

REFERENCE TITLE: impounds; release; owners; spouse; notice

State of Arizona  
Senate  
Fifty-fifth Legislature  
Second Regular Session  
2022

# **SB 1702**

Introduced by  
Senator Gonzales

AN ACT

AMENDING SECTIONS 28-3512 AND 28-3514, ARIZONA REVISED STATUTES; RELATING  
TO VEHICLE IMPOUNDMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 28-3512, Arizona Revised Statutes, is amended to  
3 read:

4 28-3512. Release of vehicle; civil penalties; definition

5 A. An immobilizing or impounding agency shall release a vehicle  
6 before the end of the immobilization or impoundment period as follows:

7 1. To the registered owner, if the vehicle is a stolen vehicle.

8 2. To the registered owner, if the vehicle is subject to bailment  
9 and is driven by an employee of a business establishment, including a  
10 parking service or repair garage, who is subject to section 28-3511,  
11 subsection A, B or C.

12 3. To the registered owner, if the owner was operating the vehicle  
13 at the time of removal and either immobilization or impoundment and  
14 presents proof satisfactory to the immobilizing or impounding agency that  
15 the owner has a valid driver license or the owner's driving privilege has  
16 been reinstated.

17 4. To the registered owner, if all of the following apply:

18 (a) The owner or the owner's agent was not the person driving the  
19 vehicle pursuant to section 28-3511, subsection A.

20 (b) The owner or the owner's agent is in the business of renting  
21 motor vehicles without drivers.

22 (c) The vehicle is registered pursuant to section 28-2166.

23 (d) There was a rental agreement in effect at the time of the  
24 immobilization or impoundment.

25 5. Except as provided in paragraph 7 of this subsection, to the  
26 spouse of the registered owner or any person who is identified as an owner  
27 of the vehicle on the records of the department at the time of removal and  
28 either immobilization or impoundment, if the spouse or person was not the  
29 driver of the vehicle at the time of removal and either immobilization or  
30 impoundment and the spouse or person enters into an agreement with the  
31 immobilizing or impounding agency that stipulates that if the spouse or  
32 person allows a driver who does not have a valid driving privilege or a  
33 driver who commits a violation that causes the spouse's or person's  
34 vehicle to be removed and either immobilized or impounded pursuant to this  
35 article within one year after any agreement is signed by an immobilizing  
36 or impounding agency, the spouse or person will not be eligible to obtain  
37 release of the spouse's or person's vehicle before the end of the  
38 immobilization or impoundment period. **THE IMMOBILIZING OR IMPOUNDING  
39 AGENCY SHALL PROMINENTLY DISPLAY A NOTICE IN EACH OF ITS OFFICES THAT  
40 CLEARLY STATES THE REQUIREMENTS OF THIS PARAGRAPH.**

41 6. To the motor vehicle dealer, if the vehicle is owned by a motor  
42 vehicle dealer who has paid fees pursuant to section 28-4302 and is driven  
43 by a customer, potential customer or employee of the motor vehicle dealer  
44 and the motor vehicle dealer has provided to the immobilizing or  
45 impounding agency indicia of the motor vehicle dealer's ownership of the

1 vehicle, including a certificate of title or a manufacturer-issued  
2 certificate or statement of origin.

3 7. To any person who is identified as an owner of the vehicle on  
4 the records of the department at the time of removal and either  
5 immobilization or impoundment, if the vehicle is a commercial motor  
6 vehicle, a street sweeper or heavy equipment as defined in section 28-854  
7 and the person was not the driver of the vehicle at the time of removal  
8 and either immobilization or impoundment.

9 B. A vehicle shall not be released pursuant to subsection A of this  
10 section except pursuant to an immobilization or a poststorage hearing  
11 under section 28-3514 or if all of the following are presented to the  
12 immobilizing or impounding agency:

13 1. The owner's or owner's spouse's currently valid driver license  
14 issued by this state or the owner's or owner's spouse's state of domicile.

15 2. Proof of current vehicle registration or a valid salvage or  
16 dismantle certificate of title.

17 3. Proof that the vehicle is in compliance with the financial  
18 responsibility requirements of chapter 9, article 4 of this title.

19 4. If the person is required by the department to install a  
20 certified ignition interlock device on the vehicle, proof of installation  
21 of a functioning certified ignition interlock device in the vehicle. The  
22 impounding agency, storage yard, facility, person or agency having  
23 physical possession of the vehicle shall allow access during normal  
24 business hours to the impounded vehicle for the purpose of installing a  
25 certified ignition interlock device. The impounding agency, storage yard,  
26 facility, person or agency having physical possession of the vehicle shall  
27 not charge any fee or require compensation for providing access to the  
28 vehicle or for the installation of the certified ignition interlock  
29 device.

30 C. The owner or the owner's spouse if the vehicle is released to  
31 the owner's spouse is responsible for paying all immobilization, towing  
32 and storage charges related to the immobilization or impoundment of the  
33 vehicle and any administrative charges established pursuant to section  
34 28-3513, unless the vehicle is stolen and the theft was reported to the  
35 appropriate law enforcement agency. If the vehicle is stolen and the  
36 theft was reported to the appropriate law enforcement agency, the operator  
37 of the vehicle at the time of immobilization or impoundment is responsible  
38 for all immobilization, towing, storage and administrative charges.

39 D. Before the end of the immobilization or impoundment period, the  
40 immobilizing or impounding agency shall release a vehicle to a person,  
41 other than the owner, identified on the department's record as having an  
42 interest in the vehicle immediately before the immobilization or  
43 impoundment if all of the following conditions are met:

44 1. The person is either of the following:

1 (a) In the business of renting motor vehicles without drivers and  
2 the vehicle is registered pursuant to section 28-2166.

3 (b) A motor vehicle dealer, bank, credit union or acceptance  
4 corporation or any other licensed financial institution legally operating  
5 in this state or is another person who is not the owner and who holds a  
6 security interest in the vehicle immediately before the immobilization or  
7 impoundment.

8 2. The person pays all immobilization, towing and storage charges  
9 related to the immobilization or impoundment of the vehicle and any  
10 administrative charges established pursuant to section 28-3513 unless the  
11 vehicle is stolen and the theft was reported to the appropriate law  
12 enforcement agency. If the vehicle is stolen and the theft was reported  
13 to the appropriate law enforcement agency, the operator of the vehicle at  
14 the time of immobilization or impoundment is responsible for all  
15 immobilization, towing, storage and administrative charges.

16 3. The person presents foreclosure documents or an affidavit of  
17 repossession of the vehicle.

18 4. The person requesting release of the vehicle was not the person  
19 driving the vehicle at the time of removal and immobilization or  
20 impoundment.

21 E. Before a person described in subsection D of this section  
22 releases the vehicle to the owner who was operating the vehicle at the  
23 time of removal and immobilization or impoundment, the person described in  
24 subsection D of this section shall require the owner to present and shall  
25 retain for a period of at least three years from the date of releasing the  
26 vehicle a copy of all of the following:

27 1. A driver license issued by this state or the owner's or owner's  
28 agent's state of domicile.

29 2. A current vehicle registration or a valid salvage or dismantle  
30 certificate of title.

31 3. Evidence that the vehicle is in compliance with the financial  
32 responsibility requirements of chapter 9, article 4 of this title.

33 F. The person described in subsection D of this section may require  
34 the owner to pay charges that the person incurred in connection with  
35 obtaining custody of the vehicle, including all immobilization, towing and  
36 storage charges that are related to the immobilization or impoundment of  
37 the vehicle and any administrative charges that are established pursuant  
38 to section 28-3513.

39 G. A vehicle shall not be released after the end of the  
40 immobilization or impoundment period unless the owner or owner's agent  
41 presents all of the following to the impounding or immobilizing agency:

42 1. A valid driver license issued by this state or by the owner's or  
43 owner's agent's state of domicile.

44 2. A current vehicle registration or a valid salvage or dismantle  
45 certificate of title.

1           3. Evidence that the vehicle is in compliance with the financial  
2 responsibility requirements of chapter 9, article 4 of this title.

3           4. If the person is required by the department to install a  
4 certified ignition interlock device on the vehicle, proof of installation  
5 of a functioning certified ignition interlock device in the vehicle. The  
6 impounding agency, storage yard, facility, person or agency having  
7 physical possession of the vehicle shall allow access during normal  
8 business hours to the impounded vehicle for the purpose of installing a  
9 certified ignition interlock device. The impounding agency, storage yard,  
10 facility, person or agency having physical possession of the vehicle shall  
11 not charge any fee or require compensation for providing access to the  
12 vehicle or for the installation of the certified ignition interlock  
13 device.

14           H. The storage charges relating to the impoundment of a vehicle  
15 pursuant to this section shall be subject to a contractual agreement  
16 between the impounding agency and a towing firm for storage services  
17 pursuant to section 41-1830.51 and shall be \$25 for each day of storage,  
18 including any time the vehicle remains in storage after the end of the  
19 impoundment period.

20           I. The immobilizing or impounding agency shall have no lien or  
21 possessory interest in a stolen vehicle if the theft was reported to the  
22 appropriate law enforcement agency. The immobilizing or impounding agency  
23 shall release the vehicle to the owner or person other than the owner as  
24 identified in subsection D of this section even if the operator at the  
25 time of immobilization or impoundment has not paid all immobilization,  
26 towing, storage and administrative charges.

27           J. A person who enters into an agreement pursuant to subsection A,  
28 paragraph 5 of this section and who allows another person to operate the  
29 vehicle in violation of the agreement is responsible for a civil traffic  
30 violation and shall pay a civil penalty of at least \$250.

31           K. A person described in subsection D, paragraph 1 of this section  
32 who violates subsection E of this section is responsible for a civil  
33 traffic violation and shall pay a civil penalty of at least \$250.

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

36           Sec. 2. Section 28-3514, Arizona Revised Statutes, is amended to  
37 read:

38           28-3514. Hearings; notice of immobilization or storage;  
39   definition

40           A. If a peace officer removes and either immobilizes or impounds a  
41 vehicle pursuant to section 28-3511, the immobilizing or impounding agency  
42 may provide the owner, the spouse of the owner and any other person  
43 providing indicia of ownership or other interest in the vehicle  
44 immediately before the immobilization or impoundment with the opportunity  
45 for an immobilization or poststorage hearing to determine the validity of

1 the immobilization or storage or consider any mitigating circumstances  
2 relating to the immobilization or storage or release of the vehicle before  
3 the end of the immobilization or impoundment period. If the immobilizing  
4 or impounding agency provides the opportunity for an immobilization or  
5 poststorage hearing, the immobilizing or impounding agency shall conduct  
6 the hearing in accordance with any of the following:

7 1. In the immobilizing or impounding agency's jurisdiction.

8 2. Telephonically.

9 3. Pursuant to procedures prescribed by the immobilizing or  
10 impounding agency to transfer the authority to conduct the immobilization  
11 or poststorage hearing to a law enforcement agency in the jurisdiction in  
12 which the owner, the spouse of the owner, the owner's agent or any person  
13 identified in the department's record as having an interest in the vehicle  
14 immediately before the immobilization or impoundment resides.

15 B. If the immobilizing or impounding agency does not provide an  
16 opportunity for an immobilization or poststorage hearing, a justice court  
17 shall conduct the immobilization or poststorage hearing. If an  
18 immobilization or poststorage hearing is conducted by a justice court, the  
19 immobilizing or impounding agency shall appear and show evidence.  
20 Immobilization or poststorage hearings conducted by a justice court shall  
21 be considered as civil filings for the purposes of judicial productivity  
22 credits.

23 C. Within three business days after immobilization or impoundment,  
24 excluding weekends and holidays, the immobilizing or impounding agency  
25 shall send a notice of storage by first class mail to each person, other  
26 than the owner, identified on the department's record as having an  
27 interest in the vehicle or who has provided the department with indicia of  
28 ownership or other interest in the vehicle that exists immediately before  
29 the immobilization or impoundment. Service of notice of immobilization or  
30 storage is complete on mailing. If within three business days after  
31 immobilization or impoundment, excluding weekends and holidays, the  
32 immobilizing or impounding agency fails to notify a person, other than the  
33 owner, identified on the department's record as having an interest in the  
34 vehicle immediately before the immobilization or impoundment, the  
35 immobilizing agency or the person in possession of the vehicle shall not  
36 charge any administrative fees or more than fifteen days' immobilization  
37 or impoundment when the person redeems the impounded vehicle or has the  
38 immobilization device removed from the vehicle.

39 D. Within ~~three business days~~ TWENTY-FOUR HOURS after  
40 immobilization or impoundment, excluding weekends and holidays, the  
41 immobilizing or impounding agency shall mail or personally deliver WRITTEN  
42 notice of immobilization or storage to the owner of the vehicle.

43 E. The notice of immobilization or storage shall include all of the  
44 following information:

45 1. A statement that the vehicle was immobilized or impounded.

1           2. The name, address and telephone number of the immobilizing or  
2 impounding agency providing the notice.

3           3. The name, address and telephone number of the immobilizing or  
4 impounding agency or justice court that will provide the immobilization or  
5 poststorage hearing.

6           4. The location of the place of storage and a description of the  
7 vehicle, including, if available, the manufacturer, model, license plate  
8 number and mileage of the vehicle.

9           5. A statement that in order to receive an immobilization or  
10 poststorage hearing the owner, the spouse of the owner, the owner's agent  
11 or the person identified in the department's record as having an interest  
12 in the vehicle immediately before the immobilization or impoundment,  
13 within ten days after the date on the notice, shall request an  
14 immobilization or poststorage hearing by contacting the immobilizing or  
15 impounding agency in person or in writing or by filing a request with the  
16 justice court if the impounding agency does not provide for a hearing and  
17 paying a fee equal to the fee established pursuant to section 22-281 for a  
18 small claims answer.

19           6. A statement that if the immobilizing or impounding agency does  
20 not provide the opportunity for an immobilization or poststorage hearing,  
21 the owner, the spouse of the owner, the owner's agent or any person  
22 identified in the department's record as having an interest in the vehicle  
23 or a person who has provided the department with indicia of ownership or  
24 other interest in the vehicle that exists immediately before the  
25 immobilization or impoundment may request that the immobilization or  
26 poststorage hearing be conducted by a justice court in the immobilizing or  
27 impounding agency's jurisdiction or the jurisdiction in which the owner,  
28 the spouse of the owner, the owner's agent or the person identified in the  
29 department's record as having an interest in the vehicle immediately  
30 before the immobilization or impoundment resides.

31           7. A STATEMENT AS TO HOW THE OWNER, THE OWNER'S SPOUSE, THE OWNER'S  
32 AGENT OR A PERSON IDENTIFIED IN THE DEPARTMENT'S RECORD AS HAVING AN  
33 INTEREST IN THE VEHICLE IMMEDIATELY BEFORE THE IMMOBILIZATION OR  
34 IMPOUNDMENT MAY RETRIEVE THE VEHICLE PURSUANT TO THIS ARTICLE.

35           F. The immobilization or poststorage hearing shall be conducted by  
36 the immobilizing or impounding agency or justice court within five  
37 business days, excluding weekends and holidays, after receipt of the  
38 request.

39           G. Failure of the owner, the spouse of the owner or other person or  
40 the other person's agent to request an immobilization or poststorage  
41 hearing within ten days after the date on the notice prescribed in  
42 subsection E of this section or to attend a scheduled hearing satisfies  
43 the immobilization or poststorage hearing requirement.

1           H. The immobilizing or impounding agency employing the person who  
2 directed the immobilization or storage is responsible for the costs  
3 incurred for immobilization, towing and storage if it is determined in the  
4 immobilization or poststorage hearing that reasonable grounds for the  
5 immobilization or impoundment and storage are not established.

6           I. In compliance with the requirements of this section, the vehicle  
7 owner, the vehicle owner's spouse or another person who has an interest in  
8 the vehicle or who has provided the department with indicia of ownership  
9 or other interest in the vehicle that exists immediately before the  
10 immobilization or impoundment shall have an opportunity for a single  
11 poststorage hearing for the release of the vehicle by either the  
12 immobilizing or impounding agency or a justice court but not both.

13           J. For the purposes of this section, "indicia of ownership"  
14 includes a certificate of title, a manufacturer-issued certificate or a  
15 statement of origin or other similar document.