

State of Arizona
Senate
Forty-third Legislature
Second Regular Session
1998

SB 1089

Introduced by
Senator Bee

AN ACT

AMENDING SECTIONS 28-409 AND 28-3164, ARIZONA REVISED STATUTES; CHANGING THE DESIGNATION OF TITLE 28, CHAPTER 13, ARTICLE 1, ARIZONA REVISED STATUTES, TO "GENERAL PROVISIONS"; AMENDING SECTIONS 28-5101, 28-5103, 28-5104, 28-5105, 28-5107, 28-5108 AND 28-5109, ARIZONA REVISED STATUTES; REPEALING TITLE 28, CHAPTER 13, ARTICLES 2 AND 3, ARIZONA REVISED STATUTES; AMENDING SECTION 28-6991, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1997, CHAPTER 292, SECTION 36; REPEALING SECTION 28-6991, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1997, CHAPTER 58, SECTION 14; AMENDING SECTION 28-6993, ARIZONA REVISED STATUTES; AMENDING SECTION 41-2501, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1997, CHAPTER 1, SECTION 450, CHAPTER 212, SECTION 20 AND CHAPTER 287, SECTION 5; BLENDING MULTIPLE ENACTMENTS; RELATING TO THIRD PARTIES AUTHORIZED BY THE MOTOR VEHICLE DIVISION.

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

Section 1. Section 28-409, Arizona Revised Statutes, is amended to read:

28-409. Agreements with public and private entities; fund

A. The director shall:

1. Subject to the limitations of section 41-2544, enter into agreements by direct contract with public and private entities for services located in department offices that the director deems of mutual interest to both parties.

2. For compensation, enter into agreements by direct contract with public and private entities to advertise those entities' goods and services.

B. THE SHARED LOCATION AND ADVERTISING AGREEMENTS EXPENSE FUND IS ESTABLISHED CONSISTING OF MONIES RECEIVED PURSUANT TO AGREEMENTS ENTERED INTO PURSUANT TO THIS SECTION. THE DIRECTOR MAY USE MONIES DEPOSITED IN THE FUND

1 TO PARTIALLY OFF SET THE COST INCURRED BY THE DEPARTMENT IN PROVIDING A
2 LOCATION OR ADVERTISING. MONIES IN THE FUND ARE EXEMPT FROM THE PROVISIONS
3 OF SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS.

4 Sec. 2. Section 28-3164, Arizona Revised Statutes, is amended to read:
5 28-3164. Original applicants; examination

6 A. The department shall examine an applicant for an original driver
7 license or the department may accept the examination conducted by an
8 authorized third party pursuant to chapter 13, ~~article 3~~ of this title or
9 documentation of successful completion of a driver education course approved
10 by the department. The examination shall include all of the following:

11 1. A test of the **APPLICANT'S**:

12 (a) ~~Applicant's~~ Eyesight.

13 (b) Ability to read and understand official traffic control devices.

14 (c) Knowledge of safe driving practices and the traffic laws of this
15 state.

16 2. An actual demonstration of ability to exercise ordinary and
17 reasonable control in the operation of a vehicle or vehicle combination of
18 the type covered by the license classification or endorsement for which the
19 applicant applies.

20 3. Other physical and mental examinations if the department finds them
21 necessary to determine the applicant's fitness to safely operate a motor
22 vehicle on the highways.

23 B. The department shall examine an original applicant for a class M
24 license or a motorcycle endorsement or the department may accept the
25 examination conducted by an authorized third party pursuant to chapter 13,
26 ~~article 3- 1~~ of this title. The department may examine an applicant who has
27 a motorcycle license from another jurisdiction. This examination shall be
28 the same as for all applicants, except that the department may make
29 modifications it finds necessary to determine the applicant's fitness to
30 operate a motorcycle, motor driven cycle or moped on the highways.

31 C. The department shall examine a person who holds a driver license
32 issued by another country and who applies for an initial license in this
33 state as an original applicant, except that the department may waive an
34 actual demonstration of the ability to exercise ordinary and reasonable
35 control in the operation of a motor vehicle if the person applies for a class
36 D license and appears to meet the department's medical qualifications and if
37 the out of state license is not revoked or is not expired for more than one
38 year.

39 D. The department may waive the driving examination for initial
40 applicants for a class M license or a motorcycle endorsement if all of the
41 following conditions exist:

42 1. The applicant's current license indicates the applicant has been
43 specifically licensed to operate a motorcycle.

1 2. The applicant appears to meet the department's medical
2 qualifications.

3 3. The applicant's out of state license is not revoked or is not
4 expired for more than one year.

5 Sec. 3. Heading change

6 The article heading of title 28, chapter 13, article 1, Arizona Revised
7 Statutes, is changed from "THIRD PARTY MOTOR VEHICLE REGISTRATION" to
8 "GENERAL PROVISIONS".

9 Sec. 4. Section 28-5101, Arizona Revised Statutes, is amended to read:

10 28-5101. Third party authorization

11 A. The director may authorize third parties to perform certain title
12 and registration, MOTOR CARRIER LICENSING AND TAX REPORTING, DEALER LICENSING
13 AND DRIVER LICENSE functions.

14 B. A person shall not engage in any business pursuant to this article
15 unless the director authorizes the person to engage in the business.

16 C. The director may furnish necessary documents, license plates or
17 markers subject to this article.

18 D. An authorized third party shall submit to the department all
19 statutorily prescribed ~~title and registration~~ fees AND TAXES it collects.
20 In addition to the statutorily prescribed fees AND TAXES, an authorized third
21 party may collect and retain a reasonable and commensurate fee for its
22 services.

23 Sec. 5. Section 28-5103, Arizona Revised Statutes, is amended to read:

24 28-5103. Application procedure

25 A. A person may apply for authorization OR CERTIFICATION, OR BOTH,
26 pursuant to this article to the director in writing on a form prescribed and
27 furnished by the director. The person shall include with the application all
28 documents and fees prescribed by the director.

29 B. The application shall be verified and shall contain:

30 1. The name and residence address of the applicant, the name and
31 residence address of each partner if the applicant is a partnership or the
32 name and residence address of each principal officer if the applicant is a
33 corporation.

34 2. The principal place of business of the applicant.

35 3. The established place of business at or from which the business is
36 to be conducted.

37 4. Other information the director requires.

38 Sec. 6. Section 28-5104, Arizona Revised Statutes, is amended to read:

39 28-5104. Bond requirement

40 A. A person who applies for authorization pursuant to this article
41 shall submit with the application a bond in a form to be approved by the
42 director and in an amount of at least twenty-five thousand dollars.

1 B. A surety company authorized to transact business in this state
2 shall execute the bond with the applicant as principal obligor on the bond
3 and the state as obligee. The bond shall be conditioned that the applicant
4 will faithfully comply with all of the provisions of law and that the bond
5 is noncancellable ~~for the period of time for which the authorization to the~~
6 ~~applicant is issued~~ WITHOUT AT LEAST SIXTY DAYS' PRIOR NOTICE TO THE
7 DIRECTOR. Any FUTURE liability of the surety company terminates on the
8 director's termination of a third party's authorization ~~to perform title and~~
9 ~~registration functions.~~

10 C. The bond inures to the benefit of any person who suffers loss
11 because of any of the following:

- 12 1. Nonpayment by the authorized person of any fee or tax paid to the
13 third party by that person.
- 14 2. Insolvency or discontinuance of business.
- 15 3. Failure of the authorized third party to comply with the authorized
16 third party's duties pursuant to this article.

17 D. The aggregate liability of a surety company for any breach of the
18 conditions of a bond required pursuant to this section shall not exceed the
19 amount of the bond.

20 E. The bond requirement of this section does not apply to:

- 21 1. A department, agency or political subdivision of this state.
- 22 2. An Arizona court.
- 23 3. An Arizona law enforcement agency or department.
- 24 4. A financial institution or enterprise under the jurisdiction of the
25 state banking department or a federal monetary authority.
- 26 5. The federal government or any of its agencies.
- 27 6. A motor vehicle dealer that is licensed and bonded by the
28 department of transportation or a state organization of licensed and bonded
29 motor vehicle dealers.
- 30 7. A manufacturer, importer, factory branch or distributor licensed
31 by the department of transportation.
- 32 8. An insurer under the jurisdiction of the department of insurance.
- 33 9. An owner of a fleet as defined in section 28-2201.
- 34 10. A public utility.
- 35 11. A tribal government.
- 36 12. A title service company that is bonded by the department of
37 transportation.
- 38 13. An employer or association that has at least five hundred employees
39 or members.

40 Sec. 7. Section 28-5105, Arizona Revised Statutes, is amended to read:
41 28-5105. Criminal history check

42 A. An applicant, and each partner, officer, director, ~~OR agent,~~ or
43 EACH stockholder owning twenty per cent or more of a corporation, seeking

1 authorization or certification, OR BOTH, pursuant to this article shall
2 provide a full set of fingerprints and, ~~for authorization, a fee of four~~
3 ~~hundred sixty dollars to enable the department to conduct a criminal~~
4 ~~background investigation~~ TO BE PAID TO THE DEPARTMENT OF PUBLIC SAFETY FOR
5 A CRIMINAL HISTORY CHECK PURSUANT TO SECTION 41-1750. ~~The criminal~~
6 ~~background investigation does not apply if either:~~

7 ~~1. The applicant is exempt pursuant to subsection H of this section.~~

8 ~~2. The applicant is currently licensed pursuant to chapter 10 of this~~
9 ~~title and the applicant and each partner, officer, director, agent, or~~
10 ~~stockholder owning twenty per cent or more of a corporation have submitted~~
11 ~~to a criminal background investigation as prescribed by this section during~~
12 ~~the past five years.~~

13 B. The director shall deny an application ~~to act as a third party~~ if
14 an individual included in the application has either:

15 1. Been convicted of a felony in any state, territory or possession
16 of the United States or any foreign country.

17 2. Made a misrepresentation or misstatement in the application to
18 conceal a matter that would cause the application to be denied.

19 C. ~~The first phase of the criminal background investigation shall be~~
20 ~~a criminal history record check pursuant to section 41-1750. On notification~~
21 ~~by the department of public safety that the applicant has not been convicted~~
22 ~~of a violation that would prohibit the applicant from obtaining~~
23 ~~authorization,~~ The director may approve an application for provisional
24 authorization OR CERTIFICATION, OR BOTH, pending completion of the criminal
25 ~~background investigation~~ HISTORY CHECK if the applicant meets all other
26 requirements of this article. The director may revoke a provisional
27 authorization OR CERTIFICATION, OR BOTH, for a violation of this title. A
28 provisional authorization ~~is~~ OR CERTIFICATION, OR BOTH, ARE valid unless
29 revoked by the director or until the applicant receives approval or denial
30 of the application for authorization OR CERTIFICATION, OR BOTH.

31 D. Within twenty days of completion of the criminal ~~background~~
32 ~~investigation~~ HISTORY CHECK, the director shall approve or deny the
33 application ~~for authorization~~. If the application is denied, the director
34 shall advise the applicant in writing of the denial and the grounds for
35 denial. The department or its employees are not liable for any costs
36 incurred by an applicant seeking authorization OR CERTIFICATION, OR BOTH,
37 under this article.

38 E. Within thirty days after receipt of the notice of denial, the
39 applicant may petition the director in writing for a hearing on the
40 application pursuant to section 28-5107.

41 F. If the authorized third party adds a partner, officer, director,
42 OR agent, or A stockholder who owns twenty per cent or more of the
43 corporation, ~~and~~ who was not included in the criminal ~~background~~

1 ~~investigation~~ HISTORY CHECK on a prior application, the authorized third
2 party shall notify the department within thirty days of the change.

3 G. At the time of notification pursuant to subsection F of this
4 section, the third party shall submit to the department OF TRANSPORTATION an
5 application and, if applicable, a full set of fingerprints and a
6 nonrefundable fee ~~of four hundred sixty dollars for the purpose of a criminal~~
7 ~~background investigation~~ TO BE PAID TO THE DEPARTMENT OF PUBLIC SAFETY FOR
8 A CRIMINAL HISTORY CHECK PURSUANT TO SECTION 41-1750. On completion of the
9 investigation if the individual added or changed by the authorized third
10 party is found to be ineligible pursuant to subsection B of this section, the
11 director OF THE DEPARTMENT OF TRANSPORTATION shall advise the authorized
12 third party and the individual in writing of the grounds for the action and
13 that the authorization will be revoked unless the individual is removed from
14 the position.

15 H. The requirement for a criminal ~~background investigation~~ HISTORY
16 CHECK does not apply to AN APPLICANT WHO IS SEEKING THIRD PARTY AUTHORIZATION
17 AND WHO IS:

- 18 1. A department, agency or political subdivision of this state.
- 19 2. An Arizona court.
- 20 3. An Arizona law enforcement agency or department.
- 21 4. A financial institution or enterprise under the jurisdiction of the
22 state banking department or a federal monetary authority.
- 23 5. The federal government or any of its agencies.
- 24 6. A motor vehicle dealer that is licensed and bonded by the
25 department of transportation or a state organization of licensed and bonded
26 motor vehicle dealers.
- 27 7. A manufacturer, importer, factory branch or distributor licensed
28 by the department of transportation.
- 29 8. An insurer under the jurisdiction of the department of insurance.
- 30 9. An owner or registrant of a fleet as defined in section 28-2201.
- 31 10. A public utility.
- 32 11. A tribal government.
- 33 12. A title service company that is bonded by the department of
34 transportation.
- 35 13. An employer or association that has at least five hundred employees
36 or members.

37 ~~I. The director shall transmit background investigation fees collected~~
38 ~~pursuant to this section to the state treasurer for deposit in the state~~
39 ~~highway fund established by section 28-6991.~~

40 Sec. 8. Section 28-5107, Arizona Revised Statutes, is amended to read:
41 28-5107. Application denial; hearing; appeal

42 A. The director shall deny an application for third party
43 authorization OR CERTIFICATION, OR BOTH, under this article and shall advise

1 the applicant in writing within twenty days of the denial and the grounds for
2 the denial if the director determines from the information revealed in the
3 criminal ~~background investigation~~ HISTORY CHECK pursuant to section 28-5105
4 any of the following:

5 1. That the applicant is not eligible for third party authorization
6 OR CERTIFICATION, OR BOTH, under this article.

7 2. That the application is not made in good faith.

8 3. That the application contains a material misrepresentation or
9 misstatement.

10 4. That the applicant has not met the requirements of law.

11 B. An applicant who is aggrieved by the denial of an application may
12 make a written request to the department for a hearing on the application
13 within thirty days after service of the notice of denial. If the applicant
14 does not request a hearing within thirty days, the denial is final.

15 C. If the applicant requests a hearing, the director shall give
16 written notice to the applicant to appear at a hearing to show cause why the
17 denial of the applicant's application should not be upheld. After
18 consideration of the evidence presented at the hearing, the director shall
19 serve notice in writing to the applicant of the director's findings and
20 order. A timely request for a hearing stays the denial of the application.

21 D. If the application is denied, the applicant may appeal the decision
22 pursuant to title 12, chapter 7, article 6.

23 Sec. 9. Section 28-5108, Arizona Revised Statutes, is amended to read:
24 28-5108. Cancellation or suspension of authorization or
25 certification; hearing; appeal

26 A. The director shall suspend or cancel ~~the AN~~ authorization ~~of a~~
27 ~~third party~~ OR CERTIFICATION, OR BOTH, granted pursuant to this article if
28 the director determines that the third party OR CERTIFICATE HOLDER has done
29 any of the following:

30 1. Made a material misrepresentation or misstatement in the
31 application for authorization OR CERTIFICATION.

32 2. Violated a law of this state.

33 3. Violated a rule adopted by the department.

34 4. Failed to keep and maintain records required by this article.

35 5. Allowed an unauthorized person to engage in any business pursuant
36 to this article.

37 ~~6.~~ B. THE DIRECTOR SHALL SUSPEND OR CANCEL AN AUTHORIZATION OF A
38 THIRD PARTY GRANTED PURSUANT TO THIS ARTICLE IF THE DIRECTOR DETERMINES THAT
39 THE THIRD PARTY failed to maintain the bond required pursuant to section
40 28-5104.

41 ~~B.~~ C. On determining that grounds for suspension or cancellation of
42 AN authorization OR CERTIFICATION, OR BOTH, exist, the director shall give
43 written notice to the third party OR CERTIFICATE HOLDER to appear at a

1 hearing before the director to show cause why the authorization OR
2 CERTIFICATION should not be suspended or canceled.

3 ~~C.~~ D. After consideration of the evidence presented at the hearing,
4 the director shall serve notice of the director's finding and order to the
5 third party OR CERTIFICATE HOLDER.

6 ~~D.~~ E. If ~~the authority~~ A THIRD PARTY AUTHORIZATION OR A CERTIFICATION
7 is suspended or canceled, the third party OR CERTIFICATE HOLDER may appeal
8 the decision pursuant to title 12, chapter 7, article 6.

9 Sec. 10. Section 28-5109, Arizona Revised Statutes, is amended to
10 read:

11 28-5109. Cease and desist order

12 A. If the director has reasonable cause to believe that a person WHO
13 IS authorized ~~to engage in a business regulated by~~ AS A THIRD PARTY PURSUANT
14 TO this article OR WHO HOLDS A CERTIFICATE GRANTED PURSUANT TO THIS ARTICLE
15 is violating any provision of this title, the director shall immediately
16 issue and serve on the person, by personal delivery or certified mail at the
17 person's last known address, a cease and desist order.

18 B. ~~The cease and desist order shall require~~ ON RECEIPT OF THE CEASE
19 AND DESIST ORDER, the person ~~to~~ SHALL immediately cease and desist, OR CEASE
20 AND DESIST AS PROVIDED IN THE CONTRACT BETWEEN THE DEPARTMENT AND THE
21 AUTHORIZED THIRD PARTY, from further engaging in ~~such business on receipt of~~
22 ~~the notice~~ ANY ACTIVITY THAT IS AUTHORIZED PURSUANT TO THIS ARTICLE AND THAT
23 IS SPECIFIED IN THE CEASE AND DESIST ORDER.

24 C. On failure of the person to comply with the cease and desist order,
25 the director may conduct a hearing pursuant to this article.

26 Sec. 11. Repeal

27 Title 28, chapter 13, articles 2 and 3, Arizona Revised Statutes, are
28 repealed.

29 Sec. 12. Section 28-6991, Arizona Revised Statutes, as amended by Laws
30 1997, chapter 292, section 36, is amended to read:

31 28-6991. State highway fund; sources

32 A state highway fund is established in the state treasury that consists
33 of:

34 1. Monies distributed from the Arizona highway user revenue fund
35 pursuant to chapter 18 of this title.

36 2. Monies appropriated by the legislature.

37 3. Monies received from donations for the construction, improvement
38 or maintenance of state highways or bridges. These monies shall be credited
39 to a special account and shall be spent only for the purpose indicated by the
40 donor.

41 4. Monies received from counties under cooperative agreements,
42 including proceeds from bond issues. The state treasurer shall deposit these
43 monies to the credit of the fund in a special account on delivery to the

1 treasurer of a concise written agreement between the department and the
2 county stating the purposes for which the monies are surrendered by the
3 county, and these monies shall be spent only as stated in the agreement.

4 5. Monies received from the United States under an act of Congress to
5 provide aid for the construction of rural post roads, but monies received on
6 projects for which the monies necessary to be provided by this state are
7 wholly derived from sources mentioned in paragraphs 2 and 3 of this section
8 shall be allotted by the department and deposited by the state treasurer in
9 the special account within the fund established for each project. On
10 completion of the project, on the satisfaction and discharge in full of all
11 obligations of any kind created and on request of the department, the
12 treasurer shall transfer the unexpended balance in the special account for
13 the project into the state highway fund, and the unexpended balance and any
14 further federal aid thereafter received on account of the project may be
15 spent under the general provisions of this title.

16 6. Monies in the custody of an officer or agent of this state from any
17 source that is to be used for the construction, improvement or maintenance
18 of state highways or bridges.

19 7. Monies deposited in the state general fund and arising from the
20 disposal of state personal property belonging to the department.

21 8. Receipts from the sale or disposal of any or all other property
22 held by the department and purchased with state highway monies.

23 9. Monies generated pursuant to section 28-410.

24 10. Monies distributed pursuant to section 28-5808, subsection A,
25 paragraph 2, subdivision (d).

26 11. Monies deposited pursuant to sections 28-1143, 28-2010, 28-2353 and
27 28-3003.

28 12. Monies deposited pursuant to section 28-4302, subsection A,
29 paragraph 3 ~~and sections 28-5105 and 28-5135.~~

30 13. The following monies:

31 (a) Monies deposited pursuant to sections 28-2202 and 28-2206 and
32 section 28-5808, subsection A, paragraph 2, subdivision (k).

33 (b) One dollar of each registration fee and one dollar of each title
34 fee collected pursuant to section 28-2003.

35 (c) Two dollars of each late registration penalty collected by the
36 director pursuant to section 28-2162.

37 (d) The air quality compliance fee collected pursuant to section
38 49-542.

39 (e) The ~~eight dollar~~ special plate administration fees collected
40 pursuant to sections 28-2404, 28-2412, ~~28-2413, 28-2414, 28-2415,~~ THROUGH
41 28-2416 and 28-2514.

42 (f) The windshield sticker fee collected pursuant to section 28-2355.

1 (g) Monies collected pursuant to sections 28-372, 28-2155 and 28-2156
2 if the director is the registering officer.

3 14. Monies deposited pursuant to chapter 5, article 5 of this title.

4 15. Donations received pursuant to section 28-2269.

5 16. DEALER AND REGISTRATION MONIES COLLECTED PURSUANT TO SECTION
6 28-4304.

7 17. ABANDONED VEHICLE ADMINISTRATION MONIES COLLECTED PURSUANT TO
8 SECTION 28-4804.

9 Sec. 13. Repeal

10 Section 28-6991, Arizona Revised Statutes, as amended by Laws 1997,
11 chapter 58, section 14, is repealed.

12 Sec. 14. Section 28-6993, Arizona Revised Statutes, is amended to
13 read:

14 28-6993. State highway fund; authorized uses

15 A. Except as provided in subsection B of this section and section
16 28-6538, the state highway fund shall be used for any of the following
17 purposes in strict conformity with and subject to the budget as provided by
18 this section and by sections 28-6997 through 28-7003:

19 1. To pay salaries, wages, necessary travel expenses and other
20 expenses of officers and employees of the department and the incidental
21 office expenses, including telegraph, telephone, postal and express charges
22 and printing, stationery and advertising expenses.

23 2. To pay for both:

24 (a) Equipment, supplies, machines, tools, department offices and
25 laboratories established by the department.

26 (b) The construction and repair of buildings or yards of the
27 department.

28 3. To pay the cost of both:

29 (a) Engineering, construction, improvement and maintenance of state
30 highways and parts of highways forming state routes.

31 (b) Highways under cooperative agreements with the United States that
32 are entered into pursuant to this chapter and an act of Congress providing
33 for the construction of rural post roads.

34 4. To pay land damages incurred by reason of establishing, opening,
35 altering, relocating, widening or abandoning portions of a state route or
36 state highway.

37 5. To reimburse the department revolving account.

38 6. To pay premiums on authorized indemnity bonds and on compensation
39 insurance under the workers' compensation act.

40 7. To defray lawful expenses and costs required to administer and
41 carry out the intent, purposes and provisions of this title and to pay lawful
42 bills and charges incurred by the state engineer.

43 8. To acquire, construct or improve entry roads to state parks or
44 roads within state parks.

- 1 9. To acquire, construct or improve entry roads to state prisons.
2 10. To pay the cost of relocating a utility facility pursuant to
3 section 28-7156.
4 11. For the purposes provided in subsections C, D, E and F of this
5 section and sections 28-1143, 28-2010, 28-2353 and 28-3003.
6 B. For each of the following fiscal years, the department shall
7 allocate and the state treasurer shall distribute monies in the state highway
8 fund to the department of public safety for funding a portion of highway
9 patrol costs in eight installments in each of the first eight months of a
10 fiscal year that do not exceed:
11 1. For the 1997-1998 fiscal year, fifteen million dollars.
12 2. For the 1998-1999 fiscal year, twelve million five hundred thousand
13 dollars.
14 3. For the 1999-2000 fiscal year and for all subsequent fiscal years,
15 ten million dollars.
16 C. Subject to legislative appropriation, the director shall use the
17 monies in the state highway fund as prescribed in section 28-6991, paragraph
18 12 for processing the application and for the criminal background
19 investigations required pursuant to ~~chapters~~ CHAPTER 10 and 13 of this title.
20 D. Subject to legislative appropriation, the department may use the
21 monies in the state highway fund as prescribed in section 28-6991, paragraph
22 13 to carry out the duties imposed by this title for registration or titling
23 of vehicles, to operate joint title, registration and driver licensing
24 offices, to cover the administrative costs of issuing the air quality
25 compliance sticker, modifying the year validating tab and issuing the
26 windshield sticker and to cover expenses and costs in issuing special plates
27 pursuant to sections 28-2404 and 28-2412 through 28-2416 and 28-2514.
28 E. The department shall use monies deposited in the state highway fund
29 pursuant to chapter 5, article 5 of this title only as prescribed by that
30 article.
31 F. Monies deposited in the state highway fund pursuant to section
32 28-2269 shall be used only as prescribed by that section.
33 G. The department may exchange monies distributed to the state highway
34 fund pursuant to section 28-6538, subsection A, paragraph 1 for local
35 government surface transportation program federal monies suballocated to
36 councils of government and metropolitan planning organizations in counties
37 with a population of four hundred thousand persons or less if the local
38 government scheduled to receive the federal monies concurs. An exchange of
39 state highway fund monies pursuant to this subsection shall be in an amount
40 that is at least equal to ninety per cent of the federal obligation authority
41 that exists in the project for which the exchange is proposed.

1 Sec. 15. Section 41-2501, Arizona Revised Statutes, as amended by Laws
2 1997, chapter 1, section 450, chapter 212, section 20 and chapter 287,
3 section 5, is amended to read:

4 41-2501. Applicability

5 A. This chapter applies only to procurements initiated after January
6 1, 1985 unless the parties agree to its application to procurements initiated
7 before that date.

8 B. This chapter applies to every expenditure of public monies,
9 including federal assistance monies except as otherwise specified in section
10 41-2637, by this state, acting through a state governmental unit as defined
11 in this chapter, under any contract, except that this chapter does not apply
12 to either grants or contracts between this state and its political
13 subdivisions or other governments, except as provided in article 10 of this
14 chapter. This chapter also applies to the disposal of state materials.
15 Nothing in this chapter or in rules adopted under this chapter shall prevent
16 any state governmental unit or political subdivision from complying with the
17 terms and conditions of any grant, gift, bequest or cooperative agreement.

18 C. All political subdivisions and other local public agencies of this
19 state may adopt all or any part of this chapter and the rules adopted
20 pursuant to this chapter.

21 D. The Arizona board of regents, the legislative and judicial branches
22 of state government and the state compensation fund are not subject to the
23 provisions of this chapter except as prescribed in subsection E of this
24 section.

25 E. The Arizona board of regents and the judicial branch shall adopt
26 rules prescribing procurement policies and procedures for themselves and
27 institutions under their jurisdiction. The rules must be substantially
28 equivalent to the policies and procedures prescribed in this chapter.

29 F. The Arizona state lottery commission is exempt from the provisions
30 of this chapter for procurement relating to the design and operation of the
31 lottery or purchase of lottery equipment, tickets and related materials. The
32 executive director of the Arizona state lottery commission shall adopt rules
33 substantially equivalent to the policies and procedures in this chapter for
34 procurement relating to the design and operation of the lottery or purchase
35 of lottery equipment, tickets or related materials. All other procurement
36 shall be as prescribed by this chapter.

37 G. The Arizona health care cost containment system administration is
38 exempt from the provisions of this chapter for provider contracts pursuant
39 to section 36-2904, subsection A and contracts for goods and services
40 including program contractor contracts pursuant to title 36, chapter 29,
41 articles 2 and 3. All other procurement, including contracts for the
42 statewide administrator of the program pursuant to section 36-2903,
43 subsection C, shall be as prescribed by this chapter.

1 H. Arizona industries for the blind is exempt from the provisions of
2 this chapter for purchases of finished goods from members of national
3 industries for the blind and for purchases of raw materials for use in the
4 manufacture of products for sale pursuant to section 41-1972. All other
5 procurement shall be as prescribed by this chapter.

6 I. Arizona correctional industries is exempt from the provisions of
7 this chapter for purchases of raw materials and supplies to be used in the
8 manufacture of products for sale entered into pursuant to section 41-1622.
9 All other procurement shall be as prescribed by this chapter.

10 J. The state transportation board and the director of the department
11 of transportation are exempt from the provisions of this chapter other than
12 section 41-2586 for the procurement of construction or reconstruction,
13 including engineering services, of transportation facilities or highway
14 facilities.

15 K. The Arizona highways magazine is exempt from the provisions of this
16 chapter for contracts for the production, promotion, distribution and sale
17 of the magazine and related products and for contracts for sole source
18 creative works entered into pursuant to section 28-7314, subsection A,
19 paragraph 5. All other procurement shall be as prescribed by this chapter.

20 L. The secretary of state is exempt from the provisions of this
21 chapter for contracts entered into pursuant to section 41-1012 to publish and
22 sell the administrative code. All other procurement shall be as prescribed
23 by this chapter.

24 M. The provisions of this chapter are not applicable to contracts for
25 professional witnesses if the purpose of such contracts is to provide for
26 professional services or testimony relating to an existing or probable
27 judicial proceeding in which this state is or may become a party or to
28 contract for special investigative services for law enforcement purposes.

29 N. The head of any state governmental unit, in relation to any
30 contract exempted by this section from the provisions of this chapter, has
31 the same authority to adopt rules, procedures or policies as is delegated to
32 the director pursuant to this chapter.

33 O. Agreements negotiated by legal counsel representing this state in
34 settlement of litigation or threatened litigation are exempt from the
35 provisions of this chapter.

36 P. The provisions of this chapter are not applicable to contracts
37 entered into by the department of economic security with a provider licensed
38 or certified by an agency of this state to provide child day care services
39 or with a provider of family foster care pursuant to section 8-503 or 36-554,
40 to contracts entered into with area agencies on aging created pursuant to the
41 older Americans act of 1965 (42 United States Code section 3001) or to
42 contracts for services pursuant to title 36, chapter 29, article 2.

1 Q. The department of health services may not require that persons with
2 whom it contracts follow the provisions of this chapter for the purposes of
3 subcontracts entered into for the provision of the following:

- 4 1. Mental health services pursuant to section 36-189, subsection B.
- 5 2. Services for the seriously mentally ill pursuant to title 36,
6 chapter 5, article 10.
- 7 3. Drug and alcohol services pursuant to section 36-141.
- 8 4. Domestic violence services pursuant to title 36, chapter 30,
9 article 1.

10 R. The department of health services is exempt from the provisions of
11 this chapter for contracts for services of physicians at the Arizona state
12 hospital.

13 S. Contracts for goods and services approved by the fund manager of
14 the public safety personnel retirement system are exempt from the provisions
15 of this chapter.

16 T. The Arizona department of agriculture is exempt from this chapter
17 with respect to contracts for private labor and equipment to effect cotton
18 or cotton stubble plow-up pursuant to rules adopted under title 3, chapter
19 2, article 1. On or before September 1 each year the director of the Arizona
20 department of agriculture shall establish and announce costs for each acre
21 of cotton or cotton stubble to be abated by private contractors.

22 U. The state parks board is exempt from the provisions of this chapter
23 for purchases of guest supplies and items for resale such as food, linens,
24 gift items, sundries, furniture, china, glassware and utensils for the
25 facilities located in the Tonto natural bridge state park.

26 V. The ARIZONA state parks board is exempt from the provisions of this
27 chapter for the purchase, production, promotion, distribution and sale of
28 publications, souvenirs and sundry items obtained and produced for resale.

29 W. The Arizona state schools for the deaf and the blind are exempt
30 from the provisions of this chapter when purchasing products through a
31 cooperative that is organized and operates in accordance with state law if
32 such products are not available on a statewide contract and are related to
33 the operation of the schools or are products for which special discounts are
34 offered for educational institutions.

35 X. Expenditures of monies in the morale, welfare and recreational fund
36 established by section 26-153 are exempt from the provisions of this chapter.

37 Y. The state department of corrections is exempt from the provisions
38 of this chapter for purchases of food commodities to be used in the
39 preparation of meals for inmates. All other procurement shall be as
40 prescribed by this chapter.

41 Z. The department of environmental quality is exempt from the
42 provisions of this chapter for contracting for services relating to the
43 implementation of the water quality assurance revolving fund program

1 established pursuant to title 49, chapter 2, article 5. All other
2 procurement by the department shall be as prescribed by this chapter.

3 AA. THE DEPARTMENT OF TRANSPORTATION IS EXEMPT FROM THE PROVISIONS OF
4 THIS CHAPTER FOR THIRD PARTY AUTHORIZATIONS PURSUANT TO TITLE 28, CHAPTER 13,
5 IF BOTH OF THE FOLLOWING CONDITIONS EXIST:

6 1. COMPENSATION IN EXCESS OF ANY FEES RETAINED AS PRESCRIBED BY
7 STATUTE IS NOT PAID BY THE DEPARTMENT TO AN AUTHORIZED THIRD PARTY.

8 2. EXCLUSIVITY IS NOT GRANTED TO AN AUTHORIZED THIRD PARTY BEYOND A
9 REASONABLE EVALUATION PERIOD THAT DOES NOT EXCEED TWO YEARS.