

REFERENCE TITLE: prohibition; photo radar

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

HB 2208

Introduced by
Representative Grantham: Senator Petersen

AN ACT

AMENDING SECTIONS 28-601, 28-627 AND 28-1201, ARIZONA REVISED STATUTES;
REPEALING SECTIONS 28-1202, 28-1203, 28-1204, 28-1205 AND 28-1206, ARIZONA
REVISED STATUTES; AMENDING TITLE 28, CHAPTER 3, ARTICLE 21, ARIZONA
REVISED STATUTES, BY ADDING A NEW SECTION 28-1202; 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
7 of vehicles that is designed, used or maintained to transport passengers
8 or property in the furtherance of a commercial enterprise, that is a
9 commercial motor vehicle as defined in section 28-5201 and that is not
10 exempt from gross weight fees as prescribed in section 28-5432,
11 subsection B.

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

17 3. "Crosswalk" means:

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

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

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

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

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

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

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

1 includes two roadways thirty or more feet apart, each crossing of two
2 roadways of the highways is a separate intersection.

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

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

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

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

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

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

24 ~~15.~~ 14. "Pneumatic tire" means a tire in which compressed air is
25 designed to support the load.

26 ~~16.~~ 15. "Pole trailer" means a vehicle that is all of the
27 following:

28 (a) Without motive power.

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

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

35 ~~17.~~ 16. "Police officer" means an officer authorized to direct or
36 regulate traffic or make arrests for violations of traffic rules or other
37 offenses.

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

42 ~~19.~~ 18. "Railroad" means a carrier of persons or property on cars
43 operated on stationary rails.

44 ~~20.~~ 19. "Railroad sign or signal" means a sign, signal or device
45 erected by authority of a public body or official or by a railroad and

1 intended to give notice of the presence of railroad tracks or the approach
2 of a railroad train.

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

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

11 ~~23.~~ 22. "Safety zone" means the area or space that is both:

12 (a) Officially set apart within a roadway for the exclusive use of
13 pedestrians.

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

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

19 ~~25.~~ 24. "Stop", if required, means complete cessation from
20 movement.

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

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

29 ~~28.~~ 27. "Traffic" means pedestrians, ridden or herded animals,
30 vehicles and other conveyances either singly or together while using a
31 highway for purposes of travel.

32 ~~29.~~ 28. "Traffic control signal" means a device, whether manually,
33 electrically or mechanically operated, by which traffic is alternately
34 directed to stop and to proceed.

35 ~~30.~~ 29. "Truck" means a motor vehicle that is designed, used or
36 maintained primarily for the transportation of property.

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

39 28-627. Powers of local authorities

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

- 43 1. Regulating the standing or parking of vehicles.

- 1 2. Regulating traffic by means of police officers, traffic control
2 signals or volunteer posse organization members authorized by the sheriff
3 under section 11-441 for the purpose of directing traffic only.
- 4 3. Regulating or prohibiting processions or assemblages on the
5 highways.
- 6 4. Designating particular highways as one-way highways and
7 requiring that all vehicles on one-way highways be moved in one specific
8 direction.
- 9 5. Regulating the speed of vehicles in public parks.
- 10 6. Designating any highway as a through highway and requiring that
11 all vehicles stop before entering or crossing the highway or designating
12 any intersection as a stop intersection and requiring all vehicles to stop
13 at one or more entrances to the intersection.
- 14 7. Restricting the use of highways as authorized in section
15 28-1106.
- 16 8. Regulating the operation of bicycles and requiring the
17 registration and licensing of bicycles, including the requirement of a
18 registration fee.
- 19 9. Regulating or prohibiting the turning of vehicles or specified
20 types of vehicles at intersections.
- 21 10. Altering the prima facie speed limits as authorized by this
22 chapter.
- 23 11. Designating routes over streets and highways for vehicles not
24 exceeding one hundred two inches in width, exclusive of safety equipment.
- 25 12. Adopting other traffic regulations that are specifically
26 authorized by this chapter or chapter 4 or 5 of this title.
- 27 13. Designating routes on certain streets and highways for the
28 purpose of allowing off-highway vehicle operators to gain access to or
29 from a designated off-highway recreation facility as defined in section
30 28-1171, off-highway vehicle trail as defined in section 28-1171 or
31 off-highway vehicle special event as defined in section 28-1171.
- 32 B. A local authority shall not erect or maintain a stop sign or
33 traffic control signal at any location that requires the traffic on any
34 state highway to stop before entering or crossing any intersecting highway
35 unless approval in writing has first been obtained from the director.
- 36 C. An ordinance or regulation enacted under subsection A, paragraph
37 4, 5, 6, 7, 9 or 10 of this section is not effective until signs giving
38 notice of the local traffic regulations are posted on or at the entrances
39 to the highway or part of the highway affected as is most appropriate.
- 40 D. The definition of motor vehicle prescribed in section 28-101
41 does not prevent a local authority from adopting ordinances that regulate
42 or prohibit the operation of motorized skateboards, except that a local
43 authority shall not adopt an ordinance that requires registration and
44 licensing of motorized skateboards. For the purposes of this subsection,
45 "motorized skateboard" means a self-propelled device that has a motor, a

1 deck on which a person may ride and at least two tandem wheels in contact
2 with the ground.

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

5 1. Unarmed police aides or municipally approved private contractors
6 who are employed or contracted by the police department and who are
7 empowered to commence an action or proceeding before a court or judge for
8 a violation of the local authority's ordinances regulating the standing or
9 parking of vehicles. A municipally approved private contractor shall not
10 include a relative of an employee or of an elected official of the
11 municipality. The authority of the unarmed police aide or municipally
12 approved private contractor as authorized in this section is limited to
13 the enforcement of the ordinances of local authorities regulating the
14 standing or parking of vehicles. Pursuant to rules established by the
15 supreme court, an unarmed police aide appointed pursuant to this paragraph
16 may serve any process originating out of a municipal court in the
17 municipality in which the unarmed police aide is employed. Service of
18 process under this paragraph shall only be made during the hours the
19 municipal court is open for the transaction of business and only on court
20 premises. This paragraph does not grant to unarmed police aides or
21 municipally approved private contractors other powers or benefits to which
22 peace officers of this state are entitled.

23 2. Traffic investigators who may:

24 (a) Investigate traffic accidents within the jurisdiction of the
25 local authority.

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

30 (c) Pursuant to rules established by the supreme court, serve any
31 process originating out of a municipal court in the municipality in which
32 the traffic investigator is employed. Service of process under paragraph
33 1 of this subsection shall only be made during the hours the municipal
34 court is open for the transaction of business and only on court premises.

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

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

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

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

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

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

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

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

8 28-1201. Definition of photo enforcement system

9 In this article, unless the context otherwise requires, "photo
10 enforcement system" ~~has the same meaning prescribed in section 28-601~~
11 MEANS A DEVICE SUBSTANTIALLY CONSISTING OF A RADAR UNIT OR SENSOR LINKED
12 TO A CAMERA OR OTHER RECORDING DEVICE THAT PRODUCES ONE OR MORE
13 PHOTOGRAPHS, MICROPHOTOGRAPHS, VIDEOTAPES OR DIGITAL OR OTHER RECORDED
14 IMAGES OF A VEHICLE'S LICENSE PLATE FOR THE PURPOSE OF IDENTIFYING
15 VIOLATORS OF ARTICLE 3 OR 6 OF THIS CHAPTER OR OF A CITY OR TOWN ORDINANCE
16 FOR EXCESSIVE SPEED OR FAILURE TO OBEY A TRAFFIC CONTROL DEVICE.

17 Sec. 4. Repeal

18 Sections 28-1202, 28-1203, 28-1204, 28-1205 and 28-1206, Arizona
19 Revised Statutes, are repealed.

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

22 28-1202. Photo enforcement system; prohibition

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

27 Sec. 6. Repeal

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

29 Sec. 7. Legislative intent

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

32 1. Keep the enforcement of the laws in this state in the hands of
33 trained law enforcement officers who are authorized by the people of this
34 state to enforce the laws.

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

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