

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

HOUSE BILL 2753

AN ACT

AMENDING SECTIONS 28-872, 28-3511, 28-3512, 28-3513, 28-3514, 28-3515 AND 41-1752, ARIZONA REVISED STATUTES; RELATING TO SUSPENDED DRIVER LICENSE ENFORCEMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 28-872, Arizona Revised Statutes, is amended to
3 read:

4 28-872. Removal of vehicles; notice; liability for costs;
5 hearing

6 A. If a police officer finds a vehicle standing on a highway in
7 violation of section 28-871 the officer may move the vehicle or require the
8 driver or other person in charge of the vehicle to move the vehicle to a
9 position off the paved or main traveled part of the highway.

10 B. A police officer may remove or cause to be removed to a place of
11 safety an unattended vehicle that is illegally left standing on a highway,
12 bridge or causeway or in a tunnel in a position or under circumstances that
13 obstruct the normal movement of traffic.

14 C. A police officer may remove or cause the removal of a vehicle to
15 the nearest garage or other place of safety as follows:

16 1. If a report has been made that the vehicle has been stolen or taken
17 without the consent of its owner.

18 2. If the person or persons in charge of the vehicle are unable to
19 provide for its custody or removal.

20 3. If the person driving or in control of the vehicle is arrested for
21 an alleged offense for which the officer is required by law to take the
22 person arrested before a proper magistrate without unnecessary delay.

23 4. If the vehicle is left unattended for more than four hours on the
24 right-of-way of a freeway that has full control of access and no crossings at
25 grade.

26 5. Within the boundaries of a city, if the vehicle is left unattended
27 for more than two hours on the right-of-way of a freeway that has full
28 control of access and no crossings at grade.

29 **D. A POLICE OFFICER MAY REMOVE OR CAUSE THE REMOVAL OF A VEHICLE TO**
30 **THE NEAREST GARAGE OR OTHER PLACE OF SAFETY IF THE PERSON DRIVING OR IN**
31 **CONTROL OF THE VEHICLE, OR ANY PASSENGER IN THE VEHICLE, IS ARRESTED FOR A**
32 **VIOLATION OF SECTION 4-251.**

33 ~~D.~~ E. If a police officer removes or causes the removal of a vehicle
34 pursuant to this section, the police officer shall do one of the following
35 when the vehicle is removed:

36 1. Provide to the tow truck operator a form that the police officer
37 signs and that includes the following information:

38 (a) The vehicle identification number.

39 (b) A number identifying the law enforcement agency and the officer
40 ordering the tow.

41 (c) The year, make and model of the vehicle.

42 (d) The license plate number if available.

43 (e) The date and time the vehicle was towed.

44 (f) The address from which the vehicle was towed.

1 (g) The name, address and telephone number, if the telephone number is
2 known, of the registered owner and the primary lien holder of the vehicle to
3 permit the towing company to notify the registered owner or the primary lien
4 holder.

5 2. Electronically communicate to the officer's law enforcement agency
6 both of the following and provide to the towing company that towed the
7 vehicle the name, address and telephone number, if the telephone number is
8 known, of the registered owner and the primary lien holder of the vehicle:

9 (a) The name and telephone number of the person towing the vehicle.

10 (b) The information prescribed by paragraph 1 of this subsection.

11 ~~E~~ F. If a police officer provides the tow truck operator with the
12 form described in subsection ~~D~~ E, paragraph 1 of this section, the tow truck
13 operator must provide the form to the person responsible for filing the
14 abandoned vehicle report pursuant to section 28-4838. The person responsible
15 for filing the abandoned vehicle report shall submit the form to the
16 department of transportation at the time the person files the abandoned
17 vehicle report.

18 ~~F~~ G. The law enforcement agency receiving electronic information
19 pursuant to subsection ~~D~~ E of this section shall record the information as
20 prescribed by the department of public safety. The department of public
21 safety shall make the information available to the department of
22 transportation.

23 ~~G~~ H. When the department of transportation receives the information
24 from either the department of public safety or the person responsible for
25 filing the abandoned vehicle report pursuant to section 28-4838, the
26 department of transportation shall send notice by first class mail to all
27 persons listed on the department of transportation's records as having an
28 ownership interest in the vehicle. The notice shall include the vehicle
29 identification number and the name and telephone number of the person that
30 towed the vehicle. The director of the department of transportation may
31 include additional information on the notice as the director deems necessary.

32 ~~H~~ I. Except as provided in subsection ~~I~~ J of this section:

33 1. The public agency employing an officer who removes or causes the
34 removal of a vehicle under this section is not liable for the cost of towing
35 or storing the vehicle if the officer acts under color of the officer's
36 lawful authority.

37 2. Before release of the vehicle by the towing service, the owner or
38 the owner's agent of a vehicle that is removed or caused to be removed under
39 this article shall pay or make satisfactory arrangements to pay for any
40 reasonable towing and storage costs incurred in towing or storing the
41 vehicle.

42 ~~I~~ J. If a tow truck operator is required in writing by a public
43 agency to tow or store a vehicle that is required as evidence in a criminal
44 action or for future criminal investigation by the public agency, the public
45 agency is liable for the towing and storage costs of the vehicle.

1 ~~J~~ K. If a police officer removes or causes the removal of a vehicle
2 as permitted by this section, the public agency employing the officer shall
3 provide the registered owner of the vehicle or the registered owner's agent
4 with the opportunity for a poststorage hearing to determine the validity of
5 the removal. This hearing shall be conducted within forty-eight hours after
6 a request, excluding weekends and holidays. The public agency employing the
7 officer may authorize its own officer or employee to conduct the hearing if
8 the hearing officer is not the same person who removed or caused the removal
9 of the vehicle. The public agency employing the officer who removes or
10 causes the removal of the vehicle is responsible for the costs incurred for
11 towing and storage if it is determined at the hearing that probable cause for
12 the removal cannot be established.

13 Sec. 2. Section 28-3511, Arizona Revised Statutes, is amended to read:

14 28-3511. Removal and immobilization or impoundment of vehicle

15 A. A peace officer shall cause the removal and either immobilization
16 or impoundment of a vehicle if the peace officer determines that a person is
17 driving the vehicle while any of the following applies:

18 1. The person's driving privilege is **CANCELED, SUSPENDED OR** revoked
19 for any reason.

20 ~~2. The person's driving privilege is suspended because of a driving~~
21 ~~under the influence conviction.~~

22 ~~3. The person's driving privilege is suspended pursuant to the~~
23 ~~department's action based on a previous conviction for a violation of section~~
24 ~~28-3473.~~

25 ~~4. The person's driving privilege is suspended pursuant to section~~
26 ~~28-3306, subsection A, paragraph 3.~~

27 ~~5. 2. According to department records~~ The person has not ever been
28 issued a **VALID** driver license or permit **BY THIS STATE** and the person does not
29 produce evidence of **EVER HAVING** a **VALID** driver license **OR PERMIT** issued by
30 another jurisdiction.

31 B. A peace officer shall cause the removal and impoundment of a
32 vehicle if the peace officer determines that a person is driving the vehicle
33 and if all of the following apply:

34 1. The person's driving privilege is canceled, suspended or revoked ~~or~~
35 ~~according to department records the person has not ever been issued a driver~~
36 ~~license or permit and the person does not produce evidence of a driver~~
37 ~~license issued by another jurisdiction~~ **FOR ANY REASON OR THE PERSON HAS NOT**
38 **EVER BEEN ISSUED A DRIVER LICENSE OR PERMIT BY THIS STATE AND THE PERSON DOES**
39 **NOT PRODUCE EVIDENCE OF EVER HAVING A DRIVER LICENSE OR PERMIT ISSUED BY**
40 **ANOTHER JURISDICTION.**

41 2. The person is not in compliance with the financial responsibility
42 requirements of chapter 9, article 4 of this title.

43 3. The person is driving a vehicle that is involved in an accident
44 that results in either property damage or injury to or death of another
45 person.

1 C. Except as provided in subsection D of this section, while a peace
2 officer has control of the vehicle the peace officer shall cause the removal
3 and either immobilization or impoundment of the vehicle if the peace officer
4 has probable cause to arrest the driver of the vehicle for a violation of
5 section 4-244, paragraph 33 or section 28-1382 or 28-1383.

6 D. A peace officer shall not cause the removal and either the
7 immobilization or impoundment of a vehicle pursuant to subsection C of this
8 section if ~~either:~~

9 ~~1-~~ all of the following apply:

10 ~~(a)~~ 1. The peace officer determines that the vehicle is currently
11 registered and that the driver or the vehicle is in compliance with the
12 financial responsibility requirements of chapter 9, article 4 of this title.

13 ~~(b)~~ 2. The spouse of the driver is with the driver at the time of the
14 arrest.

15 ~~(c)~~ 3. The peace officer has reasonable grounds to believe that the
16 spouse of the driver:

17 ~~(i)~~ (a) Has a valid driver license.

18 ~~(ii)~~ (b) Is not impaired by intoxicating liquor, any drug, a vapor
19 releasing substance containing a toxic substance or any combination of
20 liquor, drugs or vapor releasing substances.

21 ~~(iii)~~ (c) Does not have any spirituous liquor in the spouse's body if
22 the spouse is under twenty-one years of age.

23 ~~(d)~~ 4. The spouse notifies the peace officer that the spouse will
24 drive the vehicle from the place of arrest to the driver's home or other
25 place of safety.

26 ~~(e)~~ 5. The spouse drives the vehicle as prescribed by ~~subdivision (d)~~
27 **PARAGRAPH 4** of this ~~paragraph~~ **SUBSECTION**.

28 ~~2. The vehicle is owned by the driver's parent or guardian and the~~
29 ~~peace officer has probable cause to arrest the driver of the vehicle for a~~
30 ~~violation of section 4-244, paragraph 33 but not for a violation of section~~
31 ~~28-1382 or 28-1383.~~

32 E. Except as otherwise provided in this article, a vehicle that is
33 removed and either immobilized or impounded pursuant to subsection A, ~~or~~ B or
34 C of this section shall be immobilized or impounded for thirty days. An
35 insurance company does not have a duty to pay any benefits for charges or
36 fees for immobilization or impoundment.

37 F. The owner of a vehicle that is removed and either immobilized or
38 impounded pursuant to subsection A, ~~or~~ B or C of this section, the spouse of
39 the owner and each person identified on the department's record with an
40 interest in the vehicle shall be provided with an opportunity for an
41 immobilization or poststorage hearing pursuant to section 28-3514.

1 Sec. 3. Section 28-3512, Arizona Revised Statutes, is amended to read:
2 28-3512. Release of vehicle; civil penalties; definition

3 A. An immobilizing or impounding agency shall release a vehicle to the
4 REGISTERED owner before the end of the thirty day immobilization or
5 impoundment period under any of the following circumstances:

6 1. If the vehicle is a stolen vehicle.

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

10 3. If the owner WAS OPERATING THE VEHICLE AT THE TIME OF REMOVAL AND
11 EITHER IMMOBILIZATION OR IMPOUNDMENT AND presents proof satisfactory to the
12 immobilizing or impounding agency that the owner's driving privilege has been
13 reinstated.

14 4. All of the following apply:

15 (a) The owner or the owner's agent was not the person driving the
16 vehicle pursuant to section 28-3511, subsection A.

17 (b) The owner or the owner's agent is in the business of renting motor
18 vehicles without drivers.

19 (c) The vehicle is registered pursuant to section 28-2166.

20 (d) THERE WAS A RENTAL AGREEMENT IN EFFECT AT THE TIME OF THE
21 IMMOBILIZATION OR IMPOUNDMENT.

22 5. For the spouse of the owner or any person who is identified as an
23 owner of the vehicle on the records of the department AT THE TIME OF REMOVAL
24 AND EITHER IMMOBILIZATION OR IMPOUNDMENT, if the spouse or person was not the
25 driver of the vehicle at the time of removal and either immobilization or
26 impoundment and the spouse or person enters into an agreement with the
27 immobilizing or impounding agency that stipulates that if the spouse or
28 person allows ~~an unlicensed A driver WHO DOES NOT HAVE A VALID DRIVING~~
29 ~~PRIVILEGE or a driver arrested in violation of section 4-244, paragraph 33 or~~
30 ~~section 28-1382 or 28-1383 to drive~~ WHO COMMITS A VIOLATION THAT CAUSES the
31 spouse's or person's vehicle TO BE REMOVED AND EITHER IMMOBILIZED OR
32 IMPOUNDED PURSUANT TO THIS ARTICLE within one year after ~~the~~ ANY agreement is
33 signed BY AN IMMOBILIZING OR IMPOUNDING AGENCY, the spouse or person will not
34 be eligible to obtain release of the spouse's or person's vehicle before the
35 end of the thirty day immobilization or impoundment period.

36 B. A vehicle shall not be released pursuant to subsection A of this
37 section except ~~on order of a justice court, immobilizing agency or impounding~~
38 ~~agency~~ pursuant to an immobilization or a poststorage hearing under section
39 28-3514 or ~~on presentation of~~ IF ALL OF THE FOLLOWING ARE PRESENTED TO THE
40 IMMOBILIZING OR IMPOUNDING AGENCY:

41 1. The owner's or owner's spouse's currently valid driver license ~~to~~
42 ~~operate the vehicle and~~ ISSUED BY THIS STATE OR THE OWNER'S OR OWNER'S
43 SPOUSE'S STATE OF DOMICILE.

44 2. Proof of current vehicle registration ~~and,~~ OR A VALID SALVAGE OR
45 DISMANTLE CERTIFICATE OF TITLE.

1 3. PROOF THAT THE VEHICLE IS IN COMPLIANCE WITH THE FINANCIAL
2 RESPONSIBILITY REQUIREMENTS OF CHAPTER 9, ARTICLE 4 OF THIS TITLE.

3 4. If the driving privilege of the person driving the vehicle was
4 suspended due to a previous conviction for driving under the influence
5 pursuant to section 28-1381, subsection K, paragraph 4, section 28-1382 or
6 section 28-1383 and a certified ignition interlock device was required to be
7 installed on the vehicle, ~~on presentation of~~ proof of installation of a
8 functioning certified ignition interlock device in the vehicle. The
9 impounding agency, storage yard, facility, person or agency having physical
10 possession of the vehicle shall allow access to the impounded vehicle for the
11 purpose of installing a certified ignition interlock device. The impounding
12 agency, storage yard, facility, person or agency having physical possession
13 of the vehicle shall not charge a fee for providing access to the vehicle or
14 for the installation of the certified ignition interlock device.

15 C. The owner OR THE OWNER'S SPOUSE IF THE VEHICLE IS RELEASED TO THE
16 OWNER'S SPOUSE is responsible for paying all immobilization, towing and
17 storage charges related to the immobilization or impoundment of the vehicle
18 and any administrative charges established pursuant to section 28-3513,
19 unless the vehicle is stolen and the theft was reported to the appropriate
20 law enforcement agency. If the vehicle is stolen and the theft was reported
21 to the appropriate law enforcement agency, the operator of the vehicle at the
22 time of immobilization or impoundment is responsible for all immobilization,
23 towing, storage and administrative charges.

24 D. The immobilizing or impounding agency shall release a vehicle to a
25 person, other than the owner, identified on the department's record as having
26 an interest in the vehicle before the end of the thirty day immobilization or
27 impoundment period if all of the following conditions are met:

28 1. The person is EITHER OF THE FOLLOWING:

29 (a) IN THE BUSINESS OF RENTING MOTOR VEHICLES WITHOUT DRIVERS AND THE
30 VEHICLE IS REGISTERED PURSUANT TO SECTION 28-2166.

31 (b) A motor vehicle dealer, bank, credit union or acceptance
32 corporation or any other licensed financial institution legally operating in
33 this state or is another person who is not the owner and who holds a security
34 interest in the vehicle.

35 2. The person pays all immobilization, towing and storage ~~fees~~ CHARGES
36 related to the immobilization or impoundment of the vehicle AND ANY
37 ADMINISTRATIVE CHARGES ESTABLISHED PURSUANT TO SECTION 28-3513 unless the
38 vehicle is stolen and the theft was reported to the appropriate law
39 enforcement agency. If the vehicle is stolen and the theft was reported to
40 the appropriate law enforcement agency, the operator of the vehicle at the
41 time of immobilization or impoundment is responsible for all immobilization,
42 towing, storage and administrative charges.

43 3. The person presents foreclosure documents or an affidavit of
44 repossession of the vehicle.

1 4. THE PERSON REQUESTING RELEASE OF THE VEHICLE WAS NOT THE PERSON
2 DRIVING THE VEHICLE AT THE TIME OF REMOVAL AND IMMOBILIZATION OR IMPOUNDMENT.

3 E. Before a person described in subsection D of this section releases
4 the vehicle TO THE OWNER WHO WAS OPERATING THE VEHICLE AT THE TIME OF REMOVAL
5 AND IMMOBILIZATION OR IMPOUNDMENT, the person DESCRIBED IN SUBSECTION D OF
6 THIS SECTION SHALL REQUIRE THE OWNER TO PRESENT AND SHALL RETAIN FOR A PERIOD
7 OF AT LEAST THREE YEARS FROM THE DATE OF RELEASING THE VEHICLE A COPY OF ALL
8 OF THE FOLLOWING:

9 1. A DRIVER LICENSE ISSUED BY THIS STATE OR THE OWNER'S OR OWNER'S
10 AGENT'S STATE OF DOMICILE.

11 2. A CURRENT VEHICLE REGISTRATION OR A VALID SALVAGE OR DISMANTLE
12 CERTIFICATE OF TITLE.

13 3. EVIDENCE THAT THE VEHICLE IS IN COMPLIANCE WITH THE FINANCIAL
14 RESPONSIBILITY REQUIREMENTS OF CHAPTER 9, ARTICLE 4 OF THIS TITLE.

15 F. THE PERSON DESCRIBED IN SUBSECTION D OF THIS SECTION may require
16 the owner to pay charges that the person incurred in connection with
17 obtaining custody of the vehicle, including all immobilization, towing and
18 storage charges that are related to the immobilization or impoundment of the
19 vehicle and any administrative charges that are established pursuant to
20 section 28-3513.

21 G. A vehicle shall not be released after the end of the thirty day
22 immobilization or impoundment period ~~except on presentation of~~ UNLESS the
23 ~~owner's or owner's agent's currently~~ OWNER OR OWNER'S AGENT PRESENTS ALL OF
24 THE FOLLOWING TO THE IMPOUNDING OR IMMOBILIZING AGENCY:

25 1. A valid driver license ~~to operate the vehicle and proof of current~~
26 ~~vehicle registration and,~~ ISSUED BY THIS STATE OR BY THE OWNER'S OR OWNER'S
27 AGENT'S STATE OF DOMICILE.

28 2. A CURRENT VEHICLE REGISTRATION OR A VALID SALVAGE OR DISMANTLE
29 CERTIFICATE OF TITLE.

30 3. EVIDENCE THAT THE VEHICLE IS IN COMPLIANCE WITH THE FINANCIAL
31 RESPONSIBILITY REQUIREMENTS OF CHAPTER 9, ARTICLE 4 OF THIS TITLE.

32 4. If the driving privilege of the person driving the vehicle was
33 suspended due to a previous conviction for driving under the influence
34 pursuant to section 28-1381, subsection K, paragraph 4, section 28-1382 or
35 section 28-1383 and a certified ignition interlock device was required to be
36 installed on the vehicle, on presentation of proof of installation of a
37 functioning certified ignition interlock device in the vehicle. The
38 impounding agency, storage yard, facility, person or agency having physical
39 possession of the vehicle shall allow access to the impounded vehicle for the
40 purpose of installing a certified ignition interlock device. The impounding
41 agency, storage yard, facility, person or agency having physical possession
42 of the vehicle shall not charge a fee for providing access to the vehicle or
43 for the installation of the certified ignition interlock device.

44 ~~G.~~ H. The storage charges relating to the impoundment of a vehicle
45 pursuant to this section shall ~~either:~~

1 ~~I.~~ be subject to a contractual agreement between the impounding agency
2 and a towing firm for storage services pursuant to section 28-1108 **BUT**
3 **SHALL—**

4 ~~2.~~ not exceed fifteen dollars for each day of storage.

5 ~~H.~~ I. The immobilizing or impounding agency shall have no lien or
6 possessory interest in a stolen vehicle if the theft was reported to the
7 appropriate law enforcement agency. The immobilizing or impounding agency
8 shall release the vehicle to the owner or person other than the owner as
9 identified in subsection D of this section even if the operator at the time
10 of immobilization or impoundment has not paid all immobilization, towing,
11 storage and administrative ~~fees~~ **CHARGES**.

12 **J. A PERSON WHO ENTERS INTO AN AGREEMENT PURSUANT TO SUBSECTION A,**
13 **PARAGRAPH 5 OF THIS SECTION AND WHO ALLOWS ANOTHER PERSON TO OPERATE THE**
14 **VEHICLE IN VIOLATION OF THE AGREEMENT IS RESPONSIBLE FOR A CIVIL TRAFFIC**
15 **VIOLATION AND SHALL PAY A CIVIL PENALTY OF AT LEAST TWO HUNDRED FIFTY**
16 **DOLLARS.**

17 **K. A PERSON DESCRIBED IN SUBSECTION D, PARAGRAPH 1 OF THIS SECTION WHO**
18 **VIOLATES SUBSECTION E OF THIS SECTION IS RESPONSIBLE FOR A CIVIL TRAFFIC**
19 **VIOLATION AND SHALL PAY A CIVIL PENALTY OF AT LEAST TWO HUNDRED FIFTY**
20 **DOLLARS.**

21 ~~I.~~ L. For the purposes of this section, "certified ignition interlock
22 device" has the same meaning prescribed in section 28-1301.

23 Sec. 4. Section 28-3513, Arizona Revised Statutes, is amended to read:
24 **28-3513. Administrative charges**

25 A. The immobilizing or impounding agency shall establish procedures
26 for immobilization hearings or poststorage hearings, for the release of
27 properly immobilized or impounded vehicles and for imposition of a charge
28 ~~equal to the~~ **FOR** administrative costs relating to the removal,
29 immobilization, impoundment, storage or release of a vehicle. The
30 immobilizing or impounding agency may waive the administrative charges.

31 B. The administrative charges established pursuant to this section
32 shall not exceed one hundred fifty dollars.

33 C. The immobilizing or impounding agency shall collect any
34 administrative charges at the time of the release of the vehicle unless the
35 vehicle is stolen and the theft was reported to the appropriate law
36 enforcement agency. If the vehicle is stolen and the theft was reported to
37 the appropriate law enforcement agency, the operator of the vehicle at the
38 time of immobilization or impoundment is responsible for all towing,
39 immobilization, storage and administrative charges.

40 D. The administrative charges established pursuant to this section are
41 in addition to any other immobilization, impoundment or storage charges.

42 E. A justice court providing an immobilization or poststorage hearing
43 may collect a fee equal to the fee established pursuant to section 22-281 for
44 a small claims answer.

45 **F. IF THE IMMOBILIZING OR IMPOUNDING AGENCY IS:**

1 1. A MUNICIPALITY, THE ADMINISTRATIVE CHARGES COLLECTED PURSUANT TO
2 THIS SECTION SHALL BE TRANSMITTED TO THE CITY TREASURER FOR DEPOSIT IN A
3 SPECIAL FUND ESTABLISHED BY THE MUNICIPALITY FOR THE PURPOSE OF IMPLEMENTING
4 SECTION 28-872 AND THIS ARTICLE.

5 2. A COUNTY, THE ADMINISTRATIVE CHARGES COLLECTED PURSUANT TO THIS
6 SECTION SHALL BE TRANSMITTED TO THE COUNTY TREASURER FOR DEPOSIT IN A SPECIAL
7 FUND ESTABLISHED BY THE COUNTY FOR THE PURPOSE OF IMPLEMENTING SECTION 28-872
8 AND THIS ARTICLE.

9 3. THE DEPARTMENT OF PUBLIC SAFETY, THE ADMINISTRATIVE CHARGES
10 COLLECTED PURSUANT TO THIS SECTION SHALL BE DEPOSITED, PURSUANT TO SECTIONS
11 35-146 AND 35-147, IN THE ARIZONA HIGHWAY PATROL FUND ESTABLISHED BY SECTION
12 41-1752.

13 Sec. 5. Section 28-3514, Arizona Revised Statutes, is amended to read:

14 28-3514. Hearings; notice of immobilization or storage

15 A. If a peace officer removes and either immobilizes or impounds a
16 vehicle pursuant to section 28-3511, the immobilizing or impounding agency
17 may provide the owner, the spouse of the owner and any other person
18 identified on the department's record as having an interest in the vehicle
19 with the opportunity for an immobilization or poststorage hearing to
20 determine the validity of the immobilization or storage or consider any
21 mitigating circumstances relating to the immobilization or storage or release
22 of the vehicle before the end of the thirty day immobilization or impoundment
23 period. If the immobilizing or impounding agency provides the opportunity
24 for an immobilization or poststorage hearing, the immobilizing or impounding
25 agency shall conduct the hearing in accordance with any of the following:

- 26 1. In the immobilizing or impounding agency's jurisdiction.
- 27 2. Telephonically.

28 3. Pursuant to procedures prescribed by the immobilizing or impounding
29 agency to transfer the authority to conduct the immobilization or poststorage
30 hearing to a law enforcement agency in the jurisdiction in which the owner,
31 the spouse of the owner, the owner's agent or any person identified in the
32 department's record as having an interest in the vehicle resides.

33 B. If the immobilizing or impounding agency does not provide an
34 opportunity for an immobilization or poststorage hearing, a justice OR
35 MUNICIPAL court shall conduct the immobilization or poststorage hearing. If
36 an immobilization or poststorage hearing is conducted by a justice OR
37 MUNICIPAL court, the immobilizing or impounding agency shall appear and show
38 evidence. Immobilization or poststorage hearings conducted by a justice OR
39 MUNICIPAL court shall be considered as civil filings for the purposes of
40 judicial productivity credits.

41 C. Within ~~two-working~~ THREE BUSINESS days after immobilization or
42 impoundment, EXCLUDING WEEKENDS AND HOLIDAYS, the immobilizing or impounding
43 agency shall send a notice of storage by first class mail to each person,
44 other than the owner, identified on the department's record as having an
45 interest in the vehicle. Service of notice of immobilization or storage is

1 complete on mailing. If the immobilizing or impounding agency fails to
2 notify a person, other than the owner, identified on the department's record
3 as having an interest in the vehicle within ~~two-working~~ THREE BUSINESS days
4 after immobilization or impoundment, EXCLUDING WEEKENDS AND HOLIDAYS, the
5 immobilizing agency or the person in possession of the vehicle shall not
6 charge more than fifteen days' immobilization or impoundment when the person
7 redeems the impounded vehicle or has the immobilization device removed from
8 the vehicle.

9 D. Within ~~two-working~~ THREE BUSINESS days after immobilization or
10 impoundment, EXCLUDING WEEKENDS AND HOLIDAYS, the immobilizing or impounding
11 agency shall mail or personally deliver notice of immobilization or storage
12 to the owner of the vehicle.

13 E. The notice of immobilization or storage shall include all of the
14 following information:

15 1. A statement that the vehicle was immobilized or impounded.

16 2. The name, address and telephone number of the immobilizing or
17 impounding agency providing the notice.

18 3. The name, address and telephone number of the immobilizing or
19 impounding agency or justice court that will provide the immobilization or
20 poststorage hearing.

21 4. The location of the place of storage and a description of the
22 vehicle, including, if available, the manufacturer, model, license plate
23 number and mileage of the vehicle.

24 5. A statement that in order to receive an immobilization or
25 poststorage hearing the owner, the spouse of the owner, the owner's agent or
26 the person identified in the department's record as having an interest in the
27 vehicle, within ten days after the date on the notice, shall request an
28 immobilization or poststorage hearing by contacting the immobilizing or
29 impounding agency in person or in writing or by filing a request with the
30 justice court IF THE IMPOUNDING AGENCY DOES NOT PROVIDE FOR A HEARING and
31 paying a fee equal to the fee established pursuant to section 22-281 for a
32 small claims answer.

33 6. A statement that if the immobilizing or impounding agency does not
34 provide the opportunity for an immobilization or poststorage hearing, the
35 owner, the spouse of the owner, the owner's agent or any person identified in
36 the department's record as having an interest in the vehicle may request that
37 the immobilization or poststorage hearing be conducted by a justice court in
38 the immobilizing or impounding agency's jurisdiction or the jurisdiction in
39 which the owner, the spouse of the owner, the owner's agent or the person
40 identified in the department's record as having an interest in the vehicle
41 resides.

42 F. The immobilization or poststorage hearing shall be conducted by the
43 immobilizing or impounding agency or justice court within five ~~working~~
44 BUSINESS days, EXCLUDING WEEKENDS AND HOLIDAYS, after receipt of the request.

1 G. Failure of the owner, the spouse of the owner or other person or
2 the other person's agent to request **AN IMMOBILIZATION OR POSTSTORAGE HEARING**
3 **WITHIN TEN DAYS AFTER THE DATE ON THE NOTICE PRESCRIBED IN SUBSECTION E OF**
4 **THIS SECTION** or to attend a scheduled hearing satisfies the immobilization or
5 poststorage hearing requirement.

6 H. The immobilizing or impounding agency employing the person who
7 directed the immobilization or storage is responsible for the costs incurred
8 for immobilization, towing and storage if it is determined in the
9 immobilization or poststorage hearing that reasonable grounds for the
10 immobilization or impoundment and storage are not established.

11 I. **IN COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION, THE VEHICLE**
12 **OWNER, THE VEHICLE OWNER'S SPOUSE OR OTHER PERSON HAVING AN INTEREST IN THE**
13 **VEHICLE SHALL HAVE AN OPPORTUNITY FOR A SINGLE POSTSTORAGE HEARING FOR THE**
14 **RELEASE OF THE VEHICLE BY EITHER THE IMMOBILIZING OR IMPOUNDING AGENCY OR A**
15 **JUSTICE COURT BUT NOT BOTH.**

16 Sec. 6. Section 28-3515, Arizona Revised Statutes, is amended to read:
17 **28-3515. Unclaimed vehicles**

18 If a claim has not been made for the return or possession of the
19 vehicle by a person legally entitled to the vehicle within thirty days after
20 a vehicle is impounded pursuant to this article, the person who has
21 possession of the vehicle shall submit an abandoned vehicle report as
22 provided in section 28-4838. **THE IMMOBILIZING OR IMPOUNDING AGENCY SHALL**
23 **REQUIRE THE PERSON WHO TAKES POSSESSION OF A VEHICLE PURSUANT TO THIS SECTION**
24 **TO OBTAIN A RELEASE FOR THE VEHICLE FROM THE IMMOBILIZING OR IMPOUNDING**
25 **AGENCY. THE IMMOBILIZING OR IMPOUNDING AGENCY MAY REQUIRE THE PERSON WHO**
26 **OBTAINS A RELEASE FOR THE VEHICLE TO PAY ANY ADMINISTRATIVE CHARGES AT THE**
27 **TIME OF THE RELEASE OF THE VEHICLE.**

28 Sec. 7. Section 41-1752, Arizona Revised Statutes, is amended to read:
29 **41-1752. Arizona highway patrol fund**

30 A. An Arizona highway patrol fund is established.

31 B. The Arizona highway patrol fund consists of:

32 1. Monies distributed to the fund from the Arizona highway user
33 revenue fund by the legislature subject to section 28-6537.

34 2. Miscellaneous service fees.

35 3. Rewards.

36 4. Awards.

37 5. Insurance recoveries.

38 6. Receipts from the sale or disposal of any property held by the
39 Arizona highway patrol or purchased with Arizona highway patrol monies.

40 7. Monies received from the public safety personnel retirement system
41 pursuant to section 20-224.01.

42 **8. MONIES DEPOSITED PURSUANT TO SECTION 28-3513.**

43 C. Subject to legislative appropriation, the patrol superintendent
44 shall administer and spend monies in the Arizona highway patrol fund in
45 conformity with the laws governing state financial operations.

1 D. Monies in the Arizona highway patrol fund:

2 1. Do not revert to the state general fund or Arizona highway user
3 revenue fund.

4 2. Are exempt from the provisions of section 35-190 relating to
5 lapsing of appropriations.

6 E. Subject to legislative appropriation, monies in the Arizona highway
7 patrol fund shall be used to administer the provisions of law relating to the
8 highway patrol and the Arizona highway patrol reserve and all matters
9 pertaining to those laws, except that monies received pursuant to subsection
10 B, paragraph 7 of this section shall be used for the department of public
11 safety.