House Engrossed Senate Bill

FILED
MICHELE REAGAN
SECRETARY OF STATE

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CHAPTER 171

SENATE BILL 1492

AN ACT

AMENDING SECTIONS 28-101, 28-141 AND 28-2401, ARIZONA REVISED STATUTES; REPEALING SECTION 28-2515, ARIZONA REVISED STATUTES; AMENDING SECTION 28-4038, ARIZONA REVISED STATUTES; REPEALING SECTIONS 28-5493 AND 28-5860, ARIZONA REVISED STATUTES; AMENDING SECTIONS 28-9501, 28-9502, 28-9503, 28-9506, 28-9521, 28-9522, 28-9523, 28-9524, 28-9525 AND 28-9526, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 30, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-9527; AMENDING SECTIONS 28-9551, 28-9556, 42-5062 AND 42-6004, ARIZONA REVISED STATUTES; RELATING TO FOR-HIRE TRANSPORTATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 28-101, Arizona Revised Statutes, is amended to read:

28-101. Definitions

In this title, unless the context otherwise requires:

1. "Alcohol" means any substance containing any form of alcohol, including ethanol, methanol, propynol and isopropynol.

2. "Alcohol concentration" if expressed as a percentage means either:

(a) The number of grams of alcohol per one hundred milliliters of blood.

(b) The number of grams of alcohol per two hundred ten liters of breath.

3. "All-terrain vehicle" means either of the following:

(a) A motor vehicle that satisfies all of the following:

(i) Is designed primarily for recreational nonhighway all-terrain travel.

(ii) Is fifty or fewer inches in width.

(iii) Has an unladen weight of one thousand two hundred pounds or less.

(iv) Travels on three or more nonhighway tires.

(v) Is operated on a public highway.

(b) A recreational off-highway vehicle that satisfies all of the following:

(i) Is designed primarily for recreational nonhighway all-terrain travel.

(ii) Is sixty-five or fewer inches in width.

(iii) Has an unladen weight of one thousand eight hundred pounds or less.

(iv) Travels on four or more nonhighway tires.

4. "Authorized emergency vehicle" means any of the following:

(a) A fire department vehicle.

(b) A police vehicle.

(c) An ambulance or emergency vehicle of a municipal department or public service corporation that is designated or authorized by the department or a local authority.

(d) Any other ambulance, fire truck or rescue vehicle that is authorized by the department in its sole discretion and that meets liability insurance requirements prescribed by the department.

5. "Autocycle" means a three-wheeled motorcycle on which the driver and passengers ride in a completely enclosed seating area that is equipped with a roll cage, safety belts for each occupant and antilock brakes and that is designed to be controlled with a steering wheel and pedals.

6. "Aviation fuel" means all flammable liquids composed of a mixture of selected hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently operating an internal combustion engine for

use in an aircraft but does not include fuel for jet or turbine powered aircraft.

7. "Bicycle" means a device, including a racing wheelchair, that is propelled by human power and on which a person may ride and that has either:

(a) Two tandem wheels, either of which is more than sixteen inches in diameter.

(b) Three wheels in contact with the ground, any of which is more than sixteen inches in diameter.

8. "Board" means the transportation board.

9. "Bus" means a motor vehicle designed for carrying sixteen or more passengers, including the driver.

10. "Business district" means the territory contiguous to and including a highway if there are buildings in use for business or industrial purposes within any six hundred feet along the highway, including hotels, banks or office buildings, railroad stations and public buildings that occupy at least three hundred feet of frontage on one side or three hundred feet collectively on both sides of the highway.

11. "Combination of vehicles" means a truck or truck tractor and semitrailer and any trailer that it tows but does not include a forklift designed for the purpose of loading or unloading the truck, trailer or semitrailer.

12. "Controlled substance" means a substance so classified under section 102(6) of the controlled substances act (21 United States Code section 802(6)) and includes all substances listed in schedules I through V of 21 Code of Federal Regulations part 1308.

13. "Conviction" means:

(a) An unvacated adjudication of guilt or a determination that a person violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal.

(b) An unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court.

(c) A plea of guilty or no contest accepted by the court.

(d) The payment of a fine or court costs.

14. "County highway" means a public road that is constructed and maintained by a county.

15. "Dealer" means a person who is engaged in the business of buying, selling or exchanging motor vehicles, trailers or semitrailers and who has an established place of business.

16. "Department" means the department of transportation acting directly or through its duly authorized officers and agents.

17. "Digital network or software application" has the same meaning prescribed in section 28-9551.

18. "Director" means the director of the department of transportation.

19. "Drive" means to operate or be in actual physical control of a motor vehicle.

20. "Driver" means a person who drives or is in actual physical control of a vehicle.

21. "Driver license" means a license that is issued by a state to an individual and that authorizes the individual to drive a motor vehicle.

22. "Electric personal assistive mobility device" means a self-balancing two nontandem wheeled device with an electric propulsion system that limits the maximum speed of the device to fifteen miles per hour or less and that is designed to transport only one person.

23. "Farm" means any lands primarily used for agriculture production.

24. "Farm tractor" means a motor vehicle designed and used primarily as a farm implement for drawing implements of husbandry.

25. "Foreign vehicle" means a motor vehicle, trailer or semitrailer that is brought into this state other than in the ordinary course of business by or through a manufacturer or dealer and that has not been registered in this state.

26. "Golf cart" means a motor vehicle that has not less than three wheels in contact with the ground, that has an unladen weight of less than one thousand eight hundred pounds, that is designed to be and is operated at not more than twenty-five miles per hour and that is designed to carry not more than four persons including the driver.

27. "Hazardous material" means a material, and its mixtures or solutions, that the United States department of transportation determines under 49 Code of Federal Regulations is, or any quantity of a material listed as a select agent or toxin under 42 Code of Federal Regulations part 73 that is, capable of posing an unreasonable risk to health, safety and property if transported in commerce and that is required to be placarded or marked as required by the department's safety rules prescribed pursuant to chapter 14 of this title.

28. "Implement of husbandry" means a vehicle designed primarily for agricultural purposes and used exclusively in the conduct of agricultural operations, including an implement or vehicle whether self-propelled or otherwise that meets both of the following conditions:

(a) Is used solely for agricultural purposes including the preparation or harvesting of cotton, alfalfa, grains and other farm crops.

(b) Is only incidentally operated or moved on a highway whether as a trailer or self-propelled unit. For the purposes of this subdivision, "incidentally operated or moved on a highway" means travel between a farm and another part of the same farm, from one farm to another farm or between a farm and a place of repair, supply or storage.

29. "Limousine" means a motor vehicle providing prearranged ground transportation service for an individual passenger, or a group of passengers, that is arranged in advance or is operated on a regular route or between specified points and includes ground transportation under a contract or agreement for services that includes a fixed rate or time and is provided in

a motor vehicle with a seating capacity not exceeding fifteen passengers including the driver.

30. "Livery vehicle" means a motor vehicle that:

(a) Has a seating capacity not exceeding fifteen passengers including the driver.

(b) Provides passenger services for a fare determined by a flat rate or flat hourly rate between geographic zones or within a geographic area.

(c) Is available for hire on an exclusive or shared ride basis.

(d) May do any of the following:

(i) Operate on a regular route or between specified places.

(ii) Offer prearranged ground transportation service as defined in section 28-141.

(iii) Offer on demand ground transportation service pursuant to a contract with a public airport, licensed business entity or organization.

31. "Local authority" means any county, municipal or other local board or body exercising jurisdiction over highways under the constitution and laws of this state.

32. "Manufacturer" means a person engaged in the business of manufacturing motor vehicles, trailers or semitrailers.

33. "Moped" means a bicycle that is equipped with a helper motor if the vehicle has a maximum piston displacement of fifty cubic centimeters or less, a brake horsepower of one and one-half or less and a maximum speed of twenty-five miles per hour or less on a flat surface with less than a one percent grade.

34. "Motor driven cycle" means a motorcycle, including every motor scooter, with a motor that produces not more than five horsepower.

35. "Motor vehicle":

(a) Means either:

(i) A self-propelled vehicle.

(ii) For the purposes of the laws relating to the imposition of a tax on motor vehicle fuel, a vehicle that is operated on the highways of this state and that is propelled by the use of motor vehicle fuel.

(b) Does not include a motorized wheelchair, an electric personal assistive mobility device or a motorized skateboard. For the purposes of this subdivision:

(i) "Motorized skateboard" means a self-propelled device that has a motor, a deck on which a person may ride and at least two tandem wheels in contact with the ground.

(ii) "Motorized wheelchair" means a self-propelled wheelchair that is used by a person for mobility.

36. "Motor vehicle fuel" includes all products that are commonly or commercially known or sold as gasoline, including casinghead gasoline, natural gasoline and all flammable liquids, and that are composed of a mixture of selected hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently operating internal combustion engines.

Motor vehicle fuel does not include inflammable liquids that are specifically manufactured for racing motor vehicles and that are distributed for and used by racing motor vehicles at a racetrack, use fuel as defined in section 28-5601, aviation fuel, fuel for jet or turbine powered aircraft or the mixture created at the interface of two different substances being transported through a pipeline, commonly known as transmix.

37. "Motorcycle" means a motor vehicle that has a seat or saddle for the use of the rider and that is designed to travel on not more than three wheels in contact with the ground but excludes a tractor and a moped.

38. "Motorized quadricycle" means a self-propelled motor vehicle to which all of the following apply:

(a) The vehicle is self-propelled by an emission-free electric motor and may include pedals operated by the passengers.

(b) The vehicle has at least four wheels in contact with the ground.

(c) The vehicle seats at least eight passengers, including the driver.

(d) The vehicle is operable on a flat surface using solely the electric motor without assistance from the pedals or passengers.

(e) The vehicle is a commercial motor vehicle as defined in section 28-5201.

(f) The vehicle is ~~licensed by the department of weights and measures to operate as~~ a limousine OPERATING UNDER A VEHICLE FOR HIRE COMPANY PERMIT ISSUED pursuant to section 28-9503.

(g) The vehicle is manufactured by a motor vehicle manufacturer that is licensed pursuant to chapter 10 of this title.

(h) The vehicle complies with the definition and standards for low-speed vehicles set forth in federal motor vehicle safety standard 500 and 49 Code of Federal Regulations ~~section~~ SECTIONS 571.3(b) and 571.500, respectively.

39. "Neighborhood electric vehicle" means a self-propelled electrically powered motor vehicle to which all of the following apply:

(a) The vehicle is emission free.

(b) The vehicle has at least four wheels in contact with the ground.

(c) The vehicle complies with the definition and standards for low speed vehicles set forth in federal motor vehicle safety standard 500 and 49 Code of Federal Regulations sections 571.3(b) and 571.500, respectively.

40. "Nonresident" means a person who is not a resident of this state as defined in section 28-2001.

41. "Off-road recreational motor vehicle" means a motor vehicle that is designed primarily for recreational nonhighway all-terrain travel and that is not operated on a public highway. Off-road recreational motor vehicle does not mean a motor vehicle used for construction, building trade, mining or agricultural purposes.

42. "Operator" means a person who drives a motor vehicle on a highway, who is in actual physical control of a motor vehicle on a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle.

43. "Owner" means:

(a) A person who holds the legal title of a vehicle.

(b) If a vehicle is the subject of an agreement for the conditional sale or lease with the right of purchase on performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, the conditional vendee or lessee.

(c) If a mortgagor of a vehicle is entitled to possession of the vehicle, the mortgagor.

44. "Pedestrian" means any person afoot. A person who uses an electric personal assistive mobility device or a manual or motorized wheelchair is considered a pedestrian unless the manual wheelchair qualifies as a bicycle. For the purposes of this paragraph, "motorized wheelchair" means a self-propelled wheelchair that is used by a person for mobility.

45. "Power sweeper" means an implement, with or without motive power, that is only incidentally operated or moved on a street or highway and that is designed for the removal of debris, dirt, gravel, litter or sand whether by broom, vacuum or regenerative air system from asphaltic concrete or cement concrete surfaces, including parking lots, highways, streets and warehouses, and a vehicle on which the implement is permanently mounted.

46. "Public transit" means the transportation of passengers on scheduled routes by means of a conveyance on an individual passenger fare-paying basis excluding transportation by a sightseeing bus, school bus or taxi or a vehicle not operated on a scheduled route basis.

47. "Reconstructed vehicle" means a vehicle that has been assembled or constructed largely by means of essential parts, new or used, derived from vehicles or makes of vehicles of various names, models and types or that, if originally otherwise constructed, has been materially altered by the removal of essential parts or by the addition or substitution of essential parts, new or used, derived from other vehicles or makes of vehicles. For the purposes of this paragraph, "essential parts" means integral and body parts, the removal, alteration or substitution of which will tend to conceal the identity or substantially alter the appearance of the vehicle.

48. "Residence district" means the territory contiguous to and including a highway not comprising a business district if the property on the highway for a distance of three hundred feet or more is in the main improved with residences or residences and buildings in use for business.

49. "Right-of-way" when used within the context of the regulation of the movement of traffic on a highway means the privilege of the immediate use of the highway. Right-of-way when used within the context of the real property on which transportation facilities and appurtenances to the facilities are constructed or maintained means the lands or interest in lands within the right-of-way boundaries.

50. "School bus" means a motor vehicle that is designed for carrying more than ten passengers and that is either:

(a) Owned by any public or governmental agency or other institution and operated for the transportation of children to or from home or school on a regularly scheduled basis.

(b) Privately owned and operated for compensation for the transportation of children to or from home or school on a regularly scheduled basis.

51. "Semitrailer" means a vehicle that is with or without motive power, other than a pole trailer, that is designed for carrying persons or property and for being drawn by a motor vehicle and that is constructed so that some part of its weight and that of its load rests on or is carried by another vehicle. For the purposes of this paragraph, "pole trailer" has the same meaning prescribed in section 28-601.

52. "State" means a state of the United States and the District of Columbia.

53. "State highway" means a state route or portion of a state route that is accepted and designated by the board as a state highway and that is maintained by the state.

54. "State route" means a right-of-way whether actually used as a highway or not that is designated by the board as a location for the construction of a state highway.

55. "Street" or "highway" means the entire width between the boundary lines of every way if a part of the way is open to the use of the public for purposes of vehicular travel.

56. "Taxi" means a motor vehicle that has a seating capacity not exceeding fifteen passengers, including the driver, ~~that is registered as a taxi in this state or any other state,~~ that provides passenger services and that:

(a) Does not primarily operate on a regular route or between specified places.

(b) Offers local transportation for a fare determined on the basis of the distance traveled or prearranged ground transportation service as defined in section 28-141 for a predetermined fare.

57. "Traffic survival school" means a school that offers educational sessions to drivers who are required to attend and successfully complete educational sessions pursuant to this title that are designed to improve the safety and habits of drivers and that are approved by the department.

58. "Trailer" means a vehicle that is with or without motive power, other than a pole trailer, that is designed for carrying persons or property and for being drawn by a motor vehicle and that is constructed so that no part of its weight rests on the towing vehicle. A semitrailer equipped with an auxiliary front axle commonly known as a dolly is deemed to be a trailer. For the purposes of this paragraph, "pole trailer" has the same meaning prescribed in section 28-601.

59. "Transportation network company" has the same meaning prescribed in section 28-9551.

60. "Transportation network company vehicle" has the same meaning prescribed in section 28-9551.

61. "Transportation network service" has the same meaning prescribed in section 28-9551.

62. "Truck" means a motor vehicle designed or used primarily for the carrying of property other than the effects of the driver or passengers and includes a motor vehicle to which has been added a box, a platform or other equipment for such carrying.

63. "Truck tractor" means a motor vehicle that is designed and used primarily for drawing other vehicles and that is not constructed to carry a load other than a part of the weight of the vehicle and load drawn.

64. "Vehicle" means a device in, on or by which a person or property is or may be transported or drawn on a public highway, excluding devices moved by human power or used exclusively on stationary rails or tracks.

65. "Vehicle transporter" means either:

(a) A truck tractor capable of carrying a load and drawing a semitrailer.

(b) A truck tractor with a stinger-steered fifth wheel capable of carrying a load and drawing a semitrailer or a truck tractor with a dolly mounted fifth wheel that is securely fastened to the truck tractor at two or more points and that is capable of carrying a load and drawing a semitrailer.

Sec. 2. Section 28-141, Arizona Revised Statutes, is amended to read:

28-141. <u>Prearranged ground transportation; applicability; definitions</u>

A. The department shall not require a ~~license~~ PERMIT or impose a fee on a motor vehicle providing prearranged ground transportation service if the motor carrier providing the service does all of the following:

1. Meets all applicable registration requirements for the interstate transportation of passengers under the ICC termination act of 1995 (P.L. 104-88; 109 Stat. 879; 49 United States Code sections 13901 through 13908).

2. Meets all applicable vehicle and intrastate passenger licensing requirements of the state in which the vehicle is domiciled or registered to do business.

3. Provides the service pursuant to a contract for either of the following:

(a) Transportation from this state, including intermediate stops, to a destination in another state.

(b) Transportation from this state, including intermediate stops in another state, to a destination in this state.

B. For the purposes of this section:

1. "Intermediate stop" means a pause in the transportation in order for one or more passengers to engage in personal or business activity, but only if the driver providing the transportation to the passenger does not, before resuming the transportation of the passenger or at least one of the

passengers, provide transportation to any other person not included among the passengers being transported when the pause began.

2. "Prearranged ground transportation service" means transportation for a passenger or a group of passengers that is arranged in advance or that is operated on a regular route or between specified points.

Sec. 3. Section 28-2401, Arizona Revised Statutes, is amended to read:

28-2401. Definitions

In this article, unless the context otherwise requires:

1. "Immediate family member" means a spouse or a parent, child, brother or sister whether by adoption or blood.

2. "Special plates" means plates issued pursuant to this article ~~or pursuant to section 28-2515~~.

Sec. 4. Delayed repeal

Section 28-2515, Arizona Revised Statutes, is repealed from and after June 30, 2016.

Sec. 5. Section 28-4038, Arizona Revised Statutes, is amended to read:

28-4038. Transportation network services; financial responsibility requirements; survey

A. For a transportation network company that requires a transportation network company driver to accept rides that are booked and paid for exclusively through the transportation network company's digital network or software application and during the time in which the transportation network company driver is logged in to the transportation network company's digital network or software application to be a driver, but is not in the act of providing transportation network services, the following insurance coverage shall be maintained:

1. Before March 1, 2016, the transportation network company driver shall maintain a motor vehicle liability insurance policy that meets at least the requirements of section 28-4009. A transportation network company shall provide motor vehicle liability insurance coverage in the amount of twenty-five thousand dollars because of bodily injury to or death of one person in any one accident, subject to the limit for one person, fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident and twenty thousand dollars because of injury to or destruction of property of others in any one accident ~~coverage~~ in the event a transportation network company driver's policy excludes coverage according to the policy's terms.

2. From and after February 29, 2016, the transportation network company driver or the transportation network company, or both, shall provide primary motor vehicle liability insurance coverage in the amount of twenty-five thousand dollars because of bodily injury to or death of one person in any one accident, subject to the limit for one person, fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident and twenty thousand dollars because of injury to or

destruction of property of others in any one accident. Coverage shall be maintained through any of the following:

(a) A private passenger motor vehicle policy maintained by the transportation network company driver that expressly provides liability coverage while the driver is logged in to the transportation network company's digital network or software application to be a driver.

(b) A motor vehicle liability policy maintained by the transportation network company.

(c) A commercial motor vehicle liability policy.

B. For a transportation network company that requires a transportation network company driver to accept rides that are booked and paid for exclusively through the transportation network company's digital network or software application and during the time in which the transportation network company driver is providing transportation network services, the transportation network company driver or the transportation network company, or both, shall maintain the following insurance coverages:

1. Primary commercial motor vehicle liability insurance that covers the transportation network company driver's provision of transportation network services in a minimum amount of two hundred fifty thousand dollars per incident.

2. Commercial uninsured motorist coverage in a minimum amount of two hundred fifty thousand dollars per incident.

~~C. For a transportation network company that does not require a transportation network company driver to accept rides booked and paid for exclusively through a transportation network company's digital network or software application and during the time in which the transportation network company driver is logged in to the transportation network company's digital network or software application to be a driver, either the transportation network company driver or the transportation network company shall maintain the following insurance coverages:~~

~~1. During the time in which the driver is available to provide passenger transportation, but has not accepted a ride request and is not in the act of providing passenger transportation, primary commercial motor vehicle liability insurance coverage in the amount of twenty-five thousand dollars because of bodily injury to or death of any one person in any one accident, subject to the limit for one person, fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident and twenty thousand dollars because of injury to or destruction of property of others in any one accident.~~

~~2. After the driver has accepted a ride request through any communication, including a street hail, and during the time in which the driver is providing passenger transportation:~~

~~(a) Primary commercial motor vehicle liability insurance in a minimum amount of two hundred fifty thousand dollars per incident.~~

~~(b) Commercial uninsured motorist coverage in a minimum amount of two hundred fifty thousand dollars per incident.~~

~~D.~~ C. From and after February 29, 2016, unless an insurance policy expressly provides coverage or contains an amendment or endorsement that expressly provides coverage, the transportation network company driver's insurance policy and the motor vehicle owner's personal motor vehicle insurance policy shall not be required to provide coverage for the transportation network company vehicle, the transportation network company driver, the motor vehicle owner or any third party while a transportation network company driver is logged in to a transportation network company's digital network or software application to be a driver or is providing transportation network services.

~~E.~~ D. Notwithstanding subsection ~~D~~ C of this section, an insurer may offer, for the period during which a transportation network company driver is logged in to a transportation network company's digital network or software application to be a driver or is providing transportation network services, one of the following:

1. A motor vehicle liability insurance policy expressly providing such coverage.

2. An amendment or endorsement to an existing motor vehicle liability insurance policy specifically providing such coverage.

~~F.~~ E. An insurance policy required by this section is deemed to satisfy the financial responsibility requirements for a motor vehicle insurance policy under this title.

~~G.~~ F. A transportation network company driver shall carry proof of insurance in the transportation network company vehicle at all times while logged in to a transportation network company's digital network or software application to be a driver or is providing transportation network services. If an accident occurs involving a transportation network company vehicle, the transportation network company driver shall provide proof of insurance to the parties involved in the accident at the time of the accident. The transportation network company driver shall also notify the transportation network company of the accident.

~~H.~~ G. In a claims coverage investigation, transportation network companies and any insurer providing coverage as prescribed in this section shall fully cooperate in the exchange of information, including the precise times that a transportation network company driver logged on and off of the transportation network company's digital network or software application in the twenty-four-hour period immediately preceding the accident, and shall disclose to each other a clear description of the coverage, exclusions and limits provided under any insurance policy each party issued or maintained.

~~I.~~ H. From and after February 29, 2016, this section and section 28-4009 do not create an obligation for an insurer that issues coverage to which section 20-1631 applies to offer, provide or issue a motor vehicle liability insurance policy or an endorsement or amendment that includes

coverage for any liability arising while a transportation network company driver is logged in to the transportation network company's digital network or software application to be a driver or is providing transportation network services.

~~J.~~ I. An insurance policy required by this section may be placed with an insurer authorized to transact insurance in this state pursuant to title 20, chapter 2, article 1 or a surplus lines insurer pursuant to title 20, chapter 2, article 5.

~~K.~~ J. The department of insurance, as part of its annual survey of insurance companies, may request information from any property and casualty insurer authorized to write private passenger motor vehicle coverage in this state, including information regarding:

1. Whether the insurer offers for purchase a policy or an endorsement or amendment that covers transportation network company drivers while the driver is logged in to a transportation network company's digital network or software application to be a driver or is providing transportation network services.

2. The number of those policies, endorsements or amendments that have been purchased during the reporting period.

3. The number of those policies, endorsements or amendments that have been canceled during the reporting period.

Sec. 6. Delayed repeal

Sections 28-5493 and 28-5860, Arizona Revised Statutes, are repealed from and after June 30, 2016.

Sec. 7. Section 28-9501, Arizona Revised Statutes, is amended to read:

28-9501. Definitions

In this chapter, unless the context otherwise requires:

~~1. "Commercial device" means any measuring device that is used to determine the direct cost of things or used to establish a fee for service if the cost is based on measure.~~

~~2.~~ 1. "Taxi meter" means a ~~commercial~~ device that ~~meets the requirements of the national institute of standards and technology handbook 44 as prescribed by section 3-3413~~ AUTOMATICALLY CALCULATES AT A PREDETERMINED RATE THE CHARGE FOR THE HIRE OF A VEHICLE AND THAT INDICATES THE CHARGE.

2. "VEHICLE FOR HIRE" MEANS A TAXI, LIVERY VEHICLE OR LIMOUSINE.

3. "VEHICLE FOR HIRE COMPANY" MEANS A COMPANY THAT OFFERS LOCAL TRANSPORTATION THROUGH USE OF A TAXI, LIVERY VEHICLE OR LIMOUSINE OR A COMBINATION OF TAXIS, LIVERY VEHICLES OR LIMOUSINES.

Sec. 8. Section 28-9502, Arizona Revised Statutes, is amended to read:

28-9502. Powers and duties

A. The department shall~~:~~

~~1.~~ adopt any rules necessary to carry out this chapter and adopt reasonable rules for the enforcement of this chapter. These rules have the force and effect of law and shall be adopted pursuant to title 41, chapter 6.

~~In adopting these rules, the director shall consider, as far as is practicable, the requirements established by other states and by authority of the United States, except that rules may not be made in conflict with this chapter.~~

B. THE DEPARTMENT MAY:

~~2.~~ 1. Investigate complaints made to the department concerning violations of this chapter and, on its own initiative, conduct investigations it deems appropriate in order to develop information relating to prevailing procedures ~~in commercial quantity~~ FOR TAXI METER RATE determination and possible violations of this chapter and to promote accuracy in the determination and representation of quantity in ~~commercial transactions~~ TAXI METER RATES.

~~3.~~ 2. Inspect and test taxi meters BY A RANDOM SYSTEMATIC METHOD DETERMINED BY THE DIRECTOR OR IN RESPONSE TO A COMPLAINT BY THE PUBLIC to determine whether the taxi meters meet the requirements ~~of the national institute of standards and technology handbook 44 as~~ prescribed by ~~section 3-3413~~ THE DEPARTMENT BY RULE.

~~4.~~ 3. Apply to any court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating this chapter.

~~5. Report to the governor on or before August 1 of each year and at such other times as may be required on the work accomplished under this chapter.~~

~~6.~~ 4. Subject to title 41, chapter 4, article 4, employ such personnel as needed to assist in administering this chapter.

~~B. Testing and inspection conducted pursuant to this chapter shall be done, to the extent practicable, without prior notice, by a random systematic method determined by the director or in response to a complaint by the public.~~

C. During the course of an investigation or an enforcement action by the department, information regarding the complainant is confidential and is exempt from title 39, chapter 1 unless the complainant authorizes the information to be public.

Sec. 9. Section 28-9503, Arizona Revised Statutes, is amended to read:

28-9503. <u>Vehicle for hire company permits; fees; violation; classification</u>

~~A. A person may not use a commercial device unless the device is licensed as provided in this chapter.~~

~~B. A license shall be obtained annually from the department on forms prescribed and furnished by the department. The fee, as determined by the director by rule, shall be submitted with the prescribed form. A license shall be obtained not later than thirty days following the first day of commercial use for original installations. If the ownership of a licensed device is transferred, the ownership of the license may be transferred. On transfer of a license, new licensees shall notify the department of the licensee's name and address and the location of the device.~~

A. A VEHICLE FOR HIRE COMPANY MAY NOT OPERATE IN THIS STATE UNLESS THE VEHICLE FOR HIRE COMPANY IS ISSUED A PERMIT BY THE DEPARTMENT. THE VEHICLE FOR HIRE COMPANY MAY APPLY TO THE DEPARTMENT ON FORMS PRESCRIBED BY THE DEPARTMENT. THE PERMIT IS VALID FOR THREE YEARS. THE DEPARTMENT SHALL CHARGE AND COLLECT AN APPLICATION FEE OF TWENTY-FOUR DOLLARS PER VEHICLE THAT IS USED AS A TAXI BY THE VEHICLE FOR HIRE COMPANY AT THE TIME OF APPLICATION, NOT TO EXCEED A TOTAL OF ONE THOUSAND DOLLARS PER APPLICANT.

B. THE DEPARTMENT SHALL ISSUE A PERMIT TO AN APPLICANT THAT MEETS THE REQUIREMENTS OF THIS ARTICLE.

C. A VEHICLE FOR HIRE COMPANY SHALL MAINTAIN AN AGENT FOR SERVICE OF PROCESS IN THIS STATE.

~~C.~~ D. If a fare is based on time or mileage or both time and mileage, a taxi shall have a ~~commercial device and shall obtain a license as prescribed by the department~~ TAXI METER, except that if the service offered by the taxi is a prearranged ground transportation service as prescribed in section 28-141 for a predetermined fare, a taxi is not required to use ~~a commercial device~~ THE TAXI METER.

~~D. The department may not issue a license for a taxi, livery vehicle or limousine unless the taxi, livery vehicle or limousine meets the requirements for both of the following:~~

~~1. Motor vehicle licensing as prescribed by the department.~~

~~2. Motor vehicle insurance as prescribed by section 28-4033.~~

E. The department shall revoke a ~~license~~ PERMIT if the ~~taxi, livery vehicle or limousine~~ VEHICLE FOR HIRE COMPANY fails to maintain the requirements for either of the following:

1. Motor vehicle licensing as prescribed by the department.

2. Motor vehicle insurance as prescribed by section 28-4033.

F. A ~~taxi or livery~~ vehicle FOR HIRE shall have a ~~license~~ COPY OF THE PERMIT issued TO THE VEHICLE FOR HIRE COMPANY under this chapter ~~posted on the outside of the rear window as required by the department. A limousine shall carry a license issued under this chapter~~ inside the vehicle at all times.

G. A taxi that is ~~licensed~~ ISSUED A PERMIT by the department and that offers local transportation for a fare determined on the basis of the distance traveled or prearranged ground transportation service as prescribed in section 28-141 for a predetermined fare is not required to ~~be additionally licensed~~ HAVE AN ADDITIONAL PERMIT as a livery vehicle.

H. A person or the person's agent who knowingly files with the department any notice, statement or other document required under this section that is false or that contains any material misstatement of fact is guilty of a class 2 misdemeanor.

Sec. 10. Section 28-9506, Arizona Revised Statutes, is amended to read:

28-9506. Taxi and livery vehicle signage

A. A taxi or livery vehicle shall display ~~interior signage that contains~~ ALL OF THE FOLLOWING INFORMATION EITHER ON AN INTERIOR SIGN THAT IS READILY VISIBLE AND THAT IS EITHER IN A PRINT OR AN ELECTRONIC FORMAT OR ON A DIGITAL NETWORK OR SOFTWARE APPLICATION:

1. The ~~licensee's~~ PERMITTEE'S business name and address. ~~and that is all of the following:~~

~~1. Permanent.~~

~~2. In letters at least one-half inch in height.~~

~~3. Readily visible.~~

~~4.~~ 2. ~~Accurately representative~~ AN ACCURATE REPRESENTATION of all fares and the fare computation method.

~~B.~~ 3. ~~A taxi or livery vehicle shall display interior signage that contains~~ The driver's name ~~and is readily visible to passengers~~.

~~C.~~ B. AT A MINIMUM, a taxi is required to display READILY VISIBLE exterior ~~signage~~ TRADE DRESS AS DEFINED IN SECTION 28-9551 that contains the ~~licensee's business name and telephone number, that contains the~~ word "taxi" or "cab". ~~and that is all of the following:~~

~~1. Permanent.~~

~~2. In letters at least three inches in height.~~

~~3. Readily visible and a minimum of one inch in height for fare information.~~

~~4. Accurately representative of all fares and the fare computation method.~~

Sec. 11. Section 28-9521, Arizona Revised Statutes, is amended to read:

28-9521. Unlawful use of vehicle for hire; violation; classification

A. When any ~~commercial device~~ VEHICLE FOR HIRE specified in this chapter is in commercial use and a valid ~~license for the device~~ PERMIT has not been procured by the ~~owner, the owner's agent or the operator of the device~~ VEHICLE FOR HIRE COMPANY, the department, after giving notice of the ~~licensing~~ PERMIT requirements to the ~~owner, the owner's agent or the operator~~ VEHICLE FOR HIRE COMPANY, shall prohibit the further commercial use of the ~~unlicensed device~~ VEHICLE until the proper ~~license~~ PERMIT has been issued. ~~The department may employ and attach to the device such forms, notices or security seals as it considers necessary to prevent the continued unauthorized use of the device.~~

~~B. A registered service representative may also:~~

~~1. With approval of the department, remove an official rejection tag placed on a commercial device.~~

~~2. Place in service, until an official examination can be made, a commercial device that has been officially rejected or placed out of service.~~

~~3. Place in service, until an official examination can be made, a commercial device for which a commercial device application has been completed and submitted to the department.~~

~~C.~~ B. The owner of any business who has not applied for and has not been issued a ~~license~~ PERMIT BY THE DEPARTMENT for the right to do business involving the use of a ~~commercial device by the department~~ VEHICLE FOR HIRE and who is found ~~selling or~~ offering ~~for sale or delivering or distributing~~ VEHICLE FOR HIRE SERVICES to a consumer is guilty of a class 2 misdemeanor. ~~, and the department shall confiscate and seize the commercial device or any other such measuring device used by the business for the sale, delivery or distribution as evidence.~~

~~D. The director and any other authorized personnel are not liable to the owner or any other persons, firms, partnerships, corporations, trusts or agencies for damages, directly or indirectly, caused by or resulting from the seizure.~~

~~E.~~ C. If a ~~commercial device licensed pursuant to this chapter~~ VEHICLE FOR HIRE is used contrary to any provision of this chapter or any rule adopted pursuant to this chapter, the department, in addition to any other penalty imposed by this chapter, shall suspend, revoke or refuse to renew the ~~license~~ PERMIT.

Sec. 12. Section 28-9522, Arizona Revised Statutes, is amended to read:

28-9522. Revocation or suspension of permits; procedure; judicial review

A. Except as otherwise provided by this section, any proceeding to revoke or suspend a ~~license~~ PERMIT issued pursuant to this chapter shall be conducted in accordance with title 41, chapter 6, article 10.

B. The director may initiate proceedings for revocation or suspension of a ~~license~~ PERMIT issued pursuant to this chapter on the director's own motion or on a verified complaint for noncompliance with or a violation of this chapter or of any rule adopted pursuant to this chapter.

C. If, after having been served with the notice of hearing as provided for in title 41, chapter 6, article 10, the ~~licensee~~ PERMITTEE fails to appear at the hearing and defend, the department shall proceed to hear evidence against the ~~licensee~~ PERMITTEE and shall enter an order as justified by the evidence. The order is final unless the ~~licensee~~ PERMITTEE petitions for a review as provided in title 41, chapter 6, article 10.

D. At all hearings, the attorney general ~~of this state~~, an assistant attorney general or a special assistant designated by the attorney general shall appear and represent the department.

E. Except as provided in section 41-1092.08, subsection H, any final administrative decision made pursuant to this chapter is subject to judicial review pursuant to title 12, chapter 7, article 6.

Sec. 13. Section 28-9523, Arizona Revised Statutes, is amended to read:

28-9523. Violations; classification; jurisdiction

A. A person is guilty of a class 1 misdemeanor who:

1. Knowingly hinders, interferes with or obstructs in any way the director or any of the director's agents or inspectors in entering the premises where a ~~commercial device~~ TAXI METER may be kept for inspecting or testing or in the performance of the ~~director's~~ OFFICIAL DUTIES OF THE DIRECTOR or the director's ~~agent's~~ AGENTS or ~~inspector's official duties~~ INSPECTORS.

2. Impersonates in any way the director or any of the director's agents or inspectors by the use of the director's seal or a counterfeit of the director's seal or in any other manner.

3. Uses, or has in possession for the purpose of using for ~~any~~ A commercial purpose, ~~sells,~~ offers or exposes for sale or hire, or has in possession for the purpose of selling or hiring an incorrect ~~weight or measure or any device or instrument~~ TAXI METER used or calculated to falsify ~~any weight or measure~~ THE ACCURACY OF THE TAXI METER.

~~4. Sells, or offers or exposes for sale, less than the quantity the person represents of any commodity, thing or service.~~

~~5. Takes more than the quantity the person represents of any commodity, thing or service, when, as buyer, the person furnishes the weight or measure by means of which the amount of the commodity, thing or service is determined.~~

B. A person is guilty of a class 2 misdemeanor who:

~~1. Uses, or has in possession for the purpose of current use for any commercial purpose, a weight or measure that does not bear a seal or mark of approval based on an inspection and test, unless the weight or measure has been exempted from testing by order of the department, or unless the device has been placed in service as provided in this chapter. Any person or persons making use of a commercial device that is subject to this chapter shall report to the director or the director's representatives, in writing, the number and location of the commercial device and shall promptly report the installation of any new commercial device.~~

~~2. Disposes of any rejected or condemned weight or measure in a manner contrary to law or rule.~~

~~3. Removes from any weight or measure, contrary to law or rule, any tag, seal or mark placed on the weight or measure by the appropriate authority pursuant to this chapter.~~

~~4. Keeps for the purpose of selling, advertising or offering or exposing for sale or sells any commodity, thing or service in a condition or manner contrary to law or rule.~~

~~5.~~ 1. Uses ~~in retail trade, except in the preparation of packages put up in advance of sale and of medical prescriptions, a weight or measure~~ A TAXI METER that is so positioned that its indications cannot be accurately

read and the ~~weighing,~~ metering~~, measuring or counting~~ operation cannot be observed from some position that may reasonably be assumed by a customer.

~~6.~~ 2. Violates this chapter or rules adopted under this chapter. A continuing violation may be deemed to be a separate violation each day during which the violation is committed for the purpose of imposing a fine.

C. The provisions of this section are in addition to and not in limitation of any other provision of law.

D. The attorney general and the county attorney ~~shall~~ have concurrent jurisdiction to prosecute violations of this chapter.

Sec. 14. Section 28-9524, Arizona Revised Statutes, is amended to read:

28-9524. Presumptive evidence of use

When a ~~weight, measure, meter, counter or commercial device~~ TAXI METER is in or about any place in which or from which ~~buying or selling~~ A VEHICLE FOR HIRE TRANSACTION is commonly carried on, there ~~shall be~~ IS a rebuttable presumption that the ~~weight, measure, meter, counter or commercial device~~ TAXI METER is regularly used for the business purpose of the place.

Sec. 15. Section 28-9525, Arizona Revised Statutes, is amended to read:

28-9525. Civil penalties

A. A person who violates this chapter, any rule of the department or any ~~license~~ PERMIT requirement is subject to a civil penalty imposed by the director. A person who violates this chapter, any rule of the department or any ~~license~~ PERMIT requirement may request a hearing to review a civil penalty imposed under this section. The department shall conduct the hearing in accordance with title 41, chapter 6, article 10. ~~Except as prescribed in subsection B of this section,~~ The civil penalty may not exceed one thousand FIVE HUNDRED dollars for each infraction ~~or more than ten thousand dollars for any thirty-day period~~ at each business location ~~or for each public weighmaster, provided that no person shall be assessed more than fifty thousand dollars per thirty-day period~~.

~~B. The director may double the maximum civil penalty if any of the following applies:~~

~~1. A commercial device is found to be in violation with results that favor the retailer at more than twice the allowable tolerance as stated in national institute of standards and technology handbook 44.~~

~~2. A package is found to exceed the maximum allowable variation for the labeled quantity allowed in national institute of standards and technology handbook 133 or the average error of the lot is twice the sample error limit in favor of the retailer.~~

~~3. A maximum civil penalty has been imposed on a retailer for a price posting or price verification violation and in a reinspection, if conducted within ninety days, the failure rate is ten percent or more and at least one error is in favor of the retailer.~~

~~C.~~ B. The attorney general shall bring actions to recover civil penalties pursuant to this section in the superior court in the county in which the violation occurred or in a county where the agency has its office. All monies derived from civil penalties shall be deposited, pursuant to sections 35-146 and 35-147, in the state general fund.

Sec. 16. Section 28-9526, Arizona Revised Statutes, is amended to read:

28-9526. Delinquent civil penalties and fees

In addition to any other penalty, if a civil penalty or any fee due pursuant to this chapter has not been paid within thirty days after the due date, the civil penalty or fee is delinquent and the department may refuse to issue a ~~license~~ PERMIT or may revoke a ~~license~~ PERMIT pursuant to this chapter until the civil penalty or fee is paid in full.

Sec. 17. Title 28, chapter 30, article 2, Arizona Revised Statutes, is amended by adding section 28-9527, to read:

28-9527. Transaction privilege tax prohibited

A VEHICLE FOR HIRE OWNER, COMPANY OR DRIVER THAT HAS A PERMIT ISSUED PURSUANT TO ARTICLE 1 OF THIS CHAPTER IS EXEMPT FROM TRANSACTION PRIVILEGE TAX ON INCOME DERIVED FROM TRANSPORTING PERSONS FOR HIRE PURSUANT TO SECTIONS 42-5062 AND 42-6004.

Sec. 18. Section 28-9551, Arizona Revised Statutes, is amended to read:

28-9551. Definitions

In this article, unless the context otherwise requires:

1. "Digital network or software application" means any online-enabled application, software, website or system that is offered or used by a transportation network company and that enables a potential passenger to arrange a ride with a transportation network company driver.

~~2. "Limousine" means a motor vehicle providing prearranged ground transportation service for an individual passenger, or a group of passengers, that is arranged in advance or is operated on a regular route or between specified points and includes ground transportation under a contract or agreement for services that includes a fixed rate or time and is provided in a motor vehicle with a seating capacity not exceeding fifteen passengers, including the driver.~~

~~3. "Livery vehicle" means a motor vehicle that:~~

~~(a) Has a seating capacity not exceeding fifteen passengers, including the driver.~~

~~(b) Provides passenger services for a fare determined by a flat rate or flat hourly rate between geographic zones or within a geographic area.~~

~~(c) Is available for hire on an exclusive or shared ride basis.~~

~~(d) May do any of the following:~~

~~(i) Operate on a regular route or between specified places.~~

~~(ii) Offer prearranged ground transportation service as defined in section 28-141.~~

~~(iii) Offer on demand ground transportation service pursuant to a contract with a public airport, licensed business entity or organization.~~

~~4. "Person" means both the plural and the singular, as the case demands, and includes individuals, partnerships, corporations, companies, societies and associations.~~

~~5. "Taxi" means a motor vehicle that has a seating capacity not exceeding fifteen passengers, including the driver, that is registered as a taxi in this state or any other state, that provides passenger services and that:~~

~~(a) Does not primarily operate on a regular route or between specified places.~~

~~(b) Offers local transportation for a fare determined on the basis of the distance traveled or prearranged ground transportation service as defined in section 28-141 for a predetermined fare.~~

~~6.~~ 2. "Trade dress" means a removable and distinct logo, insignia or emblem attached to or visible from the exterior of EITHER OF THE FOLLOWING:

(a) A transportation network company vehicle during the performance of transportation network services.

(b) A TAXI WHILE PROVIDING VEHICLE FOR HIRE SERVICES.

~~7.~~ 3. "Transportation network company" means an entity that has been issued a permit pursuant to this article, that operates in this state, that uses a digital network or software application to connect passengers to transportation network services provided by transportation network company drivers and that may but is not deemed to own, operate or control a personal motor vehicle of a transportation network company driver. Transportation network company does not include the following:

(a) This state or a county, city, town or political subdivision of this state and any related entity, a nonprofit agency or any other public body that coordinates, operates, promotes or sponsors public transportation~~,~~ OR carpool or vanpool services.

(b) A program that is in place to meet federal air quality standards pursuant to section 49-404.

(c) Any individual, company or activity that meets the requirements of a rental car agent or rental company as defined in section 20-331 if all of the following apply:

(i) Transportation is provided to another person or is arranged by the rental company but provided by another person.

(ii) The route is predetermined.

(iii) Any money exchanged between the provider of the transportation and the recipient does not exceed the cost of providing the transportation.

~~8.~~ 4. "Transportation network company driver" means an individual who receives connections to potential passengers and related services from a transportation network company in exchange for payment of a fee to the transportation network company and who operates a motor vehicle that is both of the following:

(a) Owned, leased or otherwise authorized for use by the individual.

(b) Used to provide transportation network services.

~~9.~~ 5. "Transportation network company vehicle" means a motor vehicle that meets all of the following:

(a) Has a seating capacity not exceeding eight passengers, including the driver.

(b) Is authorized by a transportation network company.

(c) Is used by a transportation network company driver to provide transportation network services.

~~10.~~ 6. "Transportation network services" means the transportation of a passenger between points chosen by the passenger and arranged with a transportation network company driver through the use of a transportation network company's digital network or software application beginning when a transportation network company driver accepts a request for transportation network services received through the transportation network company's digital network or software application, continuing while the transportation network company driver provides transportation network services in a transportation network company vehicle and ending when the passenger exits the transportation network company vehicle or when the trip is canceled.

Sec. 19. Section 28-9556, Arizona Revised Statutes, is amended to read:

28-9556. Transportation network services; civil penalty; street hails prohibited; records

A. A transportation network company driver shall accept rides booked and paid for exclusively through a transportation network company's digital network or software application. The department may impose a civil penalty of not more than one thousand five hundred dollars per violation against any transportation network company driver who is found to be soliciting or accepting street hails.

~~B. Subsection A of this section does not apply to a transportation network company driver of a transportation network company vehicle insured pursuant to section 28-4038, subsection C.~~

~~C.~~ B. A transportation network company shall maintain individual trip records for at least one year after the date each trip was provided and transportation network company driver records until the one-year anniversary of the date of the driver's activation on the transportation network company's digital network or software application has ended and shall make the records available to the department on request.

Sec. 20. Section 42-5062, Arizona Revised Statutes, is amended to read:

42-5062. Transporting classification

A. The transporting classification is comprised of the business of transporting for hire persons, freight or property by motor vehicle, railroads or aircraft from one point to another point in this state. The transporting classification does not include:

1. Transporting for hire persons, freight or property by:

(a) Motor carriers subject to a fee prescribed in title 28, chapter 16, article 4. ~~or by~~

(b) Light motor vehicles subject to a fee under title 28, chapter 15, article 4. ~~,~~

(c) Transportation network companies subject to a fee prescribed ~~by~~ PURSUANT TO section 28-9552. ~~or~~

(d) Transportation network company drivers on transactions involving transportation network services as defined in section 28-9551.

(e) VEHICLE FOR HIRE COMPANIES ISSUED A PERMIT PURSUANT TO SECTION 28-9503.

(f) VEHICLE FOR HIRE DRIVERS OPERATING UNDER A COMPANY PERMIT ISSUED PURSUANT TO SECTION 28-9503 ON TRANSACTIONS INVOLVING VEHICLE FOR HIRE SERVICES.

2. The business of transporting for hire persons traveling in air commerce by aircraft if taxation of the business is preempted by federal law.

3. Ambulances or ambulance services provided under title 48 or certified pursuant to title 36, chapter 21.1 or provided by a city or town in a county with a population of less than one hundred fifty thousand persons as determined in the most recent United States decennial census.

4. Public transportation program services for the dial-a-ride programs and special needs transportation services.

5. Transporting freight or property for hire by a railroad operating exclusively in this state if the transportation comprises a portion of a single shipment of freight or property, involving more than one railroad, either from a point in this state to a point outside this state or from a point outside this state to a point in this state. For the purposes of this paragraph, "a single shipment" means the transportation that begins at the point at which one of the railroads first takes possession of the freight or property and continues until the point at which one of the railroads relinquishes possession of the freight or property to a party other than one of the railroads.

6. Arranging transportation as a convenience or service to a person's customers if that person is not otherwise engaged in the business of transporting persons, freight or property for hire. This exception does not apply to businesses that dispatch vehicles pursuant to customer orders and send the billings and receive the payments associated with that activity, including when the transportation is performed by third-party independent contractors. For the purposes of this paragraph, "arranging" includes billing for or collecting transportation charges from a person's customers on behalf of the persons providing the transportation.

B. The tax base for the transporting classification is the gross proceeds of sales or gross income derived from the business, except that the following shall be deducted from the tax base:

1. The gross proceeds of sales or gross income derived from transporting for hire persons, freight or property by a railroad pursuant to a contract with another railroad that is also considered to be engaged in the businesses of transporting persons, freight or property for hire if the other railroad is liable for the tax on gross proceeds of sales or gross income attributable to the transportation.

2. The gross proceeds of sales or gross income derived from business activity that is properly included in any other business classification under this article and that is taxable to the person engaged in that classification, but the gross proceeds of sales or gross income to be deducted shall not exceed the consideration paid to the person conducting the activity.

3. The gross proceeds of sales or gross income derived from a business activity that is arranged by the person who is subject to tax under this section and that is not taxable to the person conducting the activity due to an exclusion, exemption or deduction under this section or section 42-5073, but the gross proceeds of sales or gross income to be deducted shall not exceed the consideration paid to the person conducting the activity.

4. The gross proceeds of sales or gross income derived from business activity that is arranged by a person who is subject to tax under this section and that is taxable to another person under this section who conducts the activity, but the gross proceeds of sales or gross income to be deducted shall not exceed the consideration paid to the person conducting the activity.

5. The gross proceeds of sales or gross income derived from transporting fertilizer by a railroad from a point in this state to another point in this state.

Sec. 21. Section 42-6004, Arizona Revised Statutes, is amended to read:

42-6004. <u>Exemption from municipal tax; definitions</u>

A. A city, town or special taxing district shall not levy a transaction privilege, sales, use or other similar tax on:

1. Exhibition events in this state sponsored, conducted or operated by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

2. Interstate telecommunications services, which include that portion of telecommunications services, such as subscriber line service, allocable by federal law to interstate telecommunications service.

3. Sales of warranty or service contracts.

4. Sales of motor vehicles to nonresidents of this state for use outside this state if the motor vehicle dealer ships or delivers the motor vehicle to a destination outside this state.

5. Interest on finance contracts.

6. Dealer documentation fees on the sales of motor vehicles.

7. Sales of food or other items purchased with United States department of agriculture food stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code section 1786) but may impose such a tax on other sales of food. If a city, town or special taxing district exempts sales of food from its tax or imposes a different transaction privilege rate on the gross proceeds of sales or gross income from sales of food and nonfood items, it shall use the definition of food prescribed by rule adopted by the department pursuant to section 42-5106.

8. Orthodontic devices dispensed by a dental professional who is licensed under title 32, chapter 11 to a patient as part of the practice of dentistry.

9. Sales of internet access services to the person's subscribers and customers. For the purposes of this paragraph:

(a) "Internet" means the computer and telecommunications facilities that comprise the interconnected worldwide network of networks that employ the transmission control protocol or internet protocol, or any predecessor or successor protocol, to communicate information of all kinds by wire or radio.

(b) "Internet access" means a service that enables users to access content, information, electronic mail or other services over the internet. Internet access does not include telecommunication services provided by a common carrier.

10. The gross proceeds of sales or gross income retained by the Arizona exposition and state fair board from ride ticket sales at the annual Arizona state fair.

11. Through August 31, 2014, sales of Arizona centennial medallions by the historical advisory commission.

12. Leasing real property between affiliated companies, businesses, persons or reciprocal insurers. For the purposes of this paragraph:

(a) "Affiliated companies, businesses, persons or reciprocal insurers" means the lessor holds a controlling interest in the lessee, the lessee holds a controlling interest in the lessor, affiliated persons hold a controlling interest in both the lessor and the lessee, or an unrelated person holds a controlling interest in both the lessor and lessee.

(b) "Affiliated persons" means members of the individual's family or persons who have ownership or control of a business entity.

(c) "Controlling interest" means direct or indirect ownership of at least eighty percent of the voting shares of a corporation or of the interests in a company, business or person other than a corporation.

(d) "Members of the individual's family" means the individual's spouse and brothers and sisters, whether by whole or half blood, including adopted persons, ancestors and lineal descendants.

(e) "Reciprocal insurer" has the same meaning prescribed in section 20-762.

13. The gross proceeds of sales or gross income derived from a contract for the installation, assembly, repair or maintenance of machinery, equipment or other tangible personal property that is described in section 42-5061, subsection B and that has independent functional utility, pursuant to the following provisions:

(a) The deduction provided in this paragraph includes the gross proceeds of sales or gross income derived from all of the following:

(i) Any activity performed on machinery, equipment or other tangible personal property with independent functional utility.

(ii) Any activity performed on any tangible personal property relating to machinery, equipment or other tangible personal property with independent functional utility in furtherance of any of the purposes provided for under subdivision (d) of this paragraph.

(iii) Any activity that is related to the activities described in items (i) and (ii) of this subdivision, including inspecting the installation of or testing the machinery, equipment or other tangible personal property.

(b) The deduction provided in this paragraph does not include gross proceeds of sales or gross income from the portion of any contracting activity that consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of machinery, equipment or other tangible personal property described in section 42-5061, subsection B.

(c) The deduction provided in this paragraph shall be determined without regard to the size or useful life of the machinery, equipment or other tangible personal property.

(d) For the purposes of this paragraph, "independent functional utility" means that the machinery, equipment or other tangible personal property can independently perform its function without attachment to real property, other than attachment for any of the following purposes:

(i) Assembling the machinery, equipment or other tangible personal property.

(ii) Connecting items of machinery, equipment or other tangible personal property to each other.

(iii) Connecting the machinery, equipment or other tangible personal property, whether as an individual item or as a system of items, to water, power, gas, communication or other services.

(iv) Stabilizing or protecting the machinery, equipment or other tangible personal property during operation by bolting, burying or performing other dissimilar nonpermanent connections to either real property or real property improvements.

14. The leasing or renting of certified ignition interlock devices installed pursuant to the requirements prescribed by section 28-1461. For

the purposes of this paragraph, "certified ignition interlock device" has the same meaning prescribed in section 28-1301.

15. Computer data center equipment purchased by the owner, operator or qualified colocation tenant of the computer data center or an authorized agent of the owner, operator or qualified colocation tenant during the qualification period for use in a computer data center that is certified by the Arizona commerce authority under section 41-1519. To qualify for this deduction, at the time of purchase, the owner, operator or qualified colocation tenant must present to the retailer its certificate that is issued pursuant to section 41-1519 and that establishes its qualification for the deduction. For the purposes of this paragraph, "computer data center", "computer data center equipment", "qualification period" and "qualified colocation tenant" have the same meanings prescribed in section 41-1519.

16. The gross proceeds of sales or gross income derived from a contract with the owner of real property or improvements to real property for the maintenance, repair, replacement or alteration of existing property, except as specified in this paragraph. The gross proceeds of sales or gross income derived from a de minimis amount of modification activity does not subject the contract or any part of the contract to tax. For the purposes of this paragraph:

(a) Each contract is independent of another contract, except that any change order that directly relates to the scope of work of the original contract shall be treated the same as the original contract under this ~~chapter~~ PARAGRAPH, regardless of the amount of modification activities included in the change order. If a change order does not directly relate to the scope of work of the original contract, the change order shall be treated as a new contract, with the tax treatment of any subsequent change order to follow the tax treatment of the contract to which the scope of work of the subsequent change order directly relates.

(b) Any term not defined in this paragraph that is defined in section 42-5075 has the same meaning prescribed in section 42-5075.

(c) This paragraph does not apply to a contract that primarily involves surface or subsurface improvements to land and that is subject to title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 even if the contract also includes vertical improvements. If a city or town imposes a tax on contracts that are subject to procurement processes under those provisions, the city or town shall include in the request for proposals a notice to bidders when those projects are subject to the tax. This subdivision does not apply to contracts with:

(i) Community facilities districts, fire districts, county television improvement districts, community park maintenance districts, cotton pest control districts, hospital districts, pest abatement districts, health service districts, agricultural improvement districts, county free library districts, county jail districts, county stadium districts, special health

1 care districts, public health services districts, theme park districts,
2 regional attraction districts or revitalization districts.
3 (ii) Any special taxing district not specified in item (i) of this
4 subdivision if the district does not substantially engage in the
5 modification, maintenance, repair, replacement or alteration of surface or
6 subsurface improvements to land.
7 17. Monitoring services relating to an alarm system as defined in
8 section 32-101.
9 18. Tangible personal property, job printing or publications sold to or
10 purchased by, or tangible personal property leased, rented or licensed for
11 use to or by, a qualifying health sciences educational institution as defined
12 in section 42-5001.
13 19. The transfer of title or possession of coal back and forth between
14 an owner or operator of a power plant and a person who is responsible for
15 refining coal if both of the following apply:
16 (a) The transfer of title or possession of the coal is for the purpose
17 of refining the coal.
18 (b) The title or possession of the coal is transferred back to the
19 owner or operator of the power plant after completion of the coal refining
20 process. For the purposes of this subdivision, "coal refining process" means
21 the application of a coal additive system that aids the reduction of power
22 plant emissions during the combustion of coal and the treatment of flue gas.
23 20. The gross proceeds of sales or gross income from sales of low or
24 reduced cost articles of food or drink to eligible elderly or homeless
25 persons or persons with a disability by a business subject to tax under
26 section 42-5074 that contracts with the department of economic security and
27 that is approved by the food and nutrition service of the United States
28 department of agriculture pursuant to the supplemental nutrition assistance
29 program established by the food and nutrition act of 2008 (P.L. 110-246; 122
30 Stat. 1651; 7 United States Code sections 2011 through 2036a), if the
31 purchases are made with the benefits issued pursuant to the supplemental
32 nutrition assistance program.
33 21. Tangible personal property incorporated or fabricated into a
34 project described in paragraph 16 of this subsection, that is located within
35 the exterior boundaries of an Indian reservation for which the owner, as
36 defined in section 42-5075, of the project is an Indian tribe or an
37 affiliated Indian. For the purposes of this paragraph:
38 (a) "Affiliated Indian" means an individual native American Indian who
39 is duly registered on the tribal rolls of the Indian tribe for whose benefit
40 the Indian reservation was established.
41 (b) "Indian reservation" means all lands that are within the limits of
42 areas set aside by the United States for the exclusive use and occupancy of
43 an Indian tribe by treaty, law or executive order and that are recognized as
44 Indian reservations by the United States department of the interior.

(c) "Indian tribe" means any organized nation, tribe, band or community that is recognized as an Indian tribe by the United States department of the interior and includes any entity formed under the laws of that Indian tribe.

22. The charges for the leasing or renting of space to make attachments to utility poles as follows:

(a) By a person that is engaged in the business of providing or furnishing electrical services or telecommunication services or that is a cable operator.

(b) To a person that is engaged in the business of providing or furnishing electrical services or telecommunication services or that is a cable operator.

B. A city, town or other taxing jurisdiction shall not levy a transaction privilege, sales, use, franchise or other similar tax or fee, however denominated, on natural gas or liquefied petroleum gas used to propel a motor vehicle.

C. A city, town or other taxing jurisdiction shall not levy a transaction privilege, sales, gross receipts, use, franchise or other similar tax or fee, however denominated, on gross proceeds of sales or gross income derived from any of the following:

1. A motor carrier's use on the public highways in this state if the motor carrier is subject to a fee prescribed in title 28, chapter 16, article 4.

2. Leasing, renting or licensing a motor vehicle subject to and on which the fee has been paid under title 28, chapter 16, article 4.

3. The sale of a motor vehicle and any repair and replacement parts and tangible personal property becoming a part of such motor vehicle to a motor carrier who is subject to a fee prescribed in title 28, chapter 16, article 4 and who is engaged in the business of leasing, renting or licensing such property.

4. Incarcerating or detaining in a privately operated prison, jail or detention facility prisoners who are under the jurisdiction of the United States, this state or any other state or a political subdivision of this state or of any other state.

5. Transporting for hire persons, freight or property by light motor vehicles subject to a fee under title 28, chapter 15, article 4.

6. Any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the model city tax code or by a contractor providing services to the taxpayer. For the purposes of this paragraph:

(a) The attributable amount shall not exceed the value of the development fees actually imposed.

(b) The attributable amount is equal to the total amount of development fees paid by the taxpayer or by a contractor providing services to the taxpayer and the total development fees credited in exchange for the

construction of, contribution to or dedication of real property for providing public infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.

(c) "Development fees" means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to section 9-463.05, section 11-1102 or title 48 regardless of the jurisdiction to which the fees are paid.

7. ANY AMOUNT ATTRIBUTABLE TO FEES COLLECTED BY TRANSPORTATION NETWORK COMPANIES ISSUED A PERMIT PURSUANT TO SECTION 28-9552.

8. TRANSPORTING FOR HIRE PERSONS BY TRANSPORTATION NETWORK COMPANY DRIVERS ON TRANSACTIONS INVOLVING TRANSPORTATION NETWORK SERVICES AS DEFINED IN SECTION 28-9551.

9. TRANSPORTING FOR HIRE PERSONS BY VEHICLE FOR HIRE COMPANIES ISSUED A PERMIT PURSUANT TO SECTION 28-9503.

10. TRANSPORTING FOR HIRE PERSONS BY VEHICLE FOR HIRE DRIVERS ON TRANSACTIONS INVOLVING VEHICLE FOR HIRE SERVICES AS DEFINED IN SECTION 28-9501.

D. A city, town or other taxing jurisdiction shall not levy a transaction privilege, sales, use, franchise or other similar tax or fee, however denominated, in excess of one-tenth of one percent of the value of the entire product mined, smelted, extracted, refined, produced or prepared for sale, profit or commercial use, on persons engaged in the business of mineral processing, except to the extent that the tax is computed on the gross proceeds or gross income from sales at retail.

E. In computing the tax base, any city, town or other taxing jurisdiction shall not include in the gross proceeds of sales or gross income:

1. A manufacturer's cash rebate on the sales price of a motor vehicle if the buyer assigns the buyer's right in the rebate to the retailer.

2. The waste tire disposal fee imposed pursuant to section 44-1302.

F. A city or town shall not levy a use tax on the storage, use or consumption of tangible personal property in the city or town by a school district or charter school.

G. For the purposes of this section:

1. "Cable operator" has the same meaning prescribed by section 9-505.

2. "Electrical services" means transmitting or distributing electricity, electric lights, current or power over lines, wires or cables.

3. "Telecommunication services" means transmitting or relaying sound, visual image, data, information, images or material over lines, wires or cables by radio signal, light beam, telephone, telegraph or any other electromagnetic means.

4. "Utility pole" means any wooden, metal or other pole used for utility purposes and the pole's appurtenances that are attached or authorized for attachment by the person controlling the pole.

1 Sec. 22. Effective date
2 A. Sections 28-101, 28-141, 28-2401, 28-4038, 28-9501, 28-9502,
3 28-9503, 28-9506, 28-9521, 28-9522, 28-9523, 28-9524, 28-9525, 28-9526,
4 28-9551 and 28-9556, Arizona Revised Statutes, as amended by this act, are
5 effective from and after June 30, 2016.
6 B. Section 28-9527, Arizona Revised Statutes, as added by this act, is
7 effective from and after June 30, 2016.
8 C. Sections 42-5062 and 42-6004, Arizona Revised Statutes, as amended
9 by this act, are effective for taxable periods beginning from and after the
10 last day of the month of the general effective date of the fifty-second
11 legislature, second regular session.

APPROVED BY THE GOVERNOR MAY 11, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 11, 2016.

Passed the House April 6, 2016,

by the following vote: 55 Ayes,

3 Nays, 1 Not Voting 1 excused

Speaker of the House

Chief Clerk of the House

Passed the Senate February 25, 2016,

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR
This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20_____,

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

S.B. 1492

SENATE CONCURS IN HOUSE
AMENDMENTS AND FINAL PASSAGE

Passed the Senate May 4, 2016

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

4th day of May, 2016

at 4:26 o'clock P. M.

Secretary to the Governor

Approved this 11th day of

May

at 10:47 o'clock A. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 12 day of May, 2016

at 8:57 o'clock A M.

Secretary of State

S.B. 1492