

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SB 1431

Introduced by
Senator Nelson

AN ACT

AMENDING TITLE 28, CHAPTER 2, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-376; AMENDING SECTIONS 28-853, 28-938, 28-948 AND 28-949, ARIZONA REVISED STATUTES; REPEALING SECTIONS 28-950 AND 28-951, ARIZONA REVISED STATUTES; AMENDING SECTIONS 28-959, 28-1105, 28-3001, 28-3481, 28-4301, 28-4302, 28-4361, 28-4364 AND 28-4365, ARIZONA REVISED STATUTES; PROVIDING FOR THE DELAYED REPEAL OF TITLE 28, CHAPTER 12, ARIZONA REVISED STATUTES; AMENDING SECTION 28-5105, ARIZONA REVISED STATUTES; AMENDING SECTION 28-5201, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2008, CHAPTER 147, SECTION 3; REPEALING SECTION 28-5201, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2008, CHAPTER 142, SECTION 9; REPEALING SECTION 28-5204, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2008, CHAPTER 142, SECTION 10; AMENDING SECTIONS 28-5234, 28-5925, 28-6991, 28-7311, 32-2352, 32-2371, 41-619.51, 41-1758 AND 41-1758.01, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 12, ARTICLE 3.1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1758.08; RELATING TO THE DEPARTMENT OF TRANSPORTATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 28, chapter 2, article 3, Arizona Revised Statutes,
3 is amended by adding section 28-376, to read:

4 28-376. Employment of personnel; definition

5 A. THE DIRECTOR MAY OBTAIN CRIMINAL HISTORY RECORD INFORMATION
6 REGARDING APPLICANTS FOR EMPLOYMENT FOR THE PURPOSE OF HIRING PERSONNEL.
7 BEFORE MAKING A FINAL OFFER OF EMPLOYMENT, THE DIRECTOR SHALL REQUIRE THE
8 PREFERRED APPLICANTS TO SUBMIT A FULL SET OF FINGERPRINTS. THE DIRECTOR
9 SHALL SUBMIT THE FINGERPRINTS TO THE DEPARTMENT OF PUBLIC SAFETY FOR THE
10 PURPOSE OF OBTAINING A STATE AND FEDERAL CRIMINAL RECORDS CHECK PURSUANT TO
11 SECTION 41-1750 AND PUBLIC LAW 92-544. THE DEPARTMENT OF PUBLIC SAFETY MAY
12 EXCHANGE THIS FINGERPRINT DATA WITH THE FEDERAL BUREAU OF INVESTIGATION. THE
13 DEPARTMENT OF TRANSPORTATION SHALL NOT DISCLOSE INFORMATION OBTAINED PURSUANT
14 TO THIS SUBSECTION EXCEPT TO MEMBERS OF THE DEPARTMENT'S STAFF SOLELY FOR
15 EMPLOYMENT PURPOSES. AN APPLICANT SHALL NOT BE DISQUALIFIED FROM EMPLOYMENT
16 UNDER THIS SUBSECTION EXCEPT IN ACCORDANCE WITH SECTION 13-904, SUBSECTION E.

17 B. THE DIRECTOR MAY OBTAIN CONSUMER REPORT INFORMATION REGARDING
18 APPLICANTS FOR EMPLOYMENT FOR THE PURPOSE OF HIRING PERSONNEL. INFORMATION
19 OBTAINED MAY ONLY BE USED TO DETERMINE THE SUITABILITY OF THE APPLICANT FOR
20 POSITIONS INVOLVING FIDUCIARY OR FINANCIAL RESPONSIBILITIES, THE ISSUANCE OF
21 DRIVER LICENSES OR OTHER PERSONAL IDENTIFICATION DOCUMENTS OR ACCESS TO
22 HIGHLY CONFIDENTIAL INFORMATION. CONSUMER REPORT INFORMATION MAY BE OBTAINED
23 AND USED ONLY IN ACCORDANCE WITH THE FAIR CREDIT REPORTING ACT (15 UNITED
24 STATES CODE SECTIONS 1681 THROUGH 1681x). AN APPLICANT SHALL NOT BE
25 DISQUALIFIED FROM EMPLOYMENT UNDER THIS SUBSECTION UNLESS THE CONSUMER REPORT
26 INFORMATION RELIED ON FOR THE DISQUALIFICATION HAS A REASONABLE RELATIONSHIP
27 TO THE FUNCTIONS OF THE POSITION.

28 C. FOR THE PURPOSES OF THIS SECTION, "APPLICANT" MEANS ANY PERSON WHO
29 SEEKS EMPLOYMENT AS A NEW HIRE OR ANY EMPLOYEE OF THE DEPARTMENT WHO SEEKS A
30 TRANSFER, A RECLASSIFICATION OR A REASSIGNMENT TO A DIFFERENT POSITION.

31 Sec. 2. Section 28-853, Arizona Revised Statutes, is amended to read:

32 28-853. Railroad grade crossing; stop required of certain
33 vehicles; other requirements

34 A. Except as otherwise provided in this article, before crossing at
35 grade any track or tracks of a railroad, the driver of a motor vehicle
36 carrying passengers for hire, of any school bus carrying any school child or
37 of any vehicle carrying or returning after delivery of explosive substances
38 or flammable liquids as a cargo or part of a cargo shall stop the vehicle
39 within fifty feet but not less than fifteen feet from the nearest rail of the
40 railroad, while stopped listen and look in both directions along the track
41 for an approaching train and for signals indicating the approach of a train
42 and not proceed until the driver can do so safely. After stopping as
43 required by this section and on proceeding when it is safe to do so, the
44 driver of the vehicle shall cross only in a gear of the vehicle for which

1 there is no need to change gears while traversing the crossing and shall not
2 shift gears while crossing the track or tracks.

3 ~~B.~~ This ~~section~~ SUBSECTION does not apply at:

4 1. A crossing where a police officer or a traffic control signal
5 directs traffic to proceed.

6 2. A street railway grade crossing within a business or residence
7 district.

8 B. A DRIVER OF A COMMERCIAL MOTOR VEHICLE SHALL NOT ENTER A RAILROAD
9 OR RAIL TRANSIT CROSSING UNLESS THERE IS SUFFICIENT SPACE ON THE OTHER SIDE
10 OF THE RAILROAD OR RAIL TRANSIT CROSSING TO ACCOMMODATE THE VEHICLE BEING
11 DRIVEN.

12 C. A DRIVER OF A COMMERCIAL MOTOR VEHICLE SHALL NOT ENTER A RAILROAD
13 OR RAIL TRANSIT CROSSING UNLESS THERE IS SUFFICIENT UNDERCARRIAGE CLEARANCE
14 TO CROSS THE INTERSECTION WITHOUT OBSTRUCTING THE THROUGH PASSAGE OF A
15 RAILWAY VEHICLE, INCLUDING A TRAIN OR A CITY TRANSIT VEHICLE.

16 Sec. 3. Section 28-938, Arizona Revised Statutes, is amended to read:

17 28-938. Spot and auxiliary lamps

18 A motor vehicle may be equipped with any of the following:

19 1. Not more than one spot lamp that when lighted is aimed and used on
20 approaching another vehicle only so that no part of the high intensity
21 portion of the beam is directed to the left of the prolongation of the
22 extreme left side of the vehicle nor more than one hundred feet ahead of the
23 vehicle.

24 2. Not more than two fog lamps that are mounted on the front at a
25 height of not less than twelve inches and not more than thirty inches above
26 the level surface on which the vehicle stands and that are aimed so that when
27 the vehicle is not loaded none of the high intensity portion of the light to
28 the left of the center of the vehicle shall project, at a distance of
29 twenty-five feet ahead, higher than a level of four inches below the level of
30 the center of the lamp that is aimed.

31 3. Not more than two auxiliary passing lamps that are mounted on the
32 front at a height of not less than twenty-four inches and not more than
33 forty-two inches above the level surface on which the vehicle stands and that
34 meet the requirements and limitations provided in sections 28-921 through
35 ~~28-951~~ 28-949.

36 4. Not more than two auxiliary driving lamps that are mounted on the
37 front at a height of not less than sixteen inches nor more than forty-two
38 inches above the level surface on which the vehicle stands and that meet the
39 requirements and limitations provided in sections 28-921 through ~~28-951~~
40 28-949.

41 Sec. 4. Section 28-948, Arizona Revised Statutes, is amended to read:

42 28-948. Snow removal equipment lamps

43 ~~A. The director shall adopt standards and specifications applicable to~~
44 ~~head lamps, clearance lamps, identification and other lamps on snow removal~~
45 ~~equipment when operated on the highways of this state in lieu of the lamps~~

1 ~~otherwise required on motor vehicles by this article. The standards and~~
2 ~~specifications:~~

3 ~~1. May permit the use of flashing lights for purposes of~~
4 ~~identification on snow removal equipment when in service on a highway.~~

5 ~~2. Shall correlate with and, as far as possible, conform with those~~
6 ~~approved by the American association of state highway officials.~~

7 ~~B.~~ A person shall not operate snow removal equipment on a highway
8 unless the lamps on the equipment comply with and are lighted when and as
9 required by ~~the~~ APPLICABLE FEDERAL SAFETY standards and specifications
10 ~~adopted pursuant to this section.~~

11 Sec. 5. Section 28-949, Arizona Revised Statutes, is amended to read:
12 28-949. Selling or using lamps

13 A. A person shall not have for sale, sell or offer for sale for use on
14 or as a part of the equipment of a motor vehicle, trailer or semitrailer or
15 shall not use on any such vehicle a reflector that is required by this
16 article, head lamp, auxiliary driving lamp, rear lamp, signal lamp or parts
17 of any of the foregoing that tend to change the original design or
18 performance unless the lamps or reflectors are of a type that ~~has been~~
19 ~~submitted to and approved by the department~~ MEETS APPLICABLE FEDERAL SAFETY
20 STANDARDS.

21 B. A person shall not have for sale, sell or offer for sale for use on
22 or as a part of the equipment of a motor vehicle, trailer or semitrailer a
23 lamp or device that is described in this section ~~and that has been approved~~
24 ~~by the department~~ unless the lamp or device bears the trademark or name under
25 which it is approved so as to be legible when installed.

26 C. A person shall not use on any motor vehicle, trailer or semitrailer
27 a lamp that is described in this section unless the lamp is mounted and
28 adjusted to focus and aim pursuant to ~~instructions of the department~~
29 APPLICABLE FEDERAL SAFETY STANDARDS.

30 Sec. 6. Repeal

31 Sections 28-950 and 28-951, Arizona Revised Statutes, are repealed.

32 Sec. 7. Section 28-959, Arizona Revised Statutes, is amended to read:
33 28-959. Safety glass required; applicability; denial or

34 suspension of registration; definition

35 A. A person shall not sell and the department shall not register a new
36 motor vehicle as specified in this section unless the vehicle is equipped
37 with safety glass wherever glass is used in doors, windows and windshields.
38 ~~The safety glass shall be of a type approved by the director.~~

39 B. This section applies to passenger motor vehicles, other than golf
40 carts, including passenger buses and school buses. For trucks, including
41 truck tractors, the requirements of this section for safety glass apply to
42 all glass used in doors, windows and windshields in the drivers' compartments
43 of the vehicles.

1 ~~C. The director shall compile and publish a list of types of glass by~~
2 ~~name that are approved by the director and that meet the requirements of this~~
3 ~~section.~~

4 ~~D.~~ C. The director shall not register a new motor vehicle unless it
5 is equipped with an approved type of safety glass. The director shall
6 suspend the registration of any motor vehicle that is subject to this section
7 and that the director finds is not equipped with an approved type of safety
8 glass. The suspension shall continue until the motor vehicle is made to
9 conform to the requirements of this section.

10 ~~E.~~ D. A person shall not replace glass or glazing materials used in
11 partitions, doors, windows, windshields or wind deflectors in a motor vehicle
12 with a material other than safety glass ~~of a type approved by the director.~~

13 ~~F.~~ E. For the purposes of this section, "safety glass" means ~~either:~~
14 ~~1.~~ a product composed of glass that is manufactured, fabricated or
15 treated in a manner that substantially prevents shattering and flying of the
16 glass when struck or broken AND THAT MEETS APPLICABLE FEDERAL SAFETY
17 STANDARDS.

18 ~~2. Other or similar products as approved by the director.~~

19 Sec. 8. Section 28-1105, Arizona Revised Statutes, is amended to read:
20 28-1105. Special permit fees

21 A. Except as otherwise provided by law, the following fees are
22 required:

23 1. Fifteen dollars for each special permit issued pursuant to section
24 28-1103 for excess size, except that a thirty dollar fee is required for each
25 thirty day permit and a three hundred sixty dollar fee is required for each
26 annual permit.

27 2. Seventy-five dollars for each permit and each thirty day permit
28 issued pursuant to section 28-1103 for excess weight, except that a six
29 hundred dollar fee is required for each annual permit. **FOR COMMERCIAL**
30 **VEHICLES TRAVELING THROUGH AN INTERNATIONAL PORT OF ENTRY ON A SPECIAL SINGLE**
31 **TRIP EXCESS WEIGHT PERMIT ISSUED PURSUANT TO SECTION 28-1103, THE DIRECTOR**
32 **SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, THE SEVENTY-FIVE**
33 **DOLLAR SPECIAL SINGLE TRIP PERMIT FEE COLLECTED PURSUANT TO THIS PARAGRAPH IN**
34 **THE STATE HIGHWAY FUND ESTABLISHED BY SECTION 28-6991.**

35 3. For a permit requested for a motor vehicle or combination of
36 vehicles that is in excess of both the size and weight permitted by this
37 chapter, the amount of fees applicable for an excess weight permit.

38 4. Three hundred sixty dollars for each permit issued pursuant to
39 section 28-1103, subsection C.

40 B. A fee is not required for a permit issued pursuant to section
41 28-1103 for the movement of vehicles or combinations of vehicles owned by the
42 United States government, this state or a county, city or town.

43 C. If a special permit is required by the director and by one or more
44 authorities to move a vehicle or combination of vehicles, the applicant for

1 the permit or permits shall pay a permit fee only to the director and is not
2 required to pay a permit fee to a local authority.

3 D. If a special permit is required by more than one local authority to
4 move a vehicle or combination of vehicles and if the permit is not required
5 by the director, the applicant shall pay a permit fee only to the local
6 authority that has jurisdiction of the streets and highways where the
7 movements of the vehicle or combination of vehicles originate.

8 Sec. 9. Section 28-3001, Arizona Revised Statutes, is amended to read:
9 28-3001. Definitions

10 In this chapter, unless the context otherwise requires:

11 1. "Cancellation" means the annulment or termination of a driver
12 license because of an error or defect or because the licensee is no longer
13 entitled to the license.

14 2. "Commercial driver license" means a license that is issued to an
15 individual and that authorizes the individual to operate a class of
16 commercial motor vehicles.

17 3. "Commercial motor vehicle" means a motor vehicle or combination of
18 motor vehicles **THAT IS** used **IN COMMERCE** to transport passengers or property
19 ~~if the motor vehicle either~~ **AND THAT INCLUDES ANY OF THE FOLLOWING:**

20 (a) **A MOTOR VEHICLE OR COMBINATION OF MOTOR VEHICLES THAT** has a gross
21 combined weight rating of twenty-six thousand one or more pounds inclusive of
22 a towed unit with a gross vehicle weight rating of more than ten thousand
23 pounds.

24 (b) **A MOTOR VEHICLE OR COMBINATION OF MOTOR VEHICLES THAT** has a gross
25 vehicle weight rating of twenty-six thousand one or more pounds.

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

27 ~~(d)~~ (c) ~~is~~ A bus.

28 ~~(e)~~ (d) **A MOTOR VEHICLE OR COMBINATION OF MOTOR VEHICLES THAT** is used
29 in the transportation of materials found to be hazardous for the purposes of
30 the hazardous materials transportation **AUTHORIZATION** act **OF 1994** (49 United
31 States Code sections 5101 through ~~5127~~ 5128) and is required to be placarded
32 under 49 Code of Federal Regulations section 172.504, as adopted by the
33 department pursuant to chapter 14 of this title.

34 4. "Conviction" has the same meaning prescribed in section 28-101 and
35 also means a final conviction or judgment, including an order of a juvenile
36 court finding that a juvenile has violated a provision of this title or has
37 committed a delinquent act that if committed by an adult constitutes any of
38 the following:

39 (a) Criminal damage to property pursuant to section 13-1602,
40 subsection A, paragraph 1.

41 (b) A felony offense in the commission of which a motor vehicle was
42 used, including theft of a motor vehicle pursuant to section 13-1802,
43 unlawful use of means of transportation pursuant to section 13-1803 or theft
44 of means of transportation pursuant to section 13-1814.

1 (c) A forfeiture of bail or collateral deposited to secure a
2 defendant's appearance in court that has not been vacated.

3 5. "Disqualification" means a prohibition from obtaining a commercial
4 driver license or driving a commercial motor vehicle.

5 6. "Employer" means a person, including the United States, a state or
6 a political subdivision of a state, that owns or leases a commercial motor
7 vehicle or that assigns a person to operate a commercial motor vehicle.

8 7. "Endorsement" means an authorization that is added to an
9 individual's driver license and that is required to permit the individual to
10 operate certain types of vehicles.

11 8. "Foreign" means outside the United States.

12 9. "Gross vehicle weight rating" means the weight that is assigned by
13 the vehicle manufacturer to a vehicle and that represents the maximum
14 recommended total weight including the vehicle and the load for the vehicle.

15 10. "Judgment" means a final judgment and any of the following:

16 (a) The finding by a court that an individual is responsible for a
17 civil traffic violation.

18 (b) An individual's admission of responsibility for a civil traffic
19 violation.

20 (c) The voluntary or involuntary forfeiture of deposit in connection
21 with a civil traffic violation.

22 (d) A default judgment entered by a court pursuant to section 28-1596.

23 11. "License class" means, for the purpose of determining the
24 appropriate class of driver license required for the type of motor vehicle or
25 vehicle combination a driver intends to operate or is operating, the class of
26 driver license prescribed in section 28-3101.

27 12. "Nonresident commercial driver license" means a commercial driver
28 license issued to an individual domiciled in a foreign country.

29 13. "Original applicant" means any of the following:

30 (a) An applicant who has never been licensed or cannot provide
31 evidence of licensing.

32 (b) An applicant who is applying for a higher class of driver license
33 than the license currently held by the applicant.

34 (c) An applicant who has a license from a foreign country.

35 14. "Revocation" means that the driver license and driver's privilege
36 to drive a motor vehicle on the public highways of this state are terminated
37 and shall not be renewed or restored, except that an application for a new
38 license may be presented and acted on by the department after one year from
39 the date of revocation.

40 15. "State of domicile" means the state or jurisdiction where a person
41 has the person's true, fixed and permanent home and principal residence and
42 to which the person has the intention of returning after an absence.

43 16. "Suspension" means that the driver license and driver's privilege
44 to drive a motor vehicle on the public highways of this state are temporarily

1 withdrawn during the period of the suspension and until application for
2 reinstatement is made.

3 17. "Vehicle combination" means a motor vehicle and a vehicle in excess
4 of ten thousand pounds gross vehicle weight that it tows, if the combined
5 gross vehicle weight rating is more than twenty-six thousand pounds.

6 Sec. 10. Section 28-3481, Arizona Revised Statutes, is amended to
7 read:

8 28-3481. Commercial motor vehicle drivers; violations;
9 classification

10 A. A person who drives a commercial motor vehicle on a highway in this
11 state without a valid appropriate class of commercial driver license OR
12 COMMERCIAL DRIVER LICENSE ENDORSEMENT is guilty of a class 3 misdemeanor.

13 B. A driver of a commercial motor vehicle who provides false or
14 fraudulent information to an employer as required by section 28-3227 is
15 guilty of a class 3 misdemeanor.

16 C. A driver of a commercial motor vehicle who fails to report the
17 information required in section 28-3227 is guilty of a class 3 misdemeanor.

18 Sec. 11. Section 28-4301, Arizona Revised Statutes, is amended to
19 read:

20 28-4301. Definitions

21 In this chapter, unless the context otherwise requires:

22 1. "Area of responsibility" means the area surrounding an individual
23 dealer that the factory designates as that dealer's individual primary
24 geographic territory for the purpose of marketing, promoting, selling and
25 leasing new motor vehicles. In the absence of the factory designated area,
26 the area of responsibility is that geographical area surrounding a dealer
27 that lies closer to that dealer than to other dealers of the same line-make.

28 2. "Automotive recycler" means a person who is engaged in the business
29 of buying or acquiring a motor vehicle solely for the purpose of dismantling,
30 selling or otherwise disposing of the parts or accessories and who dismantles
31 six or more vehicles in a calendar year.

32 3. "Branch license" means a license that is issued by the director to
33 a licensed motor vehicle dealer and that permits the licensee to sell motor
34 vehicles from an established place of business within the same county but
35 other than the original or principal place of business for which the license
36 was issued.

37 4. "Broker" means a person who for any fee, commission or other
38 valuable consideration offers to provide, provides or represents that the
39 person will provide a service of arranging or assisting in effecting the
40 purchase of a motor vehicle and who is not:

41 (a) A new motor vehicle dealer or an employee or agent of a new motor
42 vehicle dealer.

43 (b) A used motor vehicle dealer or an employee or agent of a used
44 motor vehicle dealer.

1 (c) A manufacturer or employee or agent of a manufacturer.

2 (d) An auctioneer or engaged in the auto auction business.

3 (e) A wholesale motor vehicle dealer.

4 5. "Community" means the relevant market area. For the purposes of
5 this paragraph, "relevant market area" means the incorporated city or town in
6 which the franchise is located.

7 6. "Distributor" means a person who either:

8 (a) Sells or distributes new motor vehicles to new motor vehicle
9 dealers in this state.

10 (b) Maintains distributor representatives in this state.

11 7. "Distributor branch" means a branch office maintained or availed of
12 by a distributor for either:

13 (a) The sale of new motor vehicles to new motor vehicle dealers in
14 this state.

15 (b) Directing or supervising its representatives in this state.

16 8. "Established place of business":

17 (a) Means a permanent enclosed building or structure that is owned
18 either in fee or leased with sufficient space to display two or more motor
19 vehicles of a kind and type that the dealer is licensed to sell and that is
20 devoted principally to the use of a motor vehicle dealer in the conduct of
21 the business of the dealer.

22 (b) In the case of a used motor vehicle dealer, trailer dealer or
23 semitrailer dealer:

24 (i) Need not be a permanent building or structure or part of a
25 permanent building or structure.

26 (ii) May be a vacant lot or part of a vacant lot.

27 (iii) Does not mean or include a residence, tent, temporary stand or
28 temporary quarters or permanent quarters occupied pursuant to a temporary
29 arrangement.

30 (c) In the case of an automotive recycler, means a permanent site or
31 location at which the business of an automotive recycler is or will be
32 conducted.

33 9. "Exhibitor" means a manufacturer of new motor homes that exhibits
34 new motor homes at a special event.

35 10. "Factory branch" means a branch office maintained or availed of by
36 a manufacturer for either:

37 (a) The sale of new motor vehicles to distributors or the sale of new
38 motor vehicles to new motor vehicle dealers in this state.

39 (b) Directing or supervising its representatives in this state.

40 11. "Financial institution" means a bank, trust company, savings and
41 loan association, credit union, consumer lender, international banking
42 facility or holding company that is licensed, regulated or insured by the
43 department of financial institutions, the federal deposit insurance
44 corporation, the office of thrift supervision, the comptroller of the

1 currency, the national credit union share insurance fund or the national
2 credit union administration.

3 12. "Franchise" means a contract between two or more persons if all of
4 the following conditions are included:

5 (a) A commercial relationship of definite duration or continuing
6 indefinite duration is involved.

7 (b) The franchisee is granted the right to offer, sell and service in
8 this state new motor vehicles manufactured or distributed by the franchisor.

9 (c) The franchisee, as a separate business, constitutes a component of
10 the franchisor's distribution system.

11 (d) The operation of the franchisee's business is substantially
12 associated with the franchisor's trademark, service mark, trade name,
13 advertising or other commercial symbol designating the franchisor.

14 (e) The operation of the franchisee's business is substantially
15 reliant on the franchisor for the continued supply of new motor vehicles,
16 parts and accessories.

17 13. "Franchisee" means a person who both:

18 (a) Receives new motor vehicles from the franchisor under a franchise.

19 (b) Offers and sells to and services new motor vehicles for the
20 general public.

21 14. "Franchisor" means a person who both:

22 (a) Manufactures or distributes new motor vehicles.

23 (b) May enter into a franchise.

24 15. "Importer" means a person who transports or arranges for the
25 transportation of a foreign manufactured new motor vehicle into the United
26 States for sale in this state.

27 16. "Lead" means any retail consumer who satisfies all of the
28 following:

29 (a) Responds to a factory-directed program that obtains consumer
30 contact information and that provides such information to one or more
31 dealers.

32 (b) Expresses an interest to the factory in purchasing, leasing or
33 acquiring any vehicle or product, service or financing available from the
34 dealers of that factory.

35 (c) Does not qualify for any reasonable factory sponsored employee,
36 retiree or vendor new vehicle purchase program or any other reasonable
37 similar factory new vehicle purchase program.

38 17. "Line-make" means those motor vehicles that are offered for sale,
39 lease or distribution under a common name, trademark, service mark or brand
40 name of the manufacturer of those same motor vehicles.

41 18. "Major component part" includes a motor vehicle or vehicle part
42 that the manufacturer has assigned any factory, motor, serial or other
43 identification number or mark.

44 19. "Manufacturer" means any person who either:

45 (a) Manufactures or assembles new motor vehicles.

1 (b) Manufactures or installs on previously assembled truck chassis
2 special bodies or equipment that when installed forms an integral part of the
3 new motor vehicle and that constitutes a major manufacturing alteration,
4 excluding the installation of a camper on a pickup truck.

5 20. "Motor home" means a motor vehicle that is primarily designed as
6 temporary living quarters and that:

7 (a) Is built onto as an integral part of, or is permanently attached
8 to, a motor vehicle chassis.

9 (b) Contains at least four of the following independent life support
10 systems if each is permanently installed and designed to be removed only for
11 purposes of repair or replacement:

12 (i) A cooking facility with an ~~on-board~~ ONBOARD fuel source.

13 (ii) A gas or electric refrigerator.

14 (iii) A toilet with exterior evacuation.

15 (iv) A heating or air conditioning system with an ~~on-board~~ ONBOARD
16 power or fuel source separate from the vehicle engine.

17 (v) A potable water supply system that includes at least a sink, a
18 faucet and a water tank with an exterior service supply connection.

19 (vi) A 110-125 volt electric power supply.

20 21. "Motor vehicle" means an automobile, motor bus, motorcycle, truck
21 or truck tractor or any other self-propelled vehicle, trailer or semitrailer.

22 22. "Motor vehicle dealer" means a new motor vehicle dealer, a used
23 motor vehicle dealer, a broker or a wholesale motor vehicle auction dealer,
24 excluding a person who comes into possession of a motor vehicle as an
25 incident to the person's regular business and who sells, auctions or
26 exchanges the motor vehicle.

27 23. "New house trailer dealer" means a person who buys, sells,
28 exchanges or offers or attempts to negotiate a sale or exchange of an
29 interest in, or who is engaged in the business of selling, new house trailers
30 or used house trailers taken in trade on new house trailers. For the
31 purposes of this paragraph, "house trailer" means a vehicle, other than a
32 motor vehicle, that is built on a chassis designed for being drawn on the
33 highways by a motor vehicle and that is designed for human habitation.

34 24. "New motor vehicle" means a motor vehicle, other than a used motor
35 vehicle, that is held either for:

36 (a) Sale by the franchisee who first acquired the vehicle from the
37 manufacturer or distributor of the vehicle.

38 (b) Sale by another franchisee of the same line-make.

39 25. "New motor vehicle dealer" means a person who buys, sells,
40 exchanges or offers or attempts to negotiate a sale or exchange of an
41 interest in, or who is engaged in the business of selling, new motor vehicles
42 or used motor vehicles taken in trade on new motor vehicles or used vehicles
43 purchased for resale.

44 26. "Off-premises display and sales" means a promotion or sale of motor
45 vehicles for a period of time as specified by the director that both:

1 (a) Is sponsored by a licensed motor vehicle dealer, the licensed
2 motor vehicle dealer's agents or the manufacturer.

3 (b) Takes place at a location within the same county but not at the
4 licensee's established place of business.

5 27. "Off-premises exhibition" means the exhibition of a motor vehicle
6 for a period of time as specified by the director at a location within the
7 same county but not at the established place of business of a licensed motor
8 vehicle dealer and at which a solicitation or sale does not occur.

9 ~~28. "Provisional automotive recycler's license" means a license that~~
10 ~~both:~~

11 ~~(a) Is issued by the department only in conjunction with an~~
12 ~~application for an automotive recycler's license.~~

13 ~~(b) Permits the applicant or applicants to conduct the business of an~~
14 ~~automotive recycler regulated by this chapter pending completion of the~~
15 ~~criminal records check pursuant to section 28-4361.~~

16 ~~29. "Provisional dealer's license" means a license that both:~~

17 ~~(a) Is issued by the department only in conjunction with an~~
18 ~~application for a dealer's license.~~

19 ~~(b) Permits the applicant or applicants to conduct the business of a~~
20 ~~motor vehicle dealer regulated by this chapter pending completion of the~~
21 ~~criminal records check pursuant to section 28-4361.~~

22 ~~30.~~ 28. "Retail consumer" means any person purchasing, leasing or
23 acquiring or possibly purchasing, leasing or acquiring a vehicle or product,
24 service or financing not for resale.

25 ~~31.~~ 29. "Service" means any service that is sold, leased or provided
26 to retail consumers and that directly relates to the ownership or leasing of
27 a new or used motor vehicle, including extended service contracts or motor
28 vehicle warranty and nonwarranty repairs or maintenance, including both parts
29 and labor.

30 ~~32.~~ 30. "Special event" means an exhibition of new motor homes by a
31 motor vehicle dealer licensed to sell new motor homes or an exhibitor for a
32 period of time specified by the director at a location in this state other
33 than the licensee's or exhibitor's established place of business.

34 ~~33.~~ 31. "Used motor vehicle" means a motor vehicle that has been sold,
35 bargained, exchanged or given away or the title to the motor vehicle has been
36 transferred from the person who first acquired the vehicle from the
37 manufacturer, or importer, dealer or agent of the manufacturer or importer,
38 and that has been placed in bona fide consumer use. For the purposes of this
39 paragraph, "bona fide consumer use" means actual operation by an owner who
40 acquired a new motor vehicle both:

41 (a) For use in the owner's business or for pleasure or otherwise.

42 (b) For which a certificate of title has been issued or that has been
43 registered as provided by law.

44 ~~34.~~ 32. "Used motor vehicle dealer" means a person, other than a new
45 motor vehicle dealer, who buys, sells, auctions, exchanges or offers or

1 attempts to negotiate a sale or exchange of an interest in, or who is engaged
2 in the business of selling, four or more used motor vehicles in a continuous
3 twelve month period. Used motor vehicle dealer does not include a wholesale
4 motor vehicle auction dealer.

5 ~~35-~~ 33. "Wholesale motor vehicle auction dealer" means a person who
6 both:

7 (a) Is in the business of providing auction services solely in
8 wholesale transactions to motor vehicle dealers licensed by this state or any
9 other jurisdiction.

10 (b) Does not buy, sell or own the motor vehicles the auction dealer
11 auctions in the ordinary course of business.

12 ~~36-~~ 34. "Wholesale motor vehicle dealer" means a person who sells used
13 motor vehicles only to licensed motor vehicle dealers.

14 Sec. 12. Section 28-4302, Arizona Revised Statutes, is amended to
15 read:

16 28-4302. Fees; disposition

17 A. The following fees are required:

18 1. For filing each application for a dealer's, manufacturer's,
19 importer's, distributor's, factory branch's, distributor branch's, automotive
20 recycler's or wholesale motor vehicle dealer's license, fifteen dollars.

21 ~~2. For filing each application for a provisional dealer's, automotive
22 recycler's or wholesale motor vehicle dealer's license filed in conjunction
23 with an application for a dealer's or automotive recycler's license, ten
24 dollars.~~

25 ~~3-~~ 2. For each filing or continuation of a dealer's, manufacturer's,
26 distributor's, importer's, factory branch's, distributor branch's, automotive
27 recycler's or wholesale motor vehicle dealer's license if issued annually,
28 one hundred dollars.

29 ~~4-~~ 3. For filing or continuing a dealer's branch license if issued
30 annually, fifty dollars.

31 ~~5-~~ 4. For filing each application for a permit for the off-premises
32 exhibition of motor vehicles, for a motor vehicle show or for a special event
33 to exhibit new motor homes, twenty-five dollars.

34 ~~6-~~ 5. For filing each application for a permit for the off-premises
35 display and sale of motor vehicles, twenty-five dollars.

36 B. Except as otherwise provided by statute, the director shall
37 immediately deposit, pursuant to sections 35-146 and 35-147, fees collected
38 under this section in the Arizona highway user revenue fund.

39 Sec. 13. Section 28-4361, Arizona Revised Statutes, is amended to
40 read:

41 28-4361. License application; general fingerprint authorization
42 card

43 A. A person shall apply for a license to the director in writing on
44 forms prescribed by the director. The person shall include with the

1 application all documents and bonds required and the annual license fees
2 prescribed by section 28-4302.

3 B. The application shall be verified and shall contain:

4 1. The name and residence of either:

5 (a) The applicant.

6 (b) If the applicant is a partnership, each partner.

7 (c) If the applicant is a corporation, each principal officer,
8 director, agent or stockholder who owns twenty per cent or more of the
9 corporation and the name of the state in which the corporation was organized.

10 2. The principal place of business of the applicant.

11 3. The established place of business or the place of business at or
12 from which the applicant will conduct the business.

13 4. The make or makes of new motor vehicles, if any, that the applicant
14 will sell or offer for sale in this state.

15 5. The business hours of the applicant.

16 6. Other information that the director requires.

17 C. Each applicant, and each partner, officer, director or agent or
18 each stockholder owning twenty per cent or more of a corporation, seeking a
19 new license shall provide THE DEPARTMENT WITH A GENERAL FINGERPRINT
20 AUTHORIZATION CARD ISSUED PURSUANT TO SECTION 41-1758.08. ↔

21 ~~1. A full set of fingerprints to the department for the purpose of~~
22 ~~obtaining a state and federal criminal records check pursuant to section~~
23 ~~41-1750 and Public Law 92-544. The department of public safety may exchange~~
24 ~~this fingerprint data with the federal bureau of investigation.~~

25 ~~2. A nonrefundable fee to be paid to the department of public safety~~
26 ~~for the criminal records check.~~

27 D. If a licensee adds or changes a partner, officer, director or
28 agent, or a stockholder who owns twenty per cent or more of the corporation,
29 who was not included in the criminal records check OR WHO HAS NOT SUBMITTED A
30 GENERAL FINGERPRINT AUTHORIZATION CARD ISSUED PURSUANT TO SECTION 41-1758.08
31 on a prior application, the licensee shall notify the department within
32 thirty days of the change. At the time of notification, an application and,
33 if applicable, a ~~full set of fingerprints and the fee for a criminal records~~
34 ~~check~~ GENERAL FINGERPRINT AUTHORIZATION CARD ISSUED PURSUANT TO SECTION
35 41-1758.08 shall be submitted to the department. If any individual who is
36 added or changed by the licensee is found to be ineligible pursuant to
37 section 28-4365, the director, ~~on completion of the criminal records check,~~
38 shall advise the licensee and the individual in writing that the license will
39 be revoked, unless the individual is removed from the position, and of the
40 grounds for the action.

41 E. The requirement for a ~~criminal records check~~ GENERAL FINGERPRINT
42 AUTHORIZATION CARD ISSUED PURSUANT TO SECTION 41-1758.08:

43 1. Does not apply to a manufacturer, importer, factory branch or
44 distributor or a person who is under eighteen years of age on the date the
45 application is filed with the department.

1 2. May not apply if the application is for a subsequent license and
2 the applicant, and each partner, officer, director or agent or each
3 stockholder owning twenty per cent or more of a corporation, either:

4 (a) Have submitted to a criminal records check **OR SUBMITTED A GENERAL**
5 **FINGERPRINT AUTHORIZATION CARD ISSUED PURSUANT TO SECTION 41-1758.08** during
6 the past five years.

7 (b) Are currently licensed under this section.

8 Sec. 14. Section 28-4364, Arizona Revised Statutes, is amended to
9 read:

10 28-4364. Investigations; inspections

11 ~~A.~~ On the filing of the application for a license, the director shall:

12 1. Investigate the matters set forth in the license application.

13 2. Inspect, **PHYSICALLY OR THROUGH AN ALTERNATE METHOD ESTABLISHED BY**
14 **THE DIRECTOR**, the place from which the applicant proposes to transact
15 business.

16 3. Investigate other matters as the director deems necessary.

17 ~~B. The director shall select a date and time to conduct the~~
18 ~~investigation and inspection as the director determines is reasonable and~~
19 ~~necessary.~~

20 ~~C. The director may approve an application for a provisional dealer's~~
21 ~~or automotive recycler's license pending completion of the criminal records~~
22 ~~check pursuant to section 28-4361 if the applicant meets all other licensing~~
23 ~~requirements of this chapter.~~

24 ~~D. A provisional motor vehicle dealer's or automotive recycler's~~
25 ~~license is valid unless revoked by the director or until the applicant~~
26 ~~receives approval or denial of the application for a motor vehicle dealer's~~
27 ~~or automotive recycler's license.~~

28 ~~E. The director may revoke a provisional motor vehicle dealer's or~~
29 ~~automotive recycler's license for a violation of this chapter.~~

30 Sec. 15. Section 28-4365, Arizona Revised Statutes, is amended to
31 read:

32 28-4365. Denial of application; immunity from costs

33 ~~A. Within twenty days after completion of the criminal records check,~~
34 ~~the director shall approve or deny the application for the issuance of a~~
35 ~~license. If the application is denied, the director shall advise the~~
36 ~~applicant in writing of the denial and the grounds for the denial.~~

37 ~~B.~~ A. The director may deny an application for a license if:

38 1. An individual included in the application made a misrepresentation,
39 omission or misstatement in the application to conceal a matter that may
40 cause the application to be denied.

41 2. An individual included in the application has been convicted of
42 fraud or an auto related felony in a state, territory or possession of the
43 United States or a foreign country within the ten years immediately preceding
44 the date the criminal records check is complete.

1 3. An individual included in the application has been convicted of a
2 felony, other than a felony described in paragraph 2 ~~of this subsection~~, in a
3 state, territory or possession of the United States or a foreign country
4 within the five years immediately preceding the date the criminal records
5 check is complete.

6 4. An individual in the application does not meet the requirements of
7 law or the requirements of a rule adopted by the director pursuant to law.

8 5. Within five years preceding the application, an individual included
9 in the application has had a similar license suspended, revoked or cancelled
10 in this or any other state.

11 B. IF THE APPLICATION IS DENIED, THE DIRECTOR SHALL ADVISE THE
12 APPLICANT IN WRITING OF THE DENIAL AND THE GROUNDS FOR THE DENIAL.

13 C. The individual whose information is found to be a
14 misrepresentation, omission or misstatement is not eligible to reapply for a
15 license for twelve months from the date of denial.

16 D. The department or its employees are not liable for any costs
17 incurred by an applicant seeking licensure under this chapter.

18 Sec. 16. Delayed repeal

19 Title 28, chapter 12, Arizona Revised Statutes, is repealed from and
20 after March 31, 2012.

21 Sec. 17. Section 28-5105, Arizona Revised Statutes, is amended to
22 read:

23 28-5105. General fingerprint authorization card; denial of
24 application; immunity from costs

25 A. An applicant, and each partner, officer, director or agent or each
26 stockholder owning twenty per cent or more of a corporation, seeking
27 authorization or certification, or both, pursuant to this article shall
28 provide THE DEPARTMENT WITH A GENERAL FINGERPRINT AUTHORIZATION CARD ISSUED
29 PURSUANT TO SECTION 41-1758.08. :-

30 ~~1. A full set of fingerprints to the department of transportation for~~
31 ~~the purpose of obtaining a state and federal criminal records check pursuant~~
32 ~~to section 41-1750 and Public Law 92-544. The department of public safety~~
33 ~~may exchange this fingerprint data with the federal bureau of investigation.~~

34 ~~2. A nonrefundable fee to be paid to the department of public safety~~
35 ~~for the criminal records check.~~

36 B. The director may deny an application for authorization or
37 certification, or both, if any individual included in the application has
38 either:

39 1. Made a misrepresentation or misstatement in the application to
40 conceal a matter that would cause the application to be denied.

41 ~~2. Been convicted of fraud or an auto related felony in any state,~~
42 ~~territory or possession of the United States or any foreign country within~~
43 ~~the ten years immediately preceding the date the criminal records check is~~
44 ~~complete.~~

1 ~~3. Been convicted of a felony, other than a felony described in~~
2 ~~paragraph 2 of this subsection, in a state, territory or possession of the~~
3 ~~United States or a foreign country within the five years immediately~~
4 ~~preceding the date the criminal records check is complete.~~

5 ~~4.~~ 2. Violated a rule or policy of the department.

6 ~~5.~~ 3. Been involved in any activity that the director determines to
7 be inappropriate in relation to the authority granted.

8 ~~C. The director may approve an application for provisional~~
9 ~~authorization or certification, or both, pending completion of the criminal~~
10 ~~records check if the applicant meets all other requirements of this article.~~
11 ~~The director may revoke a provisional authorization or certification, or~~
12 ~~both, for a violation of this title. A provisional authorization or~~
13 ~~certification, or both, is valid unless revoked by the director or until the~~
14 ~~applicant receives approval or denial of the application for authorization or~~
15 ~~certification, or both.~~

16 ~~D. C. Within twenty days of completion of the criminal records check,~~
17 ~~the director shall approve or deny the application.~~ If the application is
18 denied, the director shall advise the applicant in writing of the denial and
19 the grounds for denial.

20 D. The department or its employees are not liable for any costs
21 incurred by an applicant seeking authorization or certification, or both,
22 under this article.

23 E. Within thirty days after receipt of the notice of denial, the
24 applicant may petition the director in writing for a hearing on the
25 application pursuant to section 28-5107.

26 F. If the authorized third party adds a partner, officer, director or
27 agent, or a stockholder who owns twenty per cent or more of the corporation,
28 who was not included in the criminal records check **OR WHO HAS NOT SUBMITTED A**
29 **GENERAL FINGERPRINT AUTHORIZATION CARD ISSUED PURSUANT TO SECTION 41-1758.08**
30 on a prior application, the authorized third party shall notify the
31 department within thirty days of the change.

32 G. At the time of notification pursuant to subsection F of this
33 section, the third party shall submit to the department of transportation an
34 application and, if applicable, ~~a full set of fingerprints and the fee to be~~
35 ~~paid to the department of public safety for a criminal records check~~ **A**
36 **GENERAL FINGERPRINT AUTHORIZATION CARD ISSUED PURSUANT TO SECTION 41-1758.08.**
37 On completion of the investigation if the individual added or changed by the
38 authorized third party is found to be ineligible pursuant to subsection B of
39 this section, the director of the department of transportation shall advise
40 the authorized third party and the individual in writing of the grounds for
41 the action and that the authorization will be revoked unless the individual
42 is removed from the position.

43 H. The requirement for a ~~criminal records check~~ **GENERAL FINGERPRINT**
44 **AUTHORIZATION CARD ISSUED PURSUANT TO SECTION 41-1758.08** does not apply to an
45 applicant who is seeking third party authorization and who is:

- 1 1. A department, agency or political subdivision of this state.
- 2 2. An Arizona court.
- 3 3. An Arizona law enforcement agency or department.
- 4 4. A financial institution or enterprise under the jurisdiction of the
- 5 department of financial institutions or a federal monetary authority.
- 6 5. The federal government or any of its agencies.
- 7 6. A motor vehicle dealer that is licensed and bonded by the
- 8 department of transportation or a state organization of licensed and bonded
- 9 motor vehicle dealers.
- 10 7. A manufacturer, importer, factory branch or distributor licensed by
- 11 the department of transportation.
- 12 8. An insurer under the jurisdiction of the department of insurance.
- 13 9. An owner or registrant of a fleet of one hundred or more vehicles.
- 14 10. A public utility.
- 15 11. A tribal government.

16 ~~12. A title service company that is bonded by the department of~~
17 ~~transportation.~~

18 ~~13.~~ 12. An employer or association that has at least five hundred
19 employees or members.

20 Sec. 18. Section 28-5201, Arizona Revised Statutes, as amended by Laws
21 2008, chapter 147, section 3, is amended to read:

22 28-5201. Definitions

23 In this chapter, unless the context otherwise requires:

24 1. "Commercial motor vehicle" means a motor vehicle or combination of
25 motor vehicles that is designed, used or maintained to transport passengers
26 or property in the furtherance of a commercial enterprise on a highway in
27 this state, that is not exempt from the gross weight fees as prescribed in
28 section 28-5432, subsection B and that includes any of the following:

29 ~~(a) A combination of vehicles that has a combined gross vehicle weight~~
30 ~~rating of twenty six thousand one or more pounds inclusive of a towed unit~~
31 ~~with a gross vehicle weight rating of more than ten thousand pounds.~~

32 ~~(b) A single vehicle that has a gross vehicle weight rating of~~
33 ~~twenty six thousand one or more pounds.~~

34 ~~(c)~~ (a) A single vehicle or combination of vehicles that has a gross
35 vehicle weight rating of eighteen thousand one or more pounds and that is
36 used for the purposes of intrastate commerce.

37 ~~(d)~~ (b) A single vehicle or combination of vehicles that has a gross
38 vehicle weight rating of ten thousand one or more pounds and that is used for
39 the purposes of interstate commerce.

40 ~~(e)~~ (c) A school bus.

41 ~~(f)~~ (d) A bus.

42 ~~(g)~~ (e) A vehicle that transports passengers for hire and that has a
43 design capacity for eight or more persons.

44 ~~(h)~~ (f) A vehicle that is used in the transportation of materials
45 found to be hazardous for the purposes of the hazardous materials

1 transportation AUTHORIZATION act OF 1994 (49 United States Code sections 5101
2 through ~~5127~~ 5128) and that is required to be placarded under 49 Code of
3 Federal Regulations section 172.504, as adopted by the department pursuant to
4 this chapter.

5 2. "Declared gross weight" has the same meaning prescribed in section
6 28-5431. If a declaration has not been made, declared gross weight means
7 gross weight.

8 3. "Gross weight" has the same meaning prescribed in section 28-5431.

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

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

18 6. "Hazardous waste" means a material that is subject to the hazardous
19 waste manifest requirements of the department of environmental quality or the
20 United States environmental protection agency.

21 7. "Manufacturer" means a person who transports or causes to be
22 transported or shipped by a motor vehicle a material that is represented,
23 marked, certified or sold by a person for transportation in commerce.

24 8. "Motor carrier" means a person who operates or causes to be
25 operated a commercial motor vehicle on a public highway.

26 9. "MOTOR VEHICLE" MEANS ANY VEHICLE, MACHINE, TRACTOR, TRAILER OR
27 SEMITRAILER THAT IS PROPELLED OR DRAWN BY MECHANICAL POWER AND THAT IS USED
28 ON A PUBLIC HIGHWAY IN THE TRANSPORTATION OF PASSENGERS OR PROPERTY IN THE
29 FURTHERANCE OF A COMMERCIAL ENTERPRISE.

30 ~~9-~~ 10. "Person" means a public or private corporation, company,
31 partnership, firm, association or society of persons, the federal government
32 and its departments or agencies, this state or any of its agencies,
33 departments, political subdivisions, counties, towns or municipal
34 corporations or a natural person.

35 ~~10-~~ 11. "Public highway" means a public street, alley, road, highway
36 or thoroughfare of any kind in this state that is used by the public or that
37 is open to the use of the public as a matter of right, for the purpose of
38 vehicular travel.

39 ~~11-~~ 12. "Shipper" means a person who offers a material for motor
40 vehicle transportation in commerce.

41 ~~12-~~ 13. "Transportation" means a movement of person or property by a
42 motor vehicle and any loading, unloading or storage incidental to the
43 movement.

44 ~~13-~~ 14. "Vehicle combination" has the same meaning prescribed in
45 section 28-5431.

1 is within a seventy-five air mile radius of the driver's normal work
2 reporting location and is at a stage between initial mobilization of
3 equipment and materials to the site and final completion of the construction
4 project. This paragraph does not apply to drivers transporting hazardous
5 materials in a quantity that requires placarding.

6 3. Drivers of public utility service vehicles that are operated
7 primarily within the service area of the public utility's subscribers, that
8 are used in furtherance of repairing, maintaining or operating any physical
9 facilities necessary for the delivery of public utility services and that are
10 engaged in any activity necessarily related to the ultimate delivery of
11 public utility services to the consumer, including travel to, from, on or
12 between activity sites. The public utility is not required to be the owner
13 of the vehicle.

14 D. For the purposes of this section:

15 1. "Public service corporation" means a public service corporation as
16 defined in article XV, section 2, Constitution of Arizona.

17 2. "Railroad" means a railway or railroad that is regulated as a
18 common carrier under article XV, section 10, Constitution of Arizona, and
19 that is subject to title 40, chapter 4, article 3.

20 3. "Telecommunications corporation" means an entity as defined in
21 section 40-201 that is subject to regulation by the corporation commission.

22 Sec. 21. Section 28-5925, Arizona Revised Statutes, is amended to
23 read:

24 ~~28-5925.~~ Payment; distribution

25 A. The supplier, as shown in the records of the terminal operator, who
26 removes the taxable gallons shall precollect and remit on behalf of consumers
27 and users to the department the taxes that are imposed by sections ~~28-5605~~
28 ~~28-5606~~ and 28-8344 and that are measured by the invoiced gallons of motor
29 fuel removed by a licensed supplier from a terminal or refinery in this state
30 other than a bulk transfer.

31 B. The supplier and each reseller shall list the amount of tax as a
32 separate line item on all invoices or billings or as a separate billing. **A**
33 **PERSON WHO IMPOSES AN ADDED CHARGE TO COVER THE TAX LEVIED BY THIS ARTICLE OR**
34 **A CHARGE THAT IS IDENTIFIED AS BEING IMPOSED TO COVER A TAX SHALL NOT REMIT**
35 **LESS THAN THE AMOUNT COLLECTED TO THE DEPARTMENT.**

36 C. The motor fuel tax that is accrued in any calendar month shall be
37 paid on or before the twenty-seventh day of the next succeeding calendar
38 month to the director.

39 D. A supplier shall remit any late taxes remitted to the supplier by
40 an eligible purchaser and shall notify the department in a timely manner of
41 any late remittances if that supplier has previously given notice to the
42 department of an uncollectible tax amount pursuant to section 28-5639,
43 subsection B.

44 E. On payment, the director shall promptly:

1 1. Distribute the amount of money collected as a tax on sales of motor
2 vehicle fuel used in propelling watercraft pursuant to section 28-5926
3 beginning with the month following the conclusion of the survey conducted
4 pursuant to section 28-5926.

5 2. Deposit, pursuant to sections 35-146 and 35-147, all remaining
6 monies in the Arizona highway user revenue fund or the state aviation fund as
7 determined from the reports filed pursuant to section 28-5618.

8 F. The director shall deduct all exemptions and refunds before
9 depositing the monies.

10 Sec. 22. Section 28-6991, Arizona Revised Statutes, is amended to
11 read:

12 28-6991. State highway fund; sources

13 A state highway fund is established that consists of:

14 1. Monies distributed from the Arizona highway user revenue fund
15 pursuant to chapter 18 of this title.

16 2. Monies appropriated by the legislature.

17 3. Monies received from donations for the construction, improvement or
18 maintenance of state highways or bridges. These monies shall be credited to
19 a special account and shall be spent only for the purpose indicated by the
20 donor.

21 4. Monies received from counties under cooperative agreements,
22 including proceeds from bond issues. The state treasurer shall deposit these
23 monies to the credit of the fund in a special account on delivery to the
24 treasurer of a concise written agreement between the department and the
25 county stating the purposes for which the monies are surrendered by the
26 county, and these monies shall be spent only as stated in the agreement.

27 5. Monies received from the United States under an act of Congress to
28 provide aid for the construction of rural post roads, but monies received on
29 projects for which the monies necessary to be provided by this state are
30 wholly derived from sources mentioned in paragraphs 2 and 3 of this section
31 shall be allotted by the department and deposited by the state treasurer in
32 the special account within the fund established for each project. On
33 completion of the project, on the satisfaction and discharge in full of all
34 obligations of any kind created and on request of the department, the
35 treasurer shall transfer the unexpended balance in the special account for
36 the project into the state highway fund, and the unexpended balance and any
37 further federal aid thereafter received on account of the project may be
38 spent under the general provisions of this title.

39 6. Monies in the custody of an officer or agent of this state from any
40 source that is to be used for the construction, improvement or maintenance of
41 state highways or bridges.

42 7. Monies deposited in the state general fund and arising from the
43 disposal of state personal property belonging to the department.

44 8. Receipts from the sale or disposal of any or all other property
45 held by the department and purchased with state highway monies.

- 1 9. Monies generated pursuant to section 28-410.
2 10. Monies distributed pursuant to section 28-5808, subsection B,
3 paragraph 2, subdivision (d).
4 11. Monies deposited pursuant to sections 28-1143, 28-2353 and 28-3003.
5 12. Except as provided in section 28-5101, the following monies:
6 (a) Monies deposited pursuant to section 28-2206 and section 28-5808,
7 subsection B, paragraph 2, subdivision (e).
8 (b) One dollar of each registration fee and one dollar of each title
9 fee collected pursuant to section 28-2003.
10 (c) Two dollars of each late registration penalty collected by the
11 director pursuant to section 28-2162.
12 (d) The air quality compliance fee collected pursuant to section
13 49-542.
14 (e) The special plate administration fees collected pursuant to
15 sections 28-2404, 28-2412 through 28-2416, 28-2416.01, 28-2417 through
16 28-2436 and 28-2514.
17 (f) Monies collected pursuant to sections 28-372, 28-2155 and 28-2156
18 if the director is the registering officer.
19 13. Monies deposited pursuant to chapter 5, article 5 of this title.
20 14. Donations received pursuant to section 28-2269.
21 15. Dealer and registration monies collected pursuant to section
22 28-4304.
23 16. Abandoned vehicle administration monies deposited pursuant to
24 section 28-4804.
25 17. Monies deposited pursuant to section 28-710, subsection D,
26 paragraph 2.
27 18. Monies deposited pursuant to section 28-2065.
28 19. Donations deposited pursuant to section 28-2430.
29 20. Monies deposited pursuant to section 28-7311.
30 21. Monies deposited pursuant to section 28-7059.
31 22. **MONIES DEPOSITED PURSUANT TO SECTION 28-1105.**
32 Sec. 23. Section 28-7311, Arizona Revised Statutes, is amended to
33 read:
34 28-7311. Logo sign programs; rules; definitions
35 A. The department may establish a logo sign program. Notwithstanding
36 sections 28-648, 28-7048 and 28-7053, as part of the program the department
37 may contract with a third party to install and maintain specific services
38 information signs, known as logo signs, on certain portions of the completed
39 interstate highway system in this state. **IF THE DEPARTMENT CONTRACTS WITH A**
40 **THIRD PARTY**, the third party shall agree in the contract to:
41 1. Furnish, install, maintain and replace signs for the benefit of
42 business advertisers who provide gas, food, lodging, twenty-four hour
43 pharmacy service, attraction and camping facilities for the general public.

1 2. Lease advertising space on the signs to operators of the facilities
2 prescribed in paragraph 1 of this subsection.

3 B. In addition to the program established in subsection A of this
4 section, the department may establish a rural logo sign program.
5 Notwithstanding sections 28-648, 28-7048 and 28-7053, as part of this program
6 the department may contract with a third party to install and maintain
7 specific services information signs, known as logo signs, on any class of
8 state highway, other than a segment of the interstate highway system, located
9 outside of an urbanized area with a population of one hundred thousand or
10 more persons. ~~IF THE DEPARTMENT CONTRACTS WITH A THIRD PARTY,~~ the third
11 party shall agree in the contract to:

12 1. Furnish, install, maintain and replace signs for the benefit of
13 business advertisers that provide gas, food, lodging, twenty-four hour
14 pharmacy service, attraction and camping facilities for the general public.

15 2. Lease advertising space on the signs to operators of the facilities
16 prescribed in paragraph 1 of this subsection.

17 C. The department shall adopt rules to implement and operate the logo
18 sign programs. Costs incurred under the programs established by this section
19 shall be paid under agreements negotiated between the ~~DEPARTMENT OR~~ third
20 party and the business advertisers.

21 D. The department may enter into a revenue sharing agreement with the
22 third party. The department shall deposit, pursuant to sections 35-146 and
23 35-147, ~~all monies received from the revenue sharing agreement~~ REVENUES
24 GENERATED, LESS PROGRAM OPERATING COSTS, in the state highway fund
25 established by section 28-6991.

26 E. For the purposes of this section:

27 1. "Population" means the population determined in the most recent
28 United States decennial census or in the most recent special census as
29 provided in section 28-6532.

30 2. "Urbanized area" means an urbanized area as defined in the
31 decennial census by the United States bureau of the census.

32 Sec. 24. Section 32-2352, Arizona Revised Statutes, is amended to
33 read:

34 32-2352. Enforcement; contract with private entity

35 A. The director, subject to title 41, chapter 6, shall adopt such
36 rules concerning the administration and enforcement of this chapter as are
37 necessary to carry out the intent of this chapter and to protect the
38 public. The director or the director's authorized representative shall
39 inspect the school facilities and equipment used by applicants and licensees
40 under this chapter and examine applicants for instructor's licenses.

41 B. The director shall administer and enforce this chapter.

42 C. The director may contract with a private entity to conduct
43 inspections pursuant to this section and to administer any rules adopted
44 pursuant to this section that relate to the licensure and administration of
45 ~~traffic survival schools~~ PROFESSIONAL DRIVER TRAINING SCHOOLS pursuant to

1 this chapter. The term of any contract entered into pursuant to this
2 subsection shall not exceed five years with a right to renew for an
3 additional five years. The private entity that contracts with the director
4 pursuant to this subsection:

5 1. Shall not provide ~~traffic survival school~~ PROFESSIONAL DRIVER
6 TRAINING SCHOOL courses.

7 2. May charge a fee to each person who enrolls in ~~traffic survival~~
8 ~~school~~ A PROFESSIONAL DRIVER TRAINING SCHOOL.

9 Sec. 25. Section 32-2371, Arizona Revised Statutes, is amended to
10 read:

11 32-2371. License for schools; requirements; fingerprint
12 clearance card

13 A. No professional driver training school shall be established nor
14 shall any such existing school be continued on or after March 13, 1968 unless
15 such school applies for and obtains from the director a license in the manner
16 and form prescribed by the director.

17 B. Rules adopted by the director shall state the requirements for a
18 school license, including requirements concerning location, equipment,
19 courses of instruction, instructors, previous records of the school and
20 instructors, schedule of fees and charges, character and reputation of the
21 operators and instructors, insurance in such sum and with such provisions as
22 the director deems necessary to protect adequately the interests of the
23 public, and such other matters as the director may prescribe for the
24 protection of the public.

25 C. AN APPLICANT AND EACH PARTNER, OFFICER, DIRECTOR OR AGENT, OR EACH
26 STOCKHOLDER OWNING TWENTY PER CENT OR MORE OF A CORPORATION, SEEKING
27 LICENSURE PURSUANT TO THIS CHAPTER SHALL PROVIDE THE DEPARTMENT OR A
28 CONTRACTED PRIVATE ENTITY OF THE DEPARTMENT PURSUANT TO SECTION 32-2352 WITH
29 A VALID FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO SECTION 41-1758.03.

30 Sec. 26. Section 41-619.51, Arizona Revised Statutes, is amended to
31 read:

32 41-619.51. Definitions

33 In this article, unless the context otherwise requires:

34 1. "Agency" means the supreme court, the department of economic
35 security, the department of education, the department of health services, the
36 department of juvenile corrections, the department of emergency and military
37 affairs, THE DEPARTMENT OF TRANSPORTATION, the state real estate department
38 or the board of examiners of nursing care institution administrators and
39 assisted living facility managers.

40 2. "Board" means the board of fingerprinting.

41 3. "Expedited review" means an examination, in accordance with board
42 rule, of the documents an applicant submits by the board or its hearing
43 officer without the applicant being present.

1 4. "Good cause exception" means the issuance of a fingerprint
2 clearance card to an employee pursuant to section 41-619.55.

3 5. "Person" means a person who is required to be fingerprinted
4 pursuant to this article and any of the following:

- 5 (a) Section 8-105.
- 6 (b) Section 8-322.
- 7 (c) Section 8-509.
- 8 (d) Section 8-802.
- 9 (e) Section 15-183.
- 10 (f) Section 15-534.
- 11 (g) Section 15-1330.
- 12 (h) Section 15-1881.
- 13 (i) Section 26-103.
- 14 (j) SECTION 32-2371.
- 15 ~~(j)~~ (k) Section 32-2108.01.
- 16 ~~(k)~~ (l) Section 32-2123.
- 17 ~~(l)~~ (m) Section 36-411.
- 18 ~~(m)~~ (n) Section 36-425.03.
- 19 ~~(n)~~ (o) Section 36-446.04.
- 20 ~~(o)~~ (p) Section 36-594.01.
- 21 ~~(p)~~ (q) Section 36-594.02.
- 22 ~~(q)~~ (r) Section 36-882.
- 23 ~~(r)~~ (s) Section 36-883.02.
- 24 ~~(s)~~ (t) Section 36-897.01.
- 25 ~~(t)~~ (u) Section 36-897.03.
- 26 ~~(u)~~ (v) Section 36-3008.
- 27 ~~(v)~~ (w) Section 41-619.53.
- 28 ~~(w)~~ (x) Section 41-1964.
- 29 ~~(x)~~ (y) Section 41-1967.01.
- 30 ~~(y)~~ (z) Section 41-1968.
- 31 ~~(z)~~ (aa) Section 41-1969.
- 32 ~~(aa)~~ (bb) Section 41-2814.
- 33 ~~(bb)~~ (cc) Section 46-141, subsection A.
- 34 ~~(cc)~~ (dd) Section 46-321.

35 Sec. 27. Section 41-1758, Arizona Revised Statutes, is amended to
36 read:

37 41-1758. Definitions

38 In this article, unless the context otherwise requires:

39 1. "Agency" means the supreme court, the department of economic
40 security, the department of education, the department of health services, the
41 department of juvenile corrections, the department of emergency and military
42 affairs, THE DEPARTMENT OF TRANSPORTATION, the state real estate department,
43 the board of fingerprinting or the board of examiners of nursing care
44 institution administrators and assisted living facility managers.

- 1 2. "Division" means the fingerprinting division in the department of
2 public safety.
- 3 3. "Good cause exception" means the issuance of a valid fingerprint
4 clearance card to an employee pursuant to section 41-619.55.
- 5 4. "Person" means a person who is required to be fingerprinted
6 pursuant to any of the following:
- 7 (a) Section 8-105.
 - 8 (b) Section 8-322.
 - 9 (c) Section 8-509.
 - 10 (d) Section 8-802.
 - 11 (e) Section 15-183.
 - 12 (f) Section 15-503.
 - 13 (g) Section 15-512.
 - 14 (h) Section 15-534.
 - 15 (i) Section 15-1330.
 - 16 (j) Section 15-1881.
 - 17 (k) Section 26-103.
 - 18 (l) SECTION 28-4361.
 - 19 (m) SECTION 28-5105.
 - 20 ~~(n)~~ (n) Section 32-2108.01.
 - 21 ~~(m)~~ (o) Section 32-2123.
 - 22 (p) SECTION 32-2371.
 - 23 ~~(n)~~ (q) Section 36-411.
 - 24 ~~(o)~~ (r) Section 36-425.03.
 - 25 ~~(p)~~ (s) Section 36-446.04.
 - 26 ~~(q)~~ (t) Section 36-594.01.
 - 27 ~~(r)~~ (u) Section 36-594.02.
 - 28 ~~(s)~~ (v) Section 36-882.
 - 29 ~~(t)~~ (w) Section 36-883.02.
 - 30 ~~(u)~~ (x) Section 36-897.01.
 - 31 ~~(v)~~ (y) Section 36-897.03.
 - 32 ~~(w)~~ (z) Section 36-3008.
 - 33 ~~(x)~~ (aa) Section 41-619.52.
 - 34 ~~(y)~~ (bb) Section 41-619.53.
 - 35 ~~(z)~~ (cc) Section 41-1964.
 - 36 ~~(aa)~~ (dd) Section 41-1967.01.
 - 37 ~~(bb)~~ (ee) Section 41-1968.
 - 38 ~~(cc)~~ (ff) Section 41-1969.
 - 39 ~~(dd)~~ (gg) Section 41-2814.
 - 40 ~~(ee)~~ (hh) Section 46-141, subsection A.
 - 41 ~~(ff)~~ (ii) Section 46-321.
- 42 5. "Vulnerable adult" has the same meaning prescribed in section
43 13-3623.

1 Sec. 28. Section 41-1758.01, Arizona Revised Statutes, is amended to
2 read:

3 41-1758.01. Fingerprinting division; duties

4 The fingerprinting division is established in the department of public
5 safety and shall:

6 1. Conduct fingerprint background checks for persons and applicants
7 who are seeking licenses from state agencies, employment with licensees,
8 contract providers and state agencies or employment or educational
9 opportunities with agencies that require fingerprint background checks
10 pursuant to sections 8-105, 8-322, 8-509, 8-802, 15-183, 15-503, 15-512,
11 15-534, 15-1330, 15-1881, 26-103, 28-4361, 28-5105, 32-2108.01, 32-2123,
12 32-2371, 36-411, 36-425.03, 36-446.04, 36-594.01, 36-594.02, 36-882,
13 36-883.02, 36-897.01, 36-897.03, 36-3008, 41-619.52, 41-619.53, 41-1964,
14 41-1967.01, 41-1968, 41-1969 and 41-2814, section 46-141, subsection A and
15 section 46-321.

16 2. Issue valid fingerprint clearance cards AND GENERAL FINGERPRINT
17 AUTHORIZATION CARDS. On issuance, a valid fingerprint clearance card AND A
18 GENERAL FINGERPRINT AUTHORIZATION CARD becomes the personal property of the
19 cardholder and the cardholder shall retain possession of the valid
20 fingerprint clearance card OR THE GENERAL FINGERPRINT AUTHORIZATION CARD.

21 3. On submission of an application for a valid fingerprint clearance
22 card OR A GENERAL FINGERPRINT AUTHORIZATION CARD, collect the fees
23 established by the board of fingerprinting pursuant to section 41-619.53 and
24 deposit, pursuant to sections 35-146 and 35-147, the monies collected in the
25 board of fingerprinting fund.

26 4. Inform in writing each person who submits fingerprints for a
27 fingerprint background check of the person's right to petition the board of
28 fingerprinting for a good cause exception pursuant to sections 41-1758.03 and
29 41-1758.07.

30 5. Administer and enforce this article.

31 Sec. 29. Title 41, chapter 12, article 3.1, Arizona Revised Statutes,
32 is amended by adding section 41-1758.08, to read:

33 41-1758.08. General fingerprint authorization card

34 A. ON RECEIVING THE STATE AND FEDERAL CRIMINAL HISTORY RECORD OF A
35 PERSON WHO IS REQUIRED TO PROVIDE THE DEPARTMENT OF TRANSPORTATION WITH A
36 GENERAL FINGERPRINT AUTHORIZATION CARD, THE DIVISION SHALL COMPARE THE RECORD
37 WITH THE LIST OF CRIMINAL OFFENSES THAT PRECLUDE THE PERSON FROM RECEIVING A
38 GENERAL FINGERPRINT AUTHORIZATION CARD. IF THE PERSON'S CRIMINAL HISTORY
39 RECORD DOES NOT CONTAIN ANY OF THE OFFENSES LISTED IN SUBSECTION B, THE
40 FINGERPRINTING DIVISION SHALL ISSUE THE PERSON A GENERAL FINGERPRINT
41 AUTHORIZATION CARD.

42 B. A PERSON WHO IS SUBJECT TO TITLE 28, CHAPTER 10 OR 13 AND WHO HAS
43 BEEN CONVICTED OF COMMITTING ONE OR MORE OF THE FOLLOWING OFFENSES IN ANY
44 STATE, TERRITORY OR POSSESSION OF THE UNITED STATES OR ANY FOREIGN COUNTRY IS
45 PRECLUDED FROM RECEIVING A GENERAL FINGERPRINT AUTHORIZATION CARD:

1 1. A FRAUD OR AN AUTO RELATED FELONY WITHIN TEN YEARS IMMEDIATELY
2 PRECEDING THE DATE OF THE COMPARISON PRESCRIBED BY SUBSECTION A.

3 2. A FELONY, OTHER THAN A FELONY DESCRIBED IN PARAGRAPH 1, WITHIN FIVE
4 YEARS IMMEDIATELY PRECEDING THE DATE OF THE COMPARISON PRESCRIBED IN
5 SUBSECTION A.

6 Sec. 30. Effective date

7 Section 32-2352, Arizona Revised Statutes, as amended by this act, is
8 effective from and after March 31, 2012.