

REFERENCE TITLE: photo radar; prohibition

State of Arizona
Senate
Fifty-second Legislature
First Regular Session
2015

SB 1167

Introduced by
Senators Ward, Burges: Kavanagh, Yee

AN ACT

AMENDING SECTIONS 28-601, 28-627 AND 28-1201, ARIZONA REVISED STATUTES; REPEALING SECTION 28-1202, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 3, ARTICLE 21, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 28-1202; REPEALING SECTIONS 28-1203, 28-1204, 28-1205 AND 28-1206, ARIZONA REVISED STATUTES; AMENDING SECTION 28-1593, ARIZONA REVISED STATUTES; REPEALING SECTION 28-1602, ARIZONA REVISED STATUTES; RELATING TO PHOTO ENFORCEMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 28-601, Arizona Revised Statutes, is amended to
3 read:

4 28-601. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Commercial motor vehicle" means a motor vehicle or combination of
7 vehicles that is designed, used or maintained to transport passengers or
8 property in the furtherance of a commercial enterprise, that is a commercial
9 motor vehicle as defined in section 28-5201 and that is not exempt from gross
10 weight fees as prescribed in section 28-5432, subsection B.

11 2. "Controlled access highway" means a highway, street or roadway to
12 or from which owners or occupants of abutting lands and other persons have no
13 legal right of access except at such points only and in the manner determined
14 by the public authority that has jurisdiction over the highway, street or
15 roadway.

16 3. "Crosswalk" means:

17 (a) That part of a roadway at an intersection included within the
18 prolongations or connections of the lateral lines of the sidewalks on
19 opposite sides of the highway measured from the curbs or, in absence of
20 curbs, from the edges of the traversable roadway.

21 (b) Any portion of a roadway at an intersection or elsewhere that is
22 distinctly indicated for pedestrian crossing by lines or other markings on
23 the surface.

24 4. "Escort vehicle" means a vehicle that is required pursuant to rules
25 adopted by the department to escort motor vehicles or combinations of
26 vehicles that require issuance of a permit pursuant to article 18 or 19 of
27 this chapter for operation on the highways of this state.

28 5. "Explosives" means any chemical compound, mixture or device that is
29 commonly used or intended for the purpose of producing an explosion and that
30 is defined in 49 Code of Federal Regulations part 173.

31 6. "Flammable liquid" means any liquid that has a flash point of less
32 than one hundred degrees Fahrenheit and that is defined in 49 Code of Federal
33 Regulations section 173.120.

34 7. "Gross weight" means the weight of a vehicle without a load plus
35 the weight of any load on the vehicle.

36 8. "Intersection" means the area embraced within the prolongation or
37 connection of the lateral curb lines, or if none, the lateral boundary lines
38 of the roadways of two highways that join one another at, or approximately
39 at, right angles, or the area within which vehicles traveling on different
40 highways joining at any other angle may come in conflict. If a highway
41 includes two roadways thirty or more feet apart, each crossing of each
42 roadway of the divided highway by an intersecting highway is a separate
43 intersection. If the intersecting highway also includes two roadways thirty
44 or more feet apart, each crossing of two roadways of the highways is a
45 separate intersection.

1 9. "License" means any license, temporary instruction permit or
2 temporary license issued under the laws of this state or any other state that
3 pertain to the licensing of persons to operate motor vehicles.

4 10. "Low emission and energy efficient vehicle" means a vehicle that
5 has been certified by the United States environmental protection agency
6 administrator in accordance with 23 United States Code section 166 or that is
7 part of a federally approved pilot program.

8 11. "Motorized wheelchair" means any self-propelled wheelchair that is
9 used by a person for mobility.

10 12. "Official traffic control device" means any sign, signal, marking
11 or device that is not inconsistent with this chapter and that is placed or
12 erected by authority of a public body or official having jurisdiction for the
13 purpose of regulating, warning or guiding traffic.

14 13. "Park", if prohibited, means the standing of a vehicle, whether
15 occupied or not, otherwise than temporarily for the purpose of and while
16 actually engaged in loading or unloading.

17 ~~14. "Photo enforcement system" means a device substantially consisting~~
18 ~~of a radar unit or sensor linked to a camera or other recording device that~~
19 ~~produces one or more photographs, microphotographs, videotapes or digital or~~
20 ~~other recorded images of a vehicle's license plate for the purpose of~~
21 ~~identifying violators of articles 3 and 6 of this chapter.~~

22 ~~15.~~ 14. "Pneumatic tire" means a tire in which compressed air is
23 designed to support the load.

24 ~~16.~~ 15. "Pole trailer" means a vehicle that is all of the following:

25 (a) Without motive power.

26 (b) Designed to be drawn by another vehicle and attached to the towing
27 vehicle by means of a reach or pole or by being boomed or otherwise secured
28 to the towing vehicle.

29 (c) Used ordinarily for transporting long or irregularly shaped loads
30 such as poles, pipes or structural members capable generally of sustaining
31 themselves as beams between the supporting connections.

32 ~~17.~~ 16. "Police officer" means an officer authorized to direct or
33 regulate traffic or make arrests for violations of traffic rules or other
34 offenses.

35 ~~18.~~ 17. "Private road or driveway" means a way or place that is in
36 private ownership and that is used for vehicular travel by the owner and
37 those persons who have express or implied permission from the owner but not
38 by other persons.

39 ~~19.~~ 18. "Railroad" means a carrier of persons or property on cars
40 operated on stationary rails.

41 ~~20.~~ 19. "Railroad sign or signal" means a sign, signal or device
42 erected by authority of a public body or official or by a railroad and
43 intended to give notice of the presence of railroad tracks or the approach of
44 a railroad train.

1 ~~21.~~ 20. "Railroad train" means a steam engine or any electric or other
2 motor that is with or without cars coupled to the steam engine or electric or
3 other motor and that is operated on rails.

4 ~~22.~~ 21. "Roadway" means that portion of a highway that is improved,
5 designed or ordinarily used for vehicular travel, exclusive of the berm or
6 shoulder. If a highway includes two or more separate roadways, roadway
7 refers to any such roadway separately but not to all such roadways
8 collectively.

9 ~~23.~~ 22. "Safety zone" means the area or space that is both:

10 (a) Officially set apart within a roadway for the exclusive use of
11 pedestrians.

12 (b) Protected or either marked or indicated by adequate signs as to be
13 plainly visible at all times while set apart as a safety zone.

14 ~~24.~~ 23. "Sidewalk" means that portion of a street that is between the
15 curb lines or the lateral lines of a roadway and the adjacent property lines
16 and that is intended for the use of pedestrians.

17 ~~25.~~ 24. "Stop", if required, means complete cessation from movement.

18 ~~26.~~ 25. "Stop, stopping or standing", if prohibited, means any
19 stopping or standing of an occupied or unoccupied vehicle, except when
20 necessary to avoid conflict with other traffic or in compliance with
21 directions of a police officer or traffic control sign or signal.

22 ~~27.~~ 26. "Through highway" means a highway or portion of a highway at
23 the entrances to which vehicular traffic from intersecting highways is
24 required by law to stop before entering or crossing and when stop signs are
25 erected as provided in this chapter.

26 ~~28.~~ 27. "Traffic" means pedestrians, ridden or herded animals,
27 vehicles and other conveyances either singly or together while using a
28 highway for purposes of travel.

29 ~~29.~~ 28. "Traffic control signal" means a device, whether manually,
30 electrically or mechanically operated, by which traffic is alternately
31 directed to stop and to proceed.

32 ~~30.~~ 29. "Truck" means a motor vehicle that is designed, used or
33 maintained primarily for the transportation of property.

34 Sec. 2. Section 28-627, Arizona Revised Statutes, is amended to read:

35 ~~28-627.~~ Powers of local authorities

36 A. This chapter and chapters 4 and 5 of this title do not prohibit a
37 local authority, with respect to streets and highways under its jurisdiction
38 and within the reasonable exercise of the police power, from:

39 1. Regulating the standing or parking of vehicles.

40 2. Regulating traffic by means of police officers, traffic control
41 signals or volunteer posse organization members authorized by the sheriff
42 under section 11-441 for the purpose of directing traffic only.

43 3. Regulating or prohibiting processions or assemblages on the
44 highways.

1 4. Designating particular highways as one-way highways and requiring
2 that all vehicles on one-way highways be moved in one specific direction.

3 5. Regulating the speed of vehicles in public parks.

4 6. Designating any highway as a through highway and requiring that all
5 vehicles stop before entering or crossing the highway or designating any
6 intersection as a stop intersection and requiring all vehicles to stop at one
7 or more entrances to the intersection.

8 7. Restricting the use of highways as authorized in section 28-1106.

9 8. Regulating the operation of bicycles and requiring the registration
10 and licensing of bicycles, including the requirement of a registration fee.

11 9. Regulating or prohibiting the turning of vehicles or specified
12 types of vehicles at intersections.

13 10. Altering the prima facie speed limits as authorized by this
14 chapter.

15 11. Designating routes over streets and highways for vehicles not
16 exceeding one hundred two inches in width, exclusive of safety equipment.

17 12. Adopting other traffic regulations that are specifically authorized
18 by this chapter or chapter 4 or 5 of this title.

19 13. Designating routes on certain streets and highways for the purpose
20 of allowing off-highway vehicle operators to gain access to or from a
21 designated off-highway recreation facility as defined in section 28-1171,
22 off-highway vehicle trail as defined in section 28-1171 or off-highway
23 vehicle special event as defined in section 28-1171.

24 B. A local authority shall not erect or maintain a stop sign or
25 traffic control signal at any location that requires the traffic on any state
26 highway to stop before entering or crossing any intersecting highway unless
27 approval in writing has first been obtained from the director.

28 C. An ordinance or regulation enacted under subsection A, paragraph 4,
29 5, 6, 7, 9 or 10 of this section is not effective until signs giving notice
30 of the local traffic regulations are posted on or at the entrances to the
31 highway or part of the highway affected as is most appropriate.

32 D. The definition of motor vehicle prescribed in section 28-101 does
33 not prevent a local authority from adopting ordinances that regulate or
34 prohibit the operation of motorized skateboards, except that a local
35 authority shall not adopt an ordinance that requires registration and
36 licensing of motorized skateboards. For the purposes of this subsection,
37 "motorized skateboard" means a self-propelled device that has a motor, a deck
38 on which a person may ride and at least two tandem wheels in contact with the
39 ground.

40 E. In addition to the appointment of peace officers, a local authority
41 may provide by ordinance for the appointment of:

42 1. Unarmed police aides or municipally approved private contractors
43 who are employed or contracted by the police department and who are empowered
44 to commence an action or proceeding before a court or judge for a violation
45 of the local authority's ordinances regulating the standing or parking of

1 vehicles. A municipally approved private contractor shall not include a
2 relative of an employee or of an elected official of the municipality. The
3 authority of the unarmed police aide or municipally approved private
4 contractor as authorized in this section is limited to the enforcement of the
5 ordinances of local authorities regulating the standing or parking of
6 vehicles. Pursuant to rules established by the supreme court, an unarmed
7 police aide appointed pursuant to this paragraph may serve any process
8 originating out of a municipal court in the municipality in which the unarmed
9 police aide is employed. Service of process under this paragraph shall only
10 be made during the hours the municipal court is open for the transaction of
11 business and only on court premises. This paragraph does not grant to
12 unarmed police aides or municipally approved private contractors other powers
13 or benefits to which peace officers of this state are entitled.

14 2. Traffic investigators who may:

15 (a) Investigate traffic accidents within the jurisdiction of the local
16 authority.

17 (b) Commence an action or proceeding before a court or judge for any
18 violation of a state statute or local ordinance relating to traffic, if the
19 violation is related to a traffic accident within the jurisdiction of the
20 local authority.

21 (c) Pursuant to rules established by the supreme court, serve any
22 process originating out of a municipal court in the municipality in which the
23 traffic investigator is employed. Service of process under paragraph 1 of
24 this subsection shall only be made during the hours the municipal court is
25 open for the transaction of business and only on court premises.

26 F. A traffic investigator appointed pursuant to this section shall:

27 1. Be unarmed at all times during the course of the traffic
28 investigator's duties.

29 2. Be an employee of the appointing local authority.

30 3. File written reports as required pursuant to section 28-667.

31 ~~G. Notwithstanding subsection E of this section, an unarmed police
32 aide, a municipally approved private contractor or a traffic investigator
33 shall not serve any process resulting from a citation issued for a violation
34 of article 3 or 6 of this chapter or of a city or town ordinance for
35 excessive speed or failure to obey a traffic control device that is obtained
36 using a photo enforcement system.~~

37 ~~H.~~ G. This section does not grant other powers or benefits to traffic
38 investigators to which peace officers of this state are entitled.

39 ~~I.~~ H. Pursuant to section 28-1092, a local authority shall provide
40 reasonable access to and from terminals and service facilities on highways
41 under its jurisdiction.

42 Sec. 3. Section 28-1201, Arizona Revised Statutes, is amended to read:

43 28-1201. Definition of photo enforcement system

44 In this article, unless the context otherwise requires, "photo
45 enforcement system" ~~has the same meaning prescribed in section 28-601~~ MEANS A

1 DEVICE SUBSTANTIALLY CONSISTING OF A RADAR UNIT OR SENSOR LINKED TO A CAMERA
2 OR OTHER RECORDING DEVICE THAT PRODUCES ONE OR MORE PHOTOGRAPHS,
3 MICROPHOTOGRAPHS, VIDEOTAPES OR DIGITAL OR OTHER RECORDED IMAGES OF A
4 VEHICLE'S LICENSE PLATE FOR THE PURPOSE OF IDENTIFYING VIOLATORS OF ARTICLE 3
5 OR 6 OF THIS CHAPTER OR OF A CITY OR TOWN ORDINANCE FOR EXCESSIVE SPEED OR
6 FAILURE TO OBEY A TRAFFIC CONTROL DEVICE.

7 Sec. 4. Repeal

8 Section 28-1202, Arizona Revised Statutes, is repealed.

9 Sec. 5. Title 28, chapter 3, article 21, Arizona Revised Statutes, is
10 amended by adding a new section 28-1202, to read:

11 28-1202. Photo enforcement system; prohibition

12 A LOCAL AUTHORITY OR AN AGENCY OF THIS STATE MAY NOT USE A PHOTO
13 ENFORCEMENT SYSTEM TO IDENTIFY VIOLATORS OF ARTICLE 3 OR 6 OF THIS CHAPTER OR
14 OF A CITY OR TOWN ORDINANCE FOR EXCESSIVE SPEED OR FAILURE TO OBEY A TRAFFIC
15 CONTROL DEVICE.

16 Sec. 6. Repeal

17 Sections 28-1203, 28-1204, 28-1205 and 28-1206, Arizona Revised
18 Statutes, are repealed.

19 Sec. 7. Section 28-1593, Arizona Revised Statutes, is amended to read:

20 28-1593. Service of uniform traffic ticket and complaint

21 A. A traffic complaint may be served by delivering a copy of the
22 uniform traffic ticket and complaint to the person charged with the violation
23 or by any means authorized by the ARIZONA rules of civil procedure. At the
24 discretion of the issuing authority, a complaint for a violation issued after
25 an investigation in conjunction with a traffic accident may be sent by
26 certified mail, return receipt requested and delivered to addressee only, to
27 the address provided by the person charged with the violation. Service of
28 the complaint is complete on filing the receipt in the court having
29 jurisdiction of the violation.

30 B. The original complaint shall be filed in a court having
31 jurisdiction of the violation within ten court days of the time the complaint
32 was issued. A peace officer, or duly authorized agent or someone paid to act
33 on behalf of a traffic enforcement agency, may issue the traffic complaint.

34 ~~C. If a law enforcement agency issues a citation as a result of a~~
35 ~~photo enforcement system and serves the citation in a manner other than what~~
36 ~~is prescribed by subsection A of this section, the agency shall inform the~~
37 ~~person that there is no obligation to identify the driver or respond to the~~
38 ~~citation. Failure to respond to the citation will result in the probability~~
39 ~~that the person will be formally served pursuant to state law and the Arizona~~
40 ~~rules of civil procedure which will likely result in the person being~~
41 ~~required to pay the cost of the service.~~

42 Sec. 8. Repeal

43 Section 28-1602, Arizona Revised Statutes, is repealed.

1 Sec. 9. Legislative intent

2 Pursuant to section 41-1107, Arizona Revised Statutes, it is the
3 legislature's intent to:

4 1. Keep the enforcement of the laws in this state in the hands of
5 trained law enforcement officers who are authorized by the people of this
6 state to enforce the laws.

7 2. Protect the citizens of this state from the abuses that accompany
8 the outsourcing of law enforcement to private, for-profit entities.

9 3. Ensure that the purpose of law enforcement remains to serve and
10 protect and not to generate revenue for governments.