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

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

28-1301. Definitions
In this chapter, unless the context otherwise requires:
1. "Certified ignition interlock device" means an ignition interlock device that is certified pursuant to article 5 of this chapter.
2. "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used to transport passengers or property if the motor vehicle either:
   (a) Has a gross combined weight rating of twenty-six thousand one or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than ten thousand pounds.
   (b) Has a gross vehicle weight rating of twenty-six thousand one or more pounds.
   (c) Is a school bus.
   (d) Is a bus.
   (e) Is used in the transportation of materials found to be hazardous for the purposes of the hazardous materials transportation act (49 United States Code sections 5101 through 5127) and is required to be placarded under 49 Code of Federal Regulations section 172.504, as adopted by the department pursuant to chapter 14 of this title.
3. "Education" means a program in which a person participates in at least sixteen hours of classroom instruction relating to alcohol or other drugs.
4. "Ignition interlock device" means a device that is based on alcohol specific electrochemical fuel sensor technology that meets the national highway traffic safety administration specifications, that connects a breath analyzer to a motor vehicle's ignition system, that is constantly available to monitor the concentration by weight of alcohol in the breath of any person attempting to start the motor vehicle by using its ignition system and that deters starting the motor vehicle by use of its ignition system unless the person attempting to start the motor vehicle provides an appropriate breath sample for the device and the device determines that the concentration by weight of alcohol in the person's breath is below a preset level.
5. "Installer IGNITION INTERLOCK SERVICE PROVIDER" means a person who is certified by an authorized representative of a manufacturer and who is under contract with the department to install or oversee the installation of ignition interlock devices by the provider's authorized agents or subcontractors and to provide services to the public related to ignition interlock devices.
6. "License" means any license, temporary instruction permit or temporary license issued under the laws of this state or any other state pertaining to the licensing of persons to operate motor vehicles.
7. "Manufacturer" means a person who is certified by the department to offer ignition interlock devices for installation in motor vehicles in this state.

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

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

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

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

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

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

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

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

1. Whether the person was issued a special ignition interlock restricted driver license.

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

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

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

5. Whether the person submitted proof of compliance or inspection as prescribed in section 28-1461.
Sec. 3. Section 28-1441, Arizona Revised Statutes, is amended to read:

28-1441. Driving under the influence; records
A. The court shall maintain and make accessible to the general public all records regarding the disposition of cases in which a person is charged with a violation of section 28-1381, 28-1382 or 28-1383. The court shall include in these records an explanation of its reasons for accepting any plea agreement or dismissing any charge of a violation of section 28-1381, 28-1382 or 28-1383.

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

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

28-1461. Use of certified ignition interlock devices; reporting
A. If a person's driving privilege is limited pursuant to section 28-1381, 28-1382, 28-1383 or 28-3319 or restricted pursuant to section 28-1402:

1. The person shall:
   (a) Pay the costs for installation and maintenance of the certified ignition interlock device.
   (b) Provide proof to the department of installation of a functioning certified ignition interlock device in each motor vehicle operated by the person.
   (c) Provide proof of compliance to the department at least once every ninety days during the period the person is ordered to use an ignition interlock device.
   (d) Provide proof of inspection of the certified ignition interlock device for accurate operation and the results of the inspection to the department at least once every ninety days during the period the person is ordered to use an ignition interlock device.

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

B. While a person maintains a functioning certified ignition interlock device in a vehicle pursuant to this chapter, each time an installer IGNITION INTERLOCK SERVICE PROVIDER obtains information recorded by a certified ignition interlock device the installer IGNITION INTERLOCK
SERVICE PROVIDER shall electronically provide to the department in a form prescribed by the department the following information:

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

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

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

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

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

1. The person tampered with or circumvented the certified ignition interlock device.
2. The person attempted to operate the vehicle with an alcohol concentration exceeding the presumptive limit as prescribed in section 28-1381, subsection G, paragraph 3, two or more times during the period of license restriction or limitation.
3. If the person is under twenty-one years of age, the person attempted to operate the vehicle with any spirituous liquor in the person's body during the period of license restriction or limitation.
4. The person failed to provide proof of compliance or inspection as prescribed in this section.
5. The person attempts to operate the vehicle with an alcohol concentration of 0.08 or more during a six-month AN extension pursuant to this subsection.
F. If the special ignition interlock restricted license is extended pursuant to subsection E of this section, the limitations prescribed in sections 28-1381, 28-1382, 28-1383 and 28-3319 do not begin until the restrictive period of the license ends.

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

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

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

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

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

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

4. ESTABLISH STANDARDS AND QUALIFICATIONS FOR TECHNICIANS.

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

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

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

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

1. The device requires a deep-lung breath sample or another accurate measure of the concentration by weight of alcohol in the breath.
2. The device is made by a manufacturer that is covered by product liability insurance.

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

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

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

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

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

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

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

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

H. AN IGNITION INTERLOCK SERVICE PROVIDER SHALL COLLECT A FEE FOR EACH CERTIFIED IGNITION INTERLOCK THAT IS INSTALLED BY THE PROVIDER IN AN AMOUNT THAT IS DETERMINED BY THE DIRECTOR. THE IGNITION INTERLOCK SERVICE PROVIDER SHALL REMIT THE COLLECTED FEES TO THE DEPARTMENT ON A MONTHLY BASIS AND IN A MANNER ESTABLISHED BY THE DEPARTMENT. THE DEPARTMENT SHALL DEPOSIT THE FEES IN THE IGNITION INTERLOCK DEVICE FUND ESTABLISHED BY SECTION 28-1469.
Sec. 6. Section 28-1463, Arizona Revised Statutes, is amended to read:

28-1463. Proof of compliance; suspension; hearings

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

B. THE APPLICATION SHALL BE VERIFIED AND MUST CONTAIN:

1. The name and residence address of the applicant, the name and residence address of each partner if the applicant is a partnership or the name and residence address of each principal officer if the applicant is a corporation.

2. The applicant's principal place of business.

3. The location or planned location for each place of business at or from which the business is to be conducted.

4. Any other information the director requires.

C. The director may approve an application for authorization of a contract if the director determines that the requirements of this article are met.

D. The director may deny an application for authorization of a contract if any person included in the application has:

   1. Made a misrepresentation or misstatement in the application to conceal a matter that would cause the application to be denied.

   2. Been convicted of a class 1, 2, 3 or 4 felony or a crime of moral turpitude, breach of trust, fraud, theft or dishonesty in any jurisdiction or any foreign country within ten years before the date of the application.

   3. Been convicted of any criminal act, other than a crime described in paragraph 2 of this subsection, in any jurisdiction or a foreign country within five years before the date of the application.

   4. Been involved in any activity that the director determines to be inappropriate in relation to the authority granted.

E. The director may deny an application for authorization of an ignition interlock service provider contract under this article and, if denied, shall notify the applicant in writing within twenty days after the denial and of the grounds for the denial if the director determines that any of the following applies:

   1. The applicant is not eligible for an ignition interlock service provider contract under this article.

   2. The application is not made in good faith.

   3. The application contains a material misrepresentation or misstatement.

   4. The applicant has not met the requirements of this chapter.

F. An applicant whose application is denied may make a written request to the department for a hearing on the denial of the application within thirty days after the notice of denial. If the applicant does not request a hearing within thirty days, the denial is final.


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

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

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

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

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

   (a) DRIVER ACTIVITY.
   (b) BYPASS APPROVAL.
   (c) COMPLIANCE.
   (d) CLIENT VIOLATIONS.
   (e) UNIQUE IDENTIFYING NUMBERS FOR EACH DEVICE.
   (f) UNIQUE EMPLOYEE NUMBERS IDENTIFYING THE PERSON WHO INSTALLED OR REMOVED AN IGNITION INTERLOCK DEVICE.

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

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

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

8. THE IGNITION INTERLOCK DEVICE MUST HAVE SECURITY PROTECTIONS, INCLUDING EACH DEVICE HAVING THE CAPABILITY TO RECORD EACH EVENT AND PROVIDE VISUAL EVIDENCE OF ANY ACTUAL OR ATTEMPTED TAMPERING, ALTERATION, BYPASS OR CIRCUMVENTION.
9. The ignition interlock service provider will process the transition and ensure that continuous monitoring occurs if an ignition interlock device client requires transition of services.

10. The ignition interlock service provider will self-certify, complete background checks and train technicians in compliance with the rules adopted by the department.

11. The ignition interlock service provider must maintain a sufficient number of readily accessible service centers in each county in this state. Each service center must be adequately staffed and equipped to provide all ignition interlock device support services. Mobile service centers are permitted, except that a tow truck may not be used for a mobile service center.

12. The ignition interlock service provider must train clients on how to use the ignition interlock device.

13. A transition plan that will ensure continuous monitoring is achieved if the ignition interlock service provider leaves this state.

14. Require the ignition interlock service provider to have and maintain insurance that is approved by the department.

15. A procedure for progressive discipline of an employee, agent or subcontractor of an ignition interlock service provider who fails to comply with the requirements of this chapter or of the ignition interlock service provider contract.

16. Require client information and financial records to be maintained at a commercial business location in this state that is not a residence and that has posted business hours where the department may access the records. On termination or expiration of the contract, the ignition interlock service provider must submit all client information to the department.

17. The ignition interlock service provider may not charge a client to replace a defective ignition interlock device.

18. The ignition interlock device must be capable of photo identifying the client who is providing the breath sample and the photo must include the date and time that the breath sample was provided.

19. The ignition interlock service provider must comply with all county and municipal zoning regulations for commercial businesses and provide a corresponding business license to the department.

20. The ignition interlock service provider must clearly post all client fees for the installation, removal and inspection of the certified ignition interlock device.

J. If the director has reasonable cause to believe that a person who is a party to an ignition interlock service provider contract pursuant to this article is violating any provision of this chapter, the director shall immediately issue and mail a cease and desist order to the person's last known address.
K. ON RECEIPT OF THE CEASE AND DESIST ORDER, THE PERSON SHALL IMMEDIATELY CEASE AND DESIST, OR CEASE AND DESIST AS PROVIDED IN THE CONTRACT BETWEEN THE DEPARTMENT AND THE IGNITION INTERLOCK SERVICE PROVIDER, FROM FURTHER ENGAGING IN ANY ACTIVITY THAT IS NOT AUTHORIZED PURSUANT TO THIS CHAPTER AND THAT IS SPECIFIED IN THE CEASE AND DESIST ORDER.

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

28-1469. Ignition interlock device fund

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

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

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

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

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

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

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

B. After complying with subsection C of this section, an ignition interlock device manufacturer or installer IGNITION INTERLOCK SERVICE PROVIDER or a lienholder who is denied access to a vehicle by a towing company, storage yard, facility or person that has physical possession of the vehicle may report the denial to the impounding agency or a law enforcement agency that has jurisdiction in the city or county in which the vehicle is being stored and may submit a written request for assistance as prescribed by the impounding agency or law enforcement agency to obtain access to the vehicle for the purposes prescribed in this section. The impounding agency or the law enforcement agency shall
provide assistance to the lienholder in obtaining access to the vehicle
within five business days after the date the written request is received
by the impounding agency or law enforcement agency.

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

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

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

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

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

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

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

Sec. 12. Effective date
This act is effective from and after June 30, 2018.