

Senate Engrossed

impounds; release; owners; spouse; notice

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

SENATE BILL 1702

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 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 after immobilization or impoundment,
40 excluding weekends and holidays, the immobilizing or impounding agency
41 shall mail or personally deliver WRITTEN notice of immobilization or
42 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.