

REFERENCE TITLE: commercial motor vehicles; trailers

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HB 2355

Introduced by
Representative Biggs

AN ACT

AMENDING SECTIONS 28-601, 28-5201, 28-5202, 28-5240 AND 28-5432, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 3, ARTICLE 18, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-1111; AMENDING TITLE 28, CHAPTER 14, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-5245; RELATING TO COMMERCIAL MOTOR VEHICLES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 28-601, Arizona Revised Statutes, is amended to
3 read:

4 28-601. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Commercial motor vehicle" means a motor vehicle or combination of
7 ~~motor~~ vehicles THAT IS DESIGNED, used OR MAINTAINED to transport passengers
8 or property ~~if the motor vehicle either:~~

9 ~~(a) Has a gross combined weight rating of twenty six thousand one or~~
10 ~~more pounds inclusive of a towed unit with a gross vehicle weight rating of~~
11 ~~more than ten thousand pounds.~~

12 ~~(b) Has a gross vehicle weight rating of twenty six thousand one or~~
13 ~~more pounds.~~

14 ~~(c) Is a school bus.~~

15 ~~(d) Is a bus.~~

16 ~~(e) Is used in the transportation of materials found to be hazardous~~
17 ~~for the purposes of the hazardous materials transportation act (49 United~~
18 ~~States Code sections 5101 through 5127) and is required to be placarded under~~
19 ~~49 Code of Federal Regulations section 172.504, as adopted by the department~~
20 ~~pursuant to chapter 14 of this title. IN THE FURTHERANCE OF A COMMERCIAL~~
21 ~~ENTERPRISE, THAT IS A COMMERCIAL MOTOR VEHICLE AS DEFINED IN SECTION 28-5201~~
22 ~~AND THAT IS NOT EXEMPT FROM GROSS WEIGHT FEES AS PRESCRIBED IN SECTION~~
23 ~~28-5432, SUBSECTION B.~~

24 2. "Controlled access highway" means a highway, street or roadway to
25 or from which owners or occupants of abutting lands and other persons have no
26 legal right of access except at such points only and in the manner determined
27 by the public authority that has jurisdiction over the highway, street or
28 roadway.

29 3. "Crosswalk" means:

30 (a) That part of a roadway at an intersection included within the
31 prolongations or connections of the lateral lines of the sidewalks on
32 opposite sides of the highway measured from the curbs or, in absence of
33 curbs, from the edges of the traversable roadway.

34 (b) Any portion of a roadway at an intersection or elsewhere that is
35 distinctly indicated for pedestrian crossing by lines or other markings on
36 the surface.

37 4. "Escort vehicle" means a vehicle that is required pursuant to rules
38 adopted by the department to escort motor vehicles or combinations of
39 vehicles that require issuance of a permit pursuant to article 18 or 19 of
40 this chapter for operation on the highways of this state.

41 5. "Explosives" means any chemical compound, mixture or device that is
42 commonly used or intended for the purpose of producing an explosion and that
43 is defined in 49 Code of Federal Regulations part 173.

- 1 6. "Flammable liquid" means any liquid that has a flash point of less
2 than one hundred degrees Fahrenheit and that is defined in 49 Code of Federal
3 Regulations section 173.120.
- 4 7. "Gross weight" means the weight of a vehicle without a load plus
5 the weight of any load on the vehicle.
- 6 8. "Intersection" means the area embraced within the prolongation or
7 connection of the lateral curb lines, or if none, the lateral boundary lines
8 of the roadways of two highways that join one another at, or approximately
9 at, right angles, or the area within which vehicles traveling on different
10 highways joining at any other angle may come in conflict. If a highway
11 includes two roadways thirty or more feet apart, each crossing of each
12 roadway of the divided highway by an intersecting highway is a separate
13 intersection. If the intersecting highway also includes two roadways thirty
14 or more feet apart, each crossing of two roadways of the highways is a
15 separate intersection.
- 16 9. "License" means any license, temporary instruction permit or
17 temporary license issued under the laws of this state or any other state that
18 pertain to the licensing of persons to operate motor vehicles.
- 19 10. "Motorized wheelchair" means any self-propelled wheelchair that is
20 used by a person for mobility.
- 21 11. "Official traffic control device" means any sign, signal, marking
22 or device that is not inconsistent with this chapter and that is placed or
23 erected by authority of a public body or official having jurisdiction for the
24 purpose of regulating, warning or guiding traffic.
- 25 12. "Park", if prohibited, means the standing of a vehicle, whether
26 occupied or not, otherwise than temporarily for the purpose of and while
27 actually engaged in loading or unloading.
- 28 13. "Photo enforcement system" means a device substantially consisting
29 of a radar unit or sensor linked to a camera or other recording device that
30 produces one or more photographs, microphotographs, videotapes or digital or
31 other recorded images of a vehicle's license plate for the purpose of
32 identifying violators of articles 3 and 6 of this chapter.
- 33 14. "Pneumatic tire" means a tire in which compressed air is designed
34 to support the load.
- 35 15. "Pole trailer" means a vehicle that is all of the following:
36 (a) Without motive power.
37 (b) Designed to be drawn by another vehicle and attached to the towing
38 vehicle by means of a reach or pole or by being boomed or otherwise secured
39 to the towing vehicle.
40 (c) Used ordinarily for transporting long or irregularly shaped loads
41 such as poles, pipes or structural members capable generally of sustaining
42 themselves as beams between the supporting connections.
- 43 16. "Police officer" means an officer authorized to direct or regulate
44 traffic or make arrests for violations of traffic rules or other offenses.

- 1 17. "Private road or driveway" means a way or place that is in private
2 ownership and that is used for vehicular travel by the owner and those
3 persons who have express or implied permission from the owner but not by
4 other persons.
- 5 18. "Railroad" means a carrier of persons or property on cars operated
6 on stationary rails.
- 7 19. "Railroad sign or signal" means a sign, signal or device erected by
8 authority of a public body or official or by a railroad and intended to give
9 notice of the presence of railroad tracks or the approach of a railroad
10 train.
- 11 20. "Railroad train" means a steam engine or any electric or other
12 motor that is with or without cars coupled to the steam engine or electric or
13 other motor and that is operated on rails.
- 14 21. "Roadway" means that portion of a highway that is improved,
15 designed or ordinarily used for vehicular travel, exclusive of the berm or
16 shoulder. If a highway includes two or more separate roadways, roadway refers
17 to any such roadway separately but not to all such roadways collectively.
- 18 22. "Safety zone" means the area or space that is both:
19 (a) Officially set apart within a roadway for the exclusive use of
20 pedestrians.
21 (b) Protected or either marked or indicated by adequate signs as to be
22 plainly visible at all times while set apart as a safety zone.
- 23 23. "Sidewalk" means that portion of a street that is between the curb
24 lines or the lateral lines of a roadway and the adjacent property lines and
25 that is intended for the use of pedestrians.
- 26 24. "Solid tire" means a tire that both:
27 (a) Is made of rubber or other resilient material.
28 (b) Does not depend on compressed air for the support of the load.
- 29 25. "Stop", if required, means complete cessation from movement.
- 30 26. "Stop, stopping or standing", if prohibited, means any stopping or
31 standing of an occupied or unoccupied vehicle, except when necessary to avoid
32 conflict with other traffic or in compliance with directions of a police
33 officer or traffic control sign or signal.
- 34 27. "Through highway" means a highway or portion of a highway at the
35 entrances to which vehicular traffic from intersecting highways is required
36 by law to stop before entering or crossing and when stop signs are erected as
37 provided in this chapter.
- 38 28. "Traffic" means pedestrians, ridden or herded animals, vehicles and
39 other conveyances either singly or together while using a highway for
40 purposes of travel.
- 41 29. "Traffic control signal" means a device, whether manually,
42 electrically or mechanically operated, by which traffic is alternately
43 directed to stop and to proceed.
- 44 30. "Truck" means a motor vehicle that is designed, used or maintained
45 primarily for the transportation of property.

1 Sec. 2. Title 28, chapter 3, article 18, Arizona Revised Statutes, is
2 amended by adding section 28-1111, to read:

3 28-1111. Commercial and noncommercial vehicles and trailers:
4 website publications

5 A. IN COOPERATION WITH THE DEPARTMENT OF PUBLIC SAFETY, THE DEPARTMENT
6 OF TRANSPORTATION SHALL DEVELOP EASILY UNDERSTANDABLE PUBLICATIONS OF THE
7 LAWS, RULES AND DEPARTMENT POLICIES RELATING TO COMMERCIAL AND NONCOMMERCIAL
8 MOTOR VEHICLES, TRAILERS AND VEHICLE COMBINATIONS THAT CONTAIN THE FOLLOWING:

9 1. WEIGHT THRESHOLDS SPECIFYING THE DIFFERENCES BETWEEN COMMERCIAL AND
10 NONCOMMERCIAL VEHICLES AND VEHICLE COMBINATIONS.

11 2. EQUIPMENT REQUIREMENTS FOR DIFFERENT WEIGHT CLASSES OF COMMERCIAL
12 AND NONCOMMERCIAL VEHICLES AND VEHICLE COMBINATIONS.

13 3. ALLOWABLE VEHICLE COMBINATIONS.

14 4. OTHER INFORMATION THE DIRECTOR DEEMS NECESSARY.

15 B. THE DEPARTMENT OF TRANSPORTATION AND THE DEPARTMENT OF PUBLIC
16 SAFETY SHALL JOINTLY DEVELOP AND PUBLISH ON THE WEBSITE OF EACH AGENCY THE
17 INFORMATION PRESCRIBED BY SUBSECTION A NO LATER THAN JANUARY 1, 2009.

18 Sec. 3. Section 28-5201, Arizona Revised Statutes, is amended to read:

19 28-5201. Definitions

20 In this chapter, unless the context otherwise requires:

21 1. "COMMERCIAL MOTOR VEHICLE" MEANS A MOTOR VEHICLE OR COMBINATION OF
22 MOTOR VEHICLES THAT IS USED TO TRANSPORT PASSENGERS OR PROPERTY ON A HIGHWAY
23 IN THIS STATE AND THAT INCLUDES ANY OF THE FOLLOWING:

24 (a) A COMBINATION OF VEHICLES THAT HAS A COMBINED GROSS VEHICLE WEIGHT
25 RATING OF TWENTY-SIX THOUSAND ONE OR MORE POUNDS INCLUSIVE OF A TOWED UNIT
26 WITH A GROSS VEHICLE WEIGHT RATING OF MORE THAN TEN THOUSAND POUNDS.

27 (b) A SINGLE VEHICLE THAT HAS A GROSS VEHICLE WEIGHT RATING OF
28 TWENTY-SIX THOUSAND ONE OR MORE POUNDS.

29 (c) A SINGLE VEHICLE OR COMBINATION OF VEHICLES THAT HAS A GROSS
30 VEHICLE WEIGHT RATING OF EIGHTEEN THOUSAND ONE OR MORE POUNDS AND THAT IS
31 USED FOR THE PURPOSES OF INTRASTATE COMMERCE.

32 (d) A SINGLE VEHICLE OR COMBINATION OF VEHICLES THAT HAS A GROSS
33 VEHICLE WEIGHT RATING OF TEN THOUSAND ONE OR MORE POUNDS AND THAT IS USED FOR
34 THE PURPOSES OF INTERSTATE COMMERCE.

35 (e) A SCHOOL BUS.

36 (f) A BUS.

37 (g) A VEHICLE THAT TRANSPORTS PASSENGERS FOR HIRE AND THAT HAS A
38 DESIGN CAPACITY FOR EIGHT OR MORE PERSONS.

39 (h) A VEHICLE THAT IS USED IN THE TRANSPORTATION OF MATERIALS FOUND TO
40 BE HAZARDOUS FOR THE PURPOSES OF THE HAZARDOUS MATERIALS TRANSPORTATION ACT
41 (49 UNITED STATES CODE SECTIONS 5101 THROUGH 5127) AND THAT IS REQUIRED TO BE
42 PLACARDED UNDER 49 CODE OF FEDERAL REGULATIONS SECTION 172.504, AS ADOPTED BY
43 THE DEPARTMENT PURSUANT TO THIS CHAPTER.

1 ~~1.~~ 2. "Declared gross weight" has the same meaning prescribed in
2 section 28-5431. If a declaration has not been made, declared gross weight
3 means gross weight.

4 ~~2.~~ 3. "Gross weight" has the same meaning prescribed in section
5 28-5431.

6 ~~3.~~ 4. "Hazardous material" means a substance that has been determined
7 by the United States department of transportation under 49 Code of Federal
8 Regulations to be capable of posing an unreasonable risk to health, safety
9 and property if transported in commerce.

10 ~~4.~~ 5. "Hazardous substance" means a material and its mixtures or
11 solutions that has been determined by the United States department of
12 transportation under 49 Code of Federal Regulations to be capable of posing
13 an unreasonable risk to health, safety and property if transported in
14 commerce.

15 ~~5.~~ 6. "Hazardous waste" means a material that is subject to the
16 hazardous waste manifest requirements of the department of environmental
17 quality or the United States environmental protection agency.

18 ~~6.~~ 7. "Lightweight motor vehicle" means a motor vehicle or vehicle
19 combination that has a declared gross weight of twenty thousand pounds or
20 less except:

21 (a) A motor vehicle that is used to transport passengers for hire.

22 (b) A motor vehicle that is used to transport hazardous materials,
23 hazardous substances or hazardous wastes and that is required by the
24 department to be marked or placarded, except that a motor vehicle that has a
25 declared gross weight of twenty thousand pounds or less and that carries a
26 hazardous material in an amount of less than one thousand pounds or not more
27 than one hundred ten gallons of combustible liquid as listed in 49 Code of
28 Federal Regulations section 172.504(a) table 2 is a lightweight motor
29 vehicle.

30 ~~7.~~ 8. "Manufacturer" means a person who transports or causes to be
31 transported or shipped by a motor vehicle or lightweight motor vehicle a
32 ~~hazardous material, hazardous substance or hazardous waste or who~~
33 ~~manufactures, fabricates, marks, maintains, reconditions, repairs or tests a~~
34 ~~package or container~~ that is represented, marked, certified or sold by a
35 person for ~~use in the~~ transportation in commerce ~~of hazardous materials,~~
36 ~~hazardous substances or hazardous wastes.~~

37 ~~8.~~ 9. "Motor carrier" means a person who operates or causes to be
38 operated a **COMMERCIAL** motor vehicle on a public highway.

39 ~~9. "Motor vehicle" means a self-propelled motor driven vehicle or~~
40 ~~vehicle combination, except a lightweight motor vehicle, that is used on a~~
41 ~~public highway in the furtherance of a commercial enterprise.~~

42 10. "Person" means a public or private corporation, company,
43 partnership, firm, association or society of persons, the federal government
44 and its departments or agencies, this state or any of its agencies,

1 departments, political subdivisions, counties, towns or municipal
2 corporations or a natural person.

3 11. "Public highway" means a public street, alley, road, highway or
4 thoroughfare of any kind in this state that is used by the public or that is
5 open to the use of the public as a matter of right, for the purpose of
6 vehicular travel.

7 12. "Shipper" means a person who offers a ~~hazardous waste, hazardous~~
8 ~~substance or hazardous~~ material for motor vehicle transportation in commerce.

9 13. "Transportation" means a movement of person or property by a motor
10 vehicle and any loading, unloading or storage incidental to the movement.

11 14. "Vehicle combination" has the same meaning prescribed in section
12 28-5431.

13 Sec. 4. Section 28-5202, Arizona Revised Statutes, is amended to read:

14 ~~28-5202.~~ Applicability

15 A. Except as otherwise provided, this chapter applies to all
16 **COMMERCIAL MOTOR VEHICLES, COMMERCIAL MOTOR VEHICLE COMBINATIONS AND**
17 manufacturers, shippers, motor carriers and drivers who ~~transport or cause~~
18 ~~the transportation of hazardous materials, hazardous substances or hazardous~~
19 ~~wastes~~ **OPERATE, CAUSE THE OPERATION OF, SHIP MATERIALS USING OR TRANSPORT**
20 **PERSONS USING COMMERCIAL MOTOR VEHICLES.**

21 B. **COMMERCIAL** vehicles owned or operated by this state or a political
22 subdivision or public authority of this state are subject to this chapter.

23 C. This chapter applies throughout this state, ~~and~~ **FOR THE PURPOSE OF**
24 **ENFORCING STATE AND FEDERAL LAWS AND RULES RELATING TO THE OPERATION OF**
25 **COMMERCIAL MOTOR VEHICLES.**

26 D. Any city, town, county or other political subdivision of this state
27 shall not adopt or implement a law or rule relating to hazardous materials,
28 hazardous substances or hazardous wastes other than as authorized by this
29 chapter.

30 Sec. 5. Section 28-5240, Arizona Revised Statutes, is amended to read:

31 ~~28-5240.~~ Violation; classification; attorney general
32 enforcement

33 A. In addition to civil penalties imposed under this chapter, a motor
34 carrier, shipper or manufacturer who operates or causes to be operated a
35 **COMMERCIAL** motor vehicle in violation of this chapter ~~or who knowingly~~
36 ~~violates or knowingly fails to comply with any provision of this chapter or~~
37 ~~with~~ **OR** any rule adopted pursuant to this chapter **RELATED TO THE**
38 **TRANSPORTATION OF HAZARDOUS MATERIALS, HAZARDOUS SUBSTANCES OR HAZARDOUS**
39 **WASTES** is guilty of:

- 40 1. A class 2 misdemeanor for a first offense.
- 41 2. A class 1 misdemeanor for a second offense.
- 42 3. A class 6 felony for any subsequent offense.
- 43 B. The attorney general may enforce this section.

1 Sec. 6. Title 28, chapter 14, article 2, Arizona Revised Statutes, is
2 amended by adding section 28-5245, to read:

3 28-5245. Violation; civil penalty

4 UNLESS OTHERWISE SPECIFIED, A VIOLATION OF THIS CHAPTER OR ANY RULE
5 ADOPTED PURSUANT TO THIS CHAPTER IS A CIVIL TRAFFIC VIOLATION.

6 Sec. 7. Section 28-5432, Arizona Revised Statutes, is amended to read:

7 28-5432. Gross weight fees; application; exceptions

8 A. This article applies to all of the following:

9 1. A trailer or semitrailer with a gross weight of ten thousand pounds
10 or less.

11 2. A motor vehicle or vehicle combination if the motor vehicle or
12 vehicle combination is designed, used or maintained primarily for the
13 transportation of passengers for compensation or for the transportation of
14 property.

15 3. A hearse, an ambulance or any other vehicle that is used by a
16 mortician in the conduct of the mortician's business.

17 4. A COMMERCIAL MOTOR VEHICLE AS DEFINED IN SECTION 28-5201.

18 B. This article does not apply to:

19 1. A vehicle commonly referred to as a station wagon or to a vehicle
20 commonly known as and referred to by the manufacturer's rating as a
21 three-quarter ton or less pickup truck or three-quarter ton or less van
22 unless such a vehicle is maintained and operated more than one thousand hours
23 in a vehicle registration year for the transportation of passengers or
24 property in the furtherance of a commercial enterprise. An applicant
25 requesting title or registration of a motor vehicle in the name of a
26 commercial enterprise shall pay the fees imposed by this article unless the
27 applicant certifies on the application that the vehicle will not be
28 maintained and operated in the furtherance of a commercial enterprise.

29 2. A trailer or semitrailer with a declared gross weight of less than
30 six thousand pounds, if the trailer or semitrailer is not used in the
31 furtherance of a commercial enterprise.

32 C. The following motor vehicles, trailers and semitrailers are exempt
33 from the gross weight fee prescribed in section 28-5433:

34 1. A motor vehicle, trailer or semitrailer that is owned and operated
35 by a religious institution and that is used exclusively for the
36 transportation of property produced and distributed for charitable purposes
37 without compensation. For the purposes of this paragraph, "religious
38 institution" means a recognized organization that has an established place of
39 meeting for religious worship and that holds regular meetings for that
40 purpose at least once each week in at least five cities or towns in this
41 state.

42 2. A motor vehicle, trailer or semitrailer that is owned and operated
43 by a nonprofit school that is recognized as being tax exempt by the federal
44 or state government if the motor vehicle, trailer or semitrailer is used
45 exclusively for any of the following:

- 1 (a) The transportation of pupils in connection with the school
2 curriculum.
- 3 (b) The training of pupils.
- 4 (c) The transportation of property for charitable purposes without
5 compensation.
- 6 3. A motor vehicle, trailer or semitrailer that is owned by a
7 nonprofit organization in this state that presents to the department a form
8 approved by the director of the division of emergency management pursuant to
9 section 26-318.
- 10 4. A vehicle that is owned and operated only for government purposes
11 by a foreign government, a consul or any other official representative of a
12 foreign government, by the United States, by a state or political subdivision
13 of a state or by an Indian tribal government.
- 14 5. A motor vehicle that is privately owned and operated exclusively as
15 a school bus pursuant to a contract with a school district. If a privately
16 owned and operated school bus is temporarily operated for purposes other than
17 those prescribed in the definition of school bus in section 28-101, the
18 registering officer shall assess and collect a monthly gross weight fee equal
19 to one-tenth of the annual gross weight fee prescribed by section 28-5433 for
20 each calendar month that the motor vehicle is so operated in this state. The
21 registering officer shall not apportion the gross weight fee for a fraction
22 of a calendar month.