

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1206

(Reference to Senate engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 28-5240, Arizona Revised Statutes, is amended to
3 read:

4 28-5240. Civil penalty; violation; classification; attorney
5 general enforcement

6 A. An equipment violation of this chapter or any rule adopted
7 pursuant to this chapter is a civil traffic violation ~~unless the violation~~
8 ~~requires issuance of an out-of-service order pursuant to section 28-5241.~~

9 B. The driver of a commercial motor vehicle who violates or fails to
10 comply with this chapter or any rule adopted pursuant to this chapter is
11 responsible for a civil traffic violation and is subject to a civil penalty
12 of up to \$500, ~~unless the violation requires issuance of an out-of-service~~
13 ~~order pursuant to section 28-5241.~~

14 ~~C. In addition to civil penalties imposed under this chapter and~~
15 ~~except as provided in subsections A and B of this section, a motor carrier,~~
16 ~~shipper or manufacturer that operates or causes to be operated a commercial~~
17 ~~motor vehicle in violation of this chapter or that knowingly violates or~~
18 ~~knowingly fails to comply with any provision of this chapter or with any~~
19 ~~rule adopted pursuant to this chapter is guilty of:~~

20 ~~1. A class 2 misdemeanor for a first offense.~~

21 ~~2. A class 1 misdemeanor for a second offense.~~

22 ~~3. A class 6 felony for any subsequent offense.~~

23 ~~D. The attorney general may enforce subsection C of this section.~~

1 Sec. 2. Section 28-5241, Arizona Revised Statutes, is amended to
2 read:

3 28-5241. Out-of-service orders; violation; civil penalty;
4 definition

5 A. A DRIVER, MOTOR CARRIER, SHIPPER OR MANUFACTURER THAT VIOLATES AN
6 OUT-OF-SERVICE ORDER IS GUILTY OF:

- 7 1. A CLASS 2 MISDEMEANOR FOR A FIRST OFFENSE.
8 2. A CLASS 1 MISDEMEANOR FOR A SECOND OFFENSE.
9 3. A CLASS 6 FELONY FOR ANY SUBSEQUENT OFFENSE.

10 B. THE ATTORNEY GENERAL MAY ENFORCE THIS SECTION.

11 ~~A.~~ C. A motor carrier, SHIPPER OR MANUFACTURER shall not require or
12 allow a driver:

13 1. To operate a commercial motor vehicle that is subject to an
14 out-of-service order until all repairs required by the out-of-service order
15 have been satisfactorily completed.

16 2. Who is subject to an out-of-service order to operate a commercial
17 motor vehicle until the reason for the out-of-service order has been
18 remedied.

19 ~~B.~~ C. A driver:

20 1. Shall not operate a commercial motor vehicle that is subject to
21 an out-of-service order until all repairs required by the out-of-service
22 order have been satisfactorily completed.

23 2. Who is subject to an out-of-service order shall not operate a
24 commercial motor vehicle until the reason for the out-of-service order has
25 been remedied.

26 ~~C.~~ D. ~~Notwithstanding~~ IN ADDITION TO THE CIVIL PENALTIES IMPOSED BY
27 section 28-5240, ~~subsection C,~~ AND THE CRIMINAL PENALTIES IMPOSED BY THIS
28 SECTION, a violation of this section is a civil traffic violation.

29 ~~D.~~ E. The court shall impose:

30 1. On a driver who violates or fails to comply with an
31 out-of-service order a civil penalty of:

- 32 (a) At least \$2,500 for an initial violation or failure.

1 (b) \$5,000 for a subsequent violation or failure.

2 2. A civil penalty of at least \$2,750 and not more than \$25,000 on a
3 motor carrier, **SHIPPER OR MANUFACTURER** that violates an out-of-service
4 order or that requires or allows a driver to violate or fail to comply with
5 an out-of-service order.

6 ~~F.~~ F. In addition to other penalties prescribed by this chapter, if
7 a motor carrier, **SHIPPER, MANUFACTURER** or driver is found responsible for a
8 violation of this section, the motor carrier or driver is subject to
9 disqualification pursuant to section 28-3312.

10 ~~F.~~ G. For the purposes of this section, "out-of-service order" means
11 a declaration by a specialty officer of the department or a law enforcement
12 officer authorized pursuant to section 28-5204 that a driver, motor vehicle
13 or motor carrier is out of service pursuant to this chapter."

14 Amend title to conform

KEVIN PAYNE

1206PAYNE SE.docx
03/28/2023
03:08 PM
H: NM/lis