

State of Arizona
Senate
Fifty-third Legislature
First Regular Session
2017

CHAPTER 331
SENATE BILL 1150

AN ACT

AMENDING SECTIONS 28-1301, 28-1403, 28-1441, 28-1461, 28-1462, 28-1463, 28-1464, 28-1465 AND 28-1467, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 4, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 28-1468 AND 28-1469; AMENDING SECTION 28-4848, ARIZONA REVISED STATUTES; RELATING TO IGNITION INTERLOCK DEVICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 28-1301, Arizona Revised Statutes, is amended to
3 read:

4 28-1301. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Certified ignition interlock device" means an ignition
7 interlock device that is certified pursuant to article 5 of this chapter.

8 2. "Commercial motor vehicle" means a motor vehicle or combination
9 of motor vehicles used to transport passengers or property if the motor
10 vehicle either:

11 (a) Has a gross combined weight rating of twenty-six thousand one
12 or more pounds inclusive of a towed unit with a gross vehicle weight
13 rating of more than ten thousand pounds.

14 (b) Has a gross vehicle weight rating of twenty-six thousand one or
15 more pounds.

16 (c) Is a school bus.

17 (d) Is a bus.

18 (e) Is used in the transportation of materials found to be
19 hazardous for the purposes of the hazardous materials transportation act
20 (49 United States Code sections 5101 through 5127) and is required to be
21 placarded under 49 Code of Federal Regulations section 172.504, as adopted
22 by the department pursuant to chapter 14 of this title.

23 3. "Education" means a program in which a person participates in at
24 least sixteen hours of classroom instruction relating to alcohol or other
25 drugs.

26 4. "Ignition interlock device" means a device that is based on
27 alcohol specific electrochemical fuel sensor technology that meets the
28 national highway traffic safety administration specifications, that
29 connects a breath analyzer to a motor vehicle's ignition system, that is
30 constantly available to monitor the concentration by weight of alcohol in
31 the breath of any person attempting to start the motor vehicle by using
32 its ignition system and that deters starting the motor vehicle by use of
33 its ignition system unless the person attempting to start the motor
34 vehicle provides an appropriate breath sample for the device and the
35 device determines that the concentration by weight of alcohol in the
36 person's breath is below a preset level.

37 5. ~~Installer~~ **IGNITION INTERLOCK SERVICE PROVIDER** means a person
38 who is ~~certified by~~ **AN AUTHORIZED REPRESENTATIVE OF A MANUFACTURER AND WHO**
39 **IS UNDER CONTRACT WITH** the department to install **OR OVERSEE THE**
40 **INSTALLATION OF** ignition interlock devices **BY THE PROVIDER'S AUTHORIZED**
41 **AGENTS OR SUBCONTRACTORS** and **TO** provide services to the public related to
42 ignition interlock devices.

43 6. "License" means any license, temporary instruction permit or
44 temporary license issued under the laws of this state or any other state
45 pertaining to the licensing of persons to operate motor vehicles.

1 Sec. 3. Section 28-1441, Arizona Revised Statutes, is amended to
2 read:

3 28-1441. Driving under the influence; records

4 A. The court shall maintain and make accessible to the general
5 public all records regarding the disposition of cases in which a person is
6 charged with a violation of section 28-1381, 28-1382 or 28-1383. The
7 court shall include in these records an explanation of its reasons for
8 accepting any plea agreement or dismissing any charge of a violation of
9 section 28-1381, 28-1382 or 28-1383.

10 B. As determined to be necessary by the director, the department
11 shall maintain and make accessible to ~~certified~~ ignition interlock
12 ~~installers~~ SERVICE PROVIDERS limited motor vehicle and driver records
13 information for the purpose of determining the eligibility of a person
14 requesting installation of a certified ignition interlock device. The
15 department shall not charge a fee for providing this information to the
16 ignition interlock ~~installer~~ SERVICE PROVIDER.

17 Sec. 4. Section 28-1461, Arizona Revised Statutes, is amended to
18 read:

19 28-1461. Use of certified ignition interlock devices;
20 reporting

21 A. If a person's driving privilege is limited pursuant to section
22 28-1381, 28-1382, 28-1383 or 28-3319 or restricted pursuant to section
23 28-1402:

24 1. The person shall:

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

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

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

33 (d) Provide proof of ~~inspection~~ CALIBRATION of the certified
34 ignition interlock device ~~for accurate operation and the results of the~~
35 ~~inspection~~ to the department at least once every ninety days during the
36 period the person is ordered to use an ignition interlock device.

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

42 B. While a person maintains a functioning certified ignition
43 interlock device in a vehicle pursuant to this chapter, each time an
44 ~~installer~~ IGNITION INTERLOCK SERVICE PROVIDER obtains information recorded
45 by a certified ignition interlock device the ~~installer~~ IGNITION INTERLOCK

1 SERVICE PROVIDER shall electronically provide to the IGNITION INTERLOCK
2 MANUFACTURER IN REAL TIME AND TRANSMITTED DAILY TO THE department in a
3 form prescribed by the department the following information:

4 1. Any tampering or circumvention.

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

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

12 C. If the person is under eighteen years of age, the ~~installer~~
13 IGNITION INTERLOCK SERVICE PROVIDER shall also provide to the person's
14 parent or legal guardian the information prescribed in subsection B of
15 this section.

16 D. On request, the ~~installer~~ IGNITION INTERLOCK SERVICE PROVIDER
17 shall provide the information prescribed in subsection B of this section
18 to:

19 1. The department of health services authorized provider.

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

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

26 4. The court.

27 E. The department shall extend an ignition interlock restricted or
28 limited driver license and the certified ignition interlock device period
29 for six months if the department has reasonable grounds to believe that
30 any of the following applies:

31 1. The person tampered with or circumvented the certified ignition
32 interlock device.

33 2. The person attempted to operate the vehicle with an alcohol
34 concentration exceeding the presumptive limit as prescribed in section
35 28-1381, subsection G, paragraph 3, two or more times during the period of
36 license restriction or limitation.

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

40 4. The person failed to provide proof of compliance or inspection
41 as prescribed in this section.

42 5. The person attempts to operate the vehicle with an alcohol
43 concentration of 0.08 or more during a six month extension pursuant to
44 this subsection.

1 F. If the special ignition interlock restricted license is extended
2 pursuant to subsection E of this section, the limitations prescribed in
3 sections 28-1381, 28-1382, 28-1383 and 28-3319 do not begin until the
4 restrictive period of the license ends.

5 G. The department shall make a notation on the driving record of a
6 person whose driving privilege is limited pursuant to section 28-1381,
7 28-1382, 28-1383, 28-1385 or 28-3319 or restricted pursuant to section
8 28-1402 that states that the person shall not operate a motor vehicle
9 unless it is equipped with a certified ignition interlock device. **UNLESS**
10 **THE PERSON IS CONVICTED OF A SECOND OR SUBSEQUENT VIOLATION OF SECTION**
11 **28-1381, 28-1382 OR 28-1383, THE NOTATION MAY NOT INCLUDE ANY MARK, COLOR**
12 **CHANGE OR OTHER NOTATION OR INDICATION ON THE PERSON'S PHYSICAL DRIVER**
13 **LICENSE.**

14 H. Proof of compliance does not include a skipped or missed random
15 sample if the motor vehicle's ignition is off at the time of the skipped
16 or missed sample.

17 Sec. 5. Section 28-1462, Arizona Revised Statutes, is amended to
18 read:

19 **28-1462. Ignition interlock device certification and**
20 **decertification; service provider bonds**

21 A. After consulting with the director of the department of public
22 safety, the assistant director for the motor vehicle division of the
23 department of transportation shall:

- 24 1. Certify ignition interlock devices.
- 25 2. Publish a list of certified ignition interlock devices that
26 includes information about the manufacturers of the devices and where the
27 devices may be ordered.
- 28 3. Make the list available to the courts and probation departments
29 without charge.

30 **4. ESTABLISH STANDARDS AND QUALIFICATIONS FOR TECHNICIANS.**

31 B. The assistant director shall adopt rules prescribing the
32 requirements for certification **AND DECERTIFICATION** of an ignition
33 interlock device. These rules shall include:

- 34 1. The procedure for certification of ignition interlock devices.
- 35 2. Provisions to ensure the reliability of the ignition interlock
36 device over the range of motor vehicle environments.
- 37 3. Provisions to ensure that the ignition interlock device works
38 accurately in an unsupervised environment.

39 **4. THE PROCEDURE FOR DECERTIFICATION OF AN IGNITION INTERLOCK**
40 **DEVICE FOR CAUSE.**

41 C. The assistant director shall not certify an ignition interlock
42 device unless all of the following are satisfied:

- 43 1. The device requires a deep-lung breath sample or another
44 accurate measure of the concentration by weight of alcohol in the breath.

1 2. The device is made by a manufacturer that is covered by product
2 liability insurance IN THE AMOUNT OF ONE MILLION DOLLARS PER EVENT AND
3 THREE MILLION DOLLARS IN THE AGGREGATE.

4 3. The manufacturer of the device indemnifies this state against
5 any liability that may result from the use of the device.

6 4. THE DEVICE MEETS OR EXCEEDS THE 2013 NATIONAL HIGHWAY TRAFFIC
7 SAFETY ADMINISTRATION STANDARDS, INCLUDING THE ABILITY TO WIRELESSLY
8 TRANSMIT AND RECEIVE INFORMATION, TAKE A DIGITAL IMAGE AND INCLUDE THE
9 GLOBAL POSITIONING SYSTEM LOCATION OF THE DEVICE AT THE TIME OF A
10 REQUESTED TEST.

11 D. The assistant director may adopt, in whole or in part, the
12 guidelines, rules, regulations, studies or independent laboratory tests
13 performed and relied on by other states or agencies or commissions of
14 other states in the certification or approval of ignition interlock
15 devices.

16 E. Each ~~installer of~~ IGNITION INTERLOCK SERVICE PROVIDER WHO
17 INSTALLS a certified ignition interlock device shall submit to the
18 department a bond in a form to be approved by the assistant director and
19 in an amount of at least ~~twenty-five~~ TWO HUNDRED thousand dollars. The
20 bond inures to the benefit of any person who is ordered or required to
21 equip a motor vehicle with an ignition interlock device pursuant to
22 article 3 of this chapter or section 28-3319 and who suffers a loss
23 because of either of the following:

24 1. Insolvency or discontinuance of business of the ~~installer of~~
25 IGNITION INTERLOCK SERVICE PROVIDER WHO INSTALLED the device.

26 2. Failure of the ~~installer or agent of the installer~~ IGNITION
27 INTERLOCK SERVICE PROVIDER OR AGENT OR SUBCONTRACTOR OF THE IGNITION
28 INTERLOCK SERVICE PROVIDER to comply with any PROVISION OF A CONTRACT THAT
29 IS REQUIRED PURSUANT TO SECTION 28-1468 OR ANY rule adopted pursuant to
30 this section.

31 F. The assistant director shall adopt a warning label design to be
32 affixed to each certified ignition interlock device on installation. The
33 label shall contain a warning that a person tampering with, circumventing
34 or otherwise misusing the ignition interlock device is guilty of a class 1
35 misdemeanor.

36 G. After consultation with the director of the department of public
37 safety, the assistant director may include information the assistant
38 director deems necessary in the notice prescribed in section 28-3318
39 regarding certified ignition interlock devices.

40 H. AN IGNITION INTERLOCK SERVICE PROVIDER SHALL COLLECT A FEE FOR
41 EACH CERTIFIED IGNITION INTERLOCK THAT IS INSTALLED BY THE PROVIDER IN AN
42 AMOUNT THAT IS DETERMINED BY THE DIRECTOR. THE IGNITION INTERLOCK SERVICE
43 PROVIDER SHALL REMIT THE COLLECTED FEES TO THE DEPARTMENT ON A MONTHLY
44 BASIS AND IN A MANNER ESTABLISHED BY THE DEPARTMENT. THE DEPARTMENT SHALL

1 DEPOSIT THE FEES IN THE IGNITION INTERLOCK DEVICE FUND ESTABLISHED BY
2 SECTION 28-1469.

3 Sec. 6. Section 28-1463, Arizona Revised Statutes, is amended to
4 read:

5 28-1463. Proof of compliance; suspension; hearings

6 A. If a person whose driving privilege is limited pursuant to
7 section 28-1381, 28-1382, 28-1383 or 28-3319 or restricted pursuant to
8 section 28-1402 does not submit proof of compliance to the department as
9 prescribed in section 28-1461, the department shall suspend the person's
10 driving privilege until proof of compliance is submitted to the
11 department. Unless a different time period is specified PURSUANT TO
12 SECTION 28-3319, SUBSECTION D, the department shall require use of the
13 certified ignition interlock device for one year from the date the person
14 submits proof of compliance as prescribed in section 28-1461. If a person
15 does not request a hearing pursuant to subsection B of this section, the
16 department shall immediately suspend the person's driver license.

17 B. A person whose driver license is suspended pursuant to this
18 section may submit a written request for a hearing. The written request
19 must be received by the department within fifteen days after the date of
20 the order of suspension. On receipt of a request for a hearing, a hearing
21 shall be held within thirty days.

22 C. A timely request for a hearing stays the suspension until a
23 hearing is held, except that the department shall not return any
24 surrendered driver license or permit to the person but may issue temporary
25 permits to drive that expire no later than when the department has made
26 its final decision.

27 D. Hearings requested pursuant to this section shall be conducted
28 in the same manner and under the same conditions as provided in section
29 28-3306. For the purposes of this section, the scope of the hearing shall
30 include only the following issues:

31 1. Whether the person was ordered or required to equip a motor
32 vehicle with an ignition interlock device pursuant to article 3 or 3.1 of
33 this chapter or section 28-3319.

34 2. Whether the person submitted proof of compliance or ~~inspection~~
35 CALIBRATION pursuant to section 28-1461.

36 Sec. 7. Section 28-1464, Arizona Revised Statutes, is amended to
37 read:

38 28-1464. Ignition interlock devices; violations;
39 classification; definition

40 A. Except in cases of a substantial emergency, a person shall not
41 knowingly rent, lease or lend a motor vehicle to a person whose driving
42 privilege is limited pursuant to section 28-1381, 28-1382, 28-1383 or
43 28-3319 or restricted pursuant to section 28-1402 unless the motor vehicle
44 is equipped with a functioning certified ignition interlock device.

1 B. A person whose driving privilege is limited pursuant to section
2 28-1381, 28-1382, 28-1383 or 28-3319 or restricted pursuant to section
3 28-1402 and who rents, leases or borrows a motor vehicle from another
4 person shall notify the person who rents, leases or lends the motor
5 vehicle to the person that the person has specific requirements for the
6 operation of the motor vehicle and the nature of the requirements.

7 C. During any period when a person whose driving privilege is
8 limited pursuant to section 28-1381, 28-1382, 28-1383 or 28-3319 or
9 restricted pursuant to section 28-1402 is required to operate only a motor
10 vehicle that is equipped with a certified ignition interlock device, the
11 person shall not request or permit any other person to breathe into the
12 ignition interlock device or start a motor vehicle equipped with an
13 ignition interlock device for the purpose of providing the person with an
14 operable motor vehicle.

15 D. A person shall not breathe into an ignition interlock device or
16 start a motor vehicle equipped with an ignition interlock device for the
17 purpose of providing an operable motor vehicle to a person whose driving
18 privilege is limited pursuant to section 28-1381, 28-1382, 28-1383 or
19 28-3319 or restricted pursuant to section 28-1402.

20 E. A person whose driving privilege is limited pursuant to section
21 28-1381, 28-1382, 28-1383 or 28-3319 or restricted pursuant to section
22 28-1402 shall not tamper with or circumvent the operation of an ignition
23 interlock device.

24 F. A person who is not ~~a manufacturer's authorized installer~~ AN
25 IGNITION INTERLOCK SERVICE PROVIDER or an agent OR SUBCONTRACTOR of
26 ~~a manufacturer's authorized installer~~ AN IGNITION INTERLOCK SERVICE
27 PROVIDER and who is not a person whose driving privilege is limited
28 pursuant to section 28-1381, 28-1382, 28-1383 or 28-3319 or restricted
29 pursuant to section 28-1402 shall not tamper with or circumvent the
30 operation of an ignition interlock device.

31 G. Except in cases of substantial emergency, a person whose driving
32 privilege is limited pursuant to section 28-1381, 28-1382, 28-1383 or
33 28-3319 or restricted pursuant to section 28-1402 shall not operate a
34 motor vehicle without a functioning certified ignition interlock device
35 during the applicable time period.

36 H. If the ignition interlock device is removed from a vehicle by an
37 ~~installer~~ IGNITION INTERLOCK SERVICE PROVIDER, the ~~installer~~ IGNITION
38 INTERLOCK SERVICE PROVIDER shall electronically notify the department in a
39 form prescribed by the department that the ignition interlock device has
40 been removed from the vehicle.

41 I. If the person does not provide evidence to the department within
42 seventy-two hours that the person has installed a functioning certified
43 ignition interlock device in each vehicle operated by the person and has
44 provided proof of installation to the department, the department shall

1 suspend the special ignition interlock restricted driver license or
2 privilege as prescribed in section 28-1463.

3 J. A person who is ordered by the court or required by the
4 department pursuant to section 28-3319 to equip any motor vehicle the
5 person operates with a certified ignition interlock device shall while
6 under arrest submit to any test chosen by a law enforcement officer
7 pursuant to section 28-1321, subsection A.

8 K. A person who violates this section is guilty of a class 1
9 misdemeanor. Additionally, if a person is convicted of violating
10 subsection B, C, E or G of this section, the department shall extend the
11 duration of the certified ignition interlock device requirement for not
12 more than one year.

13 L. For the purposes of this section, "substantial emergency" means
14 that a person other than the person whose driving privilege is limited
15 pursuant to section 28-1381, 28-1382, 28-1383 or 28-3319 or restricted
16 pursuant to section 28-1402 is not reasonably available to drive in
17 response to an emergency.

18 Sec. 8. Section 28-1465, Arizona Revised Statutes, is amended to
19 read:

20 28-1465. Rule making; manufacturers and ignition interlock
21 service providers; civil penalty

22 The director shall adopt rules pursuant to title 41, chapter 6 as
23 the director deems necessary for the administration and enforcement of
24 this article ~~and certification and decertification of ignition interlock~~
25 ~~device manufacturers and installers~~, including a rule that permits the
26 director to impose a civil penalty against **A MANUFACTURER OF A CERTIFIED**
27 **IGNITION INTERLOCK DEVICE OR** an ignition interlock ~~manufacturer or~~
28 ~~installer~~ **SERVICE PROVIDER** who fails to properly report ignition interlock
29 data to the director in the manner prescribed by the director. Any monies
30 collected from civil penalties imposed for a failure to report ignition
31 interlock data shall be deposited in the driving under the influence
32 abatement fund established by section 28-1304.

33 Sec. 9. Section 28-1467, Arizona Revised Statutes, is amended to
34 read:

35 28-1467. Ignition interlock service provider contracts:
36 cancellation; notice

37 If the director cancels an ~~installer's or manufacturer's~~
38 ~~certification~~ **IGNITION INTERLOCK SERVICE PROVIDER'S CONTRACT** pursuant to a
39 rule adopted by the director, the director shall notify each person with
40 an ignition interlock device from the ~~installer~~ **IGNITION INTERLOCK SERVICE**
41 **PROVIDER** that the person has thirty days to obtain another ~~installer~~
42 **IGNITION INTERLOCK SERVICE PROVIDER**.

1 Sec. 10. Title 28, chapter 4, article 5, Arizona Revised Statutes,
2 is amended by adding sections 28-1468 and 28-1469 to read:

3 28-1468. Ignition interlock service provider application;
4 denial; appeal; contract requirements; cease and
5 desist order

6 A. AN APPLICATION FOR AUTHORIZATION OF AN IGNITION INTERLOCK
7 SERVICE PROVIDER CONTRACT MUST BE SUBMITTED TO THE DIRECTOR IN WRITING AND
8 ON A FORM PRESCRIBED AND FURNISHED BY THE DIRECTOR. THE PERSON SHALL
9 INCLUDE WITH THE APPLICATION ALL DOCUMENTS AND FEES PRESCRIBED BY THE
10 DIRECTOR.

11 B. THE APPLICATION SHALL BE VERIFIED AND MUST CONTAIN:

12 1. THE NAME AND RESIDENCE ADDRESS OF THE APPLICANT, THE NAME AND
13 RESIDENCE ADDRESS OF EACH PARTNER IF THE APPLICANT IS A PARTNERSHIP OR THE
14 NAME AND RESIDENCE ADDRESS OF EACH PRINCIPAL OFFICER IF THE APPLICANT IS A
15 CORPORATION.

16 2. THE APPLICANT'S PRINCIPAL PLACE OF BUSINESS.

17 3. THE LOCATION OR PLANNED LOCATION FOR EACH PLACE OF BUSINESS AT
18 OR FROM WHICH THE BUSINESS IS TO BE CONDUCTED.

19 4. ANY OTHER INFORMATION THE DIRECTOR REQUIRES.

20 C. THE DIRECTOR MAY APPROVE AN APPLICATION FOR AUTHORIZATION OF A
21 CONTRACT IF THE DIRECTOR DETERMINES THAT THE REQUIREMENTS OF THIS ARTICLE
22 ARE MET.

23 D. THE DIRECTOR MAY DENY AN APPLICATION FOR AUTHORIZATION OF A
24 CONTRACT IF ANY PERSON INCLUDED IN THE APPLICATION HAS:

25 1. MADE A MISREPRESENTATION OR MISSTATEMENT IN THE APPLICATION TO
26 CONCEAL A MATTER THAT WOULD CAUSE THE APPLICATION TO BE DENIED.

27 2. BEEN CONVICTED OF A CLASS 1, 2, 3 OR 4 FELONY OR A CRIME OF
28 MORAL TURPITUDE, BREACH OF TRUST, FRAUD, THEFT OR DISHONESTY IN ANY
29 JURISDICTION OR ANY FOREIGN COUNTRY WITHIN TEN YEARS BEFORE THE DATE OF
30 THE APPLICATION.

31 3. BEEN CONVICTED OF ANY CRIMINAL ACT, OTHER THAN A CRIME DESCRIBED
32 IN PARAGRAPH 2 OF THIS SUBSECTION, IN ANY JURISDICTION OR A FOREIGN
33 COUNTRY WITHIN FIVE YEARS BEFORE THE DATE OF THE APPLICATION.

34 4. BEEN INVOLVED IN ANY ACTIVITY THAT THE DIRECTOR DETERMINES TO BE
35 INAPPROPRIATE IN RELATION TO THE AUTHORITY GRANTED.

36 E. THE DIRECTOR MAY DENY AN APPLICATION FOR AUTHORIZATION OF AN
37 IGNITION INTERLOCK SERVICE PROVIDER CONTRACT UNDER THIS ARTICLE AND, IF
38 DENIED, SHALL NOTIFY THE APPLICANT IN WRITING WITHIN TWENTY DAYS AFTER THE
39 DENIAL AND OF THE GROUNDS FOR THE DENIAL IF THE DIRECTOR DETERMINES THAT
40 ANY OF THE FOLLOWING APPLIES:

41 1. THE APPLICANT IS NOT ELIGIBLE FOR AN IGNITION INTERLOCK SERVICE
42 PROVIDER CONTRACT UNDER THIS ARTICLE.

43 2. THE APPLICATION IS NOT MADE IN GOOD FAITH.

44 3. THE APPLICATION CONTAINS A MATERIAL MISREPRESENTATION OR
45 MISSTATEMENT.

1 4. THE APPLICANT HAS NOT MET THE REQUIREMENTS OF THIS CHAPTER.
2 F. AN APPLICANT WHOSE APPLICATION IS DENIED MAY MAKE A WRITTEN
3 REQUEST TO THE DEPARTMENT FOR A HEARING ON THE DENIAL OF THE APPLICATION
4 WITHIN THIRTY DAYS AFTER THE NOTICE OF DENIAL. IF THE APPLICANT DOES NOT
5 REQUEST A HEARING WITHIN THIRTY DAYS, THE DENIAL IS FINAL.
6 G. IF THE APPLICANT REQUESTS A HEARING, THE DIRECTOR SHALL PROVIDE
7 WRITTEN OR ELECTRONIC NOTICE TO THE APPLICANT TO APPEAR AT A HEARING TO
8 SHOW CAUSE WHY THE DENIAL OF THE APPLICANT'S APPLICATION SHOULD NOT BE
9 UPHELD. AFTER CONSIDERATION OF THE EVIDENCE PRESENTED AT THE HEARING, THE
10 DIRECTOR SHALL ISSUE A WRITTEN DECISION AND ORDER.
11 H. IF THE APPLICATION IS DENIED, THE APPLICANT MAY APPEAL THE
12 DECISION PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6.
13 I. IF THE DIRECTOR AUTHORIZES AN IGNITION INTERLOCK SERVICE
14 PROVIDER'S APPLICATION FOR A CONTRACT, THE IGNITION INTERLOCK SERVICE
15 PROVIDER'S CONTRACT WITH THE DEPARTMENT MUST MEET OR EXCEED THE
16 REQUIREMENTS IN THIS SECTION, BE FOR A TERM OF AT LEAST THREE YEARS AND
17 INCLUDE ALL OF THE FOLLOWING PROVISIONS AND REQUIREMENTS:
18 1. REQUIRE THE PROVIDER TO HAVE A SUFFICIENT NUMBER OF IGNITION
19 INTERLOCK SERVICE LOCATIONS IN ALL COUNTIES AND DESIGNATED POPULATION
20 CENTERS IN THIS STATE. THE DEPARTMENT SHALL ESTABLISH DESIGNATED
21 POPULATION AREAS AND THE NUMBER OF LOCATIONS REQUIRED FOR A SUFFICIENT
22 NUMBER BASED ON THE AVERAGE NUMBER OF CERTIFIED IGNITION INTERLOCK DEVICE
23 INSTALLATIONS IN EACH COUNTY IN THIS STATE SINCE JULY 1, 2008.
24 2. IGNITION INTERLOCK DEVICES MUST BE EFFECTIVELY AND EFFICIENTLY
25 INSTALLED, CALIBRATED AND REMOVED.
26 3. IGNITION INTERLOCK DEVICES MUST BE SERVICED, INSPECTED AND
27 MONITORED.
28 4. THE IGNITION INTERLOCK SERVICE PROVIDER MUST ELECTRONICALLY
29 TRANSMIT REPORTS TO THE DEPARTMENT, IN A FORMAT THAT IS DETERMINED BY THE
30 DEPARTMENT AND THAT INCLUDES ANY OF THE FOLLOWING:
31 (a) DRIVER ACTIVITY.
32 (b) BYPASS APPROVAL.
33 (c) COMPLIANCE.
34 (d) CLIENT VIOLATIONS.
35 (e) UNIQUE IDENTIFYING NUMBERS FOR EACH DEVICE.
36 (f) UNIQUE EMPLOYEE NUMBERS IDENTIFYING THE PERSON WHO INSTALLED OR
37 REMOVED AN IGNITION INTERLOCK DEVICE.
38 5. A DETAILED IMPLEMENTATION PLAN THAT OUTLINES THE STEPS AND THE
39 TIME FRAMES NECESSARY FOR THE IGNITION INTERLOCK SERVICE PROVIDER TO BE
40 FULLY OPERATIONAL.
41 6. THE IGNITION INTERLOCK SERVICE PROVIDER MUST COLLECT AND REMIT
42 ALL APPLICABLE FEES AND TAXES TO THE APPROPRIATE GOVERNMENT ENTITY.
43 7. IF THE IGNITION INTERLOCK SERVICE PROVIDER IS OUT OF COMPLIANCE,
44 CORRECTIVE ACTIONS THAT WILL BE TAKEN, INCLUDING PENALTY PROVISIONS AND
45 LIQUIDATED DAMAGES.

1 8. THE IGNITION INTERLOCK DEVICE MUST HAVE SECURITY PROTECTIONS,
2 INCLUDING EACH DEVICE HAVING THE CAPABILITY TO RECORD EACH EVENT AND
3 PROVIDE VISUAL EVIDENCE OF ANY ACTUAL OR ATTEMPTED TAMPERING, ALTERATION,
4 BYPASS OR CIRCUMVENTION.

5 9. THE IGNITION INTERLOCK SERVICE PROVIDER WILL PROCESS THE
6 TRANSITION AND ENSURE THAT CONTINUOUS MONITORING OCCURS IF AN IGNITION
7 INTERLOCK DEVICE CLIENT REQUIRES TRANSITION OF SERVICES.

8 10. THE IGNITION INTERLOCK SERVICE PROVIDER WILL SELF-CERTIFY,
9 COMPLETE BACKGROUND CHECKS AND TRAIN TECHNICIANS IN COMPLIANCE WITH THE
10 RULES ADOPTED BY THE DEPARTMENT.

11 11. THE IGNITION INTERLOCK SERVICE PROVIDER MUST MAINTAIN AT LEAST
12 ONE READILY ACCESSIBLE SERVICE CENTER IN EACH COUNTY IN THIS STATE. EACH
13 SERVICE CENTER MUST BE ADEQUATELY STAFFED AND EQUIPPED TO PROVIDE ALL
14 IGNITION INTERLOCK DEVICE SUPPORT SERVICES. MOBILE SERVICE OPERATIONS
15 BASED AT A SERVICE CENTER ARE PERMITTED, EXCEPT THAT A TOW TRUCK MAY NOT
16 BE USED FOR MOBILE SERVICE. A SERVICE CENTER MAY NOT PROVIDE SERVICES FOR
17 MORE THAN ONE IGNITION INTERLOCK SERVICE PROVIDER.

18 12. THE IGNITION INTERLOCK SERVICE PROVIDER MUST TRAIN CLIENTS ON
19 HOW TO USE THE IGNITION INTERLOCK DEVICE.

20 13. A TRANSITION PLAN THAT WILL ENSURE CONTINUOUS MONITORING IS
21 ACHIEVED IF THE IGNITION INTERLOCK SERVICE PROVIDER LEAVES THIS STATE.

22 14. REQUIRE THE IGNITION INTERLOCK SERVICE PROVIDER TO HAVE AND
23 MAINTAIN INSURANCE THAT IS APPROVED BY THE DEPARTMENT.

24 15. A PROCEDURE FOR PROGRESSIVE DISCIPLINE OF AN EMPLOYEE, AGENT OR
25 SUBCONTRACTOR OF AN IGNITION INTERLOCK SERVICE PROVIDER WHO FAILS TO
26 COMPLY WITH THE REQUIREMENTS OF THIS CHAPTER OR OF THE IGNITION INTERLOCK
27 SERVICE PROVIDER CONTRACT.

28 16. REQUIRE CLIENT INFORMATION AND FINANCIAL RECORDS TO BE
29 MAINTAINED AT A COMMERCIAL BUSINESS LOCATION IN THIS STATE THAT IS NOT A
30 RESIDENCE AND THAT HAS POSTED BUSINESS HOURS WHERE THE DEPARTMENT MAY
31 ACCESS THE RECORDS. ON TERMINATION OR EXPIRATION OF THE CONTRACT, THE
32 IGNITION INTERLOCK SERVICE PROVIDER MUST SUBMIT ALL CLIENT INFORMATION TO
33 THE DEPARTMENT.

34 17. THE IGNITION INTERLOCK SERVICE PROVIDER MAY NOT CHARGE A CLIENT
35 TO REPLACE A DEFECTIVE IGNITION INTERLOCK DEVICE.

36 18. THE IGNITION INTERLOCK DEVICE MUST TAKE A DIGITAL IMAGE
37 IDENTIFYING THE CLIENT WHO IS PROVIDING THE BREATH SAMPLE AND THE DIGITAL
38 IMAGE MUST INCLUDE THE DATE AND TIME THAT THE BREATH SAMPLE WAS PROVIDED.

39 19. THE IGNITION INTERLOCK SERVICE PROVIDER MUST COMPLY WITH ALL
40 COUNTY AND MUNICIPAL ZONING REGULATIONS FOR COMMERCIAL BUSINESSES AND
41 PROVIDE A CORRESPONDING BUSINESS LICENSE TO THE DEPARTMENT.

42 20. THE IGNITION INTERLOCK SERVICE PROVIDER MUST CLEARLY POST ALL
43 CLIENT FEES FOR THE INSTALLATION, REMOVAL AND INSPECTION OF THE CERTIFIED
44 IGNITION INTERLOCK DEVICE.

1 J. IF THE DIRECTOR HAS REASONABLE CAUSE TO BELIEVE THAT A PERSON
2 WHO IS A PARTY TO AN IGNITION INTERLOCK SERVICE PROVIDER CONTRACT PURSUANT
3 TO THIS ARTICLE IS VIOLATING ANY PROVISION OF THIS CHAPTER, THE DIRECTOR
4 SHALL IMMEDIATELY ISSUE AND MAIL A CEASE AND DESIST ORDER TO THE PERSON'S
5 LAST KNOWN ADDRESS.

6 K. ON RECEIPT OF THE CEASE AND DESIST ORDER, THE PERSON SHALL
7 IMMEDIATELY CEASE AND DESIST, OR CEASE AND DESIST AS PROVIDED IN THE
8 CONTRACT BETWEEN THE DEPARTMENT AND THE IGNITION INTERLOCK SERVICE
9 PROVIDER, FROM FURTHER ENGAGING IN ANY ACTIVITY THAT IS NOT AUTHORIZED
10 PURSUANT TO THIS CHAPTER AND THAT IS SPECIFIED IN THE CEASE AND DESIST
11 ORDER.

12 L. ON FAILURE OF THE PERSON TO COMPLY WITH THE CEASE AND DESIST
13 ORDER, THE DIRECTOR MAY CONDUCT A HEARING PURSUANT TO THIS SECTION.

14 28-1469. Ignition interlock device fund

15 A. THE IGNITION INTERLOCK DEVICE FUND IS ESTABLISHED CONSISTING OF
16 MONIES DEPOSITED PURSUANT TO SECTION 28-1462, SUBSECTION H. THE
17 DEPARTMENT SHALL ADMINISTER THE FUND. MONIES IN THE FUND MUST BE USED BY
18 THE DEPARTMENT FOR ADMINISTERING THIS ARTICLE, INCLUDING COMPLIANCE
19 MEASURES, AUDITS AND INVESTIGATING COMPLAINTS THAT ARE RELATED TO IGNITION
20 INTERLOCK DEVICES AND IGNITION INTERLOCK SERVICE PROVIDERS.

21 B. THE MONIES IN THE FUND ARE SUBJECT TO LEGISLATIVE APPROPRIATION
22 AND ARE EXEMPT FROM SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS.

23 Sec. 11. Section 28-4848, Arizona Revised Statutes, is amended to
24 read:

25 28-4848. Access to vehicle; ignition interlock service
26 provider; lienholder; fee prohibited; violation;
27 classification

28 A. A towing company, storage yard, facility or person that has
29 physical possession of a vehicle that was removed pursuant to section
30 9-499.05, 11-251.04 or 28-872, that was impounded pursuant to chapter 8,
31 article 9 of this title or that was abandoned shall provide access during
32 normal business hours to a person who presents evidence that the person
33 either:

34 1. Is certified by the department as an ignition interlock device
35 manufacturer or ~~installer~~ IGNITION INTERLOCK SERVICE PROVIDER and requires
36 access to the vehicle for the purpose of removing the device from the
37 vehicle.

38 2. Is listed as a lienholder on the department's records for the
39 vehicle and requires access to the vehicle for the purpose of assessing
40 the condition of the vehicle.

41 B. After complying with subsection C of this section, an ignition
42 interlock device manufacturer or ~~installer~~ IGNITION INTERLOCK SERVICE
43 PROVIDER or a lienholder who is denied access to a vehicle by a towing
44 company, storage yard, facility or person that has physical possession of
45 the vehicle may report the denial to the impounding agency or a law

1 enforcement agency that has jurisdiction in the city or county in which
2 the vehicle is being stored and may submit a written request for
3 assistance as prescribed by the impounding agency or law enforcement
4 agency to obtain access to the vehicle for the purposes prescribed in this
5 section. The impounding agency or the law enforcement agency shall
6 provide assistance to the lienholder in obtaining access to the vehicle
7 within five business days after the date the written request is received
8 by the impounding agency or law enforcement agency.

9 C. A towing company, storage yard, facility or person that has
10 physical possession of a vehicle as prescribed in subsection A of this
11 section shall provide access during normal business hours to an ignition
12 interlock device manufacturer or ~~installer~~ IGNITION INTERLOCK SERVICE
13 PROVIDER or lienholder who submits a request for access to a vehicle. The
14 request for access shall be in writing, shall contain the name, address
15 and telephone number of the person making the request for access to the
16 vehicle and either:

17 1. For a lienholder, shall include a copy of a signed contract,
18 loan agreement or credit agreement indicating the vehicle owner's name,
19 the vehicle identification number, the vehicle make and model or other
20 identifying indicia or a certified record issued by the department listing
21 the person as a lienholder.

22 2. For an ignition interlock device manufacturer or ~~installer~~
23 IGNITION INTERLOCK SERVICE PROVIDER, shall include a copy of a signed
24 contract identifying the make and model or serial number of the ignition
25 interlock device, the make and model of the vehicle or the vehicle
26 identification number of the vehicle in which the device is installed.

27 D. If the vehicle owner does not inspect the vehicle before removal
28 of the ignition interlock device by the manufacturer or ~~installer~~ IGNITION
29 INTERLOCK SERVICE PROVIDER, or has inspected the vehicle and has had the
30 opportunity to remove personal property in the vehicle, a rebuttable
31 presumption is created that damage to the vehicle and any loss of personal
32 property in the vehicle occurred while the vehicle was not in the custody
33 of the towing company, storage yard, facility or person that has physical
34 possession of the vehicle. The presumption may be overcome by a
35 preponderance of evidence to the contrary.

36 E. This section does not create a cause of action or a right to
37 bring an action against a towing company, storage yard, facility or person
38 that has physical possession of the vehicle for allowing access to a
39 vehicle to a person other than the owner if the written request as
40 prescribed in this section is provided to the towing company, storage
41 yard, facility or person that has physical possession of the vehicle.

42 F. A towing company, storage yard, facility or person that has
43 physical possession of a vehicle shall not charge a fee or require or
44 request any compensation for providing access to a vehicle pursuant to
45 this section.

1 G. A person who violates this section is guilty of a class 2
2 misdemeanor.

3 Sec. 12. Exemption from rulemaking

4 For the purposes of this act, the department of transportation is
5 exempt from the rulemaking requirements of title 41, chapter 6, Arizona
6 Revised Statutes, for one year after the effective date of this act.

7 Sec. 13. Effective date

8 This act is effective from and after June 30, 2018.

APPROVED BY THE GOVERNOR MAY 22, 2017.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 22, 2017.