

State of Arizona
House of Representatives
Fifty-third Legislature
First Regular Session
2017

CHAPTER 183
HOUSE BILL 2192

AN ACT

AMENDING SECTIONS 25-517, 25-518, 28-3001, 28-3153 AND 28-3159, ARIZONA
REVISED STATUTES; RELATING TO FAMILY SUPPORT DUTIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 25-517, Arizona Revised Statutes, is amended to
3 read:

4 25-517. License suspension; notice; administrative review or
5 hearing

6 A. The department or its agent shall notify an obligor who is at
7 least six months in arrears in making child support payments, periodic
8 payments on a support arrearage or periodic payments pursuant to a court
9 order of support that the obligor may be referred to court for a hearing
10 to suspend or deny the obligor's driver license or recreational license.
11 The department or its agent shall notify the obligor by first class mail
12 at the obligor's current address, ~~or~~, or, after a reasonable attempt to
13 ascertain the obligor's location, at the obligor's last known address.
14 The notice shall state the following:

15 1. The obligor has ~~wilfully~~ failed to pay child support, ~~wilfully~~
16 continues to do so and is at least six months in arrears in making child
17 support payments.

18 2. The obligor may request in writing an administrative review
19 conducted pursuant to section 25-522 to contest the matter within fifteen
20 days from the date of mailing of the notice.

21 3. If the obligor requests an administrative review, the department
22 or its agent shall stay the action to refer the obligor to court for the
23 suspension or denial of the obligor's recreational or driver license.

24 4. If the obligor fails to respond to the notice, the department or
25 its agent shall refer the obligor to court for license suspension or
26 denial pursuant to section 25-518.

27 5. The address and telephone number of the department.

28 6. The obligor may request a copy of the child support order.

29 **B. THE OBLIGOR HAS THE BURDEN OF SHOWING THAT THE FAILURE TO MAKE**
30 **SUPPORT PAYMENTS WAS NOT WILFUL.**

31 ~~B.~~ C. If an obligor requests an administrative review pursuant to
32 this section, the issues at the review ~~shall be~~ ARE limited to whether the
33 obligor is required to pay child support and has wilfully failed to pay.
34 The department or its agent shall not refer the obligor to court unless
35 the department or its agent determines that the obligor is at least six
36 months in arrears and has wilfully failed to pay. The department or its
37 agent shall make this decision in writing and shall provide a copy to the
38 obligor.

39 ~~C.~~ D. If the department or its agent determines that the obligor
40 is at least six months in arrears and has wilfully failed to pay, the
41 department shall refer the obligor to court for license suspension
42 pursuant to section 25-518.

1 ~~D~~. E. Notwithstanding the requirements of this section, if an
2 obligor is at least six months in arrears in making child support
3 payments, periodic payments on a support arrearage or periodic payments
4 pursuant to a court order of support, the title IV-D agency or its agent
5 may issue a notice to the obligor that the obligor's professional or
6 occupational license may be suspended. The title IV-D agency or its agent
7 shall notify the obligor by first class mail at the obligor's current
8 address, or after a reasonable attempt to ascertain the obligor's
9 location, at the obligor's last known address. The notice shall state
10 that the obligor has wilfully failed to pay child support, wilfully
11 continues to do so and is at least six months in arrears in making child
12 support payments. The notice shall also state that within fifteen days
13 after the notice is mailed the obligor may make a written request for an
14 administrative review pursuant to section 25-522 to contest the matter.

15 ~~E~~. F. If the obligor does not respond to the notice prescribed in
16 subsection ~~D~~ E of this section, the title IV-D agency or its agent shall
17 issue an administrative order of noncompliance to the board or agency to
18 order the suspension of the obligor's professional or occupational
19 license. If the obligor requests an administrative review, the title IV-D
20 agency or its agent shall stay further action until a determination has
21 been made at the administrative review. The issues at the review are
22 limited to whether the obligor is required to pay child support and has
23 wilfully failed to pay. The department or its agent shall make this
24 decision in writing and shall provide a copy to the obligor. If the
25 obligor disagrees with the final determination, the obligor has a right to
26 a hearing before the suspension of the obligor's professional or
27 occupational license. The title IV-D agency or its agent must receive a
28 request for a hearing on the determination of noncompliance within
29 fourteen days after the date of the determination.

30 ~~F~~. G. The title IV-D agency or its agent shall notify the office
31 of administrative hearings of a request for a hearing pursuant to
32 subsection ~~E~~ F of this section within five business days after receipt of
33 the request. The office of administrative hearings shall hold a hearing
34 pursuant to title 41, chapter 6, article 10. **THE OBLIGOR HAS THE BURDEN**
35 **OF SHOWING THAT THE FAILURE TO MAKE SUPPORT PAYMENTS WAS NOT WILFUL.** The
36 issues at the hearing are limited to whether the obligor is required to
37 pay child support and has wilfully failed to pay. If the administrative
38 law judge upholds the department's determination, the title IV-D agency or
39 its agent shall issue an administrative order of noncompliance to the
40 board or agency ordering it to suspend the obligor's professional or
41 occupational license.

1 Sec. 2. Section 25-518, Arizona Revised Statutes, is amended to
2 read:

3 25-518. Child support arrearage; license suspension; hearing

4 A. ~~A court shall send a certificate of noncompliance to the board~~
5 ~~or agency ordering the suspension or denial of a driver license or~~
6 ~~recreational license~~ If ~~the~~ A court finds from the evidence presented at a
7 hearing to enforce a child support order that the obligor has wilfully
8 failed to pay child support, continues after notice pursuant to section
9 25-517, subsection A to wilfully fail to pay child support and is at least
10 six months in arrears~~.-~~, THE COURT SHALL DO EITHER OF THE FOLLOWING:

11 1. SEND A CERTIFICATE OF NONCOMPLIANCE TO THE BOARD OR AGENCY
12 ORDERING THE SUSPENSION OR DENIAL OF A DRIVER LICENSE OR RECREATIONAL
13 LICENSE.

14 2. SEND A CERTIFICATE OF NONCOMPLIANCE TO THE DEPARTMENT OF
15 TRANSPORTATION THAT THE NONCOMMERCIAL DRIVER LICENSE OF THE OBLIGOR BE
16 RESTRICTED TO TRAVEL AS FOLLOWS:

17 (a) BETWEEN THE PERSON'S PLACE OF EMPLOYMENT AND RESIDENCE DURING
18 SPECIFIED PERIODS OF TIME WHILE AT EMPLOYMENT.

19 (b) BETWEEN THE PERSON'S PLACE OF RESIDENCE, THE PERSON'S PLACE OF
20 EMPLOYMENT AND THE PERSON'S SECONDARY OR POSTSECONDARY SCHOOL ACCORDING TO
21 THE PERSON'S EMPLOYMENT OR EDUCATIONAL SCHEDULE.

22 (c) BETWEEN THE PERSON'S PLACE OF RESIDENCE AND A SCREENING,
23 EDUCATION OR TREATMENT FACILITY FOR SCHEDULED APPOINTMENTS.

24 (d) BETWEEN THE PERSON'S PLACE OF RESIDENCE AND THE OFFICE OF A
25 PHYSICIAN OR OTHER HEALTH CARE PROFESSIONAL.

26 (e) BETWEEN THE PERSON'S PLACE OF RESIDENCE AND A LOCATION
27 DESIGNATED FOR THE PURPOSE OF PARENTING TIME.

28 B. TO BE ELIGIBLE FOR A RESTRICTED LICENSE PURSUANT TO SUBSECTION
29 A, PARAGRAPH 2 OF THIS SECTION, THE OBLIGOR MUST DO ALL OF THE FOLLOWING:

30 1. BE EMPLOYED FOR AT LEAST THIRTY HOURS PER WEEK.

31 2. HAVE A PLACE OF EMPLOYMENT OR ATTEND A SCHOOL THAT IS LOCATED
32 MORE THAN ONE MILE FROM THE OBLIGOR'S PLACE OF RESIDENCE.

33 3. SHOW THAT THE EMPLOYMENT OR EDUCATIONAL ENDEAVOR CAN REASONABLY
34 BE EXPECTED TO CONTRIBUTE TO BRINGING THE OBLIGOR INTO COMPLIANCE WITH THE
35 SUPPORT ORDER IN A TIMELY MANNER.

36 4. ENTER INTO A PAYMENT PLAN WITH THE DEPARTMENT OF ECONOMIC
37 SECURITY TO PAY THE CHILD SUPPORT ARREARAGE. IF THE COURT FINDS THAT THE
38 OBLIGOR IS NOT IN COMPLIANCE WITH THE AGREEMENT AT ANY TIME, THE OBLIGOR
39 IS SUBJECT TO LICENSE SUSPENSION PURSUANT TO THIS SECTION.

40 ~~B.~~ C. If the obligor has complied with the support order since the
41 suspension or denial, the obligor may petition the court for a hearing.
42 If the obligor establishes at the review hearing that the obligor is in
43 compliance with the support order or a court ordered plan for payment of
44 arrearages, the court shall send a certificate of compliance to the board

1 or agency. Except for licenses issued under title 17, the obligor may
2 then apply for license reinstatement and shall pay all applicable fees.

3 ~~C.~~ D. In a title IV-D case, the department or its agent may file
4 with the clerk of the superior court an affidavit indicating that the
5 obligor is in compliance with the support order or the child support
6 obligation. Within five business days after the affidavit is filed, the
7 clerk shall send a notice of compliance to the obligor by first class
8 mail. The clerk shall send a copy of the notice of compliance to the
9 department and the licensing board or agency.

10 ~~D.~~ E. Except for licenses issued under title 17, the board or
11 agency shall suspend or deny the license of the licensee within thirty
12 days after receiving the notice of noncompliance from the court. The
13 board or agency shall not lift the suspension until the board or agency
14 receives a certificate of compliance from the court. Notwithstanding
15 section 41-1064, subsection C and section 41-1092.11, subsection B, the
16 board or agency is not required to conduct a hearing. The board or agency
17 shall notify the department in writing or by any other means prescribed by
18 the department of all suspensions within ten days after the suspension.
19 The information shall include the name, address, date of birth and social
20 security number of the licensee and the license category.

21 ~~E.~~ F. A certificate of noncompliance without further action
22 invalidates a license to take wildlife in this state and prohibits the
23 obligor from applying for a license issued by an automated drawing system
24 under title 17. The court shall send a copy of the certificate of
25 noncompliance to the department of economic security, and the department
26 of economic security shall notify the Arizona game and fish department of
27 all obligors against whom a notice of noncompliance has been issued and
28 who have applied for a license issued by an automated drawing system.

29 ~~F.~~ G. Notwithstanding this section, the title IV-D agency or its
30 agent may send a certificate of noncompliance to a board or agency to
31 order it to suspend an obligor's professional or occupational license if
32 the obligor:

33 1. Has wilfully failed to pay child support, continues after notice
34 pursuant to section 25-517, subsection D to wilfully fail to pay child
35 support and is at least six months in arrears.

36 2. Requested an administrative review and the determination
37 confirms that the obligor is required to pay child support and has
38 wilfully failed to pay and that either the obligor did not request a
39 hearing on the determination or the determination was upheld after a
40 hearing.

41 3. Failed to respond to the notice pursuant to section 25-517,
42 subsection D.

1 ~~G.~~ H. If the obligor has paid all arrearages or if the obligor has
2 entered into a written agreement with the title IV-D agency or its agent,
3 the title IV-D agency shall issue a notice of compliance to the licensing
4 board or agency.

5 Sec. 3. Section 28-3001, Arizona Revised Statutes, is amended to
6 read:

7 28-3001. Definitions

8 In this chapter, unless the context otherwise requires:

9 1. "Cancellation" means the annulment or termination of a driver
10 license because of an error or defect or because the licensee is no longer
11 entitled to the license.

12 2. "Commercial driver license" means a license that is issued to an
13 individual and that authorizes the individual to operate a class of
14 commercial motor vehicles.

15 3. "Commercial motor vehicle" means a motor vehicle or combination
16 of motor vehicles that is used in commerce to transport passengers or
17 property and that includes any of the following:

18 (a) A motor vehicle or combination of motor vehicles that has a
19 gross combined weight rating of twenty-six thousand one or more pounds
20 inclusive of a towed unit with a gross vehicle weight rating of more than
21 ten thousand pounds.

22 (b) A motor vehicle that has a gross vehicle weight rating of
23 twenty-six thousand one or more pounds.

24 (c) A bus.

25 (d) A motor vehicle or combination of motor vehicles that is used
26 in the transportation of materials found to be hazardous for the purposes
27 of the hazardous materials transportation authorization act of 1994 (49
28 United States Code sections 5101 through 5128) and is required to be
29 placarded under 49 Code of Federal Regulations section 172.504, as adopted
30 by the department pursuant to chapter 14 of this title.

31 4. "Conviction" has the same meaning prescribed in section 28-101
32 and also means a final conviction or judgment, including an order of a
33 juvenile court finding that a juvenile has violated a provision of this
34 title or has committed a delinquent act that if committed by an adult
35 constitutes any of the following:

36 (a) Criminal damage to property pursuant to section 13-1602,
37 subsection A, paragraph 1.

38 (b) A felony offense in the commission of which a motor vehicle was
39 used, including theft of a motor vehicle pursuant to section 13-1802,
40 unlawful use of means of transportation pursuant to section 13-1803 or
41 theft of means of transportation pursuant to section 13-1814.

42 (c) A forfeiture of bail or collateral deposited to secure a
43 defendant's appearance in court that has not been vacated.

44 5. "Disqualification" means a prohibition from obtaining a
45 commercial driver license or driving a commercial motor vehicle.

- 1 6. "Employer" means a person, including the United States, a state
2 or a political subdivision of a state, that owns or leases a commercial
3 motor vehicle or that assigns a person to operate a commercial motor
4 vehicle.
- 5 7. "Endorsement" means an authorization that is added to an
6 individual's driver license and that is required to permit the individual
7 to operate certain types of vehicles.
- 8 8. "Foreign" means outside the United States.
- 9 9. "Gross vehicle weight rating" means the weight that is assigned
10 by the vehicle manufacturer to a vehicle and that represents the maximum
11 recommended total weight including the vehicle and the load for the
12 vehicle.
- 13 10. "Judgment" means a final judgment and any of the following:
14 (a) The finding by a court that an individual is responsible for a
15 civil traffic violation.
16 (b) An individual's admission of responsibility for a civil traffic
17 violation.
18 (c) The voluntary or involuntary forfeiture of deposit in
19 connection with a civil traffic violation.
20 (d) A default judgment entered by a court pursuant to section
21 28-1596.
- 22 11. "License class" means, for the purpose of determining the
23 appropriate class of driver license required for the type of motor vehicle
24 or vehicle combination a driver intends to operate or is operating, the
25 class of driver license prescribed in section 28-3101.
- 26 12. "Nondomiciled commercial driver license" means a commercial
27 driver license issued to an individual domiciled in a foreign country or
28 to an individual domiciled in another state if that state is prohibited
29 from issuing commercial driver licenses.
- 30 13. "Original applicant" means any of the following:
31 (a) An applicant who has never been licensed or cannot provide
32 evidence of licensing.
33 (b) An applicant who is applying for a higher class of driver
34 license than the license currently held by the applicant.
35 (c) An applicant who has a license from a foreign country.
- 36 14. "Revocation" means that the driver license and driver's
37 privilege to drive a motor vehicle on the public highways of this state
38 are terminated and shall not be renewed or restored, except that an
39 application for a new license may be presented and acted on by the
40 department after one year from the date of revocation.
- 41 15. "State of domicile" means the state or jurisdiction where a
42 person has the person's true, fixed and permanent home and principal
43 residence and to which the person has the intention of returning after an
44 absence.

1 16. "Suspension" means that the driver license and driver's
2 privilege to drive a motor vehicle on the public highways of this state
3 are temporarily withdrawn during the period of the suspension ~~and until~~
4 ~~application for reinstatement is made.~~

5 17. "Vehicle combination" means a motor vehicle and a vehicle in
6 excess of ten thousand pounds gross vehicle weight that it tows, if the
7 combined gross vehicle weight rating is more than twenty-six thousand
8 pounds.

9 Sec. 4. Section 28-3153, Arizona Revised Statutes, is amended to
10 read:

11 28-3153. Driver license issuance; prohibitions

12 A. The department shall not issue the following:

13 1. A driver license to a person who is under eighteen years of age,
14 except that the department may issue:

15 (a) A restricted instruction permit for a class D or G license to a
16 person who is at least fifteen years of age.

17 (b) An instruction permit for a class D, G or M license as provided
18 by this chapter to a person who is at least fifteen years and six months
19 of age.

20 (c) A class G or M license as provided by this chapter to a person
21 who is at least sixteen years of age.

22 2. A class D, G or M license or instruction permit to a person who
23 is under eighteen years of age and who has been tried in adult court and
24 convicted of a second or subsequent violation of criminal damage to
25 property pursuant to section 13-1602, subsection A, paragraph 1 or
26 convicted of a felony offense in the commission of which a motor vehicle
27 is used, including theft of a motor vehicle pursuant to section 13-1802,
28 unlawful use of means of transportation pursuant to section 13-1803 or
29 theft of means of transportation pursuant to section 13-1814, or who has
30 been adjudicated delinquent for a second or subsequent act that would
31 constitute criminal damage to property pursuant to section 13-1602,
32 subsection A, paragraph 1 or adjudicated delinquent for an act that would
33 constitute a felony offense in the commission of which a motor vehicle is
34 used, including theft of a motor vehicle pursuant to section 13-1802,
35 unlawful use of means of transportation pursuant to section 13-1803 or
36 theft of means of transportation pursuant to section 13-1814, if committed
37 by an adult.

38 3. A class A, B or C license to a person who is under twenty-one
39 years of age, except that the department may issue a class A, B or C
40 license that is restricted to only intrastate driving to a person who is
41 at least eighteen years of age.

42 4. A license to a person whose license or driving privilege has
43 been suspended, during the suspension period.

44 5. Except as provided in section 28-3315, a license to a person
45 whose license or driving privilege has been revoked.

1 6. A class A, B or C license to a person who has been disqualified
2 from obtaining a commercial driver license.

3 7. A license to a person who on application notifies the department
4 that the person is an alcoholic as defined in section 36-2021 or a drug
5 dependent person as defined in section 36-2501, unless the person
6 successfully completes the medical screening process pursuant to section
7 28-3052 or submits a medical examination report that includes a current
8 evaluation from a substance abuse counselor indicating that, in the
9 opinion of the counselor, the condition does not affect or impair the
10 person's ability to safely operate a motor vehicle.

11 8. A license to a person who has been adjudged to be incapacitated
12 pursuant to section 14-5304 and who at the time of application has not
13 obtained either a court order that allows the person to drive or a
14 termination of incapacity as provided by law.

15 9. A license to a person who is required by this chapter to take an
16 examination unless the person successfully passes the examination.

17 10. A license to a person who is required under the motor vehicle
18 financial responsibility laws of this state to deposit proof of financial
19 responsibility and who has not deposited the proof.

20 11. A license to a person if the department has good cause to
21 believe that the operation of a motor vehicle on the highways by the
22 person would threaten the public safety or welfare.

23 12. A license to a person whose driver license has been ordered to
24 be suspended **FOR FAILURE TO PAY CHILD SUPPORT, EXCEPT THAT A NONCOMMERCIAL**
25 **RESTRICTED LICENSE MAY BE ISSUED** pursuant to section 25-518.

26 13. A class A, B or C license to a person whose license or driving
27 privilege has been canceled until the cause for the cancellation has been
28 removed.

29 14. A class A, B or C license or instruction permit to a person
30 whose state of domicile is not this state.

31 15. A class A, B or C license to a person who fails to demonstrate
32 proficiency in the English language as determined by the department.

33 B. The department shall not issue a driver license to or renew the
34 driver license of the following persons:

35 1. A person about whom the court notifies the department that the
36 person violated the person's written promise to appear in court when
37 charged with a violation of the motor vehicle laws of this state until the
38 department receives notification in a manner approved by the department
39 that the person appeared either voluntarily or involuntarily or that the
40 case has been adjudicated, that the case is being appealed or that the
41 case has otherwise been disposed of as provided by law.

42 2. If notified pursuant to section 28-1601, a person who fails to
43 pay a civil penalty as provided in section 28-1601, except for a parking
44 violation, until the department receives notification in a manner approved
45 by the department that the person paid the civil penalty, that the case is

1 being appealed or that the case has otherwise been disposed of as provided
2 by law.

3 C. The magistrate or the clerk of the court shall provide the
4 notification to the department prescribed by subsection B of this section.

5 D. Notwithstanding any other law, the department shall not issue to
6 or renew a driver license or nonoperating identification license for a
7 person who does not submit proof satisfactory to the department that the
8 applicant's presence in the United States is authorized under federal
9 law. For an application for a driver license or a nonoperating
10 identification license, the department shall not accept as a primary
11 source of identification a driver license issued by a state if the state
12 does not require that a driver licensed in that state be lawfully present
13 in the United States under federal law. The director shall adopt rules
14 necessary to carry out the purposes of this subsection. The rules shall
15 include procedures for:

16 1. Verification that the applicant's presence in the United States
17 is authorized under federal law.

18 2. Issuance of a temporary driver permit pursuant to section
19 28-3157 pending verification of the applicant's status in the United
20 States.

21 Sec. 5. Section 28-3159, Arizona Revised Statutes, is amended to
22 read:

23 28-3159. Restricted licenses

24 A. With good cause, the department may issue the following
25 restricted driver licenses:

26 1. A driver license with any of the following:

27 (a) Restrictions suitable to the licensee's driving ability for the
28 type of motor vehicle or special mechanical control devices required on a
29 motor vehicle that the licensee may operate.

30 (b) Restrictions suitable to the licensee's ability to drive a
31 motor vehicle in areas, at locations or on highways or during certain
32 times.

33 (c) Other restrictions as the department determines appropriate to
34 ensure the safe operation of a motor vehicle by the licensee.

35 2. A class A, B or C driver license that restricts the driver from
36 operating:

37 (a) A commercial motor vehicle equipped with air brakes, if the
38 applicant either fails the air brake component of the knowledge
39 examination or performs the skills test in a vehicle that is not equipped
40 with air brakes.

41 (b) A vehicle in interstate commerce, if the applicant is not
42 subject to 49 Code of Federal Regulations part 391.

43 (c) A motor vehicle for the purposes of interstate commerce, if an
44 applicant for a class A, B or C license is at least eighteen years of age.

1 3. A class A, B or C driver license with other restrictions that
2 the department determines are appropriate to ensure the safe operation of
3 a commercial motor vehicle by the licensee.

4 4. A class M license that restricts the driver from driving a
5 vehicle other than a motorcycle, motor driven cycle or moped with a
6 maximum piston displacement of one hundred cubic centimeters or less, if
7 the applicant performs the driving examination with a motorcycle, motor
8 driven cycle or moped with a maximum piston displacement of one hundred
9 cubic centimeters or less.

10 5. A special ignition interlock restricted driver license pursuant
11 to chapter 4, article 3.1 of this title.

12 6. A LICENSE RESTRICTING THE TRAVEL OF THE DRIVER AS PROVIDED IN
13 SECTION 25-518.

14 B. The department may either issue a special restricted license or
15 display the restrictions on the usual driver license form.

APPROVED BY THE GOVERNOR APRIL 24, 2017.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 24, 2017.