

REFERENCE TITLE: **DUI; ignition interlock devices**

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

HB 2182

Introduced by
Representative Fann

AN ACT

AMENDING SECTIONS 28-1401, 28-1464, 28-3319 AND 28-3511, ARIZONA REVISED STATUTES; RELATING TO DRIVING UNDER THE INFLUENCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 28-1401, Arizona Revised Statutes, is amended to
3 read:
4 28-1401. Special ignition interlock restricted driver licenses:
5 application fee
6 A. A person whose class D or class G license has been suspended
7 pursuant to section 28-1385 or suspended or revoked for a first refusal
8 pursuant to section 28-1321, a second violation of section 28-1381 or 28-1382
9 or a first violation of section 28-1383, subsection A, paragraph 3 may apply
10 to the department for a special ignition interlock restricted driver license
11 that allows a person to operate a motor vehicle during the period of
12 suspension or revocation subject to the restrictions prescribed in section
13 28-1402 and the certified ignition interlock device requirements prescribed
14 in article 5 of this chapter if the person's privilege to operate a motor
15 vehicle has been suspended or revoked due to an alcohol related offense
16 pursuant to any of the following:
17 1. Section 28-1321, if the person meets the criteria of section
18 28-1321, subsection P.
19 2. Section 28-1381, if the person meets the criteria of section
20 28-1381, subsection O and the person presents evidence that is satisfactory
21 to the director and that shows that the person has completed the requirements
22 prescribed in section 28-1387, subsection B.
23 3. Section 28-1382, if the person meets the criteria of section
24 28-1382, subsection H and the person presents evidence that is satisfactory
25 to the director and that shows that the person has completed the requirements
26 prescribed in section 28-1387, subsection B.
27 4. Section 28-1383, if the person meets the criteria of section
28 28-1383, subsection K and the person presents evidence that is satisfactory
29 to the director and that shows that the person has completed the requirements
30 prescribed in section 28-1387, subsection B.
31 5. Section 28-1385, if the person meets the criteria of section
32 28-1385, subsection G.
33 B. An applicant for a special ignition interlock restricted driver
34 license shall pay an application fee in an amount to be determined by the
35 director.
36 C. The department shall issue a special ignition interlock restricted
37 driver license during the period of a court ordered restriction pursuant to
38 sections 28-3320 and 28-3322 subject to the restrictions prescribed in
39 section 28-1402 and the certified ignition interlock requirements prescribed
40 in article 5 of this chapter.
41 D. If the department issues a special ignition interlock restricted
42 driver license, the department shall not delete a suspension or revocation
43 from its records.

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

4 ~~F. The department shall make a notation on a special ignition
5 interlock restricted driver license that is issued to a person who is placed
6 in a continuous alcohol monitoring program pursuant to section 28-3319,
7 subsection I.~~

8 Sec. 2. Section 28-1464, Arizona Revised Statutes, is amended to read:
9 28-1464. Ignition interlock devices; violations;
10 classification; definition

11 ~~A. 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 is required to operate a motor vehicle owned by the person's
14 employer in the course and scope of the person's employment may operate that
15 motor vehicle without the installation of a certified ignition interlock
16 device if the person notifies the person's employer that the person, in
17 conjunction with the person's sentence or if the person has been issued a
18 special ignition interlock restricted driver license pursuant to section
19 28-1402, has specific requirements in order to operate a motor vehicle and
20 the nature of the requirements and the person has proof of the employer's
21 notification in the person's possession while operating the employer's motor
22 vehicle for normal business. For the purposes of this subsection, a motor
23 vehicle that is partly or entirely owned or controlled by the person whose
24 driving privilege is limited pursuant to section 28-1381, 28-1382, 28-1383 or
25 28-3319 or restricted pursuant to section 28-1402 is not a motor vehicle that
26 is owned by an employer.~~

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

32 ~~C.~~ B. A person whose driving privilege is limited pursuant to section
33 28-1381, 28-1382, 28-1383 or 28-3319 or restricted pursuant to section
34 28-1402 and who rents, leases or borrows a motor vehicle from another person
35 shall notify the person who rents, leases or lends the motor vehicle to the
36 person that the person has specific requirements for the operation of the
37 motor vehicle and the nature of the requirements.

38 ~~D.~~ C. During any period when a person whose driving privilege is
39 limited pursuant to section 28-1381, 28-1382, 28-1383 or 28-3319 or
40 restricted pursuant to section 28-1402 is required to operate only a motor
41 vehicle that is equipped with a certified ignition interlock device, the
42 person shall not request or permit any other person to breathe into the
43 ignition interlock device or start a motor vehicle equipped with an ignition
44 interlock device for the purpose of providing the person with an operable
45 motor vehicle.

1 ~~E.~~ D. A person shall not breathe into an ignition interlock device or
2 start a motor vehicle equipped with an ignition interlock device for the
3 purpose of providing an operable motor vehicle to a person whose driving
4 privilege is limited pursuant to section 28-1381, 28-1382, 28-1383 or 28-3319
5 or restricted pursuant to section 28-1402.

6 ~~F.~~ E. A person whose driving privilege is limited pursuant to section
7 28-1381, 28-1382, 28-1383 or 28-3319 or restricted pursuant to section
8 28-1402 shall not tamper with or circumvent the operation of an ignition
9 interlock device.

10 ~~G.~~ F. A person who is not a manufacturer's authorized installer or an
11 agent of a manufacturer's authorized installer and who is not a person whose
12 driving privilege is limited pursuant to section 28-1381, 28-1382, 28-1383 or
13 28-3319 or restricted pursuant to section 28-1402 shall not tamper with or
14 circumvent the operation of an ignition interlock device.

15 ~~H.~~ G. Except ~~as provided in subsection A of this section or~~ in cases
16 of substantial emergency, a person whose driving privilege is limited
17 pursuant to section 28-1381, 28-1382, 28-1383 or 28-3319 or restricted
18 pursuant to section 28-1402 shall not operate a motor vehicle without a
19 functioning certified ignition interlock device during the applicable time
20 period.

21 ~~I.~~ H. If the ignition interlock device is removed from a vehicle by
22 an installer, the installer shall electronically notify the department in a
23 form prescribed by the department that the ignition interlock device has been
24 removed from the vehicle.

25 ~~J.~~ I. If the person does not provide evidence to the department
26 within seventy-two hours that the person has installed a functioning
27 certified ignition interlock device in each vehicle operated by the person
28 and has provided proof of installation to the department, the department
29 shall suspend the special ignition interlock restricted driver license or
30 privilege as prescribed in section 28-1463.

31 ~~K.~~ J. A person who is ordered by the court or required by the
32 department pursuant to section 28-3319 to equip any motor vehicle the person
33 operates with a certified ignition interlock device shall while under arrest
34 submit to any test chosen by a law enforcement officer pursuant to section
35 28-1321, subsection A.

36 ~~L. A person shall comply with the requirements of a continuous alcohol~~
37 ~~monitoring program ordered pursuant to section 28-3319, subsection I.~~

38 ~~M.~~ K. A person who violates this section is guilty of a class 1
39 misdemeanor. Additionally, if a person is convicted of violating subsection
40 ~~A, C, D, F or H~~ B, C, E OR G of this section, the department shall extend the
41 duration of the certified ignition interlock device requirement for not more
42 than one year.

43 ~~N.~~ L. For the purposes of this section, "substantial emergency" means
44 that a person other than the person whose driving privilege is limited
45 pursuant to section 28-1381, 28-1382, 28-1383 or 28-3319 or restricted

1 pursuant to section 28-1402 is not reasonably available to drive in response
2 to an emergency.

3 Sec. 3. Section 28-3319, Arizona Revised Statutes, is amended to read:
4 28-3319. Action after license suspension, revocation or denial
5 for driving under the influence or refusal of test;
6 ignition interlock device requirement; definition

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

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

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

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

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

34 D. Except as provided in subsection G of this section, on receipt of a
35 report of conviction from a court, the department shall require any motor
36 vehicle the convicted person operates to be equipped with a functioning
37 certified ignition interlock device and the convicted person to meet the
38 requirements prescribed in section 28-1461 as follows:

39 1. For twelve months if:

40 (a) Except as provided in subsection H of this section, the person is
41 convicted of a violation of section 28-1381, section 28-1382, subsection A,
42 paragraph 1 or section 28-1383, subsection A, paragraph 3, subdivision (a).

43 (b) The department determines that within a period of eighty-four
44 months the person is convicted of a second or subsequent violation of section
45 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 defer the remainder of the time period
29 prescribed in subsection D, paragraph 1, subdivision (a) of this section
30 commencing with the later of six months from the date the interlock was
31 installed or the completion of the requirements of this subsection if all of
32 the following apply:

33 1. The person is sentenced pursuant to section 28-1381, subsection I.

34 2. The person successfully completes an alcohol education program
35 consisting of at least sixteen hours pursuant to section 28-1381.

36 3. The person has maintained a functioning ignition interlock device
37 on all motor vehicles the person operates and has met the requirements of
38 section 28-1461.

39 4. The person has not attempted to operate a vehicle with an alcohol
40 concentration of 0.08 or more two or more times during the period of license
41 restriction or limitation.

42 5. At the time of the offense, the person was not involved in a motor
43 vehicle accident that resulted in physical injury or property damage.

1 6. All necessary compliance information has been provided to the
2 department by the ignition interlock device provider, the alcohol screening
3 program and the alcohol education program.

4 I. The deferment pursuant to subsection H of this section is
5 permanent, unless the person is arrested for a violation of section 28-1381,
6 28-1382 or 28-1383 that occurs during the period of the deferment. If the
7 person is arrested as described in this subsection, the department shall
8 revoke the deferment and require the person to complete the remainder of the
9 time period prescribed in subsection D, paragraph 1, subdivision (a) of this
10 section.

11 ~~J. On a showing of sufficient medical evidence or an employment
12 requirement, the department may allow a person who is unable to operate an
13 ignition interlock device to be placed in a continuous alcohol monitoring
14 program instead of equipping any motor vehicle the person operates with an
15 ignition interlock device. The person shall bear the cost of all testing,
16 monitoring and enrollment in the continuous alcohol monitoring program. A
17 person who is placed in a continuous alcohol monitoring program pursuant to
18 this subsection shall remain in the program for the same amount of time the
19 person is required to maintain an ignition interlock device. During the
20 period of continuous alcohol monitoring the person shall be tested at a
21 minimum once a day for the use of alcoholic beverages by a scientific method
22 that is chosen by the director. If the person tests positive for alcohol two
23 times, the department shall discontinue the continuous alcohol monitoring and
24 require the person to install a certified ignition interlock device as
25 otherwise provided by law.~~

26 ~~K.~~ J. For the purposes of this section, "certified ignition interlock
27 device" has the same meaning prescribed in section 28-1301.

28 Sec. 4. Section 28-3511, Arizona Revised Statutes, is amended to read:
29 28-3511. Removal and immobilization or impoundment of vehicle

30 A. A peace officer shall cause the removal and either immobilization
31 or impoundment of a vehicle if the peace officer determines that a person is
32 driving the vehicle while any of the following applies:

33 1. Except as otherwise provided in this paragraph, the person's
34 driving privilege is suspended or revoked for any reason. A peace officer
35 shall not cause the removal and either immobilization or impoundment of a
36 vehicle pursuant to this paragraph if the person's privilege to drive is
37 valid in this state.

38 2. The person has not ever been issued a valid driver license or
39 permit by this state and the person does not produce evidence of ever having
40 a valid driver license or permit issued by another jurisdiction. This
41 paragraph does not apply to the operation of an implement of husbandry.

42 3. The person is subject to an ignition interlock device requirement
43 pursuant to chapter 4 of this title and the person is operating a vehicle
44 without a functioning certified ignition interlock device. This paragraph

1 does not apply to ~~a person operating an employer's vehicle or~~ the operation
2 of a vehicle due to a substantial emergency as defined in section 28-1464.

3 4. In furtherance of the illegal presence of an alien in the United
4 States and in violation of a criminal offense, the person is transporting or
5 moving or attempting to transport or move an alien in this state in a vehicle
6 if the person knows or recklessly disregards the fact that the alien has come
7 to, has entered or remains in the United States in violation of law.

8 5. The person is concealing, harboring or shielding or attempting to
9 conceal, harbor or shield from detection an alien in this state in a vehicle
10 if the person knows or recklessly disregards the fact that the alien has come
11 to, entered or remains in the United States in violation of law.

12 B. A peace officer shall cause the removal and impoundment of a
13 vehicle if the peace officer determines that a person is driving the vehicle
14 and if all of the following apply:

15 1. The person's driving privilege is canceled, suspended or revoked
16 for any reason or the person has not ever been issued a driver license or
17 permit by this state and the person does not produce evidence of ever having
18 a driver license or permit issued by another jurisdiction.

19 2. The person is not in compliance with the financial responsibility
20 requirements of chapter 9, article 4 of this title.

21 3. The person is driving a vehicle that is involved in an accident
22 that results in either property damage or injury to or death of another
23 person.

24 C. Except as provided in subsection D of this section, while a peace
25 officer has control of the vehicle the peace officer shall cause the removal
26 and either immobilization or impoundment of the vehicle if the peace officer
27 has probable cause to arrest the driver of the vehicle for a violation of
28 section 4-244, paragraph 34 or section 28-1382 or 28-1383.

29 D. A peace officer shall not cause the removal and either the
30 immobilization or impoundment of a vehicle pursuant to subsection C of this
31 section if all of the following apply:

32 1. The peace officer determines that the vehicle is currently
33 registered and that the driver or the vehicle is in compliance with the
34 financial responsibility requirements of chapter 9, article 4 of this title.

35 2. The spouse of the driver is with the driver at the time of the
36 arrest.

37 3. The peace officer has reasonable grounds to believe that the spouse
38 of the driver:

39 (a) Has a valid driver license.

40 (b) Is not impaired by intoxicating liquor, any drug, a vapor
41 releasing substance containing a toxic substance or any combination of
42 liquor, drugs or vapor releasing substances.

43 (c) Does not have any spirituous liquor in the spouse's body if the
44 spouse is under twenty-one years of age.

1 4. The spouse notifies the peace officer that the spouse will drive
2 the vehicle from the place of arrest to the driver's home or other place of
3 safety.

4 5. The spouse drives the vehicle as prescribed by paragraph 4 of this
5 subsection.

6 E. Except as otherwise provided in this article, a vehicle that is
7 removed and either immobilized or impounded pursuant to subsection A, B or C
8 of this section shall be immobilized or impounded for thirty days. An
9 insurance company does not have a duty to pay any benefits for charges or
10 fees for immobilization or impoundment.

11 F. The owner of a vehicle that is removed and either immobilized or
12 impounded pursuant to subsection A, B or C of this section, the spouse of the
13 owner and each person identified on the department's record with an interest
14 in the vehicle shall be provided with an opportunity for an immobilization or
15 poststorage hearing pursuant to section 28-3514.

16 Sec. 5. Continuous alcohol monitoring program

17 Any person who was allowed by the department of transportation to be in
18 a continuous alcohol monitoring program pursuant to section 28-3319,
19 subsection J, Arizona Revised Statutes, as amended by this act, before the
20 effective date of this act, may continue to be in a continuous alcohol
21 monitoring program instead of equipping the person's motor vehicle with an
22 ignition interlock device for the remainder of the time the person is in
23 compliance with all applicable laws and is required to equip the person's
24 motor vehicle with an ignition interlock device.