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**Jane Dee Hull  
Secretary of State**

CHAPTER 167

**SENATE BILL 1260**

AN ACT

AMENDING SECTION 28-101, AS AMENDED BY LAWS 1995, CHAPTER 20, SECTION 1, ARIZONA REVISED STATUTES; RELATING TO WHEELCHAIRS.

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

2 Section 1. Section 28-101, Arizona Revised Statutes, as amended by  
3 Laws 1995, chapter 20, section 1, is amended to read:

4 28-101. Definitions

5 In this title, unless the context otherwise requires:

6 1. "Alcohol" means any substance containing any form of alcohol,  
7 including ethanol, methanol, propynol and isopropynol.

8 2. "Alcohol concentration" if expressed as a percentage means either:

9 (a) The number of grams of alcohol per one hundred milliliters of  
10 blood.

11 (b) The number of grams of alcohol per two hundred ten liters of  
12 breath.

13 3. "Authorized emergency vehicle" means vehicles of the fire  
14 department, police vehicles, ambulances and emergency vehicles of municipal  
15 departments or public service corporations that are designated or authorized  
16 by the department or local authorities or other ambulances, fire trucks and  
17 rescue vehicles that may be authorized at the sole discretion of the  
18 department and that meet liability insurance requirements prescribed by the  
19 department.

20 4. "Aviation fuel" means all flammable liquids composed of a mixture  
21 of selected hydrocarbons expressly manufactured and blended for the purpose  
22 of effectively and efficiently operating an internal combustion engine for

1 use in an aircraft but does not include fuel for jet or turbine powered  
2 aircraft.

3 5. "Bicycle" means every device, INCLUDING A RACING WHEELCHAIR,  
4 propelled by human power upon which any person may ride, having two tandem  
5 wheels either of which is more than sixteen inches in diameter or having  
6 three wheels in contact with the ground any of which is more than sixteen  
7 inches in diameter.

8 6. "Board" means the transportation board.

9 7. "Bus" means a motor vehicle designed for carrying sixteen or more  
10 passengers, including the driver.

11 8. "Business district" means the territory contiguous to and including  
12 a highway when within any six hundred feet along such highway there are  
13 buildings in use for business or industrial purposes, including hotels, banks  
14 or office buildings, railroad stations and public buildings which occupy at  
15 least three hundred feet of frontage on one side or three hundred feet  
16 collectively on both sides of the highway.

17 9. "Car pool or van pool operator" means any natural person when  
18 engaged either regularly or occasionally in carrying one or more other  
19 persons by motor vehicle on any public highway, with or without compensation  
20 but not for profit, provided that the carriage of such other person or  
21 persons is incidental to another purpose of the car pool or van pool  
22 operator. A car pool or van pool operator shall be conclusively presumed not  
23 to be carrying persons for profit if either:

24 (a) He receives compensation not exceeding twenty cents per mile for  
25 total vehicle miles traveled, except that the proportionate share of the car  
26 pool or van pool operator shall be included in such amount.

27 (b) He carries one or more of his passengers in consideration of his  
28 being carried in like situations by such passenger or passengers. The  
29 receipt of compensation in excess of twenty cents per mile for total vehicle  
30 miles traveled shall not preclude a car pool or van pool operator from  
31 showing that such compensation does not result in a profit to him or that  
32 such operator did not intend that a profit result. Such carriage shall be  
33 deemed incidental to another purpose of the car pool or van pool operator if,  
34 except in unusual circumstances, such operator is not making the trip solely  
35 for the purpose of carrying a passenger or passengers. A car pool or van  
36 pool operator is conclusively presumed not to be transporting passengers for  
37 hire.

38 10. "Car pool or van pool vehicle" means any motor vehicle when  
39 operated by a car pool or van pool operator.

40 11. "Combination of vehicles" means a truck or truck tractor and  
41 semitrailer and any trailer which it tows but does not include a forklift  
42 designed for the purpose of loading or unloading the truck, trailer or  
43 semitrailer.

1           12. "Controlled substance" means any substance so classified under  
2 section 102(6) of the controlled substances act (21 United States Code  
3 section 802(6)) and includes all substances listed on schedules I through V  
4 of title 21 Code of Federal Regulations part 1308.

5           13. "Conviction" means:

6           (a) An unvacated adjudication of guilt or a determination that a  
7 person has violated or failed to comply with the law in a court of original  
8 jurisdiction or by an authorized administrative tribunal.

9           (b) An unvacated forfeiture of bail or collateral deposited to secure  
10 the person's appearance in court.

11           (c) A plea of guilty or no contest accepted by the court.

12           (d) The payment of a fine or court costs.

13           14. "County highway" means any public road constructed and maintained  
14 by a county.

15           15. "Dealer" means any person who is engaged in the business of buying,  
16 selling or exchanging motor vehicles, trailers or semitrailers and who has  
17 an established place of business.

18           16. "Department" means the department of transportation acting directly  
19 or through its duly authorized officers and agents.

20           17. "Director" means the director of the department of transportation.

21           18. "Distributor" means any person who refines, manufactures, produces,  
22 compounds, blends or imports motor vehicle fuel, aviation fuel or liquid use  
23 fuel in the original package or container or otherwise, and includes every  
24 person importing motor vehicle fuel, aviation fuel or liquid use fuel by  
25 means of a pipeline or in any other manner but does not include persons  
26 importing motor vehicle fuel, aviation fuel or liquid use fuel in the fuel  
27 tank of a motor vehicle or aircraft.

28           19. "Drive" means to operate or be in physical control of a motor  
29 vehicle.

30           20. "Driver" means a person who drives or is in actual physical control  
31 of a vehicle.

32           21. "Driver's license" means a license which is issued by a state to  
33 an individual and which authorizes the individual to drive a motor vehicle.

34           22. "Essential parts" means integral and body parts, the removal,  
35 alteration or substitution of which will tend to conceal the identity or  
36 substantially alter the appearance of the vehicle.

37           23. "Farm tractor" means a motor vehicle designed and used primarily  
38 as a farm implement for drawing implements of husbandry.

39           24. "Foreign vehicle" means any motor vehicle, trailer or semitrailer  
40 which is brought into this state otherwise than in the ordinary course of  
41 business by or through a manufacturer or dealer and which has not been  
42 registered in this state.

43           25. "Golf cart" means a motor vehicle which has not less than three  
44 wheels in contact with the ground, which has an unladen weight of less than

1 thirteen hundred pounds, which is designed to be and is operated at not more  
2 than fifteen miles an hour and which is designed to carry golf equipment and  
3 not more than four persons including the driver.

4 26. "Hazardous materials" means a material, and its mixtures or  
5 solutions, which has been determined by the United States department of  
6 transportation under title 49 Code of Federal Regulations to be capable of  
7 posing an unreasonable risk to health, safety and property if transported in  
8 commerce and is required to be placarded or marked as required by the  
9 department's safety rules prescribed pursuant to chapter 19, article 1 of  
10 this title.

11 27. "Implements of husbandry" means vehicles designed primarily for  
12 agricultural purposes and used exclusively in the conduct of agricultural  
13 operations. Any implement or vehicle, whether self-propelled or otherwise,  
14 which is used exclusively for carrying products of farming from one part of  
15 a farm to another part of the same farm, or from one farm to another farm,  
16 which is used solely for agricultural purposes including the preparation or  
17 harvesting of cotton, alfalfa, grains and other farm crops, and which is only  
18 incidentally operated or moved on a highway whether as a trailer or  
19 self-propelled unit is an implement of husbandry exempt from registration as  
20 a motor vehicle.

21 28. "Improved highway" means a highway paved with cement concrete or  
22 asphaltic concrete, or having a hard surface and distinct roadway not less  
23 than four inches thick, made up of a mixture of rock, sand or gravel, bound  
24 together by an artificial binder other than natural soil.

25 29. "Local authorities" means the county, municipal and other local  
26 board or body exercising jurisdiction over highways under the constitution  
27 and laws of this state.

28 30. "Manufacturer" means any person engaged in the business of  
29 manufacturing motor vehicles, trailers or semitrailers.

30 31. "Motor-driven cycle" means a motorcycle, including every motor  
31 scooter, with a motor which produces not to exceed five horsepower.

32 32. "Motor vehicle" means any self-propelled vehicle but, for the  
33 purposes of the laws relating to the imposition of a tax upon motor vehicle  
34 fuel, the term means any vehicle which is operated upon the highways of this  
35 state and which is propelled by the use of motor vehicle fuel. Motor vehicle  
36 does not include a motorized wheelchair or a motorized skateboard.

37 33. "Motor vehicle division" or "vehicle division" means the division  
38 of motor vehicles of the department of transportation acting directly or  
39 through its duly authorized officers and agents as designated by the  
40 director.

41 34. "Motor vehicle fuel" includes all products commonly or commercially  
42 known or sold as gasoline, including casing head gasoline, natural gasoline  
43 and all flammable liquids, composed of a mixture of selected hydrocarbons  
44 expressly manufactured and blended for the purpose of effectively and

1 efficiently operating internal combustion engines. Motor vehicle fuel does  
2 not include use fuel as defined in section 28-1551, aviation fuel, fuel for  
3 jet or turbine powered aircraft or the mixture created at the interface of  
4 two different substances being transported through a pipeline, commonly known  
5 as transmix.

6 35. "Motorcycle" means a motor vehicle having a seat or saddle for the  
7 use of the rider and designed to travel on not more than three wheels in  
8 contact with the ground but excluding a tractor and excluding pedal bicycles  
9 with helper motors.

10 36. "Motorized skateboard" means a self-propelled device that has a  
11 motor, a deck on which a person may ride and at least two tandem wheels in  
12 contact with the ground.

13 37. "Motorized wheelchair" means any self-propelled ~~vehicle~~ WHEELCHAIR  
14 that is ~~designed for, and used by,~~ a handicapped person FOR MOBILITY.

15 38. "Nonresident" means a person who is not a resident of this state  
16 as defined in section 28-102.

17 39. "Operator" means a person who drives or is in actual physical  
18 control over a motor vehicle upon a highway or who is exercising control over  
19 or steering a vehicle being towed by a motor vehicle.

20 40. "Owner" means a person who holds the legal title of a vehicle or,  
21 if a vehicle is the subject of an agreement for the conditional sale or lease  
22 with the right of purchase upon performance of the conditions stated in the  
23 agreement and with an immediate right of possession vested in the conditional  
24 vendee or lessee, the conditional vendee or lessee, or, if a mortgagor of a  
25 vehicle is entitled to possession, the mortgagor.

26 41. "Pedal bicycle with helper motor" means every bicycle equipped with  
27 a helper motor, if such vehicle has a maximum piston displacement of fifty  
28 cubic centimeters or less, a brake horsepower of one and one-half or less and  
29 a maximum speed of twenty-five miles per hour or less on a flat surface with  
30 less than a one per cent grade.

31 42. "Pedestrian" means any person afoot. A person who ~~is not~~  
32 ~~ambulatory and is in~~ USES a ~~wheelchair~~ MANUAL or motorized wheelchair is  
33 considered a pedestrian UNLESS THE MANUAL WHEELCHAIR QUALIFIES AS A BICYCLE.

34 43. "Person" means every natural person, firm, copartnership,  
35 association or corporation.

36 44. "Pneumatic tire" means every tire in which compressed air is  
37 designed to support the load.

38 45. "Pole trailer" means a vehicle without motive power designed to be  
39 drawn by another vehicle and attached to the towing vehicle by means of a  
40 reach or pole, or by being boomed or otherwise secured to the towing vehicle,  
41 and ordinarily used for transporting long or irregularly shaped loads such  
42 as poles, pipes or structural members capable, generally, of sustaining  
43 themselves as beams between the supporting connections.

1           46. "Power sweeper" means any implement, with or without motive power,  
2 designed for the removal of debris, dirt, gravel, litter or sand whether by  
3 broom, vacuum or regenerative air system from asphaltic concrete or cement  
4 concrete surfaces, including parking lots, highways, streets and warehouses,  
5 and any vehicle on which such implement has been permanently mounted, and  
6 which is only incidentally operated or moved on a street or highway.

7           47. "Public transit" or "mass transit" means the transportation of  
8 passengers on scheduled routes by means of a conveyance on an individual  
9 passenger fare-paying basis excluding transportation by a sight-seeing bus,  
10 school bus or taxi or any vehicle not operated on a scheduled route basis.

11           48. "Reconstructed vehicle" means any vehicle which has been assembled  
12 or constructed largely by means of essential parts, new or used, derived from  
13 vehicles or makes of vehicles of various names, models and types, or which,  
14 if originally otherwise constructed, has been materially altered by the  
15 removal of essential parts or by the addition or substitution of essential  
16 parts, new or used, derived from other vehicles or makes of vehicles.

17           49. "Residence district" means the territory contiguous to and  
18 including a highway not comprising a business district when the property on  
19 the highway for a distance of three hundred feet or more is in the main  
20 improved with residences or residences and buildings in use for business.

21           50. "Right-of-way" when used within the context of the regulation of  
22 the movement of traffic on a highway means the privilege of the immediate use  
23 of the highway. Right-of-way when used within the context of the real  
24 property upon which transportation facilities and appurtenances to such  
25 facilities are constructed or maintained means the lands or interest in lands  
26 within the right-of-way boundaries.

27           51. "Road tractor" means any motor vehicle designed and used for  
28 drawing other vehicles and not constructed to carry a load either  
29 independently or any part of the weight of a vehicle or load so drawn.

30           52. "Safety zone" means the area or space which is officially set apart  
31 within a roadway for the exclusive use of pedestrians and which is protected  
32 or is marked or indicated by adequate signs as to be plainly visible at all  
33 times while set apart as a safety zone.

34           53. "School bus" means a motor vehicle designed for carrying more than  
35 ten passengers, owned by a public or governmental agency or other institution  
36 and operated for the transportation of children to or from home or school on  
37 a regularly scheduled basis or privately-owned and operated for compensation  
38 for the transportation of children to or from home or school on a regularly  
39 scheduled basis.

40           54. "Semitrailer" means a vehicle with or without motive power, other  
41 than a pole trailer, designed for carrying persons or property and for being  
42 drawn by a motor vehicle and constructed so that some part of its weight and  
43 that of its load rests upon or is carried by another vehicle.

1           55. "Serious traffic violation" means a conviction when operating a  
2 commercial motor vehicle of:

3           (a) Excessive speeding involving conviction or adjudication of speed  
4 restrictions and a finding of a speed fifteen miles per hour or more above  
5 the speed limit as prescribed in section 28-707 or a violation of section  
6 28-701.02.

7           (b) A violation of section 28-693.

8           (c) A violation of any state or local law related to motor vehicle  
9 traffic control, other than a parking violation, arising in connection with  
10 a fatal accident.

11          56. "Service station" means a place operated primarily for the purpose  
12 of delivering motor vehicle fuel into the fuel tanks of motor vehicles.

13          57. "Solid tire" means a tire which is made of rubber or other  
14 resilient material and which does not depend upon compressed air for the  
15 support of the load.

16          58. "Specially constructed vehicle" means any vehicle not originally  
17 constructed under a distinctive name, make, model or type by a generally  
18 recognized manufacturer of vehicles.

19          59. "State" means a state of the United States and the District of  
20 Columbia.

21          60. "State airports" means state-owned airports.

22          61. "State engineer" means the assistant director of the highway  
23 division of the department of transportation.

24          62. "State highway" means any state route, or portion of a state route,  
25 that is accepted and designated by the transportation board as a state  
26 highway and maintained by the state.

27          63. "State route" means any right-of-way, whether actually used as a  
28 highway or not, designated by the transportation board as a location for the  
29 construction of a state highway.

30          64. "Street" or "highway" means the entire width between the boundary  
31 lines of every way when any part thereof is open to the use of the public for  
32 purposes of vehicular travel.

33          65. "Superintendent" means the assistant director for the motor vehicle  
34 division of the department of transportation.

35          66. "Trailer" means a vehicle with or without motive power, other than  
36 a pole trailer, designed for carrying persons or property and for being drawn  
37 by a motor vehicle and so constructed that no part of its weight rests upon  
38 the towing vehicle. A semitrailer equipped with an auxiliary front axle  
39 commonly known as a dolly shall be deemed to be a trailer.

40          67. "Truck" means any motor vehicle designed or used primarily for the  
41 carrying of property other than the effects of the driver or passengers and  
42 includes a motor vehicle to which has been added a box, a platform or other  
43 equipment for such carrying.

1           68. "Truck tractor" means any motor vehicle designed and used primarily  
2 for drawing other vehicles and not constructed to carry a load other than a  
3 part of the weight of the vehicle and load drawn.

4           69. "Vehicle" means a device in, upon or by which any person or  
5 property is or may be transported or drawn upon a public highway, excepting  
6 devices moved by human power or used exclusively upon stationary rails or  
7 tracks.

8           70. "Vehicle transporter" means either:

9           (a) A truck tractor that is capable of carrying a load and drawing a  
10 semitrailer.

11           (b) A truck tractor with a stinger-steered fifth wheel capable of  
12 carrying a load and drawing a semitrailer or a truck tractor with a dolly  
13 mounted fifth wheel which is securely fastened to the truck tractor at two  
14 or more points and capable of carrying a load and drawing a semitrailer.

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