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REFERENCE TITLE: **vehicle impoundment; storage; administrative charges**

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

SB 1089

Introduced by
Senator Gray

AN ACT

AMENDING SECTIONS 28-3512 AND 28-3513, ARIZONA REVISED STATUTES; RELATING TO REMOVAL AND IMPOUNDMENT OF VEHICLES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 28-3512, Arizona Revised Statutes, is amended to
3 read:

4 28-3512. Release of vehicle; definition

5 A. An impounding agency shall release a vehicle to the owner before
6 the end of the thirty day impoundment period under any of the following
7 circumstances:

8 1. If the vehicle is a stolen vehicle.

9 2. If the vehicle is subject to bailment and is driven by an employee
10 of a business establishment, including a parking service or repair garage,
11 who is subject to section 28-3511, subsection A.

12 3. If the owner presents proof satisfactory to the impounding agency
13 that the owner's driving privilege has been reinstated.

14 4. For the spouse of the owner or any person who is identified as an
15 owner of the vehicle on the records of the department, if the spouse or
16 person was not the driver of the vehicle at the time of removal and
17 impoundment and the spouse or person enters into an agreement with the
18 impounding agency that stipulates that if the spouse or person allows an
19 unlicensed driver to drive the spouse's or person's vehicle within one year
20 after the agreement is signed, the spouse or person will not be eligible to
21 obtain release of the spouse's or person's vehicle before the end of the
22 thirty day impoundment period.

23 B. A vehicle shall not be released pursuant to subsection A of this
24 section except on order of a justice court pursuant to A POSTSTORAGE HEARING
25 UNDER section 28-3514 or on presentation of the owner's or owner's spouse's
26 currently valid driver license to operate the vehicle and proof of current
27 vehicle registration and, if the driving privilege of the person driving the
28 vehicle was suspended due to a previous conviction for driving under the
29 influence pursuant to section 28-1381, subsection K, paragraph 4, section
30 28-1382 or section 28-1383 and a certified ignition interlock device was
31 required to be installed on the vehicle, on presentation of proof of
32 installation of a functioning certified ignition interlock device in the
33 vehicle. The impounding agency, storage yard, facility, person or agency
34 having physical possession of the vehicle shall allow access to the impounded
35 vehicle for the purpose of installing a certified ignition interlock device.
36 The impounding agency, storage yard, facility, person or agency having
37 physical possession of the vehicle shall not charge a fee for providing
38 access to the vehicle or for the installation of the certified ignition
39 interlock device.

40 C. The owner is responsible for paying all towing and storage charges
41 related to the impoundment of the vehicle and any administrative charges
42 established pursuant to section 28-3513, unless the vehicle is stolen and the
43 theft was reported to the appropriate law enforcement agency. If the vehicle
44 is stolen and the theft was reported to the appropriate law enforcement
45 agency, the operator of the vehicle at the time of impoundment is responsible
46 for all towing, storage and administrative charges.

1 D. The impounding agency shall release a vehicle to a person, other
2 than the owner, identified on the department's record as having an interest
3 in the vehicle before the end of the thirty day impoundment period if all of
4 the following conditions are met:

5 1. The person is a motor vehicle dealer, bank, credit union or
6 acceptance corporation or any other licensed financial institution legally
7 operating in this state or is another person who is not the owner and who
8 holds a security interest in the vehicle.

9 2. The person pays all towing and storage fees related to the
10 impoundment of the vehicle unless the vehicle is stolen and the theft was
11 reported to the appropriate law enforcement agency. If the vehicle is stolen
12 and the theft was reported to the appropriate law enforcement agency, the
13 operator of the vehicle at the time of impoundment is responsible for all
14 towing, storage and administrative charges.

15 3. The person presents foreclosure documents or an affidavit of
16 repossession of the vehicle.

17 E. Before a person described in subsection D of this section releases
18 the vehicle, the person may require the owner to pay charges that the person
19 incurred in connection with obtaining custody of the vehicle, including all
20 towing and storage charges that are related to the impoundment of the vehicle
21 and any administrative charges that are established pursuant to section
22 28-3513.

23 F. A vehicle shall not be released after the end of the thirty day
24 impoundment period except on presentation of the owner's or owner's agent's
25 currently valid driver license to operate the vehicle and proof of current
26 vehicle registration and, if the driving privilege of the person driving the
27 vehicle was suspended due to a previous conviction for driving under the
28 influence pursuant to section 28-1381, subsection K, paragraph 4, section
29 28-1382 or section 28-1383 and ~~an~~ A CERTIFIED ignition interlock device was
30 required to be installed on the vehicle, on presentation of proof of
31 installation of a functioning certified ignition interlock device in the
32 vehicle. The impounding agency, storage yard, facility, person or agency
33 having physical possession of the vehicle shall allow access to the impounded
34 vehicle for the purpose of installing a certified ignition interlock
35 device. The impounding agency, storage yard, facility, person or agency
36 having physical possession of the vehicle shall not charge a fee for
37 providing access to the vehicle or for the installation of the certified
38 ignition interlock device.

39 ~~G. The storage charges relating to the impoundment of a vehicle~~
40 ~~pursuant to this section shall not exceed fifteen dollars for each day of~~
41 ~~storage.~~

1 ~~H.~~ G. The impounding agency shall have no lien or possessory interest
2 in a stolen vehicle if the theft was reported to the appropriate law
3 enforcement agency. The impounding agency shall release the vehicle to the
4 owner or person other than the owner as identified in subsection D of this
5 section even if the operator at the time of impoundment has not paid all
6 towing, storage and administrative fees.

7 ~~I.~~ H. For the purposes of this section, "certified ignition interlock
8 device" has the same meaning prescribed in section 28-1301.

9 Sec. 2. Section 28-3513, Arizona Revised Statutes, is amended to read:

10 28-3513. Administrative charges

11 A. The impounding agency shall establish procedures for impounding
12 agency poststorage hearings, for the release of properly impounded vehicles
13 and for imposition of a charge equal to the administrative costs relating to
14 the removal, impoundment, storage or release of a vehicle. The impounding
15 agency may waive the administrative charges.

16 ~~B. The administrative charges established pursuant to this section
17 shall not exceed one hundred fifty dollars.~~

18 ~~C.~~ B. The impounding agency shall collect any administrative charges
19 at the time of the release of the vehicle unless the vehicle is stolen and
20 the theft was reported to the appropriate law enforcement agency. If the
21 vehicle is stolen and the theft was reported to the appropriate law
22 enforcement agency, then the operator of the vehicle at the time of
23 impoundment is responsible for all towing, storage and administrative
24 charges.

25 ~~D.~~ C. The administrative charges established pursuant to this section
26 are in addition to any other impoundment or storage charges.

27 ~~E.~~ D. A justice court providing a poststorage hearing may collect a
28 fee equal to the fee established pursuant to section 22-281 for a small
29 claims answer.