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REFERENCE TITLE: **bar licenses; firearms; posted notice**

State of Arizona
Senate
Forty-seventh Legislature
First Regular Session
2005

SB 1363

Introduced by
Senators Harper, Arzberger, Johnson; Representatives Pearce, Rosati,
Smith; Senators Blendu, Flake, Gray, Martin, Verschoor; Representatives
Biggs, Burges, Jones, Knaperek, Mason, McLain, Nelson, Nichols,
O'Halleran, Quelland, Stump, Weiers JP

AN ACT

AMENDING TITLE 4, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 4-229; AMENDING SECTIONS 4-244, 4-246, 5-395.03, 28-1321, 28-1385, 28-3320 AND 28-3322, ARIZONA REVISED STATUTES; RELATING TO FIREARMS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 4, chapter 2, article 2, Arizona Revised Statutes, is
3 amended by adding section 4-229, to read:

4 4-229. On-sale retailers; firearms; prohibition; posting of
5 notice

6 A. AN ON-SALE RETAIL LICENSEE MAY POST A NOTICE PROHIBITING THE
7 POSSESSION OF A FIREARM ON THE ENTIRE LICENSED PREMISES OR ON A PORTION OF
8 THE LICENSED PREMISES. A NOTICE PROHIBITING POSSESSION OF A FIREARM ON THE
9 ENTIRE LICENSED PREMISES SHALL BE CONSPICUOUSLY POSTED AT THE PRIMARY PUBLIC
10 ENTRANCE TO THE LICENSED PREMISES IN A POSITION THAT ASSURES IT IS LIKELY TO
11 BE READ. A NOTICE PROHIBITING POSSESSION OF A FIREARM ON A PORTION OF THE
12 LICENSED PREMISES SHALL BE CONSPICUOUSLY POSTED IN THE PROHIBITED PORTION OF
13 THE PREMISES IN A POSITION THAT ASSURES IT IS LIKELY TO BE READ.

14 B. THE NOTICE ALLOWED BY SUBSECTION A PROHIBITING THE POSSESSION OF A
15 FIREARM ON THE ENTIRE LICENSED PREMISES SHALL STATE "THIS PREMISES IS POSTED
16 PURSUANT TO A.R.S. SECTION 4-229". THE NOTICE ALLOWED BY SUBSECTION A
17 PROHIBITING THE POSSESSION OF A FIREARM ON A PORTION OF THE LICENSED PREMISES
18 SHALL STATE "THIS PORTION OF THE PREMISES IS POSTED PURSUANT TO A.R.S.
19 SECTION 4-229". IN EACH NOTICE THE WORDS "A.R.S. SECTION 4-229" SHALL BE IN
20 AT LEAST SEVENTY-TWO POINT TYPE.

21 Sec. 2. Section 4-244, Arizona Revised Statutes, is amended to read:

22 4-244. Unlawful acts

23 It is unlawful:

24 1. For a person to buy for resale, sell or deal in spirituous liquors
25 in this state without first having procured a license duly issued by the
26 board.

27 2. For a person to sell or deal in alcohol for beverage purposes
28 without first complying with this title.

29 3. For a distiller, vintner, brewer or wholesaler knowingly to sell,
30 dispose of or give spirituous liquor to any person other than a licensee
31 except in sampling wares as may be necessary in the ordinary course of
32 business, except in donating spirituous liquor to a nonprofit organization
33 which has obtained a special event license for the purpose of charitable fund
34 raising activities or except in donating spirituous liquor with a cost to the
35 distiller, brewer or wholesaler of up to one hundred dollars in a calendar
36 year to an organization that is exempt from federal income taxes under
37 section 501(c) of the internal revenue code and not licensed under this
38 title.

39 4. For a distiller, vintner or brewer to require a wholesaler to offer
40 or grant a discount to a retailer, unless the discount has also been offered
41 and granted to the wholesaler by the distiller, vintner or brewer.

42 5. For a distiller, vintner or brewer to use a vehicle for trucking or
43 transportation of spirituous liquors unless there is affixed to both sides of
44 the vehicle a sign showing the name and address of the licensee and the type
45 and number of the person's license in letters not less than three and
46 one-half inches in height.

1 6. For a person to take or solicit orders for spirituous liquors
2 unless the person is a salesman or solicitor of a licensed wholesaler, a
3 salesman or solicitor of a distiller, brewer, vintner, importer or broker or
4 a registered retail agent.

5 7. For any retail licensee to purchase spirituous liquors from any
6 person other than a solicitor or salesman of a wholesaler licensed in this
7 state.

8 8. For a retailer to acquire an interest in property owned, occupied
9 or used by a wholesaler in his business, or in a license with respect to the
10 premises of the wholesaler.

11 9. Except as provided in paragraphs 10 and 11 of this section, for a
12 licensee or other person to sell, furnish, dispose of or give, or cause to be
13 sold, furnished, disposed of or given, to a person under the legal drinking
14 age or for a person under the legal drinking age to buy, receive, have in the
15 person's possession or consume spirituous liquor. This paragraph shall not
16 prohibit the employment by an off-sale retailer of persons who are at least
17 sixteen years of age to check out, if supervised by a person on the premises
18 who is at least nineteen years of age, package or carry merchandise,
19 including spirituous liquor, in unbroken packages, for the convenience of the
20 customer of the employer, if the employer sells primarily merchandise other
21 than spirituous liquor.

22 10. For a licensee to employ a person under the age of nineteen years
23 to manufacture, sell or dispose of spirituous liquors. This paragraph shall
24 not prohibit the employment by an off-sale retailer of persons who are at
25 least sixteen years of age to check out, if supervised by a person on the
26 premises who is at least nineteen years of age, package or carry merchandise,
27 including spirituous liquor, in unbroken packages, for the convenience of the
28 customer of the employer, if the employer sells primarily merchandise other
29 than spirituous liquor.

30 11. For an on-sale retailer to employ a person under the age of
31 nineteen years in any capacity connected with the handling of spirituous
32 liquors. This paragraph does not prohibit the employment by an on-sale
33 retailer of a person under the age of nineteen years who cleans up the tables
34 on the premises for reuse, removes dirty dishes, keeps a ready supply of
35 needed items and helps clean up the premises.

36 12. For a licensee, when engaged in waiting on or serving customers, to
37 consume spirituous liquor or for a licensee or on-duty employee to be on or
38 about the licensed premises while in an intoxicated or disorderly condition.

39 13. For an employee of a retail licensee, during that employee's
40 working hours or in connection with such employment, to give to or purchase
41 for any other person, accept a gift of, purchase for himself or consume
42 spirituous liquor, except that an employee of a licensee, during that
43 employee's working hours or in connection with the employment, while the
44 employee is not engaged in waiting on or serving customers, may give
45 spirituous liquor to or purchase spirituous liquor for any other person. An
46 unpaid volunteer who is a bona fide member of a club and who is not engaged

1 in waiting on or serving spirituous liquor to customers may purchase for
2 himself and consume spirituous liquor while participating in a scheduled
3 event at the club. An unpaid participant in a food competition may purchase
4 for himself and consume spirituous liquor while participating in the food
5 competition.

6 14. For a licensee or other person to serve, sell or furnish spirituous
7 liquor to a disorderly or obviously intoxicated person, or for a licensee or
8 employee of the licensee to allow or permit a disorderly or obviously
9 intoxicated person to come into or remain on or about the premises, except
10 that a licensee or an employee of the licensee may allow an obviously
11 intoxicated person to remain on the premises for a period of time of not to
12 exceed thirty minutes after the state of obvious intoxication is known or
13 should be known to the licensee in order that a nonintoxicated person may
14 transport the obviously intoxicated person from the premises. For purposes
15 of this section, "obviously intoxicated" means inebriated to the extent that
16 a person's physical faculties are substantially impaired and the impairment
17 is shown by significantly uncoordinated physical action or significant
18 physical dysfunction that would have been obvious to a reasonable person.

19 15. For an on-sale or off-sale retailer or an employee of such retailer
20 to sell, dispose of, deliver or give spirituous liquor to a person between
21 the hours of 2:00 a.m. and 6:00 a.m. on weekdays, and 2:00 a.m. and 10:00
22 a.m. on Sundays.

23 16. For a licensee or employee to knowingly permit any person on or
24 about the licensed premises to give or furnish any spirituous liquor to any
25 person under the age of twenty-one or knowingly permit any person under the
26 age of twenty-one to have in the person's possession spirituous liquor on the
27 licensed premises.

28 17. For an on-sale retailer or an employee of such retailer to allow a
29 person to consume or possess spirituous liquors on the premises between the
30 hours of 2:30 a.m. and 6:00 a.m. on weekdays, and 2:30 a.m. and 10:00 a.m.
31 on Sundays.

32 18. For an on-sale retailer to permit an employee or for an employee to
33 solicit or encourage others, directly or indirectly, to buy the employee
34 drinks or anything of value in the licensed premises during the employee's
35 working hours. No on-sale retailer shall serve employees or allow a patron
36 of the establishment to give spirituous liquor to, purchase liquor for or
37 drink liquor with any employee during the employee's working hours.

38 19. For an off-sale retailer or employee to sell spirituous liquor
39 except in the original unbroken container, to permit spirituous liquor to be
40 consumed on the premises or to knowingly permit spirituous liquor to be
41 consumed on adjacent property under the licensee's exclusive control.

42 20. For a person to consume spirituous liquor in a public place,
43 thoroughfare or gathering. The license of a licensee permitting a violation
44 of this paragraph on the premises shall be subject to revocation. This
45 paragraph does not apply to the sale of spirituous liquors on the premises of
46 and by an on-sale retailer. This paragraph also does not apply to a person

1 consuming beer from a broken package in a public recreation area or on
2 private property with permission of the owner or lessor or on the walkways
3 surrounding such private property.

4 21. For a person to have possession of or to transport spirituous
5 liquor which is manufactured in a distillery, winery, brewery or rectifying
6 plant contrary to the laws of the United States and this state. Any property
7 used in transporting such spirituous liquor shall be forfeited to the state
8 and shall be seized and disposed of as provided in section 4-221.

9 22. For an on-sale retailer or employee to allow a person under the
10 legal drinking age to remain in an area on the licensed premises during those
11 hours in which its primary use is the sale, dispensing or consumption of
12 alcoholic beverages after the licensee, or the licensee's employees, know or
13 should have known that the person is under the legal drinking age. An
14 on-sale retailer may designate an area of the licensed premises as an area in
15 which spirituous liquor will not be sold or consumed for the purpose of
16 allowing underage persons on the premises if the designated area is separated
17 by a physical barrier and at no time will underage persons have access to the
18 area in which spirituous liquor is sold or consumed. The director, or a
19 municipality, may adopt rules to regulate the presence of underage persons on
20 licensed premises provided the rules adopted by a municipality are more
21 stringent than those adopted by the director. The rules adopted by the
22 municipality shall be adopted by local ordinance. This paragraph does not
23 apply:

24 (a) If the person under the legal drinking age is accompanied by a
25 spouse, parent or legal guardian of legal drinking age or is an on-duty
26 employee of the licensee.

27 (b) If the owner, lessee or occupant of the premises is a club as
28 defined in section 4-101, paragraph 7, subdivision (a) and the person under
29 the legal drinking age is any of the following:

30 (i) An active duty military service member.

31 (ii) A veteran.

32 (iii) A member of the United States army national guard or the United
33 States air national guard.

34 (iv) A member of the United States military reserve forces.

35 (c) To the area of the premises used primarily for the serving of food
36 during the hours when food is served.

37 23. For an on-sale retailer or employee to conduct drinking contests,
38 to sell or deliver to a person an unlimited number of spirituous liquor
39 beverages during any set period of time for a fixed price, to deliver more
40 than thirty-two ounces of beer, one liter of wine or four ounces of distilled
41 spirits in any spirituous liquor drink to one person at one time for that
42 person's consumption or to advertise any practice prohibited by this
43 paragraph.

44 24. For a licensee or employee to knowingly permit the unlawful
45 possession, use, sale or offer for sale of narcotics, dangerous drugs or
46 marijuana on the premises.

1 25. For a licensee or employee to knowingly permit prostitution or the
2 solicitation of prostitution on the premises.

3 26. For a licensee or employee to knowingly permit unlawful gambling on
4 the premises.

5 27. For a licensee or employee to knowingly permit trafficking or
6 attempted trafficking in stolen property on the premises.

7 28. For a licensee or employee to fail or refuse to make the premises
8 or records available for inspection and examination as provided in this title
9 or to comply with a lawful subpoena issued under this title.

10 29. For any person other than a peace officer, the licensee or an
11 employee of the licensee acting with the permission of the licensee to be in
12 possession of a firearm while on the licensed premises, **OR APPLICABLE PORTION**
13 **OF THE LICENSED PREMISES**, of an on-sale retailer ~~knowing~~ **WHO HAS POSTED A**
14 **NOTICE PURSUANT TO SECTION 4-229 IF THE PERSON KNOWS** such possession is
15 prohibited. This paragraph shall not be construed to include a situation in
16 which a person is on licensed premises for a limited time in order to seek
17 emergency aid and such person does not buy, receive, consume or possess
18 spirituous liquor. This paragraph shall not apply to hotel or motel guest
19 room accommodations nor to the exhibition or display of a firearm in
20 conjunction with a meeting, show, class or similar event.

21 30. For ~~a~~ **AN ON-SALE RETAIL** licensee or employee to knowingly permit a
22 person in possession of a firearm other than a peace officer, the licensee or
23 an employee of the licensee acting with the permission of the licensee to
24 remain on the licensed premises, **OR APPLICABLE PORTION OF THE LICENSED**
25 **PREMISES, POSTED PURSUANT TO SECTION 4-229** or to serve, sell or furnish
26 spirituous liquor to a person in possession of a firearm while on the
27 licensed premises, ~~of an on-sale retailer~~ **OR APPLICABLE PORTION OF THE**
28 **LICENSED PREMISES, POSTED PURSUANT TO SECTION 4-229**. This paragraph shall
29 not apply to hotel or motel guest room accommodations nor to the exhibition
30 or display of a firearm in conjunction with a meeting, show, class or similar
31 event. It shall be a defense to action under this paragraph if the licensee
32 or employee requested assistance of a peace officer to remove such person.

33 **31. FOR ANY PERSON IN POSSESSION OF A FIREARM WHILE ON THE LICENSED**
34 **PREMISES TO CONSUME SPIRITUOUS LIQUOR. THIS PARAGRAPH DOES NOT APPLY TO**
35 **HOTEL OR MOTEL GUEST ROOM ACCOMMODATIONS OR TO THE EXHIBITION OR DISPLAY OF A**
36 **FIREARM IN CONJUNCTION WITH A MEETING, SHOW, CLASS OR SIMILAR EVENT.**

37 ~~31-~~ 32. For a licensee or employee to knowingly permit spirituous
38 liquor to be removed from the licensed premises, except in the original
39 unbroken package. This paragraph shall not apply to a person who removes a
40 bottle of wine which has been partially consumed in conjunction with a
41 purchased meal from the licensed premises if the cork is reinserted flush
42 with the top of the bottle.

43 ~~32-~~ 33. For a person who is obviously intoxicated to buy or attempt to
44 buy spirituous liquor from a licensee or employee of a licensee or to consume
45 spirituous liquor on licensed premises.

1 ~~33.~~ 34. For a person under the age of twenty-one years to drive or be
2 in physical control of a motor vehicle while there is any spirituous liquor
3 in the person's body.

4 ~~34.~~ 35. For a person under the age of twenty-one years to operate or
5 be in physical control of a motorized watercraft that is underway while there
6 is any spirituous liquor in the person's body. For the purposes of this
7 paragraph, "underway" has the same meaning prescribed in section 5-301.

8 ~~35.~~ 36. For a licensee, manager, employee or controlling person to
9 purposely induce a voter, by means of alcohol, to vote or abstain from voting
10 for or against a particular candidate or issue on an election day.

11 ~~36.~~ 37. For a licensee to fail to report an occurrence of an act of
12 violence to either the department or a law enforcement agency.

13 ~~37.~~ 38. For a licensee to use a vending machine for the purpose of
14 dispensing spirituous liquor.

15 ~~38.~~ 39. For a licensee to offer for sale a wine carrying a label
16 including a reference to Arizona or any Arizona city, town or geographic
17 location unless at least seventy-five per cent by volume of the grapes used
18 in making the wine were grown in Arizona.

19 ~~39.~~ 40. For a retailer to knowingly allow a customer to bring
20 spirituous liquor onto the licensed premises, except that an on-sale retailer
21 may allow a wine and food club to bring wine onto the premises for
22 consumption by the club's members and guests of the club's members in
23 conjunction with meals purchased at a meeting of the club that is conducted
24 on the premises and that at least seven members attend. An on-sale retailer
25 who allows wine and food clubs to bring wine onto its premises under this
26 paragraph shall comply with all applicable provisions of this title and any
27 rules adopted pursuant to this title to the same extent as if the on-sale
28 retailer had sold the wine to the members of the club and their guests. For
29 the purposes of this paragraph, "wine and food club" means an association
30 that has more than twenty bona fide members paying at least six dollars per
31 year in dues and that has been in existence for at least one year.

32 ~~40.~~ 41. For a person under the age of twenty-one years to have in the
33 person's body any spirituous liquor. In a prosecution for a violation of
34 this paragraph:

35 (a) Pursuant to section 4-249, it is a defense that the spirituous
36 liquor was consumed in connection with the bona fide practice of a religious
37 belief or as an integral part of a religious exercise and in a manner not
38 dangerous to public health or safety.

39 (b) Pursuant to section 4-226, it is a defense that the spirituous
40 liquor was consumed for a bona fide medicinal purpose and in a manner not
41 dangerous to public health or safety.

42 Sec. 3. Section 4-246, Arizona Revised Statutes, is amended to read:

43 4-246. Violation; classification

44 A. A person violating any provision of this title is guilty of a class
45 2 misdemeanor unless another classification is prescribed.

1 B. A person violating section 4-244, paragraph 9, 14 or ~~33~~ 34 is
2 guilty of a class 1 misdemeanor.

3 Sec. 4. Section 5-395.03, Arizona Revised Statutes, is amended to
4 read:

5 5-395.03. Test for alcohol concentration or drug content;
6 refusal; civil penalty

7 A. Any person who operates a motorized watercraft that is underway
8 within this state shall submit, subject to section 4-244, paragraph ~~34~~ 35,
9 section 5-395 or section 5-396, to a test or tests of the person's blood,
10 breath, urine or other bodily substance for the purpose of determining
11 alcohol concentration or drug content if the person is arrested for any
12 offense arising out of acts alleged to have been committed in violation of
13 this chapter or section 4-244, paragraph ~~34~~ 35 while the person was operating
14 or in actual physical control of a motorized watercraft that was underway
15 while under the influence of intoxicating liquor or drugs. The test or tests
16 chosen by the law enforcement agency shall be administered at the direction
17 of a law enforcement officer having reasonable grounds to believe the person
18 to have been operating or in actual physical control of a motorized
19 watercraft that is underway within this state while under the influence of
20 intoxicating liquor or drugs, or if the person is under twenty-one years of
21 age, with spirituous liquor in the person's body.

22 B. Following an arrest a violator shall be requested to submit to and
23 successfully complete any test or tests prescribed by subsection A of this
24 section, and if the violator refuses the violator shall be informed that the
25 violator is subject to a civil penalty.

26 C. A person who refuses any test or tests prescribed by subsection A
27 of this section is subject to a civil penalty of seven hundred fifty dollars
28 and shall pay an additional civil penalty of five hundred dollars. ~~to~~ THE
29 ADDITIONAL CIVIL PENALTY OF FIVE HUNDRED DOLLARS SHALL be deposited by the
30 state treasurer in the prison construction and operations fund established by
31 section 41-1651. ~~The additional civil penalty of five hundred dollars~~ AND is
32 not subject to any surcharge. If the additional civil penalty is imposed by
33 the superior court or a justice court, the court shall transmit the amount
34 collected for the additional civil penalty to the county treasurer. If the
35 additional civil penalty is imposed by a municipal court, the court shall
36 transmit the amount collected for the additional civil penalty to the city
37 treasurer. The city or county treasurer shall transmit the monies received
38 pursuant to this subsection to the state treasurer.

39 D. If a person under arrest refuses to submit to the test designated
40 by the law enforcement agency as provided in subsection A of this section
41 none shall be given, except as provided in section 5-395, subsection J or
42 pursuant to a search warrant.

43 Sec. 5. Section 28-1321, Arizona Revised Statutes, is amended to read:
44 28-1321. Implied consent; tests; refusal to submit to test;
45 order of suspension; hearing; review; temporary
46 permit; notification of suspension

1 A. A person who operates a motor vehicle in this state gives consent,
2 subject to section 4-244, paragraph ~~33~~ 34 or section 28-1381, 28-1382 or
3 28-1383, to a test or tests of the person's blood, breath, urine or other
4 bodily substance for the purpose of determining alcohol concentration or drug
5 content if the person is arrested for any offense arising out of acts alleged
6 to have been committed in violation of this chapter or section 4-244,
7 paragraph ~~33~~ 34 while the person was driving or in actual physical control of
8 a motor vehicle while under the influence of intoxicating liquor or drugs.
9 The test or tests chosen by the law enforcement agency shall be administered
10 at the direction of a law enforcement officer having reasonable grounds to
11 believe that the person was driving or in actual physical control of a motor
12 vehicle in this state either:

13 1. While under the influence of intoxicating liquor or drugs.

14 2. If the person is under twenty-one years of age, with spirituous
15 liquor in the person's body.

16 B. After an arrest a violator shall be requested to submit to and
17 successfully complete any test or tests prescribed by subsection A of this
18 section, and if the violator refuses the violator shall be informed that the
19 violator's license or permit to drive will be suspended or denied for twelve
20 months, or for two years for a second or subsequent refusal within a period
21 of sixty months, unless the violator expressly agrees to submit to and
22 successfully completes the test or tests. A failure to expressly agree to
23 the test or successfully complete the test is deemed a refusal. The violator
24 shall also be informed that if the test results show a blood or breath
25 alcohol concentration of 0.08 or more, or if the results show a blood or
26 breath alcohol concentration of 0.04 or more and the violator was driving or
27 in actual physical control of a commercial motor vehicle, the violator's
28 license or permit to drive will be suspended or denied for not less than
29 ninety consecutive days.

30 C. A person who is dead, unconscious or otherwise in a condition
31 rendering the person incapable of refusal is deemed not to have withdrawn the
32 consent provided by subsection A of this section and the test or tests may be
33 administered, subject to section 4-244, paragraph ~~33~~ 34 or section 28-1381,
34 28-1382 or 28-1383.

35 D. If a person under arrest refuses to submit to the test designated
36 by the law enforcement agency as provided in subsection A of this section:

37 1. The test shall not be given, except as provided in section 28-1388,
38 subsection E or pursuant to a search warrant.

39 2. The law enforcement officer directing the administration of the
40 test shall:

41 (a) File a certified report of the refusal with the department.

42 (b) On behalf of the department, serve an order of suspension on the
43 person that is effective fifteen days after the date the order is served.

44 (c) Require the immediate surrender of any license or permit to drive
45 that is issued by this state and that is in the possession or control of the
46 person.

1 (d) If the license or permit is not surrendered, state the reason why
2 it is not surrendered.

3 (e) If a valid license or permit is surrendered, issue a temporary
4 driving permit that is valid for fifteen days.

5 (f) Forward the certified report of refusal, a copy of the completed
6 notice of suspension, a copy of any completed temporary permit and any driver
7 license or permit taken into possession under this section to the department
8 within five days after the issuance of the notice of suspension.

9 E. The certified report is subject to the penalty for perjury as
10 prescribed by section 28-1561 and shall state all of the following:

11 1. The officer's reasonable grounds to believe that the arrested
12 person was driving or in actual physical control of a motor vehicle in this
13 state either:

14 (a) While under the influence of intoxicating liquor or drugs.

15 (b) If the person is under twenty-one years of age, with spirituous
16 liquor in the person's body.

17 2. The manner in which the person refused to submit to the test or
18 tests.

19 3. That the person was advised of the consequences of refusal.

20 F. On receipt of the certified report of refusal and a copy of the
21 order of suspension and on the effective date stated on the order, the
22 department shall enter the order of suspension on its records unless a
23 written request for a hearing as provided in this section has been filed by
24 the accused person. If the department receives only the certified report of
25 refusal, the department shall notify the person named in the report in
26 writing sent by mail that:

27 1. Fifteen days after the date of issuance of the notice the
28 department will suspend the person's license or permit, driving privilege or
29 nonresident driving privilege.

30 2. The department will provide an opportunity for a hearing if the
31 person requests a hearing in writing and the request is received by the
32 department within fifteen days after the notice is sent.

33 G. The order of suspension issued by a law enforcement officer or the
34 department under this section shall notify the person that:

35 1. The person may submit a written request for a hearing.

36 2. The request for a hearing must be received by the department within
37 fifteen days after the date of the notice or the order of suspension will
38 become final.

39 3. The affected person's license or permit to drive or right to apply
40 for a license or permit or any nonresident operating privilege will be
41 suspended for twelve months from that date or for two years from that date
42 for a second or subsequent refusal within a period of sixty months.

43 H. The order for suspension shall:

44 1. Be accompanied by printed forms that are ready to mail to the
45 department and that may be filled out and signed by the person to indicate
46 the person's desire for a hearing.

1 2. Advise the person that unless the person has surrendered any driver
2 license or permit issued by this state the person's hearing request will not
3 be accepted, except that the person may certify pursuant to section 28-3170
4 that the license or permit is lost or destroyed.

5 I. On the receipt of a request for a hearing, the department shall set
6 the hearing within thirty days in the county in which the person named in the
7 report resides unless the law enforcement agency filing the certified report
8 of refusal pursuant to subsection D of this section requests at the time of
9 its filing that the hearing be held in the county where the refusal occurred.

10 J. A timely request for a hearing stays the suspension until a hearing
11 is held, except that the department shall not return any surrendered license
12 or permit to the person but may issue temporary permits to drive that expire
13 no later than when the department has made its final decision. If the person
14 is a resident without a license or permit or has an expired license or
15 permit, the department may allow the person to apply for a license or
16 permit. If the department determines the person is otherwise entitled to the
17 license or permit, the department shall issue and retain a license or permit
18 subject to this section.

19 K. Hearings requested under this section shall be conducted in the
20 same manner and under the same conditions as provided in section
21 28-3306. For the purposes of this section, the scope of the hearing shall
22 include only the issues of whether:

23 1. A law enforcement officer had reasonable grounds to believe that
24 the person was driving or was in actual physical control of a motor vehicle
25 in this state either:

26 (a) While under the influence of intoxicating liquor or drugs.

27 (b) If the person is under twenty-one years of age, with spirituous
28 liquor in the person's body.

29 2. The person was placed under arrest.

30 3. The person refused to submit to the test.

31 4. The person was informed of the consequences of refusal.

32 L. If the department determines at the hearing to suspend the affected
33 person's privilege to operate a motor vehicle, the suspension provided in
34 this section is effective fifteen days after giving written notice of the
35 suspension, except that the department may issue or extend a temporary
36 license that expires on the effective date of the suspension. If the person
37 is a resident without a license or permit or has an expired license or permit
38 to operate a motor vehicle in this state, the department shall deny to the
39 person the issuance of a license or permit for a period of twelve months
40 after the order of suspension becomes effective or for a period of two years
41 after the order of suspension becomes effective for a second or subsequent
42 refusal within a period of sixty months.

43 M. If the suspension order is sustained after the hearing, a motion
44 for rehearing is not required. Within thirty days after a suspension order
45 is sustained, the affected person may file a petition in the superior court
46 to review the final order of suspension or denial by the department in the

1 same manner provided in section 28-3317. The court shall hear the review of
2 the final order of suspension or denial on an expedited basis.

3 N. If the suspension or determination that there should be a denial of
4 issuance is not sustained, the ruling is not admissible in and has no effect
5 on any administrative, civil or criminal court proceeding.

6 O. If it has been determined under the procedures of this section that
7 a nonresident's privilege to operate a motor vehicle in this state has been
8 suspended, the department shall give information in writing of the action
9 taken to the motor vehicle administrator of the state of the person's
10 residence and of any state in which the person has a license.

11 Sec. 6. Section 28-1385, Arizona Revised Statutes, is amended to read:
12 28-1385. Administrative license suspension for driving under
13 the influence; report; hearing; summary review

14 A. A law enforcement officer shall forward to the department a
15 certified report as prescribed in subsection B of this section, subject to
16 the penalty for perjury prescribed by section 28-1561, if both of the
17 following occur:

18 1. The officer arrests a person for a violation of section 4-244,
19 paragraph ~~33~~ 34, section 28-1381, section 28-1382 or section 28-1383.

20 2. The person submits to a blood or breath alcohol test permitted by
21 section 28-1321, the results of which indicate either:

22 (a) 0.08 or more alcohol concentration in the person's blood or
23 breath.

24 (b) 0.04 or more alcohol concentration in the person's blood or breath
25 if the person was driving or in actual physical control of a commercial motor
26 vehicle.

27 B. The officer shall make the certified report required by subsection
28 A of this section on forms supplied or approved by the department. The
29 report shall state information that is relevant to the enforcement action,
30 including:

31 1. Information that adequately identifies the arrested person.

32 2. A statement of the officer's grounds for belief that the person was
33 driving or in actual physical control of a motor vehicle in violation of
34 section 4-244, paragraph ~~33~~ 34, section 28-1381 or section 28-1382.

35 3. A statement that the person was arrested for a violation of section
36 4-244, paragraph ~~33~~ 34, section 28-1381, section 28-1382 or section 28-1383.

37 4. A report of the results of the chemical test that was administered.

38 C. The officer shall also serve an order of suspension on the person
39 on behalf of the department. The order of suspension:

40 1. Is effective fifteen days after the date it is served.

41 2. Shall require the immediate surrender of any license or permit to
42 drive that is issued by this state and that is in the possession or control
43 of the person.

44 3. Shall contain information concerning the right to a summary review
45 and hearing, including information concerning the hearing as required by
46 section 28-1321, subsections G and H.

1 4. Shall be accompanied by printed forms ready to mail to the
2 department that the person may fill out and sign to indicate the person's
3 desire for a hearing.

4 5. Shall be entered on the department's records on receipt of the
5 report by the officer and a copy of the order of suspension.

6 D. If the license or permit is not surrendered pursuant to subsection
7 C of this section, the officer shall state the reason for the
8 nonsurrender. If a valid license or permit is surrendered, the officer shall
9 issue a temporary driving permit that is valid for fifteen days. The officer
10 shall forward a copy of the completed order of suspension, a copy of any
11 completed temporary permit and any driver license or permit taken into
12 possession under this section to the department within five days after the
13 issuance of the order of suspension along with the report.

14 E. The department shall suspend the affected person's license or
15 permit to drive or right to apply for a license or permit or any nonresident
16 operating privilege for not less than ninety consecutive days from that date.

17 F. Notwithstanding subsections A through E of this section, the
18 department shall suspend the driving privileges of the person described in
19 subsection A of this section for not less than thirty consecutive days and
20 shall restrict the driving privileges of the person for not less than sixty
21 consecutive additional days to travel between the person's place of
22 employment and residence and during specified periods of time while at
23 employment, to travel between the person's place of residence and the
24 person's secondary or postsecondary school, according to the person's
25 employment or educational schedule, to travel between the person's place of
26 residence and the office of the person's probation officer for scheduled
27 appointments or to travel between the person's place of residence and a
28 treatment facility for scheduled appointments if the person:

29 1. Did not cause serious physical injury as defined in section 13-105
30 to another person during the course of conduct out of which the current
31 action arose.

32 2. Has not been convicted of a violation of section 28-1381, 28-1382
33 or 28-1383 within sixty months of the date of commission of the acts out of
34 which the current action arose. The dates of commission of the acts are the
35 determining factor in applying the sixty month provision.

36 3. Has not had the person's privilege to drive suspended pursuant to
37 this section or section 28-1321 within sixty months of the date of commission
38 of the acts out of which the current action arose.

39 G. If the department receives only the report of the results of the
40 blood or breath alcohol test and the results indicate 0.08 or more alcohol
41 concentration in the person's blood or breath, or show a blood or breath
42 alcohol concentration of 0.04 or more and the person was driving or in actual
43 physical control of a commercial motor vehicle, the department shall notify
44 the person named in the report in writing sent by mail that fifteen days
45 after the date of issuance of the notice the department will suspend the
46 person's license or permit, driving privilege or nonresident driving

1 privilege. The notice shall also state that the department will provide an
2 opportunity for a hearing and administrative review if the person requests a
3 hearing or review in writing and the request is received by the department
4 within fifteen days after the notice is sent.

5 H. A timely request for a hearing stays the suspension until a hearing
6 is held, except that the department shall not return any surrendered license
7 or permit to the person but may issue temporary permits to drive that expire
8 no later than when the department has made its final decision. If the person
9 is a resident without a license or permit or has an expired license or
10 permit, the department may allow the person to apply for a license or
11 permit. If the department determines the person is otherwise entitled to the
12 license or permit, the department shall issue, but retain, the license or
13 permit, subject to this section. All hearings requested under this section
14 shall be conducted in the same manner and under the same conditions as
15 provided in section 28-3306.

16 I. For the purposes of this section, the scope of the hearing shall
17 include only the following issues:

18 1. Whether the officer had reasonable grounds to believe the person
19 was driving or was in actual physical control of a motor vehicle while under
20 the influence of intoxicating liquor.

21 2. Whether the person was placed under arrest for a violation of
22 section 4-244, paragraph ~~33~~ 34, section 28-1381, section 28-1382 or section
23 28-1383.

24 3. Whether a test was taken, the results of which indicated the
25 alcohol concentration in the person's blood or breath at the time the test
26 was administered of either:

27 (a) 0.08 or more.

28 (b) 0.04 or more if the person was driving or in actual physical
29 control of a commercial motor vehicle.

30 4. Whether the testing method used was valid and reliable.

31 5. Whether the test results were accurately evaluated.

32 J. The results of the blood or breath alcohol test shall be admitted
33 on establishing the requirements in section 28-1323 or 28-1326.

34 K. If the department determines at the hearing to suspend the affected
35 person's privilege to operate a motor vehicle, the suspension provided in
36 this section is effective fifteen days after giving written notice of the
37 suspension, except that the department may issue or extend a temporary
38 license that expires on the effective date of the suspension. If the person
39 is a resident without a license or permit or has an expired license or permit
40 to operate a motor vehicle in this state, the department shall deny the
41 issuance of a license or permit to the person for not less than ninety
42 consecutive days.

43 L. A person may apply for a summary review of an order issued pursuant
44 to this section instead of a hearing at any time before the effective date of
45 the order. The person shall submit the application in writing to any
46 department driver license examining office together with any written

1 explanation as to why the department should not suspend the driving
2 privilege. The agent of the department receiving the notice shall issue to
3 the person an additional driving permit that expires twenty days from the
4 date the request is received. The department shall review all reports
5 submitted by the officer and any written explanation submitted by the person
6 and shall determine if the order of suspension should be sustained or
7 cancelled. The department shall not hold a hearing, and the review is not
8 subject to title 41, chapter 6. The department shall notify the person of
9 its decision before the temporary driving permit expires.

10 M. If the suspension or determination that there should be a denial of
11 issuance is not sustained after a hearing or review, the ruling is not
12 admissible in and does not have any effect on any civil or criminal court
13 proceeding.

14 N. If it has been determined under the procedures of this section that
15 a nonresident's privilege to operate a motor vehicle in this state has been
16 suspended, the department shall give information in writing of the action
17 taken to the motor vehicle administrator of the state of the person's
18 residence and of any state in which the person has a license.

19 Sec. 7. Section 28-3320, Arizona Revised Statutes, is amended to read:
20 28-3320. Suspension of license for persons under eighteen years
21 of age; notice; definition

22 A. In addition to the grounds for mandatory revocation provided for in
23 chapters 3, 4 and 5 of this title, the department shall immediately suspend
24 the driver license or privilege to drive or refuse to issue a driver license
25 or privilege to drive of a person who commits an offense while under eighteen
26 years of age as follows:

27 1. For a period of two years on receiving the record of the person's
28 conviction for a violation of section 4-244, paragraph ~~33~~ 34, section
29 28-1381 or section 28-1382.

30 2. For a period of three years on receiving the record of the person's
31 conviction for a violation of section 28-1383.

32 3. Until the person's eighteenth birthday on receiving the record of
33 the person's conviction for a violation of section 13-1602, subsection A,
34 paragraph 1 or section 13-1604, subsection A involving the damage or
35 disfigurement of property by graffiti.

36 4. Until the person's eighteenth birthday on receiving the record of
37 the person's conviction of criminal damage pursuant to section 13-1602,
38 subsection A, paragraph 5 or a violation of a city or town ordinance that
39 prohibits the type of criminal action prescribed in section 13-1602,
40 subsection A, paragraph 5.

41 5. Until the person's eighteenth birthday on receiving the record of
42 the person's conviction for a violation of any statute or ordinance involving
43 the purchase or possession of materials used for graffiti.

44 6. Until the person's eighteenth birthday on receiving the record of
45 the person's conviction for a violation of any provision of title 13,
46 chapter 34.

1 7. Until the person's eighteenth birthday or for a period of two years
2 on receiving the record of the person's conviction for a second or subsequent
3 violation of section 4-244, paragraph 9, if ordered by the court.

4 8. Until the person's eighteenth birthday on receiving the record of
5 the person's conviction of theft of a motor vehicle pursuant to section
6 13-1802, unlawful use of means of transportation pursuant to section 13-1803
7 or theft of means of transportation pursuant to section 13-1814.

8 B. If ordered by the court, the department shall restrict the person's
9 privilege to drive between the person's home, school and place of employment
10 during specified periods of time according to the person's school and
11 employment schedule.

12 C. For the purposes of this section, "conviction" means a final
13 conviction or judgment, including an order of the juvenile court finding that
14 a juvenile violated any provision of this title or committed a delinquent act
15 that if committed by an adult would constitute a criminal offense.

16 Sec. 8. Section 28-3322, Arizona Revised Statutes, is amended to read:
17 28-3322. Suspension of license for persons eighteen, nineteen
18 and twenty years of age; definition

19 A. In addition to the grounds for mandatory revocation provided for in
20 chapters 3, 4 and 5 of this title, the department shall immediately suspend
21 the driver license or privilege to drive or refuse to issue a driver license
22 or privilege to drive of a person who commits a violation of section 4-244,
23 paragraph ~~33~~ 34 while the person is eighteen, nineteen or twenty years of age
24 on receipt of the record of the person's conviction for a violation of
25 section 4-244, paragraph ~~33~~ 34 for a period of two years.

26 B. If ordered by the court, the department shall restrict the person's
27 privilege to drive between the person's home, school and place of employment
28 during specified periods of time according to the person's school and
29 employment schedule.

30 C. For the purposes of this section, "conviction" means a final
31 conviction or judgment, including an order of the juvenile court finding that
32 a juvenile violated any provision of this title or committed a delinquent act
33 that if committed by an adult would constitute a criminal offense.