

REFERENCE TITLE: photo radar prohibition

State of Arizona
Senate
Fifty-second Legislature
Second Regular Session
2016

SCR 1010

Introduced by
Senators Smith, Lesko: Begay, Burges, Farnsworth D, Griffin, McGuire, Yee;
Representatives Finchem, Kern, Mesnard

A CONCURRENT RESOLUTION

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

(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 systems, is enacted to
5 become valid as a law if approved by the voters and on proclamation of the
6 Governor:

7 AN ACT

8 AMENDING SECTIONS 28-601, 28-627 AND 28-1201, ARIZONA REVISED
9 STATUTES; REPEALING SECTIONS 28-1202, 28-1203, 28-1204, 28-1205
10 AND 28-1206, ARIZONA REVISED STATUTES; AMENDING TITLE 28,
11 CHAPTER 3, ARTICLE 21, ARIZONA REVISED STATUTES, BY ADDING A NEW
12 SECTION 28-1202; REPEALING SECTION 28-1602, ARIZONA REVISED
13 STATUTES; RELATING TO PHOTO ENFORCEMENT.

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

15 Section 1. Section 28-601, Arizona Revised Statutes, is
16 amended to read:

17 28-601. Definitions

18 In this chapter, unless the context otherwise requires:

19 1. "Commercial motor vehicle" means a motor vehicle or
20 combination of vehicles that is designed, used or maintained to
21 transport passengers or property in the furtherance of a
22 commercial enterprise, that is a commercial motor vehicle as
23 defined in section 28-5201 and that is not exempt from gross
24 weight fees as prescribed in section 28-5432, subsection B.

25 2. "Controlled access highway" means a highway, street or
26 roadway to or from which owners or occupants of abutting lands
27 and other persons have no legal right of access except at such
28 points only and in the manner determined by the public authority
29 that has jurisdiction over the highway, street or roadway.

30 3. "Crosswalk" means:

31 (a) That part of a roadway at an intersection included
32 within the prolongations or connections of the lateral lines of
33 the sidewalks on opposite sides of the highway measured from the
34 curbs or, in absence of curbs, from the edges of the traversable
35 roadway.

36 (b) Any portion of a roadway at an intersection or
37 elsewhere that is distinctly indicated for pedestrian crossing
38 by lines or other markings on the surface.

39 4. "Escort vehicle" means a vehicle that is required
40 pursuant to rules adopted by the department to escort motor
41 vehicles or combinations of vehicles that require issuance of a
42 permit pursuant to article 18 or 19 of this chapter for
43 operation on the highways of this state.

44 5. "Explosives" means any chemical compound, mixture or
45 device that is commonly used or intended for the purpose of

1 producing an explosion and that is defined in 49 Code of Federal
2 Regulations part 173.

3 6. "Flammable liquid" means any liquid that has a flash
4 point of less than one hundred degrees Fahrenheit and that is
5 defined in 49 Code of Federal Regulations section 173.120.

6 7. "Gross weight" means the weight of a vehicle without a
7 load plus the weight of any load on the vehicle.

8 8. "Intersection" means the area embraced within the
9 prolongation or connection of the lateral curb lines, or if
10 none, the lateral boundary lines of the roadways of two highways
11 that join one another at, or approximately at, right angles, or
12 the area within which vehicles traveling on different highways
13 joining at any other angle may come in conflict. If a highway
14 includes two roadways thirty or more feet apart, each crossing
15 of each roadway of the divided highway by an intersecting
16 highway is a separate intersection. If the intersecting highway
17 also includes two roadways thirty or more feet apart, each
18 crossing of two roadways of the highways is a separate
19 intersection.

20 9. "License" means any license, temporary instruction
21 permit or temporary license issued under the laws of this state
22 or any other state that pertain to the licensing of persons to
23 operate motor vehicles.

24 10. "Low emission and energy efficient vehicle" means a
25 vehicle that has been certified by the United States
26 environmental protection agency administrator in accordance with
27 23 United States Code section 166 or that is part of a federally
28 approved pilot program.

29 11. "Motorized wheelchair" means any self-propelled
30 wheelchair that is used by a person for mobility.

31 12. "Official traffic control device" means any sign,
32 signal, marking or device that is not inconsistent with this
33 chapter and that is placed or erected by authority of a public
34 body or official having jurisdiction for the purpose of
35 regulating, warning or guiding traffic.

36 13. "Park", if prohibited, means the standing of a
37 vehicle, whether occupied or not, otherwise than temporarily for
38 the purpose of and while actually engaged in loading or
39 unloading.

40 ~~14. "Photo enforcement system" means a device~~
41 ~~substantially consisting of a radar unit or sensor linked to a~~
42 ~~camera or other recording device that produces one or more~~
43 ~~photographs, microphotographs, videotapes or digital or other~~
44 ~~recorded images of a vehicle's license plate for the purpose of~~
45 ~~identifying violators of articles 3 and 6 of this chapter.~~

1 ~~15.~~ 14. "Pneumatic tire" means a tire in which
2 compressed air is designed to support the load.

3 ~~16.~~ 15. "Pole trailer" means a vehicle that is all of
4 the following:

5 (a) Without motive power.

6 (b) Designed to be drawn by another vehicle and attached
7 to the towing vehicle by means of a reach or pole or by being
8 boomed or otherwise secured to the towing vehicle.

9 (c) Used ordinarily for transporting long or irregularly
10 shaped loads such as poles, pipes or structural members capable
11 generally of sustaining themselves as beams between the
12 supporting connections.

13 ~~17.~~ 16. "Police officer" means an officer authorized to
14 direct or regulate traffic or make arrests for violations of
15 traffic rules or other offenses.

16 ~~18.~~ 17. "Private road or driveway" means a way or place
17 that is in private ownership and that is used for vehicular
18 travel by the owner and those persons who have express or
19 implied permission from the owner but not by other persons.

20 ~~19.~~ 18. "Railroad" means a carrier of persons or
21 property on cars operated on stationary rails.

22 ~~20.~~ 19. "Railroad sign or signal" means a sign, signal
23 or device erected by authority of a public body or official or
24 by a railroad and intended to give notice of the presence of
25 railroad tracks or the approach of a railroad train.

26 ~~21.~~ 20. "Railroad train" means a steam engine or any
27 electric or other motor that is with or without cars coupled to
28 the steam engine or electric or other motor and that is operated
29 on rails.

30 ~~22.~~ 21. "Roadway" means that portion of a highway that
31 is improved, designed or ordinarily used for vehicular travel,
32 exclusive of the berm or shoulder. If a highway includes two or
33 more separate roadways, roadway refers to any such roadway
34 separately but not to all such roadways collectively.

35 ~~23.~~ 22. "Safety zone" means the area or space that is
36 both:

37 (a) Officially set apart within a roadway for the
38 exclusive use of pedestrians.

39 (b) Protected or either marked or indicated by adequate
40 signs as to be plainly visible at all times while set apart as a
41 safety zone.

42 ~~24.~~ 23. "Sidewalk" means that portion of a street that
43 is between the curb lines or the lateral lines of a roadway and
44 the adjacent property lines and that is intended for the use of
45 pedestrians.

1 ~~25-~~ 24. "Stop", if required, means complete cessation
2 from movement.

3 ~~26-~~ 25. "Stop, stopping or standing", if prohibited,
4 means any stopping or standing of an occupied or unoccupied
5 vehicle, except when necessary to avoid conflict with other
6 traffic or in compliance with directions of a police officer or
7 traffic control sign or signal.

8 ~~27-~~ 26. "Through highway" means a highway or portion of
9 a highway at the entrances to which vehicular traffic from
10 intersecting highways is required by law to stop before entering
11 or crossing and when stop signs are erected as provided in this
12 chapter.

13 ~~28-~~ 27. "Traffic" means pedestrians, ridden or herded
14 animals, vehicles and other conveyances either singly or
15 together while using a highway for purposes of travel.

16 ~~29-~~ 28. "Traffic control signal" means a device, whether
17 manually, electrically or mechanically operated, by which
18 traffic is alternately directed to stop and to proceed.

19 ~~30-~~ 29. "Truck" means a motor vehicle that is designed,
20 used or maintained primarily for the transportation of property.

21 Sec. 2. Section 28-627, Arizona Revised Statutes, is
22 amended to read:

23 28-627. Powers of local authorities

24 A. This chapter and chapters 4 and 5 of this title do not
25 prohibit a local authority, with respect to streets and highways
26 under its jurisdiction and within the reasonable exercise of the
27 police power, from:

- 28 1. Regulating the standing or parking of vehicles.
- 29 2. Regulating traffic by means of police officers,
30 traffic control signals or volunteer posse organization members
31 authorized by the sheriff under section 11-441 for the purpose
32 of directing traffic only.
- 33 3. Regulating or prohibiting processions or assemblages
34 on the highways.
- 35 4. Designating particular highways as one-way highways
36 and requiring that all vehicles on one-way highways be moved in
37 one specific direction.
- 38 5. Regulating the speed of vehicles in public parks.
- 39 6. Designating any highway as a through highway and
40 requiring that all vehicles stop before entering or crossing the
41 highway or designating any intersection as a stop intersection
42 and requiring all vehicles to stop at one or more entrances to
43 the intersection.
- 44 7. Restricting the use of highways as authorized in
45 section 28-1106.

1 8. Regulating the operation of bicycles and requiring the
2 registration and licensing of bicycles, including the
3 requirement of a registration fee.

4 9. Regulating or prohibiting the turning of vehicles or
5 specified types of vehicles at intersections.

6 10. Altering the prima facie speed limits as authorized
7 by this chapter.

8 11. Designating routes over streets and highways for
9 vehicles not exceeding one hundred two inches in width,
10 exclusive of safety equipment.

11 12. Adopting other traffic regulations that are
12 specifically authorized by this chapter or chapter 4 or 5 of
13 this title.

14 13. Designating routes on certain streets and highways
15 for the purpose of allowing off-highway vehicle operators to
16 gain access to or from a designated off-highway recreation
17 facility as defined in section 28-1171, off-highway vehicle
18 trail as defined in section 28-1171 or off-highway vehicle
19 special event as defined in section 28-1171.

20 B. A local authority shall not erect or maintain a stop
21 sign or traffic control signal at any location that requires the
22 traffic on any state highway to stop before entering or crossing
23 any intersecting highway unless approval in writing has first
24 been obtained from the director.

25 C. An ordinance or regulation enacted under subsection A,
26 paragraph 4, 5, 6, 7, 9 or 10 of this section is not effective
27 until signs giving notice of the local traffic regulations are
28 posted on or at the entrances to the highway or part of the
29 highway affected as is most appropriate.

30 D. The definition of motor vehicle prescribed in section
31 28-101 does not prevent a local authority from adopting
32 ordinances that regulate or prohibit the operation of motorized
33 skateboards, except that a local authority shall not adopt an
34 ordinance that requires registration and licensing of motorized
35 skateboards. For the purposes of this subsection, "motorized
36 skateboard" means a self-propelled device that has a motor, a
37 deck on which a person may ride and at least two tandem wheels
38 in contact with the ground.

39 E. In addition to the appointment of peace officers, a
40 local authority may provide by ordinance for the appointment of:

41 1. Unarmed police aides or municipally approved private
42 contractors who are employed or contracted by the police
43 department and who are empowered to commence an action or
44 proceeding before a court or judge for a violation of the local
45 authority's ordinances regulating the standing or parking of

1 vehicles. A municipally approved private contractor shall not
2 include a relative of an employee or of an elected official of
3 the municipality. The authority of the unarmed police aide or
4 municipally approved private contractor as authorized in this
5 section is limited to the enforcement of the ordinances of local
6 authorities regulating the standing or parking of vehicles.
7 Pursuant to rules established by the supreme court, an unarmed
8 police aide appointed pursuant to this paragraph may serve any
9 process originating out of a municipal court in the municipality
10 in which the unarmed police aide is employed. Service of
11 process under this paragraph shall only be made during the hours
12 the municipal court is open for the transaction of business and
13 only on court premises. This paragraph does not grant to
14 unarmed police aides or municipally approved private contractors
15 other powers or benefits to which peace officers of this state
16 are entitled.

17 2. Traffic investigators who may:

18 (a) Investigate traffic accidents within the jurisdiction
19 of the local authority.

20 (b) Commence an action or proceeding before a court or
21 judge for any violation of a state statute or local ordinance
22 relating to traffic, if the violation is related to a traffic
23 accident within the jurisdiction of the local authority.

24 (c) Pursuant to rules established by the supreme court,
25 serve any process originating out of a municipal court in the
26 municipality in which the traffic investigator is employed.
27 Service of process under paragraph 1 of this subsection shall
28 only be made during the hours the municipal court is open for
29 the transaction of business and only on court premises.

30 F. A traffic investigator appointed pursuant to this
31 section shall:

32 1. Be unarmed at all times during the course of the
33 traffic investigator's duties.

34 2. Be an employee of the appointing local authority.

35 3. File written reports as required pursuant to section
36 28-667.

37 ~~G. Notwithstanding subsection E of this section, an~~
38 ~~unarmed police aide, a municipally approved private contractor~~
39 ~~or a traffic investigator shall not serve any process resulting~~
40 ~~from a citation issued for a violation of article 3 or 6 of this~~
41 ~~chapter or of a city or town ordinance for excessive speed or~~
42 ~~failure to obey a traffic control device that is obtained using~~
43 ~~a photo enforcement system.~~

1 ~~H.~~ G. This section does not grant other powers or
2 benefits to traffic investigators to which peace officers of
3 this state are entitled.

4 ~~I.~~ H. Pursuant to section 28-1092, a local authority
5 shall provide reasonable access to and from terminals and
6 service facilities on highways under its jurisdiction.

7 Sec. 3. Section 28-1201, Arizona Revised Statutes, is
8 amended to read:

9 28-1201. Definition of photo enforcement system

10 In this article, unless the context otherwise requires,
11 "photo enforcement system" ~~has the same meaning prescribed in~~
12 ~~section 28-601~~ MEANS A DEVICE SUBSTANTIALLY CONSISTING OF A
13 RADAR UNIT OR SENSOR LINKED TO A CAMERA OR OTHER RECORDING
14 DEVICE THAT PRODUCES ONE OR MORE PHOTOGRAPHS, MICROPHOTOGRAPHS,
15 VIDEOTAPES OR DIGITAL OR OTHER RECORDED IMAGES OF A VEHICLE'S
16 LICENSE PLATE FOR THE PURPOSE OF IDENTIFYING VIOLATORS OF
17 ARTICLE 3 OR 6 OF THIS CHAPTER OR OF A CITY OR TOWN ORDINANCE
18 FOR EXCESSIVE SPEED OR FAILURE TO OBEY A TRAFFIC CONTROL DEVICE.

19 Sec. 4. Repeal

20 Sections 28-1202, 28-1203, 28-1204, 28-1205 and 28-1206,
21 Arizona Revised Statutes, are repealed.

22 Sec. 5. Title 28, chapter 3, article 21, Arizona Revised
23 Statutes, is amended by adding a new section 28-1202, to read:

24 28-1202. Photo enforcement system; prohibition

25 A PHOTO ENFORCEMENT SYSTEM SHALL NOT BE USED BY A LOCAL
26 AUTHORITY OR ANY AGENCY OF THIS STATE TO IDENTIFY VIOLATORS OF
27 ARTICLE 3 OR 6 OF THIS CHAPTER OR OF A CITY OR TOWN ORDINANCE
28 FOR EXCESSIVE SPEED OR FAILURE TO OBEY A TRAFFIC CONTROL DEVICE.

29 Sec. 6. Repeal

30 Section 28-1602, Arizona Revised Statutes, is repealed.

31 Sec. 7. Legislative intent

32 Pursuant to section 41-1107, Arizona Revised Statutes, it
33 is the legislature's intent to:

34 1. Keep the enforcement of the laws in this state in the
35 hands of trained law enforcement officers who are authorized by
36 the people of this state to enforce the laws.

37 2. Protect the citizens of this state from the abuses
38 that accompany the outsourcing of law enforcement to private,
39 for-profit entities.

40 3. Ensure that the purpose of law enforcement remains to
41 serve and protect and not to generate revenue for governments.

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