Senate Engrossed House Bill

FILED
MICHELE REAGAN
SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

CHAPTER 232

HOUSE BILL 2171

AN ACT

AMENDING SECTION 3-102, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2015, CHAPTER 244, SECTION 3; AMENDING SECTIONS 3-105, 3-615, 3-3401, 3-3412, 3-3414, 3-3415, 3-3416 AND 3-3417, ARIZONA REVISED STATUTES; AMENDING TITLE 3, CHAPTER 19, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 3-3419; AMENDING SECTIONS 3-3431, 3-3433, 3-3434, 3-3436, 3-3437, 3-3451, 3-3452, 3-3453, 3-3454, 3-3473, 3-3475 AND 3-3476, ARIZONA REVISED STATUTES; REPEALING SECTION 3-3491, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2015, CHAPTER 244, SECTION 2; PROVIDING FOR RENUMBERING; AMENDING SECTIONS 3-3491, 3-3492, 3-3493, 3-3494 AND 3-3498, ARIZONA REVISED STATUTES, AS RENUMBERED BY THIS ACT; AMENDING SECTIONS 3-3512 AND 3-3514, ARIZONA REVISED STATUTES; AMENDING SECTION 9-499.18, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2015, CHAPTER 244, SECTION 26; AMENDING SECTIONS 28-101, 28-141 AND 28-2401, ARIZONA REVISED STATUTES; REPEALING SECTION 28-2515, ARIZONA REVISED STATUTES; AMENDING SECTION 28-4038, ARIZONA REVISED STATUTES; REPEALING SECTIONS 28-5493 AND 28-5860, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 30, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-9527; AMENDING SECTIONS 28-9501, 28-9502, 28-9503, 28-9506, 28-9507, 28-9521, 28-9522, 28-9523, 28-9524, 28-9525, 28-9526, 28-9551, 28-9552, 28-9556, 41-1092.02, 42-5062 AND 42-6004, ARIZONA REVISED STATUTES; AMENDING LAWS 2014, CHAPTER 132, SECTION 11; RELATING TO WEIGHTS AND MEASURES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 3-102, Arizona Revised Statutes, as amended by Laws 2015, chapter 244, section 3, is amended to read:

3-102. Department organization

A. The Arizona department of agriculture is established consisting of the following divisions:

1. The animal services division, which is responsible for milk, dairy, livestock and aquaculture regulation, the state veterinarian, meat, poultry and egg inspection and performing the administrative functions authorized or contracted pursuant to law for the Arizona beef council.

2. The plant services division, which is responsible for the fruit and vegetable standardization program and entomological services.

3. The environmental services division, which is responsible for regulating seed, feed and agricultural chemicals, including pesticides and fertilizers, and for native plant protection.

4. The weights and measures services division, which is responsible for the inspection, testing and licensing of commercial weighing, ~~and~~ measuring AND COUNTING devices.

B. The following are established in addition to and separate from the divisions of the department:

1. A state agricultural laboratory.

2. An office of agriculture safety.

3. An office of inspections.

4. An office of commodity development and promotion.

C. The department shall have a central administrative service office providing:

1. Data processing, accounting and budgeting, records management, publications, property control and personnel services and training.

2. A program to cross-train appropriate personnel to enable them to perform similar functions or comparable work for different administrative units in the department.

Sec. 2. Section 3-105, Arizona Revised Statutes, is amended to read:

3-105. Division councils

A. The director may appoint a division council within any division of the department, and shall appoint an animal services division council AND A WEIGHTS AND MEASURES SERVICES DIVISION COUNCIL, consisting of representatives of the various industries and commodities regulated by ~~that division~~ THOSE DIVISIONS. Any such organization may request representation on the RESPECTIVE division council, but the actual appointments to the division council are at the discretion of the director.

B. Members shall serve two-year terms of office ~~which~~ THAT are staggered among the members. Members of division councils serve without compensation but are eligible for reimbursement for travel and other expenses as provided by law. Each division council shall select a chairman and vice-chairman from among its members. Division councils are public bodies

for purposes of title 38, chapter 3, article 3.1. ~~The~~ EACH division council shall assist and make recommendations to the associate director of the division regarding the administration and implementation of the various programs within the division. The associate director shall make a written response to the division council within fifteen days to each formal recommendation made by the council.

Sec. 3. Section 3-615, Arizona Revised Statutes, is amended to read:

3-615. Milk holding tanks; structural requirements; measuring device

A. A milk holding tank shall be so designed, constructed and installed as to withstand ordinary usage and permit accurate measurement of the fluid contents thereof, and shall be so maintained by the owner. The tanks shall be so designed, constructed, installed and maintained that complete delivery of the contents may be made through delivery faucets or valves. Each tank shall be plainly marked by die stamping in letters or numerals THAT ARE not less than one-fourth inch in height showing the approved calibrated capacity to the nearest gallon, and shall be equipped with a means by which the calibration level may be readily determined. The shell, bulkheads and supporting framework shall be so constructed that they will not become distorted under any condition of liquid lading, and means shall be provided for the sealing of adjustable parts in such A manner as to prevent the removal or changing of position without destroying or mutilating the seal. Each milk holding tank shall be equipped with a measuring device approved by the state inspector of THE weights and measures SERVICES DIVISION OF THE DEPARTMENT.

B. It shall be unlawful to alter or tamper with a milk holding tank or any part thereof in such a way as to give an inaccurate measurement of the fluid contents thereof.

Sec. 4. Section 3-3401, Arizona Revised Statutes, is amended to read:

3-3401. Definitions

In this chapter, unless the context otherwise requires:

1. "AREA A" HAS THE SAME MEANING PRESCRIBED IN SECTION 49-541.

2. "AREA B" HAS THE SAME MEANING PRESCRIBED IN SECTION 49-541.

3. "AREA C" MEANS THAT PORTION OF PINAL COUNTY LYING WEST OF RANGE 11 EAST, EXCLUDING THAT PORTION OF THE COUNTY LYING WITHIN AREA A AS DEFINED IN SECTION 49-541 AND THAT PORTION OF THE COUNTY WITHIN THE JURISDICTION OF ANY INDIAN TRIBE, BAND, GROUP OR COMMUNITY THAT IS RECOGNIZED BY THE UNITED STATES SECRETARY OF THE INTERIOR AND THAT EXERCISES GOVERNMENTAL AUTHORITY WITHIN THE LIMITS OF ANY INDIAN RESERVATION UNDER THE JURISDICTION OF THE UNITED STATES GOVERNMENT, NOTWITHSTANDING THE ISSUANCE OF ANY PATENT AND INCLUDING RIGHTS-OF-WAY RUNNING THROUGH THE RESERVATION.

~~1.~~ 4. "Associate director" means the associate director of the division.

~~2.~~ 5. "Biodiesel" means a ~~diesel fuel substitute that is produced from nonpetroleum renewable resources as defined by the United States~~

~~environmental protection agency and that meets the registration requirements for fuels and fuel additives established by the United States environmental protection agency pursuant to section 211 of the clean air act, as defined in section 49-401.01~~ MONO-ALKYL ESTER THAT MEETS ASTM D6751.

~~3.~~ 6. "Biodiesel blend" means a motor fuel that is composed of biodiesel and diesel fuel and that is designated by the letter "B", followed by the numeric value of the volume percentage of biodiesel in the blend.

~~4.~~ 7. "Biofuel" means a solid, liquid or gaseous fuel that is derived from biomass and that can be used directly for heating or power or as a BLEND COMPONENT IN motor fuel.

~~5.~~ 8. "Biofuel blend" means a motor fuel that is composed of a biofuel, that is combined with a ~~petroleum based~~ PETROLEUM-BASED fuel and that is designated by the volume percentage of biofuel in the blend.

~~6.~~ 9. "Biomass" means biological material, such as plant or animal matter, excluding organic material that has been transformed by geological processes into substances such as coal or petroleum or derivatives thereof, that may be transformed into biofuel.

10. "BIOMASS-BASED DIESEL" MEANS A DIESEL FUEL SUBSTITUTE PRODUCED FROM NONPETROLEUM RENEWABLE RESOURCES THAT MEETS THE REGISTRATION REQUIREMENTS FOR FUELS AND FUEL ADDITIVES ESTABLISHED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER 42 UNITED STATES CODE 7545 AND INCLUDES FUEL DERIVED FROM ANIMAL WASTES, INCLUDING POULTRY WASTES AND OTHER WASTE MATERIALS, MUNICIPAL SOLID WASTE AND SLUDGE AND OIL DERIVED FROM WASTEWATER AND THE TREATMENT OF WASTEWATER. BIOMASS-BASED DIESEL DOES NOT INCLUDE BIODIESEL.

11. "BIOMASS-BASED DIESEL BLEND" MEANS A BLEND OF PETROLEUM-BASED DIESEL FUEL WITH BIOMASS-BASED DIESEL.

~~7.~~ 12. "Certification" means the process of determining the accuracy of a commercial device to the standards of this state by a registered service representative or the ~~department~~ DIVISION.

~~8.~~ 13. "Commercial device" means any weighing, measuring, metering or counting device that is used to determine the direct cost of things sold or offered or exposed for sale, or used to establish a fee for service if the cost is based on weight, measure or count, except that it does not include those devices used for in-house packaging, inventory control or law enforcement purposes.

~~9.~~ 14. "Commodity" means any merchandise, product or substance produced or distributed for sale to or use by others.

~~10.~~ 15. "Correct" as used in connection with weights and measures means conformance to all applicable requirements of this chapter.

~~11.~~ 16. "Diesel fuel" means a refined middle distillate that is used as a fuel in a compression-ignition internal combustion engine and that meets the specifications of ASTM D975.

~~12.~~ 17. "Division" means the weights and measures services division of the department.

~~13.~~ 18. ~~"E85"~~ "ETHANOL FLEX FUEL" means a fuel ethanol gasoline blend that meets the specifications of ASTM D5798 STANDARD SPECIFICATION FOR ETHANOL FUEL BLENDS FOR FLEXIBLE-FUEL AUTOMOTIVE SPARK-IGNITION ENGINES.

19. "FLEET OWNER" MEANS A REGISTERED OWNER OR LESSEE OF AT LEAST TWENTY-FIVE VEHICLES.

20. "GASOLINE" MEANS A VOLATILE, HIGHLY FLAMMABLE LIQUID MIXTURE OF HYDROCARBONS THAT DOES NOT CONTAIN MORE THAN FIVE ONE-HUNDREDTHS GRAMS OF LEAD FOR EACH UNITED STATES GALLON, THAT IS PRODUCED, REFINED, MANUFACTURED, BLENDED, DISTILLED OR COMPOUNDED FROM PETROLEUM, NATURAL GAS, OIL, SHALE OILS OR COAL AND OTHER FLAMMABLE LIQUIDS FREE FROM UNDISSOLVED WATER, SEDIMENT OR SUSPENDED MATTER, WITH OR WITHOUT ADDITIVES, AND THAT IS COMMONLY USED AS A FUEL FOR SPARK-IGNITION INTERNAL COMBUSTION ENGINES. GASOLINE DOES NOT INCLUDE DIESEL FUEL OR ETHANOL FLEX FUEL.

21. "GASOLINE PROVIDER" MEANS ANY MANUFACTURER OF GASOLINE OR ANY PERSON WHO IMPORTS GASOLINE INTO A VEHICLE EMISSIONS CONTROL AREA BY MEANS OF A PIPELINE OR IN TRUCKLOAD QUANTITIES FOR THE PERSON'S OWN USE WITHIN THE VEHICLE EMISSIONS CONTROL AREA OR ANY PERSON WHO SELLS GASOLINE INTENDED FOR ULTIMATE CONSUMPTION WITHIN A VEHICLE EMISSIONS CONTROL AREA. GASOLINE PROVIDER DOES NOT MEAN A PERSON WITH RESPECT TO A GASOLINE SUPPLIED OR SOLD BY THE PERSON TO ANOTHER PERSON FOR RESALE TO A RETAILER WITHIN A VEHICLE EMISSIONS CONTROL AREA OR TO A FLEET OWNER FOR CONSUMPTION WITHIN A VEHICLE EMISSIONS CONTROL AREA.

~~14.~~ 22. "Inspector" means a state official of the division.

~~15.~~ 23. "Liquid ~~fuel~~ measuring device" means any meter, pump, tank, gauge or apparatus used for volumetrically determining the quantity of any internal combustion engine fuel, liquefied petroleum gas or low viscosity heating oil.

24. "MANUFACTURER'S PROVING GROUND" MEANS A FACILITY WHOSE SOLE PURPOSE IS TO DEVELOP COMPLETE ADVANCED VEHICLES FOR AN AUTOMOTIVE MANUFACTURER.

~~16.~~ 25. "Misfuel" means the act of dispensing into the fuel tank of a motor vehicle a motor fuel that was not intended to be used in the engine of that motor vehicle.

~~17.~~ 26. "Motor fuel" means a petroleum or a petroleum-based substance that is motor gasoline, aviation gasoline, number one or number two diesel fuel or any grade of oxygenated gasoline typically used in the operation of a motor engine, including biodiesel blends, biofuel blends and ~~the ethanol blend E85 as defined in ASTM D5798~~ ETHANOL FLEX FUELS.

27. "MOTOR VEHICLE RACING EVENT" MEANS A RACE THAT USES UNLICENSED VEHICLES DESIGNED AND MANUFACTURED SPECIFICALLY FOR RACING PURPOSES AND THAT IS CONDUCTED ON A PUBLIC OR PRIVATE RACECOURSE FOR THE ENTERTAINMENT OF THE GENERAL PUBLIC. MOTOR VEHICLE RACING EVENT INCLUDES PRACTICE, QUALIFYING AND DEMONSTRATION LAPS CONDUCTED AS PART OF THE ACTIVITIES RELATED TO A MOTOR VEHICLE RACE.

28. "OXYGENATE" MEANS ANY OXYGEN-CONTAINING ASHLESS, ORGANIC COMPOUND, INCLUDING ALIPHATIC ALCOHOLS AND ALIPHATIC ETHERS, THAT MAY BE USED AS A FUEL OR AS A GASOLINE BLENDING COMPONENT AND THAT IS APPROVED AS A BLENDING AGENT UNDER THE PROVISIONS OF A WAIVER ISSUED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY PURSUANT TO 42 UNITED STATES CODE SECTION 7545(f).

29. "OXYGENATED FUEL" MEANS AN UNLEADED MOTOR FUEL BLEND THAT CONSISTS PRIMARILY OF GASOLINE AND AT LEAST ONE AND ONE-HALF PERCENT BY WEIGHT OF ONE OR MORE OXYGENATES AND THAT HAS BEEN BLENDED CONSISTENT WITH THE PROVISIONS OF A WAIVER ISSUED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY PURSUANT TO 42 UNITED STATES CODE SECTION 7545(f).

~~18.~~ 30. "Package" means any commodity enclosed in a container or wrapped in any manner in advance of sale in units suitable for either wholesale or retail trade.

~~19.~~ 31. "Person" means both the plural and the singular, as the case demands, and includes individuals, partnerships, corporations, companies, societies and associations.

32. "PRODUCT TRANSFER DOCUMENT" MEANS ANY BILL OF LADING, LOADING TICKET, MANIFEST, DELIVERY RECEIPT, INVOICE OR OTHER DOCUMENTATION USED ON ANY OCCASION WHEN A PERSON TRANSFERS CUSTODY OR TITLE OF MOTOR FUEL OTHER THAN WHEN MOTOR FUEL IS SOLD OR DISPENSED AT A SERVICE STATION OR FLEET VEHICLE FUELING FACILITY.

~~20.~~ 33. "Public weighmaster" means any person who is engaged in any of the following:

(a) The business of weighing any object or thing for the public generally for hire or for internal use and issuing for that weighing a weight certificate intended to be accepted as an accurate weight ~~upon~~ ON which a purchase or sale is to be based or on which a service fee is to be charged.

(b) The business of weighing ~~for hire~~ FOR-HIRE motor vehicles, trailers or semitrailers and issuing weight certificates intended to be accepted as an accurate weight for the purpose of determining the amount of any tax, fee or other assessment on the vehicles.

~~21.~~ 34. "Reference standards" means the physical standards of the state that serve as the legal reference from which all other standards and weights and measures are derived.

~~22.~~ 35. "Registered service agency" means any agency, firm, company or corporation that for hire, award, commission or any other payment of any kind installs, services, repairs or reconditions a commercial device or tests or repairs vapor recovery systems or vapor recovery components and that has been issued a license by the division.

~~23.~~ 36. "Registered service representative" means any individual who for hire, award, commission or any other payment of any kind installs, services, repairs or reconditions a commercial device or tests or repairs vapor recovery systems or vapor recovery components and who has been issued a license by the division.

~~24.~~ 37. "Retail seller" means a person whose business purpose is to sell, expose or offer for sale or use any package or commodity by weight, measure or count.

~~25.~~ 38. "Secondary standards" means the physical standards that are traceable to the reference standards through comparisons, using acceptable laboratory procedures, and that are used in the enforcement of weights and measures laws and rules.

39. "SUPPLIER" MEANS ANY PERSON THAT IMPORTS GASOLINE INTO A VEHICLE EMISSIONS CONTROL AREA BY MEANS OF A PIPELINE OR IN TRUCKLOAD QUANTITIES FOR THE PERSON'S OWN USE WITHIN THE VEHICLE EMISSIONS CONTROL AREA OR ANY PERSON THAT SELLS GASOLINE INTENDED FOR ULTIMATE CONSUMPTION WITHIN A VEHICLE EMISSIONS CONTROL AREA, EXCEPT THAT SUPPLIER DOES NOT MEAN A PERSON WITH RESPECT TO GASOLINE SUPPLIED OR SOLD BY THE PERSON TO ANOTHER FOR RESALE TO A RETAILER WITHIN A VEHICLE EMISSIONS CONTROL AREA OR TO A FLEET OWNER FOR CONSUMPTION WITHIN A VEHICLE EMISSIONS CONTROL AREA.

40. "VEHICLE EMISSIONS CONTROL AREA" MEANS A COUNTY WITH A POPULATION OF ONE MILLION TWO HUNDRED THOUSAND OR MORE PERSONS AND ANY PORTION OF A COUNTY CONTAINED IN AREA A, OR ANY PORTION OF AREA B OR C, EXCEPT THAT SUCH AN AREA DOES NOT INCLUDE A MANUFACTURER'S PROVING GROUND THAT IS LOCATED IN THE VEHICLE EMISSIONS CONTROL AREA.

~~26.~~ 41. "Weight" as used in connection with any commodity means net weight.

~~27.~~ 42. "Weights" or "measures", or both, means all weights, measures, meters or counters of every kind, instruments and devices for weighing, measuring, metering or counting and any appliance and accessories associated with any or all such instruments and devices.

Sec. 5. Section 3-3412, Arizona Revised Statutes, is amended to read:

3-3412. Physical standards

Weights and measures that are traceable to the United States prototype standards supplied by the federal government, or approved as being satisfactory by the national institute of standards and technology, shall be the state reference standards of weights and measures~~,~~ and shall be maintained in such calibration as prescribed by the national institute of standards and technology. All secondary standards may be prescribed by the ASSOCIATE director and shall be verified ~~upon their~~ ON initial receipt and as often thereafter as deemed necessary by the ASSOCIATE director.

Sec. 6. Section 3-3414, Arizona Revised Statutes, is amended to read:

3-3414. Powers and duties; definition

A. The division shall:

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

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

3. Keep accurate records of all standards and equipment.

4. Adopt any rules necessary to carry out this chapter and adopt reasonable rules for the enforcement of this chapter. These rules have the force and effect of law and shall be adopted pursuant to title 41, chapter 6. In adopting these rules, the associate director shall consider, as far as is practicable, the requirements established by other states and by authority of the United States, except that rules shall not be made in conflict with this chapter.

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

6. Investigate complaints made to the division concerning violations of this chapter and, on its own initiative, conduct investigations it deems appropriate to develop information relating to prevailing procedures in commercial quantity determination and relating to possible violations of this chapter, ~~and~~ in order to EDUCATE THE PUBLIC AND REGULATED PERSONS TO ENCOURAGE AND promote the general objective of accuracy in the determination and representation of quantity in commercial transactions.

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

8. Grant, pursuant to this chapter, exemptions from the licensing provisions of this chapter for weighing and measuring instruments, standards or devices when the ownership or use of the instrument or device is limited to federal, state or local government agencies in the performance of official functions. On request, the division may conduct inspections of instruments, standards or devices and shall charge a fee pursuant to section 3-3452.

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

10. Inspect and test weights and measures THAT ARE kept, offered or exposed for sale.

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

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

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

12. Test, at random, commodities, weights and measures used in public institutions for which monies are appropriated by the legislature. The

testing of commodities, weights and measures in public institutions ~~shall include~~ INCLUDES items:

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

(b) THAT HAVE BEEN found to be of short weight, measure or count by other jurisdictions.

(c) THAT ARE to be tested as part of a regional or national survey.

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

14. Sample and test motor fuel that is stored, sold or exposed or offered for sale or that is stored for use by a fleet owner to determine whether the motor fuel meets the standards for motor fuel set forth in section 3-3433 and article 6 of this chapter and in any rule adopted by the associate director pursuant to this chapter. ~~For the purposes of this paragraph, "fleet owner" has the same meaning prescribed in section 3-3491.~~

15. Randomly witness tests on all mandated vapor recovery systems that are installed or operated in this state and, if the systems are determined to be in compliance with the law, approve those systems for use and reject, mark as rejected and stop the use of those systems THAT ARE determined not to be in compliance with the law.

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

17. Publish and distribute to consumers AND REGULATED PERSONS weighing and measuring information.

18. Weigh, measure or inspect commodities THAT ARE kept, offered or exposed for sale, sold or in the process of delivery to determine whether they contain the amounts represented and whether they are kept, offered or exposed for sale in accordance with this chapter or rules adopted pursuant to this chapter. In carrying out this section, the associate director shall employ recognized sampling procedures, such as are designated in appropriate national institute of standards and technology handbooks and supplements to those handbooks, except as modified or rejected by rule.

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

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

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

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

23. Subject to title 41, chapter 4, article 4, employ such personnel as needed to assist in administering this chapter.

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

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

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

C. The associate director may establish standards for the presentation of cost-per-unit information. This subsection does not mandate the use of cost-per-unit information in connection with the sale of any standard packed commodity.

D. The associate director, when necessary to carry out this chapter, may adopt and enforce rules relating to quality standards for motor fuel, kerosene, oil, except used oil fuel, and hazardous waste fuel, lubricating oils, lubricants, antifreeze and other liquid or gaseous fuels. The associate director shall adopt rules to ensure that oxygenated fuels, as described in article 6 of this chapter, that are stored, used, sold or exposed or offered for use or sale are blended and stored, sold, exposed or offered in such a manner as to ensure that the oxygenated fuels are properly blended, that they meet the standards set forth in section 3-3433 and article 6 of this chapter, and in rules adopted pursuant to this chapter, and that dispensers at which the oxygenated fuels are dispensed are labeled as defined by rule of the division in such a manner as to notify persons of the type of oxygenated fuel being dispensed and the maximum percentage of oxygenate by volume contained in the oxygenated fuel. The associate director of the division shall consult with the director of the department of environmental quality in adopting rules pursuant to this subsection.

E. Testing and inspection conducted pursuant to this chapter shall be done, to the extent practicable, without prior notice, by a random systematic

method determined by the associate director or in response to a complaint by the public. The testing and inspection may be done by private persons and firms pursuant to contracts entered into by the associate director in accordance with title 41, chapter 23 or by a registered service agency or registered service representative licensed pursuant to section 3-3454. The associate director shall establish qualifications of persons and firms for selection for purposes of this subsection. The persons or firms conducting the testing and inspection shall immediately report to the division any violations of this chapter and incorrect weights, measures, devices, vapor recovery systems or vapor recovery components for investigation and enforcement by the ~~department~~ DIVISION. A person or firm that tests or inspects a weight, measure, device, vapor recovery system or vapor recovery component that is rejected shall not correct the defect causing the rejection without the permission of the division.

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

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

Sec. 7. Section 3-3415, Arizona Revised Statutes, is amended to read:

3-3415. <u>Enforcement powers of the associate director, agents and inspectors</u>

A. When necessary for the enforcement of this chapter and rules adopted pursuant to this chapter, the ASSOCIATE director or the ASSOCIATE director's agents and inspectors shall:

1. Enter any commercial, nonprofit business or governmental premises during normal operating hours, except that if the premises are not open to the public, the ASSOCIATE director or the ASSOCIATE director's agents and inspectors shall first present their credentials.

2. Issue stop-use, hold and removal orders with respect to any weights and measures commercially used, stop-sale, hold and removal orders with respect to any commodities, bulk commodities or motor fuel kept, offered or exposed for sale, stop-use and hold orders with respect to a vapor recovery system or parts of a vapor recovery system and stop-use, stop-sale, hold and removal orders with respect to any motor fuel found to be in violation of this chapter or rules adopted pursuant to this chapter.

3. Seize for use as evidence, without formal warrant, any incorrect or unapproved weight, measure, package or commodity found to be used, retained, offered or exposed for sale or sold in violation of this chapter or rules adopted pursuant to this chapter.

4. Stop any commercial vehicle ~~upon~~ ON reasonable cause to believe that the vehicle contains evidence of a violation of this chapter and, after presentment of the ~~director's~~ CREDENTIALS OF THE ASSOCIATE DIRECTOR or the

ASSOCIATE director's ~~agent's~~ AGENTS or ~~inspector's credentials~~ INSPECTORS, inspect the contents, require that the person in charge of the vehicle produce any documents in the person's possession concerning the contents and require the person to proceed with the vehicle to some specified place for inspection.

B. With respect to the enforcement of this chapter, the ASSOCIATE director or the ASSOCIATE director's agents or inspectors may issue A WARNING REQUIRING CORRECTIVE ACTION OR a citation to any violators of this chapter in accordance with ~~the provisions of~~ section 13-3903.

C. The ASSOCIATE director or the ASSOCIATE director's agents or inspectors may apply for a special inspection warrant for inspection of real or personal property for the purpose of enforcement of this chapter. The special inspection warrant shall be issued as provided in section 49-433.

Sec. 8. Section 3-3416, Arizona Revised Statutes, is amended to read:

3-3416. State metrology laboratory; operation; standards; testing

A. The ASSOCIATE director shall establish and operate within the ~~department~~ DIVISION the state metrology laboratory.

B. A commercial device shall not be approved for use in the state unless the design and construction comply with national institute of standards and technology requirements.

C. All commercial devices approved and certified shall meet the tolerance, design and construction requirements prescribed by the national institute of standards and technology.

D. All commercial devices THAT ARE determined unfit for approval shall be rejected without testing.

E. All weights, weight sets, measures, meters, counters or other devices THAT ARE used by registered service representatives shall show an indication of the approval date and jurisdiction issuing the approval.

F. All persons who install, service or repair commercial devices in this state shall submit the test equipment used to the ~~department's~~ DIVISION'S metrology laboratory for approval at least annually. A certificate of approval that specifically identifies the test equipment and that is issued by another state laboratory may be accepted in lieu of submitting equipment if the other state laboratory is certified by the national institute of standards and technology.

G. All weights, measures, meters, counters or other devices shall be tested in the order they are scheduled in the laboratory unless arrangements for testing have been made in advance.

H. Work THAT IS completed in the metrology laboratory shall be paid for pursuant to the fees prescribed in the rules of the ~~department~~ DIVISION.

Sec. 9. Section 3-3417, Arizona Revised Statutes, is amended to read:

3-3417. Fees to state general fund

The ASSOCIATE director shall deposit, pursuant to sections 35-146 and 35-147, all fees collected in the state general fund.

Sec. 10. Title 3, chapter 19, article 2, Arizona Revised Statutes, is amended by adding section 3-3419, to read:

3-3419. Consultation and training program; inspection training program

THE ASSOCIATE DIRECTOR MAY DEVELOP AND IMPLEMENT THE FOLLOWING TRAINING PROGRAMS:

1. A CONSULTATION AND TRAINING PROGRAM FOR ENTITIES REGULATED UNDER THIS CHAPTER THAT USES ON-SITE VISITS, TRAINING AND EDUCATIONAL MATERIALS, AND INFORMATIONAL PRESENTATIONS TO PROVIDE TRAINING AND ADVICE ON INTERPRETING, APPLYING AND COMPLYING, INCLUDING ALTERNATIVE METHODS OF COMPLYING, WITH THE STATUTES, RULES, REGULATIONS, STANDARDS OR OTHER MATTERS RELATING TO COMPLIANCE WITH THIS CHAPTER.

2. AN INSPECTION TRAINING PROGRAM FOR DIVISION INSPECTORS AND EMPLOYEES TO ENSURE THAT ALL INSPECTIONS AND TESTS PROVIDED FOR IN THIS CHAPTER ARE CONDUCTED IN A CONSISTENT MANNER TO THE EXTENT PRACTICABLE.

Sec. 11. Section 3-3431, Arizona Revised Statutes, is amended to read:

3-3431. Sale of commodities

A. A person shall not sell or offer or expose for sale less than the quantity the person represents.

B. As a buyer, a person shall not take any more than the quantity the person represents when the person furnishes the weight or measure by means of which the quantity is determined.

C. A person shall not misrepresent the price of any commodity or service sold or offered, exposed or advertised for sale by weight, measure or count or represent the price in any manner calculated or tending to mislead or in any way deceive a person.

D. Except as otherwise provided by the associate director, commodities in liquid form shall be sold by liquid measure or by weight, and commodities not in liquid form shall be sold only by weight, by measure or by count, as long as the method of sale provides accurate quantity information.

E. If the quantity is determined by the seller, bulk sales shall be accompanied by a delivery ticket containing the following information unless exempted by rule:

1. The name and address of the vendor and purchaser.

2. The date delivered.

3. The quantity delivered and the quantity on which the price is based, if this differs from the delivered quantity.

4. The identity in the most descriptive terms commercially practicable, including any quality representation made in connection with the sale.

5. The count of individually wrapped packages, if more than one.

F. Except as otherwise provided in this chapter or by rules adopted pursuant to this chapter, any package kept for the purpose of sale or offered or exposed for sale shall bear on the outside of the package a definite, plain and conspicuous declaration of:

1. The identity of the commodity in the package, unless the commodity can easily be identified through the wrapper or container.

2. The quantity of contents in terms of weight, measure or count.

3. The name and place of business of the manufacturer, packer or distributor, in the case of any package kept, offered or exposed for sale or sold in any place other than on the premises where packed.

4. The price, except as provided in subsections L, ~~and~~ M AND N of this section.

G. In addition to the declarations required by subsection F of this section, any package being one of a lot containing random weights of the same commodity and bearing the total selling price of the package shall bear on the outside of the package a plain and conspicuous declaration of the price per single unit of weight.

H. If a packaged commodity is advertised in any manner with the retail price stated, there shall be closely and conspicuously associated with the retail price a declaration of quantity as is required by law or rule to appear on the package. If a dual declaration is required, only the declaration that sets forth the quantity in terms of the smaller unit of weight or measure need appear in the advertisement.

I. The packager of a short weighted item offered for sale is liable under this chapter.

J. If a retail seller engaging in the sale of motor fuel posts the selling price of the fuel on the premises, the seller shall post the selling price only by the price per gallon, except that if the fuel is dispensed by a measure other than whole gallons the seller shall represent the selling price for each unit of such other measure on the individual pump or other dispensing device. If a retail seller engaging in the sale of motor fuel advertises the price of the fuel off the premises, the retail seller shall advertise the price only by the price per gallon.

K. The owner or operator of a motor fuel dispensing site shall ensure that a sticker provided by the department of transportation that is three inches by five inches and that depicts the amount of federal and state taxes imposed on one gallon of gasoline is displayed on one side of each motor fuel dispenser. The sticker required by this subsection shall contain white lettering on a black background or black lettering on a white background to ensure a contrasting color to the motor fuel dispenser and shall be placed on the upper sixty percent of the dispenser. The division shall use stickers provided by the department of transportation. A template of the sticker shall be placed on the division's website for use by retailers. ~~During the course of its normal random inspections, the division shall apply the stickers with a compliance schedule of four years after July 29, 2010.~~

L. Instead of each package bearing the price as required under subsection F, paragraph 4 of this section, the seller may post the price of the package on the shelf or MAY display THE PRICE at OR NEAR the point of display of the product.

M. INSTEAD OF EACH PACKAGE BEARING THE PRICE AS REQUIRED UNDER SUBSECTION F, PARAGRAPH 4 OF THIS SECTION, IF THE PACKAGE IS AVAILABLE FOR SALE ONLY WITH THE ASSISTANCE OF A SALESPERSON, THE SELLER MAY DISPLAY THE PACKAGE AT A SERVICE COUNTER STAFFED BY THE SALESPERSON.

~~M.~~ N. INSTEAD OF EACH PACKAGE BEARING THE PRICE AS REQUIRED UNDER SUBSECTION F, PARAGRAPH 4 OF THIS SECTION, if the package is offered for sale at a price reduced by a percentage or a fixed amount from a previously offered price OR AT A REDUCED PRICE FOR THE PURCHASE OF MULTIPLE ITEMS, the reduction shall be displayed at the point of display of the package OR NEAR THE POINT OF DISPLAY OF THE PACKAGE in the manner required by this section.

~~N.~~ O. On the request of a consumer, a retail seller shall provide:

1. A means of recording prices such as grease pencils, felt markers, scanners or other similar instruments for recording the price.

2. A written statement of the retail seller's policies regarding errors in pricing.

Sec. 12. Section 3-3433, Arizona Revised Statutes, is amended to read:

3-3433. Standards for motor fuel; exceptions

A. Except as provided in section 3-3434 and subsections C, D, E, F, G~~,~~ AND K ~~and L~~ of this section, a retail seller or fleet owner shall not store, sell or expose or offer for sale any motor fuel, kerosene, oil or other liquid or gaseous fuel or lubricating oil, lubricant, mixtures of lubricants or other similar products if the product fails to meet the standards specified in this section and in the rules adopted by the associate director.

B. A person shall not misrepresent the nature, origination, quality, grade or identity of any product specified in subsection A of this section or represent the nature, origination, quality, grade or identity of such product in any manner calculated or tending to mislead or in any way deceive. This subsection does not prohibit product origination disclaimer labeling on the retail dispenser.

C. After consultation with the director of the department of environmental quality, the standards and test methods for motor fuels shall be established by the associate director of the division by rule.

D. Maximum vapor pressure for gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles in a county with a population of one million two hundred thousand or more persons and any portion of a county contained in area A ~~as defined in section 49-541~~ shall be 9.0 pounds per square inch from and after September 30 through March 31 of each year. Fuel used in motor vehicles at a manufacturer's proving ground or a motor vehicle racing event ~~as defined by section 3-3491~~ is exempt from this subsection.

E. From and after September 30 through March 31 of each year, a person shall not supply or sell gasoline that exceeds the ASTM D4814 class A vapor pressure/distillation class ten volume percent evaporated distillation temperature.

F. Maximum vapor pressure for gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles in a county with a population of one million two hundred thousand persons or more and any portion of a county contained in area A ~~as defined in section 49-541~~ shall be 7.0 pounds per square inch from and after May 31 through September 30 of each year. Fuel used in motor vehicles at a manufacturer's proving ground or a motor vehicle racing event ~~as defined by section 3-3491~~ is exempt from this subsection.

G. Exclusively for the purposes of transportation conformity and only if the administrator of the United States environmental protection agency fails to approve the applicable plan required pursuant to section 49-406, maximum vapor pressure for gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles in area B ~~as defined in section 49-541~~ shall be ten pounds per square inch from and after September 30 through March 31 of each year. Fuel used in motor vehicles at a manufacturer's proving ground or a motor vehicle racing event ~~as defined by section 3-3491~~ is exempt from this subsection.

H. Notwithstanding subsections D, F and G of this section, the associate director of the division in consultation with the director of the department of environmental quality shall approve alternate fuel control measures that are submitted by ~~manufacturers or suppliers of~~ gasoline PROVIDERS and that the director and the associate director determine will result in either of the following:

1. Motor vehicle carbon monoxide emissions that are equal to or less than emissions that result under compliance with subsection D of this section and section ~~3-3493~~ 3-3492. In making this determination, the associate director of the division and the director of the department of environmental quality shall compare the emissions of the alternate fuel control measure with the emissions of a fuel with a maximum vapor pressure standard as prescribed by this section and with the minimum oxygen content or percentage by volume of ethanol as prescribed by section ~~3-3493~~ 3-3492.

2. Motor vehicle non-methane hydrocarbon emissions that are equal to or less than the emissions that result under compliance with subsection F of this section. In making this determination, the associate director of the division and the director of the department of environmental quality shall compare the motor vehicle non-methane hydrocarbon emissions of the alternate fuel control measure with the motor vehicle non-methane hydrocarbon emissions of a fuel that complies with the maximum vapor pressure standard as prescribed by subsection F of this section.

I. Any alternate fuel control measures that are approved shall not increase emissions of non-methane hydrocarbons, particulates, carbon monoxide or oxides of nitrogen. Alternate fuel control measures approved pursuant to subsection H of this section and this subsection may be used by any ~~manufacturer or supplier of~~ gasoline PROVIDER unless the approval is rescinded more than one hundred eighty days before the first day of a

gasoline control period. ~~Manufacturers and suppliers who~~ GASOLINE PROVIDERS THAT use an approved alternate fuel control measure shall annually submit a compliance plan to the associate director no later than sixty days before the first day of a gasoline control period.

J. A person shall not sell or offer or expose for sale diesel fuel grade 1, 2 or 4 as defined in ASTM D975, BIODIESEL, BIODIESEL BLENDS OR BIOMASS-BASED DIESEL OR BIOMASS-BASED DIESEL BLENDS that ~~contains~~ CONTAIN sulfur in excess of~~:~~

~~1. For low sulfur diesel fuel, five hundred parts per million by weight for use in area A as defined in section 49-541.~~

~~2. For ultra low sulfur diesel fuel, the amount that conforms with 40 Code of Federal Regulations section 80.520(a)(1)~~ FIFTEEN PARTS PER MILLION. LOCOMOTIVE AND MARINE DIESEL FUEL IS EXEMPT FROM THIS REQUIREMENT IF THE FUEL MEETS THE REQUIREMENTS OF 40 CODE OF FEDERAL REGULATIONS SECTION 80.513(g) AND (h).

~~K. A person shall not sell or offer or expose for sale diesel fuel, biodiesel or biodiesel blends that contain sulfur in excess of five hundred parts per million for use in area A as defined in section 49-541.~~

~~L.~~ K. A person shall label dispensers at which biodiesel, ~~or~~ biodiesel blends, BIOMASS-BASED DIESEL OR BIOMASS-BASED DIESEL BLENDS are dispensed in conformance with 16 Code of Federal Regulations part 306 ~~and 40 Code of Federal Regulations sections 80.570, 80.571, 80.572, 80.573 and 80.574~~. This section does not preclude a person from labeling a dispenser that dispenses diesel fuel that contains up to five percent biodiesel OR BIOMASS-BASED DIESEL with a label that states "may contain up to five percent biodiesel" OR "MAY CONTAIN UP TO FIVE PERCENT BIOMASS-BASED DIESEL".

~~M.~~ L. For biodiesel blends that contain more than five percent by volume of biodiesel, a person shall prepare product transfer documents in a manner that notifies the transferee of the percent by volume of biodiesel in the product. ~~For diesel fuel that contains five percent or less by volume of biodiesel, a person shall prepare product transfer documents in a manner that notifies that transferee of any volume percent of biodiesel intentionally added to or known by the transferor to be in the product.~~

~~N.~~ M. The associate director shall adopt rules regarding the establishment and enforcement of all of the following:

1. National or federal standards for individual biofuels and biofuel blends.

2. United States environmental protection agency and ASTM test methods for individual biofuels and biofuel blends.

3. Registration and reporting requirements for producers, blenders and suppliers of biofuels and biofuel blends.

4. Labeling requirements for biofuels and biofuel blends other than biodiesel or biodiesel blends.

5. Quality assurance and quality control programs for producers, blenders and suppliers of biofuels and biofuel blends addressing rack, batch or other blending.

6. Requirements that the dispensing equipment meet appropriate UL ratings where available and applicable, that the equipment comply with rules adopted by the division relating to approval, installation and sale of devices and that the equipment be compatible with the products being dispensed.

~~O.~~ N. A biofuels or biofuel blends producer, blender, distributor, supplier or retail seller that is in compliance with this section and the rules adopted pursuant to this section is not liable to a consumer for any injuries or property damage related to a consumer who misfuels.

~~P. A person shall label each dispenser at which ultra low sulfur diesel fuel is dispensed in a manner that conforms with 40 Code of Federal Regulations sections 80.570, 80.571, 80.572, 80.573 and 80.574 to inform the customer of the sulfur content of the diesel fuel being dispensed.~~

~~Q. A person shall label each dispenser at which low sulfur diesel fuel is dispensed in a manner that conforms with 40 Code of Federal Regulations sections 80.570, 80.571, 80.572, 80.573 and 80.574 to inform the customer of the sulfur content of the diesel fuel being dispensed.~~

~~R.~~ O. If any person transfers custody or title of a diesel fuel or distillate, BIODIESEL, A BIODIESEL BLEND, BIOMASS-BASED DIESEL OR A BIOMASS-BASED DIESEL BLEND, except if the ~~diesel~~ fuel is dispensed into a motor vehicle or nonroad, locomotive or marine equipment, the transferor shall provide to the transferee product transfer documents that conform with 40 Code of Federal Regulations section 80.590.

~~S.~~ P. If the transfer of a motor fuel is from a terminal, storage facility, or transmix facility, the product transfer documents shall contain the information prescribed in subsection ~~R~~ O of this section. ~~as well as~~ IN ADDITION, THE FUEL TRANSPORTER SHALL ENSURE THAT the name and address of the final destination for the shipment, as prescribed by division rule, ARE INCLUDED and ~~must~~ THAT THE PRODUCT TRANSFER DOCUMENTS accompany the shipment to its final destination.

Sec. 13. Section 3-3434, Arizona Revised Statutes, is amended to read:

3-3434. Area C; standards for motor fuel; exceptions

A. Except as provided in subsections C and D of this section, after May 31, 2008, a retail seller or fleet owner shall not store, sell or expose or offer for sale in area C ~~as defined in section 3-3491~~ any motor fuel, kerosene, oil or other liquid or gaseous fuel or lubricating oil, lubricant, mixtures of lubricants or other similar products if the product fails to meet the standards specified in this section and in the rules adopted by the associate director.

B. A person shall not misrepresent the nature, origination, quality, grade or identity of any product specified in subsection A of this section or

represent the nature, origination, quality, grade or identity of such product in any manner calculated or tending to mislead or in any way deceive.

C. After consultation with the director of the department of environmental quality, the standards and test methods for motor fuels shall be established by the associate director of the division by rule.

D. Maximum vapor pressure for gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles in area C ~~as defined in section 3-3491~~ shall be 7.0 pounds per square inch from and after May 31 through September 30 of each year. Fuel used in motor vehicles at a manufacturer's proving ground or a motor vehicle racing event ~~as defined by section 3-3491~~ is exempt from this subsection.

E. The associate director of the division in consultation with the director of the department of environmental quality shall approve alternate fuel control measures that are submitted by ~~manufacturers or suppliers of~~ gasoline PROVIDERS and that the ~~directors~~ DIRECTOR AND ASSOCIATE DIRECTOR determine will result in motor vehicle non-methane hydrocarbon emissions that are equal to or less than the emissions that result under compliance with subsection D of this section. In making this determination, the associate director of the division and the director of the department of environmental quality shall compare the motor vehicle non-methane hydrocarbon emissions of the alternate fuel control measure with the motor vehicle non-methane hydrocarbon emissions of a fuel that complies with the maximum vapor pressure standard as prescribed by subsection D of this section.

F. Any alternate fuel control measures that are approved shall not increase emissions of non-methane hydrocarbons, particulates, carbon monoxide or oxides of nitrogen. Alternate fuel control measures approved pursuant to subsection E of this section and this subsection may be used by any ~~manufacturer or supplier of~~ gasoline PROVIDER unless the approval is rescinded more than one hundred eighty days before the first day of a gasoline control period. ~~Manufacturers and suppliers who~~ GASOLINE PROVIDERS THAT use an approved alternate fuel control measure shall annually submit a compliance plan to the associate director no later than sixty days before the first day of a gasoline control period.

Sec. 14. Section 3-3436, Arizona Revised Statutes, is amended to read:

3-3436. <u>Dispensing motor fuel; hold-open latches; definition</u>

A. A retail seller may equip all nozzles from which motor fuel is dispensed with an operating hold-open latch.

B. FROM AND AFTER SEPTEMBER 30, 2018, ALL RETAIL DIESEL FUEL DISPENSERS SHALL BE EQUIPPED WITH NOZZLES THAT HAVE GREEN GRIP GUARDS AND ALL RETAIL ETHANOL FLEX FUELS SHALL BE EQUIPPED WITH YELLOW GRIP GUARDS. OTHER PRODUCT NOZZLES MAY NOT HAVE GREEN OR YELLOW GRIP GUARDS.

~~B.~~ C. For the purposes of this section, "hold-open latch" means a device that is an integral part of the automatic nozzle and that is specifically manufactured to dispense motor fuel without requiring the consumer's physical contact with the automatic nozzle.

Sec. 15. Section 3-3437, Arizona Revised Statutes, is amended to read:

3-3437. Aversive or bittering agent in engine coolant and antifreeze: liability limitation: exceptions: violation: classification

A. Engine coolant or antifreeze THAT IS sold in this state on or after January 1, 2008, that is manufactured on or after September 1, 2007 and that contains more than ten ~~per cent~~ PERCENT ethylene glycol shall include denatonium benzoate at a minimum of thirty parts per million and a maximum of fifty parts per million as an aversive or bittering agent in the product to render it unpalatable. A manufacturer or packager of engine coolant or antifreeze THAT IS subject to this section shall maintain a record of the trade name, scientific name and active ingredients of the aversive or bittering agent used pursuant to this section. A manufacturer or packager of engine coolant or antifreeze shall furnish information and documentation maintained pursuant to this section to a member of the public on request.

B. This section applies only to manufacturers, packagers, distributors, recyclers or sellers of engine coolant or antifreeze. For THE purposes of this section, selling does not include the installation of engine coolant or antifreeze for compensation.

C. A manufacturer, packager, distributor, recycler or seller of engine coolant or antifreeze that is required to contain an aversive or bittering agent pursuant to this section is not liable to any person for personal injury, death, property damage, damage to the environment or natural resources or economic loss that results from the inclusion of denatonium benzoate in engine coolant or antifreeze.

D. The limitation on liability provided in subsection C OF THIS SECTION applies only if denatonium benzoate is included in engine coolant or antifreeze in the concentrations required by this section. The limitation on liability provided in subsection C OF THIS SECTION does not apply to a particular liability to the extent that the cause of that liability is unrelated to the inclusion of denatonium benzoate in engine coolant or antifreeze.

E. A political subdivision of this state shall not establish or continue in effect a prohibition, limitation, standard or other requirement relating to the inclusion of an aversive or bittering agent in engine coolant or antifreeze, with respect to retail containers containing less than fifty-five gallons of engine coolant or antifreeze, that is different from, or in addition to, this section.

F. This section does not apply to either:

1. The sale of a motor vehicle that contains engine coolant or antifreeze.

2. Wholesale containers of engine coolant or antifreeze containing fifty-five gallons or more of engine coolant or antifreeze.

G. The ~~department~~ DIVISION may inspect, investigate, analyze and take appropriate actions to administer and enforce this section.

H. A person who violates this section is guilty of a class 3 misdemeanor.

Sec. 16. Section 3-3451, Arizona Revised Statutes, is amended to read:

3-3451. Licensing devices used for commercial purposes; authorization to test devices used for all other purposes; fees; certification; issuance of license; violation; classification

A. A person shall not use a commercial device unless the device is licensed or certified as provided in this chapter.

B. A license shall be obtained annually from the division on forms prescribed and furnished by the division. The fee prescribed in this chapter shall be submitted with the prescribed form. A license shall be obtained not later than thirty days following the first day of commercial use for original installations. If the ownership of a device that is licensed is transferred, the ownership of the license may be transferred. On transfer of a license, new licensees shall notify the division of the licensee's name and address and the location of the device. A license for a device shall be posted at the licensed business location in a manner that provides the division WITH access to the license during normal business hours.

C. Any license issued under this chapter applies only to the instrument or device specified in the license, except that the associate director may permit the license to be applicable to a replacement for the original instrument or device.

D. Noncommercial devices may be tested by the division pursuant to this chapter. A weighing device owned by a person who uses it only for the purpose of weighing the person's own livestock or agricultural products and for no commercial purposes is declared to be a noncommercial device, and the owner of the device is exempt from paying any licensing fees collected pursuant to this chapter.

E. If a commercial livestock scale is used for thirty or more days in a calendar year, the scale is required to be licensed. If a commercial livestock scale is used for fewer than thirty days in a calendar year, the scale is required to be certified. If an owner or operator of a commercial livestock scale requests that the division certify the scale, the certification fee shall be comparable to the license fee prescribed in section 3-3452. If an owner or operator of a noncommercial scale requests that the division certify the scale, the certification fee shall be comparable to the license fee prescribed in section 3-3452.

F. At the request of the owner or user of a portable batch plant, the division may certify the portable batch plant. If the division certifies a portable batch plant, the certification fee shall be comparable to the license fee prescribed in section 3-3452.

G. Any portable measuring device that is five gallons or less and that is properly marked by the manufacturer according to standards established by

the national institute of standards and technology ~~shall be~~ IS exempt from the licensing and certification provisions of this chapter.

H. For the purpose of ascertaining compliance with the licensing provisions of this article, the department of revenue shall provide the division with a monthly report of all transaction privilege tax licenses issued in the prior month. The report shall include the business name, type of business and business address of the licensee.

I. The department of revenue shall annually notify each transaction privilege tax licensee that the licensee is required to register new or existing weighing or measuring devices with the division.

J. A person or the person's agent who knowingly files with the ~~department~~ DIVISION any notice, statement or other document required under this section that is false or that contains any material misstatement of fact is guilty of a class 2 misdemeanor.

Sec. 17. Section 3-3452, Arizona Revised Statutes, is amended to read:

3-3452. Licensing fees; proration; cancellation for nonpayment

A. The following fees shall be paid to the ~~department~~ DIVISION as license fees for devices used for commercial purposes:

Schedules of Fees

1. Weighing devices:		
0 - 500 pounds capacity (or metric equivalent)		$ 12.00
501 - 2,000 pounds capacity		18.00
2,001 - 7,500 pounds capacity		36.00
7,501 - 20,000 pounds capacity		80.00
20,001 - 60,000 pounds capacity		120.00
60,001 pounds capacity and over		180.00
2. Liquid metering devices (meters) other than for liquid petroleum gas and utility meters:		
maximum 12 gallons per minute and under		12.00
maximum 13 - 150 gallons per minute		36.00
maximum 151 - 500 gallons per minute		90.00
maximum 501 - 1,000 gallons per minute		138.00
maximum 1,001 gallons per minute and over		168.00
3. Motor fuel devices (dispensers) other than for liquid petroleum gas (not including satellite hoses or nozzles):		
	Standard	Vapor Recovery Test
each meter	15.00	30.00
each blending valve	15.00	30.00
high volume (over 19 gallons per minute) diesel per hose and nozzle		15.00
keylock, limited access, with accumulators, per hose and nozzle		22.50
remote indicator and control unit (no hoses or nozzles) (accessory only)		22.50

4. Liquid measuring devices for liquid petroleum gas (meters):

small bottle fill measuring devices	24.00
motor fuel measuring devices, uncompensated	24.00
motor fuel measuring devices, temperature compensating, including compressed natural gas filling devices	48.00
motor fuel measuring devices, keylocks	48.00
3/4" and 1" meters, uncompensated	48.00
1 1/4", 1 1/2" and 1 3/4" meters, uncompensated	72.00
2" meters and larger, uncompensated	72.00
3/4" and 1" meters, temperature compensating	54.00
1 1/4", 1 1/2" and 1 3/4" meters, temperature compensating	90.00
2" meters and larger, temperature compensating	96.00

5. Linear measuring devices:

all linear measuring mechanical devices	24.00

6. Time measuring devices:

all time measuring mechanical, electrical and electronic devices	24.00

7. Counting devices:

all mechanical and electronic counting devices	12.00

B. Testing, inspection, certification and calibration fees shall be paid pursuant to the fee schedule set forth in subsection A of this section or the rules of the ~~department~~ DIVISION. The ~~department~~ DIVISION shall waive license fees for customer parking time measuring meters owned by municipalities.

C. Issuance or renewal of license as:

1. Public weighmaster	48.00
2. Registered service agency	24.00
3. Registered service representative	4.80

D. The fees set forth in this section are the maximum amounts that may be charged, but the ASSOCIATE director, at the ASSOCIATE director's discretion, may reduce the fees to any amount the ASSOCIATE director deems necessary.

E. The ASSOCIATE director may prorate the fees set forth in this section for ~~partial year~~ PARTIAL-YEAR application.

F. If a person fails to pay a license, permit or certification fee on or before the date the fee is due, the ~~department~~ DIVISION shall impose a penalty equal to twenty ~~per cent~~ PERCENT of the fee. For each thirty-day period after the date the fee is due, the ~~department~~ DIVISION shall impose an additional penalty equal to twenty ~~per cent~~ PERCENT of the fee. If a person fails to pay a license, permit or certification fee and all related penalties for ninety days after the fee is due, the ~~department~~ DIVISION shall cancel the license, permit or certification.

Sec. 18. Section 3-3453, Arizona Revised Statutes, is amended to read:

3-3453. License as public weighmaster or deputy weighmaster required; application; fee; renewal; training; exemptions

A. A person shall not serve as a public weighmaster or deputy weighmaster unless the person is issued a public weighmaster or deputy weighmaster license by the division in accordance with practices and procedures to be established by the associate director. An applicant for a public weighmaster or deputy weighmaster license shall:

1. Demonstrate a thorough knowledge of all appropriate weights and measures laws, rules and policies.

2. Have possession of, or have available for use, a scale that is of sufficient capacity and size and that is licensed and certified pursuant to section 3-3451.

3. Demonstrate the necessary experience and training to operate the scale.

4. Pass the required examination administered by the division. THE ASSOCIATE DIRECTOR MAY WAIVE THE EXAMINATION REQUIRED BY THIS PARAGRAPH.

B. An application for a public weighmaster or deputy weighmaster license shall be submitted to the division on a form prescribed and furnished by the division and shall be accompanied by the license fee prescribed in section 3-3452. The division shall issue a public weighmaster or deputy weighmaster license for a period of twelve calendar months. The license expires on the first day of the month and year indicated on the license. A public weighmaster or deputy weighmaster license shall be posted at the licensed scale site in a manner that provides the division access to the license during normal business hours.

C. If a licensee submits a license renewal application to the division before the date of expiration of the current license together with the renewal fee prescribed by the division, the existing license shall be valid for thirty days following its expiration date, or until issuance of the renewal license, whichever occurs first.

D. A PUBLIC WEIGHMASTER SHALL PROVIDE THE NECESSARY TRAINING FOR ANY DEPUTY WEIGHMASTER USING THE PUBLIC WEIGHMASTER'S SEAL TO CERTIFY WEIGH TICKETS.

~~D.~~ E. Except as otherwise provided in subsection ~~F~~ G of this section, THE certified weighing of any property, livestock or commodity shall be performed only by a public weighmaster or deputy weighmaster. The following persons are not required to obtain licenses as public weighmasters or deputy weighmasters:

1. A person weighing property, livestock or a commodity that the person or the person's employer is either buying or selling for the ~~person's~~ OWN ACCOUNT OF THE PERSON or the person's ~~employer's own account~~ EMPLOYER.

2. A person weighing property, livestock or a commodity in conjunction with or on behalf of a publicly sponsored or nonprofit organization sponsored exposition, fair or show event.

~~E.~~ F. The official weighing of vehicles or conveyances by any employee of a city, county or state agency for weight-control regulatory purposes on public highways, roads or streets does not constitute public weighing.

~~F.~~ G. On request and without charge, the division may issue a limited weighmaster license to any qualified officer or employee of a city, a county or the state authorizing the officer or employee to act as a public weighmaster only within the scope of the officer's or employee's official employment and duties in enforcing local ordinances substantially complying with the requirements of this chapter. While performing the duties of a limited weighmaster, a limited weighmaster shall have the limited weighmaster's license in the limited weighmaster's possession.

~~G.~~ H. The division shall approve all forms, certificates, seals and other documents together with practices, procedures and equipment used by public weighmasters or deputy weighmasters in the performance of their duties. A public weighmaster or deputy weighmaster shall keep for such A period as the division by rule may require a legible copy of each weight certificate the public weighmaster or deputy weighmaster issues. Copies of weight certificates shall be available at all reasonable times for inspection by the division.

Sec. 19. Section 3-3454, Arizona Revised Statutes, is amended to read:

3-3454. <u>License required as registered service agency or registered service representative; qualifications; application; fees; renewal</u>

A. A person shall not operate as a registered service agency or as a registered service representative until a license is issued as provided in this section.

B. An applicant for a registered service agency license shall:

1. Submit application information satisfactory to the division.

2. Comply with section 3-3416, subsection E or provide evidence that the applicant's vapor recovery test equipment has been certified by the manufacturer of the equipment within one year of the date of the application or as deemed appropriate by the division.

3. Pay all required fees.

C. An applicant for a registered service representative license shall:

1. Demonstrate a thorough working knowledge of all appropriate weights and measures laws, orders and rules.

2. Demonstrate to the division that the applicant has possession of, or has available for use, weights and testing equipment appropriate in design and adequate in amount.

3. Demonstrate the necessary knowledge, training and experience regarding appropriate standards and testing equipment to service commercial devices, vapor recovery systems or vapor recovery components.

4. Pass the required examination administered by the division.

5. Pay all required fees.

D. An application for a registered service agency or registered service representative license shall be submitted by the applicant to the division on a form prescribed and furnished by the division. The division shall issue a registered service agency or registered service representative license for a period of twelve calendar months. The license expires on the first day of the month and year indicated on the license. Each license shall contain, among other information, a license number. A registered service agency license shall be posted at the licensed business location in a manner that provides the division WITH access to the license during normal business hours. While performing the duties of a registered service representative, a registered service representative shall have ~~a~~ THE registered service representative's license in the registered service representative's possession.

E. If a licensee submits a license renewal application to the division before the date of expiration of the current license, together with the prescribed renewal fee, the existing license ~~shall be~~ IS valid for thirty days following its expiration date~~,~~ or until issuance of the renewal license, whichever occurs first.

F. The associate director shall publish, from time to time as the ASSOCIATE director deems appropriate, and may supply on request~~,~~ lists of registered service representatives and registered service agencies.

G. Each registered service representative license issued by the division shall indicate the type of service approved by the division for the licensee.

H. A registered service agency shall use forms and related procedures prescribed by the division in the performance of its duties. A registered service agency shall keep a legible copy of each form used for at least the time period prescribed by the division in its rules. Copies of the forms shall be available during normal business hours for inspection by the division.

Sec. 20. Section 3-3473, Arizona Revised Statutes, is amended to read:

3-3473. Violations; classification; jurisdiction

A. A person is guilty of a class 1 misdemeanor who:

1. Knowingly hinders, interferes with or obstructs in any way the associate director or any of the associate director's agents or inspectors in entering the premises where a commercial device may be kept for inspecting or testing or in the performance of the official duties of the associate ~~director's~~ DIRECTOR or the associate director's agent or inspector.

2. Impersonates in any way the associate director or any one of the associate director's agents or inspectors by the use of the associate

director's seal~~,~~ OR BADGE or a counterfeit of the associate director's seal OR BADGE, or in any other manner.

3. Uses, or ~~has in possession~~ POSSESSES for the purpose of using for any commercial purpose, sells, offers or exposes for sale or hire, or ~~has in possession~~ POSSESSES for the purpose of selling or hiring an incorrect weight or measure or any device or instrument used or calculated to falsify any weight or measure.

4. Sells, or offers or exposes for sale, less than the quantity the person represents of any commodity, thing or service.

5. Takes more than the quantity the person represents of any commodity, thing or service, when, as buyer, the person furnishes the weight or measure by means of which the amount of the commodity, thing or service is determined.

B. A person is guilty of a class 2 misdemeanor who:

1. Uses, or ~~has in possession~~ POSSESSES for the purpose of current use for any commercial purpose, a weight or measure that does not bear a seal or mark of approval based on inspection and test as provided in section 3-3414, subsection A, paragraph 11, unless the weight or measure has been exempted from testing by order of the division, or unless the device has been placed in service as provided in this chapter. Any person or persons making use of a commercial device that is subject to this chapter shall report to the associate director or the associate director's representatives, in writing, the number and location of the commercial device and shall promptly report the installation of any new commercial device.

2. Disposes of any rejected or condemned weight or measure in a manner contrary to law or rule.

3. Removes from any weight or measure, contrary to law or rule, any tag, seal or mark placed on the weight or measure by the appropriate authority pursuant to this chapter.

4. Keeps for the purpose of selling, advertising or offering or exposing for sale or sells any commodity, thing or service in a condition or manner contrary to law or rule.

5. Uses in retail trade, except in the preparation of packages put up in advance of sale and of medical prescriptions, a weight or measure that is so positioned that its indications may not be accurately read and the weighing, metering, measuring or counting operation observed from some position that may reasonably be assumed by a customer.

6. Violates this chapter or rules adopted under this chapter. A continuing violation may be deemed to be a separate violation each day during which the violation is committed for the purpose of imposing a fine.

C. The provisions of this section are in addition to and not in limitation of any other provision of law.

D. The attorney general and the county attorney shall have concurrent jurisdiction to prosecute violations of this chapter.

Sec. 21. Section 3-3475, Arizona Revised Statutes, is amended to read:

3-3475. Civil penalties; hearing

A. A person who violates this chapter, any rule of the division or any license requirement is subject to a civil penalty imposed by the associate director.

B. A person who violates this chapter, any rule of the division or any license requirement may request ~~a~~ AN INFORMAL OR FORMAL hearing to review a civil penalty imposed under this section. IF THE PERSON REQUESTS AN INFORMAL HEARING, THE DIVISION MAY CONDUCT THE INFORMAL HEARING, IN PERSON OR TELEPHONICALLY, TO RESOLVE A WARNING OR CITATION. IF THE PERSON REQUESTS A FORMAL HEARING OR THE WARNING OR CITATION IS NOT RESOLVED IN THE INFORMAL HEARING, the division shall conduct ~~the~~ A FORMAL hearing in accordance with title 41, chapter 6, article 10. Except as prescribed in subsection ~~B~~ C of this section, the civil penalty shall not exceed one thousand dollars for each infraction nor more than ten thousand dollars for any thirty-day period at each business location, for each registered service representative or for each public weighmaster, provided that no person shall be assessed more than fifty thousand dollars per thirty-day period.

~~B.~~ C. The associate director may double the maximum civil penalty if any of the following applies:

1. A commercial device is found to be in violation with results that favor the retailer at more than twice the allowable tolerance as stated in national institute of standards and technology handbook 44.

2. A package is found to exceed the maximum allowable variation for the labeled quantity allowed in national institute of standards and technology handbook 133 or the average error of the lot is twice the sample error limit in favor of the retailer.

3. A vapor recovery system reinspection fails the required tests.

4. A maximum civil penalty has been imposed on a retailer for a price posting or price verification violation and in a reinspection, if conducted within ninety days, the failure rate is ten percent or more and at least one error is in favor of the retailer.

5. A maximum civil penalty has been imposed on a refiner, refinery, PIPELINE, TERMINAL, FUEL TRANSPORTER, registered supplier or transmix processing facility for a violation of motor fuel quality standards or producing a product transfer document that is incorrect, incomplete or produced in any manner tending to mislead or deceive a person.

~~C.~~ D. The attorney general shall bring actions to recover civil penalties pursuant to this section in the superior court in the county in which the violation occurred or in a county where the agency has its office. All monies derived from civil penalties shall be deposited, pursuant to sections 35-146 and 35-147, in the state general fund.

Sec. 22. Section 3-3476, Arizona Revised Statutes, is amended to read:

3-3476. Delinquent civil penalties and fees

In addition to any other penalty, if a civil penalty or any fee due pursuant to this chapter has not been paid thirty days after the due date, the civil penalty or fee is delinquent and the ~~department~~ DIVISION may refuse to issue a license or may revoke a license pursuant to this chapter until the civil penalty or fee is paid in full.

Sec. 23. Repeal

Section 3-3491, Arizona Revised Statutes, as amended by Laws 2015, chapter 244, section 2, is repealed.

Sec. 24. Renumber

The following sections are renumbered:

Former Sections	New Sections
3-3492	3-3491
3-3493	3-3492
3-3494	3-3493
3-3495	3-3494
3-3496	3-3495
3-3497	3-3496
3-3498	3-3497
3-3499	3-3498

Sec. 25. Section 3-3491, Arizona Revised Statutes, as renumbered, is amended to read:

3-3491. Standards for oxygenated fuel; volatility; exceptions

A. From and after September 30 through March 31 of each year, in a county with a population of one million two hundred thousand or more persons and in any portion of a county contained in area A, blends of gasoline with ethanol shall not exceed the volatility requirements prescribed by section 3-3433 and rules adopted by the associate director under that section. From and after September 30 through March 31 of each year, in area B, blends of gasoline with ethanol may exceed the volatility requirements prescribed by section 3-3433 and rules adopted by the associate director under that section by up to one pound per square inch if the base fuel meets the requirements of ASTM D4814 and the final gasoline-ethanol blend contains at least six percent ethanol by volume but does not exceed United States environmental protection agency waivers. For any other locations and period of time, blends of gasoline with ethanol shall meet the volatility requirements as determined by division rule.

B. Notwithstanding subsection D of this section, the associate director of the division in consultation with the director of the department of environmental quality shall approve alternate fuel control measures that are submitted by ~~manufacturers or suppliers of~~ gasoline PROVIDERS and that the ~~directors~~ DIRECTOR AND THE ASSOCIATE DIRECTOR determine will result in motor vehicle carbon monoxide emission reductions that will equal or exceed the reductions that result under subsection D of this section. In making

those determinations, the director OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY and the associate director shall compare the alternative measure against the emission reduction that would be obtained from a fuel with the maximum vapor pressure standard prescribed by subsection D of this section and the minimum oxygen standard prescribed by section ~~3-3493~~ 3-3492 or ~~3-3496~~ 3-3495. Alternative fuel control measures approved by the associate director of the division in consultation with the director of the department of environmental quality may be used by any ~~manufacturer or supplier of~~ gasoline PROVIDER unless the approval is rescinded by the associate director of the division at least one hundred eighty days before the beginning of any oxygenate period in the future. ~~Manufacturers and suppliers who~~ GASOLINE PROVIDERS THAT choose to use an approved alternate fuel control measure shall annually submit a compliance plan to the associate director not later than sixty days ~~prior to~~ BEFORE the start of the oxygenate period.

C. From and after September 30 through March 31 of each year, all blends of gasoline with alcohol other than ethanol shall satisfy all of the requirements prescribed by section 3-3433 and rules adopted by the associate director under that section and the provisions of a waiver issued by the United States environmental protection agency pursuant to 42 United States Code section 7545(f).

D. Notwithstanding subsection A of this section, if the director of the department of environmental quality has previously raised the minimum oxygen content to the maximum percentage of oxygen allowed for each oxygenate as provided by section ~~3-3496~~ 3-3495, the designated air quality planning agency for area B has considered, analyzed and reviewed the costs and benefits of all other reasonable and available control measures in lieu of reducing volatility requirements to nine pounds per square inch and the director of the department of environmental quality finds that area B has failed to maintain the carbon monoxide national ambient air quality standards by violating the standard, beginning with the oxygenate period beginning on the following September 30 and for each oxygenate period thereafter in area B, the volatility requirements described by section 3-3433, subsection G may be reduced to nine pounds per square inch. If a violation of the carbon monoxide national ambient air quality standards is recorded after the volatility requirements have been reduced to nine pounds per square inch, the director of the department of environmental quality shall remove the one pound per square inch waiver for gasoline-ethanol blends.

E. Gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles within this state shall not contain the following:

1. Methyl tertiary butyl ether that exceeds 0.3 percent by volume.

2. A total of more than 0.10 percent oxygen by weight collectively from all of the following oxygenates:

(a) Diisopropylether (DIPE).

(b) Ethyl tert-butylether (ETBE).

(c) Iso-butanol.
(d) Isopropanol.
(e) Methanol.
(f) N-butanol.
(g) N-propanol.
(h) Sec-butanol.
(i) Tert-amylmethylether (TAME).
(j) Tert-butanol.
(k) Tert-pentanol (tert-amylalcohol).

F. Subsection E of this section does not prohibit the transshipment through this state, including storage incident to that transshipment, of gasoline that contains the oxygenates prescribed by subsection E of this section if both of the following apply:

1. The gasoline is used or disposed outside this state.

2. The gasoline is segregated from gasoline that is intended for use inside this state.

Sec. 26. Section 3-3492, Arizona Revised Statutes, as renumbered, is amended to read:

3-3492. Area A; sale of gasoline; oxygen content

A. From and after November 1 through March 31 of each year:

1. All gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles within a county with a population of one million two hundred thousand or more persons and any portion of a county contained in area A or that is consumed in a motor vehicle in a county with a population of one million two hundred thousand or more persons and any portion of a county contained in area A by a fleet owner shall, for a gasoline-ethanol blend, contain not less than ten percent by volume of ethanol nor more than the maximum percentage of oxygen allowed by provisions of a waiver issued or other limits established by the United States environmental protection agency.

2. All gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles within a county with a population of one million two hundred thousand or more persons and any portion of a county contained in area A or that is consumed in a motor vehicle within a county with a population of one million two hundred thousand or more persons and any portion of a county contained in area A by a fleet owner shall, for a blend other than a gasoline-ethanol blend, contain not less than 2.7 percent by weight of oxygen nor more than the maximum percentage of oxygen allowed by provisions of a waiver issued or other limits established by the United States environmental protection agency.

B. Notwithstanding subsection A of this section, the associate director of the division in consultation with the director of the department of environmental quality shall approve alternate fuel control measures that are submitted by ~~manufacturers or suppliers of~~ gasoline PROVIDERS and that the director and the associate director determine will result in motor

vehicle carbon monoxide emissions that are equal to or less than emissions that result under compliance with subsection A of this section and section 3-3433. In making this determination, the associate director of the division and the director of the department of environmental quality shall compare the emissions of the alternate fuel control measure with the emissions of a fuel with a maximum vapor pressure standard as prescribed by section 3-3433 and with the minimum oxygen content or percentage by volume of ethanol as prescribed by this section.

C. Any alternate fuel control measures that are approved shall not increase emissions of non-methane hydrocarbons, particulates, carbon monoxide or oxides of nitrogen. Alternate fuel control measures approved pursuant to subsection B of this section and this subsection may be used by any ~~manufacturer or supplier of~~ gasoline PROVIDER unless the approval is rescinded more than one hundred eighty days before the first day of a gasoline control period. ~~Manufacturers and suppliers who~~ GASOLINE PROVIDERS THAT use an approved alternate fuel control measure shall annually submit a compliance plan to the associate director no later than sixty days before the first day of a gasoline control period.

Sec. 27. Section 3-3493, Arizona Revised Statutes, as renumbered, is amended to read:

3-3493. Area A; fuel reformulation; rules

A. ~~From and after May 1, 1999,~~ All gasoline produced and shipped to or within this state and sold or offered for sale for use in motor vehicles in a county with a population of one million two hundred thousand or more persons and any portion of a county contained in area A, subject to an appropriate waiver granted by the administrator of the United States environmental protection agency pursuant to section 211(c)(4) of the clean air act as defined in section 49-401.01, shall comply with either of the following fuel reformulation options:

1. A gasoline that meets standards for federal phase II reformulated gasoline, as provided in 40 Code of Federal Regulations section 80.41, paragraphs (e) through (h), in effect on January 1, 1999, except that the minimum oxygen content standard does not apply. The gasoline shall also meet the maximum vapor pressure requirements in section 3-3433, subsections D and F.

2. California phase 2 reformulated gasoline, including alternative formulations allowed by the predictive model, as adopted by the California air resources board pursuant to California Code of Regulations title 13, sections 2261 through 2262.7 and 2265, in effect on January 1, 1997, except that the minimum oxygen content standard does not apply. The gasoline shall also meet the maximum vapor pressure requirements in section 3-3433, subsections D and F.

B. For the period beginning November 1 through March 31 of each year, all gasoline produced and shipped to or within this state and sold or offered for sale for use in motor vehicles in a county with a population of one

million two hundred thousand or more persons and any portion of a county contained in area A, subject to an appropriate waiver granted by the administrator of the United States environmental protection agency pursuant to section 211(c)(4) of the clean air act as defined in section 49-401.01, shall comply with standards for California phase 2 reformulated gasoline, including alternative formulations allowed by the predictive model, as adopted by the California air resources board pursuant to California Code of Regulations title 13, sections 2261 through 2262.7 and 2265, in effect on January 1, 1997 and shall meet the maximum vapor pressure requirements in section 3-3433, subsections D and F. The fuel described in this subsection shall meet the requirements of section ~~3-3493~~ 3-3492, subsection A, paragraph 1.

~~C. For each winter season of November through March, the associate director of the division shall determine the average levels of the constituents in the gasoline sold or offered for sale in area A and shall provide the results of this determination to the director of environmental quality. The director of environmental quality shall analyze the data provided by the associate director of the division, no later than July 1 of each year, shall determine the average daily carbon monoxide reductions resulting from the use of the gasoline specified in subsection B of this section during the preceding winter season.~~

~~D.~~ C. Any registered supplier or oxygenate blender, as defined in division rules, may petition the associate director to request that all registered suppliers or oxygenate blenders be allowed to comply with ~~any provision of~~ STANDARDS OTHER THAN THE STANDARDS PRESCRIBED BY section ~~3-3493~~ 3-3492, subsection A~~, provided~~ IF the petitioner can demonstrate that ethanol supply shortages are imminent.

~~E.~~ D. The petition shall:

1. Identify specific supply conditions that will result in a shortage of ethanol.

2. Identify which oxygenate or oxygenates and the concentration that will be blended into gasoline for sale or use in area A.

3. Demonstrate that the alternative oxygenate blend comes closest to meeting a three and one-half percent by weight oxygen content at reasonable cost, unless the registered supplier or oxygenate blender is petitioning to use a gasoline-ethanol blend containing less than ten percent by volume of ethanol.

4. Specify a time period for compliance with any provision of section ~~3-3493~~ 3-3492, subsection A, not to exceed sixty days.

~~F.~~ E. The associate director shall either grant or deny the petition in writing within seven days of its receipt. Any decision by the associate director to grant the petition shall be equally applicable to all registered suppliers or oxygenate blenders and shall not be selectively applied to any single registered supplier or oxygenate blender. The petition may be granted

only if the associate director verifies that the basis for requesting the petition is factual.

~~G.~~ F. The associate director may reauthorize a petition if the petitioner can demonstrate that the conditions have continued. The reauthorization of a petition shall not exceed thirty days.

~~H.~~ G. The associate director of the division shall consult with the director of the department of environmental quality before granting, reauthorizing or denying any such petition.

~~I.~~ H. The director of environmental quality in consultation with the associate director of the division shall adopt by rule:

1. Requirements to implement subsections A ~~through E~~, B, C AND D of this section.

2. Requirements for recordkeeping, reporting and analytical methods for fuel providers to demonstrate compliance with subsections A ~~through E~~, B, C AND D of this section.

~~J.~~ I. This section does not apply to fuel sold for use at a motor vehicle manufacturer proving ground or at a motor vehicle racing event.

Sec. 28. Section 3-3494, Arizona Revised Statutes, as renumbered, is amended to read:

3-3494. Area C; fuel reformulation; rules

A. From and after May ~~1~~ 31 through September 30 of each year, all gasoline produced and shipped to or within this state and sold or offered for sale for use in motor vehicles in area C shall comply with either of the following fuel reformulation options:

1. A gasoline that meets standards for federal phase II reformulated gasoline, as provided in 40 Code of Federal Regulations section 80.41, paragraphs (e) through (h), in effect on January 1, 1999, except that the minimum oxygen content standard does not apply. The gasoline shall also meet the maximum vapor pressure requirements in section 3-3434, subsection D.

2. California phase 2 reformulated gasoline, including alternative formulations allowed by the predictive model, as adopted by the California air resources board pursuant to California Code of Regulations title 13, sections 2261 through 2262.7 and 2265, in effect on January 1, 1997, except that the minimum oxygen content standard does not apply. The gasoline shall also meet the maximum vapor pressure requirements in section 3-3434, subsection D.

B. Any registered supplier OR OXYGENATE BLENDER, as defined in division rules, may petition the associate director to request that all registered suppliers OR OXYGENATE BLENDERS be allowed to supply gasoline in area C that does not meet the standards in subsection A of this section if the petitioner demonstrates that a shortage in the supply of gasoline meeting the standards in subsection A of this section is imminent.

C. A petition under subsection B of this section shall:

1. Identify specific supply conditions that will result in a shortage of gasoline meeting the standards in subsection A of this section.

2. Identify the formulation of gasoline that will be sold in area C in lieu of gasoline meeting the standards in subsection A of this section.

3. Specify a time period for compliance with the standards of subsection A of this section not to exceed sixty days.

D. The associate director shall either grant or deny a petition under subsection B of this section in writing within seven days of its receipt. Any decision by the associate director to grant the petition shall be equally applicable to all registered suppliers OR OXYGENATE BLENDERS and shall not be selectively applied to any single registered supplier OR OXYGENATE BLENDER. The petition may be granted only if the associate director verifies that the basis for requesting the petition is factual.

E. The associate director may reauthorize a petition granted under subsection B of this section if the petitioner demonstrates that the conditions identified in the petition have continued. The reauthorization of a petition shall not exceed thirty days.

F. The associate director of the division shall consult with the director of the department of environmental quality before granting, reauthorizing or denying any petition under subsection B of this section.

G. The ASSOCIATE DIRECTOR, IN CONSULTATION WITH THE director of the department of environmental quality, ~~in consultation with the associate director of the division~~ shall adopt by rule:

1. Requirements to implement subsections A, B and C of this section.

2. Requirements for recordkeeping, reporting and analytical methods for fuel providers to demonstrate compliance with subsection A of this section.

H. This section does not apply to fuel sold for use at a motor vehicle manufacturer proving ground or at a motor vehicle racing event.

Sec. 29. Section 3-3498, Arizona Revised Statutes, as renumbered, is amended to read:

3-3498. Inspections

A. On request, an interstate pipeline terminal or a motor fuel storage or dispensing site shall provide a product transfer document to the ~~department~~ DIVISION. Product transfer documents may be stored off site as provided by ~~department~~ DIVISION rule.

B. On request, a motor fuel storage or dispensing site shall provide access to motor fuel dispensing cabinets to the ~~department~~ DIVISION for inspection of fuel dispensing meters and blending valves.

Sec. 30. Section 3-3512, Arizona Revised Statutes, is amended to read:

3-3512. Stage I vapor recovery systems

A. A person shall not offer for sale, sell, install or use a new gasoline stage I vapor recovery system, or any new or rebuilt component parts of the system, unless the system or component part has been certified by the California air resources board as of March 31, 2001 or after that date, or has been approved by a third party accredited to test equipment and recognized by industry and the ~~department~~ DIVISION, and has not been rejected

by the division. The division shall maintain and keep current a list of stage I vapor recovery systems and component parts that are approved by the division. Only those systems that are approved shall be used in this state. All certified vapor recovery components must be clearly identified by a permanent identification affixed by the certified manufacturer or rebuilder.

B. For gasoline dispensing sites with a throughput of over ten thousand gallons per month in area A or area B ~~as defined in section 49-541~~, a person shall not transfer or allow the transfer of gasoline into storage tanks at gasoline dispensing sites unless the storage tank is equipped with a stage I vapor recovery system consisting of a vapor-tight return line from the storage tank or its vent to the gasoline transport vehicle.

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

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

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

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

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

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

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

E. The division in consultation with the department of environmental quality and the state fire marshal shall establish by rule standards for the installation and operation of stage I vapor recovery systems. The division shall establish by rule plan review and approval fees. In establishing those rules and standards, the associate director shall consider requirements in other states to ensure that only state-of-the-art technology is used.

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

G. Any county, city or town outside of area A or area B ~~as defined in section 49-541~~ may require gasoline dispensing sites with a throughput greater than ten thousand gallons per month to install, operate and maintain stage I vapor recovery systems in accordance with this section. Any county,

city or town, including cities and towns within area B, also may require annual testing of required stage I vapor recovery systems pursuant to subsection C of this section. For a county, city or town considering the adoption of a resolution to require stage I vapor recovery systems or annual testing within its jurisdiction and on request, the department of environmental quality shall provide technical assistance in evaluating the air quality in that county, city or town and shall provide final review and approval of an adopted resolution.

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

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

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

Sec. 31. Section 3-3514, Arizona Revised Statutes, is amended to read:

3-3514. <u>Stage I rule effectiveness; enhanced enforcement</u>

The ASSOCIATE director shall adopt rules to:

1. Enhance enforcement of the ~~department's~~ DIVISION'S stage I vapor recovery program. The enforcement shall be enhanced through programs that may include increased frequency of or targeting of inspections, increased sampling frequency, use of portable analyzers or any other technique.

2. Establish standards and fees for required inspections of vapor recovery systems.

Sec. 32. Section 9-499.18, Arizona Revised Statutes, as amended by Laws 2015, chapter 244, section 26, is amended to read:

9-499.18. Transportation safety zones; passenger convenience areas; definitions

A. A city or town may adopt a resolution or ordinance establishing passenger convenience areas and ~~vehicle-for-hire~~ VEHICLE FOR HIRE lanes within a transportation safety zone. The governing body of a city or town may adopt resolutions or ordinances establishing hours of operation and procedures for the use of passenger convenience areas and ~~vehicle-for-hire~~ VEHICLE FOR HIRE lanes.

B. The governing body of a city or town may establish, by resolution or ordinance, a transportation safety zone, if the governing body finds that a transportation safety zone is necessary to preserve the public health, safety and general welfare. A resolution or ordinance adopted pursuant to this subsection must include a map establishing the boundaries of the zone and traffic safety data used to justify the establishment of the zone. Each transportation safety zone must be no greater than three square miles, and a city or town may not create more than two transportation safety zones within its corporate boundaries. A transportation safety zone may not include any portion of a state highway or state route.

C. On establishment of a transportation safety zone, the city or town may place and maintain permanently affixed signs located in a visible manner at the public vehicular access points leading into the zone for the purpose of delineating the boundaries of the zone.

D. A city or town with a transportation safety zone may require a vehicle that is self-propelled entirely or partially by pedals operated by the passengers to operate pursuant to public safety and traffic ordinances.

E. Except in the event of a public safety emergency, a city or town may not prescribe the order in which a vehicle may load or unload passengers in a transportation safety zone. This subsection does not interfere with or restrict the ability of a city or town to regulate the flow of traffic or enforce any state law.

F. This section does not impose or authorize additional regulation, permitting or licensing requirements beyond those required by this section and title 28, chapter 30.

G. Drivers shall not leave vehicles unattended in a passenger convenience area.

H. For the purposes of this section:

1. "Passenger cart" means any motorized vehicle, except a bus, that is used to transport passengers on a public roadway in exchange for any form of payment or gratuity and that is not ~~licensed as a livery vehicle, taxi or limousine pursuant to title 28, chapter 30~~ A VEHICLE FOR HIRE AS DEFINED IN SECTION 28-9501.

2. "Passenger convenience area" means an area designated by a city or town where taxis, passenger carts, livery vehicles or limousines may enter for the purpose of the loading and unloading of passengers.

3. "~~Vehicle-for-hire~~ VEHICLE FOR HIRE lane" means a designated traffic lane for use exclusively by vehicles picking up or dropping off passengers in exchange for any form of payment, including a fee, fare, donation or gratuity.

Sec. 33. Section 28-101, Arizona Revised Statutes, is amended to read:

28-101. Definitions

In this title, unless the context otherwise requires:

1. "Alcohol" means any substance containing any form of alcohol, including ethanol, methanol, propynol and isopropynol.

2. "Alcohol concentration" if expressed as a percentage means either:

(a) The number of grams of alcohol per one hundred milliliters of blood.

(b) The number of grams of alcohol per two hundred ten liters of breath.

3. "All-terrain vehicle" means either of the following:

(a) A motor vehicle that satisfies all of the following:

(i) Is designed primarily for recreational nonhighway all-terrain travel.

(ii) Is fifty or fewer inches in width.

(iii) Has an unladen weight of one thousand two hundred pounds or less.

(iv) Travels on three or more nonhighway tires.

(v) Is operated on a public highway.

(b) A recreational off-highway vehicle that satisfies all of the following:

(i) Is designed primarily for recreational nonhighway all-terrain travel.

(ii) Is sixty-five or fewer inches in width.

(iii) Has an unladen weight of one thousand eight hundred pounds or less.

(iv) Travels on four or more nonhighway tires.

4. "Authorized emergency vehicle" means any of the following:

(a) A fire department vehicle.

(b) A police vehicle.

(c) An ambulance or emergency vehicle of a municipal department or public service corporation that is designated or authorized by the department or a local authority.

(d) Any other ambulance, fire truck or rescue vehicle that is authorized by the department in its sole discretion and that meets liability insurance requirements prescribed by the department.

5. "Autocycle" means a three-wheeled motorcycle on which the driver and passengers ride in a completely enclosed seating area that is equipped

with a roll cage, safety belts for each occupant and antilock brakes and that is designed to be controlled with a steering wheel and pedals.

6. "Aviation fuel" means all flammable liquids composed of a mixture of selected hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently operating an internal combustion engine for use in an aircraft but does not include fuel for jet or turbine powered aircraft.

7. "Bicycle" means a device, including a racing wheelchair, that is propelled by human power and on which a person may ride and that has either:

(a) Two tandem wheels, either of which is more than sixteen inches in diameter.

(b) Three wheels in contact with the ground, any of which is more than sixteen inches in diameter.

8. "Board" means the transportation board.

9. "Bus" means a motor vehicle designed for carrying sixteen or more passengers, including the driver.

10. "Business district" means the territory contiguous to and including a highway if there are buildings in use for business or industrial purposes within any six hundred feet along the highway, including hotels, banks or office buildings, railroad stations and public buildings that occupy at least three hundred feet of frontage on one side or three hundred feet collectively on both sides of the highway.

11. "Combination of vehicles" means a truck or truck tractor and semitrailer and any trailer that it tows but does not include a forklift designed for the purpose of loading or unloading the truck, trailer or semitrailer.

12. "Controlled substance" means a substance so classified under section 102(6) of the controlled substances act (21 United States Code section 802(6)) and includes all substances listed in schedules I through V of 21 Code of Federal Regulations part 1308.

13. "Conviction" means:

(a) An unvacated adjudication of guilt or a determination that a person violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal.

(b) An unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court.

(c) A plea of guilty or no contest accepted by the court.

(d) The payment of a fine or court costs.

14. "County highway" means a public road that is constructed and maintained by a county.

15. "Dealer" means a person who is engaged in the business of buying, selling or exchanging motor vehicles, trailers or semitrailers and who has an established place of business.

16. "Department" means the department of transportation acting directly or through its duly authorized officers and agents.

17. "Digital network or software application" has the same meaning prescribed in section 28-9551.

18. "Director" means the director of the department of transportation.

19. "Drive" means to operate or be in actual physical control of a motor vehicle.

20. "Driver" means a person who drives or is in actual physical control of a vehicle.

21. "Driver license" means a license that is issued by a state to an individual and that authorizes the individual to drive a motor vehicle.

22. "Electric personal assistive mobility device" means a self-balancing two nontandem wheeled device with an electric propulsion system that limits the maximum speed of the device to fifteen miles per hour or less and that is designed to transport only one person.

23. "Farm" means any lands primarily used for agriculture production.

24. "Farm tractor" means a motor vehicle designed and used primarily as a farm implement for drawing implements of husbandry.

25. "Foreign vehicle" means a motor vehicle, trailer or semitrailer that is brought into this state other than in the ordinary course of business by or through a manufacturer or dealer and that has not been registered in this state.

26. "Golf cart" means a motor vehicle that has not less than three wheels in contact with the ground, that has an unladen weight of less than one thousand eight hundred pounds, that is designed to be and is operated at not more than twenty-five miles per hour and that is designed to carry not more than four persons including the driver.

27. "Hazardous material" means a material, and its mixtures or solutions, that the United States department of transportation determines under 49 Code of Federal Regulations is, or any quantity of a material listed as a select agent or toxin under 42 Code of Federal Regulations part 73 that is, capable of posing an unreasonable risk to health, safety and property if transported in commerce and that is required to be placarded or marked as required by the department's safety rules prescribed pursuant to chapter 14 of this title.

28. "Implement of husbandry" means a vehicle designed primarily for agricultural purposes and used exclusively in the conduct of agricultural operations, including an implement or vehicle whether self-propelled or otherwise that meets both of the following conditions:

(a) Is used solely for agricultural purposes including the preparation or harvesting of cotton, alfalfa, grains and other farm crops.

(b) Is only incidentally operated or moved on a highway whether as a trailer or self-propelled unit. For the purposes of this subdivision, "incidentally operated or moved on a highway" means travel between a farm and another part of the same farm, from one farm to another farm or between a farm and a place of repair, supply or storage.

29. "Limousine" means a motor vehicle providing prearranged ground transportation service for an individual passenger, or a group of passengers, that is arranged in advance or is operated on a regular route or between specified points and includes ground transportation under a contract or agreement for services that includes a fixed rate or time and is provided in a motor vehicle with a seating capacity not exceeding fifteen passengers including the driver.

30. "Livery vehicle" means a motor vehicle that:

(a) Has a seating capacity not exceeding fifteen passengers including the driver.

(b) Provides passenger services for a fare determined by a flat rate or flat hourly rate between geographic zones or within a geographic area.

(c) Is available for hire on an exclusive or shared ride basis.

(d) May do any of the following:

(i) Operate on a regular route or between specified places.

(ii) Offer prearranged ground transportation service as defined in section 28-141.

(iii) Offer on demand ground transportation service pursuant to a contract with a public airport, licensed business entity or organization.

31. "Local authority" means any county, municipal or other local board or body exercising jurisdiction over highways under the constitution and laws of this state.

32. "Manufacturer" means a person engaged in the business of manufacturing motor vehicles, trailers or semitrailers.

33. "Moped" means a bicycle that is equipped with a helper motor if the vehicle has a maximum piston displacement of fifty cubic centimeters or less, a brake horsepower of one and one-half or less and a maximum speed of twenty-five miles per hour or less on a flat surface with less than a one percent grade.

34. "Motor driven cycle" means a motorcycle, including every motor scooter, with a motor that produces not more than five horsepower.

35. "Motor vehicle":

(a) Means either:

(i) A self-propelled vehicle.

(ii) For the purposes of the laws relating to the imposition of a tax on motor vehicle fuel, a vehicle that is operated on the highways of this state and that is propelled by the use of motor vehicle fuel.

(b) Does not include a motorized wheelchair, an electric personal assistive mobility device or a motorized skateboard. For the purposes of this subdivision:

(i) "Motorized skateboard" means a self-propelled device that has a motor, a deck on which a person may ride and at least two tandem wheels in contact with the ground.

(ii) "Motorized wheelchair" means a self-propelled wheelchair that is used by a person for mobility.

36. "Motor vehicle fuel" includes all products that are commonly or commercially known or sold as gasoline, including casinghead gasoline, natural gasoline and all flammable liquids, and that are composed of a mixture of selected hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently operating internal combustion engines. Motor vehicle fuel does not include inflammable liquids that are specifically manufactured for racing motor vehicles and that are distributed for and used by racing motor vehicles at a racetrack, use fuel as defined in section 28-5601, aviation fuel, fuel for jet or turbine powered aircraft or the mixture created at the interface of two different substances being transported through a pipeline, commonly known as transmix.

37. "Motorcycle" means a motor vehicle that has a seat or saddle for the use of the rider and that is designed to travel on not more than three wheels in contact with the ground but excludes a tractor and a moped.

38. "Motorized quadricycle" means a self-propelled motor vehicle to which all of the following apply:

(a) The vehicle is self-propelled by an emission-free electric motor and may include pedals operated by the passengers.

(b) The vehicle has at least four wheels in contact with the ground.

(c) The vehicle seats at least eight passengers, including the driver.

(d) The vehicle is operable on a flat surface using solely the electric motor without assistance from the pedals or passengers.

(e) The vehicle is a commercial motor vehicle as defined in section 28-5201.

(f) The vehicle is ~~licensed by the department of weights and measures to operate as~~ a limousine OPERATING UNDER A VEHICLE FOR HIRE COMPANY PERMIT ISSUED pursuant to section 28-9503.

(g) The vehicle is manufactured by a motor vehicle manufacturer that is licensed pursuant to chapter 10 of this title.

(h) The vehicle complies with the definition and standards for low-speed vehicles set forth in federal motor vehicle safety standard 500 and 49 Code of Federal Regulations ~~section~~ SECTIONS 571.3(b) and 571.500, respectively.

39. "Neighborhood electric vehicle" means a self-propelled electrically powered motor vehicle to which all of the following apply:

(a) The vehicle is emission free.

(b) The vehicle has at least four wheels in contact with the ground.

(c) The vehicle complies with the definition and standards for low speed vehicles set forth in federal motor vehicle safety standard 500 and 49 Code of Federal Regulations sections 571.3(b) and 571.500, respectively.

40. "Nonresident" means a person who is not a resident of this state as defined in section 28-2001.

41. "Off-road recreational motor vehicle" means a motor vehicle that is designed primarily for recreational nonhighway all-terrain travel and that is not operated on a public highway. Off-road recreational motor vehicle

1 does not mean a motor vehicle used for construction, building trade, mining
2 or agricultural purposes.
3 42. "Operator" means a person who drives a motor vehicle on a highway,
4 who is in actual physical control of a motor vehicle on a highway or who is
5 exercising control over or steering a vehicle being towed by a motor vehicle.
6 43. "Owner" means:
7 (a) A person who holds the legal title of a vehicle.
8 (b) If a vehicle is the subject of an agreement for the conditional
9 sale or lease with the right of purchase on performance of the conditions
10 stated in the agreement and with an immediate right of possession vested in
11 the conditional vendee or lessee, the conditional vendee or lessee.
12 (c) If a mortgagor of a vehicle is entitled to possession of the
13 vehicle, the mortgagor.
14 44. "Pedestrian" means any person afoot. A person who uses an
15 electric personal assistive mobility device or a manual or motorized
16 wheelchair is considered a pedestrian unless the manual wheelchair qualifies
17 as a bicycle. For the purposes of this paragraph, "motorized wheelchair"
18 means a self-propelled wheelchair that is used by a person for mobility.
19 45. "Power sweeper" means an implement, with or without motive power,
20 that is only incidentally operated or moved on a street or highway and that
21 is designed for the removal of debris, dirt, gravel, litter or sand whether
22 by broom, vacuum or regenerative air system from asphaltic concrete or cement
23 concrete surfaces, including parking lots, highways, streets and warehouses,
24 and a vehicle on which the implement is permanently mounted.
25 46. "Public transit" means the transportation of passengers on
26 scheduled routes by means of a conveyance on an individual passenger
27 fare-paying basis excluding transportation by a sightseeing bus, school bus
28 or taxi or a vehicle not operated on a scheduled route basis.
29 47. "Reconstructed vehicle" means a vehicle that has been assembled or
30 constructed largely by means of essential parts, new or used, derived from
31 vehicles or makes of vehicles of various names, models and types or that, if
32 originally otherwise constructed, has been materially altered by the removal
33 of essential parts or by the addition or substitution of essential parts, new
34 or used, derived from other vehicles or makes of vehicles. For the purposes
35 of this paragraph, "essential parts" means integral and body parts, the
36 removal, alteration or substitution of which will tend to conceal the
37 identity or substantially alter the appearance of the vehicle.
38 48. "Residence district" means the territory contiguous to and
39 including a highway not comprising a business district if the property on the
40 highway for a distance of three hundred feet or more is in the main improved
41 with residences or residences and buildings in use for business.
42 49. "Right-of-way" when used within the context of the regulation of
43 the movement of traffic on a highway means the privilege of the immediate use
44 of the highway. Right-of-way when used within the context of the real
45 property on which transportation facilities and appurtenances to the

facilities are constructed or maintained means the lands or interest in lands within the right-of-way boundaries.

50. "School bus" means a motor vehicle that is designed for carrying more than ten passengers and that is either:

(a) Owned by any public or governmental agency or other institution and operated for the transportation of children to or from home or school on a regularly scheduled basis.

(b) Privately owned and operated for compensation for the transportation of children to or from home or school on a regularly scheduled basis.

51. "Semitrailer" means a vehicle that is with or without motive power, other than a pole trailer, that is designed for carrying persons or property and for being drawn by a motor vehicle and that is constructed so that some part of its weight and that of its load rests on or is carried by another vehicle. For the purposes of this paragraph, "pole trailer" has the same meaning prescribed in section 28-601.

52. "State" means a state of the United States and the District of Columbia.

53. "State highway" means a state route or portion of a state route that is accepted and designated by the board as a state highway and that is maintained by the state.

54. "State route" means a right-of-way whether actually used as a highway or not that is designated by the board as a location for the construction of a state highway.

55. "Street" or "highway" means the entire width between the boundary lines of every way if a part of the way is open to the use of the public for purposes of vehicular travel.

56. "Taxi" means a motor vehicle that has a seating capacity not exceeding fifteen passengers, including the driver, ~~that is registered as a taxi in this state or any other state,~~ that provides passenger services and that:

(a) Does not primarily operate on a regular route or between specified places.

(b) Offers local transportation for a fare determined on the basis of the distance traveled or prearranged ground transportation service as defined in section 28-141 for a predetermined fare.

57. "Traffic survival school" means a school that offers educational sessions to drivers who are required to attend and successfully complete educational sessions pursuant to this title that are designed to improve the safety and habits of drivers and that are approved by the department.

58. "Trailer" means a vehicle that is with or without motive power, other than a pole trailer, that is designed for carrying persons or property and for being drawn by a motor vehicle and that is constructed so that no part of its weight rests on the towing vehicle. A semitrailer equipped with an auxiliary front axle commonly known as a dolly is deemed to be a trailer.

For the purposes of this paragraph, "pole trailer" has the same meaning prescribed in section 28-601.

59. "Transportation network company" has the same meaning prescribed in section 28-9551.

60. "Transportation network company vehicle" has the same meaning prescribed in section 28-9551.

61. "Transportation network service" has the same meaning prescribed in section 28-9551.

62. "Truck" means a motor vehicle designed or used primarily for the carrying of property other than the effects of the driver or passengers and includes a motor vehicle to which has been added a box, a platform or other equipment for such carrying.

63. "Truck tractor" means a motor vehicle that is designed and used primarily for drawing other vehicles and that is not constructed to carry a load other than a part of the weight of the vehicle and load drawn.

64. "Vehicle" means a device in, on or by which a person or property is or may be transported or drawn on a public highway, excluding devices moved by human power or used exclusively on stationary rails or tracks.

65. "Vehicle transporter" means either:

(a) A truck tractor capable of carrying a load and drawing a semitrailer.

(b) A truck tractor with a stinger-steered fifth wheel capable of carrying a load and drawing a semitrailer or a truck tractor with a dolly mounted fifth wheel that is securely fastened to the truck tractor at two or more points and that is capable of carrying a load and drawing a semitrailer.

Sec. 34. Section 28-141, Arizona Revised Statutes, is amended to read:

28-141. <u>Prearranged ground transportation; applicability; definitions</u>

A. The department shall not require a ~~license~~ PERMIT or impose a fee on a motor vehicle providing prearranged ground transportation service if the motor carrier providing the service does all of the following:

1. Meets all applicable registration requirements for the interstate transportation of passengers under the ICC termination act of 1995 (P.L. 104-88; 109 Stat. 879; 49 United States Code sections 13901 through 13908).

2. Meets all applicable vehicle and intrastate passenger licensing requirements of the state in which the vehicle is domiciled or registered to do business.

3. Provides the service pursuant to a contract for either of the following:

(a) Transportation from this state, including intermediate stops, to a destination in another state.

(b) Transportation from this state, including intermediate stops in another state, to a destination in this state.

B. For the purposes of this section:

1. "Intermediate stop" means a pause in the transportation in order for one or more passengers to engage in personal or business activity, but only if the driver providing the transportation to the passenger does not, before resuming the transportation of the passenger or at least one of the passengers, provide transportation to any other person not included among the passengers being transported when the pause began.

2. "Prearranged ground transportation service" means transportation for a passenger or a group of passengers that is arranged in advance or that is operated on a regular route or between specified points.

Sec. 35. Section 28-2401, Arizona Revised Statutes, is amended to read:

28-2401. Definitions

In this article, unless the context otherwise requires:

1. "Immediate family member" means a spouse or a parent, child, brother or sister whether by adoption or blood.

2. "Special plates" means plates issued pursuant to this article ~~or pursuant to section 28-2515~~.

Sec. 36. Repeal

Section 28-2515, Arizona Revised Statutes, is repealed.

Sec. 37. Section 28-4038, Arizona Revised Statutes, is amended to read:

28-4038. Transportation network services; financial responsibility requirements; survey

A. For a transportation network company that requires a transportation network company driver to accept rides that are booked and paid for exclusively through the transportation network company's digital network or software application and during the time in which the transportation network company driver is logged in to the transportation network company's digital network or software application to be a driver, but is not in the act of providing transportation network services, the following insurance coverage shall be maintained:

1. Before March 1, 2016, the transportation network company driver shall maintain a motor vehicle liability insurance policy that meets at least the requirements of section 28-4009. A transportation network company shall provide motor vehicle liability insurance coverage in the amount of twenty-five thousand dollars because of bodily injury to or death of one person in any one accident, subject to the limit for one person, fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident and twenty thousand dollars because of injury to or destruction of property of others in any one accident ~~coverage~~ in the event a transportation network company driver's policy excludes coverage according to the policy's terms.

2. From and after February 29, 2016, the transportation network company driver or the transportation network company, or both, shall provide primary motor vehicle liability insurance coverage in the amount of

twenty-five thousand dollars because of bodily injury to or death of one person in any one accident, subject to the limit for one person, fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident and twenty thousand dollars because of injury to or destruction of property of others in any one accident. Coverage shall be maintained through any of the following:

(a) A private passenger motor vehicle policy maintained by the transportation network company driver that expressly provides liability coverage while the driver is logged in to the transportation network company's digital network or software application to be a driver.

(b) A motor vehicle liability policy maintained by the transportation network company.

(c) A commercial motor vehicle liability policy.

B. For a transportation network company that requires a transportation network company driver to accept rides that are booked and paid for exclusively through the transportation network company's digital network or software application and during the time in which the transportation network company driver is providing transportation network services, the transportation network company driver or the transportation network company, or both, shall maintain the following insurance coverages:

1. Primary commercial motor vehicle liability insurance that covers the transportation network company driver's provision of transportation network services in a minimum amount of two hundred fifty thousand dollars per incident.

2. Commercial uninsured motorist coverage in a minimum amount of two hundred fifty thousand dollars per incident.

~~C. For a transportation network company that does not require a transportation network company driver to accept rides booked and paid for exclusively through a transportation network company's digital network or software application and during the time in which the transportation network company driver is logged in to the transportation network company's digital network or software application to be a driver, either the transportation network company driver or the transportation network company shall maintain the following insurance coverages:~~

~~1. During the time in which the driver is available to provide passenger transportation, but has not accepted a ride request and is not in the act of providing passenger transportation, primary commercial motor vehicle liability insurance coverage in the amount of twenty-five thousand dollars because of bodily injury to or death of any one person in any one accident, subject to the limit for one person, fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident and twenty thousand dollars because of injury to or destruction of property of others in any one accident.~~

~~2. After the driver has accepted a ride request through any communication, including a street hail, and during the time in which the driver is providing passenger transportation:~~

~~(a) Primary commercial motor vehicle liability insurance in a minimum amount of two hundred fifty thousand dollars per incident.~~

~~(b) Commercial uninsured motorist coverage in a minimum amount of two hundred fifty thousand dollars per incident.~~

~~D.~~ C. From and after February 29, 2016, unless an insurance policy expressly provides coverage or contains an amendment or endorsement that expressly provides coverage, the transportation network company driver's insurance policy and the motor vehicle owner's personal motor vehicle insurance policy shall not be required to provide coverage for the transportation network company vehicle, the transportation network company driver, the motor vehicle owner or any third party while a transportation network company driver is logged in to a transportation network company's digital network or software application to be a driver or is providing transportation network services.

~~E.~~ D. Notwithstanding subsection ~~D~~ C of this section, an insurer may offer, for the period during which a transportation network company driver is logged in to a transportation network company's digital network or software application to be a driver or is providing transportation network services, one of the following:

1. A motor vehicle liability insurance policy expressly providing such coverage.

2. An amendment or endorsement to an existing motor vehicle liability insurance policy specifically providing such coverage.

~~F.~~ E. An insurance policy required by this section is deemed to satisfy the financial responsibility requirements for a motor vehicle insurance policy under this title.

~~G.~~ F. A transportation network company driver shall carry proof of insurance in the transportation network company vehicle at all times while logged in to a transportation network company's digital network or software application to be a driver or is providing transportation network services. If an accident occurs involving a transportation network company vehicle, the transportation network company driver shall provide proof of insurance to the parties involved in the accident at the time of the accident. The transportation network company driver shall also notify the transportation network company of the accident.

~~H.~~ G. In a claims coverage investigation, transportation network companies and any insurer providing coverage as prescribed in this section shall fully cooperate in the exchange of information, including the precise times that a transportation network company driver logged on and off of the transportation network company's digital network or software application in the twenty-four-hour period immediately preceding the accident, and shall

disclose to each other a clear description of the coverage, exclusions and limits provided under any insurance policy each party issued or maintained.

~~I.~~ H. From and after February 29, 2016, this section and section 28-4009 do not create an obligation for an insurer that issues coverage to which section 20-1631 applies to offer, provide or issue a motor vehicle liability insurance policy or an endorsement or amendment that includes coverage for any liability arising while a transportation network company driver is logged in to the transportation network company's digital network or software application to be a driver or is providing transportation network services.

~~J.~~ I. An insurance policy required by this section may be placed with an insurer authorized to transact insurance in this state pursuant to title 20, chapter 2, article 1 or a surplus lines insurer pursuant to title 20, chapter 2, article 5.

~~K.~~ J. The department of insurance, as part of its annual survey of insurance companies, may request information from any property and casualty insurer authorized to write private passenger motor vehicle coverage in this state, including information regarding:

1. Whether the insurer offers for purchase a policy or an endorsement or amendment that covers transportation network company drivers while the driver is logged in to a transportation network company's digital network or software application to be a driver or is providing transportation network services.

2. The number of those policies, endorsements or amendments that have been purchased during the reporting period.

3. The number of those policies, endorsements or amendments that have been canceled during the reporting period.

Sec. 38. Repeal

Sections 28-5493 and 28-5860, Arizona Revised Statutes, are repealed.

Sec. 39. Title 28, chapter 30, article 2, Arizona Revised Statutes, is amended by adding section 28-9527, to read:

28-9527. Transaction privilege tax prohibited

A VEHICLE FOR HIRE OWNER, COMPANY OR DRIVER THAT HAS A PERMIT ISSUED PURSUANT TO ARTICLE 1 OF THIS CHAPTER IS EXEMPT FROM TRANSACTION PRIVILEGE TAX ON INCOME DERIVED FROM TRANSPORTING PERSONS FOR HIRE PURSUANT TO SECTIONS 42-5062 AND 42-6004.

Sec. 40. Section 28-9501, Arizona Revised Statutes, is amended to read:

28-9501. Definitions

In this chapter, unless the context otherwise requires:

~~1. "Commercial device" means any measuring device that is used to determine the direct cost of things or used to establish a fee for service if the cost is based on measure.~~

~~2.~~ 1. "Taxi meter" means a ~~commercial~~ device that ~~meets the requirements of the national institute of standards and technology handbook~~

~~44 as prescribed by section 3-3413~~ AUTOMATICALLY CALCULATES AT A PREDETERMINED RATE THE CHARGE FOR THE HIRE OF A VEHICLE AND THAT INDICATES THE CHARGE.

2. "VEHICLE FOR HIRE" MEANS A TAXI, LIVERY VEHICLE OR LIMOUSINE.

3. "VEHICLE FOR HIRE COMPANY" MEANS A COMPANY THAT OFFERS LOCAL TRANSPORTATION THROUGH USE OF A TAXI, LIVERY VEHICLE OR LIMOUSINE OR A COMBINATION OF TAXIS, LIVERY VEHICLES OR LIMOUSINES.

Sec. 41. Section 28-9502, Arizona Revised Statutes, is amended to read:

28-9502. Powers and duties

A. The department shall~~:~~

~~1.~~ adopt any rules necessary to carry out this chapter and adopt reasonable rules for the enforcement of this chapter. These rules have the force and effect of law and shall be adopted pursuant to title 41, chapter 6. ~~In adopting these rules, the director shall consider, as far as is practicable, the requirements established by other states and by authority of the United States, except that rules may not be made in conflict with this chapter.~~

B. THE DEPARTMENT MAY:

~~2.~~ 1. Investigate complaints made to the department concerning violations of this chapter and, on its own initiative, conduct investigations it deems appropriate in order to develop information relating to prevailing procedures in ~~commercial quantity~~ TAXI METER RATE determination and possible violations of this chapter and to promote accuracy in the determination and representation of quantity in ~~commercial transactions~~ TAXI METER RATES.

~~3.~~ 2. Inspect and test taxi meters BY A RANDOM SYSTEMATIC METHOD DETERMINED BY THE DIRECTOR OR IN RESPONSE TO A COMPLAINT BY THE PUBLIC to determine whether the taxi meters meet the requirements ~~of the national institute of standards and technology handbook 44~~ as prescribed by ~~section 3-3413~~ THE DEPARTMENT BY RULE.

~~4.~~ 3. Apply to any court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating this chapter.

~~5. Report to the governor on or before August 1 of each year and at such other times as may be required on the work accomplished under this chapter.~~

~~6.~~ 4. Subject to title 41, chapter 4, article 4, employ such personnel as needed to assist in administering this chapter.

~~B. Testing and inspection conducted pursuant to this chapter shall be done, to the extent practicable, without prior notice, by a random systematic method determined by the director or in response to a complaint by the public.~~

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

Sec. 42. Section 28-9503, Arizona Revised Statutes, is amended to read:

28-9503. Vehicle for hire company permits; fees; violation; classification

~~A. A person may not use a commercial device unless the device is licensed as provided in this chapter.~~

~~B. A license shall be obtained annually from the department on forms prescribed and furnished by the department. The fee, as determined by the director by rule, shall be submitted with the prescribed form. A license shall be obtained not later than thirty days following the first day of commercial use for original installations. If the ownership of a licensed device is transferred, the ownership of the license may be transferred. On transfer of a license, new licensees shall notify the department of the licensee's name and address and the location of the device.~~

A. A VEHICLE FOR HIRE COMPANY MAY NOT OPERATE IN THIS STATE UNLESS THE VEHICLE FOR HIRE COMPANY IS ISSUED A PERMIT BY THE DEPARTMENT. THE VEHICLE FOR HIRE COMPANY MAY APPLY TO THE DEPARTMENT ON FORMS PRESCRIBED BY THE DEPARTMENT. THE PERMIT IS VALID FOR THREE YEARS. THE DEPARTMENT SHALL CHARGE AND COLLECT AN APPLICATION FEE OF TWENTY-FOUR DOLLARS PER VEHICLE THAT IS USED AS A TAXI BY THE VEHICLE FOR HIRE COMPANY AT THE TIME OF APPLICATION, NOT TO EXCEED A TOTAL OF ONE THOUSAND DOLLARS PER APPLICANT.

B. THE DEPARTMENT SHALL ISSUE A PERMIT TO AN APPLICANT THAT MEETS THE REQUIREMENTS OF THIS ARTICLE.

C. A VEHICLE FOR HIRE COMPANY SHALL MAINTAIN AN AGENT FOR SERVICE OF PROCESS IN THIS STATE.

~~C.~~ D. If a fare is based on time or mileage or both time and mileage, a taxi shall have a ~~commercial device and shall obtain a license as prescribed by the department~~ TAXI METER, except that if the service offered by the taxi is a prearranged ground transportation service as prescribed in section 28-141 for a predetermined fare, ~~a~~ THE taxi is not required to use a ~~commercial device~~ TAXI METER.

~~D. The department may not issue a license for a taxi, livery vehicle or limousine unless the taxi, livery vehicle or limousine meets the requirements for both of the following:~~

~~1. Motor vehicle licensing as prescribed by the department.~~

~~2. Motor vehicle insurance as prescribed by section 28-4033.~~

E. The department shall revoke a ~~license~~ PERMIT if the ~~taxi, livery vehicle or limousine~~ VEHICLE FOR HIRE COMPANY fails to maintain the requirements for either of the following:

1. Motor vehicle licensing as prescribed by the department.

2. Motor vehicle insurance as prescribed by section 28-4033.

F. A ~~taxi or livery~~ vehicle FOR HIRE shall have a ~~license~~ COPY OF THE PERMIT issued TO THE VEHICLE FOR HIRE COMPANY under this chapter ~~posted on the outside of the rear window as required by the department. A limousine shall carry a license issued under this chapter~~ inside the vehicle at all times.

G. A taxi that is ~~licensed~~ ISSUED A PERMIT by the department and that offers local transportation for a fare determined on the basis of the distance traveled or prearranged ground transportation service as prescribed in section 28-141 for a predetermined fare is not required to ~~be additionally licensed~~ HAVE AN ADDITIONAL PERMIT as a livery vehicle.

H. A person or the person's agent who knowingly files with the department any notice, statement or other document required under this section that is false or that contains any material misstatement of fact is guilty of a class 2 misdemeanor.

Sec. 43. Section 28-9506, Arizona Revised Statutes, is amended to read:

28-9506. Taxi and livery vehicle signage

A. A taxi or livery vehicle shall display ~~interior signage that contains~~ ALL OF THE FOLLOWING INFORMATION EITHER ON AN INTERIOR SIGN THAT IS READILY VISIBLE AND THAT IS EITHER IN A PRINT OR AN ELECTRONIC FORMAT OR ON A DIGITAL NETWORK OR SOFTWARE APPLICATION:

1. The ~~licensee's~~ PERMITTEE'S business name and address. ~~and that is all of the following:~~

~~1. Permanent.~~

~~2. In letters at least one-half inch in height.~~

~~3. Readily visible.~~

~~4.~~ 2. ~~Accurately representative~~ AN ACCURATE REPRESENTATION of all fares and the fare computation method.

~~B.~~ 3. ~~A taxi or livery vehicle shall display interior signage that contains~~ The driver's name ~~and is readily visible to passengers~~.

~~C.~~ B. AT A MINIMUM, a taxi is required to display READILY VISIBLE exterior ~~signage~~ TRADE DRESS AS DEFINED IN SECTION 28-9551 that contains the ~~licensee's business name and telephone number, that contains the~~ word "taxi" or "cab". ~~and that is all of the following:~~

~~1. Permanent.~~

~~2. In letters at least three inches in height.~~

~~3. Readily visible and a minimum of one inch in height for fare information.~~

~~4. Accurately representative of all fares and the fare computation method.~~

Sec. 44. Section 28-9507, Arizona Revised Statutes, is amended to read:

28-9507. Vehicles for hire; criminal background checks; vehicle safety records; zero-tolerance policy; drug and alcohol use by driver; passenger complaints

A. ~~An owner of a livery vehicle, taxi or limousine licensed through~~ A VEHICLE FOR HIRE COMPANY THAT IS ISSUED A PERMIT BY the department shall have available for inspection at all times by the department written evidence of a criminal background check conducted for any driver operating a ~~livery vehicle, taxi or limousine~~ VEHICLE FOR HIRE for the ~~owner~~ VEHICLE FOR HIRE COMPANY, whether as an employee or lessee. The criminal background check shall be completed before the driver is engaged as an employee or lessee.

B. ~~An owner of a livery vehicle, taxi or limousine licensed through~~ A VEHICLE FOR HIRE COMPANY THAT IS ISSUED A PERMIT BY the department shall require that all of the ~~owner's taxis, livery vehicles or limousines~~ COMPANY'S VEHICLES FOR HIRE THAT ARE used to provide passenger transportation meet state vehicle safety and emissions standards for private vehicles and shall require the ~~taxis, livery vehicles or limousines~~ VEHICLES FOR HIRE to have, at a minimum, an annual brake and tire inspection that is performed by a qualified party. The ~~owner~~ VEHICLE FOR HIRE COMPANY shall maintain vehicle safety and emissions inspection records for at least two years and make the records available to the department on request.

C. ~~An owner of a taxi, livery vehicle or limousine~~ A VEHICLE FOR HIRE COMPANY shall implement a zero-tolerance policy on the use of drugs and alcohol while a ~~taxi, livery vehicle or limousine~~ VEHICLE FOR HIRE driver is providing passenger transportation or is available to provide passenger transportation. The ~~owner of a taxi, livery vehicle or limousine~~ VEHICLE FOR HIRE COMPANY shall provide notice of this policy on its website or in the ~~taxi, livery vehicle or limousine~~ VEHICLE FOR HIRE, including procedures to file a complaint about a driver with whom a passenger was matched and who the passenger reasonably suspects was under the influence of drugs or alcohol during the course of the passenger transportation.

D. On receipt of a passenger complaint alleging a violation of the zero-tolerance policy, the ~~owner of the taxi, livery vehicle or limousine~~ VEHICLE FOR HIRE COMPANY shall do both of the following:

1. Immediately suspend the ~~taxi, livery vehicle or limousine~~ VEHICLE FOR HIRE driver's access to the ~~owner's taxi, livery vehicle or limousine~~ COMPANY'S VEHICLE FOR HIRE.

2. Conduct an investigation into the filed complaint. The suspension shall last the duration of the investigation.

E. If the ~~taxi, livery vehicle or limousine owner's~~ VEHICLE FOR HIRE COMPANY'S investigation confirms that the driver has violated the policy required by subsection C of this section, the ~~owner~~ VEHICLE FOR HIRE COMPANY shall permanently prohibit the driver's access to the ~~owner's taxi, livery vehicle or limousine~~ COMPANY'S VEHICLES FOR HIRE. The ~~owner of a taxi,~~

~~livery vehicle or limousine~~ VEHICLE FOR HIRE COMPANY shall maintain enforcement records for at least two years after the date a passenger complaint is received by the ~~owner~~ COMPANY and make the records available to the department on request.

Sec. 45. Section 28-9521, Arizona Revised Statutes, is amended to read:

28-9521. Unlawful use of vehicle for hire; violation; classification

A. When any ~~commercial device~~ VEHICLE FOR HIRE specified in this chapter is in commercial use and a valid ~~license for the device~~ PERMIT has not been procured by the ~~owner, the owner's agent or the operator of the device~~ VEHICLE FOR HIRE COMPANY, the department, after giving notice of the ~~licensing~~ PERMIT requirements to the ~~owner, the owner's agent or the operator~~ VEHICLE FOR HIRE COMPANY, shall prohibit the further commercial use of the ~~unlicensed device~~ VEHICLE until the proper ~~license~~ PERMIT has been issued. ~~The department may employ and attach to the device such forms, notices or security seals as it considers necessary to prevent the continued unauthorized use of the device.~~

~~B. A registered service representative may also:~~

~~1. With approval of the department, remove an official rejection tag placed on a commercial device.~~

~~2. Place in service, until an official examination can be made, a commercial device that has been officially rejected or placed out of service.~~

~~3. Place in service, until an official examination can be made, a commercial device for which a commercial device application has been completed and submitted to the department.~~

~~C.~~ B. The owner of any business who has not applied for and has not been issued a ~~license~~ PERMIT BY THE DEPARTMENT for the right to do business involving the use of a ~~commercial device by the department~~ VEHICLE FOR HIRE and who is found ~~selling or offering for sale or delivering or distributing~~ OFFERING VEHICLE FOR HIRE SERVICES to a consumer is guilty of a class 2 misdemeanor. ~~, and the department shall confiscate and seize the commercial device or any other such measuring device used by the business for the sale, delivery or distribution as evidence.~~

~~D. The director and any other authorized personnel are not liable to the owner or any other persons, firms, partnerships, corporations, trusts or agencies for damages, directly or indirectly, caused by or resulting from the seizure.~~

~~E.~~ C. If a ~~commercial device licensed pursuant to this chapter~~ VEHICLE FOR HIRE is used contrary to any provision of this chapter or any rule adopted pursuant to this chapter, the department, in addition to any other penalty imposed by this chapter, shall suspend, revoke or refuse to renew the ~~license~~ PERMIT OF THE VEHICLE FOR HIRE COMPANY.

Sec. 46. Section 28-9522, Arizona Revised Statutes, is amended to read:

28-9522. Revocation or suspension of permits; procedure; judicial review

A. Except as otherwise provided by this section, any proceeding to revoke or suspend a ~~license~~ PERMIT issued pursuant to this chapter shall be conducted in accordance with title 41, chapter 6, article 10.

B. The director may initiate proceedings for revocation or suspension of a ~~license~~ PERMIT issued pursuant to this chapter on the director's own motion or on a verified complaint for noncompliance with or a violation of this chapter or of any rule adopted pursuant to this chapter.

C. If, after having been served with the notice of hearing as provided for in title 41, chapter 6, article 10, the ~~licensee~~ PERMITTEE fails to appear at the hearing and defend, the department shall proceed to hear evidence against the ~~licensee~~ PERMITTEE and shall enter an order as justified by the evidence. The order is final unless the ~~licensee~~ PERMITTEE petitions for a review as provided in title 41, chapter 6, article 10.

D. At all hearings, the attorney general of this state, an assistant attorney general or a special assistant designated by the attorney general shall appear and represent the department.

E. Except as provided in section 41-1092.08, subsection H, any final administrative decision made pursuant to this chapter is subject to judicial review pursuant to title 12, chapter 7, article 6.

Sec. 47. Section 28-9523, Arizona Revised Statutes, is amended to read:

28-9523. Violations; classification; jurisdiction

A. A person is guilty of a class 1 misdemeanor who:

1. Knowingly hinders, interferes with or obstructs in any way the director or any of the director's agents or inspectors in entering the premises where a ~~commercial device~~ TAXI METER may be kept for inspecting or testing or in the performance of the ~~director's~~ OFFICIAL DUTIES OF THE DIRECTOR or the director's ~~agent's~~ AGENTS or ~~inspector's official duties~~ INSPECTORS.

2. Impersonates in any way the director or any of the director's agents or inspectors by the use of the director's seal or a counterfeit of the director's seal or in any other manner.

3. Uses, or has in possession for the purpose of using for ~~any~~ A commercial purpose, ~~sells,~~ offers or exposes for sale or hire, or has in possession for the purpose of selling or hiring an incorrect ~~weight or measure or any device or instrument~~ TAXI METER used or calculated to falsify ~~any weight or measure~~ THE ACCURACY OF THE TAXI METER.

~~4. Sells, or offers or exposes for sale, less than the quantity the person represents of any commodity, thing or service.~~

~~5. Takes more than the quantity the person represents of any commodity, thing or service, when, as buyer, the person furnishes the weight~~

~~or measure by means of which the amount of the commodity, thing or service is determined.~~

B. A person is guilty of a class 2 misdemeanor who:

~~1. Uses, or has in possession for the purpose of current use for any commercial purpose, a weight or measure that does not bear a seal or mark of approval based on an inspection and test, unless the weight or measure has been exempted from testing by order of the department, or unless the device has been placed in service as provided in this chapter. Any person or persons making use of a commercial device that is subject to this chapter shall report to the director or the director's representatives, in writing, the number and location of the commercial device and shall promptly report the installation of any new commercial device.~~

~~2. Disposes of any rejected or condemned weight or measure in a manner contrary to law or rule.~~

~~3. Removes from any weight or measure, contrary to law or rule, any tag, seal or mark placed on the weight or measure by the appropriate authority pursuant to this chapter.~~

~~4. Keeps for the purpose of selling, advertising or offering or exposing for sale or sells any commodity, thing or service in a condition or manner contrary to law or rule.~~

~~5.~~ 1. Uses ~~in retail trade, except in the preparation of packages put up in advance of sale and of medical prescriptions, a weight or measure~~ A TAXI METER that is so positioned that its indications cannot be accurately read and the ~~weighing,~~ metering~~, measuring or counting~~ operation cannot be observed from some position that may reasonably be assumed by a customer.

~~6.~~ 2. Violates this chapter or rules adopted under this chapter. A continuing violation may be deemed to be a separate violation each day during which the violation is committed for the purpose of imposing a fine.

C. The provisions of this section are in addition to and not in limitation of any other provision of law.

D. The attorney general and the county attorney ~~shall~~ have concurrent jurisdiction to prosecute violations of this chapter.

Sec. 48. Section 28-9524, Arizona Revised Statutes, is amended to read:

28-9524. Presumptive evidence of use

When a ~~weight, measure, meter, counter or commercial device~~ TAXI METER is in or about any place in which or from which ~~buying or selling~~ A VEHICLE FOR HIRE TRANSACTION is commonly carried on, there ~~shall be~~ IS a rebuttable presumption that the ~~weight, measure, meter, counter or commercial device~~ TAXI METER is regularly used for the business purpose of the place.

Sec. 49. Section 28-9525, Arizona Revised Statutes, is amended to read:

28-9525. Civil penalties

A. A person who violates this chapter, any rule of the department or any ~~license~~ PERMIT requirement is subject to a civil penalty imposed by the

director. A person who violates this chapter, any rule of the department or any ~~license~~ PERMIT requirement may request a hearing to review a civil penalty imposed under this section. The department shall conduct the hearing in accordance with title 41, chapter 6, article 10. ~~Except as prescribed in subsection B of this section,~~ The civil penalty may not exceed one thousand dollars for each infraction ~~or more than ten thousand dollars for any thirty-day period~~ at each business location. ~~or for each public weighmaster, provided that no person shall be assessed more than fifty thousand dollars per thirty-day period.~~

~~B. The director may double the maximum civil penalty if any of the following applies:~~

~~1. A commercial device is found to be in violation with results that favor the retailer at more than twice the allowable tolerance as stated in national institute of standards and technology handbook 44.~~

~~2. A package is found to exceed the maximum allowable variation for the labeled quantity allowed in national institute of standards and technology handbook 133 or the average error of the lot is twice the sample error limit in favor of the retailer.~~

~~3. A maximum civil penalty has been imposed on a retailer for a price posting or price verification violation and in a reinspection, if conducted within ninety days, the failure rate is ten percent or more and at least one error is in favor of the retailer.~~

~~C.~~ B. The attorney general shall bring actions to recover civil penalties pursuant to this section in the superior court in the county in which the violation occurred or in a county where the agency has its office. All monies derived from civil penalties shall be deposited, pursuant to sections 35-146 and 35-147, in the state general fund.

Sec. 50. Section 28-9526, Arizona Revised Statutes, is amended to read:

28-9526. Delinquent civil penalties and fees

In addition to any other penalty, if a civil penalty or any fee due pursuant to this chapter has not been paid within thirty days after the due date, the civil penalty or fee is delinquent and the department may refuse to issue a ~~license~~ PERMIT or may revoke a ~~license~~ PERMIT pursuant to this chapter until the civil penalty or fee is paid in full.

Sec. 51. Section 28-9551, Arizona Revised Statutes, is amended to read:

28-9551. Definitions

In this article, unless the context otherwise requires:

1. "Digital network or software application" means any online-enabled application, software, website or system that is offered or used by a transportation network company and that enables a potential passenger to arrange a ride with a transportation network company driver.

~~2. "Limousine" means a motor vehicle providing prearranged ground transportation service for an individual passenger, or a group of passengers,~~

~~that is arranged in advance or is operated on a regular route or between specified points and includes ground transportation under a contract or agreement for services that includes a fixed rate or time and is provided in a motor vehicle with a seating capacity not exceeding fifteen passengers, including the driver.~~

~~3. "Livery vehicle" means a motor vehicle that:~~

~~(a) Has a seating capacity not exceeding fifteen passengers, including the driver.~~

~~(b) Provides passenger services for a fare determined by a flat rate or flat hourly rate between geographic zones or within a geographic area.~~

~~(c) Is available for hire on an exclusive or shared ride basis.~~

~~(d) May do any of the following:~~

~~(i) Operate on a regular route or between specified places.~~

~~(ii) Offer prearranged ground transportation service as defined in section 28-141.~~

~~(iii) Offer on demand ground transportation service pursuant to a contract with a public airport, licensed business entity or organization.~~

~~4. "Person" means both the plural and the singular, as the case demands, and includes individuals, partnerships, corporations, companies, societies and associations.~~

~~5. "Taxi" means a motor vehicle that has a seating capacity not exceeding fifteen passengers, including the driver, that is registered as a taxi in this state or any other state, that provides passenger services and that:~~

~~(a) Does not primarily operate on a regular route or between specified places.~~

~~(b) Offers local transportation for a fare determined on the basis of the distance traveled or prearranged ground transportation service as defined in section 28-141 for a predetermined fare.~~

~~6.~~ 2. "Trade dress" means a removable and distinct logo, insignia or emblem attached to or visible from the exterior of EITHER OF THE FOLLOWING:

(a) A transportation network company vehicle during the performance of transportation network services.

(b) A TAXI WHILE PROVIDING VEHICLE FOR HIRE SERVICES.

~~7.~~ 3. "Transportation network company" means an entity that has been issued a permit pursuant to this article, that operates in this state, that uses a digital network or software application to connect passengers to transportation network services provided by transportation network company drivers and that may but is not deemed to own, operate or control a personal motor vehicle of a transportation network company driver. Transportation network company does not include the following:

(a) This state or a county, city, town or political subdivision of this state and any related entity, a nonprofit agency or any other public body that coordinates, operates, promotes or sponsors public transportation~~,~~ OR carpool or vanpool services.

(b) A program that is in place to meet federal air quality standards pursuant to section 49-404.

(c) Any individual, company or activity that meets the requirements of a rental car agent or rental company as defined in section 20-331 if all of the following apply:

(i) Transportation is provided to another person or is arranged by the rental company but provided by another person.

(ii) The route is predetermined.

(iii) Any money exchanged between the provider of the transportation and the recipient does not exceed the cost of providing the transportation.

~~8.~~ 4. "Transportation network company driver" means an individual who receives connections to potential passengers and related services from a transportation network company in exchange for payment of a fee to the transportation network company and who operates a motor vehicle that is both of the following:

(a) Owned, leased or otherwise authorized for use by the individual.

(b) Used to provide transportation network services.

~~9.~~ 5. "Transportation network company vehicle" means a motor vehicle that meets all of the following:

(a) Has a seating capacity not exceeding eight passengers, including the driver.

(b) Is authorized by a transportation network company.

(c) Is used by a transportation network company driver to provide transportation network services.

~~10.~~ 6. "Transportation network services" means the transportation of a passenger between points chosen by the passenger and arranged with a transportation network company driver through the use of a transportation network company's digital network or software application beginning when a transportation network company driver accepts a request for transportation network services received through the transportation network company's digital network or software application, continuing while the transportation network company driver provides transportation network services in a transportation network company vehicle and ending when the passenger exits the transportation network company vehicle or when the trip is canceled.

Sec. 52. Section 28-9552, Arizona Revised Statutes, is amended to read:

28-9552. <u>Transportation network companies; permit; fee; agent; trade dress</u>

A. A person may not act as a transportation network company driver in this state unless the transportation network company has been issued a permit by the department. The ~~person~~ TRANSPORTATION NETWORK COMPANY may apply to the department on forms prescribed by the department. The department shall charge and collect an application fee as determined by the director.

B. The department shall issue a permit to an applicant that meets the requirements of this article.

C. A transportation network company shall maintain an agent for service of process in this state.

D. A transportation network company vehicle shall display trade dress while being used to provide transportation network services. The trade dress shall identify the transportation network company vehicle with a particular transportation network company. The transportation network company shall file an illustration of the trade dress with the department.

E. A transportation network company shall be regulated pursuant to this article and not as a ~~taxi, livery vehicle or limousine service~~ VEHICLE FOR HIRE.

Sec. 53. Section 28-9556, Arizona Revised Statutes, is amended to read:

28-9556. Transportation network services; civil penalty; street hails prohibited; records

A. A transportation network company driver shall accept rides booked and paid for exclusively through a transportation network company's digital network or software application. The department may impose a civil penalty of not more than one thousand five hundred dollars per violation against any transportation network company driver who is found to be soliciting or accepting street hails.

~~B. Subsection A of this section does not apply to a transportation network company driver of a transportation network company vehicle insured pursuant to section 28-4038, subsection C.~~

~~C.~~ B. A transportation network company shall maintain individual trip records for at least one year after the date each trip was provided and transportation network company driver records until the one-year anniversary of the date of the driver's activation on the transportation network company's digital network or software application has ended and shall make the records available to the department on request.

Sec. 54. Section 41-1092.02, Arizona Revised Statutes, is amended to read:

41-1092.02. Appealable agency actions; application of procedural rules; exemption from article

A. This article applies to all contested cases as defined in section 41-1001 and all appealable agency actions, except contested cases with or appealable agency actions of:

1. The state department of corrections.
2. The board of executive clemency.
3. The industrial commission of Arizona.
4. The Arizona corporation commission.
5. The Arizona board of regents and institutions under its jurisdiction.
6. The state personnel board.
7. The department of juvenile corrections.

8. The department of transportation, EXCEPT AS PROVIDED IN TITLE 28, CHAPTER 30, ARTICLE 2.

9. The department of economic security except as provided in section 46-458.

10. The department of revenue regarding:

(a) Income tax or withholding tax.

(b) Any tax issue related to information associated with the reporting of income tax or withholding tax unless the taxpayer requests in writing that this article apply and waives confidentiality under title 42, chapter 2, article 1.

11. The board of tax appeals.

12. The state board of equalization.

13. The state board of education, but only in connection with contested cases and appealable agency actions related to applications for issuance or renewal of a certificate and discipline of certificate holders pursuant to sections 15-203, 15-534, 15-534.01, 15-535, 15-545 and 15-550.

14. The board of fingerprinting.

15. The department of child safety except as provided in sections 8-506.01 and 8-811.

B. Unless waived by all parties, an administrative law judge shall conduct all hearings under this article, and the procedural rules set forth in this article and rules made by the director apply.

C. Except as provided in subsection A of this section:

1. A contested case heard by the office of administrative hearings regarding taxes administered under title 42 shall be subject to ~~the provisions under~~ section 42-1251.

2. A final decision of the office of administrative hearings regarding taxes administered under title 42 may be appealed by either party to the director of the department of revenue, or a taxpayer may file and appeal directly to the board of tax appeals pursuant to section 42-1253.

D. Except as provided in subsections A, B, E, F and G of this section and notwithstanding any other administrative proceeding or judicial review process established in statute or administrative rule, this article applies to all appealable agency actions and to all contested cases.

E. Except for a contested case or an appealable agency action regarding unclaimed property, sections 41-1092.03, 41-1092.08 and 41-1092.09 do not apply to the department of revenue.

F. The board of appeals established by section 37-213 is exempt from:

1. The time frames for hearings and decisions provided in section 41-1092.05, subsection A, section 41-1092.08 and section 41-1092.09.

2. The requirement in section 41-1092.06, subsection A to hold an informal settlement conference at the appellant's request if the sole subject of an appeal pursuant to section 37-215 is the estimate of value reported in an appraisal of lands or improvements.

G. Auction protest procedures pursuant to title 37, chapter 2, article 4.1 are exempt from this article.

Sec. 55. Section 42-5062, Arizona Revised Statutes, is amended to read:

42-5062. Transporting classification

A. The transporting classification is comprised of the business of transporting for hire persons, freight or property by motor vehicle, railroads or aircraft from one point to another point in this state. The transporting classification does not include:

1. Transporting for hire persons, freight or property by:

(a) Motor carriers subject to a fee prescribed in title 28, chapter 16, article 4. ~~or by~~

(b) Light motor vehicles subject to a fee under title 28, chapter 15, article 4. ~~,~~

(c) Transportation network companies subject to a fee prescribed ~~by~~ PURSUANT TO section 28-9552. ~~or~~

(d) Transportation network company drivers on transactions involving transportation network services as defined in section 28-9551.

(e) VEHICLE FOR HIRE COMPANIES THAT ARE ISSUED PERMITS PURSUANT TO SECTION 28-9503.

(f) VEHICLE FOR HIRE DRIVERS OPERATING UNDER A COMPANY PERMIT ISSUED PURSUANT TO SECTION 28-9503 ON TRANSACTIONS INVOLVING VEHICLE FOR HIRE SERVICES.

2. The business of transporting for hire persons traveling in air commerce by aircraft if taxation of the business is preempted by federal law.

3. Ambulances or ambulance services provided under title 48 or certified pursuant to title 36, chapter 21.1 or provided by a city or town in a county with a population of less than one hundred fifty thousand persons as determined in the most recent United States decennial census.

4. Public transportation program services for the dial-a-ride programs and special needs transportation services.

5. Transporting freight or property for hire by a railroad operating exclusively in this state if the transportation comprises a portion of a single shipment of freight or property, involving more than one railroad, either from a point in this state to a point outside this state or from a point outside this state to a point in this state. For the purposes of this paragraph, "a single shipment" means the transportation that begins at the point at which one of the railroads first takes possession of the freight or property and continues until the point at which one of the railroads relinquishes possession of the freight or property to a party other than one of the railroads.

6. Arranging transportation as a convenience or service to a person's customers if that person is not otherwise engaged in the business of transporting persons, freight or property for hire. This exception does not apply to businesses that dispatch vehicles pursuant to customer orders and

send the billings and receive the payments associated with that activity, including when the transportation is performed by third-party independent contractors. For the purposes of this paragraph, "arranging" includes billing for or collecting transportation charges from a person's customers on behalf of the persons providing the transportation.

B. The tax base for the transporting classification is the gross proceeds of sales or gross income derived from the business, except that the following shall be deducted from the tax base:

1. The gross proceeds of sales or gross income derived from transporting for hire persons, freight or property by a railroad pursuant to a contract with another railroad that is also considered to be engaged in the businesses of transporting persons, freight or property for hire if the other railroad is liable for the tax on gross proceeds of sales or gross income attributable to the transportation.

2. The gross proceeds of sales or gross income derived from business activity that is properly included in any other business classification under this article and that is taxable to the person engaged in that classification, but the gross proceeds of sales or gross income to be deducted shall not exceed the consideration paid to the person conducting the activity.

3. The gross proceeds of sales or gross income derived from a business activity that is arranged by the person who is subject to tax under this section and that is not taxable to the person conducting the activity due to an exclusion, exemption or deduction under this section or section 42-5073, but the gross proceeds of sales or gross income to be deducted shall not exceed the consideration paid to the person conducting the activity.

4. The gross proceeds of sales or gross income derived from business activity that is arranged by a person who is subject to tax under this section and that is taxable to another person under this section who conducts the activity, but the gross proceeds of sales or gross income to be deducted shall not exceed the consideration paid to the person conducting the activity.

5. The gross proceeds of sales or gross income derived from transporting fertilizer by a railroad from a point in this state to another point in this state.

Sec. 56. Section 42-6004, Arizona Revised Statutes, is amended to read:

42-6004. <u>Exemption from municipal tax; definitions</u>

A. A city, town or special taxing district shall not levy a transaction privilege, sales, use or other similar tax on:

1. Exhibition events in this state sponsored, conducted or operated by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national

1 touring professional golfing association and no part of the organization's
2 net earnings inures to the benefit of any private shareholder or individual.
3 2. Interstate telecommunications services, which include that portion
4 of telecommunications services, such as subscriber line service, allocable by
5 federal law to interstate telecommunications service.
6 3. Sales of warranty or service contracts.
7 4. Sales of motor vehicles to nonresidents of this state for use
8 outside this state if the motor vehicle dealer ships or delivers the motor
9 vehicle to a destination outside this state.
10 5. Interest on finance contracts.
11 6. Dealer documentation fees on the sales of motor vehicles.
12 7. Sales of food or other items purchased with United States
13 department of agriculture food stamp coupons issued under the food stamp act
14 of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section
15 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661,
16 section 4302; 42 United States Code section 1786) but may impose such a tax
17 on other sales of food. If a city, town or special taxing district exempts
18 sales of food from its tax or imposes a different transaction privilege rate
19 on the gross proceeds of sales or gross income from sales of food and nonfood
20 items, it shall use the definition of food prescribed by rule adopted by the
21 department pursuant to section 42-5106.
22 8. Orthodontic devices dispensed by a dental professional who is
23 licensed under title 32, chapter 11 to a patient as part of the practice of
24 dentistry.
25 9. Sales of internet access services to the person's subscribers and
26 customers. For the purposes of this paragraph:
27 (a) "Internet" means the computer and telecommunications facilities
28 that comprise the interconnected worldwide network of networks that employ
29 the transmission control protocol or internet protocol, or any predecessor or
30 successor protocol, to communicate information of all kinds by wire or radio.
31 (b) "Internet access" means a service that enables users to access
32 content, information, electronic mail or other services over the internet.
33 Internet access does not include telecommunication services provided by a
34 common carrier.
35 10. The gross proceeds of sales or gross income retained by the Arizona
36 exposition and state fair board from ride ticket sales at the annual Arizona
37 state fair.
38 11. Through August 31, 2014, sales of Arizona centennial medallions by
39 the historical advisory commission.
40 12. Leasing real property between affiliated companies, businesses,
41 persons or reciprocal insurers. For the purposes of this paragraph:
42 (a) "Affiliated companies, businesses, persons or reciprocal insurers"
43 means the lessor holds a controlling interest in the lessee, the lessee holds
44 a controlling interest in the lessor, affiliated persons hold a controlling

interest in both the lessor and the lessee, or an unrelated person holds a controlling interest in both the lessor and lessee.

(b) "Affiliated persons" means members of the individual's family or persons who have ownership or control of a business entity.

(c) "Controlling interest" means direct or indirect ownership of at least eighty percent of the voting shares of a corporation or of the interests in a company, business or person other than a corporation.

(d) "Members of the individual's family" means the individual's spouse and brothers and sisters, whether by whole or half blood, including adopted persons, ancestors and lineal descendants.

(e) "Reciprocal insurer" has the same meaning prescribed in section 20-762.

13. The gross proceeds of sales or gross income derived from a contract for the installation, assembly, repair or maintenance of machinery, equipment or other tangible personal property that is described in section 42-5061, subsection B and that has independent functional utility, pursuant to the following provisions:

(a) The deduction provided in this paragraph includes the gross proceeds of sales or gross income derived from all of the following:

(i) Any activity performed on machinery, equipment or other tangible personal property with independent functional utility.

(ii) Any activity performed on any tangible personal property relating to machinery, equipment or other tangible personal property with independent functional utility in furtherance of any of the purposes provided for under subdivision (d) of this paragraph.

(iii) Any activity that is related to the activities described in items (i) and (ii) of this subdivision, including inspecting the installation of or testing the machinery, equipment or other tangible personal property.

(b) The deduction provided in this paragraph does not include gross proceeds of sales or gross income from the portion of any contracting activity that consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of machinery, equipment or other tangible personal property described in section 42-5061, subsection B.

(c) The deduction provided in this paragraph shall be determined without regard to the size or useful life of the machinery, equipment or other tangible personal property.

(d) For the purposes of this paragraph, "independent functional utility" means that the machinery, equipment or other tangible personal property can independently perform its function without attachment to real property, other than attachment for any of the following purposes:

(i) Assembling the machinery, equipment or other tangible personal property.

(ii) Connecting items of machinery, equipment or other tangible personal property to each other.

(iii) Connecting the machinery, equipment or other tangible personal property, whether as an individual item or as a system of items, to water, power, gas, communication or other services.

(iv) Stabilizing or protecting the machinery, equipment or other tangible personal property during operation by bolting, burying or performing other dissimilar nonpermanent connections to either real property or real property improvements.

14. The leasing or renting of certified ignition interlock devices installed pursuant to the requirements prescribed by section 28-1461. For the purposes of this paragraph, "certified ignition interlock device" has the same meaning prescribed in section 28-1301.

15. Computer data center equipment purchased by the owner, operator or qualified colocation tenant of the computer data center or an authorized agent of the owner, operator or qualified colocation tenant during the qualification period for use in a computer data center that is certified by the Arizona commerce authority under section 41-1519. To qualify for this deduction, at the time of purchase, the owner, operator or qualified colocation tenant must present to the retailer its certificate that is issued pursuant to section 41-1519 and that establishes its qualification for the deduction. For the purposes of this paragraph, "computer data center", "computer data center equipment", "qualification period" and "qualified colocation tenant" have the same meanings prescribed in section 41-1519.

16. The gross proceeds of sales or gross income derived from a contract with the owner of real property or improvements to real property for the maintenance, repair, replacement or alteration of existing property, except as specified in this paragraph. The gross proceeds of sales or gross income derived from a de minimis amount of modification activity does not subject the contract or any part of the contract to tax. For the purposes of this paragraph:

(a) Each contract is independent of another contract, except that any change order that directly relates to the scope of work of the original contract shall be treated the same as the original contract under this ~~chapter~~ PARAGRAPH, regardless of the amount of modification activities included in the change order. If a change order does not directly relate to the scope of work of the original contract, the change order shall be treated as a new contract, with the tax treatment of any subsequent change order to follow the tax treatment of the contract to which the scope of work of the subsequent change order directly relates.

(b) Any term not defined in this paragraph that is defined in section 42-5075 has the same meaning prescribed in section 42-5075.

(c) This paragraph does not apply to a contract that primarily involves surface or subsurface improvements to land and that is subject to title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 even if the contract also includes vertical improvements. If a city or town imposes a tax on contracts that are subject to procurement processes under those

provisions, the city or town shall include in the request for proposals a notice to bidders when those projects are subject to the tax. This subdivision does not apply to contracts with:

(i) Community facilities districts, fire districts, county television improvement districts, community park maintenance districts, cotton pest control districts, hospital districts, pest abatement districts, health service districts, agricultural improvement districts, county free library districts, county jail districts, county stadium districts, special health care districts, public health services districts, theme park districts, regional attraction districts or revitalization districts.

(ii) Any special taxing district not specified in item (i) of this subdivision if the district does not substantially engage in the modification, maintenance, repair, replacement or alteration of surface or subsurface improvements to land.

17. Monitoring services relating to an alarm system as defined in section 32-101.

18. Tangible personal property, job printing or publications sold to or purchased by, or tangible personal property leased, rented or licensed for use to or by, a qualifying health sciences educational institution as defined in section 42-5001.

19. The transfer of title or possession of coal back and forth between an owner or operator of a power plant and a person who is responsible for refining coal if both of the following apply:

(a) The transfer of title or possession of the coal is for the purpose of refining the coal.

(b) The title or possession of the coal is transferred back to the owner or operator of the power plant after completion of the coal refining process. For the purposes of this subdivision, "coal refining process" means the application of a coal additive system that aids the reduction of power plant emissions during the combustion of coal and the treatment of flue gas.

20. The gross proceeds of sales or gross income from sales of low or reduced cost articles of food or drink to eligible elderly or homeless persons or persons with a disability by a business subject to tax under section 42-5074 that contracts with the department of economic security and that is approved by the food and nutrition service of the United States department of agriculture pursuant to the supplemental nutrition assistance program established by the food and nutrition act of 2008 (P.L. 110-246; 122 Stat. 1651; 7 United States Code sections 2011 through 2036a), if the purchases are made with the benefits issued pursuant to the supplemental nutrition assistance program.

21. Tangible personal property incorporated or fabricated into a project described in paragraph 16 of this subsection, that is located within the exterior boundaries of an Indian reservation for which the owner, as defined in section 42-5075, of the project is an Indian tribe or an affiliated Indian. For the purposes of this paragraph:

(a) "Affiliated Indian" means an individual native American Indian who is duly registered on the tribal rolls of the Indian tribe for whose benefit the Indian reservation was established.

(b) "Indian reservation" means all lands that are within the limits of areas set aside by the United States for the exclusive use and occupancy of an Indian tribe by treaty, law or executive order and that are recognized as Indian reservations by the United States department of the interior.

(c) "Indian tribe" means any organized nation, tribe, band or community that is recognized as an Indian tribe by the United States department of the interior and includes any entity formed under the laws of that Indian tribe.

22. The charges for the leasing or renting of space to make attachments to utility poles as follows:

(a) By a person that is engaged in the business of providing or furnishing electrical services or telecommunication services or that is a cable operator.

(b) To a person that is engaged in the business of providing or furnishing electrical services or telecommunication services or that is a cable operator.

B. A city, town or other taxing jurisdiction shall not levy a transaction privilege, sales, use, franchise or other similar tax or fee, however denominated, on natural gas or liquefied petroleum gas used to propel a motor vehicle.

C. A city, town or other taxing jurisdiction shall not levy a transaction privilege, sales, gross receipts, use, franchise or other similar tax or fee, however denominated, on gross proceeds of sales or gross income derived from any of the following:

1. A motor carrier's use on the public highways in this state if the motor carrier is subject to a fee prescribed in title 28, chapter 16, article 4.

2. Leasing, renting or licensing a motor vehicle subject to and on which the fee has been paid under title 28, chapter 16, article 4.

3. The sale of a motor vehicle and any repair and replacement parts and tangible personal property becoming a part of such motor vehicle to a motor carrier who is subject to a fee prescribed in title 28, chapter 16, article 4 and who is engaged in the business of leasing, renting or licensing such property.

4. Incarcerating or detaining in a privately operated prison, jail or detention facility prisoners who are under the jurisdiction of the United States, this state or any other state or a political subdivision of this state or of any other state.

5. Transporting for hire persons, freight or property by light motor vehicles subject to a fee under title 28, chapter 15, article 4.

6. Any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the model city tax code or by a contractor providing services to the taxpayer. For the purposes of this paragraph:

(a) The attributable amount shall not exceed the value of the development fees actually imposed.

(b) The attributable amount is equal to the total amount of development fees paid by the taxpayer or by a contractor providing services to the taxpayer and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.

(c) "Development fees" means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to section 9-463.05, section 11-1102 or title 48 regardless of the jurisdiction to which the fees are paid.

7. ANY AMOUNT ATTRIBUTABLE TO FEES COLLECTED BY TRANSPORTATION NETWORK COMPANIES ISSUED A PERMIT PURSUANT TO SECTION 28-9552.

8. TRANSPORTING FOR HIRE PERSONS BY TRANSPORTATION NETWORK COMPANY DRIVERS ON TRANSACTIONS INVOLVING TRANSPORTATION NETWORK SERVICES AS DEFINED IN SECTION 28-9551.

9. TRANSPORTING FOR HIRE PERSONS BY VEHICLE FOR HIRE COMPANIES THAT ARE ISSUED PERMITS PURSUANT TO SECTION 28-9503.

10. TRANSPORTING FOR HIRE PERSONS BY VEHICLE FOR HIRE DRIVERS ON TRANSACTIONS INVOLVING VEHICLE FOR HIRE SERVICES AS DEFINED IN SECTION 28-9501.

D. A city, town or other taxing jurisdiction shall not levy a transaction privilege, sales, use, franchise or other similar tax or fee, however denominated, in excess of one-tenth of one percent of the value of the entire product mined, smelted, extracted, refined, produced or prepared for sale, profit or commercial use, on persons engaged in the business of mineral processing, except to the extent that the tax is computed on the gross proceeds or gross income from sales at retail.

E. In computing the tax base, any city, town or other taxing jurisdiction shall not include in the gross proceeds of sales or gross income:

1. A manufacturer's cash rebate on the sales price of a motor vehicle if the buyer assigns the buyer's right in the rebate to the retailer.

2. The waste tire disposal fee imposed pursuant to section 44-1302.

F. A city or town shall not levy a use tax on the storage, use or consumption of tangible personal property in the city or town by a school district or charter school.

G. For the purposes of this section:

1. "Cable operator" has the same meaning prescribed by section 9-505.

2. "Electrical services" means transmitting or distributing electricity, electric lights, current or power over lines, wires or cables.

3. "Telecommunication services" means transmitting or relaying sound, visual image, data, information, images or material over lines, wires or cables by radio signal, light beam, telephone, telegraph or any other electromagnetic means.

4. "Utility pole" means any wooden, metal or other pole used for utility purposes and the pole's appurtenances that are attached or authorized for attachment by the person controlling the pole.

Sec. 57. Laws 2014, chapter 132, section 11 is amended to read:

Sec. 11. Delayed repeal

Section ~~41-2135~~ 3-3515, Arizona Revised Statutes, ~~as added by this act,~~ is repealed from and after September 30, 2018.

Sec. 58. Exemption from rulemaking

For the purposes of this act and Laws 2015, chapter 244, the Arizona department of agriculture and the department of transportation are exempt from the rulemaking requirements of title 41, chapter 6, Arizona Revised Statutes, for one year after the effective date of this act.

Sec. 59. Effective date

A. Sections 3-105, 3-615, 3-3401, 3-3412, 3-3414, 3-3415, 3-3416, 3-3417, 3-3431, 3-3433, 3-3434, 3-3436, 3-3437, 3-3451, 3-3452, 3-3453, 3-3454, 3-3473, 3-3475, 3-3476, 3-3512, 3-3514, 28-101, 28-141, 28-2401, 28-4038, 28-9501, 28-9502, 28-9503, 28-9506, 28-9507, 28-9521, 28-9522, 28-9523, 28-9524, 28-9525, 28-9526, 28-9551, 28-9552, 28-9556 and 41-1092.02, Arizona Revised Statutes, as amended by this act, are effective from and after June 30, 2016.

B. Section 3-102, Arizona Revised Statutes, as amended by Laws 2015, chapter 244, section 3 and this act, is effective from and after June 30, 2016.

C. Section 9-499.18, Arizona Revised Statutes, as amended by Laws 2015, chapter 244, section 26 and this act, is effective from and after June 30, 2016.

D. Sections 3-3491, 3-3492, 3-3493, 3-3494 and 3-3498, Arizona Revised Statutes, as renumbered and amended by this act, are effective from and after June 30, 2016.

E. Sections 3-3419 and 28-9527, Arizona Revised Statutes, as added by this act, are effective from and after June 30, 2016.

F. Section 3-3491, Arizona Revised Statutes, as amended by Laws 2015, chapter 244, section 2 and as repealed by this act, is effective from and after June 30, 2016.

G. Sections 28-5493 and 28-5860, Arizona Revised Statutes, as repealed by this act, are effective from and after June 30, 2016.

1 H. Sections 42-5062 and 42-6004, Arizona Revised Statutes, as amended
2 by this act, are effective for taxable periods beginning from and after the
3 last day of the month of the general effective date of the fifty-second
4 legislature, second regular session.
5 I. Laws 2014, chapter 132, section 11, as amended by this act, is
6 effective from and after June 30, 2016.

APPROVED BY THE GOVERNOR MAY 12, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 12, 2016.

Passed the House March 1, 20 16

by the following vote: 59 Ayes,

0 Nays, 1 Not Voting

Speaker of the House

☐ Pro Tempore

Chief Clerk of the House

Passed the Senate March 30, 20 16

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

President of the Senate

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. 2171

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

May 6, 2016,

by the following vote: 54 Ayes,

0 Nays, 6 Not Voting

Speaker of the House

Jim Drake
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

6th day of May, 2016,

at 3:42 o'clock P. M.

Secretary to the Governor

Approved this 12th day of

May, 2016,

at 9:34 o'clock A. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 12TH day of May, 2016,

at 12:18 o'clock P M.

Michele Reagan
Secretary of State

H.B. 2171