

REFERENCE TITLE: **uninsured vehicles; collision damages; impoundment**

State of Arizona  
Senate  
Fiftieth Legislature  
First Regular Session  
2011

## **SB 1351**

Introduced by  
Senator Antenori; Representatives Gowan, Stevens, Vogt; Senators Gray,  
Klein, Melvin, Reagan, Shooter, Smith, Yarbrough; Representative  
Montenegro

AN ACT

AMENDING TITLE 12, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 12-512; AMENDING SECTIONS 28-3511, 28-3512, 28-4843 AND 41-1752, ARIZONA REVISED STATUTES; RELATING TO UNINSURED VEHICLES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 12, chapter 5, article 1, Arizona Revised Statutes,  
3 is amended by adding section 12-512, to read:

4 12-512. Action barred by failure to maintain motor vehicle  
5 insurance

6 A MOTOR VEHICLE OWNER MAY NOT BRING AN ACTION TO RECOVER COLLISION  
7 DAMAGES FOR THE LOSS OF PERSONAL PROPERTY IF THE VEHICLE IS INVOLVED IN AN  
8 ACCIDENT AND THE VEHICLE DOES NOT MEET THE REQUIREMENTS OF TITLE 28, CHAPTER  
9 9, ARTICLE 4.

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

11 28-3511. Removal and immobilization or impoundment of vehicle

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

15 1. The person's driving privilege is suspended or revoked for any  
16 reason.

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

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

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

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

35 6. THE PERSON IS NOT IN COMPLIANCE WITH THE FINANCIAL RESPONSIBILITY  
36 REQUIREMENTS OF CHAPTER 9, ARTICLE 4 OF THIS TITLE.

37 ~~B. A peace officer shall cause the removal and impoundment of a~~  
38 ~~vehicle if the peace officer determines that a person is driving the vehicle~~  
39 ~~and if all of the following apply:~~

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

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

1           ~~3. The person is driving a vehicle that is involved in an accident~~  
2 ~~that results in either property damage or injury to or death of another~~  
3 ~~person.~~

4           ~~C.~~ B. Except as provided in subsection ~~D.~~ C of this section, while a  
5 peace officer has control of the vehicle the peace officer shall cause the  
6 removal and either immobilization or impoundment of the vehicle if the peace  
7 officer has probable cause to arrest the driver of the vehicle for a  
8 violation of section 4-244, paragraph 34 or section 28-1382 or 28-1383.

9           ~~D.~~ C. A peace officer shall not cause the removal and either the  
10 immobilization or impoundment of a vehicle pursuant to subsection ~~C.~~ B of  
11 this section if all of the following apply:

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

15           2. The spouse of the driver is with the driver at the time of the  
16 arrest.

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

19           (a) Has a valid driver license.

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

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

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

28           5. The spouse drives the vehicle as prescribed by paragraph 4 of this  
29 subsection.

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

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

40           Sec. 3. Section 28-3512, Arizona Revised Statutes, is amended to read:

41           28-3512. Release of vehicle; civil penalties; definition

42           A. An immobilizing or impounding agency shall release a vehicle to the  
43 registered owner before the end of the thirty day immobilization or  
44 impoundment period under any of the following circumstances:

45           1. If the vehicle is a stolen vehicle.

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

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

8           4. **IF** all of the following apply:

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

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

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

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

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

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

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

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

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

39           4. If the person is required by the department to install a certified  
40 ignition interlock device on the vehicle, proof of installation of a  
41 functioning certified ignition interlock device in the vehicle. The  
42 impounding agency, storage yard, facility, person or agency having physical  
43 possession of the vehicle shall allow access during normal business hours to  
44 the impounded vehicle for the purpose of installing a certified ignition  
45 interlock device. The impounding agency, storage yard, facility, person or

1 agency having physical possession of the vehicle shall not charge any fee or  
2 require compensation for providing access to the vehicle or for the  
3 installation of the certified ignition interlock device.

4 C. The owner or the owner's spouse if the vehicle is released to the  
5 owner's spouse is responsible for paying all immobilization, towing and  
6 storage charges related to the immobilization or impoundment of the vehicle  
7 and any administrative charges established pursuant to section 28-3513,  
8 unless the vehicle is stolen and the theft was reported to the appropriate  
9 law enforcement agency. If the vehicle is stolen and the theft was reported  
10 to the appropriate law enforcement agency, the operator of the vehicle at the  
11 time of immobilization or impoundment is responsible for all immobilization,  
12 towing, storage and administrative charges.

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

17 1. The person is either of the following:

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

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

24 2. The person pays all immobilization, towing and storage charges  
25 related to the immobilization or impoundment of the vehicle and any  
26 administrative charges established pursuant to section 28-3513 unless the  
27 vehicle is stolen and the theft was reported to the appropriate law  
28 enforcement agency. If the vehicle is stolen and the theft was reported to  
29 the appropriate law enforcement agency, the operator of the vehicle at the  
30 time of immobilization or impoundment is responsible for all immobilization,  
31 towing, storage and administrative charges.

32 3. The person presents foreclosure documents or an affidavit of  
33 repossession of the vehicle.

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

36 E. Before a person described in subsection D of this section releases  
37 the vehicle to the owner who was operating the vehicle at the time of removal  
38 and immobilization or impoundment, the person described in subsection D of  
39 this section shall require the owner to present and shall retain for a period  
40 of at least three years from the date of releasing the vehicle a copy of all  
41 of the following:

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

44 2. A current vehicle registration or a valid salvage or dismantle  
45 certificate of title.

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

3           F. The person described in subsection D of this section may require  
4 the owner to pay charges that the person incurred in connection with  
5 obtaining custody of the vehicle, including all immobilization, towing and  
6 storage charges that are related to the immobilization or impoundment of the  
7 vehicle and any administrative charges that are established pursuant to  
8 section 28-3513.

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

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

14           2. A current vehicle registration or a valid salvage or dismantle  
15 certificate of title.

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

18           4. If the person is required by the department to install a certified  
19 ignition interlock device on the vehicle, proof of installation of a  
20 functioning certified ignition interlock device in the vehicle. The  
21 impounding agency, storage yard, facility, person or agency having physical  
22 possession of the vehicle shall allow access during normal business hours to  
23 the impounded vehicle for the purpose of installing a certified ignition  
24 interlock device. The impounding agency, storage yard, facility, person or  
25 agency having physical possession of the vehicle shall not charge any fee or  
26 require compensation for providing access to the vehicle or for the  
27 installation of the certified ignition interlock device.

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

34           I. The immobilizing or impounding agency shall have no lien or  
35 possessory interest in a stolen vehicle if the theft was reported to the  
36 appropriate law enforcement agency. The immobilizing or impounding agency  
37 shall release the vehicle to the owner or person other than the owner as  
38 identified in subsection D of this section even if the operator at the time  
39 of immobilization or impoundment has not paid all immobilization, towing,  
40 storage and administrative charges.

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

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

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

7 Sec. 4. Section 28-4843, Arizona Revised Statutes, is amended to read:  
8 28-4843. Reclaimed vehicle; payment of costs; monies from  
9 transfer to the Arizona highway patrol fund

10 Except as provided in section 28-4834, on proof by the person in  
11 possession of an abandoned vehicle that notice of the abandonment and  
12 intention to transfer ownership has been given in the manner provided by law,  
13 the person in possession of the vehicle:

14 1. Is entitled to be paid a reasonable amount for storage of the  
15 vehicle and the fee for processing an abandoned vehicle report as prescribed  
16 by section 28-4802 from the owner, lienholder or person who has an interest  
17 in the vehicle if this person reclaims the vehicle before the transfer of  
18 ownership.

19 2. MUST PAY FIFTY PER CENT OF ALL MONIES RECEIVED FROM THE TRANSFER OF  
20 OWNERSHIP OF THE VEHICLE TO THE DEPARTMENT IF THE VEHICLE WAS IMMOBILIZED OR  
21 IMPOUNDED PURSUANT TO SECTION 28-3511, SUBSECTION A, PARAGRAPH 6. THE  
22 DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, THESE MONIES  
23 IN THE ARIZONA HIGHWAY PATROL FUND ESTABLISHED BY SECTION 41-1752.

24 Sec. 5. Section 41-1752, Arizona Revised Statutes, is amended to read:  
25 41-1752. Arizona highway patrol fund

26 A. An Arizona highway patrol fund is established.

27 B. The Arizona highway patrol fund consists of:

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

30 2. Miscellaneous service fees.

31 3. Rewards.

32 4. Awards.

33 5. Insurance recoveries.

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

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

38 8. Monies deposited pursuant to section 28-3513.

39 9. MONIES DEPOSITED PURSUANT TO SECTION 28-4843.

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

43 D. Monies in the Arizona highway patrol fund:

44 1. Do not revert to the state general fund or Arizona highway user  
45 revenue fund.

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

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