

State of Arizona
House of Representatives
Fifty-first Legislature
First Regular Session
2013

HOUSE BILL 2171

AN ACT

AMENDING SECTIONS 28-1321, 28-1385, 28-3001, 28-3158, 28-3159, 28-3224, 28-3306, 28-3313, 32-2372, 32-2373, 41-619.51, 41-1758 AND 41-1758.01, ARIZONA REVISED STATUTES; RELATING TO DRIVERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

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

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

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

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

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

32 1. If the test results show a blood or breath alcohol concentration of
33 0.08 or more, if the results show a blood or breath alcohol concentration of
34 0.04 or more and the violator was driving or in actual physical control of a
35 commercial motor vehicle or if the results show there is any drug defined in
36 section 13-3401 or its metabolite in the person's body and the person does
37 not possess a valid prescription for the drug, the violator's license or
38 permit to drive will be suspended or denied for not less than ninety
39 consecutive days.

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

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

1 consent provided by subsection A of this section and the test or tests may be
2 administered, subject to section 4-244, paragraph 34 or section 28-1381,
3 28-1382 or 28-1383.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 H. The order for suspension shall:

19 1. Be accompanied by printed forms that are ready to mail to the
20 department, that may be filled out and signed by the person to indicate the
21 person's desire for a hearing and that advise the person that the person may
22 alternatively submit an online request for a hearing.

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

27 I. On the receipt of a request for a hearing, the department shall set
28 the hearing within ~~thirty~~ SIXTY days. THE DEPARTMENT MAY HOLD THE HEARING IN
29 PERSON, BY TELEPHONE OR BY VIDEO CONFERENCE. IF THE DEPARTMENT HOLDS THE
30 HEARING IN PERSON, THE HEARING SHALL BE HELD in the county in which the
31 person named in the report resides unless the law enforcement agency filing
32 the certified report of refusal pursuant to subsection D of this section
33 requests at the time of its filing that the hearing be held in the county
34 where the refusal occurred.

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

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

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

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

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

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

9 2. The person was placed under arrest.

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

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

12 L. If the department determines at the hearing to suspend the affected
13 person's privilege to operate a motor vehicle, the suspension provided in
14 this section is effective fifteen days after giving written notice of the
15 suspension, except that the department may issue or extend a temporary
16 license that expires on the effective date of the suspension. If the person
17 is a resident without a license or permit or has an expired license or permit
18 to operate a motor vehicle in this state, the department shall deny to the
19 person the issuance of a license or permit for a period of twelve months
20 after the order of suspension becomes effective or for a period of two years
21 after the order of suspension becomes effective for a second or subsequent
22 refusal within a period of eighty-four months, and may reinstate the person's
23 driving privilege, license, permit, right to apply for a license or permit or
24 nonresident operating privilege following the period of suspension only if
25 the person completes alcohol or other drug screening.

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

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

35 O. If it has been determined under the procedures of this section that
36 a nonresident's privilege to operate a motor vehicle in this state has been
37 suspended, the department shall give information either in writing or by
38 electronic means of the action taken to the motor vehicle administrator of
39 the state of the person's residence and of any state in which the person has
40 a license.

41 P. After completing not less than ninety consecutive days of the
42 period of suspension required by this section and any alcohol or other drug
43 screening that is ordered by the department pursuant to this chapter, a
44 person whose driving privilege is suspended pursuant to this section may
45 apply to the department for a special ignition interlock restricted driver

1 license pursuant to section 28-1401. Unless the certified ignition interlock
2 period is extended by the department pursuant to section 28-1461, a person
3 who is issued a special ignition interlock restricted driver license as
4 provided in this subsection shall maintain a functioning certified ignition
5 interlock device in compliance with this chapter during the remaining period
6 of the suspension prescribed by this section. This subsection does not apply
7 to a person whose driving privilege is suspended for a second or subsequent
8 refusal within a period of eighty-four months.

9 Sec. 2. Section 28-1385, Arizona Revised Statutes, is amended to read:

10 28-1385. Administrative license suspension for driving under
11 the influence or for homicide or assault involving a
12 motor vehicle; report; hearing; summary review;
13 ignition interlock device requirement

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

18 1. The officer arrests a person for a violation of section 4-244,
19 paragraph 34, section 28-1381, section 28-1382 or section 28-1383 or for a
20 violation of title 13, chapter 11 or section 13-1201 or 13-1204 involving a
21 motor vehicle.

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

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

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

31 (c) Any drug defined in section 13-3401 or its metabolite is in the
32 person's body except if the person possesses a valid prescription for the
33 drug.

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

38 1. Information that adequately identifies the arrested person.

39 2. A statement of the officer's grounds for belief that the person was
40 driving or in actual physical control of a motor vehicle in violation of
41 section 4-244, paragraph 34, section 28-1381, section 28-1382 or section
42 28-1383 or committed a violation of title 13, chapter 11 or section 13-1201
43 or 13-1204 involving a motor vehicle.

44 3. A statement that the person was arrested for a violation of section
45 4-244, paragraph 34, section 28-1381, section 28-1382 or section 28-1383 or

1 for a violation of title 13, chapter 11 or section 13-1201 or 13-1204
2 involving a motor vehicle.

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

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

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

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

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

14 4. Shall be accompanied by printed forms that are ready to mail to the
15 department, that the person may fill out and sign to indicate the person's
16 desire for a hearing and that advise the person that the person may
17 alternatively submit an online request for a hearing.

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

20 6. Shall inform the person that the person's driving privilege,
21 license, permit, right to apply for a license or permit or nonresident
22 operating privilege may be issued or reinstated following the period of
23 suspension only if the person completes alcohol or other drug screening.

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

27 D. If the blood test result is unavailable at the time the test is
28 administered, the result shall be forwarded to the department before the
29 hearing held pursuant to this section in a form prescribed by the director.

30 E. If the license or permit is not surrendered pursuant to subsection
31 C of this section, the officer shall state the reason for the nonsurrender.
32 If a valid license or permit is surrendered, the officer shall issue a
33 temporary driving permit that is valid for fifteen days. The officer shall
34 forward a copy of the completed order of suspension, a copy of any completed
35 temporary permit and any driver license or permit taken into possession under
36 this section to the department within five days after the issuance of the
37 order of suspension along with the report.

38 F. The department shall suspend the affected person's license or
39 permit to drive or right to apply for a license or permit or any nonresident
40 operating privilege for not less than ninety consecutive days from that date.
41 If the person is otherwise qualified, the department may reinstate the
42 person's driving privilege, license, permit, right to apply for a license or
43 permit or nonresident operating privilege following the period of suspension
44 only if the violator completes alcohol or other drug screening.

1 G. Notwithstanding subsections A through F of this section, the
2 department shall suspend the driving privileges of the person described in
3 subsection A of this section for not less than thirty consecutive days and
4 shall restrict the driving privileges of the person for not less than sixty
5 consecutive additional days to travel between the person's place of
6 employment and residence and during specified periods of time while at
7 employment, to travel between the person's place of residence and the
8 person's secondary or postsecondary school, according to the person's
9 employment or educational schedule, to travel between the person's place of
10 residence and the office of the person's probation officer for scheduled
11 appointments or to travel between the person's place of residence and a
12 screening, education or treatment facility for scheduled appointments if the
13 person:

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

17 2. Has not been convicted of a violation of section 4-244, paragraph
18 34, section 28-1381, section 28-1382 or section 28-1383 within eighty-four
19 months of the date of commission of the acts out of which the current action
20 arose. The dates of commission of the acts are the determining factor in
21 applying the eighty-four month provision.

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

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

29 H. If the officer does not serve an order of suspension pursuant to
30 subsection C of this section and if the department does not receive the
31 report of the results of the blood or breath alcohol test pursuant to
32 subsection B, paragraph 4 of this section, but subsequently receives the
33 results and the results indicate 0.08 or more alcohol concentration in the
34 person's blood or breath, a blood or breath alcohol concentration of 0.04 or
35 more and the person was driving or in actual physical control of a commercial
36 motor vehicle or any drug defined in section 13-3401 or its metabolite in the
37 person's body and the person does not possess a valid prescription for the
38 drug, the department shall notify the person named in the report in writing
39 sent by mail that fifteen days after the date of issuance of the notice the
40 department will suspend the person's license or permit, driving privilege or
41 nonresident driving privilege. The notice shall also state that the
42 department will provide an opportunity for a hearing and administrative
43 review if the person requests a hearing or review in writing and the request
44 is received by the department within fifteen days after the notice is sent.

1 I. 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 restricted license or permit, the department shall issue, but retain, the
9 license or permit, subject to this section. All hearings requested under
10 this section shall be conducted in the same manner and under the same
11 conditions as provided in section 28-3306.

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

14 1. Whether the officer had reasonable grounds to believe the person
15 was driving or was in actual physical control of a motor vehicle while under
16 the influence of intoxicating liquor OR DRUGS.

17 2. Whether the person was placed under arrest for a violation of
18 section 4-244, paragraph 34, section 28-1381, section 28-1382 or section
19 28-1383 or for a violation of title 13, chapter 11 or section 13-1201 or
20 13-1204 involving a motor vehicle.

21 3. Whether a test was taken, the results of which indicated any of the
22 following:

23 (a) An alcohol concentration in the person's blood or breath at the
24 time the test was administered of either:

25 (i) 0.08 or more.

26 (ii) 0.04 or more if the person was driving or in actual physical
27 control of a commercial motor vehicle.

28 (b) Any drug defined in section 13-3401 or its metabolite in the
29 person's body except if the person possesses a valid prescription for the
30 drug.

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

32 5. Whether the test results were accurately evaluated.

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

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

1 nonresident operating privilege following the period of suspension only if
2 the violator completes alcohol or other drug screening.

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

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

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

26 Sec. 3. Section 28-3001, Arizona Revised Statutes, is amended to read:
27 28-3001. Definitions

28 In this chapter, unless the context otherwise requires:

29 1. "Cancellation" means the annulment or termination of a driver
30 license because of an error or defect or because the licensee is no longer
31 entitled to the license.

32 2. "Commercial driver license" means a license that is issued to an
33 individual and that authorizes the individual to operate a class of
34 commercial motor vehicles.

35 3. "Commercial motor vehicle" means a motor vehicle or combination of
36 motor vehicles that is used in commerce to transport passengers or property
37 and that includes any of the following:

38 (a) A motor vehicle or combination of motor vehicles that has a gross
39 combined weight rating of twenty-six thousand one or more pounds inclusive of
40 a towed unit with a gross vehicle weight rating of more than ten thousand
41 pounds.

42 (b) A motor vehicle that has a gross vehicle weight rating of
43 twenty-six thousand one or more pounds.

44 (c) A bus.

1 (d) A motor vehicle or combination of motor vehicles that is used in
2 the transportation of materials found to be hazardous for the purposes of the
3 hazardous materials transportation authorization act of 1994 (49 United
4 States Code sections 5101 through 5128) and is required to be placarded under
5 49 Code of Federal Regulations section 172.504, as adopted by the department
6 pursuant to chapter 14 of this title.

7 4. "Conviction" has the same meaning prescribed in section 28-101 and
8 also means a final conviction or judgment, including an order of a juvenile
9 court finding that a juvenile has violated a provision of this title or has
10 committed a delinquent act that if committed by an adult constitutes any of
11 the following:

12 (a) Criminal damage to property pursuant to section 13-1602,
13 subsection A, paragraph 1.

14 (b) A felony offense in the commission of which a motor vehicle was
15 used, including theft of a motor vehicle pursuant to section 13-1802,
16 unlawful use of means of transportation pursuant to section 13-1803 or theft
17 of means of transportation pursuant to section 13-1814.

18 (c) A forfeiture of bail or collateral deposited to secure a
19 defendant's appearance in court that has not been vacated.

20 5. "Disqualification" means a prohibition from obtaining a commercial
21 driver license or driving a commercial motor vehicle.

22 6. "Employer" means a person, including the United States, a state or
23 a political subdivision of a state, that owns or leases a commercial motor
24 vehicle or that assigns a person to operate a commercial motor vehicle.

25 7. "Endorsement" means an authorization that is added to an
26 individual's driver license and that is required to permit the individual to
27 operate certain types of vehicles.

28 8. "Foreign" means outside the United States.

29 9. "Gross vehicle weight rating" means the weight that is assigned by
30 the vehicle manufacturer to a vehicle and that represents the maximum
31 recommended total weight including the vehicle and the load for the vehicle.

32 10. "Judgment" means a final judgment and any of the following:

33 (a) The finding by a court that an individual is responsible for a
34 civil traffic violation.

35 (b) An individual's admission of responsibility for a civil traffic
36 violation.

37 (c) The voluntary or involuntary forfeiture of deposit in connection
38 with a civil traffic violation.

39 (d) A default judgment entered by a court pursuant to section 28-1596.

40 11. "License class" means, for the purpose of determining the
41 appropriate class of driver license required for the type of motor vehicle or
42 vehicle combination a driver intends to operate or is operating, the class of
43 driver license prescribed in section 28-3101.

1 12. "~~Nonresident~~ NONDOMICILED commercial driver license" means a
2 commercial driver license issued to an individual domiciled in a foreign
3 country OR TO AN INDIVIDUAL DOMICILED IN ANOTHER STATE IF THAT STATE IS
4 PROHIBITED FROM ISSUING COMMERCIAL DRIVER LICENSES.

5 13. "Original applicant" means any of the following:

6 (a) An applicant who has never been licensed or cannot provide
7 evidence of licensing.

8 (b) An applicant who is applying for a higher class of driver license
9 than the license currently held by the applicant.

10 (c) An applicant who has a license from a foreign country.

11 14. "Revocation" means that the driver license and driver's privilege
12 to drive a motor vehicle on the public highways of this state are terminated
13 and shall not be renewed or restored, except that an application for a new
14 license may be presented and acted on by the department after one year from
15 the date of revocation.

16 15. "State of domicile" means the state or jurisdiction where a person
17 has the person's true, fixed and permanent home and principal residence and
18 to which the person has the intention of returning after an absence.

19 16. "Suspension" means that the driver license and driver's privilege
20 to drive a motor vehicle on the public highways of this state are temporarily
21 withdrawn during the period of the suspension and until application for
22 reinstatement is made.

23 17. "Vehicle combination" means a motor vehicle and a vehicle in excess
24 of ten thousand pounds gross vehicle weight that it tows, if the combined
25 gross vehicle weight rating is more than twenty-six thousand pounds.

26 Sec. 4. Section 28-3158, Arizona Revised Statutes, is amended to read:
27 28-3158. Driver license or instruction permit application

28 A. A person who applies for an instruction permit or for a driver
29 license shall use a form furnished by the department.

30 B. An applicant shall pay the fee prescribed by section 28-3002 for a
31 driver license or for an instruction permit issued under section 28-3154,
32 28-3155, 28-3156 or 28-3225. Payment of the fee required by this section
33 entitles the applicant to not more than three attempts to pass the written
34 examination or road test within twelve months from the date of the
35 application. The department shall refund an application fee pursuant to
36 section 28-373. An applicant who submits documentation of successful
37 completion of a driver education course approved by the department is not
38 required to take the road test.

39 C. An applicant for an instruction permit or a driver license shall
40 give the department satisfactory proof of the applicant's full legal name,
41 date of birth, sex and residence address and that the applicant's presence in
42 the United States is authorized under federal law.

- 1 D. The application for an instruction permit or a driver license shall
2 state the following:
- 3 1. A brief description of the applicant and any other identifying
4 information required by the department.
- 5 2. Whether the applicant has been licensed, and if so, the type of
6 license issued, when the license was issued and what state or country issued
7 the license.
- 8 3. Whether the license was suspended or revoked or whether an
9 application was ever refused, and if so, the date of and reason for the
10 suspension, revocation or refusal.
- 11 4. If the applicant was never licensed, the applicant's last previous
12 state or country of residence.
- 13 5. The social security number of the applicant ~~unless the application~~
14 ~~is for a nonresident commercial driver license.~~
- 15 E. The department shall:
- 16 1. Verify that a social security number provided by an applicant is a
17 valid number assigned to that applicant.
- 18 2. Retain the social security number in its records.
- 19 F. The social security number provided to the department pursuant to
20 subsection D of this section for an applicant's driver license or instruction
21 permit shall not appear on an applicant's driver license or instruction
22 permit unless the applicant requests that the social security number appear
23 on the applicant's driver license or instruction permit as the driver license
24 or instruction permit number. Except as provided in sections 28-455 and
25 41-1954, the department shall not release the social security number to any
26 person unless the applicant requests that the social security number appear
27 on the applicant's driver license or instruction permit as the driver license
28 or instruction permit number. The provisions of this subsection shall be
29 included in each application.
- 30 G. The department may adopt and implement procedures to deny a driver
31 license or instruction permit to a person who has been deported. The
32 department may adopt and implement procedures to reinstate a person's
33 privilege to apply for a driver license or permit if the person's legal
34 presence status is restored.
- 35 H. On request of an applicant, the department shall allow the
36 applicant to provide on the license or permit a post office box address that
37 is regularly used by the applicant.
- 38 I. The department may request an applicant who appears in person for a
39 license, a duplicate license or reinstatement of a driving privilege to
40 complete satisfactorily the vision screening prescribed by the department.
- 41 J. If a driver license applicant submits satisfactory proof to the
42 department that the applicant is a veteran, on request of the applicant, the
43 department shall allow a distinguishing mark to appear on the license that
44 identifies the person as a veteran.

1 Sec. 5. Section 28-3159, Arizona Revised Statutes, is amended to read:
2 28-3159. Restricted licenses

3 A. With good cause, the department may issue the following restricted
4 driver licenses:

5 1. A driver license with any of the following:

6 (a) Restrictions suitable to the licensee's driving ability for the
7 type of motor vehicle or special mechanical control devices required on a
8 motor vehicle that the licensee may operate.

9 (b) Restrictions suitable to the licensee's ability to drive a motor
10 vehicle in areas, at locations or on highways or during certain times.

11 (c) Other restrictions as the department determines appropriate to
12 ensure the safe operation of a motor vehicle by the licensee.

13 2. A class A, B or C driver license that restricts the driver from
14 operating:

15 (a) A commercial motor vehicle equipped with air brakes, if the
16 applicant either fails the air brake component of the knowledge examination
17 or performs the skills test in a vehicle that is not equipped with air
18 brakes.

19 (b) A vehicle in interstate commerce, if the applicant is not subject
20 to 49 Code of Federal Regulations part 391.

21 (c) A motor vehicle for the purposes of interstate commerce, if an
22 applicant for a class A, B or C license is at least eighteen years of age.

23 3. A CLASS A, B OR C DRIVER LICENSE WITH OTHER RESTRICTIONS THAT THE
24 DEPARTMENT DETERMINES ARE APPROPRIATE TO ENSURE THE SAFE OPERATION OF A
25 COMMERCIAL MOTOR VEHICLE BY THE LICENSEE.

26 ~~3-~~ 4. A class M license that restricts the driver from driving a
27 vehicle other than a motorcycle, motor driven cycle or moped with a maximum
28 piston displacement of one hundred cubic centimeters or less, if the
29 applicant performs the driving examination with a motorcycle, motor driven
30 cycle or moped with a maximum piston displacement of one hundred cubic
31 centimeters or less.

32 ~~4-~~ 5. A special ignition interlock restricted driver license pursuant
33 to chapter 4, article 3.1 of this title.

34 B. The department may either issue a special restricted license or
35 display the restrictions on the usual driver license form.

36 Sec. 6. Section 28-3224, Arizona Revised Statutes, is amended to read:
37 28-3224. Nondomiciled commercial driver license

38 A. The department may issue a ~~nonresident~~ NONDOMICILED commercial
39 driver license to a resident of another jurisdiction if the United States
40 secretary of transportation determines that the commercial motor vehicle
41 testing and licensing standards in the other jurisdiction do not meet the
42 testing standards established in 49 Code of Federal Regulations part 383.

1 B. On receipt of a proper application, the department may issue a
2 ~~nonresident~~ NONDOMICILED commercial driver license to an applicant who meets
3 the requirements for a class A, B or C license pursuant to section 28-3223.

4 C. The department shall mark a license issued pursuant to this section
5 as a ~~nonresident~~ NONDOMICILED commercial driver license or a ~~nonresident~~
6 NONDOMICILED CDL.

7 D. A person applying for a ~~nonresident~~ NONDOMICILED commercial driver
8 license shall surrender any ~~nonresident~~ NONDOMICILED commercial driver
9 license issued by another state as a condition of receiving a ~~nonresident~~
10 NONDOMICILED commercial driver license in this state.

11 Sec. 7. Section 28-3306, Arizona Revised Statutes, is amended to read:
12 28-3306. Discretionary license suspension or revocation;
13 traffic survival school; hearing

14 A. The department may suspend or revoke the license of a driver or
15 require a licensee to attend and successfully complete approved traffic
16 survival school training and educational sessions designed to improve the
17 safety and habits of drivers on a showing by department records or other
18 sufficient evidence that the licensee:

19 1. Has committed an offense for which mandatory revocation of the
20 license is required on conviction.

21 2. Has been involved as a driver in an accident resulting in the death
22 or personal injury of another or serious property damage.

23 3. Has been convicted of or adjudged to have violated traffic
24 regulations governing the movement of vehicles with such a frequency that it
25 indicates a disrespect for traffic laws and a disregard for the safety of
26 other persons on the highways.

27 4. Has been convicted of reckless driving as provided in section
28 28-693 or is a habitually reckless or negligent driver of a motor vehicle.

29 5. Is medically, psychologically or physically incapable of operating
30 a motor vehicle and, based on law enforcement, medical or other department
31 information, the continued operation of a motor vehicle by the licensee would
32 endanger the public health, safety and welfare.

33 6. Has committed or permitted an act involving an unlawful or
34 fraudulent use of the license.

35 7. Has committed an offense in another jurisdiction that if committed
36 in this state is grounds for suspension or revocation.

37 8. Has been convicted of a violation of section 28-1381 or 28-1382.

38 9. Has been convicted of a violation of section 28-1464.

39 B. On receipt of satisfactory evidence of a violation of a driver
40 license restriction, the department may suspend or revoke the driver license.

41 C. On suspending or revoking the license of a person or requiring a
42 licensee to attend and successfully complete approved traffic survival school
43 training and educational sessions designed to improve the safety and habits
44 of drivers pursuant to this section, the department shall notify the licensee
45 in writing immediately.

1 D. On the RECEIPT OF THE person's request FOR A HEARING, the
2 department shall ~~provide an opportunity for a~~ SET THE hearing ~~on the action~~
3 ~~taken pursuant to this section as early as practicable but not later than~~
4 ~~thirty~~ WITHIN SIXTY days ~~after receipt of the request.~~ THE DEPARTMENT MAY
5 HOLD THE HEARING IN PERSON, BY TELEPHONE OR BY VIDEO CONFERENCE. IF THE
6 DEPARTMENT HOLDS THE HEARING IN PERSON, the department shall hold the hearing
7 in the county where the licensee resides unless the law enforcement agency
8 issuing the citation or affidavit that authorizes the suspension or
9 revocation requests at the time of issuance that the hearing be held in the
10 county where the violation allegedly occurred.

11 E. If a hearing is held, the department or its duly authorized agent
12 may administer oaths, may issue subpoenas for the attendance of witnesses and
13 the production of relevant books and papers and may require a reexamination
14 of the licensee.

15 F. At the hearing, the department shall either rescind its order of
16 suspension or its order requiring the licensee to attend and successfully
17 complete approved traffic survival school training and educational sessions
18 or, if good cause exists, the department may uphold or extend the order,
19 revoke the license or make any order that is within its discretionary power
20 under this section and that is in the interest of public safety.

21 G. If a licensee receives notice requiring the licensee to attend and
22 successfully complete approved traffic survival school training and
23 educational sessions and the department receives information of noncompliance
24 with this order, the department may amend the order to suspend or revoke the
25 license.

26 H. A person whose driver license is suspended or revoked as provided
27 in subsection A, paragraph 5 of this section may submit a written request to
28 the department for an administrative hearing. The person shall submit the
29 request for a hearing within fifteen days after the department provides the
30 person with notice of suspension or revocation. On receipt of a proper
31 request for a hearing, the department shall provide the person with an
32 opportunity for a hearing in the county where the person resides within
33 thirty days after the department receives the request. The request for a
34 hearing does not stay a summary suspension issued by the department.

35 Sec. 8. Section 28-3313, Arizona Revised Statutes, is amended to read:
36 28-3313. Record update

37 A. Within ten days of the suspension, revocation, cancellation or
38 disqualification of a commercial driver license for a period of sixty days or
39 more, the department shall update its records to reflect the action and shall
40 notify the commercial driver license information system of the action taken.

41 B. Within ten days of the suspension, revocation, cancellation or
42 disqualification of a commercial driver license issued by another state or of
43 a ~~nonresident~~ NONDOMICILED commercial driver license, the department shall
44 notify the state licensing authority that issued the license of the action
45 taken.

1 GIVE WRITTEN NOTICE TO THE APPLICANT OR LICENSEE TO APPEAR AT THE HEARING AND
2 SHOW CAUSE WHY THE REFUSAL TO ISSUE OR RENEW THE LICENSE SHOULD NOT BE
3 UPHELD. AFTER CONSIDERATION OF THE EVIDENCE PRESENTED AT THE HEARING, THE
4 DIRECTOR SHALL SERVE NOTICE IN WRITING TO THE APPLICANT OR LICENSEE OF THE
5 DIRECTOR'S FINDINGS AND ORDER.

6 Sec. 11. Section 41-619.51, Arizona Revised Statutes, is amended to
7 read:

8 41-619.51. Definitions

9 In this article, unless the context otherwise requires:

10 1. "Agency" means the supreme court, the department of economic
11 security, the department of education, the department of health services, the
12 department of juvenile corrections, the department of emergency and military
13 affairs, the department of transportation, the state real estate department
14 or the board of examiners of nursing care institution administrators and
15 assisted living facility managers.

16 2. "Board" means the board of fingerprinting.

17 3. "Central registry exception" means notification to the department
18 of economic security or the department of health services, as appropriate,
19 pursuant to section 41-619.57 that the person is not disqualified because of
20 a central registry check conducted pursuant to section 8-804.

21 4. "Expedited review" means an examination, in accordance with board
22 rule, of the documents an applicant submits by the board or its hearing
23 officer without the applicant being present.

24 5. "Good cause exception" means the issuance of a fingerprint
25 clearance card to an employee pursuant to section 41-619.55.

26 6. "Person" means a person who is required to be fingerprinted
27 pursuant to this article or who is subject to a central registry check and
28 any of the following:

- 29 (a) Section 8-105.
- 30 (b) Section 8-322.
- 31 (c) Section 8-509.
- 32 (d) Section 8-802.
- 33 (e) Section 8-804.
- 34 (f) Section 8-804.01.
- 35 (g) Section 15-183.
- 36 (h) Section 15-534.
- 37 (i) Section 15-782.02.
- 38 (j) Section 15-1330.
- 39 (k) Section 15-1881.
- 40 (l) Section 17-215.
- 41 (m) Section 26-103.
- 42 (n) Section 32-2108.01.
- 43 (o) Section 32-2123.
- 44 (p) Section 32-2371.
- 45 (q) SECTION 32-2372.

1 ~~(q)~~ (r) Section 36-207.
2 ~~(r)~~ (s) Section 36-411.
3 ~~(s)~~ (t) Section 36-425.03.
4 ~~(t)~~ (u) Section 36-446.04.
5 ~~(u)~~ (v) Section 36-594.01.
6 ~~(v)~~ (w) Section 36-594.02.
7 ~~(w)~~ (x) Section 36-882.
8 ~~(x)~~ (y) Section 36-883.02.
9 ~~(y)~~ (z) Section 36-897.01.
10 ~~(z)~~ (aa) Section 36-897.03.
11 ~~(aa)~~ (bb) Section 36-3008.
12 ~~(bb)~~ (cc) Section 41-619.53.
13 ~~(cc)~~ (dd) Section 41-1964.
14 ~~(dd)~~ (ee) Section 41-1967.01.
15 ~~(ee)~~ (ff) Section 41-1968.
16 ~~(ff)~~ (gg) Section 41-1969.
17 ~~(gg)~~ (hh) Section 41-2814.
18 ~~(hh)~~ (ii) Section 46-141, subsection A.
19 ~~(ii)~~ (jj) Section 46-321.
20 Sec. 12. Section 41-1758, Arizona Revised Statutes, is amended to
21 read:
22 41-1758. Definitions
23 In this article, unless the context otherwise requires:
24 1. "Agency" means the supreme court, the department of economic
25 security, the department of education, the department of health services, the
26 department of juvenile corrections, the department of emergency and military
27 affairs, the department of transportation, the state real estate department,
28 the board of fingerprinting or the board of examiners of nursing care
29 institution administrators and assisted living facility managers.
30 2. "Division" means the fingerprinting division in the department of
31 public safety.
32 3. "Good cause exception" means the issuance of a fingerprint
33 clearance card to an employee pursuant to section 41-619.55.
34 4. "Person" means a person who is required to be fingerprinted
35 pursuant to any of the following:
36 (a) Section 8-105.
37 (b) Section 8-322.
38 (c) Section 8-509.
39 (d) Section 8-802.
40 (e) Section 15-183.
41 (f) Section 15-503.
42 (g) Section 15-512.
43 (h) Section 15-534.
44 (i) Section 15-782.02.
45 (j) Section 15-1330.

1 (k) Section 15-1881.
2 (l) [SECTION 17-215](#).
3 ~~(m)~~ (m) Section 26-103.
4 ~~(n)~~ (n) Section 32-2108.01.
5 ~~(o)~~ (o) Section 32-2123.
6 ~~(p)~~ (p) Section 32-2371.
7 (q) [SECTION 32-2372](#).
8 ~~(r)~~ (r) Section 36-207.
9 ~~(s)~~ (s) Section 36-411.
10 ~~(t)~~ (t) Section 36-425.03.
11 ~~(u)~~ (u) Section 36-446.04.
12 ~~(v)~~ (v) Section 36-594.01.
13 ~~(w)~~ (w) Section 36-594.02.
14 ~~(x)~~ (x) Section 36-882.
15 ~~(y)~~ (y) Section 36-883.02.
16 ~~(z)~~ (z) Section 36-897.01.
17 ~~(aa)~~ (aa) Section 36-897.03.
18 ~~(ab)~~ (bb) Section 36-3008.
19 ~~(ac)~~ (cc) Section 41-619.52.
20 ~~(ad)~~ (dd) Section 41-619.53.
21 ~~(ae)~~ (ee) Section 41-1964.
22 ~~(af)~~ (ff) Section 41-1967.01.
23 ~~(ag)~~ (gg) Section 41-1968.
24 ~~(ah)~~ (hh) Section 41-1969.
25 ~~(ai)~~ (ii) Section 41-2814.
26 ~~(aj)~~ (jj) Section 46-141, subsection A.
27 ~~(ak)~~ (kk) Section 46-321.
28 5. "Vulnerable adult" has the same meaning prescribed in section
29 13-3623.
30 Sec. 13. Section 41-1758.01, Arizona Revised Statutes, is amended to
31 read:
32 [41-1758.01. Fingerprinting division; duties](#)
33 The fingerprinting division is established in the department of public
34 safety and shall:
35 1. Conduct fingerprint background checks for persons and applicants
36 who are seeking licenses from state agencies, employment with licensees,
37 contract providers and state agencies or employment or educational
38 opportunities with agencies that require fingerprint background checks
39 pursuant to sections 8-105, 8-322, 8-509, 8-802, 15-183, 15-503, 15-512,
40 15-534, 15-782.02, 15-1330, 15-1881, 17-215, 26-103, 32-2108.01, 32-2123,
41 32-2371, [32-2372](#), 36-207, 36-411, 36-425.03, 36-446.04, 36-594.01, 36-594.02,
42 36-882, 36-883.02, 36-897.01, 36-897.03, 36-3008, 41-619.52, 41-619.53,
43 41-1964, 41-1967.01, 41-1968, 41-1969 and 41-2814, section 46-141, subsection
44 A and section 46-321.

- 1 2. Issue fingerprint clearance cards. On issuance, a fingerprint
2 clearance card becomes the personal property of the cardholder and the
3 cardholder shall retain possession of the fingerprint clearance card.
- 4 3. On submission of an application for a fingerprint clearance card,
5 collect the fees established by the board of fingerprinting pursuant to
6 section 41-619.53 and deposit, pursuant to sections 35-146 and 35-147, the
7 monies collected in the board of fingerprinting fund.
- 8 4. Inform in writing each person who submits fingerprints for a
9 fingerprint background check of the person's right to petition the board of
10 fingerprinting for a good cause exception pursuant to sections 41-1758.03 and
11 41-1758.07.
- 12 5. Administer and enforce this article.