Conference Engrossed

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MICHELE REAGAN
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CHAPTER 258

SENATE BILL 1202

AN ACT

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

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. 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 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, 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 OFFICE OF 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 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. 2. Section 3-3515, Arizona Revised Statutes, is amended to read:

3-3515. Stage II vapor recovery systems

A. A person shall not offer for sale, sell, install or use a new gasoline 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 division, and has not been rejected by the division. The division shall maintain and keep current a list of stage II 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. In an ozone nonattainment area designated as moderate, serious, severe or extreme by the United States environmental protection agency under section 107(d) of the clean air act or area A, an owner or operator of a gasoline dispensing site shall not transfer or allow the transfer of gasoline into a motor vehicle fuel tank at a gasoline dispensing site unless the gasoline dispensing site is equipped with a stage II vapor recovery system, unless the stage II equipment has been decommissioned in accordance with the procedures established pursuant to subsection H of this section. This subsection does not apply to gasoline dispensing sites with a throughput of less than ten thousand gallons per month, or to a gasoline dispensing site with a throughput of less than fifty thousand gallons per month in the case of an independent small business marketer of gasoline as defined in section 324 of the clean air act or to a gasoline dispensing site that is located on a manufacturer's proving ground. This subsection applies to gasoline dispensing sites that are located within area A but outside the Phoenix area Maricopa county ozone nonattainment area as defined in 40 Code of Federal Regulations section 81.303.

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

1. Install all necessary stage II 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 II vapor recovery systems.

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

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

D. Before the modification of any stage II 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. The division shall prescribe forms for the application for the plan review and approval.

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

F. The division in consultation with the department of environmental quality and the OFFICE OF THE state fire marshal shall establish by rule standards for the installation and operation of stage II 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.

G. Approval of a stage II 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.

H. The division in consultation with the department of environmental quality and the OFFICE OF THE state fire marshal shall establish by rule standards for decommissioning stage II vapor recovery systems on or after October 1, 2016 but not later than September 30, 2018, or such dates as approved by the United States environmental protection agency in the state implementation plan revision for the removal of stage II vapor recovery systems submitted under section 110(l) of the clean air act, whichever is later. The rules must require removal of stage II vapor recovery systems no later than September 30, 2018, or the final removal date approved by the United States environmental protection agency in the state implementation plan revision for the removal of stage II vapor recovery systems submitted under section 110(l) of the clean air act,

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

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

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

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

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

4-101. Definitions

In this title, unless the context otherwise requires:

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

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

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

4. "Board" means the state liquor board.

5. "Bona fide guest" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4-205.02. <u>Restaurant license; issuance; regulatory provisions; expiration; definitions</u>

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

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

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

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

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

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

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

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

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

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

I. For the purposes of this section:

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

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

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

9-808. <u>Fire apparatus access road or approved route; fire watch requirements; enforcement; intent; state preemption; definitions</u>

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

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

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

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

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

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

F. For the purposes of this section:

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

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

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

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

9-951. <u>Disposition of fire insurance premium tax proceeds; composition of fund</u>

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

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

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

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

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

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

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

9-952. Disposition of fire insurance premium tax

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

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

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

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

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

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

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

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

C. The board shall send a copy of the annual audit and report of the FIRE FIGHTERS' RELIEF AND PENSION fund to the OFFICE OF THE state fire marshal and the Arizona state library, archives and public records.

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

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

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

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

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

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

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

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

D. The board of supervisors may adopt a current wildland-urban interface code. The code may be adapted from a model code adopted by a national or international organization or association for mitigating the hazard to life and property. The board must follow written public procedures in the development and adoption of the code and any revisions

to the code to provide effective, early and continuous public participation through:

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

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

3. Open discussions, communications programs and information services.

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

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

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

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

adopted by a county regarding an approved fire apparatus access road, fire apparatus access road extension, approved route or route extension. For the purposes of this subsection:

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

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

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

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

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

15-2011. <u>Minimum school facility adequacy requirements; definition</u>

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

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

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

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

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

4. The buildings are structurally sound.

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

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

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

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

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

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

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

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

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

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

2. Geographic factors.

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

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

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

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

(a) Total gross square footage.

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

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

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

5. Include all portable and modular buildings.

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

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

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

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

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

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

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

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

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

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

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

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

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

20-224. Premium tax; reports

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

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

1. For fire insurance:

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

(b) On all other property, 2.2 percent.

2. For disability insurance, 2.0 percent.

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

4. For other insurance:

(a) For premiums received in calendar year 2016, 1.95 percent.

(b) For premiums received in calendar year 2017, 1.90 percent.

(c) For premiums received in calendar year 2018, 1.85 percent.

(d) For premiums received in calendar year 2019, 1.80 percent.

(e) For premiums received in calendar year 2020, 1.75 percent.

(f) For premiums received in calendar year 2021 and for each subsequent calendar year, 1.70 percent.

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

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

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

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

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

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

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

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

J. For the purposes of:

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

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

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

20-1901. <u>Definitions</u>

In this chapter, unless the context otherwise requires:

1. "Authorized agency" means:

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

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

(c) A county attorney.

(d) A county sheriff.

(e) The attorney general.

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

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

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

(i) The automobile theft authority.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36-883. Standards of care; rules; classifications

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

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

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

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

4. Nutritious and well-balanced food.

5. Encouragement of parental participation.

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

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

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

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

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

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

1. Facilities offering infant care.
2. Facilities offering specific educational programs.
3. Facilities offering evening and nighttime care.

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

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

36-1605. <u>Permitted uses; violations; civil penalties</u>

A. This article does not prohibit:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Dairy and milk license.

(ii) Egg and egg products license.

(iii) Feedlot license.

(iv) Citrus, fruit and vegetable license.

(v) Brand license.

(vi) Pesticide use license.

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

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

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

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

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

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

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

36-1609. <u>Office of the state fire marshal; adoption of code; sale of permissible consumer fireworks</u>

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

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

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

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

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

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

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

36-1636. Definitions

In this article, unless the context otherwise requires:

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

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

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

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

36-1645. Definitions

In this article, unless the context otherwise requires:

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

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

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

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

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

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

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

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

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

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

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

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

37-1302. <u>Powers and duties of state forester; rules; legislative presentation; acceptance of federal law</u>

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

C. The state forester may:

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

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

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

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

37-1303. <u>Suppression of wildfires; powers and duties of state forester; entry on private lands</u>

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

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

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

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

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

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

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

1. Prevention and suppression of wildfires.

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

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

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

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

G. WITHIN A WILDFIRE MANAGEMENT AREA, THE STATE FORESTER OR THE DESIGNATED WILDFIRE INCIDENT COMMANDER IS NOT RESPONSIBLE FOR THE SAFETY OR ACTIONS OF ANY PERSON OR PRIVATE ENTITY CONTRACTED TO PROVIDE WILDFIRE PROTECTION SERVICES FOR PRIVATE PROPERTY.

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

37-1307. <u>State fire safety committee; members; terms; powers and duties; compensation; fire watch requirements</u>

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

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

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

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

4. One member who is a member of the Arizona fire chiefs association.

5. One member who is a registered architect.

6. One member who is a chief building official of a city, town or county.

7. One member who is a member of the public.

8. One member who is a member of the public and who is engaged in the business of distributing, selling or providing liquefied petroleum gas to consumers.

B. The state fire safety committee shall annually select from its membership a chairperson for the committee. The committee shall meet on the call of the chairperson or on the request of at least five members.

C. The state fire safety committee shall advise the OFFICE OF THE state fire marshal on all of the following:

1. The adoption of a state fire code.

2. The adoption of a fee schedule for permits, plan submissions, plan reviews and reinspections.

3. The allocation of monies from the arson detection reward fund established by section 37-1387.

D. Members of the committee are not eligible to receive compensation for service on the committee but are eligible for reimbursement of expenses pursuant to title 38, chapter 4, article 2.

E. If the state fire safety committee requires the use of a fire watch, an employee who works at the building in which a fire watch is required may serve as the fire watch. A person who is designated as a fire watch shall be equipped with means to contact the local fire department, and the person's only duty shall be to perform constant patrols of the protected premises while keeping watch for fires. The local jurisdiction shall provide the fire watch with printed instructions from the OFFICE OF THE state fire marshal and may provide a free training session before the person's deployment as the fire watch begins. For the purposes of this subsection, "fire watch" means a person who is stationed in a building or in a place relative to a building to observe the building and its openings when the fire protection system for the building is temporarily nonoperational or absent.

Sec. 25. Repeal

Title 37, chapter 9, article 2, Arizona Revised Statutes, is repealed.

Sec. 26. Heading change

The article heading of title 37, chapter 9, article 4, Arizona Revised Statutes, is changed from "OFFICE OF STATE FIRE MARSHAL" to "OFFICE OF THE STATE FIRE MARSHAL".

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

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

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

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

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

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

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

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

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

B. Assistant fire inspectors appointed pursuant to subsection A of this section shall carry out their duties only within the geographic areas assigned by the ASSISTANT DIRECTOR OF THE OFFICE OF THE state fire marshal. When designating assistant fire inspectors and when assigning geographic areas, the ASSISTANT DIRECTOR OF THE OFFICE OF THE state fire marshal shall give a preference to assigning assistant fire inspectors to

the service area covered by the municipal or private fire service provider where the assistant fire inspector is employed.

C. Assistant fire inspectors appointed under subsection A, paragraph 2 or 3 of this section are not entitled to receive additional compensation for performing duties under this article, except that an employee of a public or private fire service provider who acts as an assistant fire inspector may charge fees to recover costs incurred in conducting inspections or for the review of plans and inspections of property. Assistant fire inspectors appointed under subsection A, paragraph 2 or 3 of this section or fire inspectors appointed pursuant to subsection E of this section shall have attended fire inspector training by an entity that meets nationally recognized standards and is approved by the OFFICE OF THE state fire marshal.

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

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

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

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

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

37-1383. <u>Powers and duties; arson investigators</u>

A. Under the authority and direction of the state forester, the ASSISTANT DIRECTOR OF THE OFFICE OF THE state fire marshal or a deputy

fire marshal or an assistant fire inspector acting at the direction of the ASSISTANT DIRECTOR OF THE OFFICE OF THE STATE fire marshal shall:

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

2. Adopt by rule a state fire code establishing minimum standards for:

(a) Safeguarding life and property from fire and fire hazards.

(b) The prevention of fires and alleviation of fire hazards.

(c) The storage, sale, distribution and use of dangerous chemicals, combustibles, flammable liquids, explosives and radioactive materials.

(d) The installation, maintenance and use of fire escapes, fire protection equipment, fire alarm systems, smoke detectors and fire extinguishing equipment.

(e) The means and adequacy of fire protection and exit in case of fire in places in which numbers of persons work, live or congregate, excluding family dwellings that have fewer than five residential dwelling units.

(f) Other matters relating to fire prevention and control that are considered necessary by the OFFICE OF THE state fire marshal.

3. Adopt rules and a schedule of fees for permits, plan submissions, plan reviews and reinspections that are payable by persons regulated under THIS article ~~4 of this chapter~~.

4. Adopt rules for the allocation of monies from the arson detection reward fund established by section 37-1387. The rules shall be consistent with the purposes set forth in section 37-1387 and shall promote the effective and efficient use of the fund monies.

5. Enforce compliance with the fire code adopted pursuant to this subsection throughout this state except in any city having a population of one hundred thousand persons or more that has in effect a nationally recognized fire code, whether modified or unmodified, and that has enacted an ordinance to assume such jurisdiction from the OFFICE OF THE state fire marshal. Such cities do not have authority that supersedes and are not exempt from the state fire code established pursuant to this subsection in state or county owned buildings wherever located throughout the state.

6. Cooperate and coordinate with other state agencies in the administration of the state fire code.

7. Establish a regularly scheduled fire safety inspection program for all state and county owned public buildings and all public and private school buildings wherever located throughout the state, except for private school buildings in cities with a population of one hundred thousand or more persons.

8. Inspect as necessary all other occupancies located throughout this state, except family dwellings having fewer than five residential dwelling units and occupancies located in cities with a population of one hundred thousand or more persons.

9. At the written request of county or municipal authorities, make and provide to them a written report of the examination made by the OFFICE OF THE state fire marshal of any fire within their jurisdiction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37-1384. Inspection; consent; search warrant

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

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

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

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

37-1385. School protection; definition

A. The ASSISTANT DIRECTOR OF THE OFFICE OF THE STATE fire marshal, ~~or a~~ deputy fire marshal or an assistant fire inspector shall enforce rules and regulations for establishing programs for evacuating school

buildings and for instructing all students in public and private schools as to proper methods of fire prevention and control and of the importance thereof. Such rules, regulations and programs shall be transmitted to the department of education for distribution to ~~such~~ THOSE schools.

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

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

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

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

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

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

1. Reveal the identity of a confidential informant.

2. Endanger the life or physical safety of any person.

3. Jeopardize any ongoing criminal investigation.

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

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

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

3. Monies received from donations to the fund.

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

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

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

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

37-1388. Fire protection systems; definitions

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

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

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

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

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

F. For THE purposes of this section:

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

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

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

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

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

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

(c) The presence of unusually complex piping systems.

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

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

(ii) Two different water utilities.

(iii) A supplemental water supply.

Sec. 34. Title 37, chapter 9, article 4, Arizona Revised Statutes, is amended by adding section 37-1391, to read:

37-1391. <u>Cease and desist order; law enforcement procedures; violation; civil penalty</u>

A. IF THE STATE FORESTER, THE ASSISTANT DIRECTOR OF THE OFFICE OF THE STATE FIRE MARSHAL OR A DEPUTY FIRE MARSHAL HAS REASONABLE CAUSE TO BELIEVE THAT ANY PERSON HAS COMMITTED OR IS COMMITTING A VIOLATION OF THIS ARTICLE, ANY RULE ADOPTED PURSUANT TO THIS ARTICLE OR ANY ORDER ISSUED PURSUANT TO THIS ARTICLE THAT DOES NOT CONSTITUTE AN IMMEDIATE AND APPARENT HAZARD TO LIFE OR PROPERTY, THE ASSISTANT DIRECTOR THROUGH THE STATE FORESTER MAY ISSUE AND SERVE ON THE PERSON BY CERTIFIED MAIL A CEASE AND DESIST ORDER.

B. IF THE VIOLATION DOES NOT CONSTITUTE AN IMMEDIATE HAZARD TO LIFE OR PROPERTY, THE ASSISTANT DIRECTOR OF THE OFFICE OF THE STATE FIRE MARSHALL SHALL GRANT TO THE PERSON WHOM THE ASSISTANT DIRECTOR ALLEGES TO BE IN VIOLATION OF ANY RULE OR ORDER A REASONABLE PERIOD OF TIME, WHICH IS NOT LESS THAN FIVE DAYS AFTER THE DATE OF RECEIPT OF THE NOTICE, TO COMPLY WITH THE ORDER.

C. ON THE FAILURE OR REFUSAL OF A PERSON TO COMPLY WITH A CEASE AND DESIST ORDER ISSUED PURSUANT TO SUBSECTION A OF THIS SECTION, THE STATE FORESTER MAY FILE AN ACTION IN THE SUPERIOR COURT IN THE COUNTY IN WHICH THE VIOLATION IS ALLEGED TO HAVE OCCURRED TO ENJOIN THE PERSON FROM

ENGAGING IN FURTHER ACTS IN VIOLATION OF THE CEASE AND DESIST ORDER. THE COURT SHALL PROCEED AS IN OTHER ACTIONS FOR PRELIMINARY INJUNCTION. ANY PERSON FOUND TO BE IN CONTEMPT OF AN INJUNCTIVE ORDER OF THE COURT SHALL BE ASSESSED A CIVIL PENALTY OF NOT MORE THAN ONE THOUSAND DOLLARS WITH EACH DAY OF VIOLATION CONSTITUTING A SEPARATE CONTEMPT.

D. IF THE STATE FORESTER, THE ASSISTANT DIRECTOR OF THE OFFICE OF THE STATE FIRE MARSHALL OR A DEPUTY FIRE MARSHALL HAS REASONABLE CAUSE TO BELIEVE THAT ANY PERSON HAS COMMITTED OR IS COMMITTING A VIOLATION OF THIS ARTICLE, ANY RULE ADOPTED PURSUANT TO THIS ARTICLE OR ANY ORDER ISSUED PURSUANT TO THIS ARTICLE THAT CONSTITUTES AN IMMEDIATE AND APPARENT HAZARD TO LIFE OR PROPERTY, THE ASSISTANT DIRECTOR THROUGH THE STATE FORESTER MAY EITHER:

1. ISSUE AND SERVE BY PERSONAL SERVICE A CEASE AND DESIST ORDER, WHICH MAY REQUIRE IMMEDIATE COMPLIANCE. ON FAILURE OF A PERSON TO COMPLY WITH A CEASE AND DESIST ORDER ISSUED PURSUANT TO THIS PARAGRAPH, THE STATE FORESTER SHALL FILE AN ACTION IN THE SUPERIOR COURT IN THE COUNTY WHERE THE VIOLATION OCCURRED TO ENJOIN THE PERSON FROM ENGAGING IN FURTHER ACTS IN VIOLATION OF THE CEASE AND DESIST ORDER.

2. FILE AN ACTION IN THE SUPERIOR COURT IN THE COUNTY IN WHICH THE VIOLATION IS ALLEGED TO HAVE OCCURRED TO ENJOIN A PERSON FROM ENGAGING IN FURTHER ACTS IN VIOLATION OF THE RULE OR ORDER WITHOUT ISSUING A CEASE AND DESIST ORDER.

E. IN AN ACTION FILED UNDER SUBSECTION D OF THIS SECTION, THE COURT SHALL PROCEED AS IN OTHER ACTIONS FOR PRELIMINARY INJUNCTION. ANY PERSON FOUND TO BE IN CONTEMPT OF AN INJUNCTIVE ORDER OF THE COURT SHALL BE ASSESSED A CIVIL PENALTY OF NOT MORE THAN ONE THOUSAND DOLLARS WITH EACH DAY OF VIOLATION CONSTITUTING A SEPARATE CONTEMPT.

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

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

37-1402. <u>Test method and performance standard; civil penalty; reports</u>

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

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

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

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

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

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

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

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

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

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

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

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

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

D. A manufacturer of a cigarette that the OFFICE OF THE state fire marshal determines cannot be tested pursuant to the test method prescribed in subsection B, paragraph 1 of this section shall propose a test method and performance standard for the cigarette to the OFFICE OF THE state fire marshal. On approval of the proposed test method and a determination by the OFFICE OF THE state fire marshal that the performance standard proposed by the manufacturer is equivalent to the performance standard prescribed in subsection B, paragraph 3 of this section, the manufacturer may employ that test method and performance standard to certify the

cigarette pursuant to section 37-1403. If the OFFICE OF THE state fire marshal determines that another state has enacted reduced cigarette ignition propensity standards that include a test method and performance standard that are the same as those prescribed in this article, and the OFFICE OF THE state fire marshal finds that the officials responsible for implementing those requirements have approved the proposed alternative test method and performance standard for a particular cigarette proposed by a manufacturer as meeting the fire safety standards of that state's law or regulation under a legal provision comparable to this section, the OFFICE OF THE state fire marshal shall authorize that manufacturer to employ the alternative test method and performance standard to certify that cigarette for sale in this state, unless the OFFICE OF THE state fire marshal demonstrates a reasonable basis why the alternative test should not be accepted pursuant to this article. All other applicable requirements of this section apply to the manufacturer.

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

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

G. The OFFICE OF THE state fire marshal shall review the effectiveness of this section and report every three years to the legislature on the OFFICE OF THE state fire marshal's findings and any recommendations for legislation to improve the effectiveness of this section. The OFFICE OF THE state fire marshal shall submit the report and legislative recommendations on or before July 1 of each three-year period.

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

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

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

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

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

37-1403. Certification; product change; fee

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

1. Has been tested pursuant to section 37-1402.

2. Meets the performance standards prescribed in section 37-1402.

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

1. Brand or trade name on the package.

2. Style, such as light or ultra light.

3. Length in millimeters.

4. Circumference in millimeters.

5. Flavor, such as menthol or chocolate, if applicable.

6. Filter or nonfilter.

7. Package description, such as soft pack or box.

8. Marking approved pursuant to section 37-1404.

9. Name, address and telephone number of the laboratory, if different than the manufacturer that conducted the test.

10. Date that the testing occurred.

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

D. A manufacturer shall make the certifications available to the attorney general for purposes consistent with this article and the department of revenue for the purposes of ensuring compliance with this section.

E. If a manufacturer has certified a cigarette pursuant to this section and after certification makes any change to the cigarette that is likely to alter its compliance with the reduced cigarette ignition propensity standards prescribed by this article, that cigarette shall not be sold or offered for sale in this state until the manufacturer retests

the cigarette pursuant to the testing standards prescribed in section 37-1402 and maintains records of that retesting as required by section 37-1402. Any altered cigarette that does not meet the performance standard prescribed in section 37-1402 may not be sold in this state.

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

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

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

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

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

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

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

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

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

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

2. The letters "FSC", which signify fire standards compliant, appearing in ~~eight point~~ EIGHT-POINT type or larger and ARE permanently

printed, stamped, engraved or embossed on the package at or near the UPC code.

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

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

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

37-1405. Civil penalties; seizure

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

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

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

D. A person who violates any other provision of this article is subject to a civil penalty for a first offense of not to exceed one thousand dollars and a civil penalty of not to exceed five thousand dollars for each subsequent violation.

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

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

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

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

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

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

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

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

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

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

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

37-1407. Inspection

~~Beginning August 1, 2009,~~ To enforce this article, the attorney general and the OFFICE OF THE state fire marshal UNDER THE AUTHORITY AND DIRECTION OF THE STATE FORESTER, or their employees, may examine the

books, papers, invoices and other records of any person in possession, control or occupancy of any premises where cigarettes are placed, stored, sold or offered for sale, as well as the stock of cigarettes on the premises. Each person in the possession, control or occupancy of any premises where cigarettes are placed, sold or offered for sale shall allow the attorney general and the OFFICE OF THE state fire marshal, or their employees, the means, facilities and opportunity for the examinations authorized by this section.

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

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

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

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

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

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

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

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

A. The office shall issue a citation on failure to respond or on the verified written complaint of a purchaser pursuant to section 41-4004, subsection B, paragraph 9 and shall issue a citation directing the licensee, within ten days after service of the citation on the licensee, to appear by filing with the office a verified answer to the complaint showing cause why the license should not be revoked or suspended. The director, after conducting an investigation pursuant to section 41-4039, may issue a citation on the director's own initiative.

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

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

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

42-2003. Authorized disclosure of confidential information

A. Confidential information relating to:

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

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

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

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

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

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

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

B. Confidential information may be disclosed to:

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

2. The office of the attorney general solely for its use in preparation for, or in an investigation that may result in, any proceeding involving tax administration before the department or any other agency or board of this state, or before any grand jury or any state or federal court.

3. The department of liquor licenses and control for its use in determining whether a spirituous liquor licensee has paid all transaction privilege taxes and affiliated excise taxes incurred as a result of the sale of spirituous liquor, as defined in section 4-101, at the licensed

establishment and imposed on the licensed establishments by this state and its political subdivisions.

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

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

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

(b) A state tax official of another state.

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

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

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

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

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

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

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

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

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

(a) Regarding income tax or withholding tax.

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

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

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

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

12. The Arizona commerce authority for its use in:

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Return information directly relates to a transactional relationship between a person who is a party to the proceeding and the taxpayer and directly affects the resolution of an issue in the proceeding.

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

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

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

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

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

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

1. May only be used for internal purposes, including audits.

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

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

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

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

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

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

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

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

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

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

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

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

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

S. To comply with the requirements of section 42-5031, the department may disclose to the state treasurer, to the county stadium district board of directors and to any city or town tax official that is

part of the county stadium district confidential information attributable to a taxpayer's business activity conducted in the county stadium district.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

48-805. <u>Fire district; powers and duties; definition</u>

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

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

2. Determine the compensation payable to district personnel.

3. Require probationary employees in a paid sworn firefighter position, a reserve firefighter position or a volunteer firefighter position to submit a full set of fingerprints to the fire district. The fire district shall submit the fingerprints to the department of public safety for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. The department

of public safety may exchange this fingerprint data with the federal bureau of investigation.

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

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

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

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

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

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

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

5. After the approval of the qualified electors of the fire district voting at a regular district election or at a special election called for that purpose by the district board, as appropriate, or at any election held in the county that encompasses the fire district, adopt the _____ fire code, which is a nationally recognized fire code approved by the state fire marshal. The words appearing on the ballots shall be "should _____ fire district adopt the _____ fire code, which is a nationally recognized fire code approved by the state fire marshal--yes", "should _____ fire district adopt the _____ fire code, which is a nationally recognized fire code approved by the OFFICE OF THE state fire marshal--no". The code shall be enforced by the county attorney in the same manner as any other law or ordinance of the county. Any inspection or enforcement costs are the responsibility of the

fire district involved. The district shall keep the code on file, which shall be open to public inspection for a period of thirty days before any election for the purpose of adopting a fire code. Copies of the order of election shall be posted in three public places in the district at least twenty days before the date of the election, and if a newspaper is published in the county having a general circulation in the district, the order shall be published in the newspaper at least once a week during each of the three calendar weeks preceding the calendar week of the election.

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

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

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

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

10. Retain private legal counsel.

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

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

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

14. With the approval of two of the three members of a three-member board, four of the five members of a five-member board or five of the seven members of a seven-member board, change the district's name and on so doing shall give written notice to the board of supervisors of the change. The governing board of a fire district may place a question on the general election ballot as to whether the fire district shall change its name.

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

16. Enter into intergovernmental agreements or contracts as follows:

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

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

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

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

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

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

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

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

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

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

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

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

C. A fire district may not administratively add or annex additional property or delete property or otherwise modify its boundaries except in a merger or consolidation pursuant to this chapter or in a boundary change

made pursuant to section 48-262. This subsection does not apply to a district organized pursuant to article 3 of this chapter.

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

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

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

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

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

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

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

48-820. <u>Election to merge fire districts; notice; hearing; approval; joint meeting; merged district board</u>

A. Except as provided in subsection ~~K~~ L of this section, the board of supervisors shall make an order calling for an election to decide whether to merge fire districts when a resolution for merger from each district is submitted to the board. The board of supervisors shall not make an order calling for an election to merge fire districts more frequently than once every two years. Whether or not the districts are

merged, the fire districts shall reimburse the counties for the expenses of the election, including the cost of mailing any notices required pursuant to this section. If the proposed district is located in more than one county, the resolutions shall be submitted to the board of supervisors of the county in which the majority of the assessed valuation of the proposed district is located. The words appearing on the ballot shall be "(insert fire districts' names) merge as a fire district--yes" and "(insert fire districts' names) merge as fire district--no."

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

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

D. Except as prescribed in subsection E of this section, two or more fire districts may merge if the governing body of each affected fire district, by a majority vote of the members of each governing body, adopts a resolution declaring that a merger be considered and a public hearing be held to determine if a merger would be in the best interests of the district and would promote public health, comfort, convenience, necessity or welfare. After each district adopts such a resolution, the governing body by first class mail shall send written notice of the resolution, its purpose and notice of the day, hour and place of a hearing on the proposed merger to each owner of taxable property within the boundaries of the district. The notice shall contain the name and a general description of the boundaries of each district proposed to be merged and a detailed, accurate map of the area to be included in the merger. The notice also shall contain an estimate of the assessed value of the merged district, the estimated change in property tax liability for a typical resident of the proposed merged district and a list of the benefits and injuries that may result from the proposed merged district. No new territory may be included as a result of the merger.

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

F. The clerk of the governing body shall post notice in at least three conspicuous public places in the district and shall also publish notice twice in a newspaper of general circulation in the county in which the district is located, at least ten days before the public hearing. The

clerk of each governing body affected by the proposed merger shall also mail notice and a copy of the resolution in support of considering the merger to the chairman of the board of supervisors of the county or counties in which the affected districts are located. The chairman of the board of supervisors shall order a review of the proposed merger and shall submit written comments to the governing body of each fire district located in that county within ten days after receipt of the notice.

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

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

I. If the merger is approved as provided by subsection B or ~~K~~ L of this section, within thirty days after the approval, the governing body of the affected district with the largest population shall call a joint meeting of the governing bodies of all of the affected districts. At the joint meeting, a majority of the members of the governing body of each affected district constitutes a quorum for the purpose of transacting business. The members of the governing body shall appoint a total of five persons from those currently serving on the governing bodies who shall complete their regular terms of office, except that no more than three of the persons appointed may serve terms that end in the same year. No more than three members shall be appointed from the same fire district board. Subsequent terms of office for district board members shall be filled by election of board members who shall be qualified electors of the merged district.

J. The appointed governing body shall immediately meet and organize itself and elect from its members a chairman and a clerk. The appointed

governing body shall immediately have the powers and duties prescribed by law for governance and operation of the newly merged district. The appointed board by resolution shall declare the districts merged and each affected district joined and the name of the newly merged fire district. The resolution and the names of the new board members for the newly organized district shall be sent to the board of supervisors, and the districts are merged effective thirty days after the adoption of the resolution. If the newly merged district is authorized to operate an ambulance service pursuant to title 36, chapter 21.1, article 2, the name of the ambulance service shall be changed administratively by the director of the department of health services to the name of the newly merged district and a hearing on the matter is not required pursuant to section 36-2234.

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

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

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

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

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

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

49-123. <u>Hazardous materials emergency management program; Arizona emergency response commission; emergency planning and community right-to-know</u>

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

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

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

1. The division of emergency management.
2. The department of health services.
3. The department of public safety.
4. The department of transportation.
5. The Arizona department of agriculture.
6. The corporation commission.
7. The industrial commission of Arizona.
8. The office of THE state fire marshal IN THE ARIZONA DEPARTMENT OF FORESTRY AND FIRE MANAGEMENT.
9. The office of state mine inspector.
10. The radiation regulatory agency.
11. Two representatives nominated by the Arizona fire chiefs association or its successor organization, one of whom represents a fire department or a fire district serving a population of less than two hundred fifty thousand persons.
12. Other agencies or offices deemed necessary by the director.

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

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

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

G. The department may procure by contract the temporary or intermittent services of experts or consultants if such services are to be performed on a part-time or fee-for-services basis and do not involve the performance of administrative duties. The department may also enter into agreements with the federal government, Indian tribes, other states and political subdivisions of this state for the purposes of this article. The department may also accept on behalf of this state any reimbursement, grant or gift that may become available for purposes of this article. The department shall deposit, pursuant to sections 35-146 and 35-147, any such monies in the emergency response fund.

H. The department shall establish a program of financial grants to local governments funded through the department by appropriations to the emergency response fund. The grants shall be dedicated to and used for local compliance with this article. The department shall include

procedures for applying for the grants and qualifying criteria for awarding the grants.

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

1. Procedures for handling public information requests.

2. Procedures and implementing programs for chemical emergency planning and preparedness.

3. Community right-to-know program reporting requirements.

4. Fees to implement the community right-to-know program. The fees shall be deposited, pursuant to sections 35-146 and 35-147, in the emergency response fund established by section 49-132. The governor's regulatory review council must approve rules adopted pursuant to this paragraph.

5. Release reporting requirements.

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

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

49-356. <u>Water systems; designating lead agency; coordinating council</u>

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

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

1. The department of environmental quality.

2. The corporation commission.
3. The state real estate department.
4. The department of water resources.
5. The department of health services.
6. The office of THE state fire marshal in the ~~state forester~~ ARIZONA DEPARTMENT OF FORESTRY AND FIRE MANAGEMENT.
7. One representative of the health department of a county having a population exceeding one million five hundred thousand persons.
8. One representative of the health department of a county having a population exceeding five hundred thousand but not exceeding one million five hundred thousand persons.
9. One member who is appointed by the director and who represents county planning and zoning departments.
10. One member who is appointed by the director and who represents a city or town with a population of less than ten thousand.
11. One member who is appointed by the director and who represents investor owned water systems.

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

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

E. The council shall:

1. Develop public education and information programs for owners, operators and customers of water systems.
2. Identify programs to advise and assist owners and operators of water systems in management, accounting, engineering and other technical areas.
3. Integrate and coordinate information databases among member agencies.
4. Evaluate the statutory and regulatory authority of governmental entities regarding water systems and recommend appropriate changes.

5. Develop any other programs and recommendations that would benefit the owners, operators and customers of water systems and the statutory and regulatory practices of government agencies.

6. Identify sources of funding to accomplish the purposes of this section.

7. Investigate mechanisms to ensure the financial viability of new water systems before they begin operation.

APPROVED BY THE GOVERNOR MAY 2, 2017.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 2, 2017.

Passed the House March 20, 2017,

by the following vote: 56 Ayes,

1 Nays, 3 Not Voting

Speaker of the House

Pro Tempore

Jim Drake

Chief Clerk of the House

Passed the Senate February 16, 2017,

by the following vote: 29 Ayes,

9 Nays, 1 Not Voting

President of the Senate

Susan Aceves

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR
This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20_____,

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

S.B. 1202

HOUSE FINAL PASSAGE
as per Joint Conference

Passed the House April 26, 20 17,

by the following vote: 33 Ayes,

22 Nays, 5 Not Voting

Speaker of the House

Jim Drake
Chief Clerk of the House

SENATE FINAL PASSAGE
as per Joint Conference

Passed the Senate April 19, 20 17,

by the following vote: 27 Ayes,

0 Nays, 2 Not Voting

1 Excused 0 Vacant

President of the Senate

Susan Acevez
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor

this 26th day of April, 20 17,

at 2:48 o'clock P. M.

Secretary to the Governor

Approved this 2nd day of

May, 20 17,

at 9:22 o'clock PM M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 2 day of May, 20 17,

at 12:35 o'clock P M.

Michele Reagan
Secretary of State

S.B. 1202