

REFERENCE TITLE: **licensed vehicle dealers**

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

HB 2056

Introduced by
Representatives Cooley, Carruthers, Hatch-Miller

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 G. AN OFF-PREMISES DISPLAY AND SALES PERMIT IS VALID FOR SEVEN
4 CALENDAR DAYS. AN OFF-PREMISES EXHIBITION PERMIT IS VALID FOR TEN CALENDAR
5 DAYS.

6 H. THE DEPARTMENT SHALL NOT ISSUE MORE THAN ONE OFF-PREMISES DISPLAY
7 AND SALES OR EXHIBITION PERMIT TO A LICENSED DEALER FOR THE SAME LOCATION
8 WITHIN A CALENDAR QUARTER.

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

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

12 28-4404. Record requirements; vehicles and parts;
13 classification

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

18 1. Recording and describing each of the following:

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

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

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

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

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

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

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

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

33 (vi) The date purchased.

34 (vii) The disposition of the chassis.

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

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

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

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

5 C. ~~Members of a police department, a sheriff's office,~~ AUTHORIZED
6 REPRESENTATIVES OF the department of transportation ~~and the department of~~
7 ~~public safety~~ OR ANY LAW ENFORCEMENT AGENCY may inspect the record kept by
8 the licensee at any time during regular business hours.

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

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

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

23 Sec. 4. Section 28-4405, Arizona Revised Statutes, is amended to read:
24 28-4405. Display of license; continuation date; late penalty

25 A. A license issued under this chapter:

26 1. Shall be conspicuously displayed in either:

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

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

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

31 B. The director may issue licenses with staggered continuation dates
32 to distribute the continuation workload as uniformly as practicable
33 throughout the twelve months of the calendar year. In order to initiate a
34 staggered license continuation system, the director may issue a license for
35 more or less than a twelve month period, but not more than eighteen months,
36 and may prorate the license fee.

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

41 Sec. 5. Section 28-4406, Arizona Revised Statutes, is amended to read:
42 28-4406. Sign requirements

43 A. Each motor vehicle dealer and automotive recycler shall erect and
44 maintain at the entrance to the motor vehicle dealer's or automotive
45 recycler's established place of business a permanent sign indicating that the

1 business of a motor vehicle dealer or automotive recycler is conducted at or
2 from the premises. The sign shall be legible at a distance of at least three
3 hundred feet during daylight.

4 B. A wholesale motor vehicle dealer OR BROKER shall erect and maintain
5 at the entrance of the WHOLESAL MOTOR VEHICLE dealer's OR BROKER'S principal
6 place of business a permanent sign indicating that the business of a
7 wholesale motor vehicle dealer OR BROKER is conducted at or from the
8 premises.

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

10 28-4498. Licensed dealer and automotive recycler; cease and
11 desist order

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

27 B. The director of the department of transportation shall provide a
28 copy of the cease and desist order to the director of the department of
29 revenue.

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

31 28-4499. Unlicensed dealer and automotive recycler; cease and
32 desist order

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

1 B. The director of the department of transportation shall provide a
2 copy of the cease and desist order to the director of the department of
3 revenue.

4 Sec. 8. Section 28-4500, Arizona Revised Statutes, is amended to read:
5 28-4500. Unlicensed dealer and automotive recycler; hearing;
6 civil penalty; suspension of motor vehicle
7 registrations; reinstatement fee

8 A. The director may conduct a hearing pursuant to section 28-4491 if
9 an officer authorized to enforce this chapter alleges that a person refuses
10 or fails to comply with a cease and desist order issued pursuant to section
11 28-4499.

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

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

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

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

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

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

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

40 Sec. 9. Section 28-4538, Arizona Revised Statutes, is amended to read:
41 28-4538. Suspension of dealer and manufacturer license plates

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

1 B. If the director finds that a manufacturer or licensed dealer
2 displays a manufacturer or dealer license plate that is provided pursuant to
3 section 28-4533, 28-4540 or 28-4544 on a work or service vehicle, a vehicle
4 used for private use or a vehicle for hire, the director may suspend, ~~after a~~
5 ~~hearing~~, the right of the dealer or manufacturer to use the plate.

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

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

13 28-4554. Suspension of issuance of temporary registration
14 plates

15 A. If the director finds that a dealer has not complied with sections
16 28-4546 through 28-4553 or the directions of the director, the director may
17 suspend, ~~after a hearing~~, the right of the dealer to issue temporary
18 registration plates.

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

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

25 28-5002. Requirements; violation; classification

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

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

31 1. It is from an established place of business.

32 2. The person has obtained a license from the director authorizing the
33 person to engage in the business.

34 C. A LICENSE ISSUED UNDER THIS CHAPTER:

35 1. SHALL BE CONSPICUOUSLY DISPLAYED IN THE ESTABLISHED PLACE OF
36 BUSINESS FOR WHICH IT WAS OBTAINED.

37 2. IS NOT TRANSFERABLE OR SUBJECT TO SALE OR REASSIGNMENT BY ANY
38 VOLUNTARY OR INVOLUNTARY PROCESS.

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

41 28-5010. Record requirements

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

44 1. All temporary registration plates delivered to the company.

45 2. All temporary registration plates issued by the company.

1 applicant receives approval or denial of the application for authorization or
2 certification, or both.

3 D. Within twenty days of completion of the criminal records check, the
4 director shall approve or deny the application. If the application is
5 denied, the director shall advise the applicant in writing of the denial and
6 the grounds for denial. The department or its employees are not liable for
7 any costs incurred by an applicant seeking authorization or certification, or
8 both, under this article.

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

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

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

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

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

1 12. A title service company that is bonded by the department of
2 transportation.

3 13. An employer or association that has at least five hundred employees
4 or members.

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

7 28-5106. Records

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

9 1. Maintain records in a form and manner prescribed by the director.

10 2. ~~Provide the director with~~ ALLOW access to the records during
11 regular business hours TO AUTHORIZED REPRESENTATIVES OF THE DIRECTOR OR ANY
12 LAW ENFORCEMENT AGENCY to ensure compliance with all applicable statutes and
13 rules.

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

16 28-8382. License requirement; application; renewal; license
17 tax; liability

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

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

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

28 1. Shall display the license conspicuously in the principal place of
29 business of the aircraft dealer.

30 2. Shall annually renew the license.

31 3. May not assign the license.

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

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

37 1. The license tax imposed by section 28-8335 on aircraft owned by the
38 person or held by the person on consignment for sale or exchange.

39 2. Any transaction privilege tax or similar excise tax on the sale of
40 any aircraft sold, exchanged or brokered by the person that is not reported
41 and paid as required by law.