

REFERENCE TITLE: ADOT; authorized third parties; revocation

State of Arizona
Senate
Fifty-sixth Legislature
Second Regular Session
2024

SB 1467

Introduced by
Senator Kern

AN ACT

AMENDING SECTIONS 28-5105 AND 28-5107, ARIZONA REVISED STATUTES; RELATING
TO AUTHORIZED THIRD PARTIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 28-5105, Arizona Revised Statutes, is amended to
3 read:

4 28-5105. Criminal records check; denial of application;
5 immunity from costs

6 A. Except as provided by subsection B of this section, each
7 applicant who owns twenty percent or more of an entity, each partner or
8 stockholder who owns twenty percent or more of an entity and each person
9 who is an employee of an authorized third party who has access to personal
10 information as defined in section 28-440 obtained from the department or a
11 customer of the department or monies collected on behalf of this state,
12 and who seeks authorization or certification, or both, pursuant to this
13 article shall provide:

14 1. A full set of fingerprints to the department of transportation
15 for the purpose of obtaining a state and federal criminal records check
16 pursuant to section 41-1750 and Public Law 92-544. The department of
17 public safety may exchange this fingerprint data with the federal bureau
18 of investigation.

19 2. A nonrefundable fee to be paid to the department of public
20 safety for the criminal records check.

21 B. Each employee of an authorized third party who conducts vehicle
22 inspections on behalf of this state shall provide:

23 1. A full set of fingerprints to the department of transportation
24 for the purpose of obtaining a state and federal criminal records check
25 pursuant to section 41-1750 and Public Law 92-544. The department of
26 public safety may exchange this fingerprint data with the federal bureau
27 of investigation.

28 2. A nonrefundable fee to be paid to the department of public
29 safety for the criminal records check.

30 C. The director may deny an application for authorization or
31 certification, or both, if any individual included in the application has
32 either:

33 1. Made a misrepresentation or misstatement in the application to
34 conceal a matter that would cause the application to be denied.

35 2. Been convicted of fraud or an auto-related felony in any state,
36 territory or possession of the United States or any foreign country within
37 the ten years immediately preceding the date the criminal records check is
38 complete.

39 3. Been convicted of a felony, other than a felony described in
40 paragraph 2 of this subsection, in a state, territory or possession of the
41 United States or a foreign country within the five years immediately
42 preceding the date the criminal records check is complete.

43 4. Violated a rule or policy of the department.

44 5. Been involved in any activity that the director determines to be
45 inappropriate in relation to the authority granted.

1 D. The director may approve an application for provisional
2 authorization or certification, or both, pending completion of the
3 criminal records check if the applicant meets all other requirements of
4 this article. The director may revoke a provisional authorization or
5 certification, or both, for a violation of this title. A provisional
6 authorization or certification, or both, is valid unless revoked by the
7 director or until the applicant receives approval or denial of the
8 application for authorization or certification, or both.

9 E. Within twenty days of completion of the criminal records check,
10 the director shall approve or deny the application. If the application is
11 denied, the director shall advise the applicant in writing of the denial
12 and the grounds for denial. The department or its employees are not
13 liable for any costs incurred by an applicant seeking authorization or
14 certification, or both, under this article.

15 F. Within thirty days after receipt of the notice of denial, the
16 applicant may petition the director in writing for a hearing on the
17 application pursuant to section 28-5107.

18 G. If the authorized third party adds a partner or stockholder who
19 owns twenty percent or more of the entity and who was not included in the
20 criminal records check on a prior application, the authorized third party
21 shall notify the department within thirty days of the change.

22 H. At the time of notification pursuant to subsection G of this
23 section, the third party shall submit to the department of transportation
24 an application and, if applicable, a full set of fingerprints and the fee
25 to be paid to the department of public safety for a criminal records
26 check. On completion of the investigation if the individual added or
27 changed by the authorized third party is found to be ineligible pursuant
28 to subsection C of this section, the director of the department of
29 transportation shall advise the authorized third party and the individual
30 in writing of the grounds for the action and that the authorization will
31 be revoked unless the individual is removed from the position.

32 I. The requirement for a criminal records check does not apply to
33 an applicant who is seeking third-party authorization and who is:

- 34 1. A department, agency or political subdivision of this state.
- 35 2. A court of this state.
- 36 3. A law enforcement agency or department of this state.
- 37 4. A financial institution or enterprise under the jurisdiction of
38 the department of insurance and financial institutions or a federal
39 monetary authority.
- 40 5. The federal government or any of its agencies.
- 41 6. A motor vehicle dealer that is licensed and bonded by the
42 department of transportation or a state organization of licensed and
43 bonded motor vehicle dealers.
- 44 7. A manufacturer, importer, factory branch or distributor licensed
45 by the department of transportation.

1 8. An insurer under the jurisdiction of the department of insurance
2 and financial institutions.

3 9. An owner or registrant of a fleet of one hundred or more
4 vehicles.

5 10. A public utility.

6 11. A tribal government.

7 12. An employer or association that has at least five hundred
8 employees or members.

9 J. THE DIRECTOR SHALL REVOKE AN AUTHORIZATION OR CERTIFICATION, OR
10 BOTH, IF THE THIRD PARTY DOES NOT MEET THE STANDARDS PRESCRIBED BY THIS
11 ARTICLE. THE DIRECTOR SHALL ADVISE THE THIRD PARTY IN WRITING OF THE
12 REVOCATION AND THE GROUNDS FOR THE REVOCATION. WITHIN THIRTY DAYS AFTER
13 RECEIPT OF THE NOTICE OF REVOCATION, THE THIRD PARTY MAY PETITION THE
14 DIRECTOR IN WRITING FOR A HEARING ON THE REVOCATION PURSUANT TO SECTION
15 28-5107.

16 ~~J.~~ K. For the purposes of this section, personal information does
17 not include information received pursuant to section 28-872.

18 Sec. 2. Section 28-5107, Arizona Revised Statutes, is amended to
19 read:

20 28-5107. Application denial; authorization or certification
21 revocation; hearing; appeal

22 A. The director may deny an application for third party
23 authorization or certification, or both, under this article and shall
24 advise the applicant in writing within twenty days ~~of~~ AFTER the denial and
25 the grounds for the denial if the director determines that any of the
26 following applies:

27 1. The applicant is not eligible for third party authorization or
28 certification, or both, under this article.

29 2. The application is not made in good faith.

30 3. The application contains a material misrepresentation or
31 misstatement.

32 4. The applicant has not met the requirements of law.

33 B. THE DIRECTOR SHALL REVOKE A THIRD PARTY AUTHORIZATION OR
34 CERTIFICATION, OR BOTH, UNDER THIS ARTICLE AND SHALL ADVISE THE THIRD
35 PARTY WITHIN TWENTY DAYS AFTER THE REVOCATION AND THE GROUNDS FOR THE
36 DENIAL IF THE DIRECTOR DETERMINES THAT THE THIRD PARTY DOES NOT MEET THE
37 STANDARDS PRESCRIBED BY THIS ARTICLE.

38 ~~B.~~ C. ~~An applicant~~ A PERSON who is aggrieved by the denial of an
39 application OR A REVOCATION OF AN AUTHORIZATION OR CERTIFICATION, OR BOTH,
40 may make a written request to the department for a hearing on the
41 application OR REVOCATION within thirty days after service of the notice
42 of denial OR THE NOTICE OF REVOCATION. If the ~~applicant~~ PERSON does not
43 request a hearing within thirty days, the denial OR REVOCATION is final.

44 ~~C.~~ D. If the ~~applicant~~ PERSON requests a hearing, the director
45 shall give written notice to the ~~applicant~~ PERSON to appear at a hearing

1 to show cause why the denial of the applicant's application OR THE
2 REVOCATION OF THE AUTHORIZATION OR CERTIFICATION, OR BOTH, should not be
3 upheld. After consideration of the evidence presented at the hearing, the
4 director shall serve notice in writing to the applicant of the director's
5 findings and order. A timely request for a hearing stays the denial of
6 the application OR THE REVOCATION OF THE AUTHORIZATION OR CERTIFICATION,
7 OR BOTH.

8 D. If the application is denied OR THE AUTHORIZATION OR
9 CERTIFICATION, OR BOTH, ARE REVOKED, the ~~applicant~~ PERSON may appeal the
10 decision pursuant to title 12, chapter 7, article 6.