Senate Engrossed

FILED
MICHELE REAGAN
SECRETARY OF STATE

State of Arizona
Senate
Fifty-second Legislature
Second Regular Session
2016

CHAPTER 310

SENATE BILL 1240

AN ACT

AMENDING SECTION 1-215, ARIZONA REVISED STATUTES; AMENDING TITLE 15, CHAPTER 14, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 12; AMENDING SECTIONS 28-8426 AND 40-856, ARIZONA REVISED STATUTES; RELATING TO PEACE OFFICERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 1-215, Arizona Revised Statutes, is amended to read:

1-215. Definitions

In the statutes and laws of this state, unless the context otherwise requires:

1. "Action" includes any matter or proceeding in a court, civil or criminal.

2. "Adopted rule" means a final rule as defined in section 41-1001.

3. "Adult" means a person who has attained eighteen years of age.

4. "Alternative fuel" means:

(a) Electricity.

(b) Solar energy.

(c) Liquefied petroleum gas, natural gas, hydrogen or a blend of hydrogen with liquefied petroleum or natural gas that complies with any of the following:

(i) Is used in an engine that is certified to meet at a minimum the United States environmental protection agency low emission vehicle standard pursuant to 40 Code of Federal Regulations section 88.104-94 or 88.105-94.

(ii) Is used in an engine that is certified by the engine modifier to meet the addendum to memorandum 1-A of the United States environmental protection agency as printed in the federal register, volume 62, number 207, October 27, 1997, pages 55635 through 55637.

(iii) Is used in an engine that is the subject of a waiver for that specific engine application from the United States environmental protection agency's memorandum 1-A addendum requirements and that waiver is documented to the reasonable satisfaction of the director of the department of environmental quality.

(d) Only for vehicles that use alcohol fuels before August 21, 1998, alcohol fuels that contain not less than eighty-five per cent alcohol by volume.

(e) A combination of at least seventy per cent alternative fuel and no more than thirty per cent petroleum based fuel that operates in an engine that meets the United States environmental protection agency low emission vehicle standard pursuant to 40 Code of Federal Regulations section 88.104-94 or 88.105-94 and that is certified by the engine manufacturer to consume at least seventy per cent alternative fuel during normal vehicle operations.

5. "Bribe" means anything of value or advantage, present or prospective, asked, offered, given, accepted or promised with a corrupt intent to influence, unlawfully, the person to whom it is given in that person's action, vote or opinion, in any public or official capacity.

6. "Child" or "children" as used in reference to age of persons means persons under eighteen years of age.

7. "Clean burning fuel" means:

(a) An emulsion of water-phased hydrocarbon fuel that contains not less than twenty per cent water by volume and that complies with any of the following:

(i) Is used in an engine that is certified to meet at a minimum the United States environmental protection agency low emission vehicle standard pursuant to 40 Code of Federal Regulations section 88.104-94 or 88.105-94.

(ii) Is used in an engine that is certified by the engine modifier to meet the addendum to memorandum 1-A of the United States environmental protection agency as printed in the federal register, volume 62, number 207, October 27, 1997, pages 55635 through 55637.

(iii) Is used in an engine that is the subject of a waiver for that specific engine application from the United States environmental protection agency's memorandum 1-A addendum requirements and that waiver is documented to the reasonable satisfaction of the director of the department of environmental quality.

(b) A diesel fuel substitute that is produced from nonpetroleum renewable resources if the qualifying volume of the nonpetroleum renewable resources meets the standards for California diesel fuel as adopted by the California air resources board pursuant to 13 California Code of Regulations sections 2281 and 2282 in effect on January 1, 2000, the diesel fuel substitute meets the registration requirement for fuels and additives established by the United States environmental protection agency pursuant to section 211 of the clean air act as defined in section 49-401.01 and the use of the diesel fuel substitute complies with the requirements listed in 10 Code of Federal Regulations part 490, as printed in the federal register, volume 64, number 96, May 19, 1999.

(c) A diesel fuel that complies with all of the following:

(i) Contains a maximum of fifteen parts per million by weight of sulfur.

(ii) Meets ASTM D975.

(iii) Meets the registration requirements for fuels and additives established by the United States environmental protection agency pursuant to section 211 of the clean air act as defined in section 49-401.01.

(iv) Is used in an engine that is equipped or has been retrofitted with a device that has been certified by the California air resources board diesel emission control strategy verification procedure, the United States environmental protection agency voluntary diesel retrofit program or the United States environmental protection agency verification protocol for retrofit catalyst, particulate filter and engine modification control technologies for highway and nonroad use diesel engines.

(d) A blend of unleaded gasoline that contains at minimum eighty-five per cent ethanol by volume or eighty-five per cent methanol by volume.

(e) Neat methanol.

(f) Neat ethanol.

8. "Corruptly" means a wrongful design to acquire or cause some pecuniary or other advantage to the person guilty of the act or omission referred to, or to some other person.

9. "Daytime" means the period between sunrise and sunset.

10. "Depose" includes every manner of written statement under oath or affirmation.

11. "Federal poverty guidelines" means the poverty guidelines as updated annually in the federal register by the United States department of health and human services.

12. "Grantee" includes every person to whom an estate or interest in real property passes, in or by a deed.

13. "Grantor" includes every person from or by whom an estate or interest in real property passes, in or by a deed.

14. "Includes" or "including" means not limited to and is not a term of exclusion.

15. "Inhabitant" means a resident of a city, town, village, district, county or precinct.

16. "Issue" as used in connection with descent of estates includes all lawful, lineal descendants of the ancestor.

17. "Knowingly":

(a) Means only a knowledge that the facts exist that bring the act or omission within the provisions of the statute using such word.

(b) Does not require any knowledge of the unlawfulness of the act or omission.

18. "Magistrate" means an officer having power to issue a warrant for the arrest of a person charged with a public offense and includes the chief justice and justices of the supreme court, judges of the superior court, judges of the court of appeals, justices of the peace and judges of a municipal court.

19. "Majority" or "age of majority" as used in reference to age of persons means ~~the age of~~ eighteen years OF AGE or more.

20. "Malice" and "maliciously" mean a wish to vex, annoy or injure another person, or an intent to do a wrongful act, established either by proof or presumption of law.

21. "Minor" means a person under the age of eighteen years.

22. "Minor children" means persons under the age of eighteen years.

23. "Month" means a calendar month unless otherwise expressed.

24. "Neglect", "negligence", "negligent" and "negligently" import a want of such attention to the nature or probable consequence of the act or omission as a prudent man ordinarily bestows in acting in his own concerns.

25. "Nighttime" means the period between sunset and sunrise.

26. "Oath" includes an affirmation or declaration.

27. "Peace officers" means sheriffs of counties, constables, marshals, policemen of cities and towns, commissioned personnel of the department of public safety, personnel who are employed by the state department of

corrections and the department of juvenile corrections and who have received a certificate from the Arizona peace officer standards and training board, peace officers who are appointed by a multicounty water conservation district and who have received a certificate from the Arizona peace officer standards and training board, police officers who are appointed by community college district governing boards and who have received a certificate from the Arizona peace officer standards and training board, police officers who are appointed by the Arizona board of regents and who have received a certificate from the Arizona peace officer standards and training board, police officers who are appointed by the governing body of a public airport pursuant to section 28-8426 and who have received a certificate from the Arizona peace officer standards and training board, PEACE OFFICERS WHO ARE APPOINTED BY A PRIVATE POSTSECONDARY INSTITUTION PURSUANT TO SECTION 15-1897 AND WHO HAVE RECEIVED A CERTIFICATE FROM THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD and special agents from the office of the attorney general, or of a county attorney, and who have received a certificate from the Arizona peace officer standards and training board.

28. "Person" includes a corporation, company, partnership, firm, association or society, as well as a natural person. When the word "person" is used to designate the party whose property may be the subject of a criminal or public offense, the term includes the United States, this state, or any territory, state or country, or any political subdivision of this state that may lawfully own any property, or a public or private corporation, or partnership or association. When the word "person" is used to designate the violator or offender of any law, it includes corporation, partnership or any association of persons.

29. "Personal property" includes money, goods, chattels, things in action and evidences of debt.

30. "Population" means the population according to the most recent United States decennial census.

31. "Process" means a citation, writ or summons issued in the course of judicial proceedings.

32. "Property" includes both real and personal property.

33. "Real property" is coextensive with lands, tenements and hereditaments.

34. "Registered mail" includes certified mail.

35. "Seal" as used in reference to a paper issuing from a court or public office to which the seal of such court or office is required to be affixed means an impression of the seal on that paper, an impression of the seal affixed to that paper by a wafer or wax, a stamped seal, a printed seal, a screened seal or a computer generated seal.

36. "Signature" or "subscription" includes a mark, if a person cannot write, with the person's name written near it and witnessed by a person who writes the person's own name as witness.

37. "State", as applied to the different parts of the United States, includes the District of Columbia, this state and the territories.

38. "Testify" includes every manner of oral statement under oath or affirmation.

39. "United States" includes the District of Columbia and the territories.

40. "Vessel", as used in reference to shipping, includes ships of all kinds, steamboats, steamships, barges, canal boats and every structure adapted to navigation from place to place for the transportation of persons or property.

41. "Wilfully" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or believes that the person's conduct is of that nature or that the circumstance exists.

42. "Will" includes codicils.

43. "Workers' compensation" means workmen's compensation as used in article XVIII, section 8, Constitution of Arizona.

44. "Writ" means an order or precept in writing issued in the name of the state or by a court or judicial officer.

45. "Writing" includes printing.

Sec. 2. Title 15, chapter 14, Arizona Revised Statutes, is amended by adding article 12, to read:

ARTICLE 12. PRIVATE POSTSECONDARY INSTITUTION PEACE OFFICERS

15-1897. <u>Private postsecondary institutions; appointment of peace officers; powers; qualifications; liability</u>

A. A PRIVATE POSTSECONDARY INSTITUTION THAT OFFERS BACCALAUREATE DEGREES AND THAT HAS A DORMITORY ON ITS CAMPUS WITH FULL TIME RESIDENTS MAY APPOINT ONE OR MORE PERSONS TO BE DESIGNATED BY THE PRIVATE POSTSECONDARY INSTITUTION AS PRIVATE POSTSECONDARY INSTITUTION PEACE OFFICERS TO AID AND SUPPLEMENT THE LAW ENFORCEMENT AGENCIES OF THIS STATE IN THE PROTECTION OF PRIVATE POSTSECONDARY INSTITUTION PROPERTY AND THE PERSONS AND PROPERTY OF PRIVATE POSTSECONDARY INSTITUTION STUDENTS, FACULTY AND EMPLOYEES. WHILE ON PRIVATE POSTSECONDARY INSTITUTION PROPERTY AND ENGAGED IN THE CONDUCT OF THIS EMPLOYMENT, EACH APPOINTED PRIVATE POSTSECONDARY INSTITUTION PEACE OFFICER POSSESSES AND SHALL EXERCISE ALL OF THE LAW ENFORCEMENT POWERS OF A PEACE OFFICER IN THIS STATE.

B. A PERSON WHO IS APPOINTED AS A PRIVATE POSTSECONDARY INSTITUTION PEACE OFFICER BY A PRIVATE POSTSECONDARY INSTITUTION PURSUANT TO SUBSECTION A OF THIS SECTION MAY ENFORCE THE LAW ONLY ON PROPERTY THAT IS UNDER THE CONTROL OF THE PRIVATE POSTSECONDARY INSTITUTION. THE AUTHORITY AND JURISDICTION OF A LAW ENFORCEMENT AGENCY IN THIS STATE IS NOT PREEMPTED BY A PRIVATE POSTSECONDARY INSTITUTION PEACE OFFICER. A PRIVATE POSTSECONDARY INSTITUTION PEACE OFFICER MUST NOTIFY THE APPROPRIATE LAW ENFORCEMENT AGENCY IN THIS STATE AFTER MAKING A FELONY ARREST OR BEGINNING AN INVESTIGATION OF A

FELONY WITHIN THE JURISDICTION OF THAT AGENCY. A PRIVATE POSTSECONDARY INSTITUTION PEACE OFFICER SHALL HAVE AT LEAST THE MINIMUM QUALIFICATIONS PRESCRIBED BY SECTION 41-1822 AND MUST COMPLY WITH ALL RULES ESTABLISHED BY THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD. THE PRIVATE POSTSECONDARY INSTITUTION SHALL REIMBURSE THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD FOR ALL TRAINING EXPENSES INCURRED BY THE BOARD FOR A PRIVATE POSTSECONDARY INSTITUTION AND ALL AUDIT EXPENSES INCURRED BY THE BOARD IN REVIEWING THE PRIVATE POSTSECONDARY INSTITUTION'S COMPLIANCE WITH PEACE OFFICER AND LAW ENFORCEMENT STANDARDS THAT ARE ESTABLISHED BY THE BOARD. THE PRIVATE POSTSECONDARY INSTITUTION SHALL FILE THE NAME OF EACH PRIVATE POSTSECONDARY INSTITUTION PEACE OFFICER WITH THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD ON THE DATE OF THE PEACE OFFICER'S APPOINTMENT. IF THE PROPOSED PRIVATE POSTSECONDARY INSTITUTION PEACE OFFICER MEETS AT LEAST THE MINIMUM QUALIFICATIONS ESTABLISHED UNDER SECTION 41-1822, THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD SHALL ISSUE THE APPOINTEE A CERTIFICATE OF AUTHORITY TO ACT AS A PEACE OFFICER AND MAY THEREAFTER REVOKE THE CERTIFICATE FOR GOOD CAUSE.

C. A PRIVATE POSTSECONDARY INSTITUTION PEACE OFFICER WHO IS APPOINTED PURSUANT TO THIS SECTION IS NOT ELIGIBLE TO PARTICIPATE IN THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM BASED SOLELY ON THE SERVICE PROVIDED TO A PRIVATE POSTSECONDARY INSTITUTION. THE PRIVATE POSTSECONDARY INSTITUTION IS NOT ELIGIBLE TO RECEIVE FUNDS FROM THE PEACE OFFICERS' TRAINING FUND ESTABLISHED BY SECTION 41-1825. TITLE 38, CHAPTER 8, ARTICLE 1 DOES NOT APPLY TO A PRIVATE POSTSECONDARY INSTITUTION PEACE OFFICER.

D. A PRIVATE POSTSECONDARY INSTITUTION THAT APPOINTS A PRIVATE POSTSECONDARY INSTITUTION PEACE OFFICER IS LIABLE FOR A PRIVATE POSTSECONDARY INSTITUTION PEACE OFFICER'S ACTS THAT ARE WITHIN THE SCOPE OF THE OFFICER'S EMPLOYMENT. THIS STATE AND ANY POLITICAL SUBDIVISION OF THIS STATE IS NOT LIABLE FOR ANY ACT OR FAILURE TO ACT BY ANY PRIVATE POSTSECONDARY INSTITUTION PEACE OFFICER.

E. ALL RECORDS, REPORTS OR OTHER DOCUMENTATION MADE OR RECEIVED BY A PRIVATE POSTSECONDARY INSTITUTION POLICE DEPARTMENT ARE PUBLIC RECORDS AND ARE SUBJECT TO THE PROVISIONS OF TITLE 39.

Sec. 3. Section 28-8426, Arizona Revised Statutes, is amended to read:

28-8426. <u>Airport police; powers; qualifications</u>

A. The governing body of a public airport operating pursuant to sections 28-8423 and 28-8424 may appoint one or more persons to be designated by the airport as airport police officers to aid and supplement the law enforcement agencies of this state in the protection of persons and property. While engaged in the conduct of this employment, an airport police officer possesses and shall exercise law enforcement powers of peace officers in this state.

B. A person appointed as an airport police officer under this section shall have the minimum qualifications established by the Arizona peace officer standards and training board for peace officers and police officers

pursuant to section 41-1822. The airport shall file with the ~~director of the department of public safety~~ ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD the name of each airport police officer on the date of the police officer's appointment.

C. If the appointee meets the minimum qualifications established by the Arizona peace officer standards and training board, the ~~director of the department of public safety~~ ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD shall issue the appointee a certificate of authority to act as a peace officer. The director of the department of public safety may revoke a certificate for good cause shown.

Sec. 4. Section 40-856, Arizona Revised Statutes, is amended to read:

40-856. Railroad police; powers; qualifications; liability of company

A. Any railroad company may appoint one or more persons to be designated by such railroad company as railroad police to aid and supplement the law enforcement agencies of this state in the protection of railroad property and the protection of the persons and property of railroad passengers and employees. While engaged in the conduct of ~~his~~ THIS employment, each railroad policeman so appointed shall possess and exercise all law enforcement powers of peace officers in this state.

B. Any person appointed by a railroad company to act as a railroad policeman under the provision of subsection A of this section shall first have the minimum qualifications established for peace officers and police officers pursuant to section 41-1822. The railroad company shall file the name of each such railroad policeman, on the date of ~~his~~ THE PEACE OFFICER'S appointment, with the ~~director of the department of public safety~~ ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD. If the proposed railroad policeman meets the minimum qualifications established under section 41-1822, the ~~director of the department of public safety~~ ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD shall issue ~~him~~ THE APPOINTEE a certificate of authority to act as a peace officer and may thereafter revoke such certificate for good cause shown.

C. Each railroad company appointing any railroad police shall be liable for any and all acts of such railroad police within the scope of their employment. Neither the state nor any political subdivision shall be liable for any act or failure to act by any such railroad policeman.

APPROVED BY THE GOVERNOR MAY 17, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 18, 2016.

Passed the House May 6, 2016,

by the following vote: 50 Ayes,

3 Nays, 7 Not Voting

Speaker of the House

Jim Drake

Chief Clerk of the House

Passed the Senate March 9, 2016,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

President of the Senate

Susan Aceves

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

6th day of May, 2016,

at 5:56 o'clock P. M.

Secretary to the Governor

Approved this 17th day of

May, 2016,

at 5:09 o'clock P. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 18th day of May, 2016,

at 10:20 o'clock A M.

Michele Reagan

Secretary of State

S.B. 1240