

REFERENCE TITLE: procedures; photo enforcement

State of Arizona
Senate
Forty-ninth Legislature
Second Regular Session
2010

SCR 1059

Introduced by
Senator Gray L

A CONCURRENT RESOLUTION

ENACTING AND ORDERING THE SUBMISSION TO THE PEOPLE OF A MEASURE RELATING TO
PHOTO ENFORCEMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it resolved by the Senate of the State of Arizona, the House of
2 Representatives concurring:

3 1. Under the power of the referendum, as vested in the Legislature,
4 the following measure, relating to photo enforcement, is enacted to become
5 valid as a law if approved by the voters and on proclamation of the Governor:

6 AN ACT

7 TRANSFERRING AND RENUMBERING SECTION 28-654, ARIZONA REVISED
8 STATUTES, FOR PLACEMENT IN TITLE 28, CHAPTER 3, ARTICLE 21,
9 ARIZONA REVISED STATUTES, AS SECTION 28-1204; AMENDING SECTION
10 28-1201, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 3,
11 ARTICLE 21, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-1203;
12 AMENDING SECTION 28-1204, ARIZONA REVISED STATUTES, AS
13 TRANSFERRED AND RENUMBERED BY THIS ACT; AMENDING TITLE 28,
14 CHAPTER 3, ARTICLE 21, ARIZONA REVISED STATUTES, BY ADDING
15 SECTIONS 28-1205, 28-1206, 28-1207 AND 28-1208; AMENDING
16 SECTIONS 28-1592 AND 28-1593, ARIZONA REVISED STATUTES; AMENDING
17 TITLE 28, CHAPTER 5, ARTICLE 4, ARIZONA REVISED STATUTES, BY
18 ADDING SECTION 28-1602; AMENDING SECTION 41-1722, ARIZONA
19 REVISED STATUTES; REPEALING LAWS 2009, THIRD SPECIAL SESSION,
20 CHAPTER 6, SECTION 31; RELATING TO PHOTO ENFORCEMENT.

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

22 Section 1. Transfer and renumber

23 Section 28-654, Arizona Revised Statutes, is transferred
24 and renumbered for placement in title 28, chapter 3, article 21,
25 Arizona Revised Statutes, as section 28-1204.

26 Sec. 2. Section 28-1201, Arizona Revised Statutes, is
27 amended to read:

28 28-1201. Definition of photo enforcement system

29 In this article, unless the context otherwise requires,
30 "photo enforcement system": ~~has the same meaning prescribed in~~
31 ~~section 28-601 and~~

32 1. MEANS A DEVICE SUBSTANTIALLY CONSISTING OF A RADAR
33 UNIT OR SENSOR LINKED TO A CAMERA OR OTHER RECORDING DEVICE THAT
34 PRODUCES ONE OR MORE PHOTOGRAPHS, MICROPHOTOGRAPHS, VIDEOTAPES
35 OR DIGITAL OR OTHER RECORDED IMAGES FOR THE PURPOSE OF
36 IDENTIFYING VIOLATORS OF ARTICLES 3 AND 6 OF THIS CHAPTER AND
37 CHAPTERS 7 AND 9 OF THIS TITLE.

38 2. Includes a state photo enforcement system established
39 pursuant to section 41-1722.

40 Sec. 3. Title 28, chapter 3, article 21, Arizona Revised
41 Statutes, is amended by adding section 28-1203, to read:

42 28-1203. Photo enforcement system placement; speed limit
43 change

44 A PHOTO ENFORCEMENT SYSTEM SHALL NOT BE PLACED ON A STREET
45 OR HIGHWAY WITHIN SIX HUNDRED FEET OF A POSTED SPEED LIMIT

1 CHANGE EXCEPT THAT A PHOTO ENFORCEMENT SYSTEM MAY BE PLACED IN
2 AN AREA AROUND A SCHOOL CROSSING THAT IS DELINEATED BY SIGNS AS
3 PRESCRIBED BY SECTION 28-797, SUBSECTION D.

4 Sec. 4. Section 28-1204, Arizona Revised Statutes, as
5 transferred and renumbered by this act, is amended to read:

6 28-1204. Photo enforcement zones; signage; standards;
7 citation dismissal

8 A. Except as provided in subsection F of this section,
9 every local authority or agency of this state using a photo
10 enforcement system shall adopt standards and specifications that
11 indicate to a person operating a motor vehicle that a photo
12 enforcement system is present and operational.

13 B. The standards and specifications adopted pursuant to
14 subsection A of this section shall include ~~both~~ ALL of the
15 following:

16 1. At least two signs shall be placed in a location
17 before a photo enforcement system. One sign shall be in a
18 location that is approximately three hundred feet before the
19 photo enforcement system. Placement of additional signs shall
20 be more than three hundred feet before a photo enforcement
21 system to provide reasonable notice to a person that a photo
22 enforcement system is present and operational.

23 2. A SIGN THAT CLEARLY STATES THE POSTED SPEED LIMIT
24 SHALL BE PLACED IN A LOCATION THAT IS BETWEEN THE TWO SIGNS
25 PRESCRIBED BY PARAGRAPH 1 AND THAT IS MORE THAN THREE HUNDRED
26 FEET BEFORE A PHOTO ENFORCEMENT SYSTEM.

27 ~~2-~~ 3. Signs indicating a photo enforcement system shall
28 be removed or covered when the photo enforcement system is no
29 longer present or not operating FOR MORE THAN TWENTY-FOUR HOURS.

30 C. Signs erected by a local authority or agency of this
31 state as prescribed in this section shall contain a yellow
32 warning notice and correlate with and as far as possible conform
33 to the system set forth in the most recent edition of the manual
34 on uniform traffic control devices for streets and highways
35 adopted by the director pursuant to section 28-641.

36 D. If the standards and specifications prescribed
37 pursuant to this section are not in effect during the operation
38 of a photo enforcement system, the court may dismiss any
39 citation issued to a person who is identified by the use of the
40 photo enforcement system.

41 E. During the time a vehicle containing photo enforcement
42 equipment is being used to identify violators of ~~this article~~
43 ~~and article~~ ARTICLES 3 AND 6 of this chapter AND CHAPTERS 7 AND
44 9 OF THIS TITLE, the rear of the vehicle shall be clearly marked
45 to indicate that the vehicle is functioning as a photo

1 enforcement vehicle. This subsection does not apply to a
2 vehicle that does not contain a ~~an~~ AN AUTOMATED photo enforcement
3 system and that is used by a law enforcement officer.

4 F. Subsection B of this section does not apply to a
5 mobile photo enforcement vehicle during the time a mobile photo
6 enforcement vehicle is deployed on streets with a posted speed
7 limit of forty miles per hour or less.

8 Sec. 5. Title 28, chapter 3, article 21, Arizona Revised
9 Statutes, is amended by adding sections 28-1205, 28-1206,
10 28-1207 and 28-1208, to read:

11 28-1205. Photo enforcement systems; limitation on
12 citation issuance; applicability

13 A. NOTWITHSTANDING ANY OTHER LAW, THIS STATE OR A LOCAL
14 AUTHORITY THAT HAS JURISDICTION OVER A PHOTO ENFORCEMENT SYSTEM
15 MAY CAUSE THE PHOTO ENFORCEMENT SYSTEM TO ISSUE A COMPLAINT OR
16 NOTICE OF VIOLATION FOR A VIOLATION OF ARTICLE 6 OF THIS CHAPTER
17 ONLY IF A VEHICLE IS TRAVELING AT LEAST ELEVEN MILES PER HOUR
18 FASTER THAN THE POSTED SPEED LIMIT.

19 B. THIS SECTION DOES NOT APPLY TO EITHER OF THE
20 FOLLOWING:

- 21 1. AN AREA AROUND A SCHOOL CROSSING THAT IS DELINEATED BY
- 22 SIGNS AS PRESCRIBED BY SECTION 28-797, SUBSECTION D.
- 23 2. A STATE HIGHWAY WORK ZONE AS DEFINED IN SECTION
- 24 28-652.

25 28-1206. Suspension or revocation of license; photo
26 enforcement systems

27 A. NOTWITHSTANDING ANY OTHER LAW, IF A PERSON IS ISSUED A
28 CITATION, A NOTICE OF VIOLATION OR A COMPLAINT FOR A CIVIL
29 TRAFFIC VIOLATION THAT IS DETECTED BY A PHOTO ENFORCEMENT SYSTEM
30 AND THE PERSON RESPONDS WITHIN THIRTY DAYS AFTER ISSUANCE OF THE
31 FIRST FORM OF NOTIFICATION, THE DEPARTMENT SHALL NOT CONSIDER
32 THE VIOLATION FOR THE PURPOSE OF DETERMINING WHETHER THE
33 PERSON'S DRIVER LICENSE SHOULD BE SUSPENDED OR REVOKED. IF
34 REQUIRED BY LAW, A COURT SHALL TRANSMIT ABSTRACTS OF RECORD OF
35 THESE MOVING VIOLATIONS TO THE DEPARTMENT FOR COMMERCIAL DRIVER
36 LICENSE HOLDERS.

37 B. THIS SECTION SHALL NOT BE CONSTRUED TO RESTRICT THE
38 APPLICATION OF SECTION 28-1632 RELATING TO THE RENEWAL OF
39 VEHICLE REGISTRATION.

40 28-1207. Annual report

41 BEGINNING AUGUST 1, 2010 AND ON OR BEFORE AUGUST 1 OF EACH
42 YEAR THEREAFTER, THE GOVERNOR'S OFFICE OF HIGHWAY SAFETY, IN
43 CONJUNCTION WITH THE DEPARTMENT OF TRANSPORTATION AND THE
44 DEPARTMENT OF PUBLIC SAFETY, SHALL SUBMIT A REPORT TO THE
45 GOVERNOR, THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE

1 HOUSE OF REPRESENTATIVES AND SHALL PROVIDE A COPY OF THIS REPORT
2 TO THE SECRETARY OF STATE. THIS REPORT SHALL INCLUDE TRAFFIC
3 STATISTICS RELATING TO THE STATE PHOTO ENFORCEMENT SYSTEM
4 ESTABLISHED PURSUANT TO SECTION 41-1722 AND SHALL INCLUDE THE
5 TOTAL MONIES RECEIVED FROM CITATIONS OR NOTICES OF VIOLATION
6 RESULTING FROM THE STATE PHOTO ENFORCEMENT SYSTEM ESTABLISHED
7 PURSUANT TO SECTION 41-1722.

8 28-1208. Local authorities; law enforcement

9 AFTER PAYING ALL EXPENSES AND COURT COSTS THAT COVER THE
10 PROCESSING OF PHOTO ENFORCEMENT VIOLATIONS AND CITATIONS, A
11 LOCAL AUTHORITY SHALL SPEND AT LEAST THIRTY-FIVE PER CENT OF ALL
12 REMAINING MONIES IT RECEIVES FROM CITATIONS OR COMPLAINTS ISSUED
13 AS A RESULT OF A PHOTO ENFORCEMENT SYSTEM FOR LAW ENFORCEMENT
14 PURPOSES.

15 Sec. 6. Section 28-1592, Arizona Revised Statutes, is
16 amended to read:

17 28-1592. Commencement of action

18 A. A civil traffic violation case is commenced by
19 issuance or filing of a uniform traffic TICKET AND complaint as
20 provided in this article.

21 B. A civil traffic violation case shall be commenced as
22 follows:

23 1. If a case is commenced by issuance, it shall be issued
24 within sixty days of the alleged violation.

25 2. If the case is commenced by filing, it shall be filed
26 within sixty days of the alleged violation and shall be served
27 within ninety days from the filing date.

28 3. Except as provided in paragraph 4, within one hundred
29 eighty days of the alleged violation if the alleged violation is
30 under investigation in conjunction with a traffic accident.

31 4. Within one year of the alleged violation if the
32 alleged violation is under investigation in conjunction with a
33 traffic accident resulting in death.

34 5. IF THE ALLEGED VIOLATION IS DETECTED BY THE STATE
35 PHOTO ENFORCEMENT SYSTEM ESTABLISHED PURSUANT TO SECTION
36 41-1722, THE CASE SHALL BE FILED WITHIN ONE HUNDRED TWENTY DAYS
37 OF THE ALLEGED VIOLATION.

38 Sec. 7. Section 28-1593, Arizona Revised Statutes, is
39 amended to read:

40 28-1593. Service of uniform traffic ticket and complaint

41 A. EXCEPT AS PROVIDED IN SECTION 28-1602, a traffic
42 complaint may be served by delivering a copy of the uniform
43 traffic TICKET AND complaint ~~citation~~ to the person charged with
44 the violation or by any means authorized by the rules of civil
45 procedure. At the discretion of the issuing authority, a

1 complaint for a violation issued after an investigation in
2 conjunction with a traffic accident may be sent by certified
3 mail, return receipt requested and delivered to addressee only,
4 to the address provided by the person charged with the
5 violation. Service of the complaint is complete on filing the
6 receipt in the court having jurisdiction of the violation.

7 B. EXCEPT AS PROVIDED IN SECTION 28-1602, SUBSECTION A,
8 the original complaint shall be filed in a court having
9 jurisdiction of the violation within ten court days of the time
10 the complaint was issued. A peace officer, or duly authorized
11 agent or someone paid to act on behalf of a traffic enforcement
12 agency, may issue the traffic complaint AND ACT AS AN AGENT TO
13 TESTIFY ON BEHALF OF THE TRAFFIC ENFORCEMENT AGENCY AT TRAFFIC
14 HEARINGS.

15 ~~C. Notwithstanding subsection B of this section, a civil~~
16 ~~traffic violation issued pursuant to section 41-1722 may be~~
17 ~~issued pursuant to a notice of violation before a citation is~~
18 ~~filed in court.~~

19 ~~D.~~ C. If a person fails to respond to ~~the~~ A notice of
20 violation or contests responsibility, a uniform traffic TICKET
21 AND complaint ~~citation~~ shall be served and filed as otherwise
22 provided in this section, EXCEPT THAT THE COMPLAINT SHALL NOT BE
23 FILED IN COURT BEFORE THE PERSON IS SERVED WITH THE COMPLAINT.

24 ~~E.~~ D. The supreme court shall establish rules governing
25 the issuance, service and processing of the notice of violation,
26 including rules allowing a person to admit responsibility before
27 a ~~citation~~ UNIFORM TRAFFIC TICKET AND COMPLAINT is filed in
28 court.

29 Sec. 8. Title 28, chapter 5, article 4, Arizona Revised
30 Statutes, is amended by adding section 28-1602, to read:

31 28-1602. Photo enforcement; notice of violation;
32 complaint; penalties; crimes; definition

33 A. A NOTICE OF VIOLATION FOR A CIVIL TRAFFIC VIOLATION
34 DETECTED BY THE STATE PHOTO ENFORCEMENT SYSTEM MAY BE ISSUED
35 BEFORE A UNIFORM TRAFFIC TICKET AND COMPLAINT IS FILED IN COURT.

36 B. A NOTICE OF VIOLATION AND A UNIFORM TRAFFIC TICKET AND
37 COMPLAINT RESULTING FROM A PHOTO ENFORCEMENT SYSTEM AS DEFINED
38 IN SECTION 28-1201 IS NOT REQUIRED TO BE MAILED WITH PREPAID
39 POSTAGE TO THE PERSON CHARGED WITH THE VIOLATION.

40 C. THE CIVIL PENALTY FOR A UNIFORM TRAFFIC TICKET AND
41 COMPLAINT FILED OR A NOTICE OF VIOLATION ISSUED PURSUANT TO THE
42 STATE PHOTO ENFORCEMENT SYSTEM IS ONE HUNDRED SIXTY-FIVE DOLLARS
43 AND IS NOT SUBJECT TO ANY SURCHARGE EXCEPT THE SURCHARGE IMPOSED
44 BY SECTION 16-954. THE CIVIL PENALTIES SHALL BE DEPOSITED,
45 PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE PHOTO ENFORCEMENT

1 FUND ESTABLISHED BY SECTION 41-1722. A BOARD OF SUPERVISORS MAY
2 ESTABLISH A PROCESSING FEE TO COVER THE COST OF PROCESSING A
3 PHOTO ENFORCEMENT COMPLAINT. THE PROCESSING FEE IS NOT SUBJECT
4 TO ANY SURCHARGE.

5 D. THIS SECTION DOES NOT LIMIT EITHER OF THE FOLLOWING:
6 1. THE PENALTIES OR FINES RESULTING FROM CRIMINAL
7 VIOLATIONS DETECTED BY THE STATE PHOTO ENFORCEMENT SYSTEM.

8 2. THE PENALTIES OR FINES FOR CRIMES IN WHICH IMAGES OR
9 DATA OBTAINED FROM THE STATE PHOTO ENFORCEMENT SYSTEM EQUIPMENT
10 IS ADMITTED INTO EVIDENCE.

11 E. FOR THE PURPOSES OF THIS SECTION, "STATE PHOTO
12 ENFORCEMENT SYSTEM" MEANS THE STATE PHOTO ENFORCEMENT SYSTEM
13 ESTABLISHED PURSUANT TO SECTION 41-1722.

14 Sec. 9. Section 41-1722, Arizona Revised Statutes, is
15 amended to read:

16 41-1722. State photo enforcement system; fund;
17 distribution of fund monies

18 A. Notwithstanding any other law, the department shall
19 enter into a contract or contracts with a private vendor or
20 vendors pursuant to chapter 23 of this title to establish a
21 state photo enforcement system consisting of cameras placed
22 throughout this state as determined by the director to enforce
23 the provisions of title 28, chapter 3, articles 3 and 6 relating
24 to vehicle traffic and speed.

25 ~~B. Notwithstanding any other law, the civil penalty or~~
26 ~~fine for a citation or a notice of violation issued pursuant to~~
27 ~~this section is one hundred sixty five dollars and is not~~
28 ~~subject to any surcharge except the surcharge imposed by section~~
29 ~~16-954.~~

30 ~~C.~~ B. The photo enforcement fund is established
31 consisting of monies received from ~~citations~~ UNIFORM TRAFFIC
32 TICKETS AND COMPLAINTS FILED or notices of violation issued
33 pursuant to this section. The director shall administer the
34 fund. Monies in the fund are subject to legislative
35 appropriation and, EXCEPT AS PROVIDED IN SUBSECTION C OF THIS
36 SECTION, are appropriated to the department for administrative
37 and personnel costs of the state photo enforcement system.
38 Monies remaining in the fund in excess of two hundred fifty
39 thousand dollars at the end of each calendar quarter shall be
40 deposited, pursuant to sections 35-146 and 35-147, in the state
41 general fund.

42 ~~D. Notwithstanding any other law, if a person is found~~
43 ~~responsible for a civil traffic violation or a notice of~~
44 ~~violation pursuant to a citation issued pursuant to this~~
45 ~~section, the department of transportation shall not consider the~~

1 ~~violation for the purpose of determining whether the person's~~
2 ~~driver license should be suspended or revoked. A court shall~~
3 ~~only transmit abstracts of records of these violations to the~~
4 ~~department of transportation for commercial driver license~~
5 ~~holders.~~

6 C. BEGINNING IN FISCAL YEAR 2011-2012 AND IN EVERY
7 SUBSEQUENT FISCAL YEAR, THIRTY-FIVE PER CENT OF THE MONIES IN
8 THE FUND AFTER PAYING ALL EXPENSES AND COURT COSTS THAT COVER
9 THE PROCESSING OF PHOTO ENFORCEMENT VIOLATIONS AND CITATIONS
10 SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN
11 THE PUBLIC SAFETY EQUIPMENT FUND ESTABLISHED BY SECTION 41-1723.
12 MONIES DEPOSITED PURSUANT TO THIS SUBSECTION MAY NOT BE
13 SUPPLANTED.

14 Sec. 10. Repeal; retroactivity

15 A. Laws 2009, third special session, chapter 6, section
16 31 is repealed.

17 B. This section is effective retroactively to from and
18 after June 30, 2009.

19 Sec. 11. Photo enforcement citations; judicial
20 productivity credits; retroactivity

21 A. From and after June 30, 2009 until the effective date
22 of this act, state photo enforcement citations issued pursuant
23 to section 41-1722, Arizona Revised Statutes, shall only be
24 included in judicial productivity credit calculations if the
25 person receiving the citation contests responsibility.

26 B. This section is effective retroactively to from and
27 after June 30, 2009.

28 Sec. 12. State photo enforcement system penalties; public
29 safety equipment fund

30 Notwithstanding section 41-1722, Arizona Revised Statutes,
31 as amended by this act, in fiscal year 2010-2011, seven million
32 dollars of the monies remaining in the photo enforcement fund
33 after paying all expenses and court costs that cover the
34 processing of photo enforcement violations and citations shall
35 be deposited, pursuant to sections 35-146 and 35-147, Arizona
36 Revised Statutes, in the public safety equipment fund
37 established by section 41-1723, Arizona Revised Statutes.

38 2. The Secretary of State shall submit this proposition to the voters
39 at the next general election as provided by article IV, part 1, section 1,
40 Constitution of Arizona.