

Senate Engrossed

ADOT; authorized third parties; revocation

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

SENATE BILL 1467

AN ACT

AMENDING SECTIONS 28-5105, 28-5107 AND 28-5108, 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; revocation; judicial review

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.

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

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

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

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

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

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

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

36 1. A department, agency or political subdivision of this state.

37 2. A court of this state.

38 3. A law enforcement agency or department of this state.

39 4. A financial institution or enterprise under the jurisdiction of
40 the department of insurance and financial institutions or a federal
41 monetary authority.

42 5. The federal government or any of its agencies.

43 6. A motor vehicle dealer that is licensed and bonded by the
44 department of transportation or a state organization of licensed and
45 bonded motor vehicle dealers.

1 7. A manufacturer, importer, factory branch or distributor licensed
2 by the department of transportation.

3 8. An insurer under the jurisdiction of the department of insurance
4 and financial institutions.

5 9. An owner or registrant of a fleet of one hundred or more
6 vehicles.

7 10. A public utility.

8 11. A tribal government.

9 12. An employer or association that has at least five hundred
10 employees or members.

11 J. THE DIRECTOR SHALL REVOKE AN AUTHORIZATION OR CERTIFICATION, OR
12 BOTH, IF THE THIRD PARTY DOES NOT MEET THE STANDARDS PRESCRIBED BY THIS
13 SECTION. THE DIRECTOR SHALL ADVISE THE THIRD PARTY IN WRITING OF THE
14 REVOCATION AND THE GROUNDS FOR THE REVOCATION. WITHIN THIRTY DAYS AFTER
15 RECEIPT OF THE NOTICE OF REVOCATION, THE THIRD PARTY MAY DO EITHER OF THE
16 FOLLOWING:

17 1. PETITION THE DIRECTOR IN WRITING FOR A HEARING ON THE REVOCATION
18 PURSUANT TO SECTION 28-5107.

19 2. SEEK JUDICIAL REVIEW OF THE DIRECTOR'S REVOCATION. IF THE COURT
20 FINDS FOR THE THIRD PARTY, THE COURT MAY REINSTATE THE AUTHORIZATION OR
21 CERTIFICATION, OR BOTH, AND AWARD ANY DAMAGES AND ATTORNEY FEES.

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

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

26 28-5107. Application denial; authorization or certification
27 revocation; hearing; judicial review; appeal

28 A. The director may deny an application for third party
29 authorization or certification, or both, under this article and shall
30 advise the applicant in writing within twenty days of the denial and the
31 grounds for the denial if the director determines that any of the
32 following applies:

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

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

36 3. The application contains a material misrepresentation or
37 misstatement.

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

39 B. ~~An applicant~~ A PERSON who is aggrieved by the denial of an
40 application OR A REVOCATION OF AN AUTHORIZATION OR CERTIFICATION, OR BOTH,
41 may DO EITHER OF THE FOLLOWING:

42 1. Make a written request to the department for a hearing on the
43 application OR REVOCATION within thirty days after service of the notice
44 of denial OR THE NOTICE OF REVOCATION.

1 2. SEEK JUDICIAL REVIEW OF THE DIRECTOR'S DENIAL OR REVOCATION. IF
2 THE COURT FINDS FOR THE PERSON, THE COURT MAY GRANT OR REINSTATE THE
3 AUTHORIZATION OR CERTIFICATION, OR BOTH, AND AWARD ANY DAMAGES AND
4 ATTORNEY FEES.

5 C. If the applicant PERSON does not request a hearing OR SEEK
6 JUDICIAL REVIEW PURSUANT TO SUBSECTION D OF THIS SECTION within thirty
7 days, the denial OR REVOCATION is final.

8 ~~C.~~ D. If the applicant PERSON requests a hearing, the director
9 shall give written notice to the applicant PERSON to appear at a hearing
10 to show cause why the denial of the applicant's application OR THE
11 REVOCATION OF THE AUTHORIZATION OR CERTIFICATION, OR BOTH, should not be
12 upheld. After consideration of the evidence presented at the hearing, the
13 director shall serve notice in writing to the applicant of the director's
14 findings and order. A timely request for a hearing stays the denial of
15 the application OR THE REVOCATION OF THE AUTHORIZATION OR CERTIFICATION,
16 OR BOTH.

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

20 Sec. 3. Section 28-5108, Arizona Revised Statutes, is amended to
21 read:

22 28-5108. Cancellation or suspension of authorization or
23 certification; hearing; appeal; judicial review

24 A. The director may suspend or cancel an authorization or
25 certification, or both, granted pursuant to this article if the director
26 determines that the third party or certificate holder has done any of the
27 following:

- 28 1. Made a material misrepresentation or misstatement in the
29 application for authorization or certification.
30 2. Violated a law of this state.
31 3. Violated a rule or policy adopted by the department.
32 4. Failed to keep and maintain records required by this article.
33 5. Allowed an unauthorized person to engage in any business
34 pursuant to this article.
35 6. Been involved in any activity that the director determines to be
36 inappropriate in relation to the authority granted.

37 B. The director may suspend or cancel an authorization or
38 certification, or both, granted pursuant to this chapter if the director
39 determines that an individual included in the application for
40 authorization or certification:

- 41 1. Made a misrepresentation, omission or misstatement in the
42 application to conceal a matter that may cause the application to be
43 denied.

1 2. Has been convicted of fraud or an ~~auto related~~ **AUTO-RELATED**
2 felony in a state, territory or possession of the United States or a
3 foreign country within the ten years immediately preceding the date a
4 criminal records check is complete.

5 3. Has been convicted of a felony, other than a felony described in
6 paragraph 2 of this subsection, in a state, territory or possession of the
7 United States or a foreign country within the five years immediately
8 preceding the date a criminal records check is complete.

9 C. The director shall suspend or cancel an authorization of a third
10 party granted pursuant to this article if the director determines that the
11 third party failed to maintain the bond required pursuant to section
12 28-5104.

13 D. If the director has reasonable grounds to believe that a
14 certificate holder or other person employed by an authorized third party
15 has committed a serious violation, the director may order a summary
16 suspension of the third party's authorization granted pursuant to this
17 chapter pending formal suspension or cancellation proceedings. For the
18 purposes of this subsection, "serious violation" means:

- 19 1. Title or registration fraud.
- 20 2. Driver license or identification license fraud.
- 21 3. Improper disclosure of personal information as defined in
22 section 28-440.
- 23 4. Bribery.
- 24 5. Theft.

25 E. On determining that grounds for suspension or cancellation of an
26 authorization or certification, or both, exist, the director shall give
27 written notice to the third party or certificate holder to appear at a
28 hearing before the director to show cause why the authorization or
29 certification should not be suspended or canceled.

30 F. After consideration of the evidence presented at the hearing,
31 the director shall serve notice of the director's finding and order to the
32 third party or certificate holder.

33 G. **EXCEPT AS PROVIDED IN SUBSECTION H OF THIS SECTION**, if a third
34 party authorization or a certification is suspended or canceled, the third
35 party or certificate holder may appeal the decision pursuant to title 12,
36 chapter 7, article 6.

37 H. **A PERSON MAY FORGO AN ADMINISTRATIVE APPEAL AND SEEK JUDICIAL**
38 **REVIEW OF THE DIRECTOR'S DENIAL, SUSPENSION OR CANCELLATION OF THE**
39 **PERSON'S APPLICATION, AUTHORIZATION OR CERTIFICATION. IF THE COURT FINDS**
40 **FOR THE PERSON, THE COURT MAY GRANT OR REINSTATE THE AUTHORIZATION OR**
41 **CERTIFICATION, OR BOTH, AND AWARD ANY DAMAGES AND ATTORNEY FEES.**