


Traffic Enforcement		
	State Traffic Codes & Seized License Plates	Order 19.205

A. Policy

ARS Title 28 will be used for all civil or criminal violations of traffic laws. Where there is no State Code for an offense, it is permissible to use the City Code. Employees will be permitted to use discretion in citing violators.

The Personnel Services Bureau, along with other concerned administrative staff, will be responsible for reviewing newly enacted traffic ordinances, laws or regulations for the development of a uniform enforcement policy.

B. Procedures

1. Registration Violations

a. Failure to Register a Vehicle, ARS 28-2153A.

- 1) Violators driving vehicles without current registration may be cited for ARS 28-2153A.
- 2) This applies to both Arizona residents who fail to register their vehicle in this state, and out-of-state residents who fail to register the vehicle in their home state.
- 3) This statute should be used when a non-resident is driving a vehicle with expired out-of-state registration.
- 4) Residents driving vehicles owned by another person and not registered in this state may be cited for ARS 28-2153B1 if the violator has primary control of the vehicle for more than seven (7) months.
 - Citations for violation of this statute will be titled "No Current Registration".

b. Failure to Provide Registration, ARS 28-2158C.

- Cite violators only when they own the vehicle.

c. Attachment of Plates/Tabs, ARS 28-2354A1.

- 1) Cite violators who do not comply with the guidelines provided in the code.
- 2) Warn violators in the following situations:
 - a) When the plates are improperly fastened.
 - b) When the driver does not own the vehicle.

d. No Current Registration, ARS 28-2532A.

- 1) Violators should be cited when a person operates a motor vehicle with an Arizona registration that has been expired more than 60 days.
- 2) Cite an owner or operator who knowingly permits vehicle to be operated upon a highway when it is not currently registered.
- 3) Cite this code when an owner meets Arizona residency requirements and is operating a vehicle registered out-of-state with expired registration.
 - Arizona residents who fail to register a vehicle previously registered in another state should also be cited for Registration Violation, ARS 28-2533A.

e. Fictitious Plates, ARS 28-2531B1 or 28-2531B2.

1) Occupied Vehicles

- a) Cite owners or drivers where knowledge of the fictitious plates can be shown, placing the specific subsection on citations.
- b) Seize and impound plates.
- c) Complete a General Offense (GO) report, placing the GO number on the citation.

- Include the reason for the seizure in the report.

d) No citation will be issued when seizing plates from occupied vehicles where knowledge by owner or driver cannot be shown.

2) Unoccupied vehicles

a) Seize fictitious plates from any vehicle to which there is legal access.

b) Complete a GO report.

- Include the reason for the seizure in the report.

3) Out of State plates

a) When the vehicle is occupied and knowledge by owner or driver can be shown, the violator will be cited, and the plate will be seized.

b) When the vehicle is occupied and unable to establish evidence of driver/owner knowledge, refer owner to the State MVD. DO NOT seize the plate.

c) When a vehicle with fictitious plates is unoccupied, take no action when the owner cannot be located.

d) Fictitious plates may be released only with court order or final disposition.

f. Emission Control Device, ARS 28-2531B8.

1) Only cite violators when operating vehicles newer than a 1967 model.

2) No emission device was required prior to 1968.

g. Registration/License Plates Suspended, Revoked, Canceled or Refused for Financial Responsibility (FR) or Mandatory Insurance (MI), ARS 28-4139A.

1) Occupied Vehicles

a) Cite registered owner for ARS 28-4139.A. The owner can be the driver or a passenger in the car.

- b) Seize and impound the vehicle license plates following the unoccupied vehicle impound procedures. The reason for the impound and details for the stop should be noted in the notes section of the citation.
- c) Employees should note the results of the 10-27 and 10-28 in the notes section of the citation.
- d) Owner will be given the red tag information for MVD.
- e) When the owner of a vehicle is not in the car, no citations will be issued and the unoccupied vehicle seizure procedures for impound may be followed.
 - Drivers will be given the red tag information for MVD to give to the owner.

2) Unoccupied Vehicle

- a) Seize suspended plates from any vehicle to which there is legal access.
 - b) Confirm the vehicle's plates with the vehicle's VIN.
 - c) Place an MI/FR Suspension red tag on the window of the vehicle notifying the owner of the seizure and to contact MVD.
 - d) Complete a Street Check titled "suspended license plates" documenting the seizure of the plate.
 - e) Place the license plate in the designated storage location in the Hardy bullpen or Apache Sergeant's hallway.
- 3) Inquiries by owners of MI/FR suspended registration plates will be referred to the Arizona Department of Motor Vehicles at 602-255-0072.
- 4) Employees will not take any enforcement action on suspended plates from other states.
- 5) The Patrol Administrative Officer or designee will collect seized license plates as necessary and transport to the Property Facility for destruction.

h. Dealer Plates, ARS 28-4663.B.

- 1) Dealer Plates may not be used on:
 - a) Work or service vehicles.
 - b) Laden vehicles.
 - c) Leased or rented vehicles.
 - d) Vehicles that have been sold.
- 2) Cite violators and impound the plates.
- 3) Officers will not stop vehicles for the sole purpose of questioning the validity of dealer plates.
- 4) Dealer Plates may be used by:
 - a) A dealer.
 - b) Prospective buyers.
 - c) Dealer's employees.
 - This includes personal use by an owner or a full-time employee.
- 5) Dealers may demonstrate a laden vehicle with cargo after obtaining a permit from the Motor Vehicle Division.
 - Such permits must be carried in the vehicle.

2. Driver's License Violations

a. No Valid AZ Driver's License, ARS 28-3151A

- 1) Cite violators when:
 - a) Their license has been expired for more than 60 days.
 - b) A resident is using an out-of-state license.
 - c) A driver has never been licensed.

- 2) Only written warnings will be issued to drivers whose license has been expired for a period of less than 60 days.
 - 3) Employees will not give permission for a violator to drive.
 - 4) Expired licenses will not be seized.
 - 5) Employees will not advise violators regarding fines or dismissal of charges if a license is obtained prior to court appearance.
- b. Operation in Violation of Restriction, ARS 28-3480.
- Criminal traffic offense - cite violators.
- c. Fail to Report Name/Address Change for Driver's License/Registration, ARS 28-448A.
- 1) Warn and advise violators that they are required to notify the Department of Motor Vehicles of their new address.
 - This statute also applies to changes of name as with marriage.
 - 2) Only written warnings will be issued to drivers who have moved within the last 60 days and not changed their address.
- d. Re-examination for License, ARS 28-3314.A.
- 1) Citations will not be issued as this is an informational statute, but drivers can be cited for the violations for which they were stopped.
 - 2) Requests for re-examination will be forwarded to the Motor Vehicle Division of the Department of Transportation in cases where a driver exhibits:
 - a) Physical coordination problems or demonstrates an inability to operate vehicles safely.
 - b) Impairment due to poor eyesight.
 - c) Lack of knowledge of traffic laws and safe driving practices.
 - d) Other factors that may indicate a person constitutes a hazard when operating motor vehicles.

- 3) The individual's license may be seized and forwarded to MVD with the re-examination request in aggravated circumstances.
 - 4) When a driver exhibits behavior indicating they are not safe to drive, they should be warned not to drive.
- e. Possession of Canceled/Fictitious/Altered Driver's License, ARS 28-34781.
- 1) Criminal traffic offense - cite violators.
 - 2) Persons in possession of an altered driver's license are subject to suspension of driving privileges by the Motor Vehicle Division, Department of Transportation.
 - 3) Employees will confiscate all altered driver's licenses, even when an owner of a license was not driving.
 - 4) A General Offense report will be completed and will be used to impound an altered driver license.
 - 5) Owners will be advised to contact the Department of Transportation's Driver's License Office regarding the return of a license.
- f. No Legible Driver's License in Possession, ARS 28-3169A.
- 1) When a driver's license is mutilated or unreadable, owners will be warned.
 - 2) Licenses will be returned to owners with instructions to obtain a duplicate from the Driver's License Office.
- g. Suspended, Revoked or Refused Driver's License Due to Points, Financial Responsibility (FR), Implied Consent, DUI or Civil Sanction, ARS 28-3473A – C.
- 1) Criminal traffic offense - cite and release adult violators who drive on a public highway while their Arizona Driver's License is suspended, revoked, or refused for points, financial responsibility (FR), implied consent, DUI or civil sanction.
 - 2) Seize the driver's license.
 - 3) Complete the appropriate citation(s).

- 4) Seize vehicle under 28-3511 and complete Vehicle Impound Report (see Order 19.211, Vehicle Inventories, Towing & Seizures).
- 5) Place the seized driver's license in the designated storage location in the Hardy bullpen or Apache Sergeant's hallway.
- 6) The Patrol Administrative Officer or designee will collect seized driver's licenses as necessary and transport to the Property Facility for destruction.

h. Status of Suspension or Revoked License Offenders

- 1) Licenses that have been revoked by the Motor Vehicle Department remain revoked until a new license is obtained (ARS 28-3319).
- 2) Suspension of licenses by the Motor Vehicle Department ends upon the passage of the required suspension time, whether or not a reinstatement fee has been paid or a new license obtained, EXCEPT:
 - a) Suspensions as a result of Implied Consent, ARS 28-1321.
 - b) Suspensions in violation of DUI, ARS 28-1381A1 or A2.
 - Reinstatement fees for return of licenses must be paid before a suspension is lifted in these two instances.
- 3) In cases where a suspension period has passed, and the suspension was not for ARS 28-1321 or 28-1381.A1 through A3, and the reinstatement fee has not been paid, violators should be cited for No Valid Arizona Driver's License, ARS 28-3151A.
- 4) When an Arizona Driver's License is suspended, revoked, canceled, or refused in conjunction with a DUI arrest, follow the guidelines enumerated in Tempe Police policy- DUI While License Suspended.
- 5) Cite and release all violators when an Arizona Driver's License or registration is suspended, revoked, canceled, or refused for financial responsibility.
- 6) Cite and release adult and juvenile violators who are driving on an out-of-state driver's license that was suspended, revoked, canceled, or refused for whatever reason.

- 7) Employees should confirm that a violator is aware that the license is invalid and if possible, why it's invalid.
 - 8) When a violator is aware that their out of state driver's license has been invalidated by the issuing state, employees may cite violators for ARS 28-3473A, Driving on a Public Highway while their License is Suspended, Revoked, or Refused for Points, Implied Consent, DUI or Civil Sanction.
 - Do not confiscate the driver's license, however, advise violators that they should not drive.
 - 9) When employees cannot establish that a driver was aware their license was suspended, revoked, canceled, or refused for whatever reason, then they should not cite for ARS 28-3473.A, but should cite violators under ARS 28-3151.A, No Valid Arizona Driver's License.
 - Do not confiscate the driver's license but advise drivers to contact the MVD in their home state reference the validity of their license.
 - 10) The Department of Motor Vehicles has the authority to suspend a violator's privilege to drive, even though the violator may not possess a driver's license.
 - 11) When a computer check shows a violator's privilege to drive suspended for DUI, points, etc., they should be cited for ARS 28-3473A.
 - 12) When a violator is stopped for DUI and a computer check reveals their privilege to drive is suspended, then the standard Department policy should be followed as dealing with any felony DUI violator.
- i. Permitting Unauthorized Minor to Drive, ARS 28-3474.
 - Criminal traffic offense - violators should be cited.
 - j. Permitting Unauthorized Person to Drive, ARS 28-3475.
 - Violators should be cited.
3. Obedience to Police Officer - employees should exercise good judgment when directing, controlling, or instructing the motoring public to obey their commands.
 - a. Obedience to Police Officer, ARS 28-622A.

- Criminal traffic offense - violators should be cited in aggravated instances.

b. Unlawful Flight from Pursuing Law Enforcement Vehicle, ARS 28-622.01.

1) Elements of the offense are:

- a) Any driver of a motor vehicle who;
- b) Willfully flees or attempts to elude a pursuing,
- c) Appropriately marked law enforcement vehicle which is being operated in the manner described in subsection C of ARS 28-624.

2) As with all felonies, a GO number and Form IV will be completed.

3) Reports will include all elements of the offense and the length of the pursuit in miles and time.

4) Employees will document all violations in the report.

5) Misdemeanor traffic violations will be clearly described in the narrative of the report to facilitate the issuance of citations should the County Attorney declines prosecution.

6) Reports will be directed to a Hit & Run Investigator for follow-up and filing.

4. Speeding

- a. Since speed is a major contributor to the severity of many collisions, employees will have a complete and thorough understanding of the codes concerned with speeding.

b. Speed Greater than Reasonable and Prudent, ARS 28-701A.

1) Violators should be cited.

2) When a citation follows a collision, in connection with the failure to control speed so as to avoid a collision, the "lawful speed" box should be marked zero over the posted speed.

3) Speed shall be so controlled as may be necessary to avoid colliding with any object, person, vehicle, or other conveyance on, entering or

adjacent to the highway.

- 4) Property owners sustaining damage can reclaim their loss through civil process.

5. Turning Movements

a. Two-way Left Turn Lanes, ARS 28-751.

- 1) ARS 28-751.4a – States a driver shall not make a left turn from any other lane.
- 2) ARS 28-751.4b – States a driver shall not drive a vehicle in the two-way left turn lane except if preparing for or making a left turn from or into the roadway or if preparing for or making a U-turn if otherwise permitted by law.

b. Violation criteria for two-way left turn lanes:

- 1) Each instance must be looked at as to what is reasonable under the conditions when deciding if a violation is present.
- 2) This will generally be the standard used by the court in deciding if a violation was present.
- 3) A left turn must be made from a two-way left turn lane. If not, it is a violation of ARS 28-7514a.

c. When a collision occurs while a vehicle is traversing an intersection while using the two-way left turn lane, it should be established that the driver's intent was to proceed through the intersection before considering the issuance of a citation for a violation of ARS 28-7514b.

d. Vehicles may use a two-way left turn lane to merge into traffic from a driveway or roadway.

6. Public Carrier/Commercial Vehicle Violations

a. Exceeding Maximum Vehicle Width, ARS 28-1093A.

- Total outside width of a vehicle may not exceed 8 feet unless the driver is in possession of an oversize permit.

b. Exceeding Maximum Vehicle Height, ARS 28-1094A.

- Maximum height of a vehicle shall not exceed 13 feet 6 inches unless the driver is in possession of an oversize permit.

c. Spilling Load on the Roadway, ARS 28-1098A.

- A person transporting cargo on any vehicle must securely fasten it to prevent the load from dropping, sifting, leaking or otherwise escaping from the vehicle.

7. Pedestrian Right-of-Way

a. Pedestrian in Crosswalk, ARS 28-792A.

- Violators should be cited.

b. Passing Vehicle Stopped for Pedestrian, ARS 28-792B.

- Violators should be cited.

c. Pedestrian Crossing Other Than Crosswalk, ARS 28-793A.

- Cite when a collision occurs, or hazard exists.

d. Pedestrians Crossing Between Signalized Intersections, ARS 28-793C.

- Violators should be cited.

e. Pedestrian in School Crossing ARS 28-797.G.

- Violators should be cited.

8. Bicycles - Employees should refer to the Court Appearance Date Card for both adults and juveniles when citing them into Court for bicycle violations.

a. Lamps and Other Required Equipment, ARS 28-817A.

- Cite in collisions or when hazard exists.

b. Riding on Roadway/Bicycle Path, ARS 28-815A.

- Cite in collisions or when hazard exists.

c. Riding on Sidewalk against Traffic, City Code 7-52.

- Cite in collisions or where a hazard exists.

9. Miscellaneous Violations

a. Overtaking/Passing School Bus, ARS 28-857A1.

- A civil traffic offense - cite violators.

b. Crossing Fire Hose, ARS 28-897A.

c. Use of Private Property to Avoid Traffic Control Device, ARS 28-651.

- Cite when violators admit the violation.

d. Special Restrictions on Lamps, ARS 28-947B.

e. Operating a Vehicle without a Fuel Tank Cap, ARS 28-965.

f. Child Passenger Restraint System, ARS 28-907A.

1) A person shall not transport a child under the age of five (5) in a non-commercial motor vehicle on the highway in this state unless the child is properly secured in a child passenger restraint system.

- *Child Passenger Restraint System* – Any infant or child seat that has been federally approved and specifies the manufacturer's recommended maximum height and weight of the user.

2) Exceptions

a) Does not apply when a motor vehicle was originally manufactured without passenger restraint devices.

b) A person transporting more than one child in a motor vehicle, that because of the restricted size of the passenger area does not provide sufficient areas for the required number of restraint devices, shall not be subject to prosecution if at least one child is restrained.

c) A person who operates a motor vehicle that is also a recreational vehicle as defined in section 41-2142.

- d) A person who must transport a child in an emergency to obtain necessary medical services.

3) Enforcement

- a) ARS 28-907 is authorized as a primary reason to stop suspected violators.
- b) In the event a vehicle is stopped for an apparent violation of this section by a law enforcement officer, the officer shall determine from the driver:
 - i. If anyone in the vehicle is a parent, custodian, or guardian of the unrestrained child.
 - ii. Whether the unrestrained child or children in the vehicle are under five (5) years of age.
- c) Employees will cite an operator of a vehicle with violation of ARS 28-907 when a violation is substantiated.

g. Seat/Shoulder Belt Requirement, ARS 28-909A.

- 1) ARS 28-909.A applies to each front seat occupant of a motor vehicle that is designed for carrying 10 or fewer passengers.
 - Vehicle model years 1972 and thereafter are required to be equipped with an integrated lap and shoulder belt or a lap belt, pursuant to Federal Motor Vehicle Standards.
- 2) Front seat occupants shall have a lap and shoulder belt properly adjusted and fastened while the vehicle is in motion.
 - A lap belt fastened when it is all that is installed where the occupant is sitting.
- 3) Operators of motor vehicles are responsible for compliance of those under 16 years of age.
- 4) Exceptions
 - a) A child subject to the requirements of section ARS 28-907A.

- b) Persons possessing a written statement from a physician that they are unable for medical or psychological reasons to wear a shoulder/lap belt.
- c) A letter carrier of the United States Postal Service while they are performing their duties.

5) Enforcement

- a) ARS 28-909 is a secondary violation and violators should not be stopped solely for this offense.
- b) Violators should be cited.

h. Failure to Provide Identification, ARS 28-1595.

- 1) ARS 28-1595A requires drivers to stop for officers giving audible or visual signal.
 - Failure to do so is a class 2 misdemeanor.
- 2) ARS 28-1595.B requires operators of motor vehicles to "exhibit" their operator's license or to provide evidence of their identity on request of a law enforcement officer. Evidence of identity shall contain all of the following information:
 - a) The driver's full name
 - b) The driver's date of birth
 - c) The driver's residence address
 - d) The driver's signature
 - e) A brief physical description of the driver, including sex, weight, height, eye, and hair color
 - Failure to do so is a class 2 misdemeanor.
- 3) ARS 28-1595C requires persons other than a driver of a motor vehicle to provide evidence of their identity to a law enforcement officer on request when an officer has reasonable cause to believe a person has committed a violation of Title 28 (currently ruled unconstitutional by the

Arizona Supreme Court and shall NOT be enforced).

4) Enforcement

- a) In those instances where proof of identification is not produced, an officer should attempt a driver's license check to verify the physical description of a violator.
- b) Other sources, such as checking social security numbers or other forms of identification should be utilized.
- c) When the identity of a violator still cannot be verified, officers may arrest, book, or cite and release a suspect with approval of a supervisor.
- d) When officers can verify identification by means other than the driver's license, it may be feasible to issue a citation for Possession and Display of Driver License, ARS 28-3169A, a civil violation.

i. Mandatory Insurance, ARS 28-4135.

- 1) ARS 28-4135.A requires all motor vehicles that are operated on a highway in Arizona to be covered by insurance.
 - a) This section of the statute may be used to cite a violator that does not have any insurance or insurance for the vehicle.
 - b) This section does not allow for the citation to be dismissed.
 - c) Employees should keep in mind that a driver of a vehicle is not required to have insurance so long as the vehicle is insured and covers anyone who operates the vehicle, or a driver is insured and is covered for any vehicle they drive.
- 2) ARS 28-4135B requires an operator of a motor vehicle on a highway of this state to have evidence within the vehicle of current insurance applicable to the vehicle.
 - a) This section may be used to cite violators for failing to provide proof of insurance.
 - b) This section of the statute may be dismissed by the court when it can be shown the vehicle was insured on the date and time the

citation was issued.

- NOTE: Employees should not have Dispatch telephone an insurance company to verify insurance.

c) Violators will be handled through the City Court.

3) ARS 28-4135C requires all operators of motor vehicles, which were lawfully stopped, to provide evidence of insurance on the request of a law enforcement officer.

a) Employees may use this section of the statute to cite violators for both No Insurance and No Proof of Insurance.

b) This section of the statute also allows for the citation to be dismissed by the court when an operator of a vehicle provides evidence of insurance to the court, showing they were insured on the date and time the citation was issued.

4) The following list includes the most common exceptions to ARS 28-4135 will encounter. Subjects driving these vehicles will not be cited for violation of Arizona's mandatory insurance laws (additional exceptions can be found in ARS 28-4132):

a) Road construction or maintenance machinery (such as rollers and sweepers) temporarily operating on the roadway.

b) Rented motor vehicles.

i. This exception does not apply to leased vehicles (vehicles are typically rented for short periods of time, normally a few days - leases are typically long term).

ii. This exception does not apply when the party supplying the vehicle also supplies the driver, such as with a limousine.

c) Motor vehicles owned by the United States Government.

d) Golf carts used primarily to transport persons around a golf course and only incidentally operated on the roadway.

5) These exceptions DO NOT apply to one trip or general temporary registration issued per ARS 28-2155 or 28-2156, and these drivers must have proof of insurance.