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REFERENCE TITLE: **identity verification; driver licenses; documents**

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

HB 2449

Introduced by
Representatives Pearce, Graf: Gray C, Quelland, Senator Harper

AN ACT

AMENDING SECTIONS 28-363 AND 28-3157, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 8, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-3323; AMENDING SECTION 41-1713, ARIZONA REVISED STATUTES; RELATING TO DRIVER LICENSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 28-363, Arizona Revised Statutes, is amended to
3 read:

4 28-363. Duties of the director; administration

5 A. The director shall:

6 1. Supervise and administer the overall activities of the department
7 and its divisions and employees.

8 2. Appoint assistant directors for each of the divisions.

9 3. Provide for the assembly and distribution of information to the
10 public concerning department activities.

11 4. Delegate functions, duties or powers as the director deems
12 necessary to carry out the efficient operation of the department.

13 5. Exercise complete and exclusive operational control and
14 jurisdiction over the use of state highways and routes.

15 6. Coordinate the design, right-of-way purchase and construction of
16 controlled access highways that are either state routes or state highways and
17 related grade separations of controlled access highways.

18 7. Coordinate the design, right-of-way purchase, construction,
19 standard and reduced clearance grade separation, extension and widening of
20 arterial streets and highways under chapters 17 and 18 of this title.

21 8. Assist regional transportation planning agencies, councils of
22 government, tribal governments, counties, cities and towns in the development
23 of their regional and local transportation plans to ensure that the streets,
24 highways and other regionally significant modes of transportation within each
25 county form an integrated and efficient regional system.

26 9. On or before December 1, present an annual report to the speaker of
27 the house of representatives and the president of the senate documenting the
28 expenditures of monies under chapters 17 and 18 of this title during the
29 previous fiscal year relating to the design, right-of-way purchase or
30 construction of controlled access highways that are accepted in the state
31 highway system as state routes or state highways or related grade separations
32 of controlled access highways that are included in the regional
33 transportation plans of the counties.

34 10. Designate the necessary agencies for enforcing the provisions of
35 the laws the director administers or enforces.

36 11. Exercise other duties or powers as the director deems necessary to
37 carry out the efficient operation of the department.

38 12. Cooperate with the Arizona-Mexico commission in the governor's
39 office and with researchers at universities in this state to collect data and
40 conduct projects in the United States and Mexico on issues that are within
41 the scope of the department's duties and that relate to quality of life,
42 trade and economic development in this state in a manner that will help the
43 Arizona-Mexico commission to assess and enhance the economic competitiveness
44 of this state and of the Arizona-Mexico region.

1 13. Develop a plan to increase use of bypass routes by vehicles on days
2 of poor visibility in the Phoenix metropolitan area.

3 14. JOINTLY WITH THE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY,
4 ESTABLISH PROCEDURES FOR THE SUBMISSION AND ANALYSIS OF DOCUMENTS SUBMITTED
5 TO THE DEPARTMENT OF TRANSPORTATION BY A PERSON APPLYING PURSUANT TO CHAPTER
6 8 OF THIS TITLE FOR A DRIVER LICENSE, DRIVER PERMIT OR NONOPERATING
7 IDENTIFICATION LICENSE. THE DOCUMENTS SHALL BE SUBMITTED AND ANALYZED FOR
8 THE VERIFICATION OF THE APPLICANT'S AGE, IDENTITY AND AUTHORIZED PRESENCE IN
9 THE UNITED STATES UNDER FEDERAL LAW.

10 B. The assistant directors appointed pursuant to subsection A are
11 exempt from the state personnel system.

12 C. The director shall not spend any monies, adopt any rules or
13 implement any policies or programs to convert signs to the metric system or
14 to require the use of the metric system with respect to designing or
15 preparing plans, specifications, estimates or other documents for any highway
16 project before the conversion or use is required by federal law, except that
17 the director may:

18 1. Spend monies and require the use of the metric system with respect
19 to designing or preparing plans, specifications, estimates or other documents
20 for a highway project that is awarded before October 1, 1997 and that is
21 exclusively metric from its inception.

22 2. Prepare for conversion to and use of the metric system not more
23 than six months before the conversion or use is required by federal law.

24 Sec. 2. Section 28-3157, Arizona Revised Statutes, is amended to read:
25 28-3157. Temporary driver permits and nonoperating
26 identification licenses

27 A. The department may issue a temporary driver permit to an applicant
28 for a driver license OR PERMIT. The permit allows the driver to operate a
29 motor vehicle while the department is completing its investigation and
30 determining all facts relative to the applicant's privilege to receive a
31 driver license.

32 B. The permittee shall have the permit in the permittee's immediate
33 possession while operating a motor vehicle. The permit is invalid when the
34 permittee is issued a driver license or when a driver license is refused for
35 good cause.

36 C. IF THE DEPARTMENT DETERMINES TO VERIFY THE INFORMATION SUBMITTED TO
37 THE DEPARTMENT IN AN APPLICATION FOR A NONOPERATING IDENTIFICATION LICENSE AS
38 PRESCRIBED BY SECTION 28-3323, THE DEPARTMENT MAY ISSUE A TEMPORARY
39 NONOPERATING IDENTIFICATION LICENSE UNTIL ITS INVESTIGATION IS COMPLETE.

40 D. TEMPORARY DRIVER PERMITS AND NONOPERATING IDENTIFICATION LICENSES
41 ISSUED PURSUANT TO THIS SECTION SHALL NOT CONTAIN A PHOTOGRAPH OF THE
42 APPLICANT IF THE DEPARTMENT IS CONDUCTING AN INVESTIGATION PURSUANT TO
43 SECTION 28-3323.

1 Sec. 3. Title 28, chapter 8, article 6, Arizona Revised Statutes, is
2 amended by adding section 28-3323, to read:

3 28-3323. Fraudulent driver license, permit or nonoperating
4 identification license applications; cancellation;
5 hearings

6 A. AT THE TIME AN APPLICANT SUBMITS AN APPLICATION FOR A DRIVER
7 LICENSE, DRIVER PERMIT OR NONOPERATING IDENTIFICATION LICENSE PURSUANT TO
8 THIS CHAPTER, THE DEPARTMENT SHALL EXAMINE ALL DOCUMENTS SUBMITTED BY THE
9 APPLICANT TO VERIFY THAT THE INFORMATION CONTAINED IN THE DOCUMENTS
10 PERTAINING TO THE APPLICANT'S AGE, IDENTITY AND AUTHORIZED PRESENCE IS VALID.

11 B. IF THE DEPARTMENT HAS REASONABLE GROUNDS TO BELIEVE THAT ANY
12 INFORMATION CONTAINED IN THE DOCUMENTS SUBMITTED BY AN APPLICANT PERTAINING
13 TO THE APPLICANT'S AGE, IDENTITY OR AUTHORIZED PRESENCE MAY BE FRAUDULENT,
14 THE DEPARTMENT SHALL FORWARD THE INFORMATION TO THE DEPARTMENT OF PUBLIC
15 SAFETY FOR FURTHER ANALYSIS AND VERIFICATION.

16 C. IF THE DEPARTMENT OF TRANSPORTATION FORWARDS THE INFORMATION
17 PURSUANT TO SUBSECTION B OF THIS SECTION, THE DEPARTMENT OF TRANSPORTATION
18 SHALL ENTER IN ITS ELECTRONIC RECORDS THAT THE APPLICANT'S INFORMATION HAS
19 BEEN SENT TO THE DEPARTMENT OF PUBLIC SAFETY FOR FURTHER ANALYSIS AND
20 VERIFICATION.

21 D. EXCEPT AS PROVIDED IN SECTION 28-3157, IF THE DEPARTMENT OF
22 TRANSPORTATION FORWARDS THE INFORMATION PURSUANT TO SUBSECTION B OF THIS
23 SECTION, THE DEPARTMENT OF TRANSPORTATION SHALL NOT ISSUE A DRIVER LICENSE,
24 DRIVER PERMIT OR NONOPERATING IDENTIFICATION LICENSE TO THE APPLICANT WHILE
25 THE DEPARTMENT OF PUBLIC SAFETY IS ANALYZING AND VERIFYING THE INFORMATION.

26 E. ON RECEIVING NOTICE FROM THE DEPARTMENT OF PUBLIC SAFETY THAT THE
27 INFORMATION SUBMITTED BY AN APPLICANT IS TRUE AND CORRECT, THE DEPARTMENT OF
28 TRANSPORTATION SHALL PROCESS THE APPLICATION AND SHALL REMOVE INFORMATION
29 ENTERED INTO ITS ELECTRONIC RECORDS PURSUANT TO SUBSECTION C OF THIS SECTION.

30 F. IF THE DEPARTMENT RECEIVES NOTICE FROM THE DEPARTMENT OF PUBLIC
31 SAFETY THAT THE INFORMATION SUBMITTED BY THE APPLICANT IS ALLEGEDLY
32 FRAUDULENT, THE DEPARTMENT SHALL:

33 1. IF THE APPLICANT HAS RECEIVED A TEMPORARY PERMIT OR NONOPERATING
34 IDENTIFICATION LICENSE PURSUANT TO SECTION 28-3157, NOTIFY THE APPLICANT BY
35 FIRST CLASS MAIL THAT THE TEMPORARY DRIVER PERMIT OR NONOPERATING
36 IDENTIFICATION LICENSE SHALL BE CANCELED UNLESS THE APPLICANT REQUESTS A
37 HEARING AS PRESCRIBED IN THIS SECTION.

38 2. NOTIFY THE APPLICANT BY FIRST CLASS MAIL THAT THE APPLICANT WILL
39 NOT BE ISSUED THE DRIVER LICENSE, DRIVER PERMIT OR NONOPERATING
40 IDENTIFICATION LICENSE FOR WHICH THE APPLICANT APPLIED UNLESS THE APPLICANT
41 REQUESTS A HEARING AS PRESCRIBED IN THIS SECTION.

42 G. ON AN APPLICANT'S REQUEST, THE DEPARTMENT SHALL PROVIDE AN
43 OPPORTUNITY FOR A HEARING ON THE ACTION TAKEN PURSUANT TO THIS SECTION AS
44 EARLY AS PRACTICABLE BUT NOT LATER THAN THIRTY DAYS AFTER RECEIPT OF THE

1 REQUEST. THE DEPARTMENT SHALL HOLD THE HEARING IN THE COUNTY IN WHICH THE
2 APPLICANT RESIDES.

3 H. IF A HEARING IS HELD, THE DEPARTMENT OR ITS AUTHORIZED AGENT MAY
4 ADMINISTER OATHS, ISSUE SUBPOENAS FOR THE ATTENDANCE OF WITNESSES AND THE
5 PRODUCTION OF RELEVANT BOOKS AND PAPERS AND MAY REQUIRE A REEXAMINATION OF
6 THE DOCUMENTS SUBMITTED BY THE APPLICANT FOR A DRIVER LICENSE, DRIVER PERMIT
7 OR NONOPERATING IDENTIFICATION LICENSE.

8 I. IF THE APPLICANT'S TEMPORARY PERMIT OR NONOPERATING IDENTIFICATION
9 LICENSE WAS CANCELED, AT THE HEARING THE DEPARTMENT SHALL EITHER UPHOLD ITS
10 ORDER OF CANCELLATION OR RESCIND ITS ORDER OF CANCELLATION AND PROCESS THE
11 APPLICATION FOR A DRIVER LICENSE, DRIVER PERMIT OR NONOPERATING
12 IDENTIFICATION LICENSE. IF GOOD CAUSE EXISTS, THE DEPARTMENT MAY EXTEND THE
13 TEMPORARY DRIVER PERMIT OR NONOPERATING IDENTIFICATION.

14 J. IF THE APPLICANT WAS NOT ISSUED A TEMPORARY PERMIT OR NONOPERATING
15 IDENTIFICATION LICENSE PURSUANT TO SECTION 28-3157, THE DEPARTMENT SHALL
16 EITHER UPHOLD ITS ORDER OF REFUSAL TO ISSUE A DRIVER LICENSE, DRIVER PERMIT
17 OR NONOPERATING IDENTIFICATION LICENSE OR RESCIND ITS ORDER AND PROCESS THE
18 APPLICATION FOR A DRIVER LICENSE, DRIVER PERMIT OR NONOPERATING
19 IDENTIFICATION LICENSE.

20 K. THE REQUEST FOR A HEARING PURSUANT TO THIS SECTION DOES NOT STAY
21 ANY ACTION BY THE DEPARTMENT.

22 Sec. 4. Section 41-1713, Arizona Revised Statutes, is amended to read:
23 41-1713. Powers and duties of director; authentication of
24 records

25 A. The director of the department shall:

26 1. Be the administrative head of the department.

27 2. Subject to the merit system rules, appoint, suspend, demote,
28 promote or dismiss all other classified employees of the department upon the
29 recommendation of their respective division superintendent. The director
30 shall determine and furnish the law enforcement merit system council
31 established by section 41-1830.11 with a table of organization. The
32 superintendent of each division shall serve at the concurrent pleasure of the
33 director and the governor.

34 3. Make rules necessary for the operation of the department.

35 4. Annually submit a report of the work of the department to the
36 governor and the legislature, or more often if requested by the governor or
37 the legislature.

38 5. Appoint a deputy director with the approval of the governor.

39 6. Adopt an official seal which shall contain the words "department of
40 public safety" encircling the seal of this state as part of its design.

41 7. Investigate, on receipt, credible evidence that a licensee or
42 registrant has been arrested for, charged with or convicted of an offense
43 that would preclude the person from holding a license or registration
44 certificate issued pursuant to title 32, chapter 26.

1 8. Cooperate with the Arizona-Mexico commission in the governor's
2 office and with researchers at universities in this state to collect data and
3 conduct projects in the United States and Mexico on issues that are within
4 the scope of the department's duties and that relate to quality of life,
5 trade and economic development in this state in a manner that will help the
6 Arizona-Mexico commission to assess and enhance the economic competitiveness
7 of this state and of the Arizona-Mexico region.

8 9. Adopt and administer the breath, blood or other bodily substances
9 test rules pursuant to title 28, chapter 4.

10 10. Develop procedures to exchange information with the department of
11 transportation for any purpose related to sections 28-1324, 28-1325, 28-1326,
12 28-1462 and 28-3318.

13 11. Collaborate with the state forester in presentations to legislative
14 committees on issues associated with wildfire prevention, suppression and
15 emergency management as provided by section 37-622, subsection B.

16 12. JOINTLY WITH THE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION,
17 ESTABLISH PROCEDURES FOR THE SUBMISSION AND ANALYSIS OF DOCUMENTS SUBMITTED
18 TO THE DEPARTMENT OF TRANSPORTATION BY A PERSON APPLYING PURSUANT TO TITLE
19 28, CHAPTER 8 FOR A DRIVER LICENSE, DRIVER PERMIT OR NONOPERATING
20 IDENTIFICATION LICENSE. THE DOCUMENTS SHALL BE SUBMITTED AND ANALYZED FOR
21 THE VERIFICATION OF THE APPLICANT'S AGE, IDENTITY AND AUTHORIZED PRESENCE IN
22 THE UNITED STATES UNDER FEDERAL LAW.

23 13. ESTABLISH PROCEDURES TO NOTIFY THE DEPARTMENT OF TRANSPORTATION OF
24 THE RESULTS FOLLOWING THE ANALYSIS OF DOCUMENTS SUBMITTED TO THE DEPARTMENT
25 OF PUBLIC SAFETY PURSUANT TO SECTION 28-3323, INCLUDING PROCEDURES TO FORWARD
26 CHARGEABLE OFFENSES RELATED TO THE SUBMISSION OF FRAUDULENT DOCUMENTS TO THE
27 COUNTY ATTORNEY IN THE COUNTY IN WHICH THE OFFENSE OCCURRED. THE DIRECTOR
28 MAY MAKE THE INFORMATION AVAILABLE TO OTHER LAW ENFORCEMENT AGENCIES.

29 B. The director may:

30 1. Issue commissions to officers of the department.

31 2. Request the cooperation of the utilities, communication media and
32 public and private agencies and any sheriff or other peace officer in any
33 county or municipality, within the limits of their respective jurisdictions
34 when necessary, to aid and assist in the performance of any duty imposed by
35 this chapter.

36 3. Cooperate with any public or private agency or person to receive or
37 give necessary assistance and may contract for such assistance subject to
38 legislative appropriation controls.

39 4. Utilize the advice of the board and cooperate with sheriffs, local
40 police and peace officers within the state for the prevention and discovery
41 of crimes, the apprehension of criminals and the promotion of public safety.

42 5. Acquire in the name of the state, either in fee or lesser estate or
43 interest, any real or personal property which the director considers
44 necessary for the department's use, by purchase, donation, dedication,
45 exchange or other lawful means. All acquisitions of personal property

1 pursuant to this paragraph shall be made as prescribed in chapter 23 of this
2 title unless otherwise provided by law.

3 6. Dispose of any property, real or personal, or any right, title or
4 interest therein, when the director determines that such property is no
5 longer needed or necessary for the department's use. Disposition of personal
6 property shall be as prescribed in chapter 23 of this title. The real
7 property shall be sold by public auction or competitive bidding after notice
8 published in a daily newspaper of general circulation, not less than three
9 times, two weeks prior to the sale and subject to the approval of the
10 director of the department of administration. When real property is sold, it
11 shall not be sold for less than the appraised value as established by a
12 competent real estate appraiser. Any ~~fun~~ds MONIES derived from the disposal
13 of real or personal property shall be deposited in the Arizona highway patrol
14 fund as authorized by section 41-1752, subsection B, paragraph 6.

15 7. Sell, lend or lease personal property directly to any state, county
16 or local law enforcement agency. Such personal property may be sold or
17 leased at a predetermined price without competitive bidding. Any state,
18 county or local law enforcement agency receiving such property may not resell
19 or lease such property to any person or organization except for educational
20 purposes.

21 8. Dispose of surplus property by transferring such property to the
22 department of administration for disposition to another state budget unit or
23 political subdivision if such state budget unit or political subdivision is
24 not a law enforcement agency.

25 9. Lease or rent personal property directly to any state law
26 enforcement officer for the purpose of traffic safety, traffic control or
27 other law enforcement related activity.

28 10. Sell for one dollar, without public bidding, the department issued
29 handgun or shotgun to a department officer on duty related retirement
30 pursuant to title 38, chapter 5, article 4. Any ~~fun~~ds MONIES derived from
31 the sale of the handgun or shotgun to the retiring department officer shall
32 be deposited, pursuant to sections 35-146 and 35-147, in the Arizona highway
33 patrol fund as authorized by section 41-1752, subsection B, paragraph 6.

34 11. Conduct state criminal history records checks for the purpose of
35 updating and verifying the status of current licensees or registrants who
36 have a license or certificate issued pursuant to title 32, chapter 26. The
37 director shall investigate, upon receipt, credible evidence that a licensee
38 or registrant has been arrested for, charged with or convicted of an offense
39 that would preclude the person from holding a registration certificate issued
40 pursuant to title 32, chapter 26.

41 12. Grant a maximum of two thousand eighty hours of industrial injury
42 leave to any sworn department employee who is injured in the course of the
43 employee's duty and whose work-related injury prevents the employee from
44 performing the normal duties of that employee's classification. This
45 industrial injury leave is in addition to any vacation or sick leave earned

1 or granted to the employee and does not affect the employee's eligibility for
2 any other benefits, including workers' compensation. On retirement or
3 separation from the department or on reclassification to civilian status, the
4 employee forfeits any unused industrial injury leave and is not eligible for
5 payment pursuant to section 38-615. Subject to approval by the law
6 enforcement merit system council, the director shall adopt rules and
7 procedures regarding industrial injury leave hours granted pursuant to this
8 paragraph.

9 C. The director and any employees of the department which the director
10 designates in writing may use the seal adopted pursuant to subsection A,
11 paragraph 6 of this section to fully authenticate any department records and
12 copies of these records. These authenticated records or authenticated copies
13 of records shall be judicially noticed and shall be received in evidence by
14 the courts of this state without any further proof of their authenticity.