

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 rebuilders.

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.