

COMMITTEE ON MILITARY AFFAIRS & PUBLIC SAFETY  
HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1025  
(Reference to Senate engrossed bill)

1 Page 1, between lines 1 and 2, insert:

2 "Section 1. Section 28-1321, Arizona Revised Statutes, is amended to  
3 read:

4 28-1321. Implied consent; tests; refusal to submit to test;  
5 order of suspension; hearing; review; temporary  
6 permit; notification of suspension; special  
7 ignition interlock restricted driver license

8 A. A person who operates a motor vehicle in this state gives  
9 consent, subject to section 4-244, paragraph 34 or section 28-1381, 28-1382  
10 or 28-1383, to a test or tests of the person's blood, breath, urine or  
11 other bodily substance for the purpose of determining alcohol concentration  
12 or drug content if the person is arrested for any offense arising out of  
13 acts alleged to have been committed in violation of this chapter or section  
14 4-244, paragraph 34 while the person was driving or in actual physical  
15 control of a motor vehicle while under the influence of intoxicating liquor  
16 as prescribed in section 28-1381 or drugs. The test or tests chosen by the  
17 law enforcement agency shall be administered at the direction of a law  
18 enforcement officer having reasonable grounds to believe that the person  
19 was driving or in actual physical control of a motor vehicle in this state  
20 either:

21 1. While under the influence of intoxicating liquor as prescribed in  
22 section 28-1381 or drugs.

1           2. If the person is under twenty-one years of age, with spirituous  
2 liquor in the person's body.

3           B. After an arrest a violator shall be requested to submit to and  
4 successfully complete any test or tests prescribed by subsection A of this  
5 section, and if the violator refuses the violator shall be informed that  
6 the violator's license or permit to drive will be suspended or denied for  
7 twelve months, or for two years for a second or subsequent refusal within a  
8 period of eighty-four months, unless the violator expressly agrees to  
9 submit to and successfully completes the test or tests. A failure to  
10 expressly agree to the test or successfully complete the test is deemed a  
11 refusal. The violator shall also be informed that:

12           1. If the test results show a blood or breath alcohol concentration  
13 of 0.08 or more, if the results show a blood or breath alcohol  
14 concentration of 0.04 or more and the violator was driving or in actual  
15 physical control of a commercial motor vehicle, **A VEHICLE FOR HIRE AS  
16 DEFINED IN SECTION 28-9501 OR WHILE PROVIDING TRANSPORTATION NETWORK  
17 SERVICES AS DEFINED IN SECTION 28-9551 AS A TRANSPORTATION NETWORK COMPANY  
18 DRIVER AS DEFINED IN SECTION 28-9551** or if the results show there is any  
19 drug defined in section 13-3401 or its metabolite in the person's body and  
20 the person does not possess a valid prescription for the drug, the  
21 violator's license or permit to drive will be suspended or denied for not  
22 less than ninety consecutive days.

23           2. The violator's driving privilege, license, permit, right to apply  
24 for a license or permit or nonresident operating privilege may be issued or  
25 reinstated following the period of suspension only if the violator  
26 completes alcohol or other drug screening.

1 C. A person who is dead, unconscious or otherwise in a condition  
2 rendering the person incapable of refusal is deemed not to have withdrawn  
3 the consent provided by subsection A of this section and the test or tests  
4 may be administered, subject to section 4-244, paragraph 34 or section  
5 28-1381, 28-1382 or 28-1383.

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

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

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

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

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

15 (c) Require the immediate surrender of any license or permit to  
16 drive that is issued by this state and that is in the possession or control  
17 of the person. The law enforcement agency may do either of the following  
18 to a driver license or permit taken into possession under this subdivision:

19 (i) In compliance with sections 41-151.15 and 41-151.19, destroy the  
20 driver license or permit.

21 (ii) Forward the driver license or permit to the department within  
22 five days after the issuance of the notice of suspension.

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

25 (e) If a valid license or permit is surrendered, issue a temporary  
26 driving permit that is valid for thirty days.

27 (f) Forward the certified report of refusal, a copy of the completed  
28 notice of suspension and a copy of any completed temporary permit to the  
29 department within five days after the issuance of the notice of suspension.

30 E. The certified report is subject to the penalty for perjury as  
31 prescribed by section 28-1561 and shall state all of the following:

1           1. The officer's reasonable grounds to believe that the arrested  
2 person was driving or in actual physical control of a motor vehicle in this  
3 state either:

4           (a) While under the influence of intoxicating liquor as prescribed  
5 in section 28-1381 or drugs.

6           (b) If the person is under twenty-one years of age, with spirituous  
7 liquor in the person's body.

8           2. The manner in which the person refused to submit to the test or  
9 tests.

10          3. That the person was advised of the consequences of refusal.

11          F. On receipt of the certified report of refusal and a copy of the  
12 order of suspension and on the effective date stated on the order, the  
13 department shall enter the order of suspension on its records unless a  
14 written or online request for a hearing as provided in this section has  
15 been filed by the accused person. If the department receives only the  
16 certified report of refusal, the department shall notify the person named  
17 in the report in writing sent by mail that:

18           1. Thirty days after the date of issuance of the notice the  
19 department will suspend the person's license or permit, driving privilege  
20 or nonresident driving privilege.

21           2. The department will provide an opportunity for a hearing if the  
22 person requests a hearing in writing or online and the request is received  
23 by the department within thirty days after the notice is sent.

24          G. The order of suspension issued by a law enforcement officer or  
25 the department under this section shall notify the person that:

26           1. The person may submit a written or online request for a hearing.

27           2. The request for a hearing must be received by the department  
28 within thirty days after the date of the notice or the order of suspension  
29 will become final.

30          3. The affected person's license or permit to drive or right to  
31 apply for a license or permit or any nonresident operating privilege will  
32 be suspended for twelve months from that date or for two years from that

1 date for a second or subsequent refusal within a period of eighty-four  
2 months.

3 4. The person's driving privilege, license, permit, right to apply  
4 for a license or permit or nonresident operating privilege may be issued or  
5 reinstated following the period of suspension only if the person completes  
6 alcohol or other drug screening.

7 H. The order for suspension shall:

8 1. Be accompanied by printed forms that are ready to mail to the  
9 department, that may be filled out and signed by the person to indicate the  
10 person's desire for a hearing and that advise the person that the person  
11 may alternatively submit an online request for a hearing.

12 2. Advise the person that unless the person has surrendered any  
13 driver license or permit issued by this state the person's hearing request  
14 will not be accepted, except that the person may certify pursuant to  
15 section 28-3170 that the license or permit is lost or destroyed.

16 I. On the receipt of a request for a hearing, the department shall  
17 set the hearing within sixty days. The department may hold the hearing in  
18 person, by telephone or by videoconference. If the department holds the  
19 hearing in person, the hearing shall be held in the county in which the  
20 person named in the report resides unless the law enforcement agency filing  
21 the certified report of refusal pursuant to subsection D of this section  
22 requests at the time of its filing that the hearing be held in the county  
23 where the refusal occurred.

24 J. A timely request for a hearing stays the suspension until a  
25 hearing is held, except that the department shall not return any  
26 surrendered license or permit to the person but may issue temporary permits  
27 to drive that expire not later than when the department has made its final  
28 decision. If the person is a resident without a license or permit or has  
29 an expired license or permit, the department may allow the person to apply  
30 for a restricted license or permit. If the department determines the  
31 person is otherwise entitled to the license or permit, the department shall  
32 issue and retain a restricted license or permit subject to this section.

1           K. Hearings requested under this section shall be conducted in the  
2 same manner and under the same conditions as provided in section 28-3306.  
3 For the purposes of this section, the scope of the hearing shall include  
4 only the issues of whether:

5           1. A law enforcement officer had reasonable grounds to believe that  
6 the person was driving or was in actual physical control of a motor vehicle  
7 in this state either:

8           (a) While under the influence of intoxicating liquor as prescribed  
9 in section 28-1381 or drugs.

10           (b) If the person is under twenty-one years of age, with spirituous  
11 liquor in the person's body.

12           2. The person was placed under arrest.

13           3. The person refused to submit to the test.

14           4. The person was informed of the consequences of refusal.

15           L. If the department determines at the hearing to suspend the  
16 affected person's privilege to operate a motor vehicle, the suspension  
17 provided in this section is effective thirty days after giving written  
18 notice of the suspension, except that the department may issue or extend a  
19 temporary license that expires on the effective date of the suspension. If  
20 the person is a resident without a license or permit or has an expired  
21 license or permit to operate a motor vehicle in this state, the department  
22 shall deny to the person the issuance of a license or permit for a period  
23 of twelve months after the order of suspension becomes effective or for a  
24 period of two years after the order of suspension becomes effective for a  
25 second or subsequent refusal within a period of eighty-four months, and may  
26 reinstate the person's driving privilege, license, permit, right to apply  
27 for a license or permit or nonresident operating privilege following the  
28 period of suspension only if the person completes alcohol or other drug  
29 screening.

30           M. If the suspension order is sustained after the hearing, a motion  
31 for rehearing is not required. Within thirty days after a suspension order  
32 is sustained, the affected person may file a petition in the superior court

1 to review the final order of suspension or denial by the department in the  
2 same manner provided in section 28-3317. The court shall hear the review  
3 of the final order of suspension or denial on an expedited basis.

4 N. If the suspension or determination that there should be a denial  
5 of issuance is not sustained, the ruling is not admissible in and has no  
6 effect on any administrative, civil or criminal court proceeding.

7 O. If it has been determined under the procedures of this section  
8 that a nonresident's privilege to operate a motor vehicle in this state has  
9 been suspended, the department shall give information either in writing or  
10 by electronic means of the action taken to the motor vehicle administrator  
11 of the state of the person's residence and of any state in which the person  
12 has a license.

13 P. After completing any alcohol or other drug screening that is  
14 ordered by the department pursuant to this chapter, a person whose driving  
15 privilege is suspended pursuant to this section may apply to the department  
16 for a special ignition interlock restricted driver license pursuant to  
17 section 28-1401. Unless the certified ignition interlock period is  
18 extended by the department pursuant to section 28-1461, a person who is  
19 issued a special ignition interlock restricted driver license as provided  
20 in this subsection shall maintain a functioning certified ignition  
21 interlock device in compliance with this chapter during the remaining  
22 period of the suspension prescribed by this section. This subsection does  
23 not apply to a person whose driving privilege is suspended for a second or  
24 subsequent refusal within a period of eighty-four months.

25 Q. Notwithstanding section 28-1401, the department may issue a  
26 special ignition interlock restricted driver license to a person for an  
27 offense described in subsection A of this section. A person who applies  
28 for and who is issued a special ignition interlock restricted driver  
29 license pursuant to this subsection agrees to the administrative action  
30 taken by the department against the person's license. Once the department  
31 issues a special ignition interlock restricted driver license pursuant to  
32 this subsection, the person waives any right to an administrative hearing

1       contesting the administrative action against the person's license pursuant  
2       to this section or section 28-1385."

3 Renumber to conform

4 Page 5, after line 25, insert:

5               "Sec. 3. Section 28-1385, Arizona Revised Statutes, is amended to  
6       read:

7               28-1385. Administrative license suspension for driving under  
8               the influence or for homicide or assault involving  
9               a motor vehicle; report; hearing; summary review;  
10              ignition interlock device requirement

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

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

19              2. The person submits to a test of the person's blood, breath, urine  
20       or other bodily substance that is allowed by section 28-1321 or any other  
21       law or a sample of blood is obtained pursuant to section 28-1388 and the  
22       results are either not available or the results indicate any of the  
23       following:

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

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

29              (c) 0.04 OR MORE ALCOHOL CONCENTRATION IN THE PERSON'S BLOOD OR  
30       BREATH IF THE PERSON WAS DRIVING OR IN ACTUAL PHYSICAL CONTROL OF A VEHICLE  
31       FOR HIRE AS DEFINED IN SECTION 28-9501 OR WHILE PROVIDING TRANSPORTATION



1 NETWORK SERVICES AS DEFINED IN SECTION 28-9551 AS A TRANSPORTATION NETWORK  
2 COMPANY DRIVER AS DEFINED IN SECTION 28-9551.

3 (d) Any drug defined in section 13-3401 or its metabolite is in the  
4 person's body except if the person possesses a valid prescription for the  
5 drug.

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

10 1. Information that adequately identifies the arrested person.

11 2. A statement of the officer's grounds for belief that the person  
12 was driving or in actual physical control of a motor vehicle in violation  
13 of section 4-244, paragraph 34, section 28-1381, section 28-1382 or section  
14 28-1383 or committed a violation of title 13, chapter 11 or section 13-1201  
15 or 13-1204 involving a motor vehicle.

16 3. A statement that the person was arrested for a violation of  
17 section 4-244, paragraph 34, section 28-1381, section 28-1382 or section  
18 28-1383 or for a violation of title 13, chapter 11 or section 13-1201 or  
19 13-1204 involving a motor vehicle.

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

22 C. If a breath test is administered, a law enforcement agency shall  
23 forward the certified report that is required by subsection A of this  
24 section to the department within thirty days after the arrest occurs. If a  
25 sample of blood, urine or other bodily substance is obtained, the law  
26 enforcement agency shall forward the certified report that is required by  
27 subsection A of this section to the department within thirty days after the  
28 date the report of the analysis is provided to the law enforcement agency.  
29 If a report is not forwarded to the department within the time limit  
30 prescribed by this subsection, the report is inadmissible in a hearing held  
31 pursuant to this section unless the violation listed in subsection A of  
32 this section resulted in death or serious physical injury. For the

1 purposes of this subsection, "serious physical injury" has the same meaning  
2 prescribed in section 13-105.

3 D. The officer shall also serve an order of suspension on the person  
4 on behalf of the department. The order of suspension:

5 1. Is effective thirty days after the date it is served.

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

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

12 4. Shall be accompanied by printed forms that are ready to mail to  
13 the department, that the person may fill out and sign to indicate the  
14 person's desire for a hearing or summary review and that advise the person  
15 that the person may alternatively submit an online request for a hearing or  
16 summary review.

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

19 6. Shall inform the person that the person's driving privilege,  
20 license, permit, right to apply for a license or permit or nonresident  
21 operating privilege may be issued or reinstated following the period of  
22 suspension or issuance of a special ignition interlock restricted driver  
23 license only if the person completes alcohol or other drug screening.

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

27 E. If the blood test result is unavailable at the time the test is  
28 administered, the result shall be forwarded to the department before the  
29 hearing held pursuant to this section in a form prescribed by the director.

30 F. If the license or permit is not surrendered pursuant to  
31 subsection D of this section, the officer shall state the reason for the  
32 nonsurrender. If a valid license or permit is surrendered, the officer

1 shall issue a temporary driving permit that is valid for thirty days. The  
2 officer shall forward a copy of the completed order of suspension and a  
3 copy of any completed temporary permit to the department within five days  
4 after the issuance of the order of suspension along with the report. The  
5 law enforcement agency may do either of the following with a valid license  
6 or permit that is surrendered pursuant to this section:

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

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

11 G. The department shall suspend the affected person's license or  
12 permit to drive or right to apply for a license or permit or any  
13 nonresident operating privilege for not less than ninety consecutive days  
14 from that date. If the person is otherwise qualified, the department may  
15 reinstate the person's driving privilege, license, permit, right to apply  
16 for a license or permit or nonresident operating privilege following the  
17 period of suspension only if the violator completes alcohol or other drug  
18 screening.

19 H. Notwithstanding subsections A, B, C, D, E, F and G of this  
20 section and except as provided in subsection I of this section, the  
21 department shall suspend the driving privileges of the person described in  
22 subsection A of this section for at least thirty consecutive days and shall  
23 restrict the person's driving privileges as prescribed in section 28-144  
24 for at least sixty consecutive additional days if the person:

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

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

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

6           I. In lieu of a driving privilege suspension pursuant to subsection  
7 H of this section, on a person's request, the department shall issue a  
8 special ignition interlock restricted driver license to the person if the  
9 requirements set forth in subsection H, paragraphs 1, 2 and 3 are met.

10           J. Notwithstanding section 28-1401, the department may issue a  
11 special ignition interlock restricted driver license to a person for an  
12 offense described in subsection A of this section. A person who applies  
13 for and who is issued a special ignition interlock restricted driver  
14 license pursuant to this subsection agrees to the administrative action  
15 taken by the department against the person's license. Once the department  
16 issues a special ignition interlock restricted driver license pursuant to  
17 this subsection, the person waives any right to an administrative hearing  
18 contesting the administrative action against the person's license pursuant  
19 to this section or section 28-1321.

20           K. If the officer does not serve an order of suspension pursuant to  
21 subsection D of this section and if the department does not receive the  
22 report of the results of the blood or breath alcohol test pursuant to  
23 subsection B, paragraph 4 of this section, but subsequently receives the  
24 results and the results indicate 0.08 or more alcohol concentration in the  
25 person's blood or breath, a blood or breath alcohol concentration of 0.04  
26 or more and the person was driving or in actual physical control of a  
27 commercial motor vehicle or any drug defined in section 13-3401 or its  
28 metabolite in the person's body and the person does not possess a valid  
29 prescription for the drug, the department shall notify the person named in  
30 the report in writing sent by mail that thirty days after the date of  
31 issuance of the notice the department will suspend the person's license or  
32 permit, driving privilege or nonresident driving privilege. The notice

1 shall also state that the department will provide an opportunity for a  
2 hearing and summary review if the person requests a hearing or review in  
3 writing and the request is received by the department within thirty days  
4 after the notice is sent.

5 L. A timely request for a hearing stays the suspension until a  
6 hearing is held, except that the department shall not return any  
7 surrendered license or permit to the person but may issue temporary permits  
8 to drive that expire not later than when the department has made its final  
9 decision. If the person is a resident without a license or permit or has  
10 an expired license or permit, the department may allow the person to apply  
11 for a restricted license or permit. If the department determines the person  
12 is otherwise entitled to the restricted license or permit, the department  
13 shall issue, but retain, the license or permit, subject to this section.  
14 All hearings requested under this section shall be conducted in the same  
15 manner and under the same conditions as provided in section 28-3306.

16 M. For the purposes of this section, the scope of the hearing shall  
17 include only the following issues:

18 1. Whether the officer had reasonable grounds to believe the person  
19 was driving or was in actual physical control of a motor vehicle while  
20 under the influence of intoxicating liquor as prescribed in section 28-1381  
21 or drugs.

22 2. Whether the person was placed under arrest for a violation of  
23 section 4-244, paragraph 34, section 28-1381, section 28-1382 or section  
24 28-1383 or for a violation of title 13, chapter 11 or section 13-1201 or  
25 13-1204 involving a motor vehicle.

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

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

30 (i) 0.08 or more.

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

1 (iii) 0.04 OR MORE IF THE PERSON WAS DRIVING OR IN ACTUAL PHYSICAL  
2 CONTROL OF A VEHICLE FOR HIRE AS DEFINED IN SECTION 28-9501 OR WHILE  
3 PROVIDING TRANSPORTATION NETWORK SERVICES AS DEFINED IN SECTION 28-9551 AS  
4 A TRANSPORTATION NETWORK COMPANY DRIVER AS DEFINED IN SECTION 28-9551.

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

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

9 5. Whether the test results were accurately evaluated.

10 N. The results of the blood or breath alcohol test shall be admitted  
11 on establishing the requirements in section 28-1323 or 28-1326.

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

24 P. A person may request a summary review of an order issued pursuant  
25 to this section instead of a hearing at any time before the effective date  
26 of the order. A timely request for summary review stays the suspension  
27 until a decision is issued. The person shall submit the request in writing  
28 to the department together with any written explanation as to why the  
29 department should not suspend the driving privilege. The department shall  
30 review all reports submitted by the officer and any written explanation  
31 submitted by the person and shall determine if the order of suspension  
32 should be sustained or voided. The department shall not hold a hearing, and

1 the review is not subject to title 41, chapter 6. The department shall  
2 notify the person of its decision.

3 Q. If the suspension or determination that there should be a denial  
4 of issuance is not sustained after a hearing or review, the ruling is not  
5 admissible in and does not have any effect on any civil or criminal court  
6 proceeding.

7 R. If it has been determined under the procedures of this section  
8 that a nonresident's privilege to operate a motor vehicle in this state has  
9 been suspended, the department shall give information either in writing or  
10 by electronic means of the action taken to the motor vehicle administrator  
11 of the state of the person's residence and of any state in which the person  
12 has a license."

13 Amend title to conform

And, as so amended, it do pass

KEVIN PAYNE  
CHAIRMAN

1025MILITARY AFFAIRS PUBLIC SAFETY.docx  
03/11/2024  
02:19 PM  
H: NM/lr/ra