

Senate Engrossed

State of Arizona  
Senate  
Fifty-third Legislature  
Second Regular Session  
2018

# SENATE BILL 1210

AN ACT

AMENDING SECTION 28-673, ARIZONA REVISED STATUTES; RELATING TO TRAFFIC ACCIDENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 28-673, Arizona Revised Statutes, is amended to  
3 read:

4 28-673. Traffic accidents; implied consent; tests

5 A. A person who operates a motor vehicle within this state gives  
6 consent to a test or tests of the person's blood, breath, urine or other  
7 bodily substance for the purposes of determining alcohol concentration or  
8 drug content if the person is involved in a traffic accident resulting in  
9 death or serious physical injury as defined in section 13-105 and a law  
10 enforcement officer has probable cause to believe that the person caused  
11 the accident or the person is issued a citation for a violation of ~~any~~  
12 ~~provision of~~ this article, article 2, 3, ~~or~~ 5, ~~through~~ 6, 7, 8, 9, 10, 11,  
13 12, 13, 14 OR 15 of this chapter or chapter 4 of this title.

14 B. The test or tests chosen by the law enforcement agency shall be  
15 administered at the direction of a law enforcement officer who has  
16 reasonable grounds to believe that the person was involved in a traffic  
17 accident resulting in death or serious physical injury as defined in  
18 section 13-105 and who has probable cause to believe that the person  
19 caused the accident or the person was issued a citation for a violation of  
20 any provision of this article, article 2, 3 or 5 through 15 of this  
21 chapter or chapter 4 of this title.

22 C. After a determination is made that a person was involved in a  
23 traffic accident resulting in death ~~or serious physical injury as defined~~  
24 ~~in section 13-105~~ and the officer has probable cause to believe that the  
25 person caused the accident ~~or the person was issued a citation for a~~  
26 ~~violation of any provision of this article, article 2, 3 or 5 through 15~~  
27 ~~of this chapter or chapter 4 of this title~~, the OFFICER SHALL REQUIRE THE  
28 person ~~may be requested~~ to submit to and successfully complete any test or  
29 tests prescribed by subsection A of this section. ~~, and~~ AFTER A  
30 DETERMINATION IS MADE THAT A PERSON WAS INVOLVED IN A TRAFFIC ACCIDENT  
31 RESULTING IN SERIOUS PHYSICAL INJURY AS DEFINED IN SECTION 13-105 AND THE  
32 OFFICER HAS PROBABLE CAUSE TO BELIEVE THAT THE PERSON CAUSED THE ACCIDENT  
33 OR THE PERSON WAS ISSUED A CITATION FOR A VIOLATION OF ANY PROVISION OF  
34 THIS ARTICLE, ARTICLE 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 OR 15 OF  
35 THIS CHAPTER OR CHAPTER 4 OF THIS TITLE, THE OFFICER MAY REQUEST THAT THE  
36 PERSON SUBMIT TO AND SUCCESSFULLY COMPLETE ANY TEST OR TESTS PRESCRIBED BY  
37 SUBSECTION A OF THIS SECTION. If the person refuses TO SUBMIT TO AND  
38 SUCCESSFULLY COMPLETE A TEST OR TESTS PRESCRIBED BY SUBSECTION A OF THIS  
39 SECTION, the person shall be informed that the person's license or permit  
40 to drive will be suspended or denied for twelve months, or for two years  
41 for a second or subsequent refusal in a period of eighty-four months,  
42 unless the person expressly agrees to submit to and successfully completes  
43 the test or tests. A failure to expressly agree to the test or  
44 successfully complete the test is deemed a refusal. The person shall also

1 be informed that if the test results show a blood or breath alcohol  
2 concentration of 0.08 or more, or if the results show a blood or breath  
3 alcohol concentration of 0.04 or more and the person was driving or in  
4 actual physical control of a commercial motor vehicle, the person's  
5 license or permit to drive will be suspended or denied for not less than  
6 ninety consecutive days.

7 D. If a person refuses to submit to the test designated by the law  
8 enforcement agency as provided in subsection B of this section:

9 1. The test shall not be given, except as provided in section  
10 28-1388, subsection E or pursuant to a search warrant.

11 2. The law enforcement officer directing the administration of the  
12 test shall:

13 (a) File a certified report of the refusal with the department.

14 (b) On behalf of the department, serve an order of suspension on  
15 the person that is effective fifteen days after the date the order is  
16 served.

17 (c) Require the immediate surrender of any license or permit to  
18 drive that is issued by this state and that is in the possession or  
19 control of the person.

20 (d) If the license or permit is not surrendered, state the reason  
21 why it is not surrendered.

22 (e) If a valid license or permit is surrendered, issue a temporary  
23 driving permit that is valid for fifteen days.

24 (f) Forward the certified report of refusal, a copy of the  
25 completed notice of suspension, a copy of any completed temporary permit  
26 and any driver license or permit taken into possession under this section  
27 to the department within five days after the issuance of the notice of  
28 suspension.

29 E. Section 28-1321, subsections E through P apply to any test  
30 prescribed by this section and to any person who refuses to submit to a  
31 test prescribed by this section, except that:

32 1. The certified report shall state the law enforcement officer's  
33 reasonable grounds to believe that the person was involved in a traffic  
34 accident resulting in death or serious physical injury as defined in  
35 section 13-105 and the law enforcement officer's probable cause to believe  
36 that the person caused the accident or the person was issued a citation  
37 for a violation of ~~any provision of~~ this article, article 2, 3, ~~or~~ 5,  
38 ~~through~~ 6, 7, 8, 9, 10, 11, 12, 13, 14 OR 15 of this chapter or chapter 4  
39 of this title.

40 2. The certified report shall be filed pursuant to subsection D of  
41 this section.

42 3. The scope of the hearing shall include the law enforcement  
43 officer's probable cause to believe that the person was involved in a  
44 traffic accident resulting in death or serious physical injury as defined

1 in section 13-105 and the law enforcement officer's probable cause to  
2 believe that the person caused the accident or the person was issued a  
3 citation for a violation of ~~any provision of~~ this article, article 2, 3,  
4 ~~or~~ 5, ~~through~~ 6, 7, 8, 9, 10, 11, 12, 13, 14 OR 15 of this chapter or  
5 chapter 4 of this title.

6 F. A person who is dead, unconscious or otherwise in a condition  
7 rendering the person incapable of refusal is deemed not to have withdrawn  
8 the consent provided by subsection A of this section and the test or tests  
9 shall be administered.