

REFERENCE TITLE: statewide towed vehicle information database

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SB 1234

Introduced by
Senator Gray

AN ACT

AMENDING SECTIONS 28-3511, 28-3512 AND 28-3513, ARIZONA REVISED STATUTES;
AMENDING TITLE 28, CHAPTER 8, ARTICLE 9, ARIZONA REVISED STATUTES, BY ADDING
SECTION 28-3516; RELATING TO VEHICLE IMPOUNDMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 28-3511. Removal and 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.

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

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

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

37 3. The person is driving a vehicle that is involved in an accident
38 that results in either property damage or injury to or death of another
39 person.

40 C. Except as provided in subsection D of this section, while a peace
41 officer has control of the vehicle the peace officer shall cause the removal
42 and either immobilization or impoundment of the vehicle if the peace officer
43 has probable cause to arrest the driver of the vehicle for a violation of
44 section 4-244, paragraph 34 or section 28-1382 or 28-1383.

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

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

7 2. The spouse of the driver is with the driver at the time of the
8 arrest.

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

11 (a) Has a valid driver license.

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

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

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

20 5. The spouse drives the vehicle as prescribed by paragraph 4 of this
21 subsection.

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

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

32 G. WITHIN TWENTY-FOUR HOURS AFTER EITHER THE IMMOBILIZATION OR
33 IMPOUNDMENT OF A VEHICLE PURSUANT TO THIS SECTION, THE IMMOBILIZING OR
34 IMPOUNDING AGENCY SHALL ENTER THE FOLLOWING INFORMATION INTO THE STATEWIDE
35 TOWED VEHICLE INFORMATION DATABASE ESTABLISHED PURSUANT TO SECTION 28-3516:

36 1. THE MAKE, MODEL, COLOR AND YEAR OF THE VEHICLE.

37 2. THE LICENSE PLATE NUMBER AND ISSUING JURISDICTION.

38 3. THE VEHICLE IDENTIFICATION NUMBER.

39 4. THE STREET AND CITY OF IMMOBILIZATION OR IMPOUNDMENT.

40 5. THE NAME OF THE STORAGE YARD.

41 6. VEHICLE DRIVER AND VEHICLE OWNER INFORMATION.

42 7. THE REASON FOR THE IMMOBILIZATION OR IMPOUNDMENT.

1 Sec. 2. 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, 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. IF 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 a driver who does not have a valid driving privilege or a
29 driver who commits a violation that causes the spouse's or person's vehicle
30 to be removed and either immobilized or impounded pursuant to this article
31 within one year after any agreement is signed by an immobilizing or
32 impounding agency, the spouse or person will not be eligible to obtain
33 release of the spouse's or person's vehicle before the end of the thirty day
34 immobilization or impoundment period.

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

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

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

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

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

11 C. The owner or the owner's spouse if the vehicle is released to the
12 owner's spouse is responsible for paying all immobilization, towing and
13 storage charges related to the immobilization or impoundment of the vehicle
14 and any administrative charges established pursuant to section 28-3513,
15 unless the vehicle is stolen and the theft was reported to the appropriate
16 law enforcement agency. If the vehicle is stolen and the theft was reported
17 to the appropriate law enforcement agency, the operator of the vehicle at the
18 time of immobilization or impoundment is responsible for all immobilization,
19 towing, storage and administrative charges.

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

24 1. The person is either of the following:

25 (a) In the business of renting motor vehicles without drivers and the
26 vehicle is registered pursuant to section 28-2166.

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

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

39 3. The person presents foreclosure documents or an affidavit of
40 repossession of the vehicle.

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

43 E. Before a person described in subsection D of this section releases
44 the vehicle to the owner who was operating the vehicle at the time of removal
45 and immobilization or impoundment, the person described in subsection D of

1 this section shall require the owner to present and shall retain for a period
2 of at least three years from the date of releasing the vehicle a copy of all
3 of the following:

4 1. A driver license issued by this state or the owner's or owner's
5 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 F. The person described in subsection D of this section may require
11 the owner to pay charges that the person incurred in connection with
12 obtaining custody of the vehicle, including all immobilization, towing and
13 storage charges that are related to the immobilization or impoundment of the
14 vehicle and any administrative charges that are established pursuant to
15 section 28-3513.

16 G. A vehicle shall not be released after the end of the thirty day
17 immobilization or impoundment period unless the owner or owner's agent
18 presents all of the following to the impounding or immobilizing agency:

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

21 2. A current vehicle registration or a valid salvage or dismantle
22 certificate of title.

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

25 4. If the person is required by the department to install a certified
26 ignition interlock device on the vehicle, proof of installation of a
27 functioning certified ignition interlock device in the vehicle. The
28 impounding agency, storage yard, facility, person or agency having physical
29 possession of the vehicle shall allow access during normal business hours to
30 the impounded vehicle for the purpose of installing a certified ignition
31 interlock device. The impounding agency, storage yard, facility, person or
32 agency having physical possession of the vehicle shall not charge any fee or
33 require compensation for providing access to the vehicle or for the
34 installation of the certified ignition interlock device.

35 H. The storage charges relating to the impoundment of a vehicle
36 pursuant to this section shall be subject to a contractual agreement between
37 the impounding agency and a towing firm for storage services pursuant to
38 section 28-1108 but shall not exceed fifteen dollars for each day of storage,
39 including any time the vehicle remains in storage after the end of the thirty
40 day impoundment period.

41 I. The immobilizing or impounding agency shall have no lien or
42 possessory interest in a stolen vehicle if the theft was reported to the
43 appropriate law enforcement agency. The immobilizing or impounding agency
44 shall release the vehicle to the owner or person other than the owner as
45 identified in subsection D of this section even if the operator at the time

1 of immobilization or impoundment has not paid all immobilization, towing,
2 storage and administrative charges.

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

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

12 L. WITHIN TWENTY-FOUR HOURS AFTER THE RELEASE OF A VEHICLE, THE
13 IMMOBILIZATION OR IMPOUNDMENT AGENCY SHALL ENTER THE FOLLOWING INFORMATION
14 INTO THE STATEWIDE TOWED VEHICLE INFORMATION DATABASE ESTABLISHED PURSUANT TO
15 SECTION 28-3516:

16 1. THE DATE OF THE VEHICLE RELEASE.

17 2. THE REASON FOR THE VEHICLE RELEASE.

18 3. A COPY OF ANY AGREEMENT ENTERED INTO PURSUANT TO SUBSECTION A,
19 PARAGRAPH 5 OF THIS SECTION.

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

22 Sec. 3. Section 28-3513, Arizona Revised Statutes, is amended to read:
23 28-3513. Administrative charges

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

30 B. The administrative charges established pursuant to this section
31 shall not exceed one hundred ~~fifty~~ FIFTY-FIVE dollars and shall not be
32 charged to a towing company that performs removal, immobilization,
33 impoundment, storage or release of the vehicle. NOTWITHSTANDING SUBSECTION F
34 OF THIS SECTION, FIVE DOLLARS OF THE ADMINISTRATIVE CHARGES SHALL BE
35 TRANSMITTED TO THE DEPARTMENT FOR THE MAINTENANCE OF THE STATEWIDE TOWED
36 VEHICLE INFORMATION DATABASE ESTABLISHED PURSUANT TO SECTION 28-3516.

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

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

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

4 F. If the immobilizing or impounding agency is:

5 1. A municipality, the administrative charges collected pursuant to
6 this section shall be transmitted to the city treasurer for deposit in a
7 special fund established by the municipality for the purpose of implementing
8 section 28-872 and this article.

9 2. A county, the administrative charges collected pursuant to this
10 section shall be transmitted to the county treasurer for deposit in a special
11 fund established by the county for the purpose of implementing section 28-872
12 and this article.

13 3. The department of public safety, the administrative charges
14 collected pursuant to this section shall be deposited, pursuant to sections
15 35-146 and 35-147, in the Arizona highway patrol fund established by section
16 41-1752.

17 4. The capitol police, the administrative charges collected pursuant
18 to this section shall be deposited, pursuant to sections 35-146 and 35-147,
19 in the capitol police administrative towing fund established by section
20 41-795.

21 Sec. 4. Title 28, chapter 8, article 9, Arizona Revised Statutes, is
22 amended by adding section 28-3516, to read:

23 28-3516. Statewide towed vehicle information database

24 THE DEPARTMENT SHALL ESTABLISH AND MAINTAIN A STATEWIDE TOWED VEHICLE
25 INFORMATION DATABASE. THE DATABASE SHALL BE USED TO COLLECT, VIEW AND REPORT
26 TOWED VEHICLE INFORMATION.