Conference Engrossed

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-first Legislature
Second Regular Session
2014

CHAPTER 266

# HOUSE BILL 2429

AN ACT

AMENDING SECTIONS 28-1108, 28-3511 AND 28-4836, ARIZONA REVISED STATUTES; RELATING TO TOWED VEHICLES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 28-1108, Arizona Revised Statutes, is amended to read:

28-1108. Vehicle towing; rules; contractual agreement for towing services; weight exemption

A. If a vehicle is towing another vehicle, the drawbar or other connection shall be of sufficient strength to pull all weight towed by the vehicle and the drawbar or other connection shall not exceed fifteen feet from one vehicle to the other, except the connection between any two vehicles transporting poles, pipe, machinery or other objects of a structural nature that cannot readily be dismembered. For the purposes of this subsection, "drawbar" means a rigid structure that connects a trailer and a towing vehicle and that articulates at the point of connection with the trailer and articulates at the point of connection with the towing vehicle.

B. If a vehicle is towing another vehicle and the connection consists of a chain, rope or cable, a white flag or cloth at least twelve inches square shall be displayed on the connection.

C. The director of the department of public safety shall adopt and enforce rules that are not inconsistent with this chapter to govern the design and operation of all tow trucks.

D. A person may not operate a tow truck for the purpose of towing vehicles without first registering with the director of the department of public safety, obtaining a bond and obtaining a permit pursuant to the rules that govern tow trucks and that are adopted by the department of public safety.

E. The director of the department of public safety or a county, city or town may enter into a contractual agreement with a towing firm or firms for towing or storage services, or both. At the time of application for a contractual agreement, a towing firm must disclose in writing the owners of the towing firm and, if the owners own other towing firms that are also applying for the same contractual agreement, the names of those towing firms. The contractual agreement shall comply with this section and all rules adopted under this section. Contracts shall be awarded on the basis of competitive bidding. The director of the department of public safety or a county, city or town shall reserve the right to reject all bids. If only one bid is received, the director of the department of public safety or a county, city or town may reject the bid and negotiate a contract without bidding if the negotiated contract is at a price lower than the bid price under the terms and conditions specified in the call for bids.

F. EXCEPT AS PROVIDED IN SUBSECTION G OF THIS SECTION, A TOWING FIRM MAY ONLY HAVE ONE CONTRACTUAL AGREEMENT PER GEOGRAPHIC TOWING AREA WITH THE DEPARTMENT OF PUBLIC SAFETY OR A COUNTY, CITY OR TOWN FOR TOWING OR STORAGE SERVICES, OR BOTH. IF AN OWNER OF A TOWING FIRM HAS A COMMON OWNERSHIP INTEREST IN ANOTHER TOWING FIRM OR THE ASSETS OF ANOTHER TOWING FIRM, THE

OWNER MAY NOT PARTICIPATE IN ANY OTHER APPLICATION FOR A CONTRACTUAL AGREEMENT WITHIN THE SAME GEOGRAPHIC TOWING AREA.

G. IF A TOWING FIRM THAT HAS A CONTRACTUAL AGREEMENT PURSUANT TO THIS SECTION ACQUIRES ANOTHER TOWING FIRM THAT HAS A CONTRACTUAL AGREEMENT PURSUANT TO THIS SECTION, BOTH CONTRACTUAL AGREEMENTS REMAIN VALID FOR ONE YEAR AFTER THE DATE OF THE ACQUISITION.

H. NOTWITHSTANDING SUBSECTION F OF THIS SECTION, AN AGENCY MAY ALLOW A TOWING FIRM TO USE RESOURCES FROM ANOTHER TOWING FIRM IF AN AGENCY DEEMS THE USE OF THOSE RESOURCES IS NECESSARY FOR TRAFFIC INCIDENT MANAGEMENT.

~~F.~~ I. The total weight of a tow truck and the towed vehicle is exempt from the maximum total gross weight load allowed under section 28-1100 if a damaged, disabled or abandoned vehicle or vehicle combination is towed.

Sec. 2. Section 28-3511, Arizona Revised Statutes, is amended to read:

28-3511. Removal and immobilization or impoundment of vehicle; Arizona crime information center database

A. A peace officer shall cause the removal and either immobilization or impoundment of a vehicle if the peace officer determines that a person is driving the vehicle while any of the following applies:

1. Except as otherwise provided in this paragraph, the person's driving privilege is suspended or revoked for any reason. A peace officer shall not cause the removal and either immobilization or impoundment of a vehicle pursuant to this paragraph if the person's privilege to drive is valid in this state.

2. The person has not ever been issued a valid driver license or permit by this state and the person does not produce evidence of ever having a valid driver license or permit issued by another jurisdiction. This paragraph does not apply to the operation of an implement of husbandry.

3. The person is subject to an ignition interlock device requirement pursuant to chapter 4 of this title and the person is operating a vehicle without a functioning certified ignition interlock device. This paragraph does not apply to the operation of a vehicle due to a substantial emergency as defined in section 28-1464.

4. In furtherance of the illegal presence of an alien in the United States and in violation of a criminal offense, the person is transporting or moving or attempting to transport or move an alien in this state in a vehicle if the person knows or recklessly disregards the fact that the alien has come to, has entered or remains in the United States in violation of law.

5. The person is concealing, harboring or shielding or attempting to conceal, harbor or shield from detection an alien in this state in a vehicle if the person knows or recklessly disregards the fact that the alien has come to, entered or remains in the United States in violation of law.

B. A peace officer shall cause the removal and impoundment of a vehicle if the peace officer determines that a person is driving the vehicle and if all of the following apply:

1. The person's driving privilege is canceled, suspended or revoked for any reason or the person has not ever been issued a driver license or permit by this state and the person does not produce evidence of ever having a driver license or permit issued by another jurisdiction.

2. The person is not in compliance with the financial responsibility requirements of chapter 9, article 4 of this title.

3. The person is driving a vehicle that is involved in an accident that results in either property damage or injury to or death of another person.

C. Except as provided in subsection D of this section, while a peace officer has control of the vehicle the peace officer shall cause the removal and either immobilization or impoundment of the vehicle if the peace officer has probable cause to arrest the driver of the vehicle for a violation of section 4-244, paragraph 34 or section 28-1382 or 28-1383.

D. A peace officer shall not cause the removal and either the immobilization or impoundment of a vehicle pursuant to subsection C of this section if all of the following apply:

1. The peace officer determines that the vehicle is currently registered and that the driver or the vehicle is in compliance with the financial responsibility requirements of chapter 9, article 4 of this title.

2. The spouse of the driver is with the driver at the time of the arrest.

3. The peace officer has reasonable grounds to believe that the spouse of the driver:

(a) Has a valid driver license.

(b) Is not impaired by intoxicating liquor, any drug, a vapor releasing substance containing a toxic substance or any combination of liquor, drugs or vapor releasing substances.

(c) Does not have any spirituous liquor in the spouse's body if the spouse is under twenty-one years of age.

4. The spouse notifies the peace officer that the spouse will drive the vehicle from the place of arrest to the driver's home or other place of safety.

5. The spouse drives the vehicle as prescribed by paragraph 4 of this subsection.

E. Except as otherwise provided in this article, a vehicle that is removed and either immobilized or impounded pursuant to subsection A, B or C of this section shall be immobilized or impounded for thirty days. An insurance company does not have a duty to pay any benefits for charges or fees for immobilization or impoundment.

F. The owner of a vehicle that is removed and either immobilized or impounded pursuant to subsection A, B or C of this section, the spouse of the owner and each person identified on the department's record with an interest in the vehicle immediately before the immobilization or impoundment shall be

provided with an opportunity for an immobilization or poststorage hearing pursuant to section 28-3514.

G. A LAW ENFORCEMENT AGENCY THAT EMPLOYS THE PEACE OFFICER WHO REMOVES AND EITHER IMMOBILIZES OR IMPOUNDS A VEHICLE PURSUANT TO THIS SECTION SHALL ENTER INFORMATION ABOUT THE REMOVAL AND EITHER IMMOBILIZATION OR IMPOUNDMENT OF THE VEHICLE IN THE ARIZONA CRIME INFORMATION CENTER DATABASE WITHIN THREE BUSINESS DAYS AFTER THE REMOVAL AND EITHER IMMOBILIZATION OR IMPOUNDMENT.

Sec. 3. Section 28-4836, Arizona Revised Statutes, is amended to read:

28-4836. Towed vehicles; notification; Arizona crime information center database; violation; classification

A. Except if acting under the direction of a peace officer, a person who moves or tows a vehicle into a public garage, parking lot, storage yard or automotive recycling yard or on private property without the consent of the vehicle owner or the owner's agent shall notify the law enforcement agency of the jurisdiction where the vehicle was located before the moving or towing. The notification shall be by telephone within one hour of the time the vehicle is moved or towed.

B. WITHIN THREE BUSINESS DAYS AFTER A LAW ENFORCEMENT AGENCY RECEIVES NOTICE PURSUANT TO THIS SECTION, THE LAW ENFORCEMENT AGENCY SHALL ENTER INFORMATION ABOUT THE MOVING OR TOWING OF THE VEHICLE IN THE ARIZONA CRIME INFORMATION CENTER DATABASE.

~~B.~~ C. A person who fails to comply with SUBSECTION A OF this section forfeits all claims for towing and storing the vehicle and is guilty of a class 1 misdemeanor.

APPROVED BY THE GOVERNOR APRIL 30, 2014.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 30, 2014.

Passed the House March 6, 2014

by the following vote: 57 Ayes,

0 Nays, 3 Not Voting

Speaker of the House

Pro Tempore

Cheryl Laube

Chief Clerk of the House

Passed the Senate April 22, 2014

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

President of the Senate

Charmin Bellington

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

H.B. 2429

**HOUSE FINAL PASSAGE**
as per Joint Conference

Passed the House April 24, 2014

by the following vote: 56 Ayes,

0 Nays, 4 Not Voting

Speaker of the House

Chief Clerk of the House

**SENATE FINAL PASSAGE**
as per Joint Conference

Passed the Senate April 23, 2014

by the following vote: 26 Ayes,

0 Nays, 4 Not Voting

President of the Senate

Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA**
**OFFICE OF GOVERNOR**

This Bill received by the Governor this

24 day of April, 2014

at 9:40 o'clock A M.

Mikhaila Howard
Secretary to the Governor

Approved this 30th day of

April

at 12:34 o'clock P. M.

Janice K. Brewer
Governor of Arizona

**EXECUTIVE DEPARTMENT OF ARIZONA**
**OFFICE OF SECRETARY OF STATE**

This Bill received by the Secretary of State

this 30th day of April, 2014

at 4:21 o'clock P M.

Ken Bennett
Secretary of State

H.B. 2429