

State of Arizona
House of Representatives
Fifty-second Legislature
First Regular Session
2015

HOUSE BILL 2088

AN ACT

AMENDING SECTIONS 1-215, 11-952, 12-1578.01, 12-1598.06, 22-375, 36-2021 AND 42-1122, ARIZONA REVISED STATUTES; RELATING TO MUNICIPAL COURTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 1-215, Arizona Revised Statutes, is amended to
3 read:

4 1-215. Definitions

5 In the statutes and laws of this state, unless the context otherwise
6 requires:

7 1. "Action" includes any matter or proceeding in a court, civil or
8 criminal.

9 2. "Adopted rule" means a final rule as defined in section 41-1001.

10 3. "Adult" means a person who has attained eighteen years of age.

11 4. "Alternative fuel" means:

12 (a) Electricity.

13 (b) Solar energy.

14 (c) Liquefied petroleum gas, natural gas, hydrogen or a blend of
15 hydrogen with liquefied petroleum or natural gas that complies with any of
16 the following:

17 (i) Is used in an engine that is certified to meet at a minimum the
18 United States environmental protection agency low emission vehicle standard
19 pursuant to 40 Code of Federal Regulations section 88.104-94 or 88.105-94.

20 (ii) Is used in an engine that is certified by the engine modifier to
21 meet the addendum to memorandum 1-A of the United States environmental
22 protection agency as printed in the federal register, volume 62, number 207,
23 October 27, 1997, pages 55635 through 55637.

24 (iii) Is used in an engine that is the subject of a waiver for that
25 specific engine application from the United States environmental protection
26 agency's memorandum 1-A addendum requirements and that waiver is documented
27 to the reasonable satisfaction of the director of the department of
28 environmental quality.

29 (d) Only for vehicles that use alcohol fuels before August 21, 1998,
30 alcohol fuels that contain not less than eighty-five per cent alcohol by
31 volume.

32 (e) A combination of at least seventy per cent alternative fuel and no
33 more than thirty per cent petroleum based fuel that operates in an engine
34 that meets the United States environmental protection agency low emission
35 vehicle standard pursuant to 40 Code of Federal Regulations section 88.104-94
36 or 88.105-94 and that is certified by the engine manufacturer to consume at
37 least seventy per cent alternative fuel during normal vehicle operations.

38 5. "Bribe" means anything of value or advantage, present or
39 prospective, asked, offered, given, accepted or promised with a corrupt
40 intent to influence, unlawfully, the person to whom it is given in that
41 person's action, vote or opinion, in any public or official capacity.

42 6. "Child" or "children" as used in reference to age of persons means
43 persons under eighteen years of age.

1 7. "Clean burning fuel" means:

2 (a) An emulsion of water-phased hydrocarbon fuel that contains not
3 less than twenty per cent water by volume and that complies with any of the
4 following:

5 (i) Is used in an engine that is certified to meet at a minimum the
6 United States environmental protection agency low emission vehicle standard
7 pursuant to 40 Code of Federal Regulations section 88.104-94 or 88.105-94.

8 (ii) Is used in an engine that is certified by the engine modifier to
9 meet the addendum to memorandum 1-A of the United States environmental
10 protection agency as printed in the federal register, volume 62, number 207,
11 October 27, 1997, pages 55635 through 55637.

12 (iii) Is used in an engine that is the subject of a waiver for that
13 specific engine application from the United States environmental protection
14 agency's memorandum 1-A addendum requirements and that waiver is documented
15 to the reasonable satisfaction of the director of the department of
16 environmental quality.

17 (b) A diesel fuel substitute that is produced from nonpetroleum
18 renewable resources if the qualifying volume of the nonpetroleum renewable
19 resources meets the standards for California diesel fuel as adopted by the
20 California air resources board pursuant to 13 California Code of Regulations
21 sections 2281 and 2282 in effect on January 1, 2000, the diesel fuel
22 substitute meets the registration requirement for fuels and additives
23 established by the United States environmental protection agency pursuant to
24 section 211 of the clean air act as defined in section 49-401.01 and the use
25 of the diesel fuel substitute complies with the requirements listed in 10
26 Code of Federal Regulations part 490, as printed in the federal register,
27 volume 64, number 96, May 19, 1999.

28 (c) A diesel fuel that complies with all of the following:

29 (i) Contains a maximum of fifteen parts per million by weight of
30 sulfur.

31 (ii) Meets ASTM D975.

32 (iii) Meets the registration requirements for fuels and additives
33 established by the United States environmental protection agency pursuant to
34 section 211 of the clean air act as defined in section 49-401.01.

35 (iv) Is used in an engine that is equipped or has been retrofitted
36 with a device that has been certified by the California air resources board
37 diesel emission control strategy verification procedure, the United States
38 environmental protection agency voluntary diesel retrofit program or the
39 United States environmental protection agency verification protocol for
40 retrofit catalyst, particulate filter and engine modification control
41 technologies for highway and nonroad use diesel engines.

42 (d) A blend of unleaded gasoline that contains at minimum eighty-five
43 per cent ethanol by volume or eighty-five per cent methanol by volume.

44 (e) Neat methanol.

- 1 (f) Neat ethanol.
- 2 8. "Corruptly" means a wrongful design to acquire or cause some
3 pecuniary or other advantage to the person guilty of the act or omission
4 referred to, or to some other person.
- 5 9. "Daytime" means the period between sunrise and sunset.
- 6 10. "Depose" includes every manner of written statement under oath or
7 affirmation.
- 8 11. "Federal poverty guidelines" means the poverty guidelines as
9 updated annually in the federal register by the United States department of
10 health and human services.
- 11 12. "Grantee" includes every person to whom an estate or interest in
12 real property passes, in or by a deed.
- 13 13. "Grantor" includes every person from or by whom an estate or
14 interest in real property passes, in or by a deed.
- 15 14. "Includes" or "including" means not limited to and is not a term of
16 exclusion.
- 17 15. "Inhabitant" means a resident of a city, town, village, district,
18 county or precinct.
- 19 16. "Issue" as used in connection with descent of estates includes all
20 lawful, lineal descendants of the ancestor.
- 21 17. "Knowingly" MEANS:
- 22 (a) Only a knowledge that the facts exist that bring the act or
23 omission within the provisions of the statute using such word.
- 24 (b) Does not require any knowledge of the unlawfulness of the act or
25 omission.
- 26 18. "Magistrate" means an officer having power to issue a warrant for
27 the arrest of a person charged with a public offense and includes the chief
28 justice and justices of the supreme court, judges of the superior court,
29 justices of the peace and ~~police magistrates in cities and towns~~ JUDGES OF A
30 MUNICIPAL COURT.
- 31 19. "Majority" or "age of majority" as used in reference to age of
32 persons means the age of eighteen years or more.
- 33 20. "Malice" and "maliciously" mean a wish to vex, annoy or injure
34 another person, or an intent to do a wrongful act, established either by
35 proof or presumption of law.
- 36 21. "Minor" means a person under the age of eighteen years.
- 37 22. "Minor children" means persons under the age of eighteen years.
- 38 23. "Month" means a calendar month unless otherwise expressed.
- 39 24. "Neglect", "negligence", "negligent" and "negligently" import a
40 want of such attention to the nature or probable consequence of the act or
41 omission as a prudent man ordinarily bestows in acting in his own concerns.
- 42 25. "Nighttime" means the period between sunset and sunrise.
- 43 26. "Oath" includes an affirmation or declaration.

1 27. "Peace officers" means sheriffs of counties, constables, marshals,
2 policemen of cities and towns, commissioned personnel of the department of
3 public safety, personnel who are employed by the state department of
4 corrections and the department of juvenile corrections and who have received
5 a certificate from the Arizona peace officer standards and training board,
6 peace officers who are appointed by a multicounty water conservation district
7 and who have received a certificate from the Arizona peace officer standards
8 and training board, police officers who are appointed by community college
9 district governing boards and who have received a certificate from the
10 Arizona peace officer standards and training board, police officers who are
11 appointed by the Arizona board of regents and who have received a certificate
12 from the Arizona peace officer standards and training board, police officers
13 who are appointed by the governing body of a public airport pursuant to
14 section 28-8426 and who have received a certificate from the Arizona peace
15 officer standards and training board and special agents from the office of
16 the attorney general, or of a county attorney, and who have received a
17 certificate from the Arizona peace officer standards and training board.

18 28. "Person" includes a corporation, company, partnership, firm,
19 association or society, as well as a natural person. When the word "person"
20 is used to designate the party whose property may be the subject of a
21 criminal or public offense, the term includes the United States, this state,
22 or any territory, state or country, or any political subdivision of this
23 state that may lawfully own any property, or a public or private corporation,
24 or partnership or association. When the word "person" is used to designate
25 the violator or offender of any law, it includes corporation, partnership or
26 any association of persons.

27 29. "Personal property" includes money, goods, chattels, dogs, things
28 in action and evidences of debt.

29 30. "Population" means the population according to the most recent
30 United States decennial census.

31 31. "Process" means a citation, writ or summons issued in the course of
32 judicial proceedings.

33 32. "Property" includes both real and personal property.

34 33. "Real property" is coextensive with lands, tenements and
35 hereditaments.

36 34. "Registered mail" includes certified mail.

37 35. "Seal" as used in reference to a paper issuing from a court or
38 public office to which the seal of such court or office is required to be
39 affixed means an impression of the seal on that paper, an impression of the
40 seal affixed to that paper by a wafer or wax, a stamped seal, a printed seal,
41 a screened seal or a computer generated seal.

42 36. "Signature" or "subscription" includes a mark, if a person cannot
43 write, with the person's name written near it and witnessed by a person who
44 writes the person's own name as witness.

1 37. "State", as applied to the different parts of the United States,
2 includes the District of Columbia, this state and the territories.

3 38. "Testify" includes every manner of oral statement under oath or
4 affirmation.

5 39. "United States" includes the District of Columbia and the
6 territories.

7 40. "Vessel", as used in reference to shipping, includes ships of all
8 kinds, steamboats, steamships, barges, canal boats and every structure
9 adapted to navigation from place to place for the transportation of persons
10 or property.

11 41. "Wilfully" means, with respect to conduct or to a circumstance
12 described by a statute defining an offense, that a person is aware or
13 believes that the person's conduct is of that nature or that the circumstance
14 exists.

15 42. "Will" includes codicils.

16 43. "Workers' compensation" means workmen's compensation as used in
17 article XVIII, section 8, Constitution of Arizona.

18 44. "Writ" means an order or precept in writing issued in the name of
19 the state or by a court or judicial officer.

20 45. "Writing" includes printing.

21 Sec. 2. Section 11-952, Arizona Revised Statutes, is amended to read:

22 11-952. Intergovernmental agreements and contracts

23 A. If authorized by their legislative or other governing bodies, two
24 or more public agencies or public procurement units by direct contract or
25 agreement may contract for services or jointly exercise any powers common to
26 the contracting parties and may enter into agreements with one another for
27 joint or cooperative action or may form a separate legal entity, including a
28 nonprofit corporation, to contract for or perform some or all of the services
29 specified in the contract or agreement or exercise those powers jointly held
30 by the contracting parties.

31 B. Any such contract or agreement shall specify the following:

32 1. Its duration.

33 2. Its purpose or purposes.

34 3. The manner of financing the joint or cooperative undertaking and of
35 establishing and maintaining a budget for the undertaking.

36 4. The permissible method or methods to be employed in accomplishing
37 the partial or complete termination of the agreement and for disposing of
38 property on such partial or complete termination.

39 5. If a separate legal entity is formed pursuant to subsection A, the
40 precise organization, composition, title and nature of the entity.

41 6. Any other necessary and proper matters.

42 C. No agreement made pursuant to this article shall relieve any public
43 agency of any obligation or responsibility imposed on it by law.

1 D. Except as provided in subsection E, every agreement or contract
2 involving any public agency or public procurement unit of this state made
3 pursuant to this article, before its execution, shall be submitted to the
4 attorney for each such public agency or public procurement unit, who shall
5 determine whether the agreement is in proper form and is within the powers
6 and authority granted under the laws of this state to such public agency or
7 public procurement unit.

8 E. A federal department or agency or public agency of another state
9 that is a party to an agreement or contract made pursuant to this article is
10 not required to submit the agreement or contract to the attorney for the
11 department or agency unless required under federal law or the law of the
12 other state.

13 F. Appropriate action by ordinance or resolution or otherwise pursuant
14 to the laws applicable to the governing bodies of the participating agencies
15 approving or extending the duration of the agreement or contract shall be
16 necessary before any such agreement, contract or extension may be filed or
17 become effective.

18 G. An agreement or contract may be extended as many times as is
19 desirable, but each extension may not exceed the duration of the previous
20 agreement.

21 H. Payment for services under this section shall not be made unless
22 pursuant to a fully approved written contract.

23 I. A person who authorizes payment of any monies in violation of this
24 section is liable for the monies paid plus twenty ~~per cent~~ PERCENT of such
25 amount and legal interest from the date of payment.

26 J. Notwithstanding any other provision of law, public agencies may
27 enter into a contract or agreement pursuant to this section with the superior
28 court, justice courts and ~~police~~ MUNICIPAL courts for related services and
29 facilities of such courts for a term not to exceed ten years, with the
30 approval of such contract or agreement by the presiding judge of the superior
31 court in the county in which the court or courts that provide the facilities
32 or services are located.

33 Sec. 3. Section 12-1578.01, Arizona Revised Statutes, is amended to
34 read:

35 12-1578.01. Time for answer

36 The writ, whether issued in the superior court, the justice court or
37 the ~~police~~ MUNICIPAL court, shall require the garnishee to answer within ten
38 days after being served with the writ.

39 Sec. 4. Section 12-1598.06, Arizona Revised Statutes, is amended to
40 read:

41 12-1598.06. Time for answer

42 The writ, whether issued in the superior court, the justice court or
43 the ~~police~~ MUNICIPAL court, shall require the garnishee to answer within ten
44 days from service of the writ.

1 address of a taxpayer whose debt for overdue support is referred for setoff
2 and any additional taxpayer identification numbers used by the taxpayer.

3 (b) The court, the home address and any additional taxpayer
4 identification numbers used by the taxpayer whose debt for a court obligation
5 is referred for setoff and who is identified by the court as a probationer on
6 absconder status.

7 2. Request final agency, political subdivision or court confirmation
8 in writing or electronically as determined by the department within ten days
9 of the match and of the continuation of the debt. If the agency, political
10 subdivision or court fails to provide confirmation within forty-five days
11 after the request, the department shall release the refund to the taxpayer.

12 D. An agency, political subdivision or court may submit updated
13 information, additions, deletions and other changes on a quarterly or more
14 frequent basis, at the convenience of the agency, political subdivision or
15 court.

16 E. On confirmation pursuant to subsection C, paragraph 2 of this
17 section, the agency or political subdivision shall notify the taxpayer, by
18 mail to the most recent address provided by the taxpayer to the department:

19 1. Of the intention to set off the debt against the refund due.

20 2. Of the taxpayer's right to appeal to the appropriate court, or to
21 request a review by the agency or political subdivision pursuant to agency or
22 political subdivision rule, within thirty days of the mailing of the notice.

23 F. In addition the taxpayer shall receive notice that if the refund is
24 intercepted in error through no fault of the taxpayer, the taxpayer is
25 entitled to the full refund plus interest and penalties from the agency,
26 political subdivision or court as provided by subsection 0 of this section.

27 G. The basis for a request for review as provided by subsection E of
28 this section shall not include the validity of the claim if its validity has
29 been established at an agency hearing, by judicial review in a court of
30 competent jurisdiction in this or any other state or by final administrative
31 decision and shall state with specificity why the taxpayer claims the
32 obligation does not exist or why the amount of the obligation is incorrect.

33 H. If, within thirty days of the mailing of the notice, the taxpayer
34 requests a review by the agency or political subdivision or provides the
35 agency or political subdivision with proof that an appeal has been taken to
36 the appropriate court, the agency or political subdivision shall immediately
37 notify the department and the setoff procedure shall be stayed pending
38 resolution of the review or appeal.

39 I. If the department does not receive notice of a timely appeal, it
40 shall draw and deliver a warrant in the amount of the available refund up to
41 the amount of the debt in favor of the agency or political subdivision and
42 notify the taxpayer of the action by mail.

43 J. Subsections E, G, H and I of this section do not apply to a debt
44 imposed by a court except that the taxpayer shall receive notice of the

1 intent to set off the debt against the refund due and the right to appeal to
2 the court that imposed the debt within thirty days of the mailing of the
3 notice. The basis for the request for review shall not include the validity
4 of the claim and shall state with specificity why the taxpayer claims the
5 obligation does not exist or why the obligation is incorrect.

6 K. If the setoff accounts for only a portion of the refund due, the
7 remainder of the refund shall be sent to the taxpayer. A court shall not use
8 this section to satisfy a judgment or payment of a fine or civil penalty
9 until the judgment has become final or until the time to appeal the
10 imposition of a fine or civil penalty has expired.

11 L. A revolving fund is established to recover and pay the cost of
12 operating the setoff program under this section. The department may
13 prescribe a fee to be collected from each agency, political subdivision or
14 court utilizing the setoff procedure or from the taxpayer, and the amount
15 shall be deposited in the fund. The amount of the fee shall reasonably
16 reflect the actual cost of the service provided. Monies in the revolving
17 fund are subject to legislative appropriation.

18 M. If agencies, political subdivisions or courts have two or more
19 delinquent accounts for the same taxpayer, the refund may be apportioned
20 among them pursuant to rules prescribed by the department of revenue, except
21 that a setoff to the department of economic security for overdue support has
22 priority over all other setoffs.

23 N. If the refund is insufficient to satisfy the entire debt, the
24 remainder of the debt may be collected by the agency, political subdivision
25 or court as provided by law or resubmitted for setoff against subsequent
26 refunds.

27 O. In the case of a refund that is intercepted in error through no
28 fault of the taxpayer under this section, the taxpayer shall be reimbursed by
29 the agency, political subdivision or court with interest pursuant to section
30 42-1123. In addition, if all or part of a refund is intercepted in error due
31 to an agency, political subdivision or court incorrectly identifying a
32 taxpayer as a debtor through no fault of the taxpayer, the agency, political
33 subdivision or court shall also pay the taxpayer a penalty as follows:

34 1. If the agency, political subdivision or court reimburses the
35 taxpayer sixteen through one hundred eighty days after the agency, political
36 subdivision or court receives notification that the refund was erroneously
37 intercepted and the refund was received by the agency, political subdivision
38 or court, the penalty is equal to ten ~~per-cent~~ PERCENT of the amount of the
39 refund that was intercepted.

40 2. If the agency, political subdivision or court reimburses the
41 taxpayer one hundred eighty-one through three hundred sixty-five days after
42 the agency, political subdivision or court receives notification that the
43 refund was erroneously intercepted and the refund was received by the agency,

1 political subdivision or court, the penalty is equal to fifteen ~~per cent~~
2 PERCENT of the amount of the refund that was intercepted.

3 3. If the agency, political subdivision or court fails to reimburse
4 the taxpayer within three hundred sixty-five days after the agency, political
5 subdivision or court receives notification that the refund was erroneously
6 intercepted and the refund was received by the agency, political subdivision
7 or court, the penalty is equal to twenty ~~per cent~~ PERCENT of the amount of
8 the refund that was intercepted.

9 P. The time periods set forth in subsection 0 of this section shall be
10 stayed during a review of an agency decision pursuant to section 25-522.

11 Q. Except as is reasonably necessary to accomplish the purposes of
12 this section, the department shall not disclose under this section any
13 information in violation of chapter 2, article 1 of this title.

14 R. An agency, political subdivision or court shall not enter into an
15 agreement with a debtor for:

16 1. The assignment of any prospective refund to the agency, political
17 subdivision or court in satisfaction of the debt.

18 2. Payment of the debt if the debt has been confirmed to the
19 department for setoff under subsection C, paragraph 2 of this section.

20 S. If a tax refund is based on a joint income tax return and the
21 department of economic security receives a written claim from the
22 nonobligated spouse within forty-five days after the notice of a setoff for
23 overdue child support, the setoff only applies to that portion of the refund
24 due to the obligor. The nonobligated spouse shall provide to the department
25 of economic security copies of both the obligated and nonobligated spouse's
26 federal W-2 forms and evidence of estimated tax payments supporting the
27 proportionate share of each spouse's payment of tax. The department of
28 economic security shall retain the amount of the set off refund due to the
29 obligated spouse determined by a proration based on the tax payments of each
30 spouse by estimated tax payment or tax withheld from wages.

31 T. For the purposes of this section:

32 1. "Agency" means a department, agency, board, commission or
33 institution of this state. Agency also means a corporation that is under
34 contract with this state and that provides a service that would otherwise be
35 provided by a department, agency, board, commission or institution of this
36 state, if the contract specifically authorizes participation in the liability
37 setoff program and the attorney general's office has reviewed the contract
38 and approves such authorization. The participation in the liability setoff
39 program shall be limited to debt related to the services the corporation
40 provides for or on behalf of this state.

41 2. "Court" means all courts of record, justice courts, ~~AND~~ municipal
42 courts ~~and police courts~~.

43 3. "Debt" means an amount over fifty dollars owed to an agency,
44 political subdivision or court by a taxpayer and may include a judgment in

1 favor of this state or a political subdivision of this state, interest,
2 penalties, charges, costs, fees, fines, civil penalties, surcharges,
3 assessments, administrative charges or any other amount. Debt also includes
4 monies owed by a taxpayer for overdue support and referred to the department
5 of economic security or the clerk of the court for collection.

6 4. "Overdue support" means a delinquency in court ordered payments for
7 spousal maintenance or support of a child or for spousal maintenance to the
8 parent with whom the child is living if child support is also being enforced
9 pursuant to an assignment or application filed under 42 United States Code
10 section 654(6) or other applicable law.

11 5. "Political subdivision" means a county or an incorporated city or
12 town in this state.