

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

CHAPTER 119
HOUSE BILL 2182

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.

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

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

5 Sec. 2. Section 28-1464, Arizona Revised Statutes, is amended to read:
6 28-1464. Ignition interlock devices; violations;
7 classification; definition

8 ~~A. A person whose driving privilege is limited pursuant to section~~
9 ~~28-1381, 28-1382, 28-1383 or 28-3319 or restricted pursuant to section~~
10 ~~28-1402 and who is required to operate a motor vehicle owned by the person's~~
11 ~~employer in the course and scope of the person's employment may operate that~~
12 ~~motor vehicle without the installation of a certified ignition interlock~~
13 ~~device if the person notifies the person's employer that the person, in~~
14 ~~conjunction with the person's sentence or if the person has been issued a~~
15 ~~special ignition interlock restricted driver license pursuant to section~~
16 ~~28-1402, has specific requirements in order to operate a motor vehicle and~~
17 ~~the nature of the requirements and the person has proof of the employer's~~
18 ~~notification in the person's possession while operating the employer's motor~~
19 ~~vehicle for normal business. For the purposes of this subsection, a motor~~
20 ~~vehicle that is partly or entirely owned or controlled by the person whose~~
21 ~~driving privilege is limited pursuant to section 28-1381, 28-1382, 28-1383 or~~
22 ~~28-3319 or restricted pursuant to section 28-1402 is not a motor vehicle that~~
23 ~~is owned by an employer.~~

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

29 ~~C.~~ B. 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 and who rents, leases or borrows a motor vehicle from another person
32 shall notify the person who rents, leases or lends the motor vehicle to the
33 person that the person has specific requirements for the operation of the
34 motor vehicle and the nature of the requirements.

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

43 ~~E.~~ D. A person shall not breathe into an ignition interlock device or
44 start a motor vehicle equipped with an ignition interlock device for the
45 purpose of providing an operable motor vehicle to a person whose driving

1 privilege is limited pursuant to section 28-1381, 28-1382, 28-1383 or 28-3319
2 or restricted pursuant to section 28-1402.

3 ~~F.~~ E. A person whose 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 shall not tamper with or circumvent the operation of an ignition
6 interlock device.

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

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

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

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

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

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

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

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

45 Sec. 3. Section 28-3319, Arizona Revised Statutes, is amended to read:

1 28-3319. Action after license suspension, revocation or denial
2 for driving under the influence or refusal of test:
3 ignition interlock device requirement; definition

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

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

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

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

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

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

36 1. For twelve months if:

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

40 (b) The department determines that within a period of eighty-four
41 months the person is convicted of a second or subsequent violation of section
42 28-1381 or section 28-1382, subsection A, paragraph 1 with a prior conviction
43 of a violation of section 28-1381, 28-1382 or 28-1383 or an act in another
44 jurisdiction that if committed in this state would be a violation of section
45 28-1381, 28-1382 or 28-1383.

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

3 3. For twenty-four months if:

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

10 (b) The person is convicted of a violation of section 28-1383,
11 subsection A, paragraph 1, 2 or 4 or paragraph 3, subdivision (b).

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

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

19 G. The department shall remove the requirement that the person
20 maintain a functioning certified ignition interlock device if the person is
21 only convicted of a violation of section 28-1381, subsection A, paragraph 3
22 and completes alcohol or other drug screening required pursuant to section
23 28-1387 and the court determines that no alcohol education or treatment is
24 required.

25 H. The department shall defer the remainder of the time period
26 prescribed in subsection D, paragraph 1, subdivision (a) of this section
27 commencing with the later of six months from the date the interlock was
28 installed or the completion of the requirements of this subsection if all of
29 the following apply:

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

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

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

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

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

41 6. All necessary compliance information has been provided to the
42 department by the ignition interlock device provider, the alcohol screening
43 program and the alcohol education program.

44 I. The deferment pursuant to subsection H of this section is
45 permanent, unless the person is arrested for a violation of section 28-1381,
46 28-1382 or 28-1383 that occurs during the period of the deferment. If the

1 person is arrested as described in this subsection, the department shall
2 revoke the deferment and require the person to complete the remainder of the
3 time period prescribed in subsection D, paragraph 1, subdivision (a) of this
4 section.

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

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

22 Sec. 4. Section 28-3511, Arizona Revised Statutes, is amended to read:
23 28-3511. Removal and immobilization or impoundment of vehicle

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

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

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

36 3. The person is subject to an ignition interlock device requirement
37 pursuant to chapter 4 of this title and the person is operating a vehicle
38 without a functioning certified ignition interlock device. This paragraph
39 does not apply to ~~a person operating an employer's vehicle or~~ the operation
40 of a vehicle due to a substantial emergency as defined in section 28-1464.

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

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

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

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

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

14 3. The person is driving a vehicle that is involved in an accident
15 that results in either property damage or injury to or death of another
16 person.

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

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

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

28 2. The spouse of the driver is with the driver at the time of the
29 arrest.

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

32 (a) Has a valid driver license.

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

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

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

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

43 E. Except as otherwise provided in this article, a vehicle that is
44 removed and either immobilized or impounded pursuant to subsection A, B or C
45 of this section shall be immobilized or impounded for thirty days. An

1 insurance company does not have a duty to pay any benefits for charges or
2 fees for immobilization or impoundment.

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

8 Sec. 5. Continuous alcohol monitoring program

9 Any person who was allowed by the department of transportation to be in
10 a continuous alcohol monitoring program pursuant to section 28-3319,
11 subsection J, Arizona Revised Statutes, as amended by this act, before the
12 effective date of this act, may continue to be in a continuous alcohol
13 monitoring program instead of equipping the person's motor vehicle with an
14 ignition interlock device for the remainder of the time the person is in
15 compliance with all applicable laws and is required to equip the person's
16 motor vehicle with an ignition interlock device.

APPROVED BY THE GOVERNOR APRIL 17, 2013.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 17, 2013.