House Engrossed Senate Bill

FILED

KEN BENNETT
SECRETARY OF STATE

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

CHAPTER 266

SENATE BILL 1018

AN ACT

TRANSFERRING AND RENUMBERING SECTION 28-654, ARIZONA REVISED STATUTES, FOR PLACEMENT IN TITLE 28, CHAPTER 3, ARTICLE 21, ARIZONA REVISED STATUTES, AS SECTION 28-1204; AMENDING TITLE 28, CHAPTER 3, ARTICLE 21, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-1203; AMENDING SECTION 28-1204, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED BY THIS ACT; AMENDING SECTIONS 28-1592 AND 28-1593, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 5, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-1602; AMENDING TITLE 28, CHAPTER 8, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-3323; AMENDING SECTION 41-1722, ARIZONA REVISED STATUTES; REPEALING LAWS 2009, THIRD SPECIAL SESSION, CHAPTER 6, SECTION 31; RELATING TO PHOTO ENFORCEMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Transfer and renumber

Section 28-654, Arizona Revised Statutes, is transferred and renumbered for placement in title 28, chapter 3, article 21, Arizona Revised Statutes, as section 28-1204.

Sec. 2. Title 28, chapter 3, article 21, Arizona Revised Statutes, is amended by adding section 28-1203, to read:

28-1203. Photo enforcement system placement; speed limit change

A PHOTO ENFORCEMENT SYSTEM SHALL NOT BE PLACED ON A STREET OR HIGHWAY WITHIN SIX HUNDRED FEET OF A POSTED SPEED LIMIT CHANGE EXCEPT THAT A PHOTO ENFORCEMENT SYSTEM MAY BE PLACED IN AN AREA AROUND A SCHOOL CROSSING THAT IS DELINEATED BY SIGNS AS PRESCRIBED BY SECTION 28-797, SUBSECTION D.

Sec. 3. Section 28-1204, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-1204. Photo enforcement zones; signage; standards; citation dismissal

A. Except as provided in subsection F of this section, every local authority or agency of this state using a photo enforcement system shall adopt standards and specifications that indicate to a person operating a motor vehicle that a photo enforcement system is present and operational.

B. The standards and specifications adopted pursuant to subsection A of this section shall include ~~both~~ ALL of the following:

1. At least two signs shall be placed in a location before a photo enforcement system. One sign shall be in a location that is approximately three hundred feet before the photo enforcement system. Placement of additional signs shall be more than three hundred feet before a photo enforcement system to provide reasonable notice to a person that a photo enforcement system is present and operational.

2. A SIGN THAT CLEARLY STATES THE POSTED SPEED LIMIT SHALL BE PLACED BETWEEN THE TWO SIGNS PRESCRIBED BY PARAGRAPH 1.

~~2.~~ 3. Signs indicating a photo enforcement system shall be removed or covered when the photo enforcement system is no longer present or not operating.

C. Signs erected by a local authority or agency of this state as prescribed in this section shall contain a yellow warning notice and 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 adopted by the director pursuant to section 28-641.

D. If the standards and specifications prescribed pursuant to this section are not in effect during the operation of a photo enforcement system, the court may dismiss any citation issued to a person who is identified by the use of the photo enforcement system.

E. During the time a vehicle containing photo enforcement equipment is being used to identify violators of ~~this article and article~~ ARTICLES 3 AND 6 of this chapter, the rear of the vehicle shall be clearly marked to indicate that the vehicle is functioning as a photo enforcement vehicle. This

subsection does not apply to a vehicle that does not contain a photo enforcement system and that is used by a law enforcement officer.

F. Subsection B of this section does not apply to a mobile photo enforcement vehicle during the time a mobile photo enforcement vehicle is deployed on streets with a posted speed limit of forty miles per hour or less.

Sec. 4. Section 28-1592, Arizona Revised Statutes, is amended to read:

28-1592. Commencement of action

A. A civil traffic violation case is commenced by issuance or filing of a uniform traffic TICKET AND complaint as provided in this article.

B. A civil traffic violation case shall be commenced as follows:

1. If a case is commenced by issuance, it shall be issued within sixty days of the alleged violation.

2. If the case is commenced by filing, it shall be filed within sixty days of the alleged violation and shall be served within ninety days from the filing date.

3. Except as provided in paragraph 4, within one hundred eighty days of the alleged violation if the alleged violation is under investigation in conjunction with a traffic accident.

4. Within one year of the alleged violation if the alleged violation is under investigation in conjunction with a traffic accident resulting in death.

5. IF THE ALLEGED VIOLATION IS DETECTED BY THE STATE PHOTO ENFORCEMENT SYSTEM ESTABLISHED PURSUANT TO SECTION 41-1722, THE CASE SHALL BE FILED WITHIN ONE HUNDRED TWENTY DAYS OF THE ALLEGED VIOLATION.

Sec. 5. Section 28-1593, Arizona Revised Statutes, is amended to read:

28-1593. Service of uniform traffic ticket and complaint

A. EXCEPT AS PROVIDED IN SECTION 28-1602, a traffic complaint may be served by delivering a copy of the uniform traffic TICKET AND complaint ~~citation~~ to the person charged with the violation or by any means authorized by the rules of civil procedure. At the discretion of the issuing authority, a complaint for a violation issued after an investigation in conjunction with a traffic accident may be sent by certified mail, return receipt requested and delivered to addressee only, to the address provided by the person charged with the violation. Service of the complaint is complete on filing the receipt in the court having jurisdiction of the violation.

B. EXCEPT AS PROVIDED IN SECTION 28-1602, SUBSECTION A, the original complaint shall be filed in a court having jurisdiction of the violation within ten court days of the time the complaint was issued. A peace officer, or duly authorized agent or someone paid to act on behalf of a traffic enforcement agency, may issue the traffic complaint.

~~C. Notwithstanding subsection B of this section, a civil traffic violation issued pursuant to section 41-1722 may be issued pursuant to a notice of violation before a citation is filed in court.~~

~~D.~~ C. If a person fails to respond to ~~the~~ A notice of violation or contests responsibility, a uniform traffic TICKET AND complaint ~~citation~~

shall be served and filed as otherwise provided in this section, EXCEPT THAT THE COMPLAINT RESULTING FROM THE STATE PHOTO ENFORCEMENT SYSTEM AS DEFINED IN SECTION 28-1602 SHALL NOT BE FILED IN COURT BEFORE THE PERSON IS PERSONALLY SERVED WITH THE COMPLAINT.

~~E.~~ D. The supreme court shall establish rules governing the issuance, service and processing of the notice of violation, including rules allowing a person to admit responsibility before a ~~citation~~ UNIFORM TRAFFIC TICKET AND COMPLAINT is filed in court.

Sec. 6. Title 28, chapter 5, article 4, Arizona Revised Statutes, is amended by adding section 28-1602, to read:

28-1602. Photo enforcement; notice of violation; complaint; penalties; definition

A. A NOTICE OF VIOLATION FOR A CIVIL TRAFFIC VIOLATION DETECTED BY THE STATE PHOTO ENFORCEMENT SYSTEM MAY BE ISSUED BEFORE A UNIFORM TRAFFIC TICKET AND COMPLAINT IS FILED IN COURT.

B. THE CIVIL PENALTY OR FINE FOR A UNIFORM TRAFFIC TICKET AND COMPLAINT FILED OR A NOTICE OF VIOLATION ISSUED AS A RESULT OF THE STATE PHOTO ENFORCEMENT SYSTEM IS ONE HUNDRED SIXTY-FIVE DOLLARS AND IS NOT SUBJECT TO ANY SURCHARGE EXCEPT THE SURCHARGE IMPOSED BY SECTION 16-954. THE CIVIL PENALTIES AND FINES SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE PHOTO ENFORCEMENT FUND ESTABLISHED BY SECTION 41-1722. A COUNTY BOARD OF SUPERVISORS MAY ESTABLISH A PROCESSING FEE TO COVER THE COST OF PROCESSING A PHOTO ENFORCEMENT COMPLAINT. THE PROCESSING FEE IS NOT SUBJECT TO ANY SURCHARGE.

C. FOR THE PURPOSES OF THIS SECTION, "STATE PHOTO ENFORCEMENT SYSTEM" MEANS THE STATE PHOTO ENFORCEMENT SYSTEM ESTABLISHED PURSUANT TO SECTION 41-1722.

Sec. 7. Title 28, chapter 8, article 6, Arizona Revised Statutes, is amended by adding section 28-3323, to read:

28-3323. Suspension or revocation of license; state photo enforcement system

NOTWITHSTANDING ANY OTHER LAW, IF A PERSON IS FOUND RESPONSIBLE FOR A CIVIL TRAFFIC VIOLATION DETECTED BY THE STATE PHOTO ENFORCEMENT SYSTEM ESTABLISHED PURSUANT TO SECTION 41-1722, THE DEPARTMENT SHALL NOT CONSIDER THE VIOLATION FOR THE PURPOSE OF DETERMINING WHETHER THE PERSON'S DRIVER LICENSE SHOULD BE SUSPENDED OR REVOKED. A COURT SHALL ONLY TRANSMIT ABSTRACTS OF RECORDS OF THESE VIOLATIONS TO THE DEPARTMENT FOR COMMERCIAL DRIVER LICENSE HOLDERS.

Sec. 8. Section 41-1722, Arizona Revised Statutes, is amended to read:

41-1722. State photo enforcement system; fund

A. Notwithstanding any other law, the department ~~shall~~ MAY enter into a contract or contracts with a private vendor or vendors pursuant to chapter 23 of this title to establish a state photo enforcement system consisting of cameras placed throughout this state as determined by the director to enforce the provisions of title 28, chapter 3, articles 3 and 6 relating to vehicle traffic and speed.

~~B. Notwithstanding any other law, the civil penalty or fine for a citation or a notice of violation issued pursuant to this section is one hundred sixty-five dollars and is not subject to any surcharge except the surcharge imposed by section 16-954.~~

~~C.~~ B. The photo enforcement fund is established consisting of monies received from ~~citations~~ UNIFORM TRAFFIC TICKETS AND COMPLAINTS FILED or notices of violation issued pursuant to this section. The director shall administer the fund. Monies in the fund are subject to legislative appropriation and are appropriated to the department for administrative and personnel costs of the state photo enforcement system. Monies remaining in the fund in excess of two hundred fifty thousand dollars at the end of each calendar quarter shall be deposited, pursuant to sections 35-146 and 35-147, in the state general fund.

~~D. Notwithstanding any other law, if a person is found responsible for a civil traffic violation or a notice of violation pursuant to a citation issued pursuant to this section, the department of transportation shall not consider the violation for the purpose of determining whether the person's driver license should be suspended or revoked. A court shall only transmit abstracts of records of these violations to the department of transportation for commercial driver license holders.~~

Sec. 9. Repeal; retroactivity

A. Laws 2009, third special session, chapter 6, section 31 is repealed.

B. This section is effective retroactively to from and after June 30, 2009.

Sec. 10. Photo enforcement citations; judicial productivity credits; retroactivity

A. From and after June 30, 2009 until the effective date of this act, state photo enforcement citations issued pursuant to section 41-1722, Arizona Revised Statutes, shall only be included in judicial productivity credit calculations if the filing results in an adjudication, except if the citation is dismissed due to lack of service.

B. This section is effective retroactively to from and after June 30, 2009.

Sec. 11. State photo enforcement system penalties; public safety equipment fund

Notwithstanding section 41-1722, Arizona Revised Statutes, as amended by this act, and section 41-1723, Arizona Revised Statutes, in fiscal year 2010-2011, forty per cent of the monies remaining in the photo enforcement fund after paying all expenses and court costs that cover the processing of photo enforcement violations and citations, but not to exceed seven million dollars, shall be deposited, pursuant to sections 35-146 and 35-147, Arizona Revised Statutes, in the public safety equipment fund established by section 41-1723, Arizona Revised Statutes, and shall be used for the purposes described in section 41-1723, paragraph 1, Arizona Revised Statutes.

APPROVED BY THE GOVERNOR MAY 7, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 7, 2010.

Passed the House April 29, 20 10,

by the following vote: 43 Ayes,

2 Nays, 15 Not Voting

Speaker of the House

Chief Clerk of the House

Passed the Senate March 1, 20 10,

by the following vote: 25 Ayes,

4 Nays, 0 Not Voting

1 VACANT

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. 1018

SENATE CONCURS IN HOUSE AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 21, 2010

by the following vote: 22 Ayes,

4 Nays, 4 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

3 day of May, 2010

at 8:50 o'clock A. M.

Secretary to the Governor

Approved this 7 day of

May, 2010

at 10:00 o'clock A.M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 7th day of May, 2010

at 4:30 o'clock P.M.

Secretary of State

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