

REFERENCE TITLE: **reviser's technical corrections; 2021**

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

SB 1635

Introduced by
Senator Gray

AMENDING SECTION 20-321.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2014, CHAPTER 25, SECTION 3; REPEALING SECTION 20-321.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2020, CHAPTER 67, SECTION 2; AMENDING SECTION 36-3201, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 72, SECTION 1; REPEALING SECTION 36-3201, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 314, SECTION 1; AMENDING SECTION 41-3451, ARIZONA REVISED STATUTES; RELATING TO MULTIPLE, DEFECTIVE AND CONFLICTING LEGISLATIVE DISPOSITIONS OF STATUTORY TEXT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Purpose

3 1. Section 20-321.01, Arizona Revised Statutes, was amended by Laws
4 2020, chapter 67, section 2. However, this version did not reflect the
5 previous valid version of the section. In order to comply with article
6 IV, part 2, section 14, Constitution of Arizona, this act amends section
7 20-321.01, Arizona Revised Statutes, as amended by Laws 2014, chapter 25,
8 section 3, to incorporate the amendments made by Laws 2020, chapter 67 and
9 repeals the chapter 67 version.

10 2. Section 36-3201, Arizona Revised Statutes, was amended by Laws
11 2019, chapter 72, section 1 and chapter 314, section 1. The chapter 314
12 version could not be blended because of the delayed effective date. In
13 order to combine these versions, this act amends the Laws 2019, chapter 72
14 version of section 36-3201, Arizona Revised Statutes, to incorporate the
15 amendments made by Laws 2019, chapter 314 and repeals the chapter 314
16 version.

17 3. Section 41-3451, Arizona Revised Statutes, was amended by Laws
18 2019, chapter 252, sections 56 and 57. The section 57 version of section
19 41-3451, Arizona Revised Statutes, was conditioned on the department of
20 transportation implementing an electronic reporting system for registered
21 scrap metal dealers and licensed automotive recyclers. On September 30,
22 2020, the department of transportation certified that this condition, as
23 prescribed in Laws 2018, chapter 298, section 12, was met. Prior to
24 September 30, 2020, section 41-3451, Arizona Revised Statutes, as amended
25 by Laws 2019, chapter 252, section 56, was amended by Laws 2020, chapter
26 37, section 166 but Laws 2020, chapter 37 did not amend section 41-3451,
27 Arizona Revised Statutes, as amended by Laws 2019, chapter 252, section
28 57, the conditionally enacted version. To prevent a potentially defective
29 enactment, this act amends section 41-3451, Arizona Revised Statutes, as
30 amended by Laws 2019, chapter 252, section 57, to incorporate the
31 amendments made by Laws 2020, chapter 37, section 166.

32 Sec. 2. Section 20-321.01, Arizona Revised Statutes, as amended by
33 Laws 2014, chapter 25, section 3, is amended to read:

34 20-321.01. Licensing of adjusters; qualifications; exemption

35 A. A person shall not act as or claim to be an adjuster unless the
36 person is licensed under this article.

37 B. To obtain a license as an adjuster a person shall apply to the
38 director for the license and use the forms prescribed and provided by the
39 director. The director shall issue the license to qualified persons on
40 payment of the license fee prescribed in section 20-167.

1 C. To be licensed as an adjuster the applicant shall meet all of
2 the following qualifications:

3 1. Be a person who is at least eighteen years of age.

4 2. Be a resident of this state, ~~or~~ or a resident of another state
5 that allows residents of this state to act as adjusters in the other
6 state.

7 3. Take and pass an examination that is given by or under the
8 supervision of the director and that reasonably tests the applicant's
9 knowledge of insurance and legal responsibilities as an adjuster and
10 otherwise comply with section 20-321.02. NOTWITHSTANDING SUBSECTION D OF
11 THIS SECTION, THE REQUIREMENTS UNDER THIS PARAGRAPH ARE WAIVED IF THE
12 APPLICANT HOLDS A CLAIMS CERTIFICATE ISSUED BY A NATIONAL OR STATE-BASED
13 CLAIMS ASSOCIATION WITH A CERTIFICATION PROGRAM THAT CONSISTS OF AT LEAST
14 FORTY HOURS OF PREEXAMINATION COURSE WORK, A PROCTORED EXAMINATION OF
15 SUFFICIENT LENGTH TO ADEQUATELY DETERMINE THE COMPETENCY OF THE APPLICANT
16 AND AT LEAST TWENTY-FOUR HOURS OF CONTINUING EDUCATION REQUIRED FOR
17 CERTIFICATION RENEWALS ON A BIENNIAL BASIS.

18 D. An adjuster who is licensed or ~~permitted~~ ALLOWED to act as an
19 adjuster in the state of the adjuster's domicile is not required to be
20 licensed pursuant to this section or meet the qualifications prescribed in
21 this section if the adjuster is sent to this state on behalf of an insurer
22 for the purpose of investigating or making adjustment of a particular loss
23 under an insurance policy or a series of losses resulting from a
24 catastrophe common to all those losses.

25 E. To determine license eligibility, the director may require
26 fingerprints of applicants and the submission of the fee and the
27 fingerprints as required by section 20-285, subsection E, paragraph 2.

28 F. The director may contract with nongovernmental entities to
29 perform any ministerial functions, including collection of fees and data
30 related to licensing, that the director deems appropriate.

31 G. A resident of Canada may apply for a license that grants the
32 applicant the authority only to adjust portable electronics insurance
33 claims in this state if the person has obtained an adjuster license in
34 another state that ~~permits~~ ALLOWS that person to adjust portable
35 electronics insurance claims in that state. A Canadian resident who
36 qualifies for licensure as an adjuster under this subsection is not
37 subject to section 25-320, subsection P.

38 H. An applicant who resides in a state that does not issue licenses
39 to adjusters and who is otherwise ~~permitted~~ ALLOWED to adjust portable
40 electronics insurance claims in the applicant's resident state may apply
41 for a license that grants the applicant the authority only to adjust
42 portable electronics insurance claims in this state.

43 Sec. 3. Repeal

44 Section 20-321.01, Arizona Revised Statutes, as amended by Laws
45 2020, chapter 67, section 2, is repealed.

1 Sec. 4. Section 36-3201, Arizona Revised Statutes, as amended by
2 Laws 2019, chapter 72, section 1, is amended to read:

3 36-3201. Definitions

4 In this chapter, unless the context otherwise requires:

5 1. "Agent" means an adult who has the authority to make health care
6 treatment decisions for another person, referred to as the principal,
7 pursuant to a health care power of attorney.

8 2. "Artificially administered" means providing food or fluid
9 through a medically invasive procedure.

10 3. "Attending physician" means a physician who has the primary
11 responsibility for a principal's health care.

12 4. "Comfort care" means treatment given in an attempt to protect
13 and enhance the quality of life without artificially prolonging that life.

14 5. "Health care directive" means a document drafted in substantial
15 compliance with this chapter, including a mental health care power of
16 attorney, to deal with a person's future health care decisions.

17 6. "Health care power of attorney" means a written designation of
18 an agent to make health care decisions that meets the requirements of
19 section 36-3221 and that comes into effect and is durable as provided in
20 section 36-3223, subsection A.

21 7. "Health care provider" means a natural person who is licensed
22 under title 32, chapter 11, 13, 15, 17 or 25, a hospice as defined in
23 section 36-401 that is licensed under chapter 4 of this title or an
24 organization that is licensed under this title, that renders health care
25 designed to prevent, diagnose or treat illness or injury and that employs
26 persons licensed under title 32, chapter 11, 13, 15, 17 or 25.

27 8. "Inpatient psychiatric facility" means a hospital that
28 contains an organized psychiatric services unit or a special hospital that
29 is licensed to provide psychiatric services.

30 9. "Interested person" means the patient, a person listed under
31 section 36-3231, subsection A, a health care provider directly involved in
32 the patient's medical care or an employee of a health care provider.

33 10. "Living will" means a statement written either by a person who
34 has not written a health care power of attorney or by the principal as an
35 attachment to a health care power of attorney and intended to guide or
36 control the health care treatment decisions that can be made on that
37 person's behalf.

38 11. "Mental health care power of attorney" means a written
39 designation of an agency to make mental health care decisions that meets
40 the requirements of section 36-3281.

41 12. "Physician" means a doctor of medicine licensed pursuant to
42 title 32, chapter 13 or doctor of osteopathic medicine licensed pursuant
43 to title 32, chapter 17.

44 13. "Principal" means a person who is the subject of a health care
45 power of attorney.

1 14. "QUALIFYING HEALTH INFORMATION EXCHANGE ORGANIZATION" MEANS A
2 NONPROFIT HEALTH INFORMATION ORGANIZATION AS DEFINED IN SECTION 36-3801
3 THAT IS DESIGNATED BY THE DEPARTMENT OF HEALTH SERVICES PURSUANT TO
4 SECTION 36-3291 TO OPERATE THE HEALTH CARE DIRECTIVES REGISTRY.

5 ~~14.~~ 15. "Surrogate" means a person authorized to make health care
6 decisions for a patient by a power of attorney, a court order or the
7 provisions of section 36-3231.

8 Sec. 5. Repeal

9 Section ~~36-3201~~, Arizona Revised Statutes, as amended by Laws 2019,
10 chapter 314, section 1, is repealed.

11 Sec. 6. Section 41-3451, Arizona Revised Statutes, is amended to
12 read:

13 ~~41-3451.~~ Automobile theft authority; powers and duties; fund;
14 audit

15 A. The automobile theft authority is established in the department
16 of insurance and financial institutions consisting of the following
17 members:

18 1. Two police chiefs who are appointed by an Arizona association of
19 chiefs of police, one of whom represents a city or town with a population
20 of one hundred thousand or more persons and one of whom represents a city
21 or town with a population of less than one hundred thousand persons, or
22 their designees.

23 2. Two sheriffs who are appointed by an Arizona sheriffs
24 association, one of whom represents a county with a population of five
25 hundred thousand or more persons and one of whom represents a county with
26 a population of less than five hundred thousand persons, or their
27 designees.

28 3. Two county attorneys who are appointed by the governor, one of
29 whom represents a county with a population of two million or more persons
30 and one of whom represents a county with a population of less than two
31 million persons, or their designees.

32 4. Two employees of insurers who are licensed to write motor
33 vehicle liability insurance in this state and who are appointed by the
34 governor.

35 5. Two members of the general public who are appointed by the
36 governor.

37 6. The assistant director for the motor vehicle division in the
38 department of transportation or the assistant director's designee.

39 7. The director of the department of public safety or the
40 director's designee.

41 B. Members serve staggered four-year terms beginning and ending on
42 the third Monday in January. At the first meeting each year, the members
43 shall select a chairman from among the members. The authority shall meet
44 at the call of the chairman or seven members.

1 C. The authority may:

2 1. Subject to chapter 4, article 4 of this title, hire staff
3 members as necessary.

4 2. Provide work facilities and equipment as necessary.

5 3. Determine the scope of the problem of motor vehicle theft,
6 including particular areas of the state where the problem is greatest.

7 4. Analyze the various methods of combating the problem of motor
8 vehicle theft.

9 5. Develop and implement a plan of operation.

10 6. Develop and implement a financial plan.

11 7. Solicit and accept gifts and grants.

12 8. Report by December 31 of each year to the governor, the
13 president of the senate, the speaker of the house of representatives and
14 the secretary of state on its activities during the preceding fiscal year.

15 D. If the chairman of the authority knows that a potential ground
16 for the removal of a member of the authority exists under this subsection,
17 the chairman shall notify the governor. The governor shall remove the
18 member if the governor finds that any of the following applies:

19 1. The member was not qualified to serve at the time the member was
20 appointed.

21 2. The member does not maintain the member's qualifications to
22 serve.

23 3. The member cannot discharge the member's duties for a
24 substantial part of the term due to illness or other disability.

25 4. The member is absent from more than one-half of the regularly
26 scheduled meetings during a calendar year unless the member's absence is
27 excused by a majority vote of the authority.

28 E. The automobile theft authority fund is established consisting of
29 monies deposited pursuant to section 28-2098 and any public or private
30 monies that the authority may receive. The automobile theft authority
31 shall administer the fund. Subject to legislative appropriation, monies
32 in the fund shall ~~only~~ be used ONLY to pay the expenses of the authority
33 and to carry out the purposes of this section. Monies in the fund are
34 exempt from the provisions of sections 35-143.01 and 35-190 relating to
35 lapsing of appropriations. On notice from the authority, the state
36 treasurer shall invest and divest monies in the fund as provided by
37 section 35-313, and monies earned from investment shall be credited to the
38 fund. MONIES APPROPRIATED FROM THE FUND THAT ARE INCLUDED IN THE GENERAL
39 APPROPRIATIONS ACT SHALL INCLUDE AT LEAST THE FOLLOWING SEPARATE LINE
40 ITEMS:

41 1. AUTOMOBILE THEFT AUTHORITY OPERATING LUMP SUM APPROPRIATION.

42 2. ARIZONA VEHICLE THEFT TASK FORCE.

43 3. LOCAL GRANTS.

F. The authority may accept nonmonetary contributions, including the services of individuals, office and secretarial assistance, mailings, printing, office equipment, facilities and supplies, that are necessary to carry out its functions. The nonmonetary contributions shall not be included in the costs of administration limitation prescribed by subsection H of this section.

G. The automobile theft authority shall allocate monies in the fund to public agencies for the purpose of establishing, maintaining and supporting programs that are designed to prevent motor vehicle theft, including:

1. Financial support to law enforcement and prosecution agencies for programs that are designed to increase the effectiveness of motor vehicle theft prosecution.

2. Financial support for programs that are designed to educate and assist the public in the prevention of motor vehicle theft.

H. PURSUANT TO SECTION 20-466, SUBSECTION A, THE DIRECTOR OF THE DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS SHALL APPOINT AN INDIVIDUAL TO OPERATE THE AUTOMOBILE THEFT AUTHORITY IN CONJUNCTION WITH OPERATING THE FRAUD UNIT ESTABLISHED BY SECTION 20-466. The costs of administration shall not exceed ten percent of the monies in the fund in any one year so that the greatest possible portion of the monies available to the authority is expended on combating motor vehicle theft.

I. Monies expended from the automobile theft authority fund shall be used to supplement, not supplant, other monies that are available for motor vehicle theft prevention.

J. Each insurer issuing motor vehicle liability insurance policies in this state shall pay a semiannual fee of \$.50 per vehicle insured under a motor vehicle liability insurance policy issued by the insurer. The fee shall be fully earned and nonrefundable at the time the insurer collects the premium for the motor vehicle liability insurance policy. Each insurer shall transmit the fee on or before January 31 and on or before July 31 of each year to the automobile theft authority for deposit in the automobile theft authority fund. The payment due on or before January 31 shall cover vehicles insured under policies that are issued during the period from July 1 through December 31 of the previous year. The payment due on or before July 31 shall cover vehicles insured under policies that are issued during the period from January 1 through June 30 of the same year.

K. The authority shall cause an audit to be made of the automobile theft authority fund. The audit shall be conducted by a certified public accountant every two years. The authority shall file a certified copy of the audit with the auditor general immediately. The auditor general may make further audits and examinations as the auditor general deems necessary and may take appropriate action relating to the audit pursuant to chapter 7, article 10.1 of this title.

1 L. Authority members are not eligible to receive compensation but
2 are eligible for reimbursement of expenses pursuant to title 38, chapter
3 4, article 2.

4 M. This section does not apply to vehicles or vehicle combinations
5 with a declared gross weight of more than twenty-six thousand pounds.
6 Motor vehicle liability insurance policies issued in this state for
7 vehicles or vehicle combinations with a declared gross weight of more than
8 twenty-six thousand pounds are exempt from subsection J of this section.

9 Sec. 7. Retroactivity

10 A. Section 6 of this act applies retroactively to from and after
11 June 30, 2020.

12 B. Sections 2 and 3 of this act apply retroactively to from and
13 after August 24, 2020.

14 C. Sections 4 and 5 of this act apply retroactively to from and
15 after December 31, 2020.