

Senate Engrossed House Bill

**FILED**

**KEN BENNETT**

**SECRETARY OF STATE**

State of Arizona  
House of Representatives  
Fifty-first Legislature  
First Regular Session  
2013

CHAPTER 90

# **HOUSE BILL 2172**

AN ACT

AMENDING SECTIONS 28-5631 AND 28-5925, ARIZONA REVISED STATUTES; REPEALING SECTION 28-5926, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 16, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 28-5926; AMENDING SECTIONS 28-7143 AND 28-7510, ARIZONA REVISED STATUTES; RELATING TO THE 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. Section 28-5631, Arizona Revised Statutes, is amended to  
3 read:

4 28-5631. Bonds; amount; failure of security

5 A. A supplier shall file a bond with the director on a form approved  
6 by the director with a surety company authorized by the ARIZONA corporation  
7 commission to transact business in this state as surety on the bond. The  
8 supplier shall be the principal obligor, and this state shall be the obligee  
9 on the bond. The bond shall be conditioned on the prompt filing of true  
10 reports and the payment by the supplier to the director of all motor fuel  
11 taxes that are levied or imposed by this state, together with all penalties  
12 and interest on the taxes, and generally on faithful compliance with this  
13 article.

14 B. The director shall fix the total amount of the bond required of a  
15 supplier and may increase or reduce the amount at any time, subject to the  
16 limitations provided in this article. In fixing the total amount of the bond  
17 required of a supplier, the director shall require a bond in an amount equal  
18 to two times the director's estimate of the supplier's monthly tax,  
19 determined in a manner the director deems proper. The total amount of the  
20 bond required of a supplier shall be at least five thousand but not more than  
21 ~~one~~ FIVE million dollars.

22 C. A supplier may request in writing that the director return, refund  
23 or release a bond required pursuant to this section. The director may  
24 return, refund or release a bond if the director determines that the supplier  
25 has continuously complied with this article for at least the previous three  
26 consecutive years. If the director determines that the return, refund or  
27 release of the bond would jeopardize state revenues, the director may elect  
28 to retain the bond or may reimpose a requirement for a bond. A person who is  
29 aggrieved by a decision of the director pursuant to this subsection may  
30 request a hearing pursuant to section 28-5924.

31 D. If liability on the bond filed by the supplier with the director is  
32 discharged or reduced or if in the opinion of the director a surety on the  
33 bond given has become unsatisfactory or unacceptable, the director may  
34 require the supplier to file a new bond with satisfactory sureties in the  
35 same amount. If the supplier fails to file a new bond as required, the  
36 director shall cancel the license of the supplier immediately. If the new  
37 bond is furnished by the supplier, the director shall cancel and surrender  
38 the bond for which the new bond is substituted.

39 E. If on a hearing, of which the supplier was given five days' notice  
40 in writing mailed to the supplier's last known address, the director decides  
41 that the amount of the existing bond is insufficient to ensure payment to  
42 this state of the amount of the tax, penalties and interest for which the  
43 supplier is or may become liable, the supplier, on the written demand of the  
44 director, shall immediately file an additional bond in the same manner and  
45 form with a surety company on the bond approved by the director in an amount

1 determined by the director as necessary to secure at all times payment by the  
2 supplier of all taxes, penalties and interest due under this article. If the  
3 supplier fails to file an additional bond as required, the director shall  
4 cancel the license of the supplier immediately.

5 F. A surety on a bond furnished by a supplier shall be released and  
6 discharged from all liability to this state accruing on the bond on the last  
7 day of the month that includes the sixtieth day after the date on which the  
8 surety files with the director a written request to be released and  
9 discharged. The request does not relieve, release or discharge the surety  
10 from liability already accrued or from liability that accrues before the last  
11 day of the month that includes the end of the sixty day period. On receipt  
12 of notice of the request, the director shall promptly notify the supplier who  
13 furnished the bond and shall cancel the license of the supplier immediately,  
14 unless the supplier, on or before the last day of the month that includes the  
15 end of the sixty day period, files with the director a new bond with a surety  
16 company satisfactory to the director in the amount and form provided in this  
17 section. If the new bond is furnished by the supplier, the director shall  
18 cancel and surrender the bond for which the new bond is substituted.

19 G. This section does not relieve a supplier of the supplier's duty to  
20 file the verified monthly report required by this article.

21 Sec. 2. Section 28-5925, Arizona Revised Statutes, is amended to read:  
22 28-5925. Payment; distribution

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

29 B. The supplier and each reseller shall list the amount of tax as a  
30 separate line item on all invoices or billings or as a separate billing.

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

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

39 E. On payment, the director shall promptly:

40 ~~1. Distribute the amount of money collected as a tax on sales of motor~~  
41 ~~vehicle fuel used in propelling watercraft pursuant to section 28-5926~~  
42 ~~beginning with the month following the conclusion of the survey conducted~~  
43 ~~pursuant to section 28-5926.~~

44 1. DEPOSIT MOTOR FUEL TAX MONIES AS PRESCRIBED IN SECTIONS 28-5926 AND  
45 28-5927.



1 accept, instead of the payment authorized by subsection A, a fixed payment in  
2 an amount that is determined according to criteria established by the  
3 department and that is at least one thousand dollars but not more than twenty  
4 thousand dollars. A person whose sole business at the displacement dwelling  
5 is the rental of the property to others does not qualify for a payment under  
6 this subsection.

7 Sec. 6. Section 28-7510, Arizona Revised Statutes, is amended to read:  
8 28-7510. Parity bonds

9 A. The board may issue parity bonds only when all of the payments due  
10 on the principal and interest on the outstanding bonds are current.

11 B. The board may not issue parity bonds unless the monies subject to  
12 pledge for payment of the bonds for the preceding twelve months exceed by  
13 three times the highest annual principal and interest payments on all of the  
14 outstanding bonds and the bonds to be issued for the highest one year period  
15 during the life of both the outstanding bonds and the bonds to be issued.

16 C. NOTWITHSTANDING SUBSECTION B OF THIS SECTION, THE BOARD MAY ISSUE  
17 PARITY BONDS TO REFUND OR REFINANCE ANY OUTSTANDING BONDS IF THE BOARD MEETS  
18 THE REQUIREMENTS OF SUBSECTION B OF THIS SECTION OR IF THE BOARD CERTIFIES  
19 THAT THE PRINCIPAL AND INTEREST PAYMENTS FOR EACH FISCAL YEAR ON ALL  
20 OUTSTANDING BONDS AND THE BONDS TO BE ISSUED IMMEDIATELY AFTER THE DATE OF  
21 ISSUANCE OF THE REFUNDING PARITY BONDS DO NOT EXCEED ONE HUNDRED FIVE PER  
22 CENT OF THE PRINCIPAL AND INTEREST PAYMENTS FOR EACH FISCAL YEAR ON ALL  
23 OUTSTANDING BONDS IMMEDIATELY BEFORE THE ISSUANCE OF THE REFUNDING PARITY  
24 BONDS.

25 ~~G.~~ D. The bonds sought to be issued shall mature and the principal  
26 and interest are payable at the same time as bonds then outstanding that have  
27 the same priority of lien.

28 ~~H.~~ E. All bonds issued under this article are deemed to contain the  
29 restrictions against issuance of parity bonds contained in this section,  
30 whether or not the resolution issuing the bonds or the bonds themselves  
31 contain covenants to this effect.

32 ~~I.~~ F. For THE purposes of this section, amounts subject to pledge  
33 shall be presumptively determined by a certificate of the chairman of the  
34 board.

35 ~~J.~~ G. The pledge of revenues prescribed in section 28-7504,  
36 subsection A, paragraphs 1 and 2 is not subject to sections 28-6952 through  
37 28-6955, 28-6992, 28-6993 and 28-6995 through 28-7006. The payment of the  
38 necessary fees, charges and expenses incurred in the issuance of the bonds  
39 and the principal of and interest on the bonds are not subject to section  
40 28-7007 but shall be made in the manner prescribed in the resolution issuing  
41 the bonds.

~~APPROVED BY THE GOVERNOR APRIL 11, 2013.~~

~~FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 11, 2013.~~

Passed the House February 25, 2013

Passed the Senate April 1, 2013

by the following vote: 60 Ayes,

by the following vote: 25 Ayes,

0 Nays, 0 Not Voting

0 Nays, 5 Not Voting

[Signature]  
Speaker of the House

[Signature]  
President of the Senate

[Signature]  
Chief Clerk of the House

[Signature]  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

~~This Bill received by the Governor this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.  
\_\_\_\_\_  
Secretary to the Governor~~

Approved this \_\_\_\_\_ day of \_\_\_\_\_  
\_\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.  
\_\_\_\_\_  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

~~This Bill received by the Secretary of State  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.  
\_\_\_\_\_  
Secretary of State~~

HOUSE CONCURS IN SENATE  
AMENDMENTS AND FINAL PASSAGE

April 9, 2013,

by the following vote: 57 Ayes,

1 Nays, 2 Not Voting

[Signature]  
Speaker of the House

[Signature]  
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this  
9 day of April, 2013,

at 2:50 o'clock P M.

[Signature]  
Secretary to the Governor

Approved this 11th day of

April, 2013,

at 11:56 o'clock A M.

[Signature]  
Governor of Arizona

H.B. 2172

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State  
this 11th day of April, 2013,

at 4:34 o'clock P M.

[Signature]  
Secretary of State