Conference Engrossed

State of Arizona
House of Representatives
Fifty-third Legislature
First Regular Session
2017

CHAPTER 249

HOUSE BILL 2159

AN ACT

AMENDING SECTIONS 28-674, 28-730, 28-3512, 28-4804 AND 28-4805, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 11, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-4806; AMENDING SECTIONS 28-4834 AND 28-4842, ARIZONA REVISED STATUTES; RELATING TO TRANSPORTATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 28-674, Arizona Revised Statutes, is amended to read:

28-674. Traffic accidents; quick clearance

A. Notwithstanding any other provision of this article, motor vehicles involved in traffic accidents and drivers of motor vehicles involved in traffic accidents are subject to this section.

B. This section applies to motor vehicle traffic accidents that occur on controlled access highways and any other highways that are divided into two or more lanes clearly marked for traffic in this state.

C. If a motor vehicle traffic accident occurs and serious physical injury as defined in section 13-105 or death is not apparent, the drivers of the motor vehicles involved in the accident, or any other occupant of the motor vehicles involved in the accident who possesses a valid driver license, shall remove the motor vehicles from the main traveled portion of the roadway into a safe refuge on the shoulder, emergency lane or median or to a place otherwise removed from the roadway if both of the following apply:

   1. The moving of the motor vehicle can be done safely.
   2. The motor vehicle is capable of being normally and safely driven, does not require towing and can be operated under its own power in its customary manner without further damage or hazard to the motor vehicle to traffic elements or to the roadway.

D. The driver of a motor vehicle involved in a traffic accident may request any person who possesses a valid driver license to remove the motor vehicle as provided in this section, and the person requested to remove the motor vehicle may comply with the request.

E. The driver or any other person who removes a motor vehicle from the main traveled portion of the roadway as provided in this section before the arrival of a police officer is not liable or at fault regarding the cause of the traffic accident solely by reason of moving the motor vehicle pursuant to this section.

F. This section does not abrogate or affect a driver’s duty to do either of the following:

   1. File any written report required by a local law enforcement agency, except that compliance with this section does not allow a driver to be prosecuted for the driver’s failure to stop and immediately report a traffic accident.
   2. Stop and give information pursuant to this article.

G. This section does not relieve a police officer of the duty to submit a written accident report pursuant to this article.

H. In the exercise of the management, control and maintenance of state highways, the department may require and assist in the removal of
the following from the main traveled portion of the roadways in the state highway system:

1. All vehicles that are incapacitated for any cause other than having been involved in a motor vehicle traffic accident.
2. All vehicles incapacitated as a result of being involved in a motor vehicle traffic accident and debris caused by a motor vehicle traffic accident if both of the following apply:
   (a) Serious physical injury as defined in section 13-105 or death is not apparent.
   (b) The move can be accomplished safely by the drivers of the motor vehicles involved or with the assistance of a towing or recovery vehicle and the move will result in the improved safety or convenience of travel on the highway.

I. The department shall not require or assist in the removal of a motor vehicle that is incapacitated as a result of being involved in a motor vehicle traffic accident if serious physical injury as defined in section 13-105 or death is apparent until a police officer has made the necessary measurements and diagrams required for the initial accident investigation.

J. IF THE DEPARTMENT OR A POLICE OFFICER BELIEVES THAT A VEHICLE PRESENTS A POTENTIAL FIRE OR OTHER SAFETY HAZARD AND REQUESTS A TOWING OR RECOVERY VEHICLE TO ASSIST IN MOVING THE VEHICLE PURSUANT TO SUBSECTION H, PARAGRAPH 2 OF THIS SECTION, THE DEPARTMENT OR POLICE OFFICER MAY DIRECT AND ACKNOWLEDGE IN WRITING THAT THE TOWING OR RECOVERY VEHICLE OPERATOR SHALL EITHER INTENTIONALLY DAMAGE A PART OF THE VEHICLE THAT DOES NOT NEED TO BE DAMAGED TO MOVE THE VEHICLE UNDER ACCEPTED TOWING PRACTICES OR MOVE OR TOW THE VEHICLE IN A MANNER OR WITH AN URGENCY THAT IS NOT CONSISTENT WITH ACCEPTABLE TOWING PRACTICES. THE OPERATOR OF THE TOWING OR RECOVERY VEHICLE IS NOT LIABLE FOR ANY DAMAGE TO PERSONAL PROPERTY RESULTING FROM THE DEPARTMENT'S OR POLICE OFFICER'S EFFORT TO MITIGATE THE POTENTIAL FIRE OR OTHER SAFETY HAZARD PURSUANT TO THIS SUBSECTION UNLESS THE REMOVAL IS DONE RECKLESSLY OR IN A GROSSLY NEGLIGENCE MANNER.

Sec. 2. Section 28-730, Arizona Revised Statutes, is amended to read:

28-730. Following too closely
A. The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent and shall have due regard for the speed of the vehicles on, the traffic on the highway.
B. The driver of a motor truck or motor vehicle that is drawing another vehicle when traveling on a roadway outside of a business or residence district and that is following another motor truck or motor vehicle drawing another vehicle shall leave, if conditions permit, sufficient space so that an overtaking vehicle may enter and occupy the
space without danger. This subsection does not prevent a motor truck or
motor vehicle drawing another vehicle from overtaking and passing any like
vehicle or other vehicles.

C. A person who is driving a motor vehicle in a caravan or
motorcade on a roadway outside of a business or residence district,
whether or not towing other vehicles, shall allow sufficient space between
each vehicle or combination of vehicles to enable any other vehicle to
enter and occupy the space without danger. This subsection does not apply
to funeral processions.

D. THIS SECTION DOES NOT APPLY TO A DEMONSTRATION PROJECT THAT THE
DEPARTMENT OF TRANSPORTATION CONDUCTS IF BOTH OF THE FOLLOWING APPLY:
1. THE DEMONSTRATION PROJECT IS ON A STATE HIGHWAY.
2. THE DIRECTOR CONSULTS WITH THE DEPARTMENT OF PUBLIC SAFETY
BEFORE THE DEMONSTRATION PROJECT IS IMPLEMENTED.

Sec. 3. Section 28-3512, Arizona Revised Statutes, is amended to
read:

28-3512. Release of vehicle; civil penalties; definition
A. An immobilizing or impounding agency shall release a vehicle to
the registered owner before the end of the thirty-day THIRTY-DAY
immobilization or impoundment period under any of the following
circumstances AS FOLLOWS:
1. TO THE REGISTERED OWNER, if the vehicle is a stolen vehicle.
2. TO THE REGISTERED OWNER, if the vehicle is subject to bailment
and is driven by an employee of a business establishment, including a
parking service or repair garage, who is subject to section 28-3511,
subsection A, B or C.
3. TO THE REGISTERED OWNER, if the owner was operating the vehicle
at the time of removal and either immobilization or impoundment and
presents proof satisfactory to the immobilizing or impounding agency that
the owner's driving privilege has been reinstated.
4. TO THE REGISTERED OWNER, if all of the following apply:
   (a) The owner or the owner's agent was not the person driving the
   vehicle pursuant to section 28-3511, subsection A.
   (b) The owner or the owner's agent is in the business of renting
   motor vehicles without drivers.
   (c) The vehicle is registered pursuant to section 28-2166.
   (d) There was a rental agreement in effect at the time of the
   immobilization or impoundment.
5. FOR EXCEPT AS PROVIDED IN PARAGRAPH 7 OF THIS SUBSECTION, TO the
spouse of the REGISTERED owner or any person who is identified as an owner
of the vehicle on the records of the department at the time of removal and
either immobilization or impoundment, if the spouse or person was not the
driver of the vehicle at the time of removal and either immobilization or
impoundment and the spouse or person enters into an agreement with the
immobilizing or impounding agency that stipulates that if the spouse or person allows a driver who does not have a valid driving privilege or a driver who commits a violation that causes the spouse's or person's vehicle to be removed and either immobilized or impounded pursuant to this article within one year after any agreement is signed by an immobilizing or impounding agency, the spouse or person will not be eligible to obtain release of the spouse's or person's vehicle before the end of the thirty-day THIRTY-DAY immobilization or impoundment period.

6. TO THE MOTOR VEHICLE DEALER, if the vehicle is owned by a motor vehicle dealer who has paid fees pursuant to section 28-4302 and is driven by a customer, potential customer or employee of the motor vehicle dealer and the motor vehicle dealer has provided to the immobilizing or impounding agency indicia of the motor vehicle dealer's ownership of the vehicle, including a certificate of title or a manufacturer-issued certificate or statement of origin.


B. A vehicle shall not be released pursuant to subsection A of this section except pursuant to an immobilization or a poststorage hearing under section 28-3514 or if all of the following are presented to the immobilizing or impounding agency:

1. The owner's or owner's spouse's currently valid driver license issued by this state or the owner's or owner's spouse's state of domicile.

2. Proof of current vehicle registration or a valid salvage or dismantle certificate of title.

3. Proof that the vehicle is in compliance with the financial responsibility requirements of chapter 9, article 4 of this title.

4. If the person is required by the department to install a certified ignition interlock device on the vehicle, proof of installation of a functioning certified ignition interlock device in the vehicle. The impounding agency, storage yard, facility, person or agency having physical possession of the vehicle shall allow access during normal business hours to the impounded vehicle for the purpose of installing a certified ignition interlock device. The impounding agency, storage yard, facility, person or agency having physical possession of the vehicle shall not charge any fee or require compensation for providing access to the vehicle or for the installation of the certified ignition interlock device.

C. The owner or the owner's spouse if the vehicle is released to the owner's spouse is responsible for paying all immobilization, towing
and storage charges related to the immobilization or impoundment of the vehicle and any administrative charges established pursuant to section 28-3513, unless the vehicle is stolen and the theft was reported to the appropriate law enforcement agency. If the vehicle is stolen and the theft was reported to the appropriate law enforcement agency, the operator of the vehicle at the time of immobilization or impoundment is responsible for all immobilization, towing, storage and administrative charges.

D. Before the end of the thirty-day THIRTY-DAY immobilization or impoundment period, the immobilizing or impounding agency shall release a vehicle to a person, other than the owner, identified on the department's record as having an interest in the vehicle immediately before the immobilization or impoundment if all of the following conditions are met:

1. The person is either of the following:
   (a) In the business of renting motor vehicles without drivers and the vehicle is registered pursuant to section 28-2166.
   (b) A motor vehicle dealer, bank, credit union or acceptance corporation or any other licensed financial institution legally operating in this state or is another person who is not the owner and who holds a security interest in the vehicle immediately before the immobilization or impoundment.

2. The person pays all immobilization, towing and storage charges related to the immobilization or impoundment of the vehicle and any administrative charges established pursuant to section 28-3513 unless the vehicle is stolen and the theft was reported to the appropriate law enforcement agency. If the vehicle is stolen and the theft was reported to the appropriate law enforcement agency, the operator of the vehicle at the time of immobilization or impoundment is responsible for all immobilization, towing, storage and administrative charges.

3. The person presents foreclosure documents or an affidavit of repossession of the vehicle.

4. The person requesting release of the vehicle was not the person driving the vehicle at the time of removal and immobilization or impoundment.

E. Before a person described in subsection D of this section releases the vehicle to the owner who was operating the vehicle at the time of removal and immobilization or impoundment, the person described in subsection D of this section shall require the owner to present and shall retain for a period of at least three years from the date of releasing the vehicle a copy of all of the following:

1. A driver license issued by this state or the owner's or owner's agent's state of domicile.

2. A current vehicle registration or a valid salvage or dismantle certificate of title.
3. Evidence that the vehicle is in compliance with the financial responsibility requirements of chapter 9, article 4 of this title.

F. The person described in subsection D of this section may require the owner to pay charges that the person incurred in connection with obtaining custody of the vehicle, including all immobilization, towing and storage charges that are related to the immobilization or impoundment of the vehicle and any administrative charges that are established pursuant to section 28-3513.

G. A vehicle shall not be released after the end of the thirty-day THIRTY-DAY immobilization or impoundment period unless the owner or owner's agent presents all of the following to the impounding or immobilizing agency:

1. A valid driver license issued by this state or by the owner's or owner's agent's state of domicile.

2. A current vehicle registration or a valid salvage or dismantle certificate of title.

3. Evidence that the vehicle is in compliance with the financial responsibility requirements of chapter 9, article 4 of this title.

4. If the person is required by the department to install a certified ignition interlock device on the vehicle, proof of installation of a functioning certified ignition interlock device in the vehicle. The impounding agency, storage yard, facility, person or agency having physical possession of the vehicle shall allow access during normal business hours to the impounded vehicle for the purpose of installing a certified ignition interlock device. The impounding agency, storage yard, facility, person or agency having physical possession of the vehicle shall not charge any fee or require compensation for providing access to the vehicle or for the installation of the certified ignition interlock device.

H. The storage charges relating to the impoundment of a vehicle pursuant to this section shall be subject to a contractual agreement between the impounding agency and a towing firm for storage services pursuant to section 41-1830.51 and shall be fifteen dollars for each day of storage, including any time the vehicle remains in storage after the end of the thirty-day THIRTY-DAY impoundment period.

I. The immobilizing or impounding agency shall have no lien or possessory interest in a stolen vehicle if the theft was reported to the appropriate law enforcement agency. The immobilizing or impounding agency shall release the vehicle to the owner or person other than the owner as identified in subsection D of this section even if the operator at the time of immobilization or impoundment has not paid all immobilization, towing, storage and administrative charges.

J. A person who enters into an agreement pursuant to subsection A, paragraph 5 of this section and who allows another person to operate the
vehicle in violation of the agreement is responsible for a civil traffic
violation and shall pay a civil penalty of at least two hundred fifty
dollars.

K. A person described in subsection D, paragraph 1 of this section
who violates subsection E of this section is responsible for a civil
traffic violation and shall pay a civil penalty of at least two hundred
fifty dollars.

L. For the purposes of this section, "certified ignition interlock
device" has the same meaning prescribed in section 28-1301.

Sec. 4. Section 28-4804, Arizona Revised Statutes, is amended to
read:

28-4804. Abandoned vehicle administration fund

A. The department may receive THE ABANDONED VEHICLE ADMINISTRATION
FUND IS ESTABLISHED CONSISTING OF monies COLLECTED pursuant to section
28-4802 and all OTHER monies collected pursuant to this chapter for
deposit in the state highway fund established by section 28-6991. THE
DEPARTMENT SHALL ADMINISTER THE FUND. MONIES IN THE FUND ARE CONTINUOUSLY
APPROPRIATED. THE DIRECTOR SHALL DEPOSIT THE MONIES COLLECTED IN THE
STATE HIGHWAY FUND ESTABLISHED BY SECTION 28-6991 EXCEPT THAT THE MONIES
THAT ARE DEPOSITED PURSUANT TO SECTION 28-4805 MAY NOT BE DEPOSITED IN THE
STATE HIGHWAY FUND AND SHALL BE USED TO PARTIALLY REIMBURSE REGISTERED
TOWING COMPANIES PURSUANT TO SECTION 28-4805.

B. IN ADDITION TO THE USE PRESCRIBED IN SUBSECTION A OF THIS
SECTION, the department shall use monies collected pursuant to this
chapter to carry out the OTHER duties prescribed by this chapter.

Sec. 5. Section 28-4805, Arizona Revised Statutes, is amended to
read:

28-4805. Towing company; reimbursement

If a vehicle is abandoned pursuant to section 28-4802 on national
forest, state park, bureau of land management or state trust land and a
fee is collected by the department, the towing company that towed the
abandoned vehicle off of the land, if still in business, is entitled to
receive one hundred dollars from TWENTY PERCENT OF the fee collected AS A
PARTIAL REIMBURSEMENT OF THE COSTS INCURRED BY THE TOWING COMPANY.

Sec. 6. Title 28, chapter 11, article 1, Arizona Revised Statutes,
is amended by adding section 28-4806, to read:

28-4806. Abandoned vehicle fee monies; deposit; towing
companies; payment system

A. BEFORE THE DISTRIBUTION OF ABANDONED VEHICLE FEES COLLECTED
PURSUANT TO SECTION 28-4802, SUBSECTION C AND BEFORE THE DISTRIBUTION OF
VEHICLE LICENSE TAX MONIES PURSUANT TO SECTION 28-5808, SUBSECTION D, THE
DEPARTMENT SHALL DEPOSIT TWENTY PERCENT OF ABANDONED VEHICLE FEES
COLLECTED IN THE ABANDONED VEHICLE ADMINISTRATION FUND ESTABLISHED BY
SECTION 28-4804.
B. THE DIRECTOR, IN CONSULTATION WITH REGISTERED TOWING COMPANIES IN THIS STATE, SHALL ESTABLISH A MONTHLY PAYMENT SYSTEM TO REIMBURSE REGISTERED TOWING COMPANIES THAT ARE ENTITLED TO PARTIAL REIMBURSEMENT UNDER SECTION 28-4805.

Sec. 7. Section 28-4834, Arizona Revised Statutes, is amended to read:

28-4834. Vehicle removal
A. An officer who has reasonable grounds to believe that a vehicle has been lost, stolen, abandoned or otherwise unclaimed may remove or cause the removal of the vehicle from any street or highway or on any other public, federal, state trust, national forest, state park or bureau of land management land or private property.

B. In counties with a population of less than one million five hundred thousand persons, before an officer removes or causes the removal of a vehicle that is abandoned as provided in section 28-4839 from the person in possession of the vehicle, the owner or lienholder of the vehicle or any other person who has an interest in the vehicle shall pay the person on whose property the vehicle was discovered an amount that does not exceed five dollars for each day of storage up to a maximum of five hundred dollars for the storage of the vehicle and the fee for processing an abandoned vehicle report as prescribed by section 28-4802 if the person on whose property the vehicle was discovered does both of the following:

1. Notifies a law enforcement agency by telephone in the jurisdiction where the vehicle was discovered of the presence of the vehicle on the person's property within forty-eight hours after the property owner discovered the vehicle.

2. Gives notice of abandonment of the vehicle in the manner prescribed by law.

C. This section does not require a law enforcement agency to pay any charges related to a vehicle that a law enforcement agency is required or otherwise authorized by law to impound or remove.

D. If a person removes or causes the removal of ANY VEHICLE, INCLUDING an abandoned vehicle, from private property, the person shall both:

1. Obtain written authorization from the owner or lessee of the property on a form prescribed by the director.

2. Submit the form and the vehicle identification form to the department.

E. An officer who is employed by a public agency or political subdivision and who has removed an abandoned vehicle pursuant to this section or who has removed or caused to be removed a vehicle pursuant to section 28-872 shall inspect the vehicle and shall complete the vehicle identification form prescribed or approved by the director. The agency or
political subdivision shall make an inquiry to determine whether the abandoned vehicle is a stolen abandoned vehicle.

F. A person who has removed or caused to be removed an abandoned vehicle from public land pursuant to section 28-4802 or private property shall have the vehicle inspected by an officer or agent of the department who shall complete the vehicle identification form prescribed by the director. The officer or agent designated by the director shall make an inquiry to determine whether the abandoned vehicle is a stolen abandoned vehicle.

G. IF A RENTER OR LESSEE OF PRIVATE PROPERTY PARKS A VEHICLE ON THE PRIVATE PROPERTY IN AN AREA THAT THE OWNER AUTHORIZES FOR THE VEHICLE, A PERSON MAY NOT REMOVE OR CAUSE THE REMOVAL OF THE VEHICLE FROM THE PRIVATE PROPERTY UNLESS THERE IS EVIDENCE OF ABANDONMENT. EXPIRED REGISTRATION OF A VEHICLE MAY BE CONSIDERED IN DETERMINING IF A VEHICLE IS ABANDONED BUT MAY NOT CONCLUSIVELY DETERMINE ABANDONMENT UNLESS THERE IS ADDITIONAL EVIDENCE OF ABANDONMENT.

Sec. 8. Section 28-4842, Arizona Revised Statutes, is amended to read:

28-4842. Unclaimed vehicle; transfer of ownership; immunity; towing companies

A. If a vehicle remains unclaimed at the expiration of the dates prescribed in section 28-4841, subsections B and C, the director shall make an inquiry to determine if the vehicle is a stolen vehicle. On receiving notice that the vehicle has not been reported stolen, the director may transfer ownership of the vehicle free and clear of all liens or encumbrances on compliance with this chapter to the person in possession of the vehicle.

B. An application for transfer of ownership shall be signed by the applicant or authorized agent of the applicant and shall contain a certified statement that includes the following:

1. As of the date of application, no person has presented proof of ownership or proof of interest in the vehicle and entered into an agreement FINANCIAL RESPONSIBILITY for the release or return of the vehicle.

2. The applicant is currently in possession of the vehicle.

C. This state and its agencies, employees and agents are not liable for relying in good faith on the contents of the abandoned vehicle report or affidavits as prescribed by this chapter.

D. A person in possession of a vehicle is not liable for obtaining a transfer of ownership of an abandoned vehicle if the person in possession of the vehicle complies with this chapter.

E. FOR THE PURPOSES OF THIS SECTION, TO PROVE OWNERSHIP OF A VEHICLE A PERSON MUST SUBMIT A GOVERNMENT ISSUED PHOTO IDENTIFICATION AND AT LEAST ONE OF THE FOLLOWING:
1. A VALID CERTIFICATE OF TITLE.
2. PROOF OF CURRENT VEHICLE REGISTRATION, NOT INCLUDING A
   RESTRICTED USE THREE-DAY PERMIT.
3. A REPOSSESSION AFFIDAVIT, A HOLD HARMLESS LIABILITY RELEASE FROM
   LEGAL CLAIMS AND, IF APPLICABLE, A PROOF OF LIEN ON THE VEHICLE.
4. AN INSURANCE COMPANY RELEASE PURSUANT TO SECTION 28-4847.
5. A CERTIFIED MOTOR VEHICLE RECORD.
6. PROOF OF A BONA FIDE SECURITY INTEREST OR OTHER FINANCIAL
   INTEREST IN THE VEHICLE THAT EXISTS AT THE TIME OF THE TOW.

APPROVED BY THE GOVERNOR MAY 2, 2017.