



**ARIZONA STATE SENATE**  
*Fifty-Seventh Legislature, First Regular Session*

**FACT SHEET FOR S.B. 1128**

air quality; causation; state boundaries

Purpose

Allows the Attorney General (AG) to file suit on behalf of Arizona against any person outside of Arizona whose emissions result in damages to the air quality of Arizona.

Background

The AG serves as the chief legal officer of Arizona and is tasked with: 1) prosecuting and defending in the Supreme Court or a state court if deemed necessary, all proceedings in which Arizona or an officer of Arizona is a party or has an interest; 2) representing Arizona in any action in a federal court; and 3) being the legal advisor of the departments of Arizona (A.R.S. §§ [41-192](#) and [41-193](#)).

The Director of the Arizona Department of Environmental Quality (ADEQ) is tasked with maintaining a state implementation plan that provides for implementation, maintenance and enforcement of national ambient air quality standards and protection of visibility as required by the Clean Air Act ([A.R.S. § 49-404](#)). The implementation plan must include enforceable emission limitations, other control measures and provisions prohibiting any source or other type of emissions activity within Arizona from emitting any air pollutant in amounts which will: 1) contribute significantly to nonattainment in any other state; or 2) interfere with other outlined requirements of the state implementation plan that prevent significant deterioration of air quality or protect visibility ([42 U.S.C. § 7410](#)). Nonattainment is any area that does not meet, or contribute to ambient air quality in a nearby area that does not meet, the national primary or secondary ambient air quality standard outlined in the National Ambient Air Quality Standards ([EPA](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Allows the AG to file suit on behalf of Arizona against any person outside of Arizona whose emissions result in damages to the air quality of Arizona.
2. Requires, if a court finds that a person located outside of Arizona has caused harm to the air quality of Arizona, that the person be held liable for damages for the person's harm to Arizona in proportion to the harm caused by all persons located outside of Arizona.
3. Requires the potential damages that a court can award to include the persons reasonable share of:
  - a) the administrative and regulatory costs of bringing an area into attainment that would not be needed but for emissions originating outside of Arizona;

- b) the costs to the regulated community of bringing an area into attainment that would not be needed but for emissions originating outside of Arizona;
  - c) the development and enforcement of a nonattainment area plan or maintenance plan that Arizona would not need but for emissions originating outside of Arizona;
  - d) the costs to the regulated community to comply with a nonattainment area plan or maintenance plan that Arizona would not need but for emissions originating outside of Arizona; and
  - e) compliance with other outlined air quality standards imposed on Arizona that Arizona would not need but for emissions originating outside of Arizona.
- 4. Allows a court to award reasonable attorney fees and other litigation expenses to the prevailing party in any outlined action.
  - 5. Stipulates that the outlined requirements do not limit the AG from seeking damages from a person that damages the air quality of Arizona and that is located in Arizona if otherwise statutorily allowed.
  - 6. Stipulates that the outlined requirements do not limit any other person from seeking damages from any out-of-state person if otherwise statutorily allowed.
  - 7. Requires the Director of ADEQ, when considering any revisions to the state implementation plan or rules for the adoption of the state implementation plan, to consider:
    - a) the best interests of the taxpayer; and
    - b) all casual factors that affect air quality, including:
      - i. transportation emissions that originate outside of Arizona; and
      - ii. the effects of solar radiation and any associated heat increases.
  - 8. Makes technical and conforming changes.
  - 9. Becomes effective on the general effective date.

Prepared by Senate Research

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SB/slp