

COMMITTEE ON RETIREMENT AND RURAL DEVELOPMENT

SENATE AMENDMENTS TO H.B. 2167

(Reference to House engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Title 9, chapter 4, article 8, Arizona Revised Statutes,
3 is amended by adding section 9-499.08, to read:

4 9-499.08. Ability to build, finance and operate toll roads

5 NOTWITHSTANDING SECTION 28-6805, SUBSECTION C, A CITY OR TOWN MAY
6 CONSTRUCT, OPERATE AND FINANCE THE CONSTRUCTION OF TOLL ROADS WITHIN THE
7 CORPORATE LIMITS OF THE CITY OR TOWN.

8 Sec. 2. Title 28, chapter 3, article 6, Arizona Revised Statutes, is
9 amended by adding section 28-711, to read:

10 28-711. Photo enforcement system; limitation on citation
11 issuance; local authority; prohibited use

12 A. NOTWITHSTANDING ANY OTHER LAW, THIS STATE OR A LOCAL AUTHORITY THAT
13 HAS JURISDICTION OVER A PHOTO ENFORCEMENT SYSTEM ON A STATE HIGHWAY IN THIS
14 STATE SHALL CAUSE THE PHOTO ENFORCEMENT SYSTEM TO ISSUE A COMPLAINT OR NOTICE
15 OF VIOLATION FOR A VIOLATION OF THIS ARTICLE ONLY IF A VEHICLE IS TRAVELING
16 AT LEAST ELEVEN MILES PER HOUR FASTER THAN THE POSTED SPEED LIMIT.

17 B. A LOCAL AUTHORITY THAT HAS JURISDICTION OVER A PHOTO ENFORCEMENT
18 SYSTEM ON A STATE HIGHWAY IN THIS STATE SHALL ACCEPT FULL LEGAL
19 RESPONSIBILITY FOR THE OWNERSHIP, OPERATION AND MAINTENANCE OF THAT PORTION
20 OF THE STATE HIGHWAY.

21 C. BEGINNING FROM AND AFTER SEPTEMBER 30, 2010, ON A STATE HIGHWAY IN
22 THIS STATE, THIS STATE OR A LOCAL AUTHORITY SHALL NOT USE A PHOTO ENFORCEMENT
23 SYSTEM TO IDENTIFY VIOLATORS OF THIS ARTICLE.

24 Sec. 3. Section 28-797, Arizona Revised Statutes, is amended to read:

25 28-797. School crossings; civil penalty; assessment; definition

26 A. The director, ~~with respect to state highways, or the officer,~~
27 COUNTY board ~~or commission of the appropriate jurisdiction,~~ OF SUPERVISORS
28 with respect to county highways or THE GOVERNING BODY OF A CITY OR TOWN OR

1 ITS DESIGNEE WITH RESPECT TO city or town streets, by and with the advice of
2 the school district governing board, ~~or county school superintendent~~ may mark
3 or cause to be marked by the department or local authorities crosswalks in
4 front of each school building or school grounds abutting the ~~crosswalks~~
5 LOCATIONS where children are required to cross the highway or street.

6 B. The department or local authorities may approve additional
7 crossings across highways not abutting on school grounds on application of
8 school authorities and with written satisfactory assurance given the
9 department or local authorities that guards will be maintained by the school
10 district at the crossings to enforce the proper use of the crossing by school
11 children.

12 C. The manual prescribed in section 28-641 shall provide for yellow
13 marking of the school crossing, yellow marking of the center line of the
14 roadway and the erection of portable signs indicating that vehicles must stop
15 when persons are in the crossing. The manual shall also provide the type and
16 wording of portable signs indicating that school is in session and that the
17 civil penalty for a violation of this section will be doubled when the signs
18 are present and permanent signs that warn of the approach to school
19 crossings.

20 D. When the school crossings are established, school authorities shall
21 place within the highway the portable signs indicating that school is in
22 session. This placement shall be not more than three hundred feet from each
23 side of the school crossing. In addition, portable ~~"~~ SIGNS INDICATING THAT
24 THE DRIVER SHALL stop when children are in THE crosswalk~~"-signs~~ shall be
25 placed at school crossings. School authorities shall maintain these signs
26 when school is in session and shall cause them to be removed ~~immediately when~~
27 WITHIN ONE HOUR AFTER THE END OF A school ~~is not in~~ session OR PURSUANT TO AN
28 AGREEMENT WITH A CITY OR TOWN.

29 E. Notwithstanding any other law:

30 1. An agency of appropriate jurisdiction may establish a school
31 crossing on an unpaved highway or street adjacent to a school when the agency
32 determines the need for the school crossing on the basis of a traffic study.

1 School crossings on unpaved highways and streets shall be marked by the use
2 of signs as prescribed in the manual prescribed in section 28-641.

3 2. A local authority may establish a school crossing at an
4 intersection containing a traffic control signal if the local authority
5 determines the need for a school crossing on the basis of a traffic study.

6 F. A vehicle ~~approaching the crosswalk~~ shall not proceed at a speed of
7 more than fifteen miles per hour between the portable signs placed on the
8 highway indicating THAT THERE SHALL BE NO PASSING, THAT ~~school IS~~ in
9 session~~"~~ and ~~THAT THE DRIVER SHALL~~ stop when children are in THE
10 crosswalk~~"~~.

11 G. When a school authority places and maintains the required portable
12 SIGNS INDICATING THAT THERE SHALL BE NO PASSING, ~~THAT~~ school IS in
13 session~~" signs~~ and ~~THAT THE DRIVER SHALL~~ stop when children are in THE
14 crosswalk~~" signs~~, all vehicles shall come to a complete stop at the school
15 crossing when the crosswalk is occupied by a person.

16 H. A vehicle approaching the crosswalk shall not proceed at a speed of
17 more than fifteen miles per hour between the portable signs placed on the
18 highway indicating THAT THERE SHALL BE NO PASSING, ~~THAT~~ school IS in
19 session~~"~~, ~~THAT THE DRIVER SHALL~~ stop when children are in THE crosswalk~~"~~
20 and ~~THAT THE~~ civil penalty will ~~be doubled~~ DOUBLE.

21 I. When a school authority places and maintains the required portable
22 SIGNS INDICATING THAT THERE SHALL BE NO PASSING, ~~THAT~~ school IS in
23 session~~" signs~~, ~~THAT THE DRIVER SHALL~~ stop when children are in THE
24 crosswalk~~" signs~~ and ~~THAT THE~~ civil penalty will double~~" signs~~, all
25 vehicles shall come to a complete stop at the school crossing when a person
26 is in the crosswalk.

27 J. If a person is found responsible for a violation of subsection F or
28 G of this section, the person is subject to a civil penalty.

29 K. If a person is found responsible for a violation of subsection H or
30 I of this section, the person is subject to a civil penalty and shall pay an
31 additional assessment equal to the amount of the civil penalty. The
32 additional assessment is not subject to any surcharge.

1 L. The court shall collect the additional assessment imposed pursuant
2 to subsection K of this section at the same time the court collects the civil
3 penalty. Partial payments of the total amount due pursuant to this
4 subsection shall be divided according to the proportion that the civil
5 penalty, the penalty assessments levied pursuant to sections 12-116.01 and
6 12-116.02 and the additional assessment imposed pursuant to this section
7 represent of the total amount due. The court and the department shall treat
8 failure to pay the additional assessment imposed pursuant to this subsection
9 in the same manner as failure to pay a civil penalty, including taking action
10 against the person's driver license or permit or privilege to drive pursuant
11 to sections 28-1601, 28-3153 and 28-3305.

12 M. If a person is found responsible pursuant to subsection K of this
13 section in a justice court or superior court, the court shall transmit monies
14 received to pay the additional assessment to the county treasurer. If a
15 person is found responsible pursuant to subsection K of this section in a
16 municipal court, the court shall transmit the monies received to pay the
17 additional assessment to the city treasurer. The city or county treasurer
18 shall deposit the monies received to pay the additional assessment in a fund
19 to pay for costs related to enforcement of this section.

20 N. For the purposes of this section, "school IS in session", when used
21 either in reference to the period of time or to signs, means during school
22 hours or while children are going to or leaving school during opening or
23 closing hours.

24 Sec. 4. Section 28-1100, Arizona Revised Statutes, is amended to read:

25 28-1100. Vehicles and loads; gross weight restrictions;
26 exceptions

27 A. EXCEPT AS PROVIDED IN SUBSECTION H OF THIS SECTION, a person may
28 operate a vehicle on all highways subject to the following maximum gross
29 weights:

1 1. Twenty thousand pounds, including enforcement tolerances, on any
2 one axle.

3 2. Thirty-four thousand pounds, including enforcement tolerances, on a
4 tandem axle.

5 3. Eighty thousand pounds on a vehicle combination of five axles or
6 more.

7 4. On a group of two or more consecutive axles, including any steering
8 or castering axles, an overall gross weight, including enforcement
9 tolerances, produced by application of the following formula in which W
10 equals overall gross weight on any group of two or more consecutive axles to
11 the nearest five hundred pounds, L equals distance in feet between the
12 extreme of any group of two or more consecutive axles to the nearest foot and
13 N equals number of axles in any group under consideration, except that two
14 consecutive sets of tandem axles may carry a gross load of thirty-four
15 thousand pounds each if the overall distance between the first and last axles
16 of the consecutive sets of tandem axles is thirty-six feet or more if the
17 overall gross weight does not exceed eighty thousand pounds, including all
18 enforcement tolerances:

$$W = 500 (LN/(N-1) + 12N + 36)$$

19 B. ~~As used in~~ FOR THE PURPOSES OF subsection A of this section,
20 "tandem axles" means two or more consecutive axles that are more than forty
21 inches but not more than ninety-six inches apart.

22 C. This section does not apply to a vehicle and load that cannot be
23 easily dismantled or divided and that have been issued a special permit
24 pursuant to section 28-1103.

25 D. It is not a defense in a prosecution for a violation of this
26 section that a vehicle or vehicle combination is registered for a declared
27 gross weight as defined in section 28-5431 in excess of the amount allowed
28 under this section. The department shall not make an allowance or refund for
29 fees paid for the weight in excess of the amount allowed under this section.
30

1 E. A single vehicle or a single vehicle of a combination of vehicles
2 shall not be equipped with more than three axles, including the front
3 steering axle, unless the additional axles are steering axles or castering
4 axles. The limitation on the number of axles provided in this subsection
5 does not apply to a vehicle operated with a permit issued pursuant to section
6 28-1103.

7 F. A vehicle or combination of vehicles equipped with one or more
8 variable load axles shall have the pressure control preset and located
9 outside of the cab so that the operator of the vehicle cannot vary the weight
10 carried on the variable load axle or axles during transport of a load. The
11 actuating control that raises or lowers the axle or axles may be located
12 inside the cab for safety purposes. This actuating control must completely
13 raise or completely lower the axle or axles when activated.

14 G. This section does not apply to a truck that meets all of the
15 following requirements and for which a special permit has been issued
16 pursuant to section 28-1103:

- 17 1. Is equipped with a conveyor bed.
- 18 2. Is used solely as a fiber and forage module mover.
- 19 3. Does not exceed forty-eight feet in length.
- 20 4. Is only operated each year from August 1 through January 30.

21 H. THE GROSS WEIGHT OF A HEAVY-DUTY VEHICLE THAT IS EQUIPPED WITH IDLE
22 REDUCTION TECHNOLOGY AND THE GROSS WEIGHT IMPOSED ON THE HIGHWAY BY THE
23 WHEELS OF ANY ONE AXLE OR AXLE GROUP OF THE VEHICLE MAY EXCEED THE WEIGHT
24 LIMITATION SPECIFIED IN SUBSECTION A OF THIS SECTION BY NOT MORE THAN FOUR
25 HUNDRED POUNDS OR THE WEIGHT OF THE IDLE REDUCTION TECHNOLOGY, WHICHEVER IS
26 LESS. THIS SUBSECTION ONLY APPLIES IF THE HEAVY-DUTY VEHICLE OPERATOR, ON
27 REQUEST, PROVES BY WRITTEN CERTIFICATION THE WEIGHT OF THE IDLE REDUCTION
28 TECHNOLOGY AND, BY DEMONSTRATION OR CERTIFICATION, THAT THE IDLE REDUCTION
29 TECHNOLOGY IS FULLY FUNCTIONAL AT ALL TIMES. FOR THE PURPOSES OF THIS
30 SUBSECTION, "HEAVY-DUTY VEHICLE" AND "IDLE REDUCTION TECHNOLOGY" HAVE THE
31 SAME MEANINGS PRESCRIBED IN 42 UNITED STATES CODE SECTION 16104.

1 Sec. 5. Section 28-1110, Arizona Revised Statutes, is amended to read:

2 28-1110. Escort vehicle operation; training and certification;
3 exemption

4 A. Except as otherwise provided in this section, any individual
5 operating an escort vehicle that is escorting a vehicle required to be
6 permitted pursuant to this article or article 19 of this chapter on a highway
7 in this state shall have completed training in and be certified by a program
8 that meets the escort vehicle operator training and certification standards
9 of the commercial vehicle safety alliance or an equivalent program that meets
10 the same objectives **BEFORE ENTERING INTO SERVICE AS AN ESCORT VEHICLE**
11 **OPERATOR.**

12 B. An escort vehicle operator shall repeat training and certification
13 requirements at least once every four years.

14 C. An escort vehicle operator shall:

15 1. Be at least eighteen years of age.

16 2. Have a valid driver license.

17 3. Have a legible and valid escort vehicle operator certificate issued
18 in this state or in another state in the operator's immediate possession
19 while operating an escort vehicle that is escorting a vehicle required to be
20 permitted pursuant to this article or article 19 of this chapter on a highway
21 in this state.

22 4. **HAVE A MINIMUM OF FOUR HOURS OF TRAINING IN CERTIFIED TRAFFIC**
23 **CONTROL TECHNIQUES.**

24 D. An individual who operates an escort vehicle in violation of this
25 section or rules adopted by the director relating to the operation of escort
26 vehicles is responsible for a civil traffic violation.

27 E. A department or agency of this state shall not consider the
28 violation for the purpose of determining whether the person's driver license
29 should be suspended or revoked and a court shall not transmit abstracts of
30 records of judgment for the violation to the department.

1 F. This section does not apply to law enforcement personnel escorting
2 overdimensional permitted loads in the conduct of their normal duties or
3 under contract to governmental entities.

4 G. A certification issued by another state authorizing a person to
5 escort vehicles required to be permitted pursuant to this article or article
6 19 of this chapter on a highway in this state satisfies the certification
7 requirements of this section.

8 Sec. 6. Title 28, chapter 3, Arizona Revised Statutes, is amended by
9 adding article 21, to read:

10 ARTICLE 21. PHOTO ENFORCEMENT SYSTEMS

11 28-1201. Streaming video; prohibition; definition

12 A. ANY STREAMING VIDEO THAT RESULTS FROM A PHOTO ENFORCEMENT SYSTEM
13 MAY NOT BE USED FOR ANY PURPOSE.

14 B. FOR THE PURPOSES OF THIS SECTION, "PHOTO ENFORCEMENT SYSTEM" HAS
15 THE SAME MEANING PRESCRIBED IN SECTION 28-601.

16 Sec. 7. Section 28-1304, Arizona Revised Statutes, is amended to read:

17 28-1304. Driving under the influence abatement fund

18 A. The driving under the influence abatement fund is established
19 consisting of monies deposited pursuant to section 4-213, subsection J,
20 section 5-396, subsection I, paragraph 2, section 5-397, subsection D,
21 paragraph 3 and subsection F, paragraph 3, section 28-1382, subsection D,
22 paragraph 3 and subsection E, paragraph 3, ~~and~~ section 28-1383, subsection J,
23 paragraph 2 AND SECTION 41-1722.

24 B. The oversight council on driving or operating under the influence
25 abatement established by section 28-1303 shall administer the fund.

26 C. EXCEPT AS PROVIDED IN SUBSECTION E OF THIS SECTION, twenty-five per
27 cent of the monies deposited in the fund shall be used for grants for
28 innovative programs pursuant to section 28-1303, subsection H, paragraph 2
29 and seventy per cent of the monies deposited in the fund shall be used for
30 grants to political subdivisions and tribal governments pursuant to section
31 28-1303, subsection H, paragraph 1.

1 D. Not more than five per cent of the monies deposited in the fund
2 shall be used for both of the following:

3 1. Administrative purposes of the oversight council on driving or
4 operating under the influence abatement.

5 2. Payment of the costs of notification prescribed by section 28-1467.

6 E. THE MONIES DEPOSITED IN THE FUND PURSUANT TO SECTION 41-1722 SHALL
7 BE USED FOR PURCHASING DEPARTMENT OF PUBLIC SAFETY OFFICER EQUIPMENT.

8 ~~E.~~ F. Monies in the fund are:

9 1. Continuously appropriated.

10 2. Exempt from the provisions of section 35-190 relating to lapsing of
11 appropriations.

12 ~~F.~~ G. On notice from the oversight council on driving or operating
13 under the influence abatement, the state treasurer shall invest and divest
14 monies in the fund as provided in section 35-313, and monies earned from
15 investments shall be credited to the fund.

16 Sec. 8. Section 28-1304, Arizona Revised Statutes, as amended by
17 section 7 of this act, is amended to read:

18 28-1304. Driving under the influence abatement fund

19 A. The driving under the influence abatement fund is established
20 consisting of monies deposited pursuant to section 4-213, subsection J,
21 section 5-396, subsection I, paragraph 2, section 5-397, subsection D,
22 paragraph 3 and subsection F, paragraph 3, section 28-1382, subsection D,
23 paragraph 3 and subsection E, paragraph 3, ~~AND~~ section 28-1383, subsection
24 J, paragraph 2 ~~and section 41-1722~~.

25 B. The oversight council on driving or operating under the influence
26 abatement established by section 28-1303 shall administer the fund.

27 C. ~~Except as provided in subsection E of this section,~~ Twenty-five per
28 cent of the monies deposited in the fund shall be used for grants for
29 innovative programs pursuant to section 28-1303, subsection H, paragraph 2
30 and seventy per cent of the monies deposited in the fund shall be used for
31 grants to political subdivisions and tribal governments pursuant to section
32 28-1303, subsection H, paragraph 1.

1 D. Not more than five per cent of the monies deposited in the fund
2 shall be used for both of the following:

3 1. Administrative purposes of the oversight council on driving or
4 operating under the influence abatement.

5 2. Payment of the costs of notification prescribed by section 28-1467.

6 ~~E. The monies deposited in the fund pursuant to section 41-1722 shall
7 be used for purchasing department of public safety officer equipment.~~

8 ~~F.~~ E. Monies in the fund are:

9 1. Continuously appropriated.

10 2. Exempt from the provisions of section 35-190 relating to lapsing of
11 appropriations.

12 ~~G.~~ F. On notice from the oversight council on driving or operating
13 under the influence abatement, the state treasurer shall invest and divest
14 monies in the fund as provided in section 35-313, and monies earned from
15 investments shall be credited to the fund.

16 Sec. 9. Section 28-1593, Arizona Revised Statutes, is amended to read:

17 28-1593. Service of uniform traffic complaint

18 A. A traffic complaint may be served by delivering a copy of the
19 uniform traffic complaint citation to the person charged with the violation
20 or by any means authorized by the rules of civil procedure. At the
21 discretion of the issuing authority, a complaint for a violation issued after
22 an investigation in conjunction with a traffic accident may be sent by
23 certified mail, return receipt requested and delivered to addressee only, to
24 the address provided by the person charged with the violation. Service of
25 the complaint is complete on filing the receipt in the court having
26 jurisdiction of the violation.

27 B. The original complaint shall be filed in a court having
28 jurisdiction of the violation within ten court days of the time the complaint
29 was issued. A peace officer, or duly authorized agent or someone paid to act
30 on behalf of a traffic enforcement agency, may issue the traffic complaint.

1 ~~C. Notwithstanding subsection B of this section, a civil traffic~~
2 ~~violation issued pursuant to section 41-1722 may be issued pursuant to a~~
3 ~~notice of violation before a citation is filed in court.~~

4 ~~D. If a person fails to respond to the notice of violation or contests~~
5 ~~responsibility, a uniform traffic complaint citation shall be served and~~
6 ~~filed as otherwise provided in this section.~~

7 ~~E. The supreme court shall establish rules governing the issuance,~~
8 ~~service and processing of the notice of violation, including rules allowing a~~
9 ~~person to admit responsibility before a citation is filed in court.~~

10 Sec. 10. Heading change

11 The chapter heading of title 28, chapter 11, Arizona Revised Statutes,
12 is changed from "ABANDONED, SEIZED AND JUNK VEHICLES" to "ABANDONED, SEIZED,
13 JUNK AND TOWED VEHICLES".

14 Sec. 11. Title 28, chapter 11, Arizona Revised Statutes, is amended by
15 adding article 4, to read:

16 ARTICLE 4. PRIVATE PROPERTY TRESPASS TOWERS

17 28-4901. Definition of private property trespass tower

18 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES, "PRIVATE
19 PROPERTY TRESPASS TOWER" MEANS ANY PERSON WHO DOES BOTH OF THE FOLLOWING:

20 1. COMMERCIALY OFFERS SERVICES TO TOW, TRANSPORT OR IMPOUND MOTOR
21 VEHICLES FROM PRIVATE PROPERTY WITHOUT THE PERMISSION OF THE OWNER OR
22 OPERATOR OF THE VEHICLE.

23 2. USES A VEHICLE DESIGNED FOR OR ADAPTED TO PERFORM THE SERVICES
24 PRESCRIBED BY PARAGRAPH 1.

25 28-4902. Towing rates

26 A. A PRIVATE PROPERTY TRESPASS TOWER IS SUBJECT TO THE RATES
27 ESTABLISHED BY A CITY OR TOWN PURSUANT TO SECTION 9-499.05 OR A COUNTY
28 PURSUANT TO SECTION 11-251.04.

29 B. IF A CITY, TOWN OR COUNTY DOES NOT SET RATES FOR PRIVATE PROPERTY
30 TRESPASS TOWING, THE CONTRACT OR WRITTEN AUTHORIZATION ENTERED INTO BETWEEN
31 THE TOWER AND PRIVATE PROPERTY OWNER OR OWNER'S AGENT SHALL SPECIFY RATES FOR
32 THE FOLLOWING:

1 1. THE COMMERCIAL TOWING OR REMOVAL OF TRESPASSING VEHICLES FROM
2 PRIVATE PROPERTY.

3 2. THE STORAGE FOR PERIODS OF MORE THAN TWENTY-FOUR HOURS OF VEHICLES
4 IN CONNECTION WITH TOWING OR REMOVAL.

5 3. OTHER SERVICES PROVIDED BY A PRIVATE PROPERTY TRESPASS TOWER.

6 28-4903. Posting of rates

7 A. EACH PRIVATE PROPERTY TRESPASS TOWER SHALL PRINT AND KEEP OPEN TO
8 THE PUBLIC ALL OF THE FOLLOWING:

9 1. ALL AUTHORIZED RATES AND CHARGES FOR TOWING, OTHERWISE MOVING AND
10 STORING VEHICLES IN CONNECTION WITH THE REMOVAL OF UNAUTHORIZED VEHICLES FROM
11 PRIVATE PROPERTY.

12 2. A STATEMENT THAT A PRIVATE PROPERTY TRESPASS TOWER SHALL NOT REFUSE
13 TO RELEASE TO THE OWNER OR THE OWNER'S AUTHORIZED AGENT A VEHICLE THAT THE
14 PRIVATE PROPERTY TRESPASS TOWER TOWS PURSUANT TO THIS ARTICLE IF THE OWNER OR
15 THE OWNER'S AUTHORIZED AGENT REFUSES TO PAY THE TOWING AND STORAGE COSTS.

16 3. A STATEMENT THAT NO EXCHANGE OF MONEY OR ANY OTHER ITEM OF VALUE IS
17 REQUIRED TO OBTAIN THE RELEASE OF A VEHICLE.

18 B. THE STATEMENTS, RATES AND CHARGES PRESCRIBED BY SUBSECTION A SHALL
19 BE CLEARLY STATED IN DOLLAR AMOUNTS, IF APPLICABLE, AND SHALL BE POSTED IN
20 THE FORM AND MANNER AND SHALL CONTAIN THE INFORMATION THAT THE DEPARTMENT
21 PRESCRIBES BY RULE.

22 28-4904. Record requirements

23 A. EACH PRIVATE PROPERTY TRESPASS TOWER WHO TOWS VEHICLES PURSUANT TO
24 THIS ARTICLE SHALL KEEP AND MAINTAIN AT THE PRIVATE PROPERTY TRESPASS TOWER'S
25 PLACE OF BUSINESS, OR AT EACH OF THE TOWER'S PLACES OF BUSINESS IF THE TOWER
26 HAS MORE THAN ONE, A PERMANENT RECORD IN A FORM PRESCRIBED BY THE DIRECTOR
27 RECORDING AND DESCRIBING THE FOLLOWING FOR EACH VEHICLE REMOVED BY THE
28 PRIVATE PROPERTY TRESPASS TOWER:

29 1. THE MAKE, MODEL AND DESCRIPTION OF THE VEHICLE.

30 2. THE NAME OF THE OWNER OF THE VEHICLE OR OWNER'S AGENT REQUESTING
31 RELEASE OF THE VEHICLE.

1 THE PERSON CLAIMING THE VEHICLE TO THE PROPERTY OWNER OR THE PROPERTY OWNER'S
2 AGENT FOR THE PURPOSE OF FILING A CLAIM FOR ANY TOWING AND STORAGE COSTS PAID
3 BY THE PROPERTY OWNER OR THE PROPERTY OWNER'S AGENT FOR TOWING AND STORAGE
4 COSTS.

5 28-4906. Responsibility for payment of towing and storage fees;
6 civil and criminal remedies; definitions

7 A. THE PROPERTY OWNER OR THE PROPERTY OWNER'S AGENT WHO EXERCISES
8 AUTHORITY OVER THE PROPERTY FROM WHICH THE VEHICLE WAS TOWED IS RESPONSIBLE
9 FOR PAYMENT OF THE TOWING AND STORAGE FEES IF THE VEHICLE OWNER OR THE
10 OWNER'S AGENT FAILS TO PAY OR MAKE SATISFACTORY ARRANGEMENTS TO PAY THE
11 TOWING AND STORAGE FEES TO OBTAIN THE RELEASE OF A VEHICLE FROM A TOWING
12 COMPANY, OPERATOR OR DISPATCHER.

13 B. A PRIVATE PROPERTY TRESPASS TOWER WHO TOWS A VEHICLE FROM PRIVATE
14 PROPERTY SHALL COLLECT FROM THE OWNER OF THE PRIVATE PROPERTY TOWING RATES
15 AND STORAGE FEES RESULTING FROM THE TOW AND STORAGE OF THE VEHICLE IF THE
16 VEHICLE OWNER OR THE OWNER'S AGENT FAILS TO PAY OR MAKE SATISFACTORY
17 ARRANGEMENTS TO PAY THE TOWING AND STORAGE FEES TO OBTAIN RELEASE OF A
18 VEHICLE FROM A TOWING COMPANY, OPERATOR OR DISPATCHER.

19 C. A PRIVATE PROPERTY OWNER WHO PAYS A PRIVATE PROPERTY TRESPASS TOWER
20 PURSUANT TO SUBSECTION A OF THIS SECTION MAY SEEK REIMBURSEMENT FROM THE
21 VEHICLE OWNER FOR THE TOWING AND STORAGE FEES PAID.

22 D. PAYMENT OF THE TOWING AND STORAGE FEES BY THE VEHICLE OWNER OR THE
23 OWNER'S AGENT TO OBTAIN THE RELEASE OF A VEHICLE FROM A TOWING COMPANY,
24 OPERATOR OR DISPATCHER DOES NOT CONSTITUTE AN ADMISSION BY THE VEHICLE OWNER
25 OR THE OWNER'S AGENT THAT THE VEHICLE WAS PARKED IN VIOLATION OF SECTION
26 9-499.05 OR 11-251.04 OR LIMIT THE VEHICLE OWNER OR THE OWNER'S AGENT IN
27 PURSUING ANY AVAILABLE CIVIL REMEDY TO DISPUTE ANY ACTION TAKEN BY THE
28 FOLLOWING:

29 1. THE PROPERTY OWNER OR THE PROPERTY OWNER'S AGENT WHO IS EXERCISING
30 AUTHORITY OVER THE PROPERTY FROM WHICH THE VEHICLE WAS TOWED.

31 2. THE PRIVATE PROPERTY TRESPASS TOWER WHO TOWED THE OWNER'S VEHICLE.

1 E. THIS ARTICLE DOES NOT PRECLUDE A PERSON WHO IS ENGAGED IN THE
2 BUSINESS OF A PRIVATE PROPERTY TRESPASS TOWER FROM PURSUING ANY AVAILABLE
3 CIVIL REMEDY TO COLLECT FROM A VEHICLE OWNER, THE VEHICLE OWNER'S AGENT OR A
4 PROPERTY OWNER OR THE PROPERTY OWNER'S AGENT WHO IS EXERCISING AUTHORITY OVER
5 THE PROPERTY FROM WHICH THE VEHICLE WAS TOWED, ANY LAWFUL TOWING AND STORAGE
6 FEES IMPOSED PURSUANT TO SECTION 9-499.05 OR SECTION 11-251.04 OR A CONTRACT
7 OR WRITTEN AUTHORIZATION PURSUANT TO SECTION 28-4902.

8 F. A TOWING COMPANY, OPERATOR OR DISPATCHER MAY BE CHARGED WITH THE
9 CRIME OF THEFT OF MEANS OF TRANSPORTATION PURSUANT TO SECTION 13-1814 IF THE
10 TOWING COMPANY, OPERATOR OR DISPATCHER REFUSES TO RELEASE A VEHICLE TO THE
11 VEHICLE OWNER OR THE VEHICLE OWNER'S AGENT WHO HAS COMPLIED WITH THE
12 REQUIREMENTS OF THIS ARTICLE TO OBTAIN RELEASE OF THE VEHICLE.

13 G. FOR THE PURPOSES OF THIS SECTION:

14 1. "DISPATCHER" MEANS ANY PERSON WHO, AS AN EMPLOYEE OR AGENT OF A
15 PRIVATE PROPERTY TRESPASS TOWER, DISPATCHES VEHICLES TO OR FROM LOCATIONS
16 WHERE OPERATORS PERFORM REMOVAL ACTIVITIES.

17 2. "OPERATOR":

18 (a) MEANS ANY PERSON WHO DOES BOTH OF THE FOLLOWING:

19 (i) AS AN EMPLOYEE OF A PRIVATE PROPERTY TRESPASS TOWER, TOWS,
20 TRANSPORTS OR IMPOUNDS MOTOR VEHICLES FROM PRIVATE PROPERTY WITHOUT THE
21 PERMISSION OF THE OWNER OR OPERATOR OF THE VEHICLE.

22 (ii) USES A VEHICLE DESIGNED FOR OR ADAPTED TO PERFORM THE SERVICES
23 PRESCRIBED BY ITEM (i).

24 (b) INCLUDES THE DRIVER OF ANY VEHICLE USED IN TOWING, TRANSPORTING OR
25 IMPOUNDING A TRESPASSING VEHICLE FROM PRIVATE PROPERTY AND ANY PERSON OTHER
26 THAN THE DRIVER WHO ASSISTS IN THE TOWING, TRANSPORTING OR IMPOUNDING OF A
27 TRESPASSING VEHICLE FROM PRIVATE PROPERTY.

28 28-4907. Unlawful practices

29 A. A PRIVATE PROPERTY TRESPASS TOWER SHALL:

30 1. BEFORE REMOVAL OF A VEHICLE, NOTIFY THE DEPARTMENT OF
31 TRANSPORTATION AND THE LAW ENFORCEMENT AUTHORITIES IN THE JURISDICTION IN

1 WHICH THE TRESPASSING VEHICLE WAS TOWED, TRANSPORTED OR IMPOUNDED AS
2 PRESCRIBED IN SECTION 28-4836.

3 2. IN THE OFFICE OR LOCATION AT WHICH TOWED VEHICLES ARE ROUTINELY
4 RETURNED TO THEIR OWNERS, PROMINENTLY POST THE NAME, ADDRESS AND TELEPHONE
5 NUMBER OF THE NEAREST LAW ENFORCEMENT AGENCY HAVING JURISDICTION OVER THE
6 CITY OR COUNTY WHERE THE VEHICLE IS RELEASED WHERE INQUIRIES OR COMPLAINTS
7 MAY BE PRESENTED AND MAKE AVAILABLE IN WRITTEN FORM THE RELEVANT STATUTES AND
8 RULES GOVERNING PRIVATE PROPERTY TRESPASS TOWERS.

9 B. A PRIVATE PROPERTY TRESPASS TOWER SHALL NOT:

10 1. TOW, TRANSPORT OR IMPOUND ANY VEHICLE FROM PRIVATE PROPERTY WITHOUT
11 HAVING FIRST OBTAINED THE WRITTEN AUTHORIZATION OF THE PROPERTY OWNER OR
12 OTHER PERSON IN LAWFUL POSSESSION OR CONTROL OF THE PROPERTY OR THE
13 AUTHORIZED AGENT OF THAT PERSON. THE AUTHORIZATION MAY BE ON A CONTRACTUAL
14 BASIS COVERING A SPECIFIC PERIOD OF TIME, NOT TO EXCEED ONE YEAR, OR LIMITED
15 TO A SPECIFIC REMOVAL.

16 2. CHARGE TO OR ACCEPT OR OTHERWISE COLLECT FROM THE PRIVATE PROPERTY
17 OWNER OR AUTHORIZED AGENT WHO REQUESTED THAT AN UNAUTHORIZED VEHICLE BE
18 TOWED, TRANSPORTED OR IMPOUNDED FROM THE OWNER'S PROPERTY ANY FEES FOR
19 REMOVING THE VEHICLE CONTRARY TO ANY TERMS THAT MAY BE PART OF THE CONTRACT
20 BETWEEN THE PROPERTY OWNER AND THE PRIVATE PROPERTY TRESPASS TOWER.

21 3. TOW, TRANSPORT OR IMPOUND A VEHICLE WHEN THE OWNER OR OPERATOR OF
22 THE VEHICLE IS PRESENT OR ARRIVES AT THE VEHICLE LOCATION AT ANY TIME BEFORE
23 THE COMPLETION OF REMOVAL OF THE VEHICLE FROM THE PRIVATE PROPERTY AND IS
24 WILLING AND ABLE TO REMOVE THE VEHICLE IMMEDIATELY. IN SUCH CASE, NO FEE MAY
25 BE CHARGED TO THE VEHICLE OWNER OR OPERATOR FOR RELEASE OF THE VEHICLE AT THE
26 TOW SITE.

27 4. EXCEPT FOR AN ABANDONED VEHICLE, TOW, TRANSPORT OR IMPOUND ANY
28 VEHICLE FROM PROPERTY ON WHICH SIGNS ARE REQUIRED AND ON WHICH SIGNS ARE NOT
29 POSTED PURSUANT TO SECTION 9-499.05 OR 11-251.04.

30 5. IMPOSE ANY CHARGE FOR SERVICE OR STORAGE OTHER THAN THE RATES SET
31 BY THE CITY OR TOWN PURSUANT TO SECTION 9-499.05, THE COUNTY PURSUANT TO

1 SECTION 11-251.04 OR THE CONTRACT OR WRITTEN AUTHORIZATION PURSUANT TO
2 SECTION 28-4902.

3 6. USE DRIVERS OR OTHER PERSONNEL WHO ARE NOT EMPLOYEES OR CONTRACTORS
4 OF THE PRIVATE PROPERTY TRESPASS TOWER.

5 7. VIOLATE THIS ARTICLE.

6 28-4908. Towing performed pursuant to police action

7 THIS ARTICLE DOES NOT REGULATE OR OTHERWISE AFFECT TOWING PERFORMED BY
8 ANY PRIVATE PROPERTY TRESPASS TOWER OR PRIVATE TOWING CARRIER PURSUANT TO THE
9 ORDER OR REQUEST OF A LAW ENFORCEMENT OFFICIAL OR AGENCY PURSUANT TO SECTION
10 28-872, 28-3511 OR 28-4834.

11 28-4909. Civil and criminal penalties; cumulative penalties

12 A. THIS ARTICLE DOES NOT LIMIT OR ALTER EITHER OF THE FOLLOWING:

13 1. THE VEHICLE OWNER'S CIVIL OR CRIMINAL LIABILITY FOR TRESPASS.

14 2. THE CIVIL OR CRIMINAL LIABILITY OF ANY PERSON FOR ANY ACT OR
15 OMISSION.

16 B. ALL PENALTIES ACCRUING UNDER THIS ARTICLE ARE CUMULATIVE.

17 28-4910. Violation; classification

18 A PERSON WHO VIOLATES THIS ARTICLE IS GUILTY OF A CLASS 1 MISDEMEANOR.

19 Sec. 12. Section 41-1722, Arizona Revised Statutes, is amended to
20 read:

21 41-1722. State photo enforcement system; penalties; fund

22 A. Notwithstanding any other law AND EXCEPT AS PROVIDED IN SECTION
23 28-711, the department shall enter into a contract or contracts with a
24 private vendor or vendors pursuant to chapter 23 of this title to establish a
25 state photo enforcement system consisting of cameras placed throughout this
26 state as determined by the director to enforce the provisions of title 28,
27 chapter 3, articles 3 and 6 relating to vehicle traffic and speed. A
28 CITATION OR A NOTICE OF VIOLATION SHALL NOT BE ISSUED PURSUANT TO THIS
29 SUBSECTION FOR A VIOLATION OF TITLE 28, CHAPTER 3, ARTICLE 6 UNLESS THE
30 VIOLATOR IS DRIVING AT LEAST ELEVEN MILES PER HOUR OVER THE POSTED SPEED
31 LIMIT AND THE STANDARDS AND SPECIFICATIONS PRESCRIBED PURSUANT TO SECTION
32 28-654 ARE IN EFFECT DURING THE OPERATION OF THE PHOTO ENFORCEMENT SYSTEM.

1 B. Notwithstanding any other law, the civil penalty or fine for a
2 citation or a notice of violation issued pursuant to this section is one
3 hundred sixty-five dollars and is not subject to any surcharge except the
4 surcharge imposed by section 16-954. State photo enforcement citations shall
5 not be included in judicial productivity credit calculations ~~for fiscal year~~
6 ~~2008-2009~~ THROUGH SEPTEMBER 30, 2010.

7 C. The photo enforcement fund is established consisting of monies
8 received from citations or notices of violation issued pursuant to this
9 section. The director shall administer the fund. Monies in the fund are
10 subject to legislative appropriation and are appropriated to the department
11 for administrative and personnel costs of the state photo enforcement system,
12 EXCEPT THAT THIRTY-FIVE PER CENT OF THE MONIES IN THE PHOTO ENFORCEMENT FUND
13 SHALL BE DEPOSITED IN THE DRIVING UNDER THE INFLUENCE ABATEMENT FUND
14 ESTABLISHED BY SECTION 28-1304. Monies remaining in the fund in excess of
15 two hundred fifty thousand dollars at the end of each calendar quarter shall
16 be deposited, pursuant to sections 35-146 and 35-147, in the state general
17 fund.

18 D. Notwithstanding any other law, if a person is found responsible for
19 a civil traffic violation or a notice of violation pursuant to a citation
20 issued pursuant to this section, the department of transportation shall not
21 consider the violation for the purpose of determining whether the person's
22 driver license should be suspended or revoked. A court shall not transmit
23 abstracts of records of these violations to the department of transportation.

24 Sec. 13. Transportation district working group; delayed repeal

25 A. The department of transportation shall coordinate a transportation
26 district working group consisting of the director of the department of
27 transportation and the chairpersons or executive directors of this state's
28 councils of government and metropolitan planning organizations for the
29 purpose of studying and making recommendations related to the division of
30 this state into six transportation districts pursuant to section 28-301,
31 Arizona Revised Statutes.

1 B. In coordinating the study, the department of transportation shall
2 schedule monthly meetings and provide staff services to facilitate the
3 meetings.

4 C. In cooperation with this state's councils of government and
5 metropolitan planning organizations, the department of transportation may
6 select and contract with a consultant to conduct the study.

7 D. In cooperation with the department of transportation, the
8 metropolitan planning organizations and councils of government shall provide
9 staff to work with any consultant hired pursuant to subsection C of this
10 section.

11 E. The working group's study shall do all of the following:

12 1. Examine the current division of the state transportation districts
13 for the purpose of determining efficiencies and areas of improvement.

14 2. Study other state's structures to determine best practices.

15 3. Make recommendations related to the division of this state into
16 transportation districts.

17 F. On or before December 1, 2010, the department of transportation
18 shall submit copies of a final report that includes the study and any
19 recommendations to the governor, the president of the senate, the speaker of
20 the house of representatives, the chairperson of the senate natural
21 resources, infrastructure and public debt committee or its successor
22 committee, the chairperson of the house of representatives transportation and
23 infrastructure committee or its successor committee, the secretary of state
24 and the director of the Arizona state library, archives and public records.
25 The department of transportation shall also publish the final report on the
26 department's website.

27 G. This section is repealed from and after September 30, 2011.

28 Sec. 14. Delayed repeal

29 A. Title 28, chapter 11, article 4, Arizona Revised Statutes, as added
30 by this act, is repealed from and after June 30, 2019.

1 B. Section 41-1722, Arizona Revised Statutes, is repealed from and
2 after September 30, 2010.

3 Sec. 15. Effective date

4 A. Section 28-1304, Arizona Revised Statutes, as amended by section 8
5 of this act, is effective from and after September 30, 2010.

6 B. Section 28-1593, Arizona Revised Statutes, as amended by this act,
7 is effective from and after September 30, 2010."

8 Amend title to conform

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