

State of Arizona
House of Representatives
Forty-fifth Legislature
First Regular Session
2001

CHAPTER 107

HOUSE BILL 2056

AN ACT

AMENDING SECTIONS 28-4362, 28-4404, 28-4405, 28-4406, 28-4498, 28-4499, 28-4500, 28-4538, 28-4554, 28-5002, 28-5010, 28-5105, 28-5106 AND 28-8382, ARIZONA REVISED STATUTES; RELATING TO LICENSED VEHICLE DEALERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 28-4362, Arizona Revised Statutes, is amended to
3 read:

4 28-4362. Application; fee; bond

5 Applications shall be accompanied by:

6 1. The filing fees prescribed in section 28-4302, and each licensee
7 shall pay the annual license fee prescribed in section 28-4302.

8 2. A bond that:

9 (a) Is in a form to be approved by the director.

10 (b) Is in an amount prescribed by the director of at least twenty
11 thousand dollars for an automotive recycler's license and not more than fifty
12 ONE HUNDRED thousand dollars for all other licenses.

13 (c) Is executed by a surety company authorized to transact business
14 in this state as surety on the bond with the applicant as principal obligor
15 on the bond and the state as obligee.

16 (d) Is cancellable only on at least sixty days' prior notice to the
17 director.

18 (e) Inures to the benefit of a person who suffers loss because of
19 either:

20 (i) Nonpayment by the dealer of customer prepaid title, registration
21 or other related fees or taxes.

22 (ii) The automotive recycler's or the dealer's failure to deliver in
23 conjunction with the sale of a vehicle a valid vehicle title certificate free
24 and clear of any prior owner's interests and all liens except a lien created
25 by or expressly assumed in writing by the buyer of the vehicle.

26 Sec. 2. Section 28-4404, Arizona Revised Statutes, is amended to read:
27 28-4404. Record requirements; vehicles and parts;

28 classification

29 A. Each licensee shall keep and maintain at the licensee's place of
30 business, or at each of the licensee's places of business if the licensee has
31 more than one, a permanent record in a form prescribed by the director as
32 follows:

33 1. Recording and describing each of the following:

34 (a) Each vehicle that is wrecked, dismantled, disassembled or
35 substantially altered by the licensee.

36 (b) Each major component part that is acquired by the licensee
37 together with a bill of sale signed by a seller whose identity has been
38 verified and the name and address of the person, firm or corporation from
39 which the licensee purchased the vehicle or part.

40 (c) The following information regarding the wrecked or acquired
41 vehicle that is the source of a major component part:

42 (i) If previously titled in this or any other state, the certificate
43 of title number.

44 (ii) The name of the state where last registered.

45 (iii) The number of the last license plate issued.

- 1 (iv) The make and model of the vehicle.
- 2 (v) The identification number and serial number of the vehicle.
- 3 (vi) The date purchased.
- 4 (vii) The disposition of the chassis.
- 5 (viii) The name and address of the person from whom a motor vehicle,
- 6 motor vehicle body or motor vehicle chassis was purchased or otherwise
- 7 acquired and the date of the purchase.

- 8 (ix) The name and address of the person to whom the motor vehicle,
- 9 motor vehicle body or motor vehicle chassis was sold or otherwise disposed
- 10 of, the date of the sale and a description of the vehicle, body or chassis
- 11 by make and model or identification number.

12 2. Including a bill of sale signed by the seller for any motor vehicle

13 parts other than major component parts acquired by the licensee, identifying

14 the seller by name, address and date of sale.

15 B. The licensee shall maintain the record at the licensee's

16 established place of business or principal place of business if the licensee

17 is a broker or a wholesale motor vehicle dealer for a period of three years

18 from the date of acquiring each item recorded.

19 C. ~~Members of a police department, a sheriff's office,~~ AUTHORIZED

20 REPRESENTATIVES OF the department of transportation and the department of

21 public safety OR ANY LAW ENFORCEMENT AGENCY may inspect the record kept by

22 the licensee at any time during regular business hours.

23 D. An automotive recycler shall maintain a similar record of all

24 disabled vehicles that have been towed or transported to the automotive

25 recycler's place of business or to other places designated by the owner of

26 the vehicle or the owner's representative. This record shall specify the

27 make, model and description of the vehicle, name of the owner, number of the

28 license plate, condition of the vehicle and place to which it was towed or

29 transported.

30 E. Each licensee shall allow any person described in subsection C,

31 during business hours and after reasonable demand, to physically compare the

32 records required to be maintained with the vehicles or major component parts

33 that are located at the licensee's place of business.

34 F. After reasonable demand by a person under subsection C or E, a

35 person who fails to display the records required to be maintained is guilty

36 of a class 1 misdemeanor.

37 Sec. 3. Section 28-4405, Arizona Revised Statutes, is amended to read:

38 28-4405. Display of license; continuation date; late penalty

- 39 A. A license issued under this chapter:
 - 40 1. Shall be conspicuously displayed in either:
 - 41 (a) The established place of business for which it was obtained.
 - 42 (b) The place of business if the licensee is a ~~motor vehicle dealer~~
 - 43 ~~in mobile medical clinics,~~ a broker or a wholesale vehicle dealer.
 - 44 2. Is not assignable TRANSFERABLE OR SUBJECT TO SALE OR REASSIGNMENT.

1 B. The director may issue licenses with staggered continuation dates
2 to distribute the continuation workload as uniformly as practicable
3 throughout the twelve months of the calendar year. In order to initiate a
4 staggered license continuation system, the director may issue a license for
5 more or less than a twelve month period, but not more than eighteen months,
6 and may prorate the license fee.

7 C. If a licensee fails, neglects or refuses to pay the required fee
8 for the ensuing year on or before the license continuation date, the fee is
9 delinquent and a penalty equal to the fee shall be added to the fee and
10 collected.

11 Sec. 4. Section 28-4406, Arizona Revised Statutes, is amended to read:
12 28-4406. Sign requirements

13 A. Each motor vehicle dealer and automotive recycler shall erect and
14 maintain at the entrance to the motor vehicle dealer's or automotive
15 recycler's established place of business a permanent sign indicating that the
16 business of a motor vehicle dealer or automotive recycler is conducted at or
17 from the premises. The sign shall be legible at a distance of at least three
18 hundred feet during daylight.

19 B. A wholesale motor vehicle dealer OR BROKER shall erect and maintain
20 at the entrance of the WHOLESALE MOTOR VEHICLE dealer's OR BROKER'S principal
21 place of business a permanent sign indicating that the business of a
22 wholesale motor vehicle dealer OR BROKER is conducted at or from the
23 premises.

24 Sec. 5. Section 28-4498, Arizona Revised Statutes, is amended to read:
25 28-4498. Licensed dealer and automotive recycler; cease and
26 desist order; request for hearing

27 A. If the director has reasonable cause to believe from an
28 investigation made by the director that a licensed motor vehicle dealer or
29 automotive recycler has violated or is violating a law of this state or rule
30 adopted by the department, the director may immediately issue and serve on
31 the person LICENSEE by personal delivery or certified mail at the business
32 address of record a cease and desist order requiring the person LICENSEE to
33 immediately cease and desist from further engaging in the business OR THE
34 PROHIBITED ACTIVITY, OR BOTH, on the receipt of the notice. A LICENSEE WHO
35 RECEIVES A CEASE AND DESIST ORDER MAY SUBMIT A WRITTEN REQUEST FOR A HEARING
36 TO THE DIRECTOR. THE LICENSEE SHALL SUBMIT THE REQUEST FOR A HEARING WITHIN
37 THIRTY DAYS AFTER THE LICENSEE RECEIVES THE CEASE AND DESIST ORDER. On
38 failure of a licensee to comply with the order OR AFTER A REQUESTED HEARING,
39 the director, ~~after a hearing,~~ may suspend or cancel the licensee's license
40 or permit pursuant to section 28-4493 and section 28-4494 or 28-4495 or may
41 take action pursuant to section 28-4496.

42 B. The director of the department of transportation shall provide a
43 copy of the cease and desist order to the director of the department of
44 revenue.

1 Sec. 6. Section 28-4499, Arizona Revised Statutes, is amended to read:
2 28-4499. Unlicensed dealer and automotive recycler; cease and
3 desist order; request for hearing

4 A. If the director has reasonable cause to believe from information
5 furnished to the director or from an investigation made by the director that
6 a person is engaged in a business regulated by this chapter without being
7 licensed as required by law, the director shall immediately issue and serve
8 on the person by personal delivery or certified mail at the person's last
9 known address a cease and desist order requiring the person to immediately
10 cease and desist from further engaging in the business. ~~On failure of the~~
11 ~~person to comply with the order, the director may conduct a hearing pursuant~~
12 ~~to section 28-4500.~~ A PERSON WHO RECEIVES A CEASE AND DESIST ORDER MAY
13 SUBMIT A WRITTEN REQUEST FOR A HEARING TO THE DIRECTOR. THE PERSON SHALL
14 SUBMIT THE REQUEST FOR A HEARING WITHIN THIRTY DAYS AFTER THE PERSON RECEIVES
15 THE CEASE AND DESIST ORDER.

16 B. The director of the department of transportation shall provide a
17 copy of the cease and desist order to the director of the department of
18 revenue.

19 Sec. 7. Section 28-4500, Arizona Revised Statutes, is amended to read:
20 28-4500. Unlicensed dealer and automotive recycler; hearing;
21 civil penalty; suspension of motor vehicle
22 registrations; reinstatement fee

23 A. The director may conduct a hearing pursuant to section 28-4491 if
24 an officer authorized to enforce this chapter alleges that a person refuses
25 or fails to comply with a cease and desist order issued pursuant to section
26 28-4499.

27 B. The director shall hold the hearing at least fifteen but not more
28 than thirty days after ~~service of a written notice~~ RECEIPT OF A WRITTEN
29 REQUEST FOR A HEARING. ~~The director shall send the notice by personal~~
30 ~~delivery or by certified mail to the address provided to the department in~~
31 ~~the report alleging the noncompliance.~~

32 C. A finding that a person is in violation of the dealer or automotive
33 recycler licensing requirements of this chapter requires that both of the
34 following conditions exist, and the scope of the hearing is limited to the
35 following:

36 1. A determination that the person refuses or fails to comply with a
37 cease and desist order issued pursuant to section 28-4499.

38 2. A determination that the person ~~ordered to appear~~ APPEARING at the
39 hearing is responsible for the violation.

40 D. If, after reviewing the allegations and results of the hearing, the
41 director determines that the person is in violation of the dealer or
42 automotive recycler licensing provisions of this chapter, the director may
43 ~~prescribe~~ IMPOSE a civil penalty pursuant to section 28-4501.

1 E. After consideration of the evidence presented at the hearing, the
2 director shall serve notice of the director's finding and order within five
3 days after the hearing.

4 F. Unless a continuance is granted, if a person who is alleged to be
5 in violation of the dealer or automotive recycler licensing provisions of
6 this chapter ~~and who has been notified by personal delivery or certified mail~~
7 fails to appear for a hearing, the director may suspend the registrations of
8 all motor vehicles owned and leased by the person. The director shall not
9 remove the suspension until the person appears for the hearing and pays a fee
10 of fifty dollars to the department for the reinstatement of each motor
11 vehicle registration and license plate.

12 Sec. 8. Section 28-4538, Arizona Revised Statutes, is amended to read:
13 28-4538. Suspension of dealer and manufacturer license plates

14 A. The department shall suspend the use of any or all of the dealer
15 license plates issued to a dealer for not more than three months if a dealer
16 violates section 28-4532, 28-4533, 28-4534, 28-4535 or 28-4536 or the rules
17 adopted under section 28-4537.

18 B. If the director finds that a manufacturer or licensed dealer
19 displays a manufacturer or dealer license plate that is provided pursuant to
20 section 28-4533, 28-4540 or 28-4544 on a work or service vehicle, a vehicle
21 used for private use or a vehicle for hire, the director may suspend, ~~after~~
22 ~~a hearing,~~ the right of the dealer or manufacturer to use the plate.

23 C. A MANUFACTURER OR LICENSED DEALER WHO RECEIVES A NOTICE OF
24 SUSPENSION PURSUANT TO SUBSECTION B OF THIS SECTION MAY SUBMIT A WRITTEN
25 REQUEST FOR A HEARING TO THE DIRECTOR. THE MANUFACTURER OR LICENSED DEALER
26 SHALL SUBMIT THE REQUEST FOR A HEARING WITHIN THIRTY DAYS AFTER THE
27 MANUFACTURER OR LICENSED DEALER RECEIVES THE NOTICE OF SUSPENSION.

28 Sec. 9. Section 28-4554, Arizona Revised Statutes, is amended to read:
29 28-4554. Suspension of issuance of temporary registration
30 plates

31 A. If the director finds that a dealer has not complied with sections
32 28-4546 through 28-4553 or the directions of the director, the director may
33 suspend, ~~after a hearing,~~ the right of the dealer to issue temporary
34 registration plates.

35 B. A DEALER WHO RECEIVES A NOTICE OF SUSPENSION MAY SUBMIT A WRITTEN
36 REQUEST FOR A HEARING TO THE DIRECTOR. THE DEALER SHALL SUBMIT THE REQUEST
37 FOR A HEARING WITHIN THIRTY DAYS AFTER THE DEALER RECEIVES THE NOTICE OF
38 SUSPENSION.

39 Sec. 10. Section 28-5002, Arizona Revised Statutes, is amended to
40 read:

41 28-5002. Requirements; violation; classification

42 A. A title service company shall not engage in business in this state
43 unless the company is licensed pursuant to this chapter. A title service
44 company that violates this subsection is guilty of a class 1 misdemeanor.

1 B. A person shall not engage in any business pursuant to this chapter
2 unless both:

- 3 1. It is from an established place of business.
4 2. The person has obtained a license from the director authorizing the
5 person to engage in the business.

6 C. A LICENSE ISSUED UNDER THIS CHAPTER:

7 1. SHALL BE CONSPICUOUSLY DISPLAYED IN THE ESTABLISHED PLACE OF
8 BUSINESS FOR WHICH IT WAS OBTAINED.

9 2. IS NOT TRANSFERABLE OR SUBJECT TO SALE OR REASSIGNMENT BY ANY
10 VOLUNTARY OR INVOLUNTARY PROCESS.

11 Sec. 11. Section 28-5010, Arizona Revised Statutes, is amended to
12 read:

13 28-5010. Record requirements

14 A. A title service company to which temporary registration plates are
15 issued shall maintain in permanent form a record of:

- 16 1. All temporary registration plates delivered to the company.
17 2. All temporary registration plates issued by the company.
18 3. All titles and registrations accepted for processing.
19 4. Any other information that the director requires.

20 B. The title service company shall:

- 21 1. Keep each record for at least three years from the date of its
22 entry.
23 2. Allow ~~full and free~~ access to the records during regular business
24 hours to authorized representatives of the director OR ANY LAW ENFORCEMENT
25 AGENCY.

26 Sec. 12. Section 28-5105, Arizona Revised Statutes, is amended to
27 read:

28 28-5105. Criminal records check; provisional authorization or
29 certification

30 A. An applicant, and each partner, officer, director or agent or each
31 stockholder owning twenty per cent or more of a corporation, seeking
32 authorization or certification, or both, pursuant to this article shall
33 provide:

34 1. A full set of fingerprints to the department of transportation for
35 the purpose of obtaining a state and federal criminal records check pursuant
36 to section 41-1750 and Public Law 92-544. The department of public safety
37 may exchange this fingerprint data with the federal bureau of investigation.

38 2. A nonrefundable fee to be paid to the department of public safety
39 for the criminal records check.

40 B. The director may deny an application for authorization or
41 certification, or both, if any individual included in the application has
42 either:

43 1. Made a misrepresentation or misstatement in the application to
44 conceal a matter that would cause the application to be denied.

1 2. Been convicted of fraud or an auto related felony in any state,
2 territory or possession of the United States or any foreign country within
3 the ten years immediately preceding the date the criminal records check is
4 complete.

5 3. Been convicted of a felony, other than a felony described in
6 paragraph 2 of this subsection, in a state, territory or possession of the
7 United States or a foreign country within the five years immediately
8 preceding the date the criminal records check is complete.

9 4. Violated a rule or policy of the department.

10 5. Been involved in any activity that the director determines to be
11 inappropriate in relation to the authority granted.

12 C. The director may approve an application for provisional
13 authorization or certification, or both, pending completion of the criminal
14 records check if the applicant meets all other requirements of this article.
15 The director may revoke a provisional authorization or certification, or
16 both, for a violation of this title. A provisional authorization or
17 certification, or both, is valid unless revoked by the director or until the
18 applicant receives approval or denial of the application for authorization
19 or certification, or both.

20 D. Within twenty days of completion of the criminal records check, the
21 director shall approve or deny the application. If the application is
22 denied, the director shall advise the applicant in writing of the denial and
23 the grounds for denial. The department or its employees are not liable for
24 any costs incurred by an applicant seeking authorization or certification,
25 or both, under this article.

26 E. Within thirty days after receipt of the notice of denial, the
27 applicant may petition the director in writing for a hearing on the
28 application pursuant to section 28-5107.

29 F. If the authorized third party adds a partner, officer, director or
30 agent, or a stockholder who owns twenty per cent or more of the corporation,
31 who was not included in the criminal records check on a prior application,
32 the authorized third party shall notify the department within thirty days of
33 the change.

34 G. At the time of notification pursuant to subsection F of this
35 section, the third party shall submit to the department of transportation an
36 application and, if applicable, a full set of fingerprints and the fee to be
37 paid to the department of public safety for a criminal records check. On
38 completion of the investigation if the individual added or changed by the
39 authorized third party is found to be ineligible pursuant to subsection B of
40 this section, the director of the department of transportation shall advise
41 the authorized third party and the individual in writing of the grounds for
42 the action and that the authorization will be revoked unless the individual
43 is removed from the position.

44 H. The requirement for a criminal records check does not apply to an
45 applicant who is seeking third party authorization and who is:

- 1 1. A department, agency or political subdivision of this state.
- 2 2. An Arizona court.
- 3 3. An Arizona law enforcement agency or department.
- 4 4. A financial institution or enterprise under the jurisdiction of the
- 5 state banking department or a federal monetary authority.
- 6 5. The federal government or any of its agencies.
- 7 6. A motor vehicle dealer that is licensed and bonded by the
- 8 department of transportation or a state organization of licensed and bonded
- 9 motor vehicle dealers.
- 10 7. A manufacturer, importer, factory branch or distributor licensed
- 11 by the department of transportation.
- 12 8. An insurer under the jurisdiction of the department of insurance.
- 13 9. An owner or registrant of a fleet ~~as defined in section 28-2201~~ OF
- 14 ONE HUNDRED OR MORE VEHICLES.
- 15 10. A public utility.
- 16 11. A tribal government.
- 17 12. A title service company that is bonded by the department of
- 18 transportation.
- 19 13. An employer or association that has at least five hundred employees
- 20 or members.

21 Sec. 13. Section 28-5106, Arizona Revised Statutes, is amended to
22 read:

23 28-5106. Records

24 A third party who is authorized pursuant to this article shall:

- 25 1. Maintain records in a form and manner prescribed by the director.
- 26 2. ~~Provide the director with~~ ALLOW access to the records during
- 27 regular business hours TO AUTHORIZED REPRESENTATIVES OF THE DIRECTOR OR ANY
- 28 LAW ENFORCEMENT AGENCY to ensure compliance with all applicable statutes and
- 29 rules.

30 Sec. 14. Section 28-8382, Arizona Revised Statutes, is amended to
31 read:

32 28-8382. License requirement; application; renewal; license
33 tax; liability

34 A. A person shall not act as an aircraft dealer without first
35 obtaining a license from the director that authorizes the person to engage
36 in the business of an aircraft dealer.

37 B. A person shall apply for a license on forms prescribed and
38 furnished OR AUTHORIZED by the director. The person shall submit with the
39 application any required documents and the bond or cash deposit prescribed
40 by section 28-8384. On approval of the application the director shall issue
41 the license.

42 C. A license issued to an aircraft dealer is valid for one year and
43 only for the person in whose name it is issued. The aircraft dealer:

- 44 1. Shall display the license conspicuously in the principal place of
- 45 business of the aircraft dealer.

- 1 2. Shall annually renew the license.
- 2 3. May not assign the license.
- 3 D. If an aircraft dealer changes the dealer's place of business, the
- 4 dealer shall notify the director in writing within ten days after the change.
- 5 E. In addition to any other penalties provided by statute, a person
- 6 who acts as an aircraft dealer without first obtaining a license is liable
- 7 for both:
- 8 1. The license tax imposed by section 28-8335 on aircraft owned by the
- 9 person or held by the person on consignment for sale or exchange.
- 10 2. Any transaction privilege tax or similar excise tax on the sale of
- 11 any aircraft sold, exchanged or brokered by the person that is not reported
- 12 and paid as required by law.

APPROVED BY THE GOVERNOR APRIL 11, 2001.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 12, 2001.

Passed the House February 14, 2001,

Passed the Senate April 2, 2001,

by the following vote: 58 Ayes,

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

1 Nays, 1 Not Voting

[Signature]
Speaker of the House

[Signature]
President of the Senate

[Signature]
Chief Clerk of the House

[Signature]
Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR**

This Bill was received by the Governor this

 day of , 20 ,

at o'clock M.

Secretary to the Governor

Approved this day of

 , 20 ,

at o'clock M.

Governor of Arizona

H.B. 2056

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE**

This Bill was received by the Secretary of State
this day of , 20 ,

at o'clock M.

Secretary of State

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

April 5, 2001,

by the following vote: 52 Ayes,

0 Nays, 8 Not Voting

Jake Flake
Speaker of the House
Pro Tempore
Norman L. Moore
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

6 day of April, 2001,

at 9:32 o'clock A M.

Vandra Gray
Secretary to the Governor

Approved this 11 day of

April, 2001,

at 8:38 o'clock P M.

Jane Dee Hull
Governor of Arizona

H.B. 2056

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 12 day of April, 2001,

at 3:36 o'clock P M.

Albey Rayen
Secretary of State