

REFERENCE TITLE: **towing; motor vehicles**

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

HB 2737

Introduced by
Representative Ableser

AN ACT

AMENDING SECTIONS 28-1108, 28-3512 AND 28-4802, ARIZONA REVISED STATUTES; CHANGING THE DESIGNATION OF TITLE 28, CHAPTER 11, ARIZONA REVISED STATUTES, TO "ABANDONED, SEIZED, JUNK AND TOWED VEHICLES"; AMENDING TITLE 28, CHAPTER 11, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 4; AMENDING SECTION 33-1022, ARIZONA REVISED STATUTES; PROVIDING FOR THE DELAYED REPEAL OF TITLE 28, CHAPTER 11, ARTICLE 4, ARIZONA REVISED STATUTES; RELATING TO VEHICLE TOWING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 28-1108, Arizona Revised Statutes, is amended to
3 read:

4 28-1108. Vehicle towing; rules; contractual agreement for
5 towing services; weight exemption

6 A. If a vehicle is towing another vehicle, the drawbar or other
7 connection shall be of sufficient strength to pull all weight towed by the
8 vehicle and the drawbar or other connection shall not exceed fifteen feet
9 from one vehicle to the other, except the connection between any two vehicles
10 transporting poles, pipe, machinery or other objects of a structural nature
11 that cannot readily be dismembered.

12 B. If a vehicle is towing another vehicle and the connection consists
13 of a chain, rope or cable, a white flag or cloth at least twelve inches
14 square shall be displayed on the connection.

15 C. The director of the department of public safety shall adopt and
16 enforce rules that are not inconsistent with this chapter to govern the
17 design and operation of all tow trucks.

18 D. A ~~person~~ TOWING COMPANY OR SOLE PROPRIETOR, OR AN INDIVIDUAL WHO IS
19 EMPLOYED BY OR CONTRACTS WITH THE TOWING COMPANY OR SOLE PROPRIETOR, may not
20 operate a tow truck for the purpose of towing vehicles ~~without first~~
21 ~~registering~~ UNLESS THE TOWING COMPANY OR SOLE PROPRIETOR DOES ALL OF THE
22 FOLLOWING:

23 1. REGISTERS with the director of the department of public
24 safety, ~~obtaining~~.

25 2. OBTAINS a SURETY bond IN AN AMOUNT OF ONE HUNDRED THOUSAND DOLLARS
26 ~~and obtaining~~.

27 3. OBTAINS a permit pursuant to the rules that govern tow trucks and
28 that are adopted by the department of public safety.

29 E. The director of the department of public safety or a county, city
30 or town may enter into a contractual agreement with a towing firm or firms
31 for towing or storage services, or both. At the time of application for a
32 contractual agreement, a towing firm must disclose in writing the owners of
33 the towing firm and, if the owners own other towing firms that are also
34 applying for the same contractual agreement, the names of those towing firms.
35 The contractual agreement shall comply with this section and all rules
36 adopted under this section. Contracts shall be awarded on the basis of
37 competitive bidding. The director of the department of public safety or a
38 county, city or town shall reserve the right to reject all bids. If only one
39 bid is received, the director of the department of public safety or a county,
40 city or town may reject the bid and negotiate a contract without bidding if
41 the negotiated contract is at a price lower than the bid price under the
42 terms and conditions specified in the call for bids.

43 F. The total weight of a tow truck and the towed vehicle is exempt
44 from the maximum total gross weight load allowed under section 28-1100 if a
45 damaged, disabled or abandoned vehicle or vehicle combination is towed.

1 Sec. 2. Section 28-3512, Arizona Revised Statutes, is amended to read:
2 28-3512. Release of vehicle; civil penalties; definition

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

6 1. If the vehicle is a stolen vehicle.

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

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

14 4. IF all of the following apply:

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

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

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

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

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

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

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

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

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

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

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

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

24 1. The person is either of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 Sec. 3. Section 28-4802, Arizona Revised Statutes, is amended to read:
15 28-4802. Fees

16 A. Except as provided in subsection B of this section, the owner of
17 record of a vehicle at the time of abandonment of the vehicle is liable to
18 the department for the transfer of ownership or disposal in an amount
19 prescribed by the director by rule if the vehicle was:

20 1. Abandoned and junked pursuant to article 3 of this chapter on
21 private property or public land or on or within the right-of-way of a street
22 or highway.

23 2. Abandoned on private property or public land or on or within the
24 right-of-way of a street or highway and the department issues a transfer of
25 ownership pursuant to the procedures prescribed by this chapter.

26 3. Abandoned and junked pursuant to article 3 of this chapter and
27 towed with the written permission of the state land commissioner from state
28 trust land located within the boundaries of an incorporated city or town.

29 B. The owner of record of a vehicle at the time of abandonment is
30 liable to the department for the transfer of ownership or disposal in an
31 amount prescribed by the director by rule if the vehicle was:

32 1. Abandoned and junked pursuant to article 3 of this chapter and
33 towed with the written permission of the governing authority off of national
34 forest, state park, bureau of land management or state trust land located
35 outside the boundaries of an incorporated city or town.

36 2. Abandoned and towed with the written permission of the governing
37 authority off of national forest, state park, bureau of land management or
38 state trust land located outside the boundaries of an incorporated city or
39 town and the department issues a transfer of ownership pursuant to the
40 procedures prescribed by this chapter.

41 3. Abandoned outside the right-of-way of a street or highway located
42 outside the boundaries of an incorporated city or town.

43 C. In addition to the registration fee or driver license fee
44 prescribed by sections 28-2003 and 28-3002, the department shall collect the
45 fee prescribed in subsections A and B of this section as an additional

1 registration fee at the time the owner of the vehicle subsequently registers
2 another vehicle in this state or as an additional driver license fee at the
3 time the owner of the vehicle subsequently applies for or renews a driver
4 license issued by this state. The department shall deposit, pursuant to
5 sections 35-146 and 35-147, the additional fee collected for the transfer of
6 ownership or disposal in the abandoned vehicle administration fund
7 established by section 28-4804, except that ninety per cent of the fees
8 collected pursuant to subsection A of this section and sixty per cent of the
9 fees collected pursuant to subsection B of this section shall be deposited in
10 the state highway fund.

11 D. The department:

12 1. Shall notify the owner of an abandoned vehicle for which ownership
13 has been transferred or of a junk vehicle that has been disposed of about the
14 additional fee at the time of a subsequent vehicle registration or driver
15 license application or renewal.

16 2. Shall provide a complete description of the abandoned or junked
17 vehicle, the vehicle identification number of the vehicle and the date on
18 which the vehicle was disposed of or ownership was transferred by the
19 department.

20 3. May waive the additional fee if the person provides proof
21 satisfactory to the director that the vehicle had been transferred or
22 assigned to another person before the day of abandonment.

23 4. May prescribe by rule a fee ~~of not more than ten dollars~~ for
24 processing an abandoned vehicle report. **THE MONIES RECEIVED PURSUANT TO THIS**
25 **PARAGRAPH SHALL BE USED FOR THE PURPOSES OF IMPLEMENTING AND ADMINISTERING**
26 **ARTICLE 4 OF THIS CHAPTER.**

27 Sec. 4. Heading change

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

31 Sec. 5. Title 28, chapter 11, Arizona Revised Statutes, is amended by
32 adding article 4, to read:

33 ARTICLE 4. PRIVATE PROPERTY TRESPASS TOWERS

34 **28-4901. Definitions**

35 **IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:**

36 1. "BUSINESS HOURS" MEANS 8:00 A.M. TO 5:00 P.M. MONDAY THROUGH
37 FRIDAY, EXCLUDING HOLIDAYS PURSUANT TO SECTION 1-301, OR BY APPOINTMENT.

38 2. "PRIVATE PROPERTY TRESPASS TOWER" MEANS ANY PERSON WHO DOES BOTH OF
39 THE FOLLOWING:

40 (a) COMMERCIALY OFFERS SERVICES TO TOW, TRANSPORT OR IMPOUND MOTOR
41 VEHICLES FROM PRIVATE PROPERTY WITHOUT THE PERMISSION OF THE OWNER OR
42 OPERATOR OF THE VEHICLE.

43 (b) USES A VEHICLE DESIGNED FOR OR ADAPTED TO PERFORM THE SERVICES
44 PRESCRIBED BY SUBDIVISION (a) OF THIS PARAGRAPH.

1 28-4902. Department duties
2 A. THE DEPARTMENT SHALL:
3 1. ADOPT RULES NECESSARY TO ADMINISTER THIS ARTICLE.
4 2. BEGINNING JULY 1, 2013, SET MAXIMUM RATES FOR:
5 (a) THE COMMERCIAL TOWING OR REMOVAL OF TRESPASSING VEHICLES FROM
6 PRIVATE PROPERTY.
7 (b) THE STORAGE OF VEHICLES IN CONNECTION WITH TOWING OR REMOVAL.
8 (c) OTHER SERVICES PROVIDED BY A PRIVATE PROPERTY TRESPASS TOWER.
9 3. REVIEW THE RATES SET PURSUANT TO PARAGRAPH 2 OF THIS SUBSECTION
10 EVERY THREE YEARS.
11 B. THE DEPARTMENT MAY ESTABLISH AND ADJUST FEES WITH RESPECT TO THIS
12 ARTICLE.
13 C. SUBSECTION A, PARAGRAPH 2 OF THIS SECTION DOES NOT APPLY TO A
14 COUNTY OR AN INCORPORATED CITY OR TOWN THAT REGULATES THE MAXIMUM RATES AND
15 CHARGES FOR TOWING, TRANSPORTING OR IMPOUNDING A MOTOR VEHICLE FROM PRIVATE
16 PROPERTY WITHOUT THE PERMISSION OF THE OWNER OR OPERATOR OF THE VEHICLE BY
17 ANY PRIVATE PROPERTY TRESPASS TOWER OR PRIVATE TOWING CARRIER PURSUANT TO
18 SECTION 9-499.05 OR 11-251.04.
19 28-4903. Towing performed pursuant to police action
20 THIS ARTICLE DOES NOT REGULATE OR OTHERWISE AFFECT TOWING PERFORMED BY
21 ANY PRIVATE PROPERTY TRESPASS TOWER OR PRIVATE TOWING CARRIER PURSUANT TO THE
22 ORDER OR REQUEST OF A LAW ENFORCEMENT OFFICIAL OR AGENCY PURSUANT TO SECTION
23 28-872, 28-3511 OR 28-4834.
24 28-4904. Record requirements
25 A. EACH PRIVATE PROPERTY TRESPASS TOWER WHO TOWS VEHICLES PURSUANT TO
26 THIS ARTICLE SHALL KEEP AND MAINTAIN AT THE PRIVATE PROPERTY TRESPASS TOWER'S
27 PRINCIPAL PLACE OF BUSINESS A PERMANENT RECORD, AND AT EACH PLACE OF BUSINESS
28 OF THE TOWER THAT IS NOT ITS PRINCIPAL PLACE OF BUSINESS AN ELECTRONIC COPY
29 OF THE PERMANENT RECORD, FOR EACH VEHICLE REMOVED BY THE PRIVATE PROPERTY
30 TRESPASS TOWER THAT RECORDS AND DESCRIBES THE FOLLOWING:
31 1. THE MAKE, MODEL AND DESCRIPTION OF THE VEHICLE.
32 2. THE NAME OF THE OWNER OF THE VEHICLE OR OWNER'S AGENT REQUESTING
33 RELEASE OF THE VEHICLE.
34 3. THE NUMBER OF THE LICENSE PLATE OF THE VEHICLE.
35 4. THE PLACE FROM WHICH AND TO WHICH THE VEHICLE WAS TOWED OR
36 TRANSPORTED.
37 5. IF, AFTER REMOVAL, THE VEHICLE'S TITLE IS OBTAINED PURSUANT TO
38 SECTION 28-4838, HOW THE VEHICLE WAS DISPOSED OF.
39 B. THE PRIVATE PROPERTY TRESPASS TOWER SHALL MAINTAIN THE RECORD AT
40 THE TOWER'S ESTABLISHED PLACE OF BUSINESS FOR A PERIOD OF AT LEAST THREE
41 YEARS AFTER THE DATE OF REMOVING EACH VEHICLE RECORDED.
42 C. AUTHORIZED REPRESENTATIVES OF THE DEPARTMENT OR ANY LAW ENFORCEMENT
43 AGENCY MAY INSPECT THE RECORDS KEPT BY THE PRIVATE PROPERTY TRESPASS TOWER AT
44 ANY TIME DURING BUSINESS HOURS.

1 D. DURING BUSINESS HOURS AND AFTER REASONABLE DEMAND, EACH PRIVATE
2 PROPERTY TRESPASS TOWER SHALL ALLOW ANY PERSON DESCRIBED IN SUBSECTION C OF
3 THIS SECTION TO PHYSICALLY COMPARE THE RECORDS REQUIRED TO BE MAINTAINED WITH
4 THE VEHICLES THAT ARE LOCATED AT THE TOWER'S PLACE OF BUSINESS.

5 28-4905. Enforcement powers

6 IN THE ENFORCEMENT OF ANY LAW PERTAINING TO PRIVATE PROPERTY TRESPASS
7 TOWERS, THE DIRECTOR MAY CONDUCT HEARINGS, TAKE TESTIMONY AND CONDUCT
8 INVESTIGATIONS AS THE DIRECTOR DEEMS NECESSARY.

9 28-4906. Appeal

10 FINAL DECISIONS OF THE DIRECTOR PURSUANT TO THIS ARTICLE ARE SUBJECT TO
11 JUDICIAL REVIEW PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6.

12 28-4907. Hearings

13 A. THE DIRECTOR MAY CONDUCT A HEARING IF THE DIRECTOR ALLEGES THAT A
14 PRIVATE PROPERTY TRESPASS TOWER REFUSES OR FAILS TO COMPLY WITH THIS ARTICLE
15 OR A RULE ADOPTED BY THE DIRECTOR PURSUANT TO THIS ARTICLE RELATING TO
16 PRIVATE PROPERTY TRESPASS TOWERS.

17 B. THE DIRECTOR SHALL HOLD THE HEARING AT LEAST FIFTEEN BUT NOT MORE
18 THAN THIRTY DAYS AFTER SERVICE OF A WRITTEN NOTICE. THE DIRECTOR SHALL SEND
19 THE NOTICE BY PERSONAL DELIVERY OR CERTIFIED MAIL TO THE ADDRESS PROVIDED TO
20 THE DEPARTMENT IN THE REPORT ALLEGING THE NONCOMPLIANCE.

21 C. A FINDING THAT A PRIVATE PROPERTY TRESPASS TOWER IS IN VIOLATION OF
22 THIS ARTICLE OR A RULE ADOPTED BY THE DIRECTOR PURSUANT TO THIS ARTICLE
23 REQUIRES BOTH OF THE FOLLOWING DETERMINATIONS:

24 1. THE PERSON REFUSES OR FAILS TO COMPLY WITH THE REQUIREMENTS OF THIS
25 ARTICLE OR A RULE ADOPTED BY THE DIRECTOR PURSUANT TO THIS ARTICLE.

26 2. THE PERSON ORDERED TO APPEAR AT THE HEARING IS RESPONSIBLE FOR THE
27 VIOLATION.

28 D. THE SCOPE OF THE HEARING IS LIMITED TO THE DETERMINATIONS
29 PRESCRIBED IN SUBSECTION C OF THIS SECTION.

30 E. AFTER CONSIDERATION OF THE EVIDENCE PRESENTED AT THE HEARING, THE
31 DIRECTOR SHALL SERVE NOTICE OF THE DIRECTOR'S FINDING AND ORDER WITHIN FIVE
32 DAYS AFTER THE HEARING.

33 28-4908. Civil penalty

34 A. AFTER A HEARING CONDUCTED PURSUANT TO SECTION 28-4907, IF THE
35 DIRECTOR FINDS THAT A PERSON IS IN VIOLATION OF THIS ARTICLE OR A RULE
36 ADOPTED BY THE DIRECTOR PURSUANT TO THIS ARTICLE, THE DIRECTOR MAY IMPOSE A
37 CIVIL PENALTY OF UP TO FIVE THOUSAND DOLLARS.

38 B. THE PERSON SHALL PAY THE CIVIL PENALTY IMPOSED PURSUANT TO THIS
39 SECTION TO THE DEPARTMENT NO LATER THAN THIRTY DAYS AFTER THE ORDER IS FINAL.
40 IF THE PERSON FAILS TO PAY THE CIVIL PENALTY WITHIN THIRTY DAYS AFTER THE
41 ORDER IS FINAL, THE DIRECTOR SHALL FILE AN ACTION IN THE SUPERIOR COURT IN
42 THE COUNTY IN WHICH THE HEARING IS HELD TO COLLECT THE CIVIL PENALTY.

43 28-4909. Required practices; unlawful practices

44 A. A PRIVATE PROPERTY TRESPASS TOWER SHALL:

1 1. WITHIN TWENTY MINUTES AFTER TOWING THE VEHICLE, NOTIFY LAW
2 ENFORCEMENT AUTHORITIES IN THE JURISDICTION IN WHICH THE TRESPASSING VEHICLE
3 WAS TOWED, TRANSPORTED OR IMPOUNDED. NOTIFICATION SHALL INCLUDE A COMPLETE
4 DESCRIPTION OF THE VEHICLE, THE LICENSE PLATE NUMBER, THE VEHICLE
5 IDENTIFICATION NUMBER, IF POSSIBLE, THE LOCATIONS FROM WHICH AND TO WHICH THE
6 VEHICLE WAS REMOVED, THE TIME OF REMOVAL AND ANY OTHER INFORMATION REQUIRED
7 BY DEPARTMENT RULE. THE NOTIFICATION REQUIRED BY THIS PARAGRAPH MAY BE MADE
8 BY ELECTRONIC MEANS.

9 2. IN THE OFFICE OR LOCATION AT WHICH TOWED VEHICLES ARE ROUTINELY
10 RETURNED TO THEIR OWNERS, PROMINENTLY POST THE NAME, ADDRESS AND TELEPHONE
11 NUMBER OF THE NEAREST OFFICE OF THE DEPARTMENT WHERE INQUIRIES OR COMPLAINTS
12 MAY BE SENT AND MAKE AVAILABLE IN WRITTEN FORM THE RELEVANT STATUTES AND
13 RULES GOVERNING PRIVATE PROPERTY TRESPASS TOWERS.

14 3. MAINTAIN ALL STORED VEHICLES IN A SECURED LOT WITH A PERIMETER
15 FENCE THAT IS AT LEAST SIX FEET HIGH AND THAT HAS FUNCTIONING LOCKS AT ALL
16 ENTRANCES AND EXITS.

17 4. MAINTAIN INSURANCE COVERAGE THAT SATISFIES THE FOLLOWING
18 REQUIREMENTS AND PROVIDE PROOF OF THE COVERAGE TO THE DIRECTOR:

19 (a) BUSINESS AUTOMOBILE LIABILITY INSURANCE THAT PROVIDES COVERAGE FOR
20 CLAIMS ARISING FROM BODILY INJURY, DEATH OR PROPERTY DAMAGE ARISING OUT OF
21 THE OWNERSHIP, MAINTENANCE OR USE OF ANY VEHICLE WITH A COMBINED SINGLE LIMIT
22 FOR EACH OCCURRENCE OF AT LEAST ONE MILLION DOLLARS AND AN ON-HOOK
23 ENDORSEMENT.

24 (b) GARAGE KEEPERS LEGAL LIABILITY INSURANCE THAT PROVIDES COVERAGE
25 FOR ALL LOSS OR DAMAGE TO THE VEHICLE OWNER'S PROPERTY WHILE IN THE PRIVATE
26 PROPERTY TRESPASS TOWER'S CARE AND THAT THE TOWER IS LEGALLY RESPONSIBLE FOR
27 WITH LIMITS OF AT LEAST FIFTY THOUSAND DOLLARS PER VEHICLE.

28 (c) WORKERS' COMPENSATION INSURANCE WITH AN EMPLOYER LIABILITY LIMIT
29 OF AT LEAST ONE HUNDRED THOUSAND DOLLARS FOR EACH ACCIDENT, AN EMPLOYEE OR
30 DISEASE LIMIT OF AT LEAST ONE HUNDRED THOUSAND DOLLARS AND A TOTAL POLICY
31 LIMIT OF AT LEAST FIVE HUNDRED THOUSAND DOLLARS. THIS SUBDIVISION DOES NOT
32 APPLY IF THE PRIVATE PROPERTY TRESPASS TOWER IS A SOLE PROPRIETOR WITH NO
33 EMPLOYEES.

34 (d) INSURANCE COVERAGE THAT PROVIDES THAT:

35 (i) THE INSURANCE MAY NOT BE CANCELED WITHOUT PROVIDING WRITTEN NOTICE
36 AT LEAST THIRTY DAYS BEFORE THE CANCELLATION.

37 (ii) THE MAXIMUM DEDUCTIBLE FOR THE INSURANCE REQUIRED PURSUANT TO
38 SUBDIVISION (c) OF THIS PARAGRAPH IS TWO THOUSAND FIVE HUNDRED DOLLARS PER
39 EVENT.

40 5. POST A SIGN IN A CONSPICUOUS PLACE THAT IS VISIBLE FROM THE
41 RIGHT-OF-WAY THAT CONTAINS THE PRIVATE PROPERTY TRESPASS TOWER'S NAME,
42 TELEPHONE NUMBER, ADDRESS AND BUSINESS HOURS, INCLUDING ALL HOLIDAYS, IN
43 LETTERS AT LEAST THREE INCHES IN HEIGHT. THE INFORMATION ON THE SIGN SHALL
44 BE IN THE FORM AND MANNER THAT THE DEPARTMENT PRESCRIBES BY RULE.

1 6. PHOTOGRAPH THE LOCATION AND CONDITION OF THE VEHICLE BEFORE THE
2 VEHICLE'S REMOVAL. ON THE REQUEST OF A LAW ENFORCEMENT OFFICER OR THE
3 PRIVATE PROPERTY OWNER, THE PRIVATE PROPERTY TRESPASS TOWER SHALL PROVIDE A
4 COPY OF THE PHOTOGRAPHS OF THE VEHICLE.

5 7. INFORM THE VEHICLE OWNER OR OPERATOR WHO IS PRESENT OR ARRIVES AT
6 THE VEHICLE LOCATION AT ANY TIME BEFORE THE PRIVATE PROPERTY TRESPASS TOWER
7 HAS TRANSPORTED THE VEHICLE BUT AFTER COMPLETION OF THE VEHICLE HOOKUP,
8 ATTACHMENT OF ALL SAFETY EQUIPMENT AND NOTIFICATION TO THE LAW ENFORCEMENT
9 AGENCY THAT AN ON-SITE RELEASE FEE DOES NOT APPLY IF PROOF OF IDENTITY AND
10 OWNERSHIP DOCUMENTATION IS PROVIDED PURSUANT TO SECTION 28-4912,
11 SUBSECTION A.

12 B. A PRIVATE PROPERTY TRESPASS TOWER SHALL NOT:

13 1. TOW, TRANSPORT OR IMPOUND ANY VEHICLE FROM PRIVATE PROPERTY WITHOUT
14 HAVING FIRST OBTAINED THE WRITTEN AUTHORIZATION OF THE PROPERTY OWNER OR
15 OTHER PERSON IN LAWFUL POSSESSION OR CONTROL OF THE PROPERTY OR THE
16 AUTHORIZED AGENT OF THAT PERSON. THE AUTHORIZATION MAY BE ON A CONTRACTUAL
17 BASIS COVERING A PERIOD OF TIME OR LIMITED TO THE REMOVAL OF A SPECIFIC
18 VEHICLE.

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

24 3. TOW, TRANSPORT OR IMPOUND A VEHICLE WHEN THE OWNER OR OPERATOR OF
25 THE VEHICLE IS PRESENT OR ARRIVES AT THE VEHICLE LOCATION AT ANY TIME BEFORE
26 THE COMPLETION OF HOOKUP, ATTACHMENT OF ALL SAFETY EQUIPMENT AND NOTIFICATION
27 TO THE LAW ENFORCEMENT AGENCY AND IS WILLING AND ABLE TO REMOVE THE VEHICLE
28 IMMEDIATELY. IN SUCH CASE, NO FEE MAY BE CHARGED TO THE VEHICLE OWNER OR
29 OPERATOR.

30 4. TOW, TRANSPORT OR IMPOUND ANY VEHICLE FROM PROPERTY ON WHICH SIGNS
31 ARE REQUIRED AND ON WHICH SIGNS ARE NOT POSTED PURSUANT TO SECTION 9-499.05
32 OR 11-251.04.

33 5. IMPOSE ANY CHARGE FOR SERVICE OR STORAGE OTHER THAN THE RATES SET
34 BY THIS STATE OR THE COUNTY, CITY OR TOWN, EXCEPT THAT A PRIVATE PROPERTY
35 TRESPASS TOWER SHALL NOT CHARGE A STORAGE FEE FOR A DAY THAT THE STORAGE LOT
36 IS CLOSED.

37 6. TRANSPORT ANY VEHICLE TO A LOCATION THAT IS MORE THAN TWENTY MILES
38 AWAY FROM THE LOCATION WHERE THE PRIVATE PROPERTY TRESPASS TOWER FIRST
39 REMOVED THE VEHICLE.

40 7. COVERTLY OBSERVE OR EMPLOY ANY TYPE OF OBSERVER WITHIN ONE THOUSAND
41 FEET OF PRIVATE PROPERTY FOR THE PURPOSE OF MONITORING OR ORDERING THE
42 TOWING, TRANSPORTING OR IMPOUNDING OF A VEHICLE FROM THAT PRIVATE PROPERTY
43 UNLESS THE PRIVATE PROPERTY TRESPASS TOWER DOES EITHER OF THE FOLLOWING:

44 (a) PROVIDES A VERBAL WARNING TO THE VEHICLE OWNER OR OPERATOR OF THE
45 POSSIBLE TOWING, TRANSPORTING OR IMPOUNDING OF THE VEHICLE.

1 (b) CLEARLY POSTS SIGNS WARNING THAT THE PRIVATE PROPERTY HAS ON-SITE
2 MONITORING AND THE HOURS OF THE MONITORING.

3 8. PARK A VEHICLE ON PRIVATE PROPERTY FOR THE SOLE PURPOSE OF INDUCING
4 UNAUTHORIZED PARKING ON THAT PRIVATE PROPERTY.

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

7 10. PROVIDE TO THE PROPERTY OWNER OR THE PROPERTY OWNER'S AUTHORIZED
8 AGENT ANY COMPENSATION OR ANY OTHER TYPE OF BENEFIT, OTHER THAN SIGNAGE,
9 TOWING, TRANSPORTING OR IMPOUNDING THE VEHICLE FROM THE PROPERTY.

10 11. MAKE ANY FALSE STATEMENT OF MATERIAL FACT, MISREPRESENT INFORMATION
11 IN ANY DOCUMENT OR OMIT DISCLOSURE OF A MATERIAL FACT IN THE PERFORMANCE OF
12 AN ACTIVITY REGULATED BY THIS ARTICLE.

13 12. VIOLATE THIS ARTICLE OR RULES ADOPTED PURSUANT TO THIS ARTICLE.

14 28-4910. Civil and criminal penalties

15 THIS ARTICLE DOES NOT LIMIT OR ALTER THE VEHICLE OWNER'S CIVIL OR
16 CRIMINAL LIABILITY FOR TRESPASS. THIS ARTICLE DOES NOT LIMIT OR ALTER THE
17 CIVIL OR CRIMINAL LIABILITY OF ANY PERSON FOR ANY ACT OR OMISSION. ALL
18 PENALTIES ACCRUING UNDER THIS ARTICLE ARE CUMULATIVE.

19 28-4911. Posting of rates; payment forms

20 A. EACH PRIVATE PROPERTY TRESPASS TOWER SHALL PRINT AND KEEP OPEN TO
21 THE PUBLIC ALL AUTHORIZED RATES AND CHARGES FOR TOWING, OTHERWISE MOVING AND
22 STORING VEHICLES IN CONNECTION WITH THE REMOVAL OF UNAUTHORIZED VEHICLES FROM
23 PRIVATE PROPERTY. THE RATES AND CHARGES SHALL BE CLEARLY STATED IN DOLLAR
24 AMOUNTS AND SHALL BE POSTED IN THE FORM AND MANNER AND SHALL CONTAIN THE
25 INFORMATION THAT THE DEPARTMENT PRESCRIBES BY RULE.

26 B. EACH PRIVATE PROPERTY TRESPASS TOWER SHALL ACCEPT MULTIPLE FORMS OF
27 PAYMENT FOR TOWING AND STORAGE COSTS AT THE LOCATION WHERE THE VEHICLE IS
28 STORED OR RETRIEVED, INCLUDING PAYMENT BY ANY VALID CREDIT CARD OR DEBIT
29 CARD. THE PRIVATE PROPERTY TRESPASS TOWER SHALL ISSUE TO THE VEHICLE OWNER
30 OR OPERATOR AN ITEMIZED RECEIPT OF ALL OF THE CHARGES.

31 28-4912. Release of relocated vehicles; nonpayment;
32 applicability; definition

33 A. BEFORE RELEASE OF A VEHICLE THAT IS TOWED, TRANSPORTED OR IMPOUNDED
34 BY A PRIVATE PROPERTY TRESPASS TOWER PURSUANT TO THIS ARTICLE, THE OWNER OF
35 THE VEHICLE OR THE OWNER'S AGENT SHALL PAY OR MAKE SATISFACTORY ARRANGEMENTS
36 TO PAY FOR ANY TOWING AND STORAGE COSTS THAT COMPLY WITH THE RATES SET
37 PURSUANT TO SECTION 9-499.05, SECTION 11-251.04 OR THIS ARTICLE, EXCEPT THAT
38 A PRIVATE PROPERTY TRESPASS TOWER SHALL NOT REFUSE TO RELEASE TO THE OWNER A
39 VEHICLE THAT THE PRIVATE PROPERTY TRESPASS TOWER TOWS PURSUANT TO THIS
40 ARTICLE IF THE OWNER REFUSES TO PAY THE TOWING AND STORAGE COSTS. AN OWNER
41 WHO REFUSES TO PAY THE TOWING AND STORAGE COSTS SHALL PROVIDE PROOF OF
42 IDENTITY AND OWNERSHIP OF THE VEHICLE AND SHALL SIGN A RECEIPT ACKNOWLEDGING
43 THAT THE VEHICLE HAS BEEN RECLAIMED AND WHETHER OR NOT THE OWNER DISPUTES ANY
44 UNPAID BALANCE DUE BEFORE THE VEHICLE IS RELEASED. POSSESSING THE KEYS TO A
45 VEHICLE IS NOT PROOF OF OWNERSHIP OF THE VEHICLE.

1 B. A PRIVATE PROPERTY TRESPASS TOWER SHALL ALLOW, DURING BUSINESS
2 HOURS, THE OWNER OR THE OWNER'S AGENT ONE-TIME ACCESS TO THE VEHICLE AT NO
3 COST FOR THE PURPOSE OF RETRIEVING THE VEHICLE'S CURRENT REGISTRATION OR
4 PROPERTY LOCATED IN THE VEHICLE, EXCEPT THAT NO TOOL MAY BE USED FOR THE
5 REMOVAL OF PROPERTY FROM THE VEHICLE.

6 C. THIS SECTION DOES NOT APPLY TO A VEHICLE THAT IS ABANDONED PURSUANT
7 TO THIS CHAPTER.

8 D. FOR THE PURPOSES OF THIS SECTION, "PROOF OF IDENTITY AND OWNERSHIP
9 OF THE VEHICLE" MEANS PROVIDING GOVERNMENT ISSUED IDENTIFICATION AND THE
10 VEHICLE'S CURRENT TITLE OR REGISTRATION.

11 28-4913. Dispute resolution; definitions

12 A. IF THE OWNER OF A VEHICLE THAT IS TOWED PURSUANT TO THIS ARTICLE OR
13 THE OWNER'S AGENT DISPUTES THE TOWING AND STORAGE COSTS OR ANY OTHER ACTION
14 OF THE PRIVATE PROPERTY TRESPASS TOWER, OPERATOR OR DISPATCHER, THE OWNER OR
15 THE OWNER'S AGENT MAY SUBMIT A WRITTEN REQUEST FOR A HEARING TO THE DIRECTOR.

16 B. FOR THE PURPOSES OF THIS SECTION:

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

20 2. "OPERATOR":

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

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

25 (ii) USES A VEHICLE DESIGNED FOR OR ADAPTED TO PERFORM THE SERVICES
26 PRESCRIBED BY ITEM (i) OF THIS SUBDIVISION.

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

31 28-4914. Violation; classification

32 A PERSON WHO VIOLATES THIS ARTICLE IS GUILTY OF A CLASS 3 MISDEMEANOR.

33 28-4915. Civil penalties; fees; deposit

34 THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147,
35 PENALTIES AND FEES COLLECTED PURSUANT TO THIS ARTICLE IN THE STATE GENERAL
36 FUND.

37 28-4916. Local ordinances or rules

38 THIS ARTICLE DOES NOT PROHIBIT A COUNTY OR AN INCORPORATED CITY OR TOWN
39 FROM ENACTING AN ORDINANCE OR RULE THAT EITHER:

40 1. IS MORE RESTRICTIVE THAN THIS ARTICLE OR ANY RULE ADOPTED PURSUANT
41 TO THIS ARTICLE.

42 2. PLACES ANY REQUIREMENTS THAT ARE GREATER THAN THOSE PRESCRIBED IN
43 THIS ARTICLE OR ANY RULE ADOPTED PURSUANT TO THIS ARTICLE ON TOWING,
44 TRANSPORTING OR IMPOUNDING A MOTOR VEHICLE FROM PRIVATE PROPERTY WITHOUT THE

1 PERMISSION OF THE OWNER OR OPERATOR OF THE VEHICLE BY ANY PRIVATE PROPERTY
2 TRESPASS TOWER OR PRIVATE TOWING CARRIER.

3 Sec. 6. Section 33-1022, Arizona Revised Statutes, is amended to read:

4 33-1022. Garages; towing services and storage facilities;
5 aircraft

6 A. Proprietors of garages and repair and service stations shall have a
7 lien ~~upon~~ ON motor vehicles of every kind and aircraft, and the parts and
8 accessories placed thereon, for labor, materials, supplies and storage for
9 the amount of the charges, when the amount of the charges is agreed to by the
10 proprietor and the owner.

11 B. The lien shall not impair any other lien or conditional sale of
12 record at the time the labor, materials, supplies and storage were commenced
13 to be furnished, unless furnished with the knowledge and consent of the
14 record lienor or vendor.

15 C. If a proprietor has a lien on an aircraft pursuant to subsection A
16 of this section, the proprietor who provides labor, materials, supplies and
17 storage for aircraft may relinquish possession of the aircraft and retain the
18 lien by recording the lien with the county recorder of the county in which
19 the labor, materials, supplies or storage were provided. The lien shall be
20 filed with the county recorder within thirty days after possession is
21 relinquished. In addition, the proprietor may record the lien with the
22 federal aviation administration aircraft registry. A lien filed with the
23 federal aviation administration aircraft registry shall comply with all
24 requirements of federal law and shall accurately describe the aircraft, list
25 the amount of the claim, list the date on which the labor, materials,
26 supplies or storage were last furnished, be signed by the claimant showing
27 the title of the signer, if appropriate, and be accompanied by the recording
28 fee.

29 D. A lien ~~which~~ THAT is filed with a county recorder pursuant to
30 subsection C of this section does not bind a purchaser of the aircraft
31 without actual notice of the lien unless the lien has also been recorded with
32 the federal aviation administration aircraft registry. A lien authorized
33 under subsection C of this section may be foreclosed only by an action in
34 court.

35 E. When an aircraft lien ~~which~~ THAT has been recorded under this
36 section has been satisfied, the lienholder within thirty days after
37 satisfaction shall issue a release of the lien to the person against whom the
38 lien was claimed and shall record the release of that lien in the county in
39 which the lien was recorded and with the federal aviation administration
40 aircraft registry, if the lien was recorded there. Failure to record a
41 release ~~upon~~ ON satisfaction of the lien shall subject the lienholder to the
42 penalties prescribed in section 33-712.

43 Sec. 7. Delayed repeal

44 Title 28, chapter 11, article 4, Arizona Revised Statutes, as added by
45 this act, is repealed from and after June 30, 2022.