

Senate Engrossed House Bill

FILED

KEN BENNETT

SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

CHAPTER 181

HOUSE BILL 2580

AN ACT

AMENDING SECTIONS 41-2065 AND 41-2132, ARIZONA REVISED STATUTES; RELATING TO
GASOLINE VAPOR RECOVERY SYSTEMS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 41-2065, Arizona Revised Statutes, is amended to
3 read:

4 41-2065. Powers and duties; definition

5 A. The department shall:

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

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

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

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

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

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

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

36 8. Grant, pursuant to this chapter, exemptions from the licensing
37 provisions of this chapter for weighing and measuring instruments, standards
38 or devices when the ownership or use of the instrument or device is limited
39 to federal, state or local government agencies in the performance of official
40 functions. On request, the department may conduct inspections of the
41 instruments, standards or devices and shall charge a fee pursuant to section
42 41-2092, subsection B.

43 9. Delegate to appropriate personnel any of the responsibilities of
44 the director for the proper administration of this chapter.

1 10. Inspect and test weights and measures kept, offered or exposed for
2 sale.

3 11. Inspect and test, to ascertain if they are correct, weights and
4 measures commercially used either:

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

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

10 12. Test, at random, commodities, weights and measures used in public
11 institutions for which monies are appropriated by the legislature. The
12 testing of commodities, weights and measures in public institutions shall
13 include, but not be limited to, items:

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

15 (b) Found to be of short weight, measure or count by other
16 jurisdictions.

17 (c) To be tested as part of a regional or national survey.

18 13. Test, approve for use and affix a seal of approval for use of all
19 weights, measures and commercial devices manufactured in or brought into this
20 state as it finds to be correct and shall reject and mark as rejected
21 weights, measures and devices it finds to be incorrect. Weights, measures
22 and devices that have been rejected may be seized by the department if not
23 corrected within the time specified or if used or disposed of in a manner not
24 specifically authorized. The department shall condemn and may seize weights,
25 measures and devices that are found to be incorrect and that are not capable
26 of being made correct.

27 14. Sample and test motor fuel that is stored, sold or exposed or
28 offered for sale or that is stored for use by a fleet owner to determine
29 whether the motor fuel meets the standards for motor fuel set forth in
30 section 41-2083 and article 6 of this chapter and in any rule adopted by the
31 director pursuant to this chapter. For the purposes of this paragraph,
32 "fleet owner" has the same meaning prescribed in section 41-2121.

33 15. ~~Test~~ RANDOMLY WITNESS TESTS ON all mandated stage I and stage II
34 vapor recovery systems that are installed or operated in this state not less
35 than annually and if the systems are determined to be in compliance with the
36 law approve those systems for use and reject, mark as rejected and stop the
37 use of those systems determined not to be in compliance with the law.

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

41 17. Publish and distribute to consumers weighing and measuring
42 information.

43 18. Weigh, measure or inspect commodities kept, offered or exposed for
44 sale, sold or in the process of delivery to determine whether they contain
45 the amounts represented and whether they are kept, offered or exposed for

1 sale in accordance with this chapter or rules adopted pursuant to this
2 chapter. In carrying out the provisions of this section, the director shall
3 employ recognized sampling procedures, such as are designated in appropriate
4 national institute of standards and technology handbooks and supplements to
5 those handbooks, except as modified or rejected by rule.

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

11 20. Prescribe the standards of weight and measure and additional
12 equipment methods of test and inspection to be employed in the enforcement of
13 this chapter. The director may prescribe or provide the official test and
14 inspection forms to be used in the enforcement of this chapter.

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

17 22. Report to the governor on August 1 each year and at such other
18 times as may be required on the work accomplished under this chapter.

19 23. Employ such personnel as needed to assist in administering this
20 chapter.

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

25 25. Establish by rule labeling standards for tanks and containers of
26 motor fuels.

27 B. The director may provide for the periodic examination and
28 inspection of metering devices, including but not limited to devices utilized
29 to measure usage of electricity, natural gas or water by a
30 consumer. Examination and inspection authority shall not apply to metering
31 devices owned by federal, state or local government agencies unless requested
32 by the government agency that owns the metering devices.

33 C. The director may establish standards for the presentation of
34 cost-per-unit information. Nothing in this subsection shall be construed to
35 mandate the use of cost-per-unit information in connection with the sale of
36 any standard packed commodity.

37 D. The director, when necessary to carry out this chapter, may adopt
38 and enforce rules relating to quality standards for motor fuel, kerosene,
39 oil, except used oil fuel, and hazardous waste fuel, lubricating oils,
40 lubricants, antifreeze and other liquid or gaseous fuels. The director shall
41 adopt rules to assure that oxygenated fuels, as described in article 6 of
42 this chapter, stored, used, sold or exposed or offered for use or sale are
43 blended and stored, sold, exposed or offered in such a manner as to assure
44 that the oxygenated fuels are properly blended, that they meet the standards
45 set forth in section 41-2083 and article 6 of this chapter, and in rules

1 adopted pursuant to this chapter, and that dispensers at which the oxygenated
2 fuels are dispensed are labeled as defined by rule of the department in such
3 a manner as to notify persons of the type of oxygenated fuel being dispensed
4 and the maximum percentage of oxygenate by volume contained in the oxygenated
5 fuel. The director of the department of weights and measures shall consult
6 with the director of the department of environmental quality in adopting
7 rules pursuant to this subsection.

8 E. Testing and inspection conducted pursuant to this chapter shall be
9 done, to the extent practicable, without prior notice, by a random systematic
10 method determined by the director or in response to a complaint by the
11 public. The testing and inspection may be done by private persons and firms
12 pursuant to contracts entered into by the director in accordance with chapter
13 23 of this title or by a registered service agency or registered service
14 representative licensed pursuant to section 41-2094. The director shall
15 establish qualifications of persons and firms for selection for purposes of
16 this subsection. The persons or firms conducting the testing and inspection
17 shall immediately report to the department any violations of this chapter and
18 incorrect weights, measures, devices, vapor recovery systems or vapor
19 recovery components for investigation and enforcement by the department. A
20 person or firm that tests or inspects a weight, measure, device, vapor
21 recovery system or vapor recovery component that is rejected shall not
22 correct the defect causing the rejection without the permission of the
23 department.

24 F. During the course of an investigation or an enforcement action by
25 the department, information regarding the complainant is confidential and is
26 exempt from title 39, chapter 1, unless the complainant authorizes the
27 information to be public.

28 G. For the purposes of the labeling requirements prescribed in this
29 section, "oxygenated fuel" means a motor fuel blend containing 1.5 per cent
30 or more by weight of oxygen.

31 Sec. 2. Section 41-2132, Arizona Revised Statutes, is amended to read:
32 41-2132. Stage I and stage II vapor recovery systems

33 A. A person shall not offer for sale, sell, install or use a new
34 gasoline vapor recovery system, or any new or rebuilt component parts of the
35 system, unless the system or component part has been certified by the
36 California air resources board as of March 31, 2001 or after that date, OR
37 HAS BEEN APPROVED BY A THIRD PARTY ACCREDITED TO TEST EQUIPMENT AND
38 RECOGNIZED BY INDUSTRY AND THE DEPARTMENT, and has not been rejected by the
39 department. The department shall maintain and keep current a list of stage I
40 and stage II vapor recovery systems and component parts that are approved by
41 the department. Only those systems that are approved shall be used in this
42 state. All certified vapor recovery components must be clearly identified by
43 a permanent identification affixed by the certified manufacturer or
44 rebuilder.

1 B. For gasoline dispensing sites with a throughput of over ten
2 thousand gallons per month in area A or area B as defined in section 49-541,
3 and beginning on January 1, 2001 for gasoline dispensing sites with a
4 throughput of over ten thousand gallons per month in area A but outside of
5 the Phoenix area Maricopa county ozone nonattainment area as prescribed in 40
6 Code of Federal Regulations section 81.303, a person shall not transfer or
7 allow the transfer of gasoline into storage tanks at gasoline dispensing
8 sites unless the storage tank is equipped with either of the following:

9 1. A stage I vapor collection system consisting of a vapor-tight
10 return line from the storage tank or its vent to the gasoline transport
11 vehicle.

12 2. A properly installed on-site vapor control system connected to a
13 vapor collection system.

14 C. In an ozone nonattainment area designated as moderate, serious,
15 severe or extreme by the United States environmental protection agency under
16 section 107(d) of the clean air act, area A or other geographical area as
17 provided in subsection I of this section, an owner or operator of a gasoline
18 dispensing site shall not transfer or allow the transfer of gasoline into a
19 motor vehicle fuel tank at a gasoline dispensing site unless the gasoline
20 dispensing site is equipped with a stage II vapor collection system. This
21 subsection does not apply to gasoline dispensing sites with a throughput of
22 less than ten thousand gallons per month, or to a gasoline dispensing site
23 with a throughput of less than fifty thousand gallons per month in the case
24 of an independent small business marketer of gasoline as defined in section
25 324 of the clean air act or to a gasoline dispensing site that is located on
26 a manufacturer's proving ground. Beginning on January 1, 2001, this
27 subsection applies to gasoline dispensing sites that are located within area
28 A but outside the Phoenix area Maricopa county ozone nonattainment area as
29 defined in 40 Code of Federal Regulations section 81.303.

30 D. An owner or operator of a gasoline storage tank, gasoline transport
31 vehicle or gasoline dispensing site subject to stage I or stage II vapor
32 collection requirements shall comply with the following:

33 1. Install all necessary stage I and stage II vapor collection and
34 control systems and make any modifications necessary to comply with the
35 requirements.

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

38 3. Replace, repair or modify any worn or ineffective component or
39 design element to ensure the vapor-tight integrity and efficiency of the
40 stage I and stage II vapor collection systems.

41 4. Connect and ensure proper operation of the stage I and stage II
42 vapor collection systems whenever gasoline is being loaded, unloaded or
43 dispensed.

44 5. HAVE THE STAGE II VAPOR RECOVERY SYSTEM TESTED ANNUALLY BY A
45 REGISTERED SERVICE REPRESENTATIVE LICENSED BY THE DEPARTMENT.

1 E. Before the initial installation or modification of any stage I or
2 stage II recovery system, the owner or operator of a gasoline storage tank,
3 gasoline transport vehicle or gasoline dispensing site shall obtain a plan
4 review and approval from the department. Application for the plan review and
5 approval shall be on forms prescribed and provided by the department.

6 F. The operator of each gasoline dispensing site using a stage II
7 vapor recovery system shall conspicuously post operating instructions for the
8 system in the gasoline or oxygenated fuel dispensing area. The instructions
9 shall clearly describe how to fuel vehicles correctly with the vapor recovery
10 nozzles used at the station and shall include a warning that topping off may
11 result in spillage or recirculation of gasoline or oxygenated fuel and is
12 prohibited.

13 G. The department of weights and measures in consultation with the
14 department of environmental quality and the state fire marshal shall
15 establish by rule standards for the installation and operation of stage I and
16 stage II vapor recovery systems. The department of weights and measures
17 shall establish by rule plan review and approval fees. In establishing those
18 rules and standards, the director shall consider requirements in other states
19 to assure that only state of the art technology is used.

20 H. Approval of a stage I or stage II vapor collection system by the
21 department does not relieve the owner or operator of the responsibility to
22 comply with other applicable statutes, codes and rules pertaining to fire
23 prevention, environmental quality and safety matters.

24 I. Any county, city or town outside an ozone nonattainment area
25 designated as moderate, serious or severe by the environmental protection
26 agency under section 107(d) of the clean air act or outside of area A as
27 defined in section 49-541 may require gasoline dispensing sites with a
28 throughput greater than ten thousand gallons per month or fifty thousand
29 gallons per month in the case of an independent small business marketer of
30 gasoline as defined in section 324 of the clean air act to install, operate
31 and maintain stage II vapor collection systems in accordance with this
32 section. For a county, city or town considering the adoption of a resolution
33 to require stage II vapor collection systems within its jurisdiction and on
34 request, the department of environmental quality shall provide technical
35 assistance in evaluating the air quality in that county, city or town and
36 shall provide final review and approval of an adopted resolution.

37 J. A county board of supervisors or governing body of a city or town
38 shall submit a resolution approved by the department of environmental quality
39 to the director of the department of weights and measures requesting the
40 imposition of the requirements for stage II vapor collection systems within
41 its jurisdiction.

42 K. The director shall adopt, by rule, compliance schedules for
43 gasoline dispensing sites located within the jurisdiction requesting stage II
44 vapor collection system requirements no later than twelve months after
45 receipt of the resolution from the county board of supervisors or governing

1 board of a city or town. All gasoline dispensing sites other than those that
2 are exempt pursuant to subsection C of this section shall be required to
3 comply with stage II vapor collection system rules within twenty-four months
4 after the rules have been filed with the secretary of state.

5 L. A county board of supervisors or governing body of a city or town
6 that adopts the requirements for stage II vapor collection systems may repeal
7 those requirements by adopting a resolution to remove the imposition of those
8 requirements within its jurisdiction unless the county, city or town is in an
9 ozone nonattainment area that has since been designated as moderate, serious
10 or severe by the United States environmental protection agency under section
11 107(d) of the clean air act. On receipt of the resolution, the director of
12 the department of weights and measures shall consult with the director of the
13 department of environmental quality to verify that a county, city or town is
14 outside of an ozone nonattainment area designated as moderate, serious or
15 severe by the United States environmental protection agency under section
16 107(d) of the clean air act. After consultation with the department of
17 environmental quality, the director of the department of weights and measures
18 shall revise the rules to repeal the requirements for stage II vapor
19 collection systems within that jurisdiction as soon as practicable.

APPROVED BY THE GOVERNOR APRIL 27, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 28, 2010.

Passed the House March 15, 2010

Passed the Senate April 19, 2010

by the following vote: 43 Ayes,

by the following vote: 28 Ayes,

11 Nays, 5 Not Voting
1 Vacancy

0 Nays, 2 Not Voting

[Signature]
Speaker of the House

[Signature]
President of the Senate

[Signature]
Chief Clerk of the House

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

~~This Bill received by the Governor this~~

~~_____ day of _____, 20_____~~

~~at _____ o'clock _____ M.~~

~~_____
Secretary to the Governor~~

Approved this _____ day of

~~_____~~

~~at _____ o'clock _____ M.~~

~~_____~~

~~Governor of Arizona~~

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

~~This Bill received by the Secretary of State~~

~~this _____ day of _____, 20_____~~

~~at _____ o'clock _____ M.~~

~~_____~~

~~Secretary of State~~

H.B. 2580

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

_____ April 21 , 20 10 ,

by the following vote: 43 Ayes,

17 Nays, 0 Not Voting

Ken Bricker
Speaker of the House

Cheryl Laube
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

21 day of April , 20 10

at 3:46 o'clock P. M.

Nicole Bendke
Secretary to the Governor

Approved this 27th day of

April , 20 10 ,

at 3:13 o'clock P. M.

Janice J. Brewer
Governor of Arizona

H.B. 2580

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 28th day of April , 20 10 ,

at 8:32 o'clock a M.

Ken Blumeth
Secretary of State