

REFERENCE TITLE: obstructing highways; racing; assessment; impoundment

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

SB 1533

Introduced by
Senators Boyer: Bowie, Marsh; Representatives Chávez, Payne

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)

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

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

12-116.11. Assessment; drag racing prevention enforcement fund

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

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

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

Sec. 2. Section 13-2906, Arizona Revised Statutes, is amended to read:

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

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

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

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

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

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

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

B. Obstructing a highway or other public thoroughfare under subsection A, paragraph 3 of this section is a class 1 misdemeanor. Obstructing a highway or other public thoroughfare under subsection A, paragraph 1 or 2 of this section is a class ~~3~~ 2 misdemeanor, EXCEPT THAT A SECOND OR SUBSEQUENT VIOLATION WITHIN A PERIOD OF TWENTY-FOUR MONTHS IS A CLASS 1 MISDEMEANOR.

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

3 Sec. 3. Heading change

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

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

9 28-603. Drag racing prevention enforcement fund

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

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

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

21 28-693. Reckless driving; license; surrender; aiding and
22 abetting; violation; classification

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. "Drag race" means either:

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

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

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

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

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

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

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

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

8 (b) The person has not ever been issued a valid driver license or
9 permit by this state and the person does not produce evidence of ever
10 having a valid driver license or permit issued by another jurisdiction.
11 This subdivision does not apply to the operation of an implement of
12 husbandry.

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

18 (d) In furtherance of the illegal presence of an alien in the
19 United States and in violation of a criminal offense, the person is
20 transporting or moving or attempting to transport or move an alien in this
21 state in a vehicle if the person knows or recklessly disregards the fact
22 that the alien has come to, has entered or remains in the United States in
23 violation of law.

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

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

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

37 4. A PERSON IS OBSTRUCTING A HIGHWAY OR OTHER PUBLIC THOROUGHFARE
38 IN VIOLATION OF SECTION 13-2906 AND THE PEACE OFFICER REASONABLY BELIEVES
39 THAT ALLOWING THE PERSON TO CONTINUE DRIVING THE VEHICLE WOULD EXPOSE
40 OTHER PERSONS TO THE RISK OF SERIOUS BODILY INJURY OR DEATH.

41 ~~2.~~ 5. The vehicle is displayed for sale or for transfer of
42 ownership with a vehicle identification number that has been destroyed,
43 removed, covered, altered or defaced.

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

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

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

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

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

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

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

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

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

29 (a) Has a valid driver license.

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

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

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

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

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

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

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

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

Sec. 8. 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 before the end of the ~~thirty-day~~ immobilization or impoundment period 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 HAS A VALID DRIVER LICENSE OR 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. 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

1 impoundment and the spouse or person enters into an agreement with the
2 immobilizing or impounding agency that stipulates that if the spouse or
3 person allows a driver who does not have a valid driving privilege or a
4 driver who commits a violation that causes the spouse's or person's
5 vehicle to be removed and either immobilized or impounded pursuant to this
6 article within one year after any agreement is signed by an immobilizing
7 or impounding agency, the spouse or person will not be eligible to obtain
8 release of the spouse's or person's vehicle before the end of the
9 ~~thirty-day~~ immobilization or impoundment period.

10 6. To the motor vehicle dealer, if the vehicle is owned by a motor
11 vehicle dealer who has paid fees pursuant to section 28-4302 and is driven
12 by a customer, potential customer or employee of the motor vehicle dealer
13 and the motor vehicle dealer has provided to the immobilizing or
14 impounding agency indicia of the motor vehicle dealer's ownership of the
15 vehicle, including a certificate of title or a manufacturer-issued
16 certificate or statement of origin.

17 7. To any person who is identified as an owner of the vehicle on
18 the records of the department at the time of removal and either
19 immobilization or impoundment, if the vehicle is a commercial motor
20 vehicle, a street sweeper or heavy equipment as defined in section 28-854
21 and the person was not the driver of the vehicle at the time of removal
22 and either immobilization or impoundment.

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

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

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

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

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

44 C. The owner or the owner's spouse if the vehicle is released to
45 the owner's spouse is responsible for paying all immobilization, towing

1 and storage charges related to the immobilization or impoundment of the
 2 vehicle and any administrative charges established pursuant to section
 3 28-3513, unless the vehicle is stolen and the theft was reported to the
 4 appropriate law enforcement agency. If the vehicle is stolen and the
 5 theft was reported to the appropriate law enforcement agency, the operator
 6 of the vehicle at the time of immobilization or impoundment is responsible
 7 for all immobilization, towing, storage and administrative charges.

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

13 1. The person is either of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 28-3514. Hearings; notice of immobilization or storage;
10 definition

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

23 1. In the immobilizing or impounding agency's jurisdiction.

24 2. Telephonically.

25 3. Pursuant to procedures prescribed by the immobilizing or
26 impounding agency to transfer the authority to conduct the immobilization
27 or poststorage hearing to a law enforcement agency in the jurisdiction in
28 which the owner, the spouse of the owner, the owner's agent or any person
29 identified in the department's record as having an interest in the vehicle
30 immediately before the immobilization or impoundment resides.

31 B. If the immobilizing or impounding agency does not provide an
32 opportunity for an immobilization or poststorage hearing, a justice court
33 shall conduct the immobilization or poststorage hearing. If an
34 immobilization or poststorage hearing is conducted by a justice court, the
35 immobilizing or impounding agency shall appear and show evidence.
36 Immobilization or poststorage hearings conducted by a justice court shall
37 be considered as civil filings for the purposes of judicial productivity
38 credits.

39 C. Within three business days after immobilization or impoundment,
40 excluding weekends and holidays, the immobilizing or impounding agency
41 shall send a notice of storage by first class mail to each person, other
42 than the owner, identified on the department's record as having an
43 interest in the vehicle or who has provided the department with indicia of
44 ownership or other interest in the vehicle that exists immediately before
45 the immobilization or impoundment. Service of notice of immobilization or

1 storage is complete on mailing. If within three business days after
 2 immobilization or impoundment, excluding weekends and holidays, the
 3 immobilizing or impounding agency fails to notify a person, other than the
 4 owner, identified on the department's record as having an interest in the
 5 vehicle immediately before the immobilization or impoundment, the
 6 immobilizing agency or the person in possession of the vehicle shall not
 7 charge any administrative fees or more than fifteen days' immobilization
 8 or impoundment when the person redeems the impounded vehicle or has the
 9 immobilization device removed from the vehicle.

10 D. Within three business days after immobilization or impoundment,
 11 excluding weekends and holidays, the immobilizing or impounding agency
 12 shall mail or personally deliver notice of immobilization or storage to
 13 the owner of the vehicle.

14 E. The notice of immobilization or storage shall include all of the
 15 following information:

16 1. A statement that the vehicle was immobilized or impounded.
 17 2. The name, address and telephone number of the immobilizing or
 18 impounding agency providing the notice.

19 3. The name, address and telephone number of the immobilizing or
 20 impounding agency or justice court that will provide the immobilization or
 21 poststorage hearing.

22 4. The location of the place of storage and a description of the
 23 vehicle, including, if available, the manufacturer, model, license plate
 24 number and mileage of the vehicle.

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

35 6. A statement that if the immobilizing or impounding agency does
 36 not provide the opportunity for an immobilization or poststorage hearing,
 37 the owner, the spouse of the owner, the owner's agent or any person
 38 identified in the department's record as having an interest in the vehicle
 39 or a person who has provided the department with indicia of ownership or
 40 other interest in the vehicle that exists immediately before the
 41 immobilization or impoundment may request that the immobilization or
 42 poststorage hearing be conducted by a justice court in the immobilizing or
 43 impounding agency's jurisdiction or the jurisdiction in which the owner,
 44 the spouse of the owner, the owner's agent or the person identified in the

1 department's record as having an interest in the vehicle immediately
2 before the immobilization or impoundment resides.

3 F. The immobilization or poststorage hearing shall be conducted by
4 the immobilizing or impounding agency or justice court within five
5 business days, excluding weekends and holidays, after receipt of the
6 request.

7 G. Failure of the owner, the spouse of the owner or other person or
8 the other person's agent to request an immobilization or poststorage
9 hearing within ten days after the date on the notice prescribed in
10 subsection E of this section or to attend a scheduled hearing satisfies
11 the immobilization or poststorage hearing requirement.

12 H. The immobilizing or impounding agency employing the person who
13 directed the immobilization or storage is responsible for the costs
14 incurred for immobilization, towing and storage if it is determined in the
15 immobilization or poststorage hearing that reasonable grounds for the
16 immobilization or impoundment and storage are not established.

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

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