Senate Engrossed

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
Senate
Forty-ninth Legislature
First Regular Session
2009

CHAPTER 61

SENATE BILL 1180

AN ACT

AMENDING SECTION 28-4847, ARIZONA REVISED STATUTES; RELATING TO TOWING OF VEHICLES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 28-4847, Arizona Revised Statutes, is amended to read:

28-4847. Insurance companies; release; fees; applicability; violation; classification; definition.

A. ~~On payment of all reasonable towing, storage and related fees, a towing company shall release a towed vehicle to a person designated in writing by an insurance company.~~ The towing company shall release ~~the~~ A TOWED vehicle TO A PERSON DESIGNATED IN WRITING BY AN INSURANCE COMPANY during normal business hours on the day ~~both~~ the request for release IS PROVIDED TO THE TOWING COMPANY, THE DETAILED STATEMENT OF CHARGES IS PROVIDED BY THE TOWING COMPANY AT NO COST and payment ~~are~~ FOR ALL REASONABLE TOWING, STORAGE AND RELATED FEES IS received by the towing company. The request for release shall be in writing and:

1. Shall indicate the name of the insurer as well as the name, address, ~~and~~ telephone number and fax number of a representative of the insurer.

2. Shall include the name, address and telephone number of the owner, the owner's written consent for release of the vehicle and the name of the insured, if different from the owner.

3. Shall include the insurer's claim number and the name of the person to whom the insurer authorizes release of the vehicle.

4. Shall be signed by the owner except as provided in paragraph 6 of this subsection.

5. May be faxed, mailed or hand delivered to the towing company.

6. If the written consent of the owner is not obtained pursuant to paragraph 2 of this subsection, the request for release shall include a statement that the insurer has authorization from the vehicle owner to remove the vehicle from the towing company's storage premises.

7. Shall include a statement that the owner has been informed that pursuant to this section the towing company is presumptively not responsible for any loss of personal property or damage to the vehicle that is not disclosed to the towing company before the insurer or the insurer's authorized agent removes the vehicle from the towing company's storage premises. The notice shall also include a statement that the owner OR PERSON DESIGNATED IN WRITING BY THE OWNER AND WITNESSED BY A THIRD PARTY may inspect the vehicle at the towing company's storage premises, may remove any personal property from the vehicle and may report any damage to the vehicle to the towing company at the time of inspection. THE TOWING COMPANY SHALL NOT REQUIRE PAYMENT FOR THE REMOVAL OF PERSONAL PROPERTY THAT IS INSIDE THE VEHICLE IF THE REMOVAL IS DURING BUSINESS HOURS. FOR THE PURPOSES OF THIS PARAGRAPH, PERSONAL PROPERTY DOES NOT INCLUDE ANY VEHICLE PARTS, VEHICLE EQUIPMENT OR VEHICLE ACCESSORIES.

B. AFTER AN INSURANCE COMPANY HAS COMPLETED A REQUEST FOR RELEASE OF A VEHICLE AND BEFORE PAYMENT IS MADE FOR THE RELEASE OF THAT VEHICLE, THE

TOWING COMPANY SHALL PROVIDE TO THE INSURANCE COMPANY AT NO COST A DETAILED WRITTEN STATEMENT OF ALL CHARGES FOR TOWING, STORAGE AND RELATED FEES. ADDITIONAL STORAGE CHARGES MAY ACCRUE UNTIL FINAL PAYMENT IS MADE AND THE VEHICLE IS REMOVED FROM THE PREMISES BY THE VEHICLE OWNER OR THE INSURANCE COMPANY OR THE PERSON DESIGNATED IN WRITING BY THE INSURANCE COMPANY.

~~B.~~ C. If the vehicle owner does not inspect the vehicle pursuant to subsection A, paragraph 7 of this section ~~prior to~~ BEFORE removal of the vehicle to another premises, or has inspected the vehicle and has had the opportunity to remove personal property in the vehicle, a rebuttable presumption shall be created that damage to the vehicle and any loss of personal property in the vehicle occurred while the vehicle was not in the custody of the towing company. The presumption may be overcome by a preponderance of evidence to the contrary.

~~C.~~ D. Except for proration for partial days, a towing company shall not charge additional storage fees for a vehicle after a request for release and payment has been made pursuant to subsection A of this section if both of the following apply:

1. The insurance company or its representative provides the written request for release as prescribed in this section.

2. The insurance company or its representative removes the vehicle from the towing company's storage premises during normal business hours on the day the towing company receives the request for release.

E. A PERSON IN THIS STATE MAY CHOOSE ANY VEHICLE REPAIR FACILITY FOR THE REPAIR OF A MOTOR VEHICLE. AT THE SAME TIME A TOWING COMPANY OR OPERATOR OF A TOWING VEHICLE PROVIDES INFORMATION ABOUT A VEHICLE REPAIR FACILITY, THE COMPANY OR OPERATOR SHALL INFORM THE PERSON OF BOTH OF THE FOLLOWING:

1. THE PERSON'S RIGHT TO CHOOSE ANY VEHICLE REPAIR FACILITY FOR THE REPAIR OF A MOTOR VEHICLE.

2. ANY COMMONALITY OF OWNERSHIP BETWEEN THE VEHICLE REPAIR FACILITY AND EITHER THE TOWING COMPANY OR THE OPERATOR OF THE TOWING VEHICLE.

F. A TOWING COMPANY SHALL NOT TOW OR TRANSPORT A VEHICLE FROM ITS STORAGE LOT WITHOUT THE PRIOR PERMISSION OF THE VEHICLE OWNER OR THE INSURANCE COMPANY. THE TOWING COMPANY MAY MOVE A VEHICLE BETWEEN ITS OWN STORAGE LOTS WITHOUT OBTAINING PRIOR PERMISSION. THE TOWING COMPANY SHALL NOT CHARGE ANY ADDITIONAL FEE OR OTHER MONIES TO A VEHICLE OWNER OR AN INSURANCE COMPANY AS A RESULT OF ANY CHANGE IN LOCATION OF THE VEHICLE BETWEEN ITS OWN STORAGE LOTS.

G. A VEHICLE REPAIR FACILITY OR ANY EMPLOYEE OF A VEHICLE REPAIR FACILITY SHALL NOT PAY OR AGREE TO PAY, AND A TOWING COMPANY OR ANY EMPLOYEE OF A TOWING COMPANY SHALL NOT ACCEPT OR AGREE TO ACCEPT, ANY MONIES, FEES, COMMISSIONS, CREDITS, GIFTS, GRATUITIES, THINGS OF VALUE OR OTHER COMPENSATION THAT IS PROVIDED DIRECTLY OR INDIRECTLY FOR THE PURPOSE OF INDUCING THE TOWING COMPANY OR ANY EMPLOYEE OF A TOWING COMPANY TO DO ANY OF THE FOLLOWING:

1. ATTEMPT TO INTIMIDATE, UNREASONABLY PERSUADE OR INDUCE THE PERSON REQUESTING THE TOW OR TRANSPORT OF A VEHICLE TO CHOOSE THE SERVICES OF THE VEHICLE REPAIR FACILITY RECOMMENDED BY THE TOWING COMPANY.

2. REFUSE TO TOW OR TRANSPORT THE VEHICLE UNLESS THE PERSON REQUESTING THE TOW OR TRANSPORT OF A VEHICLE AGREES TO THE VEHICLE REPAIR FACILITY RECOMMENDED BY THE TOWING COMPANY.

3. DELIVER A VEHICLE TO A VEHICLE REPAIR FACILITY OTHER THAN THE VEHICLE REPAIR FACILITY CHOSEN BY THE PERSON REQUESTING THE TOW OR TRANSPORT OF THE VEHICLE.

4. MAKE AN INTENTIONAL MISREPRESENTATION REGARDING THE CONDITION OF THE VEHICLE, THE PERSON'S INSURER OR A SPECIFIC VEHICLE REPAIR FACILITY.

H. UNLESS OTHERWISE DIRECTED BY A LAW ENFORCEMENT OFFICER, THE TOWING COMPANY SHALL TOW THE VEHICLE TO ONE OF THE FOLLOWING LOCATIONS, IN THE FOLLOWING ORDER OF PRIORITY:

1. A LOCATION SPECIFIED BY THE OWNER OF THE VEHICLE IF THE OWNER IS PRESENT AT THE TIME OF THE TOW AND IS CAPABLE OF INDICATING THE OWNER'S PREFERENCE.

2. A VEHICLE STORAGE YARD DESIGNATED IN THE CONTRACT UNDER WHICH THE TOWING COMPANY HAS RESPONSIBILITY FOR TOWING THE VEHICLE.

I. SUBSECTION E OF THIS SECTION DOES NOT CREATE A PRIVATE RIGHT OR CAUSE OF ACTION TO OR ON BEHALF OF ANY PERSON.

~~D.~~ J. This section does not create a cause of action or a right to bring an action against a towing company for releasing a motor vehicle to a person other than the owner if the written authorization as prescribed in this section is provided to the towing company by the owner or an insurance company.

K. THIS SECTION ONLY APPLIES TO TOWS RESULTING FROM MOTOR VEHICLE ACCIDENTS.

L. A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A PETTY OFFENSE. A PERSON WHO SUBSEQUENTLY VIOLATES THIS SECTION WITHIN THIRTY-SIX MONTHS AFTER A PRIOR VIOLATION OF THIS SECTION IS GUILTY OF A CLASS 3 MISDEMEANOR.

~~E.~~ M. For the purposes of this section: ~~:~~

1. "GIFT" DOES NOT INCLUDE AN ITEM OF NOMINAL VALUE.

2. "Owner" has the same meaning ~~as defined~~ PRESCRIBED in section 28-101.

APPROVED BY THE GOVERNOR JULY 10, 2009.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 10, 2009.

Passed the House June 29, 20 09,

by the following vote: 54 Ayes,

0 Nays, 6 Not Voting

Speaker of the House

Norman L. Moore

Chief Clerk of the House

Passed the Senate June 16, 20 09,

by the following vote: 27 Ayes,

0 Nays, 3 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR
This Bill was received by the Governor this

1st day of July, 2009,

at 8:53 o'clock A. M.

Susan K. Myers

Secretary to the Governor

Approved this 10th day of

July, 2009,

at 9:53 o'clock A M.

Janice K. Brewer

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 10 day of July, 2009,

at 12:30 o'clock P. M.

Ken Bennett

Secretary of State

S.B. 1180