

GRAY L FLOOR AMENDMENT

SENATE AMENDMENTS TO H.B. 2643

(Reference to House engrossed bill)

1 Page 3, after line 44, insert:

2 "J. NOTWITHSTANDING SECTION 4-209, SUBSECTION D, PARAGRAPH 12, THE
3 STATE TREASURER SHALL DEPOSIT FIVE PER CENT OF THE ANNUAL FEE FOR A
4 RESTAURANT THAT IS PERMITTED TO CONTINUE OPERATING AS A RESTAURANT PURSUANT
5 TO SUBSECTION E OF THIS SECTION IN THE DRIVING UNDER THE INFLUENCE ABATEMENT
6 FUND ESTABLISHED BY SECTION 28-1304.

7 Sec. 2. Section 5-302, Arizona Revised Statutes, is amended to read:

8 5-302. Application of chapter

9 A. ~~The provisions of~~ This chapter ~~apply~~ APPLIES to all watercraft
10 operating on all of the waterways of this state, including that part of
11 waters THAT IS common to interstate boundaries ~~which~~ AND THAT is within the
12 boundaries of this state, excluding vessels owned by agencies of the federal
13 government in performance of their official duties.

14 B. ~~The provisions of~~ Section 5-391, subsections ~~F and~~ G AND H and
15 sections ~~5-329~~ 5-392 and 5-393 apply to all watercraft in this state, whether
16 or not operating on waterways of this state, and includes watercraft
17 operating on waterways that are part of water THAT IS common to interstate
18 boundaries ~~which are~~ AND THAT IS within the boundaries of this state.

19 Sec. 3. Section 5-321.01, Arizona Revised Statutes, is amended to
20 read:

21 5-321.01. Staggered watercraft registration; rules

22 A. The commission shall establish a system of staggered registration
23 on a monthly basis in order to distribute the work of registering watercraft
24 as uniformly as practicable throughout the twelve months of the calendar
25 year.

26 B. All watercraft registrations provided for in this article expire in
27 accordance with the schedules established by the commission. The commission
28 may set the number of renewal periods within a month from one each month to
29 one each day depending on which system is most economical and best
30 accommodates the public.

31 C. The commission, in order to initiate the staggered registration
32 system, may register a watercraft for a period of greater or less than twelve
33 months up to a period of ~~eighteen~~ THIRTY-SIX months. If a registration
34 period is set for a period other than twelve months the commission may
35 prorate the registration fee.

36 D. The commission shall adopt rules necessary to accomplish the
37 purposes of this section.

38 Sec. 4. Section 5-349, Arizona Revised Statutes, is amended to read:

39 5-349. Watercraft casualties; violation; classification

40 A. The operator of a watercraft involved in a collision, accident or
41 other casualty ~~shall~~, to the extent the operator can do so without serious
42 danger to the operator's own watercraft or persons aboard, SHALL:

43 1. IMMEDIATELY STOP THE WATERCRAFT AT THE SCENE OF THE COLLISION,
44 ACCIDENT OR OTHER CASUALTY OR AS CLOSE TO THE SCENE OF THE COLLISION,

1 ACCIDENT OR OTHER CASUALTY AS POSSIBLE BUT SHALL IMMEDIATELY RETURN TO THE
2 SCENE.

3 2. Render all practical and necessary assistance to persons affected
4 to save them from danger caused by the collision, accident or OTHER casualty.

5 3. REMAIN AT THE SCENE OF THE COLLISION, ACCIDENT OR OTHER CASUALTY
6 UNTIL THE OPERATOR HAS COMPLIED WITH SUBSECTION B OF THIS SECTION.

7 B. The operator of a watercraft involved in a collision, accident or
8 other casualty shall give the operator's name and address and the
9 identification of the operator's watercraft to any person injured and to the
10 owners of any property damaged.

11 C. Whenever death or injury results from any watercraft collision,
12 accident or other casualty, a written report shall be submitted within
13 forty-eight hours. For every other collision, accident or other casualty
14 involving property damage exceeding five hundred dollars, a report shall be
15 submitted within five days after the incident by the operator or owner of the
16 watercraft involved. Written reports shall be submitted directly to the
17 department for use in statistical studies for casualty prevention. Reports
18 shall not be used as evidence in any trial, civil or criminal, arising from
19 any collision, accident or other casualty. ~~Upon~~ ON request, a report shall
20 be forwarded to the United States coast guard or other authorized federal
21 agency to be used in statistical studies for casualty prevention.

22 D. To maintain uniformity, watercraft casualty reports shall be on a
23 form approved by the commission.

24 E. Every peace officer who, in the regular course of duty,
25 investigates any watercraft collision, accident or other casualty involving
26 death or personal injury or involving property damage exceeding five hundred
27 dollars shall prepare and transmit a report to the department pursuant to
28 subsection C of this section.

29 F. If the operator of a watercraft is involved in a collision or
30 accident that results in death or serious physical injury, as defined in
31 section 13-105, and the operator fails to stop or comply with the
32 requirements of subsection A of this section, the operator is guilty of a
33 class 5 felony. If the operator of a watercraft is involved in a collision
34 or accident that results in injury other than death or serious physical
35 injury and the operator fails to stop and comply with the requirements of
36 subsection A of this section, the operator is guilty of a class 6 felony. If
37 the operator of a watercraft is involved in a collision or accident that
38 results only in damage to another watercraft that is operated or attended by
39 another person, and the operator fails to stop and comply with the
40 requirements of subsection B of this section, the operator is guilty of a
41 class 3 misdemeanor.

42 Sec. 5. Section 5-391, Arizona Revised Statutes, is amended to read:

43 5-391. Enforcement; violation; classification

44 A. Any person who violates any provision of this chapter, except
45 section 5-341, subsection A, B, C or D, section 5-349, section 5-350,
46 subsection C, section 5-393, 5-395, 5-396 or 5-397 and subsection C, ~~For D,~~
47 G OR H of this section or any rule issued thereunder, is guilty of a petty
48 offense. Any person who violates section 5-350, subsection C ~~or subsection C~~
49 ~~of this section~~ is guilty of a class 2 misdemeanor.

1 B. All peace officers of the state, counties and cities shall enforce
2 the provisions of this chapter and all laws and rules relating to the
3 operation of watercraft.

4 C. In the enforcement of this chapter, the operator of the watercraft
5 ~~upon~~ ON being hailed by any peace officer shall stop immediately and lay to,
6 or maneuver in such a way as to permit the peace officer to come aboard or
7 alongside. The operator may be ordered ashore to correct any unlawful
8 condition, issued a written warning or written repair order, ~~or~~ issued a
9 citation for any violation of this chapter.

10 D. AN OPERATOR OF A WATERCRAFT WHO WILFULLY FLEES OR ATTEMPTS TO ELUDE
11 A PURSUING LAW ENFORCEMENT OFFICER ISSUING AN ORDER PURSUANT TO SUBSECTION C
12 OF THIS SECTION IS GUILTY OF A CLASS 5 FELONY. THE LAW ENFORCEMENT
13 WATERCRAFT SHALL BE APPROPRIATELY MARKED TO SHOW THAT IT IS AN OFFICIAL LAW
14 ENFORCEMENT WATERCRAFT.

15 ~~D.~~ E. In the enforcement of this chapter, ~~the provisions of~~ sections
16 13-2506 and 13-3903 ~~shall~~ apply.

17 ~~E.~~ F. Each failure to obey an order or to comply with a warning order
18 issued under ~~the provisions of~~ subsection C of this section shall constitute
19 a separate offense punishable as a separate violation of this chapter.

20 ~~F.~~ G. A person is guilty of a class 6 felony who knowingly removes,
21 defaces, obliterates, changes, alters or causes to be removed, defaced,
22 obliterated, changed or altered a factory, engine, serial, outdrive, lower
23 unit, power trim or hull identification number or mark on a watercraft.

24 ~~G.~~ H. A person is guilty of a class 2 misdemeanor who:

25 1. Knowingly displays or has in ~~his~~ THE PERSON'S possession a
26 fictitious, stolen, revoked or altered certificate of number, department
27 issued number or annual decal.

28 2. Lends to or knowingly permits the use of ~~his~~ THE PERSON'S
29 certificate of number, department issued number or annual decal on a
30 watercraft for which those items have not been issued.

31 ~~H.~~ I. ~~Upon~~ ON receipt of notice of conviction of a person under
32 subsection ~~F~~ ~~or~~ G OR H of this section, the department may revoke the numbers
33 and decals issued to the watercraft ~~which~~ THAT was involved in the violation
34 and any other watercraft owned by the person convicted.

35 Sec. 6. Section 5-395, Arizona Revised Statutes, is amended to read:

36 5-395. Operating or in actual physical control of a motorized
37 watercraft while under the influence; violation;
38 classification; definition

39 A. It is unlawful for any person to operate or be in actual physical
40 control of a motorized watercraft that is underway within this state under
41 any of the following circumstances:

42 1. While under the influence of intoxicating liquor, any drug, a vapor
43 releasing substance containing a toxic substance or any combination of
44 liquor, drugs or vapor releasing substances if the person is impaired to the
45 slightest degree.

46 2. If the person has an alcohol concentration of 0.08 or more within
47 two hours of operating or being in actual physical control of the motorized
48 watercraft and the alcohol concentration results from alcohol consumed either

1 before or while operating or being in actual physical control of the
2 motorized watercraft.

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

5 4. If the motorized watercraft is a commercial motorized watercraft
6 and the person has an alcohol concentration of 0.04 or more.

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

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

13 ~~C.~~ D. The state shall not dismiss a charge of violating this section
14 for either of the following:

15 1. In return for a plea of guilty or no contest to any other offense
16 by the person charged with the violation of this section.

17 2. For the purpose of pursuing any other misdemeanor or a petty
18 offense, including those arising out of the same event or course of conduct,
19 unless there is clearly an insufficient legal or factual basis to pursue the
20 charge of violating this section.

21 ~~D.~~ E. In any prosecution for a violation of this section the state,
22 for the purpose of classification and sentencing pursuant to section 5-395.01
23 or 5-396, shall allege all prior convictions of violating this section
24 occurring within the past ~~thirty-six~~ EIGHTY-FOUR months, unless there is
25 clearly an insufficient legal or factual basis to do so.

26 ~~E.~~ F. In ~~any~~ A trial, action or proceeding for a violation of this
27 section or section 5-396 other than a trial, action or proceeding involving
28 operating or being in actual physical control of a commercial motorized
29 watercraft, the defendant's alcohol concentration within two hours of the
30 time of operating or being in actual physical control as shown by analysis of
31 the defendant's blood, breath or other bodily substance gives rise to the
32 following presumptions:

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

36 2. If there was at that time in excess of 0.05 but less than 0.08
37 alcohol concentration in the defendant's blood, breath or other bodily
38 substance, such fact shall not give rise to any presumption that the
39 defendant was or was not under the influence of intoxicating liquor, but such
40 fact may be considered with other competent evidence in determining the guilt
41 or innocence of the defendant.

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

45 G. ~~Paragraph 1, 2 or 3~~ SUBSECTION F of this ~~subsection~~ SECTION shall
46 not be construed as limiting the introduction of any other competent evidence
47 bearing on the question of whether or not the defendant was under the
48 influence of intoxicating liquor.

1 ~~F.~~ H. If a blood test is administered, only a physician, a registered
2 nurse or another qualified person may withdraw blood for the purpose of
3 determining the alcohol concentration or drug content. The qualifications of
4 the individual withdrawing the blood and the method used to withdraw the
5 blood are not foundational prerequisites for the admissibility of any blood
6 alcohol content determination made pursuant to this subsection.

7 ~~G.~~ I. If a law enforcement officer administers a duplicate breath
8 test and the person tested is given a reasonable opportunity to arrange for
9 an additional test pursuant to subsection ~~H.~~ J of this section, a sample of
10 the person's breath does not have to be collected or preserved.

11 ~~H.~~ J. The person tested shall be given a reasonable opportunity to
12 arrange for any physician, registered nurse or other qualified person of the
13 tested person's own choosing to administer a test or tests in addition to any
14 administered at the direction of a law enforcement officer. The failure or
15 inability to obtain an additional test by a person does not preclude the
16 admission of evidence relating to the test or tests taken at the direction of
17 a law enforcement officer.

18 ~~I.~~ K. If a person under arrest refuses to submit to a test or tests
19 under section 5-395.03, whether or not a sample was collected pursuant to
20 subsection ~~J.~~ L of this section or a search warrant, evidence of refusal is
21 admissible in any civil or criminal action or other proceeding. The issue of
22 refusal shall be an issue of fact to be determined by the trier of fact in
23 all cases.

24 ~~J.~~ L. Notwithstanding any other law, if a law enforcement officer has
25 probable cause to believe that a person has violated this section and a
26 sample of blood, urine or any other bodily substance is taken from that
27 person for any reason a portion of that sample sufficient for analysis shall
28 be provided to a law enforcement officer if requested for law enforcement
29 purposes. A person who fails to comply with this subsection is guilty of a
30 class 1 misdemeanor.

31 ~~K.~~ M. A person who collects blood, urine or any other bodily
32 substance under this section or any hospital, laboratory or clinic employing
33 or utilizing the services of the person does not incur any civil liability as
34 a result of this activity if requested by a law enforcement officer to
35 collect blood, urine or any other bodily substances unless the person, while
36 performing the activity, acts with gross negligence.

37 ~~L.~~ N. A statement by the defendant that the defendant was operating a
38 motorized watercraft that was underway and that was involved in an accident
39 resulting in injury to or death of any person is admissible in any criminal
40 proceeding without further proof of corpus delicti if it is otherwise
41 admissible.

42 ~~M.~~ O. At the arraignment, the court shall inform the defendant that
43 the defendant may request a trial by jury and that the request, if made,
44 shall be granted.

45 ~~N.~~ P. ~~It~~ FOR THE PURPOSES OF this section, "alcohol concentration"
46 means grams of alcohol per one hundred milliliters of blood or grams of
47 alcohol per two hundred ten liters of breath.

1 PERSON HAS SUCCESSFULLY COMPLETED THE SCREENING, EDUCATION OR TREATMENT
2 PROGRAM.

3 ~~B.~~ C. NOTWITHSTANDING SUBSECTION A, PARAGRAPH 1 OF THIS SECTION AND
4 except as provided in section 5-398.01, the ~~court~~ JUDGE may EITHER:

5 1. Suspend any imposed sentence for a first violation of section 5-395
6 if the person completes a court ordered alcohol or other drug screening,
7 education or treatment program. If the person fails to complete the court
8 ordered alcohol or other drug screening, education or treatment program and
9 has not been placed on probation, the court shall issue an order to show
10 cause to the defendant as to why the remaining jail sentence should not be
11 served.

12 2. SUSPEND ALL BUT TWENTY-FOUR CONSECUTIVE HOURS OF THE SENTENCE IF
13 THE PERSON COMPLETES A COURT ORDERED ALCOHOL OR OTHER DRUG SCREENING,
14 EDUCATION OR TREATMENT PROGRAM AND IF THE COURT DETERMINES THE PERSON
15 RECKLESSLY ENDANGERED ANOTHER PERSON WITH A SUBSTANTIAL RISK OF PHYSICAL
16 INJURY. IF THE PERSON FAILS TO COMPLETE THE COURT ORDERED ALCOHOL OR OTHER
17 DRUG SCREENING, EDUCATION OR TREATMENT PROGRAM AND HAS NOT BEEN PLACED ON
18 PROBATION, THE COURT SHALL ISSUE AN ORDER TO SHOW CAUSE TO THE DEFENDANT AS
19 TO WHY THE REMAINING JAIL SENTENCE SHOULD NOT BE SERVED.

20 ~~C. A court may order a person sentenced pursuant to this section to~~
21 ~~perform community restitution.~~

22 D. ~~Notwithstanding subsection B of this section,~~ If within a period of
23 ~~sixty~~ EIGHTY-FOUR months a person is convicted of a second violation of
24 section 5-395 or is convicted of a violation of section 5-395 and has
25 previously been convicted of an act in another ~~state~~ JURISDICTION that if
26 committed in this state would be a violation of section 5-395, the person:

27 1. Shall be sentenced to serve not less than ninety days in jail,
28 thirty days of which shall be served consecutively, and ~~the person~~ is not
29 eligible for probation or suspension of execution of sentence unless the
30 entire sentence has been served. ~~, except that the judge may suspend at the~~
31 ~~time of sentencing all but thirty days of the sentence if the person~~
32 ~~completes a court ordered alcohol or other drug screening, education or~~
33 ~~treatment program. If the person fails to complete the court ordered alcohol~~
34 ~~or other drug screening, education or treatment program and has not been~~
35 ~~placed on probation, the court shall issue an order to show cause as to why~~
36 ~~the remaining jail sentence should not be served. The judge~~

37 2. Shall ~~order the person to~~ pay a fine of not less than five hundred
38 dollars.

39 3. SHALL BE ORDERED BY THE COURT TO PERFORM AT LEAST THIRTY HOURS OF
40 COMMUNITY RESTITUTION. IF THE PERSON FAILS TO COMPLETE THE COMMUNITY
41 RESTITUTION ORDERED PURSUANT TO THIS PARAGRAPH, THE COURT MAY ORDER
42 ALTERNATIVE SANCTIONS IF THE COURT DETERMINES THAT ALTERNATIVE SANCTIONS ARE
43 MORE APPROPRIATE.

44 4. SHALL PAY AN ADDITIONAL ASSESSMENT OF ONE THOUSAND TWO HUNDRED
45 FIFTY DOLLARS TO BE DEPOSITED BY THE STATE TREASURER IN THE PRISON
46 CONSTRUCTION AND OPERATIONS FUND ESTABLISHED BY SECTION 41-1651. THIS
47 ASSESSMENT IS NOT SUBJECT TO ANY SURCHARGE. IF THE CONVICTION OCCURRED IN
48 THE SUPERIOR COURT OR A JUSTICE COURT, THE COURT SHALL TRANSMIT THE ASSESSED
49 MONIES TO THE COUNTY TREASURER. IF THE CONVICTION OCCURRED IN A MUNICIPAL

1 COURT, THE COURT SHALL TRANSMIT THE ASSESSED MONIES TO THE CITY TREASURER.
2 THE CITY OR COUNTY TREASURER SHALL TRANSMIT THE MONIES RECEIVED TO THE STATE
3 TREASURER.

4 5. SHALL PAY AN ADDITIONAL ASSESSMENT OF ONE THOUSAND TWO HUNDRED
5 FIFTY DOLLARS TO BE DEPOSITED BY THE STATE TREASURER IN THE STATE GENERAL
6 FUND. THIS ASSESSMENT IS NOT SUBJECT TO ANY SURCHARGE. IF THE CONVICTION
7 OCCURRED IN THE SUPERIOR COURT OR A JUSTICE COURT, THE COURT SHALL TRANSMIT
8 THE ASSESSED MONIES TO THE COUNTY TREASURER. IF THE CONVICTION OCCURRED IN A
9 MUNICIPAL COURT, THE COURT SHALL TRANSMIT THE ASSESSED MONIES TO THE CITY
10 TREASURER. THE CITY OR COUNTY TREASURER SHALL TRANSMIT THE MONIES RECEIVED
11 TO THE STATE TREASURER.

12 E. NOTWITHSTANDING SUBSECTION D, PARAGRAPH 1 OF THIS SECTION, AT THE
13 TIME OF SENTENCING, EXCEPT IF THE COURT DETERMINES THE PERSON RECKLESSLY
14 ENDANGERED ANOTHER PERSON WITH A SUBSTANTIAL RISK OF PHYSICAL INJURY, THE
15 JUDGE MAY SUSPEND ALL BUT THIRTY DAYS OF THE SENTENCE IF THE PERSON COMPLETES
16 A COURT ORDERED ALCOHOL OR OTHER DRUG SCREENING, EDUCATION OR TREATMENT
17 PROGRAM. IF THE PERSON FAILS TO COMPLETE THE COURT ORDERED ALCOHOL OR OTHER
18 DRUG SCREENING, EDUCATION OR TREATMENT PROGRAM AND HAS NOT BEEN PLACED ON
19 PROBATION, THE COURT SHALL ISSUE AN ORDER TO SHOW CAUSE AS TO WHY THE
20 REMAINING JAIL SENTENCE SHOULD NOT BE SERVED.

21 ~~E. F. The dates of the commission of the offense are the determining~~
22 ~~factor~~ In applying the sixty EIGHTY-FOUR month provision of subsection D of
23 this section, THE DATES OF THE COMMISSION OF THE OFFENSE SHALL BE THE
24 DETERMINING FACTOR irrespective of the sequence in which the offenses were
25 committed.

26 G. A second violation for which a conviction occurs as provided in
27 this section shall not include a conviction for an offense arising out of the
28 same series of acts.

29 ~~F. If a person is referred to a screening or treatment facility, that~~
30 ~~facility shall report to the court whether the person has successfully~~
31 ~~completed the screening, education or treatment program.~~

32 ~~G. H.~~ Any political subdivision processing or utilizing the services
33 of a person ordered to perform community restitution pursuant to this section
34 does not incur any civil liability to the person ordered to perform community
35 restitution as a result of these activities unless the political subdivision
36 or its agent or employee acts with gross negligence.

37 ~~H. I.~~ After a person who is sentenced pursuant to subsection ~~B~~ A of
38 this section has served twenty-four consecutive hours in jail or after a
39 person who is sentenced pursuant to subsection D of this section has served
40 forty-eight consecutive hours in jail and after receiving confirmation that
41 the person is employed or is a student, the court, on pronouncement of any
42 jail sentence under this section, may provide in the sentence that the person
43 may be permitted, if the person is employed or is a student and can continue
44 the person's employment or studies, to continue such employment or studies
45 for not more than twelve hours per day nor more than five days per week, and
46 the remaining day, days or parts of days shall be spent in jail until the
47 sentence is served. The person shall be allowed out of jail only long enough
48 to complete the actual hours of employment or studies and no longer.

1 ~~I.~~ J. A person who is sentenced pursuant to this section is eligible
2 for a home detention program pursuant to the provisions of section 9-499.07,
3 subsections M through R or section 11-459, subsections L through Q.

4 ~~J.~~ K. The court shall allow the allegation of a prior conviction or
5 other pending charge of a violation of section 5-395 filed twenty or more
6 days before the date the case is actually tried and may allow the allegation
7 of a prior conviction or other pending charge of a violation of section 5-395
8 filed any time before the date the case is actually tried, provided that when
9 the allegation is filed this state must make available to the defendant a
10 copy of any information obtained concerning the prior conviction or other
11 pending charge. Any conviction may be used to enhance another conviction
12 irrespective of the dates on which the offenses occurred within the ~~sixty~~
13 ~~EIGHTY-FOUR~~ month provision.

14 ~~K.~~ L. If a person is placed on probation for violating section 5-395,
15 the probation shall be supervised unless the court finds that supervised
16 probation is not necessary or the court does not have supervisory probation
17 services.

18 ~~L. Persons who are convicted pursuant to section 5-395 shall pay an~~
19 ~~additional assessment of five hundred dollars or, if the person is convicted~~
20 ~~of a second violation pursuant to subsection D of this section, shall pay an~~
21 ~~additional assessment of one thousand two hundred fifty dollars to be~~
22 ~~deposited by the state treasurer in the prison construction and operations~~
23 ~~fund established by section 41-1651. These assessments are not subject to~~
24 ~~any surcharge. If the conviction occurred in the superior court or a justice~~
25 ~~court, the court shall transmit the assessed monies to the county treasurer.~~
26 ~~If the conviction occurred in a municipal court, the court shall transmit the~~
27 ~~assessed monies to the city treasurer. The city or county treasurer shall~~
28 ~~transmit the monies received to the state treasurer.~~

29 ~~M. Persons convicted pursuant to section 5-395 shall pay an additional~~
30 ~~assessment of five hundred dollars or for a second violation pursuant to~~
31 ~~subsection D of this section shall pay an additional assessment of one~~
32 ~~thousand two hundred fifty dollars to be deposited by the state treasurer in~~
33 ~~the state general fund. These assessments are not subject to any surcharge.~~
34 ~~If the conviction occurred in the superior court or a justice court, the~~
35 ~~court shall transmit the assessed monies to the county treasurer. If the~~
36 ~~conviction occurred in a municipal court, the court shall transmit the~~
37 ~~assessed monies to the city treasurer. The city or county treasurer shall~~
38 ~~transmit the monies received to the state treasurer.~~

39 Sec. 8. Section 5-395.02, Arizona Revised Statutes, is amended to
40 read:

41 5-395.02. Admissibility of breath test or other records

42 A. The results of a breath test administered for the purpose of
43 determining a person's alcohol concentration as defined in section 5-395 are
44 admissible as evidence in any trial, action or proceeding on establishing the
45 following foundational requirements:

46 1. The test was performed using a quantitative breath testing device
47 approved by the ~~department of health services or the~~ department of public
48 safety. A properly authenticated certification by the ~~department of health~~
49 ~~services or the~~ department of public safety or judicial notice of ~~department~~

1 ~~of health services or~~ department of public safety rules is sufficient to
2 establish this requirement.

3 2. The operator who conducted the test possessed a valid permit issued
4 by the department of health services or the department of public safety to
5 operate the device used to conduct the test.

6 3. Duplicate tests were administered and the test results were within
7 0.02 alcohol concentration of each other ~~or~~ AND an operator observed the
8 person charged with the violation for ~~twenty~~ FIFTEEN minutes immediately
9 preceding the administration of the test.

10 4. The operator who conducted the test followed an operational
11 checklist approved by the ~~department of health services or the~~ department of
12 public safety for the operation of the device used to conduct the test. The
13 testimony of the operator is sufficient to establish this requirement.

14 5. The device used to conduct the test was in proper operating
15 condition. Records of periodic maintenance that show that the device was in
16 proper operating condition are admissible in any proceeding as prima facie
17 evidence that the device was in proper operating condition at the time of the
18 test. Calibration checks with a standard alcohol concentration solution
19 bracketing each person's duplicate breath test are one type of records of
20 periodic maintenance that satisfies the requirements of this section. The
21 records are public records.

22 B. Compliance with subsection A of this section is the only
23 requirement for the admission in evidence of a breath test result.

24 C. The inability of any person to obtain manufacturer's schematics and
25 software for a quantitative breath testing device that is approved as
26 prescribed in subsection A of this section shall not affect the admissibility
27 of the results of a breath test pursuant to this section.

28 D. Records that may be obtained or are otherwise maintained pursuant
29 to section 28-1327 are admissible as evidence in any trial, action or
30 proceeding.

31 Sec. 9. Section 5-395.03, Arizona Revised Statutes, is amended to
32 read:

33 5-395.03. Test for alcohol concentration or drug content;
34 refusal

35 A. Any person who operates a motorized watercraft that is underway
36 within this state ~~shall submit~~ GIVES CONSENT, subject to section 4-244,
37 paragraph 34, section 5-395 or section 5-396, to a test or tests of the
38 person's blood, breath, urine or other bodily substance for the purpose of
39 determining alcohol concentration or drug content if the person is arrested
40 for any offense arising out of acts alleged to have been committed in
41 violation of this chapter or section 4-244, paragraph 34 while the person was
42 operating or in actual physical control of a motorized watercraft that was
43 underway while under the influence of intoxicating liquor or drugs. The test
44 or tests chosen by the law enforcement agency shall be administered at the
45 direction of a law enforcement officer having reasonable grounds to believe
46 the person to have been operating or in actual physical control of a
47 motorized watercraft that is underway within this state while under the
48 influence of intoxicating liquor or drugs, or if the person is under
49 twenty-one years of age, with spirituous liquor in the person's body.

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

5 ~~C. A person who refuses any test or tests prescribed by subsection A~~
6 ~~of this section is subject to a civil penalty of seven hundred fifty dollars~~
7 ~~and shall pay an additional civil penalty of five hundred dollars to be~~
8 ~~deposited by the state treasurer in the prison construction and operations~~
9 ~~fund established by section 41-1651. The additional civil penalty of five~~
10 ~~hundred dollars is not subject to any surcharge. If the additional civil~~
11 ~~penalty is imposed by the superior court or a justice court, the court shall~~
12 ~~transmit the amount collected for the additional civil penalty to the county~~
13 ~~treasurer. If the additional civil penalty is imposed by a municipal court,~~
14 ~~the court shall transmit the amount collected for the additional civil~~
15 ~~penalty to the city treasurer. The city or county treasurer shall transmit~~
16 ~~the monies received pursuant to this subsection to the state treasurer.~~

17 ~~D. C.~~ C. If a person under arrest refuses to submit to the test
18 designated by the law enforcement agency as provided in subsection A of this
19 section none shall be given, except as provided in section 5-395, subsection
20 ~~J~~ L or pursuant to a search warrant.

21 Sec. 10. Section 5-395.04, Arizona Revised Statutes, is amended to
22 read:

23 5-395.04. Preliminary breath tests; authority

24 A. A law enforcement officer who has reasonable suspicion to believe
25 that a person has committed a violation of section 5-395 may request that the
26 person submit to a preliminary breath test or tests before an arrest.

27 B. In addition to a breath test or tests the officer may require that
28 the person submit to further testing pursuant to section 5-395.03.

29 C. The director of the ~~department of health services or the~~ department
30 of public safety shall adopt rules prescribing the approval of quantitative
31 preliminary breath testing devices.

32 Sec. 11. Section 5-396, Arizona Revised Statutes, is amended to read:

33 5-396. Aggravated operating or actual physical control of
34 motorized watercraft while under the influence of
35 intoxicating liquor or drugs; classification

36 A. A person is guilty of aggravated operating or actual physical
37 control of a motorized watercraft that is underway while under the influence
38 of intoxicating liquor or drugs if the person DOES ANY OF THE FOLLOWING:

39 1. WITHIN A PERIOD OF EIGHTY-FOUR MONTHS commits a third or subsequent
40 violation of section 5-395 or 5-397 or this section or is convicted of a
41 violation of section 5-395 or 5-397 or this section and has previously been
42 convicted of any combination of convictions of section 5-395 or 5-397 or this
43 section or acts committed in another ~~state~~ JURISDICTION that if committed in
44 this state would be a violation of section 5-395 or 5-397 or this section
45 ~~within a period of sixty months.~~

46 2. WHILE A PERSON UNDER FIFTEEN YEARS OF AGE IS ABOARD THE MOTORIZED
47 WATERCRAFT, COMMITS ANY OF THE FOLLOWING:

1 (a) A FIRST VIOLATION OF SECTION 5-395, IF THE PERSON RECKLESSLY
2 ENDANGERS THE PERSON WHO IS UNDER FIFTEEN YEARS OF AGE WITH A SUBSTANTIAL
3 RISK OF PHYSICAL INJURY.

4 (b) A SECOND VIOLATION OF SECTION 5-395 WITHIN A PERIOD OF EIGHTY-FOUR
5 MONTHS.

6 (c) A VIOLATION OF SECTION 5-397.

7 B. The dates of the commission of the offenses are the determining
8 factor in applying the ~~sixty~~ EIGHTY-FOUR month provision provided in
9 subsection A, PARAGRAPH 1 OR PARAGRAPH 2, SUBDIVISION (b) of this section
10 regardless of the sequence in which the offenses were committed. For
11 purposes of this section, a third or subsequent violation for which a
12 conviction occurs does not include a conviction for an offense arising out of
13 the same series of acts. THE TIME THAT A PROBATIONER IS FOUND TO BE ON
14 ABSCONDER STATUS OR THE TIME THAT A PERSON IS INCARCERATED IN ANY STATE,
15 FEDERAL, COUNTY OR CITY JAIL OR CORRECTIONAL FACILITY IS EXCLUDED WHEN
16 DETERMINING THE EIGHTY-FOUR MONTH PERIOD PROVIDED IN SUBSECTION A, PARAGRAPH
17 1, SUBSECTION A, PARAGRAPH 2, SUBDIVISION (b) AND SUBSECTION D OF THIS
18 SECTION.

19 ~~C. Aggravated operating or actual physical control of a motorized
20 watercraft that is underway while under the influence of intoxicating liquor
21 or drugs is a class 4 felony.~~

22 ~~D. C. Notwithstanding section 41-1604.06,~~ A person who is convicted
23 under subsection A, PARAGRAPH 1 of this section and who within ~~a sixty~~ AN
24 EIGHTY-FOUR month period has been convicted of two prior violations of
25 section 5-395 or 5-397 or this section, or acts committed in another ~~state~~
26 JURISDICTION that if committed in this state would be a violation of section
27 5-395 or 5-397 or this section, is not eligible for probation, pardon,
28 commutation or suspension of sentence or release on any other basis until the
29 person has served not less than four months in prison.

30 ~~E. D. Notwithstanding section 41-1604.06,~~ A person who is convicted
31 under subsection A, PARAGRAPH 1 of this section and who within ~~a sixty~~ AN
32 EIGHTY-FOUR month period has been convicted of three or more prior violations
33 of section 5-395 or 5-397 or this section, or acts committed in another ~~state~~
34 JURISDICTION that if committed in this state would be a violation of section
35 5-395 or 5-397 or this section, is not eligible for probation, pardon,
36 commutation or suspension of sentence or release on any other basis until the
37 person has served not less than eight months in prison.

38 E. A PERSON WHO IS CONVICTED UNDER SUBSECTION A, PARAGRAPH 2,
39 SUBDIVISION (a) OR (b) OF THIS SECTION SHALL SERVE AT LEAST THE MINIMUM TERM
40 OF INCARCERATION REQUIRED PURSUANT TO SECTION 5-395.01.

41 F. A PERSON WHO IS CONVICTED UNDER SUBSECTION A, PARAGRAPH 2,
42 SUBDIVISION (c) OF THIS SECTION SHALL SERVE AT LEAST THE MINIMUM TERM OF
43 INCARCERATION REQUIRED PURSUANT TO SECTION 5-397.

44 ~~F.~~ G. A person who is convicted of a violation of this section and
45 who is placed on probation shall attend and complete alcohol or drug
46 screening, counseling and education from an approved facility and, if ordered
47 by the court, treatment from an approved facility. If the person fails to
48 comply with this subsection, in addition to section 13-901 the court may
49 order that the person be incarcerated as a term of probation as follows:

1 1. For a person sentenced pursuant to subsection ~~D~~- C of this section,
2 for an individual period of not more than four months and a total period of
3 not more than one year.

4 2. For a person sentenced pursuant to subsection ~~E~~- D of this section,
5 for an individual period of not more than eight months and a total period of
6 not more than two years.

7 ~~G~~. H. The time that a person spends in custody pursuant to subsection
8 ~~D, E or F~~ G of this section shall not be counted toward the sentence imposed
9 if the person's probation is revoked and the person is sentenced to prison
10 following revocation of probation.

11 I. ON CONVICTION FOR A VIOLATION OF THIS SECTION, THE COURT:

12 ~~H~~. 1. ~~A~~ SHALL ORDER THE person ~~convicted of a violation of this~~
13 ~~section shall~~ TO pay a fine of not less than seven hundred fifty dollars.

14 2. IN ADDITION TO ANY OTHER PENALTY PRESCRIBED BY LAW, SHALL ORDER THE
15 PERSON TO PAY AN ADDITIONAL ASSESSMENT OF TWO HUNDRED FIFTY DOLLARS. IF THE
16 CONVICTION OCCURRED IN THE SUPERIOR COURT OR A JUSTICE COURT, THE COURT SHALL
17 TRANSMIT THE ASSESSED MONIES TO THE COUNTY TREASURER. IF THE CONVICTION
18 OCCURRED IN A MUNICIPAL COURT, THE COURT SHALL TRANSMIT THE ASSESSED MONIES
19 TO THE CITY TREASURER. THE CITY OR COUNTY TREASURER SHALL TRANSMIT THE
20 MONIES RECEIVED TO THE STATE TREASURER. THE STATE TREASURER SHALL DEPOSIT
21 THE MONIES RECEIVED IN THE DRIVING UNDER THE INFLUENCE ABATEMENT FUND
22 ESTABLISHED BY SECTION 28-1304. ANY FINE IMPOSED FOR A VIOLATION OF THIS
23 SECTION AND ANY ASSESSMENTS, RESTITUTION AND INCARCERATION COSTS SHALL BE
24 PAID BEFORE THE ASSESSMENT PRESCRIBED IN THIS PARAGRAPH.

25 ~~I~~. 3. In addition to any other penalty prescribed by law, ~~persons~~
26 ~~convicted pursuant to this section~~ shall ORDER THE PERSON TO pay an
27 additional assessment of one thousand five hundred dollars to be deposited by
28 the state treasurer in the prison construction and operations fund
29 established by section 41-1651. This assessment is not subject to any
30 surcharge. If the conviction occurred in the superior court or a justice
31 court, the court shall transmit the assessed monies to the county treasurer.
32 If the conviction occurred in a municipal court, the court shall transmit the
33 assessed monies to the city treasurer. The city or county treasurer shall
34 transmit the monies received to the state treasurer.

35 ~~J~~. 4. In addition to any other penalty prescribed by law, ~~persons~~
36 ~~convicted pursuant to this section~~ shall ORDER THE PERSON TO pay an
37 additional assessment of one thousand five hundred dollars to be deposited by
38 the state treasurer in the state general fund. This assessment is not
39 subject to any surcharge. If the conviction occurred in the superior court
40 or a justice court, the court shall transmit the assessed monies to the
41 county treasurer. If the conviction occurred in a municipal court, the court
42 shall transmit the assessed monies to the city treasurer. The city or county
43 treasurer shall transmit the monies received to the state treasurer.

44 J. AGGRAVATED OPERATING OR ACTUAL PHYSICAL CONTROL OF A MOTORIZED
45 WATERCRAFT THAT IS UNDERWAY WHILE UNDER THE INFLUENCE OF AN INTOXICATING
46 LIQUOR OR DRUGS COMMITTED UNDER:

47 1. SUBSECTION A, PARAGRAPH 1 OF THIS SECTION IS A CLASS 4 FELONY.

48 2. SUBSECTION A, PARAGRAPH 2 OF THIS SECTION IS A CLASS 6 FELONY.

1 Sec. 12. Section 5-397, Arizona Revised Statutes, is amended to read:
2 5-397. Operating or in actual physical control of a motorized
3 watercraft while under the extreme influence of
4 intoxicating liquor; trial by jury; sentencing;
5 classification; definition

6 A. It is unlawful for a person to operate or be in actual physical
7 control of a motorized watercraft that is underway within this state if the
8 person has an alcohol concentration ~~of 0.15 or more~~ AS FOLLOWS within two
9 hours of operating or being in actual physical control of the motorized
10 watercraft and the alcohol concentration results from alcohol consumed either
11 before or while operating or being in actual physical control of the
12 motorized watercraft:

- 13 1. 0.15 OR MORE BUT LESS THAN 0.20.
- 14 2. 0.20 OR MORE.

15 B. A person who is convicted of a violation of this section is guilty
16 of operating or being in actual physical control of a motorized watercraft
17 while under the extreme influence of alcohol.

18 C. At the arraignment, the court shall inform the defendant that the
19 defendant may request a trial by jury and that the request, if made, shall be
20 granted.

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 IF THE PERSON IS CONVICTED OF A
25 VIOLATION OF SUBSECTION A, PARAGRAPH 1 OF THIS SECTION. A PERSON WHO IS
26 CONVICTED OF A VIOLATION OF SUBSECTION A, PARAGRAPH 2 OF THIS SECTION SHALL
27 BE SENTENCED TO SERVE NOT LESS THAN FORTY-FIVE CONSECUTIVE DAYS IN JAIL AND
28 IS NOT ELIGIBLE FOR PROBATION OR SUSPENSION OF EXECUTION OF SENTENCE UNLESS
29 THE ENTIRE SENTENCE IS SERVED.

30 2. Shall pay a fine of not less than two hundred fifty dollars, EXCEPT
31 THAT A PERSON WHO IS CONVICTED OF A VIOLATION OF SUBSECTION A, PARAGRAPH 2
32 OF THIS SECTION SHALL PAY A FINE OF NOT LESS THAN FIVE HUNDRED DOLLARS. THE
33 FINE PRESCRIBED IN THIS PARAGRAPH AND ANY ASSESSMENTS, RESTITUTION AND
34 INCARCERATION COSTS SHALL BE PAID BEFORE THE ASSESSMENT PRESCRIBED IN
35 PARAGRAPH 3 OF THIS SUBSECTION.

36 3. SHALL PAY AN ADDITIONAL ASSESSMENT OF TWO HUNDRED FIFTY DOLLARS.
37 IF THE CONVICTION OCCURRED IN THE SUPERIOR COURT OR A JUSTICE COURT, THE
38 COURT SHALL TRANSMIT THE ASSESSED MONIES TO THE COUNTY TREASURER. IF THE
39 CONVICTION OCCURRED IN A MUNICIPAL COURT, THE COURT SHALL TRANSMIT THE
40 ASSESSED MONIES TO THE CITY TREASURER. THE CITY OR COUNTY TREASURER SHALL
41 TRANSMIT THE MONIES RECEIVED TO THE STATE TREASURER. THE STATE TREASURER
42 SHALL DEPOSIT THE MONIES RECEIVED IN THE DRIVING UNDER THE INFLUENCE
43 ABATEMENT FUND ESTABLISHED BY SECTION 28-1304.

44 ~~3.~~ 4. May be ordered by a court to perform community restitution.

45 ~~4.~~ 5. Shall pay an additional assessment of one thousand dollars to
46 be deposited by the state treasurer in the prison construction and operations
47 fund established by section 41-1651. This assessment is not subject to any
48 surcharge. If the conviction occurred in the superior court or a justice
49 court, the court shall transmit the assessed monies to the county treasurer.

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

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

12 E. Notwithstanding subsection D, paragraph 1 of this section, at the
13 time of sentencing IF THE PERSON IS CONVICTED OF A VIOLATION OF SUBSECTION A,
14 PARAGRAPH 1 OF THIS SECTION, the judge may suspend all but ten days of the
15 sentence if the person completes a court ordered alcohol or other drug
16 screening, education or treatment program. If the person fails to complete
17 the court ordered alcohol or other drug screening, education or treatment
18 program and has not been placed on probation, the court shall issue an order
19 to show cause to the defendant as to why the remaining jail sentence should
20 not be served.

21 F. If within a period of ~~sixty~~ EIGHTY-FOUR months a person is
22 convicted of a second violation of this section or is convicted of a
23 violation of this section and has previously been convicted of a violation of
24 section 5-395 or 5-396 or an act in another jurisdiction that if committed in
25 this state would be a violation of this section or section 5-395 or 5-396,
26 the person:

27 1. Shall be sentenced to serve not less than one hundred twenty days
28 in jail, sixty days of which shall be served consecutively, and is not
29 eligible for probation or suspension of execution of sentence unless the
30 entire sentence has been served IF THE PERSON IS CONVICTED OF A VIOLATION OF
31 SUBSECTION A, PARAGRAPH 1 OF THIS SECTION. A PERSON WHO IS CONVICTED OF A
32 VIOLATION OF SUBSECTION A, PARAGRAPH 2 OF THIS SECTION SHALL BE SENTENCED TO
33 SERVE NOT LESS THAN ONE HUNDRED EIGHTY DAYS IN JAIL, NINETY OF WHICH SHALL BE
34 SERVED CONSECUTIVELY, AND IS NOT ELIGIBLE FOR PROBATION OR SUSPENSION OF
35 EXECUTION OF SENTENCE UNLESS THE ENTIRE SENTENCE HAS BEEN SERVED.

36 2. Shall pay a fine of not less than five hundred dollars, EXCEPT THAT
37 A PERSON WHO IS CONVICTED OF A VIOLATION OF SUBSECTION A, PARAGRAPH 2 OF THIS
38 SECTION SHALL PAY A FINE OF NOT LESS THAN ONE THOUSAND DOLLARS. THE FINE
39 PRESCRIBED IN THIS PARAGRAPH AND ANY ASSESSMENTS, RESTITUTION AND
40 INCARCERATION COSTS SHALL BE PAID BEFORE THE ASSESSMENT PRESCRIBED IN
41 PARAGRAPH 3 OF THIS SUBSECTION.

42 3. SHALL PAY AN ADDITIONAL ASSESSMENT OF TWO HUNDRED FIFTY DOLLARS.
43 IF THE CONVICTION OCCURRED IN THE SUPERIOR COURT OR A JUSTICE COURT, THE
44 COURT SHALL TRANSMIT THE ASSESSED MONIES TO THE COUNTY TREASURER. IF THE
45 CONVICTION OCCURRED IN A MUNICIPAL COURT, THE COURT SHALL TRANSMIT THE
46 ASSESSED MONIES TO THE CITY TREASURER. THE CITY OR COUNTY TREASURER SHALL
47 TRANSMIT THE MONIES RECEIVED TO THE STATE TREASURER. THE STATE TREASURER
48 SHALL DEPOSIT THE MONIES RECEIVED IN THE DRIVING UNDER THE INFLUENCE
49 ABATEMENT FUND ESTABLISHED BY SECTION 28-1304.

1 ~~3-~~ 4. ~~May~~ SHALL be ordered by a court to perform AT LEAST THIRTY
2 HOURS OF community restitution. IF THE PERSON FAILS TO COMPLETE THE COMMUNITY
3 RESTITUTION ORDERED PURSUANT TO THIS PARAGRAPH, THE COURT MAY ORDER
4 ALTERNATIVE SANCTIONS IF THE COURT DETERMINES THAT ALTERNATIVE SANCTIONS ARE
5 MORE APPROPRIATE.

6 ~~4-~~ 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 ~~5-~~ 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 G. Notwithstanding subsection F, paragraph 1 of this section, at the
24 time of sentencing, IF THE PERSON IS CONVICTED OF A VIOLATION OF SUBSECTION
25 A, PARAGRAPH 1 OF THIS SECTION, the judge may suspend all but sixty days of
26 the sentence if the person completes a court ordered alcohol or other drug
27 screening, education or treatment program. If the person fails to complete
28 the court ordered alcohol or other drug screening, education or treatment
29 program and has not been placed on probation, the court shall issue an order
30 to show cause as to why the remaining jail sentence should not be served.

31 H. In applying the ~~sixty~~ EIGHTY-FOUR month provision of subsection F
32 of this section, the dates of the commission of the offense shall be the
33 determining factor, irrespective of the sequence in which the offenses were
34 committed.

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

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

40 K. For the purposes of this section, "alcohol concentration" means
41 grams of alcohol per one hundred milliliters of blood or grams of alcohol per
42 two hundred ten liters of breath.

43 Sec. 13. Section 8-343, Arizona Revised Statutes, is amended to read:

44 8-343. Disposition of offenses involving driving or in actual
45 physical control of a motor vehicle while under the
46 influence of intoxicating liquor or drugs

47 A. A juvenile who is adjudicated delinquent for a violation of section
48 28-1381 or 28-1382 shall be incarcerated for a period of twenty-four
49 consecutive hours.

1 B. A juvenile who within a period of ~~sixty~~ EIGHTY-FOUR months is
2 adjudicated delinquent for a violation of section 28-1381 or 28-1382 and who
3 has previously been adjudicated for a violation of section 28-1381, 28-1382
4 or 28-1383 or an act in another state, a court of the United States or a
5 tribal court that if committed in this state would be a violation of section
6 28-1381, 28-1382 or 28-1383 shall be incarcerated for a period of thirty
7 consecutive days that shall be served in a juvenile detention center or in
8 the department of juvenile corrections.

9 C. A juvenile who is adjudicated delinquent for a violation of section
10 28-1383 shall be sentenced as provided in section 28-1383, except that ~~the~~
11 ~~provisions of~~ section 13-801 ~~do~~ DOES not apply and any incarceration shall be
12 served in a juvenile detention center or in the department of juvenile
13 corrections.

14 D. If a juvenile is adjudicated delinquent for a violation of section
15 28-1381, 28-1382 or 28-1383, the court shall order the juvenile to pay at
16 least one hundred dollars but not more than five hundred dollars plus any
17 applicable surcharges and assessments to the public agency processing the
18 violation or the court may order the juvenile to perform at least eighty
19 hours of community restitution under the supervision of the court.

20 E. The dates of the commission of the offense shall be the determining
21 factor in applying the ~~sixty~~ EIGHTY-FOUR month provision of subsection B of
22 this section, irrespective of the sequence in which the offenses were
23 committed. 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 F. In addition to any other penalties prescribed by law, if a juvenile
27 is adjudicated delinquent for a violation of section 28-1381, 28-1382 or
28 28-1383, the court shall order the juvenile to complete alcohol or other drug
29 screening that is provided by a facility approved by the department of health
30 services or a probation department. If the court determines that the
31 juvenile requires further alcohol or other drug education or treatment, the
32 juvenile may be required pursuant to court order to obtain education or
33 treatment under the court's supervision from an approved facility. The court
34 may review an education or treatment determination at the request of the
35 state or the defendant or on the court's initiative. The juvenile shall pay
36 the costs of the screening, education or treatment unless the court waives
37 part or all of the costs. The court may order the parent or guardian of the
38 juvenile to pay part or all of the costs of the screening, education or
39 treatment.

40 Sec. 14. Section 9-499.07, Arizona Revised Statutes, is amended to
41 read:

42 9-499.07. Prisoner work, community restitution work and home
43 detention program; eligibility; monitoring;
44 procedures; home detention for persons sentenced
45 for driving under the influence of alcohol or drugs

46 A. A city or town may establish a prisoner work, community restitution
47 work and home detention program for eligible sentenced prisoners, which shall
48 be treated the same as confinement in jail. The presiding judge of the city
49 or town municipal court shall approve the program before its implementation.

1 B. A prisoner is not eligible for a prisoner work, community
2 restitution work and home detention program if any of the following applies:

3 1. The prisoner is found by the city or town to constitute a risk to
4 either himself or other members of the community.

5 2. The prisoner has a past history of violent behavior.

6 3. The sentencing judge states at the time of the sentence that the
7 prisoner may not be eligible for a prisoner work, community restitution work
8 and home detention program.

9 C. For prisoners who are selected for the program, the city or town
10 may require electronic monitoring in the prisoner's home whenever the
11 prisoner is not at the prisoner's regular place of employment or while the
12 prisoner is assigned to a community work task. If electronic monitoring is
13 required, the prisoner shall remain under the control of a home detention
14 device that constantly monitors the prisoner's location in order to determine
15 that the prisoner has not left the prisoner's premises. In all other cases,
16 the city or town shall implement a system of monitoring using telephone
17 contact or other appropriate methods to assure compliance with the home
18 detention requirements. The city or town may place appropriate restrictions
19 on prisoners in the program, including testing prisoners for consumption of
20 alcoholic beverages or drugs or prohibiting association with individuals who
21 are determined to be detrimental to the prisoner's successful participation
22 in the program.

23 D. If a prisoner is placed on electronic monitoring pursuant to
24 subsection C of this section, the prisoner shall pay an electronic monitoring
25 fee in an amount ranging from zero to full cost and thirty dollars per month
26 while on electronic monitoring, unless, after determining the inability of
27 the prisoner to pay these fees, the city or town assesses a lesser fee. The
28 CITY OR TOWN SHALL USE THE fees collected ~~shall be used by the city or town~~
29 to offset operational costs of the program.

30 E. Prisoners who are selected for the home detention program shall be
31 employed within the county in which the city or town is located. The city or
32 town shall review the place of employment to determine whether it is
33 appropriate for a home detention prisoner. If the prisoner is terminated
34 from employment or does not come to work, the employer shall notify the city
35 or town. Alternatively, or in addition, a community restitution work
36 assignment may be made by the city or town to a program recommended by the
37 community restitution work committee. If a prisoner is incapable of
38 performing community restitution or being employed, the city or town may
39 exempt the prisoner from these programs.

40 F. The city or town may require that a prisoner who is employed during
41 the week also participate in community restitution work programs on weekends.

42 G. The city or town may allow prisoners to be away from home detention
43 for special purposes, including church attendance, medical appointments or
44 funerals.

45 H. Community restitution work shall include public works projects
46 operated and supervised by the city or town or other public agencies of this
47 state or projects sponsored and supervised by public or private community
48 oriented organizations and agencies.

1 I. A city or town implementing a program under this section shall
2 appoint a community restitution work committee. The committee shall
3 recommend to the city or town appropriate community restitution work projects
4 for home detention prisoners. Members are not eligible to receive
5 compensation.

6 J. At any time the city or town may terminate a prisoner's
7 participation in the prisoner work, community restitution work and home
8 detention program and require that the prisoner complete the remaining term
9 of the prisoner's sentence in jail confinement.

10 K. Nothing in this section shall prohibit a city or town from entering
11 into a joint exercise of powers agreement pursuant to section 11-952 for a
12 prisoner work, community restitution work and home detention program.

13 L. If authorized by the court, a person who is sentenced pursuant to
14 section 28-1381 or 28-1382 shall not be placed under home detention in a
15 prisoner work, community restitution work and home detention program except
16 as provided in subsections M through R of this section.

17 M. By a majority vote of the full membership of the governing body of
18 the municipality after a public hearing and a finding of necessity, a city or
19 town may establish a home detention program for persons who are sentenced to
20 jail confinement pursuant to section 28-1381 or 28-1382. A prisoner who is
21 placed under the program established pursuant to this subsection shall bear
22 the cost of all testing, monitoring and enrollment in alcohol or substance
23 abuse programs unless, after determining the inability of the prisoner to pay
24 the cost, the court assesses a lesser amount. The city or town shall use the
25 collected monies to offset operational costs of the program.

26 N. If the city or town establishes a home detention program under
27 subsection M of this section, a prisoner must meet the following eligibility
28 requirements for the program:

29 1. Subsection B of this section applies in determining eligibility
30 for the program.

31 2. If the prisoner is sentenced under section 28-1381, subsection I,
32 the prisoner first serves a minimum of twenty-four consecutive hours in jail.

33 3. Notwithstanding section 28-1387, subsection C, if the prisoner is
34 sentenced under section 28-1381, subsection K or section 28-1382, subsection
35 D or ~~F~~ E, the prisoner first serves a minimum of fifteen consecutive days in
36 jail before being placed under home detention.

37 4. The prisoner is required to comply with all of the following
38 provisions for the duration of the prisoner's participation in the home
39 detention program:

40 (a) All of the provisions of subsections C through H of this section.

41 (b) Testing at least once a day for the use of alcoholic beverages or
42 drugs by a scientific method that is not limited to urinalysis or a breath or
43 intoxication test in the prisoner's home or at the office of a person
44 designated by the court to conduct these tests.

45 (c) Participation in an alcohol or drug program, or both. These
46 programs shall be accredited by the department of health services or a county
47 probation department.

48 (d) Prohibition of association with any individual determined to be
49 detrimental to the prisoner's successful participation in the program.

1 (e) All other provisions of the sentence imposed.

2 5. Any additional eligibility criteria that the city or town may
3 impose.

4 0. If a city or town establishes a home detention program under
5 subsection M of this section, the court, on placing the prisoner in the
6 program, shall require electronic monitoring in the prisoner's home and, if
7 consecutive hours of jail time are ordered, shall require the prisoner to
8 remain at home during the consecutive hours ordered. The detention device
9 shall constantly monitor the prisoner's location to ensure that the prisoner
10 does not leave the premises. Nothing in this subsection shall be deemed to
11 waive the minimum jail confinement requirements under subsection N, paragraph
12 2 of this section.

13 P. The court shall terminate a prisoner's participation in the home
14 detention program and require the prisoner to complete the remaining term of
15 the jail sentence by jail confinement if:

16 1. The prisoner fails to successfully complete a court ordered alcohol
17 or drug screening, counseling, education and treatment program pursuant to
18 subsection N, paragraph 4, subdivision (c) of this section or section
19 28-1381, subsection J or L ~~or violates an order pursuant to section 28-1382,~~
20 ~~subsection E or G.~~

21 2. The court finds that the prisoner left the premises without
22 permission of the court or supervising authority during a time the prisoner
23 is ordered to be on the premises.

24 Q. At any other time the court may terminate a prisoner's
25 participation in the home detention program and require the prisoner to
26 complete the remaining term of the jail sentence by jail confinement.

27 R. The governing body of the city or town may terminate the program
28 established under subsection M of this section by a majority vote of the full
29 membership of the governing body.

30 Sec. 15. Section 11-459, Arizona Revised Statutes, is amended to read:

31 11-459. Prisoner work, community restitution work and home
32 detention program; eligibility; monitoring;
33 procedures; home detention for persons sentenced for
34 driving under the influence of alcohol or drugs;
35 community restitution work committee; members; duties

36 A. The sheriff may establish a prisoner work, community restitution
37 work and home detention program for eligible sentenced prisoners, which shall
38 be treated the same as confinement in jail and shall fulfill the sheriff's
39 duty to take charge of and keep the county jail and prisoners.

40 B. A prisoner is not eligible for a prisoner work, community
41 restitution work and home detention program if any of the following applies:

42 1. After independent review and determination of the jail's
43 classification program, the prisoner is found by the sheriff to constitute a
44 risk to either himself or other members of the community.

45 2. The prisoner has a past history of violent behavior.

46 3. The prisoner has been convicted of a serious offense as defined in
47 section 13-604 or has been determined to be a dangerous and repetitive
48 offender.

49 4. Jail time is being served as a result of a felony conviction.

1 5. The sentencing judge states at the time of the sentence that the
2 prisoner may not be eligible for a prisoner work, community restitution work
3 and home detention program.

4 6. The prisoner is sentenced to a county jail and is being held for
5 another jurisdiction.

6 C. For prisoners who are selected for the program, the sheriff may
7 require electronic monitoring in the prisoner's home whenever the prisoner is
8 not at the prisoner's regular place of employment or while the prisoner is
9 assigned to a community work task. If electronic monitoring is required, the
10 prisoner shall remain under the control of a home detention device that
11 constantly monitors the prisoner's location in order to determine that the
12 prisoner has not left the prisoner's premises. In all other cases, the
13 sheriff shall implement a system of monitoring using visitation, telephone
14 contact or other appropriate methods to assure compliance with the home
15 detention requirements. The sheriff may place appropriate restrictions on
16 prisoners in the program, including testing prisoners for consumption of
17 alcoholic beverages or drugs or prohibiting association with individuals who
18 are determined to be detrimental to the prisoner's successful participation
19 in the program.

20 D. If a prisoner is placed on electronic monitoring pursuant to
21 subsection C of this section, the prisoner shall pay an electronic monitoring
22 fee in an amount ranging from zero to full cost and thirty dollars per month
23 while on electronic monitoring, unless, after determining the inability of
24 the prisoner to pay these fees, the sheriff assesses a lesser fee. The
25 ~~SHERIFF SHALL USE THE~~ fees collected ~~shall be used by the sheriff~~ to offset
26 operational costs of the program.

27 E. Prisoners who are selected for the home detention program shall be
28 employed in the county in which they are incarcerated. The sheriff shall
29 review the place of employment to determine whether it is appropriate for a
30 home detention prisoner. If the prisoner is terminated from employment or
31 does not come to work, the employer shall notify the sheriff's office.
32 Alternatively, or in addition, a community restitution work assignment may be
33 made by the sheriff to a program recommended to the sheriff by the community
34 restitution work committee. If a prisoner is incapable of performing
35 community restitution or being employed, the sheriff may exempt the prisoner
36 from these programs.

37 F. The sheriff may require that a prisoner who is employed during the
38 week also participate in community restitution work programs on weekends.

39 G. The sheriff may allow prisoners to be away from home detention for
40 special purposes, including church attendance, medical appointments or
41 funerals. The standard for review and determination of such leave is the
42 same as that implemented to decide transportation requests for similar
43 purposes made by prisoners ~~WHO ARE~~ confined in the county jail.

44 H. Community restitution work shall include public works projects
45 operated and supervised by public agencies of this state or counties, cities
46 or towns on recommendation of the community restitution work committee and
47 approval of the sheriff. The community restitution work committee may also
48 recommend and the sheriff may approve other forms of community restitution

1 work sponsored and supervised by public or private community oriented
2 organizations and agencies.

3 I. The community restitution work committee is established in each
4 county and is composed of two designees of the sheriff, a representative of
5 the county attorney's office selected by the county attorney, a
6 representative of a local police agency selected by the police chief of the
7 largest city in the county and three persons selected by the county board of
8 supervisors from the private sector. A sheriff's designee shall serve as
9 committee chairman and schedule all meetings. The committee shall meet as
10 often as necessary, but no less than once every three months, for the purpose
11 of considering and recommending appropriate community restitution work
12 projects for home detention prisoners. The committee shall make its
13 recommendations to the sheriff. Members are not eligible to receive
14 compensation.

15 J. At any time the sheriff may terminate a prisoner's participation in
16 the prisoner work, community restitution work and home detention program and
17 require that the prisoner complete the remaining term of the prisoner's
18 sentence in jail confinement.

19 K. If authorized by the court, a person who is sentenced pursuant to
20 section 28-1381 or 28-1382 shall not be placed under home detention in a
21 prisoner work, community restitution work and home detention program except
22 as provided in subsections L through Q of this section.

23 L. By a majority vote of the full membership of the board of
24 supervisors after a public hearing and a finding of necessity a county may
25 authorize the sheriff to establish a home detention program for persons who
26 are sentenced to jail confinement pursuant to section 28-1381 or 28-1382. If
27 the board ~~authorized~~ **AUTHORIZES** the establishment of a home detention
28 program, a county sheriff may establish the program. A prisoner who is
29 placed under the program established pursuant to this subsection shall bear
30 the cost of all testing, monitoring and enrollment in alcohol or substance
31 abuse programs unless, after determining the inability of the prisoner to pay
32 the cost, the court assesses a lesser amount. The county shall use the
33 collected monies to offset operational costs of the program.

34 M. If a county sheriff establishes a home detention program under
35 subsection L of this section, a prisoner must meet the following eligibility
36 requirements for the program:

37 1. Subsection B of this section applies in determining eligibility
38 for the program.

39 2. If the prisoner is sentenced under section 28-1381, subsection I,
40 the prisoner first serves a minimum of twenty-four consecutive hours in jail.

41 3. Notwithstanding section 28-1387, subsection C, if the prisoner is
42 sentenced under section 28-1381, subsection K or section 28-1382, subsection
43 D or ~~F~~ E, the prisoner first serves a minimum of fifteen consecutive days in
44 jail before being placed under home detention.

45 4. The prisoner is required to comply with all of the following
46 requirements for the duration of the prisoner's participation in the home
47 detention program:

48 (a) All of the provisions of subsections C through H of this section.

1 (b) Testing at least once a day for the use of alcoholic beverages or
2 drugs by a scientific method that is not limited to urinalysis or a breath or
3 intoxication test in the prisoner's home or at the office of a person
4 designated by the court to conduct these tests.

5 (c) Participation in an alcohol or drug program, or both. These
6 programs shall be accredited by the department of health services or a county
7 probation department.

8 (d) Prohibition of association with any individual determined to be
9 detrimental to the prisoner's successful participation in the program.

10 (e) All other provisions of the sentence imposed.

11 5. Any additional eligibility criteria that the county may impose.

12 N. If a county sheriff establishes a home detention program under
13 subsection L of this section, the court, on placing the prisoner in the
14 program, shall require electronic monitoring in the prisoner's home and, if
15 consecutive hours of jail time are ordered, shall require the prisoner to
16 remain at home during the consecutive hours ordered. The detention device
17 shall constantly monitor the prisoner's location to ensure that the prisoner
18 does not leave the premises. Nothing in this subsection shall be deemed to
19 waive the minimum jail confinement requirements under subsection M, paragraph
20 2 of this section.

21 O. The court shall terminate a prisoner's participation in the home
22 detention program and shall require the prisoner to complete the remaining
23 term of the jail sentence by jail confinement if either:

24 1. The prisoner fails to successfully complete a court ordered alcohol
25 or drug screening, counseling, education and treatment program pursuant to
26 subsection M, paragraph 4, subdivision (c) of this section or section
27 28-1381, subsection J or L ~~or violates an order pursuant to section 28-1382,~~
28 ~~subsection E or G.~~

29 2. The prisoner leaves the premises during a time that the prisoner is
30 ordered to be on the premises without permission of the court or supervising
31 authority.

32 P. At any other time the court may terminate a prisoner's
33 participation in the home detention program and require the prisoner to
34 complete the remaining term of the jail sentence by jail confinement.

35 Q. The sheriff may terminate the program at any time.

36 R. A person who is sentenced pursuant to section 28-1383 shall not be
37 placed under home detention in a prisoner work, community restitution work
38 and home detention program.

39 Sec. 16. Section 28-1303, Arizona Revised Statutes, is amended to
40 read:

41 28-1303. Oversight council on driving or operating under the
42 influence abatement

43 A. The oversight council on driving or operating under the influence
44 abatement is established consisting of the following ten members:

45 1. The director of the department of public safety or the director's
46 designee.

47 2. The assistant director for the motor vehicle division of the
48 department of transportation or the assistant director's designee.

49 3. The director of the governor's office of highway safety.

- 1 4. One member of the public who is appointed by the governor.
- 2 5. One member of the public who is appointed by the speaker of the
- 3 house of representatives.
- 4 6. One member of the public who is appointed by the president of the
- 5 senate.
- 6 7. One municipal law enforcement member who is appointed by the
- 7 governor on the recommendation of an Arizona association of chiefs of police.
- 8 8. One county law enforcement member who is appointed by the governor
- 9 on the recommendation of an Arizona county sheriff's association.
- 10 9. One city prosecutor who is appointed by the governor on the
- 11 recommendation of the Arizona prosecuting attorney's advisory council.
- 12 10. One county attorney who is appointed by the governor on the
- 13 recommendation of the Arizona prosecuting attorney's advisory council.
- 14 B. Members appointed pursuant to subsection A, paragraphs 4, 5, 6, 7,
- 15 8, 9 and 10 of this section serve three year staggered terms.
- 16 C. Members appointed pursuant to subsection A, paragraphs 1, 2 and 3
- 17 of this section shall serve as advisory nonvoting members of the council.
- 18 D. The voting members of the council shall annually elect a
- 19 chairperson from among the members. ~~A member shall not serve consecutive~~
- 20 ~~terms as chairperson.~~
- 21 E. Members of the council are not eligible to receive compensation,
- 22 but members who are appointed pursuant to subsection A, paragraphs 4, 5, 6,
- 23 7, 8, 9 and 10 of this section are eligible for reimbursement of expenses
- 24 pursuant to title 38, chapter 4, article 2.
- 25 F. The oversight council on driving or operating under the influence
- 26 abatement may use the facilities for meeting and the staff of the Arizona
- 27 criminal justice commission.
- 28 G. The oversight council on driving or operating under the influence
- 29 abatement may enter into interagency agreements with the Arizona criminal
- 30 justice commission and other agencies for agency business.
- 31 H. The council shall:
- 32 1. Make grants from the driving under the influence abatement fund
- 33 established by section 28-1304 to political subdivisions and tribal
- 34 governments that apply for monies for enforcement purposes, prosecutorial and
- 35 judicial activities and alcohol abuse treatment services related to
- 36 preventing and abating driving or operating under the influence occurrences
- 37 in a motor vehicle or a motorized watercraft as defined in section 5-301.
- 38 2. Make grants from the driving under the influence abatement fund
- 39 established by section 28-1304 to innovative programs that use emerging
- 40 technologies to educate, prevent or deter occurrences of driving or operating
- 41 under the influence in a motor vehicle or a motorized watercraft.
- 42 3. Receive quarterly reports from the entities receiving grants and
- 43 evaluate their effectiveness. The council may make additional grants to the
- 44 recipients and oversee the progress of those programs.
- 45 4. On or before December 1 of each year, submit a written report on
- 46 the effectiveness of the grants provided in reducing the incidence of driving
- 47 or operating under the influence to the governor, the speaker of the house of
- 48 representatives, ~~AND~~ the president of the senate and shall provide a copy of

1 this report to the secretary of state and the director of the Arizona state
2 library, archives and public records.

3 Sec. 17. Section 28-1304, Arizona Revised Statutes, is amended to
4 read:

5 28-1304. Driving under the influence abatement fund

6 A. The driving under the influence abatement fund is established
7 consisting of monies deposited pursuant to section 4-213, SUBSECTION J,
8 SECTION 5-396, SUBSECTION I, PARAGRAPH 2, SECTION 5-397, SUBSECTION D,
9 PARAGRAPH 3 AND SUBSECTION F, PARAGRAPH 3, SECTION 28-1382, subsection D,
10 paragraph 3 and subsection ~~F~~ E, paragraph 3 and section 28-1383, subsection
11 J, paragraph 2.

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

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

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

21 1. Administrative purposes of the oversight council on driving or
22 operating under the influence abatement.

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

24 E. Monies in the fund are:

25 1. Continuously appropriated.

26 2. Exempt from the provisions of section 35-190 relating to lapsing of
27 appropriations.

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

32 Sec. 18. Section 28-1321, Arizona Revised Statutes, is amended to
33 read:

34 28-1321. Implied consent; tests; refusal to submit to test;
35 order of suspension; hearing; review; temporary
36 permit; notification of suspension; special ignition
37 interlock restricted driver license

38 A. A person who operates a motor vehicle in this state gives consent,
39 subject to section 4-244, paragraph 33 or section 28-1381, 28-1382 or
40 28-1383, to a test or tests of the person's blood, breath, urine or other
41 bodily substance for the purpose of determining alcohol concentration or drug
42 content if the person is arrested for any offense arising out of acts alleged
43 to have been committed in violation of this chapter or section 4-244,
44 paragraph 33 while the person was driving or in actual physical control of a
45 motor vehicle while under the influence of intoxicating liquor or drugs. The
46 test or tests chosen by the law enforcement agency shall be administered at
47 the direction of a law enforcement officer having reasonable grounds to
48 believe that the person was driving or in actual physical control of a motor
49 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:

13 1. If the test results show a blood or breath alcohol concentration of
14 0.08 or more, or if the results show a blood or breath alcohol concentration
15 of 0.04 or more and the violator was driving or in actual physical control of
16 a commercial motor vehicle, the violator's license or permit to drive will be
17 suspended or denied for not less than ninety consecutive days.

18 2. THE VIOLATOR'S DRIVING PRIVILEGE, LICENSE, PERMIT, RIGHT TO APPLY
19 FOR A LICENSE OR PERMIT OR NONRESIDENT OPERATING PRIVILEGE MAY BE ISSUED OR
20 REINSTATED FOLLOWING THE PERIOD OF SUSPENSION ONLY IF THE VIOLATOR COMPLETES
21 ALCOHOL OR OTHER DRUG SCREENING.

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

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

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

31 2. The law enforcement officer directing the administration of the
32 test shall:

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

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

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

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

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

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

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

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

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

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

7 2. The manner in which the person refused to submit to the test or
8 tests.

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

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

17 1. Fifteen days after the date of issuance of the notice the
18 department will suspend the person's license or permit, driving privilege or
19 nonresident driving privilege.

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

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

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

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

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

33 4. THE PERSON'S DRIVING PRIVILEGE, LICENSE, PERMIT, RIGHT TO APPLY FOR
34 A LICENSE OR PERMIT OR NONRESIDENT OPERATING PRIVILEGE MAY BE ISSUED OR
35 REINSTATED FOLLOWING THE PERIOD OF SUSPENSION ONLY IF THE PERSON COMPLETES
36 ALCOHOL OR OTHER DRUG SCREENING.

37 H. The order for suspension shall:

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

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

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

1 J. A timely request for a hearing stays the suspension until a hearing
2 is held, except that the department shall not return any surrendered license
3 or permit to the person but may issue temporary permits to drive that expire
4 no later than when the department has made its final decision. If the person
5 is a resident without a license or permit or has an expired license or
6 permit, the department may allow the person to apply for a RESTRICTED license
7 or permit. If the department determines the person is otherwise entitled to
8 the license or permit, the department shall issue and retain a RESTRICTED
9 license or permit subject to this section.

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

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

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

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

20 2. The person was placed under arrest.

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

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

23 L. If the department determines at the hearing to suspend the affected
24 person's privilege to operate a motor vehicle, the suspension provided in
25 this section is effective fifteen days after giving written notice of the
26 suspension, except that the department may issue or extend a temporary
27 license that expires on the effective date of the suspension. If the person
28 is a resident without a license or permit or has an expired license or permit
29 to operate a motor vehicle in this state, the department shall deny to the
30 person the issuance of a license or permit for a period of twelve months
31 after the order of suspension becomes effective or for a period of two years
32 after the order of suspension becomes effective for a second or subsequent
33 refusal within a period of eighty-four months, AND MAY REINSTATE THE PERSON'S
34 DRIVING PRIVILEGE, LICENSE, PERMIT, RIGHT TO APPLY FOR A LICENSE OR PERMIT OR
35 NONRESIDENT OPERATING PRIVILEGE FOLLOWING THE PERIOD OF SUSPENSION ONLY IF
36 THE PERSON COMPLETES ALCOHOL OR OTHER DRUG SCREENING.

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

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

46 O. If it has been determined under the procedures of this section that
47 a nonresident's privilege to operate a motor vehicle in this state has been
48 suspended, the department shall give information EITHER in writing OR BY
49 ELECTRONIC MEANS of the action taken to the motor vehicle administrator of

1 the state of the person's residence and of any state in which the person has
2 a license.

3 P. After completing not less than ninety consecutive days of the
4 period of suspension required by this section **AND ANY ALCOHOL OR OTHER DRUG**
5 **SCREENING THAT IS ORDERED BY THE DEPARTMENT PURSUANT TO THIS CHAPTER**, a
6 person whose driving privilege is suspended pursuant to this section may
7 apply to the department for a special ignition interlock restricted driver
8 license pursuant to section 28-1401. Unless the certified ignition interlock
9 period is extended by the department pursuant to section ~~28-1402~~ 28-1461, a
10 person who is issued a special ignition interlock restricted driver license
11 as provided in this subsection shall maintain a functioning certified
12 ignition interlock device in compliance with this chapter during the
13 remaining period of the suspension prescribed by this section. This
14 subsection does not apply to a person whose driving privilege is suspended
15 for a second or subsequent refusal within a period of eighty-four months or a
16 person who within a period of eighty-four months has been convicted of a
17 second or subsequent violation of article 3 of this chapter or section 4-244,
18 paragraph 33 or an act in another jurisdiction that if committed in this
19 state would be a violation of article 3 of this chapter or section 4-244,
20 paragraph 33.

21 Sec. 19. Section 28-1382, Arizona Revised Statutes, as amended by Laws
22 2007, chapter 219, section 2, is amended to read:

23 ~~28-1382.~~ Driving or actual physical control while under the
24 extreme influence of intoxicating liquor; trial by
25 jury; sentencing; classification

26 A. It is unlawful for a person to drive or be in actual physical
27 control of a vehicle in this state if the person has an alcohol concentration
28 ~~of 0.15 or more~~ **AS FOLLOWS** within two hours of driving or being in actual
29 physical control of the vehicle and the alcohol concentration results from
30 alcohol consumed either before or while driving or being in actual physical
31 control of the vehicle:

- 32 1. **0.15 OR MORE BUT LESS THAN 0.20.**
- 33 2. **0.20 OR MORE.**

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

37 C. At the arraignment, the court shall inform the defendant that the
38 defendant may request a trial by jury and that the request, if made, shall be
39 granted.

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

41 1. ~~Except as otherwise provided in this paragraph,~~ Shall be sentenced
42 to serve not less than thirty consecutive days in jail and is not eligible
43 for probation or suspension of execution of sentence unless the entire
44 sentence is served **IF THE PERSON IS CONVICTED OF A VIOLATION OF SUBSECTION A,**
45 **PARAGRAPH 1 OF THIS SECTION.** A person who ~~has an alcohol concentration of~~
46 ~~0.20 or more~~ **IS CONVICTED OF A VIOLATION OF SUBSECTION A, PARAGRAPH 2 OF THIS**
47 **SECTION** shall be sentenced to serve not less than forty-five consecutive days
48 in jail and is not eligible for probation or suspension of execution of
49 sentence unless the entire sentence is served.

1 2. Shall pay a fine of not less than two hundred fifty dollars, except
2 that a person who ~~has an alcohol concentration of 0.20 or more~~ IS CONVICTED
3 OF A VIOLATION OF SUBSECTION A, PARAGRAPH 2 OF THIS SECTION shall pay a fine
4 of not less than five hundred dollars. The fine prescribed in this paragraph
5 and any assessments, restitution and incarceration costs shall be paid before
6 the assessment prescribed in paragraph 3 of this subsection.

7 3. Shall pay an additional assessment of two hundred fifty dollars. If
8 the conviction occurred in the superior court or a justice court, the court
9 shall transmit the monies received pursuant to this paragraph to the county
10 treasurer. If the conviction occurred in a municipal court, the court shall
11 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. May be ordered by a court to perform community restitution.

17 5. Shall be required by the department, on receipt of the report of
18 conviction, to equip any motor vehicle the person operates with a certified
19 ignition interlock device pursuant to section 28-3319. In addition, the
20 court may order the person to equip any motor vehicle the person operates
21 with a certified ignition interlock device for more than twelve months
22 beginning on the date of reinstatement of the person's driving privilege
23 following a suspension or revocation or on the date of the department's
24 receipt of the report of conviction, whichever occurs later. The person who
25 operates a motor vehicle with a certified ignition interlock device under
26 this paragraph shall comply with article 5 of this chapter.

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

35 7. Shall pay an additional assessment of one thousand dollars to be
36 deposited by the state treasurer in the state general fund. This assessment
37 is not subject to any surcharge. If the conviction occurred in the superior
38 court or a justice court, the court shall transmit the assessed monies to the
39 county treasurer. If the conviction occurred in a municipal court, the court
40 shall transmit the assessed monies to the city treasurer. The city or county
41 treasurer shall transmit the monies received to the state treasurer.

42 ~~E. Notwithstanding subsection D, paragraph 1 of this section, at the~~
43 ~~time of sentencing if the person has an alcohol concentration of less than~~
44 ~~0.20, the judge may suspend all but ten days of the sentence if the person~~
45 ~~completes a court ordered alcohol or other drug screening, education or~~
46 ~~treatment program. If the person fails to complete the court ordered alcohol~~
47 ~~or other drug screening, education or treatment program and has not been~~
48 ~~placed on probation, the court shall issue an order to show cause to the~~
49 ~~defendant as to why the remaining jail sentence should not be served.~~

1 ~~F.~~ E. If within a period of eighty-four months a person is convicted
2 of a second violation of this section or is convicted of a violation of this
3 section and has previously been convicted of a violation of section 28-1381
4 or 28-1383 or an act in another jurisdiction that if committed in this state
5 would be a violation of this section or section 28-1381 or 28-1383, the
6 person:

7 1. ~~Except as otherwise provided in this paragraph,~~ Shall be sentenced
8 to serve not less than one hundred twenty days in jail, sixty days of which
9 shall be served consecutively, and is not eligible for probation or
10 suspension of execution of sentence unless the entire sentence has been
11 served IF THE PERSON IS CONVICTED OF A VIOLATION OF SUBSECTION A, PARAGRAPH 1
12 OF THIS SECTION. A person who ~~has an alcohol concentration of 0.20 or more~~
13 IS CONVICTED OF A VIOLATION OF SUBSECTION A, PARAGRAPH 2 OF THIS SECTION
14 shall be sentenced to serve not less than one hundred eighty days in jail,
15 ninety of which shall be served consecutively, and is not eligible for
16 probation or suspension of execution of sentence unless the entire sentence
17 has been served.

18 2. Shall pay a fine of not less than five hundred dollars, except that
19 a person who ~~has an alcohol concentration of 0.20 or more~~ IS CONVICTED OF A
20 VIOLATION OF SUBSECTION A, PARAGRAPH 2 OF THIS SECTION shall pay a fine of
21 not less than one thousand dollars. The fine prescribed in this paragraph
22 and any assessments, restitution and incarceration costs shall be paid before
23 the assessment prescribed in paragraph 3 of this subsection.

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

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

35 5. Shall have the person's driving privilege revoked for at least one
36 year. The court shall report the conviction to the department. On receipt
37 of the report, the department shall revoke the person's driving privilege and
38 shall require the person to equip any motor vehicle the person operates with
39 a certified ignition interlock device pursuant to section 28-3319. In
40 addition, the court may order the person to equip any motor vehicle the
41 person operates with a certified ignition interlock device for more than
42 twelve months beginning on the date of reinstatement of the person's driving
43 privilege following a suspension or revocation or on the date of the
44 department's receipt of the report of conviction, whichever is later. The
45 person who operates a motor vehicle with a certified ignition interlock
46 device under this paragraph shall comply with article 5 of this chapter.

47 6. Shall pay an additional assessment of one thousand two hundred
48 fifty dollars to be deposited by the state treasurer in the prison
49 construction and operations fund established by section 41-1651. This

1 assessment is not subject to any surcharge. If the conviction occurred in
2 the superior court or a justice court, the court shall transmit the assessed
3 monies to the county treasurer. If the conviction occurred in a municipal
4 court, the court shall transmit the assessed monies to the city treasurer.
5 The city or county treasurer shall transmit the monies received to the state
6 treasurer.

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

15 ~~G. Notwithstanding subsection F, paragraph 1 of this section, at the~~
16 ~~time of sentencing, if the person has an alcohol concentration of less than~~
17 ~~0.20, the judge may suspend all but sixty days of the sentence if the person~~
18 ~~completes a court ordered alcohol or other drug screening, education or~~
19 ~~treatment program. If the person fails to complete the court ordered alcohol~~
20 ~~or other drug screening, education or treatment program and has not been~~
21 ~~placed on probation, the court shall issue an order to show cause as to why~~
22 ~~the remaining jail sentence should not be served.~~

23 ~~H. F.~~ F. In applying the eighty-four month provision of subsection ~~F~~ E
24 of this section, the dates of the commission of the offense shall be the
25 determining factor, irrespective of the sequence in which the offenses were
26 committed.

27 ~~I. G.~~ G. A second violation for which a conviction occurs as provided in
28 this section shall not include a conviction for an offense arising out of the
29 same series of acts.

30 ~~J. H.~~ H. A person who is convicted of a violation of this section is
31 guilty of a class 1 misdemeanor.

32 Sec. 20. Repeal

33 Section 28-1382, Arizona Revised Statutes, as amended by Laws 2007,
34 chapter 195, section 3, is repealed.

35 Sec. 21. Section 28-1385, Arizona Revised Statutes, is amended to
36 read:

37 28-1385. Administrative license suspension for driving under
38 the influence or for homicide or assault involving a
39 motor vehicle; report; hearing; summary review;
40 ignition interlock device requirement

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

45 1. The officer arrests a person for a violation of section 4-244,
46 paragraph 33, section 28-1381, section 28-1382 or section 28-1383 **OR FOR A**
47 **VIOLATION OF TITLE 13, CHAPTER 11 OR SECTION 13-1201 OR 13-1204 INVOLVING A**
48 **MOTOR VEHICLE.**

1 2. The person submits to a blood or breath alcohol test permitted by
2 section 28-1321, ~~OR ANY OTHER LAW OR A SAMPLE OF BLOOD IS OBTAINED PURSUANT~~
3 ~~TO SECTION 28-1388 AND THE RESULTS ARE EITHER NOT AVAILABLE OR~~ the results ~~of~~
4 ~~which~~ indicate either OF THE FOLLOWING:

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

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

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

14 1. Information that adequately identifies the arrested person.

15 2. A statement of the officer's grounds for belief that the person was
16 driving or in actual physical control of a motor vehicle in violation of
17 section 4-244, paragraph 33, section 28-1381, ~~or~~ section 28-1382 OR SECTION
18 28-1383 OR COMMITTED A VIOLATION OF TITLE 13, CHAPTER 11 OR SECTION 13-1201
19 OR 13-1204 INVOLVING A MOTOR VEHICLE.

20 3. A statement that the person was arrested for a violation of section
21 4-244, paragraph 33, section 28-1381, section 28-1382 or section 28-1383 OR
22 FOR A VIOLATION OF TITLE 13, CHAPTER 11 OR SECTION 13-1201 OR 13-1204
23 INVOLVING A MOTOR VEHICLE.

24 4. A report of the results of the ~~chemical~~ BLOOD OR BREATH ALCOHOL
25 test that was administered, IF THE RESULTS ARE AVAILABLE.

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

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

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

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

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

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

40 6. SHALL INFORM THE PERSON THAT THE PERSON'S DRIVING PRIVILEGE,
41 LICENSE, PERMIT, RIGHT TO APPLY FOR A LICENSE OR PERMIT OR NONRESIDENT
42 OPERATING PRIVILEGE MAY BE ISSUED OR REINSTATED FOLLOWING THE PERIOD OF
43 SUSPENSION ONLY IF THE PERSON COMPLETES ALCOHOL OR OTHER DRUG SCREENING.

44 7. SHALL CONTAIN INFORMATION ON ALCOHOL OR OTHER DRUG EDUCATION AND
45 TREATMENT PROGRAMS THAT ARE PROVIDED BY A FACILITY APPROVED BY THE DEPARTMENT
46 OF HEALTH SERVICES.

47 D. IF THE BLOOD ALCOHOL CONCENTRATION TEST RESULT IS UNAVAILABLE AT
48 THE TIME THE TEST IS ADMINISTERED, THE RESULT SHALL BE FORWARDED TO THE

1 DEPARTMENT BEFORE THE HEARING HELD PURSUANT TO THIS SECTION IN A FORM
2 PRESCRIBED BY THE DIRECTOR.

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

11 ~~E.~~ F. 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 IF THE PERSON IS OTHERWISE QUALIFIED, THE DEPARTMENT MAY REINSTATE THE
15 PERSON'S DRIVING PRIVILEGE, LICENSE, PERMIT, RIGHT TO APPLY FOR A LICENSE OR
16 PERMIT OR NONRESIDENT OPERATING PRIVILEGE FOLLOWING THE PERIOD OF SUSPENSION
17 ONLY IF THE VIOLATOR COMPLETES ALCOHOL OR OTHER DRUG SCREENING.

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

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

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

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

42 4. PROVIDES SATISFACTORY EVIDENCE TO THE DEPARTMENT OF THE PERSON'S
43 COMPLETION OF ALCOHOL OR OTHER DRUG SCREENING THAT IS ORDERED BY THE
44 DEPARTMENT. IF THE PERSON DOES NOT COMPLETE ALCOHOL OR OTHER DRUG SCREENING,
45 THE DEPARTMENT MAY IMPOSE A NINETY DAY SUSPENSION PURSUANT TO THIS SECTION.

46 ~~G.~~ H. IF THE OFFICER DOES NOT SERVE AN ORDER OF SUSPENSION PURSUANT
47 TO SUBSECTION C OF THIS SECTION AND if the department ~~receives only~~ DOES NOT
48 RECEIVE the report of the results of the blood or breath alcohol test
49 PURSUANT TO SUBSECTION B, PARAGRAPH 4 OF THIS SECTION, BUT SUBSEQUENTLY

1 RECEIVES THE RESULTS and the results indicate 0.08 or more alcohol
2 concentration in the person's blood or breath, or ~~show~~ a blood or breath
3 alcohol concentration of 0.04 or more and the person was driving or in actual
4 physical control of a commercial motor vehicle, the department shall notify
5 the person named in the report in writing sent by mail that fifteen days
6 after the date of issuance of the notice the department will suspend the
7 person's license or permit, driving privilege or nonresident driving
8 privilege. The notice shall also state that the department will provide an
9 opportunity for a hearing and administrative review if the person requests a
10 hearing or review in writing and the request is received by the department
11 within fifteen days after the notice is sent.

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

23 ~~I.~~ J. For the purposes of this section, the scope of the hearing
24 shall include only the following issues:

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

28 2. Whether the person was placed under arrest for a violation of
29 section 4-244, paragraph 33, section 28-1381, section 28-1382 or section
30 28-1383 OR FOR A VIOLATION OF TITLE 13, CHAPTER 11 OR SECTION 13-1201 OR
31 13-1204 INVOLVING A MOTOR VEHICLE.

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

35 (a) 0.08 or more.

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

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

39 5. Whether the test results were accurately evaluated.

40 ~~J.~~ K. The results of the blood or breath alcohol test shall be
41 admitted on establishing the requirements in section 28-1323 or 28-1326.

42 ~~K.~~ L. If the department determines at the hearing to suspend the
43 affected person's privilege to operate a motor vehicle, the suspension
44 provided in this section is effective fifteen days after giving written
45 notice of the suspension, except that the department may issue or extend a
46 temporary license that expires on the effective date of the suspension. If
47 the person is a resident without a license or permit or has an expired
48 license or permit to operate a motor vehicle in this state, the department
49 shall deny the issuance of a license or permit to the person for not less

1 than ninety consecutive days. THE DEPARTMENT MAY REINSTATE THE PERSON'S
2 DRIVING PRIVILEGE, LICENSE, PERMIT, RIGHT TO APPLY FOR A LICENSE OR PERMIT OR
3 NONRESIDENT OPERATING PRIVILEGE FOLLOWING THE PERIOD OF SUSPENSION ONLY IF
4 THE VIOLATOR COMPLETES ALCOHOL OR OTHER DRUG SCREENING.

5 ~~M.~~ M. A person may apply for a summary review of an order issued
6 pursuant to this section instead of a hearing at any time before the
7 effective date of the order. The person shall submit the application in
8 writing to any department driver license examining office together with any
9 written explanation as to why the department should not suspend the driving
10 privilege. The agent of the department receiving the notice shall issue to
11 the person an additional driving permit that expires twenty days from the
12 date the request is received. The department shall review all reports
13 submitted by the officer and any written explanation submitted by the person
14 and shall determine if the order of suspension should be sustained or
15 cancelled. The department shall not hold a hearing, and the review is not
16 subject to title 41, chapter 6. The department shall notify the person of
17 its decision before the temporary driving permit expires.

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

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

28 Sec. 22. Section 28-1387, Arizona Revised Statutes, is amended to
29 read:

30 28-1387. Prior convictions; alcohol or other drug screening,
31 education and treatment; license suspension;
32 supervised probation; civil liability; procedures

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

1 B. In addition to any other penalties prescribed by law, the judge
2 shall order a person who is convicted of a violation of section 28-1381, ~~or~~
3 28-1382 OR 28-1383 to complete alcohol or other drug screening that is
4 provided by a facility approved by the department of health services or a
5 probation department. If a judge determines that the person requires further
6 alcohol or other drug education or treatment, the person may be required
7 pursuant to court order to obtain alcohol or other drug education or
8 treatment under the court's supervision from an approved facility. The judge
9 may review an education or treatment determination at the request of the
10 state, the defendant or the probation officer or on the judge's initiative.
11 The person shall pay the costs of the screening, education or treatment
12 unless, after considering the person's ability to pay all or part of the
13 costs, the court waives all or part of the costs. If a person is referred to
14 a screening, education or treatment facility, the facility shall report to
15 the court whether the person has successfully completed the screening,
16 education or treatment program. THE COURT MAY ACCEPT EVIDENCE OF A PERSON'S
17 COMPLETION OF AN ALCOHOL OR OTHER DRUG SCREENING, EDUCATION OR TREATMENT
18 PROGRAM PURSUANT TO SECTION 28-1445 AS SUFFICIENT TO MEET THE REQUIREMENTS OF
19 THIS SECTION OR SECTION 28-1381, 28-1382 OR 28-1383 OR MAY ORDER THE PERSON
20 TO COMPLETE ADDITIONAL ALCOHOL OR OTHER DRUG SCREENING, EDUCATION OR
21 TREATMENT PROGRAMS. IF A PERSON HAS PREVIOUSLY BEEN ORDERED TO COMPLETE AN
22 ALCOHOL OR OTHER DRUG SCREENING, EDUCATION OR TREATMENT PROGRAM PURSUANT TO
23 THIS SECTION, THE JUDGE SHALL ORDER THE PERSON TO COMPLETE AN ALCOHOL OR
24 OTHER DRUG SCREENING, EDUCATION OR TREATMENT PROGRAM UNLESS THE COURT
25 DETERMINES THAT ALTERNATIVE SANCTIONS ARE MORE APPROPRIATE.

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

38 D. Unless the license of a person convicted under section 28-1381 or
39 28-1382 has been or is suspended pursuant to section 28-1321 or 28-1385, the
40 department on receipt of the abstract of conviction of a violation of section
41 28-1381 or 28-1382 shall suspend the license of the affected person for not
42 less than ninety consecutive days.

43 E. When the department receives notification that the person meets the
44 criteria provided in section 28-1385, subsection ~~F~~ G, the department shall
45 suspend the driving privileges of the person for not less than thirty
46 consecutive days and shall restrict the driving privileges of the person for
47 not less than sixty consecutive additional days to travel between any of the
48 following:

1 B. The department may only issue a special ignition interlock
2 restricted driver license to an applicant who is otherwise qualified by law.

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

8 1. ~~Any tampering or circumvention.~~

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

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

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

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

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

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

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

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

38 Sec. 24. Section 28-1403, Arizona Revised Statutes, is amended to
39 read:

40 28-1403. Extension of interlock restricted licenses; hearing;
41 scope

42 A. A person whose driver license restriction is extended pursuant to
43 section ~~28-1402~~ 28-1461 may submit to the department a written request for a
44 hearing. The written request must be received by the department within
45 fifteen days after the date of the order of extension of the restriction. On
46 receipt of a request for a hearing, a hearing shall be held within thirty
47 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 or more times during the period of
12 license restriction or limitation. ~~or~~

13 4. If the person is under twenty-one years of age, whether the person
14 attempted to operate the vehicle with any spirituous liquor in the person's
15 body ~~three or more times~~ during the period of license restriction or
16 limitation.

17 ~~4.~~ 5. Whether the person submitted proof of compliance or inspection
18 as prescribed in section 28-1461.

19 Sec. 25. Section 28-1442, Arizona Revised Statutes, is amended to
20 read:

21 28-1442. Driving under the influence; records; reporting

22 A. The administrative office of the courts shall report to the
23 governor's office of highway safety by September 1 of each year for the
24 previous fiscal year:

25 1. The number of complaints issued charging a violation that include
26 both sections 28-1381 and 28-1382.

27 2. The number of complaints issued charging a violation that include
28 either section 28-1381 or 28-1382.

29 B. By September 1 of each year the motor vehicle division shall report
30 to the governor's office of highway safety the number of ignition interlock
31 devices ordered to be installed pursuant to sections 28-1381, 28-1382 and
32 28-1383 for the previous fiscal year.

33 C. BY SEPTEMBER 1 OF EACH YEAR THE MOTOR VEHICLE DIVISION SHALL REPORT
34 TO THE GOVERNOR'S OFFICE OF HIGHWAY SAFETY THE NUMBER OF IGNITION INTERLOCK
35 DEVICES THAT ARE CURRENTLY IN USE IN THIS STATE PURSUANT TO AN ORDER TO BE
36 INSTALLED PURSUANT TO SECTIONS 28-1381, 28-1382 AND 28-1383.

37 ~~E.~~ D. By September 1 of each year each county attorney and municipal
38 prosecutor shall report to the governor's office of highway safety the number
39 of cases dismissed pursuant to section 28-1387, subsection ~~H~~ I for the
40 previous fiscal year.

41 ~~D.~~ E. By October 1 of each year the governor's office of highway
42 safety shall report the information collected for the previous fiscal year
43 pursuant to subsections A, B, ~~and~~ C AND D of this section to the president
44 of the senate and the speaker of the house of representatives.

45 Sec. 26. Title 28, chapter 4, article 4, Arizona Revised Statutes, is
46 amended by adding section 28-1445, to read:

47 28-1445. Alcohol or other drug screening; license suspension

48 A. THE DEPARTMENT OF TRANSPORTATION SHALL ORDER A PERSON WHOSE DRIVING
49 PRIVILEGE, LICENSE, PERMIT, RIGHT TO APPLY FOR A LICENSE OR PERMIT OR

1 NONRESIDENT OPERATING PRIVILEGE IS SUSPENDED PURSUANT TO SECTION 28-1385 TO
2 COMPLETE ALCOHOL OR OTHER DRUG SCREENING PURSUANT TO THIS CHAPTER. THE
3 ALCOHOL OR OTHER DRUG SCREENING SHALL BE PROVIDED BY A FACILITY APPROVED BY
4 THE DEPARTMENT OF HEALTH SERVICES.

5 B. THE DEPARTMENT MAY ACCEPT EVIDENCE SATISFACTORY TO THE DEPARTMENT
6 AND IN A MANNER PRESCRIBED BY THE DEPARTMENT, AFTER CONSULTING WITH THE
7 ADMINISTRATIVE OFFICE OF THE COURTS, OF A PERSON'S COMPLETION OF ALCOHOL OR
8 OTHER DRUG SCREENING ORDERED BY THE COURT PURSUANT TO SECTION 28-1381,
9 28-1382, 28-1383 OR 28-1387 AS SUFFICIENT TO MEET THE ALCOHOL OR OTHER DRUG
10 SCREENING REQUIREMENTS OF SECTION 28-1385 AND THIS SECTION OR THE DEPARTMENT
11 MAY ORDER THE PERSON TO COMPLETE ADDITIONAL ALCOHOL OR OTHER DRUG SCREENING.

12 C. A PERSON WHO IS ORDERED TO COMPLETE ALCOHOL OR OTHER DRUG SCREENING
13 IS RESPONSIBLE FOR PAYING THE COSTS OF THE SCREENING.

14 D. THE DEPARTMENT SHALL ISSUE A DRIVER LICENSE OR PERMIT OR REINSTATE
15 A PERSON'S DRIVING PRIVILEGE ONLY IF THE PERSON PROVIDES SATISFACTORY
16 EVIDENCE TO THE DEPARTMENT THAT THE PERSON HAS COMPLETED ALCOHOL OR OTHER
17 DRUG SCREENING.

18 E. A PERSON WHO PROVIDES AN ALCOHOL OR OTHER DRUG SCREENING PROGRAM
19 SHALL ELECTRONICALLY REPORT THE FOLLOWING TO THE DEPARTMENT IN A FORM
20 PRESCRIBED BY THE DEPARTMENT:

21 1. THE COMPLETION OF SCREENING PURSUANT TO THIS SECTION.

22 2. THE FAILURE OF A PERSON TO COMPLETE SCREENING AS ORDERED BY THE
23 DEPARTMENT PURSUANT TO THIS SECTION.

24 Sec. 27. Section 28-1461, Arizona Revised Statutes, is amended to
25 read:

26 28-1461. Use of certified ignition interlock devices; reporting

27 A. If a person's driving privilege is limited pursuant to section
28 28-1381, 28-1382, 28-1383 or 28-3319 or restricted pursuant to section
29 28-1402:

30 1. The person shall:

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

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

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

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

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

48 B. WHILE A PERSON MAINTAINS A FUNCTIONING CERTIFIED IGNITION INTERLOCK
49 DEVICE IN A VEHICLE PURSUANT TO THIS CHAPTER, EACH TIME AN INSTALLER OBTAINS

1 INFORMATION RECORDED BY A CERTIFIED IGNITION INTERLOCK DEVICE THE INSTALLER
2 SHALL ELECTRONICALLY PROVIDE TO THE DEPARTMENT IN A FORM PRESCRIBED BY THE
3 DEPARTMENT THE FOLLOWING INFORMATION:

- 4 1. ANY TAMPERING OR CIRCUMVENTION.
- 5 2. ANY FAILURE TO PROVIDE PROOF OF COMPLIANCE OR INSPECTION OF THE
6 CERTIFIED IGNITION INTERLOCK DEVICE AS PRESCRIBED IN THIS SECTION.
- 7 3. ANY ATTEMPT TO OPERATE THE VEHICLE WITH AN ALCOHOL CONCENTRATION
8 EXCEEDING THE PRESUMPTIVE LIMIT AS PRESCRIBED IN SECTION 28-1381,
9 SUBSECTION G, PARAGRAPH 3 OR, IF THE PERSON IS UNDER TWENTY-ONE YEARS OF AGE,
10 ANY ATTEMPT TO OPERATE THE VEHICLE WITH ANY SPIRITUOUS LIQUOR IN THE PERSON'S
11 BODY.

12 C. ON REQUEST, THE INSTALLER SHALL PROVIDE THE INFORMATION PRESCRIBED
13 IN SUBSECTION B OF THIS SECTION TO:

- 14 1. THE DEPARTMENT OF HEALTH SERVICES AUTHORIZED PROVIDER.
- 15 2. THE PROBATION DEPARTMENT THAT IS PROVIDING ALCOHOL OR OTHER DRUG
16 SCREENING, EDUCATION OR TREATMENT TO THE PERSON.
- 17 3. THE PHYSICIAN, PSYCHOLOGIST OR CERTIFIED SUBSTANCE ABUSE COUNSELOR
18 WHO IS EVALUATING THE PERSON'S ABILITY TO SAFELY OPERATE A MOTOR VEHICLE
19 FOLLOWING A REVOCATION OF THE PERSON'S DRIVING PRIVILEGE AS PRESCRIBED IN
20 SECTION 28-3315, SUBSECTION D.
- 21 4. THE COURT.

22 D. THE DEPARTMENT SHALL EXTEND AN IGNITION INTERLOCK RESTRICTED OR
23 LIMITED DRIVER LICENSE AND THE CERTIFIED IGNITION INTERLOCK DEVICE PERIOD IF
24 THE DEPARTMENT HAS REASONABLE GROUNDS TO BELIEVE THAT ANY OF THE FOLLOWING
25 APPLIES:

- 26 1. THE PERSON TAMPERED WITH OR CIRCUMVENTED THE CERTIFIED IGNITION
27 INTERLOCK DEVICE.
- 28 2. THE PERSON ATTEMPTED TO OPERATE THE VEHICLE WITH AN ALCOHOL
29 CONCENTRATION EXCEEDING THE PRESUMPTIVE LIMIT AS PRESCRIBED IN SECTION
30 28-1381, SUBSECTION G, PARAGRAPH 3 THREE OR MORE TIMES DURING THE PERIOD OF
31 LICENSE RESTRICTION OR LIMITATION.
- 32 3. IF THE PERSON IS UNDER TWENTY-ONE YEARS OF AGE, THE PERSON
33 ATTEMPTED TO OPERATE THE VEHICLE WITH ANY SPIRITUOUS LIQUOR IN THE PERSON'S
34 BODY DURING THE PERIOD OF LICENSE RESTRICTION OR LIMITATION.

35 4. THE PERSON FAILED TO PROVIDE PROOF OF COMPLIANCE OR INSPECTION AS
36 PRESCRIBED IN THIS SECTION.

37 E. IF THE SPECIAL IGNITION INTERLOCK RESTRICTED LICENSE IS EXTENDED
38 PURSUANT TO SUBSECTION D OF THIS SECTION, THE LIMITATIONS PRESCRIBED IN
39 SECTIONS 28-1381, 28-1382, 28-1383 AND 28-3319 DO NOT BEGIN UNTIL THE
40 RESTRICTIVE PERIOD OF THE LICENSE ENDS.

41 ~~B.~~ F. The department shall make a notation on the driving record of a
42 person whose driving privilege is limited pursuant to section 28-1381,
43 28-1382, 28-1383, 28-1385 or 28-3319 or restricted pursuant to section
44 28-1402 that states that the person shall not operate a motor vehicle unless
45 it is equipped with a certified ignition interlock device.

46 G. PROOF OF COMPLIANCE DOES NOT INCLUDE A SKIPPED OR MISSED RANDOM
47 SAMPLE IF THE MOTOR VEHICLE'S IGNITION IS OFF AT THE TIME OF THE SKIPPED OR
48 MISSED SAMPLE.

1 Sec. 28. Section 28-3319, Arizona Revised Statutes, is amended to
2 read:

3 28-3319. Action after license suspension, revocation or denial
4 for driving under the influence or refusal of test;
5 ignition interlock device requirement; definition

6 A. If, pursuant to section 28-1321, 28-1381, 28-1382, 28-1383, 28-3320
7 or 28-3322, the license of a driver or the driving privilege of a nonresident
8 is suspended or revoked, the department shall not terminate the suspension or
9 revocation or issue a special ignition interlock restricted driver license,
10 if applicable, pursuant to chapter 4, article 3.1 of this title until the
11 person provides proof of financial responsibility pursuant to chapter 9,
12 article 3 of this title.

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

18 C. If a person whose license or driving privilege is suspended or
19 revoked pursuant to section 28-1321, 28-1381, 28-1382, ~~or~~ 28-1383 **OR 28-1385**
20 is ordered, pursuant to section 28-1381, 28-1382, ~~or~~ 28-1383 **OR 28-1385**, to
21 attend alcohol or other drug screening, education or treatment, the
22 department shall not either:

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

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

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

38 1. **FOR TWELVE MONTHS IF:**

39 (a) **THE PERSON IS CONVICTED OF A VIOLATION OF SECTION 28-1381 OR**
40 **SECTION 28-1382, SUBSECTION A, PARAGRAPH 1.**

41 (b) 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 **OR SECTION 28-1382, SUBSECTION A, PARAGRAPH 1** with a prior
44 conviction of a violation of section 28-1381, ~~or~~ 28-1382 **OR 28-1383** or an act
45 in another jurisdiction that if committed in this state would be a violation
46 of section 28-1381, ~~or~~ 28-1382 **OR 28-1383.**

47 ~~2. The person is sentenced pursuant to section 28-1381 or 28-1382,~~
48 ~~subsection D, except that if the person's alcohol concentration is 0.20 or~~

1 ~~more, the certified ignition interlock device is required for eighteen~~
2 ~~months.~~

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

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

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

10 3. 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 (b) THE PERSON IS CONVICTED OF A VIOLATION OF SECTION 28-1383.

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

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

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

27 Sec. 29. Section 41-1651, Arizona Revised Statutes, is amended to
28 read:

29 41-1651. Prison construction and operations fund

30 The prison construction and operations fund is established consisting
31 of monies received pursuant to sections 5-395.01, ~~5-395.03~~, 5-396, 5-397,
32 28-1381, 28-1382, 28-1383, 28-8284, 28-8286, 28-8287 and 28-8288. The state
33 department of corrections shall administer the fund. Monies in the fund are
34 subject to legislative appropriation and shall be used to pay for any costs
35 related to prison overcrowding and department support and maintenance.

36 Sec. 30. Effective date

37 This act is effective from and after December 31, 2008."

38 Amend title to conform

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