House Engrossed Senate Bill

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
Senate
Forty-ninth Legislature
Second Regular Session
2010

CHAPTER 239

SENATE BILL 1106

AN ACT

AMENDING SECTION 28-872, ARIZONA REVISED STATUTES; RELATING TO THE REMOVAL OF VEHICLES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 28-872, Arizona Revised Statutes, is amended to read:

28-872. Removal of vehicles; notice; 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. If a police officer removes or causes the removal of a vehicle pursuant to this section, the police officer shall do ~~one~~ BOTH of the following when the vehicle is removed:

1. Provide to the tow truck operator a form that the police officer signs and that includes the following information:

(a) The vehicle identification number.

(b) A number identifying the law enforcement agency and the officer ordering the tow.

(c) The year, make and model of the vehicle.

(d) The license plate number if available.

(e) The date and time the vehicle was towed.

(f) The address from which the vehicle was towed.

(g) The name, address and telephone number, if the telephone number is known, of the registered owner and the primary lien holder of the vehicle to permit the towing company to notify the registered owner or the primary lien holder.

2. Electronically communicate to the officer's law enforcement agency ~~both of~~ the following ~~and provide to the towing company that towed the vehicle the name, address and telephone number, if the telephone number is known, of the registered owner and the primary lien holder of the vehicle~~ IF THE OFFICER HAS THE EQUIPMENT TO ELECTRONICALLY COMMUNICATE THE INFORMATION:

(a) The name and telephone number of the person towing the vehicle.

(b) The information prescribed by paragraph 1 of this subsection.

E. If a police officer provides the tow truck operator with the form described in subsection D, paragraph 1 of this section, the tow truck operator must provide the form to the person responsible for filing the abandoned vehicle report pursuant to section 28-4838. The person responsible for filing the abandoned vehicle report shall submit the form to the department of transportation at the time the person files the abandoned vehicle report.

F. The law enforcement agency receiving electronic information pursuant to subsection D of this section shall record the information as prescribed by the department of public safety. The department of public safety shall make the information available to the department of transportation.

G. When the department of transportation receives the information from either the department of public safety or the person responsible for filing the abandoned vehicle report pursuant to section 28-4838, the department of transportation shall send notice by first class mail to all persons listed on the department of transportation's records as having an ownership interest in the vehicle. The notice shall include the vehicle identification number and the name and telephone number of the person that towed the vehicle. The director of the department of transportation may include additional information on the notice as the director deems necessary.

H. Except as provided in subsection I 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.

I. 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.

J. 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 poststorage 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.

APPROVED BY THE GOVERNOR MAY 6, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 6, 2010.

Passed the House April 28, 2010,

by the following vote: 57 Ayes,

0 Nays, 3 Not Voting

Speaker of the House

Pro Tempore

Cheryl Laube

Chief Clerk of the House

Passed the Senate February 15, 2010,

by the following vote: 30 Ayes,

0 Nays, 0 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

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20_____,

at _____ o'clock _____ M.

Governor of Arizona

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

S.B. 1106
Third Reading

SENATE CONCURS IN HOUSE AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 29, 2010

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

Robert L. Burns
President of the Senate

Charmaine Billington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

29 day of April, 2010

at 4:45 o'clock P. M.

Nicole Bondie
Secretary to the Governor

Approved this 6 day of

May, 2010

at 10:15 o'clock A. M.

Janice K. Brewer
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 6th day of May, 2010

at 3:08 o'clock P M.

Ken Bennett
Secretary of State

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