

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

SENATE BILL 1582

AN ACT

AMENDING SECTIONS 28-1321, 28-1381, 28-1382, 28-1383, 28-1385 AND 28-1387, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 3, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-1445; AMENDING SECTIONS 28-1461, 28-1463, 28-1464 AND 28-3319, ARIZONA REVISED STATUTES; 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 28-1321, Arizona Revised Statutes, is amended to
3 read:

4 28-1321. Implied consent; tests; refusal to submit to test;
5 order of suspension; hearing; review; temporary
6 permit; notification of suspension; special ignition
7 interlock restricted driver license

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

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

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

23 B. After an arrest a violator shall be requested to submit to and
24 successfully complete any test or tests prescribed by subsection A of this
25 section, and if the violator refuses the violator shall be informed that the
26 violator's license or permit to drive will be suspended or denied for twelve
27 months, or for two years for a second or subsequent refusal within a period
28 of eighty-four months, unless the violator expressly agrees to submit to and
29 successfully completes the test or tests. A failure to expressly agree to
30 the test or successfully complete the test is deemed a refusal. The violator
31 shall also be informed that if the test results show a blood or breath
32 alcohol concentration of 0.08 or more, or if the results show a blood or
33 breath alcohol concentration of 0.04 or more and the violator was driving or
34 in actual physical control of a commercial motor vehicle, the violator's
35 license or permit to drive will be suspended or denied for not less than
36 ninety consecutive days. **THE VIOLATOR SHALL ALSO BE INFORMED THAT THE**
37 **VIOLATOR'S DRIVING PRIVILEGE, LICENSE OR PERMIT OR RIGHT TO APPLY FOR A**
38 **LICENSE OR PERMIT OR ANY NONRESIDENT OPERATING PRIVILEGE TO OPERATE A MOTOR**
39 **VEHICLE MAY BE ISSUED OR REINSTATED FOLLOWING THE PERIOD OF SUSPENSION ONLY**
40 **IF THE VIOLATOR COMPLETES AN ALCOHOL OR OTHER DRUG SCREENING, EDUCATION OR**
41 **TREATMENT PROGRAM THAT IS ORDERED BY THE DEPARTMENT AND THE VIOLATOR IS IN**
42 **COMPLIANCE WITH ANY ORDER ISSUED BY THE DEPARTMENT FOR THE INSTALLATION AND**
43 **USE OF A CERTIFIED IGNITION INTERLOCK DEVICE PURSUANT TO THIS CHAPTER.**

44 C. A person who is dead, unconscious or otherwise in a condition
45 rendering the person incapable of refusal is deemed not to have withdrawn the

1 consent provided by subsection A of this section and the test or tests may be
2 administered, subject to section 4-244, paragraph 33 or section 28-1381,
3 28-1382 or 28-1383.

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

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

8 2. The law enforcement officer directing the administration of the
9 test shall:

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

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

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

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

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

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

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

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

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

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

32 2. The manner in which the person refused to submit to the test or
33 tests.

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

35 F. On receipt of the certified report of refusal and a copy of the
36 order of suspension and on the effective date stated on the order, the
37 department shall enter the order of suspension on its records unless a
38 written request for a hearing as provided in this section has been filed by
39 the accused person. If the department receives only the certified report of
40 refusal, the department shall notify the person named in the report in
41 writing sent by mail that:

42 1. Fifteen days after the date of issuance of the notice the
43 department will suspend the person's license or permit, driving privilege or
44 nonresident driving privilege.

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

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

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

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

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

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

21 H. The order for suspension shall:

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

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

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

34 J. A timely request for a hearing stays the suspension until a hearing
35 is held, except that the department shall not return any surrendered license
36 or permit to the person but may issue temporary permits to drive that expire
37 no later than when the department has made its final decision. If the person
38 is a resident without a license or permit or has an expired license or
39 permit, the department may allow the person to apply for a RESTRICTED license
40 or permit. If the department determines the person is otherwise entitled to
41 the license or permit, the department shall issue and retain a RESTRICTED
42 license or permit subject to this section.

43 K. Hearings requested under this section shall be conducted in the
44 same manner and under the same conditions as provided in section 28-3306.

1 For the purposes of this section, the scope of the hearing shall include only
2 the issues of whether:

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

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

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

9 2. The person was placed under arrest.

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

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

12 L. 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 to the
19 person the issuance of a license or permit for a period of twelve months
20 after the order of suspension becomes effective or for a period of two years
21 after the order of suspension becomes effective for a second or subsequent
22 refusal within a period of eighty-four months, AND MAY REINSTATE THE PERSON'S
23 PRIVILEGE TO DRIVE, LICENSE OR PERMIT OR RIGHT TO APPLY FOR A LICENSE OR
24 PERMIT OR ANY NONRESIDENT OPERATING PRIVILEGE FOLLOWING THE PERIOD OF
25 SUSPENSION ONLY IF THE VIOLATOR COMPLETES AN ALCOHOL OR OTHER DRUG SCREENING,
26 EDUCATION OR TREATMENT PROGRAM THAT IS ORDERED BY THE DEPARTMENT AND COMPLIES
27 WITH ANY ORDER THAT IS ISSUED BY THE DEPARTMENT FOR THE INSTALLATION AND USE
28 OF A CERTIFIED IGNITION INTERLOCK DEVICE PURSUANT TO THIS CHAPTER.

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

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

38 O. If it has been determined under the procedures of this section that
39 a nonresident's privilege to operate a motor vehicle in this state has been
40 suspended, the department shall give information EITHER in writing OR BY
41 ELECTRONIC MEANS of the action taken to the motor vehicle administrator of
42 the state of the person's residence and of any state in which the person has
43 a license.

44 P. After completing not less than ninety consecutive days of the
45 period of suspension required by this section AND ANY ALCOHOL OR OTHER DRUG

1 SCREENING, EDUCATION OR TREATMENT PROGRAM THAT IS ORDERED BY THE DEPARTMENT
2 PURSUANT TO THIS CHAPTER, a person whose driving privilege is suspended
3 pursuant to this section may apply to the department for a special ignition
4 interlock restricted driver license pursuant to section 28-1401. Unless the
5 certified ignition interlock period is extended by the department pursuant to
6 section 28-1402, a person who is issued a special ignition interlock
7 restricted driver license as provided in this subsection shall maintain a
8 functioning certified ignition interlock device in compliance with this
9 chapter during the remaining period of the suspension prescribed by this
10 section. This subsection does not apply to a person whose driving privilege
11 is suspended for a second or subsequent refusal within a period of
12 eighty-four months or a person who within a period of eighty-four months has
13 been convicted of a second or subsequent violation of article 3 of this
14 chapter or section 4-244, paragraph 33 or an act in another jurisdiction that
15 if committed in this state would be a violation of article 3 of this chapter
16 or section 4-244, paragraph 33.

17 Sec. 2. Section 28-1381, Arizona Revised Statutes, is amended to read:

18 28-1381. Driving or actual physical control while under the
19 influence; trial by jury; presumptions; admissible
20 evidence; sentencing; classification

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

23 1. While under the influence of intoxicating liquor, any drug, a vapor
24 releasing substance containing a toxic substance or any combination of
25 liquor, drugs or vapor releasing substances if the person is impaired to the
26 slightest degree.

27 2. If the person has an alcohol concentration of 0.08 or more within
28 two hours of driving or being in actual physical control of the vehicle and
29 the alcohol concentration results from alcohol consumed either before or
30 while driving or being in actual physical control of the vehicle.

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

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

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

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

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

44 E. In any prosecution for a violation of this section, the state shall
45 allege, for the purpose of classification and sentencing pursuant to this

1 section, all prior convictions of violating this section, section 28-1382 or
2 section 28-1383 occurring within the past thirty-six months, unless there is
3 an insufficient legal or factual basis to do so.

4 F. At the arraignment, the court shall:

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

7 2. DETERMINE WHETHER THE PERSON'S RELEASE CONDITIONS SHOULD REQUIRE NO
8 ALCOHOL CONSUMPTION.

9 3. DETERMINE WHETHER THE PERSON'S RELEASE CONDITION SHOULD INCLUDE
10 CONTINUOUS ALCOHOL MONITORING OR A MINIMUM OF TWICE DAILY ALCOHOL TESTING.

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

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

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

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

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

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

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

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

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

38 4. Shall pay an additional assessment of five hundred dollars to be
39 deposited by the state treasurer in the prison construction and operations
40 fund established by section 41-1651. This assessment is not subject to any
41 surcharge. If the conviction occurred in the superior court or a justice
42 court, the court shall transmit the assessed monies to the county treasurer.
43 If the conviction occurred in a municipal court, the court shall transmit the
44 assessed monies to the city treasurer. The city or county treasurer shall
45 transmit the monies received to the state treasurer.

1 5. Shall pay an additional assessment of five hundred dollars to be
2 deposited by the state treasurer in the state general fund. This assessment
3 is not subject to any surcharge. If the conviction occurred in the superior
4 court or a justice court, the court shall transmit the assessed monies to the
5 county treasurer. If the conviction occurred in a municipal court, the court
6 shall transmit the assessed monies to the city treasurer. The city or county
7 treasurer shall transmit the monies received to the state treasurer.

8 J. Notwithstanding subsection I, paragraph 1 of this section, at the
9 time of sentencing the judge may suspend all but twenty-four consecutive
10 hours of the sentence if the person completes a court OR DEPARTMENT ordered
11 alcohol or other drug screening, education or treatment program AND, IF
12 ORDERED BY THE COURT, THE PERSON DOES NOT CONSUME ALCOHOL FOR A PERIOD OF AT
13 LEAST THIRTY DAYS OR MORE AS DEMONSTRATED THROUGH CONTINUOUS ALCOHOL
14 MONITORING OR TWICE DAILY ALCOHOL TESTING. THE COURT MAY EXTEND THE PERIOD
15 OF CONTINUOUS ALCOHOL MONITORING BASED ON THE RESULTS OBTAINED DURING THE
16 MONITORING. THE COURT MAY ACCEPT EVIDENCE OF A PERSON'S COMPLETION OF AN
17 ALCOHOL OR OTHER DRUG SCREENING, EDUCATION OR TREATMENT PROGRAM ORDERED BY
18 THE DEPARTMENT PURSUANT TO SECTION 28-1445 AS SUFFICIENT TO MEET THE
19 REQUIREMENTS OF THIS SECTION OR MAY ORDER THE PERSON TO COMPLETE ADDITIONAL
20 ALCOHOL OR OTHER DRUG SCREENING, EDUCATION OR TREATMENT PROGRAMS. If the
21 person fails to complete the court OR DEPARTMENT ordered alcohol or other
22 drug screening, education or treatment program OR VIOLATES THE COURT ORDER TO
23 NOT CONSUME ALCOHOL and has not been placed on probation, the court shall
24 issue an order to show cause to the defendant as to why the remaining jail
25 sentence should not be served.

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

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

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

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

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

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

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

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

23 L. Notwithstanding subsection K, paragraph 1 of this section, at the
24 time of sentencing, the judge may suspend all but thirty days of the sentence
25 if the person completes a court OR DEPARTMENT ordered alcohol or other drug
26 screening, education or treatment program AND, IF ORDERED BY THE COURT, THE
27 PERSON DOES NOT CONSUME ALCOHOL FOR A PERIOD OF AT LEAST THIRTY DAYS OR MORE
28 AS DEMONSTRATED THROUGH CONTINUOUS ALCOHOL MONITORING OR TWICE DAILY ALCOHOL
29 TESTING. THE COURT MAY EXTEND THE PERIOD OF CONTINUOUS ALCOHOL MONITORING
30 BASED ON THE RESULTS OBTAINED DURING THE MONITORING. THE COURT MAY ACCEPT
31 EVIDENCE OF A PERSON'S COMPLETION OF AN ALCOHOL OR OTHER DRUG SCREENING,
32 EDUCATION OR TREATMENT PROGRAM ORDERED BY THE DEPARTMENT PURSUANT TO SECTION
33 28-1445 AS SUFFICIENT TO MEET THE REQUIREMENTS OF THIS SECTION OR MAY ORDER
34 THE PERSON TO COMPLETE ADDITIONAL ALCOHOL OR OTHER DRUG SCREENING, EDUCATION
35 OR TREATMENT PROGRAMS. If the person fails to complete the court OR
36 DEPARTMENT ordered alcohol or other drug screening, education or treatment
37 program OR VIOLATES THE COURT ORDER TO NOT CONSUME ALCOHOL and has not been
38 placed on probation, the court shall issue an order to show cause as to why
39 the remaining jail sentence should not be served.

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

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

1 Sec. 3. Section 28-1382, Arizona Revised Statutes, is amended to read:
2 28-1382. Driving or actual physical control while under the
3 extreme influence of intoxicating liquor; trial by
4 jury; sentencing; classification

5 A. It is unlawful for a person to drive or be in actual physical
6 control of a vehicle in this state if the person has an alcohol concentration
7 of 0.15 or more within two hours of driving or being in actual physical
8 control of the vehicle and the alcohol concentration results from alcohol
9 consumed either before or while driving or being in actual physical control
10 of the vehicle.

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

14 C. At the arraignment, the court shall:

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

17 2. DETERMINE WHETHER THE PERSON'S RELEASE CONDITIONS SHOULD REQUIRE NO
18 ALCOHOL CONSUMPTION.

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

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

22 1. Shall be sentenced to serve not less than thirty consecutive days
23 in jail and is not eligible for probation or suspension of execution of
24 sentence unless the entire sentence is served.

25 2. Shall pay a fine of not less than two hundred fifty dollars. The
26 fine prescribed in this paragraph and any assessments, restitution and
27 incarceration costs shall be paid before the assessment prescribed in
28 paragraph 3 of this subsection.

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

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

39 5. Shall be required by the department, on receipt of the report of
40 conviction, to equip any motor vehicle the person operates with a certified
41 ignition interlock device pursuant to section 28-3319. In addition, the
42 court may order the person to equip any motor vehicle the person operates
43 with a certified ignition interlock device for more than twelve months
44 beginning on the date of reinstatement of the person's driving privilege
45 following a suspension or revocation or on the date of the department's

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

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

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

19 E. ~~Notwithstanding subsection D, paragraph 1 of this section,~~ At the
20 time of sentencing the judge may ~~suspend all but ten days of the sentence if~~
21 REQUIRE the person ~~completes~~ TO COMPLETE a court OR DEPARTMENT ordered
22 alcohol or other drug screening, education or treatment program AND, IF
23 ORDERED BY THE COURT, THE PERSON SHALL NOT CONSUME ALCOHOL FOR A PERIOD OF AT
24 LEAST THIRTY DAYS OR MORE AS DEMONSTRATED THROUGH CONTINUOUS ALCOHOL
25 MONITORING OR TWICE DAILY ALCOHOL TESTING. THE COURT MAY EXTEND THE PERIOD
26 OF CONTINUOUS ALCOHOL MONITORING BASED ON THE RESULTS OBTAINED DURING
27 MONITORING. THE COURT MAY ACCEPT EVIDENCE OF A PERSON'S COMPLETION OF AN
28 ALCOHOL OR OTHER DRUG SCREENING, EDUCATION OR TREATMENT PROGRAM ORDERED BY
29 THE DEPARTMENT PURSUANT TO SECTION 28-1445 AS SUFFICIENT TO MEET THE
30 REQUIREMENTS OF THIS SECTION OR MAY ORDER THE PERSON TO COMPLETE ADDITIONAL
31 ALCOHOL OR OTHER DRUG SCREENING, EDUCATION OR TREATMENT PROGRAMS. If the
32 person fails to complete the court OR DEPARTMENT ordered alcohol or other
33 drug screening, education or treatment program OR VIOLATES THE COURT ORDER TO
34 NOT CONSUME ALCOHOL and has not been placed on probation, the court shall
35 issue an order to show cause to the defendant as to why the remaining jail
36 sentence should not be served.

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

43 1. Shall be sentenced to serve not less than one hundred twenty days
44 in jail, sixty days of which shall be served consecutively, and is not

1 eligible for probation or suspension of execution of sentence unless the
2 entire sentence has been served.

3 2. Shall pay a fine of not less than five hundred dollars. The fine
4 prescribed in this paragraph and any assessments, restitution and
5 incarceration costs shall be paid before the assessment prescribed in
6 paragraph 3 of this subsection.

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

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

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

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

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

1 treasurer. The city or county treasurer shall transmit the monies received
2 to the state treasurer.

3 G. Notwithstanding subsection F, paragraph 1 of this section, at the
4 time of sentencing, the judge may suspend all but sixty days of the sentence
5 if the person completes a court OR DEPARTMENT ordered alcohol or other drug
6 screening, education or treatment program AND, IF ORDERED BY THE COURT, THE
7 PERSON DOES NOT CONSUME ALCOHOL FOR A PERIOD OF NINETY DAYS OR MORE AS
8 DEMONSTRATED THROUGH CONTINUOUS ALCOHOL MONITORING OR A MINIMUM OF TWICE
9 DAILY ALCOHOL TESTING. THE COURT MAY EXTEND THE PERIOD OF CONTINUOUS ALCOHOL
10 MONITORING BASED ON THE RESULTS OBTAINED DURING THE MONITORING. THE COURT
11 MAY ACCEPT EVIDENCE OF A PERSON'S COMPLETION OF AN ALCOHOL OR OTHER DRUG
12 SCREENING, EDUCATION OR TREATMENT PROGRAM ORDERED BY THE DEPARTMENT PURSUANT
13 TO SECTION 28-1445 AS SUFFICIENT TO MEET THE REQUIREMENTS OF THIS SECTION OR
14 MAY ORDER THE PERSON TO COMPLETE ADDITIONAL ALCOHOL OR OTHER DRUG SCREENING,
15 EDUCATION OR TREATMENT PROGRAMS. If the person fails to complete the court
16 OR DEPARTMENT ordered alcohol or other drug screening, education or treatment
17 program OR VIOLATES THE COURT ORDER TO NOT CONSUME ALCOHOL and has not been
18 placed on probation, the court shall issue an order to show cause as to why
19 the remaining jail sentence should not be served.

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

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

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

28 Sec. 4. Section 28-1383, Arizona Revised Statutes, is amended to read:
29 28-1383. Aggravated driving or actual physical control while
30 under the influence; violation; classification;
31 definition

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

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

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

1 if committed in this state would be a violation of section 28-1381, section
2 28-1382 or this section.

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

5 (a) Section 28-1381.

6 (b) Section 28-1382.

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

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

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

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

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

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

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

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

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

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

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

4 H. IN ADDITION TO ANY ALCOHOL OR OTHER DRUG SCREENING, EDUCATION OR
5 TREATMENT PROGRAM ORDERED BY THE DEPARTMENT PURSUANT TO SECTION 28-1385, a
6 person who is convicted of a violation of this section shall attend and
7 complete alcohol or other drug screening, education or treatment from an
8 approved facility AS ORDERED BY THE COURT. THE COURT OR PROBATION DEPARTMENT
9 MAY ACCEPT EVIDENCE SATISFACTORY TO THE COURT OR PROBATION DEPARTMENT OF
10 COMPLETION OF AN ALCOHOL OR OTHER DRUG SCREENING, EDUCATION OR TREATMENT
11 PROGRAM ORDERED BY THE DEPARTMENT PURSUANT TO SECTION 28-1445 AS SUFFICIENT
12 TO MEET THE REQUIREMENTS OF THIS SECTION OR MAY ORDER THE PERSON TO COMPLETE
13 ADDITIONAL ALCOHOL OR OTHER DRUG SCREENING, EDUCATION OR TREATMENT PROGRAMS.

14 If the person fails to comply with this subsection and is placed on
15 probation, in addition to the provisions of section 13-901 the court may
16 order that the person be incarcerated as a term of probation as follows:

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

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

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

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

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

43 2. In addition to any other penalty prescribed by law, shall order the
44 person to pay an additional assessment of two hundred fifty dollars. If the
45 conviction occurred in the superior court or a justice court, the court shall

1 transmit the monies received pursuant to this paragraph to the county
2 treasurer. If the conviction occurred in a municipal court, the court shall
3 transmit the monies received pursuant to this paragraph to the city
4 treasurer. The city or county treasurer shall transmit the monies received
5 to the state treasurer. The state treasurer shall deposit the monies
6 received in the driving under the influence abatement fund established by
7 section 28-1304. Any fine imposed for a violation of this section and any
8 assessments, restitution and incarceration costs shall be paid before the
9 assessment prescribed in this paragraph.

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

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

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

30 K. After completing the period of suspension required by section
31 28-1385, a person whose driving privilege is revoked for a violation of
32 subsection A, paragraph 3 of this section may apply to the department for a
33 special ignition interlock restricted driver license pursuant to section
34 28-1401.

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

36 1. WHETHER THE PERSON'S RELEASE CONDITIONS SHOULD INCLUDE NO ALCOHOL
37 CONSUMPTION.

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

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

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

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

1 ~~M.~~ N. For the purposes of this section, "suspension, cancellation,
2 revocation or refusal" means any suspension, cancellation, revocation or
3 refusal.

4 Sec. 5. Section 28-1385, Arizona Revised Statutes, is amended to read:
5 28-1385. Administrative license suspension for driving under
6 the influence; report; hearing; summary review

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

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

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

15 (a) BETWEEN 0.08 ~~or more~~ AND 0.15 alcohol concentration in the
16 person's blood or breath.

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

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

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

26 1. Information that adequately identifies the arrested person.

27 2. A statement of the officer's grounds for belief that the person was
28 driving or in actual physical control of a motor vehicle in violation of
29 section 4-244, paragraph 33, section 28-1381, ~~or~~ section 28-1382 OR SECTION
30 28-1383.

31 3. A statement that the person was arrested for a violation of section
32 4-244, paragraph 33, section 28-1381, section 28-1382 or section 28-1383.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 2. Whether the person was placed under arrest for a violation of
42 section 4-244, paragraph 33, section 28-1381, section 28-1382 or section
43 28-1383.

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

4 (a) BETWEEN 0.08 AND 0.15 ~~or more~~.

5 (b) 0.15 OR MORE.

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

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

9 5. Whether the test results were accurately evaluated.

10 6. WHETHER THE DEPARTMENT HAS REASONABLE GROUNDS TO BELIEVE THAT
11 WITHIN A PERIOD OF EIGHTY-FOUR MONTHS THE PERSON HAS PREVIOUSLY BEEN
12 CONVICTED OF A VIOLATION OF SECTION 4-244, PARAGRAPH 33, SECTION 28-1381,
13 SECTION 28-1382 OR SECTION 28-1383.

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

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

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

43 ~~L~~ M. A person may apply for a summary review of an order issued
44 pursuant to this section instead of a hearing at any time before the
45 effective date of the order. The person shall submit the application in

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

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

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

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

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

24 Sec. 6. Section 28-1387, Arizona Revised Statutes, is amended to read:

25 28-1387. Prior convictions; alcohol or other drug screening;
26 education and treatment; license suspension;
27 supervised probation; civil liability; procedures

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

44 B. In addition to any other penalties prescribed by law, the judge
45 shall order a person who is convicted of a violation of section 28-1381 or

1 28-1382 to complete alcohol or other drug screening that is provided by a
2 facility approved by the department of health services or a probation
3 department. If a judge determines that the person requires further alcohol
4 or other drug education or treatment, the person may be required pursuant to
5 court order to obtain alcohol or other drug education or treatment under the
6 court's supervision from an approved facility. The judge may review an
7 education or treatment determination at the request of the state, the
8 defendant or the probation officer or on the judge's initiative. The person
9 shall pay the costs of the screening, education or treatment unless, after
10 considering the person's ability to pay all or part of the costs, the court
11 waives all or part of the costs. If a person is referred to a screening,
12 education or treatment facility, the facility shall report to the court
13 whether the person has successfully completed the screening, education or
14 treatment program. IF A PERSON HAS PREVIOUSLY BEEN ORDERED TO COMPLETE AN
15 ALCOHOL OR OTHER DRUG SCREENING, EDUCATION OR TREATMENT PROGRAM PURSUANT TO
16 THIS SECTION, THE JUDGE SHALL ORDER THE PERSON TO COMPLETE AN ALCOHOL OR
17 OTHER DRUG SCREENING, EDUCATION OR TREATMENT PROGRAM UNLESS THE JUDGE
18 DETERMINES THAT ALTERNATIVE SANCTIONS ARE MORE APPROPRIATE.

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

31 D. Unless the license of a person convicted under section 28-1381 or
32 28-1382 has been or is suspended pursuant to section 28-1321 or 28-1385, the
33 department on receipt of the abstract of conviction of a violation of section
34 28-1381 or 28-1382 shall suspend the license of the affected person for not
35 less than ninety consecutive days.

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

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

1 2. The person's place of residence and the person's secondary or
2 postsecondary school, according to the person's employment or educational
3 schedule.

4 3. The person's place of residence and a screening, education or
5 treatment facility for scheduled appointments.

6 4. The person's place of residence and the office of the person's
7 probation officer for scheduled appointments.

8 F. If a person is placed on probation for violating section 28-1381 or
9 28-1382, the probation shall be supervised unless the court finds that
10 supervised probation is not necessary or the court does not have supervisory
11 probation services.

12 G. Any political subdivision processing or using the services of a
13 person ordered to perform community restitution pursuant to section 28-1381
14 or 28-1382 does not incur any civil liability to the person ordered to
15 perform community restitution as a result of these activities unless the
16 political subdivision or its agent or employee acts with gross negligence.

17 H. Except for another violation of this article, the state shall not
18 dismiss a charge of violating any provision of this article unless there is
19 an insufficient legal or factual basis to pursue that charge.

20 Sec. 7. Title 28, chapter 3, article 4, Arizona Revised Statutes, is
21 amended by adding section 28-1445, to read:

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

25 A. IF THE DEPARTMENT HAS REASONABLE GROUNDS TO BELIEVE THAT A PERSON
26 WHO IS SUBJECT TO A HEARING PURSUANT TO SECTION 28-1385 HAS A PRIOR
27 CONVICTION OF A VIOLATION OF SECTION 4-244, PARAGRAPH 33, OR SECTION 28-1381,
28 SECTION 28-1382 OR SECTION 28-1383 OR AN ACT IN ANOTHER JURISDICTION THAT IF
29 COMMITTED IN THIS STATE WOULD BE A VIOLATION OF SECTION 4-244, PARAGRAPH 33,
30 SECTION 28-1381, SECTION 28-1382 OR SECTION 28-1383, THE DEPARTMENT SHALL
31 INCLUDE THE ALLEGATION OF CONVICTION IN THE SCOPE OF THE HEARING. THE
32 DEPARTMENT SHALL SEND TO THE PERSON WHO REQUESTS A HEARING A COPY OF ANY
33 INFORMATION OF THE ALLEGATION OF A PRIOR CONVICTION BY FIRST CLASS MAIL AT
34 LEAST TWENTY DAYS BEFORE THE DATE THE CASE IS ACTUALLY HEARD. FOR THE
35 PURPOSES OF THIS ARTICLE, AN ORDER OF A JUVENILE COURT ADJUDICATING A PERSON
36 DELINQUENT OF THE VIOLATIONS LISTED IN THIS SUBSECTION IS EQUIVALENT TO A
37 CONVICTION.

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

41 C. A PERSON WHO IS ORDERED TO COMPLETE AN ALCOHOL OR OTHER DRUG
42 SCREENING, EDUCATION OR TREATMENT PROGRAM SHALL REPORT TO THE DEPARTMENT IN A
43 MANNER PRESCRIBED BY THE DEPARTMENT, WHETHER THE PERSON IS ACTIVELY
44 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 SECTIONS 28-1381, 28-1382
23 OR 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 EITHER SECTION 28-1381, 28-1382 OR 28-1383
34 BEFORE THE DEPARTMENT HOLDS A HEARING PURSUANT TO SECTION 28-1385, THE
35 DEPARTMENT MAY ACCEPT EVIDENCE SATISFACTORY TO THE DEPARTMENT AND IN A MANNER
36 PRESCRIBED BY THE DEPARTMENT OF COMPLETION OF AN ALCOHOL OR OTHER DRUG
37 SCREENING, EDUCATION OR TREATMENT PROGRAM ORDERED BY THE COURT PURSUANT TO
38 SECTION 28-1381, 28-1382 OR 28-1383 AS SUFFICIENT TO MEET THE ALCOHOL OR
39 OTHER DRUG SCREENING, EDUCATION OR TREATMENT PROGRAM REQUIREMENTS OF SECTION
40 28-1385 AND THIS SECTION OR THE DEPARTMENT MAY ORDER THE PERSON TO COMPLETE
41 ADDITIONAL 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 Sec. 8. Section 28-1461, Arizona Revised Statutes, is amended to read:

11 28-1461. Use of certified ignition interlock devices

12 A. If a person's driving privilege is limited pursuant to section
13 28-1381, 28-1382, 28-1383, 28-1385 or 28-3319 or restricted pursuant to
14 section 28-1402:

15 1. The person shall:

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

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

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

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

28 2. The department shall not reinstate the person's driving privilege
29 or issue a special ignition interlock restricted driver license until the
30 person has installed a functioning certified ignition interlock device in
31 each motor vehicle operated by the person and has provided proof of
32 installation to the department.

33 B. The department shall make a notation on the driving record of a
34 person whose driving privilege is limited pursuant to section 28-1381,
35 28-1382, 28-1383, 28-1385 or 28-3319 or restricted pursuant to section
36 28-1402 that states that the person shall not operate a motor vehicle unless
37 it is equipped with a certified ignition interlock device.

38 Sec. 9. Section 28-1463, Arizona Revised Statutes, is amended to read:

39 28-1463. Proof of compliance; suspension; hearings

40 A. If a person whose driving privilege is limited pursuant to section
41 28-1381, 28-1382, 28-1383, 28-1385 or 28-3319 or restricted pursuant to
42 section 28-1402 does not submit proof of compliance to the department as
43 prescribed in section 28-1461, the department shall suspend the person's
44 driving privilege until proof of compliance is submitted to the department.
45 Unless a different time period is specified, the department shall require use

1 of the certified ignition interlock device for one year from the date the
2 person submits proof of compliance as prescribed in section 28-1461. If a
3 person does not request a hearing pursuant to subsection B of this section,
4 the department shall immediately suspend the person's driver license.

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

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

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

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

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

23 Sec. 10. Section 28-1464, Arizona Revised Statutes, is amended to
24 read:

25 28-1464. Ignition interlock devices; violations;
26 classification; definition

27 A. A person whose driving privilege is limited pursuant to section
28 28-1381, 28-1382, 28-1383, 28-1385 or 28-3319 or restricted pursuant to
29 section 28-1402 and who is required to operate a motor vehicle owned by the
30 person's employer in the course and scope of the person's employment may
31 operate that motor vehicle without the installation of a certified ignition
32 interlock device if the person notifies the person's employer that the
33 person, in conjunction with the person's sentence or if the person has been
34 issued a special ignition interlock restricted driver license pursuant to
35 section 28-1402, has specific requirements in order to operate a motor
36 vehicle and the nature of the requirements and the person has proof of the
37 employer's notification in the person's possession while operating the
38 employer's motor vehicle for normal business. For the purposes of this
39 subsection, a motor vehicle that is partly or entirely owned or controlled by
40 the person whose driving privilege is limited pursuant to section 28-1381,
41 28-1382, 28-1383, 28-1385 or 28-3319 or restricted pursuant to section
42 28-1402 is not a motor vehicle that is owned by an employer.

43 B. Except in cases of a substantial emergency, a person shall not
44 knowingly rent, lease or lend a motor vehicle to a person whose driving
45 privilege is limited pursuant to section 28-1381, 28-1382, 28-1383, 28-1385

1 or 28-3319 or restricted pursuant to section 28-1402 unless the motor vehicle
2 is equipped with a functioning certified ignition interlock device.

3 C. A person whose driving privilege is limited pursuant to section
4 28-1381, 28-1382, 28-1383, 28-1385 or 28-3319 or restricted pursuant to
5 section 28-1402 and who rents, leases or borrows a motor vehicle from another
6 person shall notify the person who rents, leases or lends the motor vehicle
7 to the person that the person has specific requirements for the operation of
8 the motor vehicle and the nature of the requirements.

9 D. During any period when a person whose driving privilege is limited
10 pursuant to section 28-1381, 28-1382, 28-1383, 28-1385 or 28-3319 or
11 restricted pursuant to section 28-1402 is required to operate only a motor
12 vehicle that is equipped with a certified ignition interlock device, the
13 person shall not request or permit any other person to breathe into the
14 ignition interlock device or start a motor vehicle equipped with an ignition
15 interlock device for the purpose of providing the person with an operable
16 motor vehicle.

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

22 F. A person whose driving privilege is limited pursuant to section
23 28-1381, 28-1382, 28-1383, 28-1385 or 28-3319 or restricted pursuant to
24 section 28-1402 shall not tamper with or circumvent the operation of an
25 ignition interlock device.

26 G. A person who is not a manufacturer's authorized installer or an
27 agent of a manufacturer's authorized installer and who is not a person whose
28 driving privilege is limited pursuant to section 28-1381, 28-1382, 28-1383,
29 28-1385 or 28-3319 or restricted pursuant to section 28-1402 shall not tamper
30 with or circumvent the operation of an ignition interlock device.

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

37 I. If the ignition interlock device is removed from a vehicle by an
38 installer, the installer shall electronically notify the department in a form
39 prescribed by the department that the ignition interlock device has been
40 removed from the vehicle.

41 J. If the person does not provide evidence to the department within
42 seventy-two hours that the person has installed a functioning certified
43 ignition interlock device in each vehicle operated by the person and has
44 provided proof of installation to the department, the department shall

1 suspend the special ignition interlock restricted driver license or privilege
2 as prescribed in section 28-1463.

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

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

13 Sec. 11. Section 28-3319, Arizona Revised Statutes, is amended to
14 read:

15 28-3319. Action after license suspension, revocation or denial
16 for driving under the influence or refusal of test;
17 ignition interlock device requirement; definition

18 A. If, pursuant to section 28-1321, 28-1381, 28-1382, 28-1383,
19 28-1385, 28-3320 or 28-3322, the license of a driver or the driving privilege
20 of a nonresident is suspended or revoked, the department shall not terminate
21 the suspension or revocation or issue a special ignition interlock restricted
22 driver license, if applicable, pursuant to chapter 4, article 3.1 of this
23 title until the person provides proof of financial responsibility pursuant to
24 chapter 9, article 3 of this title.

25 B. If, pursuant to section 28-1321, 28-1381, 28-1382, 28-1383,
26 28-1385, 28-3320 or 28-3322, an unlicensed resident is denied a license or
27 permit to operate a motor vehicle, the department shall not issue a license
28 or permit until the person provides proof of financial responsibility
29 pursuant to chapter 9, article 3 of this title.

30 C. If a person whose license or driving privilege is suspended or
31 revoked pursuant to section 28-1321, 28-1381, 28-1382, ~~or~~ 28-1383 OR 28-1385
32 is ordered, pursuant to section 28-1381, 28-1382, ~~or~~ 28-1383 OR 28-1385, to
33 attend alcohol or other drug screening, education or treatment, the
34 department shall not either:

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

40 2. Issue a new license or a special ignition interlock restricted
41 driver license, if applicable, pursuant to chapter 4, article 3.1 of this
42 title to operate a motor vehicle after the revocation until the person
43 provides proof from the facility that the person has completed the court OR
44 DEPARTMENT ordered program.

1 D. On receipt of a report of conviction from a court, the department
2 shall require any motor vehicle the convicted person operates to be equipped
3 with a functioning certified ignition interlock device and the convicted
4 person to meet the requirements prescribed in section 28-1461 for twelve
5 months if any of the following applies:

6 1. The department determines that within a period of eighty-four
7 months a person is convicted of a second or subsequent violation of section
8 28-1381 with a prior conviction of a violation of section 28-1381 or 28-1382
9 or an act in another jurisdiction that if committed in this state would be a
10 violation of section 28-1381 or 28-1382.

11 2. The conviction is for a violation of section 28-1382.

12 3. The conviction is for a violation of section 28-1383, subsection A,
13 paragraph 1, 2 or 4 or paragraph 3, subdivision (b).

14 E. The twelve month period prescribed in subsection D of this section
15 begins on the date of reinstatement of the person's driving privilege
16 following a suspension or revocation or on the date of the department's
17 receipt of the report of conviction, whichever occurs later.

18 F. A person who is required to equip a motor vehicle with a certified
19 ignition interlock device pursuant to subsection D of this section shall
20 comply with chapter 4, article 5 of this title.

21 G. For the purposes of this section, "certified ignition interlock
22 device" has the same meaning prescribed in section 28-1301.

23 Sec. 12. Effective date

24 Sections 28-1321, 28-1381, 28-1382, 28-1383, 28-1385, 28-1461, 28-1463,
25 28-1464 and 28-3319, Arizona Revised Statutes, as amended by this act, and
26 section 28-1445, Arizona Revised Statutes, as added by this act, are
27 effective from and after June 30, 2008.