

REFERENCE TITLE: forestry and fire management; conformity

State of Arizona
Senate
Fifty-third Legislature
First Regular Session
2017

SB 1202

Introduced by
Senator Griffin

AN ACT

AMENDING SECTIONS 3-3512, 3-3515, 4-101, 4-205.02, 9-808, 9-951, 9-952, 9-953, 9-956, 11-861, 15-2011, 20-224, 20-1901, 34-461, 36-883, 36-1605, 36-1609, 36-1610, 36-1636, 36-1645, 37-1301, 37-1302, 37-1303 AND 37-1307, ARIZONA REVISED STATUTES; REPEALING TITLE 37, CHAPTER 9, ARTICLE 2, ARIZONA REVISED STATUTES; AMENDING SECTIONS 37-1381, 37-1382, 37-1383, 37-1384, 37-1385, 37-1387 AND 37-1388, ARIZONA REVISED STATUTES; PROVIDING FOR TRANSFERRING AND RENUMBERING; AMENDING SECTION 37-1391, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED; AMENDING SECTIONS 37-1402, 37-1403, 37-1404, 37-1405, 37-1406, 37-1407, 41-1861, 41-4031, 42-2003, 48-805, 48-820, 49-123 AND 49-356, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA DEPARTMENT OF FORESTRY AND FIRE MANAGEMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 3-3512, Arizona Revised Statutes, is amended to
3 read:

4 3-3512. Stage I vapor recovery systems

5 A. A person shall not offer for sale, sell, install or use a new
6 gasoline stage I vapor recovery system, or any new or rebuilt component
7 parts of the system, unless the system or component part has been
8 certified by the California air resources board as of March 31, 2001 or
9 after that date, or has been approved by a third party accredited to test
10 equipment and recognized by industry and the division, and has not been
11 rejected by the division. The division shall maintain and keep current a
12 list of stage I vapor recovery systems and component parts that are
13 approved by the division. Only those systems that are approved shall be
14 used in this state. All certified vapor recovery components must be
15 clearly identified by a permanent identification affixed by the certified
16 manufacturer or rebuilder.

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

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

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

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

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

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

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

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

44 E. The division in consultation with the department of
45 environmental quality and the OFFICE OF THE state fire marshal shall

1 establish by rule standards for the installation and operation of stage I
2 vapor recovery systems. The division shall establish by rule plan review
3 and approval fees. In establishing those rules and standards, the
4 associate director shall consider requirements in other states to ensure
5 that only state-of-the-art technology is used.

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

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

22 H. A county board of supervisors or governing body of a city or
23 town shall submit a resolution approved by the department of environmental
24 quality to the associate director of the division requesting the
25 imposition of the requirements for stage I vapor recovery systems within
26 its jurisdiction.

27 I. The associate director shall adopt, by rule, compliance
28 schedules for gasoline dispensing sites located within the jurisdiction
29 requesting stage I vapor recovery system requirements no later than twelve
30 months after receipt of the resolution from the county board of
31 supervisors or governing board of a city or town. All gasoline dispensing
32 sites shall be required to comply with stage I vapor recovery system rules
33 within twenty-four months after the rules have been filed with the
34 secretary of state. Sites with stage I vapor recovery systems already
35 installed must comply with the testing requirements at the time the rules
36 become effective.

37 J. A county board of supervisors or governing body of a city or
38 town that adopts the requirements for stage I vapor recovery systems may
39 repeal those requirements by adopting a resolution to remove the
40 imposition of those requirements within its jurisdiction unless the
41 county, city or town is in an ozone nonattainment area that has since been
42 designated as moderate, serious or severe by the United States
43 environmental protection agency under section 107(d) of the clean air
44 act. On receipt of the resolution, the associate director of the division
45 shall consult with the director of the department of environmental quality

1 to verify that a county, city or town is outside of an ozone nonattainment
2 area designated as moderate, serious or severe by the United States
3 environmental protection agency under section 107(d) of the clean air
4 act. After consultation with the department of environmental quality, the
5 associate director of the division shall revise the rules to repeal the
6 requirements for stage I vapor recovery systems within that jurisdiction
7 as soon as practicable.

8 Sec. 2. Section 3-3515, Arizona Revised Statutes, is amended to
9 read:

10 3-3515. Stage II vapor recovery systems

11 A. A person shall not offer for sale, sell, install or use a new
12 gasoline vapor recovery system, or any new or rebuilt component parts of
13 the system, unless the system or component part has been certified by the
14 California air resources board as of March 31, 2001 or after that date, or
15 has been approved by a third party accredited to test equipment and
16 recognized by industry and the division, and has not been rejected by the
17 division. The division shall maintain and keep current a list of stage II
18 vapor recovery systems and component parts that are approved by the
19 division. Only those systems that are approved shall be used in this
20 state. All certified vapor recovery components must be clearly identified
21 by a permanent identification affixed by the certified manufacturer or
22 rebuilder.

23 B. In an ozone nonattainment area designated as moderate, serious,
24 severe or extreme by the United States environmental protection agency
25 under section 107(d) of the clean air act or area A, an owner or operator
26 of a gasoline dispensing site shall not transfer or allow the transfer of
27 gasoline into a motor vehicle fuel tank at a gasoline dispensing site
28 unless the gasoline dispensing site is equipped with a stage II vapor
29 recovery system, unless the stage II equipment has been decommissioned in
30 accordance with the procedures established pursuant to subsection H of
31 this section. This subsection does not apply to gasoline dispensing sites
32 with a throughput of less than ten thousand gallons per month, or to a
33 gasoline dispensing site with a throughput of less than fifty thousand
34 gallons per month in the case of an independent small business marketer of
35 gasoline as defined in section 324 of the clean air act or to a gasoline
36 dispensing site that is located on a manufacturer's proving ground. This
37 subsection applies to gasoline dispensing sites that are located within
38 area A but outside the Phoenix area Maricopa county ozone nonattainment
39 area as defined in 40 Code of Federal Regulations section 81.303.

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

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

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

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

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

9 5. Have the stage II vapor recovery system tested annually by a
10 registered service representative licensed by the division.

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

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

23 F. The division in consultation with the department of
24 environmental quality and the OFFICE OF THE state fire marshal shall
25 establish by rule standards for the installation and operation of stage II
26 vapor recovery systems. The division shall establish by rule plan review
27 and approval fees. In establishing those rules and standards, the
28 associate director shall consider requirements in other states to ensure
29 that only state-of-the-art technology is used.

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

34 H. 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 decommissioning stage II vapor recovery
37 systems on or after October 1, 2016 but not later than September 30, 2018,
38 or such dates as approved by the United States environmental protection
39 agency in the state implementation plan revision for the removal of stage
40 II vapor recovery systems submitted under section 110(l) of the clean air
41 act, whichever is later. The rules must require removal of stage II vapor
42 recovery systems no later than September 30, 2018, or the final removal
43 date approved by the United States environmental protection agency in the
44 state implementation plan revision for the removal of stage II vapor
45 recovery systems submitted under section 110(l) of the clean air act,

1 whichever is later. The division shall prescribe forms for the
2 application for the plan review and approval. The division shall
3 establish by rule plan review and approval fees.

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

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

10 K. The requirements for stage II vapor recovery systems prescribed
11 in subsections A through E of this section do not apply to an owner or
12 operator who has decommissioned stage II vapor recovery equipment in
13 accordance with the standards established by the division pursuant to
14 subsection H of this section.

15 Sec. 3. Section 4-101, Arizona Revised Statutes, is amended to
16 read:

17 4-101. Definitions

18 In this title, unless the context otherwise requires:

19 1. "Act of violence" means an incident consisting of a riot, a
20 brawl or a disturbance, in which bodily injuries are sustained by any
21 person and such injuries would be obvious to a reasonable person, or
22 tumultuous conduct of sufficient intensity as to require the intervention
23 of a peace officer to restore normal order, or an incident in which a
24 weapon is brandished, displayed or used. Act of violence does not include
25 the use of nonlethal devices by a peace officer.

26 2. "Aggrieved party" means a person who resides at, owns or leases
27 property within a one mile radius of a premises proposed to be licensed
28 and who filed a written request with the department to speak in favor of
29 or opposition to the issuance of the license no later than sixty days
30 after the filing of the application or fifteen days after action by the
31 local governing body, whichever is later.

32 3. "Beer" means any beverage obtained by the alcoholic
33 fermentation, infusion or decoction of barley malt, hops, or other
34 ingredients not drinkable, or any combination of them.

35 4. "Board" means the state liquor board.

36 5. "Bona fide guest" means:

37 (a) An individual who is personally familiar to the member, who is
38 personally sponsored by the member and whose presence as a guest is in
39 response to a specific and personal invitation.

40 (b) In the case of a club that meets the criteria prescribed in
41 paragraph 7, subdivision (a) of this section, a current member of the
42 armed services of the United States who presents proper military
43 identification and any member of a recognized veterans' organization of
44 the United States and of any country allied with the United States during
45 current or past wars or through treaty arrangements.

1 6. "Broken package" means any container of spirituous liquor on
2 which the United States tax seal has been broken or removed, or from which
3 the cap, cork or seal placed thereupon by the manufacturer has been
4 removed.

5 7. "Club" includes any of the following organizations where the
6 sale of spirituous liquor for consumption on the premises is made to
7 members only:

8 (a) A post, chapter, camp or other local unit composed solely of
9 veterans and its duly recognized auxiliary that has been chartered by the
10 Congress of the United States for patriotic, fraternal or benevolent
11 purposes and that has, as the owner, lessee or occupant, operated an
12 establishment for that purpose in this state.

13 (b) A chapter, aerie, parlor, lodge or other local unit of an
14 American national fraternal organization that has, as the owner, lessee or
15 occupant, operated an establishment for fraternal purposes in this state.
16 An American national fraternal organization as used in this subdivision
17 shall actively operate in not less than thirty-six states or have been in
18 active continuous existence for not less than twenty years.

19 (c) A hall or building association of a local unit mentioned in
20 subdivisions (a) and (b) of this paragraph, all of the capital stock of
21 which is owned by the local unit or the members, and that operates the
22 clubroom facilities of the local unit.

23 (d) A golf club that has more than fifty bona fide members and that
24 owns, maintains or operates a bona fide golf links together with a
25 clubhouse.

26 (e) A social club with more than one hundred bona fide members who
27 are actual residents of the county in which it is located, that owns,
28 maintains or operates club quarters, that is authorized and incorporated
29 to operate as a nonprofit club under the laws of this state, and that has
30 been continuously incorporated and operating for a period of not less than
31 one year. The club shall have had, during this ~~one-year period~~
32 **ONE-YEAR-PERIOD**, a bona fide membership with regular meetings conducted at
33 least once each month, and the membership shall be and shall have been
34 actively engaged in carrying out the objects of the club. The club's
35 membership shall consist of bona fide dues paying members paying at least
36 six dollars per year, payable monthly, quarterly or annually, which have
37 been recorded by the secretary of the club, and the members at the time of
38 application for a club license shall be in good standing having for at
39 least one full year paid dues. At least fifty-one percent of the members
40 shall have signified their intention to secure a social club license by
41 personally signing a petition, on a form prescribed by the board, which
42 shall also include the correct mailing address of each signer. The
43 petition shall not have been signed by a member at a date earlier than one
44 hundred eighty days before the filing of the application. The club shall
45 qualify for exemption from the payment of state income taxes under title

1 43. It is the intent of this subdivision that a license shall not be
2 granted to a club that is, or has been, primarily formed or activated to
3 obtain a license to sell liquor, but solely to a bona fide club, where the
4 sale of liquor is incidental to the main purposes of the club.

5 (f) An airline club operated by or for airlines that are
6 certificated by the United States government and that maintain or operate
7 club quarters located at airports with international status.

8 8. "Company" or "association", when used in reference to a
9 corporation, includes successors or assigns.

10 9. "Control" means the power to direct or cause the direction of
11 the management and policies of an applicant, licensee or controlling
12 person, whether through the ownership of voting securities or a
13 partnership interest, by agreement or otherwise. Control is presumed to
14 exist if a person has the direct or indirect ownership of or power to vote
15 ten percent or more of the outstanding voting securities of the applicant,
16 licensee or controlling person or to control in any manner the election of
17 one or more of the directors of the applicant, licensee or controlling
18 person. In the case of a partnership, control is presumed to mean the
19 general partner or a limited partner who holds ten percent or more of the
20 voting rights of the partnership. For the purposes of determining the
21 percentage of voting securities owned, controlled or held by a person,
22 there shall be aggregated with the voting securities attributed to the
23 person the voting securities of any other person directly or indirectly
24 controlling, controlled by or under common control with the other person,
25 or by an officer, partner, employee or agent of the person or by a spouse,
26 parent or child of the person. Control is also presumed to exist if a
27 creditor of the applicant, licensee or controlling person holds a
28 beneficial interest in ten percent or more of the liabilities of the
29 licensee or controlling person. The presumptions in this paragraph
30 regarding control are rebuttable.

31 10. "Controlling person" means a person directly or indirectly
32 possessing control of an applicant or licensee.

33 11. "Craft distiller" means a distiller in the United States or in a
34 territory or possession of the United States that holds a license pursuant
35 to section 4-205.10.

36 12. "Department" means the department of liquor licenses and
37 control.

38 13. "Director" means the director of the department of liquor
39 licenses and control.

40 14. "Distilled spirits" includes alcohol, brandy, whiskey, rum,
41 tequila, mescal, gin, absinthe, a compound or mixture of any of them or of
42 any of them with any vegetable or other substance, alcohol bitters,
43 bitters containing alcohol, fruits preserved in ardent spirits, and any
44 alcoholic mixture or preparation, whether patented or otherwise, that may
45 in sufficient quantities produce intoxication.

1 15. "Employee" means any person who performs any service on licensed
2 premises on a full-time, part-time or contract basis with consent of the
3 licensee, whether or not the person is denominated an employee,
4 independent contractor or otherwise. Employee does not include a person
5 exclusively on the premises for musical or vocal performances, for repair
6 or maintenance of the premises or for the delivery of goods to the
7 licensee.

8 16. "Farm winery" means a winery in the United States or in a
9 territory or possession of the United States that holds a license pursuant
10 to section 4-205.04.

11 17. "Government license" means a license to serve and sell
12 spirituous liquor on specified premises available only to a state agency,
13 state board, state commission, county, city, town, community college or
14 state university or the national guard or Arizona coliseum and exposition
15 center on application by the governing body of a state agency, state
16 board, state commission, county, city, town, community college or state
17 university or the national guard or Arizona exposition and state fair
18 board.

19 18. "Legal drinking age" means twenty-one years of age or older.

20 19. "License" means a license or an interim retail permit issued
21 pursuant to this title.

22 ~~21.~~ 20. "Licensee" means a person who has been issued a license or
23 an interim retail permit pursuant to this title or a special event
24 licensee.

25 ~~20.~~ 21. "License fees" means fees collected for license issuance,
26 license application, license renewal, interim permit issuance and license
27 transfer between persons or locations.

28 22. "Manager" means a natural person who meets the standards
29 required of licensees and who has authority to organize, direct, carry on,
30 control or otherwise operate a licensed business on a temporary or
31 full-time basis.

32 23. "Microbrewery" means a brewery in the United States or in a
33 territory or possession of the United States that meets the requirements
34 of section 4-205.08.

35 24. "Off-sale retailer" means any person operating a bona fide
36 regularly established retail liquor store selling spirituous liquors,
37 wines and beer, and any established retail store selling commodities other
38 than spirituous liquors and engaged in the sale of spirituous liquors only
39 in the original unbroken package, to be taken away from the premises of
40 the retailer and to be consumed off the premises.

41 25. "On-sale retailer" means any person operating an establishment
42 where spirituous liquors are sold in the original container for
43 consumption on or off the premises or in individual portions for
44 consumption on the premises.

1 26. "PERMANENT OCCUPANCY" MEANS THE MAXIMUM OCCUPANCY OF THE
2 BUILDING OR FACILITY AS SET BY THE OFFICE OF THE STATE FIRE MARSHAL FOR
3 THE JURISDICTION IN WHICH THE BUILDING OR FACILITY IS LOCATED.

4 ~~26:~~ 27. "Person" includes a partnership, limited liability company,
5 association, company or corporation, as well as a natural person.

6 ~~27:~~ 28. "Premises" or "licensed premises" means the area from which
7 the licensee is authorized to sell, dispense or serve spirituous liquors
8 under the provision of the license. Premises or licensed premises
9 includes a patio that is not contiguous to the remainder of the premises
10 or licensed premises if the patio is separated from the remainder of the
11 premises or licensed premises by a public or private walkway or driveway
12 not to exceed thirty feet, subject to rules the director may adopt to
13 establish criteria for noncontiguous premises.

14 ~~28:~~ 29. "Registered mail" includes certified mail.

15 ~~29:~~ 30. "Registered retail agent" means any person who is
16 authorized pursuant to section 4-222 to purchase spirituous liquors for
17 and on behalf of himself and other retail licensees.

18 ~~30:~~ 31. "Repeated acts of violence" means:

19 (a) For licensed premises with a permanent occupancy of two hundred
20 or fewer persons, two or more acts of violence occurring within seven days
21 or three or more acts of violence occurring within thirty days.

22 (b) For licensed premises with a permanent occupancy of more than
23 two hundred but not more than four hundred persons, four or more acts of
24 violence within thirty days.

25 (c) For licensed premises with a permanent occupancy of more than
26 four hundred but not more than six hundred fifty persons, five or more
27 acts of violence within thirty days.

28 (d) For licensed premises with a permanent occupancy of more than
29 six hundred fifty but not more than one thousand fifty persons, six or
30 more acts of violence within thirty days.

31 (e) For licensed premises with a permanent occupancy of more than
32 one thousand fifty persons, seven or more acts of violence within thirty
33 days. ~~For the purposes of this paragraph, "permanent occupancy" means the~~
34 ~~maximum occupancy of the building or facility as set by the fire marshal~~
35 ~~for the jurisdiction in which the building or facility is located.~~

36 ~~31:~~ 32. "Sell" includes soliciting or receiving an order for,
37 keeping or exposing for sale, directly or indirectly delivering for value,
38 peddling, keeping with intent to sell and trafficking in.

39 ~~32:~~ 33. "Spirituous liquor" includes alcohol, brandy, whiskey, rum,
40 tequila, mescal, gin, wine, porter, ale, beer, any malt liquor or malt
41 beverage, absinthe, a compound or mixture of any of them or of any of them
42 with any vegetable or other substance, alcohol bitters, bitters containing
43 alcohol, any liquid mixture or preparation, whether patented or otherwise,
44 which produces intoxication, fruits preserved in ardent spirits, and

1 beverages containing more than one-half of one percent of alcohol by
2 volume.

3 ~~33.~~ 34. "Vehicle" means any means of transportation by land, water
4 or air, and includes everything made use of in any way for such
5 transportation.

6 ~~34.~~ 35. "Vending machine" means a machine that dispenses
7 merchandise through the means of coin, token, credit card or other
8 nonpersonal means of accepting payment for merchandise received.

9 ~~35.~~ 36. "Veteran" means a person who has served in the United
10 States air force, army, navy, marine corps or coast guard, as an active
11 nurse in the services of the American red cross, in the army and navy
12 nurse corps in time of war, or in any expedition of the armed forces of
13 the United States, and who has received a discharge other than
14 dishonorable.

15 ~~36.~~ 37. "Voting security" means any security presently entitling
16 the owner or holder of the security to vote for the election of directors
17 of an applicant, licensee or controlling person.

18 ~~37.~~ 38. "Wine" means the product obtained by the fermentation of
19 grapes, other agricultural products containing natural or added sugar or
20 cider or any such alcoholic beverage fortified with grape brandy and
21 containing not more than twenty-four percent of alcohol by volume.

22 Sec. 4. Section 4-205.02, Arizona Revised Statutes, is amended to
23 read:

24 4-205.02. Restaurant license; issuance; regulatory
25 provisions; expiration; definitions

26 A. The director may issue a restaurant license to any restaurant in
27 this state that is regularly open for the serving of food to guests for
28 compensation and that has suitable kitchen facilities connected with the
29 restaurant for keeping, cooking and preparing foods required for ordinary
30 meals.

31 B. The director shall issue the license in the name of the
32 restaurant on application for the license by the owner or lessee of the
33 restaurant, provided the applicant is otherwise qualified to hold a
34 spirituous liquor license. The holder of such license is subject to the
35 penalties prescribed for any violation of the law relating to alcoholic
36 beverages.

37 C. The holder of a restaurant license may sell and serve spirituous
38 liquors solely for consumption on the licensed premises. For the purpose
39 of this subsection, "licensed premises" may include rooms, areas or
40 locations in which the restaurant normally sells or serves spirituous
41 liquors pursuant to regular operating procedures and practices and that
42 are contiguous to the restaurant or a noncontiguous patio pursuant to
43 section 4-101, paragraph ~~27~~ 28. For the purposes of this subsection, a
44 restaurant licensee must submit proof of tenancy or permission from the

1 landowner or lessor for all property to be included in the licensed
2 premises.

3 D. In addition to other grounds prescribed in this title on which a
4 license may be revoked, the director may require the holder of a
5 restaurant license issued pursuant to this section to surrender the
6 license in any case in which the licensee ceases to operate as a
7 restaurant, as prescribed in subsection A of this section. The surrender
8 of a license pursuant to this subsection does not prevent the director
9 from revoking the license for other grounds prescribed in this title or
10 for making deliberate material misrepresentations to the department
11 regarding the licensee's equipment, service or entertainment items or
12 seating capacity in applying for the restaurant license.

13 E. Neither the director nor the board may initially issue a
14 restaurant license if either finds that there is sufficient evidence that
15 the operation will not satisfy the criteria adopted by the director for
16 issuing a restaurant license described in section 4-209, subsection B,
17 paragraph 12. The director shall issue a restaurant license only if the
18 applicant has submitted a plan for the operation of the restaurant. The
19 plan shall be completed on forms provided by the department and shall
20 include listings of all restaurant equipment and service items, the
21 restaurant seating capacity and other information requested by the
22 department to substantiate that the restaurant will operate in compliance
23 with this section.

24 F. The holder of the license described in section 4-209, subsection
25 B, paragraph 12 who intends to alter the seating capacity or dimensions of
26 a restaurant facility shall notify the department in advance on forms
27 provided by the department.

28 G. The director may charge a fee for site inspections conducted
29 before the issuance of a restaurant license.

30 H. A restaurant applicant or licensee may apply for a permit
31 allowing for the sale of beer for consumption off the licensed premises
32 pursuant to section 4-244, paragraph 32, subdivision (c) on a form
33 prescribed and furnished by the director. The department shall not issue
34 a permit to a restaurant applicant or licensee that does not meet the
35 requirements in section 4-207, subsection A. ~~The provisions of~~ Section
36 4-207, subsection B ~~do~~ DOES not apply to this subsection. The permit
37 shall be issued only after the director has determined that the public
38 convenience requires and that the best interest of the community will be
39 substantially served by the issuance of the permit, considering the same
40 criteria adopted by the director for issuing a restaurant license
41 described in section 4-209, subsection B, paragraph 12. The amount of
42 beer sold under the permit shall not exceed ten percent of gross revenue
43 of spirituous liquor sold by the establishment. After the permit has been
44 issued, the permit shall be noted on the license itself and in the records

1 of the department. The director may charge a fee for processing the
2 application for the permit and a renewal fee.

3 I. For the purposes of this section:

4 1. "Gross revenue" means the revenue derived from all sales of food
5 and spirituous liquor on the licensed premises, regardless of whether the
6 sales of spirituous liquor are made under a restaurant license issued
7 pursuant to this section or under any other license that has been issued
8 for the premises pursuant to this article.

9 2. "Restaurant" means an establishment that derives at least forty
10 percent of its gross revenue from the sale of food, including sales of
11 food for consumption off the licensed premises if the amount of these
12 sales included in the calculation of gross revenue from the sale of food
13 does not exceed fifteen percent of all gross revenue of the restaurant.

14 Sec. 5. Section 9-808, Arizona Revised Statutes, is amended to
15 read:

16 9-808. Fire apparatus access road or approved route; fire
17 watch requirements; enforcement; intent; state
18 preemption; definitions

19 A. A municipality may not adopt any, or part of any, fire code,
20 ordinance, stipulation or other legal requirement for an approved fire
21 apparatus access road or a fire apparatus access road extension, or both,
22 or an approved route or a route extension, or both, that directly or
23 indirectly requires a one or two family residence or a utility or
24 miscellaneous accessory building or structure to install fire sprinklers.
25 A fire code official may increase or extend an approved fire apparatus
26 access road or a fire apparatus access road extension, or both, or an
27 approved route or a route extension, or both, to comply with this section.
28 Compliance with this subsection is not grounds to deny or suspend a
29 license or permit.

30 B. Nothing in **SUBSECTION A OF** this section prohibits a municipality
31 from adopting fire codes or ordinances to provide sufficient fire access
32 and fire routes that ensure public health and safety.

33 C. If a municipality's fire code requires the use of a fire watch,
34 an employee who works at the building in which a fire watch is required
35 may serve as the fire watch. A person who is designated as a fire watch
36 shall be equipped with means to contact the local fire department, and the
37 person's only duty while keeping watch for fires shall be to perform
38 constant patrols of the protected premises. The municipality shall
39 provide the fire watch with printed instructions from the **OFFICE OF THE**
40 state fire marshal and may provide a free training session before the
41 person's deployment as the fire watch begins.

42 D. **SUBSECTION A OF** this section may be enforced in a private civil
43 action and relief, including an injunction, may be awarded against a
44 municipality. The court shall award reasonable attorney fees, damages,
45 lost opportunity costs, interest and the cost of the sprinkler system to a

1 party that prevails in an action against a municipality for a violation of
2 **SUBSECTION A OF** this section.

3 E. The legislature finds and determines that property rights are a
4 matter of statewide concern and a fundamental element of freedom. A
5 property owner's right to use the property owner's property must be
6 protected from unreasonable abridgment by municipal regulation and
7 enforcement. This section supersedes and preempts any regulation adopted
8 by a municipality regarding an approved fire apparatus access road, fire
9 apparatus access road extension, approved route or route extension.

10 F. For the purposes of this section:

11 1. "Fire code" includes the international fire code, however
12 denominated.

13 2. "Fire watch" means a person who is stationed in a building or in
14 a place relative to a building to observe the building and its openings
15 when the fire protection system for the building is temporarily
16 nonoperational or absent.

17 3. "Utility or miscellaneous accessory building or structure"
18 includes an agricultural building, aircraft hangar, accessory to a
19 residence, barn, carport, fence that is more than six feet high, grain
20 silo, greenhouse, livestock shelter, private garage, retaining wall, shed,
21 stable, tank or tower.

22 Sec. 6. Section 9-951, Arizona Revised Statutes, is amended to
23 read:

24 9-951. Disposition of fire insurance premium tax proceeds:
25 composition of fund

26 A. The proceeds of the annual tax provided by law on the gross
27 amount of all premiums received on policies and contracts of fire
28 insurance covering property within this state, after deducting
29 cancellations, return premiums, dividends and the amount received as
30 reinsurance on business in this state, are appropriated and set aside for
31 distribution to cities and towns and legally organized fire districts that
32 procure the services of private fire companies and for the payment of
33 benefits pursuant to this article, article 4 of this chapter or title 38,
34 chapter 5, article 4.

35 B. Not later than April 30, the **OFFICE OF THE** state fire marshal
36 shall certify to the state treasurer the incorporated cities and towns
37 having organized fire departments, the incorporated cities and towns and
38 legally organized fire districts that procure the services of a private
39 fire company and the areas served by legally organized fire districts, the
40 department of insurance shall certify to the state treasurer the
41 respective amounts of tax on fire premiums paid in the previous year for
42 properties located in this state, and the department of revenue shall
43 certify to the state treasurer the full cash value of the real property
44 and improvements for the previous year in each incorporated city and town
45 and legally organized fire district that procures the services of a

1 private fire company and in each area served by a FIRE department or a
2 legally organized fire district. The total amount of the tax proceeds
3 shall then be prorated among the several incorporated cities and towns and
4 legally organized fire districts in proportion to the full cash value of
5 the real property and improvements in each incorporated city and town and
6 legally organized fire district that procures the services of a private
7 fire company and in each area served by a department or a legally
8 organized fire district to the total full cash value of all incorporated
9 cities and towns and legally organized fire districts that procure the
10 services of a private fire company and incorporated cities and towns that
11 have a fire department and legally organized fire districts in this state.

12 C. Each incorporated city or town having an organized fire
13 department and each legally organized volunteer fire district shall deduct
14 five ~~per cent~~ PERCENT from the salaries or compensation of its ~~fire~~
15 ~~fighters~~ FIREFIGHTERS and add a like amount from its general revenues.
16 The employer or the employee may add a contribution greater than that
17 specified in this ~~section~~ SUBSECTION to the fire fighters' relief and
18 pension fund. The total of the two amounts shall be paid each month into
19 the fire fighters' relief and pension fund. The treasurer of each board
20 shall keep a record of the salary deductions. If a ~~fire fighter~~
21 FIREFIGHTER dies under circumstances not entitling ~~his~~ THE FIREFIGHTER'S
22 dependents to a benefit from the fire fighters' relief and pension fund,
23 or if ~~he~~ THE FIREFIGHTER becomes separated from the service voluntarily or
24 involuntarily without having become eligible for retirement benefits
25 thereunder, all deductions previously made from ~~his~~ THE FIREFIGHTER'S
26 salary under this article shall become payable, plus interest as
27 determined by the board, to ~~his~~ THE FIREFIGHTER'S beneficiary in the event
28 of ~~his~~ THE FIREFIGHTER'S death, or otherwise to the ~~fire fighter~~
29 FIREFIGHTER.

30 D. Payroll deductions made under subsection C of this section, plus
31 any additional sums the board of trustees may add, shall be set aside in a
32 permanent reserve fund, the income of which, but no part of the principal,
33 shall be used to pay retirement benefits or relief, but, in order to pay
34 the refunds provided for in subsection C of this section, that portion of
35 the principal that accrues from salary deductions may be drawn ~~upon~~ ON
36 when necessary.

37 E. For THE purposes of this section and section 9-952, full cash
38 value of real property and improvements for the previous year with respect
39 to each incorporated city and town ~~which~~ THAT procures the services of a
40 private fire company shall be limited to thirty ~~per cent~~ PERCENT of the
41 amount certified by the department of revenue and the percentage shall be
42 utilized in computing the entitlement of an incorporated city or town
43 ~~which~~ THAT procures the services of a private fire company.

1 Sec. 7. Section 9-952, Arizona Revised Statutes, is amended to
2 read:

3 9-952. Disposition of fire insurance premium tax

4 Not later than July 1 OF EACH YEAR, the state treasurer, using the
5 information provided by the cities and towns and legally organized fire
6 districts, the OFFICE OF THE state fire marshal, the department of
7 insurance and the department of revenue as provided in section 9-951,
8 subsection B, shall distribute the fire insurance premium tax to the
9 respective incorporated cities and towns and legally organized fire
10 districts in proportion to the full cash value of the real property and
11 improvements in each incorporated city and town and legally organized fire
12 district ~~which~~ THAT procures the services of a private fire company and in
13 each area served by a FIRE department or legally organized fire
14 district. The warrant issued by the state treasurer to incorporated
15 cities and towns and legally organized fire districts having organized
16 fire departments and to legally organized fire districts shall be
17 identified as "fire fighters' relief and pension fund". The warrant
18 issued by the state treasurer to an incorporated city or town or legally
19 organized fire district procuring the services of a private fire company
20 ~~which~~ THAT has a pension plan covering ~~fire-fighting~~ FIREFIGHTING
21 personnel shall be identified for deposit in the municipality's general
22 fund or, in the case of a fire district, in the fire fighters' relief and
23 pension fund.

24 Sec. 8. Section 9-953, Arizona Revised Statutes, is amended to
25 read:

26 9-953. Fire districts or departments; certification by the
27 office of the state fire marshal

28 The OFFICE OF THE state fire marshal shall certify the existence of
29 fire districts organized under title 48 and fire departments of
30 incorporated cities and towns. The OFFICE OF THE state fire marshal shall
31 provide this information annually to the state treasurer pursuant to
32 section 9-951, subsection B.

33 Sec. 9. Section 9-956, Arizona Revised Statutes, is amended to
34 read:

35 9-956. Annual audit; report of secretary; sanction

36 A. The board shall cause an annual audit and report of the FIRE
37 FIGHTERS' RELIEF AND PENSION fund.

38 B. The secretary shall report, using a form approved by the OFFICE
39 OF THE state fire marshal, annually on or before January 1 to the board
40 the condition of the FIRE FIGHTERS' RELIEF AND PENSION fund and the
41 receipts and disbursements, with a complete list of ~~its~~ THE FUND'S
42 beneficiaries and the amounts paid.

43 C. The board shall send a copy of the annual audit and report of
44 the FIRE FIGHTERS' RELIEF AND PENSION fund to the OFFICE OF THE state fire

1 marshal and the ~~Arizona state library, archives and public~~
2 ~~records~~ SECRETARY OF STATE.

3 D. If the annual pension fund report is not received by January 31
4 by the OFFICE OF THE state fire marshal, the participating incorporated
5 city or town or fire district is not eligible to receive its share of fire
6 insurance premium tax monies under section 9-952.

7 Sec. 10. Section 11-861, Arizona Revised Statutes, is amended to
8 read:

9 11-861. Adoption of codes by reference; limitations; method
10 of adoption; fire sprinklers; fire apparatus access
11 roads or approved routes; intent; state preemption;
12 fire watch requirements; pool barrier gates

13 A. In any county that has adopted zoning pursuant to this chapter,
14 the board of supervisors may adopt and enforce, for the unincorporated
15 areas of the county so zoned, a building code and other related codes to
16 regulate the quality, type of material and workmanship of all aspects of
17 construction of buildings or structures, except that the board may
18 authorize that areas zoned rural or unclassified may be exempt from the
19 provisions of the code adopted. The codes may be adopted by reference
20 after notice and hearings before the county planning and zoning commission
21 and board of supervisors as provided in this chapter for amendments to the
22 zoning ordinance of the county.

23 B. The board of supervisors may adopt a fire prevention code in the
24 unincorporated areas of the county in which a fire district has not
25 adopted a nationally recognized fire code pursuant to section 48-805. Any
26 fire code adopted by a board of supervisors pursuant to this subsection
27 shall remain in effect until a fire district is established and adopts a
28 code applicable within the boundaries of the district.

29 C. For the purpose of this article, codes authorized by subsections
30 A and B of this section shall be limited to the following:

31 1. Any building, electrical, plumbing or mechanical code that has
32 been adopted by any national organization or association that is organized
33 and conducted for the purpose of developing codes or that has been adopted
34 by the largest city in that county. If the board of supervisors adopts a
35 city code, it shall adopt, within ninety days after receiving a written
36 notification of a change to the city code, the same change or shall
37 terminate the adopted city code.

38 2. Any fire prevention code that has been adopted by a national
39 organization or association organized or conducted for the purpose of
40 developing fire prevention codes and that is as stringent as the state
41 fire code adopted pursuant to section 37-1383.

42 D. The board of supervisors may adopt a current wildland-urban
43 interface code. The code may be adapted from a model code adopted by a
44 national or international organization or association for mitigating the
45 hazard to life and property. The board must follow written public

1 procedures in the development and adoption of the code and any revisions
2 to the code to provide effective, early and continuous public
3 participation through:

4 1. The broad dissemination and publicity of the proposed code and
5 any revisions to the code.

6 2. The opportunity for submission and consideration of written
7 public comments.

8 3. Open discussions, communications programs and information
9 services.

10 4. Consultation with federal agencies and state and local
11 officials.

12 E. The board of supervisors shall not adopt a code or ordinance or
13 part of a uniform code or ordinance that prohibits a person or entity from
14 choosing to install or equip or not install or equip fire sprinklers in a
15 single family detached residence or any residential building that contains
16 not more than two dwelling units. The board of supervisors shall not
17 impose any fine, penalty or other requirement on any person or entity for
18 choosing to install or equip or not install or equip fire sprinklers in
19 such a residence. This subsection does not apply to any code or ordinance
20 that requires fire sprinklers in a residence and that was adopted before
21 December 31, 2009. The provisions of this subsection shall be included on
22 all fire sprinkler permit applications that are for a single family
23 detached residence or any residential building that contains not more than
24 two dwelling units.

25 F. A fire sprinkler permit application may be in either print or
26 electronic format.

27 G. A board of supervisors may not adopt any, or part of any, fire
28 code, ordinance, stipulation or other legal requirement for an approved
29 fire apparatus access road or a fire apparatus access road extension, or
30 both, or an approved route or a route extension, or both, that directly or
31 indirectly requires a one or two family residence or a utility or
32 miscellaneous accessory building or structure to install fire
33 sprinklers. A fire code official may increase or extend an approved fire
34 apparatus access road or a fire apparatus access road extension, or both,
35 or an approved route or a route extension, or both, to comply with this
36 subsection. Compliance with this subsection is not grounds to deny or
37 suspend a license or permit. This subsection may be enforced in a private
38 civil action and relief, including an injunction, may be awarded against a
39 county. The court shall award reasonable attorney fees, damages, lost
40 opportunity costs, interest and the cost of the sprinkler system to a
41 party that prevails in an action against a county for a violation of this
42 subsection. The legislature finds and determines that property rights are
43 a matter of statewide concern and a fundamental element of freedom. A
44 property owner's right to use the property owner's property must be
45 protected from unreasonable abridgment by county regulation and

1 enforcement. This subsection supersedes and preempts any regulation
2 adopted by a county regarding an approved fire apparatus access road, fire
3 apparatus access road extension, approved route or route extension. For
4 the purposes of this subsection:

5 1. "Fire code" includes the international fire code, however
6 denominated.

7 2. "Utility or miscellaneous accessory building or structure"
8 includes an agricultural building, aircraft hangar, accessory to a
9 residence, barn, carport, fence that is more than six feet high, grain
10 silo, greenhouse, livestock shelter, private garage, retaining wall, shed,
11 stable, tank or tower.

12 H. If a fire code adopted by a board of supervisors requires the
13 use of a fire watch, an employee who works at the building in which a fire
14 watch is required may serve as the fire watch. A person who is designated
15 as a fire watch shall be equipped with means to contact the local fire
16 department, and the person's only duty while keeping watch for fires shall
17 be to perform constant patrols of the protected premises. The county
18 shall provide the fire watch with printed instructions from the OFFICE OF
19 THE state fire marshal and may provide a free training session before the
20 person's deployment as the fire watch begins. For the purposes of this
21 subsection, "fire watch" means a person who is stationed in a building or
22 in a place relative to a building to observe the building and its openings
23 when the fire protection system for the building is temporarily
24 nonoperational or absent.

25 I. From and after December 31, 2014, a code or ordinance or part of
26 a uniform code or ordinance that is adopted by the board of supervisors
27 applies to locking devices for pool barrier gates used for means of
28 ingress or egress for semipublic swimming pools. Any new construction or
29 major renovation of a semipublic swimming pool from and after December 31,
30 2014 must meet the requirements of the code or ordinance or part of the
31 uniform code or ordinance that is adopted by the board of supervisors.
32 This subsection does not apply to a locking device for a pool barrier gate
33 used for means of ingress or egress for a semipublic swimming pool that
34 was installed before January 1, 2015, if the locking device meets the
35 requirements prescribed in section 36-1681, subsection B, paragraph 3.

36 Sec. 11. Section 15-2011, Arizona Revised Statutes, is amended to
37 read:

38 15-2011. Minimum school facility adequacy requirements;
39 definition

40 A. The school facilities board, as determined and prescribed in
41 this chapter, shall provide funding to school districts for new
42 construction as the number of pupils in the district fills the existing
43 school facilities and requires more pupil space.

44 B. School buildings in a school district are adequate if all of the
45 following requirements are met:

1 1. The buildings contain sufficient and appropriate space and
2 equipment that comply with the minimum school facility adequacy guidelines
3 established pursuant to subsection F of this section. The state shall not
4 fund facilities for elective courses that require the school district
5 facilities to exceed minimum school facility adequacy requirements. The
6 school facilities board shall determine whether a school building meets
7 the requirements of this paragraph by analyzing the total square footage
8 that is available for each pupil in conjunction with the need for
9 specialized spaces and equipment.

10 2. The buildings are in compliance with federal, state and local
11 building and fire codes and laws that are applicable to the particular
12 building, except that a school with an aggregate area of less than five
13 thousand square feet is subject to permitting and inspection by a local
14 fire marshal and is only subject to regulation or inspection by the **OFFICE**
15 **OF THE** state fire marshal if the county, city or town in which the school
16 is located does not employ a local fire marshal. An existing school
17 building is not required to comply with current requirements for new
18 buildings unless this compliance is specifically mandated by law or by the
19 building or fire code of the jurisdiction where the building is located.

20 3. The building systems, including roofs, plumbing, telephone
21 systems, electrical systems, heating systems and cooling systems, are in
22 working order and are capable of being properly maintained.

23 4. The buildings are structurally sound.

24 C. The standards that shall be used by the school facilities board
25 to determine whether a school building meets the minimum adequate gross
26 square footage requirements are as follows:

27 1. For a school district that provides instruction to pupils in
28 programs for preschool children with disabilities, kindergarten programs
29 and grades one through six, eighty square feet per pupil in programs for
30 preschool children with disabilities, kindergarten programs and grades one
31 through six.

32 2. For a school district that provides instruction to up to eight
33 hundred pupils in grades seven and eight, eighty-four square feet per
34 pupil in grades seven and eight.

35 3. For a school district that provides instruction to more than
36 eight hundred pupils in grades seven and eight, eighty square feet per
37 pupil in grades seven and eight or sixty-seven thousand two hundred square
38 feet, whichever is more.

39 4. For a school district that provides instruction to up to four
40 hundred pupils in grades nine through twelve, one hundred twenty-five
41 square feet per pupil in grades nine through twelve.

42 5. For a school district that provides instruction to more than
43 four hundred and up to one thousand pupils in grades nine through twelve,
44 one hundred twenty square feet per pupil in grades nine through twelve or
45 fifty thousand square feet, whichever is more.

1 6. For a school district that provides instruction to more than one
2 thousand and up to one thousand eight hundred pupils in grades nine
3 through twelve, one hundred twelve square feet per pupil in grades nine
4 through twelve or one hundred twenty thousand square feet, whichever is
5 more.

6 7. For a school district that provides instruction to more than one
7 thousand eight hundred pupils in grades nine through twelve, ninety-four
8 square feet per pupil in grades nine through twelve or two hundred one
9 thousand six hundred square feet, whichever is more.

10 D. The school facilities board may modify the square footage
11 requirements prescribed in subsection C of this section or modify the
12 amount of monies awarded to cure the square footage deficiency pursuant to
13 this section for particular school districts based on extraordinary
14 circumstances for any of the following considerations:

15 1. The number of pupils served by the school district.

16 2. Geographic factors.

17 3. Grade configurations other than those prescribed in subsection C
18 of this section.

19 E. In measuring the square footage per pupil requirements of
20 subsection C of this section, the school facilities board shall:

21 1. Use the most recent one hundredth day average daily membership.

22 2. For each school, use the lesser of either:

23 (a) Total gross square footage.

24 (b) Student capacity multiplied by the appropriate square footage
25 per pupil prescribed by subsection C of this section.

26 3. Consider the total space available in all schools in use in the
27 school district, except that the school facilities board shall allow an
28 exclusion of the square footage for certain schools and the pupils within
29 the schools' boundaries if the school district demonstrates to the board's
30 satisfaction unusual or excessive busing of pupils or unusual attendance
31 boundary changes between schools.

32 4. Compute the gross square footage of all buildings by measuring
33 from exterior wall to exterior wall. Square footage used solely for
34 district administration, storage of vehicles and other nonacademic
35 purposes shall be excluded from the net square footage.

36 5. Include all portable and modular buildings.

37 6. Include in the net square footage new construction funded wholly
38 or partially by the school facilities board based on the square footage
39 funded by the school facilities board. If the new construction is to
40 exceed the square footage funded by the school facilities board, the
41 excess square footage shall not be included in the net square footage if
42 any of the following applies:

43 (a) The excess square footage was constructed before July 1, 2002
44 or funded by a class B bond, impact aid revenue bond or capital outlay
45 override approved by the voters after August 1, 1998 and before June 30,

1 2002 or funded from unrestricted capital outlay expended before June 30,
2 2002.

3 (b) The excess square footage of new school facilities does not
4 exceed twenty-five percent of the minimum square footage requirements
5 pursuant to subsection C of this section.

6 (c) The excess square footage of expansions to school facilities
7 does not exceed twenty-five percent of the minimum square footage
8 requirements pursuant to subsection C of this section.

9 7. Exclude square footage built under a developer agreement
10 according to section 15-342, paragraph 33 until the school facilities
11 board provides funding for the square footage under section 15-2041,
12 subsection 0.

13 8. Include square footage that a school district has leased to
14 another entity.

15 F. The school facilities board shall adopt rules establishing
16 minimum school facility adequacy guidelines. The guidelines shall provide
17 the minimum quality and quantity of school buildings and facilities and
18 equipment necessary and appropriate to enable pupils to achieve the
19 academic standards pursuant to section 15-203, subsection A, paragraphs 12
20 and 13 and sections 15-701 and 15-701.01. At a minimum, the school
21 facilities board shall address all of the following in developing these
22 guidelines:

- 23 1. School sites.
- 24 2. Classrooms.
- 25 3. Libraries and media centers, or both.
- 26 4. Cafeterias.
- 27 5. Auditoriums, multipurpose rooms or other multiuse space.
- 28 6. Technology.
- 29 7. Transportation.
- 30 8. Facilities for science, arts and physical education.
- 31 9. Other facilities and equipment that are necessary and
32 appropriate to achieve the academic standards prescribed pursuant to
33 section 15-203, subsection A, paragraphs 12 and 13 and sections 15-701 and
34 15-701.01.
- 35 10. Appropriate combinations of facilities or uses listed in this
36 section.

37 G. The board shall consider the facilities and equipment of the
38 schools with the highest academic productivity scores, as prescribed in
39 section 15-2002, subsection A, paragraph 9, subdivision (d), and the
40 highest parent quality ratings in the establishment of the guidelines.

41 H. The school facilities board may consider appropriate
42 combinations of facilities or uses in making assessments of and curing
43 existing deficiencies pursuant to section 15-2002, subsection A, paragraph
44 1 and in certifying plans for new school facilities pursuant to section
45 15-2002, subsection A, paragraph 5.

1 I. For the purposes of this section, "student capacity" means the
2 capacity adjusted to include any additions to or deletions of space,
3 including modular or portable buildings at the school. The school
4 facilities board shall determine the student capacity for each school in
5 conjunction with each school district, recognizing each school's
6 allocation of space as of July 1, 1998, to achieve the academic standards
7 prescribed pursuant to section 15-203, subsection A, paragraphs 12 and 13
8 and sections 15-701 and 15-701.01.

9 Sec. 12. Section 20-224, Arizona Revised Statutes, is amended to
10 read:

11 20-224. Premium tax; reports

12 A. On or before March 1 of each year, each authorized domestic
13 insurer, each other insurer and each formerly authorized insurer referred
14 to in section 20-206, subsection B shall file with the director a report
15 in a form prescribed by the director showing total direct premium income
16 including policy membership and other fees and all other considerations
17 for insurance from all classes of business whether designated as a premium
18 or otherwise received by it during the preceding calendar year on account
19 of policies and contracts covering property, subjects or risks located,
20 resident or to be performed in this state, after deducting from such total
21 direct premium income applicable cancellations, returned premiums, the
22 amount of reduction in or refund of premiums allowed to industrial life
23 policyholders for payment of premiums direct to an office of the insurer
24 and all policy dividends, refunds, savings coupons and other similar
25 returns paid or credited to policyholders within this state and not
26 reapplied as premiums for new, additional or extended insurance. No
27 deduction shall be made of the cash surrender values of policies or
28 contracts. Considerations received on annuity contracts, as well as the
29 unabsorbed portion of any premium deposit, shall not be included in total
30 direct premium income, and neither shall be subject to tax. The report
31 shall separately indicate the total direct fire insurance premium income
32 received from property located in the incorporated cities and towns
33 certified by the OFFICE OF THE state fire marshal pursuant to section
34 9-951, subsection B, as procuring the services of a private fire company.

35 B. Coincident with the filing of ~~such~~ THE tax report, each insurer
36 shall pay to the director for deposit, pursuant to sections 35-146 and
37 35-147, a tax on such net premiums at the following rates:

38 1. For fire insurance:

39 (a) On property located in a city or town certified by the OFFICE
40 OF THE state fire marshal pursuant to section 9-951, subsection B, as
41 procuring the services of a private fire company, .66 percent.

42 (b) On all other property, 2.2 percent.

43 2. For disability insurance, 2.0 percent.

44 3. For health care service plans, the rates prescribed under
45 sections 20-837, 20-1010 and 20-1060.

- 1 4. For other insurance:
2 (a) For premiums received in calendar year 2016, 1.95 percent.
3 (b) For premiums received in calendar year 2017, 1.90 percent.
4 (c) For premiums received in calendar year 2018, 1.85 percent.
5 (d) For premiums received in calendar year 2019, 1.80 percent.
6 (e) For premiums received in calendar year 2020, 1.75 percent.
7 (f) For premiums received in calendar year 2021 and for each
8 subsequent calendar year, 1.70 percent.

9 C. Any payments of tax pursuant to subsection F of this section
10 shall be deducted from the tax payable pursuant to subsection B of this
11 section. Each insurer shall reflect the cost savings attributable to the
12 lower tax in fire insurance premiums charged on property located in an
13 incorporated city or town certified by the OFFICE OF THE state fire
14 marshal pursuant to section 9-951, subsection B, as procuring the services
15 of a private fire company. No insurer shall be liable to the state or to
16 any other person, or shall be subject to regulatory action, relating to
17 the calculation or submittal of fire insurance premium taxes based in good
18 faith on the OFFICE OF THE state fire marshal's certification.

19 D. Eighty-five percent of the tax paid under this section by an
20 insurer on account of premiums received for fire insurance shall be
21 separately specified in the report and shall be apportioned in the manner
22 provided by sections 9-951, 9-952 and 9-972, except that all of the tax so
23 allocated to a fund of a municipality or fire district that has no
24 volunteer firefighters or pension obligations to volunteer firefighters
25 shall be appropriated to the account of the municipality or fire district
26 in the public safety personnel retirement system and all of the tax so
27 allocated to a fund of a municipality or fire district that has both
28 full-time paid firefighters and volunteer firefighters or pension
29 obligations to full-time paid firefighters or volunteer firefighters shall
30 be appropriated to the account of the municipality or fire district in the
31 public safety personnel retirement system where it shall be reallocated by
32 actuarial procedures proportionately to the municipality or fire district
33 for the account of the full-time paid firefighters and to the municipality
34 or fire district for the account of the volunteer firefighters. A
35 municipality or fire district shall provide to the public safety personnel
36 retirement system all information that the system deems necessary to
37 perform the reallocation prescribed by this section. A full accounting of
38 ~~such~~ THE reallocation shall be forwarded to the municipality or fire
39 district and ~~their~~ ITS local boards.

40 E. This section shall not apply to title insurance, and such
41 insurers shall be taxed as provided in section 20-1566.

42 F. Any insurer that paid or is required to pay a tax of two
43 thousand dollars or more on net premiums received during the preceding
44 calendar year, pursuant to subsection B of this section and sections
45 20-224.01, 20-837, 20-1010, 20-1060 and 20-1097.07, shall file on or

1 before the fifteenth day of each month from March through August a report
2 for that month, on a form prescribed by the director, accompanied by a
3 payment in an amount equal to fifteen percent of the amount paid or
4 required to be paid during the preceding calendar year pursuant to
5 subsection B of this section and sections 20-224.01, 20-837, 20-1010,
6 20-1060 and 20-1097.07. The payments are due and payable on or before the
7 fifteenth day of each month and shall be made to the director for deposit,
8 pursuant to sections 35-146 and 35-147.

9 G. Except for the tax paid on fire insurance premiums pursuant to
10 subsections B and D of this section, an insurer may claim a premium tax
11 credit if the insurer qualifies for a credit pursuant to section
12 20-224.03, 20-224.04, 20-224.06 or 20-224.07.

13 H. On receipt of a properly documented claim, a refund shall be
14 provided to an insurer from available funds for the excess amount of any
15 fire insurance premium improperly paid by the insurer. The insurer shall
16 reflect the refund in the fire insurance premiums charged on the property
17 that was charged the excessive amount.

18 I. On or before September 30 of each year, the director of
19 insurance shall report to the directors of the joint legislative budget
20 committee and the governor's office of strategic planning and budgeting on
21 the amount of insurance premium tax credits established by sections
22 20-224.03, 20-224.04, 20-224.05, 20-224.06 and 20-224.07 that were used
23 during the previous fiscal year.

24 J. For the purposes of:

25 1. Subsection B of this section, fire insurance is one hundred
26 percent of fire lines, forty percent of commercial multiple peril
27 nonliability lines, thirty-five percent of homeowners' multiple peril
28 lines, twenty-five percent of farm owners' multiple peril lines and twenty
29 percent of allied lines.

30 2. Section 20-416, fire insurance is eighty-five percent of fire
31 and allied lines.

32 Sec. 13. Section 20-1901, Arizona Revised Statutes, is amended to
33 read:

34 20-1901. Definitions

35 In this chapter, unless the context otherwise requires:

36 1. "Authorized agency" means:

37 (a) The **OFFICE OF THE** state fire marshal when authorized or charged
38 with the investigation of a fire.

39 (b) The director of the department of public safety.

40 (c) A county attorney.

41 (d) A county sheriff.

42 (e) The attorney general.

43 (f) The fire department of any city, town or county of this state.

44 (g) A police agency of any city, town or county of this state.

1 (h) Solely for the purposes of section 20-1902, subsection A, the
2 federal bureau of investigation, any other federal agency or the United
3 States attorney general's office when authorized or charged with
4 investigation or prosecution of a crime in this state.

5 (i) The automobile theft authority.

6 2. "Insurer" means every person or entity engaged in the business
7 of making contracts of insurance in this state.

8 3. "Relevant" means having any tendency to make the existence of
9 any fact that is of consequence to the investigation or determination of
10 the issue more probable or less probable than it would be without the
11 evidence.

12 Sec. 14. Section 34-461, Arizona Revised Statutes, is amended to
13 read:

14 34-461. Applicability of local codes; exceptions; definition

15 A. Public buildings shall be constructed in compliance with the
16 state fire code or, if at the request of a school district or charter
17 school, the OFFICE OF THE state fire marshal may authorize through an
18 intergovernmental agreement with a city, town, county or fire district in
19 which the school district or charter school building is located to impose
20 the fire code adopted by the city, town, county or fire district on school
21 district or charter school buildings. An intergovernmental agreement
22 entered into pursuant to this subsection may allow the city, town, county
23 or fire district to conduct regularly scheduled fire safety
24 inspections. Public buildings shall be constructed in compliance with
25 applicable building, plumbing, electrical, fire and mechanical codes
26 adopted by the city, town, county or fire district in which the building
27 is located. The owner of the public building is subject to the same fees
28 required of other persons. Public buildings are subject to inspection
29 during construction pursuant to these codes to determine compliance.

30 B. If a public building is built in an area that has not adopted
31 local codes, the building shall be designed or constructed according to
32 the state fire code adopted by the OFFICE OF THE state fire marshal and
33 the building, plumbing, electrical and mechanical codes that apply in the
34 largest city in the county in which the building is located.

35 C. Public buildings are subject to those codes that apply and are
36 in effect when the building is designed or constructed and to the
37 currently adopted codes when a building is found to be structurally
38 unsafe, without adequate egress or a fire hazard or is otherwise dangerous
39 to human life.

40 D. Subsections A and B of this section do not apply to state owned
41 buildings except for the application of the fire code in effect where a
42 state owned building is located. In complying with the applicable codes
43 pursuant to subsections A and B of this section, the permitting process
44 and fees do not apply to a public school district owned building in a
45 county with a population of more than seven hundred fifty thousand persons

1 but less than two million persons except for the application of the design
2 and permitting process and any fee required of a fire code in effect where
3 such a public school district owned building is located. State department
4 of corrections facilities are exempt from the application of the local
5 fire code in the absence of an intergovernmental agreement between the
6 state department of corrections and the governmental entity responsible
7 for enforcing any local fire code.

8 E. Notwithstanding subsection A of this section, cities prescribed
9 in section 37-1383, subsection A, paragraph 5 do not have authority that
10 supersedes and are not exempt from the OFFICE OF THE state fire marshal's
11 established fire code in state or county owned buildings wherever located
12 throughout ~~the~~ THIS state.

13 F. Notwithstanding subsection A of this section, buildings and
14 properties owned by the Arizona board of regents or a university under its
15 jurisdiction are exempt from any city, town, county or fire district fire
16 code in the absence of an intergovernmental agreement between the Arizona
17 board of regents or the university and the city, town, county or fire
18 district.

19 G. If the OFFICE OF THE state fire marshal enters into an
20 intergovernmental agreement pursuant to subsection A of this section, a
21 school district or charter school may choose to have the plan review,
22 permitting and any related inspections or any regularly scheduled fire
23 safety inspections completed by either the OFFICE OF THE state fire
24 marshal or the city, town, county or fire district. If the school
25 district or charter school chooses to have the city, town, county or fire
26 district perform the plan review, permitting and any related inspections
27 or the regularly scheduled fire safety inspections, the city, town, county
28 or fire district shall inform the school district or charter school of any
29 fees associated with the inspection process.

30 H. This section does not preclude a public school district in a
31 county with a population of more than seven hundred fifty thousand persons
32 but less than two million persons from submitting, at its discretion, to
33 the building design or construction permitting process of the appropriate
34 local government entity for any given project. A public school district
35 making such a decision is subject to subsections A and B of this section
36 and the permit and code compliance requirements of the local government
37 entity, including inspections and fee payments that may be required, for
38 the duration of the project that the district submitted to the local
39 government entity.

40 I. Public school districts in a county with a population of more
41 than seven hundred fifty thousand persons but less than two million
42 persons shall adopt policies to provide requirements to be followed by
43 licensed or registered contractors or employees in order to ensure that
44 construction projects are in compliance with the applicable codes pursuant
45 to subsections A and B of this section and that records required by code

1 or law for a given project are completed and maintained by the applicable
2 district. At a minimum, these policies shall:

3 1. Include the method by which the public school district will
4 notify the appropriate local government unit or units, and retain a record
5 of the notification, that the public school district will not be using the
6 permitting process for a given project pursuant to subsection D of this
7 section.

8 2. Prohibit a construction contractor from serving as a district's
9 inspector and code compliance official on the same project for which the
10 contractor is providing construction services.

11 3. Require the architect of record for a given district project to
12 be responsible for signing the certificate of occupancy when such a
13 certificate is required for that particular project.

14 J. For the purposes of this section, "public building" means a
15 building or appurtenance to a building that is built in whole or in part
16 with public monies.

17 Sec. 15. Section 36-883, Arizona Revised Statutes, is amended to
18 read:

19 36-883. Standards of care; rules; classifications

20 A. The director of the department of health services shall
21 prescribe reasonable rules regarding the health, safety and well-being of
22 the children to be cared for in a child care facility. These rules shall
23 include standards for the following:

24 1. Adequate physical facilities for the care of children, such as
25 building construction, fire protection, sanitation, sleeping facilities,
26 isolation facilities, toilet facilities, heating, ventilation, indoor and
27 outdoor activity areas and, if provided by the facility, transportation
28 safely to and from the premises.

29 2. Adequate staffing per number and age groups of children by
30 persons WHO ARE qualified by education or experience to meet their
31 respective responsibilities in the care of children.

32 3. Activities, toys and equipment to enhance the development of
33 each child.

34 4. Nutritious and well-balanced food.

35 5. Encouragement of parental participation.

36 6. Exclusion of any person from the facility whose presence may be
37 detrimental to the welfare of children.

38 B. The department shall adopt rules pursuant to title 41, chapter 6
39 and section 36-115.

40 C. Any rule that relates to educational activities, physical
41 examination, medical treatment or immunization shall include appropriate
42 exemptions for children whose parents object on the ground that it
43 conflicts with the tenets and practices of a recognized church or
44 religious denomination of which the parent or child is an adherent or
45 member.

1 D. The department of health services shall conduct a comprehensive
2 review of its rules at least once every two years. Before conducting this
3 review, the department shall consult with agencies and organizations that
4 are knowledgeable about the provision of child care facilities to
5 children, including:

- 6 1. The department of economic security.
- 7 2. The department of education.
- 8 3. The OFFICE OF THE state fire marshal.
- 9 4. The league of Arizona cities and towns.
- 10 5. Citizen groups.
- 11 6. Licensed child care facility representatives.
- 12 7. The department of child safety.

13 E. The department shall designate appropriate classifications and
14 establish corresponding standards pertaining to the type of care
15 offered. These classifications shall include:

- 16 1. Facilities offering infant care.
- 17 2. Facilities offering specific educational programs.
- 18 3. Facilities offering evening and nighttime care.

19 F. Rules for the operation of child care facilities shall be stated
20 in a way that clearly states the purpose of each rule.

21 Sec. 16. Section 36-1605, Arizona Revised Statutes, is amended to
22 read:

23 36-1605. Permitted uses; violations; civil penalties

24 A. This article does not prohibit:

25 1. The sale at wholesale by a resident wholesaler, dealer or jobber
26 of fireworks that are not prohibited by this article.

27 2. The sale of fireworks to bona fide wholesalers, dealers or
28 jobbers that are to be and are shipped directly out of the state, if the
29 seller of fireworks under this paragraph maintains for a period of five
30 years and makes available on request to the OFFICE OF THE state fire
31 marshal or THE local fire marshal, as applicable, the following
32 information:

33 (a) The name and address of each bona fide wholesaler, dealer or
34 jobber for which a shipment is to be and is made directly out of the
35 state, including each wholesaler's, dealer's and jobber's applicable state
36 fireworks permit.

37 (b) An invoice for each sale for which a shipment is to be and is
38 made directly out of the state that contains a detailed listing of the
39 products sold for the shipment that is to be and is made directly out of
40 the state.

41 (c) A bill of lading for each shipment that is to be and is shipped
42 directly out of the state that contains both of the following:

43 (i) The name and address of the out-of-state shipment destination.

44 (ii) The name of the private carrier making the out-of-state
45 delivery.

1 (d) A statement from each bona fide wholesaler, dealer or jobber
2 purchasing fireworks that are to be and are shipped directly out of the
3 state that contains both of the following:

4 (i) The purpose for which the fireworks that are to be and are
5 shipped directly out of the state are to be used, including the location
6 where the fireworks will be used.

7 (ii) That the fireworks that are not permissible fireworks in this
8 state are for sale or use only outside of this state.

9 3. The use of fireworks by railroads or other transportation
10 agencies for signal purposes or illumination.

11 4. The sale or use of explosives for blasting or other legitimate
12 industrial purposes.

13 5. The use of fireworks or explosives, or both, by farmers,
14 ranchers and their employees who are regulated under title 3, and by state
15 and federal employees who manage wildlife resources, to rally, drive or
16 otherwise disperse concentrations of wildlife for the purpose of
17 protecting property or wildlife, if the seller of fireworks for use under
18 this paragraph maintains for a period of five years and makes available on
19 request to the OFFICE OF THE state fire marshal or THE local fire marshal,
20 as applicable, all of the following information:

21 (a) The name and address of each person or business purchasing
22 fireworks for use pursuant to this paragraph.

23 (b) A copy of one of the following types or categories of current
24 licenses issued by the Arizona department of agriculture for each person
25 or business purchasing fireworks for use pursuant to this paragraph:

26 (i) Dairy and milk license.

27 (ii) Egg and egg products license.

28 (iii) Feedlot license.

29 (iv) Citrus, fruit and vegetable license.

30 (v) Brand license.

31 (vi) Pesticide use license.

32 (c) A statement from each person or business purchasing fireworks
33 for use pursuant to this paragraph that contains the purpose for which the
34 fireworks are to be used, including the location where the fireworks will
35 be used.

36 6. The sale of permissible consumer fireworks by a retail
37 establishment if the retail establishment complies with the rules adopted
38 pursuant to section 36-1609.

39 7. The use of permissible consumer fireworks by the general public,
40 unless the use is prohibited by a governing body of an incorporated city
41 or town.

42 B. A person who fails to maintain or to make available on request
43 ~~records~~ INFORMATION as required by subsection A, paragraph 2 of this
44 section is subject to a civil penalty of five hundred dollars per
45 violation. A person who attempts to purchase fireworks that are to be and

1 are shipped directly out of the state pursuant to subsection A, paragraph
2 2 of this ~~subsection~~ SECTION, other than permissible fireworks, for use in
3 this state is subject to a civil penalty of one hundred fifty dollars per
4 violation. A seller of fireworks who attempts either to sell fireworks
5 pursuant to subsection A, paragraph 2 of this section, other than
6 permissible fireworks, for use in this state or to aid a purchaser in
7 purchasing fireworks pursuant to subsection A, paragraph 2 of this
8 section, other than permissible fireworks, for use in this state is
9 subject to a civil penalty of one thousand dollars per violation, and the
10 OFFICE OF THE state fire marshal or THE local fire marshal, as applicable,
11 may prohibit the seller from selling permissible fireworks in this state
12 or the applicable jurisdiction.

13 C. A person who fails to maintain or to make available on request
14 records as required by subsection A, paragraph 5 of this section is
15 subject to a civil penalty of five hundred dollars per violation. A
16 person who attempts to use fireworks purchased pursuant to subsection A,
17 paragraph 5 of this section for a use other than the use authorized
18 pursuant to subsection A, paragraph 5 of this section is subject to a
19 civil penalty of one hundred fifty dollars per violation. A seller of
20 fireworks under subsection A, paragraph 5 of this section who attempts
21 either to sell fireworks to a purchaser for use in this state other than
22 the use authorized by subsection A, paragraph 5 of this section or to aid
23 a purchaser in purchasing fireworks for use in this state other than as
24 authorized by subsection A, paragraph 5 of this section is subject to a
25 civil penalty of one thousand dollars per violation, and the OFFICE OF THE
26 state fire marshal or THE local fire marshal, as applicable, may prohibit
27 the seller from selling permissible fireworks in this state or the
28 applicable jurisdiction.

29 Sec. 17. Section 36-1609, Arizona Revised Statutes, is amended to
30 read:

31 36-1609. Office of the state fire marshal; adoption of code;
32 sale of permissible consumer fireworks

33 A. The OFFICE OF THE state fire marshal shall adopt rules pursuant
34 to title 41, chapter 6 to carry out this article, including a rule that
35 adopts the national fire protection association code for the manufacture,
36 transportation, storage and retail sales of fireworks and pyrotechnic
37 articles, 2013 edition as published in August, 2012. A person who sells
38 permissible consumer fireworks to the public shall comply with those rules
39 relating to the storage of consumer fireworks and relating to the retail
40 sales of consumer fireworks before selling permissible consumer fireworks
41 to the public.

42 B. A person shall not sell or permit or authorize the sale of
43 permissible consumer fireworks to a person who is under sixteen years of
44 age.

1 Sec. 18. Section 36-1610, Arizona Revised Statutes, is amended to
2 read:

3 36-1610. Prohibited use of fireworks on state land; civil
4 penalty

5 A. The OFFICE OF THE state fire marshal may impose a civil penalty
6 of one thousand dollars for each incident of prohibited use of fireworks
7 on state land in violation of this article.

8 B. The ASSISTANT DIRECTOR OF THE OFFICE OF THE state fire marshal
9 shall deposit, pursuant to sections 35-146 and 35-147, civil penalties
10 collected pursuant to this section in the fire suppression revolving fund
11 established by section 37-1305.

12 Sec. 19. Section 36-1636, Arizona Revised Statutes, is amended to
13 read:

14 36-1636. Definitions

15 In this article, unless the context otherwise requires:

16 1. "Approved smoke detector" means an electronic device powered by
17 batteries or alternating current that is capable of sensing visible or
18 invisible products of combustion, that sounds an alarm audible in all
19 sleeping areas of a residential housing unit and that meets the standards
20 prescribed by the OFFICE OF THE state fire marshal pursuant to section
21 37-1383.

22 2. "Residential housing unit" means a one or two family dwelling
23 unit, including a detached, semi-detached or duplex unit, or a
24 multi-family dwelling unit including an apartment or condominium.

25 3. "Sleeping area" means any area of a residential housing unit in
26 which bedrooms or sleeping rooms are located.

27 Sec. 20. Section 36-1645, Arizona Revised Statutes, is amended to
28 read:

29 36-1645. Definitions

30 In this article, unless the context otherwise requires:

31 1. "Approved smoke detector" means an electronic device powered by
32 batteries or alternating current that is capable of sensing visible or
33 invisible products of combustion, that sounds an alarm audible in all
34 sleeping areas of a guest unit and that meets the standards prescribed by
35 the OFFICE OF THE state fire marshal pursuant to section 37-1383.

36 2. "Automatic fire extinguishing equipment" means a mechanical
37 system ~~which~~ THAT puts out fires by ejecting chemicals or water.

38 3. "Guest unit" means a room in a motel or hotel ~~which~~ THAT is
39 offered for lodging.

40 Sec. 21. Section 37-1301, Arizona Revised Statutes, is amended to
41 read:

42 37-1301. Arizona department of forestry and fire management;
43 state forester; appointment; qualifications

44 A. The Arizona department of forestry and fire management is
45 established to provide ~~resources~~ for land management and the prevention

1 and suppression of wildland fires on state land and on private property
2 located outside of cities and towns.

3 B. The governor shall appoint a state forester pursuant to section
4 38-211. The state forester serves at the pleasure of the governor. The
5 state forester is responsible for the direction, operation and control of
6 the Arizona department of forestry and fire management.

7 C. The qualifications of the state forester shall be either of the
8 following:

9 1. Graduation from a full four-year college course with a
10 bachelor's degree, with a major in forestry, including five years of
11 technical experience in the forestry-land management field.

12 2. Ten years of successful and progressive technical experience in
13 forestry and land management activities of such a nature as to enable the
14 applicant to perform the duties of the state forester successfully at the
15 professional level.

16 Sec. 22. Section 37-1302, Arizona Revised Statutes, is amended to
17 read:

18 37-1302. Powers and duties of state forester; rules;
19 legislative presentation; acceptance of federal
20 law

21 A. The state forester is designated as the agent of the state of
22 Arizona and shall administer this chapter. The state forester shall:

23 1. Exercise and perform all powers and duties vested in or imposed
24 on the Arizona department of forestry and fire management.

25 2. Adopt rules necessary to discharge the powers and duties of the
26 Arizona department of forestry and fire management, including rules that
27 create efficiencies, protect the public health and safety and prescribe
28 budgetary obligations.

29 3. **SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, APPOINT AN ASSISTANT**
30 **DIRECTOR TO THE OFFICE OF THE STATE FIRE MARSHAL, A STATE FIRE TRAINING**
31 **OFFICER AND A STATE FIRE RESOURCE COORDINATOR, ALL OF WHOM SERVE AT THE**
32 **PLEASURE OF THE STATE FORESTER.**

33 ~~3.~~ 4. Subject to title 41, chapter 4, article 4, employ, determine
34 the terms and conditions of employment of and prescribe the duties and
35 powers of administrative, professional, technical, secretarial, clerical
36 and other persons as may be necessary in the performance of the Arizona
37 department of forestry and fire management's duties. The compensation of
38 department employees shall be as determined pursuant to section 38-611.

39 ~~4.~~ 5. Contract for the services of outside advisors, consultants
40 and aides as may be reasonably necessary.

41 ~~5.~~ 6. Perform all management and administrative functions assigned
42 or delegated to this state by the United States relating to forestry and
43 financial assistance and grants relating to forestry.

44 ~~6.~~ 7. Identify sources of information relating to forest
45 management, including wildfire **PREVENTION, MITIGATION,** suppression and

1 recovery and administrative and judicial appeals and litigation with
 2 respect to timber sales and forest thinning projects in this state, and
 3 develop procedures for compiling and ~~transferring~~ DISTRIBUTING that
 4 information ~~to the state forester.~~

5 ~~7.~~ 8. Take necessary action to maximize state fire assistance
 6 grants, including establishing timelines for using grant monies and
 7 reallocating lapsed grant monies to other projects.

8 ~~8.~~ 9. Conduct education and outreach in forest communities by
 9 explaining the wildfire threat to private property caused by THE lack of
 10 timber harvesting, ~~and~~ FOREST thinning, LAND MANAGEMENT AND WATERSHED
 11 PROTECTION AND ENHANCEMENT.

12 ~~9.~~ 10. Monitor AND CONDUCT forestry projects and wildfire
 13 PREVENTION, MITIGATION AND SUPPRESSION activities.

14 ~~10.~~ 11. Assist in the development of the forestry products
 15 industry in this state.

16 ~~11.~~ 12. Intervene on behalf of this state and its citizens in
 17 administrative and judicial appeals and litigation that challenge
 18 governmental efforts supported by the state forester if the state forester
 19 determines that intervention is in the best interests of this state.

20 ~~12.~~ 13. Annually develop and implement a comprehensive STATEWIDE
 21 WILDFIRE RESPONSE plan for the deployment of state, county, municipal,
 22 fire district, volunteer fire association and private fire service
 23 provider contract resources to wildfire suppression activities. The
 24 STATEWIDE wildfire ~~deployment~~ RESPONSE plan shall take into account
 25 anticipated fire conditions and fire severity and may include
 26 prepositioning resources as necessary. The state forester shall consult
 27 with federal land management firefighting agencies, state and county
 28 emergency agencies, municipal fire departments, fire districts, statewide
 29 fire district and statewide fire chiefs associations, volunteer fire
 30 departments and private fire contractors in the development of ~~a~~ THE
 31 comprehensive STATEWIDE wildfire ~~deployment~~ RESPONSE plan, the
 32 implementation of standards for training and certification for all classes
 33 of wildland fire AND HAZARD personnel and the implementation of standards
 34 for wildland fire apparatus and equipment that are deployed under
 35 cooperative agreements with the state forester.

36 ~~13.~~ 14. Provide necessary oversight to ensure standardized
 37 training and certification for all classifications of wildfire
 38 firefighters to be deployed, ~~through cooperater agreement with the state~~
 39 ~~forester,~~ to any ~~federal or state wildfire~~ incident.

40 B. During the first regular session of each legislature, the state
 41 forester shall present information to the legislative committees with
 42 jurisdiction over forestry issues. The state forester shall collaborate
 43 with, and invite the participation of, relevant state, federal and local
 44 governmental officers and agencies. A written report is not required, but
 45 the presentation shall include information concerning:

1 1. Forestry management, including the current conditions of the
2 forests in this state on federal, state and private property as affected
3 by federal, state and local public policies, climatic conditions, wildfire
4 hazards, pest infestations, overgrowth and overgrowth control policies and
5 methods and the effects of current federal policy on forest management and
6 impacts on forest land management.

7 2. The wildland-urban interface, including the effects of county
8 and municipal zoning policies and wildfire hazards on public and private
9 property.

10 3. Wildfire emergency management and all hazard response issues,
11 including:

12 (a) Intergovernmental and interagency primacy, cooperation,
13 coordination, roles and training of federal, state and local forestry,
14 firefighting and law enforcement agencies.

15 (b) Channels and methods of communicating emergency information to
16 the public.

17 (c) The roles of governmental and nongovernmental disaster relief
18 agencies and organizations.

19 (d) The level of federal, state and local emergency funding.

20 C. The state forester may:

21 1. Furnish technical advice to the people of this state on forestry
22 and land management matters.

23 2. Do all other acts necessary to take advantage of and carry out
24 the provisions of the act of Congress described in subsection D of this
25 section.

26 D. This state accepts the provisions of the cooperative forestry
27 assistance act of 1978 (P.L. 95-313; 92 Stat. 365; 16 United States Code
28 chapter 41) providing for federal forestry assistance programs to states.

29 Sec. 23. Section 37-1303, Arizona Revised Statutes, is amended to
30 read:

31 37-1303. Suppression of wildfires; powers and duties of state
32 forester; entry on private lands

33 A. The state forester shall have ~~authority~~ **THE RESPONSIBILITY** to
34 prevent, **MANAGE** ~~and~~ **OR** suppress any wildfires on state and private lands
35 located outside incorporated municipalities and, if subject to cooperative
36 agreements, on other lands located in this state or in other states,
37 Mexico or Canada. If there is no cooperative agreement, the state
38 forester may furnish wildfire suppression services on any lands in this
39 state if the state forester determines that suppression services are in
40 the best interests of this state and are immediately necessary to protect
41 state lands.

42 B. In exercising the ~~authority~~ **DUTY** to prevent, **MANAGE OR SUPPRESS**
43 wildfires, if the state forester declares a prohibition on ~~fire-causing~~
44 **FIRE-CAUSING** activities and fireworks, the state forester shall post a
45 notice of the action in the office of the secretary of state and shall

1 notify the news media. The notice shall clearly state which types of
2 activities are prohibited, where they are prohibited and whether permits
3 that are issued by other governmental entities are affected by the action.

4 ~~C. The state forester shall have responsibility to prevent and~~
5 ~~suppress wildfires only on lands covered by cooperative fire agreements.~~

6 ~~D.~~ C. The state forester may request the governor to declare a
7 ~~wild land~~ WILDLAND fire emergency pursuant to section 35-192. If
8 liabilities are authorized under both sections 35-192 and 37-1305, the
9 authorization under section 37-1305 must be exhausted before any
10 liabilities may be incurred under section 35-192.

11 ~~E. The state forester shall cooperate and coordinate with the state~~
12 ~~fire marshal in the administration of the state fire code in the~~
13 ~~prevention of fires on rural lands and wild lands.~~

14 ~~F.~~ D. The state forester may enter into cooperative agreements with
15 other state and federal agencies, departments and political subdivisions
16 and any person for:

17 1. Prevention and suppression of wildfires.

18 2. Assistance with fire and nonfire national and state emergencies
19 and multiagency logistical support in this state and other states.

20 3. Activities pursuant to the wildfire suppression assistance act
21 (P.L. 101-11; 103 Stat. 15; 42 United States Code sections 1856m through
22 1856o) in Mexico and Canada.

23 ~~G.~~ E. The state forester may enter private lands in performing the
24 duties under this section.

25 ~~H.~~ F. The state forester may enter into agreements to utilize
26 private landowners' equipment and personnel if the fire is on or adjacent
27 to such private landowners' property.

28 Sec. 24. Section 37-1307, Arizona Revised Statutes, is amended to
29 read:

30 37-1307. State fire safety committee; members; terms; powers
31 and duties; compensation; fire watch requirements

32 A. The state fire safety committee is established consisting of
33 nine members who are appointed for three-year terms by the governor
34 pursuant to section 38-211. The governor may remove any member from the
35 committee for incompetency, improper conduct, disability or neglect of
36 duty. Membership on the committee is as follows:

37 1. Two members, not from the same municipality, each of whom is a
38 fire chief or fire marshal of a paid municipal fire department of a city
39 with a population of one hundred thousand persons or more.

40 2. One member who is a fire chief of a paid municipal fire
41 department of a town with a population of less than one hundred thousand
42 persons.

43 3. One member who is a fire chief in a fire district of an
44 unincorporated area in a county with a population of less than five
45 hundred thousand persons.

1 4. One member who is a member of the Arizona fire chiefs
2 association.
3 5. One member who is a registered architect.
4 6. One member who is a chief building official of a city, town or
5 county.
6 7. One member who is a member of the public.
7 8. One member who is a member of the public and who is engaged in
8 the business of distributing, selling or providing liquefied petroleum gas
9 to consumers.
10 B. The state fire safety committee shall annually select from its
11 membership a chairperson for the committee. The committee shall meet on
12 the call of the chairperson or on the request of at least five members.
13 C. The state fire safety committee shall advise the **OFFICE OF THE**
14 state fire marshal on all of the following:
15 1. The adoption of a state fire code.
16 2. The adoption of a fee schedule for permits, plan submissions,
17 plan reviews and reinspections.
18 3. The allocation of monies from the arson detection reward fund
19 established by section 37-1387.
20 D. Members of the committee are not eligible to receive
21 compensation for service on the committee but are eligible for
22 reimbursement of expenses pursuant to title 38, chapter 4, article 2.
23 E. If the state fire safety committee requires the use of a fire
24 watch, an employee who works at the building in which a fire watch is
25 required may serve as the fire watch. A person who is designated as a
26 fire watch shall be equipped with means to contact the local fire
27 department, and the person's only duty shall be to perform constant
28 patrols of the protected premises while keeping watch for fires. The
29 local jurisdiction shall provide the fire watch with printed instructions
30 from the **OFFICE OF THE** state fire marshal and may provide a free training
31 session before the person's deployment as the fire watch begins. For the
32 purposes of this subsection, "fire watch" means a person who is stationed
33 in a building or in a place relative to a building to observe the building
34 and its openings when the fire protection system for the building is
35 temporarily nonoperational or absent.
36 Sec. 25. Repeal
37 Title 37, chapter 9, article 2, Arizona Revised Statutes, is
38 repealed.
39 Sec. 26. Heading change
40 The article heading of title 37, chapter 9, article 4, Arizona
41 Revised Statutes, is changed from "OFFICE OF STATE FIRE MARSHAL" to
42 "OFFICE OF THE STATE FIRE MARSHAL".

1 Sec. 27. Section 37-1381, Arizona Revised Statutes, is amended to
2 read:

3 37-1381. Office of state fire marshal; purpose; assistant
4 director; qualifications

5 To promote public health and safety and to reduce hazards to life,
6 limb and property, the office of THE state fire marshal is established
7 within the ~~state forester~~ ARIZONA DEPARTMENT OF FORESTRY AND FIRE
8 MANAGEMENT. The office shall perform its duties by performing inspections
9 and fire investigations, by providing public education and by adopting
10 fire protection codes. The person appointed as ASSISTANT DIRECTOR OF THE
11 OFFICE OF THE state fire marshal shall have extensive experience in the
12 field of fire prevention and fire protection, including administrative
13 experience in such A capacity.

14 Sec. 28. Section 37-1382, Arizona Revised Statutes, is amended to
15 read:

16 37-1382. Deputy fire marshals and assistants; appointment;
17 duties; recovery of costs

18 A. With the approval of the state forester, the ASSISTANT DIRECTOR
19 OF THE OFFICE OF THE state fire marshal may:

20 1. Hire deputy fire marshals who shall have knowledge in the field
21 of fire safety and have at least five years' experience in fire safety and
22 hire such other assistants and employees as are necessary to properly
23 discharge the duties imposed on the OFFICE OF THE state fire marshal
24 pursuant to this article.

25 2. Appoint as assistant fire inspectors any of the fire chiefs of a
26 city, town, county, volunteer fire company or protective district or an
27 employee of a private fire service provider who meets the requirements of
28 this section to act within their area of jurisdiction or area of service
29 or on the recommendation of the fire chief appoint other assistant fire
30 inspectors if needed to function within the jurisdiction.

31 3. Appoint other assistant fire inspectors who meet the
32 requirements of this section as are necessary in areas that are not under
33 the jurisdiction of a fire chief designated in paragraph 2 of this
34 subsection and who may be employees of this state, the federal government
35 or a private fire service provider.

36 B. Assistant fire inspectors appointed pursuant to subsection A of
37 this section shall carry out their duties only within the geographic areas
38 assigned by the ASSISTANT DIRECTOR OF THE OFFICE OF THE state fire
39 marshal. When designating assistant fire inspectors and when assigning
40 geographic areas, the ASSISTANT DIRECTOR OF THE OFFICE OF THE state fire
41 marshal shall give a preference to assigning assistant fire inspectors to
42 the service area covered by the municipal or private fire service provider
43 where the assistant fire inspector is employed.

44 C. Assistant fire inspectors appointed under subsection A,
45 paragraph 2 or 3 of this section are not entitled to receive additional

1 compensation for performing duties under this article, except that an
2 employee of a public or private fire service provider who acts as an
3 assistant fire inspector may charge fees to recover costs incurred in
4 conducting inspections or for the review of plans and inspections of
5 property. Assistant fire inspectors appointed under subsection A,
6 paragraph 2 or 3 of this section or fire inspectors appointed pursuant to
7 subsection E of this section shall have attended fire inspector training
8 by an entity that meets nationally recognized standards and is approved by
9 the OFFICE OF THE state fire marshal.

10 D. An assistant fire inspector who is appointed pursuant to
11 subsection A of this section may inspect property, issue notices of
12 violation and enforce the jurisdiction's fire code. An assistant fire
13 inspector who is appointed pursuant to subsection A of this section shall
14 report all actions taken to the ASSISTANT DIRECTOR OF THE OFFICE OF THE
15 state fire marshal in a manner prescribed by the ~~state fire marshal~~
16 ASSISTANT DIRECTOR.

17 E. A city, town or county may appoint a fire inspector from one or
18 more public or private fire service providers that service areas in the
19 city, town or county to inspect property. City, town or county fire
20 inspectors may issue notices of violation and enforce the fire code on
21 behalf of the city, town or county within the respective service area of
22 the public or private fire service provider. A fire inspector shall
23 report all actions taken to the city, town or county manager. A fire
24 inspector who is appointed pursuant to this subsection is not entitled to
25 receive additional compensation for performing duties on behalf of the
26 city, town or county, but may charge fees to recover the costs for review
27 of plans and the inspection of public or private premises.

28 F. The ASSISTANT DIRECTOR OF THE OFFICE OF THE state fire marshal,
29 deputy fire marshals, assistant fire inspectors or a fire inspector who is
30 appointed pursuant to this section may inspect buildings and premises in
31 response to an emergency call or at the request of the occupant of the
32 public or private property.

33 G. The amount of the fees charged by a fire inspector or an
34 assistant fire inspector shall be available at the office of the state
35 fire marshal or the city, town or county where the property is located.

36 Sec. 29. Section 37-1383, Arizona Revised Statutes, is amended to
37 read:

38 37-1383. Powers and duties; arson investigators

39 A. Under the authority and direction of the state forester, the
40 ASSISTANT DIRECTOR OF THE OFFICE OF THE state fire marshal or a deputy
41 fire marshal or an assistant fire inspector acting at the direction of the
42 ASSISTANT DIRECTOR OF THE OFFICE OF THE STATE fire marshal shall:

43 1. Assist in the enforcement of state laws and ordinances of cities
44 and counties relating to fire prevention and fire protection.

- 1 2. Adopt by rule a state fire code establishing minimum standards
2 for:
- 3 (a) Safeguarding life and property from fire and fire hazards.
4 (b) The prevention of fires and alleviation of fire hazards.
5 (c) The storage, sale, distribution and use of dangerous chemicals,
6 combustibles, flammable liquids, explosives and radioactive materials.
7 (d) The installation, maintenance and use of fire escapes, fire
8 protection equipment, fire alarm systems, smoke detectors and fire
9 extinguishing equipment.
- 10 (e) The means and adequacy of fire protection and exit in case of
11 fire in places in which numbers of persons work, live or congregate,
12 excluding family dwellings that have fewer than five residential dwelling
13 units.
- 14 (f) Other matters relating to fire prevention and control that are
15 considered necessary by the OFFICE OF THE state fire marshal.
- 16 3. Adopt rules and a schedule of fees for permits, plan
17 submissions, plan reviews and reinspections that are payable by persons
18 regulated under THIS article ~~4 of this chapter~~.
- 19 4. Adopt rules for the allocation of monies from the arson
20 detection reward fund established by section 37-1387. The rules shall be
21 consistent with the purposes set forth in section 37-1387 and shall
22 promote the effective and efficient use of the fund monies.
- 23 5. Enforce compliance with the fire code adopted pursuant to this
24 subsection throughout this state except in any city having a population of
25 one hundred thousand persons or more that has in effect a nationally
26 recognized fire code, whether modified or unmodified, and that has enacted
27 an ordinance to assume such jurisdiction from the OFFICE OF THE state fire
28 marshal. Such cities do not have authority that supersedes and are not
29 exempt from the state fire code established pursuant to this subsection in
30 state or county owned buildings wherever located throughout the state.
- 31 6. Cooperate and coordinate with other state agencies in the
32 administration of the state fire code.
- 33 7. Establish a regularly scheduled fire safety inspection program
34 for all state and county owned public buildings and all public and private
35 school buildings wherever located throughout the state, except for private
36 school buildings in cities with a population of one hundred thousand or
37 more persons.
- 38 8. Inspect as necessary all other occupancies located throughout
39 this state, except family dwellings having fewer than five residential
40 dwelling units and occupancies located in cities with a population of one
41 hundred thousand or more persons.
- 42 9. At the written request of county or municipal authorities, make
43 and provide to them a written report of the examination made by the OFFICE
44 OF THE state fire marshal of any fire within their jurisdiction.

1 ~~10. Compile, update as necessary and make available to the public a~~
2 ~~fully indexed and cross-referenced list of all rules adopted by state~~
3 ~~agencies and departments and agencies and departments of political~~
4 ~~subdivisions of this state relating to the control of all hazardous~~
5 ~~materials as defined in section 28-5201 and all federal regulations~~
6 ~~relating to the control of hazardous materials as defined in section~~
7 ~~28-5201 for which there is no state regulation.~~

8 ~~11. Establish and maintain a library of all rules and regulations~~
9 ~~identified in the index required by paragraph 10 of this subsection and~~
10 ~~support the regulated industry's request for information through research~~
11 ~~or referral to the agency adopting the specific rule for technical~~
12 ~~information or other assistance as circumstances dictate.~~

13 ~~12.~~ 10. Administer the arson detection reward fund established by
14 section 37-1387.

15 ~~B. The state fire marshal and this state are not liable for damages~~
16 ~~caused by information that is omitted from the rules and federal~~
17 ~~regulations compiled pursuant to subsection A, paragraph 10 of this~~
18 ~~section.~~

19 ~~C.~~ B. All plans and specifications for new construction,
20 remodeling, alterations and additions for state, county and public school
21 buildings and grounds shall be submitted to the state forester for review
22 and approval by the ASSISTANT DIRECTOR OF THE OFFICE OF THE state fire
23 marshal or as authorized to a deputy fire marshal or an assistant fire
24 inspector acting at the direction of the ASSISTANT DIRECTOR OF THE OFFICE
25 OF THE STATE fire marshal before construction. The plans and
26 specifications shall be reviewed and approved or disapproved within sixty
27 days after submission. Construction shall not commence until the plans
28 have been approved and a permit has been issued.

29 ~~D.~~ C. Under the authority and direction of the state forester, the
30 ASSISTANT DIRECTOR OF THE OFFICE OF state fire marshal or a deputy fire
31 marshal or an assistant fire inspector acting at the direction of the
32 ASSISTANT DIRECTOR OF THE OFFICE OF THE state fire marshal may:

33 1. Conduct or participate in investigations of causes, origins and
34 circumstances of fires, including cases of possible arson.

35 2. Prescribe a uniform system of reporting fires and their causes
36 and effects.

37 3. Provide and coordinate training in firefighting and fire
38 prevention and cooperate with educational institutions to provide and
39 further such training.

40 4. Impound necessary evidence in conjunction with investigations of
41 causes, origins and circumstances of fires if that evidence might be lost,
42 destroyed or otherwise altered if not impounded.

43 5. Employ specialized testing services to evaluate evidence and
44 conditions involved in fire investigations.

1 6. Designate certain members of the OFFICE OF THE state fire
2 marshal's staff or a deputy fire marshal or an assistant fire inspector as
3 arson investigators.

4 ~~E.~~ D. The primary duty of investigators designated pursuant to
5 subsection ~~D~~ C, paragraph 6 of this section is the investigation,
6 detection and apprehension of persons who have violated or are suspected
7 of violating any provision of title 13, chapter 17. A person designated
8 as an arson investigator, while engaged in arson investigation in this
9 state, possesses and may exercise law enforcement powers of peace officers
10 of this state. This subsection does not grant any powers of peace
11 officers of this state to arson investigators other than those necessary
12 for the investigation, detection and apprehension authority granted by
13 this subsection. Any individual designated as an arson investigator shall
14 have law enforcement training under section 41-1822.

15 Sec. 30. Section 37-1384, Arizona Revised Statutes, is amended to
16 read:

17 37-1384. Inspection; consent; search warrant

18 A. The ASSISTANT DIRECTOR OF THE OFFICE OF THE STATE fire marshal,
19 ~~or~~ a deputy fire marshal or an assistant fire inspector may investigate
20 fire damage and shall carry out periodic inspection programs of buildings
21 and premises to examine or inspect for fire hazards.

22 B. In carrying out such inspections or investigations, the
23 ASSISTANT DIRECTOR OF THE OFFICE OF THE STATE fire marshal, ~~or~~ a deputy
24 fire marshal or an assistant fire inspector shall identify himself to the
25 owner or tenant of ~~such~~ THE building or premises and seek the consent of
26 ~~such~~ THE owner or tenant to carry out such AN inspection. If ~~such~~ consent
27 is refused, or IF it is not possible to reasonably obtain consent, the
28 ASSISTANT DIRECTOR OF THE OFFICE OF THE STATE fire marshal, ~~or~~ a deputy
29 fire marshal or an assistant fire inspector shall obtain a search warrant
30 for ~~such~~ THE building or property in compliance with title 13, chapter 38,
31 article 8.

32 C. If the ASSISTANT DIRECTOR OF THE OFFICE OF THE STATE fire
33 marshal is assisting a local fire department in an investigation of fire
34 damage, the authority of the local fire department to investigate the fire
35 damage shall be deemed to include the ASSISTANT DIRECTOR OF THE OFFICE OF
36 THE STATE fire marshal, ~~or~~ a deputy fire marshal or an assistant fire
37 inspector.

38 Sec. 31. Section 37-1385, Arizona Revised Statutes, is amended to
39 read:

40 37-1385. School protection; definition

41 A. The ASSISTANT DIRECTOR OF THE OFFICE OF THE STATE fire marshal,
42 ~~or~~ a deputy fire marshal or an assistant fire inspector shall enforce
43 rules and regulations for establishing programs for evacuating school
44 buildings and for instructing all students in public and private schools
45 as to proper methods of fire prevention and control and of the importance

1 thereof. Such rules, regulations and programs shall be transmitted to the
2 department of education for distribution to ~~such~~ THOSE schools.

3 B. For the purposes of this article, "school" means an educational
4 institution of any description, public or private, wherever situated in
5 this state.

6 Sec. 32. Section 37-1387, Arizona Revised Statutes, is amended to
7 read:

8 37-1387. Arson detection reward fund; administration;
9 purpose; receipts and disbursements

10 A. ~~At~~ THE arson detection reward fund is established and shall be
11 administered within the guidelines of this section and rules of the office
12 of state fire marshal.

13 B. The advisory committee on arson prevention established by the
14 office of THE state fire marshal shall provide rewards of not to exceed
15 ten thousand dollars for information concerning a violation of any
16 provision of title 13, chapter 17 relating to arson. The reward amounts
17 shall be based on the value of the information, the availability of
18 information from other sources and other factors deemed relevant by the
19 committee.

20 C. The advisory committee is subject to title 38, chapter 3,
21 article 3.1 and title 39, chapter 1, article 2, except that the advisory
22 committee shall not disclose records that:

- 23 1. Reveal the identity of a confidential informant.
- 24 2. Endanger the life or physical safety of any person.
- 25 3. Jeopardize any ongoing criminal investigation.

26 D. Payment of rewards shall be from available funds consisting of:

27 1. Fines imposed by a court for an offense set forth in title 13,
28 chapter 17. Notwithstanding ~~the provisions of~~ section 13-811, the
29 municipal, justice or superior court imposing and collecting such fine
30 shall transfer the monies to the appropriate county treasurer who shall
31 transfer the amount to the state treasurer for deposit in the arson
32 detection REWARD fund.

33 2. Monies from forfeiture of bail posted in connection with an
34 offense set forth in title 13, chapter 17. All amounts recovered by the
35 prosecutor on an appropriate order of judgment forfeiting all or part of
36 the amount of the bond shall be transferred to the appropriate county
37 treasurer who shall transfer the amount to the state treasurer for deposit
38 in the arson detection reward fund.

39 3. Monies received from donations to the fund.

40 4. Monies appropriated by the legislature for the purposes of this
41 section.

42 E. Monies may be expended only for payment of rewards and promotion
43 of public awareness of the arson detection reward fund.

44 F. Balances in the fund remaining at the end of the fiscal year are
45 exempt from section 35-190, relating to lapsing of appropriations.

1 Sec. 33. Section 37-1388, Arizona Revised Statutes, is amended to
2 read:

3 37-1388. Fire protection systems; definitions

4 A. All backflow prevention equipment installed on class 1 and class
5 2 fire protection systems shall comply with state fire code standards.

6 B. Check valve assemblies installed on class 1 or class 2 fire
7 protection systems as backflow protection equipment pursuant to this
8 section shall be inspected and maintained in accordance with the
9 procedures identified in the national fire protection association
10 publication 25 for water based fire protection systems, 1992 edition, to
11 determine compliance with the minimum design standards established by the
12 state fire code. Inspections of check valve assemblies installed on class
13 1 or class 2 fire protection systems shall be performed on an annual basis
14 with records of the inspections provided to the local fire department and
15 drinking water provider.

16 C. Any malfunction or abnormality with a check valve assembly
17 installed on class 1 or class 2 fire protection systems shall be reported
18 within twenty-four hours to the local fire department and drinking water
19 provider.

20 D. A fire code authority may establish guidelines for the
21 installation of backflow prevention equipment on a class 1 or class 2 fire
22 protection system that exceeds the minimum standards established by the
23 state fire code if the backflow prevention equipment is approved for use
24 on class 1 or class 2 fire protection systems pursuant to section 1.102 of
25 the uniform fire code, 1988 edition.

26 E. A fire code authority or a drinking water provider may require
27 the installation of backflow prevention equipment on class 1 and class 2
28 fire protection systems that exceeds the minimum standards established by
29 the state fire code if a special backflow condition is identified. The
30 use of nonpotable pipe in a fire protection system does not by itself
31 constitute a special backflow condition. The drinking water provider
32 shall consult with the fire code authority and provide the fire code
33 authority with an opportunity to comment before installing or requiring
34 the installation of backflow equipment that exceeds the minimum standards
35 established by the state fire code.

36 F. For **THE** purposes of this section:

37 1. "Class 1 fire protection system" means a fire protection system
38 that is directly connected to a public water main and **ON WHICH** all
39 sprinkler drains ~~on the fire protection system~~ discharge into the
40 atmosphere, dry wells or other safe outlets. Class 1 fire protection
41 system does not include a system that has a connection with pumps, tanks,
42 reservoirs or other water supplies, or a system that contains antifreeze
43 or other additives.

1 2. "Class 2 fire protection system" means a class 1 fire protection
2 system with booster pumps installed in the connections from the street
3 mains.

4 3. "Fire code authority" means the ASSISTANT DIRECTOR OF THE OFFICE
5 OF THE state fire marshal or the ~~state fire marshal's~~ ASSISTANT DIRECTOR'S
6 designee, except that for an incorporated city or town with a population
7 of at least one hundred thousand persons that has adopted an ordinance
8 pursuant to section 37-1383, subsection A, fire code authority means the
9 municipal fire chief or the fire chief's designee.

10 4. "Special backflow condition" means a condition that exists at
11 the site of a class 1 or class 2 fire protection system and that may
12 present a contamination hazard to the domestic water supply, including:

13 (a) Underground fire protection system lines that are parallel to
14 and within six feet horizontally of sewer lines or other lines carrying
15 toxic materials.

16 (b) The use, storage or handling of materials on a site by a
17 property owner or occupant that could present a significant health hazard
18 to the domestic water supply.

19 (c) The presence of unusually complex piping systems.

20 (d) Water supplied to a site or an area from either:

21 (i) Two or more services of a water utility.

22 (ii) Two different water utilities.

23 (iii) A supplemental water supply.

24 Sec. 34. Section 41-4049, Arizona Revised Statutes, is transferred
25 and renumbered for placement in title 37, chapter 9, article 4, Arizona
26 Revised Statutes, as section 37-1391 and, as so renumbered, is amended to
27 read:

28 37-1391. Cease and desist order; enforcement procedures;
29 violation; civil penalty

30 A. If the STATE FORESTER, THE ASSISTANT DIRECTOR OF THE OFFICE OF
31 THE state fire marshal or ~~the fire marshal's deputies have~~ A DEPUTY FIRE
32 MARSHAL HAS reasonable cause to believe that any person has committed or
33 is committing a violation of ~~title 37, chapter 9, article 4~~ THIS ARTICLE,
34 any rule adopted pursuant to ~~title 37, chapter 9, article 4~~ THIS ARTICLE
35 or any order issued pursuant to ~~title 37, chapter 9, article 4~~ THIS
36 ARTICLE that does not constitute an immediate and apparent hazard to life
37 or property, the ~~state fire marshal~~ ASSISTANT DIRECTOR through the
38 ~~director~~ STATE FORESTER may issue and serve on the person by certified
39 mail a cease and desist order.

40 B. If the violation does not constitute an immediate hazard to life
41 or property, the ASSISTANT DIRECTOR OF THE OFFICE OF THE state fire
42 marshal shall grant to the person whom the ~~state fire marshal~~ ASSISTANT
43 DIRECTOR alleges to be in violation of any rule or order a reasonable
44 period of time, which ~~in no event shall be~~ IS NOT less than five days
45 after the date of receipt of the notice, to comply with the order.

1 C. On the failure or refusal of a person to comply with a cease and
2 desist order issued ~~by the director~~ pursuant to subsection A of this
3 section, the ~~director~~ STATE FORESTER may file an action in the superior
4 court in the county in which the violation is alleged to have occurred to
5 enjoin the person from engaging in further acts in violation of the cease
6 and desist order. The court shall proceed as in other actions for
7 preliminary injunction. Any person found to be in contempt of an
8 injunctive order of the court shall be assessed a civil penalty of not
9 more than one thousand dollars with each day of violation constituting a
10 separate contempt.

11 D. If the STATE FORESTER, THE ASSISTANT DIRECTOR OF THE OFFICE OF
12 THE state fire marshal or ~~the fire marshal's deputies have~~ A DEPUTY FIRE
13 MARSHAL HAS reasonable cause to believe that any person has committed or
14 is committing a violation of ~~title 37, chapter 9, article 4~~ THIS ARTICLE,
15 any rule adopted pursuant to ~~title 37, chapter 9, article 4~~ THIS ARTICLE
16 or any order issued pursuant to ~~title 37, chapter 9, article 4~~ THIS
17 ARTICLE that constitutes an immediate and apparent hazard to life or
18 property, the ~~state fire marshal~~ ASSISTANT DIRECTOR through the ~~director~~
19 STATE FORESTER may either:

20 1. Issue and serve by personal service a cease and desist order,
21 which ~~order~~ may require immediate compliance. On failure of a person to
22 comply with a cease and desist order issued pursuant to this paragraph,
23 the ~~director~~ STATE FORESTER shall file an action in the superior court in
24 the county where the violation occurred to enjoin the person from engaging
25 in further acts in violation of the cease and desist order.

26 2. File an action in the superior court in the county in which the
27 violation is alleged to have occurred to enjoin a person from engaging in
28 further acts in violation of the rule or order without issuing a cease and
29 desist order.

30 E. IN AN ACTION FILED UNDER SUBSECTION D OF THIS SECTION, the court
31 shall proceed as in other actions for preliminary injunction. Any person
32 found to be in contempt of an injunctive order of the court shall be
33 assessed a civil penalty of not more than one thousand dollars with each
34 day of violation constituting a separate contempt.

35 F. A PERSON WHO IS SERVED WITH A CEASE AND DESIST ORDER BY PURSUANT
36 TO THIS SECTION MAY REQUEST A HEARING PURSUANT TO TITLE 41, CHAPTER 6,
37 ARTICLE 10.

38 Sec. 35. Section 37-1402, Arizona Revised Statutes, is amended to
39 read:

40 37-1402. Test method and performance standard; civil penalty;
41 reports

42 A. Except as provided in subsection I of this section, cigarettes
43 may not be sold or offered for sale in this state or offered for sale or
44 sold to persons located in this state unless both of the following occur:

1 1. The cigarettes are tested pursuant to the test method prescribed
2 in this section and meet the performance standard prescribed in this
3 section.

4 2. The manufacturer files a written certification with the OFFICE
5 OF THE state fire marshal pursuant to section 37-1403 and marks the
6 cigarettes pursuant to section 37-1404.

7 B. The tests prescribed in subsection A, paragraph 1 of this
8 section shall conform to the following standards:

9 1. Testing of cigarettes shall be conducted pursuant to the
10 American society of testing and materials standard E2187-04, "standard
11 test method for measuring the ignition strength of cigarettes".

12 2. Testing shall be conducted on ten layers of filter paper.

13 3. Not more than twenty-five percent of the cigarettes tested in a
14 test trial pursuant to this section shall exhibit full-length burns.
15 Forty replicate tests comprise a complete test trial for each cigarette
16 tested.

17 4. The performance standard required by this subsection is applied
18 only to a complete test trial.

19 5. Written certifications shall be based on testing conducted by a
20 laboratory that has been accredited pursuant to standard ISO/IEC 17025 of
21 the international organization for standardization or ~~other~~ ANOTHER
22 comparable accreditation standard required by the OFFICE OF THE state fire
23 marshal.

24 6. Laboratories conducting testing pursuant to this subsection
25 shall implement a quality control and quality assurance program that
26 includes a procedure that will determine the repeatability of the testing
27 results. The repeatability value shall not be greater than 0.19.

28 7. Additional testing is not required if cigarettes are tested
29 consistent with this article for any other purpose.

30 8. Testing performed or sponsored by the OFFICE OF THE state fire
31 marshal to determine a cigarette's compliance with the performance
32 standard required by this subsection shall be conducted pursuant to this
33 subsection.

34 C. Each cigarette listed in a certification submitted pursuant to
35 section 37-1403 that uses lowered permeability bands in the cigarette
36 paper to achieve compliance with the performance standard prescribed in
37 this section shall have at least two nominally identical bands on the
38 paper surrounding the tobacco column. At least one complete band shall be
39 located at least fifteen millimeters from the lighting end of the
40 cigarette. For cigarettes on which the bands are positioned by design,
41 there shall be at least two bands fully located at least fifteen
42 millimeters from the lighting end and ten millimeters from the filter end
43 of the tobacco column or ten millimeters from the labeled end of the
44 tobacco column for nonfiltered cigarettes.

1 D. A manufacturer of a cigarette that the OFFICE OF THE state fire
2 marshal determines cannot be tested pursuant to the test method prescribed
3 in subsection B, paragraph 1 of this section shall propose a test method
4 and performance standard for the cigarette to the OFFICE OF THE state fire
5 marshal. On approval of the proposed test method and a determination by
6 the OFFICE OF THE state fire marshal that the performance standard
7 proposed by the manufacturer is equivalent to the performance standard
8 prescribed in subsection B, paragraph 3 of this section, the manufacturer
9 may employ that test method and performance standard to certify the
10 cigarette pursuant to section 37-1403. If the OFFICE OF THE state fire
11 marshal determines that another state has enacted reduced cigarette
12 ignition propensity standards that include a test method and performance
13 standard that are the same as those prescribed in this article, and the
14 OFFICE OF THE state fire marshal finds that the officials responsible for
15 implementing those requirements have approved the proposed alternative
16 test method and performance standard for a particular cigarette proposed
17 by a manufacturer as meeting the fire safety standards of that state's law
18 or regulation under a legal provision comparable to this section, the
19 OFFICE OF THE state fire marshal shall authorize that manufacturer to
20 employ the alternative test method and performance standard to certify
21 that cigarette for sale in this state, unless the OFFICE OF THE state fire
22 marshal demonstrates a reasonable basis why the alternative test should
23 not be accepted pursuant to this article. All other applicable
24 requirements of this section apply to the manufacturer.

25 E. Each manufacturer shall maintain copies of the reports of all
26 tests conducted on all cigarettes offered for sale for three years and
27 shall make copies of these reports available to the OFFICE OF THE state
28 fire marshal and the attorney general on written request. Any
29 manufacturer ~~who~~ THAT fails to make copies of these reports available
30 within sixty days after receiving a written request is subject to a civil
31 penalty of not to exceed ten thousand dollars for each day after the
32 sixtieth day that the manufacturer does not make the copies available.

33 F. The OFFICE OF THE state fire marshal may adopt a subsequent
34 American society of testing and materials standard test method for
35 measuring the ignition strength of cigarettes on a finding that the
36 subsequent method does not result in a change in the percentage of
37 full-length burns exhibited by any tested cigarette if compared to the
38 percentage of full-length burns the same cigarette would exhibit if it
39 were tested pursuant to the American society of testing and materials
40 standard E2187-04 and the performance standard prescribed in subsection B,
41 paragraph 3 of this section.

42 G. The OFFICE OF THE state fire marshal shall review the
43 effectiveness of this section and report every three years to the
44 legislature on the OFFICE OF THE state fire marshal's findings and any
45 recommendations for legislation to improve the effectiveness of this

1 section. The OFFICE OF THE state fire marshal shall submit the report and
2 legislative recommendations on or before July 1 of each three-year period.

3 H. The OFFICE OF THE state fire marshal shall notify the governor,
4 the speaker of the house of representatives and the president of the
5 senate in writing immediately after a federal reduced cigarette ignition
6 propensity standard that preempts the standard prescribed in this article
7 becomes effective.

8 I. This section does not prohibit either of the following:

9 1. Wholesalers or retailers from selling their existing inventory
10 of cigarettes on or after August 1, 2009 if the wholesaler or retailer can
11 establish that state tax stamps were affixed to the cigarettes before
12 August 1, 2009 and the wholesaler or retailer can establish that the
13 inventory was purchased before August 1, 2009 in comparable quantity to
14 the inventory purchased during the same period of the prior year.

15 2. The sale of cigarettes solely for the purpose of consumer
16 testing. For the purposes of this paragraph, "consumer testing" means an
17 assessment of cigarettes that is conducted by a manufacturer, or under the
18 control and direction of a manufacturer, for the purpose of evaluating
19 consumer acceptance of the cigarettes, using only the quantity of
20 cigarettes that is reasonably necessary for such an assessment.

21 Sec. 36. Section 37-1403, Arizona Revised Statutes, is amended to
22 read:

23 37-1403. Certification; product change; fee

24 A. Each manufacturer shall submit to the OFFICE OF THE state fire
25 marshal a written certification attesting that each cigarette listed in
26 the certification:

- 27 1. Has been tested pursuant to section 37-1402.
28 2. Meets the performance standards prescribed in section 37-1402.

29 B. The manufacturer shall describe each cigarette listed in the
30 certification with the following information:

- 31 1. Brand or trade name on the package.
32 2. Style, such as light or ultra light.
33 3. Length in millimeters.
34 4. Circumference in millimeters.
35 5. Flavor, such as menthol or chocolate, if applicable.
36 6. Filter or nonfilter.
37 7. Package description, such as soft pack or box.
38 8. Marking approved pursuant to section 37-1404.
39 9. Name, address and telephone number of the laboratory, if
40 different than the manufacturer that conducted the test.
41 10. Date that the testing occurred.

42 C. A manufacturer shall recertify each cigarette certified under
43 this section every three years.

44 D. A manufacturer shall make the certifications available to the
45 attorney general for purposes consistent with this article and the

1 department of revenue for the purposes of ensuring compliance with this
2 section.

3 E. If a manufacturer has certified a cigarette pursuant to this
4 section and after certification makes any change to the cigarette that is
5 likely to alter its compliance with the reduced cigarette ignition
6 propensity standards prescribed by this article, that cigarette shall not
7 be sold or offered for sale in this state until the manufacturer retests
8 the cigarette pursuant to the testing standards prescribed in section
9 37-1402 and maintains records of that retesting as required by section
10 37-1402. Any altered cigarette that does not meet the performance
11 standard prescribed in section 37-1402 may not be sold in this state.

12 F. The OFFICE OF THE state fire marshal may adopt rules requiring
13 each manufacturer to pay to the OFFICE OF THE state fire marshal a fee of
14 two hundred fifty dollars per brand family of cigarettes certified in
15 compliance with this section. The fee applies to all cigarettes within
16 the brand family certified and includes any new cigarette brand style
17 within the brand family during the three-year certification period.

18 Sec. 37. Section 37-1404, Arizona Revised Statutes, is amended to
19 read:

20 37-1404. Markings; requirements; office of the state fire
21 marshal approval

22 A. A manufacturer shall mark cigarettes that are certified pursuant
23 to section 37-1403 to indicate compliance with section 37-1402. The
24 marking shall be in at least ~~eight point~~ EIGHT-POINT type and shall
25 consist of either:

26 1. Modification of the product UPC code to include a visible mark
27 printed at or around the area of the UPC code. The mark may consist of
28 alphanumeric or symbolic characters permanently stamped, engraved,
29 embossed or printed in conjunction with the UPC code.

30 2. Any visible combination of alphanumeric or symbolic characters
31 permanently stamped, engraved or embossed on the cigarette package or
32 cellophane wrap.

33 3. Printed, stamped, engraved or embossed text that indicates that
34 the cigarettes meet the standards of this section.

35 B. A manufacturer shall use only one marking and shall apply this
36 marking uniformly for all packages, including packs, cartons and cases,
37 and brands marketed by that manufacturer.

38 C. Before the certification of any cigarette, a manufacturer shall
39 present its proposed marking to the OFFICE OF THE state fire marshal for
40 approval. Proposed markings are deemed approved if the OFFICE OF THE
41 state fire marshal fails to act within ten business days after receiving a
42 request for approval. On receipt of the request, the OFFICE OF THE state
43 fire marshal shall approve or disapprove the marking offered, except that
44 the OFFICE OF THE state fire marshal shall approve either of the
45 following:

1 1. Any marking in use and approved for sale in New York state
2 pursuant to the New York fire safety standards for cigarettes in section
3 156-c of the New York executive law and part 429 of title 19 of the New
4 York Code of Rules and Regulations.

5 2. The letters "FSC", which signify fire standards compliant,
6 appearing in ~~eight-point~~ EIGHT-POINT type or larger and ARE permanently
7 printed, stamped, engraved or embossed on the package at or near the UPC
8 code.

9 D. A manufacturer shall not modify its approved marking unless the
10 modification has been approved by the OFFICE OF THE state fire marshal
11 pursuant to this section.

12 E. Manufacturers certifying cigarettes pursuant to section 37-1403
13 shall provide a copy of the certifications to all wholesalers and agents
14 to whom they sell cigarettes and shall also provide sufficient copies of
15 an illustration of the package marking used by the manufacturer pursuant
16 to this section for each retailer to whom the wholesalers or agents sell
17 cigarettes. Wholesalers and agents shall provide a copy of these package
18 markings received from manufacturers to all retailers to whom they sell
19 cigarettes. Wholesalers, agents and retailers shall permit the OFFICE OF
20 THE state fire marshal, the department of revenue or the attorney general,
21 or their employees, to inspect markings of cigarette packaging marked
22 pursuant to this section.

23 Sec. 38. Section 37-1405, Arizona Revised Statutes, is amended to
24 read:

25 37-1405. Civil penalties; seizure

26 A. A manufacturer, wholesaler, agent or other person or entity that
27 knowingly sells or offers to sell cigarettes, other than through retail
28 sale, in violation of section 37-1402 is subject to a civil penalty of not
29 to exceed one hundred dollars for each pack of cigarettes sold or offered
30 for sale. This penalty shall not exceed twenty-five thousand dollars
31 during any thirty-day period.

32 B. A retailer who knowingly sells or offers to sell cigarettes in
33 violation of section 37-1402 is subject to a civil penalty of not to
34 exceed one hundred dollars for each pack of cigarettes sold or offered for
35 sale. This penalty shall not exceed one thousand dollars during any
36 thirty-day period.

37 C. In addition to any penalty prescribed by law, any corporation,
38 partnership, sole proprietor, limited partnership or association that is
39 engaged in the manufacture of cigarettes and that knowingly makes a false
40 certification pursuant to section 37-1403 is subject to a civil penalty of
41 at least twenty-five thousand dollars but not more than one hundred
42 thousand dollars for each false certification.

43 D. A person who violates any other provision of this article is
44 subject to a civil penalty for a first offense of not to exceed one

1 thousand dollars and a civil penalty of not to exceed five thousand
2 dollars for each subsequent violation.

3 E. Any cigarettes that have been sold or offered for sale and that
4 do not comply with the performance standard prescribed by section 37-1402
5 are subject to forfeiture and, on forfeiture, shall be destroyed. Before
6 the destruction of any forfeited cigarette, the true holder of the
7 trademark rights in the cigarette brand may inspect the cigarette.

8 F. In addition to any other remedy provided by law, the state ~~fire~~
9 ~~marshal~~ FORESTER or the attorney general may file an action in the
10 superior court for injunctive relief or to recover any costs or damages
11 suffered by this state because of a violation of this section, including
12 enforcement costs relating to the specific violation and attorney fees.
13 Each violation of this section or rules adopted pursuant to this section
14 is a separate civil violation for which the state ~~fire marshal~~ FORESTER or
15 attorney general may obtain relief.

16 G. If a law enforcement officer or duly authorized representative
17 of the OFFICE OF THE state fire marshal discovers cigarettes that have not
18 been marked as required by section 37-1404, the officer or representative
19 shall notify the department of revenue and may seize and take possession
20 of the cigarettes. The cigarettes shall be turned over to the department
21 of revenue and shall be forfeited to the state. Cigarettes seized
22 pursuant to this section shall be destroyed. Before the destruction of
23 any seized cigarette, the true holder of the trademark rights in the
24 cigarette brand may inspect the cigarette.

25 Sec. 39. Section 37-1406, Arizona Revised Statutes, is amended to
26 read:

27 37-1406. Implementation; rulemaking; inspection of
28 cigarettes; definitions

29 A. The OFFICE OF THE state fire marshal shall implement this
30 article pursuant to the implementation and substance of the New York fire
31 safety standards for cigarettes in section 156-c of the New York executive
32 law and part 429 of title 19 of the New York Code of Rules and
33 Regulations.

34 B. The OFFICE OF THE state fire marshal may adopt rules to enforce
35 this article.

36 C. As authorized pursuant to section 42-3151, the department of
37 revenue in the regular course of conducting inspections of distributors
38 and retailers may inspect cigarettes to determine ~~if~~ WHETHER the
39 cigarettes are marked as required by section 37-1404. If the cigarettes
40 are not marked as required, the department of revenue shall notify the
41 OFFICE OF THE state fire marshal.

42 D. An agent of the department of revenue who is also a law
43 enforcement agent or investigator may conduct inspections pursuant to
44 section 37-1405, subsection G.

1 E. For the purpose of this section, "cigarette", "distributor" and
2 "retailer" have the same meanings prescribed in section 42-3001.

3 Sec. 40. Section 37-1407, Arizona Revised Statutes, is amended to
4 read:

5 37-1407. Inspection

6 ~~Beginning August 1, 2009,~~ To enforce this article, the attorney
7 general and the OFFICE OF THE state fire marshal UNDER THE AUTHORITY AND
8 DIRECTION OF THE STATE FORESTER, or their employees, may examine the
9 books, papers, invoices and other records of any person in possession,
10 control or occupancy of any premises where cigarettes are placed, stored,
11 sold or offered for sale, as well as the stock of cigarettes on the
12 premises. Each person in the possession, control or occupancy of any
13 premises where cigarettes are placed, sold or offered for sale shall allow
14 the attorney general and the OFFICE OF THE state fire marshal, or their
15 employees, the means, facilities and opportunity for the examinations
16 authorized by this section.

17 Sec. 41. Section 41-1861, Arizona Revised Statutes, is amended to
18 read:

19 41-1861. Arizona fire fighters and emergency paramedics
20 memorial board

21 A. ~~At~~ THE Arizona fire fighters and emergency paramedics memorial
22 board is established consisting of a chairman appointed by the governor,
23 the ASSISTANT DIRECTOR OF THE OFFICE OF THE state fire marshal, the
24 attorney general and nine members appointed pursuant to subsection B OF
25 THIS SECTION.

26 B. The chairman shall appoint one member from a recognized
27 association representing public ~~fire fighters~~ FIREFIGHTERS, one member
28 representing a volunteer fire department or fire district, two ~~fire~~
29 ~~fighters~~ FIREFIGHTERS, two emergency paramedics, two members from the
30 business community and one member representing the Arizona arts community.

31 C. The board shall meet at the call of the chairman.

32 D. Members of the board are not eligible to receive compensation,
33 but members appointed pursuant to subsection B OF THIS SECTION are
34 entitled to reimbursement from the Arizona fire fighters and emergency
35 paramedics memorial fund for reasonable expenses in traveling on and
36 attending to official board business.

37 Sec. 42. Section 41-4031, Arizona Revised Statutes, is amended to
38 read:

39 41-4031. Complaints; citation; failure to respond; hearing

40 A. The office shall issue a citation on failure to respond or on
41 the verified written complaint of a purchaser pursuant to section 41-4004,
42 subsection B, paragraph 9 and shall issue a citation directing the
43 licensee, within ten days after service of the citation on the licensee,
44 to appear by filing with the office a verified answer to the complaint
45 showing cause why the license should not be revoked or suspended. The

1 director, after conducting an investigation pursuant to section 41-4039,
2 may issue a citation on the director's own initiative.

3 B. Failure of the licensee to answer shall be deemed an admission
4 by the licensee of the cited complaint or failure to respond as charged in
5 the citation, and the office may suspend or revoke such license without a
6 hearing.

7 C. A person served with a citation ~~or with a cease and desist order~~
8 ~~by the state fire marshal~~ may request a hearing pursuant to chapter 6,
9 article 10 of this title.

10 Sec. 43. Section 42-2003, Arizona Revised Statutes, is amended to
11 read:

12 42-2003. Authorized disclosure of confidential information

13 A. Confidential information relating to:

14 1. A taxpayer may be disclosed to the taxpayer, its successor in
15 interest or a designee of the taxpayer who is authorized in writing by the
16 taxpayer. A principal corporate officer of a parent corporation may
17 execute a written authorization for a controlled subsidiary.

18 2. A corporate taxpayer may be disclosed to any principal officer,
19 any person designated by a principal officer or any person designated in a
20 resolution by the corporate board of directors or other similar governing
21 body.

22 3. A partnership may be disclosed to any partner of the
23 partnership. This exception does not include disclosure of confidential
24 information of a particular partner unless otherwise authorized.

25 4. An estate may be disclosed to the personal representative of the
26 estate and to any heir, next of kin or beneficiary under the will of the
27 decedent if the department finds that the heir, next of kin or beneficiary
28 has a material interest that will be affected by the confidential
29 information.

30 5. A trust may be disclosed to the trustee or trustees, jointly or
31 separately, and to the grantor or any beneficiary of the trust if the
32 department finds that the grantor or beneficiary has a material interest
33 that will be affected by the confidential information.

34 6. Any taxpayer may be disclosed if the taxpayer has waived any
35 rights to confidentiality either in writing or on the record in any
36 administrative or judicial proceeding.

37 7. The name and taxpayer identification numbers of persons issued
38 direct payment permits may be publicly disclosed.

39 B. Confidential information may be disclosed to:

40 1. Any employee of the department whose official duties involve tax
41 administration.

42 2. The office of the attorney general solely for its use in
43 preparation for, or in an investigation that may result in, any proceeding
44 involving tax administration before the department or any other agency or

1 board of this state, or before any grand jury or any state or federal
2 court.

3 3. The department of liquor licenses and control for its use in
4 determining whether a spirituous liquor licensee has paid all transaction
5 privilege taxes and affiliated excise taxes incurred as a result of the
6 sale of spirituous liquor, as defined in section 4-101, at the licensed
7 establishment and imposed on the licensed establishments by this state and
8 its political subdivisions.

9 4. Other state tax officials whose official duties require the
10 disclosure for proper tax administration purposes if the information is
11 sought in connection with an investigation or any other proceeding
12 conducted by the official. Any disclosure is limited to information of a
13 taxpayer who is being investigated or who is a party to a proceeding
14 conducted by the official.

15 5. The following agencies, officials and organizations, if they
16 grant substantially similar privileges to the department for the type of
17 information being sought, pursuant to statute and a written agreement
18 between the department and the foreign country, agency, state, Indian
19 tribe or organization:

20 (a) The United States internal revenue service, alcohol and tobacco
21 tax and trade bureau of the United States treasury, United States bureau
22 of alcohol, tobacco, firearms and explosives of the United States
23 department of justice, United States drug enforcement agency and federal
24 bureau of investigation.

25 (b) A state tax official of another state.

26 (c) An organization of states, federation of tax administrators or
27 multistate tax commission that operates an information exchange for tax
28 administration purposes.

29 (d) An agency, official or organization of a foreign country with
30 responsibilities that are comparable to those listed in subdivision (a),
31 (b) or (c) of this paragraph.

32 (e) An agency, official or organization of an Indian tribal
33 government with responsibilities comparable to the responsibilities of the
34 agencies, officials or organizations identified in subdivision (a), (b) or
35 (c) of this paragraph.

36 6. The auditor general, in connection with any audit of the
37 department subject to the restrictions in section 42-2002, subsection D.

38 7. Any person to the extent necessary for effective tax
39 administration in connection with:

40 (a) The processing, storage, transmission, destruction and
41 reproduction of the information.

42 (b) The programming, maintenance, repair, testing and procurement
43 of equipment for purposes of tax administration.

44 (c) The collection of the taxpayer's civil liability.

1 8. The office of administrative hearings relating to taxes
2 administered by the department pursuant to section 42-1101, but the
3 department shall not disclose any confidential information:

4 (a) Regarding income tax or withholding tax.

5 (b) On any tax issue relating to information associated with the
6 reporting of income tax or withholding tax.

7 9. The United States treasury inspector general for tax
8 administration for the purpose of reporting a violation of internal
9 revenue code section 7213A (26 United States Code section 7213A),
10 unauthorized inspection of returns or return information.

11 10. The financial management service of the United States treasury
12 department for use in the treasury offset program.

13 11. The United States treasury department or its authorized agent
14 for use in the state income tax levy program and in the electronic federal
15 tax payment system.

16 12. The Arizona commerce authority for its use in:

17 (a) Qualifying renewable energy operations for the tax incentives
18 under sections 42-12006, 43-1083.01 and 43-1164.01.

19 (b) Qualifying businesses with a qualified facility for income tax
20 credits under sections 43-1083.03 and 43-1164.04.

21 (c) Fulfilling its annual reporting responsibility pursuant to
22 section 41-1511, subsections U and V and section 41-1512, subsections U
23 and V.

24 (d) Certifying computer data centers for tax relief under section
25 41-1519.

26 13. A prosecutor for purposes of section 32-1164, subsection C.

27 14. The OFFICE OF THE state fire marshal for use in determining
28 compliance with and enforcing title 37, chapter 9, article 5.

29 15. The department of transportation for its use in administering
30 taxes, surcharges and penalties prescribed by title 28.

31 16. The Arizona health care cost containment system administration
32 for its use in administering nursing facility provider assessments.

33 C. Confidential information may be disclosed in any state or
34 federal judicial or administrative proceeding pertaining to tax
35 administration pursuant to the following conditions:

36 1. One or more of the following circumstances must apply:

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

38 (b) The proceeding arose out of, or in connection with, determining
39 the taxpayer's civil or criminal liability, or the collection of the
40 taxpayer's civil liability, with respect to any tax imposed under this
41 title or title 43.

42 (c) The treatment of an item reflected on the taxpayer's return is
43 directly related to the resolution of an issue in the proceeding.

44 (d) Return information directly relates to a transactional
45 relationship between a person who is a party to the proceeding and the

1 taxpayer and directly affects the resolution of an issue in the
2 proceeding.

3 2. Confidential information may not be disclosed under this
4 subsection if the disclosure is prohibited by section 42-2002, subsection
5 C or D.

6 D. Identity information may be disclosed for purposes of notifying
7 persons entitled to tax refunds if the department is unable to locate the
8 persons after reasonable effort.

9 E. The department, on the request of any person, shall provide the
10 names and addresses of bingo licensees as defined in section 5-401, verify
11 whether or not a person has a privilege license and number, a tobacco
12 product distributor's license and number or a withholding license and
13 number or disclose the information to be posted on the department's
14 website or otherwise publicly accessible pursuant to section 42-1124,
15 subsection F and section 42-3401.

16 F. A department employee, in connection with the official duties
17 relating to any audit, collection activity or civil or criminal
18 investigation, may disclose return information to the extent that
19 disclosure is necessary to obtain information that is not otherwise
20 reasonably available. These official duties include the correct
21 determination of and liability for tax, the amount to be collected or the
22 enforcement of other state tax revenue laws.

23 G. If an organization is exempt from this state's income tax as
24 provided in section 43-1201 for any taxable year, the name and address of
25 the organization and the application filed by the organization on which
26 the department made its determination for exemption together with any
27 papers submitted in support of the application and any letter or document
28 issued by the department concerning the application are open to public
29 inspection.

30 H. Confidential information relating to transaction privilege tax,
31 use tax, severance tax, jet fuel excise and use tax and any other tax
32 collected by the department on behalf of any jurisdiction may be disclosed
33 to any county, city or town tax official if the information relates to a
34 taxpayer who is or may be taxable by a county, city or town or who may be
35 subject to audit by the department pursuant to section 42-6002. Any
36 taxpayer information released by the department to the county, city or
37 town:

- 38 1. May only be used for internal purposes, including audits.
- 39 2. May not be disclosed to the public in any manner that does not
40 comply with confidentiality standards established by the department. The
41 county, city or town shall agree in writing with the department that any
42 release of confidential information that violates the confidentiality
43 standards adopted by the department will result in the immediate
44 suspension of any rights of the county, city or town to receive taxpayer
45 information under this subsection.

1 I. The department may disclose statistical information gathered
2 from confidential information if it does not disclose confidential
3 information attributable to any one taxpayer. The department may disclose
4 statistical information gathered from confidential information, even if it
5 discloses confidential information attributable to a taxpayer, to:

6 1. The state treasurer in order to comply with the requirements of
7 section 42-5029, subsection A, paragraph 3.

8 2. The joint legislative income tax credit review committee, the
9 joint legislative budget committee staff and the legislative staff in
10 order to comply with the requirements of section 43-221.

11 J. The department may disclose the aggregate amounts of any tax
12 credit, tax deduction or tax exemption enacted after January 1, 1994.
13 Information subject to disclosure under this subsection shall not be
14 disclosed if a taxpayer demonstrates to the department that such
15 information would give an unfair advantage to competitors.

16 K. Except as provided in section 42-2002, subsection C,
17 confidential information, described in section 42-2001, paragraph 1,
18 subdivision (a), item (ii), may be disclosed to law enforcement agencies
19 for law enforcement purposes.

20 L. The department may provide transaction privilege tax license
21 information to property tax officials in a county for the purpose of
22 identification and verification of the tax status of commercial property.

23 M. The department may provide transaction privilege tax, luxury
24 tax, use tax, property tax and severance tax information to the
25 ombudsman-citizens aide pursuant to title 41, chapter 8, article 5.

26 N. Except as provided in section 42-2002, subsection D, a court may
27 order the department to disclose confidential information pertaining to a
28 party to an action. An order shall be made only on a showing of good
29 cause and that the party seeking the information has made demand on the
30 taxpayer for the information.

31 O. This section does not prohibit the disclosure by the department
32 of any information or documents submitted to the department by a bingo
33 licensee. Before disclosing the information the department shall obtain
34 the name and address of the person requesting the information.

35 P. If the department is required or permitted to disclose
36 confidential information, it may charge the person or agency requesting
37 the information for the reasonable cost of its services.

38 Q. Except as provided in section 42-2002, subsection D, the
39 department of revenue shall release confidential information as requested
40 by the department of economic security pursuant to section 42-1122 or
41 46-291. Information disclosed under this subsection is limited to the same
42 type of information that the United States internal revenue service is
43 authorized to disclose under section 6103(1)(6) of the internal revenue
44 code.

1 R. Except as provided in section 42-2002, subsection D, the
2 department of revenue shall release confidential information as requested
3 by the courts and clerks of the court pursuant to section 42-1122.

4 S. To comply with the requirements of section 42-5031, the
5 department may disclose to the state treasurer, to the county stadium
6 district board of directors and to any city or town tax official that is
7 part of the county stadium district confidential information attributable
8 to a taxpayer's business activity conducted in the county stadium
9 district.

10 T. The department shall release to the attorney general
11 confidential information as requested by the attorney general for purposes
12 of determining compliance with or enforcing any of the following:

13 1. Any public health control law relating to tobacco sales as
14 provided under title 36, chapter 6, article 14.

15 2. Any law relating to reduced cigarette ignition propensity
16 standards as provided under title 37, chapter 9, article 5.

17 3. Sections 44-7101 and 44-7111, the master settlement agreement
18 referred to in those sections and all agreements regarding disputes under
19 the master settlement agreement.

20 U. For proceedings before the department, the office of
21 administrative hearings, the board of tax appeals or any state or federal
22 court involving penalties that were assessed against a return preparer, an
23 electronic return preparer or a payroll service company pursuant to
24 section 42-1103.02, 42-1125.01 or 43-419, confidential information may be
25 disclosed only before the judge or administrative law judge adjudicating
26 the proceeding, the parties to the proceeding and the parties'
27 representatives in the proceeding prior to its introduction into evidence
28 in the proceeding. The confidential information may be introduced as
29 evidence in the proceeding only if the taxpayer's name, the names of any
30 dependents listed on the return, all social security numbers, the
31 taxpayer's address, the taxpayer's signature and any attachments
32 containing any of the foregoing information are redacted and if either:

33 1. The treatment of an item reflected on such return is or may be
34 related to the resolution of an issue in the proceeding.

35 2. Such a return or the return information relates or may relate to
36 a transactional relationship between a person who is a party to the
37 proceeding and the taxpayer that directly affects the resolution of an
38 issue in the proceeding.

39 3. The method of payment of the taxpayer's withholding tax
40 liability or the method of filing the taxpayer's withholding tax return is
41 an issue for the period.

42 V. The department and attorney general may share the information
43 specified in subsection T of this section with any of the following:

44 1. Federal, state or local agencies for the purposes of enforcement
45 of corresponding laws of other states.

1 2. A court, arbitrator, data clearinghouse or similar entity for
2 the purpose of assessing compliance with or making calculations required
3 by the master settlement agreement or agreements regarding disputes under
4 the master settlement agreement, and with counsel for the parties or
5 expert witnesses in any such proceeding, if the information otherwise
6 remains confidential.

7 W. The department may provide the name and address of qualifying
8 hospitals and qualifying health care organizations, as defined in section
9 42-5001, to a business classified and reporting transaction privilege tax
10 under the utilities classification.

11 X. The department may disclose to an official of any city, town or
12 county in a current agreement or considering a prospective agreement with
13 the department as described in section 42-5032.02, subsection F any
14 information relating to amounts subject to distribution required by
15 section 42-5032.02. Information disclosed by the department under this
16 subsection:

17 1. May only be used by the city, town or county for internal
18 purposes.

19 2. May not be disclosed to the public in any manner that does not
20 comply with confidentiality standards established by the department. The
21 city, town or county must agree with the department in writing that any
22 release of confidential information that violates the confidentiality
23 standards will result in the immediate suspension of any rights of the
24 city, town or county to receive information under this subsection.

25 Y. Notwithstanding any other provision of this section, the
26 department may not disclose information provided by an online lodging
27 marketplace, as defined in section 42-5076, without the written consent of
28 the online lodging marketplace, and the information may be disclosed only
29 pursuant to subsection A, paragraphs 1 through 6, subsection B, paragraphs
30 1, 2, 7 and 8 and subsections C and D of this section. Such information:

31 1. Is not subject to disclosure pursuant to title 39, relating to
32 public records.

33 2. May not be disclosed to any agency of this state or of any
34 county, city, town or other political subdivision of this state.

35 Sec. 44. Section 48-805, Arizona Revised Statutes, is amended to
36 read:

37 48-805. Fire district; powers and duties; definition

38 A. A fire district, through its board, shall:

39 1. Hold public meetings at least once each calendar month unless a
40 board consists of three members and the fire district levies less than
41 five hundred thousand dollars annually then the board shall meet in July
42 and at least every two months thereafter. A board for a district
43 organized pursuant to article 3 of this chapter shall hold public meetings
44 at least every two months.

45 2. Determine the compensation payable to district personnel.

1 3. Require probationary employees in a paid sworn firefighter
2 position, a reserve firefighter position or a volunteer firefighter
3 position to submit a full set of fingerprints to the fire district. The
4 fire district shall submit the fingerprints to the department of public
5 safety for the purpose of obtaining a state and federal criminal records
6 check pursuant to section 41-1750 and Public Law 92-544. The department
7 of public safety may exchange this fingerprint data with the federal
8 bureau of investigation.

9 B. A fire district, through its board, may:

10 1. Employ any personnel and provide services deemed necessary for
11 fire protection, for preservation of life and for carrying out its other
12 powers and duties, including providing ambulance transportation services
13 when authorized to do so pursuant to title 36, chapter 21.1, article 2,
14 but a member of a district board shall not be an employee of the district.
15 The merger of two or more fire districts pursuant to section 48-820 or the
16 consolidation with one or more fire districts pursuant to section 48-822
17 shall not expand the boundaries of an existing certificate of necessity
18 unless authorized pursuant to title 36, chapter 21.1, article 2.

19 2. Construct, purchase, lease, lease-purchase or otherwise acquire
20 the following or any interest therein and, in connection with the
21 construction or other acquisition, purchase, lease, lease-purchase or
22 grant a lien on any or all of its present or future property, including:

23 (a) Apparatus, water and rescue equipment, including ambulances and
24 equipment related to any of the foregoing.

25 (b) Land, buildings, equipment and furnishings to house equipment
26 and personnel necessary or appropriate to carry out its purposes.

27 3. Finance the acquisition of property as provided in this section
28 and costs incurred in connection with the issuance of bonds as provided in
29 section 48-806. Bonds shall not be issued without the consent of a
30 majority of the electors of the district voting at an election held for
31 that purpose. For the purposes of an election held under this paragraph,
32 all persons who are eligible to vote in fire district elections under
33 section 48-802 are eligible to vote.

34 4. Enforce the fire code adopted by the district, if any, and
35 assist the OFFICE OF THE state fire marshal in the enforcement of fire
36 protection standards of this state within the fire district including
37 enforcement of a nationally recognized fire code if expressly authorized
38 by the OFFICE OF THE state fire marshal.

39 5. After the approval of the qualified electors of the fire
40 district voting at a regular district election or at a special election
41 called for that purpose by the district board, as appropriate, or at any
42 election held in the county that encompasses the fire district, adopt the
43 _____ fire code, which is a nationally recognized fire code approved by
44 the state fire marshal. The words appearing on the ballots shall be
45 "should _____ fire district adopt the _____ fire code, which is

1 a nationally recognized fire code approved by the state fire
2 marshal--yes", "should _____ fire district adopt the _____
3 fire code, which is a nationally recognized fire code approved by the
4 OFFICE OF THE state fire marshal--no". The code shall be enforced by the
5 county attorney in the same manner as any other law or ordinance of the
6 county. Any inspection or enforcement costs are the responsibility of the
7 fire district involved. The district shall keep the code on file, which
8 shall be open to public inspection for a period of thirty days before any
9 election for the purpose of adopting a fire code. Copies of the order of
10 election shall be posted in three public places in the district at least
11 twenty days before the date of the election, and if a newspaper is
12 published in the county having a general circulation in the district, the
13 order shall be published in the newspaper at least once a week during each
14 of the three calendar weeks preceding the calendar week of the election.

15 6. Amend or revise the adopted fire code, including replacement of
16 the adopted fire code with an alternative nationally recognized fire code,
17 with the approval of the OFFICE OF THE state fire marshal and after a
18 hearing held pursuant to posted and published notice as prescribed by
19 section 48-805.02, subsection A. The district shall keep three copies of
20 the adopted code, amendments and revisions on file for public inspection.

21 7. Enter into an agreement procuring the services of an organized
22 private fire protection company or a fire department of a neighboring
23 city, town, district or settlement without impairing the fire district's
24 powers.

25 8. Contract with a city or town for fire protection services for
26 all or part of the city or town area until the city or town elects to
27 provide regular fire department services to the area.

28 9. Retain a certified public accountant to perform an annual audit
29 of district books.

30 10. Retain private legal counsel.

31 11. Accept gifts, contributions, bequests and grants and comply
32 with any requirements of those gifts, contributions, bequests and grants
33 that are not inconsistent with this article.

34 12. Appropriate and expend annually monies as are necessary for the
35 purpose of fire districts belonging to and paying dues in the Arizona fire
36 district association and other professional affiliations or entities.

37 13. Adopt resolutions establishing fee schedules both within and
38 outside of the jurisdictional boundaries of the district for providing
39 fire protection services and services for the preservation of life,
40 including emergency fire and emergency medical services, plan reviews,
41 standby charges, fire cause determination, users' fees or facilities
42 benefit assessments or any other fee schedule that may be required.

43 14. With the approval of two of the three members of a three-member
44 board, four of the five members of a five-member board or five of the
45 seven members of a seven-member board, change the district's name and on

1 so doing shall give written notice to the board of supervisors of the
2 change. The governing board of a fire district may place a question on
3 the general election ballot as to whether the fire district shall change
4 its name.

5 15. Require all employees to submit a full set of fingerprints as
6 prescribed by subsection A, paragraph 3 of this section.

7 16. Enter into intergovernmental agreements or contracts as
8 follows:

9 (a) Enter into an intergovernmental agreement with another
10 political subdivision for technical or administrative services or to
11 provide fire services to the property owned by the political subdivision,
12 including property that is outside the district boundary.

13 (b) Enter into a contract with individuals to provide technical or
14 administrative services.

15 (c) Enter into a contract with individuals to provide fire
16 protection services or emergency medical services, or both, to the extent
17 not regulated by title 36, chapter 21.1 to property owned by the
18 individual located outside the district boundaries if the individual's
19 property is not located in a county island as defined in section 11-251.12
20 and at least one of the following apply:

21 (i) The existing fire service provider where the individual's
22 property is located has issued a notice to the individual that the
23 provider plans to discontinue service.

24 (ii) Fire service is not available to the individual's property.

25 (iii) Fire service is offered pursuant to a contract or
26 subscription and the individual has not obtained service for a period of
27 twenty-four months before the date of the contract with the district.

28 (d) Enter into a contract with individuals to provide fire services
29 to property owned by the individual located outside the district
30 boundaries, where the individual's property is located in a county island
31 as defined in section 11-251.12, if both of the following apply:

32 (i) The existing fire service provider where the individual's
33 property is located has issued a notice to the residents of the county
34 island and the individual that the provider plans to discontinue or
35 substantially reduce service.

36 (ii) The district offers contracts to all residents and property
37 owners of the county island who will be affected by the discontinuance or
38 substantial reduction in service by the current fire service provider.

39 (e) For the purposes of subdivision (a), (b), (c) or (d) of this
40 paragraph, a district may contract with any public or private fire service
41 provider to provide some or all of the contractual services the district
42 is contracting to deliver.

1 (f) Any contract entered into pursuant to subdivisions (b), (c) and
2 (d) of this paragraph shall include a provision setting forth the cost of
3 service and performance criteria.

4 17. Sell or otherwise dispose of any real property, facilities or
5 equipment if the district board determines the real property, facilities
6 or equipment to be surplus.

7 C. A fire district may not administratively add or annex additional
8 property or delete property or otherwise modify its boundaries except in a
9 merger or consolidation pursuant to this chapter or in a boundary change
10 made pursuant to section 48-262. This subsection does not apply to a
11 district organized pursuant to article 3 of this chapter.

12 D. The chairman and clerk of the district board or their respective
13 designees, as applicable, shall draw warrants on the county treasurer for
14 money required to operate the district in accordance with the budget and,
15 as so drawn, the warrants shall be sufficient to authorize the county
16 treasurer to pay from the fire district fund.

17 E. For any fire district that designates one or more board members
18 to have access to the financial books and records of the district, those
19 board members are authorized by law to have full access to those financial
20 books and records.

21 F. The district board may assess and levy a secondary property tax
22 pursuant to this article to pay for the costs of fire protection services
23 or emergency medical services except for services regulated pursuant to
24 title 36, chapter 21.1.

25 G. The county attorney may advise and represent the district if in
26 the county attorney's judgment the advice and representation are
27 appropriate and not in conflict with the county attorney's duties under
28 section 11-532. If the county attorney is unable to advise and represent
29 the district due to a conflict of interest, the district may retain
30 private legal counsel or may request the attorney general to represent it,
31 or both.

32 H. If a district's fire code requires the use of a fire watch, an
33 employee who works at the building in which a fire watch is required may
34 serve as the fire watch. A person who is designated as a fire watch shall
35 be equipped with the means to contact the local fire department, and the
36 person's only duty while keeping watch for fires shall be to perform
37 constant patrols of the protected premises. The district shall provide
38 the fire watch with printed instructions from the OFFICE OF THE state fire
39 marshal and may provide a free training session before the person's
40 deployment as the fire watch begins.

41 I. For the purposes of this section, "fire watch" means a person
42 who is stationed in a building or in a place relative to a building to
43 observe the building and its openings when the fire protection system for
44 the building is temporarily nonoperational or absent.

1 Sec. 45. Section 48-820, Arizona Revised Statutes, is amended to
2 read:

3 48-820. Election to merge fire districts; notice; hearing;
4 approval; joint meeting; merged district board

5 A. Except as provided in subsection ~~K~~ L of this section, the board
6 of supervisors shall make an order calling for an election to decide
7 whether to merge fire districts when a resolution for merger from each
8 district is submitted to the board. The board of supervisors shall not
9 make an order calling for an election to merge fire districts more
10 frequently than once every two years. Whether or not the districts are
11 merged, the fire districts shall reimburse the counties for the expenses
12 of the election, including the cost of mailing any notices required
13 pursuant to this section. If the proposed district is located in more
14 than one county, the resolutions shall be submitted to the board of
15 supervisors of the county in which the majority of the assessed valuation
16 of the proposed district is located. The words appearing on the ballot
17 shall be "(insert fire districts' names) merge as a fire district--yes"
18 and "(insert fire districts' names) merge as fire district--no."

19 B. Except for a district organized pursuant to article 3 of this
20 chapter, at least six days but not more than twenty days after the
21 election, the board of supervisors shall meet and canvass the returns, and
22 if it is determined that a majority of the votes cast at the election in
23 each of the affected districts is in favor of merging the fire districts,
24 the board shall enter that fact on its minutes.

25 C. For a district organized pursuant to article 3 of this chapter,
26 within fourteen days after the election, the board of supervisors shall
27 meet and canvass the returns, and if it is determined that a majority of
28 the votes cast at the election in each of the affected districts is in
29 favor of merging the fire districts, the board shall enter the fact on its
30 minutes.

31 D. Except as prescribed in subsection E of this section, two or
32 more fire districts may merge if the governing body of each affected fire
33 district, by a majority vote of the members of each governing body, adopts
34 a resolution declaring that a merger be considered and a public hearing be
35 held to determine if a merger would be in the best interests of the
36 district and would promote public health, comfort, convenience, necessity
37 or welfare. After each district adopts such a resolution, the governing
38 body by first class mail shall send written notice of the resolution, its
39 purpose and notice of the day, hour and place of a hearing on the proposed
40 merger to each owner of taxable property within the boundaries of the
41 district. The notice shall contain the name and a general description of
42 the boundaries of each district proposed to be merged and a detailed,
43 accurate map of the area to be included in the merger. The notice also
44 shall contain an estimate of the assessed value of the merged district,
45 the estimated change in property tax liability for a typical resident of

1 the proposed merged district and a list of the benefits and injuries that
2 may result from the proposed merged district. No new territory may be
3 included as a result of the merger.

4 E. A noncontiguous county island fire district formed pursuant to
5 section 48-851 shall not merge with a fire district formed pursuant to
6 section 48-261.

7 F. The clerk of the governing body shall post notice in at least
8 three conspicuous public places in the district and shall also publish
9 notice twice in a newspaper of general circulation in the county in which
10 the district is located, at least ten days before the public hearing. The
11 clerk of each governing body affected by the proposed merger shall also
12 mail notice and a copy of the resolution in support of considering the
13 merger to the chairman of the board of supervisors of the county or
14 counties in which the affected districts are located. The chairman of the
15 board of supervisors shall order a review of the proposed merger and shall
16 submit written comments to the governing body of each fire district
17 located in that county within ten days after receipt of the notice.

18 G. At the hearing, each governing body of the district shall
19 consider the comments of the board of supervisors, hear those persons who
20 appear for or against the proposed merger and determine whether the
21 proposed merger will promote public health, comfort, convenience,
22 necessity or welfare. If, after the public hearing each of the governing
23 bodies of the districts affected by the proposed merger adopt a resolution
24 by a majority vote that the merger will promote public health, comfort,
25 convenience, necessity or welfare, each of the governing bodies of the
26 districts affected by the proposed merger shall submit to the board of
27 supervisors the resolutions that call for an election.

28 H. Before considering any resolution of merger pursuant to this
29 section, a governing body shall obtain written consent to the merger from
30 any single taxpayer residing within each of the affected districts who
31 owns thirty percent or more of the net assessed valuation of the total net
32 assessed valuation of the district. If written consent contemplated by
33 this subsection is not obtained, subsections A and B of this section
34 apply, and the merger may only be accomplished by election. If one of the
35 affected districts does not have a single taxpayer residing in the
36 district who owns thirty percent or more of the net assessed valuation of
37 the total net assessed valuation of the district, this subsection does not
38 apply to that district and written consent is not required for that
39 district.

40 I. If the merger is approved as provided by subsection B or ~~L~~ L of
41 this section, within thirty days after the approval, the governing body of
42 the affected district with the largest population shall call a joint
43 meeting of the governing bodies of all of the affected districts. At the
44 joint meeting, a majority of the members of the governing body of each
45 affected district constitutes a quorum for the purpose of transacting

1 business. The members of the governing body shall appoint a total of five
2 persons from those currently serving on the governing bodies who shall
3 complete their regular terms of office, except that no more than three of
4 the persons appointed may serve terms that end in the same year. No more
5 than three members shall be appointed from the same fire district board.
6 Subsequent terms of office for district board members shall be filled by
7 election of board members who shall be qualified electors of the merged
8 district.

9 J. The appointed governing body shall immediately meet and organize
10 itself and elect from its members a chairman and a clerk. The appointed
11 governing body shall immediately have the powers and duties prescribed by
12 law for governance and operation of the newly merged district. The
13 appointed board by resolution shall declare the districts merged and each
14 affected district joined and the name of the newly merged fire district.
15 The resolution and the names of the new board members for the newly
16 organized district shall be sent to the board of supervisors, and the
17 districts are merged effective thirty days after the adoption of the
18 resolution. If the newly merged district is authorized to operate an
19 ambulance service pursuant to title 36, chapter 21.1, article 2, the name
20 of the ambulance service shall be changed administratively by the director
21 of the department of health services to the name of the newly merged
22 district and a hearing on the matter is not required pursuant to section
23 36-2234.

24 K. The merger of two or more fire districts pursuant to this
25 section or the consolidation with one or more fire districts pursuant to
26 section 48-822 shall not expand the boundaries of an existing certificate
27 of necessity unless authorized pursuant to title 36, chapter 21.1,
28 article 2.

29 L. If the requirements of subsection H of this section are met and
30 the governing body votes required by subsection G of this section are
31 unanimous, the following apply:

32 1. The governing bodies of each district may choose to merge by
33 unanimous resolution without an election and subsections A and B of this
34 section do not apply.

35 2. The governing bodies of each district may choose to hold an
36 election on the question of merger and subsections A and B of this section
37 apply.

38 M. If the merger is approved pursuant to subsection B or ~~L~~ L of
39 this section, the governing body of the newly merged district may adopt a
40 nationally recognized fire code with the approval of the OFFICE OF THE
41 state fire marshal and after a hearing held pursuant to posted and
42 published notice as prescribed by section 48-805.02, subsection A. The
43 district shall keep a copy of the adopted fire code on file for public
44 inspection.

1 Sec. 46. Section 49-123, Arizona Revised Statutes, is amended to
2 read:

3 49-123. Hazardous materials emergency management program;
4 Arizona emergency response commission; emergency
5 planning and community right-to-know

6 A. The department is designated the lead agency for developing and
7 implementing a state hazardous materials emergency management program.

8 B. The director shall appoint a coordinator to work in consultation
9 with the Arizona emergency response commission in the development and
10 implementation of the hazardous materials emergency management program.

11 C. The Arizona emergency response commission is established
12 consisting of representatives from the following agencies and departments:

- 13 1. The division of emergency management.
- 14 2. The department of health services.
- 15 3. The department of public safety.
- 16 4. The department of transportation.
- 17 5. The Arizona department of agriculture.
- 18 6. The corporation commission.
- 19 7. The industrial commission of Arizona.
- 20 8. The office of THE state fire marshal IN THE ARIZONA DEPARTMENT

21 OF FORESTRY AND FIRE MANAGEMENT.

- 22 9. The office of state mine inspector.
- 23 10. The radiation regulatory agency.

24 11. Two representatives nominated by the Arizona fire chiefs
25 association or its successor organization, one of whom represents a fire
26 department or a fire district serving a population of less than two
27 hundred fifty thousand persons.

- 28 12. Other agencies or offices deemed necessary by the director.

29 D. This article does not change or alter the existing regulatory
30 authority or provisions of law relating to the agencies and departments
31 listed in subsection C of this section.

32 E. The department is designated as the lead agency for implementing
33 title III of the superfund amendments and reauthorization act of 1986
34 (P.L. 99-499). The director shall administer any monies received under
35 subsection G of this section.

36 F. The department shall administer this article and the rules
37 adopted under this article. The department shall administer title III in
38 this state and may conduct whatever activities are necessary to implement
39 this article and title III in this state. The department is granted all
40 the authority and responsibilities of a state emergency response
41 commission for purposes of title III.

42 G. The department may procure by contract the temporary or
43 intermittent services of experts or consultants if such services are to be
44 performed on a part-time or fee-for-services basis and do not involve the
45 performance of administrative duties. The department may also enter into

1 agreements with the federal government, Indian tribes, other states and
2 political subdivisions of this state for the purposes of this article.
3 The department may also accept on behalf of this state any reimbursement,
4 grant or gift that may become available for purposes of this article. The
5 department shall deposit, pursuant to sections 35-146 and 35-147, any such
6 monies in the emergency response fund.

7 H. The department shall establish a program of financial grants to
8 local governments funded through the department by appropriations to the
9 emergency response fund. The grants shall be dedicated to and used for
10 local compliance with this article. The department shall include
11 procedures for applying for the grants and qualifying criteria for
12 awarding the grants.

13 I. The department shall adopt and may modify, suspend or repeal
14 rules pursuant to title 41, chapter 6. The rules may not be more
15 stringent than title III and the federal regulations adopted under title
16 III, except as specifically authorized in this article. These rules shall
17 implement this article and title III in this state. The authority to
18 adopt rules includes establishing:

- 19 1. Procedures for handling public information requests.
- 20 2. Procedures and implementing programs for chemical emergency
21 planning and preparedness.
- 22 3. Community right-to-know program reporting requirements.
- 23 4. Fees to implement the community right-to-know program. The fees
24 shall be deposited, pursuant to sections 35-146 and 35-147, in the
25 emergency response fund established by section 49-132. The governor's
26 regulatory review council must approve rules adopted pursuant to this
27 paragraph.
- 28 5. Release reporting requirements.

29 J. The department shall ensure that mandatory hazardous materials
30 training programs for on-scene command personnel that are developed,
31 delivered or managed by their respective agencies, departments or
32 divisions address notification procedures, coordination of services and
33 comprehensive management for protection of the public health during and
34 after a chemical or other toxic fire event. The training shall include
35 notification and coordination with the department of public safety, the
36 department of transportation, the radiation regulatory agency, the
37 commission, local emergency planning committees, the department of health
38 services, the division of emergency management, the national response
39 center and the Arizona poison control system. Training shall also include
40 orientation on the state emergency response and recovery plan concerning
41 hazardous materials. The department shall encourage private companies
42 that deliver similar training in this state to include the same curriculum
43 in their programs.

1 Sec. 47. Section 49-356, Arizona Revised Statutes, is amended to
2 read:

3 49-356. Water systems; designating lead agency; coordinating
4 council

5 A. The department of environmental quality is designated as the
6 lead agency to review the operations of water systems and the practices of
7 governmental agencies that oversee and regulate them.

8 B. A water systems coordinating council is established in the
9 department of environmental quality consisting of representatives of at
10 least the following governmental entities and agencies or private water
11 systems:

- 12 1. The department of environmental quality.
- 13 2. The corporation commission.
- 14 3. The state real estate department.
- 15 4. The department of water resources.
- 16 5. The department of health services.
- 17 6. The office of ~~THE~~ state fire marshal in the ~~state forester~~
18 ARIZONA DEPARTMENT OF FORESTRY AND FIRE MANAGEMENT.
- 19 7. One representative of the health department of a county having a
20 population exceeding one million five hundred thousand persons.
- 21 8. One representative of the health department of a county having a
22 population exceeding five hundred thousand but not exceeding one million
23 five hundred thousand persons.
- 24 9. One member who is appointed by the director and who represents
25 county planning and zoning departments.
- 26 10. One member who is appointed by the director and who represents
27 a city or town with a population of less than ten thousand.
- 28 11. One member who is appointed by the director and who represents
29 investor owned water systems.

30 C. The determination of the number and appointment of
31 representatives for the departments designated in subsection B, paragraphs
32 1, 4 and 5 of this section shall be made by the director of the respective
33 departments. The determination of the number and appointment of
34 representatives of the state real estate department shall be made by the
35 commissioner of the state real estate department. The determination of
36 the number and appointment of representatives of the office of ~~THE~~ state
37 fire marshal shall be made by the state ~~fire marshal~~ FORESTER. The
38 appointment of representatives under subsection B, paragraphs 7 and 8 of
39 this section shall be made by the director of the department of health
40 services.

41 D. Additional members may be appointed at the discretion of the
42 council. A representative from the department of environmental quality,
43 selected by the director, shall serve as chairman of the council. The
44 council shall meet at least quarterly and may meet more often to conduct
45 its business.

- 1 E. The council shall:
- 2 1. Develop public education and information programs for owners,
3 operators and customers of water systems.
- 4 2. Identify programs to advise and assist owners and operators of
5 water systems in management, accounting, engineering and other technical
6 areas.
- 7 3. Integrate and coordinate information databases among member
8 agencies.
- 9 4. Evaluate the statutory and regulatory authority of governmental
10 entities regarding water systems and recommend appropriate changes.
- 11 5. Develop any other programs and recommendations that would
12 benefit the owners, operators and customers of water systems and the
13 statutory and regulatory practices of government agencies.
- 14 6. Identify sources of funding to accomplish the purposes of this
15 section.
- 16 7. Investigate mechanisms to ensure the financial viability of new
17 water systems before they begin operation.