

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1200

(Reference to Senate engrossed bill)

1 Strike everything after the enacting clause and insert:

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

4 28-1304. Driving under the influence abatement fund

5 A. The driving under the influence abatement fund is established  
6 consisting of monies deposited pursuant to section 4-213, subsection J,  
7 section 5-396, subsection I, paragraph 2, section 5-397, subsection D,  
8 paragraph 3 and subsection F, paragraph 3, section 28-1382, subsection D,  
9 paragraph 3 and subsection E, paragraph 3, ~~and~~ section 28-1383, subsection J,  
10 paragraph 2 **AND SECTION 28-1465**.

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

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

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

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

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

23 E. Monies in the fund are:

24 1. Continuously appropriated.

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

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

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

2           28-1321. Implied consent; tests; refusal to submit to test;  
3                           order of suspension; hearing; review; temporary  
4                           permit; notification of suspension; special ignition  
5                           interlock restricted driver license

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

- 18                   1. While under the influence of intoxicating liquor or drugs.  
19                   2. If the person is under twenty-one years of age, with spirituous  
20           liquor in the person's body.

21           B. After an arrest a violator shall be requested to submit to and  
22           successfully complete any test or tests prescribed by subsection A of this  
23           section, and if the violator refuses the violator shall be informed that the  
24           violator's license or permit to drive will be suspended or denied for twelve  
25           months, or for two years for a second or subsequent refusal within a period  
26           of eighty-four months, unless the violator expressly agrees to submit to and  
27           successfully completes the test or tests. A failure to expressly agree to  
28           the test or successfully complete the test is deemed a refusal. The violator  
29           shall also be informed that:

- 30                   1. If the test results show a blood or breath alcohol concentration of  
31           0.08 or more, ~~or~~ if the results show a blood or breath alcohol concentration  
32           of 0.04 or more and the violator was driving or in actual physical control of  
33           a commercial motor vehicle **OR IF THE RESULTS SHOW THERE IS ANY DRUG DEFINED**  
34           **IN SECTION 13-3401 OR ITS METABOLITE IN THE PERSON'S BODY AND THE PERSON DOES**  
35           **NOT POSSESS A VALID PRESCRIPTION FOR THE DRUG**, the violator's license or  
36           permit to drive will be suspended or denied for not less than ninety  
37           consecutive days.

1           2. The violator's driving privilege, license, permit, right to apply  
2 for a license or permit or nonresident operating privilege may be issued or  
3 reinstated following the period of suspension only if the violator completes  
4 alcohol or other drug screening.

5           C. A person who is dead, unconscious or otherwise in a condition  
6 rendering the person incapable of refusal is deemed not to have withdrawn the  
7 consent provided by subsection A of this section and the test or tests may be  
8 administered, subject to section 4-244, paragraph 34 or section 28-1381,  
9 28-1382 or 28-1383.

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

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

14           2. The law enforcement officer directing the administration of the  
15 test shall:

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

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

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

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

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

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

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

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

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

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

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

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

4           F. On receipt of the certified report of refusal and a copy of the  
5 order of suspension and on the effective date stated on the order, the  
6 department shall enter the order of suspension on its records unless a  
7 written **OR ONLINE** request for a hearing as provided in this section has been  
8 filed by the accused person. If the department receives only the certified  
9 report of refusal, the department shall notify the person named in the report  
10 in writing sent by mail that:

11           1. Fifteen days after the date of issuance of the notice the  
12 department will suspend the person's license or permit, driving privilege or  
13 nonresident driving privilege.

14           2. The department will provide an opportunity for a hearing if the  
15 person requests a hearing in writing **OR ONLINE** and the request is received by  
16 the department within fifteen days after the notice is sent.

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

19           1. The person may submit a written **OR ONLINE** request for a hearing.

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

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

27           4. The person's driving privilege, license, permit, right to apply for  
28 a license or permit or nonresident operating privilege may be issued or  
29 reinstated following the period of suspension only if the person completes  
30 alcohol or other drug screening.

31           H. The order for suspension shall:

32           1. Be accompanied by printed forms that are ready to mail to the  
33 department, ~~and~~ that may be filled out and signed by the person to indicate  
34 the person's desire for a hearing **AND THAT ADVISE THE PERSON THAT THE PERSON**  
35 **MAY ALTERNATIVELY SUBMIT AN ONLINE REQUEST FOR A HEARING.**

36           2. Advise the person that unless the person has surrendered any driver  
37 license or permit issued by this state the person's hearing request will not

1 be accepted, except that the person may certify pursuant to section 28-3170  
2 that the license or permit is lost or destroyed.

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

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

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

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

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

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

27 2. The person was placed under arrest.

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

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

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

1 after the order of suspension becomes effective or for a period of two years  
2 after the order of suspension becomes effective for a second or subsequent  
3 refusal within a period of eighty-four months, and may reinstate the person's  
4 driving privilege, license, permit, right to apply for a license or permit or  
5 nonresident operating privilege following the period of suspension only if  
6 the person completes alcohol or other drug screening.

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

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

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

22 P. After completing not less than ninety consecutive days of the period  
23 of suspension required by this section and any alcohol or other drug screening  
24 that is ordered by the department pursuant to this chapter, a person whose  
25 driving privilege is suspended pursuant to this section may apply to the  
26 department for a special ignition interlock restricted driver license pursuant  
27 to section 28-1401. Unless the certified ignition interlock period is  
28 extended by the department pursuant to section 28-1461, a person who is issued  
29 a special ignition interlock restricted driver license as provided in this  
30 subsection shall maintain a functioning certified ignition interlock device in  
31 compliance with this chapter during the remaining period of the suspension  
32 prescribed by this section. This subsection does not apply to a person whose  
33 driving privilege is suspended for a second or subsequent refusal within a  
34 period of eighty-four months ~~or a person who within a period of eighty-four~~  
35 ~~months has been convicted of a second or subsequent violation of article 3 of~~  
36 ~~this chapter or section 4-244, paragraph 34 or an act in another jurisdiction~~

1 ~~that if committed in this state would be a violation of article 3 of this~~  
2 ~~chapter or section 4-244, paragraph 34.~~

3 Sec. 3. Section 28-1381, Arizona Revised Statutes, is amended to read:

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

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

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

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

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

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

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

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

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

30 E. In any prosecution for a violation of this section, the state shall  
31 allege, for the purpose of classification and sentencing pursuant to this  
32 section, all prior convictions of violating this section, section 28-1382 or  
33 section 28-1383 occurring within the past thirty-six months, unless there is  
34 an insufficient legal or factual basis to do so.

35 F. At the arraignment, the court shall inform the defendant that the  
36 defendant may request a trial by jury and that the request, if made, shall be  
37 granted.

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

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

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

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

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

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

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

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

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

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

36           5. Shall pay an additional assessment of five hundred dollars to be  
37 deposited by the state treasurer in the public safety equipment fund

1 established by section 41-1723. This assessment is not subject to any  
2 surcharge. If the conviction occurred in the superior court or a justice  
3 court, the court shall transmit the assessed monies to the county treasurer.  
4 If the conviction occurred in a municipal court, the court shall transmit the  
5 assessed monies to the city treasurer. The city or county treasurer shall  
6 transmit the monies received to the state treasurer.

7 6. Shall be required by the department, on report of the conviction,  
8 to equip any motor vehicle the person operates with a certified ignition  
9 interlock device pursuant to section 28-3319. In addition, the court may  
10 order the person to equip any motor vehicle the person operates with a  
11 certified ignition interlock device for more than twelve months beginning on  
12 the date of reinstatement of the person's driving privilege following a  
13 suspension or revocation or on the date of the department's receipt of the  
14 report of conviction, whichever occurs later. The person who operates a  
15 motor vehicle with a certified ignition interlock device under this paragraph  
16 shall comply with article 5 of this chapter.

17 J. Notwithstanding subsection I, paragraph 1 of this section, at the  
18 time of sentencing the judge may suspend all but ~~twenty-four consecutive~~  
19 ~~hours~~ ONE DAY of the sentence if the person completes a court ordered alcohol  
20 or other drug screening, education or treatment program. If the person fails  
21 to complete the court ordered alcohol or other drug screening, education or  
22 treatment program and has not been placed on probation, the court shall issue  
23 an order to show cause to the defendant as to why the remaining jail sentence  
24 should not be served.

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

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

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

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

3           4. Shall have the person's driving privilege revoked for one year.  
4 The court shall report the conviction to the department. On receipt of the  
5 report, the department shall revoke the person's driving privilege and shall  
6 require the person to equip any motor vehicle the person operates with a  
7 certified ignition interlock device pursuant to section 28-3319. In  
8 addition, the court may order the person to equip any motor vehicle the  
9 person operates with a certified ignition interlock device for more than  
10 twelve months beginning on the date of reinstatement of the person's driving  
11 privilege following a suspension or revocation or on the date of the  
12 department's receipt of the report of conviction, whichever occurs later.  
13 The person who operates a motor vehicle with a certified ignition interlock  
14 device under this paragraph shall comply with article 5 of this chapter.

15           5. Shall pay an additional assessment of one thousand two hundred  
16 fifty dollars to be deposited by the state treasurer in the prison  
17 construction and operations fund established by section 41-1651. This  
18 assessment is not subject to any surcharge. If the conviction occurred in  
19 the superior court or a justice court, the court shall transmit the assessed  
20 monies to the county treasurer. If the conviction occurred in a municipal  
21 court, the court shall transmit the assessed monies to the city treasurer.  
22 The city or county treasurer shall transmit the monies received to the state  
23 treasurer.

24           6. Shall pay an additional assessment of one thousand two hundred  
25 fifty dollars to be deposited by the state treasurer in the public safety  
26 equipment fund established by section 41-1723. This assessment is not  
27 subject to any surcharge. If the conviction occurred in the superior court  
28 or a justice court, the court shall transmit the assessed monies to the  
29 county treasurer. If the conviction occurred in a municipal court, the court  
30 shall transmit the assessed monies to the city treasurer. The city or county  
31 treasurer shall transmit the monies received to the state treasurer.

32           L. Notwithstanding subsection K, paragraph 1 of this section, at the  
33 time of sentencing, the judge may suspend all but thirty days of the sentence  
34 if the person completes a court ordered alcohol or other drug screening,  
35 education or treatment program. If the person fails to complete the court  
36 ordered alcohol or other drug screening, education or treatment program and

1 has not been placed on probation, the court shall issue an order to show  
2 cause as to why the remaining jail sentence should not be served.

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

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

9 O. AFTER COMPLETING FORTY-FIVE DAYS OF THE REVOCATION PERIOD  
10 PRESCRIBED BY SUBSECTION K OF THIS SECTION, A PERSON WHOSE DRIVING PRIVILEGE  
11 IS REVOKED FOR A VIOLATION OF THIS SECTION AND WHO IS SENTENCED PURSUANT TO  
12 SUBSECTION K OF THIS SECTION IS ELIGIBLE FOR A SPECIAL IGNITION INTERLOCK  
13 RESTRICTED DRIVER LICENSE PURSUANT TO SECTION 28-1401.

14 Sec. 4. Section 28-1382, Arizona Revised Statutes, is amended to read:

15 28-1382. Driving or actual physical control while under the  
16 extreme influence of intoxicating liquor; trial by  
17 jury; sentencing; classification

18 A. It is unlawful for a person to drive or be in actual physical  
19 control of a vehicle in this state if the person has an alcohol concentration  
20 as follows within two hours of driving or being in actual physical control of  
21 the vehicle and the alcohol concentration results from alcohol consumed  
22 either before or while driving or being in actual physical control of the  
23 vehicle:

- 24 1. 0.15 or more but less than 0.20.
- 25 2. 0.20 or more.

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

29 C. At the arraignment, the court shall inform the defendant that the  
30 defendant may request a trial by jury and that the request, if made, shall be  
31 granted.

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

33 1. Shall be sentenced to serve not less than thirty consecutive days  
34 in jail and is not eligible for probation or suspension of execution of  
35 sentence unless the entire sentence is served if the person is convicted of a  
36 violation of subsection A, paragraph 1 of this section. A person who is  
37 convicted of a violation of subsection A, paragraph 2 of this section shall

1 be sentenced to serve not less than forty-five consecutive days in jail and  
2 is not eligible for probation or suspension of execution of sentence unless  
3 the entire sentence is served.

4 2. Shall pay a fine of not less than two hundred fifty dollars, except  
5 that a person who is convicted of a violation of subsection A, paragraph 2 of  
6 this section shall pay a fine of not less than five hundred dollars. The  
7 fine prescribed in this paragraph and any assessments, restitution and  
8 incarceration costs shall be paid before the assessment prescribed in  
9 paragraph 3 of this subsection.

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

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

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

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

1           7. Shall pay an additional assessment of one thousand dollars to be  
2 deposited by the state treasurer in the public safety equipment fund  
3 established by section 41-1723. This assessment is not subject to any  
4 surcharge. If the conviction occurred in the superior court or a justice  
5 court, the court shall transmit the assessed monies to the county treasurer.  
6 If the conviction occurred in a municipal court, the court shall transmit the  
7 assessed monies to the city treasurer. The city or county treasurer shall  
8 transmit the monies received to the state treasurer.

9           E. If within a period of eighty-four months a person is convicted of a  
10 second violation of this section or is convicted of a violation of this  
11 section and has previously been convicted of a violation of section 28-1381  
12 or 28-1383 or an act in another jurisdiction that if committed in this state  
13 would be a violation of this section or section 28-1381 or 28-1383, the  
14 person:

15           1. Shall be sentenced to serve not less than one hundred twenty days  
16 in jail, sixty days of which shall be served consecutively, and is not  
17 eligible for probation or suspension of execution of sentence unless the  
18 entire sentence has been served if the person is convicted of a violation of  
19 subsection A, paragraph 1 of this section. A person who is convicted of a  
20 violation of subsection A, paragraph 2 of this section shall be sentenced to  
21 serve not less than one hundred eighty days in jail, ninety of which shall be  
22 served consecutively, and is not eligible for probation or suspension of  
23 execution of sentence unless the entire sentence has been served.

24           2. Shall pay a fine of not less than five hundred dollars, except that  
25 a person who is convicted of a violation of subsection A, paragraph 2 of this  
26 section shall pay a fine of not less than one thousand dollars. The fine  
27 prescribed in this paragraph and any assessments, restitution and  
28 incarceration costs shall be paid before the assessment prescribed in  
29 paragraph 3 of this subsection.

30           3. Shall pay an additional assessment of two hundred fifty dollars.  
31 If the conviction occurred in the superior court or a justice court, the  
32 court shall transmit the monies received pursuant to this paragraph to the  
33 county treasurer. If the conviction occurred in a municipal court, the court  
34 shall transmit the monies received pursuant to this paragraph to the city  
35 treasurer. The city or county treasurer shall transmit the monies received  
36 to the state treasurer. The state treasurer shall deposit the monies

1 received in the driving under the influence abatement fund established by  
2 section 28-1304.

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

5 5. Shall have the person's driving privilege revoked for at least one  
6 year. The court shall report the conviction to the department. On receipt  
7 of the report, the department shall revoke the person's driving privilege and  
8 shall require the person to equip any motor vehicle the person operates with  
9 a certified ignition interlock device pursuant to section 28-3319. In  
10 addition, the court may order the person to equip any motor vehicle the  
11 person operates with a certified ignition interlock device for more than  
12 twelve months beginning on the date of reinstatement of the person's driving  
13 privilege following a suspension or revocation or on the date of the  
14 department's receipt of the report of conviction, whichever is later. The  
15 person who operates a motor vehicle with a certified ignition interlock  
16 device under this paragraph shall comply with article 5 of this chapter.

17 6. Shall pay an additional assessment of one thousand two hundred  
18 fifty dollars to be deposited by the state treasurer in the prison  
19 construction and operations fund established by section 41-1651. This  
20 assessment is not subject to any surcharge. If the conviction occurred in  
21 the superior court or a justice court, the court shall transmit the assessed  
22 monies to the county treasurer. If the conviction occurred in a municipal  
23 court, the court shall transmit the assessed monies to the city treasurer.  
24 The city or county treasurer shall transmit the monies received to the state  
25 treasurer.

26 7. Shall pay an additional assessment of one thousand two hundred  
27 fifty dollars to be deposited by the state treasurer in the public safety  
28 equipment fund established by section 41-1723. This assessment is not  
29 subject to any surcharge. If the conviction occurred in the superior court  
30 or a justice court, the court shall transmit the assessed monies to the  
31 county treasurer. If the conviction occurred in a municipal court, the court  
32 shall transmit the assessed monies to the city treasurer. The city or county  
33 treasurer shall transmit the monies received to the state treasurer.

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

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

4 H. AFTER COMPLETING FORTY-FIVE DAYS OF THE REVOCATION PERIOD  
5 PRESCRIBED BY SUBSECTION E OF THIS SECTION, A PERSON WHOSE DRIVING PRIVILEGE  
6 IS REVOKED FOR A VIOLATION OF THIS SECTION AND WHO IS SENTENCED PURSUANT TO  
7 SUBSECTION E OF THIS SECTION IS ELIGIBLE FOR A SPECIAL IGNITION INTERLOCK  
8 RESTRICTED DRIVER LICENSE PURSUANT TO SECTION 28-1401.

9 ~~H.~~ I. A person who is convicted of a violation of this section is  
10 guilty of a class 1 misdemeanor.

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

12 28-1383. Aggravated driving or actual physical control while  
13 under the influence; violation; classification;  
14 definition

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

18 1. Commits a violation of section 28-1381, section 28-1382 or this  
19 section while the person's driver license or privilege to drive is suspended,  
20 canceled, revoked or refused or while a restriction is placed on the person's  
21 driver license or privilege to drive as a result of violating section 28-1381  
22 or 28-1382 or under section 28-1385.

23 2. Within a period of eighty-four months commits a third or subsequent  
24 violation of section 28-1381, section 28-1382 or this section or is convicted  
25 of a violation of section 28-1381, section 28-1382 or this section and has  
26 previously been convicted of any combination of convictions of section  
27 28-1381, section 28-1382 or this section or acts in another jurisdiction that  
28 if committed in this state would be a violation of section 28-1381, section  
29 28-1382 or this section.

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

32 (a) Section 28-1381.

33 (b) Section 28-1382.

34 4. While the person is ordered by the court or required pursuant to  
35 section 28-3319 by the department to equip any motor vehicle the person  
36 operates with a certified ignition interlock device, ~~does either of the~~  
37 ~~following:~~

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

3           ~~(b)~~ commits a violation of section 28-1381, section 28-1382 or this  
4 section.

5           B. The dates of the commission of the offenses are the determining  
6 factor in applying the eighty-four month provision provided in subsection A,  
7 paragraph 2 of this section regardless of the sequence in which the offenses  
8 were committed. For the purposes of this section, a third or subsequent  
9 violation for which a conviction occurs does not include a conviction for an  
10 offense arising out of the same series of acts. The time that a probationer  
11 is found to be on absconder status or the time that a person is incarcerated  
12 in any state, federal, county or city jail or correctional facility is  
13 excluded when determining the eighty-four month period provided in subsection  
14 A, paragraph 2 and subsection E of this section.

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

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

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

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

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

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

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

7 H. A person who is convicted of a violation of this section shall  
8 attend and complete alcohol or other drug screening, education or treatment  
9 from an approved facility. If the person fails to comply with this  
10 subsection and is placed on probation, in addition to the provisions of  
11 section 13-901 the court may order that the person be incarcerated as a term  
12 of probation as follows:

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

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

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

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

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

1 ignition interlock device under this paragraph shall comply with article 5 of  
2 this chapter.

3 2. In addition to any other penalty prescribed by law, shall order the  
4 person to pay an additional assessment of two hundred fifty dollars. If the  
5 conviction occurred in the superior court or a justice court, the court shall  
6 transmit the monies received pursuant to this paragraph to the county  
7 treasurer. If the conviction occurred in a municipal court, the court shall  
8 transmit the monies received pursuant to this paragraph to the city  
9 treasurer. The city or county treasurer shall transmit the monies received  
10 to the state treasurer. The state treasurer shall deposit the monies  
11 received in the driving under the influence abatement fund established by  
12 section 28-1304. Any fine imposed for a violation of this section and any  
13 assessments, restitution and incarceration costs shall be paid before the  
14 assessment prescribed in this paragraph.

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

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

26 5. In addition to any other penalty prescribed by law, shall order the  
27 person to pay an additional assessment of one thousand five hundred dollars  
28 to be deposited by the state treasurer in the public safety equipment fund  
29 established by section 41-1723. 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.

1           K. After completing the period of suspension required by section  
2 28-1385, a person whose driving privilege is revoked for a violation of  
3 subsection A, paragraph 3 of this section may apply to the department for a  
4 special ignition interlock restricted driver license pursuant to section  
5 28-1401.

6           L. Aggravated driving or actual physical control while under the  
7 influence of intoxicating liquor or drugs committed under:

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

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

12           M. For the purposes of this section, "suspension, cancellation,  
13 revocation or refusal" means any suspension, cancellation, revocation or  
14 refusal.

15           Sec. 6. Section 28-1385, Arizona Revised Statutes, is amended to read:

16           28-1385. Administrative license suspension for driving under  
17 the influence or for homicide or assault involving a  
18 motor vehicle; report; hearing; summary review;  
19 ignition interlock device requirement

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

24           1. The officer arrests a person for a violation of section 4-244,  
25 paragraph 34, section 28-1381, section 28-1382 or section 28-1383 or for a  
26 violation of title 13, chapter 11 or section 13-1201 or 13-1204 involving a  
27 motor vehicle.

28           2. The person submits to a blood or breath alcohol test permitted by  
29 section 28-1321 or any other law or a sample of blood is obtained pursuant to  
30 section 28-1388 and the results are either not available or the results  
31 indicate ~~either~~ ANY of the following:

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

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

1 (c) ANY DRUG DEFINED IN SECTION 13-3401 OR ITS METABOLITE IS IN THE  
2 PERSON'S BODY EXCEPT IF THE PERSON POSSESSES A VALID PRESCRIPTION FOR THE  
3 DRUG.

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

8 1. Information that adequately identifies the arrested person.

9 2. A statement of the officer's grounds for belief that the person was  
10 driving or in actual physical control of a motor vehicle in violation of  
11 section 4-244, paragraph 34, section 28-1381, section 28-1382 or section  
12 28-1383 or committed a violation of title 13, chapter 11 or section 13-1201  
13 or 13-1204 involving a motor vehicle.

14 3. A statement that the person was arrested for a violation of section  
15 4-244, paragraph 34, section 28-1381, section 28-1382 or section 28-1383 or  
16 for a violation of title 13, chapter 11 or section 13-1201 or 13-1204  
17 involving a motor vehicle.

18 4. A report of the results of the blood or breath alcohol test that  
19 was administered, if the results are available.

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

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

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

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

29 4. Shall be accompanied by printed forms THAT ARE ready to mail to the  
30 department that the person may fill out and sign to indicate the person's  
31 desire for a hearing AND THAT ADVISE THE PERSON THAT THE PERSON MAY  
32 ALTERNATIVELY SUBMIT AN ONLINE REQUEST FOR A HEARING.

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

35 6. Shall inform the person that the person's driving privilege,  
36 license, permit, right to apply for a license or permit or nonresident

1 operating privilege may be issued or reinstated following the period of  
2 suspension only if the person completes alcohol or other drug screening.

3 7. Shall contain information on alcohol or other drug education and  
4 treatment programs that are provided by a facility approved by the department  
5 of health services.

6 D. If the blood ~~alcohol concentration~~ test result is unavailable at  
7 the time the test is administered, the result shall be forwarded to the  
8 department before the hearing held pursuant to this section in a form  
9 prescribed by the director.

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

18 F. The department shall suspend the affected person's license or  
19 permit to drive or right to apply for a license or permit or any nonresident  
20 operating privilege for not less than ninety consecutive days from that date.  
21 If the person is otherwise qualified, the department may reinstate the  
22 person's driving privilege, license, permit, right to apply for a license or  
23 permit or nonresident operating privilege following the period of suspension  
24 only if the violator completes alcohol or other drug screening.

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

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

4           2. Has not been convicted of a violation of section 4-244, paragraph  
5 34, section 28-1381, section 28-1382 or section 28-1383 within eighty-four  
6 months of the date of commission of the acts out of which the current action  
7 arose. The dates of commission of the acts are the determining factor in  
8 applying the eighty-four month provision.

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

12           4. Provides satisfactory evidence to the department of the person's  
13 completion of alcohol or other drug screening that is ordered by the  
14 department. If the person does not complete alcohol or other drug screening,  
15 the department may impose a ninety day suspension pursuant to this section.

16           H. If the officer does not serve an order of suspension pursuant to  
17 subsection C of this section and if the department does not receive the  
18 report of the results of the blood or breath alcohol test pursuant to  
19 subsection B, paragraph 4 of this section, but subsequently receives the  
20 results and the results indicate 0.08 or more alcohol concentration in the  
21 person's blood or breath, ~~or~~ a blood or breath alcohol concentration of 0.04  
22 or more and the person was driving or in actual physical control of a  
23 commercial motor vehicle **OR ANY DRUG DEFINED IN SECTION 13-3401 OR ITS**  
24 **METABOLITE IN THE PERSON'S BODY AND THE PERSON DOES NOT POSSESS A VALID**  
25 **PRESCRIPTION FOR THE DRUG**, the department shall notify the person named in  
26 the report in writing sent by mail that fifteen days after the date of  
27 issuance of the notice the department will suspend the person's license or  
28 permit, driving privilege or nonresident driving privilege. The notice shall  
29 also state that the department will provide an opportunity for a hearing and  
30 administrative review if the person requests a hearing or review in writing  
31 and the request is received by the department within fifteen days after the  
32 notice is sent.

33           I. A timely request for a hearing stays the suspension until a hearing  
34 is held, except that the department shall not return any surrendered license  
35 or permit to the person but may issue temporary permits to drive that expire  
36 no later than when the department has made its final decision. If the person  
37 is a resident without a license or permit or has an expired license or

1 permit, the department may allow the person to apply for a restricted license  
2 or permit. If the department determines the person is otherwise entitled to  
3 the restricted license or permit, the department shall issue, but retain, the  
4 license or permit, subject to this section. All hearings requested under  
5 this section shall be conducted in the same manner and under the same  
6 conditions as provided in section 28-3306.

7 J. For the purposes of this section, the scope of the hearing shall  
8 include only the following issues:

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

12 2. Whether the person was placed under arrest for a violation of  
13 section 4-244, paragraph 34, section 28-1381, section 28-1382 or section  
14 28-1383 or for a violation of title 13, chapter 11 or section 13-1201 or  
15 13-1204 involving a motor vehicle.

16 3. Whether a test was taken, the results of which indicated ANY OF the  
17 FOLLOWING:

18 (a) AN alcohol concentration in the person's blood or breath at the  
19 time the test was administered of either:

20 ~~(a)~~ (i) 0.08 or more.

21 ~~(b)~~ (ii) 0.04 or more if the person was driving or in actual physical  
22 control of a commercial motor vehicle.

23 (b) ANY DRUG DEFINED IN SECTION 13-3401 OR ITS METABOLITE IN THE  
24 PERSON'S BODY EXCEPT IF THE PERSON POSSESSES A VALID PRESCRIPTION FOR THE  
25 DRUG.

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

27 5. Whether the test results were accurately evaluated.

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

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

1 consecutive days. The department may reinstate the person's driving  
2 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. A person may apply for a summary review of an order issued pursuant  
6 to this section instead of a hearing at any time before the effective date of  
7 the order. The person shall submit the application in writing to any  
8 department driver license examining office together with any written  
9 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. If the suspension or determination that there should be a denial of  
19 issuance is not sustained after a hearing or review, the ruling is not  
20 admissible in and does not have any effect on any civil or criminal court  
21 proceeding.

22 O. If it has been determined under the procedures of this section that  
23 a nonresident's privilege to operate a motor vehicle in this state has been  
24 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. 7. Section 28-1401, Arizona Revised Statutes, is amended to read:  
29 28-1401. Special ignition interlock restricted driver licenses;  
30 application fee

31 A. A person whose class D or class G license has been suspended or  
32 revoked for a first ~~offense of~~ REFUSAL PURSUANT TO section 28-1321, A SECOND  
33 VIOLATION OF SECTION 28-1381 OR 28-1382 or A FIRST VIOLATION OF section  
34 28-1383, subsection A, paragraph 3,— may apply to the department for a  
35 special ignition interlock restricted driver license that allows a person to  
36 operate a motor vehicle during the period of suspension or revocation subject  
37 to the restrictions prescribed in section 28-1402 and the certified ignition

1 interlock device requirements prescribed in article 5 of this chapter if the  
2 person's privilege to operate a motor vehicle has been suspended or revoked  
3 due to an alcohol related offense pursuant to ~~either~~ ANY of the following:

4 1. Section 28-1321, if the person meets the criteria of section  
5 28-1321, subsection P.

6 2. SECTION 28-1381, IF THE PERSON MEETS THE CRITERIA OF SECTION  
7 28-1381, SUBSECTION O AND THE PERSON PRESENTS EVIDENCE THAT IS SATISFACTORY  
8 TO THE DIRECTOR AND THAT SHOWS THAT THE PERSON HAS COMPLETED THE REQUIREMENTS  
9 PRESCRIBED IN SECTION 28-1387, SUBSECTION B.

10 3. SECTION 28-1382, IF THE PERSON MEETS THE CRITERIA OF SECTION  
11 28-1382, SUBSECTION H AND THE PERSON PRESENTS EVIDENCE THAT IS SATISFACTORY  
12 TO THE DIRECTOR AND THAT SHOWS THAT THE PERSON HAS COMPLETED THE REQUIREMENTS  
13 PRESCRIBED IN SECTION 28-1387, SUBSECTION B.

14 ~~2-~~ 4. Section 28-1383, if the person meets the criteria of section  
15 28-1383, subsection K and the person presents evidence that is satisfactory  
16 to the director AND that shows that the person has completed ~~screening and~~  
17 ~~treatment~~ THE REQUIREMENTS PRESCRIBED IN SECTION 28-1387, SUBSECTION B.

18 B. An applicant for a special ignition interlock restricted driver  
19 license shall pay an application fee in an amount to be determined by the  
20 director.

21 C. The department shall issue a special ignition interlock restricted  
22 driver license during the period of a court ordered restriction pursuant to  
23 sections 28-3320 and 28-3322 subject to the restrictions prescribed in  
24 section 28-1402 and the certified ignition interlock requirements prescribed  
25 in article 5 of this chapter.

26 D. If the department issues a special ignition interlock restricted  
27 driver license, the department shall not delete a suspension or revocation  
28 from its records.

29 E. The granting of a special ignition interlock restricted driver  
30 license does not reduce or eliminate the required use of an ignition  
31 interlock device pursuant to section 28-3319.

32 F. THE DEPARTMENT SHALL MAKE A NOTATION ON A SPECIAL IGNITION  
33 INTERLOCK RESTRICTED DRIVER LICENSE THAT IS ISSUED TO A PERSON WHO IS PLACED  
34 IN A CONTINUOUS ALCOHOL MONITORING PROGRAM PURSUANT TO SECTION 28-3319,  
35 SUBSECTION I.

1           Sec. 8. Section 28-1402, Arizona Revised Statutes, is amended to read:  
2           28-1402. Issuance of special ignition interlock restricted  
3           driver license: restrictions

4           A. On application pursuant to section 28-1401, subsection A the  
5 department may, and pursuant to section 28-1401, subsection C the department  
6 shall, issue a special ignition interlock restricted driver license that only  
7 allows a person whose class D or class G license has been suspended or  
8 revoked for a first ~~offense of~~ REFUSAL PURSUANT TO section 28-1321, A SECOND  
9 VIOLATION OF SECTION 28-1381 OR 28-1382 or A FIRST VIOLATION OF section  
10 28-1383, subsection A, paragraph 3 to operate a motor vehicle that is  
11 equipped with a functioning certified ignition interlock device and only as  
12 follows:

13           1. Between the person's place of employment and residence during  
14 specified periods of time while at employment.

15           2. Between the person's place of residence, the person's place of  
16 employment and the person's secondary or postsecondary school according to  
17 the person's employment or educational schedule.

18           3. Between the person's place of residence and a screening, education  
19 or treatment facility for scheduled appointments.

20           4. Between the person's place of residence and the office of the  
21 person's probation officer for scheduled appointments.

22           5. Between the person's place of residence and the office of a  
23 physician or other health care professional.

24           6. Between the person's place of residence and a certified ignition  
25 interlock device service facility.

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

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

1           Sec. 9. Section 28-1461, Arizona Revised Statutes, is amended to read:

2           28-1461. Use of certified ignition interlock devices; reporting

3           A. If a person's driving privilege is limited pursuant to section  
4 28-1381, 28-1382, 28-1383 or 28-3319 or restricted pursuant to section  
5 28-1402:

6           1. The person shall:

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

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

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

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

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

24           B. While a person maintains a functioning certified ignition interlock  
25 device in a vehicle pursuant to this chapter, each time an installer obtains  
26 information recorded by a certified ignition interlock device the installer  
27 shall electronically provide to the department in a form prescribed by the  
28 department the following information:

29           1. Any tampering or circumvention.

30           2. Any failure to provide proof of compliance or inspection of the  
31 certified ignition interlock device as prescribed in this section.

1           3. Any attempt to operate the vehicle with an alcohol concentration  
2 exceeding the presumptive limit as prescribed in section 28-1381,  
3 subsection G, paragraph 3 or, if the person is under twenty-one years of age,  
4 any attempt to operate the vehicle with any spirituous liquor in the person's  
5 body.

6           C. If the person is under eighteen years of age, the installer shall  
7 also provide to the person's parent or legal guardian the information  
8 prescribed in subsection B of this section.

9           D. On request, the installer shall provide the information prescribed  
10 in subsection B of this section to:

11           1. The department of health services authorized provider.

12           2. The probation department that is providing alcohol or other drug  
13 screening, education or treatment to the person.

14           3. The physician, psychologist or substance abuse counselor who is  
15 evaluating the person's ability to safely operate a motor vehicle following a  
16 revocation of the person's driving privilege as prescribed in section  
17 28-3315, subsection D.

18           4. The court.

19           E. The department shall extend an ignition interlock restricted or  
20 limited driver license and the certified ignition interlock device period **FOR**  
21 **SIX MONTHS** if the department has reasonable grounds to believe that any of  
22 the following applies:

23           1. The person tampered with or circumvented the certified ignition  
24 interlock device.

25           2. The person attempted to operate the vehicle with an alcohol  
26 concentration exceeding the presumptive limit as prescribed in section  
27 28-1381, subsection G, paragraph 3 three or more times during the period of  
28 license restriction or limitation.

29           3. If the person is under twenty-one years of age, the person  
30 attempted to operate the vehicle with any spirituous liquor in the person's  
31 body during the period of license restriction or limitation.



1 vehicle for normal business. For the purposes of this subsection, a motor  
2 vehicle that is partly or entirely owned or controlled by the person whose  
3 driving privilege is limited pursuant to section 28-1381, 28-1382, 28-1383 or  
4 28-3319 or restricted pursuant to section 28-1402 is not a motor vehicle that  
5 is owned by an employer.

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

11 C. A person whose driving privilege is limited pursuant to section  
12 28-1381, 28-1382, 28-1383 or 28-3319 or restricted pursuant to section  
13 28-1402 and who rents, leases or borrows a motor vehicle from another person  
14 shall notify the person who rents, leases or lends the motor vehicle to the  
15 person that the person has specific requirements for the operation of the  
16 motor vehicle and the nature of the requirements.

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

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

29 F. A person whose driving privilege is limited pursuant to section  
30 28-1381, 28-1382, 28-1383 or 28-3319 or restricted pursuant to section  
31 28-1402 shall not tamper with or circumvent the operation of an ignition  
32 interlock device.

33 G. A person who is not a manufacturer's authorized installer or an  
34 agent of a manufacturer's authorized installer and who is not a person whose  
35 driving privilege is limited pursuant to section 28-1381, 28-1382, 28-1383 or  
36 28-3319 or restricted pursuant to section 28-1402 shall not tamper with or  
37 circumvent the operation of an ignition interlock device.

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

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

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

16          K. A PERSON WHO IS ORDERED BY THE COURT OR REQUIRED BY THE DEPARTMENT  
17 PURSUANT TO SECTION 28-3319 TO EQUIP ANY MOTOR VEHICLE THE PERSON OPERATES  
18 WITH A CERTIFIED IGNITION INTERLOCK DEVICE SHALL WHILE UNDER ARREST SUBMIT TO  
19 ANY TEST CHOSEN BY A LAW ENFORCEMENT OFFICER PURSUANT TO SECTION 28-1321,  
20 SUBSECTION A.

21          L. A PERSON SHALL COMPLY WITH THE REQUIREMENTS OF A CONTINUOUS ALCOHOL  
22 MONITORING PROGRAM ORDERED PURSUANT TO SECTION 28-3319, SUBSECTION I.

23          ~~K.~~ M. A person who violates this section is guilty of a class 1  
24 misdemeanor. Additionally, if a person is convicted of violating subsection  
25 A, C, D, F or H of this section, the department shall extend the duration of  
26 the certified ignition interlock device requirement for not more than one  
27 year.

28          ~~L.~~ N. For the purposes of this section, "substantial emergency" means  
29 that a person other than the person whose driving privilege is limited  
30 pursuant to section 28-1381, 28-1382, 28-1383 or 28-3319 or restricted  
31 pursuant to section 28-1402 is not reasonably available to drive in response  
32 to an emergency.

1           Sec. 11. Section 28-1465, Arizona Revised Statutes, is amended to  
2 read:

3           28-1465. Rule making; manufacturers and installers; civil  
4                                   penalty

5           The director shall adopt rules pursuant to title 41, chapter 6 as the  
6 director deems necessary for the administration and enforcement of this  
7 article and certification and decertification of ignition interlock device  
8 manufacturers and installers, **INCLUDING A RULE THAT PERMITS THE DIRECTOR TO**  
9 **IMPOSE A CIVIL PENALTY AGAINST AN IGNITION INTERLOCK MANUFACTURER OR**  
10 **INSTALLER WHO FAILS TO PROPERLY REPORT IGNITION INTERLOCK DATA TO THE**  
11 **DIRECTOR IN THE MANNER PRESCRIBED BY THE DIRECTOR. ANY MONIES COLLECTED FROM**  
12 **CIVIL PENALTIES IMPOSED FOR A FAILURE TO REPORT IGNITION INTERLOCK DATA SHALL**  
13 **BE DEPOSITED IN THE DRIVING UNDER THE INFLUENCE ABATEMENT FUND ESTABLISHED BY**  
14 **SECTION 28-1304.**

15           Sec. 12. Section 28-2163, Arizona Revised Statutes, is amended to  
16 read:

17           28-2163. Cancellation of registration; refusal to renew  
18                                   registration

19           A. The department shall cancel, suspend, revoke or deny the  
20 registration of a vehicle that it determines is unsafe or unfit to be  
21 operated or that is not equipped as required by law and shall retrieve  
22 license plates and registration cards for these vehicles.

23           B. The department shall cancel the registration of a vehicle if the  
24 person to whom the registration card or license plates have been issued makes  
25 or permits to be made an unlawful use of the vehicle or permits the use of  
26 the vehicle by a person not entitled to the use.

27           C. **THE DEPARTMENT SHALL REFUSE TO RENEW THE REGISTRATION OF A VEHICLE**  
28 **OWNED BY A PERSON WHO HAS FAILED TO COMPLY WITH THE IGNITION INTERLOCK**  
29 **REQUIREMENTS UNDER CHAPTER 4, ARTICLES 3.1 AND 5 OF THIS TITLE.**

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

32           28-3319. Action after license suspension, revocation or denial  
33                                   for driving under the influence or refusal of test;  
34                                   ignition interlock device requirement; definition

35           A. If, pursuant to section 28-1321, 28-1381, 28-1382, 28-1383, 28-3320  
36 or 28-3322, the license of a driver or the driving privilege of a nonresident  
37 is suspended or revoked, the department shall not terminate the suspension or

1 revocation or issue a special ignition interlock restricted driver license,  
2 if applicable, pursuant to chapter 4, article 3.1 of this title until the  
3 person provides proof of financial responsibility pursuant to chapter 9,  
4 article 3 of this title.

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

10 C. If a person whose license or driving privilege is suspended or  
11 revoked pursuant to section 28-1321, 28-1381, 28-1382, 28-1383 or 28-1385 is  
12 ordered, pursuant to section 28-1381, 28-1382, 28-1383 or 28-1385, to attend  
13 alcohol or other drug screening, education or treatment, the department shall  
14 not either:

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

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

25 D. EXCEPT AS PROVIDED IN SUBSECTION G OF THIS SECTION, on receipt of a  
26 report of conviction from a court, the department shall require any motor  
27 vehicle the convicted person operates to be equipped with a functioning  
28 certified ignition interlock device and the convicted person to meet the  
29 requirements prescribed in section 28-1461 as follows:

30 1. For twelve months if:

31 (a) EXCEPT AS PROVIDED IN SUBSECTION H OF THIS SECTION, the person is  
32 convicted of a violation of section 28-1381, ~~or~~ section 28-1382, subsection  
33 A, paragraph 1 OR SECTION 28-1383, SUBSECTION A, PARAGRAPH 3, SUBDIVISION  
34 (a).

35 (b) The department determines that within a period of eighty-four  
36 months the person is convicted of a second or subsequent violation of section  
37 28-1381 or section 28-1382, subsection A, paragraph 1 with a prior conviction

1 of a violation of section 28-1381, 28-1382 or 28-1383 or an act in another  
2 jurisdiction that if committed in this state would be a violation of section  
3 28-1381, 28-1382 or 28-1383.

4 2. For eighteen months if the person is convicted of a violation of  
5 section 28-1382, subsection A, paragraph 2.

6 3. For twenty-four months if:

7 (a) The person is convicted of a violation of section 28-1382,  
8 subsection A, paragraph 2 and the department determines that within a period  
9 of eighty-four months the person has a prior conviction of a violation of  
10 section 28-1381, 28-1382 or 28-1383 or an act in another jurisdiction that if  
11 committed in this state would be a violation of section 28-1381, 28-1382 or  
12 28-1383.

13 (b) The person is convicted of a violation of section 28-1383,  
14 **SUBSECTION A, PARAGRAPH 1, 2 OR 4 OR PARAGRAPH 3, SUBDIVISION (b).**

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

19 F. A person who is required to equip a motor vehicle with a certified  
20 ignition interlock device pursuant to this section shall comply with chapter  
21 4, article 5 of this title.

22 **G. THE DEPARTMENT SHALL REMOVE THE REQUIREMENT THAT THE PERSON**  
23 **MAINTAIN A FUNCTIONING CERTIFIED IGNITION INTERLOCK DEVICE IF THE PERSON IS**  
24 **ONLY CONVICTED OF A VIOLATION OF SECTION 28-1381, SUBSECTION A, PARAGRAPH 3**  
25 **AND COMPLETES ALCOHOL OR OTHER DRUG SCREENING REQUIRED PURSUANT TO SECTION**  
26 **28-1387 AND THE COURT DETERMINES THAT NO ALCOHOL EDUCATION OR TREATMENT IS**  
27 **REQUIRED.**

28 **H. THE DEPARTMENT SHALL REDUCE THE TIME PERIOD PRESCRIBED IN**  
29 **SUBSECTION D, PARAGRAPH 1, SUBDIVISION (a) OF THIS SECTION TO THE LATER OF**  
30 **SIX MONTHS FROM THE DATE THE INTERLOCK WAS INSTALLED OR THE COMPLETION OF THE**  
31 **REQUIREMENTS OF THIS SUBSECTION IF ALL OF THE FOLLOWING APPLY:**

32 1. THE PERSON IS SENTENCED PURSUANT TO SECTION 28-1381, SUBSECTION I.

33 2. THE PERSON SUCCESSFULLY COMPLETES AN ALCOHOL EDUCATION PROGRAM  
34 CONSISTING OF AT LEAST SIXTEEN HOURS PURSUANT TO SECTION 28-1381.

35 3. THE PERSON HAS MAINTAINED A FUNCTIONING IGNITION INTERLOCK DEVICE  
36 ON ALL MOTOR VEHICLES THE PERSON OPERATES AND HAS MET THE REQUIREMENTS OF  
37 SECTION 28-1461 FOR AT LEAST SIX CONSECUTIVE MONTHS.

1           4. THE PERSON HAS NOT ATTEMPTED TO OPERATE A VEHICLE WITH AN ALCOHOL  
2 CONCENTRATION OF 0.05 OR MORE TWO OR MORE TIMES DURING THE PERIOD OF LICENSE  
3 RESTRICTION OR LIMITATION.

4           5. AT THE TIME OF THE OFFENSE, THE PERSON WAS NOT INVOLVED IN A MOTOR  
5 VEHICLE ACCIDENT THAT RESULTED IN PHYSICAL INJURY OR PROPERTY DAMAGE.

6           6. ALL NECESSARY COMPLIANCE INFORMATION HAS BEEN PROVIDED TO THE  
7 DEPARTMENT BY THE IGNITION INTERLOCK DEVICE PROVIDER, THE ALCOHOL SCREENING  
8 PROGRAM AND THE ALCOHOL EDUCATION PROGRAM.

9           I. ON A SHOWING OF SUFFICIENT MEDICAL EVIDENCE, THE DEPARTMENT MAY  
10 ALLOW A PERSON WHO IS UNABLE TO OPERATE AN IGNITION INTERLOCK DEVICE TO BE  
11 PLACED IN A CONTINUOUS ALCOHOL MONITORING PROGRAM INSTEAD OF EQUIPPING ANY  
12 MOTOR VEHICLE THE PERSON OPERATES WITH AN IGNITION INTERLOCK DEVICE. THE  
13 PERSON SHALL BEAR THE COST OF ALL TESTING, MONITORING AND ENROLLMENT IN THE  
14 CONTINUOUS ALCOHOL MONITORING PROGRAM. A PERSON WHO IS PLACED IN A  
15 CONTINUOUS ALCOHOL MONITORING PROGRAM PURSUANT TO THIS SUBSECTION SHALL  
16 REMAIN IN THE PROGRAM FOR THE SAME AMOUNT OF TIME THE PERSON IS REQUIRED TO  
17 MAINTAIN AN IGNITION INTERLOCK DEVICE.

18           ~~G.~~ J. For the purposes of this section, "certified ignition interlock  
19 device" has the same meaning prescribed in section 28-1301.

20           Sec. 14. Effective date

21           This act is effective from and after September 30, 2011."

22 Amend title to conform

VIC WILLIAMS

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C: sp