

House Engrossed Senate Bill

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
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CHAPTER 190

SENATE BILL 1270

AN ACT

AMENDING TITLE 28, CHAPTER 2, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-376; AMENDING SECTIONS 28-853, 28-938, 28-948 AND 28-949, ARIZONA REVISED STATUTES; REPEALING SECTIONS 28-950 AND 28-951, ARIZONA REVISED STATUTES; AMENDING SECTIONS 28-959, 28-1105, 28-3001, 28-3006, 28-3481, 28-4361, 28-4364 AND 28-4405, ARIZONA REVISED STATUTES; PROVIDING FOR DELAYED REPEAL OF TITLE 28, CHAPTER 12, ARIZONA REVISED STATUTES; AMENDING SECTIONS 28-5100, 28-5101 AND 28-5105, ARIZONA REVISED STATUTES; AMENDING SECTION 28-5201, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2008, CHAPTER 147, SECTION 3; REPEALING SECTION 28-5201, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2008, CHAPTER 142, SECTION 9; REPEALING SECTION 28-5204, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2008, CHAPTER 142, SECTION 10; AMENDING SECTIONS 28-5234, 28-5621, 28-5925, 28-6991, 28-7311, 28-7701, 28-7705, 28-7706, 32-2352, 32-2371, 41-619.51, 41-1758, 41-1758.01 AND 44-282, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA DEPARTMENT OF TRANSPORTATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 28, chapter 2, article 3, Arizona Revised Statutes,
3 is amended by adding section 28-376, to read:

4 28-376. Employment of personnel; definition

5 A. THE DIRECTOR MAY OBTAIN CRIMINAL HISTORY RECORD INFORMATION
6 REGARDING APPLICANTS FOR EMPLOYMENT FOR THE PURPOSE OF HIRING PERSONNEL.
7 BEFORE MAKING A FINAL OFFER OF EMPLOYMENT, THE DIRECTOR SHALL REQUIRE THE
8 PREFERRED APPLICANTS TO SUBMIT A FULL SET OF FINGERPRINTS. THE DIRECTOR
9 SHALL SUBMIT THE FINGERPRINTS TO THE DEPARTMENT OF PUBLIC SAFETY FOR THE
10 PURPOSE OF OBTAINING A STATE AND FEDERAL CRIMINAL RECORDS CHECK PURSUANT TO
11 SECTION 41-1750 AND PUBLIC LAW 92-544. THE DEPARTMENT OF PUBLIC SAFETY MAY
12 EXCHANGE THIS FINGERPRINT DATA WITH THE FEDERAL BUREAU OF INVESTIGATION. THE
13 DEPARTMENT OF TRANSPORTATION SHALL NOT DISCLOSE INFORMATION OBTAINED PURSUANT
14 TO THIS SUBSECTION EXCEPT TO MEMBERS OF THE DEPARTMENT'S STAFF SOLELY FOR
15 EMPLOYMENT PURPOSES. AN APPLICANT SHALL NOT BE DISQUALIFIED FROM EMPLOYMENT
16 UNDER THIS SUBSECTION EXCEPT IN ACCORDANCE WITH SECTION 13-904, SUBSECTION E.

17 B. THE DIRECTOR MAY OBTAIN CONSUMER REPORT INFORMATION REGARDING
18 APPLICANTS FOR EMPLOYMENT FOR THE PURPOSE OF HIRING PERSONNEL. INFORMATION
19 OBTAINED MAY ONLY BE USED TO DETERMINE THE SUITABILITY OF THE APPLICANT FOR
20 POSITIONS INVOLVING FIDUCIARY OR FINANCIAL RESPONSIBILITIES, THE ISSUANCE OF
21 DRIVER LICENSES OR OTHER PERSONAL IDENTIFICATION DOCUMENTS OR ACCESS TO
22 HIGHLY CONFIDENTIAL INFORMATION. CONSUMER REPORT INFORMATION MAY BE OBTAINED
23 AND USED ONLY IN ACCORDANCE WITH THE FAIR CREDIT REPORTING ACT (15 UNITED
24 STATES CODE SECTIONS 1681 THROUGH 1681x). AN APPLICANT SHALL NOT BE
25 DISQUALIFIED FROM EMPLOYMENT UNDER THIS SUBSECTION UNLESS THE CONSUMER REPORT
26 INFORMATION RELIED ON FOR THE DISQUALIFICATION HAS A REASONABLE RELATIONSHIP
27 TO THE FUNCTIONS OF THE POSITION.

28 C. FOR THE PURPOSES OF THIS SECTION, "APPLICANT" MEANS ANY PERSON WHO
29 SEEKS EMPLOYMENT AS A NEW HIRE OR ANY EMPLOYEE OF THE DEPARTMENT WHO SEEKS A
30 TRANSFER, A RECLASSIFICATION OR A REASSIGNMENT TO A DIFFERENT POSITION.

31 Sec. 2. Section 28-853, Arizona Revised Statutes, is amended to read:

32 28-853. Railroad grade crossing; stop required of certain
33 vehicles; other requirements

34 A. Except as otherwise provided in this article, before crossing at
35 grade any track or tracks of a railroad, the driver of a motor vehicle
36 carrying passengers for hire, of any school bus carrying any school child or
37 of any vehicle carrying or returning after delivery of explosive substances
38 or flammable liquids as a cargo or part of a cargo shall stop the vehicle
39 within fifty feet but not less than fifteen feet from the nearest rail of the
40 railroad, while stopped listen and look in both directions along the track
41 for an approaching train and for signals indicating the approach of a train
42 and not proceed until the driver can do so safely. After stopping as
43 required by this section and on proceeding when it is safe to do so, the
44 driver of the vehicle shall cross only in a gear of the vehicle for which

1 there is no need to change gears while traversing the crossing and shall not
2 shift gears while crossing the track or tracks.

3 ~~B.~~ This ~~section~~ SUBSECTION does not apply at:

4 1. A crossing where a police officer or a traffic control signal
5 directs traffic to proceed.

6 2. A street railway grade crossing within a business or residence
7 district.

8 B. A DRIVER OF A COMMERCIAL MOTOR VEHICLE SHALL NOT ENTER A RAILROAD
9 OR RAIL TRANSIT CROSSING UNLESS THERE IS SUFFICIENT SPACE ON THE OTHER SIDE
10 OF THE RAILROAD OR RAIL TRANSIT CROSSING TO ACCOMMODATE THE VEHICLE BEING
11 DRIVEN.

12 C. A DRIVER OF A COMMERCIAL MOTOR VEHICLE SHALL NOT ENTER A RAILROAD
13 OR RAIL TRANSIT CROSSING UNLESS THERE IS SUFFICIENT UNDERCARRIAGE CLEARANCE
14 TO CROSS THE INTERSECTION WITHOUT OBSTRUCTING THE THROUGH PASSAGE OF A
15 RAILWAY VEHICLE, INCLUDING A TRAIN OR A CITY TRANSIT VEHICLE.

16 Sec. 3. Section 28-938, Arizona Revised Statutes, is amended to read:

17 28-938. Spot and auxiliary lamps

18 A motor vehicle may be equipped with any of the following:

19 1. Not more than one spot lamp that when lighted is aimed and used on
20 approaching another vehicle only so that no part of the high intensity
21 portion of the beam is directed to the left of the prolongation of the
22 extreme left side of the vehicle nor more than one hundred feet ahead of the
23 vehicle.

24 2. Not more than two fog lamps that are mounted on the front at a
25 height of not less than twelve inches and not more than thirty inches above
26 the level surface on which the vehicle stands and that are aimed so that when
27 the vehicle is not loaded none of the high intensity portion of the light to
28 the left of the center of the vehicle shall project, at a distance of
29 twenty-five feet ahead, higher than a level of four inches below the level of
30 the center of the lamp that is aimed.

31 3. Not more than two auxiliary passing lamps that are mounted on the
32 front at a height of not less than twenty-four inches and not more than
33 forty-two inches above the level surface on which the vehicle stands and that
34 meet the requirements and limitations provided in sections 28-921 through
35 ~~28-951~~ 28-949.

36 4. Not more than two auxiliary driving lamps that are mounted on the
37 front at a height of not less than sixteen inches nor more than forty-two
38 inches above the level surface on which the vehicle stands and that meet the
39 requirements and limitations provided in sections 28-921 through ~~28-951~~
40 28-949.

41 Sec. 4. Section 28-948, Arizona Revised Statutes, is amended to read:

42 28-948. Snow removal equipment lamps

43 ~~A. The director shall adopt standards and specifications applicable to~~
44 ~~head lamps, clearance lamps, identification and other lamps on snow removal~~
45 ~~equipment when operated on the highways of this state in lieu of the lamps~~

1 ~~otherwise required on motor vehicles by this article. The standards and~~
2 ~~specifications:~~

3 ~~1. May permit the use of flashing lights for purposes of~~
4 ~~identification on snow removal equipment when in service on a highway.~~

5 ~~2. Shall correlate with and, as far as possible, conform with those~~
6 ~~approved by the American association of state highway officials.~~

7 ~~B. A person shall not operate snow removal equipment on a highway~~
8 ~~unless the lamps on the equipment comply with and are lighted when and as~~
9 ~~required by the APPLICABLE FEDERAL SAFETY standards and specifications~~
10 ~~adopted pursuant to this section.~~

11 Sec. 5. Section 28-949, Arizona Revised Statutes, is amended to read:
12 28-949. Selling or using lamps

13 A. A person shall not have for sale, sell or offer for sale for use on
14 or as a part of the equipment of a motor vehicle, trailer or semitrailer or
15 shall not use on any such vehicle a reflector that is required by this
16 article, head lamp, auxiliary driving lamp, rear lamp, signal lamp or parts
17 of any of the foregoing that tend to change the original design or
18 performance unless the lamps or reflectors are of a type that ~~has been~~
19 ~~submitted to and approved by the department~~ MEETS APPLICABLE FEDERAL SAFETY
20 STANDARDS.

21 B. A person shall not have for sale, sell or offer for sale for use on
22 or as a part of the equipment of a motor vehicle, trailer or semitrailer a
23 lamp or device that is described in this section and ~~that has been approved~~
24 ~~by the department~~ unless the lamp or device bears the trademark or name under
25 which it is approved so as to be legible when installed.

26 C. A person shall not use on any motor vehicle, trailer or semitrailer
27 a lamp that is described in this section unless the lamp is mounted and
28 adjusted to focus and aim pursuant to ~~instructions of the department~~
29 APPLICABLE FEDERAL SAFETY STANDARDS.

30 Sec. 6. Repeal

31 Sections 28-950 and 28-951, Arizona Revised Statutes, are repealed.

32 Sec. 7. Section 28-959, Arizona Revised Statutes, is amended to read:
33 28-959. Safety glass required; applicability; denial or
34 suspension of registration; definition

35 A. A person shall not sell and the department shall not register a new
36 motor vehicle as specified in this section unless the vehicle is equipped
37 with safety glass wherever glass is used in doors, windows and windshields.
38 ~~The safety glass shall be of a type approved by the director.~~

39 B. This section applies to passenger motor vehicles, other than golf
40 carts, including passenger buses and school buses. For trucks, including
41 truck tractors, the requirements of this section for safety glass apply to
42 all glass used in doors, windows and windshields in the drivers' compartments
43 of the vehicles.

1 ~~C. The director shall compile and publish a list of types of glass by~~
2 ~~name that are approved by the director and that meet the requirements of this~~
3 ~~section.~~

4 ~~D.~~ C. The director shall not register a new motor vehicle unless it
5 is equipped with an approved type of safety glass. The director shall
6 suspend the registration of any motor vehicle that is subject to this section
7 and that the director finds is not equipped with an approved type of safety
8 glass. The suspension shall continue until the motor vehicle is made to
9 conform to the requirements of this section.

10 ~~E.~~ D. A person shall not replace glass or glazing materials used in
11 partitions, doors, windows, windshields or wind deflectors in a motor vehicle
12 with a material other than safety glass ~~of a type approved by the director.~~

13 ~~F.~~ E. For the purposes of this section, "safety glass" means either:
14 ~~1.~~ a product composed of glass that is manufactured, fabricated or
15 treated in a manner that substantially prevents shattering and flying of the
16 glass when struck or broken AND THAT MEETS APPLICABLE FEDERAL SAFETY
17 STANDARDS.

18 ~~2. Other or similar products as approved by the director.~~

19 Sec. 8. Section 28-1105, Arizona Revised Statutes, is amended to read:
20 28-1105. Special permit fees

21 A. Except as otherwise provided by law, the following fees are
22 required:

23 1. Fifteen dollars for each special permit issued pursuant to section
24 28-1103 for excess size, except that a thirty dollar fee is required for each
25 thirty day permit and a three hundred sixty dollar fee is required for each
26 annual permit.

27 2. Seventy-five dollars for each permit and each thirty day permit
28 issued pursuant to section 28-1103 for excess weight, except that a six
29 hundred dollar fee is required for each annual permit. FOR COMMERCIAL
30 VEHICLES TRAVELING THROUGH AN INTERNATIONAL PORT OF ENTRY ON A SPECIAL SINGLE
31 TRIP EXCESS WEIGHT PERMIT ISSUED PURSUANT TO SECTION 28-1103, THE DIRECTOR
32 SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, THE SEVENTY-FIVE
33 DOLLAR SPECIAL SINGLE TRIP PERMIT FEE COLLECTED PURSUANT TO THIS PARAGRAPH IN
34 THE STATE HIGHWAY FUND ESTABLISHED BY SECTION 28-6991.

35 3. For a permit requested for a motor vehicle or combination of
36 vehicles that is in excess of both the size and weight permitted by this
37 chapter, the amount of fees applicable for an excess weight permit.

38 4. Three hundred sixty dollars for each permit issued pursuant to
39 section 28-1103, subsection C.

40 B. A fee is not required for a permit issued pursuant to section
41 28-1103 for the movement of vehicles or combinations of vehicles owned by the
42 United States government, this state or a county, city or town.

1 C. If a special permit is required by the director and by one or more
2 authorities to move a vehicle or combination of vehicles, the applicant for
3 the permit or permits shall pay a permit fee only to the director and is not
4 required to pay a permit fee to a local authority.

5 D. If a special permit is required by more than one local authority to
6 move a vehicle or combination of vehicles and if the permit is not required
7 by the director, the applicant shall pay a permit fee only to the local
8 authority that has jurisdiction of the streets and highways where the
9 movements of the vehicle or combination of vehicles originate.

10 Sec. 9. Section 28-3001, Arizona Revised Statutes, is amended to read:
11 28-3001. Definitions

12 In this chapter, unless the context otherwise requires:

13 1. "Cancellation" means the annulment or termination of a driver
14 license because of an error or defect or because the licensee is no longer
15 entitled to the license.

16 2. "Commercial driver license" means a license that is issued to an
17 individual and that authorizes the individual to operate a class of
18 commercial motor vehicles.

19 3. "Commercial motor vehicle" means a motor vehicle or combination of
20 motor vehicles THAT IS used IN COMMERCE to transport passengers or property
21 ~~if the motor vehicle either~~ AND THAT INCLUDES ANY OF THE FOLLOWING:

22 (a) A MOTOR VEHICLE OR COMBINATION OF MOTOR VEHICLES THAT has a gross
23 combined weight rating of twenty-six thousand one or more pounds inclusive of
24 a towed unit with a gross vehicle weight rating of more than ten thousand
25 pounds.

26 (b) A MOTOR VEHICLE THAT has a gross vehicle weight rating of
27 twenty-six thousand one or more pounds.

28 ~~(c) Is a school bus.~~

29 ~~(d) (c) Is A bus.~~

30 ~~(e) (d) A MOTOR VEHICLE OR COMBINATION OF MOTOR VEHICLES THAT is used~~
31 ~~in the transportation of materials found to be hazardous for the purposes of~~
32 ~~the hazardous materials transportation AUTHORIZATION act OF 1994 (49 United~~
33 ~~States Code sections 5101 through 5127 5128) and is required to be placarded~~
34 ~~under 49 Code of Federal Regulations section 172.504, as adopted by the~~
35 ~~department pursuant to chapter 14 of this title.~~

36 4. "Conviction" has the same meaning prescribed in section 28-101 and
37 also means a final conviction or judgment, including an order of a juvenile
38 court finding that a juvenile has violated a provision of this title or has
39 committed a delinquent act that if committed by an adult constitutes any of
40 the following:

41 (a) Criminal damage to property pursuant to section 13-1602,
42 subsection A, paragraph 1.

43 (b) A felony offense in the commission of which a motor vehicle was
44 used, including theft of a motor vehicle pursuant to section 13-1802,

1 unlawful use of means of transportation pursuant to section 13-1803 or theft
2 of means of transportation pursuant to section 13-1814.

3 (c) A forfeiture of bail or collateral deposited to secure a
4 defendant's appearance in court that has not been vacated.

5 5. "Disqualification" means a prohibition from obtaining a commercial
6 driver license or driving a commercial motor vehicle.

7 6. "Employer" means a person, including the United States, a state or
8 a political subdivision of a state, that owns or leases a commercial motor
9 vehicle or that assigns a person to operate a commercial motor vehicle.

10 7. "Endorsement" means an authorization that is added to an
11 individual's driver license and that is required to permit the individual to
12 operate certain types of vehicles.

13 8. "Foreign" means outside the United States.

14 9. "Gross vehicle weight rating" means the weight that is assigned by
15 the vehicle manufacturer to a vehicle and that represents the maximum
16 recommended total weight including the vehicle and the load for the vehicle.

17 10. "Judgment" means a final judgment and any of the following:

18 (a) The finding by a court that an individual is responsible for a
19 civil traffic violation.

20 (b) An individual's admission of responsibility for a civil traffic
21 violation.

22 (c) The voluntary or involuntary forfeiture of deposit in connection
23 with a civil traffic violation.

24 (d) A default judgment entered by a court pursuant to section 28-1596.

25 11. "License class" means, for the purpose of determining the
26 appropriate class of driver license required for the type of motor vehicle or
27 vehicle combination a driver intends to operate or is operating, the class of
28 driver license prescribed in section 28-3101.

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

31 13. "Original applicant" means any of the following:

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

34 (b) An applicant who is applying for a higher class of driver license
35 than the license currently held by the applicant.

36 (c) An applicant who has a license from a foreign country.

37 14. "Revocation" means that the driver license and driver's privilege
38 to drive a motor vehicle on the public highways of this state are terminated
39 and shall not be renewed or restored, except that an application for a new
40 license may be presented and acted on by the department after one year from
41 the date of revocation.

42 15. "State of domicile" means the state or jurisdiction where a person
43 has the person's true, fixed and permanent home and principal residence and
44 to which the person has the intention of returning after an absence.

1 16. "Suspension" means that the driver license and driver's privilege
2 to drive a motor vehicle on the public highways of this state are temporarily
3 withdrawn during the period of the suspension and until application for
4 reinstatement is made.

5 17. "Vehicle combination" means a motor vehicle and a vehicle in excess
6 of ten thousand pounds gross vehicle weight that it tows, if the combined
7 gross vehicle weight rating is more than twenty-six thousand pounds.

8 Sec. 10. Section 28-3006, Arizona Revised Statutes, is amended to
9 read:

10 28-3006. Driver license and nonoperating identification license
11 applications; organ donation preference;
12 reimbursement; definition

13 A. The director shall establish procedures:

14 1. To allow a person applying for a driver license, permit or
15 nonoperating identification license pursuant to this chapter to indicate
16 during the application process the person's preference to be an organ OR
17 TISSUE donor. An indication that the applicant wishes to be an organ OR
18 TISSUE donor is considered to be a document of gift.

19 2. For the release of information contained in the driving record of a
20 person who executes a document of gift that indicates a preference to be an
21 organ OR TISSUE donor if the release is for the purpose of being registered
22 in the donor registry maintained pursuant to section 36-858.

23 B. IN CONSULTATION WITH AN ORGAN PROCUREMENT ORGANIZATION OF THIS
24 STATE, THE DIRECTOR MAY PRESCRIBE THE FORM AND CONTENT OF AN INDICIA TO BE
25 PLACED ON A DRIVER LICENSE, PERMIT OR NONOPERATING IDENTIFICATION LICENSE
26 ISSUED BY THE DEPARTMENT INDICATING THE PERSON'S WISHES TO BE AN ORGAN OR
27 TISSUE DONOR.

28 ~~B.~~ C. The department shall not implement this section unless the
29 organ procurement organization that is located in this state and that meets
30 the requirements of section 371 of the public health service act (58 Stat.
31 682; 42 United States Code section 273) provides adequate funding to the
32 department to cover the costs the department will incur in implementing this
33 section.

34 ~~C.~~ D. For the purposes of this section, "document of gift" has the
35 same meaning prescribed in section 36-841.

36 Sec. 11. Section 28-3481, Arizona Revised Statutes, is amended to
37 read:

38 28-3481. Commercial motor vehicle drivers; violations;
39 classification

40 A. A person who drives a commercial motor vehicle on a highway in this
41 state without a valid appropriate class of commercial driver license OR
42 COMMERCIAL DRIVER LICENSE ENDORSEMENT is guilty of a class 3 misdemeanor.

43 B. A driver of a commercial motor vehicle who provides false or
44 fraudulent information to an employer as required by section 28-3227 is
45 guilty of a class 3 misdemeanor.

1 C. A driver of a commercial motor vehicle who fails to report the
2 information required in section 28-3227 is guilty of a class 3 misdemeanor.

3 Sec. 12. Section 28-4361, Arizona Revised Statutes, is amended to
4 read:

5 28-4361. License application; criminal records check

6 A. A person shall apply for a license to the director in writing on
7 forms prescribed by the director. The person shall include with the
8 application all documents and bonds required and the annual license fees
9 prescribed by section 28-4302.

10 B. The application shall be verified and shall contain:

11 1. The name and residence of either:

12 (a) The applicant.

13 (b) If the applicant is a partnership, each partner.

14 (c) If the applicant is a corporation, each principal officer,
15 director, agent or stockholder who owns twenty per cent or more of the
16 corporation and the name of the state in which the corporation was organized.

17 2. The principal place of business of the applicant.

18 3. The established place of business or the place of business at or
19 from which the applicant will conduct the business.

20 4. The make or makes of new motor vehicles, if any, that the applicant
21 will sell or offer for sale in this state.

22 5. The business hours of the applicant.

23 6. Other information that the director requires.

24 C. Each applicant WHO OWNS TWENTY PER CENT OR MORE OF AN ENTITY, and
25 each partner, ~~officer, director or agent~~ or each stockholder ~~owning~~ WHO OWNS
26 twenty per cent or more of a ~~corporation~~ AN ENTITY, seeking AND WHO SEEKS a
27 new license shall provide:

28 1. A full set of fingerprints to the department for the purpose of
29 obtaining a state and federal criminal records check pursuant to section
30 41-1750 and Public Law 92-544. The department of public safety may exchange
31 this fingerprint data with the federal bureau of investigation.

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

34 D. If a licensee adds or changes a partner, ~~officer, director or~~
35 ~~agent,~~ or a ~~stockholder~~ who owns twenty per cent or more of the ~~corporation,~~
36 ENTITY AND who was not included in the criminal records check on a prior
37 application, the licensee shall notify the department within thirty days of
38 the change. At the time of notification, an application and, if applicable, a
39 full set of fingerprints and the fee for a criminal records check shall be
40 submitted to the department. If any individual who is added or changed by
41 the licensee is found to be ineligible pursuant to section 28-4365, the
42 director, on completion of the criminal records check, shall advise the
43 licensee and the individual in writing that the license will be revoked,
44 unless the individual is removed from the position, and of the grounds for
45 the action.

1 E. The requirement for a criminal records check:

2 1. Does not apply to a manufacturer, importer, factory branch or
3 distributor or a person who is under eighteen years of age on the date the
4 application is filed with the department.

5 2. May not apply if the application is for a subsequent license and
6 the EACH applicant WHO OWNS TWENTY PER CENT OR MORE OF AN ENTITY, and each
7 partner, ~~officer, director or agent~~ or each stockholder ~~owning~~ WHO OWNS
8 twenty per cent or more of a ~~corporation~~ AN ENTITY, either:

9 (a) Have submitted to a criminal records check during the past five
10 years.

11 (b) Are currently licensed under this section.

12 Sec. 13. Section 28-4364, Arizona Revised Statutes, is amended to
13 read:

14 28-4364. Investigations; inspections

15 A. On the filing of the application for a license, the director shall:

16 1. Investigate the matters set forth in the license application.

17 2. Inspect, PHYSICALLY OR THROUGH AN ALTERNATE METHOD ESTABLISHED BY
18 THE DIRECTOR, the place from which the applicant proposes to transact
19 business.

20 3. Investigate other matters as the director deems necessary.

21 B. The director shall select a date and time to conduct the
22 investigation and inspection as the director determines is reasonable and
23 necessary.

24 C. The director may approve an application for a provisional dealer's
25 or automotive recycler's license pending completion of the criminal records
26 check pursuant to section 28-4361 if the applicant meets all other licensing
27 requirements of this chapter.

28 D. A provisional motor vehicle dealer's or automotive recycler's
29 license is valid unless revoked by the director or until the applicant
30 receives approval or denial of the application for a motor vehicle dealer's
31 or automotive recycler's license.

32 E. The director may revoke a provisional motor vehicle dealer's or
33 automotive recycler's license for a violation of this chapter.

34 Sec. 14. Section 28-4405, Arizona Revised Statutes, is amended to
35 read:

36 28-4405. Display of license; continuation date; late penalty

37 A. A license issued under this chapter:

38 1. Shall be conspicuously displayed in either:

39 (a) The established place of business for which it was obtained.

40 (b) The place of business if the licensee is a broker or a wholesale
41 vehicle dealer.

42 2. Is not transferable or subject to sale or reassignment.

43 B. The director may issue licenses with staggered continuation dates
44 to distribute the continuation workload as uniformly as practicable
45 throughout the twelve months of the calendar year. In order to initiate a

1 staggered license continuation system, the director may issue a license for
2 more or less than a twelve month period, but not more than eighteen months,
3 and may prorate the license fee.

4 C. A MOTOR VEHICLE DEALER LICENSEE SHALL SUBMIT ITS RENEWAL
5 APPLICATION AND APPLICABLE RENEWAL FEES TO THE DEPARTMENT OF TRANSPORTATION
6 ON OR BEFORE THE LICENSE CONTINUATION DATE. FOR THE PURPOSES OF RENEWAL, THE
7 LICENSE CONTINUATION DATE IS AS FOLLOWS:

8 1. IF THE MOTOR VEHICLE DEALER IS ALSO A LICENSED DEALER PURSUANT TO
9 TITLE 44, CHAPTER 2.1, THE DATE PRESCRIBED BY THE INITIAL LICENSING
10 DEPARTMENT, EITHER THE DEPARTMENT OF TRANSPORTATION OR THE DEPARTMENT OF
11 FINANCIAL INSTITUTIONS.

12 2. IF THE MOTOR VEHICLE DEALER IS NOT ALSO A LICENSED DEALER PURSUANT
13 TO TITLE 44, CHAPTER 2.1, THE DATE PRESCRIBED BY THE DEPARTMENT OF
14 TRANSPORTATION.

15 ~~C.~~ D. If a licensee fails, neglects or refuses to pay the required
16 fee for the ensuing year on or before the license continuation date, the fee
17 is delinquent and a penalty equal to the fee shall be added to the fee and
18 collected.

19 Sec. 15. Delayed repeal

20 Title 28, chapter 12, Arizona Revised Statutes, is repealed from and
21 after March 31, 2012.

22 Sec. 16. Section 28-5100, Arizona Revised Statutes, is amended to
23 read:

24 28-5100. Definitions

25 In this article, unless the context otherwise requires:

26 1. "Authorized third party" means an entity that has executed a
27 written agreement and is authorized by the department to perform limited or
28 specific functions but is not authorized by the department to function as an
29 authorized third party electronic service provider.

30 2. "AUTHORIZED THIRD PARTY ELECTRONIC SERVICE PARTNER" MEANS AN ENTITY
31 THAT HAS BEEN AWARDED A WRITTEN AGREEMENT WITH THE DEPARTMENT PURSUANT TO A
32 COMPETITIVE BID PROCESS TO PROVIDE ELECTRONIC TRANSMISSION SERVICES AND THAT
33 MAY BE AUTHORIZED BY THE DIRECTOR TO DEVELOP AND IMPLEMENT INFORMATION
34 TECHNOLOGY AND OTHER AUTOMATED SYSTEMS AND TO PROVIDE ANY NECESSARY ONGOING
35 SUPPORT FOR THESE SYSTEMS.

36 ~~2.~~ 3. "Authorized third party electronic service provider" means an
37 entity that has executed a written agreement with the department and is
38 authorized by the department to provide electronic transmission services
39 between the department, private citizens, other government agencies and
40 public and private entities in this state or in any other state, territory or
41 country.

1 Sec. 17. Section 28-5101, Arizona Revised Statutes, is amended to
2 read:

3 28-5101. Third party authorization

4 A. The director may authorize third parties to perform certain title
5 and registration, motor carrier licensing and tax reporting, dealer licensing
6 and driver license functions.

7 B. The director may authorize a person to be a third party electronic
8 service provider OR, BEGINNING JANUARY 1, 2012, TO BE A THIRD PARTY
9 ELECTRONIC SERVICE PARTNER. An authorized third party electronic service
10 provider shall meet all of the requirements established by the
11 department. ~~relating to security, the minimum number of types of~~
12 ~~transactions, payment options and multiple service delivery channels. Before~~
13 ~~authorization by the director pursuant to this subsection, a person shall~~
14 ~~submit a plan approved by the director for transition of an authorized third~~
15 ~~party electronic service provider's customer service transactions to the~~
16 ~~department for the purposes of continued operation by the department. The~~
17 ~~director may require updates of the plan as deemed necessary by the~~
18 ~~director.~~ BEGINNING JANUARY 1, 2012:

19 1. THE WRITTEN AGREEMENT BETWEEN THE DEPARTMENT AND THE AUTHORIZED
20 THIRD PARTY ELECTRONIC SERVICE PROVIDER MAY BE FOR A LIMITED NUMBER OF
21 SERVICES AND MAY LIMIT THE PERSONS THAT MAY RECEIVE THE SERVICES.

22 2. AN AUTHORIZED THIRD PARTY ELECTRONIC SERVICE PARTNER SHALL MEET THE
23 REQUIREMENTS ESTABLISHED BY THE DEPARTMENT AND SHALL BE SELECTED THROUGH A
24 COMPETITIVE BID PROCESS.

25 C. A person shall not engage in any business pursuant to this article
26 unless the director authorizes the person to engage in the business.

27 D. The director may furnish necessary documents or license plates
28 subject to this article.

29 E. Except as provided in subsection F of this section, an authorized
30 third party or an authorized third party electronic service provider shall
31 submit to the department all statutorily prescribed fees and taxes it
32 collects. In addition to the statutorily prescribed fees and taxes, an
33 authorized third party or an authorized third party electronic service
34 provider may collect and retain a reasonable and commensurate fee for its
35 services.

36 F. In addition to payment pursuant to section 28-374, the department
37 shall reimburse the authorized third party or third party electronic service
38 provider as follows:

39 1. One dollar of each initial, renewal, replacement or duplicate
40 registration fee for a vehicle or an aircraft.

41 2. One dollar of each initial, duplicate or transfer title fee for a
42 vehicle or an aircraft.

43 3. An amount equal to two per cent of each vehicle license tax payment
44 or aircraft license tax payment the authorized third party collects and
45 submits to the department or four dollars for each registration year or part

1 of a registration year, whichever is more. The reimbursement amount shall
2 not exceed the amount of vehicle license tax or aircraft license tax
3 collected.

4 4. Four dollars for each initial, renewal, replacement or duplicate
5 application that the third party processes and that relates to driver
6 licenses, nonoperating identification licenses or permits. An authorized
7 third party may add the cost for expedited processing of renewal, replacement
8 or duplicate applications if requested by the applicant.

9 5. An amount equal to two per cent of each overweight or excess size
10 vehicle registration or permit fee the third party collects and submits to
11 the department or one dollar for each overweight or excess size vehicle
12 registration or permit processed, whichever is more.

13 6. One dollar for each motor vehicle or special motor vehicle record,
14 excluding motor vehicle records released to commercial recipients, including
15 insurers and their authorized agents.

16 7. Five dollars or one-fourth of one per cent of the fuel taxes
17 reported, whichever is greater, for each fuel tax report filed
18 electronically. In fiscal years 2008-2009 through 2012-2013, the maximum
19 annual amount retained each year shall not exceed one million five hundred
20 thousand dollars. Beginning in fiscal year 2013-2014, the maximum annual
21 amount retained each year shall not exceed four hundred eighty thousand
22 dollars.

23 8. One dollar for each fuel tax permit.

24 9. One dollar for each nonsufficient funds or dishonored check
25 payment.

26 10. One dollar for each abandoned vehicle report processed, except for
27 applications for crushed vehicles.

28 11. One dollar for each abandoned vehicle payment.

29 12. Two dollars for each initial special or personalized license plate
30 application.

31 13. One dollar for each initial, renewal or replacement vehicle dealer
32 license plate.

33 14. Five dollars for each application for an initial vehicle dealer
34 license or continuation of a vehicle dealer license.

35 15. One dollar of each twelve dollar fee paid pursuant to section
36 28-2356.

37 16. One dollar for each traffic survival school application and one
38 dollar for each certificate of completion processed.

39 17. One dollar for each replacement license plate or tab.

40 G. FOR AUTHORIZED THIRD PARTY ELECTRONIC SERVICE PARTNERS, THE AMOUNT
41 OF COMPENSATION AND THE AMOUNT OF REIMBURSEMENTS FOR TRANSACTIONS SHALL BE
42 NEGOTIATED BY THE DEPARTMENT AND THE AUTHORIZED THIRD PARTY ELECTRONIC
43 SERVICE PARTNER AND SHALL BE SET FORTH IN THE WRITTEN AGREEMENT AUTHORIZING
44 THE THIRD PARTY ELECTRONIC SERVICE PARTNER. IF REIMBURSEMENT IS MADE FOR
45 INDIVIDUAL TRANSACTIONS, THE REIMBURSEMENTS SHALL NOT EXCEED THE AMOUNTS

1 SPECIFIED IN SUBSECTIONS F, H AND I OF THIS SECTION. OTHER FORMS OF
2 COMPENSATION OR REIMBURSEMENTS FOR SERVICES MAY BE SPECIFIED IN THE WRITTEN
3 AGREEMENT. COMPENSATION AND REIMBURSEMENTS PROVIDED FOR BY THE WRITTEN
4 AGREEMENT MAY INCLUDE THE DEVELOPMENT AND IMPLEMENTATION OF INFORMATION
5 TECHNOLOGY AND OTHER AUTOMATED SYSTEMS AND ANY NECESSARY SUPPORT FOR THESE
6 SYSTEMS.

7 ~~G.~~ H. The department's authorized third party electronic service
8 provider may retain two dollars for processing documents electronically when
9 the statutory fee pursuant to this title is two dollars or more.

10 ~~H.~~ I. The director may authorize the ~~electronic~~ third party
11 ELECTRONIC service provider to process electronic fund transfers to the
12 department for payment of motor vehicle taxes and fees. The ~~electronic~~ third
13 party ELECTRONIC service provider may add a two dollar processing fee for
14 each electronic funds transfer.

15 ~~I.~~ J. Each authorized third party that holds itself out as providing
16 services to the general public shall post a sign in a conspicuous location in
17 each facility of the authorized third party that contains the amount charged
18 for each transaction performed by the authorized third party and the amount
19 charged by the department for the same transaction.

20 Sec. 18. Section 28-5105, Arizona Revised Statutes, is amended to
21 read:

22 28-5105. Criminal record check; denial of application; immunity
23 from costs

24 A. ~~An EACH applicant WHO OWNS TWENTY PER CENT OR MORE OF AN ENTITY,~~
25 ~~and each partner, officer, director or agent or each stockholder owning WHO~~
26 ~~OWNS twenty per cent or more of a corporation AN ENTITY, seeking AND WHO~~
27 ~~SEEKS authorization or certification, or both, pursuant to this article shall~~
28 ~~provide:~~

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

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

35 B. The director may deny an application for authorization or
36 certification, or both, if any individual included in the application has
37 either:

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

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

44 3. Been convicted of a felony, other than a felony described in
45 paragraph 2 of this subsection, in a state, territory or possession of the

1 United States or a foreign country within the five years immediately
2 preceding the date the criminal records check is complete.

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

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

6 C. The director may approve an application for provisional
7 authorization or certification, or both, pending completion of the criminal
8 records check if the applicant meets all other requirements of this article.
9 The director may revoke a provisional authorization or certification, or
10 both, for a violation of this title. A provisional authorization or
11 certification, or both, is valid unless revoked by the director or until the
12 applicant receives approval or denial of the application for authorization or
13 certification, or both.

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

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

23 F. If the authorized third party adds a partner, ~~officer, director or~~
24 ~~agent,~~ or a ~~stockholder who owns twenty per cent or more of the corporation,~~
25 ENTITY AND who was not included in the criminal records check on a prior
26 application, the authorized third party shall notify the department within
27 thirty days of the change.

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

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

40 1. A department, agency or political subdivision of this state.

41 2. An Arizona court.

42 3. An Arizona law enforcement agency or department.

43 4. A financial institution or enterprise under the jurisdiction of the
44 department of financial institutions or a federal monetary authority.

45 5. The federal government or any of its agencies.

1 6. A motor vehicle dealer that is licensed and bonded by the
2 department of transportation or a state organization of licensed and bonded
3 motor vehicle dealers.

4 7. A manufacturer, importer, factory branch or distributor licensed by
5 the department of transportation.

6 8. An insurer under the jurisdiction of the department of insurance.

7 9. An owner or registrant of a fleet of one hundred or more vehicles.

8 10. A public utility.

9 11. A tribal government.

10 ~~12. A title service company that is bonded by the department of~~
11 ~~transportation.~~

12 ~~13.~~ 12. An employer or association that has at least five hundred
13 employees or members.

14 Sec. 19. Section 28-5201, Arizona Revised Statutes, as amended by Laws
15 2008, chapter 147, section 3, is amended to read:

16 28-5201. Definitions

17 In this chapter, unless the context otherwise requires:

18 1. "Commercial motor vehicle" means a motor vehicle or combination of
19 motor vehicles that is designed, used or maintained to transport passengers
20 or property in the furtherance of a commercial enterprise on a highway in
21 this state, that is not exempt from the gross weight fees as prescribed in
22 section 28-5432, subsection B and that includes any of the following:

23 ~~(a) A combination of vehicles that has a combined gross vehicle weight~~
24 ~~rating of twenty six thousand one or more pounds inclusive of a towed unit~~
25 ~~with a gross vehicle weight rating of more than ten thousand pounds.~~

26 ~~(b) A single vehicle that has a gross vehicle weight rating of~~
27 ~~twenty six thousand one or more pounds.~~

28 ~~(c)~~ (a) A single vehicle or combination of vehicles that has a gross
29 vehicle weight rating of eighteen thousand one or more pounds and that is
30 used for the purposes of intrastate commerce.

31 ~~(d)~~ (b) A single vehicle or combination of vehicles that has a gross
32 vehicle weight rating of ten thousand one or more pounds and that is used for
33 the purposes of interstate commerce.

34 ~~(e)~~ (c) A school bus.

35 ~~(f)~~ (d) A bus.

36 ~~(g)~~ (e) A vehicle that transports passengers for hire and that has a
37 design capacity for eight or more persons.

38 ~~(h)~~ (f) A vehicle that is used in the transportation of materials
39 found to be hazardous for the purposes of the hazardous materials
40 transportation AUTHORIZATION act OF 1994 (49 United States Code sections 5101
41 through 5127 5128) and that is required to be placarded under 49 Code of
42 Federal Regulations section 172.504, as adopted by the department pursuant to
43 this chapter.

1 2. "Declared gross weight" has the same meaning prescribed in section
2 28-5431. If a declaration has not been made, declared gross weight means
3 gross weight.

4 3. "Gross weight" has the same meaning prescribed in section 28-5431.

5 4. "Hazardous material" means a substance that has been determined by
6 the United States department of transportation under 49 Code of Federal
7 Regulations to be capable of posing an unreasonable risk to health, safety
8 and property if transported in commerce.

9 5. "Hazardous substance" means a material and its mixtures or
10 solutions that has been determined by the United States department of
11 transportation under 49 Code of Federal Regulations to be capable of posing
12 an unreasonable risk to health, safety and property if transported in
13 commerce.

14 6. "Hazardous waste" means a material that is subject to the hazardous
15 waste manifest requirements of the department of environmental quality or the
16 United States environmental protection agency.

17 7. "Manufacturer" means a person who transports or causes to be
18 transported or shipped by a motor vehicle a material that is represented,
19 marked, certified or sold by a person for transportation in commerce.

20 8. "Motor carrier" means a person who operates or causes to be
21 operated a commercial motor vehicle on a public highway.

22 9. "MOTOR VEHICLE" MEANS ANY VEHICLE, MACHINE, TRUCK, TRACTOR, TRAILER
23 OR SEMITRAILER THAT IS PROPELLED OR DRAWN BY MECHANICAL POWER AND THAT IS
24 USED ON A PUBLIC HIGHWAY IN THE TRANSPORTATION OF PASSENGERS OR PROPERTY IN
25 THE FURTHERANCE OF A COMMERCIAL ENTERPRISE.

26 ~~9.~~ 10. "Person" means a public or private corporation, company,
27 partnership, firm, association or society of persons, the federal government
28 and its departments or agencies, this state or any of its agencies,
29 departments, political subdivisions, counties, towns or municipal
30 corporations or a natural person.

31 ~~10.~~ 11. "Public highway" means a public street, alley, road, highway
32 or thoroughfare of any kind in this state that is used by the public or that
33 is open to the use of the public as a matter of right, for the purpose of
34 vehicular travel.

35 ~~11.~~ 12. "Shipper" means a person who offers a material for motor
36 vehicle transportation in commerce.

37 ~~12.~~ 13. "Transportation" means a movement of person or property by a
38 motor vehicle and any loading, unloading or storage incidental to the
39 movement.

40 ~~13.~~ 14. "Vehicle combination" has the same meaning prescribed in
41 section 28-5431.

42 Sec. 20. Repeal

43 A. Section 28-5201, Arizona Revised Statutes, as amended by Laws 2008,
44 chapter 142, section 9, is repealed.

1 B. Section 28-5204, Arizona Revised Statutes, as amended by Laws 2008,
2 chapter 142, section 10, is repealed.

3 Sec. 21. Section 28-5234, Arizona Revised Statutes, is amended to
4 read:

5 28-5234. Exemption from rules on drivers' qualification and
6 hours of service; definitions

7 A. If the department adopts 49 Code of Federal Regulations parts 390
8 through 397 as a rule, a telecommunications corporation engaged in rendering
9 public utility service or a railroad and its employees whose work necessarily
10 involves the operation of a motor vehicle weighing more than ~~either ten~~
11 ~~thousand pounds unladen weight or twenty~~ EIGHTEEN thousand pounds declared
12 gross vehicle weight rating but which operation is only incidental to the
13 performance of their principal nondriving duties and purpose of employment
14 are exempted from compliance with 49 Code of Federal Regulations parts 391
15 and 395, except that 49 Code of Federal Regulations part 391, subparts A and
16 E apply unless it is the practice of the telecommunications corporation
17 engaged in rendering public utility service or the railroad to assign regular
18 drivers, qualified in accordance with 49 Code of Federal Regulations parts
19 390 through 397, to motor vehicles weighing more than ~~either ten thousand~~
20 ~~pounds unladen weight or twenty~~ EIGHTEEN thousand pounds gross vehicle weight
21 rating, and if such driver becomes unavailable or unable to operate the motor
22 vehicle on a given occasion due to an unavoidable or unforeseen circumstance
23 against which provisions could not be reasonably made, compliance with 49
24 Code of Federal Regulations parts 391 and 395 is not required.

25 B. A person who is an employee of a public service corporation, a
26 political subdivision of this state that is engaged in rendering public
27 utility service or a railroad is exempt from any hours of service
28 requirements at any time when relief assistance is needed to supplement state
29 or local efforts and capabilities to save lives, protect against substantial
30 loss of property, protect the public health and safety or lessen or avert the
31 consequence of a catastrophe. If an emergency respondent independently
32 identifies an occasion or instance that jeopardizes life or property or that
33 endangers public health and safety, an emergency situation exists, and the
34 respondent is exempt from any hours of service requirements if the respondent
35 contacts with due diligence and coordinates with state or local officials.

36 C. The following intrastate drivers may begin to calculate hours of
37 service requirements at any point at which the driver goes on duty after the
38 driver has been off duty for twenty-four or more consecutive hours:

39 1. Drivers who are primarily involved in the transportation of
40 groundwater drilling rigs.

41 2. Drivers used primarily in the transportation of construction
42 materials and equipment en route to or from an active construction site that
43 is within a seventy-five air mile radius of the driver's normal work
44 reporting location and is at a stage between initial mobilization of
45 equipment and materials to the site and final completion of the construction

1 project. This paragraph does not apply to drivers transporting hazardous
2 materials in a quantity that requires placarding.

3 3. Drivers of public utility service vehicles that are operated
4 primarily within the service area of the public utility's subscribers, that
5 are used in furtherance of repairing, maintaining or operating any physical
6 facilities necessary for the delivery of public utility services and that are
7 engaged in any activity necessarily related to the ultimate delivery of
8 public utility services to the consumer, including travel to, from, on or
9 between activity sites. The public utility is not required to be the owner
10 of the vehicle.

11 D. For the purposes of this section:

12 1. "Public service corporation" means a public service corporation as
13 defined in article XV, section 2, Constitution of Arizona.

14 2. "Railroad" means a railway or railroad that is regulated as a
15 common carrier under article XV, section 10, Constitution of Arizona, and
16 that is subject to title 40, chapter 4, article 3.

17 3. "Telecommunications corporation" means an entity as defined in
18 section 40-201 that is subject to regulation by the corporation commission.

19 Sec. 22. Section 28-5621, Arizona Revised Statutes, is amended to
20 read:

21 28-5621. Failure to report or pay tax; penalties; interest;
22 transmittal date

23 A. EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, if a supplier
24 fails to submit the monthly report to the director on or before the
25 twenty-seventh day of the month, fails to submit the data or information
26 required under this article in the monthly report or fails to pay the amount
27 of taxes due when payable, the supplier shall pay interest on the unpaid tax
28 at the rate of one per cent per month or portion of a month from the due date
29 until paid and a penalty of five per cent shall be added to any tax not paid
30 on or before the day prescribed for the payment of the tax. A SUPPLIER IS
31 NOT SUBJECT TO THE FIVE PER CENT PENALTY ON TRANSACTIONS REPORTED WITHIN
32 NINETY DAYS AFTER THE DUE DATE IF THE SUPPLIER HAS PAID AT LEAST NINETY-NINE
33 AND ONE-HALF PER CENT OF THE ACTUAL TAX LIABILITY FOR THE MONTH BY THE DUE
34 DATE.

35 B. In addition to the penalty provided by subsection A, a person who
36 fails to file a report required by this section when due shall pay an
37 additional penalty of twenty-five dollars.

38 C. If a report or remittance required by this article is transmitted
39 through the United States mail and is not received by the director until
40 after the date on which the report is required to be filed or the payment was
41 required to be made and if the envelope in which the report or remittance is
42 enclosed has a post office cancellation mark dated on or before that date, on
43 receipt of the envelope, the director shall treat the report or remittance as
44 if it had been received on the required date.

1 Sec. 23. Section 28-5925, Arizona Revised Statutes, is amended to
2 read:

3 28-5925. Payment; distribution

4 A. The supplier, as shown in the records of the terminal operator, who
5 removes the taxable gallons shall precollect and remit on behalf of consumers
6 and users to the department the taxes that are imposed by sections ~~28-5605~~
7 28-5606 and 28-8344 and that are measured by the invoiced gallons of motor
8 fuel removed by a licensed supplier from a terminal or refinery in this state
9 other than a bulk transfer.

10 B. The supplier and each reseller shall list the amount of tax as a
11 separate line item on all invoices or billings or as a separate billing. A
12 PERSON WHO IMPOSES AN ADDED CHARGE TO COVER THE TAX LEVIED BY THIS ARTICLE OR
13 A CHARGE THAT IS IDENTIFIED AS BEING IMPOSED TO COVER A TAX SHALL NOT REMIT
14 LESS THAN THE AMOUNT COLLECTED TO THE DEPARTMENT.

15 C. The motor fuel tax that is accrued in any calendar month shall be
16 paid on or before the twenty-seventh day of the next succeeding calendar
17 month to the director.

18 D. A supplier shall remit any late taxes remitted to the supplier by
19 an eligible purchaser and shall notify the department in a timely manner of
20 any late remittances if that supplier has previously given notice to the
21 department of an uncollectible tax amount pursuant to section 28-5639,
22 subsection B.

23 E. On payment, the director shall promptly:

24 1. Distribute the amount of money collected as a tax on sales of motor
25 vehicle fuel used in propelling watercraft pursuant to section 28-5926
26 beginning with the month following the conclusion of the survey conducted
27 pursuant to section 28-5926.

28 2. Deposit, pursuant to sections 35-146 and 35-147, all remaining
29 monies in the Arizona highway user revenue fund or the state aviation fund as
30 determined from the reports filed pursuant to section 28-5618.

31 F. The director shall deduct all exemptions and refunds before
32 depositing the monies.

33 Sec. 24. Section 28-6991, Arizona Revised Statutes, is amended to
34 read:

35 28-6991. State highway fund; sources

36 A state highway fund is established that consists of:

37 1. Monies distributed from the Arizona highway user revenue fund
38 pursuant to chapter 18 of this title.

39 2. Monies appropriated by the legislature.

40 3. Monies received from donations for the construction, improvement or
41 maintenance of state highways or bridges. These monies shall be credited to
42 a special account and shall be spent only for the purpose indicated by the
43 donor.

44 4. Monies received from counties under cooperative agreements,
45 including proceeds from bond issues. The state treasurer shall deposit these

1 monies to the credit of the fund in a special account on delivery to the
2 treasurer of a concise written agreement between the department and the
3 county stating the purposes for which the monies are surrendered by the
4 county, and these monies shall be spent only as stated in the agreement.

5 5. Monies received from the United States under an act of Congress to
6 provide aid for the construction of rural post roads, but monies received on
7 projects for which the monies necessary to be provided by this state are
8 wholly derived from sources mentioned in paragraphs 2 and 3 of this section
9 shall be allotted by the department and deposited by the state treasurer in
10 the special account within the fund established for each project. On
11 completion of the project, on the satisfaction and discharge in full of all
12 obligations of any kind created and on request of the department, the
13 treasurer shall transfer the unexpended balance in the special account for
14 the project into the state highway fund, and the unexpended balance and any
15 further federal aid thereafter received on account of the project may be
16 spent under the general provisions of this title.

17 6. Monies in the custody of an officer or agent of this state from any
18 source that is to be used for the construction, improvement or maintenance of
19 state highways or bridges.

20 7. Monies deposited in the state general fund and arising from the
21 disposal of state personal property belonging to the department.

22 8. Receipts from the sale or disposal of any or all other property
23 held by the department and purchased with state highway monies.

24 9. Monies generated pursuant to section 28-410.

25 10. Monies distributed pursuant to section 28-5808, subsection B,
26 paragraph 2, subdivision (d).

27 11. Monies deposited pursuant to sections 28-1143, 28-2353 and 28-3003.

28 12. Except as provided in section 28-5101, the following monies:

29 (a) Monies deposited pursuant to section 28-2206 and section 28-5808,
30 subsection B, paragraph 2, subdivision (e).

31 (b) One dollar of each registration fee and one dollar of each title
32 fee collected pursuant to section 28-2003.

33 (c) Two dollars of each late registration penalty collected by the
34 director pursuant to section 28-2162.

35 (d) The air quality compliance fee collected pursuant to section
36 49-542.

37 (e) The special plate administration fees collected pursuant to
38 sections 28-2404, 28-2412 through 28-2416, 28-2416.01, 28-2417 through
39 28-2436 and 28-2514.

40 (f) Monies collected pursuant to sections 28-372, 28-2155 and 28-2156
41 if the director is the registering officer.

42 13. Monies deposited pursuant to chapter 5, article 5 of this title.

43 14. Donations received pursuant to section 28-2269.

44 15. Dealer and registration monies collected pursuant to section
45 28-4304.

1 16. Abandoned vehicle administration monies deposited pursuant to
2 section 28-4804.

3 17. Monies deposited pursuant to section 28-710, subsection D,
4 paragraph 2.

5 18. Monies deposited pursuant to section 28-2065.

6 19. Donations deposited pursuant to section 28-2430.

7 20. Monies deposited pursuant to section 28-7311.

8 21. Monies deposited pursuant to section 28-7059.

9 22. MONIES DEPOSITED PURSUANT TO SECTION 28-1105.

10 Sec. 25. Section 28-7311, Arizona Revised Statutes, is amended to
11 read:

12 28-7311. Urban and rural logo sign programs; rules; definitions

13 A. The department may establish ~~a~~ AN URBAN AND A RURAL logo sign
14 program. Notwithstanding sections 28-648, 28-7048 and 28-7053, as part of
15 the program the department may contract with a third party to install and
16 maintain specific services information signs, known as logo signs, on ~~certain~~
17 ~~portions of the completed~~ ANY CLASS OF STATE HIGHWAY OR interstate highway
18 system in this state. IF THE DEPARTMENT CONTRACTS WITH A THIRD PARTY, the
19 third party shall agree in the contract to:

20 1. Furnish, install, maintain and replace signs for the benefit of
21 business advertisers who provide gas, food, lodging, twenty-four hour
22 pharmacy service, attraction and camping facilities for the general public.

23 2. Lease advertising space on the signs to operators of the facilities
24 prescribed in paragraph 1 of this subsection.

25 B. ~~In addition to the program established in subsection A of this~~
26 ~~section, the department may establish a rural logo sign program.~~
27 Notwithstanding sections 28-648, 28-7048 and 28-7053, as part of ~~this~~ THE
28 RURAL LOGO SIGN program the department may contract with a third party to
29 install and maintain specific services information signs, known as logo
30 signs, on any class of state highway, ~~other than a segment of the~~ OR
31 interstate highway system, located outside of an urbanized area WITH A
32 POPULATION OF ONE HUNDRED THOUSAND OR MORE PERSONS OF THIS STATE. IF THE
33 DEPARTMENT CONTRACTS WITH A THIRD PARTY, the third party shall agree in the
34 contract to:

35 1. Furnish, install, maintain and replace signs for the benefit of
36 business advertisers that provide gas, food, lodging, twenty-four hour
37 pharmacy service, attraction and camping facilities for the general public.

38 2. Lease advertising space on the signs to operators of the facilities
39 prescribed in paragraph 1 of this subsection.

40 C. The department shall adopt rules to implement and operate the logo
41 sign programs. Costs incurred under the programs established by this section
42 shall be paid under agreements negotiated between the DEPARTMENT OR third
43 party and the business advertisers.

1 D. The department may enter into a revenue sharing agreement with the
2 third party. The department shall deposit, pursuant to sections 35-146 and
3 35-147, ~~all monies received from the revenue sharing agreement~~ REVENUES
4 GENERATED, LESS PROGRAM OPERATING COSTS, in the state highway fund
5 established by section 28-6991.

6 E. For the purposes of this section:

7 1. "Population" means the population determined in the most recent
8 United States decennial census or in the most recent special census as
9 provided in section 28-6532.

10 2. "Urbanized area" means an urbanized area as defined in the
11 decennial census by the United States bureau of the census.

12 Sec. 26. Section 28-7701, Arizona Revised Statutes, is amended to
13 read:

14 28-7701. Definitions

15 In this chapter, unless the context otherwise requires:

16 1. "Concession" means any lease, ground lease, franchise, easement,
17 permit or other binding agreement transferring rights for the use or control,
18 in whole or in part, of an eligible facility by the department or other unit
19 of government to a private partner in accordance with this chapter.

20 2. "Eligible facility" means any facility, WHETHER REAL OR PERSONAL
21 PROPERTY, developed or operated after ~~the effective date of this chapter~~
22 SEPTEMBER 30, 2009 in accordance with this chapter, including any EXISTING,
23 enhanced, upgraded or new facility THAT IS ANY OF THE FOLLOWING:

24 (a) Used or useful for the safe transport of people or goods via one
25 or more modes of transport, whether involving highways, BRIDGES, TUNNELS,
26 railways, monorails, transit, bus systems, guided rapid transit, fixed
27 guideways, ferries, boats, vessels, AIRPORTS, intermodal or multimodal
28 systems or any other mode of transport. ~~,as well as facilities~~

29 (b) USED BY OR USEFUL TO THE DEPARTMENT, INCLUDING VEHICLE
30 REGISTRATION AND DRIVER LICENSING FACILITIES, OPERATING SYSTEMS AND
31 INFORMATION SYSTEMS.

32 (c) RELATED OR ANCILLARY TO, OR USED OR USEFUL TO PROVIDE, OPERATE,
33 MAINTAIN OR GENERATE REVENUE FOR, A FACILITY UNDER SUBDIVISION (a) OR (b),
34 INCLUDING ADMINISTRATIVE BUILDINGS AND OTHER BUILDINGS, structures, parking,
35 REST AREAS, MAINTENANCE YARDS, rail yards, PORTS OF ENTRY or storage
36 facilities, vehicles, rolling stock, ENERGY SYSTEMS or other related
37 equipment, items or property.

38 3. "Private partner" means a person, entity or organization that is
39 not the federal government, this state, a political subdivision of this state
40 or a unit of government.

41 4. "Unit of government" means any agency, office or department of this
42 state, city, county, district, commission, authority, entity, port or other
43 public corporation organized and existing under statutory law or under a
44 voter approved charter or initiative, and any intergovernmental entity.

1 Sec. 27. Section 28-7705, Arizona Revised Statutes, is amended to
2 read:

3 28-7705. Public-private partnership agreements

4 A. In any public-private partnership or other agreement for any
5 eligible facility under this chapter, the department may include provisions
6 that:

7 1. Authorize the DEPARTMENT OR THE private partner to collect user
8 fees, tolls, fares, RENTS, ADVERTISING AND SPONSORSHIP FEES, SERVICE FEES or
9 similar charges, including provisions that:

10 (a) Specify technology to be used in the facility.

11 (b) Establish circumstances under which the department may receive ALL
12 OR a share of revenues from such charges.

13 (c) Govern enforcement of tolls, including provisions for use of
14 cameras or other mechanisms to ensure that users have paid tolls that are due
15 and provisions that allow the private partner access to relevant databases
16 for enforcement purposes. Misuse of the data contained in the databases,
17 including negligence in securing the data properly, shall result in a civil
18 penalty of ten thousand dollars for each violation. Civil penalties
19 collected pursuant to this subdivision shall be deposited in the state
20 general fund.

21 (d) AUTHORIZE THE DEPARTMENT TO CONTINUE OR CEASE COLLECTION OF USER
22 FEES, TOLLS, FARES OR SIMILAR CHARGES AFTER THE END OF THE TERM OF THE
23 AGREEMENT.

24 2. Allow for payments to be made by this state to the private partner,
25 including availability payments or performance based payments.

26 3. Allow the department to accept payments of monies and share
27 revenues with the private partner.

28 4. Address how the partners will share management of the risks of the
29 project.

30 5. Specify how the partners will share the costs of development of the
31 project.

32 6. Allocate financial responsibility for cost overruns.

33 7. Establish the damages to be assessed for nonperformance.

34 8. Establish performance criteria or incentives, or both.

35 9. Address the acquisition of rights-of-way and other property
36 interests that may be required, including provisions that address the
37 exercise of eminent domain as provided in section 28-7709. This state shall
38 not relinquish its power of eminent domain authority to the private partner.

39 10. Establish record keeping, accounting and auditing standards to be
40 used for the project.

41 11. For a project that reverts to public ownership, address
42 responsibility for reconstruction or renovations that are required in order
43 for a facility to meet all applicable government standards on reversion of
44 the facility to this state.

45 12. Provide for patrolling and law enforcement on public facilities.

1 13. Identify any department specifications that must be satisfied,
2 including provisions allowing the private partner to request and receive
3 authorization to deviate from the specifications on making a showing
4 satisfactory to the department.

5 14. Require a private partner to provide performance and payment bonds,
6 parent company guarantees, letters of credit or other acceptable form FORMS
7 of security or a combination of any of these, the penal sum or amount of
8 which may be less than one hundred per cent of the value of the contract
9 involved based on the department's determination, made on a
10 facility-by-facility basis, of what is required to adequately protect this
11 state.

12 15. Authorize the private partner in any concession agreement to
13 collect user fees, tolls, fares, RENTS, ADVERTISING AND SPONSORSHIP FEES,
14 SERVICE FEES or similar charges to cover its costs and provide for a
15 reasonable rate of return on the private partner's investment, including
16 provisions such as the following:

17 (a) The charges may be collected directly by the private partner or by
18 a third party engaged for that purpose.

19 (b) A formula for the adjustment of user fees, tolls, fares, RENTS,
20 ADVERTISING AND SPONSORSHIP FEES, SERVICE FEES or similar charges during the
21 term of the agreement.

22 (c) For an agreement that does not include a formula described in
23 subdivision (b) of this paragraph, provisions regulating the private
24 partner's return on investment.

25 (d) A variety of traffic management strategies, including:

26 (i) General purpose toll lanes.

27 (ii) High occupancy vehicle lanes where single or low occupancy
28 vehicles may use higher occupancy vehicle lanes by paying a toll.

29 (iii) Lanes or facilities in which the tolls may vary during the
30 course of the day or week or according to levels of congestion anticipated or
31 experienced.

32 (iv) Combinations of, or variations on, items (i), (ii) and (iii), or
33 other strategies the department determines are appropriate on a
34 facility-by-facility basis.

35 16. Specify remedies available and dispute resolution procedures,
36 including the right of the private partner to institute legal proceedings to
37 obtain an enforceable judgment or award against the department in the event
38 of a default by the department and procedures for use of dispute review
39 boards, mediation, facilitated negotiation, arbitration and other alternative
40 dispute resolution procedures.

41 17. ALLOW THE DEPARTMENT TO ACQUIRE REAL PROPERTY THAT IS NEEDED FOR
42 AND RELATED TO ELIGIBLE FACILITIES, INCLUDING ACQUISITION BY EXCHANGE FOR
43 OTHER REAL PROPERTY THAT IS OWNED BY THE DEPARTMENT. AN ACQUISITION PURSUANT
44 TO THIS PARAGRAPH IS EXEMPT FROM CHAPTER 20, ARTICLES 6 AND 8 OF THIS TITLE.

1 B. Notwithstanding any other law, the department may enter into
2 agreements, whether a concession agreement or other form of agreement, with
3 any private partner that includes provisions described in subsection A of
4 this section. Agreements may be for a term not to exceed fifty years but may
5 be extended for additional terms.

6 C. The department may approve any request from another unit of
7 government to develop an eligible facility in a manner similar to that used
8 by the department under this chapter.

9 D. Notwithstanding any other law, agreements under this chapter that
10 are properly developed, operated or held by a private partner under a
11 concession agreement pursuant to this chapter are exempt from all state and
12 local ad valorem and property taxes that otherwise might be applicable.

13 E. A person who pays a toll to operate a motor vehicle on a roadway
14 project that is constructed or operated pursuant to this article is entitled
15 to and may apply for a refund or credit from the state for motor vehicle fuel
16 license taxes, use fuel taxes or motor carrier fees paid while operating the
17 motor vehicle on the roadway project. The director shall establish by rule
18 the procedures for granting refunds and credits.

19 F. The agreement shall contain a provision by which the private
20 partner expressly agrees that it is to be barred from seeking injunctive or
21 other equitable relief to delay, prevent or otherwise hinder the department
22 from developing or constructing any facility that was planned as of the time
23 the public-private partnership agreement was executed and that would or might
24 impact the revenue that the private partner would or might derive from the
25 facility developed under the agreement, except that the agreement may provide
26 for reasonable compensation to the private partner for the adverse effect on
27 toll revenues or other user fee revenues resulting from development and
28 construction of an unplanned revenue impacting facility.

29 G. The agreement shall contain a provision that prohibits photo
30 traffic enforcement of chapter 3, article 6 of this title on toll lanes.

31 H. Any foreign private entity that enters into an agreement with the
32 department pursuant to this section must provide satisfactory evidence to the
33 board that the foreign entity is in compliance with the requirements of title
34 10, chapter 38.

35 I. The agreement shall contain a provision that all public-private
36 partnerships are subject to chapter 20, article 3 of this title.

37 Sec. 28. Section 28-7706, Arizona Revised Statutes, is amended to
38 read:

39 28-7706. Funding and financing

40 A. Any lawful source of funding may be used for the development or
41 operation of an eligible facility under this chapter, including:

42 1. The proceeds of grant anticipation revenue bonds authorized by 23
43 United States Code section 122 or any other applicable federal or state law.

44 2. Grants, loans, loan guarantees, lines of credit, revolving lines of
45 credit or other arrangements available under the transportation

1 infrastructure finance and innovation act of 1998 (P.L. 105-178; 112 Stat.
2 241; 23 United States Code sections 601 through 610) or any other federal or
3 state law.

4 3. Federal, state or local revenues.

5 4. User fees, tolls, fares, charges, lease proceeds, rents,
6 availability payments, gross or net receipts from sales, proceeds from the
7 sale of development rights, franchise fees, permit fees, RENTS, ADVERTISING
8 AND SPONSORSHIP FEES, SERVICE FEES or any other lawful form of consideration.

9 5. Private activity bonds as described by 26 United States Code
10 section 141 and other forms of private capital.

11 6. Other forms of public and private capital that are available.

12 B. As security for the payment of financing described in this section,
13 the revenues from the project may be pledged, but no pledge of revenues
14 constitutes in any manner or to any extent a general obligation of this
15 state. Any financing may be structured on a senior, parity or subordinate
16 basis to any other financing.

17 C. The department may issue toll revenue bonds or notes to provide
18 monies for any project under this chapter.

19 D. The department may accept from the United States or any of its
20 agencies monies that are available to this state or to any other unit of
21 government for carrying out the purposes of this chapter, whether the monies
22 are made available by grant, loan or other financing arrangement. The
23 department may enter into agreements and other arrangements with the United
24 States or any of its agencies as may be necessary, proper and convenient for
25 carrying out this chapter.

26 E. The department may accept from any source any grant, donation, gift
27 or other form of conveyance of land, money, other real or personal property
28 or other valuable thing made to this state, the department or a local
29 government for carrying out this chapter.

30 F. Any eligible facility may be funded in whole or in part by
31 contribution of any monies or property made by any private entity or public
32 sector partner that is a party to any agreement entered into under this
33 chapter.

34 G. Notwithstanding any other law, federal, state and local monies may
35 be combined with any private sector monies for any project purposes.

36 H. Revenue bonds issued pursuant to this section are not general
37 obligations of this state and are not secured by or payable from any monies
38 or assets of this state other than the monies and revenues specifically
39 pledged to the repayment of the revenue bonds.

40 Sec. 29. Section 32-2352, Arizona Revised Statutes, is amended to
41 read:

42 32-2352. Enforcement; contract with private entity

43 A. The director, subject to title 41, chapter 6, shall adopt such
44 rules concerning the administration and enforcement of this chapter as are
45 necessary to carry out the intent of this chapter and to protect the public.

1 The director or the director's authorized representative shall inspect the
2 school facilities and equipment used by applicants and licensees under this
3 chapter and examine applicants for instructor's licenses.

4 B. The director shall administer and enforce this chapter.

5 C. The director may contract with a private entity to conduct
6 inspections pursuant to this section and to administer any rules adopted
7 pursuant to this section that relate to the licensure and administration of
8 ~~traffic survival schools~~ PROFESSIONAL DRIVER TRAINING SCHOOLS pursuant to
9 this chapter. The term of any contract entered into pursuant to this
10 subsection shall not exceed five years with a right to renew for an
11 additional five years. The private entity that contracts with the director
12 pursuant to this subsection:

13 1. Shall not provide ~~traffic survival school~~ PROFESSIONAL DRIVER
14 TRAINING SCHOOL courses.

15 2. May charge a fee to each person who enrolls in ~~traffic survival~~
16 ~~school~~ A PROFESSIONAL DRIVER TRAINING SCHOOL.

17 Sec. 30. Section 32-2371, Arizona Revised Statutes, is amended to
18 read:

19 32-2371. License for schools; requirements; fingerprint
20 clearance card

21 A. No professional driver training school shall be established nor
22 shall any such existing school be continued on or after March 13, 1968 unless
23 such school applies for and obtains from the director a license in the manner
24 and form prescribed by the director.

25 B. Rules adopted by the director shall state the requirements for a
26 school license, including requirements concerning location, equipment,
27 courses of instruction, instructors, previous records of the school and
28 instructors, schedule of fees and charges, character and reputation of the
29 operators and instructors, insurance in such sum and with such provisions as
30 the director deems necessary to protect adequately the interests of the
31 public, and such other matters as the director may prescribe for the
32 protection of the public.

33 C. EACH APPLICANT WHO OWNS TWENTY PER CENT OR MORE OF AN ENTITY, AND
34 EACH PARTNER OR STOCKHOLDER WHO OWNS TWENTY PER CENT OR MORE OF AN ENTITY AND
35 WHO SEEKS LICENSURE PURSUANT TO THIS CHAPTER SHALL PROVIDE THE DEPARTMENT OR
36 A CONTRACTED PRIVATE ENTITY OF THE DEPARTMENT PURSUANT TO SECTION 32-2352
37 WITH A VALID FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO SECTION
38 41-1758.03.

39 Sec. 31. Section 41-619.51, Arizona Revised Statutes, is amended to
40 read:

41 41-619.51. Definitions

42 In this article, unless the context otherwise requires:

1 1. "Agency" means the supreme court, the department of economic
2 security, the department of education, the department of health services, the
3 department of juvenile corrections, the department of emergency and military
4 affairs, THE DEPARTMENT OF TRANSPORTATION, the state real estate department
5 or the board of examiners of nursing care institution administrators and
6 assisted living facility managers.

7 2. "Board" means the board of fingerprinting.

8 3. "Expedited review" means an examination, in accordance with board
9 rule, of the documents an applicant submits by the board or its hearing
10 officer without the applicant being present.

11 4. "Good cause exception" means the issuance of a fingerprint
12 clearance card to an employee pursuant to section 41-619.55.

13 5. "Person" means a person who is required to be fingerprinted
14 pursuant to this article and any of the following:

- 15 (a) Section 8-105.
- 16 (b) Section 8-322.
- 17 (c) Section 8-509.
- 18 (d) Section 8-802.
- 19 (e) Section 15-183.
- 20 (f) Section 15-534.
- 21 (g) Section 15-1330.
- 22 (h) Section 15-1881.
- 23 (i) Section 26-103.
- 24 (j) Section 32-2108.01.
- 25 (k) Section 32-2123.
- 26 (l) SECTION 32-2371.
- 27 ~~(m)~~ (m) Section 36-411.
- 28 ~~(n)~~ (n) Section 36-425.03.
- 29 ~~(o)~~ (o) Section 36-446.04.
- 30 ~~(p)~~ (p) Section 36-594.01.
- 31 ~~(q)~~ (q) Section 36-594.02.
- 32 ~~(r)~~ (r) Section 36-882.
- 33 ~~(s)~~ (s) Section 36-883.02.
- 34 ~~(t)~~ (t) Section 36-897.01.
- 35 ~~(u)~~ (u) Section 36-897.03.
- 36 ~~(v)~~ (v) Section 36-3008.
- 37 ~~(w)~~ (w) Section 41-619.53.
- 38 ~~(x)~~ (x) Section 41-1964.
- 39 ~~(y)~~ (y) Section 41-1967.01.
- 40 ~~(z)~~ (z) Section 41-1968.
- 41 ~~(aa)~~ (aa) Section 41-1969.
- 42 ~~(bb)~~ (bb) Section 41-2814.
- 43 ~~(cc)~~ (cc) Section 46-141, subsection A.
- 44 ~~(ee)~~ (dd) Section 46-321.

1 Sec. 32. Section 41-1758, Arizona Revised Statutes, is amended to
2 read:

3 41-1758. Definitions

4 In this article, unless the context otherwise requires:

5 1. "Agency" means the supreme court, the department of economic
6 security, the department of education, the department of health services, the
7 department of juvenile corrections, the department of emergency and military
8 affairs, THE DEPARTMENT OF TRANSPORTATION, the state real estate department,
9 the board of fingerprinting or the board of examiners of nursing care
10 institution administrators and assisted living facility managers.

11 2. "Division" means the fingerprinting division in the department of
12 public safety.

13 3. "Good cause exception" means the issuance of a valid fingerprint
14 clearance card to an employee pursuant to section 41-619.55.

15 4. "Person" means a person who is required to be fingerprinted
16 pursuant to any of the following:

- 17 (a) Section 8-105.
- 18 (b) Section 8-322.
- 19 (c) Section 8-509.
- 20 (d) Section 8-802.
- 21 (e) Section 15-183.
- 22 (f) Section 15-503.
- 23 (g) Section 15-512.
- 24 (h) Section 15-534.
- 25 (i) Section 15-1330.
- 26 (j) Section 15-1881.
- 27 (k) Section 26-103.
- 28 (l) Section 32-2108.01.
- 29 (m) Section 32-2123.
- 30 (n) SECTION 32-2371.
- 31 ~~(n)~~ (o) Section 36-411.
- 32 ~~(o)~~ (p) Section 36-425.03.
- 33 ~~(p)~~ (q) Section 36-446.04.
- 34 ~~(q)~~ (r) Section 36-594.01.
- 35 ~~(r)~~ (s) Section 36-594.02.
- 36 ~~(s)~~ (t) Section 36-882.
- 37 ~~(t)~~ (u) Section 36-883.02.
- 38 ~~(u)~~ (v) Section 36-897.01.
- 39 ~~(v)~~ (w) Section 36-897.03.
- 40 ~~(w)~~ (x) Section 36-3008.
- 41 ~~(x)~~ (y) Section 41-619.52.
- 42 ~~(y)~~ (z) Section 41-619.53.
- 43 ~~(z)~~ (aa) Section 41-1964.
- 44 ~~(aa)~~ (bb) Section 41-1967.01.
- 45 ~~(bb)~~ (cc) Section 41-1968.

- 1 ~~(ee)~~ (dd) Section 41-1969.
- 2 ~~(dd)~~ (ee) Section 41-2814.
- 3 ~~(ee)~~ (ff) Section 46-141, subsection A.
- 4 ~~(ff)~~ (gg) Section 46-321.

5 5. "Vulnerable adult" has the same meaning prescribed in section
6 13-3623.

7 Sec. 33. Section 41-1758.01, Arizona Revised Statutes, is amended to
8 read:

9 41-1758.01. Fingerprinting division; duties

10 The fingerprinting division is established in the department of public
11 safety and shall:

12 1. Conduct fingerprint background checks for persons and applicants
13 who are seeking licenses from state agencies, employment with licensees,
14 contract providers and state agencies or employment or educational
15 opportunities with agencies that require fingerprint background checks
16 pursuant to sections 8-105, 8-322, 8-509, 8-802, 15-183, 15-503, 15-512,
17 15-534, 15-1330, 15-1881, 26-103, 32-2108.01, 32-2123, 32-2371, 36-411,
18 36-425.03, 36-446.04, 36-594.01, 36-594.02, 36-882, 36-883.02, 36-897.01,
19 36-897.03, 36-3008, 41-619.52, 41-619.53, 41-1964, 41-1967.01, 41-1968,
20 41-1969 and 41-2814, section 46-141, subsection A and section 46-321.

21 2. Issue valid fingerprint clearance cards. On issuance, a valid
22 fingerprint clearance card becomes the personal property of the cardholder
23 and the cardholder shall retain possession of the valid fingerprint clearance
24 card.

25 3. On submission of an application for a valid fingerprint clearance
26 card, collect the fees established by the board of fingerprinting pursuant to
27 section 41-619.53 and deposit, pursuant to sections 35-146 and 35-147, the
28 monies collected in the board of fingerprinting fund.

29 4. Inform in writing each person who submits fingerprints for a
30 fingerprint background check of the person's right to petition the board of
31 fingerprinting for a good cause exception pursuant to sections 41-1758.03 and
32 41-1758.07.

33 5. Administer and enforce this article.

34 Sec. 34. Section 44-282, Arizona Revised Statutes, is amended to read:

35 44-282. Licensing of sales finance companies and dealers
36 required; penalty

37 A. No person shall engage in the business of a sales finance company
38 in this state without a license therefor as provided in this article. No
39 dealer shall engage in business in this state without a license issued by the
40 administrator. No dealer shall sell or transfer any contract to a person in
41 Arizona not licensed under the terms of this chapter.

42 B. The application for a license shall be in writing, under oath and
43 in the form prescribed by the administrator. The application shall contain
44 the name of the applicant, the date of incorporation if incorporated, the
45 address where the business is or is to be conducted and similar information

1 as to any branch office of the applicant, the name and resident address of
2 the owners or partners or, if a corporation or association, of the directors,
3 trustees and principal officers, and such other pertinent information the
4 administrator may require.

5 C. The license fee for a sales finance company ~~for each fiscal year or~~
6 ~~part thereof~~ is the fee prescribed in section 6-126. The license fee for
7 each dealer is the fee prescribed in section 6-126 ~~for each fiscal year or~~
8 ~~part thereof~~. ~~The fiscal year shall be July 1 through June 30. License fees~~
9 ~~shall be due and payable on or before each July 1.~~

10 D. TO COINCIDE WITH THE LICENSING OF MOTOR VEHICLE DEALERS PURSUANT TO
11 TITLE 28, CHAPTER 10, THE ADMINISTRATOR MAY ISSUE A SALES FINANCE COMPANY
12 LICENSE OR A DEALER LICENSE, OR BOTH, PURSUANT TO THIS ARTICLE WITH STAGGERED
13 CONTINUATION DATES TO DISTRIBUTE THE CONTINUATION WORKLOAD AS UNIFORMLY AS
14 PRACTICABLE THROUGHOUT THE TWELVE MONTHS OF THE CALENDAR YEAR. IN ORDER TO
15 INITIATE A STAGGERED LICENSE CONTINUATION SYSTEM, THE ADMINISTRATOR MAY ISSUE
16 A LICENSE FOR MORE OR LESS THAN A TWELVE MONTH PERIOD, BUT NOT MORE THAN
17 EIGHTEEN MONTHS, AND MAY PRORATE THE LICENSE FEE.

18 E. A LICENSEE SHALL SUBMIT ITS RENEWAL APPLICATION AND APPLICABLE
19 RENEWAL FEES TO THE DEPARTMENT OF FINANCIAL INSTITUTIONS ON OR BEFORE THE
20 LICENSE CONTINUATION DATE. FOR THE PURPOSES OF RENEWAL, THE LICENSE
21 CONTINUATION DATE IS AS FOLLOWS:

22 1. IF THE LICENSEE IS ALSO A LICENSED MOTOR VEHICLE DEALER PURSUANT TO
23 TITLE 28, CHAPTER 10, THE DATE PRESCRIBED BY THE INITIAL LICENSING
24 DEPARTMENT, EITHER THE DEPARTMENT OF TRANSPORTATION OR THE DEPARTMENT OF
25 FINANCIAL INSTITUTIONS.

26 2. IF THE LICENSEE IS NOT ALSO A LICENSED MOTOR VEHICLE DEALER
27 PURSUANT TO TITLE 28, CHAPTER 10, THE DATE PRESCRIBED BY THE DEPARTMENT OF
28 FINANCIAL INSTITUTIONS.

29 F. A penalty of twenty-five dollars per day shall be assessed against
30 any licensee for each day after ~~July 1~~ THE LICENSE CONTINUATION DATE that his
31 THE LICENSEE'S renewal application and fee are not received by the department
32 OF FINANCIAL INSTITUTIONS. Licenses not renewed by ~~September 15~~ are
33 ~~automatically cancelled~~ WITHIN THIRTY DAYS AFTER THEIR LICENSE CONTINUATION
34 DATE EXPIRE.

35 ~~D.~~ G. A license shall be obtained for each separate place of business
36 at or from which a licensee transacts business. Each license shall specify
37 the location of the office or branch and must be conspicuously displayed
38 there. In case such location is changed, the administrator shall endorse the
39 change of location on the license on the payment of the fee prescribed in
40 section 6-126, subsection A, paragraph 26 25.

41 ~~E.~~ H. ~~Upon~~ ON the filing of the application and the payment of the
42 required fee the administrator shall issue a license to the applicant to
43 engage in the business of a sales finance company or dealer under and in
44 accordance with ~~the provisions of~~ this article. All licenses issued under
45 this article shall remain in full force and effect until surrendered,

1 revoked, suspended or canceled by failure to renew under ~~the provisions of~~
2 this article. No licensee shall transact any business provided for by this
3 article under any other name.

4 ~~F.~~ I. A license is not transferable or assignable and control of a
5 licensee may not be acquired through a stock purchase or any other device
6 without the prior written consent of the administrator. Written consent
7 shall not be given if the administrator finds that any of the grounds for
8 denial, revocation or suspension of a license as set forth in section 44-283
9 are applicable to the acquiring person. For the purposes of this subsection,
10 "control" means the power to vote more than twenty per cent of the
11 outstanding voting shares of a licensed corporation, partnership, association
12 or trust.

13 ~~G.~~ J. A person doing business under the laws of this state or the
14 United States as a bank, savings bank, savings and loan association or credit
15 union is exempt from the licensing requirements of this section but shall
16 comply with all other requirements of this chapter, except that affiliates of
17 banks, savings banks, savings and loan associations or credit unions shall
18 comply with this section. For the purposes of this subsection, "affiliate"
19 means an entity ~~which~~ that directly or indirectly, through one or more
20 intermediaries, controls, is controlled by or is under common control with
21 the entity specified.

22 Sec. 35. Current third party electronic service agreement

23 Notwithstanding section 28-5101, Arizona Revised Statutes, as amended
24 by this act, any agreement or authorization between the department of
25 transportation and a third party electronic service provider or partner
26 pursuant to title 28, chapter 13, article 1, Arizona Revised Statutes, that
27 is in effect on the effective date of this act continues in effect according
28 to its terms.

29 Sec. 36. Effective date

30 Section 32-2352, Arizona Revised Statutes, as amended by this act, is
31 effective from and after March 31, 2012.

APPROVED BY THE GOVERNOR APRIL 19, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 19, 2011.

Passed the House April 12, 2011,

Passed the Senate February 23, 2011,

by the following vote: 58 Ayes,

by the following vote: 29 Ayes,

1 Nays, 1 Not Voting

0 Nays, 1 Not Voting

[Signature]
Speaker of the House

[Signature]
President of the Senate

Cheryl Laube
Chief Clerk of the House

Chamion Billington
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

S.B. 1270

**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

SENATE CONCURS IN HOUSE
AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 13, 20 11

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this
13 day of April, 20 11
at 4:25 o'clock P. M.

[Signature]
Secretary to the Governor

Approved this 19th day of

[Signature]

at 9:28 o'clock A. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State
this 19th day of April, 20 11

S.B. 1270

at 11:12 o'clock am M.

[Signature]
Secretary of State