

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

SENATE BILL 1582

AN ACT

AMENDING SECTIONS 28-1304 AND 28-1321, ARIZONA REVISED STATUTES; AMENDING SECTION 28-1381, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2007, CHAPTER 219, SECTION 1; AMENDING SECTION 28-1382, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2007, CHAPTER 219, SECTION 2; AMENDING SECTIONS 28-1383, 28-1385, 28-1387, 28-1402 AND 28-1403, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 3, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-1445; AMENDING SECTIONS 28-1461, 28-1463 AND 28-1464, ARIZONA REVISED STATUTES; AMENDING SECTION 28-3319, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2007, CHAPTER 219, SECTION 3; AMENDING SECTION 28-3512, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 11, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-4848; MAKING AN APPROPRIATION; RELATING TO DRIVING UNDER THE INFLUENCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 28-1304, Arizona Revised Statutes, is amended to
3 read:

4 28-1304. Driving under the influence abatement fund

5 A. The driving under the influence abatement fund is established
6 consisting of monies deposited pursuant to section 28-1382, subsection D,
7 paragraph 3 and subsection F, paragraph 3, ~~and~~ section 28-1383, subsection J,
8 paragraph 2 **AND SECTION 28-1461.**

9 B. The oversight council on driving or operating under the influence
10 abatement established by section 28-1303 shall administer the fund.

11 C. Twenty-five per cent of the monies deposited in the fund shall be
12 used for grants for innovative programs pursuant to section 28-1303,
13 subsection H, paragraph 2 and seventy per cent of the monies deposited in the
14 fund shall be used for grants to political subdivisions and tribal
15 governments pursuant to section 28-1303, subsection H, paragraph 1.

16 D. Not more than five per cent of the monies deposited in the fund
17 shall be used for both of the following:

18 1. Administrative purposes of the oversight council on driving or
19 operating under the influence abatement.

20 2. Payment of the costs of notification prescribed by section 28-1467.

21 E. Monies in the fund are:

22 1. Continuously appropriated.

23 2. Exempt from the provisions of section 35-190 relating to lapsing of
24 appropriations.

25 F. On notice from the oversight council on driving or operating under
26 the influence abatement, the state treasurer shall invest and divest monies
27 in the fund as provided in section 35-313, and monies earned from investments
28 shall be credited to the fund.

29 Sec. 2. Section 28-1321, Arizona Revised Statutes, is amended to read:

30 28-1321. Implied consent; tests; refusal to submit to test;
31 order of suspension; hearing; review; temporary
32 permit; notification of suspension; special ignition
33 interlock restricted driver license

34 A. A person who operates a motor vehicle in this state gives consent,
35 subject to section 4-244, paragraph 33 or section 28-1381, 28-1382 or
36 28-1383, to a test or tests of the person's blood, breath, urine or other
37 bodily substance for the purpose of determining alcohol concentration or drug
38 content if the person is arrested for any offense arising out of acts alleged
39 to have been committed in violation of this chapter or section 4-244,
40 paragraph 33 while the person was driving or in actual physical control of a
41 motor vehicle while under the influence of intoxicating liquor or drugs. The
42 test or tests chosen by the law enforcement agency shall be administered at
43 the direction of a law enforcement officer having reasonable grounds to
44 believe that the person was driving or in actual physical control of a motor
45 vehicle in this state either:

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

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

4 B. After an arrest a violator shall be requested to submit to and
5 successfully complete any test or tests prescribed by subsection A of this
6 section, and if the violator refuses the violator shall be informed that the
7 violator's license or permit to drive will be suspended or denied for twelve
8 months, or for two years for a second or subsequent refusal within a period
9 of eighty-four months, unless the violator expressly agrees to submit to and
10 successfully completes the test or tests. A failure to expressly agree to
11 the test or successfully complete the test is deemed a refusal. The violator
12 shall also be informed that if the test results show a blood or breath
13 alcohol concentration of 0.08 or more, or if the results show a blood or
14 breath alcohol concentration of 0.04 or more and the violator was driving or
15 in actual physical control of a commercial motor vehicle, the violator's
16 license or permit to drive will be suspended or denied for not less than
17 ninety consecutive days. **THE VIOLATOR SHALL ALSO BE INFORMED THAT THE
18 VIOLATOR'S DRIVING PRIVILEGE, LICENSE OR PERMIT OR RIGHT TO APPLY FOR A
19 LICENSE OR PERMIT OR ANY NONRESIDENT OPERATING PRIVILEGE TO OPERATE A MOTOR
20 VEHICLE MAY BE ISSUED OR REINSTATED FOLLOWING THE PERIOD OF SUSPENSION ONLY
21 IF THE VIOLATOR COMPLETES AN ALCOHOL OR OTHER DRUG SCREENING, EDUCATION OR
22 TREATMENT PROGRAM THAT IS ORDERED BY THE DEPARTMENT AND THE VIOLATOR IS IN
23 COMPLIANCE WITH ANY ORDER ISSUED BY THE DEPARTMENT FOR THE INSTALLATION AND
24 USE OF A CERTIFIED IGNITION INTERLOCK DEVICE PURSUANT TO THIS CHAPTER.**

25 C. A person who is dead, unconscious or otherwise in a condition
26 rendering the person incapable of refusal is deemed not to have withdrawn the
27 consent provided by subsection A of this section and the test or tests may be
28 administered, subject to section 4-244, paragraph 33 or section 28-1381,
29 28-1382 or 28-1383.

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

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

34 2. The law enforcement officer directing the administration of the
35 test shall:

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

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

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

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

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

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

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

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

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

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

13 2. The manner in which the person refused to submit to the test or
14 tests.

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

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

23 1. Fifteen days after the date of issuance of the notice the
24 department will suspend the person's license or permit, driving privilege or
25 nonresident driving privilege.

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

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

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

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

35 3. The affected person's license or permit to drive or right to apply
36 for a license or permit or any nonresident operating privilege will be
37 suspended for twelve months from that date or for two years from that date
38 for a second or subsequent refusal within a period of eighty-four months.

39 4. THE AFFECTED PERSON'S DRIVING PRIVILEGE, ANY LICENSE OR PERMIT OR
40 RIGHT TO APPLY FOR A LICENSE OR PERMIT OR ANY NONRESIDENT OPERATING PRIVILEGE
41 WILL REMAIN SUSPENDED OR DENIED UNLESS THE VIOLATOR COMPLETES AN ALCOHOL OR
42 OTHER DRUG SCREENING, EDUCATION OR TREATMENT PROGRAM THAT IS ORDERED BY THE
43 DEPARTMENT AND COMPLIES WITH ANY ORDER THAT IS ISSUED BY THE DEPARTMENT FOR
44 THE INSTALLATION AND USE OF A CERTIFIED IGNITION INTERLOCK DEVICE PURSUANT TO
45 THIS CHAPTER.

1 H. The order for suspension shall:

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

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

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

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

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

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

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

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

33 2. The person was placed under arrest.

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

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

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

1 refusal within a period of eighty-four months, AND MAY REINSTATE THE PERSON'S
2 PRIVILEGE TO DRIVE, LICENSE OR PERMIT OR RIGHT TO APPLY FOR A LICENSE OR
3 PERMIT OR ANY NONRESIDENT OPERATING PRIVILEGE FOLLOWING THE PERIOD OF
4 SUSPENSION ONLY IF THE VIOLATOR COMPLETES AN ALCOHOL OR OTHER DRUG SCREENING,
5 EDUCATION OR TREATMENT PROGRAM THAT IS ORDERED BY THE DEPARTMENT AND COMPLIES
6 WITH ANY ORDER THAT IS ISSUED BY THE DEPARTMENT FOR THE INSTALLATION AND USE
7 OF A CERTIFIED IGNITION INTERLOCK DEVICE PURSUANT TO THIS CHAPTER.

8 M. If the suspension order is sustained after the hearing, a motion
9 for rehearing is not required. Within thirty days after a suspension order
10 is sustained, the affected person may file a petition in the superior court
11 to review the final order of suspension or denial by the department in the
12 same manner provided in section 28-3317. The court shall hear the review of
13 the final order of suspension or denial on an expedited basis.

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

17 O. If it has been determined under the procedures of this section that
18 a nonresident's privilege to operate a motor vehicle in this state has been
19 suspended, the department shall give information EITHER in writing OR BY
20 ELECTRONIC MEANS of the action taken to the motor vehicle administrator of
21 the state of the person's residence and of any state in which the person has
22 a license.

23 P. After completing not less than ninety consecutive days of the
24 period of suspension required by this section AND ANY ALCOHOL OR OTHER DRUG
25 SCREENING, EDUCATION OR TREATMENT PROGRAM THAT IS ORDERED BY THE DEPARTMENT
26 PURSUANT TO THIS CHAPTER, a person whose driving privilege is suspended
27 pursuant to this section may apply to the department for a special ignition
28 interlock restricted driver license pursuant to section 28-1401. Unless the
29 certified ignition interlock period is extended by the department pursuant to
30 section ~~28-1402~~ 28-1461, a person who is issued a special ignition interlock
31 restricted driver license as provided in this subsection shall maintain a
32 functioning certified ignition interlock device in compliance with this
33 chapter during the remaining period of the suspension prescribed by this
34 section. This subsection does not apply to a person whose driving privilege
35 is suspended for a second or subsequent refusal within a period of
36 eighty-four months or a person who within a period of eighty-four months has
37 been convicted of a second or subsequent violation of article 3 of this
38 chapter or section 4-244, paragraph 33 or an act in another jurisdiction that
39 if committed in this state would be a violation of article 3 of this chapter
40 or section 4-244, paragraph 33.

1 Sec. 3. Section 28-1381, Arizona Revised Statutes, as amended by Laws
2 2007, chapter 219, section 1, is amended to read:

3 28-1381. Driving or actual physical control while under the
4 influence; trial by jury; presumptions; admissible
5 evidence; sentencing; classification

6 A. It is unlawful for a person to drive or be in actual physical
7 control of a vehicle in this state under any of the following circumstances:

8 1. While under the influence of intoxicating liquor, any drug, a vapor
9 releasing substance containing a toxic substance or any combination of
10 liquor, drugs or vapor releasing substances if the person is impaired to the
11 slightest degree.

12 2. If the person has an alcohol concentration of 0.08 or more within
13 two hours of driving or being in actual physical control of the vehicle and
14 the alcohol concentration results from alcohol consumed either before or
15 while driving or being in actual physical control of the vehicle.

16 3. While there is any drug defined in section 13-3401 or its
17 metabolite in the person's body.

18 4. If the vehicle is a commercial motor vehicle that requires a person
19 to obtain a commercial driver license as defined in section 28-3001 and the
20 person has an alcohol concentration of 0.04 or more.

21 5. COMMITTS A VIOLATION OF PARAGRAPH 1, 2, 3 OR 4 OF THIS SUBSECTION
22 WHILE COMMITTING A CIVIL OR CRIMINAL TRAFFIC MOVING VIOLATION PURSUANT TO
23 CHAPTER 3, ARTICLES 2 THROUGH 12 AND 15 OF THIS TITLE OR A LOCAL CIVIL
24 TRAFFIC ORDINANCE RELATING TO THE SAME SUBJECT MATTER AND THE MOVING
25 VIOLATION RESULTS IN AN ACCIDENT INVOLVING PHYSICAL INJURY THAT REQUIRES
26 TREATMENT BY A HEALTH PROFESSIONAL AS DEFINED IN SECTION 32-3201 OR PROPERTY
27 DAMAGE.

28 B. It is not a defense to a charge of a violation of subsection A,
29 paragraph 1 of this section that the person is or has been entitled to use
30 the drug under the laws of this state.

31 C. A person who is convicted of a violation of this section is guilty
32 of a class 1 misdemeanor.

33 D. A person using a drug prescribed by a medical practitioner licensed
34 pursuant to title 32, chapter 7, 11, 13 or 17 is not guilty of violating
35 subsection A, paragraph 3 of this section.

36 E. In any prosecution for a violation of this section, the state shall
37 allege, for the purpose of classification and sentencing pursuant to this
38 section, all prior convictions of violating this section, section 28-1382 or
39 section 28-1383 occurring within the past ~~thirty-six~~ EIGHTY-FOUR months,
40 unless there is an insufficient legal or factual basis to do so.

41 F. At the arraignment, the court shall:

42 1. Inform the defendant that the defendant may request a trial by jury
43 and that the request, if made, shall be granted.

44 2. DETERMINE WHETHER THE PERSON'S RELEASE CONDITIONS SHOULD REQUIRE NO
45 ALCOHOL CONSUMPTION.

1 3. DETERMINE WHETHER THE PERSON'S RELEASE CONDITIONS SHOULD INCLUDE
2 CONTINUOUS ALCOHOL MONITORING OR A MINIMUM OF TWICE DAILY ALCOHOL TESTING.

3 G. In a trial, action or proceeding for a violation of this section or
4 section 28-1383 other than a trial, action or proceeding involving driving or
5 being in actual physical control of a commercial vehicle, the defendant's
6 alcohol concentration within two hours of the time of driving or being in
7 actual physical control as shown by analysis of the defendant's blood, breath
8 or other bodily substance gives rise to the following presumptions:

9 1. If there was at that time 0.05 or less alcohol concentration in the
10 defendant's blood, breath or other bodily substance, it may be presumed that
11 the defendant was not under the influence of intoxicating liquor.

12 2. If there was at that time in excess of 0.05 but less than 0.08
13 alcohol concentration in the defendant's blood, breath or other bodily
14 substance, that fact shall not give rise to a presumption that the defendant
15 was or was not under the influence of intoxicating liquor, but that fact may
16 be considered with other competent evidence in determining the guilt or
17 innocence of the defendant.

18 3. If there was at that time 0.08 or more alcohol concentration in the
19 defendant's blood, breath or other bodily substance, it may be presumed that
20 the defendant was under the influence of intoxicating liquor.

21 H. Subsection G of this section does not limit the introduction of any
22 other competent evidence bearing on the question of whether or not the
23 defendant was under the influence of intoxicating liquor.

24 I. A person who is convicted of a violation of this section:

25 1. Shall be sentenced to serve not less than ten consecutive days in
26 jail and is not eligible for probation or suspension of execution of sentence
27 unless the entire sentence is served.

28 2. Shall pay a fine of not less than two hundred fifty dollars.

29 3. May be ordered by a court to perform community restitution.

30 4. Shall pay an additional assessment of five hundred dollars to be
31 deposited by the state treasurer in the prison construction and operations
32 fund established by section 41-1651. This assessment is not subject to any
33 surcharge. If the conviction occurred in the superior court or a justice
34 court, the court shall transmit the assessed monies to the county treasurer.
35 If the conviction occurred in a municipal court, the court shall transmit the
36 assessed monies to the city treasurer. The city or county treasurer shall
37 transmit the monies received to the state treasurer.

38 5. Shall pay an additional assessment of five hundred dollars to be
39 deposited by the state treasurer in the state general fund. This assessment
40 is not subject to any surcharge. If the conviction occurred in the superior
41 court or a justice court, the court shall transmit the assessed monies to the
42 county treasurer. If the conviction occurred in a municipal court, the court
43 shall transmit the assessed monies to the city treasurer. The city or county
44 treasurer shall transmit the monies received to the state treasurer.

1 6. BEGINNING NOVEMBER 15, 2007, shall be required by the department,
2 on report of ~~the~~ A conviction PURSUANT TO SUBSECTION A, PARAGRAPH 5 OF THIS
3 SECTION, to equip any motor vehicle the person operates with a certified
4 ignition interlock device pursuant to section 28-3319. In addition, the
5 court may order the person to equip any motor vehicle the person operates
6 with a certified ignition interlock device for more than ~~twelve~~ SIX months
7 beginning on the date of reinstatement of the person's driving privilege
8 following a suspension or revocation or on the date of the department's
9 receipt of the report of conviction, whichever occurs later. The person who
10 operates a motor vehicle with a certified ignition interlock device under
11 this paragraph shall comply with article 5 of this chapter.

12 J. Notwithstanding subsection I, paragraph 1 of this section, at the
13 time of sentencing the judge may suspend all but twenty-four consecutive
14 hours of the sentence if the person completes a court OR DEPARTMENT ordered
15 alcohol or other drug screening, education or treatment program AND, IF
16 ORDERED BY THE COURT, THE PERSON DOES NOT CONSUME ALCOHOL FOR A PERIOD OF AT
17 LEAST THIRTY DAYS OR MORE AS DEMONSTRATED THROUGH CONTINUOUS ALCOHOL
18 MONITORING OR TWICE DAILY ALCOHOL TESTING. THE COURT MAY EXTEND THE PERIOD
19 OF CONTINUOUS ALCOHOL MONITORING. If the person fails to complete the court
20 OR DEPARTMENT ordered alcohol or other drug screening, education or treatment
21 program OR VIOLATES THE COURT ORDER TO NOT CONSUME ALCOHOL and has not been
22 placed on probation, the court shall issue an order to show cause to the
23 defendant as to why the remaining jail sentence should not be served.

24 K. If within a period of eighty-four months a person is convicted of a
25 second violation of this section or is convicted of a violation of this
26 section and has previously been convicted of a violation of section 28-1382
27 or 28-1383 or an act in another jurisdiction that if committed in this state
28 would be a violation of this section or section 28-1382 or 28-1383, the
29 person:

30 1. Shall be sentenced to serve not less than ninety days in jail,
31 thirty days of which shall be served consecutively, and is not eligible for
32 probation or suspension of execution of sentence unless the entire sentence
33 has been served.

34 2. Shall pay a fine of not less than five hundred dollars.

35 3. Shall be ordered by a court to perform at least thirty hours of
36 community restitution.

37 4. Shall have the person's driving privilege revoked for one
38 year. The court shall report the conviction to the department. On receipt
39 of the report, the department shall revoke the person's driving privilege and
40 shall require the person to equip any motor vehicle the person operates with
41 a certified ignition interlock device pursuant to section 28-3319. In
42 addition, the court may order the person to equip any motor vehicle the
43 person operates with a certified ignition interlock device for more than
44 twelve months beginning on the date of reinstatement of the person's driving
45 privilege following a suspension or revocation or on the date of the

1 department's receipt of the report of conviction, whichever occurs later.
2 The person who operates a motor vehicle with a certified ignition interlock
3 device under this paragraph shall comply with article 5 of this chapter.

4 5. Shall pay an additional assessment of one thousand two hundred
5 fifty dollars to be deposited by the state treasurer in the prison
6 construction and operations fund established by section 41-1651. This
7 assessment is not subject to any surcharge. If the conviction occurred in
8 the superior court or a justice court, the court shall transmit the assessed
9 monies to the county treasurer. If the conviction occurred in a municipal
10 court, the court shall transmit the assessed monies to the city
11 treasurer. The city or county treasurer shall transmit the monies received
12 to the state treasurer.

13 6. Shall pay an additional assessment of one thousand two hundred
14 fifty dollars to be deposited by the state treasurer in the state general
15 fund. This assessment is not subject to any surcharge. If the conviction
16 occurred in the superior court or a justice court, the court shall transmit
17 the assessed monies to the county treasurer. If the conviction occurred in a
18 municipal court, the court shall transmit the assessed monies to the city
19 treasurer. The city or county treasurer shall transmit the monies received
20 to the state treasurer.

21 L. Notwithstanding subsection K, paragraph 1 of this section, at the
22 time of sentencing, the judge may suspend all but thirty days of the sentence
23 if the person completes a court OR DEPARTMENT ordered alcohol or other drug
24 screening, education or treatment program AND, IF ORDERED BY THE COURT, THE
25 PERSON DOES NOT CONSUME ALCOHOL FOR A PERIOD OF AT LEAST THIRTY DAYS OR MORE
26 AS DEMONSTRATED THROUGH CONTINUOUS ALCOHOL MONITORING OR TWICE DAILY ALCOHOL
27 TESTING. THE COURT MAY EXTEND THE PERIOD OF CONTINUOUS ALCOHOL MONITORING.
28 If the person fails to complete the court OR DEPARTMENT ordered alcohol or
29 other drug screening, education or treatment program OR VIOLATES THE COURT
30 ORDER TO NOT CONSUME ALCOHOL and has not been placed on probation, the court
31 shall issue an order to show cause as to why the remaining jail sentence
32 should not be served.

33 M. In applying the eighty-four month provision of subsection K of this
34 section, the dates of the commission of the offense shall be the determining
35 factor, irrespective of the sequence in which the offenses were committed.

36 N. A second violation for which a conviction occurs as provided in
37 this section shall not include a conviction for an offense arising out of the
38 same series of acts.

39 Sec. 4. Section 28-1382, Arizona Revised Statutes, as amended by Laws
40 2007, chapter 219, section 2, is amended to read:

41 28-1382. Driving or actual physical control while under the
42 extreme influence of intoxicating liquor; trial by
43 jury; sentencing; classification

44 A. It is unlawful for a person to drive or be in actual physical
45 control of a vehicle in this state if the person has an alcohol concentration

1 ~~of 0.15 or more~~ AS FOLLOWS within two hours of driving or being in actual
2 physical control of the vehicle and the alcohol concentration results from
3 alcohol consumed either before or while driving or being in actual physical
4 control of the vehicle:

- 5 1. 0.15 OR MORE BUT LESS THAN 0.20.
- 6 2. 0.20 OR MORE.

7 B. A person who is convicted of a violation of this section is guilty
8 of driving or being in actual physical control of a vehicle while under the
9 extreme influence of intoxicating liquor.

10 C. At the arraignment, the court shall:

11 1. Inform the defendant that the defendant may request a trial by jury
12 and that the request, if made, shall be granted.

13 2. DETERMINE WHETHER THE PERSON'S RELEASE CONDITIONS SHOULD REQUIRE NO
14 ALCOHOL CONSUMPTION.

15 3. DETERMINE WHETHER THE PERSON'S RELEASE CONDITIONS SHOULD INCLUDE
16 CONTINUOUS ALCOHOL MONITORING OR A MINIMUM OF TWICE DAILY ALCOHOL TESTING.

17 D. A person who is convicted of a violation of this section:

18 1. ~~Except as otherwise provided in this paragraph,~~ Shall be sentenced
19 to serve not less than thirty consecutive days in jail and is not eligible
20 for probation or suspension of execution of sentence unless the entire
21 sentence is served IF THE PERSON IS CONVICTED OF A VIOLATION OF SUBSECTION A,
22 PARAGRAPH 1 OF THIS SECTION. A person who ~~has an alcohol concentration of~~
23 ~~0.20 or more~~ IS CONVICTED OF A VIOLATION OF SUBSECTION A, PARAGRAPH 2 OF THIS
24 SECTION shall be sentenced to serve not less than forty-five consecutive days
25 in jail and is not eligible for probation or suspension of execution of
26 sentence unless the entire sentence is served.

27 2. Shall pay a fine of not less than two hundred fifty dollars, except
28 that a person who has an alcohol concentration of 0.20 or more shall pay a
29 fine of not less than five hundred dollars. The fine prescribed in this
30 paragraph and any assessments, restitution and incarceration costs shall be
31 paid before the assessment prescribed in paragraph 3 of this subsection.

32 3. Shall pay an additional assessment of two hundred fifty dollars. If
33 the conviction occurred in the superior court or a justice court, the court
34 shall transmit the monies received pursuant to this paragraph to the county
35 treasurer. If the conviction occurred in a municipal court, the court shall
36 transmit the monies received pursuant to this paragraph to the city
37 treasurer. The city or county treasurer shall transmit the monies received
38 to the state treasurer. The state treasurer shall deposit the monies
39 received in the driving under the influence abatement fund established by
40 section 28-1304.

41 4. May be ordered by a court to perform community restitution.

42 5. Shall be required by the department, on receipt of the report of
43 conviction, to equip any motor vehicle the person operates with a certified
44 ignition interlock device pursuant to section 28-3319. In addition, the
45 court may order the person to equip any motor vehicle the person operates

1 with a certified ignition interlock device for more than twelve months
2 beginning on the date of reinstatement of the person's driving privilege
3 following a suspension or revocation or on the date of the department's
4 receipt of the report of conviction, whichever occurs later. The person who
5 operates a motor vehicle with a certified ignition interlock device under
6 this paragraph shall comply with article 5 of this chapter.

7 6. Shall pay an additional assessment of one thousand dollars to be
8 deposited by the state treasurer in the prison construction and operations
9 fund established by section 41-1651. This assessment is not subject to any
10 surcharge. If the conviction occurred in the superior court or a justice
11 court, the court shall transmit the assessed monies to the county treasurer.
12 If the conviction occurred in a municipal court, the court shall transmit the
13 assessed monies to the city treasurer. The city or county treasurer shall
14 transmit the monies received to the state treasurer.

15 7. Shall pay an additional assessment of one thousand dollars to be
16 deposited by the state treasurer in the state general fund. This assessment
17 is not subject to any surcharge. If the conviction occurred in the superior
18 court or a justice court, the court shall transmit the assessed monies to the
19 county treasurer. If the conviction occurred in a municipal court, the court
20 shall transmit the assessed monies to the city treasurer. The city or county
21 treasurer shall transmit the monies received to the state treasurer.

22 E. ~~Notwithstanding subsection D, paragraph 1 of this section,~~ FOR A
23 CONVICTION PURSUANT TO SUBSECTION D OF THIS SECTION, at the time of
24 sentencing ~~if the person has an alcohol concentration of less than 0.20,~~ the
25 judge may ~~suspend all but ten days of the sentence if the person completes a~~
26 ~~court ordered alcohol or other drug screening, education or treatment~~
27 ~~program. If the person fails to complete the court ordered alcohol or other~~
28 ~~drug screening, education or treatment program and has not been placed on~~
29 ~~probation, the court shall issue an order to show cause to the defendant as~~
30 ~~to why the remaining jail sentence should not be served~~ ORDER THE PERSON TO
31 NOT CONSUME ALCOHOL FOR A PERIOD OF THIRTY DAYS OR MORE AS DEMONSTRATED
32 THROUGH CONTINUOUS ALCOHOL MONITORING OR TWICE DAILY ALCOHOL TESTING. THE
33 COURT MAY EXTEND THE PERIOD OF CONTINUOUS ALCOHOL MONITORING.

34 F. If within a period of eighty-four months a person is convicted of a
35 second violation of this section or is convicted of a violation of this
36 section and has previously been convicted of a violation of section 28-1381
37 or 28-1383 or an act in another jurisdiction that if committed in this state
38 would be a violation of this section or section 28-1381 or 28-1383, the
39 person:

40 1. ~~Except as otherwise provided in this paragraph,~~ Shall be sentenced
41 to serve not less than one hundred twenty days in jail, sixty days of which
42 shall be served consecutively, and is not eligible for probation or
43 suspension of execution of sentence unless the entire sentence has been
44 served IF THE PERSON IS CONVICTED OF A VIOLATION OF SUBSECTION A, PARAGRAPH 1
45 OF THIS SECTION. A person who ~~has an alcohol concentration of 0.20 or more~~

1 IS CONVICTED OF A VIOLATION OF SUBSECTION A, PARAGRAPH 2 OF THIS SECTION
2 shall be sentenced to serve not less than one hundred eighty days in jail,
3 ninety of which shall be served consecutively, and is not eligible for
4 probation or suspension of execution of sentence unless the entire sentence
5 has been served.

6 2. Shall pay a fine of not less than five hundred dollars, except that
7 a person who has an alcohol concentration of 0.20 or more shall pay a fine of
8 not less than one thousand dollars. The fine prescribed in this paragraph
9 and any assessments, restitution and incarceration costs shall be paid before
10 the assessment prescribed in paragraph 3 of this subsection.

11 3. Shall pay an additional assessment of two hundred fifty dollars.
12 If the conviction occurred in the superior court or a justice court, the
13 court shall transmit the monies received pursuant to this paragraph to the
14 county treasurer. If the conviction occurred in a municipal court, the court
15 shall transmit the monies received pursuant to this paragraph to the city
16 treasurer. The city or county treasurer shall transmit the monies received
17 to the state treasurer. The state treasurer shall deposit the monies
18 received in the driving under the influence abatement fund established by
19 section 28-1304.

20 4. Shall be ordered by a court to perform at least thirty hours of
21 community restitution.

22 5. Shall have the person's driving privilege revoked for at least one
23 year. The court shall report the conviction to the department. On receipt
24 of the report, the department shall revoke the person's driving privilege and
25 shall require the person to equip any motor vehicle the person operates with
26 a certified ignition interlock device pursuant to section 28-3319. In
27 addition, the court may order the person to equip any motor vehicle the
28 person operates with a certified ignition interlock device for more than
29 twelve months beginning on the date of reinstatement of the person's driving
30 privilege following a suspension or revocation or on the date of the
31 department's receipt of the report of conviction, whichever is later. The
32 person who operates a motor vehicle with a certified ignition interlock
33 device under this paragraph shall comply with article 5 of this chapter.

34 6. Shall pay an additional assessment of one thousand two hundred
35 fifty dollars to be deposited by the state treasurer in the prison
36 construction and operations fund established by section 41-1651. This
37 assessment is not subject to any surcharge. If the conviction occurred in
38 the superior court or a justice court, the court shall transmit the assessed
39 monies to the county treasurer. If the conviction occurred in a municipal
40 court, the court shall transmit the assessed monies to the city treasurer.
41 The city or county treasurer shall transmit the monies received to the state
42 treasurer.

43 7. Shall pay an additional assessment of one thousand two hundred
44 fifty dollars to be deposited by the state treasurer in the state general
45 fund. This assessment is not subject to any surcharge. If the conviction

1 occurred in the superior court or a justice court, the court shall transmit
2 the assessed monies to the county treasurer. If the conviction occurred in a
3 municipal court, the court shall transmit the assessed monies to the city
4 treasurer. The city or county treasurer shall transmit the monies received
5 to the state treasurer.

6 ~~G. Notwithstanding subsection F, paragraph 1 of this section, at the~~
7 ~~time of sentencing, if the person has an alcohol concentration of less than~~
8 ~~0.20, the judge may suspend all but sixty days of the sentence if the person~~
9 ~~completes a court ordered alcohol or other drug screening, education or~~
10 ~~treatment program. If the person fails to complete the court ordered alcohol~~
11 ~~or other drug screening, education or treatment program and has not been~~
12 ~~placed on probation, the court shall issue an order to show cause as to why~~
13 ~~the remaining jail sentence should not be served.~~

14 G. FOR A CONVICTION PURSUANT TO SUBSECTION F OF THIS SECTION, AT THE
15 TIME OF SENTENCING, THE JUDGE MAY ORDER THE PERSON TO NOT CONSUME ALCOHOL FOR
16 A PERIOD OF NINETY DAYS OR MORE AS DEMONSTRATED THROUGH CONTINUOUS ALCOHOL
17 MONITORING OR A MINIMUM OF TWICE DAILY ALCOHOL TESTING. THE COURT MAY EXTEND
18 THE PERIOD OF CONTINUOUS ALCOHOL MONITORING.

19 H. In applying the eighty-four month provision of subsection F of this
20 section, the dates of the commission of the offense shall be the determining
21 factor, irrespective of the sequence in which the offenses were committed.

22 I. A second violation for which a conviction occurs as provided in
23 this section shall not include a conviction for an offense arising out of the
24 same series of acts.

25 J. A person who is convicted of a violation of this section is guilty
26 of a class 1 misdemeanor.

27 Sec. 5. Section 28-1383, Arizona Revised Statutes, is amended to read:

28 28-1383. Aggravated driving or actual physical control while
29 under the influence; violation; classification;
30 definition

31 A. A person is guilty of aggravated driving or actual physical control
32 while under the influence of intoxicating liquor or drugs if the person does
33 any of the following:

34 1. Commits a violation of section 28-1381, section 28-1382 or this
35 section while the person's driver license or privilege to drive is suspended,
36 canceled, revoked or refused or while a restriction is placed on the person's
37 driver license or privilege to drive as a result of violating section 28-1381
38 or 28-1382 or under section 28-1385.

39 2. Within a period of eighty-four months commits a third or subsequent
40 violation of section 28-1381, section 28-1382 or this section or is convicted
41 of a violation of section 28-1381, section 28-1382 or this section and has
42 previously been convicted of any combination of convictions of section
43 28-1381, section 28-1382 or this section or acts in another jurisdiction that
44 if committed in this state would be a violation of section 28-1381, section
45 28-1382 or this section.

1 3. While a person under fifteen years of age is in the vehicle,
2 commits a violation of either:

3 (a) Section 28-1381.

4 (b) Section 28-1382.

5 4. While the person is ordered by the court or required pursuant to
6 section 28-3319 by the department to equip any motor vehicle the person
7 operates with a certified ignition interlock device, does either of the
8 following:

9 (a) While under arrest refuses to submit to any test chosen by a law
10 enforcement officer pursuant to section 28-1321, subsection A.

11 (b) Commits a violation of section 28-1381, section 28-1382 or this
12 section.

13 B. The dates of the commission of the offenses are the determining
14 factor in applying the eighty-four month provision provided in subsection A,
15 paragraph 2 of this section regardless of the sequence in which the offenses
16 were committed. For the purposes of this section, a third or subsequent
17 violation for which a conviction occurs does not include a conviction for an
18 offense arising out of the same series of acts.

19 C. The notice to a person of the suspension, cancellation, revocation
20 or refusal of a driver license or privilege to drive is effective as provided
21 in section 28-3318 or pursuant to the laws of the state issuing the license.

22 D. A person is not eligible for probation, pardon, commutation or
23 suspension of sentence or release on any other basis until the person has
24 served not less than four months in prison if the person is convicted under
25 either of the following:

26 1. Subsection A, paragraph 1 of this section.

27 2. Subsection A, paragraph 2 of this section and within an eighty-four
28 month period has been convicted of two prior violations of section 28-1381,
29 section 28-1382 or this section, or any combination of those sections, or
30 acts in another jurisdiction that if committed in this state would be a
31 violation of section 28-1381, section 28-1382 or this section.

32 E. A person who is convicted under subsection A, paragraph 2 of this
33 section and who within an eighty-four month period has been convicted of
34 three or more prior violations of section 28-1381, section 28-1382 or this
35 section, or any combination of those sections, or acts in another
36 jurisdiction that if committed in this state would be a violation of section
37 28-1381, section 28-1382 or this section is not eligible for probation,
38 pardon, commutation or suspension of sentence or release on any other basis
39 until the person has served not less than eight months in prison.

40 F. A person who is convicted under subsection A, paragraph 3,
41 subdivision (a) of this section shall serve at least the minimum term of
42 incarceration required pursuant to section 28-1381.

43 G. A person who is convicted under subsection A, paragraph 3,
44 subdivision (b) of this section shall serve at least the minimum term of
45 incarceration required pursuant to section 28-1382.

1 H. A person who is convicted of a violation of this section shall
2 attend and complete alcohol or other drug screening, education or treatment
3 from an approved facility AS ORDERED BY THE COURT. THE COURT OR PROBATION
4 DEPARTMENT MAY ACCEPT EVIDENCE SATISFACTORY TO THE COURT OR PROBATION
5 DEPARTMENT OF COMPLETION OF AN ALCOHOL OR OTHER DRUG SCREENING, EDUCATION OR
6 TREATMENT PROGRAM ORDERED BY THE DEPARTMENT PURSUANT TO SECTION 28-1445 AS
7 SUFFICIENT TO MEET THE REQUIREMENTS OF THIS SECTION OR MAY ORDER THE PERSON
8 TO COMPLETE ADDITIONAL ALCOHOL OR OTHER DRUG SCREENING, EDUCATION OR
9 TREATMENT PROGRAMS. If the person fails to comply with this subsection and is
10 placed on probation, in addition to the provisions of section 13-901 the
11 court may order that the person be incarcerated as a term of probation as
12 follows:

13 1. For a person sentenced pursuant to subsection D of this section,
14 for an individual period of not more than four months and a total period of
15 not more than one year.

16 2. For a person sentenced pursuant to subsection E of this section,
17 for an individual period of not more than eight months and a total period of
18 not more than two years.

19 I. The time that a person spends in custody pursuant to subsection H
20 of this section shall not be counted towards the sentence imposed if the
21 person's probation is revoked and the person is sentenced to prison after
22 revocation of probation.

23 J. On a conviction for a violation of this section, the court:

24 1. Shall report the conviction to the department. On receipt of the
25 report, the department shall revoke the driving privilege of the person. The
26 department shall not issue the person a new driver license within three years
27 of the date of the conviction and, for a conviction of a violation of
28 subsection A, paragraph 1, 2 or 4 or paragraph 3, subdivision (b) of this
29 section, shall require the person to equip any motor vehicle the person
30 operates with a certified ignition interlock device pursuant to section
31 28-3319. In addition, the court may order the person to equip any motor
32 vehicle the person operates with a certified ignition interlock device for
33 more than twelve months beginning on the date of reinstatement of the
34 person's driving privilege following a suspension or revocation or on the
35 date of the department's receipt of the report of conviction, whichever
36 occurs later. The person who operates a motor vehicle with a certified
37 ignition interlock device under this paragraph shall comply with article 5 of
38 this chapter.

39 2. In addition to any other penalty prescribed by law, shall order the
40 person to pay an additional assessment of two hundred fifty dollars. If the
41 conviction occurred in the superior court or a justice court, the court shall
42 transmit the monies received pursuant to this paragraph to the county
43 treasurer. If the conviction occurred in a municipal court, the court shall
44 transmit the monies received pursuant to this paragraph to the city
45 treasurer. The city or county treasurer shall transmit the monies received

1 to the state treasurer. The state treasurer shall deposit the monies
2 received in the driving under the influence abatement fund established by
3 section 28-1304. Any fine imposed for a violation of this section and any
4 assessments, restitution and incarceration costs shall be paid before the
5 assessment prescribed in this paragraph.

6 3. Shall order the person to pay a fine of not less than seven hundred
7 fifty dollars.

8 4. In addition to any other penalty prescribed by law, shall order the
9 person to pay an additional assessment of one thousand five hundred dollars
10 to be deposited by the state treasurer in the prison construction and
11 operations fund established by section 41-1651. This assessment is not
12 subject to any surcharge. If the conviction occurred in the superior court
13 or a justice court, the court shall transmit the assessed monies to the
14 county treasurer. If the conviction occurred in a municipal court, the court
15 shall transmit the assessed monies to the city treasurer. The city or county
16 treasurer shall transmit the monies received to the state treasurer.

17 5. In addition to any other penalty prescribed by law, shall order the
18 person to pay an additional assessment of one thousand five hundred dollars
19 to be deposited by the state treasurer in the state general fund. This
20 assessment is not subject to any surcharge. If the conviction occurred in
21 the superior court or a justice court, the court shall transmit the assessed
22 monies to the county treasurer. If the conviction occurred in a municipal
23 court, the court shall transmit the assessed monies to the city treasurer.
24 The city or county treasurer shall transmit the monies received to the state
25 treasurer.

26 K. After completing the period of suspension required by section
27 28-1385, a person whose driving privilege is revoked for a violation of
28 subsection A, paragraph 3 of this section may apply to the department for a
29 special ignition interlock restricted driver license pursuant to section
30 28-1401.

31 L. AT THE INITIAL APPEARANCE, THE COURT SHALL DETERMINE:

32 1. WHETHER THE PERSON'S RELEASE CONDITIONS SHOULD INCLUDE NO ALCOHOL
33 CONSUMPTION.

34 2. WHETHER THE PERSON'S RELEASE CONDITIONS SHOULD INCLUDE CONTINUOUS
35 ALCOHOL MONITORING OR A MINIMUM OF TWICE DAILY ALCOHOL TESTING.

36 ~~L.~~ M. Aggravated driving or actual physical control while under the
37 influence of intoxicating liquor or drugs committed under:

38 1. Subsection A, paragraph 1 or 2 or paragraph 4, subdivision (b) of
39 this section is a class 4 felony.

40 2. Subsection A, paragraph 3 or paragraph 4, subdivision (a) of this
41 section is a class 6 felony.

42 ~~M.~~ N. For the purposes of this section, "suspension, cancellation,
43 revocation or refusal" means any suspension, cancellation, revocation or
44 refusal.

1 Sec. 6. Section 28-1385, Arizona Revised Statutes, is amended to read:
2 28-1385. Administrative license suspension for driving under
3 the influence; report; hearing; summary review;
4 definition

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

9 1. The officer arrests a person for a violation of section 4-244,
10 paragraph 33, section 28-1381, section 28-1382 or section 28-1383.

11 2. The person submits to a blood or breath alcohol test permitted by
12 section 28-1321, the results of which indicate ~~either~~ ANY OF THE FOLLOWING:

13 (a) 0.08 or more BUT LESS THAN 0.15 alcohol concentration in the
14 person's blood or breath.

15 (b) 0.15 OR MORE ALCOHOL CONCENTRATION IN THE PERSON'S BLOOD OR
16 BREATH.

17 ~~(b)~~ (c) 0.04 or more alcohol concentration in the person's blood or
18 breath if the person was driving or in actual physical control of a
19 commercial motor vehicle.

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

24 1. Information that adequately identifies the arrested person.

25 2. A statement of the officer's grounds for belief that the person was
26 driving or in actual physical control of a motor vehicle in violation of
27 section 4-244, paragraph 33, section 28-1381, ~~or~~ section 28-1382 OR SECTION
28 28-1383.

29 3. A statement that the person was arrested for a violation of section
30 4-244, paragraph 33, section 28-1381, section 28-1382 or section 28-1383.

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

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

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

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

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

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

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

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

9 E. The department shall suspend the affected person's license or
10 permit to drive or right to apply for a license or permit or any nonresident
11 operating privilege for not less than ninety consecutive days from that date.
12 THE DEPARTMENT MAY REINSTATE THE PERSON'S DRIVING PRIVILEGE, LICENSE OR
13 PERMIT OR RIGHT TO APPLY FOR A LICENSE OR PERMIT OR ANY NONRESIDENT OPERATING
14 PRIVILEGE TO OPERATE A MOTOR VEHICLE FOLLOWING THE PERIOD OF SUSPENSION ONLY
15 IF THE VIOLATOR COMPLETES AN ALCOHOL OR OTHER DRUG SCREENING, EDUCATION OR
16 TREATMENT PROGRAM THAT IS ORDERED BY THE DEPARTMENT AND COMPLIES WITH ANY
17 ORDER THAT IS ISSUED BY THE DEPARTMENT FOR THE INSTALLATION AND USE OF A
18 CERTIFIED IGNITION INTERLOCK DEVICE PURSUANT TO THIS CHAPTER.

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

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

35 2. Has not been convicted of a violation of section 4-244, PARAGRAPH
36 33, SECTION 28-1381, SECTION 28-1382 or SECTION 28-1383 within eighty-four
37 months of the date of commission of the acts out of which the current action
38 arose. The dates of commission of the acts are the determining factor in
39 applying the eighty-four month provision.

40 3. Has not had the person's privilege to drive suspended pursuant to
41 this section or section 28-1321 within eighty-four months of the date of
42 commission of the acts out of which the current action arose.

43 4. PROVIDES SATISFACTORY EVIDENCE TO THE DEPARTMENT OF THE PERSON'S
44 COMPLETION OR PARTICIPATION IN AN ALCOHOL OR OTHER DRUG SCREENING, EDUCATION
45 OR TREATMENT PROGRAM THAT IS ORDERED BY THE DEPARTMENT. IF THE PERSON DOES

1 NOT COMPLETE AN ALCOHOL OR OTHER DRUG SCREENING, EDUCATION OR TREATMENT
2 PROGRAM OR IS NOT SATISFACTORILY PARTICIPATING IN A PROGRAM APPROVED BY THE
3 DEPARTMENT, THE DEPARTMENT MAY EITHER IMPOSE A NINETY DAY SUSPENSION PURSUANT
4 TO THIS SECTION OR ALLOW THE PERSON TO SUBMIT AN AFFIDAVIT AT THE TIME OF THE
5 HEARING THAT THE PERSON WILL PROVIDE SATISFACTORY EVIDENCE TO THE DEPARTMENT
6 THAT THE PERSON HAS EITHER COMPLETED OR IS PARTICIPATING IN AN ALCOHOL OR
7 OTHER DRUG SCREENING, EDUCATION OR TREATMENT PROGRAM BEFORE THE SIXTY DAY
8 RESTRICTED LICENSE PERIOD BEGINS.

9 G. If the department receives only the report of the results of the
10 blood or breath alcohol test and the results indicate 0.08 or more alcohol
11 concentration in the person's blood or breath, or show a blood or breath
12 alcohol concentration of 0.04 or more and the person was driving or in actual
13 physical control of a commercial motor vehicle, the department shall notify
14 the person named in the report in writing sent by mail that fifteen days
15 after the date of issuance of the notice the department will suspend the
16 person's license or permit, driving privilege or nonresident driving
17 privilege. The notice shall also state that the department will provide an
18 opportunity for a hearing and administrative review if the person requests a
19 hearing or review in writing and the request is received by the department
20 within fifteen days after the notice is sent.

21 H. A timely request for a hearing stays the suspension until a hearing
22 is held, except that the department shall not return any surrendered license
23 or permit to the person but may issue temporary permits to drive that expire
24 no later than when the department has made its final decision. **FOR THE**
25 **PURPOSE OF ISSUING A RESTRICTED LICENSE OR PERMIT**, if the person is a
26 resident without a license or permit or has an expired license or permit, the
27 department may allow the person to apply for a **RESTRICTED** license or permit.
28 If the department determines the person is otherwise entitled to the
29 **RESTRICTED** license or permit, the department shall issue, but retain, the
30 license or permit, subject to this section. All hearings requested under
31 this section shall be conducted in the same manner and under the same
32 conditions as provided in section 28-3306.

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

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

38 2. Whether the person was placed under arrest for a violation of
39 section 4-244, paragraph 33, section 28-1381, section 28-1382 or section
40 28-1383.

41 3. Whether a test was taken, the results of which indicated the
42 alcohol concentration in the person's blood or breath at the time the test
43 was administered of ~~either~~ **ANY OF THE FOLLOWING**:

44 (a) 0.08 or more **BUT LESS THAN 0.15**.

45 (b) **0.15 OR MORE**.

1 ~~(b)~~ (c) 0.04 or more if the person was driving or in actual physical
2 control of a commercial motor vehicle.

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

4 5. Whether the test results were accurately evaluated.

5 6. WHETHER THE DEPARTMENT HAS REASONABLE GROUNDS TO BELIEVE THAT
6 WITHIN EIGHTY-FOUR MONTHS OF THE DATE OF COMMISSION OF THE ACTS OUT OF WHICH
7 THE CURRENT ACTION AROSE THE PERSON HAS BEEN CONVICTED OF A VIOLATION OF
8 SECTION 4-244, PARAGRAPH 33, SECTION 28-1381, SECTION 28-1382 OR SECTION
9 28-1383.

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

12 K. If the department determines at the hearing to suspend the affected
13 person's privilege to operate a motor vehicle, the suspension provided in
14 this section is effective fifteen days after giving written notice of the
15 suspension, except that the department may issue or extend a temporary
16 license that expires on the effective date of the suspension. If the person
17 is a resident without a license or permit or has an expired license or permit
18 to operate a motor vehicle in this state, the department shall deny the
19 issuance of a license or permit to the person for not less than ninety
20 consecutive days. THE DEPARTMENT MAY REINSTATE THE PERSON'S DRIVING
21 PRIVILEGE, LICENSE OR PERMIT OR RIGHT TO APPLY FOR A LICENSE OR PERMIT OR ANY
22 NONRESIDENT OPERATING PRIVILEGE TO OPERATE A MOTOR VEHICLE FOLLOWING THE
23 PERIOD OF SUSPENSION ONLY IF THE VIOLATOR COMPLETES AN ALCOHOL OR OTHER DRUG
24 SCREENING, EDUCATION OR TREATMENT PROGRAM THAT IS ORDERED BY THE DEPARTMENT
25 AND COMPLIES WITH ANY ORDER THAT IS ISSUED BY THE DEPARTMENT FOR THE
26 INSTALLATION AND USE OF A CERTIFIED IGNITION INTERLOCK DEVICE PURSUANT TO
27 THIS CHAPTER.

28 L. IN ADDITION TO ANY OTHER ACTIONS TAKEN BY THE DEPARTMENT, IF THE
29 RESULTS OF THE BLOOD OR BREATH ALCOHOL TEST INDICATE AN ALCOHOL CONCENTRATION
30 OF 0.15 OR MORE OR IF THE DEPARTMENT HAS REASONABLE GROUNDS TO BELIEVE THAT
31 WITHIN EIGHTY-FOUR MONTHS OF THE DATE OF COMMISSION OF THE ACTS OUT OF WHICH
32 THE CURRENT ACTION AROSE THE PERSON HAS BEEN CONVICTED OF A VIOLATION OF
33 SECTION 4-244, PARAGRAPH 33, SECTION 28-1381, SECTION 28-1382 OR SECTION
34 28-1383 OR AN ACT IN ANOTHER JURISDICTION THAT IF COMMITTED IN THIS STATE
35 WOULD BE A VIOLATION OF SECTION 4-244, PARAGRAPH 33, SECTION 28-1381, SECTION
36 28-1382 OR SECTION 28-1383, THE DEPARTMENT SHALL REQUIRE ANY MOTOR VEHICLE
37 THE PERSON OPERATES TO BE EQUIPPED WITH A FUNCTIONING CERTIFIED IGNITION
38 INTERLOCK DEVICE AS A CONDITION OF REINSTATEMENT OF THE PERSON'S DRIVING
39 PRIVILEGE.

40 ~~L~~ M. A person may apply for a summary review of an order issued
41 pursuant to this section instead of a hearing at any time before the
42 effective date of the order. The person shall submit the application in
43 writing to any department driver license examining office together with any
44 written explanation as to why the department should not suspend the driving
45 privilege. The agent of the department receiving the notice shall issue to

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

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

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

17 P. FOR THE PURPOSES OF THIS SECTION, AN ORDER OF A JUVENILE COURT
18 ADJUDICATING A PERSON DELINQUENT IS EQUIVALENT TO A CONVICTION.

19 Q. FOR THE PURPOSES OF THIS SECTION, "REASONABLE GROUNDS" MEANS A
20 DEPARTMENT RECORD OF CONVICTION.

21 Sec. 7. Section 28-1387, Arizona Revised Statutes, is amended to read:

22 28-1387. Prior convictions; alcohol or other drug screening,
23 education and treatment; license suspension;
24 supervised probation; civil liability; procedures

25 A. The court shall allow the allegation of a prior conviction or any
26 other pending charge of a violation of section 28-1381, 28-1382 or 28-1383 or
27 an act in another jurisdiction that if committed in this state would be a
28 violation of section 28-1381, 28-1382 or 28-1383 filed twenty or more days
29 before the date the case is actually tried and may allow the allegation of a
30 prior conviction or any other pending charge of a violation of section
31 28-1381, 28-1382 or 28-1383 or an act in another jurisdiction that if
32 committed in this state would be a violation of section 28-1381, 28-1382 or
33 28-1383 filed at any time before the date the case is actually tried if this
34 state makes available to the defendant when the allegation is filed a copy of
35 any information obtained concerning the prior conviction or other pending
36 charge. Any conviction may be used to enhance another conviction
37 irrespective of the dates on which the offenses occurred within the
38 eighty-four month provision. For the purposes of this article, an order of a
39 juvenile court adjudicating a person delinquent is equivalent to a
40 conviction.

41 B. In addition to any other penalties prescribed by law, the judge
42 shall order a person who is convicted of a violation of section 28-1381 or
43 28-1382 to complete alcohol or other drug screening that is provided by a
44 facility approved by the department of health services or a probation
45 department. If a judge determines that the person requires further alcohol

1 or other drug education or treatment, the person may be required pursuant to
2 court order to obtain alcohol or other drug education or treatment under the
3 court's supervision from an approved facility. The judge may review an
4 education or treatment determination at the request of the state, the
5 defendant or the probation officer or on the judge's initiative. The person
6 shall pay the costs of the screening, education or treatment unless, after
7 considering the person's ability to pay all or part of the costs, the court
8 waives all or part of the costs. If a person is referred to a screening,
9 education or treatment facility, the facility shall report to the court
10 whether the person has successfully completed the screening, education or
11 treatment program. THE COURT MAY ACCEPT EVIDENCE OF A PERSON'S COMPLETION OF
12 AN ALCOHOL OR OTHER DRUG SCREENING, EDUCATION OR TREATMENT PROGRAM ORDERED BY
13 THE DEPARTMENT PURSUANT TO SECTION 28-1445 AS SUFFICIENT TO MEET THE
14 REQUIREMENTS OF THIS SECTION OR SECTION 28-1381, SUBSECTION J OR L OR MAY
15 ORDER THE PERSON TO COMPLETE ADDITIONAL ALCOHOL OR OTHER DRUG SCREENING,
16 EDUCATION OR TREATMENT PROGRAMS. IF A PERSON HAS PREVIOUSLY BEEN ORDERED TO
17 COMPLETE AN ALCOHOL OR OTHER DRUG SCREENING, EDUCATION OR TREATMENT PROGRAM
18 PURSUANT TO THIS SECTION, THE JUDGE SHALL ORDER THE PERSON TO COMPLETE AN
19 ALCOHOL OR OTHER DRUG SCREENING, EDUCATION OR TREATMENT PROGRAM UNLESS THE
20 JUDGE DETERMINES THAT ALTERNATIVE SANCTIONS ARE MORE APPROPRIATE.

21 C. After a person who is sentenced pursuant to section 28-1381,
22 subsection I has served twenty-four consecutive hours in jail or after a
23 person who is sentenced pursuant to section 28-1381, subsection K or section
24 28-1382, subsection D or F has served forty-eight consecutive hours in jail
25 and after the court receives confirmation that the person is employed or is a
26 student, the court may provide in the sentence that the defendant, if the
27 defendant is employed or is a student and can continue the defendant's
28 employment or schooling, may continue the employment or schooling for not
29 more than twelve hours a day nor more than five days a week. The person
30 shall spend the remaining day, days or parts of days in jail until the
31 sentence is served and shall be allowed out of jail only long enough to
32 complete the actual hours of employment or schooling.

33 D. Unless the license of a person convicted under section 28-1381 or
34 28-1382 has been or is suspended pursuant to section 28-1321 or 28-1385, the
35 department on receipt of the abstract of conviction of a violation of section
36 28-1381 or 28-1382 shall suspend the license of the affected person for not
37 less than ninety consecutive days.

38 E. When the department receives notification that the person meets the
39 criteria provided in section 28-1385, subsection F, the department shall
40 suspend the driving privileges of the person for not less than thirty
41 consecutive days and shall restrict the driving privileges of the person for
42 not less than sixty consecutive additional days to travel between any of the
43 following:

44 1. The person's place of employment and residence and during specified
45 periods of time while at employment.

1 ~~C. For as long as the person maintains a functioning certified~~
2 ~~ignition interlock device in the vehicle pursuant to this chapter, each time~~
3 ~~an installer obtains information recorded by a certified ignition interlock~~
4 ~~device the installer shall electronically provide in a form prescribed by the~~
5 ~~department the following information:~~

6 ~~1. Any tampering or circumvention.~~

7 ~~2. Any failure to provide proof of compliance or inspection of the~~
8 ~~certified ignition interlock device as prescribed in section 28-1461.~~

9 ~~3. Any attempts to operate the vehicle with an alcohol concentration~~
10 ~~exceeding the presumptive limit as prescribed in section 28-1381, subsection~~
11 ~~G, paragraph 3, or if the person is under twenty-one years of age, attempts~~
12 ~~to operate the vehicle with any spirituous liquor in the person's body.~~

13 ~~D. The department may extend the special ignition interlock restricted~~
14 ~~driver license and the certified ignition interlock device period if the~~
15 ~~department has reasonable grounds to believe that any of the following~~
16 ~~applies:~~

17 ~~1. The person tampered with the certified ignition interlock device.~~

18 ~~2. The person attempted to operate the vehicle with an alcohol~~
19 ~~concentration exceeding the presumptive limit as prescribed in section~~
20 ~~28-1381, subsection G, paragraph 3, or if the person is under twenty-one~~
21 ~~years of age, the person attempted to operate the vehicle with any spirituous~~
22 ~~liquor in the person's body, three or more times during the period of license~~
23 ~~restriction or limitation.~~

24 ~~3. The person failed to provide proof of compliance or inspection as~~
25 ~~prescribed in section 28-1461.~~

26 ~~E. If the special ignition interlock restricted license is extended~~
27 ~~pursuant to subsection D of this section, the limitations prescribed in~~
28 ~~sections 28-1381, 28-1382, 28-1383 and 28-3319 do not begin until the~~
29 ~~restrictive period of the license ends.~~

30 ~~F. C.~~ Except as provided in section 28-1463, if the department
31 suspends, revokes, cancels or otherwise rescinds a person's special ignition
32 interlock restricted license or privilege for any reason, the department
33 shall not issue a new license or reinstate the special ignition interlock
34 restricted driver license during the prescribed period of suspension or
35 revocation or while the person is otherwise ineligible to receive a license.

36 Sec. 9. Section 28-1403, Arizona Revised Statutes, is amended to read:

37 28-1403. Extension of interlock restricted licenses; hearing;
38 scope

39 A. A person whose driver license restriction is extended pursuant to
40 section ~~28-1402~~ 28-1461 may submit to the department a written request for a
41 hearing. he written request must be received by the department within
42 fifteen days after the date of the order of extension of the restriction. On
43 receipt of a request for a hearing, a hearing shall be held within thirty
44 days.

1 B. Hearings requested pursuant to this section shall be conducted in
2 the same manner and under the same conditions as provided in section 28-3306.
3 For the purposes of this section, the scope of the hearing shall include only
4 the following issues:

5 1. Whether the person was issued a special ignition interlock
6 restricted driver license.

7 2. Whether the person tampered with the certified ignition interlock
8 device.

9 3. Whether the person attempted to operate the vehicle with an alcohol
10 concentration exceeding the presumptive limit as prescribed in section
11 28-1381, subsection G, paragraph 3, ~~three~~ three or more times during the period of
12 license restriction or limitation or, if the person is under twenty-one years
13 of age, whether the person attempted to operate the vehicle with any
14 spirituous liquor in the person's body three or more times during the period
15 of license restriction or limitation.

16 4. Whether the person submitted proof of compliance or inspection as
17 prescribed in section 28-1461.

18 Sec. 10. Title 28, chapter 3, article 4, Arizona Revised Statutes, is
19 amended by adding section 28-1445, to read:

20 28-1445. Prior alcohol convictions; alcohol or other drug
21 screening, education and treatment; license
22 suspension; ignition interlock device; procedures;
23 definition

24 A. IF THE DEPARTMENT HAS REASONABLE GROUNDS TO BELIEVE THAT A PERSON
25 WHO IS SUBJECT TO A HEARING PURSUANT TO SECTION 28-1385 HAS WITHIN
26 EIGHTY-FOUR MONTHS OF THE DATE OF COMMISSION OF THE ACTS OUT OF WHICH THE
27 CURRENT ACTION AROSE A PRIOR CONVICTION OF A VIOLATION OF SECTION 4-244,
28 PARAGRAPH 33, SECTION 28-1381, SECTION 28-1382 OR SECTION 28-1383, THE
29 DEPARTMENT SHALL INCLUDE THE ALLEGATION OF CONVICTION IN THE SCOPE OF THE
30 HEARING. THE DEPARTMENT SHALL SEND TO THE PERSON WHO REQUESTS A HEARING A
31 COPY OF ANY INFORMATION OF THE ALLEGATION OF A PRIOR CONVICTION BY FIRST
32 CLASS MAIL AT LEAST TWENTY DAYS BEFORE THE DATE THE CASE IS ACTUALLY HEARD.
33 FOR THE PURPOSES OF THIS ARTICLE, AN ORDER OF A JUVENILE COURT ADJUDICATING A
34 PERSON DELINQUENT OF THE VIOLATIONS LISTED IN THIS SUBSECTION IS EQUIVALENT
35 TO A CONVICTION.

36 B. AN ALCOHOL OR OTHER DRUG SCREENING, EDUCATION OR TREATMENT PROGRAM
37 ORDERED BY THE DEPARTMENT OF TRANSPORTATION PURSUANT TO THIS CHAPTER SHALL BE
38 A PROGRAM THAT IS PROVIDED BY A FACILITY APPROVED BY THE DEPARTMENT OF HEALTH
39 SERVICES.

40 C. A PERSON WHO IS ORDERED TO COMPLETE AN ALCOHOL OR OTHER DRUG
41 SCREENING, EDUCATION OR TREATMENT PROGRAM SHALL REPORT TO THE DEPARTMENT, IN
42 A MANNER PRESCRIBED BY THE DEPARTMENT, WHETHER THE PERSON IS ACTIVELY
43 PARTICIPATING IN OR HAS SUCCESSFULLY COMPLETED THE PROGRAM.

1 D. A PERSON WHO IS ORDERED TO COMPLETE AN ALCOHOL OR OTHER DRUG
2 SCREENING, EDUCATION OR TREATMENT PROGRAM IS RESPONSIBLE FOR PAYING THE COSTS
3 OF THE PROGRAM.

4 E. THE DEPARTMENT SHALL ISSUE A DRIVER LICENSE OR PERMIT OR REINSTATE
5 A PERSON'S DRIVING PRIVILEGE ONLY IF THE PERSON PROVIDES SATISFACTORY
6 EVIDENCE TO THE DEPARTMENT THAT THE PERSON HAS COMPLETED OR IS ACTIVELY
7 PARTICIPATING IN AN ALCOHOL OR OTHER DRUG SCREENING, EDUCATION OR TREATMENT
8 PROGRAM.

9 F. IF THE DEPARTMENT REINSTATES A PERSON'S DRIVING PRIVILEGE FOLLOWING
10 A SUSPENSION IMPOSED PURSUANT TO SECTION 28-1385 BUT HAS REASONABLE GROUNDS
11 TO BELIEVE THAT THE PERSON IS NOT COMPLYING WITH THE DEPARTMENT'S ORDER TO
12 COMPLETE OR PARTICIPATE IN AN ALCOHOL OR OTHER DRUG SCREENING, EDUCATION OR
13 TREATMENT PROGRAM, OR HAS NOT INSTALLED AN IGNITION INTERLOCK DEVICE AS
14 ORDERED BY THE DEPARTMENT PURSUANT TO SECTION 28-1385, THE DEPARTMENT SHALL
15 SUSPEND THE PERSON'S DRIVING PRIVILEGE UNTIL THE PERSON COMPLIES WITH THE
16 DEPARTMENT'S ORDER OR UNTIL THE DEPARTMENT RECEIVES A REPORT FROM THE COURT
17 THAT THE COURT HAS ENTERED A FINDING FOR THE CHARGE THAT GAVE RISE TO THE
18 DEPARTMENT'S ACTION PURSUANT TO SECTION 28-1385.

19 G. ANY CERTIFIED IGNITION INTERLOCK DEVICE ORDER THAT IS ISSUED BY THE
20 DEPARTMENT PURSUANT TO SECTION 28-1385 SHALL NOT REDUCE THE AMOUNT OF TIME A
21 PERSON IS REQUIRED TO MAINTAIN A CERTIFIED FUNCTIONING IGNITION INTERLOCK
22 DEVICE PURSUANT TO ARTICLE 3.1 OF THIS CHAPTER OR SECTION 28-1381, 28-1382 OR
23 28-1383.

24 H. A PERSON SHALL COMPLY WITH THE DEPARTMENT'S REQUIREMENTS PURSUANT
25 TO THIS SECTION RELATING TO ALCOHOL OR OTHER DRUG SCREENING, EDUCATION OR
26 TREATMENT PROGRAMS. EXCEPT FOR THE TWELVE MONTH PERIOD PRESCRIBED IN SECTION
27 28-1463, SUBSECTION A, THE PERSON SHALL COMPLY WITH THE REQUIREMENTS OF THIS
28 ARTICLE AND ARTICLE 5 OF THIS CHAPTER AS A CONDITION OF RETAINING THE
29 PERSON'S DRIVING PRIVILEGE UNTIL THE DEPARTMENT RECEIVES A REPORT FROM THE
30 COURT THAT THE COURT HAS ENTERED A FINDING FOR THE CHARGE THAT GAVE RISE TO
31 THE DEPARTMENT'S ACTION PURSUANT TO THIS SECTION AND SECTION 28-1385.

32 I. IF THE DEPARTMENT RECEIVES A REPORT FROM THE COURT THAT A PERSON
33 WAS CONVICTED OF A VIOLATION OF SECTION 28-1381, 28-1382 OR 28-1383 BEFORE
34 THE DEPARTMENT HOLDS A HEARING PURSUANT TO SECTION 28-1385, THE DEPARTMENT
35 MAY ACCEPT EVIDENCE SATISFACTORY TO THE DEPARTMENT AND IN A MANNER PRESCRIBED
36 BY THE DEPARTMENT OF COMPLETION OF AN ALCOHOL OR OTHER DRUG SCREENING,
37 EDUCATION OR TREATMENT PROGRAM ORDERED BY THE COURT PURSUANT TO SECTION
38 28-1381, 28-1382 OR 28-1383 AS SUFFICIENT TO MEET THE ALCOHOL OR OTHER DRUG
39 SCREENING, EDUCATION OR TREATMENT PROGRAM REQUIREMENTS OF SECTION 28-1385 AND
40 THIS SECTION OR THE DEPARTMENT MAY ORDER THE PERSON TO COMPLETE ADDITIONAL
41 ALCOHOL OR OTHER DRUG SCREENING, EDUCATION OR TREATMENT PROGRAMS.

42 J. IF A PERSON'S DRIVING PRIVILEGE IS LIMITED PURSUANT TO SECTION
43 28-1381, 28-1382, 28-1383 OR 28-3319 OR RESTRICTED PURSUANT TO SECTION
44 28-1402, IF THE COURT REQUIRES THAT THE PERSON EQUIP ANY MOTOR VEHICLE THE
45 PERSON OPERATES WITH A CERTIFIED IGNITION INTERLOCK DEVICE AT THE TIME THE

1 HEARING IS HELD PURSUANT TO SECTION 28-1385 AND IF THE DEPARTMENT DETERMINES
2 AT THE HEARING TO SUSPEND THE AFFECTED PERSON'S PRIVILEGE TO OPERATE A MOTOR
3 VEHICLE, THE DEPARTMENT MAY DO EITHER OF THE FOLLOWING:

4 1. ACCEPT THE EXISTING IGNITION INTERLOCK DEVICE ORDER REQUIRED OF THE
5 PERSON AS SUFFICIENT IF THE PERSON IS IN COMPLIANCE WITH THE IGNITION
6 INTERLOCK DEVICE ORDER AT THE TIME THE HEARING IS HELD.

7 2. REQUIRE THAT THE PERSON MAINTAIN A CERTIFIED IGNITION INTERLOCK
8 DEVICE ON ANY VEHICLE THE PERSON OPERATES FOR AN ADDITIONAL PERIOD OF UP TO
9 TWELVE MONTHS.

10 K. A PERSON WHO PROVIDES AN ALCOHOL OR OTHER DRUG SCREENING, EDUCATION
11 OR TREATMENT PROGRAM SHALL ELECTRONICALLY REPORT THE FOLLOWING TO THE
12 DEPARTMENT IN A FORM PRESCRIBED BY THE DEPARTMENT:

13 1. THE COMPLETION OR PARTICIPATION OF A PERSON ORDERED BY THE
14 DEPARTMENT TO ATTEND A PROGRAM PURSUANT TO THIS SECTION.

15 2. THE FAILURE OF A PERSON TO ATTEND OR COMPLETE A PROGRAM AS ORDERED
16 BY THE DEPARTMENT PURSUANT TO THIS SECTION.

17 3. THE UNSATISFACTORY PARTICIPATION OF A PERSON ATTENDING A PROGRAM AS
18 ORDERED BY THE DEPARTMENT PURSUANT TO THIS SECTION.

19 L. FOR THE PURPOSES OF THIS SECTION, "REASONABLE GROUNDS" MEANS A
20 DEPARTMENT RECORD OF CONVICTION.

21 Sec. 11. Section 28-1461, Arizona Revised Statutes, is amended to
22 read:

23 28-1461. Use of certified ignition interlock devices

24 A. If a person's driving privilege is limited pursuant to section
25 28-1381, 28-1382, 28-1383, 28-1385 or 28-3319 or restricted pursuant to
26 section 28-1402:

27 1. The person shall:

28 (a) Pay the costs for installation and maintenance of the certified
29 ignition interlock device.

30 (b) Provide proof to the department of installation of a functioning
31 certified ignition interlock device in each motor vehicle operated by the
32 person.

33 (c) Provide proof of compliance to the department at least once every
34 ninety days during the period the person is ordered to use an ignition
35 interlock device.

36 (d) Provide proof of inspection of the certified ignition interlock
37 device for accurate operation and the results of the inspection to the
38 department at least once every ninety days during the period the person is
39 ordered to use an ignition interlock device.

40 (e) BE ORDERED BY THE DEPARTMENT TO PAY A PENALTY ASSESSMENT OF TEN
41 DOLLARS TO THE DEPARTMENT. THE DEPARTMENT SHALL DEPOSIT, PURSUANT TO
42 SECTIONS 35-146 AND 35-147, THE PENALTY ASSESSMENTS IN THE DRIVING UNDER THE
43 INFLUENCE ABATEMENT FUND ESTABLISHED BY SECTION 28-1304.

44 2. The department shall not reinstate the person's driving privilege
45 or issue a special ignition interlock restricted driver license until the

1 person has installed a functioning certified ignition interlock device in
2 each motor vehicle operated by the person and has provided proof of
3 installation to the department.

4 B. WHILE A PERSON MAINTAINS A FUNCTIONING CERTIFIED IGNITION INTERLOCK
5 DEVICE IN A VEHICLE PURSUANT TO THIS CHAPTER, EACH TIME AN INSTALLER OBTAINS
6 INFORMATION RECORDED BY A CERTIFIED IGNITION INTERLOCK DEVICE THE INSTALLER
7 SHALL ELECTRONICALLY PROVIDE IN A FORM PRESCRIBED BY THE DEPARTMENT THE
8 FOLLOWING INFORMATION:

9 1. ANY TAMPERING OR CIRCUMVENTION.

10 2. ANY FAILURE TO PROVIDE PROOF OF COMPLIANCE OR INSPECTION OF THE
11 CERTIFIED IGNITION INTERLOCK DEVICE AS PRESCRIBED IN THIS SECTION.

12 3. ANY ATTEMPT TO OPERATE THE VEHICLE WITH AN ALCOHOL CONCENTRATION
13 EXCEEDING THE PRESUMPTIVE LIMIT AS PRESCRIBED IN SECTION 28-1381, SUBSECTION
14 G, PARAGRAPH 3 OR, IF THE PERSON IS UNDER TWENTY-ONE YEARS OF AGE, ANY
15 ATTEMPT TO OPERATE THE VEHICLE WITH ANY SPIRITUOUS LIQUOR IN THE PERSON'S
16 BODY.

17 C. THE DEPARTMENT SHALL EXTEND AN IGNITION INTERLOCK RESTRICTED OR
18 LIMITED DRIVER LICENSE AND THE CERTIFIED IGNITION INTERLOCK DEVICE PERIOD IF
19 THE DEPARTMENT HAS REASONABLE GROUNDS TO BELIEVE THAT ANY OF THE FOLLOWING
20 APPLIES:

21 1. THE PERSON TAMPERED WITH THE CERTIFIED IGNITION INTERLOCK DEVICE.

22 2. THE PERSON ATTEMPTED TO OPERATE THE VEHICLE WITH AN ALCOHOL
23 CONCENTRATION EXCEEDING THE PRESUMPTIVE LIMIT AS PRESCRIBED IN SECTION
24 28-1381, SUBSECTION G, PARAGRAPH 3, OR IF THE PERSON IS UNDER TWENTY-ONE
25 YEARS OF AGE AND THE PERSON ATTEMPTED TO OPERATE THE VEHICLE WITH ANY
26 SPIRITUOUS LIQUOR IN THE PERSON'S BODY, THREE OR MORE TIMES DURING THE PERIOD
27 OF LICENSE RESTRICTION OR LIMITATION.

28 3. THE PERSON FAILED TO PROVIDE PROOF OF COMPLIANCE OR INSPECTION AS
29 PRESCRIBED IN THIS SECTION.

30 D. IF THE SPECIAL IGNITION INTERLOCK RESTRICTED LICENSE IS EXTENDED
31 PURSUANT TO SUBSECTION C OF THIS SECTION, THE LIMITATIONS PRESCRIBED IN
32 SECTIONS 28-1381, 28-1382, 28-1383 AND 28-3319 DO NOT BEGIN UNTIL THE
33 RESTRICTIVE PERIOD OF THE LICENSE ENDS.

34 E. THE DEPARTMENT OF TRANSPORTATION SHALL MAKE THE INFORMATION THE
35 DEPARTMENT RECEIVES FROM THE INSTALLER PURSUANT TO SUBSECTION B OF THIS
36 SECTION AVAILABLE ELECTRONICALLY TO THE PERSON WHO IS SUBJECT TO THE IGNITION
37 INTERLOCK ORDER AND WHO PROVIDES THE DEPARTMENT WITH AN E-MAIL ADDRESS AND,
38 IN A FORM PRESCRIBED BY THE DIRECTOR, TO EITHER OF THE FOLLOWING:

39 1. A PERSON WHO IS AUTHORIZED BY THE DEPARTMENT OF HEALTH SERVICES OR
40 A PROBATION DEPARTMENT TO PROVIDE ALCOHOL OR OTHER DRUG SCREENING, EDUCATION
41 OR TREATMENT.

42 2. A PHYSICIAN, PSYCHOLOGIST OR CERTIFIED SUBSTANCE ABUSE COUNSELOR
43 WHO IS EVALUATING A PERSON'S ABILITY TO SAFELY OPERATE A MOTOR VEHICLE
44 FOLLOWING A REVOCATION OF THE PERSON'S DRIVING PRIVILEGE AS PRESCRIBED IN
45 SECTION 28-3315, SUBSECTION D.

1 ~~B.~~ F. The department shall make a notation on the driving record of a
2 person whose driving privilege is limited pursuant to section 28-1381,
3 28-1382, 28-1383, 28-1385 or 28-3319 or restricted pursuant to section
4 28-1402 that states that the person shall not operate a motor vehicle unless
5 it is equipped with a certified ignition interlock device.

6 Sec. 12. Section 28-1463, Arizona Revised Statutes, is amended to
7 read:

8 28-1463. Proof of compliance; suspension; hearings

9 A. If a person whose driving privilege is limited pursuant to section
10 28-1381, 28-1382, 28-1383, ~~28-1385~~ or 28-3319 or restricted pursuant to
11 section 28-1402 does not submit proof of compliance to the department as
12 prescribed in section 28-1461, the department shall suspend the person's
13 driving privilege until proof of compliance is submitted to the department.
14 Unless a different time period is specified, the department shall require use
15 of the certified ignition interlock device for one year from the date the
16 person submits proof of compliance as prescribed in section 28-1461. If a
17 person does not request a hearing pursuant to subsection B of this section,
18 the department shall immediately suspend the person's driver license.

19 B. A person whose driver license is suspended pursuant to this section
20 may submit a written request for a hearing. The written request must be
21 received by the department within fifteen days after the date of the order of
22 suspension. On receipt of a request for a hearing, a hearing shall be held
23 within thirty days.

24 C. A timely request for a hearing stays the suspension until a hearing
25 is held, except that the department shall not return any surrendered driver
26 license or permit to the person but may issue temporary permits to drive that
27 expire no later than when the department has made its final decision.

28 D. Hearings requested pursuant to this section shall be conducted in
29 the same manner and under the same conditions as provided in section 28-3306.
30 For the purposes of this section, the scope of the hearing shall include only
31 the following issues:

32 1. Whether the person was ordered or required to equip a motor vehicle
33 with an ignition interlock device pursuant to article 3 or 3.1 of this
34 chapter or section 28-3319.

35 2. Whether the person submitted proof of compliance or inspection
36 pursuant to section 28-1461.

37 Sec. 13. Section 28-1464, Arizona Revised Statutes, is amended to
38 read:

39 28-1464. Ignition interlock devices; violations;
40 classification; definition

41 A. A person whose driving privilege is limited pursuant to section
42 28-1381, 28-1382, 28-1383, ~~28-1385~~ or 28-3319 or restricted pursuant to
43 section 28-1402 and who is required to operate a motor vehicle owned by the
44 person's employer in the course and scope of the person's employment may
45 operate that motor vehicle without the installation of a certified ignition

1 interlock device if the person notifies the person's employer that the
2 person, in conjunction with the person's sentence or if the person has been
3 issued a special ignition interlock restricted driver license pursuant to
4 section 28-1402, has specific requirements in order to operate a motor
5 vehicle and the nature of the requirements and the person has proof of the
6 employer's notification in the person's possession while operating the
7 employer's motor vehicle for normal business. For the purposes of this
8 subsection, a motor vehicle that is partly or entirely owned or controlled by
9 the person whose driving privilege is limited pursuant to section 28-1381,
10 28-1382, 28-1383, 28-1385 or 28-3319 or restricted pursuant to section
11 28-1402 is not a motor vehicle that is owned by an employer.

12 B. Except in cases of a substantial emergency, a person shall not
13 knowingly rent, lease or lend a motor vehicle to a person whose driving
14 privilege is limited pursuant to section 28-1381, 28-1382, 28-1383, 28-1385
15 or 28-3319 or restricted pursuant to section 28-1402 unless the motor vehicle
16 is equipped with a functioning certified ignition interlock device.

17 C. A person whose driving privilege is limited pursuant to section
18 28-1381, 28-1382, 28-1383, 28-1385 or 28-3319 or restricted pursuant to
19 section 28-1402 and who rents, leases or borrows a motor vehicle from another
20 person shall notify the person who rents, leases or lends the motor vehicle
21 to the person that the person has specific requirements for the operation of
22 the motor vehicle and the nature of the requirements.

23 D. During any period when a person whose driving privilege is limited
24 pursuant to section 28-1381, 28-1382, 28-1383, 28-1385 or 28-3319 or
25 restricted pursuant to section 28-1402 is required to operate only a motor
26 vehicle that is equipped with a certified ignition interlock device, the
27 person shall not request or permit any other person to breathe into the
28 ignition interlock device or start a motor vehicle equipped with an ignition
29 interlock device for the purpose of providing the person with an operable
30 motor vehicle.

31 E. A person shall not breathe into an ignition interlock device or
32 start a motor vehicle equipped with an ignition interlock device for the
33 purpose of providing an operable motor vehicle to a person whose driving
34 privilege is limited pursuant to section 28-1381, 28-1382, 28-1383, 28-1385
35 or 28-3319 or restricted pursuant to section 28-1402.

36 F. A person whose driving privilege is limited pursuant to section
37 28-1381, 28-1382, 28-1383, 28-1385 or 28-3319 or restricted pursuant to
38 section 28-1402 shall not tamper with or circumvent the operation of an
39 ignition interlock device.

40 G. A person who is not a manufacturer's authorized installer or an
41 agent of a manufacturer's authorized installer and who is not a person whose
42 driving privilege is limited pursuant to section 28-1381, 28-1382, 28-1383,
43 28-1385 or 28-3319 or restricted pursuant to section 28-1402 shall not tamper
44 with or circumvent the operation of an ignition interlock device.

1 H. Except as provided in subsection A of this section or in cases of
2 substantial emergency, a person whose driving privilege is limited pursuant
3 to section 28-1381, 28-1382, 28-1383, 28-1385 or 28-3319 or restricted
4 pursuant to section 28-1402 shall not operate a motor vehicle without a
5 functioning certified ignition interlock device during the applicable time
6 period.

7 I. If the ignition interlock device is removed from a vehicle by an
8 installer, the installer shall electronically notify the department in a form
9 prescribed by the department that the ignition interlock device has been
10 removed from the vehicle.

11 J. If the person does not provide evidence to the department within
12 seventy-two hours that the person has installed a functioning certified
13 ignition interlock device in each vehicle operated by the person and has
14 provided proof of installation to the department, the department shall
15 suspend the special ignition interlock restricted driver license or privilege
16 as prescribed in section 28-1463.

17 K. A person who violates this section is guilty of a class 1
18 misdemeanor. Additionally, if a person is convicted of violating subsection
19 A, C, D, F or H of this section, the department shall extend the duration of
20 the certified ignition interlock device requirement for not more than one
21 year.

22 L. For the purposes of this section, "substantial emergency" means
23 that a person other than the person whose driving privilege is limited
24 pursuant to section 28-1381, 28-1382, 28-1383, 28-1385 or 28-3319 or
25 restricted pursuant to section 28-1402 is not reasonably available to drive
26 in response to an emergency.

27 Sec. 14. Section 28-3319, Arizona Revised Statutes, as amended by Laws
28 2007, chapter 219, section 3, is amended to read:

29 28-3319. Action after license suspension, revocation or denial
30 for driving under the influence or refusal of test;
31 ignition interlock device requirement; definition

32 A. If, pursuant to section 28-1321, 28-1381, 28-1382, 28-1383,
33 28-1385, 28-3320 or 28-3322, the license of a driver or the driving privilege
34 of a nonresident is suspended or revoked, the department shall not terminate
35 the suspension or revocation or issue a special ignition interlock restricted
36 driver license, if applicable, pursuant to chapter 4, article 3.1 of this
37 title until the person provides proof of financial responsibility pursuant to
38 chapter 9, article 3 of this title.

39 B. If, pursuant to section 28-1321, 28-1381, 28-1382, 28-1383,
40 28-1385, 28-3320 or 28-3322, an unlicensed resident is denied a license or
41 permit to operate a motor vehicle, the department shall not issue a license
42 or permit until the person provides proof of financial responsibility
43 pursuant to chapter 9, article 3 of this title.

44 C. If a person whose license or driving privilege is suspended or
45 revoked pursuant to section 28-1321, 28-1381, 28-1382, ~~or~~ 28-1383 OR 28-1385

1 is ordered, pursuant to section 28-1381, 28-1382, ~~or~~ 28-1383 OR 28-1385, to
2 attend alcohol or other drug screening, education or treatment, the
3 department shall not either:

4 1. Terminate the suspension or issue a special ignition interlock
5 restricted driver license, if applicable, pursuant to chapter 4, article 3.1
6 of this title until the person provides proof from the treatment facility
7 that the person has completed or is participating satisfactorily in alcohol
8 or other drug screening, education or treatment.

9 2. Issue a new license or a special ignition interlock restricted
10 driver license, if applicable, pursuant to chapter 4, article 3.1 of this
11 title to operate a motor vehicle after the revocation until the person
12 provides proof from the facility that the person has completed the court
13 ordered program.

14 D. PURSUANT TO SECTION 28-1385, THE DEPARTMENT SHALL REQUIRE ANY MOTOR
15 VEHICLE THE PERSON OPERATES TO BE EQUIPPED WITH A FUNCTIONING CERTIFIED
16 IGNITION INTERLOCK DEVICE AND THE PERSON TO MEET THE REQUIREMENTS PRESCRIBED
17 IN SECTION 28-1461 AS FOLLOWS:

18 1. FOR TWELVE MONTHS IF THE PERSON'S ALCOHOL CONCENTRATION IS:

19 (a) 0.08 OR MORE AND THE DEPARTMENT DETERMINES THAT WITHIN A PERIOD OF
20 EIGHTY-FOUR MONTHS THE PERSON HAS A PRIOR CONVICTION OF A VIOLATION OF
21 SECTION 28-1381, 28-1382 OR 28-1383 OR AN ACT IN ANOTHER JURISDICTION THAT IF
22 COMMITTED IN THIS STATE WOULD BE A VIOLATION OF SECTION 28-1381, 28-1382 OR
23 28-1383.

24 (b) 0.15 OR MORE BUT LESS THAN 0.20.

25 2. FOR EIGHTEEN MONTHS IF THE PERSON'S ALCOHOL CONCENTRATION IS 0.20
26 OR MORE.

27 3. FOR TWENTY-FOUR MONTHS IF THE PERSON'S ALCOHOL CONCENTRATION IS
28 0.20 OR MORE AND THE DEPARTMENT DETERMINES THAT WITHIN A PERIOD OF
29 EIGHTY-FOUR MONTHS THE PERSON HAS A PRIOR CONVICTION OF A VIOLATION OF
30 SECTION 28-1381, 28-1382 OR 28-1383 OR AN ACT IN ANOTHER JURISDICTION THAT IF
31 COMMITTED IN THIS STATE WOULD BE A VIOLATION OF SECTION 28-1381, 28-1382 OR
32 28-1383.

33 ~~D.~~ E. On receipt of a report of conviction from a court, the
34 department shall require any motor vehicle the convicted person operates to
35 be equipped with a functioning certified ignition interlock device and the
36 convicted person to meet the requirements prescribed in section 28-1461 ~~for~~
37 ~~twelve months if any of the following applies~~ AS FOLLOWS:

38 1. FOR SIX MONTHS IF THE PERSON IS CONVICTED OF A VIOLATION OF SECTION
39 28-1381, SUBSECTION A, PARAGRAPH 5.

40 ~~1.~~ 2. FOR TWELVE MONTHS IF:

41 (a) The department determines that within a period of eighty-four
42 months ~~a-~~ THE person is convicted of a second or subsequent violation of
43 section 28-1381 with a prior conviction of a violation of section 28-1381, ~~or~~
44 28-1382 OR 28-1383 or an act in another jurisdiction that if committed in
45 this state would be a violation of section 28-1381, ~~or~~ 28-1382 OR 28-1383.

1 ~~2.~~ (b) The person is ~~sentenced pursuant to~~ CONVICTED OF A VIOLATION
2 OF section ~~28-1381 or~~ 28-1382, subsection ~~D~~ A, PARAGRAPH 1. ~~, except that if~~
3 ~~the person's alcohol concentration is 0.20 or more, the certified ignition~~
4 ~~interlock device is required for eighteen months.~~

5 ~~3.~~ The person is ~~sentenced pursuant to section 28-1382, subsection F,~~
6 ~~except that if the person's alcohol concentration is 0.20 or more, the~~
7 ~~certified ignition interlock device is required for twenty four months.~~

8 3. FOR EIGHTEEN MONTHS IF THE PERSON IS CONVICTED OF A VIOLATION OF
9 SECTION 28-1382, SUBSECTION A, PARAGRAPH 2.

10 4. FOR TWENTY-FOUR MONTHS IF:

11 (a) THE PERSON IS CONVICTED OF A VIOLATION OF SECTION 28-1382,
12 SUBSECTION A, PARAGRAPH 2 AND THE DEPARTMENT DETERMINES THAT WITHIN A PERIOD
13 OF EIGHTY-FOUR MONTHS THE PERSON HAS A PRIOR CONVICTION OF A VIOLATION OF
14 SECTION 28-1381, 28-1382 OR 28-1383 OR AN ACT IN ANOTHER JURISDICTION THAT IF
15 COMMITTED IN THIS STATE WOULD BE A VIOLATION OF SECTION 28-1381, 28-1382 OR
16 28-1383.

17 ~~4.~~ (b) The ~~conviction is for a violation of~~ PERSON IS CONVICTED OF A
18 VIOLATION OF section 28-1383, ~~subsection A, paragraph 1, 2 or 4 or paragraph~~
19 ~~3, subdivision (b).~~

20 ~~E.~~ F. The requirement prescribed in subsection ~~D~~ E of this section
21 begins on the date of reinstatement of the person's driving privilege
22 following a suspension or revocation or on the date of the department's
23 receipt of the report of conviction, whichever occurs later.

24 ~~F.~~ G. A person who is required to equip a motor vehicle with a
25 certified ignition interlock device pursuant to ~~subsection D of~~ this section
26 shall comply with chapter 4, article 5 of this title.

27 H. THE TIME REQUIREMENTS PRESCRIBED IN SUBSECTIONS D AND E OF THIS
28 SECTION SHALL BE CALCULATED IN THE FOLLOWING MANNER:

29 1. IF THE REQUIREMENTS ARE ORDERED ON DIFFERENT DATES FOR THE SAME
30 VIOLATION, THE DEPARTMENT SHALL REDUCE THE AMOUNT OF TIME FOR THE SUBSEQUENT
31 REQUIREMENT BY THE AMOUNT OF TIME THE PERSON HAS MAINTAINED A CERTIFIED
32 IGNITION INTERLOCK DEVICE IN COMPLIANCE WITH CHAPTER 4, ARTICLE 5 OF THIS
33 TITLE.

34 2. IF THE REQUIREMENTS ARE ORDERED ON DIFFERENT DATES AND FOR A
35 DIFFERENT VIOLATION THAT DID NOT ARISE FROM THE SAME SERIES OF ACTS, THE
36 DEPARTMENT SHALL REQUIRE THE PERSON TO MAINTAIN A CERTIFIED IGNITION
37 INTERLOCK DEVICE ON ANY VEHICLE THE PERSON OPERATES FOR AN ADDITIONAL PERIOD
38 OF TIME.

39 ~~G.~~ I. For the purposes of this section, "certified ignition interlock
40 device" has the same meaning prescribed in section 28-1301.

1 Sec. 15. Section 28-3512, Arizona Revised Statutes, is amended to
2 read:

3 28-3512. Release of vehicle; definition

4 A. An immobilizing or impounding agency shall release a vehicle to the
5 owner before the end of the thirty day immobilization or impoundment period
6 under any of the following circumstances:

7 1. If the vehicle is a stolen vehicle.

8 2. If the vehicle is subject to bailment and is driven by an employee
9 of a business establishment, including a parking service or repair garage,
10 who is subject to section 28-3511, subsection A, ~~or~~ B or C.

11 3. If the owner presents proof satisfactory to the immobilizing or
12 impounding agency that the owner's driving privilege has been reinstated.

13 4. All of the following apply:

14 (a) The owner or the owner's agent was not the person driving the
15 vehicle pursuant to section 28-3511, subsection A.

16 (b) The owner or the owner's agent is in the business of renting motor
17 vehicles without drivers.

18 (c) The vehicle is registered pursuant to section 28-2166.

19 5. For the spouse of the owner or any person who is identified as an
20 owner of the vehicle on the records of the department, if the spouse or
21 person was not the driver of the vehicle at the time of removal and either
22 immobilization or impoundment and the spouse or person enters into an
23 agreement with the immobilizing or impounding agency that stipulates that if
24 the spouse or person allows an unlicensed driver or a driver arrested in
25 violation of section 4-244, paragraph 33 or section 28-1382 or 28-1383 to
26 drive the spouse's or person's vehicle within one year after the agreement is
27 signed, the spouse or person will not be eligible to obtain release of the
28 spouse's or person's vehicle before the end of the thirty day immobilization
29 or impoundment period.

30 B. A vehicle shall not be released pursuant to subsection A of this
31 section except on order of a justice court, immobilizing agency or impounding
32 agency pursuant to an immobilization or a poststorage hearing under section
33 28-3514 or on presentation of the owner's or owner's spouse's currently valid
34 driver license to operate the vehicle and proof of current vehicle
35 registration and, if the driving privilege of the person driving the vehicle
36 was suspended due to a previous conviction for driving under the influence
37 pursuant to section 28-1381, ~~subsection K, paragraph 4, section~~ 28-1382 or
38 ~~section~~ 28-1383 and a certified ignition interlock device was required to be
39 installed on the vehicle, on presentation of proof of installation of a
40 functioning certified ignition interlock device in the vehicle. The
41 impounding agency, storage yard, facility, person or agency having physical
42 possession of the vehicle shall allow access to the impounded vehicle for the
43 purpose of installing a certified ignition interlock device. The impounding
44 agency, storage yard, facility, person or agency having physical possession

1 of the vehicle shall not charge a fee for providing access to the vehicle or
2 for the installation of the certified ignition interlock device.

3 C. The owner is responsible for paying all immobilization, towing and
4 storage charges related to the immobilization or impoundment of the vehicle
5 and any administrative charges established pursuant to section 28-3513,
6 unless the vehicle is stolen and the theft was reported to the appropriate
7 law enforcement agency. If the vehicle is stolen and the theft was reported
8 to the appropriate law enforcement agency, the operator of the vehicle at the
9 time of immobilization or impoundment is responsible for all immobilization,
10 towing, storage and administrative charges.

11 D. The immobilizing or impounding agency shall release a vehicle to a
12 person, other than the owner, identified on the department's record as having
13 an interest in the vehicle before the end of the thirty day immobilization or
14 impoundment period if all of the following conditions are met:

15 1. The person is a motor vehicle dealer, bank, credit union or
16 acceptance corporation or any other licensed financial institution legally
17 operating in this state or is another person who is not the owner and who
18 holds a security interest in the vehicle.

19 2. The person pays all immobilization, towing and storage fees related
20 to the immobilization or impoundment of the vehicle unless the vehicle is
21 stolen and the theft was reported to the appropriate law enforcement agency.
22 If the vehicle is stolen and the theft was reported to the appropriate law
23 enforcement agency, the operator of the vehicle at the time of immobilization
24 or impoundment is responsible for all immobilization, towing, storage and
25 administrative charges.

26 3. The person presents foreclosure documents or an affidavit of
27 repossession of the vehicle.

28 E. Before a person described in subsection D of this section releases
29 the vehicle, the person may require the owner to pay charges that the person
30 incurred in connection with obtaining custody of the vehicle, including all
31 immobilization, towing and storage charges that are related to the
32 immobilization or impoundment of the vehicle and any administrative charges
33 that are established pursuant to section 28-3513.

34 F. A vehicle shall not be released after the end of the thirty day
35 immobilization or impoundment period except on presentation of the owner's or
36 owner's agent's currently valid driver license to operate the vehicle and
37 proof of current vehicle registration and, if the driving privilege of the
38 person driving the vehicle was suspended due to a previous conviction for
39 driving under the influence pursuant to section 28-1381, ~~subsection K,~~
40 ~~paragraph 4, section~~ 28-1382 or ~~section~~ 28-1383 and a certified ignition
41 interlock device was required to be installed on the vehicle, on presentation
42 of proof of installation of a functioning certified ignition interlock device
43 in the vehicle. The impounding agency, storage yard, facility, person or
44 agency having physical possession of the vehicle shall allow access to the
45 impounded vehicle for the purpose of installing a certified ignition

1 interlock device. The impounding agency, storage yard, facility, person or
2 agency having physical possession of the vehicle shall not charge a fee for
3 providing access to the vehicle or for the installation of the certified
4 ignition interlock device.

5 G. The storage charges relating to the impoundment of a vehicle
6 pursuant to this section shall either:

7 1. Be subject to a contractual agreement between the impounding agency
8 and a towing firm for storage services pursuant to section 28-1108.

9 2. Not exceed fifteen dollars for each day of storage.

10 H. The immobilizing or impounding agency shall have no lien or
11 possessory interest in a stolen vehicle if the theft was reported to the
12 appropriate law enforcement agency. The immobilizing or impounding agency
13 shall release the vehicle to the owner or person other than the owner as
14 identified in subsection D of this section even if the operator at the time
15 of immobilization or impoundment has not paid all immobilization, towing,
16 storage and administrative fees.

17 I. For the purposes of this section, "certified ignition interlock
18 device" has the same meaning prescribed in section 28-1301.

19 Sec. 16. Title 28, chapter 11, article 2, Arizona Revised Statutes, is
20 amended by adding section 28-4848, to read:

21 28-4848. Access to vehicle; ignition interlock device
22 installer; lienholder; fee prohibited; violation;
23 classification

24 A. A TOWING COMPANY, STORAGE YARD, FACILITY OR PERSON THAT HAS
25 PHYSICAL POSSESSION OF A VEHICLE THAT WAS REMOVED PURSUANT TO SECTION
26 9-499.05, 11-251.04 OR 28-872, THAT WAS IMPOUNDED PURSUANT TO CHAPTER 8,
27 ARTICLE 9 OF THIS TITLE OR THAT WAS ABANDONED SHALL PROVIDE ACCESS TO A
28 PERSON DURING NORMAL BUSINESS HOURS WHO PRESENTS EVIDENCE THAT THE PERSON
29 EITHER:

30 1. IS CERTIFIED BY THE DEPARTMENT AS AN IGNITION INTERLOCK DEVICE
31 MANUFACTURER OR INSTALLER AND REQUIRES ACCESS TO THE VEHICLE FOR THE PURPOSE
32 OF REMOVING THE DEVICE FROM THE VEHICLE.

33 2. IS LISTED AS A LIENHOLDER ON THE DEPARTMENT'S RECORDS FOR THE
34 VEHICLE AND REQUIRES ACCESS TO THE VEHICLE FOR THE PURPOSE OF ASSESSING THE
35 CONDITION OF THE VEHICLE.

36 B. AFTER COMPLYING WITH SUBSECTION C OF THIS SECTION, AN IGNITION
37 INTERLOCK DEVICE MANUFACTURER OR INSTALLER OR A LIENHOLDER WHO IS DENIED
38 ACCESS TO A VEHICLE BY A TOWING COMPANY, STORAGE YARD, FACILITY OR PERSON
39 THAT HAS PHYSICAL POSSESSION OF THE VEHICLE MAY REPORT THE DENIAL TO THE
40 IMPOUNDING AGENCY OR A LAW ENFORCEMENT AGENCY THAT HAS JURISDICTION IN THE
41 CITY OR COUNTY IN WHICH THE VEHICLE IS BEING STORED AND MAY SUBMIT A WRITTEN
42 REQUEST FOR ASSISTANCE AS PRESCRIBED BY THE IMPOUNDING AGENCY OR LAW
43 ENFORCEMENT AGENCY TO OBTAIN ACCESS TO THE VEHICLE FOR THE PURPOSES
44 PRESCRIBED IN THIS SECTION. THE IMPOUNDING AGENCY OR THE LAW ENFORCEMENT
45 AGENCY SHALL PROVIDE ASSISTANCE TO THE LIENHOLDER IN OBTAINING ACCESS TO THE

1 VEHICLE WITHIN FIVE BUSINESS DAYS AFTER THE DATE THE WRITTEN REQUEST IS
2 RECEIVED BY THE IMPOUNDING AGENCY OR LAW ENFORCEMENT AGENCY.

3 C. A TOWING COMPANY, STORAGE YARD, FACILITY OR PERSON THAT HAS
4 PHYSICAL POSSESSION OF A VEHICLE AS PRESCRIBED IN SUBSECTION A OF THIS
5 SECTION SHALL PROVIDE ACCESS DURING NORMAL BUSINESS HOURS TO AN IGNITION
6 INTERLOCK DEVICE MANUFACTURER OR INSTALLER OR LIENHOLDER WHO SUBMITS A
7 REQUEST FOR ACCESS TO A VEHICLE. THE REQUEST FOR ACCESS SHALL BE IN WRITING,
8 SHALL CONTAIN THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE PERSON MAKING THE
9 REQUEST FOR ACCESS TO THE VEHICLE AND EITHER:

10 1. FOR A LIENHOLDER, SHALL INCLUDE A COPY OF A SIGNED CONTRACT, LOAN
11 AGREEMENT OR CREDIT AGREEMENT INDICATING THE VEHICLE OWNER'S NAME, THE
12 VEHICLE IDENTIFICATION NUMBER, THE VEHICLE MAKE AND MODEL OR OTHER
13 IDENTIFYING INDICIA OR A CERTIFIED RECORD ISSUED BY THE DEPARTMENT LISTING
14 THE PERSON AS A LIENHOLDER.

15 2. FOR AN IGNITION INTERLOCK DEVICE MANUFACTURER OR INSTALLER, SHALL
16 INCLUDE A COPY OF A SIGNED CONTRACT IDENTIFYING THE MAKE AND MODEL OR SERIAL
17 NUMBER OF THE IGNITION INTERLOCK DEVICE, THE MAKE AND MODEL OF THE VEHICLE OR
18 THE VEHICLE IDENTIFICATION NUMBER OF THE VEHICLE IN WHICH THE DEVICE IS
19 INSTALLED.

20 D. IF THE VEHICLE OWNER DOES NOT INSPECT THE VEHICLE BEFORE REMOVAL OF
21 THE IGNITION INTERLOCK DEVICE BY THE MANUFACTURER OR INSTALLER, OR HAS
22 INSPECTED THE VEHICLE AND HAS HAD THE OPPORTUNITY TO REMOVE PERSONAL PROPERTY
23 IN THE VEHICLE, A REBUTTABLE PRESUMPTION IS CREATED THAT DAMAGE TO THE
24 VEHICLE AND ANY LOSS OF PERSONAL PROPERTY IN THE VEHICLE OCCURRED WHILE THE
25 VEHICLE WAS NOT IN THE CUSTODY OF THE TOWING COMPANY, STORAGE YARD, FACILITY
26 OR PERSON THAT HAS PHYSICAL POSSESSION OF THE VEHICLE. THE PRESUMPTION MAY
27 BE OVERCOME BY A PREPONDERANCE OF EVIDENCE TO THE CONTRARY.

28 E. THIS SECTION DOES NOT CREATE A CAUSE OF ACTION OR A RIGHT TO BRING
29 AN ACTION AGAINST A TOWING COMPANY, STORAGE YARD, FACILITY OR PERSON THAT HAS
30 PHYSICAL POSSESSION OF THE VEHICLE FOR ALLOWING ACCESS TO A VEHICLE TO A
31 PERSON OTHER THAN THE OWNER IF THE WRITTEN REQUEST AS PRESCRIBED IN THIS
32 SECTION IS PROVIDED TO THE TOWING COMPANY, STORAGE YARD, FACILITY OR PERSON
33 THAT HAS PHYSICAL POSSESSION OF THE VEHICLE.

34 F. A TOWING COMPANY, STORAGE YARD, FACILITY OR PERSON THAT HAS
35 PHYSICAL POSSESSION OF A VEHICLE SHALL NOT CHARGE A FEE OR REQUIRE OR REQUEST
36 ANY COMPENSATION FOR PROVIDING ACCESS TO A VEHICLE PURSUANT TO THIS SECTION.

37 G. A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A CLASS 2
38 MISDEMEANOR.

39 Sec. 17. Appropriation; department of transportation; exemption

40 A. The sum of \$300,000 is appropriated from the driving under the
41 influence abatement fund established by section 28-1304, Arizona Revised
42 Statutes, in fiscal year 2007-2008 to the department of transportation for
43 the purposes of section 28-1445, Arizona Revised Statutes, as added by this
44 act.

1 B. The appropriation made in subsection A of this section is exempt
2 from the provisions of section 35-190, Arizona Revised Statutes, relating to
3 lapsing of appropriations.

4 Sec. 18. Effective date

5 Section 28-1445, Arizona Revised Statutes, as added by this act, is
6 effective from and after June 30, 2008.