

REFERENCE TITLE: **restricted license; DUI; suspension report**

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

HB 2296

Introduced by
Representatives Payne: Pingerelli

AN ACT

AMENDING SECTIONS 28-144, 28-693, 28-695, 28-708, 28-1383, 28-1385, 28-1387, 28-1401 AND 28-1402, ARIZONA REVISED STATUTES; RELATING TO DRIVING RESTRICTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 28-144, Arizona Revised Statutes, is amended to
3 read:

4 28-144. Driver license or permit restrictions

5 A. Except as otherwise provided by law, a restriction on a person's
6 driver license or permit to drive as a result of a conviction for a
7 violation of this title may limit the person's privilege to drive for the
8 following applicable purposes:

9 1. Between the person's residence and place of employment during
10 specified periods of time while at employment.

11 2. Between the person's residence or place of employment and the
12 person's school according to the person's employment or education
13 schedule.

14 3. Between the person's residence, place of employment or school
15 and the office of a health professional as defined in section 32-3201.

16 4. Between the person's residence, place of employment or school
17 and a screening, education or treatment facility for scheduled
18 appointments.

19 5. Between the person's residence, place of employment or school
20 and the office of the person's probation officer for scheduled
21 appointments, INCLUDING ANY APPOINTMENT THAT IS REQUIRED TO FULFILL A
22 CONDITION OR REQUIREMENT THAT IS IMPOSED ON THE PERSON BY THIS STATE OR A
23 POLITICAL SUBDIVISION OF THIS STATE.

24 6. Between the person's residence, place of employment or school
25 and a certified ignition interlock device service facility.

26 7. Between the person's residence and a location designated for the
27 purpose of parenting time as defined in section 25-401.

28 8. To transport a dependent person ~~who is living with the driver,~~
29 between the driver's residence and the dependent person's employment,
30 school or medical appointment.

31 9. BETWEEN THE PERSON'S RESIDENCE AND COURT-ORDERED SCREENING,
32 EDUCATION OR TREATMENT FOR SCHEDULED APPOINTMENTS.

33 B. ~~The provisions of~~ This section ~~do~~ DOES not apply to a person who
34 is the holder of a commercial driver license issued pursuant to this
35 title.

36 Sec. 2. Section 28-693, Arizona Revised Statutes, is amended to
37 read:

38 28-693. Reckless driving; violation; classification; license;
39 surrender; special ignition interlock restricted
40 driver license

41 A. A person who drives a vehicle in reckless disregard for the
42 safety of persons or property is guilty of reckless driving.

43 B. A person WHO IS convicted of reckless driving is guilty of a
44 class 2 misdemeanor.

1 C. In addition, the judge may require the surrender to a police
2 officer of any driver license of the convicted person, shall report the
3 conviction to the department and may order the driving privileges of the
4 person to be suspended for a period of not more than ninety days. On
5 receipt of the abstract of conviction and order, the department shall
6 suspend the driving privilege of the person for the period of time ordered
7 by the judge.

8 D. If a person who is convicted of a violation of this section has
9 been previously convicted of a violation of this section, section 13-1102
10 or section 13-1103, subsection A, paragraph 1, in the driving of a
11 vehicle, or section 28-708, 28-1381, 28-1382 or 28-1383 within a period of
12 twenty-four months:

13 1. The person is guilty of a class 1 misdemeanor.

14 2. The person is not eligible for probation, pardon, suspension of
15 sentence or release on any basis until the person has served not less than
16 twenty days in jail.

17 3. The judge may require the surrender to a police officer of any
18 driver license of the person and shall immediately forward the abstract of
19 conviction to the department.

20 4. On receipt of the abstract of conviction, the department shall
21 revoke the driving privilege of the person.

22 E. In applying the twenty-four month period provision of subsection
23 D of this section, the dates of the commission of the offense shall be the
24 determining factor, irrespective of the sequence in which the offenses
25 were committed. A second or subsequent violation for which a conviction
26 occurs as provided in this section does not include a conviction for an
27 offense arising out of the same series of acts.

28 F. On pronouncement of a jail sentence under this section, and
29 after the court receives confirmation that the person is employed or is a
30 student, the court may provide in the sentence that if the defendant is
31 employed or is a student the defendant can continue employment or
32 schooling for not more than twelve hours per day nor more than five days
33 per week. The defendant shall spend the remaining days or parts of days
34 in jail until the sentence is served and shall be allowed out of jail only
35 long enough to complete the defendant's actual hours of employment or
36 schooling.

37 G. AFTER COMPLETING NOT LESS THAN FORTY-FIVE CONSECUTIVE DAYS OF
38 THE REVOCATION PERIOD REQUIRED BY SUBSECTION D OF THIS SECTION, A PERSON
39 WHOSE DRIVING PRIVILEGE IS REVOKED FOR A VIOLATION OF THIS SECTION AND WHO
40 IS SENTENCED PURSUANT TO SUBSECTION D OF THIS SECTION IS ELIGIBLE FOR A
41 SPECIAL IGNITION INTERLOCK RESTRICTED DRIVER LICENSE PURSUANT TO SECTION
42 28-1401.

1 Sec. 3. Section 28-695, Arizona Revised Statutes, is amended to
2 read:

3 28-695. Aggressive driving; violation; classification;
4 special ignition interlock restricted driver
5 license; definition

6 A. A person commits aggressive driving if both of the following
7 occur:

8 1. During a course of conduct the person commits a violation of
9 either section 28-701, subsection A or section 28-701.02 and at least two
10 of the following violations:

11 (a) Failure to obey traffic control devices as provided in section
12 28-644.

13 (b) Overtaking and passing another vehicle on the right by driving
14 off the pavement or main traveled portion of the roadway as provided in
15 section 28-724.

16 (c) Unsafe lane change as provided in section 28-729.

17 (d) Following a vehicle too closely as provided in section 28-730.

18 (e) Failure to yield the right-of-way as provided in article 9 of
19 this chapter.

20 2. The person's driving is an immediate hazard to another person or
21 vehicle.

22 B. A person convicted of aggressive driving is guilty of a class 1
23 misdemeanor.

24 C. In addition to any other penalty prescribed by law:

25 1. A person convicted of a violation of this section shall attend
26 and successfully complete approved traffic survival school educational
27 sessions that are designed to improve the safety and habits of drivers and
28 that are approved by the department.

29 2. The court shall forward the abstract of conviction to the
30 department and may order the department to suspend the person's driving
31 privilege for thirty days.

32 D. If a person who is convicted of a violation of this section has
33 been previously convicted of a violation of this section within a period
34 of twenty-four months:

35 1. The person is guilty of a class 1 misdemeanor.

36 2. In addition to any other penalty prescribed by law, the court
37 shall forward the abstract of conviction to the department. On receipt of
38 the abstract of conviction, the department shall revoke the driving
39 privilege of the person for one year.

40 E. The dates of the commission of the offense determine whether
41 subsection D of this section applies. A second or subsequent violation
42 for which a conviction occurs as provided in this section does not include
43 a conviction for an offense arising out of the same series of acts.

1 F. AFTER COMPLETING NOT LESS THAN FORTY-FIVE CONSECUTIVE DAYS OF
2 THE REVOCATION PERIOD REQUIRED BY SUBSECTION D OF THIS SECTION, A PERSON
3 WHOSE DRIVING PRIVILEGE IS REVOKED FOR A VIOLATION OF THIS SECTION AND WHO
4 IS SENTENCED PURSUANT TO SUBSECTION D OF THIS SECTION IS ELIGIBLE FOR A
5 SPECIAL IGNITION INTERLOCK RESTRICTED DRIVER LICENSE PURSUANT TO SECTION
6 28-1401.

7 ~~F.~~ G. For the purposes of this section, "course of conduct" means
8 a series of acts committed during a single, continuous period of driving.

9 Sec. 4. Section 28-708, Arizona Revised Statutes, is amended to
10 read:

11 28-708. Racing on highways; violation; classification;
12 exception; special ignition interlock restricted
13 driver license; definitions

14 A. A person shall not drive a vehicle or participate in any manner
15 in a race, speed competition or contest, drag race or acceleration
16 contest, test of physical endurance or exhibition of speed or acceleration
17 or for the purpose of making a speed record on a street or highway.

18 B. A person who violates this section is guilty of a class 1
19 misdemeanor. If a person is convicted of a second or subsequent violation
20 of this section within twenty-four months ~~of~~ AFTER a first conviction, the
21 person is guilty of a class 6 felony and is not eligible for probation,
22 pardon, suspension of sentence or release on any other basis until the
23 person has served not less than ten days in jail or prison.

24 C. A person who is convicted of a first violation of this section
25 shall pay a fine of not less than ~~two hundred fifty dollars~~ \$250 and may
26 be ordered by the court to perform community restitution.

27 D. A person who is convicted of a subsequent violation of this
28 section shall pay a fine of not less than ~~five hundred dollars~~ \$500 and
29 may be ordered by the court to perform community restitution.

30 E. On pronouncement of a jail sentence under this section and in
31 cases of extreme hardship, the court may provide in the sentence that if
32 the defendant is employed or attending school and can continue employment
33 or school the defendant may continue the employment or school for not more
34 than twelve hours per day nor more than five days per week, and the
35 defendant shall spend the remaining days or parts of days in jail until
36 the sentence is served. The court may allow the defendant to be out of
37 jail only long enough to complete the defendant's actual hours of
38 employment or school.

39 F. If a person is convicted of violating this section, the judge
40 may require the surrender to a police officer of any driver license of the
41 person and immediately forward the abstract of conviction to the
42 department. On a first conviction, the judge may order the suspension of
43 the driving privileges of the person for a period of not more than ninety
44 days. In the case of a first conviction and on receipt of the abstract of
45 conviction and order of the court, the department shall suspend the

1 driving privileges of the person for the period of time ordered by the
2 judge. In the case of a second or subsequent conviction for an offense
3 committed within a period of twenty-four months and on receipt of the
4 abstract of conviction, the department shall revoke the driving privileges
5 of the person.

6 G. The director may authorize in writing an organized and properly
7 controlled event to ~~utilize~~ USE a highway or part of a highway even though
8 it is prohibited by this section. The authorization shall specify the
9 time of the event, the highway or part of a highway to be ~~utilized~~ USED
10 and any special conditions the director may require for the particular
11 event.

12 H. AFTER COMPLETING NOT LESS THAN FORTY-FIVE CONSECUTIVE DAYS OF
13 THE REVOCATION PERIOD REQUIRED BY SUBSECTION F OF THIS SECTION, A PERSON
14 WHOSE DRIVING PRIVILEGE IS REVOKED FOR A VIOLATION OF THIS SECTION AND WHO
15 IS SENTENCED PURSUANT TO SUBSECTION F OF THIS SECTION IS ELIGIBLE FOR A
16 SPECIAL IGNITION INTERLOCK RESTRICTED DRIVER LICENSE PURSUANT TO SECTION
17 28-1401.

18 ~~H.~~ I. For the purposes of this section:

19 1. "Drag race" means either:

20 (a) The operation of two or more vehicles from a point side by side
21 at accelerating speeds in a competitive attempt to outdistance each other.

22 (b) The operation of one or more vehicles over a common selected
23 course and from the same point for the purpose of comparing the relative
24 speeds or power of acceleration of the vehicle or vehicles within a
25 certain distance or time limit.

26 2. "Racing" means the use of one or more vehicles in an attempt to
27 outgain or outdistance another vehicle or prevent another vehicle from
28 passing.

29 Sec. 5. Section 28-1383, Arizona Revised Statutes, is amended to
30 read:

31 28-1383. Aggravated driving or actual physical control while
32 under the influence; county jail program; annual
33 report; violation; classification; definitions

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

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

42 2. Within a period of eighty-four months commits a third or
43 subsequent violation of section 28-1381, section 28-1382 or this section
44 or is convicted of a violation of section 28-1381, section 28-1382 or this
45 section and has previously been convicted of any combination of

1 convictions of section 28-1381, section 28-1382 or this section or acts in
2 another jurisdiction that if committed in this state would be a violation
3 of section 28-1381, section 28-1382 or this section.

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

6 (a) Section 28-1381.

7 (b) Section 28-1382.

8 4. While the person is ordered by the court or required pursuant to
9 section 28-3319 by the department to equip any motor vehicle the person
10 operates with a certified ignition interlock device, commits a violation
11 of section 28-1381, section 28-1382 or this section.

12 5. Commits a violation of section 28-1381, section 28-1382 or this
13 section while driving the wrong way on a **CONTROLLED ACCESS** highway **OR**
14 **STATE HIGHWAY**.

15 B. The dates of the commission of the offenses are the determining
16 factor in applying the eighty-four month provision provided in subsection
17 A, paragraph 2 of this section regardless of the sequence in which the
18 offenses were committed. For the purposes of this section, a third or
19 subsequent violation for which a conviction occurs does not include a
20 conviction for an offense arising out of the same series of acts. The
21 time that a probationer is found to be on absconder status or the time
22 that a person is incarcerated in any state, federal, county or city jail
23 or correctional facility is excluded when determining the eighty-four
24 month period provided in subsection A, paragraph 2 and subsection E of
25 this section.

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

30 D. A person is not eligible for probation, pardon, commutation or
31 suspension of sentence or release on any other basis until the person has
32 served not less than four months in prison if the person is convicted
33 under any of the following:

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

35 2. Subsection A, paragraph 2 of this section and within an
36 eighty-four month period has been convicted of two prior violations of
37 section 28-1381, section 28-1382 or this section, or any combination of
38 those sections, or acts in another jurisdiction that if committed in this
39 state would be a violation of section 28-1381, section 28-1382 or this
40 section.

41 3. Subsection A, paragraph 5 of this section.

42 E. A person who is convicted under subsection A, paragraph 2 of
43 this section and who within an eighty-four month period has been convicted
44 of three or more prior violations of section 28-1381, section 28-1382 or
45 this section, or any combination of those sections, or acts in another

1 jurisdiction that if committed in this state would be a violation of
2 section 28-1381, section 28-1382 or this section is not eligible for
3 probation, pardon, commutation or suspension of sentence or release on any
4 other basis until the person has served not less than eight months in
5 prison.

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

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

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

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

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

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

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

29 1. Shall report the conviction to the department. On receipt of
30 the report, the department shall revoke the driving privilege of the
31 person. The department shall not issue the person a new driver license
32 within one year of the date of the conviction and, if the violation
33 involved intoxicating liquor, shall require the person to equip any motor
34 vehicle the person operates with a certified ignition interlock device
35 pursuant to section 28-3319. In addition, the court may order the person
36 to equip any motor vehicle the person operates with a certified ignition
37 interlock device for more than twenty-four months beginning on the date
38 the person successfully completes the alcohol or other drug screening,
39 education or treatment program requirements of this title and the person
40 is otherwise eligible to reinstate the person's driver license or driving
41 privilege. The person who operates a motor vehicle with a certified
42 ignition interlock device under this paragraph shall comply with article 5
43 of this chapter.

1 2. In addition to any other penalty prescribed by law, shall order
2 the person to pay an additional assessment of \$250. If the conviction
3 occurred in the superior court or a justice court, the court shall
4 transmit the monies received pursuant to this paragraph to the county
5 treasurer. If the conviction occurred in a municipal court, the court
6 shall transmit the monies received pursuant to this paragraph to the city
7 treasurer. The city or county treasurer shall transmit the monies
8 received to the state treasurer. The state treasurer shall deposit the
9 monies received in the driving under the influence abatement fund
10 established by section 28-1304. Any fine imposed for a violation of this
11 section and any assessments, restitution and incarceration costs shall be
12 paid before the assessment prescribed in this paragraph.

13 3. Shall order the person to pay a fine of not less than \$750.

14 4. In addition to any other penalty prescribed by law, shall order
15 the person to pay an additional assessment of \$1,500 to be deposited by
16 the state treasurer in the prison construction and operations fund
17 established by section 41-1651. This assessment is not subject to any
18 surcharge. If the conviction occurred in the superior court or a justice
19 court, the court shall transmit the assessed monies to the county
20 treasurer. If the conviction occurred in a municipal court, the court
21 shall transmit the assessed monies to the city treasurer. The city or
22 county treasurer shall transmit the monies received to the state
23 treasurer.

24 5. In addition to any other penalty prescribed by law, shall order
25 the person to pay an additional assessment of \$1,500 to be deposited by
26 the state treasurer in the public safety equipment fund established by
27 section 41-1723. This assessment is not subject to any surcharge. If the
28 conviction occurred in the superior court or a justice court, the court
29 shall transmit the assessed monies to the county treasurer. If the
30 conviction occurred in a municipal court, the court shall transmit the
31 assessed monies to the city treasurer. The city or county treasurer shall
32 transmit the monies received to the state treasurer.

33 K. On conviction for a violation of this section the defendant
34 shall be required by the department to attend and successfully complete an
35 approved traffic survival school course.

36 L. After completing the period of suspension required by section
37 28-1385, a person whose driving privilege is revoked for a violation of
38 subsection A, paragraph 3 of this section may apply to the department for
39 a special ignition interlock restricted driver license pursuant to section
40 28-1401.

41 M. The court may order a person who is convicted of a violation of
42 this section that does not involve intoxicating liquor to equip any motor
43 vehicle the person operates with a certified ignition interlock device
44 pursuant to section 28-3319. On receipt of the report of conviction and
45 certified ignition interlock device requirement, the department shall

1 require the person to equip any motor vehicle the person operates with a
2 certified ignition interlock device pursuant to section 28-3319. In
3 addition, the court may order the person to equip any motor vehicle the
4 person operates with a certified ignition interlock device for more than
5 twelve months beginning on the date the person successfully completes the
6 alcohol or other drug screening, education or treatment program
7 requirements of this title and the person is otherwise eligible to
8 reinstate the person's driver license or driving privilege. The person
9 who operates a motor vehicle with a certified ignition interlock device
10 under this subsection shall comply with article 5 of this chapter.

11 N. The sheriff of a county with a population of less than five
12 hundred thousand persons may establish an aggravated driving under the
13 influence jail program. If the sheriff establishes an aggravated driving
14 under the influence jail program, the program may not be implemented until
15 the state department of corrections enters into an agreement with the
16 county board of supervisors pursuant to section 31-234 to facilitate the
17 program. Notwithstanding subsections D and E of this section, if the
18 violation occurs in a county that has established and implemented an
19 aggravated driving under the influence jail program or in a county that is
20 contiguous to a county that has established and implemented an aggravated
21 driving under the influence jail program and the person is placed on
22 probation, the mandatory term of incarceration that the person would
23 otherwise serve in prison may be served in the jail of the county that
24 established and implemented the program. A person who is incarcerated in
25 a county jail pursuant to this subsection is not eligible for any release,
26 work detail or monitoring program that the person would not otherwise be
27 eligible for if incarcerated in prison. A county sheriff who establishes
28 an aggravated driving under the influence jail program pursuant to this
29 subsection shall submit an annual report to the Arizona criminal justice
30 commission that contains the data that the Arizona statistical analysis
31 center determines is necessary to prepare a recidivism report pursuant to
32 section 41-2405.

33 O. Aggravated driving or actual physical control while under the
34 influence of intoxicating liquor or drugs committed under:

35 1. Subsection A, paragraph 1, 2, 4 or 5 of this section is a class
36 4 felony.

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

38 P. For the purposes of this section:

39 1. "Suspension, cancellation, revocation or refusal" means any
40 suspension, cancellation, revocation or refusal.

41 2. "Wrong way" means vehicular movement that is in a direction
42 opposing the legal flow of traffic. Wrong way does not include median
43 crossing or a collision where a motor vehicle comes to a stop facing the
44 wrong way.

1 Sec. 6. Section 28-1385, Arizona Revised Statutes, is amended to
2 read:

3 28-1385. Administrative license suspension for driving under
4 the influence or for homicide or assault involving
5 a motor vehicle; report; hearing; summary review;
6 ignition interlock device requirement

7 A. A law enforcement officer shall forward to the department a
8 certified report as prescribed in subsection B of this section, subject to
9 the penalty for perjury prescribed by section 28-1561, if both of the
10 following occur:

11 1. The officer arrests a person for a violation of section 4-244,
12 paragraph 34, section 28-1381, section 28-1382 or section 28-1383 or for a
13 violation of title 13, chapter 11 or section 13-1201 or 13-1204 involving
14 a motor vehicle.

15 2. The person submits to a blood or breath alcohol test permitted
16 by section 28-1321 or any other law or a sample of blood is obtained
17 pursuant to section 28-1388 and the results are either not available or
18 the results indicate any of the following:

19 (a) 0.08 or more alcohol concentration in the person's blood or
20 breath.

21 (b) 0.04 or more alcohol concentration in the person's blood or
22 breath if the person was driving or in actual physical control of a
23 commercial motor vehicle.

24 (c) Any drug defined in section 13-3401 or its metabolite is in the
25 person's body except if the person possesses a valid prescription for the
26 drug.

27 B. The officer shall make the certified report required by
28 subsection A of this section on forms supplied or approved by the
29 department. The report shall state information that is relevant to the
30 enforcement action, including:

31 1. Information that adequately identifies the arrested person.

32 2. A statement of the officer's grounds for belief that the person
33 was driving or in actual physical control of a motor vehicle in violation
34 of section 4-244, paragraph 34, section 28-1381, section 28-1382 or
35 section 28-1383 or committed a violation of title 13, chapter 11 or
36 section 13-1201 or 13-1204 involving a motor vehicle.

37 3. A statement that the person was arrested for a violation of
38 section 4-244, paragraph 34, section 28-1381, section 28-1382 or section
39 28-1383 or for a violation of title 13, chapter 11 or section 13-1201 or
40 13-1204 involving a motor vehicle.

41 4. A report of the results of the blood or breath alcohol test that
42 was administered, if the results are available.

43 C. FOR VIOLATIONS LISTED IN SUBSECTION A, PARAGRAPH 1 OF THIS
44 SECTION, A LAW ENFORCEMENT OFFICER SHALL FORWARD THE CERTIFIED REPORT TO
45 THE DEPARTMENT WITHIN THIRTY DAYS AFTER THE ARREST OCCURS. THE REPORT MAY

1 NOT BE USED AGAINST THE PERSON, AND THE PERSON'S PRIVILEGE TO DRIVE IS NOT
2 SUBJECT TO ANY PENALTIES UNDER THIS SECTION. THE THIRTY-DAY REQUIREMENT
3 MAY BE EXTENDED IF A CHEMICAL TEST LABORATORY ANALYSIS CAPABLE OF
4 DETERMINING ALCOHOL CONCENTRATION IS NOT COMPLETED WITHIN THIRTY DAYS
5 AFTER THE ARREST OCCURS. IF A CHEMICAL TEST LABORATORY ANALYSIS CAPABLE
6 OF DETERMINING ALCOHOL CONCENTRATION IS NOT COMPLETED WITHIN THE
7 THIRTY-DAY PERIOD, THE LAW ENFORCEMENT OFFICER SHALL FORWARD THE CERTIFIED
8 REPORT TO THE DEPARTMENT WITHIN THIRTY DAYS AFTER THE DATE THAT THE
9 CHEMICAL TEST RESULT IS CREATED.

10 ~~E.~~ D. The officer shall also serve an order of suspension on the
11 person on behalf of the department. The order of suspension:

12 1. Is effective fifteen days after the date it is served.

13 2. Shall require the immediate surrender of any license or permit
14 to drive that is issued by this state and that is in the possession or
15 control of the person.

16 3. Shall contain information concerning the right to a summary
17 review and hearing, including information concerning the hearing as
18 required by section 28-1321, subsections G and H.

19 4. Shall be accompanied by printed forms that are ready to mail to
20 the department, that the person may fill out and sign to indicate the
21 person's desire for a hearing and that advise the person that the person
22 may alternatively submit an online request for a hearing.

23 5. Shall be entered on the department's records on receipt of the
24 report by the officer and a copy of the order of suspension.

25 6. Shall inform the person that the person's driving privilege,
26 license, permit, right to apply for a license or permit or nonresident
27 operating privilege may be issued or reinstated following the period of
28 suspension only if the person completes alcohol or other drug screening.

29 7. Shall contain information on alcohol or other drug education and
30 treatment programs that are provided by a facility approved by the
31 department of health services.

32 ~~D.~~ E. If the blood test result is unavailable at the time the test
33 is administered, the result shall be forwarded to the department before
34 the hearing held pursuant to this section in a form prescribed by the
35 director.

36 ~~E.~~ F. If the license or permit is not surrendered pursuant to
37 subsection ~~E.~~ D of this section, the officer shall state the reason for
38 the nonsurrender. If a valid license or permit is surrendered, the
39 officer shall issue a temporary driving permit that is valid for fifteen
40 days. The officer shall forward a copy of the completed order of
41 suspension and a copy of any completed temporary permit to the department
42 within five days after the issuance of the order of suspension along with
43 the report. The law enforcement agency may do either of the following
44 with a valid license or permit that is surrendered pursuant to this
45 section:

1 1. In compliance with sections 41-151.15 and 41-151.19, destroy the
2 license or permit.

3 2. Forward the license or permit to the department within five days
4 after the issuance of the notice of suspension.

5 ~~F.~~ G. The department shall suspend the affected person's license
6 or permit to drive or right to apply for a license or permit or any
7 nonresident operating privilege for not less than ninety consecutive days
8 from that date. If the person is otherwise qualified, the department may
9 reinstate the person's driving privilege, license, permit, right to apply
10 for a license or permit or nonresident operating privilege following the
11 period of suspension only if the violator completes alcohol or other drug
12 screening.

13 ~~G.~~ H. Notwithstanding subsections A, ~~through F~~ B, C, D, E, F AND G
14 of this section, the department shall suspend the driving privileges of
15 the person described in subsection A of this section for not less than
16 thirty consecutive days and shall restrict the driving privileges of the
17 person for not less than sixty consecutive additional days to travel
18 between the person's place of employment and residence and during
19 specified periods of time while at employment, to travel between the
20 person's place of residence and the person's secondary or postsecondary
21 school, according to the person's employment or educational schedule, to
22 travel between the person's place of residence and the office of the
23 person's probation officer for scheduled appointments or to travel between
24 the person's place of residence and a screening, education or treatment
25 facility for scheduled appointments if the person:

26 1. Did not cause death or serious physical injury as defined in
27 section 13-105 to another person during the course of conduct out of which
28 the current action arose.

29 2. Has not been convicted of a violation of section 4-244,
30 paragraph 34, section 28-1381, section 28-1382 or section 28-1383 within
31 eighty-four months of the date of commission of the acts out of which the
32 current action arose. The dates of commission of the acts are the
33 determining factor in applying the eighty-four month provision.

34 3. Has not had the person's privilege to drive suspended pursuant
35 to this section or section 28-1321 within eighty-four months of the date
36 of commission of the acts out of which the current action arose.

37 4. Provides satisfactory evidence to the department of the person's
38 completion of alcohol or other drug screening that is ordered by the
39 department. If the person does not complete alcohol or other drug
40 screening, the department may impose a ninety day suspension pursuant to
41 this section.

42 ~~H.~~ I. If the officer does not serve an order of suspension
43 pursuant to subsection ~~C~~ D of this section and if the department does not
44 receive the report of the results of the blood or breath alcohol test
45 pursuant to subsection B, paragraph 4 of this section, but subsequently

1 receives the results and the results indicate 0.08 or more alcohol
2 concentration in the person's blood or breath, a blood or breath alcohol
3 concentration of 0.04 or more and the person was driving or in actual
4 physical control of a commercial motor vehicle or any drug defined in
5 section 13-3401 or its metabolite in the person's body and the person does
6 not possess a valid prescription for the drug, the department shall notify
7 the person named in the report in writing sent by mail that fifteen days
8 after the date of issuance of the notice the department will suspend the
9 person's license or permit, driving privilege or nonresident driving
10 privilege. The notice shall also state that the department will provide
11 an opportunity for a hearing and administrative review if the person
12 requests a hearing or review in writing and the request is received by the
13 department within fifteen days after the notice is sent.

14 ~~I.~~ J. A timely request for a hearing stays the suspension until a
15 hearing is held, except that the department shall not return any
16 surrendered license or permit to the person but may issue temporary
17 permits to drive that expire no later than when the department has made
18 its final decision. If the person is a resident without a license or
19 permit or has an expired license or permit, the department may allow the
20 person to apply for a restricted license or permit. If the department
21 determines the person is otherwise entitled to the restricted license or
22 permit, the department shall issue, but retain, the license or permit,
23 subject to this section. All hearings requested under this section shall
24 be conducted in the same manner and under the same conditions as provided
25 in section 28-3306.

26 ~~J.~~ K. For the purposes of this section, the scope of the hearing
27 shall include only the following issues:

28 1. Whether the officer had reasonable grounds to believe the person
29 was driving or was in actual physical control of a motor vehicle while
30 under the influence of intoxicating liquor or drugs.

31 2. Whether the person was placed under arrest for a violation of
32 section 4-244, paragraph 34, section 28-1381, section 28-1382 or section
33 28-1383 or for a violation of title 13, chapter 11 or section 13-1201 or
34 13-1204 involving a motor vehicle.

35 3. Whether a test was taken, the results of which indicated any of
36 the following:

37 (a) An alcohol concentration in the person's blood or breath at the
38 time the test was administered of either:

39 (i) 0.08 or more.

40 (ii) 0.04 or more if the person was driving or in actual physical
41 control of a commercial motor vehicle.

42 (b) Any drug defined in section 13-3401 or its metabolite in the
43 person's body except if the person possesses a valid prescription for the
44 drug.

1 4. Whether the testing method used was valid and reliable.

2 5. Whether the test results were accurately evaluated.

3 ~~K.~~ L. The results of the blood or breath alcohol test shall be
4 admitted on establishing the requirements in section 28-1323 or 28-1326.

5 ~~L.~~ M. If the department determines at the hearing to suspend the
6 affected person's privilege to operate a motor vehicle, the suspension
7 provided in this section is effective fifteen days after giving written
8 notice of the suspension, except that the department may issue or extend a
9 temporary license that expires on the effective date of the suspension.
10 If the person is a resident without a license or permit or has an expired
11 license or permit to operate a motor vehicle in this state, the department
12 shall deny the issuance of a license or permit to the person for not less
13 than ninety consecutive days. The department may reinstate the person's
14 driving privilege, license, permit, right to apply for a license or permit
15 or nonresident operating privilege following the period of suspension only
16 if the violator completes alcohol or other drug screening.

17 ~~M.~~ N. A person may apply for a summary review of an order issued
18 pursuant to this section instead of a hearing at any time before the
19 effective date of the order. A timely request for summary review stays
20 the suspension until a decision is issued. The person shall submit the
21 application in writing to any department driver license examining office
22 together with any written explanation as to why the department should not
23 suspend the driving privilege. The department shall review all reports
24 submitted by the officer and any written explanation submitted by the
25 person and shall determine if the order of suspension should be sustained
26 or cancelled. The department shall not hold a hearing, and the review is
27 not subject to title 41, chapter 6. The department shall notify the
28 person of its decision.

29 ~~N.~~ O. If the suspension or determination that there should be a
30 denial of issuance is not sustained after a hearing or review, the ruling
31 is not admissible in and does not have any effect on any civil or criminal
32 court proceeding.

33 ~~O.~~ P. If it has been determined under the procedures of this
34 section that a nonresident's privilege to operate a motor vehicle in this
35 state has been suspended, the department shall give information either in
36 writing or by electronic means of the action taken to the motor vehicle
37 administrator of the state of the person's residence and of any state in
38 which the person has a license.

39 Sec. 7. Section 28-1387, Arizona Revised Statutes, is amended to
40 read:

41 28-1387. Prior convictions; alcohol or other drug screening;
42 education and treatment; license suspension;
43 supervised probation; civil liability; procedures

44 A. The court shall allow the allegation of a prior conviction or
45 any other pending charge of a violation of section 28-1381, 28-1382 or

1 28-1383 or an act in another jurisdiction that if committed in this state
2 would be a violation of section 28-1381, 28-1382 or 28-1383 filed twenty
3 or more days before the date the case is actually tried and may allow the
4 allegation of a prior conviction or any other pending charge of a
5 violation of section 28-1381, 28-1382 or 28-1383 or an act in another
6 jurisdiction that if committed in this state would be a violation of
7 section 28-1381, 28-1382 or 28-1383 filed at any time before the date the
8 case is actually tried if this state makes available to the defendant when
9 the allegation is filed a copy of any information obtained concerning the
10 prior conviction or other pending charge. Any conviction may be used to
11 enhance another conviction irrespective of the dates on which the offenses
12 occurred within the eighty-four month provision. For the purposes of this
13 article, an order of a juvenile court adjudicating a person delinquent is
14 equivalent to a conviction.

15 B. In addition to any other penalties prescribed by law, the judge
16 shall order a person who is convicted of a violation of section 28-1381,
17 28-1382 or 28-1383 to complete alcohol or other drug screening that is
18 provided by a facility approved by the department of health services, the
19 United States department of veterans affairs or a probation department.
20 If a judge determines that the person requires further alcohol or other
21 drug education or treatment, the person may be required pursuant to court
22 order to obtain alcohol or other drug education or treatment under the
23 court's supervision from an approved facility. The judge may review an
24 education or treatment determination at the request of the state, the
25 defendant or the probation officer or on the judge's initiative. The
26 person shall pay the costs of the screening, education or treatment
27 unless, after considering the person's ability to pay all or part of the
28 costs, the court waives all or part of the costs. If a person is referred
29 to a screening, education or treatment facility, the facility shall report
30 to the court whether the person has successfully completed the screening,
31 education or treatment program. The court may accept evidence of a
32 person's completion of alcohol or other drug screening pursuant to section
33 28-1445 as sufficient to meet the requirements of this section or section
34 28-1381, 28-1382 or 28-1383 or may order the person to complete additional
35 alcohol or other drug screening, education or treatment programs. If a
36 person has previously been ordered to complete an alcohol or other drug
37 screening, education or treatment program pursuant to this section, the
38 judge shall order the person to complete an alcohol or other drug
39 screening, education or treatment program unless the court determines that
40 alternative sanctions are more appropriate.

41 C. After a person who is sentenced pursuant to section 28-1381,
42 subsection I has served twenty-four consecutive hours in jail or after a
43 person who is sentenced pursuant to section 28-1381, subsection K or
44 section 28-1382, subsection D or E has served forty-eight consecutive
45 hours in jail and after the court receives confirmation that the person is

1 employed or is a student, the court shall provide in the sentence that the
2 defendant, if the defendant is employed or is a student and can continue
3 the defendant's employment or schooling, may continue the employment or
4 schooling for not more than twelve hours a day nor more than six days a
5 week, unless the court finds good cause to not allow the release and
6 places those findings on the record. The person shall spend the remaining
7 day, days or parts of days in jail until the sentence is served and shall
8 be allowed out of jail only long enough to complete the actual hours of
9 employment or schooling.

10 D. Unless the license of a person convicted under section 28-1381
11 or 28-1382 has been or is suspended pursuant to section 28-1321 or
12 28-1385, the department on receipt of the abstract of conviction of a
13 violation of section 28-1381 or 28-1382 shall suspend the license of the
14 affected person for not less than ninety consecutive days.

15 E. When the department receives notification that the person meets
16 the criteria provided in section 28-1385, subsection ~~G~~ H, the department
17 shall suspend the driving privileges of the person for not less than
18 thirty consecutive days and shall restrict the person's driving privileges
19 as described in section 28-144 for not less than sixty consecutive
20 additional days.

21 F. If a person is placed on probation for violating section 28-1381
22 or 28-1382, the probation shall be supervised unless the court finds that
23 supervised probation is not necessary or the court does not have
24 supervisory probation services.

25 G. Any political subdivision processing or using the services of a
26 person ordered to perform community restitution pursuant to section
27 28-1381 or 28-1382 does not incur any civil liability to the person
28 ordered to perform community restitution as a result of these activities
29 unless the political subdivision or its agent or employee acts with gross
30 negligence.

31 H. The court may order alternative sanctions to community
32 restitution that is ordered pursuant to section 28-1381, subsection K or
33 section 28-1382, subsection E if the court determines that education,
34 treatment or other alternative sanctions are more appropriate.

35 I. Except for another violation of this article, the state shall
36 not dismiss a charge of violating any provision of this article unless
37 there is an insufficient legal or factual basis to pursue that charge.

38 Sec. 8. Section 28-1401, Arizona Revised Statutes, is amended to
39 read:

40 28-1401. Special ignition interlock restricted driver
41 licenses: application fee

42 A. A person whose class D or class G license has been suspended
43 pursuant to section 28-1385 or suspended or revoked for a first refusal
44 pursuant to section 28-1321, a second violation of section 28-1381 or
45 28-1382 or a first violation of section 28-1383, subsection A, paragraph 3

1 may apply to the department for a special ignition interlock restricted
2 driver license that allows a person to operate a motor vehicle during the
3 period of suspension or revocation subject to the restrictions described
4 in section 28-144 and the certified ignition interlock device requirements
5 prescribed in article 5 of this chapter if the person's privilege to
6 operate a motor vehicle has been suspended or revoked due to an alcohol
7 related offense pursuant to any of the following:

8 1. Section 28-1321, if the person meets the criteria of section
9 28-1321, subsection P.

10 2. Section 28-1381, if the person meets the criteria of section
11 28-1381, subsection O and the person presents evidence that is
12 satisfactory to the director and that shows that the person has completed
13 the requirements prescribed in section 28-1387, subsection B.

14 3. Section 28-1382, if the person meets the criteria of section
15 28-1382, subsection H and the person presents evidence that is
16 satisfactory to the director and that shows that the person has completed
17 the requirements prescribed in section 28-1387, subsection B.

18 4. Section 28-1383, if the person meets the criteria of section
19 28-1383, subsection L and the person presents evidence that is
20 satisfactory to the director and that shows that the person has completed
21 the requirements prescribed in section 28-1387, subsection B.

22 5. Section 28-1385, if the person meets the criteria of section
23 28-1385, subsection ~~G~~ H.

24 B. An applicant for a special ignition interlock restricted driver
25 license shall pay an application fee in an amount to be determined by the
26 director.

27 C. The department shall issue a special ignition interlock
28 restricted driver license during the period of a ~~court-ordered~~
29 COURT-ORDERED restriction pursuant to sections 28-693, 38-695, 28-708,
30 28-3320 and 28-3322 subject to the restrictions described in section
31 28-144 and the certified ignition interlock requirements prescribed in
32 article 5 of this chapter.

33 D. If the department issues a special ignition interlock restricted
34 driver license, the department shall not delete a suspension or revocation
35 from its records.

36 E. The granting of a special ignition interlock restricted driver
37 license does not reduce or eliminate the required use of an ignition
38 interlock device pursuant to section 28-3319.

39 Sec. 9. Section 28-1402, Arizona Revised Statutes, is amended to
40 read:

41 28-1402. Issuance of special ignition interlock restricted
42 driver license

43 A. On application pursuant to section 28-1401, subsection A the
44 department may, and pursuant to section 28-1401, subsection C the
45 department shall, issue a special ignition interlock restricted driver

1 license that only allows a person whose class D or class G license has
2 been suspended pursuant to section 28-1385, ~~or~~ suspended or revoked for a
3 first refusal pursuant to section 28-1321, a second violation of section
4 28-1381 or 28-1382 or a first violation of section 28-1383, subsection A,
5 paragraph 3 OR REVOKED PURSUANT TO SECTION 28-693, 28-695 OR 28-708 to
6 operate a motor vehicle that is equipped with a functioning certified
7 ignition interlock device and only under the restrictions described in
8 section 28-144.

9 B. The department may only issue a special ignition interlock
10 restricted driver license to an applicant who is otherwise qualified by
11 law.

12 C. Except as provided in section 28-1463, if the department
13 suspends, revokes, cancels or otherwise rescinds a person's special
14 ignition interlock restricted license or privilege for any reason, the
15 department shall not issue a new license or reinstate the special ignition
16 interlock restricted driver license during the prescribed period of
17 suspension or revocation or while the person is otherwise ineligible to
18 receive a license.