

State of Arizona
Senate
Fifty-third Legislature
Second Regular Session
2018

CHAPTER 126
SENATE BILL 1240

AN ACT

AMENDING SECTIONS 3-3414 AND 3-3512, ARIZONA REVISED STATUTES; RELATING TO
THE WEIGHTS AND MEASURES SERVICES DIVISION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 3-3414, Arizona Revised Statutes, is amended to
3 read:

4 3-3414. Powers and duties; definition

5 A. The division shall:

6 1. Maintain custody of the state reference standards of weights and
7 measures that are traceable to the United States prototype standards and
8 that are supplied to the states by the federal government or that are
9 otherwise approved as being satisfactory by the national institute of
10 standards and technology.

11 2. Keep the state reference standards in a safe and suitable place
12 in the metrology laboratory of the division and ensure that they are not
13 removed from the laboratory except for repairs or for calibration as may
14 be prescribed by the national institute of standards and technology.

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

16 4. Adopt any rules necessary to carry out this chapter and adopt
17 reasonable rules for the enforcement of this chapter. These rules have
18 the force and effect of law and shall be adopted pursuant to title 41,
19 chapter 6. In adopting these rules, the associate director shall
20 consider, as far as is practicable, the requirements established by other
21 states and by authority of the United States, except that rules shall not
22 be made in conflict with this chapter.

23 5. Publish rules adopted pursuant to this chapter and issue
24 appropriate copies at no cost to all new applicants for licensure and
25 certification. Updated copies of the rules shall be distributed, on
26 request, at no cost to the public.

27 6. Investigate complaints made to the division concerning
28 violations of this chapter and, on its own initiative, conduct
29 investigations it deems appropriate to develop information relating to
30 prevailing procedures in commercial quantity determination and relating to
31 possible violations of this chapter, in order to educate the public and
32 regulated persons to encourage and promote the general objective of
33 accuracy in the determination and representation of quantity in commercial
34 transactions.

35 7. Establish labeling standards, establish standards of weight,
36 measure or count and establish reasonable standards of fill for any
37 packaged commodity, and may establish standards for open dating
38 information.

39 8. Grant, pursuant to this chapter, exemptions from the licensing
40 provisions of this chapter for weighing and measuring instruments,
41 standards or devices when the ownership or use of the instrument or device
42 is limited to federal, state or local government agencies in the
43 performance of official functions. On request, the division may conduct
44 inspections of instruments, standards or devices and shall charge a fee
45 pursuant to section 3-3452.

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

3 10. Inspect and test weights and measures that are kept, offered or
4 exposed for sale.

5 11. Inspect and test, to ascertain if they are correct, weights and
6 measures **THAT ARE** commercially used either:

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

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

12 12. Test, at random, commodities, weights and measures **THAT ARE**
13 used in public institutions for which monies are appropriated by the
14 legislature. The testing of commodities, weights and measures in public
15 institutions includes items:

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

17 (b) That have been found to be of short weight, measure or count by
18 other jurisdictions.

19 (c) That are to be tested as part of a regional or national survey.

20 13. Test, approve for use and affix a seal of approval for use on
21 all weights, measures and commercial devices **THAT ARE** manufactured in or
22 brought into this state as it finds to be correct and shall reject and
23 mark as rejected weights, measures and devices **THAT** it finds to be
24 incorrect. Weights, measures and devices that have been rejected may be
25 seized by the division if not corrected within the time specified or if
26 used or disposed of in a manner not specifically authorized. The division
27 shall condemn and may seize weights, measures and devices that are found
28 to be incorrect and that are not capable of being made correct. **THE**
29 **DIVISION MAY AFFIX A NONTAMPERING SEAL TO COMMERCIAL DEVICES THAT ARE**
30 **TESTED AND FOUND TO BE WITHIN APPLICABLE TOLERANCE.**

31 14. Sample and test motor fuel that is stored, sold or exposed or
32 offered for sale or that is stored for use by a fleet owner to determine
33 whether the motor fuel meets the standards for motor fuel set forth in
34 section 3-3433 and article 6 of this chapter and in any rule adopted by
35 the associate director pursuant to this chapter.

36 15. Randomly witness tests on all mandated vapor recovery systems
37 that are installed or operated in this state and, if the systems are
38 determined to be in compliance with the law, approve those systems for use
39 and reject, mark as rejected and stop the use of those systems that are
40 determined not to be in compliance with the law.

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

44 17. Publish and distribute to consumers and regulated persons
45 weighing and measuring information.

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

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

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

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

21 ~~22. Report to the governor on or before August 1 of each year and~~
22 ~~at such other times as may be required on the work accomplished under this~~
23 ~~chapter.~~

24 ~~23.~~ 22. Subject to title 41, chapter 4, article 4, employ such
25 personnel as needed to assist in administering this chapter.

26 ~~24.~~ 23. Ensure that any information that is required to be filed
27 with the division, that relates to the contents of motor fuels that are
28 sold in this state and that is a trade secret as defined in section 49-201
29 is not disclosed.

30 ~~25.~~ 24. Establish by rule labeling standards for tanks and
31 containers of motor fuels.

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

38 C. The associate director may establish standards for the
39 presentation of cost-per-unit information. This subsection does not
40 mandate the use of cost-per-unit information in connection with the sale
41 of any standard packed commodity.

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

1 fuels, as described in article 6 of this chapter, that are stored, used,
2 sold or exposed or offered for use or sale are blended and stored, sold,
3 exposed or offered in such a manner as to ensure that the oxygenated fuels
4 are properly blended, that they meet the standards set forth in section
5 3-3433 and article 6 of this chapter, and in rules adopted pursuant to
6 this chapter, and that dispensers at which the oxygenated fuels are
7 dispensed are labeled as defined by rule of the division in such a manner
8 as to notify persons of the type of oxygenated fuel being dispensed and
9 the maximum percentage of oxygenate by volume contained in the oxygenated
10 fuel. The associate director of the division shall consult with the
11 director of the department of environmental quality in adopting rules
12 pursuant to this subsection.

13 E. Testing and inspection conducted pursuant to this chapter shall
14 be done, to the extent practicable, without prior notice, by a random
15 systematic method determined by the associate director or in response to a
16 complaint by the public. The testing and inspection may be done by
17 private persons and firms pursuant to contracts entered into by the
18 associate director in accordance with title 41, chapter 23 or by a
19 registered service agency or registered service representative licensed
20 pursuant to section 3-3454. The associate director shall establish
21 qualifications of persons and firms for selection for purposes of this
22 subsection. The persons or firms conducting the testing and inspection
23 shall immediately report to the division any violations of this chapter
24 and incorrect weights, measures, devices, vapor recovery systems or vapor
25 recovery components for investigation and enforcement by the division. A
26 person or firm that tests or inspects a weight, measure, device, vapor
27 recovery system or vapor recovery component that is rejected shall not
28 correct the defect causing the rejection without the permission of the
29 division.

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

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

37 Sec. 2. Section 3-3512, Arizona Revised Statutes, is amended to
38 read:

39 3-3512. Stage I vapor recovery systems; stage II vapor
40 recovery systems

41 A. A person shall not offer for sale, sell, install or use a new
42 gasoline stage I vapor recovery system, or any new or rebuilt component
43 parts of the system, unless the system or component part has been
44 certified by the California air resources board as of March 31, 2001 or
45 after that date, or has been approved by a third party **THAT IS** accredited
46 to test equipment and recognized by industry and the division, and has not

1 been rejected by the division. The division shall maintain and keep
2 current a list of stage I vapor recovery systems and component parts that
3 are approved by the division. Only those systems that are approved shall
4 be used in this state. All certified vapor recovery components must be
5 clearly identified by a permanent identification affixed by the certified
6 manufacturer or rebuilder.

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

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

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

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

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

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

26 5. In area A and other geographical areas as provided by subsection
27 G of this section, have the stage I vapor recovery system tested annually
28 by a registered service representative **THAT IS** licensed by the division.

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

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

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

45 G. Any county, city or town outside of area A or area B may require
46 gasoline dispensing sites with a throughput greater than ten thousand

1 gallons per month to install, operate and maintain stage I vapor recovery
2 systems in accordance with this section. Any county, city or town,
3 including cities and towns within area B, also may require annual testing
4 of required stage I vapor recovery systems pursuant to subsection C of
5 this section. For a county, city or town considering the adoption of a
6 resolution to require stage I vapor recovery systems or annual testing
7 within its jurisdiction and on request, the department of environmental
8 quality shall provide technical assistance in evaluating the air quality
9 in that county, city or town and shall provide final review and approval
10 of an adopted resolution.

11 H. A county board of supervisors or governing body of a city or
12 town shall submit a resolution approved by the department of environmental
13 quality to the associate director of the division requesting the
14 imposition of the requirements for stage I vapor recovery systems within
15 its jurisdiction.

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

26 J. A county board of supervisors or governing body of a city or
27 town that adopts the requirements for stage I vapor recovery systems may
28 repeal those requirements by adopting a resolution to remove the
29 imposition of those requirements within its jurisdiction unless the
30 county, city or town is in an ozone nonattainment area that has since been
31 designated as moderate, serious or severe by the United States
32 environmental protection agency under section 107(d) of the clean air act.
33 On receipt of the resolution, the associate director of the division shall
34 consult with the director of the department of environmental quality to
35 verify that a county, city or town is outside of an ozone nonattainment
36 area designated as moderate, serious or severe by the United States
37 environmental protection agency under section 107(d) of the clean air act.
38 After consultation with the department of environmental quality, the
39 associate director of the division shall revise the rules to repeal the
40 requirements for stage I vapor recovery systems within that jurisdiction
41 as soon as practicable.

42 **K. FROM AND AFTER SEPTEMBER 30, 2018, STAGE II VAPOR RECOVERY**
43 **SYSTEMS THAT COLLECT VAPORS DURING VEHICLE REFUELING ARE PROHIBITED IN AN**
44 **OZONE NONATTAINMENT AREA DESIGNATED AS MODERATE, SERIOUS, SEVERE OR**
45 **EXTREME BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER SECTION**
46 **107(d) OF THE CLEAN AIR ACT OR AREA A.**

APPROVED BY THE GOVERNOR APRIL 3, 2018.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 3, 2018.