

REFERENCE TITLE: illegal aliens; commercial transactions

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HB 2625

Introduced by
Representative Pearce

AN ACT

AMENDING TITLE 33, CHAPTER 10, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 33-1331; AMENDING SECTIONS 13-4304 AND 44-283, ARIZONA REVISED STATUTES; RELATING TO ILLEGAL ALIENS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 13-4304, Arizona Revised Statutes, is amended to
3 read:
4 13-4304. Property subject to forfeiture; exemptions
5 All property, including all interests in such property, THAT IS
6 described in a statute providing for its forfeiture OR THAT IS USED TO
7 TRANSPORT OR HOUSE A PERSON WHO IS IN THIS STATE IN VIOLATION OF 8 UNITED
8 STATES CODE SECTION 1325 is subject to forfeiture. ~~However~~, EXCEPT THAT:
9 1. No vehicle used by any person as a common carrier in the
10 transaction of business as a common carrier may be forfeited under ~~the~~
11 ~~provisions of~~ this chapter unless it appears that the owner or other person
12 in charge of the vehicle was a consenting party or privy to the act or
13 omission giving rise to forfeiture or knew or had reason to know of it.
14 2. No vehicle may be forfeited under ~~the provisions of~~ this chapter
15 for any act or omission established by the owner to have been committed or
16 omitted by a person other than the owner while the vehicle was unlawfully in
17 the possession of a person other than the owner in violation of the criminal
18 laws of this state or of the United States.
19 3. No property may be forfeited pursuant to section 13-3413,
20 subsection A, paragraph 1 or 3 if the conduct giving rise to the forfeiture
21 both:
22 (a) Did not involve an amount of unlawful substance greater than the
23 statutory threshold amount as defined in section 13-3401.
24 (b) Was not committed for financial gain.
25 4. No owner's or interest holder's interest may be forfeited under
26 this chapter if the owner or interest holder establishes all of the
27 following:
28 (a) ~~He~~ THE OWNER acquired the interest before or during the conduct
29 giving rise to forfeiture.
30 (b) ~~He~~ THE OWNER did not empower any person whose act or omission
31 gives rise to forfeiture with legal or equitable power to convey the
32 interest, as to a bona fide purchaser for value, and he was not married to
33 any such person or if married to such person, held the property as separate
34 property.
35 (c) ~~He~~ THE OWNER did not know and could not reasonably have known of
36 the act or omission or that it was likely to occur.
37 5. No owner's or interest holder's interest may be forfeited under
38 this chapter if the owner or interest holder establishes all of the
39 following:
40 (a) ~~He~~ THE OWNER acquired the interest after the conduct giving rise
41 to forfeiture.
42 (b) ~~He~~ THE OWNER is a bona fide purchaser for value not knowingly
43 taking part in an illegal transaction.

1 (c) ~~He~~ THE OWNER was at the time of purchase and at all times after
2 the purchase and before the filing of a racketeering lien notice or the
3 provision of notice of pending forfeiture or the filing and notice of a civil
4 or criminal proceeding under this title relating to the property, whichever
5 is earlier, reasonably without notice of the act or omission giving rise to
6 forfeiture and reasonably without cause to believe that the property was
7 subject to forfeiture.

8 Sec. 2. Title 33, chapter 10, article 2, Arizona Revised Statutes, is
9 amended by adding section 33-1331, to read:

10 33-1331. Landlord rental to illegal aliens prohibited; civil
11 penalty

12 A. A LANDLORD SHALL NOT KNOWINGLY OR RECKLESSLY RENT OR LEASE ANY
13 DWELLING IN THIS STATE TO A PERSON WHO IS AN ILLEGAL ALIEN.

14 B. A LANDLORD IS PRESUMED NOT TO BE ACTING KNOWINGLY OR RECKLESSLY IF
15 THE LANDLORD REQUESTED AND RECEIVED FROM A TENANT IDENTIFICATION DOCUMENTS
16 THAT ARE REQUIRED BY THE UNITED STATES GOVERNMENT TO VERIFY THE LAWFUL
17 IMMIGRATION STATUS OF THE TENANT.

18 C. A LANDLORD HAS THE RIGHT TO REFUSE TO RENT TO A PERSON WHO IS AN
19 ILLEGAL ALIEN AND SHALL NOT BE LIABLE FOR ANY PENALTY OR CLAIM OF DAMAGES FOR
20 SO DOING.

21 D. A LANDLORD WHO VIOLATES THIS SECTION IS SUBJECT TO A CIVIL PENALTY
22 OF UP TO TWO HUNDRED FIFTY DOLLARS FOR EACH DAY OF VIOLATION. THE ATTORNEY
23 GENERAL, A COUNTY ATTORNEY OR A CITY OR TOWN ATTORNEY MAY ENFORCE THIS
24 SECTION BY FILING AN ACTION TO COLLECT THE CIVIL PENALTY.

25 Sec. 3. Section 44-283, Arizona Revised Statutes, is amended to read:

26 44-283. Denial, suspension or revocation of licenses

27 A. The administrator may deny a license applied for under this chapter
28 or suspend or revoke a license issued under this chapter on any of the
29 following grounds:

30 1. Material misstatement in the application for a license.

31 2. A violation, either knowingly or without the exercise of due care
32 to prevent the violation, of this chapter or of any rule or order adopted or
33 issued pursuant to this chapter.

34 3. Defrauding any retail buyer to the buyer's damage.

35 4. Fraudulent misrepresentation, circumvention or concealment by the
36 licensee through whatever subterfuge or device of any of the material
37 particulars or the nature thereof required to be stated or furnished to the
38 retail buyer under this article.

39 5. Conviction in any state of a felony or a misdemeanor involving
40 breach of trust, ~~or~~ dishonesty OR MONEY LAUNDERING.

41 6. Having a judgment or order entered against the licensee or
42 applicant by an administrative agency of this or any other state or by the
43 federal government in which one of the bases of the judgment or order is
44 fraud, deceit or misrepresentation, if the conduct was engaged in directly by
45 the licensee or applicant or was authorized, solicited, commanded or

1 knowingly permitted by the directors or senior management of the licensee or
2 applicant.

3 7. ENGAGING IN CONDUCT THAT THE APPLICANT OR LICENSEE KNEW OR HAD
4 REASON TO KNOW WOULD BE USED TO FACILITATE A CRIME.

5 8. KNOWINGLY ENGAGING IN THE SALE OF MOTOR VEHICLES USED TO TRANSPORT
6 ILLEGAL ALIENS OR ILLEGAL DRUGS.

7 9. KNOWINGLY CREATING OR PLACING, OR BOTH CREATING AND PLACING, FALSE
8 OR NONEXISTENT LIENS ON VEHICLES.

9 10. KNOWINGLY ALTERING SALES CONTRACTS WITHOUT A RETAIL BUYER'S
10 KNOWLEDGE.

11 B. If a licensee is a firm, association or corporation, it is
12 sufficient cause for the suspension or revocation of a license that any
13 officer, director or trustee of a licensed firm, association or corporation,
14 or any member of a licensed partnership, has so acted or failed to act as
15 would be cause for suspending or revoking a license to such party as an
16 individual. Each licensee is responsible for the acts of any or all of the
17 licensee's employees while acting as the licensee's agent, if the licensee
18 after actual knowledge of the acts retained the benefits, proceeds, profits
19 or advantages accruing from the acts or otherwise ratified the acts.

20 C. Hearings on the denial, suspension or revocation of a license shall
21 be conducted pursuant to title 41, chapter 6, article 10. No revocation,
22 suspension or surrender of any license shall impair or affect the obligation
23 of any lawful retail installment contract acquired by the licensee before the
24 revocation, suspension or surrender of the license.