

REFERENCE TITLE: **interlock restricted licenses; violations; reporting**

State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

HB 2153

Introduced by
Representative Kavanagh

AN ACT

AMENDING SECTIONS 28-1301, 28-1402, 28-1403, 28-1461, 28-1462, 28-1467, 28-1468, 28-1469 AND 28-3480, ARIZONA REVISED STATUTES; RELATING TO DRIVING UNDER THE INFLUENCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 28-1301. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "CASE MANAGEMENT SERVICE PROVIDER" MEANS A PERSON THAT IS
7 LOCATED IN THE UNITED STATES, THAT IS UNDER CONTRACT WITH THE DEPARTMENT
8 TO CREATE, MAINTAIN AND MANAGE RECORDS OF TRAVEL TIMES AND LOCATIONS FOR A
9 PERSON WHO IS OPERATING A MOTOR VEHICLE UNDER A RESTRICTED DRIVER LICENSE,
10 THAT RECEIVES DIGITAL IMAGES AND GLOBAL POSITIONING SYSTEM LOCATION DATA
11 FROM THE MANUFACTURER OR THE RESTRICTED DRIVER LICENSE MONITOR PROVIDER
12 AND THAT REPORTS VIOLATIONS OF DRIVING RESTRICTIONS THAT ARE PLACED ON A
13 PERSON TO THE DEPARTMENT IN AN ELECTRONIC FORMAT AS PRESCRIBED BY THE
14 DIRECTOR.

15 ~~1.~~ 2. "Certified ignition interlock device" means an ignition
16 interlock device that is certified pursuant to article 5 of this chapter.

17 ~~2.~~ 3. "Circumvent" or "circumvention" means an attempted or
18 successful bypass of the proper functioning of a certified ignition
19 interlock device and includes all of the following:

20 (a) The bump start of a motor vehicle with a certified ignition
21 interlock device.

22 (b) The introduction of a false sample other than a deep-lung
23 breath sample from the person driving the motor vehicle.

24 (c) The introduction of an intentionally contaminated or a filtered
25 breath sample.

26 (d) The intentional disruption or blocking of a digital image
27 identification device.

28 (e) The continued operation of the motor vehicle after the
29 certified ignition interlock device detects breath alcohol exceeding the
30 presumptive limit prescribed in section 28-1381, subsection G, paragraph 3
31 or, if the person is under twenty-one years of age, any attempt to operate
32 the motor vehicle with any spirituous liquor in the person's body.

33 (f) Operating a motor vehicle without a properly functioning
34 certified ignition interlock device.

35 (g) Allowing a person other than the person who is required to
36 maintain a functioning certified ignition interlock device pursuant to
37 this chapter to breathe into the certified ignition interlock device for
38 the purpose of providing a breath alcohol sample to start the motor
39 vehicle or for the rolling retest.

40 ~~3.~~ 4. "Commercial motor vehicle" means a motor vehicle or
41 combination of motor vehicles used to transport passengers or property if
42 the motor vehicle either:

43 (a) Has a gross combined weight rating of twenty-six thousand one
44 or more pounds inclusive of a towed unit with a gross vehicle weight
45 rating of more than ten thousand pounds.

1 (b) Has a gross vehicle weight rating of twenty-six thousand one or
2 more pounds.

3 (c) Is a school bus.

4 (d) Is a bus.

5 (e) Is used in the transportation of materials found to be
6 hazardous for the purposes of the hazardous materials transportation act
7 (49 United States Code sections 5101 through 5127) and is required to be
8 placarded under 49 Code of Federal Regulations section 172.504, as adopted
9 by the department pursuant to chapter 14 of this title.

10 ~~4.~~ 5. "Education" means a program in which a person participates
11 in at least sixteen hours of classroom instruction relating to alcohol or
12 other drugs.

13 ~~5.~~ 6. "Ignition interlock device" means a device that is based on
14 alcohol specific electrochemical fuel sensor technology that meets the
15 national highway traffic safety administration specifications, that
16 connects a breath analyzer to a motor vehicle's ignition system, that is
17 constantly available to monitor the concentration by weight of alcohol in
18 the breath of any person attempting to start the motor vehicle by using
19 its ignition system and that deters starting the motor vehicle by use of
20 its ignition system unless the person attempting to start the motor
21 vehicle provides an appropriate breath sample for the device and the
22 device determines that the concentration by weight of alcohol in the
23 person's breath is below a preset level.

24 ~~6.~~ 7. "Ignition interlock service provider" means a person who is
25 an authorized representative of a manufacturer and who is under contract
26 with the department to install or oversee the installation of ignition
27 interlock devices by the provider's authorized agents or subcontractors
28 and to provide services to the public related to ignition interlock
29 devices.

30 ~~7.~~ 8. "License" means any license, temporary instruction permit or
31 temporary license issued under the laws of this state or any other state
32 pertaining to the licensing of persons to operate motor vehicles.

33 ~~8.~~ 9. "Manufacturer" means a person or an organization that is
34 located in the United States, that is responsible for the design,
35 construction or production of an ignition interlock device and that is
36 certified by the department to offer ignition interlock devices for
37 installation in motor vehicles in this state.

38 10. "RESTRICTED DRIVER LICENSE MONITOR" MEANS A SEPARATE DEVICE
39 THAT IS CAPABLE OF TWO-WAY, WIRELESS, REAL-TIME REPORTING, THAT HAS A
40 CAMERA TO CAPTURE A DIGITAL IMAGE OF A MOTOR VEHICLE'S DRIVER AND
41 PASSENGER COMPARTMENTS AND THAT INCLUDES THE GLOBAL POSITIONING SYSTEM
42 LOCATION OF THE DEVICE WHEN THE MOTOR VEHICLE'S IGNITION IS STARTED,
43 PERIODICALLY DURING THE DRIVE AND WHEN THE MOTOR VEHICLE'S IGNITION IS
44 DISENGAGED.

1 11. "RESTRICTED DRIVER LICENSE MONITOR PROVIDER" MEANS A PERSON WHO
2 IS AN AUTHORIZED REPRESENTATIVE OF A MANUFACTURER OF A RESTRICTED DRIVER
3 LICENSE MONITOR AND WHO IS UNDER CONTRACT WITH THE DEPARTMENT TO INSTALL
4 OR OVERSEE THE INSTALLATION OF RESTRICTED DRIVER LICENSE MONITORS BY THE
5 PROVIDER'S AUTHORIZED AGENTS OR SUBCONTRACTORS AND TO PROVIDE SERVICES TO
6 THE PUBLIC RELATED TO RESTRICTED DRIVER LICENSE MONITORS.

7 ~~9.~~ 12. "Rolling retest" means a breath alcohol test that is
8 required of a person at random intervals after the motor vehicle is
9 started and that is in addition to the initial test required to start the
10 motor vehicle.

11 ~~10.~~ 13. "Screening" means a preliminary interview and assessment
12 of an offender to determine if the offender requires alcohol or other drug
13 education or treatment.

14 ~~11.~~ 14. "Tampering" means an overt or conscious attempt to
15 physically disable or otherwise disconnect the certified ignition
16 interlock device from its power source that allows the operator to start
17 the engine without taking and passing the requisite breath test.

18 ~~12.~~ 15. "Technician" means a person who is certified and properly
19 trained by an ignition interlock service provider OR RESTRICTED DRIVER
20 LICENSE MONITOR PROVIDER to install, inspect, repair, calibrate, service
21 or remove certified ignition interlock devices OR RESTRICTED DRIVER
22 LICENSE MONITORS.

23 ~~13.~~ 16. "Treatment" means a program consisting of at least twenty
24 hours of participation in a group setting dealing with alcohol or other
25 drugs in addition to the sixteen hours of education.

26 Sec. 2. Section 28-1402, Arizona Revised Statutes, is amended to
27 read:

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

30 A. On application pursuant to section 28-1401, subsection A the
31 department may, and pursuant to section 28-1401, subsection C the
32 department shall, issue a special ignition interlock restricted driver
33 license that only allows a person whose class D or class G license has
34 been suspended pursuant to section 28-1385 or suspended or revoked for a
35 first refusal pursuant to section 28-1321, a second violation of section
36 28-1381 or 28-1382 or a first violation of section 28-1383, subsection A,
37 paragraph 3 to operate a motor vehicle that is equipped with a functioning
38 certified ignition interlock device and only under the restrictions
39 described in section 28-144.

40 B. The department may only issue a special ignition interlock
41 restricted driver license to an applicant who is otherwise qualified by
42 law. IF THE DEPARTMENT ISSUES A SPECIAL IGNITION INTERLOCK RESTRICTED
43 DRIVER LICENSE, THE DEPARTMENT SHALL NOTIFY THE LICENSEE THAT THE LICENSEE
44 MUST INSTALL A RESTRICTED DRIVER LICENSE MONITOR. THIS CHAPTER AND RULES

1 ADOPTED PURSUANT TO THIS CHAPTER GOVERN THE LICENSEE'S USE OF A RESTRICTED
2 DRIVER LICENSE MONITOR.

3 C. Except as provided in section 28-1463, if the department
4 suspends, revokes, cancels or otherwise rescinds a person's special
5 ignition interlock restricted license or privilege for any reason, the
6 department shall not issue a new license or reinstate the special ignition
7 interlock restricted driver license during the prescribed period of
8 suspension or revocation or while the person is otherwise ineligible to
9 receive a license.

10 Sec. 3. Section 28-1403, Arizona Revised Statutes, is amended to
11 read:

12 28-1403. Extension of interlock restricted licenses; hearing;
13 scope

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

20 B. Hearings requested pursuant to this section shall be conducted
21 in the same manner and under the same conditions as provided in section
22 28-3306. For the purposes of this section, the scope of the hearing shall
23 include only the following issues:

24 1. Whether the person was issued a special ignition interlock
25 restricted driver license PURSUANT TO SECTION 28-1402.

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

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

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

35 5. Whether the person submitted proof of compliance or calibration
36 as prescribed in section 28-1461.

37 6. WHETHER THE PERSON OPERATED THE VEHICLE IN VIOLATION OF A
38 RESTRICTION PLACED ON THE PERSON'S DRIVING PRIVILEGE PURSUANT TO SECTION
39 28-1402 TWO OR MORE TIMES DURING THE PERIOD OF LICENSE RESTRICTION.

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

3 28-1461. Use of certified ignition interlock devices and
4 restricted driver license monitors; reporting

5 A. If a person's driving privilege is limited pursuant to section
6 28-1381, 28-1382, 28-1383 or 28-3319 or restricted pursuant to section
7 28-1402:

8 1. The person shall:

9 (a) Pay the costs for installation and maintenance of the certified
10 ignition interlock device.

11 (b) Provide proof to the department of installation of a
12 functioning certified ignition interlock device in each motor vehicle
13 operated by the person.

14 (c) Provide proof of compliance to the department at least once
15 every ninety days during the period the person is ordered to use an
16 ignition interlock device.

17 (d) Provide proof of calibration of the certified ignition
18 interlock device to the department at least once every ninety days during
19 the period the person is ordered to use an ignition interlock device.

20 (e) **PAY THE COST FOR INSTALLING AND MAINTAINING A FUNCTIONING**
21 **RESTRICTED DRIVER LICENSE MONITOR AND FOR MONITORING THE PERSON'S SPECIAL**
22 **IGNITION INTERLOCK RESTRICTED DRIVER LICENSE ISSUED PURSUANT TO SECTION**
23 **28-1402.**

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

29 B. While a person maintains a functioning certified ignition
30 interlock device **OR RESTRICTED DRIVER LICENSE MONITOR** in a vehicle
31 pursuant to this chapter, the ignition interlock manufacturer, **THE CASE**
32 **MANAGEMENT SERVICE PROVIDER OR THE RESTRICTED DRIVER LICENSE MONITOR**
33 **PROVIDER** shall electronically provide to the department in real time and
34 in a form prescribed by the department the following information:

35 1. Any tampering or circumvention.

36 2. Any failure to provide proof of compliance or inspection of the
37 certified ignition interlock device as prescribed in this section.

38 3. Any attempt to operate the vehicle with an alcohol concentration
39 exceeding the presumptive limit as prescribed in section 28-1381,
40 subsection G, paragraph 3 or, if the person is under twenty-one years of
41 age, any attempt to operate the vehicle with any spirituous liquor in the
42 person's body.

43 4. Each time that a person fails to properly perform any set of
44 three consecutive rolling retests that occur during a drive cycle.

1 5. EACH TIME THAT A PERSON OPERATES THE VEHICLE IN VIOLATION OF A
2 RESTRICTION PLACED ON THE PERSON'S DRIVING PRIVILEGE PURSUANT TO SECTION
3 28-1402.

4 C. If the person is under eighteen years of age, the ignition
5 interlock service provider, if requested by the person's parent or legal
6 guardian, shall provide to the person's parent or legal guardian the
7 information prescribed in subsection B of this section.

8 D. On request, the ignition interlock manufacturer, THE CASE
9 MANAGEMENT SERVICE PROVIDER OR THE RESTRICTED DRIVER LICENSE MONITOR
10 PROVIDER shall provide the information prescribed in subsection B of this
11 section to:

12 1. The department of health services authorized provider.

13 2. The probation department that is providing alcohol or other drug
14 screening, education or treatment to the person.

15 3. The physician, psychologist, physician assistant, registered
16 nurse practitioner or substance abuse counselor who is evaluating the
17 person's ability to safely operate a motor vehicle following a revocation
18 of the person's driving privilege as prescribed in section 28-3315,
19 subsection D.

20 4. The court.

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

25 1. The person tampered with or circumvented the certified ignition
26 interlock device.

27 2. The person attempted to operate the vehicle with an alcohol
28 concentration exceeding the presumptive limit as prescribed in section
29 28-1381, subsection G, paragraph 3, two or more times during the period of
30 license restriction or limitation.

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

34 4. The person failed to provide proof of compliance or inspection
35 as prescribed in this section.

36 5. The person attempts to operate the vehicle with an alcohol
37 concentration of 0.08 or more during a six month extension pursuant to
38 this subsection.

39 6. The person fails to properly perform any set of three
40 consecutive rolling retests that occur during a drive cycle.

41 7. THE PERSON OPERATED THE VEHICLE IN VIOLATION OF A RESTRICTION
42 PLACED ON THE PERSON'S DRIVING PRIVILEGE PURSUANT TO SECTION 28-1402 TWO
43 OR MORE TIMES DURING THE PERIOD OF LICENSE RESTRICTION.

44 F. If the special ignition interlock restricted license is extended
45 pursuant to subsection E of this section, the limitations prescribed in

1 sections 28-1381, 28-1382, 28-1383 and 28-3319 do not begin until the
2 restrictive period of the license ends.

3 G. The department shall make a notation on the driving record of a
4 person whose driving privilege is limited pursuant to section 28-1381,
5 28-1382, 28-1383, 28-1385 or 28-3319 or restricted pursuant to section
6 28-1402 that states that the person shall not operate a motor vehicle
7 unless it is equipped with a certified ignition interlock device. Unless
8 the person is convicted of a second or subsequent violation of section
9 28-1381, 28-1382 or 28-1383, the notation may not include any mark, color
10 change or other notation or indication on the person's physical driver
11 license.

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

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

17 28-1462. Ignition interlock device and restricted driver
18 license monitor certification and decertification:
19 bonds

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

23 1. Certify ignition interlock devices **AND RESTRICTED DRIVER LICENSE**
24 **MONITORS.**

25 2. Publish **BOTH OF THE FOLLOWING:**

26 (a) A list of certified ignition interlock devices that includes
27 information about the manufacturers of the devices and where the devices
28 may be ordered.

29 (b) **A LIST OF RESTRICTED DRIVER LICENSE MONITORS.**

30 3. Make the ~~list~~ **LISTS** available to the courts and probation
31 departments without charge.

32 4. Establish standards and qualifications for technicians.

33 B. The assistant director shall adopt rules prescribing the
34 requirements for certification and decertification of an ignition
35 interlock device **AND A RESTRICTED DRIVER LICENSE MONITOR.** These rules
36 shall include:

37 1. The procedure for certification of ignition interlock devices
38 **AND RESTRICTED DRIVER LICENSE MONITORS.**

39 2. Provisions to ensure the reliability of the ignition interlock
40 device **AND RESTRICTED DRIVER LICENSE MONITOR** over the range of motor
41 vehicle environments.

42 3. Provisions to ensure that the ignition interlock device ~~works~~
43 **AND RESTRICTED DRIVER LICENSE MONITOR WORK** accurately in an unsupervised
44 environment.

1 4. The procedure for decertification of an ignition interlock
2 device **AND RESTRICTED DRIVER LICENSE MONITOR** for cause.

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

5 1. The device requires a deep-lung breath sample or another
6 accurate measure of the concentration by weight of alcohol in the breath.

7 2. The device is made by a manufacturer that is covered by product
8 liability insurance in the amount of one million dollars per event and
9 three million dollars in the aggregate.

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

12 4. The device meets or exceeds the 2013 national highway traffic
13 safety administration standards, including the ability to wirelessly
14 transmit and receive information, take a digital image and include the
15 global positioning system location of the device at the time of a
16 requested test **AND AT THE TIME THAT THE VEHICLE'S IGNITION IS DISENGAGED.**

17 5. The device is repaired or modified only by the manufacturer of
18 the device.

19 6. All of the device reporting that is required by sections 28-1461
20 and 28-1468 originates from the device manufacturer, **THE CASE MANAGEMENT**
21 **SERVICE PROVIDER OR THE RESTRICTED DRIVER LICENSE MONITOR PROVIDER.**

22 D. The assistant director may adopt, in whole or in part, the
23 guidelines, rules, regulations, studies or independent laboratory tests
24 performed and relied on by other states or agencies or commissions of
25 other states in the certification or approval of ignition interlock
26 devices **AND RESTRICTED DRIVER LICENSE MONITORS.**

27 E. Each ignition interlock service provider who installs a
28 certified ignition interlock device **AND EACH PERSON WHO INSTALLS A**
29 **RESTRICTED DRIVER LICENSE MONITOR** shall submit to the department a bond in
30 a form to be approved by the assistant director and in an amount of at
31 least two hundred thousand dollars. The bond inures to the benefit of any
32 person who is ordered or required to equip a motor vehicle with an
33 ignition interlock device pursuant to article 3 of this chapter or section
34 28-3319 and who suffers a loss because of either of the following:

35 1. Insolvency or discontinuance of business of the ignition
36 interlock service provider who installed the device **OR PERSON WHO**
37 **INSTALLED THE MONITOR.**

38 2. Failure of the ignition interlock service provider or agent or
39 subcontractor of the ignition interlock service provider to comply with
40 any provision of a contract that is required pursuant to section 28-1468
41 or any rule adopted pursuant to this section.

42 3. **FAILURE OF THE RESTRICTED DRIVER LICENSE MONITOR PROVIDER TO**
43 **COMPLY WITH THIS CHAPTER OR ANY RULE ADOPTED PURSUANT TO THIS CHAPTER.**

44 F. The assistant director shall adopt a warning label design to be
45 affixed to each certified ignition interlock device **AND RESTRICTED DRIVER**

1 LICENSE MONITOR on installation. The label shall contain a warning that a
2 person tampering with, circumventing or otherwise misusing the ignition
3 interlock device OR RESTRICTED DRIVER LICENSE MONITOR is guilty of a class
4 1 misdemeanor.

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

9 H. An ignition interlock service provider shall collect a fee for
10 each certified ignition interlock device that is installed by the provider
11 in an amount that is determined by the director. A RESTRICTED DRIVER
12 LICENSE MONITOR PROVIDER SHALL COLLECT A FEE FOR EACH RESTRICTED DRIVER
13 LICENSE MONITOR THAT IS INSTALLED BY THE PROVIDER IN AN AMOUNT THAT IS
14 DETERMINED BY THE DIRECTOR. The ignition interlock service provider AND
15 THE RESTRICTED DRIVER LICENSE MONITOR PROVIDER shall remit the collected
16 fees to the department on a monthly basis and in a manner established by
17 the department. The department shall deposit the fees in the ignition
18 interlock device AND RESTRICTED DRIVER LICENSE MONITOR fund established by
19 section 28-1469.

20 Sec. 6. Section 28-1467, Arizona Revised Statutes, is amended to
21 read:

22 28-1467. Ignition interlock service provider and restricted
23 driver license monitor provider contracts;
24 cancellation; notice

25 A. If the director cancels an ignition interlock service provider's
26 contract, the director shall notify each person with an ignition interlock
27 device from the ignition interlock service provider that the person has
28 thirty days to obtain another ignition interlock service provider.

29 B. IF THE DIRECTOR CANCELS A RESTRICTED DRIVER LICENSE MONITOR
30 PROVIDER'S CONTRACT, THE DIRECTOR SHALL NOTIFY EACH PERSON WITH A
31 RESTRICTED DRIVER LICENSE MONITOR FROM THE RESTRICTED DRIVER LICENSE
32 MONITOR PROVIDER THAT THE PERSON HAS THIRTY DAYS TO OBTAIN ANOTHER
33 RESTRICTED DRIVER LICENSE MONITOR PROVIDER.

34 Sec. 7. Section 28-1468, Arizona Revised Statutes, is amended to
35 read:

36 28-1468. Ignition interlock service provider application;
37 restricted driver license monitor provider
38 application; denial; appeal; contract
39 requirements; manufacturer reporting requirements;
40 cease and desist order

41 A. An application for authorization of an ignition interlock
42 service provider OR RESTRICTED DRIVER LICENSE MONITOR PROVIDER contract
43 must be submitted to the director by the manufacturer in writing on a form
44 prescribed and furnished by the director. The person shall include with
45 the application all documents and fees prescribed by the director.

1 B. The application shall be verified and must contain:
2 1. The name and residence address of the applicant, the name and
3 residence address of each partner if the applicant is a partnership or the
4 name and residence address of each principal officer if the applicant is a
5 corporation.
6 2. The applicant's principal place of business.
7 3. The location or planned location for each place of business at
8 or from which the business is to be conducted.
9 4. Any other information the director requires.
10 C. The director may approve an application for authorization of a
11 contract if the director determines that the requirements of this article
12 are met.
13 D. The director may deny an application for authorization of a
14 contract if any person included in the application has:
15 1. Made a misrepresentation or misstatement in the application to
16 conceal a matter that would cause the application to be denied.
17 2. Been convicted of a class 1, 2, 3 or 4 felony or a crime of
18 moral turpitude, breach of trust, fraud, theft or dishonesty in any
19 jurisdiction or any foreign country within ten years before the date of
20 the application.
21 3. Been convicted of any criminal act, other than a crime described
22 in paragraph 2 of this subsection, in any jurisdiction or a foreign
23 country within five years before the date of the application.
24 4. Been involved in any activity that the director determines to be
25 inappropriate in relation to the authority granted.
26 E. The director may deny an application for authorization of an
27 ignition interlock service provider **OR RESTRICTED DRIVER LICENSE MONITOR**
28 **PROVIDER** contract under this article and, if denied, shall notify the
29 applicant in writing of the denial within twenty days after the denial and
30 of the grounds for the denial if the director determines that any of the
31 following applies:
32 1. The applicant is not eligible for an ignition interlock service
33 provider **OR RESTRICTED DRIVER LICENSE MONITOR PROVIDER** contract under this
34 article.
35 2. The application is not made in good faith.
36 3. The application contains a material misrepresentation or
37 misstatement.
38 4. The applicant has not met the requirements of this chapter.
39 F. An applicant whose application is denied may make a written
40 request to the department for a hearing on the denial of the application
41 within fifteen days after the notice of denial. If the applicant does not
42 request a hearing within **thirty FIFTEEN** days, the denial is final.
43 G. If the applicant requests a hearing, the director shall provide
44 written or electronic notice to the applicant to appear at a hearing to
45 show cause why the denial of the applicant's application should not be

1 upheld. After consideration of the evidence presented at the hearing, the
2 director shall issue a written decision and order.

3 H. If the application is denied, the applicant may appeal the
4 decision pursuant to title 12, chapter 7, article 6.

5 I. IF THE DIRECTOR AUTHORIZES A RESTRICTED DRIVER LICENSE MONITOR
6 PROVIDER'S APPLICATION FOR A CONTRACT, THE CONTRACT SHALL INCLUDE ALL
7 PROVISIONS DEEMED NECESSARY BY THE DIRECTOR.

8 ~~I.~~ J. If the director authorizes an ignition interlock service
9 provider's application for a contract, the ignition interlock service
10 provider's contract with the department must meet or exceed the
11 requirements in this section, be for a term of at least three years and
12 include all of the following provisions and requirements:

13 1. Require the ignition interlock service provider to maintain at
14 least one service center in each county in this state.

15 2. Ignition interlock devices must be effectively and efficiently
16 installed, calibrated and removed.

17 3. Ignition interlock devices must be serviced, inspected and
18 monitored.

19 4. The ignition interlock manufacturer OR THE CASE MANAGEMENT
20 SERVICE PROVIDER must electronically transmit reports to the department in
21 a format that is determined by the department and that includes any of the
22 following:

23 (a) Driver activity.

24 (b) Bypass approval.

25 (c) Compliance.

26 (d) Client violations.

27 (e) Unique identifying numbers for each device.

28 (f) Unique employee numbers identifying the person who installed or
29 removed an ignition interlock device.

30 5. A detailed implementation plan that outlines the steps and the
31 time frames necessary for the ignition interlock service provider to be
32 fully operational.

33 6. The ignition interlock service provider AND RESTRICTED DRIVER
34 LICENSE MONITOR PROVIDER must collect and remit all applicable fees and
35 taxes to the appropriate government entity.

36 7. If the ignition interlock service provider OR RESTRICTED DRIVER
37 LICENSE MONITOR PROVIDER is out of compliance, corrective actions that
38 will be taken, including penalty provisions and liquidated damages.

39 8. The ignition interlock device AND RESTRICTED DRIVER LICENSE
40 MONITOR must have security protections, including each device having the
41 capability to record each event and provide visual evidence of any actual
42 or attempted tampering, alteration, bypass or circumvention.

1 9. The ignition interlock service provider **AND CASE MANAGEMENT**
2 **SERVICE PROVIDER** will process the transition and ensure that continuous
3 monitoring occurs if an ignition interlock device **OR RESTRICTED DRIVER**
4 **LICENSE MONITOR** client requires transition of services.

5 10. The ignition interlock service provider **AND RESTRICTED DRIVER**
6 **LICENSE MONITOR PROVIDER** will self-certify, complete background checks and
7 train technicians in compliance with the rules adopted by the department.

8 11. The ignition interlock service provider **AND RESTRICTED DRIVER**
9 **LICENSE MONITOR PROVIDER** must ensure that each service center is
10 adequately staffed and equipped to provide all ignition interlock device
11 support services. Mobile service operations based at a service center are
12 ~~permitted~~ **ALLOWED**, except that a tow truck may not be used for mobile
13 service. A service center may not provide services for more than one
14 ignition interlock service provider.

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

17 **13. THE RESTRICTED DRIVER LICENSE MONITOR PROVIDER MUST TRAIN**
18 **CLIENTS ON HOW TO USE THE RESTRICTED DRIVER LICENSE MONITOR.**

19 ~~13.~~ 14. A transition plan that will ensure continuous monitoring
20 is achieved if the ignition interlock service provider **OR RESTRICTED**
21 **DRIVER LICENSE MONITOR PROVIDER** leaves this state.

22 ~~14.~~ 15. Require the ignition interlock service provider **AND**
23 **RESTRICTED DRIVER LICENSE MONITOR PROVIDER** to have and maintain insurance
24 that is approved by the department.

25 ~~15.~~ 16. A procedure for progressive discipline of an employee,
26 agent or subcontractor of:

27 (a) An ignition interlock service provider who fails to comply with
28 the requirements of this chapter or of the ignition interlock service
29 provider contract.

30 (b) **A RESTRICTED DRIVER LICENSE MONITOR PROVIDER WHO FAILS TO**
31 **COMPLY WITH THE REQUIREMENTS OF THIS CHAPTER OR OF THE RESTRICTED DRIVER**
32 **LICENSE MONITOR PROVIDER CONTRACT.**

33 ~~16.~~ 17. Require client information and financial records to be
34 maintained at a commercial business location in this state that is not a
35 residence and that has posted business hours where the department may
36 access the records. On termination or expiration of the contract, the
37 ignition interlock service provider **AND RESTRICTED DRIVER LICENSE MONITOR**
38 **PROVIDER** must submit all client information to the department.

39 ~~17.~~ 18. The ignition interlock service provider may not charge a
40 client to replace a defective ignition interlock device.

41 **19. THE RESTRICTED DRIVER LICENSE MONITOR PROVIDER MAY NOT CHARGE A**
42 **CLIENT TO REPLACE A DEFECTIVE RESTRICTED DRIVER LICENSE MONITOR.**

43 ~~18.~~ 20. The ignition interlock device must take a digital image
44 identifying the client who is providing the breath sample, and the digital
45 image must include the date and time that the breath sample was provided.

1 21. THE RESTRICTED DRIVER LICENSE MONITOR MUST TAKE A DIGITAL IMAGE
2 IDENTIFYING THE CLIENT WHO IS STARTING THE VEHICLE, AND THE DIGITAL IMAGE
3 MUST INCLUDE THE DATE, TIME AND GLOBAL POSITIONING SYSTEM LOCATION OF EACH
4 ATTEMPT TO START THE VEHICLE.

5 ~~19.~~ 22. The ignition interlock service provider AND RESTRICTED
6 DRIVER LICENSE MONITOR PROVIDER must comply with all county and municipal
7 zoning regulations for commercial businesses and provide a corresponding
8 business license to the department.

9 ~~20.~~ 23. The ignition interlock service provider must clearly post
10 all client fees for the installation, removal and inspection of the
11 certified ignition interlock device.

12 24. THE RESTRICTED DRIVER LICENSE MONITOR PROVIDER MUST CLEARLY
13 POST ALL CLIENT FEES FOR THE INSTALLATION, REMOVAL AND INSPECTION OF THE
14 CERTIFIED RESTRICTED DRIVER LICENSE MONITOR DEVICE.

15 25. IF THE PERSON'S DRIVING PRIVILEGE IS RESTRICTED PURSUANT TO
16 SECTION 28-1402, THE IGNITION INTERLOCK DEVICE MUST REPORT THE GLOBAL
17 POSITIONING SYSTEM LOCATION OF THE DEVICE EACH TIME THAT THE VEHICLE'S
18 IGNITION IS SUCCESSFULLY STARTED AND EACH TIME THE VEHICLE'S IGNITION IS
19 DISENGAGED.

20 ~~J.~~ K. If the director has reasonable cause to believe that a
21 person who is a party to an ignition interlock service provider OR
22 RESTRICTED DRIVER LICENSE MONITOR PROVIDER contract pursuant to this
23 article is violating any provision of this chapter, the director shall
24 immediately issue and mail a cease and desist order to the person's last
25 known address.

26 ~~K.~~ L. On receipt of the cease and desist order, the person shall
27 immediately cease and desist, or cease and desist as provided in the
28 contract between the department and the ignition interlock service
29 provider OR RESTRICTED DRIVER LICENSE MONITOR PROVIDER, from further
30 engaging in any activity that is not authorized pursuant to this chapter
31 and that is specified in the cease and desist order.

32 ~~L.~~ M. On failure of the person to comply with the cease and desist
33 order, the director may conduct a hearing pursuant to this section.

34 Sec. 8. Section 28-1469, Arizona Revised Statutes, is amended to
35 read:

36 28-1469. Ignition interlock device and restricted driver
37 license monitor fund

38 A. The ignition interlock device AND RESTRICTED DRIVER LICENSE
39 MONITOR fund is established consisting of monies deposited pursuant to
40 section 28-1462, subsection H. The department shall administer the fund.
41 Monies in the fund must be used by the department for administering this
42 article, including compliance measures, audits and investigating
43 complaints that are related to ignition interlock devices, ignition
44 interlock service providers, RESTRICTED DRIVER LICENSE MONITORS AND
45 RESTRICTED DRIVER LICENSE MONITOR PROVIDERS.

1 B. The monies in the fund are subject to legislative appropriation
2 and are exempt from section 35-190 relating to lapsing of appropriations.

3 Sec. 9. Section 28-3480, Arizona Revised Statutes, is amended to
4 read:

5 28-3480. Operation in violation of restriction;
6 classification; civil traffic violation

7 A. Except as provided in subsections B, ~~and~~ C AND D of this
8 section, a person who operates a motor vehicle in violation of a driver
9 license restriction is guilty of a class 2 misdemeanor.

10 B. If the restriction that is violated is the requirement to wear
11 corrective lenses while operating a motor vehicle, the person is
12 responsible for a civil traffic violation.

13 C. If the restriction that is violated is imposed pursuant to
14 section 28-1601 or 28-3308, the person is responsible for a civil traffic
15 violation.

16 ~~D.~~ If the person is cited for a violation of THIS subsection ~~of~~
17 ~~this section~~ and presents evidence to the court that the person's
18 unrestricted driving privilege has been reinstated, the court may dismiss
19 the citation.

20 D. SUBSECTION A OF THIS SECTION DOES NOT APPLY TO A PERSON WHO
21 HOLDS A SPECIAL IGNITION INTERLOCK RESTRICTED DRIVER LICENSE AND WHO
22 OPERATES A MOTOR VEHICLE IN VIOLATION OF A RESTRICTION PLACED ON THE
23 PERSON'S DRIVING PRIVILEGE PURSUANT TO SECTION 28-1402 ONE OR TWO TIMES
24 DURING THE PERIOD OF LICENSE RESTRICTION IF THE VIOLATION WAS DETECTED BY
25 THE IGNITION INTERLOCK MANUFACTURER AS DEFINED IN SECTION 28-1301 OR THE
26 CASE MANAGEMENT SERVICE PROVIDER AS DEFINED IN SECTION 28-1301.