

PROPOSED AMENDMENT  
SENATE AMENDMENTS TO S.B. 1020  
(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

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

4 28-3511. Removal and immobilization or impoundment of vehicle

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

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

10 2. The person has not ever been issued a valid driver license or  
11 permit by this state and the person does not produce evidence of ever having  
12 a valid driver license or permit issued by another jurisdiction. This  
13 paragraph does not apply to the operation of an implement of husbandry.

14 3. The person is subject to an ignition interlock device requirement  
15 pursuant to chapter 4 of this title and the person is operating a vehicle  
16 without a functioning certified ignition interlock device. This paragraph  
17 does not apply to a person operating an employer's vehicle or the operation  
18 of a vehicle due to a substantial emergency as defined in section 28-1464.

19 4. In furtherance of the illegal presence of an alien in the United  
20 States and in violation of a criminal offense, the person is transporting or  
21 moving or attempting to transport or move an alien in this state in a vehicle  
22 if the person knows or recklessly disregards the fact that the alien has come  
23 to, has entered or remains in the United States in violation of law.

24 5. The person is concealing, harboring or shielding or attempting to  
25 conceal, harbor or shield from detection an alien in this state in a vehicle  
26 if the person knows or recklessly disregards the fact that the alien has come  
27 to, entered or remains in the United States in violation of law.

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

4           1. The person's driving privilege is canceled, suspended or revoked  
5 for any reason or the person has not ever been issued a driver license or  
6 permit by this state and the person does not produce evidence of ever having  
7 a driver license or permit issued by another jurisdiction.

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

10           3. The person is driving a vehicle that is involved in an accident  
11 that results in either property damage or injury to or death of another  
12 person.

13           C. Except as provided in subsection D of this section, while a peace  
14 officer has control of the vehicle the peace officer shall cause the removal  
15 and either immobilization or impoundment of the vehicle if the peace officer  
16 has probable cause to arrest the driver of the vehicle for a violation of **ANY**  
17 **OF THE FOLLOWING:**

18           1. Section 4-244, paragraph 34. ~~or~~

19           2. **SECTION 28-1381.**

20           3. Section 28-1382 or 28-1383.

21           D. A peace officer shall not cause the removal and either the  
22 immobilization or impoundment of a vehicle pursuant to subsection C of this  
23 section if all of the following apply:

24           1. The peace officer determines that the vehicle is currently  
25 registered and that the driver or the vehicle is in compliance with the  
26 financial responsibility requirements of chapter 9, article 4 of this title.

27           2. The spouse of the driver is with the driver at the time of the  
28 arrest.

29           3. The peace officer has reasonable grounds to believe that the spouse  
30 of the driver:

31           (a) Has a valid driver license.

1 (b) Is not impaired by intoxicating liquor, any drug, a vapor  
2 releasing substance containing a toxic substance or any combination of  
3 liquor, drugs or vapor releasing substances.

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

6 4. The spouse notifies the peace officer that the spouse will drive  
7 the vehicle from the place of arrest to the driver's home or other place of  
8 safety.

9 5. The spouse drives the vehicle as prescribed by paragraph 4 of this  
10 subsection.

11 E. Except as otherwise provided in this article, a vehicle that is  
12 removed and either immobilized or impounded pursuant to:

13 1. SUBSECTION C, PARAGRAPH 2 OF THIS SECTION SHALL BE IMMOBILIZED OR  
14 IMPOUNDED FOR TWENTY-FOUR HOURS.

15 2. Subsection A, ~~OR~~ B or SUBSECTION C, PARAGRAPH 1 OR 3 of this  
16 section shall be immobilized or impounded for thirty days.

17 F. An insurance company does not have a duty to pay any benefits for  
18 charges or fees for immobilization or impoundment.

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

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

25 28-3512. Release of vehicle; civil penalties; definition

26 A. An immobilizing or impounding agency shall release a vehicle to the  
27 registered owner before the end of the ~~thirty-day~~ immobilization or  
28 impoundment period under any of the following circumstances:

29 1. If the vehicle is a stolen vehicle.

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

1           3. If the owner was operating the vehicle at the time of removal and  
2 either immobilization or impoundment and presents proof satisfactory to the  
3 immobilizing or impounding agency that the owner's driving privilege has been  
4 reinstated.

5           4. IF all of the following apply:

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

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

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

11          (d) There was a rental agreement in effect at the time of the  
12 immobilization or impoundment.

13          5. For the spouse of the owner or any person who is identified as an  
14 owner of the vehicle on the records of the department at the time of removal  
15 and either immobilization or impoundment, if the spouse or person was not the  
16 driver of the vehicle at the time of removal and either immobilization or  
17 impoundment and the spouse or person enters into an agreement with the  
18 immobilizing or impounding agency that stipulates that if the spouse or  
19 person allows a driver who does not have a valid driving privilege or a  
20 driver who commits a violation that causes the spouse's or person's vehicle  
21 to be removed and either immobilized or impounded pursuant to this article  
22 within one year after any agreement is signed by an immobilizing or  
23 impounding agency, the spouse or person will not be eligible to obtain  
24 release of the spouse's or person's vehicle before the end of the ~~thirty-day~~  
25 immobilization or impoundment period.

26          B. A vehicle shall not be released pursuant to subsection A of this  
27 section except pursuant to an immobilization or a poststorage hearing under  
28 section 28-3514 or if all of the following are presented to the immobilizing  
29 or impounding agency:

30          1. The owner's or owner's spouse's currently valid driver license  
31 issued by this state or the owner's or owner's spouse's state of domicile.

1           2. Proof of current vehicle registration or a valid salvage or  
2 dismantle certificate of title.

3           3. Proof that the vehicle is in compliance with the financial  
4 responsibility requirements of chapter 9, article 4 of this title.

5           4. If the person is required by the department to install a certified  
6 ignition interlock device on the vehicle, proof of installation of a  
7 functioning certified ignition interlock device in the vehicle. The  
8 impounding agency, storage yard, facility, person or agency having physical  
9 possession of the vehicle shall allow access during normal business hours to  
10 the impounded vehicle for the purpose of installing a certified ignition  
11 interlock device. The impounding agency, storage yard, facility, person or  
12 agency having physical possession of the vehicle shall not charge any fee or  
13 require compensation for providing access to the vehicle or for the  
14 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

1 this state or is another person who is not the owner and who holds a security  
2 interest in the vehicle.

3 2. The person pays all immobilization, towing and storage charges  
4 related to the immobilization or impoundment of the vehicle and any  
5 administrative charges established pursuant to section 28-3513 unless the  
6 vehicle is stolen and the theft was reported to the appropriate law  
7 enforcement agency. If the vehicle is stolen and the theft was reported to  
8 the appropriate law enforcement agency, the operator of the vehicle at the  
9 time of immobilization or impoundment is responsible for all immobilization,  
10 towing, storage and administrative charges.

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

13 4. The person requesting release of the vehicle was not the person  
14 driving the vehicle at the time of removal and immobilization or impoundment.

15 E. Before a person described in subsection D of this section releases  
16 the vehicle to the owner who was operating the vehicle at the time of removal  
17 and immobilization or impoundment, the person described in subsection D of  
18 this section shall require the owner to present and shall retain for a period  
19 of at least three years from the date of releasing the vehicle a copy of all  
20 of the following:

21 1. A driver license issued by this state or the owner's or owner's  
22 agent's state of domicile.

23 2. A current vehicle registration or a valid salvage or dismantle  
24 certificate of title.

25 3. Evidence that the vehicle is in compliance with the financial  
26 responsibility requirements of chapter 9, article 4 of this title.

27 F. The person described in subsection D of this section may require  
28 the owner to pay charges that the person incurred in connection with  
29 obtaining custody of the vehicle, including all immobilization, towing and  
30 storage charges that are related to the immobilization or impoundment of the  
31 vehicle and any administrative charges that are established pursuant to  
32 section 28-3513.

1           G. A vehicle shall not be released after the end of the ~~thirty-day~~  
2 immobilization or impoundment period unless the owner or owner's agent  
3 presents all of the following to the impounding or immobilizing agency:

4           1. A valid driver license issued by this state or by the owner's or  
5 owner's agent's state of domicile.

6           2. A current vehicle registration or a valid salvage or dismantle  
7 certificate of title.

8           3. Evidence that the vehicle is in compliance with the financial  
9 responsibility requirements of chapter 9, article 4 of this title.

10           4. If the person is required by the department to install a certified  
11 ignition interlock device on the vehicle, proof of installation of a  
12 functioning certified ignition interlock device in the vehicle. The  
13 impounding agency, storage yard, facility, person or agency having physical  
14 possession of the vehicle shall allow access during normal business hours to  
15 the impounded vehicle for the purpose of installing a certified ignition  
16 interlock device. The impounding agency, storage yard, facility, person or  
17 agency having physical possession of the vehicle shall not charge any fee or  
18 require compensation for providing access to the vehicle or for the  
19 installation of the certified ignition interlock device.

20           H. The storage charges relating to the impoundment of a vehicle  
21 pursuant to this section shall be subject to a contractual agreement between  
22 the impounding agency and a towing firm for storage services pursuant to  
23 section 28-1108 but shall not exceed fifteen dollars for each day of storage,  
24 including any time the vehicle remains in storage after the end of the ~~thirty~~  
25 ~~day~~ impoundment period.

26           I. The immobilizing or impounding agency shall have no lien or  
27 possessory interest in a stolen vehicle if the theft was reported to the  
28 appropriate law enforcement agency. The immobilizing or impounding agency  
29 shall release the vehicle to the owner or person other than the owner as  
30 identified in subsection D of this section even if the operator at the time  
31 of immobilization or impoundment has not paid all immobilization, towing,  
32 storage and administrative charges.

1 J. A person who enters into an agreement pursuant to subsection A,  
2 paragraph 5 of this section and who allows another person to operate the  
3 vehicle in violation of the agreement is responsible for a civil traffic  
4 violation and shall pay a civil penalty of at least two hundred fifty  
5 dollars.

6 K. A person described in subsection D, paragraph 1 of this section who  
7 violates subsection E of this section is responsible for a civil traffic  
8 violation and shall pay a civil penalty of at least two hundred fifty  
9 dollars.

10 L. For the purposes of this section, "certified ignition interlock  
11 device" has the same meaning prescribed in section 28-1301.

12 Sec. 3. Section 28-3514, Arizona Revised Statutes, is amended to read:  
13 28-3514. Hearings: notice of immobilization or storage

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

1           B. If the immobilizing or impounding agency does not provide an  
2 opportunity for an immobilization or poststorage hearing, a justice court  
3 shall conduct the immobilization or poststorage hearing. If an  
4 immobilization or poststorage hearing is conducted by a justice court, the  
5 immobilizing or impounding agency shall appear and show  
6 evidence. Immobilization or poststorage hearings conducted by a justice  
7 court shall be considered as civil filings for the purposes of judicial  
8 productivity credits.

9           C. Within three business days after immobilization or impoundment,  
10 excluding weekends and holidays, the immobilizing or impounding agency, **IF**  
11 **THE VEHICLE IS STILL IMMOBILIZED OR IMPOUNDED**, shall send a notice of storage  
12 by first class mail to each person, other than the owner, identified on the  
13 department's record as having an interest in the vehicle. Service of notice  
14 of immobilization or storage is complete on mailing. If the immobilizing or  
15 impounding agency fails to notify a person, other than the owner, identified  
16 on the department's record as having an interest in the vehicle within three  
17 business days after immobilization or impoundment, excluding weekends and  
18 holidays, the immobilizing agency or the person in possession of the vehicle  
19 shall not charge any administrative fees or more than fifteen days'  
20 immobilization or impoundment when the person redeems the impounded vehicle  
21 or has the immobilization device removed from the vehicle.

22           D. Within three business days after immobilization or impoundment,  
23 excluding weekends and holidays, the immobilizing or impounding agency, **IF**  
24 **THE VEHICLE IS STILL IMMOBILIZED OR IMPOUNDED**, shall mail or personally  
25 deliver notice of immobilization or storage to the owner of the vehicle.

26           E. The notice of immobilization or storage shall include all of the  
27 following information:

- 28           1. A statement that the vehicle was immobilized or impounded.
- 29           2. The name, address and telephone number of the immobilizing or  
30 impounding agency providing the notice.

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

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

7           5. A statement that in order to receive an immobilization or  
8           poststorage hearing the owner, the spouse of the owner, the owner's agent or  
9           the person identified in the department's record as having an interest in the  
10          vehicle, within ten days after the date on the notice, shall request an  
11          immobilization or poststorage hearing by contacting the immobilizing or  
12          impounding agency in person or in writing or by filing a request with the  
13          justice court if the impounding agency does not provide for a hearing and  
14          paying a fee equal to the fee established pursuant to section 22-281 for a  
15          small claims answer.

16          6. A statement that if the immobilizing or impounding agency does not  
17          provide the opportunity for an immobilization or poststorage hearing, the  
18          owner, the spouse of the owner, the owner's agent or any person identified in  
19          the department's record as having an interest in the vehicle may request that  
20          the immobilization or poststorage hearing be conducted by a justice court in  
21          the immobilizing or impounding agency's jurisdiction or the jurisdiction in  
22          which the owner, the spouse of the owner, the owner's agent or the person  
23          identified in the department's record as having an interest in the vehicle  
24          resides.

25          F. The immobilization or poststorage hearing shall be conducted by the  
26          immobilizing or impounding agency or justice court within five business days,  
27          excluding weekends and holidays, after receipt of the request.

28          G. Failure of the owner, the spouse of the owner or other person or  
29          the other person's agent to request an immobilization or poststorage hearing  
30          within ten days after the date on the notice prescribed in subsection E of  
31          this section or to attend a scheduled hearing satisfies the immobilization or  
32          poststorage hearing requirement.

1           H. The immobilizing or impounding agency employing the person who  
2 directed the immobilization or storage is responsible for the costs incurred  
3 for immobilization, towing and storage if it is determined in the  
4 immobilization or poststorage hearing that reasonable grounds for the  
5 immobilization or impoundment and storage are not established. IF REASONABLE  
6 GROUNDS ARE NOT ESTABLISHED AND THE COSTS FOR IMMOBILIZATION, TOWING AND  
7 STORAGE HAVE ALREADY BEEN PAID, THE IMMOBILIZING OR IMPOUNDING AGENCY  
8 EMPLOYING THE PERSON WHO DIRECTED THE IMMOBILIZATION OR STORAGE SHALL  
9 IMMEDIATELY REIMBURSE THE PERSON FOR ALL COSTS PAID.

10           I. In compliance with the requirements of this section, the vehicle  
11 owner, the vehicle owner's spouse or ~~other~~ ANOTHER person having an interest  
12 in the vehicle shall have an opportunity for a single poststorage hearing for  
13 the release of the vehicle by either the immobilizing or impounding agency or  
14 a justice court but not both."

15 Amend title to conform

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01/31/2011  
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C: sp