

Senate Engrossed

obstructing highways; racing; assessment; impoundment

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

SENATE BILL 1533

AN ACT

AMENDING TITLE 12, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 12-116.11; AMENDING SECTION 13-2906, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 3, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-603; AMENDING SECTIONS 28-693, 28-708 28-3511, 28-3512 AND 28-3514, 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. Section 13-2906, Arizona Revised Statutes, is amended to
18 read:

19 13-2906. Obstructing a highway or other public thoroughfare;
20 classification; definition

21 A. A person commits obstructing a highway or other public
22 thoroughfare if the person, alone or with other persons, does any of the
23 following:

24 1. Having no legal privilege to do so, recklessly interferes with
25 the passage of any highway or public thoroughfare by creating an
26 unreasonable inconvenience or hazard.

27 2. Intentionally activates a pedestrian signal on a highway or
28 public thoroughfare if the person's reason for activating the signal is
29 not to cross the highway or public thoroughfare but to do both of the
30 following:

31 (a) Stop the passage of traffic on the highway or public
32 thoroughfare.

33 (b) Solicit a driver for a donation or business.

34 3. After receiving a verbal warning to desist, intentionally
35 interferes with passage on a highway or other public thoroughfare or
36 entrance into a public forum that results in preventing other persons from
37 gaining access to a governmental meeting, a governmental hearing or a
38 political campaign event.

39 B. Obstructing a highway or other public thoroughfare under:

40 1. Subsection A, paragraph 3 of this section is a class 1
41 misdemeanor. ~~Obstructing a highway or other public thoroughfare under~~

42 2. Subsection A, paragraph 1 ~~or 2~~ of this section is a class ~~3~~ 2
43 misdemeanor, EXCEPT THAT A SECOND OR SUBSEQUENT VIOLATION WITHIN A PERIOD
44 OF TWENTY-FOUR MONTHS IS A CLASS 1 MISDEMEANOR.

1 3. SUBSECTION A, PARAGRAPH 2 OF THIS SECTION IS A CLASS 3
2 MISDEMEANOR.

3 C. For the purposes of this section, "public forum" has the same
4 meaning prescribed in section 15-1861.

5 Sec. 3. Heading change

6 The article heading of title 28, chapter 3, article 1, Arizona
7 Revised Statutes, is changed from "DEFINITIONS AND POWERS OF GOVERNOR" to
8 "POWERS OF GOVERNOR".

9 Sec. 4. Title 28, chapter 3, article 1, Arizona Revised Statutes,
10 is amended by adding section 28-603, to read:

11 28-603. Drag racing prevention enforcement fund

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

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

21 Sec. 5. Section 28-693, Arizona Revised Statutes, is amended to
22 read:

23 28-693. Reckless driving; license; surrender; aiding and
24 abetting; violation; classification

25 A. A person who drives a vehicle in reckless disregard for the
26 safety of persons or property is guilty of reckless driving.

27 B. A person WHO IS convicted of reckless driving is guilty of a
28 class 2 misdemeanor.

29 C. In addition, the judge may require the surrender to a police
30 officer of any driver license of the convicted person, shall report the
31 conviction to the department and may order the driving privileges of the
32 person to be suspended for a period of not more than ninety days. On
33 receipt of the abstract of conviction and order, the department shall
34 suspend the driving privilege of the person for the period of time ordered
35 by the judge.

36 D. If a person who is convicted of a violation of this section has
37 been previously convicted of a violation of this section, section 13-1102
38 or section 13-1103, subsection A, paragraph 1, in the driving of a
39 vehicle, or section 28-708, 28-1381, 28-1382 or 28-1383 within a period of
40 twenty-four months:

41 1. The person is guilty of a class 1 misdemeanor.

42 2. The person is not eligible for probation, pardon, suspension of
43 sentence or release on any basis until the person has served not less than
44 twenty days in jail.

1 3. The judge may require the surrender to a police officer of any
2 driver license of the person and shall immediately forward the abstract of
3 conviction to the department.

4 4. On receipt of the abstract of conviction, the department shall
5 revoke the driving privilege of the person.

6 E. A PERSON WHO KNOWINGLY AIDS OR ABETS ANOTHER PERSON IN THE
7 COMMISSION OF A VIOLATION OF THIS SECTION IS GUILTY OF A CLASS 2
8 MISDEMEANOR, EXCEPT THAT A SECOND OR SUBSEQUENT VIOLATION WITHIN A PERIOD
9 OF TWENTY-FOUR MONTHS IS A CLASS 1 MISDEMEANOR.

10 ~~F.~~ F. In applying the twenty-four month period provision of
11 subsection D of this section, the dates of the commission of the offense
12 shall be the determining factor, irrespective of the sequence in which the
13 offenses were committed. A second or subsequent violation for which a
14 conviction occurs as provided in this section does not include a
15 conviction for an offense arising out of the same series of acts.

16 ~~F.~~ G. On pronouncement of a jail sentence under this section, and
17 after the court receives confirmation that the person is employed or is a
18 student, the court may provide in the sentence that if the defendant is
19 employed or is a student the defendant can continue employment or
20 schooling for not more than twelve hours per day nor more than five days
21 per week. The defendant shall spend the remaining days or parts of days
22 in jail until the sentence is served and shall be allowed out of jail only
23 long enough to complete the defendant's actual hours of employment or
24 schooling.

25 Sec. 6. Section 28-708, Arizona Revised Statutes, is amended to
26 read:

27 28-708. Racing on highways; exception; aiding and abetting;
28 violation; classification; definitions

29 A. A person shall not drive a vehicle or participate in any manner
30 in a race, speed competition or contest, drag race or acceleration
31 contest, test of physical endurance or exhibition of speed or acceleration
32 or for the purpose of making a speed record on a street or highway.

33 B. A person who violates this section is guilty of a class 1
34 misdemeanor. If a person is convicted of a second or subsequent violation
35 of this section within twenty-four months ~~of~~ AFTER a first conviction, the
36 person is guilty of a class 6 felony and is not eligible for probation,
37 pardon, suspension of sentence or release on any other basis until the
38 person has served not less than ten days in jail or prison.

39 C. A PERSON WHO KNOWINGLY AIDS OR ABETS ANOTHER PERSON IN THE
40 COMMISSION OF A VIOLATION OF THIS SECTION IS GUILTY OF A CLASS 2
41 MISDEMEANOR, EXCEPT THAT A SECOND OR SUBSEQUENT VIOLATION WITHIN A PERIOD
42 OF TWENTY-FOUR MONTHS IS A CLASS 1 MISDEMEANOR.

43 ~~F.~~ D. A person who is convicted of a first violation of this
44 section shall pay a fine of not less than ~~two hundred fifty dollars~~ \$250
45 and may be ordered by the court to perform community restitution.

1 ~~D.~~ E. A person who is convicted of a subsequent violation of this
2 section shall pay a fine of not less than ~~five hundred dollars~~ \$500 and
3 may be ordered by the court to perform community restitution.

4 ~~E.~~ F. On pronouncement of a jail sentence under this section and
5 in cases of extreme hardship, the court may provide in the sentence that
6 if the defendant is employed or attending school and can continue
7 employment or school the defendant may continue the employment or school
8 for not more than twelve hours per day nor more than five days per week,
9 and the defendant shall spend the remaining days or parts of days in jail
10 until the sentence is served. The court may allow the defendant to be out
11 of jail only long enough to complete the defendant's actual hours of
12 employment or school.

13 ~~F.~~ G. If a person is convicted of violating this section, the
14 judge may require the surrender to a police officer of any driver license
15 of the person and immediately forward the abstract of conviction to the
16 department. On a first conviction, the judge may order the suspension of
17 the driving privileges of the person for a period of not more than ninety
18 days. In the case of a first conviction and on receipt of the abstract of
19 conviction and order of the court, the department shall suspend the
20 driving privileges of the person for the period of time ordered by the
21 judge. In the case of a second or subsequent conviction for an offense
22 committed within a period of twenty-four months and on receipt of the
23 abstract of conviction, the department shall revoke the driving privileges
24 of the person.

25 ~~G.~~ H. The director may authorize in writing an organized and
26 properly controlled event to ~~utilize~~ USE a highway or part of a highway
27 even though it is prohibited by this section. The authorization shall
28 specify the time of the event, the highway or part of a highway to be
29 utilized and any special conditions the director may require for the
30 particular event.

31 ~~H.~~ I. For the purposes of this section:

32 1. "Drag race" means either:

33 (a) The operation of two or more vehicles from a point side by side
34 at accelerating speeds in a competitive attempt to outdistance each other.

35 (b) The operation of one or more vehicles over a common selected
36 course and from the same point for the purpose of comparing the relative
37 speeds or power of acceleration of the vehicle or vehicles within a
38 certain distance or time limit.

39 2. "Racing" means the use of one or more vehicles in an attempt to
40 outgain or outdistance another vehicle or prevent another vehicle from
41 passing.

1 Sec. 7. Section 28-3511, Arizona Revised Statutes, is amended to
2 read:

3 28-3511. Removal and immobilization or impoundment of
4 vehicle; Arizona crime information center database

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

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

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

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

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

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

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

36 2. A PERSON IS DRIVING A VEHICLE IN VIOLATION OF SECTION 28-693 AND
37 THE PEACE OFFICER REASONABLY BELIEVES THAT ALLOWING THE PERSON TO CONTINUE
38 DRIVING THE VEHICLE WOULD EXPOSE OTHER PERSONS TO THE RISK OF SERIOUS
39 BODILY INJURY OR DEATH.

40 3. A PERSON IS DRIVING A VEHICLE IN VIOLATION OF SECTION 28-708 AND
41 THE PEACE OFFICER REASONABLY BELIEVES THAT ALLOWING THE PERSON TO CONTINUE
42 DRIVING THE VEHICLE WOULD EXPOSE OTHER PERSONS TO THE RISK OF SERIOUS
43 BODILY INJURY OR DEATH.

44 4. A PERSON IS OBSTRUCTING A HIGHWAY OR OTHER PUBLIC THOROUGHFARE
45 IN VIOLATION OF SECTION 13-2906 AND THE PEACE OFFICER REASONABLY BELIEVES

1 THAT ALLOWING THE PERSON TO CONTINUE DRIVING THE VEHICLE WOULD EXPOSE
2 OTHER PERSONS TO THE RISK OF SERIOUS BODILY INJURY OR DEATH.

3 ~~2.~~ 5. The vehicle is displayed for sale or for transfer of
4 ownership with a vehicle identification number that has been destroyed,
5 removed, covered, altered or defaced.

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

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

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

15 3. The person is driving a vehicle that is involved in an accident
16 that results in either property damage or injury to or death of another
17 person.

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

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

26 1. The peace officer determines that the vehicle is currently
27 registered and that the driver or the vehicle is in compliance with the
28 financial responsibility requirements of chapter 9, article 4 of this
29 title.

30 2. The spouse of the driver is with the driver at the time of the
31 arrest.

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

34 (a) Has a valid driver license.

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

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

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

43 5. The spouse drives the vehicle as prescribed by paragraph 4 of
44 this subsection.

1 E. Except AS PROVIDED IN SUBSECTION H OF THIS SECTION AND as
2 otherwise provided in this article, a vehicle that is removed and either
3 immobilized or impounded pursuant to subsection A, B or C of this section
4 shall be immobilized or impounded for thirty days. An insurance company
5 does not have a duty to pay any benefits for charges or fees for
6 immobilization or impoundment.

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

14 G. A law enforcement agency that employs the peace officer who
15 removes and either immobilizes or impounds a vehicle pursuant to this
16 section shall enter information about the removal and either
17 immobilization or impoundment of the vehicle in the Arizona crime
18 information center database within three business days after the removal
19 and either immobilization or impoundment.

20 H. A VEHICLE THAT IS REMOVED AND EITHER IMMOBILIZED OR IMPOUNDED
21 PURSUANT TO SUBSECTION A, PARAGRAPH 4 OF THIS SECTION SHALL BE IMMOBILIZED
22 OR IMPOUNDED FOR SEVEN DAYS.

23 Sec. 8. Section 28-3512, Arizona Revised Statutes, is amended to
24 read:

25 28-3512. Release of vehicle; civil penalties; definition

26 A. An immobilizing or impounding agency shall release a vehicle
27 before the end of the ~~thirty-day~~ immobilization or impoundment period as
28 follows:

29 1. To the registered owner, if the vehicle is a stolen vehicle.

30 2. To the registered owner, if the vehicle is subject to bailment
31 and is driven by an employee of a business establishment, including a
32 parking service or repair garage, who is subject to section 28-3511,
33 subsection A, B or C.

34 3. To the registered owner, if the owner was operating the vehicle
35 at the time of removal and either immobilization or impoundment and
36 presents proof satisfactory to the immobilizing or impounding agency that
37 the OWNER HAS A VALID DRIVER LICENSE OR THE owner's driving privilege has
38 been reinstated.

39 4. To the registered owner, if all of the following apply:

40 (a) The owner or the owner's agent was not the person driving the
41 vehicle pursuant to section 28-3511, subsection A.

42 (b) The owner or the owner's agent is in the business of renting
43 motor vehicles without drivers.

44 (c) The vehicle is registered pursuant to section 28-2166.

1 (d) There was a rental agreement in effect at the time of the
2 immobilization or impoundment.

3 5. Except as provided in paragraph 7 of this subsection, to the
4 spouse of the registered owner or any person who is identified as an owner
5 of the vehicle on the records of the department at the time of removal and
6 either immobilization or impoundment, if the spouse or person was not the
7 driver of the vehicle at the time of removal and either immobilization or
8 impoundment and the spouse or person enters into an agreement with the
9 immobilizing or impounding agency that stipulates that if the spouse or
10 person allows a driver who does not have a valid driving privilege or a
11 driver who commits a violation that causes the spouse's or person's
12 vehicle to be removed and either immobilized or impounded pursuant to this
13 article within one year after any agreement is signed by an immobilizing
14 or impounding agency, the spouse or person will not be eligible to obtain
15 release of the spouse's or person's vehicle before the end of the
16 ~~thirty-day~~ immobilization or impoundment period.

17 6. To the motor vehicle dealer, if the vehicle is owned by a motor
18 vehicle dealer who has paid fees pursuant to section 28-4302 and is driven
19 by a customer, potential customer or employee of the motor vehicle dealer
20 and the motor vehicle dealer has provided to the immobilizing or
21 impounding agency indicia of the motor vehicle dealer's ownership of the
22 vehicle, including a certificate of title or a manufacturer-issued
23 certificate or statement of origin.

24 7. To any person who is identified as an owner of the vehicle on
25 the records of the department at the time of removal and either
26 immobilization or impoundment, if the vehicle is a commercial motor
27 vehicle, a street sweeper or heavy equipment as defined in section 28-854
28 and the person was not the driver of the vehicle at the time of removal
29 and either immobilization or impoundment.

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

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

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

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

40 4. If the person is required by the department to install a
41 certified ignition interlock device on the vehicle, proof of installation
42 of a functioning certified ignition interlock device in the vehicle. The
43 impounding agency, storage yard, facility, person or agency having
44 physical possession of the vehicle shall allow access during normal
45 business hours to the impounded vehicle for the purpose of installing a

1 certified ignition interlock device. The impounding agency, storage yard,
2 facility, person or agency having physical possession of the vehicle shall
3 not charge any fee or require compensation for providing access to the
4 vehicle or for the installation of the certified ignition interlock
5 device.

6 C. The owner or the owner's spouse if the vehicle is released to
7 the owner's spouse is responsible for paying all immobilization, towing
8 and storage charges related to the immobilization or impoundment of the
9 vehicle and any administrative charges established pursuant to section
10 28-3513, unless the vehicle is stolen and the theft was reported to the
11 appropriate law enforcement agency. If the vehicle is stolen and the
12 theft was reported to the appropriate law enforcement agency, the operator
13 of the vehicle at the time of immobilization or impoundment is responsible
14 for all immobilization, towing, storage and administrative charges.

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

20 1. The person is either of the following:

21 (a) In the business of renting motor vehicles without drivers and
22 the vehicle is registered pursuant to section 28-2166.

23 (b) A motor vehicle dealer, bank, credit union or acceptance
24 corporation or any other licensed financial institution legally operating
25 in this state or is another person who is not the owner and who holds a
26 security interest in the vehicle immediately before the immobilization or
27 impoundment.

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

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

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

41 E. Before a person described in subsection D of this section
42 releases the vehicle to the owner who was operating the vehicle at the
43 time of removal and immobilization or impoundment, the person described in
44 subsection D of this section shall require the owner to present and shall

1 retain for a period of at least three years from the date of releasing the
2 vehicle a copy of all of the following:

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

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

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

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

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

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

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

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

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

35 H. The storage charges relating to the impoundment of a vehicle
36 pursuant to this section shall be subject to a contractual agreement
37 between the impounding agency and a towing firm for storage services
38 pursuant to section 41-1830.51 and shall be ~~fifteen dollars~~ \$15 for each
39 day of storage, including any time the vehicle remains in storage after
40 the end of the ~~thirty-day~~ impoundment period.

41 I. The immobilizing or impounding agency shall have no lien or
42 possessory interest in a stolen vehicle if the theft was reported to the
43 appropriate law enforcement agency. The immobilizing or impounding agency
44 shall release the vehicle to the owner or person other than the owner as
45 identified in subsection D of this section even if the operator at the

1 time of immobilization or impoundment has not paid all immobilization,
2 towing, storage and administrative charges.

3 J. A person who enters into an agreement pursuant to subsection A,
4 paragraph 5 of this section and who allows another person to operate the
5 vehicle in violation of the agreement is responsible for a civil traffic
6 violation and shall pay a civil penalty of at least ~~two hundred fifty~~
7 ~~dollars~~ \$250.

8 K. A person described in subsection D, paragraph 1 of this section
9 who violates subsection E of this section is responsible for a civil
10 traffic violation and shall pay a civil penalty of at least ~~two hundred~~
11 ~~fifty dollars~~ \$250.

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

14 Sec. 9. Section 28-3514, Arizona Revised Statutes, is amended to
15 read:

16 28-3514. Hearings; notice of immobilization or storage;
17 definition

18 A. If a peace officer removes and either immobilizes or impounds a
19 vehicle pursuant to section 28-3511, the immobilizing or impounding agency
20 may provide the owner, the spouse of the owner and any other person
21 providing indicia of ownership or other interest in the vehicle
22 immediately before the immobilization or impoundment with the opportunity
23 for an immobilization or poststorage hearing to determine the validity of
24 the immobilization or storage or consider any mitigating circumstances
25 relating to the immobilization or storage or release of the vehicle before
26 the end of the ~~thirty day~~ immobilization or impoundment period. If the
27 immobilizing or impounding agency provides the opportunity for an
28 immobilization or poststorage hearing, the immobilizing or impounding
29 agency shall conduct the hearing in accordance with any of the following:

- 30 1. In the immobilizing or impounding agency's jurisdiction.
- 31 2. Telephonically.

32 3. Pursuant to procedures prescribed by the immobilizing or
33 impounding agency to transfer the authority to conduct the immobilization
34 or poststorage hearing to a law enforcement agency in the jurisdiction in
35 which the owner, the spouse of the owner, the owner's agent or any person
36 identified in the department's record as having an interest in the vehicle
37 immediately before the immobilization or impoundment resides.

38 B. If the immobilizing or impounding agency does not provide an
39 opportunity for an immobilization or poststorage hearing, a justice court
40 shall conduct the immobilization or poststorage hearing. If an
41 immobilization or poststorage hearing is conducted by a justice court, the
42 immobilizing or impounding agency shall appear and show evidence.
43 Immobilization or poststorage hearings conducted by a justice court shall
44 be considered as civil filings for the purposes of judicial productivity
45 credits.

1 C. Within three business days after immobilization or impoundment,
2 excluding weekends and holidays, the immobilizing or impounding agency
3 shall send a notice of storage by first class mail to each person, other
4 than the owner, identified on the department's record as having an
5 interest in the vehicle or who has provided the department with indicia of
6 ownership or other interest in the vehicle that exists immediately before
7 the immobilization or impoundment. Service of notice of immobilization or
8 storage is complete on mailing. If within three business days after
9 immobilization or impoundment, excluding weekends and holidays, the
10 immobilizing or impounding agency fails to notify a person, other than the
11 owner, identified on the department's record as having an interest in the
12 vehicle immediately before the immobilization or impoundment, the
13 immobilizing agency or the person in possession of the vehicle shall not
14 charge any administrative fees or more than fifteen days' immobilization
15 or impoundment when the person redeems the impounded vehicle or has the
16 immobilization device removed from the vehicle.

17 D. Within three business days after immobilization or impoundment,
18 excluding weekends and holidays, the immobilizing or impounding agency
19 shall mail or personally deliver notice of immobilization or storage to
20 the owner of the vehicle.

21 E. The notice of immobilization or storage shall include all of the
22 following information:

23 1. A statement that the vehicle was immobilized or impounded.

24 2. The name, address and telephone number of the immobilizing or
25 impounding agency providing the notice.

26 3. The name, address and telephone number of the immobilizing or
27 impounding agency or justice court that will provide the immobilization or
28 poststorage hearing.

29 4. The location of the place of storage and a description of the
30 vehicle, including, if available, the manufacturer, model, license plate
31 number and mileage of the vehicle.

32 5. A statement that in order to receive an immobilization or
33 poststorage hearing the owner, the spouse of the owner, the owner's agent
34 or the person identified in the department's record as having an interest
35 in the vehicle immediately before the immobilization or impoundment,
36 within ten days after the date on the notice, shall request an
37 immobilization or poststorage hearing by contacting the immobilizing or
38 impounding agency in person or in writing or by filing a request with the
39 justice court if the impounding agency does not provide for a hearing and
40 paying a fee equal to the fee established pursuant to section 22-281 for a
41 small claims answer.

42 6. A statement that if the immobilizing or impounding agency does
43 not provide the opportunity for an immobilization or poststorage hearing,
44 the owner, the spouse of the owner, the owner's agent or any person
45 identified in the department's record as having an interest in the vehicle

1 or a person who has provided the department with indicia of ownership or
2 other interest in the vehicle that exists immediately before the
3 immobilization or impoundment may request that the immobilization or
4 poststorage hearing be conducted by a justice court in the immobilizing or
5 impounding agency's jurisdiction or the jurisdiction in which the owner,
6 the spouse of the owner, the owner's agent or the person identified in the
7 department's record as having an interest in the vehicle immediately
8 before the immobilization or impoundment resides.

9 F. The immobilization or poststorage hearing shall be conducted by
10 the immobilizing or impounding agency or justice court within five
11 business days, excluding weekends and holidays, after receipt of the
12 request.

13 G. Failure of the owner, the spouse of the owner or other person or
14 the other person's agent to request an immobilization or poststorage
15 hearing within ten days after the date on the notice prescribed in
16 subsection E of this section or to attend a scheduled hearing satisfies
17 the immobilization or poststorage hearing requirement.

18 H. The immobilizing or impounding agency employing the person who
19 directed the immobilization or storage is responsible for the costs
20 incurred for immobilization, towing and storage if it is determined in the
21 immobilization or poststorage hearing that reasonable grounds for the
22 immobilization or impoundment and storage are not established.

23 I. In compliance with the requirements of this section, the vehicle
24 owner, the vehicle owner's spouse or another person who has an interest in
25 the vehicle or who has provided the department with indicia of ownership
26 or other interest in the vehicle that exists immediately before the
27 immobilization or impoundment shall have an opportunity for a single
28 poststorage hearing for the release of the vehicle by either the
29 immobilizing or impounding agency or a justice court but not both.

30 J. For the purposes of this section, "indicia of ownership"
31 includes a certificate of title, a manufacturer-issued certificate or a
32 statement of origin or other similar document.