

REFERENCE TITLE: **driving on suspended license; towing**

State of Arizona
House of Representatives
Fifty-fourth Legislature
First Regular Session
2019

HB 2382

Introduced by
Representative Kern

AN ACT

AMENDING SECTION 28-3511, ARIZONA REVISED STATUTES; RELATING TO VEHICLE TOWING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 28-3511, Arizona Revised Statutes, is amended to
3 read:

4 28-3511. Removal and immobilization or impoundment of
5 vehicle; Arizona crime information center database

6 A. A peace officer shall cause the removal and either
7 immobilization or impoundment of a vehicle if the peace officer determines
8 that:

9 1. A person is driving the vehicle while any of the following
10 applies:

11 (a) Except as otherwise provided in this subdivision, the person's
12 driving privilege is **SUSPENDED OR** revoked for any reason. A peace officer
13 shall not cause the removal and either immobilization or impoundment of a
14 vehicle pursuant to this subdivision if **EITHER OF THE FOLLOWING APPLIES:**

15 (i) The person's privilege to drive is valid in this state.

16 (ii) **IT IS THE PERSON'S FIRST VIOLATION OF DRIVING ON A SUSPENDED**
17 **LICENSE PURSUANT TO SECTION 28-3473.**

18 (b) The person has not ever been issued a valid driver license or
19 permit by this state and the person does not produce evidence of ever
20 having a valid driver license or permit issued by another jurisdiction.
21 This subdivision does not apply to the operation of an implement of
22 husbandry.

23 (c) The person is subject to an ignition interlock device
24 requirement pursuant to chapter 4 of this title and the person is
25 operating a vehicle without a functioning certified ignition interlock
26 device. This subdivision does not apply to the operation of a vehicle due
27 to a substantial emergency as defined in section 28-1464.

28 (d) In furtherance of the illegal presence of an alien in the
29 United States and in violation of a criminal offense, the person is
30 transporting or moving or attempting to transport or move an alien in this
31 state in a vehicle if the person knows or recklessly disregards the fact
32 that the alien has come to, has entered or remains in the United States in
33 violation of law.

34 (e) The person is concealing, harboring or shielding or attempting
35 to conceal, harbor or shield from detection an alien in this state in a
36 vehicle if the person knows or recklessly disregards the fact that the
37 alien has come to, entered or remains in the United States in violation of
38 law.

39 2. The vehicle is displayed for sale or for transfer of ownership
40 with a vehicle identification number that has been destroyed, removed,
41 covered, altered or defaced.

42 B. A peace officer shall cause the removal and impoundment of a
43 vehicle if the peace officer determines that a person is driving the
44 vehicle, **THAT IT IS THE PERSON'S SECOND OR SUBSEQUENT VIOLATION OF DRIVING**

1 ON A SUSPENDED LICENSE PURSUANT TO SECTION 28-3473 and if all of the
2 following apply:

3 1. The person's driving privilege is canceled, **SUSPENDED** or revoked
4 for any reason or the person has not ever been issued a driver license or
5 permit by this state and the person does not produce evidence of ever
6 having a driver license or permit issued by another jurisdiction.

7 2. The person is not in compliance with the financial
8 responsibility requirements of chapter 9, article 4 of this title.

9 3. The person is driving a vehicle that is involved in an accident
10 that results in either property damage or injury to or death of another
11 person.

12 C. Except as provided in subsection D of this section, while a
13 peace officer has control of the vehicle the peace officer shall cause the
14 removal and either immobilization or impoundment of the vehicle if the
15 peace officer has probable cause to arrest the driver of the vehicle for a
16 violation of section 4-244, paragraph 34 or section 28-1382 or 28-1383.

17 D. A peace officer shall not cause the removal and either the
18 immobilization or impoundment of a vehicle pursuant to subsection C of
19 this section if all of the following apply:

20 1. The peace officer determines that the vehicle is currently
21 registered and that the driver or the vehicle is in compliance with the
22 financial responsibility requirements of chapter 9, article 4 of this
23 title.

24 2. The spouse of the driver is with the driver at the time of the
25 arrest.

26 3. The peace officer has reasonable grounds to believe that the
27 spouse of the driver:

28 (a) Has a valid driver license.

29 (b) Is not impaired by intoxicating liquor, any drug, a vapor
30 releasing substance containing a toxic substance or any combination of
31 liquor, drugs or vapor releasing substances.

32 (c) Does not have any spirituous liquor in the spouse's body if the
33 spouse is under twenty-one years of age.

34 4. The spouse notifies the peace officer that the spouse will drive
35 the vehicle from the place of arrest to the driver's home or other place
36 of safety.

37 5. The spouse drives the vehicle as prescribed by paragraph 4 of
38 this subsection.

39 E. Except as otherwise provided in this article, a vehicle that is
40 removed and either immobilized or impounded pursuant to subsection A, B or
41 C of this section shall be immobilized or impounded for thirty days. An
42 insurance company does not have a duty to pay any benefits for charges or
43 fees for immobilization or impoundment.

44 F. The owner of a vehicle that is removed and either immobilized or
45 impounded pursuant to subsection A, B or C of this section, the spouse of

1 the owner and each person who has provided the department with indicia of
2 ownership as prescribed in section 28-3514 or other interest in the
3 vehicle that exists immediately before the immobilization or impoundment
4 shall be provided with an opportunity for an immobilization or poststorage
5 hearing pursuant to section 28-3514.

6 G. A law enforcement agency that employs the peace officer who
7 removes and either immobilizes or impounds a vehicle pursuant to this
8 section shall enter information about the removal and either
9 immobilization or impoundment of the vehicle in the Arizona crime
10 information center database within three business days after the removal
11 and either immobilization or impoundment.