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Senate Engrossed

State of Arizona
Senate
Forty-seventh Legislature
First Regular Session
2005

SENATE BILL 1038

AN ACT

AMENDING SECTIONS 28-1559, 28-1596 AND 28-3392, ARIZONA REVISED STATUTES;
RELATING TO DEFENSIVE DRIVING SCHOOL.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 28-1559, Arizona Revised Statutes, is amended to
3 read:

4 28-1559. Traffic case records; abstract of record; reports

5 A. Each magistrate, judge or hearing officer of a court shall:

6 1. Keep or cause to be kept a record of each traffic complaint or
7 other legal form of traffic charge deposited with or presented to the court
8 or its traffic violations bureau.

9 2. Keep a record of each official action by the court or its traffic
10 violations bureau in reference to each traffic complaint or other legal form
11 of traffic charge deposited with or presented to the court or its traffic
12 violations bureau, including but not limited to a record of:

13 (a) Each conviction, forfeiture of bail or deposit, judgment of
14 acquittal or civil adjudication.

15 (b) The amount of the civil penalty, fine or forfeiture resulting from
16 each traffic complaint deposited with or presented to the court or traffic
17 violations bureau.

18 B. EXCEPT AS PROVIDED IN SUBSECTION K OF THIS SECTION, within ten days
19 after the conviction, judgment or forfeiture of bail or deposit of a person
20 on a charge of violating chapter 3 or 4 of this title or this chapter or any
21 other law regulating the operation of vehicles on highways, each magistrate
22 of the court or clerk of the court of record in which the conviction or
23 judgment was had or bail or deposit was forfeited shall prepare and
24 immediately forward to the department an abstract of the record of the court
25 covering the case in which the person either:

26 1. Was convicted.

27 2. Was adjudicated to have committed a civil traffic violation.

28 3. Forfeited bail or deposit.

29 C. The person required to prepare the abstract shall certify that it
30 is true and correct.

31 D. A report is not required for a conviction or civil adjudication
32 involving the illegal parking or standing of a vehicle.

33 E. The abstract shall be made on a form furnished or in a manner
34 prescribed by the department and shall include:

35 1. The name and address of the party charged.

36 2. The number, if any, of the driver license of the party charged.

37 3. The registration number of the vehicle involved.

38 4. The nature of the offense or civil traffic violation.

39 5. The date of the hearing, the plea, the judgment or whether bail or
40 deposit was forfeited.

41 6. The amount of the fine, civil penalty or forfeiture.

42 F. Each court of record shall also forward a like report to the
43 department on the conviction of a person of homicide or aggravated assault
44 resulting from the operation of a motor vehicle or any other felony in the
45 commission of which a motor vehicle was used. To facilitate the preparation
46 of the report, the sentencing minute entry that is issued by the court shall

1 indicate if the person was convicted of an offense that required the
2 mandatory revocation of a driver license pursuant to section 28-3304,
3 subsection A, paragraph 1, 3, 4, 5 or 6.

4 G. The department shall keep all abstracts received under this section
5 for inspection as required by law.

6 H. Each judge, referee, hearing officer, probation officer or other
7 person responsible for the disposition of cases involving traffic offenses or
8 civil violations committed by persons under eighteen years of age shall:

9 1. Keep a full record of each case in which the person is charged with
10 a violation of chapter 3 or 4 of this title or this chapter or any other law
11 regulating the operation of vehicles on highways.

12 2. Report the offense or civil violation to the department at its
13 office in Phoenix not more than thirty days after the date on which it was
14 committed, except that a report is not required for parking violations or if
15 it is found that the offense or civil violation was not committed.

16 I. The report required by subsection H of this section shall:

17 1. Be made on a form furnished or in a manner prescribed by the
18 department.

19 2. Contain:

20 (a) All necessary information as to the identity of the offender.

21 (b) The citing or arresting agency.

22 (c) The date and nature of the offense or civil violation.

23 (d) The date of the hearing, the plea, the judgment or whether bail or
24 deposit was forfeited.

25 (e) The amount of the fine, civil penalty or forfeiture.

26 J. Failure, refusal or neglect of a judicial officer to comply with
27 this section is misconduct in office and grounds for removal from office.

28 K. THE COURT SHALL NOT REPORT A CONVICTION OR JUDGMENT TO THE
29 DEPARTMENT IF THE PERSON WHO IS THE SUBJECT OF THE CONVICTION OR JUDGMENT
30 SUCCESSFULLY COMPLETES DEFENSIVE DRIVING SCHOOL PURSUANT TO CHAPTER 8,
31 ARTICLE 7 OF THIS TITLE.

32 Sec. 2. Section 28-1596, Arizona Revised Statutes, is amended to read:
33 28-1596. Traffic complaint; proceedings

34 A. A person served with a civil traffic complaint shall:

35 1. Appear at the time and place stated in the complaint, or may appear
36 before the time, if so authorized by the court, and on the directions
37 contained in the complaint.

38 2. Admit or deny the allegations of the complaint.

39 B. Allegations not denied at the time of appearance are deemed
40 admitted. A fee shall not be charged for the appearance.

41 C. If the allegations are admitted, the court shall enter judgment for
42 the state and shall impose a civil penalty. The person may admit the
43 allegations with an explanation, and then the court shall enter judgment for
44 the state and impose a civil penalty. In determining the civil penalty, the
45 court shall consider the explanation submitted.

1 D. If the person denies the allegations of the complaint the court
2 shall set the matter for a hearing. The hearing is informal and without a
3 jury. At the hearing, the state is required to prove the violation charged
4 by a preponderance of the evidence. Technical rules of evidence do not
5 apply, except for statutory provisions relating to privileged communications.
6 If the person elects to be represented by counsel the person shall notify the
7 court at least ten days before the hearing date. Hearings may be recorded.
8 If the court finds in favor of the person, the court shall enter an order
9 dismissing the allegation. If the court finds in favor of the state, the
10 court shall enter judgment for the state and shall impose a civil
11 penalty. IF THE COURT FINDS IN FAVOR OF THE STATE THE PERSON SHALL PAY COURT
12 COSTS AND IF THE PERSON SUCCESSFULLY COMPLETES DEFENSIVE DRIVING SCHOOL
13 PURSUANT TO CHAPTER 8, ARTICLE 7 OF THIS TITLE, THE COURT SHALL NOT IMPOSE A
14 PENALTY.

15 E. If a resident of this state served with a civil traffic complaint
16 alleging a violation of this title or if a nonresident served with a civil
17 traffic complaint requiring suspension or revocation of a driver license
18 under the laws of this state fails to appear at or before the time directed
19 to appear or at the time set for a hearing by the court, the allegations in
20 the complaint are deemed admitted, and the court shall enter judgment for
21 this state, impose a civil penalty and report the judgment to the department.

22 F. A nonresident may satisfy the complaint served under subsection A
23 by complying with the nonresident violator compact adopted by chapter 6,
24 article 4 of this title, if applicable.

25 G. If a nonresident who is served with a civil traffic complaint that
26 does not require a suspension or revocation of the nonresident's driver
27 license pursuant to the laws of this state fails to appear at or before the
28 time directed to appear or at the time set for a hearing by the court, the
29 court shall report the nonappearance to the department pursuant to ~~the~~
30 ~~provisions of~~ the nonresident violator compact adopted by chapter 6, article
31 4 of this title.

32 Sec. 3. Section 28-3392, Arizona Revised Statutes, is amended to read:
33 28-3392. Defensive driving school; eligibility

34 A. A court:

35 1. Shall allow an individual who is issued a citation for a civil
36 traffic moving violation pursuant to chapter 3, articles 2, 3, 4 and 6
37 through 15 of this title or a local civil traffic ordinance relating to the
38 same subject matter to attend a defensive driving school for the purposes
39 provided in this article.

40 2. Except as prescribed in subsection C of this section, may allow an
41 individual who is issued a citation for a violation of section 28-701.02 to
42 attend a defensive driving school.

43 B. A person who attends a defensive driving school pursuant to this
44 article is not eligible to attend a defensive driving school again within
45 twenty-four months from the day of the last violation for which the person
46 was authorized by this article to attend a defensive driving school.

1 C. Notwithstanding subsection A of this section:

2 1. An individual who commits a civil or criminal traffic violation
3 resulting in death or serious physical injury is not eligible to attend a
4 defensive driving school, except that the court may order the individual to
5 attend a defensive driving school in addition to another sentence imposed by
6 the court on an adjudication or admission of the traffic violation.

7 2. If a commercial driver license holder is found guilty or
8 responsible for a moving violation, the court may require the violator to
9 attend defensive driving school as an element of sentence, but may not
10 dismiss the conviction or finding of responsibility and shall report the
11 conviction or finding of responsibility to the department as prescribed in
12 section 28-1559. A commercial driver license holder is not eligible for the
13 defensive driving diversion program.

14 D. NOTWITHSTANDING ANY OTHER LAW, THIS SECTION APPLIES TO AN
15 INDIVIDUAL WHO EITHER:

16 1. ADMITS THE ALLEGATIONS OF THE CITATION PRESCRIBED BY SUBSECTION A
17 OF THIS SECTION.

18 2. DENIES THE ALLEGATIONS OF THE CITATION PRESCRIBED BY SUBSECTION A
19 OF THIS SECTION AND THE COURT FINDS IN FAVOR OF THE STATE.