 of the house of representatives.

D. Any registered supplier or oxygenate blender, as defined in department rules, may petition the director to request that all registered suppliers or oxygenate blenders be allowed to comply with any provision of section 41-2123 49-1573, subsection A, provided the petitioner can demonstrate that ethanol supply shortages are imminent.

16

E. The petition shall:

Identify specific supply conditions that will result in a shortage
 of ethanol.

Identify which oxygenate or oxygenates and the concentration that
 will be blended into gasoline for sale or use in area A.

3. Demonstrate that the alternative oxygenate blend comes closest to meeting a three and one-half per cent PERCENT by weight oxygen content at reasonable cost, unless the registered supplier or oxygenate blender is petitioning to use a gasoline-ethanol blend containing less than ten per cent PERCENT by volume of ethanol.

26 4. Specify a time period for compliance with any provision of section
 27 41-2123 49-1573, subsection A, not to exceed sixty days.

F. The director shall either grant or deny the petition in writing within seven days of its receipt. Any decision by the director to grant the petition shall be equally applicable to all registered suppliers or oxygenate blenders and shall not be selectively applied to any single registered supplier or oxygenate blender. The petition may be granted only if the director verifies that the basis for requesting the petition is factual.

G. The director may reauthorize a petition if the petitioner can
 demonstrate that the conditions have continued. The reauthorization of a
 petition shall not exceed thirty days.

H. The director of the department of weights and measures shall
 consult with the director of the department of environmental quality prior to
 granting, reauthorizing or denying any such petition.

4

I. H. The director of environmental quality in consultation with the director of the department of weights and measures shall adopt by rule:

5 6

1. Requirements to implement subsections A through E of this section.

7 2. Requirements for record keeping RECORDKEEPING, reporting and
analytical methods for fuel providers to demonstrate compliance with
subsections A through E of this section.

10 J. I. This section does not apply to fuel sold for use at a motor 11 vehicle manufacturer proving ground or at a motor vehicle racing event.

12 Sec. 34. Section 49-1575, Arizona Revised Statutes, as transferred and 13 renumbered, is amended to read:

14

49-1575. Area C; fuel reformulation; rules

A. From and after May 31, 2008 through September 30, 2008 and during the period From and after May 1 through September 30 of each subsequent year, all gasoline produced and shipped to or within this state and sold or offered for sale for use in motor vehicles in area C shall comply with either of the following fuel reformulation options:

A gasoline that meets standards for federal phase II reformulated
 gasoline, as provided in 40 Code of Federal Regulations section 80.41,
 paragraphs (e) through (h), in effect on January 1, 1999, except that the
 minimum oxygen content standard does not apply. The gasoline shall also meet
 the maximum vapor pressure requirements in section 41-2083.01 49-1534,
 subsection D.

2. California phase 2 reformulated gasoline, including alternative 27 formulations allowed by the predictive model, as adopted by the California 28 air resources board pursuant to California Code of Regulations title 13, 29 sections 2261 through 2262.7 and 2265, in effect on January 1, 1997, except 30 that the minimum oxygen content standard does not apply. The gasoline shall 31 also meet the maximum vapor pressure requirements in section 41-2083.01 32 49-1534, subsection D.

B. Any registered supplier, as defined in department rules, may petition the director to request that all registered suppliers be allowed to supply gasoline in area C that does not meet the standards in subsection A of this section if the petitioner demonstrates that a shortage in the supply of gasoline meeting the standards in subsection A of this section is imminent.

38

C. A petition under subsection B of this section shall:

1 2 1. Identify specific supply conditions that will result in a shortage of gasoline meeting the standards in subsection A of this section.

3 4 2. Identify the formulation of gasoline that will be sold in area C in lieu of gasoline meeting the standards in subsection A of this section.

5 6 3. Specify a time period for compliance with the standards of subsection A of this section not to exceed sixty days.

D. The director shall either grant or deny a petition under subsection B of this section in writing within seven days of its receipt. Any decision by the director to grant the petition shall be equally applicable to all registered suppliers and shall not be selectively applied to any single registered supplier. The petition may be granted only if the director verifies that the basis for requesting the petition is factual.

E. The director may reauthorize a petition granted under subsection B of this section if the petitioner demonstrates that the conditions identified in the petition have continued. The reauthorization of a petition shall not exceed thirty days.

17 F. The director of the department of weights and measures shall 18 consult with the director of the department of environmental quality before 19 granting, reauthorizing or denying any petition under subsection B of this 20 section.

G. F. The director of the department of environmental quality in
 consultation with the director of the department of weights and measures
 shall adopt by rule:

24

1. Requirements to implement subsections A, B and C of this section.

2. Requirements for record keeping RECORDKEEPING, reporting and
 analytical methods for fuel providers to demonstrate compliance with
 subsection A of this section.

H. G. This section does not apply to fuel sold for use at a motor
 vehicle manufacturer proving ground or at a motor vehicle racing event.

30 Sec. 35. Section 49-1576, Arizona Revised Statutes, as transferred and 31 renumbered, is amended to read:

32

# 49–1576. Area B; sale of gasoline; oxygen content

A. From and after September 30 through March 31 of each year, all gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles within area B or that is consumed in a motor vehicle within area B by a fleet owner shall contain not less than 1.8 per cent PERCENT by weight of oxygen nor more than the maximum percentage of oxygen allowed by the provisions of a waiver issued by the
 United States environmental protection agency.

3 B. Notwithstanding subsection A of this section, at any time earlier 4 than sixty days before September 30 of each year, the designated air quality 5 planning agency for area B with the concurrence of the director of the department of environmental quality may give notice, pursuant to the 6 7 applicable plan required under section 49-406 for the Tucson air planning 8 area, to the director of the department of weights and measures that the 9 minimum oxygen content for the ensuing oxygenate seasons will be increased 10 not less than .3 per cent PERCENT by weight of oxygen and not more than the maximum percentage of oxygen allowed for oxygenates by provisions of a waiver 11 12 issued or other limits established by the United States environmental 13 protection agency. Before making a determination to increase the minimum oxygen content pursuant to this subsection, the designated air quality 14 15 planning agency for area B shall consider and conduct a cost-benefit analysis on all reasonable carbon monoxide emission reduction measures that could be 16 17 implemented in lieu of increasing the minimum oxygen content.

Sec. 36. Section 49-1592, Arizona Revised Statutes, as transferred and
 renumbered, is amended to read:

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### 49-1592. <u>Stage I vapor recovery systems</u>

A. A person shall not offer for sale, sell, install or use a new 21 22 gasoline stage I vapor recovery system, or any new or rebuilt component parts 23 of the system, unless the system or component part has been certified by the California air resources board as of March 31, 2001 or after that date, or 24 25 has been approved by a third party accredited to test equipment and 26 recognized by industry and the department, and has not been rejected by the 27 department. The department shall maintain and keep current a list of stage I 28 vapor recovery systems and component parts that are approved by the 29 department. Only those systems that are approved shall be used in this state. All certified vapor recovery components must be clearly identified by 30 31 a permanent identification affixed by the certified manufacturer or 32 rebuilder.

B. For gasoline dispensing sites with a throughput of over ten thousand gallons per month in area A or area B as defined in section 49-541, a person shall not transfer or allow the transfer of gasoline into storage tanks at gasoline dispensing sites unless the storage tank is equipped with a stage I vapor recovery system consisting of a vapor-tight return line from the storage tank or its vent to the gasoline transport vehicle.

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C. An owner or operator of a gasoline storage tank, gasoline transport
 vehicle or gasoline dispensing site subject to stage I vapor recovery
 requirements shall comply with the following:

4

1. Install all necessary stage I vapor recovery systems and make any modifications necessary to comply with the requirements.

5 6 7

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

8 3. Replace, repair or modify any worn or ineffective component or 9 design element to ensure the vapor-tight integrity and efficiency of the 10 stage I vapor recovery systems.

4. Connect and ensure proper operation of the stage I vapor recovery
 systems whenever gasoline is being loaded, unloaded or dispensed.

5. In area A and other geographical areas as provided by subsection G of this section, have the stage I vapor recovery system tested annually by a registered service representative licensed by the department OF RANSPORTATION.

D. Before the initial installation or modification of any stage I vapor recovery system, the owner or operator of a gasoline storage tank, gasoline transport vehicle or gasoline dispensing site shall obtain a plan review and approval from the department. Application for the plan review and approval shall be on forms prescribed and provided by the department.

E. The department of weights and measures in consultation with the department of environmental quality and the state fire marshal shall establish by rule standards for the installation and operation of stage I vapor recovery systems. The department of weights and measures shall establish by rule plan review and approval fees. In establishing those rules and standards, the director shall consider requirements in other states to ensure that only state-of-the-art technology is used.

F. Approval of a stage I vapor recovery system by the department does not relieve the owner or operator of the responsibility to comply with other applicable statutes, codes and rules pertaining to fire prevention, environmental quality and safety matters.

G. Any county, city or town outside of area A or area B as defined in section 49-541 may require gasoline dispensing sites with a throughput greater than ten thousand gallons per month to install, operate and maintain stage I vapor recovery systems in accordance with this section. Any county, city or town, including cities and towns within area B, also may require annual testing of required stage I vapor recovery systems pursuant to subsection C of this section. For a county, city or town considering the adoption of a resolution to require stage I vapor recovery systems or annual testing within its jurisdiction and on request, the department of environmental quality shall provide technical assistance in evaluating the air quality in that county, city or town and shall provide final review and approval of an adopted resolution.

H. A county board of supervisors or governing body of a city or town
shall submit a resolution approved by the department of environmental quality
to the director of the department of weights and measures requesting the
imposition of the requirements for stage I vapor recovery systems within its
jurisdiction.

12 I. The director shall adopt, by rule, compliance schedules for gasoline dispensing sites located within the jurisdiction requesting stage I 13 vapor recovery system requirements no later than twelve months after receipt 14 15 of the resolution from the county board of supervisors or governing board of 16 a city or town. All gasoline dispensing sites shall be required to comply with stage I vapor recovery system rules within twenty-four months after the 17 18 rules have been filed with the secretary of state. Sites with stage I vapor 19 recovery systems already installed must comply with the testing requirements 20 at the time the rules become effective.

21 J. A county board of supervisors or governing body of a city or town 22 that adopts the requirements for stage I vapor recovery systems may repeal 23 those requirements by adopting a resolution to remove the imposition of those requirements within its jurisdiction unless the county, city or town is in an 24 25 ozone nonattainment area that has since been designated as moderate, serious 26 or severe by the United States environmental protection agency under section 27 107(d) of the clean air act. On receipt of the resolution, the director  $\frac{\partial f}{\partial t}$ 28 the department of weights and measures shall consult with the director of the 29 department of environmental quality to SHALL verify that a county, city or 30 town is outside of an ozone nonattainment area designated as moderate, 31 serious or severe by the United States environmental protection agency under 32 section 107(d) of the clean air act. After consultation with the department 33 of environmental quality, The director of the department of weights and 34 measures shall revise the rules to repeal the requirements for stage I vapor 35 recovery systems within that jurisdiction as soon as practicable.

Sec. 37. Section 49-1593, Arizona Revised Statutes, as transferred and
 renumbered, is amended to read:

2

49-1593. <u>Compliance schedules</u>

4 Notwithstanding section 41-2132 49-1592, subsection I relating to
 5 schedules of compliance:

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6 1. Gasoline dispensing facilities located in area A or in any other 7 geographical area as provided in section 41-2132 49-1592, subsection G for 8 which construction began after the certification of rules adopted pursuant to 9 section 41-2132 49-1592 shall be constructed to include stage I vapor 10 recovery systems that meet the minimum standards set forth in this chapter 11 and department rules.

12 2. All gasoline dispensing sites located in area A or in any other 13 geographical area as provided in section 41-2132 49-1592, subsection G that 14 begin underground storage tank replacement and that apply for a permit 15 pursuant to title 49, chapter 3, article 3 or 5 OF THIS TITLE on or after 16 September 30, 1992 shall be in compliance within six months after the 17 effective date of the rules adopted pursuant to section 41-2132 49-1592. 18 Compliance with this article is a condition of the permit.

Sec. 38. Section 49-1595, Arizona Revised Statutes, as transferred and
 renumbered, is amended to read:

21

49-1595. <u>Stage II vapor recovery systems</u>

22 A. A person shall not offer for sale, sell, install or use a new 23 gasoline vapor recovery system, or any new or rebuilt component parts of the system, unless the system or component part has been certified by the 24 25 California air resources board as of March 31, 2001 or after that date, or 26 has been approved by a third party accredited to test equipment and 27 recognized by industry and the department, and has not been rejected by the 28 department. The department shall maintain and keep current a list of stage 29 II vapor recovery systems and component parts that are approved by the department. Only those systems that are approved shall be used in this 30 31 state. All certified vapor recovery components must be clearly identified by a permanent identification affixed by the certified manufacturer or 32 33 rebuilder.

B. In an ozone nonattainment area designated as moderate, serious, severe or extreme by the United States environmental protection agency under section 107(d) of the clean air act or area A, an owner or operator of a gasoline dispensing site shall not transfer or allow the transfer of gasoline into a motor vehicle fuel tank at a gasoline dispensing site unless the

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gasoline dispensing site is equipped with a stage II vapor recovery system, 1 2 unless the stage II equipment has been decommissioned in accordance with the 3 procedures established pursuant to subsection H of this section. This 4 subsection does not apply to gasoline dispensing sites with a throughput of 5 less than ten thousand gallons per month, or to a gasoline dispensing site with a throughput of less than fifty thousand gallons per month in the case 6 7 of an independent small business marketer of gasoline as defined in section 8 324 of the clean air act or to a gasoline dispensing site that is located on a manufacturer's proving ground. This subsection applies to gasoline 9 10 dispensing sites that are located within area A but outside the Phoenix area 11 Maricopa county ozone nonattainment area as defined in 40 Code of Federal 12 Regulations section 81.303.

13 C. An owner or operator of a gasoline storage tank, gasoline transport 14 vehicle or gasoline dispensing site subject to stage II vapor recovery 15 requirements shall comply with the following:

Install all necessary stage II vapor recovery systems and make any
 modifications necessary to comply with the requirements.

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

Replace, repair or modify any worn or ineffective component or
 design element to ensure the vapor-tight integrity and efficiency of the
 stage II vapor recovery systems.

4. Connect and ensure proper operation of the stage II vapor recovery
systems whenever gasoline is being loaded, unloaded or dispensed.

5. Have the stage II vapor recovery system tested annually by a
 registered service representative licensed by the department OF
 TRANSPORTATION.

D. Before the modification of any stage II vapor recovery system, the owner or operator of a gasoline storage tank, gasoline transport vehicle or gasoline dispensing site shall obtain a plan review and approval from the department. The department shall prescribe forms for the application for the plan review and approval.

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

F. The department of weights and measures in consultation with the department of environmental quality and the state fire marshal shall establish by rule standards for the installation and operation of stage II vapor recovery systems. The department of weights and measures shall establish by rule plan review and approval fees. In establishing those rules and standards, the director shall consider requirements in other states to ensure that only state-of-the-art technology is used.

G. Approval of a stage II vapor recovery system by the department does
 not relieve the owner or operator of the responsibility to comply with other
 applicable statutes, codes and rules pertaining to fire prevention,
 environmental quality and safety matters.

14 H. The department of weights and measures in consultation with the 15 department of environmental quality and the state fire marshal shall 16 establish by rule standards for decommissioning stage II vapor recovery systems on or after October 1, 2016 but not later than September 30, 2018, or 17 such dates as approved by the United States environmental protection agency 18 19 in the state implementation plan revision for the removal of stage II vapor 20 recovery systems submitted under section 110(1) of the clean air act. 21 whichever is later. The rules must require removal of stage II vapor 22 recovery systems no later than September 30, 2018, or the final removal date 23 approved by the United States environmental protection agency in the state implementation plan revision for the removal of stage II vapor recovery 24 25 systems submitted under section 110(1) of the clean air act. whichever is 26 later. The department shall prescribe forms for the application for the plan 27 review and approval. The department shall establish by rule plan review and 28 approval fees.

I. All stage II vapor recovery systems and testing must remain in
 place until such systems are decommissioned pursuant to subsection H of this
 section.

J. The requirements prescribed for stage II vapor recovery systems pursuant to subsections A through E of this section do not apply to a retail station if the construction begins after the effective date of this section APRIL 22, 2014.

K. The requirements for stage II vapor recovery systems prescribed in
 subsections A through E of this section do not apply to an owner or operator
 who has decommissioned stage II vapor recovery equipment in accordance with

1 the standards established by the department pursuant to subsection H of this 2 section.

3

Sec. 39. <u>Succession</u>

A. As provided by this act, the department of transportation, the department of environmental quality or the department of health services, as applicable, succeeds to the authority, powers, duties and responsibilities of department of weights and measures.

B. This act does not alter the effect of any actions that were taken
or impair the valid obligations of the department of weights and measures in
existence before the effective date of this act.

11 C. Administrative rules and orders that were adopted by the department 12 of weights and measures continue in effect until superseded by administrative 13 action by the department of transportation, the department of environmental 14 quality or the department of health services, as applicable.

15 D. All administrative matters, contracts and judicial and 16 quasi-judicial actions, whether completed, pending or in process, of the department of weights and measures on the effective date of this act are 17 transferred to and retain the same status with the department of 18 19 transportation, the department of environmental quality or the department of 20 health services, as applicable.

E. All certificates, licenses, registrations, permits and other indicia of qualification and authority that were issued by the department of weights and measures retain their validity for the duration of their terms of validity as provided by law.

25 F. All equipment, records, furnishings and other property, all data 26 and investigative findings and all appropriated monies that remain unexpended 27 and unencumbered on the effective date of this act of the department of 28 weights and measures are transferred to the department of environmental 29 quality, the department of transportation or the department of health services, as applicable. The director of the department of administration 30 31 shall determine and allocate the transfer, consistent with the provisions of 32 this act.

G. All personnel who are under the state personnel system and employed by the department of weights and measures are transferred to comparable positions and pay classifications in the respective administrative units of the department of environmental quality, the department of transportation or the department of health services, as applicable, on effective date of this act.

Sec. 40. Exemption from rulemaking 1 2 For the purposes of this act, the department of environmental quality, the department of health services and the department of transportation are 3 exempt from the rulemaking requirements of title 41, chapter 6, Arizona 4 Revised Statutes, for one year after the effective date of this act. 5 6 Sec. 41. Effective date

- 7 This act is effective from and after December 31, 2015."
- 8 Amend title to conform

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