

REFERENCE TITLE: motor vehicle dealers

State of Arizona
House of Representatives
Fifty-first Legislature
First Regular Session
2013

HB 2372

Introduced by
Representative Fann

AN ACT

AMENDING SECTIONS 28-121, 28-2155, 28-2351, 28-4362, 28-4403, 28-4404 AND 28-4405, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 10, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-4423; AMENDING TITLE 28, CHAPTER 10, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-4503; AMENDING SECTIONS 28-4531, 28-4532 AND 28-4533, ARIZONA REVISED STATUTES; REPEALING TITLE 28, CHAPTER 10, ARTICLE 10, ARIZONA REVISED STATUTES; RELATING TO MOTOR VEHICLE DEALERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 28-121, Arizona Revised Statutes, is amended to
3 read:

4 28-121. Violation; classification; exception; civil traffic
5 violation; surcharge

6 A. A person who violates a provision of this title or who fails or
7 refuses to do or perform an act or thing required by this title is guilty of
8 a class 2 misdemeanor, unless the statute defining the offense provides for a
9 different classification. This subsection does not apply to any provision or
10 requirement of chapter 3, 5, 7 or 8, ~~OR~~ chapter 9, article 4 ~~or chapter 10,~~
11 ~~article 10~~ of this title.

12 B. A violation of or failure or refusal to do or perform an act or
13 thing required by chapter 3, 5, 7 or 8, ~~OR~~ chapter 9, article 4 ~~or chapter~~
14 ~~10, article 10~~ of this title is a civil traffic violation unless the statute
15 defining the violation provides for a different classification. Civil
16 traffic violations are subject to chapter 5, articles 3 and 4 of this title.

17 C. In addition to any other penalty assessment provided in this title,
18 the court shall levy the surcharge as required by sections 12-116.01 and
19 12-116.02.

20 Sec. 2. Section 28-2155, Arizona Revised Statutes, is amended to read:

21 28-2155. One trip registration permit

22 A. The department may issue a one trip registration permit that allows
23 a person to operate an unregistered vehicle or a vehicle with a suspended
24 registration from a specified origin to a specified destination.

25 B. The one trip registration permit is valid only for the following
26 purposes:

27 1. Vehicle emissions inspection.

28 2. Registration or titling.

29 3. Vehicle inspection by the registering officer.

30 4. Vehicle repair to comply with an emissions inspection or inspection
31 by the registering officer.

32 5. MOVEMENT OF A VEHICLE BETWEEN LICENSED MOTOR VEHICLE DEALERS BY A
33 LICENSED WHOLESALE MOTOR VEHICLE DEALER.

34 C. A person operating a vehicle with a one trip registration permit
35 shall comply with the mandatory motor vehicle insurance requirements of this
36 state prescribed in chapter 9 of this title.

37 D. The department shall prescribe the content and form of the one trip
38 registration permit. The owner or operator of the vehicle shall display the
39 one trip registration permit so that it is clearly visible from outside the
40 vehicle.

41 E. EXCEPT FOR PERMITS ISSUED TO LICENSED WHOLESALE MOTOR VEHICLE
42 DEALERS UNDER THIS SECTION, the registering officer shall not issue more than
43 three one trip registration permits for a vehicle in a twelve month period.
44 The registering officer shall issue a one trip registration permit for not
45 more than three days, excluding weekends and holidays.

1 F. The fee for the one trip registration permit is prescribed in
2 section 28-2003. The department shall deposit the fee in the state highway
3 fund established by section 28-6991.

4 Sec. 3. Section 28-2351, Arizona Revised Statutes, is amended to read:
5 28-2351. License plate provided; design

6 A. The department shall provide to every owner one license plate for
7 each vehicle registered. At the request of the owner and on payment of any
8 required fee, the department shall provide either one or two license plates
9 for a vehicle for which a special plate is requested pursuant to this
10 chapter, except that the department shall provide one license plate if the
11 special plate is issued pursuant to section 28-2416 or 28-2416.01.

12 B. The license plate shall display the number assigned to the vehicle
13 and to the owner of the vehicle and the name of this state, which may be
14 abbreviated. The director shall coat the license plate with a reflective
15 material that is consistent with the determination of the department
16 regarding the color and design of license plates and special plates. The
17 director shall design the license plate and the letters and numerals on the
18 license plate to be of sufficient size to be plainly readable during daylight
19 from a distance of one hundred feet. In addition to the standard license
20 plate issued for a trailer before August 12, 2005, the director shall issue a
21 license plate for trailers that has a design that is similar to the standard
22 size license plate for trailers but that is the same size as the license
23 plate for motorcycles. The trailer owner shall notify the department which
24 size license plate the owner wants for the trailer.

25 C. Notwithstanding any other law, the department shall not contract
26 with a nongovernmental entity to purchase or secure reflective material for
27 the plates issued by the department unless the department has made a
28 reasonable effort to secure qualified bids or proposals from as many
29 individual responsible respondents as possible.

30 D. The department shall determine the color and design of the license
31 plate. All other plates issued by the department, except the plates issued
32 pursuant to sections 28-2404, 28-2412, 28-2413, 28-2414, 28-2416, 28-2416.01,
33 28-2417 through 28-2448, 28-2452, 28-2453, 28-2454, ~~and~~ 28-2455 **AND 28-4533**
34 and article 14 of this chapter, shall be the same color as and similar in
35 design to the license plate as determined by the department.

36 E. A passenger motor vehicle rented without a driver shall receive the
37 same type of license plate as issued for a private passenger motor vehicle.

38 Sec. 4. Section 28-4362, Arizona Revised Statutes, is amended to read:
39 28-4362. Application; fee; bond

40 Applications shall be accompanied by:

41 1. The filing fees prescribed in section 28-4302, and each licensee
42 shall pay the annual license fee prescribed in section 28-4302.

43 2. A bond that:

44 (a) Is in a form to be approved by the director.

1 (b) Is in an amount prescribed by the director of at least twenty
2 thousand dollars for an automotive recycler's license and not more than one
3 hundred thousand dollars for all other licenses.

4 (c) Is executed by a surety company authorized to transact business in
5 this state as surety on the bond with the applicant as principal obligor on
6 the bond and the state as obligee.

7 (d) Is cancellable only on at least sixty days' prior notice to the
8 director.

9 (e) Inures to the benefit of a person who suffers loss because of
10 either:

11 (i) Nonpayment by the dealer of customer prepaid title, registration
12 or other related fees or taxes.

13 (ii) The automotive recycler's or the dealer's failure to deliver in
14 conjunction with the sale of a vehicle a valid vehicle title certificate free
15 and clear of any prior owner's interests and all liens except a lien created
16 by or expressly assumed in writing by the buyer of the vehicle.

17 **3. A COPY OF THE DEALER'S CURRENT TRANSACTION PRIVILEGE TAX LICENSE.**

18 Sec. 5. Section 28-4403, Arizona Revised Statutes, is amended to read:

19 **28-4403. Record requirements; motor vehicle information;**
20 **inspection; liability; electronic submission**

21 A. A licensee shall keep and maintain at the licensee's established
22 place of business, or place of business if the licensee is a broker or a
23 wholesale motor vehicle dealer, a permanent record in the form prescribed by
24 the director containing:

25 1. A particular description of each motor vehicle of a type subject to
26 registration under the laws of this state that is bought, sold, brokered or
27 exchanged by the licensee or received or accepted by the licensee for sale,
28 brokering or exchange.

29 2. A particular description of each used motor vehicle body or chassis
30 that is sold or otherwise disposed of.

31 3. A particular description of each motor vehicle that is bought or
32 otherwise acquired and wrecked by the licensee.

33 4. The name and address of the person from whom a motor vehicle, motor
34 vehicle body or motor vehicle chassis was purchased or otherwise acquired and
35 the date it was purchased or acquired.

36 5. The name and address of the person to whom the motor vehicle, motor
37 vehicle body or motor vehicle chassis was sold or otherwise disposed of, the
38 date it was sold or disposed of and a sufficient description of the vehicle,
39 body or chassis by name or identifying number or otherwise to identify it.

40 B. A licensed automotive recycler that has a vehicle in the automotive
41 recycler's inventory shall:

42 1. At the same time have possession of a duly and regularly assigned
43 salvage certificate of title, nonrepairable vehicle certificate of title or
44 dismantle certificate of title to the vehicle.

1 (iv) The make and model of the vehicle.
2 (v) The identification number and serial number of the vehicle.
3 (vi) The date purchased.
4 (vii) The disposition of the chassis.
5 (viii) The name and address of the person from whom a motor vehicle,
6 motor vehicle body or motor vehicle chassis was purchased or otherwise
7 acquired and the date of the purchase.
8 (ix) The name and address of the person to whom the motor vehicle,
9 motor vehicle body or motor vehicle chassis was sold or otherwise disposed
10 of, the date of the sale and a description of the vehicle, body or chassis by
11 make and model or identification number.
12 2. Including a bill of sale signed by the seller for any motor vehicle
13 parts other than major component parts acquired by the licensee, identifying
14 the seller by name, address and date of sale.
15 B. The licensee shall maintain the record at the licensee's
16 established place of business or principal place of business if the licensee
17 is a broker or a wholesale motor vehicle dealer for a period of three years
18 from the date of acquiring each item recorded.
19 C. Authorized representatives of the department of transportation or
20 any law enforcement agency may inspect the record kept by the licensee at any
21 time during regular business hours.
22 D. An automotive recycler shall maintain a similar record of all
23 disabled vehicles that have been towed or transported to the automotive
24 recycler's place of business or to other places designated by the owner of
25 the vehicle or the owner's representative. This record shall specify the
26 make, model and description of the vehicle, name of the owner, number of the
27 license plate, condition of the vehicle and place to which it was towed or
28 transported.
29 E. Each licensee shall allow any person described in subsection C,
30 during business hours and after reasonable demand, to physically compare the
31 records required to be maintained with the vehicles or major component parts
32 that are located at the licensee's place of business.
33 F. BEGINNING JANUARY 1, 2014, A WHOLESALE MOTOR VEHICLE DEALER SHALL
34 SUBMIT ELECTRONICALLY TO THE DEPARTMENT ANY DOCUMENTS THAT ARE REQUESTED BY
35 THE DEPARTMENT DURING THE WHOLESALE MOTOR VEHICLE DEALER'S REPORTED BUSINESS
36 HOURS AND THAT ARE PRESCRIBED IN THIS SECTION. THE WHOLESALE MOTOR VEHICLE
37 DEALER SHALL SUBMIT THE REQUESTED DOCUMENTS WITHIN FORTY-EIGHT HOURS AFTER
38 THE REQUEST IS TRANSMITTED.
39 ~~F.~~ G. After reasonable demand by a person under subsection C or E, a
40 person who fails to display the records required to be maintained is guilty
41 of a class 1 misdemeanor.
42 Sec. 7. Section 28-4405, Arizona Revised Statutes, is amended to read:
43 28-4405. Display of license; continuation date; late penalty
44 A. A license issued under this chapter:
45 1. Shall be conspicuously displayed in either:

1 (a) The established place of business for which it was obtained.
2 (b) The place of business if the licensee is a broker or a wholesale
3 vehicle dealer.

4 2. Is not transferable or subject to sale or reassignment.

5 B. The director may issue licenses with staggered continuation dates
6 to distribute the continuation workload as uniformly as practicable
7 throughout the twelve months of the calendar year. In order to initiate a
8 staggered license continuation system, the director may issue a license for
9 more or less than a twelve month period, but not more than eighteen months,
10 and may prorate the license fee.

11 C. A motor vehicle dealer licensee shall submit its renewal
12 application, EVIDENCE OF ITS CURRENT TRANSACTION PRIVILEGE TAX LICENSE and
13 applicable renewal fees to the department of transportation on or before the
14 license continuation date. For the purposes of renewal, the license
15 continuation date is as follows:

16 1. If the motor vehicle dealer is also a licensed dealer pursuant to
17 title 44, chapter 2.1, the date prescribed by the initial licensing
18 department, either the department of transportation or the department of
19 financial institutions.

20 2. If the motor vehicle dealer is not also a licensed dealer pursuant
21 to title 44, chapter 2.1, the date prescribed by the department of
22 transportation.

23 D. If a licensee fails, neglects or refuses to pay the required fee
24 for the ensuing year on or before the license continuation date, the fee is
25 delinquent and a penalty equal to the fee shall be added to the fee and
26 collected.

27 Sec. 8. Title 28, chapter 10, article 4, Arizona Revised Statutes, is
28 amended by adding section 28-4423, to read:

29 28-4423. Wholesale motor vehicle auction dealers; sign; title
30 stamp

31 EACH WHOLESAL MOTOR VEHICLE AUCTION DEALER SHALL:

32 1. CONSPICUOUSLY POST AT THE WHOLESAL MOTOR VEHICLE AUCTION DEALER'S
33 ESTABLISHED PLACE OF BUSINESS A SIGN THAT CONTAINS THE FOLLOWING STATEMENT:

34 ARIZONA REVISED STATUTES SECTION 28-4334 PROHIBITS A
35 PERSON WHO PURCHASES A VEHICLE FROM THIS WHOLESAL MOTOR VEHICLE
36 AUCTION DEALER FROM SELLING THE VEHICLE IN THIS STATE UNLESS THE
37 PERSON IS A LICENSED DEALER IN THIS STATE. A PERSON WHO
38 VIOLATES THIS STATUTORY PROVISION IS GUILTY OF A CLASS 1
39 MISDEMEANOR.

40 2. STAMP "EXPORT ONLY" ON THE TITLE OF ANY VEHICLE SOLD TO A PERSON
41 WHO IS LICENSED AS A DEALER BY ANOTHER COUNTRY.

1 Sec. 9. Title 28, chapter 10, article 6, Arizona Revised Statutes, is
2 amended by adding section 28-4503, to read:

3 28-4503. Out-of-business cancellations; hearing

4 A. NOTWITHSTANDING SECTION 28-4494, IF THE DEPARTMENT DOCUMENTS THAT A
5 LICENSEE HAS CEASED OPERATING AS A MOTOR VEHICLE DEALER, THE DEPARTMENT MAY
6 CANCEL THE LICENSEE'S LICENSE AND GIVE NOTICE OF THE CANCELLATION TO THE
7 LICENSEE IN WRITING. THE NOTICE SHALL STATE THAT THE DEPARTMENT WILL PROVIDE
8 AN OPPORTUNITY FOR A HEARING IF THE DEPARTMENT RECEIVES A WRITTEN REQUEST
9 FROM THE LICENSEE FOR A HEARING WITHIN THIRTY DAYS AFTER THE NOTICE IS SENT.
10 IF A LICENSEE REQUESTS A HEARING, THE LICENSEE SHALL SHOW CAUSE AT THE
11 HEARING WHY THE LICENSE SHOULD NOT BE CANCELED.

12 B. IF A HEARING IS REQUESTED, THE DEPARTMENT OR THE DEPARTMENT'S DULY
13 AUTHORIZED AGENT SHALL ISSUE SUBPOENAS TO PERSONS AS THE LICENSEE REQUESTS
14 THAT REQUIRE THEM TO BE PRESENT AND TESTIFY AT THE HEARING. A TRANSCRIPT OF
15 THE TESTIMONY OF WITNESSES TAKEN AT THE HEARING SHALL BE MADE AND PRESERVED.

16 C. IF A HEARING IS HELD, WITHIN TEN DAYS AFTER THE HEARING, THE
17 DEPARTMENT OR THE DEPARTMENT'S DULY AUTHORIZED AGENT SHALL MAKE WRITTEN
18 FINDINGS OF FACT AND CONCLUSIONS AND BY ORDER UPHOLD THE CANCELLATION OR
19 DECLINE TO UPHOLD THE CANCELLATION.

20 Sec. 10. Section 28-4531, Arizona Revised Statutes, is amended to
21 read:

22 28-4531. Definitions

23 In this article, unless the context otherwise requires:

24 1. "Cargo" means commercial or industrial items but does not include
25 personal items such as luggage and camping equipment.

26 2. "Dealer" means a new motor vehicle dealer, ~~OR~~ OR a used motor vehicle
27 dealer ~~or a wholesale motor vehicle dealer.~~

28 3. "Employee of the dealer" means any of the following:

29 (a) An employee who is paid compensation and who appears on the
30 records of the dealer as an employee for whom social security, withholding
31 taxes and all other deductions required by law for employees are made and for
32 whom all applicable payroll taxes are paid by the dealer.

33 (b) An independent contractor who appears on the records of the dealer
34 and who is paid compensation for specific services that are performed for the
35 dealer and that require the operation of dealer owned vehicles.

36 (c) An immediate family member of the dealer who appears on the
37 records of the dealer and who is paid compensation for specific services that
38 are performed for the dealer and that require the operation of dealer owned
39 vehicles. For the purposes of this subdivision, "immediate family member"
40 means a spouse or a parent, child, brother or sister whether related by
41 adoption or blood.

42 4. "Employee of the manufacturer" means an employee who is paid
43 compensation and who appears on the records of the manufacturer as an
44 employee for whom social security, withholding taxes and all other deductions

1 required by law for employees are made and for whom all applicable payroll
2 taxes are paid by the manufacturer.

3 5. "Full-time employee of the dealer" means a person who qualifies as
4 an employee of the dealer and who works at least twenty-four hours each week
5 for the dealer.

6 6. "Full-time employee of the manufacturer" means a person who
7 qualifies as an employee of the manufacturer and who works at least
8 twenty-four hours each week for the manufacturer.

9 7. "Manufacturer" means a person engaged in the business of
10 manufacturing motor vehicles, trailers or semitrailers or a person engaged in
11 the manufacture of integrated automotive systems and modules that are being
12 tested at or in conjunction with a facility located in this state.

13 8. "Modules" means groups of component parts that are arranged in
14 close physical proximity to each other within a vehicle and that may be
15 assembled by the supplier and shipped to the manufacturer for installation in
16 a vehicle as a unit.

17 9. "Systems" means groups of component parts that are located
18 throughout a vehicle and that operate together to provide a specific vehicle
19 function.

20 Sec. 11. Section 28-4532, Arizona Revised Statutes, is amended to
21 read:

22 28-4532. Dealer owned vehicles; registration exemption; use of
23 dealer plates; civil penalty

24 A. A vehicle that is owned by a dealer and that is otherwise required
25 to be registered is exempt from registration while the vehicle is owned by
26 the dealer. A vehicle owned by a dealer may be operated under owner
27 responsibility on public highways and streets according to the following
28 provisions:

29 1. The vehicle displays a license plate issued to the owner as
30 provided in this article in the manner prescribed in section 28-2354.

31 2. The owner, an employee of the dealer or a prospective buyer may
32 operate the vehicle according to subsection C of this section.

33 B. Dealers' plates shall not be used on the following dealer owned
34 vehicles:

35 1. A work or service vehicle, **EXCEPT FOR A VEHICLE THAT IS OWNED BY A**
36 **NEW MOTOR VEHICLE DEALER THAT HAS A MANUFACTURER'S SERVICE PROGRAM AND THAT**
37 **IS USED IN THAT PROGRAM.**

38 2. A leased or rented vehicle owned by a dealer.

39 3. A laden vehicle designed for the transportation of cargo unless the
40 cargo consists of no more than three vehicles that are owned by the dealer
41 and the laden vehicle and the cargo are being operated or transported by the
42 dealer for resale.

43 4. A vehicle that has been sold.

44 C. Except as provided in subsection B of this section, a dealer plate
45 may be used on a dealer owned vehicle as follows:

1 1. When operated by the dealer or by an employee of the dealer in
2 connection with the dealer's business. The vehicle may be operated as
3 personal use transportation if it is assigned to a dealer or full-time
4 employee of the dealer on a full-time use basis and if a record of the
5 assignment is made as specified in section 28-4535. The authorized use
6 applies to dealers or employees solely and does not apply to any other person
7 as operator.

8 2. When operated by a prospective buyer for demonstration purposes for
9 a period of not more than forty-eight hours for passenger vehicles and
10 seventy-two hours for unladen pickups and trucks.

11 3. WHEN OPERATED BY A PERSON WHO IS LAWFULLY ENGAGED IN A CONTRACT
12 WITH A DEALER TO PERFORM ANY OF THE FOLLOWING AT A PERMANENT SITE OR LOCATION
13 WHERE THE PERSON CONDUCTS BUSINESS:

- 14 (a) EXTERIOR SURFACE PROTECTION.
- 15 (b) INTERIOR SURFACE PROTECTION.
- 16 (c) WINDOW SUNSCREEN PROTECTION.
- 17 (d) BODY REPAIR OR MAINTENANCE.
- 18 (e) UNDERCOATING, SOUNDPROOFING OR RUSTPROOFING.
- 19 (f) AUDIO EQUIPMENT INSTALLATION.
- 20 (g) OTHER SIMILAR WORK REQUIRED TO PREPARE A VEHICLE FOR SALE TO THE
21 PUBLIC.

22 D. A person who violates this section is subject to a civil penalty of
23 up to five hundred dollars.

24 Sec. 12. Section 28-4533, Arizona Revised Statutes, is amended to
25 read:

26 28-4533. Dealer's certificate; dealer license plates; fees

27 A. A dealer may apply to the department, on a form provided for that
28 purpose, for a dealer's certificate containing a general distinguishing
29 number ~~and for one or more pairs of dealer license plates or single dealer~~
30 ~~license plates appropriate to various types of vehicles.~~ If the applicant is
31 a dealer in new motor vehicles, trailers or semitrailers, the applicant shall
32 submit satisfactory proof that the applicant is a duly authorized distributor
33 or dealer for a manufacturer.

34 B. THE DEPARTMENT MAY ISSUE DEALER LICENSE PLATES TO EACH DEALER AS
35 FOLLOWS:

36 1. FOR NEW MOTOR VEHICLE DEALERS, NOT MORE THAN THIRTY DEALER LICENSE
37 PLATES PLUS ONE ADDITIONAL LICENSE PLATE FOR EVERY FIFTY MOTOR VEHICLES THAT
38 ARE SOLD BASED ON REPORTED SALES IN THE PREVIOUS LICENSE YEAR.

39 2. FOR USED MOTOR VEHICLE DEALERS, NOT MORE THAN FIFTEEN DEALER
40 LICENSE PLATES PLUS ONE ADDITIONAL LICENSE PLATE FOR EVERY FIFTY VEHICLES
41 THAT ARE SOLD BASED ON REPORTED SALES IN THE PREVIOUS LICENSE YEAR.

42 ~~B.~~ C. The department, on granting the application, shall issue to the
43 applicant a certificate containing the applicant's name and address and the
44 general distinguishing number assigned to the applicant and the dealer

1 license plates for which the applicant applied on payment of the fee provided
2 in this section.

3 ~~E.~~ D. The fee for each license plate or pair of license plates issued
4 to a dealer is:

5 1. Thirty dollars, if the dealer is not a motorcycle dealer.

6 2. Ten dollars, if the dealer is a motorcycle dealer.

7 ~~D.~~ E. THE DIRECTOR MAY RECALL, REDESIGN AND REISSUE DEALER LICENSE
8 PLATES PURSUANT TO THIS ARTICLE. The plate or pair of plates issued shall
9 contain a number or symbol distinguishing them from every other plate or pair
10 of plates issued to the same dealer. THE DIRECTOR SHALL NOT ALLOW A REQUEST
11 FOR DEALER LICENSE PLATES TO BE COMBINED WITH A REQUEST FOR A PERSONALIZED
12 SPECIAL PLATE ISSUED PURSUANT TO SECTION 28-2406. REISSUED DEALER LICENSE
13 PLATES SHALL BE DISTRIBUTED AS DETERMINED BY THE DIRECTOR.

14 ~~E.~~ F. The right to use a dealer license plate issued terminates at
15 midnight on the last day of the month in which the plate fees are due unless
16 the plate fees for the following year are paid.

17 ~~F.~~ G. A dealer who applies for and obtains dealer license plates
18 shall comply with chapter 9 of this title.

19 Sec. 13. Repeal

20 Title 28, chapter 10, article 10, Arizona Revised Statutes, is
21 repealed.