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Senate Engrossed

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

# SENATE BILL 1420

AN ACT

AMENDING SECTIONS 28-3511, 28-3512 AND 28-4135, ARIZONA REVISED STATUTES;  
RELATING TO VEHICLE IMPOUNDMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 28-3511, Arizona Revised Statutes, is amended to  
3 read:

4 28-3511. Removal and impoundment of vehicle

5 A. A peace officer may cause the removal and impoundment of a vehicle  
6 if the peace officer determines that a person is driving the vehicle while  
7 any of the following applies:

8 1. The person's driving privilege is revoked for any reason.

9 2. The person's driving privilege is suspended because of a driving  
10 under the influence conviction.

11 3. The person's driving privilege is suspended pursuant to the  
12 department's action based on a previous conviction for a violation of section  
13 28-3473.

14 4. The person's driving privilege is suspended pursuant to section  
15 28-3306, subsection A, paragraph 3.

16 5. ACCORDING TO DEPARTMENT RECORDS THE PERSON HAS NOT EVER BEEN ISSUED  
17 A DRIVER LICENSE OR PERMIT AND THE PERSON DOES NOT PRODUCE EVIDENCE OF A  
18 DRIVER LICENSE ISSUED BY ANOTHER JURISDICTION.

19 B. A PEACE OFFICER SHALL CAUSE THE REMOVAL AND IMPOUNDMENT OF A  
20 VEHICLE IF THE PEACE OFFICER DETERMINES THAT A PERSON IS DRIVING THE VEHICLE  
21 AND IF ALL OF THE FOLLOWING APPLY:

22 1. THE PERSON'S DRIVING PRIVILEGE IS CANCELED, SUSPENDED OR REVOKED OR  
23 ACCORDING TO DEPARTMENT RECORDS THE PERSON HAS NOT EVER BEEN ISSUED A DRIVER  
24 LICENSE OR PERMIT AND THE PERSON DOES NOT PRODUCE EVIDENCE OF A DRIVER  
25 LICENSE ISSUED BY ANOTHER JURISDICTION.

26 2. THE PERSON IS NOT IN COMPLIANCE WITH THE FINANCIAL RESPONSIBILITY  
27 REQUIREMENTS OF CHAPTER 9, ARTICLE 4 OF THIS TITLE.

28 3. THE PERSON IS DRIVING A VEHICLE THAT IS INVOLVED IN AN ACCIDENT  
29 THAT RESULTS IN EITHER PROPERTY DAMAGE OR INJURY TO OR DEATH OF ANOTHER  
30 PERSON.

31 ~~B.~~ C. Except as otherwise provided in this article, a vehicle that is  
32 removed and impounded pursuant to subsection A OR B of this section shall be  
33 impounded for thirty days.

34 ~~C.~~ D. The owner of a vehicle that is removed and impounded pursuant  
35 to subsection A OR B of this section, the spouse of the owner and each person  
36 identified on the department's record with an interest in the vehicle shall  
37 be provided with an opportunity for a poststorage hearing pursuant to section  
38 28-3514.

39 Sec. 2. Section 28-3512, Arizona Revised Statutes, is amended to read:

40 28-3512. Release of vehicle; definition

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

1           1. If the vehicle is a stolen vehicle.

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

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

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

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

33           C. The owner is responsible for paying all towing and storage charges  
34 related to the impoundment of the vehicle and any administrative charges  
35 established pursuant to section 28-3513, unless the vehicle is stolen and the  
36 theft was reported to the appropriate law enforcement agency. If the vehicle  
37 is stolen and the theft was reported to the appropriate law enforcement  
38 agency, the operator of the vehicle at the time of impoundment is responsible  
39 for all towing, storage and administrative charges.

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

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

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

11           3. The person presents foreclosure documents or an affidavit of  
12 repossession of the vehicle.

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

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

35           G. The storage charges relating to the impoundment of a vehicle  
36 pursuant to this section shall not exceed fifteen dollars for each day of  
37 storage.

38           H. The impounding agency shall have no lien or possessory interest in  
39 a stolen vehicle if the theft was reported to the appropriate law enforcement  
40 agency. The impounding agency shall release the vehicle to the owner or  
41 person other than the owner as identified in subsection D of this section  
42 even if the operator at the time of impoundment has not paid all towing,  
43 storage and administrative fees.

44           I. For the purposes of this section, "certified ignition interlock  
45 device" has the same meaning prescribed in section 28-1301.

46           Sec. 3. Section 28-4135, Arizona Revised Statutes, is amended to read:

1           28-4135. Motor vehicle financial responsibility requirement:  
2                           civil penalties

3           A. A motor vehicle that is operated on a highway in this state shall  
4 be covered by one of the following:

5           1. A motor vehicle or automobile liability policy that provides limits  
6 not less than those prescribed in section 28-4009.

7           2. An alternate method of coverage as provided in section 28-4076.

8           3. A certificate of self-insurance as prescribed in section 28-4007.

9           4. A policy that satisfies the financial responsibility requirements  
10 prescribed in article 2 of this chapter.

11          B. A person operating a motor vehicle on a highway in this state shall  
12 have evidence within the motor vehicle of current financial responsibility  
13 applicable to the motor vehicle.

14          C. Failure to produce evidence of financial responsibility on the  
15 request of a law enforcement officer investigating a motor vehicle accident  
16 or an alleged violation of a motor vehicle law of this state or a traffic  
17 ordinance of a city or town is a civil traffic violation that is punishable  
18 as prescribed in this section.

19          D. A citation issued for violating subsection B or C of this section  
20 shall be dismissed if the person to whom the citation was issued produces  
21 evidence to the appropriate court officer on or before the date and time  
22 specified on the citation for court appearance and in a manner specified by  
23 the court, including the certification of evidence by mail, of either of the  
24 following:

25           1. The financial responsibility requirements prescribed in this  
26 section were met for the motor vehicle at the date and time the citation was  
27 issued.

28           2. A motor vehicle or automobile liability policy that meets the  
29 financial responsibility requirements of this state and that insured the  
30 person and the motor vehicle the person was operating at the time the person  
31 received the citation regardless of whether or not the motor vehicle was  
32 named in the policy.

33          E. ~~Notwithstanding section 28-1598 and~~ Except as provided in section  
34 28-4137, a person who violates this section is subject to a civil penalty as  
35 follows:

36           1. The court ~~may~~ SHALL impose a minimum civil penalty of ~~two hundred~~  
37 ~~fifty~~ FIVE HUNDRED dollars for the first violation and ~~may~~ SHALL direct the  
38 department to suspend the driver license of the person and the registration  
39 and license plates of the motor vehicle involved for three months.

40           2. If a person violates this section a second time within a period of  
41 thirty-six months, the court shall impose a minimum civil penalty of ~~five~~  
42 ~~hundred~~ SEVEN HUNDRED FIFTY dollars and ~~may~~ SHALL direct the department to  
43 suspend the driver license of the person and the registration and license  
44 plates of the motor vehicle involved for six months.

45           3. If a person violates this section three or more times within a  
46 period of thirty-six months, the court shall impose a minimum civil penalty

S.B. 1420

1 of ~~seven hundred fifty~~ ONE THOUSAND dollars and SHALL direct the department  
2 to suspend the driver license OF THE PERSON and the registration and license  
3 plates of the motor vehicle involved for one year.