

REFERENCE TITLE: ignition interlock device; regulation; installers

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

SB 1150

Introduced by
Senators Worsley: Brophy McGee, Burges, Fann, Miranda

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 7. "Manufacturer" means a person who is certified by the department
2 to offer ignition interlock devices for installation in motor vehicles in
3 this state.

4 8. "Screening" means a preliminary interview and assessment of an
5 offender to determine if the offender requires alcohol or other drug
6 education or treatment.

7 9. "Tampering" means an overt or conscious attempt to physically
8 disable, circumvent or otherwise disconnect the certified ignition
9 interlock device from its power source that allows the operator to start
10 the engine without taking and passing the requisite breath test.

11 10. "TECHNICIAN" MEANS A PERSON WHO IS CERTIFIED AND PROPERLY
12 TRAINED BY AN IGNITION INTERLOCK SERVICE PROVIDER TO INSTALL, INSPECT,
13 REPAIR AND REMOVE CERTIFIED IGNITION INTERLOCK DEVICES.

14 ~~10.~~ 11. "Treatment" means a program consisting of at least twenty
15 hours of participation in a group setting dealing with alcohol or other
16 drugs in addition to the sixteen hours of education.

17 Sec. 2. Section 28-1403, Arizona Revised Statutes, is amended to
18 read:

19 28-1403. Extension of interlock restricted licenses; hearing;
20 scope

21 A. A person whose driver license restriction is extended pursuant
22 to section 28-1461 may submit to the department a written request for a
23 hearing. The written request must be received by the department within
24 fifteen days after the date of the order of extension of the restriction.
25 On receipt of a request for a hearing, a hearing shall be held within
26 thirty days.

27 B. 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 issued a special ignition interlock
32 restricted driver license.

33 2. Whether the person tampered with the certified ignition
34 interlock device.

35 3. Whether the person attempted to operate the vehicle with an
36 alcohol concentration exceeding the presumptive limit as prescribed in
37 section 28-1381, subsection G, paragraph 3, ~~three~~ TWO or more times during
38 the period of license restriction or limitation.

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

42 5. Whether the person submitted proof of compliance or inspection
43 as prescribed in section 28-1461.

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 of the certified ignition interlock
34 device for accurate operation and the results of the inspection to the
35 department at least once every ninety days during the period the person is
36 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 department in a form
2 prescribed by the department the following information:

- 3 1. Any tampering or circumvention.
- 4 2. Any failure to provide proof of compliance or inspection of the
5 certified ignition interlock device as prescribed in this section.
- 6 3. Any attempt to operate the vehicle with an alcohol concentration
7 exceeding the presumptive limit as prescribed in section 28-1381,
8 subsection G, paragraph 3 or, if the person is under twenty-one years of
9 age, any attempt to operate the vehicle with any spirituous liquor in the
10 person's body.

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

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

- 18 1. The department of health services authorized provider.
- 19 2. The probation department that is providing alcohol or other drug
20 screening, education or treatment to the person.
- 21 3. The physician, psychologist or substance abuse counselor who is
22 evaluating the person's ability to safely operate a motor vehicle
23 following a revocation of the person's driving privilege as prescribed in
24 section 28-3315, subsection D.
- 25 4. The court.

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

- 30 1. The person tampered with or circumvented the certified ignition
31 interlock device.
- 32 2. The person attempted to operate the vehicle with an alcohol
33 concentration exceeding the presumptive limit as prescribed in section
34 28-1381, subsection G, paragraph 3, two or more times during the period of
35 license restriction or limitation.
- 36 3. If the person is under twenty-one years of age, the person
37 attempted to operate the vehicle with any spirituous liquor in the
38 person's body during the period of license restriction or limitation.
- 39 4. The person failed to provide proof of compliance or inspection
40 as prescribed in this section.
- 41 5. The person attempts to operate the vehicle with an alcohol
42 concentration of 0.08 or more during ~~a six month~~ AN extension pursuant to
43 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.

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

5 4. THE DEVICE MEETS OR EXCEEDS THE 2013 NATIONAL HIGHWAY TRAFFIC
6 SAFETY ADMINISTRATION STANDARDS, INCLUDING THE ABILITY TO WIRELESSLY
7 TRANSMIT AND RECEIVE INFORMATION AND USE BIOMETRIC IDENTIFICATION METHODS.

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

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

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

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

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

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

37 H. AN IGNITION INTERLOCK SERVICE PROVIDER SHALL COLLECT A FEE FOR
38 EACH CERTIFIED IGNITION INTERLOCK THAT IS INSTALLED BY THE PROVIDER IN AN
39 AMOUNT THAT IS DETERMINED BY THE DIRECTOR. THE IGNITION INTERLOCK SERVICE
40 PROVIDER SHALL REMIT THE COLLECTED FEES TO THE DEPARTMENT ON A MONTHLY
41 BASIS AND IN A MANNER ESTABLISHED BY THE DEPARTMENT. THE DEPARTMENT SHALL
42 DEPOSIT THE FEES IN THE IGNITION INTERLOCK DEVICE FUND ESTABLISHED BY
43 SECTION 28-1469.

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

3 28-1463. Proof of compliance; suspension; hearings

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

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

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

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

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

32 2. Whether the person submitted proof of compliance or inspection
33 pursuant to section 28-1461.

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

36 28-1464. Ignition interlock devices; violations;
37 classification; definition

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

43 B. A person whose driving privilege is limited pursuant to section
44 28-1381, 28-1382, 28-1383 or 28-3319 or restricted pursuant to section
45 28-1402 and who rents, leases or borrows a motor vehicle from another

1 person shall notify the person who rents, leases or lends the motor
2 vehicle to the person that the person has specific requirements for the
3 operation of the motor vehicle and the nature of the requirements.

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

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

17 E. A person whose driving privilege is limited pursuant to section
18 28-1381, 28-1382, 28-1383 or 28-3319 or restricted pursuant to section
19 28-1402 shall not tamper with or circumvent the operation of an ignition
20 interlock device.

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

28 G. Except in cases of substantial emergency, a person whose driving
29 privilege is limited pursuant to section 28-1381, 28-1382, 28-1383 or
30 28-3319 or restricted pursuant to section 28-1402 shall not operate a
31 motor vehicle without a functioning certified ignition interlock device
32 during the applicable time period.

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

38 I. If the person does not provide evidence to the department within
39 seventy-two hours that the person has installed a functioning certified
40 ignition interlock device in each vehicle operated by the person and has
41 provided proof of installation to the department, the department shall
42 suspend the special ignition interlock restricted driver license or
43 privilege as prescribed in section 28-1463.

44 J. A person who is ordered by the court or required by the
45 department pursuant to section 28-3319 to equip any motor vehicle the

1 person operates with a certified ignition interlock device shall while
2 under arrest submit to any test chosen by a law enforcement officer
3 pursuant to section 28-1321, subsection A.

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

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

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

16 28-1465. Rule making; manufacturers and ignition interlock
17 service providers; civil penalty

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

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

31 28-1467. Ignition interlock service provider contracts;
32 cancellation; notice

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

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

41 28-1468. Ignition interlock service provider application;
42 denial; appeal; contract requirements; cease and
43 desist order

44 A. AN APPLICATION FOR AUTHORIZATION OF AN IGNITION INTERLOCK
45 SERVICE PROVIDER CONTRACT MUST BE SUBMITTED TO THE DIRECTOR IN WRITING AND

1 ON A FORM PRESCRIBED AND FURNISHED BY THE DIRECTOR. THE PERSON SHALL
2 INCLUDE WITH THE APPLICATION ALL DOCUMENTS AND FEES PRESCRIBED BY THE
3 DIRECTOR.

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

5 1. THE NAME AND RESIDENCE ADDRESS OF THE APPLICANT, THE NAME AND
6 RESIDENCE ADDRESS OF EACH PARTNER IF THE APPLICANT IS A PARTNERSHIP OR THE
7 NAME AND RESIDENCE ADDRESS OF EACH PRINCIPAL OFFICER IF THE APPLICANT IS A
8 CORPORATION.

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

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

12 4. ANY OTHER INFORMATION THE DIRECTOR REQUIRES.

13 C. THE DIRECTOR MAY APPROVE AN APPLICATION FOR AUTHORIZATION OF A
14 CONTRACT IF THE DIRECTOR DETERMINES THAT THE REQUIREMENTS OF THIS ARTICLE
15 ARE MET.

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

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

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

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

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

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

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

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

37 3. THE APPLICATION CONTAINS A MATERIAL MISREPRESENTATION OR
38 MISSTATEMENT.

39 4. THE APPLICANT HAS NOT MET THE REQUIREMENTS OF THIS CHAPTER.

40 F. AN APPLICANT WHOSE APPLICATION IS DENIED MAY MAKE A WRITTEN
41 REQUEST TO THE DEPARTMENT FOR A HEARING ON THE DENIAL OF THE APPLICATION
42 WITHIN THIRTY DAYS AFTER THE NOTICE OF DENIAL. IF THE APPLICANT DOES NOT
43 REQUEST A HEARING WITHIN THIRTY DAYS, THE DENIAL IS FINAL.

1 G. IF THE APPLICANT REQUESTS A HEARING, THE DIRECTOR SHALL PROVIDE
2 WRITTEN OR ELECTRONIC NOTICE TO THE APPLICANT TO APPEAR AT A HEARING TO
3 SHOW CAUSE WHY THE DENIAL OF THE APPLICANT'S APPLICATION SHOULD NOT BE
4 UPHELD. AFTER CONSIDERATION OF THE EVIDENCE PRESENTED AT THE HEARING, THE
5 DIRECTOR SHALL ISSUE A WRITTEN DECISION AND ORDER.

6 H. IF THE APPLICATION IS DENIED, THE APPLICANT MAY APPEAL THE
7 DECISION PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6.

8 I. IF THE DIRECTOR AUTHORIZES AN IGNITION INTERLOCK SERVICE
9 PROVIDER'S APPLICATION FOR A CONTRACT, THE IGNITION INTERLOCK SERVICE
10 PROVIDER'S CONTRACT WITH THE DEPARTMENT MUST MEET OR EXCEED THE
11 REQUIREMENTS IN THIS SECTION, BE FOR A TERM OF AT LEAST THREE YEARS AND
12 INCLUDE ALL OF THE FOLLOWING PROVISIONS AND REQUIREMENTS:

13 1. REQUIRE THE PROVIDER TO HAVE A SUFFICIENT NUMBER OF IGNITION
14 INTERLOCK SERVICE LOCATIONS IN ALL COUNTIES AND DESIGNATED POPULATION
15 CENTERS IN THIS STATE. THE DEPARTMENT SHALL ESTABLISH DESIGNATED
16 POPULATION AREAS AND THE NUMBER OF LOCATIONS REQUIRED FOR A SUFFICIENT
17 NUMBER BASED ON THE AVERAGE NUMBER OF CERTIFIED IGNITION INTERLOCK DEVICE
18 INSTALLATIONS IN EACH COUNTY IN THIS STATE SINCE JULY 1, 2008.

19 2. IGNITION INTERLOCK DEVICES MUST BE EFFECTIVELY AND EFFICIENTLY
20 INSTALLED, CALIBRATED AND REMOVED.

21 3. IGNITION INTERLOCK DEVICES MUST BE SERVICED, INSPECTED AND
22 MONITORED.

23 4. THE IGNITION INTERLOCK SERVICE PROVIDER MUST ELECTRONICALLY
24 TRANSMIT REPORTS TO THE DEPARTMENT, IN A FORMAT THAT IS DETERMINED BY THE
25 DEPARTMENT AND THAT INCLUDES ALL OF THE FOLLOWING:

26 (a) DRIVER ACTIVITY.

27 (b) BYPASS APPROVAL.

28 (c) COMPLIANCE.

29 (d) CLIENT VIOLATIONS.

30 (e) UNIQUE IDENTIFYING NUMBERS FOR EACH DEVICE.

31 (f) UNIQUE EMPLOYEE NUMBERS IDENTIFYING THE PERSON WHO INSTALLED OR
32 REMOVED AN IGNITION INTERLOCK DEVICE.

33 5. A DETAILED IMPLEMENTATION PLAN THAT OUTLINES THE STEPS AND THE
34 TIME FRAMES NECESSARY FOR THE IGNITION INTERLOCK SERVICE PROVIDER TO BE
35 FULLY OPERATIONAL.

36 6. THE IGNITION INTERLOCK SERVICE PROVIDER MUST COLLECT AND REMIT
37 ALL APPLICABLE FEES AND TAXES TO THE APPROPRIATE GOVERNMENT ENTITY.

38 7. IF THE IGNITION INTERLOCK SERVICE PROVIDER IS OUT OF COMPLIANCE,
39 CORRECTIVE ACTIONS THAT WILL BE TAKEN, INCLUDING PENALTY PROVISIONS AND
40 LIQUIDATED DAMAGES.

41 8. THE IGNITION INTERLOCK DEVICE MUST HAVE SECURITY PROTECTIONS,
42 INCLUDING EACH DEVICE HAVING THE CAPABILITY TO RECORD EACH EVENT AND
43 PROVIDE VISUAL EVIDENCE OF ANY ACTUAL OR ATTEMPTED TAMPERING, ALTERATION,
44 BYPASS OR CIRCUMVENTION.

1 9. THE IGNITION INTERLOCK SERVICE PROVIDER WILL PROCESS THE
2 TRANSITION AND ENSURE THAT CONTINUOUS MONITORING OCCURS IF AN IGNITION
3 INTERLOCK DEVICE CLIENT REQUIRES TRANSITION OF SERVICES.

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

7 11. THE IGNITION INTERLOCK SERVICE PROVIDER MUST MAINTAIN A
8 SUFFICIENT NUMBER OF READILY ACCESSIBLE SERVICE CENTERS IN EACH COUNTY IN
9 THIS STATE. EACH SERVICE CENTER MUST BE ADEQUATELY STAFFED AND EQUIPPED
10 TO PROVIDE ALL IGNITION INTERLOCK DEVICE SUPPORT SERVICES. MOBILE SERVICE
11 CENTERS ARE PERMITTED, EXCEPT THAT A TOW TRUCK MAY NOT BE USED FOR A
12 MOBILE SERVICE CENTER.

13 12. THE IGNITION INTERLOCK SERVICE PROVIDER MUST TRAIN CLIENTS ON
14 HOW TO USE THE IGNITION INTERLOCK DEVICE.

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

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

19 15. A PROCEDURE FOR PROGRESSIVE DISCIPLINE OF AN EMPLOYEE, AGENT OR
20 SUBCONTRACTOR OF AN IGNITION INTERLOCK SERVICE PROVIDER WHO FAILS TO
21 COMPLY WITH THE REQUIREMENTS OF THIS CHAPTER OR OF THE IGNITION INTERLOCK
22 SERVICE PROVIDER CONTRACT.

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

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

31 18. THE IGNITION INTERLOCK DEVICE MUST BE CAPABLE OF PHOTO
32 IDENTIFYING THE CLIENT WHO IS PROVIDING THE BREATH SAMPLE AND THE PHOTO
33 MUST INCLUDE THE DATE AND TIME THAT THE BREATH SAMPLE WAS PROVIDED.

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

37 20. THE IGNITION INTERLOCK SERVICE PROVIDER MUST CLEARLY POST ALL
38 CLIENT FEES FOR THE INSTALLATION, REMOVAL AND INSPECTION OF THE CERTIFIED
39 IGNITION INTERLOCK DEVICE.

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

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

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

9 28-1469. Ignition interlock device fund

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

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

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

20 28-4848. Access to vehicle; ignition interlock service
21 provider; lienholder; fee prohibited; violation;
22 classification

23 A. A towing company, storage yard, facility or person that has
24 physical possession of a vehicle that was removed pursuant to section
25 9-499.05, 11-251.04 or 28-872, that was impounded pursuant to chapter 8,
26 article 9 of this title or that was abandoned shall provide access during
27 normal business hours to a person who presents evidence that the person
28 either:

29 1. Is certified by the department as an ignition interlock device
30 manufacturer or ~~installer~~ IGNITION INTERLOCK SERVICE PROVIDER and requires
31 access to the vehicle for the purpose of removing the device from the
32 vehicle.

33 2. Is listed as a lienholder on the department's records for the
34 vehicle and requires access to the vehicle for the purpose of assessing
35 the condition of the vehicle.

36 B. After complying with subsection C of this section, an ignition
37 interlock device manufacturer or ~~installer~~ IGNITION INTERLOCK SERVICE
38 PROVIDER or a lienholder who is denied access to a vehicle by a towing
39 company, storage yard, facility or person that has physical possession of
40 the vehicle may report the denial to the impounding agency or a law
41 enforcement agency that has jurisdiction in the city or county in which
42 the vehicle is being stored and may submit a written request for
43 assistance as prescribed by the impounding agency or law enforcement
44 agency to obtain access to the vehicle for the purposes prescribed in this
45 section. The impounding agency or the law enforcement agency shall

1 provide assistance to the lienholder in obtaining access to the vehicle
2 within five business days after the date the written request is received
3 by the impounding agency or law enforcement agency.

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

12 1. For a lienholder, shall include a copy of a signed contract,
13 loan agreement or credit agreement indicating the vehicle owner's name,
14 the vehicle identification number, the vehicle make and model or other
15 identifying indicia or a certified record issued by the department listing
16 the person as a lienholder.

17 2. For an ignition interlock device manufacturer or ~~installer~~
18 IGNITION INTERLOCK SERVICE PROVIDER, shall include a copy of a signed
19 contract identifying the make and model or serial number of the ignition
20 interlock device, the make and model of the vehicle or the vehicle
21 identification number of the vehicle in which the device is installed.

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

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

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

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

43 Sec. 12. Effective date

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