

State of Arizona
House of Representatives
Fifty-third Legislature
Second Regular Session
2018

CHAPTER 307
HOUSE BILL 2455

AN ACT

AMENDING SECTIONS 28-1381, 28-1382, 28-1383, 28-1401, 28-3416, 28-5201 AND 28-6991, ARIZONA REVISED STATUTES; RELATING TO MOTOR VEHICLES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 28-1381, Arizona Revised Statutes, is amended to
3 read:

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

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

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

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

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

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

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

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

29 D. A person using a drug as prescribed by a medical practitioner
30 who is licensed pursuant to title 32 and who is authorized to prescribe
31 the drug is not guilty of violating subsection A, paragraph 3 of this
32 section.

33 E. In any prosecution for a violation of this section, the state
34 shall allege, for the purpose of classification and sentencing pursuant to
35 this section, all prior convictions of violating this section, section
36 28-1382 or section 28-1383 occurring within the past thirty-six months,
37 unless there is an insufficient legal or factual basis to do so.

38 F. At the arraignment, the court shall inform the defendant that
39 the defendant may request a trial by jury and that the request, if made,
40 shall be granted.

41 G. In a trial, action or proceeding for a violation of this section
42 or section 28-1383 other than a trial, action or proceeding involving
43 driving or being in actual physical control of a commercial vehicle, the
44 defendant's alcohol concentration within two hours of the time of driving
45 or being in actual physical control as shown by analysis of the

1 defendant's blood, breath or other bodily substance gives rise to the
2 following presumptions:

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

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

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

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

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

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

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

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

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

35 5. Shall pay an additional assessment of five hundred dollars to be
36 deposited by the state treasurer in the public safety equipment fund
37 established by section 41-1723. This assessment is not subject to any
38 surcharge. If the conviction occurred in the superior court or a justice
39 court, the court shall transmit the assessed monies to the county
40 treasurer. If the conviction occurred in a municipal court, the court
41 shall transmit the assessed monies to the city treasurer. The city or
42 county treasurer shall transmit the monies received to the state
43 treasurer.

44 6. If the violation involved intoxicating liquor, shall be required
45 by the department, on report of the conviction, to equip any motor vehicle

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

10 7. SHALL BE REQUIRED BY THE DEPARTMENT TO ATTEND AND SUCCESSFULLY
11 COMPLETE AN APPROVED TRAFFIC SURVIVAL SCHOOL COURSE.

12 J. Notwithstanding subsection I, paragraph 1 of this section, at
13 the time of sentencing the judge may suspend all but one day of the
14 sentence if the person completes a court ordered alcohol or other drug
15 screening, education or treatment program. If the person fails to
16 complete the court ordered alcohol or other drug screening, education or
17 treatment program and has not been placed on probation, the court shall
18 issue an order to show cause to the defendant as to why the remaining jail
19 sentence should not be served.

20 K. If within a period of eighty-four months a person is convicted
21 of a second violation of this section or is convicted of a violation of
22 this section and has previously been convicted of a violation of section
23 28-1382 or 28-1383 or an act in another jurisdiction that if committed in
24 this state would be a violation of this section or section 28-1382 or
25 28-1383, the person:

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

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

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

33 4. Shall have the person's driving privilege revoked for one year.
34 The court shall report the conviction to the department. On receipt of
35 the report, the department shall revoke the person's driving privilege
36 and, if the violation involved intoxicating liquor, shall require the
37 person to equip any motor vehicle the person operates with a certified
38 ignition interlock device pursuant to section 28-3319. In addition, the
39 court may order the person to equip any motor vehicle the person operates
40 with a certified ignition interlock device for more than twelve months
41 beginning on the date of reinstatement of the person's driving privilege
42 following a suspension or revocation or on the date of the department's
43 receipt of the report of conviction, whichever occurs later. The person
44 who operates a motor vehicle with a certified ignition interlock device
45 under this paragraph shall comply with article 5 of this chapter.

1 5. Shall pay an additional assessment of one thousand two hundred
2 fifty dollars to be deposited by the state treasurer in the prison
3 construction and operations fund established by section 41-1651. This
4 assessment is not subject to any surcharge. If the conviction occurred in
5 the superior court or a justice court, the court shall transmit the
6 assessed monies to the county treasurer. If the conviction occurred in a
7 municipal court, the court shall transmit the assessed monies to the city
8 treasurer. The city or county treasurer shall transmit the monies
9 received to the state treasurer.

10 6. Shall pay an additional assessment of one thousand two hundred
11 fifty dollars to be deposited by the state treasurer in the public safety
12 equipment fund established by section 41-1723. This assessment is not
13 subject to any surcharge. If the conviction occurred in the superior
14 court or a justice court, the court shall transmit the assessed monies to
15 the county treasurer. If the conviction occurred in a municipal court,
16 the court shall transmit the assessed monies to the city treasurer. The
17 city or county treasurer shall transmit the monies received to the state
18 treasurer.

19 7. SHALL BE REQUIRED BY THE DEPARTMENT TO ATTEND AND SUCCESSFULLY
20 COMPLETE AN APPROVED TRAFFIC SURVIVAL SCHOOL COURSE.

21 L. Notwithstanding subsection K, paragraph 1 of this section, at
22 the time of sentencing, the judge may suspend all but thirty days of the
23 sentence if the person completes a court ordered alcohol or other drug
24 screening, education or treatment program. If the person fails to
25 complete the court ordered alcohol or other drug screening, education or
26 treatment program and has not been placed on probation, the court shall
27 issue an order to show cause as to why the remaining jail sentence should
28 not be served.

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

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

36 O. After completing forty-five days of the revocation period
37 prescribed by subsection K of this section, a person whose driving
38 privilege is revoked for a violation of this section and who is sentenced
39 pursuant to subsection K of this section is eligible for a special
40 ignition interlock restricted driver license pursuant to section 28-1401.

41 P. The court may order a person who is convicted of a violation of
42 this section that does not involve intoxicating liquor to equip any motor
43 vehicle the person operates with a certified ignition interlock device
44 pursuant to section 28-3319. On RECEIPT OF THE report of ~~the~~ conviction
45 and certified ignition interlock device requirement, the department shall

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

11 Sec. 2. Section 28-1382, Arizona Revised Statutes, is amended to
12 read:

13 28-1382. Driving or actual physical control while under the
14 extreme influence of intoxicating liquor; trial by
15 jury; sentencing; classification

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

- 22 1. 0.15 or more but less than 0.20.
- 23 2. 0.20 or more.

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

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

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

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

39 2. Shall pay a fine of not less than two hundred fifty dollars,
40 except that a person who is convicted of a violation of subsection A,
41 paragraph 2 of this section shall pay a fine of not less than five hundred
42 dollars. The fine prescribed in this paragraph and any assessments,
43 restitution and incarceration costs shall be paid before the assessment
44 prescribed in paragraph 3 of this subsection.

1 3. Shall pay an additional assessment of two hundred fifty dollars.
2 If the conviction occurred in the superior court or a justice court, the
3 court shall transmit the monies received pursuant to this paragraph to the
4 county treasurer. If the conviction occurred in a municipal court, the
5 court shall transmit the monies received pursuant to this paragraph to the
6 city treasurer. The city or county treasurer shall transmit the monies
7 received to the state treasurer. The state treasurer shall deposit the
8 monies received in the driving under the influence abatement fund
9 established by section 28-1304.

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

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

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

31 7. Shall pay an additional assessment of one thousand dollars to be
32 deposited by the state treasurer in the public safety equipment fund
33 established by section 41-1723. This assessment is not subject to any
34 surcharge. If the conviction occurred in the superior court or a justice
35 court, the court shall transmit the assessed monies to the county
36 treasurer. If the conviction occurred in a municipal court, the court
37 shall transmit the assessed monies to the city treasurer. The city or
38 county treasurer shall transmit the monies received to the state
39 treasurer.

40 **8. SHALL BE REQUIRED BY THE DEPARTMENT TO ATTEND AND SUCCESSFULLY**
41 **COMPLETE AN APPROVED TRAFFIC SURVIVAL SCHOOL COURSE.**

42 E. If within a period of eighty-four months a person is convicted
43 of a second violation of this section or is convicted of a violation of
44 this section and has previously been convicted of a violation of section
45 28-1381 or 28-1383 or an act in another jurisdiction that if committed in

1 this state would be a violation of this section or section 28-1381 or
2 28-1383, the person:

3 1. Shall be sentenced to serve not less than one hundred twenty
4 days in jail, sixty days of which shall be served consecutively, and is
5 not eligible for probation or suspension of execution of sentence unless
6 the entire sentence has been served if the person is convicted of a
7 violation of subsection A, paragraph 1 of this section. A person who is
8 convicted of a violation of subsection A, paragraph 2 of this section
9 shall be sentenced to serve not less than one hundred eighty days in jail,
10 ninety of which shall be served consecutively, and is not eligible for
11 probation or suspension of execution of sentence unless the entire
12 sentence has been served.

13 2. Shall pay a fine of not less than five hundred dollars, except
14 that a person who is convicted of a violation of subsection A, paragraph 2
15 of this section shall pay a fine of not less than one thousand dollars.
16 The fine prescribed in this paragraph and any assessments, restitution and
17 incarceration costs shall be paid before the assessment prescribed in
18 paragraph 3 of this subsection.

19 3. Shall pay an additional assessment of two hundred fifty dollars.
20 If the conviction occurred in the superior court or a justice court, the
21 court shall transmit the monies received pursuant to this paragraph to the
22 county treasurer. If the conviction occurred in a municipal court, the
23 court shall transmit the monies received pursuant to this paragraph to the
24 city treasurer. The city or county treasurer shall transmit the monies
25 received to the state treasurer. The state treasurer shall deposit the
26 monies received in the driving under the influence abatement fund
27 established by section 28-1304.

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

30 5. Shall have the person's driving privilege revoked for at least
31 one year. The court shall report the conviction to the department. On
32 receipt of the report, the department shall revoke the person's driving
33 privilege and shall require the person to equip any motor vehicle the
34 person operates with a certified ignition interlock device pursuant to
35 section 28-3319. In addition, the court may order the person to equip any
36 motor vehicle the person operates with a certified ignition interlock
37 device for more than twelve months beginning on the date of reinstatement
38 of the person's driving privilege following a suspension or revocation or
39 on the date of the department's receipt of the report of conviction,
40 whichever is later. The person who operates a motor vehicle with a
41 certified ignition interlock device under this paragraph shall comply with
42 article 5 of this chapter.

43 6. Shall pay an additional assessment of one thousand two hundred
44 fifty dollars to be deposited by the state treasurer in the prison
45 construction and operations fund established by section 41-1651. This

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

7 7. Shall pay an additional assessment of one thousand two hundred
8 fifty dollars to be deposited by the state treasurer in the public safety
9 equipment fund established by section 41-1723. This assessment is not
10 subject to any surcharge. If the conviction occurred in the superior
11 court or a justice court, the court shall transmit the assessed monies to
12 the county treasurer. If the conviction occurred in a municipal court,
13 the court shall transmit the assessed monies to the city treasurer. The
14 city or county treasurer shall transmit the monies received to the state
15 treasurer.

16 **8. SHALL BE REQUIRED BY THE DEPARTMENT TO ATTEND AND SUCCESSFULLY**
17 **COMPLETE AN APPROVED TRAFFIC SURVIVAL SCHOOL COURSE.**

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

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

25 H. After completing forty-five days of the revocation period
26 prescribed by subsection E of this section, a person whose driving
27 privilege is revoked for a violation of this section and who is sentenced
28 pursuant to subsection E of this section is eligible for a special
29 ignition interlock restricted driver license pursuant to section 28-1401.

30 I. Notwithstanding subsection D, paragraph 1 of this section, at
31 the time of sentencing if the person is convicted of a violation of
32 subsection A, paragraph 1 of this section, the judge may suspend all but
33 nine days of the sentence if the person equips any motor vehicle the
34 person operates with a certified ignition interlock device for a period of
35 twelve months. If the person is convicted of a violation of subsection A,
36 paragraph 2 of this section, the judge may suspend all but fourteen days
37 of the sentence if the person equips any motor vehicle the person operates
38 with a certified ignition interlock device for a period of twelve months.
39 If the person fails to comply with article 5 of this chapter and has not
40 been placed on probation, the court shall issue an order to show cause as
41 to why the remaining jail sentence should not be served.

42 J. A person who is convicted of a violation of this section is
43 guilty of a class 1 misdemeanor.

1 Sec. 3. Section 28-1383, Arizona Revised Statutes, is amended to
2 read:

3 28-1383. Aggravated driving or actual physical control while
4 under the influence; violation; classification;
5 definition

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

9 1. Commits a violation of section 28-1381, section 28-1382 or this
10 section while the person's driver license or privilege to drive is
11 suspended, canceled, revoked or refused or while a restriction is placed
12 on the person's driver license or privilege to drive as a result of
13 violating section 28-1381 or 28-1382 or under section 28-1385.

14 2. Within a period of eighty-four months commits a third or
15 subsequent violation of section 28-1381, section 28-1382 or this section
16 or is convicted of a violation of section 28-1381, section 28-1382 or this
17 section and has previously been convicted of any combination of
18 convictions of section 28-1381, section 28-1382 or this section or acts in
19 another jurisdiction that if committed in this state would be a violation
20 of section 28-1381, section 28-1382 or this section.

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

23 (a) Section 28-1381.

24 (b) Section 28-1382.

25 4. While the person is ordered by the court or required pursuant to
26 section 28-3319 by the department to equip any motor vehicle the person
27 operates with a certified ignition interlock device, commits a violation
28 of section 28-1381, section 28-1382 or this section.

29 B. The dates of the commission of the offenses are the determining
30 factor in applying the eighty-four month provision provided in subsection
31 A, paragraph 2 of this section regardless of the sequence in which the
32 offenses were committed. For the purposes of this section, a third or
33 subsequent violation for which a conviction occurs does not include a
34 conviction for an offense arising out of the same series of acts. The
35 time that a probationer is found to be on absconder status or the time
36 that a person is incarcerated in any state, federal, county or city jail
37 or correctional facility is excluded when determining the eighty-four
38 month period provided in subsection A, paragraph 2 and subsection E of
39 this section.

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

44 D. A person is not eligible for probation, pardon, commutation or
45 suspension of sentence or release on any other basis until the person has

1 served not less than four months in prison if the person is convicted
2 under either of the following:

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

4 2. Subsection A, paragraph 2 of this section and within an
5 eighty-four month period has been convicted of two prior violations of
6 section 28-1381, section 28-1382 or this section, or any combination of
7 those sections, or acts in another jurisdiction that if committed in this
8 state would be a violation of section 28-1381, section 28-1382 or this
9 section.

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

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

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

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

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

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

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

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

42 1. Shall report the conviction to the department. On receipt of
43 the report, the department shall revoke the driving privilege of the
44 person. The department shall not issue the person a new driver license
45 within one year of the date of the conviction and, if the violation

1 involved intoxicating liquor, shall require the person to equip any motor
2 vehicle the person operates with a certified ignition interlock device
3 pursuant to section 28-3319. In addition, the court may order the person
4 to equip any motor vehicle the person operates with a certified ignition
5 interlock device for more than twenty-four months beginning on the date of
6 reinstatement of the person's driving privilege following a suspension or
7 revocation or on the date of the department's receipt of the report of
8 conviction, whichever occurs later. The person who operates a motor
9 vehicle with a certified ignition interlock device under this paragraph
10 shall comply with article 5 of this chapter.

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

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

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

36 5. In addition to any other penalty prescribed by law, shall order
37 the person to pay an additional assessment of one thousand five hundred
38 dollars to be deposited by the state treasurer in the public safety
39 equipment fund established by section 41-1723. This assessment is not
40 subject to any surcharge. If the conviction occurred in the superior
41 court or a justice court, the court shall transmit the assessed monies to
42 the county treasurer. If the conviction occurred in a municipal court, the
43 court shall transmit the assessed monies to the city treasurer. The city
44 or county treasurer shall transmit the monies received to the state
45 treasurer.

1 privilege to operate a motor vehicle has been suspended or revoked due to
2 an alcohol related offense pursuant to any of the following:

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

5 2. Section 28-1381, if the person meets the criteria of section
6 28-1381, subsection O and the person presents evidence that is
7 satisfactory to the director and that shows that the person has completed
8 the requirements prescribed in section 28-1387, subsection B.

9 3. Section 28-1382, if the person meets the criteria of section
10 28-1382, subsection H and the person presents evidence that is
11 satisfactory to the director and that shows that the person has completed
12 the requirements prescribed in section 28-1387, subsection B.

13 4. Section 28-1383, if the person meets the criteria of section
14 28-1383, subsection ~~K~~ L and the person presents evidence that is
15 satisfactory to the director and that shows that the person has completed
16 the requirements prescribed in section 28-1387, subsection B.

17 5. Section 28-1385, if the person meets the criteria of section
18 28-1385, subsection G.

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

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

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

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

33 Sec. 5. Section 28-3416, Arizona Revised Statutes, is amended to
34 read:

35 28-3416. Civil penalty; cancellation, suspension or
36 revocation of license; appeal

37 A. ~~After conducting a hearing, the director may cancel, suspend or~~
38 ~~revoke the license of a school~~ If the director finds that the licensee has
39 not complied with or has knowingly violated this article or any rule
40 adopted pursuant to this article or has been convicted of a violation of
41 title 13 or this title, **THE DIRECTOR MAY DO EITHER OF THE FOLLOWING:**

42 1. **IMPOSE A CIVIL PENALTY ON THE LICENSEE OF AT LEAST THREE HUNDRED**
43 **DOLLARS BUT NOT MORE THAN THREE THOUSAND DOLLARS FOR EACH VIOLATION.**

44 2. **AFTER CONDUCTING A HEARING, CANCEL, SUSPEND OR REVOKE THE**
45 **LICENSE OF THE SCHOOL.**

1 B. Decisions of the director are subject to judicial review
2 pursuant to title 12, chapter 7, article 6.

3 C. THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND
4 35-147, ALL CIVIL PENALTIES COLLECTED PURSUANT TO THIS SECTION IN THE
5 STATE HIGHWAY FUND ESTABLISHED BY SECTION 28-6991.

6 Sec. 6. Section 28-5201, Arizona Revised Statutes, is amended to
7 read:

8 28-5201. Definitions

9 In this chapter, unless the context otherwise requires:

10 1. "Commercial motor vehicle" means a motor vehicle or combination
11 of motor vehicles that is designed, used or maintained to transport
12 passengers or property in the furtherance of a commercial enterprise on a
13 highway in this state, that is not exempt from the gross weight fees as
14 prescribed in section 28-5432, subsection B and that includes any of the
15 following:

16 (a) A single vehicle or combination of vehicles that has a gross
17 vehicle weight rating of ~~eighteen~~ TWENTY-SIX thousand one or more pounds
18 and that is used for the purposes of intrastate commerce.

19 (b) A single vehicle or combination of vehicles that has a gross
20 vehicle weight rating of ten thousand one or more pounds and that is used
21 for the purposes of interstate commerce.

22 (c) A school bus.

23 (d) A bus.

24 (e) A vehicle that transports passengers for hire and that has a
25 design capacity for eight or more persons.

26 (f) A vehicle that is used in the transportation of materials found
27 to be hazardous for the purposes of the hazardous materials transportation
28 authorization act of 1994 (49 United States Code sections 5101 through
29 5128) and that is required to be placarded under 49 Code of Federal
30 Regulations section 172.504, as adopted by the department pursuant to this
31 chapter.

32 2. "Declared gross weight" has the same meaning prescribed in
33 section 28-5431. If a declaration has not been made, declared gross
34 weight means gross weight.

35 3. "Gross weight" has the same meaning prescribed in section
36 28-5431.

37 4. "Hazardous material" means a substance that has been determined
38 by the United States department of transportation under 49 Code of Federal
39 Regulations to be capable of posing an unreasonable risk to health, safety
40 and property if transported in commerce.

41 5. "Hazardous substance" means a material and its mixtures or
42 solutions that has been determined by the United States department of
43 transportation under 49 Code of Federal Regulations to be capable of
44 posing an unreasonable risk to health, safety and property if transported
45 in commerce.

1 6. "Hazardous waste" means a material that is subject to the
2 hazardous waste manifest requirements of the department of environmental
3 quality or the United States environmental protection agency.

4 7. "Manufacturer" means a person who transports or causes to be
5 transported or shipped by a motor vehicle a material that is represented,
6 marked, certified or sold by a person for transportation in commerce.

7 8. "Motor carrier" means a person who operates or causes to be
8 operated a commercial motor vehicle on a public highway.

9 9. "Motor vehicle" means any vehicle, machine, truck, tractor,
10 trailer or semitrailer that is propelled or drawn by mechanical power and
11 that is used on a public highway in the transportation of passengers or
12 property in the furtherance of a commercial enterprise.

13 10. "Person" means a public or private corporation, company,
14 partnership, firm, association or society of persons, the federal
15 government and its departments or agencies, this state or any of its
16 agencies, departments, political subdivisions, counties, towns or
17 municipal corporations or a natural person.

18 11. "Public highway" means a public street, alley, road, highway or
19 thoroughfare of any kind in this state that is used by the public or that
20 is open to the use of the public as a matter of right, for the purpose of
21 vehicular travel.

22 12. "Shipper" means a person who offers a material for motor vehicle
23 transportation in commerce.

24 13. "Transportation" means a movement of person or property by a
25 motor vehicle and any loading, unloading or storage incidental to the
26 movement.

27 14. "Vehicle combination" has the same meaning prescribed in section
28 28-5431.

29 Sec. 7. Section 28-6991, Arizona Revised Statutes, is amended to
30 read:

31 28-6991. State highway fund; sources

32 A state highway fund is established that consists of:

33 1. Monies distributed from the Arizona highway user revenue fund
34 pursuant to chapter 18 of this title.

35 2. Monies appropriated by the legislature.

36 3. Monies received from donations for the construction, improvement
37 or maintenance of state highways or bridges. These monies shall be
38 credited to a special account and shall be spent only for the purpose
39 indicated by the donor.

40 4. Monies received from counties under cooperative agreements,
41 including proceeds from bond issues. The state treasurer shall deposit
42 these monies to the credit of the fund in a special account on delivery to
43 the treasurer of a concise written agreement between the department and
44 the county stating the purposes for which the monies are surrendered by

1 the county, and these monies shall be spent only as stated in the
2 agreement.

3 5. Monies received from the United States under an act of Congress
4 to provide aid for the construction of rural post roads, but monies
5 received on projects for which the monies necessary to be provided by this
6 state are wholly derived from sources mentioned in paragraphs 2 and 3 of
7 this section shall be allotted by the department and deposited by the
8 state treasurer in the special account within the fund established for
9 each project. On completion of the project, on the satisfaction and
10 discharge in full of all obligations of any kind created and on request of
11 the department, the treasurer shall transfer the unexpended balance in the
12 special account for the project into the state highway fund, and the
13 unexpended balance and any further federal aid thereafter received on
14 account of the project may be spent under the general provisions of this
15 title.

16 6. Monies in the custody of an officer or agent of this state from
17 any source that is to be used for the construction, improvement or
18 maintenance of state highways or bridges.

19 7. Monies deposited in the state general fund and arising from the
20 disposal of state personal property belonging to the department.

21 8. Receipts from the sale or disposal of any or all other property
22 held by the department and purchased with state highway monies.

23 9. Monies generated pursuant to section 28-410.

24 10. Monies distributed pursuant to section 28-5808, subsection B,
25 paragraph 2, subdivision (d).

26 11. Monies deposited pursuant to sections 28-1143, 28-2353 and
27 28-3003.

28 12. Except as provided in section 28-5101, the following monies:

29 (a) Monies deposited pursuant to section 28-2206 and section
30 28-5808, subsection B, paragraph 2, subdivision (e).

31 (b) One dollar of each registration fee and one dollar of each
32 title fee collected pursuant to section 28-2003.

33 (c) Two dollars of each late registration penalty collected by the
34 director pursuant to section 28-2162.

35 (d) The air quality compliance fee collected pursuant to section
36 49-542.

37 (e) The special plate administration fees collected pursuant to
38 sections 28-2404, 28-2407, 28-2412 through 28-2416, 28-2416.01, 28-2417
39 through 28-2462 and 28-2514.

40 (f) Monies collected pursuant to sections 28-372, 28-2155 and
41 28-2156 if the director is the registering officer.

42 13. Monies deposited pursuant to chapter 5, article 5 of this
43 title.

44 14. Donations received pursuant to section 28-2269.

- 1 15. Dealer and registration monies collected pursuant to section
- 2 28-4304.
- 3 16. Abandoned vehicle administration monies deposited pursuant to
- 4 section 28-4804.
- 5 17. Monies deposited pursuant to section 28-710, subsection D,
- 6 paragraph 2.
- 7 18. Monies deposited pursuant to section 28-2065.
- 8 19. Monies deposited pursuant to section 28-7311.
- 9 20. Monies deposited pursuant to section 28-7059.
- 10 21. Monies deposited pursuant to section 28-1105.
- 11 22. Monies deposited pursuant to section 28-2448, subsection D.
- 12 23. Monies deposited pursuant to section 28-3415.
- 13 24. Monies deposited pursuant to section 28-3002, subsection A,
- 14 paragraph 14.
- 15 25. Monies deposited pursuant to section 28-7316.
- 16 26. Monies deposited pursuant to section 28-4302.
- 17 27. **MONIES DEPOSITED PURSUANT TO SECTION 28-3416.**

APPROVED BY THE GOVERNOR MAY 16, 2018.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 16, 2018.