

State of Arizona  
Senate  
Forty-eighth Legislature  
First Regular Session  
2007

# SB 1635

Introduced by  
Senators Gorman: Gould

## AN ACT

AMENDING SECTION 28-6501, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 22, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 3; RELATING TO FREEWAY ACCELERATION AND SENSIBLE TRANSPORTATION LANES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 28-6501, Arizona Revised Statutes, is amended to  
3 read:

4 28-6501. Definition of highway user revenues

5 In this article, unless the context otherwise requires or except as  
6 otherwise provided by statute, "highway user revenues" means all monies  
7 received in this state from licenses, taxes, penalties, interest and fees  
8 authorized by the following:

9 1. Chapters 2, 7, 8 and 15 of this title, except for:

10 (a) The special plate administration fees prescribed in sections  
11 28-2404, 28-2412 through 28-2428 and 28-2514.

12 (b) The donations prescribed in sections 28-2404, 28-2412 through  
13 28-2415, 28-2417 through 28-2428, 28-2453, 28-2454 and 28-2455.

14 2. Chapters 10 and 11 of this title.

15 3. Chapter 16, articles 1, 2 and 4 of this title, except as provided  
16 in sections 28-5926 and 28-5927.

17 4. CHAPTER 22, ARTICLE 3 OF THIS TITLE.

18 Sec. 2. Title 28, chapter 22, Arizona Revised Statutes, is amended by  
19 adding article 3, to read:

20 ARTICLE 3. FREEWAY ACCELERATION AND  
21 SENSIBLE TRANSPORTATION LANES

22 28-7771. Contracts; high occupancy vehicle lane conversions

23 A. NOTWITHSTANDING ANY OTHER LAW, ON OR BEFORE JULY 1, 2008, THE  
24 DEPARTMENT SHALL ISSUE A REQUEST FOR PROPOSALS TO PRIVATE ENTITIES FOR THE  
25 PURPOSE OF ENTERING INTO A CONTRACT WITH A PRIVATE ENTITY FOR THE CONVERSION  
26 OF AN EXISTING HIGH OCCUPANCY VEHICLE LANE TO A FREEWAY ACCELERATION AND  
27 SENSIBLE TRANSPORTATION LANE, FOR THE PURPOSE OF CONSTRUCTING NEW FREEWAY  
28 ACCELERATION AND SENSIBLE TRANSPORTATION LANES AND FOR THE PURPOSE OF  
29 ENTERING INTO CONTRACTS FOR THE OPERATION OF THE FREEWAY ACCELERATION AND  
30 SENSIBLE TRANSPORTATION LANES BY PRIVATE ENTITIES. THE DEPARTMENT MAY  
31 CONVERT, CONSTRUCT OR OPERATE OR BOTH CONVERT AND OPERATE OR CONSTRUCT AND  
32 OPERATE THE FREEWAY ACCELERATION AND SENSIBLE TRANSPORTATION LANE IF NO  
33 PROPOSAL BY A PRIVATE ENTITY FOR THE CONVERSION OR OPERATION, OR BOTH, OR  
34 CONSTRUCTION OR OPERATION, OR BOTH, IS ACCEPTABLE.

35 B. A FREEWAY ACCELERATION AND SENSIBLE TRANSPORTATION LANE SHALL BE A  
36 LANE FOR USE BY DRIVERS OF VEHICLES CARRYING FEWER THAN TWO PERSONS IN A HIGH  
37 OCCUPANCY VEHICLE LANE AS PRESCRIBED BY SECTION 28-737 WHO PAY A SPECIFIED  
38 FEE. A PERSON MAY OPERATE A MOTORCYCLE IN A FREEWAY ACCELERATION AND  
39 SENSIBLE TRANSPORTATION LANE WITHOUT PAYING A SPECIFIED FEE UNLESS PROHIBITED  
40 BY OFFICIAL TRAFFIC CONTROL DEVICES.

41 C. ANY CONTRACT ENTERED INTO BETWEEN THE DEPARTMENT AND A PRIVATE  
42 ENTITY SHALL DO ALL OF THE FOLLOWING:

43 1. AUTHORIZE THE PRIVATE ENTITY TO IMPOSE FEES FOR USE OF THE FREEWAY  
44 ACCELERATION AND SENSIBLE TRANSPORTATION LANE.

1           2. REQUIRE THAT OVER THE TERM OF THE CONTRACT ONLY FEE REVENUES BE  
2 APPLIED TO PAYMENT OF THE PRIVATE ENTITY'S CAPITAL OUTLAY COSTS FOR THE  
3 PROJECT, THE COSTS ASSOCIATED WITH OPERATIONS, FEE COLLECTION AND  
4 ADMINISTRATION OF THE FREEWAY ACCELERATION AND SENSIBLE TRANSPORTATION LANE,  
5 IF ANY, AND A REASONABLE RETURN ON INVESTMENT TO THE PRIVATE ENTITY AS  
6 EVIDENCED BY AND CONSISTENT WITH THE RETURNS ON INVESTMENT TO PRIVATE  
7 ENTITIES ON SIMILAR PUBLIC AND PRIVATE PROJECTS.

8           3. NOTWITHSTANDING ANY OTHER LAW, REQUIRE THAT ANY EXCESS FEE REVENUE  
9 EITHER BE APPLIED TO ANY INDEBTEDNESS INCURRED BY THE PRIVATE ENTITY WITH  
10 RESPECT TO THE PROJECT OR BE DEPOSITED IN THE ARIZONA HIGHWAY USER REVENUE  
11 FUND FOR MAINTENANCE AND ENFORCEMENT PURPOSES IN THE FREEWAY ACCELERATION AND  
12 SENSIBLE TRANSPORTATION LANE AND FOR OTHER TRAFFIC CONGESTION RELIEVING  
13 OPTIONS. THE CONTRACT SHALL DEFINE OR PROVIDE A METHOD FOR CALCULATING  
14 EXCESS FEE REVENUES AND SHALL SPECIFY THE AMOUNT OF INDEBTEDNESS THAT THE  
15 PRIVATE ENTITY MAY INCUR AND APPLY EXCESS FEE REVENUES TO BEFORE THE REVENUES  
16 MUST BE DEPOSITED IN THE ARIZONA HIGHWAY USER REVENUE FUND.

17           D. THE DEPARTMENT SHALL NOT ENTER INTO A CONTRACT FOR THE CONVERSION  
18 OF A HIGH OCCUPANCY VEHICLE LANE TO A FREEWAY ACCELERATION AND SENSIBLE  
19 TRANSPORTATION LANE IF THE CONVERSION WILL RESULT IN THE LOSS OR REFUND OF  
20 FEDERAL FUNDS PAYABLE, AVAILABLE OR PAID TO THIS STATE FOR CONSTRUCTION,  
21 RECONSTRUCTION, REPAIRS, IMPROVEMENT, PLANNING, SUPERVISION AND MAINTENANCE  
22 OF THE STATE HIGHWAY SYSTEM AND OTHER PUBLIC HIGHWAYS.

23           28-7772. Variable toll or fee structure

24           THE DEPARTMENT SHALL STRUCTURE A VARIABLE FEE TO ENSURE UNRESTRICTED  
25 ACCESS TO THE LANES AT ALL TIMES BY ELIGIBLE VEHICLES, INCLUDING BUSES,  
26 VEHICLES CARRYING MORE THAN ONE PERSON, ENVIRONMENTAL PROTECTION AGENCY  
27 CERTIFIED LOW-EMITTING VEHICLES WITH A GROSS VEHICLE WEIGHT RATING OVER TEN  
28 THOUSAND POUNDS AND ALTERNATIVE FUEL VEHICLES THAT HAVE BEEN ISSUED  
29 ALTERNATIVE FUEL VEHICLE SPECIAL PLATES OR ALTERNATIVE FUEL VEHICLE STICKERS  
30 PURSUANT TO SECTION 28-2416.

31           28-7773. Bonds

32           THE DEPARTMENT SHALL REQUIRE THE PRIVATE ENTITY ENTERING INTO A  
33 CONTRACT PURSUANT TO THIS ARTICLE TO PROVIDE A PERFORMANCE BOND OR OTHER  
34 SURETY FOR THE PROJECT AS THE DEPARTMENT MAY REASONABLY REQUIRE.

35           28-7774. Physical separation

36           A FREEWAY ACCELERATION AND SENSIBLE TRANSPORTATION LANE MAY BE  
37 PHYSICALLY SEPARATED FROM THE OTHER LANES OF A HIGHWAY TO MINIMIZE THE  
38 INTERFERENCE BETWEEN TRAFFIC IN THE DESIGNATED HIGH OCCUPANCY TOLL LANE AND  
39 TRAFFIC IN THE OTHER LANES.

40           28-7775. Automatic vehicle identification system

41           A. THE DEPARTMENT SHALL DEVELOP AND ADOPT FUNCTIONAL SPECIFICATIONS  
42 AND STANDARDS FOR AN AUTOMATIC VEHICLE IDENTIFICATION SYSTEM FOR USE ON HIGH  
43 OCCUPANCY VEHICLE LANES, FREEWAY ACCELERATION AND SENSIBLE TRANSPORTATION  
44 LANES, ANY PUBLIC HIGHWAY CONSTRUCTED AND OPERATED AND ANY OTHER HIGHWAY  
45 WHERE CHARGES ARE IMPOSED FOR THE PRIVILEGE OF TRAVELING ON THE HIGHWAY.

- 1           B. THE SPECIFICATIONS AND STANDARDS SHALL ENSURE THAT:  
2           1. AUTOMATIC VEHICLE IDENTIFICATION SYSTEMS USED BY THIS STATE, A  
3 MUNICIPALITY OR ANY OTHER ENTITY HAVING JURISDICTION OVER THE HIGHWAY ARE  
4 COMPATIBLE WITH ONE ANOTHER.  
5           2. A VEHICLE OWNER SHALL NOT BE REQUIRED TO PURCHASE OR INSTALL MORE  
6 THAN ONE DEVICE TO USE ALL FEE FACILITIES.  
7           3. FEE FACILITY OPERATORS HAVE THE ABILITY TO SELECT FROM DIFFERENT  
8 MANUFACTURERS AND VENDORS OF AUTOMATIC VEHICLE IDENTIFICATION SYSTEMS.  
9           4. THERE IS COMPATIBILITY BETWEEN ANY AUTOMATIC VEHICLE IDENTIFICATION  
10 SYSTEM IN OPERATION ON THE EFFECTIVE DATE OF THIS ACT AND ANY AUTOMATIC  
11 VEHICLE IDENTIFICATION SYSTEM DESIGNED AND INSTALLED AFTER THE EFFECTIVE DATE  
12 OF THIS ACT.