Senate Engrossed

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Jane Dee Hull
Secretary of State

State of Arizona
Senate
Forty-second Legislature
Second Regular Session
1996

CHAPTER 76

SENATE BILL 1076

AN ACT

REPEALING TITLE 28, CHAPTER 5, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 1995, CHAPTER 132, SECTION 3 AND AS AMENDED BY LAWS 1995, CHAPTER 147, SECTIONS 5 THROUGH 10; REPEALING TITLE 28, CHAPTER 7, ARTICLES 1 AND 3 THROUGH 12, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 1995, CHAPTER 132, SECTION 3 AND AS AMENDED BY LAWS 1995, CHAPTER 147, SECTION 14; REPEALING SECTIONS 28-1605, 28-1670, 28-1817, 28-3722 AND 28-5233, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 1995, CHAPTER 132, SECTION 3; REPEALING SECTION 13-814, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 37, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-3720; TRANSFERRING AND RENUMBERING TITLE 28, CHAPTER 6, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 1995, CHAPTER 132, SECTION 3 AND AS AMENDED BY LAWS 1995, CHAPTER 147, SECTIONS 11, 12 AND 13, FOR PLACEMENT IN TITLE 28, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 1995, CHAPTER 132, SECTION 3, AS CHAPTER 4; TRANSFERRING AND RENUMBERING TITLE 28, CHAPTER 6, ARTICLES 1 THROUGH 4, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 1995, CHAPTER 132, SECTION 3 AND AS AMENDED BY LAWS 1995, CHAPTER 147, SECTIONS 11, 12 AND 13, FOR PLACEMENT IN TITLE 28, CHAPTER 4, ARIZONA REVISED STATUTES, AS ARTICLES 1 THROUGH 4, RESPECTIVELY; TRANSFERRING AND RENUMBERING SECTION 28-2801, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 1995, CHAPTER 132, SECTION 3, FOR PLACEMENT IN TITLE 28, CHAPTER 4, ARTICLE 1, ARIZONA REVISED STATUTES, AS SECTION 28-1301; TRANSFERRING AND RENUMBERING SECTIONS 28-2821 THROUGH 28-2827, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 1995, CHAPTER 132, SECTION 3 AND AS AMENDED BY LAWS 1995, CHAPTER 147, SECTION 11, FOR PLACEMENT IN TITLE 28, CHAPTER 4, ARTICLE 2, ARIZONA REVISED STATUTES, AS SECTIONS 28-1321 THROUGH 28-1327, RESPECTIVELY; TRANSFERRING AND RENUMBERING SECTIONS 28-2881 THROUGH 28-2886, ARIZONA REVISED STATUTES, AS

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

Section 1. Repeal

A. Title 28, chapter 5, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3 and as amended by Laws 1995, chapter 147, sections 5 through 10, is repealed.

B. Title 28, chapter 7, articles 1 and 3 through 12, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3 and as amended by Laws 1995, chapter 147, section 14, are repealed.

C. Sections 28-1605, 28-1670, 28-1817, 28-3722 and 28-5233, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, are repealed.

D. Section 13-814, Arizona Revised Statutes, is repealed.

Sec. 2. Title 13, chapter 37, Arizona Revised Statutes, is amended by adding section 13-3720, to read:

13-3720. Dropping objects from overpass; classification; definition

A. A PERSON ON AN OVERPASS WHO WITH CRIMINAL NEGLIGENCE DROPS, THROWS, SHOOTS OR OTHERWISE PROPELS AN OBJECT AT OR ON THE LOWER LEVEL STREET OR HIGHWAY OR AT OR ON A MOTOR VEHICLE THAT IS STANDING OR BEING OPERATED ON THE LOWER LEVEL STREET OR HIGHWAY IS GUILTY OF A CLASS 1 MISDEMEANOR.

B. FOR PURPOSES OF THIS SECTION, "OVERPASS" MEANS THE UPPER LEVEL OF A CROSSING, AT DIFFERENT LEVELS, OF TWO STREETS OR HIGHWAYS OR A STREET OR HIGHWAY AND A PEDESTRIAN PATH OR RAILROAD.

Sec. 3. Transfer and renumber

Title 28, chapter 6, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3 and as amended by Laws 1995, chapter 147, sections 11, 12 and 13, is transferred and renumbered for placement in title 28, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, as chapter 4. The transferred articles are renumbered, with title 28, chapter 6, articles 1 through 4, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3 and as amended by Laws 1995, chapter 147, sections 11, 12 and 13, becoming, respectively, title 28, chapter 4, articles 1 through 4, Arizona Revised Statutes. The transferred section 28-2801, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, previously included in title 28, chapter 6, article 1, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is renumbered for placement in title 28, chapter 4, article 1, Arizona Revised Statutes, as section 28-1301. The transferred sections 28-2821 through 28-2827, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, and as amended by Laws 1995, chapter 147, section 11, previously included in title 28, chapter 6, article 2, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3 and as amended by Laws 1995, chapter 147, section 11, are renumbered for placement in title 28, chapter 4, article 2, Arizona Revised Statutes, as

sections 28-1321 through 28-1327, respectively. The transferred sections 28-2881 through 28-2886, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3 and as amended by Laws 1995, chapter 147, sections 12 and 13, previously included in title 28, chapter 6, article 3, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3 and as amended by Laws 1995, chapter 147, sections 12 and 13, are renumbered for placement in title 28, chapter 4, article 3, Arizona Revised Statutes, as sections 28-1381 through 28-1386, respectively. The transferred sections 28-2941, 28-2942 and 28-2943, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, previously included in title 28, chapter 6, article 4, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, are renumbered for placement in title 28, chapter 4, article 4, Arizona Revised Statutes, as sections 28-1441, 28-1442 and 28-1443, respectively.

Sec. 4. Title 28, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended by adding a new chapter 6, to read:

CHAPTER 6

AGREEMENTS AND COMPACTS

Sec. 5. Transfer and renumber

A. Title 28, chapter 7, article 2, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is transferred and renumbered for placement in title 28, chapter 6, Arizona Revised Statutes, as added by this act, as article 1. The transferred sections 28-3131 through 28-3137, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, previously included in title 28, chapter 7, article 2, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, are renumbered for placement in title 28, chapter 6, article 1, Arizona Revised Statutes, as sections 28-1801 through 28-1807, respectively.

B. Title 28, chapter 7, article 13, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is transferred and renumbered for placement in title 28, chapter 6, Arizona Revised Statutes, as article 2. The transferred sections 28-3491, 28-3492 and 28-3493, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, previously included in title 28, chapter 7, article 13, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, are renumbered for placement in title 28, chapter 6, article 2, Arizona Revised Statutes, as sections 28-1821, 28-1822 and 28-1823, respectively.

Sec. 6. Transfer and renumber

Title 28, chapter 8, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is transferred and renumbered for placement in title 28, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, as chapter 5. The transferred articles are renumbered, with title 28, chapter 8, articles 1 through 5, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, becoming, respectively, title 28, chapter 5,

articles 1 through 5, Arizona Revised Statutes. The transferred section 28-3701, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, previously included in title 28, chapter 8, article 1, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is renumbered for placement in title 28, chapter 5, article 1, Arizona Revised Statutes, as section 28-1501. The transferred sections 28-3721, 28-3723, 28-3724 and 28-3725, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, previously included in title 28, chapter 8, article 2, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, are renumbered for placement in title 28, chapter 5, article 2, Arizona Revised Statutes, as sections 28-1521 through 28-1524, respectively. The transferred sections 28-3751 through 28-3761, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, previously included in title 28, chapter 8, article 3, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, are renumbered for placement in title 28, chapter 5, article 3, Arizona Revised Statutes, as follows: 28-3751 as 28-1551, 28-3752 as 28-1552, 28-3753 as 28-1553, 28-3754 as 28-1554, 28-3755 as 28-1555, 28-3756 as 28-1556, 28-3757 as 28-1557, 28-3758 as 28-1558, 28-3759 as 28-1560, 28-3760 as 28-1559 and 28-3761 as 28-1561. The transferred sections 28-3791 through 28-3801, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, previously included in title 28, chapter 8, article 4, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, are renumbered for placement in title 28, chapter 5, article 4, Arizona Revised Statutes, as sections 28-1591 through 28-1601, respectively. The transferred sections 28-3831 through 28-3836, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, previously included in title 28, chapter 8, article 5, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, are renumbered for placement in title 28, chapter 5, article 5, Arizona Revised Statutes, as sections 28-1631 through 28-1636, respectively.

Sec. 7. Transfer and renumber

Title 28, chapter 3, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is transferred and renumbered for placement in title 28, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, as chapter 7. The transferred articles are renumbered, with title 28, chapter 3, articles 1 through 16, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, becoming, respectively, title 28, chapter 7, articles 1 through 16, Arizona Revised Statutes. The transferred sections 28-701 through 28-709, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, previously included in title 28, chapter 3, article 1, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, are renumbered for placement in title 28, chapter 7, article 1, Arizona Revised Statutes, as sections 28-2001 through 28-2009, respectively. The transferred sections 28-751 through 28-762, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, previously included in title 28,

1 chapter 3, article 2, Arizona Revised Statutes, as added by Laws 1995,
2 chapter 132, section 3, are renumbered for placement in title 28, chapter 7,
3 article 2, Arizona Revised Statutes, as sections 28-2051 through 28-2062,
4 respectively. The transferred sections 28-801 through 28-804, Arizona
5 Revised Statutes, as added by Laws 1995, chapter 132, section 3, previously
6 included in title 28, chapter 3, article 3, Arizona Revised Statutes, as
7 added by Laws 1995, chapter 132, section 3, are renumbered for placement in
8 title 28, chapter 7, article 3, Arizona Revised Statutes, as sections 28-2091
9 through 28-2094, respectively. The transferred sections 28-831 through
10 28-836, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section
11 3, previously included in title 28, chapter 3, article 4, Arizona Revised
12 Statutes, as added by Laws 1995, chapter 132, section 3, are renumbered for
13 placement in title 28, chapter 7, article 4, Arizona Revised Statutes, as
14 sections 28-2131 through 28-2136, respectively. The transferred sections
15 28-851 through 28-868, Arizona Revised Statutes, as added by Laws 1995,
16 chapter 132, section 3, previously included in title 28, chapter 3, article
17 5, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3,
18 are renumbered for placement in title 28, chapter 7, article 5, Arizona
19 Revised Statutes, as sections 28-2151 through 28-2168, respectively. The
20 transferred sections 28-901 through 28-908, Arizona Revised Statutes, as
21 added by Laws 1995, chapter 132, section 3, previously included in title 28,
22 chapter 3, article 6, Arizona Revised Statutes, as added by Laws 1995,
23 chapter 132, section 3, are renumbered for placement in title 28, chapter 7,
24 article 6, Arizona Revised Statutes, as sections 28-2201 through 28-2208,
25 respectively. The transferred sections 28-931 through 28-939, Arizona
26 Revised Statutes, as added by Laws 1995, chapter 132, section 3, previously
27 included in title 28, chapter 3, article 7, Arizona Revised Statutes, as
28 added by Laws 1995, chapter 132, section 3, are renumbered for placement in
29 title 28, chapter 7, article 7, Arizona Revised Statutes, as sections 28-2231
30 through 28-2239, respectively. The transferred sections 28-961 through
31 28-968, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section
32 3, previously included in title 28, chapter 3, article 8, Arizona Revised
33 Statutes, as added by Laws 1995, chapter 132, section 3, are renumbered for
34 placement in title 28, chapter 7, article 8, Arizona Revised Statutes, as
35 sections 28-2261 through 28-2268, respectively. The transferred sections
36 28-991 through 28-995, Arizona Revised Statutes, as added by Laws 1995,
37 chapter 132, section 3, previously included in title 28, chapter 3, article
38 9, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3,
39 are renumbered for placement in title 28, chapter 7, article 9, Arizona
40 Revised Statutes, as sections 28-2291 through 28-2295, respectively. The
41 transferred sections 28-1021 through 28-1027, Arizona Revised Statutes, as
42 added by Laws 1995, chapter 132, section 3, previously included in title 28,
43 chapter 3, article 10, Arizona Revised Statutes, as added by Laws 1995,
44 chapter 132, section 3, are renumbered for placement in title 28, chapter 7,

article 10, Arizona Revised Statutes, as sections 28-2321 through 28-2327, respectively. The transferred sections 28-1051 through 28-1055, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, previously included in title 28, chapter 3, article 11, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, are renumbered for placement in title 28, chapter 7, article 11, Arizona Revised Statutes, as sections 28-2351 through 28-2355, respectively. The transferred sections 28-1101 through 28-1116, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, previously included in title 28, chapter 3, article 12, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, are renumbered for placement in title 28, chapter 7, article 12, Arizona Revised Statutes, as sections 28-2401 through 28-2416, respectively. The transferred sections 28-1151 through 28-1155, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, previously included in title 28, chapter 3, article 13, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, are renumbered for placement in title 28, chapter 7, article 13, Arizona Revised Statutes, as sections 28-2451 through 28-2455, respectively. The transferred sections 28-1181 through 28-1187, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, previously included in title 28, chapter 3, article 14, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, are renumbered for placement in title 28, chapter 7, article 14, Arizona Revised Statutes, as sections 28-2481 through 28-2487, respectively. The transferred sections 28-1211, 28-1212 and 28-1213, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, previously included in title 28, chapter 3, article 15, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, are renumbered for placement in title 28, chapter 7, article 15, Arizona Revised Statutes, as sections 28-2511, 28-2512 and 28-2513, respectively. The transferred sections 28-1231, 28-1232 and 28-1233, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, previously included in title 28, chapter 3, article 16, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, are renumbered for placement in title 28, chapter 7, article 16, Arizona Revised Statutes, as sections 28-2531, 28-2532 and 28-2533, respectively.

Sec. 8. Transfer and renumber

A. Title 28, chapter 4, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3 and as amended by Laws 1995, chapter 147, sections 3 and 4, is transferred and renumbered for placement in title 28, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, as chapter 8. The transferred articles are renumbered, with title 28, chapter 4, articles 1 through 8, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3 and as amended by Laws 1995, chapter 147, sections 3 and 4, becoming, respectively, title 28, chapter 8, articles 1 through 8, Arizona Revised Statutes. The transferred sections 28-1501 through 28-1505,

Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, previously included in title 28, chapter 4, article 1, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, as renumbered for placement in title 28, chapter 8, article 1, Arizona Revised Statutes, as sections 28-3001 through 28-3005, respectively. The transferred sections 28-1531, 28-1532 and 28-1533, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, previously included in title 28, chapter 4, article 2, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, are renumbered for placement in title 28, chapter 8, article 2, Arizona Revised Statutes, as sections 28-3051, 28-3052 and 28-3053, respectively. The transferred sections 28-1561, 28-1562 and 28-1563, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, previously included in title 28, chapter 4, article 3, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, are renumbered for placement in title 28, chapter 8, article 3, Arizona Revised Statutes, as sections 28-3101, 28-3102 and 28-3103, respectively. The transferred sections 28-1591 through 28-1604 and 28-1606 through 28-1614, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3 and as amended by Laws 1995, chapter 147, section 3, previously included in title 28, chapter 4, article 4, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3 and as amended by Laws 1995, chapter 147, section 3, are renumbered for placement in title 28, chapter 8, article 4, Arizona Revised Statutes, as sections 28-3151 through 28-3173, respectively. The transferred sections 28-1661 through 28-1669, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, previously included in title 28, chapter 4, article 5, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, are renumbered for placement in title 28, chapter 8, article 5, Arizona Revised Statutes, as sections 28-3221 through 28-3229, respectively. The transferred sections 28-1701 through 28-1719, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3 and as amended by Laws 1995, chapter 147, section 4, previously included in title 28, chapter 4, article 6, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3 and as amended by Laws 1995, chapter 147, section 4, are renumbered for placement in title 28, chapter 8, article 6, Arizona Revised Statutes, as sections 28-3301 through 28-3319, respectively. The transferred sections 28-1761 through 28-1769, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, previously included in title 28, chapter 4, article 7, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, are renumbered for placement in title 28, chapter 8, article 7, Arizona Revised Statutes, as sections 28-3391 through 28-3399, respectively. The transferred sections 28-1811 through 28-1816, 28-1818, 28-1819 and 28-1820, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, previously included in title 28, chapter 4, article 8, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, are renumbered for

placement in title 28, chapter 8, article 8, Arizona Revised Statutes, as follows: 28-1811 as 28-3471, 28-1812 as 28-3476, 28-1813 as 28-3477, 28-1814 as 28-3478, 28-1815 as 28-3479, 28-1816 as 28-3473, 28-1818 as 28-3472, 28-1819 as 28-3480 and 28-1820 as 28-3481.

B. Title 28, chapter 4, articles 9 and 10, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, are transferred and renumbered for placement in title 28, chapter 6, Arizona Revised Statutes, as added by this act, as articles 3 and 4, respectively.

Sec. 9. Section 28-101, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-101. Definitions

In this title, unless the context otherwise requires:

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

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

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

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

3. "Authorized emergency vehicle" means any of the following:

(a) A fire department vehicle.

(b) A police vehicle.

(c) An ambulance or emergency vehicle of a municipal department or public service corporation that is designated or authorized by the department or a local authority.

(d) Any other ambulance, fire truck or rescue vehicle that is authorized by the department in its sole discretion and that meets liability insurance requirements prescribed by the department.

4. "Aviation fuel" means all flammable liquids composed of a mixture of selected hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently operating an internal combustion engine for use in an aircraft but does not include fuel for jet or turbine powered aircraft.

5. "Bicycle" means a device that is propelled by human power and on which a person may ride and that has either:

(a) Two tandem wheels, either of which is more than sixteen inches in diameter.

(b) Three wheels in contact with the ground, any of which is more than sixteen inches in diameter.

6. "Board" means the transportation board.

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

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

9. "Combination of vehicles" means a truck or truck tractor and semitrailer and any trailer that it tows but does not include a forklift designed for the purpose of loading or unloading the truck, trailer or semitrailer.

10. "Controlled substance" means a substance so classified under section 102(6) of the controlled substances act (21 United States Code section 802(6)) and includes all substances listed in schedules I through V of 21 Code of Federal Regulations part 1308.

11. "Conviction" means:

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

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

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

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

12. "County highway" means a public road constructed and maintained by a county.

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

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

15. "Director" means the director of the department of transportation.

16. "Drive" means to operate or be in actual physical control of a motor vehicle.

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

18. "Driver license" means a license that is issued by a state to an individual and that authorizes the individual to drive a motor vehicle.

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

20. "Foreign vehicle" means a motor vehicle, trailer or semitrailer that is brought into this state other than in the ordinary course of business by or through a manufacturer or dealer and that has not been registered in this state.

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

one thousand three hundred pounds, that is designed to be and is operated at not more than fifteen miles per hour and that is designed to carry golf equipment and not more than four persons including the driver.

22. "Hazardous material" means a material, and its mixtures or solutions, that the United States department of transportation determines under 49 Code of Federal Regulations is capable of posing an unreasonable risk to health, safety and property if transported in commerce and that is required to be placarded or marked as required by the department's safety rules prescribed pursuant to chapter 14 of this title.

23. "Implement of husbandry" means a vehicle designed primarily for agricultural purposes and used exclusively in the conduct of agricultural operations, including an implement or vehicle whether self-propelled or otherwise that meets all of the following conditions:

(a) Is used exclusively for carrying products of farming from one part of a farm to another part of the same farm or from one farm to another farm.

(b) Is used solely for agricultural purposes including the preparation or harvesting of cotton, alfalfa, grains and other farm crops.

(c) Is only incidentally operated or moved on a highway whether as a trailer or self-propelled unit.

24. "Local authority" means the county, municipal and other local board or body exercising jurisdiction over highways under the constitution and laws of this state.

25. "Manufacturer" means a person engaged in the business of manufacturing motor vehicles, trailers or semitrailers.

26. "Moped" means a bicycle that is equipped with a helper motor if the vehicle has a maximum piston displacement of fifty cubic centimeters or less, a brake horsepower of one and one-half or less and a maximum speed of twenty-five miles per hour or less on a flat surface with less than a one per cent grade.

27. "Motor driven cycle" means a motorcycle, including every motor scooter, with a motor that produces not more than five horsepower.

28. "Motor vehicle":

(a) Means either:

(i) A self-propelled vehicle.

(ii) For the purposes of the laws relating to the imposition of a tax on motor vehicle fuel, a vehicle that is operated on the highways of this state and that is propelled by the use of motor vehicle fuel.

(b) Does not include a motorized wheelchair or a motorized skateboard. For the purposes of this subdivision:

(i) "Motorized wheelchair" means a self-propelled vehicle that is designed for and used by a ~~physically disabled~~ person WITH A PHYSICAL DISABILITY.

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

29. "Motor vehicle fuel" includes all products that are commonly or commercially known or sold as gasoline, including casinghead gasoline, natural gasoline and all flammable liquids, and that are composed of a mixture of selected hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently operating internal combustion engines. Motor vehicle fuel does not include use fuel as defined in section 28-5701, aviation fuel, ~~or~~ fuel for jet or turbine powered aircraft OR THE MIXTURE CREATED AT THE INTERFACE OF TWO DIFFERENT SUBSTANCES BEING TRANSPORTED THROUGH A PIPELINE, COMMONLY KNOWN AS TRANSMIX.

30. "Motorcycle" means a motor vehicle that has a seat or saddle for the use of the rider and that is designed to travel on not more than three wheels in contact with the ground but excluding a tractor and a moped.

31. "Nonresident" means a person who is not a resident of this state as defined in section ~~28-701~~ 28-2001.

32. "Off-road recreational motor vehicle" means a motor vehicle designed primarily for recreational nonhighway all-terrain travel. Off-road recreational motor vehicle does not mean a motor vehicle used for construction, building trade, mining or agricultural purposes.

33. "Operator" means a person who drives a motor vehicle on a highway, who is in actual physical control of a motor vehicle on a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle.

34. "Owner" means:

(a) A person who holds the legal title of a vehicle.

(b) If a vehicle is the subject of an agreement for the conditional sale or lease with the right of purchase on performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, the conditional vendee or lessee.

(c) If a mortgagor of a vehicle is entitled to possession of the vehicle, the mortgagor.

35. "Pedestrian" means any person afoot. A person who is not ambulatory and who is in a wheelchair or motorized wheelchair is considered a pedestrian. For the purposes of this paragraph, "motorized wheelchair" means a self-propelled vehicle that is designed for and used by a physically disabled person.

36. "Power sweeper" means an implement, with or without motive power, that is only incidentally operated or moved on a street or highway and that is designed for the removal of debris, dirt, gravel, litter or sand whether by broom, vacuum or regenerative air system from asphaltic concrete or cement concrete surfaces, including parking lots, highways, streets and warehouses, and a vehicle on which the implement is permanently mounted.

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

38. "Reconstructed vehicle" means a vehicle that has been assembled or constructed largely by means of essential parts, new or used, derived from vehicles or makes of vehicles of various names, models and types or that, if originally otherwise constructed, has been materially altered by the removal of essential parts or by the addition or substitution of essential parts, new or used, derived from other vehicles or makes of vehicles. For the purposes of this paragraph, "essential parts" means integral and body parts, the removal, alteration or substitution of which will tend to conceal the identity or substantially alter the appearance of the vehicle.

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

40. "Right-of-way" when used within the context of the regulation of the movement of traffic on a highway means the privilege of the immediate use of the highway. Right-of-way when used within the context of the real property on which transportation facilities and appurtenances to the facilities are constructed or maintained means the lands or interest in lands within the right-of-way boundaries.

41. "School bus" means a motor vehicle that is DESIGNED FOR CARRYING MORE THAN TEN PASSENGERS AND THAT IS either:

(a) ~~Designed for carrying more than ten passengers, that is~~ Owned by any public or governmental agency or other institution and ~~that is~~ operated for the transportation of children to or from home or school on a regularly scheduled basis.

(b) Privately owned and operated for compensation for the transportation of children to or from home or school on a regularly scheduled basis.

42. "Semitrailer" means a vehicle THAT IS with or without motive power, other than a pole trailer, that is designed for carrying persons or property and for being drawn by a motor vehicle and that is constructed so that some part of its weight and that of its load rests on or is carried by another vehicle. For the purposes of this paragraph, "pole trailer" has the same meaning prescribed in section ~~28-3101~~ 28-601.

43. "State" means a state of the United States and the District of Columbia.

44. "State highway" means a state route or portion of a state route that is accepted and designated by the board as a state highway and that is maintained by the state.

45. "State route" means a right-of-way whether actually used as a highway or not that is designated by the board as a location for the construction of a state highway.

46. "Street" or "highway" means the entire width between the boundary lines of every way if a part of the way is open to the use of the public for purposes of vehicular travel.

47. "Trailer" means a vehicle THAT IS with or without motive power, other than a pole trailer, THAT IS designed for carrying persons or property and for being drawn by a motor vehicle and ~~so~~ THAT IS constructed SO that no part of its weight rests on the towing vehicle. A semitrailer equipped with an auxiliary front axle commonly known as a dolly is deemed to be a trailer. For the purposes of this paragraph, "pole trailer" has the same meaning prescribed in section ~~28-3101~~ 28-601.

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

49. "Truck tractor" means a motor vehicle that is designed and used primarily for drawing other vehicles and that is not constructed to carry a load other than a part of the weight of the vehicle and load drawn.

50. "Vehicle" means a device in, on or by which a person or property is or may be transported or drawn on a highway, excluding devices moved by human power or used exclusively on stationary rails or tracks.

51. "Vehicle transporter" means either:

(a) A truck tractor capable of carrying a load and drawing a semitrailer.

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

Sec. 10. Section 28-121, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-121. <u>Violation; classification; exception; civil traffic violation; penalty assessment</u>

A. A person who violates a provision of this title or who fails or refuses to do or perform an act or thing required by this title is guilty of a class 2 misdemeanor, unless the statute defining the offense provides for a different classification. This subsection does not apply to any provision or requirement of chapter 3, ~~4,~~ 5, ~~6,~~ 7 or 8 ~~or~~, chapter 9, article 4 or chapter 10, article 10 of this title.

B. A violation of or failure or refusal to do or perform an act or thing required by chapter 3, ~~4,~~ 5, ~~6,~~ 7 or 8 ~~or~~, chapter 9, article 4 or chapter 10, article 10 of this title is a civil traffic violation unless the statute defining the violation provides for a different classification. Civil

traffic violations are subject to chapter ~~8~~ 5, articles 3 and 4 of this title.

C. In addition to any other penalty assessment provided in this title, the court shall levy the penalty assessment as required by sections 12-116.01 and 12-116.02.

Sec. 11. Section 28-369, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-369. Law enforcement powers; ports of entry; violation; classification

A. The director and officers, agents and employees of the department or local or state law enforcement agencies as the director designates are peace officers for the enforcement of all laws the director enforces. The powers of the director, officers, agents and employees as peace officers are strictly limited to the enforcement of motor vehicle laws and rules, and within these limits, the powers are coextensive with like authority of other peace officers of this state or cities and towns of this state. The director, officers, agents and employees may exercise the powers throughout this state.

B. A peace officer as defined in section 41-1701 or a peace officer designated in subsection A of this section may require a vehicle that is subject to the fee in section 28-5433 or the requirements of sections ~~28-1021~~ 28-2321 through ~~28-1024~~ 28-2324 to stop at a port of entry in this state for the purpose of enforcing a motor vehicle law prescribed in this title. A person who fails to stop as required by this subsection is guilty of a class 1 misdemeanor.

Sec. 12. Section 28-372, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-372. Returned checks; fee

A. The director may assess a fee for a check that has been returned for nonpayment because of insufficient monies, payments stopped or closed accounts. The director, by rule, shall adopt a fee of not more than ten dollars.

B. The director shall transmit fees for returned checks that were submitted for titling and registering vehicles to the state treasurer for deposit in the special registration fund established by section ~~28-707~~ 28-2007 if the director is the registering officer or to the county treasurer for deposit in the county assessor's special registration fund established by section ~~28-705~~ 28-2005 if the county assessor is the registering officer. The director shall transmit all other fees collected under subsection A of this section to the state treasurer for deposit in the highway user revenue fund.

Sec. 13. Title 28, chapter 2, article 3, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended by adding section 28-374, to read:

28-374. Fees and taxes; alternative payment methods

A. SUBJECT TO THE LIMITATIONS OF SECTION 41-2544, THE DIRECTOR MAY ENTER INTO AGREEMENTS FOR THE PURPOSE OF ACCEPTING PAYMENT FOR FEES AND TAXES IMPOSED UNDER THIS TITLE BY ALTERNATIVE PAYMENT METHODS, INCLUDING CREDIT CARDS, DEBIT CARDS AND ELECTRONIC FUNDS TRANSFERS.

B. BEFORE THE REVENUES ARE TRANSFERRED TO THE DIRECTOR AS PROVIDED IN SECTIONS 28-2007 AND 28-6533, THE COLLECTING OFFICER SHALL DEDUCT ANY FEE CHARGED OR WITHHELD BY A COMPANY PROVIDING THE ALTERNATIVE PAYMENT METHOD UNDER AN AGREEMENT WITH THE DIRECTOR.

Sec. 14. Section 28-403, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-403. Interstate agreements; commercial vehicle registration

The director may enter into agreements with other states on behalf of this state relating to registration of commercial vehicles in the manner provided for in chapter ~~3~~ 7, articles 7 and 8 of this title to facilitate the administration of the registration. The registration of fleet vehicles under these sections is subject to the rights, terms and conditions granted or contained in an agreement made pursuant to this section. The director may conclude arrangements or agreements with other states for the exchange of information for audit and enforcement activities in connection with the registration.

Sec. 15. Section 28-447, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-447. Public records

A. An application for a license, permit, title or registration made to the department and a document required by law or by the department to accompany the application is a public record, except a medical report and a report voluntarily submitted by a physician as defined in section ~~28-1505~~ 28-3005, except as provided by section 28-452 and except as otherwise provided by law.

B. If the department is required or authorized to revoke, suspend or cancel a driver license or to suspend vehicle registrations pursuant to chapter 9 of this title, it shall notify the holder by a written notice that includes a citation to the statute or rule under which the action is authorized or required and a certification that the original notice was mailed and the date the notice was mailed. The department shall retain a copy of the notice. The copy of the notice is a public record. If the copy is addressed to a licensee at the address last shown on the department's records, as evidenced by the person's driver license application or subsequent notification pursuant to section 28-448 by the person of a different address, it is presumed, unless otherwise shown by clear and convincing evidence, that the person to whom the notice was addressed received the original notice.

C. The department may place notes, date stamps, identifying numbers or other information on an application, A record of conviction or ANY other record as is necessary to ensure the accuracy of the record and to expedite its handling. The information does not affect the validity of a record, except that the markings are not considered a part of the record for evidentiary purposes unless proven accurate by other records of the department or other competent evidence.

Sec. 16. Section 28-448, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-448. Notice of address or name change; address update; civil traffic violation

A. If a person's name or address changes after the person applies for or receives a driver license or nonoperating identification license or if a person's address changes after the person applies for or receives a vehicle registration or vehicle title, the person shall notify the department within ten days after the change of the old and new address or the former and new name and the following:

1. If a registration or title is applied for or received, the number of vehicles registered to the person and the vehicle identification numbers of the vehicles.

2. If a driver license or nonoperating identification license is applied for or received, the person's date of birth and the number of each license held by the person or a statement that each license is suspended, revoked or canceled.

B. A person may notify the department of an address change by telephone, in writing or in person and of a name change in person or in writing.

C. The department may update an address in a vehicle registration record or driver license record if a traffic citation received by the department or records of another consenting government agency indicate an address change after the date the address was stated in department records.

D. A VIOLATION OF THIS SECTION IS A CIVIL TRAFFIC VIOLATION.

Sec. 17. Section 28-450, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-450. Release of information prohibited; classification; definition

A. Notwithstanding section 28-447, the department shall not:

1. Divulge information from a vehicle title or registration record unless the person who requests the information provides to the department all of the following:

(a) The name of the owner.

(b) The vehicle identification number of the vehicle.

(c) The vehicle license plate number assigned to the vehicle.

2. Release a copy of a record or divulge information concerning a person's driving record unless the person requesting the driving record provides to the department all of the following:

(a) The name of the licensee or the name of the person whose record is requested.

(b) The driver license number of the licensee, a statement that the person whose record is requested has not applied for a license or a statement that the license has been suspended or revoked.

(c) The date of birth of the licensee or the expiration date of the driver license of the licensee.

B. Subsection A of this section does not apply to:

1. A state or its departments, agencies or political subdivisions.

2. ANY AGENT OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY WHO HAS A VALID CONTRACT TO CONDUCT THE RANDOM ON-ROAD TESTING PROGRAM PRESCRIBED BY SECTION 49-542.01.

~~2.~~ 3. A court.

~~3.~~ 4. A law enforcement officer.

~~4.~~ 5. A licensed private investigator.

~~5.~~ 6. A financial institution and enterprise under the jurisdiction of the state banking department or a federal monetary authority.

~~6.~~ 7. The federal government or its agencies.

~~7.~~ 8. An attorney who is admitted to practice in this state and who alleges that the information is relevant to a pending or potential court proceeding.

~~8.~~ 9. A motor vehicle dealer who is licensed and bonded by the department or a state organization of licensed and bonded motor vehicle dealers.

~~9.~~ 10. The release of any of the following information to a person who is involved in an accident or to the owner of a vehicle involved in an accident if the person who requests the information submits proof to the department of involvement in the accident:

(a) The driving record of a person who operates a motor vehicle involved in the accident.

(b) The vehicle title or registration record of a vehicle involved in the accident.

~~10.~~ 11. The release of the driving record or title and registration record if that record is for the requester's vehicle or is the requester's own driving record, except that the director may require any information from the requester that is deemed necessary to ensure that the requester is entitled to receive the record.

~~11.~~ 12. An insurer that writes automobile liability or motor vehicle liability policies and that is under the jurisdiction of the department of insurance, except that an insurer or its authorized agent requesting information pursuant to subsection A of this section shall provide two of the

three requirements under subsection A, paragraph 1 or 2 of this section before the department divulges or releases the information.

~~12.~~ 13. The release of a title and registration record if all of the following conditions exist:

(a) The requester verifies to the satisfaction of the director that the vehicle on which the requester is requesting the record is in the requester's possession.

(b) The record is requested in order for the requester to notify the registered owner of the requester's intent to apply to the department for a bonded title.

(c) The requester provides a verification of a vehicle inspection that was performed by an authorized department employee or agent.

C. An authorized agent shall promptly deliver information received from the department pursuant to subsection A of this section and subsection B, paragraph 11 of this section to the insurer that originally requested the information. An authorized agent shall not copy, retain or transfer by any means any of the information for the authorized agent's own use or for use by persons other than the insurer that originally requested the information.

D. The department shall not release to an insurer, broker, managing general agent, authorized agent or insurance agent any information in a person's driving record pertaining to a traffic violation that occurred forty months or more before the date of the request for the release of the information.

E. An authorized agent who commits any of the following acts with regard to information received pursuant to subsection A of this section and subsection B, paragraph 11 of this section is guilty of a class 1 misdemeanor:

1. Uses a false representation to obtain information from a department record.

2. Sells or otherwise distributes the information obtained from the department to a person or organization for purposes that are not disclosed in the request.

3. Violates subsection C of this section.

F. For the purposes of this section, "authorized agent" means a third party retained by an insurer for the purpose of requesting department information pursuant to subsection A of this section and subsection B, paragraph 11 of this section but does not include an agent as defined in section 20-282, a broker as defined in section 20-283 or a managing general agent as defined in section 20-284.

1 Sec. 18. Title 28, Arizona Revised Statutes, as added by Laws 1995,
2 chapter 132, section 3, is amended by adding a new chapter 3, to read:
3 CHAPTER 3
4 TRAFFIC AND VEHICLE REGULATION
5 ARTICLE 1. DEFINITIONS AND POWERS OF GOVERNOR
6 28-601. Definitions
7 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:
8 1. "COMMERCIAL MOTOR VEHICLE" MEANS A MOTOR VEHICLE OR COMBINATION OF
9 MOTOR VEHICLES USED TO TRANSPORT PASSENGERS OR PROPERTY IF THE MOTOR VEHICLE
10 EITHER:
11 (a) HAS A GROSS COMBINED WEIGHT RATING OF TWENTY-SIX THOUSAND ONE OR
12 MORE POUNDS INCLUSIVE OF A TOWED UNIT WITH A GROSS VEHICLE WEIGHT RATING OF
13 MORE THAN TEN THOUSAND POUNDS.
14 (b) HAS A GROSS VEHICLE WEIGHT RATING OF TWENTY-SIX THOUSAND ONE OR
15 MORE POUNDS.
16 (c) IS A SCHOOL BUS.
17 (d) IS A BUS.
18 (e) IS USED IN THE TRANSPORTATION OF MATERIALS FOUND TO BE HAZARDOUS
19 FOR THE PURPOSES OF THE HAZARDOUS MATERIALS TRANSPORTATION ACT (49 UNITED
20 STATES CODE APPENDIX SECTIONS 1801 THROUGH 1812) AND IS REQUIRED TO BE
21 PLACARDED UNDER 49 CODE OF FEDERAL REGULATIONS SECTION 172.504, AS ADOPTED
22 BY THE DEPARTMENT PURSUANT TO CHAPTER 14 OF THIS TITLE.
23 2. "CONTROLLED ACCESS HIGHWAY" MEANS A HIGHWAY, STREET OR ROADWAY TO
24 OR FROM WHICH OWNERS OR OCCUPANTS OF ABUTTING LANDS AND OTHER PERSONS HAVE
25 NO LEGAL RIGHT OF ACCESS EXCEPT AT SUCH POINTS ONLY AND IN THE MANNER
26 DETERMINED BY THE PUBLIC AUTHORITY THAT HAS JURISDICTION OVER THE HIGHWAY,
27 STREET OR ROADWAY.
28 3. "CROSSWALK" MEANS:
29 (a) THAT PART OF A ROADWAY AT AN INTERSECTION INCLUDED WITHIN THE
30 PROLONGATIONS OR CONNECTIONS OF THE LATERAL LINES OF THE SIDEWALKS ON
31 OPPOSITE SIDES OF THE HIGHWAY MEASURED FROM THE CURBS OR, IN ABSENCE OF
32 CURBS, FROM THE EDGES OF THE TRAVERSABLE ROADWAY.
33 (b) ANY PORTION OF A ROADWAY AT AN INTERSECTION OR ELSEWHERE THAT IS
34 DISTINCTLY INDICATED FOR PEDESTRIAN CROSSING BY LINES OR OTHER MARKINGS ON
35 THE SURFACE.
36 4. "EXPLOSIVES" MEANS ANY CHEMICAL COMPOUND, MIXTURE OR DEVICE THAT
37 IS COMMONLY USED OR INTENDED FOR THE PURPOSE OF PRODUCING AN EXPLOSION AND
38 THAT IS DEFINED IN 49 CODE OF FEDERAL REGULATIONS PART 173.
39 5. "FLAMMABLE LIQUID" MEANS ANY LIQUID THAT HAS A FLASH POINT OF LESS
40 THAN ONE HUNDRED DEGREES FAHRENHEIT AND THAT IS DEFINED IN 49 CODE OF FEDERAL
41 REGULATIONS SECTION 173.120.
42 6. "GROSS WEIGHT" MEANS THE WEIGHT OF A VEHICLE WITHOUT A LOAD PLUS
43 THE WEIGHT OF ANY LOAD ON THE VEHICLE.

7. "INTERSECTION" MEANS THE AREA EMBRACED WITHIN THE PROLONGATION OR CONNECTION OF THE LATERAL CURB LINES, OR IF NONE, THE LATERAL BOUNDARY LINES OF THE ROADWAYS OF TWO HIGHWAYS THAT JOIN ONE ANOTHER AT, OR APPROXIMATELY AT, RIGHT ANGLES, OR THE AREA WITHIN WHICH VEHICLES TRAVELING ON DIFFERENT HIGHWAYS JOINING AT ANY OTHER ANGLE MAY COME IN CONFLICT. IF A HIGHWAY INCLUDES TWO ROADWAYS THIRTY OR MORE FEET APART, EACH CROSSING OF EACH ROADWAY OF THE DIVIDED HIGHWAY BY AN INTERSECTING HIGHWAY IS A SEPARATE INTERSECTION. IF THE INTERSECTING HIGHWAY ALSO INCLUDES TWO ROADWAYS THIRTY OR MORE FEET APART, EACH CROSSING OF TWO ROADWAYS OF THE HIGHWAYS IS A SEPARATE INTERSECTION.

8. "LICENSE" MEANS ANY LICENSE, TEMPORARY INSTRUCTION PERMIT OR TEMPORARY LICENSE ISSUED UNDER THE LAWS OF THIS STATE OR ANY OTHER STATE THAT PERTAIN TO THE LICENSING OF PERSONS TO OPERATE MOTOR VEHICLES.

9. "MOTORIZED WHEELCHAIR" MEANS ANY SELF-PROPELLED VEHICLE THAT IS DESIGNED FOR, AND USED BY, A PERSON WITH A PHYSICAL DISABILITY.

10. "OFFICIAL TRAFFIC CONTROL DEVICE" MEANS ANY SIGN, SIGNAL, MARKING OR DEVICE THAT IS NOT INCONSISTENT WITH THIS CHAPTER AND THAT IS PLACED OR ERECTED BY AUTHORITY OF A PUBLIC BODY OR OFFICIAL HAVING JURISDICTION FOR THE PURPOSE OF REGULATING, WARNING OR GUIDING TRAFFIC.

11. "PARK", IF PROHIBITED, MEANS THE STANDING OF A VEHICLE, WHETHER OCCUPIED OR NOT, OTHERWISE THAN TEMPORARILY FOR THE PURPOSE OF AND WHILE ACTUALLY ENGAGED IN LOADING OR UNLOADING.

12. "PNEUMATIC TIRE" MEANS A TIRE IN WHICH COMPRESSED AIR IS DESIGNED TO SUPPORT THE LOAD.

13. "POLE TRAILER" MEANS A VEHICLE THAT IS ALL OF THE FOLLOWING:

(a) WITHOUT MOTIVE POWER.

(b) DESIGNED TO BE DRAWN BY ANOTHER VEHICLE AND ATTACHED TO THE TOWING VEHICLE BY MEANS OF A REACH OR POLE OR BY BEING BOOMED OR OTHERWISE SECURED TO THE TOWING VEHICLE.

(c) USED ORDINARILY FOR TRANSPORTING LONG OR IRREGULARLY SHAPED LOADS SUCH AS POLES, PIPES OR STRUCTURAL MEMBERS CAPABLE GENERALLY OF SUSTAINING THEMSELVES AS BEAMS BETWEEN THE SUPPORTING CONNECTIONS.

14. "POLICE OFFICER" MEANS AN OFFICER AUTHORIZED TO DIRECT OR REGULATE TRAFFIC OR MAKE ARRESTS FOR VIOLATIONS OF TRAFFIC RULES OR OTHER OFFENSES.

15. "PRIVATE ROAD OR DRIVEWAY" MEANS A WAY OR PLACE THAT IS IN PRIVATE OWNERSHIP AND THAT IS USED FOR VEHICULAR TRAVEL BY THE OWNER AND THOSE PERSONS WHO HAVE EXPRESS OR IMPLIED PERMISSION FROM THE OWNER BUT NOT BY OTHER PERSONS.

16. "RAILROAD" MEANS A CARRIER OF PERSONS OR PROPERTY ON CARS OPERATED ON STATIONARY RAILS.

17. "RAILROAD SIGN OR SIGNAL" MEANS A SIGN, SIGNAL OR DEVICE ERECTED BY AUTHORITY OF A PUBLIC BODY OR OFFICIAL OR BY A RAILROAD AND INTENDED TO GIVE NOTICE OF THE PRESENCE OF RAILROAD TRACKS OR THE APPROACH OF A RAILROAD TRAIN.

18. "RAILROAD TRAIN" MEANS A STEAM ENGINE OR ANY ELECTRIC OR OTHER MOTOR THAT IS WITH OR WITHOUT CARS COUPLED TO THE STEAM ENGINE OR ELECTRIC OR OTHER MOTOR AND THAT IS OPERATED ON RAILS.

19. "ROADWAY" MEANS THAT PORTION OF A HIGHWAY THAT IS IMPROVED, DESIGNED OR ORDINARILY USED FOR VEHICULAR TRAVEL, EXCLUSIVE OF THE BERM OR SHOULDER. IF A HIGHWAY INCLUDES TWO OR MORE SEPARATE ROADWAYS, ROADWAY REFERS TO ANY SUCH ROADWAY SEPARATELY BUT NOT TO ALL SUCH ROADWAYS COLLECTIVELY.

20. "SAFETY ZONE" MEANS THE AREA OR SPACE THAT IS BOTH:

(a) OFFICIALLY SET APART WITHIN A ROADWAY FOR THE EXCLUSIVE USE OF PEDESTRIANS.

(b) PROTECTED OR EITHER MARKED OR INDICATED BY ADEQUATE SIGNS AS TO BE PLAINLY VISIBLE AT ALL TIMES WHILE SET APART AS A SAFETY ZONE.

21. "SIDEWALK" MEANS THAT PORTION OF A STREET THAT IS BETWEEN THE CURB LINES OR THE LATERAL LINES OF A ROADWAY AND THE ADJACENT PROPERTY LINES AND THAT IS INTENDED FOR THE USE OF PEDESTRIANS.

22. "SOLID TIRE" MEANS A TIRE THAT BOTH:

(a) IS MADE OF RUBBER OR OTHER RESILIENT MATERIAL.

(b) DOES NOT DEPEND ON COMPRESSED AIR FOR THE SUPPORT OF THE LOAD.

23. "STOP", IF REQUIRED, MEANS COMPLETE CESSATION FROM MOVEMENT.

24. "STOP, STOPPING OR STANDING", IF PROHIBITED, MEANS ANY STOPPING OR STANDING OF AN OCCUPIED OR UNOCCUPIED VEHICLE, EXCEPT WHEN NECESSARY TO AVOID CONFLICT WITH OTHER TRAFFIC OR IN COMPLIANCE WITH DIRECTIONS OF A POLICE OFFICER OR TRAFFIC CONTROL SIGN OR SIGNAL.

25. "THROUGH HIGHWAY" MEANS A HIGHWAY OR PORTION OF A HIGHWAY AT THE ENTRANCES TO WHICH VEHICULAR TRAFFIC FROM INTERSECTING HIGHWAYS IS REQUIRED BY LAW TO STOP BEFORE ENTERING OR CROSSING AND WHEN STOP SIGNS ARE ERECTED AS PROVIDED IN THIS CHAPTER.

26. "TRAFFIC" MEANS PEDESTRIANS, RIDDEN OR HERDED ANIMALS, VEHICLES AND OTHER CONVEYANCES EITHER SINGLY OR TOGETHER WHILE USING A HIGHWAY FOR PURPOSES OF TRAVEL.

27. "TRAFFIC CONTROL SIGNAL" MEANS A DEVICE, WHETHER MANUALLY, ELECTRICALLY OR MECHANICALLY OPERATED, BY WHICH TRAFFIC IS ALTERNATELY DIRECTED TO STOP AND TO PROCEED.

28. "TRUCK" MEANS A MOTOR VEHICLE THAT IS DESIGNED, USED OR MAINTAINED PRIMARILY FOR THE TRANSPORTATION OF PROPERTY.

28-602. <u>Powers of governor; federal highway safety act</u>

A. IN ADDITION TO OTHER DUTIES AND RESPONSIBILITIES CONFERRED ON THE GOVERNOR BY THE CONSTITUTION AND LAWS OF THIS STATE, THE GOVERNOR MAY CONTRACT AND DO ALL OTHER THINGS NECESSARY TO SECURE THE FULL BENEFITS AVAILABLE TO THIS STATE UNDER THE FEDERAL HIGHWAY SAFETY ACT OF 1966 (23 UNITED STATES CODE SECTIONS 401 THROUGH 404) AND ANY OTHER SUBSEQUENT FEDERAL HIGHWAY SAFETY ACTS, INCLUDING COOPERATING WITH FEDERAL AND STATE AGENCIES, PRIVATE AND PUBLIC ORGANIZATIONS, AND PERSONS TO EFFECTUATE THE PURPOSES OF THE FEDERAL ACTS AND ANY AMENDMENTS TO THE FEDERAL ACTS.

B. THE GOVERNOR IS RESPONSIBLE FOR AND MAY ADMINISTER THE HIGHWAY SAFETY PROGRAMS OF THIS STATE AND THOSE OF ITS POLITICAL SUBDIVISIONS THROUGH THE APPROPRIATE AGENCY OF THIS STATE THAT THE GOVERNOR DESIGNATES. THE RESPONSIBILITY, ADMINISTRATION AND DESIGNATION SHALL BE IN ACCORDANCE WITH THE FEDERAL HIGHWAY SAFETY ACT OF 1966 OR ANY OTHER SUBSEQUENT FEDERAL HIGHWAY SAFETY ACT AND FEDERAL REGULATIONS ADOPTED TO IMPLEMENT THE FEDERAL ACTS AND AS FURTHER PROVIDED BY LAW.

ARTICLE 2. OBEDIENCE TO AND EFFECT OF TRAFFIC LAWS

28-621. Applicability to vehicles on highways; exceptions

THE PROVISIONS OF THIS CHAPTER AND CHAPTER 5 OF THIS TITLE RELATING TO THE OPERATION OF VEHICLES REFER EXCLUSIVELY TO THE OPERATION OF VEHICLES ON HIGHWAYS EXCEPT:

1. IF A DIFFERENT PLACE IS SPECIFICALLY PROVIDED BY STATUTE.

2. ARTICLE 4 OF THIS CHAPTER AND SECTION 28-693 APPLY ON HIGHWAYS AND ELSEWHERE THROUGHOUT THIS STATE.

28-622. Failure to comply with police officer; classification

A. A PERSON SHALL NOT WILFULLY FAIL OR REFUSE TO COMPLY WITH ANY LAWFUL ORDER OR DIRECTION OF A POLICE OFFICER INVESTED BY LAW WITH AUTHORITY TO DIRECT, CONTROL OR REGULATE TRAFFIC.

B. A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A CLASS 2 MISDEMEANOR.

28-622.01. Unlawful flight from pursuing law enforcement vehicle; classification; vehicle marking required

A DRIVER OF A MOTOR VEHICLE WHO WILFULLY FLEES OR ATTEMPTS TO ELUDE A PURSUING OFFICIAL LAW ENFORCEMENT VEHICLE THAT IS BEING OPERATED IN THE MANNER DESCRIBED IN SECTION 28-624, SUBSECTION C IS GUILTY OF A CLASS 5 FELONY. THE LAW ENFORCEMENT VEHICLE SHALL BE APPROPRIATELY MARKED TO SHOW THAT IT IS AN OFFICIAL LAW ENFORCEMENT VEHICLE.

28-623. Obedience by public officers and employees; exceptions

A. EXCEPT AS PROVIDED IN THIS SECTION AND SUBJECT TO SPECIFIC EXCEPTIONS PRESCRIBED IN THIS CHAPTER AND CHAPTERS 4 AND 5 OF THIS TITLE WITH REFERENCE TO AUTHORIZED EMERGENCY VEHICLES, THE PROVISIONS OF THIS CHAPTER AND CHAPTERS 4 AND 5 OF THIS TITLE APPLICABLE TO THE DRIVERS OF VEHICLES ON THE HIGHWAYS APPLY TO THE DRIVERS OF ALL VEHICLES OWNED OR OPERATED BY THE UNITED STATES, THIS STATE OR ANY COUNTY, CITY, TOWN, DISTRICT OR OTHER POLITICAL SUBDIVISION OF THIS STATE.

B. UNLESS SPECIFICALLY MADE APPLICABLE BY LAW, THIS CHAPTER AND CHAPTERS 4 AND 5 OF THIS TITLE:

1. DO NOT APPLY TO PERSONS, TEAMS, MOTOR VEHICLES AND OTHER EQUIPMENT WHILE ACTUALLY ENGAGED IN WORK ON THE SURFACE OF A HIGHWAY.

2. DO NOT APPLY TO RAILROAD EMPLOYEES WORKING ON A RAILROAD TRACK OR TRACKS CROSSING THE HIGHWAY.

3. APPLY TO PERSONS AND VEHICLES DESCRIBED IN THIS SECTION IF THEY ARE TRAVELING TO OR FROM WORK ON THE SURFACE OF A HIGHWAY OR ON A RAILROAD TRACK OR TRACKS CROSSING THE HIGHWAY.

28-624. Authorized emergency vehicles

A. IF AN AUTHORIZED EMERGENCY VEHICLE IS DRIVEN IN RESPONSE TO AN EMERGENCY CALL, IN PURSUIT OF AN ACTUAL OR SUSPECTED VIOLATOR OF LAW OR IN RESPONSE TO BUT NOT ON RETURN FROM A FIRE ALARM, THE DRIVER MAY EXERCISE THE PRIVILEGES PROVIDED IN THIS SECTION SUBJECT TO THE CONDITIONS STATED IN THIS SECTION.

B. IF THE DRIVER OF AN AUTHORIZED EMERGENCY VEHICLE IS OPERATING AT LEAST ONE LIGHTED LAMP DISPLAYING A RED OR RED AND BLUE LIGHT OR LENS VISIBLE UNDER NORMAL ATMOSPHERIC CONDITIONS FROM A DISTANCE OF FIVE HUNDRED FEET TO THE FRONT OF THE VEHICLE, THE DRIVER MAY:

1. NOTWITHSTANDING THIS CHAPTER, PARK OR STAND.

2. PROCEED PAST A RED OR STOP SIGNAL OR STOP SIGN, BUT ONLY AFTER SLOWING DOWN AS NECESSARY FOR SAFE OPERATION.

3. EXCEED THE PRIMA FACIE SPEED LIMITS IF THE DRIVER DOES NOT ENDANGER LIFE OR PROPERTY.

4. DISREGARD LAWS OR RULES GOVERNING THE DIRECTION OF MOVEMENT OR TURNING IN SPECIFIED DIRECTIONS.

C. THE EXEMPTIONS AUTHORIZED BY THIS SECTION FOR AN AUTHORIZED EMERGENCY VEHICLE APPLY ONLY IF THE DRIVER OF THE VEHICLE WHILE IN MOTION SOUNDS AN AUDIBLE SIGNAL BY BELL, SIREN OR EXHAUST WHISTLE AS REASONABLY NECESSARY AND IF THE VEHICLE IS EQUIPPED WITH AT LEAST ONE LIGHTED LAMP DISPLAYING A RED OR RED AND BLUE LIGHT OR LENS VISIBLE UNDER NORMAL ATMOSPHERIC CONDITIONS FROM A DISTANCE OF FIVE HUNDRED FEET TO THE FRONT OF THE VEHICLE, EXCEPT THAT AN AUTHORIZED EMERGENCY VEHICLE OPERATED AS A POLICE VEHICLE NEED NOT BE EQUIPPED WITH OR DISPLAY A RED OR RED AND BLUE LIGHT OR LENS VISIBLE FROM IN FRONT OF THE VEHICLE.

D. THIS SECTION DOES NOT RELIEVE THE DRIVER OF AN AUTHORIZED EMERGENCY VEHICLE FROM THE DUTY TO DRIVE WITH DUE REGARD FOR THE SAFETY OF ALL PERSONS AND DOES NOT PROTECT THE DRIVER FROM THE CONSEQUENCES OF THE DRIVER'S RECKLESS DISREGARD FOR THE SAFETY OF OTHERS.

28-625. Persons riding animals or driving animal drawn vehicles

A PERSON RIDING AN ANIMAL OR DRIVING AN ANIMAL DRAWN VEHICLE ON A ROADWAY HAS ALL OF THE RIGHTS AND IS SUBJECT TO ALL OF THE DUTIES APPLICABLE TO THE DRIVER OF A VEHICLE BY THIS CHAPTER AND CHAPTERS 4 AND 5 OF THIS TITLE, EXCEPT THE PROVISIONS OF THIS CHAPTER AND CHAPTERS 4 AND 5 OF THIS TITLE THAT BY THEIR VERY NATURE CAN HAVE NO APPLICATION.

28-626. Uniform application of laws throughout state; local ordinances or regulations

A. THE PROVISIONS OF THIS CHAPTER AND CHAPTERS 4 AND 5 OF THIS TITLE ARE APPLICABLE AND UNIFORM THROUGHOUT THIS STATE AND IN ALL POLITICAL SUBDIVISIONS IN THIS STATE.

B. A LOCAL AUTHORITY:

1. SHALL NOT ENACT OR ENFORCE AN ORDINANCE OR REGULATION IN CONFLICT WITH THIS CHAPTER OR CHAPTER 4 OR 5 OF THIS TITLE UNLESS EXPRESSLY AUTHORIZED BY THIS CHAPTER OR CHAPTER 4 OR 5 OF THIS TITLE.

2. MAY ADOPT ADDITIONAL TRAFFIC REGULATIONS THAT ARE NOT IN CONFLICT WITH THIS CHAPTER OR CHAPTER 4 OR 5 OF THIS TITLE.

3. SHALL ADOPT ORDINANCES OR REGULATIONS RELATING TO THE CONTROL AND MOVEMENT OF TRAFFIC, INCLUDING PARKING OR STANDING ORDINANCES OR REGULATIONS THAT PROVIDE FOR THE IMPOSITION OF CIVIL PENALTIES ON THE VIOLATION OF THE ORDINANCE OR REGULATION.

C. UNLESS A LOCAL ORDINANCE OR REGULATION PROVIDES FOR THE IMPOSITION OF A CRIMINAL PENALTY, A VIOLATION OF THE ORDINANCE OR REGULATION CONSTITUTES A CIVIL TRAFFIC VIOLATION.

28-627. Powers of local authorities

A. THIS CHAPTER AND CHAPTERS 4 AND 5 OF THIS TITLE DO NOT PROHIBIT A LOCAL AUTHORITY, WITH RESPECT TO STREETS AND HIGHWAYS UNDER ITS JURISDICTION AND WITHIN THE REASONABLE EXERCISE OF THE POLICE POWER, FROM:

1. REGULATING THE STANDING OR PARKING OF VEHICLES.

2. REGULATING TRAFFIC BY MEANS OF POLICE OFFICERS, TRAFFIC CONTROL SIGNALS OR VOLUNTEER POSSE ORGANIZATION MEMBERS AUTHORIZED BY THE SHERIFF UNDER SECTION 11-441 FOR THE PURPOSE OF DIRECTING TRAFFIC ONLY.

3. REGULATING OR PROHIBITING PROCESSIONS OR ASSEMBLAGES ON THE HIGHWAYS.

4. DESIGNATING PARTICULAR HIGHWAYS AS ONE-WAY HIGHWAYS AND REQUIRING THAT ALL VEHICLES ON ONE-WAY HIGHWAYS BE MOVED IN ONE SPECIFIC DIRECTION.

5. REGULATING THE SPEED OF VEHICLES IN PUBLIC PARKS.

6. DESIGNATING ANY HIGHWAY AS A THROUGH HIGHWAY AND REQUIRING THAT ALL VEHICLES STOP BEFORE ENTERING OR CROSSING THE HIGHWAY OR DESIGNATING ANY INTERSECTION AS A STOP INTERSECTION AND REQUIRING ALL VEHICLES TO STOP AT ONE OR MORE ENTRANCES TO THE INTERSECTION.

7. RESTRICTING THE USE OF HIGHWAYS AS AUTHORIZED IN SECTION 28-1106.

8. REGULATING THE OPERATION OF BICYCLES AND REQUIRING THE REGISTRATION AND LICENSING OF BICYCLES, INCLUDING THE REQUIREMENT OF A REGISTRATION FEE.

9. REGULATING OR PROHIBITING THE TURNING OF VEHICLES OR SPECIFIED TYPES OF VEHICLES AT INTERSECTIONS.

10. ALTERING THE PRIMA FACIE SPEED LIMITS AS AUTHORIZED BY THIS CHAPTER.

11. DESIGNATING ROUTES OVER STREETS AND HIGHWAYS FOR VEHICLES NOT EXCEEDING ONE HUNDRED TWO INCHES IN WIDTH, EXCLUSIVE OF SAFETY EQUIPMENT.

12. ADOPTING OTHER TRAFFIC REGULATIONS THAT ARE SPECIFICALLY AUTHORIZED BY THIS CHAPTER OR CHAPTER 4 OR 5 OF THIS TITLE.

B. A LOCAL AUTHORITY SHALL NOT ERECT OR MAINTAIN A STOP SIGN OR TRAFFIC CONTROL SIGNAL AT ANY LOCATION THAT REQUIRES THE TRAFFIC ON ANY STATE

HIGHWAY TO STOP BEFORE ENTERING OR CROSSING ANY INTERSECTING HIGHWAY UNLESS APPROVAL IN WRITING HAS FIRST BEEN OBTAINED FROM THE DIRECTOR.

C. AN ORDINANCE OR REGULATION ENACTED UNDER SUBSECTION A, PARAGRAPH 4, 5, 6, 7, 9 OR 10 OF THIS SECTION IS NOT EFFECTIVE UNTIL SIGNS GIVING NOTICE OF THE LOCAL TRAFFIC REGULATIONS ARE POSTED ON OR AT THE ENTRANCES TO THE HIGHWAY OR PART OF THE HIGHWAY AFFECTED AS IS MOST APPROPRIATE.

D. IN ADDITION TO THE APPOINTMENT OF PEACE OFFICERS, A LOCAL AUTHORITY MAY PROVIDE BY ORDINANCE FOR THE APPOINTMENT OF:

1. UNARMED POLICE AIDES WHO ARE EMPLOYED BY THE POLICE DEPARTMENT AND WHO ARE EMPOWERED TO COMMENCE AN ACTION OR PROCEEDING BEFORE A COURT OR JUDGE FOR A VIOLATION OF THE LOCAL AUTHORITY'S ORDINANCES REGULATING THE STANDING OR PARKING OF VEHICLES. THE AUTHORITY OF THE UNARMED POLICE AIDE AS AUTHORIZED IN THIS SECTION IS LIMITED TO THE ENFORCEMENT OF THE ORDINANCES OF LOCAL AUTHORITIES REGULATING THE STANDING OR PARKING OF VEHICLES. THIS PARAGRAPH DOES NOT GRANT TO UNARMED POLICE AIDES OTHER POWERS OR BENEFITS TO WHICH PEACE OFFICERS OF THIS STATE ARE ENTITLED.

2. TRAFFIC INVESTIGATORS WHO MAY:

(a) INVESTIGATE TRAFFIC ACCIDENTS WITHIN THE JURISDICTION OF THE LOCAL AUTHORITY.

(b) COMMENCE AN ACTION OR PROCEEDING BEFORE A COURT OR JUDGE FOR ANY VIOLATION OF A STATE STATUTE OR LOCAL ORDINANCE RELATING TO TRAFFIC, IF THE VIOLATION IS RELATED TO A TRAFFIC ACCIDENT WITHIN THE JURISDICTION OF THE LOCAL AUTHORITY.

E. A TRAFFIC INVESTIGATOR APPOINTED PURSUANT TO THIS SECTION SHALL:

1. BE UNARMED AT ALL TIMES DURING THE COURSE OF THE TRAFFIC INVESTIGATOR'S DUTIES.

2. BE AN EMPLOYEE OF THE APPOINTING LOCAL AUTHORITY.

3. FILE WRITTEN REPORTS AS REQUIRED PURSUANT TO SECTION 28-667.

F. THIS SECTION DOES NOT GRANT OTHER POWERS OR BENEFITS TO TRAFFIC INVESTIGATORS TO WHICH PEACE OFFICERS OF THIS STATE ARE ENTITLED.

G. PURSUANT TO SECTION 28-1092, A LOCAL AUTHORITY SHALL PROVIDE REASONABLE ACCESS TO AND FROM TERMINALS AND SERVICE FACILITIES ON HIGHWAYS UNDER ITS JURISDICTION.

28-628. Rights of real property owners

THIS CHAPTER DOES NOT PREVENT THE OWNER OF REAL PROPERTY THAT IS USED BY THE PUBLIC FOR PURPOSES OF VEHICULAR TRAVEL BY PERMISSION OF THE OWNER AND NOT AS A MATTER OF RIGHT FROM:

1. PROHIBITING THAT USE.

2. REQUIRING OTHER, DIFFERENT OR ADDITIONAL CONDITIONS THAN THOSE SPECIFIED IN THIS CHAPTER.

3. OTHERWISE REGULATING THE USE AS DEEMED BEST BY THE OWNER.

ARTICLE 3. TRAFFIC SIGNS, SIGNALS AND MARKINGS

28-641. Traffic control device manual and specifications

THE DIRECTOR SHALL ADOPT A MANUAL AND SPECIFICATIONS FOR A UNIFORM SYSTEM OF TRAFFIC CONTROL DEVICES FOR USE ON HIGHWAYS IN THIS STATE. THE UNIFORM SYSTEM SHALL CORRELATE WITH AND AS FAR AS POSSIBLE CONFORM TO THE SYSTEM SET FORTH IN THE MOST RECENT EDITION OF THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES FOR STREETS AND HIGHWAYS PREPARED BY THE NATIONAL JOINT COMMITTEE ON UNIFORM TRAFFIC CONTROL DEVICES.

28-642. Traffic control signs on state highways; rules

A. THE DIRECTOR SHALL PLACE AND MAINTAIN TRAFFIC CONTROL DEVICES THAT CONFORM TO THE MANUAL AND SPECIFICATIONS PRESCRIBED IN SECTION 28-641 ON ALL STATE HIGHWAYS AS THE DIRECTOR DEEMS NECESSARY TO INDICATE AND TO CARRY OUT THIS CHAPTER OR TO REGULATE, WARN OR GUIDE TRAFFIC.

B. A LOCAL AUTHORITY SHALL NOT PLACE OR MAINTAIN A TRAFFIC CONTROL DEVICE ON A HIGHWAY UNDER THE JURISDICTION OF THE DIRECTOR EXCEPT BY THE DIRECTOR'S PERMISSION.

C. IN COOPERATION WITH LOCAL AUTHORITIES, THE DIRECTOR SHALL SYNCHRONIZE TRAFFIC CONTROL SIGNALS ON A STATE HIGHWAY THAT HAS A TRAFFIC FLOW EXCEEDING FIFTEEN THOUSAND MOTOR VEHICLES PER DAY IN A VEHICLE EMISSIONS CONTROL AREA AS DEFINED IN SECTION 49-541.

D. THE DIRECTOR SHALL ADOPT RULES PURSUANT TO TITLE 41, CHAPTER 6 TO ESTABLISH CRITERIA FOR THE INSTALLATION AND MAINTENANCE OF DIRECTIONAL SIGNS FOR UNIVERSITIES PRESCRIBED IN SECTION 15-1601, FOR COMMUNITY COLLEGES AS DEFINED IN SECTION 15-1401 AND FOR THE CAMPUS OF A REGIONALLY ACCREDITED COLLEGE OR UNIVERSITY.

28-643. Local traffic control devices

LOCAL AUTHORITIES IN THEIR RESPECTIVE JURISDICTIONS SHALL PLACE AND MAINTAIN THE TRAFFIC CONTROL DEVICES ON HIGHWAYS UNDER THEIR JURISDICTION AS THEY DEEM NECESSARY TO INDICATE AND TO CARRY OUT THIS CHAPTER OR LOCAL TRAFFIC ORDINANCES OR TO REGULATE, WARN OR GUIDE TRAFFIC. ALL TRAFFIC CONTROL DEVICES ERECTED SHALL CONFORM TO THE MANUAL AND SPECIFICATIONS PRESCRIBED IN SECTION 28-641.

28-644. Obedience to and required traffic control devices

A. UNLESS OTHERWISE DIRECTED BY A TRAFFIC OR POLICE OFFICER AND SUBJECT TO THE EXEMPTIONS GRANTED THE DRIVER OF AN AUTHORIZED EMERGENCY VEHICLE IN THIS CHAPTER, THE DRIVER OF A VEHICLE SHALL OBEY THE INSTRUCTIONS OF AN OFFICIAL TRAFFIC CONTROL DEVICE APPLICABLE TO THE DRIVER THAT IS PLACED IN ACCORDANCE WITH THIS CHAPTER.

B. ANY PROVISION OF THIS CHAPTER THAT REQUIRES SIGNS SHALL NOT BE ENFORCED AGAINST AN ALLEGED VIOLATOR IF AT THE TIME AND PLACE OF THE ALLEGED VIOLATION AN OFFICIAL SIGN IS NOT IN PROPER POSITION AND SUFFICIENTLY LEGIBLE TO BE SEEN BY AN ORDINARILY OBSERVANT PERSON. IF A PARTICULAR SECTION OF LAW DOES NOT STATE THAT SIGNS ARE REQUIRED, THAT SECTION IS EFFECTIVE EVEN THOUGH NO SIGNS ARE ERECTED OR IN PLACE.

28-645. Traffic control signal legend

A. IF TRAFFIC IS CONTROLLED BY TRAFFIC CONTROL SIGNALS EXHIBITING DIFFERENT COLORED LIGHTS OR COLORED LIGHTED ARROWS SUCCESSIVELY ONE AT A TIME OR IN COMBINATION, ONLY THE COLORS GREEN, RED AND YELLOW SHALL BE USED, EXCEPT FOR SPECIAL PEDESTRIAN SIGNALS CARRYING A WORD LEGEND. THE LIGHTS SHALL INDICATE AND APPLY TO DRIVERS OF VEHICLES AND PEDESTRIANS AS FOLLOWS:

1. GREEN INDICATION:

(a) VEHICULAR TRAFFIC FACING A GREEN SIGNAL MAY PROCEED STRAIGHT THROUGH OR TURN RIGHT OR LEFT UNLESS A SIGN AT THAT PLACE PROHIBITS EITHER TURN. VEHICULAR TRAFFIC, INCLUDING VEHICLES TURNING RIGHT OR LEFT, SHALL YIELD THE RIGHT-OF-WAY TO OTHER VEHICLES AND TO PEDESTRIANS LAWFULLY WITHIN THE INTERSECTION OR AN ADJACENT CROSSWALK AT THE TIME THE SIGNAL IS EXHIBITED.

(b) VEHICULAR TRAFFIC FACING A GREEN ARROW SIGNAL, SHOWN ALONE OR IN COMBINATION WITH ANOTHER INDICATION, MAY CAUTIOUSLY ENTER THE INTERSECTION ONLY TO MAKE THE MOVEMENT INDICATED BY SUCH ARROW OR SUCH OTHER MOVEMENT AS IS PERMITTED BY OTHER INDICATIONS SHOWN AT THE SAME TIME. VEHICULAR TRAFFIC SHALL YIELD THE RIGHT-OF-WAY TO PEDESTRIANS LAWFULLY WITHIN AN ADJACENT CROSSWALK AND TO OTHER TRAFFIC LAWFULLY USING THE INTERSECTION.

(c) UNLESS OTHERWISE DIRECTED BY A PEDESTRIAN CONTROL SIGNAL AS PROVIDED IN SECTION 28-646, PEDESTRIANS FACING ANY GREEN SIGNAL, EXCEPT IF THE SOLE GREEN SIGNAL IS A TURN ARROW, MAY PROCEED ACROSS THE ROADWAY WITHIN ANY MARKED OR UNMARKED CROSSWALK.

2. STEADY YELLOW INDICATION:

(a) VEHICULAR TRAFFIC FACING A STEADY YELLOW SIGNAL IS WARNED BY THE SIGNAL THAT THE RELATED GREEN MOVEMENT IS BEING TERMINATED OR THAT A RED INDICATION WILL BE EXHIBITED IMMEDIATELY THEREAFTER WHEN VEHICULAR TRAFFIC SHALL NOT ENTER THE INTERSECTION.

(b) UNLESS OTHERWISE DIRECTED BY A PEDESTRIAN CONTROL SIGNAL AS PROVIDED IN SECTION 28-646, PEDESTRIANS FACING A STEADY YELLOW SIGNAL ARE ADVISED BY THE SIGNAL THAT THERE IS INSUFFICIENT TIME TO CROSS THE ROADWAY BEFORE A RED INDICATION IS SHOWN AND A PEDESTRIAN SHALL NOT THEN START TO CROSS THE ROADWAY.

3. RED INDICATION:

(a) EXCEPT AS PROVIDED IN SUBDIVISIONS (b) AND (c) OF THIS PARAGRAPH, VEHICULAR TRAFFIC FACING A STEADY RED SIGNAL ALONE SHALL STOP BEFORE ENTERING THE INTERSECTION AND SHALL REMAIN STANDING UNTIL AN INDICATION TO PROCEED IS SHOWN.

(b) THE DRIVER OF A VEHICLE THAT IS STOPPED IN OBEDIENCE TO A RED SIGNAL AND AS CLOSE AS PRACTICABLE AT THE ENTRANCE TO THE CROSSWALK ON THE NEAR SIDE OF THE INTERSECTION, OR IF THERE IS NO CROSSWALK, THEN AT THE ENTRANCE TO THE INTERSECTION, MAY MAKE A RIGHT TURN BUT SHALL YIELD THE RIGHT-OF-WAY TO PEDESTRIANS AND OTHER TRAFFIC PROCEEDING AS DIRECTED BY THE

SIGNAL. A RIGHT TURN MAY BE PROHIBITED AGAINST A RED SIGNAL AT ANY INTERSECTION IF A SIGN PROHIBITING THE TURN IS ERECTED AT THE INTERSECTION.

(c) THE DRIVER OF A VEHICLE ON A ONE-WAY STREET THAT INTERSECTS ANOTHER ONE-WAY STREET ON WHICH TRAFFIC MOVES TO THE LEFT SHALL STOP IN OBEDIENCE TO A RED SIGNAL BUT MAY THEN MAKE A LEFT TURN INTO THE ONE-WAY STREET. THE DRIVER SHALL YIELD THE RIGHT-OF-WAY TO PEDESTRIANS AND OTHER TRAFFIC PROCEEDING AS DIRECTED BY THE SIGNAL AT THE INTERSECTION, EXCEPT THAT SUCH LEFT TURN MAY BE PROHIBITED IF A SIGN PROHIBITING THE TURN IS ERECTED AT THE INTERSECTION.

(d) UNLESS OTHERWISE DIRECTED BY A PEDESTRIAN CONTROL SIGNAL AS PROVIDED IN SECTION 28-646, A PEDESTRIAN FACING A STEADY RED SIGNAL ALONE SHALL NOT ENTER THE ROADWAY.

B. IF AN OFFICIAL TRAFFIC CONTROL SIGNAL IS ERECTED AND MAINTAINED AT A PLACE OTHER THAN AN INTERSECTION, THIS SECTION APPLIES EXCEPT AS TO THOSE PROVISIONS OF THIS SECTION THAT BY THEIR NATURE CAN HAVE NO APPLICATION. ANY STOP REQUIRED SHALL BE MADE AT A SIGN OR MARKING ON THE PAVEMENT INDICATING WHERE THE STOP SHALL BE MADE, BUT IN THE ABSENCE OF A SIGN OR MARKING THE STOP SHALL BE MADE AT THE SIGNAL.

28-646. Pedestrian control signals; loitering prohibited

A. IF SPECIAL PEDESTRIAN CONTROL SIGNALS EXHIBITING THE WORDS "WALK" OR "DON'T WALK" ARE IN PLACE, THE SIGNALS SHALL INDICATE AS FOLLOWS:

1. WALK. PEDESTRIANS FACING THE SIGNAL MAY PROCEED ACROSS THE ROADWAY IN THE DIRECTION OF THE SIGNAL AND SHALL BE GIVEN THE RIGHT-OF-WAY BY THE DRIVERS OF VEHICLES.

2. DON'T WALK. A PEDESTRIAN SHALL NOT START TO CROSS THE ROADWAY IN THE DIRECTION OF THE SIGNAL, BUT A PEDESTRIAN WHO HAS PARTIALLY COMPLETED CROSSING ON THE WALK SIGNAL SHALL PROCEED TO A SIDEWALK OR SAFETY ISLAND WHILE THE DON'T WALK SIGNAL IS SHOWING.

B. A PEDESTRIAN SHALL NOT LOITER OR UNDULY DELAY CROSSING THE ROADWAY AFTER TRAFFIC HAS STOPPED TO GIVE THE RIGHT-OF-WAY.

28-647. Flashing signals

IF AN ILLUMINATED FLASHING RED OR YELLOW SIGNAL IS USED IN A TRAFFIC SIGN OR SIGNAL IT REQUIRES OBEDIENCE BY VEHICULAR TRAFFIC AS FOLLOWS:

1. FLASHING RED STOP SIGNAL. IF A RED LENS IS ILLUMINATED WITH RAPID INTERMITTENT FLASHES, DRIVERS OF VEHICLES SHALL STOP BEFORE ENTERING THE NEAREST CROSSWALK AT AN INTERSECTION OR AT A LIMIT LINE IF MARKED, OR IF NONE, THEN BEFORE ENTERING THE INTERSECTION, AND THE RIGHT TO PROCEED IS SUBJECT TO THE RULES APPLICABLE AFTER MAKING A STOP AT A STOP SIGN.

2. FLASHING YELLOW CAUTION SIGNAL. IF A YELLOW LENS IS ILLUMINATED WITH RAPID INTERMITTENT FLASHES, DRIVERS OF VEHICLES MAY PROCEED THROUGH THE INTERSECTION OR PAST THE SIGNAL ONLY WITH CAUTION.

28-648. Display of unauthorized signs, signals or markings

A. A PERSON SHALL NOT PLACE, MAINTAIN OR DISPLAY ON OR IN VIEW OF A HIGHWAY AN UNAUTHORIZED SIGN, SIGNAL, MARKING OR DEVICE THAT EITHER:

1. PURPORTS TO BE OR IS AN IMITATION OF OR RESEMBLES AN OFFICIAL TRAFFIC CONTROL DEVICE OR RAILROAD SIGN OR SIGNAL.

2. ATTEMPTS TO DIRECT THE MOVEMENT OF TRAFFIC.

3. HIDES FROM VIEW OR INTERFERES WITH THE EFFECTIVENESS OF AN OFFICIAL TRAFFIC CONTROL DEVICE OR A RAILROAD SIGN OR SIGNAL.

B. A PERSON SHALL NOT PLACE OR MAINTAIN AND A PUBLIC AUTHORITY SHALL NOT PERMIT ON A HIGHWAY A TRAFFIC SIGN OR SIGNAL BEARING ANY COMMERCIAL ADVERTISING.

C. THIS SECTION DOES NOT PROHIBIT THE ERECTION ON PRIVATE PROPERTY ADJACENT TO HIGHWAYS OF A SIGN GIVING USEFUL DIRECTIONAL INFORMATION IF THE SIGN CANNOT BE MISTAKEN FOR AN OFFICIAL SIGN.

D. A SIGN, SIGNAL OR MARKING PROHIBITED BY THIS SECTION IS A PUBLIC NUISANCE, AND THE AUTHORITY HAVING JURISDICTION OVER THE HIGHWAY MAY REMOVE IT OR CAUSE IT TO BE REMOVED WITHOUT NOTICE.

28-649. Interference with official traffic control device or railroad sign or signal

A PERSON SHALL NOT ATTEMPT WITHOUT LAWFUL AUTHORITY TO OR IN FACT ALTER, DEFACE, INJURE, KNOCK DOWN OR REMOVE AN OFFICIAL TRAFFIC CONTROL DEVICE, A RAILROAD SIGN OR SIGNAL OR AN INSCRIPTION, SHIELD OR INSIGNIA ON ANY DEVICE, SIGN OR SIGNAL OR ANY PART OF THE DEVICE, SIGN OR SIGNAL.

28-650. Warning devices at construction sites

A PERSON, CONTRACTOR OR POLITICAL SUBDIVISION PERFORMING WORK ON ROADS, STREETS OR HIGHWAYS SHALL POST AND MAINTAIN WARNING SIGNS, SIGNALS, MARKERS AND BARRICADES THAT ARE IN COMPLIANCE WITH THE MANUAL AND SPECIFICATIONS PRESCRIBED IN SECTION 28-641. THESE WARNING SIGNS, SIGNALS, MARKERS OR BARRICADES SHALL BE MAINTAINED AT THE WORK SITE TO WARN THOSE USING THE STREET, ROAD OR HIGHWAY UNTIL THE WORK IS COMPLETED OR UNTIL SUCH TIME AS THE GOVERNING BODY AUTHORIZES REMOVAL.

28-651. Use of private property to avoid traffic control device prohibited

A PERSON SHALL NOT DRIVE ON OR THROUGH ANY PRIVATE PROPERTY, ROAD OR DRIVEWAY TO AVOID OBEDIENCE TO TRAFFIC RULES OR TRAFFIC CONTROL DEVICES.

ARTICLE 4. ACCIDENTS

28-661. Accidents involving death or personal injuries; failure to stop; classification; driver license revocation

A. THE DRIVER OF A VEHICLE INVOLVED IN AN ACCIDENT RESULTING IN INJURY TO OR DEATH OF A PERSON SHALL:

1. IMMEDIATELY STOP THE VEHICLE AT THE SCENE OF THE ACCIDENT OR AS CLOSE TO THE ACCIDENT SCENE AS POSSIBLE BUT SHALL IMMEDIATELY RETURN TO THE ACCIDENT SCENE.

2. REMAIN AT THE SCENE OF THE ACCIDENT UNTIL THE DRIVER HAS FULFILLED THE REQUIREMENTS OF SECTION 28-663.

B. A DRIVER WHO IS INVOLVED IN AN ACCIDENT RESULTING IN DEATH OR SERIOUS PHYSICAL INJURY AS DEFINED IN SECTION 13-105 AND WHO FAILS TO STOP

OR TO COMPLY WITH THE REQUIREMENTS OF SECTION 28-663 IS GUILTY OF A CLASS 4 FELONY, EXCEPT THAT IF A DRIVER CAUSED THE ACCIDENT THE DRIVER IS GUILTY OF A CLASS 3 FELONY.

C. A DRIVER WHO IS INVOLVED IN AN ACCIDENT RESULTING IN AN INJURY OTHER THAN DEATH OR SERIOUS PHYSICAL INJURY AS DEFINED IN SECTION 13-105 AND WHO FAILS TO STOP OR TO COMPLY WITH THE REQUIREMENTS OF SECTION 28-663 IS GUILTY OF A CLASS 6 FELONY.

D. THE DEPARTMENT SHALL REVOKE THE LICENSE OR PERMIT TO DRIVE AND ANY NONRESIDENT OPERATING PRIVILEGE OF A PERSON CONVICTED PURSUANT TO THIS SECTION.

28-662. Accidents involving damage to vehicle; failure to stop; classification

A. THE DRIVER OF A VEHICLE INVOLVED IN AN ACCIDENT RESULTING ONLY IN DAMAGE TO A VEHICLE THAT IS DRIVEN OR ATTENDED BY A PERSON SHALL:

1. IMMEDIATELY STOP THE VEHICLE AT THE SCENE OF THE ACCIDENT OR AS CLOSE TO THE ACCIDENT SCENE AS POSSIBLE BUT SHALL IMMEDIATELY RETURN TO THE ACCIDENT SCENE.

2. REMAIN AT THE SCENE OF THE ACCIDENT UNTIL THE DRIVER HAS FULFILLED THE REQUIREMENTS OF SECTION 28-663.

3. MAKE THE STOP WITHOUT OBSTRUCTING TRAFFIC MORE THAN IS NECESSARY.

B. A PERSON FAILING TO STOP OR COMPLY WITH THIS SECTION IS GUILTY OF A CLASS 3 MISDEMEANOR.

28-663. Duty to give information and assistance; classification

A. THE DRIVER OF A VEHICLE INVOLVED IN AN ACCIDENT RESULTING IN INJURY TO OR DEATH OF A PERSON OR DAMAGE TO A VEHICLE THAT IS DRIVEN OR ATTENDED BY A PERSON SHALL:

1. GIVE THE DRIVER'S NAME AND ADDRESS AND THE REGISTRATION NUMBER OF THE VEHICLE THE DRIVER IS DRIVING.

2. ON REQUEST, EXHIBIT THE PERSON'S DRIVER LICENSE TO THE PERSON STRUCK OR THE DRIVER OR OCCUPANTS OF OR PERSON ATTENDING A VEHICLE COLLIDED WITH.

3. RENDER REASONABLE ASSISTANCE TO A PERSON INJURED IN THE ACCIDENT, INCLUDING MAKING ARRANGEMENTS FOR THE CARRYING OF THE PERSON TO A PHYSICIAN, SURGEON OR HOSPITAL FOR MEDICAL OR SURGICAL TREATMENT IF IT IS APPARENT THAT TREATMENT IS NECESSARY OR IF THE CARRYING IS REQUESTED BY THE INJURED PERSON.

B. A PERSON WHO FAILS TO COMPLY WITH THIS SECTION IS GUILTY OF A CLASS 3 MISDEMEANOR.

28-664. Duty on striking unattended vehicle; classification

A. THE DRIVER OF A VEHICLE THAT COLLIDES WITH A VEHICLE THAT IS UNATTENDED SHALL IMMEDIATELY:

1. STOP.

2. EITHER:

1 (a) LOCATE AND NOTIFY THE OPERATOR OR OWNER OF THE VEHICLE OF THE NAME
2 AND ADDRESS OF THE DRIVER AND OWNER OF THE VEHICLE STRIKING THE UNATTENDED
3 VEHICLE.
4 (b) IN A CONSPICUOUS PLACE IN THE VEHICLE STRUCK, LEAVE A WRITTEN
5 NOTICE GIVING THE NAME AND ADDRESS OF THE DRIVER AND OF THE OWNER OF THE
6 VEHICLE DOING THE STRIKING.
7 B. A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A CLASS 3
8 MISDEMEANOR.
9 28-665. Striking fixtures on a highway; classification
10 A. THE DRIVER OF A VEHICLE INVOLVED IN AN ACCIDENT RESULTING ONLY IN
11 DAMAGE TO FIXTURES OR OTHER PROPERTY LEGALLY ON OR ADJACENT TO A HIGHWAY
12 SHALL:
13 1. TAKE REASONABLE STEPS TO LOCATE AND NOTIFY THE OWNER OR PERSON IN
14 CHARGE OF THE PROPERTY OF:
15 (a) THE FACT OF THE ACCIDENT.
16 (b) THE DRIVER'S NAME AND ADDRESS.
17 (c) THE REGISTRATION NUMBER OF THE VEHICLE THE DRIVER IS DRIVING.
18 2. ON REQUEST, EXHIBIT THE DRIVER'S DRIVER LICENSE.
19 B. A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A CLASS 3
20 MISDEMEANOR.
21 28-666. Notice of accident
22 THE DRIVER OF A VEHICLE INVOLVED IN AN ACCIDENT RESULTING IN INJURY TO
23 OR DEATH OF A PERSON SHALL GIVE NOTICE OF THE ACCIDENT IMMEDIATELY BY THE
24 QUICKEST MEANS OF COMMUNICATION, WHETHER ORAL OR WRITTEN, TO EITHER:
25 1. THE LOCAL POLICE DEPARTMENT IF THE ACCIDENT OCCURS WITHIN A
26 MUNICIPALITY.
27 2. THE OFFICE OF THE COUNTY SHERIFF.
28 3. THE NEAREST OFFICE OF THE HIGHWAY PATROL.
29 28-667. Written accident report; definition
30 A. A LAW ENFORCEMENT OFFICER OR PUBLIC EMPLOYEE WHO, IN THE REGULAR
31 COURSE OF DUTY, INVESTIGATES A MOTOR VEHICLE ACCIDENT RESULTING IN BODILY
32 INJURY, DEATH OR DAMAGE TO THE PROPERTY OF ANY PERSON IN EXCESS OF ONE
33 THOUSAND DOLLARS OR THE ISSUANCE OF A CITATION SHALL COMPLETE A WRITTEN
34 REPORT OF THE ACCIDENT AS FOLLOWS:
35 1. EITHER AT THE TIME OF AND AT THE SCENE OF THE ACCIDENT OR AFTER THE
36 ACCIDENT BY INTERVIEWING PARTICIPANTS OR WITNESSES.
37 2. WITHIN TWENTY-FOUR HOURS AFTER COMPLETING THE INVESTIGATION.
38 B. EVERY LAW ENFORCEMENT OFFICER OR PUBLIC EMPLOYEE WHO, IN THE
39 REGULAR COURSE OF DUTY, INVESTIGATES A MOTOR VEHICLE ACCIDENT THAT RESULTS
40 IN DAMAGE TO THE PROPERTY OF ANY PERSON IN AN AMOUNT OF ONE THOUSAND DOLLARS
41 OR LESS, BUT THAT DOES NOT RESULT IN THE ISSUANCE OF A CITATION OR BODILY
42 INJURY OR DEATH, SHALL COMPLETE A PORTION OF THE WRITTEN REPORT OF THE
43 ACCIDENT. THE PORTION OF THE WRITTEN REPORT SHALL:

1. BE COMPLETED EITHER AT THE TIME OF AND AT THE SCENE OF THE ACCIDENT OR AFTER THE ACCIDENT BY INTERVIEWING PARTICIPANTS OR WITNESSES.

2. BE COMPLETED WITHIN TWENTY-FOUR HOURS AFTER COMPLETING THE INVESTIGATION.

3. INCLUDE THE FOLLOWING MINIMUM INFORMATION:

(a) THE TIME, DAY, MONTH AND YEAR OF THE ACCIDENT.

(b) INFORMATION ADEQUATE TO IDENTIFY THE LOCATION OF THE ACCIDENT.

(c) IDENTIFYING INFORMATION FOR ALL INVOLVED PARTIES AND WITNESSES, INCLUDING NAME, AGE, SEX, ADDRESS, TELEPHONE NUMBER, VEHICLE OWNERSHIP AND REGISTRATION AND PROOF OF INSURANCE.

(d) A NARRATIVE DESCRIPTION OF THE FACTS OF THE ACCIDENT, A SIMPLE DIAGRAM OF THE SCENE OF THE ACCIDENT AND THE INVESTIGATING OFFICER'S NAME, AGENCY AND IDENTIFICATION NUMBER.

C. THE AGENCY EMPLOYING THE OFFICER OR PUBLIC EMPLOYEE:

1. SHALL NOT ALLOW A PERSON TO EXAMINE THE ACCIDENT REPORT OR ANY RELATED INVESTIGATION REPORT OR A REPRODUCTION OF THE ACCIDENT REPORT OR A RELATED INVESTIGATION REPORT IF THE REQUEST IS FOR A COMMERCIAL SOLICITATION PURPOSE.

2. MAY REQUIRE A PERSON REQUESTING THE ACCIDENT OR RELATED INVESTIGATIVE REPORT TO STATE UNDER PENALTY OF PERJURY THAT THE REPORT IS NOT EXAMINED OR COPIED FOR A COMMERCIAL SOLICITATION PURPOSE.

3. SHALL RETAIN THE ORIGINAL REPORT.

4. SHALL IMMEDIATELY FORWARD A COPY OF THE REPORT TO THE DEPARTMENT FOR ITS USE.

D. THE DEPARTMENT MAY PLACE NOTES, DATE STAMPS, IDENTIFYING NUMBERS, MARKS OR OTHER INFORMATION ON THE COPIES AS NEEDED, IF THEY DO NOT ALTER THE ORIGINAL INFORMATION REPORTED BY THE INVESTIGATING OFFICER OR PUBLIC EMPLOYEE.

E. FOR THE PURPOSES OF THIS SECTION, "COMMERCIAL SOLICITATION PURPOSE" MEANS A REQUEST FOR AN ACCIDENT REPORT IF THERE IS NEITHER:

1. A RELATIONSHIP BETWEEN THE PERSON OR THE PRINCIPAL OF THE PERSON REQUESTING THE ACCIDENT REPORT AND ANY PARTY INVOLVED IN THE ACCIDENT.

2. A REASON FOR THE PERSON TO REQUEST THE REPORT OTHER THAN FOR THE PURPOSES OF SOLICITING A BUSINESS OR COMMERCIAL RELATIONSHIP.

28-668. Accidents involving death to drivers; testing alcohol concentration

A. A PEACE OFFICER WHO INVESTIGATES AN ACCIDENT THAT INVOLVES THE DEATH OF ONE OR MORE DRIVERS SHALL PROMPTLY NOTIFY THE COUNTY MEDICAL EXAMINER OF THE DEATH OR DEATHS. IF PROBABLE CAUSE EXISTS TO BELIEVE THAT A DECEASED DRIVER COMMITTED AN ALCOHOL RELATED TRAFFIC OFFENSE, THE COUNTY MEDICAL EXAMINER SHALL TEST THE DECEASED DRIVER TO DETERMINE THE DRIVER'S ALCOHOL CONCENTRATION.

B. IF A COUNTY MEDICAL EXAMINER HAS NOT BEEN APPOINTED IN THE COUNTY IN WHICH THE ACCIDENT OCCURS, THE PEACE OFFICER SHALL NOTIFY AND SECURE A

PHYSICIAN LICENSED PURSUANT TO TITLE 32, CHAPTER 13 OR A PERSON ACTING UNDER THE AUTHORITY OF A LICENSED PHYSICIAN TO DRAW A SUFFICIENT SAMPLE OF BLOOD OR OTHER BODILY SUBSTANCE FOR DETERMINING ALCOHOL CONCENTRATION. THE INVESTIGATING OFFICER SHALL FORWARD THE SAMPLE TO THE DEPARTMENT OF PUBLIC SAFETY CRIME LABORATORY FOR ANALYSIS.

C. THE INVESTIGATING OFFICER SHALL RECORD ON THE ACCIDENT REPORT REQUIRED UNDER SECTION 28-667 THE RESULTS OF THE TEST TO DETERMINE THE ALCOHOL CONCENTRATION OF THE DRIVER OR DRIVERS.

28-669. Accident report forms

A. THE DEPARTMENT SHALL PREPARE AND ON REQUEST SUPPLY TO POLICE DEPARTMENTS, SHERIFFS AND OTHER SUITABLE AGENCIES FORMS FOR ACCIDENT REPORTS REQUIRED UNDER THIS ARTICLE THAT ARE APPROPRIATE WITH RESPECT TO THE PERSONS REQUIRED TO MAKE THE REPORTS AND THE PURPOSES TO BE SERVED. THE WRITTEN REPORTS TO BE MADE BY INVESTIGATING OFFICERS SHALL CALL FOR SUFFICIENTLY DETAILED INFORMATION TO DISCLOSE WITH REFERENCE TO A TRAFFIC ACCIDENT THE CAUSE, THE CONDITIONS THEN EXISTING AND THE PERSONS AND VEHICLES INVOLVED.

B. AN ACCIDENT REPORT REQUIRED TO BE MADE IN WRITING SHALL BE MADE ON THE APPROPRIATE FORM APPROVED BY THE DEPARTMENT AND SHALL CONTAIN ALL OF THE INFORMATION REQUIRED IN THE FORM UNLESS IT IS NOT AVAILABLE.

C. THE DEPARTMENT SHALL MODIFY THE WRITTEN ACCIDENT REPORT FORM IN CONJUNCTION WITH STATE AND LOCAL LAW ENFORCEMENT AGENCIES, ENGINEERING AGENCIES AND EMERGENCY MEDICAL SERVICE ORGANIZATIONS.

28-670. Accident report analysis

THE DEPARTMENT:

1. SHALL TABULATE ALL ACCIDENT REPORTS.

2. MAY ANALYZE ALL ACCIDENT REPORTS.

3. SHALL PUBLISH ANNUALLY OR AT MORE FREQUENT INTERVALS STATISTICAL INFORMATION BASED ON THE ACCIDENT REPORTS AS TO THE NUMBER AND CIRCUMSTANCES OF TRAFFIC ACCIDENTS.

28-671. Accident reports required by city or town

ANY INCORPORATED CITY OR TOWN, BY ORDINANCE, MAY REQUIRE THE DRIVER OF A VEHICLE INVOLVED IN AN ACCIDENT TO ALSO FILE WITH A DESIGNATED CITY OR TOWN DEPARTMENT A REPORT OF AN ACCIDENT OR A COPY OF ANY REPORT REQUIRED BY THIS ARTICLE TO BE FILED WITH THE DEPARTMENT. THE REPORTS ARE FOR THE CONFIDENTIAL USE OF THE CITY OR TOWN DEPARTMENT.

ARTICLE 5. RECKLESS DRIVING

28-693. Reckless driving; classification; license; surrender

A. A PERSON WHO DRIVES A VEHICLE IN RECKLESS DISREGARD FOR THE SAFETY OF PERSONS OR PROPERTY IS GUILTY OF RECKLESS DRIVING.

B. A PERSON CONVICTED OF RECKLESS DRIVING IS GUILTY OF A CLASS 2 MISDEMEANOR.

C. IN ADDITION, THE JUDGE MAY REQUIRE THE SURRENDER TO THE JUDGE OF ANY DRIVER LICENSE OF THE CONVICTED PERSON AND, ON SURRENDER OF THE LICENSE, SHALL FORWARD TO THE DEPARTMENT THE ABSTRACT OF CONVICTION WITH AN ORDER OF

1 THE COURT SUSPENDING THE DRIVING PRIVILEGES OF THE PERSON FOR A PERIOD OF NOT
2 MORE THAN NINETY DAYS. ON RECEIPT OF THE ABSTRACT OF CONVICTION AND ORDER,
3 THE DEPARTMENT SHALL SUSPEND THE DRIVING PRIVILEGE OF THE PERSON FOR THE
4 PERIOD OF TIME ORDERED BY THE JUDGE.
5 D. IF A PERSON WHO IS CONVICTED OF A VIOLATION OF THIS SECTION HAS
6 BEEN PREVIOUSLY CONVICTED OF A VIOLATION OF THIS SECTION, SECTION 13-1102 OR
7 SECTION 13-1103, SUBSECTION A, PARAGRAPH 1, IN THE DRIVING OF A VEHICLE, OR
8 SECTION 28-708, 28-1381 OR 28-1383 WITHIN A PERIOD OF TWENTY-FOUR MONTHS:
9 1. THE PERSON IS GUILTY OF A CLASS 1 MISDEMEANOR.
10 2. THE PERSON IS NOT ELIGIBLE FOR PROBATION, PARDON, SUSPENSION OF
11 SENTENCE OR RELEASE ON ANY BASIS UNTIL THE PERSON HAS SERVED NOT LESS THAN
12 TWENTY DAYS IN JAIL.
13 3. THE JUDGE SHALL REQUIRE THE SURRENDER TO THE JUDGE OF ANY DRIVER
14 LICENSE OF THE CONVICTED PERSON AND SHALL IMMEDIATELY FORWARD THE ABSTRACT
15 OF CONVICTION TO THE DEPARTMENT.
16 4. ON RECEIPT OF THE ABSTRACT OF CONVICTION, THE DEPARTMENT SHALL
17 REVOKE THE DRIVING PRIVILEGE OF THE PERSON.
18 E. THE DATES OF THE COMMISSION OF THE OFFENSE ARE THE DETERMINING
19 FACTOR IN APPLYING SUBSECTION D OF THIS SECTION. A SECOND OR SUBSEQUENT
20 VIOLATION FOR WHICH A CONVICTION OCCURS AS PROVIDED IN THIS SECTION DOES NOT
21 INCLUDE A CONVICTION FOR AN OFFENSE ARISING OUT OF THE SAME SERIES OF ACTS.
22 A JUDGE SHALL NOT FAIL TO SECURE THE SURRENDER TO THE JUDGE OF ANY LICENSE
23 OF A PERSON FOR A SECOND OR SUBSEQUENT CONVICTION.
24 F. ON PRONOUNCEMENT OF A JAIL SENTENCE UNDER THIS SECTION, THE COURT
25 MAY PROVIDE IN THE SENTENCE THAT IF THE DEFENDANT IS EMPLOYED OR ATTENDING
26 SCHOOL AND CAN CONTINUE EMPLOYMENT OR SCHOOL THE DEFENDANT MAY CONTINUE THE
27 EMPLOYMENT OR SCHOOL FOR NOT MORE THAN TWELVE HOURS PER DAY NOR MORE THAN
28 FIVE DAYS PER WEEK AND SHALL SPEND THE REMAINING DAYS OR PARTS OF DAYS IN
29 JAIL UNTIL THE SENTENCE IS SERVED. THE DEFENDANT SHALL BE ALLOWED OUT OF
30 JAIL ONLY LONG ENOUGH TO COMPLETE THE DEFENDANT'S ACTUAL HOURS OF EMPLOYMENT
31 OR SCHOOL.
32 28-694. Reimbursement of incarceration costs
33 A. THE COURT MAY ORDER A PERSON WHO IS SENTENCED TO A TERM OF
34 INCARCERATION FOR A VIOLATION OF SECTION 28-693 TO REIMBURSE THE POLITICAL
35 SUBDIVISION THAT IS RESPONSIBLE FOR THE COSTS OF THE PERSON'S INCARCERATION
36 FOR THOSE INCARCERATION COSTS.
37 B. THE COURT MAY DETERMINE THE AMOUNT OF INCARCERATION COSTS TO BE
38 PAID BASED ON THE FOLLOWING FACTORS:
39 1. THE PER DIEM PER PERSON COST OF INCARCERATION INCURRED BY THE
40 POLITICAL SUBDIVISION THAT INCARCERATES THE PERSON.
41 2. THE PERSON'S ABILITY TO PAY PART OR ALL OF THE INCARCERATION COSTS.

ARTICLE 6. SPEED RESTRICTIONS

28-701. Reasonable and prudent speed; prima facie evidence; exceptions

A. A PERSON SHALL NOT DRIVE A VEHICLE ON A HIGHWAY AT A SPEED GREATER THAN IS REASONABLE AND PRUDENT UNDER THE CIRCUMSTANCES, CONDITIONS AND ACTUAL AND POTENTIAL HAZARDS THEN EXISTING. A PERSON SHALL CONTROL THE SPEED OF A VEHICLE AS NECESSARY TO AVOID COLLIDING WITH ANY OBJECT, PERSON, VEHICLE OR OTHER CONVEYANCE ON, ENTERING OR ADJACENT TO THE HIGHWAY IN COMPLIANCE WITH LEGAL REQUIREMENTS AND THE DUTY OF ALL PERSONS TO EXERCISE REASONABLE CARE FOR THE PROTECTION OF OTHERS.

B. EXCEPT AS PROVIDED IN SUBSECTIONS C AND D OF THIS SECTION OR EXCEPT IF A SPECIAL HAZARD REQUIRES A LESSER SPEED, ANY SPEED IN EXCESS OF THE FOLLOWING SPEEDS IS PRIMA FACIE EVIDENCE THAT THE SPEED IS TOO GREAT AND THEREFORE UNREASONABLE:

1. FIFTEEN MILES PER HOUR APPROACHING A SCHOOL CROSSING.
2. TWENTY-FIVE MILES PER HOUR IN A BUSINESS OR RESIDENTIAL DISTRICT.
3. SIXTY-FIVE MILES PER HOUR IN OTHER LOCATIONS.

C. THE SPEED LIMITS PRESCRIBED IN THIS SECTION MAY BE ALTERED AS AUTHORIZED IN SECTIONS 28-702 AND 28-703.

D. THE MAXIMUM SPEED PROVIDED IN THIS SECTION IS REDUCED TO THE SPEED THAT IS REASONABLE AND PRUDENT UNDER THE CONDITIONS AND WITH REGARD TO THE ACTUAL AND POTENTIAL HAZARDS THEN EXISTING, INCLUDING THE FOLLOWING CONDITIONS:

1. APPROACHING AND CROSSING AN INTERSECTION OR RAILROAD CROSSING.
2. APPROACHING AND GOING AROUND A CURVE.
3. APPROACHING A HILLCREST.
4. TRAVELING ON A NARROW OR WINDING ROADWAY.
5. A SPECIAL HAZARD EXISTS WITH RESPECT TO PEDESTRIANS OR OTHER TRAFFIC OR BY REASON OF WEATHER OR HIGHWAY CONDITIONS.

E. A PERSON SHALL NOT DRIVE A MOTOR VEHICLE AT A SPEED THAT IS LESS THAN THE SPEED THAT IS REASONABLE AND PRUDENT UNDER EXISTING CONDITIONS.

28-701.01. Definition of freeway

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES, "FREEWAY" MEANS A HIGHWAY THAT IS DECLARED TO BE A FREEWAY BY THE DIRECTOR AND THAT THE OWNERS OF ABUTTING LANDS HAVE EITHER:

1. NO RIGHT OR EASEMENT OF ACCESS TO OR FROM THEIR ABUTTING LANDS.
2. ONLY LIMITED OR RESTRICTED RIGHT OR EASEMENT OF ACCESS.

28-701.02. Excessive speeds; classification

A. A PERSON SHALL NOT:

1. EXCEED THIRTY-FIVE MILES PER HOUR APPROACHING A SCHOOL CROSSING.
2. EXCEED THE POSTED SPEED LIMIT IN A BUSINESS OR RESIDENTIAL DISTRICT BY MORE THAN TWENTY MILES PER HOUR, OR IF NO SPEED LIMIT IS POSTED, EXCEED FORTY-FIVE MILES PER HOUR.
3. EXCEED EIGHTY-FIVE MILES PER HOUR IN OTHER LOCATIONS.

B. A PERSON WHO VIOLATES SUBSECTION A OF THIS SECTION IS GUILTY OF A CLASS 3 MISDEMEANOR.

C. A PERSON CHARGED WITH A VIOLATION OF THIS SECTION MAY NOT BE ISSUED A CIVIL COMPLAINT FOR A VIOLATION OF SECTION 28-701 IF THE CIVIL COMPLAINT ALLEGES A VIOLATION ARISING OUT OF THE SAME CIRCUMSTANCES.

28-702. State speed zones

A. IF THE DIRECTOR DETERMINES ON THE BASIS OF AN ENGINEERING AND TRAFFIC INVESTIGATION THAT ANY MAXIMUM SPEED LIMIT IS GREATER OR LESS THAN IS REASONABLE OR SAFE UNDER THE CONDITIONS FOUND TO EXIST ON ANY PART OF A STATE HIGHWAY, THE DIRECTOR MAY DETERMINE AND DECLARE A REASONABLE AND SAFE MAXIMUM SPEED LIMIT FOR THE LOCATION.

B. THE MAXIMUM SPEED LIMIT DETERMINED PURSUANT TO THIS SECTION IS EFFECTIVE WHEN APPROPRIATE SIGNS GIVING NOTICE OF THE MAXIMUM SPEED LIMIT ARE ERECTED.

C. THE DIRECTOR MAY DECLARE A MAXIMUM SPEED LIMIT THAT IS DETERMINED PURSUANT TO THIS SECTION TO BE EFFECTIVE AT ALL TIMES OR AT SUCH TIMES AS INDICATED ON THE SPEED LIMIT SIGNS. THE DIRECTOR MAY ESTABLISH VARYING SPEED LIMITS FOR DIFFERENT TIMES OF DAY, DIFFERENT TYPES OF VEHICLES, VARYING WEATHER CONDITIONS AND OTHER FACTORS BEARING ON SAFE SPEEDS. THE VARYING LIMITS ARE EFFECTIVE WHEN POSTED ON APPROPRIATE FIXED OR VARIABLE SIGNS.

28-702.01. Maximum speed limit; authority to increase; waste of a finite resource

A. NOTWITHSTANDING ANY OTHER HIGHER MAXIMUM SPEED LIMIT PREVIOUSLY ESTABLISHED PURSUANT TO ANY OTHER PROVISION OF LAW, A MAXIMUM SPEED LIMIT ON ANY HIGHWAY IN THIS STATE SHALL NOT EXCEED FIFTY-FIVE MILES PER HOUR. THIS SUBSECTION DOES NOT ALTER AN EXISTING MAXIMUM SPEED LIMIT THAT IS LESS THAN FIFTY-FIVE MILES PER HOUR AND DOES NOT PREVENT THE APPROPRIATE JURISDICTION FROM ESTABLISHING, ALTERING OR LOWERING A MAXIMUM SPEED LIMIT THAT IS LESS THAN FIFTY-FIVE MILES PER HOUR WITHIN ITS RESPECTIVE JURISDICTION.

B. THE SPEED LIMIT FOR ALL TYPES OF MOTOR VEHICLES IS FIFTY-FIVE MILES PER HOUR ON ANY PORTION OF ANY HIGHWAY THAT BOTH:

1. HAS FOUR OR MORE TRAFFIC LANES, THE OPPOSING LANES OF WHICH ARE PHYSICALLY SEPARATED OTHER THAN BY STRIPING.

2. HAD A SPEED LIMIT FOR ALL TYPES OF MOTOR VEHICLES OF FIFTY-FIVE MILES PER HOUR OR MORE ON NOVEMBER 1, 1973.

C. THE DIRECTOR MAY ORDER THE INCREASE OF THE MAXIMUM SPEED LIMIT PRESCRIBED IN SUBSECTION B OF THIS SECTION TO SEVENTY-FIVE MILES PER HOUR ON AN INDIVIDUAL HIGHWAY OR ON ALL HIGHWAYS IN THIS STATE IF THE GOVERNOR DECLARES BY PROCLAMATION THAT AN EMERGENCY DOES NOT EXIST AND THAT THE RECEIPT OF FEDERAL HIGHWAY MONIES WOULD NOT BE WITHHELD.

D. A PERSON SHALL NOT DRIVE A MOTOR VEHICLE AT A SPEED IN EXCESS OF FIFTY-FIVE MILES PER HOUR OR IN EXCESS OF A HIGHER MAXIMUM SPEED IF CHANGED PURSUANT TO SUBSECTION C OF THIS SECTION.

E. IF A PERSON IS FOUND RESPONSIBLE FOR VIOLATING SUBSECTION D OF THIS SECTION AND THE SPEED AT WHICH THE DEFENDANT IS ALLEGED TO HAVE DRIVEN AS PROVIDED IN SECTION 28-707, SUBSECTION A IS SIXTY-FIVE MILES PER HOUR OR LESS, OR IF THE COURT FINDS THAT THE DEFENDANT VIOLATED SUBSECTION D OF THIS SECTION AND THAT THE SPEED AT WHICH THE DEFENDANT DROVE WAS NOT IN EXCESS OF SIXTY-FIVE MILES PER HOUR, THE OFFENSE IS DESIGNATED AS THE WASTE OF A FINITE RESOURCE CURRENTLY IN SHORT SUPPLY AND IS A CIVIL TRAFFIC VIOLATION.

F. IF A PERSON IS CHARGED WITH VIOLATING AND THE COURT FINDS THAT THE PERSON VIOLATED SUBSECTION D OF THIS SECTION AND IF THE SPEED AT WHICH THE DEFENDANT IS ALLEGED TO HAVE DRIVEN AS PROVIDED IN SECTION 28-707, SUBSECTION A IS MORE THAN SIXTY-FIVE MILES PER HOUR, THE OFFENSE IS DESIGNATED AS AN UNLAWFUL SPEED AND IS A CIVIL TRAFFIC VIOLATION.

G. IF A PERSON IS FOUND RESPONSIBLE FOR A CIVIL TRAFFIC VIOLATION PURSUANT TO SUBSECTION E OF THIS SECTION:

1. A DEPARTMENT OR AGENCY OF THIS STATE SHALL NOT CONSIDER THE VIOLATION FOR THE PURPOSE OF DETERMINING WHETHER THE PERSON'S DRIVER LICENSE SHOULD BE SUSPENDED OR REVOKED AND A COURT SHALL NOT TRANSMIT ABSTRACTS OF RECORDS OF CONVICTION FOR THE VIOLATION TO THE DEPARTMENT.

2. AN INSURER SHALL NOT CONSIDER THE VIOLATION AS A MOVING TRAFFIC VIOLATION AGAINST THE PERSON FOR THE PURPOSE OF ESTABLISHING RATES OF MOTOR VEHICLE INSURANCE CHARGED BY THE INSURER AND SHALL NOT CANCEL OR REFUSE TO RENEW A POLICY OF INSURANCE BECAUSE OF THE VIOLATION.

3. THE CIVIL PENALTY SHALL NOT EXCEED FIFTEEN DOLLARS PLUS THE PENALTY ASSESSMENTS IMPOSED PURSUANT TO SECTIONS 12-116.01 AND 12-116.02.

4. A REPORT SHALL NOT BE MADE UNDER SECTION 28-1559, SUBSECTION B.

H. THIS SECTION DOES NOT APPLY TO AN INTERSTATE SYSTEM HIGHWAY LOCATED OUTSIDE OF AN URBANIZED AREA, AS DEFINED IN SECTION 28-702.04, WITH A POPULATION OF FIFTY THOUSAND OR MORE PERSONS.

28-702.02. Authority to change speed signs on freeways

IF THE DIRECTOR DETERMINES ON THE BASIS OF AN ENGINEERING AND TRAFFIC SURVEY THAT THE SAFE AND ORDERLY MOVEMENT OF TRAFFIC ON ANY STATE HIGHWAY THAT IS A FREEWAY WILL BE FACILITATED BY THE ESTABLISHMENT OF VARIABLE SPEED LIMITS, THE DEPARTMENT MAY ERECT, REGULATE AND CONTROL SIGNS ON THE FREEWAY OR ANY PORTION OF THE FREEWAY. THE DEPARTMENT SHALL DESIGN THE SIGNS TO PERMIT THE DISPLAY OF DIFFERENT SPEED LIMITS AT VARIOUS TIMES OF THE DAY OR NIGHT AND TO BE OF SUFFICIENT SIZE AND CLARITY TO GIVE ADEQUATE NOTICE OF THE APPLICABLE SPEED LIMIT. THE SPEED LIMIT ON THE FREEWAY AT A PARTICULAR TIME AND PLACE IS THE SPEED LIMIT DISPLAYED ON THE SIGN AT THAT TIME AND PLACE.

28-702.03. Maximum speed limit violation on interstate highway system in another state; effect

IF A RESIDENT OF THIS STATE IS CONVICTED OF VIOLATING THE MAXIMUM SPEED LIMIT OF FIFTY-FIVE MILES PER HOUR ON THE INTERSTATE SYSTEM HIGHWAYS OF ANOTHER STATE AND THE SPEED AT WHICH THE PERSON IS ALLEGED TO HAVE DRIVEN IS SIXTY-FIVE MILES PER HOUR OR LESS:

1. A DEPARTMENT OR AGENCY OF THIS STATE SHALL NOT CONSIDER THE VIOLATION FOR THE PURPOSE OF DETERMINING WHETHER THE PERSON'S DRIVER LICENSE SHOULD BE SUSPENDED OR REVOKED.

2. AN INSURER SHALL NOT CONSIDER THE VIOLATION AS A MOVING TRAFFIC VIOLATION AGAINST THE PERSON FOR THE PURPOSE OF ESTABLISHING RATES OF MOTOR VEHICLE INSURANCE CHARGED BY THE INSURER, AND THE INSURER SHALL NOT CANCEL OR REFUSE TO RENEW A POLICY OF INSURANCE BECAUSE OF THE VIOLATION.

28-702.04. Maximum speed limit on interstate highways outside urbanized areas; definition

A. THE SPEED LIMIT FOR ALL TYPES OF MOTOR VEHICLES IS SIXTY-FIVE MILES PER HOUR ON THE INTERSTATE SYSTEM HIGHWAYS LOCATED OUTSIDE OF AN URBANIZED AREA WITH A POPULATION OF FIFTY THOUSAND OR MORE PERSONS, EXCEPT THAT THE DIRECTOR MAY DECLARE A LOWER SPEED LIMIT ON THE HIGHWAYS PURSUANT TO SECTION 28-702.

B. A PERSON SHALL NOT DRIVE A MOTOR VEHICLE AT A SPEED IN EXCESS OF THE MAXIMUM SPEED LIMIT PRESCRIBED BY THIS SECTION.

C. THE DIRECTOR MAY ORDER THE INCREASE OF THE MAXIMUM SPEED LIMIT PRESCRIBED IN SUBSECTION A OF THIS SECTION TO SEVENTY-FIVE MILES PER HOUR ON AN INDIVIDUAL INTERSTATE SYSTEM HIGHWAY SUBJECT TO THIS SECTION OR ON ALL OF THE INTERSTATE SYSTEM HIGHWAYS IN THIS STATE SUBJECT TO THIS SECTION IF THE GOVERNOR DECLARES BY PROCLAMATION THAT AN EMERGENCY DOES NOT EXIST AND THAT THE RECEIPT OF FEDERAL HIGHWAY MONIES WOULD NOT BE WITHHELD.

D. A VIOLATION OF THIS SECTION IS A CIVIL TRAFFIC VIOLATION, AND THE PERSON IS SUBJECT TO A CIVIL PENALTY THAT DOES NOT EXCEED THE AMOUNT PROVIDED BY SECTION 28-1598.

E. FOR THE PURPOSES OF THIS SECTION, "URBANIZED AREA" MEANS AN URBANIZED AREA AS DEFINED IN THE DECENNIAL CENSUS BY THE UNITED STATES BUREAU OF THE CENSUS.

28-703. Alteration of speed limits by local authority

A. IF A LOCAL AUTHORITY DETERMINES ON THE BASIS OF AN ENGINEERING AND TRAFFIC INVESTIGATION THAT THE MAXIMUM SPEED PERMITTED UNDER THIS ARTICLE IS GREATER OR LESS THAN IS REASONABLE OR SAFE UNDER THE CONDITIONS FOUND TO EXIST ON ANY PART OF A STREET OR HIGHWAY IN ITS JURISDICTION, THE LOCAL AUTHORITY MAY DETERMINE AND DECLARE A REASONABLE AND SAFE MAXIMUM SPEED LIMIT AT THE LOCATION AND, BASED ON THE INVESTIGATION, MAY:

1. DECREASE THE LIMIT AT INTERSECTIONS.

2. INCREASE THE LIMIT WITHIN ANY BUSINESS OR RESIDENCE DISTRICT TO NOT MORE THAN SIXTY-FIVE MILES PER HOUR.

3. DECREASE THE LIMIT OUTSIDE ANY BUSINESS OR RESIDENCE DISTRICT.

4. INCREASE OR DECREASE THE LIMIT ON STREETS ADJACENT TO SCHOOL GROUNDS.

B. A LOCAL AUTHORITY SHALL DETERMINE BY AN ENGINEERING AND TRAFFIC INVESTIGATION THE PROPER MAXIMUM SPEED FOR ALL ARTERIAL STREETS IN ITS JURISDICTION AND SHALL DECLARE A REASONABLE AND SAFE MAXIMUM LIMIT ON THE

ARTERIAL STREETS IN ITS JURISDICTION THAT MAY BE MORE OR LESS THAN THE MAXIMUM SPEED PERMITTED UNDER THIS ARTICLE FOR A BUSINESS OR RESIDENCE DISTRICT.

C. AN ALTERED LIMIT ESTABLISHED AS PROVIDED FOR IN THIS SECTION IS EFFECTIVE AT ALL TIMES, OR DURING HOURS OF DARKNESS, OR AT OTHER TIMES AS MAY BE DETERMINED IF APPROPRIATE SIGNS GIVING NOTICE OF THE ALTERED LIMIT ARE ERECTED ON THE STREET OR HIGHWAY.

D. THE ALTERATION OF MAXIMUM SPEED LIMITS ON STATE HIGHWAYS OR EXTENSIONS OF STATE HIGHWAYS IN A MUNICIPALITY BY A LOCAL AUTHORITY IS NOT EFFECTIVE UNTIL THE DIRECTOR APPROVES THE ALTERATION.

E. A LOCAL AUTHORITY SHALL NOT MAKE MORE THAN SIX ALTERATIONS PER MILE ALONG A STREET OR HIGHWAY PURSUANT TO THIS SECTION, EXCEPT FOR REDUCED LIMITS AT INTERSECTIONS. THE DIFFERENCE BETWEEN ADJACENT LIMITS SHALL NOT BE MORE THAN TEN MILES PER HOUR EXCEPT FOR SCHOOL CROSSINGS.

28-703.01. <u>End of speed zone; signs required</u>

THE AGENCY OR AUTHORITY ESTABLISHING A SPEED ZONE UNDER SECTION 28-702 OR 28-703 IS RESPONSIBLE FOR ERECTING:

1. AT THE BEGINNING OF EACH ZONE A SIGN DESIGNATING THE MAXIMUM ALLOWABLE SPEED WITHIN THE ZONE.

2. AT THE END OF EACH ZONE A SIGN BEARING EITHER THE LEGEND "RESUME SPEED" OR SETTING FORTH THE NEW MAXIMUM SPEED LIMIT.

28-703.02. <u>Establishing speed on multiple lane highways</u>

ON MULTIPLE LANE HIGHWAYS AND ON FREEWAYS WITH TWO OR MORE SEPARATE ROADWAYS, DIFFERENT PRIMA FACIE SPEED LIMITS MAY BE ESTABLISHED FOR DIFFERENT ROADWAYS UNDER ANY OF THE PROCEDURES SPECIFIED IN SECTIONS 28-702, 28-703 AND 28-703.01.

28-704. <u>Minimum speed limits; requirement to turn off roadway</u>

A. A PERSON SHALL NOT DRIVE A MOTOR VEHICLE AT SUCH A SLOW SPEED AS TO IMPEDE OR BLOCK THE NORMAL AND REASONABLE MOVEMENT OF TRAFFIC EXCEPT WHEN REDUCED SPEED IS NECESSARY FOR SAFE OPERATION OR IN COMPLIANCE WITH LAW.

B. IF THE DIRECTOR OR LOCAL AUTHORITIES WITHIN THEIR RESPECTIVE JURISDICTIONS DETERMINE ON THE BASIS OF AN ENGINEERING AND TRAFFIC INVESTIGATION THAT SLOW SPEEDS ON ANY PART OF A HIGHWAY CONSISTENTLY IMPEDE THE NORMAL AND REASONABLE MOVEMENT OF TRAFFIC, THE DIRECTOR OR LOCAL AUTHORITY MAY DETERMINE AND DECLARE A MINIMUM SPEED LIMIT BELOW WHICH A PERSON SHALL NOT DRIVE A VEHICLE EXCEPT WHEN NECESSARY FOR SAFE OPERATION OR IN COMPLIANCE WITH LAW.

C. IF A PERSON IS DRIVING A VEHICLE AT A SPEED LESS THAN THE NORMAL FLOW OF TRAFFIC AT THE PARTICULAR TIME AND PLACE ON A TWO-LANE HIGHWAY WHERE PASSING IS UNSAFE, AND IF FIVE OR MORE VEHICLES ARE FORMED IN A LINE BEHIND THE VEHICLE, THE PERSON SHALL TURN THE VEHICLE OFF THE ROADWAY AT THE NEAREST PLACE DESIGNATED AS A TURNOUT BY SIGNS ERECTED BY THE DIRECTOR OR A LOCAL AUTHORITY, OR WHEREVER SUFFICIENT AREA FOR A SAFE TURNOUT EXISTS, IN ORDER TO PERMIT THE VEHICLES FOLLOWING TO PROCEED.

28-705. Special speed limitation; motor driven cycles

A PERSON SHALL NOT OPERATE A MOTOR DRIVEN CYCLE AT ANY TIME PROVIDED IN SECTION 28-922 AT A SPEED OF MORE THAN THIRTY-FIVE MILES PER HOUR UNLESS THE MOTOR DRIVEN CYCLE IS EQUIPPED WITH A HEAD LAMP OR HEAD LAMPS THAT ARE ADEQUATE TO REVEAL A PERSON OR VEHICLE AT A DISTANCE OF THREE HUNDRED FEET AHEAD.

28-706. Special speed limitations

A. A PERSON SHALL NOT DRIVE A VEHICLE EQUIPPED WITH SOLID RUBBER OR CUSHION TIRES AT A SPEED OF MORE THAN TEN MILES PER HOUR.

B. A PERSON SHALL NOT DRIVE A VEHICLE OVER ANY BRIDGE OR OTHER ELEVATED STRUCTURE CONSTITUTING A PART OF A HIGHWAY AT A SPEED THAT IS GREATER THAN THE MAXIMUM SPEED THAT CAN BE MAINTAINED WITH SAFETY TO THE BRIDGE OR STRUCTURE IF THE STRUCTURE IS SIGNPOSTED AS PROVIDED IN THIS SECTION.

C. ON REQUEST FROM ANY LOCAL AUTHORITY OR ON THE DIRECTOR'S OWN INITIATIVE, THE DIRECTOR MAY CONDUCT AN INVESTIGATION OF ANY BRIDGE OR OTHER ELEVATED STRUCTURE CONSTITUTING A PART OF A HIGHWAY. IF THE DIRECTOR FINDS THAT THE STRUCTURE CANNOT SAFELY WITHSTAND VEHICLES TRAVELING AT THE SPEED OTHERWISE PERMISSIBLE UNDER THIS ARTICLE, THE DIRECTOR SHALL:

1. DETERMINE AND DECLARE THE MAXIMUM SPEED OF VEHICLES THAT THE STRUCTURE CAN WITHSTAND.

2. CAUSE OR PERMIT SUITABLE SIGNS STATING THE MAXIMUM SPEED TO BE ERECTED AND MAINTAINED AT A DISTANCE OF THREE HUNDRED FEET BEFORE EACH END OF THE STRUCTURE.

D. AT THE TRIAL OF A PERSON CHARGED WITH A VIOLATION OF THIS SECTION, PROOF OF A DETERMINATION OF THE MAXIMUM SPEED BY THE DIRECTOR AND THE EXISTENCE OF THE SIGNS ARE CONCLUSIVE EVIDENCE OF THE MAXIMUM SPEED THAT CAN BE MAINTAINED WITH SAFETY TO THE BRIDGE OR STRUCTURE.

28-707. Charging speed violation; burden of proof; findings

A. IN A CHARGE OF VIOLATING A SPEED RESTRICTION IN THIS ARTICLE, THE COMPLAINT AND THE SUMMONS OR NOTICE TO APPEAR SHALL SPECIFY THE SPEED AT WHICH THE DEFENDANT IS ALLEGED TO HAVE DRIVEN AND THE MAXIMUM SPEED APPLICABLE WITHIN THE DISTRICT OR AT THE LOCATION.

B. THE PROVISION OF THIS ARTICLE DECLARING MAXIMUM SPEED LIMITATIONS DOES NOT RELIEVE THE PLAINTIFF IN ANY CIVIL ACTION, OTHER THAN A CIVIL ACTION TO IMPOSE A CIVIL PENALTY, FROM THE BURDEN OF PROVING NEGLIGENCE ON THE PART OF THE DEFENDANT AS THE PROXIMATE CAUSE OF AN ACCIDENT.

C. IF A PERSON IS CHARGED WITH A CRIMINAL OFFENSE, EXCEPT FOR EXCESSIVE SPEED UNDER SECTION 28-701.02, OR CITED FOR A CIVIL TRAFFIC VIOLATION UNDER THIS ARTICLE AND IF THE PERSON IS OPERATING A COMMERCIAL MOTOR VEHICLE AS DEFINED IN SECTION 28-3001, THE COURT, ON CONVICTION OF THE OFFENSE OR ON ADJUDICATION OF THE CIVIL TRAFFIC COMPLAINT, SHALL MAKE A FINDING BASED ON EITHER AN ADMISSION OR THE EVIDENCE AS TO WHETHER THE SPEED

THAT THE VEHICLE WAS OPERATED WAS FIFTEEN MILES PER HOUR OR MORE OVER THE SPEED LIMIT.

28-708. Racing on highways; classification; exception; 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 2 MISDEMEANOR. IF A PERSON IS CONVICTED OF A SECOND OR SUBSEQUENT VIOLATION WITHIN TWENTY-FOUR MONTHS OF A FIRST CONVICTION, THE PERSON IS GUILTY OF A CLASS 2 MISDEMEANOR 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.

C. 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.

D. IF A PERSON IS CONVICTED OF VIOLATING THIS SECTION, THE JUDGE MAY, ON A FIRST CONVICTION, AND SHALL, ON A SECOND OR SUBSEQUENT CONVICTION FOR AN OFFENSE COMMITTED WITHIN A PERIOD OF TWENTY-FOUR MONTHS, REQUIRE THE SURRENDER TO THE JUDGE 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.

E. THE DIRECTOR MAY AUTHORIZE IN WRITING AN ORGANIZED AND PROPERLY CONTROLLED EVENT TO UTILIZE 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.

F. 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.

ARTICLE 7. DRIVING ON RIGHT SIDE OF ROADWAY, OVERTAKING AND PASSING

28-721. Driving on right side of roadway; exceptions

A. ON ALL ROADWAYS OF SUFFICIENT WIDTH, A PERSON SHALL DRIVE A VEHICLE ON THE RIGHT HALF OF THE ROADWAY EXCEPT AS FOLLOWS:

1. WHEN OVERTAKING AND PASSING ANOTHER VEHICLE PROCEEDING IN THE SAME DIRECTION UNDER THE RULES GOVERNING THE MOVEMENT.

2. WHEN THE RIGHT HALF OF A ROADWAY IS CLOSED TO TRAFFIC WHILE UNDER CONSTRUCTION OR REPAIR.

3. ON A ROADWAY DIVIDED INTO THREE MARKED LANES FOR TRAFFIC UNDER THE RULES APPLICABLE ON THE ROADWAY.

4. ON A ROADWAY DESIGNATED AND SIGNPOSTED FOR ONE-WAY TRAFFIC.

B. ON ALL ROADWAYS, A PERSON DRIVING A VEHICLE PROCEEDING AT LESS THAN THE NORMAL SPEED OF TRAFFIC AT THE TIME AND PLACE AND UNDER THE CONDITIONS THEN EXISTING SHALL DRIVE THE VEHICLE IN THE RIGHT-HAND LANE THEN AVAILABLE FOR TRAFFIC OR AS CLOSE AS PRACTICABLE TO THE RIGHT-HAND CURB OR EDGE OF THE ROADWAY, EXCEPT WHEN OVERTAKING AND PASSING ANOTHER VEHICLE PROCEEDING IN THE SAME DIRECTION OR WHEN PREPARING FOR A LEFT TURN AT AN INTERSECTION OR INTO A PRIVATE ROAD OR DRIVEWAY.

28-722. Passing vehicles proceeding in opposite directions

DRIVERS OF VEHICLES PROCEEDING IN OPPOSITE DIRECTIONS SHALL PASS EACH OTHER TO THE RIGHT, AND ON ROADWAYS HAVING WIDTH FOR NOT MORE THAN ONE LINE OF TRAFFIC IN EACH DIRECTION, EACH DRIVER SHALL GIVE TO THE OTHER DRIVER AT LEAST ONE-HALF OF THE MAIN TRAVELED PORTION OF THE ROADWAY AS NEARLY AS POSSIBLE.

28-723. Overtaking a vehicle on the left

THE FOLLOWING RULES GOVERN THE OVERTAKING AND PASSING OF VEHICLES PROCEEDING IN THE SAME DIRECTION:

1. THE DRIVER OF A VEHICLE OVERTAKING ANOTHER VEHICLE PROCEEDING IN THE SAME DIRECTION SHALL PASS TO THE LEFT OF THE VEHICLE AT A SAFE DISTANCE AND SHALL NOT AGAIN DRIVE TO THE RIGHT SIDE OF THE ROADWAY UNTIL SAFELY CLEAR OF THE OVERTAKEN VEHICLE.

2. EXCEPT WHEN OVERTAKING AND PASSING ON THE RIGHT IS PERMITTED, THE DRIVER OF AN OVERTAKEN VEHICLE SHALL GIVE WAY TO THE RIGHT IN FAVOR OF THE OVERTAKING VEHICLE ON AUDIBLE SIGNAL OR BLINKING OF HEAD LAMPS AT NIGHTTIME AND SHALL NOT INCREASE THE SPEED OF THE OVERTAKEN VEHICLE UNTIL COMPLETELY PASSED BY THE OVERTAKING VEHICLE.

28-724. Overtaking on the right

A. THE DRIVER OF A VEHICLE MAY OVERTAKE AND PASS ON THE RIGHT OF ANOTHER VEHICLE ONLY UNDER THE FOLLOWING CONDITIONS:

1. WHEN THE VEHICLE OVERTAKEN IS MAKING OR ABOUT TO MAKE A LEFT TURN.

2. ON A STREET OR HIGHWAY WITH UNOBSTRUCTED PAVEMENT THAT IS NOT OCCUPIED BY PARKED VEHICLES AND THAT IS OF SUFFICIENT WIDTH FOR TWO OR MORE LINES OF MOVING VEHICLES IN EACH DIRECTION.

3. ON A ONE-WAY STREET OR ON A ROADWAY ON WHICH TRAFFIC IS RESTRICTED TO ONE DIRECTION OF MOVEMENT AND IF THE ROADWAY IS FREE FROM OBSTRUCTIONS AND OF SUFFICIENT WIDTH FOR TWO OR MORE LINES OF MOVING VEHICLES.

B. THE DRIVER OF A VEHICLE MAY OVERTAKE AND PASS ANOTHER VEHICLE ON THE RIGHT ONLY UNDER CONDITIONS PERMITTING THE MOVEMENT IN SAFETY. THE DRIVER SHALL NOT MAKE THE MOVEMENT BY DRIVING OFF THE PAVEMENT OR MAIN TRAVELED PORTION OF THE ROADWAY.

28-725. Limitations on overtaking on the left

A PERSON SHALL NOT DRIVE A VEHICLE TO THE LEFT SIDE OF THE CENTER OF THE ROADWAY IN OVERTAKING AND PASSING ANOTHER VEHICLE PROCEEDING IN THE SAME DIRECTION UNLESS THE LEFT SIDE IS CLEARLY VISIBLE AND IS FREE OF ONCOMING TRAFFIC FOR A SUFFICIENT DISTANCE AHEAD TO PERMIT THE OVERTAKING AND PASSING TO BE COMPLETED WITHOUT INTERFERING WITH THE SAFE OPERATION OF ANY VEHICLE APPROACHING FROM THE OPPOSITE DIRECTION OR ANY VEHICLE OVERTAKEN. THE OVERTAKING VEHICLE SHALL RETURN TO THE RIGHT-HAND SIDE OF THE ROADWAY BEFORE COMING WITHIN ONE HUNDRED FEET OF ANY VEHICLE APPROACHING FROM THE OPPOSITE DIRECTION.

28-726. Limitations on driving to left of roadway center

A. A PERSON SHALL NOT DRIVE A VEHICLE TO THE LEFT SIDE OF THE ROADWAY UNDER THE FOLLOWING CONDITIONS:

1. WHEN APPROACHING THE CREST OF A GRADE OR ON A CURVE IN THE HIGHWAY WHERE THE DRIVER'S VIEW IS OBSTRUCTED WITHIN SUCH DISTANCE AS TO CREATE A HAZARD IN THE EVENT ANOTHER VEHICLE MIGHT APPROACH FROM THE OPPOSITE DIRECTION.

2. WHEN APPROACHING WITHIN ONE HUNDRED FEET OF OR TRAVERSING ANY INTERSECTION OR RAILROAD GRADE CROSSING OR WHERE APPROPRIATE SIGNS OR MARKINGS HAVE BEEN INSTALLED TO DEFINE A NO PASSING ZONE.

3. WHEN THE VIEW IS OBSTRUCTED ON APPROACHING WITHIN ONE HUNDRED FEET OF ANY BRIDGE, VIADUCT OR TUNNEL.

B. THE LIMITATIONS PROVIDED IN THIS SECTION DO NOT APPLY ON A ONE-WAY ROADWAY.

28-727. No passing zones

THE DIRECTOR MAY DETERMINE THOSE PORTIONS OF A HIGHWAY WHERE OVERTAKING AND PASSING OR DRIVING TO THE LEFT OF THE ROADWAY WOULD BE ESPECIALLY HAZARDOUS AND MAY INDICATE THE BEGINNING AND END OF THE ZONES BY APPROPRIATE SIGNS OR MARKINGS ON THE ROADWAY. WHEN THE SIGNS OR MARKINGS ARE IN PLACE

AND CLEARLY VISIBLE TO AN ORDINARILY OBSERVANT PERSON, EVERY DRIVER OF A VEHICLE SHALL OBEY THE DIRECTIONS OF THE SIGNS OR MARKINGS.

28-728. One-way roadways and rotary traffic islands

A. THE DIRECTOR MAY DESIGNATE ANY HIGHWAY OR ANY SEPARATE ROADWAY UNDER THE DIRECTOR'S JURISDICTION FOR ONE-WAY TRAFFIC AND SHALL ERECT APPROPRIATE SIGNS GIVING NOTICE OF ONE-WAY TRAFFIC.

B. ON A ROADWAY DESIGNATED AND SIGNPOSTED FOR ONE-WAY TRAFFIC, A PERSON SHALL DRIVE A VEHICLE ONLY IN THE DIRECTION DESIGNATED.

C. A PERSON SHALL DRIVE A VEHICLE PASSING AROUND A ROTARY TRAFFIC ISLAND ONLY TO THE RIGHT OF THE ISLAND.

28-729. Driving on roadways laned for traffic

IF A ROADWAY IS DIVIDED INTO TWO OR MORE CLEARLY MARKED LANES FOR TRAFFIC, THE FOLLOWING RULES IN ADDITION TO ALL OTHERS CONSISTENT WITH THIS SECTION APPLY:

1. A PERSON SHALL DRIVE A VEHICLE AS NEARLY AS PRACTICABLE ENTIRELY WITHIN A SINGLE LANE AND SHALL NOT MOVE THE VEHICLE FROM THAT LANE UNTIL THE DRIVER HAS FIRST ASCERTAINED THAT THE MOVEMENT CAN BE MADE WITH SAFETY.

2. ON A ROADWAY THAT IS DIVIDED INTO THREE LANES, A PERSON SHALL NOT DRIVE A VEHICLE IN THE CENTER LANE EXCEPT WHEN OVERTAKING AND PASSING ANOTHER VEHICLE WHERE THE ROADWAY IS CLEARLY VISIBLE AND THE CENTER LANE IS CLEAR OF TRAFFIC WITHIN A SAFE DISTANCE, OR IN PREPARATION FOR A LEFT TURN OR WHERE THE CENTER LANE IS AT THE TIME ALLOCATED EXCLUSIVELY TO TRAFFIC MOVING IN THE DIRECTION THE VEHICLE IS PROCEEDING AND IS SIGNPOSTED TO GIVE NOTICE OF THE ALLOCATION.

3. OFFICIAL SIGNS MAY BE ERECTED DIRECTING SLOW-MOVING TRAFFIC TO USE A DESIGNATED LANE OR DESIGNATING THOSE LANES TO BE USED BY TRAFFIC MOVING IN A PARTICULAR DIRECTION REGARDLESS OF THE CENTER OF THE ROADWAY, AND DRIVERS OF VEHICLES SHALL OBEY THE DIRECTIONS OF EVERY SIGN.

28-730. Following too closely

A. THE DRIVER OF A MOTOR VEHICLE SHALL NOT FOLLOW ANOTHER VEHICLE MORE CLOSELY THAN IS REASONABLE AND PRUDENT AND SHALL HAVE DUE REGARD FOR THE SPEED OF THE VEHICLES ON, THE TRAFFIC ON AND THE CONDITION OF THE HIGHWAY.

B. THE DRIVER OF A MOTOR TRUCK OR MOTOR VEHICLE THAT IS DRAWING ANOTHER VEHICLE WHEN TRAVELING ON A ROADWAY OUTSIDE OF A BUSINESS OR RESIDENCE DISTRICT AND THAT IS FOLLOWING ANOTHER MOTOR TRUCK OR MOTOR VEHICLE DRAWING ANOTHER VEHICLE SHALL LEAVE, IF CONDITIONS PERMIT, SUFFICIENT SPACE SO THAT AN OVERTAKING VEHICLE MAY ENTER AND OCCUPY THE SPACE WITHOUT DANGER. THIS SUBSECTION DOES NOT PREVENT A MOTOR TRUCK OR MOTOR VEHICLE DRAWING ANOTHER VEHICLE FROM OVERTAKING AND PASSING ANY LIKE VEHICLE OR OTHER VEHICLES.

C. A PERSON WHO IS DRIVING A MOTOR VEHICLE IN A CARAVAN OR MOTORCADE ON A ROADWAY OUTSIDE OF A BUSINESS OR RESIDENCE DISTRICT, WHETHER OR NOT TOWING OTHER VEHICLES, SHALL ALLOW SUFFICIENT SPACE BETWEEN EACH VEHICLE OR

COMBINATION OF VEHICLES TO ENABLE ANY OTHER VEHICLE TO ENTER AND OCCUPY THE SPACE WITHOUT DANGER. THIS SUBSECTION DOES NOT APPLY TO FUNERAL PROCESSIONS.

28-731. Driving on divided highways

IF A HIGHWAY IS DIVIDED INTO TWO ROADWAYS BY LEAVING AN INTERVENING SPACE OR BY A PHYSICAL BARRIER OR CLEARLY INDICATED DIVIDING SECTION CONSTRUCTED TO IMPEDE VEHICULAR TRAFFIC, A PERSON SHALL DRIVE A VEHICLE ONLY ON THE RIGHT-HAND ROADWAY AND SHALL NOT DRIVE A VEHICLE OVER, ACROSS OR WITHIN THE DIVIDING SPACE, BARRIER OR SECTION, EXCEPT THROUGH AN OPENING IN THE PHYSICAL BARRIER OR DIVIDING SECTION OR SPACE OR AT A CROSSOVER OR INTERSECTION ESTABLISHED BY PUBLIC AUTHORITY.

28-732. Restricted access

A PERSON SHALL NOT DRIVE A VEHICLE ONTO OR FROM A CONTROLLED ACCESS ROADWAY EXCEPT AT ENTRANCES AND EXITS ESTABLISHED BY PUBLIC AUTHORITY.

28-733. Restrictions on use of controlled access highway

A. THE DIRECTOR MAY, AND LOCAL AUTHORITIES BY ORDINANCE MAY, PROHIBIT THE USE OF ANY PART OF A CONTROLLED ACCESS HIGHWAY UNDER THEIR RESPECTIVE JURISDICTIONS BY PEDESTRIANS, BICYCLES OR OTHER NONMOTORIZED TRAFFIC OR BY ANY PERSON OPERATING A MOTOR DRIVEN CYCLE.

B. THE DIRECTOR OR THE LOCAL AUTHORITY ADOPTING THE PROHIBITION PRESCRIBED IN SUBSECTION A SHALL ERECT AND MAINTAIN OFFICIAL SIGNS ON THE APPLICABLE CONTROLLED ACCESS HIGHWAY. WHEN THE SIGNS ARE ERECTED, A PERSON SHALL NOT DISOBEY THE RESTRICTIONS STATED ON THE SIGNS.

28-734. Driving through safety zone

A PERSON SHALL NOT DRIVE A VEHICLE THROUGH OR WITHIN A SAFETY ZONE.

ARTICLE 8. TURNING, STARTING AND SIGNALS ON STOPPING AND TURNING

28-751. Required position and method of turning

THE DRIVER OF A VEHICLE INTENDING TO TURN SHALL DO SO AS FOLLOWS:

1. RIGHT TURNS. BOTH THE APPROACH FOR A RIGHT TURN AND A RIGHT TURN SHALL BE MADE AS CLOSE AS PRACTICABLE TO THE RIGHT-HAND CURB OR EDGE OF THE ROADWAY.

2. LEFT TURNS. THE DRIVER OF A VEHICLE INTENDING TO TURN LEFT SHALL APPROACH THE TURN IN THE EXTREME LEFT-HAND LANE LAWFULLY AVAILABLE TO TRAFFIC MOVING IN THE DIRECTION OF TRAVEL OF THE VEHICLE. IF PRACTICABLE THE DRIVER SHALL MAKE THE LEFT TURN FROM THE LEFT OF THE CENTER OF THE INTERSECTION AND SHALL MAKE THE TURN TO THE LEFT LANE IMMEDIATELY AVAILABLE FOR THE DRIVER'S DIRECTION OF TRAFFIC.

3. THE DIRECTOR OR LOCAL AUTHORITIES IN THEIR RESPECTIVE JURISDICTIONS MAY CAUSE MARKERS, BUTTONS OR SIGNS TO BE PLACED AND MAY REQUIRE AND DIRECT THAT A DIFFERENT COURSE FROM THAT SPECIFIED IN THIS SECTION BE TRAVELED BY VEHICLES TURNING AT AN INTERSECTION. WHEN MARKERS, BUTTONS OR SIGNS ARE SO PLACED, A DRIVER OF A VEHICLE SHALL NOT TURN A VEHICLE OTHER THAN AS DIRECTED AND REQUIRED BY THE MARKERS, BUTTONS OR SIGNS.

4. TWO-WAY LEFT TURN LANES. IF A SPECIAL LANE FOR MAKING LEFT TURNS BY DRIVERS PROCEEDING IN OPPOSITE DIRECTIONS HAS BEEN INDICATED BY OFFICIAL TRAFFIC CONTROL DEVICES:

(a) A DRIVER SHALL NOT MAKE A LEFT TURN FROM ANY OTHER LANE.

(b) A DRIVER SHALL NOT DRIVE A VEHICLE IN THE LANE EXCEPT IF PREPARING FOR OR MAKING A LEFT TURN FROM OR INTO THE ROADWAY OR IF PREPARING FOR OR MAKING A U-TURN IF OTHERWISE PERMITTED BY LAW.

28-752. Limitations on turning around

A PERSON SHALL NOT TURN A VEHICLE TO PROCEED IN THE OPPOSITE DIRECTION ON A CURVE OR ON THE APPROACH TO OR NEAR THE CREST OF A GRADE IF THE VEHICLE CANNOT BE SEEN BY THE DRIVER OF ANY OTHER VEHICLE APPROACHING FROM EITHER DIRECTION WITHIN FIVE HUNDRED FEET.

28-753. Starting parked vehicle

A PERSON SHALL NOT START A VEHICLE THAT IS STOPPED, STANDING OR PARKED UNLESS THE MOVEMENT CAN BE MADE WITH REASONABLE SAFETY.

28-754. Turning movements and required signals

A. A PERSON SHALL NOT TURN A VEHICLE AT AN INTERSECTION UNLESS THE VEHICLE IS IN PROPER POSITION ON THE ROADWAY AS REQUIRED IN SECTION 28-751, OR TURN A VEHICLE TO ENTER A PRIVATE ROAD OR DRIVEWAY OR OTHERWISE TURN A VEHICLE FROM A DIRECT COURSE OR MOVE RIGHT OR LEFT ON A ROADWAY UNLESS AND UNTIL THE MOVEMENT CAN BE MADE WITH REASONABLE SAFETY. A PERSON SHALL NOT SO TURN ANY VEHICLE WITHOUT GIVING AN APPROPRIATE SIGNAL IN THE MANNER PROVIDED BY THIS ARTICLE IN THE EVENT ANY OTHER TRAFFIC MAY BE AFFECTED BY THE MOVEMENT.

B. A SIGNAL OF INTENTION TO TURN RIGHT OR LEFT WHEN REQUIRED SHALL BE GIVEN CONTINUOUSLY DURING NOT LESS THAN THE LAST ONE HUNDRED FEET TRAVELED BY THE VEHICLE BEFORE TURNING.

C. A PERSON SHALL NOT STOP OR SUDDENLY DECREASE THE SPEED OF A VEHICLE WITHOUT FIRST GIVING AN APPROPRIATE SIGNAL IN THE MANNER PROVIDED BY THIS ARTICLE TO THE DRIVER OF ANY VEHICLE IMMEDIATELY TO THE REAR WHEN THERE IS OPPORTUNITY TO GIVE THE SIGNAL.

28-755. Hand or arm signals or signal device

A PERSON SHALL GIVE A STOP OR TURN SIGNAL IF REQUIRED BY THIS ARTICLE BY MEANS OF THE HAND AND ARM OR BY A SIGNAL LAMP OR LAMPS OR MECHANICAL SIGNAL DEVICE OF A TYPE APPROVED BY THE DEPARTMENT. IF A VEHICLE IS CONSTRUCTED OR LOADED SO THAT A HAND AND ARM SIGNAL WOULD NOT BE VISIBLE BOTH TO THE FRONT AND REAR OF THE VEHICLE, THE SIGNALS MUST BE GIVEN BY A LAMP OR LAMPS OR SIGNAL DEVICE.

28-756. Method of giving hand and arm signals

A. EXCEPT AS PROVIDED BY SUBSECTION B, A PERSON SHALL GIVE ALL HAND AND ARM SIGNALS REQUIRED BY THIS ARTICLE FROM THE LEFT SIDE OF THE VEHICLE IN THE FOLLOWING MANNER, AND THE SIGNALS SHALL INDICATE AS FOLLOWS:

1. LEFT TURN. HAND AND ARM EXTENDED HORIZONTALLY.

2. RIGHT TURN. HAND AND ARM EXTENDED UPWARD.

3. STOP OR DECREASE SPEED. HAND AND ARM EXTENDED DOWNWARD.

B. A PERSON OPERATING A BICYCLE MAY GIVE A RIGHT TURN SIGNAL BY EXTENDING THE RIGHT HAND AND ARM HORIZONTALLY TO THE RIGHT SIDE OF THE BICYCLE.

ARTICLE 9. RIGHT-OF-WAY

28-771. Vehicle at intersection; exception; entering freeway

A. WHEN TWO VEHICLES ENTER OR APPROACH AN INTERSECTION FROM DIFFERENT STREETS OR HIGHWAYS AT APPROXIMATELY THE SAME TIME, THE DRIVER OF THE VEHICLE ON THE LEFT SHALL YIELD THE RIGHT-OF-WAY TO THE VEHICLE ON THE RIGHT. THIS SUBSECTION DOES NOT APPLY TO VEHICLES APPROACHING OR ENTERING AN UNCONTROLLED "T" INTERSECTION IF THE VEHICLE ON THE LEFT IS ON A CONTINUING STREET OR HIGHWAY AND THE VEHICLE ON THE RIGHT IS ON THE TERMINATING STREET OR HIGHWAY. THE VEHICLE ON THE TERMINATING STREET OR HIGHWAY SHALL YIELD TO THE VEHICLE ON THE CONTINUING STREET OR HIGHWAY.

B. THE RIGHT-OF-WAY RULE PRESCRIBED IN SUBSECTION A OF THIS SECTION IS MODIFIED AT THROUGH HIGHWAYS AND OTHERWISE AS STATED IN THIS ARTICLE.

C. INTERSECTING ROAD CROSSINGS BETWEEN THE MAIN ROADWAY OF A FREEWAY AND ACCELERATION LANES, RAMPS OR ANY OTHER APPROACH ROADS ARE NOT INTERSECTIONS AS DEFINED IN SECTION 28-601, AND SUBSECTION A OF THIS SECTION DOES NOT CONTROL QUESTIONS OF RIGHT-OF-WAY AT THE CROSSINGS. A VEHICLE ENTERING A FREEWAY FROM AN ACCELERATION LANE, A RAMP OR ANY OTHER APPROACH ROAD SHALL YIELD THE RIGHT-OF-WAY TO A VEHICLE ON THE MAIN ROADWAY OF THE FREEWAY ENTERING THE MERGING AREA AT THE SAME TIME.

28-772. Vehicle turning left at intersection

THE DRIVER OF A VEHICLE WITHIN AN INTERSECTION INTENDING TO TURN TO THE LEFT SHALL YIELD THE RIGHT-OF-WAY TO A VEHICLE THAT IS APPROACHING FROM THE OPPOSITE DIRECTION AND THAT IS WITHIN THE INTERSECTION OR SO CLOSE TO THE INTERSECTION AS TO CONSTITUTE AN IMMEDIATE HAZARD.

28-773. Through highway; intersection entrance

A. THE DRIVER OF A VEHICLE SHALL STOP AS REQUIRED BY SECTION 28-855 AT THE ENTRANCE TO A THROUGH HIGHWAY AND SHALL YIELD THE RIGHT-OF-WAY TO OTHER VEHICLES THAT HAVE ENTERED THE INTERSECTION FROM THE THROUGH HIGHWAY OR THAT ARE APPROACHING SO CLOSELY ON THE THROUGH HIGHWAY AS TO CONSTITUTE AN IMMEDIATE HAZARD, BUT THE DRIVER HAVING SO YIELDED MAY PROCEED AND THE DRIVERS OF ALL OTHER VEHICLES APPROACHING THE INTERSECTION ON THE THROUGH HIGHWAY SHALL YIELD THE RIGHT-OF-WAY TO THE VEHICLE THAT IS PROCEEDING INTO OR ACROSS THE THROUGH HIGHWAY.

B. THE DRIVER OF A VEHICLE SHALL STOP IN OBEDIENCE TO A STOP SIGN AS REQUIRED BY THIS CHAPTER AT AN INTERSECTION WHERE A STOP SIGN IS ERECTED AT ONE OR MORE ENTRANCES TO THE INTERSECTION ALTHOUGH NOT A PART OF A THROUGH HIGHWAY, SHALL PROCEED CAUTIOUSLY AND SHALL YIELD TO VEHICLES THAT ARE NOT OBLIGED TO STOP AND THAT ARE WITHIN THE INTERSECTION OR ARE APPROACHING SO CLOSELY AS TO CONSTITUTE AN IMMEDIATE HAZARD, BUT MAY THEN PROCEED.

28-774. Highway access from private road or driveway

THE DRIVER OF A VEHICLE ABOUT TO ENTER OR CROSS A HIGHWAY FROM A PRIVATE ROAD OR DRIVEWAY SHALL YIELD THE RIGHT-OF-WAY TO ALL CLOSELY APPROACHING VEHICLES ON THE HIGHWAY.

28-775. Approach of authorized emergency vehicle; following fire apparatus

A. EXCEPT WHEN OTHERWISE DIRECTED BY A POLICE OFFICER, ON THE IMMEDIATE APPROACH OF AN AUTHORIZED EMERGENCY VEHICLE EQUIPPED WITH AT LEAST ONE LIGHTED LAMP EXHIBITING A RED OR RED AND BLUE LIGHT OR LENS VISIBLE UNDER NORMAL ATMOSPHERIC CONDITIONS FROM A DISTANCE OF FIVE HUNDRED FEET TO THE FRONT OF THE VEHICLE, OTHER THAN A POLICE VEHICLE WHEN OPERATED AS AN AUTHORIZED EMERGENCY VEHICLE, AND WHEN THE DRIVER OF AN AUTHORIZED EMERGENCY VEHICLE IS GIVING AN AUDIBLE SIGNAL BY SIREN, EXHAUST WHISTLE OR BELL, THE DRIVER OF ANOTHER VEHICLE SHALL:

1. YIELD THE RIGHT-OF-WAY.

2. IMMEDIATELY DRIVE TO A POSITION PARALLEL TO AND AS CLOSE AS POSSIBLE TO THE RIGHT-HAND EDGE OR CURB OF THE ROADWAY CLEAR OF ANY INTERSECTION.

3. STOP AND REMAIN IN THE POSITION PRESCRIBED IN PARAGRAPH 2 UNTIL THE AUTHORIZED EMERGENCY VEHICLE HAS PASSED.

B. THE DRIVER OF A VEHICLE OTHER THAN ONE ON OFFICIAL BUSINESS SHALL NOT FOLLOW ANY FIRE APPARATUS TRAVELING IN RESPONSE TO A FIRE ALARM CLOSER THAN FIVE HUNDRED FEET OR DRIVE INTO OR PARK THE VEHICLE WITHIN THE BLOCK WHERE FIRE APPARATUS HAS STOPPED IN ANSWER TO A FIRE ALARM.

C. THIS SECTION DOES NOT RELIEVE THE DRIVER OF AN AUTHORIZED EMERGENCY VEHICLE FROM THE DUTY TO DRIVE WITH DUE REGARD FOR THE SAFETY OF ALL PERSONS USING THE HIGHWAY.

28-776. Funeral procession right-of-way; funeral escort vehicles; certification; fee; definition

A. PEDESTRIANS AND THE OPERATORS OF ALL VEHICLES, EXCEPT EMERGENCY VEHICLES, SHALL YIELD THE RIGHT-OF-WAY TO EACH VEHICLE THAT IS A PART OF A FUNERAL PROCESSION BEING LED BY A FUNERAL ESCORT VEHICLE. THE DRIVER OF THE FUNERAL ESCORT VEHICLE MAY DIRECT THE DRIVERS OF OTHER VEHICLES IN THE PROCESSION TO PROCEED THROUGH ANY INTERSECTION OR TO MAKE TURNS OR OTHER MOVEMENTS, AND THE OTHER VEHICLES MAY CONTINUE TO FOLLOW AND MAKE THE TURNS OR OTHER MOVEMENTS AS ARE MADE BY OR AS DIRECTED BY THE DRIVER OF THE FUNERAL ESCORT VEHICLE NOTWITHSTANDING ANY TRAFFIC CONTROL DEVICE PRESCRIBED BY STATUTE OR LOCAL ORDINANCE, EXCEPT THAT A DRIVER OF A VEHICLE IN THE FUNERAL PROCESSION SHALL NOT EXCEED THE POSTED SPEED LIMIT AND SHALL EXERCISE REASONABLE AND PRUDENT CARE TO AVOID COLLIDING WITH ANY OTHER VEHICLE OR PEDESTRIAN ON THE ROADWAY. EACH VEHICLE IN A FUNERAL PROCESSION SHALL HAVE ITS HEADLIGHTS LIGHTED.

B. A DRIVER OF A FUNERAL ESCORT VEHICLE WHO IS CERTIFIED PURSUANT TO SUBSECTION D OF THIS SECTION MAY DIRECT AND CONTROL THE DRIVERS OF VEHICLES

IN A FUNERAL PROCESSION AND ANY OTHER VEHICLE IN OR APPROACHING ANY INTERSECTION TO STOP, PROCEED OR MAKE THE TURNS OR OTHER MOVEMENTS AS REQUIRED WITHOUT REGARD TO ANY TRAFFIC CONTROL DEVICE PRESCRIBED BY STATUTE OR LOCAL ORDINANCE. FUNERAL ESCORT VEHICLES MAY EXCEED THE SPEED LIMIT BY FIFTEEN MILES PER HOUR WHEN OVERTAKING PROCESSIONS TO DIRECT TRAFFIC AT THE NEXT INTERSECTION. A FUNERAL ESCORT VEHICLE SHALL BE EQUIPPED WITH AT LEAST ONE LIGHTED LAMP EXHIBITING A RED OR RED AND BLUE LIGHT OR LENS VISIBLE UNDER NORMAL ATMOSPHERIC CONDITIONS FROM A DISTANCE OF FIVE HUNDRED FEET TO THE FRONT OF THE VEHICLE.

C. THE SHERIFF IN EACH COUNTY SHALL REGISTER FUNERAL ESCORT VEHICLES AND ISSUE AN IDENTIFICATION STICKER OR PLATE THAT IS AFFIXED TO THE VEHICLE IN ORDER TO IDENTIFY THE VEHICLE AS A FUNERAL ESCORT VEHICLE. WHEN ACTING AS A FUNERAL ESCORT, THE DRIVER OF A PROPERLY EQUIPPED AND REGISTERED FUNERAL ESCORT VEHICLE HAS ALL OF THE RIGHTS AND PRIVILEGES OF A DRIVER OF AN AUTHORIZED EMERGENCY VEHICLE PROCEEDING TO AN EMERGENCY CALL AS PROVIDED UNDER SECTION 28-624.

D. THE SHERIFF IN EACH COUNTY MAY CERTIFY ANY PERSON WHO HOLDS AT LEAST A VALID CLASS D DRIVER LICENSE ISSUED BY THIS STATE AS A CERTIFIED DRIVER OF A FUNERAL ESCORT VEHICLE IF THE PERSON:

1. COMPLETES A TRAINING PROGRAM IN MOTOR VEHICLE SAFETY AND TRAFFIC CONTROL SAFETY AS PRESCRIBED BY THE SHERIFF.

2. PAYS THE FEE THAT IS PRESCRIBED BY THE SHERIFF FOR THE PROGRAM AND THAT DOES NOT EXCEED THE COST OF THE PROGRAM.

E. FOR THE PURPOSES OF THIS SECTION, "FUNERAL PROCESSION" MEANS TWO OR MORE VEHICLES ACCOMPANYING THE BODY OF A DECEASED PERSON, INCLUDING A FUNERAL ESCORT VEHICLE REGISTERED BY THE SHERIFF.

ARTICLE 10. PEDESTRIAN RIGHTS AND DUTIES

28-791. Pedestrians subject to traffic rules

A. PEDESTRIANS ARE SUBJECT TO TRAFFIC CONTROL SIGNALS AT INTERSECTIONS AS PROVIDED IN SECTION 28-645 UNLESS REQUIRED BY LOCAL ORDINANCE TO COMPLY STRICTLY WITH THE SIGNALS. AT ALL PLACES OTHER THAN INTERSECTIONS, PEDESTRIANS ARE ACCORDED THE PRIVILEGES AND ARE SUBJECT TO THE RESTRICTIONS STATED IN THIS ARTICLE.

B. A LOCAL AUTHORITY MAY REQUIRE BY ORDINANCE THAT PEDESTRIANS STRICTLY COMPLY WITH THE DIRECTIONS OF AN OFFICIAL TRAFFIC CONTROL SIGNAL AND MAY PROHIBIT BY ORDINANCE PEDESTRIANS FROM CROSSING A ROADWAY IN A BUSINESS DISTRICT OR CROSSING A DESIGNATED HIGHWAY EXCEPT IN A CROSSWALK.

28-792. Right-of-way at crosswalk

A. EXCEPT AS PROVIDED IN SECTION 28-793, SUBSECTION B, IF TRAFFIC CONTROL SIGNALS ARE NOT IN PLACE OR ARE NOT IN OPERATION, THE DRIVER OF A VEHICLE SHALL YIELD THE RIGHT-OF-WAY, SLOWING DOWN OR STOPPING IF NEED BE IN ORDER TO YIELD, TO A PEDESTRIAN CROSSING THE ROADWAY WITHIN A CROSSWALK WHEN THE PEDESTRIAN IS ON THE HALF OF THE ROADWAY ON WHICH THE VEHICLE IS TRAVELING OR WHEN THE PEDESTRIAN IS APPROACHING SO CLOSELY FROM THE OPPOSITE

HALF OF THE ROADWAY AS TO BE IN DANGER. A PEDESTRIAN SHALL NOT SUDDENLY LEAVE ANY CURB OR OTHER PLACE OF SAFETY AND WALK OR RUN INTO THE PATH OF A VEHICLE THAT IS SO CLOSE THAT IT IS IMPOSSIBLE FOR THE DRIVER TO YIELD.

B. IF A VEHICLE IS STOPPED AT A MARKED CROSSWALK OR AT AN UNMARKED CROSSWALK AT AN INTERSECTION TO PERMIT A PEDESTRIAN TO CROSS THE ROADWAY, THE DRIVER OF ANOTHER VEHICLE APPROACHING FROM THE REAR SHALL NOT OVERTAKE AND PASS THE STOPPED VEHICLE.

28-793. Crossing at other than crosswalk

A. A PEDESTRIAN CROSSING A ROADWAY AT ANY POINT OTHER THAN WITHIN A MARKED CROSSWALK OR WITHIN AN UNMARKED CROSSWALK AT AN INTERSECTION SHALL YIELD THE RIGHT-OF-WAY TO ALL VEHICLES ON THE ROADWAY.

B. A PEDESTRIAN CROSSING A ROADWAY AT A POINT WHERE A PEDESTRIAN TUNNEL OR OVERHEAD PEDESTRIAN CROSSING HAS BEEN PROVIDED SHALL YIELD THE RIGHT-OF-WAY TO ALL VEHICLES ON THE ROADWAY.

C. BETWEEN ADJACENT INTERSECTIONS AT WHICH TRAFFIC CONTROL SIGNALS ARE IN OPERATION, PEDESTRIANS SHALL NOT CROSS AT ANY PLACE EXCEPT IN A MARKED CROSSWALK.

28-794. Drivers to exercise due care

NOTWITHSTANDING THE PROVISIONS OF THIS CHAPTER EVERY DRIVER OF A VEHICLE SHALL:

1. EXERCISE DUE CARE TO AVOID COLLIDING WITH ANY PEDESTRIAN ON ANY ROADWAY.

2. GIVE WARNING BY SOUNDING THE HORN WHEN NECESSARY.

3. EXERCISE PROPER PRECAUTION ON OBSERVING A CHILD OR A CONFUSED OR INCAPACITATED PERSON ON A ROADWAY.

28-795. Pedestrians to use right half of crosswalk

PEDESTRIANS SHALL MOVE EXPEDITIOUSLY, WHEN PRACTICABLE, ON THE RIGHT HALF OF CROSSWALKS.

28-796. Pedestrian on roadways

A. IF SIDEWALKS ARE PROVIDED, A PEDESTRIAN SHALL NOT WALK ALONG AND ON AN ADJACENT ROADWAY.

B. IF SIDEWALKS ARE NOT PROVIDED, A PEDESTRIAN WALKING ALONG AND ON A HIGHWAY SHALL WALK WHEN PRACTICABLE ONLY ON THE LEFT SIDE OF THE ROADWAY OR ITS SHOULDER FACING TRAFFIC THAT MAY APPROACH FROM THE OPPOSITE DIRECTION.

C. A PERSON SHALL NOT STAND IN A ROADWAY FOR THE PURPOSE OF SOLICITING A RIDE FROM THE DRIVER OF A VEHICLE.

28-797. School crossings; definition

A. THE DIRECTOR, WITH RESPECT TO STATE HIGHWAYS, OR THE OFFICER, BOARD OR COMMISSION OF THE APPROPRIATE JURISDICTION, WITH RESPECT TO COUNTY HIGHWAYS OR CITY OR TOWN STREETS, BY AND WITH THE ADVICE OF THE SCHOOL DISTRICT GOVERNING BOARD OR COUNTY SCHOOL SUPERINTENDENT MAY MARK OR CAUSE TO BE MARKED BY THE DEPARTMENT OR LOCAL AUTHORITIES CROSSWALKS IN FRONT OF EACH SCHOOL BUILDING OR SCHOOL GROUNDS ABUTTING THE CROSSWALKS WHERE CHILDREN ARE REQUIRED TO CROSS THE HIGHWAY OR STREET.

B. THE DEPARTMENT OR LOCAL AUTHORITIES MAY APPROVE ADDITIONAL CROSSINGS ACROSS HIGHWAYS NOT ABUTTING ON SCHOOL GROUNDS ON APPLICATION OF SCHOOL AUTHORITIES AND WITH WRITTEN SATISFACTORY ASSURANCE GIVEN THE DEPARTMENT OR LOCAL AUTHORITIES THAT GUARDS WILL BE MAINTAINED BY THE SCHOOL DISTRICT AT THE CROSSINGS TO ENFORCE THE PROPER USE OF THE CROSSING BY SCHOOL CHILDREN.

C. THE MANUAL PRESCRIBED IN SECTION 28-641 SHALL PROVIDE FOR YELLOW MARKING OF THE SCHOOL CROSSING, YELLOW MARKING OF THE CENTER LINE OF THE ROADWAY AND THE ERECTION OF PORTABLE SIGNS INDICATING THAT VEHICLES MUST STOP WHEN PERSONS ARE IN THE CROSSING. THE MANUAL SHALL ALSO PROVIDE THE TYPE AND WORDING OF PORTABLE SIGNS INDICATING THAT SCHOOL IS IN SESSION AND PERMANENT SIGNS THAT WARN OF THE APPROACH TO SCHOOL CROSSINGS.

D. WHEN THE SCHOOL CROSSINGS ARE ESTABLISHED, SCHOOL AUTHORITIES SHALL PLACE WITHIN THE HIGHWAY THE PORTABLE SIGNS INDICATING THAT SCHOOL IS IN SESSION. THIS PLACEMENT SHALL BE NOT MORE THAN THREE HUNDRED FEET FROM EACH SIDE OF THE SCHOOL CROSSING. IN ADDITION, PORTABLE "STOP WHEN CHILDREN ARE IN CROSSWALK" SIGNS SHALL BE PLACED AT SCHOOL CROSSINGS. SCHOOL AUTHORITIES SHALL MAINTAIN THESE SIGNS WHEN SCHOOL IS IN SESSION AND SHALL CAUSE THEM TO BE REMOVED IMMEDIATELY WHEN SCHOOL IS NOT IN SESSION.

E. A VEHICLE APPROACHING THE CROSSWALK SHALL NOT PROCEED AT A SPEED OF MORE THAN FIFTEEN MILES PER HOUR BETWEEN THE PORTABLE SIGNS PLACED ON THE HIGHWAY INDICATING "SCHOOL IN SESSION" AND "STOP WHEN CHILDREN ARE IN CROSSWALK".

F. NOTWITHSTANDING ANY OTHER LAW:

1. AN AGENCY OF APPROPRIATE JURISDICTION MAY ESTABLISH A SCHOOL CROSSING ON AN UNPAVED HIGHWAY OR STREET ADJACENT TO A SCHOOL WHEN THE AGENCY DETERMINES THE NEED FOR THE SCHOOL CROSSING ON THE BASIS OF A TRAFFIC STUDY. SCHOOL CROSSINGS ON UNPAVED HIGHWAYS AND STREETS SHALL BE MARKED BY THE USE OF SIGNS AS PRESCRIBED IN THE MANUAL PRESCRIBED IN SECTION 28-641.

2. A LOCAL AUTHORITY MAY ESTABLISH A SCHOOL CROSSING AT AN INTERSECTION CONTAINING A TRAFFIC CONTROL SIGNAL IF THE LOCAL AUTHORITY DETERMINES THE NEED FOR A SCHOOL CROSSING ON THE BASIS OF A TRAFFIC STUDY.

G. WHEN A SCHOOL AUTHORITY PLACES AND MAINTAINS THE REQUIRED PORTABLE "SCHOOL IN SESSION" SIGNS AND "STOP WHEN CHILDREN ARE IN CROSSWALK" SIGNS, ALL VEHICLES SHALL COME TO A COMPLETE STOP AT THE SCHOOL CROSSING WHEN THE CROSSWALK IS OCCUPIED BY A PERSON.

H. FOR THE PURPOSES OF THIS SECTION, "SCHOOL IN SESSION", WHEN USED EITHER IN REFERENCE TO THE PERIOD OF TIME OR TO SIGNS, MEANS DURING SCHOOL HOURS OR WHILE CHILDREN ARE GOING TO OR LEAVING SCHOOL DURING OPENING OR CLOSING HOURS.

ARTICLE 11. OPERATION OF BICYCLES

28-811. Parent and guardian responsibility; applicability of article

A. THE PARENT OF A CHILD AND THE GUARDIAN OF A WARD SHALL NOT AUTHORIZE OR KNOWINGLY PERMIT THE CHILD OR WARD TO VIOLATE THIS CHAPTER.

B. EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, THIS CHAPTER APPLIES TO A BICYCLE WHEN IT IS OPERATED ON A HIGHWAY OR ON A PATH SET ASIDE FOR THE EXCLUSIVE USE OF BICYCLES.

28-812. Applicability of traffic laws to bicycle riders

A PERSON RIDING A BICYCLE ON A ROADWAY OR ON A SHOULDER ADJOINING A ROADWAY IS GRANTED ALL OF THE RIGHTS AND IS SUBJECT TO ALL OF THE DUTIES APPLICABLE TO THE DRIVER OF A VEHICLE BY THIS CHAPTER AND CHAPTERS 4 AND 5 OF THIS TITLE, EXCEPT SPECIAL RULES IN THIS ARTICLE AND EXCEPT PROVISIONS OF THIS CHAPTER AND CHAPTERS 4 AND 5 OF THIS TITLE THAT BY THEIR NATURE CAN HAVE NO APPLICATION.

28-813. Riding on bicycles

A. A PERSON PROPELLING A BICYCLE SHALL NOT RIDE OTHER THAN ON OR ASTRIDE A PERMANENT AND REGULAR SEAT ATTACHED TO THE BICYCLE.

B. A PERSON SHALL NOT USE A BICYCLE TO CARRY MORE PERSONS AT ONE TIME THAN THE NUMBER FOR WHICH IT IS DESIGNED AND EQUIPPED.

28-814. Clinging to vehicle

A PERSON RIDING ON A BICYCLE, COASTER, SLED OR TOY VEHICLE OR ON ROLLER SKATES SHALL NOT ATTACH THE BICYCLE, COASTER, SLED, TOY VEHICLE OR ROLLER SKATES OR THAT PERSON TO A VEHICLE ON A ROADWAY.

28-815. Riding on roadway and bicycle path; bicycle path usage

A. A PERSON RIDING A BICYCLE ON A ROADWAY AT LESS THAN THE NORMAL SPEED OF TRAFFIC AT THE TIME AND PLACE AND UNDER THE CONDITIONS THEN EXISTING SHALL RIDE AS CLOSE AS PRACTICABLE TO THE RIGHT-HAND CURB OR EDGE OF THE ROADWAY, EXCEPT UNDER ANY OF THE FOLLOWING SITUATIONS:

1. IF OVERTAKING AND PASSING ANOTHER BICYCLE OR VEHICLE PROCEEDING IN THE SAME DIRECTION.

2. IF PREPARING FOR A LEFT TURN AT AN INTERSECTION OR INTO A PRIVATE ROAD OR DRIVEWAY.

3. IF REASONABLY NECESSARY TO AVOID CONDITIONS, INCLUDING FIXED OR MOVING OBJECTS, PARKED OR MOVING VEHICLES, BICYCLES, PEDESTRIANS, ANIMALS OR SURFACE HAZARDS.

4. IF THE LANE IN WHICH THE PERSON IS OPERATING THE BICYCLE IS TOO NARROW FOR A BICYCLE AND A VEHICLE TO TRAVEL SAFELY SIDE BY SIDE WITHIN THE LANE.

B. PERSONS RIDING BICYCLES ON A ROADWAY SHALL NOT RIDE MORE THAN TWO ABREAST EXCEPT ON PATHS OR PARTS OF ROADWAYS SET ASIDE FOR THE EXCLUSIVE USE OF BICYCLES.

C. A PATH OR LANE THAT IS DESIGNATED AS A BICYCLE PATH OR LANE BY STATE OR LOCAL AUTHORITIES IS FOR THE EXCLUSIVE USE OF BICYCLES EVEN THOUGH

OTHER USES ARE PERMITTED PURSUANT TO SUBSECTION D OR ARE OTHERWISE PERMITTED BY STATE OR LOCAL AUTHORITIES.

D. A PERSON SHALL NOT OPERATE, STOP, PARK OR LEAVE STANDING A VEHICLE IN A PATH OR LANE DESIGNATED AS A BICYCLE PATH OR LANE BY A STATE OR LOCAL AUTHORITY EXCEPT IN THE CASE OF EMERGENCY OR FOR CROSSING THE PATH OR LANE TO GAIN ACCESS TO A PUBLIC OR PRIVATE ROAD OR DRIVEWAY.

E. SUBSECTION D DOES NOT PROHIBIT THE USE OF THE PATH OR LANE BY THE APPROPRIATE LOCAL AUTHORITY.

28-816. Carrying article on bicycle

A PERSON SHALL NOT CARRY A PACKAGE, BUNDLE OR ARTICLE WHILE OPERATING A BICYCLE IF THE PACKAGE, BUNDLE OR ARTICLE PREVENTS THE DRIVER FROM KEEPING AT LEAST ONE HAND ON THE HANDLEBARS.

28-817. Bicycle equipment

A. A BICYCLE THAT IS USED AT NIGHTTIME SHALL HAVE A LAMP ON THE FRONT THAT EMITS A WHITE LIGHT VISIBLE FROM A DISTANCE OF AT LEAST FIVE HUNDRED FEET TO THE FRONT AND A RED REFLECTOR ON THE REAR OF A TYPE THAT IS APPROVED BY THE DEPARTMENT AND THAT IS VISIBLE FROM ALL DISTANCES FROM FIFTY FEET TO THREE HUNDRED FEET TO THE REAR WHEN THE REFLECTOR IS DIRECTLY IN FRONT OF LAWFUL UPPER BEAMS OF HEAD LAMPS ON A MOTOR VEHICLE. A BICYCLE MAY HAVE A LAMP THAT EMITS A RED LIGHT VISIBLE FROM A DISTANCE OF FIVE HUNDRED FEET TO THE REAR IN ADDITION TO THE RED REFLECTOR.

B. A PERSON SHALL NOT OPERATE A BICYCLE THAT IS EQUIPPED WITH A SIREN OR WHISTLE.

C. A BICYCLE SHALL BE EQUIPPED WITH A BRAKE THAT ENABLES THE OPERATOR TO MAKE THE BRAKED WHEELS SKID ON DRY, LEVEL, CLEAN PAVEMENT.

28-818. Bicycle safety fund

A. A BICYCLE SAFETY FUND IS ESTABLISHED. THE DEPARTMENT SHALL ADMINISTER THE FUND. THE FUND CONSISTS OF MONIES RECEIVED FROM:

1. THE FEDERAL GOVERNMENT OR ANY AGENCY OF THE FEDERAL GOVERNMENT FOR ANY PURPOSE AUTHORIZED BY THIS SECTION.

2. DONATIONS.

3. THIS STATE OR ANY AGENCY OF THIS STATE FOR ANY PURPOSE AUTHORIZED BY THIS SECTION.

B. THE DEPARTMENT:

1. MAY DESIGNATE MONIES DEPOSITED IN THE BICYCLE SAFETY FUND FOR USE ONLY FOR SPECIFIED PURPOSES CONSISTENT WITH THIS SECTION AND ONLY FOR USE IN SPECIFIED POLITICAL SUBDIVISIONS OF THIS STATE.

2. SHALL SPEND MONIES CONTRIBUTED BY A POLITICAL SUBDIVISION TO THE BICYCLE SAFETY FUND AND ANY DONATION TO THE FUND DESIGNATED FOR USE IN A POLITICAL SUBDIVISION AND ANY MATCHING MONIES DEPOSITED IN THE FUND AS A RESULT OF THE CONTRIBUTION OR DONATION ONLY FOR USE IN THE POLITICAL SUBDIVISION.

3. SHALL ONLY SPEND MONIES FROM THE BICYCLE SAFETY FUND AS FOLLOWS:

(a) FOR PLANNING, ENGINEERING, CONSTRUCTING AND MAINTAINING BICYCLE PATHS AND BICYCLE LANES.

(b) AS MATCHING MONIES TO BE USED WITH FEDERAL OR LOCAL MONIES SPENT FOR PLANNING, ENGINEERING, CONSTRUCTING OR MAINTAINING BICYCLE PATHS AND BICYCLE LANES.

(c) AS MATCHING MONIES TO BE USED WITH FEDERAL OR LOCAL MONIES SPENT FOR PLANNING AND IMPLEMENTING SAFETY PROGRAMS.

C. MONIES IN THE BICYCLE SAFETY FUND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS. THE DEPARTMENT MAY SPEND MONIES IN THE FUND FOR PURPOSES AUTHORIZED BY THIS SECTION SUBJECT TO LEGISLATIVE APPROPRIATION.

ARTICLE 12. SPECIAL STOPS REQUIRED

28-851. Approach of train; signal

A. WHEN A PERSON DRIVING A VEHICLE APPROACHES A RAILROAD GRADE CROSSING, THE DRIVER OF THE VEHICLE SHALL STOP WITHIN FIFTY FEET BUT NOT LESS THAN FIFTEEN FEET FROM THE NEAREST RAIL OF THE RAILROAD AND SHALL NOT PROCEED UNTIL THE DRIVER CAN DO SO SAFELY UNDER ANY OF THE FOLLOWING CIRCUMSTANCES:

1. A CLEARLY VISIBLE ELECTRIC OR MECHANICAL SIGNAL DEVICE GIVES WARNING OF THE IMMEDIATE APPROACH OF A RAILROAD TRAIN.

2. A CROSSING GATE IS LOWERED OR A HUMAN FLAGMAN GIVES OR CONTINUES TO GIVE A SIGNAL OF THE APPROACH OR PASSAGE OF A RAILROAD TRAIN.

3. A RAILROAD TRAIN APPROACHING WITHIN APPROXIMATELY ONE THOUSAND FIVE HUNDRED FEET OF THE HIGHWAY CROSSING EMITS A SIGNAL AUDIBLE FROM SUCH DISTANCE AND THE RAILROAD TRAIN IS AN IMMEDIATE HAZARD BY REASON OF ITS SPEED OR PROXIMITY TO THE CROSSING.

4. AN APPROACHING RAILROAD TRAIN IS PLAINLY VISIBLE AND IS IN HAZARDOUS PROXIMITY TO THE CROSSING.

B. A PERSON SHALL NOT DRIVE A VEHICLE THROUGH, AROUND OR UNDER A CROSSING GATE OR BARRIER AT A RAILROAD CROSSING WHILE THE GATE OR BARRIER IS CLOSED OR IS BEING OPENED OR CLOSED.

28-852. Dangerous railroad grade crossing

THE DIRECTOR, AND LOCAL AUTHORITIES WITH THE APPROVAL OF THE DIRECTOR, MAY DESIGNATE PARTICULARLY DANGEROUS HIGHWAY GRADE CROSSINGS OF RAILROADS AND MAY ERECT STOP SIGNS AT THE CROSSINGS. IF THE STOP SIGNS ARE ERECTED, THE DRIVER OF A VEHICLE SHALL STOP WITHIN FIFTY FEET BUT NOT LESS THAN FIFTEEN FEET FROM THE NEAREST RAIL OF THE RAILROAD AND SHALL PROCEED ONLY ON EXERCISING DUE CARE.

28-853. Railroad grade crossing; stop required of certain vehicles

A. EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, BEFORE CROSSING AT GRADE ANY TRACK OR TRACKS OF A RAILROAD, THE DRIVER OF A MOTOR VEHICLE CARRYING PASSENGERS FOR HIRE, OF ANY SCHOOL BUS CARRYING ANY SCHOOL CHILD OR OF ANY VEHICLE CARRYING OR RETURNING AFTER DELIVERY OF EXPLOSIVE SUBSTANCES OR FLAMMABLE LIQUIDS AS A CARGO OR PART OF A CARGO SHALL STOP THE VEHICLE

WITHIN FIFTY FEET BUT NOT LESS THAN FIFTEEN FEET FROM THE NEAREST RAIL OF THE RAILROAD, WHILE STOPPED LISTEN AND LOOK IN BOTH DIRECTIONS ALONG THE TRACK FOR AN APPROACHING TRAIN AND FOR SIGNALS INDICATING THE APPROACH OF A TRAIN AND NOT PROCEED UNTIL THE DRIVER CAN DO SO SAFELY. AFTER STOPPING AS REQUIRED BY THIS SECTION AND ON PROCEEDING WHEN IT IS SAFE TO DO SO, THE DRIVER OF THE VEHICLE SHALL CROSS ONLY IN A GEAR OF THE VEHICLE FOR WHICH THERE IS NO NEED TO CHANGE GEARS WHILE TRAVERSING THE CROSSING AND SHALL NOT SHIFT GEARS WHILE CROSSING THE TRACK OR TRACKS.

B. THIS SECTION DOES NOT APPLY AT:

1. A CROSSING WHERE A POLICE OFFICER OR A TRAFFIC CONTROL SIGNAL DIRECTS TRAFFIC TO PROCEED.

2. A STREET RAILWAY GRADE CROSSING WITHIN A BUSINESS OR RESIDENCE DISTRICT.

28-854. Railroad grade crossing; moving heavy equipment; exception; definition

A. A PERSON SHALL NOT OPERATE OR MOVE ANY HEAVY EQUIPMENT ON OR ACROSS A TRACK AT A RAILROAD GRADE CROSSING UNLESS:

1. NOTICE OF THE INTENDED CROSSING IS GIVEN TO A STATION AGENT OF THE RAILROAD.

2. BEFORE MAKING THE CROSSING, THE PERSON OPERATING OR MOVING THE VEHICLE OR EQUIPMENT:

(a) STOPS THE VEHICLE OR EQUIPMENT AT LEAST FIFTEEN FEET BUT NOT MORE THAN FIFTY FEET FROM THE NEAREST RAIL OF THE RAILROAD.

(b) WHILE SO STOPPED, LISTENS AND LOOKS IN BOTH DIRECTIONS ALONG THE TRACK FOR AN APPROACHING TRAIN AND FOR SIGNALS INDICATING THE APPROACH OF A TRAIN.

3. DOES NOT PROCEED UNTIL THE CROSSING CAN BE MADE SAFELY.

B. A PERSON SHALL NOT MAKE A CROSSING PURSUANT TO THIS SECTION WHEN A WARNING IS GIVEN BY AUTOMATIC SIGNAL, CROSSING GATES OR A FLAGMAN OR OTHERWISE OF THE IMMEDIATE APPROACH OF A RAILROAD TRAIN OR CAR. IF A FLAGMAN IS PROVIDED BY THE RAILROAD, MOVEMENT OVER THE CROSSING SHALL BE UNDER THE FLAGMAN'S DIRECTION.

C. THIS SECTION DOES NOT APPLY TO THE NORMAL MOVEMENT OF FARM EQUIPMENT IN THE REGULAR COURSE OF A FARM OPERATION.

D. FOR THE PURPOSES OF THIS SECTION, "HEAVY EQUIPMENT" MEANS ANY CRAWLER TYPE TRACTOR, STEAM SHOVEL, DERRICK, ROLLER OR OTHER EQUIPMENT OR STRUCTURE HAVING A NORMAL OPERATING SPEED OF TEN MILES PER HOUR OR LESS OR A VERTICAL BODY OR LOAD CLEARANCE OF LESS THAN ONE-HALF INCH PER FOOT OF THE DISTANCE BETWEEN ANY TWO ADJACENT AXLES OR IN ANY EVENT OF LESS THAN NINE INCHES MEASURED ABOVE THE LEVEL SURFACE OF A ROADWAY.

28-855. Stop signs; yield signs

A. THE DIRECTOR, WITH REFERENCE TO STATE HIGHWAYS, AND LOCAL AUTHORITIES, WITH REFERENCE TO OTHER HIGHWAYS UNDER THEIR JURISDICTION, MAY DESIGNATE THROUGH HIGHWAYS AND ERECT STOP OR YIELD SIGNS AT SPECIFIED

ENTRANCES TO THE THROUGH HIGHWAYS OR MAY DESIGNATE AN INTERSECTION AS A STOP OR YIELD INTERSECTION AND ERECT LIKE SIGNS AT ONE OR MORE ENTRANCES TO THE INTERSECTION.

B. A DRIVER OF A VEHICLE APPROACHING A STOP SIGN SHALL STOP BEFORE ENTERING THE CROSSWALK ON THE NEAR SIDE OF THE INTERSECTION, OR IF THERE IS NO CROSSWALK, SHALL STOP AT A CLEARLY MARKED STOP LINE, OR IF THERE IS NO LINE, SHALL STOP AT THE POINT NEAREST THE INTERSECTING ROADWAY WHERE THE DRIVER HAS A VIEW OF APPROACHING TRAFFIC ON THE INTERSECTING ROADWAY BEFORE ENTERING THE INTERSECTION EXCEPT WHEN DIRECTED TO PROCEED BY A POLICE OFFICER.

C. THE DRIVER OF A VEHICLE APPROACHING A YIELD SIGN SHALL SLOW DOWN IN OBEDIENCE TO THE SIGN TO A SPEED REASONABLE FOR THE EXISTING CONDITIONS AND SHALL YIELD THE RIGHT-OF-WAY TO ANY VEHICLE IN THE INTERSECTION OR APPROACHING ON ANOTHER HIGHWAY SO CLOSELY AS TO CONSTITUTE AN IMMEDIATE HAZARD DURING THE TIME THE DRIVER IS MOVING ACROSS OR WITHIN THE INTERSECTION. IF AFTER DRIVING PAST A YIELD SIGN WITHOUT STOPPING THE DRIVER IS INVOLVED IN A COLLISION WITH A VEHICLE IN THE INTERSECTION, THE COLLISION IS PRIMA FACIE EVIDENCE OF THE DRIVER'S FAILURE TO YIELD THE RIGHT-OF-WAY.

28-856. Emerging from alley, driveway or building

THE DRIVER OF A VEHICLE EMERGING FROM AN ALLEY, DRIVEWAY OR BUILDING WITHIN A BUSINESS OR RESIDENCE DISTRICT SHALL:

1. STOP THE VEHICLE IMMEDIATELY BEFORE DRIVING ONTO A SIDEWALK OR ONTO THE SIDEWALK AREA EXTENDING ACROSS ANY ALLEYWAY OR PRIVATE DRIVEWAY.

2. YIELD THE RIGHT-OF-WAY TO ANY PEDESTRIAN AS NECESSARY TO AVOID COLLISION.

3. ON ENTERING THE ROADWAY, YIELD THE RIGHT-OF-WAY TO ALL CLOSELY APPROACHING VEHICLES ON THE ROADWAY.

28-857. School bus signs; overtaking and passing school bus; violation; classification; driver license suspension

A. ON MEETING OR OVERTAKING FROM EITHER DIRECTION A SCHOOL BUS THAT HAS STOPPED ON THE HIGHWAY, THE DRIVER OF A VEHICLE ON A HIGHWAY SHALL:

1. STOP THE VEHICLE BEFORE REACHING THE SCHOOL BUS, IF THE SCHOOL BUS IS DISPLAYING THE SIGNAL AS PROVIDED IN SUBSECTION C AND IF ALTERNATELY FLASHING LIGHTS ARE IN USE.

2. NOT PROCEED UNTIL THE SCHOOL BUS RESUMES MOTION OR THE SIGNAL AND ALTERNATELY FLASHING LIGHTS ARE NO LONGER DISPLAYED.

B. A BUS USED FOR THE TRANSPORTATION OF SCHOOL CHILDREN SHALL HAVE ON THE FRONT AND REAR OF THE BUS A PLAINLY VISIBLE SIGN CONTAINING THE WORDS "SCHOOL BUS" IN LETTERS NOT LESS THAN EIGHT INCHES IN HEIGHT. IF A SCHOOL BUS IS OPERATED ON A HIGHWAY FOR A PURPOSE OTHER THAN THE ACTUAL TRANSPORTATION OF CHILDREN EITHER TO OR FROM SCHOOL, ALL MARKINGS INDICATING "SCHOOL BUS" SHALL BE COVERED OR CONCEALED.

C. A BUS USED FOR THE TRANSPORTATION OF SCHOOL CHILDREN SHALL HAVE A SIGNAL WITH THE WORD "STOP" PRINTED ON BOTH SIDES IN WHITE LETTERS NOT LESS

THAN FIVE INCHES HIGH ON A RED BACKGROUND. THE SIGNAL SHALL BE AN EIGHTEEN INCH REFLECTORIZED OCTAGON. THE OPERATOR OF THE SCHOOL BUS SHALL:

1. MANUALLY OPERATE THE SIGNAL IN A MANNER SO THAT THE SIGNAL IS CLEARLY VISIBLE FROM BOTH FRONT AND REAR WHEN EXTENDED FROM THE LEFT OF THE BODY OF THE BUS.

2. DISPLAY THE SIGNAL AND ALTERNATELY FLASHING LIGHTS IF PASSENGERS ARE BEING RECEIVED OR DISCHARGED WHILE THE BUS IS STOPPED ON THE ROADWAY.

D. THE DRIVER OF A VEHICLE ON A HIGHWAY WITH SEPARATE ROADWAYS NEED NOT STOP ON MEETING OR PASSING A SCHOOL BUS THAT IS:

1. ON A DIFFERENT ROADWAY.

2. ON A CONTROLLED ACCESS HIGHWAY AND THE SCHOOL BUS IS STOPPED IN A LOADING ZONE THAT IS A PART OF OR ADJACENT TO THE HIGHWAY AND WHERE PEDESTRIANS ARE NOT PERMITTED TO CROSS THE ROADWAY.

E. FOR THE PURPOSES OF SUBSECTION D, A LANE OR GROUP OF LANES ON EITHER SIDE OF A TWO-WAY LEFT TURN LANE IS NOT CONSIDERED A SEPARATE ROADWAY.

F. A PERSON WHO VIOLATES SUBSECTION A IS GUILTY OF A CLASS 3 MISDEMEANOR. FOR A SECOND CONVICTION WITHIN ONE YEAR THE PERSON IS GUILTY OF A CLASS 2 MISDEMEANOR. ON A THIRD OR SUBSEQUENT CONVICTION WITHIN ONE YEAR AFTER THE LAST CONVICTION THE PERSON IS GUILTY OF A CLASS 1 MISDEMEANOR.

G. THE JUDGE OR JUSTICE OF THE PEACE HEARING THE CASE MAY SUSPEND FOR NOT MORE THAN SIX MONTHS THE DRIVER LICENSE OF A PERSON CONVICTED OF A SECOND OR SUBSEQUENT VIOLATION OF SUBSECTION A.

28-857.01. Overtaking and passing school bus; report by school bus operator; notification letter

A. THE OPERATOR OF A SCHOOL BUS WHO OBSERVES A VIOLATION OF SECTION 28-857, SUBSECTION A MAY PREPARE A SIGNED WRITTEN REPORT THAT INDICATES THAT A VIOLATION OCCURRED. THE REPORT SHALL INCLUDE:

1. THE DATE, TIME AND APPROXIMATE LOCATION OF THE VIOLATION.

2. THE NUMBER AND STATE OF ISSUANCE OF THE LICENSE PLATE ON THE VEHICLE INVOLVED IN THE VIOLATION.

3. IDENTIFICATION OF THE VEHICLE AS AN AUTOMOBILE, A STATION WAGON, A TRUCK, A BUS, A MOTORCYCLE OR ANY OTHER TYPE OF VEHICLE.

4. THE COLOR OF THE VEHICLE INVOLVED IN THE VIOLATION.

B. WITHIN TWO DAYS AFTER THE VIOLATION OCCURS, EXCLUDING WEEKENDS AND HOLIDAYS, THE SCHOOL BUS OPERATOR SHALL SEND A COPY OF THE REPORT TO THE DIRECTOR. ON RECEIVING THE REPORT, THE DIRECTOR SHALL PROMPTLY MAIL A NOTIFICATION LETTER TO THE LAST KNOWN REGISTERED OWNER OF THE VEHICLE. THE LETTER SHALL INCLUDE:

1. A NOTIFICATION CONTAINING THE INFORMATION INCLUDED IN THE BUS OPERATOR'S REPORT AND STATING THAT A VEHICLE REGISTERED IN THE VEHICLE OWNER'S NAME WAS OBSERVED PASSING A SCHOOL BUS LOADING AND UNLOADING CHILDREN.

2. A COMPLETE EXPLANATION OF THE PROVISIONS OF SECTION 28-857.

3. AN EXPLANATION THAT THE NOTIFICATION LETTER IS NOT A POLICE CITATION BUT IS AN EFFORT TO CALL ATTENTION TO THE SERIOUSNESS OF THE INCIDENT.

28-858. Approaching horses and livestock

A PERSON OPERATING A MOTOR VEHICLE ON A HIGHWAY AND APPROACHING A HORSE-DRAWN VEHICLE, A HORSE ON WHICH A PERSON IS RIDING OR LIVESTOCK BEING DRIVEN ON THE HIGHWAY SHALL EXERCISE REASONABLE PRECAUTION TO PREVENT FRIGHTENING AND TO SAFEGUARD THE ANIMALS AND TO ENSURE THE SAFETY OF PERSONS RIDING OR DRIVING THE ANIMALS. IF THE ANIMALS APPEAR FRIGHTENED, THE PERSON IN CONTROL OF THE VEHICLE SHALL REDUCE ITS SPEED AND IF REQUESTED BY SIGNAL OR OTHERWISE SHALL NOT PROCEED FURTHER TOWARD THE ANIMALS UNLESS NECESSARY TO AVOID ACCIDENT OR INJURY UNTIL THE ANIMALS APPEAR TO BE UNDER CONTROL.

ARTICLE 13. STOPPING, STANDING OR PARKING

28-871. Stopping, standing or parking outside business or residence district

A. ON A HIGHWAY OUTSIDE OF A BUSINESS OR RESIDENCE DISTRICT, A PERSON SHALL NOT STOP, PARK OR LEAVE STANDING A VEHICLE, WHETHER ATTENDED OR UNATTENDED, ON THE PAVED OR MAIN TRAVELED PART OF THE HIGHWAY IF IT IS PRACTICABLE TO STOP, PARK OR LEAVE THE VEHICLE OFF THAT PART OF THE HIGHWAY. IF A PERSON STOPS, PARKS OR LEAVES STANDING A VEHICLE, THE PERSON SHALL LEAVE AN UNOBSTRUCTED WIDTH OF THE HIGHWAY OPPOSITE THE STANDING VEHICLE FOR THE FREE PASSAGE OF OTHER VEHICLES AND A CLEAR VIEW OF THE STANDING VEHICLE SHALL BE AVAILABLE FROM A DISTANCE OF TWO HUNDRED FEET IN EACH DIRECTION ON THE HIGHWAY.

B. THIS SECTION DOES NOT APPLY TO:

1. THE DRIVER OF A VEHICLE THAT IS DISABLED WHILE ON THE PAVED OR MAIN TRAVELED PORTION OF A HIGHWAY IN A MANNER AND TO AN EXTENT THAT IT IS IMPOSSIBLE TO AVOID STOPPING AND TEMPORARILY LEAVING THE DISABLED VEHICLE IN THAT POSITION.

2. A VEHICLE OR THE DRIVER OF A VEHICLE ENGAGED IN THE OFFICIAL DELIVERY OF THE UNITED STATES MAIL THAT STOPS ON THE RIGHT-HAND SIDE OF THE HIGHWAY FOR THE PURPOSE OF PICKING UP OR DELIVERING MAIL IF THE FOLLOWING CONDITIONS ARE MET:

(a) A CLEAR VIEW OF THE VEHICLE IS AVAILABLE FROM A DISTANCE OF THREE HUNDRED FEET IN EACH DIRECTION ON THE HIGHWAY OR A FLASHING AMBER LIGHT AT LEAST FOUR INCHES IN DIAMETER WITH THE LETTERS "STOP" PRINTED ON THE LIGHT IS ATTACHED TO THE REAR OF THE VEHICLE.

(b) THE VEHICLE HAS A UNIFORM SIGN THAT:

(i) IS AT LEAST FOURTEEN INCHES IN DIAMETER.

(ii) IS APPROVED BY THE DEPARTMENT.

(iii) HAS THE WORDS "U.S. MAIL" PRINTED ON THE SIGN.

(iv) IS ATTACHED TO THE REAR OF THE VEHICLE.

28-872. Removal of illegally stopped vehicles; liability for costs; hearing

A. IF A POLICE OFFICER FINDS A VEHICLE STANDING ON A HIGHWAY IN VIOLATION OF SECTION 28-871 THE OFFICER MAY MOVE THE VEHICLE OR REQUIRE THE DRIVER OR OTHER PERSON IN CHARGE OF THE VEHICLE TO MOVE THE VEHICLE TO A POSITION OFF THE PAVED OR MAIN TRAVELED PART OF THE HIGHWAY.

B. A POLICE OFFICER MAY REMOVE OR CAUSE TO BE REMOVED TO A PLACE OF SAFETY AN UNATTENDED VEHICLE THAT IS ILLEGALLY LEFT STANDING ON A HIGHWAY, BRIDGE OR CAUSEWAY OR IN A TUNNEL IN A POSITION OR UNDER CIRCUMSTANCES THAT OBSTRUCT THE NORMAL MOVEMENT OF TRAFFIC.

C. A POLICE OFFICER MAY REMOVE OR CAUSE THE REMOVAL OF A VEHICLE TO THE NEAREST GARAGE OR OTHER PLACE OF SAFETY AS FOLLOWS:

1. IF A REPORT HAS BEEN MADE THAT THE VEHICLE HAS BEEN STOLEN OR TAKEN WITHOUT THE CONSENT OF ITS OWNER.

2. IF THE PERSON OR PERSONS IN CHARGE OF THE VEHICLE ARE UNABLE TO PROVIDE FOR ITS CUSTODY OR REMOVAL.

3. IF THE PERSON DRIVING OR IN CONTROL OF THE VEHICLE IS ARRESTED FOR AN ALLEGED OFFENSE FOR WHICH THE OFFICER IS REQUIRED BY LAW TO TAKE THE PERSON ARRESTED BEFORE A PROPER MAGISTRATE WITHOUT UNNECESSARY DELAY.

4. IF THE VEHICLE IS LEFT UNATTENDED FOR MORE THAN FOUR HOURS ON THE RIGHT-OF-WAY OF A FREEWAY THAT HAS FULL CONTROL OF ACCESS AND NO CROSSINGS AT GRADE.

5. WITHIN THE BOUNDARIES OF A CITY, IF THE VEHICLE IS LEFT UNATTENDED FOR MORE THAN TWO HOURS ON THE RIGHT-OF-WAY OF A FREEWAY THAT HAS FULL CONTROL OF ACCESS AND NO CROSSINGS AT GRADE.

D. EXCEPT AS PROVIDED IN SUBSECTION E OF THIS SECTION:

1. THE PUBLIC AGENCY EMPLOYING AN OFFICER WHO REMOVES OR CAUSES THE REMOVAL OF A VEHICLE UNDER THIS SECTION IS NOT LIABLE FOR THE COST OF TOWING OR STORING THE VEHICLE IF THE OFFICER ACTS UNDER COLOR OF THE OFFICER'S LAWFUL AUTHORITY.

2. BEFORE RELEASE OF THE VEHICLE BY THE TOWING SERVICE, THE OWNER OR THE OWNER'S AGENT OF A VEHICLE THAT IS REMOVED OR CAUSED TO BE REMOVED UNDER THIS ARTICLE SHALL PAY OR MAKE SATISFACTORY ARRANGEMENTS TO PAY FOR ANY REASONABLE TOWING AND STORAGE COSTS INCURRED IN TOWING OR STORING THE VEHICLE.

E. IF A TOW TRUCK OPERATOR IS REQUIRED IN WRITING BY A PUBLIC AGENCY TO TOW OR STORE A VEHICLE THAT IS REQUIRED AS EVIDENCE IN A CRIMINAL ACTION OR FOR FUTURE CRIMINAL INVESTIGATION BY THE PUBLIC AGENCY, THE PUBLIC AGENCY IS LIABLE FOR THE TOWING AND STORAGE COSTS OF THE VEHICLE.

F. IF A POLICE OFFICER REMOVES OR CAUSES THE REMOVAL OF A VEHICLE AS PERMITTED BY THIS SECTION, THE PUBLIC AGENCY EMPLOYING THE OFFICER SHALL PROVIDE THE REGISTERED OWNER OF THE VEHICLE OR THE REGISTERED OWNER'S AGENT WITH THE OPPORTUNITY FOR A POST-STORAGE HEARING TO DETERMINE THE VALIDITY OF THE REMOVAL. THIS HEARING SHALL BE CONDUCTED WITHIN FORTY-EIGHT HOURS AFTER

A REQUEST, EXCLUDING WEEKENDS AND HOLIDAYS. THE PUBLIC AGENCY EMPLOYING THE OFFICER MAY AUTHORIZE ITS OWN OFFICER OR EMPLOYEE TO CONDUCT THE HEARING IF THE HEARING OFFICER IS NOT THE SAME PERSON WHO REMOVED OR CAUSED THE REMOVAL OF THE VEHICLE. THE PUBLIC AGENCY EMPLOYING THE OFFICER WHO REMOVES OR CAUSES THE REMOVAL OF THE VEHICLE IS RESPONSIBLE FOR THE COSTS INCURRED FOR TOWING AND STORAGE IF IT IS DETERMINED AT THE HEARING THAT PROBABLE CAUSE FOR THE REMOVAL CANNOT BE ESTABLISHED.

28-873. Stopping, standing or parking prohibitions

EXCEPT IF NECESSARY TO AVOID CONFLICT WITH OTHER TRAFFIC OR IF IN COMPLIANCE WITH LAW OR THE DIRECTIONS OF A POLICE OFFICER OR TRAFFIC CONTROL DEVICE, A PERSON SHALL NOT STOP, STAND OR PARK A VEHICLE IN ANY OF THE FOLLOWING PLACES:

1. ON A SIDEWALK.
2. IN FRONT OF A PUBLIC OR PRIVATE DRIVEWAY.
3. WITHIN AN INTERSECTION.
4. WITHIN FIFTEEN FEET OF A FIRE HYDRANT.
5. ON A CROSSWALK.
6. WITHIN TWENTY FEET OF A CROSSWALK AT AN INTERSECTION.
7. WITHIN THIRTY FEET ON THE APPROACH TO ANY FLASHING BEACON, STOP SIGN, YIELD SIGN OR TRAFFIC CONTROL SIGNAL LOCATED AT THE SIDE OF A ROADWAY.
8. BETWEEN A SAFETY ZONE AND THE ADJACENT CURB OR WITHIN THIRTY FEET OF POINTS ON THE CURB IMMEDIATELY OPPOSITE THE ENDS OF A SAFETY ZONE, UNLESS THE DIRECTOR OR A LOCAL AUTHORITY INDICATES A DIFFERENT LENGTH BY SIGNS OR MARKINGS.
9. WITHIN FIFTY FEET OF THE NEAREST RAIL OR A RAILROAD CROSSING OR WITHIN EIGHT FEET SIX INCHES OF THE CENTER OF ANY RAILROAD TRACK, EXCEPT WHILE A MOTOR VEHICLE WITH MOTIVE POWER ATTACHED IS LOADING OR UNLOADING RAILROAD CARS.
10. WITHIN TWENTY FEET OF THE DRIVEWAY ENTRANCE TO A FIRE STATION AND ON THE SIDE OF A STREET OPPOSITE THE ENTRANCE TO ANY FIRE STATION WITHIN SEVENTY-FIVE FEET OF THE ENTRANCE WHEN PROPERLY POSTED.
11. ALONGSIDE OR OPPOSITE A STREET EXCAVATION OR OBSTRUCTION WHEN STOPPING, STANDING OR PARKING WOULD OBSTRUCT TRAFFIC.
12. ON THE ROADWAY SIDE OF A VEHICLE STOPPED OR PARKED AT THE EDGE OR CURB OF A STREET.
13. ON A BRIDGE OR OTHER ELEVATED STRUCTURE ON A HIGHWAY OR WITHIN A HIGHWAY TUNNEL.
14. AT ANY PLACE WHERE OFFICIAL SIGNS PROHIBIT STANDING OR STOPPING.
15. ON A CONTROLLED ACCESS HIGHWAY EXCEPT FOR EMERGENCY REASONS OR EXCEPT IN AREAS SPECIFICALLY DESIGNATED FOR PARKING SUCH AS REST AREAS.

28-874. Additional parking rules

A. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A PERSON WHO STOPS OR PARKS A VEHICLE ON A ROADWAY WHERE THERE ARE ADJACENT CURBS SHALL STOP OR

PARK THE VEHICLE WITH ITS RIGHT-HAND WHEELS PARALLEL TO AND WITHIN EIGHTEEN INCHES OF THE RIGHT-HAND CURB.

B. A LOCAL AUTHORITY MAY PERMIT BY ORDINANCE:

1. PARKING OF VEHICLES WITH THE LEFT-HAND WHEELS ADJACENT TO AND WITHIN EIGHTEEN INCHES OF THE LEFT-HAND CURB OF A ONE-WAY ROADWAY.

2. ANGLE PARKING ON ANY ROADWAY, EXCEPT THAT A LOCAL AUTHORITY SHALL NOT PERMIT ANGLE PARKING ON ANY FEDERAL AID HIGHWAY OR STATE HIGHWAY UNLESS THE DIRECTOR HAS DETERMINED BY RESOLUTION OR ORDER THAT THE ROADWAY IS OF SUFFICIENT WIDTH TO PERMIT ANGLE PARKING WITHOUT INTERFERING WITH THE FREE MOVEMENT OF TRAFFIC.

C. WITH RESPECT TO HIGHWAYS UNDER THE DIRECTOR'S JURISDICTION, THE DIRECTOR MAY PLACE SIGNS PROHIBITING OR RESTRICTING THE STOPPING, STANDING OR PARKING OF VEHICLES ON ANY HIGHWAY WHERE IN THE DIRECTOR'S OPINION THE STOPPING, STANDING OR PARKING IS DANGEROUS TO THOSE USING THE HIGHWAY OR WHERE THE STOPPING, STANDING OR PARKING OF VEHICLES WOULD UNDULY INTERFERE WITH THE FREE MOVEMENT OF TRAFFIC ON THE HIGHWAY. THE SIGNS SHALL BE OFFICIAL SIGNS, AND A PERSON SHALL NOT STOP, STAND OR PARK A VEHICLE IN VIOLATION OF THE RESTRICTIONS STATED ON THE SIGNS.

28-875. Law enforcement exception

THE STOPPING, STANDING OR PARKING RESTRICTIONS PROVIDED IN THIS ARTICLE DO NOT APPLY TO A POLICE OR PEACE OFFICER WHEN THE STOPPING, STANDING OR PARKING IS FOR THE PURPOSE OF ACTUAL PERFORMANCE OF A LAW ENFORCEMENT DUTY.

ARTICLE 14. PARKING FOR PERSONS WITH PHYSICAL DISABILITIES

28-881. Parking restrictions; applicability

THIS ARTICLE DOES NOT APPLY:

1. TO ZONES WHERE STOPPING, STANDING OR PARKING IS PROHIBITED TO ALL VEHICLES AS PROVIDED IN SECTIONS 28-871, 28-873 AND 28-936.

2. IF THERE IS A LOCAL ORDINANCE THAT PROHIBITS PARKING DURING HEAVY TRAFFIC PERIODS SUCH AS RUSH HOURS OR WHERE PARKING CLEARLY WOULD PRESENT A TRAFFIC HAZARD FOR THE GENERAL PUBLIC.

28-882. Parking spaces for physically disabled persons

A. EACH STATE AGENCY HAVING JURISDICTION OVER STREET PARKING OR PUBLICLY OWNED AND OPERATED PARKING FACILITIES SHALL PROVIDE SPECIALLY DESIGNATED AND MARKED MOTOR VEHICLE PARKING SPACES FOR THE EXCLUSIVE USE OF PERSONS WITH PHYSICAL DISABILITIES.

B. EACH POLITICAL SUBDIVISION OF THIS STATE HAVING JURISDICTION OVER STREET PARKING OR PUBLICLY OWNED AND OPERATED PARKING FACILITIES SHALL PROVIDE, AS DETERMINED BY THE COUNTY BOARD OF SUPERVISORS OR THE GOVERNING BODY OF A CITY OR TOWN, SPECIALLY DESIGNATED AND MARKED MOTOR VEHICLE PARKING SPACES FOR THE EXCLUSIVE USE OF PERSONS WITH PHYSICAL DISABILITIES.

C. EACH PARKING SPACE PRESCRIBED IN THIS SECTION SHALL BE PROMINENTLY OUTLINED WITH PAINT AND POSTED WITH A PERMANENT SIGN THAT IS LOCATED AT LEAST THREE FEET BUT NOT MORE THAN SIX FEET ABOVE THE GRADE, THAT IS OF A COLOR AND

DESIGN APPROVED BY THE DEPARTMENT AND THAT BEARS THE INTERNATIONALLY ACCEPTED SYMBOL OF ACCESS AND THE CAPTION "RESERVED PARKING".

28-883. Agreements with other jurisdictions; reciprocity

A. THE DIRECTOR MAY ENTER INTO AGREEMENTS WITH OTHER JURISDICTIONS, INCLUDING FOREIGN JURISDICTIONS, ON BEHALF OF THIS STATE:

1. RELATING TO THE EXTENSION TO RESIDENTS OF THIS STATE OF PARKING PRIVILEGES FOR PERSONS WITH A PERMANENT DISABILITY.

2. TO RECOGNIZE INTERNATIONAL SYMBOL OF ACCESS SPECIAL PLATES OR THE PLACARD ISSUED BY THE OTHER JURISDICTIONS.

B. THIS STATE SHALL GRANT THE SAME PARKING PRIVILEGES THAT ARE GRANTED TO A RESIDENT OF THIS STATE TO A NONRESIDENT FOR A MOTOR VEHICLE LICENSED IN ANOTHER STATE OR FOREIGN COUNTRY DISPLAYING THE INTERNATIONAL SYMBOL OF ACCESS SPECIAL PLATES OR THE PLACARD ISSUED IN ACCORDANCE WITH THE LAWS OF THE NONRESIDENT'S STATE OR FOREIGN COUNTRY EVEN IF A WRITTEN AGREEMENT TO DO SO DOES NOT EXIST BETWEEN THIS STATE AND THE NONRESIDENT'S STATE OR FOREIGN COUNTRY.

28-884. Parking space for physically disabled persons; prohibition

A. EXCEPT AS PROVIDED IN SUBSECTION B, A PERSON SHALL NOT STOP, STAND OR PARK A MOTOR VEHICLE WITHIN ANY SPECIALLY DESIGNATED AND MARKED PARKING SPACE PROVIDED PURSUANT TO THIS ARTICLE UNLESS THE MOTOR VEHICLE IS TRANSPORTING A PERSON WHO HAS BEEN ISSUED A VALID PLACARD OR INTERNATIONAL SYMBOL OF ACCESS SPECIAL PLATES AND EITHER:

1. THE MOTOR VEHICLE DISPLAYS THE VALID PERMANENTLY DISABLED OR TEMPORARILY DISABLED REMOVABLE WINDSHIELD PLACARD.

2. THE MOTOR VEHICLE DISPLAYS INTERNATIONAL SYMBOL OF ACCESS SPECIAL PLATES THAT ARE CURRENTLY REGISTERED TO THE VEHICLE.

B. A PERSON WHO IS CHAUFFEURING A PERSON WITH A PHYSICAL DISABILITY WITHOUT A PLACARD OR INTERNATIONAL SYMBOL OF ACCESS SPECIAL PLATES MAY PARK MOMENTARILY IN A PARKING SPACE PROVIDED PURSUANT TO THIS ARTICLE FOR THE PURPOSE OF LOADING OR UNLOADING THE PERSON WITH A PHYSICAL DISABILITY, AND A COMPLAINT SHALL NOT BE ISSUED TO THE DRIVER FOR THE MOMENTARY PARKING.

28-885. Civil traffic violation; civil penalty; recall of placards and plates

A. IF A LAW ENFORCEMENT OFFICER OR A PARKING ENFORCEMENT SPECIALIST EMPLOYED BY A LOCAL AUTHORITY FINDS A MOTOR VEHICLE IN VIOLATION OF THIS ARTICLE, THE PERSON SHALL ISSUE A COMPLAINT TO THE OPERATOR OR OTHER PERSON IN CHARGE OF THE MOTOR VEHICLE OR, IF AN OPERATOR OR PERSON IN CHARGE IS NOT PRESENT, TO THE REGISTERED OWNER OF THE VEHICLE FOR A CIVIL TRAFFIC VIOLATION. A COURT OR DULY APPOINTED HEARING OFFICER SHALL IMPOSE ON THE OPERATOR, PERSON IN CHARGE OR OWNER OF A VEHICLE PARKED IN VIOLATION OF THIS SECTION A MINIMUM CIVIL PENALTY OF FIFTY DOLLARS PLUS THE PENALTY ASSESSMENTS PRESCRIBED BY STATUTE.

B. IF A PERSON VIOLATES THIS ARTICLE, THE DIRECTOR MAY RECALL THE PLACARD OR INTERNATIONAL SYMBOL OF ACCESS SPECIAL PLATES ISSUED TO THE PERSON.

28-886. Volunteer program

A LOCAL AUTHORITY MAY ESTABLISH A VOLUNTEER PARKING ENFORCEMENT SPECIALIST PROGRAM FOR PARKING FOR PERSONS WITH PHYSICAL DISABILITIES. UNDER THIS PROGRAM, THE LOCAL AUTHORITY MAY AUTHORIZE VOLUNTEERS TO ISSUE CITATIONS ONLY TO PERSONS WHO VIOLATE SECTION 28-884 OR AN ORDINANCE REGULATING PARKING IN PARKING SPACES FOR PERSONS WITH PHYSICAL DISABILITIES.

ARTICLE 15. MISCELLANEOUS RULES

28-891. Backing limitations

A. THE DRIVER OF A VEHICLE SHALL NOT BACK THE VEHICLE UNLESS THE MOVEMENT CAN BE MADE WITH REASONABLE SAFETY AND WITHOUT INTERFERING WITH OTHER TRAFFIC.

B. THE DRIVER OF A VEHICLE SHALL NOT BACK THE VEHICLE ON ANY ACCESS ROAD, EXIT OR ENTRANCE RAMP OR ROADWAY OF A CONTROLLED ACCESS HIGHWAY.

28-892. Riding on motorcycle

A PERSON OPERATING A MOTORCYCLE SHALL RIDE ONLY ON THE PERMANENT AND REGULAR SEAT ATTACHED TO THE MOTORCYCLE. THE OPERATOR OF A MOTORCYCLE SHALL NOT CARRY ANY OTHER PERSON AND ANY OTHER PERSON SHALL NOT RIDE ON A MOTORCYCLE UNLESS THE MOTORCYCLE IS DESIGNED TO CARRY MORE THAN ONE PERSON. ON A MOTORCYCLE DESIGNED TO CARRY MORE THAN ONE PERSON, A PASSENGER MAY RIDE ON THE PERMANENT AND REGULAR SEAT IF IT IS DESIGNED FOR TWO PERSONS OR ON ANOTHER SEAT FIRMLY ATTACHED TO THE MOTORCYCLE AT THE REAR OR SIDE OF THE OPERATOR.

28-893. Obstruction to view; interference with driving

A. A PERSON SHALL NOT DRIVE A VEHICLE WHEN THE VEHICLE'S LOAD OR PASSENGERS OBSTRUCT THE DRIVER'S VIEW TO THE FRONT OR SIDES OF THE VEHICLE OR INTERFERE WITH THE DRIVER'S CONTROL OVER THE VEHICLE'S DRIVING MECHANISM.

B. A PASSENGER IN A VEHICLE SHALL NOT RIDE IN A POSITION THAT INTERFERES WITH THE DRIVER'S VIEW AHEAD OR TO THE SIDES OR THAT INTERFERES WITH THE DRIVER'S CONTROL OVER THE VEHICLE'S DRIVING MECHANISM.

28-894. Driving on mountain highways

THE DRIVER OF A MOTOR VEHICLE TRAVELING THROUGH DEFILES OR CANYONS OR ON MOUNTAIN HIGHWAYS SHALL HOLD THE MOTOR VEHICLE UNDER CONTROL AND AS NEAR THE RIGHT-HAND EDGE OF THE ROADWAY AS REASONABLY POSSIBLE.

28-895. Coasting prohibited

A. THE DRIVER OF A MOTOR VEHICLE TRAVELING ON A DOWNGRADE SHALL NOT COAST WITH THE GEARS OF THE VEHICLE IN NEUTRAL.

B. THE DRIVER OF A COMMERCIAL MOTOR VEHICLE TRAVELING ON A DOWNGRADE SHALL NOT COAST WITH THE CLUTCH DISENGAGED.

28-896. Towing trailer; lateral sway

A PERSON SHALL NOT DRIVE A VEHICLE TOWING A TRAILER OR SEMITRAILER AT A RATE OF SPEED THAT CAUSES THE TRAILER OR SEMITRAILER TO SWAY LATERALLY FROM THE LINE OF TRAFFIC.

28-897. Crossing fire hose

A PERSON SHALL NOT DRIVE A VEHICLE OVER AN UNPROTECTED HOSE OF A FIRE DEPARTMENT IF THE HOSE IS LAID DOWN ON A STREET OR PRIVATE DRIVEWAY TO BE USED AT A FIRE OR ALARM OF FIRE. THIS SECTION DOES NOT APPLY IF A FIRE DEPARTMENT OFFICIAL IN COMMAND AT THE FIRE OR ALARM OF FIRE DIRECTS TRAFFIC TO DRIVE OVER THE HOSE.

28-898. Objects on roadway; prohibition

A. A PERSON SHALL NOT THROW OR DEPOSIT ON A ROADWAY ANY GLASS BOTTLE, GLASS, NAILS, TACKS, WIRE, CANS OR OTHER SUBSTANCE LIKELY TO INJURE A PERSON, ANIMAL OR VEHICLE ON THE ROADWAY.

B. A PERSON WHO DROPS OR PERMITS TO BE DROPPED OR THROWN ON A ROADWAY ANY DESTRUCTIVE OR INJURIOUS MATERIAL SHALL IMMEDIATELY REMOVE THE MATERIAL OR CAUSE IT TO BE REMOVED.

C. A PERSON REMOVING A WRECKED OR DAMAGED VEHICLE FROM A HIGHWAY SHALL REMOVE ANY GLASS OR OTHER INJURIOUS SUBSTANCE DROPPED ON THE HIGHWAY FROM THE VEHICLE.

28-899. Barbed wire; damages

A PERSON WHO OWNS, LEASES, HAS CHARGE OF OR POSSESSES A BARBED WIRE FENCE ALONG A HIGHWAY:

1. SHALL NOT PERMIT OR ALLOW THE WIRE OF THE FENCE TO LIE LOOSE ALONG OR IN THE HIGHWAY SO AS TO ENDANGER THE SAFETY OF A PERSON OR ANIMAL PASSING ALONG THE HIGHWAY.

2. IS LIABLE FOR ALL DAMAGES ARISING FROM THE LOOSE WIRE.

28-900. School bus rules

A. THE DEPARTMENT OF ADMINISTRATION IN CONSULTATION WITH THE DEPARTMENT OF PUBLIC SAFETY AND WITH THE SCHOOL BUS ADVISORY COUNCIL ESTABLISHED BY SECTION 28-3053 SHALL ADOPT RULES AS NECESSARY TO IMPROVE THE SAFETY AND WELFARE OF SCHOOL BUS PASSENGERS BY MINIMIZING THE PROBABILITY OF ACCIDENTS INVOLVING SCHOOL BUSES AND SCHOOL BUS PASSENGERS AND BY MINIMIZING THE RISK OF SERIOUS BODILY INJURY TO SCHOOL BUS PASSENGERS IN THE EVENT OF AN ACCIDENT.

B. THE RULES MAY INCLUDE:

1. MINIMUM STANDARDS FOR THE DESIGN AND EQUIPMENT OF SCHOOL BUSES.

2. MINIMUM STANDARDS FOR THE PERIODIC INSPECTION AND MAINTENANCE OF SCHOOL BUSES.

3. PROCEDURES FOR THE OPERATION OF SCHOOL BUSES.

4. OTHER CRITERIA AS DEEMED BY THE DEPARTMENT OF ADMINISTRATION, THE DEPARTMENT OF PUBLIC SAFETY AND THE SCHOOL BUS ADVISORY COUNCIL TO BE NECESSARY AND APPROPRIATE TO ENSURE THE SAFE OPERATION OF SCHOOL BUSES.

C. THE RULES SHALL PROVIDE, IF APPLICABLE, MINIMUM STANDARDS EQUAL TO OR MORE RESTRICTIVE THAN THOSE ADOPTED BY THE UNITED STATES DEPARTMENT OF TRANSPORTATION IN ACCORDANCE WITH 23 UNITED STATES CODE AND RULES ADOPTED PURSUANT TO 23 UNITED STATES CODE.

D. NOTWITHSTANDING A RULE ADOPTED BY THE DEPARTMENT OF ADMINISTRATION WITH RESPECT TO EXTERIOR COLOR OF A SCHOOL BUS, IN ORDER TO REDUCE THE INTERIOR TEMPERATURE OF A SCHOOL BUS, THE EXTERIOR TOP OF A SCHOOL BUS MAY BE PAINTED WHITE, BUT THE WHITE AREA SHALL NOT EXTEND BEYOND THE CENTER CLEARANCE LIGHTS, FRONT AND REAR, AND SHALL NOT EXTEND BELOW A LINE FIVE INCHES ABOVE THE TOP OF THE SIDE WINDOWS.

E. AN OFFICER OR EMPLOYEE OF ANY SCHOOL DISTRICT WHO VIOLATES ANY OF THE RULES OR WHO FAILS TO INCLUDE THE OBLIGATION TO COMPLY WITH THE RULES IN ANY CONTRACT EXECUTED BY THE OFFICER OR EMPLOYEE ON BEHALF OF A SCHOOL DISTRICT IS GUILTY OF MISCONDUCT AND IS SUBJECT TO REMOVAL FROM OFFICE OR EMPLOYMENT. ANY PERSON WHO OPERATES A SCHOOL BUS UNDER CONTRACT WITH A SCHOOL DISTRICT AND WHO FAILS TO COMPLY WITH ANY OF THE RULES IS IN BREACH OF CONTRACT, AND THE SCHOOL DISTRICT SHALL CANCEL THE CONTRACT AFTER NOTICE AND A HEARING BY THE RESPONSIBLE OFFICERS OF THE SCHOOL DISTRICT.

F. THE DEPARTMENT OF PUBLIC SAFETY SHALL ENFORCE THE RULES ADOPTED PURSUANT TO THIS SECTION.

28-901. Maximum number in school bus; stops at school

A. EXCEPT FOR THE PURPOSE OF CONDUCTING DRILLS UNDER SCHOOL RULES AND IN THE EMERGENCY EVACUATION OR DISPERSAL OF PUPILS AND SCHOOL PERSONNEL, A PERSON SHALL NOT OPERATE A SCHOOL BUS ON A HIGHWAY:

1. WHILE CARRYING MORE PASSENGERS THAN CAN BE PROPERLY SEATED.

2. WHILE A PERSON IS STANDING IN THE SCHOOL BUS.

B. IN RECEIVING OR DISCHARGING CHILDREN AT THE SCHOOL, A PERSON WHO DRIVES A VEHICLE CARRYING CHILDREN TO AND FROM SCHOOL SHALL STOP THE VEHICLE ON THE SIDE OF THE HIGHWAY ON WHICH THE SCHOOL IS LOCATED.

28-902. Repainting government vehicle

IF A MOTOR VEHICLE THAT IS PAINTED YELLOW AND THAT IS OWNED OR OPERATED BY THIS STATE, A COUNTY, CITY, TOWN OR POLITICAL SUBDIVISION OF THIS STATE, A SCHOOL DISTRICT OR A SCHOOL IS SOLD OR TRANSFERRED TO A PRIVATE OWNER, THE PRIVATE OWNER SHALL REPAINT THE MOTOR VEHICLE A DIFFERENT COLOR AND OBLITERATE ALL OFFICIAL PAINTED INSIGNIA BEFORE THE MOTOR VEHICLE IS DRIVEN ON A HIGHWAY.

28-903. Operation of motorcycle on laned roadway; exceptions

A. ALL MOTORCYCLES ARE ENTITLED TO THE FULL USE OF A LANE. A PERSON SHALL NOT DRIVE A MOTOR VEHICLE IN SUCH A MANNER AS TO DEPRIVE ANY MOTORCYCLE OF THE FULL USE OF A LANE. THIS SUBSECTION DOES NOT APPLY TO MOTORCYCLES OPERATED TWO ABREAST IN A SINGLE LANE.

B. THE OPERATOR OF A MOTORCYCLE SHALL NOT OVERTAKE AND PASS IN THE SAME LANE OCCUPIED BY THE VEHICLE BEING OVERTAKEN.

C. A PERSON SHALL NOT OPERATE A MOTORCYCLE BETWEEN THE LANES OF TRAFFIC OR BETWEEN ADJACENT ROWS OF VEHICLES.

D. A PERSON SHALL NOT OPERATE A MOTORCYCLE MORE THAN TWO ABREAST IN A SINGLE LANE.

E. SUBSECTIONS B AND C DO NOT APPLY TO PEACE OFFICERS IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES.

28-904. Driving on sidewalk

A. A PERSON SHALL NOT DRIVE A VEHICLE ON A SIDEWALK AREA EXCEPT ON A PERMANENT OR DULY AUTHORIZED TEMPORARY DRIVEWAY.

B. THIS SECTION DOES NOT APPLY TO A MOTORIZED WHEELCHAIR, AUTHORIZED EMERGENCY VEHICLE, SECURITY VEHICLE OWNED BY THIS STATE OR SMALL SERVICE VEHICLE OWNED BY THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE.

28-905. Opening vehicle door

A PERSON SHALL NOT OPEN A DOOR ON A MOTOR VEHICLE UNLESS IT IS REASONABLY SAFE TO DO SO AND CAN BE DONE WITHOUT INTERFERING WITH THE MOVEMENT OF OTHER TRAFFIC. A PERSON SHALL NOT LEAVE A DOOR OPEN ON A SIDE OF A MOTOR VEHICLE EXPOSED TO MOVING TRAFFIC FOR A PERIOD OF TIME LONGER THAN NECESSARY TO LOAD OR UNLOAD A PASSENGER.

28-906. Mechanical raising and lowering devices

A PERSON SHALL NOT RAISE OR LOWER THE HEIGHT OF A MOTOR VEHICLE BY MECHANICAL MEANS WHILE THE MOTOR VEHICLE IS MOVING ON A HIGHWAY AT A SPEED IN EXCESS OF FIFTEEN MILES PER HOUR.

28-907. Child passenger restraint system; civil penalty; exemptions; notice; child passenger restraint fund; definitions

A. EXCEPT AS PROVIDED IN SUBSECTION G OF THIS SECTION, A PERSON SHALL NOT OPERATE A MOTOR VEHICLE ON THE HIGHWAYS IN THIS STATE WHEN TRANSPORTING A CHILD FOUR YEARS OF AGE OR YOUNGER OR FORTY OR FEWER POUNDS IN WEIGHT UNLESS THAT CHILD IS PROPERLY SECURED IN A CHILD PASSENGER RESTRAINT SYSTEM.

B. THE DEPARTMENT SHALL ADOPT STANDARDS IN ACCORDANCE WITH FEDERAL MOTOR VEHICLE STANDARDS FOR THE PERFORMANCE, DESIGN AND INSTALLATION OF CHILD PASSENGER RESTRAINT SYSTEMS FOR USE IN MOTOR VEHICLES FOR CHILDREN FOUR YEARS OF AGE OR YOUNGER OR FORTY OR FEWER POUNDS IN WEIGHT.

C. A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO A CIVIL PENALTY OF FIFTY DOLLARS, EXCEPT THAT A CIVIL PENALTY SHALL NOT BE IMPOSED IF THE DEFENDANT MAKES A SUFFICIENT SHOWING THAT THE MOTOR VEHICLE HAS BEEN SUBSEQUENTLY EQUIPPED WITH A CHILD PASSENGER RESTRAINT SYSTEM THAT MEETS THE STANDARDS ADOPTED PURSUANT TO SUBSECTION B OF THIS SECTION. A SUFFICIENT SHOWING MAY INCLUDE A RECEIPT MAILED TO THE APPROPRIATE COURT OFFICER THAT EVIDENCES PURCHASE OR ACQUISITION OF A CHILD PASSENGER RESTRAINT SYSTEM. NOTWITHSTANDING SECTION 13-811 OR 22-404, THE COURT IMPOSING AND COLLECTING THE FINE SHALL TRANSFER THE MONIES, EXCLUSIVE OF ANY ASSESSMENTS IMPOSED PURSUANT TO SECTIONS 12-116.01 AND 12-116.02, TO THE STATE TREASURER FOR DEPOSIT IN THE CHILD PASSENGER RESTRAINT FUND.

D. IF A LAW ENFORCEMENT OFFICER STOPS A VEHICLE FOR AN APPARENT VIOLATION OF THIS SECTION, THE OFFICER SHALL DETERMINE FROM THE DRIVER WHETHER THE UNRESTRAINED CHILD OR CHILDREN IN THE VEHICLE ARE FOUR YEARS OF AGE OR YOUNGER OR FORTY OR FEWER POUNDS IN WEIGHT.

E. IF THE INFORMATION GIVEN TO THE OFFICER INDICATES THAT A VIOLATION OF THIS SECTION HAS NOT BEEN COMMITTED, THE OFFICER SHALL NOT DETAIN THE VEHICLE ANY FURTHER UNLESS SOME ADDITIONAL VIOLATION IS INVOLVED. THE STOPPING OF A VEHICLE FOR AN APPARENT OR ACTUAL VIOLATION OF THIS SECTION IS NOT PROBABLE CAUSE FOR THE SEARCH OR SEIZURE OF THE VEHICLE UNLESS THERE IS PROBABLE CAUSE FOR ANOTHER VIOLATION OF LAW.

F. THE REQUIREMENTS OF THIS SECTION OR EVIDENCE OF A VIOLATION OF THIS SECTION ARE NOT ADMISSIBLE AS EVIDENCE IN A JUDICIAL PROCEEDING EXCEPT IN A JUDICIAL PROCEEDING FOR A VIOLATION OF THIS SECTION.

G. THIS SECTION DOES NOT APPLY TO ANY OF THE FOLLOWING:

1. A PERSON WHO OPERATES A MOTOR VEHICLE THAT WAS ORIGINALLY MANUFACTURED WITHOUT PASSENGER RESTRAINT DEVICES.

2. A PERSON WHO OPERATES A MOTOR VEHICLE THAT IS ALSO A RECREATIONAL VEHICLE AS DEFINED IN SECTION 41-2142.

3. A PERSON WHO OPERATES A COMMERCIAL MOTOR VEHICLE AND WHO HOLDS A CURRENT COMMERCIAL DRIVER LICENSE ISSUED PURSUANT TO CHAPTER 8 OF THIS TITLE.

4. A PERSON WHO MUST TRANSPORT A CHILD IN AN EMERGENCY TO OBTAIN NECESSARY MEDICAL CARE.

5. A PERSON WHO TRANSPORTS MORE THAN ONE CHILD FOUR YEARS OF AGE OR YOUNGER OR FORTY OR FEWER POUNDS IN WEIGHT IN A MOTOR VEHICLE THAT BECAUSE OF THE RESTRICTED SIZE OF THE PASSENGER AREA DOES NOT PROVIDE SUFFICIENT AREA FOR THE REQUIRED NUMBER OF CHILD PASSENGER RESTRAINT DEVICES, IF BOTH OF THE FOLLOWING CONDITIONS ARE MET:

(a) AT LEAST ONE CHILD IS RESTRAINED AS REQUIRED BY THIS SECTION.

(b) THE PERSON HAS SECURED AS MANY OF THE OTHER CHILDREN IN CHILD PASSENGER RESTRAINT DEVICES PURSUANT TO THIS SECTION AS IS REASONABLE GIVEN THE RESTRICTED SIZE OF THE PASSENGER AREA AND THE NUMBER OF PASSENGERS BEING TRANSPORTED IN THE MOTOR VEHICLE.

H. BEFORE THE RELEASE OF ANY NEWLY BORN CHILD FROM A HOSPITAL, THE HOSPITAL IN CONJUNCTION WITH THE ATTENDING PHYSICIAN SHALL PROVIDE THE PARENTS OF THE CHILD WITH A COPY OF THIS SECTION AND INFORMATION WITH REGARD TO THE AVAILABILITY OF LOANER OR RENTAL PROGRAMS FOR CHILD PASSENGER RESTRAINT DEVICES THAT MAY BE AVAILABLE IN THE COMMUNITY WHERE THE CHILD IS BORN.

I. A CHILD PASSENGER RESTRAINT FUND IS ESTABLISHED. THE FUND CONSISTS OF ALL CIVIL PENALTIES DEPOSITED PURSUANT TO THIS SECTION AND ANY MONIES DONATED BY THE PUBLIC. THE DEPARTMENT OF ECONOMIC SECURITY SHALL ADMINISTER THE FUND.

J. THE DEPARTMENT OF ECONOMIC SECURITY SHALL PURCHASE CHILD PASSENGER RESTRAINT SYSTEMS THAT MEET THE REQUIREMENTS OF THIS SECTION FROM MONIES DEPOSITED IN THE FUND. IF A RESPONSIBLE AGENCY REQUESTS CHILD PASSENGER RESTRAINT SYSTEMS AND IF THEY ARE AVAILABLE, THE DEPARTMENT OF ECONOMIC SECURITY SHALL DISTRIBUTE CHILD PASSENGER RESTRAINT SYSTEMS TO THE REQUESTING RESPONSIBLE AGENCY.

K. ON THE APPLICATION OF A PERSON TO A RESPONSIBLE AGENCY ON A FINDING BY THE RESPONSIBLE AGENCY TO WHICH THE APPLICATION WAS MADE THAT THE APPLICANT IS UNABLE TO ACQUIRE A CHILD PASSENGER RESTRAINT SYSTEM BECAUSE THE PERSON IS INDIGENT AND SUBJECT TO AVAILABILITY, THE RESPONSIBLE AGENCY SHALL LOAN THE APPLICANT A CHILD PASSENGER RESTRAINT SYSTEM AT NO CHARGE FOR AS LONG AS THE APPLICANT HAS A NEED TO TRANSPORT A CHILD WHO IS SUBJECT TO THIS SECTION.

L. MONIES IN THE CHILD PASSENGER RESTRAINT FUND SHALL NOT EXCEED TWENTY THOUSAND DOLLARS. THE STATE TREASURER SHALL DEPOSIT ALL MONIES COLLECTED OVER THE TWENTY THOUSAND DOLLAR LIMIT IN THE ARIZONA HIGHWAY USER REVENUE FUND ESTABLISHED BY SECTION 28-6533.

M. FOR THE PURPOSES OF THIS SECTION:

1. "INDIGENT" HAS THE SAME MEANING PRESCRIBED IN SECTION 11-297, SUBSECTION B.

2. "RESPONSIBLE AGENCY" MEANS A LICENSED HOSPITAL, A PUBLIC OR PRIVATE AGENCY PROVIDING SHELTER SERVICES TO VICTIMS OF DOMESTIC VIOLENCE, A PUBLIC OR PRIVATE AGENCY PROVIDING SHELTER SERVICES TO HOMELESS FAMILIES OR A HEALTH CLINIC.

28-908. Persons in wheelchairs

A PERSON OPERATING A WHEELCHAIR OR MOTORIZED WHEELCHAIR HAS ALL OF THE RIGHTS AND DUTIES THAT ARE CONTAINED IN THIS CHAPTER AND CHAPTERS 4 AND 5 OF THIS TITLE AND THAT ARE APPLICABLE TO PEDESTRIANS EXCEPT PROVISIONS THAT BY THEIR NATURE CAN HAVE NO APPLICATION.

28-909. Vehicle restraints required; exceptions; civil penalty

A. EACH FRONT SEAT OCCUPANT OF A MOTOR VEHICLE THAT IS DESIGNED FOR CARRYING TEN OR FEWER PASSENGERS, THAT IS MANUFACTURED FOR THE MODEL YEAR 1972 AND THEREAFTER AND THAT IS REQUIRED TO BE EQUIPPED WITH AN INTEGRATED LAP AND SHOULDER BELT OR A LAP BELT PURSUANT TO THE FEDERAL MOTOR VEHICLE SAFETY STANDARDS PRESCRIBED IN 49 CODE OF FEDERAL REGULATIONS SECTION 571.208 SHALL EITHER:

1. HAVE THE LAP AND SHOULDER BELT PROPERLY ADJUSTED AND FASTENED WHILE THE VEHICLE IS IN MOTION.

2. IF ONLY A LAP BELT IS INSTALLED WHERE THE OCCUPANT IS SITTING, HAVE THE LAP BELT PROPERLY ADJUSTED AND FASTENED WHILE THE VEHICLE IS IN MOTION.

B. THE OPERATOR OF A MOTOR VEHICLE THAT IS SUBJECT TO THE REQUIREMENTS OF THIS SECTION SHALL REQUIRE EACH FRONT SEAT PASSENGER UNDER SIXTEEN YEARS OF AGE TO COMPLY WITH THIS SECTION.

C. A PEACE OFFICER SHALL NOT STOP OR ISSUE A CITATION TO A PERSON OPERATING A MOTOR VEHICLE ON A HIGHWAY IN THIS STATE FOR A VIOLATION OF THIS SECTION UNLESS THE PEACE OFFICER HAS REASONABLE CAUSE TO BELIEVE THERE IS ANOTHER ALLEGED VIOLATION OF A MOTOR VEHICLE LAW OF THIS STATE.

D. IF A PERSON IS FOUND RESPONSIBLE FOR A CIVIL TRAFFIC VIOLATION UNDER THIS SECTION, A DEPARTMENT OR AGENCY OF THIS STATE SHALL NOT CONSIDER THE VIOLATION FOR THE PURPOSE OF DETERMINING WHETHER THE PERSON'S DRIVER LICENSE SHOULD BE SUSPENDED OR REVOKED. A COURT SHALL NOT TRANSMIT ABSTRACTS OF RECORDS OF VIOLATIONS OF THIS SECTION TO THE DEPARTMENT.

E. AN INSURER SHALL NOT CONSIDER A CIVIL TRAFFIC VIOLATION UNDER THIS SECTION AS A TRAFFIC VIOLATION AGAINST THE PERSON FOR THE PURPOSES OF ESTABLISHING RATES FOR MOTOR VEHICLE LIABILITY INSURANCE OR DETERMINING THE INSURABILITY OF THE PERSON. AN INSURER SHALL NOT CANCEL OR REFUSE TO RENEW ANY POLICY OF INSURANCE BECAUSE OF THE VIOLATION.

F. THIS SECTION DOES NOT APPLY TO:

1. A CHILD SUBJECT TO THE REQUIREMENTS OF SECTION 28-907.

2. A PERSON POSSESSING A WRITTEN STATEMENT FROM A PHYSICIAN THAT THE PERSON IS UNABLE FOR MEDICAL OR PSYCHOLOGICAL REASONS TO WEAR A LAP AND SHOULDER BELT OR A LAP BELT.

3. A LETTER CARRIER OF THE UNITED STATES POSTAL SERVICE WHILE THE LETTER CARRIER IS PERFORMING THE LETTER CARRIER'S DUTIES.

G. IF A PERSON IS FOUND RESPONSIBLE FOR A CIVIL TRAFFIC VIOLATION UNDER THIS SECTION, THE PERSON IS SUBJECT TO A MAXIMUM CIVIL PENALTY OF TEN DOLLARS FOR EACH VIOLATION.

H. THE DRIVER OF A MOTOR VEHICLE FOUND RESPONSIBLE FOR A CIVIL TRAFFIC VIOLATION OF SUBSECTION B OF THIS SECTION IS SUBJECT TO A MAXIMUM CIVIL PENALTY OF TEN DOLLARS FOR EACH VIOLATION.

28-910. <u>Liability for emergency responses in flood areas; definitions</u>

A. A DRIVER OF A VEHICLE WHO DRIVES THE VEHICLE ON A PUBLIC STREET OR HIGHWAY THAT IS TEMPORARILY COVERED BY A RISE IN WATER LEVEL, INCLUDING GROUNDWATER OR OVERFLOW OF WATER, AND THAT IS BARRICADED BECAUSE OF FLOODING IS LIABLE FOR THE EXPENSES OF ANY EMERGENCY RESPONSE THAT IS REQUIRED TO REMOVE FROM THE PUBLIC STREET OR HIGHWAY THE DRIVER OR ANY PASSENGER IN THE VEHICLE THAT BECOMES INOPERABLE ON THE PUBLIC STREET OR HIGHWAY OR THE VEHICLE THAT BECOMES INOPERABLE ON THE PUBLIC STREET OR HIGHWAY, OR BOTH.

B. A PERSON CONVICTED OF VIOLATING SECTION 28-693 FOR DRIVING A VEHICLE INTO ANY AREA THAT IS TEMPORARILY COVERED BY A RISE IN WATER LEVEL, INCLUDING GROUNDWATER OR OVERFLOW OF WATER, MAY BE LIABLE FOR EXPENSES OF ANY EMERGENCY RESPONSE THAT IS REQUIRED TO REMOVE FROM THE AREA THE DRIVER OR ANY PASSENGER IN THE VEHICLE THAT BECOMES INOPERABLE IN THE AREA OR THE VEHICLE THAT BECOMES INOPERABLE IN THE AREA, OR BOTH.

C. THE EXPENSES OF AN EMERGENCY RESPONSE ARE A CHARGE AGAINST THE PERSON LIABLE FOR THOSE EXPENSES PURSUANT TO SUBSECTION A OR B OF THIS

SECTION. THE CHARGE CONSTITUTES A DEBT OF THAT PERSON AND MAY BE COLLECTED PROPORTIONATELY BY THE PUBLIC AGENCIES, FOR-PROFIT ENTITIES OR NOT-FOR-PROFIT ENTITIES THAT INCURRED THE EXPENSES. THE PERSON'S LIABILITY FOR THE EXPENSES OF AN EMERGENCY RESPONSE SHALL NOT EXCEED TWO THOUSAND DOLLARS FOR A SINGLE INCIDENT. THE LIABILITY IMPOSED UNDER THIS SECTION IS IN ADDITION TO AND NOT IN LIMITATION OF ANY OTHER LIABILITY THAT MAY BE IMPOSED.

D. AN INSURANCE POLICY MAY EXCLUDE COVERAGE FOR A PERSON'S LIABILITY FOR EXPENSES OF AN EMERGENCY RESPONSE UNDER THIS SECTION.

E. FOR THE PURPOSES OF THIS SECTION:

1. "EXPENSES OF AN EMERGENCY RESPONSE" MEANS REASONABLE COSTS DIRECTLY INCURRED BY PUBLIC AGENCIES, FOR-PROFIT ENTITIES OR NOT-FOR-PROFIT ENTITIES THAT MAKE AN APPROPRIATE EMERGENCY RESPONSE TO AN INCIDENT.

2. "PUBLIC AGENCY" MEANS THIS STATE AND ANY CITY, COUNTY, MUNICIPAL CORPORATION, DISTRICT OR OTHER PUBLIC AUTHORITY THAT IS LOCATED IN WHOLE OR IN PART IN THIS STATE AND THAT PROVIDES POLICE, FIRE FIGHTING, MEDICAL OR OTHER EMERGENCY SERVICES.

3. "REASONABLE COSTS" INCLUDES THE COSTS OF PROVIDING POLICE, FIRE FIGHTING, RESCUE AND EMERGENCY MEDICAL SERVICES AT THE SCENE OF AN INCIDENT AND THE SALARIES OF THE PERSONS WHO RESPOND TO THE INCIDENT BUT DOES NOT INCLUDE CHARGES ASSESSED BY AN AMBULANCE SERVICE THAT IS REGULATED PURSUANT TO TITLE 36, CHAPTER 21.1, ARTICLE 2.

ARTICLE 16. EQUIPMENT

28-921. Applicability of equipment requirements

A. A PERSON SHALL NOT:

1. DRIVE OR MOVE AND THE OWNER SHALL NOT KNOWINGLY CAUSE OR PERMIT TO BE DRIVEN OR MOVED ON A HIGHWAY A VEHICLE OR COMBINATION OF VEHICLES THAT:

(a) IS IN AN UNSAFE CONDITION THAT ENDANGERS A PERSON.

(b) DOES NOT CONTAIN THOSE PARTS OR IS NOT AT ALL TIMES EQUIPPED WITH LAMPS AND OTHER EQUIPMENT IN PROPER CONDITION AND ADJUSTMENT AS REQUIRED IN THIS ARTICLE.

(c) IS EQUIPPED IN ANY MANNER IN VIOLATION OF THIS ARTICLE.

2. DO AN ACT FORBIDDEN OR FAIL TO PERFORM AN ACT REQUIRED UNDER THIS ARTICLE.

B. THIS ARTICLE DOES NOT PROHIBIT THE USE OF ADDITIONAL PARTS AND ACCESSORIES ON A VEHICLE IF THE USE IS NOT INCONSISTENT WITH THIS ARTICLE.

C. THE PROVISIONS OF THIS ARTICLE WITH RESPECT TO EQUIPMENT ON VEHICLES DO NOT APPLY TO IMPLEMENTS OF HUSBANDRY, TRAILERS USED SOLELY IN THE OPERATION OF A FARM FOR THE TRANSPORTATION OF THE UNPROCESSED FIBER PRODUCTS ON THE FARM OR FROM THE FARM TO A COTTON GIN, ROAD MACHINERY, ROAD ROLLERS OR FARM TRACTORS EXCEPT AS MADE APPLICABLE BY THIS ARTICLE.

D. NOTWITHSTANDING SUBSECTION C OF THIS SECTION, A FARM TRACTOR EQUIPPED WITH AN ELECTRIC LIGHTING SYSTEM SHALL DISPLAY AT ALL TIMES MENTIONED IN SECTION 28-922 A RED TAIL LAMP AND EITHER MULTIPLE BEAM OR

SINGLE BEAM HEAD LAMPS MEETING THE REQUIREMENTS OF SECTIONS 28-925, 28-941 AND 28-943.

28-922. Lighted lamps required

AT ANY TIME FROM SUNSET TO SUNRISE AND AT ANY OTHER TIME WHEN THERE IS NOT SUFFICIENT LIGHT TO RENDER CLEARLY DISCERNIBLE PERSONS AND VEHICLES ON THE HIGHWAY AT A DISTANCE OF FIVE HUNDRED FEET AHEAD, A VEHICLE ON A HIGHWAY IN THIS STATE SHALL DISPLAY LIGHTED LAMPS AND ILLUMINATING DEVICES AS REQUIRED BY THIS ARTICLE FOR DIFFERENT CLASSES OF VEHICLES, SUBJECT TO EXCEPTIONS FOR PARKED VEHICLES AS PROVIDED IN THIS ARTICLE.

28-923. Visibility distance; mounted height of lamps

A. IF A REQUIREMENT IS PROVIDED IN THIS ARTICLE AS TO THE DISTANCE FROM WHICH CERTAIN LAMPS AND DEVICES SHALL RENDER OBJECTS VISIBLE OR WITHIN WHICH THE LAMPS OR DEVICES SHALL BE VISIBLE, THE PROVISIONS APPLY DURING THE TIMES STATED IN SECTION 28-922 WITH RESPECT TO A VEHICLE WITHOUT A LOAD WHEN ON A STRAIGHT, LEVEL AND UNLIGHTED HIGHWAY UNDER NORMAL ATMOSPHERIC CONDITIONS UNLESS A DIFFERENT TIME OR CONDITION IS EXPRESSLY PROVIDED.

B. IF A REQUIREMENT IS PROVIDED IN THIS ARTICLE FOR THE MOUNTED HEIGHT OF LAMPS OR DEVICES IT MEANS FROM THE CENTER OF THE LAMP OR DEVICE TO THE LEVEL GROUND ON WHICH THE VEHICLE STANDS WHEN THE VEHICLE IS WITHOUT A LOAD.

28-924. Motor vehicle head lamps

A. A MOTOR VEHICLE OTHER THAN A MOTORCYCLE OR MOTOR DRIVEN CYCLE SHALL BE EQUIPPED WITH AT LEAST TWO HEAD LAMPS WITH AT LEAST ONE ON EACH SIDE OF THE FRONT OF THE MOTOR VEHICLE. THE HEAD LAMPS SHALL COMPLY WITH THE REQUIREMENTS AND LIMITATIONS OF THIS ARTICLE.

B. A MOTORCYCLE AND A MOTOR DRIVEN CYCLE SHALL BE EQUIPPED WITH AT LEAST ONE AND NOT MORE THAN TWO HEAD LAMPS THAT COMPLY WITH THE REQUIREMENTS AND LIMITATIONS OF THIS ARTICLE.

C. A HEAD LAMP ON A MOTOR VEHICLE, INCLUDING A MOTORCYCLE AND A MOTOR DRIVEN CYCLE, SHALL BE LOCATED AT A HEIGHT OF NOT MORE THAN FIFTY-FOUR INCHES NOR LESS THAN TWENTY-FOUR INCHES TO BE MEASURED AS PROVIDED IN SECTION 28-923, SUBSECTION B.

28-925. Tail lamps

A. A MOTOR VEHICLE, TRAILER, SEMITRAILER AND POLE TRAILER AND ANY OTHER VEHICLE THAT IS BEING DRAWN AT THE END OF A TRAIN OF VEHICLES SHALL BE EQUIPPED WITH AT LEAST ONE TAIL LAMP MOUNTED ON THE REAR. WHEN LIGHTED AS REQUIRED BY THIS ARTICLE, THE TAIL LAMP SHALL EMIT A RED LIGHT PLAINLY VISIBLE FROM A DISTANCE OF FIVE HUNDRED FEET TO THE REAR, EXCEPT THAT IN THE CASE OF A TRAIN OF VEHICLES, ONLY THE TAIL LAMP ON THE REARMOST VEHICLE NEED ACTUALLY BE SEEN FROM THE DISTANCE SPECIFIED.

B. A TAIL LAMP ON A VEHICLE SHALL BE LOCATED AT A HEIGHT OF NOT MORE THAN SIXTY INCHES NOR LESS THAN FIFTEEN INCHES TO BE MEASURED AS PROVIDED IN SECTION 28-923, SUBSECTION B.

C. EITHER A TAIL LAMP OR A SEPARATE LAMP SHALL BE CONSTRUCTED AND PLACED IN A MANNER THAT ILLUMINATES WITH A WHITE LIGHT THE REAR LICENSE PLATE

AND RENDERS IT CLEARLY LEGIBLE FROM A DISTANCE OF FIFTY FEET TO THE REAR. A TAIL LAMP OR TAIL LAMPS TOGETHER WITH ANY SEPARATE LAMP FOR ILLUMINATING THE REAR LICENSE PLATE SHALL BE WIRED TO PROVIDE THAT THE TAIL LAMP OR LAMPS ARE LIGHTED WHENEVER THE HEAD LAMPS OR AUXILIARY DRIVING LAMPS ARE LIGHTED.

28-926. New motor vehicles; reflectors

A. EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, A NEW MOTOR VEHICLE SOLD AND OPERATED ON A HIGHWAY, OTHER THAN A TRUCK TRACTOR, SHALL CARRY ON THE REAR, EITHER AS A PART OF THE TAIL LAMPS OR SEPARATELY, EITHER:

1. TWO RED REFLECTORS THAT COMPLY WITH THIS SECTION.

2. IF IT IS A MOTORCYCLE OR A MOTOR DRIVEN CYCLE, AT LEAST ONE REFLECTOR THAT COMPLIES WITH THIS SECTION.

B. A VEHICLE OF THE TYPE PROVIDED IN SECTION 28-929 SHALL BE EQUIPPED WITH REFLECTORS AS REQUIRED IN THAT SECTION.

C. A REFLECTOR SHALL BE MOUNTED ON THE VEHICLE AT A HEIGHT OF NOT LESS THAN TWENTY INCHES NOR MORE THAN SIXTY INCHES MEASURED AS PROVIDED IN SECTION 28-923, SUBSECTION B AND SHALL BE OF SUCH SIZE AND CHARACTERISTICS AND SO MOUNTED AS TO BE VISIBLE AT NIGHT FROM ALL DISTANCES WITHIN THREE HUNDRED FEET TO FIFTY FEET FROM THE VEHICLE WHEN DIRECTLY IN FRONT OF LAWFUL UPPER BEAMS OF HEAD LAMPS, EXCEPT THAT VISIBILITY FROM A GREATER DISTANCE IS REQUIRED OF REFLECTORS ON CERTAIN TYPES OF VEHICLES.

28-927. Stop lamps

A PERSON SHALL NOT SELL A NEW MOTOR VEHICLE, INCLUDING A MOTORCYCLE OR MOTOR DRIVEN CYCLE, IN THIS STATE AND SHALL NOT DRIVE A VEHICLE ON THE HIGHWAYS UNLESS IT IS EQUIPPED WITH A STOP LAMP THAT MEETS THE REQUIREMENTS OF SECTION 28-939.

28-928. Applicability of lighting laws

THE SECTIONS OF THIS ARTICLE, INCLUDING SECTIONS 28-929 THROUGH 28-934, RELATING TO CLEARANCE AND MARKER LAMPS, REFLECTORS AND STOPLIGHTS, APPLY AS STATED IN THOSE SECTIONS TO VEHICLES OF THE TYPE ENUMERATED IN THE SECTIONS, NAMELY PASSENGER BUSES, TRUCKS, TRUCK TRACTORS AND CERTAIN TRAILERS, SEMITRAILERS AND POLE TRAILERS, RESPECTIVELY, WHEN OPERATED ON A HIGHWAY. THESE VEHICLES SHALL BE EQUIPPED AS REQUIRED AND ALL LAMP EQUIPMENT REQUIRED SHALL BE LIGHTED AT THE TIMES MENTIONED IN SECTION 28-922, EXCEPT THAT CLEARANCE AND SIDE MARKER LAMPS NEED NOT BE LIGHTED ON A VEHICLE WHEN OPERATED WITHIN ANY MUNICIPALITY WHERE THERE IS SUFFICIENT LIGHT TO RENDER CLEARLY DISCERNIBLE PERSONS AND VEHICLES ON THE HIGHWAY AT A DISTANCE OF FIVE HUNDRED FEET.

28-929. Additional lighting equipment required on certain vehicles

IN ADDITION TO OTHER EQUIPMENT REQUIRED IN THIS ARTICLE, THE FOLLOWING VEHICLES SHALL BE EQUIPPED WITH THE FOLLOWING EQUIPMENT UNDER THE CONDITIONS STATED IN SECTION 28-928:

1. ON A BUS OR TRUCK REGARDLESS OF SIZE, ON THE REAR, TWO REFLECTORS, ONE AT EACH SIDE, AND ONE STOPLIGHT.

2. ON A BUS OR TRUCK EIGHTY INCHES OR MORE IN OVERALL WIDTH, IN ADDITION TO THE REQUIREMENTS IN PARAGRAPH 1 OF THIS SECTION:

(a) ON THE FRONT, TWO CLEARANCE LAMPS, ONE AT EACH SIDE.

(b) ON THE REAR, TWO CLEARANCE LAMPS, ONE AT EACH SIDE.

(c) ON EACH SIDE, TWO SIDE MARKER LAMPS, ONE AT OR NEAR THE FRONT AND ONE AT OR NEAR THE REAR.

(d) ON EACH SIDE, TWO REFLECTORS, ONE AT OR NEAR THE FRONT AND ONE AT OR NEAR THE REAR.

3. ON A TRUCK TRACTOR:

(a) ON THE FRONT, TWO CLEARANCE LAMPS, ONE AT EACH SIDE.

(b) ON THE REAR, ONE STOPLIGHT.

4. ON A TRAILER OR SEMITRAILER WITH A GROSS WEIGHT OF MORE THAN THREE THOUSAND POUNDS:

(a) ON THE FRONT, TWO CLEARANCE LAMPS, ONE AT EACH SIDE.

(b) ON EACH SIDE, TWO SIDE MARKER LAMPS, ONE AT OR NEAR THE FRONT AND ONE AT OR NEAR THE REAR.

(c) ON EACH SIDE, TWO REFLECTORS, ONE AT OR NEAR THE FRONT AND ONE AT OR NEAR THE REAR.

(d) ON THE REAR, TWO CLEARANCE LAMPS, ONE AT EACH SIDE, AND TWO REFLECTORS, ONE AT EACH SIDE, AND ONE STOPLIGHT.

5. ON A POLE TRAILER WITH A GROSS WEIGHT OF MORE THAN THREE THOUSAND POUNDS:

(a) ON EACH SIDE, ONE SIDE MARKER LAMP AND ONE CLEARANCE LAMP THAT MAY BE IN COMBINATION, TO SHOW TO THE FRONT, SIDE AND REAR.

(b) ON THE REAR OF THE POLE TRAILER OR LOAD, TWO REFLECTORS, ONE AT EACH SIDE.

6. ON A TRAILER, SEMITRAILER OR POLE TRAILER WITH A GROSS WEIGHT OF THREE THOUSAND POUNDS OR LESS:

(a) ON THE REAR, TWO REFLECTORS, ONE ON EACH SIDE.

(b) ONE STOPLIGHT ON A TRAILER OR SEMITRAILER IF IT IS LOADED IN SUCH A MANNER OR IS OF SUCH DIMENSIONS AS TO OBSCURE THE STOPLIGHT ON THE TOWING VEHICLE.

28-930. <u>School bus lighting equipment; standards and specifications</u>

A. THE DIRECTOR MAY ADOPT STANDARDS AND SPECIFICATIONS APPLICABLE TO LIGHTING EQUIPMENT ON AND SPECIAL WARNING DEVICES TO BE CARRIED BY SCHOOL BUSES CONSISTENT WITH AND SUPPLEMENTAL TO THIS ARTICLE. THE STANDARDS AND SPECIFICATIONS MAY DESIGNATE AND PERMIT THE USE OF ALTERNATELY FLASHING WARNING SIGNAL LIGHTS ON SCHOOL BUSES FOR THE PURPOSE OF INDICATING WHEN CHILDREN ARE BOARDING OR ALIGHTING FROM A SCHOOL BUS. THE STANDARDS AND SPECIFICATIONS SHALL CORRELATE WITH AND, AS FAR AS POSSIBLE, CONFORM TO THE CURRENT SPECIFICATIONS AS APPROVED BY THE SOCIETY OF AUTOMOTIVE ENGINEERS.

B. A PERSON SHALL NOT OPERATE AN ALTERNATELY FLASHING WARNING SIGNAL LIGHT ON ANY SCHOOL BUS EXCEPT WHEN THE SCHOOL BUS IS WITHIN ONE HUNDRED FEET

OF A STOP OR IS STOPPED ON A HIGHWAY FOR THE PURPOSE OF PERMITTING SCHOOL CHILDREN TO BOARD OR ALIGHT FROM IT.

C. A SCHOOL BUS MAY BE EQUIPPED WITH ALTERNATELY FLASHING RED STROBE LAMPS ON THE OCTAGONAL SIGNAL MANUALLY OPERATED BY THE SCHOOL BUS OPERATOR PURSUANT TO SECTION 28-857, SUBSECTION C.

28-931. Lamp colors

A. FRONT CLEARANCE LAMPS AND THOSE MARKER LAMPS AND REFLECTORS MOUNTED ON THE FRONT OR ON THE SIDE NEAR THE FRONT OF A VEHICLE SHALL DISPLAY OR REFLECT AN AMBER COLOR.

B. REAR CLEARANCE LAMPS AND THOSE MARKER LAMPS AND REFLECTORS MOUNTED ON THE REAR OR ON THE SIDES NEAR THE REAR OF A VEHICLE SHALL DISPLAY OR REFLECT A RED COLOR.

C. ALL LIGHTING DEVICES AND REFLECTORS MOUNTED ON THE REAR OF ANY VEHICLE SHALL DISPLAY OR REFLECT A RED COLOR, EXCEPT THAT:

1. THE STOPLIGHT OR OTHER SIGNAL DEVICE MAY BE RED, AMBER OR YELLOW.

2. THE LIGHT ILLUMINATING THE LICENSE PLATE OR THE LIGHT EMITTED BY A BACKUP LAMP SHALL BE WHITE.

28-932. Reflector and lamp mountings

A. REFLECTORS THAT ARE REQUIRED BY SECTION 28-929 SHALL BE MOUNTED AT A HEIGHT OF NOT LESS THAN TWENTY-FOUR INCHES AND NOT MORE THAN SIXTY INCHES ABOVE THE GROUND ON WHICH THE VEHICLE STANDS, EXCEPT THAT IF THE HIGHEST PART OF THE PERMANENT STRUCTURE OF THE VEHICLE IS LESS THAN TWENTY-FOUR INCHES, THE REFLECTOR AT THAT POINT SHALL BE MOUNTED AS HIGH AS THAT PART OF THE PERMANENT STRUCTURE PERMITS.

B. THE REAR REFLECTORS ON A POLE TRAILER MAY BE MOUNTED ON EACH SIDE OF THE BOLSTER OR LOAD.

C. A REQUIRED RED REFLECTOR ON THE REAR OF A VEHICLE MAY BE INCORPORATED WITH THE TAIL LAMP, BUT THE REFLECTOR SHALL MEET ALL OF THE OTHER REFLECTOR REQUIREMENTS OF THIS ARTICLE.

D. CLEARANCE LAMPS SHALL BE MOUNTED ON THE PERMANENT STRUCTURE OF THE VEHICLE IN A MANNER THAT INDICATES ITS EXTREME WIDTH AND AS NEAR THE TOP OF THE VEHICLE AS PRACTICABLE. CLEARANCE LAMPS AND SIDE MARKER LAMPS MAY BE MOUNTED IN COMBINATION IF ILLUMINATION IS GIVEN AS REQUIRED BY THIS SECTION WITH REFERENCE TO BOTH.

28-933. Reflector and lamp visibility

A. A REFLECTOR ON A VEHICLE REFERRED TO IN SECTION 28-929 SHALL BE OF SUCH SIZE AND CHARACTERISTICS AND SO MAINTAINED AS TO BE READILY VISIBLE AT NIGHTTIME FROM ALL DISTANCES WITHIN FIVE HUNDRED FEET TO FIFTY FEET FROM THE VEHICLE WHEN DIRECTLY IN FRONT OF LAWFUL UPPER BEAMS OF HEAD LAMPS. REFLECTORS REQUIRED TO BE MOUNTED ON THE SIDES OF THE VEHICLE SHALL REFLECT THE REQUIRED COLOR OF LIGHT TO THE SIDES, AND REFLECTORS MOUNTED ON THE REAR SHALL REFLECT A RED COLOR TO THE REAR.

B. FRONT AND REAR CLEARANCE LAMPS SHALL BE CAPABLE OF BEING SEEN AND DISTINGUISHED UNDER NORMAL ATMOSPHERIC CONDITIONS AT THE TIMES LIGHTS ARE

REQUIRED AT A DISTANCE OF FIVE HUNDRED FEET FROM THE FRONT AND REAR, RESPECTIVELY, OF THE VEHICLE.

C. SIDE MARKER LAMPS SHALL BE CAPABLE OF BEING SEEN AND DISTINGUISHED UNDER NORMAL ATMOSPHERIC CONDITIONS AT THE TIMES LIGHTS ARE REQUIRED AT A DISTANCE OF FIVE HUNDRED FEET FROM THE SIDE OF THE VEHICLE ON WHICH MOUNTED.

28-934. Obstructed lights not required

IF MOTOR AND OTHER VEHICLES ARE OPERATED IN COMBINATION WHEN LIGHTS ARE REQUIRED, ANY LAMP, EXCEPT TAIL LAMPS, NEED NOT BE LIGHTED IF THE LAMP WOULD BE OBSCURED BY ANOTHER VEHICLE OF THE COMBINATION BY REASON OF ITS LOCATION ON A VEHICLE OF THE COMBINATION. THIS SECTION DOES NOT AFFECT THE REQUIREMENT THAT LIGHTED CLEARANCE LAMPS BE DISPLAYED ON THE FRONT OF THE FOREMOST VEHICLE REQUIRED TO HAVE CLEARANCE LAMPS OR THAT ALL LIGHTS REQUIRED ON THE REAR OF THE REARMOST VEHICLE OF ANY COMBINATION BE LIGHTED.

28-935. Lamp or flag on projecting load

A. IF THE LOAD ON A VEHICLE EXTENDS TO THE REAR FOUR FEET OR MORE BEYOND THE BED OR BODY OF THE VEHICLE, A RED LIGHT OR LANTERN PLAINLY VISIBLE FROM A DISTANCE OF AT LEAST FIVE HUNDRED FEET TO THE SIDES AND REAR SHALL BE DISPLAYED AT THE EXTREME REAR END OF THE LOAD, AT THE TIMES SPECIFIED IN SECTION 28-922. THE RED LIGHT OR LANTERN REQUIRED BY THIS SECTION IS IN ADDITION TO THE RED REAR LIGHT REQUIRED ON EVERY VEHICLE.

B. AT ANY OTHER TIME, A RED FLAG OR CLOTH NOT LESS THAN TWELVE INCHES SQUARE SHALL BE DISPLAYED AT THE EXTREME REAR END OF THE LOAD. THE FLAG OR CLOTH SHALL BE DISPLAYED SO THAT THE ENTIRE AREA IS VISIBLE TO THE DRIVER OF A VEHICLE APPROACHING FROM THE REAR.

28-936. Lamps on parked vehicles

A. WHEN A VEHICLE IS LAWFULLY PARKED ON A STREET OR HIGHWAY DURING THE HOURS BETWEEN A HALF HOUR AFTER SUNSET AND A HALF HOUR BEFORE SUNRISE AND IF THERE IS SUFFICIENT LIGHT TO REVEAL A PERSON OR OBJECT WITHIN A DISTANCE OF FIVE HUNDRED FEET ON THE STREET OR HIGHWAY, LIGHTS NEED NOT BE DISPLAYED ON THE PARKED VEHICLE.

B. WHEN A VEHICLE IS PARKED OR STOPPED ON A ROADWAY OR SHOULDER ADJACENT TO THE ROADWAY, WHETHER ATTENDED OR UNATTENDED, DURING THE HOURS BETWEEN A HALF HOUR AFTER SUNSET AND A HALF HOUR BEFORE SUNRISE AND IF THERE IS NOT SUFFICIENT LIGHT TO REVEAL A PERSON OR OBJECT WITHIN A DISTANCE OF FIVE HUNDRED FEET ON THE HIGHWAY, THE PARKED OR STOPPED VEHICLE SHALL BE EQUIPPED WITH ONE OR MORE LAMPS THAT EXHIBIT A WHITE OR AMBER LIGHT ON THE ROADWAY SIDE AND THAT ARE VISIBLE FROM A DISTANCE OF FIVE HUNDRED FEET TO THE FRONT OF THE VEHICLE AND A RED LIGHT VISIBLE FROM A DISTANCE OF FIVE HUNDRED FEET TO THE REAR. THIS SUBSECTION DOES NOT APPLY TO A MOTOR DRIVEN CYCLE.

C. A LIGHTED HEAD LAMP ON A PARKED VEHICLE SHALL BE DEPRESSED OR DIMMED.

28-937. Lamps on other vehicles and equipment

ALL VEHICLES, INCLUDING ANIMAL-DRAWN VEHICLES AND VEHICLES THAT ARE REFERRED TO IN SECTION 28-921, SUBSECTION C AND THAT ARE NOT SPECIFICALLY

REQUIRED BY THIS ARTICLE TO BE EQUIPPED WITH LAMPS, SHALL BE EQUIPPED AT THE TIMES SPECIFIED IN SECTION 28-922 WITH AT LEAST ONE LIGHTED LAMP OR LANTERN EXHIBITING A WHITE LIGHT VISIBLE FROM A DISTANCE OF FIVE HUNDRED FEET TO THE FRONT OF THE VEHICLE AND WITH A LAMP OR LANTERN EXHIBITING A RED LIGHT VISIBLE FROM A DISTANCE OF FIVE HUNDRED FEET TO THE REAR.

28-938. Spot and auxiliary lamps

A MOTOR VEHICLE MAY BE EQUIPPED WITH ANY OF THE FOLLOWING:

1. NOT MORE THAN ONE SPOT LAMP THAT WHEN LIGHTED IS AIMED AND USED ON APPROACHING ANOTHER VEHICLE ONLY SO THAT NO PART OF THE HIGH INTENSITY PORTION OF THE BEAM IS DIRECTED TO THE LEFT OF THE PROLONGATION OF THE EXTREME LEFT SIDE OF THE VEHICLE NOR MORE THAN ONE HUNDRED FEET AHEAD OF THE VEHICLE.

2. NOT MORE THAN TWO FOG LAMPS THAT ARE MOUNTED ON THE FRONT AT A HEIGHT OF NOT LESS THAN TWELVE INCHES AND NOT MORE THAN THIRTY INCHES ABOVE THE LEVEL SURFACE ON WHICH THE VEHICLE STANDS AND THAT ARE AIMED SO THAT WHEN THE VEHICLE IS NOT LOADED NONE OF THE HIGH INTENSITY PORTION OF THE LIGHT TO THE LEFT OF THE CENTER OF THE VEHICLE SHALL PROJECT, AT A DISTANCE OF TWENTY-FIVE FEET AHEAD, HIGHER THAN A LEVEL OF FOUR INCHES BELOW THE LEVEL OF THE CENTER OF THE LAMP THAT IS AIMED.

3. NOT MORE THAN TWO AUXILIARY PASSING LAMPS THAT ARE MOUNTED ON THE FRONT AT A HEIGHT OF NOT LESS THAN TWENTY-FOUR INCHES AND NOT MORE THAN FORTY-TWO INCHES ABOVE THE LEVEL SURFACE ON WHICH THE VEHICLE STANDS AND THAT MEET THE REQUIREMENTS AND LIMITATIONS PROVIDED IN SECTIONS 28-921 THROUGH 28-951.

4. NOT MORE THAN TWO AUXILIARY DRIVING LAMPS THAT ARE MOUNTED ON THE FRONT AT A HEIGHT OF NOT LESS THAN SIXTEEN INCHES NOR MORE THAN FORTY-TWO INCHES ABOVE THE LEVEL SURFACE ON WHICH THE VEHICLE STANDS AND THAT MEET THE REQUIREMENTS AND LIMITATIONS PROVIDED IN SECTIONS 28-921 THROUGH 28-951.

28-939. Signal lamps and devices

A. A MOTOR VEHICLE MAY BE EQUIPPED AND IF REQUIRED UNDER THIS ARTICLE SHALL BE EQUIPPED WITH THE FOLLOWING:

1. A STOP LAMP ON THE REAR THAT EMITS A RED OR YELLOW LIGHT, THAT IS ACTUATED ON APPLICATION OF THE SERVICE OR FOOT BRAKE AND THAT MAY BE INCORPORATED WITH A TAIL LAMP.

2. ONE OR MORE LAMPS OR A MECHANICAL SIGNAL DEVICE THAT IS CAPABLE OF CLEARLY INDICATING AN INTENTION TO TURN EITHER TO THE RIGHT OR TO THE LEFT AND THAT IS VISIBLE BOTH FROM THE FRONT AND REAR.

B. A STOP LAMP SHALL BE PLAINLY VISIBLE AND UNDERSTANDABLE FROM A DISTANCE OF ONE HUNDRED FEET TO THE REAR BOTH DURING NORMAL SUNLIGHT AND AT NIGHTTIME. A SIGNAL LAMP OR LAMPS INDICATING THE INTENTION TO TURN SHALL BE VISIBLE AND UNDERSTANDABLE DURING DAYTIME AND NIGHTTIME FROM A DISTANCE OF ONE HUNDRED FEET BOTH TO THE FRONT AND REAR. IF A VEHICLE IS EQUIPPED WITH A STOP LAMP OR OTHER SIGNAL LAMPS, THE LAMP OR LAMPS SHALL:

1. BE MAINTAINED AT ALL TIMES IN GOOD WORKING CONDITION.

2. NOT PROJECT A GLARING OR DAZZLING LIGHT.

C. A MECHANICAL SIGNAL DEVICE SHALL BE SELF-ILLUMINATED WHEN IN USE AT THE TIMES PROVIDED IN SECTION 28-922.

28-940. Additional lighting equipment

A MOTOR VEHICLE MAY BE EQUIPPED WITH ANY OF THE FOLLOWING:

1. NOT MORE THAN TWO SIDE COWL OR FENDER LAMPS THAT EMIT AN AMBER OR WHITE LIGHT WITHOUT GLARE.

2. NOT MORE THAN ONE RUNNING BOARD COURTESY LAMP ON EACH SIDE OF THE MOTOR VEHICLE THAT EMITS A WHITE OR AMBER LIGHT WITHOUT GLARE.

3. NOT MORE THAN TWO BACKUP LAMPS EITHER SEPARATELY OR IN COMBINATION WITH OTHER LAMPS, BUT A BACKUP LAMP SHALL NOT BE LIGHTED WHEN THE MOTOR VEHICLE IS IN FORWARD MOTION.

28-941. Multiple beam road lighting equipment arrangement

EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, THE HEAD LAMPS, THE AUXILIARY DRIVING LAMP OR THE AUXILIARY PASSING LAMP OR COMBINATIONS OF THE HEAD LAMPS, DRIVING LAMP OR PASSING LAMP ON A MOTOR VEHICLE OTHER THAN A MOTOR DRIVEN CYCLE SHALL BE ARRANGED SO THAT SELECTION MAY BE MADE BETWEEN DISTRIBUTIONS OF LIGHT PROJECTED TO DIFFERENT ELEVATIONS, SUBJECT TO THE FOLLOWING REQUIREMENTS AND LIMITATIONS:

1. THERE SHALL BE AN UPPERMOST DISTRIBUTION OF LIGHT, OR COMPOSITE BEAM, SO AIMED AND OF SUFFICIENT INTENSITY TO REVEAL PERSONS AND VEHICLES AT A DISTANCE OF AT LEAST THREE HUNDRED FIFTY FEET AHEAD FOR ALL CONDITIONS OF LOADING.

2. THERE SHALL BE A LOWERMOST DISTRIBUTION OF LIGHT, OR COMPOSITE BEAM, SO AIMED AND OF SUFFICIENT INTENSITY TO REVEAL PERSONS AND VEHICLES AT A DISTANCE OF AT LEAST ONE HUNDRED FEET AHEAD, AND UNDER ANY CONDITION OF LOADING, NONE OF THE HIGH INTENSITY PORTION OF THE BEAM SHALL BE DIRECTED TO STRIKE THE EYES OF AN APPROACHING DRIVER.

3. A NEW MOTOR VEHICLE, OTHER THAN A MOTOR DRIVEN CYCLE, THAT IS REGISTERED IN THIS STATE AND THAT HAS MULTIPLE BEAM ROAD LIGHTING EQUIPMENT SHALL BE EQUIPPED WITH A BEAM INDICATOR THAT IS:

(a) LIGHTED WHEN THE UPPERMOST DISTRIBUTION OF LIGHT FROM THE HEAD LAMPS IS IN USE AND NOT OTHERWISE LIGHTED.

(b) DESIGNED AND LOCATED SO THAT WHEN LIGHTED IT IS READILY VISIBLE WITHOUT GLARE TO THE DRIVER OF THE VEHICLE.

4. A PERSON SHALL NOT OPERATE A MOTOR VEHICLE WITH A COLORED TRANSPARENT OR TRANSLUCENT SUBSTANCE OR MATERIAL INSTALLED, AFFIXED OR APPLIED ON OR IN FRONT OF THE HEAD LAMPS, THE AUXILIARY DRIVING LAMP OR THE AUXILIARY PASSING LAMP OR COMBINATIONS OF THE HEAD LAMPS, DRIVING LAMP OR PASSING LAMP THAT WOULD OBSTRUCT, REDUCE OR INTERFERE WITH THE VISIBILITY OR EFFECTIVENESS OF THE HEAD LAMPS OR THAT WOULD CHANGE THE COLOR OF LIGHT EMITTED. THIS PARAGRAPH DOES NOT PROHIBIT THE PLACEMENT OF CLEAR TRANSPARENT MATERIAL MOUNTED IN FRONT OF THE HEAD LAMPS, FOG LAMPS OR AUXILIARY DRIVING LAMPS.

28-942. Multiple beam road lighting equipment usage

IF A MOTOR VEHICLE IS OPERATED ON A ROADWAY OR SHOULDER ADJACENT TO A ROADWAY DURING THE TIMES PROVIDED IN SECTION 28-922, THE DRIVER SHALL USE A DISTRIBUTION OF LIGHT OR COMPOSITE BEAM THAT IS DIRECTED HIGH ENOUGH AND THAT HAS SUFFICIENT INTENSITY TO REVEAL PERSONS AND VEHICLES AT A SAFE DISTANCE IN ADVANCE OF THE VEHICLE, SUBJECT TO THE FOLLOWING REQUIREMENTS AND LIMITATIONS:

1. IF A DRIVER OF A VEHICLE APPROACHES AN ONCOMING VEHICLE WITHIN FIVE HUNDRED FEET, THE DRIVER SHALL USE A DISTRIBUTION OF LIGHT OR COMPOSITE BEAM AIMED SO THAT THE GLARING RAYS ARE NOT PROJECTED INTO THE EYES OF THE ONCOMING DRIVER. THE LOWERMOST DISTRIBUTION OF LIGHT OR COMPOSITE BEAM PROVIDED IN SECTION 28-941, PARAGRAPH 2 IS DEEMED TO AVOID GLARE AT ALL TIMES, REGARDLESS OF ROAD CONTOUR AND LOADING.

2. IF THE DRIVER OF A VEHICLE FOLLOWS ANOTHER VEHICLE WITHIN TWO HUNDRED FEET TO THE REAR, EXCEPT WHEN ENGAGED IN THE ACT OF OVERTAKING AND PASSING, THE DRIVER SHALL USE A DISTRIBUTION OF LIGHT PERMISSIBLE UNDER THIS ARTICLE OTHER THAN THE UPPERMOST DISTRIBUTION OF LIGHT SPECIFIED IN SECTION 28-941, PARAGRAPH 1.

28-943. Single beam road lighting equipment

HEAD LAMPS THAT ARE ARRANGED TO PROVIDE A SINGLE DISTRIBUTION OF LIGHT ARE PERMITTED ON MOTOR VEHICLES MANUFACTURED AND SOLD BEFORE JANUARY 1, 1951, IN LIEU OF MULTIPLE BEAM ROAD LIGHTING EQUIPMENT SPECIFIED IN THIS ARTICLE, IF THE SINGLE DISTRIBUTION OF LIGHT COMPLIES WITH THE FOLLOWING REQUIREMENTS AND LIMITATIONS:

1. THE HEAD LAMPS ARE AIMED SO THAT WHEN THE VEHICLE IS NOT LOADED NONE OF THE HIGH INTENSITY PORTION OF THE LIGHT PROJECTS, AT A DISTANCE OF TWENTY-FIVE FEET AHEAD, HIGHER THAN A LEVEL OF FIVE INCHES BELOW THE LEVEL OF THE CENTER OF THE LAMP THAT IS AIMED AND IN NO CASE HIGHER THAN FORTY-TWO INCHES ABOVE THE LEVEL ON WHICH THE VEHICLE STANDS AT A DISTANCE OF SEVENTY-FIVE FEET AHEAD.

2. THE INTENSITY IS SUFFICIENT TO REVEAL PERSONS AND VEHICLES AT A DISTANCE OF AT LEAST TWO HUNDRED FEET.

28-944. Lighting equipment on motor driven cycles

THE HEAD LAMP OR HEAD LAMPS ON A MOTOR DRIVEN CYCLE MAY BE OF THE SINGLE BEAM OR MULTIPLE BEAM TYPE AND SHALL COMPLY WITH REQUIREMENTS AND LIMITATIONS AS FOLLOWS:

1. A HEAD LAMP OR HEAD LAMPS ON A MOTOR DRIVEN CYCLE SHALL BE OF SUFFICIENT INTENSITY TO REVEAL A PERSON OR A VEHICLE AT A DISTANCE OF NOT LESS THAN ONE HUNDRED FEET WHEN THE MOTOR DRIVEN CYCLE IS OPERATED AT A SPEED OF LESS THAN TWENTY-FIVE MILES PER HOUR AND AT A DISTANCE OF NOT LESS THAN TWO HUNDRED FEET WHEN THE MOTOR DRIVEN CYCLE IS OPERATED AT A SPEED OF TWENTY-FIVE OR MORE MILES PER HOUR, AND THE MOTOR DRIVEN CYCLE IS SUBJECT TO THE SPEED LIMITATIONS IN SECTION 28-705.

2. IF THE MOTOR DRIVEN CYCLE IS EQUIPPED WITH A MULTIPLE BEAM HEAD LAMP OR HEAD LAMPS:

(a) THE UPPER BEAM SHALL MEET THE MINIMUM REQUIREMENTS PROVIDED IN PARAGRAPH 1 OF THIS SECTION AND SHALL NOT EXCEED THE LIMITATIONS SET FORTH IN SECTION 28-941, PARAGRAPH 1.

(b) THE LOWERMOST BEAM SHALL MEET THE REQUIREMENTS APPLICABLE TO A LOWERMOST DISTRIBUTION OF LIGHT AS SET FORTH IN SECTION 28-941, PARAGRAPH 2.

3. IF THE MOTOR DRIVEN CYCLE IS EQUIPPED WITH A SINGLE BEAM LAMP OR LAMPS, THE LAMP OR LAMPS SHALL BE AIMED SO THAT WHEN THE VEHICLE IS LOADED NONE OF THE HIGH INTENSITY PORTION OF LIGHT, AT A DISTANCE OF TWENTY-FIVE FEET AHEAD, PROJECTS HIGHER THAN THE LEVEL OF THE CENTER OF THE LAMP FROM WHICH IT COMES.

28-945. Alternate road lighting equipment

A MOTOR VEHICLE MAY BE OPERATED UNDER THE CONDITIONS SPECIFIED IN SECTION 28-922 WHEN IT IS EQUIPPED WITH TWO LIGHTED LAMPS THAT ARE ON THE FRONT OF THE MOTOR VEHICLE AND THAT ARE CAPABLE OF REVEALING PERSONS AND OBJECTS SEVENTY-FIVE FEET AHEAD IN LIEU OF LAMPS REQUIRED IN SECTION 28-941 OR 28-943, BUT THE MOTOR VEHICLE SHALL NOT BE OPERATED AT A SPEED OF MORE THAN TWENTY MILES PER HOUR.

28-946. Number of driving lamps required or permitted

A. AT ALL TIMES PROVIDED IN SECTION 28-922, AT LEAST TWO LIGHTED LAMPS SHALL BE DISPLAYED, ONE ON EACH SIDE AT THE FRONT OF A MOTOR VEHICLE OTHER THAN A MOTORCYCLE OR MOTOR DRIVEN CYCLE, EXCEPT WHEN THE VEHICLE IS PARKED SUBJECT TO THE RULES GOVERNING LIGHTS ON PARKED VEHICLES.

B. IF A MOTOR VEHICLE EQUIPPED WITH HEAD LAMPS AS REQUIRED BY THIS ARTICLE IS ALSO EQUIPPED WITH ANY AUXILIARY LAMPS, SPOT LAMP OR OTHER LAMP ON THE FRONT OF THE MOTOR VEHICLE PROJECTING A BEAM OF INTENSITY GREATER THAN THREE HUNDRED CANDLEPOWER, NOT MORE THAN FOUR OF ANY SUCH LAMPS ON THE FRONT OF A VEHICLE SHALL BE LIGHTED AT ANY ONE TIME WHEN ON A HIGHWAY.

28-947. Special restrictions on lamps

A. A PERSON SHALL DIRECT A LIGHTED LAMP OR ILLUMINATING DEVICE ON A MOTOR VEHICLE, OTHER THAN A HEAD LAMP, SPOT LAMP, AUXILIARY LAMP OR FLASHING FRONT DIRECTION SIGNAL, THAT PROJECTS A BEAM OF LIGHT OF AN INTENSITY GREATER THAN THREE HUNDRED CANDLEPOWER SO THAT NO PART OF THE BEAM STRIKES THE LEVEL OF THE ROADWAY ON WHICH THE VEHICLE STANDS AT A DISTANCE OF MORE THAN SEVENTY-FIVE FEET FROM THE VEHICLE.

B. A PERSON SHALL NOT DRIVE OR MOVE A VEHICLE OR EQUIPMENT ON A HIGHWAY WITH A LAMP OR DEVICE ON THE VEHICLE THAT IS CAPABLE OF DISPLAYING A RED OR RED AND BLUE LIGHT OR LENS VISIBLE FROM DIRECTLY IN FRONT OF THE CENTER OF THE VEHICLE. LIGHTS VISIBLE FROM THE FRONT OF A VEHICLE SHALL BE AMBER OR WHITE. THIS SECTION DOES NOT APPLY TO AN AUTHORIZED EMERGENCY VEHICLE OR A VEHICLE ON WHICH A RED OR RED AND BLUE LIGHT OR LENS VISIBLE FROM THE FRONT IS EXPRESSLY AUTHORIZED OR REQUIRED BY THIS CHAPTER.

C. EXCEPT AS PROVIDED IN SUBSECTION D OR E OF THIS SECTION, FLASHING LIGHTS ON MOTOR VEHICLES ARE PROHIBITED EXCEPT EITHER:

1. ON AUTHORIZED EMERGENCY VEHICLES, SCHOOL BUSES OR SNOW REMOVAL EQUIPMENT.

2. AS WARNING LIGHTS ON DISABLED OR PARKED VEHICLES.

3. ON A VEHICLE AS A MEANS FOR INDICATING A RIGHT OR LEFT TURN.

D. A VEHICLE MAY HAVE LAMPS THAT MAY BE USED TO WARN THE OPERATORS OF OTHER VEHICLES OF THE PRESENCE OF A VEHICULAR TRAFFIC HAZARD REQUIRING THE EXERCISE OF UNUSUAL CARE IN APPROACHING, OVERTAKING OR PASSING. THE VEHICLE MAY DISPLAY THESE LAMPS AS A WARNING IN ADDITION TO ANY OTHER WARNING SIGNALS REQUIRED BY THIS ARTICLE. THE LAMPS USED TO DISPLAY THE WARNING TO THE FRONT SHALL BE MOUNTED AT THE SAME LEVEL AND AS WIDELY SPACED LATERALLY AS PRACTICABLE AND SHALL DISPLAY SIMULTANEOUSLY FLASHING WHITE OR AMBER LIGHTS OR ANY SHADE OF COLOR BETWEEN WHITE AND AMBER. THE LAMPS USED TO DISPLAY THE WARNING TO THE REAR SHALL BE MOUNTED AT THE SAME LEVEL AND AS WIDELY SPACED LATERALLY AS PRACTICABLE AND SHALL SHOW SIMULTANEOUSLY FLASHING AMBER OR RED LIGHTS OR ANY SHADE OF COLOR BETWEEN AMBER AND RED. THESE WARNING LIGHTS SHALL BE VISIBLE FROM A DISTANCE OF AT LEAST ONE THOUSAND FIVE HUNDRED FEET UNDER NORMAL ATMOSPHERIC CONDITIONS AT NIGHT.

E. A PERSON MAY EQUIP A MOTORCYCLE WITH A MEANS OF MODULATING THE INTENSITY OF A HEAD LAMP BEAM BETWEEN THE HIGHER AND LOWER BRIGHTNESS AT A RATE OF TWO HUNDRED TO TWO HUNDRED EIGHTY CYCLES PER MINUTE. A PERSON SHALL NOT MODULATE THE HEAD LAMP BEAM DURING THE HOURS OF DARKNESS AS PRESCRIBED IN SECTION 28-922.

28-948. Snow removal equipment lamps

A. THE DIRECTOR SHALL ADOPT STANDARDS AND SPECIFICATIONS APPLICABLE TO HEAD LAMPS, CLEARANCE LAMPS, IDENTIFICATION AND OTHER LAMPS ON SNOW REMOVAL EQUIPMENT WHEN OPERATED ON THE HIGHWAYS OF THIS STATE IN LIEU OF THE LAMPS OTHERWISE REQUIRED ON MOTOR VEHICLES BY THIS ARTICLE. THE STANDARDS AND SPECIFICATIONS:

1. MAY PERMIT THE USE OF FLASHING LIGHTS FOR PURPOSES OF IDENTIFICATION ON SNOW REMOVAL EQUIPMENT WHEN IN SERVICE ON A HIGHWAY.

2. SHALL CORRELATE WITH AND, AS FAR AS POSSIBLE, CONFORM WITH THOSE APPROVED BY THE AMERICAN ASSOCIATION OF STATE HIGHWAY OFFICIALS.

B. A PERSON SHALL NOT OPERATE SNOW REMOVAL EQUIPMENT ON A HIGHWAY UNLESS THE LAMPS ON THE EQUIPMENT COMPLY WITH AND ARE LIGHTED WHEN AND AS REQUIRED BY THE STANDARDS AND SPECIFICATIONS ADOPTED PURSUANT TO THIS SECTION.

28-949. Selling or using lamps

A. A PERSON SHALL NOT HAVE FOR SALE, SELL OR OFFER FOR SALE FOR USE ON OR AS A PART OF THE EQUIPMENT OF A MOTOR VEHICLE, TRAILER OR SEMITRAILER OR SHALL NOT USE ON ANY SUCH VEHICLE A REFLECTOR THAT IS REQUIRED BY THIS ARTICLE, HEAD LAMP, AUXILIARY DRIVING LAMP, REAR LAMP, SIGNAL LAMP OR PARTS OF ANY OF THE FOREGOING THAT TEND TO CHANGE THE ORIGINAL DESIGN OR

PERFORMANCE UNLESS THE LAMPS OR REFLECTORS ARE OF A TYPE THAT HAS BEEN SUBMITTED TO AND APPROVED BY THE DEPARTMENT.

B. A PERSON SHALL NOT HAVE FOR SALE, SELL OR OFFER FOR SALE FOR USE ON OR AS A PART OF THE EQUIPMENT OF A MOTOR VEHICLE, TRAILER OR SEMITRAILER A LAMP OR DEVICE THAT IS DESCRIBED IN THIS SECTION AND THAT HAS BEEN APPROVED BY THE DEPARTMENT UNLESS THE LAMP OR DEVICE BEARS THE TRADEMARK OR NAME UNDER WHICH IT IS APPROVED SO AS TO BE LEGIBLE WHEN INSTALLED.

C. A PERSON SHALL NOT USE ON ANY MOTOR VEHICLE, TRAILER OR SEMITRAILER A LAMP THAT IS DESCRIBED IN THIS SECTION UNLESS THE LAMP IS MOUNTED AND ADJUSTED TO FOCUS AND AIM PURSUANT TO INSTRUCTIONS OF THE DEPARTMENT.

28-950. Department authority; lighting devices

A. THE DEPARTMENT MAY:

1. APPROVE OR DISAPPROVE LIGHTING DEVICES, ADOPT RULES AND ENFORCE RULES AND SPECIFICATIONS FOR THE APPROVAL OF THE LIGHTING DEVICES AND THE INSTALLATION AND AIMING OF THE DEVICES WITHIN THE STANDARDS PRESCRIBED IN THIS ARTICLE.

2. DETERMINE THE PROCEDURE TO BE FOLLOWED WHEN A DEVICE IS SUBMITTED FOR APPROVAL.

B. THE DEPARTMENT SHALL:

1. WITHIN A REASONABLE TIME AFTER THE DEVICE IS SUBMITTED, APPROVE OR DISAPPROVE A LIGHTING DEVICE THAT IS OF A TYPE FOR WHICH APPROVAL IS REQUIRED BY THIS ARTICLE.

2. ON APPROVING A LAMP OR DEVICE, ISSUE TO THE APPLICANT A CERTIFICATE OF APPROVAL TOGETHER WITH ANY INSTRUCTIONS DETERMINED BY THE DEPARTMENT.

3. PUBLISH LISTS OF ALL LAMPS AND DEVICES BY NAME AND TYPE THAT THE DEPARTMENT APPROVES.

28-951. Suspension or revocation; certificate of approval on lighting devices

A. IF THE DEPARTMENT HAS REASON TO BELIEVE THAT AN APPROVED DEVICE THAT IS SOLD COMMERCIALLY DOES NOT COMPLY WITH THE REQUIREMENTS OF THIS ARTICLE, IT MAY CONDUCT A HEARING ON THE QUESTION OF COMPLIANCE OF THE APPROVED DEVICE AFTER GIVING THIRTY DAYS' NOTICE TO THE PERSON HOLDING THE CERTIFICATE OF APPROVAL FOR THE DEVICE IN THIS STATE. AFTER THE HEARING, THE DEPARTMENT SHALL DETERMINE IF THE APPROVED DEVICE MEETS THE REQUIREMENTS OF THIS ARTICLE. IF THE DEVICE DOES NOT MEET THE REQUIREMENTS OF THIS ARTICLE, THE DEPARTMENT SHALL NOTIFY THE PERSON HOLDING THE CERTIFICATE OF APPROVAL FOR THE DEVICE IN THIS STATE.

B. NINETY DAYS AFTER NOTICE IF THE PERSON HOLDING THE CERTIFICATE OF APPROVAL FOR THE DEVICE HAS FAILED TO SATISFY THE DEPARTMENT THAT THE APPROVED DEVICE MEETS THE REQUIREMENTS OF THIS ARTICLE, THE DEPARTMENT:

1. SHALL SUSPEND OR REVOKE THE APPROVAL UNTIL OR UNLESS THE DEVICE IS RESUBMITTED TO AND RETESTED BY AN AUTHORIZED TESTING AGENCY AND IS FOUND TO MEET THE REQUIREMENTS OF THIS ARTICLE.

2. MAY REQUIRE THE PERSON TO REPLACE ALL OF THE DEVICES SOLD SINCE THE NOTIFICATION FOLLOWING THE HEARING WITH DEVICES THAT COMPLY WITH THE REQUIREMENTS OF THIS ARTICLE.

3. AT THE TIME OF THE RETEST, MAY PURCHASE IN THE OPEN MARKET AND SUBMIT TO A TESTING AGENCY ONE OR MORE SETS OF THE APPROVED DEVICES. IF THE DEVICE ON THE RETEST FAILS TO MEET THE REQUIREMENTS OF THIS ARTICLE, THE DEPARTMENT MAY REFUSE TO RENEW THE CERTIFICATE OF APPROVAL OF THE DEVICE.

28-952. Required brake equipment

A. THE FOLLOWING BRAKE EQUIPMENT IS REQUIRED:

1. A MOTOR VEHICLE, OTHER THAN A MOTORCYCLE OR MOTOR DRIVEN CYCLE, IF IT IS OPERATED ON A HIGHWAY SHALL BE EQUIPPED WITH BRAKES ADEQUATE TO CONTROL THE MOVEMENT OF AND TO STOP AND HOLD THE VEHICLE, INCLUDING TWO SEPARATE MEANS OF APPLYING THE BRAKES, EACH OF WHICH MEANS IS EFFECTIVE TO APPLY THE BRAKES TO AT LEAST TWO WHEELS. IF THESE TWO SEPARATE MEANS OF APPLYING THE BRAKES ARE CONNECTED IN ANY WAY, THEY SHALL BE CONSTRUCTED SO THAT FAILURE OF ANY ONE PART OF THE OPERATING MECHANISM DOES NOT LEAVE THE MOTOR VEHICLE WITHOUT BRAKES ON AT LEAST TWO WHEELS.

2. A MOTORCYCLE AND EVERY MOTOR DRIVEN CYCLE WHEN OPERATED ON A HIGHWAY SHALL BE EQUIPPED WITH AT LEAST ONE BRAKE THAT MAY BE OPERATED BY HAND OR FOOT.

3. WHEN IT IS OPERATED ON A HIGHWAY A TRAILER OR SEMITRAILER WITH A GROSS WEIGHT OF THREE THOUSAND POUNDS OR MORE SHALL BE EQUIPPED WITH BRAKES THAT ARE ADEQUATE TO CONTROL THE MOVEMENT OF AND TO STOP AND TO HOLD THE VEHICLE AND THAT ARE DESIGNED TO EITHER BE APPLIED BY THE DRIVER OF THE TOWING MOTOR VEHICLE FROM ITS CAB OR BE OF A TYPE THAT OPERATES AUTOMATICALLY WHEN THE SERVICE BRAKES OF THE TOWING MOTOR VEHICLE ARE APPLIED. THE BRAKES SHALL BE DESIGNED AND CONNECTED SO THAT IN CASE OF AN ACCIDENTAL BREAKAWAY OF THE TOWED VEHICLE THE BRAKES SHALL BE AUTOMATICALLY APPLIED, EXCEPT THAT BRAKES ARE NOT REQUIRED ON ALL WHEELS OF A TRUCK THAT IS BEING TOWED AS A SEMITRAILER AND THAT IS BEING TOWED IN A DRIVE-AWAY, TOW-AWAY OPERATION, IF THE COMBINATION OF VEHICLES IS CAPABLE OF COMPLYING WITH ALL STATE AND FEDERAL BRAKE PERFORMANCE REQUIREMENTS. ONLY THOSE BRAKES ON THE VEHICLE BEING TOWED NEED TO BE OPERATIVE AS MAY BE NECESSARY TO ENSURE COMPLIANCE WITH THE PERFORMANCE REQUIREMENTS.

4. A NEW MOTOR VEHICLE, TRAILER OR SEMITRAILER, EXCEPT A MOTORCYCLE OR MOTOR DRIVEN CYCLE, SOLD IN THIS STATE AND OPERATED ON THE HIGHWAYS SHALL BE EQUIPPED WITH SERVICE BRAKES ON ALL WHEELS OF THE VEHICLE, EXCEPT THAT:

(a) A SEMITRAILER OR TRAILER WITH A GROSS WEIGHT OF LESS THAN THREE THOUSAND POUNDS NEED NOT BE EQUIPPED WITH BRAKES.

(b) A SEMITRAILER OR TRAILER WITH A GROSS WEIGHT OF LESS THAN SIX THOUSAND POUNDS MAY HAVE BRAKES ONLY ON ALL WHEELS OF ONE AXLE.

(c) THREE AXLE TRUCK TRACTORS NEED ONLY BE EQUIPPED WITH BRAKES ON ALL WHEELS OF THE TWO REAR AXLES.

5. IN ANY COMBINATION OF MOTOR DRAWN VEHICLES, MEANS SHALL BE PROVIDED FOR EITHER OR BOTH OF THE FOLLOWING IF CAPABLE OF BEING USED ALTERNATIVELY:

(a) APPLYING THE REARMOST TRAILER BRAKES OF A TRAILER EQUIPPED WITH BRAKES IN APPROXIMATE SYNCHRONISM WITH THE BRAKES ON THE TOWING VEHICLE AND DEVELOPING THE REQUIRED BRAKING EFFORT ON THE REARMOST WHEELS AT THE FASTEST RATE.

(b) APPLYING BRAKING EFFORT FIRST ON THE REARMOST TRAILER EQUIPPED WITH BRAKES.

6. A MOTOR VEHICLE AND COMBINATION OF VEHICLES MANUFACTURED OR SOLD IN THIS STATE AFTER JULY 1, 1964, EXCEPT MOTORCYCLES AND MOTOR DRIVEN CYCLES, SHALL BE EQUIPPED WITH PARKING BRAKES THAT ARE:

(a) ADEQUATE TO HOLD THE VEHICLE ON ANY GRADE ON WHICH IT IS OPERATED UNDER ALL CONDITIONS OF LOADING ON A SURFACE FREE FROM SNOW, ICE OR LOOSE MATERIAL.

(b) CAPABLE OF BEING APPLIED IN CONFORMANCE WITH THE REQUIREMENTS OF SUBDIVISION (a) OF THIS PARAGRAPH BY THE DRIVER'S MUSCULAR EFFORT, BY SPRING ACTION OR BY EQUIVALENT MEANS. THE OPERATION OF THE PARKING BRAKES MAY BE ASSISTED BY THE SERVICE BRAKES OR OTHER SOURCE OF POWER, IF FAILURE OF THE SERVICE BRAKE ACTUATION SYSTEM OR OTHER POWER ASSISTING MECHANISM WILL NOT PREVENT THE PARKING BRAKES FROM BEING APPLIED IN CONFORMANCE WITH THE FOREGOING REQUIREMENTS.

(c) DESIGNED SO THAT WHEN THE BRAKES ARE APPLIED THEY SHALL REMAIN APPLIED WITH THE REQUIRED EFFECTIVENESS DESPITE EXHAUSTION OF ANY SOURCE OF ENERGY OR LEAKAGE OF ANY KIND.

7. THE SAME BRAKE DRUMS, BRAKE SHOES AND LINING ASSEMBLIES, BRAKE SHOE ANCHORS AND MECHANICAL BRAKE SHOE ACTUATION MECHANISM NORMALLY ASSOCIATED WITH THE WHEEL BRAKE ASSEMBLIES MAY BE USED FOR BOTH THE SERVICE BRAKES AND THE PARKING BRAKES. IF THE MEANS OF APPLYING THE PARKING BRAKES AND THE SERVICE BRAKES ARE CONNECTED IN ANY WAY, THEY SHALL BE CONSTRUCTED SO THAT FAILURE OF ANY ONE PART DOES NOT LEAVE THE VEHICLE WITHOUT OPERATIVE BRAKES.

8. THE BRAKE SHOES OPERATING WITHIN OR ON THE DRUMS ON THE VEHICLE WHEELS OF A MOTOR VEHICLE MAY BE USED FOR BOTH SERVICE AND HAND OPERATION.

B. AT ALL TIMES, UNDER ALL CONDITIONS OF LOADING, ON A DRY, SMOOTH, LEVEL ROAD FREE FROM LOOSE MATERIAL AND ON APPLICATION OF THE SERVICE OR FOOT BRAKE, A MOTOR VEHICLE OR COMBINATION OF MOTOR DRAWN VEHICLES SHALL BE CAPABLE OF BEING STOPPED WITHIN THE DISTANCES SPECIFIED BELOW OR OF BEING DECELERATED AT A SUSTAINED RATE CORRESPONDING TO THESE DISTANCES:

	FEET TO STOP FROM 20 MILES PER HOUR	DECELERATION IN FEET PER SECOND
VEHICLES OR COMBINATIONS OF VEHICLES HAVING BRAKES ON ALL WHEELS	30	14
VEHICLES OR COMBINATIONS OF VEHICLES NOT HAVING BRAKES ON ALL WHEELS	40	10.7

C. BRAKES SHALL BE MAINTAINED IN GOOD WORKING ORDER AND SHALL BE ADJUSTED TO OPERATE AS EQUALLY AS PRACTICABLE WITH RESPECT TO THE WHEELS ON OPPOSITE SIDES OF THE VEHICLE.

28-952.01. Brake fluid standards; sale prohibited; definition

A. THE DEPARTMENT SHALL ADOPT RULES REGULATING THE STANDARDS AND SPECIFICATIONS OF BRAKE FLUID AND PROHIBITING THE SALE OF BRAKE FLUID THAT DOES NOT MEET THE STANDARDS AND SPECIFICATIONS SET BY THE DEPARTMENT. THE RULES SHALL:

1. ESTABLISH MINIMUM STANDARDS AND SPECIFICATIONS FOR BRAKE FLUIDS AS WILL PROMOTE PUBLIC SAFETY IN THE OPERATION OF MOTOR VEHICLES IN THIS STATE.

2. REQUIRE BRAKE FLUID TO BE DISTRIBUTED AND SERVICED WITH DUE REGARD FOR THE SAFETY OF THE OCCUPANTS OF THE VEHICLE AND THE PUBLIC.

3. REQUIRE THE LABEL ON EACH CONTAINER OF BRAKE FLUID TO SHOW COMPLIANCE WITH THE STANDARDS AND SPECIFICATIONS SET BY THE DEPARTMENT.

4. PROHIBIT THE SALE OF BRAKE FLUID THAT DOES NOT MEET THE STANDARDS AND SPECIFICATIONS SET BY THE DEPARTMENT.

B. NOTWITHSTANDING SUBSECTION A, PARAGRAPH 1 OF THIS SECTION AND IN ORDER TO PROMOTE UNIFORMITY BETWEEN THE REQUIREMENTS OF THE SEVERAL STATES AND TO AVOID INCREASED COST TO THE PEOPLE OF THIS STATE DUE TO THE NECESSITY OF COMPLYING WITH DIVERSE REQUIREMENTS IN THE DISTRIBUTION AND SALE OF BRAKE FLUIDS, THE DEPARTMENT MAY:

1. ADOPT THE STANDARDS AND SPECIFICATIONS OF THE SOCIETY OF AUTOMOTIVE ENGINEERS FOR HEAVY-DUTY TYPE BRAKE FLUID.

2. AMEND OR MODIFY THE SPECIFICATIONS AFTER A PUBLIC HEARING AS THE DEPARTMENT FINDS IS NECESSARY FOR THE PROTECTION OF THE PUBLIC SAFETY.

C. AFTER ADOPTION OF THE STANDARDS, SPECIFICATIONS AND RULES PROVIDED FOR IN SUBSECTIONS A AND B OF THIS SECTION, THE DEPARTMENT SHALL PUBLISH THEM ONCE IN A NEWSPAPER OF GENERAL CIRCULATION IN THIS STATE. AFTER SIX MONTHS FROM THE DATE OF THE PUBLICATION, IN COMPLIANCE WITH SECTIONS 41-1031 AND 41-1032, A PERSON SHALL NOT SELL A BRAKE FLUID THAT DOES NOT MEET THE RULES, STANDARDS AND SPECIFICATIONS ADOPTED BY THE DEPARTMENT.

D. FOR THE PURPOSES OF THIS SECTION, "BRAKE FLUID" MEANS THE LIQUID MEDIUM THROUGH WHICH FORCE IS TRANSMITTED TO THE BRAKES IN THE BRAKE SYSTEM OF A MOTOR VEHICLE.

28-953. Brakes on motor driven cycles

A. THE DIRECTOR MAY:

1. REQUIRE AN INSPECTION OF THE BRAKE ON A MOTOR DRIVEN CYCLE.

2. DISAPPROVE A BRAKE THAT DOES NOT COMPLY WITH THE PERFORMANCE ABILITY STANDARD PROVIDED IN SECTION 28-952 OR THAT IS NOT SO DESIGNED OR CONSTRUCTED TO ENSURE REASONABLE AND RELIABLE PERFORMANCE IN ACTUAL USE.

B. THE DIRECTOR MAY REFUSE TO REGISTER OR MAY SUSPEND OR REVOKE THE REGISTRATION OF A VEHICLE REFERRED TO IN THIS SECTION IF THE DIRECTOR DETERMINES THAT THE BRAKE ON THE VEHICLE DOES NOT COMPLY WITH THIS SECTION.

C. A PERSON SHALL NOT OPERATE ON A HIGHWAY A VEHICLE REFERRED TO IN THIS SECTION IF THE DIRECTOR HAS DISAPPROVED THE BRAKE EQUIPMENT ON THE VEHICLE OR TYPE OF VEHICLE.

28-954. Horns and warning devices

A. A MOTOR VEHICLE WHEN OPERATED ON A HIGHWAY SHALL BE EQUIPPED WITH A HORN THAT IS IN GOOD WORKING ORDER AND THAT IS CAPABLE OF EMITTING SOUND AUDIBLE UNDER NORMAL CONDITIONS FROM A DISTANCE OF AT LEAST TWO HUNDRED FEET. ANY HORN OR OTHER WARNING DEVICE SHALL NOT EMIT AN UNREASONABLY LOUD OR HARSH SOUND OR A WHISTLE.

B. IF REASONABLY NECESSARY TO ENSURE THE SAFE OPERATION OF A MOTOR VEHICLE, THE DRIVER SHALL GIVE AN AUDIBLE WARNING WITH THE DRIVER'S HORN BUT SHALL NOT OTHERWISE USE THE HORN WHEN ON A HIGHWAY.

C. A VEHICLE SHALL NOT BE EQUIPPED WITH AND A PERSON SHALL NOT USE ON A VEHICLE A SIREN, WHISTLE OR BELL, EXCEPT AS OTHERWISE PERMITTED IN THIS SECTION.

D. A VEHICLE MAY BUT IS NOT REQUIRED TO BE EQUIPPED WITH A THEFT ALARM SIGNAL DEVICE THAT IS ARRANGED SO THAT IT CANNOT BE USED BY THE DRIVER AS AN ORDINARY WARNING SIGNAL.

E. AN AUTHORIZED EMERGENCY VEHICLE MAY BE EQUIPPED WITH A SIREN, WHISTLE OR BELL THAT IS CAPABLE OF EMITTING SOUND AUDIBLE UNDER NORMAL CONDITIONS FROM A DISTANCE OF AT LEAST FIVE HUNDRED FEET AND THAT IS OF A TYPE APPROVED BY THE DEPARTMENT. THE SIREN SHALL NOT BE USED EXCEPT WHEN THE VEHICLE IS OPERATED IN RESPONSE TO AN EMERGENCY CALL OR IN THE IMMEDIATE PURSUIT OF AN ACTUAL OR SUSPECTED VIOLATOR OF THE LAW OR WHEN NECESSARY TO SERVE A CIVIL TRAFFIC COMPLAINT. DURING THESE EVENTS THE DRIVER OF THE VEHICLE SHALL SOUND THE SIREN WHEN REASONABLY NECESSARY TO WARN PEDESTRIANS AND OTHER DRIVERS OF THE APPROACH OF THE EMERGENCY VEHICLE.

28-955. Mufflers; noise and air pollution prevention; emission control devices; civil penalty

A. A MOTOR VEHICLE SHALL BE EQUIPPED AT ALL TIMES WITH A MUFFLER THAT IS IN GOOD WORKING ORDER AND THAT IS IN CONSTANT OPERATION TO PREVENT EXCESSIVE OR UNUSUAL NOISE.

B. A PERSON SHALL NOT USE A MUFFLER CUTOUT, BYPASS OR SIMILAR DEVICE ON A MOTOR VEHICLE ON A HIGHWAY.

C. THE ENGINE AND POWER MECHANISM OF A MOTOR VEHICLE SHALL BE EQUIPPED AND ADJUSTED TO PREVENT THE ESCAPE OF EXCESSIVE FUMES OR SMOKE.

D. BEGINNING WITH MOTOR VEHICLES AND MOTOR VEHICLE ENGINES OF THE 1968 MODEL YEAR, MOTOR VEHICLES AND MOTOR VEHICLE ENGINES SHALL BE EQUIPPED WITH EMISSIONS CONTROL DEVICES THAT MEET THE STANDARDS ESTABLISHED BY THE DIRECTOR OF ENVIRONMENTAL QUALITY.

E. A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO A CIVIL PENALTY OF AT LEAST ONE HUNDRED DOLLARS.

28-955.01. Motorcycles; noise level equipment; unauthorized equipment

A. A PERSON SHALL NOT OPERATE OR AS AN OWNER PERMIT THE OPERATION OF A MOTORCYCLE IN THIS STATE THAT IS NOT EQUIPPED WITH THE MANUFACTURER'S ORIGINAL MUFFLER OR OTHER ORIGINAL NOISE REDUCTION EQUIPMENT OR WITH A REPLACEMENT MUFFLER OR REPLACEMENT NOISE REDUCTION EQUIPMENT CAPABLE OF REDUCING THE NOISE LEVELS BELOW THE MAXIMUM OPERATING NOISE LEVELS ESTABLISHED BY THE DEPARTMENT PURSUANT TO SECTION 28-955.02.

B. A PERSON SHALL NOT USE A MUFFLER CUTOUT, BYPASS OR SIMILAR DEVICE ON A MOTORCYCLE OPERATED IN THIS STATE.

28-955.02. Motorcycle noise level rules

A. THE DEPARTMENT SHALL ESTABLISH BY RULE MAXIMUM OPERATING NOISE LEVELS FOR MOTORCYCLES OPERATED IN THIS STATE.

B. THE RULES SHALL:

1. PROVIDE FOR VARYING MAXIMUM OPERATIONAL NOISE LEVELS FOR MOTORCYCLES, CATEGORIZED BY YEAR OF MANUFACTURE AND SPEED OF OPERATION OF THE MOTORCYCLE.

2. BE BASED ON NOISE REDUCTION LEVELS ACHIEVED BY REASONABLE AND PRUDENT OPERATION OF A MOTORCYCLE AND PROPER MAINTENANCE OF THE NOISE REDUCTION EQUIPMENT.

28-955.03. Exemption for racing motorcycles; definition

A. SECTIONS 28-955.01 AND 28-955.02 DO NOT APPLY TO A RACING MOTORCYCLE OPERATED IN A RACING EVENT OR IN A FACILITY USED FOR A RACING EVENT.

B. FOR THE PURPOSES OF THIS SECTION, "RACING MOTORCYCLE" MEANS EITHER:

1. A MOTORCYCLE THAT IS INTENDED BY THE MANUFACTURER TO BE OPERATED AT A FACILITY USED FOR A RACING EVENT.

2. A MOTORCYCLE THAT HAS BEEN MODIFIED BY THE OWNER TO BE OPERATED AT A FACILITY USED FOR A RACING EVENT.

28-956. Mirrors

A MOTOR VEHICLE THAT IS CONSTRUCTED OR LOADED IN A MANNER THAT OBSTRUCTS THE DRIVER'S VIEW TO THE REAR OF THE VEHICLE FROM THE DRIVER'S POSITION SHALL BE EQUIPPED WITH A MIRROR LOCATED IN A MANNER TO REFLECT TO THE DRIVER A VIEW OF THE HIGHWAY FOR A DISTANCE OF AT LEAST TWO HUNDRED FEET TO THE REAR OF THE VEHICLE.

28-957. Windshield wipers required; golf cart exception

A. THE WINDSHIELD ON A MOTOR VEHICLE SHALL BE EQUIPPED WITH A DEVICE FOR CLEANING RAIN, SNOW OR OTHER MOISTURE FROM THE WINDSHIELD. THE DEVICE SHALL BE CONSTRUCTED IN A MANNER TO BE CONTROLLED OR OPERATED BY THE DRIVER OF THE VEHICLE.

B. A WINDSHIELD WIPER ON A MOTOR VEHICLE SHALL BE MAINTAINED IN GOOD WORKING ORDER.

C. THIS SECTION DOES NOT APPLY TO A GOLF CART.

28-957.01. Windshields required

A. A PASSENGER VEHICLE, EXCEPT A MOTORCYCLE AND A GOLF CART, AND A MOTOR TRUCK OR TRUCK TRACTOR, EXCEPT FIRE TRUCKS, FIRE ENGINES OR OTHER FIRE APPARATUS, WHETHER PUBLICLY OR PRIVATELY OWNED, SHALL BE EQUIPPED WITH AN ADEQUATE WINDSHIELD.

B. THIS SECTION DOES NOT APPLY TO AN IMPLEMENT OF HUSBANDRY OR TO AN ANTIQUE, CLASSIC OR HORSELESS CARRIAGE AUTOMOBILE IF IT WAS NOT ORIGINALLY EQUIPPED WITH A WINDSHIELD.

28-958. Tire equipment restrictions

A. A SOLID RUBBER TIRE ON A VEHICLE SHALL HAVE RUBBER ON ITS ENTIRE TRACTION SURFACE AT LEAST ONE INCH THICK ABOVE THE EDGE OF THE FLANGE OF THE ENTIRE PERIPHERY.

B. A TIRE ON A VEHICLE THAT IS MOVED ON A HIGHWAY SHALL NOT HAVE ON ITS PERIPHERY ANY BLOCK, STUD, FLANGE, CLEAT, SPIKE OR OTHER PROTUBERANCE THAT IS MADE OF ANY MATERIAL OTHER THAN RUBBER AND THAT PROJECTS BEYOND THE TREAD OF THE TRACTION SURFACE OF THE TIRE, EXCEPT THAT IT IS PERMISSIBLE TO USE:

1. FARM MACHINERY WITH TIRES HAVING PROTUBERANCES THAT WILL NOT INJURE THE HIGHWAY.

2. TIRE CHAINS OF REASONABLE PROPORTIONS ON A VEHICLE WHEN REQUIRED FOR SAFETY BECAUSE OF SNOW, ICE OR OTHER CONDITIONS TENDING TO CAUSE A VEHICLE TO SKID.

3. FROM OCTOBER 1 TO MAY 1 PNEUMATIC TIRES CONTAINING METAL TYPE STUDS OF TUNGSTEN CARBIDE OR OTHER SUITABLE MATERIAL THAT ARE INSERTED OR CONSTRUCTED IN A MANNER SO THAT THE NUMBER OF STUDS OR THE PERCENTAGE OF METAL IN CONTACT WITH THE ROADWAY DOES NOT EXCEED THREE PER CENT OF THE TOTAL TIRE AREA IN CONTACT WITH THE ROADWAY UNDER ANY CONDITIONS.

C. THE DIRECTOR AND LOCAL AUTHORITIES IN THEIR RESPECTIVE JURISDICTIONS MAY ISSUE SPECIAL PERMITS AUTHORIZING THE OPERATION ON A HIGHWAY OF TRACTION ENGINES OR TRACTORS HAVING MOVABLE TRACKS WITH TRANSVERSE CORRUGATIONS ON THE PERIPHERY OF THE MOVABLE TRACKS OR FARM TRACTORS OR OTHER FARM MACHINERY, THE OPERATION OF WHICH ON A HIGHWAY WOULD OTHERWISE BE PROHIBITED UNDER THIS CHAPTER.

28-958.01. Rear fender splash guards

A. A PERSON SHALL NOT OPERATE A TRUCK, TRAILER, SEMITRAILER OR BUS ON A HIGHWAY UNLESS THE VEHICLE IS EQUIPPED WITH REAR FENDER SPLASH GUARDS THAT COMPLY WITH THE SPECIFICATIONS PROVIDED IN THIS SECTION.

B. THE SPLASH GUARDS:

1. SHALL BE ATTACHED IN A MANNER THAT PREVENTS THE SPLASHING OF MUD OR WATER ON THE WINDSHIELD OF OTHER MOTOR VEHICLES.

2. SHALL EXTEND TO A LENGTH OF NOT MORE THAN EIGHT INCHES FROM THE GROUND.

3. SHALL BE WIDE ENOUGH TO COVER THE FULL TREAD OR TREADS OF THE TIRES BEING PROTECTED.

4. SHALL BE INSTALLED CLOSE ENOUGH TO THE TREAD SURFACE OF THE TIRE OR WHEEL TO CONTROL THE SIDE THROW OF THE BULK OF THE THROWN ROAD SURFACE MATERIAL.

5. MAY BE CONSTRUCTED OF A FLEXIBLE RUBBERIZED MATERIAL.

6. SHALL BE ATTACHED IN A MANNER THAT, REGARDLESS OF MOVEMENT EITHER IN THE SPLASH GUARDS OR THE VEHICLE, THE SPLASH GUARDS RETAIN THEIR GENERAL PARALLEL RELATIONSHIP TO THE TREAD SURFACE OF THE TIRE OR WHEEL UNDER ALL ORDINARY OPERATING CONDITIONS.

C. THIS SECTION DOES NOT APPLY TO:

1. A VEHICLE COMMONLY KNOWN AS A PICKUP TRUCK WITH A MANUFACTURER'S RATING OF THREE-QUARTER TON OR LESS, EXCEPT THAT THIS SECTION APPLIES IF THE PICKUP TRUCK HAS BEEN MODIFIED FROM THE ORIGINAL BUMPER HEIGHT DESIGN TO RAISE THE CENTER OF GRAVITY OF THE PICKUP TRUCK.

2. A TRUCK TRACTOR OR CONVERTER DOLLY WHEN USED IN COMBINATION WITH ANOTHER VEHICLE.

28-959. Safety glass required; applicability; approval list; denial or suspension of registration; definition

A. A PERSON SHALL NOT SELL AND THE DEPARTMENT SHALL NOT REGISTER A NEW MOTOR VEHICLE AS SPECIFIED IN THIS SECTION UNLESS THE VEHICLE IS EQUIPPED WITH SAFETY GLASS WHEREVER GLASS IS USED IN DOORS, WINDOWS AND WINDSHIELDS. THE SAFETY GLASS SHALL BE OF A TYPE APPROVED BY THE DIRECTOR.

B. THIS SECTION APPLIES TO PASSENGER MOTOR VEHICLES, OTHER THAN GOLF CARTS, INCLUDING PASSENGER BUSES AND SCHOOL BUSES. FOR TRUCKS, INCLUDING TRUCK TRACTORS, THE REQUIREMENTS OF THIS SECTION FOR SAFETY GLASS APPLY TO ALL GLASS USED IN DOORS, WINDOWS AND WINDSHIELDS IN THE DRIVERS' COMPARTMENTS OF THE VEHICLES.

C. THE DIRECTOR SHALL COMPILE AND PUBLISH A LIST OF TYPES OF GLASS BY NAME THAT ARE APPROVED BY THE DIRECTOR AND THAT MEET THE REQUIREMENTS OF THIS SECTION.

D. THE DIRECTOR SHALL NOT REGISTER A NEW MOTOR VEHICLE UNLESS IT IS EQUIPPED WITH AN APPROVED TYPE OF SAFETY GLASS. THE DIRECTOR SHALL SUSPEND THE REGISTRATION OF ANY MOTOR VEHICLE THAT IS SUBJECT TO THIS SECTION AND THAT THE DIRECTOR FINDS IS NOT EQUIPPED WITH AN APPROVED TYPE OF SAFETY

GLASS. THE SUSPENSION SHALL CONTINUE UNTIL THE MOTOR VEHICLE IS MADE TO CONFORM TO THE REQUIREMENTS OF THIS SECTION.

E. A PERSON SHALL NOT REPLACE GLASS OR GLAZING MATERIALS USED IN PARTITIONS, DOORS, WINDOWS, WINDSHIELDS OR WIND DEFLECTORS IN A MOTOR VEHICLE WITH A MATERIAL OTHER THAN SAFETY GLASS OF A TYPE APPROVED BY THE DIRECTOR.

F. FOR THE PURPOSES OF THIS SECTION, "SAFETY GLASS" MEANS EITHER:

1. A PRODUCT COMPOSED OF GLASS THAT IS MANUFACTURED, FABRICATED OR TREATED IN A MANNER THAT SUBSTANTIALLY PREVENTS SHATTERING AND FLYING OF THE GLASS WHEN STRUCK OR BROKEN.

2. OTHER OR SIMILAR PRODUCTS AS APPROVED BY THE DIRECTOR.

28-959.01. <u>Materials on windows or windshield; exceptions; requirements; violation; definitions</u>

A. THIS SECTION DOES NOT APPLY TO:

1. FRONT SIDE WING VENTS AND WINDOWS THAT HAVE A SUBSTANCE OR MATERIAL IN CONJUNCTION WITH GLAZING MATERIAL THAT HAS A LIGHT TRANSMISSION OF THIRTY-THREE PER CENT PLUS OR MINUS THREE PER CENT AND A LUMINOUS REFLECTANCE OF THIRTY-FIVE PER CENT PLUS OR MINUS THREE PER CENT.

2. FRONT SIDE WING VENTS AND WINDOWS THAT HAVE A SUBSTANCE OR MATERIAL NOT ATTACHED IN CONJUNCTION WITH GLAZING MATERIAL THAT IS USED BY A VEHICLE OPERATOR ON A MOVING VEHICLE DURING DAYLIGHT HOURS AS PROVIDED IN SECTION 28-922.

3. REARVIEW MIRRORS.

4. ADJUSTABLE NONTRANSPARENT SUN VISORS THAT ARE MOUNTED FORWARD OF THE SIDE WINDOWS AND THAT ARE NOT ATTACHED TO THE GLASS.

5. SIGNS, STICKERS OR OTHER MATERIALS THAT ARE EITHER:

(a) DISPLAYED IN A SEVEN INCH SQUARE IN THE LOWER CORNER OF THE WINDSHIELD FARTHEST REMOVED FROM THE DRIVER.

(b) DISPLAYED IN A FIVE INCH SQUARE IN THE LOWER CORNER OF THE WINDSHIELD NEAREST THE DRIVER.

6. SIDE WINDOWS THAT ARE TO THE REAR OF THE DRIVER AND REAR WINDOWS THAT HAVE A SUBSTANCE OR MATERIAL IN CONJUNCTION WITH GLAZING MATERIAL THAT HAS A LUMINOUS REFLECTANCE OF THIRTY-FIVE PER CENT PLUS OR MINUS THREE PER CENT OR LESS.

7. DIRECTION, DESTINATION OR TERMINATION SIGNS ON A PASSENGER COMMON CARRIER MOTOR VEHICLE, IF THE SIGNS DO NOT INTERFERE WITH THE DRIVER'S CLEAR VIEW OF APPROACHING TRAFFIC.

8. REAR WINDOW WIPER MOTORS.

9. A REAR TRUNK LID HANDLE OR HINGES.

10. THE REAR WINDOW OR WINDOWS IF THE MOTOR VEHICLE IS EQUIPPED WITH OUTSIDE MIRRORS THAT ARE ON BOTH LEFT-HAND AND RIGHT-HAND SIDES OF THE VEHICLE AND THAT ARE LOCATED IN A MANNER TO REFLECT TO THE DRIVER A VIEW OF THE HIGHWAY THROUGH EACH MIRROR FOR A DISTANCE OF AT LEAST TWO HUNDRED FEET TO THE REAR OF THE MOTOR VEHICLE.

11. TRANSPARENT MATERIAL THAT IS INSTALLED, AFFIXED OR APPLIED TO THE TOPMOST PORTION OF THE WINDSHIELD IF:

(a) THE BOTTOM EDGE OF THE MATERIAL IS AT LEAST TWENTY-NINE INCHES ABOVE THE UNDEPRESSED DRIVER'S SEAT WHEN MEASURED FROM A POINT FIVE INCHES IN FRONT OF THE BOTTOM OF THE BACKREST WITH THE DRIVER'S SEAT IN ITS REARMOST AND LOWERMOST POSITION WITH THE VEHICLE ON A LEVEL SURFACE.

(b) THE MATERIAL IS NOT RED OR AMBER IN COLOR.

B. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A PERSON SHALL NOT OPERATE A MOTOR VEHICLE WITH AN OBJECT OR MATERIAL PLACED, DISPLAYED, INSTALLED, AFFIXED OR APPLIED ON THE WINDSHIELD OR SIDE OR REAR WINDOWS OR WITH AN OBJECT OR MATERIAL PLACED, DISPLAYED, INSTALLED, AFFIXED OR APPLIED IN OR ON THE MOTOR VEHICLE IN A MANNER THAT OBSTRUCTS OR REDUCES A DRIVER'S CLEAR VIEW THROUGH THE WINDSHIELD OR SIDE OR REAR WINDOWS.

C. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A PERSON SHALL NOT PLACE, INSTALL, AFFIX OR APPLY A TRANSPARENT MATERIAL ON THE WINDSHIELD OR SIDE OR REAR WINDOWS OF A MOTOR VEHICLE IF THE MATERIAL ALTERS THE COLOR OR REDUCES THE LIGHT TRANSMITTANCE OF THE WINDSHIELD OR SIDE OR REAR WINDOWS.

D. EACH MANUFACTURER SHALL CERTIFY TO THE DIRECTOR THAT THE PRODUCT OR MATERIAL THE MANUFACTURER MANUFACTURES OR ASSEMBLES COMPLIES WITH THE REFLECTIVITY AND TRANSMITTANCE REQUIREMENTS OF THIS SECTION.

E. THIS SECTION DOES NOT PERMIT OR PROHIBIT THE USE AND PLACEMENT OF FEDERAL, STATE OR LOCAL CERTIFICATES ON ANY WINDOW AS ARE REQUIRED OR PROHIBITED BY APPLICABLE LAWS.

F. A PERSON WHO SELLS OR INSTALLS OBJECTS OR MATERIALS UNDER THIS SECTION SHALL SET FORTH IN A CONSPICUOUS MANNER THAT THE INSTALLATION OF THE OBJECT OR MATERIAL TO THE DRIVER OR PASSENGER SIDE WINDOW MAY BE ILLEGAL IN SOME STATES.

G. ON APPLICATION FROM A PERSON REQUIRED FOR MEDICAL REASONS TO BE SHIELDED FROM THE DIRECT RAYS OF THE SUN THAT IS SUPPORTED BY WRITTEN ATTESTATION OF THIS FACT FROM A PHYSICIAN LICENSED PURSUANT TO TITLE 32, CHAPTER 13 OR 17, THE DEPARTMENT MAY ISSUE AN EXEMPTION FROM THIS SECTION FOR A MOTOR VEHICLE BELONGING TO THE PERSON OR IN WHICH THE PERSON IS A HABITUAL PASSENGER. A PERSON MAY OPERATE A VEHICLE OR ALTER THE COLOR OR REDUCE THE LIGHT TRANSMITTED THROUGH THE SIDE OR REAR WINDOWS OF A VEHICLE PURSUANT TO AN EXEMPTION ISSUED BY THE DIRECTOR.

H. IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "LIGHT TRANSMISSION" MEANS THE RATIO OF THE AMOUNT OF TOTAL LIGHT, EXPRESSED IN PERCENTAGES, THAT IS ALLOWED TO PASS THROUGH THE PRODUCT OR MATERIAL INCLUDING THE GLAZING TO THE AMOUNT OF TOTAL LIGHT FALLING ON THE PRODUCT OR MATERIAL AND THE GLAZING.

2. "LUMINOUS REFLECTANCE" MEANS THE RATIO OF THE AMOUNT OF TOTAL LIGHT, EXPRESSED IN PERCENTAGES, THAT IS REFLECTED OUTWARD BY THE PRODUCT OR MATERIAL TO THE AMOUNT OF TOTAL LIGHT FALLING ON THE PRODUCT OR MATERIAL.

3. "MANUFACTURER" MEANS EITHER:

(a) A PERSON WHO ENGAGES IN THE MANUFACTURING OR ASSEMBLING OF SUN SCREENING PRODUCTS OR MATERIALS DESIGNED TO BE USED IN CONJUNCTION WITH VEHICLE GLAZING MATERIALS.

(b) A PERSON WHO FABRICATES, LAMINATES OR TEMPERS THE GLAZING MATERIAL INCORPORATING THE CAPACITY TO REFLECT OR TO REDUCE THE TRANSMITTANCE OF LIGHT DURING THE MANUFACTURING PROCESS.

28-960. Flares; warning devices; requirements

A. EXCEPT AS PROVIDED IN SUBSECTION B, A PERSON SHALL NOT OPERATE A MOTOR TRUCK, PASSENGER BUS OR TRUCK TRACTOR ON A HIGHWAY OUTSIDE THE CORPORATE LIMITS OF A CITY OR TOWN FROM A HALF HOUR AFTER SUNSET TO A HALF HOUR BEFORE SUNRISE UNLESS THE FOLLOWING EQUIPMENT IS CARRIED IN THE VEHICLE:

1. AT LEAST THREE FLARES OR THREE RED ELECTRIC LANTERNS THAT COMPLY WITH THE FOLLOWING:

(a) EACH FLARE OR LANTERN IS CAPABLE OF BEING SEEN AND DISTINGUISHED AT A DISTANCE OF FIVE HUNDRED FEET UNDER NORMAL ATMOSPHERIC CONDITIONS AT NIGHTTIME.

(b) EACH FLARE OR LIQUID-BURNING POT TORCH IS CAPABLE OF BURNING FOR AT LEAST TWELVE HOURS IN FIVE MILES PER HOUR WIND VELOCITY AND CAPABLE OF BURNING IN ANY AIR VELOCITY FROM ZERO TO FORTY MILES PER HOUR.

(c) EACH FLARE IS SUBSTANTIALLY CONSTRUCTED TO WITHSTAND REASONABLE SHOCKS WITHOUT LEAKING.

(d) EACH FLARE IS CARRIED IN THE VEHICLE IN A METAL RACK OR BOX.

(e) EACH RED ELECTRIC LANTERN IS CAPABLE OF OPERATING CONTINUOUSLY FOR AT LEAST TWELVE HOURS AND IS SUBSTANTIALLY CONSTRUCTED TO WITHSTAND REASONABLE SHOCK WITHOUT BREAKAGE.

2. AT LEAST THREE RED-BURNING FUSEES, UNLESS RED ELECTRIC LANTERNS ARE CARRIED, THAT ARE:

(a) MADE IN ACCORDANCE WITH SPECIFICATIONS OF THE BUREAU OF EXPLOSIVES, 30 VESEY STREET, NEW YORK CITY AND SO MARKED.

(b) CAPABLE OF BURNING AT LEAST FIFTEEN MINUTES.

3. AT LEAST TWO RED CLOTH FLAGS THAT ARE AT LEAST TWELVE INCHES SQUARE AND HAVE STANDARDS TO SUPPORT THE FLAGS.

B. AT THE TIME AND UNDER THE CONDITIONS STATED IN SUBSECTION A, A PERSON SHALL NOT OPERATE A MOTOR VEHICLE USED IN TRANSPORTING FLAMMABLE LIQUIDS IN BULK OR TRANSPORTING COMPRESSED FLAMMABLE GASES, UNLESS THREE RED ELECTRIC LANTERNS MEETING THE REQUIREMENTS STATED IN SUBSECTION A ARE CARRIED IN THE VEHICLE. A FLARE, FUSEE OR SIGNAL PRODUCED BY A FLAME SHALL NOT BE CARRIED IN A VEHICLE DESCRIBED IN THIS SUBSECTION.

C. A PERSON IS IN COMPLIANCE WITH THIS SECTION IF THE PERSON OPERATES A MOTOR VEHICLE DESCRIBED IN THIS SECTION AND CARRIES IN THE VEHICLE THREE PORTABLE REFLECTOR UNITS ON STANDARDS AND OF A TYPE APPROVED BY THE DEPARTMENT. THE DEPARTMENT SHALL NOT APPROVE A PORTABLE REFLECTOR UNIT

UNLESS IT IS DESIGNED AND CONSTRUCTED TO MEET THE REQUIREMENTS OF 49 CODE OF FEDERAL REGULATIONS SECTION 571.125.

28-961. Display of warning devices; disabled vehicle

A. EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, IF A MOTOR TRUCK, PASSENGER BUS, TRUCK TRACTOR, TRAILER, SEMITRAILER OR POLE TRAILER IS DISABLED ON THE TRAVELED PORTION OF A HIGHWAY OR THE SHOULDER OF A HIGHWAY OUTSIDE OF A CITY OR TOWN AT A TIME WHEN LIGHTED LAMPS ARE REQUIRED ON VEHICLES, THE DRIVER OF THE VEHICLE SHALL DISPLAY THE FOLLOWING WARNING DEVICES ON THE HIGHWAY DURING THE TIME THE VEHICLE IS DISABLED ON THE HIGHWAY:

1. A LIGHTED FUSEE IMMEDIATELY PLACED ON THE ROADWAY AT THE TRAFFIC SIDE OF THE MOTOR VEHICLE UNLESS ELECTRIC LANTERNS ARE DISPLAYED.

2. WITHIN THE BURNING PERIOD OF THE FUSEE AND AS PROMPTLY AS POSSIBLE, THREE LIGHTED FLARES OR POT TORCHES OR THREE ELECTRIC LANTERNS PLACED ON THE ROADWAY AS FOLLOWS:

(a) ONE AT A DISTANCE OF APPROXIMATELY ONE HUNDRED FEET IN ADVANCE OF THE VEHICLE AND ONE AT A DISTANCE OF APPROXIMATELY ONE HUNDRED FEET TO THE REAR OF THE VEHICLE, EACH IN THE CENTER OF THE LANE OF TRAFFIC OCCUPIED BY THE DISABLED VEHICLE.

(b) ONE AT THE TRAFFIC SIDE OF THE VEHICLE APPROXIMATELY TEN FEET REARWARD OR FORWARD OF THE VEHICLE.

B. IF A VEHICLE THAT IS USED IN TRANSPORTING FLAMMABLE LIQUIDS IN BULK OR COMPRESSED FLAMMABLE GASES IS DISABLED ON A HIGHWAY AT A TIME OR PLACE PROVIDED IN SUBSECTION A OF THIS SECTION, THE DRIVER OF THE VEHICLE SHALL DISPLAY ON THE ROADWAY THE FOLLOWING LIGHTED WARNING DEVICES:

1. ONE RED ELECTRIC LANTERN IMMEDIATELY PLACED ON THE ROADWAY AT THE TRAFFIC SIDE OF THE VEHICLE.

2. TWO OTHER RED ELECTRIC LANTERNS PLACED TO THE FRONT AND REAR OF THE VEHICLE IN THE SAME MANNER PRESCRIBED FOR FLARES IN SUBSECTION A OF THIS SECTION.

C. IF A VEHICLE OF A TYPE PROVIDED IN SUBSECTION B OF THIS SECTION IS DISABLED, THE USE OF FLARES, FUSEES OR ANY SIGNAL PRODUCED BY FLAME AS WARNING SIGNALS IS PROHIBITED.

D. IF A VEHICLE REFERRED TO IN THIS SECTION IS DISABLED ON THE TRAVELED PORTION OF A HIGHWAY OR THE SHOULDER OF A HIGHWAY OUTSIDE OF A CITY OR TOWN AT A TIME WHEN THE DISPLAY OF FUSEES, FLARES OR ELECTRIC LANTERNS IS NOT REQUIRED, THE DRIVER OF THE VEHICLE SHALL DISPLAY TWO RED FLAGS ON THE ROADWAY IN THE LANE OF TRAFFIC OCCUPIED BY THE DISABLED VEHICLE, ONE AT A DISTANCE OF APPROXIMATELY ONE HUNDRED FEET IN ADVANCE OF THE VEHICLE AND ONE AT A DISTANCE OF APPROXIMATELY ONE HUNDRED FEET TO THE REAR OF THE VEHICLE.

E. A PERSON IS IN COMPLIANCE WITH THIS SECTION IF THREE PORTABLE REFLECTOR UNITS ON STANDARDS AND APPROVED BY THE DEPARTMENT ARE BOTH:

1. DISPLAYED AT THE TIMES AND UNDER THE CONDITIONS PROVIDED IN THIS SECTION EITHER DURING THE DAYTIME OR AT NIGHTTIME.

2. PLACED ON THE ROADWAY IN THE LOCATIONS PRESCRIBED BY THIS SECTION FOR THE PLACING OF ELECTRIC LANTERNS AND LIGHTED FLARES.

F. THE FLARES, FUSEES, LANTERNS AND FLAGS REQUIRED IN THIS SECTION SHALL CONFORM WITH THE REQUIREMENTS OF SECTION 28-960 APPLICABLE TO THE FLARES, FUSEES, LANTERNS AND FLAGS.

28-962. Vehicles transporting explosives; rules

A. A PERSON OPERATING A VEHICLE TRANSPORTING AN EXPLOSIVE ON A HIGHWAY SHALL COMPLY AT ALL TIMES WITH THE FOLLOWING PROVISIONS:

1. THE VEHICLE SHALL BE PLACARDED IN ACCORDANCE WITH THE PLACARDING REQUIREMENTS SPECIFIED IN 49 CODE OF FEDERAL REGULATIONS PART 172.

2. THE VEHICLE SHALL BE EQUIPPED WITH A FIRE EXTINGUISHER AS REQUIRED IN 49 CODE OF FEDERAL REGULATIONS PART 393.

B. THE DIRECTOR SHALL ADOPT ADDITIONAL RULES GOVERNING THE TRANSPORTATION OF EXPLOSIVES AND OTHER DANGEROUS ARTICLES BY VEHICLES ON THE HIGHWAYS AS THE DIRECTOR DEEMS ADVISABLE FOR THE PROTECTION OF THE PUBLIC.

28-963. Television prohibition

A PERSON SHALL NOT DRIVE A MOTOR VEHICLE EQUIPPED WITH A TELEVISION VIEWER OR SCREEN OR ANY OTHER MEANS OF VISUALLY RECEIVING A TELEVISION BROADCAST THAT IS EITHER:

1. LOCATED IN THE MOTOR VEHICLE AT ANY POINT FORWARD OF THE BACK OF THE DRIVER'S SEAT.

2. VISIBLE, DIRECTLY OR INDIRECTLY, TO THE DRIVER WHILE OPERATING THE MOTOR VEHICLE.

28-964. Motorcycles; motor driven cycles; equipment; exception; prohibition

A. AN OPERATOR OR PASSENGER OF A MOTORCYCLE OR MOTOR DRIVEN CYCLE WHO IS UNDER EIGHTEEN YEARS OF AGE SHALL WEAR AT ALL TIMES A PROTECTIVE HELMET ON THE OPERATOR'S OR PASSENGER'S HEAD IN AN APPROPRIATE MANNER. THE PROTECTIVE HELMET SHALL BE SAFELY SECURED WHILE THE OPERATOR OR PASSENGER IS OPERATING OR RIDING ON THE MOTORCYCLE OR MOTOR DRIVEN CYCLE. AN OPERATOR OF A MOTORCYCLE OR MOTOR DRIVEN CYCLE SHALL WEAR AT ALL TIMES PROTECTIVE GLASSES, GOGGLES OR A TRANSPARENT FACE SHIELD OF A TYPE APPROVED BY THE DIRECTOR UNLESS THE MOTORCYCLE OR THE MOTOR DRIVEN CYCLE IS EQUIPPED WITH A PROTECTIVE WINDSHIELD. THIS SUBSECTION DOES NOT APPLY TO ELECTRICALLY POWERED THREE WHEELED VEHICLES OR THREE WHEELED VEHICLES ON WHICH THE OPERATOR AND PASSENGER RIDE WITHIN AN ENCLOSED CAB.

B. A MOTORCYCLE AND MOTOR DRIVEN CYCLE SHALL BE EQUIPPED WITH A REARVIEW MIRROR, SEAT AND FOOTRESTS FOR THE OPERATOR. A MOTORCYCLE OR MOTOR DRIVEN CYCLE OPERATED WITH A PASSENGER SHALL BE EQUIPPED WITH A SEAT, FOOTRESTS AND HANDRAILS FOR THE PASSENGER.

C. A PERSON SHALL NOT OPERATE A MOTORCYCLE OR MOTOR DRIVEN CYCLE EQUIPPED WITH HANDLEBARS THAT ARE POSITIONED SO THAT ANY PORTION OF THE HANDLEBARS, INCLUDING THE HANDLEBAR GRIPS, IS ABOVE THE OPERATOR'S SHOULDER

HEIGHT WHEN THE OPERATOR IS SITTING ASTRIDE THE SEAT OF THE MOTORCYCLE OR MOTOR DRIVEN CYCLE.

28-965. Fuel tank caps

A PERSON SHALL NOT OPERATE A MOTOR VEHICLE ON A HIGHWAY UNLESS THE FILLING SPOUT FOR THE FUEL TANK IS PROPERLY CLOSED BY MEANS OF A CAP OR COVER COMPOSED OF A NONCOMBUSTIBLE MATERIAL THAT MEETS OR EXCEEDS APPLICABLE FEDERAL SAFETY STANDARDS.

ARTICLE 17. INSPECTION OF VEHICLES

28-981. Vehicle equipment; safety requirement

A PERSON SHALL NOT DRIVE OR MOVE ON A HIGHWAY A MOTOR VEHICLE, TOW TRUCK, TRAILER, SEMITRAILER OR POLE TRAILER OR ANY COMBINATION OF A MOTOR VEHICLE, TOW TRUCK, TRAILER, SEMITRAILER OR POLE TRAILER UNLESS:

1. THE EQUIPMENT ON THE VEHICLE IS IN GOOD WORKING ORDER AND ADJUSTMENT AS REQUIRED IN THIS CHAPTER.

2. THE VEHICLE IS IN A SAFE MECHANICAL CONDITION THAT DOES NOT ENDANGER THE DRIVER OR OTHER OCCUPANT OR A PERSON ON THE HIGHWAY.

28-982. Vehicle and equipment inspection; notice of repair or adjustment

A. IF AT ANY TIME THERE IS REASONABLE CAUSE TO BELIEVE THAT A VEHICLE IS UNSAFE OR IS NOT EQUIPPED AS REQUIRED BY LAW OR THAT A VEHICLE'S EQUIPMENT IS NOT IN PROPER ADJUSTMENT OR REPAIR, THE SUPERINTENDENT OF THE HIGHWAY PATROL, MEMBERS OF THE HIGHWAY PATROL, OTHER OFFICERS AND EMPLOYEES OF THE DEPARTMENT OF PUBLIC SAFETY AS THE DIRECTOR MAY DESIGNATE AND ANY PEACE OFFICER MAY REQUIRE THE DRIVER OF THE VEHICLE TO STOP AND SUBMIT THE VEHICLE TO AN INSPECTION AND SUCH TEST WITH REFERENCE TO THE INSPECTION AS MAY BE APPROPRIATE.

B. IF THE VEHICLE IS IN AN UNSAFE CONDITION OR ANY REQUIRED PART OR EQUIPMENT IS NOT PRESENT OR IS NOT IN PROPER REPAIR AND ADJUSTMENT, THE OFFICER SHALL GIVE A WRITTEN NOTICE TO THE DRIVER. THE OFFICER'S DEPARTMENT SHALL RETAIN THE ORIGINAL OF THE NOTICE. THE NOTICE SHALL STATE:

1. THAT THE VEHICLE IS REQUIRED TO BE PLACED IN SAFE CONDITION AND THAT THE VEHICLE'S EQUIPMENT IS REQUIRED TO BE PROPERLY REPAIRED AND ADJUSTED.

2. THE PARTICULARS WITH REFERENCE TO THE REQUIREMENTS PROVIDED IN PARAGRAPH 1.

3. THAT A CERTIFICATE OF CORRECTION OR ADJUSTMENT OF ILLEGAL OR FAULTY EQUIPMENT SHALL BE OBTAINED WITHIN FIVE DAYS.

C. THE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY SHALL PRESCRIBE THE FORM OF THE NOTICE REQUIRED BY THIS SECTION.

28-983. Compliance with inspection laws; operation prohibited

A. A PERSON DRIVING A VEHICLE SHALL NOT REFUSE TO SUBMIT THE VEHICLE TO AN INSPECTION AND TEST IF REQUIRED TO DO SO BY AN OFFICER AUTHORIZED BY SECTION 28-982.

B. ON RECEIVING A NOTICE AS PROVIDED IN SECTION 28-982, THE OWNER OR DRIVER OF THE VEHICLE SHALL COMPLY WITH THE NOTICE AND SHALL SECURE WITHIN FIVE DAYS THE CERTIFICATION OF ADJUSTMENT THAT IS PROVIDED ON THE NOTICE. WHEN THE CERTIFICATION IS COMPLETED, THE NOTICE SHALL BE FORWARDED TO THE ISSUING DEPARTMENT. IN LIEU OF COMPLIANCE WITH THIS SUBSECTION THE VEHICLE SHALL NOT BE OPERATED, EXCEPT AS PROVIDED IN SUBSECTION C OF THIS SECTION.

C. A PERSON SHALL NOT OPERATE A VEHICLE AFTER RECEIVING A NOTICE PURSUANT TO SECTION 28-982 UNTIL THE VEHICLE AND ITS EQUIPMENT HAVE BEEN PLACED IN PROPER REPAIR AND ADJUSTMENT AND OTHERWISE HAVE BEEN MADE TO CONFORM TO THE REQUIREMENTS OF THIS CHAPTER, UNLESS IT IS NECESSARY TO RETURN THE VEHICLE TO THE RESIDENCE OR PLACE OF BUSINESS OF THE OWNER OR DRIVER THAT IS NOT MORE THAN A DISTANCE OF TWENTY MILES OR TO A GARAGE.

D. IF REPAIR OR ADJUSTMENT OF A VEHICLE OR ITS EQUIPMENT IS FOUND NECESSARY ON INSPECTION, THE OWNER OF THE VEHICLE:

1. MAY OBTAIN THE REPAIR OR ADJUSTMENT AT ANY PLACE THE OWNER CHOOSES.

2. SHALL NOT OPERATE THE VEHICLE ON A HIGHWAY UNTIL THE CERTIFICATION OF ADJUSTMENT IS OBTAINED.

28-984. School bus inspection; rules

A. AT LEAST ANNUALLY:

1. EACH SCHOOL BUS REGISTERED IN THIS STATE SHALL BE INSPECTED BY THE DEPARTMENT OF PUBLIC SAFETY.

2. AN OFFICIAL CERTIFICATE OF INSPECTION AND APPROVAL SHALL BE OBTAINED FROM THE DEPARTMENT OF PUBLIC SAFETY FOR EACH SCHOOL BUS REGISTERED IN THIS STATE.

B. THE INSPECTIONS SHALL BE MADE AND THE CERTIFICATES SHALL BE OBTAINED AS PRESCRIBED BY LAW AND BY RULES ADOPTED BY THE DIRECTOR IN CONJUNCTION WITH THE STATE BOARD OF EDUCATION AS PROVIDED IN SECTION 28-900.

C. INSPECTION OF A SCHOOL BUS SHALL BE MADE WHEN THE BUS IS INITIALLY REGISTERED IN THIS STATE. THE SUPERINTENDENT OF THE SCHOOL DISTRICT SHALL HAVE ALL SCHOOL BUSES THAT ARE REGISTERED BY THE DISTRICT INSPECTED PURSUANT TO THIS SECTION. IF A SCHOOL BUS IS PRIVATELY OWNED, THE OWNER OF THE SCHOOL BUS SHALL HAVE THE BUS INSPECTED PURSUANT TO THIS SECTION.

D. THE DEPARTMENT OF PUBLIC SAFETY SHALL ENFORCE THIS SECTION.

ARTICLE 18. VEHICLE SIZE, WEIGHT AND LOAD

28-1091. Violation; scope and effect

A. A PERSON SHALL NOT DRIVE OR MOVE AND THE OWNER OF A VEHICLE SHALL NOT KNOWINGLY CAUSE OR PERMIT TO BE DRIVEN OR MOVED ON A HIGHWAY A VEHICLE OR VEHICLES OF A SIZE OR WEIGHT EXCEEDING THE LIMITATIONS STATED IN THIS ARTICLE OR OTHERWISE IN VIOLATION OF THIS ARTICLE.

B. THE MAXIMUM SIZE AND WEIGHT OF VEHICLES SPECIFIED IN THIS ARTICLE ARE LAWFUL THROUGHOUT THIS STATE. A LOCAL AUTHORITY SHALL NOT ALTER THE LIMITATIONS STATED IN THIS ARTICLE UNLESS AUTHORIZED BY THIS ARTICLE.

C. THE SIZE, WEIGHT AND LOAD PROVISIONS OF THIS ARTICLE DO NOT APPLY TO EITHER:

1. FIRE APPARATUS.
2. URBAN PUBLIC TRANSIT TRANSPORTATION SYSTEM VEHICLES.
3. IMPLEMENTS OF HUSBANDRY, INCLUDING FARM TRACTORS, THAT ARE TEMPORARILY MOVED ON A HIGHWAY.
4. VEHICLES OPERATED UNDER THE TERMS OF A SPECIAL PERMIT ISSUED PURSUANT TO THIS ARTICLE.

28-1092. Reasonable access; definitions

A. THE DEPARTMENT SHALL PROVIDE REASONABLE ACCESS TO VEHICLES OF LEGAL SIZE TO AND FROM TERMINALS AND SERVICE FACILITIES WITHIN ONE ROAD MILE OF THE NATIONAL NETWORK ON HIGHWAYS WITHIN ITS JURISDICTION.

B. THE LOCAL AUTHORITY SHALL PROVIDE REASONABLE ACCESS TO VEHICLES OF LEGAL SIZE TO AND FROM TERMINALS AND SERVICE FACILITIES WITHIN ONE ROAD MILE OF THE NATIONAL NETWORK ON HIGHWAYS WITHIN ITS JURISDICTION. THE LOCAL AUTHORITY SHALL PROVIDE THE DIRECTOR WITH A LIST OF ROUTES OR MAPS DESIGNATING THE HIGHWAYS ON WHICH REASONABLE ACCESS IS DENIED BY DECEMBER 1, 1992. THE LOCAL AUTHORITY SHALL UPDATE THE LIST ANNUALLY BEGINNING DECEMBER 31, 1993. THE DEPARTMENT SHALL CONSOLIDATE AND PUBLISH THE LIST ANNUALLY.

C. THE DEPARTMENT AND THE LOCAL AUTHORITY MAY DENY REASONABLE ACCESS WITHIN ONE ROAD MILE TO OR FROM THE NATIONAL NETWORK BY A VEHICLE OF LEGAL SIZE ON HIGHWAYS WITHIN THEIR JURISDICTION AS FOLLOWS:

1. REASONABLE ACCESS MAY BE DENIED IF ACCESS WOULD RESULT IN A SIGNIFICANT AND CLEARLY EVIDENT SAFETY PROBLEM IN RELATION TO A VEHICLE OF LEGAL SIZE.
2. FOR VEHICLES THAT ARE AT LEAST ONE HUNDRED TWO INCHES WIDE, REASONABLE ACCESS MAY BE DENIED ON SPECIFIC ROUTES WITH LANES THAT ARE TEN FEET WIDE OR LESS.
3. REASONABLE ACCESS MAY BE DENIED IF DENIAL IS RELATED TO THE SPECIFIC CONFIGURATION AND RESULTANT SAFETY FACTOR OF THE INDIVIDUAL ROUTE, INCLUDING STRUCTURAL HAZARDS.
4. IN DENYING REASONABLE ACCESS, THE DEPARTMENT OR LOCAL AUTHORITY SHALL NOT GRANT EXCEPTIONS FOR CATEGORIES, TYPES OR GROUPS OF ROUTES.

D. A PERSON SHALL SUBMIT A WRITTEN REQUEST FOR REASONABLE ACCESS TO THE DEPARTMENT IF IT CONCERNS HIGHWAYS UNDER ITS JURISDICTION OR TO THE LOCAL AUTHORITY IF IT CONCERNS HIGHWAYS UNDER ITS JURISDICTION. IF A WRITTEN REQUEST FOR REASONABLE ACCESS IS NOT ACTED ON WITHIN NINETY DAYS OF RECEIPT BY THE APPROPRIATE JURISDICTION, REASONABLE ACCESS IS APPROVED. IF A WRITTEN REQUEST FOR REASONABLE ACCESS IS DENIED BY THE DEPARTMENT OR THE LOCAL AUTHORITY, THE PERSON MAY APPEAL TO THE JURISDICTION THAT DENIED ACCESS, AND THE JURISDICTION SHALL ISSUE A DECISION WITHIN NINETY DAYS. IF THE APPEAL IS DENIED BY THE LOCAL JURISDICTION, THE PERSON MAY REQUEST A REVIEW BY THE DIRECTOR OF THE DENIAL OF ACCESS.

E. THE DEPARTMENT SHALL DESIGN A UNIFORM SYMBOL THAT IS AN EXCEPTION SIGN TO CONVEY INFORMATION THAT ACCESS IS DENIED. THE DEPARTMENT SHALL USE THE SIGN TO INDICATE ANY POINT OF EXIT FROM THE NATIONAL NETWORK THAT DOES

1 NOT HAVE A CONNECTING STATE OR LOCAL AUTHORITY ACCESS ROUTE TO TERMINALS OR
2 SERVICE FACILITIES.
3 F. THE DEPARTMENT OR A LOCAL AUTHORITY SHALL NOT REQUIRE A PERSON TO
4 OBTAIN A PERMIT FOR A VEHICLE OF LEGAL SIZE OR TO PAY A FEE TO GAIN
5 REASONABLE ACCESS PURSUANT TO THIS SECTION.
6 G. FOR PURPOSES OF THIS SECTION:
7 1. "NATIONAL NETWORK" MEANS THE SYSTEM OF HIGHWAYS THAT IS A PART OF
8 ANY SEGMENT OF THE NATIONAL SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS OR ANY
9 OTHER QUALIFYING FEDERAL AID HIGHWAY OR STATE HIGHWAY DESIGNATED BY THE
10 DIRECTOR AS AUTHORIZED BY THE SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982
11 (P.L. 97-424; 96 STAT. 2097) AND DESIGNATED PURSUANT TO SECTION 28-3403.
12 2. "REASONABLE ACCESS" MEANS PROVIDING THE MOST REASONABLE AND
13 PRACTICAL ROUTE AVAILABLE, INCLUDING ALLOWANCE FOR RETURN OF THE VEHICLE TO
14 THE NATIONAL NETWORK ON A ROUTE OTHER THAN THE ROUTE TRAVELED TO THE TERMINAL
15 OR SERVICE FACILITY IF IT IS FEASIBLE AND MORE PRACTICAL TO FOLLOW THE
16 ALTERNATE ROUTE, UNLESS ALLOWING ACCESS WOULD RESULT IN A SIGNIFICANT AND
17 CLEARLY EVIDENT SAFETY PROBLEM.
18 3. "SERVICE FACILITY" MEANS A FACILITY THAT PROVIDES FOOD, FUEL,
19 LODGING, REPAIRS OR EMERGENCY MEDICAL CARE.
20 4. "TERMINAL" MEANS A LOCATION WHERE EITHER:
21 (a) FREIGHT ORIGINATES, TERMINATES OR IS HANDLED IN THE TRANSPORTATION
22 PROCESS.
23 (b) COMMERCIAL MOTOR CARRIERS MAINTAIN OPERATING FACILITIES.
24 5. "VEHICLE OF LEGAL SIZE" MEANS A VEHICLE OF A SIZE THAT MEETS THE
25 LIMITATIONS PRESCRIBED IN SECTION 28-1093, SUBSECTION C AND SECTIONS 28-1094
26 AND 28-1095.
27 28-1093. Vehicle width; exceptions
28 A. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION AND SECTION 28-627,
29 THE TOTAL OUTSIDE WIDTH OF A VEHICLE OR THE LOAD ON THE VEHICLE SHALL NOT
30 EXCEED EIGHT FEET.
31 B. IF PNEUMATIC TIRES, IN SUBSTITUTION FOR THE SAME TYPE OR OTHER TYPE
32 OF TIRES, ARE PLACED ON A VEHICLE IN OPERATION ON JULY 1, 1950:
33 1. THE MAXIMUM WIDTH FROM THE OUTSIDE OF ONE WHEEL AND TIRE TO THE
34 OUTSIDE OF THE OPPOSITE WHEEL AND TIRE SHALL NOT EXCEED EIGHT FEET SIX
35 INCHES.
36 2. THE OUTSIDE WIDTH OF THE BODY OF THE VEHICLE OR THE LOAD ON THE
37 VEHICLE SHALL NOT EXCEED EIGHT FEET.
38 C. A PERSON MAY OPERATE A VEHICLE WITH A TOTAL WIDTH OF THE VEHICLE
39 OR THE LOAD ON THE VEHICLE OF NOT MORE THAN ONE HUNDRED TWO INCHES, EXCLUSIVE
40 OF SAFETY EQUIPMENT, ON:
41 1. ANY SEGMENT OF THE NATIONAL SYSTEM OF INTERSTATE AND DEFENSE
42 HIGHWAYS.
43 2. ANY OTHER QUALIFYING FEDERAL AID HIGHWAY.
44 3. ANY STATE HIGHWAY, AS DESIGNATED BY THE DIRECTOR.

4. STREETS THAT ARE DESIGNATED BY A LOCAL AUTHORITY AS FOLLOWS:

(a) THE LOCAL AUTHORITY MAY DESIGNATE THE STREETS BY SIGNAGE OF THE ALLOWABLE STREETS OR BY MAINTENANCE OF A MAP OR LIST OF ALLOWABLE STREETS AS APPROVED BY A RESOLUTION OF THE LOCAL AUTHORITY.

(b) IN DESIGNATING THE STREETS, THE LOCAL AUTHORITY SHALL CONSIDER ANY REASONABLE RESTRICTION INCLUDING SUCH SAFETY RESTRICTIONS AS STRUCTURAL HAZARDS AND STREET WIDTH AND ANY OTHER SAFETY FACTORS IDENTIFIED BY THE LOCAL AUTHORITY AS A HAZARD TO THE MOTORING PUBLIC.

5. A HIGHWAY THAT REASONABLY ACCESSES INTERSTATE SYSTEM HIGHWAYS, FEDERAL AID HIGHWAYS OR STATE HIGHWAYS FROM TERMINALS AND FACILITIES THAT PROVIDE FOOD, FUEL, REPAIRS AND LODGING OR FROM EMERGENCY MEDICAL FACILITIES.

28-1094. Vehicle height; exceptions; special permits

A. A VEHICLE UNLADEN OR WITH A LOAD SHALL NOT EXCEED A HEIGHT OF THIRTEEN FEET SIX INCHES ABOVE THE LEVEL SURFACE ON WHICH THE VEHICLE STANDS WITHOUT A PERMIT ISSUED UNDER SECTION 28-1103 OR THIS SECTION.

B. THE DEPARTMENT WITH RESPECT TO HIGHWAYS UNDER ITS JURISDICTION AND A LOCAL AUTHORITY WITH RESPECT TO HIGHWAYS UNDER ITS JURISDICTION SHALL ALSO DESIGNATE A SYSTEM OF HIGHWAYS THAT A VEHICLE UNLADEN OR WITH A LOAD NOT EXCEEDING FOURTEEN FEET ABOVE THE LEVEL SURFACE ON WHICH A VEHICLE STANDS MAY OPERATE WITHOUT A PERMIT PRESCRIBED IN SUBSECTION C OF THIS SECTION. IN DESIGNATING THE STREETS, THE LOCAL AUTHORITY SHALL CONSIDER ANY REASONABLE RESTRICTION INCLUDING SUCH SAFETY RESTRICTIONS AS STRUCTURAL HAZARDS, STREET WIDTH AND ANY OTHER SAFETY FACTORS IDENTIFIED BY THE LOCAL AUTHORITY AS A HAZARD TO THE MOTORING PUBLIC.

C. NOTWITHSTANDING SECTION 28-1103, THE DEPARTMENT WITH RESPECT TO HIGHWAYS UNDER ITS JURISDICTION AND A LOCAL AUTHORITY WITH RESPECT TO HIGHWAYS UNDER ITS JURISDICTION, ON APPLICATION AND GOOD CAUSE SHOWN, MAY ISSUE:

1. A PERMIT PURSUANT TO THIS CHAPTER THAT IS VALID FOR ONE YEAR AND THAT AUTHORIZES THE APPLICANT TO OPERATE OR MOVE A MOTOR VEHICLE OR COMBINATION OF VEHICLES ON DESIGNATED ROUTES IN THIS STATE IF THE LADEN HEIGHT DOES NOT EXCEED FOURTEEN FEET. A FEE OF FORTY-FIVE DOLLARS IS REQUIRED FOR EACH MOTOR VEHICLE COVERED BY A PERMIT ISSUED PURSUANT TO THIS PARAGRAPH. EXCEPT AS EXPRESSLY PROVIDED IN THIS PARAGRAPH, THE SPECIAL PERMIT IS GOVERNED BY SECTIONS 28-1103, 28-1104 AND 28-1105.

2. A SPECIAL SINGLE TRIP PERMIT IN WRITING THAT AUTHORIZES THE APPLICANT TO OPERATE OR MOVE A MOTOR VEHICLE ON DESIGNATED ROUTES IN THIS STATE IF THE LADEN HEIGHT OF THE VEHICLE EXCEEDS FOURTEEN FEET. A FEE OF FIFTEEN DOLLARS IS REQUIRED FOR EACH MOTOR VEHICLE COVERED BY A PERMIT ISSUED PURSUANT TO THIS PARAGRAPH. EXCEPT AS EXPRESSLY PROVIDED IN THIS PARAGRAPH, THE SINGLE TRIP SPECIAL PERMIT IS GOVERNED BY SECTIONS 28-1103, 28-1104 AND 28-1105.

28-1095. Vehicle length; exceptions; permits; rules

A. A VEHICLE, INCLUDING ANY LOAD ON THE VEHICLE, SHALL NOT EXCEED A LENGTH OF FORTY FEET EXTREME OVERALL DIMENSION, INCLUDING FRONT AND REAR BUMPERS. THIS SUBSECTION DOES NOT APPLY TO ANY OF THE FOLLOWING:

1. A SEMITRAILER WHEN USED IN COMBINATION WITH A TRUCK TRACTOR.

2. A TRUCK THAT IS EQUIPPED WITH A CONVEYOR BED, THAT IS USED SOLELY AS A FIBER AND FORAGE MODULE MOVER AND THAT DOES NOT EXCEED FORTY-EIGHT FEET IN LENGTH.

3. AN ARTICULATED BUS OR ARTICULATED TROLLEY COACH THAT DOES NOT EXCEED A LENGTH OF SIXTY FEET.

4. A BUS THAT IS NOT ARTICULATED AND THAT DOES NOT EXCEED A LENGTH OF FORTY-FIVE FEET.

5. A RECREATIONAL VEHICLE IF USED IN COMBINATION WITH TWO UNITS AND IF THE COMBINATION DOES NOT EXCEED SIXTY-FIVE FEET IN LENGTH. FOR PURPOSES OF THIS PARAGRAPH, "RECREATIONAL VEHICLE" MEANS A MOTOR VEHICLE THAT IS DESIGNED AND CUSTOMARILY USED FOR PRIVATE PLEASURE USE, INCLUDING VEHICLES COMMONLY CALLED MOTOR HOMES, PICKUP TRUCKS WITH CAMPERS AND PICKUP TRUCKS WITH A FIFTH WHEEL TRAILING DEVICE.

B. A VEHICLE TRANSPORTER MAY DRAW ONLY ONE SEMITRAILER. A COMBINATION OF VEHICLES, EXCLUDING A VEHICLE TRANSPORTER AND THE SEMITRAILER IT DRAWS, THAT IS COUPLED TOGETHER SHALL NOT CONSIST OF MORE THAN TWO UNITS, EXCEPT THAT A TRUCK OR TRUCK TRACTOR AND SEMITRAILER MAY DRAW EITHER ONE TRAILER OR A FORKLIFT.

C. THE FOLLOWING RESTRICTIONS APPLY:

1. THE LENGTH OF A SEMITRAILER OPERATING IN A TRUCK TRACTOR-SEMITRAILER COMBINATION OR A TRUCK TRACTOR-SEMITRAILER-FORKLIFT COMBINATION SHALL NOT EXCEED FIFTY-SEVEN FEET SIX INCHES.

2. THE LENGTH OF A SEMITRAILER OR TRAILER OPERATING IN A TRUCK TRACTOR-SEMITRAILER-TRAILER COMBINATION SHALL NOT EXCEED TWENTY-EIGHT FEET SIX INCHES.

3. THE LENGTH OF A TRAILER OPERATING IN A TRUCK-TRAILER COMBINATION SHALL NOT EXCEED TWENTY-EIGHT FEET SIX INCHES.

4. IF THE LENGTH OF A SEMITRAILER IS MORE THAN FIFTY-THREE FEET, THE OVERALL LENGTH OF A TRUCK TRACTOR-SEMITRAILER COMBINATION SHALL NOT EXCEED SIXTY-FIVE FEET ON ALL HIGHWAYS, EXCEPT FOR THE NATIONAL INTERCITY TRUCK ROUTE NETWORK DESIGNATED BY THE UNITED STATES SECRETARY OF TRANSPORTATION AS REQUIRED BY THE SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982 OR ON A SYSTEM OF HIGHWAYS THAT IS DESIGNATED BY A LOCAL AUTHORITY. IN DESIGNATING THE STREETS, THE LOCAL AUTHORITY SHALL CONSIDER ANY REASONABLE RESTRICTION INCLUDING SUCH SAFETY RESTRICTIONS AS STRUCTURAL HAZARDS AND STREET WIDTH AND ANY OTHER SAFETY FACTORS IDENTIFIED BY THE LOCAL AUTHORITY AS A HAZARD TO THE MOTORING PUBLIC.

5. A VEHICLE TRANSPORTER AND THE SEMITRAILER IT DRAWS SHALL NOT EXCEED A LENGTH OF SEVENTY-FIVE FEET.

D. SUBSECTION B OF THIS SECTION DOES NOT APPLY TO DAMAGED, DISABLED OR ABANDONED VEHICLES OR COMBINATIONS OF VEHICLES WHILE BEING TOWED BY A TOW TRUCK IN COMPLIANCE WITH SECTION 28-1108.

E. NOTWITHSTANDING SUBSECTION B OF THIS SECTION, EXTENSIONS OF NOT MORE THAN EIGHTEEN INCHES IN LENGTH ON EACH END OF A VEHICLE OR COMBINATION OF VEHICLES USED TO TRANSPORT MANUFACTURED VEHICLES OR FIBER AND FORAGE SHALL NOT BE INCLUDED IN MEASURING THE LENGTH OF THE VEHICLE OR COMBINATION OF VEHICLES WHEN LOADED.

F. PURSUANT TO A PERMIT ISSUED PURSUANT TO SECTION 28-1103, A TRUCK OR A TRUCK TRACTOR AND SEMITRAILER MAY DRAW NOT MORE THAN TWO TRAILERS OR SEMITRAILERS. THE DEPARTMENT SHALL ADOPT RULES GOVERNING THE MOVEMENT AND SAFETY OF A COMBINATION OF VEHICLES UNDER THIS SUBSECTION AND AUTHORIZING THE ISSUANCE IN ADVANCE OF PREPAID PERMITS. THE RULES SHALL INCLUDE THE ADOPTION OF MINIMUM SPEEDS ON GRADES, LIGHTING, SIGNING, IDENTIFICATION AND BRAKING REQUIREMENTS AND ANY OTHER RULES THE DEPARTMENT DEEMS NECESSARY. THE PERMIT ISSUED PURSUANT TO THIS SUBSECTION IS LIMITED TO THE FOLLOWING HIGHWAYS:

1. AN INTERSTATE HIGHWAY THAT CONNECTS WITH TWO STATES IF BOTH STATES ALLOW TWO TRAILERS OR SEMITRAILERS AND IF THE INTERSTATE HIGHWAY DOES NOT EXCEED FORTY MILES BETWEEN THE CONNECTING STATES.

2. PORTIONS OF AN ALTERNATE STATE ROUTE THAT ARE LOCATED WITHIN FOUR MILES OF AND EXTEND TO THE BORDER OF THIS STATE AND AN ADJACENT STATE THAT ALLOWS TWO TRAILERS OR SEMITRAILERS.

3. A STATE ROUTE THAT EXTENDS AT LEAST TEN MILES THROUGH AN INDIAN RESERVATION, THAT DOES NOT CROSS THE COLORADO RIVER AND THAT IS LOCATED WITHIN TWENTY MILES OF AND EXTENDS TO THE BORDER OF THIS STATE AND AN ADJACENT STATE THAT ALLOWS TWO TRAILERS OR SEMITRAILERS.

G. NOTWITHSTANDING SUBSECTIONS B AND C OF THIS SECTION:

1. A MOTOR VEHICLE MAY DRAW ONE SINGLE AXLE TOW DOLLY ON WHICH A MOTOR VEHICLE MAY BE TRANSPORTED. A PERSON SHALL SECURE THE RAISED END OF ANY MOTOR VEHICLE BEING TRANSPORTED PURSUANT TO THIS PARAGRAPH TO THE TOW DOLLY BY TWO SEPARATE CHAINS, CABLES OR EQUIVALENT DEVICES ADEQUATE TO PREVENT SHIFTING OR SEPARATION OF THE DRAWN VEHICLE AND THE TOW DOLLY. AS USED IN THIS PARAGRAPH, "SINGLE AXLE TOW DOLLY" MEANS A VEHICLE DRAWN BY A MOTOR VEHICLE AND DESIGNED AND USED EXCLUSIVELY TO TRANSPORT ANOTHER MOTOR VEHICLE BY WHICH THE FRONT OR REAR WHEELS OF THE DRAWN MOTOR VEHICLE ARE MOUNTED ON THE TOW DOLLY WHILE THE OTHER WHEELS OF THE DRAWN MOTOR VEHICLE REMAIN IN CONTACT WITH THE GROUND.

2. A TRUCK OR A TRUCK TRACTOR MAY DRAW A TRAILER OR SEMITRAILER THAT DOES NOT EXCEED A LENGTH OF FIFTY-SEVEN FEET ONLY ON AN INTERSTATE HIGHWAY OR ON A HIGHWAY THAT IS WITHIN TEN MILES OF AN INTERSTATE HIGHWAY IF THE TRAILER OR SEMITRAILER IS MANUFACTURED IN THIS STATE AND IS TRAVELING WITH OR WITHOUT A LOAD FROM ITS PLACE OF MANUFACTURE TO BE DELIVERED FOR USE OUTSIDE THIS STATE.

3. A RECREATIONAL VEHICLE MAY PULL TWO UNITS IF ALL OF THE FOLLOWING CONDITIONS ARE MET:

(a) THE MIDDLE UNIT IS EQUIPPED WITH A FIFTH WHEEL AND BRAKES AND HAS A WEIGHT EQUAL TO OR GREATER THAN THE REAR UNIT.

(b) IF THE REAR UNIT HAS A GROSS WEIGHT OF THREE THOUSAND POUNDS OR MORE, IT IS EQUIPPED WITH BRAKES.

(c) THE TOTAL COMBINED GROSS WEIGHT OF THE TOWED UNITS DOES NOT EXCEED THE MANUFACTURER'S STATED GROSS VEHICLE WEIGHT OF THE TOWING UNIT.

28-1096. Projecting loads on passenger vehicles

A PASSENGER TYPE VEHICLE SHALL NOT BE OPERATED ON A HIGHWAY WITH A LOAD CARRIED ON THE VEHICLE IF THE LOAD EXTENDS BEYOND THE LINE OF THE FENDERS ON THE LEFT SIDE OF THE VEHICLE OR EXTENDS MORE THAN SIX INCHES BEYOND THE LINE OF THE FENDERS ON THE RIGHT SIDE OF THE VEHICLE.

28-1097. Maximum load extensions; length limitations for pole trailers

A. NOTWITHSTANDING THE PROVISIONS OF SECTION 28-1095 THAT LIMIT THE LENGTH OF VEHICLES AND LOADS:

1. THE LOAD ON A VEHICLE OPERATED ALONE OR THE LOAD ON THE FRONT VEHICLE OF A COMBINATION OF VEHICLES SHALL NOT EXTEND MORE THAN THREE FEET BEYOND THE FOREMOST PART OF THE VEHICLE.

2. THE LOAD ON A VEHICLE OPERATED ALONE OR THE LOAD ON THE REAR VEHICLE OF A COMBINATION OF VEHICLES SHALL NOT EXTEND MORE THAN SIX FEET BEYOND THE REAR OF THE BED OR BODY OF THE VEHICLE.

B. THE EXTENSIONS BEYOND THE FRONT AND REAR OF THE VEHICLE AS PROVIDED IN THIS SECTION ARE NOT INCLUDED IN DETERMINING THE LENGTH OF THE VEHICLE FOR THE PURPOSES OF SECTION 28-1095.

C. THE LIMITATIONS AS TO LENGTH OF VEHICLES AND LOADS PRESCRIBED IN SECTION 28-1095 AND SUBSECTION A OF THIS SECTION DO NOT APPLY TO A LOAD ON A POLE TRAILER WHEN TRANSPORTING POLES OR PIPES OR STRUCTURAL MATERIAL THAT CANNOT BE DISMEMBERED, EXCEPT THAT ANY POLE, PIPE OR OTHER MATERIAL EXCEEDING EIGHTY FEET IN LENGTH SHALL NOT BE TRANSPORTED UNLESS A PERMIT HAS BEEN OBTAINED AS AUTHORIZED IN SECTION 28-1103.

28-1098. Vehicle loads; restrictions

A. A PERSON SHALL NOT DRIVE OR MOVE A VEHICLE ON A HIGHWAY UNLESS THE VEHICLE IS CONSTRUCTED OR LOADED IN A MANNER TO PREVENT ANY OF ITS LOAD FROM DROPPING, SIFTING, LEAKING OR OTHERWISE ESCAPING FROM THE VEHICLE, EXCEPT THAT EITHER:

1. SAND MAY BE DROPPED FOR THE PURPOSE OF SECURING TRACTION.

2. WATER OR ANOTHER SUBSTANCE MAY BE SPRINKLED ON A ROADWAY IN CLEANING OR MAINTAINING THE ROADWAY.

B. A PERSON SHALL NOT OPERATE A VEHICLE ON A HIGHWAY WITH A LOAD UNLESS THE LOAD AND ANY COVERING ON THE LOAD ARE SECURELY FASTENED IN A MANNER TO PREVENT THE COVERING OR LOAD FROM BECOMING LOOSE, DETACHED OR IN ANY MANNER A HAZARD TO OTHER USERS OF THE HIGHWAY.

28-1099. Single axle load limit; exception

A. THE GROSS WEIGHT IMPOSED ON THE HIGHWAY BY THE WHEELS OF ANY ONE AXLE OF A VEHICLE SHALL NOT EXCEED TWENTY THOUSAND POUNDS, EXCEPT THAT THE DIRECTOR MAY ISSUE A SPECIAL PERMIT PURSUANT TO SECTION 28-1103 FOR THE PURPOSE OF MOVING ROAD MACHINERY THAT EXCEEDS THE MAXIMUM WEIGHT SPECIFIED IN THIS SECTION FROM JOB TO JOB WITHIN THIS STATE AND FROM JOB TO PLACE OF SERVICING AND RETURN WITHIN THIS STATE.

B. THIS SECTION SHALL NOT BE CONSTRUED TO LIMIT IN ANY MANNER THE POWER OF THE DIRECTOR AND A LOCAL AUTHORITY TO ISSUE A SPECIAL PERMIT PURSUANT TO SECTION 28-1103.

C. FOR THE PURPOSES OF THIS ARTICLE, THE GROSS WEIGHT IMPOSED ON THE HIGHWAY BY THE WHEELS OF ANY ONE AXLE EQUALS THE TOTAL LOAD TRANSMITTED TO THE ROAD BY ALL WHEELS WHOSE CENTERS ARE INCLUDED BETWEEN TWO PARALLEL TRANSVERSE VERTICAL PLANES FORTY INCHES APART, EXTENDING ACROSS THE FULL WIDTH OF THE VEHICLE.

28-1100. Vehicles and loads; gross weight restrictions; exception

A. A PERSON MAY OPERATE A VEHICLE ON ALL HIGHWAYS SUBJECT TO THE FOLLOWING MAXIMUM GROSS WEIGHTS:

1. TWENTY THOUSAND POUNDS, INCLUDING ENFORCEMENT TOLERANCES, ON ANY ONE AXLE.

2. THIRTY-FOUR THOUSAND POUNDS, INCLUDING ENFORCEMENT TOLERANCES, ON A TANDEM AXLE.

3. EIGHTY THOUSAND POUNDS ON A VEHICLE COMBINATION OF FIVE AXLES OR MORE.

4. ON A GROUP OF TWO OR MORE CONSECUTIVE AXLES, INCLUDING ANY STEERING OR CASTERING AXLES, AN OVERALL GROSS WEIGHT, INCLUDING ENFORCEMENT TOLERANCES, PRODUCED BY APPLICATION OF THE FOLLOWING FORMULA IN WHICH W EQUALS OVERALL GROSS WEIGHT ON ANY GROUP OF TWO OR MORE CONSECUTIVE AXLES TO THE NEAREST FIVE HUNDRED POUNDS, L EQUALS DISTANCE IN FEET BETWEEN THE EXTREME OF ANY GROUP OF TWO OR MORE CONSECUTIVE AXLES TO THE NEAREST FOOT AND N EQUALS NUMBER OF AXLES IN ANY GROUP UNDER CONSIDERATION, EXCEPT THAT TWO CONSECUTIVE SETS OF TANDEM AXLES MAY CARRY A GROSS LOAD OF THIRTY-FOUR THOUSAND POUNDS EACH IF THE OVERALL DISTANCE BETWEEN THE FIRST AND LAST AXLES OF THE CONSECUTIVE SETS OF TANDEM AXLES IS THIRTY-SIX FEET OR MORE IF THE OVERALL GROSS WEIGHT DOES NOT EXCEED EIGHTY THOUSAND POUNDS, INCLUDING ALL ENFORCEMENT TOLERANCES:

$$W = 500 (LN1 (N-1) + 12N + 36)$$

B. AS USED IN SUBSECTION A OF THIS SECTION, "TANDEM AXLES" MEANS TWO OR MORE CONSECUTIVE AXLES THAT ARE MORE THAN FORTY INCHES BUT NOT MORE THAN NINETY-SIX INCHES APART.

C. THIS SECTION DOES NOT APPLY TO A VEHICLE AND LOAD THAT CANNOT BE EASILY DISMANTLED OR DIVIDED AND THAT HAVE BEEN ISSUED A SPECIAL PERMIT PURSUANT TO SECTION 28-1103.

D. IT IS NOT A DEFENSE IN A PROSECUTION FOR A VIOLATION OF THIS SECTION THAT A VEHICLE OR VEHICLE COMBINATION IS REGISTERED FOR A DECLARED GROSS WEIGHT AS DEFINED IN SECTION 28-5431 IN EXCESS OF THE AMOUNT ALLOWED UNDER THIS SECTION. THE DEPARTMENT SHALL NOT MAKE AN ALLOWANCE OR REFUND FOR FEES PAID FOR THE WEIGHT IN EXCESS OF THE AMOUNT ALLOWED UNDER THIS SECTION.

E. A SINGLE VEHICLE OR A SINGLE VEHICLE OF A COMBINATION OF VEHICLES SHALL NOT BE EQUIPPED WITH MORE THAN THREE AXLES, INCLUDING THE FRONT STEERING AXLE, UNLESS THE ADDITIONAL AXLES ARE STEERING AXLES OR CASTERING AXLES. THE LIMITATION ON THE NUMBER OF AXLES PROVIDED IN THIS SUBSECTION DOES NOT APPLY TO A VEHICLE OPERATED WITH A PERMIT ISSUED PURSUANT TO SECTION 28-1103.

F. A VEHICLE OR COMBINATION OF VEHICLES EQUIPPED WITH ONE OR MORE VARIABLE LOAD AXLES SHALL HAVE THE PRESSURE CONTROL PRESET AND LOCATED OUTSIDE OF THE CAB SO THAT THE OPERATOR OF THE VEHICLE CANNOT VARY THE WEIGHT CARRIED ON THE VARIABLE LOAD AXLE OR AXLES DURING TRANSPORT OF A LOAD. THE ACTUATING CONTROL THAT RAISES OR LOWERS THE AXLE OR AXLES MAY BE LOCATED INSIDE THE CAB FOR SAFETY PURPOSES. THIS ACTUATING CONTROL MUST COMPLETELY RAISE OR COMPLETELY LOWER THE AXLE OR AXLES WHEN ACTIVATED.

G. THIS SECTION DOES NOT APPLY TO A TRUCK THAT MEETS ALL OF THE FOLLOWING REQUIREMENTS AND FOR WHICH A SPECIAL PERMIT HAS BEEN ISSUED PURSUANT TO SECTION 28-1103:

1. IS EQUIPPED WITH A CONVEYOR BED.
2. IS USED SOLELY AS A FIBER AND FORAGE MODULE MOVER.
3. DOES NOT EXCEED FORTY-EIGHT FEET IN LENGTH.
4. IS ONLY OPERATED EACH YEAR FROM AUGUST 1 THROUGH JANUARY 30.

28-1101. <u>Weight violations; classification; civil penalty; procedures; evidence</u>

A. NOTWITHSTANDING SUBSECTION B OR C OF THIS SECTION, A CONVICTION FOR A VIOLATION OF SECTION 28-1099 OR 28-1100:

1. IN WHICH THE EXCESS WEIGHT IS TWO THOUSAND FIVE HUNDRED ONE POUNDS OR MORE IS A CLASS 1 MISDEMEANOR.
2. IN WHICH THE EXCESS WEIGHT IS ONE TO ONE THOUSAND POUNDS IS A CLASS 3 MISDEMEANOR, AND THE MAXIMUM FINE IS ONE DOLLAR.

B. EXCEPT AS OTHERWISE PROVIDED BY LAW, A PERSON WHO VIOLATES SECTION 28-1099 OR 28-1100 IS:

1. SUBJECT TO A CIVIL PENALTY.
2. GUILTY OF A CLASS 2 MISDEMEANOR FOR A SECOND VIOLATION OF EITHER OF THESE SECTIONS WITHIN SIX MONTHS OF THE PRECEDING JUDGMENT.
3. GUILTY OF A CLASS 1 MISDEMEANOR FOR A SECOND CONVICTION FOR A VIOLATION OF EITHER OF THESE SECTIONS WITHIN ONE YEAR OF THE PRECEDING JUDGMENT.

C. IN ADDITION TO ANY TERM OF IMPRISONMENT THAT A COURT MAY IMPOSE FOR A SECOND OR SUBSEQUENT VIOLATION, A COURT SHALL FINE A PERSON THE AMOUNT SET FORTH IN THE FOLLOWING TABLE:

IF THE EXCESS WEIGHT IS:	THE MINIMUM FINE OR CIVIL PENALTY IS:		
	PENALTY	CLASS 2	CLASS 1
1,001 TO 1,250 POUNDS	$ 50.00	$ 75.00	$ 100.00
1,251 TO 1,500	100.00	150.00	200.00
1,501 TO 2,000	150.00	225.00	300.00
2,001 TO 2,500	200.00	300.00	400.00
2,501 TO 3,000			500.00
3,001 TO 3,500			600.00
3,501 TO 4,000			700.00
4,001 TO 4,500			800.00
4,501 TO 4,750			900.00
4,751 AND OVER			1000.00

D. IF AN OFFICER FINDS THAT A PERSON HAS VIOLATED ONLY THE AXLE WEIGHT LIMITATION AND NOT THE TOTAL WEIGHT LIMITATION, THE OFFICER SHALL REQUEST THE DRIVER TO RELOAD THE VEHICLE TO COMPLY WITH THE AXLE WEIGHT LIMITATION AND NOTWITHSTANDING SECTION 28-1521 OR THIS SECTION:

1. IF THE DRIVER DOES NOT COMPLY WITH THE REQUEST OF THE OFFICER TO RELOAD, THE DRIVER IS SUBJECT TO A CIVIL PENALTY OR A CRIMINAL PENALTY.

2. IF THE DRIVER COMPLIES WITH THE AXLE WEIGHT LIMITATION AFTER RELOADING AND THE EXCESS AXLE WEIGHT WAS TWO THOUSAND FIVE HUNDRED POUNDS OR LESS:

(a) THE OFFICER SHALL NOT CITE THE DRIVER.

(b) THE DRIVER IS NOT SUBJECT TO A CIVIL PENALTY OR A CRIMINAL PENALTY FOR A VIOLATION OF THE AXLE WEIGHT LIMITATION.

3. IF THE DRIVER RELOADS BUT DOES NOT COMPLY WITH THE AXLE WEIGHT LIMITATION OR IF THE EXCESS AXLE WEIGHT IS MORE THAN TWO THOUSAND FIVE HUNDRED POUNDS, THE DRIVER IS SUBJECT TO A CIVIL PENALTY OR A CRIMINAL PENALTY FOR A VIOLATION OF THE AXLE WEIGHT LIMITATION.

E. IF A PERSON IS ARRESTED FOR VIOLATING SECTION 28-1099 OR 28-1100, THE ARRESTING OFFICER MAY TAKE THE PERSON IMMEDIATELY BEFORE A MAGISTRATE WITHIN THE COUNTY IN WHICH THE OFFENSE CHARGED IS ALLEGED TO HAVE BEEN COMMITTED WHO HAS JURISDICTION OF THE OFFENSE. IF THE PERSON IS TAKEN BEFORE A JUSTICE OF THE PEACE, THE PERSON SHALL BE TAKEN BEFORE THE NEAREST OR MOST ACCESSIBLE JUSTICE OF THE PEACE WITH REFERENCE TO THE PLACE WHERE THE ARREST IS MADE.

F. THE OFFICER OR COURT COLLECTING OR RECEIVING A CIVIL PENALTY, FEE, FINE OR FORFEITURE FOR A VIOLATION OF SECTION 28-1099 OR 28-1100 SHALL TRANSMIT IT TO THE STATE TREASURER. THE STATE TREASURER SHALL DEPOSIT THE AMOUNT IN THE ARIZONA HIGHWAY USER REVENUE FUND. IF A CIVIL PENALTY, FEE OR FINE IS COLLECTED, TEN DOLLARS OF THE CIVIL PENALTY, FEE OR FINE IS DEDUCTIBLE AS REIMBURSEMENT OF COSTS FROM THE AMOUNT COLLECTED, UNLESS THE FEE OR FINE IS LESS THAN TEN DOLLARS. THE COLLECTING OFFICIAL SHALL DEPOSIT THE DEDUCTED MONIES WITH THE CITY, TOWN OR COUNTY TREASURY OF THE CITY, TOWN OR COUNTY PROSECUTING OR PROCESSING THE VIOLATION.

G. A WEIGHT CERTIFICATE OR ANY OTHER DOCUMENT THAT EVIDENCES THE RECEIPT OF GOODS FOR SHIPMENT, THAT IS ISSUED BY A PERSON ENGAGED IN THE BUSINESS OF TRANSPORTING OR FORWARDING GOODS AND THAT STATES THE GROSS WEIGHT OF THE VEHICLE WITH LOAD THAT IS IN EXCESS OF THE PRESCRIBED MAXIMUM WEIGHT LIMITATION PERMITTED BY SECTION 28-1099 OR 28-1100 IS PRIMA FACIE EVIDENCE THAT THE WEIGHT OF A VEHICLE AND LOAD IS UNLAWFUL.

H. IF THE COMMODITY BEING CARRIED IS SOLD BY WEIGHT, A WEIGHT CERTIFICATE OR ANY OTHER DOCUMENT THAT EVIDENCES THE RECEIPT OF GOODS FOR SHIPMENT, THAT IS ISSUED BY A PERSON ENGAGED IN THE BUSINESS OF TRANSPORTING OR FORWARDING GOODS AND THAT STATES THE GROSS WEIGHT OF THE VEHICLE WITH LOAD THAT IS NOT IN EXCESS OF THE PRESCRIBED MAXIMUM WEIGHT LIMITATION PERMITTED BY SECTION 28-1100 IS PRIMA FACIE EVIDENCE THAT THE GROSS WEIGHT OF A VEHICLE AND LOAD IS LAWFUL. THE PRESUMPTION THAT THE WEIGHT OF THE VEHICLE AND LOAD IS LAWFUL MAY BE REBUTTED BY THE WEIGHT OF THE VEHICLE AND LOAD AS SHOWN BY MEANS OF THE DEPARTMENT'S STATIONARY SCALE OR A PUBLIC WEIGHMASTER SCALE.

28-1102. Weighing of vehicles and loads; violation; classification; fine

A. A POLICE OR PEACE OFFICER HAVING REASON TO BELIEVE THAT THE WEIGHT OF A VEHICLE AND LOAD DOES NOT CONFORM TO THIS ARTICLE MAY REQUIRE THE DRIVER TO:

1. STOP AND SUBMIT TO A WEIGHING OF THE VEHICLE AND LOAD BY MEANS OF EITHER PORTABLE OR STATIONARY SCALES.

2. DRIVE THE VEHICLE TO THE NEAREST PUBLIC SCALES, IF THE SCALES ARE WITHIN TWO MILES.

B. IF ON WEIGHING A VEHICLE AND LOAD PURSUANT TO SUBSECTION A OF THIS SECTION AN OFFICER DETERMINES THAT THE WEIGHT DOES NOT CONFORM TO THIS ARTICLE, THE OFFICER MAY REQUIRE THE DRIVER TO STOP THE VEHICLE IN A SUITABLE PLACE AND REMAIN STANDING UNTIL THE PORTION OF THE LOAD IS REMOVED AS NECESSARY TO REDUCE THE GROSS WEIGHT OF THE VEHICLE TO THE LIMIT PERMITTED UNDER THIS ARTICLE. THE OWNER OR OPERATOR SHALL CARE FOR THE MATERIAL UNLOADED AT THE RISK OF THE OWNER OR OPERATOR.

C. A DRIVER OF A VEHICLE IS GUILTY OF A CLASS 3 MISDEMEANOR WHO EITHER:

1. KNOWINGLY FAILS OR REFUSES TO STOP AND SUBMIT THE VEHICLE AND LOAD TO A WEIGHING.

2. KNOWINGLY FAILS OR REFUSES WHEN DIRECTED BY AN OFFICER ON A WEIGHING OF THE VEHICLE TO STOP THE VEHICLE AND OTHERWISE COMPLY WITH SUBSECTIONS A AND B OF THIS SECTION.

D. A PEACE OFFICER AS DEFINED IN SECTION 41-1701 OR ANY OTHER PEACE OFFICER DESIGNATED BY THE DIRECTOR MAY REQUIRE THE WEIGHING OF A COMMERCIAL VEHICLE BY MEANS OF PORTABLE SCALES AT ANY TIME. FAILURE TO SUBMIT TO WEIGHING AS REQUIRED BY THIS SUBSECTION IS PUNISHABLE BY A FINE, THE MINIMUM OF WHICH IS THE MINIMUM FINE FOR OVER SIX THOUSAND POUNDS OVERWEIGHT AS PRESCRIBED FOR A FIRST OFFENSE IN SECTION 28-1101.

1 28-1103. Excess size and weight special permits
2 A. SUBJECT TO SECTION 28-1104, SUBSECTION E, ON APPLICATION IN WRITING
3 AND FOR GOOD CAUSE, THE DIRECTOR WITH RESPECT TO HIGHWAYS UNDER THE
4 JURISDICTION OF THE DEPARTMENT AND A LOCAL AUTHORITY WITH RESPECT TO HIGHWAYS
5 UNDER ITS JURISDICTION MAY ISSUE A SPECIAL PERMIT IN WRITING AUTHORIZING THE
6 APPLICANT TO OPERATE OR MOVE A VEHICLE OR COMBINATION OF VEHICLES OF A SIZE
7 OR WEIGHT OF VEHICLE OR LOAD EXCEEDING THE MAXIMUM SPECIFIED IN THIS ARTICLE
8 OR OTHERWISE NOT IN CONFORMITY WITH THIS CHAPTER ON ANY HIGHWAY UNDER THE
9 JURISDICTION OF THE PARTY GRANTING THE PERMIT AND FOR THE MAINTENANCE OF
10 WHICH THE PARTY IS RESPONSIBLE.
11 B. A SPECIAL PERMIT MAY BE ISSUED FOR THE MOVEMENT OF OVERDIMENSIONAL
12 AND OVERWEIGHT LOADS THAT IS SUBJECT TO DEPARTMENT RULES FOR OVERDIMENSIONAL
13 AND OVERWEIGHT LOADS. THE DIRECTOR SHALL ADOPT RULES FOR OVERDIMENSIONAL
14 AND OVERWEIGHT LOADS. THE DIRECTOR MAY ESTABLISH FEES TO COVER ALL OR PART
15 OF THE COST OF REVIEW AND ANALYSIS OF REQUESTS FOR OVERDIMENSIONAL AND
16 OVERWEIGHT LOAD PERMITS. THE DEPARTMENT SHALL COLLECT THE FEES, IN ADDITION
17 TO THE SPECIAL PERMIT FEE PROVIDED BY THIS SECTION.
18 C. SUBJECT TO THIS SECTION, THE DIRECTOR OR LOCAL AUTHORITY MAY ISSUE
19 THE FOLLOWING SPECIAL PERMITS THAT ARE VALID FOR ONE YEAR AND THAT MAY BE
20 LIMITED BY THE DIRECTOR OR LOCAL AUTHORITY:
21 1. A SPECIAL PERMIT AUTHORIZING THE APPLICANT TO TRANSPORT A LOAD BY
22 MEANS OF A TRUCK OR TRUCK TRACTOR, A SEMITRAILER AND ONE FULL TRAILER
23 COMBINATION, IF ALL OF THE FOLLOWING CONDITIONS ARE MET:
24 (a) THE COMBINATION DOES NOT EXCEED ONE HUNDRED ELEVEN THOUSAND POUNDS
25 OF GROSS VEHICLE WEIGHT.
26 (b) THE AXLE WEIGHT LIMITATIONS ARE SUBJECT TO SECTIONS 28-1099 AND
27 28-1100.
28 (c) THE VEHICLE COMBINATION IS TRAVELING WITHIN TWENTY MILES OF THE
29 BORDERS OF THIS STATE AND AN ADJACENT STATE THAT ALLOWS SUCH COMBINATIONS OF
30 LENGTH AND GROSS VEHICLE WEIGHT.
31 2. EXCEPT ON THE NATIONAL INTERCITY TRUCK ROUTE NETWORK AS DESIGNATED
32 BY THE UNITED STATES SECRETARY OF TRANSPORTATION AS REQUIRED BY THE SURFACE
33 TRANSPORTATION ASSISTANCE ACT OF 1982, A SPECIAL PERMIT AUTHORIZING THE
34 APPLICANT TO TRANSPORT A LOAD BY MEANS OF A TRUCK OR TRUCK TRACTOR, A
35 SEMITRAILER AND NOT MORE THAN TWO TRAILERS IF ALL OF THE FOLLOWING CONDITIONS
36 ARE MET:
37 (a) THE OVERALL LENGTH OF THE VEHICLE COMBINATION DOES NOT EXCEED
38 NINETY-TWO FEET.
39 (b) THE AXLE WEIGHT LIMITATIONS CONFORM TO SECTIONS 28-1099 AND
40 28-1100.
41 (c) THE OVERALL GROSS WEIGHT OF THE VEHICLE COMBINATION DOES NOT
42 EXCEED ONE HUNDRED TWENTY-ONE THOUSAND POUNDS FOR NINE AXLES OR ONE HUNDRED
43 TWENTY-THREE THOUSAND FIVE HUNDRED POUNDS FOR TEN AXLES.
44 (d) THE VEHICLE COMBINATION IS TRAVELING ON EITHER:

(i) PORTIONS OF AN ALTERNATE STATE ROUTE THAT IS LOCATED WITHIN FOUR MILES OF AND EXTENDS TO THE BORDER OF THIS STATE AND AN ADJACENT STATE THAT ALLOWS VEHICLE COMBINATIONS OF A TRUCK OR A TRUCK TRACTOR, A SEMITRAILER AND TWO TRAILERS OR SEMITRAILERS.

(ii) A STATE ROUTE THAT EXTENDS AT LEAST TEN MILES THROUGH AN INDIAN RESERVATION, DOES NOT CROSS THE COLORADO RIVER AND IS LOCATED WITHIN TWENTY MILES OF AND EXTENDS TO THE BORDER OF THIS STATE AND AN ADJACENT STATE THAT ALLOWS TWO TRAILERS OR SEMITRAILERS.

3. ON APPLICATION IN WRITING BY AN OWNER OF A WATERCRAFT AS DEFINED IN SECTION 5-301 AND ON GOOD CAUSE SHOWN, A SPECIAL EXCESS WIDTH PERMIT FOR A FEE OF FORTY-FIVE DOLLARS FOR EACH WATERCRAFT COVERED BY THE PERMIT THAT:

(a) AUTHORIZES THE OWNER TO MOVE A VEHICLE LOADED WITH THE WATERCRAFT ON A HIGHWAY UNDER THE JURISDICTION OF THE ISSUER IF ALL OF THE FOLLOWING CONDITIONS EXIST:

(i) THE TOTAL OUTSIDE WIDTH OF THE VEHICLE AND WATERCRAFT DOES NOT EXCEED TEN FEET.

(ii) THE VEHICLE LOADED WITH THE WATERCRAFT IS OTHERWISE IN CONFORMITY WITH THE LIMITATIONS PRESCRIBED BY THIS CHAPTER.

(iii) THE WATERCRAFT IS PROPERLY REGISTERED WITH THE ARIZONA GAME AND FISH DEPARTMENT.

(b) CONTAINS THE WATERCRAFT REGISTRATION NUMBER.

D. THE DIRECTOR MAY ISSUE A SPECIAL EXCESS WIDTH PERMIT FOR THE OPERATION OF A VEHICLE WITH A REDUCIBLE LOAD ONLY IF BOTH:

1. THE LOAD EXCEEDS THE WIDTH LIMITATION PRESCRIBED IN THIS SECTION.

2. THE LOAD DOES NOT EXCEED TEN FEET IN WIDTH.

28-1104. Issuance of special permits; rules

A. THE APPLICATION FOR A SPECIAL PERMIT PRESCRIBED IN SECTION 28-1103 SHALL SPECIFICALLY DESCRIBE THE VEHICLE OR VEHICLES AND LOAD TO BE OPERATED OR MOVED AND THE PARTICULAR HIGHWAYS FOR WHICH THE PERMIT TO OPERATE IS REQUESTED.

B. IF THE SPECIAL PERMIT IS ISSUED, THE DIRECTOR OR LOCAL AUTHORITY MAY:

1. ESTABLISH SEASONAL OR OTHER TIME LIMITATIONS WITHIN WHICH THE VEHICLES DESCRIBED MAY BE OPERATED ON THE HIGHWAYS INDICATED OR OTHERWISE LIMIT OR PRESCRIBE CONDITIONS OF OPERATION OF THE VEHICLE OR VEHICLES, WHEN NECESSARY TO ASSURE AGAINST UNDUE DAMAGE TO THE ROAD FOUNDATIONS, SURFACES OR STRUCTURES.

2. REQUIRE AN UNDERTAKING OR OTHER SECURITY AS DEEMED NECESSARY TO COMPENSATE FOR AN INJURY TO A ROADWAY OR ROAD STRUCTURE.

C. THE SPECIAL PERMIT SHALL BE CARRIED IN THE VEHICLE OR COMBINATION OF VEHICLES TO WHICH IT REFERS AND SHALL BE OPEN TO INSPECTION BY ANY POLICE OFFICER OR AUTHORIZED AGENT OF AN AUTHORITY GRANTING THE PERMIT. A PERSON SHALL NOT VIOLATE ANY OF THE TERMS OR CONDITIONS OF THE SPECIAL PERMIT.

D. THE DIRECTOR SHALL ADOPT RULES FOR MOVEMENT OF EQUIPMENT WITHOUT A SPECIAL PERMIT FOR THE PURPOSE OF REPAIR OR FOR LOCAL OPERATION.

E. A PERMIT SHALL NOT BE ISSUED PURSUANT TO THIS SECTION FOR MOVING A MOBILE HOME UNLESS THE APPLICANT PROVIDES EVIDENCE OF PAYMENT OF ALL APPLICABLE AD VALOREM TAXES OR A CLEARANCE FROM THE ASSESSOR OF THE COUNTY IN WHICH THE MOBILE HOME IS LOCATED. THE CLEARANCE IS VALID FOR NOT MORE THAN THIRTY DAYS, AND THE ASSESSOR SHALL ISSUE THE CLEARANCE IF THE ASSESSOR DETERMINES THAT ALL FEES AND AD VALOREM TAXES APPLICABLE TO THE MOBILE HOME PURSUANT TO TITLE 42, CHAPTER 3, ARTICLE 3 HAVE BEEN PAID AS OF THE DATE OF APPLICATION. THIS SUBSECTION DOES NOT LIMIT THE DISCRETION OF THE DIRECTOR OR LOCAL AUTHORITY TO DENY AN APPLICATION FOR A PERMIT FOR MOVING A MOBILE HOME FOR REASONS OTHER THAN NONPAYMENT OF AD VALOREM TAXES.

28-1105. Special permit fees

A. EXCEPT AS OTHERWISE PROVIDED BY LAW, THE FOLLOWING FEES ARE REQUIRED:

1. FIFTEEN DOLLARS FOR EACH SPECIAL PERMIT ISSUED PURSUANT TO SECTION 28-1103 FOR EXCESS SIZE, EXCEPT THAT A THIRTY DOLLAR FEE IS REQUIRED FOR EACH THIRTY DAY PERMIT AND A THREE HUNDRED SIXTY DOLLAR FEE IS REQUIRED FOR EACH ANNUAL PERMIT.

2. SEVENTY-FIVE DOLLARS FOR EACH PERMIT AND EACH THIRTY DAY PERMIT ISSUED PURSUANT TO SECTION 28-1103 FOR EXCESS WEIGHT, EXCEPT THAT A SIX HUNDRED DOLLAR FEE IS REQUIRED FOR EACH ANNUAL PERMIT.

3. FOR A PERMIT REQUESTED FOR A MOTOR VEHICLE OR COMBINATION OF VEHICLES THAT IS IN EXCESS OF BOTH THE SIZE AND WEIGHT PERMITTED BY THIS CHAPTER, THE AMOUNT OF FEES APPLICABLE FOR AN EXCESS WEIGHT PERMIT.

4. THREE HUNDRED SIXTY DOLLARS FOR EACH PERMIT ISSUED PURSUANT TO SECTION 28-1103, SUBSECTION C.

B. A FEE IS NOT REQUIRED FOR A PERMIT ISSUED PURSUANT TO THIS SECTION FOR THE MOVEMENT OF VEHICLES OR COMBINATIONS OF VEHICLES OWNED BY THE UNITED STATES GOVERNMENT, THIS STATE OR A COUNTY, CITY OR TOWN.

C. IF A SPECIAL PERMIT IS REQUIRED BY THE DIRECTOR AND BY ONE OR MORE AUTHORITIES TO MOVE A VEHICLE OR COMBINATION OF VEHICLES, THE APPLICANT FOR THE PERMIT OR PERMITS SHALL PAY A PERMIT FEE ONLY TO THE DIRECTOR AND IS NOT REQUIRED TO PAY A PERMIT FEE TO A LOCAL AUTHORITY.

D. IF A SPECIAL PERMIT IS REQUIRED BY MORE THAN ONE LOCAL AUTHORITY TO MOVE A VEHICLE OR COMBINATION OF VEHICLES AND IF THE PERMIT IS NOT REQUIRED BY THE DIRECTOR, THE APPLICANT SHALL PAY A PERMIT FEE ONLY TO THE LOCAL AUTHORITY THAT HAS JURISDICTION OF THE STREETS AND HIGHWAYS WHERE THE MOVEMENTS OF THE VEHICLE OR COMBINATION OF VEHICLES ORIGINATE.

28-1106. Restriction on highway usage

A. BY ORDINANCE OR RESOLUTION, A LOCAL AUTHORITY WITH RESPECT TO HIGHWAYS UNDER ITS JURISDICTION MAY PROHIBIT THE OPERATION OF A VEHICLE ON THE HIGHWAY OR MAY IMPOSE RESTRICTIONS AS TO THE WEIGHT OF A VEHICLE TO BE OPERATED ON THE HIGHWAY FOR A TOTAL PERIOD OF NOT MORE THAN NINETY DAYS IN

ANY ONE CALENDAR YEAR IF THE HIGHWAY BY REASON OF DETERIORATION, RAIN, SNOW OR OTHER CLIMATIC CONDITIONS WILL BE SERIOUSLY DAMAGED OR DESTROYED UNLESS THE USE OF VEHICLES ON THE HIGHWAY IS PROHIBITED OR THE PERMISSIBLE WEIGHTS OF THE VEHICLES ARE REDUCED.

B. A LOCAL AUTHORITY ENACTING AN ORDINANCE OR RESOLUTION PURSUANT TO SUBSECTION A OF THIS SECTION SHALL ERECT OR CAUSE SIGNS TO BE ERECTED AND MAINTAINED DESIGNATING THE PROVISIONS OF THE ORDINANCE OR RESOLUTION AT EACH END OF THAT PORTION OF A HIGHWAY AFFECTED BY THE ORDINANCE. THE ORDINANCE OR RESOLUTION IS NOT EFFECTIVE UNTIL THE SIGNS ARE ERECTED AND MAINTAINED.

C. A LOCAL AUTHORITY WITH RESPECT TO HIGHWAYS UNDER ITS JURISDICTION MAY PROHIBIT BY ORDINANCE OR RESOLUTION THE OPERATION OF TRUCKS OR OTHER COMMERCIAL VEHICLES OR MAY IMPOSE LIMITATIONS AS TO THE WEIGHT OF VEHICLES ON DESIGNATED HIGHWAYS. THE LOCAL AUTHORITY SHALL PLACE APPROPRIATE SIGNS ON THE HIGHWAY TO DESIGNATE THE PROHIBITIONS AND LIMITATIONS.

D. THE DIRECTOR HAS AUTHORITY AS GRANTED BY THIS SECTION TO LOCAL AUTHORITIES TO DETERMINE BY RESOLUTION AND TO IMPOSE RESTRICTIONS AS TO THE WEIGHT OF VEHICLES OPERATED ON A HIGHWAY UNDER THE JURISDICTION OF THE DIRECTOR. THE RESTRICTIONS ARE EFFECTIVE WHEN SIGNS GIVING NOTICE OF THE RESTRICTIONS ARE ERECTED ON THE HIGHWAY OR PORTION OF THE HIGHWAY AFFECTED BY THE RESOLUTION.

28-1107. Liability; highway or structure damage

A. A PERSON DRIVING A VEHICLE, OBJECT OR CONTRIVANCE ON A HIGHWAY OR HIGHWAY STRUCTURE IS LIABLE FOR ALL DAMAGE THAT THE HIGHWAY OR STRUCTURE MAY SUSTAIN AS A RESULT OF AN ILLEGAL OPERATION OR DRIVING OR MOVING OF THE VEHICLE, OBJECT OR CONTRIVANCE OR AS A RESULT OF OPERATING, DRIVING OR MOVING A VEHICLE, OBJECT OR CONTRIVANCE WEIGHING OR MEASURING IN EXCESS OF THE MAXIMUM WEIGHT OR HEIGHT IN THIS ARTICLE EVEN IF AUTHORIZED BY A SPECIAL PERMIT ISSUED AS PROVIDED IN SECTION 28-1094 OR 28-1103.

B. IF THE DRIVER IS NOT THE OWNER OF THE VEHICLE, OBJECT OR CONTRIVANCE BUT IS OPERATING, DRIVING OR MOVING THE VEHICLE, OBJECT OR CONTRIVANCE WITH THE EXPRESS OR IMPLIED PERMISSION OF THE OWNER, THE OWNER AND DRIVER ARE JOINTLY AND SEVERALLY LIABLE FOR ANY DAMAGE.

C. THE AUTHORITIES IN CONTROL OF THE HIGHWAY OR HIGHWAY STRUCTURE MAY RECOVER THE DAMAGE IN A CIVIL ACTION.

28-1108. Vehicle towing; rules; contractual agreement for towing services; weight exemption

A. IF A VEHICLE IS TOWING ANOTHER VEHICLE, THE DRAWBAR OR OTHER CONNECTION SHALL BE OF SUFFICIENT STRENGTH TO PULL ALL WEIGHT TOWED BY THE VEHICLE AND THE DRAWBAR OR OTHER CONNECTION SHALL NOT EXCEED FIFTEEN FEET FROM ONE VEHICLE TO THE OTHER, EXCEPT THE CONNECTION BETWEEN ANY TWO VEHICLES TRANSPORTING POLES, PIPE, MACHINERY OR OTHER OBJECTS OF A STRUCTURAL NATURE THAT CANNOT READILY BE DISMEMBERED.

B. IF A VEHICLE IS TOWING ANOTHER VEHICLE AND THE CONNECTION CONSISTS OF A CHAIN, ROPE OR CABLE, A WHITE FLAG OR CLOTH AT LEAST TWELVE INCHES SQUARE SHALL BE DISPLAYED ON THE CONNECTION.

C. THE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY SHALL ADOPT AND ENFORCE RULES THAT ARE NOT INCONSISTENT WITH THIS CHAPTER TO GOVERN THE DESIGN AND OPERATION OF ALL TOW TRUCKS.

D. A PERSON MAY NOT OPERATE A TOW TRUCK FOR THE PURPOSE OF TOWING VEHICLES WITHOUT FIRST REGISTERING WITH THE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY AND OBTAINING A PERMIT PURSUANT TO THE RULES THAT GOVERN TOW TRUCKS AND THAT ARE ADOPTED BY THE DEPARTMENT OF PUBLIC SAFETY.

E. THE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY OR A COUNTY, CITY OR TOWN MAY ENTER INTO A CONTRACTUAL AGREEMENT WITH A TOWING FIRM OR FIRMS FOR TOWING OR STORAGE SERVICES, OR BOTH. THE CONTRACTUAL AGREEMENT SHALL COMPLY WITH THIS SECTION AND ALL RULES ADOPTED UNDER THIS SECTION. CONTRACTS SHALL BE AWARDED ON THE BASIS OF COMPETITIVE BIDDING. THE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY OR A COUNTY, CITY OR TOWN SHALL RESERVE THE RIGHT TO REJECT ALL BIDS. IF ONLY ONE BID IS RECEIVED, THE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY OR A COUNTY, CITY OR TOWN MAY REJECT THE BID AND NEGOTIATE A CONTRACT WITHOUT BIDDING IF THE NEGOTIATED CONTRACT IS AT A PRICE LOWER THAN THE BID PRICE UNDER THE TERMS AND CONDITIONS SPECIFIED IN THE CALL FOR BIDS.

F. THE TOTAL WEIGHT OF A TOW TRUCK AND THE TOWED VEHICLE IS EXEMPT FROM THE MAXIMUM TOTAL GROSS WEIGHT LOAD ALLOWED UNDER SECTION 28-1100 IF A DAMAGED, DISABLED OR ABANDONED VEHICLE OR VEHICLE COMBINATION IS TOWED.

28-1109. Motor vehicle towing advisory council

A. THE MOTOR VEHICLE TOWING ADVISORY COUNCIL IS ESTABLISHED CONSISTING OF THE FOLLOWING THIRTEEN MEMBERS:

1. THE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY OR THE DIRECTOR'S DESIGNEE.

2. THE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION OR THE DIRECTOR'S DESIGNEE.

3. THREE MEMBERS OF THE PUBLIC WHO DO NOT HAVE A FINANCIAL INTEREST IN ANY TOWING BUSINESS AND WHO ARE APPOINTED BY THE GOVERNOR.

4. SIX MEMBERS WHO ARE REGISTERED WITH THE DEPARTMENT OF PUBLIC SAFETY TO OPERATE A TOWING AND STORAGE BUSINESS IN THIS STATE AND WHO ARE APPOINTED BY THE GOVERNOR. UNDER THIS PARAGRAPH, THE GOVERNOR SHALL NOT APPOINT MORE THAN TWO PERSONS FROM THE SAME TOWING AND STORAGE ORGANIZATION OR ASSOCIATION TO SERVE AS MEMBERS CONCURRENTLY OR MORE THAN TWO PERSONS FROM ANY ONE COUNTY TO SERVE AS MEMBERS CONCURRENTLY. THE MEMBERS REPRESENTING THE TOWING AND STORAGE BUSINESSES SHALL BE APPOINTED AS FOLLOWS:

(a) TWO MEMBERS WHO REPRESENT THE INTEREST AND CONCERNS OF TOWING BUSINESSES THAT OPERATE AT LEAST ONE BUT NOT MORE THAN FIVE ARTICLES OF TOWING EQUIPMENT.

(b) TWO MEMBERS WHO REPRESENT THE INTEREST AND CONCERNS OF TOWING BUSINESSES THAT OPERATE AT LEAST SIX BUT NOT MORE THAN TWELVE ARTICLES OF TOWING EQUIPMENT.

(c) TWO MEMBERS WHO REPRESENT THE INTEREST AND CONCERNS OF TOWING BUSINESSES THAT OPERATE MORE THAN TWELVE ARTICLES OF TOWING EQUIPMENT.

5. ONE MEMBER WHO REPRESENTS A LAW ENFORCEMENT AGENCY OF AN INCORPORATED CITY OR TOWN, WHO HAS EXPERIENCE IN DEALING WITH TOWING AND STORAGE SERVICES AND WHO IS APPOINTED BY THE GOVERNOR. THIS MEMBER SHALL REPRESENT A LAW ENFORCEMENT AGENCY OF AN INCORPORATED CITY OR TOWN THAT IS NOT LOCATED IN THE SAME COUNTY THAT IS REPRESENTED BY THE MEMBER APPOINTED PURSUANT TO PARAGRAPH 6 OF THIS SUBSECTION.

6. ONE MEMBER WHO REPRESENTS A LAW ENFORCEMENT AGENCY OF A COUNTY, WHO HAS EXPERIENCE IN DEALING WITH TOWING AND STORAGE SERVICES AND WHO IS APPOINTED BY THE GOVERNOR.

B. THE MEMBERS APPOINTED PURSUANT TO SUBSECTION A, PARAGRAPHS 3 THROUGH 6 SERVE STAGGERED TERMS OF THREE YEARS UNLESS A MEMBER VACATES THE POSITION. APPOINTMENT TO FILL A VACANCY RESULTING OTHER THAN FROM EXPIRATION OF A TERM IS FOR THE UNEXPIRED TERM ONLY.

C. THE ADVISORY COUNCIL SHALL:

1. MEET AT LEAST FOUR TIMES IN EACH CALENDAR YEAR.

2. SELECT FROM ITS MEMBERS A PERSON TO SERVE AS CHAIRMAN.

3. ADVISE AND ASSIST THE DEPARTMENT OF PUBLIC SAFETY CONCERNING MATTERS RELATED TO RULES GOVERNING THE DESIGN AND OPERATION OF ALL TOW TRUCKS IN THIS STATE.

4. ADVISE AND ASSIST THE DEPARTMENT OF PUBLIC SAFETY IN RESOLVING COMPLAINTS FROM CONSUMERS AND TOW TRUCK OPERATORS. THE DEPARTMENT OF PUBLIC SAFETY SHALL PROVIDE QUARTERLY TO THE ADVISORY COUNCIL INFORMATION RELATED TO THE COMPLAINTS INCLUDING THE NUMBER, NATURE AND DISPOSITION OF THE COMPLAINTS.

5. ESTABLISH A MAILING LIST THAT INCLUDES ANY PERSON WHO EXPRESSES INTEREST IN THE ADVISORY COUNCIL'S ACTIVITIES. THE ADVISORY COUNCIL SHALL PROVIDE THE LIST TO THE DEPARTMENT OF PUBLIC SAFETY, AND THE DEPARTMENT OF PUBLIC SAFETY SHALL SEND NOTICE BY FIRST CLASS MAIL TO EACH PERSON ON THE LIST AT LEAST FIFTEEN DAYS BEFORE THE DATE ON WHICH A MEETING OF THE ADVISORY COUNCIL IS SCHEDULED TO BE HELD.

6. SUBMIT A REPORT WITH ITS FINDINGS AND RECOMMENDATIONS ON OR BEFORE DECEMBER 1 OF EACH YEAR TO THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

D. THE DEPARTMENT OF PUBLIC SAFETY SHALL PROVIDE STAFF TO SUPPORT THE TOWING ADVISORY COUNCIL.

E. MEMBERS OF THE ADVISORY COUNCIL ARE NOT ELIGIBLE TO RECEIVE COMPENSATION OR REIMBURSEMENT FOR EXPENSES.

ARTICLE 19. ENVELOPE PERMITS

28-1141. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "ENVELOPE" MEANS THE OUTERMOST DIMENSIONS OF A LOAD OR VEHICLE TO INCLUDE WIDTH, HEIGHT AND LENGTH AND THE WEIGHT OF THE VEHICLE OR ITS LOAD.

2. "ENVELOPE PERMIT" MEANS A PERMIT ISSUED BY THE DEPARTMENT AUTHORIZING A PERSON TO TRANSPORT PROPERTY ON THE HIGHWAYS OF THIS STATE PURSUANT TO ALL APPLICABLE STATUTES AND LOCAL ORDINANCES AND THE TERMS LISTED ON THE PERMIT.

3. "POWER UNIT" MEANS A VEHICLE THAT PROPELS ITSELF OR TOWS A TRAILER OR COMBINATION OF VEHICLES ON THE HIGHWAYS OF THIS STATE.

28-1142. Application

A. A PERSON SHALL NOT OPERATE, MOVE OR LEAVE STANDING ON A HIGHWAY OF THIS STATE A VEHICLE THAT IS CARRYING OR TRANSPORTING CARGO AND THAT IS REQUIRED TO HAVE A PERMIT FOR EXCESS SIZE OR WEIGHT OR THAT IS OTHERWISE NOT IN CONFORMITY WITH THIS CHAPTER UNLESS THE DEPARTMENT ISSUED AN ENVELOPE PERMIT OR THE PERSON OBTAINED A PERMIT PURSUANT TO SECTION 28-1103.

B. A PERSON SHALL SUBMIT AN APPLICATION FOR AN ENVELOPE PERMIT TO THE DIRECTOR IN WRITING ON A FORM PRESCRIBED AND FURNISHED BY THE DIRECTOR. THE APPLICATION SHALL BE VERIFIED AND SHALL STATE:

1. THE PRINCIPAL PLACE OF BUSINESS OF THE APPLICANT.

2. THE ESTABLISHED PLACE OF BUSINESS OR THE PLACE OF BUSINESS AT OR FROM WHICH THE BUSINESS IS TO BE CONDUCTED.

3. THE VEHICLE IDENTIFICATION NUMBER OF AND THE MAKE OF THE VEHICLE THAT THE APPLICANT LISTS AS AN AUTHORIZED VEHICLE ON THE ENVELOPE PERMIT.

4. OTHER INFORMATION THE DIRECTOR REQUIRES.

C. THE DIRECTOR SHALL DENY AN APPLICATION FOR AN ENVELOPE PERMIT IF THE APPLICANT KNOWINGLY MAKES A MISREPRESENTATION, MISSTATEMENT OR MATERIAL OMISSION OF INFORMATION ON THE APPLICATION. A PERSON WHO IS DENIED AN ENVELOPE PERMIT PURSUANT TO THIS SUBSECTION IS NOT ELIGIBLE TO REAPPLY FOR AN ENVELOPE PERMIT FOR A PERIOD OF UP TO TWENTY-FOUR MONTHS FROM THE DATE OF THE DENIAL.

28-1143. Fees

A. THE DEPARTMENT SHALL COLLECT THE FOLLOWING FEES:

1. ONE HUNDRED FIFTY DOLLARS FOR EACH THIRTY DAY OVERSIZE ONLY ENVELOPE PERMIT.

2. FIVE HUNDRED DOLLARS FOR A THIRTY DAY OVERSIZE AND OVERWEIGHT ENVELOPE PERMIT.

3. SEVEN HUNDRED FIFTY DOLLARS FOR AN ANNUAL OVERSIZE ONLY ENVELOPE PERMIT.

4. ONE THOUSAND FIVE HUNDRED DOLLARS FOR AN ANNUAL OVERSIZE AND OVERWEIGHT ENVELOPE PERMIT.

5. FIFTY DOLLARS FOR EACH POWER UNIT THAT IS ADDED AND THAT EXCEEDS THE ORIGINAL NUMBER OF UNITS ON THE ENVELOPE PERMIT AS ISSUED.

6. TWENTY-FIVE DOLLARS FOR REISSUING AN ENVELOPE PERMIT TO REFLECT A CHANGE IN THE ENVELOPE PERMIT HOLDER'S NAME, ADDRESS OR SUBSTITUTE POWER UNITS.

B. THE DIRECTOR SHALL TRANSMIT TWENTY-FIVE PER CENT OF THE FEES COLLECTED PURSUANT TO THIS SECTION TO THE STATE TREASURER FOR DEPOSIT IN THE SPECIAL REGISTRATION FUND ESTABLISHED BY SECTION 28-2007. THE DIRECTOR SHALL USE MONIES DEPOSITED IN THE SPECIAL REGISTRATION FUND PURSUANT TO THIS SECTION TO CARRY OUT THE DUTIES IMPOSED BY THIS ARTICLE.

28-1144. Issuing envelope permits; restrictions; requirements

A. ON APPROVAL OF THE APPLICATION, THE DIRECTOR MAY ISSUE AN ENVELOPE PERMIT. THE ENVELOPE PERMIT FOR A NONSPECIFIC AND NONREDUCIBLE VEHICLE OR CARGO SHALL NOT AUTHORIZE A VEHICLE OR A VEHICLE TRANSPORTING CARGO ON A HIGHWAY TO EXCEED TWO HUNDRED FIFTY THOUSAND POUNDS GROSS WEIGHT, FOURTEEN FEET IN WIDTH, SIXTEEN FEET IN HEIGHT AND ONE HUNDRED TWENTY FEET IN LENGTH.

B. A VEHICLE FOR WHICH AN ENVELOPE PERMIT IS ISSUED SHALL HAVE AT LEAST FOUR AXLES. EXCEPT FOR EXCESS GROSS WEIGHT, EXCESS WIDTH OR LENGTH AUTHORIZED BY THE ENVELOPE PERMIT, A VEHICLE AND CARGO SHALL MEET THE REQUIREMENTS OF STATUTES, RULES AND ORDINANCES GOVERNING THE MOVEMENT OF VEHICLES ON HIGHWAYS AND RULES OF LOCAL AUTHORITIES.

C. A PERSON WHO OPERATES A VEHICLE ON A HIGHWAY TRANSPORTING CARGO FOR WHICH AN ENVELOPE PERMIT HAS BEEN ISSUED AND IS REQUIRED SHALL HAVE A LEGIBLE ENVELOPE PERMIT IN THE PERSON'S IMMEDIATE POSSESSION. AN ENVELOPE PERMIT SHALL PROVIDE FOR THE LISTING OF ANY NUMBER OF POWER UNITS ON THE PERMIT. THE ENVELOPE PERMIT IS VALID ONLY IF THE POWER UNIT TOWING OR TRANSPORTING THE CARGO IS LISTED ON THE PERMIT. THE OPERATOR SHALL DISPLAY THE ENVELOPE PERMIT ON DEMAND OF A PEACE OFFICER.

D. AN ENVELOPE PERMIT MAY BE DUPLICATED AND MODIFIED TO INCLUDE THE LISTING OF ADDITIONAL POWER UNITS AT THE TIME OF INITIAL APPLICATION OR LATER. A PHOTOCOPY OR FACSIMILE OF THE ENVELOPE PERMIT IS NOT VALID.

E. THE DIRECTOR SHALL NOT ISSUE AN ENVELOPE PERMIT FOR A VEHICLE OR VEHICLE COMBINATION THAT TRANSPORTS CARGO COMMONLY KNOWN AS A MOBILE OR MODULAR HOME.

28-1145. Third party permit issuance

THE DIRECTOR, IN CONSULTATION WITH THE ENVELOPE PERMIT ADVISORY COUNCIL ESTABLISHED BY SECTION 28-1150, MAY AUTHORIZE THIRD PARTIES TO ISSUE PERMITS PURSUANT TO ARTICLE 11 OF THIS CHAPTER AND THIS ARTICLE PURSUANT TO RULES.

28-1146. Administration

A. THE DIRECTOR SHALL REGULATE ALL PERSONS REQUIRED BY THIS ARTICLE TO HAVE ENVELOPE PERMITS.

B. THE DIRECTOR MAY:

1. INVESTIGATE AND REQUIRE THE ASSISTANCE OF THE DEPARTMENT OF PUBLIC SAFETY OR COUNTY OR LOCAL LAW ENFORCEMENT AGENCIES IN ITS INVESTIGATION.

2. CONDUCT HEARINGS.

3. COMPEL THE ATTENDANCE OF WITNESSES AT THE HEARINGS.

1 28-1147. Revocation or suspension of envelope permits and
2 privileges
3 A. THE DIRECTOR MAY SUSPEND OR REVOKE AN ENVELOPE PERMIT IF THE
4 DIRECTOR DETERMINES THAT THE PERSON:
5 1. MADE A MATERIAL MISREPRESENTATION OR MISSTATEMENT IN THE
6 APPLICATION FOR AN ENVELOPE PERMIT.
7 2. VIOLATED OR IS VIOLATING EITHER:
8 (a) A LAW OF THIS STATE GOVERNING THE MOVEMENT OF VEHICLES ON THE
9 HIGHWAYS.
10 (b) A RULE ADOPTED BY THE DIRECTOR OR A LOCAL AUTHORITY.
11 3. DOES NOT HAVE AN ESTABLISHED PLACE OF BUSINESS OR PRINCIPAL PLACE
12 OF BUSINESS.
13 4. FAILED OR IS FAILING TO MAINTAIN RECORDS THAT ARE REQUIRED TO BE
14 MAINTAINED.
15 B. ON DETERMINING THAT GROUNDS FOR SUSPENSION OR REVOCATION OF AN
16 ENVELOPE PERMIT EXIST, THE DIRECTOR SHALL GIVE NOTICE TO THE PERSON IN
17 WRITING OF THE SUSPENSION OR REVOCATION. THE NOTICE SHALL REQUIRE THE PERSON
18 TO APPEAR BEFORE THE DIRECTOR AT A SPECIFIED TIME AND PLACE TO SHOW CAUSE WHY
19 THE ENVELOPE PERMIT SHOULD NOT BE SUSPENDED OR REVOKED. THE DIRECTOR SHALL
20 SET THE TIME AND PLACE FOR THE HEARING. THE LICENSEE MAY APPEAR AND BE HEARD
21 AT THE HEARING AND MAY HAVE OTHER PERSONS PRESENT AND TESTIFY AT THE HEARING.
22 THE ORDER OF SUSPENSION OR REVOCATION IS FINAL IF A RESPONSE IS NOT RECEIVED
23 FROM THE PERMITTEE WITHIN FIFTEEN DAYS OF THE DATE THE NOTICE FOR HEARING WAS
24 MAILED.
25 C. IF THE ENVELOPE PERMIT OF A PERSON IS SUSPENDED FOR A VIOLATION OF
26 THIS ARTICLE, THE SUSPENSION IS NOT EFFECTIVE FOR MORE THAN TWO YEARS. IF
27 THE ENVELOPE PERMIT IS REVOKED FOR A VIOLATION OF THIS ARTICLE, THE PERSON
28 MAY APPLY FOR A NEW ENVELOPE PERMIT AFTER TWO YEARS. THE DIRECTOR SHALL MAKE
29 A WRITTEN ORDER THAT SUSPENDS OR REVOKES OR DECLINES TO SUSPEND OR REVOKE THE
30 ENVELOPE PERMIT.
31 D. IF THE DIRECTOR DETERMINES THAT A PERSON FAILED TO OBTAIN AN
32 ENVELOPE PERMIT OR A PERMIT UNDER SECTION 28-1103, THE DIRECTOR MAY SUSPEND
33 THE PRIVILEGE OF OBTAINING SUBSEQUENT PERMITS FOR TWO YEARS FROM THE DATE OF
34 THE SUSPENSION. A PERSON WHOSE PERMIT PRIVILEGES ARE SUSPENDED MAY REQUEST
35 A HEARING WITHIN FIFTEEN DAYS TO SHOW CAUSE WHY THE ENVELOPE PERMIT
36 PRIVILEGES SHOULD NOT BE REINSTATED. AT THE TIME AND PLACE FIXED BY THE
37 DIRECTOR, THE PERSON SHALL APPEAR AND BE HEARD AND MAY HAVE OTHER PERSONS
38 PRESENT AND TESTIFY AT THE HEARING.
39 E. DECISIONS OF THE DIRECTOR ARE SUBJECT TO JUDICIAL REVIEW PURSUANT
40 TO TITLE 12, CHAPTER 7, ARTICLE 6.
41 28-1148. Liability
42 A USER OF AN ENVELOPE PERMIT ACCEPTS FULL RESPONSIBILITY AND LIABILITY
43 FOR USE OF THE ENVELOPE PERMIT AND HOLDS THE STATE HARMLESS FOR AN ACT OR THE

OMISSION OF AN ACT WHILE OPERATING A VEHICLE OR TRANSPORTING CARGO FOR WHICH AN ENVELOPE PERMIT HAS BEEN ISSUED AND IS REQUIRED.

28-1149. Records; inspection

A. A PERMIT HOLDER SHALL MAINTAIN IN THIS STATE FOR AT LEAST THREE YEARS RECORDS AND OTHER DATA FOR ALL VEHICLES OPERATED AND CARGO TRANSPORTED UNDER AN ENVELOPE PERMIT.

B. THE DIRECTOR MAY PRESCRIBE UNIFORM FORMS FOR THE KEEPING OF RECORDS AND OTHER DATA.

C. DURING USUAL BUSINESS HOURS OR AT ANY OTHER TIME IF NEEDED TO PROTECT PUBLIC SAFETY, THE PERMIT HOLDER SHALL ALLOW DEPARTMENT EMPLOYEES OR STATE OR LOCAL PEACE OFFICERS TO INSPECT THE PERMIT HOLDER'S RECORDS AND OTHER DATA.

28-1150. Envelope permit advisory council

A. AN ENVELOPE PERMIT ADVISORY COUNCIL IS ESTABLISHED CONSISTING OF THE FOLLOWING SEVEN MEMBERS WHO ARE APPOINTED BY THE GOVERNOR:

1. ONE MEMBER REPRESENTING THE DEPARTMENT OF PUBLIC SAFETY.
2. ONE MEMBER REPRESENTING THE DEPARTMENT OF TRANSPORTATION.
3. THREE MEMBERS REPRESENTING MOTOR CARRIERS.
4. ONE MEMBER FROM A MUNICIPAL LAW ENFORCEMENT AGENCY OF A CITY WITH A POPULATION OF MORE THAN ONE HUNDRED THOUSAND PERSONS ACCORDING TO THE MOST RECENT UNITED STATES DECENNIAL CENSUS.
5. ONE MEMBER REPRESENTING THE GOVERNOR'S OFFICE OF HIGHWAY SAFETY.

B. THE MEMBERS SHALL SERVE STAGGERED TERMS OF THREE YEARS.

C. THE ENVELOPE PERMIT ADVISORY COUNCIL SHALL:

1. MEET AT LEAST ANNUALLY.
2. SELECT FROM ITS MEMBERS A PERSON TO SERVE AS CHAIRMAN.
3. ADVISE AND ASSIST THE DEPARTMENT OF TRANSPORTATION IN DEVELOPING THE RULES ADOPTED TO ADMINISTER THIS ARTICLE.
4. ADVISE AND CONSULT WITH THE DEPARTMENT OF TRANSPORTATION AND STATE AND LOCAL LAW ENFORCEMENT AGENCIES CONCERNING MATTERS RELATED TO THE ENVELOPE PERMIT.
5. ESTABLISH A MAILING LIST THAT INCLUDES ANY PARTY EXPRESSING AN INTEREST IN THE COUNCIL'S ACTIVITIES. THE COUNCIL SHALL PROVIDE THE LIST TO THE DEPARTMENT OF TRANSPORTATION, AND THE DEPARTMENT OF TRANSPORTATION SHALL SEND NOTICE BY REGULAR MAIL TO EACH PERSON ON THE LIST AT LEAST FIFTEEN DAYS BEFORE THE DATE ON WHICH EACH MEETING OF THE COUNCIL IS TO BE HELD.

D. MEMBERS OF THE ENVELOPE PERMIT ADVISORY COUNCIL ARE NOT ELIGIBLE TO RECEIVE COMPENSATION OR REIMBURSEMENT FOR EXPENSES.

E. THE ENVELOPE PERMIT ADVISORY COUNCIL IS SUBJECT TO TITLE 38, CHAPTER 3, ARTICLE 3.1.

28-1151. Violation; classification

A PERSON WHO OPERATES, MOVES OR LEAVES STANDING ON A HIGHWAY A VEHICLE OR A VEHICLE CARRYING OR TRANSPORTING CARGO IN VIOLATION OF AN ENVELOPE PERMIT IS GUILTY OF A CLASS 1 MISDEMEANOR.

ARTICLE 20. OFF-HIGHWAY VEHICLES

28-1171. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "HIGHWAY" MEANS THE ENTIRE WIDTH BETWEEN THE BOUNDARY LINES OF EVERY WAY PUBLICLY MAINTAINED BY THE FEDERAL GOVERNMENT, THE DEPARTMENT, A CITY, A TOWN OR A COUNTY IF ANY PART OF THE WAY IS GENERALLY OPEN TO THE USE OF THE PUBLIC FOR PURPOSES OF VEHICULAR TRAVEL.

2. "OFF-HIGHWAY RECREATION FACILITY" INCLUDES OFF-HIGHWAY VEHICLE USE AREAS AND TRAILS SPECIFICALLY DEVELOPED AND DESIGNATED FOR USE BY OFF-HIGHWAY VEHICLES.

3. "OFF-HIGHWAY VEHICLE":

(a) MEANS A MOTORIZED VEHICLE WHEN OPERATED OFF OF HIGHWAYS ON LAND, WATER, SNOW, ICE OR OTHER NATURAL TERRAIN OR ON A COMBINATION OF LAND, WATER, SNOW, ICE OR OTHER NATURAL TERRAIN.

(b) INCLUDES A TWO-WHEEL, THREE-WHEEL OR FOUR-WHEEL VEHICLE, MOTORCYCLE, FOUR-WHEEL DRIVE VEHICLE, DUNE BUGGY, AMPHIBIOUS VEHICLE, GROUND EFFECTS OR AIR CUSHION VEHICLE AND ANY OTHER MEANS OF LAND TRANSPORTATION DERIVING MOTIVE POWER FROM A SOURCE OTHER THAN MUSCLE OR WIND.

(c) DOES NOT INCLUDE A VEHICLE THAT IS EITHER:

(i) DESIGNED PRIMARILY FOR TRAVEL ON, OVER OR IN THE WATER.

(ii) USED IN INSTALLATION, INSPECTION, MAINTENANCE, REPAIR OR RELATED ACTIVITIES INVOLVING FACILITIES FOR THE PROVISION OF UTILITY OR RAILROAD SERVICE.

4. "OFF-HIGHWAY VEHICLE TRAIL" MEANS A MULTIPLE USE CORRIDOR THAT IS ALL OF THE FOLLOWING:

(a) OPEN TO RECREATIONAL TRAVEL BY AN OFF-HIGHWAY VEHICLE.

(b) NOT NORMALLY SUITABLE FOR TRAVEL BY CONVENTIONAL TWO-WHEEL DRIVE VEHICLES.

(c) OPENED BY THE MANAGING AUTHORITY OF THE PROPERTY THAT THE TRAIL TRAVERSES FOR THE SPECIFIC DESIGNATED PURPOSE OF RECREATIONAL OFF-HIGHWAY VEHICLE USE.

5. "OFF-HIGHWAY VEHICLE USE AREA" MEANS THE ENTIRE AREA OF A PARCEL OF LAND, EXCEPT FOR CAMPING AND APPROVED BUFFER AREAS, THAT IS MANAGED SPECIFICALLY FOR OFF-HIGHWAY VEHICLE USE THROUGH THE DEVELOPMENT OR DESIGNATION OF OFF-HIGHWAY VEHICLE TRAILS.

28-1172. Applicability; private and Indian lands

THIS ARTICLE APPLIES TO ALL LANDS IN THIS STATE EXCEPT PRIVATE LAND AND INDIAN LAND.

28-1173. Enforcement

ALL PEACE OFFICERS OF THIS STATE AND COUNTIES, CITIES OR TOWNS AND OTHER DULY AUTHORIZED STATE AND FEDERAL EMPLOYEES SHALL ENFORCE THIS ARTICLE.

28-1174. Operation restrictions; violation; classification

A. IT IS UNLAWFUL FOR A PERSON TO DRIVE AN OFF-HIGHWAY VEHICLE WITH RECKLESS DISREGARD FOR THE SAFETY OF PERSONS OR PROPERTY.

1 B. A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A CLASS 2
2 MISDEMEANOR.
3 C. IN ADDITION TO OR IN LIEU OF THE FINE PRESCRIBED BY THIS SECTION,
4 A JUDGE MAY ORDER THE PERSON TO PERFORM AT LEAST EIGHT BUT NOT MORE THAN
5 TWENTY-FOUR HOURS OF COMMUNITY SERVICE OR TO COMPLETE AN APPROVED SAFETY
6 COURSE, OR BOTH.
7 28-1175. Instruction course; fee
8 A. THE DEPARTMENT SHALL CONDUCT OR APPROVE AN EDUCATIONAL COURSE OF
9 INSTRUCTION IN OFF-HIGHWAY VEHICLE SAFETY AND ENVIRONMENTAL ETHICS. THE
10 COURSE SHALL INCLUDE INSTRUCTION ON OFF-HIGHWAY VEHICLE USES THAT LIMIT AIR
11 POLLUTION AND HARM TO NATURAL TERRAIN, VEGETATION AND ANIMALS. SUCCESSFUL
12 COMPLETION OF THE COURSE REQUIRES SUCCESSFUL PASSAGE OF A WRITTEN
13 EXAMINATION.
14 B. ANY GOVERNMENTAL AGENCY, CORPORATION OR OTHER INDIVIDUAL THAT
15 CONDUCTS A TRAINING AND EDUCATIONAL COURSE THAT IS APPROVED BY THE DEPARTMENT
16 MAY COLLECT A FEE THAT IS REASONABLE AND COMMENSURATE FOR THE TRAINING AND
17 THAT DOES NOT EXCEED FIFTY DOLLARS.
18 28-1176. Off-highway vehicle recreation fund
19 A. AN OFF-HIGHWAY VEHICLE RECREATION FUND IS ESTABLISHED. THE FUND
20 CONSISTS OF:
21 1. MONIES APPROPRIATED BY THE LEGISLATURE.
22 2. MONIES DEPOSITED PURSUANT TO SECTION 28-5617.
23 3. FEDERAL GRANTS AND PRIVATE GIFTS.
24 4. MATCHING MONIES FROM FEDERAL, STATE, LOCAL OR PRIVATE ENTITIES.
25 B. MONIES IN THE OFF-HIGHWAY VEHICLE RECREATION FUND ARE APPROPRIATED
26 TO THE STATE PARKS BOARD SOLELY FOR THE PURPOSES PROVIDED IN THIS ARTICLE.
27 INTEREST EARNED ON MONIES IN THE FUND SHALL BE CREDITED TO THE FUND. MONIES
28 IN THE OFF-HIGHWAY VEHICLE RECREATION FUND ARE EXEMPT FROM THE PROVISIONS OF
29 SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS.
30 C. THE GAME AND FISH DEPARTMENT SHALL SPEND THIRTY PER CENT OF THE
31 MONIES IN THE OFF-HIGHWAY VEHICLE RECREATION FUND FOR AN INFORMATIONAL AND
32 EDUCATIONAL PROGRAM ON OFF-HIGHWAY VEHICLE RECREATION AND LAW ENFORCEMENT
33 ACTIVITIES RELATING TO THIS ARTICLE AND FOR OFF-HIGHWAY VEHICLE LAW
34 ENFORCEMENT PURSUANT TO TITLE 17, CHAPTER 4, ARTICLE 3.
35 D. ON OR BEFORE DECEMBER 31 OF EACH YEAR, THE GAME AND FISH DEPARTMENT
36 SHALL SUBMIT AN ANNUAL REPORT TO THE PRESIDENT OF THE SENATE, THE SPEAKER OF
37 THE HOUSE OF REPRESENTATIVES AND THE CHAIRMEN OF THE SENATE AND HOUSE OF
38 REPRESENTATIVES COMMITTEES ON TRANSPORTATION OR THEIR SUCCESSOR COMMITTEES.
39 THE ANNUAL REPORT SHALL INCLUDE INFORMATION ON:
40 1. THE AMOUNT OF MONIES SPENT OR ENCUMBERED IN THE FUND DURING THE
41 PRECEDING FISCAL YEAR FOR THE PURPOSES OF LAW ENFORCEMENT ACTIVITIES.
42 2. THE AMOUNT OF MONIES SPENT FROM THE FUND DURING THE PRECEDING
43 FISCAL YEAR FOR EMPLOYEE SERVICES.

3. THE NUMBER OF FULL-TIME EMPLOYEES EMPLOYED IN THE PRECEDING FISCAL YEAR IN CONNECTION WITH LAW ENFORCEMENT ACTIVITIES.

E. THE STATE PARKS BOARD SHALL SPEND SEVENTY PER CENT OF THE MONIES IN THE OFF-HIGHWAY VEHICLE RECREATION FUND FOR THE FOLLOWING PURPOSES:

1. NO MORE THAN EIGHTEEN PER CENT TO FUND STAFF SUPPORT TO PLAN AND ADMINISTER THE OFF-HIGHWAY VEHICLE RECREATION FUND.

2. TO ESTABLISH A FACILITY DEVELOPMENT PROGRAM BASED ON THE PRIORITIES ESTABLISHED IN THE OFF-HIGHWAY VEHICLE PLAN.

3. TO PROVIDE MONIES TO THE ARIZONA CONSERVATION CORPS COMMISSION ESTABLISHED BY SECTION 41-519.01 TO BE USED IN EQUAL AMOUNTS FOR FACILITY DEVELOPMENT AND FOR MITIGATION OF DAMAGE TO THE NATURAL RESOURCES IF THE DAMAGE IS CAUSED BY OFF-HIGHWAY VEHICLE USE.

4. TO ESTABLISH A MATCHING FUND PROGRAM FOR FUNDING OFF-HIGHWAY RELATED LAW ENFORCEMENT, INFORMATIONAL AND ENVIRONMENTAL EDUCATION PROGRAMS, MITIGATION OF ENVIRONMENTAL DAMAGE, FACILITY DEVELOPMENT, LAND ACQUISITION AND CONSTRUCTION OF OFF-HIGHWAY VEHICLE RELATED FACILITIES.

F. THE ALLOCATION OF THE MONIES IN THE MATCHING FUND PROGRAM PRESCRIBED IN SUBSECTION E, PARAGRAPH 4 OF THIS SECTION AND THE PERCENTAGES ALLOCATED TO EACH OF THE PURPOSES PRESCRIBED IN THE PROGRAM SHALL BE DETERMINED BY AN OFF-HIGHWAY VEHICLE PLAN PREPARED BY THE ARIZONA OUTDOOR RECREATION COORDINATING COMMISSION AND APPROVED BY THE STATE PARKS BOARD.

G. MONIES IN THE MATCHING FUND PROGRAM ESTABLISHED UNDER SUBSECTION E, PARAGRAPH 4 OF THIS SECTION SHALL BE DISTRIBUTED IN AN AMOUNT DETERMINED BY THE ARIZONA OUTDOOR RECREATION COORDINATING COMMISSION TO A QUALIFIED STATE OR FEDERAL AGENCY, CITY, TOWN, COUNTY OR TRIBAL GOVERNMENT. THE STATE PARKS BOARD MAY REQUIRE ADDITIONAL MATCHING MONIES THAT MAY BE DIRECT MONIES OR IN-KIND SERVICES FROM THESE ENTITIES BEFORE THE DISTRIBUTION PURSUANT TO THIS SUBSECTION.

H. AGENCIES RECEIVING MONIES UNDER THIS SECTION SHALL USE THE MONIES:

1. TO DESIGNATE, CONSTRUCT, MAINTAIN AND MANAGE OFF-HIGHWAY VEHICLE RECREATION FACILITIES, OFF-HIGHWAY VEHICLE USE AREAS AND OFF-HIGHWAY VEHICLE TRAILS WITHIN LAND UNDER THE JURISDICTION OF THE PARTICULAR AGENCY.

2. FOR ENFORCEMENT OF OFF-HIGHWAY VEHICLE LAWS.

3. FOR MITIGATION OF DAMAGES TO LAND.

4. FOR OFF-HIGHWAY VEHICLE RELATED ENVIRONMENTAL EDUCATION.

I. THE ARIZONA OUTDOOR RECREATION COORDINATING COMMISSION SHALL EXAMINE APPLICATIONS FOR ELIGIBLE PROJECTS AND DETERMINE THE AMOUNT OF FUNDING, IF ANY, FOR EACH PROJECT.

J. THE STATE PARKS BOARD SHALL ANNUALLY REPORT TO THE LEGISLATURE THE EXPENDITURES MADE FOR THE PROJECTS IN CONJUNCTION WITH THE REPORT REQUIRED BY SECTION 41-511.12. THE ANNUAL REPORT SHALL INCLUDE THE AMOUNT OF MONIES SPENT OR ENCUMBERED DURING THE PRECEDING FISCAL YEAR FOR THE PURPOSES DESCRIBED IN SUBSECTION E OF THIS SECTION.

28-1177. Off-highway vehicle advisory group

A. AN OFF-HIGHWAY VEHICLE ADVISORY GROUP IS ESTABLISHED CONSISTING OF NINE MEMBERS, NO MORE THAN TWO OF WHOM MAY RESIDE IN ONE COUNTY, AS FOLLOWS:

1. SEVEN MEMBERS WHO ARE OFF-HIGHWAY VEHICLE RECREATIONISTS, AT LEAST FIVE OF WHOM ARE MEMBERS OF AN ORGANIZED OFF-HIGHWAY VEHICLE GROUP.

2. ONE MEMBER WHO IS A MEMBER OF AN ORGANIZED ENVIRONMENTAL GROUP.

3. ONE MEMBER WHO REPRESENTS THE GENERAL PUBLIC.

B. THE STATE PARKS BOARD SHALL CONTACT ORGANIZED CLUBS AND OTHER INTERESTED GROUPS TO DETERMINE PERSONS QUALIFIED TO SERVE AS MEMBERS OF THE ADVISORY GROUP. FROM A LIST OF AT LEAST TWO NAMES FOR EACH APPOINTMENT SUBMITTED BY THE STATE PARKS BOARD, THE GOVERNOR SHALL APPOINT MEMBERS OF THE ADVISORY GROUP.

C. THE TERM OF EACH MEMBER IS THREE YEARS.

D. THE OFFICE OF A MEMBER IS DEEMED VACANT AND THE GOVERNOR SHALL APPOINT A PERSON TO FILL THE REMAINDER OF THE TERM FROM A LIST OF AT LEAST TWO NAMES FOR EACH APPOINTMENT SUBMITTED BY THE STATE PARKS BOARD UNDER ANY OF THE FOLLOWING CIRCUMSTANCES:

1. THE MEMBER IS NO LONGER AN ACTIVE OFF-HIGHWAY VEHICLE RECREATIONIST OR A MEMBER OF AN ORGANIZED ENVIRONMENTAL GROUP.

2. THE MEMBER IS UNABLE TO PERFORM THE MEMBER'S DUTIES.

3. THE MEMBER IS ABSENT FROM THREE CONSECUTIVE MEETINGS AND THE ABSENCES HAVE NOT BEEN EXCUSED BY THE GROUP.

4. THE MEMBER IS A RESIDENT OF ANOTHER STATE.

E. THE OFF-HIGHWAY VEHICLE ADVISORY GROUP SHALL ADVISE THE ARIZONA OUTDOOR RECREATION COORDINATING COMMISSION ON THE DEVELOPMENT AND IMPLEMENTATION OF THE STATEWIDE OFF-HIGHWAY VEHICLE RECREATIONAL PLAN PURSUANT TO THIS SECTION.

Sec. 19. Section 28-1301, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-1301. Definitions

In this chapter, unless the context otherwise requires:

1. "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used to transport passengers or property if the motor vehicle either:

(a) Has a gross combined weight rating of twenty-six thousand one or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than ten thousand pounds.

(b) Has a gross vehicle weight rating of twenty-six thousand one or more pounds.

(c) Is a school bus.

(d) Is a bus.

(e) Is of any size, is used in the transportation of materials found to be hazardous for the purposes of the hazardous materials transportation act (49 United States Code appendix ~~section~~ SECTIONS 1801 ~~et seq.~~ THROUGH

1812) and is required to be placarded under 49 Code of Federal Regulations section 172.504, as adopted by the department pursuant to chapter 14 of this title.

2. "EDUCATION" MEANS A PROGRAM IN WHICH A PERSON PARTICIPATES IN AT LEAST SIXTEEN HOURS OF CLASSROOM INSTRUCTION RELATING TO ALCOHOL OR OTHER DRUGS.

~~2.~~ 3. "License" means any license, temporary instruction permit or temporary license issued under the laws of this state or any other state pertaining to the licensing of persons to operate motor vehicles.

4. "SCREENING" MEANS A PRELIMINARY INTERVIEW AND ASSESSMENT OF AN OFFENDER TO DETERMINE IF THE OFFENDER REQUIRES ALCOHOL OR OTHER DRUG EDUCATION OR TREATMENT.

5. "TREATMENT" MEANS A PROGRAM CONSISTING OF AT LEAST TWENTY HOURS OF PARTICIPATION IN A GROUP SETTING DEALING WITH ALCOHOL OR OTHER DRUGS IN ADDITION TO THE SIXTEEN HOURS OF EDUCATION.

Sec. 20. Title 28, chapter 4, article 1, Arizona Revised Statutes, as transferred and renumbered by this act, is amended by adding section 28-1302, to read:

28-1302. Applicability of chapter

THIS CHAPTER APPLIES ON HIGHWAYS AND ELSEWHERE IN THIS STATE.

Sec. 21. Section 28-1322, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-1322. Preliminary breath tests; rules on approval of devices

A. A law enforcement officer who has reasonable suspicion to believe that a person has committed a violation of section ~~28-2881~~ 28-1381 may request that the person submit to a preliminary breath test or tests before an arrest.

B. In addition to a breath test or tests, the officer may require that the person submit to further testing pursuant to section ~~28-2821~~ 28-1321.

C. The director of the department of health services shall adopt rules prescribing the approval of quantitative preliminary breath testing devices.

Sec. 22. Section 28-1323, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-1323. Admissibility of breath test or other records

A. The results of a breath test administered for the purpose of determining a person's alcohol concentration are admissible as evidence in any trial, action or proceeding on establishing the following foundational requirements:

1. The test was performed using a quantitative breath testing device approved by the department of health services. A properly authenticated certification by the department of health services is sufficient to establish this requirement.

2. The operator who conducted the test possessed a valid permit issued by the department of health services to operate the device used to conduct the test.

3. Duplicate tests were administered and the test results were within 0.02 alcohol concentration of each other or an operator observed the person charged with the violation for twenty minutes immediately preceding the administration of the test.

4. The operator who conducted the test followed an operational checklist approved by the department of health services for the operation of the device used to conduct the test. The testimony of the operator is sufficient to establish this requirement.

5. The device used to conduct the test was in proper operating condition. Records of periodic maintenance that show that the device was in proper operating condition at a time before and after the test are admissible in any proceeding as prima facie evidence that the device was in proper operating condition at the time of the test. The records are public records.

B. Compliance with subsection A of this section is the only requirement for the admission in evidence of a breath test result.

C. Records that may be obtained or that are otherwise maintained pursuant to section ~~28-2827~~ 28-1327 are admissible as evidence in any trial, action or proceeding.

Sec. 23. Section 28-1327, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-1327. Reproduction of records; admissibility; computer storage

A. The head of a law enforcement agency or the director of the department of health services may place on computer storage any records concerning a quantitative breath testing device. Signatures that are found on the records do not have to be placed on computer storage.

B. A reproduction of any information that is placed on computer storage pursuant to subsection A is deemed to be an original of the record for all purposes and is admissible without further foundation in evidence if the custodian of the records certifies the following on each page:

> Pursuant to section ~~28-2827~~ 28-1327, Arizona Revised Statutes, the below named individual being a duly designated custodian of (name of agency) public records certifies that this document is a true reproduction of the information contained in computer storage devices of the (name of agency).
>
> By/s/_____
>
> print full name

Sec. 24. Section 28-1382, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-1382. Driving under the influence; violation; classification; sentences; fines; community service; repeat offender; sentence suspension; prior convictions; alcohol or other drug screening, education and treatment; license suspension; supervised probation

A. A person who is convicted of a violation of section ~~28-2881~~ 28-1381 is guilty of a class 1 misdemeanor.

B. Except as provided in subsection C of this section, a person who is convicted of a violation of section ~~28-2881~~ 28-1381:

1. Shall be sentenced to serve not less than ten consecutive days in jail and is not eligible for probation~~,~~ OR suspension or execution of sentence or release on any other basis unless the entire sentence is served.

2. Shall pay a fine of not less than two hundred fifty dollars.

3. May be ordered by a court to perform ~~not more than forty hours of~~ community service.

C. Notwithstanding subsection B, paragraph 1 of this section, at the time of sentencing the judge may suspend all but twenty-four consecutive hours of the sentence if the person completes a court ordered alcohol or OTHER drug screening, ~~counseling,~~ education ~~and~~ OR treatment program. If the person fails to complete the court ordered alcohol or OTHER drug screening, ~~counseling,~~ education ~~and~~ OR treatment program and has not been placed on probation, the court shall issue an order to show cause to the defendant as to why the remaining jail sentence should not be served.

D. If a person within a period of sixty months is convicted of a second violation of section ~~28-2881~~ 28-1381 or is convicted of a violation of section ~~28-2881~~ 28-1381 and has previously been convicted of an act in another state that if committed in this state would be a violation of section ~~28-2881~~ 28-1381, the person:

1. Shall be sentenced to serve not less than ninety days in jail, thirty days of which shall be served consecutively, and is not eligible for probation, suspension or execution of sentence or release on any other basis unless the entire sentence has been served.

2. Shall pay a fine of not less than five hundred dollars.

3. Shall surrender the person's driver license to the court and:

(a) The clerk of the court shall invalidate or destroy the driver license and forward the abstract of conviction to the department.

(b) On receipt of the abstract of conviction, the department shall revoke the person's driving privilege.

4. May be ordered by a court to perform not more than forty hours of community service.

E. Notwithstanding subsection D of this section, at the time of sentencing, the judge may suspend all but thirty days of the sentence if the person completes a court ordered alcohol or OTHER drug screening, ~~counseling,~~

education ~~and~~ OR treatment program. If the person fails to complete the court ordered alcohol or OTHER drug screening, ~~counseling,~~ education ~~and~~ OR treatment program and has not been placed on probation, the court shall issue an order to show cause as to why the remaining jail sentence should not be served.

F. In applying the sixty month 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.

G. A second violation for which a conviction occurs as provided in this section shall not include a conviction for an offense arising out of the same series of acts.

H. The court shall allow the allegation of a prior conviction or any other pending charge of a violation of section ~~28-2881~~ 28-1381 filed twenty or more days before the date the case is actually tried.

I. The court may allow the allegation of a prior conviction or any other pending charge of a violation of section ~~28-2881~~ 28-1381 filed at any time before the date the case is actually tried if this state makes available to the defendant when the allegation is filed a copy of any information obtained concerning the prior conviction or other pending charge.

J. Any conviction may be used to enhance another conviction irrespective of the dates on which the offenses occurred within the sixty month provision.

K. In addition to any other penalties under this section, ~~the judge shall order~~ a person who is convicted of a violation of section ~~28-2881 to~~ 28-1381 SHALL complete ~~an~~ alcohol ~~abuse~~ OR OTHER DRUG screening ~~session by a screening or treatment~~ THAT IS PROVIDED BY A facility approved by ~~the division of behavioral health in~~ the department of health services or a ~~county~~ probation department.

L. If the court ~~or screening or treatment facility~~ SUBSEQUENTLY determines that the person ~~has a problem with the use and abuse of alcohol or other drugs~~ REQUIRES FURTHER ALCOHOL OR DRUG EDUCATION OR TREATMENT, the ~~judge~~ COURT may order the person to obtain ~~counseling,~~ ALCOHOL OR OTHER DRUG education ~~and~~ OR treatment under its supervision from an approved ~~treatment~~ facility.

~~M. The division of behavioral health shall adopt and enforce rules that establish standards to be met for a screening or treatment facility to be approved.~~

~~N. The court shall order a person who has sufficient financial ability to pay part or all of the reasonable costs of the screening session and any court ordered treatment.~~

M. THE PERSON SHALL PAY THE COSTS OF THE SCREENING, EDUCATION OR TREATMENT UNLESS THE COURT WAIVES PART OR ALL OF THE COSTS.

~~O.~~ N. If a person is referred to a screening or treatment facility, the facility shall report to the court whether the person has successfully completed the screening, ~~counseling,~~ education or treatment program.

~~P.~~ O. If a person who is sentenced pursuant to subsection B of this section has served twenty-four consecutive hours in jail or if a person who is sentenced pursuant to subsection D of this section has served forty-eight consecutive hours in jail and if the court receives confirmation that the person is employed or is a student, the court, on pronouncement of any jail sentence under this section, may provide in the sentence that the defendant, if the defendant is employed or is a student and can continue the defendant's employment or studies, may continue the employment or studies for not more than twelve hours per day nor more than five days per week. The person shall spend the remaining day, 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 actual hours of employment or studies.

~~Q.~~ P. Unless the license of a person sentenced under subsection B or D of this section has been or is suspended pursuant to section ~~28-2821~~ 28-1321 or ~~28-2885~~ 28-1385, the department on receipt of the abstract of conviction shall suspend the license of the affected person for not less than ninety consecutive days.

~~R.~~ Q. When the department receives notification that the person meets the criteria provided in section ~~28-2885~~ 28-1385, subsection F, the department shall suspend the driving privileges of the person for not less than thirty consecutive days and shall restrict the driving privileges of the person for not less than sixty consecutive additional days to travel between either:

1. The person's place of employment and residence and during specified periods of time while at employment.

2. The person's place of residence and the person's secondary or postsecondary school, according to the person's employment or educational schedule.

3. The person's place of residence and a treatment facility for scheduled appointments.

~~S.~~ R. If a person is placed on probation for violating section ~~28-2881~~ 28-1381, the probation shall be supervised unless the court finds that supervised probation is not necessary or the court does not have supervisory probation services.

~~T.~~ S. Any political subdivision processing or utilizing the services of a person ordered to perform community service pursuant to this section does not incur any civil liability to the person ordered to perform community service as a result of these activities unless the political subdivision or its agent or employee acts with gross negligence.

Sec. 25. Section 28-1383, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-1383. Aggravated driving or actual physical control while under the influence; surrender of license; violation; classification; definition

A. A person is guilty of aggravated driving or actual physical control while under the influence of intoxicating liquor or drugs if the person does either of the following:

1. Commits a violation of section ~~28-2881~~ 28-1381 or this section while the person's driver license or privilege to drive is suspended, cancelled, revoked or refused or while a restriction is placed on the person's driver license or privilege to drive as a result of violating section ~~28-2881~~ 28-1381 or under section ~~28-2885~~ 28-1385.

2. Within a period of sixty months commits a third or subsequent violation of section ~~28-2881~~ 28-1381 or this section or is convicted of a violation of section ~~28-2881~~ 28-1381 or this section and has previously been convicted of any combination of convictions of section ~~28-2881~~ 28-1381 or this section or acts that were committed in another state and that if committed in this state would be a violation of section ~~28-2881~~ 28-1381 or this section.

B. The dates of the commission of the offenses are the determining factor in applying the sixty month provision provided in subsection A, paragraph 2 of this section regardless of the sequence in which the offenses were committed. For purposes of this section, a third or subsequent violation for which a conviction occurs does not include a conviction for an offense arising out of the same series of acts.

C. The notice to a person of the suspension, cancellation, revocation or refusal of a driver license or privilege to drive is effective as provided in section ~~28-1718~~ 28-3318 or pursuant to the laws of the state issuing the license.

D. Notwithstanding section 41-1604.06, a person is not eligible for probation, pardon or suspension of sentence or release on any other basis until the person has served not less than four months in prison if the person is either:

1. Convicted under subsection A, paragraph 1 of this section.

2. Convicted under subsection A, paragraph 2 of this section and within a sixty month period has been convicted of two prior violations of section ~~28-2881~~ 28-1381 or this section, or both, or acts that were committed in another state that if committed in this state would be a violation of section ~~28-2881~~ 28-1381 or this section.

E. Notwithstanding section 41-1604.06, a person who is convicted under subsection A, paragraph 2 of this section and who within a sixty month period has been convicted of three or more prior violations of section ~~28-2881~~ 28-1381 or this section, or both, or acts that were committed in another state and that if committed in this state would be a violation of section ~~28-2881~~ 28-1381 or this section is not eligible for probation, pardon,

commutation or suspension of sentence or release on any other basis until the person has served not less than eight months in prison.

F. A person who is convicted of a violation of this section and who is placed on probation shall attend and complete alcohol or OTHER drug screening, ~~counseling and~~ education OR TREATMENT from an approved facility~~, and if ordered by the court, treatment from an approved facility~~. If the person fails to comply with this subsection, in addition to the provisions of section 13-901 the court may order that the person be incarcerated as a term of probation as follows:

1. For a person sentenced pursuant to subsection ~~E~~ D of this section, for an individual period of not more than four months and a total period of not more than one year.

2. For a person sentenced pursuant to subsection ~~F~~ E of this section, for an individual period of not more than eight months and a total period of not more than two years.

G. The time that a person spends in custody pursuant to subsection F of this section shall not be counted towards the sentence imposed if the person's probation is revoked and the person is sentenced to prison after revocation of probation.

H. The judge shall order the surrender of the person's driver license, and the clerk of the court shall invalidate or destroy the driver license and forward the abstract of conviction to the department. On receipt of the abstract of conviction, the department shall revoke the driving privilege of the person and shall not issue the person a new driver license within three years of the date of the conviction.

I. Aggravated driving or actual physical control while under the influence of intoxicating liquor or drugs is a class 4 felony.

J. For the purposes of this section, "suspension, cancellation, revocation or refusal" means any suspension, cancellation, revocation or refusal.

Sec. 26. Section 28-1384, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-1384. Aggravated driving or actual physical control while under the influence; forfeiture of vehicle

A. If a person is convicted of violating section ~~28-2883~~ 28-1383, the court, in addition to any other penalty imposed by law, shall order the vehicle owned and operated by the person at the time of the offense forfeited in the same manner as provided in title 13, chapter 39.

B. A vehicle used by a person as a common carrier in the transaction of business as a common carrier is not subject to forfeiture unless it appears that the owner or other person in charge of the vehicle consented to or was privy to a violation described in subsection A of this section.

C. Property that is subject to forfeiture and all interests in property that are forfeited under this section shall be disposed of and

allocated in the same manner as provided in title 13, chapter 39, except that all monies that are obtained as a result of forfeiture under this section shall be deposited in the anti-driving under the influence fund established by section ~~28-2942~~ 28-1442.

Sec. 27. Section 28-1385, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-1385. Administrative license suspension for driving under the influence; report; hearing; summary review

A. A law enforcement officer shall forward to the department a certified report as prescribed in subsection B of this section, subject to the penalty for perjury prescribed by section ~~28-3761~~ 28-1561, if both of the following occur:

1. The officer arrests a person for a violation of section 4-244, paragraph 34, section ~~28-2881~~ 28-1381 or section ~~28-2883~~ 28-1383.

2. The person submits to a blood or breath alcohol test permitted by section ~~28-2821~~ 28-1321, the results of which indicate either:

(a) 0.10 or more alcohol concentration in the person's blood or breath.

(b) 0.04 or more alcohol concentration in the person's blood or breath if the person was driving or in actual physical control of a commercial motor vehicle.

B. The officer shall make the certified report required by subsection A of this section on forms supplied or approved by the department. The report shall state information that is relevant to the enforcement action, including:

1. Information that adequately identifies the arrested person.

2. A statement of the officer's grounds for belief that the person was driving or in actual physical control of a motor vehicle in violation of section 4-244, paragraph 34 or section ~~28-2881~~ 28-1381.

3. A statement that the person was arrested for a violation of section 4-244, paragraph 34, section ~~28-2881~~ 28-1381 or section ~~28-2883~~ 28-1383.

4. A report of the results of the chemical test that was administered.

C. The officer shall also serve an order of suspension on the person on behalf of the department. The order of suspension:

1. Is effective fifteen days after the date it is served.

2. Shall require the immediate surrender of any license or permit to drive that is issued by this state and that is in the possession or control of the person.

3. Shall contain information concerning the right to a summary review and hearing, including information concerning the hearing as required by section ~~28-2821~~ 28-1321, subsections G and H.

4. Shall be accompanied by printed forms ready to mail to the department that the person may fill out and sign to indicate the person's desire for a hearing.

5. Shall be entered on the department's records on receipt of the report by the officer and a copy of the order of suspension.

D. If the license or permit is not surrendered pursuant to subsection C of this section, the officer shall state the reason for the nonsurrender. If a valid license or permit is surrendered, the officer shall issue a temporary driving permit that is valid for fifteen days. The officer shall forward a copy of the completed order of suspension, a copy of any completed temporary permit and any driver license or permit taken into possession under this section to the department within five days after the issuance of the order of suspension along with the report.

E. The department shall suspend the affected person's license or permit to drive or right to apply for a license or permit or any nonresident operating privilege for not less than ninety consecutive days from that date.

F. Notwithstanding subsections A through E of this section, the department shall suspend the driving privileges of the person described in subsection A of this section for not less than thirty consecutive days and shall restrict the driving privileges of the person for not less than sixty consecutive additional days to travel between the person's place of employment and residence and during specified periods of time while at employment, to travel between the person's place of residence and the person's secondary or postsecondary school, according to the person's employment or educational schedule, or to travel between the person's place of residence and a treatment facility for scheduled appointments if the person:

1. Did not cause serious physical injury as defined in section 13-105 to another person during the course of conduct out of which the current action arose.

2. Has not been convicted of a violation of section ~~28-2881~~ 28-1381 or ~~28-2883~~ 28-1383 within sixty months of the date of commission of the acts out of which the current action arose. The dates of commission of the acts are the determining factor in applying the sixty month provision.

3. Has not had the person's privilege to drive suspended pursuant to this section or section ~~28-2821~~ 28-1321 within sixty months of the date of commission of the acts out of which the current action arose.

G. The department shall notify the person named in the report in writing sent by mail that fifteen days after the date of issuance of the notice the department will suspend the person's license or permit, driving privilege or nonresident driving privilege and that the department will provide an opportunity for a hearing and administrative review if the person requests a hearing or review in writing and the request is received by the department within fifteen days after the notice is sent if the department receives only the report of the results of the blood or breath alcohol test, the results of which indicate either:

1. 0.10 or more alcohol concentration in the person's blood or breath.

2. 0.04 or more alcohol concentration in the person's blood or breath if the person was driving or in actual physical control of a commercial motor vehicle.

H. A timely request for a hearing stays the suspension until a hearing is held, except that the department shall not return any surrendered license or permit to the person but may issue temporary permits to drive that expire no later than when the department has made its final decision. If the person is a resident without a license or permit or has an expired license or permit, the department may allow the person to apply for a license or permit. If the department determines the person is otherwise entitled to the license or permit, the department shall issue, but retain, the license or permit, subject to this section. All hearings requested under this section shall be conducted in the same manner and under the same conditions as provided in section ~~28-1706~~ 28-3306.

I. For the purposes of this section, the scope of the hearing shall include only the following issues:

1. Whether the officer had reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor.

2. Whether the person was placed under arrest for a violation of section 4-244, paragraph 34, section ~~28-2881~~ 28-1381 or section ~~28-2883~~ 28-1383.

3. Whether a test was taken, the results of which indicated the alcohol concentration in the person's blood or breath at the time the test was administered of either:

(a) 0.10 or more.

(b) 0.04 or more if the person was driving or in actual physical control of a commercial motor vehicle.

4. Whether the testing method used was valid and reliable.

5. Whether the test results were accurately evaluated.

J. The results of the blood or breath alcohol test shall be admitted on establishing the requirements in section ~~28-2823~~ 28-1323 or ~~28-2826~~ 28-1326.

K. If the department determines at the hearing to suspend the affected person's privilege to operate a motor vehicle, the suspension provided in this section is effective fifteen days after giving written notice of the suspension, except that the department may issue or extend a temporary license that expires on the effective date of the suspension. If the person is a resident without a license or permit or has an expired license or permit to operate a motor vehicle in this state, the department shall deny the issuance of a license or permit to the person for not less than ninety consecutive days.

L. A person may apply for a summary review of an order issued pursuant to this section instead of a hearing at any time before the effective date

of the order. The person shall submit the application in writing to any department driver license examining office together with any written explanation as to why the department should not suspend the driving privilege. The agent of the department receiving the notice shall issue an additional driving permit to the person that expires twenty days from the date the request is received. The department shall review all reports submitted by the officer and any written explanation submitted by the person and shall determine if the order of suspension should be sustained or cancelled. The department shall not hold a hearing, and the review is not subject to title 41, chapter 6. The department shall notify the person of its decision before the temporary driving permit expires.

M. If the suspension or determination that there should be a denial of issuance is not sustained after a hearing or review, the ruling is not admissible in and does not have any effect on any civil or criminal court proceeding.

N. If it has been determined under the procedures of this section that a nonresident's privilege to operate a motor vehicle in this state has been suspended, the department shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which the person has a license.

Sec. 28. Section 28-1386, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-1386. Operating a motor vehicle, aircraft, watercraft or water skis under the influence; emergency response costs; definitions

A. A person who is under the influence of intoxicating liquor, any drug, a vapor releasing substance containing a toxic substance or any combination of liquor, drugs or vapor releasing substances, who causes an accident that results in an appropriate emergency response and who is convicted of a violation of any of the following sections is liable for the expenses of that emergency response:

1. Section ~~28-2881~~ 28-1381 or ~~28-2883~~ 28-1383.

2. Section 28-8279, section 28-8280 or section 28-8282, subsection C.

3. Section ~~5-342~~ 5-395.

B. The expenses of an emergency response are a charge against the person liable for those expenses pursuant to subsection A of this section. The charge is a debt of that person and the public agency, for-profit entity or not-for-profit entity that incurred the expenses may collect the debt proportionally. The person's liability for the expenses of an emergency response shall not exceed one thousand dollars for a single accident. The liability imposed under this section is in addition to and not in limitation of any other liability that may be imposed.

C. Any testimony, admission or other statement made by a defendant in a proceeding brought pursuant to this section or any evidence derived from

the testimony, admission or statement is not admissible in a criminal proceeding arising out of the same accident.

D. As used in this section:

1. "Expenses of an emergency response" means reasonable costs directly incurred by a public agency, for-profit entity or not-for-profit entity that makes an appropriate emergency response to an accident, including the costs of providing police, fire fighting, rescue and emergency medical services at the scene of an accident and the salaries of the persons who respond to the accident but excluding charges assessed by an ambulance service that is regulated pursuant to title 36, chapter 21.1, article 2.

2. "Public agency" means this state and any city, county, municipal corporation, district or other public authority that is located in whole or in part in this state and that provides police, fire fighting, medical or other emergency services.

Sec. 29. Title 28, chapter 4, article 3, Arizona Revised Statutes, as transferred and renumbered by this act, is amended by adding section 28-1387, to read:

28-1387. Driving under the influence while minor present; violation; classification

A. A PERSON IS GUILTY OF DRIVING OR BEING IN ACTUAL PHYSICAL CONTROL OF A VEHICLE WHILE A MINOR IS PRESENT IF THE PERSON VIOLATES SECTION 28-1381 WHILE A PERSON WHO IS FIFTEEN YEARS OF AGE OR YOUNGER IS IN THE VEHICLE.

B. A VIOLATION OF SUBSECTION A IS A CLASS 6 FELONY.

Sec. 30. Section 28-1441, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-1441. Driving under the influence; records

The court shall maintain and make accessible to the general public all records regarding the disposition of cases in which a person is charged with a violation of section ~~28-2881~~ 28-1381 or ~~28-2883~~ 28-1383. The court shall include in these records an explanation of its reasons for accepting any plea agreement or dismissing any charge of a violation of section ~~28-2881~~ 28-1381 or ~~28-2883~~ 28-1383.

Sec. 31. Section 28-1442, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-1442. Anti-driving under the influence fund

A. An anti-driving under the influence fund is established in the state treasury consisting of monies received pursuant to section 5-396.01, subsection C and section ~~28-2884~~ 28-1384. The governor's office of highway safety shall administer the fund.

B. Fifty per cent of the monies in the fund received pursuant to section ~~28-2884~~ 28-1384 shall be used for the enforcement and prosecution of any offense under sections ~~28-2881~~ 28-1381 and ~~28-2883~~ 28-1383. The remaining fifty per cent of the monies in the fund received pursuant to

section ~~28-2884~~ 28-1384 shall be used for education and treatment programs on driving under the influence of alcohol or other drugs.

C. Fifty per cent of the monies in the fund received pursuant to section 5-396.01, subsection C shall be used for the enforcement and prosecution of any offense under sections 5-395 and 5-396. The remaining fifty per cent of the monies in the fund received pursuant to section 5-396.01, subsection C shall be used for education and treatment programs on boating or driving under the influence of alcohol or other drugs. The state department of corrections shall administer these programs.

D. On or before January 15, April 15, July 15 and October 15, the governor's office of highway safety shall file a full and complete public account of specific receipts and disbursements from the fund in the previous calendar quarter with the governor, the president of the senate and the speaker of the house of representatives.

Sec. 32. Section 28-1443, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-1443. Minimum security facility

A. A city, town or county may establish a minimum security facility for the confinement of persons convicted of a violation of section ~~28-2881~~ 28-1381.

B. A judge may order a person sentenced pursuant to section ~~28-2882~~ 28-1382 to serve the person's sentence in a minimum security facility if one has been established.

C. The state department of corrections may enter into an agreement with a county, city or town pursuant to title 11, chapter 7, article 3 for the incarceration of persons sentenced pursuant to section ~~28-2882~~ 28-1382.

Sec. 33. Title 28, chapter 4, article 4, Arizona Revised Statutes, as transferred and renumbered by this act, is amended by adding section 28-1444, to read:

28-1444. Reimbursement of incarceration costs

A. THE COURT MAY ORDER A PERSON WHO IS SENTENCED TO A TERM OF INCARCERATION FOR A VIOLATION OF THIS CHAPTER TO REIMBURSE THE POLITICAL SUBDIVISION THAT IS RESPONSIBLE FOR THE COSTS OF THE PERSON'S INCARCERATION FOR THOSE INCARCERATION COSTS.

B. THE COURT MAY DETERMINE THE AMOUNT OF INCARCERATION COSTS TO BE PAID BASED ON THE FOLLOWING FACTORS:

1. THE PER DIEM PER PERSON COST OF INCARCERATION INCURRED BY THE POLITICAL SUBDIVISION THAT INCARCERATES THE PERSON.

2. THE PERSON'S ABILITY TO PAY PART OR ALL OF THE INCARCERATION COSTS.

Sec. 34. Section 28-1521, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-1521. Violation; civil penalty

A person who violates a provision of chapter ~~5, 6 or 7~~ 3 of this title or this chapter is subject to a civil penalty unless the statute defining the offense provides for a criminal classification.

Sec. 35. Section 28-1523, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-1523. Transporting hazardous material; violation; classification

A person who violates any provision of chapter ~~5, 6~~ 3 or ~~7~~ 4 of this title or this chapter while operating a motor vehicle transporting a hazardous material, substance or waste that requires placarding as prescribed by department rule is guilty of a class 2 misdemeanor unless the violation is classified by law as a class 1 misdemeanor or a felony.

Sec. 36. Section 28-1551, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-1551. Parties to a crime

A. A person who commits, attempts to commit, conspires to commit or aids or abets in the commission of an act declared in chapter ~~5, 6~~ 3 or ~~7~~ 4 of this title or this chapter to be a crime, whether individually, in connection with one or more other persons or as a principal, agent or accessory, is guilty of the offense.

B. A person who falsely, fraudulently, forcibly or wilfully induces, causes, coerces, requires, permits or directs another person to violate any provision of chapter ~~5, 6~~ 3 or ~~7~~ 4 of this title or this chapter is guilty of the offense.

Sec. 37. Section 28-1552, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-1552. Jurisdiction of municipal and justice courts

A. Each municipal court established by or within an incorporated city or town has and every justice court has concurrent jurisdiction over all civil and criminal violations of chapters ~~5, 6~~ 3 and ~~7~~ 4 of this title and this chapter that are committed within their respective boundaries by persons eighteen years of age or older.

B. Municipal courts and justice courts have concurrent jurisdiction over civil traffic violations committed within their respective boundaries by persons under eighteen years of age if the presiding judge of the superior court in the county declined jurisdiction pursuant to section 8-202.

Sec. 38. Section 28-1556, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-1556. Applicability of procedures; arrest without warrant

A. ~~Section 28-3725~~ SECTIONS 28-1524 and ~~sections 28-3751~~ 28-1551 through ~~28-3754~~ 28-1554 govern all police officers in making arrests without a warrant for violations of chapters ~~5, 6~~ 3 and ~~7~~ 4 of this title and this chapter. The procedure prescribed in this article is not exclusive of any

other method prescribed by law for the arrest and prosecution of a person for an offense of like grade.

B. For a criminal offense alleged to have been committed in violation of this title and for which an officer is not authorized to arrest without a warrant, the officer may present the alleged violation before a magistrate in the same manner as any other misdemeanor and may proceed either under a warrant of arrest or a summons and notice to appear.

Sec. 39. Section 28-1559, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-1559. Traffic case records; abstract of record; reports

A. Each magistrate, judge or hearing officer of a court shall:

1. Keep or cause to be kept a record of each traffic complaint or other legal form of traffic charge deposited with or presented to the court or its traffic violations bureau.

2. Keep a record of each official action by the court or its traffic violations bureau in reference to each traffic complaint or other legal form of traffic charge deposited with or presented to the court or its traffic violations bureau, including but not limited to a record of:

(a) Each conviction, forfeiture of bail or deposit, judgment of acquittal or civil adjudication.

(b) The amount of the civil penalty, fine or forfeiture resulting from each traffic complaint deposited with or presented to the court or traffic violations bureau.

B. Within ten days after the conviction, judgment or forfeiture of bail or deposit of a person on a charge of violating chapter ~~5, 6~~ 3 or ~~7~~ 4 of this title or this chapter or any other law regulating the operation of vehicles on highways, each magistrate of the court or clerk of the court of record in which the conviction or judgment was had or bail or deposit was forfeited shall prepare and immediately forward to the department an abstract of the record of the court covering the case in which the person either:

1. Was convicted.

2. Was adjudicated to have committed a civil traffic violation.

3. Forfeited bail or deposit.

C. The person required to prepare the abstract shall certify that it is true and correct.

D. A report is not required for a conviction or civil adjudication involving the illegal parking or standing of a vehicle.

E. The abstract shall be made on a form furnished or in a manner prescribed by the department and shall include:

1. The name and address of the party charged.

2. The number, if any, of the license of the party charged.

3. The registration number of the vehicle involved.

4. The nature of the offense or civil traffic violation.

5. The date of the hearing, the plea, the judgment or whether bail or deposit was forfeited.

6. The amount of the fine, civil penalty or forfeiture.

F. Each court of record shall also forward a like report to the department on the conviction of a person of manslaughter or any other felony in the commission of which a vehicle was used.

G. The department shall keep all abstracts received under this section for inspection as required by law.

H. Each judge, referee, hearing officer, probation officer or other person responsible for the disposition of cases involving traffic offenses or civil violations committed by persons under eighteen years of age shall:

1. Keep a full record of each case in which the person is charged with a violation of chapter ~~5, 6~~ 3 or ~~7~~ 4 of this title or this chapter or any other law regulating the operation of vehicles on highways.

2. Report the offense or civil violation to the department at its office in Phoenix not more than thirty days after the date on which it was committed, except that a report is not required for parking violations or if it is found that the offense or civil violation was not committed.

I. The report required by subsection H shall:

1. Be made on a form furnished or in a manner prescribed by the department.

2. Contain:

(a) All necessary information as to the identity of the offender.

(b) The citing or arresting agency.

(c) The date and nature of the offense or civil violation.

(d) The date of the hearing, the plea, the judgment or whether bail or deposit was forfeited.

(e) The amount of the fine, civil penalty or forfeiture.

J. Failure, refusal or neglect of a judicial officer to comply with this section is misconduct in office and grounds for removal from office.

Sec. 40. Section 28-1560, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-1560. <u>Illegal cancellation of traffic citation; classification; audit</u>

A. A person who cancels any traffic citation, in any manner other than as provided in this article or the nonresident violator compact adopted by chapter ~~4~~ 6, article ~~10~~ 4 of this title, is guilty of a class 3 misdemeanor.

B. The appropriate fiscal officer of the governmental agency to which the traffic enforcement agency is responsible shall audit monthly the records of traffic citations required in this article. Audit procedures shall be sufficient to assure proper accountability for traffic citation records.

Sec. 41. Section 28-1591, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-1591. Traffic violations; civil matters; service

A. A violation of a statute relating to traffic movement and control, including a statute governing parking or standing requirements, shall be treated as a civil matter as provided in chapter ~~5, 6 or 7~~ 3 of this title or this chapter, unless the statute provides for a different classification as a criminal offense.

B. This article does not require that either the initial notification or a subsequent summons and complaint for a parking or standing violation be issued or served as required by this article.

C. If it is necessary to issue a summons and complaint because there is not a satisfactory response to the initial notice of a parking or standing violation, the summons and complaint may be sent by regular mail to the address provided to the department by the individual made responsible for the alleged violation by the applicable statute or ordinance. Service of the summons and complaint is complete on mailing.

Sec. 42. Section 28-1592, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-1592. Commencement of action

A. A civil traffic violation case is commenced by issuance of a uniform traffic complaint as provided in this article.

B. A civil traffic violation case shall be commenced either:

1. Within thirty days of the alleged violation.

2. Within ~~ninety~~ ONE HUNDRED EIGHTY days if the alleged violation is under investigation in conjunction with a traffic accident.

Sec. 43. Section 28-1595, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-1595. Failure to stop or provide driver license or evidence of identity; violation; classification

A. The operator of a motor vehicle who knowingly fails or refuses to bring the operator's motor vehicle to a stop after being given a visual or audible signal or instruction by a peace officer or duly authorized agent of a traffic enforcement agency is guilty of a class 2 misdemeanor.

B. After stopping as required by subsection A of this section, the operator of a motor vehicle who fails or refuses to exhibit the operator's driver license as required by section ~~28-1610~~ 28-3169 or a driver who is not licensed and who fails or refuses to provide evidence of the driver's identity on request is guilty of a class 2 misdemeanor. THE EVIDENCE OF IDENTITY THAT IS PRESENTED SHALL CONTAIN ALL OF THE FOLLOWING INFORMATION:

1. THE DRIVER'S FULL NAME.

2. THE DRIVER'S DATE OF BIRTH.

3. THE DRIVER'S RESIDENCE ADDRESS.

4. A BRIEF PHYSICAL DESCRIPTION OF THE DRIVER, INCLUDING THE DRIVER'S SEX, WEIGHT, HEIGHT AND EYE AND HAIR COLOR.

5. THE DRIVER'S SIGNATURE.

C. A person other than the driver of a motor vehicle who fails or refuses to provide evidence of the person's identity to a peace officer or a duly authorized agent of a traffic enforcement agency on request, when such officer or agent has reasonable cause to believe the person has committed a violation of this title, is guilty of a class 2 misdemeanor.

D. A peace officer or duly authorized agent of a traffic enforcement agency may give the signal or instruction required by subsection A of this section by hand, emergency light, voice, whistle or siren.

E. A PERSON SHALL NOT BE CONVICTED OF A VIOLATION OF SUBSECTION B OF THIS SECTION IF THE PERSON PROVIDED EVIDENCE OF IDENTITY REQUIRED BY SUBSECTION B, PARAGRAPHS 1 THROUGH 5 OF THIS SECTION AND PRODUCES TO THE COURT A LEGIBLE DRIVER LICENSE OR AN AUTHORIZED DUPLICATE OF THE LICENSE THAT IS ISSUED TO THE PERSON AND THAT WAS VALID AT THE TIME THE VIOLATION OF SUBSECTION B OF THIS SECTION OCCURRED.

Sec. 44. Section 28-1596, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-1596. Traffic complaint; proceedings

A. A person served with a civil traffic complaint shall:

1. Appear at the time and place stated in the complaint, or may appear before the time, if so authorized by the court, and on the directions contained in the complaint.

2. Admit or deny the allegations of the complaint.

B. Allegations not denied at the time of appearance are deemed admitted. A fee shall not be charged for the appearance.

C. If the allegations are admitted, the court shall enter judgment for the state and shall impose a civil penalty. The person may admit the allegations with an explanation, and then the court shall enter judgment for the state and impose a civil penalty. In determining the civil penalty, the court shall consider the explanation submitted.

D. If the person denies the allegations of the complaint the court shall set the matter for a hearing. The hearing is informal and without a jury. At the hearing, the state is required to prove the violation charged by a preponderance of the evidence. Technical rules of evidence do not apply, except for statutory provisions relating to privileged communications. If the person elects to be represented by counsel the person shall notify the court at least ten days before the hearing date. Hearings may be recorded. If the court finds in favor of the person, the court shall enter an order dismissing the allegation. If the court finds in favor of the state, the court shall enter judgment for the state and shall impose a civil penalty.

E. If a resident of this state served with a civil traffic complaint alleging a violation of this title or if a nonresident served with a civil traffic complaint requiring suspension or revocation of a driver license under the laws of this state fails to appear at or before the time directed to appear or at the time set for a hearing by the court, the allegations in

the complaint are deemed admitted, and the court shall enter judgment for this state, impose a civil penalty and report the judgment to the department.

F. A nonresident may satisfy the complaint served under subsection A by complying with the nonresident violator compact adopted by chapter ~~4~~ 6, article ~~10~~ 4 of this title, if applicable.

G. If a nonresident who is served with a civil traffic complaint that does not require a suspension or revocation of the nonresident's driver license pursuant to the laws of this state fails to appear at or before the time directed to appear or at the time set for a hearing by the court, the court shall report the nonappearance to the department pursuant to the provisions of the nonresident violator compact adopted by chapter ~~4~~ 6, article ~~10~~ 4 of this title.

Sec. 45. Section 28-1597, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-1597. Witnesses; nonapplicability of rules of civil procedure

A. The state and the person charged with a civil traffic violation may subpoena witnesses as provided by section 13-4072. Witnesses are not entitled to fees for appearing in connection with a civil violation proceeding.

B. Except as otherwise provided in chapter ~~5, 6 or 7~~ 3 of this title or this chapter, the rules of civil procedure do not apply.

Sec. 46. Section 28-1599, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-1599. Admission; evidence of negligence

An admission of the allegation of a civil traffic complaint or a judgment on the complaint is not evidence of negligence in a civil or criminal proceeding that is not authorized by chapter ~~5, 6 or 7~~ 3 of this title or this chapter.

Sec. 47. Section 28-1601, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-1601. Failure to pay civil penalty; suspension of privilege to drive; collection procedure

A. A person shall pay all civil penalties within thirty days from entry of judgment, except that if payment within thirty days will place an undue economic burden on a person, the court may extend the time for payment or may provide for installment payments. If the civil penalty is not paid or an installment payment is not made when due, the court may declare the entire civil penalty due and, if so, the court shall notify the department and the department shall promptly suspend the driver license or permit of the driver or the privilege of a nonresident to drive a motor vehicle in this state, until the civil penalty is paid.

B. Notwithstanding subsection A of this section, if a civil penalty is paid on entry of judgment, the court may reduce the civil penalty by up to five per cent of the penalty imposed.

C. With the approval of the supreme court, the presiding judge of any court may periodically conduct a program aimed at reducing the amount of outstanding fines, penalties and surcharges. Notwithstanding any other law except a fine ordered as a result of a violation of section ~~28-2881~~ 28-1381, the program may include authorizing up to a fifty per cent reduction in the total amount of a court ordered fine, penalty or surcharge that is due and that is delinquent for at least twelve months followed by an increased enforcement effort for a fine, penalty or surcharge that is not paid. The supreme court shall adopt rules of procedure for the programs.

D. If penalties are reduced pursuant to subsection C of this section, associated surcharges and assessments shall be reduced in proportion to the reduction. This subsection does not apply to section 12-116.

Sec. 48. Section 28-1632, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-1632. Refusal to renew registration; fees

A. On proper notification by a court or political subdivision pursuant to section ~~28-3833~~ 28-1633, the department shall refuse to renew the registration of a vehicle if either:

1. The registered owner of a vehicle is delinquent in paying a fine, penalty or sanction for a civil or criminal traffic violation and the combined amount of the delinquency exceeds two hundred dollars.

2. The registered owner fails to appear in a criminal traffic case.

B. The court or political subdivision shall make at least two attempts to collect the monies owed by an individual or organization before notifying the department to refuse to renew the vehicle registration of the registered owner.

C. The department may charge a court or political subdivision that chooses to participate in this program a fee that is payable to the department by the court or political subdivision to cover the costs of processing the documents to notify the registered owner that the owner's vehicle registration will not be renewed. The department shall transmit these fees to the state treasurer for deposit in the special registration fund established by section ~~28-707~~ 28-2007.

D. The fees charged by the department to the courts or political subdivisions of this state for processing the documents to notify the registered owner that it is not renewing a person's vehicle registration shall be paid at the same time as the registered owner's outstanding fine, penalty or sanction or as part of the penalty for the failure to appear offense for which the vehicle registration was not renewed.

E. This article does not prohibit the department from imposing and collecting additional fees authorized by law.

Sec. 49. Section 28-1633, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-1633. Contracts

A. A court or political subdivision of this state may contract with the department to:

1. Provide electronic data access of department records to facilitate documentation of unpaid fines, penalties or sanctions for civil and criminal traffic violations and for failure to appear in criminal traffic cases.

2. Refuse to renew a motor vehicle registration until the court or political subdivision notifies the department on forms prescribed by the director that either:

(a) The unpaid monies due on the violation for which a vehicle registration was not renewed have been paid.

(b) The unpaid monies are no longer delinquent.

(c) The registered owner appeared in court for the criminal traffic offense for which the vehicle registration was not renewed.

(d) A waiver was issued under section ~~28-3835~~ 28-1635.

3. Collect the unpaid monies on behalf of the court or political subdivision under terms and conditions prescribed by the contract.

B. A court that is not authorized by law to contract directly with the department shall seek the approval of the appropriate funding authority before entering into a contract with the department.

C. The director shall implement the electronic access authorized by this section only if the director determines the system proposed by the court or political subdivision is fully compatible with the existing and anticipated systems of the department.

D. An agreement may be executed pursuant to this section only if all of the following conditions are met:

1. The planning, implementation and operation of the system are at no expense to the department.

2. The court or political subdivision both:

(a) Ensures that its system is compatible with state systems and those of participating courts or political subdivisions.

(b) Agrees that it will bear all current and future expenses necessary to ensure compatibility of its system with the state system.

3. The court or political subdivision assumes all financial, technical and legal risks associated with electronic access of department records through its system.

E. The department, court or political subdivision may contract with nongovernmental agencies or private sector businesses to perform any of the acts authorized by this section, except that the department shall mail the notice to the registered owner that the owner's vehicle registration will not be renewed.

Sec. 50. Section 28-1634, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-1634. Registration allowed

A. The department shall allow registration of the vehicle if it receives the form prescribed by the director pursuant to section ~~28-3833~~ 28-1633 from the court or political subdivision that requested the department not to register the motor vehicle.

B. The department shall not refuse to register a vehicle under this article if there is a transfer of ownership of the vehicle involved to a bona fide purchaser. For purposes of this subsection, "bona fide purchaser" means a purchaser who buys a vehicle in good faith and without knowledge that the seller's right to renew the vehicle registration has been refused pursuant to this article.

Sec. 51. Section 28-2001, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2001. Definitions

A. "Resident", for the purpose of registration and operation of motor vehicles:

1. Except as provided by paragraph 2 ~~of this subsection~~, means the following:

(a) A person who, regardless of domicile, remains in this state for an aggregate period of seven months or more during a calendar year.

(b) A person who engages in a trade, profession or occupation in this state or who accepts employment in other than either:

(i) Seasonal agricultural work.

(ii) Temporary seasonal work for a period of not more than three months if the state in which the temporary seasonal worker is permanently domiciled has a similar exception.

(c) A person who places children in a public school without payment of nonresident tuition.

(d) A person who declares that the person is a resident of this state for the purpose of obtaining at resident rates a state license or tuition fees at an educational institution maintained by public monies.

(e) An individual, partnership, company, firm, corporation or association that maintains a main office, a branch office or warehouse facilities in this state and that bases and operates motor vehicles in this state.

(f) An individual, partnership, company, firm, corporation or association that operates motor vehicles in intrastate transportation, for other than seasonal agricultural work.

2. Does not mean:

(a) A nonresident owner of a foreign vehicle that is registered and licensed in a state adjoining this state and that is used in this state for other than the transportation of passengers or property for compensation, if

the nonresident owner and vehicle are domiciled in an adjoining state but within twenty-five miles of the border of this state and if the state in which the owner resides and in which the vehicle is registered exempts from payment of registration and weight fees like vehicles from this state, regardless of whether the nonresident owner engages in a trade, profession or occupation in this state or accepts employment.

(b) An out-of-state student enrolled with seven or more semester hours regardless of whether the student engages in a trade, profession or occupation in this state or accepts employment in this state. For the purposes of this paragraph, "out-of-state student" means either:

(i) A person who is enrolled at an educational institution maintained by public monies and who is not classified as an in-state student under section 15-1802.

(ii) A person who is a student at a private educational institution and who would not be classified as an in-state student under section 15-1802 if the student was attending a public educational institution.

(c) A nonresident daily commuter as defined ~~by~~ IN section ~~28-991~~ 28-2291.

B. For the purposes of this chapter, "serial number" means the number placed on the vehicle by its manufacturer or assigned pursuant to section ~~28-865~~ 28-2165.

Sec. 52. Section 28-2002, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2002. Assessor or director as county agent

A. Except in counties that have entered into an agreement authorized by section ~~28-706~~ 28-2006, the assessor of each county is an agent of the department for the performance of the acts and duties delegated to the assessor.

B. A county assessor or the director in those counties that have entered into an agreement authorized by section ~~28-706~~ 28-2006 may establish outlets for the issuance of licenses as are necessary. The outlets and offices are constituted county offices of the department.

Sec. 53. Section 28-2003, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2003. Fees; vehicle title and registration; identification plate

The following fees are required:

1. For each certificate of title or salvage certificate of title, four dollars.

2. For each certificate of title for a mobile home, as defined in section 42-641, seven dollars. The director shall deposit three dollars of each fee imposed by this paragraph in the state highway fund established by section 28-6991.

3. For the registration of a motor vehicle, eight dollars, except that the fee for motorcycles is nine dollars.

4. For a duplicate registration card or any duplicate permit, four dollars.

5. For each special thirty day nonresident registration issued under section ~~28-854~~ 28-2154, fifteen dollars.

6. For the registration of a trailer or semitrailer that is ten thousand pounds or less gross vehicle weight, eight dollars, and for the registration of a trailer or semitrailer that exceeds ten thousand pounds gross vehicle weight, forty-nine dollars.

7. For each special ninety day resident registration issued under section ~~28-854~~ 28-2154, fifteen dollars.

8. For each one trip registration permit issued under section ~~28-855~~ 28-2155, one dollar.

9. For each temporary general use registration issued under section ~~28-856~~ 28-2156, fifteen dollars.

10. For each identification plate bearing a serial or identification number to be affixed to any vehicle, five dollars.

Sec. 54. Section 28-2006, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2006. Contract to transfer duties and responsibilities

A. The director and a county board of supervisors may contract to provide for the transfer of the duties and responsibilities of the county assessor pursuant to this title to the department.

B. The ~~contract~~ AGREEMENT shall provide for the following:

1. The purchase and conveyance of real property presently used, subject to available monies.

2. The transfer and payment of personal property presently used.

3. The employment of persons presently employed by the county if the employees desire the transfer.

4. The effective date of the transfer.

5. The amount of monies in the county assessor's special registration fund established pursuant to section ~~28-705~~ 28-2005 that will be transferred, if any.

C. On the agreement's effective date, the department assumes all of the powers, duties and responsibilities of the county assessor pursuant to this title.

D. The department of administration shall transfer into the state service on a noncompetitive basis a permanent county employee who is affected by the agreement authorized by this section and who desires to be transferred to state employment. If the employee has not successfully completed six months' related experience, the employee shall serve a ninety day probationary period in the state service.

Sec. 55. Section 28-2007, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2007. Special registration fund; reversion

A. The department may establish a special registration fund composed of the following:

1. Monies retained pursuant to sections ~~28-906~~ 28-2206 and 28-5808 and chapter ~~8~~ 5, article 5 of this title.

2. One dollar of each registration fee.

3. One dollar of each title fee.

4. Two dollars of each late registration penalty collected by the director as the registering officer.

5. The air quality compliance fee collected pursuant to section 49-542.

6. The eight dollar special plate administration fees collected pursuant to sections ~~28-1104, 28-1112, 28-1113 and 28-1114~~ 28-2404, 28-2412, 28-2413, 28-2414 AND 28-2415.

7. The windshield sticker fee collected pursuant to section ~~28-1055~~ 28-2355.

8. Monies collected pursuant to sections 28-372, ~~28-855~~ 28-2155 and ~~28-856~~ 28-2156 if the director is the registering officer.

9. Monies collected for envelope permits pursuant to section ~~28-3463~~ 28-1143.

B. The department may use the monies in the special registration fund to carry out the duties imposed by this title for registration or titling of vehicles, to operate joint title, registration and driver licensing offices, to cover the administrative costs of issuing the air quality compliance sticker, modifying the year validating tab and issuing the windshield sticker and to cover expenses and costs in issuing special plates pursuant to sections ~~28-1104, 28-1112, 28-1113 and 28-1114~~ 28-2404, 28-2412, 28-2413, 28-2414 AND 28-2415. The department shall use monies deposited in the fund pursuant to chapter ~~8~~ 5, article 5 of this title only as prescribed by that article.

C. The special registration fund established in this section is exempt from the provisions of section 35-190 relating to lapsing of appropriations. The monies in the fund are not subject to legislative appropriation. For each county that enters into ~~a contract~~ AN AGREEMENT pursuant to section ~~28-706~~ 28-2006 amounts of more than one hundred thousand dollars remaining in the fund at the close of each fiscal year revert to the state highway fund.

D. At the direction of the department, the state treasurer may invest inactive monies in the special registration fund. The state treasurer shall credit all interest earned on the special registration fund monies to the special registration fund.

Sec. 56. Section 28-2009, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2009. Certificate of title; validity

The certificate of title is valid for the life of the vehicle as long as the vehicle is owned by the original holder of the title, unless it has been replaced by a duplicate certificate of title pursuant to section ~~28-708~~ 28-2008.

Sec. 57. Title 28, chapter 7, article 1, Arizona Revised Statutes, as transferred and renumbered by this act, is amended by adding section 28-2010, to read:

28-2010. Motorcycle education fund; program

A. THE STATE MOTORCYCLE EDUCATION FUND IS ESTABLISHED. THE DEPARTMENT SHALL ADMINISTER THE FUND.

B. NOTWITHSTANDING SECTION 28-2004, THE DIRECTOR SHALL TRANSMIT ONE DOLLAR OF EACH MOTORCYCLE REGISTRATION FEE COLLECTED PURSUANT TO SECTION 28-2003 TO THE STATE TREASURER FOR DEPOSIT IN THE STATE MOTORCYCLE EDUCATION FUND.

C. THE DIRECTOR SHALL USE MONIES IN THE FUND TO IMPLEMENT A MOTORCYCLE TESTING PROGRAM AND A VOLUNTARY MOTORCYCLE EDUCATION PROGRAM. THE DIRECTOR MAY CONTRACT WITH PUBLIC AND PRIVATE AGENCIES TO IMPLEMENT THE EDUCATION PROGRAM. AS PART OF THE MOTORCYCLE EDUCATION PROGRAM, THE DIRECTOR MAY CONDUCT MOTORCYCLE SAFETY TRAINING CLASSES AND MAY CHARGE TUITION TO DEFRAY THE COSTS OF THE CLASSES.

Sec. 58. Section 28-2051, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2051. Application for certificate of title; vision screening test

A. A person shall apply for a certificate of title to a motor vehicle, trailer or semitrailer to the assessor of the county in which the transferee resides on a form furnished by the department. The person shall make the application within fifteen days of the purchase or transfer of the vehicle, trailer or semitrailer. The transferee shall sign the application.

B. The application shall contain:

1. The transferee's full name and either the driver license number of the transferee or a number assigned by the department.

2. The transferee's complete residence address.

3. A brief description of the vehicle to be titled.

4. The name of the manufacturer of the vehicle.

5. The serial number of the vehicle.

6. Whether the vehicle is new or used.

7. The last license plate number if applicable and if known and the state in which the license plate number was issued.

8. If the application is for a certificate of title to a new vehicle, the date of sale by the manufacturer or dealer to the person first operating the vehicle.

9. If the application is in the name of a lessor:

(a) A statement that the lessor is the owner or transferee.

(b) At the option of the lessor, a statement that the lessee is the registrant.

(c) The address of either the lessor or lessee.

(d) The signature of both the lessor and lessee.

10. If the application is for a certificate of title to a specially constructed, reconstructed or foreign vehicle, a statement of that fact. For the purposes of this paragraph, "specially constructed vehicle" means a vehicle not originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles.

11. If an applicant rents or intends to rent the vehicle without a driver, a statement of that fact.

12. Other information required by the department.

C. Unless subsection B, paragraph 9 of this section applies, on request of an applicant, the department shall allow the applicant to provide on the title of a motor vehicle, trailer or semitrailer a post office box address that is regularly used by the applicant.

D. A person shall submit the following information with an application for a certificate of title:

1. To a vehicle previously registered:

(a) The odometer mileage disclosure statement prescribed by section ~~28-758~~ 28-2058.

(b) If the applicant is applying for title pursuant to section ~~28-760~~ 28-2060, the applicant's statement of the odometer reading as of the date of application.

2. To a new vehicle:

(a) The date of sale to the dealer or person first receiving it from the manufacturer.

(b) The name of the dealer or person.

(c) A description sufficient to identify the vehicle.

(d) A statement certifying that the vehicle was new when sold.

(e) If sold through a dealer, a statement by the dealer certifying that the vehicle was new when sold to the applicant.

E. The department may request an applicant who appears in person for a certificate of title of a motor vehicle, trailer or semitrailer to complete satisfactorily the vision screening test prescribed by the department.

Sec. 59. Section 28-2052, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2052. Title and registration of foreign vehicles

A. The owner of a foreign vehicle that has been registered in another state or country and for which an application for a certificate of title is made shall surrender to the department the license plates assigned to the vehicle, the registration card, the certificate of title, the certificate of ownership or other evidence of foreign registration and satisfactory evidence of ownership showing that the applicant is the lawful owner or possessor of the vehicle.

B. If in the course of interstate operation of a vehicle registered in another state or country it is desirable to retain registration of the vehicle in the other state or country, the applicant need not follow the requirements of subsection A of this section but shall submit evidence of the foreign registration and ownership for inspection. The department shall register the vehicle on a proper showing of evidence of registration but shall not issue a certificate of title for the vehicle.

C. The department shall inspect a foreign vehicle before titling or registration, including examination and inspection to establish compliance with section ~~28-3254~~ 28-955, under conditions and standards as required by the director of environmental quality.

D. Before the department issues a certificate of title to a vehicle imported into this country, the owner shall obtain a certificate of compliance that states that the vehicle meets all federal vehicle equipment and emissions equipment requirements. This subsection does not apply to a golf cart.

Sec. 60. Section 28-2053, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2053. Certificate of title without registration

The department may issue a vehicle certificate of title without registration for any of the following reasons:

1. The applicant for a certificate of title is a nonresident whose vehicle is not subject to vehicle registration in this state.

2. The owner will register the vehicle under ~~articles~~ ARTICLE 7 ~~and~~ OR 8 of this chapter.

3. The applicant certifies that the vehicle was acquired for purposes other than highway use.

4. The vehicle was acquired by operation of law.

5. The vehicle is an off-road recreational motor vehicle required to be titled pursuant to section ~~28-761~~ 28-2061.

Sec. 61. Section 28-2055, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2055. Certificate of title; content requirements

A. The certificate of title shall contain forms for assignment of title or interest and warranty by the owner, with space for notation of liens and encumbrances on the vehicle at the time of transfer. The certificate of

title shall also contain the odometer mileage disclosure statement pursuant to section ~~28-758~~ 28-2058.

B. If a motor vehicle, trailer or semitrailer has been registered in any other state or country, the ~~certificate of title shall indicate that fact by showing~~ DEPARTMENT SHALL RETAIN IN ITS RECORDS the name of the state or country in which the prior registration took place.

Sec. 62. Section 28-2057, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2057. Registration without certificate of title or bond; receipt; fee

A. Except as provided in subsection B of this section, the department shall not register a vehicle if the department is not satisfied as to the ownership of the vehicle or is not satisfied that there are no undisclosed security interests in the vehicle.

B. The department may register a vehicle if a condition prescribed in subsection A of this section exists and if the department takes one of the following actions:

1. Withholds issuance of a certificate of title until the applicant presents documents reasonably sufficient to satisfy the department as to the applicant's ownership of the vehicle and that there are no undisclosed security interests in the vehicle.

2. As a condition of issuing a certificate of title, requires the applicant to file a bond with the department as prescribed in subsection C of this section.

C. The department shall prescribe the form of the bond required by subsection B of this section. The applicant shall execute the bond and either accompany it with the deposit of cash or have a person authorized to conduct a surety business in this state also execute the bond. The bond shall be in an amount equal to one and one-half times the value of the vehicle as determined by the department and conditioned to indemnify any prior owner and lienholder and any subsequent purchaser of the vehicle or person acquiring any security interest in it and their respective successors in interest against any expense, loss or damage, including reasonable attorney fees, by reason of the issuance of the certificate of title of the vehicle or on account of any defect in or undisclosed security interest on the right, title and interest of the applicant in and to the vehicle.

D. An interested person has a right of action to recover on the bond for any breach of its condition. The aggregate liability of the surety to all persons shall not exceed the amount of the bond.

E. The bond and any deposit accompanying it shall be returned at the end of three years or prior to the end of three years if the vehicle is no longer registered in this state and the currently valid certificate of title is surrendered to the department, unless the department has been notified of the pendency of an action to recover on the bond.

F. If the applicant does not have the original certificate of title because the certificate of title is held by a lender located outside this state and if the applicant presents documents to the department sufficient in the judgment of the department to establish ownership of the vehicle, the department may register the vehicle and issue a receipt in lieu of the certificate of title provided by section ~~28-752~~ 28-2052. The fee for the receipt is equal to the fee prescribed for a certificate of title pursuant to section ~~28-703~~ 28-2003.

Sec. 63. Section 28-2058, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2058. Transfer of title; odometer mileage disclosure statement

A. When the owner of a registered or unregistered vehicle transfers or assigns the owner's title or interest to the vehicle:

1. If the vehicle is registered:

(a) The owner shall endorse on the back of the certificate of title to the vehicle an assignment with the warranty of title in the form printed on the certificate.

(b) Except as provided in section ~~28-804~~ 28-2094, the owner shall deliver the certificate to the purchaser or transferee at the time of delivery of the vehicle to the purchaser or transferee.

(c) The registration of the vehicle expires.

(d) Except as otherwise provided by law, the license plates assigned to the vehicle shall remain on the vehicle.

(e) The owner shall remove the registration card issued for the vehicle, endorse on the reverse side of the card the name and address of the transferee and the date of transfer and immediately forward the card or other written notification to the department.

2. Regardless of whether or not the vehicle is registered:

(a) Except as provided in subsection B of this section, the owner shall deliver to the purchaser or transferee an odometer mileage disclosure statement in a form prescribed by the director.

(b) Except as provided in section ~~28-760~~ 28-2060, the purchaser or transferee shall present the certificate of title to the department with the required fee within thirty days after the transfer and:

(i) The department shall issue a new certificate of title to the purchaser or transferee.

(ii) If required, the purchaser or transferee shall apply for and obtain registration, and the department shall issue new license plates to the purchaser or transferee.

B. The odometer disclosure requirement of subsection A of this section does not apply to:

1. A motor vehicle that is ten model years of age or older.

2. A motor vehicle that has a gross vehicle weight rating of sixteen thousand pounds or more.

3. A vehicle that is not self-propelled.

4. A motor vehicle that is sold directly by the manufacturer to an agency of the United States in conformity with contractual specifications.

5. A new motor vehicle that is purchased for resale and not for use by the purchaser.

Sec. 64. Section 28-2060, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2060. Transfer of ownership by operation of law

A. Except as provided in subsection F of this section, when the title or interest of an owner of a registered vehicle passes to another other than by voluntary transfer, the transferee shall obtain a transfer of registration within fifteen days after the passing of the title or interest.

B. Within fifteen days after passing of the title or interest of an owner of a registered or unregistered vehicle, the transferee of the vehicle shall obtain a new certificate of title on proper application and presentation of the last certificate of title, if available, and such instruments or documents of authority or certified copies of the instruments or documents that are sufficient or required by law to evidence or effect a transfer of title or interest in or to chattels that pass to another other than by voluntary transfer.

C. If a motor vehicle has been forfeited to the federal government and is sold at public auction pursuant to federal law, the purchaser at the sale takes title free of any liens or encumbrances if federal law so provides. If a motor vehicle has been forfeited to any local or state government entity, agency or political subdivision or to any federal law enforcement agency after the disposition of all claims under the laws of this state, the order of the court forfeiting the vehicle shall transfer good and sufficient title to the transferee and to any subsequent purchaser or transferee. The purchaser or transferee shall register the motor vehicle within fifteen days after the sale or transfer, and the department shall issue a certificate of title to the purchaser or transferee on presentation of the evidence of title without any reference to liens or encumbrances.

D. The transferee of a vehicle required to be titled and registered under section ~~28-853~~ 28-2053 or a mobile home required to be titled under section 42-643 may obtain a transfer of registration to the transferee and a new certificate of title if both of the following occur:

1. The title or interest of the owner of the vehicle passes to another either:

(a) Through notice and sale under the conditions contained in any security agreement, chattel mortgage, conditional sale or other evidence of lien or under the authority given by statute in cases arising under sections 33-1021 and 33-1022.

(b) For a mobile home the lien on which is also a lien on real property, through a contract for conveyance of real property, deed of trust or mortgage.

2. Satisfactory evidence is presented to the director that the sale of the vehicle was fairly and lawfully conducted in conformity with all requirements of law after due notice to the former owner.

E. Any administrator, executor, trustee or other representative of the owner, a peace officer or a person repossessing a vehicle under the terms of any conditional sales contract, lease, chattel mortgage or other security agreement or a purchaser at a sale foreclosing a lien, or the assignee or legal representative of any such person, may operate a vehicle from the place of repossession or place where it was formerly kept to a garage or place of storage in the county or state where the contract was recorded or where the person repossessing the vehicle resides or to any other garage or place of storage that is not more than seventy-five miles from the place of repossession or place where the vehicle was formerly kept by the owner if either of the following conditions exists:

1. The license plates assigned to the vehicle are displayed on the vehicle, or if license plates are not displayed, a written permit has been obtained from the department or the local authorities having jurisdiction over the highways.

2. A placard that bears the name and address of the person authorizing the movement and that is legible from a distance of one hundred feet during daylight is displayed in plain sight on the vehicle.

F. If ownership of a motor vehicle titled in this state or another state reverts through operation of state law to a lienholder of record through repossession pursuant to the terms of a security agreement or through another similar instrument that is valid in this state, an affidavit by the lienholder of record stating that the vehicle was repossessed on default of the terms stated in the security agreement or similar instrument is proof of ownership, right of possession and right of transfer. The director shall prescribe the form and content of the affidavit. This state and its agencies, employees and agents are not liable for relying in good faith on the content of the affidavit.

Sec. 65. Section 28-2091, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2091. <u>Salvage certificate of title; violation; classification; definitions</u>

A. If a motor vehicle subject to titling or registration pursuant to this chapter becomes a salvage vehicle and is acquired by an insurance company as a result of a total loss insurance settlement, the insurance company or its authorized agent shall submit an application to the department within fifteen days after the loss or settlement of the loss on a form

prescribed by the department for a salvage title and accompanied by the following:

1. A properly endorsed certificate of title.
2. A lien satisfaction, if applicable.
3. The registration card.
4. The license plate, if any.
5. The appropriate fees.

B. If the registration card or license plate is lost or destroyed, the applicant shall state in a form prescribed by the department, under penalty of perjury, the circumstances of the loss or destruction.

C. If the owner retains possession of a salvage vehicle, the owner shall comply with this section before receiving a total loss settlement from the insurance company or otherwise disposing of the vehicle.

D. On receipt of a proper application, the department shall issue a salvage certificate of title for the vehicle.

E. An owner of a motor vehicle that is not a salvage vehicle who sells the vehicle as scrap or for purposes of dismantling or destroying shall assign the certificate of title to the purchaser, and the purchaser shall comply with section ~~28-804~~ 28-2094.

F. On sale of the vehicle, an owner of a salvage vehicle for which a salvage certificate of title has been obtained shall assign and deliver the salvage certificate of title to the purchaser and notify the department of the name and address of the purchaser. The department shall issue a certificate of title to a vehicle that has been issued a salvage certificate of title as a result of a total loss settlement by reason of theft if the vehicle is recovered and was not wrecked or stripped of essential parts.

G. If a vehicle that is titled as a salvage vehicle is to be scrapped, dismantled or destroyed, the owner or purchaser shall comply with section ~~28-804~~ 28-2094.

H. If a salvage vehicle is rebuilt and restored to operation, the department shall not register the motor vehicle or transfer the ownership of the vehicle until the following are submitted to the department together with the salvage certificate of title:

1. An appropriate application for a restored salvage certificate of title.
2. Proof that the vehicle has been inspected by an employee of the department who verifies that the vehicle is properly equipped for highway use and has a proper vehicle identification number on the vehicle or assigned to the vehicle pursuant to law.
3. Any other required documents and fees.

I. The provisions of this chapter that refer to titles apply to salvage certificates of title issued pursuant to this section unless they conflict with this section.

J. If a person has a currently registered vehicle that has subsequently become a total loss due to an accident or an unrecovered theft, the person may make a verified written application to the registering officer in the county in which the vehicle was last registered indicating the occurrence of the total loss. When the registering officer confirms that an application for a salvage certificate of title or dismantling permit has been made, the registering officer shall:

1. Determine the amount of the vehicle license tax as provided for in section 28-5801.

2. Reduce the amount of the registration fee required pursuant to section ~~28-703~~ 28-2003 and the vehicle license tax determined in paragraph 1 of this subsection by one-twelfth for each full month of the registration period not yet expired.

3. Credit the owner with the appropriate amount of the fee and tax previously paid, to be applied to the registration of another vehicle.

K. If a component part of a vehicle on which the vehicle identification number is affixed is to be replaced and if the vehicle is being repaired by a person other than its owner, the person shall notify the owner in writing and in the manner prescribed by the department that the part has been replaced, and the owner shall comply with section ~~28-865~~ 28-2165.

L. A person who violates this section is guilty of a class 2 misdemeanor.

M. For the purposes of this section:

1. "Restored salvage certificate of title" means a certificate of title issued to a vehicle that has been restored and for which a salvage certificate of title or a dismantling permit has been issued.

2. "Salvage vehicle" means a vehicle that either:

(a) Has been wrecked or damaged beyond repair.

(b) Has been declared a total loss vehicle by the insurer including total loss by reason of theft.

Sec. 66. Section 28-2131, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2131. Liens and encumbrances; validity

The following, other than a lien dependent on possession, are not valid as against the creditors of an owner acquiring a lien by levy or attachment or against subsequent purchasers or encumbrancers without notice until the requirements of this article are met:

1. Any security agreement, conditional sale contract, conditional lease, chattel mortgage or other lien or encumbrance.

2. A title retention instrument or ANY other instrument affecting or evidencing title to, ownership of or reservation of title to a vehicle required to be titled and registered under section ~~28-853~~ 28-2153 or a mobile home required to be titled under section 42-643.

3. A contract for conveyance of real property, deed of trust or mortgage securing a lien on a mobile home and on real property.

Sec. 67. Section 28-2133, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2133. Index and filing of liens, encumbrances or instruments; constructive notice

A. The department shall maintain an appropriate index of all liens, encumbrances or title retention instruments filed as provided by this article.

B. The filing and issuance of a new certificate of title as provided in this article is constructive notice to creditors of the owner or to subsequent purchasers of all liens and encumbrances against the vehicle described in the certificate of title, except those that are authorized by law and that are dependent on possession. If the documents referred to in this article are received and filed in a registering office of the department within ten days after the date of their execution, the constructive notice dates from the time of execution. Otherwise, the notice dates from the time of receipt and filing of the documents by the department as shown by its endorsement.

C. The method provided in subsection B of this section for giving constructive notice of a lien or encumbrance on a vehicle required to be titled and registered under section ~~28-853~~ 28-2153 or a mobile home required to be titled under section 42-643 is exclusive, except for liens dependent on possession. A lien, encumbrance or title retention instrument or document that evidences any of them and that is filed as provided by this article is exempt from the provisions of law that otherwise require or relate to the recording or filing of instruments creating or evidencing title retention or other liens or encumbrances on vehicles of a type subject to registration under this chapter.

Sec. 68. Section 28-2135, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2135. Perfection of security interest in inventory

Notwithstanding any other provision in this article:

1. A security interest in inventory, as defined in section 47-9109, consisting in whole or in part of vehicles required to be titled and registered under section ~~28-853~~ 28-2153 or of mobile homes shall be perfected in accordance with the filing provisions of sections 47-9401 through 47-9409 to the extent that those provisions are applicable by virtue of section 47-9302.

2. A lien on a mobile home, as defined in section 42-641, for which an affidavit of affixture has been recorded pursuant to section 42-641.01 shall be perfected either according to the laws governing perfection of liens on real property or according to the laws governing perfection of security interests in fixtures.

Sec. 69. Section 28-2136, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2136. Unsatisfied liens

A. Except as provided in subsection B of this section, the department may remove from its records a lien on a vehicle required to be titled and registered under section ~~28-853~~ 28-2153 if the lien remains on the records of the department as unsatisfied twelve years after filing with the department.

B. This section applies only to noncommercial vehicles other than travel trailers, motor homes or mobile homes.

Sec. 70. Section 28-2151, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2151. Registration by mail; postage fund

A. The assessor of any county or the director acting as the registering agent may establish a procedure for mailing registration applications and license plates or year validating tabs to applicants.

B. For purposes of paying postage incurred under this section, the assessor or director may establish a postage fund and charge the estimated postage incurred under this section to an applicant who registers by mail. The assessor or director shall not charge postage to an applicant who does not register by mail. The assessor shall transfer monies in the assessor's postage fund annually and shall use the monies as provided in section ~~28-705~~ 28-2005. The director may transfer monies in the director's postage fund annually and use the monies as provided in section ~~28-707~~ 28-2007.

Sec. 71. Section 28-2153, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2153. Registration requirement exceptions; assessment; violation; classification

A. A person shall not operate, move or leave standing on a highway a motor vehicle, trailer or semitrailer unless the motor vehicle, trailer or semitrailer has been registered with the department for the current registration year or is properly registered for the current registration year by the state or country of which the owner or lessee is a resident.

B. A resident shall not operate, move or leave standing on a highway a motor vehicle, trailer or semitrailer that is:

1. Owned by a nonresident and that is primarily under the control of a resident of this state for more than seven months unless the motor vehicle, trailer or semitrailer has been registered with the department for the current registration year.

2. Leased by the resident for more than twenty-nine days unless the motor vehicle, trailer or semitrailer has been registered with the department for the current registration year.

C. This section applies to a trailer or semitrailer without motive power unless the vehicle is disabled or is being towed as an abandoned vehicle at the direction of a law enforcement agency.

D. This section does not apply to:

1. A farm tractor.

2. A trailer used solely in the operation of a farm for transporting the unprocessed fiber or forage products of a farm or any implement of husbandry designed primarily for or used in agricultural operations and only incidentally operated or moved on a highway.

3. A road roller or road machinery, including a power sweeper, that is temporarily operating or moved on the highway.

4. An owner permitted to operate a vehicle under special provisions relating to lienholders, manufacturers, dealers and nonresidents.

5. Motorized or nonmotorized equipment designed primarily for and used in mining operations and only incidentally operated or moved on a highway.

6. A motor vehicle that is being towed by a tow truck that has been registered and for which a permit has been obtained pursuant to section ~~28-3417~~ 28-1108.

7. A golf cart or any other motor vehicle used in the operation of a golf course and only incidentally operated or moved on a highway.

8. Wheeled equipment. For the purposes of this paragraph, "wheeled equipment" means:

(a) A compressor.

(b) A forklift.

(c) A portable cement mixer.

(d) A single axle tow dolly as defined ~~by~~ IN section ~~28-3405~~ 28-1095.

(e) A tar pot.

(f) A water trailer used for watering livestock or for agricultural or domestic purposes.

(g) A welder.

(h) Any other similar item designed and used primarily for construction or building trade purposes.

E. A person who owns or operates a trailer that is exempt from registration pursuant to this section shall notify the county assessor of the exemption, and the assessor shall assess the trailer.

F. A person who violates subsection E of this section is guilty of a class 2 misdemeanor.

Sec. 72. Section 28-2154, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2154. Special registrations

A. A nonresident who purchases an unregistered vehicle in this state for removal to the state of residence of the purchaser may obtain a special thirty day nonresident registration of the vehicle. The nonresident may obtain this special registration by applying to the department or to a motor

vehicle dealer as defined in section 28-4301 and by paying the fees prescribed by section ~~28-703~~ 28-2003. The application shall include an affidavit of the purchaser containing the following statements:

1. The purchaser is not a resident of this state as defined in section ~~28-701~~ 28-2001.

2. The vehicle is purchased to be registered out of state.

3. The vehicle is not purchased for transfer to a resident of this state.

4. Other information that the director deems necessary.

B. At the time of application for a special thirty day nonresident registration, the purchaser shall submit for inspection proper evidence of ownership of the vehicle to be registered. The special registration is valid for not more than thirty days from the date of issuance and may be evidenced in the form the director deems necessary or advisable. A person who obtains a nonresident registration on a semitrailer that has been manufactured in this state may use the semitrailer for commercial purposes if the semitrailer is being used to transport goods from this state, subject to the payment of any taxes prescribed by this title.

C. An enrolled member of an Indian tribe who resides on the Indian reservation established for that tribe and who purchases an unregistered vehicle in this state for removal to the Indian reservation may obtain a special thirty day registration permit for the vehicle. The member may obtain this special registration by applying to the department or to any motor vehicle dealer as defined by section 28-4301 and by payment by the motor vehicle dealer of the fees prescribed by section ~~28-703~~ 28-2003.

D. A resident who does not have complete documentation for issuance of an Arizona title and registration on a noncommercial vehicle but who has established ownership of the vehicle to the satisfaction of the department may receive a special ninety day resident registration by applying and paying the fee prescribed by section ~~28-703~~ 28-2003 to the department. The basis of assessment for the full annual registration fee and vehicle license tax relates back to the date of issuance of the first special ninety day resident registration.

E. A resident may receive a second consecutive special ninety day resident registration on application and payment of the fee prescribed by section ~~28-703~~ 28-2003 if:

1. The person has applied for a bonded title and the title has not been issued during the first ninety day registration.

2. The person is awaiting settlement of an estate.

3. The person is awaiting lien clearance.

4. The person is awaiting a hearing decision as a result of a title complaint.

5. The person is awaiting the issuance of honorary consular official special license plates.

6. The director determines other circumstances justify the issuance.

F. A resident may not receive more than two consecutive special ninety day resident registrations for a vehicle in a twelve month period.

Sec. 73. Section 28-2155, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2155. One trip registration permit

A. The department may issue a one trip registration permit that allows a person to operate an unregistered vehicle from a specified origin to a specified destination.

B. The one trip registration permit is valid only for the following purposes:

1. Vehicle emissions inspection.

2. Registration or titling.

3. Vehicle inspection by the registering officer.

4. Vehicle repair to comply with an emissions inspection or inspection by the registering officer.

C. A person operating a vehicle with a one trip registration permit shall comply with the mandatory motor vehicle insurance requirements of this state prescribed in chapter 9 of this title.

D. Issuance of a one trip registration permit is prima facie evidence that the vehicle will be used on the highway and that the waiver of the penalty provided by section ~~28-862~~ 28-2162 is not applicable.

E. The department shall prescribe the content and form of the one trip registration permit. The owner or operator of the vehicle shall display the one trip registration permit so that it is clearly visible from outside the vehicle.

F. The registering officer shall not issue more than three one trip registration permits for a vehicle in a twelve month period. The registering officer shall issue a one trip registration permit for not more than three days, excluding weekends and holidays.

G. The fee for the one trip registration permit is prescribed in section ~~28-703~~ 28-2003. The department shall deposit the fee in the county assessor's special registration fund established by section ~~28-705~~ 28-2005 if the assessor is the registering officer or in the special registration fund established ~~under~~ BY section ~~28-707~~ 28-2007 if the director is the registering officer.

Sec. 74. Section 28-2156, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2156. Temporary general use registration

A. In lieu of permanent registration, the department may issue a temporary general use registration that allows a person to operate a vehicle for no more than thirty days.

B. The director may authorize issuance of this temporary registration if the person does not qualify for registration under section ~~28-854~~ 28-2154 or ~~28-992~~ 28-2292 or article 10 of this chapter.

C. A person operating a vehicle with a temporary general use registration shall comply with the mandatory motor vehicle insurance requirements of this state prescribed in chapter 9, article 4 of this title.

D. The department shall prescribe the content and form of the temporary general use registration application. The owner or operator of the vehicle shall display the temporary general use registration so that it is clearly visible from outside the vehicle.

E. The registering officer shall not issue more than one temporary general use registration for a vehicle in a twelve month period.

F. At the time of application for a temporary general use registration, the applicant shall submit for inspection proper evidence of ownership or authorized possession of the vehicle.

G. The fee for the temporary general use registration is as prescribed in section ~~28-703~~ 28-2003. The registering officer shall deposit one dollar of the fee in the county assessor's special registration fund established by section ~~28-705~~ 28-2005 if the assessor is the registering officer or in the special registration fund established by section ~~28-707~~ 28-2007 if the director is the registering officer.

Sec. 75. Section 28-2157, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2157. Application for registration

A. A person shall apply to the department for registration of a motor vehicle, trailer or semitrailer on forms prescribed and furnished by the department.

B. The application shall contain:

1. The name and complete residence address of the owner.

2. A description of the vehicle, including the serial number.

3. If it is a new vehicle, the date of sale by the manufacturer or dealer to the person first operating the vehicle.

4. If the owner of the vehicle rents or intends to rent the vehicle without a driver, a statement of that fact.

5. Other facts required by the department.

C. THE REGISTERING OFFICE SHALL INDICATE ON THE FACE OF THE REGISTRATION APPLICATION THAT THE REGISTRANT MAY BE SUBJECT TO VEHICLE EMISSIONS TESTING REQUIREMENTS PURSUANT TO SECTION 49-542.

~~C.~~ D. On request of an applicant, the department shall allow the applicant to provide on the registration of a motor vehicle, trailer or semitrailer a post office box address that is regularly used by the applicant and that is located in the county in which the applicant resides.

~~D.~~ E. The person shall accompany the application with the required fees and the certificate of title to the vehicle for which registration is

sought. The registering officer may waive the requirement that the applicant present a certificate of title at the time of making an application for renewal if the registering officer has available complete and sufficient records to accurately compute the vehicle license tax.

~~E.~~ F. The department may request an applicant who appears in person to register a motor vehicle, trailer or semitrailer to complete satisfactorily the vision screening test prescribed by the department.

Sec. 76. Section 28-2159, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2159. Staggered registration

A. The director shall establish a system of staggered registration on a monthly basis to distribute the work of registering motor vehicles as uniformly as practicable throughout the twelve months of the calendar year.

B. All vehicle registrations provided in this chapter expire pursuant to schedules established by the director. The director may set the number of renewal periods within the month from one each month to one each day depending on which system is most economical and best accommodates the public.

C. If adoption of the staggered system results in the expiration of any registration more than a year from its issuance, the department shall charge a prorated registration fee in addition to the annual fee.

D. In order to initiate a system of registering or reregistering vehicles during any month of the calendar year, the director may register or reregister a vehicle for more or less than a twelve month period, but not more than eighteen months, and may prorate the annual registration fee if in the director's opinion proration tends to fulfill the purpose of the monthly registration system.

E. THE DIRECTOR MAY PROVIDE FOR THE BIENNIAL REGISTRATION OF ANY VEHICLE NOT SUBJECT TO ANNUAL EMISSIONS TESTING PURSUANT TO SECTION 49-542.

~~E.~~ F. The director or a registering officer may allow a person who owns three or more vehicles to register or reregister the vehicles for less than one year so that the vehicles' registrations expire on the same date. The director may not delay the registration date for a vehicle if it causes a decrease in the vehicle license tax. The director or the registering officer shall prorate the registration fee of these vehicles. This subsection does not apply to a commercial vehicle with a gross weight of more than ten thousand pounds or to a motor vehicle rental or leasing agency.

~~F.~~ G. The director shall adopt rules necessary to accomplish the purposes of this section.

Sec. 77. Section 28-2162, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2162. Delinquent registration; penalty; lien; failure to apply for title

A. If a vehicle is operated on a highway without payment of the registration or transfer fee, the fee is delinquent. If the fee is not paid before the date on which the vehicle is required to be registered for the current registration year, the department shall collect a penalty. The penalty is eight dollars for the first month of delinquency and four dollars for each additional month, not to exceed a total penalty of one hundred dollars. Registration of a vehicle in the name of the applicant for the year immediately preceding the year for which the application for registration is made is prima facie evidence that the vehicle has been operated on the highways during the year for which the application for registration is made.

B. Except as provided in section 28-5807, an applicant shall submit the total annual registration fee, the weight fee, any other required fee and the penalty prescribed in subsection A of this section with an application for registration of a vehicle that is submitted after the date the vehicle was required to be registered for the registration year in which registration of the vehicle for the next preceding year expired. If it is determined at the time of renewal, on proof satisfactory to the director, that the vehicle was not operated on the highways of this state before the filing of the application and the registration of the vehicle, the department shall refund or waive the penalty prescribed in subsection A of this section.

C. A registration ~~or transfer~~ fee and any penalty added to the fee are a lien on the vehicle on which they are due from the due date. The department ~~shall~~ MAY collect the fee and penalty by seizure of the vehicle from the person in possession of the vehicle, if any, and by sale as provided by law.

D. The director shall prescribe the method of readily identifying on the license plate the current registration date of the license plate.

E. A person who fails to apply for a certificate of title for any mobile home or other vehicle that is not registered under this title within fifteen days after acquiring the mobile home or vehicle shall pay an additional fee equal to the penalty prescribed in subsection A of this section.

Sec. 78. Section 28-2165, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2165. Special serial or identification number

A. If the manufacturer's serial or other identifying number of a motor vehicle, trailer or semitrailer is altered, removed, obliterated, defaced, omitted or otherwise missing or if the original manufacturer's serial or identification number on a major component part of a motor vehicle can be permanently restored after having been removed, defaced, altered or destroyed, the owner at the time of application for registration or titling of the vehicle shall file an application with the department, on a form the

department provides, that contains facts and information required by the director for the assignment of a special serial or identifying number.

B. The form prescribed by subsection A shall require, at a minimum, all of the following:

1. A sworn statement by the owner that the owner is the lawful owner of the vehicle and that sets forth the basis for the claim of ownership, including documentation such as purchase contracts, bills of sale, invoices and receipts for the original vehicle and any replacement parts that replaced damaged portions of the original vehicle that bore original manufacturer's serial or identification numbers.

2. A copy of police or law enforcement agency reports documenting the theft and recovery of the vehicle~~.~~

~~3.~~, a copy of a police or law enforcement agency accident report documenting the extent of damage to the vehicle~~.~~

~~4.~~, a certified copy of documents from an insurance company documenting the precise nature, extent and dollar amount of damage to the vehicle or a sworn statement by the owner, including full and complete supporting documentation, establishing the origin of the vehicle and each major component part of the vehicle.

C. If the director is satisfied that the applicant has provided the documentation required by this section and that the applicant is entitled to assignment of a special serial or identification number, the director shall designate the serial number and note it on the application, on a suitable record of the department and on the authorization of use of the number.

D. The director shall furnish to the applicant a serial plate together with the authorization of use that shall be immediately delivered to a department inspector or agent who shall permanently attach the serial plate to the item in a conspicuous position and certify the attachment on the authorization of use. After attachment and certification, the plate is the lawful serial or identification number and shall remain on the item during its existence.

Sec. 79. Section 28-2166, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2166. <u>Registration of vehicle rented without a driver; liability insurance; joint liability; violation; classification; definition</u>

A. The department of transportation shall not allow an owner who is engaged in the business of renting or who intends to rent a motor vehicle without a driver to register the motor vehicle until either:

1. The owner has procured public liability insurance with an insurance company approved by the department of insurance.

2. The owner has furnished to the department of transportation satisfactory proof of the owner's ability to respond in damages in the amount of fifteen thousand dollars if one motor vehicle is registered and ten

thousand dollars for each additional motor vehicle. Proof of the ability to respond in damages in the amount of one hundred thousand dollars is sufficient for any number of motor vehicles.

B. The policy of insurance required by subsection A shall:

1. Insure the renter against:

(a) Liability arising from the renter's negligence in the operation of the rented MOTOR vehicle in an amount of at least fifteen thousand dollars for any one person injured or killed and thirty thousand dollars for any number more than one injured or killed in any one accident.

(b) Liability of the renter for property damage in the amount of at least ten thousand dollars for any one accident.

2. Cover the liability of the renter to a passenger in the rented motor vehicle unless the owner gives the renter a written notice that the policy does not cover the liability.

C. The public liability insurance or the obligation of a self-insured owner pursuant to this section is primary coverage to any other available insurance coverage for any damages and injury caused by a renter.

D. The owner regulated by this section:

1. Is not an insurer and has no obligation to provide a defense after the owner has tendered its limits to either the insured party or the next available coverage for a renter in a situation if a renter has caused property damage or personal injuries. The obligation of any other insurance company to provide a defense if a renter is alleged to have caused property damages or personal injuries shall be determined in accordance with the specific provisions of the applicable policy.

2. In any situation in which damages or injuries are caused by a person who is operating a motor vehicle and who is not authorized by the written rental agreement to do so, has a right of subrogation against the person who rented the ~~automobile~~ MOTOR VEHICLE for damages that are caused to the owner and that arose out of the unauthorized operation of the owner's MOTOR vehicle.

3. Except as provided in paragraph 2 of this subsection, has no other right of subrogation against the person who rented the ~~automobile~~ MOTOR VEHICLE.

E. The department of transportation shall cancel the registration of a motor vehicle rented without a driver if the owner has failed to comply with this section.

F. The owner of a motor vehicle who rents it to another without a driver, other than as a bona fide transaction involving the sale of the MOTOR vehicle, without having procured the required public liability insurance or without qualifying as a self-insurer pursuant to section 28-4007 with at least the minimum limits prescribed in subsection A of this section is jointly and severally liable with the renter for damage caused by the negligence of the renter operating the motor vehicle.

G. The owner of a motor vehicle who rents a motor vehicle without a driver, other than as a bona fide transaction involving the sale of the motor vehicle, without first complying with this section is guilty of a class 2 misdemeanor.

H. As used in this section, owner engaged in the business of renting or who intends to rent a motor vehicle without a driver does not include a person who operates a golf course that rents golf carts that are intended to be used primarily for playing a round of golf and that are only ~~incidently~~ INCIDENTALLY operated or moved on a highway.

I. As used in this section, "renter" includes any person operating a motor vehicle with permission of the person who has rented it.

Sec. 80. Section 28-2201, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2201. Definition of fleet

In this article, unless the context otherwise requires, "fleet" means ~~twenty-five~~ THREE or more vehicles owned by a person and registered in this state.

Sec. 81. Section 28-2202, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2202. Fleet registration; requirements; fees

A. In lieu of the staggered vehicle registration requirements of section ~~28-859~~ 28-2159, a person may register a fleet on an annual basis so that the registration for all vehicles in the fleet expires in the same month.

B. The director shall approve the request for fleet registration if the applicant, at least thirty days before the registration date:

1. Provides an application containing information necessary for qualification as a fleet registrant.

2. Provides a list of all vehicles to be included in the fleet.

3. Pays a one time filing fee of one hundred dollars that the director shall transmit to the state treasurer for deposit in the special registration fund established by section ~~28-707~~ 28-2007.

Sec. 82. Section 28-2206, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2206. Additions to fleet; fee

A. If a vehicle is added to the fleet during the registration year, the director shall discount all fees required for registration as prescribed by law.

B. In addition to all registration fees, the registrant shall pay a two dollar identification fee for each vehicle added to the fleet. The director shall transmit the identification fee to the state treasurer for deposit in the special registration fund established by section ~~28-707~~ 28-2007.

Sec. 83. Section 28-2232, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2232. International proportional registration authority; rules

A. Except as otherwise provided in this article, the registration of fleet vehicles on a proportional basis without reference to or application of section ~~28-751, 28-752, 28-1021, 28-1022, 28-1023~~ 28-2051, 28-2052, 28-2321, 28-2322, 28-2323 or ~~28-1024~~ 28-2324 or other statutes of this state relating to vehicle registration is authorized.

B. Sections ~~28-861, 28-862~~ 28-2161, 28-2162 and 28-5724 and article 16 of this chapter apply to vehicles proportionally registered pursuant to this article.

C. This article does not require a vehicle to be proportionally registered if the vehicle is otherwise registered in this state for the operation in which the vehicle is engaged under section ~~28-703, 28-1024, 28-1025~~ 28-2003, 28-2324, 28-2325 or 28-5433 or any other law prescribing vehicle registration fees.

D. The director shall adopt rules necessary to administer and enforce this article.

Sec. 84. Section 28-2233, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2233. Interstate commercial fleet registration; application; restrictions

A. In lieu of the registration required by section ~~28-853~~ 28-2153, in lieu of the full payment of fees prescribed by sections ~~28-703~~ 28-2003 and 28-5433 and notwithstanding section ~~28-1021~~ 28-2321, a resident or nonresident engaged in operating one or more fleets of commercial vehicles in this state and another jurisdiction may register and license each fleet for operation in this state.

B. The director may refuse to permit proportional registration of vehicles based in a jurisdiction that does not grant proportional registration privileges to fleet vehicles based in this state.

C. A person may proportionally register and license a vehicle pursuant to this article by filing an application with the director. The execution of the application is subject to penalties of perjury for false statements. The application shall contain the following information and other information pertinent to vehicle registration as the director requires:

1. Total fleet miles determined as follows:

(a) The total number of miles operated in all jurisdictions during the preceding year by the power units in the fleet.

(b) If a fleet is composed entirely of trailers or semitrailers, the total number of miles that the vehicles were towed on the highways of all jurisdictions during the preceding year.

2. In-state miles determined as follows:

(a) The total number of miles operated in this state during the preceding year by the power units in the fleet.

(b) If a fleet is composed entirely of trailers or semitrailers, the total number of miles that the vehicles were towed on the highways of this state during the preceding year.

3. A description and identification of each vehicle of the fleet that is to be proportionally registered in this state during the registration year for which proportional fleet registration is requested.

4. For proportional registration of an interstate fleet to be operated in this state for the first time:

(a) The mileage data with respect to the fleet for the preceding year in other jurisdictions and the estimated annual mileage for the fleet in this state.

(b) If no operations were conducted with the fleet during the preceding year, a full statement of the proposed method of operation and estimates of annual mileage in this state and other jurisdictions.

D. The application shall not include as a proportionally registered fleet vehicle a vehicle that is operated exclusively in this state or a vehicle if the sole purpose of its operation in this state is for use in the conduct of intrastate business.

E. The department shall not register a vehicle under this article unless it has been or will be proportionally or otherwise properly registered in at least one other jurisdiction during the period for which proportional registration is sought in this state.

F. From the applications submitted for proportional registration of an interstate fleet to be operated in this state for the first time, the director shall fix the in-state and total fleet miles to be used in determining the mileage proportion for the fleet and may evaluate and adjust the estimate in the application if the director is not satisfied the estimate is correct.

Sec. 85. Section 28-2235, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2235. Interstate commercial fleet registration; trailers; fees

A. The application of each fleet registered pursuant to this article shall include a total fee payment of at least four dollars fifty cents for each vehicle in the fleet that is submitted at the time and in the manner directed by the director and that is computed as follows:

1. Divide in-state miles by total fleet miles.

2. Determine the total amount necessary to register each vehicle in the fleet for which registration is requested based on the applicable fees and taxes prescribed by sections ~~28-703~~ 28-2003, 28-5433, 28-5471 and 28-5801.

3. Multiply the sum obtained in paragraph 2 by the fraction obtained in paragraph 1.

B. In addition to all other fees, the applicant shall include a filing fee of seven dollars fifty cents with each application or supplemental application for nine or fewer vehicles, fifteen dollars for ten through twenty-four vehicles and twenty-two dollars fifty cents for twenty-five or more vehicles.

C. The applicant for proportional registration of a fleet, the nonmotor vehicles of which are operated in jurisdictions in addition to those in which the applicant's proportionally registered motor vehicles are operated, may state the nonmotor vehicles separately in the application and compute and pay the fees in accordance with the separate statement. In this application the total miles are the total miles that the nonmotor vehicles were towed by any of the applicant's motor vehicles on highways in all jurisdictions during the preceding year.

Sec. 86. Section 28-2237, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2237. Additional vehicles

A. A vehicle that is acquired by the owner after the beginning of the registration year and subsequently added to a proportionally registered fleet shall be proportionally registered by applying the mileage percentage used in the original application for the fleet for the registration period to the fees otherwise due for the vehicle pursuant to section ~~28-935~~ 28-2235 for the remainder of the registration year.

B. A vehicle that is operated by the owner as a lessee of another owner who, in the license year, has proportionally registered the vehicle in this state is not considered an addition to the lessee's fleet if the lessor establishes to the satisfaction of the director both of the following:

1. That the owner maintains and will submit complete annual mileage data for each vehicle for all states, including, by individual states, all miles operated in service by the lessor and the lessee of the lessor.

2. That the vehicle or its replacement will be included in the lessor's proportional registration application in this state in the normal course of operations for the succeeding license year.

Sec. 87. Section 28-2238, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2238. Records; audits; interest; penalty

A. An owner whose application for proportional registration is accepted shall preserve the records on which the application is based for four years following the year or period on which the application is based. On request of the director, the owner shall either:

1. Make records available to the director at the director's office for audit as to the accuracy of computations and payments and the assessment of deficiencies or allowances for credit.

2. Pay the costs of an audit by the department at the applicant's home office.

B. The director may enter into agreements with agencies of other jurisdictions administering motor vehicle registration laws for joint audits of an owner whose application for proportional registration has been accepted.

C. The department shall not make an assessment for deficiency or a claim for credit for a period for which records are not required. Amounts that are found to be due and owing on audit bear interest of twelve per cent from the date they should have been paid until the date of actual payment. If the audit discloses a deliberate and wilful intent to evade the requirements of payment under section ~~28-933~~ 28-2233, the department shall also assess an additional penalty of ten per cent of the amounts found to be due and owing on audit.

Sec. 88. Section 28-2261, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2261. Alternative proportional registration agreements; authority; rules

A. In lieu of the registration required by section ~~28-853~~ 28-2153, in lieu of international proportional registration pursuant to article 7 of this chapter and notwithstanding section ~~28-1021~~ 28-2321, the director may provide for the apportionment of registration and other fees for nonresident fleets of apportionable commercial vehicles that are engaged in interstate and intrastate commerce between this state and another state or states in which fleets operate in accordance with a proportional registration agreement pursuant to this article.

B. The director may enter into proportional registration agreements with another state or states providing that residents of the other state or states who operate a commercial vehicle may allocate and apportion the registration and other fees and taxes for the commercial vehicle prescribed in sections ~~28-703~~ 28-2003, 28-5433, 28-5471 and 28-5801 pursuant to a formula agreed on by the director and the other state or states.

C. The director may enter into an agreement pursuant to this article if residents of this state are granted the same allocation and apportionment privileges for commercial motor vehicles registered in the other state or states. An agreement, arrangement, declaration or amendment entered into pursuant to this article shall be in writing and is not effective until filed with the department.

D. The director shall adopt rules necessary to administer and enforce this article.

Sec. 89. Section 28-2264, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2264. Trailers

The registration fees prescribed in sections ~~28-703~~ 28-2003 and 28-5801 for trailers and semitrailers base licensed in this state under an agreement authorized by this article may be allocated or apportioned.

Sec. 90. Title 28, chapter 7, article 8, Arizona Revised Statutes, as transferred and renumbered by this act, is amended by adding section 28-2269, to read:

28-2269. Proportional registration or alternative procedure agreements; transfer of license plates

A. NOTWITHSTANDING SECTION 28-2263, BEGINNING ON JANUARY 1, 1997 IF THE LEGISLATURE APPROPRIATES MONIES FOR THE IMPLEMENTATION OF THIS SECTION A REGISTRANT MAY TRANSFER LICENSE PLATES ISSUED PURSUANT TO THIS ARTICLE TO ANOTHER VEHICLE REGISTERED IN THE REGISTRANT'S NAME IF THE VEHICLE REQUIRES LICENSE PLATES OF THE SAME FORMAT AND IF ALL OF THE FOLLOWING CONDITIONS ARE MET:

1. THE REGISTRANT MAKES PROPER APPLICATION TO THE DIRECTOR, THE DIRECTOR'S AGENT PURSUANT TO SECTION 28-2002 OR A THIRD PARTY AUTHORIZED PURSUANT TO CHAPTER 13, ARTICLE 1 OF THIS TITLE.

2. THE REGISTRANT PAYS ANY FEES AND TAXES REQUIRED TO REGISTER THE VEHICLE LESS ANY AMOUNT CREDITED PURSUANT TO SUBSECTION C OF THIS SECTION.

B. IF THE OTHER VEHICLE REQUIRES LICENSE PLATES OF A DIFFERENT FORMAT THAN THE LICENSE PLATES THAT THE REGISTRANT WISHES TO TRANSFER, THE REGISTRANT SHALL EITHER SURRENDER THE LICENSE PLATES TO THE DEPARTMENT OR AN AUTHORIZED THIRD PARTY OR SUBMIT AN AFFIDAVIT OF LICENSE PLATE DESTRUCTION AS PRESCRIBED BY THE DIRECTOR. ON SURRENDER OF THE LICENSE PLATES OR SUBMISSION OF AN AFFIDAVIT OF LICENSE PLATE DESTRUCTION, THE DEPARTMENT SHALL FURNISH NEW LICENSE PLATES OF THE PROPER FORMAT TO THE REGISTRANT UNDER THE SAME CONDITIONS SET FORTH IN SUBSECTION A OF THIS SECTION.

C. A REGISTRANT WHO TRANSFERS LICENSE PLATES PURSUANT TO SUBSECTION A OF THIS SECTION OR WHO SURRENDERS LICENSE PLATES OR SUBMITS AN AFFIDAVIT OF LICENSE PLATE DESTRUCTION PURSUANT TO SUBSECTION B OF THIS SECTION IS ENTITLED TO A CREDIT IN ACCORDANCE WITH THE FOLLOWING CONDITIONS:

1. THE CREDIT IS EQUAL TO THE UNEXPENDED VEHICLE LICENSE TAX, GROSS WEIGHT FEES, COMMERCIAL REGISTRATION FEES, SPECIAL PLATE FEES AND LIGHTWEIGHT MOTOR VEHICLE MOTOR CARRIER TAXES FOR THE CURRENT REGISTRATION YEAR OF THE VEHICLE TO WHICH THE PLATES WERE LAST ASSIGNED.

2. THE UNEXPENDED PORTION OF THE FEES AND TAXES IS EQUAL TO ONE-TWELFTH OF THE ANNUAL FEES AND TAXES FOR THE CURRENT REGISTRATION YEAR OF THE VEHICLE TO WHICH THE PLATES WERE LAST ASSIGNED MULTIPLIED BY THE NUMBER OF FULL MONTHS LEFT IN THE REGISTRATION YEAR ON THE EFFECTIVE DATE OF THE REPLACEMENT VEHICLE'S REGISTRATION PERIOD.

3. THE CREDIT FOR EACH FEE OR TAX SHALL BE APPLIED ONLY TO THE SIMILAR FEE OR TAX OWED ON THE VEHICLE TO WHICH LICENSE PLATES ARE TRANSFERRED OR ASSIGNED PURSUANT TO THIS SECTION.

D. IT IS UNLAWFUL FOR A REGISTRANT TO KNOWINGLY PERMIT LICENSE PLATES TO BE DISPLAYED ON A VEHICLE EXCEPT AS AUTHORIZED BY THE DEPARTMENT.

E. THE DIRECTOR SHALL ADOPT RULES AS NECESSARY TO ADMINISTER THIS SECTION.

Sec. 91. Section 28-2293, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2293. Application

A. A nonresident daily commuter may apply for external vehicle identification indicia and an identification card by filing an application with the department.

B. The department shall prescribe a form to be completed by the applicant that includes all of the following information:

1. The vehicle license plate number and the vehicle identification number of the motor vehicle that will display the nonresident daily commuter indicia.

2. The name of the registered owner of the motor vehicle that will display the indicia.

3. A statement that the applicant is a nonresident daily commuter.

4. A statement that the indicia will be displayed on a qualified motor vehicle as prescribed by section ~~28-995~~ 28-2295.

5. A statement that the place of employment of the nonresident daily commuter is within the corridor prescribed by section ~~28-994~~ 28-2294.

Sec. 92. Repeal

Section 28-2294, Arizona Revised Statutes, as transferred and renumbered by this act, is repealed.

Sec. 93. Title 28, chapter 7, article 9, Arizona Revised Statutes, as transferred and renumbered by this act, is amended by adding a new section 28-2294, to read:

28-2294. Nonresident daily commuter; identification card; fee

A. ON APPLICATION AND COMPLETION OF THE FORM PRESCRIBED BY SECTION 28-2293, THE DEPARTMENT SHALL PROVIDE A NONRESIDENT DAILY COMMUTER WITH EXTERNAL VEHICLE IDENTIFICATION INDICIA AND A CORRESPONDING IDENTIFICATION CARD THAT ARE VALID FOR TWO YEARS.

B. A MOTOR VEHICLE IS EXEMPT FROM REGISTRATION BY THIS STATE IF THE FOLLOWING CONDITIONS ARE MET:

1. THE MOTOR VEHICLE IS OPERATED WITH THE INDICIA PROVIDED PURSUANT TO SUBSECTION A OF THIS SECTION AND OTHERWISE IN ACCORDANCE WITH THIS ARTICLE.

2. THE MOTOR VEHICLE IS A PASSENGER VEHICLE OR AN UNLADEN TRUCK.

3. THE MOTOR VEHICLE IS LICENSED IN A CONTIGUOUS STATE AND IS USED TO COMMUTE INTO THIS STATE TO A DESTINATION WITHIN A CORRIDOR IN THIS STATE THAT PARALLELS THE BORDER BETWEEN THIS STATE AND THE CONTIGUOUS STATE AND THAT EXTENDS NOT MORE THAN THIRTY-FIVE AIR MILES INTO THIS STATE FROM THE BORDER AT ANY POINT.

C. THE PRIVILEGE ACCORDED BY SUBSECTION A OF THIS SECTION IS REVOKED IF THE MOTOR VEHICLE IS OPERATED FOR COMMUTER PURPOSES BEYOND THE THIRTY-FIVE MILE CORRIDOR.

D. THE DEPARTMENT MAY CHARGE A FEE OF NOT MORE THAN EIGHT DOLLARS FOR EACH MOTOR VEHICLE EXEMPT FROM REGISTRATION PURSUANT TO THIS SECTION, AS NECESSARY, TO RECOVER THE COSTS OF ADMINISTERING THIS ARTICLE.

Sec. 94. Section 28-2294, Arizona Revised Statutes, as added by this act, is amended to read:

28-2294. Nonresident daily commuter; identification card; fee

A. On application and completion of the form prescribed by section 28-2293, the department shall provide a nonresident daily commuter with external vehicle identification indicia and a corresponding identification card that are valid for two years.

B. A motor vehicle is exempt from registration by this state if the following conditions are met:

1. The motor vehicle is operated with the indicia provided pursuant to subsection A of this section and otherwise in accordance with this article.

2. The motor vehicle is a passenger vehicle or an unladen truck.

3. The motor vehicle is licensed in a contiguous state and is used to commute into this state to a destination within a corridor in this state that parallels the border between this state and the contiguous state and that extends not more than ~~thirty-five~~ SEVENTY air miles into this state from the border at any point.

C. The privilege accorded by subsection A of this section is revoked if the motor vehicle is operated for commuter purposes beyond the ~~thirty-five mile corridor~~ AIR MILEAGE LIMITATION PROVIDED IN SUBSECTION B OF THIS SECTION.

D. The department may charge a fee of not more than eight dollars for each motor vehicle exempt from registration pursuant to this section, as necessary, to recover the costs of administering this article.

Sec. 95. Section 28-2321, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2321. Registration requirement for nonresident's vehicle

A. Except as otherwise provided in this article, a nonresident owner of a foreign motor vehicle shall register and license the motor vehicle in this state in the same manner as a motor vehicle that has not been registered or licensed if the motor vehicle is operated in this state either:

1. For the transportation of passengers or property for compensation.

2. In the business of a nonresident carried on in this state.

3. For the transportation of property.

4. In the furtherance of a commercial enterprise and is a passenger carrying motor vehicle designed to seat twelve or more persons.

B. Sections ~~28-1022, 28-1023, 28-1024~~ 28-2322, 28-2323 AND 28-2324 and this section do not apply to:

1. A foreign motor vehicle that is owned by a nonresident and that would be exempt from payment of gross weight fees under section 28-5432 if the motor vehicle was owned by a resident of this state.

2. A foreign motor vehicle that is owned by a nonresident and operated in this state for the transportation of property in the furtherance of a commercial enterprise and that is either:

(a) Commonly referred to as a passenger car or station wagon.

(b) Commonly known and referred to by manufacturer's rating as a three-quarter ton or less pickup truck or three-quarter ton or less van.

Sec. 96. Section 28-2323, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2323. Exemptions from fees; special registration permit

A. An owner of a foreign motor vehicle that is registered and licensed in a state adjoining this state is not required to pay the gross weight fees prescribed in section 28-5433 if all of the following conditions exist:

1. The owner and motor vehicle are domiciled within twenty-five miles of the border of this state.

2. The motor vehicle is used in this state within twenty-five miles of the border.

3. the state in which the owner resides and in which the motor vehicle is registered exempts from payment of weight fees like motor vehicles from this state.

B. An owner who seeks partial or total exemption as provided in subsection A of this section shall apply to the department for a special registration permit. The department shall issue the permit to the vehicle owner if:

1. The department is satisfied that the owner is entitled to an exemption from gross weight fees.

2. The owner pays the portion of fees that are not exempt.

3. The owner signs an affidavit stating that when operated in this state the motor vehicle will be operated within the prescribed border zone and other information related to the permit as prescribed by the department.

C. The permit issued under this section shall be distinctive in form and shall include all of the following:

1. A statement that when the motor vehicle is operated in this state it will be operated only within the prescribed border zone.

2. The date the permit is issued.

3. A brief description of the motor vehicle.

4. A statement that the owner has registered the motor vehicle.

5. Other information that the director requires.

D. AN OWNER OF A FOREIGN MOTOR VEHICLE THAT IS REGISTERED AND LICENSED IN A STATE ADJOINING THIS STATE AND THAT IS EXEMPT FROM TOTAL OR PARTIAL

PAYMENT OF LIEU TAXES OR USE FEES AND TOTAL OR PARTIAL PAYMENT OF REGISTRATION FEES PURSUANT TO AN AGREEMENT AUTHORIZED BY SECTION 28-404 IS NOT REQUIRED TO PAY THAT PORTION OF THE EXEMPTED FEES AND TAXES PURSUANT TO THE AGREEMENT.

Sec. 97. Section 28-2324, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2324. Limited registration; fees; violation

A. If a person desires to operate a motor vehicle that is required to be registered by section ~~28-1021~~ 28-2321 for a period of less than the full registration year and the motor vehicle is registered under the laws of another state or country, the owner may apply to the department in the manner and form prescribed for the registration of the motor vehicle for either thirty, sixty or ninety day periods. The person shall pay the following percentages of the full annual registration, use and gross weight fees that are applicable to the applicant's motor vehicle as prescribed by sections ~~28-703~~ 28-2003, 28-5433 and 28-5471, or twelve dollars, whichever is more:

1. For thirty days, twenty per cent.
2. For sixty days, thirty-five per cent.
3. For ninety days, fifty per cent.

B. The department shall not accept an application for a fraction of any of the periods prescribed in subsection A of this section. The department may issue registrations without restriction as to number or sequence.

C. If satisfied as to the facts stated in the application, the department shall register the motor vehicle for the period prescribed in subsection A of this section and shall assign an appropriate certificate or license. The operator shall display the certificate or license on the motor vehicle in the manner prescribed by the department when the motor vehicle is operated or driven on a highway of this state.

D. If a nonresident owner of a foreign motor vehicle is apprehended while operating the vehicle beyond the period specified in the owner's certificate or license and the owner has not applied for renewal of the certificate or license:

1. The department shall not issue another thirty, sixty or ninety day certificate or license to the owner during the registration year in which the violation occurred.
2. The nonresident owner shall register the motor vehicle and pay the fees for the registration year.

Sec. 98. Section 28-2325, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2325. Single trip permit; fees

A. An owner of a vehicle that is required to be registered pursuant to section ~~28-1021~~ 28-2321 may apply to the department for a single trip

permit. The single trip permit authorizes the interstate operation of the vehicle:

1. For a single trip through this state.

2. From any point on the Arizona border to a point within this state and back to the border.

3. From a railhead within this state and return to a railhead.

4. From a point within this state to the border of this state.

B. If satisfied as to the facts stated in the application, the department shall register the vehicle by issuing a single trip permit on payment by the owner of the following fees:

1. For a one or two axle vehicle, one dollar fifty cents for each fifty miles or fraction of fifty miles to be traveled on the highways in any one trip.

2. For a three axle vehicle or combination of vehicles with not more than three axles, two dollars twenty-five cents for each fifty miles or fraction of fifty miles to be traveled on the highways in any one trip.

3. For a vehicle or combination of vehicles with four axles, three dollars for each fifty miles or fraction of fifty miles to be traveled on the highways in any one trip.

4. For a vehicle or combination of vehicles with five axles, three dollars seventy-five cents for each fifty miles or fraction of fifty miles to be traveled on the highways in any one trip.

5. For a vehicle or combination of vehicles with six axles, four dollars fifty cents for each fifty miles or fraction of fifty miles to be traveled on the highways in any one trip.

6. For a vehicle or combination of vehicles with more than six axles, five dollars twenty-five cents for each fifty miles or fraction of fifty miles to be traveled on the highways in any one trip.

~~7. For a vehicle commonly known as and referred to by manufacturer's rating as a three-quarter ton or less pickup truck a maximum of seven dollars fifty cents in any one trip.~~

C. The single trip permit shall contain information, be in the form and be issued and displayed in or on the vehicle as prescribed by department rules.

D. A single trip permit expires on completion of the earlier of the following:

1. The specific trip for which the permit is issued.

2. Ninety-six hours from the time of issuance.

3. A period of time that is authorized in writing by the department.

E. If a person violates the terms of a single trip permit, the owner shall apply for and obtain annual registration of the vehicle and SHALL pay the fees applicable at the time the terms of the permit are violated.

Sec. 99. Section 28-2326, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2326. Acceptance of rights and privileges; appointment for service of process

A. The rights and privileges conferred by sections ~~28-1021, 28-1022, 28-1023~~ 28-2321, 28-2322, 28-2323 and ~~28-1024~~ 28-2324 and section ~~28-1592~~ 28-3152, subsection A, paragraphs 4 and 5 are deemed accepted, and the acceptance is evidenced, by a nonresident:

1. If the nonresident or the nonresident's agent operates a motor vehicle on a highway under the provisions of and the conditions imposed by sections ~~28-1021, 28-1022, 28-1023~~ 28-2321, 28-2322, 28-2323 and ~~28-1024~~ 28-2324 and section ~~28-1592~~ 28-3152, subsection A, paragraphs 4 and 5.

2. If the nonresident or the nonresident's agent operates a motor vehicle on a highway other than under the provisions of sections ~~28-1021, 28-1022, 28-1023~~ 28-2321, 28-2322, 28-2323 and ~~28-1024~~ 28-2324 and section ~~28-1592~~ 28-3152, subsection A, paragraphs 4 and 5.

3. If a motor vehicle that is owned by a nonresident is operated on a highway with the owner's express or implied permission under circumstances that render a resident motor vehicle owner liable for damages to person or property caused by the operation.

B. Acceptance of the rights and privileges stated in subsection A of this section constitutes the appointment of the director by the nonresident as the nonresident's true and lawful attorney on whom process may be served in an action against the nonresident that arises from an accident or collision involving the nonresident, the nonresident's agent or any other person operating a motor vehicle owned by the nonresident with the nonresident's express or implied permission on a highway.

C. This section also applies to a nonresident defendant who was a resident of this state at the time of the accident or collision that gave rise to the action.

Sec. 100. Section 28-2327, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2327. Service on director; notice to nonresident; fee; proof of service

A. Service of process under section ~~28-1026~~ 28-2326 is made by leaving a copy of the summons and complaint and a fee of four dollars with the director or in the director's office during office hours. The service of process is deemed sufficient service on the nonresident if either:

1. The plaintiff immediately does all of the following:

(a) Sends notice of the service and a copy of the summons and complaint by certified mail to the nonresident defendant.

(b) Appends the defendant's return receipt and the plaintiff's affidavit of compliance with this section and section ~~28-1026~~ 28-2326 to the original summons.

(c) Files them with the court within the time the court allows.

2. The plaintiff both:

(a) Serves notice of the service and a copy of the summons and complaint on the defendant, if found outside this state, by a duly constituted officer qualified to serve like process in the state or the jurisdiction where the defendant is found.

(b) Files with the court, within the time the court allows, the officer's return showing that the notice, copy of the summons and complaint were served as provided by this section on the defendant.

B. The court in which the action is pending may order postponements necessary to give the defendant a reasonable opportunity to defend the action.

C. The director shall keep a record, including the day and hour of service, of all process served on the director under this section.

D. The fee paid to the director at the time of service shall be taxed as costs in the suit if the plaintiff recovers.

Sec. 101. Title 28, chapter 7, article 10, Arizona Revised Statutes, as transferred and renumbered by this act, is amended by adding section 28-2328, to read:

28-2328. Violation; classification

A PERSON WHO VIOLATES THIS ARTICLE IS GUILTY OF A CLASS 2 MISDEMEANOR.

Sec. 102. Section 28-2351, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2351. License plate provided; design

A. The department shall provide to every owner one license plate for each motor vehicle, motorcycle, trailer or semitrailer registered. At the request of the owner and on payment of any required fee, the department shall provide either one or two license plates for a motor vehicle for which a license plate is requested pursuant to this chapter.

B. The license plate shall display the number assigned to the vehicle and to the owner of the vehicle and the name of this state, which may be abbreviated. The director shall coat the license plate with a reflective material that is consistent with the determination of the license plate commission established by section ~~28-1105~~ 28-2405 regarding the color and design of license plates and special plates as prescribed by section ~~28-1105~~ 28-2405. The director shall design the license plate and the letters and numerals on the license plate to be of sufficient size to be plainly readable during daylight from a distance of one hundred feet.

C. Notwithstanding any other law, the department shall not contract with a nongovernmental entity to purchase or secure reflective material for the plates issued by the department unless the department has made a reasonable effort to secure qualified bids or proposals from as many individual responsible respondents as possible.

D. The license plate commission established ~~pursuant to~~ BY section ~~28-1105~~ 28-2405 shall determine the color and design of the license plate. All other plates issued by the department, except the plates issued pursuant

to sections ~~28-1112, 28-1113, 28-1152, 28-1153, 28-1154~~ 28-2412, 28-2413, 28-2414, 28-2452, 28-2453, 28-2454 and ~~28-1155~~ 28-2455 and article 14 of this chapter, shall be the same color as and similar in design to the license plate as determined by the commission.

E. A passenger motor vehicle rented without a driver shall receive the same type of license plate as issued for a private passenger motor vehicle.

Sec. 103. Section 28-2353, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2353. Special license plate replacement fund

A. The department may establish a special license plate replacement fund composed of twenty-five cents of each registration fee collected or received by the department. These fees are in addition to fees authorized to be kept pursuant to sections ~~28-705~~ 28-2005 and ~~28-707~~ 28-2007.

B. The department shall use the monies in the fund to systematically replace license plates that are no longer plainly readable or to offset the cost of the issuance of a newly designed license plate. The department shall transmit fund monies that exceed one hundred ten thousand dollars as of June 30 of each year to the state treasurer for deposit in the highway user revenue fund.

Sec. 104. Section 28-2355, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2355. License plates; tabs; stickers; fee

A. The department may issue one or more tabs or windshield stickers to indicate the year for which a license plate is issued.

B. The department shall develop a windshield sticker and issue it, on application, to a person whose motor vehicle is a farm vehicle as defined in section ~~28-1562~~ 28-3102. The department shall design the windshield sticker to provide that the words "farm vehicle" appear on the sticker.

C. For each farm windshield sticker issued under this section, the department shall charge a one time fee of eight dollars. A person shall not transfer the sticker to any other person or vehicle.

Sec. 105. Section 28-2402, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2402. Special plate fees

The following fees are required:

1. Twenty-five dollars for each pair of original and for each annual renewal of special plates issued under this article, except special plates for deaf persons issued under section ~~28-1108~~ 28-2408, international symbol of access special plates issued under section ~~28-1109~~ 28-2409 and, if the department receives approval from the federal government allowing the use of high occupancy vehicle lanes by alternative fuel vehicles, special plates for ~~alterative~~ ALTERNATIVE fuel vehicles issued under section ~~28-1116~~ 28-2416.

2. Twelve dollars for a transfer of special plates, unless exempt.

Sec. 106. Section 28-2403, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2403. Special plates; violation; classification

A. Except as otherwise provided in this article, the department shall issue or renew special plates in lieu of the regular license plates pursuant to the following conditions and procedures and only if the requirements prescribed by this article for the requested special plates are met:

1. A person who is the registered owner of a vehicle registered with the department or who applies for an original or renewal registration of a vehicle may submit to the department a completed application form as prescribed by the department with the fee prescribed by section ~~28-1102~~ 28-2402 for special plates in addition to the registration fee prescribed by section ~~28-703~~ 28-2003.

2. Except for plates issued pursuant to sections ~~28-1112, 28-1113, 28-1152, 28-1153, 28-1154~~ 28-2412, 28-2413, 28-2414, 28-2452, 28-2453, 28-5454 and ~~28-1155~~ 28-2455 and article 14 of this chapter, the special plates shall be the same color as and similar to the design of the regular license plates that is determined by the license plate commission pursuant to section ~~28-1051~~ 28-2351.

3. Except as provided in section ~~28-1106~~ 28-2406, the department shall issue special plates only to the registered owner or lessee of a vehicle that is a passenger vehicle or a light commercial vehicle that has a manufacturer's rated carrying capacity of one ton or less. The special plates shall be used on a vehicle currently registered in the applicant's name or in the name of the applicant and another person or on a vehicle leased by the applicant.

4. The department shall charge the fee prescribed by section ~~28-1102~~ 28-2402 for each annual renewal of special plates in addition to the registration fee prescribed by section ~~28-703~~ 28-2003.

B. On notification to the department and on payment of the transfer fee prescribed by section ~~28-1102~~ 28-2402, a person who is issued special plates may transfer the special plates to another vehicle the person owns or leases. Persons who are issued special plates for deaf persons pursuant to section ~~28-1108~~ 28-2408 and international symbol of access special plates pursuant to section ~~28-1109~~ 28-2409 are exempt from the transfer fee. If a person who is issued special plates sells, trades or otherwise releases ownership of the vehicle on which the plates have been displayed, the person shall immediately report the transfer of the plates to the department or the person shall surrender the plates to the department as prescribed by the director. It is unlawful for a person to whom the plates have been issued to knowingly permit them to be displayed on a vehicle except the vehicle authorized by the department.

C. The special plates shall be affixed to the vehicle for which registration is sought in lieu of the regular license plates.

D. A person is guilty of a class 3 misdemeanor who:

1. Violates subsection B of this section.

2. Fraudulently gives false or fictitious information in the application for or renewal of special plates or placards issued pursuant to this article.

3. Conceals a material fact or otherwise commits fraud in the application for or renewal of special plates or placards issued pursuant to this article.

Sec. 107. Section 28-2404, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2404. Special organization plates; special plate fund; definitions

A. An organization may submit a request to the department on a form prescribed by the department for a special organization plate. In the request the organization may propose suggested indicia for the special organization plate that are indicative of the organization. If the department determines the organization meets the requirements of an organization as defined in this section, the department shall submit the request for a special organization plate to the license plate commission established ~~pursuant to~~ BY section ~~28-1105~~ 28-2405.

B. The commission shall determine and inform the department whether the requested special organization plate is authorized. The commission shall authorize a special organization plate if the organization meets the following requirements:

1. The primary activity or interest of the organization serves the community, contributes to the welfare of others and is not offensive or discriminatory in its purpose, nature, activity or name.

2. The name of the organization or any part of the organization's purpose does not promote any specific product or brand name that is provided for sale.

3. The purpose of the organization does not promote a specific religion, faith or antireligious belief.

C. If the commission authorizes the special organization plate pursuant to subsection B of this section, section ~~28-1103~~ 28-2403 and the following requirements and procedures apply:

1. The department shall not issue the special organization plate unless it receives a sufficient number of applications from qualified applicants to pay for the production and program costs of the plates.

2. The department shall inform the organization of the authorization by the commission of the requested special organization plate, the requirements of this subsection and the number of applications required pursuant to paragraph 1 of this subsection.

3. The organization shall collect and hold applications from its members and the required fees for the special organization plates until the

required number of applications, as determined by the department, is received.

4. The organization shall refund all fees to applicants if the required number of applications is not received in the calendar year in which the first application was received or if the department refunds the fees to the organization.

5. The organization shall submit the required number of applications and fees to the department by January 1 of any calendar year.

6. If the department determines that the required number of applications is received, that the applicants are qualified for the requested special plate and that the monies paid for the plates are available to the state, the department shall design and issue the requested special plate within one year after receiving the applications and fees.

D. The determination of the commission of whether to authorize a special organization plate and of the department of whether to issue a special organization plate as required by this section is not subject to the rule making provisions of title 41, chapter 6. The department shall file with the secretary of state a document for publication in the administrative code with the department's rules that names each special organization plate that is authorized and issued pursuant to this section.

E. A special plate fund is established in the state treasury in which monies shall be deposited pending the determination required by subsection C, paragraph 6 of this section. The department shall transmit the fees received with applications for each special organization plate to the state treasurer for deposit in the fund. The department shall administer the fund and shall use the monies in the fund to provide refunds to an organization if special organization plates are not issued. Monies in the fund that are not refunded shall be deposited as required by law. The fund is exempt from the provisions of section 35-190 relating to lapsing of appropriations. On notice from the department, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund.

F. Eight dollars of the fees prescribed in section ~~28-1102~~ 28-2402 for original special plates and the renewal of special plates issued under this section are special plate administration fees. If the fees are not refunded and the special plates are issued pursuant to this section, the department shall transmit the special plate administration fees to the state treasurer for deposit in the special registration fund established by section ~~28-707~~ 28-2007 to cover administration costs.

G. For the purposes of this section:

1. "Commission" means the license plate commission established by section ~~28-1105~~ 28-2405.

2. "Organization" means an entity that is organized as a nonprofit corporation pursuant to title 10, chapter 22 and that either certifies to the

department that the organization has at least five hundred members or certifies to the department that the organization has fewer than five hundred members if, based on data requested by the department and provided by the organization, the department determines that the requirements of subsection C, paragraph 1 of this section can be satisfied.

Sec. 108. Section 28-2405, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2405. License plate commission

A. A license plate commission is established. The commission is composed of the following members:

1. A person who is appointed by the speaker of the house of representatives and who serves at the pleasure of the speaker of the house of representatives.

2. A person who is appointed by the president of the senate and who serves at the pleasure of the president of the senate.

3. A person who is appointed by the governor from the governor's office of highway safety and who serves at the pleasure of the governor.

4. The superintendent of the highway patrol division or the superintendent's designee.

5. The director of the department of transportation or the director's designee.

6. The director of the office of tourism or the director's designee.

7. The director of the state department of corrections or the director's designee.

B. The director of the department of transportation or the director's designee shall serve as chairman of the commission. The chairman shall preside at commission meetings and coordinate the activities of the commission and staff implementation of commission actions.

C. All official actions of the commission shall be decided by a majority vote of commission members.

D. The commission shall determine the following:

1. The color and design of license plates.

2. The color of special plates to be the same as and the design of special plates to be similar to the license plates, except for special plates issued pursuant to sections ~~28-1112, 28-1113, 28-1152, 28-1153, 28-1154~~ 28-2412, 28-2413, 28-2414, 28-2452, 28-2453, 28-2454 and ~~28-1155~~ 28-2455 and article 14 of this chapter.

3. Whether to authorize special organization plates pursuant to section ~~28-1104~~ 28-2404.

4. The indicia for special organization plates issued pursuant to section ~~28-1104~~ 28-2404.

E. The department shall provide the commission with staff and technical assistance as necessary to perform its functions.

F. Commission members are not eligible to receive compensation, but the members who are appointed pursuant to subsection A, paragraphs 1 and 2 of this section are eligible for reimbursement of expenses pursuant to title 38, chapter 4, article 2.

Sec. 109. Section 28-2406, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2406. Personalized special plates

A. Notwithstanding section ~~28-1103~~ 28-2403, subsection A, paragraph 3, a person may apply for personalized special plates for any vehicle the person owns or leases or as a gift for the owner or lessee of a vehicle by indicating on the application the letters, numbers or combination of letters and numbers requested as a registration number. The department shall determine the number of positions allowed on the personalized special plates. The personalized special plates shall not conflict with existing plates and shall not duplicate registration numbers. The department may refuse to issue or may suspend, cancel or revoke any combination of letters or numbers or any combination of letters and numbers that carries connotations that are offensive to good taste and decency, any combination that is misleading or any combination that duplicates other plates.

B. If a person who has been issued personalized special plates sells, trades or otherwise releases ownership of the vehicle on which the plates have been displayed and relinquishes the plates to the new owner of the vehicle, the person shall release the person's priority to the letters, numbers or combination of letters and numbers that is displayed on the personalized special plates in the manner prescribed by the director. The person to whom the plates are relinquished shall apply to the department for issuance of the plates to the new applicant.

Sec. 110. Section 28-1109, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2409. International symbol of access special plates; placard; definitions

A. The department shall issue special plates bearing the international symbol of access to either:

1. A person who is permanently physically disabled and who is an owner or lessee of a motor vehicle.

2. An organization that owns or leases a motor vehicle that primarily transports physically disabled persons.

B. A person who is permanently physically disabled may obtain, if qualified, a "permanently disabled" removable windshield placard. A person who is temporarily physically disabled may obtain, if qualified, a "temporarily disabled" removable windshield placard. An organization that primarily transports physically disabled persons may obtain, if qualified, a placard for each of the qualified vehicles. The department shall issue only one valid placard to a temporarily or permanently physically disabled

applicant, except to replace a lost, stolen or mutilated placard or if the department determines, on receiving the applicant's written request, that the needs of the applicant are such that two valid placards are required. The department shall issue a placard pursuant to this section at no additional charge.

C. A "permanently disabled" removable windshield placard or special plate issued ~~or renewed~~ under this section is valid for ~~one year~~ AS LONG AS THE PERSON TO WHOM THE PLACARD OR PLATE IS ISSUED QUALIFIES FOR ISSUANCE PURSUANT TO THIS SECTION. A "temporarily disabled" removable windshield placard issued or renewed under this section is valid for a period of time as determined by the department. A person who desires to obtain a "temporarily disabled" removable windshield placard for an additional period of time shall submit a new application.

D. A person or organization that desires to obtain a "permanently disabled" or "temporarily disabled" removable windshield placard or international symbol of access special plates shall submit an application to the department on a form furnished by the department that contains one of the following:

1. If a permanently or temporarily disabled person, a certificate completed by a hospital administrator or by an authorized physician that certifies that the applicant is physically disabled.

2. If an organization, a signed statement by an authorized officer of the organization affirming that the registered vehicle that is owned or leased by the organization and that will display the placard or the international symbol of access special plates primarily transports physically disabled persons.

E. On receipt of the application containing the medical certificate or signed statement, if the department finds that the applicant qualifies for the parking privileges pursuant to chapter ~~5~~ 3, article ~~15~~ 14 of this title, the department shall issue the placard or international symbol of access special plates.

~~F. A person or organization that desires to renew a "permanently disabled" removable windshield placard shall submit to the department an application that contains the following:~~

~~1. If a permanently disabled person, a signed statement by the person requesting renewal of the placard and affirming that the person is physically disabled. Every three years after issuance of the placard a department agent or notary public must witness the signed statement submitted to the director requesting renewal.~~

~~2. If an organization, a signed statement by an authorized officer of the organization affirming that the registered vehicle that is owned or leased by the organization and that will display the placard primarily transports physically disabled persons.~~

~~G. A person or organization that desires to renew the international symbol of access special plates shall comply with the annual vehicle registration requirements and every three years after issuance of the special plates shall submit an application to the department containing one of the following:~~

~~1. If a permanently disabled person, a signed statement by the person witnessed by a department agent or notary public requesting renewal of the special plates and affirming that the person is physically disabled.~~

~~2. If an organization, a signed statement by an authorized officer of the organization affirming that the registered vehicle that is owned or leased by the organization and that will display the special plates primarily transports physically disabled persons.~~

~~H.~~ F. The placard or international symbol of access special plates shall be displayed on or in the motor vehicle in the manner prescribed by the department.

~~I.~~ G. A request for special plates issued under this section may be combined with a request for any other special plate. The department shall prescribe the form for the request. The request is subject to payment of the fee required for the other special plate.

~~J.~~ H. In this section:

1. "Authorized physician" means a doctor of medicine, osteopathy or chiropractic licensed to practice medicine in this state or any contiguous state or authorized by the United States government to practice medicine.

2. "Permanently disabled removable windshield placard" means a two-sided, hooked placard that includes on each side all of the following:

(a) The international symbol of access that is at least three inches in height, that is centered on the placard and that is white on a blue shield.

(b) An identification number.

(c) An expiration date.

(d) The seal or other identification of the issuing authority.

3. "Physically disabled person" means a person who, as determined by a hospital administrator or authorized physician, meets any of the following conditions:

(a) Cannot walk two hundred feet without stopping to rest.

(b) Cannot walk without the use of or assistance from any brace, cane, crutch, other person, prosthetic device, wheelchair or other assistive device.

(c) Is restricted by lung disease to such an extent that the person's forced respiratory, expiratory volume for one second, if measured by spirometry, is less than one liter, or the arterial oxygen tension is less than sixty mm/Hg on room air at rest.

(d) Uses portable oxygen.

(e) Has a cardiac condition to the extent that the person's functional limitations are classified in severity as class III or class IV according to standards set by the American heart association.

(f) Is severely limited in the person's ability to walk due to an arthritic, neurological or orthopedic condition.

4. "Temporarily disabled removable windshield placard" means a two-sided, hooked placard that includes on each side all of the following:

(a) The international symbol of access that is at least three inches in height, that is centered on the placard and that is white on a red shield.

(b) An identification number.

(c) A date of expiration.

(d) The seal or other identification of the issuing authority.

Sec. 111. Section 28-2412, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2412. Collegiate special plates

A. The department shall issue collegiate special plates that identify each university that is described in section 15-1601. The collegiate special plates shall have the same color and design as the collegiate license plates issued on or before December 31, 1992, except that on the request of a university as described in section 15-1601, the department may revise the color and design of the plates as appropriate for the university.

B. Of the twenty-five dollar fee required by section ~~28-1102~~ 28-2402 for original special plates and for renewal of special plates, eight dollars is a special plate administration fee and seventeen dollars is a collegiate plate annual donation.

C. The department shall transmit all special plate administration fees and all collegiate plate annual donations collected pursuant to this section to the state treasurer. The state treasurer shall deposit the special plate administration fees in the special registration fund established by section ~~28-707~~ 28-2007 and shall transmit the collegiate plate annual donations to the board of regents for placement in the appropriate university collegiate special plate fund.

D. The request for collegiate special plates may be combined with a request for personalized special plates. This request shall be on a form prescribed by the director and is subject to the fees required for the personalized special plates in addition to the fees required for collegiate special plates.

Sec. 112. Section 28-2413, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2413. Environmental special plates

A. The department shall issue environmental special plates. The environmental special plates shall have the same basic color and design as the environmental license plates issued on or before December 31, 1992, except that the department may make minor alterations of environmental

special plates to make the plates more reflective and readable during the daylight and nighttime hours.

B. Of the twenty-five dollar fee required by section ~~28-1102~~ 28-2402 for original environmental special plates and for renewal of environmental special plates, eight dollars is a special plate administration fee and seventeen dollars is an environmental plate annual donation.

C. The department shall transmit all special plate administration fees and all environmental plate annual donations collected pursuant to this section to the state treasurer. The state treasurer shall deposit the special plate administration fees in the special registration fund established by section ~~28-707~~ 28-2007 and shall deposit the environmental plate annual donations in the environmental special plate fund established by section ~~15-214~~ 37-1015 for disbursement by the STATE LAND department ~~of education to~~ FOR environmental education programs.

Sec. 113. Section 28-2414, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2414. Veteran special plates

A. The department shall issue veteran special plates. THE VETERAN SPECIAL PLATES SHALL CONTAIN:

1. A RED, WHITE AND BLUE DESIGN.

2. AN AMERICAN FLAG IN THE CENTER OF THE PLATE.

3. THE DESIGNATION "VETERAN" AT THE BOTTOM OF THE PLATE.

B. Of the twenty-five dollar fee required by section ~~28-1102~~ 28-2402 for original veteran special plates and for renewal of veteran special plates, eight dollars is a special plate administration fee and seventeen dollars is a veteran plate annual donation.

C. The department shall transmit all special plate administration fees and all veteran plate annual donations collected pursuant to this section to the state treasurer. The state treasurer shall deposit the special plate administration fees in the special registration fund established by section ~~28-707~~ 28-2007 and shall deposit the veteran plate annual donations in the state home for veterans trust fund established by section 41-608.01.

Sec. 114. Section 28-2415, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2415. National guard member special plates

A. The department shall issue national guard member special plates to a person who submits satisfactory proof to the department that the person is or has been a member of the Arizona national guard or the spouse of a person who is or has been a member of the Arizona national guard.

B. OF THE TWENTY-FIVE DOLLAR FEE REQUIRED BY SECTION 28-2003 FOR ORIGINAL NATIONAL GUARD MEMBER SPECIAL PLATES AND FOR RENEWAL OF NATIONAL GUARD MEMBER SPECIAL PLATES, EIGHT DOLLARS IS A SPECIAL PLATE ADMINISTRATION FEE AND SEVENTEEN DOLLARS IS A NATIONAL GUARD MEMBER SPECIAL PLATE ANNUAL DONATION.

C. THE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION SHALL TRANSMIT ALL SPECIAL PLATE ADMINISTRATION FEES AND ALL NATIONAL GUARD SPECIAL PLATE ANNUAL DONATIONS COLLECTED PURSUANT TO THIS SECTION TO THE STATE TREASURER. THE STATE TREASURER SHALL DEPOSIT THE SPECIAL PLATE ADMINISTRATION FEES IN THE SPECIAL REGISTRATION FUND ESTABLISHED BY SECTION 28-2007 AND SHALL DEPOSIT THE NATIONAL GUARD MEMBER SPECIAL PLATE ANNUAL DONATIONS IN THE UNIT ALLOWANCES ESTABLISHED BY SECTION 26-153.

~~B.~~ D. The department shall not issue special plates pursuant to this section to a person or to the spouse of a person who was discharged from the armed forces under conditions less than honorable.

Sec. 115. Section 28-2453, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2453. Former prisoner of war license plates; fees

A. The department shall issue distinctive license plates to:

1. A person, other than a person who was discharged from the armed forces under conditions less than honorable, who submits satisfactory proof to the department that the person was captured and incarcerated by an enemy of the United States during a period of conflict with the United States.

2. The spouse of a person who has been issued a license plate pursuant to this section.

B. For each pair of original license plates issued pursuant to this section, the department shall charge a fee of fifteen dollars in addition to the registration fee required by section ~~28-703~~ 28-2003. For each annual renewal of license plates issued pursuant to this section, the department shall charge a fee of five dollars in addition to the registration fee required by section ~~28-703~~ 28-2003.

Sec. 116. Section 28-2454, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2454. Purple heart medal recipient license plates; fees

A. The department shall issue distinctive license plates to:

1. A person who submits satisfactory proof to the department that the person is a veteran and a bona fide purple heart medal recipient.

2. The spouse of a person who has been issued a license plate pursuant to this section.

B. For each pair of original license plates issued pursuant to this section, the department shall charge a fee of twenty-five dollars in addition to the registration fee required by section ~~28-703~~ 28-2003. For each annual renewal of license plates issued pursuant to this section, the department shall charge a fee of five dollars in addition to the registration fee required by section ~~28-703~~ 28-2003.

Sec. 117. Section 28-2455, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2455. Pearl Harbor survivor license plates; fees

A. The department shall issue distinctive license plates to:

1. A person who submits satisfactory proof from the veterans' service commission to the department that all of the following are true:

(a) The person was a member of the United States armed forces on December 7, 1941.

(b) The person received an honorable discharge from the United States armed forces.

(c) The person was on station on December 7, 1941 during the hours of 7:55 a.m. to 9:45 a.m. Hawaii time at Pearl Harbor, the island of Oahu or offshore at a distance of not exceeding three miles.

2. The spouse of a person who has been issued a license plate pursuant to this section.

B. For each pair of original license plates issued pursuant to this section, the department shall charge a fee of twenty-five dollars in addition to the registration fee required by section ~~28-703~~ 28-2003. For each annual renewal of license plates issued pursuant to this section, the department shall charge a fee of five dollars in addition to the registration fee required by section ~~28-703~~ 28-2003.

Sec. 118. Section 28-2482, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2482. License plates for horseless carriages; definition

A. The department shall issue license plates for a horseless carriage on application and in the manner and at the time prescribed by the department. The license plates are in lieu of the regular license plates issued by the department.

B. The registration numbers and license plates assigned to horseless carriages shall be manufactured from Arizona copper and shall run in separate numerical series beginning with "horseless carriage no. 1". The license plates shall be of a distinguishing color.

C. On renewal of the registration of a horseless carriage, the department shall annually issue symbols or devices as provided in section ~~28-1055~~ 28-2355.

D. For the purposes of this section, "horseless carriage" means a motor vehicle manufactured in 1915 or before.

Sec. 119. Section 28-2483, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2483. License plates for classic cars; definition

A. The department shall issue special license plates for a classic car on application and in the manner and at the time prescribed by the department. The license plates are in lieu of the regular license plates issued by the department.

B. The registration numbers and license plates assigned to classic cars shall be manufactured from Arizona copper and shall run in separate

numerical series commencing with "classic car no. 1". The license plates shall be of a distinguishing color but different from the color selected for license plates issued under section ~~28-1182~~ 28-2482 or ~~28-1184~~ 28-2484.

C. On renewal of registration of a classic car, the department shall annually issue symbols or devices as provided in section ~~28-1055~~ 28-2355.

D. For the purposes of this section, "classic car" means a car included in the 1963 list of classic cars filed with the director by the classic car club of America. The director shall revise the list every five years.

Sec. 120. Section 28-2484, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2484. License plates for historic vehicles; definition

A. The department shall issue special license plates for a historic vehicle on application and in the manner and at the time prescribed by the department. The license plates are in lieu of the regular license plates issued by the department.

B. The registration numbers and special license plates assigned to the historic vehicles shall be manufactured from Arizona copper and shall run in separate unique numerical series. The license plates shall be of a distinguishing color but different from the color selected for license plates issued under section ~~28-1182~~ 28-2482 or ~~28-1183~~ 28-2483.

C. On renewal of registration of a historic vehicle, the department shall annually issue symbols or devices as provided in section ~~28-1055~~ 28-2355.

D. The director shall grant the final approval of a vehicle to be licensed under this section.

E. For the purposes of this section, "historic vehicle" means any of the following:

1. A motor vehicle bearing a model year date of original manufacture that is twenty-five years old or older.

2. A motor vehicle included in a list of historic cars filed with the director by a recognized historic or classic car organization during the month of December of each year.

3. A reconstructed vehicle that the director determines, on application by the owner, retains at least the basic original body style as manufactured twenty-five years or more before the date of the application.

Sec. 121. Section 28-2487, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2487. Model year date license plates

An owner of a vehicle that is eligible for registration pursuant to section ~~28-1183~~ 28-2483 or ~~28-1184~~ 28-2484 may use a license plate previously issued by this state with the date of the year corresponding to the model year date when the vehicle was manufactured in lieu of the license plates

issued pursuant to section ~~28-1183~~ 28-2483 or ~~28-1184~~ 28-2484. To qualify for the license plate authorized by this section:

1. The department shall approve the license plate and determine that the model year date license plate is legible and serviceable and that the license plate numbers do not conflict with other numbers currently assigned to license plates issued by the department. The department may consult with an organization of old car hobbyists in determining whether the date of the year of the license plate to be used corresponds to the model year date when the vehicle was manufactured.

2. The owner of the vehicle shall comply with the requirements for the registration of the vehicle.

Sec. 122. Section 28-2512, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2512. Off-road recreational motor vehicle license plate; fee

A. The department shall furnish to an owner of an off-road recreational motor vehicle one license plate for each titled off-road recreational motor vehicle.

B. The license plate is valid for the life of the vehicle.

C. The fee for a plate issued pursuant to this section is eight dollars.

D. THE LICENSE PLATE ASSIGNED TO AN OFF-ROAD RECREATIONAL MOTOR VEHICLE SHALL BE:

1. ATTACHED TO THE REAR OF THE VEHICLE.

2. SECURELY FASTENED TO THE VEHICLE IN A CLEARLY VISIBLE POSITION.

Sec. 123. Section 28-2513, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2513. Mopeds

Notwithstanding any other provision of this title:

1. A certificate of title is not required for a moped that is registered pursuant to this chapter.

2. A number permanently affixed to the frame of the moped identifies the moped for registration purposes.

3. The director shall adopt necessary rules to provide for any tag, decal, plate or other device in lieu of a license plate otherwise required pursuant to this chapter to be attached to a moped to indicate that the moped is properly registered.

4. The license tax imposed by article IX, section 11, Constitution of Arizona, is four dollars fifty cents for each moped registered each year.

5. A moped is exempt from the provisions of section ~~28-3361~~ 28-964 relating to required equipment on motorcycles and motor-driven cycles and from the provisions of title 49, chapter 3, article 5 relating to vehicle emissions inspections.

6. The motor vehicle fee for registration or reregistration of a moped is five dollars. All other fees applicable to motor vehicles also apply to a moped.

7. Any class of driver license is valid for operating a moped.

8. A moped is restricted from rights-of-way designated for exclusive use by bicycles.

Sec. 124. Section 28-2531, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-2531. Registration; violation; classification; exceptions

A. A person is guilty of a class 5 felony who:

1. Intentionally removes a manufacturer's serial or identification number from or defaces, alters or destroys a manufacturer's serial or identification number on a motor vehicle.

2. IS IN POSSESSION OF A MOTOR VEHICLE KNOWING OR HAVING REASON TO KNOW THAT A MANUFACTURER'S SERIAL OR VEHICLE IDENTIFICATION NUMBER HAS BEEN REMOVED, DEFACED, ALTERED OR DESTROYED WITHOUT THE PERMISSION OF THE DEPARTMENT.

~~2.~~ 3. Knowingly issues a license plate without payment of the full amount of the registration and weight fee payable on the date of issuance of the license plate.

B. A person is guilty of a class 2 misdemeanor who:

1. Displays or possesses a registration card or license plate knowing it to be fictitious or to have been stolen, canceled, revoked, suspended or altered.

2. Lends to a person or knowingly permits the use of the person's registration card or license plate by a person not entitled to the card or plate.

3. Knowingly fails or refuses to surrender to the department on demand a license plate that has been suspended, canceled or revoked.

4. Uses a false or fictitious name or address in an application for registration of a vehicle or for a renewal or duplicate of a registration.

5. Knowingly makes a false statement or conceals a material fact or otherwise commits fraud in an application for registration of a vehicle or for a renewal or duplicate of a registration.

6. Knowingly issues a registration card that does not contain all information required to be shown on the card.

7. Knowingly places information on a registration card that does not appear on the certificate of title of the vehicle.

8. Operates on a street or highway a motor vehicle without an emissions control device as required by section ~~28-3254~~ 28-955 or with a device that has been dismantled or disconnected or is otherwise inoperative.

9. Displays or possesses a registration card or license plate while operating a vehicle on a highway after the person certifies to the department pursuant to section 28-4135 that the vehicle is nonoperational, is in storage

or will not be operated on a highway of this state and does not have evidence of current financial responsibility applicable to the motor vehicle.

C. THIS SECTION DOES NOT APPLY TO LAW ENFORCEMENT OFFICERS OR EMPLOYEES OF THE UNITED STATES, THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE IF THE VIOLATION OCCURS IN THE COURSE OF THEIR OFFICIAL DUTIES.

D. SUBSECTION A, PARAGRAPH 2 OF THIS SECTION DOES NOT APPLY TO A TOWING COMPANY THAT HAS A VEHICLE IN ITS POSSESSION PURSUANT TO SECTION 9-499.05, 11-251.04, 28-872 OR 28-4834 OR A BUSINESS ACTING IN GOOD FAITH AND IN THE NORMAL COURSE OF BUSINESS AND IN CONFORMANCE WITH ALL APPLICABLE LAWS.

Sec. 125. Section 28-3001, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-3001. Definitions

In this chapter, unless the context otherwise requires:

1. "Cancellation" means the annullment or termination of a driver license because of an error or defect or because the licensee is no longer entitled to the license.

2. "Commercial driver license" means a license that is issued to an individual and that authorizes the individual to operate a class of commercial motor vehicles.

3. "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used to transport passengers or property if the motor vehicle either:

(a) Has a gross combined weight rating of twenty-six thousand one or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than ten thousand pounds.

(b) Has a gross vehicle weight rating of twenty-six thousand one or more pounds.

(c) Is a school bus.

(d) Is a bus.

(e) Is used in the transportation of materials found to be hazardous for the purposes of the hazardous materials transportation act (49 United States Code appendix ~~section~~ SECTIONS 1801 ~~et seq.~~ THROUGH 1812) and is required to be placarded under 49 Code of Federal Regulations section 172.504, as adopted by the department pursuant to chapter 14 of this title.

4. "Conviction" means a final conviction or judgment, including an order of a juvenile court finding that a juvenile has violated a provision of this title or has committed a delinquent act that if committed by an adult constitutes any of the following:

~~(a) A homicide resulting from the operation of a motor vehicle.~~

(a) CRIMINAL DAMAGE TO PROPERTY PURSUANT TO SECTION 13-1602, SUBSECTION A, PARAGRAPH 1.

(b) A felony OFFENSE in the commission of which a motor vehicle was used.

(c) A forfeiture of bail or collateral deposited to secure a defendant's appearance in court that has not been vacated.

5. "Disqualification" means a prohibition from obtaining a commercial driver license or driving a commercial motor vehicle.

6. "Domicile" means the person's principal establishment to which the person intends to return when the person is absent.

7. "Employer" means a person, including the United States, a state or a political subdivision of a state, that owns or leases a commercial motor vehicle or that assigns a person to operate a commercial motor vehicle.

8. "Endorsement" means an authorization that is added to an individual's driver license and that is required to permit the individual to operate certain types of vehicles.

9. "Foreign" means outside the United States.

10. "Gross vehicle weight rating" means the weight that is assigned by the vehicle manufacturer to a vehicle and that represents the maximum recommended total weight including the vehicle and the load for the vehicle.

11. "Judgment" means a final judgment and any of the following:

(a) The finding by a court that an individual is responsible for a civil traffic violation.

(b) An individual's admission of responsibility for a civil traffic violation.

(c) The voluntary or involuntary forfeiture of deposit in connection with a civil traffic violation.

(d) A default judgment entered by a court pursuant to section ~~28-3796~~ 28-1596.

12. "License class" means, for the purpose of determining the appropriate class of driver license required for the type of motor vehicle or vehicle combination a driver intends to operate or is operating, the class of driver license prescribed in section ~~28-1561~~ 28-3101.

13. "Nonresident commercial driver license" means a commercial driver license issued to an individual domiciled in a foreign country.

14. "Original applicant" means any of the following:

(a) An applicant who has never been licensed or cannot provide evidence of licensing or an applicant whose previous license has expired for more than one year.

(b) An applicant who is applying for a higher class of driver license than the license currently held by the applicant.

(c) An applicant who has a license from a foreign country.

15. "Revocation" means that the driver license and privilege to drive a motor vehicle on the highways of this state are terminated and shall not be renewed or restored, except that an application for a new license may be presented and acted on by the department after one year from the date of revocation.

16. "Suspension" means that the driver license and privilege to drive a motor vehicle on the highways of this state are temporarily withdrawn during the period of the suspension and until application for reinstatement is made.

17. "Vehicle combination" means a motor vehicle and a vehicle in excess of ten thousand pounds gross vehicle weight that it tows, if the combined gross vehicle weight rating is more than twenty-six thousand pounds.

Sec. 126. Section 28-3002, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-3002. Fees; driver licenses; disposition

A. The following fees are required:

1. For each original or initial application or renewal application, if a written examination is required, for the following:

(a) Class A driver license, twenty-five dollars.

(b) Class B driver license, twenty-five dollars.

(c) Class C driver license, twelve dollars fifty cents.

(d) Class D driver license issued pursuant to section ~~28-1612~~ 28-3171, ten dollars.

(e) Class M driver license issued pursuant to section ~~28-1612~~ 28-3171, ten dollars.

2. Except as provided in paragraph 1, for each original, renewal or reinstatement application for a class D or M license:

Age	Fee
50 or older	$10.00
45-49	$15.00
40-44	$20.00
39 or younger	$25.00

3. For each original or initial application or renewal examination, if a written application is required, for the following endorsements to a driver license:

(a) Bus endorsement, ten dollars.

(b) Hazardous materials endorsement, ten dollars.

(c) Tank vehicle endorsement, ten dollars.

(d) Double-triple trailer endorsement, ten dollars.

(e) Motorcycle endorsement, seven dollars.

4. For taking each driving test for a:

(a) Class A driver license, twenty-five dollars.

(b) Class B driver license, twenty-five dollars.

(c) Class C driver license, twelve dollars fifty cents.

(d) Bus endorsement, five dollars.

5. For each application for an instruction permit under:

(a) Section ~~28-1594~~ 28-3154 or ~~28-1596~~ 28-3156, seven dollars.

(b) Section ~~28-1595~~ 28-3155, three dollars.

(c) Section ~~28-1665~~ 28-3225, class A, twenty-five dollars.

(d) Section ~~28-1665~~ 28-3225, class B, twenty-five dollars.

(e) Section ~~28-1665~~ 28-3225, class C, twelve dollars fifty cents.

6. For each renewal application, if a written examination is not required, for a:

(a) Class A driver license and any endorsement, other than a hazardous materials endorsement, to the license, fifteen dollars.

(b) Class B driver license and any endorsement, other than a hazardous materials endorsement, to the license, fifteen dollars.

(c) Class C driver license and any endorsement, other than a hazardous materials endorsement, to the license, ten dollars.

7. For each application for a duplicate of a driver license, four dollars.

8. For each application for a duplicate of an instruction permit, two dollars.

9. In addition to the fees prescribed in paragraph 2, for reinstatement of driving privileges after suspension or disqualification, ten dollars, except as provided in paragraph 11.

10. For each application for an extension by mail of a driver license, five dollars.

11. In addition to the fees prescribed in paragraph 2, for reinstatement of driving privileges that were suspended or denied pursuant to section ~~28-2885~~ 28-1385 after completion of the suspension or revocation, fifty dollars.

B. Except as otherwise provided by law, the director shall transmit fees collected under this section to the state treasurer for deposit in the Arizona highway user revenue fund.

Sec. 127. Section 28-3003, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-3003. Driver license fund

A. The department may establish a driver license fund as a special fund in the state treasury consisting of the monies collected by the director pursuant to section ~~28-1502~~ 28-3002, paragraph 1, subdivisions (a), (b) and (c), paragraph 3, subdivisions (a), (b), (c) and (d), paragraph 4, subdivisions (a), (b) and (c), paragraph 5, subdivisions (c), (d) and (e) and paragraph 6.

B. The department shall administer the fund. The department may use the monies in the fund to carry out the duties imposed by this title for the licensing of drivers and to cover the administrative costs of driving tests for commercial motor vehicle operators.

C. The fund established in this section is exempt from the provisions of section 35-190 relating to lapsing of appropriations. Monies in excess of two hundred thousand dollars remaining in the fund at the close of each fiscal year revert to the state highway fund.

D. The state treasurer may invest inactive monies in the fund. The state treasurer shall credit all interest earned on the fund monies to the fund.

Sec. 128. Section 28-3004, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-3004. License records

A. The department shall file an application for a license and shall maintain suitable indexes containing, in alphabetical order:

1. Each application denied, with a note on each application of the reason for the denial.

2. Each application granted.

3. Except as provided in subsection B of this section, the name of each licensee whose license is suspended or revoked by the department, with a note after each name of the reason for the action.

B. The director shall expunge from the public records maintained by the department a note of a suspension or revocation made pursuant to section ~~28-2885~~ 28-1385 if, after the suspension or revocation period, the licensee submits a certified copy of the court record indicating a dismissal or finding of not guilty of the violation on which the suspension or revocation is based. The director shall not expunge the record or shall rescind the expungement of the record if the licensee is convicted of or found responsible for a violation of ~~chapters~~ CHAPTER 3, 4 OR 5~~, 6, 7 or 8~~ of this title that occurred during the suspension or revocation period.

C. The department shall file all abstracts of court records of convictions it receives under the laws of this state and shall maintain convenient records of the abstracts or make suitable notations on the abstracts in order that an individual record of each licensee showing the convictions of the licensee and the traffic accidents in which the licensee has been involved is readily ascertainable and available for the consideration of the department on an application for renewal of a license and at other suitable times.

D. The department shall maintain the records pursuant to this section for five years after the application, suspension, revocation or abstract of a court record of conviction has become inactive.

Sec. 129. Title 28, chapter 8, article 1, Arizona Revised Statutes, as transferred and renumbered by this act, is amended by adding section 28-3006, to read:

28-3006. Third party testing program

A. THE DEPARTMENT MAY ESTABLISH A PROGRAM DESIGNATING THE FOLLOWING:

1. THIRD PARTY TESTERS TO ADMINISTER A DRIVING EXAMINATION TO DETERMINE AN APPLICANT'S DEMONSTRATED ABILITY TO PERFORM A PRETRIP INSPECTION AND TO EXERCISE ORDINARY AND REASONABLE CONTROL IN THE OPERATION OF A VEHICLE REQUIRING A CLASS A, B OR C DRIVER LICENSE AND LIMITED TO DETERMINING AN APPLICANT'S FULL OR PARTIAL ELIGIBILITY FOR A CLASS D OR M LICENSE.

2. THIRD PARTY APPLICATION PROCESSORS TO PROCESS APPLICATIONS SUBMITTED PURSUANT TO SECTIONS 28-3154 THROUGH 28-3158, 28-3165 AND 28-3225 AS PRESCRIBED IN THIS SECTION.

B. THE DEPARTMENT MAY CERTIFY A THIRD PARTY TESTER TO ADMINISTER ALL TESTS REQUIRED TO OBTAIN A CLASS D OR M LICENSE PURSUANT TO THIS CHAPTER. THE DEPARTMENT MAY CERTIFY A THIRD PARTY APPLICATION PROCESSOR TO ASSIST PERSONS WITH THE APPLICATIONS REQUIRED IN SECTIONS 28-3154 THROUGH 28-3158, 28-3165 AND 28-3225 AND TO SUBMIT APPLICATION MATERIALS TO THE DEPARTMENT ON BEHALF OF APPLICANTS.

C. TO QUALIFY AS A THIRD PARTY TESTER OR APPLICATION PROCESSOR, THE THIRD PARTY SHALL MEET AND MAINTAIN THE MINIMUM STANDARDS REQUIRED BY THIS SECTION AND RULES ADOPTED BY THE DEPARTMENT.

D. IF THE DEPARTMENT DETERMINES THAT AN APPLICANT FOR CERTIFICATION AS A THIRD PARTY TESTER IS QUALIFIED FOR THE THIRD PARTY TESTING PROGRAM, THE DEPARTMENT SHALL ISSUE A CERTIFICATE EVIDENCING QUALIFICATION AND AUTHORIZING THE THIRD PARTY TESTER TO SIGN THE DEPARTMENT'S PRESCRIBED FORM CERTIFYING THAT THE APPLICANT SATISFACTORILY COMPLETED THE PRESCRIBED COURSE IN PRETRIP INSPECTIONS AND IN DRIVING THE CLASS OF VEHICLE FOR WHICH LICENSING IS SOUGHT.

E. A CERTIFICATION FOR AN APPLICANT IS NOT VALID UNLESS IT IS ISSUED WITHIN THIRTY DAYS OF THE APPLICATION DATE FOR LICENSING.

F. THE THIRD PARTY TESTER OR APPLICATION PROCESSOR SHALL PROMINENTLY DISPLAY IN THE PLACE OF BUSINESS OF THE THIRD PARTY TESTER OR APPLICATION PROCESSOR THE CERTIFICATE ISSUED BY THE DEPARTMENT AUTHORIZING THE THIRD PARTY TESTER OR APPLICATION PROCESSOR TO ADMINISTER THE TESTING OR TO PROCESS APPLICATIONS.

G. A THIRD PARTY TESTER SHALL ADMINISTER THE EXAMINATION AS PRESCRIBED BY THE DEPARTMENT.

H. THIRD PARTY TESTERS AND APPLICATION PROCESSORS SHALL MEET THE MINIMUM STANDARDS AND QUALIFICATIONS ESTABLISHED BY THE DEPARTMENT. THE DEPARTMENT SHALL ANNUALLY REVIEW AND RECERTIFY THIRD PARTY TESTERS AND APPLICATION PROCESSORS TO ENSURE COMPLIANCE WITH RULES AND STANDARDS ADOPTED BY THE DEPARTMENT.

I. THIRD PARTY TESTERS AND APPLICATION PROCESSORS THAT ARE CERTIFIED BY THE DEPARTMENT AND THAT CONDUCT TESTING OR APPLICATION PROCESSING FOR CLASS A, B AND C LICENSING MAY COLLECT A FEE THAT IS REASONABLE AND COMMENSURATE FOR THE TESTING OR APPLICATION PROCESSING BUT NOT MORE THAN FIFTY DOLLARS.

J. THE DEPARTMENT MAY MAKE ON-SITE INSPECTIONS DURING REGULAR BUSINESS HOURS AND AT LOCATIONS THE DEPARTMENT DEEMS APPROPRIATE TO DETERMINE QUALIFICATION OF ONGOING COMPLIANCE BY THIRD PARTY TESTERS AND APPLICATION PROCESSORS WITH THE REQUIREMENTS PRESCRIBED BY THIS SECTION. IF THE INSPECTION IS CONDUCTED AT A PLACE LOCATED OUTSIDE THIS STATE, THE THIRD

PARTY TESTER OR APPLICATION PROCESSOR SHALL REIMBURSE THE DEPARTMENT FOR THE REASONABLE PER DIEM AND TRAVEL COSTS INCURRED BY THE DEPARTMENT'S INSPECTORS.

K. THE DEPARTMENT MAY REVOKE THE CERTIFICATION ISSUED TO A THIRD PARTY TESTER OR APPLICATION PROCESSOR FOR ONE YEAR IF THE DEPARTMENT FINDS THAT THE THIRD PARTY TESTER OR APPLICATION PROCESSOR IS NOT IN COMPLIANCE WITH THIS SECTION OR A RULE ADOPTED BY THE DEPARTMENT. IF CAUSE EXISTS, THE DEPARTMENT MAY ORDER A REEXAMINATION OF A LICENSEE WHO WAS CERTIFIED BY A THIRD PARTY TESTER WHOSE CERTIFICATION WAS REVOKED. IF CAUSE EXISTS, THE DEPARTMENT MAY REQUIRE A LICENSEE TO SUBMIT A NEW APPLICATION IF CERTIFICATION OF THE THIRD PARTY APPLICATION PROCESSOR THAT PROCESSED THE LICENSEE'S APPLICATION MATERIALS IS REVOKED.

L. THE DEPARTMENT MAY REJECT AN APPLICANT'S CERTIFICATION ISSUED PURSUANT TO THIS SECTION AND MAY ADMINISTER A DRIVING EXAMINATION IF THE DEPARTMENT HAS REASON TO QUESTION THE APPLICANT'S ABILITY TO EXERCISE ORDINARY AND REASONABLE CONTROL IN THE OPERATION OF A MOTOR VEHICLE.

M. A THIRD PARTY TESTER OR APPLICATION PROCESSOR AUTHORIZED UNDER THIS SECTION TO ADMINISTER A DRIVING EXAMINATION OR TO PROCESS APPLICATION MATERIALS IS NOT CRIMINALLY OR CIVILLY LIABLE FOR THE ADMINISTRATION OF THE EXAMINATION OR THE PROCESSING UNLESS THE THIRD PARTY TESTER OR PROCESSOR ADMINISTERED THE EXAMINATION OR PROCESSED THE APPLICATION IN A GROSSLY NEGLIGENT MANNER.

Sec. 130. Section 28-3052, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-3052. Medical advisory board; powers and duties

A. The medical advisory board established by section ~~28-1531~~ 28-3051 may:

1. Make recommendations to the director consistent with this article.

2. Make studies, including recommendations, for the purpose of suggesting:

(a) Medical and vision standards for driver license applicants.

(b) Medical and vision standards for driver license examinations.

(c) Courses of training, training facilities and qualifications and methods of training for driver license examining personnel.

(d) Procedures for the certification of driver license personnel and the certification of driver license personnel instructors.

3. Direct research in the field of licensing drivers and may accept public or private grants for the research.

4. Conduct research in the field of examination or reexamination of licensing individual drivers with medical or vision problems.

B. The medical advisory board shall set minimum vision standards for the operation of a motor vehicle in this state.

Sec. 131. Section 28-3053, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-3053. School bus advisory council

A. The school bus advisory council is established consisting of nine members appointed by the governor. The governor shall appoint the members as follows:

1. One member representing the department of public safety.

2. One member representing the state board of education.

3. One member from a school district with a student count of less than six hundred.

4. One member from a school district with a student count of six hundred or more but less than three thousand.

5. One member from a school district with a student count of three thousand or more but less than ten thousand.

6. One member from a school district with a student count of ten thousand or more.

7. One member representing transportation administrators.

8. One member who is a certified school bus driver or school bus driver instructor.

9. One member representing a private sector school bus service provider.

B. The members shall serve staggered three year terms unless a member vacates the position. Appointment to fill a vacancy resulting other than from expiration of a term is for the unexpired portion of the term only.

C. The school bus advisory council shall:

1. Meet at least annually.

2. Select a chairman from its members.

3. Advise and assist the department of administration in developing the rules required by sections ~~28-1668~~ 28-900 and ~~28-3322~~ 28-3228.

4. Recommend curricula for school bus driver safety and training courses required by section ~~28-1668~~ 28-3228.

5. Advise and consult with the department of public safety concerning matters related to the certification of school bus drivers and the safety of school buses.

6. Establish a mailing list that includes any party expressing an interest in the council's activities. The council shall provide the list to the department of administration, and the department of administration shall send notice by ~~regular~~ FIRST CLASS mail to each person on the list at least fifteen days before the date on which the meeting is to be held.

D. Members of the school bus advisory council are not eligible to receive compensation or reimbursement for expenses.

Sec. 132. Section 28-3101, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-3101. Driver license classes

A. Except as provided in subsection B of this section and section ~~28-1562~~ 28-3102, the following driver license classes are valid:

1. Class A. A class A license is valid for operating either of the following:

(a) A motor vehicle that tows a vehicle with a gross vehicle weight rating of more than ten thousand pounds if the combined gross vehicle weight rating is twenty-six thousand one or more pounds.

(b) A vehicle that requires a class B, C or D license.

2. Class B. A class B license is valid for operating any of the following:

(a) A single motor vehicle with a gross vehicle weight rating of twenty-six thousand one or more pounds.

(b) A motor vehicle with a gross vehicle weight rating of twenty-six thousand one or more pounds that tows a vehicle with a gross vehicle weight rating of ten thousand pounds or less.

(c) A vehicle that requires a class C or D license for operation.

3. Class C. A class C license is valid for operating any of the following:

(a) A single motor vehicle with a gross vehicle weight rating of twenty-six thousand pounds or less.

(b) A motor vehicle with a gross vehicle weight rating of twenty-six thousand pounds or less that tows a vehicle with a gross vehicle weight rating of ten thousand pounds or less.

(c) A motor vehicle with a gross vehicle weight rating of twenty-six thousand pounds or less that tows a vehicle with a gross vehicle weight rating of more than ten thousand pounds, if the combined gross vehicle weight rating is less than twenty-six thousand one pounds and the vehicle is required to be placarded for hazardous materials.

(d) A bus or school bus.

(e) A vehicle that requires a class D license for operation.

4. Class D. A class D license is valid for operating any of the following:

(a) A single motor vehicle with a gross vehicle weight rating of twenty-six thousand pounds or less.

(b) A motor vehicle with a gross vehicle weight rating of twenty-six thousand pounds or less that tows a vehicle with a gross vehicle weight rating of ten thousand pounds or less.

(c) A motor vehicle with a gross vehicle weight rating of twenty-six thousand pounds or less that tows a vehicle with a gross vehicle weight rating of more than ten thousand pounds if the combined gross vehicle weight rating is less than twenty-six thousand one pounds.

5. Class M. A class M license is valid for operating a motorcycle, motor-driven cycle or moped. For the purpose of licensing a driver, the department may endorse a class M license classification on a valid class A, B, C or D license.

B. A class A, B, C or D license is not valid for operating a vehicle that requires a class M license or a vehicle that requires a special endorsement unless the proper endorsement appears on the license.

Sec. 133. Section 28-3102, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-3102. Exceptions to driver license classes; definitions

A. Notwithstanding section ~~28-1561~~ 28-3101, a person who operates an authorized emergency vehicle, a farm vehicle or a recreational vehicle may operate the vehicle with a class A, B, C or D license.

B. For the purposes of this section:

1. "Commercial farming" means the intensive cultivation of arable land by raising agricultural or horticultural products as a principal source of the owner's livelihood.

2. "Commercial stock raising" means breeding, raising and caring for domestic animals as a principal source of the owner's livelihood.

3. "Farm vehicle" means a vehicle or combination of vehicles that is used for commercial farming or commercial stock raising and that meets all of the following requirements:

(a) Is controlled and operated by the farm vehicle owner or the owner's family member or employee.

(b) Is used to transport agricultural products, machinery or supplies to or from a commercial farming or a commercial stock raising operation.

(c) Is not used in the operations of a common or contract motor carrier.

(d) Is used within one hundred fifty miles of the farm vehicle owner's commercial farming or commercial stock raising operation.

4. "Recreational vehicle" means a motor vehicle or vehicle combination that is more than twenty-six thousand pounds gross vehicle weight rating and that is designed and exclusively used for private pleasure, including vehicles commonly called motor homes, pickup trucks with campers, travel trailers, boat trailers and horse trailers used exclusively to transport personal possessions or persons for noncommercial purposes.

Sec. 134. Section 28-3153, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3 and as transferred and renumbered by this act, is amended to read:

28-3153. Driver license issuance; prohibitions

A. The department shall not issue the following:

1. A class D or M license to a person who is under sixteen years of age, except that the department may issue a restricted class D license to a person who is at least fifteen years of age.

2. A CLASS D OR M LICENSE OR INSTRUCTION PERMIT TO A PERSON WHO IS UNDER EIGHTEEN YEARS OF AGE AND WHO HAS BEEN TRIED IN ADULT COURT AND CONVICTED OF A SECOND OR SUBSEQUENT VIOLATION OF CRIMINAL DAMAGE TO PROPERTY PURSUANT TO SECTION 13-1602, SUBSECTION A, PARAGRAPH 1 OR CONVICTED OF A

FELONY OFFENSE IN THE COMMISSION OF WHICH A MOTOR VEHICLE IS USED OR WHO HAS BEEN ADJUDICATED DELINQUENT FOR A SECOND OR SUBSEQUENT ACT THAT WOULD CONSTITUTE CRIMINAL DAMAGE TO PROPERTY PURSUANT TO SECTION 13-1602, SUBSECTION A, PARAGRAPH 1 OR ADJUDICATED DELINQUENT FOR AN ACT THAT WOULD CONSTITUTE A FELONY OFFENSE IN THE COMMISSION OF WHICH A MOTOR VEHICLE IS USED IF COMMITTED BY AN ADULT.

~~2.~~ 3. A class A, B or C license to a person who is under twenty-one years of age, except that the department may issue a class A, B or C license that is restricted to only intrastate driving to a person who is at least eighteen years of age.

~~3.~~ 4. A license to a person whose license or driving privilege has been suspended, during the suspension period.

~~4.~~ 5. Except as provided in section ~~28-1715~~ 28-3315, a license to a person whose license or driving privilege has been revoked.

~~5.~~ 6. A class A, B or C license to a person who has been disqualified from obtaining a commercial driver license.

~~6.~~ 7. A license to a person who on application notifies the department that the person is an alcoholic as defined in section 36-2021 or a drug dependent person as defined in section 36-2501, unless the person successfully completes the medical screening process pursuant to section ~~28-1532~~ 28-3052 or submits a medical examination report that includes a current evaluation from a certified substance abuse counselor indicating that, in the opinion of the counselor, the condition does not affect or impair the person's ability to safely operate a motor vehicle.

~~7.~~ 8. A license to a person who has been adjudged to be incapacitated pursuant to section 14-5304 and who at the time of application has not obtained a termination of incapacity as provided by law.

~~8.~~ 9. A license to a person who is required by this chapter to take an examination unless the person successfully passes the examination.

~~9.~~ 10. A license to a person who is required under the motor vehicle financial responsibility laws of this state to deposit proof of financial responsibility and who has not deposited the proof.

~~10.~~ 11. A license to a person if the department has good cause to believe that the operation of a motor vehicle on the highways by the person would threaten the public safety or welfare.

12. A LICENSE TO A PERSON WHOSE DRIVER LICENSE HAS BEEN ORDERED TO BE SUSPENDED PURSUANT TO SECTION 25-320.01.

B. The department shall not issue a driver license to or renew the driver license of the following persons:

1. A person about whom the court notifies the department that the person violated the person's written promise to appear in court when charged with a violation of the motor vehicle laws of this state until the department receives notification in a manner approved by the department that the person appeared either voluntarily or involuntarily or that the case has been

adjudicated, that the case is being appealed or that the case has otherwise been disposed of as provided by law.

2. If notified pursuant to section ~~28-3801~~ 28-1601, a person who fails to pay a civil penalty as provided in section ~~28-3801~~ 28-1601, except for a parking violation, until the department receives notification in a manner approved by the department that the person paid the civil penalty, that the case is being appealed or that the case has otherwise been disposed of as provided by law.

C. The magistrate or the clerk of the court shall provide the notification to the department prescribed by subsection B of this section.

Sec. 135. Section 28-3156, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-3156. Class M instruction permit

A. A person who is at least fifteen years and seven months of age may apply to the department for an instruction permit for a class M license. The department may issue an instruction permit to the applicant after the applicant successfully passes all parts of the examination other than the motorcycle skill test.

B. The permit entitles the permittee to operate a motorcycle requiring a class M license or endorsement when the permittee has the permit in the permittee's immediate possession. The permit is valid for six months from the date of issuance.

C. The permittee shall not operate a motorcycle as follows:

1. On a controlled access highway as defined in section ~~28-2001~~ 28-601.

2. On a highway from sunset to sunrise or when there is insufficient light to clearly discern a person and a vehicle on the highway at a distance of five hundred feet.

D. The department shall not issue more than two class M permits to the same person within twenty-four months.

Sec. 136. Section 28-3158, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-3158. Driver license or instruction permit application

A. A person who applies for an instruction permit or for a driver license shall use a form furnished by the department.

B. An applicant shall pay the fee prescribed by section ~~28-1502~~ 28-3002 for a driver license or for an instruction permit issued under section ~~28-1594, 28-1595, 28-1596~~ 28-3154, 28-3155, 28-3156 or ~~28-1665~~ 28-3225. Payment of the fee required by this section entitles the applicant to not more than three attempts to pass the examination within twelve months from the date of the application. The department shall refund an application fee pursuant to section 28-373.

C. An applicant for an instruction permit or a driver license shall give the department satisfactory proof of the applicants' full name, date of birth, sex and residence address.

D. The application for an instruction permit or a driver license shall state the following:

1. A brief description of the applicant and any other identifying information required by the department.

2. Whether the applicant has been licensed, and if so, the type of license issued, when the license was issued, what state or country issued the license and whether the license was suspended or revoked.

3. Whether an application was ever refused, and if so, the date of and reason for the suspension, revocation or refusal.

4. If the applicant was never licensed, the applicant's last previous state of residence.

5. The name of the state in which the principal vehicle the applicant uses is registered and the name of the owner of the vehicle.

6. If the application is for a class A, B or C driver license or instruction permit, the social security number of the applicant unless the application is for a nonresident commercial driver license.

E. On request of an applicant, the department shall allow the applicant to provide on the application a post office box address that is regularly used by the applicant and that is located in the county in which the applicant resides.

F. The department may request an applicant who appears in person for a license, a duplicate license or reinstatement of a driving privilege to complete satisfactorily the vision screening prescribed by the department.

Sec. 137. Section 28-3160, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-3160. Applications of minors; liability

A. Except as provided in section ~~28-1601~~ 28-3161, the following person or persons shall sign and verify before a person authorized to administer oaths the application of a person under eighteen years of age for an instruction permit, a class D or M driver license or an endorsement to a class D or M driver license:

1. If both the father and mother of the applicant are living, have custody of the applicant and are married to each other, either the father or the mother of the applicant.

2. If both the father and mother of the applicant are living, have custody of the applicant and are not married to each other, both the father and mother of the applicant.

3. If one parent of the applicant has custody of the applicant, the parent who has custody.

4. If neither parent of the applicant is living, the person or guardian who has custody of the applicant or an employer of the applicant.

5. If the applicant resides with a foster parent, the foster parent.

6. If there is no guardian or employer of the applicant, a responsible person who is willing to assume the obligation imposed by this chapter on a person who signs the application of a minor.

B. Negligence or wilful misconduct of a minor when driving a motor vehicle on a highway is imputed to the person who signs the application of the minor for a permit or license. Except as otherwise provided in subsection D of this section, the person who signs the application is jointly and severally liable with the minor for damage caused by the negligence or wilful misconduct.

C. Notwithstanding section 25-214, subsection C, a spouse who signs the application pursuant to subsection A of this section binds the marital community.

D. The parents or guardian of a minor are not liable under subsection B of this section during the time proof of financial responsibility is maintained by the minor or on behalf of the minor in the form and in amounts required by law for the operation of a motor vehicle the minor owns, or if the minor is not the owner of a motor vehicle, for the operation of any motor vehicle.

Sec. 138. Section 28-3161, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-3161. Application of student minor; instructor liability

A. A person who is at least fifteen years of age, who is attending school and who is not living or residing with the person's parent or guardian may apply for a restricted instruction permit issued pursuant to section ~~28-1595~~ 28-3155. An approved instructor of the drivers training program for which the permit is issued may sign the application in lieu of the requirements of section ~~28-1600~~ 28-3160.

B. The permit is valid only when the instructor who signed the application is in the vehicle with the permittee.

C. If the person is under eighteen years of age, an approved instructor assumes the obligations imposed on a person signing the application of a minor only when the instructor who signed the application is in the vehicle with the permittee.

D. The application for a restricted instruction permit shall include a statement that the instructor who signs the application understands that the instructor is liable for damage caused by negligence or wilful misconduct of the permittee while operating a motor vehicle when the instructor is in the vehicle.

Sec. 139. Section 28-3162, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-3162. Cancellation of minor's driver license; release from liability

A. A person who signs the application of a minor for a driver license may file with the department a verified written request that the department cancel the driver license of the minor. On receipt of the request, the department shall cancel the driver license of the minor and the person who signed the application of the minor is released from the liability for subsequent negligence or wilful misconduct of the minor in operating a motor vehicle.

B. A parent of a minor who applies for a driver license may file a verified written request to cancel the driver license if the parent has custody of the minor and if the parent is subject to section ~~28-1600~~ 28-3160, subsection A but does not sign the application.

C. On receipt of satisfactory evidence of the death of the person or persons who signed the application of a minor for a driver license, the department shall cancel the driver license and shall not issue a new license until a new application is made, duly signed and verified as required by this chapter. This subsection does not apply if the minor has reached eighteen years of age.

Sec. 140. Section 28-3164, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-3164. Original applicants; examination

A. The department shall examine an applicant for an original driver license or the department may accept the examination conducted by a third party tester pursuant to section ~~28-1670~~ 28-3006. The examination shall include all of the following:

1. A test of the:

(a) Applicant's eyesight.

(b) Ability to read and understand official traffic control devices.

(c) Knowledge of safe driving practices and the traffic laws of this state.

2. An actual demonstration of ability to exercise ordinary and reasonable control in the operation of a vehicle or vehicle combination of the type covered by the license classification or endorsement for which the applicant applies.

3. Other physical and mental examinations if the department finds them necessary to determine the applicant's fitness to safely operate a motor vehicle on the highways.

B. The department shall examine an original applicant for a class M license or a motorcycle endorsement or the department may accept the examination conducted by a third party tester pursuant to section ~~28-1670~~ 28-3006. The department may examine an applicant who has a motorcycle license from another jurisdiction. This examination shall be the same as for all applicants, except that the department may make modifications it finds

1 necessary to determine the applicant's fitness to operate a motorcycle, motor
2 driven cycle or moped on the highways.
3 C. The department shall examine a person who holds a driver license
4 issued by another country and who applies for an initial license in this
5 state as an original applicant, except that the department may waive an
6 actual demonstration of the ability to exercise ordinary and reasonable
7 control in the operation of a motor vehicle if the person applies for a class
8 D license and appears to meet the department's medical qualifications and if
9 the license issued by another state or a Canadian province is not revoked or
10 is not expired for more than one year.
11 D. The department may waive the driving examination for initial
12 applicants for a class M license or a motorcycle endorsement if all of the
13 following conditions exist:
14 1. The applicant's current license indicates the applicant has been
15 specifically licensed to operate a motorcycle.
16 2. The applicant appears to meet the department's medical
17 qualifications.
18 3. The applicant's out of state license is not revoked or is not
19 expired for more than one year.
20 Sec. 141. Section 28-3166, Arizona Revised Statutes, as transferred
21 and renumbered by this act, is amended to read:
22 28-3166. Driver license content and application; marked
23 licenses
24 A. The department shall issue a driver license to a qualified
25 applicant. The driver license shall contain a distinguishing number assigned
26 to the licensee, the license class, any endorsements, the licensee's full
27 name, date of birth and residence address, a brief description of the
28 licensee and either a facsimile of the signature of the licensee or a space
29 on which the licensee is required to write the licensee's usual signature
30 with pen and ink. A driver license is not valid until it is signed by the
31 licensee. On request of an applicant, the department shall allow the
32 applicant to provide on the driver license a post office box address that is
33 regularly used by the applicant and that is located in the county in which
34 the applicant resides.
35 B. An application for a driver license and the driver license issued
36 shall contain the photo image of the applicant or licensee. The department
37 shall use a process in the issuance of driver licenses that prohibits as
38 nearly as possible the ability to alter or reproduce the license or that
39 prohibits the ability to superimpose a photo image on the license without
40 ready detection. The department shall process driver licenses and photo
41 images in color. This subsection does not apply to a driver license that is
42 renewed by mail pursuant to section ~~28-1613~~ 28-3172.

C. An applicant who is sixteen or older but under twenty-four years of age shall provide the department with satisfactory proof of the applicant's date of birth.

D. If a person is qualified for a driver license and is under the legal drinking age, the department shall issue a license that is marked by color, code or design to immediately distinguish it from a license issued to a person of legal drinking age. The department shall indicate on the driver license issued pursuant to this subsection the year in which the person will attain the legal drinking age.

Sec. 142. Section 28-3170, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-3170. Duplicate permit or license

If an instruction permit or driver license issued under this chapter is lost, destroyed or made illegible, if the name or address of the applicant changes or if a new photo image is desired, the person to whom the permit or license was issued may obtain a duplicate, update or substitute of the permit or license, on payment of the fee required by section ~~28-1502~~ 28-3002.

Sec. 143. Section 28-3171, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-3171. Driver license expiration and renewal; exception; extension by mail

A. Except as provided in subsection B, D or E of this section and section ~~28-1663~~ 28-3223 and unless medical restrictions require a shorter expiration period, a driver license:

1. Is valid until the applicant's sixtieth birthday.

2. Is renewable for successive periods of five years after the applicant's sixtieth birthday.

3. Expires on the applicant's birthday if the license was issued pursuant to subsection B of this section.

B. Notwithstanding subsection A of this section:

1. The department shall issue to an applicant a driver license that is valid for not more than five years and six months if the applicant applies within six months of the applicant's next birthday and if the applicant is fifty-nine years of age or older, unless medical restrictions require a shorter expiration period.

2. On presentation of satisfactory proof of qualification, the director may issue a class D or M license for a period of five years to:

(a) A person who is an out-of-state student or who is the spouse of an out-of-state student. For the purposes of this subdivision, "out-of-state student" has the same meaning prescribed in section ~~28-701~~ 28-2001.

(b) An immediate family member of any active duty military personnel temporarily stationed in this state.

(c) Any other person for whom the director determines other circumstances justify the issuance.

C. An applicant shall apply for renewal of a driver license before the expiration of a current license. The department may require an examination of a renewal applicant for a class D or M license as required of an original applicant.

D. A veteran, as defined in section 41-601, whose driver license expires is not required to renew the veteran's driver license for six months from the date of the veteran's discharge from military service.

E. The department may extend the expiration date of a class D or M license by mail for a resident if the applicant is not in this state at the time the license expires and will not be in this state for at least thirty consecutive days after the expiration of the driver license. The department shall not extend the expiration date of a license for more than six months. On payment by the applicant of the fee prescribed in section ~~28-1502~~ 28-3002, the department shall issue a certificate of extension that is valid only if accompanied by the applicant's previous license. An applicant for extension of a license by mail shall comply with the following:

1. The application requirements of section ~~28-1598~~ 28-3158.

2. The licensing requirements of section ~~28-1593~~ 28-3153.

3. Medical requirements applicable to all license applicants, except that the applicant is not required to obtain an eyesight examination.

Sec. 144. Section 28-3172, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-3172. Driver license renewal by mail; application; requirements

A. On payment of the fee prescribed in section ~~28-1502~~ 28-3002, the department may renew by mail a class D or M license issued to the following persons:

1. A spouse or child who is living with a veteran who is assigned to active duty in the armed forces of the United States outside of this state. A driver license renewed by mail pursuant to this paragraph is not required to contain a photograph of the licensee. The department shall not renew a license by mail if the applicant would be denied a license if the applicant applied for the license while the applicant was in this state. An applicant for renewal of a driver license by mail pursuant to this paragraph shall comply with:

(a) The application requirements of section ~~28-1598~~ 28-3158.

(b) The licensing requirements of section ~~28-1593~~ 28-3153.

(c) Medical requirements applicable to all license applicants.

2. A person who meets all of the following requirements:

(a) According to the records of the department, the person's license has not been suspended, revoked, canceled or denied immediately preceding the determination of eligibility for renewal under this paragraph.

(b) Is renewing the license for the same class of license currently held.

(c) Is under seventy years of age.

(d) If sixty years of age or older, has presented or mailed to the department on a form prescribed by the department a report based on a vision test by the department or an examination of the applicant's eyesight by an optometrist licensed pursuant to title 32, chapter 16 or a physician licensed pursuant to title 32, chapter 13 or 17. The vision test or examination shall be conducted not more than three months before the date of its submission.

B. The department shall notify a person who meets the requirements of subsection A, paragraph 2 of this section that the person may renew the person's license by mail and shall enclose an application as prescribed by the director. An applicant who renews a driver license by mail shall complete and return the application to the department.

C. The department shall issue a certificate of renewal to a qualified applicant that includes the applicant's name, date of birth, address and driver license expiration date, the number of the license renewed and other information that the department requires. The certificate is not valid until it is signed by the applicant and attached to the last license issued by this state that contains the photograph of the applicant.

D. The department shall decide if the eyesight reported by each applicant pursuant to subsection A, paragraph 2, subdivision (d) of this section is sufficient to meet current eyesight standards.

E. The department may renew by mail a class 1, 2 or 3 license of a person who meets all of the requirements of subsection A, paragraph 2 of this section if the license was issued before January 1, 1990.

Sec. 145. Section 28-3223, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-3223. <u>Additional application requirements; expiration; renewal examination</u>

A. In addition to the requirements applicable to all driver license applicants, an original applicant for a class A, B or C license is subject to the following requirements:

1. The applicant shall submit evidence of compliance with medical standards and requirements that the department adopts by rule.

2. The applicant must have held a driver license for at least one year either in this state, any other state or a foreign country.

3. The applicant shall take additional knowledge examinations to demonstrate understanding of the following:

(a) Safety operation rules.

(b) Commercial motor vehicle safety control systems.

(c) Safe vehicle control.

(d) The relationship of cargo to vehicle control.

(e) Basic hazardous materials knowledge.

(f) The objectives and proper procedures for performing vehicle safety inspections.

(g) Air brake systems.
(h) Legal requirements for size, weight and vehicle configurations.
(i) Emergency procedures.

4. In addition to the other requirements of this section, an applicant for a class A driver license shall demonstrate a knowledge and understanding of:

(a) Vehicle coupling and uncoupling.
(b) Unique combination vehicle inspections.

5. Unless an employer certification is provided, the applicant shall take a driving test in a vehicle or vehicle combination that at least meets the minimum size requirements for the class of driver license sought. The driving test shall include a demonstration of familiarity with pretrip inspection procedures.

B. Notwithstanding section ~~28-1612~~ 28-3171, a class A, B or C driver license is valid for five years and expires on the applicant's birthday.

C. The department may administer an examination to a renewal applicant for a class A, B or C driver license. This examination on renewal shall include the following:

1. Evidence of compliance with medical standards adopted by the department.

2. Administration of knowledge tests as required of an original applicant.

3. Administration of a road test if the applicant cannot present an employer certification or other evidence of driving a vehicle of a class for which a renewal is sought within the last two years. The department may require a road test even if an employer certification or other evidence of recent driving is presented if the department has reasonable concern about the applicant's ability to exercise ordinary and reasonable control of a motor vehicle or vehicle combination for which licensing is sought.

Sec. 146. Section 28-3224, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-3224. Nonresident commercial driver license

A. The department may issue a nonresident commercial driver license to a resident of a foreign jurisdiction if the United States secretary of transportation determines that the commercial motor vehicle testing and licensing standards in the foreign jurisdiction do not meet the testing standards established in 49 Code of Federal Regulations part 383.

B. On receipt of a proper application, the department may issue a nonresident commercial driver license to an applicant who meets the requirements for a class A, B or C license pursuant to section ~~28-1663~~ 28-3223.

C. The department shall mark a license issued pursuant to this section as a nonresident commercial driver license or a nonresident CDL.

D. A person applying for a nonresident commercial driver license shall surrender any nonresident commercial driver license issued by another state as a condition of receiving a nonresident commercial driver license in this state.

Sec. 147. Section 28-3227, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-3227. Commercial drivers; convictions; notification requirements; violation

A. A driver of a commercial motor vehicle who has a driver license issued by this state and who is convicted of violating a state law or local ordinance relating to motor vehicle traffic in any state or a federal, provincial, territorial or municipal law of another country, other than a parking violation, shall notify the department within thirty days of the date of the conviction in the manner prescribed by the department.

B. A driver of a commercial motor vehicle who has a driver license issued by this state and who is convicted of violating a state law or local ordinance relating to motor vehicle traffic in any state or a federal, provincial, territorial or municipal law of another country, other than a parking violation, shall notify the person's employer in writing of the conviction within ten days of the date of conviction.

C. A driver whose driver license is suspended, revoked or canceled by a state, who loses the privilege to drive a commercial motor vehicle in a state for any period of time or who is disqualified from driving a commercial motor vehicle for any period of time shall notify the person's employer of the action before the end of the business day following the day the driver receives notice of the action.

D. A person who applies for employment as a driver of a commercial motor vehicle shall provide the person's employer, at the time of application, with the following information for the ten years preceding the date of application:

1. A list of the names and addresses of the applicant's previous employers for which the applicant was a driver of a commercial motor vehicle.

2. The date the applicant was employed by each employer.

3. The reason for leaving each employment.

4. Other information required by the employer.

E. The applicant shall certify that all information furnished pursuant to subsection D of this section is true and complete.

F. A driver of a commercial motor vehicle who provides false or fraudulent information to an employer or who fails to report the information required in subsection A, B, C or D of this section is guilty as provided in section ~~28-1820~~ 28-3481.

Sec. 148. Section 28-3228, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-3228. School bus drivers; requirements; rules; cancellation

A. A person shall not operate a school bus transporting school children unless the person possesses the appropriate license class for the size of school bus being operated that is issued by the department of transportation, a bus endorsement that is issued by the department of transportation and a school bus certificate that is issued by the department of public safety.

B. To be certified as a school bus driver a person shall do both of the following:

1. Meet and maintain the minimum standards prescribed by this section and rules adopted by the department of administration in consultation with the department of public safety and with the school bus advisory council established by section ~~28-1533~~ 28-3053.

2. Complete an initial instructional course on school bus driver safety and training including behind the wheel training.

C. The department of administration in consultation with the department of public safety and with the school bus advisory council established by section ~~28-1533~~ 28-3053 shall adopt rules that establish minimum standards for the certification of school bus drivers. In cooperation with local school districts, the department of public safety shall provide for school bus driver safety and training courses. The standards established shall:

1. Include requirements concerning moral character, knowledge of school bus operation, pupil and motor vehicle safety, physical impairments that might affect the applicant's ability to safely operate a school bus or that might endanger the health or safety of school bus passengers, knowledge of first aid, establishment of school bus safety and training courses, a refresher course to be completed on at least a biennial basis and other matters as the department of administration in consultation with the department of public safety and the school bus advisory council established by section ~~28-1533~~ 28-3053 prescribes for the protection of the public.

2. Require tests to detect the presence of alcohol or the use of a drug in violation of title 13, chapter 34 that may adversely affect the ability of the applicant to safely operate a school bus.

3. Authorize the performance of hearing tests with or without the use of a hearing aid as provided in 49 Code of Federal Regulations section 391.41.

D. The department of public safety shall require applicants to furnish fingerprints and shall obtain criminal history record information pursuant to section 41-1750. For the purposes of this subsection, the applicant shall pay a fee to the department of public safety to reimburse the department of public safety for the cost of obtaining the applicant's criminal history record information required by this subsection. The fee shall not exceed the actual cost of obtaining the applicant's criminal history record information.

E. The department of public safety shall issue a school bus driver certificate to an applicant who meets the requirements of this section. The certificate is valid if the applicant maintains the minimum standards established by this section.

F. The department of public safety may cancel the certificate if the person's license to drive is suspended, canceled, revoked or disqualified. The department of public safety shall cancel the certificate if the person fails to maintain the minimum standards established pursuant to this section. A person whose application for a certificate is refused or whose certificate is canceled for failure to meet or maintain the minimum standards may request and receive a hearing from the department of public safety.

G. The department of public safety shall enforce the rules adopted pursuant to this section.

Sec. 149. Section 28-3304, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-3304. Mandatory revocation of license

A. In addition to the grounds for mandatory revocation provided for in chapters 3, 4 AND 5~~, 6, 7 and 8~~ of this title, the department shall IMMEDIATELY revoke the license of a driver on receipt of a record of the driver's conviction of any of the following offenses if the conviction is final:

1. A homicide or aggravated assault resulting from the operation of a motor vehicle.

2. Driving a motor vehicle while under the influence of a drug as defined in section 13-3401 or in violation of section ~~28-2881~~ 28-1381, subsection A, paragraph 3.

3. A felony in the commission of which a motor vehicle is used.

4. DRIVE BY SHOOTING PURSUANT TO SECTION 13-1209.

~~4.~~ 5. Failure to stop and render aid as required under the laws of this state if a motor vehicle accident results in the death or personal injury of another.

~~5.~~ 6. Perjury or the making of a false affidavit or statement under oath to the department under this chapter or under any other law relating to the ownership or operation of a motor vehicle.

~~6.~~ 7. Conviction or forfeiture of bail not vacated on a second or subsequent charge of the following offenses that are committed within sixty months:

(a) Reckless driving.

(b) Racing on highways.

(c) Any combination of a violation of section ~~28-2881~~ 28-1381 and reckless driving, of a violation of section ~~28-2881~~ 28-1381 and racing on highways, or of reckless driving and racing on highways, if they do not arise out of the same event.

~~7.~~ 8. Conviction or forfeiture of bail not vacated on a second charge of violating section ~~28-2881~~ 28-1381 within sixty months.

~~8.~~ 9. Conviction or forfeiture of bail not vacated on a third or subsequent charge of violating section ~~28-2881~~ 28-1381 within sixty months.

B. IN ADDITION TO THE GROUNDS FOR MANDATORY REVOCATION PROVIDED FOR IN CHAPTERS 3, 4 AND 5 OF THIS TITLE, FOR A PERSON WHO IS UNDER EIGHTEEN YEARS OF AGE THE DEPARTMENT SHALL IMMEDIATELY REVOKE THE DRIVER LICENSE OR PRIVILEGE TO DRIVE OF A PERSON ON RECEIPT OF A RECORD OF THE PERSON'S CONVICTION OF A SECOND OR SUBSEQUENT VIOLATION OF CRIMINAL DAMAGE TO PROPERTY PURSUANT TO SECTION 13-1602, SUBSECTION A, PARAGRAPH 1 OR ADJUDICATION OF DELINQUENCY FOR A SECOND OR SUBSEQUENT ACT THAT WOULD CONSTITUTE CRIMINAL DAMAGE TO PROPERTY PURSUANT TO SECTION 13-1602, SUBSECTION A, PARAGRAPH 1, IF COMMITTED BY AN ADULT.

Sec. 150. Section 28-3305, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-3305. Court action on conviction

A. If a person is convicted of an offense or if a judgment is entered against the person for which revocation of the driver license of the person by the department is mandatory pursuant to this chapter, the court that ordered the conviction or judgment shall:

1. Require the person to surrender to the court all driver licenses held by the person.

2. Invalidate or destroy the driver licenses.

3. Forward a record of the conviction or judgment to the department.

B. A court with jurisdiction over offenses or civil traffic violations committed under this chapter, any other law of this state or a municipal ordinance regulating the operation of motor vehicles on highways shall forward a record of the conviction of or judgment against a person in the court, except for a violation related to standing or parking, to the department and may recommend the suspension of the driver license of the person.

C. If a court declares that an entire civil penalty is due pursuant to section ~~28-3801~~ 28-1601, the court shall immediately notify the department. After payment of the civil penalty, the court shall give notice immediately of full satisfaction of the civil penalty by a method approved by the department. On payment of a reinstatement fee as provided in section ~~28-1502~~ 28-3002, the department shall terminate the suspension of a driver license, a driver permit or the privilege of a nonresident to drive a motor vehicle in this state if no other grounds for suspension exist.

Sec. 151. Section 28-3306, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-3306. Discretionary license suspension or revocation; driver improvement school; hearing

A. The department may suspend or revoke the license of a driver or require a licensee to attend and successfully complete approved training and educational sessions designed to improve the safety and habits of drivers on a showing by department records or other sufficient evidence that the licensee:

1. Has committed an offense for which mandatory revocation of the license is required on conviction.

2. Has been involved as a driver in an accident resulting in the death or personal injury of another or serious property damage.

3. Has been convicted of or adjudged to have violated traffic regulations governing the movement of vehicles with such a frequency that it indicates a disrespect for traffic laws and a disregard for the safety of other persons on the highways.

4. Has been convicted of reckless driving as provided in section ~~28-2161~~ 28-693 or is a habitually reckless or negligent driver of a motor vehicle.

5. Is medically, psychologically or physically incapable of operating a motor vehicle and, based on law enforcement, medical or other department information, the continued operation of a motor vehicle by the licensee would endanger the public health, safety and welfare.

6. Has committed or permitted an act involving an unlawful or fraudulent use of the license.

7. Has committed an offense in another state that if committed in this state is grounds for suspension or revocation.

8. Has been convicted of a violation of section ~~28-2881~~ 28-1381.

B. On receipt of satisfactory evidence of a violation of a driver license restriction, the department may suspend or revoke the driver license.

C. On suspending or revoking the license of a person or requiring a licensee to attend and successfully complete approved training and educational sessions designed to improve the safety and habits of drivers pursuant to this section, the department shall notify the licensee in writing immediately.

D. On the person's request, the department shall provide an opportunity for a hearing on the action taken pursuant to this section as early as practicable but not later than thirty days after receipt of the request. The department shall hold the hearing in the county where the licensee resides unless the law enforcement agency issuing the citation or affidavit that authorizes the suspension or revocation requests at the time of issuance that the hearing be held in the county where the violation allegedly occurred.

E. If a hearing is held, the department or its duly authorized agent may administer oaths, may issue subpoenas for the attendance of witnesses and

the production of relevant books and papers and may require a reexamination of the licensee.

F. At the hearing, the department shall either rescind its order of suspension or its order requiring the licensee to attend and successfully complete approved training and educational sessions or, if good cause exists, the department may uphold or extend the order, revoke the license or make any order THAT IS within its discretionary power under this section AND that is in the interest of public safety.

G. If a licensee receives notice requiring the licensee to attend and successfully complete approved training and educational sessions and the department receives information of noncompliance with this order, the department may amend the order to suspend or revoke the license.

H. A person whose driver license is suspended or revoked as provided in subsection A, paragraph 5 of this section may submit a written request to the department for an administrative hearing. The person shall submit the request for a hearing within fifteen days after the department provides the person with notice of suspension or revocation. On receipt of a proper request for a hearing, the department shall provide the person with an opportunity for a hearing in the county where the person resides within thirty days after the department receives the request. The request for a hearing does not stay a summary suspension issued by the department.

Sec. 152. Section 28-3307, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-3307. Order to complete driver training and educational sessions; training fee

A. If the department orders a licensee to attend and successfully complete approved training and educational sessions designed to improve the safety and habits of drivers pursuant to section ~~28-1706~~ 28-3306, the department shall indicate on the computer record that the licensee is required to complete training and educational sessions.

B. On successful completion of the training and educational sessions, the department shall record satisfaction of the requirement on the licensee's computer record.

C. Governmental agencies, corporations or other individuals that conduct training and educational sessions approved by the department may collect a fee that is reasonable and commensurate for the training but not more than twenty-five dollars.

Sec. 153. Section 28-3309, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-3309. License suspension and denial; improper use by persons under legal drinking age

A. The department shall promptly suspend a driver license or nonoperating identification license issued to OR THE DRIVING PRIVILEGE OF a person who is under the legal drinking age and who is convicted of using a

FALSE OR LAWFULLY ISSUED license OF THIS STATE OR ANY OTHER JURISDICTION in violation of section 4-241, subsection C or E for not less than:

1. Six months for a first conviction.
2. Twelve months for a second or subsequent conviction.

B. The department shall promptly deny the right of an otherwise qualified person to apply for a driver and identification license if the person does not have a valid driver or identification license and the person is convicted of using the driver or identification license of another person in violation of section 4-241, subsection C or E for not less than:

1. Six months for a first conviction.
2. Twelve months for a second or subsequent conviction.

C. The department shall promptly suspend the driver license of a child on receiving an order from the court pursuant to section 8-249.

Sec. 154. Section 28-3310, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-3310. Improper use of license; peace officer affidavit; license suspension; hearing

A. A peace officer who arrests a person for the commission of an offense for which, on conviction, suspension of any license or privilege to operate a motor vehicle is required by section ~~28-1709~~ 28-3309, subsection A or B shall file an affidavit with the department. The peace officer shall make the affidavit on a form furnished or in a manner prescribed by the department. The affidavit shall contain a form of certification that is prescribed by and subject to the penalty for perjury pursuant to section ~~28-3761~~ 28-1561. The affidavit shall include the name, date of birth, social security number and address of the person arrested, the number, if any, of the person's driver or nonoperating identification license, the nature of the offense, the date of the offense and the officer's reasonable grounds to believe the person committed the offense. The officer shall file the affidavit with the department within fifteen days after the date the offense was committed.

B. On the receipt of an affidavit that is in compliance with subsection A of this section, the department shall suspend any driver and identification license issued to the person, the privilege to obtain the licenses and the privilege to operate a motor vehicle on a highway of this state for not less than:

1. Six months for a first offense.
2. Twelve months for a second or subsequent offense.

C. Except as provided in subsection D of this section, the suspension pursuant to subsection B of this section is effective fifteen days after the department gives written notice by mail to the address provided to the department by the licensee or provided on the affidavit. The notice shall indicate the action taken pursuant to this section and shall state that the department will provide an opportunity for a hearing if the department

receives a written request for a hearing from the person within fifteen days after the notice is sent.

D. On receipt of a written request, the department shall provide an opportunity for a hearing as early as practicable and within thirty days after the request. The department shall hold the hearing in the county where the person named in the affidavit resides, unless the law enforcement agency issuing the affidavit requests at the time of filing the affidavit that the hearing be held in the county where the offense occurred. The request stays the suspension by the department until a hearing is held.

E. At the hearing, the department may administer oaths, issue subpoenas for the attendance of witnesses and the production of relevant books and papers and require a reexamination of the person named in the affidavit. If at the hearing the department suspends the person's privilege to operate a motor vehicle, the suspension is effective fifteen days after the department gives written notice of the suspension, except as provided in section ~~28-1711~~ 28-3311.

F. If the suspension or determination of a denial of issuance is sustained after the hearing, the person whose driver license, nonoperating identification license or permit to drive or nonresident operating privilege is suspended or the person to whom a driver license, nonoperating identification license or permit is denied under this section may file a petition in the superior court to review the final order in the same manner as provided in section ~~28-1717~~ 28-3317.

G. If the suspension or determination of a denial of issuance is not sustained, the ruling is not admissible in and does not affect any civil or criminal court proceeding.

Sec. 155. Section 28-3311, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-3311. Concurrent suspensions

Periods of suspension required pursuant to section ~~28-1709~~ 28-3309, subsection A or B or section ~~28-1710~~ 28-3310 arising from the same offense run concurrently and begin on the date the original suspension is effective.

Sec. 156. Section 28-3314, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-3314. Incompetent driver; license reexamination

A. If the department has good cause to believe that a licensed driver is incapable of operating a motor vehicle pursuant to section ~~28-1706~~ 28-3306, subsection A, paragraph 5 or is otherwise not qualified to be licensed, the department may require the licensee to submit to an examination as prescribed by the department after the department gives at least five days' advance written notice to the licensee. After the examination, the department shall take action as appropriate and may:

1. Suspend or revoke the license.
2. Permit the licensee to retain the license.

3. Restrict the licensee's driving privileges as permitted under section ~~28-1599~~ 28-3159.

B. Refusal or neglect of the licensee to submit to the examination under this section is grounds for suspension or revocation of the license.

C. The department may use accident information received pursuant to this title and from other governmental agencies to determine if good cause exists to believe that a licensed driver is incapable of operating a motor vehicle pursuant to section ~~28-1706~~ 28-3306, subsection A, paragraph 5 or is otherwise not qualified to be licensed.

Sec. 157. Section 28-3315, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-3315. Period of suspension, revocation or disqualification: unlicensed drivers

A. Except as permitted by sections ~~28-1712, 28-1719~~ 28-1383, 28-3312 and ~~28-2883~~ 28-3319 and except as provided in subsections D, E and F of this section, the department shall not suspend, revoke or disqualify a driver license or privilege to drive a motor vehicle on the highways for more than one year from either:

1. The date of a conviction or judgment, if any, against a person for which this chapter makes mandatory the revocation, suspension or disqualification.

2. The date the notice was sent pursuant to section ~~28-1718~~ 28-3318 if a conviction was not involved.

B. A person whose license or privilege to drive a motor vehicle on the highways has been revoked may apply for a new license as provided by law after the cause of the revocation is removed or after expiration of the revocation period prescribed by law. The department shall not issue a new license unless it is satisfied after investigation of the character, habits and driving ability of the person that it will be safe to grant the privilege of driving a motor vehicle on the highways, EXCEPT THAT THE DEPARTMENT IS NOT REQUIRED TO CONDUCT AN INVESTIGATION OF A PERSON APPLYING FOR A NEW LICENSE AFTER EXPIRATION OF THE PERSON'S REVOCATION PERIOD FOR A VIOLATION OF SECTION 13-1209 OR SECTION 13-1602, SUBSECTION A, PARAGRAPH 1.

C. If the revocation is related to alcohol or other drugs, the person shall provide the department with a current evaluation from a physician licensed pursuant to title 32, chapter 13, 17 or 29, a psychologist licensed pursuant to title 32, chapter 19.1 or a certified substance abuse counselor as defined in section ~~28-1505~~ 28-3005 indicating that, in the opinion of the physician, psychologist or counselor, the condition does not affect or impair the person's ability to safely operate a motor vehicle.

D. Notwithstanding subsections A and B of this section:

1. A person whose license or privilege to drive is revoked pursuant to section ~~28-1704~~ 28-1383, SUBSECTION D OR SECTION 28-3304, subsection A,

paragraph 1 or ~~8~~ 9 ~~or section 28-2883, subsection D~~ is not entitled to have the person's license or privilege renewed or restored for three years.

2. A PERSON WHOSE LICENSE OR PRIVILEGE TO DRIVE IS REVOKED PURSUANT TO SECTION 13-1209 IS NOT ENTITLED TO HAVE THE PERSON'S LICENSE OR PRIVILEGE RENEWED OR RESTORED FOR THE PERIOD OF TIME ORDERED BY THE COURT.

3. A PERSON WHO IS UNDER EIGHTEEN YEARS OF AGE AND WHOSE LICENSE OR PRIVILEGE TO DRIVE IS REVOKED PURSUANT TO SECTION 28-3304, SUBSECTION A, PARAGRAPH 3 IS NOT ENTITLED TO HAVE THE PERSON'S LICENSE OR PRIVILEGE RENEWED OR RESTORED FOR A PERIOD OF ONE YEAR OR UNTIL THE PERSON REACHES EIGHTEEN YEARS OF AGE, WHICHEVER IS LATER.

~~2. Except for a suspension pursuant to section 28-1708 or 28-3801, on receipt of a record of the conviction of a person under section 28-1816, the department shall:~~

~~(a) Extend the period of the suspension for an additional like period but not more than one year from the date the person would otherwise be entitled to apply for a new license on a charge of driving a vehicle while the driver license privilege of the person was suspended.~~

~~(b) Not issue a new license for an additional period of one year from and after the date the person otherwise would have been entitled to apply for a new license on a charge of driving while the driver license privilege was revoked.~~

E. Except as provided in ~~subsection D, paragraph 2 of this~~ section 28-3473, if an unlicensed driver commits an offense for which a driver license could be suspended, revoked or disqualified, the department shall not accept the unlicensed driver's application for a driver license for a period equal to the period of time that applies to a driver with a license. If the offense is one for which a driver license could be revoked, the department shall not accept the unlicensed driver's application for a driver license unless it investigates the character, habits and driving ability of the person and is satisfied that it is safe to grant the privilege of driving a motor vehicle on the highways.

F. The expiration of a person's license during the period of time it is under suspension, revocation or disqualification does not invalidate or terminate the suspension, revocation or disqualification.

G. A person whose license or privilege to drive a motor vehicle on the highways has been suspended pursuant to section ~~28-1706~~ 28-3306, subsection A, paragraph 5 or section ~~28-1714~~ 28-3314 may apply for a new license as provided by law after the cause for suspension is removed or after expiration of the suspension period prescribed by law if both of the following conditions are met:

1. The department is satisfied, after reviewing the medical condition and driving ability of the person, that it is safe to grant the person the privilege of driving a motor vehicle on the highways.

2. If the person has a medical condition related to alcohol or other drugs, the person provides the department with a current evaluation form from a physician licensed pursuant to title 32, chapter 13, 17 or 29, a psychologist licensed pursuant to title 32, chapter 19.1 or a certified substance abuse counselor as defined in section ~~28-1505~~ 28-3005 indicating that, in the opinion of the physician, psychologist or counselor, the condition does not affect or impair the person's ability to operate a motor vehicle in a safe manner.

~~H. If the department receives a record of the conviction of a person on a charge of driving a commercial motor vehicle while the person was disqualified from driving a commercial motor vehicle, the department shall promptly extend the period of the disqualification for not more than one year from the date the person would otherwise have been eligible to apply for a new commercial driver license as defined in section 28-1501.~~

~~I. If the department receives a record of the conviction of a person on a charge of driving a motor vehicle while the person's driver license privilege was cancelled, the department shall promptly suspend the person's driver license privilege for a period of not less than:~~

~~1. Three months for the first conviction.~~

~~2. Six months for a second or subsequent conviction.~~

Sec. 158. Section 28-3318, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-3318. Service of notice

A. The department shall provide written notice to a person possessing a driver license, to an unlicensed driver or to a nonresident driver of the following:

1. A suspension, revocation, cancellation or disqualification of the license or privilege to operate a motor vehicle.

2. Required attendance at training and education sessions.

B. The department shall send the notice by mail to the address provided to the department on the licensee's application or provided to the department pursuant to section 28-448. If an address has not been provided to the department as provided in this subsection, the department shall send the notice to any address known to the department, including the address listed on a traffic citation received by the department.

C. Service of the notice provided by this section is complete on mailing. The department shall provide further service of notice only if the department is notified of a change of address pursuant to section 28-448.

D. On compliance with the notice provisions of this section, notice of the SUSPENSION OR revocation is provided for purposes of prosecution under section ~~28-1816~~ 28-1383 or ~~28-2883~~ 28-3473. The state is not required to prove actual receipt of the notice or actual knowledge of the SUSPENSION OR revocation.

Sec. 159. Section 28-3319, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-3319. Action after license suspension, revocation or denial for driving under the influence or refusal of test

A. If pursuant to section ~~28-2821~~ 28-1321 or ~~28-2882~~ 28-1382 the license of a driver or the driving privilege of a nonresident is suspended or revoked, the department shall not terminate the suspension or revocation until the person provides proof of financial responsibility pursuant to chapter 9, article 3 of this title.

B. If pursuant to section ~~28-2821~~ 28-1321 or ~~28-2882~~ 28-1382 an unlicensed resident is denied a license or permit to operate a motor vehicle, the department shall not issue a license or permit until the person provides proof of financial responsibility pursuant to chapter 9, article 3 of this title.

C. ~~Except as provided in section 36-2005, subsection E,~~ If a person whose license or driving privilege is suspended or revoked pursuant to section ~~28-2821~~ 28-1321 or ~~28-2882~~ 28-1382 is ordered, pursuant to section ~~28-2882~~ 28-1382, to attend alcohol ~~abuse classes~~ OR OTHER DRUG SCREENING, EDUCATION or ~~obtain~~ treatment ~~at a treatment facility approved by the division of behavioral health in the department of health services~~, the department shall not either:

1. Terminate the suspension until the person provides proof from the treatment facility that the person has completed or is participating satisfactorily in alcohol ~~abuse classes~~ OR OTHER DRUG SCREENING, EDUCATION or treatment.

2. Issue a new license to operate a motor vehicle after the revocation until the person provides proof from the ~~treatment~~ facility that the person has completed ~~alcohol abuse classes or treatment~~ THE COURT ORDERED PROGRAM.

Sec. 160. Section 28-3392, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-3392. Defensive driving school; eligibility

A. A court:

1. Shall allow an individual who is issued a citation for a civil traffic moving violation pursuant to chapter ~~5 or 6~~ 3 of this title or a local civil traffic ordinance relating to the same subject matter to attend a defensive driving school for the purposes provided in this article.

2. May allow an individual who is issued a citation for a violation of section ~~28-2113~~ 28-701.02 to attend a defensive driving school.

B. A person who attends a defensive driving school pursuant to this article is not eligible to attend a defensive driving school again within twenty-four months from the day of the last violation for which the person was authorized by this article to attend a defensive driving school.

C. Notwithstanding subsection A of this section, an individual who commits a civil or criminal traffic violation resulting in death or serious

physical injury is not eligible to attend a defensive driving school, except that the court may order the individual to attend a defensive driving school in addition to another sentence imposed by the court on an adjudication or admission of the traffic violation.

Sec. 161. Section 28-3397, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-3397. Additional fees; disposition

A. In addition to the court diversion fee and the fee for the cost to attend a defensive driving school, a person who attends a defensive driving school pursuant to this article or by a court order shall pay a fee of not more than fifteen dollars that is established by the supreme court.

B. Before or at the time an individual attends a defensive driving school, the school shall collect the defensive driving school fund fee established pursuant to this section and the fee, if any, charged by the defensive driving school for the course.

C. The defensive driving school shall transmit the fee established by the supreme court pursuant to this section to the supreme court. The supreme court shall transmit the fee to the state treasurer. The state treasurer shall deposit the fee in the defensive driving school fund established by section ~~28-1768~~ 28-3398 pursuant to procedures established by the supreme court.

Sec. 162. Section 28-3398, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-3398. Defensive driving school fund

A. A defensive driving school fund is established in the state treasury consisting of monies collected for the fee established by the supreme court pursuant to section ~~28-1767~~ 28-3397. ~~The department shall administer the fund.~~

B. The state treasurer shall transfer the monies in the fund on the last day of each month to the supreme court to be used to supervise the use of defensive driving schools by the courts in this state and to expedite the processing of all offenses prescribed in chapters ~~5~~ 3 and ~~6~~ 4 of this title.

C. The fund established in this section is not subject to reversion. On notice from the supreme court, the state treasurer may invest and divest monies in the fund as provided by section 35-313. The state treasurer shall credit all interest earned on the fund monies to the fund.

Sec. 163. Section 28-3472, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-3472. Renting or leasing motor vehicle; restrictions

A. A person shall not rent or lease a motor vehicle to another person unless either:

1. The other person is licensed to operate the vehicle under this chapter.

2. If the other person is a nonresident, the other person is licensed under the laws of the state or country of the other person's residence or the state or country of the nonresident does not require a driver to be licensed.

B. A person shall not rent or lease a motor vehicle to another person until the person inspects the driver license of the other person and compares and verifies the signature on the license with the signature of the other person that is written in the person's presence.

C. A person who rents or leases a motor vehicle to another person shall keep a record of the registration number of the rented or leased motor vehicle, the name and address of the other person, the number of the license of the other person and the date and place the license was issued. The person who rents or leases a motor vehicle shall allow a police officer or employee of the department to inspect the record.

D. A person shall not rent or lease a motorcycle or motor driven cycle to a person unless the operator is equipped with protective headgear and face gear as required in section ~~28-3361~~ 28-964.

Sec. 164. Section 28-3473, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-3473. Driving violations; classification

A. Except as provided in subsection B or C of this section, a person who drives a motor vehicle on a highway when the person's privilege to drive a motor vehicle is suspended, revoked, canceled or refused or when the person is disqualified from driving is guilty of a class 1 misdemeanor.

B. A person who drives a motor vehicle on a highway when the person's privilege to drive a motor vehicle is restricted, suspended, revoked, disqualified, canceled or refused for a violation of section ~~28-2881~~ 28-1381 or ~~28-2883~~ 28-1383, under section ~~28-2885~~ 28-1385 or as a result of a conviction for an act in another state that if committed in this state is a violation of section ~~28-2881~~ 28-1381 or ~~28-2883~~ 28-1383 is guilty of a class 1 misdemeanor and shall be sentenced to serve at least forty-eight consecutive hours in jail. A judge shall not grant probation, pardon or suspension of sentence or release on any basis other than on the condition that the person serve at least forty-eight consecutive hours in jail.

C. A person who drives a motor vehicle on a highway when the person's privilege to do so is suspended pursuant to either section ~~28-1708~~ 28-1601 or ~~28-3801~~ 28-3308 is guilty of a class 1 misdemeanor. For a first conviction under this subsection, the court shall impose a fine of at least three hundred dollars, except that on proper evidence of payment of a civil penalty imposed by the court for the original civil violation that resulted in the suspension, the court shall impose a fine of at least fifty dollars. For a second or subsequent conviction under this subsection within one year after the date of the first conviction, the court shall impose a fine of at least five hundred dollars. A judge shall not grant probation to or suspend any part or all of the imposition or execution of a sentence required by this

subsection, except on the condition that the person pay not less than the stated fine. A judge shall not dismiss an action brought under this subsection only because the defendant has paid the civil penalty that resulted in the suspension.

D. EXCEPT FOR A SUSPENSION PURSUANT TO SECTION 28-1601 OR 28-3308, ON RECEIPT OF A RECORD OF THE CONVICTION OF A PERSON UNDER THIS SECTION, THE DEPARTMENT SHALL:

1. EXTEND THE PERIOD OF THE SUSPENSION FOR AN ADDITIONAL LIKE PERIOD BUT NOT MORE THAN ONE YEAR FROM THE DATE THE PERSON WOULD OTHERWISE BE ENTITLED TO APPLY FOR A NEW LICENSE ON A CHARGE OF DRIVING A VEHICLE WHILE THE DRIVER LICENSE PRIVILEGE OF THE PERSON WAS SUSPENDED.

2. NOT ISSUE A NEW LICENSE FOR AN ADDITIONAL PERIOD OF ONE YEAR FROM AND AFTER THE DATE THE PERSON OTHERWISE WOULD HAVE BEEN ENTITLED TO APPLY FOR A NEW LICENSE ON A CHARGE OF DRIVING WHILE THE DRIVER LICENSE PRIVILEGE WAS REVOKED.

E. IF THE DEPARTMENT RECEIVES A RECORD OF THE CONVICTION OF A PERSON ON A CHARGE OF DRIVING A COMMERCIAL MOTOR VEHICLE WHILE THE PERSON WAS DISQUALIFIED FROM DRIVING A COMMERCIAL MOTOR VEHICLE, THE DEPARTMENT SHALL PROMPTLY EXTEND THE PERIOD OF THE DISQUALIFICATION FOR NOT MORE THAN ONE YEAR FROM THE DATE THE PERSON WOULD OTHERWISE HAVE BEEN ELIGIBLE TO APPLY FOR A NEW COMMERCIAL DRIVER LICENSE AS DEFINED IN SECTION 28-3001.

F. IF THE DEPARTMENT RECEIVES A RECORD OF THE CONVICTION OF A PERSON ON A CHARGE OF DRIVING A MOTOR VEHICLE WHILE THE PERSON'S DRIVER LICENSE PRIVILEGE WAS CANCELLED, THE DEPARTMENT SHALL PROMPTLY SUSPEND THE PERSON'S DRIVER LICENSE PRIVILEGE FOR A PERIOD OF NOT LESS THAN:

1. THREE MONTHS FOR THE FIRST CONVICTION.

2. SIX MONTHS FOR A SECOND OR SUBSEQUENT CONVICTION.

Sec. 165. Title 28, chapter 8, article 8, Arizona Revised Statutes, as trasnferred and renumbered by this act, is amended by adding sections 28-3474 and 28-3475, to read:

28-3474. Permitting unauthorized minor to drive; classification

A PERSON WHO KNOWINGLY CAUSES OR PERMITS THE PERSON'S CHILD OR WARD OR A MINOR TO DRIVE A MOTOR VEHICLE ON A HIGHWAY IF THE CHILD, WARD OR MINOR IS NOT AUTHORIZED UNDER THIS CHAPTER OR IN VIOLATION OF THIS CHAPTER IS GUILTY OF A CLASS 2 MISDEMEANOR.

28-3475. Permitting unauthorized person to drive

A PERSON SHALL NOT AUTHORIZE OR KNOWINGLY PERMIT A PERSON WHO IS NOT AUTHORIZED UNDER THIS CHAPTER TO DRIVE A MOTOR VEHICLE THAT THE PERSON OWNS OR THAT IS UNDER THE PERSON'S CONTROL ON A HIGHWAY OR IN VIOLATION OF THIS CHAPTER.

Sec. 166. Section 28-3477, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-3477. False certification; renewal of license by mail; classification

Notwithstanding section 13-2704, a person who makes a false certification on an application for renewal of a driver license by mail authorized by section ~~28-1613~~ 28-3172 is guilty of a class 1 misdemeanor.

Sec. 167. Section 28-3481, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-3481. Commercial motor vehicle drivers; violations; classification

A. A person who drives a commercial motor vehicle on a highway in this state without a valid appropriate class of commercial driver license is guilty of a class 3 misdemeanor.

B. A driver of a commercial motor vehicle who provides false or fraudulent information to an employer as required by section ~~28-1667~~ 28-3227 is guilty of a class 3 misdemeanor.

C. A driver of a commercial motor vehicle who fails to report the information required in section ~~28-1667~~ 28-3227 is guilty of a class 3 misdemeanor.

Sec. 168. Section 28-4034, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-4034. Maintenance, certification and verification of financial requirements

A. A person who operates a motor vehicle in this state and who is subject to the financial responsibility requirements of this article shall maintain at all times the amounts prescribed in section 28-4033 that obligates the person to pay compensation for injuries to persons and for loss or damage to property by reason of the ownership, maintenance or use of a motor vehicle or vehicle combination owned or operated by the person.

B. The department may require a person who is subject to the financial responsibility requirements of this article to certify the existence of financial responsibility in the form and at the times the department deems necessary. The department may forward the certification to the named insurer to determine if the certification is correct. Civil liability does not accrue to the insurer or any of its employees for reports made to the department if the reports are made in good faith based on the most recent information available to the insurer.

C. The department may require a person obtaining registration pursuant to chapter ~~3~~ 7, article 10 of this title to certify, in the manner and form the director deems necessary, compliance with the financial responsibility requirements of this article. The department may refuse to issue the registration if the person does not comply with the certification requirements or if the department determines that the person is not in compliance with the financial responsibility requirements of this article.

Sec. 169. Section 28-4037, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-4037. Foreign vehicles; exception

A. Before a vehicle owner or lessor operates a vehicle in this state that is subject to sections ~~28-1021~~ 28-2321 through ~~28-1024~~ 28-2324 and that has primary registration and license plates issued by a foreign country or jurisdiction of a foreign country with which this state does not have motor vehicle registration reciprocity or an agreement for proportional registration, the owner or lessor shall submit to the department proof of financial responsibility for the future pursuant to section 28-4034 that is issued by an insurer authorized to do business in this state.

B. The department may refuse to issue the registration for a vehicle or may cancel the registration of a vehicle owned or operated by a person who does not comply with this section.

C. This section does not apply to a vehicle carrying agricultural products within twenty-five miles of the border of this state and a foreign country.

Sec. 170. Section 28-4071, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-4071. Nonpayment of judgments; report

A. If a person fails to satisfy a judgment within sixty days, ON WRITTEN REQUEST OF THE JUDGMENT CREDITOR OR THE JUDGMENT CREDITOR'S LEGAL REPRESENTATIVE, the clerk of the court, or the judge of a court that has no clerk, in which the judgment is rendered shall forward a certified copy of the judgment to the director immediately after the expiration of the sixty days.

B. If the defendant who is named in a certified copy of a judgment reported to the director is a nonresident, the director shall transmit a certified copy of the judgment to the official in charge of the issuance of licenses and registration certificates of the state of which the defendant is a resident.

Sec. 171. Section 28-4076, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-4076. Alternate methods of proof

If required by this chapter, a person may give proof of financial responsibility by filing one of the following:

1. A certificate of insurance pursuant to section 28-4077 or 28-4078.

~~2. A bond pursuant to section 28-4083.~~

~~3.~~ 2. Certificates of deposit or cash pursuant to section 28-4084.

Sec. 172. Repeal

Section 28-4083, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is repealed.

Sec. 173. Section 28-4131, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-4131. Definitions

In this article, unless the context otherwise requires:

1. "Evidence" includes an original, a photocopy or a copy of a current and valid:

(a) Motor vehicle or automobile liability policy that meets the requirements of section 28-4079.

(b) Binder or certificate of motor vehicle or automobile liability insurance that meets the requirements of section 28-4079.

(c) Certificate of self-insurance issued by the department under article 1 of this chapter.

~~(d) Surety bond that meets the requirements of section 28-4083.~~

~~(e)~~ (d) Certificate of deposit that meets the requirements of section 28-4084.

~~(f)~~ (e) Motor vehicle insurance identification card issued by an authorized insurer or an authorized agent of the insurer for a motor vehicle or automobile liability policy that meets the requirements of section 28-4079.

2. "Motor vehicle" means a self-propelled vehicle that is registered or required to be registered under the laws of this state.

Sec. 174. Section 28-4133, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-4133. Evidence of financial responsibility; requirement

A. A person operating a motor vehicle on a highway in this state shall have evidence within the motor vehicle of current financial responsibility applicable to the motor vehicle.

B. On the investigation of a motor vehicle accident or an alleged violation of the motor vehicle laws of this state or a traffic ordinance of a city or town, a law enforcement officer shall:

1. Inquire of the department computer system whether there is a notice of valid insurance cancellation or nonrenewal applicable to the motor vehicle or an indication that the vehicle is not registered for operation pursuant to section 28-4135.

2. Require and the person shall produce evidence of financial responsibility for that motor vehicle.

C. A department report that there is a notice of cancellation or a nonrenewal applicable to the vehicle or that the vehicle is not registered for operation pursuant to section 28-4135 is sufficient cause to charge the owner or operator of the vehicle with a violation of chapter ~~3~~ 7, article 16 of this title and section 28-4132. The officer shall issue a citation under section 28-4132, unless the operator of the vehicle produces other or more recent evidence of financial responsibility.

Sec. 175. Section 28-4135, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-4135. Financial responsibility requirement exemptions

A. This article does not apply to the owner or operator of a:

1. Farm tractor.

2. Trailer used solely in the operation of a farm for transporting the unprocessed fiber or forage products of a farm or an implement of husbandry designed primarily for or used in agricultural operations and only incidentally operated or moved on a highway.

3. Road-roller or road machinery, including a power sweeper, temporarily operating or moved on the highway.

4. Trailer not used for commercial purposes or semitrailer not used for commercial purposes.

5. Motor vehicle or vehicle combination subject to the financial responsibility requirements of article 2 of this chapter.

6. Motor vehicle rented without a driver meeting the requirements of section ~~28-866~~ 28-2166.

7. Motor vehicle registered pursuant to section ~~28-854~~ 28-2154.

8. Motor vehicle owned by the United States government.

B. A vehicle owner or lessee who does not operate a vehicle on a highway of this state is not required to meet the requirements of section 28-4132 during the period in which the vehicle is not in use if the requirements of subsections C through G of this section are met.

C. Within fifteen days after receipt of a notice from the department pursuant to section 28-4148, the vehicle owner or lessee shall do one of the following:

1. Comply with the requirements of section 28-4132 and provide proof of compliance in a manner prescribed by the director.

2. Certify to the department in a manner prescribed by the department all of the following:

(a) That the vehicle is nonoperational, will be placed in storage or will not be operated on a highway of this state.

(b) The reason the vehicle is not operated on a highway of this state.

(c) That the vehicle will not be operated on a highway of this state unless the financial responsibility requirements of section 28-4132 are met and unless proof of compliance is provided to the department pursuant to this section.

D. The certification prescribed in this section does not relieve a person of any registration fees or taxes imposed by the laws of this state.

E. The person shall annually certify to the department that the motor vehicle remains nonoperational, is in storage or is not operated on a highway of this state.

F. By certifying pursuant to subsection C, paragraph 2 of this section, the vehicle owner or lessee consents to the placement of an indicator on the computer records of the department that the vehicle is not

registered for operation on a highway of this state until the insurer or vehicle owner meets the requirements of subsection G of this section.

G. The department shall not remove the indicator prescribed in subsection F of this section from the registration record until either of the following occurs:

1. An insurer that is licensed to transact business in this state notifies the department pursuant to section 28-4148 that the requirements of section 28-4079 are met.

2. The department receives proof from the vehicle owner or lessee that the requirements of section 28-4132 are met.

H. On receiving notice from the court that a vehicle owner or lessee who made a certification pursuant to subsection C of this section has been convicted of a violation of section 28-4132 or 28-4133, the owner or lessee is not eligible to certify pursuant to subsection C, paragraph 2 of this section for a one year period from the date of conviction.

Sec. 176. Section 28-4136, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-4136. Financial responsibility violation; civil penalties; rules

A. Notwithstanding section ~~28-3798~~ 28-1598 and except as provided in subsection B of this section, a person who violates section 28-4132 is subject to a civil penalty as follows:

1. The court may impose a minimum civil penalty of two hundred fifty dollars for the first violation and may direct the department to suspend the driver license of the person and the registration and license plates of the motor vehicle involved for three months.

2. If a person violates this section a second time within a period of thirty-six months, the court shall impose a minimum civil penalty of five hundred dollars and may direct the department to suspend the driver license of the person and the registration and license plates of the motor vehicle involved for six months.

3. If a person violates this section three or more times within a period of thirty-six months, the court shall impose a minimum civil penalty of seven hundred fifty dollars and direct the department to suspend the driver license and the registration and license plates of the motor vehicle involved for one year.

B. If a person subject to the civil penalty under subsection A of this section:

1. Presents proof to the court that the person has purchased a six month policy of insurance that meets the requirements of section 28-4079, the court may reduce or waive the amount of the penalty.

2. Has not purchased insurance at the time of the person's scheduled court appearance but is willing to do so, the court may suspend the

imposition of the civil penalty for up to thirty days to allow the person the opportunity to purchase the insurance.

C. Suspensions imposed pursuant to subsection A of this section are in addition to any suspensions that may be imposed by the department pursuant to this article.

D. In imposing a civil penalty arising out of the same series of acts for which the department issued a suspension, the court may order a suspension issued pursuant to subsection A of this section to run concurrently with any suspension ordered by the department.

E. The supreme court may adopt rules for the court as necessary to implement subsection B of this section.

Sec. 177. Section 28-4139, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-4139. Violation; civil penalty; dismissal; rules

A. Failure to produce evidence of financial responsibility on the request of a law enforcement officer investigating a motor vehicle accident or an alleged violation of a motor vehicle law of this state or a traffic ordinance of a city or town is a civil traffic violation that is punishable as prescribed in subsection C of this section.

B. A citation issued for violating this section shall be dismissed if the person to whom the citation was issued produces evidence to the appropriate court officer on or before the date and time specified on the citation for court appearance and in a manner specified by the court, including the certification of evidence by mail, of either of the following:

1. That the financial responsibility requirements prescribed in section 28-4132 were met for the motor vehicle at the date and time the citation was issued.

2. A motor vehicle or automobile liability policy that meets the financial responsibility requirements of this state and that insured the person and the motor vehicle the person was operating at the time the person received the citation regardless of whether or not the motor vehicle was named in the policy.

C. Notwithstanding section ~~28-3798~~ 28-1598 and except as provided in subsection D of this section, a person who violates this section is subject to a civil penalty as follows:

1. The court shall impose a civil penalty of at least two hundred fifty dollars for the first violation and may order the suspension and surrender of or direct the department to suspend the driver license of the person and the registration and license plate of the motor vehicle involved for three months.

2. If a person violates this section a second time within a period of thirty-six months, the court shall impose a civil penalty of at least five hundred dollars and may order suspension and surrender of or direct the

department to suspend the driver license of the person and the registration and license plate of the motor vehicle involved for six months.

3. If a person violates this section three or more times within a period of thirty-six months, the court shall impose a civil penalty of at least seven hundred fifty dollars and order suspension and surrender of or direct the department to suspend the driver license of the person and the registration and license plate of the motor vehicle involved for one year.

D. If a person subject to a civil penalty under this section presents proof to the court that the person has purchased a six month policy of insurance that meets the requirements of section 28-4079, the court may reduce or waive the amount of the penalty. If a person subject to the civil penalty has not purchased insurance at the time of the person's scheduled court appearance but is willing to do so, the court may suspend the imposition of the civil penalty for up to thirty days to allow the person the opportunity to purchase the insurance.

E. The supreme court may adopt rules for the court as necessary to implement subsection D of this section.

F. A person may be charged with a violation of either this section, section 28-4132 or section 28-4133, or any combination of those sections. A person charged and found to have violated these sections arising out of the same series of acts may have only one civil penalty imposed. Suspensions imposed pursuant to subsection C of this section are in addition to any suspensions that may be imposed by the department pursuant to this article. In imposing a civil penalty arising out of the same series of acts for which the department issued a suspension, the court may order that a suspension issued pursuant to subsection C of this section runs concurrently with any suspension ordered by the department.

Sec. 178. Section 28-4140, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-4140. <u>Vehicle registration; financial responsibility requirements; exception; violation; classification</u>

A. A person applying for initial registration or renewal of registration of a motor vehicle required to be registered pursuant to chapter ~~3~~ 7 of this title~~:~~

~~1. Shall certify by signing a statement that the motor vehicle described in the application is in compliance with state financial responsibility requirements and will remain in compliance during any period in which the vehicle is operated on a highway of this state.~~

~~2.~~ consents to comply with the financial responsibility verifications conducted by the department pursuant to this article or submits to the suspension of the person's motor vehicle registration and license plate and driver license.

B. The application for registration shall contain a notice to the applicant restating subsection A OF THIS SECTION.

C. ~~Before~~ THIRTY DAYS AFTER the department issues the initial registration ~~or~~ AND BEFORE the renewal of registration ~~of a motor vehicle~~, it shall ~~verify that~~ REVIEW THE VEHICLE RECORD TO DETERMINE IF the motor vehicle described in the application is in compliance with state financial responsibility requirements. IF THE REVIEW INDICATES THAT THE MOTOR VEHICLE IS NOT CURRENTLY COVERED BY A VALID LIABILITY INSURANCE POLICY, THE DEPARTMENT SHALL SEND THE REGISTRANT A NOTICE OF INTENT TO SUSPEND THE LICENSE PLATE AND REGISTRATION OF THE VEHICLE PURSUANT TO SECTION 28-4149.

D. This section does not apply to a motor vehicle owned by this state or a political subdivision of this state.

E. A person is guilty of a class 2 misdemeanor if the person does any of the following:

1. Forges any evidence of proof of financial responsibility.

2. Signs evidence of proof of financial responsibility without authority.

3. Files or offers for filing a notice or evidence of proof of financial responsibility and knows or has reason to believe that the notice or evidence is forged or signed without authority.

Sec. 179. Section 28-4145, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-4145. Service of notice

The department shall send written notice to the owner or lessee of a motor vehicle registered pursuant to chapter ~~3~~ 7 of this title of any suspension or any financial responsibility verification. The department shall send the notice by mail to the address provided to the department on the registration application or pursuant to section 28-448. Service of notice is complete on mailing.

Sec. 180. Section 28-4146, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-4146. Commencement of action for violation

Notwithstanding section ~~28-3792~~ 28-1592, subsection B, a civil traffic violation case pursuant to this article may be commenced within one year of the alleged violation.

Sec. 181. Section 28-4152, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-4152. Reinstatement fee; fund

A. A person shall pay a fee of not more than fifty dollars for the reinstatement of a motor vehicle registration and license plate as prescribed by the department for the purposes prescribed in this article.

B. The director shall transmit the fees collected under this section to the state treasurer for deposit in the motor vehicle liability insurance enforcement fund established by subsection C of this section.

C. A motor vehicle liability insurance enforcement fund is established in the state treasury consisting of monies received pursuant to this article. THE DEPARTMENT OF TRANSPORTATION SHALL ADMINISTER THE FUND.

Sec. 182. Section 28-4301, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-4301. Definitions

In this chapter, unless the context otherwise requires:

1. "Automotive recycler" means a person who is engaged in the business of buying or acquiring a motor vehicle solely for the purpose of dismantling, selling or otherwise disposing of the parts or accessories and who dismantles six or more vehicles in a calendar year.

2. "Branch license" means a license that is issued by the director to a licensed motor vehicle dealer and that permits the licensee to sell motor vehicles from an established place of business within the same county but other than the original or principal place of business for which the license was issued.

3. "Broker" means a person who for any fee, commission or other valuable consideration offers to provide, provides or represents that the person will provide a service of arranging or assisting in effecting the purchase of a motor vehicle and who is not:

(a) A new motor vehicle dealer or an employee or agent of a new motor vehicle dealer.

(b) A used motor vehicle dealer or an employee or agent of a used motor vehicle dealer.

(c) A manufacturer or employee or agent of a manufacturer.

(d) An auctioneer or engaged in the auto auction business.

(e) A wholesale motor vehicle dealer.

4. "Community" means the relevant market area. For the purposes of this paragraph, "relevant market area" means the incorporated city or town in which the franchise is located.

5. "Distributor" means a person who either:

(a) Sells or distributes new motor vehicles to new motor vehicle dealers in this state.

(b) Maintains distributor representatives in this state.

6. "Distributor branch" means a branch office maintained or availed of by a distributor for either:

(a) The sale of new motor vehicles to new motor vehicle dealers in this state.

(b) Directing or supervising its representatives in this state.

7. "Established place of business":

(a) Means a permanent enclosed building or structure that is owned either in fee or leased with sufficient space to display two or more motor vehicles of a kind and type that the dealer is licensed to sell and that is

1 devoted principally to the use of a motor vehicle dealer in the conduct of
2 the business of the dealer.
3 (b) In the case of a used motor vehicle dealer, trailer dealer or
4 semitrailer dealer:
5 (i) Need not be a permanent building or structure or part of a
6 permanent building or structure.
7 (ii) May be a vacant lot or part of a vacant lot.
8 (iii) Does not mean or include a residence, tent, temporary stand or
9 temporary quarters or permanent quarters occupied pursuant to a temporary
10 arrangement.
11 (c) In the case of an automotive recycler, means a permanent site or
12 location at which the business of an automotive recycler is or will be
13 conducted.
14 8. "Exhibitor" means a manufacturer of new motor homes that exhibits
15 new motor homes at a special event.
16 9. "Factory branch" means a branch office maintained or availed of by
17 a manufacturer for either:
18 (a) The sale of new motor vehicles to distributors or the sale of new
19 motor vehicles to new motor vehicle dealers in this state.
20 (b) Directing or supervising its representatives in this state.
21 10. "Financial institution" means a bank, trust company, savings and
22 loan association, credit union, consumer lender, international banking
23 facility or holding company that is licensed, regulated or insured by the
24 state banking department, the federal deposit insurance corporation, the
25 office of thrift supervision, the comptroller of the currency, the national
26 credit union share insurance fund or the national credit union
27 administration.
28 11. "Franchise" means a contract between two or more persons if all of
29 the following conditions are included:
30 (a) A commercial relationship of definite duration or continuing
31 indefinite duration is involved.
32 (b) The franchisee is granted the right to offer, sell and service in
33 this state new motor vehicles manufactured or distributed by the franchisor.
34 (c) The franchisee, as a separate business, constitutes a component
35 of the franchisor's distribution system.
36 (d) The operation of the franchisee's business is substantially
37 associated with the franchisor's trademark, service mark, trade name,
38 advertising or other commercial symbol designating the franchisor.
39 (e) The operation of the franchisee's business is substantially
40 reliant on the franchisor for the continued supply of new motor vehicles,
41 parts and accessories.
42 12. "Franchisee" means a person who both:
43 (a) Receives new motor vehicles from the franchisor under a franchise.

(b) Offers and sells to and services new motor vehicles for the general public.

13. "Franchisor" means a person who both:

(a) Manufactures or distributes new motor vehicles.

(b) May enter into a franchise.

14. "Importer" means a person who transports or arranges for the transportation of a foreign manufactured new motor vehicle into the United States for sale in this state.

15. "Major component part" includes a motor vehicle or vehicle part that the manufacturer has assigned any factory, motor, serial or other identification number or mark.

16. "Manufacturer" means any person who either:

(a) Manufactures or assembles new motor vehicles.

(b) Manufactures or installs on previously assembled truck chassis special bodies or equipment that when installed ~~form~~ FORMS an integral part of the new motor vehicle and that ~~constitute~~ CONSTITUTES a major manufacturing alteration, excluding the installation of a camper on a pickup truck.

17. "MOBILE MEDICAL CLINIC" MEANS A MOTOR VEHICLE RETROFITTED FOR EXCLUSIVE USE AS A MEDICAL OFFICE OR CLINIC FOR MEDICAL SERVICES REGULATED UNDER TITLE 32.

~~17.~~ 18. "Motor home" means a motor vehicle that is primarily designed as temporary living quarters and that:

(a) Is built onto as an integral part of, or is permanently attached to, a motor vehicle chassis.

(b) Contains at least four of the following independent life support systems if each is permanently installed and designed to be removed only for purposes of repair or replacement:

(i) A cooking facility with an on board fuel source.

(ii) A gas or electric refrigerator.

(iii) A toilet with exterior evacuation.

(iv) A heating or air conditioning system with an on board power or fuel source separate from the vehicle engine.

(v) A potable water supply system that includes at least a sink, a faucet and a water tank with an exterior service supply connection.

(vi) A 110-125 volt electric power supply.

~~18.~~ 19. "Motor vehicle" means an automobile, motor bus, motorcycle, truck or truck tractor or any other self-propelled vehicle, trailer or semitrailer.

~~19.~~ 20. "Motor vehicle dealer" means a new motor vehicle dealer, a used motor vehicle dealer, a broker or a wholesale motor vehicle auction dealer, excluding a person who comes into possession of a motor vehicle as an incident to the person's regular business and who sells or exchanges the motor vehicle.

~~20.~~ 21. "New house trailer dealer" means a person who buys, sells, exchanges or offers or attempts to negotiate a sale or exchange of an interest in, or who is engaged in the business of selling, new house trailers or used house trailers taken in trade on new house trailers. For the purposes of this paragraph, "house trailer" means a vehicle, other than a motor vehicle, that is built on a chassis designed for being drawn on the highways by a motor vehicle and that is designed for human habitation.

~~21.~~ 22. "New motor vehicle" means a motor vehicle, other than a used motor vehicle, that is held either for:

(a) Sale by the franchisee who first acquired the vehicle from the manufacturer or distributor of the vehicle.

(b) Sale by another franchisee of the same line make.

~~22.~~ 23. "New motor vehicle dealer" means a person who buys, sells, exchanges or offers or attempts to negotiate a sale or exchange of an interest in, or who is engaged in the business of selling, new motor vehicles or used motor vehicles taken in trade on new motor vehicles or used vehicles purchased for resale.

~~23.~~ 24. "Off-premises display and sales" means a promotion or sale of motor vehicles for a period of time as specified by the director that both:

(a) Is sponsored by a licensed motor vehicle dealer, the licensed motor vehicle dealer's agents or the manufacturer.

(b) Takes place at a location within the same county but not at the licensee's established place of business.

~~24.~~ 25. "Off-premises exhibition" means the exhibition of a motor vehicle for a period of time as specified by the director at a location within the same county but not at the established place of business of a licensed motor vehicle dealer and at which a solicitation or sale does not occur.

~~25.~~ 26. "Special event" means an exhibition of new motor homes by a motor vehicle dealer licensed to sell new motor homes or an exhibitor for a period of time specified by the director at a location in this state other than the licensee's or exhibitor's established place of business.

~~26.~~ 27. "Used motor vehicle" means a motor vehicle that has been sold, bargained, exchanged or given away or the title to the motor vehicle has been transferred from the person who first acquired the vehicle from the manufacturer, or importer, dealer or agent of the manufacturer or importer, and that has been placed in bona fide consumer use. For the purposes of this paragraph, "bona fide consumer use" means actual operation by an owner who acquired a new motor vehicle both:

(a) For use in the owner's business or for pleasure or otherwise.

(b) For which a certificate of title has been issued or that has been registered as provided by law.

~~27.~~ 28. "Used motor vehicle dealer" means a person, other than a new motor vehicle dealer, who buys, sells, exchanges or offers or attempts to

negotiate a sale or exchange of an interest in, or who is engaged in the business of selling, six or more used motor vehicles during a calendar year.

~~28.~~ 29. "Wholesale motor vehicle auction dealer" means a person who both:

(a) Is in the business of providing auction services solely in wholesale transactions to motor vehicle dealers licensed by this state or any other jurisdiction.

(b) Does not buy, sell or own the motor vehicles the auction dealer auctions in the ordinary course of business.

~~29.~~ 30. "Wholesale motor vehicle dealer" means a person who sells used motor vehicles only to licensed motor vehicle dealers.

~~30.~~ 31. "Zone" means the geographic marketing area or district designated by the franchisor and serviced by the franchisor's factory or distributor branch.

Sec. 183. Section 28-4331, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-4331. Prohibition; applicability

A. A manufacturer, distributor, factory branch, distributor branch, motor vehicle dealer or automotive recycler shall not engage in business except in accordance with the requirements of law.

B. This article does not apply to:

1. A public officer engaged in the discharge of the officer's official duties.

2. Any trustee, receiver or other officer acting under the jurisdiction of a court.

3. A financial institution disposing of a repossessed vehicle.

4. A person disposing of the person's personal vehicles.

C. The provisions of this chapter regulating and licensing manufacturers, distributors, factory branches, distributor branches and franchisors only apply to those manufacturers, distributors, factory branches, distributor branches and franchisors of passenger cars, trucks, buses, motorcycles, trailers and semitrailers.

D. Sections of this chapter that:

1. Refer to a motor vehicle dealer apply to a new house trailer dealer.

2. Refer to a motor vehicle dealer apply to a used house trailer dealer AS DEFINED IN SECTION 28-4332.

Sec. 184. Section 28-4333, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-4333. Licensing requirement; exemptions

A. A new motor vehicle shall not be sold in this state unless either the manufacturer on direct dealerships of domestic vehicles, the importer of foreign manufactured vehicles on direct dealerships or the distributor on indirect dealerships of either domestic or foreign vehicles is licensed as

provided in this chapter. Obtaining the license conclusively establishes that the manufacturer, distributor or importer is subject to the laws of this state regulating manufacturers, importers and distributors.

B. An organization that has qualified for an exemption from taxation of income under section 43-1201, paragraph 1, 2, 4, 5, 6, 7, 10 or 11 may sell a donated used motor vehicle without obtaining a license under this chapter, subject to the following:

1. The nonprofit organization shall maintain the tax exempt status until any monies received from the sale of the used motor vehicle have been expended and a member, director, officer, employee or agent of the nonprofit organization shall not receive any direct or indirect pecuniary benefit from the sale of the used motor vehicle.

2. The nonprofit organization shall have been in existence continuously in this state for a five year period immediately before the sale of the used motor vehicle.

3. The nonprofit organization shall sell the used motor vehicle by consignment using a licensed motor vehicle dealer.

4. Notwithstanding section ~~28-758~~ 28-2058, the nonprofit organization is not required to obtain a new certificate of title or registration for the donated motor vehicle but shall assign the certificate of title to the licensed motor vehicle dealer for ultimate assignment to the retail purchaser of the motor vehicle.

5. The nonprofit organization shall maintain the motor vehicle financial responsibility requirements prescribed by chapter 9, article 4 of this title if operating the motor vehicle including operating the motor vehicle to the place of consignment.

6. The nonprofit organization may operate the donated motor vehicle to the place of consignment without purchasing the one trip registration permit required by section ~~28-855~~ 28-2155.

C. Notwithstanding any other provision of this chapter, a person who receives consideration for providing a purchaser the opportunity to purchase a motor vehicle from a licensed new motor vehicle dealer at a price that does not exceed a certain amount is not required to be licensed as a motor vehicle dealer or broker under this chapter if the person does not participate in the negotiation of the actual price paid, the delivery terms or any other terms related to the purchase of the vehicle.

Sec. 185. Section 28-4335, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-4335. <u>Wholesale motor vehicle dealer, broker or person selling mobile medical clinics</u>

A. A wholesale motor vehicle dealer, a broker or a person engaged in the business of selling mobile medical clinics:

1. Is required to be licensed pursuant to this chapter.

2. Is not required to operate from an established place of business.

3. Shall maintain a place of business in which records of the business are kept.

B. If the licensee is a broker, the principal place of business shall not be a location that is zoned for residential use.

~~C. For the purposes of this section, "mobile medical clinic" means a motor vehicle retrofitted for exclusive use as a medical office or clinic for medical services regulated under title 32.~~

Sec. 186. Section 28-4402, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-4402. Recreational vehicles; public events; permits

A. A motor vehicle dealer who is licensed to sell only recreational vehicles as defined in section ~~28-1562~~ 28-3102 and who is the only franchisee for that line-make may exhibit those recreational vehicles at a fair or similar public event in an adjacent county by permit.

B. A licensed motor vehicle dealer may display and sell motor vehicles during a public event for a limited period of time, not to exceed ten days in any one calendar year, outside of the county in which the licensed motor vehicle dealer has an established place of business if the display and sales take place in an incorporated city or town whose boundaries include territory within two counties and the licensed motor vehicle dealer's established place of business is in one of the two counties. Before any display or sales, the licensed motor vehicle dealer shall obtain a permit from the department and shall submit proof to the department that the proposed site is in compliance with local zoning ordinances.

Sec. 187. Section 28-4457, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-4457. Franchise termination or noncontinuance; good cause; changes

A. Notwithstanding the terms, provisions or conditions of an agreement or franchise, the following are not good cause for the termination or noncontinuance of a franchise:

1. The change of ownership of the franchisee's dealership. This paragraph does not authorize a change in ownership that would have the effect of the sale of the franchise without the manufacturer's or distributor's consent. The consent shall not be unreasonably withheld. The burden of establishing the reasonableness is on the franchisor.

2. The fact that the franchisee refused to purchase or accept delivery of a new motor vehicle, parts or accessories or any other commodity or service not ordered by the franchisee.

B. Notwithstanding the terms, provisions or conditions of an agreement or franchise and subject to subsection E, PARAGRAPH 2, in the event of the sale or transfer of ownership of the franchisee's dealership by sale or transfer of the business or by stock transfer to the dealer's spouse, son or daughter, the franchisor shall give effect to the change in the franchise

unless the transfer of the franchisee's license under this chapter is denied or the new owner is unable to obtain a license under this chapter, as the case may be.

C. If a franchisor enters into or attempts to enter into a franchise, whether on termination, on refusal to continue another franchise or on the establishment of an additional new motor vehicle dealership in a community where the same line-make is then represented, without first complying with this chapter, a license under this chapter shall not be issued to that franchisee or proposed franchisee to engage in the business of selling new motor vehicles that are manufactured or distributed by that franchisor.

D. In determining whether good cause has been established for terminating or not continuing a franchise, the administrative law judge shall consider the existing circumstances, including the following:

1. Amount of business transacted by the franchisee.

2. Investment necessarily made and obligations incurred by the franchisee in the performance of the franchisee's part of the franchise.

3. Permanency of the investment.

4. Whether it is injurious to the public welfare for the business of the franchisee to be discontinued.

5. Whether the franchisee has adequate new motor vehicle facilities, equipment, parts and qualified management, sales and service personnel to reasonably provide consumer care for the new motor vehicles sold at retail by the franchisee and any other new motor vehicle of the same line-make.

6. Whether the franchisee refuses to honor warranties of the franchisor to be performed by the franchisee if the franchisor reimburses the franchisee for the warranty work performed by the franchisee.

7. Except as provided in subsection A:

(a) Failure by the franchisee to substantially comply with those requirements of the franchise that are determined by the administrative law judge to be reasonable and material.

(b) Bad faith by the franchisee in complying with those terms of the franchise that are determined by the administrative law judge to be reasonable and material.

E. In determining whether good cause has been established for entering into an additional franchise for the same line-make the administrative law judge shall consider the existing circumstances including the following:

1. Amount of business transacted by other franchisees of the same line-make in that community.

2. Investment necessarily made and obligations incurred by other franchisees of the same line-make in that community in the performance of their part of their franchises.

3. Whether the franchisees of the same line-make in that community are providing adequate consumer care for the new motor vehicle products of the line-make, including the adequacy of new motor vehicle dealer sales and

service facilities, equipment, supply of parts and qualified management, sales and service personnel.

Sec. 188. Section 28-4498, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-4498. Licensed dealer and automotive recycler; cease and desist order

A. If the director has reasonable cause to believe from an investigation made by the director that a licensed motor vehicle dealer OR AUTOMOTIVE RECYCLER is engaging in business that violates section 28-4336, subsections B and C, the director may immediately issue and serve on the person by personal delivery or certified mail at the business address of record a cease and desist order requiring the person to immediately cease and desist from further engaging in the business on the receipt of the notice. On failure of a licensee to comply with the order, the director, after a hearing, may suspend or cancel the licensee's license or permit pursuant to sections 28-4493 and 28-4494 or may take action pursuant to section 28-4496.

B. The director of the department of transportation shall provide a copy of the cease and desist order to the director of the department of revenue.

Sec. 189. Section 28-4531, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-4531. Definitions

In this article, unless the context otherwise requires:

1. "Cargo" means commercial or industrial items but does not include personal items such as luggage and camping equipment.

2. "DEALER" MEANS A NEW MOTOR VEHICLE DEALER, A USED MOTOR VEHICLE DEALER OR A WHOLESALE MOTOR VEHICLE DEALER.

~~2.~~ 3. "Employee of the dealer" means an employee of the dealer who is paid compensation and who appears on the records of the dealer as an employee for whom social security, withholding taxes and all other deductions required by law for employees are made and for whom all applicable payroll taxes are paid by the dealer.

~~3.~~ 4. "Employee of the manufacturer" means an employee of the manufacturer who is paid compensation and who appears on the records of the manufacturer as an employee for whom social security, withholding taxes and all other deductions required by law for employees are made and for whom all applicable payroll taxes are paid by the manufacturer.

~~4.~~ 5. "Full-time employee of the dealer" means a person who qualifies as an employee of the dealer and who works at least twenty-four hours each week for the dealer.

~~5.~~ 6. "Full-time employee of the manufacturer" means a person who qualifies as an employee of the manufacturer and who works at least twenty-four hours each week for the manufacturer.

Sec. 190. Section 28-4532, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-4532. Dealer owned vehicles; registration exemption

A. A vehicle that is owned by a dealer and that is otherwise required to be registered is exempt from registration while the vehicle is owned by the dealer. A vehicle owned by a dealer may be operated under owner responsibility on highways and streets according to the following provisions:

1. The vehicle displays a license plate issued to the owner as provided in this article in the manner prescribed in section ~~28-1054~~ 28-2354.

2. The owner, an employee of the dealer or a prospective buyer may operate the vehicle according to subsection C of this section.

B. A person shall not use a dealer license plate on the following dealer owned vehicles:

1. A work or service vehicle.

2. A leased or rented vehicle owned by a dealer.

3. A laden vehicle designed for the transportation of cargo unless the cargo consists of no more than three vehicles that are owned by the dealer and the laden vehicle and the cargo are being operated or transported by the dealer for resale.

4. A vehicle that has been sold.

C. Except as provided in subsection B of this section, a dealer plate may be used on a dealer owned vehicle as follows:

1. When operated by the dealer or by an employee of the dealer in connection with the dealer's business. The vehicle may be operated as personal use transportation if it is assigned to a dealer or full-time employee of the dealer on a full-time use basis and if a record of the assignment is made as specified in section 28-4535. The authorized use applies to dealers or employees solely and does not apply to any other person as operator.

2. When operated by a prospective buyer for demonstration purposes for a period of not more than forty-eight hours for passenger vehicles and seventy-two hours for unladen pickups and trucks.

Sec. 191. Section 28-4538, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-4538. Suspension of dealer and manufacturer license plates

A. The department shall suspend the use of any or all of the dealer license plates issued to a dealer for not more than three months if a dealer violates ~~sections~~ SECTION 28-4532, 28-4533, 28-4534, 28-4535 ~~and~~ OR 28-4536 or the rules adopted under section 28-4537.

B. If the director finds that a manufacturer or licensed dealer displays a manufacturer or dealer license plate that is provided pursuant to section 28-4533, 28-4540 or 28-4544 on a work or service vehicle, a vehicle used for private use or a vehicle for hire, the director may suspend, after a hearing, the right of the dealer or manufacturer to use the plate.

Sec. 192. Section 28-4439, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-4539. Manufacturer unladen truck and passenger vehicles; registration exemption

A. An unladen truck or passenger vehicle that is owned by a manufacturer and that is of a type otherwise required to be registered is exempt from registration while the vehicle is used according to this section. The vehicle may be operated under owner responsibility on highways and streets if the vehicle displays in the manner prescribed in section ~~28-1054~~ 28-2354 a manufacturer unladen truck and passenger vehicle test license plate or plates issued to the owner as provided in this section.

B. A person shall not use a manufacturer unladen vehicle test license plate on the following manufacturer owned unladen trucks or passenger vehicles:

1. A leased or rented vehicle owned by the manufacturer.
2. A vehicle carrying more than three hundred pounds of cargo.
3. A work or service vehicle.
4. A vehicle that has been sold.
5. A laden vehicle designed for the transportation of cargo.

C. Except as provided in subsection B of this section, the manufacturer, a full-time employee of the manufacturer in connection with the manufacturer's business, a person who has permission of a full-time employee or a person contracted and designated by the manufacturer to operate the vehicle for business purposes may use a manufacturer unladen vehicle test license plate on a vehicle. The use authorized by this subsection includes operation of the vehicle as personal use transportation if it is assigned to a manufacturer or full-time employee or contracted person on a full-time use basis and if a record of the assignment is made as provided in section 28-4542.

Sec. 193. Section 28-4546, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-4546. Temporary license plates or markers

The ~~department~~ DIRECTOR may issue to ~~licensed~~ NEW motor vehicle dealers AND USED MOTOR VEHICLE DEALERS temporary registration plates or markers that dealers may issue subject to the limitations and conditions prescribed in sections 28-4547 through 28-4554.

Sec. 194. Section 28-4554, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-4554. Suspension of issuance of temporary registration plates or markers

If the director finds that a dealer has not complied with sections 28-4546 through ~~28-4554~~ 28-4553 or the directions of the director, the director may suspend, after a hearing, the right of the dealer to issue temporary registration plates or markers.

Sec. 195. Section 28-4594, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-4594. Altered serial or identification number; seizure; disposition

A. Except if a manufacturer's serial or identification number of a motor vehicle or major component part of a vehicle is removed, defaced, altered or destroyed with the permission of the department or if a special serial or identifying number issued by the department has been properly affixed to a vehicle pursuant to section ~~28-865~~ 28-2165, a motor vehicle or major component part of the vehicle that has had the manufacturer's or department's serial or identification number removed, defaced, altered or destroyed and a serial or identification number so removed are contraband.

B. A law enforcement agency shall both:

1. Immediately seize and store the motor vehicle or major component part of a vehicle or serial or identification number that is contraband pursuant to subsection A of this section.

2. Attempt to restore the original manufacturer's serial or identification numbers on the item seized as follows:

(a) If the original identification numbers can be permanently restored and the last owner as identified on official title records maintained by the vehicle registration agency of the state, country or territory in which the vehicle was last titled or the person or entity to which title was assigned by the last owner as identified on official title records can be found, the law enforcement agency shall return the motor vehicle or major component part of a vehicle to the person or entity.

(b) If the original identification numbers can be temporarily restored and the last owner as identified on official title records maintained by the vehicle registration agency of the state, country or territory in which the vehicle was last titled or the person or entity to which title was assigned by the last owner as identified on official title records can be found, the county attorney of the county in which the motor vehicle or major component part of a vehicle was seized or the attorney general, within sixty days after the date of seizure or such other reasonable time that is set by the court, shall file a petition or action in the superior court in the county in which the item was seized or in Maricopa county to forfeit the motor vehicle or major component part of a vehicle to this state for use or other appropriate disposition by the law enforcement agency that seized the item or for such other disposition as the state deems appropriate. The petition shall set forth probable cause that the item is contraband. A copy of the petition or notice of pending forfeiture shall be served as follows:

(i) On the person from whom the item was seized by certified mail to the person's last known address.

(ii) On the last owner and any lienholders or interest holders identified on official title records by certified mail to the names and addresses identified on official title records.

(iii) On any other known interest holders by certified mail to each holder's last known address.

(iv) By publication in one issue of a newspaper of general circulation in the county in which the property was seized.

(c) If the original identification numbers cannot be permanently or temporarily restored or the last owner as identified on official title records cannot be found, the county attorney in the county in which the motor vehicle or major component part of a vehicle was seized or the attorney general, within sixty days after the date of seizure or such other reasonable time as is set by the court, shall file a petition or action in the superior court in the county in which the item was seized or in Maricopa county to forfeit the motor vehicle or major component part of a vehicle to this state for use or other appropriate disposition by the law enforcement agency that seized the item or for such other disposition as the state deems appropriate. The petition shall set forth probable cause that the item is contraband. A copy of the petition or notice of pending forfeiture shall be served on the person from whom the item was seized by certified mail to the person's last known address.

C. If a verified claim is not filed within the time period provided in section 28-4595, subsection A, the court shall declare the seized item to be contraband and shall sign an order forfeiting the seized item to the state for use or other appropriate disposition by the law enforcement agency that seized the item or for other disposition as the state deems appropriate.

Sec. 196. Section 28-4595, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-4595. Verified claim disputing contraband status; hearing; disposition

A. Within thirty days after the date of service of the notice required by section 28-4594, any person claiming an interest in the item seized may file a verified claim, signed by the claimant, disputing the contraband status of the item seized. The verified claim shall include the following:

1. A statement that the claimant is the lawful owner of the item seized and the basis, including documentation, for the claim of ownership.

2. A statement setting forth that portions of the seized item are claimed not to be contraband and the basis for each claim.

B. If a verified claim is filed within the time period provided in subsection A of this section, the court shall conduct a hearing to determine whether the item seized is contraband. Notice of the hearing shall be provided to all persons who filed verified claims in accordance with this section.

C. If a claimant does not prove by a preponderance of the evidence that the original identification numbers can be permanently restored to the item or that the item can be rendered noncontraband, the court shall declare the item contraband and forfeit the item to this state for use or other appropriate disposition by the law enforcement agency that seized the item or for other disposition as the state deems appropriate.

D. If a claimant proves by a preponderance of the evidence that all or any portion of the item seized is not contraband, the claimant proving lawful ownership of that portion of the seized item, within thirty days or within a reasonable time period set by the court, may segregate and retrieve at the claimant's cost all or any portion of the seized item determined by the court not to be contraband. The seizing agency shall sell or otherwise dispose of all or any portion of the item not retrieved by the claimant within the prescribed time period, and the proceeds of the disposition, less any costs incurred by the seizing agency, shall be returned to the claimant proving lawful ownership at the claimant's address of record.

E. On return of a motor vehicle or a major component part of a vehicle that can be rendered noncontraband by obtaining a special serial number pursuant to section ~~28-865~~ 28-2165, the person who is awarded possession of the item shall apply to the department within ten days after taking possession for assignment of a special serial number pursuant to section ~~28-865~~ 28-2165 and shall file with the court proof that the application was made. After the granting or denial of an application for a special serial number, the person who is awarded possession of the item shall file proof with the court that a special serial number was obtained or denied. If the application is denied:

1. The court shall order the person awarded possession of the item to return the item to the seizing agency.

2. The seizing agency shall sell or otherwise dispose of the item.

3. The proceeds of the disposition, less any costs incurred by the seizing agency, shall be returned to the claimant proving lawful ownership at the claimant's address of record.

F. An item defined as contraband in section 28-4594, subsection A shall not be returned to a claimant under any circumstances.

Sec. 197. Section 28-4623, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-4623. <u>Transporter certificate; transporter license plates and tabs</u>

A. A transporter may apply to the department on the appropriate form for a certificate containing a general distinguishing number and for two or more single transporter license plates.

B. The applicant shall submit proof of the applicant's status as a bona fide transporter as reasonably required, tender the proper fees as

required by section 28-4629 and submit proof of compliance with chapter ~~15~~ 16, article 4 of this title.

C. On granting the application, the department shall issue to the applicant a registration certificate containing the applicant's name, address and identifying status and the general distinguishing number assigned solely to the applicant.

D. The department shall issue single serially numbered transporter license plates for which the applicant applied. The transporter license plates shall display a symbol identifying the status of the applicant.

E. A certificate or transporter license plate or tab expires at midnight on December 31 of each year.

F. In lieu of issuing new plates annually, the department may furnish and issue tabs to indicate the year for which the plates are valid.

Sec. 198. Section 28-4629, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-4629. Fees and taxes

A. The following fees are required:

1. For the registration certificate and the first two transporter license plates or tabs issued to a transporter, three hundred seventy-five dollars.

2. For each additional transporter license plate or tab and for replacement of each plate or tab, thirty dollars.

3. For replacement of lost certificates or for additional copies of a certificate, seven dollars fifty cents.

B. The fees provided in this section are in full consideration for the right to use the highways of this state and are in lieu of all other taxes and fees except fuel taxes and the motor carrier tax required by chapter ~~15~~ 16, article 4 of this title.

Sec. 199. Section 28-4802, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-4802. Fees

A. Except as provided in subsection B of this section, the owner of record of a vehicle at the time of abandonment of the vehicle is liable to the department for the transfer of ownership or disposal in the amount of fifty dollars if the vehicle was:

1. Abandoned and junked pursuant to section 28-4882 on private property or public land or on or within the right-of-way of a street or highway.

2. Abandoned on private property or public land or on or within the right-of-way of a street or highway and the department issues a transfer of ownership pursuant to the procedures prescribed by this chapter ~~of this title~~.

3. Abandoned and junked pursuant to section 28-4882 and towed with the written permission of the state land commissioner from state trust land located within the boundaries of an incorporated city or town.

B. The owner of record of a vehicle at the time of abandonment is liable to the department for the transfer of ownership or disposal in the amount of two hundred dollars if the vehicle was:

1. Abandoned and junked pursuant to section 28-4882 and towed with the written permission of the governing authority off of national forest, state park, bureau of land management or state trust land located outside the boundaries of an incorporated city or town.

2. Abandoned and towed with the written permission of the governing authority off of national forest, state park, bureau of land management or state trust land located outside the boundaries of an incorporated city or town and the department issues a transfer of ownership pursuant to the procedures prescribed by this chapter ~~of this title~~.

3. Abandoned outside the right-of-way of a street or highway located outside the boundaries of an incorporated city or town.

C. In addition to the registration fee or driver license fee prescribed by sections ~~28-703~~ 28-2003 and ~~28-1502~~ 28-3002, the department shall collect the fee prescribed in subsections A and B of this section as an additional registration fee at the time the owner of the vehicle subsequently registers another vehicle in this state or as an additional driver license fee at the time the owner of the vehicle subsequently applies for or renews a driver license issued by this state. The department shall transmit the additional fee collected for the transfer of ownership or disposal to the state treasurer for deposit in the abandoned vehicle administration fund established by section 28-4804.

D. The department:

1. Shall notify the owner of an abandoned vehicle for which ownership has been transferred or of a junk vehicle that has been disposed of of the additional fee at the time of a subsequent vehicle registration or driver license application or renewal.

2. Shall provide a complete description of the abandoned or junked vehicle, the vehicle identification number of the vehicle and the date on which the vehicle was disposed of or ownership was transferred by the department.

3. May waive the additional fee if the person provides proof satisfactory to the director that the vehicle had been transferred or assigned to another person before the day of abandonment.

4. May prescribe by rule a fee of not more than ten dollars for processing an abandoned vehicle report.

Sec. 200. Section 28-4832, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-4832. Exemption

A motor vehicle eligible for licensing pursuant to chapter ~~3~~ 7, article 14 of this title or section ~~28-1111~~ 28-2411 is not an abandoned vehicle and shall not be seized pursuant to this chapter or any ordinance authorized by this chapter while the vehicle is stored or maintained on the vehicle owner's private property.

Sec. 201. Section 28-4834, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-4834. Vehicle removal

A. An officer who has reasonable grounds to believe that a vehicle has been lost, stolen, abandoned or otherwise unclaimed may remove or cause the removal of the vehicle from any street or highway or on any other public, federal, state trust, national forest, state park or bureau of land management land or private property.

B. If a person removes or causes the removal of an abandoned vehicle from private property, the person shall both:

1. Obtain written authorization from the owner or lessee of the property on a form prescribed by the director.

2. Submit the form and the vehicle identification form to the department.

C. An officer who is employed by a public agency or political subdivision and who has removed an abandoned vehicle pursuant to this section or who has removed or caused to be removed a vehicle pursuant to section ~~28-2453~~ 28-872 shall inspect the vehicle and shall complete the vehicle identification form prescribed or approved by the director. The agency or political subdivision shall determine whether the abandoned vehicle is a stolen abandoned vehicle.

D. A person who has removed or caused to be removed an abandoned vehicle from public land pursuant to section 28-4802 or private property shall have the vehicle inspected by an officer or agent of the department who shall complete the vehicle identification form prescribed by the director. The officer or agent designated by the director shall determine whether the abandoned vehicle is a stolen abandoned vehicle.

Sec. 202. Section 28-4835, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-4835. Presumption of responsibility

The abandonment of a vehicle in a manner provided in this chapter is a presumption that the last registered owner of record is responsible for the abandonment and is subject to this chapter, unless either:

1. An affidavit has been filed that the vehicle was stolen pursuant to section 28-4844.

2. A stolen report has been accepted by a local law enforcement agency.

3. A report has been filed pursuant to section ~~28-758~~ 28-2058.

Sec. 203. Heading change

A. The chapter heading of title 28, chapter 13, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is changed from "THIRD PARTY MOTOR VEHICLE REGISTRATION" to "AUTHORIZED THIRD PARTIES".

B. The article heading of title 28, chapter 13, article 1, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is changed from "GENERAL PROVISIONS" to "THIRD PARTY MOTOR VEHICLE REGISTRATION".

Sec. 204. Section 28-5101, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-5101. Third party authorization; violation

A. The director may authorize third parties to perform certain title and registration functions.

B. A person shall not engage in any business pursuant to this article unless the director authorizes the person to engage in the business.

C. The director may furnish necessary documents, license plates or markers subject to this ~~chapter~~ ARTICLE.

Sec. 205. Section 28-5102, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-5102. Powers and duties of director; rules

A. The director shall supervise and regulate all persons required by this ~~chapter~~ ARTICLE to obtain authorization.

B. The director may:

1. Conduct investigations the director deems necessary.

2. Conduct audits.

C. The director shall consult with the county assessor for those counties that are an agent of the department pursuant to section ~~28-702~~ 28-2002 when adopting rules to carry out this chapter.

Sec. 206. Section 28-5103, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-5103. Application procedure

A. A person may apply for authorization pursuant to this ~~chapter~~ ARTICLE to the director in writing on a form prescribed and furnished by the director. The person shall include with the application all documents and fees prescribed by the director.

B. The application shall be verified and shall contain:

1. The name and residence of the applicant, the name and residence of each partner if the applicant is a partnership or the name and residence of each principal officer if the applicant is a corporation.

2. The principal place of business of the applicant.

3. The established place of business at or from which the business is to be conducted.

4. Other information the director requires.

Sec. 207. Section 28-5104, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-5104. Bond requirement

A. A person who applies for authorization pursuant to this ~~chapter~~ ARTICLE shall accompany the application with a bond in a form to be approved by the director and in an amount of at least twenty-five thousand dollars.

B. A surety company authorized to transact business in this state shall execute the bond with the applicant as principal obligor on the bond and the state as obligee. The bond shall be conditioned that the applicant will faithfully comply with all of the provisions of law and that the bond is noncancellable for the period of time for which the authorization to the applicant is issued. ANY LIABILITY OF THE SURETY COMPANY TERMINATES ON THE DIRECTOR'S TERMINATION OF A THIRD PARTY'S AUTHORIZATION TO PERFORM TITLE AND REGISTRATION FUNCTIONS.

C. The bond inures to the benefit of any person who suffers loss because of any of the following:

1. Nonpayment by the authorized person of any title fee, registration fee or other related fee or tax paid to the third party by that person.

2. Insolvency or discontinuance of business.

~~3. An unlawful act of the authorized third party.~~

3. FAILURE OF THE AUTHORIZED THIRD PARTY TO COMPLY WITH THE AUTHORIZED THIRD PARTY'S DUTIES PURSUANT TO THIS ARTICLE.

D. THE AGGREGATE LIABILITY OF A SURETY COMPANY FOR ANY BREACH OF THE CONDITIONS OF A BOND REQUIRED PURSUANT TO THIS SECTION SHALL NOT EXCEED THE AMOUNT OF THE BOND.

~~D.~~ E. The bond requirement of this section does not apply to:

1. A department, agency or political subdivision of this state.

2. An Arizona court.

3. An Arizona law enforcement agency or department.

4. A financial institution ~~and~~ OR enterprise under the jurisdiction of the state banking department or a federal monetary authority.

5. The federal government or any of its agencies.

6. A motor vehicle dealer that is licensed and bonded by the department or state organization of licensed and bonded motor vehicle dealers.

7. A manufacturer, importer, factory branch or distributor licensed by the department.

8. An insurer under the jurisdiction of the department of insurance.

9. An owner of a fleet as defined in section ~~28-901~~ 28-2201.

10. A public utility.

11. A tribal government.

12. A title service company that is bonded by the department.

Sec. 208. Section 28-5105, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-5105. Criminal background investigation

A. An applicant and each partner, officer, director, agent or stockholder owning twenty per cent or more of a corporation seeking authorization pursuant to this chapter shall provide a full set of fingerprints and a fee of four hundred sixty dollars to enable the department to conduct a criminal background investigation. The criminal background investigation does not apply if both:

1. The applicant is either exempt pursuant to subsection H of this section or is currently licensed pursuant to chapter 10 of this title.

2. The applicant and each partner, officer, director, agent or stockholder owning twenty per cent or more of a corporation have submitted to a criminal background investigation as prescribed by this section during the past five years.

B. The director shall deny an application to act as a third party if an individual included in the application has either:

1. Been convicted of a felony in any state, territory or possession of the United States or any foreign country.

2. Made a misrepresentation or misstatement in the application to purposely conceal a matter that would cause the application to be denied.

C. The first phase of the criminal background investigation shall be a criminal history record check pursuant to section 41-1750. On notification by the department of public safety that the applicant has not been convicted of a violation that would prohibit the applicant from obtaining authorization, the director may approve an application for provisional authorization pending completion of the criminal background investigation if the applicant meets all other requirements of this article. The director may revoke a provisional authorization for a violation of this ~~chapter~~ ARTICLE or chapter 2, ~~3~~ 7 or 15 of this title. A provisional authorization is valid unless revoked by the director or until the applicant receives approval or denial of the application for authorization.

D. Within twenty days of completion of the criminal background investigation, the director shall approve or deny the application for authorization. If the application is denied, the director shall advise the applicant in writing of the denial and the grounds for denial. The department or its employees are not liable for any costs incurred by an applicant seeking authorization under this chapter.

E. Within thirty days after receipt of the notice of denial, the applicant may petition the director in writing for a hearing on the application pursuant to section 28-5107.

F. If the authorized third party adds a partner, officer, director, agent or stockholder who owns twenty per cent or more of the corporation and who was not included in the criminal background investigation on a prior application, the authorized third party shall notify the department within thirty days of the change.

G. At the time of notification pursuant to subsection F of this section, the third party shall submit to the department an application, a nonrefundable fee of four hundred sixty dollars and, if applicable, a full set of fingerprints for the purpose of a criminal background investigation. If the individual added or changed by the authorized third party is found to be ineligible pursuant to subsection B of this section and on completion of the investigation, the director shall advise the authorized third party and the individual in writing of the grounds for the action and that the authorization will be revoked unless the individual is removed from the position.

H. The requirement for a criminal background investigation does not apply to:

1. A department, agency or political subdivision of this state.

2. An Arizona court.

3. An Arizona law enforcement agency or department.

4. A financial institution ~~and~~ OR enterprise under the jurisdiction of the state banking department or a federal monetary authority.

5. The federal government or any of its agencies.

6. A motor vehicle dealer that is licensed and bonded by the department or a state organization of licensed and bonded motor vehicle dealers.

7. A manufacturer, importer, factory branch or distributor licensed by the department.

8. An insurer under the jurisdiction of the department of insurance.

9. An owner or registrant of a fleet as defined in section ~~28-901~~ 28-2201.

10. A public utility.

11. A tribal government.

12. A title service company that is bonded by the department.

I. The director shall transmit background investigation fees collected pursuant to this section to the state treasurer for deposit in the criminal background investigation fund established by section 28-4305.

Sec. 209. Section 28-5106, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-5106. Records

A third party who is authorized pursuant to this ~~chapter~~ ARTICLE shall:

1. Maintain records in a form and manner prescribed by the director.

2. Provide the director with access to the records during regular business hours to ensure compliance with all applicable statutes and rules.

Sec. 210. Section 28-5107, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-5107. Application denial; hearing; appeal

A. The director shall deny an application for third party authorization under this ~~chapter~~ ARTICLE and shall advise the applicant in

writing within twenty days of the denial and the grounds for the denial if the director determines from the information revealed in the criminal background investigation pursuant to section 28-5105 any of the following:

1. That the applicant is not eligible for third party authorization under this ~~chapter~~ ARTICLE.

2. That the application is not made in good faith.

3. That the application contains a false or untrue statement.

4. That the applicant has not met the requirements of law.

B. An applicant who is aggrieved by the denial of an application may make a written request to the department for a hearing on the application within thirty days after service of the notice of denial. If the applicant does not request a hearing within thirty days, the denial is final.

C. If the applicant requests a hearing, the director shall give written notice to the applicant to appear at a hearing to show cause why the denial of the applicant's application should not be upheld. After consideration of the evidence presented at the hearing, the director shall serve notice in writing to the applicant of the director's findings and order. A timely request for a hearing stays the denial of the application.

D. If the application is denied, the applicant may appeal the decision pursuant to title 12, chapter 7, article 6.

Sec. 211. Section 28-5108, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-5108. Cancellation or suspension of authorization; hearing; appeal

A. The director shall suspend or cancel the authorization of a third party granted pursuant to this ~~chapter~~ ARTICLE if the director determines that the third party has done any of the following:

1. Made a material misrepresentation or misstatement in the application for authorization.

2. Violated a law of this state.

3. Violated a rule adopted by the department.

4. Failed to keep and maintain records required by this ~~chapter~~ ARTICLE.

5. Allowed an unauthorized person to engage in any business pursuant to this ~~chapter~~ ARTICLE.

B. On determining that grounds for suspension or cancellation of authorization exist, the director shall give written notice to the third party to appear at a hearing before the director to show cause why the authorization should not be suspended or canceled.

C. After consideration of the evidence presented at the hearing, the director shall serve notice of the director's finding and order to the third party.

D. If the authority is suspended or canceled, the third party may appeal the decision pursuant to title 12, chapter 7, article 6.

Sec. 212. Section 28-5109, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-5109. Cease and desist order

A. If the director has reasonable cause to believe that a person authorized to engage in a business regulated by this ~~chapter~~ ARTICLE is violating any provision of this ~~chapter~~ ARTICLE or chapter 2, ~~3~~ 7 or 15 of this title, the director shall issue and serve on the person, by personal delivery or certified mail at the person's last known address, a cease and desist order.

B. The cease and desist order shall require the person to cease and desist from further engaging in business on receipt of the notice.

C. On failure of the person to comply with the cease and desist order, the director may conduct a hearing pursuant to this chapter.

Sec. 213. Section 28-5110, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-5110. Action to restrain violation

If the director has reasonable cause to believe that a person authorized under this ~~chapter~~ ARTICLE is violating any law of this state, the enforcement or administration of which is vested in the director, or has or is violating any rule or order adopted by the director pursuant to law, in addition to any remedies existing under this ~~chapter~~ ARTICLE, the director may bring an action in the superior court in Maricopa county in the name of and on behalf of the state and against the person to restrain or enjoin the person from continuing the violation.

Sec. 214. Title 28, chapter 13, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended by adding article 2, to read:

ARTICLE 2. LICENSURE BY THIRD PARTIES

28-5131. Third party authorization; violation

A. THE DIRECTOR MAY AUTHORIZE THIRD PARTIES TO ISSUE LICENSES PURSUANT TO CHAPTER 16, ARTICLES 2 AND 4 OF THIS TITLE.

B. A PERSON SHALL NOT ENGAGE IN ANY BUSINESS PURSUANT TO THIS ARTICLE UNLESS THE DIRECTOR AUTHORIZES THE PERSON TO ENGAGE IN THE BUSINESS.

C. THE DIRECTOR MAY FURNISH NECESSARY DOCUMENTS SUBJECT TO THIS ARTICLE.

28-5132. Powers and duties of director

A. THE DIRECTOR SHALL SUPERVISE AND REGULATE ALL PERSONS REQUIRED BY THIS ARTICLE TO OBTAIN AUTHORIZATION.

B. THE DIRECTOR MAY CONDUCT INVESTIGATIONS AND AUDITS THE DIRECTOR DEEMS NECESSARY.

28-5133. Application procedure

A. A PERSON MAY APPLY FOR AUTHORIZATION PURSUANT TO THIS ARTICLE TO THE DIRECTOR IN WRITING ON A FORM PRESCRIBED AND FURNISHED BY THE DIRECTOR. THE PERSON SHALL INCLUDE WITH THE APPLICATION ALL DOCUMENTS AND FEES PRESCRIBED BY THE DIRECTOR.

B. THE APPLICATION SHALL BE VERIFIED AND SHALL CONTAIN:

1. THE NAME AND RESIDENCE ADDRESS OF THE APPLICANT, THE NAME AND RESIDENCE ADDRESS OF EACH PARTNER IF THE APPLICANT IS A PARTNERSHIP OR THE NAME AND RESIDENCE ADDRESS OF EACH PRINCIPAL OFFICER IF THE APPLICANT IS A CORPORATION.

2. THE PRINCIPAL PLACE OF BUSINESS OF THE APPLICANT.

3. THE ESTABLISHED PLACE OF BUSINESS AT OR FROM WHICH THE BUSINESS IS TO BE CONDUCTED.

4. OTHER INFORMATION THE DIRECTOR REQUIRES.

28-5134. Bond requirement

A. A PERSON WHO APPLIES FOR AUTHORIZATION PURSUANT TO THIS ARTICLE SHALL ACCOMPANY THE APPLICATION WITH A BOND IN A FORM TO BE APPROVED BY THE DIRECTOR AND IN AN AMOUNT OF AT LEAST TWENTY-FIVE THOUSAND DOLLARS.

B. A SURETY COMPANY AUTHORIZED TO TRANSACT BUSINESS IN THIS STATE SHALL EXECUTE THE BOND WITH THE APPLICANT AS PRINCIPAL OBLIGOR ON THE BOND AND THIS STATE AS OBLIGEE. THE BOND SHALL BE CONDITIONED THAT THE APPLICANT WILL FAITHFULLY COMPLY WITH ALL OF THE PROVISIONS OF LAW AND THAT THE BOND IS NONCANCELLABLE WITHOUT AT LEAST SIXTY DAYS' PRIOR NOTICE TO THE DIRECTOR. ANY LIABILITY OF THE SURETY COMPANY TERMINATES ON THE DIRECTOR'S TERMINATION OF A THIRD PARTY'S AUTHORIZATION TO ISSUE LICENSES.

C. THE BOND INURES TO THE BENEFIT OF ANY PERSON WHO SUFFERS LOSS BECAUSE OF ANY OF THE FOLLOWING:

1. NONPAYMENT BY THE AUTHORIZED PERSON OF ANY LICENSE FEE PAID TO THE THIRD PARTY BY THAT PERSON.

2. INSOLVENCY OR DISCONTINUANCE OF BUSINESS.

3. FAILURE OF THE AUTHORIZED THIRD PARTY TO COMPLY WITH THE AUTHORIZED THIRD PARTY'S DUTIES PURSUANT TO THIS ARTICLE.

D. THE AGGREGATE LIABILITY OF A SURETY COMPANY FOR ANY BREACH OF THE CONDITIONS OF A BOND REQUIRED PURSUANT TO THIS SECTION SHALL NOT EXCEED THE AMOUNT OF THE BOND.

E. THE BOND REQUIREMENT OF THIS SECTION DOES NOT APPLY TO:

1. A DEPARTMENT, AGENCY OR POLITICAL SUBDIVISION OF THIS STATE.

2. AN ARIZONA COURT.

3. AN ARIZONA LAW ENFORCEMENT AGENCY OR DEPARTMENT.

4. A FINANCIAL INSTITUTION OR ENTERPRISE UNDER THE JURISDICTION OF THE STATE BANKING DEPARTMENT OR A FEDERAL MONETARY AUTHORITY.

5. THE FEDERAL GOVERNMENT OR ANY OF ITS AGENCIES.

6. A MOTOR VEHICLE DEALER THAT IS LICENSED AND BONDED BY THE DEPARTMENT OF TRANSPORTATION OR A STATE ORGANIZATION OF LICENSED AND BONDED MOTOR VEHICLE DEALERS.

7. A MANUFACTURER, IMPORTER, FACTORY BRANCH OR DISTRIBUTOR LICENSED BY THE DEPARTMENT OF TRANSPORTATION.

8. AN INSURER UNDER THE JURISDICTION OF THE DEPARTMENT OF INSURANCE.

9. AN OWNER OF A FLEET AS DEFINED IN SECTION 28-2201.

10. A PUBLIC UTILITY.

11. A TRIBAL GOVERNMENT.

12. A TITLE SERVICE COMPANY THAT IS BONDED BY THE DEPARTMENT OF TRANSPORTATION.

28-5135. Criminal background investigation

A. AN APPLICANT AND EACH PARTNER, OFFICER, DIRECTOR, AGENT OR STOCKHOLDER OWNING TWENTY PER CENT OR MORE OF A CORPORATION SEEKING AUTHORIZATION PURSUANT TO THIS ARTICLE SHALL PROVIDE A FULL SET OF FINGERPRINTS AND A FEE OF FOUR HUNDRED SIXTY DOLLARS TO ENABLE THE DEPARTMENT TO CONDUCT A CRIMINAL BACKGROUND INVESTIGATION. THE CRIMINAL BACKGROUND INVESTIGATION DOES NOT APPLY IF BOTH:

1. THE APPLICANT IS EITHER EXEMPT PURSUANT TO SUBSECTION H OF THIS SECTION OR IS CURRENTLY LICENSED PURSUANT TO CHAPTER 10, ARTICLE 1 OF THIS TITLE.

2. THE APPLICANT AND EACH PARTNER, OFFICER, DIRECTOR, AGENT OR STOCKHOLDER OWNING TWENTY PER CENT OR MORE OF A CORPORATION HAVE SUBMITTED TO A CRIMINAL BACKGROUND INVESTIGATION AS PRESCRIBED BY THIS SECTION DURING THE PAST FIVE YEARS.

B. THE DIRECTOR SHALL DENY AN APPLICATION TO ACT AS A THIRD PARTY IF AN INDIVIDUAL INCLUDED IN THE APPLICATION HAS EITHER:

1. BEEN CONVICTED OF A FELONY IN ANY STATE, TERRITORY OR POSSESSION OF THE UNITED STATES OR ANY FOREIGN COUNTRY.

2. MADE A MISREPRESENTATION OR MISSTATEMENT IN THE APPLICATION TO PURPOSELY CONCEAL A MATTER THAT WOULD CAUSE THE APPLICATION TO BE DENIED.

C. THE FIRST PHASE OF THE CRIMINAL BACKGROUND INVESTIGATION SHALL BE A CRIMINAL HISTORY RECORD CHECK PURSUANT TO SECTION 41-1750. ON NOTIFICATION BY THE DEPARTMENT OF PUBLIC SAFETY THAT THE APPLICANT HAS NOT BEEN CONVICTED OF A VIOLATION THAT WOULD PROHIBIT THE APPLICANT FROM OBTAINING AUTHORIZATION, THE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION MAY APPROVE AN APPLICATION FOR PROVISIONAL AUTHORIZATION PENDING COMPLETION OF THE CRIMINAL BACKGROUND INVESTIGATION IF THE APPLICANT MEETS ALL OTHER REQUIREMENTS OF THIS ARTICLE. THE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION MAY REVOKE A PROVISIONAL AUTHORIZATION FOR A VIOLATION OF THIS ARTICLE OR CHAPTER 16, ARTICLE 2 OR 4 OF THIS TITLE. A PROVISIONAL AUTHORIZATION IS VALID UNLESS REVOKED BY THE DIRECTOR OR UNTIL THE APPLICANT RECEIVES APPROVAL OR DENIAL OF THE APPLICATION FOR AUTHORIZATION.

D. WITHIN TWENTY DAYS OF COMPLETION OF THE CRIMINAL BACKGROUND INVESTIGATION, THE DIRECTOR SHALL APPROVE OR DENY THE APPLICATION FOR AUTHORIZATION. IF THE APPLICATION IS DENIED, THE DIRECTOR SHALL ADVISE THE APPLICANT IN WRITING OF THE DENIAL AND THE GROUNDS FOR DENIAL. THE DEPARTMENT OR ITS EMPLOYEES ARE NOT LIABLE FOR ANY COSTS INCURRED BY AN APPLICANT SEEKING AUTHORIZATION UNDER THIS ARTICLE.

E. WITHIN THIRTY DAYS AFTER RECEIPT OF THE NOTICE OF DENIAL, THE APPLICANT MAY PETITION THE DIRECTOR IN WRITING FOR A HEARING ON THE APPLICATION PURSUANT TO SECTION 28-5137.

F. IF THE AUTHORIZED THIRD PARTY ADDS A PARTNER, OFFICER, DIRECTOR, AGENT OR STOCKHOLDER WHO OWNS TWENTY PER CENT OR MORE OF THE CORPORATION AND WHO WAS NOT INCLUDED IN THE CRIMINAL BACKGROUND INVESTIGATION ON A PRIOR APPLICATION, THE AUTHORIZED THIRD PARTY SHALL NOTIFY THE DEPARTMENT WITHIN THIRTY DAYS OF THE CHANGE.

G. AT THE TIME OF NOTIFICATION PURSUANT TO SUBSECTION F OF THIS SECTION, THE THIRD PARTY SHALL SUBMIT TO THE DEPARTMENT AN APPLICATION, A NONREFUNDABLE FEE OF FOUR HUNDRED SIXTY DOLLARS AND, IF APPLICABLE, A FULL SET OF FINGERPRINTS FOR THE PURPOSE OF A CRIMINAL BACKGROUND INVESTIGATION. IF THE INDIVIDUAL ADDED OR CHANGED BY THE AUTHORIZED THIRD PARTY IS FOUND TO BE INELIGIBLE PURSUANT TO SUBSECTION B OF THIS SECTION AND ON COMPLETION OF THE INVESTIGATION, THE DIRECTOR SHALL ADVISE THE AUTHORIZED THIRD PARTY AND THE INDIVIDUAL IN WRITING OF THE GROUNDS FOR THE ACTION AND THAT THE AUTHORIZATION WILL BE REVOKED UNLESS THE INDIVIDUAL IS REMOVED FROM THE POSITION.

H. THE REQUIREMENT FOR A CRIMINAL BACKGROUND INVESTIGATION DOES NOT APPLY TO:

1. A DEPARTMENT, AGENCY OR POLITICAL SUBDIVISION OF THIS STATE.
2. AN ARIZONA COURT.
3. AN ARIZONA LAW ENFORCEMENT AGENCY OR DEPARTMENT.
4. A FINANCIAL INSTITUTION OR ENTERPRISE UNDER THE JURISDICTION OF THE STATE BANKING DEPARTMENT OR A FEDERAL MONETARY AUTHORITY.
5. THE FEDERAL GOVERNMENT OR ANY OF ITS AGENCIES.
6. A MOTOR VEHICLE DEALER THAT IS LICENSED AND BONDED BY THE DEPARTMENT OF TRANSPORTATION OR A STATE ORGANIZATION OF LICENSED AND BONDED MOTOR VEHICLE DEALERS.
7. A MANUFACTURER, IMPORTER, FACTORY BRANCH OR DISTRIBUTOR LICENSED BY THE DEPARTMENT OF TRANSPORTATION.
8. AN INSURER UNDER THE JURISDICTION OF THE DEPARTMENT OF INSURANCE.
9. AN OWNER OR REGISTRANT OF A FLEET AS DEFINED IN SECTION 28-2201.
10. A PUBLIC UTILITY.
11. A TRIBAL GOVERNMENT.
12. A TITLE SERVICE COMPANY THAT IS BONDED BY THE DEPARTMENT OF TRANSPORTATION.

I. THE DIRECTOR SHALL TRANSMIT BACKGROUND INVESTIGATION FEES COLLECTED PURSUANT TO THIS SECTION TO THE STATE TREASURER FOR DEPOSIT IN THE CRIMINAL BACKGROUND INVESTIGATION FUND ESTABLISHED BY SECTION 28-4305.

28-5136. Records

A THIRD PARTY WHO IS AUTHORIZED PURSUANT TO THIS ARTICLE SHALL:

1. MAINTAIN RECORDS IN A FORM AND MANNER PRESCRIBED BY THE DIRECTOR.

2. PROVIDE THE DIRECTOR WITH ACCESS TO THE RECORDS DURING REGULAR BUSINESS HOURS TO ENSURE COMPLIANCE WITH ALL APPLICABLE STATUTES AND RULES.

28-5137. Application denial; hearing; appeal

A. THE DIRECTOR SHALL DENY AN APPLICATION FOR THIRD PARTY AUTHORIZATION UNDER THIS ARTICLE AND SHALL ADVISE THE APPLICANT IN WRITING WITHIN TWENTY DAYS OF THE DENIAL AND THE GROUNDS FOR THE DENIAL IF THE DIRECTOR DETERMINES FROM THE INFORMATION REVEALED IN THE CRIMINAL BACKGROUND INVESTIGATION PURSUANT TO SECTION 28-5135 ANY OF THE FOLLOWING:

1. THAT THE APPLICANT IS NOT ELIGIBLE FOR THIRD PARTY AUTHORIZATION UNDER THIS ARTICLE.

2. THAT THE APPLICATION IS NOT MADE IN GOOD FAITH.

3. THAT THE APPLICATION CONTAINS A FALSE STATEMENT.

4. THAT THE APPLICANT HAS NOT MET THE REQUIREMENTS OF LAW.

B. AN APPLICANT WHO IS AGGRIEVED BY THE DENIAL OF AN APPLICATION MAY MAKE A WRITTEN REQUEST TO THE DEPARTMENT FOR A HEARING ON THE APPLICATION WITHIN THIRTY DAYS AFTER SERVICE OF THE NOTICE OF DENIAL. IF THE APPLICANT DOES NOT REQUEST A HEARING WITHIN THIRTY DAYS, THE DENIAL IS FINAL.

C. IF THE APPLICANT REQUESTS A HEARING, THE DIRECTOR SHALL GIVE WRITTEN NOTICE TO THE APPLICANT TO APPEAR AT A HEARING TO SHOW CAUSE WHY THE DENIAL OF THE APPLICANT'S APPLICATION SHOULD NOT BE UPHELD. AFTER CONSIDERATION OF THE EVIDENCE PRESENTED AT THE HEARING, THE DIRECTOR SHALL SERVE NOTICE IN WRITING TO THE APPLICANT OF THE DIRECTOR'S FINDINGS AND ORDER. A TIMELY REQUEST FOR A HEARING STAYS THE DENIAL OF THE APPLICATION.

D. IF THE APPLICATION IS DENIED, THE APPLICANT MAY APPEAL THE DECISION PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6.

28-5138. Cancellation or suspension of authorization; hearing; appeal

A. THE DIRECTOR SHALL SUSPEND OR CANCEL THE AUTHORIZATION OF A THIRD PARTY GRANTED PURSUANT TO THIS ARTICLE IF THE DIRECTOR DETERMINES THAT THE THIRD PARTY HAS DONE ANY OF THE FOLLOWING:

1. MADE A MATERIAL MISREPRESENTATION OR MISSTATEMENT IN THE APPLICATION FOR AUTHORIZATION.

2. VIOLATED A LAW OF THIS STATE.

3. VIOLATED A RULE ADOPTED BY THE DEPARTMENT.

4. FAILED TO KEEP AND MAINTAIN RECORDS REQUIRED BY THIS ARTICLE.

5. ALLOWED AN UNAUTHORIZED PERSON TO ENGAGE IN ANY BUSINESS PURSUANT TO THIS ARTICLE.

6. FAILED TO MAINTAIN THE BOND REQUIRED PURSUANT TO SECTION 28-5134.

B. ON DETERMINING THAT GROUNDS FOR SUSPENSION OR CANCELLATION OF AUTHORIZATION EXIST, THE DIRECTOR SHALL GIVE WRITTEN NOTICE TO THE THIRD PARTY TO APPEAR AT A HEARING BEFORE THE DIRECTOR TO SHOW CAUSE WHY THE AUTHORIZATION SHOULD NOT BE SUSPENDED OR CANCELED.

C. AFTER CONSIDERATION OF THE EVIDENCE PRESENTED AT THE HEARING, THE DIRECTOR SHALL SERVE NOTICE OF THE DIRECTOR'S FINDING AND ORDER ON THE THIRD PARTY.

D. IF THE AUTHORITY IS SUSPENDED OR CANCELED, THE THIRD PARTY MAY APPEAL THE DECISION PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6.

28-5139. Cease and desist order

A. IF THE DIRECTOR HAS REASONABLE CAUSE TO BELIEVE THAT A PERSON AUTHORIZED TO ENGAGE IN A BUSINESS REGULATED BY THIS ARTICLE IS VIOLATING ANY PROVISION OF THIS ARTICLE OR CHAPTER 16, ARTICLE 2 OR 4 OF THIS TITLE, THE DIRECTOR SHALL ISSUE AND SERVE ON THE PERSON, BY PERSONAL DELIVERY OR CERTIFIED MAIL AT THE PERSON'S LAST KNOWN ADDRESS, A CEASE AND DESIST ORDER.

B. THE CEASE AND DESIST ORDER SHALL REQUIRE THE PERSON TO CEASE AND DESIST FROM FURTHER ENGAGING IN BUSINESS ON RECEIPT OF THE NOTICE.

C. ON FAILURE OF THE PERSON TO COMPLY WITH THE CEASE AND DESIST ORDER, THE DIRECTOR MAY CONDUCT A HEARING PURSUANT TO THIS ARTICLE.

28-5140. Action to restrain violation

IF THE DIRECTOR HAS REASONABLE CAUSE TO BELIEVE THAT A PERSON AUTHORIZED UNDER THIS ARTICLE IS VIOLATING ANY LAW OF THIS STATE, THE ENFORCEMENT OR ADMINISTRATION OF WHICH IS VESTED IN THE DIRECTOR, OR HAS VIOLATED OR IS VIOLATING ANY RULE OR ORDER ADOPTED BY THE DIRECTOR PURSUANT TO LAW, IN ADDITION TO ANY REMEDIES EXISTING UNDER THIS ARTICLE, THE DIRECTOR MAY BRING AN ACTION IN THE SUPERIOR COURT IN MARICOPA COUNTY IN THE NAME AND ON BEHALF OF THE STATE AND AGAINST THE PERSON TO RESTRAIN OR ENJOIN THE PERSON FROM CONTINUING THE VIOLATION.

Sec. 215. Section 28-5433, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-5433. Gross weight fees; additional registration fees; consolidation

A. In addition to the registration fee required by section ~~28-703~~ 28-2003, a person shall pay to the department at the time of application for registration of a vehicle that is subject to this article pursuant to section 28-5432 a commercial registration fee of four dollars and a gross weight fee calculated beginning on the first day of the month following the date of transfer for the declared gross weight of the trailer, semitrailer, motor vehicle or vehicle combination according to the following table:

Gross Weight	Weight fee
up to 8,000	$ 7.50
8,001 to 10,000	36.00
10,001 to 12,000	63.00
12,001 to 14,000	103.00
14,001 to 16,000	121.00
16,001 to 18,000	144.00
18,001 to 20,000	162.00
20,001 to 22,000	198.00
22,001 to 24,000	216.00
24,001 to 26,000	234.00
26,001 to 28,000	288.00
28,001 to 30,000	324.00
30,001 to 32,000	378.00
32,001 to 36,000	414.00
36,001 to 40,000	468.00
40,001 to 45,000	522.00
45,001 to 50,000	576.00
50,001 to 55,000	630.00
55,001 to 60,000	684.00
60,001 to 65,000	738.00
65,001 to 70,000	792.00
70,001 to 75,000	864.00
75,001 to 80,000	918.00

B. If an unregistered vehicle was operated on the highways of this state during the preceding registration year, the director may collect the gross weight fee for the preceding year.

C. The director shall consolidate the gross weight fee prescribed by this section for a vehicle or vehicle combination of more than twelve thousand pounds but less than twenty-six thousand one pounds gross vehicle weight with the motor carrier tax imposed by section 28-5855 for the purpose of reducing administrative activities of motor carriers and of the department. The director shall prepare forms necessary to perform the consolidation.

Sec. 216. Section 28-5435, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-5435. Increase in gross vehicle weight; additional fee

A. A person may increase the declared gross weight of a vehicle or vehicle combination after the original registration and during the registration year by reregistration of the vehicle or vehicle combination. The person shall pay a fee in addition to the gross weight fee prescribed in this article based on the difference between the fee due at the time of reregistration for the weight class in which the vehicle or vehicle combination was originally registered and the fee due at the time of

reregistration for the increased weight class. If during a registration year the declared gross weight of a vehicle or vehicle combination is reduced, there is no reduction or refund allowed for a part of the original weight fee previously paid.

B. A vehicle or vehicle combination that is operated under a special permit allowing excess weight pursuant to section ~~28-3412~~ 28-1103 is not required to declare an increased gross weight or to pay a fee ascribed to the increased gross weight pursuant to this article.

Sec. 217. Section 28-5437, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-5437. Operation with excess weight

A person who operates or who causes, permits or authorizes the operation on the highways of this state of a vehicle singly or in a vehicle combination with a gross weight in excess of the vehicle's or vehicle combination's declared gross weight:

1. Is guilty of a class 2 misdemeanor notwithstanding section ~~28-3721~~ 28-1521.

2. Is deemed to have set a new declared gross weight for the vehicle or vehicle combination.

3. Shall reregister the vehicle or vehicle combination and shall pay a fee for the new gross weight or the maximum gross weight allowed by law, whichever is lower, without any allowance or reduction in the fee as provided for in this article or the proportional mileage per cent factor as provided in chapter ~~3~~ 7, article 7 or 8 of this title.

Sec. 218. Title 28, chapter 15, article 2, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended by adding section 28-5438, to read:

28-5438. Weight violations; classification; civil penalty; procedures; evidence

A. NOTWITHSTANDING SUBSECTION B OR C OF THIS SECTION, A CONVICTION FOR A VIOLATION OF THIS ARTICLE:

1. IN WHICH THE EXCESS WEIGHT IS TWO THOUSAND FIVE HUNDRED ONE POUNDS OR MORE IS A CLASS 1 MISDEMEANOR.

2. IN WHICH THE EXCESS WEIGHT IS ONE TO ONE THOUSAND POUNDS IS A CLASS 3 MISDEMEANOR, AND THE MAXIMUM FINE IS ONE DOLLAR.

B. EXCEPT AS OTHERWISE PROVIDED BY LAW, A PERSON WHO VIOLATES THIS ARTICLE IS:

1. SUBJECT TO A CIVIL PENALTY.

2. GUILTY OF A CLASS 2 MISDEMEANOR FOR A SECOND VIOLATION OF THIS ARTICLE WITHIN SIX MONTHS OF THE PRECEDING JUDGMENT.

3. GUILTY OF A CLASS 1 MISDEMEANOR FOR A SECOND CONVICTION FOR A VIOLATION OF THIS ARTICLE WITHIN ONE YEAR OF THE PRECEDING JUDGMENT.

C. IN ADDITION TO ANY TERM OF IMPRISONMENT THAT A COURT MAY IMPOSE FOR A SECOND OR SUBSEQUENT VIOLATION, A COURT SHALL FINE A PERSON THE AMOUNT SET FORTH IN THE FOLLOWING TABLE:

IF THE EXCESS WEIGHT IS:	THE MINIMUM FINE OR CIVIL PENALTY IS:		
	PENALTY	CLASS 2	CLASS 1
1,001 TO 1,250 POUNDS	$ 50.00	$ 75.00	$ 100.00
1,251 TO 1,500	100.00	150.00	200.00
1,501 TO 2,000	150.00	225.00	300.00
2,001 TO 2,500	200.00	300.00	400.00
2,501 TO 3,000			500.00
3,001 TO 3,500			600.00
3,501 TO 4,000			700.00
4,001 TO 4,500			800.00
4,501 TO 4,750			900.00
4,751 AND OVER			1000.00

D. AN UNREGISTERED VEHICLE THAT IS OPERATED ON A HIGHWAY IS DEEMED TO HAVE A GROSS WEIGHT OF ONE POUND FOR PURPOSES OF THE FINE IMPOSED BY THIS SECTION.

E. IF AN OFFICER FINDS THAT A PERSON HAS VIOLATED ONLY THE AXLE WEIGHT LIMITATION AND NOT THE TOTAL WEIGHT LIMITATION, THE OFFICER SHALL REQUEST THE DRIVER TO RELOAD THE VEHICLE TO COMPLY WITH THE AXLE WEIGHT LIMITATION AND NOTWITHSTANDING SECTION 28-1521 OR THIS SECTION:

1. IF THE DRIVER DOES NOT COMPLY WITH THE REQUEST OF THE OFFICER TO RELOAD, THE DRIVER IS SUBJECT TO A CIVIL PENALTY OR A CRIMINAL PENALTY.

2. IF THE DRIVER COMPLIES WITH THE AXLE WEIGHT LIMITATION AFTER RELOADING AND THE EXCESS AXLE WEIGHT WAS TWO THOUSAND FIVE HUNDRED POUNDS OR LESS:

(a) THE OFFICER SHALL NOT CITE THE DRIVER.

(b) THE DRIVER IS NOT SUBJECT TO A CIVIL PENALTY OR A CRIMINAL PENALTY FOR A VIOLATION OF THE AXLE WEIGHT LIMITATION.

3. IF THE DRIVER RELOADS BUT DOES NOT COMPLY WITH THE AXLE WEIGHT LIMITATION OR IF THE EXCESS AXLE WEIGHT IS MORE THAN TWO THOUSAND FIVE HUNDRED POUNDS, THE DRIVER IS SUBJECT TO A CIVIL PENALTY OR A CRIMINAL PENALTY FOR A VIOLATION OF THE AXLE WEIGHT LIMITATION.

F. IF A PERSON IS ARRESTED FOR VIOLATING THIS ARCTICLE, THE ARRESTING OFFICER MAY TAKE THE PERSON IMMEDIATELY BEFORE A MAGISTRATE WITHIN THE COUNTY IN WHICH THE OFFENSE CHARGED IS ALLEGED TO HAVE BEEN COMMITTED WHO HAS JURISDICTION OF THE OFFENSE. IF THE PERSON IS TAKEN BEFORE A JUSTICE OF THE PEACE, THE PERSON SHALL BE TAKEN BEFORE THE NEAREST OR MOST ACCESSIBLE JUSTICE OF THE PEACE WITH REFERENCE TO THE PLACE WHERE THE ARREST IS MADE.

G. THE OFFICER OR COURT COLLECTING OR RECEIVING A CIVIL PENALTY, FEE, FINE OR FORFEITURE FOR A VIOLATION OF THIS ARTICLE TITLE SHALL TRANSMIT IT TO THE STATE TREASURER. THE STATE TREASURER SHALL DEPOSIT THE AMOUNT IN THE ARIZONA HIGHWAY USER REVENUE FUND. IF A CIVIL PENALTY, FEE OR FINE IS

COLLECTED, TEN DOLLARS OF THE CIVIL PENALTY, FEE OR FINE IS DEDUCTIBLE AS REIMBURSEMENT OF COSTS FROM THE AMOUNT COLLECTED, UNLESS THE FEE OR FINE IS LESS THAN TEN DOLLARS. THE COLLECTING OFFICIAL SHALL DEPOSIT THE DEDUCTED MONIES WITH THE CITY, TOWN OR COUNTY TREASURY OF THE CITY, TOWN OR COUNTY PROSECUTING OR PROCESSING THE VIOLATION.

H. A WEIGHT CERTIFICATE OR ANY OTHER DOCUMENT THAT EVIDENCES THE RECEIPT OF GOODS FOR SHIPMENT, THAT IS ISSUED BY A PERSON ENGAGED IN THE BUSINESS OF TRANSPORTING OR FORWARDING GOODS AND THAT STATES THE GROSS WEIGHT OF THE VEHICLE WITH LOAD THAT IS IN EXCESS OF THE PRESCRIBED MAXIMUM WEIGHT LIMITATION PERMITTED BY THIS ARTICLE IS PRIMA FACIE EVIDENCE THAT THE WEIGHT OF A VEHICLE AND LOAD IS UNLAWFUL.

I. IF THE COMMODITY BEING CARRIED IS SOLD BY WEIGHT, A WEIGHT CERTIFICATE OR ANY OTHER DOCUMENT THAT EVIDENCES THE RECEIPT OF GOODS FOR SHIPMENT, THAT IS ISSUED BY A PERSON ENGAGED IN THE BUSINESS OF TRANSPORTING OR FORWARDING GOODS AND THAT STATES THE GROSS WEIGHT OF THE VEHICLE WITH LOAD THAT IS NOT IN EXCESS OF THE PRESCRIBED MAXIMUM WEIGHT LIMITATION PERMITTED BY THIS ARTICLE IS PRIMA FACIE EVIDENCE THAT THE GROSS WEIGHT OF A VEHICLE AND LOAD IS LAWFUL. THE PRESUMPTION THAT THE WEIGHT OF THE VEHICLE AND LOAD IS LAWFUL MAY BE REBUTTED BY THE WEIGHT OF THE VEHICLE AND LOAD AS SHOWN BY MEANS OF THE DEPARTMENT'S STATIONARY SCALE OR A PUBLIC WEIGHMASTER SCALE.

Sec. 219. Section 28-5471, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-5471. <u>Highway use fees; commercial motor vehicles; definition</u>

A. Except as otherwise provided in this article and in addition to all other fees, ~~an owner of~~ A PERSON REGISTERING a motor vehicle ~~registered~~ OR VEHICLE COMBINATION in this state under chapter ~~3~~ 7, article 7 or 8 of this title or section ~~28-1024~~ 28-2324 shall pay for each motor vehicle or vehicle combination a highway use fee determined according to the following table:

Gross weight	Use fee for 1979 and newer models	Use fee for 1973 through 1978	Use fee for 1972 and older models
75,001 - 80,000	$ 1,095	$ 380	$ 180
70,001 - 75,000	1,040	360	105
65,001 - 70,000	975	335	95
60,001 - 65,000	915	315	90
55,001 - 60,000	860	295	85
50,001 - 55,000	790	270	80
45,001 - 50,000	715	250	70
40,001 - 45,000	635	220	65
36,001 - 40,000	560	195	55
32,001 - 36,000	485	165	50
30,001 - 32,000	405	140	45
28,001 - 30,000	325	115	30
26,001 - 28,000	245	85	25

24,001 - 26,000	190	65	20
22,001 - 24,000	135	50	20
20,001 - 22,000	125	45	15
18,001 - 20,000	115	40	15
16,001 - 18,000	105	40	10
14,001 - 16,000	90	35	10
12,001 - 14,000	80	30	10
10,001 - 12,000	70	25	5
8,001 - 10,000	60	25	5
0 - 8,000	50	20	5

B. For the purposes of this section, "model year" means the year that is assigned to the motor vehicle for vehicle titling purposes.

Sec. 220. Section 28-5472, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-5472. Additional highway use fees; nonresident owners

In addition to the highway use fee pursuant to section 28-5471, a nonresident owner of a foreign vehicle operated in this state and registered under section ~~28-1024~~ 28-2324 shall pay a highway use fee determined according to the following table:

Gross weight	Use fee	Use fee for 1978 and older models
75,001 - 80,000	$ 110	$ 40
70,001 - 75,000	105	35
65,001 - 70,000	100	35
60,001 - 65,000	90	30
55,001 - 60,000	85	30
50,001 - 55,000	80	30
45,001 - 50,000	70	25
40,001 - 45,000	65	25
36,001 - 40,000	55	20
32,001 - 36,000	50	20
30,001 - 32,000	40	15
28,001 - 30,000	35	15
26,001 - 28,000	25	10
24,001 - 26,000	20	10
22,001 - 24,000	15	8
20,001 - 22,000	15	8
18,001 - 20,000	10	8
16,001 - 18,000	10	8
14,001 - 16,000	10	8
12,001 - 14,000	10	8
10,001 - 12,000	10	8
8,001 - 10,000	8	8
0 - 8,000	8	8

Sec. 221. Section 28-5473, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-5473. Highway use fee; reduction; basis; proration

A. The highway use fee provided by this article is based on the gross weight as declared for the gross weight fee pursuant to section 28-5433.

B. The department shall reduce the highway use fee liability for a registration year provided by this article for a fleet of vehicles proportionally registered pursuant to chapter ~~3~~ 7, article 7 or 8 of this title by the amount of vehicle license taxes paid pursuant to section 28-5801 for the same registration year and for the same motor vehicles, trailers and semitrailers in the fleet.

C. The department shall reduce the highway use fee prescribed in this article on a motor vehicle not previously registered or otherwise qualified for operation in this state by ~~one-fourth~~ ONE-TWELFTH for each full ~~quarter~~ MONTH of the registration year that has expired.

Sec. 222. Section 28-5617, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-5617. Transfer; off-highway vehicle recreation fund

Fifty-five one hundredths of one per cent of the total license taxes on motor vehicle fuel shall be transferred from the monies collected pursuant to section 28-5606 to the off-highway vehicle recreation fund established by section ~~28-2586~~ 28-1176 on a monthly basis.

Sec. 223. Section 28-5703, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-5703. Cooperative agreements; definition

A. Subject to sections 28-5935 through 28-5938, in lieu of the requirements of this article with respect to licensing, bonding, reporting and auditing, the director may enter into a cooperative agreement with another state or states for the administration of the tax imposed by this article. An agreement, arrangement, declaration or amendment is not effective until stated in writing and filed with the department.

B. The agreement may provide for:

1. Determining the base state for users.
2. Users records requirements.
3. Audit procedures.
4. Exchange of information.
5. Persons eligible for tax licensing.
6. Defining qualified motor vehicles.
7. Determining if bonding is required.
8. Specifying reporting requirements and periods, including defining uniform penalty and interest rates for late reporting.
9. Determining methods for collecting and forwarding motor fuel taxes and penalties to another jurisdiction.
10. Other provisions to facilitate the administration of the agreement.

11. Each state to audit the records of persons based in the state to determine if the motor fuel taxes due each state are properly reported and paid.

C. As required by the agreement, the director may forward to officers of another state any information in the director's possession relative to the manufacture, receipt, sale, use, transportation or shipment of motor fuels by any person. The director may disclose to officers of another state the location of offices, motor vehicles and other real and personal property of users of motor fuels.

D. Each state shall forward the findings of the audits performed on persons based in the state to each state in which the person has taxable use of motor fuels. For persons who are not based in this state and who have taxable use of motor fuel in this state, the director shall serve the audit findings received from another state in the form of an assessment on the person as though an audit was conducted by the director.

E. An agreement entered into under this section does not preclude the director or the director's appointed representatives from auditing the records of a person covered by this article and article 1 of this chapter.

F. The legal remedies for a person served with an order or assessment under this section are as prescribed in sections 28-5723, 28-5729 and 28-5746.

G. If the director enters into an agreement under this section and the provisions set forth in the agreement are in conflict with any rules adopted by the director relating to this article and article 1 of this chapter, the agreement provisions prevail. If the agreement is in conflict with the requirements for disclosure of information prescribed by sections 28-5935 through 28-5938, sections 28-5935 through 28-5938 ~~prevails~~ PREVAIL.

H. For the purposes of this section, "motor fuels" includes motor vehicle fuel ~~as defined in section 28-101~~ AND USE FUEL.

Sec. 224. Section 28-5705, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-5705. Vehicle registration; license requirement

A. Before registering a road tractor, truck tractor, truck having more than two axles or passenger carrying vehicle designed to seat more than twenty occupants and before issuing a license pursuant to chapter ~~3~~ 7 of this title, the registering or licensing official shall determine from the applicant whether or not a motor vehicle sought to be registered or in connection with which the license is sought is propelled by a fuel the use of which is subject to the excise tax imposed by this article.

B. If the vehicle is propelled by a fuel the use of which is taxable under this article, the registering or licensing official shall not complete the registration or issue the license PURSUANT TO CHAPTER 7 OF THIS TITLE until either:

1. The applicant produces EVIDENCE OF a valid ~~cab card~~ LICENSE.

2. The official has been advised by the director that the applicant has a valid ~~use fuel tax~~ license.

Sec. 225. Section 28-5714, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-5714. Use fuel tax; attachment; light class motor vehicles; definition

A. The tax on a light class motor vehicle attaches at the time fuel is delivered in this state into the motor vehicle fuel tank.

B. If a restricted vendor has both highway and off highway consumption in this state, the restricted vendor shall report only highway consumption.

C. With respect to light class motor vehicles, the director shall not:

1. Issue a refund for use fuel purchased in this state and consumed on the highways of another state.

2. Tax use fuel acquired in another state and consumed on the highways of this state.

D. For the purposes of ~~subsection C~~ THIS SECTION, "light class motor vehicle" means a motor vehicle that uses use fuel on the highways of this state but excludes a road tractor, a truck tractor, a truck having a declared gross vehicle weight of more than twenty-six thousand pounds or having more than two axles or a passenger carrying motor vehicle designed to seat more than twenty occupants.

Sec. 226. Section 28-5716, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-5716. Exemptions

A. Except as provided in subsection B, the following are exempt from this article:

1. A farm tractor ~~and~~ OR implement of husbandry designed primarily for or used in agricultural operations and only incidentally operated or moved on a highway.

2. A road roller or vehicle that is all of the following:

(a) Designed and used primarily for grading, paving, earth moving ~~and~~ OR other construction work on a highway.

(b) Not designed or used primarily for transportation of persons or property.

(c) Incidentally operated or moved over the highway.

B. The following are not exempt from this article:

1. A vehicle that was originally designed for the transportation of persons or property to which machinery is attached or on which machinery or other property may be transported.

2. A dump truck.

3. A truck mounted transit mixer.

4. A truck or trailer mounted crane.

5. A shovel.

Sec. 227. Section 28-5720, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-5720. Tax and surcharge computation and payment

A licensee shall submit with each report required under section 28-5732 a remittance payable to the department for the amount of excise tax and use fuel surcharge due that are computed as follows:

1. As to a distributor, the gallonage imported or purchased from another distributor tax free and sold or delivered into fuel tanks of motor vehicles that are not owned or operated by the distributor multiplied by the rate per gallon as provided in section 28-5708.

2. As to a vendor of gaseous use fuel only, the gallonage imported or purchased from a distributor tax free and sold or delivered into fuel tanks of motor vehicles that are not owned or operated by the vendor multiplied by the rate per gallon as set forth in section 28-5708.

3. As to a distributor and certified bulk purchaser who is a restricted vendor, the gallonage purchased or received tax free and delivered into fuel tanks of motor vehicles multiplied by the rate per gallon as set forth in sections 28-5708 and 28-5710.

4. As to a user of use fuel on which the tax imposed by this article has not been paid, the number of gallons of use fuel used in use class motor vehicles that are operated by the user multiplied by the rate per gallon as set forth in sections 28-5708 and 28-5710. The taxable gallonage shall be computed on the basis of miles traveled in this state as compared to total miles traveled in and outside this state, and the director shall prescribe the actual method of computation. If operations in more than one state are involved, the licensee may compute the taxable gallonage in the prescribed manner based on one or more operating divisions involved in travel in this state, in lieu of reporting and computing the taxable gallonage on overall operations. The vehicles to be accounted for on every report shall be determined by the vehicles for which ~~cab cards have been secured~~ EVIDENCE OF A VALID LICENSE IS REQUIRED pursuant to section 28-5742. From the amount of tax due, the tax on use fuel purchased in this state on which the tax has been previously paid shall be deducted, if the tax paid purchases are supported by copies of the sales invoices. If the computation shows additional tax is due, it shall be remitted with the report required under section 28-5732.

5. If a remittance to cover payment of taxes due as shown by any report required by this article to be made is sent through the United States mail properly addressed, it is deemed received by the director, for purposes of avoiding penalty and interest only, on the date shown by the postmark stamped on the envelope containing the report. If a mailing date is affixed to the envelope by a machine owned or under the control of the person submitting the report and the United States post office has corrected or changed the date stamped on the envelope by causing the official United

States post office postmark to also be imprinted on the envelope, the date shown by the official United States post office postmark shall be the accepted date, if different from the original postmark.

Sec. 228. Section 28-5732, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-5732. Report requirements; exemption

A. Except a vendor that sells only liquid use fuel AND USE FUEL USERS, on or before the twenty-fifth day of the month following the close of a licensee's reporting period, a person licensed under this article shall file with the director ~~on forms~~ IN A FORM prescribed by the director a report stating:

1. The amount of use fuel sold~~,~~ OR delivered ~~or used~~ by the distributor~~,~~ OR vendor ~~or user~~ during the period for which a report is required.

2. Other information the director requires.

B. The report shall:

1. Not be under oath.

2. Contain or be accompanied by a written declaration that it is made under penalties of perjury.

~~3. Be filed with the director for each reporting period for the reporting period, even if no fuel was used or tax is due.~~

C. The director may require other information from a distributor or vendor in order to enforce this article.

~~E.~~ D. The reporting period for a distributor or vendor is for calendar monthly periods. If the director deems it necessary in order to ensure payment of the tax imposed by this article or to facilitate the administration of this article, the director may require reports and payment of the tax to be made for other than and in addition to monthly periods.

~~F.~~ E. A distributor or vendor may apply to the director for approval to file reports and pay taxes on a weekly basis, and notwithstanding section 28-5736, the director may establish the amount of surety bond required in the sum of approximately six times the highest weekly tax estimated by the director to become due from the distributor or vendor.

F. THE REPORTING PERIOD FOR A LICENSEE WHO IS A USE FUEL USER IS A CALENDAR QUARTER. ON OR BEFORE THE LAST DAY OF THE MONTH AFTER THE CLOSE OF THE REPORTING PERIOD A USE FUEL USER SHALL FILE WITH THE DIRECTOR A REPORT STATING THE AMOUNT OF USE FUEL USED DURING THE REPORTING PERIOD AND OTHER INFORMATION THE DIRECTOR REQUIRES. THE REPORT SHALL BE IN A FORM PRESCRIBED BY THE DIRECTOR AND SHALL NOT BE UNDER OATH BUT SHALL CONTAIN OR BE ACCOMPANIED BY A WRITTEN DECLARATION THAT IT IS MADE UNDER PENALTIES OF PERJURY. A USE FUEL USER SHALL FILE A REPORT WITH THE DIRECTOR FOR EACH REPORTING PERIOD EVEN THOUGH NO USE FUEL IS USED DURING, OR TAX IS DUE FOR, THE REPORTING PERIOD.

G. To facilitate administration of this article, the director may permit a licensed ~~user or~~ restricted vendor to file reports and pay taxes for a combination of calendar months OR A LICENSED USER TO FILE REPORTS AND PAY TAXES FOR A COMBINATION OF CALENDAR QUARTERS. The reporting periods FOR RESTRICTED VENDORS shall be at least one calendar month and shall not exceed twelve calendar months. THE REPORTING PERIODS FOR USERS SHALL BE AT LEAST ONE CALENDAR QUARTER AND SHALL NOT EXCEED FOUR CALENDAR QUARTERS. A reporting period shall not include partial calendar months OR QUARTERS. The amount of surety bond required in section 28-5736 may be increased proportionately with the increased liability accrued by the RESTRICTED VENDOR OR user.

H. In lieu of a surety bond, the director may allow the prepayment of taxes based on the preceding reporting period's liability accrued by the user or restricted vendor.

~~D.~~ I. Failure to receive the authorized report forms does not relieve a licensee from the obligation of submitting a report to the director, but the licensee may make a written report to the director setting forth all information required on the prescribed form. On or before the due date, the licensee shall file such a report, and the remittance payable to the department for the amount of tax, penalty, interest or other fees due, and the director shall accept the report in lieu of a report ~~on~~ IN the prescribed form.

~~I.~~ J. The director may exempt a user from the reporting requirement prescribed in this section if the user meets all of the following requirements:

1. Holds a valid fuel tax license.

2. Establishes to the satisfaction of the director that the user's operations are exclusively intrastate.

3. Is exempt from the use fuel surcharge imposed by section 28-5710.

4. Is not a user of use fuel for which a tax has not been paid.

~~J.~~ K. An exemption granted pursuant to subsection ~~I~~ J of this section remains in effect until such time as any condition of the exemption no longer prevails.

~~K.~~ L. The director may require a user who has been granted an exemption pursuant to subsection ~~I~~ J of this section to purchase a single trip use fuel tax permit on the user's reentry into this state. The fees for a single trip use fuel tax permit shall be computed in the same manner as prescribed in section 28-5739 for an unlicensed interstate user.

Sec. 229. Section 28-5734, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-5734. Name of licensee

A. A person registering a use class motor vehicle under chapter ~~3~~ 7, articles 7 and 8 of this title shall obtain a use fuel license in the name of the motor vehicle registrant, except that, at the rental company's option,

a rental company receiving approval for consolidated tax filing from the director may be the licensee in lieu of the vehicle registrant.

B. A person registering a use class motor vehicle under chapter ~~3~~ 7 of this title shall obtain a use fuel license in the name of the vehicle registrant. If the registrant leases the motor vehicle to a lessee who has a use fuel license issued under this article and there is a written agreement so providing, the registrant may permit the lessee to include the vehicle under the lessee's license for purposes of this article. A written lease agreement shall specify which party to the lease agreement is responsible for obtaining the use fuel tax license.

C. If subsection A or B do not apply, the use class motor vehicle operator shall obtain a use fuel license.

Sec. 230. Section 28-5735, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-5735. License application; fee

A. An applicant for a license required by this article shall file with the director OR AUTHORIZED THIRD PARTY both:

1. An application that:

(a) Is in the form and submitted in the manner that the director prescribes.

(b) States the name and address of the applicant and other information as required by this article or by the director.

(c) Is not under oath but contains or is accompanied by a written declaration that it is made under penalties of perjury.

2. A ten dollar filing fee.

B. If a licensee acts in a capacity other than that for which a license has been issued, the licensee shall both:

1. Apply for an additional license in accordance with this section.

2. Submit with each application a filing fee in accordance with this section and section 28-5741.

Sec 231. Section 28-5738, Arizona Revised Statutes, as amended by Laws 1995, chapter 132, section 3, is amended to read:

28-5738. License denial

The director OR AUTHORIZED THIRD PARTY may deny a license if the application:

1. Is filed by a person whose license at any time BEFORE APPLICATION has been revoked for cause by the director.

2. Contains a misrepresentation, misstatement or omission of material information required by the application.

3. Is filed by some person as a subterfuge for the real person in interest whose license or registration AT ANY TIME BEFORE APPLICATION has been revoked for cause by the director.

4. Is filed by a person who is delinquent in the payment of any fee, tax, penalty or other amount due the department or for its account as

determined by the director after granting the applicant a hearing of which the applicant is given ten days' notice in writing and in which the applicant has the right to appear in person or by counsel and present testimony.

Sec. 232. Section 28-5740, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-5740. License issuance; duration

A. The director OR AUTHORIZED THIRD PARTY shall issue a license to an applicant if:

1. The application is in proper form and has been accepted for filing.

2. Any other conditions and requirements of this article have been met.

B. A license is valid until cancelled, surrendered or revoked pursuant to this article.

Sec. 233. Section 28-5742, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-5742. Evidence of valid license

A. A licensee who operates a motor vehicle that uses fuel on a highway shall ~~apply for cab cards for all vehicles in the form prescribed by the director.~~

~~B. The director shall:~~

~~1. Issue only a tax-paid cab card.~~

~~2. Not issue a cab card until the licensee certifies the existence of financial responsibility as required by section 28-4034.~~

~~C. A cab card shall be:~~

~~1. Carried~~ CARRY EVIDENCE OF A VALID LICENSE at all times in the cab of the vehicles operated by the licensee.

B. THE OPERATOR OF A MOTOR VEHICLE SHALL:

~~2.~~ 1. ~~Displayed~~ DISPLAY EVIDENCE OF A VALID LICENSE to the director, the director's authorized agents or any other law enforcement officer in this state on demand.

~~3.~~ 2. In the course of interstate operation of a motor vehicle that is propelled by use fuel, ~~displayed~~ DISPLAY EVIDENCE OF A VALID LICENSE to any agent of the director at any port of entry or exit as required.

~~D.~~ C. If EVIDENCE OF a properly issued ~~cab card~~ LICENSE is not displayed, whether through loss or theft or for any other reason, the operator of the vehicle may be required to purchase a special single trip use fuel tax permit pursuant to section 28-5739.

~~E. A cab card is valid for the period of time prescribed by the director.~~

~~F.~~ D. A licensee is liable for any use fuel tax that accrues to each ~~issued cab card~~ MOTOR VEHICLE OPERATED BY THE LICENSEE.

~~G.~~ E. If ~~a cab card~~ EVIDENCE OF A VALID LICENSE is lost, stolen or destroyed, the licensee's liability for use of that ~~cab card~~ EVIDENCE OF A VALID LICENSE is relieved twenty-four hours after the director receives

written notification from the licensee that the ~~cab card~~ EVIDENCE OF A VALID LICENSE has been lost, stolen or destroyed.

Sec. 234. Section 28-5743, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-5743. Discontinuance of business

A. If a person ceases to be a licensee by reason of discontinuance, sale or transfer of the person's business at any location:

1. The person shall:

(a) Notify the director in writing at the time the discontinuance, sale or transfer takes effect.

(b) Give the director the date of discontinuance.

(c) If there is a sale or transfer of the business, give the director the name and address of the purchaser or transferee.

2. All taxes, penalties and interest not yet due and payable under this article, notwithstanding such provisions, are due and payable concurrently with the discontinuance, sale or transfer.

3. The licensee shall:

(a) Make a report.

(b) Pay all taxes, fees, penalties and interest.

(c) Surrender to the director the license certificate issued to the licensee, all duplicates and ~~all issued cab cards~~ ANY EVIDENCE OF A VALID LICENSE.

B. Unless the notice prescribed in subsection A has been given to the director, the seller and the seller's surety are liable for the tax, fees, penalties and interest accruing against the transferee, but only to the extent of the value of the property transferred.

Sec. 235. Section 28-5744, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-5744. Disposal of vehicle

If a motor vehicle that is subject to this article ~~and for which a licensee has obtained a cab card pursuant to section 28-5742~~ is sold, transferred or otherwise disposed of by the licensee, the licensee shall immediately notify the director of both:

1. The name and address of the purchaser, transferee or other person gaining control of the motor vehicle.

2. Other information the director requires.

Sec. 236. Section 28-5802, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-5802. Vehicle license tax exemption; veterans

A. Notwithstanding section 28-5801, the registering officer shall not collect a vehicle license tax from:

1. A veteran residing in this state for a vehicle or any replacement of the vehicle acquired by financial aid from the veterans' administration

pursuant to P.L. 79-663, 85-56, 85-857, 90-77, 91-666 and 93-538; 38 United States Code ~~part~~ SECTIONS 1901~~, et seq~~ THROUGH 1988.

2. A veteran for a personally owned vehicle.

3. A veteran and another party owning a vehicle if the veteran is certified by the veterans' administration to be one hundred per cent disabled and drawing compensation on that basis. If a veteran is certified pursuant to this paragraph, on the registration of the vehicle or on the replacement of the vehicle with a personally owned vehicle or a vehicle owned by the veteran and another party, the veteran shall only present a signed, sworn notarized statement affirming that the veteran is eligible to receive the exemption granted by this paragraph.

B. A veteran claiming an exemption under this section shall present satisfactory proof of the veterans' administration financial aid or government compensation and certificate on determination of one hundred per cent disability, as applicable. The veteran may claim and be granted an exemption ~~during each twelve month period~~ for only one vehicle or any replacement of the vehicle owned by the veteran.

Sec. 237. Section 28-5808, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-5808. Vehicle license tax distribution

A. On the first and the fifteenth calendar day of each month, the county treasurer shall distribute thirty-one and one-half per cent of the monies deposited pursuant to section 28-5801, except monies deposited in the state general fund, to the state treasurer for deposit in the highway user revenue fund. On the first calendar day, the amount distributed shall include all monies received from the first through the fifteenth calendar day of the preceding month. On the fifteenth calendar day:

1. The amount distributed shall include all monies received from the sixteenth through the last day of the preceding month.

2. The county treasurer shall distribute or deposit the remaining monies received pursuant to section 28-5801 during the entire preceding month as follows:

(a) Twenty per cent to the state treasurer for deposit in the state general fund for general purposes.

(b) Twenty-five per cent to the county general fund.

(c) Twenty-five per cent to the state treasurer for deposit in the state general fund to aid in school financial assistance.

(d) Twenty-five per cent to the incorporated cities and towns of the county, apportioned in proportion to the population of each as shown by the most recent United States census.

(e) Five per cent either:

(i) To the county assessor for deposit in the special fund established pursuant to section ~~28-705~~ 28-2005.

(ii) If the county has entered into an agreement pursuant to section ~~28-706~~ 28-2006, in the department's special registration fund pursuant to section ~~28-707~~ 28-2007.

B. If an incorporated city or town has had no federal enumeration, the supervisors shall both:

1. Appoint a qualified person to take an accurate census of the incorporated city or town.

2. Certify the results to the county treasurer, and the incorporated city or town shall share in the distribution as provided by this section.

C. On the first and the fifteenth calendar day of each month, the director shall distribute thirty-one and one-half per cent of the monies collected by the director pursuant to section 28-5801, except monies deposited in the state general fund, to the state treasurer for deposit in the highway user revenue fund. On the first calendar day, the amount distributed shall include all monies received from the first through the fifteenth calendar day of the preceding month. On the fifteenth calendar day:

1. The amount distributed shall include all monies received from the sixteenth through the last day of the preceding month.

2. The director shall distribute or deposit the remaining monies received pursuant to section 28-5801 during the entire preceding month as follows:

(a) Twenty per cent to the state treasurer for deposit in the state general fund for general purposes.

(b) Twenty-five per cent to the county general fund.

(c) Twenty-five per cent to the state treasurer for deposit in the state general fund to aid school financial assistance.

(d) Twenty-five per cent to the county treasurer to be distributed to the incorporated cities and towns of the county apportioned in proportion to the population of each as shown by the most recent United States census.

(e) Five per cent in the special registration fund established pursuant to section ~~28-707~~ 28-2007.

Sec. 238. Section 28-5854, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-5854. Motor vehicle; motor carrier tax rate

A. Except as otherwise provided in this article, there is imposed against each motor vehicle of a licensed motor carrier a motor carrier tax based on its weight pursuant to section 28-5433 and the miles traveled on the highways in this state.

B. Except as provided in subsection C of this section, the director shall determine the motor carrier tax owed by multiplying the miles driven by the motor vehicle in this state by the applicable motor carrier tax rate for that motor vehicle's weight class pursuant to the following table:

Vehicle weight	Tax rate
26,001 - 28,000	$ .01002
28,001 - 30,000	.01074
30,001 - 32,000	.01145
32,001 - 36,000	.01288
36,001 - 40,000	.01431
40,001 - 45,000	.01610
45,001 - 50,000	.01789
50,001 - 55,000	.01968
55,001 - 60,000	.02147
60,001 - 65,000	.03486
65,001 - 70,000	.03755
70,001 - 75,000	.05701
75,001 - 80,000	.06080

C. The director shall compute a motor carrier tax that is one cent per mile less than the tax rate prescribed in subsection B of this section for a vehicle combination in the vehicle weight category of 75,001-80,000 pounds if all of the following apply:

1. The owner or operator of the vehicle combination provides proof satisfactory to the director that the vehicle combination has at least six axles, not including a variable load axle.

2. The owner or operator of the vehicle combination provides proof satisfactory to the director that if the vehicle combination has a set of tridem axles the set of tridem axles has at least ten wheels.

3. The owner or operator of the vehicle combination has established use fuel and motor carrier tax accounts with the department.

4. The vehicle combination is not a triple trailer configuration.

5. The vehicle combination is not being operated or moved at a size or weight exceeding the maximum specified in chapter 7, article 11 of this title or otherwise not in conformity with chapter 7 of this title, with or without a special permit.

D. FOR THE PURPOSES OF SUBSECTION C OF THIS SECTION, "VEHICLE COMBINATION" HAS THE SAME MEANING PRESCRIBED IN SECTION 28-5431.

Sec. 239. Section 28-5856, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-5856. <u>Motor carrier tax reduction; fuel purchases; definitions</u>

A. On April 1 of each year the director shall compute the difference between the amount determined in subsection B of this section and the amount determined in subsection C of this section. If the amount determined in subsection C of this section exceeds the amount determined in subsection B of this section, a use fuel collection shortfall exists.

B. ~~Beginning January 1, 1994 and every year thereafter~~ ON JANUARY 1 EACH YEAR, the director shall determine the number of gallons of use fuel that is purchased and used in this state in the preceding calendar year.

C. The director shall determine the number of gallons of use fuel that is purchased and used in this state in fiscal year 1991-1992 and increase this amount annually by a growth factor of 3.1 per cent.

D. If the amount determined in subsection B of this section exceeds the amount determined in subsection C of this section, the director shall revise proportionally each motor carrier tax rate prescribed in section 28-5854 in an amount that provides that the total amount of the reduction of all of the tax rates equals the amount determined in subsection A of this section multiplied by twenty-six cents. The revised rates are effective from and after ~~April~~ JUNE 30 of the year the computations are made.

E. The director shall provide all computations and determinations under this section to the use fuel advisory council for its review.

F. For the purposes of this section:

1. "Use fuel" has the same meaning prescribed in section 28-5701.

2. "Use fuel advisory council" means the council established by section ~~28-5827~~ 28-5857.

Sec. 240. Section 28-5861, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-5861. Motor vehicle; reduced motor carrier tax; agricultural products; definition

A. The director shall compute a reduced motor carrier tax that is seven-tenths of the full rate for a motor vehicle that is used only for transporting agricultural products or a lightweight motor vehicle that is used only for transporting agricultural products if the motor carrier or the owner or operator of the lightweight motor vehicle has done all of the following:

1. Applied to the department to be classified under this section ~~for a registration year~~.

2. Given the information required by the director to determine the eligibility of the vehicle to be classified under this section.

3. Received approval to be classified under this section.

B. A motor carrier who is applying for a reduced motor carrier tax under this section shall maintain a record of total miles traveled during a reporting period.

C. In determining the full rate of motor carrier tax under this section, the director shall compute the motor carrier tax based on all miles traveled on and off a highway.

D. To qualify a lightweight motor vehicle for the reduced motor carrier tax under this section, the owner or operator of a lightweight motor vehicle shall prequalify for the reduced motor carrier tax with the department before registration of each lightweight motor vehicle by signing

an affidavit declaring information required by the director to determine the eligibility of the vehicle to be classified as a vehicle transporting agricultural products pursuant to this section.

E. A motor carrier or owner or operator of a lightweight motor vehicle who pays a reduced motor carrier tax under this section may not apply for a reduced motor carrier tax provided for under section 28-5858.

F. For the purposes of this section, "agricultural products" means either:

1. Crops, livestock or supplies used or produced in farming operations.

2. Products, crops or livestock in their unmanufactured or unprocessed states.

Sec. 241. Section 28-5867, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-5867. Motor carrier tax license; application; fee

A. A person who applies for a motor carrier tax license shall obtain the license in the name of either:

1. The motor vehicle registrant, if registering a motor vehicle under chapter ~~3~~ 7 of this title, except that:

(a) A rental company that has approval for consolidated tax filings from the director may be the licensee in lieu of the motor vehicle registrant, at the rental company's option.

(b) If the motor vehicle registrant leases the motor vehicle to a lessee who has a motor carrier tax license issued under this article and if there is a written lease agreement so providing, the registrant may permit the lessee to include the vehicle under the lessee's license for purposes of this article. A written lease agreement shall specify which party to the lease agreement is responsible for obtaining the motor carrier tax license.

2. The motor vehicle operator, if the person is not covered by paragraph 1.

B. An applicant for a motor carrier tax license shall file with the director OR AUTHORIZED THIRD PARTY an application in the form and manner as the director prescribes, stating the name and address of the applicant and other information as required by this article or by the director. The application shall not be made under oath but shall contain or be accompanied by a written declaration that it is made under penalty of perjury.

C. A filing fee of ten dollars is required with an application for a motor carrier tax license.

Sec. 242. Section 28-5868, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-5868. Motor carrier tax license; issuance; validity

A. The director OR AUTHORIZED THIRD PARTY shall issue a motor carrier tax license to an applicant if the application is in proper form and if the applicant has complied with the other requirements of this article.

B. The motor carrier tax license is valid until cancelled, surrendered or revoked as provided in this article.

Sec. 243. Section 28-5869, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-5869. License denial

The director OR AUTHORIZED THIRD PARTY may deny a license if the application:

1. Contains a misrepresentation, misstatement or omission of material information required by the application.

2. Is filed by a person as a subterfuge for the real party in interest whose license or registration has previously been revoked by the director.

3. Is filed by a person who is delinquent in the payment of any fee, tax, penalty or other amount due the department for its account.

Sec. 244. Section 28-5943, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-5943. Transfer of vehicle subject to lien

A. If ownership of a motor vehicle that is subject to the lien provided by section 28-5939 is transferred by operation of law or otherwise, a certificate of registration or certificate of title with respect to that vehicle shall not be issued to the transferee or any other person until the director certifies that the lien has been removed.

B. A license under chapter ~~3~~ 7 of this title with respect to a motor vehicle that becomes subject to the lien provided for by section 28-5939 shall not be issued or transferred until the director certifies that the lien has been removed.

Sec. 245. Section 28-6301, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-6301. Definitions

In this article, unless the context otherwise requires:

1. "Bond related expenses" means:

(a) Printing, publication or advertising expenses with respect to the sale and issuance of any bonds.

(b) Fees, expenses and costs of registrars, paying agents and transfer agents retained by the board.

(c) Fees, expenses and costs of attorneys, accountants, actuaries, feasibility consultants, computer programmers or other experts employed to aid in the sale and issuance of the bonds.

(d) Other costs, fees and expenses incurred or reasonably related to the issuance, sale and administration of the bonds.

2. "Bond related obligation" means any agreement or contractual relationship between the board and any bank, trust company, insurance company, surety bonding company, pension fund or other financial institution providing increased credit on, or security for, the bonds or liquidity for secondary market transactions.

3. "Bonds" means any bonds that are payable from the regional area road fund as provided in chapter 21, article 2 of this title.

4. "Controlled access highway" has the same meaning prescribed in section ~~28-2001~~ 28-601.

5. "Population" means the population determined in the most recent United States decennial census or the most recent special census as provided in section 28-6532 and revisions to the decennial or special census certified by the United States bureau of the census.

Sec. 246. Section 28-6351, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-6351. Definitions

In this article, unless the context otherwise requires:

1. "Controlled access highway" has the same meaning prescribed in section ~~28-2001~~ 28-601.

2. "Enhancement" means an addition that exceeds generally accepted engineering or design standards for the specific type of facility.

3. "System" means the controlled access highways and related grade separations of controlled access highways that are eligible for regional area road fund monies pursuant to article 1 of this chapter.

Sec. 247. Section 28-6501, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-6501. Definition of highway user revenues

In this article, unless the context otherwise requires or except as otherwise provided by statute, "highway user revenues" means all monies received in this state from licenses, taxes, penalties, interest and fees authorized by the following:

1. Chapters ~~3~~ 7, ~~4~~ 8 and ~~5~~ 15 of this title, except for:

(a) The special plate administration fees prescribed in sections ~~28-1104, 28-1112, 28-1113~~ 28-2404, 28-2412, 28-2413 and ~~28-1114~~ 28-2414.

(b) The annual donations prescribed in sections ~~28-1112, 28-1113~~ 28-2412, 28-2413 and ~~28-1114~~ 28-2414.

2. Chapters 10 and 11 of this title.

3. Chapter 16, articles 1, 2 and 4 of this title, except for sections 28-5616 and 28-5617.

Sec. 248. Section 28-6531, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3 and as amended by Laws 1995, chapter 147, section 17, is amended to read:

28-6531. Definitions

In this article, unless the context otherwise requires:

1. "Arterial street or highway" means a street or highway used primarily for through traffic in such manner that vehicular traffic from intersecting streets and highways is required by law to stop or yield before entering or crossing the street or highway.

2. "Bonds" means any bonds that are payable from the state highway fund as provided in chapter 21, article 1 of this title.

3. "Controlled access highway" has the same meaning prescribed in section ~~28-2001~~ 28-601.

4. "Population" means the population determined in the most recent United States decennial census or the most recent special census as provided in section 28-6532 and revisions to the decennial or special census certified by the United States bureau of the census.

5. "State highway fund" means the state highway fund established by section 28-6991.

Sec. 249. Section 28-6537, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-6537. Arizona highway user revenue fund distribution; highway patrol costs

For each fiscal year, the department of transportation shall allocate and the state treasurer shall distribute monies in the Arizona highway user revenue fund to the department of public safety for funding a portion of highway patrol costs in eight installments in each of the first eight months of a fiscal year that do not exceed:

~~1. For the 1994-1995 fiscal year, twenty million dollars.~~

~~2.~~ 1. For the ~~1995-1996~~ 1996-1997 fiscal year, seventeen million five hundred thousand dollars.

~~3.~~ 2. For the ~~1996-1997~~ 1997-1998 fiscal year, fifteen million dollars.

~~4.~~ 3. For the ~~1997-1998~~ 1998-1999 fiscal year, twelve million five hundred thousand dollars.

~~5.~~ 4. For the ~~1998-1999~~ 1999-2000 fiscal year and for all subsequent fiscal years, ten million dollars.

Sec. 250. Section 28-6702, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-6702. Proposed highway survey; notice of hearing

~~A.~~ On filing the petition prescribed in section 28-6701, the board of supervisors shall:

1. Direct the county engineer to make a survey of the proposed highway and to file with the board a report of the proposed highway and a map as surveyed that shows the legal subdivision of the lands traversed by the survey. If a survey and maps have already been made for any purpose, these data and maps may be used instead of conducting a survey pursuant to this section.

2. Set a date for a public hearing on the petition.

3. Give notice to the public of the hearing by advertising once a week for two consecutive weeks in a newspaper of general circulation in the county. The notice shall state:

(a) The purpose and the date of the hearing.

(b) That persons who object to the action requested in the petition may file with the board of supervisors a statement in writing setting forth their objection or opposition and, on filing the petition, shall show cause why the petition should not be granted.

Sec. 251. Section 28-6922, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-6922. Director; powers and duties

A. The director of the department of transportation or the director's authorized and bonded agent shall administer all highway and maintenance work and has the following powers and duties:

1. Direct the preparation of all plans and specifications for work on state highways or state routes.

2. Advertise for competitive bids for work on state highways or state routes and, on authorization of the transportation board, award and enter into contracts for the work.

3. Direct the supervision of all construction work on state highways and state routes and is in charge of maintenance and upkeep of these highways and routes.

4. Approve payment for work done by the state on or in connection with state highways or state routes, except that the director of the department of administration shall not allow a claim for work without the approval of the director of the department of transportation or the director's authorized and bonded agent.

5. Negotiate and award contracts to private consulting engineers or consulting engineering firms if deemed in the public interest by the director and the transportation board for the performance of engineering work that is required to formulate and complete highway construction contracts.

B. The director ~~of the department of transportation~~ shall:

1. Direct the organization of the division.

2. Appoint, suspend, discharge and fix the duties of employees.

3. Adopt rules for the conduct of employees.

4. Make monthly reports to the transportation board of all expenditures of the division, of the work accomplished ~~under the director~~ and other ~~matters that the director deems proper~~ APPLICABLE INFORMATION.

5. On request of the transportation board, assign clerks or other employees to the board.

6. Prescribe procedures for the use of division personnel, facilities, equipment, supplies and other resources in assisting search or rescue operations ~~by request of the director of the division of emergency management of the department of emergency and military affairs~~.

7. Exercise other powers necessary to carry out the work of the division and perform other duties prescribed by law for the division.

Sec. 252. Section 28-6993, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-6993. State highway fund; authorized uses

A. Except as provided in subsections B and C of this section and section 28-6538, the state highway fund shall be used for any of the following purposes in strict conformity with and subject to the budget as provided by this section and by sections 28-6997 through 28-7003:

1. To pay salaries, wages, necessary travel expenses and other expenses of an officer and employee of the department and the incidental office expenses, including telegraph, telephone, postal and express charges and printing, stationery and advertising expenses.

2. To pay for both:

(a) Equipment, supplies, machines, tools, department offices and laboratories established by the department.

(b) The construction and repair of buildings or yards of the department.

3. To pay the cost of both:

(a) Engineering, construction, improvement and maintenance of state highways and parts of highways forming state routes.

(b) Highways under cooperative agreements with the United States that are entered into pursuant to this chapter and an act of Congress providing for the construction of rural post roads.

4. To pay land damages incurred by reason of establishing, opening, altering, relocating, widening or abandoning portions of a state route or state highway.

5. To reimburse the department revolving account.

6. To pay premiums on authorized indemnity bonds and on compensation insurance under the workers' compensation act.

7. To defray lawful expenses and costs required to administer and carry out the intent, purposes and provisions of this title and to pay lawful bills and charges incurred by the state engineer.

8. To acquire, construct or improve entry roads to state parks or roads within state parks.

9. To acquire, construct or improve entry roads to state prisons.

10. To pay the cost of relocating a utility facility pursuant to section 28-7156.

B. Monies deposited in the state highway fund from the tax levied pursuant to section 28-6536 shall be used for the design, right-of-way purchase, construction or reconstruction of highways that are part of the state highway system.

C. For each of the following fiscal years, the department shall allocate and the state treasurer shall distribute monies in the state highway fund to the department of public safety for funding a portion of highway patrol costs in eight installments in each of the first eight months of a fiscal year that do not exceed:

~~1. For the 1994-1995 fiscal year, twenty million dollars.~~

~~2.~~ 1. For the ~~1995-1996~~ 1996-1997 fiscal year, seventeen million five hundred thousand dollars.

~~3.~~ 2. For the ~~1996-1997~~ 1997-1998 fiscal year, fifteen million dollars.

~~4.~~ 3. For the ~~1997-1998~~ 1998-1999 fiscal year, twelve million five hundred thousand dollars.

~~5.~~ 4. For the ~~1998-1999~~ 1999-2000 fiscal year and for all subsequent fiscal years, ten million dollars.

Sec. 253. Section 28-7095, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-7095. Conveyance of property not needed for transportation purposes

A. The director may dispose of real property or any right, title or interest in the real property if the director determines that it is not needed or used for transportation purposes. After the establishment, laying out, substantial completion of a transportation improvement or abolishment of a transportation improvement by formal action of the transportation board, the director may convey the real property or any interest in the real property that was acquired pursuant to this article and that the director determines is not necessary for state transportation purposes.

B. Except as provided in section 28-7099, the director may convey the real property described in subsection A of this section to an agency of the federal government, this state or a county, city or town of this state without a public sale if the director considers the conveyance to be in the public interest and if the real property is to be used for such a specific public purpose. The agency shall pay the department for the conveyance based on ~~a current~~ AN appraisal WITHIN SIX MONTHS OF THE DATE OF CONVEYANCE establishing the fair market value of the property to be conveyed. If the property conveyed is to be used for a specific highway purpose, the agency shall reimburse the department for its expenditures for the property. The director may convey other marketable property to the highest ~~and most~~ responsible bidder at a public auction or by direct sale or exchange after at least thirty days' notice in a newspaper of general circulation in the county in which the property is located. ~~At least two independent appraisals are~~ IF THE DIRECTOR ELECTS TO CONVEY PROPERTY BY A DIRECT SALE OR EXCHANGE, AND RECEIVES MORE THAN ONE OFFER BEFORE THE TERMINATION OF THE THIRTY DAY NOTICE PERIOD, THE DIRECTOR SHALL SELL THE PROPERTY AT PUBLIC AUCTION. AT LEAST ONE FEE APPRAISAL OR ONE IN-HOUSE APPRAISAL IS required for property that is offered to the public, and the property shall not be offered or conveyed for less than or the amount of the low appraisal. ~~All purchase offers are public, and any person may submit a subsequent offer that matches or exceeds a previous purchase offer.~~ The sale may be made for cash or on terms of at least twenty per cent down with the balance payable in annual installments for ten years, and the unpaid balance bears interest at a rate

determined by the director. After appraisal, the director may dispose of property by ~~quit-claim~~ QUITCLAIM deed to adjacent property owners OR THE UNDERLYING FEE OWNER if the property has no ~~value to this state~~ MARKET VALUE OR A MARKET VALUE OF ONE THOUSAND DOLLARS OR LESS WITHOUT A PUBLIC AUCTION OR THIRTY DAY NOTICE PERIOD.

C. The director may:

1. Execute all deeds or conveyances necessary to convey any real property or interest in the real property to be conveyed under this section and ~~may~~ SHALL SELL ANY REAL PROPERTY OR INTEREST IN REAL PROPERTY FOR THE HIGHEST RESPONSIBLE BID, THE DIRECT SALE PRICE OR THE APPRAISED MARKET VALUE OF THE PROPERTY, AS APPLICABLE.

2. Assess a fee for the costs of preparing and executing any conveyance under this section. ~~The director may~~

3. Either:

~~1.~~ (a) Insert in the deed or conveyance conditions, covenants, exceptions and reservations as the director deems to be in the public interest.

~~2.~~ (b) Convey in fee simple absolute.

D. THE DIRECTOR SHALL NOTIFY THE COUNTY ASSESSOR AND COUNTY TREASURER OF ANY PROPERTY DISPOSED OF OR QUITCLAIMED PURSUANT TO THIS SECTION WITHIN THIRTY DAYS AFTER THE CLOSE OF ESCROW. PROPER NOTICE INCLUDES THE LEGAL DESCRIPTION OF PROPERTY BEING CONVEYED, THE NAME AND ADDRESS OF THE NEW PROPERTY OWNER AND LEGAL DESCRIPTION OF THE CONVEYED PROPERTY AND THE NAME AND ADDRESS OF A PERSON OR PERSONS WHO ARE IDENTIFIED AS THE CORRECT RECIPIENTS OF THE PROPERTY TAX BILL.

~~D.~~ E. It is conclusively presumed in favor of any purchaser for value and without notice of any real property or interest in the real property conveyed pursuant to this section that the department acted within its lawful authority in acquiring the property and that the director acted within the director's lawful authority in executing a deed, conveyance or lease authorized by this article.

~~E.~~ F. The director may ~~adopt rules for using~~ CONTRACT WITH A real estate ~~brokers~~ BROKER to assist in any disposition of property under this section. The director may pay ~~a commission,~~ THE LICENSED REAL ESTATE BROKER from proceeds received under this section~~, to a broker who provides the purchaser~~ unless the broker is the purchaser or lessee or the purchaser is another governmental agency.

Sec. 254. Section 28-7311, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-7311. Logo sign programs; rules; definitions

A. The department may establish a logo sign program. Notwithstanding sections ~~28-2078~~ 28-648, 28-7048 and 28-7053, as part of the program the department may contract with a third party to install and maintain specific services information signs, known as logo signs, on certain portions of the

completed interstate highway system in this state. The third party shall agree in the contract to:

1. Furnish, install, maintain and replace signs for the benefit of business advertisers who provide gas, food, lodging and camping facilities for the general public.

2. Lease advertising space on the signs to operators of the facilities prescribed in paragraph 1 of this subsection.

B. In addition to the program established in subsection A of this section, the department may establish a rural logo sign program. Notwithstanding sections ~~28-2078~~ 28-648, 28-7048 and 28-7053, as part of this program the department may contract with a third party to install and maintain specific services information signs, known as logo signs, on any class of state highway, other than a segment of the interstate highway system, located outside of an urbanized area with a population of one hundred thousand or more persons. The third party shall agree in the contract to:

1. Furnish, install, maintain and replace signs for the benefit of business advertisers that provide gas, food, lodging and camping facilities for the general public.

2. Lease advertising space on the signs to operators of the facilities prescribed in paragraph 1 of this subsection.

C. The department shall adopt rules to implement and operate the logo sign programs. Costs incurred under the programs established by this section shall be paid under agreements negotiated between the third party and the business advertisers.

D. For the purposes of this section:

1. "Population" means the population determined in the most recent United States decennial census or in the most recent special census as provided in section 28-6532.

2. "Urbanized area" means an urbanized area as defined in the decennial census by the United States bureau of the census.

Sec. 255. Section 28-7701, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-7701. Agreements with private entities; limitations

A. The department may request COMPETING proposals from private entities BY ADVERTISING AS PRESCRIBED IN SECTION 28-6923 and enter into written agreements with private entities relating to both of the following:

1. The construction of transportation facilities by private entities.

2. The lease to private entities of transportation facilities constructed by the department pursuant to this article.

B. To facilitate the development of transportation facilities, the agreements with private entities prescribed in subsection A OF THIS SECTION may provide for any of the following:

1. The lease of state highway rights-of-way.

2. The lease of airspace over and under state highways.

3. The granting of easements of necessity.

4. The issuance of permits or other authorization for the private entities to construct transportation facilities supplemental to existing state transportation facilities.

C. An agreement with a private entity entered into pursuant to this section shall provide for all of the following:

1. State ownership of the transportation facility constructed by a private entity.

2. Lease of the transportation facility to the private entity for a period mutually agreeable to the department and the private entity.

3. NOTWITHSTANDING SECTION 28-7094, reversion to this state of the transportation facility constructed by the private entity after the expiration of the lease at no expense to this state, as consideration for the lease granted by this state.

4. Reimbursement by the private entity to the department or any other state agency for costs incurred after the written agreement is finalized, including the costs of planning, environmental impact assessment, design, maintenance, police services and any other service rendered.

5. Authorization for the private entity to impose and collect tolls for the use of a transportation facility constructed by the private entity.

6. During the term of the lease, the private entity shall apply toll revenues to:

(a) Capital outlay costs for the transportation facility plus interest and principal repayment for any debt incurred.

(b) Costs associated with operations, toll collection and administration of the facility.

(c) Payment to this state for reimbursement of the costs of maintenance, police and other services if these services are performed by this state pursuant to the written agreement with the private entity.

(d) A reasonable return on investment to the private entity.

D. The ~~department~~ BOARD shall ~~select~~ not APPROVE more than two ~~pilot projects~~ PROPOSALS under this article.

E. ON NEGOTIATION OF AN AGREEMENT PURSUANT TO THIS SECTION, THE DEPARTMENT SHALL MAKE A COPY OF THE AGREEMENT AVAILABLE AT A PUBLIC HEARING AT A LOCATION CONVENIENT TO THE PRIVATE ENTITY'S PROJECT AND FOR AT LEAST FIFTEEN DAYS BEFORE THE PUBLIC HEARING. THE NOTICE OF THE PUBLIC HEARING SHALL BE PUBLISHED IN A NEWSPAPER THAT HAS A CIRCULATION OF AT LEAST FIFTY THOUSAND COPIES AND THAT IS REGULARLY DISTRIBUTED IN THE COUNTY OR COUNTIES IN WHICH THE PRIVATE ENTITY'S PROJECT IS LOCATED. THE NOTICE OF THE PUBLIC HEARING SHALL ANNOUNCE THE AVAILABILITY OF THE AGREEMENT AND WHERE A COPY OF THE AGREEMENT MAY BE OBTAINED OR REVIEWED AND SHALL STATE THAT COMMENTS MAY BE SUBMITTED IN WRITING TO THE DEPARTMENT WITHIN THIRTY DAYS OF THE AVAILABILITY OF THE AGREEMENT. THE DEPARTMENT MAY REVISE OR RENEGOTIATE THE AGREEMENT BASED ON THE PUBLIC COMMENTS IT RECEIVES.

F. AFTER COMPLIANCE WITH SUBSECTION E OF THIS SECTION, THE BOARD MAY GIVE FINAL APPROVAL TO THE PROJECT, PROJECT DESIGN, CONNECTIONS OF THE ROADWAY AND AGREEMENT PRESCRIBED IN THIS SECTION AND MAY AUTHORIZE THE DIRECTOR TO EXECUTE THE AGREEMENT. THE DEPARTMENT SHALL MAKE THE AGREEMENT SUBMITTED FOR THE BOARD'S FINAL APPROVAL AVAILABLE TO THE PUBLIC AND SHALL GIVE PUBLIC NOTICE OF THE AVAILABILITY OF THE AGREEMENT AT LEAST FIFTEEN DAYS BEFORE THE MEETING OF THE BOARD AT WHICH THE APPROVAL WILL BE CONSIDERED. THE PUBLIC NOTICE SHALL BE PUBLISHED IN A NEWSPAPER THAT HAS A CIRCULATION OF AT LEAST FIFTY THOUSAND COPIES AND THAT IS REGULARLY DISTRIBUTED IN THE COUNTY OR COUNTIES IN WHICH THE PRIVATE ENTITY'S PROJECT IS LOCATED AND SHALL SPECIFY WHERE A COPY OF THE AGREEMENT MAY BE OBTAINED OR REVIEWED.

Sec. 256. Section 28-7703, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-7703. Default

A. If there is a material and continuing default in the performance of the private entity's construction duties or contractual obligations or if construction has not begun within two years of the date of the agreement authorized by this article or after final clearance of all necessary government approvals and authorizations, whichever is later, the board, after a hearing in which the private entity has notice and an opportunity to participate, may take the following actions that the department may participate in or initiate:

1. Revoke the agreement.

2. Declare a default in the construction or lease of the transportation facility.

3. Make or cause to be made the appropriate claims under any completion or performance bond.

4. Take other action determined appropriate by the board under the circumstances.

B. If the agreement is revoked pursuant to subsection A:

1. The private entity does not have authority to construct or operate the transportation facility.

2. The department may construct and operate the transportation facility.

3. The department may take steps that are in the public interest, including completion of the construction of or additions to the transportation facility, closing the transportation facility or an intermediate step.

4. The private entity shall grant to the department all of its rights, title and interest in the transportation facility.

~~C. This section does not limit the department's exercise of the power of eminent domain. The private entity may obtain compensation from the department for assets obtained pursuant to subsection B or the exercise of the power of eminent domain, except that the department shall deduct from the~~

~~value of the assets all of its costs incurred in connection with the completion or fulfillment of the unperformed obligations of the private entity and other costs associated with the actions provided in this section. The department shall account for monies received from the proceeds of any payment or completion bond in calculating the amount due the private entity.~~

Sec. 257. Section 28-7705, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-7705. Lease or license status; tax exemptions; credit and refund

A. ~~The~~ A lease OR LICENSE to ~~the~~ A private entity ~~of the transportation facility constructed pursuant to this article~~ BY THE DEPARTMENT OF ANY RIGHT-OF-WAY OR OTHER PROPERTY OF THE DEPARTMENT is deemed a governmental activity.

B. ~~The~~ A lease OR LICENSE to ~~the~~ A private entity ~~of the transportation facility~~ BY THE DEPARTMENT OF ANY RIGHT-OF-WAY OR OTHER PROPERTY OF THE DEPARTMENT PURSUANT TO THIS ARTICLE and any toll revenues collected pursuant to this article are not subject to transaction privilege tax, sales tax, use tax or any similar excise tax imposed by this state.

C. A person who pays a toll to operate a motor vehicle on a transportation facility constructed or operated pursuant to this article IS ENTITLED TO AND may apply for a refund or credit from this state for motor vehicle fuel license taxes, use fuel taxes or motor carrier taxes paid while operating the motor vehicle on that transportation facility.

D. The director shall adopt rules prescribing the procedures for granting the refunds or credits.

Sec. 258. Section 28-7741, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-7741. Definitions

In this article, unless the context otherwise requires:

1. "Operation" means the functions and pursuits of the operator of a roadway under this article that are related to acquisition, approval, construction, enlargement, maintenance, patrolling, toll collections or connections of the roadway ~~or highway~~ with any other street or highway, including management and administrative functions related to actual physical operation of the roadway and management of the affairs of the operator.

2. "Operator" means the corporation that applies to the board for OR RECEIVES FROM THE BOARD authority to construct, operate or enlarge a roadway ~~and that, after being granted authority, is responsible for the operation of a roadway~~ pursuant to this article.

3. "Roadway"~~:~~

~~(a)~~ means that portion of a highway that is improved, designed or ordinarily used for vehicular travel, ~~excluding the berm or shoulder~~ INCLUDING ALL PROPERTY WITHIN THE RIGHT-OF-WAY.

~~(b) If a highway includes two or more separate roadways, refers to that roadway separately but not to all of the roadways collectively.~~

4. "Toll" means the fee charged by the operator for a single use of all or a portion of the roadway.

Sec. 259. Section 28-7742, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-7742. Roadway authority; application

A. A person shall not construct, operate or enlarge a roadway in this state without written authority granted by the board pursuant to this article or except as otherwise authorized by this title.

~~B. The board shall not select more than two pilot projects under this article.~~

~~C.~~ B. An application for the authority to construct, operate or enlarge a roadway PROJECT shall contain the following material and information:

1. The geographic area to be served by the roadway and a survey indicating the approximate route of the roadway.

2. A list of the property owners through whose property the roadway may pass or whose property may abut the roadway.

3. The methods by which the operator OR THE DEPARTMENT may secure all rights-of-way required for the roadway, including a description of the nature of the interest in the lands to be acquired and a provision for permanent dedication as long as the lands are used for transportation purposes.

4. The comprehensive plan or plans for all counties, cities and towns through which the roadway will pass and an analysis showing that the roadway does not impede the comprehensive plan or plans.

5. The operator's plan for financing the proposed construction, ~~or~~ enlargement OR OPERATION of the roadway, including proposed tolls to be charged for use of the roadway, projected amounts to be collected from the tolls, anticipated traffic volume, detailed plans for the distribution of monies and the priority in which necessary expenditures will be made.

6. The operator's plan for operation of the proposed roadway ~~or enlargement of the roadway~~.

7. A list of all permits and approvals ~~required~~ ANTICIPATED for construction of the roadway from local, state or federal agencies, including ~~an~~ IDENTIFICATION OF environmental impact ~~assessment~~ ISSUES and a schedule for securing the approvals.

8. An overall description of the project, the project design and all proposed interconnections with the state highway system, including any interstate highway, ANY secondary system of highways or the streets of any ~~county, city or town not within the state highway system, accompanied by a copy of the approval of the project, the roadway design and interconnections from the board and from the county, city or town for connection with a street that is not under state control~~ LOCAL JURISDICTION THAT ARE NOT WITHIN THE

STATE HIGHWAY SYSTEM, ACCOMPANIED BY A COPY OF THE CONDITIONAL APPROVAL OF THE PROJECT FROM THE LOCAL JURISDICTION SUBJECT TO COMPLIANCE WITH SECTION 28-7746.

9. A ~~list~~ DESCRIPTION of public utility facilities ANTICIPATED to be crossed and plans for crossings or relocations of these facilities.

10. A certificate of the operator providing that:

(a) The roadway will be designed and constructed to meet department standards.

(b) The roadway will be designed and constructed substantially in accordance with a proposed timetable that is agreeable to the department.

(c) The operator will execute a design, review and inspection agreement with the department providing that the department shall both:

(i) Authorize construction on review and approval of the plans and specifications for the roadway and its interconnection with other streets or highways.

(ii) Inspect periodically the progress of the construction work to ensure its compliance with department standards.

11. A DESCRIPTION OF completion and performance bonds ~~in a form and amount satisfactory to the board~~ PROPOSED TO BE FURNISHED TO THE DEPARTMENT.

~~D.~~ C. The board shall determine the amount of the completion and performance bond for each operation required by subsection ~~C~~ B after consultation with the department.

~~E.~~ D. To the extent the roadway does not impede the comprehensive plan or plans required in subsection ~~C~~ B, the fact that the operator is a corporation, as opposed to this state, does not affect the construction and operation of the roadway.

E. ON RECEIPT OF AN UNSOLICITED APPLICATION FOR AUTHORITY TO CONSTRUCT, OPERATE OR ENLARGE A ROADWAY IN THIS STATE, THE DEPARTMENT SHALL CALL FOR COMPETING APPLICATIONS BY ADVERTISING IN A NEWSPAPER OF GENERAL CIRCULATION PUBLISHED IN THIS STATE FOR TWO CONSECUTIVE INSERTIONS IF IT IS A WEEKLY NEWSPAPER OR FOR TWO INSERTIONS THAT ARE AT LEAST SIX BUT NOT MORE THAN TEN DAYS APART IF IT IS A DAILY NEWSPAPER. THE ADVERTISEMENT SHALL:

1. IDENTIFY THE OPERATOR SUBMITTING THE UNSOLICITED APPLICATION.

2. IDENTIFY THE ROADWAY AND MILEAGE CONTAINED IN THE APPLICATION.

3. STATE THAT THE DEPARTMENT IS ACCEPTING COMPETING APPLICATIONS FOR A PERIOD OF SIXTY DAYS.

4. STATE WHERE A PERSON MAY SUBMIT A COMPETING APPLICATION.

F. ON RECEIPT OF COMPETING APPLICATIONS, THE DEPARTMENT SHALL EVALUATE THEM AND MAY RECOMMEND A PROSPECTIVE OPERATOR TO THE BOARD FOR CONDITIONAL APPROVAL.

Sec. 260. Section 28-7743, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-7743. Utility crossings; definition

A. The ~~applicant~~ OPERATOR shall include in the application a ~~list~~ DESCRIPTION of public utility facilities and rights-of-way ANTICIPATED to be crossed ~~or otherwise affected in the construction of the roadway and a plan and schedule for the~~ AND PLANS FOR crossings OR RELOCATIONS OF THE FACILITIES. Both the operator and each public utility whose works are to be crossed or affected shall cooperate fully with each other in planning and arranging the manner of the crossing or relocation of the facilities.

B. A public ~~service corporation~~ UTILITY possessing the powers of eminent domain ~~is granted~~ MAY EXERCISE these powers in connection with the moving or relocation of facilities to be crossed by the roadway or to be relocated to the extent that moving or relocation is made necessary by construction of the roadway, including construction of temporary facilities for the purpose of providing service during the period of construction.

C. If the ~~applicant or~~ operator and the public utility whose facilities are to be crossed or relocated fail to agree to a plan for a crossing or any necessary relocation, either party may request the board to inquire into the need for the crossing or relocation and to decide whether the crossing or relocation should be compelled and, if so, the manner in which the crossing or relocation is to be accomplished. The board may employ department engineers to examine the location and plans for the crossing or relocation, hear any objections, consider modifications and make a recommendation to the board.

D. For the purposes of this section~~:~~

~~1.~~ , "public utility" includes ~~a railroad~~ RAILROADS, PIPELINES AND ELECTRIC, SEWER, WATER, GAS AND TELECOMMUNICATIONS LINES.

~~2. "Railroad" includes a railway operated for the public transportation of persons or property except a street railroad.~~

Sec. 261. Section 28-7744, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-7744. Incorporation requirement; eminent domain restriction

A. ~~The applicant~~ AN OPERATOR shall be incorporated under the laws of this state.

B. ~~The~~ AN operator is not entitled to exercise the power of eminent domain to acquire lands, estates or interests in lands or estates or any other property used by the operator for the construction or enlargement of a roadway pursuant to this article.

Sec. 262. Section 28-7745, Arizona Revised Statutes, as added Laws 1995, chapter 132, section 3, is amended to read:

28-7745. Board powers

A. The board shall:

1. Review and approve or deny the application ~~provided by~~ SUBMITTED PURSUANT TO section 28-7742.

2. Supervise and control the operator in the performance of its duties under ~~this article and this title~~ ANY AGREEMENT NEGOTIATED WITH THE DEPARTMENT.

3. Correct any abuse in the performance of the operator's public duties.

B. The board may require from the operator a report describing the nature of its contractual and other relationships with individuals or entities contracting with the operator for the provision of significant financial, construction or maintenance services. The board shall review the report and other materials as it deems necessary to determine improper or excessive costs.

C. The board ~~shall approve~~ MAY GRANT APPROVAL OF a roadway PROJECT TO BE constructed or operated pursuant to this article only if a reasonable alternative route exists. A roadway PROJECT constructed or operated pursuant to this article shall:

1. Accommodate the same type of motor vehicles as the existing alternative route.

2. Provide a route that is at least as direct as the existing alternative route.

Sec. 263. Section 28-7746, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-7746. Local approval

A. Before the board grants authority and when the application materials are filed with the board, the ~~applicant~~ OPERATOR shall provide the local governing body of each jurisdiction through which any part of the roadway passes with the application information and materials required by section 28-7742 and an overall description of the project and its benefits. The local governing body may participate in procedures conducted by the board concerning the application.

B. If the operator wishes to occupy lands owned by a county, city or town, including the streets of a county, city or town, it shall first obtain the necessary property interests by grant or other lawful conveyance to the operator OR BY THE DEPARTMENT'S EXERCISE OF ITS POWERS OF EMINENT DOMAIN.

C. If the ~~applicant~~ OPERATOR wishes to interconnect with the streets of a county, city or town and the jurisdiction is willing to allow the interconnection, the applicant shall submit appropriate plans for the connection to the local governing body. The local governing body shall approve the connection only if it determines that the connection meets all appropriate engineering requirements ~~and is in the public interest~~.

D. The operator and the county, city or town may agree on supplemental or related matters in addition to the matters specified in this article according to terms and conditions that are reasonable, appropriate and in the public interest.

Sec. 264. Section 28-7747, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-7747. Board approval; inspection agreement

A. ~~The person~~ AN OPERATOR who applies for authority to construct, OPERATE or enlarge a roadway pursuant to this article shall first obtain ~~the~~ CONDITIONAL approval of the board for the project, the project construction costs, the location and design of the roadway and the roadway's connection with any road under the jurisdiction of the board at proper and convenient places in order to provide for the convenience of the public. The board may CONDITIONALLY approve the project and its interconnections with other roads if its interconnections are compatible with the existing road network.

B. The board's approval is conditioned on ~~both:~~

~~1.~~ the federal government's approval of any interconnection, if interconnections with any interstate highway or other federal facility are contemplated and if federal approval is required and has not been obtained at the time the board acts.

~~2. Subsequent compliance by the applicant with an agreement executed pursuant to subsection C.~~

C. If the board CONDITIONALLY approves the project, project design and connections of the roadway, the department shall ~~enter into~~ NEGOTIATE an agreement with the ~~applicant~~ OPERATOR providing that, on a reimbursable basis, the department shall, EXCEPT AS PROVIDED IN SUBSECTION D OF THIS SECTION:

1. Review plans and specifications for the roadway and approve them if they conform to state practices.

2. Inspect and approve construction of the roadway if it conforms to the plans and specifications and to state construction and engineering standards.

3. Throughout the life of the roadway project, monitor the maintenance practices of the operator and take action as appropriate to ensure the performance of maintenance obligations.

4. Perform other necessary services that the private entity is unable to perform, including project development and environmental impact statements.

D. THE AGREEMENT PRESCRIBED IN SUBSECTION C OF THIS SECTION MAY ALSO PROVIDE FOR ANY ONE OR A COMBINATION OF THE FOLLOWING, EXCLUDING FUNCTIONAL ROADWAY SEGMENTS OWNED, ACQUIRED OR BEING CONSTRUCTED BY THE DEPARTMENT:

1. PURSUANT TO SECTION 28-7094, LEASING TO THE OPERATOR RIGHTS-OF-WAY AND OTHER PROPERTY THAT ARE OWNED, ACQUIRED OR CONSTRUCTED BY THE DEPARTMENT AND THAT ARE NECESSARY FOR THE OPERATOR'S PROJECT.

2. ON A REIMBURSABLE BASIS, EXERCISING THE POWER OF EMINENT DOMAIN TO ACQUIRE RIGHTS-OF-WAY OR OTHER PROPERTY NECESSARY FOR USE BY THE OPERATOR IN CONNECTION WITH THE PROJECT.

3. NOTWITHSTANDING SECTIONS 28-7048 AND 28-7094, LICENSING THE OPERATOR TO USE RIGHTS-OF-WAY AND OTHER PROPERTY THAT ARE OWNED, ACQUIRED OR CONSTRUCTED BY THE DEPARTMENT AND THAT ARE NECESSARY FOR THE OPERATOR'S PROJECT IN CONSIDERATION OF THE OPERATOR'S AGREEMENT TO TRANSFER AND DEDICATE TO THE DEPARTMENT ON ACQUISITION ANY RIGHTS-OF-WAY ACQUIRED BY THE OPERATOR FOR THE PROJECT AND TO TRANSFER AND DEDICATE TO THE DEPARTMENT THE COMPLETED PROJECT AT THE TERMINATION OF THE CERTIFICATE OF AUTHORITY AS PROVIDED IN SECTION 28-7758 IN ADDITION TO ANY OTHER CONSIDERATION THAT MAY BE REQUIRED BY THE DEPARTMENT.

E. THE AGREEMENT PRESCRIBED IN SUBSECTION C OF THIS SECTION MAY ALSO PROVIDE FOR THE DEPARTMENT'S EXPENDITURE OF MONIES TO CONSTRUCT, MODIFY OR MAINTAIN TRAFFIC INTERCHANGES, OVERPASSES, BRIDGES, TUNNELS AND OTHER SIMILAR FACILITIES THAT COMPLEMENT THE OPERATOR'S PROJECT IF TOLLS OR OTHER CHARGES ARE NOT IMPOSED BY OR PAYABLE TO THE OPERATOR FOR USE OF THOSE FACILITIES EXCEPT ANY FACILITIES LEASED TO OR LICENSED BY THE OPERATOR PURSUANT TO SUBSECTION D OF THIS SECTION.

~~D.~~ F. The agreement prescribed in subsection C OF THIS SECTION shall require the operator to establish and fund accounts to ensure that monies are available to meet the obligations of the operator, including reasonable reserves for contingencies and maintenance replacement activities.

~~E.~~ G. The approval of plans, specifications and construction may be undertaken in phases, but construction shall not begin until the approval of plans including that phase of construction.

~~F.~~ H. Costs incurred by the department before the written agreement with the ~~private entity~~ OPERATOR is finalized are not reimbursable.

I. ON NEGOTIATION OF AN AGREEMENT PURSUANT TO SUBSECTION C OF THIS SECTION, THE DEPARTMENT SHALL MAKE A COPY OF THE AGREEMENT AVAILABLE AT A PUBLIC HEARING AT A LOCATION CONVENIENT TO THE OPERATOR'S PROJECT AND FOR AT LEAST FIFTEEN DAYS BEFORE THE PUBLIC HEARING. THE NOTICE OF THE PUBLIC HEARING SHALL BE PUBLISHED IN A NEWSPAPER THAT HAS A CIRCULATION OF AT LEAST FIFTY THOUSAND COPIES AND THAT IS REGULARLY DISTRIBUTED IN THE COUNTY OR COUNTIES IN WHICH THE OPERATOR'S PROJECT IS LOCATED. THE NOTICE OF THE PUBLIC HEARING SHALL ANNOUNCE THE AVAILABILITY OF THE AGREEMENT AND WHERE A COPY OF THE AGREEMENT MAY BE OBTAINED OR REVIEWED AND SHALL STATE THAT COMMENTS MAY BE SUBMITTED IN WRITING TO THE DEPARTMENT WITHIN THIRTY DAYS OF THE AVAILABILITY OF THE AGREEMENT. THE DEPARTMENT MAY REVISE OR RENEGOTIATE THE AGREEMENT BASED ON THE PUBLIC COMMENTS IT RECEIVES.

J. AFTER COMPLIANCE WITH SUBSECTION I OF THIS SECTION, THE BOARD MAY GIVE FINAL APPROVAL TO THE PROJECT, PROJECT DESIGN, CONNECTIONS OF THE ROADWAY AND AGREEMENT PRESCRIBED IN SUBSECTION C OF THIS SECTION AND MAY AUTHORIZE THE DIRECTOR TO EXECUTE THE AGREEMENT. THE DEPARTMENT SHALL MAKE

THE AGREEMENT SUBMITTED FOR THE BOARD'S FINAL APPROVAL AVAILABLE TO THE PUBLIC AND SHALL GIVE PUBLIC NOTICE OF THE AVAILABILITY OF THE AGREEMENT AT LEAST FIFTEEN DAYS BEFORE THE MEETING OF THE BOARD AT WHICH THE APPROVAL WILL BE CONSIDERED. THE PUBLIC NOTICE SHALL BE PUBLISHED IN A NEWSPAPER THAT HAS A CIRCULATION OF AT LEAST FIFTY THOUSAND COPIES AND THAT IS REGULARLY DISTRIBUTED IN THE COUNTY OR COUNTIES IN WHICH THE OPERATOR'S PROJECT IS LOCATED AND SHALL SPECIFY WHERE A COPY OF THE AGREEMENT MAY BE OBTAINED OR REVEIWED.

K. THE BOARD SHALL NOT APPROVE MORE THAN TWO APPLICANTS UNDER THIS ARTICLE.

L. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO GRANT ANY PERSON ANY EXEMPTION FROM OR IMMUNITY UNDER ANTITRUST LAWS.

Sec. 265. Section 28-7749, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-7749. Tax refund or credit

A person who pays a toll to operate a motor vehicle on a roadway PROJECT that is constructed or operated pursuant to this article IS ENTITLED TO AND may apply for a refund or credit~~, as prescribed by the director,~~ FROM THE STATE for motor vehicle fuel license taxes, use fuel taxes or motor carrier taxes paid while operating the motor vehicle on ~~this transportation facility~~ THE ROADWAY PROJECT. THE DIRECTOR SHALL ESTABLISH BY RULE THE PROCEDURES FOR GRANTING REFUNDS OR CREDITS.

Sec. 266. Section 28-7750, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-7750. Operator powers and duties

A. The operator may:

1. Operate the roadway and charge tolls for the use of the roadway to receive reimbursement of costs and a reasonable return on investment.

2. Subject to applicable permit requirements, cross any right-of-way if the crossing does not unreasonably interfere with the use of the right-of-way.

3. Classify traffic on the roadway according to reasonable categories for the assessment of tolls.

4. With the consent of the department~~, adopt and enforce reasonable rules, including rules that~~:

(a) Prescribe maximum and minimum speeds that conform to department and state practices.

(b) Exclude vehicles, cargoes or materials from the use of the roadway if exclusion of these vehicles, cargoes or materials by this state or a local authority is authorized by the laws of this state.

(c) Establish high occupancy vehicle lanes for use during all or any part of a day and limit the use of these lanes to certain traffic.

(d) RESTRICT OR PROHIBIT NONVEHICULAR OR NONMOTORIZED USE OF THE ROADWAY.

B. The operator shall:

1. Pledge any revenue net of operational expenses realized from tolls charged for the use of the roadway in order to secure repayment of any obligations incurred for the construction, enlargement or operation of the roadway.

2. Limit the debts or obligations of the operator to an amount that does not exceed the cost of development and construction plus a reasonable amount for financing expenses and reserve funds.

3. Construct and maintain the roadway for anticipated use according to appropriate standards of the department for public highways operated and maintained by the department.

4. Enlarge or expand the roadway when unsatisfied demand for use of the roadway makes it economically feasible.

5. Contract with the department for the inspection of construction work by the department at appropriate times during any construction or enlargement.

6. Cooperate fully with the department in establishing any interconnection with the roadway that the department may make.

~~7. Contract with this state and appropriate local authorities for those portions of the roadway within the local jurisdiction for enforcement of the traffic and public safety laws by state and local authorities.~~

C. THE DEPARTMENT OF PUBLIC SAFETY AND APPROPRIATE LOCAL AUTHORITIES MAY CONTRACT WITH THE OPERATOR FOR ENFORCEMENT OF THE TRAFFIC AND PUBLIC SAFETY LAWS ON THE ROADWAY.

Sec. 267. Section 28-7752, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-7752. Default

A. If there is a material and continuing default in the performance of the operator's construction or operation duties or if the operator fails to comply with the terms of its agreement with the department, the board, after a CURE PERIOD AND A hearing in which the ~~applicant or~~ operator ~~has~~ AND ANY REPRESENTATIVE OR REPRESENTATIVES OF THE CREDITORS OF THE OPERATOR HAVE notice and an opportunity to participate, may take OR DIRECT ANY OF the following actions that the department may participate in or initiate:

1. Revoke the OPERATOR'S authority for the roadway.

2. Declare a default in the construction or operation of the roadway.

3. Make or cause to be made the appropriate claims under any completion or performance bond.

4. Take other action determined appropriate by the board under the circumstances.

B. If AN OPERATOR'S authority is revoked pursuant to subsection A:

1. The ~~applicant or~~ operator does not have authority to construct or operate the roadway.

2. The department may DO ANY ONE OR A COMBINATION OF THE FOLLOWING:

(a) Construct ~~and operate~~ the roadway.

(b) IMPROVE THE ROADWAY.

(c) OPERATE THE ROADWAY.

3. The department may take steps that are in the public interest, including completion of the construction of or additions to the roadway, closing the roadway or an intermediate step.

4. The operator shall grant to the department all of its rights, title and interest in the assets of the corporation.

5. NEITHER THE BOARD NOR THE DEPARTMENT IS LIABLE TO PAY ANY COMPENSATION TO THE OPERATOR AS A RESULT OF THE REVOCATION OF THE OPERATOR'S AUTHORITY FOR THE ROADWAY OR THE TERMINATION OF ITS AGREEMENT PURSUANT TO SUBSECTION A.

~~C. This section does not limit the department's exercise of the power of eminent domain. The operator may obtain compensation from the department for assets obtained pursuant to subsection B or the exercise of the power of eminent domain, except that the department shall deduct from the value of the assets all of its costs incurred in connection with the completion or fulfillment of the unperformed obligations of the operator and other costs associated with the actions provided in this section. The department shall account for monies received from the proceeds of any payment or completion bond in calculating the amount due the operator.~~

Sec. 268. Section 28-7753, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-7753. Excess toll revenues; disposition

On at least an annual basis, the director shall transmit all toll revenues authorized by section 28-7750 in excess of a reasonable rate of return on investment as prescribed in the written agreement pursuant to this article to the state treasurer for deposit in the highway user revenue fund established by chapter 18, article 2 of this title OR THE REGIONAL AREA ROAD FUND ESTABLISHED BY SECTION 28-6302, AS APPROPRIATE.

Sec. 269. Section 28-7754, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-7754. Governmental activity; tax exemptions

A. A lease OR LICENSE to ~~a private entity of a roadway constructed~~ AN OPERATOR OF ANY RIGHT-OF-WAY OR OTHER PROPERTY OF THE DEPARTMENT pursuant to this article is deemed a governmental activity.

B. A lease ~~to a private entity of a roadway~~ OR LICENSE BY THE DEPARTMENT OF ANY RIGHT-OF-WAY OR OTHER PROPERTY OF THE DEPARTMENT TO AN OPERATOR PURSUANT TO THIS ARTICLE and any toll revenues collected pursuant to this article are not subject to transaction privilege tax, sales tax, use tax or any similar excise tax imposed by this state.

Sec. 270. Section 28-7755, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-7755. Police powers

A. The roadways constructed, IMPROVED or operated under this article may be policed in whole or in part by officers of the department of public safety, even though all or some portion of the project is located in the corporate limits of any city, ~~or~~ town or other political subdivision. The operator and the department of public safety shall agree on reasonable terms and conditions pursuant to which the activities provided in this section may take place.

B. The officers are under the exclusive control and direction of the director of the department of public safety. All other police officers of this state and of each county, city, town or other political subdivision of this state through which a roadway extends have the same powers and jurisdiction within the limits of the roadways as they have beyond those limits and have access to the roadway at any time for the purpose of exercising ~~the~~ THEIR powers and jurisdiction. Their authority does not extend to the private offices, buildings, garages and other improvements of the operator to any greater degree than the police power extends to any other private buildings and improvements.

Sec. 271. Section 28-7757, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-7757. Traffic and motor vehicle laws

The traffic and motor vehicle laws of this title apply to persons and motor vehicles on ~~the~~ A roadway constructed, IMPROVED or operated under this article, and the ~~police~~ LAW ENFORCEMENT officers have the same powers of arrest ~~as those applying to~~ FOR CONDUCT ON THE ROADWAY AS FOR conduct on the state highway system. Punishment for offenses committed on the roadway shall be as prescribed by law for conduct occurring on the state highway system.

Sec. 272. Section 28-7758, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-7758. Termination of certificate; asset dedication

A. Within ninety days after the completion and closing of the original permanent financing, the operator shall provide full details of the financing, including the terms of all bonds, to the board and shall certify the date on which all debt will be retired. The board may require the operator to provide copies of any relevant documents and shall review the financing and determine the date on which all bonds or other debt constituting the original permanent financing will be retired. After establishing this date, the board shall enter an order terminating the operator's authority on a date prescribed in the written agreement with the ~~private entity~~ OPERATOR.

B. At the request of the operator or the department or on the board's own initiative, the board may revise its order to modify the date for termination of the certificate of authority to account for any refinancing of the original permanent financing if the refinancing or modification is in

the public interest or any refinancing for the purpose of expansion or early retirement of the debt.

C. When the authority terminates, the authority and duties of the operator under this article cease, and the ~~highway~~ ROADWAY assets and improvements of the operator shall be dedicated to the department for highway purposes.

Sec. 273. Section 28-7905, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-7905. Outdoor advertising standards

A. After April 1, 1970, outdoor advertising placed in business areas, and after April 1, 1972, outdoor advertising placed in unzoned commercial or industrial areas outside municipal limits, shall comply with this article and the following standards:

1. The size of outdoor advertising shall not exceed one thousand two hundred square feet in area with a maximum vertical facing dimension of twenty-five feet and a maximum horizontal facing dimension of sixty feet, including border and trim and excluding base or apron supports and other structural members. These size limitations apply to each facing of outdoor advertising. The area shall be measured by the smallest square, rectangle, triangle, circle or combination of the smallest square, rectangle, triangle or circle that will encompass the entire advertisement. Two advertising displays not exceeding three hundred fifty square feet each may be placed in a facing. Back to back or V-type signs may be placed, with the maximum area allowed for each facing.

2. Spacing of outdoor advertising shall not be ~~placed~~:

(a) Within five hundred feet of other outdoor advertising on the same side of a freeway.

(b) Within five hundred feet of the beginning or ending of pavement widening at the exit from or entrance to the main traveled way at a scenic overlook or safety roadside rest area on any portion of a freeway.

(c) Within three hundred feet of other outdoor advertising on the same side of any portion of the primary system that is not a freeway.

3. Minimum spacing distances from other outdoor advertising do not apply to outdoor advertising that is separated by ~~a~~ ANY building or other obstruction in such a manner that only one display located within the minimum distances set forth in this subsection is visible from the highway at any one time. Spacing distances shall be measured along the nearest edge of the pavement to a point directly opposite the outdoor advertising.

4. Outdoor advertising authorized under section 28-7902, subsection A, paragraphs 2 and 3 shall not be counted and measured from in determining compliance with the spacing requirements of this subsection.

B. After July 1, 1974, outdoor advertising placed in zoned or unzoned commercial or industrial areas inside municipal limits shall comply with the following standards:

1. The size of outdoor advertising shall not exceed the limits provided in subsection A, paragraph 1 of this section.

2. Spacing of outdoor advertising shall not be ~~placed~~:

(a) Within five hundred feet of other outdoor advertising on the same side of a freeway.

(b) Within one hundred feet of other outdoor advertising on the same side of any portion of the primary system that is not a freeway.

3. It shall meet the standards prescribed in subsection A, paragraphs 3 and 4 of this section.

Sec. 274. Section 28-8202, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-8202. State aviation fund

A. A state aviation fund is established in the state treasury. The state treasurer shall deposit in the fund:

1. Aviation fuel taxes or motor vehicle fuel taxes transmitted to the state treasurer by the department.

2. Monies transmitted to the state treasurer by the department as a result of the sale of an abandoned AIRCRAFT AS DEFINED IN SECTION 28-8243 or seized aircraft.

3. The amount of flight property tax that the department of revenue has transmitted to the state treasurer pursuant to section 42-705.

4. Registration fees, license taxes and penalties collected pursuant to article 4 of this chapter.

5. Monies received by the department from the operation of airports under this article and articles 2 through 5 of this chapter.

B. The state treasurer may invest inactive deposits of the state aviation fund in United States government bonds or interest bearing notes and other interest bearing obligations of the United States for which the full faith and credit of the United States are pledged. The state treasurer shall deposit interest earned on aviation monies in the state aviation fund.

C. The department shall administer monies that are appropriated by the legislature from the state aviation fund.

D. The board shall distribute monies appropriated to the department from the state aviation fund for planning, design, development, acquisition of interests in land, construction and improvement of publicly owned and operated airport facilities in counties and incorporated cities and towns. The board shall distribute these monies according to the needs for these facilities as determined by the board. For purposes of this subsection, "publicly owned and operated airport facility" means an airport and appurtenant facilities in which one or more agencies, departments or instrumentalities of this state or a city, town or county of this state holds an interest in the land on which the airport is located that is clear of any reversionary interest, lien, easement, lease or other encumbrance that might

preclude or interfere with the possession, use or control of the land for public airport purposes for a minimum period of twenty years.

Sec. 275. Section 28-8205, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-8205. Construction of new airports; definitions

A. A new airport shall not be constructed within the boundaries of an urbanized area or within twenty-four statute miles of the exterior boundary of an urbanized area without approval of the board.

B. The board shall approve construction of a new airport only if both:

1. The construction of the new airport is consistent with the state, regional and local aviation system plans.

2. The state, regional and local aviation plans consider relevant criteria, including airspace and air safety, land use compatibility and priority of funding.

C. This section does not apply to a heliport or to an addition to an existing airport.

D. For the purposes of this section:

1. "Airport" means an area of land or water that is designed, ~~and~~ set aside AND UTILIZED OR TO BE UTILIZED for the landing and taking off of aircraft.

2. "Heliport" means an area of land, water or structure that is used or intended to be used for the landing and takeoff of rotorcraft. FOR THE PURPOSES OF THIS PARAGRAPH, "ROTORCRAFT" MEANS A HEAVIER THAN AIR AIRCRAFT THAT DEPENDS PRINCIPALLY FOR ITS SUPPORT IN FLIGHT ON THE LIFT GENERATED BY ONE OR MORE ROTORS.

3. "Urbanized area" means an urbanized area as defined in the most recent decennial census by the United States bureau of the census.

Sec. 276. Section 28-8243, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-8243. Abandoned aircraft; definition

A. A person shall not abandon an aircraft on property of another.

B. A peace officer who has reasonable grounds to believe that an aircraft has been abandoned may seize the aircraft and cause its removal from property of another. A peace officer who causes the removal of an aircraft pursuant to this subsection shall immediately notify the director in writing of the removal.

C. The abandonment of an aircraft in the manner provided in this section is a presumption that the last registered owner of record is responsible for the abandonment, unless the aircraft is the subject of a theft report filed with a local law enforcement agency.

D. On receipt of a report as required by this section, the director shall search the records of the department. On receipt of information disclosing the name and address of the owner and lienholder, if any, the director, at least fifteen days before the date of taking this action, shall

give to the owner and lienholder, if any, notice of the director's intention to sell the aircraft. The director shall give notice by certified mail, return receipt requested, to be delivered to the addressee only.

E. If the records of the department fail to disclose the name and address of the owner and lienholder, if any, or if the notice is returned marked unclaimed or addressee unknown, the director shall publish notice of the director's intention to sell the aircraft once in a newspaper of general circulation in the county in which the aircraft was seized. The notice shall include a complete description of the aircraft, including the identification number and the place and date the aircraft was found.

F. If the aircraft is unclaimed at the expiration of fifteen days from mailing the certified notice or on the expiration of fifteen days from the publication, the director may sell the aircraft at public auction to the highest bidder. The director shall issue a bill of sale to the purchaser at the sale on compliance with this section.

G. The ~~lienholder or owner~~ DIRECTOR shall retain any surplus arising from the sale, after deducting the costs of the sale of the aircraft, FOR THE LIENHOLDER OR OWNER for a period of thirty days. If the surplus is not claimed on the expiration of that time it shall be transmitted to the state treasurer for deposit in the state aviation fund.

H. For the purposes of this section, "abandoned aircraft" means an aircraft that has been left on property without the consent of the owner or operator of the property for more than ~~ninety~~ SIXTY days.

Sec. 277. Section 28-8283, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-8283. Implied consent; immunity

A. A person who operates or is in actual physical control of an aircraft in the air or on the ground or water gives consent to a test or tests of the person's blood, breath or urine to determine the alcoholic content of the person's blood if arrested for operating or being in actual physical control of an aircraft while under the influence of intoxicating liquor. The test shall be given in the same manner as prescribed in sections ~~28-2821, 28-2823 through 28-2825~~ 28-1321, 28-1323, 28-1324, 28-1325 and ~~28-2881~~ 28-1381.

B. If a person under arrest refuses to submit to a test designated by the law enforcement agency, the test shall not be given. The refusal to submit to the test is admissible in evidence in a prosecution for a violation of section 28-8282, subsection A or C. The law enforcement agency shall report the person's refusal to submit to the test to the federal aviation administration for appropriate administrative action.

C. A person qualified to withdraw blood or take a urine specimen under this section or any hospital, laboratory or clinic employing or utilizing the services of the person is not civilly liable as a result of these activities, if a law enforcement officer requests the withdrawal of blood or the taking

of urine specimens, unless the person is guilty of gross negligence while performing the activities.

Sec. 278. Section 28-8290, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-8290. Employment permitted

A. On pronouncement of a jail sentence under section 28-8284, ~~28-8286,~~ 28-8287 or 28-8288, the court may provide in the sentence that the defendant may be permitted, if the defendant is employed and can continue employment, to both:

1. Continue employment for not more than twelve hours per day or more than six days per week.

2. Spend the remaining day, days or parts of days in jail until the sentence is served.

B. The defendant sentenced under this section shall be allowed out of jail only long enough to complete the defendant's actual hours of employment.

Sec. 279. Section 28-8321, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-8321. Definition of resident

For the purpose of registration of an aircraft, "resident" has the same meaning ~~as~~ prescribed in section ~~28-701~~ 28-2001.

Sec. 280. Section 28-8322, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-8322. Registration; exceptions

A. Except as otherwise provided, aircraft based in this state shall be registered with the department.

B. A PERSON OR GOVERNMENTAL ENTITY SHALL REGISTER AN AIRCRAFT BY APPLYING TO THE DEPARTMENT ON A FORM PROVIDED BY THE DEPARTMENT within sixty days after the aircraft is brought into this state. ~~The aircraft owner shall apply to register the owner's aircraft on a form provided by the department and~~ A PERSON WHO REGISTERS AN AIRCRAFT shall renew the registration annually for ~~the~~ EACH calendar year ON OR before the last day of February.

C. THE DEPARTMENT SHALL NOT ISSUE A REGISTRATION CERTIFICATE FOR AN AIRCRAFT TO A PERSON WHO IS SUBJECT TO THE USE TAX PAID PURSUANT TO TITLE 42, CHAPTER 8, ARTICLE 2 UNLESS THE APPLICABLE TAX HAS BEEN PAID AS SHOWN BY A RECEIPT FROM THE COLLECTING OFFICER.

~~B.~~ D. Subsection A does not apply to aircraft that is:

1. Operated by an airline company and regularly scheduled for the primary purpose of carrying persons or property for hire in interstate, intrastate or international transportation.

2. Owned by a nonresident who bases the aircraft in this state for a period of not more than ninety consecutive days or ninety days in any one calendar year, if the aircraft is not engaged in intrastate commercial activity.

~~C.~~ E. Aircraft, except aircraft included in subsection ~~B~~ D, paragraph 1, entering the state to engage in INTRASTATE commercial operations shall be registered before commencing these operations.

Sec. 281. Repeal

Section 28-8323, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is repealed.

Sec. 282. Title 28, chapter 25, article 4, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended by adding a new section 28-8323, to read:

28-8323. Government and dealer aircraft registration; fees

A. THE FEDERAL GOVERNMENT, THIS STATE, ANY POLITICAL SUBDIVISION OF THIS STATE OR THE CIVIL AIR PATROL SHALL REGISTER AIRCRAFT IT OWNS AND OPERATES EXCLUSIVELY IN THE PUBLIC SERVICE, BUT A REGISTRATION FEE OR LICENSE TAX SHALL NOT BE ASSESSED ON THIS AIRCRAFT. IF THE FEDERAL GOVERNMENT, THIS STATE, ANY POLITICAL SUBDIVISION OF THIS STATE OR THE CIVIL AIR PATROL DOES NOT REGISTER THE AIRCRAFT AS PROVIDED IN SECTION 28-8322, THE FEDERAL GOVERNMENT, THIS STATE, THE POLITICAL SUBDIVISION OR THE CIVIL AIR PATROL SHALL PAY THE DEPARTMENT A PENALTY FEE OF TWENTY-FIVE DOLLARS FOR THE FIRST MONTH AND FIVE DOLLARS FOR EACH SUCCEEDING MONTH UNTIL IT MAKES APPLICATION FOR REGISTRATION ON THE FORM PROVIDED BY THE DEPARTMENT.

B. AN AIRCRAFT DEALER LICENSED BY THE DEPARTMENT PURSUANT TO SECTION 28-8383 SHALL REGISTER AIRCRAFT THE DEALER OWNS AND HOLDS FOR THE PURPOSES OF SALE. IF THE DEALER FAILS TO REGISTER THE AIRCRAFT WITH THE DEPARTMENT AS AN AIRCRAFT BEING HELD FOR PURPOSES OF SALE ON A FORM PROVIDED BY THE DEPARTMENT WITHIN TEN DAYS AFTER THE AIRCRAFT IS PURCHASED BY THE DEALER, THE DEPARTMENT SHALL ASSESS THE REGISTRATION FEE PRESCRIBED IN SECTION 28-8325 AND THE LICENSE TAX PRESCRIBED IN SECTION 28-8335 ON THE AIRCRAFT.

Sec. 283. Section 28-8324, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-8324. Registration; license tax; proration; fee

A. Aircraft on which a license tax is due under section 28-8335 shall not be registered ~~unless~~ UNTIL the license tax is paid.

B. If ~~registration of~~ AN aircraft that ~~is~~ WAS not previously subject to registration in this state ~~is~~ BECOMES subject to registration after the beginning of the calendar year:

1. The license tax for that year on the aircraft shall be reduced by one-twelfth for each full month of the calendar year that has expired.

2. The aircraft owner shall pay the full registration fee. THE REGISTRATION FEE SHALL NOT BE PRORATED.

Sec. 284. Section 28-8327, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-8327. Exemption claim

A. On request of the department, a person who claims that an aircraft is exempt from payment of the license tax or registration fee imposed by this

article shall make available for inspection the aircraft logbook and furnish the ~~names~~ NAME of any pilot who has flown the aircraft during the period for which the exemption is claimed.

B. The assessment of REGISTRATION FEES, LICENSE TAXES AND PENALTIES BY the department is presumed correct if the person wilfully fails to comply with this section.

Sec. 285. Repeal

Section 28-8328, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is repealed.

Sec. 286. Title 28, chapter 25, article 4, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended by adding a new section 28-8328, to read:

28-8328. Failure to register; assessment procedure

IF AN AIRCRAFT IS NOT REGISTERED WITHIN THE TIME PERIODS PRESCRIBED IN THIS ARTICLE, THE DIRECTOR SHALL ASSESS REGISTRATION FEES, LICENSE TAXES AND PENALTIES DUE AS FOLLOWS:

1. THE DIRECTOR SHALL GIVE WRITTEN NOTICE OF THE ASSESSMENT TO THE OWNER OF THE AIRCRAFT BY EITHER MAILING THE NOTICE IN A POSTAGE PREPAID SEALED ENVELOPE ADDRESSED TO THE OWNER OF THE AIRCRAFT AT THE OWNER'S ADDRESS AS IT APPEARS IN THE RECORDS OF THE DEPARTMENT OR BY DELIVERY IN PERSON. NOTICE IS DEEMED TO BE COMPLETE AT THE TIME OF MAILING OR AT THE TIME OF PERSONAL DELIVERY.

2. THE ASSESSMENT IS FINAL THIRTY DAYS AFTER NOTICE IS DEEMED TO BE COMPLETE, UNLESS, BEFORE THAT TIME, THE DEPARTMENT RECEIVES A WRITTEN OBJECTION TO THE ASSESSMENT AND A REQUEST FOR A HEARING FROM THE OWNER. IF THE DEPARTMENT RECEIVES A REQUEST FOR A HEARING, THE HEARING SHALL BE CONDUCTED AS PROVIDED IN SECTION 28-8244.

Sec. 287. Section 28-8329, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-8329. Late registration; penalty; abatement

A. If an aircraft required to be registered under this article is not registered within sixty days after its entry into this state and renewed annually on or before the last day of February, a penalty of twenty-five dollars for the first month and five dollars for each succeeding month of delinquency shall be added to the registration fee and collected unless an exemption for the aircraft is established pursuant to this article.

B. Registration of ~~an~~ THE aircraft ~~in the name of the applicant~~ for the year immediately preceding the year for which the application for registration is made is prima facie evidence that the aircraft has been based in this state during the year for which the application for registration is made.

~~C. The total annual registration fee and license tax and the penalty prescribed in this section shall accompany a billing for registration of an aircraft on or after March 1 of the calendar year on which registration of~~

~~the aircraft for the next preceding year expired. If it is determined after a hearing and on proof satisfactory to the aeronautics division that the aircraft was not based in this state before the filing of the application for registration of the aircraft, the amount of the penalty shall be refunded.~~

C. THE DIRECTOR MAY ABATE ALL OR A PART OF ANY PENALTY ASSESSED FOR FAILURE TO REGISTER AN AIRCRAFT WITHIN THE TIME PERIODS PRESCRIBED IN THIS ARTICLE IF THE DIRECTOR BELIEVES THAT REASONABLE CAUSE EXISTS FOR THE FAILURE TO REGISTER THE AIRCRAFT AS PROVIDED BY THIS ARTICLE. FOR THE PURPOSES OF THIS SUBSECTION, "REASONABLE CAUSE" MEANS A REASONABLE BASIS FOR THE PERSON RESPONSIBLE FOR REGISTRATION OF THE AIRCRAFT TO BELIEVE THAT THE AIRCRAFT WAS EXEMPT FROM REGISTRATION REQUIREMENTS.

Sec. 288. Section 28-8330, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-8330. Lien

A. The license tax, ~~and each~~ registration fee and penalty ~~added are~~ CONSTITUTE a lien on the aircraft on which they are due from the due date.

B. The lien has priority over any other lien or encumbrance on the aircraft, except for a lien of other state taxes that has priority by law.

C. The lien continues until the ~~tax and all~~ LICENSE TAXES, REGISTRATION fees, ~~and~~ penalties AND LIEN RECORDING FEES are paid.

D. ~~On satisfaction of the lien,~~ The department shall issue a release of the lien ~~to the person against whom the lien was claimed~~ ON RECEIPT OF FULL PAYMENT OF THE REGISTRATION FEES, LICENSE TAXES, PENALTIES AND LIEN RECORDING FEES SECURED BY THE LIEN. The release shall be a document in a form as specified in section 11-480.

E. If requested by the department, the sheriff of the county in which the aircraft is found or any other peace officer shall collect the license tax, REGISTRATION fee, ~~and~~ penalty AND LIEN RECORDING FEE by seizure of the aircraft from the person in possession of the aircraft, if any, and by sale as provided in section 28-8331.

Sec. 289. Section 28-8331, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-8331. Seized aircraft sale

A. If an aircraft has been seized under this article and held for a period of ~~ninety~~ SIXTY days and ~~if the owner has not complied with the law under which the aircraft was seized, including payment of the license tax,~~ LICENSE TAXES, REGISTRATION fees, penalties, LIEN RECORDING FEES AND costs and expenses of seizure ARE NOT PAID IN FULL, the sheriff of the county in which the aircraft is found shall sell the aircraft when requested by the department.

B. The sale of an aircraft under this section shall be at public auction after notice of the sale is sent by the department by certified mail at least five but not more than twenty days before the sale directed to the last known address of the owner of the aircraft, if the owner is known. If

the owner is unknown, the department shall give notice by publication in a newspaper of general circulation in the county in which the ~~lien on the~~ aircraft ~~is recorded~~ WAS SEIZED. If notice is published in a weekly newspaper, the publication shall be made once each week for two consecutive weeks, or if published in a daily newspaper, six consecutive times, the last publication to be at least five but not more than ten days before the date of the sale.

C. Within five days after receipt of the proceeds of the sale, the sheriff shall transmit the entire proceeds to the department. After payment by the department of the license ~~tax~~ TAXES, REGISTRATION fees, penalties, LIEN RECORDING FEES and costs and expenses of the seizure and sale, the department shall pay the remaining proceeds of the sale to the owner from whom the aircraft was seized, if the owner is known. If the owner is unknown, the department shall transmit the remaining proceeds to the state treasurer. The state treasurer shall deposit the proceeds in the state aviation fund.

D. The department may issue a certificate of release of lien on payment of the ~~tax,~~ LICENSE TAXES, REGISTRATION fees, ~~and~~ penalties, LIEN RECORDING FEES AND COSTS AND EXPENSES OF SEIZURE AND SALE.

Sec. 290. Section 28-8332, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-8332. Registration; transfer or assignment

~~A. Aircraft for which a registration certificate is required shall not be purchased, sold or otherwise transferred without assignment of the validated registration certificate.~~

A. IF A PERSON WHO REGISTERED AN AIRCRAFT UNDER THIS ARTICLE TRANSFERS OR ASSIGNS TITLE TO OR INTEREST IN THE AIRCRAFT, THE REGISTRATION OF THE AIRCRAFT EXPIRES.

B. Within sixty days after the TRANSFER OR assignment, the person to whom the TRANSFER OR assignment is made shall register the aircraft in ~~the~~ THAT person's name with the department and pay the regular registration fee, UNLESS THE AIRCRAFT IS EXEMPT FROM REGISTRATION PURSUANT TO SECTION 28-8322.

C. If AN aircraft is not registered within sixty days after the TRANSFER OR assignment as required by this section, the department shall collect an annual penalty of twenty-five dollars for the first month and five dollars for each succeeding month of delinquency in addition to the registration fee~~, unless the aircraft is exempt pursuant to section 28-8322~~.

Sec. 291. Repeal

Section 28-8333, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is repealed.

Sec. 292. Section 28-8334, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-8334. Aircraft loss or destruction

If an aircraft registered under this article is lost or destroyed, ~~the owner of the aircraft or the owner's legal representative if the owner is dead~~ THE REGISTRATION OF THE AIRCRAFT EXPIRES. THE PERSON TO WHOM THE AIRCRAFT IS REGISTERED, OR, IF THAT PERSON DIES, THAT PERSON'S LEGAL REPRESENTATIVE, shall inform the department in writing of the loss or destruction of the aircraft within thirty days after it occurs.

Sec. 293. Section 28-8342, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-8342. Fair market value determination

For the calendar year, the department shall annually determine the fair market value required by ~~section~~ SECTIONS 28-8335 AND 28-8336 as established by the dealer price guides or other recognized reliable source of information.

Sec. 294. Section 28-8461, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-8461. Definitions

In this article, unless the context otherwise requires:

1. "Airport" means an area of land or water that is designed and set aside for the landing and taking off of aircraft and that is utilized or to be utilized in the interest of the public for those purposes.

2. "Airport hazard" means a structure, tree or use of land that obstructs the air space required for flight of aircraft in taking off or landing at an airport or that is otherwise hazardous to aircraft taking off or landing.

3. "Airport hazard area" means an area of land or water on which an airport hazard might be established if not prevented as provided in this article.

4. "Airstrip" means a strip of ground that is artificially or naturally surfaced and that is designed and used at an airport or landing field for the landing and takeoff of aircraft.

5. "Military airport" means an airport that is operated by the United States and that is primarily used for military fixed wing jet aircraft operations, excluding a runway or airstrip that is not immediately adjacent to facilities primarily used for operational control, maintenance and permanent parking of aircraft.

6. "OCCUPIED BUILDING" MEANS ANY BUILDING WHERE PEOPLE LIVE, WORK OR ARE OTHERWISE RECEIVED.

~~6.~~ 7. "Person" means an individual, firm, partnership, corporation, company, association, joint stock association or body politic, including any trustee, receiver, assignee or other representative of a trustee, receiver or assignee.

~~7.~~ 8. "Political subdivision" means a city, town or county.

~~8.~~ 9. "Runway" means an artificially surfaced strip of ground that is designed and used at an airport for the landing and takeoff of aircraft.

~~9.~~ 10. "Structure" means an object that is constructed or installed by a human including a building, tower, smokestack or overhead transmission line.

11. "TERRITORY IN THE VICINITY OF A MILITARY AIRPORT" MEANS ANY PROPERTY LOCATED IN THE FOLLOWING ZONES:

(a) IN COUNTIES THAT HAVE A POPULATION OF ONE MILLION TWO HUNDRED THOUSAND OR MORE PERSONS ACCORDING TO THE MOST RECENT UNITED STATES DECENNIAL CENSUS, THE ZONE IS TEN MILES TO THE NORTH, SOUTH AND WEST AND FOUR MILES TO THE EAST PARALLEL FROM THE CENTER OF THE MAIN RUNWAY OF A MILITARY AIRPORT.

(b) IN COUNTIES THAT HAVE A POPULATION OF MORE THAN FIVE HUNDRED THOUSAND BUT LESS THAN ONE MILLION TWO HUNDRED THOUSAND PERSONS ACCORDING TO THE MOST RECENT UNITED STATES DECENNIAL CENSUS, THE ZONE IS FOUR MILES TO THE NORTHWEST ALONG A LINE EXTENDING FROM THE END OF THE MAIN RUNWAY, ONE AND ONE-HALF MILES TO THE NORTHEAST AND SOUTHWEST PERPENDICULAR TO THE MAIN RUNWAY AND FIVE MILES TO THE SOUTHEAST ALONG A LINE EXTENDING FROM THE END OF THE MAIN RUNWAY OF A MILITARY AIRPORT.

(c) IN COUNTIES THAT HAVE A POPULATION OF FIVE HUNDRED THOUSAND PERSONS OR LESS ACCORDING TO THE MOST RECENT UNITED STATES DECENNIAL CENSUS, THE ZONE IS FIVE MILES TO THE NORTH, SOUTH AND WEST AND TEN MILES TO THE EAST OF THE CENTER OF THE MAIN RUNWAY OF A MILITARY AIRPORT.

~~10.~~ 12. "Tree" means an object of natural growth.

Sec. 295. Section 28-8481, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-8481. <u>Planning and zoning; military airport operation compatibility</u>

A. A political subdivision with territory in the vicinity of a military airport shall adopt land use plans and adopt and enforce zoning regulations to assure development compatible with the high noise and accident potential generated by military airport operations that have or may have an adverse effect on public health and safety.

B. A POLITICAL SUBDIVISION THAT HAS TERRITORY IN THE VICINITY OF A MILITARY AIRPORT SHALL INCORPORATE SOUND ATTENUATION STANDARDS PURSUANT TO SECTION 28-8482 INTO ANY BUILDING CODE IN EXISTENCE ON OR ADOPTED AFTER JULY 13, 1995 FOR ALL DEVELOPMENT ON PROPERTY ON WHICH THE DAY-NIGHT AVERAGE SOUND LEVEL IS SIXTY-FIVE DECIBELS OR HIGHER.

~~B.~~ C. A political subdivision shall adopt, administer and enforce the zoning regulations authorized by subsection A OF THIS SECTION in the same manner as the comprehensive zoning ordinance of the political subdivision as provided by law, except that a variance shall not be granted without a specific finding that the purpose of military airport compatibility is preserved.

~~C.~~ D. This section does not affect the existing authority of a political subdivision to plan and zone on the basis of noise or accident potential in the vicinity of an airport owned or controlled by the political subdivision.

~~D.~~ E. A political subdivision shall notify a property owner who would be impacted by a high noise and accident potential zone identified by the land use plan or zoning regulations. The political subdivision shall send both:

1. A notice by first class mail to the property owner at the address shown on the records of the county assessor thirty days before final approval of the change in the land use plan or zoning regulation.

2. A notice by first class mail immediately following the final approval of such a change in the plan or regulation.

~~E.~~ F. The property owner described in subsection ~~D~~ E OF THIS SECTION shall notify potential purchasers of the property and any potential lessees or renters of the impact described in subsection ~~D~~ E OF THIS SECTION.

Sec. 296. Title 28, chapter 25, article 7, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended by adding sections 28-8482, 28-8483, and 28-8484, to read:

28-8482. Incorporation of sound attenuation standards in building codes

A. A POLITICAL SUBDIVISION THAT HAS TERRITORY IN THE VICINITY OF A MILITARY AIRPORT SHALL INCORPORATE THE SOUND ATTENUATION STANDARDS AND SPECIFICATIONS PRESCRIBED IN THIS SECTION INTO ANY BUILDING CODE IN EXISTENCE ON OR ADOPTED AFTER JULY 13, 1995. THESE STANDARDS AND SPECIFICATIONS APPLY TO NEW DEVELOPMENT AND ALTERATIONS FOR FIRST OCCUPANCY AFTER OCTOBER 1, 1996 THAT ARE LOCATED ON PROPERTY ON WHICH THE DAY-NIGHT AVERAGE SOUND LEVEL IS SIXTY-FIVE DECIBELS OR HIGHER.

B. NOT LATER THAN JULY 1, 1996, A POLITICAL SUBDIVISION THAT HAS TERRITORY IN THE VICINITY OF A MILITARY AIRPORT ON WHICH THE DAY-NIGHT AVERAGE SOUND LEVEL IS SIXTY-FIVE DECIBELS OR HIGHER SHALL ADOPT AN ORDINANCE THAT REQUIRES A NOISE LEVEL REDUCTION TO BE INCORPORATED IN THE DESIGN AND CONSTRUCTION OF ANY BUILDING FOR FIRST OCCUPANCY AFTER OCTOBER 1, 1996 IN ORDER TO ACHIEVE A MAXIMUM INTERIOR NOISE LEVEL OF FORTY-FIVE DECIBELS. A SOUND ATTENUATION ORDINANCE ADOPTED BY A POLITICAL SUBDIVISION PURSUANT TO THIS SUBSECTION SHALL NOT REQUIRE A MAXIMUM INTERIOR NOISE LEVEL THAT IS LESS THAN THE MAXIMUM INTERIOR NOISE LEVEL REQUIRED BY THIS SUBSECTION.

C. THE SOUND ATTENUATION REQUIREMENTS OF THIS SECTION DO NOT APPLY TO ANCILLARY BUILDINGS USED IN AGRICULTURAL LAND USE.

D. IF THE GROSS FLOOR AREA OF A STRUCTURE OR PROJECT IS EXPANDED BY LESS THAN FIFTY PER CENT, THE REQUIREMENTS OF THIS SECTION APPLY ONLY TO THE AREA OF EXPANSION. IF THE GROSS FLOOR AREA OF A STRUCTURE OR PROJECT IS EXPANDED BY FIFTY PER CENT OR MORE, THE REQUIREMENTS OF THIS SECTION APPLY TO THE ENTIRE STRUCTURE, EXCEPT FOR SINGLE FAMILY, MOBILE HOME, MANUFACTURED

1 HOUSING UNIT OR DUPLEX DWELLINGS OR ANY MULTIFAMILY PROPERTY USED FOR
2 RESIDENTIAL PURPOSES.
3 E. TO COMPLY WITH THIS SECTION, POLITICAL SUBDIVISIONS LOCATED IN A
4 COUNTY WITH A POPULATION OF:
5 1. ONE MILLION TWO HUNDRED THOUSAND OR MORE PERSONS ACCORDING TO THE
6 MOST RECENT UNITED STATES DECENNIAL CENSUS SHALL USE THE 1988 NOISE CONTOURS
7 DEVELOPED AND RECOGNIZED BY THE REGIONAL PLANNING AGENCY IN THAT COUNTY.
8 2. LESS THAN ONE MILLION TWO HUNDRED THOUSAND PERSONS SHALL USE THE
9 MOST RECENT AIR INSTALLATION COMPATIBLE USE ZONE REPORT RECOGNIZED BY THE
10 MILITARY AIRPORT AND POLITICAL SUBDIVISIONS IN THAT COUNTY ON JULY 13, 1995.
11 28-8483. Registry of military airport flight operations; public
12 inspection
13 A. THE STATE REAL ESTATE DEPARTMENT AND POLITICAL SUBDIVISIONS THAT
14 HAVE TERRITORY IN THE VICINITY OF A MILITARY AIRPORT SHALL REQUEST FROM THE
15 MILITARY AIRPORTS IN THIS STATE A REGISTARY OF INFORMATION INCLUDING MAPS OF
16 MILITARY FLIGHT OPERATIONS AND A LIST OF CONTACT PERSONS AT EACH MILITARY
17 AIRPORT WHO ARE KNOWLEDGEABLE ABOUT THE IMPACTS OF MILITARY FLIGHT
18 OPERATIONS. THE STATE REAL ESTATE DEPARTMENT SHALL MAINTAIN THE REGISTRY AND
19 MAKE THE REGISTRY AVAILABLE TO THE PUBLIC ON REQUEST.
20 B. THE REGISTRY OF INFORMATION REQUIRED BY THIS SECTION SHALL BE USED
21 TO ENFORCE THE SOUND ATTENUATION AND PUBLIC DISCLOSURE REQUIREMENTS OF
22 SECTIONS 28-8481 AND 28-8482.
23 28-8484. Military airport disclosure; residential property
24 A. ANY TRANSFER OF RESIDENTIAL REAL PROPERTY, AND ANY TRANSFER OF
25 RESIDENTIAL REAL PROPERTY REQUIRING A PUBLIC REPORT PURSUANT TO SECTION
26 32-2181 OR 32-2195, THAT IS LOCATED WITHIN TERRITORY IN THE VICINITY OF A
27 MILITARY AIRPORT SHALL INCLUDE A STATEMENT THAT THE PROPERTY IS LOCATED
28 WITHIN TERRITORY IN THE VICINITY OF A MILITARY AIRPORT.
29 B. ON OR BEFORE DECEMBER 31, 1996, AND AT LEAST EVERY TWO YEARS
30 THEREAFTER, THE STATE REAL ESTATE DEPARTMENT SHALL CAUSE A DOCUMENT SETTING
31 FORTH THE LEGAL DESCRIPTIONS OF REAL PROPERTY LOCATED WITHIN TERRITORY IN THE
32 VICINITY OF A MILITARY AIRPORT TO BE COMPILED IN THE OFFICE OF THE COUNTY
33 RECORDER IN EVERY COUNTY IN WHICH THIS REAL PROPERTY IS LOCATED.
34 Sec. 297. Section 28-8521, Arizona Revised Statutes, as added by Laws
35 1995, chapter 132, section 3, is amended to read:
36 28-8521. Joint powers airport authority; agreement; board of
37 directors
38 A. In connection with the closing of a military facility, two or more
39 cities, towns, INDIAN TRIBES or counties may enter into an agreement to
40 establish a joint powers airport authority. A board of directors shall
41 operate and govern the airport authority. The board of directors is composed
42 of persons appointed by the governing body of the cities, towns, INDIAN
43 TRIBES or counties that are members of the airport authority.
44 B. The agreement pursuant to this section shall specify the following:

1. The property to be owned and operated by the airport authority.
2. The appointment of members to the board of directors by each member of the airport authority.
3. The voting method of the board of directors, including whether the board members will have weighted or equal voting.
4. The method for adoption of the airport authority's annual operating budget by the members of the airport authority and the proportion of the airport authority's annual operating budget to be provided by each member, including any adjustment to the proportion if a member withdraws from the airport authority or another city, town, INDIAN TRIBE or county subsequently joins the airport authority.
5. Termination of the airport authority and the disposal of property and indebtedness on the termination of the airport authority.
6. Procedures for withdrawals from and admissions to membership in the airport authority.
7. Amendments or modifications to the agreement.
8. The airport authority's fiscal year.
9. Other terms as the members of the airport authority deem necessary, appropriate or convenient.

C. The chairperson of the board of directors of the airport authority shall annually present a report of the activities of the airport authority to the house of representatives ways and means committee and the senate finance committee or their successor committees.

Sec. 298. Section 28-8526, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 3, is amended to read:

28-8526. Joint powers airport authority; admission

A. On written request to the current members of the joint powers airport authority and on the approval, in the manner specified in the agreement described in section 28-8521, of the current members of the joint powers airport authority before the adoption of the airport authority's operating budget for the next fiscal year but not before the operating budget is recommended by the board of directors, a city, town, INDIAN TRIBE or county may be admitted to the airport authority.

B. Membership is effective on the receipt of the required approval.

Sec. 299. Section 41-1830.11, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 6, is amended to read:

41-1830.11. Law enforcement merit system council; composition

A. The governor shall appoint a law enforcement merit system council. The council consists of three persons chosen on the basis of experience in and sympathy with merit principles of public employment. The members of the council shall not have held elective public office within one year before appointment and shall not hold any other political office while serving on the council.

B. The governor shall fill a vacancy on the same basis as the original appointment.

C. Members of the council are not eligible to receive compensation for their services BUT ARE ELIGIBLE TO RECEIVE REIMBURSEMENT OF EXPENSES PURSUANT TO TITLE 38, CHAPTER 4, ARTICLE 2.

D. A member serves for a term of six years. The governor may remove a member only for cause.

E. The chairman of the council serves as an ex officio member of the state personnel board without voting privileges.

Sec. 300. Section 41-1830.12, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 6, is amended to read:

41-1830.12. Law enforcement merit system council; duties; authority; rules; business manager

A. The law enforcement merit system council shall:

1. Select a chairman and ~~secretary~~ VICE-CHAIRMAN.

2. Hold meetings necessary to perform its duties on THE call of the chairman.

3. Pursuant to recognized merit principles of public employment~~, periodically~~ ADOPT RULES IT DEEMS NECESSARY FOR ESTABLISHING:

(a) ~~Classify or reclassify~~ A CLASSIFICATION AND COMPENSATION PLAN FOR all COVERED positions in the department of public safety AND ESTABLISHING STANDARDS AND QUALIFICATIONS FOR ALL CLASSIFIED POSITIONS from a list of necessary employees prepared by the director of the department of public safety.

~~(b) Establish standards and qualifications for all classified positions.~~

~~(c)~~ (b) ~~Provide~~ A plan for fair and impartial selection, appointment, PROBATION, PROMOTION, retention and separation or removal from service by resignation, retirement, REDUCTION IN FORCE or dismissal of all classified employees.

(c) A PERFORMANCE APPRAISAL SYSTEM FOR EVALUATING THE WORK PERFORMANCE OF EMPLOYEES OF THE DEPARTMENT OF PUBLIC SAFETY.

(d) PROCEDURES FOR THE CONDUCT OF HEARINGS OF EMPLOYEE GRIEVANCES BROUGHT BEFORE THE COUNCIL RELATING TO CLASSIFICATION, COMPENSATION AND THE EMPLOYEE APPRAISAL SYSTEM.

(e) PROCEDURES FOR THE CONDUCT OF HEARINGS ON APPEALS FROM AN ORDER OF THE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY IN CONNECTION WITH SUSPENSION, DEMOTION, REDUCTION IN PAY, LOSS OF ACCRUED LEAVE TIME OR DISMISSAL OF A CLASSIFIED EMPLOYEE.

4. Adopt rules for hours of employment, annual and sick leave and special leaves of absence, with or without pay or with reduced pay.

5. Pursuant to recognized merit principles, hear and review appeals from any order of the director of the department of public safety in connection with suspension, demotion, REDUCTION IN PAY, LOSS OF ACCRUED LEAVE

TIME or dismissal of a classified employee. The council's determination is final, except on appeal as provided in section 41-1830.13.

~~6. Prepare an annual recommendation to the legislature and joint legislative budget committee of a salary plan and adjustments to the plan for employees subject to the jurisdiction of the law enforcement merit system council. The council shall make the recommendation on or before December 1 of each year. The council shall transmit the recommendation to the legislature and joint legislative budget committee through the department of administration.~~

B. The council may meet with the state personnel board to discuss matters of mutual concern.

C. The rules provided under subsection A, paragraph 4 of this section shall provide for the transfer of accumulated annual leave from one employee to another employee in the ~~same agency~~ DEPARTMENT OF PUBLIC SAFETY. The transfers may occur if the employee to whom the leave is transferred has a seriously incapacitating and extended illness or injury that is not job related or a member of the employee's immediate family has a seriously incapacitating and extended illness or injury and the employee has exhausted all available leave balances. Transferred annual leave shall be increased or reduced proportionally by the difference in the salaries of the employees as determined by a rule of the council.

D. THE COUNCIL SHALL SELECT AND THE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY SHALL APPOINT A BUSINESS MANAGER WHO IS A CERTIFIED PEACE OFFICER AND AN EMPLOYEE OF THE DEPARTMENT OF PUBLIC SAFETY BUT IS NOT A MEMBER OF THE COUNCIL. THE BUSINESS MANAGER SHALL PERFORM AND DISCHARGE ALL OF THE POWERS AND DUTIES THAT ARE VESTED IN THE COUNCIL, EXCEPT THAT ADOPTION OF RULES, CREATION AND ADJUSTMENT OF CLASSIFICATIONS AND GRADES, COMPENSATION AND HEARING APPEALS FOR DISMISSAL, DEMOTION, REDUCTION IN PAY, SUSPENSIONS OR OTHER PUNITIVE ACTION REMAIN THE DUTY OF THE COUNCIL. ANY POWER OR DUTY THAT THE COUNCIL MAY LAWFULLY DELEGATE TO THE BUSINESS MANAGER IS CONCLUSIVELY PRESUMED TO HAVE BEEN DELEGATED TO THE BUSINESS MANAGER UNLESS IT IS SHOWN THAT THE COUNCIL BY AN AFFIRMATIVE VOTE RECORDED IN ITS MINUTES HAS SPECIFICALLY RESERVED THE POWER OR DUTY TO ITSELF. AT THE REQUEST OF THE COUNCIL, THE BUSINESS MANAGER MAY MAKE INQUIRIES REGARDING OR INVESTIGATE INFRACTIONS OF COUNCIL RULES WITHIN THE DEPARTMENT OF PUBLIC SAFETY. THE BUSINESS MANAGER SHALL REPORT THE RESULT OF THE INQUIRY OR INVESTIGATION TO THE COUNCIL FOR APPROPRIATE ACTION. THE BUSINESS MANAGER MAY DELEGATE THE BUSINESS MANAGER'S POWERS AND DUTIES TO THE BUSINESS MANAGER'S SUBORDINATES UNLESS BY COUNCIL RULE OR EXPRESS PROVISION OF LAW THE BUSINESS MANAGER IS SPECIFICALLY REQUIRED TO ACT PERSONALLY.

Sec. 301. Section 41-1830.13, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 6, is amended to read:

41-1830.13. Appeal right; reinstatement

A. A classified employee who is suspended, IS demoted, HAS PAY REDUCED, LOSES ACCRUED LEAVE TIME or IS dismissed pursuant to this article, after a fair hearing and review before the law enforcement merit system council and confirmation of the suspension, demotion, REDUCTION IN PAY, LOSS OF ACCRUED LEAVE TIME or dismissal by the ~~agency head~~ DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY, may appeal the FINAL determination of the council pursuant to title 12, chapter 7, article 6.

B. IN ADDITION TO THE TRIAL COURT'S POWERS AS PRESCRIBED IN SECTION 12-911, if the court overrules the determination of the council, the employee shall be reinstated in ~~his~~ THE EMPLOYEE'S position and THE EMPLOYEE shall receive full compensation for any salary withheld pending the determination by the council and court.

Sec. 302. Title 41, chapter 12, article 10, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 6, is amended by adding section 41-1830.15, to read:

41-1830.15. Causes for dismissal or discipline; definitions

A. THE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY MAY DISMISS OR DISCIPLINE ANY CLASSIFIED EMPLOYEE BASED ON ANY OF THE FOLLOWING CAUSES:

1. FRAUD OR MISREPRESENTATION IN SECURING EMPLOYMENT.
2. INCOMPETENCY.
3. INEFFICIENCY.
4. INEXCUSABLE NEGLECT OF DUTY OR UNAUTHORIZED ABSENCE.
5. INSUBORDINATION.
6. DISHONESTY.
7. PHYSICAL OR MENTAL DISABILITY SUBJECT TO THE PROVISIONS OF THE AMERICANS WITH DISABILITIES ACT OF 1990 (42 UNITED STATES CODE SECTIONS 12101 THROUGH 12213).
8. UNAUTHORIZED DRINKING ON DUTY OR DRUNKENNESS ON DUTY.
9. BEING IMPAIRED BY ALCOHOL OR DRUGS, AS PROVIDED IN TITLE 13, CHAPTER 34, WHILE ON DUTY.
10. COMMISSION OF ANY CRIME CLASSIFIED AS A FELONY.
11. DISCOURTEOUS TREATMENT OF THE PUBLIC OR OTHER EMPLOYEES.
12. COMMISSION OF ANY CRIME INVOLVING MORAL TURPITUDE.
13. IMPROPER POLITICAL ACTIVITY AS PROSCRIBED IN SECTION 41-772.
14. MISUSE OR UNAUTHORIZED USE OF STATE PROPERTY.
15. ADDICTION TO THE ILLEGAL USE OF A NARCOTIC OR DANGEROUS DRUG.
16. ANY OTHER FAILURE OF GOOD BEHAVIOR OR ACTS EITHER DURING OR OUTSIDE OF DUTY HOURS THAT ARE INCOMPATIBLE WITH OR INIMICAL TO THE INTEREST OF THE DEPARTMENT OF PUBLIC SAFETY.

B. FOR THE PURPOSES OF THIS SECTION:

1. "INCOMPETENCY" MEANS THE LACK OF ABILITY OR JUDGMENT, LEGAL QUALIFICATIONS OR FITNESS TO DISCHARGE REQUIRED DUTIES.

2. "INEFFICIENCY" MEANS THE FAILURE TO PRODUCE AS REQUIRED FOR REASONS OTHER THAN INCOMPETENCY.

Sec. 303. Section 48-5301, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 7, is amended to read:

48-5301. Definitions

In this chapter, unless the context otherwise requires:

1. "Arterial street or highway" means a street or highway that is used primarily for through traffic such that vehicular traffic from intersecting streets and highways is required by law to stop or yield before entering or crossing the street or highway.

2. "Authority" means a regional transportation authority organized under this chapter.

3. "Board" means the board of directors of a regional transportation authority established pursuant to section 48-5303.

4. "Controlled access highway" has the same meaning prescribed in section ~~28-2001~~ 28-601.

5. "County" means a county with a population of more than four hundred thousand but less than one million two hundred thousand persons.

6. "Fiscal agent" means a bank or trust company authorized to do business in this state or the county treasurer as designated by the board.

7. "Municipality" means an incorporated city or town.

8. "Population" means the population determined in the most recent United States decennial census or the most recent special census as provided in section 28-6532.

9. "Public transportation" means local transportation of passengers by means of a public conveyance, including para-transit.

Sec. 304. Section 48-5309, Arizona Revised Statutes, as added by Laws 1995, chapter 132, section 7, is amended to read:

48-5309. Planning; definition

A. The authority shall develop a ten year regional transportation plan for implementation that is financed by a transportation excise tax approved pursuant to section 42-1483 and bonds issued pursuant to sections 48-5341 through 48-5347. The ten year regional transportation plan:

1. Shall include a public transportation component.

2. May:

(a) Define and identify regional transportation corridors.

(b) Define the transportation problems, goals and needs for each corridor.

(c) Determine environmental, economic, energy and social policies to guide transportation investment decisions.

(d) Determine the impact of the plan on air quality, with one of the goals of the plan being the improvement of air quality.

(e) Order the priority of regional transportation corridors for development.

(f) Determine the mix of alternative transportation modes appropriate for development in light of the transportation goals and needs foR each corridor, including sidewalks, rail service, buses, vans, para-transit, park and ride lots, bicycle facilities and any other facility or service reasonably related to transportation.

(g) Select appropriate public transportation technology.

(h) Determine the capacity for exclusive public transportation technologies.

(i) Determine operating performance criteria and costs for public transportation systems.

(j) Locate routes and access points to the public transportation systems.

(k) Determine the ridership of public transportation systems.

(l) Determine the need for landscape buffers, noise barriers, pedestrian bypasses, multi-use paths and other environmental impact mitigation measures relating to the regional transportation plan.

B. A ten year regional transportation plan that is approved by a majority of the qualified electors voting on submission of the plan adopted by the regional planning agency may not be amended to add or delete an element or substantially change an element without prior approval of the electorate at a general or special election. Voter approval of an amendment or a substantial change shall be sought pursuant to subsection F of this section.

C. The prior approval of the electorate required by subsection B of this section is waived if a political subdivision causing changes within its jurisdiction to the ten year regional transportation plan incurs the incremental costs of implementing the proposed changes.

D. Within the time intervals specified by this subsection from the date of approval of a transportation excise tax as provided in section 42-1483, the regional transportation authority shall not distribute from the aggregate of transportation excise tax monies received at any time by the regional transportation fund an amount of monies that exceeds the percentage share of the transportation excise tax approved by a majority of the qualified electors voting for a transportation element of the ten year regional transportation plan by a relative percentage in excess of the percentage specified for the following time intervals:

1. Three years or less, fifteen per cent.
2. More than three years but not more than five years, ten per cent.
3. More than five years but not more than seven years, five per cent.
4. More than seven years but not more than nine years, two per cent.
5. More than nine years but not more than ten years, zero per cent.

E. The proposition for a revised ten year expenditure plan considered at an election held pursuant to subsection F of this section shall adhere to the format applicable to the ballot proposition approved by a majority of the qualified electors voting on the initial ten year expenditure plan.

F. If one or more of the conditions specified by subsection ~~H~~ G of this section occur, the board of the authority shall request the county board of supervisors to provide a ballot proposition for consideration of a revised ten year expenditure plan on or before the date of the next general election. If the board of supervisors fails to provide the proposition at the next general election or if a majority of the qualified electors voting at the election does not approve a proposition for a revised ten year regional transportation plan, expenditures authorized pursuant to section 48-5308, subsection C, except those obligated as of the date of the general election, are prohibited.

G. In this section, "substantial change" means a change that, based on data in the transportation improvement program developed pursuant to section 48-5304, paragraph 3, results in one or more of the following conditions:

1. A present worth of estimated expenditures required to complete all elements of the ten year regional transportation plan that exceeds the present worth of estimated revenues available to the regional transportation authority fund during the comparable period by ten per cent or more, except that estimated revenues from bond proceeds, if any, shall not exceed the bond capacity, less associated expenses, supported by estimates of unencumbered revenues for the initial ten years of authorization for the transportation excise tax. The preceding five year average of the GDP price deflator as defined in section 41-563 shall be used to discount the respective series of estimated revenues and expenditures to a present worth.

2. An estimated cost to complete one or more elements of the ten year regional transportation plan as approved by a majority of the qualified electors voting that exceeds the expenditure limitations of the ten year regional transportation plan as adjusted by the GDP price deflator as defined in section 41-563 by the following or greater percentages:

(a) Ten per cent for a single element of the plan.

(b) Fifteen per cent for any two elements of the plan.

(c) Twenty per cent for three or more elements of the plan.

Sec. 305. Laws 1995, chapter 132, section 8 is amended to read:

Sec. 8. Legislative findings

The legislature finds that:

1. The public safety necessitates the continuous development, modernization and implementation of standards and requirements of law relating to vehicle equipment in accordance with expert knowledge and opinion.

2. The public safety further requires that the standards and requirements be uniform from jurisdiction to jurisdiction, except to the extent that specific and compelling evidence supports variation.

3. The director of the department of transportation acting on recommendations of the vehicle equipment safety commission and pursuant to the vehicle equipment safety compact provides a just, equitable and orderly means of promoting the public safety in the manner and within the scope contemplated by title 28, chapter ~~7~~ 6, article ~~2~~ 1, Arizona Revised Statutes.

Sec. 306. Laws 1995, chapter 132, section 12 is amended to read:

Sec. 12. Delayed effective date

This act is effective from and after ~~December 31, 1996~~ SEPTEMBER 30, 1997.

Sec. 307. Laws 1995, chapter 147, section 23 is amended to read:

Sec. 23. Conditional enactment

This act is effective from and after ~~December 31, 1996~~ SEPTEMBER 30, 1997 but only if Senate Bill 1364, forty-second legislature, first regular session, relating to transportation, is enacted into law.

Sec. 308. Retention of members

All persons serving as members of a board, council, committee or commission established pursuant to title 2, 18 or 28, Arizona Revised Statutes, as repealed by Laws 1995, chapter 132, section 1, on the effective date of Laws 1995, chapter 132 may continue to serve until expiration of their normal terms.

Sec. 309. Retention of rules; administrative actions

A. All rules adopted pursuant to title 2, 18 or 28, Arizona Revised Statutes, as repealed by Laws 1995, chapter 132, section 1, in effect on the effective date of Laws 1995, chapter 132 remain in full force and effect until amended by the adopting agency.

B. All pending or taken administrative actions, including cancellation, suspension, revocation of any license or registration, pursuant to title 2, 18 or 28, Arizona Revised Statutes, as repealed by Laws 1995, chapter 132, section 1, in effect before the effective date of Laws 1995, chapter 132 remain in full force and effect. Pending actions are continued without filing separate actions.

Sec. 310. Conditional enactment

Section 28-2294, Arizona Revised Statutes, as amended by this act, does not become effective from and after September 30, 1997 unless the legislature of the State of California enacts into law a provision that is similar to the provision contained in section 28-2294, Arizona Revised Statutes, as amended by this act, and that expands the corridor to seventy miles in which a nonresident daily commuter from a contiguous state may commute into the State of California and be eligible for an exemption from the State of California's vehicle registration requirements.

1 Sec. 311. Conforming legislation
2 The legislative council staff shall prepare proposed legislation
3 conforming the Arizona Revised Statutes to the provisions of this act and
4 Laws 1995, chapter 132 for consideration in the forty-third legislature,
5 first regular session.
6 Sec. 312. Delayed effective date
7 This act is effective from and after September 30, 1997.

APPROVED BY THE GOVERNOR APRIL 2, 1996.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 2, 1996.