

REFERENCE TITLE: photo enforcement procedures

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

## **SB 1443**

Introduced by  
Senators Gray L: Rios; Representatives Antenori, Barto, Farley, Reagan,  
Stevens

### AN ACT

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

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Transfer and renumber

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

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

7 28-1201. Definition of photo enforcement system

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

10 1. MEANS A DEVICE SUBSTANTIALLY CONSISTING OF A RADAR UNIT OR SENSOR  
11 LINKED TO A CAMERA OR OTHER RECORDING DEVICE THAT PRODUCES ONE OR MORE  
12 PHOTOGRAPHS, MICROPHOTOGRAPHS, VIDEOTAPES OR DIGITAL OR OTHER RECORDED IMAGES  
13 FOR THE PURPOSE OF IDENTIFYING VIOLATORS OF ARTICLES 3 AND 6 OF THIS CHAPTER  
14 AND CHAPTERS 7 AND 9 OF THIS TITLE.

15 2. Includes a state photo enforcement system established pursuant to  
16 section 41-1722.

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

19 28-1203. Photo enforcement system placement; speed limit change

20 A PHOTO ENFORCEMENT SYSTEM SHALL NOT BE PLACED ON A STREET OR HIGHWAY  
21 WITHIN SIX HUNDRED FEET OF A POSTED SPEED LIMIT CHANGE EXCEPT THAT A PHOTO  
22 ENFORCEMENT SYSTEM MAY BE PLACED IN AN AREA AROUND A SCHOOL CROSSING THAT IS  
23 DELINEATED BY SIGNS AS PRESCRIBED BY SECTION 28-797, SUBSECTION D.

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

26 28-1204. Photo enforcement zones; signage; standards; citation  
27 dismissal

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

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

34 1. At least two signs shall be placed in a location before a photo  
35 enforcement system. One sign shall be in a location that is approximately  
36 three hundred feet before the photo enforcement system. Placement of  
37 additional signs shall be more than three hundred feet before a photo  
38 enforcement system to provide reasonable notice to a person that a photo  
39 enforcement system is present and operational.

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

43 ~~2-~~ 3. Signs indicating a photo enforcement system shall be removed or  
44 covered when the photo enforcement system is no longer present or not  
45 operating FOR MORE THAN TWENTY-FOUR HOURS.

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

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

10 E. During the time a vehicle containing photo enforcement equipment is  
11 being used to identify violators of ~~this article and article~~ ARTICLES 3 AND 6  
12 of this chapter AND CHAPTERS 7 AND 9 OF THIS TITLE, the rear of the vehicle  
13 shall be clearly marked to indicate that the vehicle is functioning as a  
14 photo enforcement vehicle. This subsection does not apply to a vehicle that  
15 does not contain ~~a~~ AN AUTOMATED photo enforcement system and that is used by  
16 a law enforcement officer.

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

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

23 28-1205. Photo enforcement systems; limitation on citation  
24 issuance; applicability

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

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

31 1. AN AREA AROUND A SCHOOL CROSSING THAT IS DELINEATED BY SIGNS AS  
32 PRESCRIBED BY SECTION 28-797, SUBSECTION D.

33 2. A STATE HIGHWAY WORK ZONE AS DEFINED IN SECTION 28-652.

34 28-1206. Suspension or revocation of license; photo enforcement  
35 systems

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

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

1           28-1207. Annual report

2           BEGINNING AUGUST 1, 2010 AND ON OR BEFORE AUGUST 1 OF EACH YEAR  
3 THEREAFTER, THE GOVERNOR'S OFFICE OF HIGHWAY SAFETY, IN CONJUNCTION WITH THE  
4 DEPARTMENT OF TRANSPORTATION AND THE DEPARTMENT OF PUBLIC SAFETY, SHALL  
5 SUBMIT A REPORT TO THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE SPEAKER  
6 OF THE HOUSE OF REPRESENTATIVES AND SHALL PROVIDE A COPY OF THIS REPORT TO  
7 THE SECRETARY OF STATE. THIS REPORT SHALL INCLUDE TRAFFIC STATISTICS  
8 RELATING TO THE STATE PHOTO ENFORCEMENT SYSTEM ESTABLISHED PURSUANT TO  
9 SECTION 41-1722 AND SHALL INCLUDE THE TOTAL MONIES RECEIVED FROM CITATIONS OR  
10 NOTICES OF VIOLATION RESULTING FROM THE STATE PHOTO ENFORCEMENT SYSTEM  
11 ESTABLISHED PURSUANT TO SECTION 41-1722.

12           28-1208. Local authorities; law enforcement

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

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

19           28-1592. Commencement of action

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

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

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

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

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

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

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

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

38           28-1593. Service of uniform traffic ticket and complaint

39           A. EXCEPT AS PROVIDED IN SECTION 28-1602, a traffic complaint may be  
40 served by delivering a copy of the uniform traffic **TICKET AND** complaint  
41 ~~citation~~ to the person charged with the violation or by any means authorized  
42 by the rules of civil procedure. At the discretion of the issuing authority,  
43 a complaint for a violation issued after an investigation in conjunction with  
44 a traffic accident may be sent by certified mail, return receipt requested  
45 and delivered to addressee only, to the address provided by the person

1 charged with the violation. Service of the complaint is complete on filing  
2 the receipt in the court having jurisdiction of the violation.

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

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

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

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

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

23 28-1602. Photo enforcement; notice of violation; complaint;  
24 penalties; crimes; definition

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

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

32 C. THE CIVIL PENALTY FOR A UNIFORM TRAFFIC TICKET AND COMPLAINT FILED  
33 OR A NOTICE OF VIOLATION ISSUED PURSUANT TO THE STATE PHOTO ENFORCEMENT  
34 SYSTEM IS ONE HUNDRED SIXTY-FIVE DOLLARS AND IS NOT SUBJECT TO ANY SURCHARGE  
35 EXCEPT THE SURCHARGE IMPOSED BY SECTION 16-954. THE CIVIL PENALTIES SHALL BE  
36 DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE PHOTO ENFORCEMENT  
37 FUND ESTABLISHED BY SECTION 41-1722. A BOARD OF SUPERVISORS MAY ESTABLISH A  
38 PROCESSING FEE TO COVER THE COST OF PROCESSING A PHOTO ENFORCEMENT COMPLAINT.  
39 THE PROCESSING FEE IS NOT SUBJECT TO ANY SURCHARGE.

40 D. THIS SECTION DOES NOT LIMIT EITHER OF THE FOLLOWING:

41 1. THE PENALTIES OR FINES RESULTING FROM CRIMINAL VIOLATIONS DETECTED  
42 BY THE STATE PHOTO ENFORCEMENT SYSTEM.

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

1 E. FOR THE PURPOSES OF THIS SECTION, "STATE PHOTO ENFORCEMENT SYSTEM"  
2 MEANS THE STATE PHOTO ENFORCEMENT SYSTEM ESTABLISHED PURSUANT TO SECTION  
3 41-1722.

4 Sec. 9. Section 41-1722, Arizona Revised Statutes, is amended to read:  
5 41-1722. State photo enforcement system; fund; distribution of  
6 fund monies

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

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

17 ~~C.~~ B. The photo enforcement fund is established consisting of monies  
18 received from ~~citations~~ UNIFORM TRAFFIC TICKETS AND COMPLAINTS FILED or  
19 notices of violation issued pursuant to this section. The director shall  
20 administer the fund. Monies in the fund are subject to legislative  
21 appropriation and, EXCEPT AS PROVIDED IN SUBSECTION C OF THIS SECTION, are  
22 appropriated to the department for administrative and personnel costs of the  
23 state photo enforcement system. Monies remaining in the fund in excess of two  
24 hundred fifty thousand dollars at the end of each calendar quarter shall be  
25 deposited, pursuant to sections 35-146 and 35-147, in the state general fund.

26 ~~D. Notwithstanding any other law, if a person is found responsible for~~  
27 ~~a civil traffic violation or a notice of violation pursuant to a citation~~  
28 ~~issued pursuant to this section, the department of transportation shall not~~  
29 ~~consider the violation for the purpose of determining whether the person's~~  
30 ~~driver license should be suspended or revoked. A court shall only transmit~~  
31 ~~abstracts of records of these violations to the department of transportation~~  
32 ~~for commercial driver license holders.~~

33 C. BEGINNING IN FISCAL YEAR 2011-2012 AND IN EVERY SUBSEQUENT FISCAL  
34 YEAR, THIRTY-FIVE PER CENT OF THE MONIES IN THE FUND AFTER PAYING ALL  
35 EXPENSES AND COURT COSTS THAT COVER THE PROCESSING OF PHOTO ENFORCEMENT  
36 VIOLATIONS AND CITATIONS SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND  
37 35-147, IN THE PUBLIC SAFETY EQUIPMENT FUND ESTABLISHED BY SECTION 41-1723.  
38 MONIES DEPOSITED PURSUANT TO THIS SUBSECTION MAY NOT BE SUPPLANTED.

39 Sec. 10. Repeal; retroactivity

40 A. Laws 2009, third special session, chapter 6, section 31 is  
41 repealed.

42 B. This section is effective retroactively to from and after June 30,  
43 2009.

