

Senate Engrossed

air quality; causation; state boundaries

State of Arizona
Senate
Fifty-seventh Legislature
First Regular Session
2025

SENATE BILL 1128

AN ACT

AMENDING SECTION 49-404, ARIZONA REVISED STATUTES; AMENDING TITLE 49, CHAPTER 3, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 49-407.01; RELATING TO AIR QUALITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 49-404, Arizona Revised Statutes, is amended to
3 read:

4 49-404. State implementation plan

5 A. The director shall maintain a state implementation plan that
6 provides for implementation, maintenance and enforcement of national
7 ambient air quality standards and protection of visibility as required by
8 the clean air act.

9 B. The director may adopt rules that describe procedures for
10 adoption of revisions to the state implementation plan.

11 C. WHEN CONSIDERING ANY REVISIONS TO THE STATE IMPLEMENTATION PLAN
12 OR RULES FOR THE ADOPTION OF THE STATE IMPLEMENTATION PLAN, THE DIRECTOR
13 SHALL:

14 1. CONSIDER ALL OF THE FOLLOWING:

15 (a) THE BEST INTERESTS OF THE TAXPAYER.

16 (b) ALL CAUSAL FACTORS THAT AFFECT AIR QUALITY, INCLUDING BOTH OF
17 THE FOLLOWING:

18 (i) THE TRANSPORT OF EMISSIONS THAT ORIGINATE FROM ANOTHER DOMESTIC
19 STATE.

20 (ii) THE EFFECTS OF SOLAR RADIATION AND ANY ASSOCIATED HEAT
21 INCREASES.

22 2. NOT CONSIDER ANY EMISSIONS THAT EMANATE FROM OUTSIDE THE BORDERS
23 OF THE UNITED STATES.

24 ~~E.~~ D. The state implementation plan and all revisions adopted
25 before September 30, 1992 remain in effect according to their terms,
26 except to the extent otherwise provided by the clean air act, inconsistent
27 with any provision of the clean air act, or revised by the
28 administrator. No control requirement in effect, or required to be
29 adopted by an order, settlement agreement or plan in effect, before the
30 enactment of the clean air act in any area ~~which~~ THAT is a nonattainment
31 or maintenance area for any air pollutant may be modified after enactment
32 in any manner unless the modification ~~insures~~ ENSURES equivalent or
33 greater emission reductions of the air pollutant. The director shall
34 evaluate and adopt revisions to the plan in conformity with federal
35 regulations and guidelines promulgated by the administrator for those
36 purposes until the rules required by subsection B OF THIS SECTION are
37 effective.

38 Sec. 2. Title 49, chapter 3, article 1, Arizona Revised Statutes,
39 is amended by adding section 49-407.01, to read:

40 49-407.01. Attorney general; suits on behalf of this state

41 THE ATTORNEY GENERAL MAY FILE SUIT ON BEHALF OF THIS STATE AGAINST
42 THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY IF THE AGENCY DOES NOT
43 APPROVE A DEMONSTRATION THAT ESTABLISHES THAT ANY AREA OF THIS STATE WOULD
44 ACHIEVE AND MAINTAIN THE APPLICABLE NATIONAL AMBIENT AIR QUALITY STANDARD
45 BUT FOR EMISSIONS EMANATING OUTSIDE OF THE UNITED STATES.

1 Sec. 3. Legislative findings

2 The legislature finds that:

3 1. More than eighty percent of the zone in the Maricopa
4 nonattainment area comes from emissions emanating outside of the United
5 States that are outside of the control of this state.

6 2. This state and other intermountain states in the region have
7 continued to reduce precursor emissions but ozone levels remain stagnant
8 or in some cases have increased.

9 3. This state would attain the 2015 national ambient air quality
10 standard for ozone but for emissions emanating from outside of the United
11 States.

12 4. This state is further impacted not only from wildfires
13 originating in this state, but also fires from outside of this state,
14 specifically in California, where years of neglect and improper forest
15 management has led to large fires whose smoke impacts our region.

16 5. The United States environmental protection agency is required to
17 approve a state implementation plan that establishes that the state would
18 attain and maintain the relevant air quality standard but for emissions
19 emanating from outside this state pursuant to 42 United States Code
20 section 7509a.

21 6. The United States environmental protection agency has adopted an
22 interpretation of 42 United States Code section 7509a that is contrary to
23 the plain text of the statute.

24 7. If 42 United States Code section 7509a were applied as written,
25 the Maricopa nonattainment area would attain and maintain the 2015
26 national ambient air quality standard for ozone.