

State of Arizona  
House of Representatives  
Forty-fifth Legislature  
First Regular Session  
2001

# HOUSE BILL 2056

AN ACT

AMENDING SECTIONS 28-4362, 28-4401, 28-4404, 28-4405, 28-4406, 28-4498, 28-4499, 28-4500, 28-4538, 28-4554, 28-5002, 28-5010, 28-5105, 28-5106 AND 28-8382, ARIZONA REVISED STATUTES; RELATING TO LICENSED VEHICLE DEALERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 28-4362, Arizona Revised Statutes, is amended to  
3 read:  
4 28-4362. Application; fee; bond  
5 Applications shall be accompanied by:  
6 1. The filing fees prescribed in section 28-4302, and each licensee  
7 shall pay the annual license fee prescribed in section 28-4302.  
8 2. A bond that:  
9 (a) Is in a form to be approved by the director.  
10 (b) Is in an amount prescribed by the director of at least twenty  
11 thousand dollars for an automotive recycler's license and not more than ~~fifty~~  
12 **ONE HUNDRED** thousand dollars for all other licenses.  
13 (c) Is executed by a surety company authorized to transact business in  
14 this state as surety on the bond with the applicant as principal obligor on  
15 the bond and the state as obligee.  
16 (d) Is cancellable only on at least sixty days' prior notice to the  
17 director.  
18 (e) Inures to the benefit of a person who suffers loss because of  
19 either:  
20 (i) Nonpayment by the dealer of customer prepaid title, registration  
21 or other related fees or taxes.  
22 (ii) The automotive recycler's or the dealer's failure to deliver in  
23 conjunction with the sale of a vehicle a valid vehicle title certificate free  
24 and clear of any prior owner's interests and all liens except a lien created  
25 by or expressly assumed in writing by the buyer of the vehicle.  
26 Sec. 2. Section 28-4401, Arizona Revised Statutes, is amended to read:  
27 28-4401. Off-premises exhibition, off-premises display and  
28 sales and special event permits  
29 A. A licensed motor vehicle dealer may conduct an off-premises  
30 exhibition, an off-premises display and sales or a special event by permit.  
31 B. An Arizona franchised new car dealer association may conduct a  
32 motor vehicle show by permit.  
33 C. An exhibitor that does not have a licensed franchised dealer in  
34 this state may conduct a special event by permit. An exhibitor that has a  
35 licensed franchised dealer in this state is limited to participating in a  
36 special event through the exhibitor's licensed dealer. A licensed motor  
37 vehicle dealer or an exhibitor shall not make a solicitation or sale at a  
38 special event.  
39 **D. AN APPLICANT FOR A PERMIT PURSUANT TO THIS SECTION SHALL SUBMIT THE**  
40 **PERMIT APPLICATION TO THE DEPARTMENT AT LEAST TEN BUSINESS DAYS BEFORE THE**  
41 **DATE OF THE PROPOSED EVENT.**  
42 ~~D.~~ **E.** An applicant for an off-premises exhibition, an off-premises  
43 display and sales or a special event permit shall submit proof to the  
44 department that the proposed site is in compliance with local zoning  
45 ordinances.

1 ~~F.~~ F. An off-premises exhibition permit, display and sales permit or  
2 special event permit is not assignable.

3 ~~F.~~ G. A special event shall not be held at the same location at which  
4 an off-premises exhibition or an off-premises display and sale ~~are~~ IS held.

5 Sec. 3. Section 28-4404, Arizona Revised Statutes, is amended to read:

6 ~~28-4404.~~ Record requirements; vehicles and parts;  
7 classification

8 A. Each licensee shall keep and maintain at the licensee's place of  
9 business, or at each of the licensee's places of business if the licensee has  
10 more than one, a permanent record in a form prescribed by the director as  
11 follows:

12 1. Recording and describing each of the following:

13 (a) Each vehicle that is wrecked, dismantled, disassembled or  
14 substantially altered by the licensee.

15 (b) Each major component part that is acquired by the licensee  
16 together with a bill of sale signed by a seller whose identity has been  
17 verified and the name and address of the person, firm or corporation from  
18 which the licensee purchased the vehicle or part.

19 (c) The following information regarding the wrecked or acquired  
20 vehicle that is the source of a major component part:

21 (i) If previously titled in this or any other state, the certificate  
22 of title number.

23 (ii) The name of the state where last registered.

24 (iii) The number of the last license plate issued.

25 (iv) The make and model of the vehicle.

26 (v) The identification number and serial number of the vehicle.

27 (vi) The date purchased.

28 (vii) The disposition of the chassis.

29 (viii) The name and address of the person from whom a motor vehicle,  
30 motor vehicle body or motor vehicle chassis was purchased or otherwise  
31 acquired and the date of the purchase.

32 (ix) The name and address of the person to whom the motor vehicle,  
33 motor vehicle body or motor vehicle chassis was sold or otherwise disposed  
34 of, the date of the sale and a description of the vehicle, body or chassis by  
35 make and model or identification number.

36 2. Including a bill of sale signed by the seller for any motor vehicle  
37 parts other than major component parts acquired by the licensee, identifying  
38 the seller by name, address and date of sale.

39 B. The licensee shall maintain the record at the licensee's  
40 established place of business or principal place of business if the licensee  
41 is a broker or a wholesale motor vehicle dealer for a period of three years  
42 from the date of acquiring each item recorded.

43 C. ~~Members of a police department, a sheriff's office, AUTHORIZED~~  
44 ~~REPRESENTATIVES OF~~ the department of transportation ~~and the department of~~

1 ~~public safety~~ OR ANY LAW ENFORCEMENT AGENCY may inspect the record kept by  
2 the licensee at any time during regular business hours.

3 D. An automotive recycler shall maintain a similar record of all  
4 disabled vehicles that have been towed or transported to the automotive  
5 recycler's place of business or to other places designated by the owner of  
6 the vehicle or the owner's representative. This record shall specify the  
7 make, model and description of the vehicle, name of the owner, number of the  
8 license plate, condition of the vehicle and place to which it was towed or  
9 transported.

10 E. Each licensee shall allow any person described in subsection C,  
11 during business hours and after reasonable demand, to physically compare the  
12 records required to be maintained with the vehicles or major component parts  
13 that are located at the licensee's place of business.

14 F. After reasonable demand by a person under subsection C or E, a  
15 person who fails to display the records required to be maintained is guilty  
16 of a class 1 misdemeanor.

17 Sec. 4. Section 28-4405, Arizona Revised Statutes, is amended to read:  
18 28-4405. Display of license; continuation date; late penalty

19 A. A license issued under this chapter:

20 1. Shall be conspicuously displayed in either:

21 (a) The established place of business for which it was obtained.

22 (b) The place of business if the licensee is ~~a motor vehicle dealer in~~  
23 ~~mobile medical clinics~~, a broker or a wholesale vehicle dealer.

24 2. Is not ~~assignable~~ TRANSFERABLE OR SUBJECT TO SALE OR REASSIGNMENT.

25 B. The director may issue licenses with staggered continuation dates  
26 to distribute the continuation workload as uniformly as practicable  
27 throughout the twelve months of the calendar year. In order to initiate a  
28 staggered license continuation system, the director may issue a license for  
29 more or less than a twelve month period, but not more than eighteen months,  
30 and may prorate the license fee.

31 C. If a licensee fails, neglects or refuses to pay the required fee  
32 for the ensuing year on or before the license continuation date, the fee is  
33 delinquent and a penalty equal to the fee shall be added to the fee and  
34 collected.

35 Sec. 5. Section 28-4406, Arizona Revised Statutes, is amended to read:  
36 28-4406. Sign requirements

37 A. Each motor vehicle dealer and automotive recycler shall erect and  
38 maintain at the entrance to the motor vehicle dealer's or automotive  
39 recycler's established place of business a permanent sign indicating that the  
40 business of a motor vehicle dealer or automotive recycler is conducted at or  
41 from the premises. The sign shall be legible at a distance of at least three  
42 hundred feet during daylight.

43 B. A wholesale motor vehicle dealer OR BROKER shall erect and maintain  
44 at the entrance of the WHOLESAL MOTOR VEHICLE dealer's OR BROKER'S principal  
45 place of business a permanent sign indicating that the business of a

1 wholesale motor vehicle dealer OR BROKER is conducted at or from the  
2 premises.

3 Sec. 6. Section 28-4498, Arizona Revised Statutes, is amended to read:

4 28-4498. Licensed dealer and automotive recycler; cease and  
5 desist order; request for hearing

6 A. If the director has reasonable cause to believe from an  
7 investigation made by the director that a licensed motor vehicle dealer or  
8 automotive recycler has violated or is violating a law of this state or rule  
9 adopted by the department, the director may immediately issue and serve on  
10 the ~~person~~ LICENSEE by personal delivery or certified mail at the business  
11 address of record a cease and desist order requiring the ~~person~~ LICENSEE to  
12 immediately cease and desist from further engaging in the business OR THE  
13 PROHIBITED ACTIVITY, OR BOTH, on the receipt of the notice. A LICENSEE WHO  
14 RECEIVES A CEASE AND DESIST ORDER MAY SUBMIT A WRITTEN REQUEST FOR A HEARING  
15 TO THE DIRECTOR. THE LICENSEE SHALL SUBMIT THE REQUEST FOR A HEARING WITHIN  
16 THIRTY DAYS AFTER THE LICENSEE RECEIVES THE CEASE AND DESIST ORDER. On  
17 failure of a licensee to comply with the order OR AFTER A REQUESTED HEARING,  
18 the director, ~~after a hearing,~~ may suspend or cancel the licensee's license  
19 or permit pursuant to section 28-4493 and section 28-4494 or 28-4495 or may  
20 take action pursuant to section 28-4496.

21 B. The director of the department of transportation shall provide a  
22 copy of the cease and desist order to the director of the department of  
23 revenue.

24 Sec. 7. Section 28-4499, Arizona Revised Statutes, is amended to read:

25 28-4499. Unlicensed dealer and automotive recycler; cease and  
26 desist order; request for hearing

27 A. If the director has reasonable cause to believe from information  
28 furnished to the director or from an investigation made by the director that  
29 a person is engaged in a business regulated by this chapter without being  
30 licensed as required by law, the director shall immediately issue and serve  
31 on the person by personal delivery or certified mail at the person's last  
32 known address a cease and desist order requiring the person to immediately  
33 cease and desist from further engaging in the business. ~~On failure of the~~  
34 ~~person to comply with the order, the director may conduct a hearing pursuant~~  
35 ~~to section 28-4500.~~ A PERSON WHO RECEIVES A CEASE AND DESIST ORDER MAY  
36 SUBMIT A WRITTEN REQUEST FOR A HEARING TO THE DIRECTOR. THE PERSON SHALL  
37 SUBMIT THE REQUEST FOR A HEARING WITHIN THIRTY DAYS AFTER THE PERSON RECEIVES  
38 THE CEASE AND DESIST ORDER.

39 B. The director of the department of transportation shall provide a  
40 copy of the cease and desist order to the director of the department of  
41 revenue.

1           Sec. 8. Section 28-4500, Arizona Revised Statutes, is amended to read:  
2           28-4500. Unlicensed dealer and automotive recycler; hearing;  
3                                   civil penalty; suspension of motor vehicle  
4                                   registrations; reinstatement fee

5           A. The director may conduct a hearing pursuant to section 28-4491 if  
6           an officer authorized to enforce this chapter alleges that a person refuses  
7           or fails to comply with a cease and desist order issued pursuant to section  
8           28-4499.

9           B. The director shall hold the hearing at least fifteen but not more  
10          than thirty days after ~~service of a written notice~~ RECEIPT OF A WRITTEN  
11          REQUEST FOR A HEARING. ~~The director shall send the notice by personal~~  
12          ~~delivery or by certified mail to the address provided to the department in~~  
13          ~~the report alleging the noncompliance.~~

14          C. A finding that a person is in violation of the dealer or automotive  
15          recycler licensing requirements of this chapter requires that both of the  
16          following conditions exist, and the scope of the hearing is limited to the  
17          following:

18           1. A determination that the person refuses or fails to comply with a  
19          cease and desist order issued pursuant to section 28-4499.

20           2. A determination that the person ~~ordered to appear~~ APPEARING at the  
21          hearing is responsible for the violation.

22          D. If, after reviewing the allegations and results of the hearing, the  
23          director determines that the person is in violation of the dealer or  
24          automotive recycler licensing provisions of this chapter, the director may  
25          ~~prescribe~~ IMPOSE a civil penalty pursuant to section 28-4501.

26          E. After consideration of the evidence presented at the hearing, the  
27          director shall serve notice of the director's finding and order within five  
28          days after the hearing.

29          F. Unless a continuance is granted, if a person who is alleged to be  
30          in violation of the dealer or automotive recycler licensing provisions of  
31          this chapter ~~and who has been notified by personal delivery or certified mail~~  
32          fails to appear for a hearing, the director may suspend the registrations of  
33          all motor vehicles owned and leased by the person. The director shall not  
34          remove the suspension until the person appears for the hearing and pays a fee  
35          of fifty dollars to the department for the reinstatement of each motor  
36          vehicle registration and license plate.

37          Sec. 9. Section 28-4538, Arizona Revised Statutes, is amended to read:  
38          28-4538. Suspension of dealer and manufacturer license plates

39          A. The department shall suspend the use of any or all of the dealer  
40          license plates issued to a dealer for not more than three months if a dealer  
41          violates section 28-4532, 28-4533, 28-4534, 28-4535 or 28-4536 or the rules  
42          adopted under section 28-4537.

43          B. If the director finds that a manufacturer or licensed dealer  
44          displays a manufacturer or dealer license plate that is provided pursuant to  
45          section 28-4533, 28-4540 or 28-4544 on a work or service vehicle, a vehicle

1 used for private use or a vehicle for hire, the director may suspend, ~~after a~~  
2 ~~hearing,~~ the right of the dealer or manufacturer to use the plate.

3 C. A MANUFACTURER OR LICENSED DEALER WHO RECEIVES A NOTICE OF  
4 SUSPENSION PURSUANT TO SUBSECTION B OF THIS SECTION MAY SUBMIT A WRITTEN  
5 REQUEST FOR A HEARING TO THE DIRECTOR. THE MANUFACTURER OR LICENSED DEALER  
6 SHALL SUBMIT THE REQUEST FOR A HEARING WITHIN THIRTY DAYS AFTER THE  
7 MANUFACTURER OR LICENSED DEALER RECEIVES THE NOTICE OF SUSPENSION.

8 Sec. 10. Section 28-4554, Arizona Revised Statutes, is amended to  
9 read:

10 28-4554. Suspension of issuance of temporary registration  
11 plates

12 A. If the director finds that a dealer has not complied with sections  
13 28-4546 through 28-4553 or the directions of the director, the director may  
14 suspend, ~~after a hearing,~~ the right of the dealer to issue temporary  
15 registration plates.

16 B. A DEALER WHO RECEIVES A NOTICE OF SUSPENSION MAY SUBMIT A WRITTEN  
17 REQUEST FOR A HEARING TO THE DIRECTOR. THE DEALER SHALL SUBMIT THE REQUEST  
18 FOR A HEARING WITHIN THIRTY DAYS AFTER THE DEALER RECEIVES THE NOTICE OF  
19 SUSPENSION.

20 Sec. 11. Section 28-5002, Arizona Revised Statutes, is amended to  
21 read:

22 28-5002. Requirements; violation; classification

23 A. A title service company shall not engage in business in this state  
24 unless the company is licensed pursuant to this chapter. A title service  
25 company that violates this subsection is guilty of a class 1 misdemeanor.

26 B. A person shall not engage in any business pursuant to this chapter  
27 unless both:

- 28 1. It is from an established place of business.
- 29 2. The person has obtained a license from the director authorizing the  
30 person to engage in the business.

31 C. A LICENSE ISSUED UNDER THIS CHAPTER:

- 32 1. SHALL BE CONSPICUOUSLY DISPLAYED IN THE ESTABLISHED PLACE OF  
33 BUSINESS FOR WHICH IT WAS OBTAINED.
- 34 2. IS NOT TRANSFERABLE OR SUBJECT TO SALE OR REASSIGNMENT BY ANY  
35 VOLUNTARY OR INVOLUNTARY PROCESS.

36 Sec. 12. Section 28-5010, Arizona Revised Statutes, is amended to  
37 read:

38 28-5010. Record requirements

39 A. A title service company to which temporary registration plates are  
40 issued shall maintain in permanent form a record of:

- 41 1. All temporary registration plates delivered to the company.
- 42 2. All temporary registration plates issued by the company.
- 43 3. All titles and registrations accepted for processing.
- 44 4. Any other information that the director requires.

45 B. The title service company shall:



1 denied, the director shall advise the applicant in writing of the denial and  
2 the grounds for denial. The department or its employees are not liable for  
3 any costs incurred by an applicant seeking authorization or certification, or  
4 both, under this article.

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

8 F. If the authorized third party adds a partner, officer, director or  
9 agent, or a stockholder who owns twenty per cent or more of the corporation,  
10 who was not included in the criminal records check on a prior application,  
11 the authorized third party shall notify the department within thirty days of  
12 the change.

13 G. At the time of notification pursuant to subsection F of this  
14 section, the third party shall submit to the department of transportation an  
15 application and, if applicable, a full set of fingerprints and the fee to be  
16 paid to the department of public safety for a criminal records check. On  
17 completion of the investigation if the individual added or changed by the  
18 authorized third party is found to be ineligible pursuant to subsection B of  
19 this section, the director of the department of transportation shall advise  
20 the authorized third party and the individual in writing of the grounds for  
21 the action and that the authorization will be revoked unless the individual  
22 is removed from the position.

23 H. The requirement for a criminal records check does not apply to an  
24 applicant who is seeking third party authorization and who is:

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

1           Sec. 14. Section 28-5106, Arizona Revised Statutes, is amended to  
2 read:

3           28-5106. Records

4           A third party who is authorized pursuant to this article shall:

- 5           1. Maintain records in a form and manner prescribed by the director.
- 6           2. ~~Provide the director with~~ ALLOW access to the records during  
7 regular business hours TO AUTHORIZED REPRESENTATIVES OF THE DIRECTOR OR ANY  
8 LAW ENFORCEMENT AGENCY to ensure compliance with all applicable statutes and  
9 rules.

10          Sec. 15. Section 28-8382, Arizona Revised Statutes, is amended to  
11 read:

12          28-8382. License requirement; application; renewal; license  
13                 tax; liability

14          A. A person shall not act as an aircraft dealer without first  
15 obtaining a license from the director that authorizes the person to engage in  
16 the business of an aircraft dealer.

17          B. A person shall apply for a license on forms prescribed ~~and~~  
18 ~~furnished~~ OR AUTHORIZED by the director. The person shall submit with the  
19 application any required documents and the bond or cash deposit prescribed by  
20 section 28-8384. On approval of the application the director shall issue the  
21 license.

22          C. A license issued to an aircraft dealer is valid for one year and  
23 only for the person in whose name it is issued. The aircraft dealer:

- 24           1. Shall display the license conspicuously in the principal place of  
25 business of the aircraft dealer.
- 26           2. Shall annually renew the license.
- 27           3. May not assign the license.

28          D. If an aircraft dealer changes the dealer's place of business, the  
29 dealer shall notify the director in writing within ten days after the change.

30          E. In addition to any other penalties provided by statute, a person  
31 who acts as an aircraft dealer without first obtaining a license is liable  
32 for both:

- 33           1. The license tax imposed by section 28-8335 on aircraft owned by the  
34 person or held by the person on consignment for sale or exchange.
- 35           2. Any transaction privilege tax or similar excise tax on the sale of  
36 any aircraft sold, exchanged or brokered by the person that is not reported  
37 and paid as required by law.