

REFERENCE TITLE: racing on highways; assessment; impoundment

State of Arizona
Senate
Fifty-fourth Legislature
Second Regular Session
2020

SB 1659

Introduced by
Senators Boyer: Carter, Contreras, Quezada, Rios; Representatives Bolick,
Campbell, Carroll, Kavanagh, Kern, Lieberman

AN ACT

AMENDING TITLE 12, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY
ADDING SECTION 12-116.11; AMENDING TITLE 28, CHAPTER 3, ARTICLE 1, ARIZONA
REVISED STATUTES, BY ADDING SECTION 28-603; AMENDING SECTION 28-3511,
ARIZONA REVISED STATUTES; RELATING TO VEHICLE SPEEDING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 12, chapter 1, article 1, Arizona Revised
3 Statutes, is amended by adding section 12-116.11, to read:

4 12-116.11. Assessment: drag racing prevention enforcement
5 fund

6 A. IN ADDITION TO ANY OTHER PENALTY ASSESSMENT PROVIDED BY LAW, A
7 PENALTY ASSESSMENT SHALL BE LEVIED IN AN AMOUNT OF \$1,000 ON EVERY FINE,
8 PENALTY AND FORFEITURE IMPOSED AND COLLECTED BY THE COURTS FOR A VIOLATION
9 OF SECTION 28-708.

10 B. THE COURT SHALL TRANSMIT THE ASSESSMENTS COLLECTED PURSUANT TO
11 THIS SECTION TO THE COUNTY TREASURER, EXCEPT THAT MUNICIPAL COURTS SHALL
12 TRANSMIT THE ASSESSMENTS TO THE CITY OR TOWN TREASURER.

13 C. THE CITY, TOWN OR COUNTY TREASURER SHALL TRANSMIT THE
14 ASSESSMENTS TO THE STATE TREASURER. THE STATE TREASURER SHALL DEPOSIT THE
15 ASSESSMENTS IN THE DRAG RACING PREVENTION ENFORCEMENT FUND ESTABLISHED BY
16 SECTION 28-603.

17 Sec. 2. Title 28, chapter 3, article 1, Arizona Revised Statutes,
18 is amended by adding section 28-603, to read:

19 28-603. Drag racing prevention enforcement fund

20 A. THE DRAG RACING PREVENTION ENFORCEMENT FUND IS ESTABLISHED
21 CONSISTING OF MONIES DEPOSITED PURSUANT TO SECTION 12-116.11. THE
22 GOVERNOR'S OFFICE OF HIGHWAY SAFETY SHALL ADMINISTER THE FUND. MONIES IN
23 THE FUND ARE CONTINUOUSLY APPROPRIATED.

24 B. MONIES IN THE FUND SHALL BE USED TO PREVENT RACING ON STREETS
25 AND HIGHWAYS IN THIS STATE AND TO ENFORCE SECTION 28-708. THE GOVERNOR'S
26 OFFICE OF HIGHWAY SAFETY MAY DISTRIBUTE MONIES TO LOCAL LAW ENFORCEMENT
27 AGENCIES TO HELP PREVENT RACING ON STREETS AND HIGHWAYS IN THIS STATE AND
28 TO ENFORCE SECTION 28-708.

29 Sec. 3. Section 28-3511, Arizona Revised Statutes, is amended to
30 read:

31 28-3511. Removal and immobilization or impoundment of
32 vehicle; Arizona crime information center database

33 A. A peace officer shall cause the removal and either
34 immobilization or impoundment of a vehicle if the peace officer determines
35 that:

36 1. A person is driving the vehicle while any of the following
37 applies:

38 (a) Except as otherwise provided in this subdivision, the person's
39 driving privilege is revoked for any reason. A peace officer shall not
40 cause the removal and either immobilization or impoundment of a vehicle
41 pursuant to this subdivision if the person's privilege to drive is valid
42 in this state.

43 (b) The person has not ever been issued a valid driver license or
44 permit by this state and the person does not produce evidence of ever
45 having a valid driver license or permit issued by another jurisdiction.

1 This subdivision does not apply to the operation of an implement of
2 husbandry.

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

8 (d) In furtherance of the illegal presence of an alien in the
9 United States and in violation of a criminal offense, the person is
10 transporting or moving or attempting to transport or move an alien in this
11 state in a vehicle if the person knows or recklessly disregards the fact
12 that the alien has come to, has entered or remains in the United States in
13 violation of law.

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

19 2. A PERSON IS DRIVING A VEHICLE IN VIOLATION OF SECTION 28-693.

20 3. A PERSON IS DRIVING A VEHICLE IN VIOLATION OF SECTION 28-708.

21 ~~2.~~ 4. The vehicle is displayed for sale or for transfer of
22 ownership with a vehicle identification number that has been destroyed,
23 removed, covered, altered or defaced.

24 B. A peace officer shall cause the removal and impoundment of a
25 vehicle if the peace officer determines that a person is driving the
26 vehicle and if all of the following apply:

27 1. The person's driving privilege is canceled or revoked for any
28 reason or the person has not ever been issued a driver license or permit
29 by this state and the person does not produce evidence of ever having a
30 driver license or permit issued by another jurisdiction.

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

33 3. The person is driving a vehicle that is involved in an accident
34 that results in either property damage or injury to or death of another
35 person.

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

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

44 1. The peace officer determines that the vehicle is currently
45 registered and that the driver or the vehicle is in compliance with the

1 financial responsibility requirements of chapter 9, article 4 of this
2 title.

3 2. The spouse of the driver is with the driver at the time of the
4 arrest.

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

7 (a) Has a valid driver license.

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

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

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

16 5. The spouse drives the vehicle as prescribed by paragraph 4 of
17 this subsection.

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

23 F. The owner of a vehicle that is removed and either immobilized or
24 impounded pursuant to subsection A, B or C of this section, the spouse of
25 the owner and each person who has provided the department with indicia of
26 ownership as prescribed in section 28-3514 or other interest in the
27 vehicle that exists immediately before the immobilization or impoundment
28 shall be provided with an opportunity for an immobilization or poststorage
29 hearing pursuant to section 28-3514.

30 G. A law enforcement agency that employs the peace officer who
31 removes and either immobilizes or impounds a vehicle pursuant to this
32 section shall enter information about the removal and either
33 immobilization or impoundment of the vehicle in the Arizona crime
34 information center database within three business days after the removal
35 and either immobilization or impoundment.

36 Sec. 4. Emergency

37 This act is an emergency measure that is necessary to preserve the
38 public peace, health or safety and is operative immediately as provided by
39 law.