Conference Engrossed

FILED
JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
House of Representatives
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CHAPTER 205

HOUSE BILL 2345

AN ACT

AMENDING SECTIONS 28-3001, 28-3103, 28-3153, 28-3222, 28-3312 AND 28-5241, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 14, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-5243; AMENDING TITLE 28, CHAPTER 15, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-5474; AMENDING SECTION 28-6547, ARIZONA REVISED STATUTES; REPEALING LAWS 2003, CHAPTER 231; RELATING TO COMMERCIAL TRANSPORTATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 28-3001, Arizona Revised Statutes, is amended to read:

28-3001. Definitions

In this chapter, unless the context otherwise requires:

1. "Cancellation" means the annulment 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 sections 5101 through 5127) 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" HAS THE SAME MEANING PRESCRIBED IN SECTION 28-101 AND ALSO 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) 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, including theft of a motor vehicle pursuant to section 13-1802, unlawful use of means of transportation pursuant to section 13-1803 or theft of means of transportation pursuant to section 13-1814.

(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 place where a person has the person's principal establishment and to which, when the person is absent, the person intends to return.~~

~~7.~~ 6. "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.~~ 7. "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.~~ 8. "Foreign" means outside the United States.

~~10.~~ 9. "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.~~ 10. "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 28-1596.

~~12.~~ 11. "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 28-3101.

~~13.~~ 12. "Nonresident commercial driver license" means a commercial driver license issued to an individual domiciled in a foreign country.

~~14.~~ 13. "Original applicant" means any of the following:

(a) An applicant who has never been licensed or cannot provide evidence of licensing.

(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.~~ 14. "Revocation" means that the driver license and driver's privilege to drive a motor vehicle on the public 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.

15. "STATE OF DOMICILE" MEANS THE STATE OR JURISDICTION WHERE A PERSON HAS THE PERSON'S TRUE, FIXED AND PERMANENT HOME AND PRINCIPAL RESIDENCE AND TO WHICH THE PERSON HAS THE INTENTION OF RETURNING AFTER AN ABSENCE.

16. "Suspension" means that the driver license and driver's privilege to drive a motor vehicle on the public 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. 2. Section 28-3103, Arizona Revised Statutes, is amended to read:

28-3103. Driver license endorsements

A. A driver license applicant shall obtain the following endorsements to the applicant's driver license and shall submit to an examination appropriate to the type of endorsement if the applicant operates one or more of the following vehicles:

1. A motorcycle endorsement for operation of a motorcycle if the applicant qualifies for a class M license and if the applicant qualifies for or has a class A, B, C, D or G license.

2. A hazardous materials endorsement on a class A, B or C license for operation of a vehicle that transports hazardous materials, wastes or substances in a quantity and under circumstances that require the placarding or marking of the transport vehicle as required by the department's safety rules prescribed pursuant to chapter 14 of this title. The department or an outside source authorized by the department and approved by the transportation ~~safety~~ SECURITY administration may:

(a) Conduct background checks in accordance with the transportation ~~safety~~ SECURITY administration procedures.

(b) Require that all hazardous materials endorsement applicants submit fingerprints.

3. A double-triple trailer endorsement on a class A license for operation of a vehicle towing double or triple trailers.

4. A passenger vehicle endorsement on a class A, B or C license for operation of a bus designed to transport sixteen or more passengers, including the driver, or a school bus.

5. A tank vehicle endorsement on a class A, B or C license for operation of a tank vehicle. For the purposes of this paragraph, "tank vehicle" means a commercial motor vehicle that is designed to transport a liquid or gaseous material within a tank that is either permanently or temporarily attached to the vehicle or chassis, including a cargo tank and a portable tank and excluding a portable tank having a rated capacity under one thousand gallons.

6. A school bus endorsement on a class A, B or C license for operation of a school bus. Applicants shall successfully complete both a written knowledge test and a driving skills test to obtain a school bus endorsement.

B. When applying for a commercial driver license endorsement pursuant to article 5 of this chapter, the applicant shall successfully complete the skills portion of the examination in a motor vehicle or vehicle combination applicable to the endorsement.

C. ON NOTIFICATION BY THE TRANSPORTATION SECURITY ADMINISTRATION THAT AN INDIVIDUAL'S AUTHORIZATION TO HOLD A HAZARDOUS MATERIALS ENDORSEMENT HAS BEEN TERMINATED, THE DEPARTMENT SHALL IMMEDIATELY CANCEL THE HAZARDOUS MATERIALS ENDORSEMENT ON THE DRIVER'S COMMERCIAL DRIVER LICENSE.

Sec. 3. Section 28-3153, Arizona Revised Statutes, is amended to read:

28-3153. Driver license issuance; prohibitions

A. The department shall not issue the following:

1. A driver license to a person who is under eighteen years of age, except that the department may issue:

(a) A restricted instruction permit for a class D or G license to a person who is at least fifteen years of age.

(b) An instruction permit for a class D, G or M license as provided by this chapter to a person who is at least fifteen years and seven months of age.

(c) A class G or M license as provided by this chapter to a person who is at least sixteen years of age.

2. A class D, G 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, including theft of a motor vehicle pursuant to section 13-1802, unlawful use of means of transportation pursuant to section 13-1803 or theft of means of transportation pursuant to section 13-1814, 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, including theft of a motor vehicle pursuant to section 13-1802, unlawful use of means of transportation pursuant to section 13-1803 or theft of means of transportation pursuant to section 13-1814, if committed by an adult.

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.

4. A license to a person whose license or driving privilege has been suspended, during the suspension period.

5. Except as provided in section 28-3315, a license to a person whose license or driving privilege has been revoked.

6. A class A, B or C license to a person who has been disqualified from obtaining a commercial driver license.

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 28-3052 or submits a medical examination report that includes a current evaluation from a 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.

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 either a court order that allows the person to drive or a termination of incapacity as provided by law.

9. A license to a person who is required by this chapter to take an examination unless the person successfully passes the examination.

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.

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 25-518.

13. A CLASS A, B OR C LICENSE TO A PERSON WHOSE LICENSE OR DRIVING PRIVILEGE HAS BEEN CANCELED UNTIL THE CAUSE FOR THE CANCELLATION HAS BEEN REMOVED.

14. A CLASS A, B OR C LICENSE OR INSTRUCTION PERMIT TO A PERSON WHOSE STATE OF DOMICILE IS NOT THIS STATE.

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 28-1601, a person who fails to pay a civil penalty as provided in section 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.

D. Notwithstanding any other law, the department shall not issue to or renew a driver license or nonoperating identification license for a person who does not submit proof satisfactory to the department that the applicant's presence in the United States is authorized under federal law. For an application for a driver license or a nonoperating identification license, the department shall not accept as a primary source of identification a driver license issued by a state if the state does not require that a driver licensed in that state be lawfully present in the United States under federal law. The director shall adopt rules necessary to carry out the purposes of this subsection. The rules shall include procedures for:

1. Verification that the applicant's presence in the United States is authorized under federal law.

2. Issuance of a temporary driver permit pursuant to section 28-3157 pending verification of the applicant's status in the United States.

Sec. 4. Section 28-3222, Arizona Revised Statutes, is amended to read:

28-3222. State of domicile or jurisdiction change

A person who operates a commercial motor vehicle and who changes ~~domicile from another~~ state ~~or jurisdiction~~ OF DOMICILE to this state shall obtain the appropriate class of commercial driver license from this state within thirty days of changing STATE OF domicile to this state and shall surrender the person's current ~~commercial~~ driver license as a condition of receiving a commercial driver license in this state.

Sec. 5. Section 28-3312, Arizona Revised Statutes, is amended to read:

28-3312. Mandatory disqualification of commercial driver license; definition

A. The department shall disqualify a person from driving a commercial motor vehicle as follows:

1. Except as provided in subsection F of this section and except as otherwise provided in this subsection, for at least one year from the date a person:

(a) REFUSES A TEST IN VIOLATION OF SECTION 28-1321.

(b) Is convicted of a first violation of any of the following:

~~(a)~~ (i) Driving a commercial motor vehicle under the influence of intoxicating liquor or a controlled substance or while having an alcohol concentration of 0.04 or more.

~~(b)~~ (ii) Leaving the scene of an accident involving a motor vehicle driven by the person.

~~(c)~~ (iii) Using a motor vehicle in the commission of a felony.

~~(d)~~ (iv) A violation of chapter 4, article 3 of this title while operating a noncommercial motor vehicle.

2. For at least three years, if any of the violations prescribed in paragraph 1 of this subsection occurred while the person was transporting a hazardous material in the quantity and under the circumstances that require placarding of the transport vehicle under the department's safety rules pursuant to chapter 14 of this title.

3. Except as provided in subsection B OR C of this section, for the life of the person, if the person is convicted of two or more violations of any of the offenses prescribed in paragraph 1 of this subsection or of any combination of those offenses arising from two or more separate incidents. The department shall consider only offenses committed from and after December 31, 1989 in applying this paragraph.

4. For the life of the person, if the person uses ~~a commercial~~ ANY motor vehicle in the commission of a felony involving the manufacture, distribution or dispensing of a controlled substance or possession with intent to manufacture, distribute or dispense a controlled substance.

5. For at least sixty consecutive days, if the person is convicted of two serious traffic violations committed in a motor vehicle arising from separate incidents occurring within a three year period from the date of the conviction.

6. For at least one hundred twenty consecutive days, if the person is convicted of three serious traffic violations committed in a motor vehicle arising from separate incidents occurring within a three year period from the date of the conviction.

B. Except as provided in subsection C of this section, a person who is found responsible for violating an out-of-service order pursuant to section 28-5241 is disqualified from driving a commercial motor vehicle as follows:

1. For a period of ninety days if the person is found responsible for a first violation of an out-of-service order.

2. For a period of one year if the person is found responsible for a second violation of any out-of-service order during any ten year period arising from separate incidents.

3. For a period of three years if the person is found responsible for a third or subsequent violation of any out-of-service order during any ten year period arising from separate incidents.

C. A person who is found responsible for violating an out-of-service order pursuant to section 28-5241 while transporting hazardous materials or while operating a commercial motor vehicle designed or used to transport sixteen or more passengers, including the driver, is disqualified from driving a commercial motor vehicle as follows:

1. For a period of one hundred eighty days if the person is found responsible for a first violation of an out-of-service order.

2. For a period of ~~two~~ THREE years if the person is found responsible for a second or subsequent violation of any out-of-service order during any ten year period arising from separate incidents.

D. A person who is convicted of or found responsible for violating any federal, state or local railroad grade crossing law, ordinance or regulation is disqualified from driving a commercial motor vehicle as follows:

1. For a period of sixty days if a person is convicted of or found responsible for a first violation.

2. For a period of one hundred twenty days if a person is convicted of or found responsible for a second violation during any three year period.

3. For a period of one year if a person is convicted of or found responsible for a third or subsequent violation during any three year period.

E. The department shall permanently disqualify a person from driving a commercial motor vehicle if the person does any of the following:

1. More than once refuses a test in violation of section 28-1321 if the refusals involve more than one incident.

2. More than once is convicted of violating chapter 4, article 3 of this title.

3. More than once uses a noncommercial motor vehicle in the commission of a felony.

F. If a federal agency determines that a commercial motor vehicle licensee is driving in a manner that constitutes an imminent hazard, the department, on receipt of notification by the federal government, shall disqualify the driver for a period not to exceed one year. For the purposes of this subsection, "imminent hazard" means the existence of a condition that presents a substantial likelihood that death, serious illness, severe personal injury or a substantial endangerment to health, property or the environment may occur before the reasonably foreseeable completion date of a formal proceeding to decrease the risk of death, illness, injury or endangerment.

G. The department shall keep records of findings of responsibility for a civil traffic violation and of conviction of any moving criminal traffic violation for a commercial driver licensee if the violations arise from a commercial motor vehicle or a noncommercial motor vehicle.

H. A person found responsible within three years for a second violation of any of the following shall be disqualified from driving a commercial motor vehicle for a period of sixty days and for a period of one hundred twenty days for a third or subsequent violation of any of the following:

1. Driving a commercial motor vehicle when the person has not been issued a valid commercial driver license.

2. Driving a commercial motor vehicle without a commercial driver license in the person's possession.

3. Driving a commercial motor vehicle without having a valid endorsement for the type of commercial motor vehicle or motor vehicle combination being operated.

I. Disqualification for an offense committed by a commercial driver license holder while operating a noncommercial motor vehicle ~~apply~~ APPLIES only if the conviction results in the revocation, cancellation or suspension of the person's commercial driver license or noncommercial driver license.

J. The department may adopt rules establishing guidelines and conditions under which the department may reduce a disqualification for life pursuant to subsection A, paragraph 3 of this section to a disqualification of at least ten years. If a person's disqualification is reduced pursuant to rules adopted pursuant to this subsection and the person is subsequently disqualified pursuant to subsection A, paragraph 3 of this section, the person is permanently disqualified from driving a commercial vehicle and is not eligible to apply for a reduction of the disqualification pursuant to rules adopted pursuant to this subsection.

K. IF CRIMINAL CONVICTIONS OR CIVIL TRAFFIC VIOLATIONS RESULT IN MULTIPLE DISQUALIFICATIONS OR IF A PERSON IS SERVING A DISQUALIFICATION AND IS SUBSEQUENTLY CONVICTED OF AN OFFENSE OR FOUND RESPONSIBLE FOR A CIVIL TRAFFIC VIOLATION THE RESULT OF WHICH WOULD BE AN ADDITIONAL

DISQUALIFICATION, THE DISQUALIFICATIONS SHALL RUN CONSECUTIVELY UNLESS THE COURT EXPRESSLY DIRECTS OTHERWISE. IF THE COURT EXPRESSLY DIRECTS OTHERWISE, THE COURT SHALL SET FORTH ON THE RECORD THE REASON FOR ITS SENTENCE.

~~K.~~ L. For the purposes of this section, "serious traffic violation" means a conviction for any of the following:

1. Excessive speeding involving a single offense for a speed of fifteen miles per hour or more above the posted speed limit.

2. Reckless driving as provided by section 28-693.

3. Aggressive driving as provided by section 28-695.

4. Racing as defined in section 28-708.

5. Improper or erratic traffic lane changes as provided by section 28-729.

6. Following the vehicle ahead too closely as provided by section 28-730.

7. A violation of this title that is connected with a fatal traffic accident.

Sec. 6. Section 28-5241, Arizona Revised Statutes, is amended to read:

28-5241. Out-of-service orders; violation; civil penalty; definition

A. A motor carrier shall not require or permit a driver:

1. To operate a commercial motor vehicle that is subject to an out-of-service order until all repairs required by the out-of-service order have been satisfactorily completed.

2. Who is subject to an out-of-service order to operate a commercial motor vehicle until the reason for the out-of-service order has been remedied.

B. A driver:

1. Shall not operate a commercial motor vehicle that is subject to an out-of-service order until all repairs required by the out-of-service order have been satisfactorily completed.

2. Who is subject to an out-of-service order shall not operate a commercial motor vehicle until the reason for the out-of-service order has been remedied.

C. Notwithstanding section 28-5240, a violation of this section is a civil traffic violation.

D. ~~Notwithstanding section 28-1598,~~ The court shall impose:

1. A civil penalty of at least one thousand ONE HUNDRED dollars AND NOT MORE THAN TWO THOUSAND SEVEN HUNDRED FIFTY DOLLARS on a driver who violates or fails to comply with an out-of-service order.

2. A civil penalty of at least two thousand ~~five hundred dollars~~ SEVEN HUNDRED FIFTY DOLLARS and not more than ~~ten~~ ELEVEN thousand dollars on a motor carrier who violates an out-of-service order or who requires or permits a driver to violate or fail to comply with an out-of-service order.

E. In addition to other penalties prescribed by this chapter, if a motor carrier or driver is found responsible for a violation of this section, the motor carrier or driver is subject to disqualification pursuant to section 28-3312.

F. For the purposes of this section, "out-of-service order" means a declaration by a specialty officer of the department or a law enforcement officer authorized pursuant to section 28-5204 that a driver, motor vehicle or motor carrier is out of service pursuant to this chapter.

Sec. 7. Title 28, chapter 14, article 2, Arizona Revised Statutes, is amended by adding section 28-5243, to read:

28-5243. Railroad crossing violations; civil penalty

A. A MOTOR CARRIER SHALL NOT KNOWINGLY REQUIRE, AUTHORIZE OR PERMIT A DRIVER TO VIOLATE ANY FEDERAL, STATE OR LOCAL RAILROAD CROSSING LAW, ORDINANCE OR REGULATION.

B. THE COURT SHALL IMPOSE A CIVIL PENALTY OF NOT MORE THAN TEN THOUSAND DOLLARS ON A MOTOR CARRIER WHO VIOLATES THIS SECTION.

C. IN ADDITION TO ALL OTHER PENALTIES PRESCRIBED BY THIS CHAPTER, IF A MOTOR CARRIER IS FOUND RESPONSIBLE FOR A VIOLATION OF THIS SECTION, THE MOTOR CARRIER IS SUBJECT TO DISQUALIFICATION PURSUANT TO SECTION 28-3312.

Sec. 8. Title 28, chapter 15, article 3, Arizona Revised Statutes, is amended by adding section 28-5474, to read:

28-5474. Axle fees; commercial vehicles; border crossing; definition

A. THE DIRECTOR MAY ADOPT RULES ESTABLISHING A FEE BASED ON THE NUMBER OF AXLES ATTACHED TO A FOREIGN VEHICLE OR A FOREIGN VEHICLE COMBINATION THAT IS IMPOSED ON NONRESIDENTS OPERATING OR CAUSING THE OPERATION OF A FOREIGN VEHICLE OR FOREIGN VEHICLE COMBINATION THAT ENTERS THIS STATE BY CROSSING THE BORDER BETWEEN THIS STATE AND THE REPUBLIC OF MEXICO IN THE FURTHERANCE OF A COMMERCIAL ENTERPRISE.

B. IF THE DIRECTOR ESTABLISHES A FEE BY RULE PURSUANT TO THIS SECTION, THE FEE SHALL APPLY TO A NONRESIDENT OPERATING OR CAUSING THE OPERATION OF A FOREIGN VEHICLE OR FOREIGN VEHICLE COMBINATION AND WHO IS REQUIRED TO REGISTER THE FOREIGN VEHICLE OR FOREIGN VEHICLE COMBINATION PURSUANT TO SECTION 28-2321 OR WHO IS RESPONSIBLE FOR PAYMENT OF ANY FEES REQUIRED BY SECTIONS 28-2324, 28-2325, 28-5739, 28-5763 OR 28-5864.

C. THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, FEES COLLECTED BY RULES ESTABLISHED PURSUANT TO THIS SECTION IN THE SAFETY ENFORCEMENT AND TRANSPORTATION INFRASTRUCTURE FUND ESTABLISHED BY SECTION 28-6547.

D. FOR THE PURPOSES OF THIS SECTION, "FOREIGN VEHICLE" OR "FOREIGN VEHICLE COMBINATION" MEANS A TRUCK OR TRUCK TRACTOR AND SEMITRAILER AND ANY TRAILER THAT IT TOWS THAT IS REGISTERED IN A FOREIGN COUNTRY OR JURISDICTION OF A FOREIGN COUNTRY AND ENTERS THIS STATE BY CROSSING THE BORDER BETWEEN THIS STATE AND THE REPUBLIC OF MEXICO IN THE FURTHERANCE OF A COMMERCIAL ENTERPRISE.

Sec. 9. Section 28-6547, Arizona Revised Statutes, is amended to read:

28-6547. Safety enforcement and transportation infrastructure fund; exemption from lapsing

A. The safety enforcement and transportation infrastructure fund is established. The fund consists of monies deposited pursuant to sections 28-2321, 28-2324, 28-2325, 28-5474, 28-5739, 28-5863 and 28-5864. The department shall administer the fund.

B. Subject to legislative appropriation, monies in the fund shall be spent on the following:

1. ~~Enforcement of vehicle safety requirements by the department of public safety and the department of transportation within twenty-five miles of the border between Arizona and Mexico.~~ COSTS RELATED TO THE PROCUREMENT OF ELECTRONIC EQUIPMENT, AUTOMATED SYSTEMS OR IMPROVEMENTS TO EXISTING ELECTRONIC EQUIPMENT OR AUTOMATED SYSTEMS FOR RELIEVING VEHICLE CONGESTION AT PORTS OF ENTRY ON THE BORDER BETWEEN THIS STATE AND MEXICO.

2. Construction ~~and maintenance of transportation facilities~~ and upgrades of transportation facilities, including roads, streets and highways, approved by the board within twenty-five miles of the border between Arizona and Mexico.

3. As approved by the board, ~~maintenance and~~ construction of transportation facilities in the CANAMEX high priority corridor as defined in section 332 of the national highway system designation act of 1995 (P.L. 104-59; 109 Stat. 596-597).

4. Activities of the department that include the collection of transportation and trade data in the United States and Mexico for the purposes of constructing transportation facilities, improving public safety, improving truck processing time and relieving congestion at ports of entry on the border between Arizona and Mexico. The department may enter into an agreement with the Arizona-Mexico commission and provide funding to the commission for the purposes contained in this paragraph.

5. A COMMITMENT OR INVESTMENT NECESSARY FOR THE DEPARTMENT OR ANOTHER AGENCY OF THIS STATE TO OBTAIN FEDERAL MONIES THAT ARE DESIGNATED FOR EXPENDITURE PURSUANT TO THIS SECTION.

C. If the department determines that activities proposed by the Arizona office of homeland security may improve traffic safety in this state, the department may enter into an agreement with, and provide, subject to legislative appropriation, fund monies to, the Arizona office of homeland security for the purposes contained in this subsection.

D. If the department determines that activities proposed by the Arizona international development authority for planning, development and construction of transportation facilities on the border between Arizona and Mexico may improve traffic safety in this state, the department may enter into an agreement with, and provide, subject to legislative appropriation, fund monies to, the Arizona international development authority for the purposes contained in this subsection.

1 E. On notice from the department, the state treasurer shall invest and
2 divest monies in the fund as provided by section 35-313, and monies earned
3 from investment shall be credited to the fund.
4 F. Monies in the fund are exempt from the provisions of section 35-190
5 relating to lapsing of appropriations.
6 Sec. 10. Repeal
7 Laws 2003, chapter 231 is repealed.

APPROVED BY THE GOVERNOR APRIL 25, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 25, 2006.