

State of Arizona  
House of Representatives  
Fifty-third Legislature  
Second Regular Session  
2018

**CHAPTER 236**  
**HOUSE BILL 2306**

AN ACT

AMENDING SECTION 28-4847, ARIZONA REVISED STATUTES; RELATING TO TOWING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 28-4847, Arizona Revised Statutes, is amended to  
3 read:

4 28-4847. Owners; insurance companies; release; fees; vehicle  
5 repair facilities; applicability; violation;  
6 classification; business practices; unlawful  
7 practices; definition

8 A. A towing company shall release a towed vehicle to THE OWNER OR a  
9 person designated in writing by an insurance company during normal  
10 business hours on the day the request for release is provided to the  
11 towing company, the detailed statement of charges is provided by the  
12 towing company at no cost and payment for ~~any~~ ANY reasonable towing,  
13 storage and related fees is received by the towing company. BEGINNING  
14 JANUARY 1, 2019, OWNERS, INSURANCE COMPANIES, TOWING COMPANIES AND OTHER  
15 PERSONS REQUESTING THE RELEASE OF A VEHICLE FROM A STORAGE LOT PURSUANT TO  
16 THIS SECTION SHALL USE THE STANDARD FORM PRESCRIBED BY THE DEPARTMENT  
17 PURSUANT TO THIS SECTION AND SHALL PRESENT PROOF OF OWNERSHIP PURSUANT TO  
18 SECTION 28-4842, SUBSECTION E. The request for release shall be in  
19 writing and:

20 1. IF APPLICABLE, shall indicate the name of the insurer as well as  
21 the name, address, telephone number and fax number of a representative of  
22 the insurer.

23 2. Shall include the name, address and telephone number of the  
24 owner, the owner's written consent for release of the vehicle and the name  
25 of the insured, if different from the owner.

26 3. IF APPLICABLE, shall include the insurer's claim number and the  
27 name of the person to whom the insurer authorizes release of the vehicle.

28 4. IF APPLICABLE, shall be signed by the owner except as provided  
29 in paragraph 6 of this subsection.

30 5. May be faxed, E-MAILED OR DELIVERED BY OTHER ELECTRONIC MEANS,  
31 mailed or hand delivered to the towing company.

32 6. If the written consent of the owner is not obtained pursuant to  
33 paragraph 2 of this subsection, the request for release shall include a  
34 statement that the insurer has authorization from the vehicle owner to  
35 remove the vehicle from the towing company's storage ~~premises~~ LOT.

36 7. Shall include a statement that the owner has been informed that  
37 pursuant to this section the towing company is presumptively not  
38 responsible for any loss of personal property or damage to the vehicle  
39 that is not disclosed to the towing company before the insurer or the  
40 insurer's authorized agent removes the vehicle from the towing company's  
41 storage ~~premises~~ LOT. The notice shall also include a statement that the  
42 owner or person designated in writing by the owner and witnessed by a  
43 third party may inspect the vehicle at the towing company's storage  
44 ~~premises~~ LOT DURING REGULAR BUSINESS HOURS, may remove any personal  
45 property from the vehicle and may report any damage to the vehicle to the

1 towing company at the time of inspection. The towing company shall not  
2 require payment for the removal of personal property that is inside the  
3 vehicle if the removal is during business hours. For the purposes of this  
4 paragraph, personal property does not include any vehicle parts, vehicle  
5 equipment or vehicle accessories.

6 B. After an OWNER OR insurance company has completed a request for  
7 release of a vehicle and before payment is made for the release of that  
8 vehicle, the towing company shall provide to the OWNER OR insurance  
9 company at no cost a detailed written statement of all charges for towing,  
10 storage and related fees. IF BEFORE NOON ON A DAY THAT THE TOWING COMPANY  
11 IS REQUIRED TO BE OPEN OR AVAILABLE BY APPOINTMENT PURSUANT TO SUBSECTION  
12 N OF THIS SECTION, AN OWNER OR INSURANCE COMPANY REQUESTS A DETAILED  
13 STATEMENT OF CHARGES, THE TOWING COMPANY SHALL PROVIDE A DETAILED  
14 STATEMENT OF CHARGES BY THE CLOSE OF BUSINESS THAT DAY. THE ITEMIZED  
15 CHARGES SHALL INCLUDE CHARGES FOR THE DAY OF THE REQUEST AND THE DAILY  
16 RATE TO BE CHARGED IF THE VEHICLE IS TO BE RELEASED ON A LATER DAY. IF  
17 THE TOWING COMPANY FAILS TO PROVIDE A DETAILED LIST OF CHARGES BY THE  
18 CLOSE OF BUSINESS ON THE DAY OF THE REQUEST, THE TOWING COMPANY SHALL NOT  
19 ASSESS ANY STORAGE CHARGES ON SUBSEQUENT DAYS UNTIL THE DAY THAT THE  
20 TOWING COMPANY PROVIDES THE DETAILED STATEMENT OF CHARGES TO THE OWNER OR  
21 INSURANCE COMPANY. AFTER THE OWNER OR INSURANCE COMPANY REQUESTS RELEASE  
22 OF A VEHICLE, A TOWING COMPANY MAY NOT IMPOSE ANY ADDITIONAL FEES OR  
23 CHARGES UNTIL THE TOWING COMPANY PROVIDES THE DETAILED WRITTEN STATEMENT.  
24 AFTER THE TOWING COMPANY PROVIDES THE DETAILED WRITTEN STATEMENT,  
25 additional storage charges may accrue until final payment is made and the  
26 vehicle is removed from the premises LOT by the vehicle owner or the  
27 insurance company or the person designated in writing by the insurance  
28 company.

29 C. If the vehicle owner does not inspect the vehicle pursuant to  
30 subsection A, paragraph 7 of this section before removal of the vehicle to  
31 another premises LOT, or has inspected the vehicle and has had the  
32 opportunity to remove personal property in the vehicle, a rebuttable  
33 presumption shall be created that damage to the vehicle and any loss of  
34 personal property in the vehicle occurred while the vehicle was not in the  
35 custody of the towing company. The presumption may be overcome by a  
36 preponderance of evidence to the contrary.

37 ~~D. Except for proration for partial days, a towing company shall~~  
38 ~~not charge additional storage fees for a vehicle after a request for~~  
39 ~~release and payment has been made pursuant to subsection A of this section~~  
40 ~~if both of the following apply:~~

41 ~~1. The insurance company or its representative provides the written~~  
42 ~~request for release as prescribed in this section.~~

43 ~~2. The insurance company or its representative removes the vehicle~~  
44 ~~from the towing company's storage premises during normal business hours on~~  
45 ~~the day the towing company receives the request for release.~~

1 D. AFTER AN ACCIDENT, A TOWING COMPANY SHALL TOW THE VEHICLE TO THE  
2 CLOSEST STORAGE LOT DESIGNATED IN THE APPLICABLE CONTRACT UNLESS THERE IS  
3 INSUFFICIENT CAPACITY IN THE CLOSEST STORAGE LOT OR THE OWNER DIRECTS THE  
4 TOWING COMPANY TO TOW THE VEHICLE TO A DIFFERENT LOCATION OTHER THAN A  
5 STORAGE LOT. IF AN OFFICER AT THE SCENE DIRECTS A VEHICLE TO BE TAKEN TO  
6 ANOTHER SITE AS EVIDENCE IN A CRIMINAL ACTION OR FOR FUTURE CRIMINAL  
7 INVESTIGATION, THE VEHICLE SHALL BE TAKEN TO THAT SITE.

8 E. A person in this state may choose any vehicle repair facility  
9 for the repair of a motor vehicle. A person in this state may choose any  
10 towing company or operator of a towing vehicle to transport a motor  
11 vehicle from a towing company's storage ~~premises~~ LOT to a vehicle repair  
12 facility. At the same time a towing company or operator of a towing  
13 vehicle provides information about a vehicle repair facility, the company  
14 or operator shall inform the person of both of the following:

15 1. The person's right to choose any vehicle repair facility for the  
16 repair of a motor vehicle.

17 2. Any commonality of ownership between the vehicle repair facility  
18 and either the towing company or the operator of the towing vehicle.

19 F. A towing company shall not tow or transport a vehicle from its  
20 storage lot without the prior permission of the vehicle owner or the  
21 insurance company. The towing company may move a vehicle between its own  
22 storage lots without obtaining prior permission. The towing company shall  
23 not charge any additional fee or other monies to a vehicle owner or an  
24 insurance company as a result of any change in location of the vehicle  
25 between its own storage lots.

26 G. A TOWING COMPANY MAY NOT:

27 1. FOR A PRIMARY TOW, CHARGE AN OWNER OR INSURANCE COMPANY ANY  
28 AMOUNT IN EXCESS OF AN AMOUNT THAT IS AUTHORIZED PURSUANT TO THE CONTRACT  
29 OR THIS SECTION. FOR PURPOSES OF THIS PARAGRAPH, "PRIMARY TOW":

30 (a) MEANS A VEHICLE TOW FROM THE SITE OF AN ACCIDENT TO A STORAGE  
31 LOT OR OTHER LOCATION THAT IS DESIGNATED BY AN OWNER OR OFFICER PURSUANT  
32 TO SUBSECTION D OF THIS SECTION.

33 (b) INCLUDES WORK RELATED TO A VEHICLE TOW AT THE ACCIDENT SCENE.

34 2. REFUSE TO RELEASE A VEHICLE TO AN OWNER OR INSURANCE COMPANY  
35 AFTER THE OWNER OR INSURANCE COMPANY PRESENTS A REQUEST FOR RELEASE OF THE  
36 VEHICLE PURSUANT TO SUBSECTION B OF THIS SECTION AND PAYS THE AUTHORIZED  
37 FEES AND CHARGES.

38 ~~G.~~ H. A vehicle repair facility or any employee of a vehicle  
39 repair facility shall not pay or agree to pay, and a towing company or any  
40 employee of a towing company shall not accept or agree to accept, any  
41 monies, fees, commissions, credits, gifts, gratuities, things of value or  
42 other compensation that is provided directly or indirectly for the purpose  
43 of inducing the towing company or any employee of a towing company to do  
44 any of the following:

1           1. Attempt to intimidate, unreasonably persuade or induce the  
2 person requesting the tow or transport of a vehicle to choose the services  
3 of the vehicle repair facility recommended by the towing company.

4           2. Refuse to tow or transport the vehicle unless the person  
5 requesting the tow or transport of a vehicle agrees to the vehicle repair  
6 facility recommended by the towing company.

7           3. Deliver a vehicle to a vehicle repair facility other than the  
8 vehicle repair facility chosen by the person requesting the tow or  
9 transport of the vehicle.

10          4. Make an intentional misrepresentation regarding the condition of  
11 the vehicle, the person's insurer or a specific vehicle repair facility.

12           ~~H. Unless otherwise directed by a law enforcement officer, the~~  
13 ~~towing company shall tow the vehicle to one of the following locations, in~~  
14 ~~the following order of priority:~~

15           ~~1. A location specified by the owner of the vehicle if the owner is~~  
16 ~~present at the time of the tow and is capable of indicating the owner's~~  
17 ~~preference.~~

18           ~~2. A vehicle storage yard designated in the contract under which~~  
19 ~~the towing company has responsibility for towing the vehicle.~~

20          I. Subsection E of this section does not create a private right or  
21 cause of action to or on behalf of any person.

22          J. This section does not create a cause of action or a right to  
23 bring an action against a towing company for releasing a motor vehicle to  
24 a person other than the owner if the written authorization as prescribed  
25 in this section is provided to the towing company by the owner or an  
26 insurance company.

27          K. This section only applies to tows resulting from motor vehicle  
28 accidents.

29          L. A person who ~~violates this section~~ FAILS TO RELEASE A VEHICLE ON  
30 RECEIPT OF THE OWNER'S OR INSURANCE COMPANY'S WRITTEN REQUEST FOR RELEASE  
31 PURSUANT TO SUBSECTION B OF THIS SECTION AND PAYMENT OF AUTHORIZED TOWING  
32 AND STORAGE FEES AND CHARGES is guilty of a petty offense. A person who  
33 subsequently violates this ~~section~~ SUBSECTION within thirty-six months  
34 after a prior violation of this ~~section~~ SUBSECTION is guilty of a class 3  
35 misdemeanor.

36          M. THE REGISTERED OWNER PRESENTING PROOF OF OWNERSHIP PURSUANT TO  
37 SECTION 28-4842, SUBSECTION E, THE INSURANCE COMPANY OR A PERSON  
38 DESIGNATED IN WRITING BY THE OWNER MAY INSPECT THE VEHICLE AT THE TOWING  
39 COMPANY'S STORAGE LOT DURING NORMAL BUSINESS HOURS, MAY REMOVE ANY  
40 PERSONAL PROPERTY FROM THE VEHICLE AND MAY REPORT TO THE TOWING COMPANY AT  
41 THE TIME OF INSPECTION ANY DAMAGE TO THE VEHICLE THAT IS ALLEGEDLY CAUSED  
42 BY THE TOWING COMPANY. THE TOWING COMPANY MAY REQUIRE THE OWNER OR  
43 INSURANCE COMPANY TO SIGN A RELEASE OF LIABILITY FOR THE REMOVAL OF  
44 PERSONAL ITEMS FROM A VEHICLE. BEGINNING JANUARY 1, 2019, OWNERS,  
45 INSURANCE COMPANIES, TOWING COMPANIES AND OTHER PERSONS WHO REMOVE

1 PERSONAL ITEMS FROM A VEHICLE PURSUANT TO THIS SECTION SHALL USE THE  
2 STANDARD FORM PRESCRIBED BY THE DEPARTMENT PURSUANT TO THIS SECTION. THE  
3 TOWING COMPANY MAY NOT REQUIRE PAYMENT FOR THE REMOVAL OF PERSONAL  
4 PROPERTY THAT IS INSIDE THE VEHICLE IF THE INSPECTION AND REMOVAL OCCURS  
5 DURING NORMAL BUSINESS HOURS. FOR THE PURPOSES OF THIS SUBSECTION,  
6 PERSONAL PROPERTY DOES NOT INCLUDE VEHICLE PARTS, VEHICLE EQUIPMENT OR  
7 VEHICLE ACCESSORIES.

8 N. A TOWING COMPANY SHALL IMPLEMENT THE FOLLOWING BUSINESS AND  
9 BILLING PRACTICES:

10 1. FOR BILLING PURPOSES, A STORAGE DAY IS FROM MIDNIGHT OF ONE DAY  
11 TO MIDNIGHT OF THE NEXT DAY.

12 2. THE TOWING COMPANY SHALL ALLOW A VEHICLE OWNER'S OR INSURANCE  
13 COMPANY'S PAYMENT OF TOWING AND STORAGE FEES AND CHARGES TO BE MADE IN THE  
14 FORM OF CASH, CREDIT CARD, DEBIT CARD, INSURANCE COMPANY-ISSUED CHECK OR  
15 MONEY ORDER.

16 3. THE TOWING COMPANY'S STORAGE LOT MUST BE OPEN OR OTHERWISE  
17 AVAILABLE BY APPOINTMENT TO PROVIDE CURRENT BILLING STATEMENTS TO VEHICLE  
18 OWNERS AND INSURANCE COMPANIES AND BE OPEN TO THE PUBLIC OR BY APPOINTMENT  
19 FOR RELEASING VEHICLES BETWEEN THE HOURS OF 9:00 A.M. AND 5:00 P.M. MONDAY  
20 THROUGH FRIDAY, EXCLUDING HOLIDAYS.

21 4. EXCEPT AS PROVIDED IN PARAGRAPHS 1 THROUGH 3 OF THIS SUBSECTION,  
22 ALL TOWING AND STORAGE FEES AND CHARGES, INCLUDING EXTRA CHARGES, SHALL BE  
23 MADE PURSUANT TO THE TERMS OF THE APPLICABLE CONTRACT WITH THE  
24 JURISDICTION GOVERNING THE TOW AND STORAGE.

25 5. STORAGE FEES AND CHARGES MAY NOT ACCRUE FOR ANY DAY WHEN THE  
26 STORAGE LOT IS NOT OPEN OR AVAILABLE BY APPOINTMENT ON A DAY AND TIME  
27 SPECIFIED IN PARAGRAPH 3 OF THIS SUBSECTION TO OBTAIN A DETAILED STATEMENT  
28 OF CHARGES OR TO HAVE A VEHICLE RELEASED.

29 0. FOR TOWS THAT RESULT FROM A MOTOR VEHICLE ACCIDENT:

30 1. ALL ACTS OF EMPLOYEES OR CONTRACTORS OF A TOWING COMPANY WITHIN  
31 THE SCOPE OF EMPLOYMENT ARE DEEMED TO BE ACTS OF THE TOWING COMPANY. AN  
32 ACT OR PRACTICE IN VIOLATION OF THIS SECTION CONSTITUTES AN UNLAWFUL  
33 PRACTICE UNDER SECTION 44-1522. THE ATTORNEY GENERAL MAY INVESTIGATE AND  
34 TAKE APPROPRIATE ACTION AGAINST A TOWING COMPANY THAT VIOLATES THIS  
35 SECTION AS PRESCRIBED BY TITLE 44, CHAPTER 10, ARTICLE 7 AND THE TOWING  
36 COMPANY IS SUBJECT TO ANY OTHER CIVIL OR CRIMINAL ACTION, REMEDY AND  
37 PENALTY PROVIDED BY LAW.

38 2. A LIEN DOES NOT EXIST IN FAVOR OF A TOWING COMPANY OR STORAGE  
39 LOT FOR UNPAID TOWING OR STORAGE FEES OR CHARGES THAT ARE INCURRED. THIS  
40 PARAGRAPH DOES NOT AFFECT THE APPLICABILITY OF SECTION 28-872, SUBSECTION  
41 H, PARAGRAPH 2 AND SECTION 28-4842.

42 P. ON OR BEFORE DECEMBER 31, 2018, THE DEPARTMENT SHALL DEVELOP AND  
43 PRESCRIBE THE FOLLOWING FORMS TO BE USED BY OWNERS, INSURANCE COMPANIES  
44 AND OTHERS:

- 1           1. A RELEASE FORM TO RELEASE A VEHICLE FROM A TOWING COMPANY  
2 STORAGE LOT PURSUANT TO THIS SECTION.
- 3           2. A RELEASE OF LIABILITY FORM RELATING TO THE REMOVAL OF PERSONAL  
4 ITEMS FROM A VEHICLE LOCATED IN A TOWING COMPANY STORAGE LOT.
- 5           Q. THE DEPARTMENT MAY REVISE THE FORMS PRESCRIBED BY SUBSECTION P  
6 OF THIS SECTION.
- 7           R. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE PROVISIONS OF  
8 A CONTRACT BETWEEN A TOWING COMPANY AND A JURISDICTION APPLY TO TOWING AND  
9 STORAGE TRANSACTIONS.
- 10          ~~M.~~ S. For the purposes of this section:
- 11           1. "CONTRACT" MEANS THE CURRENT CONTRACTUAL AGREEMENT BETWEEN THE  
12 TOWING COMPANY AND THE GOVERNMENTAL JURISDICTION IN WHICH THE ACCIDENT  
13 OCCURS.
- 14           ~~1.~~ 2. ~~"Gift"~~ does not include an item of nominal value.
- 15           ~~2. "Owner" has the same meaning prescribed in section 28-101.~~

APPROVED BY THE GOVERNOR APRIL 17, 2018.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 17, 2018.