

## NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

### NOTICE OF PROPOSED RULEMAKING

#### TITLE 17. TRANSPORTATION

#### CHAPTER 4. DEPARTMENT OF TRANSPORTATION

#### TITLE, REGISTRATION, AND DRIVER LICENSES

[R06-500]

#### PREAMBLE

- 1. Sections Affected**  
R17-4-350
- Rulemaking Action**  
New
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statute: A.R.S. § 28-366  
Implementing statute: A.R.S. § 28-5810
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**  
Notice of Rulemaking Docket Opening: 13 A.A.R. 43, January 5, 2007
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Celeste M. Cook, Administrative Rules Unit  
Address: Department of Transportation, Motor Vehicle Division  
1801 W. Jefferson St., Mail Drop 530M  
Phoenix, AZ 85007  
Telephone: (602) 712-7624  
Fax: (602) 712-3081  
E-mail: ccook@azdot.gov  
Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters at <http://mvd.azdot.gov/mvd/MVDRules/rules.asp>.
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**  
The Arizona Department of Transportation, Motor Vehicle Division, proposes to promulgate rules to prescribe auditing procedures, records maintenance and other requirements necessary to administer the rental surcharge reimbursement program.
- 6. A reference to any study relevant to the rules that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**  
None
- 7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**  
Not applicable
- 8. The preliminary summary of the economic, small business, and consumer impact:**  
The economic, small business, and consumer impact of these rules will be minimal as the rental concern is currently required to maintain appropriate business related records for tax reporting purposes.

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Small businesses and consumers are not adversely affected as the rental surcharge is already being collected by the rental concern. There may be a small impact to rental concerns that have never submitted the vehicle license tax surcharge. However, these are taxes that the rental concern is not legally permitted to retain.

The costs of this rulemaking to the Department, the Governor's Regulatory Review Council, and the Secretary of State are minimal clerical costs incurred in preparation, review, editing, and publishing of the rule.

**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Celeste M. Cook, Administrative Rules Unit  
Address: Department of Transportation, Motor Vehicle Division  
1801 W. Jefferson St., Mail Drop 530M  
Phoenix, AZ 85007  
Telephone: (602) 712-7624  
Fax: (602) 712-3081  
E-mail: ccook@azdot.gov

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**10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

The Division has scheduled an oral proceeding on the proposed rulemaking:

Date: February 22, 2007  
Time: 1:00 p.m.  
Location: 1801 W. Jefferson St.,  
Conference Rm. 410  
Phoenix, AZ  
Close of record: February 12, 2007

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None

**12. Incorporations by reference and their location in the rules:**

None

**13. The full text of the rules follows:**

TITLE 17. TRANSPORTATION

CHAPTER 4. DEPARTMENT OF TRANSPORTATION  
TITLE, REGISTRATION, AND DRIVER LICENSES

ARTICLE 4. VEHICLE REGISTRATION

Section

R17-4-350. Rental Vehicle Surcharge Reimbursement

ARTICLE 4. VEHICLE REGISTRATION

**R17-4-350. Rental Vehicle Surcharge Reimbursement**

**A. Definitions.** In addition to the definitions prescribed under A.R.S. § 28-5810, the following definitions apply to this Section, unless otherwise specified:

"Division" means the Arizona Department of Transportation, Motor Vehicle Division.

"Person" means an individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver or syndicate, this state, any county, city, town, district or other subdivision of this state, an Indian tribe, or any other group or combination acting as a unit.

"Previous year" means the prior calendar year, January 1 through December 31.

"Rental revenue" means the total contract amount stated in the retail contract less any taxes and fees imposed by A.R.S. §§ Title 42, Chapter 5, Article 1 and Title 48, Chapter 26, Article 2 and selected non-vehicle related charges (e.g., boxes, packing blankets, straps, tow bars, etc.).

“Surcharge” means the amount equal to 5% of the total contract amount stated in the rental contract less any taxes and fees imposed by A.R.S. §§ Title 42, Chapter 5, Article 1 and Title 48, Chapter 26, Article 2 and selected non-vehicle related items (e.g., boxes, packing blankets, straps, tow bars, etc.).

“Vehicle License Tax” means the tax imposed by A.R.S. § 28-5808, less any fees credited under A.R.S. § 28-2356.

- B.** Reports. Each person subject to A.R.S. § 28-5810 shall file an annual report with the Division. The annual report is due no later than February 15 of each year. The report shall be made on a form furnished by the Division.
- C.** Records. A person in the business of renting vehicles, as defined under A.R.S. § 28-5810, is required to maintain records in support of the required annual reports for a period of four years from the date of the filing of the required annual report or the due date of the report, whichever is longer. The records shall contain all information in support of:
1. The total amount of Vehicle License Tax paid during the previous year. Supporting Vehicle License Tax records shall include, but is not limited to:
    - a. The Vehicle Identification Number.
    - b. The Arizona vehicle license plate number.
    - c. A copy of the Arizona registration.
    - d. The amount paid for Vehicle License Tax minus any Vehicle License Tax fee credited under A.R.S. § 28-2356.
    - e. The date on which the Vehicle License Tax was paid.
    - f. The dates the rental vehicle was in and out of service.
  2. The total gross amount of Arizona vehicle rental revenues collected for the previous year. Supporting Arizona vehicle rental revenue records shall include, but is not limited to:
    - a. The rental contract.
    - b. The amount of surcharge collected.
    - c. Chart of Accounts
  3. The amount of the surcharge collected during the pervious year. Supporting surcharge collection records shall include, but is not limited to:
    - a. The rental contract.
    - b. The total amount stated in the rental contract, supported by relevant documentation.
  4. Failure to keep and maintain proper records or failure to provide records for audit purposes may result in an assessment for the total amount of surcharge estimated to have been collected as determined from the best information available to the assistant Director.
- D.** Audits. Each audit of a person who collects the stated surcharge will be conducted in accordance with generally accepted accounting and auditing procedures.
1. Records shall be made available for audit during normal business hours at the rental business location in Arizona. Audits may be conducted at an out-of-state location, to be paid by the rental business. Audit expenses, per diem, and travel to be paid in accordance with the Arizona Department of Transportation expense guidelines in effect at the time of the audit.
  2. The Division Director shall have appropriate subpoena powers to require records to be produced for examination and to take testimony. Failure to respond to the Director’s or agent of the Director’s request for records will cause the Director to issue subpoenas for the production of records or allow seizure of records and will cause the Director to cancel all Arizona registration privileges.