

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

HOUSE BILL 2243

AN ACT

AMENDING TITLE 28, CHAPTER 3, ARTICLE 5, ARIZONA REVISED STATUTES, BY
ADDING SECTION 28-694; AMENDING SECTION 28-1383, ARIZONA REVISED STATUTES;
RELATING TO WRONG-WAY DRIVING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 28, chapter 3, article 5, Arizona Revised
3 Statutes, is amended by adding section 28-694, to read:

4 28-694. Wrong-way driving; civil penalty; traffic survival
5 school; definition

6 A. A PERSON WHO DRIVES THE WRONG WAY ON A CONTROLLED ACCESS HIGHWAY
7 COMMITS WRONG-WAY DRIVING.

8 B. A PERSON WHO IS FOUND RESPONSIBLE FOR A VIOLATION OF THIS
9 SECTION IS SUBJECT TO A CIVIL PENALTY OF FIVE HUNDRED DOLLARS.

10 C. A PERSON WHO IS FOUND RESPONSIBLE FOR A VIOLATION OF THIS
11 SECTION SHALL ATTEND AND SUCCESSFULLY COMPLETE APPROVED TRAFFIC SURVIVAL
12 SCHOOL EDUCATIONAL SESSIONS THAT ARE DESIGNED TO IMPROVE THE SAFETY AND
13 HABITS OF DRIVERS.

14 D. FOR THE PURPOSES OF THIS SECTION, "WRONG WAY" MEANS VEHICULAR
15 MOVEMENT THAT IS IN A DIRECTION OPPOSING THE LEGAL FLOW OF TRAFFIC. WRONG
16 WAY DOES NOT INCLUDE MEDIAN CROSSING OR A COLLISION WHERE A MOTOR VEHICLE
17 COMES TO A STOP FACING THE WRONG WAY.

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

20 28-1383. Aggravated driving or actual physical control while
21 under the influence; violation; classification;
22 definitions

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

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

31 2. Within a period of eighty-four months commits a third or
32 subsequent violation of section 28-1381, section 28-1382 or this section
33 or is convicted of a violation of section 28-1381, section 28-1382 or this
34 section and has previously been convicted of any combination of
35 convictions of section 28-1381, section 28-1382 or this section or acts in
36 another jurisdiction that if committed in this state would be a violation
37 of section 28-1381, section 28-1382 or this section.

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

40 (a) Section 28-1381.

41 (b) Section 28-1382.

42 4. While the person is ordered by the court or required pursuant to
43 section 28-3319 by the department to equip any motor vehicle the person

1 operates with a certified ignition interlock device, commits a violation
2 of section 28-1381, section 28-1382 or this section.

3 5. COMMITS A VIOLATION OF SECTION 28-1381, SECTION 28-1382 OR THIS
4 SECTION WHILE DRIVING THE WRONG WAY ON A HIGHWAY.

5 B. The dates of the commission of the offenses are the determining
6 factor in applying the eighty-four month provision provided in
7 subsection A, paragraph 2 of this section regardless of the sequence in
8 which the offenses were committed. For the purposes of this section, a
9 third or subsequent violation for which a conviction occurs does not
10 include a conviction for an offense arising out of the same series of
11 acts. The time that a probationer is found to be on absconder status or
12 the time that a person is incarcerated in any state, federal, county or
13 city jail or correctional facility is excluded when determining the
14 eighty-four month period provided in subsection A, paragraph 2 and
15 subsection E of this section.

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

20 D. A person is not eligible for probation, pardon, commutation or
21 suspension of sentence or release on any other basis until the person has
22 served not less than four months in prison if the person is convicted
23 under ~~either~~ ANY of the following:

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

25 2. Subsection A, paragraph 2 of this section and within an
26 eighty-four month period has been convicted of two prior violations of
27 section 28-1381, section 28-1382 or this section, or any combination of
28 those sections, or acts in another jurisdiction that if committed in this
29 state would be a violation of section 28-1381, section 28-1382 or this
30 section.

31 3. SUBSECTION A, PARAGRAPH 5 OF THIS SECTION.

32 E. A person who is convicted under subsection A, paragraph 2 of
33 this section and who within an eighty-four month period has been convicted
34 of three or more prior violations of section 28-1381, section 28-1382 or
35 this section, or any combination of those sections, or acts in another
36 jurisdiction that if committed in this state would be a violation of
37 section 28-1381, section 28-1382 or this section is not eligible for
38 probation, pardon, commutation or suspension of sentence or release on any
39 other basis until the person has served not less than eight months in
40 prison.

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

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

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

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

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

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

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

21 1. Shall report the conviction to the department. On receipt of
22 the report, the department shall revoke the driving privilege of the
23 person. The department shall not issue the person a new driver license
24 within one year of the date of the conviction and, if the violation
25 involved intoxicating liquor, shall require the person to equip any motor
26 vehicle the person operates with a certified ignition interlock device
27 pursuant to section 28-3319. In addition, the court may order the person
28 to equip any motor vehicle the person operates with a certified ignition
29 interlock device for more than twenty-four months beginning on the date of
30 reinstatement of the person's driving privilege following a suspension or
31 revocation or on the date of the department's receipt of the report of
32 conviction, whichever occurs later. The person who operates a motor
33 vehicle with a certified ignition interlock device under this paragraph
34 shall comply with article 5 of this chapter.

35 2. In addition to any other penalty prescribed by law, shall order
36 the person to pay an additional assessment of two hundred fifty
37 dollars. If the conviction occurred in the superior court or a justice
38 court, the court shall transmit the monies received pursuant to this
39 paragraph to the county treasurer. If the conviction occurred in a
40 municipal court, the court shall transmit the monies received pursuant to
41 this paragraph to the city treasurer. The city or county treasurer shall
42 transmit the monies received to the state treasurer. The state treasurer
43 shall deposit the monies received in the driving under the influence
44 abatement fund established by section 28-1304. Any fine imposed for a

1 violation of this section and any assessments, restitution and
2 incarceration costs shall be paid before the assessment prescribed in this
3 paragraph.

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

6 4. In addition to any other penalty prescribed by law, shall order
7 the person to pay an additional assessment of one thousand five hundred
8 dollars to be deposited by the state treasurer in the prison construction
9 and operations fund established by section 41-1651. This assessment is
10 not subject to any surcharge. If the conviction occurred in the superior
11 court or a justice court, the court shall transmit the assessed monies to
12 the county treasurer. If the conviction occurred in a municipal court,
13 the court shall transmit the assessed monies to the city treasurer. The
14 city or county treasurer shall transmit the monies received to the state
15 treasurer.

16 5. In addition to any other penalty prescribed by law, shall order
17 the person to pay an additional assessment of one thousand five hundred
18 dollars to be deposited by the state treasurer in the public safety
19 equipment fund established by section 41-1723. This assessment is not
20 subject to any surcharge. If the conviction occurred in the superior
21 court or a justice court, the court shall transmit the assessed monies to
22 the county treasurer. If the conviction occurred in a municipal court, the
23 court shall transmit the assessed monies to the city treasurer. The city
24 or county treasurer shall transmit the monies received to the state
25 treasurer.

26 K. After completing the period of suspension required by section
27 28-1385, a person whose driving privilege is revoked for a violation of
28 subsection A, paragraph 3 of this section may apply to the department for
29 a special ignition interlock restricted driver license pursuant to section
30 28-1401.

31 L. The court may order a person who is convicted of a violation of
32 this section that does not involve intoxicating liquor to equip any motor
33 vehicle the person operates with a certified ignition interlock device
34 pursuant to section 28-3319. On RECEIPT OF THE report of ~~the~~ conviction
35 and certified ignition interlock device requirement, the department shall
36 require the person to equip any motor vehicle the person operates with a
37 certified ignition interlock device pursuant to section 28-3319. In
38 addition, the court may order the person to equip any motor vehicle the
39 person operates with a certified ignition interlock device for more than
40 twelve months beginning on the date of reinstatement of the person's
41 driving privilege following a suspension or revocation or on the date of
42 the department's receipt of the report of conviction, whichever occurs
43 later. The person who operates a motor vehicle with a certified ignition

1 interlock device under this subsection shall comply with article 5 of this
2 chapter.

3 M. Aggravated driving or actual physical control while under the
4 influence of intoxicating liquor or drugs committed under:

5 1. Subsection A, paragraph 1, 2, ~~OR~~ 4 OR 5 of this section is a
6 class 4 felony.

7 2. Subsection A, paragraph 3 of this section is a class 6 felony.

8 N. For the purposes of this section: ~~;~~

9 1. "Suspension, cancellation, revocation or refusal" means any
10 suspension, cancellation, revocation or refusal.

11 2. "WRONG WAY" MEANS VEHICULAR MOVEMENT THAT IS IN A DIRECTION
12 OPPOSING THE LEGAL FLOW OF TRAFFIC. WRONG WAY DOES NOT INCLUDE MEDIAN
13 CROSSING OR A COLLISION WHERE A MOTOR VEHICLE COMES TO A STOP FACING THE
14 WRONG WAY.